INTERNATIONAL COURT OF JUSTICE

APPEAL RELATING TO THE JURISDICTION OF THE ICAO COUNCIL UNDER ARTICLE 84 OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

(BAHRAIN, EGYPT, SAUDI ARABIA AND UNITED ARAB EMIRATES v. QATAR)

MEMORIAL OF THE KINGDOM OF BAHRAIN, THE ARAB REPUBLIC OF EGYPT, THE KINGDOM OF SAUDI ARABIA, AND THE UNITED ARAB EMIRATES

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United States Department of Treasury Press Release, "Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism", 25 October 2007

Website of the United States Department of Treasury available at https://www.treasury.gov/press-center/press-releases/Pages/hp644.aspx

U.S. DEPARTMENT OF THE TREASURY

Press Center

Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism

10/25/2007

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hp-644

The U.S. Government is taking several major actions today to counter Iran's bid for nuclear capabilities and support for terrorism by exposing Iranian banks, companies and individuals that have been involved in these dangerous activities and by cutting them off from the U.S. financial system.

Today, the Department of State designated under Executive Order 13382 two key Iranian entities of proliferation concern: the Islamic Revolutionary Guard Corps (IRGC; aka Iranian Revolutionary Guard Corps) and the Ministry of Defense and Armed Forces Logistics (MODAFL). Additionally, the Department of the Treasury designated for proliferation activities under E.O. 13382 nine IRGC-affiliated entities and five IRGC-affiliated individuals as derivatives of the IRGC, Iran's state-owned Banks Melli and Mellat, and three individuals affiliated with Iran's Aerospace Industries Organization (AIO).

The Treasury Department also designated the IRGC-Qods Force (IRGC-QF) under E.O. 13224 for providing material support to the Taliban and other terrorist organizations, and Iran's state-owned Bank Saderat as a terrorist financier.

Elements of the IRGC and MODAFL were listed in the Annexes to UN Security Council Resolutions 1737 and 1747. All UN Member States are required to freeze the assets of entities and individuals listed in the Annexes of those resolutions, as well as assets of entities owned or controlled by them, and to prevent funds or economic resources from being made available to them.

The Financial Action Task Force, the world's premier standard-setting body for countering terrorist financing and money laundering, recently highlighted the threat posed by Iran to the international financial system. FATF called on its members to advise institutions dealing with Iran to seriously weigh the risks resulting from Iran's failure to comply with international standards. Last week, the Treasury Department issued a warning to U.S. banks setting forth the risks posed by Iran. (For the text of the Treasury Department statement see: http://www.fincen.gov/guidance_fi_increasing_mlt_iranian.pdf.) Today's actions are consistent with this warning, and provide additional information to help financial institutions protect themselves from deceptive financial practices by Iranian entities and individuals engaged in or supporting proliferation and terrorism.

Effect of Today's Actions

As a result of our actions today, all transactions involving any of the designees and any U.S. person will be prohibited and any assets the designees may have under U.S. jurisdiction will be frozen. Noting the UN Security Council's grave concern over Iran's nuclear and ballistic missile program activities, the United States also encourages all jurisdictions to take similar actions to ensure full and effective implementation of UN Security Council Resolutions 1737 and 1747.

Today's designations also notify the international private sector of the dangers of doing business with three of Iran's largest banks, as well as the many IRGC- affiliated companies that pervade several basic Iranian industries.

Proliferation Finance – Executive Order 13382 Designations

E.O. 13382, signed by the President on June 29, 2005, is an authority aimed at freezing the assets of proliferators of weapons of mass destruction and their supporters, and at isolating them from the U.S. financial and commercial systems. Designations under the Order prohibit all transactions between the designees and any U.S. person, and freeze any assets the designees may have under U.S. jurisdiction.

The Islamic Revolutionary Guard Corps (IRGC): Considered the military vanguard of Iran, the Islamic Revolutionary Guard Corps (IRGC; aka Iranian Revolutionary Guard Corps) is composed of five branches (Ground Forces, Air Force, Navy, Basij militia, and Qods Force

special operations) in addition to a counterintelligence directorate and representatives of the Supreme Leader. It runs prisons, and has numerous economic interests involving defense production, construction, and the oil industry. Several of the IRGC's leaders have been sanctioned under UN Security Council Resolution 1747.

The IRGC has been outspoken about its willingness to proliferate ballistic missiles capable of carrying WMD. The IRGC's ballistic missile inventory includes missiles, which could be modified to deliver WMD. The IRGC is one of the primary regime organizations tied to developing and testing the Shahab-3. The IRGC attempted, as recently as 2006, to procure sophisticated and costly equipment that could be used to support Iran's ballistic missile and nuclear programs.

Ministry of Defense and Armed Forces Logistics (MODAFL): The Ministry of Defense and Armed Forces Logistics (MODAFL) controls the Defense Industries Organization, an Iranian entity identified in the Annex to UN Security Council Resolution 1737 and designated by the United States under E.O. 13382 on March 30, 2007. MODAFL also was sanctioned, pursuant to the Arms Export Control Act and the Export Administration Act, in November 2000 for its involvement in missile technology proliferation activities.

MODAFL has ultimate authority over Iran's Aerospace Industries Organization (AIO), which was designated under E.O. 13382 on June 28, 2005. The AIO is the Iranian organization responsible for ballistic missile research, development and production activities and organizations, including the Shahid Hemmat Industries Group (SHIG) and the Shahid Bakeri Industries Group (SBIG), which were both listed under UN Security Council Resolution 1737 and designated under E.O. 13382. The head of MODAFL has publicly indicated Iran's willingness to continue to work on ballistic missiles. Defense Minister Brigadier General Mostafa Mohammad Najjar said that one of MODAFL's major projects is the manufacturing of Shahab-3 missiles and that it will not be halted. MODAFL representatives have acted as facilitators for Iranian assistance to an E.O. 13382- designated entity and, over the past two years, have brokered a number of transactions involving materials and technologies with ballistic missile applications.

Bank Melli, its branches, and subsidiaries: Bank Melli is Iran's largest bank. Bank Melli provides banking services to entities involved in Iran's nuclear and ballistic missile programs, including entities listed by the U.N. for their involvement in those programs. This includes handling transactions in recent months for Bank Sepah, Defense Industries Organization, and Shahid Hemmat Industrial Group. Following the designation of Bank Sepah under UNSCR 1747, Bank Melli took precautions not to identify Sepah in transactions. Through its role as a financial conduit, Bank Melli has facilitated numerous purchases of sensitive materials for Iran's nuclear and missile programs. In doing so, Bank Melli has provided a range of financial services on behalf of Iran's nuclear and missile industries, including opening letters of credit and maintaining accounts.

Bank Melli also provides banking services to the IRGC and the Qods Force. Entities owned or controlled by the IRGC or the Qods Force use Bank Melli for a variety of financial services. From 2002 to 2006, Bank Melli was used to send at least $100 million to the Qods Force. When handling financial transactions on behalf of the IRGC, Bank Melli has employed deceptive banking practices to obscure its involvement from the international banking system. For example, Bank Melli has requested that its name be removed from financial transactions.

Bank Mellat, its branches, and subsidiaries: Bank Mellat provides banking services in support of Iran's nuclear entities, namely the Atomic Energy Organization of Iran (AEOI) and Novin Energy Company. Both AEOI and Novin Energy have been designated by the United States under E.O. 13382 and by the UN Security Council under UNSCRs 1737 and 1747. Bank Mellat services and maintains AEOI accounts, mainly through AEOI's financial conduit, Novin Energy. Bank Mellat has facilitated the movement of millions of dollars for Iran's nuclear program since at least 2003. Transfers from Bank Mellat to Iranian nuclear-related companies have occurred as recently as this year.

IRGC-owned or -controlled companies: Treasury is designating the companies listed below under E.O. 13382 on the basis of their relationship to the IRGC. These entities are owned or controlled by the IRGC and its leaders. The IRGC has significant political and economic power in Iran, with ties to companies controlling billions of dollars in business and construction and a growing presence in Iran's financial and commercial sectors. Through its companies, the IRGC is involved in a diverse array of activities, including petroleum production and major construction projects across the country. In 2006, Khatam al-Anbiya secured deals worth at least $7 billion in the oil, gas, and transportation sectors, among others.

- Khatam al-Anbya Construction Headquarters
- Oriental Oil Kish
- Ghorb Nooh
- Sahel Consultant Engineering
- Ghorb-e Karbala
- Sepasad Engineering Co
- Omran Sahel
- Hara Company
- Gharargahe Sazandegi Ghaem

IRGC Individuals: Treasury is designating the individuals below under E.O 13382 on the basis of their relationship to the IRGC. One of the five is listed on the Annex of UNSCR 1737 and the other four are listed on the Annex of UNSCR 1747 as key IRGC individuals.

- General Hosein Salimi, Commander of the Air Force, IRGC
- Brigadier General Morteza Rezaie, Deputy Commander of the IRGC
- Vice Admiral Ali Akhbar Ahmadian, Most recently former Chief of the IRGC Joint Staff
- Brigadier Gen. Mohammad Hejazi, Most recently former Commander of Bassij resistance force

- Brigadier General Qasem Soleimani, Commander of the Qods Force

Other Individuals involved in Iran's ballistic missile programs: E.O. 13382 derivative proliferation designation by Treasury of each of the individuals listed below for their relationship to the Aerospace Industries Organization, an entity previously designated under E.O. 13382. Each individual is listed on the Annex of UNSCR 1737 for being involved in Iran's ballistic missile program.

- Ahmad Vahid Dastjerdi, Head of the Aerospace Industry Organization (AIO)
- Reza-Gholi Esmaeli, Head of Trade & International Affairs Dept., AIO
- Bahmanyar Morteza Bahmanyar, Head of Finance & Budget Department, AIO

Support for Terrorism -- Executive Order 13224 Designations

E.O. 13224 is an authority aimed at freezing the assets of terrorists and their supporters, and at isolating them from the U.S. financial and commercial systems. Designations under the E.O. prohibit all transactions between the designees and any U.S. person, and freeze any assets the designees may have under U.S. jurisdiction.

IRGC-Qods Force (IRGC-QF): The Qods Force, a branch of the Islamic Revolutionary Guard Corps (IRGC; aka Iranian Revolutionary Guard Corps), provides material support to the Taliban, Lebanese Hizballah, Hamas, Palestinian Islamic Jihad, and the Popular Front for the Liberation of Palestine-General Command (PFLP-GC).

The Qods Force is the Iranian regime's primary instrument for providing lethal support to the Taliban. The Qods Force provides weapons and financial support to the Taliban to support anti-U.S. and anti-Coalition activity in Afghanistan. Since at least 2006, Iran has arranged frequent shipments of small arms and associated ammunition, rocket propelled grenades, mortar rounds, 107mm rockets, plastic explosives, and probably man-portable defense systems to the Taliban. This support contravenes Chapter VII UN Security Council obligations. UN Security Council resolution 1267 established sanctions against the Taliban and UN Security Council resolutions 1333 and 1735 imposed arms embargoes against the Taliban. Through Qods Force material support to the Taliban, we believe Iran is seeking to inflict casualties on U.S. and NATO forces.

The Qods Force has had a long history of supporting Hizballah's military, paramilitary, and terrorist activities, providing it with guidance, funding, weapons, intelligence, and logistical support. The Qods Force operates training camps for Hizballah in Lebanon's Bekaa Valley and has reportedly trained more than 3,000 Hizballah fighters at IRGC training facilities in Iran. The Qods Force provides roughly $100 to $200 million in funding a year to Hizballah and has assisted Hizballah in rearming in violation of UN Security Council Resolution 1701.

In addition, the Qods Force provides lethal support in the form of weapons, training, funding, and guidance to select groups of Iraqi Shi'a militants who target and kill Coalition and Iraqi forces and innocent Iraqi civilians.

Bank Saderat, its branches, and subsidiaries: Bank Saderat, which has approximately 3200 branch offices, has been used by the Government of Iran to channel funds to terrorist organizations, including Hizballah and EU-designated terrorist groups Hamas, PFLP-GC, and Palestinian Islamic Jihad. For example, from 2001 to 2006, Bank Saderat transferred $50 million from the Central Bank of Iran through its subsidiary in London to its branch in Beirut for the benefit of Hizballah fronts in Lebanon that support acts of violence. Hizballah has used Bank Saderat to send money to other terrorist organizations, including millions of dollars on occasion, to support the activities of Hamas. As of early 2005, Hamas had substantial assets deposited in Bank Saderat, and, in the past year, Bank Saderat has transferred several million dollars to Hamas.

REPORTS

- Treasury and State Department Iran Designations Identifier

Annex 130

International Monetary Fund, *Qatar: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism*, 19 June 2018, published October 2008

Website of the International Monetary Fund available at https://www.imf.org/external/pubs/ft/scr/2008/cr08322.pdf

QATAR

DETAILED ASSESSMENT REPORT ON ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM

JUNE 19, 2008

INTERNATIONAL MONETARY FUND
LEGAL DEPARTMENT

October 2008
IMF Country Report No. 08/322

Qatar: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism

This Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism for Qatar was prepared by a staff team of the International Monetary Fund using the assessment methodology adopted by the Financial Action Task Force in February 2004 and endorsed by the Executive Board of the IMF in March 2004. It is based on the information available at the time it was completed on June 19, 2008. The views expressed in this document are those of the staff team and do not necessarily reflect the views of the government of Qatar or the Executive Board of the IMF.

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International Monetary Fund
Washington, D.C.

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ACRONYMS

AML/CFT	-	Anti-Money Laundering and Combating the Financing of Terrorism
BL	-	Banking Law
BCP	-	Basel Core Principles
CC	-	Criminal Code
CCL	-	Commercial Companies Law
CDD	-	Customer Due Diligence
CPC	-	Criminal Procedure Code
CRO	-	Companies Registration Office
CRS	-	Central Reports System
CSP	-	Company Service Provider
CT	-	Combating Terrorism
DNFBP	-	Designated Non-Financial Businesses and Professions
DSM	-	Doha Securities Market Committee
ECPD	-	Economic Crimes Prevention Division
FATF	-	Financial Action Task Force
FI	-	Financial Institution
FIU	-	Financial Intelligence Unit
FSAP	-	Financial Sector Assessment Program
FSR	-	Financial Services Regulations
FSRB	-	FATF-Style Regional Body
FT	-	Financing of Terrorism
GCC	-	Gulf Cooperation Council
GDCP	-	General Directorate for Customs and Ports
IAIS	-	International Association of Insurance Supervisors
ICSFT	-	International Convention for the Suppression of Terrorist Financing
KYC	-	Know Your Customer/Client
LEG	-	Legal Department of the IMF
LLC	-	Limited Liability Company
LLP	-	Limited Liability Partnership
MEC	-	Ministry of Economy and Commerce
MENAFATF	-	Middle East & North Africa Financial Action Task Force
MOFA	-	Ministry of Foreign Affairs
MOU	-	Memorandum of Understanding
MOJ	-	Ministry of Justice
MOI	-	Ministry of Interior
ML	-	Money Laundering
MLA	-	Mutual Legal Assistance
MLRO	-	Money Laundering Reporting Officer
NAMLC	-	National Anti-Money Laundering Committee
NCT	-	National Committee for Fighting Terrorism
NPO	-	Nonprofit Organization
PEP	-	Politically-Exposed Person
PPO	-	Public Prosecutor's Office
QACA	-	Qatar Authority for Charitable Activities
QCB	-	Qatar Central Bank
QFC	-	Qatar Financial Center
QFCA	-	Qatar Financial Center Authority
QFCRA	-	Qatar Financial Center Regulatory Authority

QFMA	-	Qatar Financial Markets Authority
ROSC	-	Report on Observance of Standards and Codes
SRO	-	Self-Regulatory Organization
STR	-	Suspicious Transaction Report
TCSP	-	Trust and Company Service Providers
UN	-	United Nations Organization
UNODC	-	United Nations Office on Drugs and Crime
UNSC	-	United Nations Security Council
UNSCR	-	United Nations Security Council Resolution

PREFACE

1. This assessment of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of the State of Qatar is based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF) as amended, and was prepared using the AML/CFT assessment Methodology 2004, as updated in February 2007. The assessment team considered all the materials supplied by the authorities, the information obtained on site during its visit from February 4, 2007 to February 20, 2007, and other verifiable information subsequently provided by the authorities. During the mission, the assessment team met with officials and representatives of all relevant government agencies and the private sector. A list of the bodies met is set out in Annex 1 to the detailed assessment report.

2. The assessment was conducted by a team of assessors composed of staff of the International Monetary Fund (IMF) and one expert acting under the supervision of the IMF. The evaluation team consisted of Nadim Kyriakos-Saad (LEG, team leader), Nadine Schwarz, Francisco Figueroa, Emmanuel Mathias (all LEG); and Chady El Khoury (Special Investigation Commission, Lebanon)[1]. The assessors reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter and punish money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP). The assessors also examined the capacity, implementation, and effectiveness of all these systems.

3. This report provides a summary of the AML/CFT measures in place in the State of Qatar at the time of the mission or shortly thereafter. It describes and analyzes those measures, sets out the State of Qatar's levels of compliance with the FATF 40+9 Recommendations (see Table 1) and provides recommendations on how certain aspects of the system could be strengthened (see Table 2). The report was produced by the IMF as part of the Financial Sector Assessment Program (FSAP) of the State of Qatar and the assessment processes of the MENAFATF and the FATF. [It was also presented to the MENAFATF and FATF and adopted by these organizations at their respective plenary meetings of April 2008 and June 2008.]

4. The assessors would like to express their gratitude to the authorities of the State of Qatar for their assistance and hospitality throughout the assessment mission, noting in particular the assistance provided by the Governor of the Central Bank, H.E. Abdullah Saud Al-Thani; the deputy Governor of the Central Bank, Fahad Faisal Al-Thani, the head of the FIU, Ahmed Bin Eid Al-Thani, and the members of their staff.

[1] Mr. El Khoury joined LEG in September 2007.

EXECUTIVE SUMMARY

Key Findings

Legal Systems and Related Institutional Measures

5. Money laundering is criminalized under Article 2 of Law No. (28) of 2002 (the AML Law) as amended through Decree Law No. (21) of 2003. The offense covers many of the material and mental elements set out in the Vienna and Palermo Conventions but does not extend to acts aimed at concealing or disguising the location, disposition, movement, or ownership of funds. The scope of the money laundering offense is narrowed further by the fact that Qatar adopted a list of predicate crimes which includes only some of the categories of offenses designated by FATF: crimes of drugs and dangerous psychotropic substances; forgery, counterfeiting and imitation of notes and coins; illegal trafficking in weapons, ammunitions and explosives; terrorist crimes (which includes terrorist financing); and extortion and looting.

6. The money laundering offense applies to any type of property derived directly or indirectly from crime, including assets of any kind. A prior conviction for the predicate offense does not appear to be necessary to establish that property is the proceeds of one of the predicate crimes.

7. There is no fundamental principle in Qatari law that would prohibit the courts from applying the money laundering offense to the person who has committed the predicate crime. "Self laundering" may, therefore, be prosecuted in the same way as third party laundering.

8. The AML Law explicitly provides for the possibility of both personal and corporate liability for money laundering. The general dispositions of the Criminal Code criminalize ancillary offenses to all crimes, including money laundering, in a way which is consistent with the standard. The sanctions provided under the AML Law and, where applicable, the Criminal Code are proportionate and dissuasive.

9. At the time of the assessment, the Qatari AML framework had not been tested before the courts. While some investigations have taken place, only one prosecution had been initiated under the AML Law and was subsequently abandoned when it was established that the funds were legitimate.

10. Terrorist financing is criminalized, albeit in a limited way, under Article 4 of the Law No. (3) of 2004 on Combating Terrorism (CT Law). It may apply with respect to all "terrorist crimes" which cover all the offenses listed in the standard, bar the unlawful seizure of an aircraft carried out with no intention to terrorize, cause harm, death or material damage and with no political motive. The offense refers to the collection or provision of "material or financial assistance" which covers all the funds mentioned under the standard, regardless of their source. It does not require that the funds were used to carry out or to attempt to carry out a terrorist act, or be linked with a terrorist act, but it does require that they be linked with a terrorist group or organization. The offense, therefore, does not extend to the collection of material or financial assistance for and their provision to terrorist individuals or for a terrorist act. Terrorist financing is sanctioned by life imprisonment and is listed amongst the predicate crimes to money laundering. Action has been taken to investigate terrorist acts in Qatar but no measures were taken to investigate their funding.

11. Qatar adopted a comprehensive confiscation, freezing, and seizing framework under the AML Law which enables the authorities to remove all assets linked with a money laundering offense or its predicate. Confiscation is mandatory and must be applied even when it has not been requested by the prosecutors. Provisional measures have been taken in some instances (which all related to the freezing of bank accounts), but no confiscation has been ordered because no money laundering charges have been brought before the courts.

12. Similarly broad confiscation measures have been adopted under the CT Law. As an exception to the general criminal procedure rules, no statute of limitation applies to the confiscation measure (and other sanctions) set out in the CT Law. While the confiscation measures set out in the CT Law broadly meet the standard, no procedure has been adopted in application of Special Recommendation III: an interdepartmental committee has been established to coordinate Qatar's efforts in the implementation of United Nations Security Council Resolution (UNSCR) 1267 and the international conventions on the fight against terrorism, but its mandate does not cover UNSCR 1373; no authority has been granted the powers to designate terrorists; and there is no legal basis for freezing under the relevant UNSCR. In practice, some designations made by the UN under UNSCR 1267 have been disseminated to banks and other institutions operating under the supervision of the Qatar Central Bank (QCB) and the Qatar Financial Center Authority (QCFRA), but others have not, and, overall, the dissemination process is too limited and infrequent to be fully effective. It also appeared that, on one occasion, the authorities offered safe harbor to a person designated under UNSCR 1267. No actions were taken with respect to this person's funds and other assets.

13. The Financial Intelligence Unit (FIU) for Qatar is an administrative unit established pursuant to Administrative Order No. 1 of 2004 by the President of the National Anti-Money Laundering Committee (NAMLC). Structurally, the FIU is an autonomous component of the NAMLC housed, at the time of the assessment, in the QCB. The FIU mission includes receiving suspicious transaction reports (STR) and other information related to ML/TF operations, carrying out analysis, and dissemination of STRs and other information regarding potential money laundering or terrorist financing transactions. The FIU received operational status on October 16, 2004 and was recognized as an Egmont Group member in July 2005. The main shortcoming is that the administrative order establishing the FIU and empowering it with a number of functions appears to be inconsistent with the provisions of the AML Law that gave such powers to the coordinator of NAMLC. The FIU does not have the power to request additional information from DNFBPs and does not issue sufficient guidance to reporting entities on filing STRs. In addition, the quality of STR analysis needs improving. The FIU does not protect adequately the information received nor does it conduct a periodic review of the effectiveness of its systems to combat ML and FT.

14. Qatar separates the authorities in charge of investigations and the legal authorities in charge of the judgment of criminal offenses. Qatar has designated a number of competent authorities to investigate and prosecute money laundering and terrorist financing offenses. The authorities in charge of AML/CFT investigations operate independently. Investigations are mainly the responsibility of four separate authorities: (i) the Economic Crimes Prevention Division (ECPD) within the Ministry of Interior (MOI); (ii) the PPO; (iii) the State Security Bureau (SSB); and (iv) the Customs. The competent authorities are able to obtain documents and information for use in investigations, prosecutions, and related actions. However, the various agencies do not appear to be sufficiently structured, funded, and resourced to effectively carry out their functions. Law enforcement and prosecution personnel would benefit from more frequent and in-depth training.

15. There is some inconsistency in the measures in place to detect cross-border transportation of currency and bearer negotiable instruments in Qatar. Initially, a declaration system was adopted in 2005; in 2006, it was replaced by a disclosure system. Some provisions in the initial regulation were amended to reflect the change from a declaration system to a disclosure system; however, other provisions were not. The current system is neither implemented nor effective.

Preventive Measures—Financial Institutions

16. The Qatari financial system could be best described as a "dual on-shore financial sector" where services provided by financial institutions are available to both residents and non-residents. The Qatari financial system is comprised of two sectors: Domestic – which includes the financial institutions under the responsibility and supervision of the QCB, the MEC and the DSM; and the QFC which was established in 2005 and includes international financial services firms.

17. All financial institutions and other non financial entities comprising the Qatari domestic sector and the QFC are subject to the obligations imposed by the AML Law and by the CT Law. However, these laws do not deal with customer identification and due diligence measures nor do they introduce other basic AML/CFT obligations that should be set out in primary or secondary regulation.

18. The preventive measures for financial institutions in the domestic sector fall short of addressing a vast majority of the customer due diligence elements of the international standard. As such, the measures are insufficient to meet all the requirements of Recommendation 5. The current obligations do not prohibit the opening of anonymous accounts or accounts in fictitious names. There are no direct requirements to determine whether a person is acting on behalf of the customer nor to identify and verify the beneficial owner of the account. The requirements for ensuring that customer documentation, information, or data are kept up-to-date are inadequate. Requirements for addressing enhanced due diligence for higher-risk categories are incomplete. There are no measures in place addressing politically-exposed persons and cross-border correspondent relationships. There are no provisions covering the risk associated with new or developing technologies.

19. The domestic legal and regulatory framework does not explicitly address the aspects of financial institutions relying on intermediaries or other third parties to perform elements of the customer due diligence process. There is also no explicit requirement that the ultimate responsibility for customer identification and verification should remain with the financial institution accepting the relationship. With respect to financial secrecy, there are no legal impediments that could inhibit the implementation of the FATF Recommendations. There are mechanisms in place to provide for the right to confidentiality of financial information as well as access to information by the competent authorities.

20. Although the record-keeping/retention period established significantly exceeds the requirements of the FATF Recommendations, the requirement is not established by law, as required by the standard. Additional guidance is also needed to clearly specify when the retention period starts. There are no specific requirements within the domestic Qatari framework addressing the documentation requirements for wire transfers.

21. The current requirements for financial institutions within the domestic sector to pay special attention to all complex, unusual large transactions and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose do not fully comply with the standard. The same situation

applies to the requirements to give special attention to business relationships and transactions with persons from countries which do not follow or insufficiently apply the FATF Recommendations.

22. The obligation to report suspicious transactions is insufficient as it does not deal with transactions linked to terrorism, attempted transactions, or transactions that may involve tax matters. In practice, the effectiveness of the reporting system should be improved, given that no reports are made by the insurance and securities sectors. The mechanism in place for providing guidance to financial institutions is also inadequate due to lack of established guidelines and appropriate feedback from the competent authorities.

23. Domestic sector financial institutions are required to establish internal programs and controls to implement the requirements of the AML/CFT laws and implementation regulations; however, the requirements do not adequately address measures for timely and unrestricted access to all customer information by the compliance office and staff, an adequately resourced and independent internal audit, and screening procedures for hiring employees. As such, the obligations are insufficient to address all the requirements of the standard. In addition, there are no provisions requiring insurance and securities institutions to comply with the requirement to apply the higher standard to their branches and subsidiaries abroad, to the extent that laws and regulations permit.

24. Although there are measures in place to prevent to a certain extent the establishment of shell banks, these measures fall short of explicitly requiring the physical presence of a financial institution in a way that would encompass the concept of "mind and management" of the institution. Also, there are no measures to prevent financial institutions from dealing with shell banks.

25. Qatari domestic supervisory authorities, with the exception of the insurance supervisor, have been given adequate authority and powers to supervise financial institutions and ensure compliance with existing AML/CFT laws and regulations. In practice, at the time of the visit, inspections of AML/CFT matters were inadequate given limitations in scope and the fact that inspections were not risk-based. None of the supervisory authorities has ever imposed sanctions on the institutions they supervise for non compliance with AML/CFT matters.

26. Money transfer systems operate in Qatar and fall under the supervision of the QCB with respect to AML/CFT matters. However, it appears that an informal money transfer system is operating in Qatar without adequate supervision and monitoring of unlicensed operators by the authorities.

27. For international financial institutions within the QFC, the obligations are established by the QFC Anti-Money Laundering Regulations, mainly the QFC Regulation No. 3 of 2005 (AML Regulations), and complemented by the Anti-Money Laundering Rulebook which extends and clarifies the provisions of the AML Regulations. In general, the legal and regulatory AML/CFT framework adopted by the QFC appears to be in line with the FATF standard, but given the recent establishment of the QFC and the limited number of firms operating at the time of the visit, it was difficult for the assessors to evaluate the effectiveness of the framework.

28. Nevertheless, there are some shortcomings where the QFC authorities need to exercise additional oversight to further strengthen the existing regime. These shortcomings are directly related to certain aspects of customer due diligence where: i) financial institutions are not required to conduct due diligence measures if the potential customer is from a FATF country; ii) no consideration has been given to making a suspicious transaction report when institutions are not able to complete the due diligence process; iii) there are no requirements for financial institutions to obtain senior management approval to continue a

business relationship where a customer has been accepted and found to be or subsequently becomes a PEP; and iv) there are no requirements in place to take the necessary measures to establish the source of funds of customers and beneficial owners identified as PEPs.

29. There are also shortcomings with respect to correspondent banking due to lack of requirements (i) to gather sufficient information about the respondent institution to fully understand the reputation and quality of supervision, including whether it has been subject to a money laundering or terrorist financing regulatory action, and (ii) to document the respective responsibilities of each institution. There are no requirements in place to oblige financial institutions that rely on introducers or third parties, to ensure that these are regulated and supervised, and meet the conditions on the adequate application of the FATF Recommendations. There are no requirements for institutions to examine as far as possible the background and purpose of unusual transactions and to set forth their findings in writing and make them available for competent authorities for at least five years; and there are no measures to ensure that the QFC has the authority to apply counter-measures to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations.

Preventive Measures—Designated Non-Financial Businesses and Professions

30. A legal framework setting out the basic obligations for designated non-financial businesses and professions (DNFBPs) on customer due diligence, record keeping and STRs needs to be established in the domestic sector. This is particularly important as the precious stones, precious metals and real estate sectors are growing rapidly and may create ML or FT opportunities. The recent possibility offered to foreigners to buy property in some designated areas in Qatar constitutes a major development that will contribute to changing the structure and functioning of this sector.

31. All DNFBPs are present in the country except casinos that are prohibited and notaries that are government officials. While circulars on AML/CFT have been issued by the MEC and the Ministry of Justice (MOJ), they do not address all the requirements concerning customer due diligence, record keeping, STR-related obligations, internal controls, and special attention to countries that do not or insufficiently apply the FATF Recommendations. Moreover, the obligations on PEPs, payment technologies, introduced business, and unusual transactions are not set out in law, regulations, or by other enforceable means.

32. Except for the precious metals dealers supervised by the QCB, there is no designated competent authority responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements and no self-regulatory organization (SRO). The current AML/CFT circulars do not set out enforceable requirements with sanctions for non compliance. No specific guidance or feedback has been provided by the FIU or other competent authorities to DNFBPs.

33. The activities performed by lawyers, accountants, and trust and company service providers are the only ones permitted to be conducted in the QFC. While the QFC Law provides for dealing in precious metals as a permitted activity, the QFC Financial Services Regulations do not identify dealing in precious metals as a regulated activity, and therefore it may not be conducted in the QFC. Buying or selling real estate may be performed on an ancillary basis. Firms that are licensed by the QFCA and that are relevant persons are subject to the same AML/CFT requirements as authorized financial institutions and are also supervised, in respect of AML/CFT, by the QFCRA. The regulations that apply are the same as the ones for financial institutions and key findings on the legal framework are identical. In particular, the

framework of the legal privilege should be refined in order not to prevent a lawyer from reporting suspicious information when providing services to companies and trusts.

34. Although DNFBPs in the QFC have been informed of the AML/CFT requirements by the QFCRA, there is no evidence of an effective implementation of those regulations. The QFC was recently established and only a few DNFBPs were operating at the time of the visit. There does not appear to be a clear strategy and sufficient human resources for the supervision of the sector over the longer term. No specific guidance or feedback is provided to DNFBPs and weaknesses have been identified in the monitoring process.

35. The Qatari authorities have not conducted an assessment of the risk of professions other than DNFBPs of being misused for ML or FT. The current approach taken by the MEC with its Circular No. 2 covers all companies operating in Qatar on an indiscriminate basis. The QFC has developed a risk-based approach in assessing the possibility of requiring other non regulated professions to comply with the AML/CFT obligations and the QFC authorities have decided to apply the AML Regulations and AML rulebook to a broader range of activities than those conducted by DNFBPs, such as tax and consulting services.

36. The economy is still heavily reliant on cash and the currency in circulation increased by more than 60 percent from 2002 to 2005. The authorities, other than the DSM, did not provide any information on measures taken to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to ML. No assessment has been performed of the risks associated with the currency changeover following the Gulf monetary union planned for 2010.

Legal Persons and Arrangements & Non-Profit Organizations

37. In the domestic sector, registration of companies is governed by Law No. 5 of 2002 amended by Law No. 16 of 2006. This Law allows the creation of joint partnership companies, simple partnership companies, joint-venture companies, shareholding companies, limited share partnership companies, limited liability companies and holding companies. The Qatari legislation does not provide for the creation of trusts or other similar legal arrangements. At the time of the assessment, there was no information available to the assessors that would indicate that the private sector holds funds under foreign trusts and/or provides other trust services.

38. Relevant information on the ownership and control of legal entities is collected and maintained by the register of commerce. All relevant authorities currently have access to that information, either through the powers granted to the law enforcement agencies, or, in the case of the QCB, through a direct electronic link to the central register. Establishing such a link for the FIU and DSM would enhance further the timeliness of their access to the relevant information.

39. To operate in or from the QFC, a firm must be registered by the QFC Companies Registration Office (CRO) as a limited liability company (LLC) or limited liability partnership (LLP) or registered as a branch of a foreign LLC or LLP licensed by the QFCA and, in case of regulated activities, authorized by the QFCRA. The QFCA has issued Regulation No.12 on February 26, 2007 that provides for the creation of trusts under QFC laws.

40. Firms conducting activities in the QFC must be incorporated in the CRO. The register provides through the website details of ownership, management, registered office, principal representatives, etc.

However, the QFC trust regulations do not set out measures that would enable the competent authorities to have adequate, timely, and accurate information on express trusts, including information on the settlor, trustee, and beneficiaries.

41. The measures that have been adopted in the domestic sector to prevent the abuse of nonprofit organizations (NPO) go beyond the requirements of the relevant FATF Recommendations and the Qatari Authority for Charitable Organizations appears to ensure effective implementation of the requirements in place. The comprehensive regulations in place do not appear to have had an adverse impact on donations as the total turnover of the sector is constantly growing. Within the QFC, however, the charitable trusts are not required to be registered and are not subject to supervision.

National and International Cooperation

42. Two platforms have been established to ensure formal domestic cooperation and coordination between the Qatari policy makers, FIU, law enforcement and supervisory authorities as well as other relevant authorities: the NAMLC for the fight against money laundering, and the NCT for the fight against terrorism. All relevant authorities are members of both committees, except the QFC, DSM, and public prosecutor's office. Overall, coordination and cooperation appear effective on both the policy and operational levels but they could be enhanced further by the inclusion of the QFC, DSM and, if necessary, the public prosecutor's office in both committees. While coordination and cooperation with these three authorities do take place in practice, they necessarily occur in a second stage (i.e., after the committees have met), thus removing any possibility of a direct participation in the discussions and creating a time gap between the moment when the discussions take place and the decisions are made, and the moment when the QFC, DSM and public prosecutor's office are kept informed. Coordination on the implementation of the UNSCR 1373 is partly ensured through the NCT Committee, but coordination on the implementation of UNSCR 1267 currently remains unaddressed.

43. Qatar has ratified and partially implemented the Vienna Convention, but has not ratified the Palermo Convention, nor the 1999 International Convention for the Suppression of the Financing of Terrorism.

44. The AML Law and the Criminal procedure code enable the Qatari authorities to take a broad range of measures upon request of another country, including freezing, seizing, and confiscation of property linked with a money laundering offense. However, the mutual legal assistance framework nevertheless falls short of the standard, mainly because the authorities make a strict application of the dual criminality requirement, even for non-coercive measures, and the money laundering offense only applies to a limited number of predicate offenses.

45. International cooperation in the fight against terrorist financing is not specifically addressed and would, therefore, appear to be governed by the general dispositions of the criminal procedure code. Qatar has concluded a number of bilateral agreements with other States to enhance cooperation in the fight against terrorism and its financing, but these agreements are not very specific. Overall, the framework in place suffers from a number of shortcomings which are mainly the result of the limited scope of the terrorist financing offense and a strict application of the dual criminality requirements including for less intrusive measures.

46. Both money laundering and terrorist financing are extraditable offenses. Extradition in general does not appear to be subject to unduly restrictive conditions. Extradition of Qatari nationals is not

possible and it is unclear whether the authorities would prosecute and sentence Qatari nationals *in lieu* of the requesting State. In one instance, the Qatari government refused to extradite a person designated in application of UNSCR 1267 and to cooperate with the requesting State in any other way.

Other Issues

47. Overall, the allocation of resources to AML/CFT appears to be uneven, particularly in view of the rapid development and diversification of the economy. The professional standards, including those related to confidentiality, are not fully developed. There is a lack of specialist skills training in law enforcement authorities, including prosecution agencies, FIU, supervisors and other competent authorities involved in combating ML/FT. The competent authorities have yet to develop comprehensive statistics.

DETAILED ASSESSMENT REPORT

1 GENERAL

1.1 General Information on Qatar

48. The State of Qatar is a peninsula located halfway along the west coast of the Persian Gulf covering an area of 11,521 square kilometers. It shares a 60 km land border with the Kingdom of Saudi Arabia to the south, where the peninsula connects to the mainland. It also has maritime borders with Iran from the north and east, Bahrain from the west, and the United Arab Emirates from the south east.

49. The population was estimated at 838,000 inhabitants in mid-2007 compared to 744,000 inhabitants in 2004. More than 45 percent live in the capital, Doha City, and its suburbs. Foreign workers comprise 52 percent of the total population and make up about 89 percent of the total labor force. Most are from South Asia and the Arab countries (in particular, Egyptians, Jordanians, Syrians, Lebanese, and Palestinians). The population has a literacy rate of 89 percent and the life expectancy averages 74 years. Islam is the official religion of Qatar, and Arabic is the official language.

50. Qatar remained a British protectorate until 1971 when Britain withdrew from the Persian Gulf area. In 1970, Qatar adopted a provisional constitution declaring it an independent Arab country. The Al Thani family formally became the ruling dynasty. The provisional constitution was replaced by a new constitution (the permanent constitution) which was approved by referendum in 2003. The new constitution differs significantly from the previous document in that it grants new rights and freedoms to the citizens and increases their participation in the government of the country. Similar to the previous constitution, the new constitution declares Qatar to be an independent and sovereign state with executive powers vested in the Emir. The Emir is the head of state and the minister of defense. He appoints the prime minister and the cabinet. The Advisory Council (Al-Shoura) has been an appointed body since 1970, but the new constitution envisions elections for two-thirds of its members. The Emir selects the crown prince from among his sons. The 2003 constitution specifies that the system of government is based on the separation of powers: Executive power rests with the Emir and the council of ministers; Legislative authority belongs to the elected Advisory Council (Al-Shoura); and judicial authority is exercised independently by the courts in the name of the Emir. At the time of the assessment, the (new) Al-Shoura had not been elected. According to article 150 of the 2003 constitution, the provisions in the 1972 constitution pertaining to the Al-Shoura remain in force until the new council is elected. The current Al-Shoura is composed of 35 members appointed by Emiri decision on the basis of the former Constitution.

51. Under the permanent Constitution the Council of Ministers, “in its capacity as the highest executive organ, is empowered to propose draft laws and decrees to Al-Shoura Council, approve regulations and decisions prepared by the ministries and other government organs and supervise the implementation of laws, decrees, regulations and resolutions (Article 121 para. 1 to 3 of the Constitution). Any draft law passed by Al-Shoura Council must then be referred to the Emir for ratification (Articles 67 para. 2 and 106 para. 1 of the Constitution). To date, however and as mentioned above, the new Al-Shoura Council has not been established. Legislations are adopted by the Council of Ministers then ratified by the Emir. For the purpose of this assessment, the assessors considered that the laws issued by the Council of Ministers and enacted by the Emir constitute primary legislation and that only the regulations adopted by the Council of Ministers or its members individually in accordance with the delegation provided in the primary law could constitute secondary legislation.

52. The judiciary system in Qatar is divided into the Sharia courts and the civil system. The 1999 Law governing the organization of the judiciary provides for a three-tiered judicial system. The Courts of Justice and the Sharia Courts of First Instance occupy the base of the structure. The Courts of Justice are empowered to hear civil, criminal, and commercial matters. The Sharia courts administer Islamic laws. Their role is generally limited to the adjudication of disputes relating to personal status matters (such as marriages, divorce, inheritance, custody cases and child support) and certain criminal cases. Decisions made in these first instance courts may be appealed to the Appeal Court of Justice and the Sharia Court of Appeal. The Court of Cassation is the third tier of the judicial system. In hearing criminal cases, both the Sharia and the criminal courts employ practices and procedures similar to those employed in common and civil law courts. A public prosecutor presents the case on behalf of the State, the accused is allowed legal representation, the accused is presumed innocent until proven guilty, and, generally, trials are open to the public. Decisions of the Qatari courts are not published and there is no doctrine of binding precedent under Qatari law, although, in practice, courts of first instance usually follow decisions of the courts of appeal.

53. The State of Qatar is a member of the Gulf Cooperation Council (GCC) which also includes Bahrain, Kuwait, the United Arab Emirates, Oman, and Saudi Arabia. Qatar is also a member of the League of Arab States, the Organization of Petroleum Exporting Countries (OPEC), the United Nations (UN), the Organization of the Islamic Conference (OIC), the Non-Aligned Movement, and the World Trade Organization (WTO), among other regional and international organizations. The State of Qatar was elected a non-permanent member of the United Nations Security Council for the term 2006-2007. The country has signed defense pacts with the United States (US), the United Kingdom (UK), and France and hosts the U.S. Central Command (CENTCOM) Forward Headquarters. Qatar is home to the satellite television station, Al-Jazeera.

54. Oil and gas resources form the cornerstone of Qatar's economy. In total, they account for 62 percent of the GDP and 65 percent of the state revenues. Qatar has the third largest proven reserves of gas in the world and exports liquefied gas to Asia, Europe and the United States. Qatar’s production of liquefied gas reached 30 million tons in 2007 and is expected to increase to 77 million tons by 2012 making Qatar the main world gas exporter. As a result of the constant development in producing and exporting gas and the increase in the gas prices worldwide, Qatar’s nominal GDP per capita was expected to reach US$70,000 in 2007, one of the highest levels in the world. In 2006, real GDP growth was over 7 percent and the current account surplus reached US$ 9.5 billion.

55. The non-oil and gas sector accounts for less than 40 percent of the GDP. The finance, insurance and real estate sector is the second largest contributor to the GDP with around 8 percent in 2006. Qatar is currently trying to attract foreign investment in the development of its non-energy projects by further liberalizing the economy. Over the next six years, over US$130 billion in investments are planned in the emirate. Qatar riyal is pegged to the U.S. dollar at QR3.64: US$1, with a consumer price inflation above 6 percent every year since 2004. In 2005, Japan, South Korea, and Singapore were the main destinations of exports, whereas France, Japan and the United States were the main sources of imports.

56. Concerning governance, Qatar ranks in the world top third according to the World Bank Worldwide Governance Indicators, covering 213 countries and territories. These indicators measure six dimensions of governance: voice and accountability, political stability, and absence of violence, government effectiveness, regulatory quality, rule of law, and control of corruption. Qatar only lags

behind for the 'voice and accountability' indicator but the situation has been improving over the years. For all indicators, but regulatory quality, Qatar is above the GCC countries' average ranking.

Table 1. World Bank Worldwide Governance Indicators[1] - 2005
(213 jurisdictions covered)

Indicator	Qatar Ranking	GCC Average Ranking
Voice and Accountability	151	161
Political Stability	55	98
Government Effectiveness	64	77
Regulatory Quality	82	76
Rule of Law	42	64
Control of Corruption	45	52

[1] For more details see World Bank website: www.worldbank.org/wbi/governance.

1.2 General Situation of Money Laundering and Financing of Terrorism

Money Laundering

57. Although the offense of money laundering has now been in place for a few years, the dispositions of the AML Law remain untested by the courts. One prosecution has been conducted on the basis of the AML Law in 2006, but was subsequently abandoned when it was established that the source of the funds was legitimate.

58. The Qatari FIU classifies STRs according to their typologies. Three main typologies of STRs have been identified: the transfer of large amounts of money abroad through exchange houses, the deposit of large amounts of money in an account in a manner that is not proportional to the individual's monthly income, and the inflow of financial remittances from abroad through a bank from an unknown source.

59. While there is currently no evidence of significant ML in the country, it should be noted that Qatar's financial sector was, between 2002 and 2006, the fastest growing of the GCC region in terms of banking sector assets. Qatar is now, after the UAE, the most financially developed economy in the region and has the highest banking sector assets per inhabitant. The development of the financial sector is associated to a boom in the real estate sector and the precious stones and metals trade. These developments have the potential of creating a suitable environment for money launderers seeking to exploit these conditions to exercise their illegitimate activities.

Predicate Offenses

60. The level of predicate offenses appears very low in Qatar in comparison to other countries. According to statistics issued by the United Nations,[2] the total crimes recorded in Qatar were 9.9 per 1,000 populations to compare to an average of 33.7 per 1,000 for the 92 countries surveyed. Sanctions appear to be tougher in Qatar as prisoners account for 1 percent of the population as compared to 1.51 percent for the average of countries surveyed. There was no specific mention of Qatar in the UN International Narcotic Control Board and UN World Drug 2006 reports. According to several reports, Qatar ranks among the less corrupted countries in the region. Qatar was listed as a 'medium' human trafficking destination country by the UN in the 2006 report on human trafficking.

61. More crime statistics were provided to the mission by the Public Prosecutor's Office. They confirm the low rate of proceeds-generating crimes in the country. A total of 33 prosecutions were conducted in 2006 for bribery and embezzlement and 249 prosecutions for drug-related crimes. It should be noted that alcohol trafficking is included in the "drug-related crimes" and that two-thirds of the prosecutions are related to the possession of drugs (including alcohol). Counterfeiting of currency and trafficking of counterfeited currency accounted for 16 prosecutions during the same year. Other proceeds generating crimes mentioned by the authorities are credit card fraud, corruption, piracy of goods, insider trading, and market manipulation. The authorities are unaware of the presence of serious organized or transnational crime in the country.

Terrorist Financing

62. No prosecution has ever been led on terrorist financing and the FIU has not received any suspicious transaction report (STR) related to terrorist financing so far.

Terrorist Activities

63. No major terrorist activity has been recorded in the country. But less serious terrorist activity has been noted. Among the most relevant events, a suicide car bombing directed against UK interests and claimed by an Islamic group took place in 2005. Eight prosecutions related to terrorist activities were conducted in 2006. Four cases involved the constitution of a group intending to commit terrorist acts against the State of Qatar. Other cases included manufacturing of and training in explosives, possession of arms, and hijacking.

1.3 Overview of the Financial Sector

64. Qatar has adopted an open economy policy and attracted significant foreign investments to the different sectors of the country such as the real estate and securities sectors. In doing so, Qatar issued legislations and facilitated procedures for investors. This has had a very positive impact on the national economy. In the past few years, Qatar has become one of the developed countries in terms of attracting foreign investments. To accompany its open economy policy, Qatar has adopted a number of AML/CFT control policies.

[2] Seventh United Nations Survey of Crime Trends and Operations of Criminal Justice Systems, statistics for year 2000. (http://www.unodc.org/unodc/en/crime_cicp_survey_seventh.html#responses)

65. The Qatari financial system is comprised of two sectors: Domestic – which includes the financial institutions under the responsibility and supervision of the QCB, the MEC and the DSM; and the QFC which was established in 2005 and includes international financial services firms.

66. **Domestic Sector:** The Qatari banking and financial system, excluding the QFC entities, is comprised of banks, including Islamic banks, investment companies, exchanges houses, finance companies, insurance companies, and brokerage firms.

67. There are 17 banks (9 Qatari, 8 foreign), 3 investment companies, 19 exchange houses, 1 finance company, 8 insurance companies, and 7 brokerage firms operating in Qatar. Based on QCB information in 2005, total assets of banking institutions amounted to QR 127,934 million (approximately US $35,147 million) or 83 percent of GDP. The largest three banks in Qatar accounted for approximately 68 percent of total banking assets. No other financial information for the DSM and the MEC was provided by the authorities.

68. The table below reflects the breakdown for each type of financial institution, permitted activities, and competent authority responsible for AML/CFT supervision.

Table 2. Financial Institutions and Supervisory Authority—Domestic Sector

Type of Institution	Permitted Activity	Competent Supervisory Authority
Banks	Acceptance of deposits, granting credit facilities, discount, purchase or sale of negotiable instruments, trading in foreign exchange instruments and precious metals, issuance of checks and other payment instruments, issuance of bond, liabilities and any other activities specified by a decision from the QCB.	QCB
Investment Companies	Investment on behalf of third parties, performance of mediation activity and financial agency, organization of public underwriting, providing preservation and safety services, contribution in share issuance and other securities, providing advices regarding capital markets and services connected to amalgamation, sale and purchase of companies and establishments, management of investment funds, trading in money instruments and market foreign exchange and precious metals, and any other activities decided by the QCB.	QCB
Exchange Houses	Changing and trading in different currencies and travelers' checks, and ingots of previous metals and issuance and acceptance of remittances from licensed correspondents.	QCB
Finance Companies	Granting credits or any specialized lending activities decided by the QCB.	QCB
Brokerage Companies	Engaging directly or indirectly in the business of offering, selling, buying or otherwise dealing or trading in securities.	DSM
Insurance Companies	Insurance coverage against accidents and fire, marine and land insurance, health insurance and others.	MEC

69. **QFC:** The QFC was established in 2005 under Law No. 7 of 2005. The QFC is not an offshore center. It was created to provide both a venue for financial services firms to establish themselves within a designated zone in the State of Qatar and to undertake and provide a broad range of activities, services, and products. Companies licensed by the QFC can operate in local and other currencies. The QFC allows for 100 percent ownership by foreign companies and all profits can be remitted outside Qatar. The QFC is currently a tax free zone until April 2008. Article 17 of the QFC Law provides that after April 2008, the Regulations may provide for the imposition, administration, and collection of all kinds of taxes and duties within the QFC including without limitation taxes in relation to entities, individuals and corporate bodies as well as businesses operating in the QFC and the wages, salaries, and benefits of employees working in the QFC, and to set from time to time the level and method of calculation thereof and to provide exemptions therefrom for such periods as may be deemed appropriate.

70. The legal and regulatory system of the QFC is implemented and administered by the following QFC institutions:

- The QFC Regulatory Authority (QFCRA) which is the unitary financial services regulator of the QFC;
- The QFC Authority (QFCA) which is responsible for developing the commercial strategy of the QFC, is also responsible for supervising unregulated activities and establishing relationships with the global financial community;
- The Appeals Body which is an independent body established to hear appeals against decisions of the Regulatory Authority;
- The Tribunal (Civil and Commercial Court) which solves disputes relating to QFC activities or events occurring in the QFC; and
- The CRO which is responsible for the incorporation and registration of companies and other entities carrying on business in the QFC.

71. The QFCRA is responsible for the authorization of firms seeking to conduct Regulated Activities in the QFC and for the on going supervision of those firms to ensure they remain in compliance with the various QFC requirements, including AML/CFT requirements. The QFCRA as an independent body also has power to discipline those firms and individuals that fail to comply with QFC requirements.

72. Within the QFC, there are two categories of Permitted Activities categorized as either Regulated Activities or Non-Regulated Activities. The Permitted Activities as defined in Schedule 3 of the QFC Law, which are also considered Regulated Activities, are as follows: (i) financial business, banking business of whatever nature, and investment business, including (without limit) all business activities that are customarily provided by investment, corporate and wholesale financing banks, as well as Islamic and electronic banking business;(ii) insurance and reinsurance business of all categories;(iii) money market, stock exchange and commodity market business of all categories, including trading in and dealing in precious metals, stocks, bonds, securities, and other financial activities derived therefrom, or associated therewith; (iv) money and asset management business, investment fund business, the provision of project finance and corporate finance in all business fields and Islamic banking and financing business; (v) funds administration, fund advisory and fiduciary business of all kinds; (vi) pension fund business and the

business of credit companies; (vii) the business of insurance broking, stock broking, and all other financial brokerage business; (viii) financial agency business and the business of provision of corporate finance and other financial advice, investment advice and investment services of all kinds; and (ix) the provision of financial custodian services and the business of acting as legal trustees.

73. The distinction between regulated activities and non-regulated activities is significant in that firms conducting Regulated Activities require a license from the QFC Authority and authorization from the QFCRA whereas firms conducting solely Non Regulated Activities only need a license from the QFC Authority.

74. Permitted activities as defined in Schedule 3 of the QFC Law, which are not considered Regulated Activities are as follows: (i) the business of ship broking and shipping agents; (ii) the business of provision of classification services and investment grading and other grading services; (iii) business activities of company headquarters, management offices and treasury operations and other related functions for all kinds of businesses, and the administration of companies generally; (iv) the business of providing professional services including but not limited to audit, accounting, tax, consulting, and legal services; (v) business activities of holding companies, and the provision, formation, operation, and administration of trusts and similar arrangements of all kinds; and (vi) the business of provision, formation, operation and administration of companies.

75. A person who carries on any Regulated Activities and/or a person who conducts, and in so far as they conduct, any of the following activities is considered a relevant person: (i) providing auditing, accounting, tax consulting, legal, and notarization services; (ii) providing trust services by way of the provision, formation, operation, and administration of trusts and similar arrangements; and (iii) providing company services by way of the provision, formation, operation, and management of companies.

76. Any financial institution conducting financial activities in or from the QFC must be authorized by the QFCRA. As of the mission date, there were 12 firms authorized and regulated by the QFCRA.

77. Although the majority of the regulated institutions have been authorized, only two have commenced operations.

1.4 Overview of the DNFBP Sector

78. **Casinos**: Gambling is prohibited in Qatar and sanctioned under Article 275 of the Penal code. According to Article 274 of the Penal code, gambling is “any game in which the probability of gain and loss depends on luck and not on controlled factors and each party agrees to give the amount of money, in case of loss, to the winning party”. Even if prices for the winners of camel and horse races are significant, it is not considered as gambling because there is no betting on a winning party. Casinos or gambling are not included in the activities permitted in the QFC according to the Schedule 3 of the QFC Law No. 7 of 2005.

79. **Real Estate Agents**: There are 970 companies acting in the real estate sector registered at the Qatari Chamber of Commerce. The exercise of the profession of real estate agent is subject to the provisions of the law on real estate brokerage. Real estate agents are licensed and monitored by the MEC and have to be authorized by the real estate registration department of the MOJ. Buying or selling real estate is not included in the activities permitted in the QFC according to Schedule 3 of the QFC Law No. 7 of 2005, but it may be performed on an ancillary basis by professionals performing other activities.

The real estate sector is growing rapidly and the recent possibility offered to foreigners to buy property in some designated areas in Qatar constitutes a major development that will contribute to changing its structure and functioning. Unless measures are taken, it may increase the risk of being abused by criminal elements.

80. **Dealers in precious metals and stones**: There are 22 shops selling gold and 197 jewelers, all licensed and supervised by the MEC. The 19 exchange houses licensed and supervised by the QCB are also permitted to engage in the purchase or sale of precious metals and gold bullions. Concerning gold, exchange houses may act as wholesalers for jewelers. Schedule 3 of the QFC Law No. 7 of 2005 provides for dealing in precious metals as a permitted activity which, subject to the provisions of the QFC Regulations shall be regulated activities. However, the QFC Financial Services Regulations do not identify dealing in precious metals as a regulated activity despite the possibility offered by the Law. Dealing in precious stones is therefore not identified as a permitted activity in the QFC. Consequently, neither dealing in precious metals nor dealing in precious stones can be conducted in the QFC.

81. **Lawyers:** They are approved by the lawyer's registration committee. The legal profession is organized pursuant to the Law No. 23 of 2006 on Lawyers. There is no bar association, but there is an association of lawyers with voluntary, but wide, membership. Pursuant to a resolution issued by the MOJ, branches of international law firms may be authorized to work in Qatar. Their staff is constituted of lawyers and legal advisers. Only Qatari citizens may be lawyers. Foreign citizens may act as legal advisers. The division of disciplinary cases at the MOJ is competent to apply sanctions to the legal profession. There are eight firms licensed by the QFCA that provide legal services.

82. **Notaries**: In Qatar, the notaries are civil servants, working for the MOJ, in charge of the certification of real estate transactions. A total of nine notaries are working in the MOJ. Schedule 3 of the QFC Law No. 7 of 2005 does not list notaries as a permitted activity in the QFC. Accordingly, the profession of notary as defined by the glossary to the FATF 40 Recommendations does not apply in Qatar.

83. **Accountants**: They are registered and monitored pursuant to law No. 30 of 2004 by the legal affairs department of the MEC. According to Article 5 of this law, an accountant should work in the review of accounts at one of the accounting offices and practice main work in accounting or monitoring accounts or inspection of accounts at one of the ministries or institutions, public or private authorities, or companies. The business of providing professional services including audit and accounting is a permitted activity in the QFC. There are two firms licensed by the QFCA to conduct auditing and accounting services in the QFC.

84. **Trust and company service providers (TCSP)**: In Qatar, trust and company service providers are not registered as an identified business or profession. Although the authorities were not aware of the presence of TCSP in the country, the mission found out, however, that there were several recently established. Lawyers, accountants, and private companies may provide trust and company services. The following table summarizes the activities performed by each profession. TCSP and accountants are subject to the monitoring of the MEC. Lawyers and legal advisers are subject to the sanctions of the division of disciplinary cases of the MOJ. All activities performed by trust and company service providers are permitted under Part 2 of Schedule 3 of the QFC Law and are not activities regulated by the QFCRA, other than in respect of AML/CFT requirements. The following table summarizes the professions that currently accomplish the different trust and company services.

Table 3. Professions Engaged in Trust and Company Services

Type of trust or company service	Profession that prepares or carries out this service
Acting as a formation agent of legal persons	Lawyers and Accountants (domestic sector) Non-regulated activity (QFC)
Acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;	Lawyers Non-regulated activity (QFC)
Providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;	Companies and Lawyers (domestic sector) Non-regulated activity (QFC)
Acting as (or arranging for another person to act as) a trustee of an express trust;	Lawyers (domestic sector) Non-regulated activity (QFC)
Acting as (or arranging for another person to act as) a nominee shareholder for another person.	Lawyers (domestic sector) Non-regulated activity (QFC)

85. The following table summarizes the licensing and AML supervision process of the DNFBPs present in Qatar:

Table 4. Licensing and AML supervision process of the DNFBPs

DNFBP	Licensing / Authorization	Supervision or Monitoring /Sanction
Real estate agents	MEC MOJ	MEC MOJ
Dealers in precious stones	MEC	MEC
Dealers in precious metals	MEC	MEC
	QCB	QCB
Lawyers	Lawyer's registration committee (MOJ)	Division of disciplinary cases (MOJ)
	QFCA	QFCRA (in respect of AML/CFT requirements)
Legal advisers	MOJ (Authorization of a foreign law firm and its staff).	Division of disciplinary cases (MOJ)
Accountants	MEC	MEC
	QFCA	QFCRA (in respect of AML/CFT requirements)
Trust and company service providers	MEC	MEC
	QFCA	QFCRA (in respect of AML/CFT requirements)

1.5 Overview of Commercial Laws and Mechanisms Governing Legal Persons and Arrangements

86. **Domestic Sector**: Commerce in Qatar is regulated by the Commercial Companies Law (CCL) No. (5) of 2002 amended by Law No. (16) of year 2006. Companies are created under the CCL on the basis of a Memorandum of Agreement, which must contain, *inter alia*, the company name, address, names of the partners/promoters, the object (activities to be conducted); and capital.

87. The CCL provides for the following seven types of companies: (i) partnership company; (ii) limited partnership; (iii) particular partnership; (iv) joint-stock company; (v) limited partnership by shares; (vi) limited liability company; and (vi) individual company.

88. **Bearer shares**: Bearer shares are explicitly prohibited in Qatar pursuant to the CCL. The MEC, which is in charge of the corporate registry, indicates however that it does not allow companies to issue these instruments.

89. **Beneficial Right Owner**: In undertaking its due diligence, the MEC requires applicants to produce personal identification documents and evidence of beneficial ownership.

90. **Registration of companies in Qatar**: The MEC is responsible for the registration of all business in Qatar. Businesses are required to be registered in the commercial registry. MEC reports that, in practice, businesses are registered prior to commencing operations and taking up occupation of premises. This makes the ministry an important first line of defense in the fight against money laundering and terrorist financing.

91. **Trusts in domestic sector**: The Qatari legislation does not provide for the creation of trusts or other similar legal arrangements. At the time of the assessment, there was no information available that would indicate that the private sector holds funds under foreign trusts and/or provides other trust services.

Table 5. Number of Companies Registered in the Domestic Sector

Type of register	Number	Nature of company
Main	197	Partnership
Affiliate	276	Partnership
Main	39	Limited Partnership
Affiliate	121	Limited Partnership
Main	11,325	Joint-stock company
Affiliate	12,476	Joint-stock company
Main	389	Foreign Company
Affiliate	15	Foreign Company
Main	4	Individual Company
Main	2	Holding
Main	9,861	Foreign Company
Affiliate	10,560	Foreign Company
Main	47	Partnership limited by shares
Affiliate	45	Partnership limited by shares
	45,357	

Source: MEC, February 2007.

92. **QFC:** The QFC was established in 2005. It aims to provide a financial and business center to attract international financial services institutions and multinational corporations wishing to participate in Qatar's growing economy

93. Article 11 of the QFC Law provides that corporations, individuals, businesses and other entities may be approved, authorized or licensed to incorporate or establish in the QFC and to carry out permitted activities in or from the QFC.

94. Article 27 of the Financial Services Regulations (FSR) provides that an application for authorization to conduct regulated activities in the QFC may be made by a body corporate; a partnership; or an unincorporated association

95. Similarly, Article 19 of the QFC Authority Regulations provides that the same type of entities may apply for a license to conduct permitted activities in the QFC.

96. **QFCRA Public Registers** : The QFCRA Public Registers are a public record of previous and current authorized firms, approved individuals or Waiver and Modification Notices

97. The Public Registers are provided online to enable users to conduct searches and print information. The following QFC Authority Public Registers are also maintained on the QFC Website: (i) licensed Firms; (ii) Companies Registration Office and (iii) approved auditors.

98. **Trusts in QFC**: The QFCA has issued Regulation No. 12, dated February 28, 2007, which enables the creation of trusts under the QFC laws (the QFC trusts). The regulation defines trusts as "a right, enforceable solely in equity, to the beneficial enjoyment of property to which another person holds the legal title" and is applicable to express trusts, charitable trusts, non-charitable trusts and trusts created pursuant to law or judgment that requires the trust to be administered in the manner of an express trust. There is no registration of trusts in the QFC.

1.6 Overview of Strategy to Prevent Money Laundering and Terrorist Financing

AML/CFT Strategies and Priorities

99. The Qatari authorities are very conscious of the potential reputational risk to Qatar posed by money laundering and the financing of terrorism. Public officials and the private sector alike realize that disreputable business leading to investigations and negative press would be damaging for Qatar. Domestic cooperation on AML/CFT issues is facilitated by the NAMLC. Nevertheless, there is currently no overall government policy on AML/CFT matters.

The Institutional Framework for Combating Money Laundering and Terrorist Financing

Ministries, Committees or other bodies to coordinate AML/CFT action

100. **National Anti-Money Laundering Committee** (NAMLC). It is the competent government authority in charge of drawing the AML/CFT policy of the State of Qatar. The NAMLC was established in 2002 under the presidency of the Deputy Governor of the QCB to ensure coordination amongst the authorities involved in AML. In accordance with Article 8 of the AML Law, it comprises two representatives of the MOI, including the director of the General Administration of Passports (Vice President of the NAMLC), a representative of the Ministries of Civil Service Affairs and Housing, MEC, Finance and Justice, as well as an additional representative of the QCB and of the Customs and Ports General Authority. Although not specified in the AML Law, the State Security Bureau (which is an independent body that reports directly to the Emir) is also represented in the NAMLC. The statutory functions of NAMLC are the following: to prepare, adopt, and follow-up the implementation of AML plans and programs; to ensure coordination among the competent entities in order to implement the provisions of the legislation and agreements related to AML issues; to follow international ML trends; propose the necessary measures in this regard; and prepare the necessary reports, statistics and data on AML efforts (Art. 9 of the AML Law).

101. **Coordination committees for the fight against terrorism**. A first coordination committee was established in January 2002 in the form of an interdepartmental committee for the coordination of the implementation of the UN resolutions on the fight against terrorism. It comprised representatives from the Ministries of Civil Service Affairs and Housing, Finance, Economy and Commerce, Interior, and Justice, as well as representatives from the Ministry of Awqaf and Islamic Affairs, the QCB (which is represented by the FIU), and the Chamber of Commerce and Industry. The original mandate of the first coordination committee covered the implementation of UNSCR 1373. It was subsequently enlarged in order to encompass coordination in the implementation of all UN resolutions on terrorism (Council of Ministers' decisions of January 12, July 7, and July 21, 2002). In 2007, the committee was replaced by a new one, the National Committee for Fighting Terrorism (NCT), by decision of the Council of Ministers dated March 26, 2007. The NCT is composed of representatives from the MOI, the Qatar Armed Forces, the State Security Bureau, the Internal Security Force, the Ministry of Civil Service and Housing Affairs, the

Ministry of Finance, the MEC, the MOJ, the Ministry of Endowment and Islamic Affairs, the General Secretariat of the Council of Ministers, the QCB, the General Authority of Customs and Ports, and of the Qatar Chambers of Commerce and Industry (Article 1 of the abovementioned decision). Its main functions are to make plans and programs to fight terrorism, to coordinate national efforts in the implementation of the obligations arising from UNSCR 1373, and to take action to implement the obligations set out in the international conventions against terrorism to which Qatar is a party (Article 3 of the same decision). The implementation of other relevant UN resolutions, and in particular of UNSCR 1267 and its successor resolutions, does not fall within the remit of the new NCT and is currently unaddressed.

102. **MOI:** According to Article 20 of the AML Law, the Minister of Interior, in coordination with the Governor of the QCB and on the basis of a proposal by the NAMLC, shall issue the executive resolutions of the provisions of this law. The ECPD is the department within the MOI in charge of ML investigations. The ministry has other functions that have impact on the AML/CFT framework, including the issuance of residence/work permit to every foreigner residing in Qatar, the issuance of a personal identification number to both foreign national and Qatari citizens, and the authorization to sell gold.

103. **Ministry of Civil Service Affairs and Housing**. The ministry houses the Coordination Committee on the implementation of the UN resolutions on the fight against terrorism. It is also in charge of the regulation of private institutions and associations. As registration authority, the Ministry of Civil Service Affairs and Housing has information on the general evolution and size of the NPO sector.

104. **MOJ**. The real estate registration department of the MOJ is competent for the authorization of real estate agents. Certification of real estate transactions is done by notaries, which are civil servants, working for the MOJ. Another department of the ministry, the lawyer's registration committee, is in charge of approving lawyers and authorizing branches of international law firms and their staff of legal advisers to work in Qatar. The division of disciplinary cases at the MOJ is the competent authority which applies sanctions to the legal profession.

105. **MEC**. Is in charge of the supervision of insurance companies and agents, all DNFBPs active in Qatar except lawyers and legal advisers, as well as all other types of companies in the domestic sector. The Minister is empowered to enact all regulations (or amendments, modifications to, or repeal of existing regulations) submitted to him by the QFC Authority, the QFC Regulatory Authority, and the QFC Appeals Body.

106. **Ministry of Foreign Affairs (MOFA).** The ministry is the recipient of the UNSCR 1267 lists and the 1373 requests which it forwards to the coordination committee on the implementation of the UN resolutions on the fight against terrorism.

Law enforcement, criminal justice, and operational agencies

107. **PPO:** The principal authority in the investigation of ML/FT cases is the public prosecutor's office. It controls the primary conduct of ML/FT investigations and confiscation actions. Investigation officers act under the supervision of the General Prosecutor. They have broad powers to investigate crimes, search the perpetrators and collect all the necessary evidence.

108. **ECPD** (MOI): The work of the ECPD is regulated by Resolution No. 29 of 2004 issued by the MOI affairs on July 28, 2004. The ECPD, affiliated with the director of criminal investigation

department, is specialized in the investigation of ML and other offenses such as e-crimes, counterfeiting, and falsification of currency.

109. **Department of International Cooperation (MOI).** The department of international cooperation receives and requests police information from its foreign counterparts. Its other functions include preparing and participating in local, regional and international conferences, implementing, in coordination with other competent authorities, international resolutions and recommendations, as well as developing and enhancing the cooperation with regional and international organizations.

110. **SSB**. It is an independent body established in 2003 that reports directly to the Emir. The SSB is in charge of the investigation into terrorism and financing of terrorism offenses.

111. **General Directorate for Customs and Ports (GDCP):** It is an independent agency responsible for monitoring for economic and excise purposes the national territory and borders of Qatar. It includes monitoring the movement of currency at borders (land, ports, and airports).

112. **FIU**. The Qatari FIU is an administrative unit established pursuant to Resolution 1 of 2004 issued on August 8, 2004 on "the creation of the Financial Information Unit and the approval of its organizational structure" by the President of the NAMLC. The AML Law gives the coordinator of the NAMLC the competence to receive reports related to suspicions of money laundering crimes from the competent parties and taking the legal measures pertaining to them and to follow up on the measures of tracking, collecting information, and investigations carried out by the competent parties.

Financial Sector Bodies

113. **QCB.** The QCB establishes the licensing requirements for banks, investment companies, finance companies and exchange houses. It is also empowered with the responsibility to supervise and control said institutions, including with respect to ML. The Governor of the QCB has the power to freeze accounts, assets, and properties suspected of or linked to money laundering offenses. The Deputy Governor of the QCB is the president of the NAMLC. The QCB also houses the FIU. Access to all information covered by the banking secrecy requires a prior authorization of the Governor of the QCB, except to those institutions authorized and operating out of the QFC, where their own banking secrecy requirements apply.

114. **DSM**. The commission is the supervisor for the brokerage companies within the **Doha Securities Market**, which is the principal stock market of Qatar. The market was founded in 1997 by the decree law.

115. **QFCA**. The QFCA is responsible for developing the commercial strategy of the QFC and establishing relationships with the global financial community. It proposes regulations for enactment by the MEC. The QFCA is responsible for the licensing process of firms conducting non regulated activities in the QFC.

116. **QFCRA**. The QFCRA is the unitary financial services regulator of the QFC. It is responsible for the authorization of firms seeking to conduct Regulated Activities in the QFC and for the ongoing supervision of those firms to ensure they remain in compliance with the various QFC requirements, including regulating licensed firms in respect to AML/CFT requirements. The QFCRA as an independent body has power to discipline those firms and individuals that fail to comply with QFC requirements. The QFCRA is also able to propose regulations for enactment by the minister of economy and commerce.

Non-Profit Organizations

117. **Qatar Authority for Charitable Activities (QACA)**. This organization was created in 2004. It is the authorizing and supervisory authority for the charities in the domestic sector.

Approach Concerning Risk

118. Qatar has not adopted an overall risk-based approach to its AML or CFT framework and the authorities have not conducted an overall assessment of the ML and TF risks that exist in Qatar. The current AML/CFT legal and supervisory framework has, therefore, been developed without considering ML/FT risks.

119. In the domestic sector, the QCB is the only supervisory authority that has adopted a risk-based approach to both prudential and AML/CFT supervision which was at a very early stage of implementation at the time of the on-site visit. The new approach had been implemented only once. Supervisory authorities like the DSM and the MEC have not established a risk-based approach to AML/CFT supervision. There are no reduced or simplified customer due diligence measures in place for financial institutions in the domestic sector.

120. The QFC AML Regulations have been drafted in accordance with a risk-based approach and proportionate anti-money laundering systems and controls. Article 15 of the QFC AML Regulations specifically requires that a relevant person must ensure that it adequately addresses the specific money laundering risks which it faces taking into account the vulnerabilities of its products, services, and customers. Enhanced due diligence is required for higher-risk areas of money laundering as detailed in Appendix 2 of the AML Rulebook.

Progress since the last IMF/WB assessment or mutual evaluation

121. Qatar underwent a mutual evaluation by the FATF/GCC in 2001. The evaluation team visited Qatar from May 21–23, 2001. The mutual evaluation was based on the then existing FATF 40 Recommendations. The Special Recommendations on Terrorist Financing had not been adopted by the time of the on-site visit and the mutual evaluation also pre-dated the adoption by the FATF, IMF and the World Bank of a methodology for assessing compliance with the FATF 40+9. Qatar's Mutual Evaluation Report was adopted by FATF in June 2002.

122. The main deficiencies identified in the Mutual Evaluation Report were as follows:

- **Legislation:** There was no specific money laundering offense in the Qatari Penal Code. Moreover, the existing legislation on confiscation and provisional measures was inadequate for dealing with money laundering. Article 43 of the Narcotic Drugs Law No. 9 of 1987 only dealt with narcotics-related funding and failed to cover individuals, other than the perpetrator or his family, who may have acquired, transferred, or retained such funds. With regard to freezing or seizing of funds or property, the QCB was the only authority with the power to take such an action.

- **Financial sector**: Anti-money laundering measures for the financial sector were essentially based on requirements imposed by the QCB through Circular No. 33 of 1999. Customer identification provisions did not require financial institutions to take steps to

determine the true identity of persons on whose behalf a transaction was conducted when there were doubts as to whether a customer was acting on his own or another's behalf. The Department of Commercial Affairs of the Ministry of Finance, Economy and Commerce had implemented certain anti-money laundering measures regarding insurance and securities, although those for securities were less comprehensive than those contained in QCB regulations.

- **Reporting of STRs**: There were also several weaknesses in the obligation for reporting suspicious transactions. The QCB reporting requirement was weak in that it required reporting only when the institution detected "crime or money laundering attempts rather than suspicions of money laundering. The configuration of the reporting chain was also a potential weakness. The fact that the QCB received the report and passed it to the MOI seemed to be an additional layer in the reporting chain that did not improve the overall efficiency of the system.

123. **International cooperation**: Extradition for money laundering was not possible and the Qatari authorities were not permitted to honor foreign requests for imposition of provisional measures against funds or property located in Qatar. Authorities were also not allowed to provide information on suspicious transactions to foreign requesters.

124. Since last evaluation, several laws and regulations have been amended or enacted, in particular the AML Law and the CT Law which also incriminates, to a certain extent the financing of terrorism. However, the FATF standard has undergone significant changes since Qatar was last assessed and the AML Law was enacted. Moreover, the FATF standard now requires that key measures be contained in laws, regulations, or other enforceable instruments and that the effective implementation of the measures in place also be assessed. Accordingly, the progress made by the authorities since the last assessment has been over-shadowed in many areas by the stricter requirements of the new standard.

2 LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

2.1 Criminalization of Money Laundering (R.1 & 2)

2.1.1 Description and Analysis

125. Qatar criminalized money laundering in 2002 with the adoption of Law (28) of 2002 (the AML Law). It amended the money laundering offense in 2003 through Decree Law (21) of 2003 in order *inter alia* to include terrorist crimes in the list of predicate offenses.

126. The provisions of the AML Law remain untested by the courts. One prosecution has been conducted on the basis of the AML Law in 2006 but was subsequently abandoned when it was established that the source of the funds was legitimate.

127. In some instances, the text of the law is vague both in the original Arabic version and in the English translation (see for example the exact scope of the ML offense). As it is not a common legislative practice in Qatar to supplement draft laws with any type of explanation or guidance, there is no explanatory note that would assist the assessors and the authorities in understanding the *ratio legis* of the dispositions of the AML Law. Since the courts have not yet applied the AML Law, there is no case law either that would clarify the possibilities offered and boundaries imposed by the law in money laundering prosecutions and trials.

128. **Criminalization of Money Laundering (c. 1.1 - Physical and Material Elements of the Offense).** Qatar has ratified the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) on May 4, 1990. It criminalized illicit traffic in narcotic drugs through Law (9) of 1987 (as amended by Law (7) of 1998 and subsequent laws) which pertains to combating drugs and psychotropic substances, and regulates their use and trade. The latest amendment to the law limited the illicit drug trafficking offense to "dangerous" drugs. The purpose of this amendment was to exclude from the scope of the law the latest medicinal drugs that may contain extracts of the substances covered by the law. This amendment was reflected in the AML Law, where the word "dangerous" was added to the predicate offense dealing with illicit drug trafficking.

129. Qatar has not ratified the 2001 United Nations Convention against Transnational Organized Crime (the Palermo Convention) but the ratification process was underway at the time of the assessment. Organized crime, domestic and/or transnational, is not an offense under the Qatari legislation unless its purpose is to commit a terrorist crime (Articles 3 and 7 of the Law (3) of 2004 on combating terrorism).

130. Articles 3(1)(b) and (c) of the Vienna Convention and 6(1) of the Palermo Convention require countries to establish as a criminal offense the following intentional acts (material elements): the conversion or transfer of proceeds; the concealment or disguise of the true nature, source, location, disposition, movement or ownership of, or rights with respect to proceeds; and, subject to the fundamental or constitutional principles and basic concepts of the country's legal system (Article 2(1) of the Vienna Convention and Article 6(1) of the Palermo Convention), the acquisition, possession or use of criminal proceeds (Article 3(1)(b) (i)–(ii) of the Vienna Convention and Article 6(1)(a)(i)–(ii) of the Palermo Convention). They furthermore require participation in, association with or conspiracy to commit, attempts to commit, and aiding, abetting, facilitating and counseling the commission of any of the foregoing to be included in the offense (Article 6(1)(b)(iii) Palermo).

131. The English version of Article 2 of the AML Law (as amended by Article 1 of the Decree Law (21) of 2003) provides that "he who commits any of the following acts shall commit a money laundering crime: Any person who earns, possesses, disposes of, manages, exchanges, deposits, adds, invests, transports, or transfers funds obtained from the crimes of drugs and dangerous psychotropic substance; extortion and looting; forgery, counterfeiting and imitation of notes and coins; illegal trafficking in weapons, ammunitions and explosives; crimes related to environment protection; or the crimes of trafficking in women and children; or the crimes considered by law as terrorist crimes, with the intention of hiding the real sources of the funds and show that their source is legal. Any employee in the financial institutions who receives cash amounts or securities, transfers or employs such amounts in financial or banking transactions, knowing or having a reason to believe that such amounts resulted from one of the crimes stipulated in the previous paragraph."

132. By providing that the money laundering offenses applies to any person who earns, possesses, disposes of, manages, exchanges, deposits, adds, invests, transports, or transfers funds obtained from the predicate crimes, the law covers a broad range of material elements.

133. However, the material application of the offense is narrowed down by the mental prerequisite: the money laundering offense only applies to the acts conducted with the intention of "hiding the real sources of the funds and show[ing] that their source" is legitimate. While one could argue that this also captures the concealment or disguise of the true nature of the funds, one cannot infer from the text of the law that the money laundering offense extends to acts aimed at concealing or disguising the location, the disposition and movement of the funds, nor their ownership. Accordingly, the acts carried out with the intention of hiding the location of the funds and/or the way that they were disposed of, as well as those carried out with a view to helping a person (the author of and/or any participant in the predicate offense) evade criminal liability for the crime that generated the proceeds would not fall within the scope of the money laundering offense if they do not also serve the purpose of concealing the illegitimate source of the funds. Consequently, the scope of the money laundering offense is too limited to address all the aspects covered in the Vienna and Palermo Conventions.

134. It is unclear whether the legislator intended to limit the scope of the offense in such a way or whether this is merely the result of unfortunate legal drafting. Discussions with the law enforcement agencies to establish whether, notwithstanding the text of the law, the authorities would prosecute acts aimed, for example, solely at protecting the persons involved in the crime from criminal liability, but proved inconclusive. These discussions also revealed that the authorities' understanding of the requirements set out in the Vienna and Palermo Conventions was limited. There is, therefore, a risk that the authorities would apply Article 2 of the AML Law *stricto sensu* and that they would consider that intentional acts aimed at concealing aspects other than the illegitimate source of the funds do not constitute money laundering.

135. **The Laundered Property (c. 1.2).** Article 2 of the AML Law refers to "proceeds" of the listed predicate crimes, which are defined as "any funds or property earned directly or indirectly by committing one of the crimes stipulated in this law" (Article 1 of the AML Law).[3] This definition is broad enough to

[3] The English translation of the AML Law is slightly inconsistent with respect to the proceeds of crime in the sense that the money laundering offense (Art. 2 of the AML Law) refers to "funds obtained from" the listed predicate crimes, while the list of definition (Art. 1) only defines "proceeds" and not "funds obtained from crime". The original Arabic version, however, is more precise; both Article 1 and 2 refer to "proceeds". Arabic being the only

cover all types of property listed in the Vienna and Palermo Conventions. It was also confirmed during discussions with the relevant authorities (and with the public prosecution in particular) that, although this definition has not been tested in court, the authorities' interpretation of the AML Law and their understanding of "proceeds" in the general context of the Qatari criminal laws is that it covers all assets derived directly or indirectly from crime, including assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets.

136. **Proving Property is the Proceeds of Crime (c. 1.2.1).** Article 11 of the AML Law provides that the investigation of a money laundering offense may be conducted independently from the investigation of the predicate offense. No mention is made of the need, or lack thereof, for a conviction for the predicate offense to secure a conviction for money laundering. When questioned whether the distinction between the two crimes could extend beyond the investigation stage and enable the prosecution of money laundering independently from that of the predicate offense, the public prosecutors and judges responded that while investigations may be conducted separately and independently, a clear link has to be established at the prosecutorial stage between the two crimes. The initial discussions revealed some level of confusion as to whether a conviction for the predicate offense was the only means by which the necessary link could be established, but further discussions suggested that this was not the case. Indeed, the authorities maintain that a conviction for money laundering is possible even in the absence of a prior conviction for the predicate offense and that circumstantial evidence that assets have been criminally acquired would be sufficient to apply the money laundering offense.

137. **The Scope of the Predicate Offenses (c. 1.3).** Qatar adopted a list approach by enumerating, in Article 2 of the AML Law (as amended in 2003), the predicate offenses to money laundering. The list contains only seven predicates and therefore does not cover all the categories of offenses designated in the FATF Glossary. The predicate offenses listed and the legal basis for their criminalization are:

- Crimes of drugs and dangerous psychotropic substances: Law No. 9 of 1987 (as amended by Law (7) of 1998) pertaining to combating drugs and psychotropic substances and regulating their use and trade. The term "dangerous" was added both in the AML Law and the Law (9) of 1987 in order and exclude from the scope of both laws medicinal substances that include some amount of "drugs" in their composition.

- Forgery, counterfeiting and imitation of notes and coins: Article 218–226 of the Criminal Code. The standard sanctions vary between five and fifteen years of imprisonment and a fine but may go up to life imprisonment if the offense resulted in a reduction of the national currency rate.

- Illegal trafficking in weapons, ammunitions, and explosives: Articles 38–54 of Law (14) of 1999 on weapons, ammunition, and explosives. The sanctions applicable range from several months imprisonment and a fine to several years of imprisonment and a fine.

- Terrorist crimes: Article 1 and following of Law No. 3 of 2004 on Combating Terrorism (CT Law). According to the authorities, the notion of "terrorist crimes" under Article 2 of

official language in Qatar, the Arabic version prevails and the inconsistency in the English translation has no bearing on the assessment.

the AML Law covers all the crimes listed in the CT Law, including the terrorist financing offense of Article 4 of the CT Law, and not only those that are specifically referred to as "terrorist crimes" under Article 1 of the CT Law.

- Extortion and looting: Article 352 of the Criminal Code**.** The basic sanction is imprisonment for up to three years.

138. The choice of predicate offenses in the AML Law appears somewhat arbitrary in the sense that it does not reflect all the main proceeds generating crimes that occur in Qatar. While the authorities did not provide the assessors with comprehensive statistical information on the types of crimes investigated, prosecuted, and sentenced in Qatar, they did mention on a number of occasions that the most frequent proceeds generating crimes are drug trafficking, credit card fraud and corruption, counterfeiting of currency and counterfeiting and piracy of goods, insider trading and market manipulation. Article 2 of the AML Law covers drug trafficking and counterfeiting of currency, but it does not cover fraud, corruption, counterfeiting and piracy of goods, insider trading and market manipulation. This proved too limitative in practice: the public prosecutor's office received six potential money laundering cases from 2002 to 2006 but had to abandon five of them because the underlying offense was not listed under Article 2 of the AML Law.

139. In addition to the offenses listed above, Article 2 of the AML Law also mentions crimes related to the protection of the environment and trafficking in women and children as predicate offenses, but neither of these conducts is criminalized under Qatari laws. Without clear criminalization and definition of the material and mental elements of these conducts, their inclusion in the list of predicate offenses to money laundering is pointless.

140. The following categories of offenses designated by FATF are not included in the Qatari AML framework: (i) murder and grievous bodily injury; (ii) participation in an organized criminal group and racketeering; (iii) trafficking in human beings and migrant smuggling; (iv) sexual exploitation, including sexual exploitation of children; (v) illicit trafficking in stolen and other goods; (vi) corruption and bribery; (vii) fraud; (viii) counterfeiting (other than that of currency)and piracy of products; (ix) environmental crime; (x) kidnapping, illegal restraint and hostage-taking; (xi) robbery or theft; (xii) smuggling; (xiii) forgery; (xiv) piracy; and (xv) insider trading and market manipulation.

141. The limited list of predicate offenses entails that the Qatari authorities are not in a position to prosecute and sanction money laundering cases to the extent required by the standard.

142. **Threshold Approach for Predicate Offenses (c. 1.4):** This criterion is not applicable since the Qatari authorities opted for a list approach.

143. **Extraterritorially Committed Predicate Offenses (c. 1.5):**Unless a person was already convicted or acquitted for the same facts by a foreign state, the Qatari courts maintain their jurisdictions over crimes committed abroad in a number of circumstances: when the crime occurred partially or totally in Qatar; when a crime or a felony (or misdemeanor) was committed in Qatar but occurred partially or totally outside Qatar and is criminalized in both countries; when the crime was directed against the internal or external security of the State of Qatar or in case of falsification and imitation of Qatari official documents, seals, marks, stamps and currency of the State of Qatar and possession or promotion of these falsified currencies; when a person committed or participated in drug trafficking, trafficking of human beings, piracy or international terrorism (Articles 16, 17 and 18 of the Criminal Code).

144. Consequently, crimes other than those directed against the security of the State, falsification of official documents and currency, possession or promotion of falsified documents and currency, drug trafficking, trafficking in human beings, piracy and international terrorism have to occur or be committed, at least partially, in Qatar. The authorities have no jurisdiction over predicate offenses that were entirely committed in another country, even if there is dual criminality.

145. In the absence of dual criminality on the predicate offense, money laundering charges cannot be brought before the Qatari courts. Considering the limited number of predicate offenses under Qatari law, this severely limits the authorities' ability to investigate and prosecute money laundering cases.

146. **Laundering One's Own Illicit Funds (c. 1.6).** The AML Law does not distinguish self-laundering from third party laundering and there appears to be no constitutional or fundamental principle of Qatari law that would preclude the application of the money laundering offense to the person who committed the predicate crime. This view was shared by the authorities during the on-site visit: Representatives from the public prosecutor's office and the courts maintain that self-laundering may be prosecuted to the same extent as third-party laundering. In the absence of any specific impediments to prosecute self-laundering, this approach is fully in line with the standard.

147. **Ancillary Offenses (c. 1.7).** The Criminal Code addresses the ancillary offenses in a comprehensive way by providing for several forms of participation that are applicable to all crimes, including money laundering. It distinguishes the "committer" of an offense from the "participant." The "committer" of a crime is the person who: conducted one or all of the acts constituting the crime; provided assistance in the execution of the crime and was present at the moment of the crime; or "used other persons by any means to execute" the crime (Article 38 of the Criminal Code). The "participant" in a crime is whoever "prompted another person to commit" a crime and had a direct effect on the commission of the crime, "agreed with another person to commit the crime which was carried out on the basis of this agreement, as well as whoever intentionally gave the perpetrator "a weapon, machines, or anything else used in committing the crime," or helped him in any other way to prepare, facilitate or complete the commission of the crime (Article 39 of the Criminal Code). According to the authorities, conspiracy and counseling are covered respectively by the notions of "agreement to commit a crime" and "help in any other way." The authorities took a tough stance on participation with the recent amendment to the Criminal Code which provides that, unless a specific law mentions otherwise (which the AML Law does not), the participants in a crime are subject to the same penalties as the main authors of the crime (Article 40 of the Criminal Code).

148. With respect to money laundering, Article 3 of the AML Law specifically provides that any person who, by virtue of his professional position, obtains information related to a money laundering crime and does not take the legal measures prescribed by the law commits a "crime related to the money laundering crime."

149. The attempt to commit a felony (i.e., a crime punished by death, life imprisonment, or a maximum imprisonment sentence of more than three years; Article 22 of the Criminal Code) or misdemeanor (i.e., a crime punished by a maximum imprisonment sentence of three years at the most and/or a fine of no more than one thousand Riyals; Article 23 of the Criminal Code) is also an offense. The notion of attempts covers situations where a person started an act with the intention to commit a felony or a misdemeanor, but then brought his or her action to an end, or was stopped against his or her will (Article 28 of the Criminal Code). The sanctions applicable to the attempt to commit a felony are: life

imprisonment when the penalty of the crime is a death sentence; imprisonment for a period between five and fifteen years, if the penalty for the completed crime is life imprisonment; and imprisonment for not more than half the imprisonment sentence applicable to the completed crime (Article 29 of the Criminal Code). The law also specifies the cases where the attempt to commit a misdemeanor is sanctioned as well as the applicable penalty (Article 30 of the Criminal Code). The mere intention to commit a felony or misdemeanor is not sanctioned (Article 28 of the Criminal Code).

150. The provisions of the Criminal Code on the attempt and the various levels of participation are sufficiently broad to cover all the aspects required by the standard and to ensure that all persons involved in a money laundering crime may be prosecuted.

151. **Additional Element (c.1.8).** The Criminal Code requires dual criminality for the underlying offenses in all cases (Articles 16 and 18 of the Criminal Code). Consequently, the money laundering offense does not apply when the proceeds derive from a conduct that occurred in another country if it is not an offense in the other country, even if it would have constituted a money laundering offense had the predicate crime occurred in Qatar.

152. **Liability of Natural Persons (c. 2.1).** The money laundering offense applies to natural persons who intentionally engage in money laundering activities. The Criminal Code provides that the moral element of an offense consists of the intent and the "fault", which it defines as follows: the intent is the will of the committer to commit an act or abstain therefrom, in order to produce the result which is subject to penalty; the fault is available when the result sanctioned by the law "happens because of the fault of the committer, whether this error was due to negligence, carelessness, [lack of caution], rashness or non-complying with the law of the lists". It also specifies that the "committer shall be asked for the crime whether committed on purpose or by error, if the law [did not] stipulate the intent openly" (Article 32 of the Criminal Code). This last part would tend to indicate that, in the case of money laundering, where Article 2 of the AML Law specifically refers to the intention of concealing the source of funds, the "fault", or recklessness, would not be sanctioned. From the explanations provided during the on-site visit, it also appeared that, regardless of the wording of the money laundering offense, only the actual knowledge is sanctioned and it does not extend the *dolus eventualis*. This, however, is not required by the standard. It results from the above that the Qatari Criminal Code and AML Law are in line with the standard on this point.

153. **The Mental Element of the ML Offense (c. 2.2).** Pursuant to Article 232 of the Criminal Procedure Code, the principle of free evaluation of the evidence applies. The prosecution does not have to bear the burden of demonstrating actual knowledge of the illicit nature of the proceeds; the judges may freely appreciate the evidence before them and may infer the mental element of the offense from objective factual circumstances.

154. **Liability of Legal Persons (c. 2.3).** The Criminal Code provides that legal persons may be held liable for the crimes committed by their representatives, managers and agents acting in their name (Article 37). Article 14 of the AML Law also explicitly extends the criminal liability for money laundering to legal persons by providing that the legal person "shall be fined an amount not less than the value of the instrumentalities, returns and proceeds of the crime" and that an order may be issued to cancel or suspend the legal person's license. While Article 14 of the AML Law has not been tested before the courts, legal entities have been sanctioned for other crimes under the general provisions of the

Criminal Code, which indicates that the prosecution and the criminal courts are, in practice, familiar with the concept of corporate liability.

155. **Liability of Legal Persons should not preclude possible parallel criminal, civil or administrative proceedings (c. 2.4).** Article 14 of the AML Law clearly specifies that sanctioning the legal entity does not prevent the authorities from sanctioning the individual who committed the crime. According to the authorities, parallel administrative or civil sanctions against the corporate entity may also be applied.

156. **Sanctions for ML (c. 2.5)**. Pursuant to Article 13 of the AML Law, the money laundering offense is sanctioned by imprisonment of no more than seven years and by a fine of no less than fifty thousand Qatari Riyals (approximately US$13,700) and no more than the value of funds, subject of the crime. As mentioned above, the same sanctions apply to the participant in a money laundering offense. The law also provides that the person who obtains information related to a money laundering crime by virtue of his profession and does not take the legal measures prescribed by the AML Law shall be punished by imprisonment of no more than three years and by a fine of no more than ten thousand Qatari Riyals (Articles 3 and 13 of the AML Law). In both cases, the sanctions shall be doubled if the crime is committed by two or more persons acting in collaboration as well as in case of recidivism. A person is considered a recidivist if he or she commits a similar crime "within five years before the end of term of the sanction or before the prescription of this sanction." The sanctions set out in the AML Law appear to be dissuasive and proportionate. It is also specified that, in any event, and without prejudice to the rights of *bona fide* third parties, the Court shall order the confiscation of the instrumentalities and proceeds of the crime.

157. **Effectiveness and Statistics.** Between 2004 and 2006, a total of 82 investigations into potential ML cases were led by the ECPD. All cases resulted from STRs, as indicated in the table below. In all cases, the investigations indicated that the origin of the funds was legitimate.

Table 6. ML Investigations Conducted by the ECPD

	Reporting entity and case description	Number of cases		
	Banks	2004	2005	2006
1.	Inflow of large financial remittances which are transferred abroad after dividing them into small amounts.	1	-	-
2.	Transfer of large amounts of money abroad through the bank without knowing their source	1	-	-
3.	Deposit of large amounts of money in the account in a manner that is not proportional to the individual's monthly income	9	10	9
4.	Inflow of financial remittances from abroad through the bank without knowing their source	1	5	4
	Exchange Houses			
5.	Transfer of large amounts of money abroad through Exchange Houses	5	20	8
6.	Inflow of financial remittances from abroad through Exchange Houses	-	-	1
	Outlets			

7.	Seizure of large amounts of money possessed by people trying to leave the country	-	4	1
	Other methods			
8.	Request the opening of an account at the Bank in order to transfer large amounts of money	1	-	-
9.	Attempting to convince someone of receiving the remittance and transferring it again	-	1	1
	Total	18	40	24

158. The PPO led the inquiry into a ML case on one occasion but it was then established that there was no money laundering activity and the case was therefore closed. The prosecution received five further cases of potential money laundering, but was unable to start an inquiry because the underlying crimes were not listed as predicate offense to money laundering under Article 2 of the AML Law.

159. The following information pertains to the prosecutions conducted in 2006 with respect to the money laundering offense and the (FATF) predicate offenses (without a money laundering component):

Table 7. Prosecutions Conducted in 2006

Type of offense	Number	Action take/outcome
Bribery, Embezzlement - Total: 33		
Money Laundering	1	*Nolle prosequi*
Bribery	4	*Nolle prosequi*
	6	Transfer to Criminal courts
	2	In process
Embezzlement of Public funds	6	*Nolle prosequi*
	5	Transfer to Criminal courts
	6	In process
Embezzlement & Bribery		*Nolle prosequi*
	1	Transfer to Criminal courts
	1	In process
Breach of Contract	1	In process
Environmental Crimes - Total: 370		
Passing in restricted places	15	*Nolle prosequi*
Throwing litters	88	Transfer to Criminal courts
Hunting in public places	267	In process
Drugs[4]-Total: 249		
Possession	166	Transfer to Criminal courts
Trafficking	83	Transfer to Criminal courts
Explosives: Total: 1; Suspect unknown		

[4] The notion of " drugs" includes alcohol trafficking in these statistics.

Offense against the security of the State: Total: 8		
Terrorist Act: Explosives	1	In process
Manufacturing explosives and training someone to use it	1	In process
Constitution of a group intending to commit terrorist acts against the State of Qatar	3 1	In process Incrimination: 10 years of imprisonment
Possession of arms intending to commit terrorist act	1	Incrimination: 2 years
Unlawful seizure of an aircraft	1	In court
Illegal possession of Guns and weapons – Total 22		
Total	6 12 4	*Nolle prosequi* Transfer to Criminal courts In process
Traffic of Counterfeited currency – Total 11		
Total	5 1 5	*Nolle prosequi* Transfer In process
Counterfeited currency – Total 5		
Total	3 1 1	*Nolle prosequi* Transfer In process

160. No similar statistics were provided for the previous years, but, as mentioned above, the assessment team was informed that the (unsuccessful) prosecution for money laundering indicated in the table, was the only led so far. Consequently, even though the money laundering offense has been in force since 2002, and despite the occurrence of several of the predicate offenses in the State of Qatar, no money laundering charges have been brought before the courts.

161. As mentioned above, the money laundering offense only applies to a limited number of predicate offenses. This (and the fact that the source of the funds may indeed have been legitimate) explains the low number of investigations and prosecutions for money laundering but only partially: the assessment team found that, despite their willingness to fight money laundering effectively, the law enforcement authorities, as is often the case in countries which, like Qatar, have a recent AML/CFT system in place, lack sufficient understanding of the money laundering typologies and of the AML Law to be in a position to use the tools at their disposition to the fullest extent.

2.1.2 Recommendations and Comments

162. The AML Law provides for the basic elements of the money laundering offense but still suffers from major shortcomings, in particular with respect to the limited number of predicate offenses, and does not enable the authorities to prosecute money laundering in a fully effective way.

163. The authorities are recommended to:

- Amend the AML Law to clarify and extend the scope of the money laundering offense in order to cover all intentional acts aiming to conceal or disguise not only the source of the funds but also the true nature, location, disposition, movement, or ownership of or rights with respect to proceeds of crime. This could be achieved either by clearly specifying the purpose in the AML or by deleting altogether the intended purpose.

- Criminalize, where necessary, the following conducts and add them to the list of predicate offenses in the AML Law: participation in an organized (non terrorist) criminal group and racketeering; trafficking in human beings and migrant smuggling; sexual exploitation, including sexual exploitation of children; illicit trafficking in stolen and other goods; corruption and bribery; fraud; counterfeiting and piracy of products; environmental crime; murder, grievous bodily injury; kidnapping, illegal restraint and hostage-taking; robbery or theft; smuggling; forgery; piracy; and insider trading and market manipulation.

- Ensure that predicate offenses for money laundering all extend to conduct that occurred in another country when there is dual criminality.

- Provide in-depth training to the law enforcement agencies on the AML Law and on money laundering trends and typologies, as well as training on investigations into and prosecutions of money laundering offenses.

- Although the authorities maintain that the terrorist financing offense is covered by the notion of the "terrorist crimes" that appears in Article 2 of the AML Law, it is also recommended, for the sake of clarity, to specifically mention the terrorist financing offense in the list of predicate offenses.

2.1.3 Compliance with Recommendations 1 & 2

	Rating	Summary of factors underlying rating
R.1	**PC**	• The mental element of the ML offense does not cover acts conducted with a view to conceal the true nature, location, disposition, movement, or ownership of or rights with respect to proceeds. • The list of predicate offenses is incomplete with only seven of the FATF designated categories of offenses being covered. • With a few exceptions, the authorities have no jurisdiction over predicate offenses that were entirely committed in another country, even if there is dual criminality. • Lack of evidence on the effectiveness of the law.
R.2	**LC**	• Lack of evidence on the effectiveness of the law.

2.2 Criminalization of Terrorist Financing (SR.II)

2.2.1 Description and Analysis

164. Qatar took legislative measures to counter terrorism in 2004 with the issuance of the CT Law.

165. **Criminalization of Financing of Terrorism (c. II.1).** Article 1 of the CT Law provides an extensive definition of terrorist crimes:[5] all crimes are terrorist crimes when the motive behind the use of

[5] The English translation is imprecise in the sense that it only refers to crimes listed in the Criminal Code, while the original Arabic version of Article 1 refers to all crimes enumerated in the Criminal Code as well as in any other law. As mentioned in footnote 3 above, the Arabic version prevails and the lack of precision in the English translation bears no consequence for the purposes of this assessment.

force or violence or the threat thereof is to undermine the provisions of the Qatari Constitution or the Qatari law, to breach the public order, to jeopardize the safety and security of the society, to undermine the national unity in a way that can harm or terrorize people, to put their lives or freedom in danger, to harm the environment or public health, to weaken the national economy, to cause damage to annexes, installations, public or private properties, to hinder the performance of their work or to prevent or hinder the public authorities from doing their work. This provision is broad enough to cover all forms of terrorist acts pursuant to the 1999 International Convention for the Suppression of the Financing of Terrorism (ICSFT) Article 2 para. 1 (b). However, the motive required under the law is not in line with the treaties mentioned in Article 2 para. 1 (a) of the ICSFT (see in particular the unlawful seizure of an aircraft with no intention to terrorize, cause harm, death or material damage and with no political motives: it would not be considered as a terrorist act under the CT Law).

166. With the exception of the 1997 International Convention for the Suppression of Terrorist Bombings and the 1999 International Convention for the Suppression of the Financing of Terrorism,[6] all the UN Conventions and Protocols against terrorism have been ratified by Qatar,[7] and the relevant acts criminalized in the Qatari legislation.

167. The CT Law establishes in Articles 2 to 13 the sanctions applicable to the terrorist acts listed in Article 1 and to various forms of participation or assistance.[8]

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[6] By decision dated October 11, 2007, the Council of Ministers approved the joining of the International Convention for the Suppression of Terrorist Bombings of 1997 and the International Convention for the Suppression of the Financing of terrorism of 1999, subject to the reservations to some of the provisions regarding the referral to the international arbitration and the International Court of Justice.

[7] Dates of accession to the Conventions and Protocols:

- Convention on Offenses and Certain Other Acts Committed on Board Aircraft (Tokyo) – 1963, joined by Qatar on 17/6/1981.
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal) – 1971, joined by Qatar on 1/7/1981.
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, joined by Qatar on 19/5/2003.
- Convention for the Suppression of Unlawful Seizure of Aircraft (La Haye) – 1970, joined by Qatar on 1/7/1981
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (New York) – 1973, joined by Qatar on 20/12/1996.
- International Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal) – 1991, joined by Qatar on 7/10/1998.
- Convention on the Physical Protection of Nuclear Material – 1980, joined by Qatar on 30/7/2003.
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation – 1988, joined by Qatar on 30/7/2003.
- Protocol on the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, joined by Qatar on 30/7/2003.
- International Convention against the Taking of Hostages – 1979, joined by Qatar on 30/7/2003.

[8] The sanctions applicable to the perpetrators of terrorist crimes range from ten years of imprisonment to the death penalty. The latter applies in all cases that resulted in the death of person as well as in all cases where a weapon was used in the commission of the crime (Article 2 of the CT Law). The sanctions applicable to the persons who assist the terrorists in the ways prescribed in the law range from five years to life imprisonment.

168. Article 4 sets out the terrorist financing offense.[9] It may be summarized as follows (highlights made by the assessment team):

- Any person who supplies weapons or explosives to a group or organization formed with a view to commit a terrorist crime shall be punished with life imprisonment;

- The same sanction will apply to any person who supplies the groups or organization mentioned in the previous paragraph in full knowledge of their purpose with weapons, ammunitions, technical information, **material or financial assistance**, information, tasks or machines, or anyone who sends supplies to such groups or **collects financial assistance** [10] for them, or offers a shelter, a place to meet or other facilities to their members.

169. The full text of Article 4 clearly links the terrorist financing offense to the terrorist acts defined under Article 1. The terrorist financing offense, therefore, suffers from the same shortcomings as the terrorist crimes in the sense that it would not apply to the acts mentioned in Article 2 para. 1 (a) of the ICSFT when the motive set out in Article 1 of the CT has not been established.

170. **Criterion II.1 (a):** The law does not specify whether the provision and collection of the financial assistance and money must be direct and/or indirect for the offense to be committed. This would suggest that the means by which the funds are provided or collected is irrelevant and that both the direct and indirect provision and collection are covered by the law. The authorities share this view.

171. While the law specifically mentions terrorist groups and organizations, it does not extend the terrorist financing offense to the collection and provision of funds to individual terrorists and for terrorist acts.

172. The CT Law does not define "material or financial assistance" and no explanatory note or case law provides further guidance on the parameters of these terms. According to the authorities, the terrorist financing offense was deliberately drafted in broad terms in order to cover all forms of financing. On the basis of the text of the law and the discussions held with the authorities, the assessment team was satisfied that the notion of "material and financial assistance" is sufficiently broad to cover all the funds as defined in the ICSFT (i.e. "assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronics or digital, evidencing title to, or interest in, such assets, including but not limited to bank credits, travelers checks, bank checks, money orders, shares, securities, bonds, drafts, letters of credit").

173. **Criterion II. 1 (b):** The law does not make reference to the source (either legitimate or illegitimate) of the "financial assistance." The absence of a reference to a criminal source would tend to indicate that no limitation applies and that the offense covers the collection and provision of financial assistance whether from legitimate or illegitimate source. This view was shared by the authorities during the on-site visit.

[9] The English translation of Article 4 is incomplete and omits the reference to the sanction applicable to the acts that it covers (i.e., life imprisonment).

[10] The English translation of Article 4 refers to the "collection of money" but the original Arabic text mentions "amwal", which is broader than "money" and encompasses all means of financial assistance.

174. **Criterion II. 1 (c)**: According to the authorities, the terrorist financing offense does not require that the funds were actually used to carry out or attempt a terrorist act, or be linked to a specific terrorist act.

175. **Criterion II. 1 (d):** The attempt to commit the terrorist financing offense is not specifically addressed in the CT Law. It is nevertheless punishable under the general dispositions of the Criminal Code. The financial support and the other acts of assistance listed under Article 4 of the CT Law constitute felonies (Article 21 of the Criminal Code). The attempts to commit these crimes is, therefore, an offense punishable with imprisonment for a period between five to fifteen years (Article 29 of the Criminal Code).

176. **Criterion II.1 (e)**: The CT Law addresses in detail various levels of participation in the terrorist crimes listed under Article 1 but participation in, organization of, and contribution to the terrorist financing offense is not specifically addressed. These acts are nevertheless punishable by application of the general dispositions of the Criminal Code (Articles 38, 39 and 40).

177. **Predicate Offense for Money Laundering (c. II.2).** Qatar amended the AML Law in 2003 in order to add "terrorist crimes" to the list of predicate offenses to money laundering (Article 2 of the AML Law as amended by Article 1 of the Decree Law No. (21) of 2003). According to the authorities, this includes all the crimes listed in the CT Law, including the terrorist financing offense.

178. **Jurisdiction for Terrorist Financing Offense (c. II.3):** The CT Law does not specify whether it would apply to the author of the terrorist financing offense who is not in the same country as the organization he or she assisted or intended to assist and/or the country where the terrorist acts has or would have occurred. The Criminal Code is more precise in the sense that it explicitly provides that its provisions applies to anyone who has committed or participated in a crime, outside Qatar, against "the internal and external security" of the State of Qatar as well as to anyone who, although in Qatar, committed or participated in "international terrorism" abroad (Articles 16 and 17 of the Penal Code). Because it addresses both the commission of and the participation in international terrorism without requiring a geographical link between them, the Qatari legislation complies with the standard on this point.

179. **The Mental Element of the TF Offense (applying c. 2.2 in R.2):** The CT Law refers to supplying financial assistance to a terrorist group or organization knowing its purpose beforehand (Article 4) thus requiring an intentional element. As for money laundering, the principle of free appreciation of the evidence applies to terrorist financing proceeding and the intentional element of the offense may be inferred from objective factual circumstances.

180. **Liability of Legal Persons (applying c. 2.3 & c. 2.4 in R.2):** According to the authorities, although it is not specified in the CT Law, the criminal liability of legal persons envisaged under Article 37 of the Criminal Code is applicable to those that collect or provide financial support to terrorist groups, without precluding parallel civil or administrative proceedings.

181. **Sanctions for FT (applying c. 2.5 in R.2):** The sanction applicable to the persons who collect any form of material and/or financial assistance for terrorist groups or organizations and/ or provide material and/or financial assistance is life imprisonment (Article 4 of the CT Law). The law also provides that the perpetrator of "a crime" (which, according to the authorities includes the terrorist financing offense) will be exempted from all penalties if he or she informs the competent authorities before the

beginning of the execution of the crime (Article 14 of the CT Law). This disposition mirrors the general exemption clause provided in the Criminal Code. According to the representatives of the Public Prosecutor's Office, it is only applicable when the information given is sufficiently comprehensive and timely to enable the authorities to prevent the commission of the terrorist acts. Exemption of all penalty may also be possible if the informer enables the authorities to arrest the other perpetrators (Article 14 of the CT Law). However, the sanction may not be reduced on the sole basis that the circumstances of the crimes or the personal situation of the perpetrator of these crimes call for mercy (Article 92 of the Criminal Code). The law also allows for the confiscation of "the seized things, assets, weapons and machines resulting from or used in or that could be used in" a terrorist act (Article 15 of the CT Law; see under SR III for further details). As an exception to the general criminal procedure rules, no statute of limitations applies to the offenses and the penalties provided in the CT Law.

182. **Effectiveness:** Overall, the terrorist financing offense meets most of the requirements set out in the ICSFT. However, several shortcomings remain: the coverage of terrorist acts is not sufficiently broad to be fully in line with the standard (for example, unlawful seizure of an aircraft is not considered a terrorist act in the absence of an intention to cause harm, death, terror or damage); this also limits the notion of terrorist groups or organizations; and the law does not cover the collection and provision of funds when there is no link to a terrorist group or organization. These shortcomings unduly limit the application of the terrorist financing offense.

183. The statistics provided by the public prosecutor's office with respect to the predicate offense to money laundering (see under Recommendations 1 and 2) indicate that, in 2006, eight prosecutions have been, or were in the process of being conducted for various forms of terrorist crimes, but none related to the financing of terrorism. The police also confirmed that no investigation has been conducted since or before 2006 on the basis of Article 4 of the CT Law. This would indicate that while they investigate terrorist acts and terrorist organizations as such, the law enforcement authorities tend to disregard the financing of these acts and organizations. It further entails that the precise scope and limitations of the terrorist financing offense remain untested by the courts.

184. The Qatari anti-terrorism measures are, like in many other countries, counterbalanced by provisions that aim at ensuring the protection of freedom-fighters: the Qatari Constitution explicitly mentions that the foreign policy of the State of Qatar "shall support the right of peoples to self-determination" (Article 7); Qatar is also party to the 1998 Arab Convention for the Suppression of Terrorism, which provides a broad definition of terrorism of which the struggle, including armed struggle, against foreign occupation and aggression for liberation and self-determination is specifically excluded. While the right for self-determination is an undisputable principle of international law reflected in the UN Charter, it should not serve to undermine the fight against terrorism (and its financing) as defined by the UN counter-terrorism Conventions and Protocols. The authorities, in an effort to uphold the right for self-determination, refused to extradite a Chechen rebel who was suspected of having committed violent acts against civilians of a foreign country. The individual in question was the subject of an arrest warrant issued by Interpol in 2001 and was designated as a terrorist by the UN Security Council 1267 Committee in June 2003. His name was included in the 1267 consolidated list from June 2003 onwards. The process that led the authorities to refuse the extradition and the exact response given to the requesting state were not shared with the assessors. The authorities mentioned during the on-site visit that the purpose of their refusal was to ensure the protection of a freedom fighter. They also indicated that none of the measures called for under the UNSC Resolution 1267 were taken with respect to this particular individual. It is, therefore, clear that from moment of the designation by the UN Security Council 1267 Committee in June

2003, until the individual's death in February 2004, the authorities provided him with a safe harbor and acted in violation of the UNSC Resolution 1267. In the circumstances, it would appear that there is a need for the authorities to reconsider how they strike the balance between an effective fight against terrorism and its financing, on the one hand, and the protection of the peoples' right to self-determination, on the other, bearing in mind that the designations made under UNSCR 1267 afford no discretion: the measures called for in the resolution are mandatory and the principle of self-determination does not apply with respect to the designated persons.

2.2.2 Recommendations and Comments

185. It is recommended that the authorities:

- Amend the CT Law to ensure that the acts covered by Article 2 Paragraph 1 (a) of the ICSFT are criminalized in line with the conventions and that the provision or collection of funds with the intention that they should be used, in full or in part, to commit any of the acts mentioned in Article 2 Paragraph 1 (a) of the ICSFT are considered as terrorist acts even when the motive mentioned in Article 1 of the CT Law is not established.

- Amend the CT Law to ensure that the terrorist financing offense is considered to have been committed by any person who by any means, directly or indirectly, willfully, provides or collects funds, or attempts to do so, with the intention that they should be used or in the knowledge that they are to be used in full or in part to carry out a terrorist act; or by an individual terrorist.

- Ensure that investigations into and prosecutions for terrorist crimes also cover the financing of these crimes.

- Provide training to all relevant authorities on the fight against TF.

2.2.3 Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR.II	**PC**	• The offense applies to all terrorist acts listed in Art. 2 para. 1 (b) of the ICSFT but the motive required in the CT Law is not in line with all the treaties mentioned in Art. 2 para.1 (a); • The provision/collection of funds to individual terrorists and/or for terrorist acts are not covered by the offense; • Lack of overall effectiveness: No investigations or prosecutions have been conducted despite the fact that several investigations and prosecutions have been/are being conducted for other terrorist crimes.

2.3 Confiscation, freezing, and seizing of proceeds of crime (R.3)

2.3.1 Description and Analysis

186. **Confiscation of property related to ML, FT, or other predicate offenses including property of corresponding value (c. 3.1)**: The AML Law specifically provides that "in all cases, and without prejudice to the rights of the other *bona fide* parties, the court shall order the confiscation of the

instrumentalities, proceeds and returns of the crime"(Article 13 paragraph 6). Instrumentalities are defined as "everything used or intended to be used for committing the money laundering crime." Proceeds and returns cover "any funds or property earned directly or indirectly by committing one of the crimes stipulated in this law" (Article 1 of the AML Law). According to the authorities, these definitions cover all assets that have a link with the money laundering offense (or the predicate), whether movable or immovable, including income, profits, interests, and other benefits from crime. The only limitation to confiscation is the protection of thirds parties who hold the assets in good faith. The confiscation of instrumentalities used or intended to be used in the commission of the predicate crime (as opposed to the instrumentalities of the money laundering offense) is not specifically mentioned in the AML Law but is covered by Article 76 of the Criminal Code which provides for the confiscation of "things" that result from, or have been used in or that were intended to be used in the commission of a felony or a misdemeanor. This would apply to the instrumentalities of the following predicate offenses: drug-related crimes, illegal trafficking in weapons, ammunitions and explosives, forgery, counterfeiting and imitation of notes and coins; and terrorist crimes. Confiscation is a mandatory penalty which has to be ordered by the courts even when it has not been requested by the prosecutor.

187. Since no money laundering charges have been brought to court, no confiscation orders have been issued on the basis of the AML Law and Art 13 of the law remains untested. The authorities nevertheless established that they have experience in confiscating both the proceeds and the instrumentalities of other crimes.

188. **Confiscation of Property Derived from Proceeds of Crime (c. 3.1.1 applying c. 3.1):** Article 13 of the AML Law allows for the confiscation of the "proceeds and returns of the crime" as defined above "in all cases and without prejudice to the rights of other *bona fide* parties."

189. **Provisional Measures to Prevent Dealing in Property subject to Confiscation (c. 3.2):** The Criminal Procedure Code sets out the general framework for the precautionary measures that the Public Prosecutor may take (Article 126–145) but is superseded by the AML Law which provides a specific framework for the provisional measures that may be taken in the case of suspicions of money laundering. Article 12 of AML Law (as amended by the Decree Law (21) of 2003) provides that the Governor of the QCB may order the freezing of funds or property when there are any concerns that they might be disposed of, for a period not to exceed ten days. The governor must, however, notify the Public Prosecutor of the freezing or seizing order within three days, otherwise the order will be deemed null. The Public Prosecutor is then entitled to cancel the order or renew it for a maximum period of three months. A further extension of the freezing or seizing period is possible, but only through an order from the Supreme Criminal Court acting at the request of the Public Prosecutor. The renewal can be made for the same period(s) until the criminal case is settled by a final judgment.

190. This procedure applies regardless of the nature of the property to be frozen or seized. For funds held by banks, the Governor of the QCB sends a letter to all the banks operating in Qatar, usually at the request of the FIU, with an order to freeze the accounts of a specific person in application of Article 12 of the AML Law. The facts that give rise to the freezing measures are kept within the FIU and the governor's office, and only the name of the person or legal entity whose accounts must be frozen are provided to the banks, thus ensuring the confidentiality of the procedure. For property other than funds, the authorities informed the assessment team that the governor would apply a similar procedure by notifying the relevant authority, such as the registry for real estate in the case of immoveable property and

the registry of commerce in the case of a company. This, however, has not been tested to date: only a few freezing orders have been issued and they all referred to bank accounts.

191. The governor is the sole initiator of the freezing or seizing measures under the AML Law in all cases, including when the funds or property are held by persons or institutions that fall within the remit of other supervisory bodies, such as the QFCRA. This is due to the fact that the AML Law and the freezing or seizing set out in Article 12 of the law are of a criminal nature, as opposed to a supervisory one, and, as such, apply to all the authorities in Qatar.[11]

192. **Ex Parte Application for Provisional Measures (c. 3.3)**: There are no provisions in the law that require the initial application of freezing or seizing measure applicable to property subject to confiscation to be carried out without prior notice to the owner of the assets. The authorities confirmed, however, that, in practice, all freezing or seizing measures are taken *ex parte*.

193. **Identification and Tracing of Property subject to Confiscation (c. 3.4):** Articles 27 to 36 of the Criminal Procedure Code define the officers in charge of criminal investigations and their powers. Members of both the Public Prosecutor's office and the police are the "investigation officers" under the law (Article 27 of the Criminal Procedure Code). With Resolution (1) of 2005, the Public Prosecutor extended the list of investigation officers by granting the head of the FIU the capacity of a judicial police officer in the investigations led on the basis of the AML Law. Article 29 of the Criminal Procedure Code provides that the investigative officers "investigate crimes, search their perpetrators, and collect all necessary evidence for the investigation and the trial." In doing so, they are entitled to make the necessary inspections, hear any person who has information on the crimes or their perpetrators and question the suspects (Article 34). The powers of the PPO in pre-trial investigations are further defined under Articles 63 to 145 of the Criminal Procedure Code and include summoning the defendant or placing him/her under arrest, searching properties, seizing of correspondence and parcels in the post office, wire tapping, and witness hearing. Access to information covered by the banking secrecy, however, requires the prosecutors to apply for a court order. According to the authorities, obtaining an order for the disclosure of banking records is straightforward and does not cause undue delay.

194. **Protection of Bona Fide Third Parties (c. 3.5)**: Article 13 of the AML Law provides that any confiscation measures must be taken "without prejudice to the rights of the *bona fide* parties." According to the authorities, should such a measure nevertheless infringe these rights, the *bona fide* third party may challenge the confiscation order before the ordinary courts of appeal.

195. **Power to Void Actions (c. 3.6):** Article 16 of the AML Law specifically provides that "without prejudice to the rights of *bona fide* third parties, the contract in which one of the parties or all of them know or have reason to believe that the objective of the contract is to prevent the confiscation of the instrumentalities, revenues or proceeds related to the money laundering crime, shall be deemed null and void." Actions other than contractual that have been conducted with the intention of avoiding the recovery of property of criminal origin may be defeated by the general confiscation measures as described above.

196. **Additional Elements (Rec. 3)—Provision for a) Confiscation of assets from organizations principally criminal in nature; b) Civil forfeiture; and, c) Confiscation of Property which Reverses**

[11] With respect to the QFC, Article 18 para. 1 of the QFC Law specifically mentions that the criminal laws and sanctions of the State of Qatar apply in the QFC.

Burden of Proof (c. 3.7): There are no specific provisions dealing with the confiscation of criminal organizations, civil forfeiture, or the reversal of the burden of proof.

2.3.2 Recommendations and Comments

197. Overall, the AML Law and the Criminal Procedure Code enable the authorities to confiscate all assets linked to a money laundering crime.

198. While not technically at odds with the standard, the fact that the provisional measures set out in the AML Law are issued by a supervisory body seems to disregard the fact these measures are of a criminal nature. It would seem to be more appropriate to grant the initial powers to freeze and seize to the public prosecutors, who are more familiar with criminal proceedings, or even the FIU, which is more familiar with the facts of the case and which usually must pursue its analysis of the STR during the duration of the freezing/seizing measure. It may, therefore, be worthwhile to reconsider the Governor of the QCB's role in and the overall effectiveness of the current AML framework for freezing and seizing.

199. As mentioned above, only a few provisional measures have been taken in application of Article 12 of the AML Law. This and the lack of confiscation measures ordered in a trial for money laundering prevented the assessors from establishing whether the framework set out in the AML Law is fully effective. Furthermore, the lack of comprehensive statistical information on the provisional and confiscation measures ordered in other types of investigation and prosecutions also prevented the assessors from having a general idea of how the authorities apply these measures in the broader context.

200. Considering the above, it is recommended that the authorities:

- Reconsider the role of the Governor of the QCB in the application of provisional measures under the AML Law.
- Maintain comprehensive statistics on the freezing, seizing, and confiscation measures ordered.

2.3.3 Compliance with Recommendation 3

	Rating	Summary of factors underlying rating
R.3	**LC**	• Lack of evidence of the effectiveness of the AML confiscation framework.

2.4 Freezing of Funds Used for Terrorist Financing (SR.III)

2.4.1 Description and Analysis

201. Under Special Recommendation III, countries should have laws and other procedures in place that enable them to freeze without delay funds and other assets of persons designated pursuant to UNSCR 1267 and 1373. Laws and other measures should also provide for provisional measures, including the freezing and/or seizing of property, to prevent any dealing, transfer or disposal of property subject to confiscation. Such freezing should take place without delay and without prior notice to the designated persons involved. In practice, countries should designate a specific authority responsible for receiving and disseminating the UNSCR 1267 lists and the requests made under UNSCR 1373.

202. On January 16, 2002, the Council of Ministers established an interdepartmental Committee charged with the implementation of UNSCR 1373 (the Coordination Committee).[12] It subsequently extended the Committee's mandate to the implementation of all UN Resolutions dealing with the fight against terrorism, including UNSCR 1267 and its successors, and enlarged the permanent membership of the Coordination Committee (Council of Ministers decisions of July 7 and July 21, 2002, respectively, forwarded to the Ministry of Civil Service Affairs and Housing on July 13 and 21, 2002). On March 26, 2007, the Council of Ministers replaced the Coordination Committee with a new one, the National Committee for Fighting Terrorism (NCT). The main functions of the NCT are to make plans and programs to fight terrorism, to coordinate national efforts in the implementation of the obligations arising from UNSCR 1373, and to take action to implement the obligations set out in the international conventions against terrorism to which Qatar is a party (Article 3 of the Council of Ministers' decision of March 26, 2007). The implementation of other relevant UNSCR, and in particular of UNSCR 1267 and its successor resolutions, however, does not fall within the remit of the NCT and remains unaddressed since.

203. The NCT is composed of representatives from the MOI, the Qatar Armed Forces, the State Security Bureau, the Internal Security Force, the Ministry of Civil Service and Housing Affairs, the Ministry of Finance, the MEC, the MOJ, the Ministry of Endowment and Islamic Affairs, the General Secretariat of the Council of Ministers, the QCB, the General Authority of Customs and Ports, and the Qatar Chambers of Commerce and Industry (Article 1 of the abovementioned decision). The MOFA is not a permanent member of the NCT (nor was it a member of the previous committee) but is in most cases invited to attend the meetings. The supervisory or monitoring authorities of the relevant financial institutions and DNFBPs are all represented in the Coordination Committee (either directly or by their respective ministry), with the notable exception of the QFC (which was established as an independent body in 2005). The committee is chaired by the representative of the MOI. Meetings are held every two weeks or more often if necessary. Pursuant to Article 6 of the Council of Ministers' decision, the NCT may request information pertaining to its functions from any authority.

204. **Freezing Assets under S/Res/1267 (c. III.1) and Freezing Assets under S/Res/1373 (c. III.2):** From the establishment of the former Coordination Committee, in 2002, until its dissolution, in March 2007, both the UNSCR 1267 lists, on the one hand, and the notifications and request made under UNSCR 1373, on the other, were dealt with in a similar way: they were sent to the MOFA which forwarded them to the Coordination Committee, whose main functions were to coordinate the implementation of all UNSC resolutions dealing with the fight against terrorism. The president of the Committee would then forward the designations to all members of the Committee and to the QFC. The authorities established that some of the updates to the 1267 list were forwarded to the private sector but it also transpired that this only occurred in a limited number of instances. The QCB has, on a few occasions, sent the consolidated lists to the domestic banks with a request to freeze the accounts and inform the QCB within 3 days in case of a positive match. The QFCRA has sent a few emails to the institutions operating in or from the QFC with a link to the UNSC website requesting the QFC institutions to check the updates. It is unclear whether the DSM and other relevant authorities have sent any designations at all.

[12] The first Coordination Committee included representatives from the Ministries of Civil Service Affairs and Housing, Finance, Economy and Commerce, Interior, and Justice, as well as representatives from the Islamic Affairs Department and Awqaf, the QCB, and the Chamber of Commerce and Industry.

205. This mechanism was the result of the practice, rather than of a clear procedure set out in the 2002 decision (which established the former Coordination Committee). This decision provided the general legal basis for the coordination of the implementation of both UNSC resolutions from 2002 until March 2007 but it did not grant the Coordination Committee the authority (or any other authority) to designate terrorists, nor did it provide a specific legal basis for the issuance of freezing orders.

206. The 2007 decision (which established the current NCT) provides a similar legal basis for the coordination of the implementation of the relevant Conventions and of UNSCR 1373, but it is silent as far as other relevant UNSCR, and 1267 in particular, are concerned. As was the case under the previous Committee, the NCT is not empowered with the authority to take position on the request made and, if necessary, designate terrorists (nor is any other Qatari authority), and there are no legal basis and no clear mechanisms in place to ensure the freezing of funds and other assets without delay outside criminal proceedings. With the establishment of the new NCT, the mechanism that previously dealt with the reception and dissemination of the updates to the UNSCR 1267 consolidated list has been abolished. No alternative mechanism has been created.

207. No specific reason was mentioned as to why the functions of the NCT do not cover the implementation of all relevant UNSCR and it would appear that this was the result of an oversight rather than a deliberate omission. The fact nevertheless remains that there is currently no mechanism in place dealing with the implementation of UNSCR 1267 and no legal basis to require the freezing of assets as set out under SR III.

208. In 2006, the QCB issued the AML/CFT instructions for the banking and financial institutions under its supervision that require the latter to freeze funds or assets belonging to terrorists and persons who finance terrorism and terrorist organizations “according to court judgments or instructions issued by the Governor [of the QCB]” (Article 8 paragraph 3). The instructions are, however, only enforceable within the QCB’s purview and do not apply to other financial institutions, such as those that act in or from the QFC in particular. Furthermore, no court judgment has been passed on this issue and no further instructions (that would include the name of the persons whose funds and assets should be frozen) have been published. The requirement set out in the instructions, therefore, remains an empty shell.

209. On a first reading, several other dispositions of the Qatari legislation could apply to all the financial institutions and provide a legal basis for the freezing mechanism, but fail to do so on further analysis;

- Article 21 of the CT Law enables the public prosecutor to “provisionally” issue an order preventing the accused from disposing of or managing his assets on condition that sufficient evidence is provided on the seriousness of the accusation. The Prosecutor’s decision may extend to the assets of the spouse or minor children of the accused, if it is proven that “these assets were possessed from him.” However, the authorities confirmed that this disposition refers only to cases where criminal proceedings have been initiated.

- Article 12 of the AML Law, as amended by Article 1 of the Decree Law No. (21) of 2001, enables the Governor of the QCB to freeze “funds or properties” for a period of ten days when there are any concerns that their owner might dispose of them, and enables the Public Prosecutor, in a first stage, and the Supreme Criminal Court, in a second stage, to

extend the freezing order (see write-up on Recommendation 3). However, this disposition only applies when there are suspicions of money laundering, not terrorist financing.

- Article 126 of the Criminal Procedure Code also enables the Public Prosecutor to freeze assets[13] under certain circumstances, but it only applies within the ambit of criminal proceedings for crimes other than terrorist financing (and money laundering).

210. It results from the above that there are no effective laws and regulations in place in Qatar to freeze terrorist funds or other assets without delay and without prior notice in accordance with UNSCR 1267 and 1373.

211. The fact that the QFC and DSM are not members of the Coordination Committee entails that they are not immediately and directly informed of the actions taken by the Committee. The authorities established that, in practice, the QFC is informed of the decisions taken by the NCT (and its predecessor). It is unclear, however, to the assessors whether the fact that the information is not provided to the QFC at the same time as the members of the NCT, and the fact that the QFC is not in a position to provide its input in the NCT discussions hinder the swift implementation of the UNSC Resolutions within the QFC. No information was provided with respect to the communication (or absence thereof) with the DSM.

212. The Qatari authorities provided safe harbor to a foreign individual who was designated by the UNSC 1267 Committee in June 2003 as an individual having links with Al Qaeda, Usama bin Laden and/or the Talibans, from a date unknown until the individual's death in February 2004. No action has been taken to trace and freeze this individual's assets.

213. **Freezing Actions Taken by Other Countries (c. III.3).** Pursuant to the Council of Minister's decision of January 2002, the Coordination Committee was responsible for the coordination of the implementation of the relevant UNSC resolutions. Acting on this basis, the Committee examined the actions initiated under the freezing mechanisms of other countries. The authorities informed the assessment team that, where necessary, the Chairman of the Committee requested the initiating State to provide more detailed information (such as, for example, the precise names of the persons subject to the freezing mechanisms) and, when satisfied with the information received, forwarded the lists to all the relevant agencies and the private sector. However, no indication was provided on the level of detail that is required before the names may be forwarded, and on what would constitute reasonable grounds or a reasonable basis to initiate the freezing mechanism in Qatar. The procedure in place since the establishment of the NCT in March 2007 is supposedly the same. In all events, the problems raised above remain: no authority has been given the powers to take a view on the requests made and if necessary, designate terrorists, and there is no legal basis to require the freezing of funds outside criminal proceedings.

214. **Extension of c. III.1–III.3 to funds or assets controlled by designated persons (c. III.4).** In the absence of clear freezing orders, it has not been established that the reporting entities are requested to freeze funds or other assets owned or controlled by designated persons, terrorists and those who finance terrorism or terrorist organizations, as well as funds or other assets are derived or generated from funds or other assets owned or controlled by these same persons and entities.

[13] N. B.: although the English translation of the text refers to "money", the Arabic version refers more broadly to "assets."

215. **Communication to the Financial Sector (c. III.5).** Although they established that some updates to the UNSCR 1267 consolidated list have been disseminated to the private sector, the authorities failed to establish that this was the case with respect to all updates and all requests made by another country.

216. **Guidance to Financial Institutions (c. III.6).** No freezing mechanism is in place. Consequently, no guidance is provided to the financial institutions and other persons or entities that may hold targeted funds or other assets that should be subject to freezing.

217. **De-Listing Requests and Unfreezing Funds of De-Listed Persons (c. III.7).** There are no publicly-known procedures for considering de-listing requests and for unfreezing the funds or other assets of de-listed persons.

218. **Unfreezing Procedures of Funds of Persons Inadvertently Affected by Freezing Mechanism (c. III.8).** The authorities mentioned that they found a positive match with one of the names listed under UNSCR 1267 and that one bank account was frozen as a result. Further investigations were conducted and revealed that the individual in question was not the suspect mentioned in the 1267 list but a homonym ("false positive"). The authorities, therefore, ordered the lift of the freezing measures. While this case illustrates the authorities' willingness to comply with the requirements of UNSCR 1267 as well as their capacity to investigate, freeze and if necessary unfreeze the funds, it does not allow the assessors to ascertain whether these measures were taken in a timely fashion.

219. There are no publicly-known procedures for unfreezing, in a timely manner, the funds or other assets of persons or entities inadvertently affected by a freezing mechanism.

220. **Access to frozen funds for expenses and other purposes (c. III.9).** Similarly, there are no procedures in place to authorize access to funds and other assets that have been frozen and that are necessary for basic expenses (nor are there any procedures for determining the funds that are necessary to cover the basic expenses) in accordance with UNSCR 1452. No request to authorize access to the funds was made in the case of the "false positive" mentioned above. The authorities, therefore, have no practical experience in this matter.

221. **Review of Freezing Decisions (c. III.10)**. No procedures have been issued to enable a person or entity whose funds or other assets have been frozen to challenge these measures.

222. **Freezing, Seizing and Confiscation in Other Circumstances (applying c. 3.1-3.4 and 3.6 in R.3, c. III.11).** In the case of terrorist acts, provisional measures are possible as follows: Article 21 of the CT Law provides that "If enough evidence is given about the gravity of the accusation, in the crimes provided for in this Law, the Public Prosecutor may temporarily order the accused to stop disposing of or managing his assets, in addition to other provisional measures. This decision may extend to cover the assets of the spouse or minor children of the accused, if these assets are established to be assigned to them through accusations. This also applies to the management of assets."

223. The law allows for the confiscation of "the seized things, assets, weapons and machines resulting from or used in or that could be used in" a terrorist act (Article 15 of the CT Law). "Things" are not defined in the law. According to the authorities, the term is generally used in a broad sense and covers "anything that might be used or becomes the proceeds of any terrorism or terrorism financing crime."

224. **Protection of Rights of Third Parties (c. III.12).** There is a legal requirement in the CT Law to take the rights of bona fide parties into consideration before ordering the confiscation of assets (Article 15). The Criminal Procedure Code specifies the measures that may be taken by bona fide parties. Article 127 stipulates that "any concerned person may appeal against the issued order of the said prohibition in the previous article to the criminal court within six months from the date of issuance or notification, whichever is later. The court must decide on the appeal, within a period not exceeding thirty days from the report date." Article 128 states that "the General Prosecutor may cancel or amend the prohibition order, unless the order is issued by the court or the case is referred to it." Article 129 further provides that "the competent court may, upon considering the case, on its own or on the basis of the general prosecution request or the concerned persons, decide the cancellation or amendment of the prohibition issued order."

225. **Enforcing the Obligations under SR III (c. III.13).** Qatar has not implemented an appropriate legal mechanism to freeze assets in accordance with SR III and, consequently, has not established measures to monitor the compliance with the obligations under SR III.

226. **Additional Elements (SR III)—Implementation of Measures in Best Practices Paper for SR III (c. III.14) and Implementation of Procedures to Access Frozen Funds (c. III.15)**. None of the measures set out in the FATF Best Practice Paper for SR III have been implemented and no procedure has been adopted to authorize access to funds and other assets that have been frozen to cover the necessary basic expenses.

2.4.2 Recommendations and Comments

227. The Council of Ministers' decision to establish a Coordination Committee for the implementation of the UN counter-terrorism resolutions was timely and provided a useful platform reuniting all the relevant authorities at the time. The current NCT provides an equally useful platform but could have proven more so if the QFC and other authorities (such as the public prosecutor's office and the supervisory authority for capital markets) were also included. Although the previous framework enabled the authorities to circulate the UNSCR 1267 list among them, as well as to discuss the requests received from foreign countries under UNSCR 1373, there is currently no mechanism in place to deal with the implementation of UNSCR 1267. Furthermore, the existing framework does not provide for a formal and mandatory freezing mechanism. The framework should be expounded upon by any legal measures necessary to enable the authorities to designate suspected terrorists and freeze their assets in compliance with both UNSCR 1267 and 1373.

228. The authorities should take the necessary measures to enable them to comply with SR III. They are in particular recommended to:

- Designate an authority responsible for analyzing the requests made under UNSCR 1373 and for the designation of terrorists.
- Designate an authority responsible for receiving and disseminating the updates to the consolidated list established pursuant to UNSCR 1267.
- Include the QFC and consider including the PPO and the DSM in the NCT.

- Establish the necessary legal basis for the issuance by a competent authority of mandatory freezing orders of funds or other assets owned or controlled by designated persons, terrorists and those who finance terrorism or terrorist organizations, as well as funds or other assets that are derived or generated from funds or other assets owned or controlled by these same persons and entities.

- Establish an effective mechanism for the dissemination of UNSCR 1267 lists and actions taken under UNSCR 1373 to the financial institutions and DNFBPs immediately upon receipt of the lists and upon taking decisions under UNSCR 1373.

- Provide guidance to the financial institutions and DNFBPs regarding their obligations in taking action in the freezing mechanisms.

- Issue effective and publicly-known procedures for considering de-listing requests and unfreezing the funds and other assets of de-listed persons or entities in a timely manner.

- Issue effective and publicly-known procedures for unfreezing in a timely manner the funds and other assets of persons or entities inadvertently affected by the freezing mechanisms upon verification that that person or entity is not the designated person.

- Issue appropriate procedures for determining upon request the funds needed to cover basic expenses and for authorizing access to the funds or other assets frozen pursuant to UNSCR 1267 and that have been determined to be necessary to cover basic expenses.

- Establish the legal basis for ordering the necessary provisional measures.

- Establish appropriate procedures for challenging the freezing measures before the courts.

- Define the funds and other assets that may be confiscated in a manner consistent with the international standard.

- Establish an effective mechanism to monitor compliance with the relevant laws and regulations governing the freezing mechanisms under UNSCR 1267 and 1373.

2.4.3 Compliance with Special Recommendation III

	Rating	Summary of factors underlying rating
SR.III	**NC**	• No coordination mechanism in place for the implementation of UNSCR 1267. • There is no authority responsible for the designations, disseminations and no legal basis for the freezing/seizing orders. • With the exception of the protection of the rights of *bona fide* third parties, none of the measures provided under SR III have been adopted. • No funds have been frozen under UNSCR 1267, despite the presence in Qatar for several months of a person designated by the UNSCR 1267 Committee, or under UNSCR 1373.

2.5 The Financial Intelligence Unit and its Functions (R.26)

2.5.1 Description and Analysis

229. **Establishment of FIU as National Center (c. 26.1)**. Article 10 of the AML Law states that the coordinator of NAMLC is competent to receive reports related to suspicion of money laundering crimes from the competent parties and to take the legal measures pertaining to them. Article 20 provides that the minister of interior, in coordination with the Governor of QCB shall, based on a proposal by the NAMLC, issue the executive resolutions of the provisions of the AML Law. In 2004, the President of NAMLC issued Administrative Order No. 1 of 2004 with the aim of establishing the FIU. The Administrative Order further describes the powers, functions, and structure of the FIU. In practice, the FIU has been established and operates on the basis of the Administrative Order. However, the president of NAMLC did not have the power to issue such Administrative Order. The latter, therefore, has no legal basis. Furthermore, in establishing the FIU, the Administrative Order is inconsistent with the text of the AML Law which gave the coordinator of NAMLC the power to receive, analyze, and disseminate STRs.

230. Notwithstanding the conflict between the powers and functions of the coordinator of the NAMLC and the FIU, as established under the Administrative Order, the FIU became operational on October 16, 2004. It functions as an administrative unit and its mandate covers fighting money laundering and combating the financing of terrorism.

231. Pursuant to the Administrative Order, the FIU has the following powers and responsibilities:

- receiving suspicious transaction reports related to money laundering and terrorism financing directly from all concerned entities in Qatar (including all financial and non financial institutions and law enforcement agencies);
- analyzing suspicious transaction reports and taking appropriate decisions thereon;
- filing suspicious transaction reports proved not to be suspicious and forwarding the ones it deems suspicious to law enforcement agencies and the Public Prosecution. The unit may request further information from all law enforcement agencies regarding suspicious transaction reports; and
- exchanging information with counterpart financial intelligence units and international bodies and organizations, in accordance with the provisions of the AML Law and its amendments and the principles of exchanging information issued by the Egmont Group.

232. In practice, the FIU serves as a national centre for analyzing STRs. Such analysis is conducted by monitoring the STRs that are submitted, conducting databases checks and disseminating them to the PPO, as necessary. The FIU sometimes requests additional information from available databases such as real estate registration, authentication register, financial instruments register for the purpose of analysis but it does not do so in all cases where this would be necessary. Apart from a few cases, the FIU has not requested any additional information from the reporting entities and the ECPD. The CRS is a system established by QCB to inspect banks and financial institutions under its supervision remotely in addition to the on-site visits. The system enables the direct access to customer accounts, including the movement of accounts, transactional information, as well as all personal information received through application of Customer Due Diligence. The FIU is, in practice, is not using the Central Reports System (CRS).

233. Article 8 of the AML Regulations imposes obligations on authorized persons to ensure that the Money Laundering Reporting Officer (MLRO) receive internal STRs from employees. It further provides that the MLRO investigate the circumstances of the internal STR and that the MLRO files an external STR to the FIU in accordance with the AML Law requirements. The QFCRA disseminated letters to DNFBPs that include information on regulatory reporting requirements. The letters state that relevant persons are subject to certain mandatory reporting requirements under the QFC Anti Money Laundering Regulations. These include providing the QFCRA with a copy of the required annual MLRO to senior management; notifying the QFCRA of any STRs made to the local FIU, and notifying the QFCRA of any suspicions of money laundering notwithstanding that an STR has not been filed with the local FIU.

234. **Guidelines to Financial Institutions on Reporting STR (c. 26.2).** A standard form for STRs has been developed by the FIU and was transmitted to reporting entities. Although the FIU encourages reporting entities to use this form. STRs submitted in other forms are accepted.

235. The assessors were informed that the FIU has met with representatives of the financial institutions, DNFBPs, and NPOs and provided them with informal "verbal" guidance. The FIU has not yet issued any written guidelines to financial institutions, DNFBPs, NPOs or other reporting entities. Representatives of the FIU stated that the reason for which guidelines had not yet been developed was the reliance on personal relationships, which they have fostered with banking personnel, compliance officers working in DNFBPs and other reporting entities. The lack of written guidelines and guidance accessible to all precludes the reporting entities from having a common understanding of the reporting requirements.

236. **Access to Information on Timely Basis by FIU (c. 26.3)**. The FIU has direct/indirect access to some databases :

- The employees of the FIU have access to the FIU's own database that includes all information related to suspicious transaction reports. The FIU's database consists of an electronic archive that includes all correspondence and documents issued to or by the FIU.

- Pursuant to Article 3 of the Administrative Order, the FIU may request further investigations from law enforcement agencies regarding information contained in STRs. The FIU cooperate with the ECPD to benefit from administrative or law enforcement information. The ECPD access the databases of the MOI which include the personal details of citizens and residents, car numbers and owners, their sale and export, companies and institutions systems and activities, register of entering and leaving the country, visa system, telephone numbers, and the geographical locations guideline of the ministry. Furthermore, the Criminal records department, which includes a database of suspects, names of previous criminals and their criminal practices, is part of the MOI and can be accessed by the ECPD.

237. The FIU is also developing links to other databases:

- The QCB developed a link with the commercial register, which will be accessible to the FIU in the near future. The commercial register is a system of central registration where the main ownership and control details for all companies registered in the domestic sector are maintained.

- A secure online submission system is currently being developed and should become operational in the near future.

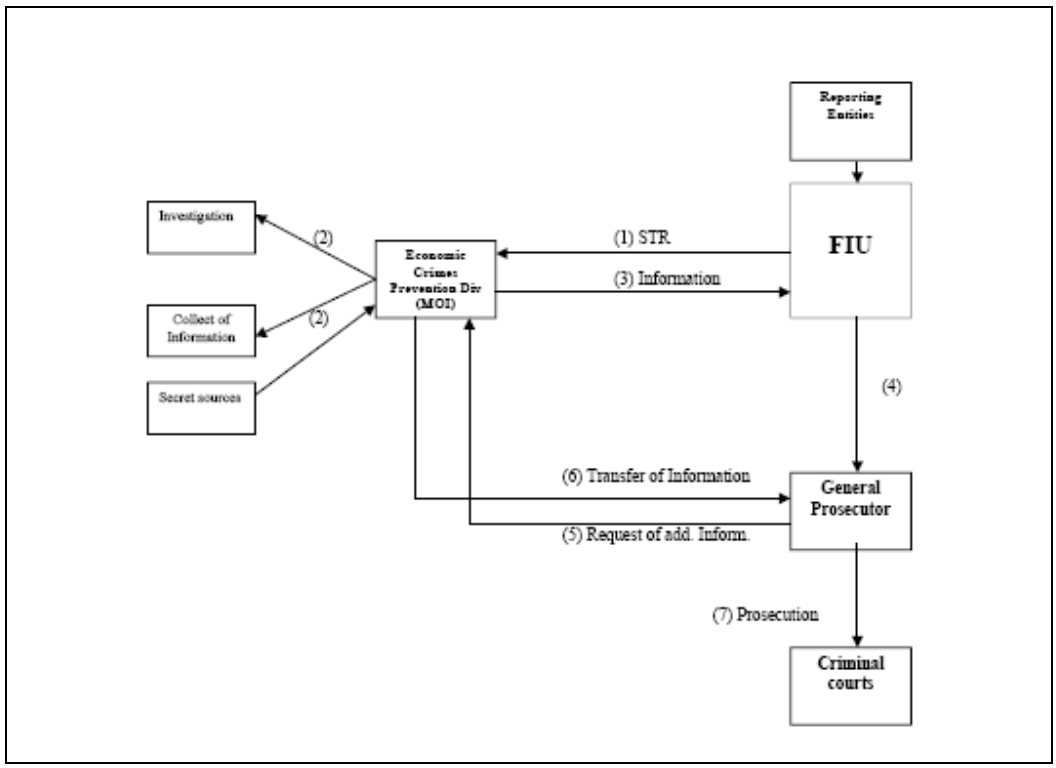
- The CRS system enables direct access to customer's accounts, including the movement of accounts, transactional information, as well as all personal information received through application of CDD. Although the CRS may provide the FIU with information regarding all the bank accounts, the STR form also must spell out the obligation of reporting entities to provide all necessary information when filing an STR.

- The accounts of the financial institutions operating in the QFC will not be accessible through the CRS. Article 8(6) of the AML Regulations provides that the FIU has direct access to relevant persons and is able to get information in a timely manner. More specifically, Article 8(6) requires a relevant person to ensure that its MLRO is responsible for acting as a point of contact within the firm for the FIU, other competent Qatar authorities and the QFCRA regarding Money Laundering issues. A relevant person must respond promptly to any request made by the FIU, the QFC Authority, the QFCRA or other competent state authorities.

238. **Additional information from reporting parties (c.26.4)**. Pursuant to Article 6 of the Administrative Order, the FIU is empowered to ask financial institutions whether they have conducted transactions with a person subject of an STR, or to request additional information/documentation. However, it is not empowered to make such requests to DNFBPs. In practice, the FIU has requested additional information from reporting entities operating within the domestic sector but has not done so with regard to financial institutions operating in QFC.

239. **Dissemination of Information (c. 26.5).** Pursuant to Article 3 of the Administrative Order the FIU is empowered to forward STRs to law enforcement agencies and the PPO. To date, the FIU has not determined any objective criteria to disseminate reports. The head of the FIU decides to file or to disseminate the cases to the PPO. The practice is to forward cases, which are still deemed suspicious after analysis, to the PPO who then either continues the judicial investigation or commences criminal proceedings. Only one ML case was deemed suspicious and has been forwarded to the Public Prosecutor who then determined that there was no basis to proceed further. No STRs regarding terrorist financing have been disseminated to the PPO.

Figure 1. Information flows to and from the FIU



240. **Operational Independence (c. 26.6).** Article 1 of the Administrative Order provides the legal basis for the FIU's operational independence. However, as outlined above, the Administrative Order appears to be inconsistent with the provisions of the AML Law which gave the powers to receive, analyze and disseminate STRs to the coordinator of NAMLC rather than the FIU. This inconsistency may undermine the FIU independence.

241. Article 2 of the Administrative Order states that "the president of NAMLC shall issue a decree nominating the head of the unit and approving its organizational structure and financial budget." With the exception of freezing orders, in practice the head of the FIU has a broad range of competencies ensuring the operational independence and autonomy of the FIU.

242. **Protection of Information Held by FIU (c. 26.7).** The authorities believe that the information received by the FIU staff is subject to the provisions on the protection of information provided in various laws such as Article 5 of the AML Law, the provisions on confidentiality of banking transactions pursuant to Law (33) of 2006 and Article 332 of the Penal Code that sanctions the violation of professional secrecy. However, the assessment team's view is that there is some uncertainty surrounding the provisions mentioned above and that these provisions are not sufficient to protect the information held by the FIU. In practice, the STRs and related information held by the FIU are entered into the database. There is no log history to record all the queries made by FIU employees. The authorities state that only FIU staff and relevant IT department staff are permitted access.

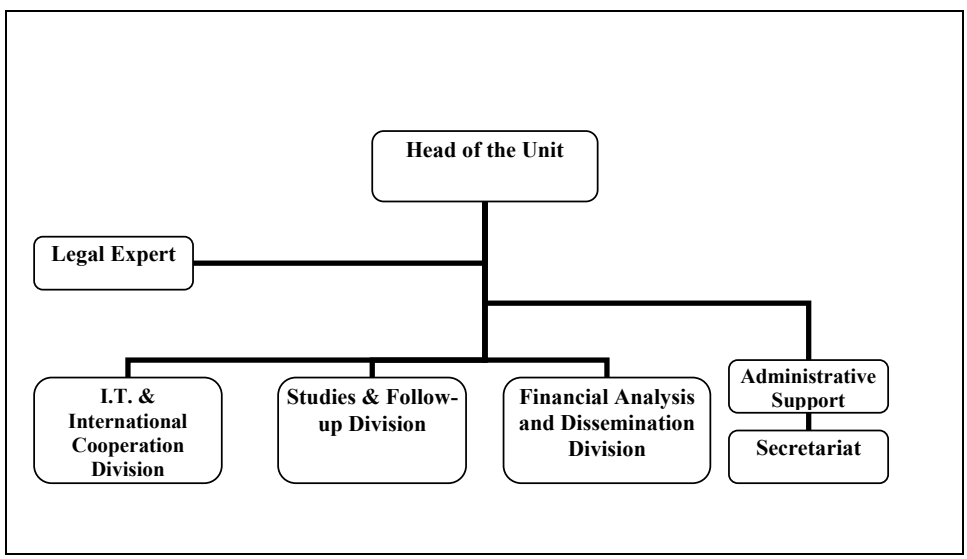
243. **Publication of Annual Reports (c. 26.8)**. The FIU has not yet released any statistics, trends analysis, and/or typologies concerning its activities. An annual report was published in 2006 which consisted of the AML/CFT laws and regulations in force in Qatar. The FIU manages its own website that contains information on the AML/CFT regulations and the 40+9 FATF recommendations.

244. **Membership of Egmont Group (c. 26.9)**. The FIU was recognized as an Egmont Group member in July 2005 and has recently joined the Egmont IT Working Group.

245. **Egmont Principles of Exchange of Information among FIUs (c. 26.10)**. Pursuant to Article 3 of the Administrative Order, the FIU should exchange information with foreign FIUs according to Egmont principles. According to the authorities, the FIU takes account of the Egmont principles in practice when exchanging information with its overseas counterparts. It requested information from other FIUs in 4 cases, one of them through the Egmont Secure Web. Qatar's FIU did not sign any bilateral or multilateral MOUs for cooperation with other foreign FIUs. The FIU received only two requests from foreign counterparts.

246. **Adequacy of Resources to FIU (c. 30.1).** The FIU has 10 full-time staff: In addition to the head of the Unit, the staff comprises 1 Analyst, 1 researcher, 2 IT/analysis specialists, 2 for secretariat services and 2 for administrative support, one part-time legal advisor and 2 part-time IT experts.

Figure 2. FIU Organizational Structure



247. The structure of the FIU comprises the three following specialized operational divisions:

- **Analysis and Dissemination Division**: Specialized in receiving suspicious transactions reports from all parties, analyzing and disseminating STRs, and distributing the warnings that the FIU receives from security authorities.

- **Studies and Follow-up Division**: Specialized in carrying out studies and research, preparing AML/CFT reports, keeping abreast of international and regional developments in this regard, and monitoring compliance of reporting entities.

- **I.T. and International Cooperation Division**: Specialized in fulfilling all technical duties related to computer issues, database, and exchange of information with foreign counterparts. The FIU manages its own website that contains information on the AML/CFT regulations and the 40+9 FATF recommendations.

248. The FIU currently has one staff (head of the financial analysis and dissemination division) in charge of monitoring the STRs that are submitted; he conducts database checks and analysis and disseminates STRs, as necessary.

Table 8. Budget of the FIU

	Qatari Riyals	US$
2004	1,173,280	325,911
2005	5,537,000	1,538,055
2006	11,142,500	3,095,138
2007	12,386,000	3,440,555

249. The 2007 Budget contains the following provisions: (i) 100,000 Riyals: subscription in Reuters, Telerate, Swift and press agencies; (ii) 50.000 Riyals: connection to internet; (iii) 50,000 Riyals: development of electronic archive. The amounts assigned for analysis represent only1.6 percent of the FIU budget (QR 200,000/12,386,000).

250. Overall, the FIU does not appear to have the appropriate level of human resources to properly undertake its functions. In particular, the resources allocated to the analysis of STRs are insufficient and does not reflect the importance that should be devoted to this function.

251. **Integrity of FIU Authorities (c. 30.2)**. All FIU incoming employees undergo background checks and a security clearance which includes criminal record checks and interviews to ensure that the appropriate security measures are in place to maintain the integrity of the FIU operations.

252. **Training for FIU Staff (c. 30.3)**. Although some staff have received training and have provided some training for private sector entities as well as the concerned authorities, additional specialized and practical in-depth training would be highly beneficial.

253. **Statistics (applying R.32 to FIU)**. The FIU keeps an electronic database (and a manual database), which stores the STRs received by the FIU since October 2004, the date the FIU became operational. It classifies them by entities sending the information.

254. The total number of STRs and other information sent by concerned authorities in the database from January 1, 2002 to December 31, 2006 is 266. Before the FIU became operational, STRs were filed with a specialized department at QCB.

Table 9. STR and Other Relevant Information Received by the FIU

Source of "STR"	2002	2003	2004	2005	2006	Total
Internal						
Banks	8	11	13	21	27	80
Exchange Houses	31	22	7	14	16	90
MOI		3	23	10	23	59
QCB		7		8		15
DSM				6		6
SSB				1	2	3
Customs				1		1
Post Office				2		2
Individual				1		1
Real Estate Register				1		1
Brokerage Firms					4	4
External						
FIU			1	2		3
Total	39	43	44	67	72	265
Total of STR received from Financial Institutions and DNFBPs	39	33	20	35	43	170 (approximately 80 STR received by the FIU since its establishment)

255. The FIU receives ML and TF related information from other sources that are considered an STR and recorded as such. No statistics are kept on the number of referrals made by the FIU to national authorities. Only one case was transmitted to the PPO. The FIU has not received any STR related to FT. It requested information from other FIUs in 4 cases, one of them through the Egmont Secure Web. The FIU does not review periodically the effectiveness of the system to combat ML and FT.

2.5.2 Recommendations and Comments

256. The authorities are recommended to:

- Address the legal basis that established the FIU as a national centre for receiving, analyzing and disseminating disclosures of STRs and other relevant information concerning suspected ML or FT activities. While the FIU appears to operate in practice, it should be grounded on a sound legal basis.

- Ensure that the QFCRA removes the third point from the letters disseminated to DNFBPs that includes the obligation to notify QFCRA of any suspicion of ML notwithstanding that an STR has not been made to the local FIU.

- Ensure that the FIU provides financial institutions and other reporting parties with guidance regarding the manner of reporting, including the procedures to be followed when reporting.

- Ensure that the FIU (i) enhances the depth and quality of its STRs analysis, in particular by accessing the CRS and requesting on a regular basis additional information from reporting entities and the ECPD; (ii) uses, when necessary, the CRS, the link to the commercial register developed by the QCB, the real estate register and all available databases to enhance its STR analysis; (iii) undertakes a study focusing specifically on the risks of ML and FT associated with certain businesses.

- Ensure that the FIU establishes mechanisms for cooperation with regulators, supervisors, reporting entities and law enforcement authorities to optimize its analysis and establishes an information flow that protects confidentiality while enhancing its analysis capacity.

- Grant the FIU the power to ask the DNFBPs whether they have had transactions with a person who was the subject of an STR, or to demand additional information from them.

- Ensure that the FIU periodically reviews the effectiveness of the system to combat ML and FT and improves its collection of statistics

- Ensure that the FIU publishes periodically annual reports, typologies and trends of ML/FT.

- Ensure that the FIU provides additional specialized and practical in-depth training to its employees. This training should cover, for example, the scope of predicate offenses, analysis and investigation techniques and familiarization with prosecution of ML/FT techniques, and other areas relevant to the execution of the FIU staff functions.

2.5.3 Compliance with Recommendation 26

	Rating	Summary of factors relevant to s.2.5 underlying overall rating
R.26	**LC**	• Absence of a clear legal basis for establishing the FIU and providing it with its powers and functions. • Absence of a legal basis to request additional information from DNFBPs. • Poor quality of and insufficient resources allocated to STRs analysis. • No guidance on filing STRs has been issued by the FIU. • Inadequate protection of information and premises. • No periodic review of system's effectiveness in combating ML and FT.

2.6 Law enforcement, prosecution and other competent authorities—the framework for the investigation and prosecution of offenses, and for confiscation and freezing (R.27, and 28)

2.6.1 Description and Analysis

257. **Designation of Authorities ML/FT investigations (c. 27.1).** The investigation officers are: (i) Members of the PPO; (ii) Members of the Police Force; (iii) Members of the SSB; (iv) Members of Customs; and (v) the head of the FIU with respect to any crimes committed under the AML Law.

258. Qatar separates the authorities in charge of investigations and the legal authorities in charge of the judgment of criminal offenses. The authorities in charge of AML/CFT investigations operate independently and are mainly the responsibility of four separate authorities: (i) the ECPD (ECPD) within the MOI; (ii) the General Prosecutor; (iii) the SSB; and (iv) the customs.

259. Investigation officers are subject to the Public Prosecutor's supervision with respect to criminal investigations (Article 8 of CPC). They investigate crimes, search for their perpetrators, and collect all necessary evidence for the investigation and the trial (Article 29 of the CPC). Investigation officers have the mandate to collect all necessary clarifications to facilitate investigations of received or otherwise known facts, and undertake all security preserving measures to conserve the evidence. (Article 31 of CPC)

260. The work of the ECPD is regulated by Resolution No.(29) of 2004, issued by the MOI on July 28, 2004. The ECPD is affiliated to the director of the criminal investigation department. The ECPD is specialized in the investigations of ML, e-crimes and counterfeiting and falsification of currency and is further responsible to investigate crimes concerning the protection of copyright and neighboring rights. The ECPD works in collaboration and coordination with the FIU and the PPO.

Figure 3: Structure of the Economic Crimes Prevention Unit

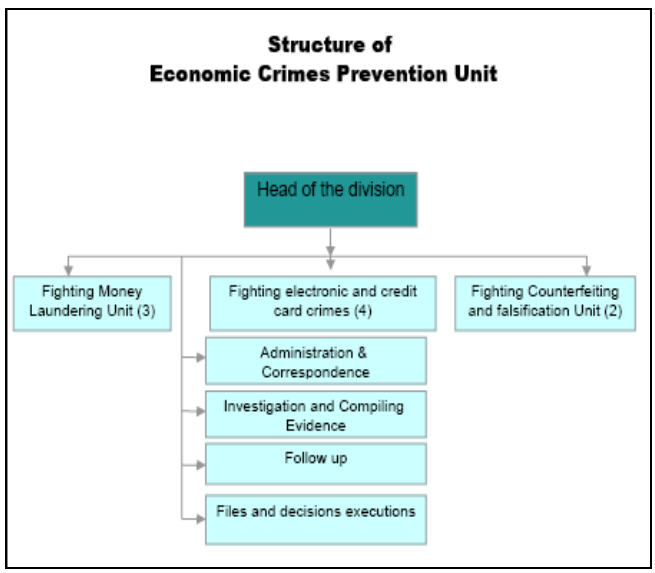
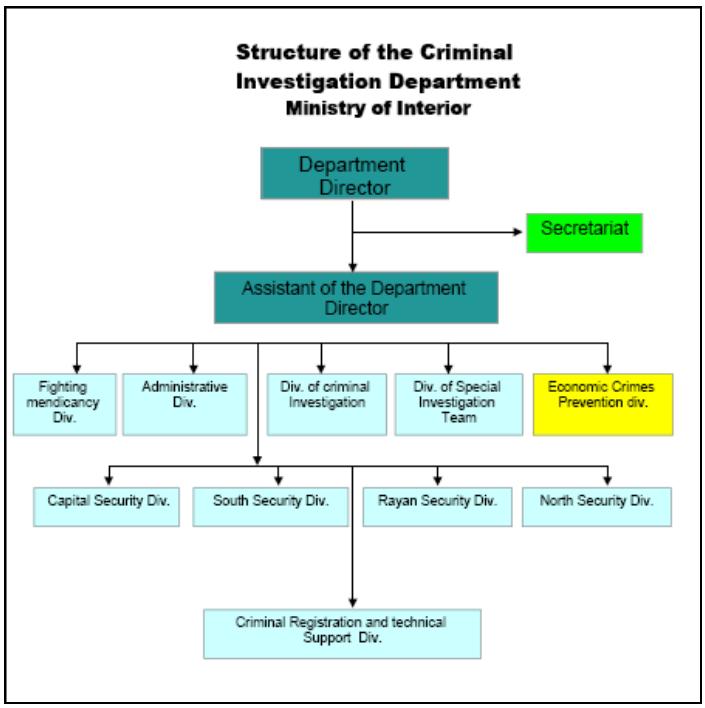


Figure 4: Structure of the Criminal Investigation Department



261. The Fighting Money Laundering Unit is the designated law enforcement agency for AML investigations, while CFT investigations are the sole responsibility of the SSB.

262. The ECPD receives requests for information from the FIU, and carries out the necessary investigations to identify the suspect's transactions, relations, commercial activities, real estate properties and the persons with whom the suspect is dealing as well as the extent of their participation in the ML offence. The Division collects information in cooperation with other departments at the MOI, then notifies the FIU of the investigation's findings and if the ML offence or an attempt has been established, it refers the suspect to the PPO.

263. The PPO is headed by the General Prosecutor. Its functions and jurisdiction are regulated by law No.(10) of 2002 that established the PPO. The General Prosecutor is assisted by two senior Advocates-General and three District Prosecutors. In total, the PPO consists of 145 members. At the time of the assessment, the PPO had received, investigated one case of ML forwarded by the FIU.

264. The SSB has been a separate bureau with a direct reporting line to the Emir since its establishment pursuant to No. 5 of 2003. The powers of the SSB regarding the investigation into ML/TF crimes are set out in Article 2 of Law No.5 of 2003 as follows: (i) safeguarding the regime of the State and its constitutional bodies; (ii) safeguarding the State and its safety and protecting its national unity from any destructive or vandalistic activities or actions inside it or abroad; (iii) combating activities harmful to the safety, stability and status of the State and its ties with other countries; (iv) protecting the political, economical, social and religious values of the State; (v) combating the activities harmful to the

economy of the State and its revenues and (vi) combating espionage. According to the SSB, it has the mandate to use its powers with respect to ML/FT crimes based on paragraphs 4 and 5 of Article 2.

265. Pursuant to article 3 of Law No. (5) of 2003, the SSB have the authority of surveillance and investigation through different technical and professional means. The SSB enjoys large competences, it has the power to carry out investigations and collect evidence of crimes. The SSB, FIU and PPO cooperate through NAMLC. According to the authorities, a copy of all STRs and related documents is usually sent by the FIU to the SSB to perform investigations about suspects. The SSB has the discretion to decide on whether to investigate cases depending on the seriousness of the crime suspected. Since the SSB has the exclusive authority over any other law enforcement authority, conflicts of authorities and overlap in investigations between the SSB and other law enforcement authorities may arise in certain circumstances.

266. Law No. (40) of 2002 regulates the work of the customs. They have the usual customs investigating powers, including the right to stop people and goods at the border, and to check for, search, and seize restricted and prohibited goods.

267. **Ability to Postpone / Waive Arrest of Suspects or Seizure of Property (c. 27.2).** Postponing arrests or seizures for investigative and identification of suspects persons is considered to be within the investigation officer's police powers, although this assertion is not supported by any formal legal text. The PPO is using his discretionary power to undertake action to arrest a suspect, to seize property or to postpone such actions.

268. **Additional Element—Ability to Use Special Investigative Techniques (c. 27.3).** Telephone tapping of conversations occurring in private places is allowed pursuant to Article 77 of the CPC in fighting (i) crimes committed against the internal and external national security (ii) illicit trafficking in narcotic drugs and psychotropic substances and (iii) illicit arm trafficking. In these cases, the telephone tapping may be conducted by members of the PPO based on a written order by the Public Prosecutor. Otherwise and in all other crimes, the written order must be issued by any of the judges of the competent court of first instance. The measure must not exceed a period of thirty days and is renewable for a similar period or periods as long as the initial reason for its issuance remains.

269. **Additional Element - Use of Special Investigative Techniques for ML/FT Techniques (c. 27.4).** The ECPD and the SSB which are the competent authorities in investigating and collecting information related to ML and FT offences respectively reported that they make regular use of telephone tapping in conducting the investigations. To this end, technologies are used, such as listening devices, cameras, computer verification and e-mail tracking.

270. **Additional Element—Specialized Investigation Groups & Conducting Multi-National Cooperative Investigations (c. 27.5).** The SSB is competent to investigate FT offenses and within the MOI, the ECPD investigates ML offenses. To date, authorities have not considered putting in place specialized investigation groups or conducting multi-national cooperative investigations.

271. **Additional Elements—Review of ML & FT Trends by law enforcement authorities (c. 27.6).** ML methods, techniques and trends are not reviewed by law enforcement authorities on a regular, interagency basis. No analysis or studies are conducted or disseminated.

272. **Ability to Compel Production of and Searches for Documents and Information (c. 28.1).** According to Article 75- 77 of the CPC, law enforcement agencies have the powers to be able to compel production of documents, search persons or premises and seize and obtain documents. Such powers are exercised when written permission are obtained from the PPO. The SSB has the power to carry out investigations and collect evidence about crimes that fall under its powers or which are submitted to it by the Emir (Article 6 of the SSB Law). It is not possible for any person or governmental or non-governmental party to conceal any information or data that the president of the Service or the person whom he delegates for this purpose demands in writing.

273. Law enforcement authorities have full powers to compel production of bank account records, account files, business correspondence, and other records, documents or information, held or maintained by financial institutions and other businesses or persons. The FIU is also capable of obtaining transaction records and identification data through the CDD process from financial institutions. The CRS that enables direct access to customer's accounts, including the movement of accounts, transactional information, as well as all personal information received through application of CDD should be available to the FIU's access in the future.

274. **Power to Take Witnesses' Statement (c. 28.2)**. Article 84 of the CPC provides that PPO shall hear witnesses' statements to establish or facilitate the establishment of the crime and the conditions thereof, to attribute the crime to the suspect, or declare him innocent. The PPO shall hear witnesses and those whom the accused and the victim request to be heard, unless otherwise decided by the prosecution member. Article 3 of the Law No.(5) of 2003 provides that the SSB shall have the authority of the police force as defined in the CPC. Therefore, both the PPO and the SSB have the power to take witnesses' statement in ML/FT cases.

275. **Adequacy of Resources to Law Enforcement (c. 30.1).** The budget of the ECPD is decided by the minister of internal affairs. Currently, nine full time officers work at the ECPD. Three of them are appointed for full time job at the fighting ML Unit and six officers from other units can assist if necessary. In case the AML Law will be modified to include all "designated categories of offenses" the current staff at the ML Unit would not be able to deal with all requests for information forwarded from the FIU. The number of staff at the PPO seems to be sufficient but the level of specialized qualification/expertise does not appear to be adequate at this stage. Although the SSB indicated that they had adequate staff, the number was not revealed for national security reasons. The Customs Authority numbers approximately 1,350 officers.

276. **Integrity of Competent Authorities (c. 30.2)**. Article (11) of the Police Law (23) of 1993 provides that officers shall be appointed as per an Emiri Resolution, at the suggestion of the Minister of Interior. Article (12) also provides that the officers should have a good conduct and good reputation; No judgment should have been rendered against them in a dishonorable crime or integrity crime, unless he was rehabilitated. They should not have been dismissed from public service pursuant to a final disciplinary judgment or decision due to serious violations of work duties. They should not be affiliated to any political party and should have graduated from a recognized police college or institute. According to Article 28 of the CPC, the PPO may request that a disciplinary action be taken against the officers without prejudice to the right to initiate a criminal prosecution. Prosecutors are appointed by the Emir and are subject to the legal profession disciplinary rules.

277. **Training for Competent Authorities (c. 30.3):** According to the authorities, the members of the ECPD were selected after personal interviews, an integrity check, and were provided with AML/CFT training sessions. Prosecutors have taken part in several training sessions related to fighting terrorism, money laundering and corruption. The PPO did not provide adequate and relevant training such as the scope of predicate offenses, ML and FT typologies, and techniques to investigate and prosecute these offenses. SSB conduct frequent internal training programs and has also received training from foreign intelligence agencies. Each customs officer receives 10 hours of training on AML matters when he is appointed as inspector. Nevertheless, the lack of trained customs officials constitutes a serious handicap.

278. **Additional Element—Special Training for Judges (c. 30.4)**. Judges do not benefit from any special training or any educational programs concerning AML/CFT matters.

279. **Statistics (applying R.32)**. The ECPD keep statistics on ML suspicious cases that were transmitted by the FIU. The PPO received only one case from the FIU where it considered that no offense was committed. No confiscations have been pronounced in ML/FT cases. Annual statistics are kept on the some crimes and judicial actions. The statistics provided did not, however, contain information on the amount of seized and confiscated criminal proceeds.

280. The customs do not use an electronic database to keep all statistics on crimes and trafficking. Therefore, the statistical and analytical tools are not available.

281. The investigative and prosecutorial authorities need to focus more on investigating and prosecuting of ML offence and not just on the predicate offenses. Considering the lack of comprehensive statistics (especially the number of investigations initiated in AML/CFT area and the percentage of total investigations solved), it is not possible to assess whether law enforcement and prosecution authorities effectively perform their functions.

2.6.2 Recommendations and Comments

282. The authorities are recommended to:

- Ensure that law enforcement authorities keep statistics on the amount of criminal proceeds seized and confiscated and on the number of ML/TF investigations, prosecutions, and judgments to measure the effectiveness and competence of the AML/CFT system.

- Provide additional specialized and practical training to law enforcement and prosecution personnel as well as to police officers and customs agents on the fight against ML/FT. This training should cover, for example, the scope of predicate offenses, ML and FT typologies, investigation techniques and familiarization with prosecution of ML/FT techniques and the use of information technology and other areas relevant to the execution of the law enforcement staff functions.

- Take a more proactive approach to investigating and prosecuting ML/FT.

2.6.3 Compliance with Recommendations 27 and 28

	Rating	Summary of factors relevant to s.2.6 underlying overall rating
R.27	PC	• Overall, investigation and prosecution authorities do not appear to adequately pursue money laundering cases. • Shortage in evidence of effectiveness of law enforcement authorities and lack of statistics. • Lack of implementation of laws and use of law enforcement techniques in support of ML/FT investigations across various law enforcement agencies. • Inadequate AML/CFT training.
R.28	C	• This Recommendation is fully met.

2.7 Cross Border Declaration or Disclosure (SR.IX)

2.7.1 Description and Analysis

283. **Mechanisms to Monitor Cross-border Physical Transportation of Currency (c. IX.1)**. The General Directorate for Customs and Ports (GDCP) is responsible for monitoring the national territory and borders of Qatar. Article 1 of Law No. 40 of 2002 (Customs Law) provides the GDCP with the authority to enforce the provisions of the Law on all territories, including the regional sea, that are subject to Qatar's state sovereignty. The GDCP can carry out control, checks and inspections, so as to ensure the correct application of customs, taxes and foreign exchange regulations.

284. There is some inconsistency with the measures in place to detect physical cross-border transportation of currency and bearer negotiable instruments. Initially, the Administrative Circular No. 40 of 2001 concerning Money Laundering and Suspicious Operations (Circular 40-2001) adopted a system to control the transportation of cash by money changers and natural individuals and the transportation of gold and other metals. In 2005, a declaration system was adopted (Resolution 5-2005) and was replaced in 2006 by a disclosure system (Resolution 37-2006). Some provisions in the Resolution 5-2005 were amended by Resolution 37-2006 to reflect the change from a declaration system to a disclosure system but others were not. Consequently, in the current regulation (Resolution 5-2005 amended by Resolution 37-2006), some provisions mention "declaration" while others mention "disclosure".[14]

285. Article 5 of the Resolution 5-2005 requires travelers to declare cash and other bearer negotiable instruments (such as precious metals or documents) on the form prescribed for this purpose. Notwithstanding article 5, the threshold for declaration was never set and, in practice, the system was never implemented.

286. Article 5 of Resolution 5- 2005 was replaced by a new article 5 of Resolution 37-2006 that adopted a disclosure system. The new Article 5 states that "the Customs Officer, in case of suspicion, shall request travelers to disclose any cash money or any negotiable financial instruments in their possession by filling out a form specifically designed for this purpose." Even though Article 5 was amended to create a disclosure system, the other articles of Resolution 5-2005 amended by Resolution 37-2006 still mention the word "declaration" which might create a confusion as to the system established

[14] In both the original Arabic text and the English translation.

in Qatar. Moreover, the disclosure system set by the new Article 5 concerns the physical transportation of currency and bearer negotiable instruments and does not extend to the shipment of currency through containerized cargo and mailing of currency or bearer negotiable instruments.

287. In addition, the system adopted applies to incoming transportation of currency and bearer negotiable instruments and does not extend to outgoing transportation of currency and bearer negotiable instruments.

288. The cash and bearer's negotiable financial instruments shall be disclosed by using the form prescribed for this purpose, stating: (i) the date, traveler's name, nationality and number of passport/ID; (ii) travel statements and destination; (iii) the statement of money in local or foreign currencies; (iv) the type and sum of currency or negotiable financial instrument; (v) the purpose for carrying the money; and (vi) the address of the traveler in resident and destination country.

289. The assessment team observed that the current system for detecting and preventing cross-border movements of currency or bearer negotiable instruments related to money laundering or terrorist financing is neither implemented nor effective. The current wording of the regulation creates a high level of confusion as to what measures are in place to detect the physical cross-border transportation of currency and bearer negotiable instruments. Furthermore, the level of awareness across the operational customs units appears to be uneven.

290. **Request Information on Origin and Use of Currency (c. IX.2).** Pursuant to Article 6 of Resolution 5-2005, customs officials have the authority to request and obtain further information from the carrier regarding the origin and intended use of the currency or bearer instruments.

291. **Restraint of Currency (c. IX.3)**. Resolution 5-2005 provides that the customs officials can request and obtain further information from the carrier with regard to the origin of the currency or bearer negotiable instruments and their intended use. However, customs officials may stop or restrain the currency or bearer negotiable instruments only in case of suspicion of both money laundering *and* terrorist financing. In addition, they do not appear to have any power to stop or restrain in cases of false disclosure. To date, no currency was retained by the customs authorities based on suspicion. Finally, the duration of restraining measures has not been determined.

292. **Retention of Information of Currency and Identification Data by Authorities when appropriate (c. IX.4)**. Resolution 5-2005 amended by Resolution 37-2006 is silent with regard to the retention of the amount of currency or bearer negotiable instruments and of the identification data of the bearer(s). Circular No. 40-2001 provides that customs declarations made by individual persons shall be kept for a period of at least five years but it is not implemented in practice.

293. **Access of Information to FIU (c. IX.5).** There does not appear to be a system in place whereby the FIU is notified about suspicious cross-border transportation incidents or disclosure information directly available to the FIU. Only one case was transmitted to the FIU in 2006 through the representative of customs in NAMLC.

294. **Domestic Cooperation between Customs, Immigration and Related Authorities (c. IX.6).** An ongoing coordination and cooperation among customs authorities, other law enforcement authorities and the FIU to implement the general policy set by the NAMLC is in place. Nevertheless, no policies or procedures related to the implementation of SRIX were adopted or implemented to date.

295. **International Cooperation between Competent Authorities relating to Cross-border Physical Transportation of Currency (c. IX.7).** The organizational structure of the GDPC includes a special division in charge of exchanging information and reports, and cooperating with Customs Services in other countries. The assessors have been informed by the representatives of the GDPC that Qatari customs authorities engage in exchanges of information and reports about suspicious transactions and other aspects related to customs with other countries. To strengthen this international cooperation, Qatari authorities declared that they have entered into a number of agreements of bilateral cooperation with other agreements under negotiation. In addition, there is a project underway to create an automated connection for GCC countries to exchange information about customs statements. The assessors could not verify whether such international cooperation is effective in place.

296. **Sanctions for Making False Declarations/Disclosures (applying c. 17.1-17.4 in R.17, c. IX.8).** The customs officials do not appear to have any power to sanction for making false disclosure.

297. **Confiscation of currency pursuant to UNSCRs:** The representative of customs receives the UN lists through the representative of customs in the NCT. The assessors were informed that the list is disseminated to be used for checking against the passenger lists. However, it could not be verified that in practice the names of travelers are checked against the various UN terrorist lists.

298. **Notification of Foreign Agency of Unusual Movement of Precious Metal and Stones (c. IX.12).** Qatar does not appear to have a formal system in place for its customs services to notify their counterparts in other countries of unusual cross-border movements of gold, precious metals or precious stones. The mission was not able to determine whether the customs or other competent authorities have ever notified any country nor if they cooperate with a view toward establishing the source, destination, and the purpose of the movement of such items toward the taking of appropriate action.

299. **Safeguards for Proper Use of Information (c. IX.13).** According to circular 40-2001 information about individual suspected of ML should be treated as highly confidential. However, there are no special mechanisms for safeguarding such information or information related to cross-border transactions. Since only one case was transmitted to the FIU in 2006 through the representative of customs in NAMLC and the authorities did not retain the documentations in a database, the assessors were not able to determine if such provision are implemented.

300. **Additional Element—Implementation of SR.IX Best Practices (c. IX.14).** The authorities have not given consideration to the implementation of the measures set out in FATF International Best Practices Paper on Cross Border Transportation of Cash by Terrorists and other Criminals.

301. **Additional Element—Computerization of Database and Accessible to Competent Authorities (c. IX.15).** The customs authorities retain passenger and shipments records in hard copy. There is no online access to this information by other law enforcement authorities or the FIU.

2.7.2 Recommendations and Comments

302. The implementation of SR IX is based on mechanisms that are inconsistent and incomplete. The implementation of SRIX does not appear to be effective. The authorities should take the necessary measures to enable them to comply with SR. IX. They are in particular recommended to:

- Adopt a national strategic approach to detect the physical cross-boarder transportation of currency and bearer negotiable instruments and amend Resolution 37-2006 to provide a clear legal basis for a disclosure system. An internally consistent regulation should be issued reflecting the following characteristics:

  - The system should apply to both incoming and outgoing transportation of currency and bearer negotiable instruments and extend to the shipment of currency through containerized cargo and mailing of currency or bearer negotiable instruments.

  - Article 6 of Resolution 5-2005 should be amended to give the power to customs to request and obtain further information from the carrier with regard to the origin of the currency or bearer negotiable instruments and their intended use in case of suspicion of money laundering *or* terrorist financing.

  - Customs should be able to stop or restrain cash or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of money laundering or terrorist financing may be found, where there is a suspicion of money laundering or terrorist financing; or where there is a false declaration or false disclosure.

- Enhance exchange of information between the customs and the FIU and create a database at the customs to record all declared data related to currencies and bearer financial instruments.

2.7.3 Compliance with Special Recommendation IX

	Rating	Summary of factors relevant to s.2.7 underlying overall rating
SR.IX	**NC**	• Absence of implementation of the disclosure system for cross-border transportation of cash and bearer negotiable instruments. • Lack of retention of records. • Lack of trained customs officials. • Lack of clear sanctions for false disclosure, failure to disclose, or cross-border transportation for money laundering and financing of terrorism purposes. • Lack of clear safeguards to ensure proper use of disclosed information. • Insufficient statistics upon which to assess the effectiveness of the measures in place.

3 PREVENTIVE MEASURES—FINANCIAL INSTITUTIONS

3.1 General

303. The Qatari financial system could be best described as a "dual onshore financial sector" where services provided by financial institutions are available to both residents and nonresidents. To ensure clarity and consistency within the report, reference will be made to the "Domestic sector" and QFC when describing financial institutions as follows:

- Domestic sector: It comprises financial institutions under the supervision of QCB, MEC, and DSM. It consists of 17 banks, 3 investment companies, 19 exchanges houses, and 1 finance company (under the QCB); 8 insurance companies (under the MEC); and 7 brokerage firms (under the DSM).

- QFC: Established in 2005 the QFC is a business and financial center located in Doha, providing legal and business infrastructure for financial services and designed to attract international financial and non-financial institutions. These institutions can establish their presence within the designated QFC zone to undertake and provide a broad range of activities, services and products available to both residents and nonresidents. As of the mission date, there were 12 firms registered within the QFC including commercial banks, funds managers, and other financial institutions. At the time of the visit only 2 firms were operational.

304. All financial institutions and other non-financial entities in both the domestic sector and the QFC are subject to the obligations imposed by the AML Law. Under the AML Law, financial institutions are defined as "any companies or institutions licensed to carry out banking or financial businesses such as banks, exchange bureaux, investment companies, finance companies, insurance companies, companies or professionals carrying out financial services, brokers of shares and securities, or any similar individuals or entities." Although the definition covers a large number of financial institutions within the Qatari financial sector, it does not cover the full range of financial institutions listed in the FATF Glossary. The AML Law does not cover persons and institutions providing the following activities: financial leasing, issuance of traveler's checks and money orders, safekeeping and administration of cash or liquid securities on behalf of other persons and participation in securities issues and the provision of financial services related to such issues.

305. Chapter 3 of the AML Law sets out, albeit in a very limited way, the duties of the financial institutions and the responsibilities of the competent entities: prohibition of tipping off ; obligation to report suspicious transactions to the FIU. The AML Law does not address customer identification and customer due diligence requirements. These are addressed (to some extent) in other texts (see below). The AML Law also sets out, in very broad terms, the legal basis for AML supervision.

306. The following gives an overview of the supervisory framework and of the enforceability of the texts issued within the remit of the respective supervisory authorities.

Domestic Sector. QCB: Articles 1 and 7 of the AML Law mentioned above clearly designate the QCB as the supervisory authority for AML issues on the financial institutions that it regulates. This is also mirrored in Article 5 paragraph 12 of the Law No. (33) of 2006 (QCB Law). In 2006, the QCB issued

"Instructions of Combating Money Laundering and Terrorism Financing" to the banking and financial institutions under its responsibility (Chapter 6 of the "Instructions to Banks" as of March 2006; QCB AML/CFT Instructions). These instructions require the banking and financial institutions to: know their customers; develop AML/CFT programs including training; pay attention to extraordinary, complex, and large transactions; report suspicious transactions; avoid tipping off customers; maintain documents for at least 15 years; and freeze funds or assets suspected or linked to money laundering and terrorism financing. The first chapter of the Instructions is drafted in mandatory terms, while the second chapter, entitled "Guidelines" is mere guidance.

307. **Enforceability of the QCB AML/CFT Instructions.** The QCB is clearly empowered by law to issue AML/CFT measures and supervise their implementation (Article 5 paragraph 12 of the QCB law), as well as to sanction the noncompliance with its AML/CFT instructions (Article 58 of the QCB law and Paragraph 16 of the QCB AML/CFT instructions). The measures set out in Chapter 1 of the instructions are mandatory in their wording and enforceable. They may not be considered as "law or regulation" for the purpose of this assessment because they have not been issued by the Council of Ministers or one of its members (see write up under Section 1.1). While the Governor of the QCB holds the title of "minister", he does not perform the functions of a government minister and is not a member of the Council of Ministers. Furthermore, the Instructions do not explicitly refer to the relevant dispositions of the AML Law and the QCB Law. Chapter 1 of the QCB AML/CFT Instructions may however be considered as "other enforceable means" for the purposes of this assessment because it sets out enforceable measures. Chapter 2 is drafted in broad, non-mandatory terms and is therefore regarded as pure guidance.

308. DSM: Article 11 of Law No. (14) of 1995 (DSM Law) empowers the DSM to oversee and regulate the activity of trading in securities. The authorities indicated that these powers extend to inspection of compliance with the AML Law. In its Decision No. (16/3) of 2005 (Decision 16/3), the DSM requires brokerage firms to: verify the customer's identity and conduct due diligence; report cash transactions exceeding the established threshold; maintain documentation for at least 15 years and avail this information to the DSM, the FIU, and judicial authorities; establish internal restrictions, procedures, and rules to detect and report suspicious transactions; establish supervisory procedures and training programs; appoint a money laundering reporting (liaison) officer; and avoid tipping off.

309. **Enforceability of the DSM Decision 16/3.** It may not be considered as "law and regulation" because, like the QCB Instructions, it has not been issued by the executive body. Article 15 of the Decision refers to the sanctions mentioned under the AML Law (i.e. sanctions for money laundering activities and for "tipping-off"). The authorities informed the assessment team that this is not a limitative disposition and that noncompliance with the requirements of the Decision would be sanctioned under the general sanctioning powers granted to the DSM in Article 20 of the DSM Law. Issued pursuant to the powers given under the DSM Law, and drafted in mandatory terms, with sanctions for noncompliance with its requirements, the DSM Decision constitutes "other enforceable means" for the purpose of this assessment.

310. **MEC:** Unlike the QCB and the DSM, the MEC has not legal basis to conduct AML/CFT supervision. It is nevertheless acting as *de facto* supervisor for AML requirements and has issued AML measures in Circular No. (1) of 2007. The latter "requires" insurance companies to identify the customers and conduct due diligence; pay special attention to unusual transactions or companies in countries that do not apply or insufficiently apply the provisions; maintain documentation for at least five years; establish policies and plans to combat money laundering and terrorist financing including supervisory measures

and training; appoint a money laundering reporting (follow-up) officer; report suspicious transactions to the FIU; and prohibition of tipping off. However, the measures listed in the Circular are not enforceable. They do not constitute law or regulation and cannot be considered as "other enforceable means" for the purpose of this assessment.

311. **QFC**. Article 3 of Law No. (7) of 2005 (the QFC Law) provides that the business of operating the QFC should be managed in accordance with its objectives in Article 5 by an authority known as the QFC Authority (QFCA). The QFCA should have an independent legal personality and full capacity to act as such in accordance with the QFC Law, and should have the financial and administrative independence from the State. Article 8 of the QFC Law establishes the QFC Regulatory Authority (QFCRA) for the purposes of regulating, licensing, and supervising the banking, financial and insurance-related businesses carried on in or from the QFC. It is the only QFC body with the powers to regulate, license, and supervise the activities listed under Schedule 3 of the QFC Law. It is also a body corporate owned by the State of Qatar. The QFC Authority, the QFC Regulatory Authority, and the QFC Appeals Body all have powers to prepare and submit to the MEC such regulations (or amendments, modifications to a repeal of existing regulations) as they deem appropriate to achieve their respective objectives, including in the "prohibition of money laundering and other financial improprieties" (Articles 9 and Schedule 2, paragraph 8 of the QFC Law). The criminal laws (including the AML Law) of the State of Qatar apply within the QFC. The civil laws, rules, and regulations of the State of Qatar also apply within the QFC, save to the extent that the QFC Regulations exclude them or conflict with them, in which case the QFC Regulations prevail (Article 18 of the QFC Law).

312. In September 2005, the Minister of Economy and Commerce enacted the QFC Anti-Money Laundering Regulations (QFC Regulation No. (3) of 2005, or QFC AML Regulations) under Article 9 of the QFC Law. These Regulations set out measures that are mandatory for all persons and institutions acting in or from the QFC. Pursuant to Schedule 2 of the QFC Financial Services Regulations, all duties, functions and powers relating to monitoring, supervision and investigation, enforcement and related powers in respect of the regulations enacted in relation to the prevention and detection of money laundering (including responsibility for overseeing compliance by persons to whom such Regulations apply) are vested in the QFC Regulatory Authority. Noncompliance with the requirements set out in the QFC AML Regulations may be sanctioned by the QFC Regulatory Authority by any of the disciplinary measures listed in Part 9 of the QFC Regulations No. (1) (QFC Financial Services Regulations).

313. **Enforceability of the QFC AML Regulations.** The QFC Regulations have been enacted by a Minister member of the Council of Ministers and have been forwarded to the entire Council. They are drafted in mandatory terms, carrying sanctions for noncompliance and make clear reference to the relevant laws (such as the QFC law) and the QFC's powers to issue AML regulations. Considering in particular the fact that they have been enacted by a member of the executive body acting on a clear legal basis, the QFC AML Regulations may be considered as secondary legislation for the purpose of this assessment. It should nevertheless be mentioned from the outset that, at the time of the assessment, none of the measures contained in the regulations had been enforced. This was entirely due to the fact that., at the time of the onsite visit, most of the persons and institutions acting in or from the QFC were still setting up business, and none of the QFCRA's decisions had been brought before the QFC Appeal Body.

314. In October 2005, the QFCRA issued the Anti-Money Laundering Rulebook (AML Rulebook) under the powers provided by Paragraph 2 of Schedule 2 of the QFC Financial Services Regulations. According to the preamble ("Background to the Rulebook"), the Rulebook "extends and clarifies the

provisions of the AML Regulations." It contains rules made and guidance issued by the QFC Regulatory Authority. The assessors consider that the Rulebook is of a dual nature: some of its provisions are drafted in mandatory terms and constitute clear requirements, while others, notably those that are preceded by the sub-title "Guidance," are not mandatory. Noncompliance with the first set of dispositions would entail the application, by the QFC Regulatory Authority of the disciplinary sanctions listed in Part 9 of the QFC Financial Services Regulations. Non-compliance with the second set of dispositions is not enforceable. For the purpose of this assessment, the first category is considered to constitute "other enforceable means," while the second category is viewed as non-binding guidance. While it appears where relevant in the description of the QFC AML/CFT framework, the non-binding guidance was not taken into account in the ratings. It is also worth noting that the write-up below often refers to the measures listed in the Appendix of the Rulebook. Although the wording of the Appendix is somewhat confusing in the sense that most of the measures listed appear under the sub-title "Guidance" which would suggest that they are not binding, Rule 3.8.4 of the Rulebook specifically refers to the measures contained in Appendix 1 as "rules" with which the financial institutions "must comply." This would imply that noncompliance with these rules would be sanctioned as mentioned above. The assessors, therefore, consider that the full list of measures mentioned in Appendix 1 constitute "other enforceable means." It must, however, also be noted that, as is the case for the AML Regulations, the QFC AML Rulebook had not been enforced at the time of the assessment given the recent establishment of the financial institutions within the QFC. While the QFC Regulations and Rulebook may not contradict the AML Law, they may go beyond the law. As a result, the businesses and activities carried out within or from the QFC may be subject to more stringent measures than their domestic counterparts.

3.2 Risk of Money Laundering or Terrorist Financing

315. Although the AML Law requires financial institutions to take certain actions to comply with the requirements of the law, these actions do not take into account the degree of money laundering or terrorist financing risk as required by the FATF Recommendations. The authorities have not yet conducted an assessment of potential money laundering and terrorist financing risks affecting the Qatari financial system and/or institutions within the system. Hence, the existing AML/CFT legal and supervisory frameworks have been developed without considering ML/FT risk level.

316. **Domestic Sector**: The QCB, the supervisor of banks, exchange houses, finance companies, and investment companies, is the only supervisory authority that has recently adopted and established a risk-based approach to supervision, both for prudential and AML/CFT matters. However, the new supervisory approach was adopted in November 2006 and had been implemented only once during a bank inspection that had not yet concluded as of the mission visit. Therefore, the mission could not reach a conclusion on the effectiveness of the QCB's new risk-based supervisory approach.

317. The Doha Securities Market Commission (DSM) is the competent authority for supervision of securities brokerage firms and intermediaries as empowered by Law 14. The MEC (MEC) which has supervisory responsibility over insurance companies, does not have a risk-based approach to AML/CFT supervision that they conduct on a *de facto* basis.

318. **QFC:** The QFC Regulatory Authority (QFCRA) adopted a risk-based approach to supervision of authorized firms for both prudential and AML/CFT matters. This risk-based supervisory approach focuses on risk management measures that identify, assess, and mitigate those risks, including AML/CFT, arising within an authorized firm which present a risk to the objectives of the Regulatory Authority. Central to the risk-based approach is the process of assessing risks. For AML/CFT, the QFCRA utilizes a

methodology which includes two broad categories—Business Risks and Control Structure Risks. The business risks category contains those AML/CFT risks arising from the type of business conducted by the authorized firm and is further broken down into the following risk groups: financial soundness, business strategy, market and operational, and organization and regulation. The control structure risks category refers to the internal structure of the authorized firm and is further broken down into the following risk groups: clients, conflicts management, management and control, financial crime, and human and technical resources.

319. In conducting the risk assessment, the QFCRA considers the nature and size of an authorized firm's business and its internal structures against each of the risks specified above. The QFCRA then assesses and prioritizes each identified risk taking into account the probability of the risks occurring and the impact upon the QFCRA's objectives. Finally, using this assessment tool, the QFCRA assigns every authorized firm an aggregate risk classification of low, medium, or high. The risk assessment is first undertaken during the initial authorization process, then shortly after the authorization and ongoing during the on-site visits.

3.3 Customer due diligence, including enhanced or reduced measures (R.5 to 8)

3.3.1 Description and Analysis

320. The AML Law is completely silent with respect to customer identification and the customer due diligence process. With the exception of the QFC Regulations, no other piece of primary or secondary legislation addresses the core obligations relating to customer identification.

321. The preventive measures issued by the Qatari supervision and control authorities, the QCB, DSM, MEC, and QCF Regulatory Authority have some of the elements required by the FATF recommendations; however, only the measures issued by the QCB and the QFC are enforceable.

322. The level of guidance provided significantly varies among supervisory authorities. In some cases, it is sufficiently detailed while in others it is too general or too vague and does not provide the financial institution with sufficient guidance to effectively implement the requirements.

323. **Prohibition of Anonymous Accounts (c. 5.1). Domestic Sector**: Within the Qatari domestic sector, there is no provision, legal or regulatory, that explicitly prohibits the opening of anonymous accounts or accounts in fictitious names.

324. The QCB instructions include customer identification requirements that could entail that anonymous or fictitious accounts are effectively prohibited. The following is a description of the QCB's AML/CFT measures: In order to open an account, financial institutions must require as core documents the customer's residence/work permit and personal identification number. The residence/work permit is issued by the MOI to every foreigner residing in Qatar. The personal identification number is also issued by the MOI to both foreigners and Qatari citizens. Other official papers and documents requested and obtained when establishing the account relationship include salary and introduction letters from the customer's employer. All these documents need to be certified by governmental authorities in Qatar. All financial institutions operating in the State of Qatar must record the identification card number or personal identification number mentioned on the birth certificate, being the only proof of personal identity for all bank transactions and must not accept any other identification document. The DSM Decision 16/3 covers similar aspects of opening accounts/relationship under Article 6 (additional information is

provided under criterion 5.2 of this report) with Article 7 providing that a securities account should not be opened if the customer fails to satisfy or provide the information required in Article 6 of the Decision. The QCB and DSM authorities indicated that given the existing controls and requirements in place, financial institutions are required to comply with the account opening requirements described above. Officials from financial institutions visited indicated that their institutions do not open anonymous accounts or accounts in fictitious names. All accounts opened need to comply with the instructions and decisions in place.

325. **QFC:** Article 12 of the QFC AML Regulations explicitly prohibits firms within the QFC from establishing or keeping anonymous accounts or accounts in false names but neither the QFC AML Regulations nor the QFC AML Rulebook have a specific provision prohibiting a relevant person to establish or keep numbered accounts. relevant person is defined as a person who carries on any regulated activities and/or a person who conducts, and in so far as they conduct, any of the following activities: a) the business of providing the professional services of audit, accounting, tax consulting, legal and notarization; b) the provision, formation, operation and administration of trusts and similar arrangements of all kinds; and c) company services including, the business of provision, formation, operation and management of companies.

326. Regulated activities are defined in Schedule 3 of the QFC Law as: a) financial business, banking business of whatever nature, and investment business, including (without limit) all business activities that are customarily provided by investment, corporate and wholesale financing banks, as well as Islamic and electronic banking business; b) insurance and reinsurance business on all categories; c) money market, stock exchange and commodity market business of all categories, including trading in and dealing in precious metals, stocks, bonds, securities, and other financial activities derived therefrom, or associated therewith; d) money and asset management business, investment fund business, the provision of project finance and corporate finance in all business fields and Islamic banking and financing business; e) funds administration, fund advisory and fiduciary business of all kinds; f) pension fund business and the business of credit companies; g) the business of insurance brokering, stock brokering, and all other financial brokerage business; h) financial agency business and the business of provision of corporate finance and other financial advice, investment advice and investment services of all kinds; and i) the provision of financial custodian services and the business of acting as legal trustees. Article 9 of the QFC AML Regulations imposes strict obligations upon all relevant persons to establish and verify the identity of any customer with or for whom a relevant person acts or proposes to act. The detailed procedures are set out in Appendix 1 of the QFC AML Rulebook. All relevant persons must follow these procedures to establish and verify the true identity of any customer with or for whom they act or proposes to act, regardless of whether the account is named or numbered. Failure to comply with the requirements of the Regulations and Appendix 1 of the Rulebook may be punished by the QFC Regulatory Authority using the powers vested by the Financial Services Regulations which include monitoring, supervision and investigation, and enforcement, including sanctions for noncompliance with the AML Regulations. Additional information addressing sanctioning powers is covered under Rec. 17.

327. **When is CDD required (c. 5.2):** As mentioned above, the AML Law does not address customer due diligence (CDD) requirements.

328. **Domestic sector**: No other law or regulation apply. Consequently, the obligation to identify customers is not established by primary or secondary legislation as required by the standard. The

obligation is established by Instructions issued by the QCB and Decision issued by the DSM, which are considered as other enforceable means for purposes of this assessment.

329. The QCB 2006 Instructions on Combating Money Laundering and Terrorism Financing establish the obligation on banking and financial institutions under the supervision of the QCB to conduct due diligence when opening an account. Paragraph 1 of the instructions provides that for natural persons, banking and financial institutions should check the customer's identity or the identity of their representatives by reviewing identification cards and keeping their personal data upon entering in any deals, or transactions with them, or providing services especially when opening accounts, contracting facilities contracts, financial transfers or managing their funds, whether in portfolios, shares in mutual funds, leasing trust funds, or any other banking and financial services.

330. For legal ("juridical") persons, banking and financial institutions should check the customer's name and legal status and institution/company's articles of incorporation and executive regulations, verify the soundness of the information recorded in the documents obtained; check the customer's legal status stated in the institution/company's articles of incorporation the executive regulations, verify the soundness of the information recorded in the documents obtained; and in the case of any suspicion about the personal identification or the original country or official offices of customers who open accounts, or make transactions through other customers if there are doubts on customers who delegate others to make their transactions. For example, if the institution/company or any other entity does not exercise any commercial or industrial activities in the country where the main office is located.

331. Paragraph 1.3 of the Instructions also requires banking and financial institutions to undertake due diligence for any banking transaction, particularly those, that exceed 100,000 Qatari Riyals in the various banking activities that can be used for money laundering. It further requires banking and financial institutions to check any other banking and financial transactions suspected to be used in terrorism financing, regardless of the amount.

332. Additional guidance for opening personal deposit accounts is provided to banks and financial institutions under Chapter Three of the QCB Instructions, Second section. Under this section, the institutions must complete and maintain the information, contracts and documents for all types of personal deposit accounts for residents in Qatar or the non-residents, in line with the QCB Instructions.

333. For the brokerage firms, Article 6 of the DSM Decision (16/3) "requires" that customer due diligence be conducted when opening financial securities accounts. It provides guidance as follows: In opening accounts, all particulars of the identity of the customer, his agent or their representatives should be recorded and verified. The customer should submit copies of the required documentation whenever an amendment is made. A securities account should not be opened if the customer fails to satisfy or provide the documentation or information required.

334. Section 1 of Circular No. (1) of 2007 recently issued by the MEC, provides limited guidance to insurance companies with respect to CDD measures. Under this circular, insurance companies are required to conduct CDD for natural persons before executing any financial transaction. For legal persons, CDD is required before and during any insurance transaction. No further guidance is provided.

335. Regardless of the QCB and DSM requirements and the non enforceable nature of the MEC guidance for undertaking customer due diligence measures, for banking and financial institutions, brokerage firms and insurance companies fall short of including measures: when carrying out occasional

transactions above a designated threshold both single or multiple operations; when carrying out occasional transactions that are wire transfers, when there is a suspicion of money laundering or terrorist financing; and when the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. Against this background, the current measures dealing with the timing of the CDD process appear inadequate and clearly not in line with the requirements of the standard.

336. **QFC**: Article 9 of the QFC AML Regulations sets out the customer identification requirements. It requires a relevant person to establish and verify the identity of any customer, including the beneficial owner with or for whom the relevant person "acts or proposes to act". Accordingly, the CDD is required at the time of establishment of the relationship and prior to any transactions being undertaken. There are certain limited exceptions to the customer identification requirements contained in Rule 3.9 of the QFC AML Rulebook: a relevant person is not required to establish the identity of a customer if the customer is itself an Authorized firm or a relevant person in the QFC or is a regulated financial sector firm from a FATF Country. However, this exemption is not applicable when the relevant person: i) knows or suspects; or has reasonable grounds to know or suspect that a customer or a person on whose behalf he is acting (including any beneficial owner or other provider of relevant funds) is engaged in money laundering; and ii) will be taken to know or suspect or to have reasonable grounds to know or suspect if any employee handling the transaction or potential transaction or anyone managerially responsible for it knows or suspects or has reasonable grounds to know or suspect that a customer or a person on whose behalf he is acting (including beneficial owner or other provider of relevant funds) is engaged in money laundering.

337. The broad exemption from having to conduct identification requirements as contained in Rule 3.9 does not appear to be consistent with the FATF standard. The exemption as such assumes that if customers are an authorized firm or a relevant person in the QFC or a regulated financial sector firm from a FATF country, they pose a low risk of money laundering and terrorist financing. Although Rec. 5 requires financial institutions to apply identification and due diligence measures, it also gives the authorities the flexibility to determine the extent of these measures on a risk sensitive basis. However, there was no evidence that the authorities had conducted a risk sensitive assessment of such customers, nor FATF countries where such customers are located to determine compliance with and level of implementation of the recommendation. As such, this broad exemption does not appear to be consistent with the FATF Recommendation 5.

338. There is no designated threshold in place within the QFC to require relevant persons conducting due diligence on an occasional transaction. Article 9 of the QFC AML Regulations therefore applies to all transactions regardless of their amount. Consequently, the customer's identity must be established and verified in all cases, even when occasional transactions are undertaken for small amounts.

339. Article 16 of the QFC AML Regulations addresses the requirements for transfer of funds. Under this Article, when a relevant person is a financial institution and makes a payment on behalf of a customer to another financial institution using an electronic payment and message system, it must include the customer's name, address and either an account number or a unique reference number in the payment instruction. Also, for such a transaction to occur, the identity of the customer must already have been established and verified.

340. If at any time, a relevant person realizes that it lacks sufficient information or documentation concerning a customer identification, or develops a concern about the accuracy of its current information or documentation, he or she is required by Article 9 (11) of the QFC AML Regulation to obtain promptly all appropriate documentation necessary to verify the customer's identity.

341. Although the requirements within this criterion are covered by the QFC AML Regulations and the AML Rulebook, the broad exemption from having to conduct identification requirements does not appear to be consistent with the FATF Recommendation 5, as the authorities were not able to demonstrate that a risk-sensitive assessment had been conducted of such customers and FATF countries determine compliance with and level of implementation with the recommendation.

342. Therefore, the QFC Regulation partially meets the standard on this point due to the shortcoming stated above.

343. **Identification Measures and Verification Sources (c. 5.3). Domestic Sector**: As is the case above, there are no measures in law or regulation that impose an obligation on financial institutions to identify the customer and verify his or her identity.

344. The QCB Instructions, although they are not primary or secondary legislation, nevertheless impose enforceable obligations on the financial institutions under the QCB's authority. They require the banking and financial institutions to identify the customer both, natural and legal, by obtaining adequate documentation (Chapter VII, second section, 1-1/2) as follows.

345. For natural persons, the requirement is to obtain: (i) identification cards and personal data; (ii) customer's full name as mentioned in the passport or the personal identification card for residents and Qatari citizens; (iii) passport or personal identification card number and its validity date; (iv) nationality; (v) place and date of birth; (vi) profession and work place; (vii) place of residence; (viii) postal address; (ix) customer's signature or thumb print plus the identifier's signature as in signature form; (x) name and address of the sponsor or the work entity for residents in Qatar; and (xi) copies of registers and signature and delegating letters from the account owner.

346. For legal persons, the instructions require documentation supporting; the corporate name and legal status; articles of incorporation; customer's name and legal status; institution/company's articles of incorporation and executive regulations; and customer's legal status stated in the institution/company's articles of incorporation and executive regulations.

347. The current measures for identifying legal persons are too limited as they do not require to identify the customer (whether occasional, and whether natural or legal persons or legal arrangements) and verify that customer's identity using reliable, independent source documents, data or information (identification data). Furthermore, they do not address corporations/partnerships; mutual/friendly societies; cooperatives, charities, clubs and associations; trusts and foundations; and professional intermediaries. In view of the above, the Qatari framework would partially meet the standard on this point in the banking sector, but fails to do so because the requirements are not set in primary or secondary legislation.

348. DSM: Decision No. 16/3 requires the brokerage firms to obtain the following information for a natural person or agent: (i) full name; (ii) full address; (iii) nationality; (iv) profession; and (v) complete details of identity card or passport

349. With respect to verification measures, Article 8 requires brokerage firms to verify by reference to a valid official identity document the identity and address of the natural person. A copy of this official document should be attached to the application.

350. For legal persons, brokerage firms are required to obtain the following information: (i) name; (ii) legal form; (iii) commercial registration; (iv) objectives; (v) address of main office and branch, if any; (vi) particulars of the shareholders and main founders of the company; (vii) names of members of the Board of Directors; (viii) name and address of the legal representative of the company and details of his identity; (ix) names of the persons authorized to sign on behalf of the legal person and specimens of their signatures; (x) the memorandum and articles of incorporation authenticated by the concerned authority in the state.

351. Verification measures for legal persons include verifying the existence of the customer, its legal status and form and continuation of its business by way of official documents pertaining to the incorporation and licensing. There is also a recommendation to verify the existence of actual valid authorization of the person acting on behalf of the company/establishment and verification of the real owner, besides verification of the correctness of signatures of applicants and opening of bank accounts outside Qatar through attestation by banks, chambers of commerce or notary public outside Qatar besides legalization of these documents by the Qatar Embassy and MOFA or any other authority to be approved by the market for this purpose.

352. **MEC**: Verification measures under Circular No. 1 of 2007 call on financial institutions to conduct due diligence on the natural person or his representative based on obtaining an official ID document and registration of all ID details before executing any financial transaction with the natural person. For legal persons, this is limited to conducting due diligence of the customer's activity process based on the commercial register and the license details, and verifying the actual status of the company representative's authorization by checking the official documents and verifying the identity of the real owner. As mentioned above, the MEC circular is not mandatory and enforceable, and may only constitute guidance. Furthermore, this guidance is clearly not adequate as it fails to provide the financial institutions with specific types of customer information that should be obtained and the identification data that should be used to verify that information.

353. **QFC:** Article 9 of the QFC AML Regulations sets the primary obligation on all relevant persons to establish and verify the identity of any customer with or for whom a relevant person acts or proposes to act. The "customer" is defined as any person engaged in or who has had contact with a relevant person with a view to engaging in any transaction with a relevant person on his own behalf or as agent for or on behalf of another. Section 3.8 of the QFC AML Rulebook requires firms to comply with the customer identification requirements set out in Appendix 1 of the Rulebook. These requirements are extensive and include the use of independent source documents, data, and other relevant identification data in a way which is in line with the standard.

354. **Identification of Legal Persons or Other Arrangements (c. 5.4). Domestic Sector:** There is no requirement in law (primary or secondary) to verify that a person purporting to act on behalf of the customer is so authorized, and to identify and verify the identity of that person.

355. The requirement on identification of legal persons or other arrangements is established under Article 1, paragraph 1.2.3 of the QCB Instructions where financial institutions are obliged to obtain information when a suspicion arises about the personal identification or the original country or official

offices of customers who, on behalf of their clients, open accounts, or make transactions through other customers if there are doubts on customers who delegate others to make their transactions. For example, financial institutions are required to identify and verify the identity of the person acting on behalf of the customer when an institution/company or any other entity does not exercise any commercial or industrial activities in the country where the main office is located. In addition, paragraphs 1.2.1 and 1.2.2 provide that financial institutions should check and verify the customer's name and legal status and institution/company's articles of incorporation and executive regulations, and verify the customer's legal status stated in the institution/company's articles of incorporation and the executive regulations, as well as verify the existence of the documents for the person acting on behalf of the customer and the accuracy of such documents and of the information recorded in the aforementioned documents. However, the requirement falls short of providing financial institutions with guidance on how the information should be verified and validated.

356. **DSM:** Article 6 of the Decision 16/3 requires all brokerage firms to record and verify all particulars of the identity of the customer, his agent or their representatives when opening securities accounts. This should be done in addition to obtaining and verifying the name; legal form; commercial registration; objectives; address of main office and branch, if any; particulars of the shareholders and main founders of the company; names of members of the Board of Directors; name and address of the legal representative of the company and details of his identity; names of the persons authorized to sign on behalf of the legal person and specimens of their signatures; and the Memorandum and Articles of incorporation authenticated by the concerned authority in the State.

357. **MEC:** Circular No. 1 calls on insurance companies to verify the actual status of the company representative's authorization by checking the official documents and verifying the identity of the real owner. The MEC has not yet provided additional guidance to instruct insurance companies as to how to implement this circular.The domestic framework falls short of the standard on this point because the verification requirements are not set out in primary or secondary legislation and the MEC measures are not enforceable.

358. **QFC**: Section A 1.2 of Appendix 1 of the QFC AML Rulebook sets out the requirements with respect to the verification of the identity and authority of the person, including the beneficial owner, purporting to act on behalf of a legal person or arrangement. Specifically, where the customer is itself a relevant person or a public registered company, the relevant person is required to obtain a list of authorized signatories or satisfactory evidence that the individuals representing the company have the necessary authority to do so. Further, with respect to private companies, unincorporated businesses, partnerships, clubs, cooperatives, charitable, social, or professional societies, a relevant Person is required to identify the authorized signatories and obtain necessary documentation to establish and verify the identities of the signatories.

359. Verification procedures with respect to the legal status of legal persons or legal arrangements are established under Section A1.2 of the QFC AML Rulebook which requires the relevant persons to verify the legal status of a public registered company by obtaining copies of the following documents:
(i) certificate of incorporation or extract from the relevant register or an enquiry search via a company enquiry agent; (ii) the latest reports and accounts; and (iii) satisfactory evidence that the individuals representing the company have the necessary signing authority to do so (e.g., list of authorized signatories).

360. When verifying the legal status of a private corporate entity, a relevant person is required to obtain the following documents: (i) registered corporate name and any trading names used; (ii) complete current registered address and any separate principal trading addresses, including all relevant details with regards to country of residence; (iii) telephone, fax number and email address; (iv) date and place of incorporation; (v) corporate registration number; (vi) fiscal residence; (vii) business activity; (viii) regulatory body, if applicable; (ix) name and address of group, if applicable; (x) legal form; (xi) name of the external auditor; (xii) information regarding the nature and level of the business to be conducted; (xiii) information regarding the origin of the funds; and (xiv) information regarding the source of wealth or income.

361. A relevant person is also required to record the name, country of residence, nationality of the directors or partners and members of the governing body and to obtain a certified copy of the list of authorized signatories specifying who is authorized to act on behalf of the company and of the relevant board resolution authorizing the signatories to act on behalf of the company. When dealing with unincorporated business or partnerships, a relevant person is required to obtain the latest annual report and accounts and a certified copy of the partnership deed. In relation to clubs, cooperative, charitable, social, or professional societies, a relevant person is required to obtain a certified copy of the constitution of the organization.

362. The QFC requirements for CDD measures with respect to legal persons or legal arrangements are extensive and include the use of independent source documents, data, and other relevant identification data, in a way which is in line with the standard.

363. **Identification of Beneficial Owners (c. 5.5; 5.5.1 & 5.5.2). Domestic Sector:** There are no requirements in law or regulation to identify the beneficial owner and to take reasonable measures to verify the identity of the beneficial owner using relevant and reliable information.

364. The QCB nevertheless addressed the identification of the customer or his representatives and the verification of their identity of the beneficial owner under Paragraph 1.2.2 of the Instructions. The Instructions set out an obligation to determine whether the customer is acting on behalf of another person and if so, to obtain sufficient information to verify the identity of that other person and of the beneficial owner.

365. The DSM authorities indicated that in practice, securities brokerage firms are documenting and verifying the identity of the person acting on behalf of the customer. However, there was no evidence to support the legal basis of this practice.

366. There is no specific obligation imposed by the QCB on financial institutions to take reasonable measures to understand the ownership and control structure of the customer or to determine who are the natural persons that ultimately own or control the customer. The current requirement focuses on obtaining, checking and verifying the customer's name, legal status, and the institution/company's articles of incorporation. No further guidance is provided to instruct financial institutions.

367. Article 6 of the DSM Decision 16/3 calls on brokerage firms to identify the particulars of the shareholders and main founders of the company, name and address of the legal representative of the company and details of his identity, and the names of the persons authorized to sign on behalf of the legal person and specimens of their signatures. However, it does not address control structure of the customer and determining who are the natural persons that ultimately own or control the customer. Again, the DSM

authorities indicated that in practice, securities brokerage firms are documenting and verifying the control structure over a legal person, but there was no evidence to support the legal basis of this practice.

368. The MEC has a general guidance for insurance companies to verify the actual status of the company representative's authorization by checking the official documents and verifying the identity of the real owner, but it is not mandatory. Furthermore, it does not call on the insurance companies to take reasonable measures to understand the ownership and control structure of the customer or to determine who are the natural persons that ultimately own or control the customer. In conclusion, none of the measures examined comply with the standard as they are not set out in law or regulation (and are incomplete).

369. **QFC**: Article 9 of the QFC AML Regulations sets out the primary customer identification requirements, including for beneficial owners. Article 9(1) of the QFC AML Regulations provides that a relevant person must establish and verify the identity of any customer with or for whom the relevant person acts or proposes to act.

370. Article 9(4) of the QFC AML Regulations requires that whenever a relevant person comes into contact with a customer with or for whom it acts or proposes to act, it must establish whether the customer is acting on his own behalf or on behalf of another person.

371. Article 9(5) of the QFC AML Regulations requires that a relevant person must establish and verify the identity of both the customer and any other relevant person on whose behalf the customer is acting or appears to be acting. This includes verification of the Beneficial Owner of the person and/or relevant funds which may be the subject of a Transaction to be considered. In such cases, the relevant person is required to obtain sufficient and satisfactory evidence as to their identities.

372. Moreover, Rule 3.8.1 of the QFC AML Rulebook requires a relevant person to obtain a statement from a prospective customer to the effect that the customer is or is not acting as principal. In cases where the customer is acting on behalf of a third party, a relevant person must obtain a written statement confirming the statement made by the customer, from the parties (including any Beneficial Owner, if different from the third party).

373. Appendix 1 of the QFC AML Rulebook sets out in great detail the customer identification requirements in relation to understanding the ownership and control structure of the customer. Appendix section A1.2.1 (11) requires that, in addition to the information obtained during the identification process of the legal persons, a relevant person should obtain the following: (i) certified copy of the Articles of association or statutes; (ii) certified copy of either the certificate of incorporation or the trade register entry and any trading license including renewal date; (iii) latest annual report, audited and published, if applicable; (iv) certified copies of the identification documentation of the authorized signatories; (v) certified copies of the list of authorized signatories specifying who is authorized to act on behalf of the customer account and of the board resolution authorizing the signatories to operate the account;(vi) certified copies of the identification documentation of the authorized signatories; (vii) names, country of residence, nationality of directors or partners and of the members of the governing body; (viii) list of the main shareholders holding more than 5 percent of the issued capital; and (ix) identification evidence of those shareholders with interests of 10% or more in the capital of the company.

374. In relation to public registered companies, a relevant person is required to obtain a certified copy of the latest report and accounts which will provide details of significant shareholders. In accordance with Paragraph 9 under rule A 1.2.1, a relevant person need not verify the identity of the individual shareholders or directors of a company listed on a designated exchange as such entities are considered to be publicly owned and generally accountable.

375. In relation to those Customers who are private corporate entities, paragraph 11 under rule 1.2.1 paragraph 11 h) of the Appendix 1 requires a relevant person to obtain a list of all shareholders holding more than 5 percent of the issued share capital of the company. Further, a relevant person is required to obtain identification evidence in respect of those shareholders holding more than 10 percent of the capital of the company.

376. In relation to unincorporated businesses or partnerships, paragraph 29 i) of rule 1.2.1 of the Appendix 1 requires a relevant person to verify the identity of all controllers and/or partners.

377. In relation to trusts, nominees and fiduciaries, the guidance set out under paragraph 6 a) of rule 1.2.2 pf Appendix 1 requires a relevant person to identify any settlor, trustee, or principal controller who has the power to remove the trustee as well as the identity of the beneficial owner; a certified copy of the trust deed, to ascertain the nature and purpose of the trust; and documentary evidence of the appointment of the current trustees.

378. In relation to clubs, cooperatives, charities, or professional societies, Appendix 1, rule 1.2.7 requires the relevant person to identify the principal signatories and controllers in accordance with the relevant customer identification requirements for private individuals.

379. Appendix 1, Rule 1.2.5, provides that when the applicant for business is a supra-national organization, a governmental department or a local authority, the relevant person must take steps to verify the legal standing of the applicant, including its ownership and its principal address. The relevant person should also obtain a certified copy of the resolution or other document authorizing the opening of the account or undertaking the transaction. Evidence that the official representing the body has the relevant authority to act should also be obtained. The QFC framework fully meets the standard on this point.

380. **Information on Purpose and Nature of Business Relationship (c. 5.6). Domestic Sector:** Paragraph 2 of the QCB Instructions requires banking and financial institutions to obtain information on the purpose of opening any account. However, there is no explicit requirement to obtain information on the intended nature of the business relationship as well. There are no requirements on the financial institutions supervised by the DSM, and the MEC to obtain information on the purpose and intended nature of the business relationship. Therefore, the Qatari domestic framework falls short of the standard on this point.

381. **QFC:** Rule 1.1.1 of Appendix 1 of the QFC AML Rulebook provides that in order to comply with the "Know Your Customer" requirements prescribed under Article 9 (1) of the QFC AML Regulations, a relevant persons must:

- With respect to personal details, obtain and verify the true full name or names used and the current permanent address;

- With respect to the nature and level of business to be conducted, obtain information regarding the nature of the business that the customer expects to undertake, and any expected or predictable pattern of transactions, including the purpose and reason for opening the account or establishing the business relationship, the anticipated level and nature of the activity that is to be undertaken and the various relationships of signatories to the account (if any) and details of any underlying beneficial owners;

- With respect to the origin of funds, identify how all the payments are to be made, from where, and by whom and ensure that all payments are recorded to provide an audit trail; and

- With respect to the source of wealth, establish a source of wealth or income, including how the funds were acquired, to assess whether the actual transaction pattern is consistent with the expected transaction pattern and whether this constitutes any grounds for suspicion on money laundering.

The QFC framework fully meets the standard on this point.

382. **Ongoing Due Diligence on Business Relationship (c. 5.7; 5.7.1 & 5.7.2). Domestic sector**: There are no specific legal or regulatory requirements imposed by the QCB, the MEC, and the DSM for financial institutions to conduct ongoing due diligence on the business relationship. Therefore, the Qatari domestic framework falls short of the standard on this point.

383. **QFC:** Under Rule 3.8.2 of the QFC AML Rulebook, a relevant person is required to undertake a periodic review to ensure customer identity documentation is accurate and up to date. Additionally, Rule 3.8.3 of the QFC AML Rulebook requires a relevant person to undertake the periodic review mentioned under Rule 3.8.2 when: (i) the relevant person changes its Know-Your-Customer documentation requirements; (ii) a significant transaction with the customer is expected to take place; (iii) there is a material change in the business relationship with the customer; or (iv) there is a material change in the nature or ownership of the customer.

384. Article 3.1.1 (D) of the QFC AML Rulebook sets out the general principle that a relevant person must put in place satisfactory Know Your Customer Requirements to identify the users of services, the principal beneficial owners and the origin of any funds being deposited or invested with or through a relevant person. Satisfactory procedures include knowing the nature of the business that the customer normally expects to conduct and being alert to transactions that are abnormal within the relationship.

385. Under Appendix 1, Customer Identification Requirements, rule 1.1.1 (c) a relevant person is required to identify how all payments are to be made, where they were made from, and by whom. They must also ensure that all payments are recorded in order to provide an audit trail. Under paragraph (d), they must establish the source of the wealth or income and how the funds were acquired, with a view to assess whether the actual transaction pattern is consistent with the expected transaction pattern and whether this constitutes any grounds for suspicion of money laundering.

386. Article 15 (6) of the QFC AML Regulations requires a relevant person to establish and maintain policies, procedures, systems, and controls in order to monitor for and detect suspicious transactions.

387. Article 16 of the QFC AML Regulations requires that where a relevant person is a financial institution and makes a payment on behalf of a customer to another financial institution using an electronic payment and message system, it must include the customer's name, address, and either an account number or a unique reference number in the payment instruction.

388. Article 9 (10) of the QFC AML Regulations requires that a relevant person must ensure that the information and documentation concerning a customer's identity remains accurate and up to date.

389. Rule 3.8.4 of the QFC AML Rulebook requires a relevant person to adopt a risk-based approach for the customer identification and verification process.

390. Depending on the outcome of the money laundering risk assessment of its customer, the relevant person should decide to what level of detail the customer identification and verification process will need to be performed. The QFC framework fully meets the standard on this point.

391. **Risk—Enhanced Due Diligence for Higher Risk Customers (c. 5.8). Domestic sector**: Paragraph 3 of the QCB Instructions requires banking and financial institutions to perform enhanced due diligence by obtaining additional information when opening accounts for non-residents. The additional information includes a letter of introduction or recommendation from reputable banks or financial institutions overseas and ensuring that the authentication of the account opening application, signed by the customer is adequate. It also requires that the financial institutions and banks be well known. There are no other legal, regulatory or other enforceable obligations to perform enhanced due diligence measures for higher-risk categories of customer, business relationship, or transaction. Under the current AML/CFT regulatory regime, there is no distinction between low- and high-risk customers, business relationships, or transactions. The Qatari domestic framework, therefore, clearly falls short of the standard on this point.

392. **QFC:** Appendix 1 (Customer Identification Requirements) of the QFC AML Rulebook requires a relevant person to adopt a risk-based approach to the customer identification process. Depending on the money laundering risk assessment regarding the customer, the relevant person should decide at what level of detail the customer identification and verification process will need to be performed. The risk assessment regarding a customer should be recorded in the customer file. The Appendix clarifies that the risk-based approach does not release a relevant person from its general obligation to identify fully and obtain evidence of customer identification to the Regulatory Authority's satisfaction. It also provides that a relevant person should, in cases of doubt, adopt a stricter approach in its judgment concerning the risk level and the level of detail to which customer identification is performed and evidence obtained.

393. **Enhanced due diligence for Nonresident customers:** relevant persons are required to ensure that they are dealing with an existing person by virtue of Rule 1.2.1 of Appendix 1 of the QFC AML Rulebook. Provisions in section A 1.2 of the Rulebook require the relevant person to verify the address of the client, whether it is a natural or legal person. Accordingly, relevant persons must always determine if their clients are resident by obtaining copies of the identification card issued by the MOI.

394. Appendix 2 of the QFC AML Rulebook provides requirements and guidance to firms in respect of the risk assessment process and in paragraph 7, the QFCRA requires that where a relevant person has customers located in countries:

(1) without adequate anti-money laundering strategies;

(2) where cash is the normal medium of exchange;

(3) which have a politically unstable regime with high levels of private or public sector corruption;

(4) which are known to be drug producing or drug transit countries; or

(5) which have been classified as countries with inadequacies in their anti money laundering regulations.

It should consider which additional "Know your Customer" and monitoring procedures may be necessary to compensate for the enhanced risk.

395. Guidance is also provided under paragraph 8 of the Appendix A2.1 as to the enhanced due diligence procedures which a relevant person may undertake when dealing with a Customer who is classified as high risk, including:

- requiring additional documentary evidence;
- taking supplementary measures to verify or certify the documents supplied;
- requiring that any initial transaction is carried out through an account opened in the customer's name with a credit or financial institution subject to the AML Regulations and Rules or regulated in a FATF Country;
- performing direct mailing (registered mail) of account opening documentation to the named customer at an independently verified address;
- establishing telephone contact with a customer prior to opening the account on an independently verified home or business number or a "welcome call" to the customer utilizing a minimum of two pieces of personal security information that have previously been provided during the setting up of the account;
- obtaining a local legal opinion on the ability of the customer to open an account and transact business with the relevant person. Local counsel should also conduct a local company search (if applicable);
- obtaining an introduction certificate from another regulated financial institution in accordance with procedures set out above; and
- an initial deposit check drawn on a personal account in the customers name at a bank in a FATF Country.

396. Enhanced due diligence for Private Banking customers: The QFC AML Regulations and AML Rulebook do not make any separate provision for private banking. Firms undertaking private banking are subject to the same customer identification requirements as set out in the AML Regulations and the AML Rulebook and described above under criteria 5.2 to 5.7.

397. Enhanced due diligence for Legal Persons & arrangements such as trusts: The standard Customer identification requirements as set out in the QFC AML Regulations and the AML Rulebook apply to legal persons. Specific guidance is provided in respect of the identification of various forms of legal persons in section A 1.2 of the QFC AML Rulebook. It requires that in addition to the identification documentation obtained under private companies, the relevant person should obtain the following documentation:

- Identity of any settlor, the trustee and any principal controller who has the power to remove the trustee as well as the identity of the beneficial owner;
- A certified copy of the trust deed, to ascertain the nature and purpose of the trust; and
- Documentary evidence of the appointment of the current trustees.

398. Rule A1.2.3 of the QFC AML Rulebook requires a relevant person to use its best endeavors to ensure that it is advised about any changes concerning the individuals who have control over the funds and concerning the beneficial owners. Rule A1.2.4 of the QFC AML Rulebook requires that where a trustee, principal controller, or beneficial owner who has been identified is about to be replaced, the identity of the new trustee, principal controller, or beneficial owner must be verified before they are allowed to exercise control over the funds.

399. **Enhanced due diligence for companies with nominee shareholders or bearer shares:** There is no requirement under the QFC AML Regulations preventing a relevant person from entering into a customer relationship with a corporate entity with nominee shareholders or shares in bearer form. There is, however, an overriding requirement placed upon a relevant person to ensure they identify and verify the beneficial owner. However, there was no information provided to evidence how a relevant person would perform enhanced due diligence when establishing a business relationship with companies that have nominee shareholders or shares in bearer form.

400. **Risk—Application of Simplified/Reduced CDD Measures when appropriate (c. 5.9). Domestic sector:** The authorities indicated that financial institutions are not permitted to apply reduced or simplified customer due diligence measures when establishing accounts and/or relationships.

401. **QFC**: The QFC AML Regulations have been drafted in accordance with a risk-based approach and proportionate anti money laundering systems and controls. Article 15 of the QFC AML Regulations specifically requires that a relevant person must ensure that it adequately addresses the specific money laundering risks which it faces taking into account the vulnerabilities of its products, services and customers. The QFC AML Regulations and Rulebook also set out limited prescribed circumstances where a relevant person is not required to carry out full independent verification of a customer.

402. Article 11 of the QFC AML Regulations specifically provides that where a customer is introduced by another member of the relevant person's group, a relevant person need not re-identify the customer provided that:

- the identity of the Customer has been verified by the other member of the relevant person's Group in a manner consistent with these Articles or equivalent international standards applying in FATF Countries;

- no exception from identification obligations has been applied in the original identification process; and
- a statement written in English is received form the introducing member of the relevant person's group confirming that:
- the Customer has been identified in accordance with the relevant standards under 1 and 2 above;
- any identification evidence can be accessed by the relevant person without delay; and
- that the identification evidence is kept for at least six years.

403. Ultimately, if a relevant person is not satisfied that the customer has been identified in a manner consistent with the Articles of the Regulations, the relevant person must perform the verification process itself.

404. Article 9 (12) of the QFC AML Regulations provides that consistent with its powers, duties, and requirements as set out in Part 3 of the QFC Financial Services Regulations, the Regulatory Authority shall adopt rules implementing the provisions of that article concerning customer identification and shall identify in such rules any exceptions that will apply in respect of these requirements.

405. Under Rule 3.9.1 of the QFC AML Rulebook, a relevant person is not required to establish the identity of a customer pursuant to Article 9 (1) of the QFC AML Regulations if the customer is one of the following;

- an authorized firm or another relevant person; or
- a regulated financial sector firm from a FATF country.

406. For the purpose of Rule 3.9.(1)(B) of the QFC AML Rulebook, a firm is considered to be from a FATF country if it is a firm whose entire operations are subject to the regulation, including money laundering, by:

- an overseas Regulator in a FATF Country
- another relevant authority in a FATF Country or
- a subsidiary of a firm referred to above provided that the law which apples to the parent entity ensures that the subsidiary also observes the same provisions.

A relevant person is not required to establish the beneficial ownership of a customer and relevant funds if the relevant person's customer is a person falling within the scope of Rule 3.9.1(1) of the QFC AML Rulebook.

407. Section A1.2 of the QFC AML Rulebook, (Establishing Identity-Identification Procedures), sets out the identification procedures which a relevant person is required to apply. The identification procedures do not require a relevant person to identify the individual shareholders of corporate entities listed on a Designated Exchange or to identify the directors of a listed company.

408. The QFC framework partially meets the standard on this point because of the broad exemption granted to an authorized firm or another relevant person or a regulation financial sector firm from a FATF country without conducting a risk assessment of the customers or evaluated the countries where such customers are located.

409. **Risk—Simplification / Reduction of CDD Measures relating to overseas residents (c. 5.10). Domestic sector**: This criterion does not apply: There are no provisions that allow the financial institutions under the supervisory responsibility of the QCB, the DSM, and the MEC to conduct reduced or simplified customer due diligence measures with respect to customers who reside in another country. All customers must therefore undergo the same degree of customer due diligence, regardless of their country of origin.

410. **QFC**: Rule 3.9.1 of the QFC AML Rulebook provides that a relevant person is not required to verify the identity of a customer if the customer is either (1) an authorized firm or is another relevant person or (2) a regulated financial sector firm from a FATF country.

411. Rule 3.9.2 further provides that a firm falls under the abovementioned second category if: (a) a firm whose entire operations are subject to regulations, including anti money laundering, by an overseas regulator in a FATF country or another relevant authority in a FATF country; or (b) a subsidiary of a firm referred to in (a) provided that the law that applies to the parent entity ensures that the subsidiary also observes the same provisions.

412. Article 11 of the QFC AML Regulations provides limited ability for relevant persons to rely upon others to perform certain aspects of CDD. Article 11 states that a relevant person may outsource technical aspects of the customer identification process to a qualified professional. Where a customer is introduced by another member of the relevant person's group, a relevant person need not re-identify the customer provided that the identification process has been carried out by the other member of the relevant person's group in a manner consistent with the regulations or equivalent international standards applying in FATF countries and no exemption was allowed from the original identification process; and a statement from the introducing member confirming the customer has been identified according to the mentioned requirements and evidence of identification is available for examination without delay and the evidence will be kept for at least six years. Article 11 further stipulates that if a relevant person is not satisfied that the customer has been identified in a manner consistent with the requirements, the relevant person must perform the verification process itself.

413. Rule 3.11.1 of the QFC AML Rulebook also provides that an authorized firm, another relevant person or a regulated financial sector firm from a FATF country is considered as a qualified professional. A qualified professional is to undertake the identification process as required by Article 9 of the AML Regulations and obtain any additional "Know Your Customer" information and confirming the identification details if the customer is not resident in the state (rule 3.11.2). Also a relevant person must have in place a cooperation agreement with relevant qualified professional that defines the tasks to be outsourced, specifying that they are to be carried out in accordance with the AML Regulations and AML Rulebook. The QFC framework partially meets the standard on this point because of the broad exemption

granted to an authorized firm or another relevant person or a regulation financial sector firm from a FATF country without conducting a risk assessment of the customers or evaluated the countries where such customers are located.

414. **Risk—Simplified/Reduced CDD Measures Not to Apply when Suspicions of ML/TF or other high risk scenarios exist (c. 5.11). Domestic sector**: This criterion does not apply: Simplified CDD measures are not permitted and all customers must therefore undergo the same degree of customer due diligence.

415. **QFC:** Rule 3.9.1 (4) of the QFC AML Rulebook confirms that simplified Customer Due Diligence (CDD) is not permitted when a relevant person either knows or suspects, or has reasonable grounds to know or suspect, that a customer or a person on whose behalf he is acting (including any beneficial owner or other provider of relevant funds) is engaged in money laundering. The QFC framework meets the standard on this point.

416. **Risk-Based Application of CDD to be Consistent with Guidelines (c. 5.12). Domestic Sector:** This criterion does not apply. CDD measures on a risk sensitive basis are not permitted. Therefore, all customers undergo the same degree of customer due diligence.

417. **QFC**: Article 15 of the QFC AML Regulations, enables relevant persons to adopt a risk based approach to CDD and provides for the provision of guidance by the Regulatory Authority to relevant persons in respect of money laundering risks. Detailed guidance is provided by the Regulatory Authority in Appendix 2 of the QFC AML Rulebook. Guidance includes developing the necessary measures for:

- High risk products, services, customers or geographies;
- Enhanced customer monitoring;
- Corporate structures such as limited companies, offshore trusts, special purpose vehicles and nominee arrangements;
- Politically exposed persons;
- Suspicious transactions and transaction monitoring.

The QFC framework meets the standard on this point.

418. **Timing of Verification of Identity—General Rule (c. 5.13). Domestic sector**: The QCB Instructions (Section 1/1) and DSM Decision (16/3) under Article 6 require financial institutions under their responsibility to verify the identity of all customers before establishing a business relationship. The MEC Circular No. 1 Section 1.1 provides similar language but, for the reasons mentioned above, they are not legally binding. The identification of beneficial owners, however, remains unaddressed in all three texts. The Qatari domestic framework, therefore, clearly falls short of the standard on this point.

419. **QFC:** Article 9 (1) of the QFC AML Regulations the relevant person must establish and verify the identity of any customer with or for whom the relevant person acts or proposes to act. Further, Article 9 (5) of the QFC AML Regulations extends the above identity verification requirement to beneficial owner. Then, in accordance with Article 9 (6) of the QFC AML Regulations the obligation to

verify the identity of any customer with or for whom the relevant person acts or proposed to act must take place prior to the commencement of the business relationship and before any transaction is effected. The QFC framework meets the standard on this point.

420. **Timing of Verification of Identity—treatment of exceptional circumstances (c.5.14 & 5.14.1). Domestic sector**: The QCB instructions (section 1) and DSM decision (Articles 6 and 8) impose an obligation on financial institutions to verify the identity of all customers before establishing a business relationship. The MEC Circular No. 1 section 1, are mere recommendations to that effect. Overall, the Qatari domestic framework falls short of the standard on this point.

421. **QFC:** Article 9(7) of the QFC AML Regulations allows a relevant person to enter into an insurance contract before the customer has been properly identified (as required by Article 9(6)) only if the relevant person has controls to ensure that any money received is not passed on to any person until the customer identification requirements have been met.

422. In addition Article 9(8) of the QFC AML Regulations provides that if the customer does not supply evidence of identity in a manner that permits the relevant person to comply with the identification and verification requirements, the relevant person must discontinue any activity it is conducting for the customer and bring to an end any understanding it has reached with the customer.

423. Failure **to Complete CDD before commencing the Business Relationship (c. 5.15). Domestic sector:** The QCB and the MEC do not address the consequences of failure to complete the customer due diligence procedures. The DSM addresses the issue on Article 7 of the Decision where it explicitly states that a securities account should not be opened if the customer fails to satisfy or provide the information required in Article 6 of this Decision. Article 6 covers the requirements in place for opening account for both natural and legal persons. However, the DSM requirement falls short of requiring the institution to consider making a suspicious transaction report. The Qatari domestic framework, therefore, clearly falls short of the standard on this point.

424. **QFC:** Article 9(8) of the QFC AML Regulations requires that if a relevant person is unable to comply with the CDD requirements it must not open an account for the customer. There is no legal or regulatory requirement for relevant persons to consider making a suspicious transaction report when they are unable to comply with the CDD requirements. The QFC framework only partially meets the standard on this point as it does not require financial institutions to consider making a suspicious transaction report when unable to complete CDD measures.

425. **Failure to Complete CDD after commencing the Business Relationship (c. 5.16)**. **Domestic sector:** Pursuant to the QCB instructions section 1, financial institutions must verify the identity of and conduct due diligence measures on all customers before establishing a business relationship and conducting transactions. They are not permitted to conduct business until the requirement is met. The MEC Circular No. 1 (section 1) and DSM Decision 16/3 (Article 8) provide something similar, but in non-binding terms.

426. **QFC:** If a relevant person is unable to comply with CDD requirements, it must immediately terminate the relationship. In the case of the exemption listed under Article 9 (7) of the QFC AML Regulations with respect to insurance contracts, the relevant person must have controls to ensure that any money received is not passed on to any person until the customer identification requirements have been

met, otherwise it must not open the account. The QFC framework partially meets the standard on this point as it does not require financial institutions to consider making a suspicious transaction report.

427. **Existing Customers – CDD Requirements (c. 5.17). Domestic sector:** Article 19, paragraph 19/8 of the QCB Instructions provides that financial institutions should adopt programs for updating customer's personal information, papers, and documents. There are no requirements for financial institutions under the supervision of the DSM and the MEC to apply CDD requirements to existing customers on the basis of materiality and risk, nor to conduct due diligence on such existing relationships at appropriate times. The Qatari domestic framework clearly falls short of the standard on this point.

428. **QFC**: Article 9(11) of the QFC AML Regulations provides that if at any time a relevant person becomes aware that it lacks sufficient information or documentation concerning a customer's identification, or develops concerns about the accuracy of its current information or documentation, it must promptly obtain appropriate material to verify the customer's identity. Rule 3.8.2 of the QFC AML Rulebook places an obligation upon a relevant person to undertake a periodic review to ensure that customer identity documentation is accurate and up-to-date. Rule 3.8.3 of the QFC AML Rulebook sets out specific circumstances when a specific review is necessary. These circumstances include, *inter alia*, situations where there is change in CDD requirements, a significant transaction with the Customer is due to take place, there is a material change in the business relationship with the customer, or where there is a material change in the beneficial ownership of the customer. However, the QFC was recently established and, therefore, there are no accounts that predate the regulations. The QFC framework meets the standard on this point.

429. **Foreign PEPs—Requirement to Identify (c.6.1).** The AML Law 28 of (2002) does not address the issue of Politically Exposed Persons (PEPs).

430. **Domestic sector**: There are no measures in place for the financial institutions supervised by the QCB, the DSM and the MEC that address any of the essential criteria (c.6.1 to c.6.4) dealing with PEPs (including having appropriate risk management systems to determine whether the customer is a politically exposed person; obtaining senior management approval for establishing business relationships with such customers; taking reasonable measures to establish the source of wealth and source of funds; and conducting enhanced ongoing monitoring of the business relationship).

431. **QFC**: Article 15 of the QFC AML Regulations provides that "a relevant person must have systems and controls to determine whether a Customer is a Politically Exposed Person". Article 19 defines PEPs as "natural persons who may constitute a reputational risk and who are or have been entrusted with prominent public functions, such as Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owner corporations, important political party officials; and close family members or close associates of any of those persons". This definition is in line with the standard. Further requirements and guidance are described under the relevant criteria below.

432. **Risk Management (c.6.2; 6.2.1). QFC**: The QFC AML Regulations impose, pursuant to Article 15 (1)— "Money Laundering Risks", a specific obligation on relevant persons to have in place policies, procedures, systems, and controls that adequately address the money laundering risks which take into account any vulnerabilities of its products, services, and customers. Furthermore, Article 15 (5) states that

"when a relevant person has a Customer relationship with a Politically Exposed Person, it must have specific arrangements to address the risks associated with corruption and Politically Exposed Persons."

433. **Requirement to Determine Source of Wealth and Fund (c. 6.3)**. The QFC Rule 2.1.1in Appendix 2 provides additional details with respect to monitoring and due diligence procedures required when dealing with PEPs. These procedures include:

- an analysis of any complex structures, for example involving trusts or multiple jurisdictions;
- appropriate measures to establish the source of wealth;
- the development of a profile of expected activity for the business relationship in order to provide a basis for transaction and account monitoring;
- Senior management approval for the account opening; and
- regular oversight of the relationship with a Politically Exposed Person by senior management.

Although not explicitly articulated in the Rule, QFCRA officials stated that the reference to complex structures, particularly the reference to trusts and multiple jurisdictions requires the firms to identify beneficial owners, not merely the apparent owner. However, the requirements fall short with respect to establishing the source of funds of customers and beneficial owners identified as PEPs.

434. **Requirement to conduct ongoing monitoring (c. 6.4).** With respect to conducting enhanced ongoing monitoring on business relationships with PEPs, Section 2.1 (10) of Appendix 2 states that "the risk for a Relevant Person can be reduced if the Relevant Person conducts detailed "Know Your Customer" investigations at the beginning of a relationship and on an ongoing basis where it knows, suspects, or is advised that, the business relationship involves a Politically Exposed Person. A Relevant Person should develop and maintain enhanced scrutiny and monitoring practices to address this risk." The QFCRA AML Regulation and AML Rulebook do not specifically require relevant persons to obtain senior management approval to continue the business relationship where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP.

Additional Elements—Extension of the requirements of R. 6 to domestic PEPS

435. The definition of PEPs provided by Article 19 of the QFC Regulations is not limited to foreign PEPs and, therefore, also covers persons who hold prominent public functions in Qatar (domestic PEPs).

Cross-Border Correspondent Accounts and Similar Relationships

436. **Requirement to Obtain Information on Respondent Institution (c.7.1). Domestic sector**: There are no specific measures established by the QCB, the DSM, and the MEC addressing any of the essential criteria (c.7.1 to c.7.5) of this recommendation dealing with establishment of cross-border correspondent banking or other similar relationships. DSM authorities stated that in Qatar, brokerage houses operate domestically only and that for international transactions/orders, these needed to be

conducted through a bank, in this case, HSBC Global Custodian services. There was no evidence that insurance firms maintain cross-border correspondent accounts.

437. **QFC:** Article 12 of the QFC AML Regulations requires that "prior to establishing a business relationship an Authorised Firm must establish and verify its Correspondent Banks identity by obtaining sufficient and satisfactory evidence of the identity". The identity of the customer with or for whom a relevant person acts or proposes to act should be established and verified pursuant to Article 9 of the AML Regulations.

438. **Assessment of AML/CFT Controls in Respondent Institution (c.7.2). Domestic sector:** There are no enforceable measures in place.

439. **QFC:** In establishing and verifying a customer's true identity, a relevant person must obtain sufficient and satisfactory evidence having considered the customer's anti-money laundering risk including policies, procedures, systems, and controls with respect to vulnerabilities arising from its products, services, and customers; perform enhanced due diligence investigations for higher-risk products, services, and customer utilizing the guidance provided by the QFCRA Rulebook; risks arising from new or developing technologies; risks regarding corruption and PEPs; and systems in place for suspicious transactions and transaction monitoring.

440. Article 12 of the QFC AML Regulations further states that an Authorised Firm that establishes, operates, or maintains a correspondent account for a correspondent banking client must ensure that it has arrangements to:

- conduct due diligence in respect of the opening of a correspondent account for a correspondent banking client including measures to identify its:
- ownership and management structure;
- major business activities and customer base;
- location; and
- intended purpose of the correspondent account;
- ensure that the correspondent banking client has verified the identity of, and performed on-going due diligence on its customers having direct access to the correspondent account and that the correspondent banking client is able to provide customer due diligence information upon request to the Authorized Firm; and
- monitor transactions processed through a correspondent account that has been opened by a correspondent banking client, in order to detect and report any suspicion of money laundering.

The same Article prohibits an Authorized Firm from: a) establishing a correspondent banking relationship with a shell bank; b) establishing or keeping anonymous account or accounts in false names; or c) maintaining a nominee account which is held in the name of one person, but controlled by or held for the benefit of another person whose identity has not been disclosed to the Authorized Firm.

441. In addition to the AML regulations, the QFCRA AML Rulebook (AMLR) extends and clarifies the provisions in the AML Regulations, under Rule 3.12 requiring relevant persons to verify if any secrecy or data protection law exists in the country of incorporation of a business partner that would prevent access to relevant data; to have specific arrangements to ensure that adequate due diligence and identification measures with regard to the business relationship are taken and to conduct regular reviews of its relationship with its correspondent banks.

442. **Approval of Establishing Correspondent Relationships (c. 7.3). Domestic sector**: There are no enforceable measures in place.

443. **QFC**: Further guidance in the Rulebook provides that specific care should be taken to assess the anti-money laundering arrangements of correspondent banking clients and, if applicable, other qualified professionals relating to customer identification, transaction monitoring, terrorist financing and other relevant elements and to verify that these business partners comply with the same or equivalent anti-money laundering requirements as the relevant person. Information on applicable laws and regulations regarding the prevention of money laundering should be obtained. A relevant person should also ensure that a correspondent banking client does not use the relevant person's products and services to engage in business with shell banks. If applicable, information on distribution networks and delegation of duties should be obtained. The senior management of a relevant person should give its approval before it establishes any new correspondent banking relationships. Finally, the AML Rulebook further requires a relevant person to have arrangements to guard against establishing a business relationship with business partners who permit their account to be used by shell banks.

444. **Documentation of AML/CFT Responsibilities for Each Institutions (c .7.4) and Payable-Through Accounts (c. 7.5). Domestic sector**: There are no enforceable measures in place.

445. **QFC**: The QFC AML Regulations and AML Rulebook do not specifically establish the requirements when establishing correspondent banking relationships to gather sufficient information about a respondent institution to understand fully the reputation and quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action; and to document the respective AML/CFT responsibilities of each institution.

446. **Misuse of New Technology for ML/FT and Risk of Non-Face to Face Business Relationships. Misuse of New Technology for ML/FT (c. 8.1). Domestic sector:** There are no specific measures established by the QCB, the DSM, and the MEC that address any of the essential criteria (c.8.1 to c.8.2.1) dealing with money laundering threats that may arise from the new or developing technologies. The QCB Instructions address technology developments; however, the emphasis is more on the relationship between QCB and financial institutions, particularly with respect to call centers, maintenance of banking electronic equipment, and replacement of ATM cards and Debit/Credit Cards. QCB and DSM officials indicated that currently opening accounts/establishing relationships over the internet is not allowed because there is physical presence requirement in place for customers opening accounts/relationships. However, the authorities were not able to provide documentation to support the legal basis for the physical presence requirement. For the DSM, only trading orders are allowed through the internet, but that is after the customer/investor has been properly identified. DSM officials also indicated that all new accounts are opened at the ground level of the DSM building (client's service counter), but like the QCB, the focus is more on establishing the relationship that on establishing effective

measures to address specific money laundering and terrorist financing risks. In order to open an account at the DSM, the following process takes place:

For individuals:

• Filling out a new investor's application form to get an investor's identification number.
• Submission of the following documents along with the application form:
  - A copy of a valid passport.
  - A copy of power of attorney (in case there is a need for one).
  - A copy of a court decision or a guardianship order (guardian).
  - A copy of birth certificate if buying/selling securities on behalf of minors (under 18).

For Companies and other entities:

• Filling out a new investor's application form to get an investor's identification number.
• Submission of the following documents along with the application form:
  - A copy of a valid commercial registration document showing the authorized persons including their signatures.
  - An original authorization signature letter issued by the company for the purpose of opening an account with DSM.

447. **QFC**: Article 15 (3) of the QFC AML Regulations stipulates that a relevant person must be aware of any money laundering risks that may arise from new or developing technologies that may favor anonymity and take measures to prevent their use for the purpose of money laundering.

448. Further guidance is provided in Section A.2.1 of the Appendix 2 of the QFC AML Rulebook where a relevant person should take specific and adequate measures necessary to compensate for the higher risks of money laundering which may arise from products and services such as non-face-to-face business relationship or transaction, such as via email, telephone, or the Internet or internet-based products.

449. **Risk of Non-Face-to-Face Business Relationships (c. 8.2 & 8.2.1). Domestic sector**: There are no enforceable measures in place.

450. **QFC**: Article 15 (3) of the QFC AML Regulations specifically requires a relevant person to be aware of any money laundering risks that may arise from new or developing technologies that might favor anonymity and take measures to prevent their use for the purpose of money laundering.

451. Guidance on conducting risk assessments is provided in the Appendix 2 to the QC AML Handbook (Paragraph 2.1.2). It provides that a relevant person should take specific and adequate measures necessary to compensate for the higher risk of money laundering which might arise, for example from the following products, services or customers:

- non-face-to-face business relationships or Transactions, such as via email, telephone or the Internet;
- internet-based products;
- correspondent banking relationships;

- customers from FATF "Non Cooperative Countries and Territories" and higher-risk countries; and

- Politically Exposed Persons.

452. Relevant person are also recommended under paragraph 2.1.2 to apply an intensified monitoring of transactions and accounts in relation to these products, services and customers. Such measures may include, for example, the following:

- requiring additional documentary evidence;

- taking supplementary measures to verify or certify the documents supplied;

- requiring that the initial transaction is carried out through an account opened in the customer's name with a credit or financial institution subject to AMLR and the AML Regulation or regulated in a FATF Country;

- performing direct mailing (registered mail) of account opening documentation to the named customer at an independently verified address, which such mailing is returned completed or acknowledged without alteration to the name or address;

- establishing telephone contact with a customer prior to opening the account on an independently verified home or business number or a "welcome call" to the customer utilizing a minimum of two pieces of personal identity security information that have been previously provided during the setting up of the account;

- obtaining a local legal opinion on the ability of the customer to open an account and transact business with the relevant person. Local counsel should undertake a local company search (if applicable);

- obtaining an introduction certificate from another regulated financial institution in accordance with the procedures set out above; and

- an initial deposit check drawn on a personal account in the customer's name at a bank in a FATF country.

3.3.2 Recommendations and Comments

453. There are substantial shortcomings in the Qatari framework, in particular in the domestic sector, which are largely due to the fact that a number of requirements that should be set out in primary or secondary legislation are addressed through OEMs or non-binding guidance. In a number of instances, the measures in place in the domestic sector are too general and lack the level of detail required under the standard.

454. In order to address the shortcomings in the domestic sector, it is recommended that the Qatari authorities prohibit, through law or regulation, anonymous accounts or accounts in fictitious names; and establish, through law or regulation, clear requirements for financial institutions to:

- Undertake customer due diligence (CDD) measures when:

  - carrying out occasional transactions above the applicable designated threshold. This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked;

  - carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII;

  - there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds; and

  - the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.

- Identify the customer (whether permanent or occasional, and whether natural or legal persons or legal arrangements) and verify that customer's identity using reliable, independent source documents, data or information (identification data) following the examples of the types of customer information that could be obtained, and the identification data that could be used to verify that information as set out in the paper entitled General Guide to Account Opening and Customer Identification issued by the Basel Committee's Working Group on Cross Border Banking.

- Verify, for customers that are legal persons or legal arrangements, that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person.

- Identify the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is.

- Determine for all customers whether the customer is acting on behalf of another person, and should then take reasonable steps to obtain sufficient identification data to verify the identity of that other person.

- Conduct ongoing due diligence on the business relationship.

455. The Qatari authorities are further recommended to establish, through law, regulation, or other enforceable means, clear obligations/requirements for financial institutions to:

- Obtain information on the purpose and intended nature of the business relationship.

- Perform enhanced due diligence for higher risk categories of customer, business relationships, or transactions.

- Reject opening an account when unable to comply with CDD requirements and to consider making a suspicious report.

- Apply CDD measures on existing customers on the basis of materiality and risk and to conduct due diligence on such relationships at appropriate times.

- Have appropriate risk management systems to determine whether the customer is a politically-exposed person; obtain senior management approval for establishing business relationships with such customers; take reasonable measures to establish the source of wealth and source of funds; and conduct enhanced ongoing monitoring of the business relationship.

- Establish requirements for financial institutions to have measures in place for establishing cross-border correspondent banking and other similar relationships.

- Require financial institutions to establish measures including policies and procedures designed to prevent and protect the financial institutions from money laundering and terrorist financing threats that may arise from new or developing technologies or specific CDD measures that apply to non-face-to-face business relationships or transactions.

456. It is also recommended that the QFC authorities strengthen the AML Regulation and Rulebook by requiring relevant persons to:

- Remove the broad exception to customer identification requirements contained in Rule 3.9 of the Rulebook by implementing a process for conducting a risk sensitive assessment of customers and FATF countries where such customers are located to determine compliance with and the level of implementation of Rec. 5.

- Require institutions to consider making a suspicious transaction report when unable to complete CDD measures, including when the business relationship has already commenced and the institution is not able to conduct required CDD measures.

- Take reasonable measures to establish the source of funds of customers and beneficial owners identified as PEPs and obtain senior management approval to continue the business relationship where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP.

- Incorporate into the existing requirements the obligation to gather sufficient information about a respondent institution to understand fully the reputation and quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action; and to document the respective AML/CFT responsibilities of each institution.

3.3.3 Compliance with Recommendations 5 to 8

	Rating	Summary of factors underlying rating
R.5	**NC**	Domestic sector: • Lack of explicit obligations imposed by law (primary or secondary legislation) for: • Explicitly prohibiting anonymous accounts or accounts in fictitious names.

		• Customer identification and due diligence process when: • Carrying out occasional transactions above the applicable designated threshold, including situations where the transaction is carried out in a single operation or in several operations that appear to be linked. • Carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII. • There is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds. • The financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. • Identifying the customer (whether permanent or occasional, and whether natural or legal persons or legal arrangements) and verifying that customer's identity using reliable, independent source documents, data or information (identification data). • Verifying, for customers that are legal persons or legal arrangements, that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person. • Identifying the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is. • Determining for all customers whether the customer is acting on behalf of another person, and should then take reasonable steps to obtain sufficient identification data to verify the identity of that other person. • Conducting ongoing due diligence on the business relationship. • Lack of measures in law, regulation, or other enforceable means that require financial institutions to: • Obtain information on the purpose and intended nature of the business relationship. • Perform enhanced due diligence for higher risk categories of customer, business relationships or transactions. • Reject opening an account when unable to comply with CDD requirements and to consider making a suspicious transaction report. • Apply CDD measures on existing customers on the basis of materiality and risk and to conduct due diligence on such relationships at appropriate times. QFC: • Lack of measures in the AML Regulations that would require relevant persons to: • Identify all customers, regardless of the exception contained in Rule 3.9; and • Consider making a suspicious transaction report when unable to complete CDD measures.
R.6	**NC**	• Lack of measures for the financial institutions supervised by the QCB, the DSM and the MEC with respect to customer due diligence procedures for politically exposed persons. • Lack of requirements in the QFCRA AML Regulation (and Rulebook) for relevant persons to obtain senior management approval to continue business relationship where a customer has been accepted and the customer or beneficial owner is found to be or subsequently becomes a PEP, and to take reasonable measures to establish

		the source of funds of customers and beneficial owners identified as PEPs.
R.7	**NC**	• Lack of measures for the financial institutions supervised by the QCB, the DSM and the MEC dealing with establishment of cross-border correspondent banking or other similar relationships. • Lack of requirements in the QFC AML Regulations and Rulebook for relevant persons to gather sufficient information about a respondent institution to understand fully the reputation and quality of supervision, including whether is has been subject to a money laundering or terrorist financing investigation or regulatory action; and to document the respective AML/CFT responsibilities of each institution.
R.8	**PC**	• Lack of requirements on financial institutions under the supervision of the QCB, the DSM, and the MEC to establish adequate policies and procedures designed to prevent and protect the financial institutions from money laundering and terrorist financing from new or developing technologies or specific CDD measures that apply to non face-to-face business relationships or transactions.

3.4 Third parties and introduced business (R.9)

457. **Domestic sector**: There are no requirements (or prohibitions) for banks and financial institutions with respect to reliance on intermediaries or other third parties to perform some of the elements of the CDD process. Also, there is no measure in place that would ensure that the final responsibility for CDD measures remains with the financial institution opening/initiating the relationship. The supervisory authorities indicated that under the current regime, financial institutions are required to conduct their own due diligence. However, the authorities were not able to provide the legal basis for this requirement. Meetings conducted with officials from financial institutions revealed that all due diligence process is performed by the institution establishing the business relationship and that at this time, no intermediaries or other third parties are conducting elements of the CDD process.

458. **Requirement to Immediately Obtain Certain CDD elements from Third Parties (c.9.1)**. **QFC**: Article 11 of the QFC AML Regulations provides that when a customer is introduced by another member of the relevant person's group, a relevant person need not re-identify the customer, provided that:

A. the identity of the customer has been verified by the other member of the relevant person's group in a manner consistent with the articles or equivalent international standards applicable to FATF countries;

B. no exception from identification obligations has been applied in the original identification process; and

C. a statement written in the English language is received from the introducing member of the relevant person's group confirming that:

   I. the customer has been identified in accordance with the relevant standards under (A) and (B);

   II. any identification evidence can be accessed by the relevant person without delay; and

   III. that the identification evidence is kept for at least six years.

459. **Availability of Identification Data from Third Parties (c.9.2) and Ultimate Responsibility for CDD (c.9.5)**. Article 11 also states that if a relevant person is not satisfied that the customer has been identified in a manner consistent with the articles; the relevant person must perform the verification process itself. Where customer identification records are kept by the relevant person or other persons outside the state, a relevant person must take reasonable steps to ensure that the records are held in a manner consistent with the articles. Also, a relevant person must verify if there are secrecy or data protection legislation that would restrict access without delay to such data by the relevant person, the QFC Authority, the Regulatory Authority, the FIU, or the law enforcement agencies of Qatar. Where such legislation exists, the relevant person must obtain without delay certified copies of the relevant identification evidence and keep these copies in a jurisdiction which allows access by all the persons.

460. **Regulation and Supervision of Third Party (applying R. 23, 24 & 29, c.9.3 and c.9.4)**. Although the QFC AML Regulations permit financial institutions to rely on intermediaries or other third parties to perform elements of the CDD process or to introduce business, there are some inconsistencies with the FATF requirements: no specific measures to evaluate the quality of supervision of the third party; and no indication that in determining which countries the third party that meets the conditions can be based, the competent authorities have taken into account information available on whether those countries adequately apply the FATF Recommendations. Also, the exemption for not re-identifying the customer if the identity of the customer was previously verified by other members of the relevant person's group in a manner consistent with the QFCRA requirements or equivalent international standards applying in FATF countries is too broad and does not seem adequate given that there is no requirement for relevant persons to evaluate the adequacy of the CDD measures and process conducted and to ensure the quality of supervision of the third party.

3.4.1 Recommendations and Comments

461. The authorities are recommended to:

- Introduce provisions/measures in the event that financial institutions supervised by the QCB, DSM, and MEC rely on intermediaries or other third parties to perform some of the elements of the CDD process.

- Specify that the final responsibility for CDD measures remains with the financial institution opening/initiating the relationship.

462. The QFCRA is recommended to:

- Require a relevant person to evaluate the quality of supervision of the third party;

- Determine in which countries the third party that meets the conditions can be based;

- Take into account information available on whether those countries adequately apply the FATF Recommendations; and

- Abolish or re-evaluate the broad customer identification exemption granted when a customer is a member of the relevant person's group or equivalent international standards

are applied in FATF countries, with a view to establish the risk and the conditions for implementing this waiver.

3.4.2 Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
R.9	**NC**	• Lack of legal or regulatory requirements when there is no prohibition imposed by the QCB, the DSM, and the MEC for banking and financial institutions to rely on intermediaries or other third parties to perform some of the elements of the CDD process. • Lack of specific measures imposed by the QFCRA to require relevant persons to evaluate the quality of supervision of the third party; and to determine in which countries the third party that meets the conditions can be based taking into account information available on whether those countries adequately apply the FATF Recommendations. • Broad CDD exemption provided by the QFCRA when a customer is a member of the relevant person's group or equivalent international standards are applied in FATF countries.

3.5 Financial Institution Secrecy or Confidentiality (R.4)

3.5.1 Description and Analysis

463. **Inhibition of Implementation of FATF Recommendations (c. 4.1). Domestic sector**: Article 82 of Law No. (33) of 2006 (QCB Law) states that "the member of the board of directors, personnel, auditors and advisers of all financial institutions shall not disclose any information concerning any customer except with his prior written consent, or pursuant to a provision of the Law, or upon an order or decision of the court. This prohibition shall continue even after termination of service of the abovementioned persons. It shall apply to the abovementioned persons whose services have been terminated before the date this Law come into force". The law does not provide for any exceptions to the confidentiality requirement. According to the authorities, banking secrecy may nevertheless be lifted and access to all information may be granted by the Governor of the QCB. Banking secrecy may also be lifted by the relevant court, on request of the prosecutors. However, given the shortcomings with respect to information sharing identified in cross-border activities, intermediaries/introduced business and wire transfers the Qatari framework falls short in these respects.

464. **QFC**: Authorized firms in the QFC are subject to various confidentiality requirements under QFC law, including the specific requirements under Rule 2.1.12 of the Principles Rulebook for firms to "ensure that information of a confidential nature received in the course of dealing with its clients is treated in an appropriate manner". Confidentiality obligations are subject to the following:

a) Article 48 of the FSR Regulations that enables the regulatory authority to require the production by a person in the QFC of specified information/documents of a specified description within such timeframe and in such manner as it reasonably requires; and

b) Article 8(6)(G) of the QFC AML Regulations which requires relevant person to respond promptly to any request for information made by the FIU, the QFC Authority, the Regulatory Authority, or other competent state authorities.

465. QFC firms are subject to confidentiality requirements pursuant to Rule 2.1.12 mentioned above. The secrecy provisions contained in Article 82 of the Central Bank Law do not apply to QFC firms. Article 18 of the QFC Law (17) of 2005 provides that the civil laws, rules and regulations of the State shall apply in the QFC save to the extent that regulations exclude or conflict with or are inconsistent with them.

466. Article 19 paragraph 1 of the QFC Financial Services Regulations prohibits the QFC Regulatory Authority to disclose any information received in the exercise of its functions. However, several exceptions are listed. Article 19(3) of the FSR specifically provides that the Regulatory Authority may disclose the information ordinarily covered by the confidentiality requirements "to any body, agency or authority performing functions relating to the detection or prevention of money laundering whether in the State or internationally". It also enables the Regulatory Authority to disclose confidential information in the following circumstances:

- with the consent of the Person to whom the duty of confidentiality is owed;
- where such disclosure is permitted or required by or pursuant to the QFC Law, these regulations or any other regulation conferring powers, duties or functions on the Regulatory Authority;
- in response to a legally enforceable demand;
- where the disclosure is made in good faith for the purposes of the performance or exercise by the Regulatory Authority of any of its functions, duties, and powers under the QFC Law, this regulation or any related regulations;
- in the case of persons other than the Regulatory Authority, to the Regulatory Authority;
- to the Tribunal or Appeals Body in connection with any matter falling within their jurisdiction;
- to any other civil or criminal enforcement agency or authority, whether in the state or internationally; or
- to overseas regulators in accordance with Article 20 (International Relations and Cooperation).

467. Further, Article 20 (3) of the FSR also stipulates that the Regulatory Authority shall exercise such of its powers under the QFC Law or Regulations (or any Related Regulations) as it considers appropriate to cooperate with and provide assistance to overseas regulators in the exercise of their functions or in connection with the prevention or detection of financial crime.

468. Rule 3.10.1 of the QFC AML Rulebook also stipulates that a relevant person must maintain records in such a manner that:

- The Regulatory Authority or another competent third party is able to assess the relevant person's compliance with legislation or regulation applicable to the QFC;
- Any transaction which was processed by or through the relevant person on behalf of a customer or any third party can be reconstructed;
- Any customer or third party can be identified;
- All internal and external suspicious transaction reports can be identified; and
- The relevant person can satisfy, within an appropriate time, any regulatory enquiry or court order to disclose information.

469. Article 48 of the FSR allows the QFC Regulatory Authority to require the production by a person in the QFC or outside the QFC (with an order from a judiciary body) of specified information/documents or information/documents of a specified description within such timeframe and in such manner it reasonably requires. This article also allows the Regulatory Authority with power to enter the premises of any person in the QFC at any time for the purposes of inspecting and copying information or documents stored in any form on such premises.

470. Meetings with financial institutions regulated by the QFC Regulatory Authority confirmed that there are no impediments for the supervision and control authorities and the financial intelligence unit to prevent them from obtaining and/or having access to information.

3.5.2 Recommendations and Comments

471. The authorities need to establish measures to enable information sharing between financial institutions.

3.5.3 Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
R.4	**LC**	• Lack of measures to share information between financial institutions in line with recommendations R.7, R. 9, and SR VII.

3.6 Record-Keeping and Wire Transfer Rules (R.10 & SR.VII)

3.6.1 Description and Analysis

472. **Record-Keeping and Reconstruction of Transaction Records, Identification Data, and Availability of Records to Competent Authorities (c.10.1 & 10.1.1, c.10.2, and c.10.3). Domestic Sector:** The requirement for financial institutions under the supervision of the QCB is established by Article 81 of the QCB Law No.(33) of 2006 pursuant to which every financial institution is required to maintain the records and documents concerning its work in a proper way and in a safe place inside the State of Qatar. The article also delegates to the QCB the authority to specify the period for maintaining such records and documents. The record retention period is established by the QCB under Section 1, paragraph 4 of the QCB Instructions (which are considered other enforceable means) where financial institutions are required to keep records of the customers' identities and their agencies, including copies

of official identity cards and files of the accounts and the correspondences of all the customers even of those who closed their accounts. These records have to be kept according to Section 7 of the Instructions and available for review by QCB and the local competent authorities in case of relevant criminal prosecutions and investigations. Under Section 7 of the instructions, the QCB requires the regulated banking and financial institutions to maintain the necessary records on domestic and international financial transactions for a period of not less than 15 years, to enable them to respond swiftly to inquiries from the QCB or the competent authorities. The records retained must be sufficient to permit the retrieval of individual information, including the amount and types of currencies involved if any, the types of transaction and their dates, the transferees and beneficiary, and any other documents such as a copy of the passport or the identification card, and an account statement. Banking and financial institutions are also required to maintain records of the customer's identities and their agencies, including copies of official identity documents and also files of the accounts and the correspondences of all the customers even of those who closed their accounts. These documents must be available to the QCB and the domestic competent authorities in case of criminal prosecutions and investigations.

473. The retention/recordkeeping obligation is not established by primary or secondary legislation for the DSM financial institutions. The DSM addresses the record retention/recordkeeping obligation under Article 9 of Decision 16/03 (which is also considered other enforceable means). Article 9 states that the registers and records pertaining to the customers, containing their identification and other documents and the documents of their agents, the files of accounts, correspondence of the transactions being executed shall be kept for a period of at least 15 years. It further states that these documents shall be available for the perusal of the Market Committee and the Financial Information Unit (FIU) and the judicial authorities whenever required. Also, under Article 12 of Law 14 of 1995 (DSM Law), the DSM as the competent authority, has access to all data and information requested. This data and information must be made available to the inspection and audit team and treated with high confidentiality and should not be disclosed. In the case where the institution under inspection and/or audit is a licensed bank, the DSM should coordinate with the QCB and allowed to conduct joint examination.

474. Likewise, the retention/recordkeeping obligation for those financial institutions under the supervision of the MEC is not established by primary or secondary legislation. The MEC addresses recordkeeping aspects in its Circular; however, due to the lack of legal basis, the MEC's Circular is not considered legally binding. The Circular nevertheless provides useful recommendations, as follows: Section 3 of Circular No. 1 of 2007 issued by the MEC requires all insurance companies to maintain for a period of at least five years all the necessary records related to the different insurance transactions executed in favour of the customers, including all files, documents, accounts, correspondences, claims, and other documents.

475. In conclusion, only the QCB has established the legal obligation for retention/recordkeeping under the QCB Law No.(33). The DSM imposes the record-keeping obligations on the financial institutions they supervise under the DSM Decision 16/3. The regulatory record keeping/retention period of 15 years imposed by both the QCB and the DSM, is in line with the standard and even goes beyond the minimum period recommended by FATF. However, in the case of the DSM and MEC, it fails to meet the standard because it is not established through primary or secondary legislation. Furthermore, the QCB and DSM obligation is not sufficiently precise in its wording. Meetings conducted with representatives from financial institutions revealed that it is not clear to them when the current record-keeping requirement starts and for how long they need to maintain the documentation when requested by a competent authority. Further meetings with the authorities revealed that the retention period should start following

the termination of the account relationship. The QCB Instructions and DSM Decision should be clarified to explicitly indicate when the record-keeping obligation starts.

476. **QFC**: The record-keeping requirements are addressed in the QFC AML Regulations which constitute secondary legislation. Article 10 of the QFC AML Regulations provides that all relevant information, correspondence, and documentation used by a relevant person to verify a customer's identity, pursuant to the customer identification requirements as described in the regulations, must be kept for at least six years from the date on which the business relationship with a customer has ended. If this date is unclear, the business relationship may be taken to have ended on the date of the completion of the last transaction. Article 10 also requires the relevant person to keep all relevant details of any transaction carried out with or for a customer for at least six years from the date on which the transaction was completed. The QFC AML Rulebook further provides that a relevant person must maintain records in such a manner that the Regulatory Authority or another competent third party is able to assess the relevant person's compliance with legislation or regulations applicable in the QFC; any transaction which was processed by or through the relevant person on behalf of a customer or any third party can be reconstructed; any customer or third party can be identified; all internal and external suspicious transaction reports can be identified; and the relevant person can satisfy, within an appropriate time, any regulatory enquiry or court order to disclose information.

477. **Obtaining Original Information for Wire Transfer (applying c.5.2. & 5.3 in R.5, c.VII.1). Domestic sector**: In Qatar, funds/wire transfers may only be carried out by banking institutions. Therefore, the criterion does not apply to the DSM and MEC. As far as banking institutions are concerned, the Qatari authorities have not yet implemented specific measures to address the requirements of SR VII with respect to information to be obtained for wire transfers.

478. Section 1 of the QCB Instructions require the banking and financial institutions to ascertain the identity of the customers or those who represent them, on the basis of the official identity documents and register of these identities, when making any deals, or transactions with them, providing services especially when opening account, contracting facilities contracts, financial transfers or managing their funds, whether in portfolios, shares in mutual funds, leasing trusts funds, or any other businesses and banking and financial services.

479. The obligation to obtain and maintain information is set out in Section 2 of the QCB Instructions which requires that in addition to name, nationality, identity, and address, banking and financial institutions should maintain and obtain the confirmation documents and mails used for all the transferred funds, internally and externally. The instructions further indicate that the necessary measures should be taken to control the transfers that lack the related information about the two parties (name, address, account number, etc.) and call on financial institutions to exercise caution on these operations because of the potential money laundering or terrorist financing risk.

480. **QFC**: Article 16(1) (Transfer of Funds) of the QFC AML Regulations states that where a relevant person is a financial institution and makes a payment on behalf of a customer to another financial institution using an electronic payment and message system, it must include the customer's name, address and either an account number or a unique reference number in the payment instruction. This applies regardless of whether the transfer is domestic or cross-border. Further guidance in the QFC Rulebook (paragraph 17) conveys that the information about the customer as the originator of the fund transfer should remain with the payment instruction through the payment chain. It also provides that relevant

persons should monitor for and conduct enhanced scrutiny of suspicious activities including incoming fund transfers that do not contain complete originator information, including name, address, and account number or unique reference number. There is no *de minimis* threshold in place under the current QFC framework. The QFCRA officials confirmed that all the necessary information is requested and obtained for all wire transfers regardless of the amount.

481. **Inclusion of Originator Information in Cross-Border and Domestic Wire Transfers (c.VII.2 and c.VII.3) and Maintenance of Originator Information (c.VII.4 and VII.4.1). Domestic sector**: The current regulatory framework for wire transfers is limited to obtaining basic information on the originator and beneficiary(ies). There is no distinction between domestic and international transfers, nor is there an established threshold for the application of the provisions in the Recommendation. In addition, there is no requirement for beneficiary financial institutions to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information. Also, under the current obligation, financial institutions are not required to ensure that the information obtained from the originator remains with the transfer or related message through the payment chain.

482. Financial institutions visited indicated that all international wire transfers are executed following documentation procedures established by SWIFT and if transfers are received without adequate or proper information, these are returned to the sending institution. SWIFT documentation procedures require all wire transfers to contain the following key information: SWIFT transaction number, transaction date, transaction amount, name, address, beneficiary(ies), details of the payment, intermediary institution, if applicable, receiving institution, and other details or payment instructions.

483. **QFC**: As indicated above, Article 16(1) (Transfer of Funds) of the QFC AML Regulations states that where a relevant person is a financial institution and makes a payment on behalf of a customer to another financial institution using an electronic payment and message system, it must include the customer's name, address and either an account number or a unique reference number in the payment instruction. This applies regardless of whether the transfer is domestic or cross-border. Further guidance in the QFC Rulebook 3.17 paragraph 1 conveys that the information about the customer as the originator of the fund transfer should remain with the payment instruction through the payment chain. It also provides that relevant persons should monitor and conduct enhanced scrutiny of suspicious activities including incoming fund transfers that do not contain complete originator information, such as the name, address, and account number or unique reference number.

484. **Risk-Based Procedures for Transfers Not-Accompanied by Originator Information (c.VII.5). Domestic sector**: There are no measures in place that would require the financial institutions to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information.

485. **QFC**: Further guidance in the QFC Rulebook 3.17 paragraph 2 conveys that relevant persons should monitor for and conduct enhanced scrutiny of suspicious activities including incoming funds transfers that do not contain complete originator information including name, address and account number or unique reference number in accordance with Appendix 2. Appendix A.2.2 paragraph 8 of the QFC Rulebook provides that with regard to enhanced scrutiny to funds transfers, which do not contain complete originator information including name, address and account number or unique reference number, a relevant person should examine the transaction in more detail in order to determine whether

certain aspects related to the transaction might make it suspicious and thus warrant eventual reporting to the FIU and the Regulatory Authority.

486. **Monitoring of Implementation of SR VII (c.VII.6). Domestic sector**: There are no measures in place that would require financial institutions to effectively monitor the level of compliance with rules and regulations addressing the requirements of this special recommendation.

487. **QFC**: As of the mission date, two financial institutions were operating within the QFC. The QFCRA officials indicated that as part of the supervisory cycle, the QFCRA will conduct on-site visits to determine the level of compliance with the AML Law, AML Regulations and the AML Rulebook. For the few firms operating, the QFCRA has been monitoring their progress and activities and conducting risk assessments to ensure the firms are conducting their activities in line with the license approved by the QFCRA.

488. **Sanctions (applying c. 17.1-17.4, in R. 17, c.VII.7). Domestic sector**: Only the courts and the QCB may issue sanctions for noncompliance with, respectively, the prohibition of tipping-off which is set out in the AML Law and the other enforceable AML/CFT measures set out in the QCB AML/CFT instructions and the DSM decisions. This is not appropriate for several reasons: there are no sanctions for the non-banking financial sector other than that for tipping-off and, in the banking sector, the only sanction available to the QCB is one of a last resort (i.e., the revocation of the license under Article 58 of the QCB law. See write-up under Recommendation 17 for more details).

489. **QFC**: If firms do not comply with the requirements set out in the QFC AML Regulations and the rules contained in the QFC Rulebook, the QFCRA is empowered, under Part 9 of the FSR, to take a range of civil disciplinary and enforcement actions, against natural and legal persons and, where relevant, against the directors and senior management :

- public censure (Article 58 of Part 9 of the FSR);
- financial penalties (Article 59 of the FSR);
- imposition of a number of prohibitions and restrictions including prohibiting an authorized firm or approved individual from entering into certain specified transactions, requiring an authorized firm or approved individual to carry on business or conduct itself or himself in a specified manner, or prohibiting a person from performing a specified function, any function falling within a specified description or any function (Article 62 of Part 9 of the FSR);
- obtaining injunctions (Article 63 of Part 9 of the FSR);
- withdrawal of the license of a relevant person.

3.6.2 Recommendations and Comments

490. **Domestic sector**: The Qatari authorities are recommended to:

- Set the record retention/recordkeeping requirement in primary or secondary legislation for financial institutions under the DSM and MEC.

- Provide additional guidance to financial institutions under the QCB and DSM with specific instructions as to when the record retention/keeping requirement starts, that is, following the termination of an account or business relationship or longer if requested by a competent authority.

- Require banks (i) to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer by each intermediary and beneficiary financial institution in the payment chain; (ii) When technical limitations prevent full originator information accompanying a cross-border wire transfer from being transmitted with a related domestic wire transfer, to keep a record for five years all the information received from the ordering financial information.

- Require banks to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information. The lack of complete originator information may be considered a factor in assessing whether they are required to be reported to the financial intelligence unit or other competent authorities. In some cases, the beneficiary financial institution should consider restricting or even terminating its business relationship with financial institutions that fail to meet the SR.VII standard.

- Establish a mechanism to monitor effectively the compliance of financial institutions with rules and regulations implementing SR.VII .

- Ensure that sanctions (in line with R.17) also apply in relation to the obligations under SR.VII.

491. **QFC**: Under the QFC regulatory framework, there is no distinction between domestic and cross-border wire transfers; and there is no requirement for financial institutions to ensure that non-routine batched transactions are not batched where this would increase the risk of money laundering or terrorist financing. Although relevant persons within the QFC should monitor for and conduct enhanced scrutiny of suspicious activities including incoming fund transfers that do not contain complete originator information, including name, address, and account number or unique reference number, there are no explicit measures in place for beneficiary financial institutions to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information. The system is too new to be tested because the QFC was recently established, and most of the firms established within the QFC are subsidiaries of foreign companies where most of the transfers are conducted by/through their respective holding/parent companies.

492. The QFCRA should enhance existing measures to require relevant persons to:

- ensure that non-routine batched transactions are not batched where this would increase the risk of money laundering or terrorist financing; and

- establish explicit measures to ensure that beneficiary financial institutions adopt an effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information.

3.6.3 Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
R.10	**PC**	• Domestic sector: Record keeping requirement not established by primary or secondary legislation by DSM and MEC.
SR.VII	**NC**	• Lack of specific measures imposed by the QCB on financial institutions to address all the requirements of this recommendation. • Lack of requirements imposed by the QFCRA on relevant persons to ensure that beneficiary financial institutions adopt an effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information.

3.7 Monitoring of Transactions and Relationships (R.11 & 21)

3.7.1 Description and Analysis

493. **Special Attention to Complex, Unusual Large Transactions (c.11.1), Examination of Complex & Unusual Transactions (c.11.2), and Record-Keeping of Findings of Examination (c.11.3). Domestic sector**: Paragraph 12 of the QCB Instructions requires the banking and financial institutions to pay special attention to all unusual, complex or large deals and transactions as well as to all kinds of "extraordinary deals", which have neither visible financial targets nor legal purpose. "Extraordinary banking operations"[15] are defined under the first article of the instructions as major transactions and the banking and financial transactions that do not match the customer's income, the nature of his activity, the pattern of his previous transactions with the bank or that are suspiciously repeated by the customer and also the transactions that do not have clear financial purposes or legitimate purposes. Paragraph 12 further requires the financial institutions to examine the background and purpose of these deals to record the results of the examination and to notify the FIU.

494. Paragraph 1.3 of the instructions requires banks to check any banking transaction that exceeds 100,000 Qatari Riyals in the various banking activities, whether in assignments of right, currency exchange, opening letters of credit, account deposits, any kind of investment, or other bank activities that can be used in money laundering. Also requires checking any other banking and financial transactions suspected to be used in terrorist financing, regardless of the amount.

495. Pursuant to paragraph 13 of the instructions, special attention must also be given when examining the business relations and transactions with companies and financial institutions from countries that do not or insufficiently restrict these instructions, particularly if no visible financial objectives exist for these transactions. It is also a requirement to examine and report to senior management of the banking and financial institutions the background and purpose of these deals. Paragraph 19.3 provides that banks should implement procedures, through stages, to determine whether financial and banking transactions are

[15] The English translation of the QCB Instructions refers to "extraordinary banking operations". The original Arabic version, however, is more precise and refers to "unusual transactions". Arabic being the official language in Qatar, the Arabic version prevails and the inconsistency in the English translation has no bearing on the assessment.

suspicious or non suspicious. Such stages are as follows: first stage - ordinary financial and banking transactions daily undertaken for bank's customers; second stage - extraordinary transactions undertaken for the first time or frequently; and, third stage – when extraordinary operations are turned into suspicious transactions of money laundering or terrorism financing. This is done through gathering information and documents and preliminary analysis of the case by the compliance officer and his team. Paragraph 19.6 provides that banks should keep records for extraordinary transactions made for the first time or frequently and for the suspicious transactions, regardless of the decision taken concerning such operations. Authorities indicated that the records should be maintained at least for 15 years, which is in line with the recordkeeping requirements.

496. Paragraph 8.1 and 8.2 of the QCB Instructions address the detection of extraordinary financial or banking transactions and follow-up actions but in a confusing way: the header for all three sub-sections of Paragraph 8 is drafted in mandatory terms and applies to both banks and other financial institutions under the QCB's supervision, but the measures listed in 8.1 are drafted in a way that would suggest that they are optional and only seem to apply to banks. More specifically, paragraph 8.1 provides that if extraordinary transactions are detected, the banks "may" ask the customer to complete a document and provide supported justifications for these extraordinary transactions in order to determine whether they may be linked to money laundering operations or terrorist financing.[16] Banks should obtain this information from the customer in the ordinary course of business and without letting the customer know the purpose of their enquiries. Under 8.2, the banks must notify the FIU "in case the customer does not respond to the bank", but since the banks may choose not to investigate further on an extraordinary transaction, the reporting requirement may be vain.

497. Pursuant to paragraph 8.3, the banking and financial institutions must freeze the funds or other assets belonging to terrorists and to persons who finance terrorism and terrorism organizations in accordance with court judgements or instructions issued by the governor. However, as noted under Special Recommendation III, no further measures have been taken, neither by the courts nor by the QCB Governor, to implement this requirement, and the private sector was not informed of the names of persons whose funds and assets should be frozen in accordance with UNSCR 1267 and 1373.

498. Chapter Two, paragraph 5/1 of the QCB Instructions sets out a requirement to pay special attention to unusual transactions, such as large amount transactions, or regular small amounts of deposits with acceptable or obvious financial reason, or transactions that happen with other parties in countries where no efficient controls on combating money laundering and terrorism financing are in place. The QCB Instructions fall short of requiring financial institutions to keep findings available for competent authorities and auditors.

499. The requirements or measures in place established by the DSM and the MEC to require their respective financial institutions to: (i) pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose; (ii) examine as far as possible the background and purpose of such transactions and to set forth their finding in writing; and (iii) keep such finding available for competent authorities and auditors for at least five years do not clearly and adequately address the recommendation as explained below.

[16] The original Arabic version provides similar non-binding language.

500. There is an obligation under Decision No. 16/3 of the DSM for companies and brokerage firms to verify transactions that exceed QR. 100,000 or the equivalent in foreign currency to ensure that these transactions are not exploited in money laundering or financing of terrorism. Furthermore, it is not clear whether transactions exceeding the mentioned threshold are considered large, unusual large or complex and no guidance has been provided by the DSM as to how the process of verification should be conducted.

501. The MEC, under Circular 1 of 2007, Section 2.4 provides a vague and broad reference to giving special attention to the valuable and common insurance transactions and identifying their purposes. However, the Circular is not legally binding (and there is no further guidance that would clarify the text of the Circular).

502. **QFC**: Article 15 of the QFCRA AML Regulations provides that relevant persons must have in place policies, procedures, systems and controls that adequately take into account any money laundering risks and vulnerabilities of its products, services, and customers. It also provides that relevant persons must assess risks in relation to money laundering and perform enhanced due diligence investigation for higher-risk products, services, and customers having regard to guidance issued by the QFCRA. The QFCRA in its AML Rulebook Appendix A2.2 requires relevant persons to have effective "Know Your Customer" arrangements to provide the basis for recognizing unusual and suspicious transactions. The Rulebook further states that where there is a customer relationship, a suspicious transaction will often be one that is inconsistent with the customer's known legitimate transactions, or with the normal business activities for that type of account or customer. Therefore, the key to recognizing "suspicions" is knowing enough about the customer and the customer's normal expected activities to recognize when a transaction is abnormal.

503. The QFCRA Rulebook provides circumstances, by way of examples, that might give rise to suspicion or reasonable grounds for suspicion including:

a) Transactions which have no apparent purpose and which make no obvious economic sense;

b) Transactions requested by a customer without reasonable explanation, which are out of the ordinary range of services normally requested or are outside the experience of a relevant person in relation to a particular customer;

c) The size or pattern of transactions, without reasonable explanation, is out of line with any pattern that has previously emerged;

d) A customer refuses to provide the information requested without reasonable explanation;

e) A customer who has just entered into a customer relationship used the relationship for a single transaction or for only a very short period of time;

f) An extensive use of offshore accounts, companies or structures in circumstances where the customer's economic needs do not support such requirements;

g) Unnecessary routing of funds through third party accounts; and

h) Unusual transactions without an apparently profitable motive.

504. Article 13 of the QFCRA AML Regulations establishes the internal and external reporting requirements addressing unusual and suspicious transactions. Particularly, Article 13.7 requires that when the money laundering reporting officer (MLRO) receives an internal report on an unusual or suspicious transaction he/she must investigate the circumstances in relation to which the report was made, including where necessary accessing any relevant "Know Your Client" information; determine whether in accordance with the AML Law No.(28) of 2002 a corresponding external suspicious transaction report must be made to the FIU; if required, to make such report to the FIU. Article 13.8 requires the MLRO to document the steps taken to investigate the circumstance in relation to which an internal suspicious transaction report is made and where no external suspicious transaction report is made to the FIU, the reasons why no such report was made. All relevant details of any internal and external suspicious transaction report must be kept for at least six years from the date on which the report was made.

505. Although there are measures in place for relevant persons to pay attention to complex, unusual large transactions, or unusual patters of transactions with no apparent or visible economic or lawful purpose, there are no specific requirements to make available to the competent authorities and auditors such findings.

506. **Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c.21.1 & 21.1.1.) and Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c.21.2). Domestic sector**: Article 13 of the QCB Instructions requires the banking and financial institutions to pay special attention when examining the business relations and transactions with companies and financial institutions from countries that apply no obligation to comply with the Recommendations particularly if no clear financial objectives are shown for these transactions. It also requires that the reasons and purposes of these deals be examined and reported to the senior management of the banking and financial institution. However, the current framework does not require banking and financial institutions to also consider countries that insufficiently apply the FATF Recommendations.

507. As far as advising about concerns with respect to weaknesses in the AML/CFT systems of other countries, Article 19.11 of the QCB Instructions provides that banking and financial institutions should use all possible means for supervising extraordinary transactions and deals, including supervisory reports, list of non-cooperative countries, list of persons and entities pursued internationally, suspect's investigation programs, etc. Article 19.12 further provides that banking and financial institutions should monitor the international recent developments of the various types of money laundering and terrorism financing and measures of combating, particularly related recommendations and instructions issued by the FATF, the IMF, the IBRD, Basel committee, and other international organizations.

508. The DSM and MEC do not have measures in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries. Although financial institutions are required to examine the background and purpose of the business relations and transactions, there is no explicit requirement to make findings available to competent authorities and auditors. DSM officials indicated that no measures or requirements have been established for brokerage houses because currently all orders/transactions, taking place in the domestic market, with Qatari citizens have to be pre-funded, that is, the funds have to be deposited in a bank for the benefit of the brokerage house. For investors placing orders in the international markets, these orders and payments have to go through another bank, in this case HSBC Global Custodian services. For this reason DSM officials and

brokerage houses rely on banks to pay attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF standard.

509. Under Section 6 (Supervisory Measures and Training) of Circular No. 1 of 2007 issued by the MEC, insurance companies are "required" to set policies and plans to combat money laundering and the financing of terrorism including giving particular attention to the insurance transactions concluded with persons or companies in countries that do not apply or insufficiently apply the Recommendations. In such cases, the purpose of those operations should be examined and all necessary measures should be taken to verify the presence of the insurance premises and determine the insurance value. Moreover, the branches of the companies should observe such instructions. The domestic and foreign branches of companies should equally observe those instructions. As mentioned on previous occasions, however, the Circular is not legally binding.

510. There are no legal or regulatory requirements for financial institutions under the supervision of the DSM to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations.

511. **QFC**: Under Article 14 of the QFCRA AML Regulations, a relevant person is required to have arrangements in place to ensure that it obtains and makes proper use of any relevant findings issued by the government (or any governmental departments) of the State of Qatar; the QCB or the National Anti Money Laundering Committee or the FIU; FATF; the QFC Authority; the QFC Regulatory Authority; or the Gulf Co-operation Council. The findings of a body, as previously listed, are "relevant findings" if they include a finding or other conclusion that arrangements for restraining money laundering in a particular country or jurisdiction are materially deficient in comparison with one or more of the relevant internationally accepted standards, including any recommendations published by the FATF, required of or recommended to countries and jurisdictions; or contain a finding or other conclusion concerning named persons, groups, organizations, or entities or any other body where a suspicion of money laundering or terrorist financing exists.

512. Rule 3.15.1 of the QFCRA Rulebook requires relevant persons to pay special attention to any transactions or business relationships with persons, including beneficial owners, located in such countries or jurisdictions. Rule 3.15.2 further states that a relevant person considering transactions or business relationships with persons located in countries or jurisdictions that have been identified as deficient, or against which any authority in the state has outstanding advisory notices, must be aware of the background against which the assessments, or the specific recommendations, have been made. These circumstances should be taken into account with respect to introduced business from such jurisdictions, and when receiving payments from existing customers or with respect to inter-bank transactions from correspondent banking Clients.

513. Further guidance in the QFCRA AML Rulebook provides, under 3.15.3, that transactions with counterparties located in countries or jurisdictions which have been relieved from special scrutiny, for example, taken off the FATF list of NCCTs, may nevertheless require attention which is higher than normal. In order to assist relevant persons, the Regulatory Authority may, from time to time, publish Qatar, FATF or other findings. Given the recent establishment of the QFC, the Regulatory Authority has not yet published any guidance on countries or jurisdictions relieved from special scrutiny. However, the Regulatory Authority expects relevant persons to take their own steps in acquiring relevant information from various available sources.

514. The QFCRA guidance specifically mentions that relevant persons should be proactive in obtaining and appropriately using available national and international information, for example suspect lists or databases from credible public or private sources with regard to money laundering and terrorist financing (QFC Rulebook, paragraph 3.15.3.3). The QFCRA has arrangements with the National Anti Terrorism Committee. In accordance with these arrangements, the QFCRA receives the lists published by the United Nations Security Council pursuant to resolutions and distributes these lists to relevant QFC firms. It also indicates that the QFCRA encourages relevant persons to perform checks against their customer databases and records for any names appearing on such lists and databases as well as to monitor transactions accordingly.

515. The QFCRA encourages under QFC Rulebook, paragraph 3.15.3.4, relevant persons to assess which countries carry the highest risks and conduct an analysis of transactions from countries or jurisdictions known to be a source of terrorist financing.

516. In addition, the QFCRA may require relevant persons to take any special measures it may prescribe with respect to certain types of transactions or accounts where the Regulatory Authority has reasons to believe that any of the above may pose a money laundering risk to the QFC.

517. Although measures are in place to require financial institutions within the QFC to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations, there are no measures to explicitly require financial institutions to examine, as far as possible, the background and purpose of transactions with no apparent economic or visible lawful purpose, and to maintain written findings available to the competent authorities.

518. **Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c.21.3).** There is no indication that the existing AML/CFT framework provide the Qatari supervision and control authorities, i.e., QCB, DSM, MEC, and QFCRA with the authority to apply counter-measures when a country continues not to apply or insufficiently applies the FATF Recommendations.

3.7.2 Recommendations and Comments

519. There are major shortcomings in the existing AML/CFT regulatory framework with respect to requiring financial institutions to pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions which have no apparent economic or visible lawful purpose does not provide for appropriate measures.

520. **Domestic sector**:

- The QCB is recommended to establish a clear requirement for banking and financial institutions to make the findings on the examination of complex, unusual large transactions or unusual patterns of transactions also available to auditors.

- The DSM and the MEC are recommended to establish formal requirements for financial institutions to: (i) pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose; (ii) examine as far as possible the background and purpose of such transactions

and to set forth their finding in writing; and (iii) keep such finding available for competent authorities and auditors for at least five years.

- The DSM is also recommended to provide guidance indicating whether transactions exceeding QR. 100,000 or the equivalent in foreign currency should be considered large, unusual large or complex.

521. **QFC**: The QFC authorities are recommended to establish a specific requirement for relevant persons to make the findings on the examination of complex, unusual large transactions or unusual patters of transactions available to the competent authorities and auditors.

522. With respect to Recommendation 21, the DSM and the MEC are recommended to establish measures to:

- ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries; and

- require them to make findings available to competent authorities and auditors.

523. The DSM should establish a regulatory obligation on financial institutions to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations.

524. The QCB, the DSM, the MEC and the QFCRA should have the authority to apply counter-measures to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations.

3.7.3 Compliance with Recommendations 11 and 21

	Rating	Summary of factors underlying rating
R.11	**PC**	• Lack of requirements imposed by the QCB to make the findings of examinations of complex and unusual transactions available to auditors. • Lack of requirements imposed by the DSM and the MEC on financial institutions to pay special attention to all unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose; to examine as far as possible the background and purpose of such transaction and set forth their findings in writing; and to maintain them for at least five years. • Lack of specific requirements imposed by the QFCRA to make the findings of examinations of complex and unusual transactions available to competent authorities and auditors.
R.21	**NC**	• Lack of requirements imposed by the DSM and the MEC on financial institutions to pay special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations. • Lack of apparent authority at the QCB, the DSM, the MEC and the QFCRA to apply counter-measures to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations.

3.8 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)

3.8.1 Description and Analysis

525. **Requirement to Make STRs on ML and TF to FIU (c.13.1, 13.2, 13.3 & IV.1).** Article 6 of the AML Law establishes the obligation for financial institutions to "provide the competent entity with a detailed report on transactions [they carry] out whose nature or purpose is suspicious.[If] the competent entity finds any reason to believe that the transactions (…) constitute a money laundering crime, it shall refer papers and documents related to the transaction to the coordinator [of the NAMLC]". The law does not address reporting of suspicions of terrorist financing. The deputy Governor of the QCB, acting in his capacity as chairman of the NAMLC established the Qatari FIU as a central independent unit located in the QCB, through Administrative Order No. 1/2004 of August 31, 2004 (See also write-up under Recommendation 26).

526. **Domestic sector**: In addition to Article 6 of the AML Law, the QCB specifically requires the financial institutions under its supervision to notify the FIU of any suspicious transaction, including attempted, which it defined as "extraordinary banking and financial transactions which the bank suspects or has justified reason to suspect that their money is linked or related to money laundering, financing of terrorism, terrorist actions, or for terrorism organizations" (Article 1 and 10 of the instructions).

527. The instructions define "suspicious transactions" as extraordinary banking and financial transactions, including attempted, which the bank suspects or has justified reason to suspect that their money is linked or related to money laundering, financing of terrorism, terrorist actions, or for terrorism organizations. "Extraordinary banking operations" are defined as major transactions and the banking and financial transactions that do not match the customer's income, the nature of his activity, the patterns of his previous transactions within the bank or that are suspiciously repeated by the customer and also the transactions that do not have clear financial purposes or legitimate purposes.

528. Sections 10 and 11 of the Instructions provide that if the bank discovers that any suspicious operation has taken place, the compliance office should notify the FIU immediately to take the necessary procedures using a specific form. In any case of failure to report, alert or assist the persons related to money laundering, or terrorism financing transactions, the employee may be subjected to legal and financial consequences.

529. The DSM also addressed the reporting of suspicious transactions in its Decision No. (16/3). Article 9 of the Decision provides that on discovery of any abnormal financial transaction, the company or the brokerage firm may, for the purpose of proving the suspicion that these transactions may relate to money laundering or financing of terrorism, require the customer to complete the documents and submit the justifications for the abnormal transactions provided that these procedures shall be applied within the context of the orderliness and usual procedures without drawing the customer's attention to the fact that such procedures relate to the combating of money laundering and financing of terrorism. However, Article 9 would be far too vague to be useful in practice.

530. The MEC Circular also calls for some form of reporting , but, it does not rest on a sound legal basis and the measures that it sets out are not enforceable. In short, it provides that the FIU should be notified on an urgent basis of any suspect transaction and the suspicious transaction forms should be delivered to the Unit by hand, or sent by fax or e-mail or any appropriate means and should be deemed

confidential. The MEC circular would not be effective in practice because it does not provide sufficient coverage of the reporting system.

531. **QFC**: Article 13(1) of the QFC AML Regulations requires a relevant person to have appropriate arrangements in place to ensure that whenever any employee, acting in the ordinary course of his employment, either knows or suspects; or has reasonable grounds for knowing or suspecting that a person is engaged in money laundering or conduct relating to the financing of terrorism, that employee must promptly make a internal STR to the relevant person's Money Laundering Reporting Officer (MLRO).

532. It is interesting to note that the QFC provides, in its Regulations, a definition of money laundering which is more extensive than that provided in the AML Law. The fact that it is set in secondary legislation does not enable it to take precedent on the money laundering offence as set out in the primary legislation, but it nevertheless sets more stringent requirements on the QFC firms as far as the reporting requirements are concerned.

533. Article 19 of the QFC AML Regulations provides the following definition for Money laundering:

"The following conduct when committed intentionally:

a) any act which constitutes an offence under Article 2 of Law (28) of 2002 on Anti Money Laundering (as amended by virtue of Decree-Law No. (21) of 2003 - O.G. 11/2003);

b) any act which involves Criminal Property and which act constitutes an offense under the Articles of Law No. (11) of 2004 (Penal Code);

c) any act which finances the commission of an offence under the Articles of Law No. (3) of 2004 (Combating Terrorism);

d) the conversion or transfer of Property, knowing that such property is derived from Criminal Conduct or from an act of participation in such conduct, for the purpose of concealing or disguising the illicit origin of the Property or of assisting any person who is involved in the commission of such conduct to evade the legal consequences of his action;

e) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of Property, knowing that such Property is derived from Criminal Conduct or from an act of participation in such conduct;

f) the acquisition, possession or use of Property, knowing, at the time of receipt, that such Property was derived from Criminal Conduct or from an act of participation in such conduct;

g) the provision or collection of lawful Property, by any means, with the intention that it should be used or in the knowledge that it is to be used, in full or in part, for terrorism;

h) any act which constitutes participation in, association with or conspiracy to commit, attempts or incitement to commit an offence specified in paragraph (a), (b) or (c) or an act specified in paragraph (d), (e), (f) or (g); or

i) any act which constitutes aiding, abetting, facilitating, counselling or procuring the commission of an offence specified in paragraph (a), (b) or (c) or an act specified in paragraph (d), (e), (f) or (g).”

Criminal Property is defined as:

1) “Property that constitutes a person's benefit from criminal conduct or represents such a benefit (in whole or part and whether directly or indirectly) if the alleged offender knows or suspects that it constitutes or represents such a benefit; and

(2) for these purposes it is immaterial:
(a) who carried out the conduct;

(b) who benefited from it; and

(c) when the conduct occurred.”

534. Article 13(2) of the QFC AML Regulations requires a relevant person to have policies and procedures in place to ensure that disciplinary action can be taken against any employee who fails to make such a report. Article 13(7) of the QFC AML Regulations provides that when a relevant person’s MLRO receives an internal STR, he must without delay, investigate the circumstances in relation to which the report was made, including where necessary accessing any relevant “Know Your Client” information; determine whether in accordance with the AML Law, a corresponding external STR must be made to the FIU; if required, make such an external report to the FIU; and where an external report is made to the FIU, notify the Regulatory Authority that such a report has been made and include general details of the report.

535. Although there are explicit requirements for reporting suspicious transactions, the DSM and the MEC have not yet established the obligation or requirement for financial institutions to also report attempted transactions to the FIU.

536. **STRs Related to Terrorism and its Financing (c.IV.1).** As mentioned above, there is no obligation imposed by primary or secondary legislation to report suspicious transactions related or linked to terrorist financing.

537. **Domestic sector**: QCB nevertheless addressed terrorist financing in its Instructions, notably in the reporting requirements set out under Section 5, 10 and 11 (described above) and in the definition of “suspicious transactions” (also mentioned above). “Terrorism financing” is defined as using any funds or other assets in financing terrorism activities or terrorist organizations.

538. Article 9 of the DSM Decision No. (16/3) of 2005 described above also refers to the financing of terrorism. The comments made under criteria 13.1 above also apply under criteria IV.1.

539. **QFC**: The reporting requirement set out in Article 13 (1) of the QFC AML Regulations and described above also applies to suspicions of terrorist financing (which remains undefined).

540. **STRs Reported Regardless of whether they involve tax matters (c.13.4 & IV.2).** There is no indication, neither in the domestic sector nor in the QFC, that would indicate that the reporting requirements are limited when the transactions are also thought to involve tax matters.

541. **Additional element (c.13.5). Domestic sector:** QCB instructions, DSM decision, MEC circular, and QFC regulations require financial institutions to notify the FIU of any suspicious transaction, including attempted which could be linked or related to money laundering. However, the circular does not rest on a sound legal basis and measures set out are not enforceable. **QFC:**

542. **Protection for Making STRs (c.14.1). Domestic sector**: Article 5 of the AML Law No. (28) of 2002 provides that in the enforcement of this Law, provisions related to the secrecy of banking transactions shall not apply to the chairman, members of the board of directors and employees of the financial institution, unless where it is proved that the disclosure was meant to harm the owner of the transaction.

543. Under Section 5/4 of the QCB Instructions banking and financial institutions or a reporting employee shall bear no responsibility after reporting on suspicious transactions, whether the suspicions were confirmed or not, as long as it was a *bona fide* reporting.

544. Article 9 of the DSM Decision No. (16/3) 2005 provides that the entities subject to this reporting provision of documentation and information related to a suspicious transaction should not be deemed to be contradictory to the confidentiality laws and should not result in any responsibility on the notifying entity or its employees.

545. MEC's Circular No.1 of 2007, Second Section, paragraph 4 provides, in non-binding terms, that reporting of suspicious transactions is not regarded as a breach of the secrecy of the transactions and it should not entail any kind of liability on the company or its employees.

546. **QFC**: Article 13(11) of the QFCRA AML Regulations establishes that the MLRO or other employee of a relevant person is not liable to proceedings; subject to liability; nor in breach of any duty merely by reason of the making of an external STR to the FIU if such STR is made in good faith. Authorized firms are also required to ensure that their Employees are aware of and sensitive to these issues when considering the "Know Your Customer" process.

547. **Prohibition Against Tipping-Off (c.14.2).** Article 4 of the AML Law No. 28 of 2002 establishes the obligation for employees of the financial institution not to inform their customers about the actions taken against them related to combating money laundering. Such employees should not disclose any information with the intention of influencing money laundering investigations. The violation of the prohibition is sanctioned by imprisonment and a fine (see write-up under Rec. 17).

548. **Domestic sector**: Under Section 6 of the Instructions, the QCB establishes the obligation for all banking and financial institutions, their managers, employees, and staff not to warn their customers when any of their activities raises a suspicion.

549. Article 9 of the DSM Decision No. (16/3) 2005 provides that the entities that are subject to the provisions of this Decision shall not warn their customers on their suspected transactions but, should subject these transactions to more verification and precautionary measures.

550. Paragraph 5 of MEC's Circular No. 1 of 2007 provides that the company and its employees should not warn the customer about any suspicion on the transactions but, as mentioned above, this decision does not rely on a sound legal basis and is, therefore, neither binding nor enforceable.

551. **QFC**: Section 3.14 of the QFCRA AML Rulebook provides that where a relevant person reasonably believes that performing the "Know Your Customer" process will tip-off a customer or potential customer, it may choose not to pursue that process and must instead file an STR. Further guidance in the QFCRA AML Rulebook provides that relevant persons are reminded that in accordance with Article 4 of the AML Law, employees at a financial establishment are prohibited from informing their customers of the measures taken against them to combat money laundering. They are also prohibited from disclosing any information with the intention of harming a relevant criminal investigation.

552. **Additional element (c.14.3):** Measures in place do not address the requirements for ensuring that the names and personal details of staff of financial institutions that make STRs are kept confidential by the FIU.

553. **Consideration of Reporting of Currency Transactions Above a Threshold (c.19.1).** The Qatari authorities, mainly the FIU, sent a letter (study) to NAMLC, through the Vice Governor of the QCB addressing the issue of considering the establishment of a currency transaction reporting system. The letter (study) presents three issues: 1) the fact that Qatar has a cash-based society which in the views of the FIU establishing such system will be difficult; 2) the additional burden that such system would put on the FIU and its limited resources; and 3) the current measures imposed by the QCB on financial institutions to limit cash transactions. The spirit of the letter (study) considers in a limited way the disadvantages of the cash transaction reporting system and overlooks the advantages. In light of this, the assessors encourage the authorities to perform a more in-depth study as to whether it would be feasible and useful to establish such system.

554. **Domestic sector**: Instead, the QCB has established internal cash recording requirements under Section 1/3 of the Instructions for banking and financial institutions. The requirements imposed the obligation on banking and financial instructions to only check and record any banking transaction that exceeds QR. 100,000 in the various activities, whether in assignments of right, currency exchange, opening letters of credit, account deposits, any kind of investment, or other bank activities that could be used in money laundering. All institutions are also required to check any other banking and financial transactions, suspected or linked to terrorism financing regardless of the amount. However, the current requirement does not extend to reporting the transaction(s) to the QCB.

555. Meetings with officials from the QCB Supervision Department responsible for banking, exchange houses, investment companies and finance companies revealed that although the internal cash recording requirement imposed by the QCB Instructions is set at QR. 100,000 the internal recording requirement threshold for exchange houses was recently lowered, by way of a Circular issued by the QCB, to currency transactions that exceeds QR. 35,000. A copy of the Circular was requested but the authorities did not provide. Therefore, the mission was not able to determine the reason(s) for reducing the threshold for exchange houses.

556. Further guidelines recommend all banks and financial institutions under the regulation and supervision of the QCB to establish a controlled internal reporting system capable of generating reports on current accounts movements and balances; assignment of right reports; movements and balances reports of the correspondents' accounts; large transaction reports; and reports of transactions in small

amounts. The large transactions report should contain all transactions that exceed QR.100,000. Banks and financial institutions are also recommended to pay special attention to these large transactions. The reports should assist the banks and financial institutions in determining the accounts related to such transactions and the source of the large amounts.

557. The cash recording requirements do not impose an obligation on banking and financial institutions to report these transactions to the QCB but only to maintain the information. The financial institutions and QCB supervision department officials indicated that compliance with the cash recording requirements is verified through periodic on-site inspections.

558. A similar cash reporting requirement is in place under the DSM Decision No. (16/3) of 2005. Article 9 establishes that companies and brokerage firms that receive cash transactions in an amount that does not exceed QR.30,000 or the equivalent in foreign currency need to notify the Market on a prescribed form issued by the DSM. The companies and brokerage firms are also required to verify the identity of the customer by reference to an official document which in most cases is the ID card. However, a separate cash recording requirement in the Decision requires companies and brokerage firms to verify and record in their books and records transactions above QR.100,000. Neither the Market Committee authorities nor the brokerage firms were not able to explain the purpose for having two different threshold requirements.

559. There is no cash recording or reporting requirement in place for insurance companies.

560. Although banks and financial institutions seem to be complying with the recording requirement and in some instances reporting cash transactions to their respective supervision and control authorities, this information is not shared with the FIU to complement the FIU's financial intelligence analysis, trends, and typologies exercises. In the case of securities firms, DSM officials indicated that the current practice is for institutions to forward these reports directly to the FIU.

561. **QFC**: QFCRA officials indicated that until a national central agency is created and the obligation to report is established by law or regulation, the firms under its supervision and regulation will not be required to report cash transactions.

562. **Additional elements (c.19.2 and c.19.3):** The reporting of currency transactions above a threshold is currently under consideration by the Qatari authorities.

563. **Guidelines for Financial Institutions with respect to STR and other reporting (c. 25.1). Domestic sector**: In Chapter 2 of its Instructions, the QCB provides a list of guidelines designed to assist the banking and financial institutions (exchange houses, investment companies and finance companies) in detecting and monitoring any suspicious behavior of their customers. The QCB also requires that all departments of the banking and financial institutions use the guidelines and any future amendments to enhance their employees' the knowledge of AML/CFT. The guidelines give an overview of the money laundering stages. They also provide a list of transactions that may be deemed suspicious and that are classified per category ranging from "money laundering using cash"; "money laundering using banking accounts"; "money laundering using financial institutions related to investment activities"; and "money laundering through international activities".

564. Instruction 19/12 of the QCB requires banking and financial institutions to monitor international recent developments on money laundering and terrorism financing taking place and measures for

combating them, particularly those related to recommendations and instructions issued by the FATF, the IMF, the International Bank for Reconstruction and Development (IBRD), the Basel Committee, and other international organizations.

565. No guidelines have been established by the DSM or the MEC for securities and insurance firms, respectively.

566. **QFC**: The QFCRA has supplemented the AML Regulations with the AML Rulebook. The AML Rulebook is designed to extend and clarify the provisions of the AML Regulations and to provide, where relevant, detailed regulatory guidance to relevant persons to assist them in complying with the AML Law, the AML Regulations, the AML Rulebook and the specific Anti-Money Laundering requirements of the QFCRA.

567. QFCRA Rule A.2.2 provides relevant persons with circumstances that might give rise to suspicion or reasonable grounds, including:

- Transactions which have no apparent purpose and which make no obvious economic sense;
- Transactions requested by a customer without reasonable explanation, which are out of the ordinary range of services normally requested or are outside the experience of a relevant person in relation to a particular customer;
- The size and pattern of transactions, without reasonable explanation, is out of line with any pattern that has previously emerged;
- A customer refuses to provide the information requested without reasonable explanation;
- A customer who has just entered into a customer relationship used the relationship for a single transaction or for only a very short period of time;
- An extensive use of offshore accounts, companies or structures in circumstances where the customer's economic needs do not support such requirements;
- Unnecessary routing of funds through third party accounts; or
- Unusual transactions without an apparent profitable motive.

568. Furthermore, Article 14 of the QFCRA AML Regulations requires relevant persons to have arrangements in place to ensure that they obtain and make proper use of any relevant findings issued by the government of the state or any government departments in the state; the Central Bank of Qatar or the NAMLC or the FIU; the FATF; the QFC Authority; QFC Regulatory Authority; or the Gulf-Cooperation Council.

569. Although the QFCRA provides guidelines to its relevant persons, the guidelines on money laundering and terrorist financing techniques and trends appear to be limited to those listed above.

570. QFCRA officials indicated that since the QFC became operational no suspicious transaction report has been reported to the FIU.

571. **Feedback to Financial Institutions with respect to STR and other reporting (c.25.2).** With respect to feedback received from the competent authorities (i.e., QCB, DSM, MEC, and QFCRA), private sector stakeholders indicated that the only communication between the FIU and their respective institutions takes place when a STR is submitted to the FIU and receipt of the STR is acknowledged. Feedback also takes place during periodic meetings hosted by the FIU.

3.8.2 Recommendations and Comments

572. The current requirement set out in the AML Law to report transactions that may be linked to money laundering activities is too vague with respect to the DSM and MEC to be effective. The fact that the money laundering offence covers only a few predicate offences further limits the scope of the reporting requirement. The fact that there is no reporting requirement set out in primary or secondary legislation with respect to terrorist financing is a major shortcoming in the Qatari framework.

573. Authorities are recommended to:

- Establish, in primary or secondary legislation, the requirement for all financial institutions to report to the FIU transactions, including attempted transactions, when a financial institution suspects or has reasonable grounds to suspect that the funds are the proceeds of a criminal activity, or are related or linked to terrorist financing, terrorist acts or terrorist organisations or those who finance terrorism.

- Ensure the protection of financial institutions under the supervision of the DSM and MEC, and their staff from liability for filing STR and prohibit “tipping off” in the insurance sector.

- Consider re-assessing the study conducted with respect to Rec. 19 to provide for a more comprehensive analysis and details as to how the decision to establish or not the cash reporting system was achieved.

- Ensure that competent authorities, and particularly the FIU, provide guidance to assist financial institutions on AML/CFT issues covered under the FATF recommendations, including, at a minimum. a description of ML and FT techniques and methods; and any additional measures that these institutions could take to ensure that their AML/CFT procedures are effective.

- Establish communication standards and a mechanism for providing feedback to reporting institutions including general and specific or case-by-case feedback.

- Consider reviewing the guidance provided by the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.

3.8.3 Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2), and Special Recommendation IV

	Rating	Summary of factors underlying rating
R.13	**PC**	• Vague requirement to report transactions is to vague with respect to the DSM and MEC and limited scope of reporting in light of the limited list of predicate offenses. • Obligation to report transactions linked to terrorist financing, terrorist acts or organizations or those who finance terrorism not established by primary or secondary legislation. • Obligation to report transactions, including attempted transactions, not established by primary or secondary legislation. • Lack of requirement to report regardless of whether transactions are thought to involve tax matters.
R.14	**LC**	• Lack of legal basis to support protection from STR reporting and tipping off in the insurance sector.
R.19	**C**	
R.25	**PC**	• Lack of guidelines established by the DSM and the MEC for the securities and insurance sectors, respectively. • Lack of adequate and appropriate feedback from competent authorities. • Limited guidelines on AML/CFT issues provided by the QFCRA to relevant persons.
SR.IV	**NC**	• Requirement to report suspicious transactions related or linked to terrorist financing not imposed by primary or secondary legislation.

3.9 Internal controls, compliance, audit and foreign branches (R.15 & 22)

574. **Establish and Maintain Internal Controls and Independent Audit to Prevent ML and TF (c.15.1, 15.1.1, 15.1.2 and 15.2) and Ongoing Employee Training on AML/CFT Matters (c.15.3). Domestic sector**: Paragraph 5 of the QCB AML/CFT Instructions requires banking and financial institutions to adopt programs to combat money laundering and financing of terrorism including developing and applying internal control policies and systems; appointing qualified employees at the senior management levels; and arranging continuous training programs for the employees and the staff to inform them of the latest issues regarding money laundering and the financing of terrorism and other suspicious operations that will improve their ability to recognize such operations and their types and knowing how to confront them.

575. In addition, Paragraph 19 of the QCB Instructions requires that in completion of the policies and systems for combating money laundering and terrorism financing which should also include measures and supervisory procedures designed to protect against economic crimes and suspicious operations, all banks should comply with the following:

- Setting general strategy for combating money laundering and terrorism financing, based on the set of policies which must be applied in that field, provided that it is issued in both languages, Arabic and English.

- Setting a manual for the executive procedures that all the bank's departments and branches must comply with.

- Implementing stage procedures to manage financial and banking operations and classifying them into suspicious and non-suspicious ones, this includes the following stages: (i) first stage: includes ordinary financial and banking operations implemented daily for bank's customers; (ii) second stage: includes extraordinary operations which happen either for the first time or repeatedly (iii) third stage: the stage in which the extraordinary operations are turned into suspicious operations of money laundering or terrorism financing. This is achieved by gathering information and documents and making preliminary analysis for the case by compliance officer and his team.

- Keeping an integral database of customer accounts and their banking dealings through using computer and through the original documents and papers.

- Hiring a compliance officer to combat money laundering and financing terrorism together with assigning a specialized team to help the officer in this task.

- Developing training programs in the field of combating money laundering and terrorism financing, together with extending the scope of participation of bank's personnel and officials.

- Setting a program for upgrading customer identities, papers and documents.

- Setting a quick and direct mechanism for enabling the compliance officer to notify/report suspicious operations.

- Using all possible means for supervising extraordinary operations and deals (supervisory reports, lists of non cooperative countries, lists of persons and bodies pursued internationally, program for identifying suspects).

- Keeping records of other suspicious operations (such as forgery, falsification, fraud and others).

- Implementing measures for combating money laundering and terrorism financing during and after implementing the banking transactions in a manner consistent with the customers' risk profile.

576. In addition, Chapter 7, Section 10 of the QCB Instructions provides additional guidance to financial institutions when designating the compliance officer position, as well as, the board committee that is responsible for providing oversight of this function. Section 10.2 of this Chapter grants the compliance officer with the necessary independence and access right to all areas of the institution and to the information they may hold. The compliance officer is also required to comply with the laws and instructions, file reports on deficiencies and corrective actions, serve as the point of contact for matters dealing with compliance, and liaise with the QCB supervision department regarding inquiries on compliance issues and supervision requirements.

577. The DSM Decision 16/3 for 2005 also addresses the need for AML/CFT programs. Article 9 calls on all entities to have programs for combating money laundering and the financing of terrorism that include development and application of internal supervisory systems; the appointment of qualified personnel at the administration level; and organization of continuous training programs for updating the staff of the new developments in the field of money laundering and the financing of terrorism including suspect transactions with a view to enhancing their capacity to detect, report, and notify these transactions. The same Article also requires that companies and brokerage firms undertake to appoint liaison officers for the notification of the offences of money laundering and financing of terrorism to the FIU and sending copies of the STR to the liaison officers of the Market. Such liaison officers shall have experience of the national legislation and other rules and directives concerning money laundering.

578. Circular No. (1) of 2007 issued by the MEC is not legally binding but nevertheless provides useful elements as follows: Section 3 calls on all insurance companies operating in the State of Qatar to set policies and plans to combat money laundering and the financing of terrorism, including establishment of internal supervisory measures and controls; organization of training sessions for the employees; appointment of a follow-up officer charged mainly with the verification of the implementation of those policies and plans within the company and its different departments and branches; reporting suspicious transactions and in the event where any suspicious transaction is identified, the follow-up officer at the company should notify the FIU affiliated to the Qatar National Anti Money Laundering Committee at the QCB immediately to take necessary measures.

579. The QCB has issued enforceable measures, through its instructions, to banking and financial institutions under its supervision. The QCB instructions set the general requirements for banking and financial institutions to establish and maintain internal procedures, policies, and controls. However, there are some marked inconsistencies with respect to the content and scope of details that banking and financial institutions must comply including adequate procedures, policies and controls for customer due diligence, record retention, detection of unusual and suspicious transactions and the reporting obligation.

580. Banking and financial institutions under the supervision of the QCB are also required to have an audit function in place and the internal auditor is required to review the activities of the compliance officer. In many instances, the internal audit function has been outsourced to local accounting/auditing firms. There are procedures in place for screening and approving individuals, but these procedures are applied by the QCB, when approving senior management candidates within the institution, but these do not extend to all other employees. In addition, there is no clear requirement for financial institutions to have similar screening procedures for hiring employees. Under Chapter 2, Second General Guidelines section of the QCB Instructions, provides that as part of his job, the banking and financial institutions' external auditor has to review, audit and implement AML/CFT instructions and to ensure the appropriateness of bank's policies and efficiency of the internal control system. The results of his auditing must be stated in the management letter presented to the management and to QCB. Within his regular job as an auditor, he has to notify the FIU of any suspicious transactions related to money laundering or financing of terrorism. The auditor should be familiar with the management procedures and whether they are appropriate or not. In such case he has to contact the competent authority immediately. However, the mission was informed that the work currently performed by these auditors/auditing firms does not include an assessment of the banking and financial institutions' adequacy of internal control systems and policies with respect to AML/CFT. As such, the requirements do not fully address the obligation on banking and financial institutions to maintain an adequately resourced and independent audit function (there

requirement for internal audit is lacking) to test compliance with the procedures, policies and controls; and to put in place screening procedures to ensure high standards when hiring employees.

581. The DSM Decision addresses many of the elements of the essential criteria; however, it falls short by not having requirements/measures in place for institutions to: 1) grant timely and unrestricted access, to the compliance officer and his/her staff, to customer identification data and other CDD information; and 2) maintain an adequately resourced and independent audit function to test compliance with the law, decisions, and other enforcement measures.

582. The MEC's Circular No. 91) of 2007 does not seem to have the legal basis for requiring financial institutions to establish and maintain internal policies and controls to prevent ML and FT. Therefore, the measures listed in the MEC Circular cannot constitute "other enforceable means" for the purposes of this assessment. The only enforceable AML/CFT requirements are set out in the AML Law (as amended in 2003), the QCB 2006 AML/CFT Instructions, and the DMS 2005 Decision (16/3) .

583. **QFC**: Article 6 of the QFCRA AML Regulations requires that a relevant person must: (1) establish and maintain effective anti money laundering policies, procedures, systems and controls to prevent opportunities for money laundering in relation to the relevant person and its activities; (2) set up and operate arrangements, including the appointment of an Money Laundering Reporting Officer (MLRO) in accordance with the responsibilities and duties of the MLRO which are designed to ensure that it is able to comply and does comply with the provisions of the regulations; (3) take reasonable steps to ensure that its employees comply with the relevant requirements of its anti money laundering policies, procedures, systems and controls; (4) review the effectiveness of its anti money laundering policies, procedures, systems and controls at least annually; and (5) ensure that its anti money laundering policies, procedures, systems and controls apply to any branch or subsidiary operating in another jurisdiction. If another jurisdiction's laws or regulations prevent or inhibit a relevant person from complying with the AML Law or with the regulations, the relevant person must promptly inform the QFCRA in writing. However, as the QFC is still relatively new, the effectiveness of the general AML compliance requirements, including policies and programs are yet to be tested.

584. Article 9 of the QFCRA AML Regulations sets out the customer identification requirements to which a relevant person must adhere. Article 10 of the QFCRA AML Regulations sets out the documents retention and record policy with which a relevant person is expected to comply. Article 13 of the QFC AML Regulations sets out the internal and external reporting requirements for reporting suspicious transactions with which a relevant person must comply. Article 17 of the QFC AML Regulations requires the relevant person to have arrangements to ensure that all employees receive training and are aware of the laws and regulations in addition to other matters like the relevant person's AML policies, procedures, systems and controls.

585. Article 6(2) of the QFC AML Regulations requires that a relevant person must set up and operate arrangements including the appointment of a MLRO. Article 8 of the QFC AML Regulations further requires that a relevant person must appoint an individual to act as its MLRO and operate arrangements that are designed to ensure that it and the MLRO comply with the relevant obligations of these Regulations. A relevant person must appoint an individual to act as a deputy of the relevant person's MLRO who must fulfil the role of MLRO in the latter's absence. If the position of MLRO falls vacant, the relevant person must appoint another individual as its MLRO. A relevant person must ensure that the MLRO is of sufficient seniority within the relevant person to enable him to: act on his own authority;

have direct access to the senior management of the relevant person; have sufficient resources including, if necessary, an appropriate number of appropriately trained employees to assist in the performance of his duties in an effective, objective and independent manner; have unrestricted access to information about the financial and business circumstances of a customer or any person on whose behalf the customer is or has been acting; and have unrestricted access to relevant information about the features of the transactions which the relevant person has entered into or may have contemplated entering into with or for the customer or that person.

586. A relevant person must ensure that its MLRO is responsible for all of its anti money laundering activities carried on in or from the QFC. Also a relevant person must ensure that its MLRO carries out and is responsible for the following:

- establishing and maintaining the relevant person's anti money laundering policies, procedures, systems and controls and compliance with anti money laundering legislation and regulation applicable in the QFC;
- the day-to-day operations for compliance with the relevant person's anti money laundering policies, procedures, systems and controls;
- receiving internal STRs from the relevant person's employees;
- taking appropriate action following the receipt of an internal STR form the relevant person's employees;
- making, in accordance with the AML Law, external STRs to the FIU and notifying the Regulatory Authority, as required;
- acting as the point of contact within the relevant person for the FIU, other competent Qatar authorities and the Regulatory Authority regarding money laundering issues;
- responding promptly to any request for information made by the FIU, the QFC Authority, the Regulatory Authority or other competent State authorities;
- receiving and acting upon findings;
- establishing and maintaining an appropriate anti money laundering training program (whether by himself or someone else) and adequate awareness arrangements; and
- making annual reports to the relevant person's senior management, as required.

587. The MLRO must report at least annually to the senior management of the relevant person on the matters of compliance with applicable anti money laundering laws including Articles, Rules and Regulations; the quality of the relevant person's anti money laundering policies, procedures, systems and controls; any findings and how the relevant person has taken them into account; any internal STRs made by the relevant person's staff and action taken in respect to those reports, including the grounds for all decisions; any external STRs made by the relevant person and action taken in respect to those reports

including the grounds for all decisions; the results of the review of effectiveness of its anti money laundering policies, procedures, systems and controls; and any other relevant matters related to money laundering as it concerns the relevant person's business.

588. A relevant person must ensure that its senior management promptly assesses the report provided by the MLRO, take action, as required subsequent to the findings of the report, in order to resolve any identified deficiencies and make a record of their assessment and the action taken. The report provided by the MLRO and the records of the assessment and actions must be documented in writing. A complete copy of each document must be provided to the Regulatory Authority promptly.

589. Rule 3.3 5 of the QFCRA AML Rulebook requires that the testing for compliance with policies, procedures and controls be undertaken by the internal audit or compliance oversight function or by a competent firm of independent auditors or compliance professionals. The relevant person must ensure that the review process covers at least the following: taking into account the nature, scale and complexity of the business: a sample testing of "Know Your Customer" arrangements; an analysis of all STRs to highlight any area where procedures or training may need to be enhanced; and a review of the nature and frequency of the dialogue between the senior management with the MLRO (if applicable) to ensure that their responsibility for implementing and maintaining adequate controls is satisfactory.

590. Article 17 of the QFC AML Regulation sets out the staff awareness and training requirements with which a relevant person must comply. It requires a relevant person to have arrangements to provide regular information and training to all employees to ensure that they are aware of the identity and responsibilities of the relevant person's MLRO and his deputy; applicable legislation relating to anti money laundering; the potential effect on the relevant person, its employees and its customers of breaches of applicable legislation relating to money laundering; the relevant person's anti money laundering policies, procedures, systems and controls and any changes to these; money laundering risks, trends and techniques; the types of activity that may constitute suspicious activity in the context of the business in which an employee is engaged that may warrant an internal STRs; the relevant person's arrangements regarding the making of an internal STR; the use of findings; and their individual responsibilities under the relevant person's arrangements made under these Regulations, including those for obtaining sufficient evidence of identity and recognising and reporting knowledge or suspicion of money laundering.

591. These requirements should be brought to the attention of new employees and remain available to all employees. A relevant person must have arrangements to ensure that its anti money laundering training is up-to-date with money laundering trends and techniques, its anti money laundering training is appropriately tailored to the relevant person's different activities, services, customers and indicates any different levels of money laundering risk and vulnerabilities, and all employees receive anti money laundering training.

592. A relevant person must conduct anti money laundering training sessions with sufficient frequency to ensure that within any period of 24 months it is provided to all employees. All relevant details of the relevant person's anti money laundering training must be recorded, including dates when the training was given, the nature of the training, and the names of the employees who received the training. These records must be kept for at least six years from the date on which the training was given.

593. **Employee Screening Procedures (c.15.4). Domestic sector**: There are no legal or regulatory requirements for banking and financial institutions under the QCB and MEC to put in place screening procedures to ensure high standards when hiring employees. Meetings conducted with representatives

from the private sector revealed that these firms have developed internal mechanisms and controls to ensure that potential employees are adequately screened, including conducting criminal background checks, conducted through the MOI, and verifications from previous employers.

594. Article 59 of the DSM Internal Regulations establishes the licensing requirements and screening procedures for securities brokers and their employees as follows: i) be a Qatari national ; ii) enjoy full legal capacity; iii) not have been convicted for a criminal offence or sentenced for issuing a cheque without provision; iv) have adequate bank balance unless he has been rehabilitated; v) have at least secondary school qualifications or their equivalent; vi) have good conduct and reputation; vii) devoted to the business and not working in any manner and in any capacity for another securities broker; viii) able to fulfill any other conditions to be specified and published by the market in its publication. In addition, the persons so nominated by the licensed securities brokers shall not be Chairman, member of the board of Directors or employees of a company whose shares are traded in the Market.

595. Article 60 further requires that the approval of any persons satisfying the conditions stated in the preceding Article as an agent and the delivery of the professional card thereto shall be subject to his successfully qualifying an examination regarding professional awareness. The Market shall determine the subjects, regulation and procedures of such examination.

596. **QFC**: Rule 4.6.1 of the QFCRA Controls Rulebook (which is enforceable) requires that every authorized firm have systems and controls in place to satisfy itself of the suitability of anyone who acts for it. Rule 4.6.2 goes on to require that the firm must ensure that its staff are fit and proper, appropriately trained for the duties they perform, and trained in the requirement of the legislation applicable to the QFC. The Financial Services Regulations also provide for Controlled Functions to be conducted only by Approved Individuals (Article 41). The Controlled Functions include among others Senior Executives, Directors, Finance Officers, MLRO, and Senior Management. Rule 4.3.1 of the QFC Controls Rulebook provides further guidance with respect to assessing the individual's honesty, integrity and reputation. The Authorized Firm should consider among other relevant things, whether the individual has ever:

- been convicted or found guilty of any offenses relating to fraud, theft, false accounting, serious tax offenses, dishonesty, money laundering, market manipulation, insider dealing or any other financial sector crimes;
- been refused entry to, been dismissed from, or requested to resign from any profession, position of trust or fiduciary office whether or not remunerated;
- been refused, restricted in, or had suspended, the right to carry on any business or trade for which specific license, registration or other authority is required;
- been disqualified by a court from acting as a Director or in any other management capacity of any Company, Partnership or other legal entity;
- been censured, criticized, suspended, expelled, fined or been the subject of any investigation, intervention or disciplinary proceedings by any Overseas Regulator or equivalent body;

- resigned or been required to resign from any such body;
- been a Director, Partner or otherwise involved in the management of a Company, Partnership or other related entity in any jurisdiction where either whilst involved or within one year of that association ending the entity has been wound up, put into liquidation, ceased trading, placed in receivership or administration or negotiated a settlement with creditors;
- been subject to any conviction or adverse finding of any court for fraud, misconduct, wrongful trading or other misconduct;
- been involved in the management of a Company, Partnership or other legal entity which has been subject to an investigation under companies or other such legislation for malpractice or misconduct;
- been the subject of disciplinary procedures by a government body, agency or other self regulatory body or organization;
- the subject of a formal complaint in connection with financial services or ancillary services which relates to his/her integrity, competence or financial soundness;
- contravened any provision of financial services rules, legislation, code of practice or principle or other ethical standards as defined by any Overseas Regulator or similar such body; and
- whether the Approved Individual has been candid and truthful in all his dealings with the Regulatory Authority.

597. With regards to competence and capability, Rule 4.4.1 of the QFC Controls Rulebook provides that an Authorized Firm should consider among other relevant things:

- the securing of appropriate examination passes and competence assessments; and
- whether the individual is capable of performing functions which the Authorized Firm or applicant employs or intends to employ him to perform.

598. Rule 4.5.1 of the QFC Controls Rulebook provides guidance with respect to the financial soundness of an individual. In this respect an Authorized Firm should consider, relevant aspects like:

- whether the individual is able to meet his debts as they fall due; and
- whether the individual has been adjudged bankrupt, been the subject of a receiving or administration order, had a bankruptcy petition served on him, had his estate sequestrated, entered into a deed of arrangement (or any contract in relation to a failure to

pay due debts) in favor of his creditors or, within the last 10 years, has failed to satisfy a judgment debt under a court order, whether in the State or elsewhere.

599. **Additional element (c.15.5) - Domestic sector:** QCB instructions Chapter 7, Section 10 requires banks to appoint an officer or establish an unit in the bank, to be responsible for following up the implementation of QCB laws and instructions, accountable directly to the board of directors. Section 10.2 of this Chapter grants the compliance officer with the necessary independence and access right to all areas of the institution and to the information they may hold. Article 9 of the DSM decision addresses the appointment of qualified personnel at the administration level; however, it falls short of indicating the ability of this personnel to act independently and to report to management above the compliance officer 's next reporting level or the board of directors. Section 3 of MEC's circular addresses the appointment of a follow up officer charged mainly with the verification of the implementation of the policies and plans within the company and its different departments and branches, but falls short of addressing the requirement of this criterion. In addition, MEC's circular is not enforceable.

600. **QFC:** Article 6(2) of the QFC AML Regulations requires that a relevant person must set up and operate arrangement including the appointment of a MLRO. Article 8 of the QFC AML Regulations further requires that a relevant person must appoint an individual to act as its MLRO and operate arrangements that are designed to ensure that it and the MLRO comply with the relevant obligations of these Regulations. A relevant person must ensure that the MLRO is of sufficient seniority within the relevant person to enable him to: act on his own authority; have direct access to the senior management of the relevant person; have sufficient resources including, if necessary, an appropriate number of appropriately trained employees to assist in the performance of his duties in an effective, objective and independent manner; have unrestricted access to information about the financial and business circumstances of a customer or any person on whose behalf the customer is or has been acting; and have unrestricted access to relevant information about the features of the transactions which the relevant person has entered into or may have contemplated entering into with or for the customer or that person. Under Article 8(7) of the QFC Regulations the MLRO must report at least annually to the senior management of the relevant person.

601. **Application of AML/CFT Measures to Foreign Branches & Subsidiaries (c.22.1, 22.1.1 & 22.1.2) and Requirement to Inform Home Country Supervisor if Foreign Branches & Subsidiaries are Unable to Implement AML/CFT Measures (c.22.2). Domestic sector**: Section 14 of the QCB AML/CFT Instructions requires banking and financial institutions to demand from their branches and subsidiaries companies operating abroad to comply with the QCB Instructions, as much as with the laws of the host country, as permitted, especially if those branches and subsidiaries companies operate in countries which do not totally or partially comply with the recommendations. If these institutions find that the laws applicable in the countries in which these branches or subsidiaries operate hamper the application of the rule, they must report to the FIU at the QCB. Although the spirit of the QCB Instructions is for banking and financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country, as well as host country requirements and the FATF Recommendations, the requirement falls short because it does not explicitly require branches and subsidiaries to apply the higher standard, to the extend that local laws and regulations permit. Also, the requirement to inform the FIU does not seem adequate given that the regulatory authority with responsibility over banking and financial institutions compliance with laws and regulations is the QCB. The FIU should be contacted with matters dealing with suspicious transactions.

602. With respect to the DSM and MEC, the authorities stated that there are no branches or subsidiaries operating abroad. Therefore no provisions/measures have been established for financial institutions regulated by these two entities to ensure that in the event that a foreign branch and/or subsidiary is authorized to operate abroad, it observes AML/CFT measures consistent with home country requirements and the FATF Recommendations, to the extent that local (i.e. host country) laws and regulations permit; pays particular attention that this principle with respect to their branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations; and meets the minimum AML/CFT requirements of the home and host countries differ, to apply the higher standard, to the extent that local (i.e. host country) laws and regulations permit.

603. **QFC**: Article 6(5) of the QFCRA AML Regulations requires that a relevant person must ensure that its anti money laundering policies, procedures, systems and controls apply to any branch or subsidiary operating in another jurisdiction. Article 6(6) further states that if another jurisdiction's laws or regulations prevent or inhibit a relevant person from complying with the Law No. 28 of 2002 on Anti Money Laundering or with the regulations, the relevant person must promptly inform the Regulatory Authority in writing. Guidance provided under Rule 3.3.6 of the QFCRA AML Rulebook states that if another jurisdiction's laws or regulations prevent or inhibit a relevant person from complying with the AML Law or the AML Regulations, the Regulatory Authority may impose restrictions that may be necessary, preventing it from operating a branch or subsidiary in that jurisdiction. There is also an additional requirement imposed by the QFCRA for entities to conduct a periodic review to verify that any branch or subsidiary operating in another jurisdiction is in compliance with the obligations imposed under the AML Law and the provision of the AML Regulation.

604. **Additional element (c.22.3) – Domestic sector:** The QCB, DSM, and MEC have not established measures to ensure that financial institutions are consistently applying CDD measures at the group level. **QFC:** Article 6(5) of the QFC AML Regulations requires that a relevant person must ensure that its AML policies, procedures, systems and controls apply to any branch or subsidiaries operating in another jurisdiction. However, under Rule 3.9.1 of the QFC AML Rulebook, a relevant person is not required to establish the identity of a customer pursuant to Article 9(1) of the QFC AML Regulations if the customer is one of the following: an authorized firm or another relevant person; or a regulated financial sector firm from a FATF country.

3.9.1 Recommendations and Comments

605. **Domestic sector**: The authorities are recommended to:

- Set out clear requirements for all financial institutions to establish and maintain internal procedures, policies, and controls so that the same requirements apply uniformly to policies and controls addressing customer due diligence, record retention, detection of unusual and suspicious transactions and the reporting obligation.

- Strengthen the QCB requirement to ensure that the staff supporting the designated AML/CFT compliance officer has timely and unrestricted access to customer information data and other customer due diligence information, transaction records, and other relevant information.

- Impose a similar requirement on financial institutions that are regulated by the DSM and MEC.

- Require all financial institutions to ensure that the scope of the internal audit function (or outsourcing of this function) includes AML/CFT reviews/audits and an overall assessment of the financial institutions' adequacy of the internal control systems and policies with respect to AML/CFT;

- Require financial institutions under the supervision of the DSM and MEC to maintain an adequately resourced and independent audit function to test compliance with the procedures, policies and controls; and

- Require banking and financial institutions under the supervision of the QCB and MEC to put screening procedures in place to ensure high standards when hiring employees.

606. The QCB is further recommended to expand the existing measures to establish an explicit obligation for financial institutions to apply the higher AML/CFT standard, to the extent that local laws and regulations permit.

607. The authorities should set out provisions for financial institutions under the control of the DSM and MEC in the event that foreign branches and subsidiaries are established to ensure that these institutions observe AML/CFT measures consistent with home country requirements and the FATF Recommendations, to the extent that local (i.e. host country) laws and regulations permit; 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; and where the minimum AML/CFT requirements of the home and host countries differ, to apply the higher standard, to the extent that local (i.e. host country) laws and regulations permit.

3.9.2 Compliance with Recommendations 15 & 22

	Rating	Summary of factors underlying rating
R.15	**PC**	• Inconsistencies with respect to QCB and DSM requirements and MEC non-binding measures for financial institutions to comply with the same requirements including adequate procedures, policies and controls for customer due diligence, record retention, detection of unusual and suspicious transactions and the reporting obligation. • Lack of specific QCB requirement to provide timely and unrestricted access to all customer information to the staff supporting the compliance officer. • Lack of specific DSM and MEC requirement to provide timely and unrestricted access to all customer information to the compliance officer as well as his/her staff. • Lack of DSM and MEC requirement for internal audit function to assess the adequacy of internal control systems and policies with respect to AML/CFT and to maintain an adequately resourced and independent audit function. • Lack of legal or regulatory requirements imposed by QCB, DSM and MEC for financial institutions to put in place screening procedures to ensure high standards when hiring employees.
R.22	**PC**	• Lack of obligation imposed by the QCB on financial institutions with branches and

		subsidiaries to apply the higher standard, to the extent that local laws and regulations permit. • No legal or regulatory requirements established by the DSM and MEC for financial institutions to comply with the provisions of this recommendation.

3.10 Shell banks (R.18)

3.10.1 Description and Analysis

608. **Prohibition of Establishment of Shell Banks (c.18.1). Domestic sector**: There are no explicit provisions in the law or regulations or other enforceable means that would explicitly prohibit the establishment of shells banks in Qatar.

609. The QCB licensing requirements for banks set out in Chapter 11 (Article 52 to 59) of QCB law of 2006 may prevent to a certain extent the establishment of shell banks in Qatar but fail to do so entirely: in order to be granted the license, the applicant must (amongst other things) have been established as a joint-stock company pursuant to the Law No 33 of 2002 on Commercial Companies (Article 52 of the QCB Law). Article 3 of the Law on Commercial Companies provides in turn that "every company established in Qatar shall be of a Qatari nationality with its headquarters in Qatar". There are however no further measures that would define headquarters or require physical presence in a way that would encompass the meaningful "mind and management" of the company, and there are no indications that the QCB ensures itself of the applicant's physical presence in Qatar.

610. The situation is equally unclear as far as continued operations of shell banks that might have been established under previous laws: whilst the licensing requirements contained in the 1993 QCB law (which established the QCB) were similar, it has not been established that the physical presence was required under the legal framework that applied before the enactment of the 2002 law on commercial companies.

611. **QFC**: Article 14—Limited Liability Companies (LLC)—of the QFC Companies Regulations conveys that a form of legal entity known as a limited liability company may be incorporated in the QFC. It further states that an LLC is a Company which is formed by being incorporated under these Regulations. Article 17(1)—Incorporation of a Limited Liability Company—of the Companies Regulations states that any one or more persons may apply for the incorporation of an LLC for the purpose of carrying on a business of a kind permitted by the QFC Law to be conducted in the QFC by signing and filing with the Companies Registration Office (CRO) an incorporation document together with the prescribed fee and otherwise complying with the requirements of these Regulations in respect of registration. Article 17(2)(C) requires that the incorporation document filed with CRO should set out or have attached thereto the address of the registered office of the LLC, which should be in the QFC.

612. Article 42—Situation of registered office—of the Companies Regulations requires that once a limited liability company is incorporated in the QFC, it must have a registered office in the QFC and carry on business from that office unless the QFC Authority permits such business activity to be carried on at or from another place within the QFC. Therefore a bank must be authorized by the QFC Regulatory Authority to have a physical presence in the QFC.

613. In addition, Rule 2.2.1 (A) of the Individuals Rulebook (INDI)—Additional Requirements for specific Controlled Functions—states that the senior executive function must be carried out by an individual who in the case of a local firm is ordinarily resident in the State.

614. **Prohibition of Correspondent Banking with Shell Banks (c.18.2) and Requirement to Satisfy Respondent Financial Institutions Prohibit of Use of Accounts by Shell Banks (c.18.3). Domestic sector:** There are no measures in place that would effectively prevent the financial institutions from entering into, or continuing correspondent banking relationships with shell banks.

615. Similarly, there are no requirements on the financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.

616. **QFC**: Article 12(3) of the QFCRA AML Regulation prohibits authorized firms from establishing a correspondent banking relationship with a shell bank; establishing or keeping anonymous accounts or accounts in false names or maintaining a nominee account which is held in the name of one person, but controlled by or held for the benefit of another person whose identity has not been disclosed to the authorized firm.

617. Rule 3.12 of the QFCRA Rulebook provides further guidance to relevant persons by requiring them to take specific care while assessing the anti money laundering arrangements of correspondent banking clients and, if applicable, other qualified professionals relating to customer identification, transaction monitoring, terrorist financing and other relevant elements and to verify that these business partners comply with the same or equivalent anti money laundering requirements as the relevant person. A relevant person should ensure that a correspondent banking client does not use the relevant person's products and services to engage in business with shell banks. A relevant person should also have arrangements to guard against establishing a business relationship with business partners who permit their accounts to be used by shell banks.

618. Article 42 of the QFC Companies Regulations requires that once a limited liability company is incorporated in the QFC, it must have a registered office in the QFC and carry on business from that office. Further, a bank must be authorized by the QFCRA to have presence in the QFC. Rule 2.2.1 of the QFC Individuals Rulebook requires a person carrying on a senior executive function of a firm incorporated in the QFC to reside in Qatar. Rule 2.2.2 requires a person carrying on the MLRO function to be a resident in Qatar.

3.10.2 Recommendations and Comments

619. The authorities are recommended to:

- Amend the QCB licensing requirements with a view to clearly prevent the establishment of shell banks in Qatar;
- Prohibit banks from entering into or continuing correspondent relationships with shell banks; and
- Require financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.

3.10.3 Compliance with Recommendation 18

	Rating	Summary of factors underlying rating
R.18	**PC**	• Measures in place in the domestic sector are not sufficient to effectively prohibit the establishment of shell banks and do not prevent domestic banks from having dealings with foreign shell banks.

3.11 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R. 17, 23, 25 & 29)

3.11.1 Description and Analysis

620. **Regulation and Supervision of Financial Institutions (c. 23.1) and Designation of Competent Authority (c.23.2). Domestic sector:** Article 7 of the AML Law provides that the "competent entities" shall determine the duties of the financial institutions and follow-upon their implementation. The definition of "competent entity" pursuant to Article 1 of the AML Law comprises the Ministry or government department or general authority, or public corporation or QCB as the case may be.

621. Article 5 paragraph 12 of the QCB Law provides that "the QCB should lay out and enforce the State monetary policy, policy of the rate of exchange and financial and banking supervision. To achieve this, the QCB is empowered to (...) supervise and control (...) money laundering in accordance to law or as authorized by the State". As such, the QCB is responsible for AML/CFT regulation and supervision of banks, investment companies, finance companies and exchange houses (which include money transfer services and money/currency changing). In 2006, it issued enforceable instructions on combating money laundering and terrorism financing.

622. Article 11 of the DSM Law establishes the DSM's powers and functions for operating the market. Under Article 11 the DSM has the power to review and decide on applications for licensing and membership. Under Article 12 of the same law, the DSM is empowered to inspect and review the records of brokers and intermediaries and their books and all transactions records, to check the audit the activities of the departments in charge of issuing securities in the public companies listed in the Exchange, and securities portfolios managed by any registered member in the market.

623. There are no provisions in law or regulation that extend the duties of the regulators for the MEC, to regulation and supervision for AML/CFT purposes. The MEC nevertheless acts as *de facto* AML/CFT supervisors in their respective remit and issued AML/CFT measures that are drafted in mandatory terms. In the absence of a clear legal basis for the MEC's supervisory role, these measures are not enforceable. MEC has only issued guidance to financial institutions under its responsibility. The authorities were not able to provide documentation to support that inspections focused on AML/CFT were conducted prior to the assessment visit.

624. **QFC**: The QFCRA is responsible for the licensing and regulation/supervision of all authorized firms including those that are subject to the Core Principles, on both a prudential and conduct of business basis (Article 9 and Schedule 3 and 4 of the QFC law). Schedule 3 describes the business activities that may be carried on in or from the QFC including:

- Financial business, banking business of whatever nature and investment business, including (without limit) all business activities that are customarily provided by investment, corporate and wholesale financing banks, as well as Islamic and electronic banking business;

- Insurance and reinsurance business of all categories;

- Money market, stock exchange and commodity market business of all categories, including trading in and dealing in precious metals, stocks, bonds, securities, and other financial activities derived therefrom, or associated therewith;

- Money and asset management business, investment fund business, their provision of project finance and corporate finance in all business fields and Islamic banking and financing business;

- Funds administration, fund advisory and fiduciary business of all kinds;

- Pension fund business and the business of credit companies;

- The business of insurance broking, stock broking, and all other financial brokerage business;

- Financial agency business and the business of provision of corporate finance and other financial advice, investment advice and investment services of all kinds; and

- The provision of financial custodian services and the business of acting as legal trustees.

625. The QFCRA's remit encompasses the fight against money laundering and "other financial improprieties" which is understood to cover as terrorist financing (Schedule 2 of the QFC Law). Part 5 of the QFC Financial Services Regulations (FSR) of 2005 sets out the QFCRA's role with respect to authorization of firms that wish to operate in or from the QFC; Article 15 of the QFC AML Regulations provides for a risk assessment system to include policies, procedures, systems and controls to address money laundering risks; and Part 8 of the QFC FSR provides for basis for the QFCRA's supervision and investigations.

626. The QFCRA is aware that for branches operating within the QFC the head office of a branch may be subject to consolidated supervision in another jurisdiction. Where that is the case, the QFCRA will ensure that the supervisory oversight by the lead regulator is consistent with the Core Principles and FATF standards as also applied by the QFCRA. The QFCRA would expect that the risk management framework operating within head offices, would also extend o the branch and include money laundering and terrorist financing risks. In such cases, the QFCRA will request the necessary comfort from the lead regulator that its supervisory methodology is consistent with the QFCRA's approach. Where the QFCRA is the lead regulator, supervision will be on a consolidated basis.

627. **Fit and Proper criteria and Prevention of Criminals from Controlling Institutions (c.23.3) and Application of Prudential Regulations to AML/CFT (c.23.4). Domestic sector**: The QCB,

through its licensing/authorization process, has established the necessary measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function, including in the executive or supervisory boards, councils, etc in a financial institution. In evaluating the fit and proper criteria the licensing/authorization department of the QCB obtains and reviews the following documentation:

- basic information about the applicant;
- shareholding structure including the names of the shareholders who own 5% of the shares or more; and
- names of members of the board of directors and CEO's of the bank, the holding company and subsidiaries.

628. The information verification procedures includes ascertaining whether:

- the bank (including the branches), the bank's holding company, its subsidiaries or sister companies or its directors have been convicted by a court judgment;
- the bank has been blamed or reprimanded by other supervision authorities with legal capacity during the past three years;
- there are any current procedures that may lead to such a conviction;
- there are any constraints on the operations conducted by the bank (including the branches), the bank's holding company, its subsidiaries or sister companies imposed by supervision authorities on the bank inside Qatar or other supervision authorities with legal capacity;
- any other licensing application form submitted by the bank to open affiliated offices (branches, subsidiaries) or representative offices in other countries been rejected;

629. The established framework for the management of risks facing the bank and the control systems in force, the roles, duties and types of risk management activities practiced inside Qatar, including the types of regional and international activities should be determined in addition to the identification of the capacities and resources inside Qatar (including the labor force, management information system and risk systems). Information related to main plans and initiatives related to risk management activities inside Qatar shall be provided, including main areas identified by auditors or senior supervisors in the bank for the purpose of strengthening these areas so as to adapt them with the bank activities. Licensing procedures for exchange houses, investment companies and finance companies are similar to those in place for banking institutions.

630. With respect to the DSM, a person engaging directly or indirectly, as agent or broker, in the business of offering, selling, buying or otherwise dealing or trading in securities must be registered as a broker with the DSM. Interviews conducted with officials from the Market Committee of the DSM revealed that there are procedures, applicable fees, and licensing requirements for granting licenses to

entities intending to carry out brokerage business in the Market. Officials stated the requirements for granting licensing to securities brokers and their agents to be as follows:

- The applicant for the license shall be a Qatari institution or company, a bank licensed to operate in the State or any establishment or natural person whom the Committee approves for carrying out brokerage business;
- The paid-up capital shall not be less than QR 5, 000, 000 (Five Million Qatari Riyals);
- The person(s) assuming the responsibilities of brokerage management shall have the prerequisite, expertise and qualifications for carrying out and managing brokerage activities;
- The manager in charge of the brokerage business shall have a University degree or the equivalent qualifications, and shall have the experience in financial or banking fields for a period of at least three years; and
- The securities broker shall undertake to submit, when requested, a summary of financial statements and reports approved by a financial controller for the last consecutive three years or the period from the date of incorporation, whichever is shorter.

631. The securities firm should, when requested by the Market, undertake to carry out the following:

- Provide a valid unconditional bank guarantee, for unlimited period, an amount of not less than QR 500, 000 (Five Hundred Thousand Qatari Riyals). This guarantee shall be payable on the first demand;
- Open and manage a settlement account with the payment bank in accordance with the procedures and regulations of the Market;
- Provide an insurance policy against trading risks, mismanagement and the inability to discharge financial obligations, for an amount not less than QR 5,00,0000 (Five Million Qatari Riyals) provided that the Market shall be the first beneficiary under such policy;
- Provide another bank guarantee of the same description, for an amount not less than (QR 2,000,000 (Two Million Qatari Riyals) to be deposited with the Market for being used in establishing a reserve guarantee fund; and
- The Committee may add any other terms or requirements.

632. The securities firms who are licensed to carry out brokerage business in the Market shall be registered in a special record prepared by the Market for this purpose. Every securities broker shall be given a serial number. The record should also contain all information submitted by the broker to the Market on submitting the license application.

633. The securities brokers who are licensed to carry out brokerage business in the Market should nominate specific persons from among their employees for acting as their agents in the Market provided that these agents shall satisfy the following conditions and requirements:

- Be of a Qatari nationality;
- Enjoying full legal capacity;
- Not convicted for any criminal offense or sentenced for issuing a cheque without sufficient bank balance unless he has been rehabilitated;
- Having at least secondary school qualifications or the equivalent;
- Bears good conduct and reputation;
- Is devoted to the business and does not work in any manner and in any capacity for another securities broker; and
- Fulfill any other conditions to be specified and published by the market in its publication.

The authorities indicated that the persons so nominated by the licensed securities brokers should not be a Chairman, a member of the board of directors or employees of a company whose shares are traded in the Market.

634. Licensing procedures from the Commercial Affairs Department, the supervisory authority for insurance companies, of the MEC although requested were not available to the mission.

635. **QFC**: As part of the authorization process to allow firms to undertake regulated activities in or from the QFC, the QFCRA performs an assessment of the individuals and the firm to be authorized to ensure that the individuals are capable of and will comply with the AML/CFT requirements. The QFCRA also has a vetting approach with respect to the licensing and/or authorization of firms and individuals wishing to operate in or from the QFC. In respect of firms authorized by the Regulatory Authority, certain controlled functions must only be conducted by individuals approved by the Regulatory Authority. In considering approval, the Regulatory Authority considers the persons qualifications, experience and fitness and propriety. The Regulatory Authority therefore obtains information in respect of the applicants': (i) employment history; (ii) membership of professional associations; (iii) qualifications; (iv) criminal history; and (v) other relevant background.

636. Independent reviews are conducted by the Regulatory Authority to verify information provided by the applicant and additional checks are undertaken using Integrascreen, Bankers Almanac and other on-line sources. In particular, prior to authorization, the QFCRA considers several aspects in determining whether individuals are fit and proper to be authorized. Part 7 of the QFC FSR provides detailed provisions for the approval of persons performing controlled functions. A controlled function is a function which involves the exercise of significant influence over the conduct of the firm's affairs in relation to Regulated Activities; dealing directly with clients or customers in relation to Regulated Activities; or dealing with the property of clients or customers and is specified as a Controlled Function in Rules issued by the Regulatory Authority from time to time. Controlled functions include Senior Executives, Directors,

Finance Officers, MLRO, and Senior Management, among others. Article 41 of the QFC FSR requires the Authorized Firms to ensure that no individual acting for the Authorized Firm or a contractor of the Authorized Firm performs a controlled function for that Authorized Firm unless the individual is approved by the Regulatory Authority as an Approved Individual.

637. Rule 4.3.1 of the QFC Rulebook provides further guidance with respect to assessing the individual's honesty, integrity and reputation. Under Appendix A.1.1 of the INDI Rulebook, the Authorized Firm should consider among other relevant things, whether the individual has ever:

- been convicted or found guilty of any offenses relating to fraud, theft, false accounting, serious tax offenses, dishonesty, money laundering, market manipulation, insider dealing or any other financial sector crimes;
- been refused entry to, been dismissed from, or requested to resign from any profession, position of trust or fiduciary office whether or not remunerated;
- been refused, restricted in, or had suspended, the right to carry on any business or trade for which specific license, registration or other authority is required;
- been disqualified by a court from acting as a Director or in any other management capacity of any Company, Partnership or other legal entity;
- been censured, criticized, suspended, expelled, fined or been the subject of any investigation, intervention or disciplinary proceedings by any Overseas Regulator or equivalent body;
- resigned or been required to resign from any such body;
- been a Director, Partner or otherwise involved in the management of a Company, Partnership or other related entity in any jurisdiction where either whilst involved or within one year of that association ending the entity has been wound up, put into liquidation, ceased trading, placed in receivership or administration or negotiated a settlement with creditors;
- been subject to any conviction or adverse finding of any court for fraud, misconduct, wrongful trading or other misconduct;
- been involved in the management of a Company, Partnership or other legal entity which has been subject to an investigation under companies or other such legislation for malpractice or misconduct;
- been the subject of disciplinary procedures by a government body, agency or other self regulatory body or organization;
- the subject of a formal complaint in connection with financial services or ancillary services which relates to his/her integrity, competence or financial soundness;

- contravened any provision of financial services rules, legislation, code of practice or principle or other ethical standards as defined by any Overseas Regulator or similar such body; and

- whether the Approved Individual has been candid and truthful in all his dealings with the Regulatory Authority.

638. With regards to competence and capability, Rule 4.4.1 of the QFC Controls Rulebook provides that an authorized firm should consider among other relevant things:

- the securing of appropriate examination passes and competence assessments; and

- whether the individual is capable of performing functions which the Authorized Firm or applicant employs or intends to employ him to perform.

639. Rule 4.5.1 of the QFC Controls Rulebook provides guidance with respect to the financial soundness of an individual. In this respect an Authorized Firm should consider, relevant aspects like:

- whether the individual is able to meet his debts as they fall due; and

- whether the individual has been adjudged bankrupt, been the subject of a receiving or administration order, had a bankruptcy petition served on him, had his estate sequestrated, entered into a deed of arrangement (or any contract in relation to a failure to pay due debts) in favor of his creditors or, within the last 10 years, has failed to satisfy a judgment debt under a court order, whether in the State or elsewhere.

640. **Licensing or Registration and Monitoring and Supervision of Value Transfer/Exchange Services (c.23.5 and c.23.6). Domestic sector**: Under Article 5 paragraph 2 of the QCB Law 33, the QCB is responsible for the licensing as well as AML/CFT regulation and supervision of exchange houses (which include money transfer services and money/currency changing). Instructions issued by the QCB address the obligations and responsibilities of the value transfer/exchange services with respect to effectively implementing the AML/CFT laws and regulations.

641. **QFC**: Money or value transfer services or money or currency changing services are not one the permitted activities listed in Schedule 3 of the QFC law. Consequently, they cannot be undertaken in or from the QFC.

642. **Power of Supervisors to Monitor AML/CFT Requirements (c.29.1), Authority to conduct AML/CFT inspections by Supervisors (c.29.2), Power for Supervisors to Compel Production of Records (c.29.3 & 29.3.1) and Powers of Enforcement & Sanction (c.29.4). Domestic sector**: Overall, current supervision of financial institutions is mostly targeted towards prudential matters and does not sufficiently address AML/CFT issues.

643. The QCB is empowered to conduct AML/CFT supervision under Article 5, paragraph 12 of the QCB law. As the competent authority, it has also issued specific instructions dealing with AML/CFT. In

addition, Article 71 of Law No. (330 of 2006 (QCB) empowers the QCB to inspection financial institutions. Under this article financial institutions and their branches and the subordinate companies inside or outside the State, and the representation bureaus must provide the inspectors/supervisors with all information they require and allow them to have access to all records, accounts and document they require. It further states that secrecy of information shall not be a protest against the inspectors/supervisors responsible for conducting inspections. The access to information is not predicated on the need to require a court order. As of the mission date, however, banking and financial institutions had been subject to limited on-site AML/CFT inspections as part of the prudential visits. The QCB authorities indicated that their inspection program includes inspecting all Qatari banks every year and if possible, some of the foreign branches and subsidiaries ensuring that all banks are covered within a 24 months period. Currently, the QCB does not conduct targeted AML/CFT inspections. The authorities confirmed that the AML/CFT component is included as part of the global on-site inspection activities. The mission reviewed copies of sanitized examination reports to assess the scope and adequacy of the inspection and feedback provided to the institutions. In addition, QCB officials provided additional explanations describing how the AML/CFT work is conducted during the on-site inspections including communicating findings to management of the institution. It appeared from the review and the explanations provided that AML/CFT coverage was low. The reports reflect AML/CFT matters only when shortcomings have been identified, and otherwise contain no reference to AML/CFT procedures performed. In general, the scope of the AML/CFT inspections, reporting practices and frequency of on-site visits do not appear to be in-depth nor risk-driven to ensure that banking and financial institutions are complying with the requirements of the laws and regulations.

644. In November 2006, the QCB adopted a risk-based approach to supervision both prudential and on AML/CFT. New examination manuals and risk-based inspection procedures have been developed for banks, investment companies, finance companies and exchange houses. These new procedures include risk management matrices, templates to assign risk profiles to each institution and detailed verification procedures. As of the mission date, the QCB had implemented the new supervisory approach and methodology during one bank inspection only and was in the process of reviewing the work of the inspectors and drafting the report of examination. Therefore, given the recent adoption and establishment of the QCB's new risk-based supervisory approach, the mission was not able to assess the adequacy and effectiveness of its implementation. Additional time is needed to be able to test the effectiveness of the new supervisory approach.

645. Article 12 of the DSM Law empowers the DSM to inspect and review the records of brokers and intermediaries and their books and all transactions records, to check the audit the activities of the departments in charge of issuing securities in the public companies listed in the Exchange, and securities portfolios managed by any registered member in the market. It further requires all data and information requested by the inspection and audit team is available, accessible to the inspection and audit team and treated with high confidentiality. In the event that the entity subject to inspection and audit is a licensed bank, the DSM coordinates with the QCB and is allowed to conduct joined inspections. The DSM officials indicated that, in practice, all entities were inspected and audited annually. During these annual visits, the component of AML/CFT was reviewed with particular emphasis in three activities: compliance with the requirements of Decision 16/3; review of suspicious transactions reported; and review of cash transactions recorded and reported to the FIU. The authorities further stated that inspections were discontinued at the end of 2006, in preparation for the integration of the DMS into the Qatar Financial Monetary Authority.

646. In practice, DSM officials indicated that all entities were inspected and audited annually. During these annual visits, the component of AML/CFT was reviewed with particular emphasis in three activities: compliance with the requirements of Decision 16/3; review of suspicious transactions reported; and review of cash transactions recorded and reported to the FIU. The authorities further stated that inspections were discontinued at the end of 2006, in preparation for the integration of the DMS into the Qatar Financial Monetary Authority.

647. Meetings held with securities' supervisors and private institutions revealed that the level and frequency of inspections related to AML/CFT has been minimal. There are frequent visits from the DSM but they mostly target prudential matters and only pay particular attention to three areas when conducting AML/CFT; compliance with the Decision requirements, review of suspicious transaction reports; and review of cash transaction reports recorded and sent to the FIU. To date no sanctions have been imposed on financial institutions for non-compliance.

648. With respect to powers of enforcement and sanction, Article 58, paragraph 1 of the QCB Law empowers the QCB to revoke a financial institution's license as a sanction for violations of the provision of this law, as well as, violations to the provisions of decisions and instructions. In addition, Article 105 of the same law provides that the QCB or the Committee, as the case may be, shall impose fines on the financial institutions not exceeding (5,000) Five Thousand Qatari Riyals, daily, for violations of the law of the Bank and its instructions according to the decision of the Bank. The "Committee" refers to the Banking Committee that is established under Article 60 of Law 33, comprised by a chair – one of the Vice President of the Court of Appeal, nominated by the Supreme Council of Justice; the Deputy Governor of the QCB; and one of the qualified and experienced banking experts.

649. QCB Instructions (Part 9) provide a listing of sanctions (fines) that may apply but all of them are directly related to prudential matters and not to AML/CFT issues. In other words, the only sanctions that the QCB may issue for non-compliance with the (two) preventive measures set out in the AML instructions, are the revocation of the license and a daily monetary fine, as described above. This is clearly not proportionate in all cases. However, in practice no sanction has been imposed by the QCB for non-compliance with AML/CFT requirements.

650. In the area of sanctions, Article 20 of the DSM Law provides that a disciplinary committee be established by a decision of the Market Commission. This committee should be responsible of hearing cases against the brokers and intermediaries and listed companies traded in the market that are in break of the provision of the law, the bylaws and the decisions of regulating the Market, and the breaches related to compromising the fair and proper functioning of the market and the ethics of the business conduct. The disciplinary committee should be headed by a judge selected by the MOJ upon a suggestion by suggestions of the President of the Courts of Justice, and composed of two other members selected among the members of the Market commission to be nominated by a decision of the market commissions.

651. The disciplinary committee should apply the following sanctions: blame, warning, confiscating fully or partially of the Bank deposit; stopping dealing in a specific securities, or stopping a broker or an intermediary from conducting business for a period not more than four months; and withdraw membership. Similar to the QCB, in practice no sanction has been imposed by these authorities for non-compliance with AML/CFT requirements.

652. The MEC appears to be the de facto supervisor for AML/CFT matters with respect to the insurance sector, to date, MEC has only issued guidance to financial institutions under its responsibility.

Similar to the QCB and DSM, in practice no sanction has been imposed by the authorities for non-compliance with AML/CFT requirements.

653. **QFC**: The QFC law and the QFC FSR sets out the QFCRA's role in the regulation of financial services in the QFC. The QFC AML Regulations which were enacted by the Minister of Economy and Commerce in September 2005, designate the QFCRA as the sole supervisory authority responsible for ensuring compliance with the requirements set out in the Regulations. The QFCRA is given extensive powers to investigate and take disciplinary actions, as needed, under the FSR. In October 2005, the QFCRA issued its AML Rulebook which provides further requirements and guidance to the relevant persons operating in or from the QFC. The AML Regulations contain further provisions on the supervisory powers of the QFCRA including a regime for the approval of individuals performing certain controlled functions. The regulations also set out the QFCRA's powers in respect of investigations, enforcement and discipline. Under Part 8 – Supervision and Investigation, the QFCRA has the power to require persons in the QFC to obtain documents and information including specified information or information of a specified description; and/or specified documents or documents of a specified description, within a timetable and in such form and manner as the Regulated Authority may require. The QFCRA is authorized to enter the premises of any person in the QFC at any time for the purpose of inspecting and copying information or documents stored in any form on such premises. The QFCRA may, by notice in writing given to a person require the production to the QFCRA of a report by a nominated person on any matter about which the QFCRA has required or could require the provision of information or production of documents.

654. The power to conduct inspections of a person in the QFC is granted to the QFCRA under Part 8, Article 48(3). Under this Article, the QFCRA may enter the premises of any person in the QFC at any time for the purpose of inspecting and copying information or documents stored in any form on such premises. This power is not predicated on the need to obtain a court order. In conclusion, a framework has been implemented to ensure that adequate supervisory measures and tools are available to the QFC/QFCRA. However, as the QFC and QFCRA are still relatively new, the effectiveness of the policies and programs are yet to be tested.

655. **Availability of Effective, Proportionate & Dissuasive Sanctions (c.17.1), Designation of Authorities (c. 17.2), Ability to Sanction Directors & Senior Management of Financial Institutions (c.17.3), and Range of Sanctions – Scope and Proportionality (c.17.4).** The AML Law deals with some preventive measures but in a very limited way: Article 4 prohibits the "tipping-off" and Article 6 addresses the reporting requirements (see write-up under Rec. 5, 13 and SR IV). Non-compliance with Article 4 is punishable by imprisonment for a period not exceeding one year and a fine of not more than QR. 3,000. These penalties shall be doubled if the crime is committed in collaboration with one person or more as well as in the case of repetition (i.e. if the accused person has committed a similar crime within a period of five years after having served the penalty for the original offense). The AML Law does not however provide a sanction for failure to report suspicious transactions. The other penalties that figure in the AML Law relate to the money laundering offense.

656. The AML Law and, consequently, the sanction for tipping-off, are enforceable in both the domestic sector and the QFC. However, the law provides for criminal sanctions which may only be issued by a criminal court. This would entail that the supervisory authorities that detect a case of tipping-off should seize the public prosecutor's office, but none of the relevant texts provides this.

657. **Domestic Sector**: Article 58, paragraph 1 of the QCB Law enables the QCB revoke a financial institution's license as a sanction for violations of the provision of this law, as well as, violations to the provisions of decisions and instructions. In addition, Article 105 of the same law provides that the Bank (QCB) or the Committee, as the case may be, shall impose fines on the financial institutions not exceeding (5,000) five thousand Qatari Riyals, daily, for violations of the law of the bank and its instructions according to the decision of the Bank. The "Committee" refers to the Banking Committee that is established under Article 60 of Law 33, comprised by a chair – one of the Vice President of the Court of Appeal, nominated by the Supreme Council of Justice; the Deputy Governor of the QCB; and one of the qualified and experienced banking experts.

658. The QCB Instructions (Part 9) provide a listing of further sanctions (fines) that may apply but all of them are directly related to prudential matters and not to AML/CFT issues. In other words, the only sanction that the QCB may issue for non-compliance with the (two) preventive measures set out in the AML instructions, is the revocation of the license. This is clearly not proportionate in all cases.

659. Meetings with QCB officials revealed that between 2004 and 2006, the QCB imposed 79 financial fines ranging from QR. 1,500 to QR. 4.7 million, all of them involving violations of prudential instructions. Besides financial fines, the QBC has also exercised its prudential powers using other non-monetary sanctions including enforcing cease and desist orders, removing directors and officers, and placing a financial institution under administration. However, no sanction has been imposed by the QCB for non-compliance with AML/CFT requirements. This may be explained in part by the fact that the QCB had only been granted the powers to supervise AML/CFT issues a few months before the onsite visit but, in the assessors' views, it could also be due to the fact that the QCB does not put sufficient focus on supervision of AML/CFT issues.

660. Regarding sanctions, Article 20 of the DSM Law provides that a disciplinary committee be established by a decision of the Market Commission. This committee should be responsible of hearing cases against the brokers and intermediaries and listed companies traded in the market that are in break of the provision of the law, the bylaws and the decisions of regulating the Market, and the breaches related to compromising the fair and proper functioning of the market and the ethics of the business conduct. The disciplinary committee should be headed by a judge selected by the MOJ upon a suggestion by suggestions of the President of the Courts of Justice, and composed of two other members selected among the members of the Market commission to be nominated by a decision of the market commissions.

661. The disciplinary committee should apply the following sanctions: blame, warning, confiscating fully or partially of the Bank deposit; stopping dealing in a specific securities, or stopping a broker or an intermediary from conducting business for a period not more than four months; and withdraw membership. Although the disciplinary committee has the power to impose financial sanctions up to a maximum of two million Qatari Riyals, there is no clear mechanism to ensure that the range of financial sanctions is broad and that sanctions are proportionate to the severity of the situation. Similar to the QCB, in practice no sanction has been imposed by the DSM for non-compliance with AML/CFT requirements.

662. Meetings conducted with the MEC's authorities revealed that no penalties/sanctions have been imposed for non-compliance with AML.

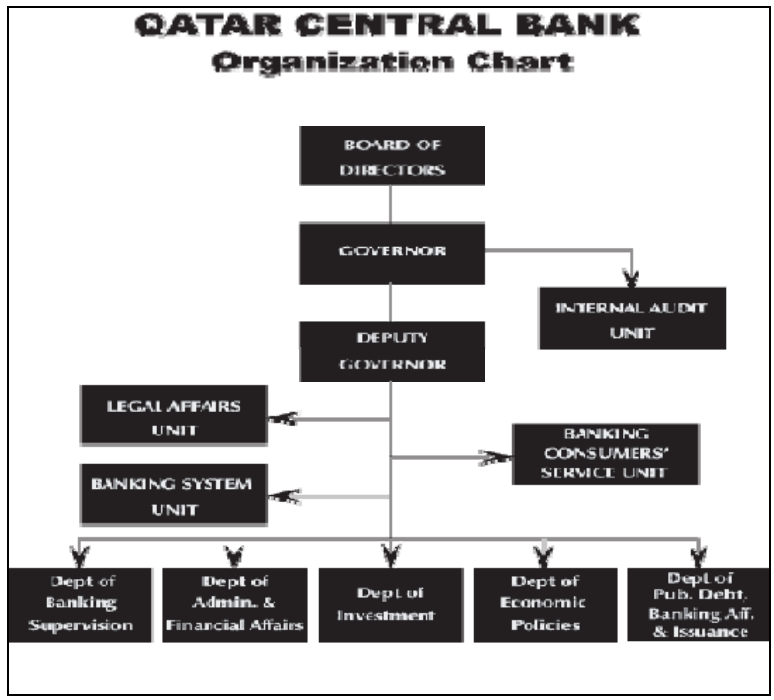
663. **QFC**: I Part 9 of the FSR sets out the disciplinary and enforcement actions that the QFCRA may take. They include:

- publicly censure (Article 58);
- financial penalties (the amounts of which are not specified; Article 59);
- appointment of managers (Article 60);
- undertakings: the QFCRA may require a person to give a legally enforceable undertaking, such as an undertaking to refrain from engaging in any particular type of conduct (Article 61);
- prohibition of certain activities or obligation to act in a certain way (Art,. 62);
- commence proceedings before the Tribunal either to seek assistance in the enforcement of the QFCRA's regulatory powers or to seek specific disciplinary redress (Article 63, 64 and 65). Orders sought may include injunctions, orders for winding up or the appointment of administrators;

664. None of these sanctions had been issued at the time of the assessment. This may be explained by the fact that the QFC is relatively new and that most of the QFC firms was still starting business. The effectiveness of the regime in place for sanctioning non-compliance with the requirements of the AML Law, QFCRA AML Regulations, and QFCRA AML Rulebook therefore could not be tested. The QFC needs additional time to be able to test the effectiveness of the regime.

665. **Adequacy of Resources for Competent Authorities (c.30.1), Integrity of Competent Authorities (c.30.2), Training for Competent Authorities (c.30.3), and Statistics (applying R.32). Domestic sector**: The organizational structure of the QCB is as shown in Figure 5.

Figure 5. Organization Chart of the Qatar Central Bank



666. Within the QCB, the Department of Banking Supervision is responsible for supervising the activities of Financial Institutions (i.e., banks, investment and finance companies, and exchange houses) in prudential as well as AML/CFT related risks. More specifically, the Department of Banking Supervision:

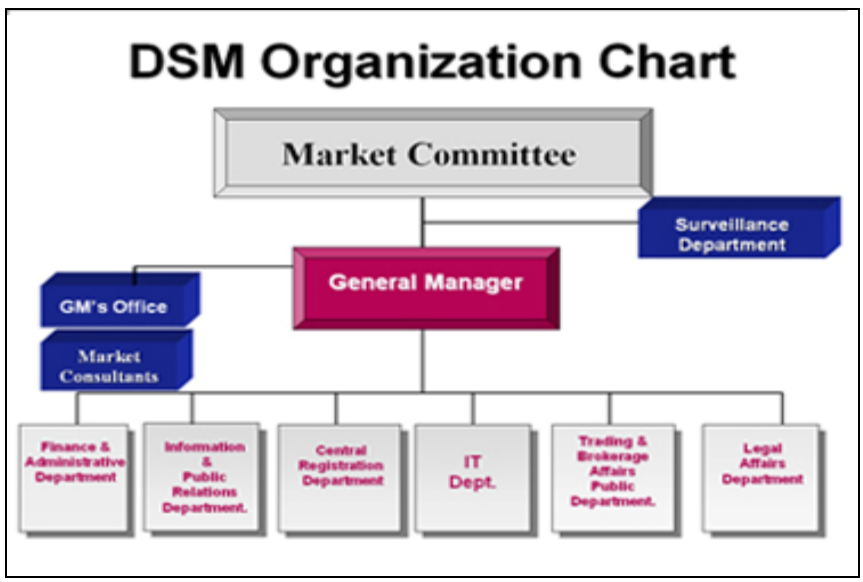
- Inspects FIs and verifies their compliance with the provisions and terms of the Law and Regulations issued by QCB;
- Obtains necessary information and data from FIs to verify compliance with QCB's instructions;
- Proposes the issuance of necessary instructions, regulations and directives to organize the activities of FIs;
- Studies violations committed by FIs and propose the appropriate fines in this regard;
- Proposes issuing and renewing FIs' licenses;
- Supervises any FI liquidation;
- Studies the banking risks through on-site and off-site inspections; and

- Fulfills any other function that falls within, related to, or implied by the nature of work at the department.

667. As of the mission date, the Department of Banking Supervision had a staff of 14 supervisors assigned to on-site inspections. Training on AML/CFT matters has been coordinated mainly by the FIU. QCB staff also participated in local and regional AML/CFT workshops. However, a specific listing of courses and workshops attended in the last 12 months was not available.

668. The organization structure of the DSM is as shown in Figure 6.

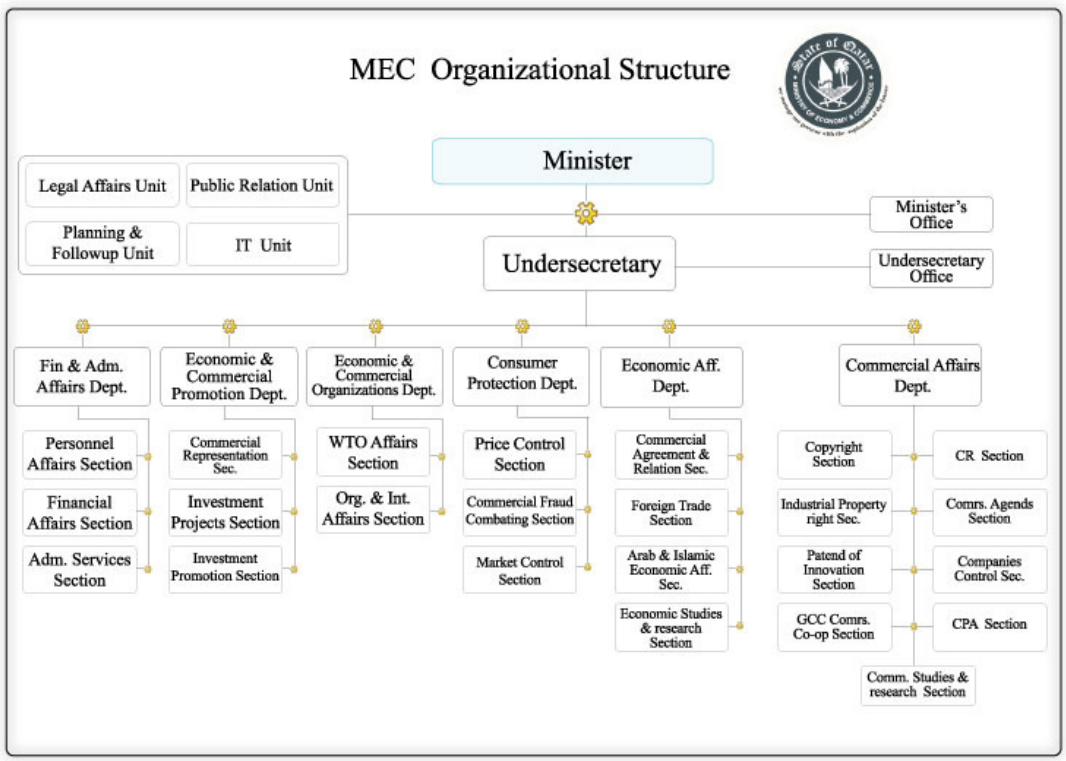
Figure 6. DSM Organization Chart



669. Based on meetings conducted with DSM officials, supervision of AML/CFT falls within the responsibility of the Surveillance Department, including inspection, surveillance and audit departments. The DSM staff is comprised of approximately 100 individuals, with 7 assigned to inspections of brokerage firms. No training information was available for review, although the officials indicated that AML/CFT training had taken place during 2005 and 2006.

670. The organization structure of the MEC is shown if Figure 7.

Figure 7. MEC Organizational Structure



671. Under this structure, the Commercial Affairs Department is responsible for licensing insurance companies. However, officials were not sure whether AML/CFT was also under their scope of supervision. Also, as in the other cases, training information on AML/CFT matters was not available for review. The mission was not able to discuss with MEC staff the licensing procedures and practices governing insurance companies. Individuals responsible to these activities were not available during the mission.

672. **QFC**: Under Article 8 of the QFC Law, the QFCRA (Regulatory Authority) is a body corporate incorporated in the State of Qatar. The Regulatory Authority has financial and administrative autonomy from the State of Qatar, the QFC Authority, and the QFC institutions. The Regulatory Authority has both a supervisory and investigative/enforcement arm which are staffed by personnel recruited from around the world with extensive and recognized experience within their field. The State of Qatar is required under Article 8(4) to provide adequate funding directly to the Regulatory Authority. The establishment of the Regulatory Authority outlined in Schedule 4 of the QFC Law provides for sufficient operational independence and autonomy. Refer also to the "Overview of the Financial Sector" section for additional information on the organization of the QFC. The QFCRA is an independent body as evidenced by: (i) management of the Regulatory Authority being vested, by Qatari law, in the Board of the Regulatory Authority; (2) the Regulatory Authority reporting directly to the Council of Ministers of the State of Qatar; and (3) members of the Board only being able to be removed by the Council of Ministers if the member:

1) becomes incapable through ill health of performing his duties;

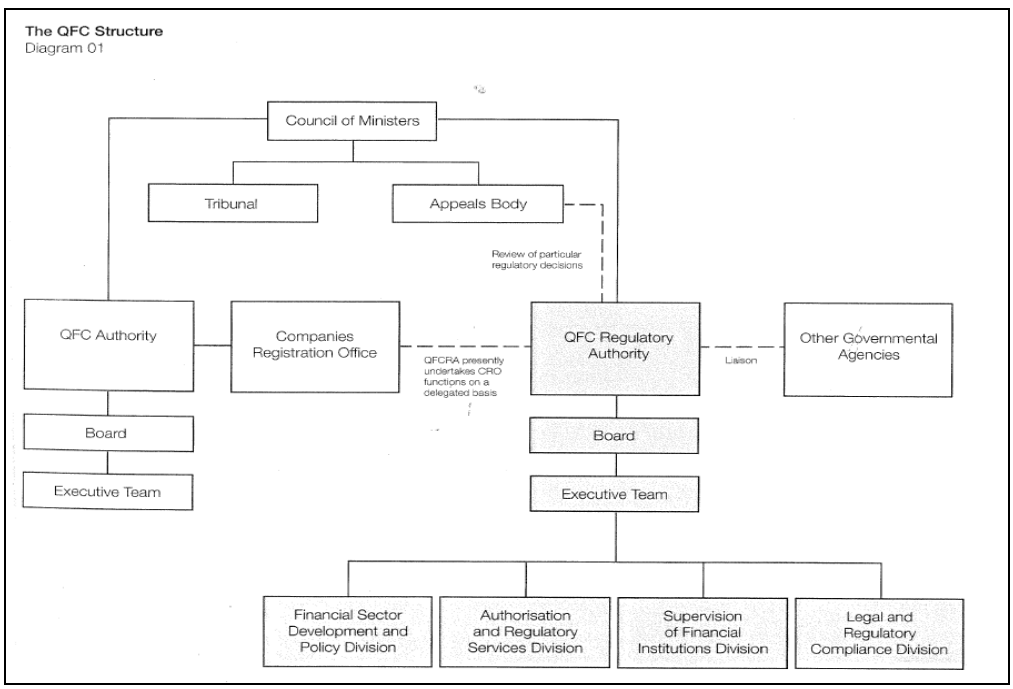
2) becomes bankrupt;

3) is convicted of a criminal offense or is guilty of serious misconduct; and

4) funding being provided on annual basis directly from the State of Qatar.

673. The interrelationship of these bodies is shown below:

Figure 8. Diagram of the QFC Structure



674. The Regulatory Authority has the following statutory objectives as set out in the QFC Law and Article 12 of the FSR:

- The promotion and maintenance of efficiency, transparency and the integrity of the QFC;
- The promotion and maintenance of confidence in the QFC of users and prospective users of the QFC;
- The maintenance of the financial stability of the QFC, including the reduction of the systemic risk relating to the QFC;

- The prevention, detection and restraint of conduct which causes or may cause damage to the reputation of the QFC, through appropriate means including the imposition of fines and other sanctions;

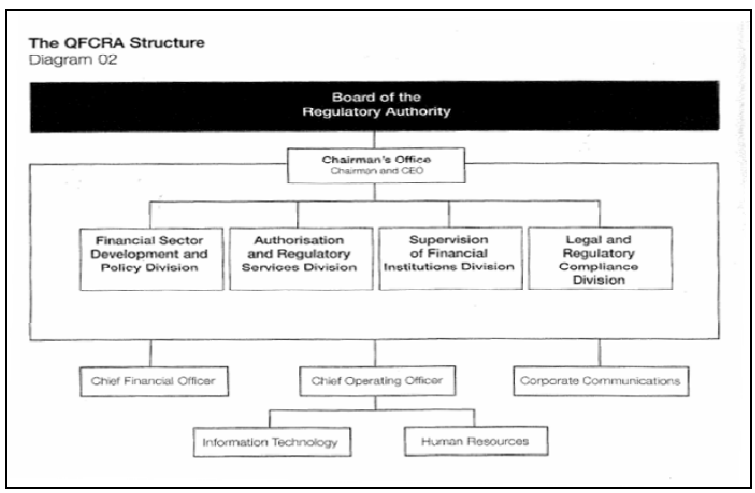
- The provision of appropriate protection to those licensed to carry on business at the QFC and their clients or customers;

- The promotion of understanding of the objectives of the QFC amongst users and prospective users of the QFC and other interested Persons; and

- Ensuring the Regulatory Authority is run with a view to: (i) it operating at all times in accordance with best international standards for financial and business centers of a similar kind; (ii) establishing and maintaining the QFC as a leading financial and business centre in the Middle East; and (iii) minimizing the extent to which the business carried on by a Person carrying on Regulated Activities can be used for the purposes of or in connection with Financial Crime.

675. The structure of the Regulatory Authority is set out in the diagram below:

Figure 9. Diagram of the QFCRA Structure



676. The QFCRA officials indicated that when selecting and recruiting staff, the highest standards are applied. Currently, professional staff are recruited from international financial regulators located in a variety of highly respected jurisdictions, including other financial centers in the region.

677. Because a core mandate of the QFCRA is the prevention and mitigation of financial crime, the QFCRA recruited an experienced anti money laundering specialist whose responsibility is to ensure not only that relevant persons are educated in respect of their obligations under the AML Regulations and the AML Rulebook, but also that the staff of the QFCRA fully understand the complexities of the AML framework operating within the QFC, the AML framework operating within the State of Qatar and the complex inter-relationship between the two.

678. The specialist is responsible for providing continuing training and assisting in the professional development to the QFCRA staff. The QFRA is currently involved in financial crime education initiatives to relevant persons.

679. Information requested from the authorities to evaluated the competent authorities' financial and human resources, statistics on licenses (applications, granted, refused), supervisory inspection programs/plans for prior and current year, and sanctions imposed by type and institution was not readily available to the mission.

3.11.2 Recommendations and Comments

Domestic sector: the authorities are recommended to:

- Establish the legal basis for AML/CFT supervision of the financial institutions currently regulated by the MEC.
- Strengthen the QCB, DSM and MEC overall AML/CFT supervision and develop formal examination procedures for AML/CFT matters.
- Re-evaluate the adequacy of the penalties regime, in particular with respect to the criminal sanction for tipping-off provided in the AML Law, and provide the domestic supervisory authorities with an adequate range of sanctions.

3.11.3 Compliance with Recommendations 17, 23, 25 & 29

	Rating	Summary of factors relevant to s.3.10 underlying overall rating
R.17	**NC**	• Inadequate penalties, in particular with respect to the criminal sanction for tipping-off provided in the AML Law. • Inadequate sanction regime with respect to the severity of the sanction that the QCB and DSM may issue. Absence of legal framework for sanctions in the insurance sector. • No penalties/sanctions imposed by QCB, DSM, and MEC related to AML/CFT.
R.23	**PC**	• No licensing procedures available for review for insurance companies licensed by the MEC. • No designated entity responsible for AML/CFT supervision for domestic insurance sector.
R.25	**PC**	• Lack of guidelines established by the DSM and the MEC for the securities and insurance sectors, respectively. • Lack of adequate and appropriate feedback from competent authorities. • Limited guidelines on AML/CFT issues provided by the QFCRA to relevant persons.
R.29	**PC**	• Lack of adequate MEC supervisory authority/powers for AML/CFT matters in insurance sector. • Lack of AML/CFT inspections of insurance companies to monitor compliance.

3.12 Money or Value Transfer Services (SR.VI)

3.12.1 Description and Analysis (summary)

680. **Designation of Registration or Licensing Authority (c.VI.1), Application of FATF Recommendations (Applying R.4,-11, 13-15, & 21-23, & SRI-IX) (c.VI.2), Monitoring of VTSO (c.VI.3). Domestic sector**: Under Article 5 paragraph 2 of the QCB Law No. 33, the QCB is responsible for the licensing, regulation and supervision of MVT service operators which, in Qatar, operate under exchange houses. Article 52 of the same law states that "no person shall use the term "bank" or logo of a bank or a finance or an investment company or an exchange office or any other financial institutions in the documents, correspondences, advertisements or any other means before obtaining the license from the QCB. Also practicing of works and activities provided for in the Law is prohibited unless it is licensed". MVT service operators are covered by and subject to the obligations imposed by the AML Law. QCB Instructions establish the requirements for MVTs to among other things:

- Identify the customers;
- Report suspicious transactions to the FIU;
- Report cash transactions greater that QR. 1000,000 (a recent Circular was issued reducing the reporting threshold to QR. 35,000);
- Maintain records for 15 years;
- Establish policies, procedures and internal controls to prevent money laundering and terrorism financing;
- Pay attention to companies and financial institutions from countries that do not apply or insufficiently apply the FATF Recommendations;
- Pay attention to complex and large transactions; and
- Appoint a compliance office responsible for AML/CFT matters.

681. With regard to customer identification, the MVTs are required to identify the direct customer executing the transaction. QCB officials indicated that inspections of these MVTs are conducted to ensure compliance with the requirements of the Instructions, monitoring of funds through banks as well as other alternative remittance operators who are routinely used to send and receive funds and settlements.

682. When transferring funds abroad, the MVTs batch the outgoing requests for transfers at the end of the day and use their bank accounts to conduct the transfers. The settlement of transactions takes place through disbursements of funds to the recipients abroad also through banking institutions as well as other MVT service providers where relationships are established. A list of service operators/agents is maintained by the exchange house and verified by QCB inspectors during on-site visits.

683. Because MVTs fall within the jurisdiction and oversight of the QCB, these institutions are also subject to the same sanctions as other financial institutions. During 1999 and 2000, QCB officials used these powers when several exchange companies were sanctioned for non-compliance with customer

identification requirements. Penalties imposed ranged from QR. 5,000 to QR. 10,000. The QCB has also temporarily closed an exchange company conducting transactions through an unauthorized business. Corrective action in this instance included removal of the company officials. The exchange company re-opened again after QCB officials validated that adequate controls were in place to avoid a similar situation in the future. In 2005 the QCB issued three enforcement actions against exchange houses in the system. In 2006 only one enforcement action was issued. However, none of these was related to non-compliance with the AML/CFT requirements.

684. Anecdotal evidence revealed that an informal money/value transfer system appears to be operating within Qatar. This informal system seems to be directly related and used by a large group of communities working in Qatar in the services and construction sectors. Individuals within these communities periodically transfer money to their families and relatives in their respective countries through exchange houses, which as mentioned earlier are supervised/regulated by the QCB. However, the mission was informed that sometimes due to high costs associated to and time delays experienced when transferring funds abroad, (combined many times with a lack of an extensive financial system network in the receiving countries) individuals have sent and are currently sending money to their families through an informal system. QCB officials indicated that they are not aware of any informal money/value transfer system or activities taking place in Qatar.

685. Although money or value transfer services fall within the supervisory responsibility of the QCB, the major shortcomings related to inadequate customer identification and due diligence measures, lack of requirements for wire transfers, lack of sanctions for noncompliance and lack of effective risk-based supervision and regulation do not provide an adequate framework for dealing with informal value transfer services/unlicensed operators as they appear to be taking place within Qatar without adequate monitoring.

686. **QFC**: Money or value transfer services is not a permitted activity under the QFC law and therefore cannot be conducted in or from the QFC. In these circumstances, Special Recommendation VI is not applicable to the QFC.

3.12.2 Recommendations and Comments

687. Domestic sector: the authorities are recommended to:

- Investigate the possibility of an informal MVT system operating in Qatar and consider effective measures for monitoring these activities, if identified.
- Address the shortcomings identified in recommendations 4-11, 13-15, and 21-23, as applicable to this recommendation.

3.12.3 Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR.VI	**PC**	• Potential informal money/value transfer system operating in Qatar without effective monitoring. • Number of shortcomings identified in other recommendations related to CDD, sanctions, supervision and regulation.

4 Preventive Measures—Designated Non-Financial Businesses and Professions

4.1 Customer due diligence and record-keeping (R.12) (applying R.5, 6, and 8 to 11).

4.1.1 Description and Analysis

Domestic Sector

688. Casinos are prohibited and notaries are government officials in charge of the authentication of real estate transactions, and as such do not fall in the FATF definition of DNFBPs. Other DNFBPs are present in the country: Real estate agents, dealers in precious metals, dealers in precious stones, lawyers and legal advisers, accountants and TCSP.

689. The AML Law does not apply AML/CFT requirement to DNFBPs in terms of customer due diligence, record-keeping and monitoring. However, the MEC issued on January 17, 2007, circular No.2 of 2007 on AML/CFT procedures requesting all companies, regardless of their activities, to identify clients, verify transactions, keep records and establish internal monitoring and training. The same requirements apply to the auditing offices pursuant to circular No. 3 of 2007 of the MEC. Similarly, the MOJ issued resolution No.108 of 2006 that applies to lawyers and law offices. But legal advisers are not covered. Dealers of precious metals acting as exchange houses are included in the scope of the AML Law and are subject to the QCB instructions on combating ML and FT (see the analysis in sections 3.1 to 3.5). The MEC and MOJ circulars are not considered enforceable means (See the discussion on enforceability at the beginning of section 3).

690. **CDD Measures for DNFBPs in set circumstances (applying c. 5.1-5.18 in R. 5 to DNFBP) (c. 12.1).**

691. **Real estate agents, dealers in precious metals and stones and TCSP:** There is no specific AML/CFT regulation covering these businesses and professions. Consequently, they have to comply with Circular No.2 of 2007 requesting all companies to identify every natural person or his representative based on an official ID document before executing any financial transaction. In the case of a legal person, the circular requests identification of the customer based on the commercial register and the license details. It also requests the verification of the actual status of the company representative's authorization on the basis of the official documents and verifying the identity of the real owner.

692. The circular does not, however, address all the requirements concerning customer identification. It only refers to the financial transaction and does not address its preparation. The circular also requires to identify the "real owner" of a legal person but this requirement is vague. It does not require to verify that the person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person. The circular does not request the identification of the beneficial owner, nor the conduct of due diligence on an ongoing basis. There is no provision on the necessity to obtain information on the purpose and intended nature of the business relationship. There is no requirement for enhanced due diligence for higher risk categories of customer, business relationships or transactions, no provision that addresses failure to satisfactory complete CDD, and no measures applicable to existing customers. Moreover, the scope of the circular appears to be excessively wide. Indeed, it covers all companies in Qatar, including grocery stores or restaurants. This is not required by the standard and it is hardly

enforceable. Finally, the circular does not set out enforceable requirements with sanctions for non-compliance.

693. **Accountants:** Circular No. 3 of 2007 requests all accountants to identify any natural person (or his representative) on the basis of official ID documents. In the case of a legal person, the circular requests identification of the customer based on the commercial register and the license documents. Identification may also be based on official documents of the company representative. Due diligence procedures have to be conducted at the beginning and during the relation with the customer including registering and maintaining copies of the identities. Article 2.2.1 of the circular also requests "the verification of the seriousness and safety" of all financial transactions and gives a variety of criteria that may be taken into account such as the expenses, revenues, investments, cash collection or payment operations, incoming or outgoing drafts, sale, purchase, importation and exportation contracts, and other transactions.

694. The circular does not address all the requirements concerning customer identification. In particular, it does not address CDD when preparing a transaction and only refers to financial transactions. The requirement to identify the company representative of a legal person is vague and does not ask to verify that the representative purporting to act on behalf of the customer is duly authorized, and identify and verify the identity of that person. Moreover, concerning legal persons, the circular does not clearly state if the identification requirements are cumulative or not in the case of dealing with a company representative. The circular does not request the identification of the beneficial owner, or the conduct of due diligence on an ongoing basis. There is no provision on the necessity to obtain information on the purpose and intended nature of the business relationship and the criteria of transactions that need to be verified pursuant to Article 2.1.1 are by far too large. The requirement of enhanced due diligence for higher risk categories of customer, business relationships or transactions is absent, and there is no provision in relation to the failure to satisfactory complete CDD nor with regard to measures applicable to existing customers. Finally, the circular does not set out enforceable requirements with sanctions for non-compliance.

695. **Lawyers:** Lawyers are required by resolution No. 108 of 2006 of the MOJ to verify the identity of their clients whether individuals or corporate bodies. This includes the verification of the transactions of the client, and the verification of the identity of the real client (if there are several parties to the case). The relationship with the client has to be documented by means of a contract and an authenticated power of attorney.

696. Resolution No. 108 of 2006 does not address all the necessary requirements concerning customer identification. In particular, the requirement of identification and verification are not sufficient, the provisions do not request the identification of the beneficial owner, or the conduct of due diligence on the business relationship, including on an ongoing basis. There is no provision on the necessity to obtain information on the purpose and intended nature of the business relationship. The requirement of enhanced due diligence for higher risk categories of customer, business relationship or transaction is absent, and there are no provision in relation to the timing of verification of the identity and to the failure to satisfactory complete CDD as well as concerning existing customers. Moreover, Resolution No. 108 of 2006 does not appear to be enforceable. It does not set out enforceable requirements with sanctions for non-compliance. The references to obligations and penalties referred to in instruction 9 of the resolution are only for the observance of the AML Law and Law No. 23 of 2006 concerning the Advocacy Law. But

the AML Law and the Advocacy Law do not envisage sanctions for non-compliance with Ministerial Resolutions. Instruction 10 does not provide for sanctions either.

697. **CDD Measures for DNFBPs in set circumstances (applying criteria under R. 6 & 8-11 to DNFBP) (c.12.2). Applying R.6,8,9 (PEPs, payment technologies and introduced business):** There is no mention in the AML Law, or in any regulations, on PEPs, payments technologies and introduced business for any DNFBPs.

698. **Applying R.10 (record keeping)—Real estate agents, dealers in precious metals and stones and TCSP:** Pursuant to Article 1.3 of Circular No. 2 of 2007 issued by the MEC, all companies should keep record of customers' ID and financial transactions for a period of at least five years. Competent authorities should have access to the records. This recent circular does not appear to be consistently implemented by the DNFBPs met during the visit.

699. Several requirements of R.10 are either lacking or incomplete. Records have to be kept for a period of five years following the completion of the transaction. There is no obligation to keep record of other documents such as business correspondence for a similar period of time, and no requirement to ensure that all information is available on a timely basis to domestic competent authorities. Finally, as previously shown, Circular No. 2 of 2007 is not enforceable, as it does not set out sanctions for non-compliance.

700. **Accountants:** Pursuant to Article 3 of the second section of Circular No.3 of 2007 issued by the MEC, all auditing offices should keep records of contracts concluded with customers and due diligence documents, for a period of five years. Competent authorities should have access to the documents.

701. The wording of Article 3 is unclear. It also refers to the obligation to keep record of "all other document and records covered by the law", but there is no information as to which law it refers to. Moreover, the AML Law does not cover accountants. There is no clear requirement to keep documents related to the verification of the transaction or documents such as business correspondence. There is no requirement to ensure that all information is available on a timely basis to competent authorities. As for Circular No.2, Circular No. 3 is not enforceable, as it does not set out sanctions for non-compliance.

702. **Lawyers:** Pursuant to instruction 7 of the Resolution of the MOJ No. 108 of 2006, lawyers and law firms have to maintain an integrated database of all their business cases and relationship. However, this requirement is not sufficient. Indeed, the types of documents that have to be recorded are not detailed enough and the duration of the requirement is not determined. There is no provision concerning the necessity for the information to be available on a timely basis to domestic competent authorities upon appropriate authority. Moreover, as shown above, Resolution No. 108 of 2006 is not enforceable.

703. **Applying R. 11 (unusual transactions)—Real estate agents, dealers in precious metals and stones and TCSP**. Pursuant to Circular No. 2 of 2007 issued by the Minister of Economy and Commerce, all companies are requested to "verify the seriousness and safety of financial transactions especially those that have high value to guarantee the absence of suspicious transactions" and "register the transactions in the registers provided in the Qatari law". Companies are also prohibited to "conclude untrue financial transactions or execution of such transactions with fictitious persons".

704. The elements on the identification of the transactions are not compliant with R. 11 because they are too general. The scope of the provisions is not clearly defined and does not requires to pay special

attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. There is no information on the elements that have to be examined and to set forth the findings in writing. The reference to the record-keeping in the 'registers provided by the Qatari law' is unclear. There is no reference to any register in the AML Law. In addition, there is no requirement to keep those records available for competent authorities and auditors for at least five years. Moreover the enforcement of the implementation of this requirement is weak if existent, and is not enforceable.

705. **Accountants.** Pursuant to Article 2.2 of the second section of Circular No. 3 of 2007, auditing offices have to 'give further attention to the verification of valuable transactions and identify their purposes and the dealers'.

706. As for the Circular No. 2 of 2007, the elements on the identification of the transactions are not compliant with R. 11 because they are too general.

707. **Lawyers.** There is no provision regarding unusual transactions in Resolution No. 108 of 2006.

708. **QFC :** DNFBPs that are registered in the QFC are relevant persons that have to comply with the AML Regulations and the AML Rulebook. These are the same regulations that apply to the financial institutions registered in the QFC and the description and analysis under section 3 apply (see information on the QFC in 3.3, 3.4, 3.6 and 3.7). Because the QFC is recent, there is no evidence of an effective implementation of those regulations to the DNFBPs.

4.1.2 Recommendations and Comments

- **Domestic sector**: The authorities should review the legal framework in order to set out in primary or secondary legislation the basic obligations on customer due diligence and record keeping for DNFBPs. The scope of the CDD and record-keeping requirements should be narrowed from all companies to DNFBPs. This should enable a better supervision and enforcement of these measures. Should the authorities identify other non-financial businesses and professions that pose a ML or TF risk, they should certainly consider applying the FATF recommendations to them but this should be done following a risk analysis and not indiscriminately. Provisions regarding PEPs, payments technologies, unusual transactions and introduced business have to be introduced. The provisions regarding CDD and record-keeping have to be reviewed in order to fully comply with the standard and to be enforceable.

- The authorities should effectively implement the requirements set out in Circular No. 2 of 2007 of the MEC and in Resolution No. 108 of 2006 of the MOJ.

- **QFC**: The QFC should address the shortcomings identified in section 3 as they also apply to DNFBPs. The effective implementation of the AML regulations should be ensured.

4.1.3 Compliance with Recommendation 12

	Rating	Summary of factors relevant to s.4.1 underlying overall rating
R.12	**NC**	In the domestic sector: • The requirements on CDD and record-keeping are not set out in primary or secondary legislation. • No requirements on PEPs, payment technologies, introduced business and unusual transactions have been set out in law, regulation or other enforceable means. The scope of the professions currently covered is excessively wide; • Legal advisers are not covered. • Provisions on CDD and record-keeping are not sufficient and do not constitute enforceable requirements with sanction for non-compliance; • There are no provisions regarding PEPs, payments technologies, and introduced business; • The requirements on unusual transactions are not sufficient and not enforceable for the professions regulated by the MEC. There are no requirements for the legal professions; • The implementation is not effective. In the QFC: • The regime is too new to be tested for effective implementation.

4.2 Suspicious transaction reporting (R.16) (applying R.13 to 15 & 21)

4.2.1 Description and Analysis

709. **Domestic Sector:** The suspicious transaction reporting process is set out in Article 6 of the AML Law. However, it only applies to financial institutions and not to DNFBPs. Some administrative regulations nevertheless require DNFBPs to report suspicious transactions. According to Article 3.1 of the administrative order No. 1 of 2004 establishing the FIU, the FIU may receive suspicious transactions reports related to ML and FT from non-financial professions. Article 2.3 of the Circular No. 2 of 2007 issued by the MEC requires all companies in Qatar to report suspicious transactions to the FIU. Article 5 of the second section of the Circular No. 3 of 2007 issued by the MEC requires auditing offices to notify suspicious operations to the FIU. The Minister of Justice issued a Resolution No. 108 of 2006 that obligates lawyers and law offices and companies to notify the FIU. The DNFBPs met during the onsite visit are generally not fully aware of their AML/CFT obligations. The DNFBPs that are part of foreign groups appear to be more aware of the head office policies than of the domestic obligations.

710. **Requirement to Make STRs to FIU (applying c. 13.1 to DNFBPs).** Pursuant to Article 6 of the AML Law, the obligation to report suspicious transactions applies to financial institutions only. Article 3 of the same law sets out obligations in case of knowledge of an ML offense: "A person is considered to have committed a ML offense if he has information, due to his work, that is related to ML offense stipulated in the previous Article and does not take the procedures stated in the law". According to Article 3.1 of the administrative order No. 1 of 2004 establishing the FIU, the FIU may receive suspicious transactions reports related to ML and FT from non-financial professions.

711. **Real estate agents, dealers in precious metals and stones, TCSP and accountants:** Article 2.3 of the Circular No. 2 of 2007 issued by the MEC requires all companies in Qatar to report suspicious transactions to the FIU. The wording is not exactly the same in Article 5, second section, of the Circular

No. 3 concerning the auditing offices. They have to notify the FIU in the event ML/FT suspicious operations are identified during the auditing process.

712. **Lawyers:** The MOJ issued a Resolution No. 108 of 2006 that obligates lawyers and law offices and companies to notify the FIU of "any suspicious commercial operation as soon as they discover any such suspicious transaction". Such notification has to be made by using the form attached to the resolution. This requirement applies when they conclude on behalf or for the account of the customer any financial deal relating to the following activities:

- Buying or selling of real estate properties;
- Managing the funds, securities or other assets owned by the client;
- Managing the bank accounts, savings or securities;
- Organizing participations for the purpose of establishing, operating or managing of companies; and
- Establishing, operating or managing material or corporate legal entities, in addition to the purchase or sale of entities.

713. Legal privilege is addressed in the Law 23 of 2006. Article 51 provides: "A lawyer is responsible before his client, for performing what he has been entrusted with, in accordance with the provisions of the law and conditions of proxy. He has to preserve the confidentiality of information which his client tells him about and the documents and papers he receives from him. He should work according to the money he earned from his client". This is complemented by Article 57 of the same law: "If lawyers know, because of their profession, about facts or information, he should not disclose it, even after his proxy terminates, if this is not aimed at preventing the perpetration of a crime or offense or reporting a crime that has taken place". The lawyers met by the mission had different views on these two provisions. Some of them consider difficult to file an STR as they consider that their confidentiality requirement would be breached. Others consider that an STR is necessary in order to avoid to be treated as an accomplice in a potential ML or FT scheme.

714. The Ministerial decisions do not cover all R. 13 requirements and they do not clearly address FT. They do not cover the proceeds of all offenses that are required to be included as predicate offense under R.1, and the obligation to make a STR does not include attempted transactions. Legal advisers are not included in the scope of Resolution No. 108 of 2006. Moreover, the current provisions on legal privilege in the law 23 of 2006 prevent the lawyer of any reporting of suspicion on the basis of the Resolution No. 108 of 2006 because Article 57 of law 23 of 2006 only enables a disclosure in case of knowledge of a crime or offense that is under perpetration or has taken place. Finally, the Circular of the MEC does not refer to supervision and sanction and the sanctions provided by the Resolution of the MOJ do not apply (see analysis of recommendation 24). No STR has been transmitted to the FIU by DNFBPs at the time of the visit.

715. As described in section 2.8 (R.26), under the current legal framework the DNFBPs are not obliged to send STRs to the FIU and the FIU has no power to receive, analyze and disseminate those STRs.

716. **STRs Related to Terrorism and its Financing (applying c. 13.2 to DNFBPs).** Concerning the legal framework, the shortcomings noted in the ML framework are valid for STRs related to terrorism and its financing. According to Article 3.1 of the administrative order No. 1 of 2004 establishing the FIU, the FIU may receive suspicious transactions reports related to FT from non-financial professions, but the ministerial decisions do not clearly address FT.

717. **No Reporting Threshold for STRs (applying c. 13.3 & IV.2 to DNFBPs).** There is no reporting threshold for STRs in the AML Law or in the Ministerial decisions.

718. **Making of ML and TF STRs Regardless of Possible Involvement of Tax Matters (applying c. 13.4 and c. IV.2 to DNFBPs).** The AML Law does not apply to DNFBPs and there are no provisions in the Ministerial decisions that prevent the requirement to report suspicious transactions to apply whether they are thought, among other things, to involve tax matters.

719. **Additional Element—Reporting of All Criminal Acts** (applying c. 13.5 to DNFBPs): The AML Law does not apply to DNFBPs and the Ministerial decisions do not cover the proceeds of all criminal acts.

720. **Protection for Making STRs (applying c. 14.1 to DNFBPs).** Pursuant to Article 2.3 of Circular No. 2 of 2007 of the MEC applying to all businesses, the STR is not regarded as a breach of secrecy of the transactions and it should not entail any kind of liability on the company or its employees. Concerning the Lawyers, according to instruction 5 of Resolution 108 of 2006 of the MOJ, the STR shall not be regarded as a breach of professional secrecy. Pursuant to section 2, Article 4 of Circular No. 3 of 2007 of the MEC, the STRs notified by the auditing offices to the FIU are not regarded as a breach of secrecy of the transactions and it should not entail any kind of liability on the company or its auditing office staff.

721. The requirements are not in line with the recommendation. Concerning liability, the concept of good faith is not included for any of the DNFBPs.

722. **Prohibition against Tipping-Off (applying c. 14.2 to DNFBPs).** Pursuant to Article 2.4 of Circular No. 2 of 2007 of the MEC, a company and its employees should not warn the customer about any suspicion on the transactions. According to instruction 9 of Resolution 108 of 2006 of the MOJ, penalties have to be imposed following the provisions of the AML Law when employees of law offices and firms alert the clients on the procedures being taken concerning them. Pursuant Article 13 of the AML Law, this behavior is punished by imprisonment for a period not exceeding one year and a fine not exceeding QR 3000. Pursuant to Article 2.6 of Circular No. 3 of 2007 of the MEC, the auditing office or its staff should not warn the customer about any suspicion on the transactions. The DNFBPs met by the mission are generally not aware of this requirement and no penalties have ever been imposed.

723. The requirements are not in line with R. 14. In addition to the legal persons and their employees, they have to apply to directors and officers. Concerning liability and for every DNFBPs, the concept of good faith is not included. Concerning ‘tipping off’, in addition to being unclear and incomplete concerning the information related to the STR, the provisions of the Circular No.2 of 2007 do not take into account the prohibition from disclosing the fact that information related to an STR is provided to the

FIU. Resolution 108 of 2006 indicates that penalties have to be imposed following the provision of the AML Law. But the Article in the law that may be considered to deal with tipping off is unclear. Indeed, according to Article 4 of the AML Law "*workers at a financial establishment are prohibited from informing their customers of the measures taken against them to combat money laundering*". Lawyers are not workers in a financial establishment and there is no reference to the disclosure of an STR or related information. So there is no legal basis for any penalties on lawyers concerning tipping off. In any event, the current requirements are not enforceable in the absence of a STR obligation.

724. **Additional Element—Confidentiality of Reporting Staff (applying c. 14.3 to DNFBPs).** There are no legal or regulatory provisions to ensure that the names and personal details of staff of financial institutions that make a STR are kept confidential by the FIU.

725. **Establish and Maintain Internal Controls to Prevent ML and TF (applying c. 15.1, 15.1.1 & 15.1.2 to DNFBPs).** Pursuant to Article 2.2 of Circular No.2 of 2007 of the MEC, all companies have to set policies and plans to combat economic offenses including the establishment of internal supervisory measures and controls. Law offices and firms are required by Resolution No. 108 of 2006 of the MOJ to lay down an internal system for combating money laundering and the financing of terrorism, by implementing effective internal control procedures. They also have to follow up international developments in the field of combating money laundering and terrorism financing. Pursuant to Article 2.4 of Circular No.3 of 2007 of the MEC, all auditing offices have to set internal auditing policies.

726. There are no elements showing an effective implementation of those provisions. In addition, circular No.2 of 2007 covers internal controls in relation to economic offenses, not specifically ML and FT. Moreover, there is no reference to internal procedures and policies for the lawyers, to the scope of the control and to the consideration of risk in the requirement of internal control for all DNFBPs. In addition, there are no provisions that require to develop appropriate compliance management arrangements, such as at a minimum the designation of an AML/CFT compliance officer at the management level.

727. **Independent Audit of Internal Controls to Prevent ML and TF (applying c. 15.2 to DNFBPs).** There are no requirements for any DNFBPs to maintain an adequately resourced and independent audit function to test compliance (including sample testing) with the internal procedures, policies and controls to prevent ML and TF.

728. **Ongoing Employee Training on AML/CFT Matters (applying c. 15.3 to DNFBPs).** Article 2.2 of Circular No.2 of 2007 of the MEC, sets out an obligation for all companies to organize training sessions for the employees. Article 2.4 of Circular No.3 of 2007 of the MEC, sets out an obligation for auditing offices to organize training programs for the auditing staff. There is no requirement of ongoing employee training concerning lawyers in the Resolution No. 108 of 2006 of the MOJ, but only the obligation to follow up international developments in the field of combating money laundering and terrorism financing, according to instruction 8.

729. **Employee Screening Procedures (applying c. 15.4 to DNFBPs).** There are no provisions requiring DNFBPs to put in place screening procedures to ensure high standards when hiring employees.

730. **Additional Element Independence of Compliance Officer (applying c. 15.5 to DNFBPs).** There are no provisions asking for the AML/CFT compliance officer to be able to act independently and to report to senior management above the compliance officer's next reporting level or the board of directors.

731. **Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 & 21.1.1).** Pursuant to Article 2.5 of Circular No.2 of 2007 of the MEC, all companies have "to give particular attention to the examination of financial relations and transactions concluded with countries that do not apply or insufficiently apply those provisions". Lawyers and law firms are required by Resolution No.108 of 2006 to "give special attention to the business relations of persons or entities from countries that do not implement these provisions or whose implementation thereof is insufficient". There are not such references in Circular No. 3 of 2007 concerning accounting offices.

732. When they exist, the requirements are not clear. They refer to 'countries that do not implement these provisions' and not to countries that do not or insufficiently apply the FATF recommendations, as requested by the standards. Moreover, there is no evidence of effective implementation. There is no information on the effective measures in place to ensure that DNFBPs are advised of concerns about weaknesses in the AML/CFT systems of other countries. There is no requirement on actions to be performed in case of transactions with no apparent economic or visible lawful purpose with those countries.

733. Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2): There are no specific provisions to ensure that the background of transactions that have no apparent economic or visible lawful purpose is, as far as possible, be examined, and that written findings should be available to assist competent authorities.

734. **Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3).** There is no indication that Qatari authorities have the power to apply counter-measures when a country continues not to apply or insufficiently applies the FATF Recommendations.

735. **QFC:** DNFBPs that are registered in the QFC are considered as "relevant persons" and have to comply with the AML Regulations and the AML Rulebook. It is the same regulations that apply to the financial institutions registered in the QFC and the description and analysis under Section 3 apply. According to Article 13 of QFC AML Regulations, reporting obligations do not apply where the "relevant person" is a professional legal adviser and if the knowledge or suspicion or the reasonable grounds for knowing or suspecting are based on information or other matter which came to it in privileged circumstances. Privileged circumstances occurs when an information is communicated or given by the client in connection with the giving of legal advice, when seeking legal advice or in connection with legal proceedings or contemplated legal proceedings. The definition of "Professional legal adviser" includes any person who may come into possession of information or other matter in privileged circumstances.

736. The current definition of privilege circumstances may prevent the legal advisers licensed in the QFC to report information related to the activities prepared for the client which are listed in R. 13 relatively to trust and company services. Overall, there is no evidence of effective implementation of the requirements of R. 16 to the DNFBPs and no STR has ever been sent to the FIU. Moreover, as for DNFBPs in the domestic sector, there is no legal basis for the FIU to receive and handle STRs from DNFBPs of the QFC.

4.2.2 Recommendations and Comments

- The law should be amended in order to require all relevant DNFBPs to report suspicious transactions to the FIU and to enable the FIU to receive, analyze and disseminate those reports. The amendment should also take into account the shortcomings identified in section 3 regarding the STR mechanism for financial institutions, especially concerning the current absence of requirements to report transactions linked relate to terrorism and the absence of obligation to report attempted transactions not established by primary or secondary legislation.

- For the domestic sector, the requirements concerning protection from liability and tipping off should also be fully incorporated in the law. Regulations concerning internal controls and countries that insufficiently apply the FATF Recommendations have to be significantly strengthened. The scope of the MEC Circular No. 2 of 2007 has to be reviewed in order to address all relevant DNFBPs and other professions where a risk of ML or FT has been identified by the authorities. The MOJ should review the legal framework on legal privilege in order for the lawyers to be able to report when performing the activities listed in R.16 even in the case where there is no proof of crime or offense but only a suspicion. The Resolution of the MOJ should also cover legal advisers. Both regulations have to be reviewed in order to set out sanctions for non-compliance. The AML/CFT compliance officer and other appropriate staff should have timely access to customer identification data and other CDD information, transaction records, and other relevant information.

- Concerning the QFC, the recommendations made in section 3 concerning the application of R. 13, 14, 15 and 21 to financial institutions should also be implemented with respect to DNFBPs. Lack of requirement to report regardless of whether transactions are thought, among other things, to involve tax matters. In addition, the framework of the legal privilege should be refined in order to avoid a lawyer from reporting suspicious information he handles when providing the services to companies and trust that are listed under R. 16.

4.2.3 Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.2 underlying overall rating
R.16	**NC**	In the domestic sector: • No STR obligations set out in primary or secondary legislation. • Ministerial regulations are not implemented and not enforceable. • There are no adequate measures to prohibit a DNFBP from disclosing to third parties the information it provides to the FIU. • Provisions on internal controls and countries that insufficiently apply the FATF recommendations are incomplete and not implemented. • Legal advisers are not subject to the STR obligations. • Provisions on the legal privilege of lawyers should be introduced. In the QFC: • Provisions on the legal privilege of lawyers should be refined.

4.3 Regulation, supervision and monitoring (R.24-25)

4.3.1 Description and Analysis

737. The State of Qatar criminalized gambling under Article 275 of the Criminal code. According to chapter 11 of the Law No. 5 of 2002, the MEC is empowered to the supervision of companies. The MEC is in charge of implementing Law No.30 of 2004 on the organization of the profession of verifying and monitoring accounts. The MOJ is involved in exercising a monitoring role over the legal profession, as per the Law on the Profession of Lawyer No.23 of 2006. In the QFC, the firms conducting authorized activities are supervised by the QFCRA following the same AML Regulations than for the financial institutions.

738. **Regulation and Supervision of Casinos (c. 24.1, 24.1.1, 24.1.2 & 24.1.3).** There is no casino in Qatar because this activity is prohibited and therefore there is no supervisory framework.

739. **Monitoring Systems for Other DNFBPs (c. 24.2 & 24.2.1). Domestic sector—General framework of the monitoring systems:** All companies in Qatar should be registered in the commercial register held by the MEC. In order to operate, a registered company must then obtain a commercial authorization issued by the Ministry of Municipal Affairs and Agriculture. A company also needs to be a member of the Qatar Chamber of Commerce and Industry. The MEC is the main monitoring authority. This consists in the authorization and renewal of licenses. Pursuant to Article 101 of Law No. 5 of 2002 on commercial companies, every company should submit annually to the Ministry the names of the Chairman and members of the Board of Directors, their capacities, and their nationalities. Any company should also notify the Ministry any change that might take place as soon as it occurs. Pursuant to Article 126, a company must submit to the Ministry the financial statements every year before the General Assembly. The company must be audited by an internal auditor. He should submit a written report to the Ministry in case he can not perform the tasks and obligations assigned to him.

740. Chapter 11 of the Law No. 5 of 2002, empowers the MEC to conduct general supervision of companies but does not address AML/CFT supervision. Employees designated by a resolution of the Minister have the capacity of judicial officers and may verify violations of the provisions of the Law No. 5 of 2002 or its implementing decisions. In case of the occurrence of any of the offenses stipulated in the law, the judicial officers must report it in writing to the competent police station. The authorized employees have the right to inspect the companies and examine their accounts. Chapter 12 of the Law No.5 of 2002 lists penalties for non-compliance, including fines, jail and liquidation of the company.

741. The implementation of the powers of monitoring and supervision of the MEC is weak if existent. The unit in charge of the supervision of all companies and accountants in the country has only 5 staff. It does not address AML/CFT and the circulars No.2 of 2007 to all companies and No.3 of 2007 to accountants are not enforced. Practically the scope of Circular No.2 is so wide that it is not possible to apply and to monitor it. Legally, those two circulars do not provide for any sanction. The authorized employees of the MEC are not empowered to perform on-site supervision other than for the control of accounts. The following paragraphs address the specific monitoring of each DNFBP authorized in Qatar. With the exception of the legal professions, all other DNFBPs are subject to the MEC main supervision.

742. **Real Estate Agents**. In addition to the rules applicable to all companies, real estate agents have to be authorized by the real estate registration department of the MOJ. No specific obligations or supervision on AML/CFT requirements apply to them and there is no SRO of real estate agents. Nevertheless, the MOJ issued Circular 13 of 2006 to the Registration Department's employees. The Circular provides for the necessity of listed officials to report any suspicious case directly to the Manager of Department. He is empowered to send STRs to the FIU. The Circular includes the "Suspicion Report" form and a statement of the names of persons authorized to report STRs.

743. Circular 13 of 2006 constitutes an attempt to include real estate transactions within the AML/CFT reporting system. However, no STR has ever been submitted to the FIU. Moreover, the MOJ does not have a full view of the financial transactions, may hardly be aware of the beneficial ownership and has only a formal contact with real estate buyers and sellers. Hence, the control by the real estate registration department cannot be considered as a substitute for the AML/CFT regulation and supervision of real estate agents.

744. **Dealers in Precious Metals**. As other companies, precious metals dealers have to be registered in the commercial register held by the MEC. In addition, the Public Qatari Authority for Specifications and Criteria is in charge of the control of the quality of the metals sold, the MOI gives an authorization to sell gold. Exchange houses are permitted to engage in the purchase or sale of precious metals and gold bullions. They are licensed and supervised by the QCB and are subject to the QCB supervision (see section 3). There is no SRO for dealers in precious metals.

745. The regulatory situation of precious metals dealers is uncertain. According to the QCB regulations, a business that buys or sells gold should be regulated by the QCB but this does not appear to be the case for all the businesses that buy or sell gold in Qatar.

746. **Dealers in Precious Stones**. There is no specific AML/CFT regulatory or supervisory framework for dealers in precious stones. They are regulated by the general rules that apply to all companies, as described above.

747. **Accountants**. The MEC is in charge of implementing Law No.30 of 2004 on the Organization of the Profession of Verifying and Monitoring Accounts. The legal accountant has to obtain a license, granted by the 'Statutory Accountants' Admission Committee'. The disciplinary board is in charge of sanctioning accountants who violates their professional duties. Pursuant to Article 42, it may be seized by the Ministry voluntarily or upon a complaint including the case of breaching the provisions of a regulation respective to the Law No. 30 of 2004. A professional association of accountants was recently created in Qatar. The membership is not mandatory and it has no self regulatory powers.

748. Compliance with the obligations created by the circular of the Minister of Economy and Commerce No. 3 of 2007 on AML/CFT procedures may not be enforced by the disciplinary board because the circular does not provide any sanctions for non compliance and is not grounded in Law No. 30 of 2004.

749. **Trust and company service providers**. There is no specific regulatory or supervisory framework for the trust and company service providers. They are regulated by the general rules that apply to all companies. Authorities were unaware of the existence of TCSP in Qatar but evidence from domestic TCSP websites was confirmed by domestic lawyers and accountants.

Domestic Sector—Monitoring system for Legal Professions

750. **Lawyers**. The MOJ is involved in exercising a monitoring role over the legal profession, as per the Law on the Profession of Lawyer No.23 of 2006. As such, the MOJ is responsible for the licensing of the Lawyers that have to be authorized by the Commission for the Admission of Attorneys. The Minister of Justice issued a resolution No. 108 of 2006 regarding AML/CFT procedures in November 2006. Under instructions 9 and 10 of Resolution No. 108 of 2006, lawyers and law firms are subject to penalties and sanctions for not complying with this resolution. There is no bar association in Qatar, but there is an association of lawyers with voluntary membership. Its principal objective is to promote the profession and it has no regulatory powers.

751. The general supervisory powers of the Department of Disciplinary Cases at the MOJ are very limited. It only has the power to investigate attorneys for disciplinary violations committed by them at the request of the Committee for the Admission of Attorneys, or any judge with regard to the attorneys' acts towards the court, or at the request of stakeholders. There is no possible on-site supervision without an external request. So, the possibilities of AML/CFT supervision are limited. The possibility of sanction is inexistent because the references to obligations and penalties referred to in instruction 9 of the resolution are only for the observance of the AML Law and Law No. 23 of 2006 concerning the Advocacy Law. But the AML Law and the Advocacy Law do not envisage sanctions for non-compliance with Ministerial Resolutions. Instruction 10 does not provide for specific sanctions or legal basis either.

752. **Legal advisers**. The legal advisers working for branches of international law firms are authorized by the MOJ pursuant to a specific Resolution. They are subject to the supervision of the department of disciplinary cases of the MOJ. But as for lawyers this supervision does not consist in on-site inspections. Moreover, Resolution 108 of 2006 of the MOJ only applies to Lawyers. Accordingly, there is no legal basis for the supervision of Legal advisers on AML/CFT requirements.

753. **QFC :** The activities performed by lawyers, accountants and trust and company service providers are the only DNFBPs permitted and may operate in or from the QFC. While QFC Law provides for dealing in precious metals as a permitted activity, the QFC Financial Services Regulations do not identify dealing in precious metals as a regulated activity so this activity may not be conducted in or from the QFC. Buying or selling real estate may only be performed on an ancillary basis. Firms that are licensed by the QFCA and that are relevant persons are subject to the same AML/CFT requirements as authorized financial institutions and are also supervised, in respect of AML/CFT by the QFCRA.

754. There does not appear to be a clear strategy and sufficient human resources for the supervision of the sector over the longer term. DNFBPs have to submit their AML/CFT procedures and are made aware by the QFCRA of their obligations under the QFC AML Regulations. But the specificities of these activities are not addressed at this point and no risk assessment of the sector has been performed. Some weaknesses have also been identified in the monitoring process and particularly concerning the review of the AML/CFT procedures during the licensing process.

755. Except for the QFC and for the precious metals dealers supervised by the QCB, there is no designated competent authority responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements. In the case of Lawyers there is only a mechanism of sanction but it needs to be activated by an external party and there is no legal basis to sanction non-compliance with AML/CFT

requirements. There is no SRO in the State of Qatar. The following table summarizes the situation in Qatar regarding supervision of DNFBPs:

Table 10. Monitoring System of DNFBPs

DNFBPs	Supervisory or monitoring authority	Basis of the AML/CFT requirements	Licensing process
Casinos	-	Prohibited	-
Real Estate Agents	MEC MOJ	Circular No. 2 of 2007 – MEC	MEC MOJ
Dealers in Precious Stones	QCB (Exchange houses)	QCB AML/CFT Regulations	QCB
	MEC	Circular No. 2 of 2007 – MEC	MEC
Lawyers	MOJ QFCRA	Resolution 108 of 2006 QFC AML Regulations	MOJ QFCA (licensing process delegated to QFCRA)
Legal advisers	MOJ	No basis	MOJ
Notaries	-	Not a DNFBP in Qatar	-
Accountants	MEC	Circular No. 3 of 2007 – MEC	MEC
	QFCRA	QFC AML regulations	QFCA (licensing process delegated to QFCRA)
TCSP	MEC	Circular No. 2 of 2007 – MEC	MEC
	QFCRA	QFC AML regulations	QFCA (licensing process delegated to QFCRA)

756. **Sanctions:** With the exception of the Exchange houses dealing with precious metals and regulated by the QCB, no sanctions apply to DNFBPs for non-compliance with AML/CFT requirements in the domestic sector. Circulars No. 2 and 3 of 2007 of the MEC make no reference to sanctions and Resolution 108 of 2006 of the MOJ does not identify sanctions to be applied in case of non-compliance. One possible sanction in relation with AML/CFT that could be applied to DNFBPs in Qatar is based on the Article 186 of the Criminal code, which states that any person who knows about a crime or knows about an attempt to perpetrate a crime at a time when he can prevent its perpetration, and has unjustifiably abstained from reporting the crime to the competent authorities, shall be sanctioned by imprisonment for a period that does not exceed 3 years and a fine not exceeding 10,000 riyals, or by one of these two sanctions. In the same spirit, pursuant to Article 3 of the AML Law "a person is considered to have committed a ML offense if that person has information, due to her work, that is related to a ML offense stipulated in the previous Article and does not take the procedures stated in the law". But these criminal

sanctions are not relevant sanctions for a supervisor that has to ensure the compliance of a DNFBP with the AML/CFT requirements.

757. The QFCRA is empowered to impose sanctions on DNFBPs it supervises, in the same ways as for financial institutions. The assessment of those sanctions is covered in section 3. At the time of the assessment, no sanction had been pronounced against a DNFBP in the QFC.

758. **Guidelines for DNFBPs (applying c. 25.1).** Outside the QFC, no guidelines have been issued to assist the DNFBPs to implement and comply with AML/CFT requirements. No feedback has been provided by the FIU to the DNFBPs. The AML Rulebook sets out guidance, common to all relevant persons, essentially in the appendix 2 on risk assessment.

759. In the absence of any STRs from DNFBPs, no specific or general feedback has been given by the FIU (c.25.2).

4.3.2 Recommendations and Comments

- The authorities should consider reviewing their AML/CFT legal framework in order to introduce requirements and sanctions compliant with the standard, and introduce a supervisory framework.

- A designated competent authority responsible for monitoring and ensuring compliance of each DNFBP with AML/CFT requirements should be established in Qatar, with adequate powers and resources to perform its functions. As there is no legal basis for supervision and no implementation, the authorities face different choices in order to supervise the DNFBPs. They may consider creating a unique supervisor for all DNFBPs. It could be faster and more efficient to implement than the establishment of a specific supervisor for each profession. It could enable a better programming of controls and allocation of resources according to a risk assessment of the whole DNFBP sector. The MOJ should be the only exception to this unique supervisor. It should implement a mechanism enabling the supervision of the compliance of lawyers and legal advisers with AML/CFT requirements.

- Guidelines should be established by the FIU and the QFCRA in order to specifically assist DNFBPs to implement and comply with their respective AML/CFT requirements. Feedback has to be given to DNFBPs on the STRs received by the FIU. Regardless of the STR received, the FIU should provide general information on current techniques, methods and trends or sanitized examples of actual money laundering and FT cases.

4.3.3 Compliance with Recommendations 24 & 25 (criteria 25.1, DNFBP)

	Rating	Summary of factors relevant to s.4.3 underlying overall rating
R.24	**PC**	• No supervision and no sanction for non-compliance with the AML/CFT requirements in the domestic sector for all DNFBPs present in the country. • The QFC regime is too new to be tested for effective implementation[17].
R.25	**NC**	• No specific guidelines have been issued to assist DNFBPs. • No feedback has been provided by the FIU.

4.4 Other Non-Financial Businesses And Professions & Modern-Secure Transaction Techniques (R.20)

4.4.1 Description and Analysis

760. Circular No. 2 of 2007 of the MEC covers all companies operating in Qatar.

761. **Other Vulnerable DNFBPs (applying R. 5, 6, 8-11, 13-15, 17 &21 c. 20.1). Domestic sector:** Car dealers are explicitly mentioned in the STR form elaborated by the FIU. But for the domestic sector, the Qatari authorities have not conducted an assessment of the risk of professions other than DNFBPs of being misused for ML or FT. The current approach taken by the MEC with its Circular No.2 covers all companies operating in Qatar on an indiscriminate basis. It is not efficient because it puts an unnecessary burden on some businesses where there are clearly no major risks of ML or FT. Moreover, it is not implemented and the MEC has no power of supervision and sanction in case of non-compliance.

762. **QFC :** The QFC authorities have decided to apply the AML Regulations and AML rulebook to a broader range of activities than DNFBPs like tax and consulting services. The QFC has developed a risk based approach in assessing the possibility to require other non-regulated professions to comply with the AML/CFT obligations. The QFCRA has assessed that other firms licensed by the QFC, like executive search firms and media relations firms constitute a significantly low ML/FT risk. The assessment is more nuanced for ship broking and shipping agents. They are currently not considered "relevant persons" but no company has ever requested any license to perform this activity and the QFC may review its policy if the activity develops and risks are identified.

763. **Modernization of Conduct of Financial Transactions (c. 20.2).** Doha's Securities Market Committee's Decision No. 16/3 of 2005 on the instructions concerning the procedures for the prohibition and combating of ML and FT is intended to reduce the reliance on cash. Indeed, pursuant to this decision, cash payments to companies and brokerage firms shall not exceed 30,000 riyals or the equivalent in foreign currency and the companies and brokerage firms shall notify the Market in case of any cash payment below this threshold. But no reports have been submitted to the Market. On a general perspective, the economy is still strongly reliant on cash. The highest bill denomination is 500 riyals. From 2002 to 2005, the share of this denomination in the total currency in circulation has increased and now accounts for more than 77% of the total value. The currency in circulation increased of more than 60% during the same time.

[17] In March 2008, the QFCRA informed the assessment team that it had recently conducted a number of supervision visits of DNFBPs.

764. With the exception of the DSM, the authorities did not provide any other information on measures taken to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to ML.

4.4.2 Recommendations and Comments

- The authorities should conduct a risk assessment for the other non-financial professions. This should enable to focus AML/CFT efforts on the professions that pose a money laundering or terrorist financing risk and to move away from the indiscriminate approach illustrated by Circular No. 2 of 2007 of the MEC.

- The authorities should introduce measures to reduce reliance on cash. They should also assess the risks associated with the currency changeover following the Gulf monetary union planned for 2010.

4.4.3 Compliance with Recommendation 20

	Rating	Summary of factors underlying rating
R.20	**PC**	• No risk assessment has been conducted in the domestic sector. • Qatar has not taken meaningful steps to encourage the development of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.

5 LEGAL PERSONS AND ARRANGEMENTS AND NON-PROFIT ORGANIZATIONS

5.1 Legal Persons—Access to beneficial ownership and control information (R.33)

5.1.1 Description and Analysis

765. **Measures to Prevent Unlawful Use of Legal Persons (c. 33.1). Domestic Sector**: A description of the types of legal persons that may be created in the State of Qatar is contained in Part 1 of this report. Registration of Companies is governed by Law No.(5) of 2002 as amended by law No.(16) of 2006. This Law allows the creation of joint partnership companies, simple partnership companies, joint venture companies, shareholding companies, limited share partnership companies, limited liability companies, individual companies and holding companies.

766. Pursuant to the law mentioned above, legal persons must register with the MEC and, in order to do so, must provide the following information: (i) the name of the company, its purpose, headquarter, and branches if any; (ii) the name of every partner, his or her profession, title, and surname when available, nationality, date and place of birth; (iii) the company's capital, its distribution and the share each partner is committed to submit in cash, in kind, or rights with others; (iv) the date of the company's establishment and its duration; (v) the method applied in managing the company and a statement of the names of those who are authorized to sign for the company and the extent of their powers; (vi) the beginning and end of the company's fiscal year; and (vii) the procedure applicable to the distribution of profit and loss.

767. According to the authorities, when a company is registered the commercial register must also seek all the appropriate information on nominees, authorized representatives and ensure that they do not act as "fronts" for other intermediaries o on their behalf. The identity of the underlying beneficial owners should be obtained.

768. The commercial register verifies the information provided against valid identity documents at the time of registration. The law requires any change to be notified to the commercial register annually and approved by the authorities.

769. **Branches of foreign companies**: Companies may be registered in Qatar without having to incorporate locally but at least 51% of the shares must be held by Qatari residents. Branches may be registered on the basis of their Memorandum of Association and must provide a proof of the commercial registration in their country of origin. In such cases, a copy of the company's decision to establish a branch the Power of Attorney issued in favor of the resident and a guarantee from the parent company to meet all of the obligations of the company in the State of Qatar, are required and must all be legalized.

770. **QFC:** The QFCRA regulates and supervises the full spectrum of financial services activities conducted in or from the QFC. At the time of the visit, few companies were licensed under the QFC. Article 11 of the QFC Law provides that to operate in or from the QFC, a firm must be (i) incorporated or registered with the QFC Companies Registration Office (CRO); (ii) licensed by the Qatar Financial Center Authority, and (iii) in the case of regulated activities, authorized by the QFCRA. The applicant firm must demonstrate their ability to comply with the QFC's standards and requirements. Only one submission to the QFCRA is necessary. The QFCRA then co-ordinates the process, including that for licenses issued by the QFC Authority. Authorized firms (i.e. those authorized to conduct relevant financial services activities) are supervised by the QFCRA which may take enforcement or disciplinary action for non-compliance with applicable laws and rules.

771. The CRO maintains a central register of all LLCs, LLPs and branches operating in or from the QFC. This register provides details on ownership, management, registered office, principal representatives etc, and is available, free of charge, to the public through the website of the QFC Authority (www.qfc.com.qa).

772. **Access to Information on Beneficial Owners of Legal Persons (c. 33.2). Domestic Sector.** As mentioned above, legal persons are required to be registered in the commercial register which is held by the MEC. The commercial register is a system of central registration where the main ownership and control details for all companies registered in the domestic sector are maintained. All information stored in the commercial register database is accessible to the investigatory authorities (see Recommendation 27). Furthermore, the QCB developed a direct link with the commercial register, which enables it to have immediate access to all relevant information on the ownership of legal persons. This link will also be made available to the FIU in the near future. When this is set up, it should enable the FIU, in addition to all law enforcement agencies and the QCB, to have timely and adequate access to information on beneficial ownership and control for legal persons. Such an access could also prove useful to other authorities, such as the DSM.

773. **QFC:** The information on ownership and control of entities in the QFC is publicly available, and therefore immediately accessible to all relevant authorities, on the QFCRA's website (www.qfcra.com).

774. **Prevention of Misuse of Bearer Shares (c. 33.3). Domestic Sector:** Article 97, paragraph 2 of the Qatari Commercial Code expressly stipulates that the shares of companies established in Qatar must be nominal. Consequently, the issuance of shares in bearer form is not permitted in Qatar.

775. **QFC:** Bearer shares are not recognized in the QFC either. The Companies Regulations require each LLC to maintain a register of all of its members (Article 19 of the Regulation). A person must be included in the register to be a member of the company and therefore to be the owner of the shares.

776. **Additional Element - Access to Information on Beneficial Owners of Legal Persons by Financial Institutions (c. 33.4). Domestic sector:** Access to commercial register is not accessible to financial institutions through Internet, but information on beneficial owners can be retrieved from the commercial register premises.

777. **QFC:** The CRO, providing details on ownership, management, registered office, principal representatives etc, is available, free of charge, to the public through the website of the QFC Authority (www.qfc.com.qa).

5.1.2 Recommendations and Comments

- All relevant authorities currently have access to the information on control and beneficial ownership of legal persons, either through the powers granted to the law enforcement agencies, or, in the case of the QCB, through a direct electronic link to the central register; the authorities are nevertheless encouraged to enhance the timeliness of the access by providing the FIU and the DSM an electronic link to the register of commerce's database (as is already the case for the QCB).

5.1.3 Compliance with Recommendations 33

	Rating	Summary of factors underlying rating
R.33	**LC**	• Domestic sector: timeliness of the FIU's and DSM's access to beneficial ownership and control information should be improved by establishing a direct electronic link to the commercial register database.

5.2 Legal Arrangements—Access to beneficial ownership and control information (R.34)

5.2.1 Description and Analysis

778. **Domestic sector:** The Qatari legislation does not provide for the creation of trusts or other similar legal arrangements. At the time of the assessment, there was no information available that would indicate that the private sector holds funds under foreign trusts and/or provides other trust services.

779. **Measures to Prevent Unlawful Use of Legal Arrangements (c. 34.1). QFC:** The Trust Regulations No 12 was issued by the QFC Authority on 26 February 2007. It provides for the creation of trusts under the QFC laws. The Trust Regulations, consisting of 13 parts and 68 articles, sets out *inter alia* the requirements for the creation of trusts, the duties and powers of the trustee, and the rights and interests of the beneficiaries and the termination of trusts. It also specifies the role of the QFC Tribunal in the administration of QFC trusts. The Trust Regulations defines trusts as "a right, enforceable solely in equity, to the beneficial enjoyment of property to which another person holds the legal title" and is applicable to express trusts, charitable trusts, non-charitable trusts and trusts created pursuant to law or judgment that requires the trust to be administered in the manner of an express trust. The Trust Regulations also provides for the creation of trusts under another governing law, as well as for the recognition of foreign trusts.

780. There are no requirements set out under the Trust Regulations to obtain, verify, or retain information on the beneficial ownership and control of trusts. In particular the settlor, trustee, and beneficiaries of trusts are not recorded anywhere and there are no requirements as to where the trust deeds should be kept[18].

781. **Access to Information on Beneficial Owners of Legal Arrangements (c. 34.2):** The Trust Regulations does not set out any measures that would enable the competent authorities to have adequate, timely and accurate information on express trusts, including information on the settlor, trustee and beneficiaries.

782. As discussed under Recommendation 28 and according to the CPC, law enforcement agencies such as the SSB and the ECPD have powers to compel production of financial records, trace property ownership, search premises for evidential material and summons a person to give evidence under oath. Accordingly, law enforcement agencies have some powers to obtain access to information on the beneficial ownership and control of certain legal arrangements.

[18] In case a trust whose governing law is the QFC Law engages in the business activities specified in schedule 3 of the QFC Law, it would be subject to the legal framework analyzed in the previous sections on financial institutions and DNFBPs.

5.2.2 Recommendations and Comments

783. According to the CPC, law enforcement agencies have the powers to compel production of financial records, trace property ownership, search premises for evidential material and summons a person to give evidence under oath which will allow them to access information on beneficial ownership and control of trusts. However, the mechanisms to obtain and have access in a timely manner to beneficial ownership and control of trusts, and in particular the settlor, the trustee, and the beneficiaries of trusts are not in place. There is considerable scope to improve the process to enable competent authorities to obtain or have access in a timely fashion to such information. Considering the above, it is recommended that the QFC Authority and the QFCRA:

- Review the CDD requirements with respect to trusts to ensure that they are in conformity with the new Trust regulations.

- Take measures that enable the competent authorities to have adequate, accurate and timely information on trusts created under QFC, including accurate, current and adequate information on the settlor, trustee and beneficiaries.

5.2.3 Compliance with Recommendations 34

	Rating	Summary of factors underlying rating
R.34	**PC**	• Absence of mechanisms to obtain, verify, or retain information on the beneficial ownership and control of trusts in a timely manner, and in particular with regard to the settlor, the trustee, and the beneficiaries of trusts. • Absence of measures to enable the competent authorities to have adequate, timely and accurate information on trusts, including information on settlor, trustee and beneficiaries.

5.3 Non-profit organisations (SR.VIII)

5.3.1 Description and Analysis

784. **Types of NPOs.** Law 12 of 2004 on private institutions and associations distinguishes between three different types of NPOs: the associations, the professional associations and the private institutions. The associations are defined as “a team including normal or considerate people participating altogether in a humane, social, cultural, scientific, professional or charitable activity, the purpose of which does not include material profits or political affairs.” A sub-group of associations, the “licensed charitable associations”, was created by an instruction issued by the Civil service and housing affairs Ministry on Charitable societies. There are 11 listed licensed charitable associations. The professional associations are defined as “an assembly joining people working in the same field organized by the law.” The private institutions are defined as “private facility established by one or more normal or considerate people in order to achieve one purpose or more purposes of the private or public utility for an unlimited period of time. Its goals do not include achieving material profits or working in the political affairs.”

785. The QFC enables NPOs to be established in the form of a charitable trust under the Trust Regulations. According to Article 25 of the Trust Regulations, “A Charitable Trust may be created for the relief of poverty, the advancement of education or religion, the promotion of health or art, the protection of the environment, or any other purposes which are beneficial to the general public.”

786. **Review of the NPOs that can be abused for FT (applying c. VIII.1). Domestic sector**. In light of international developments, the authorities reviewed the domestic laws and regulations on NPOs and decided to enact the Law 12 of 2004 on Private Institutions and Associations and the Law 13 of 2004 on the Foundation of the Qatari Authority for Charitable Activities (QACA). In 2006, a further review led the authorities to impose new obligations on NPOs that are considered at risk of being misused for FT, the charitable and humanitarian societies (charities). This decision resulted in Resolution 17 of June 11, 2006 issuing instructions related to the combating of ML and FT. As a registration authority, the Ministry of Civil Service and Housing Affairs has information on the general evolution and size of the NPO sector. The QACA has relevant information on the activities and size of the charities. Regular meetings with the FIU, the charities and foreign bodies involved in charities supervision, enable the QACA to have access to updated information on the sector's potential vulnerabilities to terrorist activities. At the beginning of 2007, the QACA signed a Memorandum of Understanding with the Charities Commission for England and Wales, aiming to promote institutional cooperation and training.

787. **QFC.** At the time of the visit, the Trust Regulations was open for consultation. The QFC did not conduct any review of the domestic non-profit sector.

788. **Outreach to the NPO sector concerning FT issues (Applying c. VIII.2). Domestic sector.** Several measures have been taken by the authorities to raise awareness of the charities sector about the risks of terrorist abuse. This has mainly been done through the issuance of Resolution 17 of 2006 and meetings with all the charities to explain the objectives of the legal framework. On an ongoing basis, a working group composed of the FIU and the QACA has been established to ensure that charities understand the AML/CFT regulations. The charities also took part in a national workshop organized in February 2007 by the UNODC on the promotion of the universal instruments against terrorism. The creation of the QACA as a supervisory authority for the charities in 2004 and the supervision and communication that followed have enhanced the transparency. The QACA provides guidance for the associations and regularly holds coordinating meetings. It encourages charities to provide donors with a better understanding of the charity sector and monitors fundraising activities. Moreover, the QACA regularly issues warnings in the media on the rules and risks of fundraising.

789. **QFC**. At the time of the on-site visit, charitable trust were not authorized in the QFC. The Trust Regulations was issued on February 26, 2007 enabling the creation of QFC Trusts. The QFCRA did not undertake outreach to the NPO sector concerning FT issues during the drafting process of the QFC Regulation No. 12 and the QFCRA did not plan any outreach at the time of the visit.

790. **Supervision or monitoring of the NPO sector (Applying c. VIII.3). Domestic sector.** Law 12 of 2004 requires for NPOs to be registered and sets out a general monitoring framework. Pursuant to Article 8 of the Law, the Ministry of Civil affairs and housing accepts the request for registration and declaration on the basis of a decision made by the Minister and adopted by the Council of Ministers. NPOs have to maintain information on the purpose and objectives of their stated activities (Articles 4 and 5) and the identity of the founders (Article 4). Any modification of the purpose has to be notified to the Ministry of Civil Service and Housing Affairs. According to Article 22 of Law 12 of 2004, the Minister has to be informed about the session of the general assembly of every NPOs, and should send a representative to attend the general assembly sessions. The general assembly is typically in charge of the election of the members of the board of directors and of the adoption of annual financial statements (Article 19). All activities and accounts of the assembly are subject to the supervision of the Ministry (Article 32). If the purpose of an NPO is humanitarian or charitable, it has to be authorized by the QACA.

The Ministry records all the information submitted by the NPOs. If NPOs do not comply with the obligations set out in the Law, the Minister can dissolve or suspend its board of directors and assign a temporary board for no more than a year if that serves the public interest and achieves the NPO's purposes (Law 12 of 2004, Article 35). Finally, Article 31 of the Law imposes strict monitoring measures of all NPOs' international activities. It requires a written approval by the Ministry of Civil Service and Housing Affairs, as well as communication of documents, for every financial transaction conducted with a foreign counterpart.

791. According to the QACA Resolution 17 of 2006, the private institutions and associations which have charitable and humanitarian objectives shall record all financial transactions, both locally and internationally and maintain them for a period of at least fifteen years. They have to respond promptly to requests for information received from the QACA, the courts or any other body authorized by law. These records must allow for the retrieval of all relevant information including the amount, currencies, type and date of the operation, place to which the remittance is made, the identity of the beneficiary, as well as any other required documents such as photocopy of the passport or identity card and the account number. These documents should be made available for inspection by the competent bodies upon request. The QACA has established an archive for documents relevant to charities including the identity of all NPOs' personnel, members of the Board of directors and other officials and annual financial statements. A database maintained by the QACA includes all the correspondence. The authority keeps these documents for 15 years. Pursuant to the QACA Circular 1 of 2005, every transaction outside the country has to be documented and justified, the beneficiary has to be identified and the identity verified by the local Qatari or GCC embassy. The documents are communicated to the QACA for approval.

792. In addition to the 11 licensed charitable societies, six other institutions are under QACA's supervision. Four of those 17 NPOs are developing projects abroad. According to Article 24 of the Law 13 of 2004, a decision of the Emir may exempt any NPO from the supervision of the QACA. On-site supervisions were originally conducted by the QACA alone and more recently in conjunction with a major auditing firm. The on-site audit done by QACA extends to international projects, with an assessment of the completion of the project in the receiving countries. In addition to the request for monthly completion reports, QACA's department of projects made on-site visits to Yemen, Afghanistan and Mauritania in 2006. The staff of the department of projects has been trained with regard to ML and TF threats and staff of the internal audit department of the QACA has taken part in some missions.

793. Article 18 of Law 13 of 2004 establishing the QACA criminalizes with a maximum imprisonment of one year and a fine not exceeding fifty thousand Riyals the "collection of grants or the transfer of money abroad or granting or accepting loans, donations, grants, legacies, or entails, in violation of this law". In all cases, the funds in dispute must be seized. On-site inspections have already taken place with regard to about two thirds of the charities. After the inspection a draft report is submitted to the senior management of the NPO for feedback and comments. If an issue is not solved at this point the violations are mentioned in the final report that is submitted to the president of the QACA, who may then apply a sanction. The QACA has already imposed steps to be taken in order to address shortcomings with sanction if they are not followed upon. So far, all recommended action have been followed up and therefore there was no need for additional sanctions. The imposition of sanctions would not prevent other legal measures, including penal measures.

794. The Qatari framework regarding monitoring and supervision of NPOs is well developed and the effective implementation has already begun. The on-site supervision of the international projects, which is

already performed, may benefit from being conducted in a more systematic and structured basis, to ensure that funds have been spent in a manner consistent with the purpose and objectives of the charities. In addition, Article 6.6 of the Resolution No. 17 of 2006 is unclear. It refers to a team composed of FIU and QACA staff that inspects charities' AML/CFT procedures and verifies the compliance with the Resolution. This article is currently not implemented and the supervisory power is exercised by the QACA only, whereas the joint FIU-QACA team is currently dedicated to raising the awareness of the sector to ML and FT risks. Finally, the possibility offered in Article 24 of Law 13 of 2004 to exempt an NPO from the QACA supervision may prevent the full transparency of the charities sector.

795. **QFC.** There is no monitoring and supervision of charitable trusts that are governed by QFC Law[19]. There is no obligation for charitable trusts created in the QFC to report to QACA or the QFCRA or to make publicly available the information on their purpose and objectives or the identity of persons who own, control or direct their activities. Moreover, no specific oversight measures or rules have been established for charitable trusts. They are not licensed or registered and there is no obligation to keep records.

796. **Information gathering and investigation (Applying c. VIII.4). Domestic sector:** Resolution No.17 of 2006 which sets out instructions related to the combating of money laundering and terrorism financing also requires charities to verify the identity of any natural and legal person they are in relation with, and to conduct ongoing diligence. The Resolution further imposes on charities the obligation to verify the seriousness and validity of all financial transactions whose amounts exceed 100 000 Riyals. In addition, charities have to set up control procedures and training programs, appoint a compliance officer and report to the FIU when a suspicious financial transaction is detected. In case of breach of any of these obligations, the offending charity shall be punished according to the provisions of Chapter 5 of the Law No. 13 of 2004 (that includes seizure of funds, fines and prison) and the AML Law concerning the combating of money laundering. Domestic cooperation, coordination and information sharing take place under the NAMLC, and also on a bilateral basis between the QACA, the FIU, the PPO and the Qatari embassies abroad.

797. In addition, QACA receives the lists issued by the former Coordination Committee and the current NCT to implement Resolution 1373 and it circulates them among the associations and private institutions, requiring abidance by them, adoption of due diligence and suspensions of any dealing with the individuals, entities or organizations identified in the lists. In case of a positive match, the information must be forwarded to the NCT for the implementation of UNSCR 1373 to take the appropriate measures. At the time of the mission, no case had been transmitted to the Coordination Committee.

798. Resolution 17 of 2006 sets up a comprehensive framework for information gathering and investigation that goes beyond the standards. These provisions may assist the effective investigation and information gathering within the charities sector. To date, no STR has been sent to the FIU. Some elements may require further attention. Indeed, the identification process has some shortcomings. Under Resolution 17 of 2006, every donor has to be fully identified even for a one-riyal donation. This obligation does not appear to be enforced or realistically enforceable. Currently, the charity takes the

[19] In case a charitable trust whose governing law is the QFC Law engages in business activities specified in schedule 3 of the QFC Law, it will be subject, as any other legal person, to the legal framework analyzed in the previous sections on financial institutions and DNFBPs. The QFC Law do not however specifically address the vulnerabilities of charitable trusts to abuse by terrorists as is recommended by SR VIII.

name, address and phone number of the donor and the full identification required by the Resolution is effective above a 100 000 Riyals threshold. Moreover, the requirement to send STRs to the FIU is not supported in the AML Law. According to Article 3.1 of the administrative order No. 1 of 2004 establishing the FIU, the FIU may receive suspicious transactions reports related to ML and FT from non-financial professions. But the administrative order No.1 of 2004 does not conform with the AML Law. According to the law, it is the coordinator that should receive the STRs, whereas in the administrative order it is the FIU. There are no legal or regulatory explanation of the relationship between the FIU and the coordinator. But more importantly, the administrative order No.1 has no legal basis. Indeed, Article 20 of the AML Law only authorizes the MOI to issue executive resolutions of the provisions of this law. No legal provisions give any power to the Committee to issue resolutions. Consequently, even if the charities are obliged to send STRs under Resolution 17 of 2006, the FIU has no power to receive, analyze and disseminate those STRs.

799. **QFC.** Concerning charitable trusts whose governing law is QFC law, there is no possible effective information gathering or investigation since there is no registration, licensing or reporting requirements.

800. **Capacity to respond to international requests for information about an NPO of concern (Applying c. VIII.5). Domestic sector:** The authorities have designated the FIU as the administrative point of contact for international requests for information about an NPO suspected of terrorist financing or other forms of terrorist support. The FIU has ongoing relations with the QACA and information on a particular NPO can be transmitted promptly.

801. **QFC.** The FIU will not be able to respond to international requests for information about charitable trusts whose governing law is QFC law. The QFC will not be in a position to answer these requests because there is no obligation for a charitable trust to be registered or licensed in the QFC.

5.3.2 Recommendations and Comments

802. **Domestic sector:** Overall, the measures which are being implemented in the domestic sector to ensure that the NPOs cannot be abused by terrorist or terrorist financiers go beyond the requirements of the standards and appear to be effectively implemented. The comprehensive regulations in place do not appear to have had an adverse effect on the donations, as the total turnover of the sector is constantly growing. The high level of transparency appears indeed to have contributed to increase the trust of donors. Nevertheless, Qatar could continue to improve its framework, particularly by taking the following actions:

- Review Resolution 17 of 2006 to make the identification requirements more realistic and enforceable. The current working identification (name, address, phone number) should be maintained for all transactions but charities should be required to undertake full identification and verification above a particular threshold and/or when there is a suspicion of money laundering or terrorism financing. This review should also clarify the role of the QACA-FIU team;

- Review Law 13 of 2004 to suppress the possibility of exempting a charity from the QACA supervision; and

- Systematize on-site inspection of international projects to ensure that funds have been spent in a manner consistent with the purpose and objectives of the charities. A risk assessment of the projects could effectively enable the QACA to tailor the extent of such on-site inspection and the staffing of the mission.

803. Although it is not a requirement under the standards, review the AML Law to empower the FIU to analyze and disseminate the STRs that the NPOs are currently required to file.

804. **QFC**: The Trust Regulations is not compliant with the requirements of SR VIII. It appears to be inconsistent with the domestic sector's strict legal and regulatory framework, which does not provide the possibility for a QFC charitable trust to be domiciled in Qatar. Law 12 of 2004 defines private institutions and associations strictly and QFC charitable trusts are not captured by these definitions. Law 13 of 2004 only gives QACA the power to control "the humane and charitable works done by the associations and the private institutions" (article 4.2), and to control "the process of grant collection legalized for the humane and charitable associations and private institutions, the individuals, and the other authorities that are designated by a decision issued by the Council of Ministers" (article 4.4). This does not apply to the QFC charitable trusts. In addition, the current legal framework for charitable trusts in the QFC creates an opportunity to bypass regulations compliant with SR VIII in the legal framework of other jurisdictions.

805. In this context, it is recommended that the authorities:

- Revise Law 12 of 2004 with a view to broaden the definition of NPO in order to include the QFC charitable trusts.

- Revise Law 13 of 2004 with a view to enable QACA to regulate and monitor charitable trusts domiciled in Qatar.

- Revise the QFC Trust Regulations in order to comply with SR VIII, including in particular, to license or register QFC charitable trusts and provide for appropriate measures to sanction violations of oversight measures or rules by QFC charitable trusts.

- Promote effective supervision or monitoring of QFC charitable trusts. A memorandum of understanding between the QFCRA and the QACA could be contemplated to delineate the responsibilities of these bodies. The memorandum of understanding should also ensure that the authorities can effectively investigate and gather information on QFC charitable trusts, and enable them to respond to international requests for information about a QFC charitable trust of concern.

5.3.3 Compliance with Special Recommendation VIII

	Rating	Summary of factors underlying rating
SR.VIII	**LC**	Domestic sector: • Recent enactment of Resolution 17 of 2006 does not allow to fully assess the effectiveness of supervision of the NPO sector[20]. • There is a regulatory possibility of exempting a charity from QACA supervision. QFC: • The Trust Regulations creating charitable trusts is not compliant with SR VIII.

[20] QACA has conducted a number of periodic and unannounced field inspections visits since the on-site mission, to examine and check the accounts and records of the domestic NPOs. Reports including recommendations have been sent and prohibition of financial assistance or financial transfers to some foreign NPOs have been pronounced. Field visits have been performed abroad in order to verify that financial transfers are actually allocated to humanitarian purposes. This confirms the effectiveness of the measures in place, as witnessed during the on-site visit (see paragraphs 948 and 949).

6 National And International Co-Operation

6.1 National co-operation and coordination (R.31)

6.1.1 Description and Analysis

806. **Mechanisms for Domestic Cooperation and Coordination in AML/CFT (c. 31.1).** Two mechanisms were put in place to ensure the cooperation amongst the relevant authorities in the fight against money laundering and terrorist financing, the NAMLC and the Coordination Committee in 2002 that was replaced in 2007 by the NCT.

807. NAMLC was established under the presidency of the Deputy Governor of the Central Bank. In accordance with Article 8 of the AML Law as amended by Decree Law No 21 of 2003, the NAMLC comprises two representatives of the MOI, including a director from the ministry's specialized department (currently the Director of the General administration of Immigration), a representative of the Ministries of Civil Service Affairs and Housing, Economy and Commerce, Finance and Justice, as well as additional representative of the QCB and the Customs and Ports general Authority. Although not specified in the AML Law, the State Security Bureau (which is an independent body that reports directly to the Emir) is also represented in the NAMLC.

808. The statutory functions of NAMLC are the following: to prepare, adopt and follow-up the implementation of AML plans and programs, to ensure coordination amongst the competent entities in order to implement the provisions of the legislation and agreements related to AML issues, to follow the international trends, propose the necessary measures in this regard, and prepare the necessary reports, statistics and data on AML efforts (Article 9 of the AML Law).

809. NAMLC is currently chaired by the Deputy Governor of the QCB. The Director of the MoI's Immigration Department acts as deputy chairman. The head of the FIU acts as coordinator for the NAMLC and spear-heads the dialogue amongst the members as well as communication with other relevant bodies and agencies. The full NAMLC membership meets four times a year and additional bilateral contacts between the individual members of the Committee occur on a frequent basis.

810. NAMLC is empowered by the AML Law to issue its own regulation (Article 8 as amended by Article 1 of the Decree Law No. 21 of 2003). It used this prerogative on one occasion, with the issuance of Resolution No.1 of 2004 which established the FIU (see write-up on Recommendation 26).

811. Representatives of NAMLC (in most cases the head of the FIU acting as coordinator and/or the deputy chairman of NAMLC) visited all the ministries of the Qatari government with a view to raise awareness on AML/CFT issues, as well as to provide guidance on the AML/CFT framework and information on the NAMLC's role.

812. The establishment of NAMLC in 2002 was timely and the Committee provides a useful platform for an effective inter-ministerial dialogue and overall, the communication and coordination amongst the members of the NAMLC appeared to be frequent. However, the NAMLC membership does not include all the relevant authorities in the fight against money laundering and terrorist financing; in particular, the Public Prosecutor's Office, the securities market regulator[21] and the recently established QFC. The Head

[21] At the time of the onsite visit, the DSM was the competent regulator but its successor, the QFMA, was due to start operating in April 2007.

of the FIU, acting as coordinator for NAMLC, ensures that regular dialogue with these authorities nevertheless takes place and that cooperation is effective. As an example of such cooperation, the authorities mentioned that the draft QFC Regulation on AML/CFT was submitted to the head of the FIU for comments before its finalization In practice, the information flow from NAMLC, on the one hand, to the Public Prosecutor's Office, the securities market regulator and the QFC, on the other, seems effective, despite that fact that it relies solely on a purely informal basis. It nevertheless remains unclear to what extent the input from these three authorities is sought and considered by the NAMLC before a decision is taken. It would therefore prove useful to formalize the coordination and cooperation, for example, by including representatives from all three authorities in NAMLC. The fact that the QFC is an independent body which may adopt its own framework of civil laws should not be raised as an obstacle to closer cooperation with the domestic authorities, because, pursuant to the Law No 7 of 2005, the QFC remains bound by the Qatari criminal laws; it is therefore responsible for the implementation of the AML and the CT Laws within its territory and is directly affected by the decisions taken by NAMLC. In these circumstances, it would be appropriate to enable the QFC to partake in the national efforts to develop and implement the AML and CFT laws, regardless of its independent status.

813. A second platform was established initially, in January 2002, with the establishment of an interdepartmental committee, the Coordination Committee, in charge of the coordination of the implementation of the UN resolutions on the fight against terrorism (Council of Ministers' decisions of January 12, July 7 and July 21 of 2002), then replaced by the National Committee for Fighting Terrorism (the NCT), created pursuant to the Council of Ministers' decision of March 26, 2007.

814. The Coordination Committee which was in place from January 2002 until March 2007 comprised representatives from the Ministries of Civil Service Affairs and Housing, Finance, Economy and Commerce, Interior, and Justice, as well as representatives of the Islamic Affairs department and Awqaf, the QCB and the Chamber of Commerce and Industry. Although it is not a permanent member of the Committee, the MOFA is usually invited to attend the meetings. All members received the UNSCR 1267 lists of designated terrorist and the requests made under UNSCR 1373. The new NCT is composed of representatives from the MOI, the Qatar Armed Forces, the State Security Bureau, the Internal Security Force, the Ministry of Civil Service and Housing Affairs, the Ministry of Finance, the MEC, the MOJ, the Ministry of Endowment and Islamic Affairs, the General Secretariat of the Council of Ministers, the QCB, the General Authority of Customs and Ports, and of the Qatar Chamber of Commerce and Industry (Article 1 of the abovementioned decision).

815. The main functions of the NCT are to make plans and programs to fight terrorism, to coordinate national efforts in the implementation of the obligations arising from UNSCR 1373 and to take action to implement the obligations set out in the international conventions against terrorism to which Qatar is a party (Article 3 of the same decision). The implementation of other relevant UNSCR, and in particular of UNSCR 1267 and its successor resolutions, does not fall within the remit of the new NCT and is currently unaddressed.

816. The membership of the former Coordination Committee and of the current NCT represents all the relevant authorities in the fight against money laundering and terrorist financing, with the notable exception of the PPO, the DSM and the QFC. The authorities established that the QFC nevertheless receives the updates to the 1267 list and the requests made by other countries through one of the members of the NCT (and, previously, of the Coordination Committee). Since the QFC and the DSM are responsible for the implementation of the AML/CFT measures, including the UNSC resolutions, within

their remit, it would nevertheless prove useful to include them in the NCT membership in order to allow them to participate in the discussions and be informed at the same time as the other members of the NCT. This would ensure that no time is lost between the moment when the NCT receives the UN updates or takes a decision on other designations and the moment when it informs the QFC and DSM.

817. Operational coordination with respect to the implementation of the UNSCRs is in place but should be further enhanced as mentioned above (and in the write-up for SR III).

818. In conclusion, the two coordination committees, and NAMLC in particular, offer an appropriate framework for domestic cooperation amongst most of the relevant authorities on ML and TF issues, with the exception of coordination and implementation of UNSCR 1267. They would nevertheless benefit from an enlarged membership and, in the case of the NCT, focus as a matter of priority on enhancing the operational cooperation in the implementation of the UNSCRs.

819. **Additional Element—Mechanisms for Consultation between Competent Authorities and Regulated Institutions (c. 31.2).** No mechanisms have been put in place to ensure adequate consultation of the financial and non-financial sectors that are subject to the AML/CFT measures.

820. **Statistics (applying R.32).** No comprehensive statistics are held in this respect.

6.1.2 Recommendations and Comments

- The authorities should formalize the cooperation with, the QFC, the securities market regulator and, if necessary, the Public Prosecutor's Office, and seek to include them in their efforts to develop and implement policies to combat money laundering and terrorist financing.
- The authorities should ensure as a matter of priority enhanced cooperation in the implementation of UNSCRs 1267 and 1373 (and their successor resolutions).
- Comprehensive statistics should be maintained.

6.1.3 Compliance with Recommendation 31

	Rating	Summary of factors underlying rating
R.31	**LC**	• There are mechanisms in place to ensure effective cooperation and coordination amongst most of the relevant authorities in AML but they could be enhanced by formally including the QFC, the DSM and, if necessary, the PPO. • The coordination mechanism in place for the implementation of the UNSCR 1373 could be enhanced in a similar way. • There is no mechanism for the implementation of the UNSCR 1267.

6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)

6.2.1 Description and Analysis

821. **Implementation of Vienna Convention (Articles 3-11, 15, 17 & 19, c. 35.1)**. The Vienna Convention has been ratified by the Qatari government through Decree No. 130 of 1990. The production,

manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery, brokerage, dispatch in transit, transport, importation or exportation of any narcotic drug and psychotropic substances have been criminalized through Law No. 9 of 1987 (as amended by Law No. 7 of 1998 pertaining to combating drugs and dangerous mental effects and regulating their use and trade), in compliance with Article 3 of the Convention. The money laundering offense also partially meets the requirements set out in the Palermo Convention (see write-up on Recommendations 1 and 2). The State of Qatar has taken measures to ensure that it has jurisdiction over the offenses committed in its territory (including vessel/ships) by amending its criminal Code as well as to cooperate with other countries in a way which broadly complies with Articles 4 to 10 of the Vienna Convention. It has also created the legal basis to allow for the appropriate use of controlled delivery as required under Article 11 of the Conventions (Article 425 of the CPC). It has not, however, taken measures with respect to commercial carriers, traffic by sea, use of mail in compliance with Article 15, 17 and 19 of the Vienna Convention.

822. **Implementation of Palermo Convention (Articles 5-7, 10-16, 18-20, 24-27, 29-31 & 34, c. 35.1).** The Palermo Convention has not been ratified by the State of Qatar and participation in an organized criminal group (Article 5 of the Convention) has not been criminalized.

823. Money laundering has been criminalized and AML measures have been adopted but neither the AML offense nor the relevant preventive measures are in full compliance with Articles 6 and 7 of the Palermo Convention (see write-up on relevant recommendations). Legal persons may be subject to criminal liability but this liability is only available for the money laundering offense, and does not apply to the participation in an organized criminal group per se, nor to cases of corruption and obstruction of justice and, thus, does not comply with Article 10 of the Palermo Convention. Money laundering and the failure to comply with the preventive measures are subject to sanctions which are generally in line with Article 11 of the Convention. Mutual legal assistance may be rendered in a number of cases and confiscation, seizure and extradition are possible and broadly meet the requirements set out in Articles 10 to 16, 18 to 20 of the Palermo Convention, except with respect to organized crime. No measures have been taken to ensure effective protection of witnesses who need and assistance to and protection of the victims as required by Articles 24 and 25 of the Palermo Convention. General dispositions in the Criminal Code aim at encouraging persons who have participated in a crime to cooperate with the law enforcement authorities but in the absence of criminalization of organized crime, they do not apply as required by Article 26 of the Convention. In the absence of ratification, international cooperation may not be rendered on the basis of Article 27 of the Palermo Convention. Furthermore, the general framework for international cooperation is not sufficiently broad to overcome the absence of ratification and, although it provides the framework for international cooperation in the fight against money laundering, it is not applicable in the fight against organized crime because the latter has not been criminalized in Qatar. The absence of criminalization of transnational organized crime also entails that none of the measures required under Articles 29 to 31 of the Palermo Convention have been taken.

824. **Implementation of SFT Convention (Articles 2-18, c. 35.1 & c. I.1).** The ICSFT has not been ratified by the State of Qatar.[22] Some of the measures it requires have been partially implemented in Qatar through the adoption of the AML and CT Laws (see write-up under SR I).

[22] By decision dated October 11, 2007, the Council of Ministers approved the joining of the International Convention for the Suppression of Terrorist Bombings of 1997 and the International Convention for the Suppression of the Financing of terrorism of 1999, subject to the reservations to some of the provisions regarding the referral to international arbitration and the International Court of Justice.

825. **Ratification of CFT Related UN Conventions (c. I.1).** Qatar has not yet signed the ICSFT. The Council of Ministers has decided to refer this question to the competent authorities in Qatar to study the provisions of the Convention with a view to Qatar's accession to the Convention (fourth report of the State of Qatar to the UN CTC, March 2006, S/2006/171). Terrorist financing has been criminalized but lacks the level of detail required to fully comply with the requirements set out in the ICSFT. Other requirements of the ICSFT have been partially implemented in the Qatari legislation with the adoption of the AML Law and the CT Law (see the write-up under SR II for Articles 2-6 and 17-18: SR III for Article 8; and SR V for Articles 7 and 9-18 of the ICSFT).

826. **Implementation of UN SCRs relating to Prevention and Suppression of FT (c. I.2).** Qatar regularly informs the UNSC of the progress made in the fight against terrorism: It submitted its report to the UNSC 1267 Committee (in accordance with UNSC Resolution 1455 (2003)) on August 18, 2003[23] and its reports to the UNSC 1373 Committee on October 28, 2002[24], March 10, 2004[25] and March 17, 2006.[26]

827. An inter-ministerial committee, the NCT has been established amongst other things to ensure the coordination of the implementation of UNSCR 1373, but no legal measures have been taken to ensure that the authorities may rely on an effective freezing mechanism (see write up under SR III and Rec. 31). As also mentioned, the NCT does not address coordination in the implementation of UNSCR 1267.

828. According to the authorities, none of the persons and legal entities listed under UNSCR 1267 have been identified in Qatar. One of the legal entities designated under UNSCR 1267 was purported to have a branch in Doha. A search was conducted and it appeared that the branch had been closed down and that the legal entity listed had no accounts in the banks operating in Qatar. However, it would appear that at least in one case the authorities did not provide the assistance required under UNSCR 1267 and offered safe harbor to a foreign national listed under UNSCR 1267, in violation of their obligations under the resolution (see also write-up under SR II).

829. **Additional Element—Ratification or Implementation of Other relevant international conventions (c. 35.2).** Qatar is also party to the 1998 Arab Convention for the Suppression of Terrorism.

6.2.2 Recommendations and Comments

830. The authorities are encouraged to :

- Take the necessary measures to fully implement the Vienna Convention;
- Sign, become party to and fully implement the Palermo Convention;
- Sign, become party to and fully implement the International Convention for the Suppression of Terrorist Financing; and

[23] S/AC.37/2003/(1455)/66
[24] S/2002/1211
[25] S/2004/179
[26] S/2006/171

- Take the necessary measures to comply with and fully implement UNSCR 1267 and 1373 (and their successor resolutions) as recommended under SR III.

6.2.3 Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of factors underlying rating
R.35	**PC**	• Qatar has partially implemented the Vienna Convention. • It has not ratified nor fully implemented the Palermo Convention and the 1999 ICST.
SR.I	**NC**	• Qatar is not party to and has not implemented the ICST. • Qatar has not fully implemented the UNSCR 1267 and 1373. Moreover, it acted in violation of UNSCR 1267 on one occasion.

6.3 Mutual Legal Assistance (R.36-38, SR.V)

6.3.1 Description and Analysis

831. **Widest Possible Range of Mutual Assistance (c. 36.1).** The AML Law specifically provides that legal assistance, coordination, joint cooperation and extradition should be provided in money laundering investigations in accordance with the international agreements concluded by the State of Qatar (Article 17 of the AML Law). The general framework for mutual legal assistance is set out in the Criminal Procedure Code (CPC; Book V) and applies to the fight against money laundering.

832. Other than extradition, the types of measures that may be taken on behalf of a foreign jurisdiction are not clearly defined in the law. Article 427 of the CPC merely refers to a foreign country's request "to conduct an investigation through the Qatari judicial bodies". The limitations are similarly broad; Article 428 of the CPC provides that a request for mutual legal assistance must be rejected when the procedures sought are prohibited by law or in conflict with the principles of the general order of Qatar. It would therefore appear that, subject to reciprocal agreement (Article 407 of the CPC), all the measures permitted under the general dispositions of the CPC may be taken on behalf of a foreign State. This includes all of the following acts:

- the production, search and seizure of information, documents, or evidence from financial institutions, or other natural or legal persons (Article 29 of the CPC). It has to be noted however that the production of banking records (including those held by QFC banks) requires an authorization from the Governor of the QCB: neither the PPO nor the police may order a bank to provide information on a customer's bank account;

- the taking of evidence or statements from persons (Article 34 of the CPC);

- providing originals or copies of relevant documents and records as well as any other information and evidentiary items;

- effecting service of judicial documents;

- facilitating the voluntary appearance of persons for the purpose of providing information or testimony to the requesting country; and

- identification, freezing, seizure, or confiscation of assets laundered or intended to be laundered, the proceeds of money laundering and assets used for or intended to be used to finance terrorist groups or organizations, as well as the instrumentalities of the money laundering offense, and assets of corresponding value (Article 12 and 13 of the AML Law; Article 15 and 21 of the CT Law).

833. On this last point, it is worth mentioning that the AML Law does not specifically address the instrumentalities of the predicate offense. Consequently, the identification, freezing, seizure or confiscation of these instrumentalities would have to be the object of a separate request for mutual legal assistance based on the predicate crime, thus creating an additional hurdle for the requesting State.

834. **Provision of Assistance in Timely, Constructive and Effective Manner (c. 36.1.1).** The authorities did not provide any information that would enable the assessors to establish that Qatar is able to provide such assistance in a timely and effective manner.

835. **No Unreasonable or Unduly Restrictive Conditions on Mutual Assistance (c. 36.2).** Pursuant to Article 428 of the CPC, requests for mutual legal assistance are to be rejected if:

a. the required procedures are prohibited by law or in conflict with the general principles applicable in Qatar;

b. the acts in respect of which the request is made does not constitute a crime under Qatari law (unless the defendant agrees to the procedure, in which case the authorities may undertake the measures required by the requesting State); or

c. the crime investigated is one for which extradition is not allowed under the Qatari legislation (i.e., under the circumstances listed under Article 410 of the CPC. See write up on R 39 below).

836. It results from the above (and from letter (b) in particular) that the Qatari authorities are not entitled to grant the requested assistance in the absence of dual criminality. This entails that, although money laundering is a crime under Qatari law, a request for mutual legal assistance will not be followed upon if the underlying crime of the money laundering offense investigated or prosecuted in the foreign State is not one of the predicate offenses listed under Article 2 of the AML Law.

837. Although the conditions set out in the law are not unreasonable, disproportionate or unduly restrictive per se, the combination of a strict dual criminality requirement and of the limited list of predicate offense under Article 2 of the AML Law greatly limits the scope of the assistance that they authorities may provide.

838. **Efficiency of Processes (c. 36.3).** Request for mutual legal assistance are forwarded to the PPO through the diplomatic channels (Article 427 of the CPC).The request must state the procedures and investigations that are sought to be carried out as well as the legal provisions that apply, and must be accompanied by any relevant document. The Public Prosecutor may then refer the request to the competent judicial authority as appropriate. The law specifically provides that where prompt action is requested, “the actions that are warranted by necessity may be taken before reception of the request and

its attachment", thus enabling the authorities to act even in the absence of all necessary documents (Article 427 of the CPC).

839. **Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 36.4).** The conditions under which a request is to be rejected are defined under Article 428 of the Criminal Procedure Law and do not encompass elements of a fiscal nature. *A contrario*, mutual legal assistance may be granted even when the offense on which the request is made involves fiscal matters. This view was shared by the authorities during the on-site visit.

840. **Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 36.5).** The banking secrecy applies to the relationship between a domestic bank and its customers and covers any document or information received by the banks in conducting their services. The authorities may nevertheless have access to the relevant information, providing however that the Governor of the QCB agrees to lift the banking secrecy or, if criminal proceedings have been initiated, that the competent court delivers the appropriate order on request of the public prosecutor. If the conditions for granting mutual legal assistance are met, the Governor and the court cannot deny the authorities access to the information.

841. No other secrecy requirement may be opposed to the authorities in the other relevant sectors (both domestic and within the QFC). The authorities may therefore have access to the information held by the insurances companies, exchange houses, DSM, QFC companies other than banks (where the process described above applies) and by the relevant DNFBPs (other than the information covered by the legal professional privilege).

842. **Availability of Powers of Competent Authorities (applying R.28, c. 36.6).** If the conditions for rendering mutual legal assistance are met, the powers of the relevant authorities are also available for use in response to requests for mutual legal assistance.

843. **Avoiding Conflicts of Jurisdiction (c. 36.7).** The Criminal Procedure Code provides the procedure applicable when the extradition of a person is requested by different jurisdictions (Article 416) but does not deal with multiple requests for other types of mutual legal assistance.

844. **Additional Element—Availability of Powers of Competent Authorities Required under R28 (c. 36.8).** There is no mechanism in place to ensure direct cooperation between the judicial and law enforcement authorities of a foreign jurisdiction and the Qatari authorities other than through the Interpol channels.

845. **International Cooperation under SR V (Criterion V.1 applying c. 36.1-36.6 in R. 36).** The CT Law does not specifically address international cooperation in the fight against terrorism and its financing. The general framework for mutual legal assistance set out in the CPC (Book V) would therefore apply. As mentioned above, this would entail that, subject to reciprocal agreement (Article 407 of the CPC), all the measures permitted under the general dispositions of the CPC may be taken on behalf of a foreign State (see write-up under c. 36.1). However, it is worth mentioning the following on the identification, freezing, seizure, or confiscation of funds and assets (Article 15 and 21 of the CT Law): Since the TF offense does not refer to terrorist acts, nor to individual terrorists, the freezing, seizing and confiscation measures that may be requested could not be granted in the case of terrorist funds other than those collected for or provided to a terrorist organization. Furthermore, the scope of the TF offense is limited to the financing of terrorist acts which are defined under the CT Law in a way that does not fully

comply with the standard. These shortcomings also restrict the scope of the assistance that the authorities may grant to another country.

846. It has been established that the authorities have signed a few reciprocal agreements with other countries to enable them to cooperate more effectively in the fight against terrorism and its financing. Furthermore, on one occasion, the authorities refused to cooperate in the arrest of a persons designated by the UNSC Committee established pursuant to Resolution 1267 (see write-up under SR II).

847. **Criterion V.I applying 36.2.** Article 428 of the CPC provides that a request for mutual legal assistance is to be rejected if the required procedures are prohibited by law or in conflict with the general principles applicable in Qatar (see write-up under 36.2 for remaining conditions). As mentioned under SR II, the protection of the right of people to self-determination is anchored in the Qatari Constitution. It may therefore be considered a fundamental principal under Qatari law. This principle was raised as an obstacle to extradition in the case of a person against whom an arrest warrant was issued by Interpol and who was subsequently designated by the UNSC 1267 Committee (see write-up under Recommendation 39). It is unclear whether requests for mutual legal assistance other than extradition were made but it seems likely that, had such requests been addressed to the Qatari authorities, the latter would have refused to provide their assistance as they did with respect to the request for extradition.

848. In conclusion, although the restrictions mentioned in art. 428 CPC are not unreasonable or unduly restrictive *per se,* the interpretation made by the authorities in the case mentioned above clearly is. Effective implementation of UNSCR 1267 is mandatory and the UN member states have no discretion with respect to the designations made under UNSCR 1267.

849. **Criterion V. I applying 36.1.1., 36.3, 36.4, 36.5, 36.6.** In the absence of any specific disposition in the CT Law (or other relevant text), the conditions under which the authorities may provide mutual legal assistance in the fight against terrorist financing are the same as for any other type of crime: the requests are forwarded to the PPO and the assistance may be granted under the conditions listed in the CPC (Article 427 and 428); the fact that fiscal elements may be involved does not seem to be an obstacle to the provision of mutual legal assistance. The shortcomings identified under recommendation 36 apply equally under SR V. With respect to information regarding bank accounts, Article 20 of the CT Law enables the public prosecutor to obtain “any information related to accounts or deposits or trusts or treasuries or any transactions in the banks or other financial institutions if this is necessary to reveal the truth in the cases to which the provisions of this law apply”. This would suggest that, in the fight against terrorism and its financing, unlike the fight against money laundering, there is no need require the Governor of the QCB to lift the banking secrecy in order to gain access to the relevant information. However, it is unclear whether this faculty is also available when the information is requested by a foreign state.

850. The authorities did not provide any information on cases where mutual legal assistance has been granted in the fight against terrorism and its financing. It has therefore not been established to the assessors’ satisfaction that Qatar is able to provide mutual legal assistance in a timely and effective manner, nor that the overall mutual legal assistance framework is implemented in an effective way.

851. **Additional Element under SR V (applying c. 36.7 & 36.8 in R.36, c. V.6).** As is the case in the AML framework, there are no dispositions that address multiple requests for mutual legal assistance and no mechanism in place to ensure direct cooperation with foreign counterparts other than through the Interpol channels.

852. **Dual Criminality and Mutual Assistance (c. 37.1 & 37.2).** Based on the discussions conducted during the on-site visit, it seems that the Qatari authorities are reluctant to accede to a mutual legal assistance request when the dual criminality requirement is not met, even for less intrusive and non compulsory measures. It is unclear whether technical differences between the Qatari laws and those of the requesting States have an impact on the delivery of mutual legal assistance.

853. **International Cooperation under SR V (applying c. 37.1-37.2 in R. 37, c. V.2).** In the absence of any indication to the contrary, these comments apply to the fight against terrorist financing.

854. **Timeliness to Requests for Provisional Measures including Confiscation (c. 38.1).** The Qatari authorities may freeze, seize, and confiscate on behalf of a foreign jurisdiction the assets laundered or intended to be laundered, the proceeds of money laundering and assets used for or intended to be used to finance terrorist groups or organizations, as well as the instrumentalities of the money laundering offense, and assets of corresponding value (Article 12 and 13 of the AML Law as amended by Decree Law (21) of 2003; Article 15 and 21 of the CT Law). They are not, however, entitled to take similar measures with respect to the instrumentalities of the predicate offense unless a separate request is made. Like other measures taken at the request of a foreign State, the freezing, seizing and confiscation are subject to the dual criminality requirement and could not be taken if the predicate offense is not criminalized in Qatar. There is no requirement in the law to provide a response to a request for freezing, seizing and confiscation in a timely fashion. No information was provided as to the effective timing of the responses.

855. **Property of Corresponding Value (c. 38.2).** Should the object of the request no longer be available for seizure, freezing or confiscation, the authorities do not seize, freeze or confiscate property of a corresponding value.

856. **Coordination of Seizure and Confiscation Actions (c. 38.3).** There are no arrangements in place dealing with coordination of seizure and confiscation actions with other countries.

857. **International Cooperation under SR V (applying c. 38.1-38.3 in R. 38, c. V.3).** Tracing of funds may be conducted under Article 20 of the CT Law but, as mentioned under c.V.I, it is unclear whether the public prosecutor may have access to financial records detained by banks or other financial institutions when acting on behalf of a foreign state.

858. If "sufficient information is available on the seriousness of the accusation", the public prosecutor is entitled to order provisional measures with a view "to preventing the accused from disposing of his assets or managing them" (Article 21 of the CT Law). The law also provides that the freezing order "may encompass the assets of the spouse of the accused [and/or] his minor children "if these assets were in his possession. It does not however provide further guidance on the notion of assets, nor on the level of seriousness required. The law is equally silent on whether freezing orders may be taken at the request of a foreign state, be it for the actual funds or property of corresponding value.

859. Article 15 of the CT Law explicitly provides for confiscation in these terms: "it shall be ruled to confiscate the seized things, assets, weapons and machinery resulting from or used in or could be used in one of the crimes to which the provisions of this law apply taking into consideration the rights of bona fide others". Assets, however, are not clearly defined in the law which could entail that the practical implementation of Article 15 may be somewhat difficult.

860. **Asset Forfeiture Fund (c. 38.4) and Sharing of Confiscated Assets (c. 38.5).** The authorities have not considered establishing an asset forfeiture fund into which all or a portion of the confiscated property would be deposited with a view to be used for law enforcement, health, education or other appropriate purposes, nor have they considered the sharing of confiscated property between the agencies whose coordinated action have led to the confiscation.

861. **Additional Element (R 38)—Recognition of Foreign Orders for (a) confiscation of assets from organizations principally criminal in nature; (b) civil forfeiture; and (c) confiscation of property which reverses burden of proof (applying c. 3.7 in R.3, c. 38.6).** Article 18 of the AML Law specifically provides for the execution of final decisions issued by foreign jurisdictions to confiscate the instrumentalities, proceeds or returns related a money laundering crime. However, the reference to "the provisions of any agreements concluded or ratified by the State" entails that the conclusion of such an agreement is a prerequisite to the enforcement of the confiscation order.

862. **Additional Element under SR V (applying c. 38.4-38.6 in R. 38, c V.7).** No consideration was given to establishing an asset forfeiture fund or to sharing confiscated assets. The recognition and enforcement of foreign non criminal confiscation orders in the ambit of the fight against terrorist financing remain unaddressed.

863. **Statistics (applying R.32).** No specific statistics are held.

864. **Effectiveness.** Overall, the CPC enables the Qatari authorities to provide a wide range of mutual legal assistance in the fight against money laundering. Some limitations nevertheless result from other pieces of legislation, in particular with respect to the fight against terrorist financing:

- Since the CT Law does not address the financing of terrorist acts and of individual terrorists, it seems unlikely that mutual legal assistance would be granted outside an investigation conducted against a specific terrorist organization.

- The combination of a strict dual criminality requirement and of the limited list of predicate offense under Article 2 of the AML Law greatly limits the scope of the assistance that the authorities may provide.

- Furthermore, the dual criminality requirement may impede the authorities from providing assistance to requesting state, even on measures that are less intrusive.

865. The assistance that may be granted is further limited by the absence of :

- Clear mechanisms dealing with the freezing, seizing and confiscation on behalf of property of corresponding value; and

- Arrangements for coordinating seizure and confiscation actions with other countries.

866. Other areas remain unclear. This is in particular the case with respect to the consequences of technical differences between the laws of Qatar and of the requesting States.

867. Other measures recommended to enhance the cooperation between states (such as concluding arrangements for coordination of seizure and confiscation actions with other countries) and to ensure an adequate use of confiscated property (such as arrangements on the sharing of confiscated property and establishing an asset forfeiture fund) have not been considered.

868. No statistics have been provided to the assessors, neither on the requests received nor on the responses given. The authorities were also unable to provide the assessors with other information that would indicate that they collaborate with other countries in the fight against money laundering and terrorist financing. The extent to which the Qatari authorities make use of the mutual legal assistance tools that are available and the timeliness of their responses therefore remain unclear, thus making it impossible to assess the overall effectiveness of the mutual legal assistance framework. The only piece of anecdotal evidence known to the assessors indicates that the authorities did not collaborate in the fight against terrorism and its financing and refused to extradite a person designated by the UNSC as having links with Al Qaeda, Osama Ben Laden and/or the Talibans, in violation of UNSCR 1267.

6.3.2 Recommendations and Comments

869. It is recommended that the authorities:

- Specify in the law the types of assistance that may be granted in such a way that it covers assistance of the following nature:
    - the production, search and seizure of information, documents, or evidence from financial institutions, or other natural or legal persons;
    - the taking of evidence or statements from persons;
    - the provisional originals or copies of relevant documents and records as well as any other information and evidentiary items;
    - the service of judicial documents;
    - facilitating the voluntary appearance of persons for the purpose of providing information or testimony to the requesting country; and
    - identification, freezing, seizure, or confiscation of assets laundered or intended to be laundered, the proceeds of money laundering and assets used for or intended to be used to finance terrorist acts, terrorist groups or organizations and terrorist individuals, as well as the instrumentalities of the money laundering offense and of the predicate offense, and assets of corresponding value.
- Allow for the delivery of mutual legal assistance on non-intrusive measures even in the absence of dual criminality.
- Ensure that the mutual legal assistance requests are dealt with in a timely manner and without undue delay.

- Devise mechanisms that determine the best venue when defendants are subject to prosecutions in more than one country.
- Ensure that technical differences in the laws in Qatar and in the requesting State do not impede the provision of mutual legal assistance.
- Conclude arrangements where necessary for coordination of seizure and confiscation actions with other countries.
- Fully implement the UNSCR 1267 and 1373 with respect to international cooperation.
- Criminalize terrorist financing as recommended under SR II and ensure that the widest range of international cooperation may be granted in the fight against the financing of terrorism.
- Consider establishing a confiscated assets funds into which all or portion of confiscated property will be deposited and will be used for law enforcement, health, education or other appropriate purposes.
- Consider authorizing the sharing of confiscated assets between law enforcement agencies that have contributed to the confiscation of assets.
- Maintain statistics of the requests for mutual legal assistance and the response given.

6.3.3 Compliance with Recommendations 36 to 38 and Special Recommendation V

	Rating	Summary of factors relevant to s.6.3 underlying overall rating
R.36	**LC**	• A broad range of mutual legal assistance may be granted but it is undermined by the application of strict dual criminality and the limited list of predicate offenses;. • There are no mechanisms that determine the best venue on cases where the defendants are subject to prosecutions in more than one country. • There is no evidence that mutual legal assistance is granted in practice and, if so, that it is granted in a timely and effective way.
R.37	**PC**	• The authorities rely strongly on dual criminality even for less intrusive measures which, given the limited list of predicate offenses to money laundering under Qatari law, may considerably limit the scope of the assistance that may be provided.
R.38	**PC**	• Freezing, seizing and confiscation at the request of a foreign State are possible but limited and do not apply to property of corresponding value. • There is no evidence that such measures have been taken on request of a foreign state and, if they have, that this was done in a timely and effective way. • No arrangements for coordination of seizure and confiscation with other countries. • Establishment of asset forfeiture fund and sharing of confiscated assets have not been considered.
SR.V	**NC**	• The provisions contained in the CPC (which also apply in the fight against terrorist financing) are too broad to ensure full compliance with the standard.

		• International cooperation is limited by the shortcomings identified in the terrorist financing offense. • The authorities did not provide assistance in the case of a foreign national designated by the UNSC Committee established pursuant to Resolution 1267.

6.4 Extradition (R.37, 39, SR.V)

6.4.1 Description and Analysis

870. **Dual Criminality and Mutual Assistance (c. 37.1 & 37.2).** Dual criminality applies as defined below see write-up under 39.1.

871. **Money Laundering as Extraditable Offense (c. 39.1**): The AML Law specifically provides that money laundering is an extraditable offense. The procedure is set out in Article 408 to 424 of the CPC. Like the other measures undertaken in the ambit of international cooperation, extradition is subject to reciprocity agreement between the requesting State and Qatar (Article 407 of the CPC). So far, Qatar has only concluded one extradition agreement (with the Kingdom of Saudi Arabia).

872. Extradition can only be granted for a crime which is punishable, both in Qatar and in the requesting jurisdiction, of imprisonment for a period of at least two years, or if the person to be extradited has been sentenced to imprisonment for a period of at least six months. It is also a requirement that the crime upon which the extradition request is based took place within the territory of the requesting State or, if committed outside, is nevertheless punishable under the legislation of the requesting State (Article 409 of the CPC).

873. In the absence of dual criminality, the extradition is not mandatory, unless the person whose extradition has been sought is a citizen of the requesting State or of another country "that applied the same penalty" (Article 409 of the CPC). The authorities confirmed that, due to the dual criminality requirement, a request for extradition would be rejected if the underlying offense were not listed in the AML law.

874. Pursuant to Article 410 of the Criminal Procedure Code, a request for extradition will be refused:

- if the person to be extradited is a Qatari national;
- if the crime, on which the requested extradition in based, is a political crime or linked to a political crime, or if the person, object of extradition request, is a political refugee at the time of submitting an extradition application;
- if the crime that underlies the extradition request related to the violation of military duties;
- if there are serious reasons to believe that the extradition request has been submitted with a view to prosecute and punish a person for considerations related to this person's race, religion, nationality or political opinion;

- if the person whose extradition has been requested was previously put to trial for the same crime, and was pronounced innocent or was charged and guilty and the sentence has been implemented, or if the criminal lawsuit or the punishment have terminated or annulled with prescription, or an amnesty has been granted; and

- If Qatari Law entitles the trial of the person for the crime underlying of the extradition request before the judicial parties in Qatar.

875. The Arab Convention for the Suppression of Terrorism, to which Qatar is party, facilitates the extradition of terrorists amongst the signatory States by providing that terrorism is not considered a political crime for the purposes of extradition. Outside the framework of the Arab Convention, it is unclear whether Qatar would refuse the extradition of terrorists in application of the second paragraph of Article 410.

876. **Extradition of Nationals (c. 39.2) and Cooperation for Prosecution of Nationals (applying c. 39.2(b), c. 39.3).** Extradition of Qatari nationals is not allowed under the CPC (Article 410). Extradition may also be refused if the Qatari law entitles the domestic courts to try the persons whose extradition has been requested. The law does not expound on these two grounds for refusal and does not provide a timeframe for the submission of the cases to the Qatari courts. The authorities informed the mission that, while no extradition of a Qatari national has been requested in a money laundering case, requests have been made in the past on the basis of other types of offenses, and that the Qatari nationals whose extradition was requested (and denied on the grounds of their nationality) were sent before and convicted by the Qatari courts for crimes committed abroad. The extent to which the authorities cooperated with the requesting State on procedural and evidentiary aspects was not documented and, as a result, is not entirely clear.

877. **Efficiency of Extradition Process (c. 39.4).** There are no requirements in the CPC to examine the extradition requests and conduct the proceedings without delay.

878. **Additional Element (R.39) – Existence of Simplified Procedures relating to Extradition (c. 39.5).** There are no mechanisms in place for simplified extradition procedures.

879. **Terrorist financing and extradition (c. V.4 applying c. 39.1 – 39.4).** The CT Law does not address extradition and no additional information was provided. The framework provided for under Article 408 to 424 of the CPC described above (and the shortcomings identified) apply equally in the fight against terrorism and its financing. There was no evidence that the Qatari authorities have extradited anyone under the terrorist financing provision.

880. In one case, the Qatari authorities refused to extradite a foreign national who had been qualified as a terrorist by the requesting State. It would appear that the reasons evoked in their refusal was the protection of the right for self-determination and the protection of freedom fighters. In June 2003, the UNSC Committee established pursuant to Resolution 1267 added the name of the individual in question to the list of persons and entities suspected of having links with Al Qaeda, Usama Ben Laden and/or the Talibans. In February 2004, the suspect was killed in Doha. It would therefore appear that the Qatari authorities unduly refused to extradite the individual and acted in violation of their obligations under UNSCR 1267. It is unclear whether the request for extradition was also made with a view to prosecute

the individual for terrorist financing as well as for other terrorist crimes, but it seems likely that, had this been the case, the Qatari's response would have been the same.

881. **Additional Element under SR V (applying c. 39.5 in R. 39, c V.8).** There is no indication that simplified procedures of extradition would apply for terrorist acts and terrorist financing.

882. **Statistics (applying R.32).** No statistics were provided.

883. **Effectiveness.** The legal framework provides a sound basis for the extradition of foreign nationals. The information provided by the Public Prosecutor's office indicates that the Sate of Qatar extradited 29 individuals between 2004 and the time of the on-site visit but also revealed that none of the convictions underlying the extradition request related to money laundering or terrorist financing. Although the law requires the existence of a reciprocity agreement between Qatar and the requesting State, extradition has been conducted in the absence of formal agreements. This would indicate that less formal agreements may also constitute sufficient basis for extradition to take place.

884. No information was provided on the length of time needed to proceed with the extradition requests, nor on the extradition requests that have been denied and on the grounds for the denials.

885. Although money laundering is criminalized in Qatar, the criminalization does not fully meet the standard, mainly because the list of predicate offenses is incomplete. As mentioned above, the authorities confirmed that, due to the dual criminality requirement, a request for extradition would be rejected if the underlying offense is not listed in the AML law. It is therefore recommended to include all the designated categories of predicate offenses in the AML Law in order to allow extradition in all cases covered by the standard.

886. In one instance (mentioned above), the authorities raised the principle of the protection of the right for self-determination as an obstacle to extradite a foreign national designated as a terrorist by the UNSC, in violation of their obligations under UNSCR 1267.

6.4.2 Recommendations and Comments

887. The authorities are recommended to:

- Extend the list of predicate offenses as noted under Recommendation 1 in order to be able to provide extradition in all the cases contemplated in the standard.
- Ensure that, where extradition relating to ML and TF is denied, the case is submitted to the relevant Qatari authorities without undue delay in view of the prosecution of the offenses set forth in the request and that the competent authorities cooperate with the requesting state on procedural and evidentiary aspects.
- Clearly specify the procedure by which extradition for terrorist financing is possible, in line with SR V.
- Establish a mechanism that ensures that extradition requests and proceedings relating to ML and TF are handled without undue delay.

- Fully implement the UNSCR dealing with the fight against terrorism and its financing; and

- Maintain statistics of requests for extradition received and responses given.

6.4.3 Compliance with Recommendations 37 & 39, and Special Recommendation V

	Rating	Summary of factors relevant to s.6.4 underlying overall rating
R.39	**LC**	• The dual criminality requirement may impede extradition where the request relates to the laundering of proceeds of a designated predicate offense which is not covered by the AML Law. • There are no specific provisions to allow extradition requests and proceedings relating to TF to be handled without undue delay. • No individuals charged with a money laundering offense have been extradited. • The statistical system is not comprehensive.
R.37	**NC**	• No indication that technical differences between the laws of Qatar and the requesting state would not pose an impediment to the extradition proceedings.
SR.V	**NC**	• There are no specific provisions to allow extradition requests and proceedings relating to TF to be handled without undue delay. • The authorities refused to extradite a foreign individual listed under UNSCR 1267.

6.5 Other Forms of International Co-operation (R.40 & SR.V)

6.5.1 Description and Analysis

888. **Law enforcement cooperation.** The law enforcement authorities in Qatar are able to provide international cooperation to their foreign counterparts through a number of fora, including Interpol, as well as direct police to police contact. The department of international cooperation in the MOI receives and requests information from counterparts. It was established that the SSB has exchanged information on TF with some foreign counterparts.

889. **FIU.** Pursuant to Article 3 of the Administrative Order, the FIU is able to exchange information with other FIUs according to Egmont principles. According to the authorities, the FIU takes account of the Egmont principles in practice when exchanging information with its overseas counterparts. It requested information from other FIUs in 4 cases, one of them through the Egmont Secure Web. Qatar's FIU did not sign any bilateral or multilateral MOUs for cooperation with other foreign FIUs. The FIU received only two requests from foreign counterparts. The limited number of requests received and made by the FIU indicates a modest level of exchange with foreign counterparts at this stage.

890. **Supervisors. Domestic Sector.** There are no legal or regulatory provisions in the QCB Law and DSM Law that allow these institutions to exchange information and cooperate with their foreign counterparts.

891. **QFC.** The power to engage in a wide range of cooperation with overseas regulators and international regulatory associations is contained in Article 20 of the FSR. The FSR also contains provisions which allow the QFCRA to request and to provide assistance to overseas regulators. Article 20 allows the QFCRA to enter into MOU, protocols or similar arrangements as it considers appropriate.

Paragraphs (3) and (4) of article 20 provide that the QFCRA may exercise its power under the QFC Law and FSR as it considers appropriate to cooperate with and provide assistance to overseas regulators in the exercise of their functions or in connection with the prevention or detection of financial crime. The QFCRA has established an ongoing MOU program. To date, it has established MOUs with the Jersey Financial Services Commission, the Central Bank of Bahrain, and the Central Bank of Jordan. These MOUs provide mechanisms for exchanges of information. Parties to MOUs are subject to confidentiality provisions contained in their respective laws. Information received should only be used for lawful supervisory purposes and/or those purposes for which it was provided and requested.

892. In addition, the QFCRA has developed close contacts with the Swiss Federal Banking Commission for purposes of assisting one another in the course of carrying out their supervisory functions of cross border establishments. The authorities indicated that arrangements contained in the MOU enable the QFCRA and its counterparts to exchange confidential information when the situation requires and also upon request. The measures contained in the MOU ensure that information is exchanged promptly and constructively between parties. As of the mission visit, the authorities were in the process of seeking to establish cooperative relationships with other overseas regulators including the Central Bank of UAE, the Central Bank of Bahrain (insurance) and the Central Bank of Lebanon.

893. For jurisdictions where an MOU has not been yet established, Article 46 of the FSR provides that the QFCRA may exercise disciplinary powers contained in Article 46(2) when it receives a request from an overseas regulator and Article 48 allows the QFCRA to request overseas regulators to assist in requiring a person to produce information or documents.

894. Law enforcement authorities, the FIU and the supervisory authorities do not maintain statistics on the number of requests for assistance made or received nor on the treatment of such requests.

6.5.2 Recommendations and Comments

- Law enforcement agencies and the FIU should be more proactive in requesting information on ML/FT from their counterparts.
- QCB and DSM Laws should be amended to allow the QCB and DSM to provide the widest range of international cooperation with their foreign counterparts.
- Authorities should maintain statistics on the number of requests for assistance made or received by law enforcement authorities, the FIU, including whether the request was granted or refused.

6.5.3 Compliance with Recommendation 40 and Special Recommendation V

	Rating	Summary of factors relevant to s.6.5 underlying overall rating
R.40	**PC**	• Lack of international engagement in active exchange of ML information. • Lack of overall effectiveness.
SR.V	**PC**	• Lack of sufficient international engagement in active exchange of FT information. • Lack of overall effectiveness of the exchange of information relating to the financing of terrorism.

7 OTHER ISSUES

7.1 Resources and statistics

	Rating	Summary of factors relevant to Recommendations 30 and 32 and underlying overall rating
R.30	**PC**	• Overall, the allocation of resources is uneven, particularly in view of the rapid development and diversification of the economy. • Overall, professional standards, including confidentiality standards are not fully developed. • Lack of specialist skills training in law enforcement authorities including prosecution agencies, FIU, supervisors and other competent authorities involved in combating ML/FT.
R.32	**NC**	• Competent authorities have yet to develop comprehensive statistics in all relevant areas of the fight against ML and TF (including statistics on domestic investigations, prosecutions, convictions, and on international cooperation).

Table 1. Ratings of Compliance with FATF Recommendations

Forty Recommendations	Rating	Summary of factors underlying rating
Legal Systems		
1. ML offense	**PC**	• The mental element of the ML offense does not cover acts conducted with a view to conceal of the true nature, location, disposition, movement or ownership of or rights with respect to proceeds. • The list of predicate offenses is incomplete with only seven of the FATF designated categories of offenses being covered. • With a few exceptions, the authorities have no jurisdiction over predicate offenses that were entirely committed in another country, even if there is dual criminality. • Lack of evidence on the effectiveness of the law.
2. ML offense—mental element and corporate liability	**LC**	• Lack of evidence on the effectiveness of the law.
3. Confiscation and provisional measures	**LC**	• Lack of evidence of the effectiveness of the confiscation framework.
Preventive Measures		
4. Secrecy laws consistent with the Recommendations	**LC**	• Lack of measures to share information between financial institutions in line with recommendations R.7, R. 9, and SR VII.

5. Customer due diligence	**NC**	Domestic sector:
		• Lack of explicit obligations imposed by law (primary or secondary legislation) for:
		  • Explicitly prohibiting anonymous accounts or accounts in fictitious names.
		  • Customer identification and due diligence process when:
		  • Carrying out occasional transactions above the applicable designated threshold, including situations where the transaction is carried out in a single operation or in several operations that appear to be linked.
		  • Carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII.
		  • There is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds.
		  • The financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.
		  • Identifying the customer (whether permanent or

		occasional, and whether natural or legal persons or legal arrangements) and verifying that customer's identity using reliable, independent source documents, data or information (identification data). • Verifying, for customers that are legal persons or legal arrangements, that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person. • Identifying the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is. • Determining for all customers whether the customer is acting on behalf of another person, and should then take reasonable steps to obtain sufficient identification data to verify the identity of that other person. • Conducting ongoing due diligence on the business relationship. • Lack of measures in law, regulation, or other enforceable means that require financial institutions to: • Obtain information on the purpose and intended nature of the business relationship. • Perform enhanced due diligence for higher risk categories of customer, business relationships or transactions. • Reject opening an account when unable to comply with CDD requirements and to consider making a suspicious transaction report. • Apply CDD measures on existing customers on the basis of materiality and risk and to conduct due diligence on such relationships at appropriate times. QFC: • Lack of measures in the AML Regulations that would require relevant persons to: • Identify all customers, regardless of the exception contained in Rule 3.9; and • Consider making a suspicious transaction report when unable to complete CDD measures.
6. Politically Exposed Persons	**NC**	• Lack of measures for the financial institutions supervised by the QCB, the DSM and the MEC with respect to customer due diligence procedures for politically exposed persons. • Lack of requirements in the QFCRA AML Regulation (and Rulebook) for relevant persons to obtain senior management approval to continue business relationship

		where a customer has been accepted and the customer or beneficial owner is found to be or subsequently becomes a PEP, and to take reasonable measures to establish the source of funds of customers and beneficial owners identified as PEPs.
7. Correspondent Banking	**NC**	• Lack of measures for the financial institutions supervised by the QCB, the DSM and the MEC dealing with establishment of cross-border correspondent banking or other similar relationships. • Lack of requirements in the QFC AML Regulations and Rulebook for relevant persons to gather sufficient information about a respondent institution to understand fully the reputation and quality of supervision, including whether is has been subject to a money laundering or terrorist financing investigation or regulatory action; and to document the respective AML/CFT responsibilities of each institution.
8. New technologies & non face-to-face business	**PC**	• Lack of requirements on financial institutions under the supervision of the QCB, the DSM and the MEC to establish adequate policies and procedures designed to prevent and protect the financial institutions from money laundering and terrorist financing from new or developing technologies or specific CDD measures that apply to non face-to-face business relationships or transactions.
9. Third parties and introducers	**NC**	• Lack of legal or regulatory requirements when there is no prohibition imposed by the QCB, the DSM and the MEC for banking and financial institutions to rely on intermediaries or other third parties to perform some of the elements of the CDD process. • Lack of specific measures imposed by the QFCRA to require relevant persons to ensure that the third party is regulated and supervised; and to determine in which countries the third party that meets the conditions can be based taking into account information available on whether those countries adequately apply the FATF Recommendations. • Broad CDD exemption provided by the QFCRA when a customer is a member of the relevant person's group or equivalent international standards are applied in FATF countries.
10. Record-keeping	**PC**	Domestic sector: • Record keeping requirement not established by primary or secondary legislation by DSM and MEC.
11. Unusual transactions	**PC**	Domestic sector: • Lack of requirements imposed by the QCB to make the findings of examination of complex and unusual transactions available to auditors. • Lack of requirements imposed by the DSM and the MEC on financial institutions to pay special attention to all

		unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose; to examine as far as possible the background and purpose of such transactions and set forth their findings in writing; and to maintain them for at least five years. QFC: • Lack of specific requirements imposed by the QFCRA on relevant persons to make the findings of examination of complex and unusual transactions available to competent authorities and auditors.
12. DNFBP–R.5, 6, 8–11	**NC**	Domestic sector: • The requirements on CDD and record-keeping are not set out in primary or secondary legislation. • No requirements on PEPs, payment technologies, introduced business and unusual transactions have been set out in law, regulation or other enforceable means. The scope of the professions currently covered is excessively wide. • Legal advisers are not covered. • Provisions on CDD and record-keeping are not sufficient and do not constitute enforceable requirements with sanction for non-compliance. • There are no provisions regarding PEPs, payments technologies, and introduced business. • The requirements on unusual transactions are not sufficient and not enforceable for the professions regulated by the MEC. There are no requirements for the legal professions. • The implementation is not effective. QFC: • The regime is too new to be tested for effective implementation.
13. Suspicious transaction reporting	**PC**	• Vague requirement to report transactions with respect to DSM and MEC and limited scope of reporting in light of the few predicate offenses. • Obligation to report transactions linked to terrorist financing, terrorist acts or organizations or those who finance terrorism not established by primary or secondary legislation. • Obligation to report transactions, including attempted transactions, not established by primary or secondary legislation. • Lack of requirements to report transactions regardless of whether transactions are thought to involve tax matters.
14. Protection & no tipping-off	**LC**	• Lack of legal basis to support protection from STR reporting and tipping off in the insurance sector.
15. Internal controls,	**PC**	• Inconsistencies with respect to QCB and DSM

compliance & audit		requirements and the MEC non-binding measures for financial institutions to comply with the same requirements including adequate procedures, policies and controls for customer due diligence, record retention, detection of unusual and suspicious transactions and the reporting obligation. • Lack of specific QCB requirement to provide for timely and unrestricted access to all customer information to the staff supporting the compliance officer. • Lack of specific DSM and MEC requirement to provide for timely and unrestricted access to all customer information to the compliance officer as well as his/her staff. • Lack of DSM and MEC requirement for internal audit function to assess the adequacy of internal control systems and policies with respect to AML/CFT and to maintain an adequately resourced and independent audit function. • Lack of legal or regulatory requirements imposed by QCB, DSM and MEC for financial institutions to put in place screening procedures to ensure high standards when hiring employees.
16. DNFBP–R.13–15 & 21	**NC**	Domestic sector: • No STR obligations set out in primary or secondary legislation. • Ministerial regulations are not implemented and not enforceable. • There are no adequate measures to prohibit a DNFBP from disclosing to third parties the information it provides to the FIU. • Provisions on internal controls and countries that insufficiently apply the FATF recommendations are incomplete and not implemented. • Legal advisers are not subject to the STR obligations. • Provisions on the legal privilege of lawyers should be introduced. QFC: • Provisions on the legal privilege of lawyers should be refined.
17. Sanctions	**NC**	• Inadequate penalties, in particular with respect to the criminal sanctions for tipping off provided in the AML law. • Inadequate sanction regime with respect to the severity of the sanction that the QCB and DSM may issue. Absence of legal framework for sanctions in the insurance sector. • No penalties/sanctions imposed related to AML/CFT.
18. Shell banks	**PC**	• Measures in place in the domestic sector are not sufficient to effectively prohibit the establishment of shell banks and do not prevent domestic banks from having dealings with foreign shell banks.
19. Other forms of	**C**	

reporting		
20. Other NFBP & secure transaction techniques	**PC**	• No risk assessment has been conducted in the domestic sector. • Qatar has not taken meaningful steps to encourage the development of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.
21. Special attention for higher risk countries	**NC**	• Lack of requirements imposed by the DSM and the MEC on financial institutions to pay special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations. • Lack of apparent authority at the QCB, the DSM, the MEC, and the QFCRA to apply counter-measures to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations.
22. Foreign branches & subsidiaries	**PC**	• Lack of obligation imposed by the QCB financial institutions with branches and subsidiaries to apply the higher standard, to the extent that local laws and regulations permit. • No legal or regulatory requirements established by the DSM and MEC for financial institutions to comply with the provisions of this recommendation.
23. Regulation, supervision and monitoring	**PC**	• No licensing procedures available for review for insurance companies licensed by the MEC. • No designated entity responsible for AML/CFT supervision for the insurance sector.
24. DNFBP—regulation, supervision and monitoring	**PC**	• No supervision and no sanction for non-compliance with the AML/CFT requirements in the domestic sector for all DNFBPs present in the country. • The QFC regime is too new to be tested for effective implementation.
25. Guidelines & Feedback	**PC**	• Lack of guidelines established by the DSM and the MEC for their respective sectors. • Lack of adequate and appropriate feedback from competent authorities. • Limited guidelines on AML/CFT issues provided by the QFCRA to relevant persons. • Lack of guidance and feedback to DNFBPs.
Institutional and other Measures		
26. The FIU	**LC**	• Absence of a clear legal basis for establishing the FIU and providing it with its powers and functions. • Absence of a legal basis to request additional information from DNFBPs. • Poor quality of and insufficient resources allocated to STRs analysis.

		• No guidance on filing STRs has been issued by the FIU. • Inadequate protection of information and premises. • No periodic review of system's effectiveness in combating ML and FT.
27. Law enforcement authorities	**PC**	• Overall, investigation and prosecution authorities do not appear to adequately pursue money laundering cases. • Shortage in evidence of effectiveness of law enforcement authorities and lack of statistics. • Lack of implementation of laws and use of law enforcement techniques in support of ML/FT investigations across various law enforcement agencies. • Inadequate AML/CFT training.
28. Powers of competent authorities	**C**	
29. Supervisors	**PC**	• Lack of adequate MEC supervisory authority/powers for AML/CFT matters in insurance sector. • Lack of AML/CFT inspections of insurance companies to monitor compliance.
30. Resources, integrity, and training	**PC**	• Overall, the allocation of resources is uneven, particularly in view of the rapid development and diversification of the economy. • Overall, professional standards, including confidentiality standards are not fully developed. • Lack of specialist skills training in law enforcement authorities including prosecution agencies, FIU, supervisors and other competent authorities involved in combating ML/FT.
31. National co-operation	**LC**	• There are mechanisms in place to ensure effective cooperation and coordination amongst most of the relevant authorities in AML but they could be enhanced by formally including the QFC, the DSM and, if necessary, the public prosecutor's office. • The coordination mechanism in place for the implementation of the UNSCR 1373 could be enhanced in a similar way. • There is no mechanism for the implementation of the UNSCR 1267.
32. Statistics	**NC**	• Competent authorities have yet to develop comprehensive statistics in all relevant areas of the fight against ML and TF (including statistics on domestic investigations, prosecutions, convictions and on international cooperation).
33. Legal persons–beneficial owners	**LC**	• Domestic sector: timeliness of the FIU's and DSM's access to beneficial ownership and control information should be improved by establishing a direct electronic link to the commercial register database.
34. Legal arrangements – beneficial owners	**PC**	• Absence of mechanisms to obtain, verify, or retain information on the beneficial ownership and control of

		trusts in a timely manner, and in particular with regard to the settlor, the trustee, and the beneficiaries of trusts. • Absence of measures to enable the competent authorities to have adequate, timely and accurate information on trusts, including information on settlor, trustee and beneficiaries.
International Cooperation		
35. Conventions	**PC**	• Qatar has partially implemented the Vienna Convention. • It has not ratified nor fully implemented the Palermo Convention and the 1999 ICST.
36. Mutual legal assistance (MLA)	**LC**	• A broad range of mutual legal assistance may be granted but it is undermined by the application of strict dual criminality and the limited list of predicate offenses. • There are no mechanisms that determine the best venue on cases where the defendants are subject to prosecutions in more than one country. • There is no evidence that mutual legal assistance is granted in practice and, if so, that it is granted in a timely and effective way.
37. Dual criminality	**PC**	• The authorities rely strongly on dual criminality even for less intrusive measures which, given the limited list of predicate offenses to money laundering under Qatari law, may considerably limit the scope of the assistance that may be provided. • No indication that technical differences between the laws of Qatar and the requesting state would not pose an impediment to the extradition proceedings.
38. MLA on confiscation and freezing	**PC**	• Freezing, seizing and confiscation at the request of a foreign State are possible but limited and do not apply to property of corresponding value. • There is no evidence that such measures have been taken on request of a foreign State and, if they have, that this was done in a timely and effective way. • No arrangements for coordination of seizure and confiscation with other countries. • Establishment of asset forfeiture fund and sharing of confiscated assets have not been considered.
39. Extradition	**LC**	• The dual criminality requirement may impede extradition where the request relates to the laundering of proceeds of a designated predicate offense which is not covered by the AML Law. • There are no specific provisions to allow extradition requests and proceedings relating to TF to be handled without undue delay. • No individuals charged with a money laundering offense have been extradited. • The statistical system is not comprehensive.

40. Other forms of co-operation	**PC**	• Lack of international engagement in active exchange of ML information. • Lack of overall effectiveness.
Nine Special Recommendations		
SR.I Implement UN instruments	**NC**	• Qatar is not party to and has not implemented the ICST. • Qatar has not fully implemented the UNSCR 1267 and 1373. Moreover, it acted in violation of UNSCR 1267 on one occasion.
SR.II Criminalize terrorist financing	**PC**	• The offense applies to all terrorist acts listed in Art. 2 para. 1 (b) of the ISCFT but the motive required in the CT Law is not in line with all the treaties mentioned in Art. 2 para. 1 (b). • The provision/collection of funds to individual terrorists and/or for terrorist acts are not covered by the offense. • Lack of overall effectiveness: No investigations or prosecutions have been conducted despite the fact that several investigations and prosecutions have been/are being conducted for other terrorist crimes.
SR.III Freeze and confiscate terrorist assets	**NC**	• No coordination mechanism in place for the implementation of UNSCR 1267. • There is no authority responsible for the designations, disseminations and no legal basis for the freezing/seizing orders. • With the exception of the protection of the rights of bona fide third parties, none of the other measures provided under SR III have been adopted. • No funds have been frozen under UNSCR 1267, despite the presence in Qatar for several months of a person designated by the UNSC 1267 Committee, or under UNSCR1373.
SR.IV Suspicious transaction reporting	**NC**	• Reporting requirement not imposed by primary or secondary legislation.
SR.V International cooperation	**NC**	• International cooperation is limited by the shortcomings identified in the terrorist financing offense. • The authorities did not provide assistance in the case of a foreign national designated by the UNSC Committee established pursuant to Resolution 1267. • The general framework seems to provide for the extradition of individuals charged with a TF offense in a way that broadly meets the standard, but: • There are no specific provisions to allow extradition requests and proceedings relating to TF to be handled without undue delay. • The authorities refused to extradite a foreign individual listed under UNSCR 1267. • Lack of sufficient international engagement in active

		exchange of FT information. • The provisions contained in the CPC (which also apply in the fight against terrorist financing) are too broad to ensure full compliance with the standard. • Lack of overall effectiveness of the exchange of information relating to the financing of terrorism.
SR.VI AML/CFT requirements for money/value transfer services	**PC**	• Potential informal money/value transfer system operating in Qatar without effective monitoring. • Number of shortcomings identified in other recommendations related to CDD, sanctions, supervision and regulation.
SR.VII Wire transfer rules	**NC**	• Lack of specific measures imposed by the QCB on financial institutions to address all the requirements of this recommendation. • Lack of requirements imposed by the QFCRA on relevant persons to ensure that beneficiary financial institutions adopt an effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information.
SR.VIII Nonprofit organizations	**LC**	Domestic sector: • Recent enactment of Resolution 17 of 2006 does not allow to fully assess the effectiveness of supervision of the NPO sector. • There is a regulatory possibility of exempting a charity from QACA supervision. QFC: • The Trust Regulations creating charitable trusts is not compliant with SR VIII.
SR.IX Cash Border Declaration & Disclosure	**NC**	• Absence of implementation of the disclosure system for cross-border transportation of cash and bearer negotiable instruments. • Lack of retention of records. • Lack of trained customs officials. • Lack of clear sanctions for false disclosure, failure to disclose, or cross-border transportation for money laundering and financing of terrorism purposes. • Lack of clear safeguards to ensure proper use of disclosed information. • Insufficient statistics upon which to assess the effectiveness of the measures in place.

Table 2. Recommended Action Plan to Improve the AML/CFT System

FATF 40+9 Recommendations	Recommended Action (in order of priority within each section)
1. General	
2. Legal System and Related Institutional Measures	
Criminalization of Money Laundering (R.1, 2, & 32)	• Amend the AML Law to clarify and extend the scope of the money laundering offense in order to cover all intentional acts aiming to conceal or disguise not only the source of the funds but also the true nature, location, disposition, movement, or ownership of or rights with respect to proceeds of crime. This could be achieved either by clearly specifying the purpose in the AML or by deleting altogether the intended purpose. • Criminalize, where necessary, the following conducts and add them to the list of predicate offenses in the AML Law: participation in an organized (non terrorist) criminal group and racketeering; trafficking in human beings and migrant smuggling; sexual exploitation, including sexual exploitation of children; illicit trafficking in stolen and other goods; corruption and bribery; fraud; counterfeiting and piracy of products; environmental crime; murder, grievous bodily injury; kidnapping, illegal restraint and hostage-taking; robbery or theft; smuggling; forgery; piracy; and insider trading and market manipulation. • Ensure that predicate offenses for money laundering all extend to conduct that occurred in another country when there is dual criminality. • Provide in-depth training to the law enforcement agencies on the requirements of the AML Law and on money laundering trends and typologies, as well as training on investigations into and prosecutions of money laundering offenses. • For the sake of clarity, to specifically mention the terrorist financing offense in the list of predicate offenses.
Criminalization of Terrorist Financing (SR.II & R.32)	• Amend the CT Law to ensure that the acts covered by Article 2 Paragraph 1 (a) of the ICSFT are criminalized in line with the conventions and that the provision or collection of funds with the intention that they should be used, in full or in part, to commit any of the acts mentioned in Article 2 Paragraph 1 (a) of the ICSFT are considered as terrorist acts even when the motive mentioned in Article 1 of the CT Law is not established. • Amend the CT Law to ensure that the terrorist financing offense is considered to have been committed by any person who by any means, directly or indirectly, willfully, provides or collects funds, or attempts to do so, with the intention that they should be used or in the knowledge that they are to be used in full or in part to carry out a terrorist act; or by an individual terrorist.

	• Ensure that investigations into and prosecutions for terrorist crimes also cover the financing of these crimes. • Provide training to all relevant authorities on the fight against TF.
Confiscation, freezing, and seizing of proceeds of crime (R.3 & 32)	• Reconsider the role of the Governor of the QCB in the application of provisional measures under the AML Law. • Maintain comprehensive statistics on the freezing, seizing and confiscation measures ordered.
Freezing of funds used for terrorist financing (SR.III & R.32)	• Designate an authority responsible for analyzing the requests made under UNSCR 1373 and for the designation of terrorists. • Designate an authority responsible for receiving and disseminating the updates to the consolidated list established pursuant to UNSCR 1267. • Include the QFC and consider including the PPO and the DSM in the NCT. • Establish the necessary legal basis for the issuance by a competent authority of mandatory freezing orders of funds or other assets owned or controlled by designated persons, terrorists and those who finance terrorism or terrorist organizations, as well as funds or other assets that are derived or generated from funds or other assets owned or controlled by these same persons and entities. • Establish an effective mechanism for the dissemination of UNSCR 1267 lists and actions taken under UNSCR 1373 to the financial institutions and DNFBPs immediately upon reception of the lists and upon taking decisions under UNSCR 1373. • Provide guidance to the financial institutions and DNFBPs regarding their obligations in taking action in the freezing mechanisms. • Issue effective and publicly-known procedures for considering de-listing requests and unfreezing the funds and other assets of de-listed persons or entities in a timely manner. • Issue effective and publicly-known procedures for unfreezing in a timely manner the funds and other assets of persons or entities inadvertently affected by the freezing mechanisms upon verification that that person or entity is not the designated person. • Issue appropriate procedure for determining upon request the funds needed to cover basic expenses and for authorizing access to the funds or other assets frozen pursuant to UNSCR 1267 and that have been determined to be necessary to cover basic expenses. • Establish the necessary legal basis for ordering the necessary provisional measures. • Establish appropriate procedures for challenging the freezing measures before the courts.

	• Define the funds and other assets that may be confiscated in a manner consistent with the international standard. • Establish an effective mechanism to monitor compliance with the relevant laws and regulation governing the freezing mechanisms under UNSCR 1267 and 1373.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	• Address the legal basis that established the FIU as a national centre for receiving, analyzing and disseminating disclosures of STRs and other relevant information concerning suspected ML or FT activities. • Ensure that the QFCRA removes the third point from the letters disseminated to DNFBPs that includes the obligation to notify QFCRA of any suspicion of ML notwithstanding that an STR has not been made to the local FIU. • Ensure that the FIU provides financial institutions and other reporting parties with guidance regarding the manner of reporting, including the procedures to be followed when reporting. • Ensure that the FIU (i) enhances the depth and quality of its STRs analysis, in particular by accessing the CRS and requesting on regular basis additional information from reporting entities and the ECPD; (ii) uses, when necessary, the CRS, the link to the commercial register developed by the QCB, the real estate register and all available databases to enhance its STR analysis; (iii) undertakes a study focusing specifically on the risks of ML and FT associated with certain businesses. • Ensure that the FIU establishes mechanisms for cooperation with regulators, supervisors, reporting entities and law enforcement authorities to optimize its analysis and establishes an information flow that protects confidentiality while enhancing its analysis capacity. • Grant the FIU the power to ask the DNFBPs whether they have had transactions with a person who was the subject of an STR, or to demand additional information from them. • Ensure that the FIU periodically reviews the effectiveness of the system to combat ML and FT and improves its collection of statistics. • Ensure that the FIU publishes periodically annual reports, typologies and trends of ML/FT. • Ensure that the FIU provides additional specialized and practical in-depth training to its employees. This training should cover, for example, the scope of predicate offenses, analysis and investigation techniques and familiarization with prosecution of ML/FT techniques, and other areas relevant to the execution of the FIU staff functions.
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	• Ensure that law enforcement authorities keep statistics on the amount of criminal proceeds seized and confiscated and on the number of ML/TF investigations, prosecutions, and judgments to measure the effectiveness and competence of

	the AML/CFT system. • Provide additional specialized and practical training to law enforcement and prosecution personnel as well as to police officers and customs agents on the fight against ML/FT. This training should cover, for example, the scope of predicate offenses, ML and FT typologies, investigation techniques and familiarization with prosecution of ML/FT techniques and the use of information technology and other areas relevant to the execution of the law enforcement staff functions. • Take a more proactive approach to investigating and prosecuting ML/FT.
Cross Border Declaration or disclosure (SR IX)	• Adopt a national strategic approach to detect the physical cross-boarder transportation of currency and bearer negotiable instruments and amend Resolution 37-2006 to provide a clear legal basis for a disclosure system. An internally consistent regulation should be issued reflecting the following characteristics: • The system should apply to both incoming and outgoing transportation of currency and bearer negotiable instruments and extend to the shipment of currency through containerized cargo and mailing of currency or bearer negotiable instruments. • Article 6 of Resolution 5-2005 should be amended to give the power to customs to request and obtain further information from the carrier with regard to the origin of the currency or bearer negotiable instruments and their intended use in case of suspicion of money laundering or terrorist financing. • Customs should be able to stop or restrain cash or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of money laundering or terrorist financing may be found, where there is a suspicion of money laundering or terrorist financing; or where there is a false declaration or false disclosure. • Enhance exchange of information between the customs and the FIU and create a database at the customs to record all declared data related to currencies and bearer financial instruments.
3. Preventive Measures– Financial Institutions	
Risk of money laundering or terrorist financing	
Customer due diligence, including enhanced or reduced measures (R.5–8)	Domestic sector: Establish, through law or regulation, clear requirements for financial institutions to: • Undertake customer due diligence (CDD) measures when: • Carrying out occasional transactions above the applicable designated threshold, including situations where the transaction is carried out in a single operation or in several

	operations that appear to be linked. • Carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII. • There is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds. • The financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. • Identify the customer (whether permanent or occasional, and whether natural or legal persons or legal arrangements) and verify that customer's identity using reliable, independent source documents, data or information (identification data) following the examples of the types of customer information that could be obtained, and the identification data that could be used to verify that information as set out in the paper entitled General Guide to Account Opening and Customer Identification issued by the Basel Committee's Working Group on Cross Border Banking. • Verify, for customers that are legal persons or legal arrangements, that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person. • Identify the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is. • Determine for all customers whether the customer is acting on behalf of another person, and should then take reasonable steps to obtain sufficient identification data to verify the identity of that other person. • Conduct ongoing due diligence on the business relationship. Establish, through law, regulation, or other enforceable means, clear obligations/requirements for financial institutions to: • Obtain information on the purpose and intended nature of the business relationship. • Perform enhanced due diligence for higher risk categories of customer, business relationships or transactions. • Reject opening an account when unable to comply with CDD requirements and to consider making a suspicious report. • Apply CDD measures on existing customers on the basis of materiality and risk and to conduct due diligence on such relationships at appropriate times. • Have appropriate risk management systems to determine whether the customer is a politically exposed person; obtain senior management approval for establishing business relationships with such customers; take reasonable measures to establish the source of wealth and source of funds; and conduct enhanced ongoing monitoring of the business

	relationship. • Establish requirements for financial institutions to have measures in place for establishing cross-border correspondent banking and other similar relationships. • Require financial institutions to establish measures including policies and procedures designed to prevent and protect the financial institutions from money laundering and terrorist financing threats that may arise from new or developing technologies or specific CDD measures that apply to non face-to-face business relationships or transactions. QFC: Strengthen the AML Regulation and Rulebook by requiring relevant persons to: • Remove the broad exception to customer identification requirements contained in Rule 3.9 of the Rulebook by implementing a process for conducting a risk sensitive assessment of customers and FATF countries where such customers are located to determine compliance with and the level of implementation of Rec. 5. • Require institutions to consider making a suspicious transaction report when unable to complete CDD measures, including when the business relationship has already commenced and the institution is not able to conduct required CDD measures. • Take reasonable measures to establish the source of funds of customers and beneficial owners identified as PEPs and obtain senior management approval to continue the business relationship where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP. • Incorporate into the existing requirements the obligation to gather sufficient information about a respondent institution to understand fully the reputation and quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action; and to document the respective AML/CFT responsibilities of each institution.
Third parties and introduced business (R.9)	Domestic sector: • Introduce provisions/measures in the event that financial institutions supervised by the QCB, DSM, and MEC rely on intermediaries or other third parties to perform some of the elements of the CDD process. • Specify that the final responsibility for CDD measures remains with the financial institution opening/initiating the relationship. QFC: • Expand the requirements to include measures: to require a relevant person to evaluate that the third party is regulated and supervised; and determine in which countries the third party that meets the conditions can be based; and take into account information available on whether those countries

	adequately apply the FATF Recommendations. • Abolish or re-evaluate the broad customer identification exemption granted when a customer is a member of the relevant person's group or equivalent international standards are applied in FATF countries with a view to establish the risk and the conditions for implementing this waiver.
Financial institution secrecy or confidentiality (R.4)	• Establish measures for the competent authorities to be able to share information between financial institutions.
Record keeping and wire transfer rules (R.10 & SR.VII)	Domestic sector: • Set in primary or secondary legislation requirements for financial institutions under the DSM's and MEC's supervision. • Provide additional guidance to financial institutions the QCB's and DSM's supervision as to when the record retention/keeping requirement starts, that is, following the termination of an account or business relationship or longer if requested by a competent authority. • Require banks (i) to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer by each intermediary and beneficiary financial institution in the payment chain; (ii) when technical limitations prevent full originator information accompanying a cross-border wire transfer from being transmitted with a related domestic wire transfer, to keep a record for five years of all the information received from the ordering financial information. • Require banks to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information. The lack of complete originator information may be considered a factor in assessing whether they are thus required to be reported to the financial intelligence unit or other competent authorities. In some cases, the beneficiary financial institution should consider restricting or even terminating its business relationship with financial institutions that fail to meet the SR.VII standards. • Establish a mechanism to monitor effectively the compliance of financial institutions with rules and regulations implementing SR.VII. • Ensure that sanctions (in line with R.17) also apply in relation to the obligations under SR.VII. QFC: • Ensure that non-routine batched transactions are not batched where this would increase the risk of money laundering or terrorist financing. • Establish explicit measures to ensure that beneficiary financial institutions adopt an effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information.
Monitoring of transactions and relationships (R.11 & 21)	Domestic sector: • Require banking and financial institutions under the QCB's

	supervision to make the findings of examinations of complex and unusual transactions available to auditors. • Require financial institutions under the DSM's and MEC's supervision (i) to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose; (ii) to examine as far as possible the background and purpose of such transactions and to set forth their findings in writing; and (iii) to maintain them for competent authorities and auditors for at least five years. • Ensure that the DSM provides guidance indicating whether transactions exceeding QR. 100,000 or the equivalent in foreign currency should be considered large, unusual large or complex. • Ensure that the DSM establishes a legal or regulatory requirement for financial institutions to give special attention to business relationships and transactions with persons form or in countries which do not or insufficiently apply the FATF Recommendations. • Expand the requirement for financial institutions under the QCB's supervision to pay attention to business relationships and transactions with persons from or in countries that insufficiently apply the FATF Recommendations. QFC: • Establish a specific requirement for relevant persons to make the findings of examinations of complex and unusual transactions available to competent authorities and auditors. Both sectors: • Ensure that all the supervisory authorities may apply counter-measures to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations.
Suspicious transaction reports and other reporting (R.13, 14, 19, 25, & SR.IV)	• Establish, in primary or secondary legislation, the requirement for all financial institutions to report to the FIU transactions, including attempted transactions, when a financial institution suspects or has reasonable grounds to suspect that the funds are the proceeds of a criminal activity, or are related or linked to terrorist financing, terrorist acts or terrorist organizations or those who finance terrorism. • Address the protection of financial institutions under the supervision of the DSM and MEC, and their staff from liability for filing suspicious transaction reports and prohibit "tipping off" in the insurance sector. • Consider re-assessing the study conducted with respect to Rec. 19 to provide for a more comprehensive analysis and details as to how the decision to establish or not the cash reporting system was achieved. • Provide guidance to assist financial institutions on AML/CFT issues covered under the FATF recommendations, including

	at a minimum a description of ML and FT techniques and methods, and any additional measures that these institutions could take to ensure that their AML/CFT procedures are effective. • Establish communication standards and a mechanism for providing feedback to reporting institutions including general and specific or case-by-case feedback. • Consider reviewing the guidance provided by the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.
Internal controls, compliance, audit and foreign branches (R.15 & 22)	• Set out clear requirements for all financial institutions to establish and maintain internal procedures, policies, and controls so that the same requirements apply uniformly to policies and controls addressing customer due diligence, record retention, detection of unusual and suspicious transactions and the reporting obligation. • Strengthen the QCB requirement to ensure that AML/CFT compliance officer has timely and unrestricted access to customer information data and other customer due diligence information, transaction records, and other relevant information. • Impose a similar requirement on the financial institutions that are regulated by the DSM and MEC. • Require all financial institutions to ensure that the scope of the internal audit function (or outsourcing of this function) includes AML/CFT reviews/audits and an overall assessment of the financial institutions' adequacy of the internal control systems and policies with respect to AML/CFT. • Require financial institutions under the supervision of the DSM and MEC to maintain an adequately resourced and independent audit function to test compliance with the procedures, policies and controls. • Require banking and financial institutions to put screening procedures in place to ensure high standards when hiring employees. • Expand the existing QCB measures that establish an explicit obligation for financial institutions to apply the higher AML/CFT standard, to the extent that local laws and regulations permit. • Require foreign branches and subsidiaries of financial institutions under the supervision of the DSM and MEC to observe AML/CFT measures consistent with home country requirements and the FATF Recommendations, to the extent that local (i.e. host country) laws and regulations permit; require financial institutions 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; and where the minimum AML/CFT requirements of the home and host countries differ,

	to apply the higher standard, to the extent that local (i.e. host country) laws and regulations permit.
Shell banks (R.18)	Domestic sector: • Amend the QCB licensing requirements with a view to clearly prevent the establishment of shell banks in Qatar . • Prohibit banks from entering into or continuing correspondent relationships with shell banks. • Require financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.
The supervisory and oversight system–competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 25, & 32)	• Establish the legal basis for AML/CFT supervision of the financial institutions currently regulated by the MEC. • Strengthen the QCB, DSM and MEC overall AML/CFT supervision and develop formal examination procedures for AML/CFT matters. • Re-evaluate the adequacy of the penalties regime, in particular with respect to the criminal sanction for tipping-off provided in the AML Law, and provide the domestic supervisory authorities with an adequate range of sanctions.
Money value transfer services (SR.VI)	• Investigate the possibility of an informal MVT system operating in Qatar and consider effective measures for monitoring these activities, if identified. • Address the shortcomings identified in recommendations 4-11, 13-15, and 21-23, as applicable to this recommendation.
4. Preventive Measures–Nonfinancial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	• Set out in primary or secondary legislation the basic obligations on customer due diligence and record keeping for all DNFBPs. • Set out in law, regulation or by other enforceable means the obligations on PEPs, payment technologies, introduced business and unusual transactions. • Effectively implement Circular No. 2 of 2007 of the MEC, Resolution No. 108 of 2006 of the MOJ and QFC AML Regulations.
Suspicious transaction reporting (R.16)	• Set out STR obligations in primary or secondary legislation for all DNFBPs. • Review the provisions on legal privilege in order not to prevent lawyers and legal advisers from filing STRs. • Implement adequate measures to prohibit a DNFBP from disclosing information it provides to the FIU. • Implement provisions on internal controls and countries that insufficiently apply the FATF recommendations are incomplete and not implemented. • Refine the QFC framework regarding the legal privilege of lawyers.

Regulation, supervision, monitoring, and sanctions (R.17, 24, & 25)	• Re-evaluate the adequacy of the penalties regime, in particular with respect to the criminal sanction for tipping-off provided in the AML Law, and provide the domestic supervisory authorities with an adequate range of sanctions. • FIU and QFCRA: issue guidelines and provide specific feedback to DNFBPs.
Other designated non-financial businesses and professions (R.20)	• Conduct a risk assessment of the other businesses and professions in the domestic sector. • Take steps in order to reduce the reliance on cash.
5. Legal Persons and Arrangements & Nonprofit Organizations	
Legal Persons–Access to beneficial ownership and control information (R.33)	• Enhance the timeliness of the FIU's and DSM's access to the relevant information by providing both authorities with an electronic link to the register of commerce's database.
Legal Arrangements–Access to beneficial ownership and control information (R.34)	QFC : • Review the CDD requirements with respect to trusts to ensure that they are in conformity with the new Trust regulations. • Take measures that enable the competent authorities to have adequate, accurate and timely information on trusts created under QFC, including accurate, current and adequate information on the settlor, trustee and beneficiaries.
Nonprofit organizations (SR.VIII)	• Suppress the possibility of exempting a charity from QACA supervision. • Make the identification requirements more realistic and enforceable and clarify the role of the QACA-FIU work team. • Systematize on-site inspection of international projects. • Revise the QFC Trust Regulations No. 12, Law 12 of 2004 and Law 13 of 2004 to bring the charitable trust regime in compliance with SR VIII. • Promote effective supervision or monitoring of QFC charitable trusts.
6. National and International Cooperation	
National cooperation and coordination (R.31 & 32)	• Formalize the cooperation with, the QFC , the securities market regulator and, if necessary, the Public Prosecutor's Office, and seek to include them in their efforts to develop and implement policies to combat money laundering and terrorist financing. • Ensure as a matter of priority enhanced cooperation in the implementation of UNSCRs 1267 and 1373 (and their successor resolutions). • Maintain comprehensive statistics.
The Conventions and UN Special Resolutions (R.35 & SR.I)	• Take the necessary measures to fully implement the Vienna Convention. • Sign, become party to and fully implement the Palermo Convention. • Sign, become party to and fully implement the International

	Convention for the Suppression of Terrorist Financing. • Take the necessary measures to comply with and fully implement UNSCR 1267 and 1373 (and their successor resolutions) as recommended under SR III.
Mutual Legal Assistance (R.36, 37, 38, SR.V & 32)	• Specify in the law the types of assistance that may be granted in such a way that it covers assistance of the following nature: • the production, search and seizure of information, documents, or evidence from financial institutions, or other natural or legal persons; • the taking of evidence or statements from persons; • the provisional originals or copies of relevant documents and records as well as any other information and evidentiary items; • the service of judicial documents; • facilitating the voluntary appearance of persons for the purpose of providing information or testimony to the requesting country; and • identification, freezing, seizure, or confiscation of assets laundered or intended to be laundered, the proceeds of money laundering and assets used for or intended to be used to finance terrorist acts, terrorist groups or organizations and terrorist individuals, as well as the instrumentalities of the money laundering offense and of the predicate offense, and assets of corresponding value. • Allow for the delivery of mutual legal assistance on non-intrusive measures even in the absence of dual criminality. • Ensure that the mutual legal assistance requests are dealt with in a timely manner and without undue delay. • Devise mechanisms that determine the best venue when defendants are subject to prosecutions in more than one country. • Ensure that technical differences in the laws in Qatar and in the requesting State do not impede the provision of mutual legal assistance. • Conclude arrangements where necessary for coordination of seizure and confiscation actions with other countries. • Fully implement the UNSCR 1267 and 1373 with respect to international cooperation. • Criminalize terrorist financing as recommended under SR II and ensure that the widest range of international cooperation may be granted in the fight against the financing of terrorism. • Consider establishing a confiscated assets funds into which all or portion of confiscated property will be deposited and will be used for law enforcement, health, education or other appropriate purposes. • Consider authorizing the sharing of confiscated assets between law enforcement agencies that have contributed to the confiscation of assets.

	• Maintain statistics of the requests for mutual legal assistance and the response given.
Extradition (R. 39, 37, SR.V & R.32)	• Extend the list of predicate offenses as noted under Recommendation 1 in order to be able to provide extradition in all the cases contemplated in the standard. • Ensure that, where extradition relating to ML and TF is denied, the case is submitted to the relevant Qatari authorities without undue delay in view of the prosecution of the offenses set forth in the request and that the competent authorities cooperate with the requesting state on procedural and evidentiary aspects. • Clearly specify the procedure by which extradition for terrorist financing is possible, in line with SR V. • Establish a mechanism that ensures that extradition requests and proceedings relating to ML and TF are handled without undue delay. • Fully implement the UNSCR dealing with the fight against terrorism and its financing. • Maintain statistics of requests for extradition received and responses given.
Other Forms of Cooperation (R. 40, SR.V & R.32)	• Law enforcement agencies and the FIU should be more proactive in requesting information on ML/FT from their counterparts. • QCB and DSM Laws should be amended to allow the QCB and DSM to provide the widest range of international cooperation with their foreign counterparts. • Authorities should maintain statistics on the number of requests for assistance made or received by law enforcement authorities, the FIU, including whether the request was granted or refused.
7. Other Issues	
Other relevant AML/CFT measures or issues	• Authorities should allocate additional resources to competent authorities. • Authorities should develop the professional standards, including confidentiality standards. • Authorities should develop specialist skills training in law enforcement authorities including prosecution agencies, FIU, supervisors and other competent authorities involved in combating ML/FT. • Competent authorities have yet to develop comprehensive statistics.

Annex 1. Authorities' Response to the Assessment

1. The Qatari authorities acknowledge and appreciate the important contribution the Financial Action Task Force continues to make in the international fight against ML/TF and would also like to express their gratitude to the International Monetary Fund's assessor team for its commitment and valuable contribution to Qatar's ongoing AML/CFT efforts.

2. The government of Qatar is pleased that the Assessment report highlights the fact that there is currently no evidence of significant money laundering in Qatar, that the level of predicate offences is low compared to other countries and that Qatar ranks among the less corrupt countries in the region. The government also welcomes the acknowledgement in the Assessment report that the Qatari authorities are very conscious of the risks posed by money laundering and the financing of terrorism.

3. The Qatari authorities are acutely aware of the risks attendant on a rapidly growing financial sector and are committed to the continued development of a robust AML/CFT framework including the development of a legal and regulatory regime that will ensure ongoing high level compliance with the FATF 40 + 9 Recommendations.

4. Qatar places the highest importance on AML/CFT and has worked hard over the last few years to address ML/TF risks. The Qatari authorities are pleased that the Assessment demonstrates that the main deficiencies identified in Qatar's 2002 Mutual Assessment Report have been addressed and that the country is continuing to make positive progress in the fight against ML/TF.

5. As part of this commitment, the Qatar government has decided to merge Qatar's two financial services legal and regulatory regimes and to introduce a single financial services regulator that will oversee all financial institutions (with the Qatar Central Bank retaining a focus on core central bank functions including monetary policy and the operation of the payment systems). The decision to create a new single regulator will mean that all financial institutions in Qatar will be subject to the measures (including on AML/CFT) currently upheld by the QFC.

6. The Qatari authorities recognize the crucial role that the National Anti Money Laundering & Counter Terrorist Financing Committee and the FIU play in the fight against ML/TF and are continuing to implement new strategies to enhance their effectiveness, including establishing a strong legal foundation for the FIU, and strengthening cooperation between all Qatari authorities involved in AML/CFT.

7. A number of initiatives have already been undertaken or are under way to enhance Qatar's AML/CFT framework, including:

- Drafting a new Anti Money Laundering & Counter Terrorist Financing Law to extend the scope of the ML and the TF offences and to ensure full compliance with the FATF 40+9 Recommendations, relevant international conventions and UNSC resolutions;

- Implementing AML/CFT measures by each of the supervisory authorities, including amendments to regulations and rulebooks, to enhance the preventive measures for all financial institutions and DNFBPs;

- Taking steps to accede to the Palermo Convention and the International Convention for the Suppression of the Financing of Terrorism (ICSFT);

- Creating a Central Committee on Training to implement a comprehensive AML/CFT training program for all financial institutions and authorities with AML/CFT responsibility; and

- Establishing measures to ensure that law enforcement agencies, financial institutions, DNFBPs and other competent authorities involved in combating ML/TF prepare and maintain qualitative and comprehensive statistics related to combating ML/TF.

8. Qatar is genuinely pleased with the timing of this Assessment and sees it as complementing the development of its AML/CFT strategy. The Assessment has helped to clarify Qatar's AML/CFT vision and each authority is committed to implementing measures to address the recommendations made by the assessors and ensuring ongoing compliance with the FATF 40+9 Recommendations and international standards.

**Annex 2. Details of all bodies met on the on-site mission—
Ministries, other Government Authorities or Bodies,
Private Sector Representatives, and others.**

1. Association of commercial banks
2. Association(s) of Compliance Officers
3. Coordination Committee for the implementation if UNSCR 1373 and relevant authorities responsible for the implementation of the UNSC Resolutions
4. Customs & Ports General Authority
5. DNFBPs
   a) Representatives from lawyers
   b) Representatives from the real estate agents
   c) Representatives from dealers in precious metals and precious stones
   d) Representatives of accountants
6. Financial Institutions
   a) Representative from the banking industry
      i) Qatar National Bank
      ii) International Bank of Qatar
      iii) BNP Paribas (Foreign Bank Branch)
      iv) First Investment
   b) Representatives from Investment companies
      i) First Investment
   c) Representatives of the exchange houses
      i) Gulf Exchange Co.
      ii) Al Mana
   d) Representatives from the insurance Companies
      i) Arabian Insurance Co
   e) Representatives of financial firms supervised by QFCA
      i) Arab Jordan Investment Bank
   f) Representatives of financial firms supervised by QFCA
      i) United Gulf Financial Services Company LLC
   g) Representatives from the Doha Securities Market
      i) Delala Islamic
      ii) Qatar Securities Company
      iii) Qatar Insurance and Reinsurance Co
   h) Representatives from alternative remittance systems
7. Financial Intelligence Unit
8. Law enforcement agencies
   a) Prosecutor, judges
   b) Police
9. Ministry of Civil Service & Housing
   a) Qatari authority for charitable activities
   b) Qatari Post
10. Ministry of Economy & Commerce
    a) Commercial Affairs Department
11. Ministry of Finance
12. MOFA
13. MOI
    a) Department of Prevention of Economic Crimes
14. Ministry of Municipal Affairs & Agriculture

15. MOJ
    a) Prosecutor's Office
    b) Judges
16. National Committee on AML/CFT
17. Public Qatari Authority for Specification & Criteria
18. Qatar Chamber of Commerce & Industry
19. QCB
    a) AML/CFT policy and supervision
    b) Banking Supervision Department
    c) Legal Affairs Department
20. Qatar Financial Centre Authority
21. Qatar Financial Centre Regulatory Authority
22. State Security Bureau
23. Representatives from non-profit organizations
24. Doha Securities Market Committee

Annex 3. List of all laws, regulations and other material received

I. Laws

1. Law No. 2 of 1962: regulation of General Monetary Policy in Qatar (Ar.)
2. Law No. 14 of 1964: Real Estate Registration
3. Law No. 5 of 1989: State Public Treasury (Ar.)
4. Law No. 14 of 1991: Regulation of the MOJ and its competence (Ar.)
5. Decree Law No. 15 of the year 1993 establishing Qatar Central Bank and amendments
6. Law No. 14 of 1995: Doha Stock Market
7. Law No. 36 of 1995: Money Exchange
8. Decree Law No. 15 of the year 1993 establishing Qatar Central Bank as amended by the Law No. 19 of the year 1997
9. Law No. 8 of 1998: Non Profit Organizations and private companies (Ar.) Cancelled
10. Law No. 14 of 1999: Weapons, ammunitions and explosives.
11. Law No. 13 of 2000: Investment of Foreign Capital in the Economic Activity
12. Law No. 3 of 2001 amending Articles of Law No. 8 of 1998 on Non Profit Organizations and private companies. (Ar.)
13. Law No. 2 of 2002: Real Estate Possession by the GCC Citizens
14. Law No. 5 of 2002: Commercial Companies Law
15. Law No. 8 of 2002: Regulation of Commercial Agents
16. Law No. 10 of 2002: General Prosecutor (Ar.)
17. Law No. 11 of 2002 amending Articles of Law No. 4 of 1991: regulation of the MOJ and determining its competences. (Ar.)
18. Law No. 28 of 2002: Fighting Money Laundering (Ar.)
19. Law No. 40 of 2002: Customs Law
20. Law No. 5 of 2003 establishing State Security Bureau.
21. Decree Law No. 21 of 2003 amending some provisions of Law No. 28 of 2002 on Anti-Money Laundering
22. Law No. 3 of 2004: Combating Terrorism
23. Law No. 11 of 2004: Penal Code
24. Law No. 12 of 2004: Non Profit Organizations and private companies (Ar.)
25. Law No. 13 of 2004: Foundation of Charities Qatar Organization
26. Law No. 22 of 2004: the Civil Code
27. Law No. 23 of 2004: Penal Procedure Code (Ar. except Chap.V)
28. Law No. 25 of 2004: The Harboring Confrontation of Non-Qatari Commercial, Economical and Professional activities practice in contrary to the Law.
29. Law No. 30 of 2004: regulating Accountants profession (Ar.)
30. Law No. 31 of 2004 amending provisions of Law No. 13 of 2000 regulating Investment of Foreign Capital in the Economic Activity (Ar.)
31. Law No. 5 of 2005: The protection of Trade Secrets.
32. Law No. 6 of 2005: Protection of Layout Design of Integrated Circuits
33. Law No. 7 of 2005: On the Promulgation of Law for the Qatar Financial Center
34. Law No. 11 of 2005 regulating the Ministry of Finance and its competences (Ar).
35. Law No. 33 of 2005: Qatar Financial Center Authority and Qatar Financial Center (Ar).
36. Law No. 23 of 2006 Law of Lawyers.
37. Law No. 33 of the year 2006: Qatar Central Bank.

II. Ministerial Resolutions

1. Ministerial Resolution of the Minister of Finance, Economy and Trade No. (10) of 1999 issuing internal list of Qatar Financial Center Authority
2. Ministerial Resolution of the Minister of Justice No. (27) of 2000 amending provisions of decision No. (6) of 1994 establishing units in administrative departments in the MOJ and determining its competences. (Ar.)

III. Circulars, Decisions & Instructions

Qatari Public Authority for Customs and Ports:

1. Instructions of the Public Authority for Customs and Ports, Resolution of the Director General of the Public Authority for Customs and Ports No. (5) of 2005 concerning the procedures and rules for declaration and inspection of luggage and property accompanying travelers or belonging to them.
2. Instructions issued by the customs Authority, Administrative Circular No. (40) year 2001 concerning Money Laundering and suspicious operations.
3. Resolution of the Chairman of Customs and Ports General Authority No. (37) of 2006 amending Decision No. (5) of 2005 regarding the procedure of disclosure and principles of licensing and inspection of traveler's accompanied luggage.

QCB Instructions:

Chapter 6: Combating ML and FT

Doha Securities Market Committee:

Doha Securities Market Committee' Decision No. (16/3) for the Year 2005 on the instructions concerning the procedures for the prohibition and combating of Money Laundering and Financing of Terrorism.

Charities:

1. Instruction issued by the Qatari Public Authority for Charitable Works circular No. 1 of 2005: controls for financial dealings and transfers with Charitable and Humanitarian bodies abroad.
2. Resolution No. (17) of 2006 issuing the instructions related to the combating of Money Laundering and Terrorism Financing- Qatar Authority for charitable works and the MOJ.
3. Instructions issued by Civil Service and Housing Affairs – Ministry of Charitable Societies.

MEC:

1. Circular No. (1) of 2007 to insurance company issued by the MEC (ML instructions)
2. Circular No. (2) of 2007 to all companies operating in the State of Qatar (ML instructions).
3. Circular No. (3) of 2007 to all auditing offices operating in the State of Qatar (ML instructions).

Lawyers and Legal Professions:

1. Circular No. 13 of 2006 addressed by the MOJ-Real Estate Registration Department.
2. Administrative Order No. 108 of 2006 – Minister of Justice, chairman of the Committee responsible of registering the Lawyers.
3. AML/CFT instructions, MOJ addressed to Lawyers.

IV. Qatar Financial Centre Regulations

1. QFC Qatar Financial Center Law-Law No. (7) of 2005.
2. QFC – Regulatory Authority- Introducing the Qatar Financial Center Regulatory Authority.
3. QFC Regulation No. (1) of 2005 - QFC Financial Services Regulations relating to the management, objectives, duties, functions, powers and constitution of the QFC Regulatory Authority- Ver1-May05.
4. QFC – Regulatory Authority -A guide to our approach to regulation.
5. QFC– Regulatory Authority- A guide to the Financial Services Regulations.
6. QFC Companies Regulations- Qatar Financial Center- Ver1- Sep05.
7. QFC Companies Rules- Qatar Financial Center-Comp- Ver1- Nov05.
8. QFC Limited Liability Partnerships Regulations- Ver1-Nov05.
9. QFC Data Protection Regulations- Qatar Financial Center- Ver1-Oct05.
10. QFC Data Protection Rules- Qatar Financial Center- rulesVer1-Oct05.
11. QFC AML regulations- Ver1- Sep05.
12. QFC – Regulatory Authority – AML Rulebook- Ver1-Oct05.

Annex 4. Copies of key laws, regulations and other measures

I. Laws

1. Law No. 28 of 2002: Fighting Money Laundering (Ar.)
2. Decree Law No. 21 of 2003 amending some provisions of Law No. (28) of 2002 on Anti-Money Laundering
3. Article 3 of Law No. 3 of 2004 on Combating Terrorism

II. Decisions

1. Administrative Decision No. 1 of year 2004: establishment of the FIU.

Annex 131

United States Department of Treasury Press Release,
"Administration Takes Additional Steps to Hold the Government
of Syria Accountable for Violent Repression Against the Syrian People",
18 May 2011

Website of the United States Department of Treasury available at
https://www.treasury.gov/press-center/press-releases/Pages/tg1181.aspx

U.S. DEPARTMENT OF THE TREASURY

Press Center

Administration Takes Additional Steps to Hold the Government of Syria Accountable for Violent Repression Against the Syrian People

5/18/2011

WASHINGTON – Today, President Obama signed an Executive Order (E.O.) imposing sanctions against Syrian President Bashar al-Assad and six other senior officials of the Government of Syria in an effort to increase pressure on the Government of Syria to end its use of violence against its people and begin transitioning to a democratic system that protects the rights of the Syrian people.

Also today, the U.S. Department of the Treasury announced the designation of 10 individuals and entities pursuant to E.O. 13572 – signed by President Obama on April 29, 2011 – targeting Syrian officials and others responsible for human rights abuses, including repression against the Syrian people, as well as a set of companies tied to Syrian corruption.

The United States continues to strongly condemn the Syrian government's use of violence and intimidation against its people and urges President al-Assad and his regime to answer the calls of the Syrian people for a more representative government and embark upon the path of meaningful democratic reform.

"The actions the Administration has taken today send an unequivocal message to President Assad, the Syrian leadership, and regime insiders that they will be held accountable for the ongoing violence and repression in Syria," said Acting Under Secretary for Terrorism and Financial Intelligence David S. Cohen. "President al-Assad and his regime must immediately end the use of violence, answer the calls of the Syrian people for a more representative government, and embark upon the path of meaningful democratic reform."

New Executive Order

In signing this Executive Order, the President has provided the United States with additional tools to pressure senior Syrian government officials and has imposed sanctions on the following individuals listed in the Annex to the Order:

- **Bashar al-Assad:** President of the Syrian Arab Republic
- **Farouk al-Shara:** Vice President of the Syrian Arab Republic
- **Adel Safar:** Prime Minister of the Syrian Arab Republic
- **Mohammad Ibrahim al-Shaar:** Minister of the Interior of the Syrian Arab Republic
- **Ali Habib Mahmoud:** Minister of Defense of the Syrian Arab Republic
- **Abdul Fatah Qudsiya:** Head of Syrian Military Intelligence
- **Mohammed Dib Zaitoun:** Director of Political Security Directorate

As a result of this action, any property in the United States or in the possession or control of U.S. persons in which the individuals listed in the Annex have an interest is blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

The President has authorized the Secretary of the Treasury, in consultation with the Secretary of State, to take actions to block the property and interests in property of senior Syrian Government officials; agencies and instrumentalities of the Syrian Government, persons owned or controlled by the Syrian Government, or by officials of the Syrian Government; persons that have provided material support to those blocked pursuant to this Order; and, those that are owned or controlled by, or that have acted for or on behalf of persons pursuant to in this Order.

Executive Order 13572 Designations

Exposing further the complicity of Syrian government officials in the human rights abuses and repression of the Syrian people, Treasury designated today the following individuals and entities pursuant to E.O. 13572:

- **Hafiz Makhluf:** a cousin of President al-Assad and senior official of the Syrian General Intelligence Directorate (GID), the overarching civilian intelligence service in Syria listed in the Annex to E.O. 13572. Makhluf was given a leading role in responding to protests in Syria, and was heavily involved in the Syrian regime's actions in Dar'a, where protesters were killed by Syrian security forces. Makhluf was previously designated by Treasury in November 2007 pursuant to E.O. 13441, which targets persons undermining the sovereignty of Lebanon or its democratic processes and institutions.
- **Syrian Military Intelligence (SMI):** One of the four major branches of Syria's security forces. During the recent civil unrest in Syria the SMI has used force against and arrested demonstrators participating in the unrest.
- **Syrian National Security Bureau (NSB):** An element of the Syrian Ba'ath Party. The Syrian National Security Bureau (NSB) directed Syrian security forces to use extreme force against demonstrators.
- **Syrian Air Force Intelligence (SAFI)**: In late April 2011, security forces including personnel from SAFI fired tear gas and live ammunition to disperse crowds of demonstrators who took to the streets in Damascus and other cities after noon prayers, killing at least 43 people.
- **Qasem Soleimani:** Commander of the Iranian Islamic Revolutionary Guard Corps-Qods Force (IRGC-QF), the conduit for Iranian material support to the GID. The IRGC-QF was listed in the Annex to E.O. 13572.
- **Mohsen Chizari:** A senior IRGC-QF officer who serves as the Commander of IRGC-QF Operations and Training.

E.O. 13572 authorizes the United States to sanction any person that is owned or controlled by, or acts for or on behalf of any person designated pursuant to E.O. 13460. Included in today's action are three companies and one corporate official for ties to public corruption in Syria. The targets are **Cham Holding** and its Chairman **Nabil Rafik al Kuzbari, Bena Properties, and Al Mashreq Investment Fund**, all of which are owned or controlled by, or acting for or on behalf of Rami Makhlouf. Makhlouf, a powerful Syrian businessman and regime insider, was designated by Treasury in February 2008 under E.O. 13460 for improperly benefitting from and aiding the public corruption of Syrian regime officials.

Annex 132

United States Department of Treasury Press Release,
"Treasury Sanctions Five Individuals Tied to Iranian Plot to Assassinate the Saudi Arabian Ambassador to the United States",
11 October 2011

Website of the United States Department of Treasury available at
https://www.treasury.gov/press-center/press-releases/Pages/tg1320.aspx

U.S. DEPARTMENT OF THE TREASURY

Press Center

Treasury Sanctions Five Individuals Tied to Iranian Plot to Assassinate the Saudi Arabian Ambassador to the United States

10/11/2011 **WASHINGTON** – The U.S. Department of the Treasury today announced the designation of five individuals, including four senior Islamic Revolutionary Guard Corps-Qods Force (IRGC-QF) officers connected to a plot to assassinate the Saudi Arabian Ambassador to the United States Adel Al-Jubeir, while he was in the United States and to carry out follow-on attacks against other countries' interests inside the United States and in another country. As part of today's action, Treasury also designated the individual responsible for arranging the assassination plot on behalf of the IRGC-QF.

Designated today pursuant to Executive Order (E.O.) 13224 for acting for or on behalf of the IRGC-QF were: **Manssor Arbabsiar**, a naturalized U.S. citizen holding both Iranian and U.S. passports who acted on behalf of the IRGC-QF to pursue the failed plot to assassinate the Saudi ambassador; IRGC-QF commander **Qasem Soleimani**; **Hamed Abdollahi**, a senior IRGC-QF official who coordinated aspects of the plot and oversaw the other Qods Force officials directly responsible for coordinating and planning this operation; **Abdul Reza Shahlai**, an IRGC-QF official who coordinated this operation; and **Ali Gholam Shakuri**, an IRGC-QF official and deputy to Shahlai, who met with Arbabsiar on several occasions to discuss the assassination and other planned attacks.

Arbabsiar and Shakuri were named by the U.S. Attorney for the Southern District of New York in a criminal complaint unsealed today connected with the IRGC-QF plot. Among the charges brought against them was conspiracy to engage in foreign travel and use interstate and foreign commerce facilities in the commission of murder-for-hire. According to the criminal complaint, Arbabsiar arranged for $100,000 to be sent from Tehran to the U.S. as a down payment for the assassination of the Saudi ambassador. Two wire transfers totaling approximately $100,000 were sent from a non-Iranian foreign bank to a bank in the United States, to the account of the person recruited by Arbabsiar to carry out the assassination.

"Iran once again has used the Qods Force and the international financial system to pursue an act of international terrorism, this time aimed against a Saudi diplomat," said David S. Cohen, Under Secretary for Terrorism and Financial Intelligence. "The financial transactions at the heart of this plot lay bare the risk that banks and other institutions face in doing business with Iran."

As a result of today's designations, U.S. persons are prohibited from engaging in transactions with these individuals, and any assets they may hold in the U.S. are frozen.

Manssor Arbabsiar
Arbabsiar met on a number of occasions with senior IRGC-QF officials regarding this plot and acted on behalf of senior Qods Force officials – including his cousin Abdul Reza Shahlai and Shahlai's deputy Gholam Shakuri – to execute the plot. During one such meeting, a $100,000 payment for the murder of the Saudi ambassador was approved by the IRGC-QF. After this meeting, Arbabsiar arranged for approximately $100,000 to be sent from a non-Iranian foreign bank to the United States, to the account of the person he recruited to carry out the assassination.

Qasem Soleimani
As IRGC-QF Commander, Qasem Soleimani oversees the IRGC-QF officers who were involved in this plot. Soleimani was previously designated by the Treasury Department under E.O. 13382 based on his relationship to the IRGC. He was also designated in May 2011 pursuant to E.O. 13572, which targets human rights abuses in Syria, for his role as the Commander of the IRGC-QF, the primary conduit for Iran's support to the Syrian General Intelligence Directorate (GID).

Hamed Abdollahi
Abdollahi is also a senior IRGC-QF officer who coordinated aspects of this operation. Abdollahi oversees other Qods Force officials – including Shahlai – who were responsible for coordinating and planning this operation.

Abdul Reza Shahlai
Shahlai is an IRGC-QF official who coordinated the plot to assassinate the Saudi Arabian Ambassador to the United States Adel Al-Jubeir, while he was in the United States and to carry out follow-on attacks against other countries' interests inside the United States and in another country. Shahlai worked through his cousin, Mansour Arbabsiar, who was named in the criminal complaint for conspiring to bring the IRGC-QF's plot to fruition. Shahlai approved financial allotments to Arbabsiar to help recruit other individuals for the plot, approving $5 million dollars as payment for all of the operations discussed.

Shahlai was designated by Treasury in September 2008 pursuant to E.O. 13438 for threatening the peace and stability of Iraq and the Government of Iraq.

Ali Gholam Shakuri
Shakuri is an IRGC-QF officer and deputy to Abdul Reza Shahlai who acted on behalf of Shahlai in support of this plot. Shakuri provided financial support to Arbabsiar and met with Arbabsiar several times to discuss the planned assassination and other attacks. With Shakuri's approval, Arbabsiar arranged for the $100,000 down payment to be sent from a non-Iranian foreign bank to the United States.

Background on Iran's Islamic Revolutionary Guard Corps-Qods Force
The IRGC-QF is the Government of Iran's primary foreign action arm for executing its policy of supporting terrorist organizations and extremist groups around the world. The IRGC-QF provides training, logistical assistance and material and financial support to militants and terrorist operatives, including the Taliban, Lebanese Hizballah, Hamas, Palestinian Islamic Jihad and the Popular Front for the Liberation of Palestine-General Command.

IRGC-QF officers and their associates have supported attacks against U.S. and allied troops and diplomatic missions in Iraq and Afghanistan. The IRGC-QF continues to train, equip and fund Iraqi Shia militant groups – such as Kata'ib and Hizballah – and elements of the Taliban in Afghanistan to prevent an increase in Western influence in the region. In the Levant, the IRGC-QF supports terrorist groups such as Lebanese Hizballah and Hamas, which it views as integral to its efforts to challenge U.S. influence in the Middle East.

The Government of Iran also uses the IRGC and IRGC-QF to implement its foreign policy goals, including, but not limited to, seemingly legitimate activities that provide cover for intelligence operations and support to terrorist and insurgent groups. These activities include economic investment, reconstruction, and other types of aid to Iraq, Afghanistan and Lebanon, implemented by companies and institutions that act for or on behalf of, or are owned or controlled by, the IRGC and the Iranian government.

The IRGC-QF was designated by Treasury pursuant to E.O. 13224 in October 2007 for its support for terrorism, and was listed in the Annex to E.O. 13572 of April 2011 as the conduit for Iran's support to Syria's GID, the overarching civilian intelligence service in Syria which has been involved in human rights abuses in Syria.

Indentifying Information:

Treasury Sanctions Five Individuals Tied to Iranian Plot to Assassinate the Saudi Arabian Ambassador to the United States

Individual: **Manssor Arbabsiar**
AKA: Mansour Arbabsiar
DOB: March 15, 1955
Alt. DOB: March 6, 1955
POB: Iran
Citizenship: United Staes
Driver's License: 07442833 (United States); expires March 15, 2016
Passport: C2002515 (Iran)
Alt. Passport: 477845448 (United States)

Individual: **Ali Gholam Shakuri**
DOB: 1964
Alt. DOB: 1965
Alt. DOB 2: 1966
Location: Tehran, Iran

Individual: **Abdul Reza Shahlai**
AKA: Abdol Reza Shala'i
AKA: Abd-al Reza Shalai
AKA: 'Abdorreza Shahlai
AKA: Abdolreza Shahla'i
AKA: Abdul-Reza Shahlaee
AKA: Hajj Yusef
AKA: Haji Yusif
AKA: Hajji Yasir
AKA: Hajji Yusif
AKA: 'Yusuf Abu-al-Karkh'
DOB: Circa 1957
Location: Kermanshah, Iran
Alt. Location: Mehran Military Base, Ilam Province, Iran

Individual: **Hamed Abdollahi**
AKA: Mustafa Abdullahi
DOB: August 11, 1960
Passport: D9004878
Citizenship: Iran

Individual: **Qasem Soleimani**
AKA: Ghasem Soleymani
AKA: Qasmi Sulayman
AKA: Qasem Soleymani
AKA: Qasem Solaimani
AKA: Qasem Salimani
AKA: Qasem Solemani
AKA: Qasem Sulaimani
AKA: Qasem Sulemani
DOB: March 11, 1957
POB: Qom, Iran
Passport: 1999 Diplomatic Passport 008827 (Iran)

https://www.treasury.gov/press-center/press-releases/Pages/tg1320.aspx

Annex 133

United States Department of Treasury Press Release,
"Treasury Designates Al-Qa'ida Supporters in Qatar and Yemen",
18 December 2013

Website of the United States Department of Treasury available at
http://www.treasury.gov/press-center/press-releases/Pages/jl2249.aspx

U.S. DEPARTMENT OF THE TREASURY

Press Center

Treasury Designates Al-Qa'ida Supporters in Qatar and Yemen

12/18/2013

WASHINGTON – The U.S. Department of Treasury today imposed sanctions on two al-Qa'ida supporters based in Qatar and Yemen. Abd al-Rahman bin 'Umayr al-Nu'aymi (Nu'aymi) and `Abd al-Wahhab Muhammad `Abd al-Rahman al-Humayqani (Humayqani) were named as Specially Designated Global Terrorists (SDGTs) pursuant to Executive Order (E.O.) 13224. Nu'aymi was designated for providing financial support to al-Qa'ida, Asbat al-Ansar, al-Qa'ida in Iraq, and al-Shabaab, and Humayqani was designated for providing financial support to and acting on behalf of al-Qa'ida in the Arabian Peninsula (AQAP).

"It is essential for countries to take proactive steps to disrupt terrorist financing, especially where al-Qa'ida and its affiliates are concerned. We will continue to work with our partners in the Gulf to ensure that charitable donations are not used to support violence in the region or elsewhere," said Under Secretary for Terrorism and Financial Intelligence David S. Cohen.

Nu'aymi is a Qatar-based terrorist financier and facilitator who has provided money and material support and conveyed communications to al-Qa'ida and its affiliates in Syria, Iraq, Somalia and Yemen for more than a decade. He was considered among the most prominent Qatar-based supporters of Iraqi Sunni extremists. Humayqani has used his Yemen-based charity as a cover for funneling financial support to AQAP and has frequently traveled throughout the Arabian Peninsula while conducting business for AQAP. During political unrest in Yemen, Humayqani reportedly assisted AQAP in gaining a foothold and safe haven in al-Bayda' Governorate, Yemen and as of mid-2011 served as the acting AQAP amir there. Both Nu'aymi and Humayqani are at the center of global support networks that fund and facilitate terrorism.

As a result of today's designation, any assets these individuals may have under U.S. jurisdiction are frozen, and U.S. persons are generally prohibited from doing business with them.

'Abd al-Rahman bin 'Umayr al-Nu'aymi

In 2013, Nu'aymi ordered the transfer of nearly $600,000 to al-Qa'ida via al-Qa'ida's representative in Syria, Abu-Khalid al-Suri, and intended to transfer nearly $50,000 more.

Nu'aymi has facilitated significant financial support to al-Qa'ida in Iraq, and served as an interlocutor between al-Qa'ida in Iraq leaders and Qatar-based donors. Nu'aymi reportedly oversaw the transfer of over $2 million per month to al-Qa'ida in Iraq for a period of time. He also served as an interlocutor between these Qatari nationals and al-Qa'ida in Iraq leaders. Between 2003 and 2004, Nu'aymi provided support to the Iraqi insurgency more broadly and served as a conduit for their broadcast materials to media outlets.

Nu'aymi as of mid-2012 provided approximately $250,000 to two U.S.-designated al-Shabaab figures, Mukhtar Robow and Sheikh Hassan Aweys Ali, the latter of whom is also designated by the United Nations (UN). Also in 2012, Nuaymi provided financial support to a charity headed by Yemen-based Abd al-Wahhab Muhammad 'Abd al-Rahman al-Humayqani, who channeled funding to AQAP.

`Abd al-Wahhab Muhammad `Abd al-Rahman al-Humayqani

In his capacity as the head of a Yemen-based charity, Humayqani has used his status in the charitable community to fundraise and has provided some of that funding to AQAP and has facilitated financial transfers from AQAP supporters in Saudi Arabia to Yemen in support of AQAP operations. As of 2012, Humayqani was an important figure within AQAP and reportedly had a relationship with important AQAP leaders. Humayqani and others in March 2012 reportedly orchestrated an AQAP attack on a Yemeni Republican Guard base in al-Bayda' Governorate, Yemen. The attack employed multiple vehicle-borne improvised explosive devices and killed seven. He is suspected to have recruited individuals to AQAP who were involved in a plot to assassinate Yemeni officials.

Humayqani has provided financial support and other services to AQAP and acted for or on behalf of the group. He has represented AQAP in meetings with Yemeni officials to negotiate the release of Yemeni soldiers held by AQAP and worked with AQAP operatives to coordinate the movement of AQAP fighters within Yemen. Humayqani has directed a group of armed AQAP associates that intended to carry out attacks on Yemeni government facilities and institutions, including a Yemeni government building in al-Bayda Governorate. He has also recruited individuals in Sana, Yemen on behalf of AQAP in support of AQAP efforts in southern Yemen.

Along with the U.S. and UN designated cleric Shaykh Abd al-Majid al-Zindani, he has issued religious guidance in support of AQAP operations. Humayqani and AQAP leadership have planned to establish a new political party in Yemen, which AQAP planned to use as a cover for the recruitment and training of fighters and a means to attract broader support. AQAP leadership decided that Humayani would play a public role as a leader and spokesman for the new political party.

Identifying Information

Abd al-Rahman bin Umayr al-Nu'aymi
AKA: Abd al-Rahman bin 'Amir al-Na'imi
AKA: 'Abd al-Rahman al-Nu'aimi
AKA: 'Abd al-Rahman bin 'Amir al-Nu'imi
AKA: 'Abd al-Rahman bin 'Amir al-Nu'aymi
AKA: 'Abdallah Muhammad al-Nu'aymi
AKA: 'Abd al-Rahman al-Nua'ymi
AKA: A. Rahman al-Naimi
AKA: Abdelrahman Imer al Jaber al Naimeh
AKA: A. Rahman Omair J Alnaimi
AKA: Abdulrahman Omair al Neaimi
DOB: 1954
Passport: 00868774 (Qatar) Expiration Date: April 27, 2014
Personal Identification Number: 25463401784 (Qatar)
Personal Identification Number Expiration: December 6, 2019

`Abd al-Wahhab Muhammad `Abd al-Rahman al-Humayqani
AKA: `Abd al-Wahab Muhammad `Abd al-Rahman al-Humayqani
AKA: `Abd al-Wahab Muhammad `Abd al-Rahman al-Hamiqani
AKA: `Abd al-Wahab Muhammad `Abd al-Rahman al-Hamayqani
AKA: Abdul-Wahab Mohammed Abdul Rahman al-Humaikani
AKA: 'Abdul-Wahab Mohammed Abdul-Rahman al-Humayqani
AKA: 'Abdul-Wahab Mohammed Abdul-Rahman al-Humaiqani
AKA: 'Abdul-Wahab Mohammed Abdul-Rahman al-Hamiqani
AKA: Abdul Wahab al-Humayqani
AKA: `Abd al-Wahab al-Humayqani
AKA: `Abd al-Wahab al-Hamiqani
AKA: `Abd al-Wahab al-Hamayqani
AKA: `Abd al-Wahab al-Humiqani
AKA: Abdulwahhab Mohammed Abdulrahman al-Humaikani
AKA: `Abd al-Wahab al-Qawi al-Hamiqani
AKA: `Abd al-Wahab al-Qawi al-Humayqani
AKA: `Abd al-Wahhab Muhammad `Abd al-Rahim al-Humayqani
AKA: Abu Ayed
AKA: Abu Ayid
DOB: August 4, 1972
POB: al-Zahir, al-Bayda', Yemen
Passport: 03902409 (Yemen) Date of Issue: June 13, 2010; Expiration Date: June 13, 2016
Passport: 01772281 (Yemen)
Personal Identification Number: 1987853 (Yemen)

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Annex 134

United Arab Emirates, Cabinet Decree of Terrorist Organisations of 15 November 2014 pursuant to Federal Law No. 7 of 2014 on Combating Terrorism Offences, adopted on 31 August 2014

(Extract, English translation, Arabic original)

Website of the United Arab Emirates Judicial Department available at https://www.adjd.gov.ae/sites/Authoring/AR/ELibrary%20Books/E-Library/PDFs/Law%20against%20terrorist%20crimes.pdf

قائمة التنظيمات الإرهابية المرفقة
بقرار مجلس الوزراء رقم (41) لسنة 2014

-1	جماعة الإخوان المسلمين الإماراتية دعوة الإصلاح (جمعية الإصلاح)
-2	خلايا الجهاد الإماراتي
-3	منظمة الكرامة
-4	أحزاب الأمة في الخليج
-5	تنظيم القاعدة
-6	الدولة الإسلامية في العراق والشام (داعش)
-7	تنظيم القاعدة في شبه الجزيرة العربية
-8	أنصار الشريعة (اليمن)
-9	تنظيم وجماعة الإخوان المسلمين
-10	الجماعة الإسلامية في مصر
-11	جماعة أنصار بيت المقدس المصرية
-12	جماعة أجناد مصر
-13	مجلس شورى المجاهدين أكناف بيت المقدس
-14	حركة الحوثيين في اليمن
-15	حزب الله السعودي في الحجاز
-16	حزب الله في دول مجلس التعاون الخليجي
17	تنظيم القاعدة في إيران
-18	منظمة بدر في العراق
-19	عصائب أهل الحق في العراق
-20	كتائب حزب الله (العراق)
-21	لواء أبو فضل العباس في سوريا
-22	كتائب لواء اليوم الموعود (العراق)
-23	لواء عمر بن ياسر (سوريا)
-24	جماعة أنصار الإسلام العراقية
-25	جبهة النصرة في سوريا
-26	حركة أحرار الشام في سوريا
-27	جيش الإسلام في فلسطين
-28	كتائب عبد الله عزام
-29	حركة فتح الإسلام اللبنانية
-30	عصبة الأنصار في لبنان
-31	تنظيم القاعدة في بلاد المغرب الإسلامي
-32	كتيبة أنصار الشريعة في ليبيا
-33	جماعة أنصار الشريعة في تونس
-34	حركة شباب المجاهدين الصومالية
-35	جماعة بوكو حرام في نيجيريا
-36	كتيبة المرابطون في مالي
-37	حركة أنصار الدين في مالي
-38	شبكة حقاني الباكستانية
-39	جماعة لشكر طيبة الباكستانية
-40	حركة تركستان الشرقية في باكستان
-41	جيش محمد في باكستان
-42	جيش محمد في باكستان والهند
-43	المجاهدين الهنود في الهند /كشمير
-44	إمارة القوقاز الإسلامية (الجهاديين الشيشانيين)
-45	الحركة الإسلامية الأوزبكية

List of terrorist organizations attached

By Decree of the Council of Ministers No. (41) of 2014

1-	The UAE Muslim Brotherhood Call for Reform (reform society)
2-	Cells of the UAE Islamic Jihad
3-	Al-Karama Organization
4-	The Ummah parties in the Gulf
5-	Al-Qaeda
6-	The Islamic State of Iraq and the Levant (Da'esh/ISIS)
7-	Al-Qaeda in the Arabian Peninsula
8-	Ansar al-Sharia (Yemen)
9-	Organization of the Muslim Brotherhood
10-	Islamic Group in Egypt
11-	Ansar Bayt Al-Maqdis Al-Masriya group
12-	The Egyptian Army Group
13-	The Mujahideen Shura Council - Aknaf Bayt Al-Maqdis
14-	Movement of the Houthis in Yemen
15-	The Saudi Hezbollah in the Hijaz
16-	Hezbollah in the GCC countries
17-	Al-Qaeda in Iran
18-	Badr Organization in Iraq
19-	Asaib Ahl al-Haq in Iraq
20-	Hezbollah Brigades (Iraq)
21-	Abu Fadl al-Abbas Brigade in Syria
22-	The promised brigades of the Day (Iraq)
23-	Omar bin Yasser Brigade (Syria)
24-	Ansar al-Islam group of Iraq
25-	Al Nusra Front in Syria
26-	Ahrar al-Sham movement in Syria
27-	The Fatah Al-Islam movement of Lebanon
28-	Army of Islam in Palestine
29-	Abdullah Azzam Brigades
30-	Al-Ansar League in Lebanon
31-	Al-Qaeda in the Islamic Maghreb
32-	Ansar al-Sharia Battalion in Libya
33-	Ansar al-Sharia Group in Tunisia
34-	Somali Mujahideen Youth Movement
35-	Boko Haram group in Nigeria
36-	The Almoravids Battalion in Mali
37-	Ansar al-Din Movement in Mali
38-	Pakistan's Haqqani Network
39-	Pakistani Lashkar-e-Taiba group
40-	East Turkistan Movement in Pakistan
41-	Army of Muhammad in Pakistan
42-	Army of Muhammad in Pakistan and India
43-	Indian Mujahideen in India / Kashmir
44-	The Islamic Emirate of the Caucasus (Chechen jihadists)
45-	The Islamic Movement of Uzbekistan

-46	جماعة أبو سياف الفلبينية
-47	مجلس العلاقات الأمريكية الإسلامية (كير)
-48	منظمة كانفاس في صربيا/ بنجراد
-49	الجمعية الإسلامية الأمريكية (ماس)
-50	اتحاد علماء المسلمين
-51	اتحاد المنظمات الإسلامية في أوروبا
-52	اتحاد المنظمات الإسلامية في فرنسا
-53	الرابطة الإسلامية في بريطانيا
-54	التجمع الإسلامي بألمانيا
-55	الرابطة الإسلامية في الدنمارك
-56	الرابطة الإسلامية في بلجيكا (رابطة مسلمي بلجيكا)
-57	الرابطة الإسلامية في إيطاليا
-58	الرابطة الإسلامية في فنلندا
-59	الرابطة الإسلامية في السويد
-60	الرابطة الإسلامية في النرويج
-61	منظمة الإغاثة الإسلامية في لندن
-62	مؤسسة قرطبة في بريطانيا
-63	هيئة الإغاثة الإسلامية التابعة لتنظيم الإخوان المسلمين الدولي
-64	حركة طالبان باكستان
-65	كتيبة أبو ذر الغفاري في سوريا
-66	لواء التوحيد في سوريا
-67	كتيبة التوحيد والإيمان في سوريا
-68	كتيبة الخضراء في سوريا
-69	سرية أبو بكر الصديق في سوريا
-70	سرية طلحة بن عبيد الله في سوريا
-71	سرية الصارم البتار في سوريا
-72	كتيبة عبد الله بن مبارك في سوريا
-73	كتيبة قوافل الشهداء في سوريا
-74	كتيبة أبو عمر في سوريا
-75	كتيبة أحرار شمر في سوريا
-76	كتيبة سارية الجبل في سوريا
-77	كتيبة الشهباء في سوريا
-78	كتيبة القعقاع في سوريا
-79	كتيبة سفيان الثوري في سوريا
-80	كتيبة عباد الرحمن في سوريا
-81	كتيبة عمر بن الخطاب في سوريا
-82	كتيبة الشيماء في سوريا
-83	كتيبة الحق في سوريا

46-	Filipino Abu Sayyaf Group
47-	Council on American Islamic Relations (CAIR)
48-	Canvas Organization in Belgrade, Serbia
49-	The Muslim American Society (MAS)
50-	Union of Muslim Scholars
51-	Federation of Islamic Organizations in Europe
52-	Union of Islamic Organizations of France
53-	Muslim Association of Britain
54-	Islamic Society of Germany
55-	Islamic Society of Denmark
56-	The League of Muslims in Belgium
57-	Association of Italian Muslims
58-	Finnish Islamic Association
59-	Swedish Islamic Association
60-	Norwegian Islamic Association
61-	Islamic Relief Organization of London
62-	British Qordoba Relief Association
63-	Islamic Relief Association part of the Global Muslim Brotherhood Organization
64-	Taliban Movement of Pakistan
65-	Abu Thur Al Ghafari Battalion in Syria
66-	Al Tawheed Brigade of Syra
67-	Al Tawheed and Faith Battalion of Syria
68-	Al Khadhra Battalion of Syria
69-	Abu Bakr Al Sideeq Brigade of Syria
70-	Battalion of Talha Bin Obaid Allah in Syria
71-	Al Sarim wa Al battar Battalion in Syria
72-	Abdullah Bin Mubaral Brigade of Syria
73-	Caravan of Martyrs Brigade of Syria
74-	Abu Omar Brigades of Syria
75-	Ahrar Shumar Brigades of Syria
76-	Sariyat Al Jabal Brigades if Syria
77-	Al Shahbaa Brigades is Syria
78-	Al Qa'qa'Brigades in Syria
79-	Sufyan Al Thawri Brigade in Syria
80-	Ibbad Al Rahman Battalion in Syria
81-	Omar Bin Al Khattab Brigade in Syria
82-	Al Shaymaa Brigade in Syria
83-	Al Haq Brigade in Syria

Annex 135

United States Department of Treasury Press Release,
"Treasury Designates Twelve Foreign Terrorist Fighter Facilitators",
24 September 2014

Website of the United States Department of Treasury available at
https://www.treasury.gov/press-center/press-releases/Pages/jl2651.aspx

U.S. DEPARTMENT OF THE TREASURY

Press Center

Treasury Designates Twelve Foreign Terrorist Fighter Facilitators

9/24/2014

Action Undermines Efforts by the Islamic State of Iraq and the Levant, Al Nusrah Front, Al-Qaida and its Affiliates, and Jemaah Islamiya to Move Money and Fighters to Syria and Elsewhere

WASHINGTON – The U.S. Department of the Treasury today named 11 individuals and one entity as Specially Designated Global Terrorists (SDGTs) pursuant to Executive Order (E.O.) 13224. The targets listed below have worked with a range of terrorist organizations – the Islamic State of Iraq and the Levant (ISIL), al Nusrah Front, al-Qaida and its affiliates, and Jemaah Islamiya – to send financial and material support, and foreign terrorist fighters to Syria and elsewhere. Today's actions complement the United Nations Security Council's adoption of a resolution focused on preventing and disrupting the financial activities of foreign terrorist fighters and thwarting their efforts to travel across borders.

"Today's broadly scoped designations will disrupt efforts by ISIL, al Nusrah Front, al-Qaida, and Jemaah Islamiya to raise, transport, and access funds that facilitate foreign terrorist fighters," said David S. Cohen, Under Secretary for Terrorism and Financial Intelligence. "These steps, taken the same day as the adoption of a new United Nations Security Council Resolution, affirm the commitment of the United States and our partners to degrade and destroy terrorist access to financing."

Islamic State of Iraq and the Levant

The following two individuals have been designated for acting for or on behalf of ISIL.

Tarkhan Tayumurazovich Batirashvili

Over the past several years, Syria-based Georgian national Tarkhan Tayumurazovich Batirashvili has held a number of top military positions within ISIL and has led a number of attacks.

As of mid-2014, Batirashvili was a senior ISIL commander and Shura Council member located in al-Raqqah, Syria. He was identified as the ISIL military commander in a public video distributed by the group in late June 2014. Batirashvili oversaw an ISIL prison facility in al-Tabqa, close to al-Raqqah, where ISIL possibly held foreign hostages. As of mid-2014, Batirashvili also coordinated closely with ISIL's financial section and had a base of operations for the terrorist organization in the Minbij, Syria area.

In early June 2014, Batirashvili ordered ISIL members to travel from Syria to Iraq to retrieve vehicles, weapons, and ammunition, according to information available to the United States Government. According to an official social media account for ISIL in the Syrian Hasakah Governorate at this time, Batirashvili issued an important communiqué ordering the general mobilization of all ISIL provinces to support the group's efforts in Mosul, Iraq, and to prepare for any emergencies.

Earlier this year, Batirashvili was described as a member of ISIL's Shura Council, and he maintained unique authority within ISIL. In May 2013, he was appointed northern commander for ISIL by its leader Ibrahim 'Awwad Ibrahim 'Ali al-Badri (AKA Abu Bakr al-Baghdadi), who was designated by the U.S. Department of State as an SDGT on October 4, 2011, with authority over ISIL's military operations and ISIL's forces in northern Syria, specifically Aleppo, Raqqa, Latakia, and northern Idlib provinces. As of late 2013, he was the ISIL Amir (leader) for northern Syria and was located in and around Aleppo Province. He was also in charge of fighters from Chechnya and elsewhere in the Caucasus. At this time, Batirashvili led approximately 1,000 foreign fighters for ISIL to attack the Syrian regime at Jabal Shuwayhnah, Rif Aleppo, Syria.

Batirashvili pledged allegiance to ISIL and al-Baghdadi in mid-2013. In pledging his allegiance to Abu Bakr al-Baghdadi, Batirashvili said that some members of the brigade he commanded, Jaish al-Muhajireen wal-Ansar, which was also designated as an SDGT by the U.S. Department of State today, joined him in swearing allegiance to ISIL. According to a December 2013 statement Batirashvili released, his pledge of allegiance to ISIL and Abu Bakr al-Baghdadi came after fighting alongside ISIL and following a consultation held among other fighters from Jaish al-Muhajireen wal-Ansar.

In addition, Batirashvili publicly acknowledged his role as a senior ISIL military commander in a November 2013 public interview with an unofficial ISIL weekly newspaper. In this interview, he acknowledged arriving in Syria in March 2012, described his reasons for joining ISIL, and outlined his role as the military commander of ISIL responsible for "liberating" certain areas of Syria. He also described five separate military operations he led on behalf of ISIL, including the storming of the Syrian government-controlled Ming Airport. Batirashvili acknowledged that his forces broke into 11 Syrian military installations and seized unidentified spoils from eight of them.

Tariq Bin-Al-Tahar Bin Al Falih Al-'Awni Al-Harzi

As of mid-2014, Al-Harzi has been an ISIL official operating in Syria. As a high-profile ISIL member, he works to raise funds and recruit and facilitate the travel of fighters for the terrorist organization. He was also known as one of the first terrorists to join ISIL, according to information available to the U.S. Government.

Al-Harzi has been recruiting and facilitating the travel of fighters for ISIL since 2013. He was named ISIL's Amir for the border region between Syria and Turkey and, in this capacity, he was tasked by ISIL with receiving new foreign fighter recruits and providing them light weapons training before sending them to Syria. Specifically, he facilitated the movement of Europeans to Turkey, and eventually Syria. For example, he and several other ISIL border group members assisted foreign fighters from the UK, Albania, and Denmark. As of early 2014, Al-Harzi had also recruited North Africans to ISIL. In mid-2013 he worked with ISIL spokesman Abu Muhammad al-Adnani, who was designated as an SDGT by the U.S. Department of State on August 18, 2014, to move an individual to a training camp in Deir al-Zour, Syria, according to information available to the U.S. Government.

As of late 2013, Al-Harzi was ISIL's Amir of suicide bombers and a key figure in an ISIL facilitation network that played a central role in ISIL's suicide and vehicle-borne improvised explosive device (VBIED) attacks in Iraq. In his capacity as leader of ISIL's suicide bomber facilitation pipeline, AL-Harzi worked with other ISIL members to facilitate the travel of individuals from Syria into Iraq. In October 2013, he requested suicide bombers for operations in Iraq from a Syria-based associate. Al-Harzi also worked to provide material support to ISIL by procuring and shipping weapons with his brother from Libya to Syria for ISIL.

Al-Harzi worked to help raise funds from Gulf-based donors for ISIL. In September 2013, he arranged for ISIL to receive approximately $2 million from a Qatar-based ISIL financial facilitator, who required that Al-Harzi use the funds for military operations only. The Qatar-based ISIL financial facilitator also enlisted Al-Harzi's assistance with fundraising efforts in Qatar.

In mid-2013, Al-Harzi was also the leader of foreign operations for ISIL and had ordered individuals to plan a large operation targeting a United Nations Interim Forces in Lebanon (UNIFIL) commander, according to information available to the U.S. Government.

Al-Nusrah Front, Al-Qaida, Al-Qaida in Iraq, and Al-Qaida in the Arabian Peninsula

Treasury Designates Twelve Foreign Terrorist Fighter Facilitators

The following six individuals have been designated today for acting for or on behalf of and/or providing financial, material, or technological support to al Nusrah Front (ANF), al-Qaida, al-Qaida in Iraq (AQI), and/or al-Qaida in the Arabian Peninsula (AQAP).

'Abd al-Aziz Aday Zimin al-Fadhil

Al-Fadhil is a Kuwait-based facilitator who provides financial services to or in support of ANF by transferring money to the group. In this regard, he has coordinated the transfer of hundreds of thousands of dollars to ANF.

Al-Fadhil has also coordinated the provision of material support to ANF and facilitates travel for individuals seeking to join the terrorist organization.

In addition to his support for ANF, al-Fadhil provides financial services to or in support of AQAP by transferring money to Yemen to support the group.

Ashraf Muhammad Yusuf 'Uthman 'Abd al-Salam

A fighter in Syria since early 2014, 'Abd al-Salam has provided financial, material, and technological support for ANF, al-Qaida, and AQI.

With regard to ANF, 'Abd al-Salam planned to transfer funding to ANF as of mid-2012. In early 2012, he facilitated the travel of associates to Syria to provide training to ANF members based in Syria. In early 2012, 'Abd al-Salam and an Iraqi explosives expert worked with ANF and also sought to use explosives in acts of terrorism.

With regard to al-Qaida, 'Abd al-Salam in mid-2012 also worked to facilitate the transfer of hundreds of thousands of dollars from U.S.- and UN-designated Qatar-based Khalifa Muhammad Turki al-Subaiy intended for al-Qaida in Pakistan.

With regard to AQI, 'Abd al-Salam initially began working with the group in 2005. In 2007, he opened stores to facilitate the communications of AQI officials. In late 2007, 'Abd al-Salam facilitated the transfer of thousands of dollars to support AQI operations.

'Abd al-Malik Muhammad Yusuf 'Uthman 'Abd al-Salam (AKA Umar al-Qatari)

Umar al-Qatari is a Jordanian facilitator who provides financial, material, and technological support for ANF and al-Qaida.

In May 2012, Umar al-Qatari was apprehended by Lebanese authorities in Beirut as he attempted to depart for Qatar. At the time of his arresthe was carrying thousands of dollars intended for al-Qaida. Despite his detention, he remained a communications conduit between detainees in Lebanon and ANF fighters located in Syria and Lebanon. As of early 2013, ANF members were attempting to facilitate the release of Umar al-Qatari from prison in Lebanon.

Umar al-Qatari's support to ANF has been broad. In early 2012, he gave thousands of dollars and material support to a Syria-based al-Qaida associate intended for ANF operatives. Umar al-Qatari also facilitated extremist travel to ANF in Syria and specifically worked with Turkey-based Syrians who opposed the Syrian regime in an effort to recruit them to work with ANF. In early 2012, Umar al-Qatari, Qatari national Ibrahim al-Bakr, who has also been designated as an SDGT today, and their Lebanon-based associates agreed to procure and transport weapons and other equipment to Syria with the assistance of a Syria-based al-Qaida associate.

Umar al-Qatari has a long history of raising funds for al-Qaida. As of early 2012, he raised and collected funding for al-Qaida from Gulf-based donors via the Internet. He coordinated the transfer of tens of thousands of euros from U.S. and UN-designated Qatari al-Qaida financier Khalifa Muhammad Turki al-Subaiy, which was intended to support al-Qaida and its senior leaders. Umar al-Qatari also worked with Iran-based al-Qaida facilitators to deliver receipts confirming that al-Qaida received foreign donor funding. In late 2011, he delivered thousands of dollars to U.S.- and UN-designated al-Qaida facilitator Muhsin al-Fadhli in Iran.

Umar al-Qatari has also been directly involved in supporting and participating in operational activities for al-Qaida and, in 2012, he spent time at a training camp in Waziristan, Federally Administered Tribal Areas, Pakistan. As of early 2012, Umar al-Qatari was responsible for providing recruitment and logistical support for al-Qaida members in the Middle East and traveled to the Gulf, the Levant, Iran, South Asia and Southeast Asia for his work with al-Qaida.
He also facilitated the procurement of identification documents in support of al-Qaida. In 2011, Umar al-Qatari participated in an attack against U.S. forces in Afghanistan.

Fatih Hasar

Hasar is a Turkey-based facilitator who provides financial and other services to or in support of al-Qaida. He has transferred money to support extremists in Afghanistan and Pakistan and has coordinated the transfer of hundreds of thousands of dollars to al-Qaida members. Hasar also facilitates al-Qaida members' travel.

On ANF, Hasar provides financial services in support of ANF by transferring money to support the terrorist group. He has facilitated the travel of extremists and an al-Qaida financial facilitator seeking to join ANF.

Hamad Awad Dahi Sarhan al-Shammari

Al-Shammari is a Kuwait-based facilitator who provides financial services to or in support of al-Qaida by transferring money to support extremists in Afghanistan and Pakistan. He has coordinated the transfer of hundreds of thousands of dollars to al-Qaida members and has facilitated travel for individuals seeking to join al-Qaida.

On ANF, Al-Shammari provides financial services support by transferring money to support the terrorist group. Specifically, he has coordinated the transfer of more than a hundred thousand dollars to ANF members. He also has facilitated travel for individuals seeking to join ANF.

Ibrahim 'Isa Hajji Muhammad al-Bakr

Al-Bakr provides financial, material, or technological support for, or financial or other services to or in support of al-Qaida.

As of mid-2012, al-Bakr had worked for al-Qaida and had been responsible for collecting money for both al-Qaida and the Taliban. In this capacity, he served as a link between Gulf-based al-Qaida financiers and Afghanistan. As of late 2012, information available to the U.S. Government indicates that al-Bakr has traveled to Waziristan, Federally Administered Tribal Areas, Pakistan, for his work with al-Qaida.

As of early 2006, he played a key role in a terrorist cell that was plotting to attack U.S. military bases and personnel in Qatar.

At the time of his arrest in Qatar in the early 2000s for his involvement in a jihadist network, al-Bakr was working to raise money to support terrorism. Al-Bakr was subsequently released from prison after he promised not to conduct terrorist activity in Qatar.

Jemaah Islamiya

Jemaah Islamiya (JI) is a U.S. and UN-designated Southeast Asia-based terrorist group linked to al-Qaida that is responsible for numerous acts of terrorism including the Bali bombing in 2002, which killed over 200 people from 27 nations. The following entity and three individuals have been designated today for acting for or on behalf of or providing financial, material, or technological support, or financial or other services to or in support of JI.

Hilal Ahmar Society Indonesia

Treasury Designates Twelve Foreign Terrorist Fighter Facilitators

The Hilal Ahmar Society Indonesia (HASI) is ostensibly JI's humanitarian wing, which since 2011 has operated as a non-governmental organization (NGO) in Indonesia. While not indicative of the activities of the charitable sector as a whole, the activities of HASI demonstrate how terrorist groups, such as JI, continue to abuse charitable giving to raise and use funds to support violent acts and provide cover for logistical requirements for their terrorist organization.

Since 2012, HASI has sent multiple groups of JI terrorist fighters to Syria for military training and has also helped raise funds and recruit for the terrorist group.

Since mid-2013, HASI has engaged in a number of activities to support the recruitment and travel of foreign terrorist fighters for JI to deploy to Syria. These deployments to Syria routinely included JI members that were sent for military training and to join Syrian fighters. In several instances, HASI supported the travel of JI officials, including senior JI leader Bambang Sukirno and JI operative Angga Dimas Pershada to Syria, both of whom have also have been designated as SDGTs today. One of HASI's recent deployments to Syria took place in May 2014.

JI has used HASI to raise funds, and together the two groups have cooperated on fundraising. As of 2013, HASI members participated in several fundraisers with JI in Indonesia that raised tens of thousands of dollars. In addition, JI officials have encouraged followers to provide material support for the fighting in Syria, including through contributing donations to HASI.

HASI also has ties to U.S. and UN-designated ANF.

HASI, which translates into English as, "Indonesian Red Crescent Society", is not affiliated with the humanitarian group International Federation of the Red Cross and Red Crescent Societies (IFRC).

Angga Dimas Pershada

Pershada is a JI operative and a HASI leader, who, as of mid-2014, was Secretary General of HASI and as of 2013, oversaw HASI and raised funds for the organization. Prior to that position, Pershada was identified as HASI's chairman in October 2012. During the time that Pershada oversaw HASI, the organization's deployments to Syria routinely included JI members that were recruited and sent to join Syrian fighters. It was also during this time that JI sent volunteers to Syria through HASI for military training.

Pershada also engaged in a number of public appearances to actively raise funds for HASI. In early 2013, Pershada appeared on a talk show to raise funds for the group, and in October 2012, Pershada was expected to speak at several rallies and fundraising drives. Pershada has also provided support to JI over several years and has been a member of JI's Foreign Affairs division.

Bambang Sukirno

Sukirno is a senior JI leader, who over a number of years has held various senior leadership positions within JI. He has been involved in managing aspects of JI travel to Syria to support Syria-based opposition groups. Through HASI, Sukirno also led several JI missions to Syria that took place between late 2012 and early 2014. Sukirno has represented JI in meetings with other Islamic militants and was responsible for receiving funds from donors that supported a network of Islamic militants in Indonesia.

Sukirno also has helped raise funds for HASI and held leadership positions in the organization. He spoke at several seminars that raised funds for HASI in May and June 2013. Sukirno was HASI's spokesperson as of October 2013 and was also identified as HASI's Secretary General in September 2012.

Wiji Joko Santoso

Wiji Joko Santoso (AKA Abu Seif) is the head of JI's Foreign Affairs division and a key player in JI's outreach efforts in Syria. As of mid-2013, Abu Seif was assisting extremists deploying to Syria, and as of early 2013 he likely made arrangements for JI members traveling to Turkey covertly as members of HASI to train with Syrian opposition groups. Abu Seif has also been closely associated with HASI.

On a number of occasions in 2012 and early 2013, Abu Seif traveled outside Indonesia on behalf of JI. In early 2013, Abu Seif traveled to Sri Lanka. JI also sent Abu Seif to the Philippines, and in mid-2012, Abu Seif traveled to Turkey for unknown JI-related business.

Today's action freezes any assets the designees may have under U.S. jurisdiction and generally prohibits all financial and commercial transactions by any U.S. person with the designees.

Identifier Information

Name: Tarkhan Tayumurazovich Batirashvili
AKA: Tarkhan Tayumurazovich Batyrashvili
AKA: Tarkhan Batirashvili
AKA: Omar Shishani
AKA: Umar Shishani
AKA: Chechen Omar
AKA: Omar the Chechen
AKA: Omar al-Shishani
AKA: Omer the Chechen
AKA: Abu Umar al-Shishani
AKA: Umar the Chechen
AKA: Abu Umar
AKA: Abu Hudhayfah
DOB: 11 January 1986
Alt. DOB: 1982
POB: Akhmeta, Village Birkiani, Georgia
Citizenship: Georgia
Georgian ID Number: 08001007864
Georgian Passport Number: 09AL14455
Georgian Passport Expiration Date: 26 June 2019

Name: Tariq Bin-Al-Tahar Bin Al Falih Al-'Awni Al-Harzi
AKA: Tariq Tahir Falih AI-Awni AI-Harzi
AKA: Tariq Tahir Faleh Al-Awni al-Harzi
AKA: Tariq Abu 'Umar al-Tunisi
AKA: Tariq Abu Umar al-Tunisi
AKA: Abu 'Umar al-Tunisi
AKA: Tarek Ben El Felah El Aouni El Harazi
AKA: Tarik Bin al-Falah al-Awni al-Harazi

https://www.treasury.gov/press-center/press-releases/Pages/jl2651.aspx

AKA: Tariq al-Tunisi
AKA: Tariq Tahir Falih 'Awni Harzi
AKA: Abu Omar Houdoud
AKA: Tariq Bin Tahir Bin Al-Falih Al-Auni AI-Harzi
DOB: 3 May 1982
Alt. DOB: 5 March 1982
Alt. DOB: 1981
POB: Tunis, Tunisia
Passport Number: Z-050399

Name: 'Abd al-Aziz Aday Zimin al-Fadhil
AKA: 'Abd al-Aziz Udai Samin al-Fadhli
AKA: 'Abd al -Aziz Udai Sam in al-Fadhl
AKA: 'Abd al-Aziz 'Adhay Zimin al-Fadhli
AKA: 'Abdalaziz 'Ad'ai Samin Fadhli al-Fadhali
DOB: 27 August 1981
POB: Kuwait
Civil Identification Number: 281082701081

Name: Ashraf Muhammad Yusuf 'Uthman 'Abd al-Salam
AKA: Ashraf Muhammad Yusif 'Uthman 'Abd-al-Salam
AKA: Ashraf Muhammad Yusuf 'Abd-al-Salam
AKA: Ashraf Muhammad Yusif 'Abd al-Salam
AKA: Khattab
AKA: Ibn al-Khattab
DOB: 1984
POB: Iraq
Nationality: Jordanian
Location: Syria
Passport number: K048787
Alt. Passport number: 486298 (Jordan)
Qatari ID number: 28440000526

Name: 'Abd al-Malik Muhammad Yusuf 'Uthman 'Abd al-Salam
AKA: 'Abd al-Malik Muhammad Yusif 'Abd-al-Salam
AKA: 'Umar al-Qatari
AKA: 'Umar al-Tayyar
DOB: 13 July 1989
Nationality: Jordanian
Jordanian Passport Number: K475336 (Date of Issue: 31 August 2009; Date of Expiration: 30 August 2014)
Qatari ID Number: 28940000602

Name: Hamad Awad Dahi Sarhan al-Shammari
AKA: Abu Uqlah al-Kuwaiti
DOB: 31 January 1984
Citizenship: Kuwaiti
Civil Identification Number: 284013101406
Passport Number: 155454275 (Kuwaiti)

Name: Fatih Hasar
AKA: Ubayd at-Turki
DOB: September 1, 1989
POB: Puturge, Turkey
Citizenship: Turkish
National Identification Number: 56287253110

Name: Ibrahim 'Isa Hajji Muhammad al-Bakr
AKA: Ibrahim 'Issa Haji Muhammad al-Bakar
AKA: Ibrahim 'Isa Haji al-Bakr
AKA: Ibrahim Issa Hijji Mohd Albaker
AKA: Ibrahim Issa Hijji Muhammad al-Baker
AKA: Ibrahim 'Issa al-Bakar
AKA: Ibrahim al-Bakr
AKA: Abu-Khalil
DOB: 12 July 1977
POB: Qatar
Nationality: Qatari
Passport Number: 01016646 (Qatar)

Name: Hilal Ahmar Society Indonesia
AKA: Hilal Ahmar Society of Indonesia
AKA: Yayasan Hilal Ahmar
AKA: Indonesia Hilal Ahmar Society for Syria
Branch Office Locations: Lampung, Jakarta, Semarang, Yogyakarta, Solo, Surabaya and Makassar, Indonesia

Name: Angga Dimas Pershada
AKA: Angga Dimas Persada
AKA: Angga Dimas Persadha
AKA: Angga Dimas Prasondha
Nationality: Indonesian
DOB: 4 March 1985
POB: Jakarta, Indonesia
Passport No.: W344982, Indonesia

Treasury Designates Twelve Foreign Terrorist Fighter Facilitators

Name: Bambang Sukirno
AKA: Pak Zahra
AKA: Abu Zahra
Nationality: Indonesian
DOB: 5 April 1975
POB: Indonesia
Passport No.: A2062513, Indonesian

Name: Wiji Joko Santoso
AKA: Wijijoko Santoso
AKA: Abu Seif al-Jawi
AKA: Abu Seif
Nationality: Indonesian
DOB: 14 July 1975
POB: Rembang, Jawa Tengah, Indonesia
Passport No.: A2823222, Date of Issue: 28 May 2012, Date of Expiration: 28 May 2017, Indonesian

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https://www.treasury.gov/press-center/press-releases/Pages/jl2651.aspx

Annex 136

United States Department of Treasury Press Release,
"Treasury Designates Financial Supporters of Al-Qaida
and Al-Nusrah Front", 5 August 2015

Website of the United States Department of Treasury available at
https://www.treasury.gov/press-center/press-releases/Pages/jl0143.aspx

U.S. DEPARTMENT OF THE TREASURY

Press Center

Treasury Designates Financial Supporters of Al-Qaida and Al-Nusrah Front

8/5/2015

Action Targets Two Financiers Responsible for Supporting Terrorists throughout the Middle East

WASHINGTON – The U.S. Department of the Treasury today imposed sanctions on Sa'd bin Sa'd Muhammad Shariyan al-Ka'bi (al-Ka'bi), a Qatari financier of al-Qaida's Syria-based affiliate, al-Nusrah Front (ANF), and also on a Qatari al-Qaida facilitator, 'Abd al-Latif Bin 'Abdallah Salih Muhammad al-Kawari (al-Kawari). Both have been designated as Specially Designated Global Terrorists (SDGTs) pursuant to Executive Order 13224. Any assets these individuals may have under U.S. jurisdiction are frozen, and U.S. persons are generally prohibited from doing business with them.

In recent years, ANF and al-Qaida have resorted to increasingly complicated schemes in the face of international pressure to maintain funding flows to support terrorist activities. Today's action advances efforts to target the external funding networks of ANF and al-Qaida. The individuals designated today played roles in supporting violent extremists in Syria, Pakistan, and Sudan.

"These sanctions target two major facilitators of the al-Nusrah Front and al-Qaida," said Acting Under Secretary for Terrorism and Financial Intelligence Adam J. Szubin. "Treasury remains committed to using our financial intelligence and authorities to unravel and disrupt the funding schemes exploited by terrorist groups."

Sa'd bin Sa'd Muhammad Shariyan al-Ka'bi

As of early 2014, al-Ka'bi reported that he had set up donation campaigns in Qatar to aid with fundraising in response to a request from an ANF associate for money to purchase both weapons and food. In that same time period, an ANF official requested that al-Ka'bi act as an intermediary for collecting a ransom for a hostage being held by ANF, and al-Ka'bi worked to facilitate a ransom payment in exchange for the release of a hostage held by ANF.

In 2013, al-Ka'bi worked closely with U.S.- and UN-designated Kuwaiti ANF fundraiser Hamid Hamad Hamid al-'Ali and received funding from him to support ANF. Since at least late 2012, al-Ka'bi has provided support to ANF in Syria.

A

bd al-Latif Bin 'Abdallah Salih Muhammad al-Kawari

Al-Kawari has collected financial support for al-Qaida and served as an al-Qaida security official. In early 2012, al-Kawari worked with al-Qaida facilitators to coordinate the delivery of funding from Qatari financiers intended to support al-Qaida and to deliver receipts confirming that al-Qaida received foreign donor funding from Qatar-based extremists. Early that year, he also facilitated the international travel of a courier who was carrying tens of thousands of dollars earmarked for al-Qaida.

In the early 2000s, al-Kawari worked with US- and UN-designated al-Qaida operative Mustafa Hajji Muhammad Khan, also known as Hassan Ghul (Ghul), and US- and UN-designated Qatari al-Qaida facilitator Ibrahim 'Isa Haji Muhammad al-Bakr (al-Bakr) to transfer money to al-Qaida in Pakistan. At that time, al-Kawari also obtained a fraudulent passport for Ghul, which Ghul used to travel to Qatar with al-Kawari and al-Bakr.

For identifying information on the individuals and entities designated today, click *here*.

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Annex 137

Morsi and others v. Public Prosecution, Case No. 32611, Judgment of the Court of Cassation of the Arab Republic of Egypt (Criminal Chamber), 16 September 2017

(English translation (extract), Arabic original)

President's Office, Court of Cassation of the Arab Republic of Egypt

Arab Republic of Egypt
Court of Cassation
President's office

[stamp:] [illegible]
Legal Department
Received
Date: *9/10/2018*
Registry *726* Attachments *M* [illegible]

[seal:]
Court of Cassation
1931

His Excellency Senior Judge Mohamed Eid Mahgoub,

First Assistant to the Minister of Justice

After due respect and greetings,

We are honored to send to you an official copy of the verdict issued regarding felony No. 10154 / 2014 (2nd October Felonies), which is registered as No. 3690 / 2014 (High Court), as well as an official copy of the ruling of the Court of Cassation regarding appeal No. 32611 / 86 J, issued from Saturday's (a) criminal chamber on September 16, 2017 regarding the aforementioned felony, which is filed by Mohamed Mohamed Morsi Al Ayyat and others.

Please accept the assurances of my highest consideration,

Issued on 9th October 2018

Assistant Chief of the Technical Office
Court of Cassation
Judge Gamal Hassan Gouda
Deputy President of the Court of Cassation

In the name of the people ***Yasser El-Ansary***

Court of Cassation

Criminal Chamber

Saturday (A)

Comprised of: **Judge Hamdi Aboul Kheir, President of the Court**

Judges Mahmoud Khedr, Badr Khalifa, Alasmar Nazeer, and Khaled Gad (Vice Presidents of the Court)

In the presence of the Prosecutor General at the Court of Cassation, Mr. Marwan Alwakil and secretary Mr. Naguib Labib Mohamed,

In the public hearing held in the court located in the Egyptian High Court of Justice in Cairo,

On Saturday 25th Dhul Hijah 1438 H corresponding to September 16, 2017 G

Has ruled the following:

In the appeal lodged in the court registry under No. 32611 of the year 86 J

Filed by:

1- Mohamed Mohamed Morsi Eissa Al Ayyat

2- Ahmed Mohamed Mohamed Abdel Aati

3- Amin Abdel Hamid Amin Alserafi

True Copy
General Director [illegible]
8/10/2018
[illegible seal]

4- Ahmed Ali Abdo Afifi

5- Khaled Hamdi Abdel Hamid Ahmed Radwan

6- Mohamed Adel Hamed Kelani

7- Ahmed Ismaeil Thabet Ismaeil

"Convicted Persons"

Against

The Public Prosecution

And from the Public Prosecution against

1- Mohamed Mohamed Morsi Essa Al Ayyat

2- Ahmed Mohamed Mohamed Abdel Aati

3- Amin Abdel Hameed Amin Alserafi

4- Ahmed Ali Abdo Afifi

5- Khaled Hamdi Abd Alwahab Ahmed Radwan

6- Mohamed Adel Hamed Kelani

7- Ahmed Ismaeil Thabet Ismaeil

8- Karima Amin Abdel Hameed Amin Alserafi

9- Asmaa Mohamed Alkhateeb

"Appellees"

The Facts

The public prosecution accused each of the following: 1-Mohammed Mohammed Morsi Eissa Al Ayyat (appellant). 2-Ahmed Mohammed Abdel Aati (appellant). 3- Amin Abdel Hameed Amin Alserafy (appellant). 4- Ahmed Ali Abdou Afifi (appellant). 5- Khaled Hamdi Abdel Wahab Ahmed Radwan (appellant). 6- Mohammed Adel Ha

[illegible]
8/10/2018
[illegible seal]

Kelany (appellant). 7- Ahmed Ismaiel Thabet Ismaiel (appellant). 8- Karima Amin Abdel Hameed Amin Alserafy. 9- Asmaa Mohammed Alkhateeb. 10- Alaa Omar Mohammed Sablan. 11- Ibrahiem Mohammed Helalin felony case no. 10154 of 2014, (2nd October Second Felonies) (lodged in the main registry under no. 3690 of 2014).

During the period from June 2013 until 6th of September 2014, inside and outside the Arab Republic of Egypt, they committed the following:

First: All the Accused:

acquired one of the state defense secrets with the intent of delivering and disclosing it to a foreign country, whereas the first and second accused seized reports and documents issued by the General Intelligence Service, Military Intelligence Department, the Armed Forces, the National Security Sector, and the Administrative Control Authority. These reports and documents contain information and data related to the Armed Forces and their stationing areas, and the internal and foreign policies of the State. They were seized, along with photocopies thereof, by the third to the eleventh accused with the intent of delivering and disclosing these secrets to the State of Qatar. To execute that, they delivered and disclosed the secrets contained therein to that country and to those who work for it, as detailed in the investigations.

Second: The accused from the fourth to the seventh, and the ninth:

colluded with individuals who work for a foreign country, with the intent of prejudicing the Nation's military, political, diplomatic, and economic stances, as well as its national interests, by contriving with the tenth accused, a program planner at Al Jazeera Qatari channel, the eleventh, chief of the news sector at the Qatari network Al Jazeera, and another unknown person, an officer in the Qatari Intelligence Service,

[illegible]
8/10/2018
[illegible seal]

to work with them in favor of the State of Qatar. For this purpose, the accused provided them with copies of the reports and documents issued by the General Intelligence Service, the Military Intelligence Department, the Armed Forces, the National Security Sector, and the Administrative Control Authority which contain information and data related to the State Defense Secrets, as well as the state's internal and foreign policies, with the intent of prejudicing the country's military, political, diplomatic and economic stances and its national interests as detailed in the investigations.

Third: The tenth and the eleventh accused also:

participated with another unknown person, an officer in the Qatari Intelligence Service, by way of agreeing, and helping the fourth to the seventh and the ninth accuseds in committing the crime of collaborating with a foreign country, the charge mentioned in item Second, as they agreed with them to commit the crime outside and inside the country, assisted them by providing them with their own email address in order to send the reports and documents mentioned in the Charge Sheet item Second, and paved the way for them to transfer the originals of these reports and documents including handing over the documents and reports to them in Qatar. Based on this agreement and this assistance detailed in the investigations, the crime is constituted.

Fourth: The first and the second accused also:

seized papers and documents, knowing that they concern the State's security and national interests, with the intent of prejudicing the country's military, political, diplomatic, and economical stances and its interests, as they conveyed those classified reports mentioned in the charge sheet under count 1(a), which were given to them, based on their jobs, from the location assigned

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to archive them in the presidential institution. They handed them to the third accused in order to deliver and disclose their classified information to the state of Qatar with the intent of prejudicing the Country's military, political, diplomatic, and economical stances as well as its national interests as detailed in the investigations.

Fifth: The third to the ninth accused:

concealed papers and documents, knowing that they concern the Country's security and national interest, with the intent of prejudicing the country's military, political, diplomatic, and economical stances and its interests, keeping the classified reports described in the charge sheet under count 1(a), in locations not assigned to this purpose and disclosed the included classified information to the State of Qatar, with the intent of prejudicing the Country's military, political, diplomatic, and economic stances and its national interests, as detailed in the investigations.

Sixth: The fourth to the seventh and the ninth and the tenth accused:

requested money from individuals working for a foreign country, with the intent of prejudicing the national interests, the sixth accused being a public official, by requesting from the eleventh accused and another unknown person, an officer in the Qatari Intelligence Service, the sum of one million dollars, fifty thousand dollars of which were taken by the fourth and the tenth accused for their cooperation and for providing the documents and papers, subject of Charge Sheet item First, with the intent of prejudicing the national interests of the Country, as detailed in the investigations.

Seventh: The eleventh accused also:

1- along with another unknown person, an officer in the Qatari Intelligence Service, provided the fourth and the tenth accused the sums of money indicated under Charge Sheet item Sixth with the intent of prejudicing the national interests of the Country, as detailed in the investigations.

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2- together with another unknown person, an officer in the Qatari Intelligence Service, promised to give the fourth to the seventh, the ninth and tenth accused, the amounts of money mentioned in the charge sheet under count 6 with intent of committing actions that are harmful to the national interests of the Country, as clarified in the investigations.

Eighth: All the Accused:

participated in a criminal agreement with the purpose of committing the crimes mentioned in the aforementioned charge sheet, as stated in the investigations.

Ninth: The first to the third accused

assumed leadership of an unlawfully established organization whose purpose is to call for obstructing the application of the provisions of the Constitution and the law, preventing the Country's institutions and public authorities from exercising their functions, violating citizens' personal freedoms and public rights, and prejudicing national unity and social peace. They did this by assuming the leadership of the Muslim Brotherhood, which aims at changing the regime by force, attacking the military and police personnel and facilities, and targeting public facilities with the purpose of prejudicing public order and endangering social peace and security. Terrorism has been one of tools used by this organization to achieve its intentions, as mentioned in the investigations.

Tenth: The fourth to the last accused also:

joined an unlawfully established organization by joining the Muslim Brotherhood – subject of count 9 in charge sheet – while being aware of the organization's intentions, as clarified in the investigations.

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Lawyer Mohamed Mahmoud Algendy – in his capacity as an Egyptian citizen and volunteer on behalf of the Country's institutions damaged by the accused, sued the accused in civil courts for five thousand and one Egyptian pounds, as a temporary indemnification, for the damage, and requested their referral to the Cairo Criminal Court for punishment in accordance with the record and charge sheet in the referral order.

The subject Court decided on May 7, 2016 to refer the case documents to the Grand Mufti of the Arab Republic of Egypt to request a Sharia opinion with the regard to the accused Ahmed Ali Abdo Afifi (the fourth), Mohamed Adel Hamed Kelani (the sixth), Ahmed Ismail Thabet Ismail (the seventh), Asmaa Mohamed Al-Khateeb (the ninth), Alaa Omar Mohamed Sablan (the tenth), and Ibraheem Mohamed Helal (the eleventh). The hearing of June 18, 2016 was designated for sentence rendering.

In the assigned hearing, in presence of the accused from the first to the seventh, and in absentia for the eighth to the eleventh accused, pursuant to Articles 2/first and second item (a), 30 and 40/second and third, 41/1, 77 (d), 78/1-2, 80, 82/1 item 1, 82 (b)/1, 85, 86, and 86 bis/(a)/1-2 of the Penal Law, and pursuant to article 32/2 of the same law, and article 5 bis of law No. 100 of 1971 in respect of the general intelligence, the court ruled:

First: by consensus of the Court judges, sentencing the fourth, sixth, seventh, ninth, tenth, and eleventh accused to death by hanging, for the charges against the fourth accused stated in counts 1(a), 3(a), 5(a), 6(a), and 8 of the charge sheet; for the charges against the sixth accused stated in counts 1(b), 3(b), 5(a), and 8 of the charge sheet; for the charges against the seventh accused

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stated in counts 1(b), 3(b),and 5(b) of the charge sheet; for the charges against the ninth accused stated in the counts 1(a), 3(a), 5(a), and 8 of the charge sheet; for the charges against the tenth accused stated in counts 1(a), 2, 6(a), and 8 of the charge sheet; and for the charges against the eleventh accused stated in counts 1(a), 3(a), 7, and 8 of the charge sheet.

Second: sentencing the first, second, and third accused to life imprisonment for the charges against them stated in count 9 of the charge sheet.

Third: sentencing the first, third, and eighth accused to imprisonment for fifteen years for the charges against the first accused stated in counts 4 and 8, and for the charges against the third and eighth accused stated in counts 5(a) and 8 of the charge sheet.

Fourth: sentencing the fifth accused to rigorous imprisonment for fifteen years and a ten thousand dollar fine for charges against him stated in count 6(b) of the charge sheet.

Fifth: sentencing each of the fourth, fifth, sixth, eighth, ninth, tenth and eleventh accused to firm imprisonment for fifteen years for the charges against them stated in count 10 of the charge sheet.

Sixth: acquitting each of the first, second, third, fifth, sixth, seventh, eighth, and ninth accused of the charges against the first accused (in count 1), the charges against the second accused (in counts 1, 4, and 8), the charges against the third accused (in count 1), the charges against the fifth accused (in counts 1, 2(a), 5, and 8), the charges against the sixth accused (in count 6(a)), the charges against the seventh accused (in counts 6(a), 8, and 10), the charges against the eighth accused (in count 1), and the charges against the ninth accused (in count 6) of the charge sheet.

Seventh: confiscating the seized computers, cell phones, memory cards, hard drives, and documents and placing them at the disposal

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of the General Intelligence Service.

Eighth: dismissing the civil lawsuit filed by lawyer Mohamed Mahmoud Algendy, after the charge sheet was modified to read:

First:

a- The fourth, ninth, tenth and eleventh accused: obtained a state defense secret with the intention of giving it to a foreign country, by having obtained reports and documents issued by the Republican Guard, the General and Military Intelligences, the Armed Forces, the National Security Sector, and the Administrative Control Agency containing information and data related to the Armed Forces, its locations as well as internal and international State policies with the intention of delivering these secrets and disclosing them to Qatar and Al Jazeera Channel that works for the interests of Qatar. For these purposes, they delivered and disclosed these secrets to the mentioned country and those who work for it, as indicated in the investigations.

b- The sixth and seventh accused: assisted the fourth and tenth accused to deliver a defense secret to a foreign country and individuals working for it, and being aware of their intentions. The sixth accused obtained documentations that contain defense secrets that he received from the fourth accused to be transferred to Qatar and delivered them to its intelligence officer at Doha airport. The seventh accused obtained electronic copies thereof and sent them to the tenth accused via a social network to be delivered to Al Jazeera Channel, which works for the benefit of Qatar, while being aware of the intentions of the accused of delivering them to a foreign country, as indicated in the documents.

Second:

the tenth accused: colluded with a foreign country and with individuals working for its interests intending to harm the State's military, political, diplomatic, and economic position and its national interests by agreeing with unknown individuals – the officers of the Qatari Intelligence Agency and the chairman of Al Jazeera Channel which works for the interests of Qatar – to provide reports and documents issued by

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the General Intelligence Service, Military Intelligence, the Armed Forces, the National Security Sector, and the Administrative Control Authority, that contain information and data related to the Nation's defense secrets and its internal and foreign policy with the intent of prejudicing the Nation's military, political, diplomatic and economic stances and its national interests. He provided them with a copy of these reports through his personal e-mail, as detailed in the documents.

Third:

a- The fourth, ninth and eleventh accused participated, with another unknown individual – who is an officer in the Qatari Intelligence Service – and the chairman of Al Jazeera channel, by way of agreement and assistance, with the tenth accused, to commit the crime of colluding with a foreign country, which is the subject of count 2, by agreeing with him to commit this crime outside and inside the Country. The ninth accused assisted in delivering the reports to him for delivery to Al Jazeera channel which works for the interests of Qatar. The fourth accused copied the documents and sent them via e-mail. The eleventh accused arranged a meeting for him with the Qatari intelligence officer and Al Jazeera channel chairman to agree on transferring the originals of these documents to Qatar and delivering them in Qatar. The crime is thus constituted based on this agreement and assistance, as detailed in the documents.

b- The sixth and seventh accused provided assistance and facilitation to the fourth and tenth accused in order to collude with a foreign country and individuals working for it, while being aware of their intentions. The sixth accused seized documents and reports containing defense secrets to transfer them to the state of Qatar and hand them over them to the Qatari intelligence officer in Doha Airport. The seventh accused copied the documents and sent them to the tenth accused through an internet website to be delivered to Al Jazeera channel that works for the interests of Qatar, as detailed in the documents.

Fourth:

the first accused seized military reports and documents containing defense secrets that he knows concern the Country's national security and interests.

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He obtained these documents and reports based on his position and retained them with the intention of keeping them and did not return them to their designated archival locations in the Republican Guard. He handed them over to the third accused to hide them, as specified in the investigations.

Fifth:

a- **The third, fourth, sixth, eighth, and ninth accused** concealed documents and papers while being aware that they relate to the State's security and its national interest. The third accused transferred the papers and documents that contain defense secrets from the locations assigned for their archival in the Presidency Institution to his home with the intent of removing them from the archival locations. The eighth accused handed them over to the ninth accused to be hidden. The ninth accused concealed them in her house, preventing the lawful keeping of these documents. The fourth accused handed them to the sixth accused to hide them. The latter concealed them in the trunk of his car for several days. The seventh accused copied the documents to a memory stick that he concealed it in his house, while they were all aware of their nature, as stated in the investigations.

b- **The seventh accused** unlawfully seized one of the country's defense secrets with no intention to deliver or disclose it to a foreign country or anyone working in favor of a foreign country. The accused got an electronic copy of the documents that contain defense secrets (subject of count 1) on a memory stick, and kept it for himself with no intent to disclose them to a foreign country or anyone working in favor of a foreign country.

Sixth:

a- The fourth and tenth accused:

The tenth accused requested, for himself and for the fourth accused, and accepted and received money from a foreign country and from individuals working for it, with the intent of prejudicing the national interests. The tenth accused requested, for himself and for the fourth accused, one million dollars from the Qatari intelligence officer and the chairman of Al Jazeera channel, of which he received fifty thousand dollars and sent ten thousand dollars thereof to the fourth accused. The accused accepted a promise to be given the rest of the amount upon delivering the originals of the documents stated in count 1, with the intent of

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prejudicing the Egyptian national interest, as stated in the investigations.

b- The fifth accused:

provided assistance to the fourth and tenth accused, while knowing about their intention to prejudice the Nation's interests. The fifth accused facilitated the transfer and cashing of the amount of ten thousand dollars through Western Union from Qatar under his name. He exchanged the dollars and gave him the amount while knowing that this money is for leaking documents and papers that contain defense secrets to a foreign country, as detailed in the papers.

Seventh: **the eleventh accused also:**

a- An unidentified person, who is an officer in the Qatari intelligence, and Al Jazeera's chairman gave to the fourth and tenth accused the amount of money stated in count 6, with the intent to commit actions harmful to the country's national interests as detailed in the investigations.

b- An unidentified person, who is an officer in the Qatari intelligence, gave to the fourth and tenth accused the amounts of money mentioned in count 6 with the intent to commit actions harmful to the country's national interests as detailed in the investigations.

Eighth: the first, third, fourth, sixth accused, and the eighth to the final accused:

Collaborated in a criminal agreement to commit the crimes previously noted in the charge sheet and as detailed in the investigation.

Ninth: the first to the third accused:

They assumed leadership positions in an unlawfully established group. The group's objectives were to disrupt the provisions of the constitution and law, prevent the state's institutions and public authorities from conducting their work, assault the individual freedom of citizens, prejudice public rights, and undermine national unity and social peace. They did so by assuming leadership of the Muslim Brotherhood, which aims to change the regime by force, assault the personnel and facilities of the Armed Forces and police, target public facilities with the intent to undermine public order and endanger the society's safety and security.

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Terrorism is one of the means used by this group to achieve its objectives, as stated in the investigations.

Tenth: **the fourth to the sixth accused and the eighth to the final accused:**

joined a group established unlawfully by joining the Muslim Brotherhood – the subject of count 9 – while knowing about its objectives, as mentioned in the investigations.

The first convicted person challenged this judgment via cassation on July 30, 2016.

The seventh convicted person challenged the judgment via cassation on August 1, 2016.

The second, third, fourth, fifth, and sixth convicted persons challenged the judgment via cassation on August 8, 2016.

Lawyer Hassan Saleh Ahmed Saleh, representing the first convicted person, challenged this judgment via cassation on August 15, 2016.

The Public prosecution challenged the judgment via cassation on August 16, 2016

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The court

After reviewing the documents, and hearing the report read by the judge rapporteur, and after duly deliberating:

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First: for the appeal submitted by the the first to the seventh convicted persons:

1- Mohamed Mohamed Morsi Eissa Al-Ayyat;

2- Ahmed Mohamed Mohamed Abdel-Aati;

3- Ameen Abdel-Hameed Ameen Alserafi;

4- Ahmed Ali Abdo Afifi;

5- Khaled Hamdy Abdel Wahab Ahmed Radwan;

6- Mohamed Adel Hamed Kelani;

7- Ahmed Esmail Thabet Esmail.

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[…]

When he became president of the Republic in early July 2012, the accused Mohamed Morsi asked Major General Naguib Abdel Salam, commander of the Republican Guard forces, for information related to the Armed Forces, so he [Abdel Salam] prepared many military documents and maps for him [Morsi] containing information about the Armed Forces and their formations, movements, equipment,

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supply, and members. This information concerns military and strategic affairs and is considered one of the defense secrets that, for the benefit of defending the country, must not be known to anyone except those entrusted with keeping or using it and must remain secret to others. These matters are: […]

These documents were prepared by the Republican Guard Reconnaissance Department and presented to him [Morsi] as President of the Republic and Commander in Chief of the Armed Forces. He kept them for himself and did not return them although Maj Gen Naguib Abdel Salam asked him many times to return them, His intention in possessing them changed, and he acted as their owner and kept them with the intention of depriving their owner of them, while knowing the importance of these documents and that they concerned the country's national security and contained military secrets and information

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of consequence that would allow anyone seeing the documents to form an impression and conclusions about the elements of the Egyptian military forces and their size. He knew that the information contained is top secret and is considered one of the defense secrets that cannot be viewed except by those authorized to do so or circulated or transferred outside the president's office. These documents must be kept in the archives of the Republican Guard, and their presence outside the archives is a danger to Egyptian national security. Ahmed Mohammed Mohammed Abdul Aati (second accused), who was the office director for the President of the Republic under Presidential Decree No. 20 of 2012, sent letter No. 1259 on 16/7/2012 to the General Intelligence Directorate, the National Security Agency, and the Administrative Control Authority with the directive to send the presidential correspondence inside an envelope in his name, closed and sealed from the outside, classified as top secret and personal and not to be opened by anyone but him. He sent a copy of that letter to Major General Abdulmoumen Fouda, the grand chamberlain, and Mustapha El Shafei, supervisor of the Office of the Head of the Presidency Bureau of the Republic. He [Aati] received documents from those entities containing political, diplomatic, economic, and industrial information, and information related to security measures and procedures, that by its nature is not known to persons other than those with the authority and capacity to know it. For the benefit of defending the country, such information must remain secret and bear different degrees of confidentiality. All these correspondences were handed over to Ahmed Abdel Aati in closed envelopes not to be opened by anyone but him, according to his instructions, in his capacity as the office director for the President of the Republic. He was then to decide what to do with the contents of these envelopes, either showing it to the president, or responding to it, or keeping it inside a special safe inside his office, for which he kept the keys with him and with the third accused, Amin AlSerafi. When the political movement appeared in the country and the people rejected the rule

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of the first accused, the head of the Presidency Bureau of the Republic at that time (Refaa Al-Tahtawi) issued a bulletin containing several measures to counter the events expected on June 30, 2013. These measures included the transfer of all documents located in Ittiyadiya Palace to their storage locations in Abdeen and Al Kobba Palace. He presented the decision to the first accused, who agreed to it, but he kept the military documents and reports given to him by Major General Naguib Abdel Salam, the former commander of the Republican Guard Forces, that were in his possession because of his job. He [Morsi] did not hand them over to their storage location in the administration of the Republican Guard forces, while knowing of their importance and that they included military information about the armed forces, its formations, and its military and strategic movements. He knew that for the benefit of the defense of the country, such documents must remain a secret and unknown to anyone not entrusted to safeguard or use them, for fear that this would cause the disclosure of the secrets they contained. He kept them for himself and acted as if he owned them. He gave them to Amin AlSerafi (third accused), who hid them. He also hid some documents that belong to the Office of the President of the Republic that were received from the country's sovereign authorities – the General Intelligence Directorate, the National Security Agency, and the Administrative Control Authority – and that contained information on the State's foreign and domestic policies and bore different degrees of confidentiality. By its nature, this information affects the national interests of the country and is among the defense secrets that were being stored in a special safe in the office of the office director for the President of the Republic. He put them and the papers he obtained from the first accused in a Samsonite case wrapped in beige paper and sealed with the red seal of the Secretariat of the Presidency of the Republic and transferred from their storage location with the intention of hiding them in a place far from view at his home in the First Settlement in the New Cairo area, knowing that the documents he was hiding concern the State's security,

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its national interests, and maintaining its peace and military and civil defense. He knew that it is prohibited to transfer them from their storage locations. Following the success of the 30 June Revolution, the collapse of the Brotherhood domestically, and the seizure of several of their leaders, in the month of October 2013, the accused Karima Amin AlSerafi (eighth), the daughter of the third accused, who lives with him in his residence in the First Settlement, took the case containing the mentioned documents, while knowing the nature of the documents and that they contain military, political, diplomatic, economic, and industrial information, and information related to security measures and procedures. For the benefit of defending the country, such information must be kept secret, and it bears different degrees of confidentiality. After viewing the documents, she handed them over to Asmaa Mohamed al-Khatib (ninth), whom she had known during their participation in marches and the Rabia Al-Adawiya sit-in. She [Karima Al Serafi] gave her the case containing the documents to hide after putting her father's letters in it, and she locked it with a key that she kept with her. The devil instructed Asmaa Al Khatib to seize the opportunity to sell the secrets of the homeland in the market of treason to whoever would pay. She broke open the case and viewed the documents inside it that contained defense secrets. She told the accused Omar Mohamed Sablan (tenth) – a Jordanian of Palestinian origin who worked as a correspondent for Al-Jazeera – that she received papers of the Presidency of the Republic containing military information and information related to the state's security, national interests, internal systems, and its interests and rights vis-à-vis other states. She told him of her satanic desire to sell these papers to the Qatari channel Al Jazeera, which works for the benefit of the State of Qatar and enjoys its support and is known for its hostile attitude toward Egypt following the 30 June Revolution. He agreed and quickly contacted his friend, the head of the snake, the accused Ahmed Ali Abdo Afifi (fourth),

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who works as a documentary filmmaker, and made an appointment to meet him in front of Al Hosary Mosque in 6th of October City. Accompanied by Asmaa Al Khatib, he met with him and told him about the documents they had and that they wanted to publish them on the Qatari channel Al-Jazeera, which works for the benefit of the State of Qatar. He asked her for the documents, and Asmaa told him that the case was at her house, but she was afraid to bring it in a taxi. He called his friend Mohammed Adel Hamed Kelani (sixth accused) and told him to meet Asmaa Al Khatib and Alaa Sablan on the ring road. They rode with him in his car and took the documents from the house of the accused Asmaa, then they went to the house of his friend Khaled Hamdi Radwan (fifth accused) in the eleventh district of 6th of October City. Together, they opened the case and found the papers that are considered defense secrets, those being: a full report from the military intelligence to the President of the Republic containing all the detailed information about the Egyptian Army's armament, figures on the Egyptian armed forces located in Sinai, and their numbers and positions in Sinai; detailed information on the Israeli army, its armament, and its positions along the border with Egypt; a report by the intelligence services on Israeli Knesset members, their details and party affiliations; reports to the Administrative Control Authority on senior officials in the state; a handwritten report from Refaa Al Tahtawi, the previous head of the Presidency Bureau of the Republic, on the relations between Egypt and Iran and the rapprochement between them; a report on the presidential palaces to which the first accused and his family would be transferred to in light of the developments before 30 June 2013; and other correspondences received from the state's sovereign authorities in the name of Ahmed Abdel Aati (second accused). They therefore had knowledge that the papers contain military, political,

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diplomatic, economic and industrial information, and information related to the defense of the country and the state's external and internal security. By virtue of seeing and reading these papers, they knew that they were not permitted to possess or view them because of the documents' contents and their knowledge of the nature of the information contained therein, as well as the different degrees of confidentiality written on them, which prohibit them from being circulated among anyone not authorized for that purpose. They knew that they obtained the documents illegally, and instead of giving them back to the responsible authorities, they intended to hand them over to the Qatari channel Al-Jazeera. The accused Alaa Sablan sought to contact the Qatari channel Al-Jazeera, which works for the benefit of the State of Qatar, to hand over the papers he received containing defense secrets, in order to harm Egypt's national interests. He colluded with the channel by contacting one of its employees, Ibrahim Mohamed Helal (eleventh accused), Al Jazeera's news director, and told him the content of the documents in his possession and the defense secrets they contained. He [Aati] expressed his willingness to hand over these documents to the Qatari channel Al-Jazeera and sent him the headings of those documents using his email addresses, Alaasablan@gmail.com and Alaasablan@yahoo.com. Ibrahim Helal asked him to come to the State of Qatar to meet with officials at Al Jazeera, so he quickly travelled to Doha in January 2014 and met Ibrahim Helal in a Doha hotel. Helal was accompanied by the president of the Qatari channel Al-Jazeera, which works for the State of Qatar, and a Qatari intelligence officer representing the State of Qatar. They agreed that Alaa Sablan would deliver the originals of those documents in order to harm the national interests of the country, and in return he was promised to be given one million dollars, from which he received 50 thousand dollars. He was hired as a producer for the program "The Egyptian Scene" on Al Jazeera in Qatar, while knowing that he was colluding with a representative of a foreign country,

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a Qatari intelligence officer who represents the State of Qatar, and someone working for its benefit, i.e. the director of the Qatari channel Al-Jazeera Qatari. He knew that his actions would harm the country's military, economic, political and diplomatic position. He called his accomplice Ahmed Ali Abdo Afifi and informed him of what happened in his meeting with the Qatari intelligence officer and with the director of Al-Jazeera, a channel that works for its [Qatar's] benefit. He asked him to work to send the originals of the documents containing defense secrets that were previously delivered to him. He sent him ten thousand dollars from the money he received, with the assistance of the accused Khaled Hamdi Radwan (fifth), who ordered Abdel Mageed AlSakka and Mostafa Khalil AlDemsawy to send the money in their names from the State of Qatar to his account in the name of Khaled Hamdi Radwan (fifth), drawn on Western Union, in order to avoid detection by security forces. Then Khaled Hamdi Radwan (fifth) headed to Western Union in Al Hosary Square in 6th of October City to cash it and transfer it to the Arab African Bank, where he cashed the money and changed it to the local currency and handed it over to the accused Ahmed Afifi (fourth), while knowing of the accuseds' intention and that this money was paid in exchange for leaking documents containing defense secrets. Then Ahmed Ali Abdo Afifi (fourth accused) asked the accused Ahmed Ismaeil Thabet Ismaeil (seventh) to help him to photocopy the documents and send them to Qatar in execution of their prior agreement with Alaa Sablan. So he helped him and copied the documents containing the defense secrets and sent them to Alaa Sablan in Qatar via e-mail, while knowing the importance of the information contained on Egyptian national security and the accuseds' intention of selling them to the representative of the State of Qatar. He made a copy for himself on a flash memory stick and kept it without the intention to deliver it to a foreign country, while knowing that these documents containing

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defense secrets were illegally obtained. Then he called the accused Mohammed Adel Hamed Kelani (sixth), who worked as a flight attendant at Egypt Air, and asked him to help them deliver the papers containing the defense secrets to Alaa Sablan in Qatar. He agreed, while knowing that the accuseds intended to leak documents to a representative of a foreign state in exchange for a sum of money. He received the case of documents and viewed it, and he knew the seriousness and nature of the information contained in those documents and that they contain defense secrets. He knew that he would hand it over to those who work for the benefit of a foreign state with intent to harm the country's military, economic, political and diplomatic position. He hid it in his apartment located at 63 B Swiss neighborhood, in preparation for delivering it to Qatar. He asked an official at Egypt Air to change his previously established flight schedule Dubai to Doha airport in Qatar and told the accused Alaa Sablan (tenth) that he had done so. He [Sablan] replied that a Qatari intelligence officer would be waiting for him at Doha airport, and he could board the plane and receive the bag containing the documents. The accused Ahmed Ali Abdo Afifi assigned him to bring him ten thousand dollars from Alaa Sablan. He was on his way to move the documents but for the providential care that led Major Tareq Mohammed Sabri, a National Security Agency officer, to learn the details of that incident, which were confirmed by his confidential inquiries included in a record dated 23/3/2014, attached to which is a roster including the names and addresses of the accused, including: Ahmed Ali Abdo Afifi (fourth), Khaled Hamdi Radwan (fifth), Mohammed Adel Kilani (sixth), Ahmad Ismaeil Thabet (seventh), Karima Ameen Al Serafi (eighth), and Alaa Omar Sablan (tenth). He obtained a warrant from the Supreme State Security Prosecution on the same date at 10 pm for any of the legally authorized national security officers to apprehend and search the person and residence of the accused persons under investigation

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within thirty days from the hour and date of the warrant's issuance. In accordance with this warrant, Maj. Mahmoud Mohamed Talaat managed to apprehend Ahmad Ali Abdo Afifi (fourth accused) on 27/3/2014. When he searched his house, he found a laptop, a mobile phone, and a data storage unit. He was also able to apprehend Karima Amin Al-Serafi (eighth) on 30/3/2014, and when he searched her home, he found a tablet, a mobile phone, a small Compaq Mini laptop, an external hard disk, and five flash memory sticks. On 30/3/2014, he apprehended Khaled Hamdi Abdul Wahab Ahmad Radwan (fifth accused), and when he searched his house, he found six data storage units (flash memory), two mobile phones, and a CPU. 1/4/2014, he apprehended Ahmad Isma'il Thabet Isma'il (seventh accused), and when he searched his house, he found three data storage units (flash memory), three laptops, a mobile phone, a data storage device, a hard disk, an electronic printer, and a scanner. On 27/3/2014, he apprehended Muhammad Adel Hamed Kelani (sixth accused) and searched his residence, located at 63B in the Swiss district in Nasr City. He seized a case containing secret documents of the Presidency of the Republic that were received from the country's sovereign authorities, the Republican Guard, the Armed Forces, General Intelligence, military intelligence, the National Security Agency, and the Administrative Control Authority. The documents contained information on the armed forces and their positions, as well as the state's foreign and domestic policies. Such information affects the country's national interests and is considered among the defense secrets that are prohibited from circulation outside the headquarters of the presidency. The examination committee established by a decision of the court documented in its report

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that through review of the Republican Guard's documents ledger, it was found that the documents were presented to the commander of the Republican Guard and had not been returned by the date of the examination. It was also determined that the topics of the documents recorded in the ledger were consistent with the seized documents. The committee's report also documented that the committee reviewed the documents and ledgers in the office of the office director for the President of the Republic and found that all the correspondences received from the sovereign authorities were handed over to Ahmed Abdel Aati, the office director, in sealed envelopes not to be opened except by him. He then would decide what to do with the contents of those envelopes, whether to present them, respond to them, or file them via Amin Al Serafi (third accused), who worked as his secretary. The committee established that he issued a security bulleting with instructions of the head of the Presidency Bureau of the Republic to define the measures to be taken in the face of the events of 30/6/2013, including transferring all documents located in Al Ittihadiya Palace, and Ahmed Abdul Aati (second accused) issued an oral decision to transfer all letters and documents to Abdeen Palace. The committee established, by examining the papers seized from the accuseds, that those papers included 4 pieces of correspondence received from the Administrative Control Authority: No. 577 dated 28/1/2013, No. 6748 dated 23/12/2012, No. 6785 dated 25/12/2012, and No. 574 dated 4/2/2013. There were also 11 pieces of correspondence received from General Intelligence: Nos. 21899 and 21922 dated 4/12/2012, Nos. 92, 93, 94 and 95 dated 5/2/2012, No. 22076 dated 6/12/2012, No. 11942 dated 9/6/2013, and Nos. 13358, 13359, and 13360 dated 20/6/2013. The Committee sent the abovementioned data to the Administrative Control Authority and the General Intelligence Service to send a copy of these correspondences once again to match them to the seized documents. Through examination of the correspondence received by the Committee from the Administrative Control Authority

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and General Intelligence, namely copies of these letters that were previously sent to Ahmed Abdel Aati (second accused) in his capacity as office director for the President of the Republic, it is evident that they match the papers confiscated from the sixth accused. Ahmed Ali Abdo Afifi (the fourth accused) has confessed during the investigations that he is a member of the Muslim Brotherhood and was among the participants in the sit-in in Tahrir Square during the revolution of 25 January 2011. He met Ali Safwat Hegazy, who established the Council of Trustees of the Revolution and appointed him as a member with him of the council's secretariat. He was assigned to follow up on the goals of the revolution. After Mohamed Morsi (first accused) became president of the republic and after the increase in the vehemence of protests against him starting in 2013, he went to Rabaa Al-Adawiya Square on 28/6/2013 and stayed until 14/8/2013. He was responsible for feeding and supplying the sit-in participants and supervising the main stage, as assigned by the leaders of the Muslim Brotherhood. After the sit-in was broken up, he called his friend Mohamed Adel Hamed Kelani (sixth accused), whom he met during the Rabaa Al-Adawiya sit-in, and hid in his house located in ninth zone of Nasr City behind Manhal Schools in order to evade capture from security forces. He added that as a documentary film producer, he had taken video of everything that occurred in at the Rabaa Al-Adawiya sit-in except for the breaking up of the sit-in. He kept a copy of the videos, which he sold to Al-Jazeera, receiving payments totaling $2,000 in exchange for the videos. He further acknowledged that he asked a friend of his who belongs to the Muslim Brotherhood called Mohamed Abdulraouf to help him to find his own place to live. He [Abdulraouf] provided him a residence in the second district of 6th of October City starting in September 2013. During this period he was communicating with a member of the Muslim Brotherhood named Ahmed

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Hanafy, who was responsible for the media committee in Giza Governorate. He asked him for the videos of the breaking up of the Rabaa Al-Adawiya sit-in, which he obtained from his fiancée, Heba Gharib, who works at Al-Wady newspaper, and gave to Ahmed Hanafy on a flash drive. After a while, he met Alaa Omar Mohammed Sablan (tenth accused) – a Jordanian of Palestinian origin – and they produced a documentary to sell to Al-Jazeera about the child named Ramadan. This is what Al-Jazeera channel broadcast several times. He claimed that the child's mother was killed in the breakup of the Rabaa sit-in, and he took the child to his apartment in 6th of October and interviewed the child, then edited together a video. Alaa Omar Mohammed Sablan (the tenth accused) then took the video and sold it to Al-Jazeera. This took place in September 2013, and during this period he changed his residence several times. He rented an apartment in the first district of 6th of October City for two thousand Egyptian pounds as a monthly rent, and to make a living he sold videos of the breakup of the Rabaa sit-in to Ibrahim Abdulraouf, whose alias is Ibrahim Almasry, for sums of money, sometimes five hundred dollars and other times four hundred dollars. He also acknowledged that during January 2014, he called the (tenth accused) Alaa Omar Mohammed Sablan, who was with Asmaa Mohammed Al-Khatieb (ninth accused), and asked for a meeting at the Al Hosary Mosque. During the meeting, she told him that she has a big suitcase full of documents pertaining to the Presidency during the period when Mohamed Morsi (first accused) governed the country, and that she obtained these papers from her friend Karima Amin Abd Al-Hameed Amin Al-Serafy (eighth accused), whose father, Amin Al-Serafy (third accused), was the personal secretary of the first accused. She said that he transferred these documents from the president's office to his house before the revolution of 30/6/2013 and that the documents were reports

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from the General Intelligence Service, Military Intelligence, the Administrative Control Authority, the National Security Agency, and all the other sovereignty authorities that sent their reports to the first accused. She said that she wanted to publish those reports on Al-Jazeera and told him that the suitcase was at her house, but she was afraid to transfer them in a taxi. So he called his friend Mohamed Adel Hamed Kelani (sixth accused) and asked him to meet Asmaa Mohammed Al-Khatib and Alaa Omar Mohammed Sablan (the tent accused) on the ring road. They rode with him in his private car and went to Asmaa's house located in the Helwan area and fetched the suitcase, and all of them went back to a café in 6th of October City. He then called his friend Khaled Hamdi Radwan (fifth accused) and told him about the nature of the documents in his possession and asked his permission to come to his house. They went to the house of the latter in the eleventh district in 6th of October City, where they opened the suitcase and found a report from the Military Intelligence for the President containing detailed information concerning the Egyptian Army's armament and figures on the Egyptian Armed Forces in Sinai and their numbers and positions; detailed information about the Israeli army, its armament and positions on the border with Egypt, the number of males and females in the Israeli army, and detailed information on some Israeli army units; and another report containing information on members of the Israeli Knesset and their details and party affiliations, which was to be presented to the first accused. There were also Administrative Control Authority on senior employees of the state and of the former regime; a report from Refaa el Tahtawy on Iran and its rapprochement with Egypt and specific information on Iran; a report on the presidential palaces to which Mohamed Morsi (first accused) and his family would move based on developments in the events before 30 June 2013; in addition to private correspondence sent to the second accused

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and a large binder containing a plastic sheet with writing in invisible ink concerning terrorist organizations in Southeast Asia that was sent to Mohamed Morsi (first accused) in his capacity as President of the Republic at that time. Alaa Omar Mohammed Sablan (tenth accused) contacted an official at the Qatari channel Al-Jazeera channel and told him about the documents. He [Sablan] sent him the documents' headings through his personal e-mail ALAASABLAN@GMAIL.COM and ALAASABLAN@YAHOO.COM. The other person told him that Al-Jazeera officials asked to meet him, so he traveled to them in January 2014. Alaa Sablan contacted him once he was there and told him that he met Ibrhahim Mohammed Helal (eleventh accused), an Egyptian national who works as the head of the news section of the Qatari channel Al-Jazeera in Doha. With Helal was an officer from Qatari intelligence and the head of Al-Jazeera. They asked him to bring the originals of the documents, and he asked them for a million dollars to deliver the originals of the documents. He received fifty thousand dollars from them for the documents already sent via email. He sent $10,000 of the money from Qatar in the name of a person called Abdulmageed Elsaqa through Western Union under the name of Khaled Hamdi Radwan (fifth accused), who knew the nature of these documents. This was done to avoid detection by the security agencies. He acknowledged that Khaled Hamdi (fifth accused) actually went to Western Union and withdrew the amount of ten thousand dollars after the deduction of the transfer fees and that it was equivalent to roughly seventy-one thousand Egyptian pounds. The fifth accused asked him for three thousand Egyptian pounds, so he gave it to him. After that, Ahmed Ismaiel Thabet Ismaiel (seventh accused) came to him, and they copied the documents and sent the copies to the tenth accused in Qatar. They agreed to send the originals

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through Mohamed Adel Hamed Kelani (sixth accused) because he was a flight attendant and it would be easy for him to take the documents with him on one of his flights and deliver them in Qatar. He told Alaa Sablan about it, and he responded that an officer from Qatari intelligence would be waiting for him at Doha airport to receive the documents and would be able to board the plane and take the suitcase of documents from him. He asked Alaa Omar Mohammed Sablan (tenth accused) to send to him, with Mohamed Adel Hamed Kelani (sixth accused), the amount of ten thousand dollars as an advance. He acknowledged that Mohamed Adel Kelani (sixth accused) definitively refused to take any money despite his awareness that the sum being negotiated was one million dollars, that Alaa Sablan had already received the amount of fifty thousand dollars, and that he took ten thousand dollars of that sum. But he refused definitively, affirming that he was doing this out of love for the first accused and for the Muslim Brotherhood. The tenth accused asked him to send the suitcase of the documents and they would not be able to receive the million dollars until the documents arrived in Qatar through Mohamed Adel Hamed Kelani (sixth accused), who changed his flight schedule for February 2014 to fly to Doha with the documents which he had in possession already. He was waiting for the instructions from the tenth accused to deliver it to him, though Alaa Sablan tried on purpose to postpone the delivery because he wanted to renegotiate with Qatar to increase the amount of money. When faced with the documents confiscated from the sixth accused, he acknowledged that they were the same documents that he received from Asmaa Mohammed Al-Khatib (ninth accused). Furthermore, Khaled Hamdi Abd Al-Wahab Ahmed Radwan (the fifth accused) has confessed in the investigations that he is a member of the Muslim Brotherhood, the organizational structure of which consists of families, and each family consists of six or seven members, with one person responsible for each family. Those families are under what is a called a branch, which consist of several families, and the branch is under the administrative office for the governorate, then the General Shura Council

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for the Brotherhood. All of that is under the Guidance Office, and the Brotherhood's Supreme Guide leads the organization. He confessed and that he is a member of a family in Ibsheway village in Kotor markaz, and he consistently attends its weekly meetings regularly. After the 25 January revolution, he worked for the pro-Brotherhood channel Misr 25 until it was closed after the 30 June revolution. The staff then traveled to Turkey to broadcast its message from there and changed its name to Ahrar 25, then again changed its name to Al Meedan. He would send the programs he filmed for the channel via the internet. He acknowledged that he was at the Rabaa Al-Adawiya sit-in with his father and filmed the events and broadcasted them through the aforementioned channel. During October 2013, Ahmed Ali Abdo Afifi called him and asked him to send a cameraman and a camera to his apartment in the first district in 6th of October City. When he went there, he met Alaa Sablan (tenth accused) and Ahmed Ismaiel (seventh accused), and a child witness named Ramadan. Alaa Sablan was interviewing him about the story of his mother's death during the breakup of the Rabaa Al-Adawiya sit-in and his feelings after her death. He added that he took three hundred and fifty Egyptian pounds for filming, and he knew that Ahmed Afifi was going to sell the interview to Al-Jazeera. He added that during November 2013, he received a visit at his house from Ahmed Afifi, Alaa Sablan, and Asmaa Al-Khatib, who worked at Rasd Network, and Mohamed Kelani (sixth accused). Ahmed Afifi asked him to find an expert to write a script about the documents. They had a suitcase with them, and they opened it to find it full of documents, among them a file about the relationship between Egypt and Iran, the necessity of limiting that relationship to tourism, and that Iran should not spread its Shiite ideology in Egypt. The file was hand written by Refaa El Tahtawy, head of the Presidency Bureau of the Republic. They saw another file with General Intelligence written on it and the General Intelligence logo on it, and an Administrative Control Authority.

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Ahmed Afifi told him that the suitcase contained files concerned with the Israeli army and takfiris in Sinai, and for certain the documents were confidential due to the information enclosed concerning national security and the fact that they were issued from the state's sovereign authorities. Ahmed Afifi stated in front of him that they got the suitcase from the daughter of Amin Al-Serafy, the adviser to the ex-president Mohmed Morsi. After that, they departed with the suitcase. He acknowledged that two or three days afterward, he was visiting Ahmed Ali Abdo Afifi (fourth accused) at his house and saw the suitcase in his house. He later told him that Alaa Sablan (tenth accused) took the suitcase and the documents and traveled to Qatar to negotiate with Al-Jazeera to sell those documents to broadcast the information enclosed, along the lines of the recent leaks broadcast by the channel. During January 2014, Ahmed Afifi called him and told him that Alaa Sablan would send ten thousand dollars from Qatar and asked him to find one of his friends in Qatar to receive that money from the tenth accused and transfer it to Egypt under his name – the fifth accused – through Western Union. He talked with a person named Abdulmageed Elsaqa, who works at the Qatari channel Al-Jazeera, and asked him to collect the $10,000 from the tenth accused and to transfer it to him – the fifth accused – from Qatar to Western Union. He then went to the company's branch located in the Arab African Bank in the banks area in 6th of October, where he withdrew the money after deduction of the transfer fees and exchanged it to the national currency. It was approximately sixty-eight thousand Egyptian pounds, which he delivered to Ahmed Abdo Afifi (fourth accused). He loaned him three thousand Egyptian pounds to fix his car, which was burnt during the breakup of the Rabaa Al-Adawiya sit-in. He knew that this amount of money was in return for selling the documents to the Qatari channel Al-Jazeera. Mohamed Adel

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Hamed Kelani (sixth accused) confessed in the investigations that after the 25 January revolution, he started to be interested in politics, and he had a political opinion in support of the Muslim Brotherhood. He participated in the Rabaa Al-Adawiya sit-in after the 30 June revolution, and he frequently joined the sit-in on the days that he didn't have a flight scheduled. During the sit-in, he met Ahmed Ali Abdo Afifi (fourth accused) because the latter was a leader for the sit-in. He gave him seven hundred Egyptian pounds to buy some food for the people at the sit-in. Sometimes he would participate in distributing the food to the participants. He knew that he was a member of what is called the Council of Trustees of the Revolution, which was headed by Safwat Hegazy. Their relationship got stronger, and after the breakup of the Rabaa Al-Adawiya sit-in, Ahmed Abdo Afifi fled and was moving among several rented apartments in 6th of October City, fearful of capture by the security forces. He would meet him in a café in 6th of October, where he would see a number of people with him carrying laptops and collecting photos of the Brotherhood's demonstrations and creating programs to gather people's opinions and send them to Al-Jazeera. He added that during January 2014, Ahmed Abdo Afifi (fourth accused) called him and gave him a phone number for a person named Alaa Sablan (tenth accused) and asked him to call Alaa and to meet him on the ring road to get something from him. He called him and scheduled a meeting on the Autostrad near Saqr Qoraish in Maadi, where they met. He was with a lady named Asmaa (ninth accused), and she had a suitcase. He went with them to a café, where they met Ahmed Ali and went to the house of Khaled Hamdi, where they opened the suitcase and looked at the documents inside. It was clear that the documents belonged to the Armed Forces and the Presidency. After that, Ahmed Ali asked him to give them a lift and to keep the suitcase with him, fearing that it would be seized. He kept the suitcase in his car for five days,

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then Ahmed Ali came to see him by taxi and took the suitcase from him. He gave it back after a while and asked him to look after it because of the importance of the documents inside it, being documents pertaining to the presidency. After he [Afifi] left, he opened the suitcase and reviewed the documents inside and discovered that they were issued from the Egyptian intelligence services and the Egyptian Armed Forces and contained information concerning the armament of the Egyptian Army. They had been sent to President Mohamed Morsi (first accused). He then was then convinced of the documents' importance, and he moved the suitcase from his house to another residence that he owns and is used as storage at 63B, Swiss neighborhood, in Nasr city. After about two days, Ahmed Ali called him and asked to meet him in a café in 6th of October City. He went there, and he asked for his help to send the documents in the suitcase to Qatar because of his work as a flight attendant for EgyptAir. Alaa Omar (tenth accused) attended this meeting and told him that Alaa Omar could coordinate with people in Qatar or Turkey to get the suitcase from him and deliver the documents inside to Qatari officials working at Al-Jazeera to use the information to unmask the military coup in Egypt. After about four days, Ahmed Ali called him and asked to meet him at the same café. He told him that Alaa Sablan (tenth accused) had talked with Hamad Bin Jasim – the head of Al-Jazeera – and met a Qatari intelligence officer, and they agreed on having the Qatari intelligence officer wait for him in the duty-free shop of Doha airport for delivery of the documents. He asked him about the maximum amount of cash he could bring into Egypt, and he told him that it is ten thousand dollars. Then he told him Alaa would give him that amount to deliver to him in Egypt. He agreed to that and went on to acknowledge that he changed his flight schedule to go to Qatar. Before he traveled to Qatar, Ahmed Ali came to him and asked him

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to postpone moving the documents until everything was set up in Qatar. The suitcase remained with him until he was arrested, and he showed the police to the suitcase's location. Ahmed Ismaiel Thabet Ismaiel (seventh accused) also confessed in the investigations that during November 2013, he met his friend Alaa Omar Sablan (tenth accused), who was a classmate during their studies at the Medical Sciences Faculty at 6th of October University. He told him that he had a collection of important documents in his possession. Later, he met with Ahmed Ali (fourth accused) at the Mall of Arabia in 6th of October City, and they were introduced to each other by Alaa Sablan (tenth accused). He told him that he had the documents in his possession. Then he received a phone call from Alaa, who told him that he would travel to Turkey to sell the documents to Al-Jazeera. He asked him to prepare files for the documents and attach a list of the documents in each file, and they scheduled a meeting at the home of Ahmed Ali in October [City]. So he bought what he was asked to organize the documents went to the house of Ahmed Ali. He found that he had procured a scanner to scan the documents, and he saw that some of the documents bore the logos of the Presidency, the Administrative Control Authority, and the Ministry of Defense. There were also typed documents signed by Pakinam El-Sharkawy, documents written for the President regarding the economy, some documents pertaining to Qena Governorate Governor Adel Labib, and some documents pertaining to former Minister of Culture Alaa Abdulaziz. He then knew that these documents were very important and that they were issued by state institutions. He added that he knew that Ahmed Ali and Alaa Omar Sablan helped Asmaa Mohammed Al-Khatib (ninth accused) to flee the country and to go to Malaysia and that she was the one who procured the documents. After that, Alaa Sablan called him and asked to meet him at the evening in Ahmed Ali's house. He went there for the meeting, and he told him that he had left some another collection of files with Ahmed Ali and asked him to scan them

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and send them to him after he left the country through Facebook. After Alaa traveled to Qatar, he scanned the documents and sent them to him via Alaa's Facebook account to show the documents to the Al-Jazeera officials in Qatar to sell them. One of those officials was a person named Ibrahim Mohammed Helal (eleventh accused). He went on to acknowledge that Alaa Sablan called him from Qatar and told him that State Security asked about him and Ahmed Ali at the University. He asked him to get the printer used to print the documents. He took it to his house and put a copy of all the documents scanned on a flash memory stick, which he kept in his house. He also acknowledged that during December 2013, before Alaa Sablan traveled to Qatar, he met Alaa Sablan and Ahmed Ali in a café in the second district in 6th of October City, and they were accompanied by Mohamed Kelani (sixth accused). They agreed that Mohamed Kelani (sixth accused) would convey the suitcase containing the documents to Qatar because he was a flight attendant, and it would be easy for him to take the suitcase with him during any flight so that Alaa could deliver the suitcase to Ibrahim Mohammed Helal in Qatar. Alaa Sablan also told him, while he was in Qatar, that he would send a wire transfer for ten thousand dollars to Ahmed Ali. He learned from him that he had been hired at the Qatari channel Al-Jazeera as a reward for the documents he sold to them. He ended his statements by saying that he didn't receive any money, and instead he wanted to unmask what he called the "military coup," and that he knew how important the documents were for national security. Karima Amin Abd Al-Hameed Amin Al-Serafy (eighth accused) confessed in the investigations that her father, Amin Al-Serafy (third accused), belongs to the Muslim Brotherhood and was a member of the presidential campaign of the first accused. Then he was appointed to work as secretary to the President during the first accused's rule of the country.

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Before 28 June 2013, due to the events unfolding in the country, he brought home some papers in a Samsonite case covered in beige paper and sealed with the red seal of the President's secretariat. He put the case in his office in their house located in the First Settlement in the New Cairo area. After 3 of July 2013, she lost contact with her father, and on 5 of July 2013, she collected her father's papers and put them in a small olive-green suitcase. She confessed that she saw among those documents a file pertaining to the office of the presidential team in case of emergencies and another document pertaining to the secretariat enclosed in cardboard and stamped "Presidential Secretariat." She didn't know the content of the rest of the documents. On 4 of October 2013, she hid the documents with her friend Asmaa Al-Khatib (ninth accused), who was working at Rasd Network, so that the police could not seize the documents if the house were searched. She had met Asmaa during the Rabaa Al-Adawiya sit-in, and they participated together in marches. She added that during one of her visits to her father, who was detained in the Presidential Guard, he asked her about the documents, and she told him that she put them in a safe place. He asked her to return some computers and tablets that he had for work, and he repeated his request in a letter he sent her. She returned the items to the Presidential Guard. She added that after October 2013, Asmaa Al-Khatib told her that she intended to travel abroad and claimed that the police arrested one of her relatives and that she was involved in that relative's activities. She told her that the documents are kept safely with a relative and she gave her his number to call if she needed the documents. She went on to acknowledge that she kept in contact with her after she traveled to Malaysia through a social networking site (Facebook). During March 2014, Ahmed Ali (fourth accused) phoned her and told her that he was calling her on behalf of Asmaa

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Al-Khatib and that he had something that belonged to her. She was certain that he meant the suitcase containing the documents. They agreed to meet and met in a café next to a store named Tawhid wa Al Nour in Dokki. He told her that he took a look at the documents in the suitcase, and he asked her if she had any other documents, because a group of his journalist friends were going to initiate a media campaign through Al-Jazeera. He said that Asmaa would be a member of that campaign. He told her that he wanted the documents urgently and that he gave the documents to Asmaa to publish them. She claimed that she had other documents hidden with other people and that she would to deliver the documents to him. She did so because she was afraid of him because his intentions were unknown to her. She ended her confession by saying that she delivered the documents to him to hide, not to publish, and she denied what the accused Ahmed Ali Abdo Afifi said in the investigations about her giving the documents to Asmaa to publish on the Qatari channel Al-Jazeera at her father's instructions (third accused). She also denied being upset because of the delay in publishing the documents. Whereas a committee was formed by General Intelligence, Military Intelligence, and the National Security Agency to examine the seized documents, it was evident that the seized documents included memoranda and reports issued by the General Intelligence Service to be sent to the ex-President (first accused) to authorize the General Intelligence public budget for the year 2013-2014 and reports on foreign and domestic events for 5/12/2012, as well as other reports issued by the General Intelligence to be sent to the second accused, in his capacity as office director for the President of the Republic, on international and civil opinions about the new constitutional declaration, and other reports…

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Through examination of the ACER-brand laptop and the hard disk marked "creation" seized with the fourth accused Ahmad Ali Abdo Afifi, it was found that they contained electronic copies identical to confidential reports, documents, and letters sent from governmental, security, and sovereign institutions – General Intelligence, the Armed Forces, the National Security Agency, the Administrative Control Authority, Military Intelligence, and other institutions – to the first accused in his capacity as then-president and to some presidential staff members. From examination of these documents, it was proved that anyone not authorized to do so is prohibited from circulating or viewing them, and they must be kept in secured and secret places because they all are related to national security and include information that can be used to endanger Egyptian national security if it is leaked or viewed by people not authorized to do so. It would also negatively affect Egypt's political and economic standing and its diplomatic relationships with many foreign states, thus posing a risk to the security of Egyptian sovereign and security institutions. The information in the documents is among the secrets of the country's defense.

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There is sufficient evidence trusted by the Court is sufficient to respond to the Court's assertion. Given that, and as the legislator stipulated in article 77(d) of the Penal Code that: "Whoever commits the offense shall be punished by imprisonment if the offense is committed in peacetime and to rigorous imprisonment

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if committed in wartime, (1) ... ... (2) Whoever intentionally damages, conceals, embezzles, or forges documents while knowing that they relate to the security of the State or any other national interest, if the crime is committed with the intention of causing damage to the military, political, diplomatic or economic position of the country, or with the intention of harming a national interest, the penalty is rigorous imprisonment in peacetime and life imprisonment in wartime. Article 17 of this law shall not be applicable in any case for any of these crimes when they are committed by a public employee or a person in the capacity of a public representative or charged with public service." The foregoing text indicates that this crime does not occur unless the embezzled documents and papers are related to the security of the State or to a national interest. This crime requires three elements: **the first is material**, represented in the act of embezzlement, which is the seizure of these documents; **the second is moral**, represented in the criminal intent consisting of both knowledge and will, i.e. that the offender knows that these papers and documents relate to the security of the state or its national interest and intends to embezzle and seize them; the third is **specific intent**, represented in the intention to possess such documents, i.e. the offender's embezzlement of those documents with the intention of possessing them. The legislator instituted a harsher punishment for the perpetrator if the crime was committed with the intention of harming the country's military, political or diplomatic, or economic position in order to harm a national interest and also tied the judge's hand in applying the provisions of Article 17 of the Penal Code where there is reason to apply it if the perpetrator of the crime is a public employee or a person in the capacity of a public representative or charged with public service. Therefore, and as the appealed judgment proved its assertion with sufficient evidence acceptable to the court, that the first appellant,

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when he became president and was thus a public employee – received from the commander of the Republican Guard at that time, along with General Intelligence, Military Intelligence, the Administrative Control Authority, and National Security important documents relating to the Armed Forces, the state's security, and its national interests. He kept them for himself with the intention of possessing them and refused to return them to the respective authorities in the institution of the presidency for safekeeping. He was aware of the importance of those documents and their relevance to the state's security and national interests, but he did not return them to the competent authorities for safekeeping. He embezzled them for himself with the intent of possessing them. Hence, the effective elements of crime exists in accordance with article 77(d) paragraph (1) clause 2 of the Penal Code. As a result of the People's Revolution against him on 30/06/2013, he handed over these documents, detailed above, to the third appellant, who worked as his secretary within the presidency – and by virtue thereof was a public employee. The third appellant collected them in a personal briefcase and removed them away from their designated place in the office of the presidency by hiding them in his residence, despite their knowing their significance and that they were connected with the state's security and its national interests. The judgment also proved, in accordance with the evidence, that the second accused, the daughter of the third appellant, at the time of the 30 June 2013 revolution and due to the loss of contact with her father, handed over the documents in the suitcase to the ninth accused in order to hide them in her house until the situation settled. She and her father, the third appellant, did not return these documents to the competent authorities; therefore, the elements of the crime exist with regard to the third appellant, namely the concealment of documents relating to the state's security and its national interests as stated in Article 77 (d) paragraph (1) clause 2. The appealed judgment also proved, with the permissible evidence it presented and the conclusions trusted by the Court, that the ninth accused broke open the briefcase and looked at the documents inside

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and learned their importance and seriousness and that they concern the state's security and its national interests. Then she hid the documents in her residence and called the tenth defendant, who, having learned the significance and seriousness of these documents and their relevance to the national security and national interests of the country, contacted the fourth appellant and told him about the documents. He asked them to bring the documents and sent them the sixth appellant; then they all went to the residence of the fifth appellant in 6th of October City. After they viewed those documents together and realized their significance and relevance to the security of the State and its national interests, they hid the documents with the sixth appellant after the fourth appellant had agreed with the tenth defendant to contact the officials of Al Jazeera News Channel to broadcast those documents with the intention of damaging the country's military, political, diplomatic, and economic position and the national interests of the country. This constitutes the crime charged to the fourth and sixth appellants, that they concealed documents concerned with the state's security and its national interests with the intention of damaging the country's military, political, diplomatic, and economic position and its national interests of the country, according to article 77(d) paragraph 1 clause 2, and paragraph 2. Therefore, challenging the appealed judgment in this regard is not valid, nor is the judgment undermined by the appellant's defense that moving the documents from their storage location in the office of the presidency and hiding them in his residence was in effectuation of the order of his superior – the first appellant – and that his obedience was obligatory, thus making his action permissible, and that the elements of the crime charged against him are therefore absent. It is established that a subordinate's obedience to his superior does not exist in any of the matters that the law criminalizes and does not in any way extend to the commission of crimes, and that the subordinate is not obliged to obey such orders given by his superior when he knows that such action is against the law. This was proven

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with regard to him by the appealed judgment; therefore, ruling that he is not guilty of violating the law is a misapplication of law. That being the case, and as the legislator stipulated in Article 77(d) of the Penal Code that: "The following shall be punished by imprisonment if the offense is committed in peacetime and by rigorous imprisonment if committed in wartime: 1 – Whoever seeks a foreign state or a person working for its interests or colludes with it that would damage Egypt's military, political, diplomatic, or economic position. 2 – …. if the crime is committed with the intention of causing damage to the military, political, diplomatic or economic position of the country, or with the intention of harming a national interest, the penalty is rigorous imprisonment in peacetime and life imprisonment in wartime. Article 17 of this law shall not be applicable in any case for any of these crimes when they are committed by a public employee or a person in the capacity of a public representative or charged with public service." Pursuant to this text and applying its provisions, the following must be present: **First, *actus reus*** represented in the material act done by the offender either by seeking a foreign state or a person working for its interests or by colluding with a foreign state or a person who works for its interests. The seeking and collaboration may take place by a variety of possible or available means. The legislator required that such acts harm the military, political, diplomatic, or economic position of the country. If it does not reach that level, it is not criminalized, which is a matter that must be proven and is subject to the trial court's discretion, under the oversight of the Court of Cassation. **Second, *mens rea*,** which is general criminal intent consisting of both knowledge and will, which means that the offender intended to seek and collude, while having the knowledge that it could damage the country's military, political, diplomatic, or economic status. Even if the crime didn't cause

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any damage, the crime will be complete for the offender, and he will be punished for it, even if the harm did not occur or he did not mean to cause it. But if the offender meant to cause harm to the military, political, diplomatic, or economic status of the country or harm the national interest of the country, the legislator instituted an aggravated punishment by making the penalty rigorous imprisonment rather than [ordinary] imprisonment if the offense was committed in peacetime and life imprisonment instead of rigorous imprisonment if the crime was committed in wartime. The intent of the legislator was to protect the country's security and national interests and to prevent the judge from applying Article 17 of the Penal Code for the offender if he is a public employee or a person in the capacity of a public representative or charged with public service, and the crime occurs by any act that would transmit information or data about any matters related to the country or its military interests, such as those related to the affairs of armed forces, their preparation and armament, their positioning, and their sustenance and plans, or any matter related to the policy of the country and the management of all its political affairs, foreign or domestic, and its diplomatic relations with all countries, as well as any act that would transfer any information on the country's economic situation, budget, strategic reserve, and shortcomings or causes in any vital aspect life in the country, whether such information is transferred by seeking a foreign state or someone working for its benefit, or by colluding with them by any means of communication. These are all acts marked by illegitimacy and breaking the law. That being the case, and as it is established that in contributing to the commission of crimes or complicity therein, whether the offender is an original perpetrator or an accomplice, an original perpetrator in accordance with article 39 of the Penal Code is considered to be someone who commits the crime

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alone or with others or takes part in committing it. If the crime consists of a series of acts, the offender intentionally performs one of the crime's constituent acts. Complicity in the crime, under Article 40 of the Penal Code, is incitement to commit the acts constituting the crime, if the act occurs on the basis of this incitement, or is agreement with others on the commission of the crime that then occurs pursuant to this agreement, or is assistance in committing the crime by giving the perpetrator a weapon, tools, or anything used in the commission of the crime, while knowing of the crime or assisting them in any other manner in the acts in preparation, facilitation or completion of the crime's commission. Furthermore, complicity in a crime can only be achieved if a punishable act occurs due to the original perpetrator, and the accomplice cannot be punished if the original perpetrator's act is not punishable, because criminalizing the accomplice derives from criminalizing the original perpetrator, and without this, complicity doesn't exist. The trial court, in accordance with its right under Article 308 of the Code of Criminal Procedure, amended the charge sheet for the crime of collaboration by making the tenth accused (Alaa Omar Sablan) an original perpetrator and the fourth accused (Ahmed Ali Abdo Afifi) and the eleventh accused (Ibrahim Mohammed Helal) accomplices in the crime. The court made that amendment on 3/2/2016 in a session in the presence of the defense counsel of the fourth defendant, and it alerted him to this amendment, which the pleading was based on. The court, after it proved the crime of colluding with a foreign country on the part of the tenth accused, asserted based on the evidence that it trusted, that the fourth appellant contributed to the commission of the crime of colluding with a foreign state and persons working for its interest in order to harm the country's military, political, diplomatic, and economic position and national interests. The court asserted that his will turned to participating in that crime while he had knowledge of it, and he helped to commit the crime

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by agreeing with the tenth accused, based on a convergence of their wills, to meet with the ninth accused in 6th of October City in front of Al-Hosry Mosque after they told him that they had a bag of the presidency's documents from the period of the first appellant's rule of Egypt. The ninth accused obtained the documents from the eighth accused, who is the daughter of the third accused, and the two were assisted by the fourth appellant, who sent them the sixth appellant to bring them in his car. They went to the residence of the fifth appellant, where they looked those documents together and realized their importance and relevance to the country's defense secrets and its national interests. The intent of the fourth appellant and the tenth accused was to publish these documents through the Qatari channel Al-Jazeera. After the tenth accused traveled to Qatar and informed the staff of Al-Jazeera through the 11th accused of the documents and their importance, he sent them the main headings of these documents using his e-mail address with the help of the fourth and sixth appellants. After the employees of Al Jazeera saw the document headings, they asked the tenth accused to travel to Qatar, where he met with the 11th accused, along with Al Jazeera director Hamad bin Jassem and a Qatari intelligence officer. He made an agreement with them that they would pay one million dollars. They paid in advance the amount of fifty thousand dollars and asked him to bring the originals of those documents and delayed the payment of the rest of the money until the originals of documents were delivered to them. He contacted the fourth appellant, told him about the agreement, and sent him, through the fifth appellant, the amount of ten thousand dollars. This constitutes, on his part, complicity by way of agreement and assistance in the commission of the crime of collaborating with a foreign state and someone working for its interest with the intention of harming the military, political, diplomatic, and economic position of the country and its national interests.

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Hence, challenging the appealed judgment for falling short in this regard is without merit. That being the case, and as Article 80 of the Penal Code states that: "The penalty shall be execution for any person who delivers to a foreign state or to any person acting in its interest, or in any way and by any means discloses, one of the country's national defense secrets, or who manages in any manner to obtain such a secret for the purpose of delivering or disclosing it to a foreign state or anyone working for its interest…" And as Article 85 of the Penal Code defined what is considered a defense secret, stipulating: "The following are considered defense secrets: 1. Military, political, diplomatic, economic, and industrial information which by its very nature is known only to persons who have authority to know it, and that in the interest of defending the country must remain a secret except to those persons. 2. Objects, correspondence, documents, papers, drawings, maps, designs, images, and other things that, in the interest of the defense of the country, must be known only to those entrusted with such items' safekeeping or use, and that shall be kept secret from others for fear of disclosure of information referenced in the previous paragraph. 3. News and information related to the armed forces, their formations, movements, equipment, supplies, and personnel, and in general, anything prejudicial to military and strategic affairs where there is no written permission from the General Command of the Armed Forces to publish or broadcast it. 4. News and information concerning the measures and procedures taken to detect, investigate, or prosecute the crimes set out in this section. However, the court in charge of the trial may authorize the broadcasting of such proceedings." It is clear from the above that realization of the crime requires the availability of two elements. **The first is material**, represented in a material act, namely the delivery

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or disclosure to a foreign state or those working for its interest of one of the country's defense secrets, or managing in any manner to obtain such a secret to delivery or disclose it to a foreign state or those working for its interest. **The second is moral**, represented in general criminal intent consisting of both knowledge and will, i.e. the offender knows that what he is obtaining is one of the country's defense secrets – as defined in Article 85 of the Penal Code above – and his will is to obtain the secret for delivery or disclosure to a foreign state or to those working for its interest. This being the case, and as the appealed judgment proved, by the permissible evidence it presented and the conclusions trusted by the court, that the fourth appellant obtained the documents containing national defense secrets – in the manner stated above – and was aware of the contents of those documents and that they contain national defense secrets and may not be circulated, stored, or viewed by anyone not entrusted to do so. It is established that those documents – as stated above – contain military, political, diplomatic, and economic information, maps, and reports on the Armed Forces and their formations, movements, equipment, and positioning. The judgment proved that the 10th and 11th accused managed to seek and collaborate with the Qatari channel Al Jazeera Channel and Qatari intelligence to deliver those documents to them. That occurred the aid of the sixth and seventh appellants. With regard to him [the fourth appellant], the elements are present of the crime to obtain one of the secrets of the country's defense to deliver and disclose it to a foreign state and those working for its interests, and that he should be punished for this crime. Therefore, contesting the appealed judgment in this regard is not valid. That being the case, the trial court, in applying the correct qualification of the facts of the case as directed by law, amended the charge

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against the sixth and seventh appellants in respect of the crime of obtaining a national defense secret for delivery or disclosure to a foreign state, in that they knew of the intent of the fourth and the tenth accused when they aided them in obtaining a national defense secret to deliver or disclose to a foreign state and those working for its interest. This is criminalized in paragraph 1 of article 82 of the Penal Code, which stipulates: "The following shall be punished as an accomplice in the offenses set out in this section: "1 - Anyone who knows the intent of the offender when providing him with aid, a livelihood, housing, refuge, a meeting place, or other facilities, as well as anyone who carries the offender's messages or facilitates the search for the target of the crime, or conceals, moves, or provides information on it…" It is clear from the foregoing that the legislator, in view of the gravity of the offenses set forth in Part One of the Second Book of the Penal Code and their relevance to the state's security from the outside threats, was careful to criminalize all acts that cause, assist, or support the commission of such crimes or facilitate the means of committing, and deemed anyone who commits those acts an accomplice in those crimes. When those elements are present with regard to such accomplice, he must be punished with the same punishment of the original perpetrator. That being the case, and as the appealed judgment proved, with the permissible evidence it permitted and the conclusions that the court trusted, that the sixth appellant (Muhammad Adel Kilani) and the seventh appellant (Ahmed Ismail Thabet) knew the intention of the fourth and tenth defendants to obtain one of the country's defense secrets to deliver or disclose it to a foreign state. Their will turned to assisting them in committing the crime. The sixth appellant hid the bag containing documents that were considered national defense secrets at his home in the Swiss neighborhood of Nasr City until he took it by plane

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on his trip to Qatar and handing it over to the Qatari intelligence officer, the representative of the foreign state. He changed his flight from Dubai to Qatar in preparation for carrying out that mission. The seventh appellant sent copies of those documents and files containing the secrets of defending the country to the tenth accused by e-mail for the officials of the Qatari channel Al-Jazeera and the Qatari intelligence to see the documents and to negotiate the delivery of the originals of those documents with all the secrets and information contained therein. The sixth and seventh appellants committed these acts while knowing of the intention of the fourth and tenth accused, and nevertheless, their will was to commit those acts. This suffices to provide, with regard to them, that they knew of the intention of the fourth and the tenth accused, and they were complicit with them in committing the crime of obtaining one of the secrets of the country's defense to deliver and disclose it to a foreign state and those working for its benefit, which requires that they be punished for that. Therefore, challenged the appealed judgment for lack of causation and defective inference in this regard has no merit.

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That being the case, and as the judgment proved, through permissible evidence it presented and conclusions that the court trusted, that the fourth appellant was complicit by agreement with the tenth accused to commit the crime of seeking and colluding with a foreign state and those who work for its benefit with the intention of damaging the country's military, political, diplomatic, and economic position and its national interests, by the convergence of their will to commit that crime – as stated above – and with his knowledge what he was doing. The judgment also proved the convergence of the wills of the first and third appellants, as well as the fourth and the sixth, on the embezzlement and concealment of the documents and files which are the subject of the case and which contain national defense secrets and relate to the state's security and its national interests. The judgment also proved the convergence of the wills of the fourth and sixth appellants and that they committed the crime of concealing those documents for the purpose of delivery and disclosure to a foreign state and those who work for its benefit. Furthermore, the judgment proved, through permissible evidence it presented

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and conclusions that the court trusted, the convergence of the will of the fourth appellant and the tenth accused to request money from a foreign state and those who work for its benefit with the intent to commit acts harmful to the national interests of the country. The challenged judgment's conclusion concerning complicity in a criminal agreement, as stated above, by means of inference and extrapolation from the corroborating evidence provided by the trial court was sufficient and necessary to say that it was available, and that the claim in that regard was sufficient to justify stating that such complicity existed. Challenging the judgment on this basis is not valid. Moreover, the appealed judgment applied, with regard to the two appellants, the provision of Article 32 of the Penal Code to impose on them the harshest penalty for the crime. They have no standing to challenge the judgment for failing to prove complicity in the criminal agreement. That being the case, and as it is established that weighing the witnesses' statements and evaluating the circumstances in which they gave their testimony, and basing a ruling on such testimony despite any challenges or suspicions, is all within the trial court's authority to disregard or trust evidence as it deems appropriate. When the court accepts witness testimony, that means it discarded all considerations put forth by the defense to push it not to accept the testimony. Contradiction by the witness in some of his statements does not invalidate the judgment as long as the truth is deduced from those statements where there is no contradiction. The appealed judgment is based on the statements of witnesses for the prosecution, statements that the court believed and from which the judgment derived proof that is not contradicted. Challenging the judgment in this regard tends to dispute the trial court's discretion in assessing the evidence of the case, and this cannot be argued before the Court of Cassation.

That being the case, and as it is clear from the challenged judgment that it relied on the statements of officer Tarek Mohamed Sabri and derived sufficient evidence from those statements – contrary to what the appellants claim in the reasons for appealing – it is established that the officer testifying alone,

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without the other members of the accompanying force, does not prevent taking his testimony as evidence in the case at the discretion of the trial court. Therefore, challenging the appealed judgment in this regard is not correct. That being the case, and as it is established that the adversaries may remove the expert if there are strong reasons to do so and shall submit a removal request, which must contain all the reasons for removal, to the investigating judge to adjudicate it within three days from the day of submission, and this request shall result in the expert ceasing his work except in case of urgency by order of the judge. It was stated in the minutes of the trial sessions that the defense counsel for the second appellant filed, at the hearing on 10 September 2015, a request to the President of the Court to remove Major General Abbas Mustafa Kamel, chairman of the committee formed by the Court to examine the documents and files seized, match them to the records and ledgers in the institution of the Presidency, and identify the date and sending entity for each document and the actions taken with regard thereto. The Court, after the members of the committee were sworn in before undertaking this task, decided that the committee would continue to perform its duties entrusted to it, and presented the reasons in its appealed judgment for dismissing the removal request, saying that the work assigned to the committee is not considered the work of an expert because it is simply to review the incoming and outgoing ledgers of the institution of the presidency and to record the content contained therein without commenting on it or applying any technical or scientific methods in this regard. Accordingly, the report submitted by the committee is not a technical report submitted by an expert in the case, and it is not subject to the expert removal rule, which allowed the dismissal of the removal request submitted by the appellant in this regard. Challenging the appealed judgment with regard to the removal request is inadmissible. That being the case, and as it is established that the trial court was entitled to draw from the statements of witnesses and the other elements before it

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in order to form the correct picture of the case that would lead it to be convinced and to discard other, contradictory pictures of the case, as long as its inference is permissible based on logically and reasonably acceptable evidence with a basis in the case files. The trial court has revealed its satisfaction that the facts of the case occurred in accordance with the picture derived from all the permissible evidence put forth. Challenging the appealed judgment based on the impossibility of the incident occurring in this way, and that the charge is fabricated and malicious, amounts to no more disputing the authority of the trial court to derive its belief about the incident and its nature from the evidence that the court trusts. This cannot be argued before the Court of Cassation. That being the case, and as it is established that assessing the seriousness of the investigations and their adequacy for issuing an arrest and search warrant is among the substantive issues entrusted to the investigation authority under the supervision of the trial court, and when the court is convinced of the seriousness and adequacy of the evidence on which the search warrant was based, and the Public Prosecution acknowledges its conduct in this regard, it is not reviewable as far as the court deems it to relate to the merits rather than the law. As the court was presented the defense regarding the invalidity of the Public Prosecution's arrest and search warrant, a defense presented by the sixth and seventh appellants that the warrant was based on unserious and inadequate investigations with an unidentified source…

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For these reasons

The court ruled:

1- To accept the Public Prosecution's presentation of the case in form and to recognize the death sentence verdict against the convicted persons Ahmed Ali Abdo Afifi, Mohamed Adel Hamed Kilany and Ahmed Ismail Thabet Ismail.

2- To accept the convicted persons' appeal in form, and on the merits to annul the appealed judgment in part and correct it as following: **First:** To annul the 15-year prison sentence issued against the convicted person Mohamed Mohamed Morsi Eissa Al Ayyat for the two crimes he is accused of in counts 4 and 8 and to suffice with the life sentence

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against him for the crime he is accused of in count 9 of the appealed judgment. **Second:** To annul the 15-year prison sentence against the convicted person Amin Abdel Hameed Amin El Serafi for the two crimes he is accused of in counts numbers 5 and 8 and to suffice with the life sentence against him for the crime he is accused of in count 9 of the appealed judgment. **Third:** To annul the 15-year rigorous prison sentence against the convicted person Ahmed Ali Abdo Afifi for the crime he is accused of in count 10 and to suffice with the death sentence against him for the crimes he is accused of in counts 1(a), 3(a), 5(a), 6(a) and 8 of the appealed judgment. **Fourth:** To annul the rigorous prison sentence against the convicted person Khaled Hamdi Abdel Wahab Ahmed Radwan for the crime he is accused of in count 10 and to suffice with the 15-year prison sentence and 10 thousand dollar fine against him for the crime he is accused of in count 6(b) of the appealed judgment. **Fifth:** To annul the 15-year rigorous prison sentence against the convicted person Mohamed Adel Hamed Kilany for the crime he is accused of in count to and to suffice with the death sentence against him for the crimes he is accused of in counts 1(b), 3(b), 5(a), and 8 of the appealed judgment, and rejecting the appeal otherwise.

3- To accept the Public Prosecution's appeal in form and reject it on the merits.

4- The court ruled to refer the files to the Prosecutor General to take necessary actions regarding the investigation and to decide on the accusations against the director of the Qatari channel Al Jazeera, Hamad Ben Jassem, of acts and incidents that involve criminal offenses relating to colluding with a foreign state and those working for its benefit to cause harm to the country's national interest and its military,

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political, diplomatic, and economic status and for paying bribes in order to commit an act that causes harm to the national interest of the country.

Secretary **Head of Chamber**

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جمهورية مصر العربية
محكمة النقض
مكتب الرئيس

معالى المستشار الجليل / محمد عيد محجوب
مساعد أول وزير العدل

تحية طيبة . . . وبعد

نتشرف بأن نرسل لسيادتكم صورة رسمية من الحكم الصادر في الجناية رقم ١٠١٥٤ لسنة ٢٠١٤ جنايات ثان أكتوبر والمقيدة برقم كلى ٣٦٩٠ لسنة ٢٠١٤ ، وكذلك صورة رسمية من حكم محكمة النقض في الطعن رقم ٣٢٦١١ لسنة ٨٦ قضائية ، الصادر من دائرة السبت (أ) الجنائية بتاريخ ٢٠١٧/٩/١٦ في الجناية المشار إليها والمرفوع من / محمد محمد مرسى عيسى العياط وآخرين .

وتفضلوا بقبول وافر الاحترام ،،،

تحريراً فى ٩ /١٠/ ٢٠١٨ م

رئيس المكتب الفني المساعد
لمحكمة النقض
القاضى / جمال
(جمال حسن جودة)
نائب رئيس محكمة النقض

ياسر الأنصاري

باسم الشعب

محكمـة النقـض

الدائـرة الجنائيـة

السـبت (أ)

المؤلفة برئاسة السيد القاضي/ حمدي أبو الخير (نائب رئيس المحكمة)

وعضوية السـادة القضـاة / محمـود خضـر و بـدر خليفـة

الأسمـر نظيـر و خالـد جـاد

" نواب رئيس المحكمة "

وحضور رئيس النيابة العامة لدى محكمة النقض السيد / مروان الوكيل .

وأمين السر السيد / نجيب لبيب محمد .

في الجلسة العلنية المنعقدة بمقر المحكمة بدار القضاء العالي بمدينة القاهرة .

في يوم السبت ٢٥ من ذي الحجة سنة ١٤٣٨ هـ الموافق ١٦ من سبتمبر سنة ٢٠١٧م .

أصدرت الحكم الآتي

في الطعن المقيد بجدول المحكمة برقم ٣٢٦١١ لسنة ٨٦ القضائية .

المرفوع مـن :

١- محمد محمد مرسي عيسى العياط

٢- أحمد محمد محمد عبد العاطي

٣- أمين عبد الحميد أمين الصيرفي

صورت طبق الأصل
مدير مكتب الفحص
[illegible]
٢٠١٨/١٠/٨

٤- أحمد على عبده عفيفي

٥- خالد حمدي عبد الوهاب أحمد رضوان

٦- محمد عادل حامد كيلاني

٧- أحمد إسماعيل ثابت إسماعيل " المحكوم عليهم "

ضـد

النيابة العامة

ومنها ضـد

١- محمد محمد مرسي عيسى العياط

٢- أحمد محمد محمد عبد العاطي

٣- أمين عبد الحميد أمين الصيرفي

٤- أحمد على عبده عفيفي

٥- خالد حمدي عبد الوهاب أحمد رضوان

٦- محمد عادل حامد كيلاني

٧- أحمد إسماعيل ثابت إسماعيل

٨- كريمة أمين عبد الحميد أمين الصيرفي

٩- أسماء محمد الخطيب " المطعون ضدهم "

الوقـائـع

اتهمت النيابة العامة كلاً من : ١- محمد محمد مرسى عيسى العياط (الطاعن) . ٢- أحمد محمد محمد عبد العاطي (الطاعن) . ٣- أمين عبد الحميد أمين الصيرفي (الطاعن) . ٤- أحمد على عبده عفيفي (الطاعن) . ٥- خالد حمدي عبد الوهاب أحمد رضوان (الطاعن) . ٦- محمد عادل حامد

كيلاني (الطاعن) . ٧- أحمد إسماعيل ثابت إسماعيل (الطاعن) . ٨- كريمة أمين عبد الحميد أمين الصيرفي . ٩- أسماء محمد الخطيب . ١٠- علاء عمر محمد سبلان . ١١- إبراهيم محمد هلال في قضية الجناية رقم ١٠١٥٤ لسنة ٢٠١٤ جنايات ثان أكتوبر (والمقيدة بالجدول الكلى برقم ٣٦٩٠ لسنة ٢٠١٤) .

بأنهم خلال الفترة من شهر يونية عام ٢٠١٣ حتى ٦ من سبتمبر سنة ٢٠١٤ داخل وخارج جمهورية مصر العربية .

أولاً / المتهمون جميعًا :-

حصلوا على سرٍ من أسرار الدفاع عن البلاد بقصد تسليمه وإفشائه إلى دولة أجنبية ، بأن اختلس المتهمان الأول والثاني التقارير والوثائق الصادرة من أجهزة المخابرات العامة والحربية والقوات المسلحة وقطاع الأمن الوطني وهيئة الرقابة الإدارية والتي تتضمن معلومات وبيانات تتعلق بالقوات المسلحة وأماكن تمركزها وسياسات الدولة الداخلية والخارجية وحازها المتهمون من الثالث حتى الحادي عشر وصورًا ضوئية منها وكان ذلك بقصد تسليم تلك الأسرار وإفشائها إلى دولة قطر ، ونفاذًا لذلك سلموها وأفشوا ما بها من أسرار إلى تلك الدولة ومن يعملون لمصلحتها على النحو المبين بالتحقيقات .

ثانيًا / المتهمون من الرابع حتى السابع والتاسعة أيضًا :-

تخابروا مع من يعملون لمصلحة دولة أجنبية ، بقصد الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي وبمصالحها القومية ، بأن اتفقوا مع المتهمين العاشر - مُعد برامج بقناة الجزيرة القطرية - والحادي عشر - رئيس قطاع الأخبار بقناة الجزيرة القطرية - وآخر مجهول - ضابط بجهاز

المخابرات القطري – على العمل معهم لصالح دولة قطر ، وأمدوهم لهذا الغرض بصور من التقارير والوثائق الصادرة عن أجهزة المخابرات العامة والمخابرات الحربية والقوات المسلحة وقطاع الأمن الوطني وهيئة الرقابة الإدارية ، والتي تتضمن معلومات وبيانات تتعلق بأسرار الدفاع عن البلاد وسياساتها الداخلية والخارجية ، بقصد الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي وبمصالحها القومية على النحو المبين بالتحقيقات .

ثالثًا / المتهمان العاشر والحادي عشر أيضًا :-

اشتركا وآخر مجهول – ضابط بجهاز المخابرات القطرية – بطريقي الاتفاق والمساعدة مع المتهمين من الرابع حتى السابع والتاسعة في ارتكاب جريمة التخابر – موضوع الاتهام الوارد بالبند ثانيًا – بأن اتفقوا معهم على ارتكابها في الخارج والداخل وساعدوهم بأن أمدوهم بعنوان البريد الإلكتروني الخاص بهم لإرسال التقارير والوثائق المبينة بوصف الاتهام الوارد بالبند ثانيًا وهيأوا لهم سبل نقل أصول تلك التقارير والوثائق حتى تسليمها إليهم بدولة قطر فوقعت الجريمة بناءً على هذا الاتفاق وتلك المساعدة على النحو المبين بالتحقيقات .

رابعًا / المتهمان الأول والثاني أيضًا :-

اختلسا أوراقًا ووثائق – يعلمان أنها تتعلق بأمن الدولة وبمصالحها القومية – بقصد الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي وبتلك المصالح بأن نقلا تلك التقارير السرية المبينة بوصف الاتهام الوارد بالبند أولاً فقرة (أ) والمسلمة إليهما بسبب وظيفتهما من الأماكن المعدة

لحفظها بمؤسسة الرئاسة وسلماها إلى المتهم الثالث لتسليمها وإفشاء ما بها من معلومات سرية إلى دولة قطر بقصد الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي وبمصالحها القومية على النحو المبين بالتحقيقات .

خامسًا / المتهمون من الثالث حتى التاسعة أيضًا :-

أخفوا أوراقًا ووثائق يعلمون أنها تتعلق بأمن الدولة والمصالح القومية بقصد الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي وبتلك المصالح بأن حازوا التقارير السرية المبينة بوصف الاتهام الوارد بالبند أولاً فقرة (أ) في أماكن غير معدة لهذا الغرض وإفشاء ما بها من معلومات سرية إلى دولة قطر ، بقصد الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي وبمصالحها القومية على النحو المبين بالتحقيقات .

سادسًا / المتهمون من الرابع حتى السابع والتاسعة والعاشر أيضًا :-

طلبوا ممن يعملون لمصلحة دولة أجنبية نقودًا بقصد ارتكاب عمل ضار بمصلحة قومية – حال كون المتهم السادس موظفًا عموميًا – بأن طلبوا من المتهم الحادي عشر وآخر مجهول – ضابط بجهاز المخابرات القطرية – مبلغ مليون دولار أخذ منه المتهمان الرابع والعاشر مبلغ خمسين ألف دولار مقابل التعاون معهما وإمدادهما بالوثائق والأوراق – موضوع الاتهام الوارد بالبند أولاً – بقصد ارتكاب أعمال ضارة بالمصالح القومية بالبلاد على النحو المبين بالتحقيقات .

سابعًا / المتهم الحادي عشر أيضًا :-

١. قدم وآخر مجهول – ضابط بجهاز المخابرات القطرية – للمتهمين الرابع والعاشر المبالغ المالية المبينة ببند الاتهام سادسًا بقصد ارتكاب أعمال ضارة بالمصالح القومية بالبلاد على النحو المبين بالتحقيقات .

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٢. قدم وآخر مجهول – ضابط بجهاز المخابرات القطرية – للمتهمين من الرابع حتى السابع والتاسعة والعاشر أيضًا وعدًا بالمبالغ المالية المبينة ببند الاتهام سادسًا بقصد ارتكاب أعمال ضارة بالمصالح القومية بالبلاد على النحو المبين بالتحقيقات .

ثامنًا / المتهمون جميعًا :-

اشتركوا في اتفاق جنائي الغرض منه ارتكاب الجرائم المبينة ببنود الاتهام آنفة البيان على النحو المبين بالتحقيقات .

تاسعًا : المتهمون من الأول حتى الثالث أيضًا :-

تولوا قيادة جماعة أُسست على خلاف أحكام القانون الغرض منها الدعوة إلى تعطيل أحكام الدستور والقوانين ومنع مؤسسات الدولة والسلطات العامة من ممارسة أعمالها والاعتداء على الحرية الشخصية للمواطنين والحقوق العامة والإضرار بالوحدة الوطنية والسلام الاجتماعي بأن تولوا قيادة بجماعة الإخوان التي تهدف لتغيير نظام الحكم بالقوة والاعتداء على أفراد ومنشآت القوات المسلحة والشرطة واستهداف المنشآت العامة بهدف الإخلال بالنظام العام وتعريض سلامة المجتمع وأمنه للخطر وكان الإرهاب من الوسائل التي تستخدمها هذه الجماعة في تنفيذ أغراضها على النحو المبين بالتحقيقات .

عاشرًا / المتهمون من الرابع حتى الأخير أيضًا :-

انضموا لجماعة أسست على خلاف أحكام القانون بأن انضموا للجماعة – موضوع الاتهام الوارد بالبند تاسعاً – مع علمهم بأغراضها على النحو المبين بالتحقيقات .

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وادعى الأستاذ / محمد محمود الجندي المحامي بصفته مواطناً مصرياً ومتطوعاً عن كافة مؤسسات الدولة التي تم إفسادها من المتهمين مدنياً بمبلغ خمسة آلاف جنيه وواحد على سبيل التعويض المؤقت .

وأحالتهم إلى محكمة جنايات القاهرة لمعاقبتهم طبقا للقيد والوصف الواردين بأمر الإحالة .

والمحكمة المذكورة قررت في ٧ من مايو سنة ٢٠١٦ إحالة أوراق الدعوى إلى فضيلة مفتي جمهورية مصر العربية لاستطلاع الرأي الشرعي بشأن كلٍ من المتهمين أحمد على عبده عفيفي (الرابع) ومحمد عادل حامد كيلاني (السادس) وأحمد إسماعيل ثابت إسماعيل (السابع) وأسماء محمد الخطيب (التاسعة) وعلاء عمر محمد سبلان (العاشر) وإبراهيم محمد هلال (الحادي عشر) وحددت جلسة ١٨ من يونية سنة ٢٠١٦ للنطق بالحكم .

وبالجلسة المحددة قضت حضورياً للمتهمين من الأول للسابع وغيابياً للمتهمين من الثامنة للحادي عشر عملاً بالمواد ٢/ أولاً – ثانيًا بند (أ) ، ٣٠ ، ٤٠/ ثانيًا – ثالثًا ، ١/٤١ ، ٧٧ (د) ، ٧٨ / ١-٢ ، ٨٠ ، ١/٨٢ بند ١ ، ٨٢ (ب) / ١ ، ٨٥ ، ٨٦ ، ٨٦ مكرراً / ١-٢ ، ٨٦ مكرراً (أ) / ١-٢ من قانون العقوبات ، مع إعمال المادة ٢/٣٢ من ذات القانون ، والمادة ٥ مكرر من القانون رقم ١٠٠ لسنة ١٩٧١ بشأن المخابرات العامة ، **أولاً** : وبإجماع آراء قضاة المحكمة بمعاقبة كل من المتهمين الرابع والسادس والسابع والتاسعة والعاشر والحادي عشر بالإعدام شنقاً عما أسند للمتهم الرابع ببنود الاتهام أولاً / أ ، ثالثاً / أ ، خامساً / أ ، سادساً / أ ، وثامناً من وصف الاتهام ، وعما أسند للمتهم للسادس ببنود الاتهام أولاً / ب ، وثالثاً / ب ، وخامساً / أ ، وثامناً من وصف الاتهام ، وعما أسند للمتهم

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السابع ببنود الاتهام أولاً / ب ، وثالثًا / ب ، وخامساً / ب من وصف الاتهام ، وعما أسند للمتهمة التاسعة ببنود الاتهام أولاً / أ ، ثالثاً / أ ، وخامساً / أ ، وثامناً من وصف الاتهام ، وعما أسند للمتهم العاشر ببنود الاتهام أولاً / أ ، وثانياً ، وسادساً / أ وثامناً من وصف الاتهام ، وعما أسند للمتهم الحادي عشر ببنود الاتهام أولاً / أ ، وثالثاً / أ ، وسابعاً ، وثامناً من وصف الاتهام . **ثانياً** : بمعاقبة كل من المتهمين الأول والثاني والثالث بالسجن المؤبد عما أسند إليهم بالبند تاسعاً من وصف الاتهام . **ثالثاً** : بمعاقبة كل من المتهمين الأول والثالث والثامنة بالسجن لمدة خمس عشرة سنة عما أسند للأول (بالبندين رابعًا وثامناً) ، وعما أسند للثالث والثامنة (بالبندين خامساً /أ وثامناً) من وصف الاتهام . **رابعاً** : بمعاقبة المتهم الخامس بالسجن المشدد لمدة خمس عشرة سنة وبتغريمه عشرة آلاف دولار عما أسند اليه بالبند سادساً / ب من وصف الاتهام . **خامساً** : بمعاقبة كل من المتهمين الرابع والخامس والسادس والثامنة والتاسعة والعاشر والحادي عشر بالسجن المشدد لمدة خمس عشرة سنة عما أسند إليه بالبند عاشراً من وصف الاتهام . **سادساً** : ببراءة كل من المتهمين الأول والثاني والثالث والخامس والسادس والسابع والثامنة والتاسعة مما نسب للمتهم الأول (بالبند أولاً) وللمتهم الثاني (بالبنود أولاً ، ورابعاً ، وثامناً) ومما نسب للمتهم الثالث (بالبند أولاً) ومما نسب للمتهم الخامس (بالبنود أولاً وثالثاً / أ وخامساً وثامناً) ومما نسب للمتهم السادس (بالبنود سادساً / أ) ومما نسب للمتهم السابع (بالبنود سادساً / أ وثامناً وعاشراً) ومما نسب للمتهمة الثامنة (بالبند أولاً) ومما نسب للمتهمة التاسعة (بالبند سادساً) من وصف الاتهام . **سابعاً** : بمصادرة أجهزة الحاسب الآلي والهواتف المحمولة وذاكرات التخزين والأقراص الصلبة والوثائق والمستندات المضبوطين ووضعها تحت تصرف

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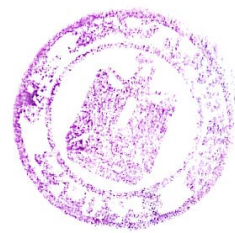
المخابرات العامة . **ثامناً** : بعدم قبول الدعوى المدنية المقامة من محمد محمود الجندي المحامي ، وذلك بعد أن عدلت وصف الاتهام المسند للمتهمين إلى أنهم :- **أولاً : أ- المتهمون الرابع ، والتاسعة ، والعاشر ، والحادي عشر** : حصلوا على سرٍ من أسرار الدفاع عن البلاد بقصد تسليمه وإفشائه إلى دولة أجنبية ، بأن حصلوا على تقارير ووثائق صادرة من أجهزة الحرس الجمهوري ، والمخابرات العامة والحربية ، والقوات المسلحة ، وقطاع الأمن الوطني ، وهيئة الرقابة الإدارية ، والتي تتضمن معلومات وبيانات تتعلق بالقوات المسلحة وأماكن تمركزها وسياسات الدولة الداخلية والخارجية ، وكان ذلك بقصد تسليم تلك الأسرار وإفشائها إلى دولة قطر وقناة الجزيرة التي تعمل لمصلحتها ، ونفاذًا لذلك سلموها وأفشوا ما بها من أسرار إلى تلك الدولة ومن يعملون لمصلحتها على النحو المبين بالتحقيقات . **ب- المتهمان السادس والسابع** : قدما إعانة للمتهمين الرابع والعاشر على تسليم سر من أسرار الدفاع إلى دولة أجنبية ومن يعمل لمصلحتها مع علمهما بنياتهما ، بأن حاز السادس الوثائق والمستندات التي تحوى أسرار الدفاع والتي تسلمها من المتهم الرابع لنقلها إلى دولة قطر وتسليمها لضابط مخابراتها بمطار الدوحة ، وحاز السابع صورًا إلكترونية منها وقام بإرسالها للمتهم العاشر عبر موقع التواصل الاجتماعي لتسليمها إلى قناة الجزيرة التي تعمل لمصلحة دولة قطر مع علمهما بنية المتهمين في تسليمها لدولة أجنبية وذلك على النحو المبين بالأوراق . **ثانيًا : المتهم العاشر** :- تخابر مع دولة أجنبية ومع من يعمل لمصلحتها بقصد الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي وبمصالحها القومية بأن اتفق مع مجهولين - هما ضابط بجهاز المخابرات القطرية ، ورئيس قناة الجزيرة التي تعمل لمصلحة دولة قطر - على إمدادهما بتقارير ووثائق صادرة عن أجهزة



المخابرات العامة والمخابرات الحربية والقوات المسلحة وقطاع الأمن الوطني وهيئة الرقابة الإدارية والتي تتضمن معلومات وبيانات تتعلق بأسرار الدفاع عن البلاد وسياساتها الداخلية والخارجية بقصد الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي وبمصالحها القومية وأمدهما بصورة منها عبر البريد الإلكتروني الخاص به وعلى النحو المبين بالأوراق . **ثالثًا** : أ- **المتهمون الرابع ، والتاسعة ، والحادي عشر** : اشتركوا وآخر مجهول – ضابط بجهاز المخابرات القطرية – ورئيس قناة الجزيرة بطريقي الاتفاق والمساعدة مع المتهم العاشر في ارتكاب جريمة التخابر موضوع الاتهام الوارد بالبند ثانياً بأن اتفقوا معه على ارتكابها في الخارج والداخل وساعدوه بأن أحضرت التاسعة المستندات له لتسليمها لقناة الجزيرة التي تعمل لمصلحة دولة قطر ، وقام الرابع بنسخ صور المستندات وإرسالها له عبر البريد الإلكتروني ، ورتب له الحادي عشر لقاءً مع ضابط المخابرات القطرية ورئيس قناة الجزيرة للاتفاق على نقل أصول المستندات وتسليمها لهما بدولة قطر فوقعت الجريمة بناءً على هذا الاتفاق وتلك المساعدة على النحو المبين بالأوراق . ب- **المتهمان السادس والسابع** : قدما إعانة وتسهيلات للمتهمين الرابع والعاشر على التخابر مع دولة أجنبية ومع من يعمل لمصلحتها مع علمهما بنياتهما بأن حاز السادس التقارير والوثائق التي تحوى أسرار الدفاع لنقلها إلى دولة قطر وتسليمها لضابط مخابراتها بمطار الدوحة ، وقام السابع بنسخ الوثائق والتقارير وتصويرها وإرسالها للمتهم العاشر عبر أحد المواقع الإلكترونية لتسليمها إلى قناة الجزيرة التي تعمل لمصلحة دولة قطر وذلك على النحو المبين بالأوراق . **رابعًا** :- **المتهم الأول** : اختلس أوراقًا ووثائق يعلم أنها تتعلق بأمن الدولة وبمصالحها القومية بأن حصل على الوثائق والمستندات العسكرية التي تحوى

أسرار الدفاع والمسلمة إليه بسبب وظيفته واحتفظ بها لنفسه بنية تملكها ولم يردها للأماكن المعدة لحفظها بالحرس الجمهوري وسلمها للمتهم الثالث لإخفائها على النحو المبين بالتحقيقات . **خامسًا : أ- المتهمون الثالث والرابع والسادس والثامنة والتاسعة :-** أخفوا أوراقًا ووثائق يعلمون أنها تتعلق بأمن الدولة والمصالح القومية بأن قام الثالث بنقل الأوراق والمستندات التي تحوي أسرار الدفاع من الأماكن المعدة لحفظها برئاسة الجمهورية إلى منزله قاصدا إبعادها عن أماكن حفظها ، وقامت الثامنة بتسليمها للمتهمة التاسعة لإخفائها ، وأخفتها التاسعة بمنزلها عمن له الحق في حفظها ، وقام الرابع بتسليمها للمتهم السادس لإخفائها لديه ، فقام الأخير بإخفائها في حقيبة سيارته لعدة أيام ، وقام السابع بنسخ الوثائق على ذاكرة تخزين أخفاها بمنزله ، مع علمهم بطبيعتها على النحو المبين بالتحقيقات . **ب- المتهم السابع :-** حصل بوسيلة غير مشروعة على سر من أسرار الدفاع عن البلاد ولم يقصد تسليمه أو إفشائه لدولة أجنبية أو لأحد ممن يعملون لمصلحتها بأن حصل على نسخة إلكترونية من الوثائق والمستندات التي تحوى أسرار الدفاع (محل التهمة بالبند أولاً) على ذاكرة تخزين واحتفظ بها لنفسه ولم يكن قاصدًا من ذلك إفشائها لدولة أجنبية أو لأحد ممن يعملون لمصلحتها . **سادسًا : أ- المتهمان الرابع والعاشر :-** طلب العاشر لنفسه وللمتهم الرابع وقبل وأخذ من الدولة الأجنبية وممن يعمل لمصلحتها نقودًا بقصد ارتكاب عمل ضار بمصلحة قومية ، بأن طلب المتهم العاشر لنفسه وللمتهم الرابع من ضابط المخابرات القطرية ورئيس قناة الجزيرة مبلغ مليون دولار ، أخذ منه مبلغ خمسين ألف دولار ، وأرسل منها للمتهم الرابع عشرة آلاف دولار ، وقبلا وعدًا بباقي المبلغ مقابل تسليم أصول الوثائق والأوراق موضوع الاتهام الوارد بالبند أولاً وبقصد ارتكاب أعمال

ضارة بالمصلحة القومية لمصر وذلك على النحو المبين بالتحقيقات . **ب- المتهم الخامس** :- قدم إعانة للمتهمين الرابع والعاشر مع علمه بنيتهما في ارتكاب عمل ضار بالمصلحة القومية للبلاد ، بأن سهل لهما تحويل وصرف مبلغ عشرة آلاف دولار عبر شركة ويسترن يونيون من دولة قطر باسمه وقام بتغييرها وتسليمها له مع علمه بأن هذا المبلغ لتسريب أوراق ومستندات تحوى أسرار الدفاع إلى دولة أجنبية على النحو المبين بالأوراق . **سابعًا - المتهم الحادي عشر أيضًا :** أ- قدم وآخر مجهول - ضابط بجهاز المخابرات القطرية - ورئيس قناة الجزيرة القطرية للمتهمين الرابع والعاشر المبالغ المالية المبينة ببند الاتهام سادسًا بقصد ارتكاب أعمال ضارة بالمصالح القومية بالبلاد على النحو المبين بالتحقيقات . **ب-** قدم وآخر مجهول - ضابط بجهاز المخابرات القطرية - للمتهمين الرابع والعاشر أيضًا وعدًا بالمبالغ المالية المبينة ببند الاتهام سادسًا بقصد ارتكاب أعمال ضارة بالمصالح القومية بالبلاد على النحو المبين بالتحقيقات . **ثامنًا : المتهمون الأول ، والثالث ، والرابع ، والسادس ، ومن الثامنة حتى الأخير** :- اشتركوا في اتفاق جنائي الغرض منه ارتكاب الجرائم المبينة ببنود الاتهام آنفة البيان على النحو المبين بالتحقيقات . **تاسعًا : المتهمون من الأول للثالث** :- تولوا قيادة في جماعة أسست على خلاف أحكام القانون الغرض منها الدعوة إلى تعطيل أحكام الدستور والقانون ومنع مؤسسات الدولة والسلطات العامة من ممارسة أعمالها والاعتداء على الحرية الشخصية للمواطنين والحقوق العامة والإضرار بالوحدة الوطنية والسلام الاجتماعي بأن تولوا قيادة بجماعة الإخوان التي تهدف لتغيير نظام الحكم بالقوة والاعتداء على أفراد ومنشآت القوات المسلحة والشرطة واستهداف المنشآت العامة بهدف الإخلال بالنظام العام وتعريض سلامة المجتمع وأمنه للخطر

وكان الإرهاب من الوسائل التي تستخدمها هذه الجماعة في تنفيذ أغراضها على النحو المبين بالتحقيقات . **عاشرًا : المتهمون من الرابع حتى السادس ومن الثامنة للأخير** :- انضموا لجماعة أسست على خلاف أحكام القانون ، بأن انضموا للجماعة – موضوع الاتهام الوارد بالبند تاسعًا – مع علمهم بأغراضها على النحو المبين بالتحقيقات .

فطعن المحكوم عليه الأول في هذا الحكم بطريق النقض في ٣٠ من يوليو سنة ٢٠١٦ .

كما طعن المحكوم عليه السابع في هذا الحكم بطريق النقض في الأول من أغسطس سنة ٢٠١٦ .

كما طعن المحكوم عليهم الثاني والثالث والرابع والخامس والسادس في هذا الحكم بطريق النقض في ٨ من أغسطس سنة ٢٠١٦ .

كما طعن الأستاذ / حسن صالح أحمد صالح المحامي بصفته وكيلاً عن المحكوم عليه الأول في هذا الحكم بطريق النقض في ١٥ من أغسطس سنة ٢٠١٦ .

كما طعنت النيابة العامة في هذا الحكم بطريق النقض في ١٦ من أغسطس سنة ٢٠١٦ .

وأودعت عشر مذكرات بأسباب الطعن **الأولى** عن المحكوم عليه السابع في ١٥ من أغسطس سنة ٢٠١٦ موقعًا عليها من الأستاذ / رحيم علم الدين المحامي ، **والثانية** عن المحكوم عليهم الثاني والثالث والرابع والخامس والسادس والسابع في ١٥ من أغسطس سنة ٢٠١٦ موقعًا عليها من الأستاذين / أحمد إبراهيم الحمراوي وحسن صالح أحمد المحاميين ، **والثالثة** عن المحكوم عليهما الثاني والثالث في ١٥ من أغسطس سنة ٢٠١٦ موقعًا عليها من الأستاذين / علاء علم

الدين متولي وحسن صالح أحمد المحاميين ، **والرابعة** عن المحكوم عليه الأول في ١٥ من أغسطس سنة ٢٠١٦ موقعًا عليها من الأساتذة / علاء علم الدين متولى وحسن صالح أحمد ومحمد السعيد طوسن المحامين ، **والخامسة** عن المحكوم عليه السادس في ١٥ من أغسطس سنة ٢٠١٦ موقعًا عليها من الأستاذ / محمد عبد الفتاح إبراهيم الجندي المحامي ، **والسادسة** عن المحكوم عليهم الرابع والخامس والسادس والسابع في ١٥ من أغسطس سنة ٢٠١٦ موقعًا عليها من الأستاذين / علاء علم الدين متولي وحسن صالح أحمد المحاميين ، **والسابعة** عن المحكوم عليه السادس في ١٥ من أغسطس سنة ٢٠١٦ موقعًا عليها من الأستاذين / محمد عبد الفتاح إبراهيم الجندي وعصام محمدي على عبد الله البطاوي المحاميين ، **والثامنة** عن المحكوم عليهما الأول والثالث في ١٦ من أغسطس سنة ٢٠١٦ موقعًا عليها من الأستاذ / كامل عبد الحليم كامل مندور المحامي ، **والتاسعة** من النيابة العامة في ١٦ من أغسطس سنة ٢٠١٦ موقعًا عليها من المستشار / تامر عبد الحميد حمد فرجاني المحامي الأول لنيابة أمن الدولة العليا ، **والعاشرة** عن المحكوم عليه الرابع في ١٧ من أغسطس سنة ٢٠١٦ موقعًا عليها من الأستاذ / أحمد محمود قناوي .

كما عرضت النيابة العامة القضية على محكمة النقض مشفوعة بمذكرة برأيها .

وبجلسة اليوم سُمِعَت المرافعة على نحو ما هو مبين بمحضر الجلسة .

المحكمـة

بعد الاطلاع على الأوراق وسماع التقرير الذي تلاه السيد القاضي المقرر والمرافعة وبعد المداولة قانوناً :-

٢٠١٨/٢/١٨

أولاً :- بالنسبة للطعن المقدم من المحكوم عليهم من الأول حتى السابع .

١- محمد محمد مرسى عيسى العياط .

٢- أحمد محمد محمد عبد العاطي .

٣- أمين عبد الحميد أمين الصرفي .

٤- أحمد على عبده عفيفي .

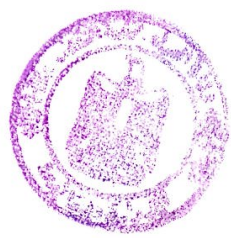
٥- خالد حمدي عبد الوهاب أحمد رضوان .

٦- محمد عادل حامد كيلاني .

٧- أحمد إسماعيل ثابت إسماعيل .

وحيث إن الطعن استوفى الشكل المقرر قانوناً .

وحيث إن الطاعنين ينعون على الحكم المطعون فيه بمذكرات أسباب طعنهم التسعة أنه إذ دان الأول والثاني والثالث بجريمة تولى قيادة جماعة إرهابية أسست على خلاف أحكام القانون الغرض منها تعطيل أحكام الدستور ومنع مؤسسات الدولة من أداء عملها ، ودان الرابع والخامس والسادس بالانضمام إلى تلك الجماعة مع علمهم بغرضها ، ودان الأول بجريمة اختلاس أوراق ووثائق تتعلق بأمن الدولة ومصالحها القومية مع علمه بذلك ، ودان الثالث والرابع والسادس بجريمة إخفاء تلك الأوراق والوثائق مع علمهم بأنها تتعلق بأمن الدولة ومصالحها القومية ، ودان الرابع بجريمة الحصول على سر من أسرار الدفاع عن البلاد بقصد تسليمه وإفشائه إلى دولة أجنبية ، كما دانه بالاشتراك مع المتهم العاشر وآخر مجهول في ارتكاب جريمة التخابر مع دولة أجنبية ومن يعمل لمصلحتها بقصد الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي ومصالحها القومية ، ودان السادس والسابع بجريمة تقديم إعانة للمتهمين الرابع والعاشر على تسليم سر



٢٠١٨/١٠/٨

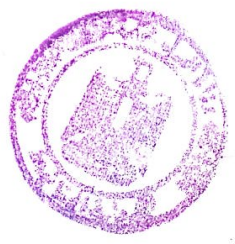
من أسرار الدفاع عن البلاد لدولة أجنبية ومن يعمل لمصلحتها مع علمهما بذلك ، ودان الخامس والسادس والسابع بجريمة تقديم إعانة وتسهيلات للمتهمين الرابع والعاشر للتخابر مع دولة أجنبية ومن يعمل لمصلحتها مع علمهم بنيتهما ، ودان الأول والثالث والرابع والسادس بالاشتراك في اتفاق جنائي الغرض منه ارتكاب الجرائم التي دينوا بها ، ودان الرابع بجريمة طلب لنفسه وأخذ مبالغ مالية من دولة أجنبية ومن يعمل لمصلحتها بقصد الإضرار بالمصالح القومية للبلاد ، ودان السابع بجريمة الحصول بوسيلة غير مشروعة على سر من أسرار الدفاع عن البلاد ، ولم يقصد من ذلك تسليمه أو إفشائه إلى دولة أجنبية ومن يعمل لمصلحتها قد شابه القصور في التسبيب ، والفساد في الاستدلال ، والبطلان ، والخطأ في تطبيق القانون ، ومخالفة الثابت بالأوراق ، والإخلال بحق الدفاع ، والتناقض ؛ ذلك أن أسبابه جاءت في عبارات عامة شابها الغموض والإبهام والإجمال فلم يبين واقعات الدعوى بياناً كافياً مفصلاً بما تتوافر به كافة الأركان القانونية للجرائم التي دان الطاعنين بها ، ولم يورد مؤدى أدلة الإدانة ووجه استدلاله بها على ثبوت تلك الجرائم في حقهم فلم يبين الأدلة السائغة التي استدل منها على توافر أركان جريمة تولى قيادة جماعة أسست على خلاف أحكام القانون والانضمام إليها وثبوتها في حقهم واطرح دفاعهم بأن تلك الجماعة وفقت أوضاعها طبقاً لأحكام القانون رقم ٨٤ لسنة ٢٠٠٢ بشأن الجمعيات الأهلية وذلك بموجب القرار رقم ٦٤٤ الصادر في ٢٠١٣/٣/١٩ من وزير التأمينات الاجتماعية ، فضلاً عن أن الطاعن الأول تخلى عن قيادة تلك الجماعة منذ توليه رئاسة الجمهورية خلال عام ٢٠١٢ مما تنتفى معه أركان تلك الجريمة في حقهم ، وساق الحكم مجموعة من القرائن استدلالاً على ثبوت تلك الجريمة في حقهم منها حوار تليفزيوني أجراه الطاعن الأول في فترة زمنية سابقة

٢٠١٨/١٠/٨

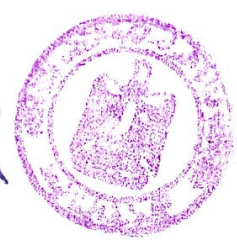
على الفترة المنسوب إليهم ارتكاب الجرائم موضوع الدعوى خلالها وكذلك ما أفادت به تحريات الأمن الوطني وهيئة الأمن القومي والتي لا تعدو سوى أن تكون مجرد رأياً لمحررها لا تصلح سنداً للإدانة وذلك دون أن يبين الحكم الأفعال والأغراض غير المشروعة التي ارتكبوها ، كما لم يدلل على توافر القصد الجنائي لديهم وعلمهم بتلك الأغراض ، هذا إلى أن الحكم لم يورد الأدلة السائغة على توافر أركان جريمة اختلاس الأوراق والوثائق التي دان بها الطاعن الأول وانصراف نيته إلى تملكها ، وكذا توافر أركان جريمة إخفاء تلك الأوراق والوثائق التي دان بها الطاعنين الثالث والرابع والسادس واطرح في هذا الشأن دفاع الطاعن الثالث بأن نقل تلك الأوراق والوثائق كان تنفيذاً لأمر رئيسه في العمل – الطاعن الأول – ووجبت عليه طاعته مما يجعل عمله مباحاً ومن ثم تنتفى أركان تلك الجريمة في حقه ، وساق الحكم تدليلاً على توافر أركان جريمة التخابر مع دولة أجنبية ومن يعملون لمصلحتها أقوالاً مرسلة لا تؤدى للقول بتوافرها فلم يبين الحكم الأدلة على حدوث هذا التخابر وما هي المعلومات موضوع التخابر وعلاقتها بأمن الدولة ومصالحها القومية ، كما لم يدلل تدليلاً سائغاً على توافر أركان جريمة الحصول على سر من أسرار الدفاع عن البلاد وعلى سعى الطاعنين إلى الحصول على ذلك السر أو إفشائه إلى دولة أجنبية واطرح دفاع الطاعن الرابع في هذا الشأن بانتفاء القصد الجنائي لديه وأنه كان يقصد نشر ما حوته تلك المستندات عندما وصلت إليه دون سعى منه على قناة الجزيرة القطرية لفضح ما سماه بالانقلاب العسكري ، كما قصر الحكم في بيان الأدلة على توافر أركان جريمتي الإعانة على الحصول على سر من أسرار الدفاع عن البلاد والتخابر اللتين دان بهما الطاعنين الخامس والسادس والسابع ، واطرح دفاع الطاعن السابع بأن ما قام به من نسخ أو تصوير

وجد للعرض
١٠/٨/٢٠١٨

اقتصر على العناوين الرئيسية لتلك المستندات والوثائق دون محتواها من معلومات تفصيلية وأنه لا يعلم بأن قناة الجزيرة القطرية تعمل لصالح المخابرات القطرية الأمر الذي تنتفي معه أركان الجريمة في حقه ، ولم يستظهر الحكم الأفعال التي أتاها الطاعنون والتي استدل منها على اشتراكهم في اتفاق جنائي الغرض منه ارتكابهم الجرائم التي دانهم بها ، وعول في قضائه على أقوال شهود الإثبات وتقارير اللجان المشكلة من قبل النيابة العامة والمحكمة دون أن يورد مؤداها على نحو كاف ووجه استدلاله بها ودون الرد على ما وجه إليها من مطاعن فلم يورد مؤدى أقوال الضابط طارق محمد صبري المستمدة من تحرياته رغم تعويله عليها ، كما عول على أقوال اللواء / عباس كامل رئيس اللجنة المشكلة من قبل المحكمة لفحص الوثائق والمستندات على الرغم مما أثاره الطاعن الثاني بشأن طلب رده عن مباشرة تلك المهمة لوجود شقاق بينهما لتوليه حالياً ذات العمل الذي كان منوطاً به من قبل ولافتقاده للحيدة والنزاهة ، كما عول في قضائه على أقوال الضابط القائم بالضبط رغم عدم مصداقيتها وانفراده بالشهادة ، واعتنق الحكم أخذاً من أقوال الشهود التي شابها الاضطراب والتناقض وعدم المصداقية صورة غير صحيحة لواقعة الدعوى ، وأغفل دفاعهم القائم على تلفيق الاتهام وكيديته واستحالة حدوث الواقعة على نحو ما قال به شهود الإثبات مدللين على ذلك بأن الطاعنين الثلاثة الأول كانوا قيد الحبس خلال تلك الفترة التي قيل باختلاس المستندات وإخفائها خلالها ، فضلاً عن عدم اختصاصهم بحفظ تلك الأوراق والمستندات بالإضافة إلى أن أياً من باقي الطاعنين لم يسع للحصول على أي سر من أسرار الدفاع عن البلاد ولم تتجه إرادة أياً منهم إلى الاتصال بدولة أجنبية أو من يعملون لمصلحتها لتسليمها تلك الأسرار أو إفشائها إليها ولم تتجه نيتهم إلى الإضرار بمركز البلاد الدبلوماسي

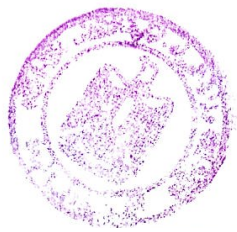


أو السياسي أو الحربي أو الاقتصادي ، واطرح الحكم برد غير سائغ ما دفع به الطاعنون من بطلان إذن النيابة العامة بالضبط والتفتيش لابتنائه على تحريات غير جدية ، واطرح برد قاصر دفع الطاعنين من الرابع حتى السابع ببطلان القبض عليهم لوقوعه قبل صدور الإذن بذلك من النيابة العامة مدللين على ذلك ببرقيات تلغرافية أرسلت من أهلية الطاعن الرابع ولم يعن بتحقيق ذلك الدفع ، كما اطرح بما لا يسوغ دفعهم ببطلان تقرير هيئة الأمن القومي الخاص بفحص المضبوطات وتحرياتهم لتجهيل مصدرها وتجاوز من قام به حدود أمر الندب الصادر له وعدم مثول من قام بإعداده أمام النيابة العامة وأمام المحكمة رغم استدعائه وعدم حلفه اليمين القانونية بالمخالفة لنص المادة ٨٦ من قانون الإجراءات الجنائية ، كما اطرح دفوع الطاعنين الرابع والخامس والسادس والسابع ببطلان الاعترافات المنسوبة إليهم كونها وليدة إكراه مادى ومعنوي وتعذيب بدنى مدللين على ذلك بما لحقهم من إصابات وتهديدات لذويهم بالإضافة إلى احتجازهم بدون وجه حق وعدم عرضهم على النيابة العامة خلال الميعاد المقرر قانوناً وإطالة أمد التحقيق معهم ولم يتحر وجه الحق في تلك الاعترافات وأنها صدرت منهم عن إرادة حرة دون إكراه أو تهديد ، كما اطرح الدفع المبدى من الطاعنين من الرابع إلى السابع ببطلان استجواباتهم من قبل النيابة العامة لعدم حضور محام مع كل منهم أثناء التحقيق بالمخالفة لنص المادة ١٢٤ من قانون الإجراءات الجنائية بما لا يتفق وصحيح القانون ، وأعرضت المحكمة عن طلبات الطاعن السادس بضم دفتر الأحوال الخاص بقطاع الأمن الوطني في الفترة من ٢٠١٤/٣/٢٣ حتى ٢٠١٤/٣/٣٠ ودفتري أحوال قسمي مدينة نصر أول وثان ودفاتر أحوال المباحث والحجز عن تلك الفترة للتدليل على احتجاز الطاعن السادس وخضوعه للتعذيب والإكراه والاستعلام



من شركتي فودافون واتصالات عن رقمي هاتفه ونطاقهما الجغرافي خلال تلك الفترة ومعاينة للشقة الخاصة به الكائنة بالحي السويسري بمدينة نصر لبيان كيفية ضبط الحقيبة التي تحوى المستندات والوثائق المضبوطة وضم كاميرات المراقبة بنيابة أمن الدولة عن يومي ١٧ ، ١٨ /٢٠١٣/١٢ والأشرطة التي تم تسجيلها وأوراق القضية رقم ٣٤١٥٠ لسنة ٢٠١٥ جنايات قسم أول مدينة نصر تدليلاً على عدم مشاركته في اعتصام رابعة العدوية والاستعلام من فندق شيراتون الدوحة عن تاريخ دخول وخروج المتهم العاشر خلال الفترة من ٢٠١٣/١٢/١٣ حتى ٢٠١٤/٣/٢٣ وسؤال المستشار عدلي منصور رئيس الجمهورية المؤقت وصفوه حجازي والضابط محمد حازم طه بقطاع الأمن الوطني عن معلوماتهم بشأن اعتصام رابعة العدوية والاستعلام عن اللجنة التي شكلت بمعرفة الشاهد الأول لاستلام المضبوطات وضم صورة رسمية من قرار الاستلام ، كما أعرضت المحكمة عن طلب دفاع الطاعن السابع بجلسة ٢٠١٥/٧/٧ الاطلاع على الإميل الخاص به تحقيقاً لدفاعه بعدم إرساله أي وثائق أو مستندات عبر بريده الكتروني ، ولم تعن بتحقيق تلك الطلبات وصولاً لوجه الحق في الدعوى ، واطرح بما لا يتفق وصحيح القانون دفع الطاعنين بعدم جواز نظر الدعوى لسابقة الفصل فيها في القضية رقم ٥٦٤٥٨ لسنة ٢٠١٣ جنايات قسم أول مدينة نصر المقيدة برقم ٢٥٢٩ لسنة ٢٠١٥ كلى شرق القاهرة والمحكوم فيها بجلسة ٢٠١٥/٦/١٥ وذلك بالنسبة للاتهام المسند إليهم بالبندين تاسعاً وعاشراً بشأن جريمة تولى قيادة جماعة أسست على خلاف أحكام القانون الغرض منها تعطيل أحكام الدستور ومنع مؤسسات الدولة من أداء عملها والانضمام إليها مع العلم بغرضها ، كما اطرح بما لا يسوغ دفعهم بعدم جواز نظر الدعوى الجنائية لسابقة صدور أمر ضمني بألا وجه لإقامة الدعوى الجنائية قبل رئيس قناة الجزيرة

القطرية (حمد بن جاسم) ، كما اطرح الحكم بما لا يتفق وصحيح القانون الدفع المبدى ببطلان التحقيقات وأمر الإحالة وإجراءات المحاكمة لعدم اختصاص المحكمة ولائياً بمحاكمة الطاعن الأول بحسبه الرئيس الشرعي للبلاد خلال تلك الفترة وأن الاختصاص بالتحقيق معه ومحاكمته ينعقد للنائب العام والمحكمة المنصوص عليها قانوناً بموجب المادة ١٥٩ من الدستور والمادة (٢٥) من القانون رقم ٢٤٧ لسنة ١٩٥٦ ، كما دفع الطاعنون ببطلان إجراءات المحاكمة بجلسة ٢٠١٦/٣/٦ لعدم حضور ممثل النيابة العامة بها بالإضافة إلى حضور محام واحد هو الأستاذ / علاء علم الدين متولى عن الطاعنين الثاني والسابع رغم تعارض مصلحتهما ، كما أنهم دفعوا بعدم دستورية أحكام المواد (٧٧ د) ، (٨٢) ، (٨٨ مكرر ج) من قانون العقوبات لمخالفتها أحكام المواد ٥٤ ، ٩٤ ، ٩٥ ، ٩٦ ، ٩٩ ، ١٨٤ ، ١٨٦ من الدستور بيد أن المحكمة بدلاً من أن توقف الدعوى وتحيلها إلى المحكمة الدستورية للفصل في دستورية تلك النصوص العقابية اطرحت الدفوع المبداه في هذا الشأن بما لا يتفق وصحيح القانون وما استقرت عليه أحكام المحكمة الدستورية في هذا الخصوص وعولت المحكمة في قضائها على تقرير دار الإفتاء المصرية على الرغم من أنه قد تجاوز في إبداء الرأى الشرعي إلى جميع المتهمين دون قصر رأيه على المتهمين الذين طلبت منه المحكمة إبداء الرأى الشرعي فيما نسب إليهم من جرائم ، ولم تعرض ذلك التقرير على بساط البحث والمناقشة ، هذا بالإضافة إلى بطلان الحكم كون المحكمة بإحالتها الأوراق لفضيلة المفتي لإبداء رأيه الشرعي بالنسبة لبعض المتهمين دون البعض الآخر تكون قد كشفت عن رأيها في الدعوى بالنسبة لهم قبل النطق بالحكم مما يجعلها غير صالحة للفصل في الدعوى وخاضت المحكمة في مدونات أسباب حكمها في أمور سياسية



بخصوص نشأة جماعة الإخوان المسلمين وتطورها التاريخي واستقت معلوماتها في هذا الشأن من مواقع الكترونية لا صلة لها بماديات الدعوى وأدلتها وهو ما كان له بالغ الأثر في تكوين عقيدتها نحو إدانة الطاعنين مما يفقدها الحيدة والصلاحية للفصل في الدعوى وشاب الحكم التناقض إذ عول في قضائه على أقوال الضابط بالأمن الوطني محمد عبد الرحمن على الرغم من أنه قرر بأقواله أنه لم يقم بإجراء تحريات بشأن جماعة الإخوان المسلمين عن الفترة من ٢٠١٣/٦/١ حتى ٢٠١٣/٦/٣٠ كما أن الحكم بعد أن استدل على ثبوت جريمة التخابر في حق المتهمين من حصولهم على مبالغ مالية من العاملين بالمخابرات القطرية وقناة الجزيرة عاد وخلص إلى عدم حصول الطاعن السادس على ثمة مبالغ لنفسه ، كما استند الحكم إلى أقوال شهود الإثبات وتقارير اللجان المشكلة للفحص في إدانة الطاعنين ثم عاد واطرحها لدى قضائه ببراءتهم من بعض الاتهامات الأخرى ، كما استند في قضائه بالإدانة إلى تحريات الأمن الوطني وهيئة الأمن القومي ثم عاد واطرحها لدى قضائه بالبراءة من اتهامات أخرى ، كما قضت المحكمة بإدانة الطاعنين بالاتفاق الجنائي على الرغم من القضاء بعدم دستورية نص المادة ٤٨ من قانون العقوبات في الدعوى رقم ١١٤ لسنة ٢١ قضائية دستورية ، كما أن المحكمة بعد أن عدلت وصف الاتهام وأسندت الاشتراك في اتفاق جنائي للمتهمين الأول والثالث والرابع والسادس دون الثاني والخامس والسابع عادت في موضع آخر وتحدثت عن اشتراكهم جميعاً في اتفاق جنائي الغرض منه ارتكابهم الجرائم موضوع الاتهام والتي دينوا بها مما ينبئ عن اضطراب الواقعة في ذهن المحكمة وعدم إحاطتها بها بصورة كافية ، وعدلت المحكمة وصف الاتهام بالتخابر المسند للطاعن الخامس إلى أنه قدم إعانة للمتهمين الرابع والعاشر للقيام بعمل ضار

٢٠١٨/٧/٨

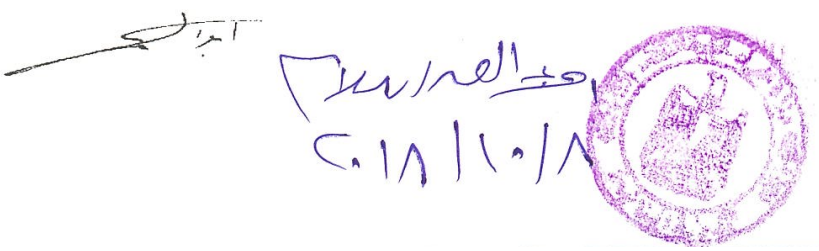
بالمصلحة القومية للبلاد ، كما عدلت وصف الاتهام بالحصول على سر من أسرار الدفاع عن البلاد والتخابر المسند للمتهمين السادس والسابع إلى أنهما أعانا المتهمين الرابع والعاشر على ارتكاب هاتين الجريمتين وذلك دون أن تنبه المتهمين بما أجرته من تعديل ليبدوا دفاعهم على أساس القيد والوصف الجديد ، كما أن ما أجرته المحكمة من تعديل على النحو المتقدم ليس مجرد تعديل لوصف الاتهام وإنما هو إضافة وقائع جديدة لم ترفع بها الدعوى ومحاكمة الطاعنين عنها وهو ما يعد تصدياً من المحكمة بالمخالفة لحكم المادة ١١ من قانون الإجراءات الجنائية ، وأعمل الحكم في حق الطاعن السادس حكم المادة ٣٢ من قانون العقوبات لوحدة الغرض الإجرامي ومع ذلك أوقع عليه عقوبتين مستقلتين عن الجريمتين المؤثمتين بالمادتين ٨٠ ، ٨٢ من قانون العقوبات ولم يعمل الحكم في حق الطاعنين حكم المادة ٣٢ من قانون العقوبات وأفرد عقوبة مستقلة لكل منهم عن جريمة تولى قيادة جماعة إرهابية والانضمام إليها على الرغم من ارتباطها ببقية الجرائم التي دانهم بها كونها جميعاً وليدة نشاط إجرامي واحد وانتظمتها خطة إجرامية واحدة ، ذلك كله مما يعيب الحكم المطعون فيه بما يستوجب نقضه .

وحيث إن الحكم المطعون فيه في سياق بيانه واقعات الدعوى عرض لتاريخ نشأة جماعة الإخوان المسلمين وهيكلها التنظيمي وأهدافها ثم أورد قوله : " ..... أن محمد محمد مرسى عيسى العياط (المتهم الأول) تولى قيادة في هذه الجماعة فقد أصبح عضو مكتب الإرشاد بها ومسئول القسم السياسي المركزي وهو أحد الأقسام النوعية بالجماعة والعضو المسئول عن اللجنة البرلمانية وعضو مكتب الإرشاد العالمي مما جعل له السيطرة على أعضاء الجماعة وطاعته عليهم واجبه فيما يصدره من تكليفات ، وكان يتم الرجوع إليه في شئون التنظيم عند غياب المرشد

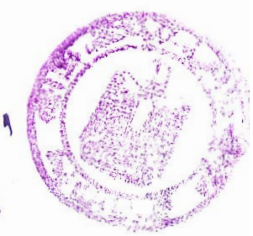
العام للجماعة وذلك حسبما أقر في العديد من الأحاديث الإعلامية المسجلة والتي قرر في إحداها على قناة الجزيرة القطرية بتاريخ ٢٠١٣/٤/٢٠ أنه نشأ في الإخوان المسلمين ويعتز بانتمائه لها وأنه كان رئيساً لحزب الحرية والعدالة الذي أنشأته جماعة الإخوان المسلمين وترشحه لرئاسة الجمهورية من قبل ذلك الحزب ومن جماعة الإخوان المسلمين كما تولى المتهمان أحمد محمد عبد العاطي (الثاني) وأمين عبد الحميد أمين الصرفي (الثالث) قيادة في ذات الجماعة إذ كانا عضوين بلجنة الاتصال بالعالم الخارجي المنوط بها الاتصال بمختلف الدول التي يتواجد بها التنظيم الدولي للإخوان المسلمين والتنسيق مع أجنحة الجماعة بالخارج وهي بمثابة همزة الوصل بين مكتب الإرشاد في مصر وفروع التنظيم بالخارج وكانا يمثلان الجماعة في اللقاءات الخارجية ويرفعان تقاريرهما عن الجماعة في الدول الأجنبية لمكتب الإرشاد وقد ثبت ذلك من خلال تقارير اجتماعات الهيئة العامة للجهاز الطلابي للتنظيم الدولي لجماعة الإخوان المسلمين والتي ضبطت بمنزل المتهم أمين الصرفي ومنها اجتماع بمدينة كوالا لامبور في ماليزيا بتاريخ ٢٠١٠/٣/٢ الذي حضره أحمد عبد العاطي بصفته عضو الهيئة العليا للجهاز الطلابي ومسئولي العمل الطلابي من مختلف الأقطار وانتهى الاجتماع إلى إصداره عدة قرارات منها تعيين أحمد عبد العاطي مسئولاً عن لجنة التدريب والدعم الفني وترشيحه لتولى منصب الأمين العام للإفسو والموافقة على عقد الجمعية العامة للإفسو في إندونسيا وقطر على التوالي وشملت الأهداف المقترحة لخطة العمل الطلابي خلال الفترة من ٢٠١٢ حتى ٢٠١٦ والتي جاء على رأسها ترسيخ عالمية الجماعة تصوراً وتبيناً وهيكلة وتنفيذاً وتحقيق تقارب وتجانس البرامج التربوية لكافة أجزاء الحركة وإعلاء الانتماء للجماعة عالميًا فقهًا وشعورًا وممارسةً وزيادة فعالية التنظيم العالمي

عبد العزيز
٢٠١٨/١٠/٨

من خلال ربط خطط الأقطار بالرؤية العامة وتنمية الموارد لكفاية أعمال التنظيم العالمي وتطوير هيكلة التنظيم بما يتوافق مع المستجدات والاحتياجات ، وفي عام ٢٠١١ استغلت الجماعة الحراك السياسي في مصر وكثفت من نشاطها وتمكنت من الوصول إلى سدة الحكم من خلال تولى (المتهم الأول) محمد مرسى رئاسة الجمهورية الذي استمر على علاقته بجماعة الإخوان المسلمين وأمر بتعيين المتهمين الثاني والثالث المنتميين للجماعة موظفين عموميين بمقر رئاسة الجمهورية رغم عدم خبرتهما فتولى أولهما منصب مدير مكتب رئيس الجمهورية بموجب القرار الجمهوري رقم ٢٠ لسنة ٢٠١٢ وعين ثانيهما بمنصب السكرتارية الخاصة بموجب القرار رقم ٧٠ لسنة ٢٠١٣ الصادر من مساعد رئيس ديوان رئيس الجمهورية للشئون المالية بتاريخ ٢٠١٣/٢/٢٧ والتعاقد معه بمسمى وظيفة كيميائي بالمكافأة الشاملة وتم إلحاقه بالسكرتارية الخاصة وتأشر على أوراق تعيينه بعدم الاستعلام عنه أمنياً كما قام بتعيين بعض أعضاء الجماعة في المناصب القيادية بالقصر الجمهوري نفاذاً لتعليمات مكتب الإرشاد حسبما جاء بتحريات الأمن القومي وهم أحمد محمد محمد عبد العاطي (مدير مكتب رئيس الجمهورية) وعبد المجيد مشالي وعصام أحمد محمود الحداد (مساعد رئيس الجمهورية للعلاقات الخارجية والتعاون الدولي) ، ومحى حامد محمد سيد أحمد (مستشار رئيس الجمهورية للتخطيط والمتابعة) ومحمد فتحي رفاعه الطهطاوي (رئيس ديوان رئاسة الجمهورية) وأسعد محمد أحمد شيخه (نائب رئيس ديوان رئاسة الجمهورية) وعمد إلى مخالفة القوانين فأصدر القرار الجمهوري رقم ٣٨٦ لسنة ٢٠١٢ والذى يتضمن إعلاناً دستوريًا جعل بموجبه قراراته محصنة عن رقابة القضاء كما قام بإقالة النائب العام وتعيين آخر رغم عدم قابلية النائب العام للعزل وأساء استخدام السلطات المخولة له



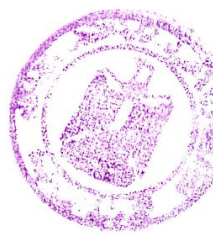
بصفته رئيسًا للبلاد فأصدر قرارات جمهورية بالعفو عن محكوم عليهم بعقوبات جنائية بأحكام باتة حائزة لقوة الأمر المقضي مثل القرار رقم ٧٥ لسنة ٢٠١٢ بالعفو الشامل عن ٢٦ متهمًا وتخفيف العقوبة عن متهم واحد وجميعهم كانوا متهمين بالاتفاق الجنائي والانضمام لجماعة محظورة وهي القضية التي عرفت إعلاميًا بقضية التنظيم الدولي للإخوان ، ونصت المادة الثانية من القرار على إعفاء ثلاثة وعشرين سجينًا من العقوبة الأصلية أو ما تبقى منها وكانوا متهمين بالانضمام لجماعة محظورة والاشتراك في اتفاق جنائي والقتل والتزوير وحيازة أسلحة وذخيرة ، كما أصدر قرارات بالعفو عن متهمين هاربين دون اتخاذ إجراءات إعادة محاكمتهم بالمخالفة للقانون ومنهم وجدي غنيم ، وعوض محمد سعد ، وإبراهيم منير عضو مكتب الإرشاد بجماعة الإخوان ، وأمين عام التنظيم الدولي للإخوان ، كما أصدر القرار الجمهوري رقم ١٢٢ في ١٦ أغسطس ٢٠١٢ بالعفو عن سبعة وخمسين سجينًا في قضايا متنوعة كالتخريب وتعطيل المواصلات والسرقة والمخدرات والتزوير والنصب وإحراز مفرقعات وإحراز سلاح وما لبث أن بدأ حراك سياسي في البلاد معارضًا بقائه في الحكم بعد فشله في إدارة شئون البلاد وطالب الشعب بإقصائه عن الحكم فقامت قيادات جماعة الإخوان بتكليف أعضائها بتنظيم المظاهرات والمسيرات التي أخذت تجوب أنحاء البلاد يدعون إلى بقائه في السلطة واعتصم بعضهم في الميادين العامة في مختلف أنحاء البلاد ومنها اعتصامًا مفتوحًا بميدان رابعة العدوية دائرة قسم أول مدينة نصر والذى بدأ في ٢٠١٣/٦/٢٨ وتولى القياديون بالجماعة مهمة الإشراف على الاعتصام والمطالبة باستمرار المتهم الأول في الحكم إلا أن محاولاتهم باءت بالفشل وثار الشعب في ٣٠ يونية ٢٠١٣ وخرج بجميع طوائفه يطالب بإقصائه عن الحكم وانحاز الجيش إلى جانب الشعب



وأصدر خارطة الطريق في ٢٠١٣/٧/٣ متضمنة عزله من رئاسة الجمهورية وتعطيل العمل بالدستور وتكليف رئيس المحكمة الدستورية بإدارة البلاد فاشتاطت الجماعة غضبًا وعملت على الضغط على القائمين على إدارة شئون البلاد لإعادته إلى الحكم باستخدام القوة والعنف والتهديد والترويع فقام أعضاؤها بالإخلال بالنظام العام وتعريض سلامة المجتمع وأمنه للخطر من خلال تنظيم المسيرات والمظاهرات في مختلف أنحاء البلاد تجوب الشوارع والميادين وتروع الأهالي وتعتدى عليهم وعلى الممتلكات العامة والخاصة وارتكب المعتصمون المنتمون لجماعة الإخوان المسلمين العديد من الجرائم بمنطقة رابعة العدوية فاعتدوا على الحرية الشخصية للمواطنين المقيمين بالعقارات الواقعة بمنطقة الاعتصام وعرضوا حياتهم وأمنهم للخطر حيث كان يتم استيقافهم وتفتيشهم والاطلاع على بطاقاتهم الشخصية عند دخولهم لمحال إقامتهم وكان بعضهم يحمل أسلحة نارية وبيضاء وكونوا مجموعات أمن وأمسكوا بعصى لفرض سيطرتهم وسطوتهم وقاموا بالاعتداء بالضرب على من يرفض الخضوع لأوامرهم كما ألحقوا الضرر بالبيئة فقاموا بتحطيم الضبانات (الأرصفة) واستخدام ناتج الكسر في إقامة المتاريس واحتلوا الحدائق وأتلفوا الأشجار والمزروعات وأقاموا مجموعة من الخيام ودورات المياه في نهر الطريق وعرقلوا دخول رجال النظافة لرفع المخلفات ومنعوا وسائل المواصلات العامة والخاصة من المرور بأن قاموا بغلق الطرق العامة المؤدية إلى منطقة الاعتصام من طريق النصر حتى تقاطعه مع شارع أحمد تيسير وحتى شارع يوسف عباس وشارع الطيران حتى تقاطعه مع شارع ابن فضلون وبعض الشوارع الخلفية مثل شارع أنور المفتي وقاموا بمنع مؤسسات الدولة والسلطات العامة من ممارسة أعمالها فمنعوا رجال الشرطة من الدخول إلى المنطقة

التي قاموا باحتلالها لممارسة أعمالهم في حفظ الأمن والنظام وقاموا بالاعتداء على من حاول منهم الدخول إليها كما قاموا بمنع إقامة العبادات فاحتلوا مسجد رابعة العدوية وحولوه إلى أماكن للإيواء خاصة بهم مما أدى إلى منع المواطنين من دخول المسجد لأداء صلاتهم وعطلوا العملية التعليمية واحتلوا المدرسة الفندقية بمدينة نصر ومدرسة عبد العزيز جاويش الكائنتين بمنطقة الاعتصام والتابعتين لمنطقة مدينة نصر التعليمية وعطلوا الدراسة فيهما واستولوا على مبانيهما وحولوهما إلى أماكن للإيواء والإقامة الدائمة لهم وقاموا ببناء دورات المياه في فنائهما وتدمير أثاثهما مما أدى إلى تعذر إجراء امتحانات الدور الثاني بالأماكن المعدة لها وتعذر مزاولة الأنشطة الصيفية المعتادة ، الأمر الذي أدى إلى إشاعة الفوضى وتعطيل العمل بالقانون في تلك المنطقة والإضرار بالسلام الاجتماعي وتحرر عن ذلك عدة محاضر بدائرة قسم مدينة نصر أول وكان ذلك بتعليمات قيادات الجماعة الذين كانوا على علم تام بالأعمال الإرهابية التي يقوم بها أعضاؤها في رابعة العدوية وفى غيرها من المناطق التي احتلوها للضغط على المسئولين عن إدارة البلاد لإعادة المتهم الأول إلى سدة الحكم ، وقد انضم لهذه الجماعة المتهمون أحمد على عبده عفيفي (الرابع) وخالد حمدي عبد الوهاب أحمد رضوان (الخامس) ، ومحمد عادل حامد كيلاني (السادس) ، وكريمة أمين عبد الحميد أمين الصرفي (الثامنة) ، وأسماء محمد الخطيب (التاسعة) ، وعلاء عمر محمد سبلان (العاشر) ، وإبراهيم محمد هلال (الحادي عشر) وقاموا بأنشطة مادية تعبر عن إرادتهم المتجهة إلى الانخراط في عضويتها والإسهام في أعمالها التنفيذية مع علمهم بالغرض الذي تدعو إليه وأن الإرهاب من الوسائل التي تستخدمها تلك الجماعة في تنفيذ أغراضها بأن قاموا بتنفيذ التكليفات التي تصدر لهم من قيادات الجماعة بالاشتراك في الاعتصامات

والمسيرات التي أخذت تجوب شوارع القاهرة مدججة بالأسلحة النارية والبيضاء وزجاجات المولوتوف وكان المتهم أحمد على عبده عفيفي (الرابع) مسئولاً عن الإعاشة وتوزيع الأغذية على المعتصمين في رابعة العدوية والمشرف على المنصة الرئيسية بتكليف من قيادات جماعة الإخوان المسلمين بينما كان المتهم خالد حمدي (الخامس) عضواً بإحدى الأسر في الهيكل التنظيمي للجماعة بقرية أبشواي مركز قطور ويواظب على حضور اجتماعها الأسبوعي وحضر اعتصام رابعة العدوية وقام بتصوير أحداثه وشارك المتهم محمد عادل حامد كيلاني (السادس) في اعتصام رابعة العدوية وتردد عليه كثيراً وتعرف أثناء ذلك على المتهم أحمد على عبده عفيفي لكونه أحد مسئولي الاعتصام وأمده بمبلغ سبعمائة جنيه لشراء وجبات طعام للمعتصمين وكان يشارك أحياناً في توزيعها عليهم وشاركت المتهمة كريمة الصرفي (الثامنة) في اعتصام رابعة العدوية وتعرفت على المتهمة أسماء الخطيب (التاسعة) التي كانت تتردد على الاعتصام وتعمل بشبكة رصد واشتركا سوياً في المسيرات وبالنسبة للمتهم علاء عمر سبلان (العاشر) كان يقوم بعمل أفلام وثائقية مفبركة مؤيدة لجماعة الإخوان ويقوم ببيعها لقناة الجزيرة المعارضة لنظام الحكم في مصر ، كما أكدت التحريات انضمام المتهم إبراهيم محمد هلال (الحادي عشر) لجماعة الإخوان المسلمين مع علمه بأغراضها وأن الإرهاب من الوسائل التي تستخدمها في تحقيق أغراضها وأنه وباقي المتهمين كانوا يحضرون اللقاءات الدورية للجماعة ، وقد طلب المتهم محمد مرسى حال شغله لمنصب رئيس الجمهورية في أوائل شهر يوليو عام ٢٠١٢ من اللواء نجيب عبد السلام قائد قوات الحرس الجمهوري معلومات تتعلق بالقوات المسلحة فأعد له عدة وثائق ورسوم وخرائط عسكرية تحوي معلومات عن القوات المسلحة وتشكيلاتها وتحركاتها وعتادها



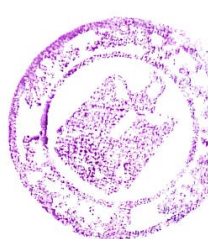
وتموينها وأفرادها وتمس الشئون العسكرية والاستراتيجية وتعد من أسرار الدفاع التي يجب لمصلحة الدفاع عن البلاد ألا يعلم بها إلا من يناط بهم حفظها أو استعمالها والتي يجب أن تبقى سراً على من عداهم وهي : ١- تشكيل القوات البرية المصرية ، ٢- السياج الأمني المقرر إنشائه من قبل إسرائيل على الحدود المصرية ، ٣- البيانات الأساسية عن دولة إسرائيل ، ٤- الحجم العام للقوات الإسرائيلية ، ٥- مراكز القيادة والسيطرة بإسرائيل ، ٦- كروكي الجدار العازل لفصل القدس ، ٧- رسم كروكي لكشف ملامح من جدار الموت المصري ، ٨- المعلومات الميسرة عن السياج الأمني المقرر من قبل إسرائيل على الحدود المصرية ، ٩- المقترحات الإسرائيلية لتبادل الأراضي ، ١٠- خرائط (قطاع غزة – المعابر الحدودية – أحياء رئيسية في قطاع غزة – تأمين قطاع غزة بقوات حماس – النقاط الحدودية لقطاع غزة) ، ١١- حجم القوات المتعددة الجنسيات المتواجدة بشبه جزيرة سيناء ، ١٢- حجم وأوضاع القوات المصرية والإسرائيلية وعناصر القوات المتعددة الجنسيات طبقاً لمعاهدة السلام ، ١٣- التواجد العسكري الأمني الأمريكي بالمنطقة ، ١٤- تشكيل القوات الخاصة الإسرائيلية ، ١٥- تطورات الأوضاع على الحدود المصرية مع قطاع غزة ، ١٦- أماكن تواجد الفلسطينيين عقب اقتحام معبر رفح البري ، وقد تم إعداد تلك الوثائق بمعرفة إدارة استطلاع الحرس الجمهوري وعرضت عليه باعتباره رئيساً للجمهورية والقائد الأعلى للقوات المسلحة فاحتفظ بها لنفسه ولم يقم بإعادتها على الرغم من طلبها منه عدة مرات بمعرفة اللواء نجيب عبد السلام وتغيرت نيته في حيازتها وتصرف فيها باعتباره مالكاً لها واحتفظ بها قاصداً حرمان مالكها منها مع علمه بمدى خطورة تلك الوثائق والمستندات وأنها تمس الأمن القومي للبلاد وتحتوى على أسرار ومعلومات عسكرية تشكل

خطورة وتعطي للمطلع عليها انطباعًا واستنتاجًا عن عناصر القوات العسكرية المصرية وحجمها وأن المعلومات الواردة بها تحمل درجة سري للغاية وتعد من أسرار الدفاع التي لا يجوز اطلاع غير المختصين عليها أو تداولها أو نقلها خارج الرئاسة وأنه يجب حفظ هذه الوثائق والمستندات في إدارة الحفظ بالحرس الجمهوري ووجودها خارج الحفظ أمر يشكل خطورة على الأمن القومي المصري ، كما قام أحمد محمد محمد عبد العاطي (المتهم الثاني) الذي كان يشغل منصب مدير مكتب رئيس الجمهورية بمقتضى القرار الجمهوري رقم (٢٠) لسنة ٢٠١٢ بإرسال الكتاب رقم (١٢٥٩) بتاريخ ٢٠١٢/٧/١٦ إلى المخابرات العامة والأمن الوطني وهيئة الرقابة الإدارية يتضمن التوجيه بإرسال مكاتبات الرئاسة داخل مظروف باسمه مغلق ومختوم من الخارج بدرجة سرية " سري للغاية وشخصي ولا يفتح إلا بمعرفته " ، وأرسل صورة من ذلك الكتاب إلى كل من اللواء عبد المؤمن فودة " كبير الياوران " ، ومصطفى الشافعي المشرف على مكتب رئيس ديوان رئيس الجمهورية " ، فوردت إليه وثائق ومستندات من تلك الجهات تحوى معلومات سياسية ودبلوماسية واقتصادية وصناعية ومعلومات تتعلق بالتدابير والإجراءات الأمنية والتي بحكم طبيعتها لا يعلمها إلا الأشخاص الذين لهم صفة في ذلك ويجب مراعاة لمصلحة الدفاع عن البلاد أن تبقى سراً وتحمل درجات سرية مختلفة وكانت جميع تلك المكاتبات تسلم لأحمد عبد العاطي في مظاريف مغلقة ولا يتم فتحها إلا بمعرفته طبقاً لتعليماته بصفته الوظيفية كمدير لمكتب رئيس الجمهورية ثم يقوم هو بالتصرف في محتوى هذه المظاريف سواء من حيث العرض على رئيس الجمهورية آنذاك أو الرد عليها أو حفظها في خزينة خاصة داخل مكتبه ويحتفظ بمفاتيحها معه ومع المتهم الثالث أمين الصرفي وعند ظهور بوادر الحراك السياسي في البلاد ورفض الشعب لحكم

المتهم الأول أصدر رئيس ديوان رئيس الجمهورية آنذاك (رفاعة الطهطاوي) منشورًا يتضمن عدة إجراءات لمجابهة الأحداث المتوقعة في ٣٠ يونيو ٢٠١٣ ومنها نقل جميع الأوراق والمستندات المتواجدة بقصر الاتحادية إلى أماكن حفظها بقصري عابدين والقبة ، وعرض القرار على المتهم الأول فعلم به ووافق عليه ، إلا أنه احتفظ بالوثائق والتقارير العسكرية التي سلمها إليه اللواء نجيب عبد السلام قائد قوات الحرس الجمهوري السابق والتي كانت في حيازته بسبب وظيفته ولم يسلمها لمكان حفظها بإدارة قوات الحرس الجمهوري مع علمه بخطورتها وأنها تتضمن معلومات عسكرية عن القوات المسلحة وتشكيلاتها وتحركاتها العسكرية والاستراتيجية وأنه يجب مراعاة لمصلحة الدفاع عن البلاد أن تبقى سراً لا يعلم بها إلا من يناط بهم حفظها أو استعمالها خشية أن تؤدي إلى إفشاء ما تتضمنه من أسرار واحتفظ بها لنفسه وكأنها ملك له وأعطاها لأمين الصرفي (المتهم الثالث) الذي قام بإخفائها ، كما قام بإخفاء بعض الوثائق والمستندات والمكاتبات الخاصة بمكتب رئيس الجمهورية والواردة من الجهات السيادية بالبلاد – المخابرات العامة ، وقطاع الأمن الوطني ، وهيئة الرقابة الإدارية – والمتضمنة معلومات عن سياسات الدولة الخارجية والداخلية وتحمل درجات مختلفة من السرية ومن شأنها التأثير على المصالح القومية للبلاد وتعد من أسرار الدفاع والتي كان يتم حفظها في خزانة خاصة في مكتب مدير مكتب رئيس الجمهورية وقام بوضعها والأوراق التي حصل عليها من المتهم الأول في حقيبة سمسونايت مغلفة بورق بيج اللون وعليه خاتم السكرتارية الخاص برئاسة الجمهورية باللون الأحمر ونقلها من مكان حفظها برئاسة الجمهورية قاصداً إخفائها في مكان بعيد عن الأنظار في منزله الكائن بالتجمع الأول بمنطقة القاهرة الجديدة مع علمه بأن الوثائق والمستندات التي يخفيها تتعلق بأمن

٢٠١٨/١٠/٨

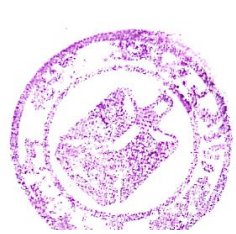
الدولة ومصالحها القومية وصيانة سلامها ودفاعها الحربى والمدني وأنه يحظر نقلها من أماكن حفظها وعلى إثر نجاح ثورة الثلاثين من يونيو وانهيار تنظيم الإخوان داخلياً وضبط العديد من قياداتهم ، وفي غضون شهر أكتوبر ٢٠١٣ قامت المتهمة كريمة أمين الصرفي (الثامنة) ابنة المتهم الثالث والمقيمة معه في مسكنه بالتجمع الأول بأخذ الحقيبة التي تحوى المستندات آنفة البيان مع علمها بطبيعتها وبأنها وثائق ومستندات تحوى معلومات حربية وسياسية ودبلوماسية واقتصادية وصناعية ومعلومات تتعلق بالتدابير والإجراءات الأمنية والتي يجب مراعاة لمصلحة الدفاع عن البلاد أن تبقى سراً وتحمل درجات سرية مختلفة ، وبعد الاطلاع عليها قامت بتسليمها لأسماء محمد الخطيب (التاسعة) والتي كانت قد تعرفت عليها أثناء مشاركتهما في المسيرات واعتصام رابعة العدوية ، وأعطتها الحقيبة التي تحوى المستندات لإخفائها لديها بعد أن أودعت بها خطابات والدها وأغلقتها بمفتاح احتفظت به لديها إلا أن الشيطان أوعز لأسماء الخطيب باغتنام الفرصة وبيع أسرار الوطن في سوق الخيانة لمن يدفع الثمن ففضت الحقيبة واطلعت على ما بداخلها من وثائق ومستندات تحوى أسرار الدفاع ، وأخبرت المتهم علاء عمر محمد سبلان (العاشر) – وهو أردني الجنسية من أصل فلسطيني ويعمل مراسلاً بالقطعة لدى قناة الجزيرة – بما حصلت عليه من أوراق خاصة برئاسة الجمهورية تحوى معلومات عسكرية ومعلومات تتعلق بأمن الدولة وبمصالحها القومية وأنظمتها الداخلية ومصالحها وحقوقها في مواجهة الدول الأخرى وأفضت إليه برغبتها الشيطانية في بيع تلك الأوراق لقناة الجزيرة القطرية التي تعمل لمصلحة دولة قطر وتحظى بتأييدها والمعروفة بموقفها العدائي من مصر بعد ثورة الثلاثين من يونيو فوافقها وسارع بالاتصال بصديقه رأس الأفعى المتهم أحمد على عبده عفيفي (الرابع)



الذي يعمل منتج أفلام وثائقية وضرب له موعداً أمام مسجد الحصري بمدينة السادس من أكتوبر وتقابل معه وبرفقته أسماء الخطيب وأخبراه بما لديهما من مستندات يرغبان في نشرها على قناة الجزيرة القطرية والتي تعمل لصالح دولة قطر وطلب منها الأوراق وأبلغته أسماء أن الحقيبة لديها في المنزل ولكنها تخشى من نقلها في سيارة أجرة فقام بالاتصال بصديقه محمد عادل حامد كيلاني (المتهم السادس) وكلفه بمقابلة المتهمين أسماء الخطيب وعلاء سبلان على الطريق الدائري واستقلا معه سيارته الخاصة وأحضروا المستندات من منزل المتهمة أسماء ، ثم توجهوا إلى منزل صديقه خالد حمدي رضوان (المتهم الخامس) في الحي الحادي عشر بمدينة السادس من أكتوبر ، وقاموا جميعاً بفتح الحقيبة فوجدوا بها أوراقاً تعد من أسرار الدفاع وهي تقرير كامل من المخابرات الحربية للعرض على رئيس الجمهورية يحوى جميع المعلومات التفصيلية عن تسليح الجيش المصري وأعداد القوات المسلحة المصرية الموجودة في سيناء وحجمها وأماكن تمركزها داخل سيناء ، ومعلومات تفصيلية عن الجيش الإسرائيلي وتسليحه وتمركز القوات على الحدود مع مصر ، وتقرير من المخابرات عن أعضاء الكنيست الإسرائيلي وبياناتهم وانتماءاتهم الحزبية ، وتقارير لهيئة الرقابة الإدارية عن كبار الموظفين في الدولة ، وتقرير محرر بخط اليد من (رفاعة الطهطاوي) الذي كان يشغل منصب رئيس ديوان رئيس الجمهورية الأسبق عن العلاقات بين مصر وإيران والتقارب بينهما ، وتقرير عن القصور الرئاسية التي سوف ينتقل إليها المتهم الأول هو وأسرته على ضوء تطورات الأحداث قبل ٣٠ يونيو ٢٠١٣ ، وغيرها من مراسلات واردة من جهات سيادية بالدولة باسم أحمد عبد العاطي (المتهم الثاني) ، ومن ثم فقد تحقق لهم العلم بأن الأوراق تحوى معلومات حربية وسياسية

ودبلوماسية واقتصادية وصناعية وتتعلق بالدفاع عن البلاد وأمن الدولة الخارجي والداخلي ، وأنها من الأوراق التي لا يجوز لهم حيازتها أو الاطلاع عليها وذلك من واقع رؤيتهم لها ومطالعتهم لمحتواها وعلمهم بطبيعة ما تحويه من معلومات وما دون عليها من درجات السرية المختلفة التي تحظر تداولها إلا بين المختصين وأنهم حصلوا عليها بطريق غير مشروع وبدلًا من ردها إلى الجهات المختصة اتجهت نيتهم إلى تسليمها لقناة الجزيرة القطرية فقام المتهم علاء سبلان بالسعي إلى قناة الجزيرة القطرية المعترف بها من دولة قطر والتي تعمل لمصلحتها ليسلم إليها الأوراق التي حصل عليها وتحوى أسرار الدفاع إضراراً بالمصالح القومية لمصر فتخابر معها من خلال الاتصال بأحد العاملين بها وهو إبراهيم محمد هلال (المتهم الحادي عشر) رئيس قطاع الأخبار بها وأخبره بمحتوى الوثائق والمستندات التي بحيازته وما تحويه من أسرار الدفاع وأبدى استعداده صراحة لتسليم تلك الوثائق والمستندات إلى قناة الجزيرة القطرية وأرسل له العناوين الرئيسية لتلك الوثائق عبر البريد الإلكتروني الخاص به : Alaasablan@gmail.com & Alaasablan@yahoo.com ، وطلب منه إبراهيم هلال الحضور إلى دولة قطر لمقابلة المسئولين في قناة الجزيرة فأسرع بالسفر إلى الدوحة في يناير ٢٠١٤ وتقابل مع إبراهيم هلال بأحد فنادق الدوحة وحضر معه رئيس قناة الجزيرة القطرية التي تعمل لمصلحة دولة قطر وضابط من المخابرات القطرية يمثل دولة قطر واتفقوا على أن يلتزم علاء سبلان بتسليم أصول تلك المستندات إضراراً بالمصالح القومية للبلاد وذلك مقابل وعد بعطية مبلغ مليون دولار أخذ منها مبلغ خمسين ألف دولار وتم تعيينه كمعد لبرنامج المشهد المصري بقناة الجزيرة بقطر مع علمه أنه يتخابر مع من يمثل دولة أجنبية

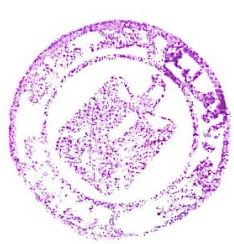
وهو ضابط المخابرات القطرية الذي يمثل دولة قطر ومع من يعمل لمصلحتها وهو رئيس قناة الجزيرة القطرية وأن من شأن فعله الإضرار بمركز البلاد الحربي والاقتصادي والسياسي والدبلوماسي وبادر بالاتصال بشريكه أحمد على عبده عفيفي وأبلغه بما تم في لقائه مع ضابط المخابرات القطرية ومع رئيس قناة الجزيرة التي تعمل لمصلحتها وطلب منه العمل على إرسال أصول الوثائق والمستندات التي تحوى أسرار الدفاع والسابق تسليمها إليه وأرسل له عشرة آلاف دولار من مقدم المبلغ الذي حصل عليه بمعاونة المتهم خالد حمدي رضوان (الخامس) الذي كلف من يدعيا عبد المجيد السقا ومصطفى خليل الدمساوي بإرسال المبلغ باسميهما من دولة قطر لحسابه وباسم " خالد حمدي رضوان " (الخامس) مسحوباً على شركة ويسترن يونيون تجنباً للملاحقة الأمنية ثم توجه خالد حمدي رضوان (الخامس) إلى شركة ويسترن يونيون بميدان الحصري في السادس من أكتوبر لصرفها وتم تحويله إلى البنك العربي الإفريقي حيث قام بصرف المبلغ وتغييره إلى العملة المحلية وسلمه للمتهم أحمد عفيفي (الرابع) مع علمه بنية المتهمين وبأن المبلغ نظير تسريب وثائق تحوى أسرار الدفاع ، ثم طلب أحمد على عبده عفيفي (المتهم الرابع) من المتهم أحمد إسماعيل ثابت إسماعيل (السابع) مساعدته في تصوير المستندات وإرسالها إلى قطر نفاذاً لاتفاقهما سلفاً مع علاء سبلان فعاونه على ذلك وقام بنسخ الوثائق والمستندات التي تحوي أسرار الدفاع وإرسالها إلى علاء سبلان في قطر عبر البريد الإلكتروني مع علمه بخطورة المعلومات التي تحويها على الأمن القومي المصري وبنية المتهمين في بيعها إلى ممثل دولة قطر ونسخ لنفسه صورة منها على ذاكرة تخزين " فلاش ميموري " احتفظ لنفسه بصورة منها بغير قصد تسليمها إلى دولة أجنبية مع علمه بأنه تم الحصول على تلك الوثائق التي تحوي



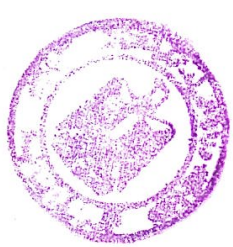
أسرار الدفاع بوسيلة غير مشروعة ، ثم اتصل أحمد عفيفي بالمتهم محمد عادل حامد كيلاني (السادس) الذي يعمل مضيفًا جوياً بشركة مصر للطيران وطلب منه معاونتهم في تسليم الأوراق التي تحوي أسرار الدفاع لعلاء سبلان في قطر فوافق مع علمه بنية المتهمين في تسريب الوثائق والمستندات إلى ممثل دولة أجنبية نظير مبلغ من المال وتسلم حقيبة الوثائق والمستندات واطلع عليها وعلم بخطورة وطبيعة المعلومات التي تحويها تلك المستندات وأنها تحوى أسرار الدفاع وأنه سيقوم بتسليمها إلى من يعملون لمصلحة دولة أجنبية بقصد الإضرار بمركز البلاد الحربي والاقتصادي والسياسي والدبلوماسي وقام بإخفائها في شقته الكائنة ٦٣ ب الحي السويسري تمهيداً لتوصيلها إلى قطر وطلب من المختص بشركة مصر للطيران تعديل جدول رحلته المقررة سلفًا من دبي إلى مطار الدوحة بقطر وأخبر المتهم علاء سبلان (العاشر) بذلك فأجابه بأن ضابط من المخابرات القطرية سيكون في انتظاره في مطار الدوحة ويمكنه الصعود للطائرة ويتسلم منه الحقيبة التي تحوى المستندات وكلفه المتهم أحمد على عبده عفيفي أن يحضر له مبلغ عشرة آلاف دولار من علاء سبلان ، وكان في سبيله لنقل الوثائق لولا العناية الإلهية التي هدت الرائد طارق محمد صبري الضابط بقطاع الأمن الوطني إلى معرفة تفاصيل تلك الواقعة وأكدتها تحرياته السرية فضمنها بمحضر مؤرخ ٢٠١٤/٣/٢٣ وأرفق به كشفاً ضمنه أسماء وعناوين المتهمين أحمد على عبده عفيفي (الرابع) ، وخالد حمدي رضوان (الخامس) ، ومحمد عادل كيلاني (السادس) ، وأحمد إسماعيل ثابت (السابع) ، وكريمة أمين الصرفي (الثامنة) ، وعلاء عمر سبلان (العاشر) ، واستصدر إذناً من نيابة أمن الدولة العليا بذات التاريخ الساعة العاشرة مساءً لأي من ضباط الأمن الوطني المختصين قانوناً بضبط وتفتيش شخص ومسكن المتهمين المتحرى عنهم

خلال ثلاثين يوماً من ساعة وتاريخ إصدار الإذن ، ونفاذًا لهذا الإذن تمكن الرائد محمود محمد طلعت من ضبط كل من أحمد على عبده عفيفي (المتهم الرابع) بتاريخ ٢٠١٤/٣/٢٧ ، وبتفتيش مسكنه عثر على جهاز كمبيوتر محمول (لاب توب) وجهاز هاتف محمول ووحدة تخزين بيانات ، كما تمكن من ضبط المتهمة كريمة أمين الصرفي (الثامنة) بتاريخ ٢٠١٤/٣/٣٠ وبتفتيش مسكنها عثر على جهاز لوحي " تابلت " ، وتليفون محمول ، وكمبيوتر محمول صغير ماركة كومبك ميني وهارد ديسك خارجي وخمس ذاكرات تخزين " فلاش ميموري " وبتاريخ ٢٠١٤/٣/٣٠ قام بضبط خالد حمدي عبد الوهاب أحمد رضوان (المتهم الخامس) وبتفتيش مسكنه عثر على ست وحدات تخزين بيانات (فلاش ميموري) وجهازي هاتف محمول ووحدة تحكم مركزية لجهاز كمبيوتر ، وبتاريخ ٢٠١٤/٤/١ قام بضبط أحمد إسماعيل ثابت إسماعيل (المتهم السابع) وبتفتيش مسكنه ضبط ثلاث وحدات تخزين بيانات (فلاش ميموري) وثلاثة أجهزة كمبيوتر محمول (لاب توب) وجهاز تليفون محمول ووحدة تخزين بيانات (هارد ديسك) وطابعة إلكترونية وماسح ضوئي ، وبتاريخ ٢٠١٤/٣/٢٧ قام بضبط محمد عادل حامد كيلاني (المتهم السادس) وبتفتيش مسكنه الكائن ٦٣ ب الحي السويسري بمدينة نصر ضبط حقيبة بداخلها المستندات والوثائق السرية الخاصة بمؤسسة رئاسة الجمهورية والواردة إليها من الجهات السيادية بالبلاد الحرس الجمهوري والقوات المسلحة والمخابرات العامة والحربية وقطاع الأمن الوطني وهيئة الرقابة الإدارية والمتضمنة معلومات عن القوات المسلحة وأماكن تمركزها وسياسات الدولة الخارجية والداخلية ومن شأنها التأثير على المصالح القومية للبلاد وتعد من أسرار الدفاع المحظور تداولها أو نقلها خارج مقر الرئاسة ، وقد ثبت بتقرير لجنة الفحص المشكلة بقرار من المحكمة قيامها

بالاطلاع على دفتر المستندات بالحرس الجمهوري ، وتبين أنه مثبت به عرض المستندات على قائد الحرس الجمهوري ولم يتم إعادتها حتى تاريخ الفحص وتطابقت موضوعات الأوراق المثبتة بالدفتر مع الوثائق المضبوطة ، كما ثبت قيام اللجنة بالاطلاع على الأوراق والمستندات والوثائق والدفاتر بمكتب مدير مكتب رئيس الجمهورية فتبين لها أن جميع المكاتبات الواردة من الجهات السيادية كانت تسلم لأحمد عبد العاطي مدير المكتب في مظاريف مغلقة ولا يتم فتحها إلا بمعرفته ، ثم يقوم هو بالتصرف في محتويات تلك المظاريف سواء من حيث العرض أو الرد عليها أو الحفظ من خلال أمين الصرفي (المتهم الثالث) الذي كان يعمل سكرتيراً له ، وأنه صدر منشور أمني بتعليمات رئيس ديوان رئيس الجمهورية بتحديد الإجراءات المزمع اتخاذها لمجابهة أحداث ٢٠١٣/٦/٣٠ بنقل جميع الأوراق والمستندات المتواجدة بالاتحادية وأصدر أحمد عبد العاطي (المتهم الثاني) قراراً شفوياً بنقل جميع المكاتبات والمستندات إلى قصر عابدين ، وأنه بفحص الأوراق التي تم ضبطها لدى المتهمين وجدت من بينها عدد (٤) مكاتبات واردة من الرقابة الإدارية أرقام (٥٧٧) بتاريخ ٢٠١٣/١/٢٨ ، (٦٧٤٨) بتاريخ ٢٠١٢/١٢/٢٣ ، (٦٧٨٥) بتاريخ ٢٠١٢/١٢/٢٥ ، (٥٧٤) بتاريخ ٢٠١٣/٢/٤ ، وأيضًا عدد (١١) مكاتبة واردة من المخابرات العامة أرقام : (٢١٨٩٩) ، (٢١٩٢٢) بتاريخ ٢٠١٢/١٢/٤ ، (٩٢ ، ٩٣ ، ٩٤ ، ٩٥) بتاريخ ٢٠١٢/٢/٥ ، (٢٢٠٧٦) بتاريخ ٢٠١٢/١٢/٦ ، (١١٩٤٢) بتاريخ ٢٠١٣/٦/٩ ، (١٣٣٥٨) ، (١٣٣٥٩) ، (١٣٣٦٠) بتاريخ ٢٠١٣/٦/٢٠ ، وقامت اللجنة بإرسال البيانات سالفة الذكر للرقابة الإدارية والمخابرات العامة لإرسال صورة من هذه المكاتبات مرة أخرى لمطابقتها بالمستندات المضبوطة ، وبفحص المكاتبات الواردة للجنة من الرقابة

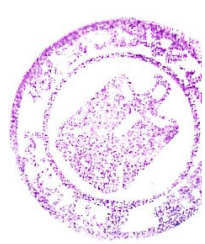


الإدارية والمخابرات العامة وهي صور من تلك المكاتبات التي سبق إرسالها إلى أحمد عبد العاطي (المتهم الثاني) بصفته مديراً لمكتب رئيس الجمهورية تبين مطابقتها مع الأوراق المضبوطة لدى المتهم السادس ، وقد اعترف أحمد على عبده عفيفي (المتهم الرابع) بالتحقيقات أنه عضو في جماعة الإخوان المسلمين ، وكان من بين المعتصمين في ميدان التحرير خلال ثورة ٢٥ يناير ٢٠١١ وتعرف على صفوه حجازي الذي أنشأ (مجلس أمناء الثورة) وعينه عضواً معه في أمانة المجلس ، وكان يختص بمتابعة تحقيق أهداف الثورة وعقب تولى محمد مرسي (المتهم الأول) رئاسة الجمهورية وبعد تصاعد حدة الاحتجاجات ضده منذ عام ٢٠١٣ توجه إلى ميدان رابعة العدوية يوم ٢٠١٣/٦/٢٨ وظل بالميدان حتى يوم ٢٠١٣/٨/١٤ ، وكان مسئولاً عن الإعاشة وتوزيع الأغذية على المعتصمين والمشرف على المنصة الرئيسية بتكليف من القياديين بجماعة الإخوان المسلمين ، وبعد فض الاعتصام اتصل بصديقه محمد عادل حامد كيلاني (المتهم السادس) الذي تعرف عليه في اعتصام رابعة العدوية واختفى لديه في منزله بالمنطقة التاسعة بمدينة نصر خلف مدارس المنهل هرباً من الملاحقة الأمنية ، وأضاف أنه باعتباره منتج أفلام وثائقية فقد قام بتصوير كل ما حدث في اعتصام رابعة العدوية عدا فض الاعتصام واحتفظ به في صورة أفلام قام ببيعها لقناة الجزيرة ، وحصل لقاء ذلك على مبالغ مالية على دفعات وصلت إلى ألفي دولار ، واستطرد مقرراً أنه طلب من صديق له ينتمي لجماعة الإخوان المسلمين يدعى (محمد عبد الرؤوف) أن يساعده في العثور على مسكن خاص فوفر له مسكناً بالحي الثاني بمدينة السادس من أكتوبر منذ شهر سبتمبر ٢٠١٣ ، وخلال تلك الفترة كان على اتصال بعضو جماعة الإخوان المسلمين ويدعى (أحمد



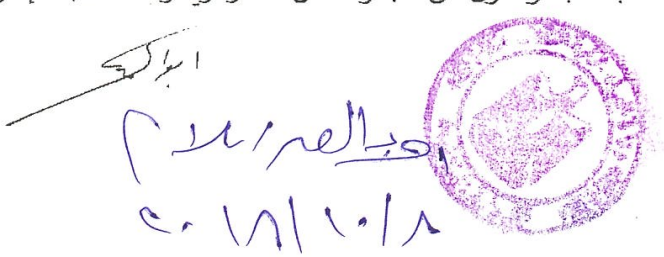
حنفي) مسئول اللجنة الإعلامية بمحافظة الجيزة والذي طلب منه مادة فيلمية عن فض اعتصام رابعة العدوية فحصل عليها من خطيبته (هبة غريب) التي تعمل صحفية بجريدة الوادي وأعطاها للمدعو (أحمد حنفي) على فلاشة كمبيوتر ، وبعد فترة تعرف على علاء سبلان (المتهم العاشر) – وهو أردني الجنسية من أصول فلسطينية – وقاما بعمل فيلم وثائقي لبيعه لقناة الجزيرة عن الطفل (رمضان) وهو الذي تم تقديمه في قناة الجزيرة عدة مرات مدعياً أن والدته توفيت في فض اعتصام رابعة ، فأحضر ذلك الطفل إلى مسكنه في ٦ أكتوبر وأجرى معه حواراً وقام بعمل مونتاج وأخذ علاء عمر سبلان (المتهم العاشر) الفيلم لبيعه لقناة الجزيرة ، وكان ذلك خلال شهر نوفمبر ٢٠١٣ وخلال تلك الفترة قام بتغيير مسكنه عدة مرات ، وحصل على مسكن في الحي الأول بمدينة السادس من أكتوبر بإيجار ألفين جنيه شهرياً وكان يدبر نفقاته من بيع مواد فيلميه تصويرية عن فض اعتصام رابعة لإبراهيم عبد الرؤوف وشهرته (إبراهيم المصري) وذلك لقاء مبالغ مالية ، فتارة حصل على خمسمائة دولار وتارة أخرى على أربعمائة دولار واسترسل مقرراً أنه في غضون شهر يناير عام ٢٠١٤ اتصل به علاء عمر محمد سبلان (المتهم العاشر) وكان معه أسماء محمد الخطيب (المتهمة التاسعة) وطلب منه أن يقابلهما أمام مسجد الحصري فتوجه إليهما والتقى بهما وأخبرته الأخيرة أن معها حقيبة كبيرة بها مجموعة من الأوراق الخاصة برئاسة الجمهورية خلال فترة حكم محمد مرسي (المتهم الأول) للبلاد ، وأنها حصلت عليها من صديقتها كريمة أمين عبد الحميد الصرفي (المتهمة الثامنة) الذي كان والدها أمين عبد الحميد الصرفي (المتهم الثالث) يعمل سكرتيراً خاصاً للمتهم الأول وأنه قام بنقل تلك الأوراق من رئاسة الجمهورية إلى منزله قبل ثورة ٢٠١٣/٦/٣٠ وهي عبارة عن تقارير

من المخابرات العامة والمخابرات الحربية وهيئة الرقابة الإدارية والأمن الوطني وجميع الجهات السيادية التي تبعث بتقاريرها للمتهم الأول وأنها ترغب في نشر تلك المستندات بقناة الجزيرة وأبلغته أن الحقيبة لديها في المنزل ولكنها تخشى من نقلها في سيارة أجرة فقام بالاتصال بصديقه محمد عادل حامد كيلاني (المتهم السادس) وطلب منه مقابلة أسماء الخطيب وعلاء سبلان (التاسعة والعاشر) على الطريق الدائري واستقلا معه سيارته الخاصة وتوجهوا إلى منزل أسماء بمنطقة حلوان وأحضروا حقيبة المستندات وعادوا جميعاً إلى مقهى في مدينة ٦ أكتوبر ، ثم اتصل بصديقه خالد حمدي رضوان (المتهم الخامس) وأخبره بطبيعة الأوراق التي معه وطلب منه أن يسمح لهم بالحضور لمنزله وتوجهوا إلى منزل الأخير في الحي الحادي عشر بمدينة السادس من أكتوبر وقاموا جميعاً بفتح الحقيبة فوجدوا بها تقاريراً من المخابرات الحربية للعرض على رئيس الجمهورية تحوى جميع المعلومات التفصيلية عن تسليح الجيش المصري وأعداد القوات المسلحة المصرية الموجودة في سيناء وحجمها وأماكن تمركزها داخل سيناء ومعلومات تفصيلية عن الجيش الإسرائيلي وتسليحه وتمركز القوات على الحدود مع مصر وعدد الإناث والذكور في الجيش الإسرائيلي وتفاصيل عن بعض وحدات الجيش الإسرائيلي وتقرير آخر يحتوى على معلومات عن أعضاء الكنيست الإسرائيلي وبياناتهم وانتماءاتهم الحزبية للعرض على المتهم الأول – كما وجدت تقارير لهيئة الرقابة الإدارية عن كبار الموظفين في الدولة ورموز النظام السابق وتقرير من (رفاعة الطهطاوي) عن إيران والتقارب بينها وبين مصر ومعلومات خاصة بإيران وتقرير عن القصور الرئاسية التي سوف يتنقل بينها محمد مرسي (المتهم الأول) هو وأسرته حسب تطورات الأحداث قبل ٣٠ يونية ٢٠١٣ ، بالإضافة إلى مراسلات خاصة كانت مرسلة للمتهم



الثاني ومجلد كبير يحوى ورقة بلاستيكية ظهر كلام مكتوب بطريقة الحبر السري عن المنظمات الإرهابية بجنوب شرق أسيا وكان مرسلاً للعرض على محمد مرسي (المتهم الأول) بصفته رئيس الجمهورية آنذاك فقام علاء سبلان (المتهم العاشر) بالاتصال بأحد المسئولين بقناة الجزيرة القطرية وأخبره عن المستندات وأرسل له العناوين الرئيسية لها بطريق الإيميل الخاص به Alaasablan@yahoo.com & Alaasablan@gmail.com فأبلغه الآخر أن مسئولي قناة الجزيرة طلبوا لقاءه فسافر لهم في يناير ٢٠١٤ واتصل به علاء سبلان من هناك وأخبره أنه تقابل مع إبراهيم محمد هلال (المتهم الحادي عشر) وهو مصري الجنسية ويعمل رئيس قطاع الأخبار بقناة الجزيرة القطرية بالدوحة وحضر معه لقاء ضم أحد ضباط المخابرات القطرية ورئيس قناة الجزيرة وطلبوا منه إحضار أصول المستندات وأنه طلب منهم مبلغ مليون دولار مقابل تسليم أصول المستندات وحصل منهم على مبلغ خمسين ألف دولار مقابل المستندات السابق إرسالها على الإيميل أرسل له منها عشرة آلاف دولار من قطر باسم شخص يدعى (عبد المجيد السقا) على شركة ويسترن يونيون باسم خالد حمدي رضوان (المتهم الخامس) والذي كان يعلم بطبيعة تلك المستندات وذلك تجنباً للملاحقة الأمنية وأن خالد حمدي (المتهم الخامس) توجه بالفعل إلى شركة ويسترن يونيون بميدان الحصري في السادس من أكتوبر وقام بصرف المبلغ وقيمته (عشرة آلاف دولار) مخصوماً منها رسوم التحويل وأن هذا المبلغ يعادل تقريباً بالعملة المصرية (واحد وسبعين ألف جنيه) وطلب منه المتهم الخامس مبلغ ثلاثة آلاف جنيه فأعطاها له وبعد ذلك حضر له أحمد إسماعيل ثابت إسماعيل (المتهم السابع) وقاما بتصوير الوثائق وإرسال صورها إلى المتهم العاشر في قطر واتفقوا على إرسال أصول

المستندات عن طريق محمد عادل حامد كيلاني (المتهم السادس) لأنه مضيف جوي ويسهل له حملها معه في إحدى رحلاته وتسليمها في قطر وأخبر علاء سبلان بذلك فأجابه بأنه سيكون في انتظاره في مطار الدوحة ضابط من المخابرات القطرية ويمكنه الصعود للطائرة ويتسلم منه حقيبة المستندات وطلب من علاء عمر سبلان (المتهم العاشر) أن يرسل له مع محمد عادل حامد كيلاني (المتهم السادس) مبلغ عشرة آلاف دولار تحت الحساب وقرر أن المتهم محمد عادل كيلاني (السادس) رفض رفضاً قاطعاً أن يأخذ أية مبالغ مالية رغم علمه أن المفاوضات كانت مقابل مليون دولار وأن علاء سبلان استلم بالفعل خمسين ألف دولار وأنه أخذ منها عشرة آلاف دولار ولكنه رفض رفضاً قاطعاً مقرراً أنه يقوم بهذا العمل حباً في المتهم الأول وفى جماعة الإخوان المسلمين فطلب منه المتهم العاشر إرسال الحقيبة التي تحوى المستندات وأنهم لن يستطيعوا الحصول على مبلغ المليون دولار إلا بعد وصول أصول المستندات لقطر عن طريق محمد عادل كيلاني (المتهم السادس) الذي قام بتعديل جدول رحلاته عن شهر فبراير ٢٠١٤ ليتوجه إلى الدوحة ومعه المستندات التي كانت لديه بالفعل ، وأنه كان في انتظار تعليمات المتهم العاشر لنقلها له ، بيد أن علاء سبلان كان يتعمد تأخيرها لأنه كان يرغب في التفاوض مع قطر على زيادة المبلغ وبمواجهته بالمستندات المضبوطة لدى المتهم السادس أقر بأنها ذات المستندات التي تسلمها من المتهمة أسماء الخطيب (التاسعة) ، كما اعترف خالد حمدي عبد الوهاب أحمد رضوان (المتهم الخامس) بالتحقيقات أنه منضم لجماعة الإخوان المسلمين والتي يتكون هيكلها التنظيمي من الأسر وتضم كل أسرة ستة أو سبعة أعضاء ولكل أسرة مسئول عنها ثم يعلوها ما يسمى بالشعبة وتتكون من مجموعة من الأسر ويعلوها المكتب الإداري للمحافظة ثم مجلس



الشورى العام للجماعة ويعلوه مكتب الإرشاد ويترأس التنظيم المرشد العام للجماعة ، وأنه عضو بإحدى الأسر بقريه أبشواي بمركز قطور ويواظب على حضور اجتماعها الأسبوعي وعقب ثورة الخامس والعشرين من يناير عمل ضمن فريق عمل قناة (مصر ٢٥) الإخوانية حتى تم إغلاقها بعد ثورة الثلاثين من يونيو وسفر فريق العمل إلى تركيا لبث إرسالها من هناك وتم تغيير اسمها إلى قناة (أحرار ٢٥) ثم قناة (الميدان) وكان يرسل ما يقوم بتصويره من برامج للقناة عبر الإنترنت ، وأنه حضر اعتصام رابعة العدوية مع والده وقام بتصوير أحداثه وإذاعتها على القناة المذكورة وفى غضون شهر أكتوبر ٢٠١٣ اتصل به أحمد على عبده عفيفي وطلب منه إرسال كاميرا ومصور إلى شقته بالحي الأول بمدينة السادس من أكتوبر وعندما توجه إلى هناك التقى بكل من علاء سبلان (المتهم العاشر) وأحمد إسماعيل (المتهم السابع) وشاهد طفل يدعى (رمضان) كان يحاوره علاء سبلان عن قصة موت والدته أثناء فض اعتصام رابعة العدوية وحالته بعد وفاتها ، وأضاف أنه حصل على مبلغ ثلاثمائة وخمسون جنيهاً مقابل التصوير وعلم أن أحمد عفيفي سيبيع هذا الفيلم لقناة الجزيرة ، وأضاف أنه في غضون نوفمبر ٢٠١٣ حضر له في مسكنه أحمد عفيفي ومعه علاء سبلان وأسماء الخطيب التي تعمل بشبكة رصد ومحمد كيلاني (المتهم السادس) وطلب منه أحمد عفيفي البحث عن متخصص لإعداد سيناريو عن الوثائق ، وكان معهم حقيبة قاموا بفتحها فوجدها ممتلئة بالأوراق وشاهد من بينها ملف حول العلاقة بين دولتي مصر وإيران ووجوب اقتصارها على السياحة وأن لا تنشر إيران فكر التشيع في مصر والملف مكتوب بخط اليد وبتوقيع رفاعة الطهطاوي (رئيس ديوان رئيس الجمهورية) ، كما شاهد ملفاً آخر مدون عليه (المخابرات العامة) وعليه شعارها وملف للرقابة الإدارية ،

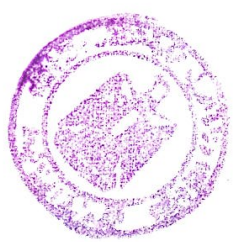
٢٠١٨/١٠/٨

وأخبره أحمد عفيفي أن في الحقيبة أوراق تتعلق بالجيش الإسرائيلي والتكفيريين في سيناء ، فتأكد أنها وثائق سرية لما تحويه من معلومات تمس الأمن القومي ولصدورها من جهات سيادية بالدولة وذكر أحمد على عبده عفيفي أمامه أنهم حصلوا على تلك الحقيبة من ابنة أمين الصرفي مستشار الرئيس الأسبق محمد مرسى ثم انصرفوا بعد ذلك بالحقيبة واسترسل مقرراً أنه بعد ذلك بنحو يومين أو ثلاثة كان في زيارة للمتهم أحمد على عبده عفيفي (المتهم الرابع) في منزله فشاهد الحقيبة عنده ، ثم أخبره بعد ذلك أن علاء سبلان (المتهم العاشر) أخذ الحقيبة والوثائق وسافر إلى قطر ليتفاوض مع قناة الجزيرة على بيع تلك الوثائق تمهيداً لإذاعة ما بها من معلومات على ذات نهج التسريبات الأخيرة المذاعة على تلك القناة آنذاك وفي غضون شهر يناير ٢٠١٤ اتصل به أحمد عفيفي وأخبره أن علاء سبلان سيرسل مبلغ عشرة آلاف دولار من قطر وطلب منه البحث عن أحد أصدقائه بقطر لاستلام هذا المبلغ من المتهم العاشر وتحويله إلى مصر باسمه – أي المتهم الخامس – عبر شركة ويسترن يونيون فتواصل مع المدعو (عبد المجيد السقا) الذي يعمل بقناة الجزيرة القطرية وطلب منه أن يتسلم من المتهم العاشر مبلغ عشرة آلاف دولار ويقوم بتحويلهم باسمه – أي المتهم الخامس – من دولة قطر إلى شركة ويسترن يونيون ، ثم توجه إلى فرع الشركة بالبنك العربي الإفريقي بمنطقة البنوك بأكتوبر وقام بصرف المبلغ المشار إليه بعد خصم المصاريف وقام بتحويله إلى العملة الوطنية فبلغ ثمانية وستين ألف جنيه تقريباً سلمهم إلى أحمد عبده عفيفي (المتهم الرابع) فأعطاه ثلاثة آلاف جنيه على سبيل السلفة لإصلاح سيارته التي احترقت أثناء فض اعتصام رابعة العدوية ، وأنه كان يعلم أن هذا المبلغ مقابل بيع الوثائق إلى قناة الجزيرة القطرية ، واعترف محمد عادل

حامد كيلاني (المتهم السادس) بالتحقيقات أنه في أعقاب ثورة ٢٥ يناير بدأ الاهتمام بالسياسة وتكون لديه رأى سياسي مؤيد لجماعة الإخوان المسلمين ، وفى أعقاب ثورة٣٠ يونيو٢٠١٣ شارك في اعتصام رابعة العدوية وكان يتردد على الاعتصام في الأيام التي لا يكون لديه فيها رحلات وتعرف أثناء ذلك على المتهم أحمد على عبده عفيفي (الرابع) لكون الأخير أحد مسئولي الاعتصام وأمده بمبلغ سبعمائة جنيه لشراء وجبات طعام للمعتصمين وكان يشارك أحياناً في توزيعها عليهم وعلم أنه عضو فيما يسمى (بمجلس أمناء الثورة) الذي يرأسه (صفوه حجازي) وتوطدت علاقتهما وعقب فض اعتصام رابعة العدوية هرب أحمد عبده عفيفي ، وكان يتنقل بين عدد من الشقق المؤجرة في مدينة السادس من أكتوبر خشية الملاحقة الأمنية ، وكان يلتقى به في مقهى بمدينة السادس من أكتوبر ، وكان يشاهد معه عدد من الأشخاص يحملون أجهزة لاب توب ويقومون بتجميع صور مظاهرات الإخوان وعمل برامج لتجميع آراء الناس وإرسالها إلى قناة الجزيرة ، وأضاف أنه في غضون شهر يناير ٢٠١٤ اتصل به أحمد عبده عفيفي (المتهم الرابع) وأعطاه رقم هاتف شخص يدعى علاء عمر (المتهم العاشر) وطلب منه أن يتصل به ليقابله على الطريق الدائري ليحضر منه شيئًا ، فاتصل به هاتفيًا وحدد له موعداً على طريق الأوتوستراد بالقرب من مدينة صقر قريش بالمعادي حيث التقيا وكان بصحبته فتاة تدعى أسماء (المتهمة التاسعة) ومعها حقيبة فاصطحبهما إلى المقهى وتقابلوا مع أحمد على وتوجهوا إلى مسكن خالد حمدي حيث قاموا بفتح الحقيبة ومشاهدة ما بها من مستندات وتبين بها أوراقاً تخص القوات المسلحة ورئاسة الجمهورية وبعد ذلك طلب منه أحمد على توصيلهم والاحتفاظ لديه بالحقيبة خشية ضبطها معه فاحتفظ بها في حقيبة سيارته لمدة خمسة أيام ،

ثم حضر إليه أحمد على بسيارة أجرة وأخذ منه الحقيبة وأعادها إليه بعد فترة وطلب منه المحافظة عليها لأهمية المستندات التي تحويها إذ إنها أوراق خاصة بمكتب رئيس الجمهورية ، وبعد انصرافه قام بفتح الحقيبة ومطالعة ما بها من مستندات ، وتبين أنها صادرة من أجهزة المخابرات المصرية والقوات المسلحة المصرية وتتضمن معلومات عن تسليح الجيش المصري والجيش الإسرائيلي موجهة إلى رئيس الجمهورية (محمد مرسى المتهم الأول) فأيقن بأهميتها وقام بنقلها من منزله إلى مسكن آخر مملوك له يستغله كمخزن كائن بـ ٦٣ ب الحي السويسري بمدينة نصر وبعد نحو يومين اتصل به أحمد على وطلب مقابلته في مقهى بمدينة السادس من أكتوبر فتوجه إليه وطلب منه مساعدته في نقل الوثائق التي بالحقيبة إلى دولة قطر بحكم عمله كمضيف بشركة مصر للطيران وحضر علاء عمر (المتهم العاشر) هذا اللقاء وأخبره أن علاء عمر يستطيع التنسيق مع أشخاص في قطر أو تركيا لاستلام الحقيبة منه وتسليم المستندات التي بها إلى مسئولين قطريين يعملون في قناة الجزيرة لاستخدام المستندات في فضح الانقلاب العسكري في مصر وبعد نحو أربعة أيام اتصل به أحمد على وطلب أن يلتقي به على ذات المقهى وأخبره أن علاء عمر سبلان (المتهم العاشر) تحدث مع الشيخ حمد بن جاسم رئيس قناة الجزيرة والتقى مع ضابط بالمخابرات القطرية واتفقوا على أن ينتظره ضابط المخابرات القطري في السوق الحرة بمطار الدوحة لتسليمه المستندات وسأله عن أكبر مبلغ يمكنه الدخول به إلى مصر عند عودته من قطر فأخبره هو مبلغ عشرة آلاف دولار فأخبره أن علاء سيعطيه ذات المبلغ لتوصيله له في مصر فوافقه على ذلك واستطرد مقرراً أنه قام بتعديل موعد رحلاته ليتوجه إلى قطر وقبل سفره إلى قطر حضر إليه أحمد على وطلب منه

إرجاء نقل المستندات حتى يتم تجهيز الأمور في قطر وظلت الحقيبة معه حتى تم القبض عليه فأرشد عن مكانها كما اعترف أحمد إسماعيل ثابت إسماعيل (المتهم السابع) بالتحقيقات أنه في غضون شهر نوفمبر ٢٠١٣ التقى بصديقه علاء عمر سبلان (المتهم العاشر) الذي كان يزامله في دراسة كلية العلوم الطبية بجامعة ٦ أكتوبر وأخبره بحيازته لمجموعة من المستندات الهامة وعقب ذلك تقابل مع أحمد على (المتهم الرابع) في مول العرب بمدينة السادس من أكتوبر وكان قد تعرف عليه من خلال علاء عمر سبلان (المتهم العاشر) وأخبره أن الأوراق لديه ثم تلقى اتصالاً هاتفياً من علاء الذي أخبره أنه سوف يسافر إلى تركيا لبيع الأوراق إلى قناة الجزيرة في قطر وطلب منه إعداد ملفات (فايلات) ولاصق لترتيب الأوراق بها وضرب له موعداً للقائه بمسكن أحمد على في أكتوبر فقام بشراء ما كلفه به وتوجه إلى أحمد على في مسكنه فوجده قد أحضر سكانر (جهاز ماسح ضوئي) يقوم بتصوير الأوراق عليه وشاهد بعض الأوراق تحمل شعار رئاسة الجمهورية والرقابة الإدارية ووزارة الدفاع بالإضافة إلى مستندات مكتوبة على الكمبيوتر وموقعة باسم (باكينام الشرقاوي) وأوراق مكتوبة لرئيس الجمهورية عن الاقتصاد ومستندات خاصة بعادل لبيب الذي كان محافظًا لقنا وعلاء عبد العزيز وزير الثقافة الأسبق فعلم حينئذٍ بأهمية الأوراق وأنها صادرة من مؤسسات الدولة وأضاف أنه علم أن أحمد على وعلاء عمر سبلان قاما بمساعدة أسماء الخطيب (المتهمة التاسعة) على الهرب إلى ماليزيا ، وأنها هي التي أحضرت المستندات وبعد ذلك اتصل به علاء عمر سبلان هاتفياً وطلب مقابلته في المساء بمسكن أحمد على فتوجه للقائه حيث أخبره أنه ترك مجموعة أخرى من الملفات (فايلات) لدى أحمد على وطلب منه تصويرهم



عن طريق الإسكانر وإرسالهم له بعد سفره على الفيس بوك (التواصل الاجتماعي) وبعد سفر علاء إلى قطر كان يقوم بتصوير الأوراق وإرسالها إليه على الفيس بوك الخاص بعلاء حيث كان يقوم علاء بعرض الأوراق على المسئولين في قناة الجزيرة بقطر لبيعها ومن بينهم شخص يدعى إبراهيم هلال (المتهم الحادي عشر) واستطرد مقرراً أن علاء سبلان اتصل به من قطر وأخبره أن أمن الدولة سألت عليه في الجامعة هو وأحمد على وطلب منه أن يأخذ البرينتر (جهاز الطباعة) الذي قام بطباعة الأوراق عليه وبالفعل أخذها إلى منزله وقام بأخذ نسخة مطابقة لكل الأوراق المصورة على وحدة تخزين (فلاشه) واحتفظ بها في منزله واسترسل مقرراً أنه في غضون شهر ديسمبر ٢٠١٣ قبل سفر علاء سبلان إلى قطر تقابل مع علاء سبلان وأحمد على في كافيه (مقهى) بالحي الثاني بالسادس من أكتوبر وكان معهما محمد كيلاني (المتهم السادس) واتفقوا على أن يقوم محمد كيلاني بنقل الحقيبة التي تحوى الأوراق إلى قطر باعتباره مضيفاً جوياً ويسهل نقلها معه في أي رحلة ليقوم علاء بتسليمها إلى إبراهيم هلال في قطر ، كما أخبره علاء سبلان حال تواجده بدولة قطر بأنه أرسل حوالة مالية بقيمة عشرة آلاف دولار أمريكي إلى أحمد على وعلم منه أنه قد تم تعيينه في قناة الجزيرة القطرية مكافأة له على المستندات والأوراق التي باعها لهم وأنهى أقواله أنه لم يتقاض ثمة مبالغ ، ولكنه كان يرغب في فضح ما أسماه " الانقلاب العسكري " ، وأنه كان يعلم خطورة تلك المستندات على الأمن القومي ، واعترفت كريمة أمين عبد الحميد الصرفي (المتهمة الثامنة) بالتحقيقات بأن والدها أمين عبد الحميد الصرفي (المتهم الثالث) ينتمى إلى جماعة الإخوان المسلمين ، وكان ضمن الحملة الانتخابية للمتهم الأول ، ثم أصبح يشغل منصب سكرتير رئيس الجمهورية إبان حكم المتهم الأول للبلاد ،

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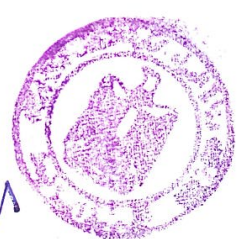
وأنه قبل ٢٨ يونيو ٢٠١٣ وعلى إثر الأحداث الدائرة بالبلاد أحضر إلى منزلهم بعض الأوراق في حقيبة سمسونايت مغلفة بورق بيج اللون وعليه خاتم السكرتارية الخاصة برئاسة الجمهورية باللون الأحمر ، ووضعها في مكتبه بمنزلهم الكائن بالتجمع الأول بمنطقة القاهرة الجديدة وبعد ٢٠١٣/٧/٣ انقطع الاتصال بينها وبين والدها ، وفى يوم ٢٠١٣/٧/٥ قامت بجمع الأوراق الخاصة بوالدها ووضعتهم في حقيبة سفر صغيرة زيتي اللون وأنها شاهدت في تلك الأوراق ملف خاص بمقر الفريق الرئاسي في حالة الطوارئ وورق خاص بالسكرتارية كان يقفل بورق مقوى وعليه خاتم يقرأ (سكرتارية الرئاسة) ولم تعرف محتوى باقي الأوراق ، وبتاريخ ٢٠١٣/١٠/٤ قامت بإخفاء المستندات لدى صديقتها أسماء الخطيب (المتهمة التاسعة) التي تعمل بشبكة رصد حتى لا تتمكن الشرطة من ضبط تلك الأوراق إذا تم تفتيش المسكن ، وكانت قد تعرفت عليها في اعتصام رابعة العدوية واشتركتا سوياً في المسيرات ، وأضافت أنه خلال إحدى الزيارات لوالدها الذي كان محتجزاً بالحرس الجمهوري سألها عن الأوراق فأخبرته أنها أودعتها في مكان أمين وطلب منها رد بعض أجهزة الحاسب والتابلت التي كانت بعهدته للعمل وكرر مطلبه في خطاب أرسله لها فقامت برد تلك الأشياء وسلمتها للحرس الجمهوري ، وأضافت أنه بعد شهر أكتوبر ٢٠١٣ أخبرتها أسماء الخطيب بعزمها على السفر للخارج بزعم أنه تم إلقاء القبض على أحد أقاربها وهي متورطة معه وأخبرتها أن الأوراق تحتفظ بها لدى أحد أقاربها وأعطتها رقم هاتفه لتتصل به إذا ما احتاجت إلى الأوراق ، واستطردت مقررة أنها استمرت على اتصال معها بعد سفرها إلى ماليزيا من خلال موقع التواصل الاجتماعي (فيس بوك) ، وفى غضون شهر مارس ٢٠١٤ اتصل بها أحمد على (المتهم الرابع) وأخبرها أنه من طرف أسماء

٢٠١٨/١٠/٨

الخطيب وأن لديه أمانة لها ، فأيقنت أنه يقصد الشنطة التي تحوى الأوراق واتفق معها على مقابلتها وتقابلا في مقهى بجوار (محل التوحيد والنور) بالدقي وأخبرها أنه شاهد الأوراق التي كانت في الحقيبة وسألها عما إذا كان لديها أوراق أخرى لأنه ومجموعة من أصدقائه الصحفيين سيقومون بحملة إعلامية على قناة الجزيرة وأن أسماء الخطيب ستكون معهم في تلك الحملة ، وأخبرها أنه يريد الأوراق على وجه السرعة وأنه أعطى الأوراق والمستندات لأسماء الخطيب حتى تتصرف فيها وتنشرها وزعمت له بأن لديها أوراق تحتفظ بها لدى أشخاص آخرين وأنها سوف تحضرها إليه ، وذلك خوفاً منه لعدم وضوح موقفه أمامها وأنهت أقوالها أنها سلمت الحقيبة التي تحوى الأوراق لأسماء الخطيب بقصد إخفائها وليس بغرض نشرها وأنكرت ما قرره المتهم أحمد على عبده عفيفي بالتحقيقات من قيامها بتسليم الأوراق والمستندات لأسماء الخطيب لتنشرها على قناة الجزيرة القطرية حسب تعليمات والدها المتهم الثالث ، كما أنكرت أنها كانت منفعلة لتأخره في نشرها وحيث تم تشكيل لجنة من جهازي المخابرات العامة والحربية وقطاع الأمن الوطني قامت بفحص الوثائق المضبوطة وتبين أن بها مذكرات وتقارير صدرت عن المخابرات العامة موجهة لرئيس الجمهورية الأسبق (المتهم الأول) لاعتماد الموازنة العامة للمخابرات العامة عن عام ٢٠١٣ – ٢٠١٤ ، والأحداث الداخلية والخارجية عن يوم ٢٠١٢/١٢/٥ ، وأخرى صادرة أيضاً عن المخابرات العامة المصرية وموجهة إلى المتهم الثاني بصفته مدير مكتب رئيس الجمهورية بشأن ردود الفعل الدولية والحقوقية حول الإعلان الدستوري الجديد ، وبشأن موقف مصر من المصالحة الفلسطينية وطلب السيناتور الأمريكي اليهودي رونال لي ويدين زيادة الجهود المصرية لمنع تسليح حركة حماس وهدم الأنفاق والسيطرة على الحدود ، وطلب السفارة الصومالية



زيادة عدد المنح الدراسية للطلبة الصوماليين ، وكذا تقرير حول ندوة عقدت بالخرطوم عن الأثر الإيجابي لسد النهضة الأثيوبي على مصر والسودان ومذكرة عن تطورات الموقف الخارجي وأخرى عن ردود الأفعال الأوروبية إزاء الأوضاع السياسية بمصر واجتماعات جبهة الإنقاذ الوطني وطلب من محمد البرادعي بإبلاغ مؤسسة الرئاسة عن إجراءات الخروج من أزمة الإعلان الدستوري وتقرير بشأن أهم الأحداث الخارجية والداخلية وتقرير يتضمن إيجابيات وسلبيات زيارة خالد مشعل (رئيس المكتب السياسي لحركة حماس) لمصر وتقرير من رئيس قطاع الأمن الوطني موجه إلى أحمد عبد العاطي (المتهم الثاني) بصفته مدير مكتب رئيس الجمهورية الأسبق حول الحالة الأمنية عن يوم ٢٠١٢/١٢/٤ ، وتقارير من رئيس هيئة الرقابة الإدارية آنذاك إلى المتهم الأول بصفته رئيس الجمهورية وقتئذٍ بشأن تحريات عن بعض العاملين السابقين بمؤسسة الرئاسة ، وعن كيفية استخدام الطاقة المدعمة في الاستثمارات الصناعية كثيفة الاستخدام للطاقة والمخالفات التي شابت أوجه الصرف من صندوق دعم البحوث الزراعية بوزارة الزراعة وشركة داماك ، وكذلك تقارير بخط اليد أحدها بتاريخ ٢٠١٣/٣/٢ عن تفصيلات لقاء المتهم الأول بصفته رئيس الجمهورية – آنذاك – مع رئيس جهاز المخابرات العامة بحضور عصام الحداد (مساعد رئيس الجمهورية للعلاقات الخارجية والتعاون الدولي) وأحمد عبد العاطي (مدير مكتب رئيس الجمهورية) والثاني بتاريخ ٢٠١٣/٣/٩ عن اجتماع رئيس المخابرات العامة مع نائب رئيس المخابرات السعودي ولقاء أحد أمراء دولة الإمارات بحضور عصام الحداد ، ومذكرة محررة بخط يد محمد فتحي رفاعة الطهطاوي رئيس ديوان رئيس الجمهورية للعرض على رئيس الجمهورية الأسبق (المتهم الأول) بتاريخ ٢٠١٣/٢/١١ بشأن تقدير موقف العلاقات مع دولة

إيران وفتح علاقات معها والحصول على دعم مالي منها وكيفية مجابهة تداعيات ذلك على أجهزة الدولة والحركات السلفية والمستوى العربي والدولي وتقرير عن حسابات مكتب رئيس الجمهورية بالبنوك ومذكرة صادرة عن إدارة العلاقات الخارجية برئاسة الجمهورية حول اتصال وزير الخارجية ونظيره الأمريكي عن استخدام النظام السوري للأسلحة الكيماوية وطلب الأخير مساعدة المعارضة السورية بشتى الوسائل ، وتقرير عن التوجه المقترح إزاء العلاقات المصرية – الإيرانية ، وتقرير عن المخابرات الفلسطينية حول إعداد وتأهيل شبكة الأنفاق والاتصالات الأرضية الخاصة بكتائب القسام ، وطلب من وزير العدل بتخصيص مبنى الحزب الوطني القديم لتدريب السادة القضاة ، وخطاب من السفير السعودي لرئيس الجمهورية بطلب المملكة السعودية نقل ملكية مبنى مركز المؤتمرات بشرم الشيخ لجامعة الدول العربية ، كما تضمنت تلك المستندات أصول وثائق تحوى معلومات عن القوات المسلحة المصرية وعناصر القوة بها وكيفية استغلالها لمواجهة خطط التطوير الإسرائيلية للقوات البرية والجوية ، ومستند يتضمن جدول تشكيل القوات المسلحة وأبرز الأسلحة والمعدات وأنواع وأماكن تمركز القوات البرية والجوية والبحرية والدفاع الجوي ، ودراسة حول الهيكل التنظيمي لوزارة الإنتاج الحربي والمصانع الحربية وإنتاجها وتخصصاتها وسبل تطويرها ، ومستند يتضمن تحديد أماكن وحجم القوات متعددة الجنسيات بالمنطقة (ج) بشمال سيناء وآخر للمعابر الفلسطينية الإسرائيلية والمصرية ومواقعها والمسافات بينها ، ومذكرات وتقارير للمخابرات الحربية والاستطلاع تتضمن مقترحات استعادة الأمن وتحقيق التنمية بسيناء ، ومعلومات عن شبكة الاتصالات العسكرية (CDMA) ، وأخرى عن التواجد الأمني والعسكري الأمريكي بالمنطقة العربية والتوازن العسكري

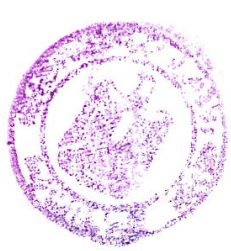
الإسرائيلي وأعضاء الحكومة الإسرائيلية والكنيست الإسرائيلي وعناصر التأمين على الحدود الإسرائيلية وقدرات وإمكانيات جيش الدفاع الإسرائيلي وهي التي تم عرضها على محمد مرسى (المتهم الأول) إبان رئاسته للبلاد بناءً على طلبه بمعرفة اللواء محمد نجيب عبد السلام قائد الحرس الجمهوري آنذاك ولم تتم إعادتها ، وبفحص جهاز الكمبيوتر المحمول (لاب توب) ماركة ACER ووحدة تخزين البيانات المدون عليها كلمة (ابتكار) والمضبوطين بحوزة المتهم الرابع أحمد على عبده عفيفي تبين احتوائهما على صور منسوخة اليكترونياً طبق الأصل لتقارير ومستندات وخطابات سرية مرسلة من الجهات الحكومية والأمنية والسيادية بالدولة – المخابرات العامة والقوات المسلحة وقطاع الأمن الوطني وهيئة الرقابة الإدارية وإدارة المخابرات الحربية وجهات أخرى بالدولة إلى المتهم الأول بصفته رئيس الجمهورية " آنذاك " وبعض العاملين بمؤسسة الرئاسة – ، وقد ثبت من الفحص أن تلك المستندات يحظر تداولها أو الاطلاع عليها لغير المختصين وتحفظ بأماكن سرية مؤمنة لتعلقها جميعاً بأمن ومصالح البلاد وما تحويه من معلومات من شأنها الإضرار بالأمن القومي المصري حال تسريبها أو اطلاع غير المختصين عليها فضلاً عن تأثيره السلبى على موقف مصر السياسي والاقتصادي والعلاقات الدبلوماسية مع العديد من الدول الأجنبية وكذا ما يرتبه ذلك من إضرار بأمن الجهات والهيئات السيادية والأمنية المصرية ، كما أن محتوى تلك المستندات من معلومات هو سر من أسرار الدفاع عن البلاد ، ومن تلك المستندات ما صدر عن المخابرات العامة من مذكرات وتقارير موجهة لرئيس الجمهورية الأسبق لاعتماد الموازنة العامة للمخابرات العامة عن عام ٢٠١٣-٢٠١٤ والأحداث الداخلية والخارجية عن يوم ٢٠١٢/١٢/٥ وأخرى صادرة أيضاً عن المخابرات العامة

المصرية وموجهة إلى المتهم الثاني بصفته مدير مكتب رئيس الجمهورية بشأن ردود الفعل الدولية والحقوقية حول الإعلان الدستوري الجديد وبشأن موقف مصر من المصالحة الفلسطينية وطلب السيناتور الأمريكي اليهودي " رونال لي ويدين " زيادة الجهود المصرية لمنع تسليح حركة حماس وهدم الأنفاق والسيطرة على الحدود ، وطلب السفارة الصومالية زيادة عدد المنح الدراسية للطلبة الصوماليين ، وكذا تقرير حول ندوة عقدت بالخرطوم عن الأثر الإيجابي لسد النهضة الأثيوبي على مصر والسودان ومذكرة عن تطورات الموقف الخارجي وأخرى عن ردود الأفعال الأوروبية إزاء الأوضاع السياسية بمصر واجتماعات جبهة الإنقاذ الوطني وطلب من محمد البرادعي بإبلاغ مؤسسة الرئاسة عن إجراءات الخروج من أزمة الإعلان الدستوري وتقرير بشأن أهم الأحداث الخارجية والداخلية وتقرير يتضمن إيجابيات وسلبيات زيارة خالد مشعل رئيس المكتب السياسي لحركة حماس لمصر ، كما تضمنت تلك المستندات معلومات عن دراسات للقوات المسلحة المصرية وعناصر القوة بها وكيفية استغلالها لمواجهة خطط التطوير الإسرائيلية للقوات البرية والجوية ومستند يتضمن جدول تشكيل القوات المسلحة وأبرز الأسلحة والمعدات وأنواع وأماكن تمركز القوات البرية والجوية والبحرية والدفاع الجوي ودراسة حول الهيكل التنظيمي لوزارة الإنتاج الحربى والمصانع الحربية وإنتاجها وتخصصاتها وسبل تطويرها ومستند يتضمن أماكن وحجم القوات متعددة الجنسيات بالمنطقة (ج) بشمال سيناء وآخر للمعابر الفلسطينية الإسرائيلية والمصرية ومواقعها والمسافات بينها ، وكذا مذكرات وتقارير للمخابرات الحربية والاستطلاع تتضمن مقترحات استعادة الأمن وتحقيق التنمية بسيناء ومعلومات عن شبكة الاتصالات العسكرية (CDMA) وأخرى عن التواجد الأمني والعسكري الأمريكي بالمنطقة العربية والتوازن العسكري الإسرائيلي وأعضاء

الحكومة الإسرائيلية والكنيست الإسرائيلي وعناصر التأمين على الحدود الإسرائيلية وقدرات وإمكانيات جيش الدفاع الإسرائيلي ، وتقرير من رئيس قطاع الأمن الوطني للمتهم الثاني بصفته مدير مكتب رئيس الجمهورية السابق حول الحالة الأمنية عن يوم ٢٠١٢/١٢/٤ ومن تلك المستندات ما صدر من رئيس هيئة الرقابة الإدارية إلى رئيس الجمهورية الأسبق (المتهم الأول) بشأن تحريات عن بعض العاملين السابقين بمؤسسة الرئاسة وعن كيفية استخدام الطاقة المدعمة في الاستثمارات الصناعية كثيفة الاستخدام للطاقة والمخالفات التي شابت أوجه الصرف من صندوق دعم البحوث الزراعية كذلك تقارير بخط اليد أولها بتاريخ ٢٠١٣/٣/٢ عن تفصيلات لقاء المتهم الأول بصفته رئيس الجمهورية – آنذاك – مع رئيس جهاز المخابرات العامة بحضور عصام الحداد – مساعد رئيس الجمهورية للعلاقات الخارجية والتعاون الدولي – وأحمد عبد العاطي – مدير مكتب رئيس الجمهورية – ، والثاني بتاريخ ٢٠١٢/٣/٩ عن اجتماع رئيس المخابرات العامة مع نائب رئيس المخابرات السعودي ولقاء أحد أمراء دولة الإمارات بحضور عصام الحداد ، والأخير محرر بخط يد رفاعة محمد الطهطاوي للعرض على رئيس الجمهورية الأسبق (المتهم الأول) بتاريخ ٢٠١٢/٢/١١ بشأن تقدير موقف العلاقات مع دولة إيران وفتح علاقات معها والحصول على دعم مالي منها وكيفية مجابهة تداعيات ذلك على أجهزة الدولة والحركات السلفية والمستوى العربي والدولي ، وتقرير عن حسابات مكتب رئيس الجمهورية بالبنوك ومذكرة صادرة عن إدارة العلاقات الخارجية برئاسة الجمهورية حول اتصال وزير الخارجية ونظيره الأمريكي عن استخدام النظام السوري للأسلحة الكيماوية ، وطلب الأخير مساعدة المعارضة السورية بشتى الوسائل ، وتقرير عن التوجه المقترح إزاء العلاقات المصرية – الإيرانية ،

وتقرير عن المخابرات الفلسطينية حول إعداد وتأهيل شبكة الأنفاق والاتصالات الأرضية الخاصة بكتائب القسام ، وطلب من وزير العدل بتخصيص مبنى الحزب الوطني القديم لتدريب السادة القضاة ، وخطاب من السفير السعودي لرئيس الجمهورية بطلب المملكة نقل ملكية مبنى مركز المؤتمرات بشرم الشيخ لجامعة الدول العربية ، وبفحص وحدتي تخزين البيانات ماركة (LG) والأخرى المدون عليها عبارة (معرض ابتكار) والمضبوطتين حوزة المتهم أحمد إسماعيل ثابت إسماعيل (السابع) تبين احتوائهما على ذات المستندات المبينة بالبند السابق ، بفحص الحاسب الآلي المحمول ماركة Compaq Mini والقرص الصلب ماركة توشيبا ، والأربع وحدات تخزين بيانات والمضبوطة جميعًا حوزة المتهمة كريمة أمين الصرفي (الثامنة) بمنزل المتهم الثالث ، تبين أنها تتضمن ملفات تنظيمية خاصة بجماعة الإخوان ودور التنظيم الدولي وارتباطه بعدد من المنظمات الدولية خارج البلاد ، وطريقة العمل للأخوات داخل التنظيم الذي تنضم له المتهمة وعدد من مقاطع الفيديو والصور لمظاهرات تلك الجماعة ولقاءات التنظيم الدولي للإخوان خارج البلاد تفصيلاً ، وقد شاهدت المحكمة – محكمة الجنايات – مقاطع فيديو مسجلة تضمنت ما يلى حوار تليفزيوني للمتهم الأول بعنوان (حقيقة علاقة الرئيس مرسى بجماعة الإخوان المسلمين) مع شبكة الجزيرة الإخبارية السبت ٩ جمادى الآخر ١٤٣٤ هجرياً ، ٢٠١٣/٤/٢٠ ميلادياً ، ظهر فيه المتهم الأول في لقاء تليفزيوني ويقول : " أنا نشأت في الإخوان المسلمين ، أنا أعتز بانتمائي لجماعة الإخوان المسلمين ، أنا كنت رئيس حزب الحرية والعدالة الذي أنشأته جماعة الإخوان المسلمين وهذا الانتماء وهذا الاعتزاز ورئاستي لهذا الحزب وترشحي لرئاسة الجمهورية من قبل هذا الحزب ومن جماعة الإخوان المسلمين والسند الشعبي

في هذه الانتخابات كان من هذا الحزب وممن تحالفوا معه وأيدوا مرشحهم وانتخبوه من الشعب المصري وهذا أمر يجب أن يكون واضحًا لدى الجميع " ، مقطع فيديو بعنوان (محمد بديع مرشد الإخوان يخاطب احتشاد رابعة) ومدته ثلاث دقائق وأربعين ثانية ، وفيه يظهر محمد بديع المرشد العام لجماعة الإخوان المسلمين يخاطب في جمهور كبير بميدان واسع تعرفت عليه المحكمة أنه ميدان رابعة العدوية ويحرضهم على البقاء بالميدان حتى يرجع محمد مرسى رئيساً للجمهورية ، مقطع فيديو بعنوان (الإرهابي محمد البلتاجي ما يحدث في سيناء) مدته اثنين وثلاثين ثانية ، ويبدأ بتتر موسيقى لقناة سي بي سي ثم يظهر شخص تعرفت عليه المحكمة أنه المدعو محمد البلتاجي يقول : " إن هذا الذي يحدث في سيناء رداً على الانقلاب العسكري يتوقف في الثانية التي يعلن فيها عبد الفتاح السيسي أنه تراجع عن هذا الانقلاب وأنه صحح الوضع ورده إلى أهله وأن الرئيس يعود إلى سلطاته " ، ثم يظهر تتر قناة سي بي سي ، مقطع فيديو بعنوان (البلتاجي من أمام الحرس الجمهوري لن نرحل أحياء من دون الرئيس مرسى) مدته تسع وعشرون ثانية ويظهر فيه شخص تعرفت عليه المحكمة أنه محمد البلتاجي محمولاً على الأعناق وسط جموع من المتظاهرين ويقول : (إننا لن نعود أحياء إلا ومعنا السيد الرئيس الشرعي نحن نضعكم أمام الله وأمام الوطن وأمام التاريخ ليس في طاعة الخائن الذي قام بالانقلاب عبد الفتاح السيسي لكن في طاعة وإرادة هذا الشعب يحملكوا المسئولية) ، واستندت المحكمة في ثبوت واقعات الدعوى – على نحو ما سلف بيانه – قبل الطاعنين وباقي المحكوم عليهم إلى أدلة استقتها مما أقر به في تحقيقات النيابة العامة كل من المتهمين أحمد على عبده عفيفي (الرابع) وخالد حمدي عبد الوهاب رضوان (الخامس) ومحمد عادل حامد كيلاني



(السادس) وأحمد إسماعيل ثابت إسماعيل (السابع) وكريمة أمين الصرفي (الثامنة) على أنفسهم وفى حق غيرهم من المتهمين ، ومما شهد به كل من الرائد طارق محمد صبري محمد (الضابط بقطاع الأمن الوطني) والرائد محمود محمد طلعت (الضابط بقطاع الأمن الوطني) وما قرره استدلالاً بالتحقيقات وشهد به أمام المحكمة المقدم / جمال محمود جمال منصور (الضابط بأمن رئاسة الجمهورية) وما شهد به كل من أيمن نبيه عبد الفتاح وهدان (مدير الإدارة العامة بالبنك المركزي) وعلاء الدين محمد عبد الله يعقوب (كبير المضيفين بشركة مصر للطيران) وجمال الدين عبد العزيز محمد يونس (كبير المضيفين بشركة مصر للطيران) ومصطفى طلعت السيد حسانين الشافعي (المشرف على مكتب رئيس ديوان رئيس الجمهورية) واللواء أسامة حسين متولى الجندي (مدير الإدارة المركزية للأمن برئاسة الجمهورية) واللواء محمد أحمد زكى محمد (قائد قوات الحرس الجمهوري) واللواء نجيب محمد عبد السلام رشوان (قائد قوات الحرس الجمهوري الأسبق) والعميد أركان حرب محمد لبيب رضوان إبراهيم (رئيس فرع العمليات بالحرس الجمهوري السابق) والعميد وائل أحمد فؤاد محمد نديم (رئيس فرع الاستطلاع بقوات الحرس الجمهوري السابق) والفريق محمود إبراهيم حجازي (رئيس أركان حرب القوات المسلحة) واللواء أركان حرب محمد فريد حجازي (أمين عام وزارة الدفاع) واللواء محمد أحمد إبراهيم محمد مصطفى (وزير الداخلية السابق) واللواء أحمد حلمي عزب (مساعد وزير الداخلية) واللواء محمد عمر وهبي هيبة (رئيس هيئة الرقابة الإدارية) واللواء خالد عبد الوهاب محمد ثروت (رئيس قطاع الأمن الوطني السابق) واللواء عماد حسين حسن عبد الله (مساعد أول وزير الداخلية) واللواء عبد المؤمن عبد البصير فوزى السيد (كبير الياوران

برئاسة الجمهورية) وعبد المجيد صلاح عبد المجيد (موظف بسكرتارية مكتب رئيس الجمهورية) وهشام عزت محمد حسين (موظف بسكرتارية مكتب رئيس الجمهورية) واللواء عادل حلمي محمد عزب والرائد محمد عبد الرحيم محمد (الضابط بقطاع الأمن الوطني المختص بمتابعة ملف جماعة الإخوان) واللواء عبد العزيز خضر (مدير إدارة البحث الجنائي بمديرية أمن القاهرة) واللواء مصطفى عبد الحميد شحاته (مأمور قسم شرطة مدينة نصر أول) وجلال مصطفى محمد (محافظ القاهرة) وحافظ السعيد حافظ (رئيس مجلس إدارة الهيئة العامة لنظافة وتجميل القاهرة) ومحمد أحمد عبد الحميد (مدير عام إدارة شرق القاهرة التعليمية) وفاطمة أحمد محمود (مدير المدرسة الثانوية الفندقية) ونجلاء سيد أحمد (مدير مدرسة عبد العزيز جاويش للتعليم الأساسي) والحسين على محمد (مقيم الشعائر بمسجد رابعة العدوية) ومنى مصطفى عبد الحميد حسين (رئيس مجلس إدارة هيئة النقل العام بالقاهرة) وما قرر به استدلالاً بالتحقيقات وأمام المحكمة محمد فتحي رفاعة الطهطاوي (رئيس ديوان رئيس الجمهورية) وما شهد به أعضاء اللجنة المشكلة بقرار من المحكمة برئاسة اللواء عباس مصطفى كامل (مدير مكتب رئيس الجمهورية) وعضوية كل من العميد وائل أحمد شوشة (رئيس الإدارة المركزية للرقابة والمتابعة بمكتب رئيس الجمهورية) ووحيد أبو النجا الحسيني أبو النجا (موظف بسكرتارية مكتب رئيس الجمهورية وعضو لجنة الفحص) ووائل سيد حسن سيد (موظف بسكرتارية مكتب رئيس الجمهورية وعضو لجنة الفحص) وما ثبت بتقرير وتحريات هيئة الأمن القومي وما تم ضبطه بمسكن المتهمين الثالث والرابع والسادس والسابع والثامنة وما ثبت من الاطلاع على جدول رحلات المتهم السادس الصادر من شركة مصر للطيران

وتقرير لجنة الفحص المشكلة من المحكمة ومناظرة مقاطع الفيديو المسجلة على ذاكرات التخزين المضبوطة والاسطوانات المدمجة وبيان المحاضر وبلاغات المواطنين ضد المعتصمين من جماعة الإخوان والصور الفوتوغرافية المقدمة من محافظ القاهرة للمحكمة وهي أدلة سائغة من شأنها أن تؤدى إلى ما رتبه الحكم عليها وأورد الحكم مؤداها في بيان واف بما لا يخرج عما أورده في بيانه لواقعة الدعوى . لما كان ذلك ، وكانت المادة ٣١٠ من قانون الإجراءات الجنائية قد أوجبت في كل حكم بالإدانة أن يشتمل على بيان الواقعة المستوجبة للعقوبة بياناً تتحقق به أركان الجريمة التي دان الطاعن بها والظروف التي وقعت فيها والأدلة التي استخلصت منها المحكمة ثبوت وقوعها منه ، وكان يبين مما سطره الحكم أنه بين واقعة الدعوى بما تتوافر به كافة العناصر القانونية للجرائم التي دان الطاعنين بها وأورد على ثبوتها في حقهم أدلة سائغة من شأنها أن تؤدى إلى ما رتبه الحكم عليها وجاء استعراض المحكمة لأدلة الدعوى على نحو يدل على أنها محصتها التمحيص الكافي وألمت بها إلماماً شاملاً يفيد أنها قامت بما ينبغي عليها من تدقيق البحث لتعرف الحقيقة ، وكان من المقرر أن القانون لم يرسم شكلاً خاصاً أو نمطاً معيناً يصوغ فيه الحكم بيان الواقعة المستوجبة للعقوبة والظروف التي وقعت فيها ، فمتى كان مجموع ما أورده الحكم – كما هو الحال في الدعوى المطروحة – كافياً في تفهم الواقعة بأركانها وظروفها حسبما استخلصتها المحكمة فإن ذلك يكون محققاً لحكم القانون ومن ثم فإن ما ينعاه الطاعنون بأن الحكم قد شابه الغموض والإبهام وعدم الإلمام بواقعات الدعوى يكون ولا محل له . لما كان ذلك ، وكانت المادة ٨٦ من قانون العقوبات المضافة بالقانون رقم ٩٧ لسنة ١٩٩٢ قد نصت على أنه : " يقصد بالإرهاب في تطبيق أحكام هذا القانون كل استخدام

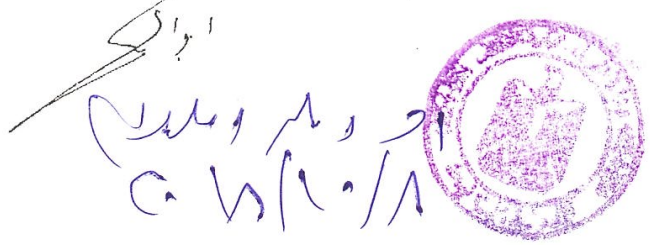
للقوة أو العنف أو التهديد أو الترويع يلجأ إليه الجاني تنفيذاً لمشروع إجرامي فردي أو جماعي بهدف الإخلال بالنظام العام أو تعريض سلامة المجتمع وأمنه للخطر إذا كان من شأن ذلك إيذاء الأشخاص أو إلقاء الرعب بينهم أو تعريض حياتهم أو حرياتهم أو أمنهم للخطر أو إلحاق الضرر بالبيئة أو بالاتصالات أو المواصلات أو بالأموال أو بالمباني أو بالأملاك العامة أو الخاصة أو اختلاسها أو الاستيلاء عليها أو منع أو عرقلة ممارسة السلطات العامة أو دور العبادة أو معاهد العلم لأعمالها أو تعطيل تطبيق الدستور أو القوانين أو اللوائح . " وكان المشرع بعد أن أورد في النص السابق تعريفاً شاملاً جامعاً للإرهاب نص في المادة ٨٦ مكرر من قانون العقوبات على أن : " يعاقب بالسجن كل من أنشأ أو أسس أو نظم أو أدار على خلاف أحكام القانون جمعية أو هيئة أو منظمة أو جماعة أو عصابة يكون الغرض منها الدعوة بأية وسيلة إلى تعطيل أحكام الدستور أو القوانين أو منع إحدى مؤسسات الدولة أو إحدى السلطات العامة من ممارسة أعمالها أو الاعتداء على الحرية الشخصية للمواطن أو غيرها من الحريات والحقوق العامة التي كفلها الدستور والقانون أو الإضرار بالوحدة الوطنية أو السلام الاجتماعي . ويعاقب بالسجن المشدد كل من تولى زعامة أو قيادة فيها أو أمدها بمعونات مادية أو مالية مع علمه بالغرض الذي تدعو إليه ويعاقب بالسجن مدة لا تزيد على خمس سنوات كل من انضم إلى إحدى الجمعيات أو الهيئات أو المنظمات أو الجماعات أو العصابات المنصوص عليها في الفقرة السابقة أو شارك فيها بأية صورة مع علمه بأغراضها .... " وشدد المشرع العقاب في المادة (٨٦ مكرر أ) من قانون العقوبات إذا كانت وسيلة ارتكاب أية جريمة من الجرائم المنصوص عليها في الفقرات الثلاث من المادة السابقة هي الإرهاب بأن جعل

العقوبة الإعدام أو السجن المؤبد بالنسبة للجريمة المنصوص عليها في الفقرة الأولى والسجن المشدد بالنسبة للجريمة المنصوص عليها في الفقرة الثانية والسجن مدة لا تزيد على عشر سنوات بالنسبة للجريمة المنصوص عليها في الفقرة الثالثة ، ويبين من النصوص السابقة أن جريمة تولي قيادة جماعة أسست على خلاف أحكام القانون الغرض منها تعطيل أحكام الدستور والقانون ومنع مؤسسات الدولة والسلطات العامة من أداء عملها والاعتداء على الحرية الشخصية للمواطنين والحقوق العامة والإضرار بالوحدة الوطنية والسلام الاجتماعي متخذين من الإرهاب وسيلة لتحقيق تلك الأغراض والتي دان الطاعنين الثلاثة الأول بها وكذا جريمة الانضمام لتلك الجماعة لتحقيق ذات الأغراض بنفس الوسيلة التي دان باقي الطاعنين – عدا السابع – بها لا تتحقق إلا بتوافر عنصرين **أولهما مادي** وينطوي على مجموعة من العناصر : ١- تولي قيادة جماعة أو الانضمام إليها . ٢- أن تكون تلك الجماعة أسست على خلاف أحكام القانون والتأسيس المقصود هنا ليس هو اتخاذ إجراءات شهر الجماعة أو الإعلان عنها وإنما هو اندماجها في كيان المجتمع وفق النشاط والأغراض المشروعة والمحددة لها والتي لا تنطوي على مخالفة القانون أما إذا حادت عن الأغراض المشروعة والقانونية فهي تعد جماعة على خلاف أحكام القانون . ٣- أن تكون أغراض تلك الجماعة الفعلية هو تعطيل أحكام الدستور والقانون ومنع مؤسسات الدولة وسلطاتها العامة من ممارسة أعمالها والاعتداء على الحرية الشخصية للمواطنين والحقوق العامة والإضرار بالوحدة الوطنية والسلام الاجتماعي . **وثانيهما معنوي** وهو القصد الجنائي ويتمثل في اتجاه إرادة الجاني وإدراكه لما يفعله وعلمه بشروط الجريمة فيشترط أن تتجه إرادة الجاني إلى تولي قيادة الجماعة أو الانضمام إليها وأن يكون عالماً بأهداف تلك الجماعة وأغراضها

غير المشروعة ووسيلة تنفيذ تلك الأغراض . لما كان ذلك ، وكان الحكم المطعون فيه قد بين سواء فيما أورده في بيانه لواقعات الدعوى أو في إيراده لأدلة الثبوت فيها – على نحو ما تقدم – أن الطاعنين الثلاثة الأول قد تولوا قيادة في جماعة الإخوان المسلمين التي أسست على خلاف أحكام القانون وأن باقي الطاعنين – عدا السابع – قد انضموا لتلك الجماعة وأن الغرض من تلك الجماعة هو تعطيل أحكام الدستور والقانون ومنع مؤسسات الدولة والسلطات العامة من ممارسة أعمالها والاعتداء على الحرية الشخصية للمواطنين والممتلكات والمنشآت العامة والخاصة والإضرار بالوحدة الوطنية والسلام الاجتماعي وهو ما يضفي عدم الشرعية على تلك الجماعة ويجعلها مخالفة لأحكام القانون ، كما أثبت الحكم بما ساقه من أدلة توافر القصد الجنائي لدى الطاعنين بأن اتجهت إرادة كل منهم إلى ارتكاب الفعل المسند إليه سواء بتولي قيادة في الجماعة أو الانضمام إليها مع علمهم بأغراض تلك الجماعة الغير مشروعة واتخاذها للقوة والعنف والتهديد والترويع كوسائل لتحقيق أغراض تلك الجماعة مع علمهم بذلك الأمر الذي تتوافر معه أركان تلك الجريمة في حقهم ويضحى النعي على الحكم المطعون فيه في هذا الخصوص غير سديد ، ولا ينال من ذلك ما أثاره الدفاع عن الطاعنين من أن تلك الجماعة قد وُفقت أوضاعها طبقاً لأحكام قانون الجمعيات الأهلية أو أن الطاعن الأول قد تخلى عن رئاسة حزب الحرية والعدالة التابع لتلك الجماعة منذ توليه رئاسة الجمهورية في ٢٠١٢/٦/٣٠ إذ كل ذلك لا يعدو أن يكون دفاعاً موضوعياً يتعلق بنفي الاتهام يكفي للرد عليه ما ساقته المحكمة من أدلة الثبوت السائغة التي اطمأنت إليها . لما كان ذلك ، وكان المشرع قد نص في المادة (٧٧ د) من قانون العقوبات على أن : " يعاقب بالسجن إذا ارتكبت الجريمة في زمن سلم وبالسجن المشدد

إذا ارتكبت في زمن حرب (١) .... (٢) كل من أتلف عمداً أو أخفى أو اختلس أو زور أوراقاً أو وثائق وهو يعلم أنها تتعلق بأمن الدولة أو بأية مصلحة قومية أخرى . فإذا وقعت الجريمة بقصد الإضرار بمركز البلاد الحربي أو السياسي أو الدبلوماسي أو الاقتصادي أو بقصد الإضرار بمصلحة قومية لها كانت العقوبة السجن المشدد في زمن السلم والسجن المؤبد في زمن الحرب . ولا يجوز تطبيق المادة ١٧ من هذا القانون بأي حال على جريمة من هذه الجرائم إذا وقعت من موظف عام أو شخص ذي صفة نيابة عامة أو مكلف بخدمة عامة . " ويبين من النص المتقدم أن هذه الجريمة لا تقع إلا إذا كانت الوثائق أو الأوراق محل الاختلاس مما يتعلق بأمن الدولة أو بمصلحة قومية لها ويتطلب لقيام هذه الجريمة توافر ثلاثة أركان **أولها مادي** ويتمثل في فعل الاختلاس أي الاستيلاء على تلك الأوراق والوثائق **وثانيها معنوي** ويتمثل في القصد الجنائي بشقيه العلم والإرادة أي أن يعلم الجاني بأن هذه الأوراق والوثائق مما تتعلق بأمن الدولة أو بمصلحتها القومية وأن تتجه إرادته إلى اختلاسها والاستيلاء عليها **وثالثها وهو القصد الخاص** ويتمثل في نية تملك تلك الوثائق والأوراق أي أن يكون اختلاس الجاني لتلك الوثائق والأوراق بنية تملكها ، وقد شدد المشرع العقاب على الجاني إذا ما كانت تلك الجريمة قد ارتكبت بقصد الإضرار بمركز البلاد الحربي أو السياسي أو الدبلوماسي أو الاقتصادي أو بقصد الإضرار بمصلحة قومية لها ، كما غل يد القاضي عن إعمال حكم المادة ١٧ من قانون العقوبات إذا ما توافرت موجبات إعمالها إذا كان من ارتكب تلك الجريمة موظفاً عاماً أو شخصاً ذي صفة نيابية عامة أو مكلفاً بخدمة عامة . لما كان ذلك ، وكان الحكم المطعون فيه قد أثبت بما ساقه من أدلة الثبوت السائغة التي اطمأنت إليها المحكمة أن الطاعن

الأول وقت أن كان يتولى رئاسة الجمهورية – وهو في حكم الموظف العام – قد تسلم من قائد الحرس الجمهوري آنذاك والمخابرات العامة والحربية وهيئة الرقابة الإدارية والأمن الوطني وثائق هامة وتتعلق بالقوات المسلحة وأمن الدولة ومصالحها القومية واحتفظ بها لنفسه بنية تملكها وامتنع عن ردها لحفظها لدى المختصين بذلك بمؤسسة الرئاسة وأنه كان على علم بأهمية تلك المستندات وتعلقها بأمن الدولة ومصالحها القومية إلا أنه امتنع عن ردها للجهات المختصة بحفظها واختلسها لنفسه بنية تملكها الأمر الذي تتوافر معه في حقه الجريمة المؤثمة بالمادة (٧٧ د) فقرة (١) بند ٢ من قانون العقوبات ، وإزاء ثورة الشعب ضده في ٢٠١٣/٦/٣٠ قام بتسليم تلك المستندات – السالف بيانها تفصيلاً – إلى الطاعن الثالث والذي كان يعمل سكرتيراً له بمؤسسة الرئاسة – وهو في حكم الموظف العام – الذي قام بجمعها بحقيبة خاصة وقام بإبعادها عن مكان حفظها بمؤسسة الرئاسة بأن قام بإخفائها بمسكنه رغم علمه بأهميتها وأنها تتعلق بأمن الدولة وبمصالحها القومية ، كما أثبت الحكم بما ساقه من أدلة الثبوت السائغة أن المتهمة الثانية وهي ابنة الطاعن الثالث إزاء قيام ثورة الثلاثين من يونيو سنة ٢٠١٣ وانقطاع اتصالها بوالدها قامت بتسليم تلك المستندات داخل الحقيبة الحافظة لها إلى المتهمة التاسعة لإخفائها بمسكنها حتى تستقر الأمور ولم تقم هي أو والدها الطاعن الثالث برد تلك الوثائق والمستندات إلى الجهات المختصة الأمر الذي يوفر في حق الطاعن الثالث أركان جريمة إخفاء المستندات والوثائق المتعلقة بأمن الدولة ومصالحها القومية المؤثمة بالمادة (٧٧ د) فقرة ١ بند ٢ ، كما أثبت الحكم المطعون فيه أيضاً بما ساقه من أدلة الثبوت السائغة والقرائن التي اطمأنت إليها المحكمة أن المتهمة التاسعة قامت بفض الحقيبة والاطلاع على ما بها من وثائق ومستندات



وعلمت بأهميتها وخطورتها وأنها تتعلق بأمن الدولة ومصالحها القومية ثم قامت بإخفائها بمسكنها واتصلت بالمتهم العاشر والذى بعد أن علم بأهمية تلك المستندات وخطورتها وتعلقها بالأمن القومي والمصالح القومية للبلاد قام بالاتصال بالطاعن الرابع وأخبراه بما لديهما من وثائق ومستندات فطلب منهما إحضارها وأرسل إليهما الطاعن السادس وتوجهوا جميعاً إلى مسكن الطاعن الخامس بمدينة السادس من أكتوبر وبعد أن اطلعوا جميعاً على تلك الوثائق والمستندات وأدركوا أهميتها وتعلقها بأمن الدولة ومصالحها القومية قاموا بإخفائها لدى الطاعن السادس بعد أن اتفق الطاعن الرابع مع المتهم العاشر على الاتصال بالمسئولين عن قناة الجزيرة لنشر تلك الوثائق والمستندات بها بنية الإضرار بمركز البلاد الحربى والسياسي والدبلوماسي والاقتصادي والمصالح القومية للبلاد الأمر الذي تتوافر معه في حق الطاعنين الرابع والسادس جريمة إخفاء وثائق وأوراق تتعلق بأمن الدولة ومصالحها القومية بنية الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي ومصالحها القومية المؤثمة بالمادة (٧٧ د) فقرة ١ بند ٢ وفقرة ٢ ومن ثم فإن النعي على الحكم المطعون فيه في هذا الشأن يكون غير سديد ولا ينال من ذلك ما دفع به الطاعن الثالث من أن قيامه بنقل تلك المستندات من مكان حفظها بمؤسسة الرئاسة وإخفائها بمسكنه إنما كان نفاذاً لأمر رئيسه في العمل – الطاعن الأول – وأن طاعته واجبة عليه الأمر الذي يجعل ما قام به من عمل مباحاً ومن ثم تنتفى أركان تلك الجريمة في حقه ، لما هو مقرر من أن طاعة المرؤوس لرئيسه لا تكون في أمر من الأمور التي يجرمها القانون ولا تمتد بأي حال إلى ارتكاب الجرائم وأنه ليس على المرؤوس أن يطيع الأمر الصادر له من رئيسه بارتكاب فعل يعلم هو أن القانون يعاقب عليه وهو ما أثبته

الحكم المطعون فيه في حقه ومن ثم فإن الحكم يكون بريئاً من مخالفة القانون والخطأ في تطبيقه . لما كان ذلك ، وكان المشرع قد نص في المادة (٧٧ د) من قانون العقوبات على أن : " يعاقب بالسجن إذا ارتكبت الجريمة في زمن سلم وبالسجن المشدد إذا ارتكبت في زمن حرب : ١- كل من سعى لدى دولة أجنبية أو أحد ممن يعملون لمصلحتها أو تخابر معها أو معه وكان من شأن ذلك الإضرار بمركز مصر الحربى أو السياسي أو الدبلوماسي أو الاقتصادي . ٢- ..... فإذا وقعت الجريمة بقصد الإضرار بمركز البلاد الحربي أو السياسي أو الدبلوماسي أو الاقتصادي أو بقصد الإضرار بمصلحة قومية لها كانت العقوبة السجن المشدد في زمن السلم والسجن المؤبد في زمن الحرب ولا يجوز تطبيق المادة ١٧ من هذا القانون بأي حال على جريمة من هذه الجرائم إذا وقعت من موظف عام أو شخص ذي صفة نيابية عامة أو مكلف بخدمة عامة . " وكان مقتضى إعمال هذا النص وتطبيق أحكامه يتطلب توافر **أولاً : ركن مادى** ويتمثل في العمل المادي الذي يقوم به الجاني أما بالسعي لدى دولة أجنبية أو ممن يعملون لمصلحتها أو بالتخابر مع دولة أجنبية أو من يعمل لمصلحتها ، والسعي أو التخابر يكون بشتى الوسائل الممكنة أو المتاحة وتطلب المشرع أن يكون من شأن تلك الأفعال إلحاق الأضرار بمركز البلاد الحربي أو السياسي أو الدبلوماسي أو الاقتصادي فإذا لم تبلغ ذلك فهي بمنأى عن التأثيم وهو أمر يخضع في إثباته والتدليل عليه وتقديره لمحكمة الموضوع تحت رقابة محكمة النقض ، **ثانياً : ركن معنوي** وهو القصد الجنائي العام بشقيه العلم والإرادة أي أن يكون الجاني قد اتجهت إرادته إلى إتيان أفعال السعي والتخابر وهو عالماً بها وأن من شأنها الإضرار بمركز البلاد الحربي أو السياسي أو الدبلوماسي أو الاقتصادي – حتى ولو لم يقع بسببها

ضرر بالفعل فالجريمة تكتمل أركانها في حق الجاني ويحق عقابه عنها حتى ولو لم تقع تلك الأضرار أو لم تتجه نيته إلى إحداثها – أما إذا اتجهت نية الجاني إلى الإضرار بمركز البلاد الحربي أو السياسي أو الدبلوماسي أو الاقتصادي أو إلى الإضرار بالمصالح القومية للبلاد فإن المشرع شدد العقاب عليه بأن جعل العقوبة السجن المشدد بدلاً من السجن إذا ارتكبت الجريمة في زمن السلم والسجن المؤبد بدلاً من السجن المشدد إذا ارتكبت الجريمة في زمن الحرب ، وغاية من المشرع في الحرص على أمن البلاد ومصالحها القومية فقد غل يد القاضي عن إعمال حكم المادة ١٧ من قانون العقوبات في حق الجاني إذا كان موظفاً عاماً أو ذي صفة نيابية عامة أو مكلفاً بخدمة عامة وتقع تلك الجريمة بكل فعل من شأنه نقل معلومات أو بيانات في أي من الأمور المتعلقة بالبلاد أو بمصالحها الحربية كتلك التي تتصل بشئون القوات المسلحة وإعدادها وتسليحها وأماكن تمركزها وإعاشتها وخططها أو بأي أمر من الأمور المتعلقة بسياسة البلاد وإدارة كافة شئونها السياسية داخلياً أو خارجياً وعلاقاتها الدبلوماسية بكافة الأقطار وكذا أي فعل من شأنه نقل أي معلومات عن الوضع الاقتصادي للبلاد وموازنتها ومخزونها الاستراتيجي وأوجه القصور في كافة النواحي الحياتية داخل البلاد وسببها وسواء كان نقل تلك المعلومات عن طريق سعي الجاني إلى الدولة الأجنبية أو لدى من يعمل لمصلحتها أو عن طريق التخابر معهم بأي طريق من طرق التواصل وهي جميعها أفعال تتصف بعدم المشروعية والخروج على القانون . لما كان ذلك ، وكان من المقرر أن المساهمة في ارتكاب الجرائم أو الاشتراك فيها إما أن يكون الجاني فيها فاعلاً أصلياً أو شريكاً فيها ، ويعد فاعلاً أصلياً في الجريمة وفقاً لنص المادة (٣٩) من قانون العقوبات من يرتكب الجريمة

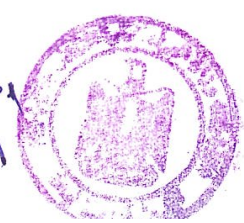
وحده أو مع غيره أو من يدخل في ارتكابها إذا كانت تتكون من جملة أعمال فيأتي عمداً عملاً من الأعمال المكونة لها ، أما الاشتراك في الجريمة وفقاً لنص المادة (٤٠) من قانون العقوبات أن يكون بالتحريض على ارتكاب الفعل المكون للجريمة إذا كان هذا الفعل قد وقع بناء على هذا التحريض وإما أن يكون بالاتفاق مع غيره على ارتكاب الجريمة فوقعت بناء على هذا الاتفاق وإما أن يكون بالمساعدة على ارتكابها بإعطاء الفاعل سلاحاً أو آلات أو أي شيء مما استعمل في ارتكاب الجريمة مع علمه بها أو ساعدهم بأي طريقة أخرى في الأعمال المجهزة أو المسهلة أو المتممة لارتكابها ، كما أن الاشتراك في الجريمة لا يتحقق إلا في واقعة معاقب عليها تقع من الفاعل الأصلي ، وأن الشريك لا يجوز عقابه إذا كان ما وقع من الفاعل الأصلي غير معاقب عليه إذ إن إجرام الشريك مستمد من إجرام الفاعل الأصلي ويدور معه وجوداً أو عدماً ، وكانت محكمة الموضوع عملاً بحقها المقرر بمقتضى حكم المادة (٣٠٨) من قانون الإجراءات الجنائية قد عدلت وصف الاتهام بالنسبة لجريمة التخابر بأن جعلت المتهم العاشر (علاء عمر سبلان) فاعلاً أصلياً فيها والمتهمين الرابع (أحمد على عبده عفيفي) والحادي عشر (إبراهيم محمد هلال) شركاء فيها وأجرت المحكمة ذلك التعديل بجلسة ٢٠١٦/٢/٣ في حضور المدافع عن المتهم الرابع ونبهته إلى هذا التعديل حيث جرت المرافعة على أساسه ، وكانت المحكمة بعد أن دللت على ثبوت جريمة التخابر في حق المتهم العاشر ساقت من أدلة الثبوت السائغة والقرائن التي اطمأنت إليها أن الطاعن الرابع ساهم في ارتكاب جريمة التخابر مع دولة أجنبية ومن يعملون لمصلحتها بقصد الإضرار بمركز البلاد الحربى والسياسي والدبلوماسي والاقتصادي وبمصالحها القومية وأن إرادته اتجهت إلى الاشتراك في تلك الجريمة وهو عالماً بها وساعد في ارتكابها

بأن تلاقت إرادته مع المتهم العاشر واتفق معه على مقابلته مع المتهمة التاسعة بمدينة السادس من أكتوبر أمام مسجد الحصري بعد أن أخبراه بأن معهما حقيبة الوثائق والمستندات الخاصة برئاسة الجمهورية خلال فترة حكم الطاعن الأول وأن المتهمة التاسعة حصلت عليها من المتهمة الثامنة ابنة المتهم الثالث، وساعدهما الطاعن الرابع بأن أرسل لهما الطاعن السادس حيث أحضرهما بسيارته واتجهوا إلى مسكن الطاعن الخامس حيث اطلع جميعهم على تلك المستندات وأدركوا أهميتها وأنها تتعلق بأسرار الدفاع عن البلاد ومصالحها القومية واتجهت نية الطاعن الرابع والمتهم العاشر إلى نشر تلك الوثائق والمستندات عبر قناة الجزيرة القطرية ، وبعد أن سافر المتهم العاشر إلى قطر وأخبر العاملين بقناة الجزيرة القطرية عن طريق المتهم الحادي عشر بما لديه من وثائق ومستندات ومدى أهميتها وخطورتها وأرسل لهم العناوين الرئيسية لتلك الوثائق والمستندات عبر بريده الإلكتروني بمساعدة الطاعنين الرابع والسادس ، وبعد أن اطلع عليها العاملون بقناة الجزيرة طلبوا من المتهم العاشر السفر إلى قطر حيث تقابل عن طريق المتهم الحادي عشر مع رئيس قناة الجزيرة القطرية حمد بن جاسم وضابط من المخابرات القطرية واتفق معهم على أن يدفعوا لهم لقاء ذلك مبلغ مليون دولار دفعوا منها مقدماً مبلغ خمسين ألف دولار وطلبوا منه إحضار أصول تلك الوثائق والمستندات وأجلوا سداد باقي المبلغ حتى يتم إرسال أصول الوثائق والمستندات إليهم ، فقام بالاتصال بالطاعن الرابع وأخبره بما تم الاتفاق عليه وأرسل له عن طريق الطاعن الخامس مبلغ عشرة آلاف دولار الأمر الذي يوفر في حقه الاشتراك بطريقي الاتفاق والمساعدة في ارتكاب جريمة التخابر مع دولة أجنبية ومن يعمل لمصلحتها بنية الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي وبمصالحها

القومية ويضحى النعي على الحكم المطعون فيه بالقصور في هذا الشأن لا محل له . لما كان ذلك ، وكانت المادة (٨٠) من قانون العقوبات قد جرى نصها على أن : " يعاقب بالإعدام كل من سلم لدولة أجنبية أو لأحد ممن يعملون لمصلحتها أو أفشى إليها أو إليه بأية صورة وعلى أي وجه وبأية وسيلة سراً من أسرار الدفاع عن البلاد أو توصل بأية طريقة إلى الحصول على سر من هذه الأسرار بقصد تسليمه أو إفشائه لدولة أجنبية أو لأحد ممن يعملون لمصلحتها ..... " وقد عرفت المادة (٨٥) من قانون العقوبات ما يعد من أسرار الدفاع في نصها على أنه : " يعتبر سراً من أسرار الدفاع : ١- المعلومات الحربية والسياسية والدبلوماسية والاقتصادية والصناعية التي بحكم طبيعتها لا يعلمها إلا الأشخاص الذين لهم صفة في ذلك ويجب لمصلحة الدفاع عن البلاد أن تبقى سراً على من عدا هؤلاء الأشخاص . ٢- الأشياء والمكاتبات والمحررات والوثائق والرسوم والخرائط والتصميمات والصور وغيرها من الأشياء التي يجب لمصلحة الدفاع عن البلاد ألا يعلم بها إلا من يناط بهم حفظها أو استعمالها والتي يجب أن تبقى سراً على من عداهم خشية أن تؤدي إلى إفشاء معلومات مما أشير إليه في الفقرة السابقة . ٣- الأخبار والمعلومات المتعلقة بالقوات المسلحة وتشكيلاتها وتحركاتها وعتادها وتموينها وأفرادها وبصفة عامة كل ما له مساس بالشئون العسكرية والاستراتيجية ولم يكن قد صدر إذن كتابي من القيادة العامة للقوات المسلحة بنشره أو إذاعته . ٤- الأخبار والمعلومات المتعلقة بالتدابير والإجراءات التي تتخذ لكشف الجرائم المنصوص عليها في هذا الباب أو تحقيقها أو محاكمة مرتكبيها ومع ذلك فيجوز للمحكمة التي تتولى المحاكمة أن تأذن لإذاعة ما تراه من مجرياتها . " والبين مما تقدم أن تلك الجريمة يتطلب تحققها توافر ركنين **أحدهما مادي** ويتمثل في الفعل المادي إما التسليم

أو الإفشاء لدولة أجنبية أو لمن يعملون لمصلحتها سراً من أسرار الدفاع عن البلاد أو التوصل بأية طريقة إلى الحصول على سر من أسرار الدفاع عن البلاد لتسليمه أو إفشائه إلى دولة أجنبية أو لمن يعملون لمصلحتها ، **وثانيهما معنوي** ويتمثل في القصد الجنائي العام بشقيه العلم والإرادة أي أن يكون الجاني عالماً بأن ما يحصل عليه هو سر من أسرار الدفاع عن البلاد – وفق ما أوضحته المادة (٨٥) من قانون العقوبات السالف بيانها – وأن تتجه إرادته إلى الحصول عليه لتسليمه أو إفشائه إلى دولة أجنبية أو لمن يعملون لمصلحتها . لما كان ذلك ، وكان الحكم المطعون فيه قد دلل بما ساقه من أدلة الثبوت السائغة والقرائن التي اطمأنت إليها المحكمة أن الطاعن الرابع حصل على الوثائق والمستندات والتي تنطوي على أسرار الدفاع عن البلاد – على النحو وبالكيفية السالف بيانها – وأنه علم بمحتوى تلك الوثائق وأنها تنطوي على أسرار الدفاع عن البلاد ولا يجوز لغير المنوط بهم تداولها وحفظها الاطلاع عليها وكان الثابت أن تلك الوثائق – على نحو ما سلف بيانه – تنطوي على معلومات حربية وسياسية ودبلوماسية واقتصادية ومكاتبات وخرائط وتضمنت تقارير عن القوات المسلحة وتشكيلاتها وتحركاتها وعتادها وأماكن تمركزها وأنه عن طريق المتهمين العاشر والحادي عشر تمكن من السعي والتخابر مع قناة الجزيرة القطرية والمخابرات القطرية لتسليمها تلك الوثائق والمستندات وتم ذلك بمعاونة الطاعنين السادس والسابع الأمر الذي يوفر في حقه أركان جريمة الحصول على سر من أسرار الدفاع عن البلاد لتسليمه وإفشائه إلى دولة أجنبية ومن يعملون لمصلحتها وحق عقابه عنها ومن ثم فإن منعاه على الحكم المطعون فيه في هذا الشأن يكون غير سديد . لما كان ذلك ، وكانت محكمة الموضوع بما يوجبه القانون عليها من إضفاء الوصف الصحيح على واقعات الدعوى قد عدلت وصف

الاتهام المسند للطاعنين السادس والسابع بالنسبة لجريمة الحصول على سر من أسرار الدفاع عن البلاد لتسليمه أو إفشائه إلى دولة أجنبية إلى أنهما وهما عالمان بنية المتهمين الرابع والعاشر قدما إليهما إعانة للحصول على سر من أسرار الدفاع عن البلاد لتسليمه وإفشائه إلى دولة أجنبية ومن يعملون لمصلحتها وهو الأمر المؤثم بالمادة (٨٢) فقرة ١ من قانون العقوبات والتي جرى نصها على أن : " يعاقب باعتباره شريكاً في الجرائم المنصوص عليها في هذا الباب : ١- كل من كان عالماً بنيات الجاني وقدم إليه إعانة أو وسيلة للتعيش أو للسكنى أو مأوى أو مكاناً للاجتماع أو غير ذلك من التسهيلات وكذلك كل من حمل رسائله أو سهل له البحث عن موضوع الجريمة أو إخفائه أو نقله أو إبلاغه .... " ويبين من النص المتقدم أن المشرع نظراً للخطورة الشديدة للجرائم المنصوص عليها في الباب الأول من الكتاب الثاني من قانون العقوبات والمتعلقة بأمن الدولة من جهة الخارج فقد حرص على تجريم جميع الأفعال التي تؤدى أو تعين أو تساعد على ارتكاب تلك الجرائم أو تسهيل سبل ارتكابها وعد من ارتكب تلك الأفعال شريكاً في تلك الجرائم ومتى توافرت في حقه وجب عقابه بالعقوبة المقررة للفاعل الأصلي . لما كان ذلك ، وكان الحكم المطعون فيه قد أثبت بما ساقه من أدلة الثبوت السائغة والقرائن التي اطمأنت إليها المحكمة أن الطاعنين السادس (محمد عادل كيلاني) والسابع (أحمد إسماعيل ثابت) علما بنية المتهمين الرابع والعاشر في الحصول على سر من أسرار الدفاع عن البلاد لتسليمه وإفشائه إلى دولة أجنبية فاتجهت إرادتهما إلى إعانتهما على ارتكاب تلك الجريمة بأن قام الطاعن السادس بإخفاء الحقيبة المحتوية على الوثائق والمستندات التي تعد من أسرار الدفاع عن البلاد في منزله الكائن ٦٣ ب الحي السويسري بمدينة نصر لحين نقلها عن طريق الطائرة



في رحلة سفره إلى قطر وتسليمها إلى ضابط المخابرات القطرية ممثل الدولة الأجنبية وقام بتغيير رحلة سفره من دبى إلى قطر تمهيداً لتنفيذ تلك المهمة ، كما قام الطاعن السابع بإرسال صور من تلك الوثائق والمستندات التي تنطوي على أسرار الدفاع عن البلاد إلى المتهم العاشر عبر البريد الالكتروني الخاص به لاطلاع المسئولين بقناة الجزيرة القطرية والمخابرات القطرية عليها والتفاوض بشأن تسليم أصول تلك الوثائق بما تنطوي عليه من أسرار ومعلومات إليهم ، وقد ارتكب الطاعنان السادس والسابع تلك الأفعال وهما على علم بنية المتهمين الرابع والعاشر واتجهت إرادتهما إلى ارتكابها رغم ذلك وهو ما يوفر في حقهما أنهما وهما على علم بنية المتهمين الرابع والعاشر اشتركا معهما في ارتكاب جريمة الحصول على سر من أسرار الدفاع عن البلاد لتسليمه وإفشائه إلى دولة أجنبية ومن يعملون لمصلحتها مما يوجب عقابهما عنها ومن ثم فإن النعي على الحكم المطعون فيه بالقصور في التسبيب والفساد في الاستدلال في هذا الشأن لا يكون له محل . لما كان ذلك ، وكانت المادة (٨٢ ب) من قانون العقوبات قد جرى نصها على أن : " يعاقب بالسجن المؤبد أو المشدد كل من اشترك في اتفاق جنائي سواء كان الغرض منه ارتكاب الجرائم المنصوص عليها في المواد ٧٧ ، ٧٧ أ ، ٧٧ ب ، ٧٧ ج ، ٧٧ هـ ، ٧٨ ، ٧٨ أ ، ٧٨ ب ، ٧٨ ج ، ٧٨ د ، ٧٨ هـ ، ٨٠ أو اتخاذها وسيلة للوصول إلى الغرض المقصود ..... " ويبين من هذا النص أن الاتفاق الجنائي المنصوص عليه فيه هو صورة خاصة من صور المساهمة الجنائية في ارتكاب الجرائم الوارد ذكرها في هذا النص ويتطلب لتوافر أركان تلك الجريمة تحقق أمرين **الأول مادي** وهو مساهمة الجاني في ارتكاب الجريمة موضوع ذلك الاتفاق بفعل من الأفعال الدالة عليه ، **والثاني معنوي** وهو علم الجاني بموضوع

ذلك الاتفاق واتجاه إرادته إلى الدخول فيه . لما كان ذلك ، وكان من المقرر أن الاشتراك بطريق الاتفاق إنما يتحقق باتحاد نية أطرافه على ارتكاب الفعل المتفق عليه وهذه النية أمر داخلي لا يقع تحت الحواس ولا يظهر بعلامات خارجية وإذ كان القاضي حراً في أن يستمد عقيدته من أي مصدر شاء فإن له إذا لم يقم على الاشتراك دليل مباشر من اعتراف أو شهادة شهود أو غيره أن يستدل عليه بطريق الاستنتاج من القرائن التي تقوم لديه ما دام هذا الاستدلال سائغاً وله من ظروف الدعوى ما يبرره ، كما له أن يستنتج حصوله من فعل لاحق للجريمة يشهد به . لما كان ذلك ، وكان الحكم قد دلل بما ساقه من أدلة الثبوت السائغة والقرائن التي اطمأنت إليها المحكمة على اشتراك الطاعن الرابع بطريق الاتفاق مع المتهمين التاسعة والعاشر وتلاقت إرادتهم في الحصول على سر من أسرار الدفاع عن البلاد بقصد تسليمه وإفشائه إلى دولة أجنبية ومن يعملون لمصلحتها – على نحو ما سلف بيانه – كما دلل الحكم بما ساقه من أدلة سائغة على اشتراك الطاعن الرابع بطريق الاتفاق مع المتهم العاشر على ارتكاب جريمة السعي والتخابر مع دولة أجنبية ومن يعمل لمصلحتها بقصد الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي وبمصالحها القومية بأن تلاقت إرادتهما قاصدين ارتكاب تلك الجريمة – على نحو ما سلف بيانه – وهو عالم بما أقدم عليه ودلل الحكم أيضاً على تلاقي إرادات الطاعنين الأول والثالث وكذا الرابع والسادس على اختلاس وإخفاء الوثائق والمستندات موضوع الدعوى والتي تنطوي على أسرار الدفاع عن البلاد وتتعلق بأمن الدولة وبمصالحها القومية كما دلل على تلاقي إرادتي الطاعنين الرابع والسادس وإقدامهما على ارتكاب جريمة إخفاء تلك المستندات بقصد تسليمها وإفشائها إلى دولة أجنبية ومن يعمل لمصلحتها ، كما دلل الحكم بما ساقه

من أدلة ثبوت وقرائن اطمأنت إليها المحكمة على تلاقى إرادة الطاعن الرابع والمتهم العاشر على طلب نقود من دولة أجنبية ومن يعمل لمصلحتها بقصد ارتكاب أعمال ضاره بالمصالح القومية للبلاد ، وكان ما استخلصه الحكم المطعون فيه بشأن الاشتراك في اتفاق جنائي على النحو السالف بيانه عن طريق الاستنتاج والاستقراء مما أورده من أدلة الثبوت السائغة التي ساقتها محكمة الموضوع كافياً وسائغاً للقول بتوافره ويكون النعي عليه في هذا الشأن غير سديد ، هذا فضلاً أن الحكم المطعون فيه قد أعمل في حق الطاعنين حكم المادة ٣٢ من قانون العقوبات وأوقع عليهم عقوبة الجريمة الأشد للارتباط فليس لهم مصلحة في النعي عليه بالقصور في التدليل على الاشتراك في الاتفاق الجنائي . لما كان ذلك ، وكان من المقرر أن وزن أقوال الشهود وتقدير الظروف التي يؤدون فيها شهادتهم ، وتعويل القضاء على أقوالهم مهما وجه إليها من مطاعن وحام حولها من الشبهات كل ذلك مرجعه إلى محكمة الموضوع تنزله المنزلة التي تراها وتقدره التقدير الذي تطمئن إليه ، وهي متى أخذت بشهادة الشاهد فإن ذلك يفيد أنها اطرحت جميع الاعتبارات التي ساقها الدفاع لحملها على عدم الأخذ بها ، كما أن تناقض الشاهد في بعض أقواله لا يعيب الحكم طالما استخلص الحقيقة منها بما لا تناقض فيه ، وكان الحكم المطعون فيه قد عول على أقوال شهود الإثبات التي اطمأن إليها وحصل مؤداها بما لا تناقض فيه ، فإن النعي عليه في هذا الشأن ينحل إلى جدل حول سلطة محكمة الموضوع في تقدير أدلة الدعوى مما لا يجوز مجادلتها فيه أمام محكمة النقض . لما كان ذلك ، وكان البين من الحكم المطعون فيه أنه عول في قضائه على أقوال الضابط / طارق محمد صبري وحصل مؤداها في بيان كافٍ – خلافاً لما يدعيه الطاعنون بأسباب طعنهم – ، وكان من المقرر أن انفراد الضابط

بالشهادة دون باقي أفراد القوة المرافقة له لا يمنع من الأخذ بأقواله كدليل في الدعوى يخضع لتقدير محكمة الموضوع ، ومن ثم فإن النعي على الحكم المطعون فيه في هذا الشأن يكون غير سديد . لما كان ذلك ، وكان من المقرر أن للخصوم رد الخبير إذا وجدت أسباب قوية تدعو لذلك ويقدم طلب الرد إلى قاضي التحقيق للفصل فيه ويجب أن تبين فيه أسباب الرد وعلى القاضي الفصل فيه في مدة ثلاثة أيام من يوم تقديمه ويترتب على هذا الطلب عدم استمرار الخبير في عمله إلا في حال الاستعجال بأمر من القاضي ، وكان الثابت من مطالعة محاضر جلسات المحاكمة أن المدافع عن الطاعن الثاني تقدم بجلسة ٢٠١٥/٩/١٠ بطلب إلى رئيس المحكمة لرد اللواء / عباس مصطفى كامل رئيس اللجنة المشكلة من قبل المحكمة لفحص الوثائق والمستندات المضبوطة ومطابقتها على السجلات والدفاتر بمؤسسة الرئاسة وبيان تاريخ وجهة ورود كل منها وما اتخذ بشأنها من إجراءات ومصيرها ، والمحكمة بعد أن حلفت أعضاء اللجنة اليمين القانونية قبل مباشرة مهمتها قررت استمرارها في أداء العمل المنوط بها ، وعرضت بأسباب حكمها المطعون فيه لطلب الرد واطرحته بقولها أن العمل الذي كلفت اللجنة القيام به لا يعد من أعمال الخبرة وإنما هو مجرد الاطلاع على دفاتر الصادر والوارد بمؤسسة الرئاسة وتدوين المحتوى الموجود بها دون إبداء ملاحظات عليها أو تطبيق أساليب فنية أو علمية في هذا الشأن ، ومن ثم فإن التقرير المقدم من اللجنة لا يعد تقريراً فنياً مقدماً من خبير في الدعوى ، ولا يخضع لقاعدة رد الخبراء وهو ما يسوغ به اطراح طلب الرد المقدم من الطاعن في هذا الخصوص ، ويكون النعي على الحكم المطعون فيه بشأنه غير مقبول . لما كان ذلك ، وكان من المقرر أن من حق محكمة الموضوع أن تستخلص من أقوال الشهود وسائر العناصر المطروحة أمامها

على بساط البحث الصورة الصحيحة لواقعة الدعوى حسبما يؤدي إليه اقتناعها وأن تطرح ما يخالفها من صور أخرى ما دام استخلاصها سائغاً مستنداً إلى أدلة مقبولة في العقل والمنطق ، ولها أصلها في الأوراق ، وكانت محكمة الموضوع قد أفصحت عن اطمئنانها لحدوث واقعات الدعوى وفق الصورة التي استخلصتها من جماع أدلة الثبوت السائغة التي أوردتها فإن النعي على الحكم المطعون فيه باستحالة حدوث الواقعة على هذه الصورة وبتلفيق الاتهام وكيديته لا يعدو أن يكون جدلاً حول سلطة محكمة الموضوع في استنباط معتقدها عن الواقعة وصورتها من أدلة الثبوت التي اطمأنت إليها وهو ما لا يجوز مجادلتها فيه أمام محكمة النقض . لما كان ذلك ، وكان من المقرر أن تقدير جدية التحريات ، وكفايتها لإصدار إذن الضبط والتفتيش هو من المسائل الموضوعية التي يوكل الأمر فيها إلى سلطة التحقيق تحت إشراف محكمة الموضوع ، وأنه متى كانت المحكمة قد اقتنعت بجدية الاستدلالات التي بنى عليها إذن التفتيش وكفايتها لتسويغ إصداره ، وأقرت النيابة العامة على تصرفها في هذا الشأن فلا معقب عليها فيما ارتأته لتعلقه بالموضوع لا بالقانون ، ولما كانت المحكمة قد عرضت للدفع ببطلان إذن النيابة العامة بالضبط والتفتيش المبدى من الطاعنين السادس والسابع لابتنائه على تحريات غير جدية ومنعدمة وتجهيل مصدرها ، وردت على شواهد الدفع ببطلانه بأدلة منتجة لا ينازع الطاعنان في أن لها أصل ثابت بالأوراق ، فإن النعي على الحكم في هذا الشأن يكون غير سديد . لما كان ذلك ، وكان الحكم المطعون فيه قد عرض للدفع ببطلان القبض والتفتيش لوقوعه قبل صدور الإذن وأثبت بما ساقه من أدلة سائغة أن ضبط الطاعنين وتفتيشهم وتفتيش مساكنهم كان لاحقاً للإذن بالضبط والتفتيش الصادر من النيابة العامة للرائد / طارق محمد صبري بقطاع الأمن الوطني بتاريخ

٢٠١٤/٣/٢٣ واطرح ما ساقه الطاعنون في هذا الشأن من برقيات تلغرافية ومستندات وقرائن تأييداً لدفاعهم ، وكان من المقرر أن الدفع ببطلان الضبط والتفتيش يعد دفاعاً موضوعياً يكفي للرد عليه اطمئنان المحكمة إلى وقوع الضبط والتفتيش بناءً على هذا الإذن أخذاً منها بالأدلة السائغة التي أوردتها – كما هو الحال في الدعوى المطروحة – فإن النعي على الحكم المطعون فيه في هذا الصدد يكون غير سديد . لما كان ذلك ، وكان الحكم المطعون فيه قد عرض للدفع المبدى من الطاعنين ببطلان تقرير هيئة الأمن القومي الخاص بفحص المضبوطات لانقطاع صلة المتهمين بها وتجاوز من أجراه أمر الندب من النيابة العامة في خصوص قيامه بإجراء تحرياته لم يكلف بإجرائها ، ولعدم حلفه اليمين القانونية قبل مباشرة مهمته بما مفاده أن المخابرات العامة أناط بها القانون رقم ١٠٠ لسنة ١٩٧١ بشأن المخابرات العامة المحافظة على أمن وسلامة الدولة وحفظ كيانها ونظامها ومد مؤسساتها الرئاسية والمعاونة لها بكافة احتياجاتها من المعلومات ، وكذا التحري عن كافة الجرائم الماسة بالدولة سواء من جهة الخارج أو الداخل وخول كافة العاملين بها صفة مأموري الضبط القضائي في تطبيق أحكام هذا القانون ، ومن ثم فإن كل ما يقومون به في إطار جمع الأدلة والاستدلالات عن أي جرائم متعلقة بأمن الدولة وسلامتها من جهة الخارج أو الداخل يكون وفق صحيح القانون طالما لم يكن لهم يد في خلق الجريمة أو التحريض عليها ، وقد أناطت المادة (٢٩) من قانون الإجراءات الجنائية بأعضاء النيابة العامة أثناء جمع الاستدلالات الاستعانة بأهل الخبرة وأن يطلبوا رأيهم شفاهه أو كتابة بغير حلف يمين وليس ما يمنع من الأخذ بالتقرير المقدم منه ولو لم يحلف يميناً قبل مباشرة المهمة على سبيل الاستدلال باعتباره عنصراً من عناصر الدعوى طالما كان مطروحاً

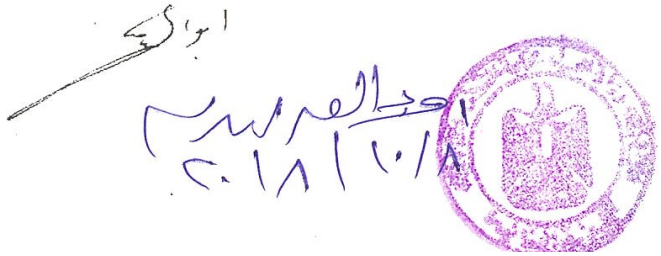
على بساط البحث والمناقشة ، ومن ثم فإن تكليف النيابة العامة لرئيس هيئة الأمن القومي بقرارها الصادر بتاريخ ٢٠١٣/٤/١٣ لندب أحد الفنيين المختصين بها لفحص أجهزة الحاسب الألي ووحدات التخزين والكاميرا وماكينة الطباعة والماسح الضوئي والهواتف المحمولة المضبوطة بحوزة المتهمين من الرابع إلى الثامنة وبيان ما إذا كانت متصلة بأية حسابات على شبكة المعلومات الدولية وتفريغ كافة محتوياتها ليس فيه ما يخالف القانون في شيء وهو ما يسوغ به اطراح دفاع الطاعنين في هذا الشأن ولا يمنع المحكمة من الأخذ به باعتباره دليلاً مادياً مطروحاً على المحكمة لها أن تأخذ به أو تطرحه حسبما يستقر في عقديتها طالما كان مطروحاً على بساط البحث والمناقشة ، لما هو مقرر من أن تقدير آراء الخبراء والفصل فيما يوجه إلى تقاريرهم من مطاعن مرجعه إلى محكمة الموضوع التي لها كامل الحرية في تقدير القوة التدليلية لتقرير الخبير شأنه في ذلك شأن سائر الأدلة في الدعوى والفصل فيما يوجه إليها من اعتراضات ، وكانت المحكمة قد عرضت لما أثاره الطاعنون بشأن تقرير هيئة الأمن القومي الخاص بفحص المضبوطات من اعتراضات ، واطرحتها برد سائغ وأفصحت عن اطمئنانها إلى ما انتهى إليه ، فإن النعي على الحكم المطعون فيه في هذا الخصوص لا يعدو أن يكون جدلاً حول سلطة محكمة الموضوع في تقدير أدلة الدعوى مما لا يجوز مجادلتها فيه أمام محكمة النقض . لما كان ذلك ، وكان الحكم المطعون فيه قد عرض للدفوع المبداة من الطاعنين الرابع والخامس والسادس والسابع كونها وليدة إكراه مادي ومعنوي وحجز بدون وجه حق وإطالة أمد التحقيق واطرحها بعد أن قام بتحقيق تلك الدفوع تحقيقاً مستفيضاً بعرضهم جميعاً على الطب الشرعي استبياناً لما إذا كان قد وقع على أي منهم ثمة تعذيبات بدنية

في تاريخ معاصر لإدلائهم بتلك الاعتراضات من عدمه وبعد أن تم توقيع الكشف الطبي عليهم وإثبات حالة كل منهم قامت المحكمة باستدعاء الطبيب الشرعي ومناقشته في التقرير الذي أعده عن حالة كل منهم وبيان ما به من إصابات كما قامت باستدعاء الضابط المنسوب له التعذيب أو الإكراه وسألته عما نسب إليه ، وبعد أن حققت المحكمة دفاع المتهمين في هذا الشأن وثبت لها عدم وقوع أي تعذيب أو إكراه بدني على الطاعنين ، وأن الإصابات التي وجدت ببعضهم راجعة لأسباب أخرى لا علاقة لها بالاعترافات المنسوبة إليهم ، كما ثبت للمحكمة مما أجرته من تحقيقات عدم حجز أي منهم بدون وجه حق وأن جلسات التحقيق معهم كانت تتم في أجال مناسبة لم تسفر عن وقوع أي ضغط أو تهديد لأي منهم وبعد أن نفت المحكمة بيقين شواهد الدفوع المبداة من الطاعنين الرابع والخامس والسادس والسابع ببطلان اعترافاتهم بالتحقيقات خلصت إلى أن تلك الاعترافات الصادرة منهم جاءت تفصيلية واشتملت على وقائع وأحداث أحاطت بها وتساندت مع أدلة الدعوى الأخرى ولم تتنافر معها ، وأنها قد صدرت منهم عن طواعية واختيار وبغير إكراه ، وكان من المقرر أن الاعتراف في المسائل الجنائية من العناصر التي تملك محكمة الموضوع كامل الحرية في تقدير صحتها وقيمتها في الإثبات ولها دون غيرها البحث في صحة ما يدعيه المتهم من أن الاعتراف المعزو إليه قد انتزع منه بطريق الاكراه ، كما أن لها تقدير ما إذا كان الاعتراف قد صدر من المتهم أثر إجراء باطل وتحديد مدى صلة الاعتراف بهذا الإجراء ، ومتى تحققت من أن الاعتراف كان دليلاً مستقلاً منبت الصلة عن الإجراءات السابقة وأنه سليم مما يشوبه واطمأنت إليه كان لها أن تأخذ به بلا معقب عليها فيه ، وكانت المحكمة على نحو ما سلف بيانه قد أفصحت عن اطمئنانها إلى اعترافات

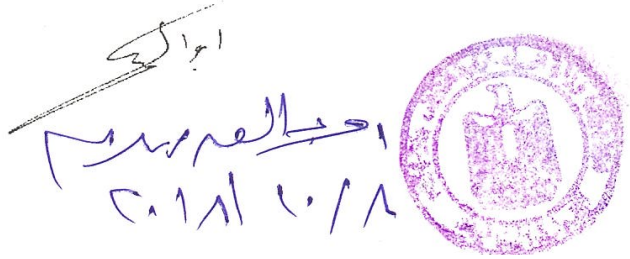
الطاعنين باعتبارها دليلاً مستقلاً عن الإجراءات السابقة عليها ومنبتة الصلة عنها وأنها صدرت منهم طواعيةً واختياراً ولم تكن نتيجة أي إكراه أو إجراءات باطلة واقتنعت بسلامتها وصحتها ، فإن منعاهم على الحكم المطعون فيه في هذا الخصوص لا يعدو أن يكون محاولة لإعادة الجدل في تقدير الدليل مما لا يجوز إثارته أمام محكمة النقض . لما كان ذلك ، وكانت المادة (١٢٤) من قانون الإجراءات الجنائية قد نصت على أنه : " لا يجوز للمحقق في الجنايات وفي الجنح المعاقب عليها بالحبس وجوباً أن يستجوب المتهم أو يواجهه بغيره من المتهمين أو الشهود إلا بعد دعوة محاميه للحضور عدا حالة التلبس وحالة السرعة بسبب الخوف من ضياع الأدلة على النحو الذي يثبته المحقق في المحضر وعلى المتهم أن يعلن اسم محاميه بتقرير لدى قلم كتاب المحكمة أو إلى مأمور السجن أو يخطر به المحقق كما يجوز لمحاميه أن يتولى هذا الإعلان أو الإخطار وإذا لم يكن للمتهم محام أو لم يحضر محاميه بعد دعوته وجب على المحقق من تلقاء نفسه أن يندب له محامياً ... " ويبين من النص أن المشرع قد حظر استجواب المتهم أو مواجهته بغيره من المتهمين أو الشهود في الجنايات وفي الجنح المعاقب عليها بالحبس وجوباً إلا إذا حضر معه محاميه وأوجب على المتهم أن يعلن اسم محاميه إما في قلم الكتاب أو إلى مأمور السجن أو إلى المحقق وأجاز للمحامي أن يقوم بذلك الإخطار ، وفي حالة عدم حضور المحامي بعد دعوته أو إذا لم يكن للمتهم محام أوجب المشرع على المحقق أن يندب له محامياً ، واستثنى المشرع من هذا الحظر حالتي التلبس بالجريمة ، والسرعة بسبب الخوف من ضياع الأدلة وذلك على النحو الذي يثبته المحقق في المحضر فأجاز إجراء الاستجواب في هاتين الحالتين دون حضور محام ، وكان الحكم المطعون فيه قد عرض للدفع المبدى من الطاعنين

الرابع والخامس والسابع ببطلان استجواباتهم بالتحقيقات لعدم حضور محام مع كل منهم آنذاك واطرحها بما أثبته من أن المحقق سأل كل منهم لدى استجوابه عما إذا كان لديه محامياً يحضر معه إجراءات التحقيق فأجابوا جميعاً سلباً ونظراً للسرعة وخشية ضياع الأدلة قام باستجوابهم واعترفوا جميعاً بالاتهامات المسندة إليهم وفي جلسات التحقيق التالية حضر محامٍ مع كل من الطاعنين الرابع والسابع وأصر كل منهما في حضور محاميه على اعترافه ، وهو ما يسوغ به اطراح الدفع المبدى منهم في هذا الشأن وتكون استجواباتهم بالتحقيقات قد تمت بمنأى عن البطلان . لما كان ذلك ، وكان من المقرر أنه بحسب الحكم كيما يستقيم قضاؤه أن يورد الأدلة المنتجة التي صحت لديه على ما استخلصه من وقوع الجريمة المسندة إلى المتهمين ولا عليه أن يتعقبهما في كل جزئية من جزئيات دفاعهما لأن مفاد التفاته عنها أن اطرحها ، وأن للمحكمة أن تلتفت عن دليل النفي ولو حملته أوراق رسمية ما دام يصح في العقل أن يكون غير ملتئم مع الحقيقة التي اطمأنت إليها المحكمة ، كما أنه من المقرر أيضاً أن أوجه الدفاع التي تتعلق بنفي التهمة هي من أوجه الدفاع الموضوعية التي لا تستأهل رداً طالما كان الرد مستفاداً من أدلة الثبوت التي أوردها الحكم ، ومن ثم فإن ما ينعاه الطاعنون على الحكم المطعون فيه بشأن التفاته عن طلبات ضم دفاتر الأحوال الخاصة بالأمن الوطني خلال الفترة من ٢٠١٤/٣/٢٣ حتى ٢٠١٤/٣/٣٠ وقسمي مدينة نصر أول وثاني إثباتاً لاحتجاز الطاعن السادس وخضوعه للتعذيب خلال تلك الفترة ، والاستعلام من شركتي فودافون واتصالات عن رقمي هاتفه ونطاقهما الجغرافي ، وإجراء معاينة للشقة الخاصة به والكائنة بالحي السويسري بمدينة نصر استبياناً لكيفية ضبط حقيبة الوثائق والمستندات بها وضم كاميرات المراقبة بنيابة أمن الدولة

عن يومي ١٧ ، ٢٠١٣/١٢/١٨ والأشرطة التي تم تسجيلها وأوراق القضية رقم ٣٤١٥٠ لسنة ٢٠١٥ جنايات قسم أول مدينة نصر تدليلاً على عدم مشاركتهم في اعتصام رابعة العدوية والاستعلام من فندق شيراتون الدوحة عن تاريخ وصول وخروج المتهم العاشر خلال الفترة من ٢٠١٣/١٢/١٣ حتى ٢٠١٤/٣/٢٣ وسماع شهادة المستشار / عدلي منصور رئيس الجمهورية المؤقت وصفوه حجازي والضابط محمد حازم بقطاع الأمن الوطني عن معلوماتهم بشأن اعتصام رابعة العدوية والاستعلام عن اللجنة المشكلة بمعرفة الشاهد الأول لاستلام المضبوطات وضم صورة رسمية من قرار الاستلام وطلب الطاعن السابع بجلسة ٢٠١٥/٧/٧ الاطلاع على الإيميل الخاص به تحقيقاً لدفاعه بعدم إرساله أي وثائق أو مستندات عبر بريده الالكتروني وإنما هي مجرد عناوين لا تنطوي على أية أسرار عن الدفاع عن البلاد مردوداً بأن هذه الطلبات جميعها إنما هي طلبات موضوعية تتعلق بنفي الاتهامات المنسوبة إليهم لا يعيب الحكم إعراضه عن إجابتها بحسبانها لا تستأهل رداً أو تحقيقاً اكتفاءً بأدلة الثبوت السائغة والمنتجة التي اطمأنت إليها المحكمة واستدلت منها على ثبوت ارتكابهم للجرائم المسندة إليهم والتي دانهم الحكم عنها . لما كان ذلك ، وكانت المادة (٤٥٤) من قانون الإجراءات الجنائية قد نصت على أن : " تنقضي الدعوى الجنائية بالنسبة للمتهم المرفوعة عليه والوقائع المسندة فيها إليه بصدور حكم نهائي فيها بالبراءة أو بالإدانة وإذا صدر حكم في موضوع الدعوى الجنائية فلا يجوز إعادة نظرها إلا بالطعن في هذا الحكم بالطرق المقررة في القانون " ويبين من هذا النص أنه يشترط لصحة الدفع بقوة الشيء المحكوم فيه في المسائل الجنائية بما يتعين معه الامتناع عن إعادة نظر الدعوى **أولاً** : أن يكون هناك حكم جنائي نهائي سبق صدوره في محاكمة جنائية معينة والحكم النهائي له مدلولان

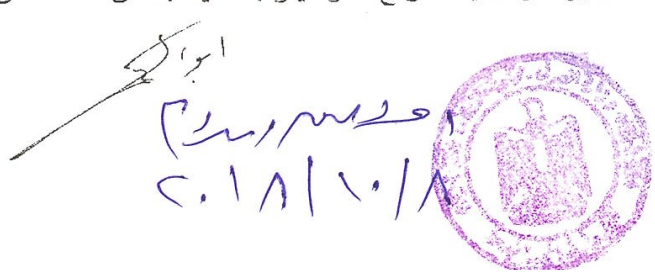


أحدهما ضيق وهو الذي لا يقبل الطعن بالاستئناف وهذا هو المقصود بعبارة الحكم النهائي كلما أريد منه الإشارة إلى قابليته للتنفيذ – ومدلول واسع – وهو ما يشار إليه في محيط الحجية وانقضاء الدعوى الجنائية وعلى ذلك إذا كانت قوة الشيء المقضي به تحول دون الرجوع إلى الدعوى فهي لا تنصرف إلا إلى الحكم النهائي في المعنى الواسع أي الذي لا يجوز الطعن فيه بالطرق العادية أو طريق النقض أي الحكم البات وعليه فالشرط الأول للدفع هو أن يكون الحكم باتاً أي غير قابل للطعن بالطرق العادية والنقض ، **ثانياً** : وحدة الموضوع والسبب وأشخاص المتهمين بين الدعويين ، **ثالثاً** : أن يكون الحكم صادراً في موضوع الدعوى الأولى سواء قضى بالإدانة وتوقيع العقوبة أو بالبراءة ورفض توقيعها أما إذا صدر في مسألة غير فاصلة في الموضوع فإنه لا يحوز حجية الشيء المقضي فيه . لما كان ذلك ، وكان الحكم المطعون فيه قد عرض للدفع المبدى من الطاعنين بعدم جواز نظر الدعوى لسابقة الفصل فيها في القضية رقم ٥٦٤٥٨ لسنة ٢٠١٣ جنايات قسم أول مدينة نصر المقيدة برقم ٢٥٢٩ لسنة ٢٠١٥ كلي شرق القاهرة بجلسة ٢٠١٥/٦/١٥ وذلك بالنسبة للاتهام المسند إليهم بالبندين تاسعاً وعاشراً بشأن جريمة تولى قيادة جماعة أسست على خلاف أحكام القانون الغرض منها تعطيل أحكام الدستور ومنع مؤسسات الدولة من أداء عملها والانضمام إليها مع العلم بغرضها ، وخلص في تدليل سائغ إلى عدم انطباق شروط أعمال قوة الأمر المقضي لعدم نهائية الحكم الصادر في الدعوى المرفوع بها وانتهى إلى رفض الدفع ، ومن ثم فإن النعي عليه في هذا الخصوص يكون غير مقبول . لما كان ذلك ، وكان الحكم المطعون فيه قد عرض للدفع المبدى من الطاعن السادس بعدم جواز نظر الدعوى الجنائية لسابقة الفصل فيها لصدور أمر ضمني من نيابة أمن الدولة



العليا بأن لا وجه لإقامة الدعوى الجنائية قبل الشيخ حمد بن جاسم رئيس قناة الجزيرة واطرحه بما مفاده أن التحقيقات لم تشمله ولم يتم استدعاؤه ولم يصدر أمر ضمني بألا وجه لإقامة الدعوى الجنائية بالنسبة له صراحة أو استنتاجاً . لما كان ذلك ، وكان من المقرر أنه إذا كان تصرف النيابة العامة لا يفيد على وجه القطع استقرار الرأي على عدم رفع الدعوى الجنائية ، فإنه لا يصح اعتبار تصرفها أمراً بألا وجه لإقامة الدعوى لأن الأصل في هذا الأمر أن يكون صريحاً ومدوناً بالكتابة فلا يصح استنتاجه من تصرف أو استنتاج آخر إلا إذا كان هذا التصرف أو الإجراء يترتب عليه حتماً وبطريق اللزوم العقلي أن ثمة أمر بألا وجه لإقامة الدعوى الجنائية قد صدر ضمناً ، وإذ كانت النيابة العامة بعد أن حققت الدعوى واستجوبت الطاعنين وباقي المتهمين قيدتها جناية ضدهم وأسندت إليهم الاتهامات الواردة بصدر الحكم فإن ذلك بمجرده لا يفيد على وجه القطع واللزوم أن النيابة العامة قد ارتأت إصدار أمر بألا وجه لإقامة الدعوى الجنائية ضد حمد بن جاسم رئيس قناة الجزيرة الفضائية بشأن أي من تلك الاتهامات ويكون ما انتهى إليه الحكم من اطراح دفاع الطاعن في هذا الشأن سديداً ولا محل للنعي عليه في هذا الخصوص . لما كان ذلك ، وكانت المادة (١٥) من قانون السلطة القضائية رقم ٤٦ لسنة ١٩٧٢ قد نصت على أنه : " فيما عدا المنازعات الإدارية التي يختص بها مجلس الدولة تختص المحاكم بالفصل في كافة المنازعات والجرائم إلا ما استثنى بنص خاص وتبين قواعد اختصاص المحاكم في قانون المرافعات وقانون الإجراءات الجنائية " ويبين من هذا النص أن محاكم القضاء العادي هي المختصة بالنظر في جميع الدعاوي الناشئة عن أفعال مكونة لجريمة وفقاً لقانون العقوبات العامة أياً كان شخص مرتكبها ، وأن ما نصت عليه المادة

(١٥٩) من دستور جمهورية مصر العربية لسنة ٢٠١٤ من أن : " يكون اتهام رئيس الجمهورية بانتهاك أحكام الدستور أو بالخيانة العظمى أو أية جناية أخرى بناء على طلب موقع من أغلبية أعضاء مجلس النواب على الأقل ولا يصدر قرار الاتهام إلا بأغلبية ثلثي أعضاء المجلس وبعد تحقيق يجريه معه النائب العام ، وإذ كان به مانع يحل محله أحد مساعديه وبمجرد صدور هذا القرار يوقف رئيس الجمهورية عن عمله ويعتبر ذلك مانعاً مؤقتاً يحول دون مباشرته لاختصاصاته حتى صدور حكم في الدعوى ويحاكم رئيس الجمهورية أمام محكمة خاصة يرأسها رئيس مجلس القضاء الأعلى .... " . لما كان ذلك ، وكانت الاتهامات المسندة إلى الطاعن الأول عن جرائم وأفعال نسب إليه ارتكابها ابان أن كان يشغل منصب رئيس الجمهورية وقد اتخذت إجراءات التحقيق معه وأقيمت عليه وآخرين الدعوى عقب زوال ذلك المنصب عنه ، ومن ثم فإن الاختصاص بمحاكمة الطاعن الأول عما أسند إليه من جرائم موضوع الدعوى ينعقد للقضاء الجنائي العادي ، ومن ثم فإن النعي على الحكم المطعون فيه بالبطلان لعدم اختصاص المحكمة ولائياً بنظر الدعوى بالنسبة للطاعن الأول يكون بعيداً عن الصواب . لما كان ذلك ، وكان البين من الاطلاع على محضر جلسة المحاكمة بتاريخ ٢٠١٦/٣/٦ أنه خلا من بيان اسم ممثل النيابة العامة أمام هيئة المحكمة بيد أنه لما كان الثابت بمحضر تلك الجلسة أن النيابة العامة قدمت للمحكمة صورة ضوئية من اللائحة العالمية لجماعة الإخوان المسلمين والنظام العام للإخوان المسلمين أشرت عليها المحكمة ، بما مفاده أن ممثل النيابة العامة كان حاضراً بتلك الجلسة – خلافاً لما يدعيه الطاعن – وأن إغفال ذكر اسمه ضمن هيئة المحكمة بمحضر جلسة المحاكمة لا يعدو أن يكون مجرد سهواً لا يغير من حقيقة الواقع ، ولا يترتب عليه بطلان . لما كان ذلك ، وكان الثابت

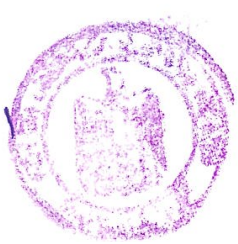


من محاضر جلسات المحاكمة ، ومن الحكم المطعون فيه أن الأستاذ / علاء علم الدين المحامي تولى الدفاع عن الطاعنين الثاني والسابع وكان واقع الحال في الدعوى وظروف الواقعة – على نحو ما استخلصه الحكم – لا يؤدي للقول بوجود تعارض حقيقي بين مصلحتيهما ، وكان المحامي المذكور قد حضر وترافع عنهما في الدعوى وأبدى ما عَنَّ له من دفاع بالنسبة لكل منهما طالباً القضاء لهما بالبراءة ، ومن ثم فإن النعي على الحكم المطعون فيه في هذا الشأن يكون غير سديد ، لما هو مقرر من أن القانون لا يمنع من أن يتولى محام واحد واجب الدفاع عن متهمين متعددين في جريمة واحدة ما دامت ظروف الواقعة لا تؤدي للقول بقيام تعارض حقيقي بين مصالحهم . لما كان ذلك ، وكان القانون رقم ٤٨ لسنة ١٩٧٩ بإصدار قانون المحكمة الدستورية العليا المعمول به وقت نظر الدعوى نص في المادة ٢٩ منه على أن : " تتولى المحكمة الرقابة القضائية على دستورية القوانين واللوائح على الوجه التالي .... (ب) إذا دفع أحد الخصوم أثناء نظر الدعوى أمام إحدى المحاكم أو الهيئات ذات الاختصاص القضائي بعدم دستورية نص في قانون أو لائحة ورأت المحكمة أو الهيئة أن الدفع جدي أجلت نظر الدعوى وحددت لمن أثار الدفع ميعاداً لا يجاوز ثلاثة شهور لرفع الدعوى بذلك أمام المحكمة الدستورية العليا ، فإذا لم ترفع الدعوى في الميعاد اعتبر الدفع كأن لم يكن ، وكان مفاد هذا النص أن محكمة الموضوع وحدها هي الجهة المختصة بتقدير جدية الدفع بعدم الدستورية وأن الأمر بوقف الدعوى المنظورة أمامها وتحديد ميعاد لرفع الدعوى بعدم الدستورية جوازي لها ومتروك لمطلق تقديرها ، وكان يبين من الحكم المطعون فيه أنه عرض للدفع المبدى من الطاعنين الثاني والثالث والسادس بعدم دستورية أحكام المواد (٧٧ د ، ٨٢ ، ٨٨ مكرر ج) من قانون العقوبات

لمخالفتها أحكام المواد ٥٤ ، ٩٤ ، ٩٥ ، ٩٦ ، ٩٩ ، ١٨٤ ، ١٨٦ من الدستور وخلص إلى انتفاء مصلحتهم في التمسك بهذا الدفع لتعديل الاتهام المسند إليهم وعدم إعمال حكم المواد المدفوع بعدم دستوريتها في حقهم ، وكذا إعمال حكم المادة ٣٢ من قانون العقوبات وتوقيع عقوبة الجريمة الأشد بالنسبة للطاعن السادس ورأت المحكمة – بحق – أنه لا محل لوقف الدعوى المنظورة أمامها لرفع الدعوى بعدم دستورية تلك المواد أمام المحكمة الدستورية العليا فإن النعي على الحكم المطعون فيه في هذا الخصوص يكون غير مقبول . لما كان ذلك ، وكانت المادة (٣٨١) من قانون الإجراءات الجنائية قد نصت على أنه : " .... ولا يجوز لمحكمة الجنايات أن تصدر حكماً بالإعدام إلا بإجماع آراء أعضائها ويجب عليها قبل أن تصدر هذا الحكم أن تأخذ رأي مفتي الجمهورية ..... " ويبين من هذا النص أن المشرع أوجب على محكمة الجنايات بعد سماع الدعوى إذا ما رأت الحكم فيها بالإعدام أن تستطلع الرأي الشرعي في هذا الشأن عن طريق عرض الأوراق على مفتي الجمهورية إلا أن هذا الرأي غير ملزم لها فلها بعد وروده أن تأخذ به أو تطرحه كما أن لها أن تقضي في الدعوى إذا لم يرد إليها خلال العشرة أيام التالية لإرسال الأوراق إليه ، ذلك أن توقيع العقوبة المقررة عن الجريمة وتقديرها من اطلاقات قاضي الموضوع دون معقب عليها ودون أن تسأل عن الأسباب التي من أجلها أوقعت العقوبة بالقدر الذي ارتأته ، هذا إلى أن المحكمة غير ملزمة بعرض ما خلص إليه مفتي الجمهورية في رأيه على الخصوم للبحث والمناقشة إذ القانون لم يوجب عليها ذلك ، فضلاً عن أن أخذ رأي المفتي لا يكون إلا بعد تمام المرافعة وتهيئة الدعوى للفصل فيها بما يمنع من العودة إلى فتح باب المرافعة فيها إلا إذا رأت المحكمة ذلك . لما كان ذلك ، فإن النعي على الحكم

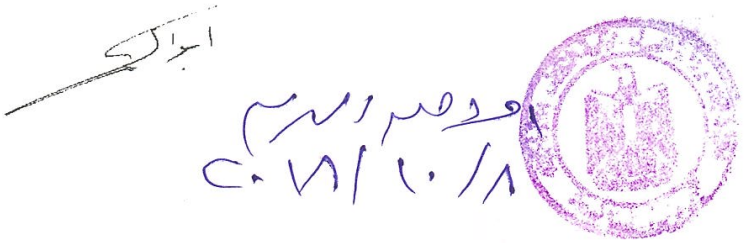
المطعون فيه بشأن تجاوز مفتي الجمهورية في إبداء رأيه الشرعي بالنسبة لتوقيع عقوبة الإعدام على متهمين لم تطلب المحكمة منه إبداء الرأي بالنسبة لهم – بفرض صحته – غير مؤثر طالما لم يكن لذلك أثر في منطق الحكم ، فضلاً عن أن النعي عليه بعدم عرض تقرير المفتي على بساط البحث والمناقشة على الخصوم وأن إحالة الأوراق للمفتي يفصح عن اتجاه المحكمة لتوقيع عقوبة الإعدام ويجعلها غير صالحة للفصل في الدعوى يكون غير مقبول ويتعارض مع ما أوجبه القانون . لما كان ذلك . وكانت المادة (٢٤٧) من قانون الإجراءات الجنائية قد أوضحت الحالات التي يمتنع فيها على القاضي أن يشترك في نظر الدعوى والفصل فيها على سبيل الحصر ، وكان النعي على المحكمة خوضها في أمور سياسية – في صدر حكمها – بشأن نشأة جماعة الإخوان المسلمين وقوامها ونظامها الأساس وأنها استقت تلك المعلومات من العلم العام وأنه ليس له سند بالأوراق ففضلاً عن أنه لا يعد سبباً لفقد المحكمة صلاحيتها للفصل في الدعوى فهو تزيد غير مؤثر في منطق الحكم وما خلصت إليه المحكمة ، ومن ثم فإن النعي المبدى من الطاعنين في هذا الشأن يكون غير سديد . لما كان ذلك ، وكان من المقرر أن التناقض الذي يعيب الحكم ويبطله هو الذي يقع بين أسبابه بحيث ينفى بعضها ما أثبته البعض الآخر ولا يعرف أي الأمرين قصدته المحكمة وكان النعي على الحكم تعويله على أقوال الضابط بالأمن الوطني محمد عبد الرحمن على الرغم من أنه قرر عدم إجرائه تحريات عن جماعة الإخوان المسلمين خلال الفترة من ٢٠١٣/٦/١ حتى ٢٠١٣/٦/٣٠ لا يعد من قبيل التناقض ، كما أن استدلال الحكم على ثبوت جريمة التخابر في حق الطاعنين من حصولهم على مبالغ مالية من العاملين بالمخابرات القطرية لا يتناقص مع ما ثبت من عدم حصول الطاعن السادس على ثمة مبالغ لنفسه ،

ومن ثم فإن النعي على الحكم المطعون فيه بالتناقض في هذا الخصوص لا يكون له محل . لما كان ذلك ، وكان من المقرر أن الأصل في المحاكمات الجنائية هو اقتناع القاضي بناء على الأدلة المطروحة عليه فله أن يكون عقيدته من أي دليل أو قرينه يرتاح إليها إلا إذ قيده القانون بدليل معين ينص عليه وكان لا يشترط أن تكون الأدلة التي اعتمد عليها الحكم بحيث ينبئ كل دليل ويقطع في كل جزئية من جزئيات الدعوى إذا الأدلة في المواد الجنائية متساندة يكمل بعضها بعضاً ومنها مجتمعة تتكون عقيدة المحكمة ، وكان من المقرر أن تقدير الأدلة بالنسبة إلى كل متهم هو من اختصاص محكمة الموضوع وهي حرة في تكوين اعتقادها حسب تقديرها لتلك الأدلة واطمئنانها إليها بالنسبة إلى متهم وعدم اطمئنانها إلى ذات الأدلة بالنسبة إلى متهم آخر ، ومن ثم فإن النعي على الحكم المطعون فيه تعويله على أقوال الشهود وتحريات هيئة الأمن القومي والأمن الوطني وتقارير لجان الفحص لدى القضاء بإدانة بعض المتهمين واطراحها لدى القضاء ببراءة متهمين آخرين لا يعدو أن يكون جدلاً حول سلطة محكمة الموضوع في تقدير أدلة الدعوى واستنباط معتقدها منها مما لا يجوز مجادلتها فيه أو مصادرة عقيدتها بشأنه أمام محكمة النقض . لما كان ذلك ، وكان الحكم المطعون فيه قد أعمل في حق الطاعنين حكم المادة (٨٢ ب فقرة ١) من قانون العقوبات بشأن اشتراكهم في اتفاق جنائي الغرض منه ارتكاب الجرائم المنصوص عليها في المواد (٧٧ د ، ٧٨ / ١ ، ٢ ، ٨٠) من قانون العقوبات – والتي لم يقض بعدم دستوريتها – ولم يعمل في حقهم حكم المادة ٤٨ من قانون العقوبات – المقضي بعدم دستوريتها في الدعوى رقم ١١٤ لسنة ٢١ ق دستورية فإن النعي عليه في هذا الخصوص يكون غير مقبول . لما كان ذلك ، وكان البين



من الحكم المطعون فيه أن عدل وصف الاتهام المسند للمتهمين بأن أسند للطاعنين الأول والثالث والرابع والسادس وللمحكوم عليهم من الثامن إلى الأخير اشتراكهم في اتفاق جنائي الغرض منه ارتكابهم الجرائم المسندة إليهم في بنود الاتهام السالف بيانها بصدر الحكم والمسندة إليهم ودانهم عن تلك الجريمة بعد أن أعمل في حقهم حكم المادة ٣٢ من قانون العقوبات فإن النعي على الحكم بشأن تحدثه عن اشتراك باقي الطاعنين في ذلك الاتفاق الجنائي – بفرض صحته – ليس له من أثر طالما لم يعاقب أياً منهم بشيء عن تلك الجريمة . لما كان ذلك ، وكان الثابت من مدونات الحكم المطعون فيه ومحاضر جلسات المحاكمة أن المحكمة بجلسة ٢٠١٦/٣/٦ عدلت وصف الاتهام المسند إلى الطاعن الخامس بشأن التخابر مع دولة أجنبية ومن يعملون لمصلحتها بقصد الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي إلى أنه قدم إعانة للمتهمين الرابع والعاشر لارتكاب عمل ضار بالمصلحة القومية للبلاد وهي الجريمة المؤثمة بالمادة ١/٨٢ من قانون العقوبات وذلك بعد أن ثبت للمحكمة أن ما أتاه الطاعن المذكور من أفعال لا يجعله فاعلاً أصلياً في جريمة التخابر المسندة للمتهمين الرابع والعاشر وإنما اقتصر ما قدمه لهما على إعانتهما على ارتكاب تلك الجريمة وهو ما يجعله شريكاً فيها ، وقد أجرت المحكمة ذلك التعديل في حضور الخصوم ومحامى الطاعن الخامس ونبهته إلى هذا التعديل – حيث جرت مرافعته على أساسه – كما قامت المحكمة بذات الجلسة بتعديل وصف الاتهام المسند للطاعنين السادس والسابع بشأن جريمة الحصول على سر من إسرار الدفاع عن البلاد لتسليمه وإفشائه إلى دولة أجنبية إلى أنهما أعانا المتهمين الرابع والعاشر على ارتكاب تلك الجريمة وهي الجريمة المؤثمة بالمادة ١/٨٢ من قانون العقوبات وذلك بعد أن ثبت للمحكمة

أن ما أتاه كل منهما من أفعال لا يجعل أي منهما فاعلاً أصلياً وإنما هي مساعدة لاحقه على وقوع الجريمة تجعل كل منهما شريكاً فيها عملاً بحكم المادة ١/٨٢ من قانون العقوبات وقد أجرت المحكمة ذلك التعديل في حضور الطاعنين ومحاميهما ونبهتهما إلى ما أجرته من تعديل على وصف الاتهام وجرت مرافعتها على أساسه . لما كان ذلك ، وكان الأصل أن المحكمة لا تتقيد بالوصف القانوني الذي تسبغه النيابة العامة على الفعل المسند إلى المتهم لأن هذا الوصف ليس نهائياً بطبيعته وليس من شأنه أن يمنع المحكمة من تعديله متى رأت أن ترد الواقعة بعد تمحيصها إلى الوصف السليم الذي ترى انطباقه عليها وإذ كانت الواقعة المبينة بأمر الإحالة والتي كانت مطروحة بالجلسة هي ذاتها الواقعة التي اتخذها الحكم المطعون فيه أساساً للوصف الجديد الذي دان الطاعنين به ، وكان مرد التعديل هو إضفاء الوصف الصحيح على الفعل أو الدور الذي ارتكبه الطاعنون الخامس والسادس والسابع بالنسبة لهاتين الجريمتين دون أن يتضمن إسناد وقائع مادية جديدة أو عناصر جديدة تختلف عن الأولى وكانت المحكمة فوق ذلك قد أجرت ذلك التعديل في حضور الطاعنين ومحاميهم ونبهتهم إلى هذا التعديل حيث جرت مرافعاتهم على أساسه ، فإن ما قامت به المحكمة لا يجافى التطبيق القانوني السليم ولا يعد تصدياً من المحكمة لوقائع جديدة لم ترفع بها الدعوى بالمخالفة لحكم المادة (١١) من قانون الإجراءات الجنائية ومن ثم فإن النعي على الحكم المطعون فيه في هذا الشأن يكون غير سديد . لما كان ذلك ، وكان من المقرر أنه وإن كان تقدير توافر الشروط المقررة في المادة ٣٢ من قانون العقوبات أو عدم توافرها هو من شأن محكمة الموضوع وحدها لها أن تقرر فيه ما تراه استناداً إلى الأسباب التي من شأنها أن تؤدى إلى ما انتهت إليها غير أنه لما كانت المحكمة قد أعملت المادة ٣٢

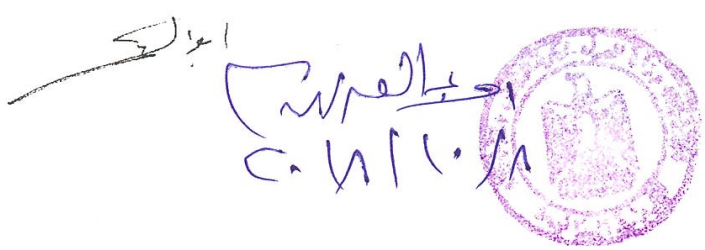


من قانون العقوبات في حق الطاعنين بالنسبة لبعض الجرائم التي خلصت المحكمة إلى إدانتهم عنها بعقوبة الجريمة الأشد وأوقعت عقوبة مستقلة على كل متهم بالنسبة لجريمة تولي قيادة جماعة أسست على خلاف أحكام القانون الغرض منها تعطيل أحكام الدستور ومنع مؤسسات الدولة من أداء عملها والانضمام إليها مع العلم بالغرض منها الواردتين بالبند تاسعاً وعاشراً ، وكان البين من واقعات الدعوى كما أثبتها الحكم المطعون فيه أن تلك الجريمة حدثت في فترة زمنية محددة وانتظمها فكر إجرامي واحد ووقعت في مكان واحد ولسبب واحد وارتبطت مع باقي الجرائم ارتباطاً لا يقبل التجزئة مما يوجب اعتبارها جريمة واحدة عملاً بالفقرة الثانية من المادة (٣٢) من قانون العقوبات والحكم بالعقوبة المقررة لأشدها بالنسبة للعقوبات الأصلية دون التكميلية ، وإذ كان الحكم المطعون فيه قد خالف هذا النظر فإنه يتعين نقضه جزئياً وتصحيحه بالنسبة للطاعنين الأول والثالث والرابع والخامس والسادس وذلك على النحو التالي :- **أولاً** : بإلغاء عقوبة السجن لمدة خمسة عشر عاماً المقضي بها على المحكوم عليه محمد محمد مرسي عيسى العياط عن الجريمتين المسندتين إليه بالبندين رابعاً وثامناً والاكتفاء بعقوبة السجن المؤبد المقضي بها عليه عن الجريمة المسندة إليه بالبند تاسعاً من الحكم المطعون فيه ، **ثانياً** : بإلغاء عقوبة السجن خمسة عشر عاماً المقضي بها على المحكوم عليه أمين عبد الحميد أمين الصرفي عن الجريمتين المسندتين إليه بالبندين خامساً وثامناً والاكتفاء بعقوبة السجن المؤبد المقضي بها عليه عن الجريمة المسندة إليه بالبند تاسعاً من الحكم المطعون فيه ، **ثالثاً** : بإلغاء عقوبة السجن المشدد لمدة خمسة عشر عاماً المقضي بها على المحكوم عليه أحمد على عبده عفيفي عن الجريمة المسندة إليه بالبند عاشراً والاكتفاء بعقوبة الإعدام المقضي بها عليه

٢٠١٨/١٠/٨

عن الجرائم المسندة إليه بالبنود أولاً أ ، ثالثاً أ ، خامساً أ ، سادساً أ ، ثامناً من الحكم المطعون فيه ، **رابعاً** : بإلغاء عقوبة السجن المشدد المقضي بها على المحكوم عليه خالد حمدي عبد الوهاب أحمد رضوان عن الجريمة المسندة إليه بالبند عاشراً والاكتفاء بالعقوبة المقضي بها عليه بالسجن المشدد لمدة خمسة عشر عاماً وتغريمه عشرة آلاف دولار عن الجريمة المسندة إليه بالبند سادساً من الحكم المطعون فيه ، خامساً : بإلغاء عقوبة السجن المشدد لمدة خمسة عشر عاماً المقضي بها على المحكوم عليه محمد عادل حامد كيلاني عن الجريمة المسندة إليه بالبند عاشراً والاكتفاء بعقوبة الإعدام المقضي بها عليه عن الجرائم المسندة إليه بالبنود أولاً ب ، ثالثا ب ، خامساً أ ، ثامناً من الحكم المطعون فيه ورفض الطعن فيما عدا ذلك .

لما كان قد تبين للمحكمة من مطالعتها موضوع الدعوى ومستنداتها أنها انطوت واقعات منسوبة للمدعو حمد بن جاسم رئيس قناة الجزيرة القطرية تنطوي على جرائم جنائية مؤثمة قانوناً بشأن التخابر لصالح دولة أجنبية ومن يعمل لمصلحتها إضراراً بمصلحة البلاد القومية ومركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي واعطاء مبالغ مالية كرشوة بقصد ارتكابه عمل ضار بمصلحة قومية للبلاد وأنه لم يتم التحقيق معه بشأن تلك الجرائم فإن المحكمة وعملاً بالحق المخول لها بمقتضى أحكام المواد (١١ ، ١٢) من قانون الإجراءات الجنائية المعدل بالقانون رقم ١١ لسنة ٢٠١٧ والمادة (٤٦) من قانون حالات وإجراءات الطعن أمام محكمة النقض رقم ٥٧ لسنة ١٩٥٩ قررت المحكمة إحالة الأوراق للسيد المستشار / النائب العام لاتخاذ اللازم نحو التحقيق والتصرف فيما نسب له في هذا الشأن .



ثانياً : بالنسبة لعرض النيابة العامة للقضية على محكمة النقض بشأن المحكوم عليهم حضورياً بالإعدام (١- أحمد على عبده عفيفي ، ٢ - محمد عادل حامد كيلاني ، ٣- أحمد إسماعيل ثابت إسماعيل) .

ومن حيث إن النيابة العامة وإن كانت قد عرضت القضية المطروحة على هذه المحكمة عملاً بنص المادة ٤٦ من قانون حالات وإجراءات الطعن أمام محكمة النقض الصادر بالقانون رقم ٥٧ لسنة ١٩٥٩ بمذكرة برأيها انتهت فيها إلى طلب إقرار الحكم الصادر حضورياً بإعدام المحكوم عليهم (أحمد على عبده عفيفي ومحمد عادل حامد كيلاني وأحمد إسماعيل ثابت إسماعيل) دون إثبات تاريخ تقديمها ليستبين منه أنه قد روعي عرض القضية في ميعاد الستين يوماً المبين بالمادة ٣٤ من القانون رقم ٥٧ لسنة ١٩٥٩ المعدل بالقانون رقم ٢٣ لسنة ١٩٩٢ إلا أنه لما كان تجاوز هذا الميعاد وعلى ما جرى به قضاء هذه المحكمة لا يترتب عليه عدم قبول عرض النيابة العامة بل إن محكمة النقض تتصل بالدعوى بمجرد عرضها عليها لتفصل فيها وتستبين من تلقاء نفسها دون أن تتقيد بمبنى الرأي الذي تضمنه النيابة العامة مذكرتها ما عسى أن يكون قد شاب الحكم من عيوب يستوى في ذلك أن يكون عرض النيابة العامة في الميعاد أو بعد فواته ، ومن ثم يتعين قبول عرض النيابة العامة لهذه القضية .

وحيث إن الحكم المطعون فيه حصل واقعات الدعوى بما تتوافر به كافة الأركان القانونية للجرائم التي دان المحكوم عليهم بالإعدام بها وأورد على ثبوتها في حقهم أدلة مستمدة من الاعترافات المنسوبة إليهم بتحقيقات النيابة العامة وأقوال شهود الإثبات وتقارير لجان فحص المضبوطات وتحريات هيئة الأمن القومي والأمن الوطني ، وهي أدلة سائغة من شأنها أن تؤدي إلى ما رتبه الحكم عليها

لها أصولها الثابتة في الأوراق ، أورد الحكم مؤداها في بيان كاف وبما لا تناقض فيما بينها مما ينبئ عن أن المحكمة أحاطت بواقعات الدعوى بصورة كافية ومحصتها التمحيص الكافي بما يجعلها ملمة بها إلماماً شاملاً ودللت تدليلاً سائغاً على توافر أركان الجرائم التي دان المحكوم عليهم بها ، كما أن إجراءات المحاكمة قد تمت وفقاً لأحكام القانون وإعمالاً لما تقضى به الفقرة الثانية من المادة ٣٨١ من قانون الإجراءات الجنائية المعدل بالقانون رقم ١٠٧ لسنة ١٩٦٢ من استطلاع رأي مفتي الجمهورية قبل إصدار الحكم بالإعدام – والذي تطابق مع ما انتهى إليه الحكم – وصدور هذا الحكم بإجماع آراء أعضاء هيئة المحكمة وقد خلا من عيب مخالفة القانون والخطأ في تطبيقه أو في تأويله وصدر من محكمة مشكلة وفقاً للقانون ولها ولاية الفصل في الدعوى ولم يصدر بعده قانون يسرى على واقعة الدعوى يصح أن يستفيد منه المحكوم عليه نحو ما نصت عليه المادة الخامسة من قانون العقوبات فإنه يتعين مع قبول عرض النيابة العامة للقضية إقرار الحكم الصادر بإعدام المحكوم عليهم (١– أحمد على عبده عفيفي ، ٢ – محمد عادل حامد كيلاني ، ٣ – أحمد إسماعيل ثابت إسماعيل) .

ثالثاً : بالنسبة للطعن المقدم من النيابة العامة :–

وحيث إن الحكم المطعون فيه وإن صدر في غيبة المطعون ضدهما الثامنة والتاسعة إلا أنه لم يدنهما بشيء بل قضى ببراءتهما من الجرائم المسندة إليهما (محل طعن النيابة العامة) ومن ثم فليس لأي منهما مصلحة في الطعن فيه بطريق النقض ومن ثم فإن طعن النيابة العامة فيه بطريق النقض بالنسبة لهما من تاريخ صدوره يكون جائزاً .

وحيث إن الطعن استوفى الشكل المقرر قانوناً .

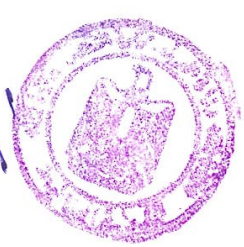
من حيث إن ما تنعاه الطاعنة على الحكم المطعون فيه بالقصور في التسبيب ، والفساد في الاستدلال ، والتناقض ، والخطأ في تطبيق القانون ؛ ذلك أنه قضى ببراءة المطعون ضدهم الأول والثاني والثالث والخامس والثامنة من جريمة الحصول على سر من أسرار الدفاع عن البلاد بقصد تسليمه وإفشائه إلى دولة أجنبية وبراءة المطعون ضده الثاني من جريمتي اختلاس أوراق ووثائق تتعلق بأمن الدولة ومصالحها القومية والاشتراك في اتفاق جنائي الغرض من ارتكاب الجرائم التي دان باقي المتهمين بها وبراءة المطعون ضده الخامس من جريمتي التخابر مع دولة أجنبية ومن يعمل لمصلحتها بقصد الإضرار بمركز البلاد الحربى والسياسي والدبلوماسي والاقتصادي ومصالحها القومية وبراءة المطعون ضدها التاسعة أسماء محمد الخطيب من جريمة الرشوة ممن يعمل لمصلحة دولة أجنبية بقصد ارتكاب عمل ضار بمصلحة قومية للبلاد استناداً إلى انتفاء أركان تلك الجرائم في حقهم وخلو الأوراق من ثمة دليل قبلهم على ارتكابها وأغفل في هذا الشأن دلالة إقرار المطعون ضدهما الرابع والسادس من أن إقدامهم على ارتكاب تلك الجرائم كان تنفيذاً لتعليمات قيادات جماعة الإخوان المسلمين وبمساعدة قناة الجزيرة القطرية إضراراً بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي وبمصالحها القومية ، كما أغفل دلالة تحريات هيئة الأمن القومي في هذا الخصوص وهي من بين الأدلة التي استند إليها الحكم في إدانة باقي المتهمين ، هذا إلى أن الحكم استبعد الظرف المشدد من جريمتي اختلاس الوثائق والمستندات التي تتعلق بأمن الدولة وبمصالحها القومية المسندة إلى المطعون ضده الأول وإخفاء تلك الوثائق والمستندات المسندة للمطعون ضدهما الثالث والثامنة استناداً إلى انتفاء قصد الإضرار بمركز البلاد الحربى والسياسي والدبلوماسي والاقتصادي لديهم ، وكذا نية الإضرار بالمصالح

القومية للبلاد وخلو الأوراق من ثمة دليل قبلهم وأغفل في هذا الشأن دلالة ما أقر به المطعون ضده السادس من أنه وباقي المتهمين قد أقدموا على ارتكاب تلك الجرائم نفاذاً لتعليمات جماعة الإخوان المسلمين وبمساعدة قناة الجزيرة القطرية ، وكذا ما أفادت به تحريات هيئة الأمن القومي وذلك إضراراً بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي ومصالحها القومية ، هذا إلى أن الحكم عدل وصف الاتهام المسند للمطعون ضده الخامس في شأن جريمة تلقى رشوة ممن يعملون لمصلحة دولة أجنبية للإضرار بمصلحة قومية للبلاد وكذا بالنسبة إلى جريمة الحصول على سر من أسرار الدفاع عن البلاد المسندة إلى المطعون ضدهما السادس والسابع إلى إعانة باقي المتهمين ومساعدتهما على ارتكاب تلك الجرائم استناداً إلى أن ما أقدموا عليه لا يدخل في عداد الأفعال المكونة لتلك الجرائم وإنما تعد مساعدة لاحقة على ارتكابها وهو استخلاص غير صحيح لا سند له من القانون إذ إن ما أقدم عليه كل منهم لا يدخل ضمن الأفعال المكونة لتلك الجرائم ، وأخيراً فإن الحكم عدل وصف الاتهام المسند إلى المطعون ضدهم الرابع والخامس والسادس والسابع والتاسعة بشأن جريمة السعي والتخابر مع دولة أجنبية بأن قصر ارتكاب ذلك الفعل على المطعون ضده العاشر كفاعل أصلي بينما باقي المتهمين بتلك الجريمة اعتبرهم الحكم شركاء فيها على الرغم من أن ما أتاه كل منهم في هذا الشأن من أفعال يوفر في حقه أركان تلك الجريمة كفاعل أصلي فيها ، مما يعيب الحكم بما يستوجب نقضه .

وحيث إن الحكم المطعون فيه بعد أن عرض لواقعات الدعوى وأدلتها خلص إلى تبرئة المطعون ضدهم الأول والثاني والثالث والخامس والثامنة من جريمة الحصول على سر من أسرار الدفاع عن البلاد بقصد تسليم وإفشائه إلى دولة أجنبية

وكان من المقرر أن يكفى في المحاكمة الجنائية أن يتشكك القاضي في صحة إسناد التهمة إلى المتهم كي يقضي بالبراءة إذ مرجع الأمر في ذلك إلى ما يطمئن إليه في تقدير الدليل ما دام الظاهر من الحكم أنه أحاط بالدعوى عن بصر وبصيرة ولا يصح مطالبته بالأخذ بدليل معين دون آخر وكان الحكم المطعون فيه قد بين واقعة الدعوى على نحو يبين منه أن المحكمة محصت الدعوى وأحاطت بظروفها وبأدلة الثبوت فيها التي قام عليها الاتهام ووازنت بينها وبين أدلة النفي ثم أفصحت من بعد عن عدم اطمئنانها إلى أدلة الثبوت التي ساقتها النيابة العامة تدليلاً على ثبوت الجرائم السالف بيانها والمسندة إلى المطعون ضدهم وذلك للأسباب السائغة التي أوردتها والتي تكفى لحمل النتيجة التي خلصت إليها فإن النعي على الحكم المطعون فيه عدم تمحيص أدلة الثبوت الأخرى أو القرائن التي قام عليها الاتهام لا يكون له محل ، لما هو مقرر كذلك من أن محكمة الموضوع لا تلتزم في حالة القضاء بالبراءة بالرد على كل دليل من أدلة الثبوت ما دام أنها قد رجحت دفاع المتهم أو داخلتها الريبة والشك في عناصر الإثبات ولأن في إغفال التحدث عنها ما يفيد أنها اطرحتها ولم تر فيها ما تطمئن معه إلى إدانة المطعون ضدهم . لما كان ذلك ، وكان الحكم المطعون فيه بعد أن عرض لواقعات الدعوى وأدلتها وفى سياق تدليله على ثبوت جريمة اختلاس الوثائق والمستندات المتعلقة بأمن الدولة وبمصالحها القومية المسندة إلى المطعون ضده الأول وكذا جريمة إخفاء تلك الوثائق والمستندات المسندة إلى المطعون ضدهما الثالث والثامنة خلص إلى انتفاء نية الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي لديهم واستبعد الفقرة الثانية من المادة ٧٧ د ولم يعملها في حقهم ، كما خلص الحكم إلى تعديل الاتهام المسند للمطعون ضده الخامس بشأن جريمة التخابر مع دولة

استناداً إلى انتفاء القصد الجنائي لديهم وخلو الأوراق من ثمة دليل على اتجاه إرادة أي منهم إلى الحصول على أية وثائق أو مستندات تنطوي على أي سر من أسرار الدفاع عن البلاد بقصد تسليمه أو إفشائه إلى دولة أجنبية ، كما خلص الحكم إلى تبرئة المطعون ضده الثاني من جريمة اختلاس وثائق ومستندات تتعلق بأمن الدولة ومصالحها القومية استناداً إلى أن أوراق الدعوى قد جاءت خالية من ثمة دليل على قيامه باستلام أية وثائق أو مستندات واستيلائه عليها بنية تملكها أو تصرفه فيها تصرف المالك ، كما أنه لم يضبط بحوزته أي مستند من تلك المستندات ، كما قضى الحكم ببراءته من جريمة الاشتراك في اتفاق جنائي مع باقي المتهمين في ارتكاب الجرائم المسندة إليهم لما ثبت للمحكمة من عدم مساهمته بأي فعل من أفعال المساعدة أو الاتفاق أو التحريض على ارتكاب أياً من هذه الجرائم وقضى الحكم ببراءة المطعون ضده الخامس من جريمة التخابر مع دولة أجنبية ومن يعمل لمصلحتها تأسيساً على خلو أوراق الدعوى مما يفيد سعيه أو اتصاله بالدولة الأجنبية أو من يعمل لمصلحتها بقصد التخابر وعدم ارتكابه أي فعل من الأفعال الدالة على ذلك وأن ما نسب إليه من أفعال تنطوي على جريمة أخرى وهي تقديم إعانة للمتهمين الرابع والعاشر ، كما قضى ببراءة المطعون ضدها التاسعة من جريمة طلب نقود ممن يعمل لمصلحة دولة أجنبية بقصد الإضرار بمصلحة قومية للبلاد تأسيساً على أن أوراق الدعوى قد خلت من ثمة دليل يفيد طلب المطعون ضدها التاسعة ثمة مبالغ لنفسها أو للغير أو حصولها على ثمة مبالغ بقصد الإضرار بمصالح البلاد القومية ، كما اطرح الحكم في هذا السياق ما أفادت به تحريات الأمن الوطني استناداً إلى أنها لا تعدو أن تكون مجرد قرينة لا ترقى إلى مرتبة الدليل ولا تكفى وحدها سنداً للإدانة . لما كان ذلك ،



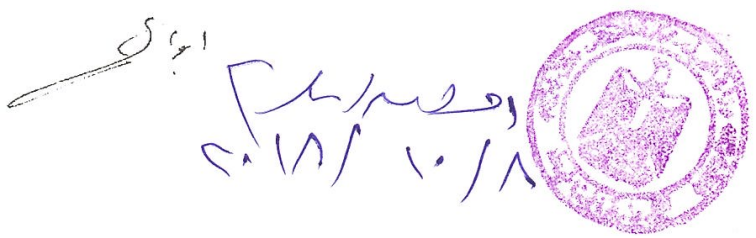
أجنبية بعد ما خلصت المحكمة إلى إضفاء الوصف الصحيح على ما أتاه من أفعال وأنها تشكل جريمة إعانة للمتهمين الرابع والعاشر على ارتكاب عمل ضار بمصلحة قومية للبلاد مع العلم بنيتهما ، كما عدلت المحكمة وصف الاتهام المسند للمطعون ضدهما السادس والسابع بالنسبة لجريمة الحصول على سر من أسرار الدفاع بقصد تسليمه وإفشائه إلى دولة أجنبية تأسيساً على أن ما ارتكباه من أفعال لا يندرج ضمن الأفعال المادية المكونة لتلك الجريمة وإنما تعد مساعدة لاحقه على تمامها وأسندت المحكمة إليهما جريمة إعانة المتهمين الرابع والعاشر على الحصول على سر من أسرار الدفاع بقصد تسليمه أو إفشائه إلى دولة أجنبية وخلصت المحكمة أيضاً إلى قصر الاتهام بالتخابر مع دولة أجنبية على المتهم العاشر كفاعل أصلى بينما المتهمين الرابع والسادس والتاسعة والحادي عشر شركاء معه في ارتكاب تلك الجريمة . لما كان ذلك ، وكان من المقرر أن المحكمة لا تتقيد بالوصف القانوني الذي تسبغه النيابة العامة على الفعل المسند إلى المتهم بل هي مكلفة بتمحيص الواقعة المطروحة أمامها بجميع كيوفها وأوصافها وأن تطبق عليها نصوص القانون تطبيقاً صحيحاً دون حاجة إلى أن تلفت نظر الدفاع إلى ذلك ما دام أن الواقعة المادية المبينة بأمر الإحالة والتي كانت مطروحة بالجلسة هي بذاتها الواقعة التي اتخذها الحكم أساساً للوصف الذي دان المتهم به دون أن تضيف المحكمة إليها شيئاً ، وكان ما أجرته المحكمة من تعديل على وصف جريمة الاختلاس المسندة إلى المطعون ضده الأول وجريمة الإخفاء المسندة إلى المطعون ضدهما الثالث والثامنة باستبعاد قصد الإضرار بمركز البلاد الحربي والسياسي والدبلوماسي والاقتصادي وبمصالحها القومية لخلو الأوراق من ثمة دليل على توافر ذلك القصد ، كما أن ما أجرته من إضفاء الوصف الصحيح

على ما اقترفه المطعون ضده الخامس من أفعال بالنسبة لجريمة التخابر وكذا ما أجرته من إضفاء الوصف الصحيح على ما اقترفه المطعون ضدهما السادس والسابع بالنسبة لجريمة الحصول على سر من أسرار الدفاع ، وما أجرته من تعديل على وصف الاتهام بالتخابر من اعتبار المطعون ضده العاشر فاعل أصلى وباقي المتهمين بتلك الجريمة شركاء إنما هو جميعه إضفاء للوصف الصحيح على واقعات الدعوى مما تملك المحكمة إجرائه وكانت المحكمة قد لفتت نظر الدفاع عن المطعون ضدهم إلى ما أجرته من تعديلات على وصف الاتهام وتمت مرافعة الدفاع على أساس الوصف المعدل ، وأن ما قامت به المحكمة لا ينطوي على إضافة وقائع جديدة ولا يعد تصدياً من المحكمة لواقعات أو جرائم لم ترفع بها الدعوى كما لا يعد استبعاد لظروف مشددة قائمة بالأوراق بل إن ما قامت به المحكمة كان متفقاً وصحيح القانون ، ومن ثم فإن النعي على الحكم المطعون فيه في هذا الشأن يكون غير سديد . لما كان ما تقدم ، فإن الطعن المقدم من النيابة العامة يكون قائماً على غير سند متعيناً رفضه موضوعاً .

فلهـــذه الأسبـــــــاب

حكمت المحكمة : ١- بقبول عرض النيابة العامة للقضية شكلاً وبإقرار الحكم الصادر بإعدام المحكوم عليهم أحمد على عبده عفيفي ومحمد عادل حامد كيلاني وأحمد إسماعيل ثابت إسماعيل .

٢- قبول طعن المحكوم عليهم شكلاً وفى الموضوع بنقض الحكم المطعون فيه جزئياً وتصحيحه على النحو التالي : **أولاً** :- بإلغاء عقوبة السجن لمدة خمسة عشر عاماً المقضي بها على المحكوم عليه محمد محمد مرسي عيسى العياط عن الجريمتين المسندتين إليه بالبندين رابعاً وثامناً والاكتفاء بعقوبة السجن المؤبد



المقضي بها عليه عن الجريمة المسندة إليه بالبند تاسعاً من الحكم المطعون فيه .

ثانياً :- بإلغاء عقوبة السجن خمسة عشر عاماً المقضي بها على المحكوم عليه أمين عبد الحميد أمين الصرفي عن الجريمتين المسندتين إليه بالبندين خامساً وثامناً والاكتفاء بعقوبة السجن المؤبد المقضي بها عليه عن الجريمة المسندة إليه بالبند تاسعاً من الحكم المطعون فيه . **ثالثاً** :- بإلغاء عقوبة السجن المشدد لمدة خمسة عشر عاماً المقضي بها على المحكوم عليه أحمد على عبده عفيفي عن الجريمة المسندة إليه بالبند عاشراً والاكتفاء بعقوبة الإعدام المقضي بها عليه عن الجرائم المسندة إليه بالبنود أولاً أ وثالثاً أ وخامساً أ وسادساً أ وثامناً من الحكم المطعون فيه .

رابعاً :- بإلغاء عقوبة السجن المشدد المقضي بها على المحكوم عليه خالد حمدي عبد الوهاب أحمد رضوان عن الجريمة المسندة إليه بالبند عاشراً والاكتفاء بالعقوبة المقضي بها عليه بالسجن لمدة خمسة عشر عاماً وتغريمه عشرة آلاف دولار عن الجريمة المسندة إليه بالبند سادساً ب من الحكم المطعون فيه .

خامساً :- بإلغاء عقوبة السجن المشدد لمدة خمسة عشر عاماً المقضي بها على المحكوم عليه محمد عادل حامد كيلاني عن الجريمة المسندة إليه بالبند عاشراً والاكتفاء بعقوبة الإعدام المقضي بها عليه عن الجرائم المسندة إليه بالبنود أولاً ب وثالثاً ب وخامساً أ وثامناً من الحكم المطعون فيه ورفض الطعن فيما عدا ذلك .

٣- قبول طعن النيابة العامة شكلاً وفى الموضوع برفضه .

٤- قررت المحكمة إحالة الأوراق إلى السيد المستشار النائب العام لاتخاذ اللازم نحو التحقيق والتصرف فيما نسب إلى رئيس قناة الجزيرة القطرية حمد بن جاسم من أفعال وواقعات تنطوي على جرائم جنائية مؤثمة قانوناً بشأن التخابر لصالح دولة أجنبية ومن يعملون لمصلحتهما إضراراً بمصلحة البلاد القومية ومركزها الحربي

والسياسي والدبلوماسي والاقتصادي وإعطاء مبالغ مالية كرشوة بقصد ارتكاب عمل ضار بمصلحة قومية للبلاد .

أمين السر

رئيس الدائرة

صورة لحين الحصول
على الصورة الرسمية
٢٠١٨/١٠/٨