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25th CONFERENCE OF EUROPEAN MINISTERS OF JUSTICE

Sofia (9-10 October 2003)

- **INTERNATIONAL CO-OPERATION IN THE
FIGHT AGAINST INTERNATIONAL
TERRORISM AND IMPLEMENTATION OF
THE RELEVANT INSTRUMENTS OF THE
COUNCIL OF EUROPE**

- **THE RESPONSE OF THE JUSTICE SYSTEM
- CIVIL AND CRIMINAL - TO TERRORISM**

Report presented by the Ministry of Justice of

LIECHTENSTEIN

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International co-operation in the fight against international terrorism and implementation of the relevant instruments of the Council of Europe

Liechtenstein has been attaching great importance to international cooperation in the fight against terrorism in all its forms and has substantially increased its efforts in this regard. The main emphasis has been laid on the strengthening of the measures to prevent its financial sector from being misused for money laundering and financing of terrorism. The legal, institutional and supervisory framework in Liechtenstein provides for a sound basis to prevent, detect and prosecute the offences of money laundering and the financing of terrorism. This has been acknowledged by the International Monetary Fund (IMF) in its assessment of the supervision and regulation of Liechtenstein's financial sector conducted in 2002 on the basis of its new methodology for assessing compliance with anti-money laundering and combating the financing of terrorism standards.

The Due Diligence Act (DDA) is the legal basis for the preventive measures to be taken by financial intermediaries in Liechtenstein. The DDA imposes strict requirements for the identification of the contracting party and the ultimate beneficial owner as well as the monitoring of business relationships by establishing and keeping a profile in order to distinguish usual from unusual transactions. The profile has to contain information on the contracting party and the beneficial owner, on all authorized persons, on the economic background and the origin of assets, on the profession and business activity of the beneficial owner and on the purpose of the use of the assets. The DDA also imposes an obligation for training and designation of specialized compliance and due diligence officers. It applies equally to all financial intermediaries including banks and finance companies, lawyers, trustees, investment undertakings, insurance companies engaged in direct life insurance business, bureaux de change, and the Liechtenstein Post, as well as on a blanket basis, other persons who accept or keep in custody client assets. Financial intermediaries are required to monitor relationships and accounts on an ongoing basis and to monitor transactions for unusual or suspicious activity that indicates that there could be a connection to money laundering, predicate offences, organized crime or terrorist activities. Suspicious activity reports (SARs) must be filed with the Financial Intelligence Unit (FIU) and banking secrecy does not pose an impediment to filing. There are both penal and administrative sanctions for failure to file SARs.

A fully staffed and resourced Due Diligence Unit (DDU) has responsibility for ensuring compliance with the requirements of the Due Diligence Act and to promote training and awareness raising in the financial sector of money laundering and financing of terrorism. The Financial Intelligence Unit is responsible for the collection, analysis and dissemination of financial intelligence and is a key gateway in the information exchange concerning money laundering and financing of terrorism with foreign counterpart FIUs. The FIU also has broad powers to obtain relevant financial information from financial institutions to supplement SARs before transmitting them to the Public Prosecutor. It works in close cooperation with the DDU, the Public Prosecutor and the Special Unit of the National Police which is responsible for investigations of white-collar crime, including money laundering, predicate offences and organized crime. In addition, the FIU has direct and close working relations with the Financial Supervisory Authority concerning matters that may affect prudential supervision.

There is also a comprehensive framework for confiscation, freezing and seizing of assets, property and funds associated with money laundering and the financing of terrorism. The legal provisions authorize forfeiture upon conviction, siphoning off of amounts equal to unjust enrichment, and authorize civil *in rem* forfeiture, even in the absence of a criminal conviction. Confiscation, freezing and seizing may be executed on behalf of foreign countries through receipt of a mutual legal assistance request. Such assistance may be granted even in the absence of a bi- or multilateral treaty to which Liechtenstein and the requesting State are parties on the basis of the new Law on International Mutual Assistance in Criminal Matters.

Liechtenstein has considerable experience in the prevention of money laundering and of financing of terrorism and is willing to share these experiences with other partners in order to advance the common objective of combating organised crime and terrorism in all its forms. The director of the Liechtenstein FIU is a member of the bureau of the Council of Europe Moneyval committee, which deals with issues of money laundering and financing of terrorism, and has participated as Moneyval assessor in the evaluations of the anti-money laundering regimes in Council of Europe member States. A former financial expert of the Due Diligence Unit has also acted as Moneyval assessor and the current director of the DDU will do so in the near future. This enables the Liechtenstein experts to share their expertise with countries in which effective due diligence regimes are to be established.

