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**EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)**

**COMMITTEE OF EXPERTS ON THE EVALUATION
OF ANTI-MONEY LAUNDERING MEASURES
AND THE FINANCING OF TERRORISM
(MONEYVAL)**

27th PLENARY MEETING OF MONEYVAL

Strasbourg, 7-11 July 2008

MEETING REPORT

Memorandum
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EXECUTIVE SUMMARY

During the 27th Plenary meeting, held in Strasbourg from 7-11 July 2008, the MONEYVAL committee:

- Discussed and adopted the 3rd round reports and summaries as amended on Israel, Romania, the Russian Federation, the “former Yugoslav Republic of Macedonia”.
- Discussed and adopted the Progress reports on Georgia and Poland.
- Agreed to further amend the rules of procedure.
- Agreed to postpone consideration of a public statement until the December plenary in respect of Step VI of the Compliance Enhancing Procedures (CEPs) in Azerbaijan.
- Considered and accepted progress in Step 1 of the CEPs for San Marino, but maintained San Marino within the CEPs.
- Heard information on anti-money laundering issues in other fora.
- Heard information on AML/CFT issues in MONEYVAL countries, and Israel.
- Adopted two draft typologies reports and agreed to their publication.
- Took note of the present Typologies work status and forthcoming activities.

SUMMARY ACCOUNT ON THE MONEYVAL PROCEEDINGS

Items 1, 2 and 3 – Opening of the Plenary Meeting, Adoption of the Agenda and Information from the Chairman

1. The Chairman, Mr. Vasil Kirov (Bulgaria), opened the meeting, following which the Committee adopted the agenda as it appears in the appendix.
2. The Chairman reminded delegations of the letter he had written on 30 April 2008 to all heads of delegation with respect to the composition of the MONEYVAL delegations. He thanked delegates for providing (in most cases) the sector which participants represent for this meeting (which will appear on the list of participants). He emphasised again how important it is that the financial sector is properly represented in delegations on the supervisory side. He asked all delegations for the next meeting to indicate who was representing each sector. He also drew attention to his correspondence with Mr Markov, Chairman of the Eurasian Group, about future collaboration. He noted also that the Secretariat were actively pursuing a policy to cut down on the amount of paper produced for each plenary. While welcoming this development, he encouraged the Secretariat to be flexible as it remained vital that delegates had sufficient information to follow the debates.
3. The Vice Chairman then intervened to advise the plenary of his participation on 24 June in a meeting of the Presidents of the Council of Europe Monitoring Mechanisms (European Committee for the Prevention of Torture, European Commission against Racism and Intolerance, European Committee of Social Rights, Secretariat of the Framework Convention for the Protection of national minorities, GRECO, MONEYVAL). He informed the plenary of the proposal of the Swedish Chair of the Committee of Ministers to have regular meetings with Presidents of monitoring mechanisms. He also briefed the plenary on the reply of monitoring mechanisms to the Parliamentary Assembly report and its Recommendation on monitoring in the Council of Europe. At this meeting, he stressed the position of MONEYVAL regarding the importance of establishing a regular presentation of MONEYVAL's work directly to the Committee of Ministers.

Item 4 – Information from the Secretariat

4.1 Agenda of MONEYVAL activities 2008

3. The Secretariat noted that the Ukraine mission had been postponed until September 2008, and that the Serbian evaluation had been postponed until 2009. The Executive Secretary had written to Bosnia and Herzegovina inviting their agreement to a postponement until 2009. They indicated their assent to this and the plenary agreed. The Secretariat confirmed that the progress reports for December would include the 2 year updates of Slovenia and Hungary, as well as the 1 year reports from Liechtenstein, Czech Republic, Malta, Andorra and Moldova. The MERs would be Azerbaijan and Estonia. It was proposed that the Secretariat arrange a follow up session in December on the Risk Based Approach covering *inter alia* the new FATF guidance on designated non-financial businesses and professions (DNFBP). There was support for this proposal.
4. The Secretariat drew attention to the revised Terms of Reference agreed by CDPC. These would be considered by the Committee of Ministers before the next plenary: observer status is extended to the OSCE; and provision is made for a 4th scientific expert; and for CDPC representation in MONEYVAL at its own expense.

4.2 MONEYVAL Training Session

5. The Secretariat informed the plenary about its plans to hold a Training Seminar for Evaluators in Strasbourg from 1-3 October 2008. The training will consist of modules and practical exercises. Delegations interested in sending experts to this assessor training should inform the Secretariat of the number and proposed names of participants they would like to send no later than 21 July 2008.

4.3 Participation in other events

6. The Executive Secretary gave a report on MONEYVAL's participation in the June FATF plenary in London. He made reference to the "Three Presidencies paper" which called for a review of some of the FATF Recommendations and of the way evaluations are conducted. He indicated that MONEYVAL had supported this proposal of the FATF though no final decisions were taken on it and it was for further discussion in October. The MONEYVAL paper on its own evaluation process going forward had been circulated to FATF delegations in order to co-ordinate our plans with FATF and there had been no opposition to what was proposed. The Executive Secretary asked for comments on the Three Presidencies paper in order for him to respond officially by 31 July 2008.

Item 5 – Discussion on the revised Rules of Procedure

7. The Executive Secretary introduced the revised document. The changes proposed reflected the decision of the Bureau that some formal procedures need to be in place for the exceptional situation where the Secretariat has not received a contribution from an evaluator after a considerable time. The amendment to paragraph 16 was agreed which allows for the Secretariat, at its discretion, to draw the attention of the Permanent Representative of the country concerned to any failure to provide a substantial contribution after 3 months.
8. Further amendments to paragraphs 37 and 39 were agreed to clarify the role of the rapporteur country in the Progress Report discussions in future.

Items 6 and 21 – Compliance Enhancing Procedures

6.1 Azerbaijan

9. The Azerbaijan delegation reported back on the first day of the plenary. The plenary considered a Room Document comprising recent correspondence and the draft legislation which had been presented to the parliament in June. The draft legislation had passed its first reading after considerable debate. The Parliament had now adjourned for the summer recess and the 2nd and 3rd readings would be held in the autumn. The plenary did not have sight of the version of the law which had passed the first reading. The Azerbaijan delegation informed the plenary that once legislation had passed the first reading, a draft law had to be enacted within 6 months. The Azerbaijan delegation invited the plenary not to move to Step VI (Public Statement).
10. The Chairman indicated that the Bureau would consider the position fully at their meeting during the plenary week and revert to the plenary with their proposals later in the week.
11. On the last day of the plenary the issue was re-opened. The Chairman recalled the history of this matter. Azerbaijan had been in the Compliance Enhancing Procedures

since February 2006, and that progress had been too slow. The present draft legislation contained deficiencies which still needed remedying. The Chairman, having taken the advice of the Bureau, proposed that the plenary should now consider a public statement in respect of Azerbaijan under Step VI. A draft of a possible public statement had been circulated in English and French. The Deputy Permanent Representative, Mr Kangarliniski, then addressed the plenary. He accepted that Azerbaijan was far too slow in passing AML/CFT legislation, but emphasised that this, in his view, was the wrong time to move to Step VI, given the forthcoming Presidential elections which would be closely monitored by the Council of Europe. Mr Kangarliniski considered that a “punishment” by the Council of Europe at this stage on this issue would not speed up progress on AML/CFT legislation. He advised that the Ambassador, who was in Baku at the moment, would pass all MONEYVAL’s concerns to the authorities and use his influence to see that the law will be passed. Several delegations expressed support for a Polish proposal to postpone consideration of a public statement until the December plenary. There was a vote on the procedural issue – to adjourn consideration of the Chairman’s proposal to the December plenary. This was carried. The Chairman’s proposal therefore remains on the table for discussion at the next plenary.

Decision taken

12. The plenary agreed to postpone consideration of a public statement until the December plenary in respect of Step VI of the Compliance Enhancing Procedures (CEPs) in Azerbaijan.

6.2 San Marino

13. San Marino presented their first compliance report under step I of the compliance enhancing procedures. The plenary considered a Room Document comprising a detailed table which included information on measures that it has or is taking to address the deficiencies underlying the recommendations which were rated non compliant or partially compliant.
14. Since the adoption of the mutual evaluation report, in a very short period, the Great and General Council (Parliament) of San Marino adopted the law no. 92 of 17 June 2008, which modifies extensively the current institutional and legal AML/CFT framework. This act will enter into force on 23 September 2008. Furthermore, on 12 June 2008 the Central Bank issued Instruction no. 2008/01 on the fight against money laundering and financing of terrorism which introduced several operational rules for credit and financial institutions, and which came into force on 30 June 2008.
15. The delegations requested San Marino to provide additional specific information and clarifications concerning:
 - a) the powers and functions of the future Financial Intelligence Agency
 - b) the measures to safeguard the autonomy of the Financial Intelligence Agency from the Central Bank;
 - c) the relationship of the future Financial Intelligence Agency with the Central Bank and arrangements in place to ensure the full independence of the Financial Intelligence Agency;
 - d) the staffing situation of the AML Service and the Financial Intelligence Agency
 - e) the steps taken to modify the procedure for communication of STRs by reporting entities and further details on the breakdown of STRs per reporting entity as well as details of on-site and off-site inspections, and any follow up taken to apply sanctions;
 - f) the procedure for nomination of the head and vice-head of the FIA and the role of the Central Bank in this procedure;

- g) any concrete measures taken to improve implementation of Recommendation 19, SR. VIII and SR. IX;
 - h) co-operation with foreign financial intelligence units: clarifications as to obstacles to communication of information and the procedure within the Financial Intelligence Agency to conclude protocols of agreement.
16. The Plenary examined the compliance report on San Marino, the additional information received as well as the written analysis prepared by the Secretariat. While acknowledging the progress made by San Marino, the Chairman, having taken the advice of the Bureau, proposed to the plenary to continue the application of the CEP, given that the legislation adopted was not yet in force and that the transitional process still raised a number of concerns.

Decisions taken

17. In accordance with its Rules of Procedure, the Plenary decided to continue applying Step 1 of the Compliance Enhancing Procedures and requested San Marino to provide a second compliance report at the next Plenary meeting on progress that has been made, not only in relation to the subsequent secondary legislation to be issued in relation to Law no. 92 but also on the implementation of current AML/CFT measures in force and the effectiveness of the current AML/CFT system.
18. The Plenary adopted the first compliance report on San Marino, which will be subject to automatic publication in accordance with the rules of procedure.

Item 7 – Progress report on Georgia

19. The Head of the Georgian delegation presented the progress report. It was explained that:
- Georgia has considerably changed the structure of the authorities involved in the fight against money laundering and financing of terrorism. Before these changes, supervision was divided between 3 authorities: the National Bank of Georgia supervising the banking sector including commercial banks, non-banking depositary institutions, microfinance institutions, and exchange bureaus; the Insurance State Supervision Service supervising the insurance sector; the Securities Commission supervising the securities market in Georgia. According to the new amendments on the Organic Law of National Bank of Georgia, the Georgian Financial Supervisory Agency (GFSA) was established which is now the single body supervising the whole financial sector: banking sector, entities performing money remittance services, exchange bureaus, insurance sector (comprising non-life insurance companies, life insurance companies, entities conducting pension schemes), and securities market.
 - The staff of the FIU was reduced from 40 to 31 because of structural changes and introduction of a new electronic system for supplying reports to the FIU.
20. Albania was the rapporteur country and presented an analysis of this progress report. It highlighted positive developments; furthermore, it sought and received various clarifications on the following issues:
- How the reduction of staff of the FIU impacts on the effectiveness of the FIU.
 - The funding of the FIU.
 - The reasons why Georgia did not so far introduce regulations concerning PEPs. Georgia explained that there were already initiatives to introduce such regulations but Parliament was not satisfied with these proposals.
 - The changes to and effectiveness of the STR system.
 - The establishment of a database covering high risk customers.

21. The plenary sought and received various clarifications on the following issues:
- a) San Marino sought and received more information:
 - How to avoid Decrees of the FIU and GFSA Guidance overlapping on AML/CFT matters.
 - Concerning various CDD issues (ongoing due diligence; when CDD should be applied; simplified and enhanced CDD).
 - Concerning reliance on third parties (Rec. 9).
 - Why lawyers and accountants were not included in the list of reporting entities.
 - Concerning the AML/CFT regime for unusual transactions.
 - Concerning the coverage in the law of new technologies (Rec. 8).
 - b) Estonia sought further information concerning the provisions dealing with non-cooperative / suspicious zones and data confidentiality provisions.
 - c) The Secretariat asked for clarification concerning the legal changes intended to cover SR III and whether the licencing regime for money transmitters covers fit and proper requirements for owners, directors and senior management for these entities.

Decision taken

22. Albania as the rapporteur country expressed its opinion that the report satisfactorily answers the questions and that Georgia dealt to a large extent with the Recommendations of MONEYVAL's 3rd Round Evaluation Report on Georgia. The plenary adopted the report.

Item 8 – Progress report on Poland

23. The Head of the Polish delegation referred to the written progress report concerning amendments since the adoption of the 3rd Round Evaluation Report.
24. Andorra was the rapporteur country. It sought and received various clarifications on the following issues:
- When the draft AML/CFT Law will be adopted and in force.
 - On the ratio between CTRs received and cases opened by the FIU.
 - The cooperation in investigations between Police and the Treasury Control Coordination Team.
 - The coverage of beneficial ownership in the draft AML/CFT Law.
25. The plenary sought and received various clarifications on the following issues:
- The European Commission wanted to have more information
 - o Whether the draft AML/CFT Law may be changed in the legislative process.
 - o Concerning the definition of PEPs in the draft AML/CFT Law, with particular reference to the meaning of “foreign national persons”.
 - o Whether attempted transactions are explicitly covered by the reporting system.
 - Cyprus pointed out that the answer in the report to Recommendation 3 (Confiscation and provisional measures) seems inappropriate and that the cited “Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders” does not cover this issue. The Plenary decided that this answer should be deleted and be replaced by a statement that no changes have been made in this regard.
 - Cyprus asked for further clarification concerning the statistics provided. Poland explained that up to 2006 nobody within the Ministry of Justice was responsible for

keeping comprehensive statistics. Since then comprehensive statistics are kept by the Prosecutor's Office.

- Estonia asked for clarification as to whether Polish authorities have considered producing a list of equivalent countries and also politically exposed persons or whether this is left to the discretion of the obliged entities.
- Slovakia and Andorra wanted to have some clarification concerning the definition of PEPs in the draft AML/CFT Law with regard to residents/non-residents. Poland explained that "foreign" means in this context "non residents".
- The Secretariat asked for clarification concerning the reasons why so far no licencing or registering system and also no monitoring system have been introduced for MVT services.

Decision taken

26. Andorra as the rapporteur country expressed its opinion that the report tolerably answers the questions and that Poland made some progress with regard to the Recommendations of MONEYVAL's 3rd Round Evaluation Report on Poland. The plenary discussed whether the report sufficiently answers the questions and whether Poland's progress since adoption of the 3rd Round Evaluation report could be regarded as sufficient. The plenary decided to adopt the report.

Item 9 – Information on AML/CFT initiatives in MONEYVAL countries (tour de table)

27. **Albania:** The new AML/CFT law was approved by the Parliament. The drafting of the bylaws and circulars is underway. Increased co-operation with the joint investigation unit of the Prosecution office against financial crimes and corruption and results were obtained on cases related to unlicensed exchange bureaus and corruption.
28. **Andorra:** The Parliament approved the ratification of the 1999 UN convention. The modifications of the Penal Code and of the AML/CFT Act were introduced in the Parliament. In May, a training for reporting entities was organised. In April, all judges and prosecutors of Andorra had undergone a 3 week session on AML/CFT issues.
29. **Armenia:** ratified the CETS no. 198 on 18 March 2008 and made a declaration upon submission of ratification instruments. The new AML/CFT law which amends 15 related laws passed a third and final reading at the National Assembly on 26 May 2008. The newly adopted laws were signed by the President on 21 June 2008 and are now awaiting formal publication. The laws will become effective from the 16th day of their publication. After publishing the laws, the Financial Monitoring Centre in cooperation with other competent stakeholders plan to arrange a series of seminars and workshops for financial institutions, DNFBP, law enforcement and supervisory agencies for comprehensive presentation of the relevant amendments to the AML/CFT framework. Work on preparation of by-laws and guidance is expected to be carried out during the second half of 2008. The Armenian authorities have also advised their financial institutions to undertake relevant measures arising from the risk of those jurisdictions which are listed in the FATF statement of 28 February 2008 for enhanced due diligence.
30. **Azerbaijan:** As to the FATF statement of 28 February 2008, the National Bank of Azerbaijan issued letters of normative character addressed to all banks of Azerbaijan obliging them to apply enhanced CDD measures when dealing with transactions concerning the countries and territories reflected in the statement.
31. **Bosnia and Herzegovina:** The former Chief of the FID resigned and Mr Damir Muhadinovic was appointed acting Chief of the FID. Proposals for changes and amendments to the AML law were sent to the competent Ministries. In the period from

January till June 2008, the analytical section worked on 129 cases, the section for the prevention and investigation of crime offences of ML and TF worked on 137 cases. 42 criminal offences were reported, 12 for ML and the other offences include tax evasion, the abuse of office or official authority, the abuse of official powers in economy, forgery or destruction of business books or documents, sanctioning economic business activities etc. The total amount of money for which there were grounds for suspicion of ML is approx 34 million euros. The amount of proceeds of crime is approx 8 million euros and there was 1 suspension of transaction for approx 2 million euros. The Section for legal international cooperation exchanged about 68 requests for information.

32. **Bulgaria:** With regard to the FATF statement, the FIU sent circular letters to the commercial banks in March 2008 and in addition the statement was published on the FIU's website. A number of structural and legislative amendments were made. The Bulgarian FIU is now under the umbrella of the State Agency for National Security. The transposition of the third EU directive in Bulgarian legislation was completed. The Directive is fully transposed and certification was made at the end of March. 15 final convictions on ML were obtained.
33. **Croatia:** With regard to the FATF statement, a letter was sent to the compliance officers of the financial sector and to the relevant supervisory authority. It was recommended that the financial sector should periodically monitor the FATF website with regard to any new relevant statement. A specialised AML training was organised for the judiciary which gathered around 100 participants. A draft AML/CFT law is in parliamentary procedure. CETS no. 198 has been signed and the ratification procedure was initiated.
34. **Cyprus:** Following the enactment of the new AML law on 1 January 2008, incorporating the 3rd EU Directive, the Central Bank of Cyprus, the Superintendent Cooperative, the FIU and the supervisors for the estate agents issued new Directives and the other supervisory authorities are in the process of finalising the new Directives. The Advisory Authority for combating ML and TF met twice since April to discuss the new Directives as well as to adopt the common list of the EU in relation to the third equivalent countries. With regard to the public statement of the FATF, the Central Bank of Cyprus issued a circular to all banks requesting enhanced due diligence procedures for business transactions and relationships with countries listed in the FATF Statement and prohibiting transactions and relationships with financial institutions and legal agencies registered in the northern part of Cyprus. A similar circular was issued by the FIU to all other supervisory authorities for their necessary actions. As regards some practical results, the FIU issued a freezing court order for 3 million Euros, which sum was finally returned to the originating country. The FIU also applied to the court that issued a freezing order for 500,000 Euros relating to a drug trafficking case and they applied to the court which registered 1 foreign court confiscation order for approx 5 hundred thousand Euros.

Item 10 – AML initiatives in other fora

35. A written report from the European Bank for reconstruction and Development (EBRD) was circulated.

Items 11 and 12 – Discussion on the draft mutual evaluation report on Romania

36. The Secretariat thanked the Romanian delegation for their hospitality and their cooperation. The Secretariat explained the background of the on-site visit and introduced the experts involved in this evaluation. The evaluators presented an overview of their findings. The Plenary was briefed on the major changes that were made to the draft report between the version sent out before the plenary meeting and the revised

version brought to the plenary. The Secretariat informed the delegates that the comments received from the Permanent and Ad Hoc Review Group members had been considered by the examiners. A table reflecting comments from Review Group members that had not been accepted was available to the Plenary. The Romanian authorities expressed their thanks to the assessment team and introduced the members of the delegation.

37. The three intervener countries were: Bulgaria (legal aspects), Bosnia and Herzegovina (law enforcement aspects) and Azerbaijan (financial aspects).

Important issues raised:

38. The plenary had a discussion in respect of “secondary legislation”. It was emphasised that MONEYVAL had taken the view in previous reports that the authorisation by the legislative body had to be very specific (and not general) in order for the legally binding measure to be “secondary legislation”. Consistency was an important issue. Several countries advised caution as the FATF WGEI is looking into the problem of overlap between “secondary legislation” and “other enforceable means” as described in Para 24 in the Methodology. The evaluators emphasised that the supervisory authorities, respectively the NBR, the NSC, the ISC and the NOPCML, are public authorities, which are explicitly mandated by Article 9 (6) and (7) in the AML/CFT Law to issue normative acts in the area of customer due diligence (KYC). The respective authorities have each issued one normative act in the form of “Norms, Orders, Decisions or Regulations” which are published in the Official Gazette, Part I. This part of the Official Gazette is reserved for legally binding measures. Overall there was a direct correlation between the AML/CFT Law and the subsequently issued Norms, Orders, Decisions and Regulations. Considering the combination of these factors the evaluators were of the opinion that these measures were equivalent to “implementing regulation or other similar requirements” as described in the Methodology. On this basis the Plenary confirmed that the Norms, Orders, Decisions and Regulations were to be considered as “secondary legislation”.

39. The Plenary decided after discussion:

- to include in the report a reference to the legal provision that prohibits internet casinos;
- to advise that the issue of relying upon a third party concerning the CDD process needs to be addressed in the Norms No. 496/2006 for DNFBP;
- to quote Regulation (EC) No 1781/2006 of the European Parliament and of the Council on information on the payer accompanying transfers of funds in Para 446;
- to change the formulation of the first bullet point in the rating box under R 27;
- to delete the second bullet point in the rating box under R 27;
- to add “the border police” in Para 411;
- to insert statistics on referrals from the FIU to the law enforcement authorities; and
- to specify under SR IX that the Romanian National Customs Authority is responsible for cross-border cash movement control for both EU and non-EU borders.

Decision taken

40. Adopted the draft third round detailed assessment report on Romania as amended and its draft summary (and subject to consequential editorial changes by the Secretariat).

Item 13 – Information from the European Union

European Commission

Council Decision of 17 October 2000 concerning arrangements for cooperation between FIUs of the Member States in respect of exchanging information.

41. The report assessing Member States (MS) compliance was presented by the European Commission in December 2007. Report concluded that MS can be considered as legally compliant with most of the key requirements. More needs to be done in terms of operational cooperation. The role of the EU FIU Platform and the FIU.NET system are emphasised in this regard. The report was presented to the Multidisciplinary Group on Organised Crime on 14 April 2008 and 17 June 2008. A questionnaire was presented during the last meeting. Written contributions of almost all EU MS were received and MS showed willingness to develop good practice on the information nationally accessible for FIUs and to update the current Council Decision and based upon those answers, the European Commission will identify the way to take the discussion further.

Revised EU Strategy on terrorist financing

42. The EU Counter-terrorism coordinator in close cooperation with the Presidency and the Commission drafted a revised Strategy which builds upon the current 2004 Strategy. Its main elements are:
- monitoring implementation of existing legislation, assessing problems encountered when implementing these legal instrument and, where necessary, developing proposals for amendments;
 - to develop regular threat assessment, taking into account FATF activities;
 - new developments such as alternative remittance systems, new payment methods, new developments within the FATF;
 - enhancing ongoing activities such as the implementation of SR VIII (NPO-sector) and targeted (financial) sanctions;
 - exchange of information and cooperation, nationally and internationally, between FIUs as well as with the private sector;
 - the importance of sharing financial information combined with counter-terrorist intelligence;
 - financial investigations should become a fundamental component of all counter-terrorism investigations.

Equivalent jurisdiction

43. Mr Paolo Costanzo, on behalf of the European Commission, made a presentation on the recognition of countries as “equivalent” to EU Member States. Specifically he covered:
- (a) *the status of the list:*
- the list, and the criteria for its compilation and updating, are the result of a “Common Understanding” among Member States, which are therefore the “owners” of this equivalence mechanism.
 - The Common Understanding was finalised in the margins of the meetings of the Committee for the Prevention of ML and TF of 17/18 April and 11/12 June 2008.
 - The UK has been the first Member State to publish its list. Other Member States will follow. It has been agreed that the list should be annexed to the minutes of

the Committee's meeting. A summary of these minutes is published on the Commission website¹.

- (b) *who is currently on the list:*
- third countries which are members of the FATF;
 - overseas territories that are part of EU Member States.
- (c) *Background – why did Member States agree to a Common Understanding?*
- Directive 2005/60/EC envisages a “black” list of non equivalent countries and assigns the Commission the power to adopt a decision stating which countries do not meet relevant conditions (article 40(4)).
 - At this stage, the Commission has not made use of its powers to work for the compilation of a “black” list of non equivalent countries.
 - There is not a legal basis for a Commission's or an “EU” list of equivalent countries.
 - Member States felt nevertheless the need to develop as common a view as possible on the equivalence status of third countries. They have therefore agreed on a Common Understanding between them on a “white” list of equivalent third countries.
 - Their implicit objective was to form as far as possible a common view on this and reduce if not eliminate the possible oddity of having a series of national lists at significant variance, one with the other.
 - It was stressed that the list and the criteria have been adopted neither by the Commission nor by the Committee: the ownership is of Member States; the Common Understanding is to be seen as a gentleman's agreement among them.
 - The Commission acted as a facilitator for Member States to reach the agreement.
- (d) *The purposes of the list. Who does it apply to?*
- According to the Directive, equivalence of third countries has to be assessed for some very specific purposes.
- Simplified CDD applies to credit and financial institutions and to listed companies from equivalent third countries (article 11(1)).
 - Individuals and persons from equivalent third countries can act as “third parties” for CDD purposes (article 16(2)).
 - Information on STRs can be disclosed between institutions from equivalent third countries (article 28(3)(4)(5)).
- (e) *The procedure. The MONEYVAL “privilege”*
- As with the compilation, the procedure for the update of the list is entirely controlled by Member States, which may well exercise their discretion; the Commission has no powers in this respect.
 - The inclusion in the list of countries which are not members of the FATF has to be decided on a case-by-case basis by Member States.
 - Member States will consider as a priority issue the equivalence status of countries which are members of MONEYVAL.
 - Proposals for the revision of the list can be put forward by Member States on a six monthly basis.

44. It was apparent that the criteria for recognition were considered confidential. The Chairman asked whether MONEYVAL, using the good offices of the Chair of

¹ http://ec.europa.eu/internal_market/company/docs/financial-crime/meetings/20080417-summary_en.pdf

MONEYVAL, which is represented in the Committee on the Prevention of ML and TF in Brussels, could informally nominate non-EU countries. This was possible though a decision could only be taken in respect of a MONEYVAL country by consensus of all EU Member States. The Chairman indicated that the Bureau would reflect on this presentation.

Council of the European Union

45. The Council reported on the recent Multi Disciplinary Group activities, specifically there had been discussions within the context of the FIU Platform as to how FIU co-operation can and should be reinforced. Further work was being undertaken on the EU strategy on TF.

Item 14 – Information on CETS 198: Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism

46. Professor William Gilmore (scientific expert) and Mr Herbert Laferla gave a presentation of the main features of the new Council of Europe Convention in this area, which came into force in May. The details of the presentation are available on the secure website.
47. The need for more ratifications of this Convention by other States was underlined, in advance of the first Conference of the Parties which should be held in Spring 2009. The European Commission asked what progress was being made on signature and ratification and the European Commission representative undertook to take this issue back.

Items 15 and 16 – Discussion of the draft mutual evaluation report on Israel

48. The Secretariat recalled that this was the first evaluation of Israel since the Committee of Ministers accepted the application of Israel to join the terms of reference of MONEYVAL and to become an 'active observer', participating in the evaluation process. The Secretariat explained that the mission took place in November 2007 to Jerusalem and Tel Aviv. The Israeli authorities were thanked for the excellent hospitality and the organisation of the visit, and the Secretariat introduced the experts involved in the evaluation. The plenary was briefed on the major changes to the draft report between the version circulated before the plenary and the revised version brought to the plenary. The Secretariat introduced a note on the pre-meeting that took place during the plenary week. Most of the review groups' comments had been taken on board, though there were 3 comments which were not accepted by the evaluators.
- The rating for R.22 – the evaluators considered that sufficient had been done in the banking sector to justify a PC
 - R.9 – the evaluators considered that with the revised wording of para 520 the rating N/A remained appropriate and in line with previous MONEYVAL reports.
 - R.33 – the evaluators considered that the rating of PC was justified and in line with FATF reports where the "investigative and law enforcement route" to cover criteria 33.1 and 33.2 was followed.
49. The evaluators presented an overview of their findings. The Israeli authorities expressed their thanks to the Committee of Ministers for allowing Israel to participate and thanked the team for their truly professional work. The three intervener countries were: Estonia (legal aspects); Croatia (law enforcement aspects); Moldova (financial aspects).

Important issues raised

- The plenary considered that the examiners' views should prevail on the ratings for R.22, R.9 and R.33.
- There were 2 horizontal issues arising:
 - The first was whether lack of a prior disclosure system is an appropriate consideration in assessing the effectiveness of implementation of R.13. In the draft presented to the plenary the text included discussion of the lack of a prior disclosure system as an issue relating to the effectiveness of the R13 regime, and a bullet point in the ratings box stated that: "the efficiency of the UAR regime would be enhanced by a prior disclosure". After discussion, it was agreed that the text of the report in this regard should remain, but that the bullet should be amended so as not to specifically refer to the European standard on this. The plenary decided that the relevant bullet should read: "Concerns on the overall effectiveness in relation to the timeliness of the reporting system", which captures the essence of the examiners' concerns. The rating remains LC.
 - The second horizontal issue related is the proper interpretation of Criteria 5.1. While the final paragraph of R. 5.1 relating to anonymous accounts or accounts in fictitious names is clearly asterisked, is it the case that the paragraph beneath covering numbered accounts is to be read as asterisked, and thus needs to be provided for in Law or Regulation? The plenary decided that it was to be read as asterisked and therefore as the requirements were not covered by Law or Regulation this issue should be referred to in the summary of factors underlying the rating in R.5
- The plenary also decided that the report should be slightly amended to reflect also under R.5 that the existence of bearer shares was a hindrance on verification of beneficial owners. The plenary agreed to add a new paragraph 408:

"With respect to bearer shares, the weaknesses in the verification measures of beneficial ownership are exacerbated by the weaknesses described under R.33 and are thus noted here."
- There was also a discussion on Criteria 18.1 on the requirement upon States not to approve the establishment or to accept the continued operation of shell banks. There was an unwritten policy to allow only leading and supervised international banks to open branches in Israel. Thus, while shell banks are not part of Israeli practice, this practice was not embodied in any formal way. The plenary decided that for the purposes of Criteria 18.1, measures to prevent the establishment of shell banks were not sufficiently explicit and that this was in line with other reports. The factors underlying the ratings box was amended to reflect this issue more clearly though the plenary decided that the rating of LC should be substituted for PC as presented to the plenary.
- The Rating on R.8 was raised from PC to LC.
- The Rating on R.38 was raised to LC in the light of new text offered by the evaluators and accepted by the plenary.

Decisions taken

50. The report and draft summary, as amended, were adopted subject to consequential editorial change.

Items 17 and 18 - Discussion on the Draft Third Mutual Evaluation Report on “the former Yugoslav Republic of Macedonia”

51. The Secretariat thanked the delegation of “the former Yugoslav Republic of Macedonia” for their hospitality in Skopje and their excellent cooperation. The Secretariat explained the background of the on-site visit and introduced the experts involved in the evaluation. The evaluators presented an overview of their findings and after that the Secretariat presented the major changes to the draft report between the version sent out before the plenary meeting and the version brought to the plenary discussion. The Secretariat informed that the Ad Hoc Review Group and the Permanent Review Group had submitted comments for consideration. Their expertise and advice were highly appreciated and most comments were endorsed by the examiners. Comments which had not been used for amendments were presented in a separate document with an explanation by the evaluation team. Then the authorities of “the former Yugoslav Republic of Macedonia” expressed their gratitude to the assessment team and introduced the members of the delegation.
52. The three intervener countries were: Montenegro (legal), San Marino (law enforcement) and Serbia (financial). In discussions on the draft report, the interveners and the Plenary sought further clarification on various issues.

Discussions

53. The Plenary sought more information:
- What measures have been undertaken to reduce the backlog of money laundering cases pending at courts;
 - Concerning the IT-system of the FIU which is part of the network of the Ministry of Finance and whether there are safeguards against unauthorized access by employees of the Ministry of Finance;
 - Concerning the powers of Customs and the Border Police in relation to Special Recommendation IX.

Important issues raised

- The plenary discussed in the context of Recommendation 13 the difference between funds and transactions.
 - The plenary concluded that in the context of Recommendation 18 (“shell banks”) a country is in compliance with criterion 18.1 if banks can only be established if they have a physical presence and operational activities in a country; it is not necessary that the legislation explicitly uses the term “shell bank”.
 - The plenary concluded that Recommendation 22 should be rated whenever the legislation does not prohibit domestic financial institutions to establish foreign branches or subsidiaries. It is irrelevant in this context whether in practice foreign branches or subsidiaries exist.
54. The Plenary decided after discussions
- That Recommendation 18 (which was rated as “Non Compliant”) should be rated as “Partially Compliant”;
 - That Recommendation 27 (which was rated as “Partially Compliant”) should be rated as “Largely Compliant”;
 - To maintain the rating on Recommendation 13 as “Partially Compliant”;
 - To maintain the rating on Recommendation 22 as “Non Compliant”.

Decisions taken

55. Adopted the draft report and summary, as amended (and subject to consequential editorial changes).

Items 19 and 20 – Discussion on the draft mutual evaluation report on the Russian Federation

56. The Secretariat emphasised that the mutual evaluation of the Russian Federation was a joint evaluation by the FATF, MONEYVAL and the EAG. There were two on-site visits one in September/October and another in November 2007. The evaluation team visited not only Moscow but also Nizniy Novgorod, Kabarovsk, Kaliningrad, and Rostov na Donu. The Secretariat thanked the Russian Federation delegation for their hospitality in Russia and their cooperation. The evaluation team was given excellent assistance throughout a logistically challenging, but very well organised assessment mission. The Secretariat explained the background of the on-site visit and introduced the experts involved in this evaluation. The evaluators presented an overview of their findings.
57. The Secretariat informed the Plenary that FATF had adopted the report on 19 June. Ahead of the FATF Plenary the draft report was circulated to all MONEYVAL delegations and the MONEYVAL Permanent and Ad Hoc Group members for comments. The FATF Review Group (ERG) included the MONEYVAL Legal Scientific Expert for this specific FATF meeting. The Legal Scientific Expert gave a briefing on the procedure and the inclusion of a number of comments from the MONEYVAL review groups members, some of which had been discussed in the FATF ERG and others had been brought forward to the FATF Plenary. The MONEYVAL delegation also raised a question in the Plenary on the federal structure and R 26 which has now been clarified in the mutual evaluation report.
58. The Plenary was briefed on the changes that were made to the draft report between the version sent out before the plenary meeting and the revised version brought to the plenary. All changes related to compliance with the EU AML Directives (91/308/EEC and 2001/97/EC).
59. The three intervener countries were: Slovakia (legal aspects), Slovenia (law enforcement aspects) and Ukraine (financial aspects).

Discussion

60. The Plenary sought more information on:
- Initiatives taken to avoid criminal elements owning financial institutions in Russia;
 - More detailed explanations on protection of “bona fide” parties in relation to confiscation;
 - Clarification on transfer of cases from one prosecution authority to another;
 - The measures envisaged in the National Strategy to undermine organised crime;
 - The reason why some requests for mutual legal assistance take so long;
 - On request more clarification was provided on Para.268 concerning R 28;
 - The procedure to handle incomplete STRs;
 - How beneficial ownership was addressed in Russia;
 - How external and internal audit is carried out in credit institutions.
61. An issue whether “founders” were to be interpreted as addressing “owners” in the rating boxes under R17 and R 29 was discussed. Additionally it was decided that the bullet points did not intend it being mandatory for the financial supervisors to withdraw a

licence in all situations where a owner had been convicted for a criminal or economic offence. A certain discretion and judgement was left to the financial supervisors when exerting this power. These issues have all been addressed in the report.

Decisions taken

62. Adopted the draft third round detailed assessment report on the Russian Federation and its draft summary.

Item 22 – Ad Hoc Review Group

63. The plenary thanked the members of the ad hoc review group appointed for this plenary, and appointed the following persons to constitute the ad hoc review group for the December plenary:
- Mr Lajos KORONA (Hungary) – Legal
 - Mr Theodoros STAVROU (Cyprus) – Law Enforcement
 - Mr Hans Huber (USA) – Financial

Item 23 - Typologies consideration of draft typologies reports (Use of securities in money laundering schemes/ Money laundering and counterfeiting)

64. The plenary heard presentations made by the two typologies project leaders (Theodoros Stavrou, Cyprus and Oleksyi Feschenko, Ukraine) and examined the related draft typologies reports .
65. The first report focuses on the use of securities in money laundering schemes. The research analyses the underlying vulnerabilities in the securities markets and highlights a number of methodologies which have been employed in laundering money through securities transactions. It also provides guidance on techniques to prevent and detect money laundering.
66. The second, a report on money laundering and counterfeiting, examines the laundering of the proceeds of counterfeit goods and the involvement of money launderers in the counterfeit product industry as well as the techniques used.
67. The Plenary thanked the project leaders and the project teams for their important contributions to MONEYVAL's typologies work. The Chairman also thanked the former Chair of the Working Group on Typologies for the organisation of the typologies activities.

Decision taken

- The plenary adopted the draft typologies reports and agreed to their publication (subject to editorial changes).

Item 24 – Typologies: future activities

68. The future activities of the Working Group on Typologies will be organised under the chairmanship of Ms Eva ROSSIDOU PAPAKYRIACOU (Cyprus). A note on the joint FATF/MONEYVAL typologies meeting (Monaco, 24-26 November 2008) was circulated to the Plenary together with a preliminary concept paper for a typologies project on Money laundering through money remitters and bureaux de change, prepared by the Secretariat. The Plenary was advised on the various proposals put forward by delegates for consideration, namely:

- Currency exchange transactions
 - Use of free trade zones in money laundering processes
 - Gatekeepers
 - Money laundering using cross-border cash transfer
 - PEPs
69. Considering also the typologies work previously and currently conducted in other fora, the Bureau and Secretariat discussed the above-mentioned project proposals and decided to recommend to the Plenary to initiate for this year's exercise a typologies project on *Money laundering through money remitters and bureaux de change*. Delegations were also invited to consider developing further the already submitted project proposals through concept notes and detailed project outlines.
70. The Plenary received further information on practical arrangements already made for the forthcoming typologies meeting and related financial aspects.
71. The FATF Secretariat representative informed the delegations that at this meeting, the FATF will possibly lead three projects, among which one on ML/TF risks in the securities industry and a second one on Money laundering through sporting clubs. He invited MONEYVAL delegates to contribute to all these projects.

Decision taken

- The plenary welcomed the proposal to conduct this year's typologies project on *Money laundering through money remitters and bureaux de change*.

Item 25 – MONEYVAL work programme 2009 and beyond

72. The Executive Secretary outlined preliminary plans for 2009 to include 3 plenaries tentatively in March, September and December, and the last 3 on-site visits in the 3rd round; Bosnia and Herzegovina, Serbia and Armenia (the latter with the IMF) in the first 3 months, and the first 3-4 on-sites in the 4th round from May onwards. A full schedule would be prepared in advance of the next plenary.

Item 26 – Future representation in FATF meetings

73. The Secretariat called for expressions of interest in attending the forthcoming Brazil FATF plenary.

Item 27 – Financing and staffing

74. The Secretariat anticipated the arrival of two further secondees in the autumn.

Item 28 – Miscellaneous

75. The Chairman warmly thanked Mr Stephan OSCHNER (Liechtenstein) who was leaving the Committee, for all the work he had done for MONEYVAL over the last several years.

ANNEX

AGENDA / ORDRE DU JOUR

27th PLENARY MEETING / 27^e SESSION PLENIERE

Day 1: Monday 7 July 2008 / 1^e jour: lundi 7 juillet 2008

Morning 9h30 / matin 9h30

1. **Opening of the Plenary Meeting at 9h30 / Ouverture de la Réunion Plénière à 9h30**
2. **Adoption of Agenda / Adoption de l'Ordre du Jour**
3. **Information from the Chairman and the Vice-Chairman / Informations communiquées par le Président et le Vice Président**
 - **Composition of MONEYVAL Delegations / Composition des Délégations de MONEYVAL**
 - **Meeting of Presidents of Council of Europe Monitoring Mechanisms, Strasbourg, 24 June 2008 / Réunion des Présidents des mécanismes de monitoring, Strasbourg, 24 juin 2008**
4. **Information from the Secretariat / Informations communiquées par le Secrétariat**
 - 4.1 **Agenda of evaluations and meetings for 2008 / Agenda des évaluations et réunions en 2008**
 - 4.2 **MONEYVAL Training seminar – October 2008 / Séminaire de formation – Octobre 2008**
 - 4.3 **Participation in other events / Participation à des activités diverses**
 - **CDPC decision on Revised Terms of Reference / Décision du CDPC concernant le Mandat révisé**
 - **Participation in the FATF June plenary session / Participation à la session plénière du GAFI en juin 2008**
5. **Discussion on the Revised Rules of Procedure / Discussion relative aux Règles de procédure révisées**
6. **Compliance Enhancing Procedures / Procédures de conformité renforcée**
 - Azerbaijan / Azerbaïdjan**
 - San Marino / Saint-Marin**
7. **Discussion on the Progress report on Georgia / Discussion du rapport de progrès sur la Géorgie**

Afternoon 14h30 / après-midi 14h30

8. **Discussion on the Progress report on Poland / Discussion du rapport de progrès sur la Pologne**
9. **Information on AML/CFT initiatives in MONEYVAL countries (tour de table) / Informations sur les initiatives LAB/CFT dans les pays membres de MONEYVAL (tour de table)**
10. **Information on AML initiatives in other fora / Informations sur les initiatives LAB/CFT dans d'autres institutions**
 - 8.1 **EBRD / BERD**
 - 8.2 **Egmont group / Groupe Egmont**

- 8.3 FATF / GAFI
- 8.3 IMF and World Bank / FMI et Banque Mondiale
- 8.4 Offshore Group of Banking Supervisors (OGBS) / Groupe Offshore des autorités de contrôle bancaire
- 8.5 UNCTC / CCTNU
- 8.6 United Nations / Nations Unies
- 8.7 Eurasian Group on Combating Money Laundering and Terrorist Financing (EAG) / Groupe Eurasie sur le blanchiment de capitaux et le financement du terrorisme (EAG)

Day 2: Tuesday 8 July 2008 / 2^e jour: mardi 8 juillet 2008

Morning 9h30 / matin 9h30

- 11. Discussion on the draft Mutual evaluation report on Romania / Discussion du projet de rapport d'évaluation mutuelle de la Roumanie

Afternoon 14h30 / après-midi 14h30

- 12. Continuation of the discussion on the draft Mutual evaluation report on Romania / Poursuite de la discussion du projet de rapport d'évaluation mutuelle de la Roumanie
- 13. Information from the European Union / Informations de la part de l'Union Européenne
- 14. Information on the CETS 198 – Professor William Gilmore and Mr Herbert Zammit Laferla / Informations sur la STCE 198 par Prof. William Gilmore et M. Herbert Zammit Laferla

(Meeting of the Bureau at the close of the afternoon's business / Réunion du Bureau à la clôture de la séance de l'après-midi)

Day 3: Wednesday 9 July 2008 / 3^e jour: mercredi 9 juillet 2008

Morning 9h30 / matin 9h30

- 15. Discussion on the draft mutual evaluation report on Israel / Discussion du projet de rapport d'évaluation mutuelle d'Israël

Afternoon 14h30 / après-midi 14h30

- 16. Continuation of the discussion on the draft mutual evaluation report on Israel / Poursuite de la discussion du projet de rapport d'évaluation mutuelle d'Israël

Day 4: Thursday 10 July 2008 / 4^e jour: jeudi 10 juillet 2008

Morning 9h30 / matin 9h30

- 17. Discussion on the draft mutual evaluation report on « the former Yugoslav Republic of Macedonia » / Discussion du projet de rapport d'évaluation mutuelle de "l'ex-République yougoslave de Macédoine"

Afternoon 14h30 / après-midi 14h30

- 18. Continuation of the discussion on the draft mutual evaluation report on « the former Yugoslav Republic of Macedonia » / Poursuite de la discussion du projet de rapport d'évaluation mutuelle de "l'ex-République yougoslave de Macédoine"**

Day 5: Friday 11 July 2008 / 5^e jour: vendredi 11 juillet 2008

Morning 9h30 / matin 9h30

- 19. Discussion on the draft mutual evaluation report on Russian Federation / Discussion du projet de rapport d'évaluation mutuelle de la Fédération de Russie**

Afternoon 14h30 / après-midi 14h30

- 20. Continuation of the discussion on the draft mutual evaluation report on Russian Federation / Poursuite de la discussion du projet de rapport d'évaluation mutuelle de la Fédération de Russie**
- 21. Further consideration of the Compliance Enhancing Procedures (as necessary) / Poursuite de la discussion sur les Procédures de conformité renforcée (si nécessaire)**
- 22. Ad Hoc Review Group of Experts for the next plenary meeting / Groupe Ad Hoc d'experts pour la prochaine réunion plénière**
- 23. Typologies – consideration of draft typologies reports (Use of securities in money laundering schemes/ Money laundering and counterfeiting) / Typologies – examen des projet des rapports sur les typologies (Utilisation des valeurs mobilières dans les schémas de blanchiment de capitaux/ Blanchiment de capitaux et contrefaçon)**
- 24. Typologies - future activities / Typologies – activités futures**
- 25. MONEYVAL work programme 2009 and beyond / Programme de travail de MONEYVAL en 2009 et activités au-delà**
- 26. Future representation in FATF meetings / Représentation future dans les réunions du GAFI**
- 27. Financing and staffing / Financement et questions de personnel**
- 28. Miscellaneous / Divers.**

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