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

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

23rd PLENARY MEETING OF MONEYVAL

Strasbourg, 5 – 7 June 2007

MEETING REPORT

Secretariat Memorandum
prepared by
the Directorate General of Human Rights and Legal Affairs

EXECUTIVE SUMMARY

During the 23rd Plenary meeting of MONEYVAL, held in Strasbourg from 5 to 7 June 2007, the Plenary:

- Welcomed the delegation of Montenegro as full member of MONEYVAL;
- Discussed and adopted the draft 3rd round mutual evaluation report on Poland as amended (and subject to consequential editorial changes by the Secretariat) and its draft summary;
- Adopted the progress report on Albania as amended (see item14);
- Decided to move to step 4 of the Compliance Enhancing Procedures in respect of Azerbaijan;
- Authorised the Bureau to examine as soon as possible the recently adopted legislation on capital legalisation and tax amnesty of Moldova and to decide, on behalf of the Plenary, whether the compliance enhancing procedures should be opened or not, and in the affirmative, the level of the step which would be applied;
- Approved the revised Terms of Reference, as amended in plenary, and endorsed all the proposals in the background paper circulated, including consideration of the 3rd EU Directive in MONEYVAL mutual evaluation reports and in progress reports from 2008;
- Decided that the Typologies exercise would cover topics 1 and 2 for the 2007 Typologies workshop and invited the Group to finalise as soon as possible the questionnaires, in order to distribute them to the member States, Observers and the FATF. It also agreed that the typologies workshop would be held from 30 to 31 October 2007, either in Montenegro or “the former Yugoslav Republic of Macedonia”, subject to further detailed proposals regarding location and estimated budgetary costs to be received by the Secretariat;
- Took note of the Memorandum of Understanding concluded in May 2007 between the Council of Europe and the European Union which covers enhanced co-operation and political dialogue, which includes as one of the shared priorities the fight against money laundering, as well as of the recent structural changes in the Secretariat of the Council of Europe;
- Took note and thanked Monaco for its recent voluntary contribution;
- Took note of the updated version of the MONEYVAL activities calendar for 2007;
- Took note of the scientific expert on law enforcement’s oral opinion on the requirements of R. 14 (safe harbour provisions) in response to Cyprus’s query at the 22nd plenary meeting;
- Invited Heads of Delegations to communicate to the Secretariat any expressions of interest for participation at the October FATF Plenary meeting;
- Heard information on AML/CFT initiatives in MONEYVAL countries and other fora.

SUMMARY ACCOUNT OF THE MONEYVAL PROCEEDINGS

Items 1, 2 and 3 – Opening of the plenary meeting, adoption of the agenda and information from the Chairman

1. The meeting was opened by the Chairman, following which the Committee adopted the agenda as it appears in Appendix II.
2. The Chairman, Dr. Vasil KIROV (Bulgaria), began by welcoming the Delegation of Montenegro as full member of MONEYVAL, since their accession in May 2007 to the Council of Europe. The Head of the Montenegro Delegation took the floor and expressed Montenegro's commitment to the work of MONEYVAL and international AML/CFT standards.
3. The Chairman also advised the Committee of the Memorandum of Understanding concluded in May between the Council of Europe and the European Union which covers enhanced co-operation and political dialogue. It has a Rule of Law section and one of the shared priorities in the document is money laundering. The Chairman considered this Memorandum to be a good legal basis for enhancing the co-operation of MONEYVAL with relevant institutions and Committees which exist within the European Union, particularly with the Preventive Committee on Money Laundering and Financing of Terrorism within DG Internal Market and Services in Brussels. The Chairman explained that first steps in co-operation with this Committee had been taken. At the last meeting of the Preventive Committee a discussion had taken place on giving some priority to the countries which are members of MONEYVAL when the list of equivalent countries is elaborated under the Third Directive. Also as Chairman of MONEYVAL, Dr. Kirov had been invited to provide a briefing on the work of MONEYVAL to the next Preventive Committee meeting in Brussels.
4. The Chairman also drew the meeting's attention to the Bureau meeting which had taken place on 3 and 4 May, a report of which was available as a Room document.

Item 4 – Information from the Secretariat

5. The MONEYVAL Secretariat informed the Committee of the recent structural changes in the Secretariat of the Council of Europe. There has been a merger of the two former Directorates General of Legal Affairs and Human Rights into one Directorate General of Human Rights and Legal Affairs. Within that Directorate General, there is now a Directorate of Monitoring which brigades several of the major monitoring mechanisms of the Council of Europe, including the Secretariat of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Department of the European Social Charter, GRECO, MONEYVAL, the European Commission against Racism and Intolerance and the Secretariat of the Framework Convention for the Protection of National Minorities.

6. The Secretariat introduced the updated version of the MONEYVAL activities calendar for 2007, drawing attention to the dates of the joint evaluation with FATF and EAG of the Russian Federation (24-28 September and 12-23 November 2007). Mr Stefan OCHSNER (Liechtenstein) will participate in this evaluation and an appeal was made for other volunteers to be considered for this team. The Israel evaluation is scheduled to take place 5-12 November 2007 and the team will comprise: Professor W. GILMORE (Legal Evaluator), Dr. Vasil KIROV (Bulgaria – Financial Evaluator), Mr Boudewijn VERHELST (Legal Evaluator) and Mr Andrew STRIJKER (the Netherlands). The Estonian evaluation will take place 4-9 February 2008.

7. After discussions with the Bureau, the Secretariat subsequently announced that Plenary 24 in September 2007 would be scheduled to include the following reports: Liechtenstein; Andorra; Malta; Czech Republic; and the draft Moldova report would be brought back to the Plenary. Dates of pre-meetings for these reports had been or were being set.

8. It was agreed that Plenary 25 in December 2007 would discuss Monaco, San Marino and/or Croatia. After bilateral discussions, it was subsequently agreed that the progress reports to the end of the year would be as follows:

- September: Slovakia
- December: Latvia
Montenegro
Lithuania.

9. The Secretariat also advised the Plenary of its invitation to and participation in the recent Egmont Plenary to discuss forthcoming Typologies work by MONEYVAL. Belgium and Denmark had agreed to participate in the work planned on counterfeit goods and products.

Item 5 – Joint Plenary with the FATF – Follow-up

5.1. Progress Reports

10. The Secretariat reminded the Plenary of the importance of full information in progress reports and drew attention to what is requested in the introduction to the progress reports, namely that countries should describe measures or changes which are not in place but which are planned. This is in order that the Plenary can make an informed decision as to progress. The Cyprus Delegation expressed concern as to whether the Bureau discussion on this issue was stimulated by the Cyprus progress report. The Chairman made it clear that the Cyprus progress report was adopted at the last Plenary and that they had been invited to give further information in the tour de table. A Cyprus proposal that the Secretariat should examine each progress report on receipt for completeness and accuracy was not adopted.

5.2. Horizontal issues

11. The Bureau had agreed that a horizontal issue raised during the Joint Plenary by the Law Enforcement scientific expert on conspiracy (in the absence of the term conspiracy in a legal system, what is a valid alternative to meet the Methodology requirements?) should be referred to the FATF Working Group on Evaluations and Implementation. This would be pursued by the Secretariat.

5.3. Circulation of FATF papers to MONEYVAL delegations

12. The Plenary was informed that documents received from the FATF are sent from the general e-mail address of the MONEYVAL Secretariat (dgl.moneyval@coe.int) to the Heads of delegations (or otherwise the contact(s) person(s) that they have nominated) and that it is their responsibility to ensure that these documents are properly disseminated at national level to each of the members of their delegation.

5.4. R.14 and “safe harbour” provisions

13. One of the recommendations in the third round evaluation report on Cyprus was that Cyprus should fully cover both criminal and civil liability in relation to the “safe harbour” provision. When discussing the Cyprus progress report at the Joint Plenary meeting in February 2007, the scientific expert for law enforcement was asked to consider what was expected of Cyprus in respect of R.14 regarding the adequacy of their “safe harbour” provisions. They have a criminal offence for non-disclosure and asked therefore why they need a specific safe harbour provision.

14. The law enforcement scientific expert firstly emphasized that the evaluation report had been adopted and that it should not be opened for renegotiations. It was underlined that the “safe harbour” provision was an international and mandatory standard that had to be implemented. Concerning the substance of the matter it was stressed that nobody should be held liable for disclosing in good faith where to do so amounts to a breach of confidentiality. Recommendation 14, however, goes further than challenges on the basis of confidentiality. There needs to be clear immunity from civil, criminal or disciplinary action, if damages occur and the disclosure was wrongly made. Banks need to be protected from civil actions for damages if the disclosure was a result of a mistake. Also, a reporting entity in some countries may need civil and/or criminal protection from a slander action against them. This is why the criminal liability for non disclosure does not provide complete protection from all potential civil and criminal challenges to a reporting entity arising out of a disclosure made in good faith and why such protection from all criminal and civil liability needs to be in place. The Plenary took note of this opinion.

Item 6 and 22 – Typologies

15. The report by the Chair (MONEYVAL (2007) 8 rev), which outlines the objectives of this year’s exercise, the proposed topics and current work undertaken so far by the Members of the Working Group on Typologies (WGOT), was presented to the Plenary by the Secretariat. The Plenary examined the concept papers related to projects 1 (Money Laundering in Securities

Sector - Investigation Methods), 2 (Counterfeit Products and Goods/Commercial Fraud) and 3 (Circumvention of Customer Due Diligence Requirements in Deposit-Taking Institutions) and the draft questionnaire prepared for project 1. The Plenary was advised that additional volunteers would be needed to join each of the two project teams, that the collection of information would be taking place in the period 15 June – 15 August 2007, and that the drafting of the findings and the preparation of the workshops would take place in August and September.

Decisions taken:

- the Plenary decided to select topics 1 and 2 for the 2007 Typologies workshop and invited the Group to finalise as soon as possible the questionnaires, in order to distribute them to the member States, Observers and the FATF;
- It decided that topics 3 & 4 would be considered for future typologies exercises;
- The typologies workshop would be held from 30 to 31 October 2007, either in Montenegro or “the former Yugoslav Republic of Macedonia”, subject to further detailed proposals regarding location and estimated budgetary costs to be received by the Secretariat.

Item 7 – FATF Plenary Delegation

16. The Plenary was informed that the MONEYVAL delegation to the next FATF Plenary meeting (June 2007) will be composed of representatives from Cyprus, Malta, Moldova, Poland, Ukraine, the Chairman and the executive secretary. Delegations were invited to send their comments on issues which they would like to be raised by the MONEYVAL delegation at the FATF Plenary meeting. As regards the delegation which will be attending the October FATF plenary meeting, its composition is not yet finalised, given that only Romania had expressed interest.

Decisions taken:

- the Plenary invited the Heads of Delegations to communicate to the Secretariat any expressions of interest for participation at the October FATF Plenary meeting.

Item 8 – Publication of MONEYVAL reports (update)

17. The Plenary was informed that the publication of the mutual evaluation reports is now accompanied by a temporary news item on the main portal of the Council of Europe, through the distribution of a press release to media press correspondents in Council of Europe member States and also its publication on the MONEYVAL website.

18. Since February 2007, the following reports and summaries have been published:

- the executive summary of the MER on Georgia (French and English versions)
- the MER on Lithuania (28 march 2007, full report, English version)
- the MERs on Albania and Slovakia (French versions)
- the progress report on Cyprus

19. It is envisaged that by the end of June 2007, the MERs on Georgia and Latvia (English versions) and the French version of the MER on Lithuania will be published.

Items 9 and 21 – Future mandate of MONEYVAL

20. The Secretariat explained that the present mandate expires on 31 December 2007 and it is necessary for the Committee to apply to the European Committee on Crime Problems (CDPC) for a further mandate. A background paper with detailed proposals for a new mandate and draft terms of reference for a new mandate had been circulated in advance. The Chairman thanked the Secretary for the work that had been put into this and he felt that the proposals should command broad support. It was explained that the background paper and proposed new mandate had been thoroughly discussed and revised by the Bureau in parts and that the documents before the Committee comprised the recommendations of the Bureau to the Plenary.

21. The Secretariat outlined the reasons set out in the paper for an extension of the mandate (including the completion of the third round, and the need for the MONEYVAL membership to benefit in the years to come from their new associate membership status in FATF). The proposed work programme for the new mandate would involve the completion of the third round, a greater emphasis on follow-up procedures, and addressing in a more structured way typologies work and dialogue with the private sector, and following FATF working groups. Specifically on the European Union Directives, it was proposed that from 2008 all countries being evaluated in the third round would also be evaluated under the Third European Union Directive, and all countries submitting progress reports from 2008 should cover progress on implementation of the Third Directive. Consequential changes would be required to mutual evaluation and progress report templates. In the longer term, at the conclusion of the third round, the Secretariat explained the preliminary thinking of the Bureau for a shorter and more focused process of on-site visits examining progress where third round ratings were low, taking into account preventive standards in the Third Directive where they mirror (and on occasions supplement) FATF standards, and examining progress in respect of DNFBP. A focused questionnaire could be developed with the Bureau and Committee in 2008.

22. The Secretariat also introduced the changes to the mandate in the draft revised mandate. There was a discussion as to whether the Third European Union Directive should be taken on board for the remainder of the Third Round. The scientific expert for legal issues explained that it was now the practice in FATF when new documents were introduced (like revisions to the Methodology and new Interpretative Notes etc.) to evaluate on them forthwith and not wait for the end of a round. Several delegations supported the proposal that the 3rd Directive should become operative in MONEYVAL evaluations from 2008 and the Plenary formally endorsed this proposal. The Chairman specifically requested that the Third Directive was covered by name in the new mandate, as well as the implementing measures and that members' desirable qualifications for nomination to the Committee should include "Senior officials for regulation and supervision and Financial Intelligence Units".

23. The FATF observed that they would assume that assessments of the Third Directive would be in a separate document and not be part of the Methodology assessment. They also pointed out that a shorter evaluation process may mean that such a report may not be comparable with reports from other assessment bodies, though the scientific expert for legal issues noted in reply that the proposal in the paper was looking beyond the third round procedures.

24. There was a discussion on the observers. There was no objection to the OGBS being included as an observer in a new mandate.

25. All the proposals in the background paper were endorsed by the Plenary. On the long term proposals in paragraph 22 of the background paper for a simplified evaluation procedure, Professor Gilmore also invited consideration of areas where the Methodology may be inadequate at present, notably in respect of the interface between AML and corruption.

26. The World Bank encouraged joint typologies between FSRBs / associate members on various subjects.

27. The draft proposed mandate was further revised in the meeting in the light of plenary comments and circulated. The Plenary authorised its presentation, as amended, to the CDPC.

Decisions taken

- The Plenary approved the revised Terms of Reference, as amended in plenary
- The Plenary endorsed all the proposals in the background paper circulated, including consideration of the 3rd EU Directive in MONEYVAL mutual evaluation reports and in progress reports from 2008.

Item 10 - Report on Training Seminar May 2007

28. MONEYVAL organised a Training Seminar which took place from 21 to 25 May in Strasbourg. The FATF, the IMF and the World Bank assisted the MONEYVAL team with trainers and training material. Overall 36 experts participated in this seminar (24 of MONEYVAL, 11 of the FATF, 1 of the OGBS).

Item 11 - Horizontal review of 2nd round reports – Report from the Scientific Expert

29. The legal scientific expert gave an interim report. Thus far the horizontal review has shown that, on the positive side, one of the major findings is improved formal compliance with FATF recommendations in the vast majority of reports reviewed, a willingness and ability of national authorities to take into account the recommendations of the first round and to move very expeditiously towards the adoption of those recommendations they found compelling. On the negative side one of the disappointments emerging so far is on the issue of effectiveness. One of the output indicators is the number of successful convictions on money laundering, which has remained modest. If one takes a look at the reports, which detail the frequency with which the Council of Europe Convention mechanisms for co-operation on provisional measures in relation to confiscation

or forfeiture have been invoked and other international measures, the story thus far is one of formal compliance without effective implementation. Beyond that, it has been necessary to apply “not known” in preparing some of the charts as annexes to the horizontal review as the statistical data provided from many member States during the second round is not sufficiently clear and evident. The scientific expert reminded delegations that, according to the latest version of the Handbook for Countries and Assessors in paragraph 32, the onus for proving the effectiveness is on the evaluated country, which is very difficult if the country has not sufficient and detailed statistical data. The draft report will be circulated prior to the next plenary.

Item 12 - Information from the European Union

Council of the European Union

30. The Council is preparing the fifth implementation report of the recommendations mentioned in the Terrorist Financing Strategy adopted in December 2004. Most of the recommendations have been implemented and a revised strategy is under preparation. Furthermore, work is ongoing to revise the working methods of the EU autonomous freezing mechanism, which was obligatory after the Court Ruling in the so-called OMPI-case. From now on, all listings will be accompanied with a statement of reasons and, as far as addresses are known, a letter of notification will be sent to persons and entities, including information on the existence of a review mechanism and the time limit in which additional documents or requests for de-listing can be forwarded.

European Commission

31. The representative from the European Commission welcomed the recently signed Memorandum of Understanding between the European Union and the Council of Europe. Work is being undertaken by Member States on the identification of “equivalent third countries”. Whilst Directive 2005/60/EC provides for the possibility to identify third countries where the AML/CFT requirements cannot be considered equivalent, Member States have agreed to establish, on a voluntary basis, a common "positive" list of equivalent third countries for the purposes of the application of relevant provisions in Directive 2005/60/EC. The work for the identification of appropriate criteria to determine the equivalence is quite advanced and it is foreseen that the criteria will be agreed at the next meeting among EU member States. The representative emphasized that they were working to grant in principle MONEYVAL countries a privileged status so that they could be considered as priorities for the inclusion in the list of equivalent third countries as soon as the third round evaluation report was approved showing that core FATF recommendations were applied. Turning to the 3rd AML Directive it was considered that Member States are advancing in their implementation of the Directive. Two transposition workshops had been organised. Some issues, however, are still outstanding e.g. beneficial ownership in relation to trusts, the definition of PEPs and Recommendation 9 (recognition of foreign third parties, who may introduce customers to obliged EU institutions). As regards the EU FIUs' Platform, an informal forum where EU FIUs discuss practical issues linked to the implementation of the third Directive, there are three sub-groups working on: 1) information

available and international co-operation among FIUs; 2) feedback; and 3) data protection. The sub-groups are expected to produce short reports on the outcome of their work. The text of the directive on payment services which, i.a., transposes SR VI (alternative remittance) in the EU, is final but has to be published. The EU Regulation 2006/1781/EC, transposing SR VII (wire transfers), entered into force at the beginning of 2007 and the EU Regulation on SR IX (cash couriers) becomes applicable from 15 June .

Item 13 - Information concerning anti-money laundering initiatives in other fora

13.1. EBRD

32. EBRD provided a written report.

13.2. Egmont Group

33. The 15th plenary meeting of the Egmont Group was held in the previous week and the plenary has decided upon the future of the Egmont Group. The Charter has been accepted. The contributions and the formula for the calculation of the contributions have been accepted. Ms Bronwen Somerville is the new Executive Secretary starting from the 1st of July. The seat of the Egmont Secretariat is in Toronto. The Secretariat is at the moment limited to 4 persons and vacancies are posted on the Egmont Group website. All Egmont Group members are expected to start paying their contributions as from 1st July 2008.

34. The yearly examination and approval of new candidate FIUs resulted in acceptance of: Armenia, Syria, India, Niue, Belarus and Nigeria. Terrorist financing reviews have been conducted. Within the definition of an FIU and Recommendation 26 an FIU should not only relate to money laundering but also to terrorist financing. New candidates are checked on compliance with the broadened definition and existing members will be checked as well to make sure that they comply with the new definition.

13.3. FATF

35. Since the last MONEYVAL plenary, the WGMT held an inter-sessional meeting on weapons of mass-destruction (proliferation finance) in Ottawa. It was a fruitful meeting where typologies were discussed on the first day and draft guidance on the second day. The aim is based on 4 UNSC Regulations (1540, 1718, 1737 and 1747) to develop guidance for countries on how to implement these UN resolutions. A draft has been discussed and circulated after the Ottawa meeting and comments have been received. A new guidance paper will be circulated for the FATF June Plenary. MONEYVAL was thanked for the well-organised Evaluator's Training Seminar in May. FATF has started to issue an electronic newsletter on the FATF website. The newsletter is intended to be published three times a year. Any suggestion to improve the newsletter is welcomed. Finally, MONEYVAL was informed that the FATF Executive Secretary had departed. Currently the FATF had an acting Executive Secretary and hopefully there would be a new Executive Secretary by June.

13.4. IMF and World Bank

World Bank and UNODC

36. UNODC Headquarters has informed that the model of the AML/CFT law in the Russian version will be posted on the IMOLIN website in the next two weeks and the French, Spanish and Arabic versions are pending but will be posted at a later stage. UNODC has computer based training on AML generally and on basic training for FIU staff. A Russian version has already been developed and will be very soon ready for dissemination. The UNODC has developed a database which FIU's can use for their work in collecting and analysing transaction reports. The database is called GOAML and it is available for any FIU that is interested and looking for a database that could be useful if they do not have one or if they are unsatisfied with the one they have. This database is already operating in the Nigerian FIU and it is designed as a modular system to fit the needs of any FIU irrespective of size. Donor co-operation continues especially in Central Asian countries. A monthly newsletter is distributed on all technical assistance and training activities. A Russian version of this newsletter is also now being distributed. Experiences and articles from other countries, especially European countries, would be most welcome to be included in the newsletter. Two weeks ago a two day training workshop on the role and functioning of an FIU took place in Tajikistan: This was a joint donor project sponsored jointly by the WB, UNODC, EURASIAN GROUP, Rosfin Monitoring, UNDP, OSCE and the Council of Europe. Experts from Bulgaria and Ukraine also made valuable contributions to the workshop. Representatives from about 18 ministries and agencies in Tajikistan participated and the project appears to have been quite successful. In Kazakhstan the draft AML Law is still pending in the Parliament as there is a disagreement on the question where the FIU should be placed. An FIU has been created in Kyrgyzstan and the UNODC is providing intensive training programmes for FIU staff in conjunction with the FIU of Liechtenstein. Uzbekistan has enacted an AML Law in late 2004. Technical training programmes have been delivered to government officials, however, in January, February and April 2007 some decrees were issued by the Uzbek President, which essentially amounts to suspending implementation of the AML Law until 2013. A new initiative by the WB and the UNODC called the Stolen Assets Recovery initiative (StAR) is an initiative where the WB and UNODC will be working more closely with countries that have developed financial sectors and may have in their banks and financial institutions accounts of officials from other countries where money is sent out from the country by corrupted officials. The hope is that this money can be seized, frozen and after appropriate judicial proceedings returned.

IMF

37. The IMF assessment programme continues. The Latvian report has been posted on the IMF website. Progress continues on Liechtenstein and hopefully MONEYVAL can agree the draft report to be considered at the MONEYVAL September plenary. No decision on an IMF evaluation of a MONEYVAL country in 2008 has yet been taken. The MONEYVAL Evaluator's Training Seminar was much appreciated and well organised. The IMF is looking at ways of improving systems and ways of enhancing the quality and consistency of evaluation reports. All reports approved in MONEYVAL plenaries are subsequently sent to the IMF Board for information so it is of particular

interest to the IMF especially where there is a need for an FSAP that the quality and consistency is the same.

13.5. Eurasian Group on Combating Money Laundering and Terrorist Financing (EAG)

38. In November 2006 the Eurasian Group participated in the mutual evaluation of China. In January/February 2007, the Eurasian Group undertook the mutual evaluation of Kyrgyzstan and next week during the incoming plenary of the EAG the MER on Kyrgyzstan is to be discussed. EAG has actively participated in the international Seminar on the creation of an FIU which took place in May in Tajikistan. The EAG very much appreciates the activities of observers as well as the World Bank, the UNODC and Ukraine. The three topics for the Typologies studies in 2007 have been chosen. The topics are: Financing of terrorism; Money laundering of proceeds from drug trafficking; and use of cash in money laundering cases. The EAG will participate in the forthcoming mutual evaluation of the Russian Federation together with FATF and MONEYVAL.

Item 14 - Progress report : Albania

39. The representative from Albania presented the progress report emphasising that:

- Albania had made progress in the fight against financing of terrorism in general and money laundering in particular since the last evaluation.
- Immediately after the adoption of the second evaluation report work had started to implement the recommendations by drafting a new AML Law with the assistance of the IMF and other international experts.
- Excellent experts from the IMF had worked together with a group of Albanian officials on the new draft AML Law. The Albanian side also had the advantage of having advice from an expert from the US Treasury.
- The draft AML Law is almost ready to be sent to the Council of Ministers before being presented in the Parliament.
- Furthermore, the Criminal Code was amended in February 2007 in order to better fight the financing of terrorism in accordance with the Recommendations given in the second evaluation report.
- Finally a Joint Investigation Unit has recently been set up in Albania to fight economic crime and especially money laundering.

40. Hungary sought more detailed information on the status of the draft AML Law. Albania confirmed that the law still needed to be approved by the Council of Ministers before it was sent to the Parliament. For this reason it was still possible to insert additional changes after the plenary meeting if needed.

41. The law enforcement scientific expert asked how Albanian authorities in general had addressed the under- and false declarations in relation to the declaration of cross border movements of funds and other values. Albania explained that three cases had been referred to the General Prosecutor Office but had subsequently been revoked because of the “Amnesty Law”. All under- and false declaration after the 20 February 2007 were, however, to be investigated and prosecuted. The law enforcement scientific expert also asked how the integrity of the staff of law enforcement authorities and the FIU were being protected. Albania explained that there was a special law in Albania which required that all official staff are screened by a special department within the Prime Ministers Office. After the screening the person receives a certificate which declares that the person has no criminal records and has been screened.

42. Malta asked for some clarification concerning article 4 and 6 in the draft AML Law. In article 6, paragraph 15, it is stated that “If a subject cannot fulfil its obligation of due diligence described in this article, it shall not establish or maintain the business relationship...”. Malta’s concern was whether it was possible to use this provision under art. 6 in case the CDD under Art. 4 was not fulfilled and the client was not identified. Albania confirmed that it was mandatory to identify the client according to art. 4 and if this was not possible no business relationship could be established. Albania recognised that the draft law had to be amended in order to fully cover this problem.

43. Slovakia sought some clarifications on whether company formation regulations were in place. Albania explained that a new law on the registration of companies was under preparation. The possibilities to provide for controls of the background of the applicants and the origin of funds were being reviewed.

44. The Chair asked for information on how Albania intended to enhance the level of reporting from reporting entities. Albania agreed that the number of STRs was very low and most of the STRs come from the banks. A Special Investigation Task Force has recently been created in order to strengthen the efforts and fight against ML and CFT.

Decisions taken:

- The Plenary decided to delete all references to “recommended rating” and assessments marked “implemented”, “partially implemented” and “not implemented” inserted in the progress report by Albania, before posting the progress report on the MONEYVAL website.
- The Plenary adopted the progress report.

Item 15 - Compliance Enhancing Procedures : Azerbaijan

45. In the margins of the Plenary, the Bureau had a meeting with the Delegation of Azerbaijan. Azerbaijan did not bring forward any information about progress made on AML/CFT as expected.

Decision taken:

- the Plenary endorsed the Bureau's proposal to move to step 4 under MONEYVAL's Compliance Enhancing Procedures. Consequently a letter will be sent by the Secretary General of the Council of Europe to the relevant minister(s) in Azerbaijan, drawing attention to non-compliance with the reference documents.

Items 16 and 20 - Information on AML/CFT initiatives in other MONEYVAL countries (tour de table)

46. Armenia: The Financial Monitoring Centre (FIU) has amended its structure and recruited new personnel. In the context of law enforcement reforms, Armenia has decided on its institutional and functional framework for law enforcement. According to the adopted package of legal amendments, by the end of this year, the Prosecutor's Office will be deprived of the investigative function, which would be passed to the specialized agencies dealing with homeland security. Thus the FIU should consider its functional ties with law enforcement while disseminating the analysed STRs. The Armenian authorities have initiated the elaboration of comprehensive amendments to the AML/CFT Law and the adoption of a revised version of the AML/CFT Law was included in the priority list of the Armenian Government. The draft law had already been prepared and was officially sent for other agencies' comments. It is anticipated that the draft law would be sent to Parliament in September 2007. Also, a regulation reflecting the amendments made to the AML/CFT Law and ensuring its full compliance with the FATF Recommendations has been put in circulation. Two delegates from Armenia participated in MONEYVAL's Training Seminar for Evaluators.

47. Azerbaijan: reiterated that the draft AML Law had not been adopted in 2006 as envisaged but emphasised that it would be adopted under the new anti-corruption programme and an FIU would be set up this year.

48. Bosnia and Herzegovina: reported that the FIU was now completely staffed and equipped. The Council of Ministers adopted a decision on establishing a working group on preventing and combating money laundering, of an interdisciplinary composition. Since February 2007, the FIU sent 3 STRs to the State Prosecution Office and 24 judgements were rendered on money laundering. Co-operation between the State FIU and the State Agency for Insurance reached a satisfactory level: all insurance companies had to appoint a contact person responsible for AML/CFT and a list of indicators for recognition of suspicious transactions was sent to them.

49. Bulgaria: the third evaluation visit of MONEYVAL took place from 22-28 April 2007. On 5 April 2007, an amendment to the instruction from July 2006 on co-operation between the Ministry of Finance, the Office of the Prosecutor General and the Ministry of Interior was adopted. The Working Group on the management and coordination of activities on cases related to ML/FT became formal and operational. Members of the Group are the director of the FIU, the Chief of the Unit for combating organised crime at the Supreme Prosecution Office of Cassation and the director of the General Directorate on Combating Organised Crime of the Ministry of Interior. Since the end of March 2007, the FIA Inspectorate performed 24 on-site checks. In the period from March to May 2007, 39 STRs were received at the FIU and 29 reports were submitted by FIA to the Ministry of

Interior. From 1 April – 10 May 2007, the Commission for identification of criminal assets launched 25 proceedings under the law on forfeiture of criminal assets, took 12 decisions on identification of criminal assets (securing criminal assets of approx. 5 billion Euros) and a decision of forfeiture of criminal assets of a value approx. of 100.000 Euros. On 25 April 2007, 1 sentence for money laundering (the 9th since 2006 and the 2nd since 2007) was pronounced resulting in 3 years imprisonment and a fine (20.000 Leva – approx 10.000 Euros). The predicate offence is drug trafficking and about 83.000 Euros were confiscated in favour of the State. The indictment was prepared by the Prosecutor's Office on the basis of information generated by the police.

50. Croatia: A working group on AML/CFT issues, composed of 11 institutions, was established since the 1st of March 2007 and had held its first meeting. A new operational protocol between the FIU, the Ministry of Interior and the Office of the Prosecutor General was put in place, including the possibility of joint case management. The Central Bank and the FSA established an internal committee for AML issues.

51. Cyprus: Draft amending legislation was presented to the Council of Ministers. The FIU prepared draft guidance notes for the real estate sector and precious stones dealers. A Bill amending the ratification law of the UN Convention is pending Parliament's enactment and includes a provision criminalising instances when funds are collected without linking them to terrorist acts. A further confiscation order was obtained for 769.000 Cyprus pounds against 6 persons convicted for fraud and money laundering. Prison sentences were pronounced for up to 5 years. Confiscation against 3rd party was challenged before the Supreme Court and was dismissed. As regards financing of terrorism, inquiries regarding UN lists were negative. The level of sanctions, which was up to 3.000 pounds, was amended by law and is now up to 100.000 Euros as administrative penalty which can be imposed by supervisory authorities. As regards the supervision of the insurance sector, the final process for recruiting additional staff for supervisory visits of the insurance sector is underway.

52. Czech Republic: the draft AML law was sent to the Government and is expected to be in effect in December 2007. 2 weeks ago, a seminar was organised with CEPOL on economic crime, VAT fraud. 2 Czech experts were also involved in the Council of Europe MOLI project in Ukraine.

53. Estonia: Estonia thanked MONEYVAL for the agreement reached to postpone the evaluation visit to Estonia to 2008. A draft AML Act is being prepared and the procedure will be started in the Parliament in September. The inter-institutional committee presented its 2nd report to the Government. 11 new officials joined the FIU and 2 more posts remain to be filled. A special unit was formed for financial supervisory authorities. On 15 March 2007, a new amendment of the Penal Code was adopted introducing a new terrorist offence. Changes were also made to the Penal Procedure Code and courts have frozen assets based on this new legislation.

54. Georgia: Amendments were made to the AML law and the law on commercial bank activities. Significant changes include that entities have to verify the identity and require necessary documents as well as a definition of beneficial owner. An amendment will be introduced for an all crimes approach. An MOU was signed between the National Bank and the Insurance State Supervision Service. In 2007, 6 cases were submitted to the Office of the Prosecutor General. A

Decision was adopted to establish a Permanent Inter-Agency Committee, chaired by the General Prosecutor, responsible for the implementation of MONEYVAL's recommendations.

55. Hungary: Work is underway to implement the 3rd EU Directive and the draft law is expected to be adopted in the 2nd half of the year. A draft act on more effective implementation of financial sanctions is to be submitted in June to Parliament. The Gambling Commission is now part of the Tax authority. A 3-day seminar in March and a 2-day seminar in April were held for judges on economic crimes. In the last 4 months, 11 on-site examinations were launched by the financial supervisory authorities.

56. Latvia: announced that its report was published by the IMF. The work continues on the new AML/CFT law. Following the adoption of a new Criminal Procedure Code in 2005, the statistical results showed 9 convictions for money laundering, 17 convicted persons, 16 cases in court proceedings, 21 criminal cases at the Office of the Prosecutor General (specialised unit on money laundering), 42 accused for money laundering. The new CPC provides for the possibility to confiscate assets before obtaining a conviction, 7 court proceedings resulted in the confiscation of approx. 1 million US dollars. In the last 5 months, 46 orders for freezing were issued by the FIU and more than 8.5 million US dollars were frozen.

57. Liechtenstein: was visited by 2 delegations from IMF in the period 21 March - 4 April 2007, their draft reports were received and the report on AML/CFT, as revised, is expected to be received by the end of June 2007.

58. Lithuania: the mutual evaluation report was issued officially at national level and a co-ordination meeting was organised to discuss its findings. The draft AML/CFT law is expected to be approved by the Government in June 2007. The Central Bank and the FIU had a meeting to discuss co-operation on inspections and exchange of information.

59. Malta: consultations with the Industry were held to prepare amendments to the AML Act. The FIU continues to enhance staffing including analysts and compliance officers. A Maltese national was found guilty for falsification of documents and transactions and was convicted to 6 years imprisonment. Proceeds were confiscated and penalties amounted to up to 2.3 million euros.

60. Moldova: Since the last plenary meeting, the National Strategy on prevention and fight against money laundering and financing of terrorism and the Action Plan for its implementation were approved. The FIU was established as a national co-ordination body for the implementation of the strategy. The new draft of the AML/CFT law was sent by the Government to the Parliament for approval. The FIU signed 1 MOU and negotiations for 4 additional ones were initiated. A strategic co-operation agreement between Moldova and Europol was concluded, which aims at enhancing co-operation in the field of organised crime, trafficking in human beings, drug trafficking and money laundering. Training on AML/CFT issues was organised by TAIEX. Also, in the framework of the MOLICO project of the Council of Europe, a workshop on typologies and trends of money laundering and terrorism financing was organised. The World Bank organised a Train the Trainers activity involving an important number of national representatives. The Head of Delegation also made a statement regarding an analysis carried out at the national level which indicated that there is

an active participation in international transactions of the so-called “Transnistrian banks”. The Moldovan authorities would like to draw the attention of the MONEYVAL members that the Transnistrian region is to be considered a “black hole”, where AML/CFT procedures are not implemented and that the region as such represents a ML/FT threat for the international community.

61. Monaco: An amendment will be made to incorporate requirements of SR. IX as foreseen by the European regulation. An agreement on judicial co-operation was signed with the USA. Monaco ratified the Criminal Law Convention on Corruption and the "*Service d'Information et de Contrôle des Circuits Financiers (SICCFIN)*" was declared to be the central authority for the purpose of this convention.

62. Montenegro: A new AML/CFT draft is prepared with Council of Europe's assistance; the law is expected to be adopted in the course of this summer. 64 indicators for suspicious transactions were prepared and disseminated to obliged entities. As regards the FIU's activities, between January – April 2007, 99 cases were opened, 57 STRs submitted, 16 transactions postponed (for up to 12 millions Euros), 18 cases sent to the Police and State Prosecution. 4 cases were processed and sent to law enforcement (forgery, tax evasion). The FIU sent 14 requests for additional information to foreign FIUs and 8 requests were received from abroad.

63. San Marino: the third round evaluation visit took place from 4 to 10 March 2007. The FIU participated in the Egmont Group plenary meeting in which it has increased and improved its relations with foreign FIUs.

64. Serbia: no major changes occurred in Serbia since the last plenary meeting. The draft law on the prevention of financing of terrorism is pending adoption as well as the strategy for combating ML/FT. Several workshops on the risk-based approach for financial institutions have been organised as well as several awareness-raising seminars for law enforcement authorities and judges.

65. Slovakia: The Council of Europe Convention on the Prevention of Terrorism has been ratified and entered into force on 1 June 2007. Efforts are devoted to the drafting of the new AML/CFT law, which was submitted for comments to the ministries before it is sent to the Government. It is expected that it will be presented in Parliament by the end of June 2007 or otherwise in September. There is a firm intention to have it adopted by the Parliament by December 2007. The FIU started the training of the DNFBPs and a seminar was held in March for real estate agents. The National Bank of Slovakia is reviewing all on-site and off-site manuals so as to bring to the same level the supervisory methods for each part of the financial sector. It is intended to finalise the new manuals by the end of this year. Two final court convictions were obtained regarding activities of non-banking entities, the persons were sentenced to imprisonment and the property has been forfeited.

66. Slovenia: The new AML/CFT law is still in the process of adoption in the Parliament and it is expected to be passed in the regular session starting on 18th of June. Secondary implementing legislation has been drafted recently, especially with regard to reporting of financing of terrorism. Financial institutions, especially banks, have already started preparations for the implementation of

procedures introduced by the new legislation. After the introduction of the EURO in 2007, the number of foreign exchange offices decreased significantly and this trend is continuing.

67. “The former Yugoslav Republic of Macedonia”: By the end of April, a draft AML law implementing the 3rd Directive and the amended Strasbourg Convention has passed the first stage in the Parliament. The intention is to have the draft law adopted before the end of this year. Since the third round evaluation visit, which took place in March 2007, the FIU has employed additional staff, including an IT officer and two persons in the analytical department bringing the total number of the FIU’s employees to 12. In April, the FIU adopted its annual activities report which is now available on the FIU’s website. Recently the co-operation between institutions involved in the combating of ML/FT has been intensified. A Memorandum of Understanding between the FIU and the Bureau for Public Security within the Ministry of the Interior has been signed. On 14 April, 14 persons were convicted of money laundering (and the maximum penalty was 14 years of imprisonment). The Court confiscated 750.000 Euros and property of approx. 500.000 Euros. Preparation for the implementation of a twinning project has started and Spain was selected as the Twinning Partner.

68. Ukraine: The Parliament has adopted a draft law based on the FATF 40 + 9 Recommendations, the EU Third Directive and the Strasbourg Convention. The State Committee for Financial Monitoring has made a list of persons suspected of terrorist activities and financial institutions were acquainted with the list. On 13 March 2007, the Unified Information System of Financial Monitoring was operationally launched. The MOLI-UA 2 Project had been supporting the working group on development of a training platform for electronic learning which was now established in the Training Centre within the FIU. The FIU had organised a training workshop on co-operation between the state authorities and the banking sector. Another training workshop was organised in Yalta where several AML/CFT issues were discussed. Furthermore Ukraine had been sponsoring Belarus’ application to the Egmont Group.

Items 17, 18 and 19 - Discussion on the Draft Third Mutual Evaluation Report on Poland

69. The Secretariat thanked the Polish delegation for their hospitality in Poland and their co-operation. 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 and after that the major changes to the draft report between the version sent out before the plenary meeting and the version brought to the plenary discussion were presented. The Secretariat informed that the Ad Hoc Review Group had submitted comments for consideration. Its expertise and advice were highly appreciated and practically all comments were endorsed by the examiners. Then the Polish authorities expressed their gratitude to the assessment and introduced the members of delegation.

70. The three intervener countries were: Russian Federation, Slovenia and Ukraine. In discussions on the draft report on Poland, the interveners and the Plenary sought further clarification and information on various issues.

71. *Discussions:*

- The Plenary sought more information:
 - concerning the issuing of bearer shares in Poland;
 - on how Poland addresses Article 7 of the 2nd EU Anti-Money Laundering Directive (para. 278 of the draft report);
 - concerning the situation of electronic money institutions in Poland (who can issue electronic money; why are electronic money institutions excluded from the obligation to register above-threshold transactions);
 - concerning the effectiveness and the resources of the FIU. The evaluation team explained that the FIU is equipped with excellent IT facilities which enables it to handle more than 20 Million reports per year with only 46 staff.

72. *Important issues raised:*

- The Plenary decided to give only one consolidated rating for Recommendations 30 and 32 (in Section 7 of the report) and to remove all separated ratings for these Recommendations which are contained in other sections of the report (i.e. sections 2, 3, 4 and 6).
- Recommendation 34 should be treated as “not applicable” if neither domestic nor foreign trusts can be established in a country. The fact that foreign trusts could theoretically act in a country as a branch, should be considered as irrelevant in this respect.
- It was concluded that in the context of Recommendation 9, evaluators should focus on whether it is permitted in the evaluated country’s legislation to rely on CDD elements performed by third parties or other intermediaries. If the legislation does not permit financial institutions to rely on third parties or other intermediaries, Recommendation 9 would be “not applicable”. If the practice would be different from the legal obligations, this should not be addressed under Recommendation 9 but under Recommendations 5 and 17.
- It was decided that the intentional element of the money laundering offence can also be provided for in a general part of a Law (e.g. Penal Code) and that it is not necessarily a shortcoming if this is not included in the money laundering offence itself (criterion 2.1).
- The plenary concluded that human rights issues should not be addressed in MONEYVAL reports.

73. The Plenary decided after discussions:

- that Recommendation 34 (which was rated as “Largely Compliant”) should be rated as “not applicable”;
- To maintain the rating on Recommendation 9 as “not applicable”;
- To maintain the rating on Recommendation 33 (“Partially Compliant”);
- To downgrade the rating on Recommendations 10 and 11 to “Partially Compliant” and on Recommendations 5 and 21 to “Non Compliant”;
- To increase the rating on Recommendation 26 to “Compliant”.

Decisions taken:

- Adopted the draft report and summary, as amended (and subject to consequential editorial

changes).

Item 23 - Finance and Staffing

74. The authorities of Monaco were thanked for the recent voluntary contribution to the work of MONEYVAL.

Item 24 - Compliance Enhancing Procedures: Moldova (examination of the recently adopted legislation on capital legalisation and tax amnesty)

75. The Chairman reported on the outcome of discussions held by the Bureau on the margins of the 23rd Plenary meeting (Tuesday, 5 June 2007) between the MONEYVAL Bureau members and the Moldovan delegation led by Mr Igor DODON, Minister of Economy and Trade. As a result of this meeting, the Bureau members received further explanations regarding the scope of the recently adopted legislation on capital legalization and tax amnesty as well as the next steps envisaged. However, as the Bureau had not received an official translation in English of the recently adopted Law No. 111-XVI (of 27.04.2007) and of the draft package of acts aimed at implementing this law, it considered that at this stage, it was not in a position to evaluate the legislation. Therefore a letter was prepared for the attention of the Moldovan Head of Delegation requesting the communication, within 7 days, of an official translation of the above-mentioned legislation, in order for the Bureau to be able to examine its impact on the implementation of the anti-money laundering and financing of terrorism legislation currently in place and to make an informed assessment as to whether it would be necessary to open compliance enhancing procedures or not. The representative of the Egmont Group informed the Plenary that this piece of legislation had been brought to the attention of the Egmont Group when considering Moldova's application for membership and that this development was reflected in the final decision taken in this respect. The Moldovan authorities confirmed their full co-operation to provide the official translation of the law and the related draft implementing legislation within the set period.

Decision taken:

- The Plenary decided that a decision on this matter should be taken as soon as possible and therefore authorised the Bureau to examine further this issue and decide, on behalf of the Plenary, whether the compliance enhancing procedures should be opened or not, and in the affirmative, the level of the step which would be applied.

APPENDIX I / ANNEXE I

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Mrs Catherine GHERIBI, Administrative Assistant

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Mme Isabelle MARCHINI
Mme Julia TANNER

APPENDIX II / ANNEXE II

AGENDA / ORDRE DU JOUR

Day 1: Tuesday 5 June 2007 / 1^e jour: mardi 5 juin 2007

Morning / matin

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 / Informations communiquées par le Président**
 4. **Information from the Secretariat / Informations communiquées par le Secrétariat**
 - 4.1 **Agenda of evaluations and meetings for 2007 / Agenda des évaluations et réunions en 2007**
 - 4.2 **Participation in other events / Participation à des activités diverses**
 5. **Joint plenary with the FATF – Follow up / Réunion plénière conjointe avec le GAFI – Suites de la réunion**
 - 5.1 **Progress reports / Rapports de suivi**
 - 5.2 **Horizontal issues / Examen horizontal**
 - 5.3 **Circulation of FATF papers to MONEYVAL delegations / Distribution de la documentation GAFI aux délégations auprès du MONEYVAL**
 - 5.4 **R.14 and “safe harbour” provisions / Recommandation 14**
 6. **Typologies – Report from the Chairman of Typologies Working Group/ Typologies – Rapport du Président du Groupe de travail sur les typologies**
 7. **FATF plenary delegation / Participation aux réunions plénières du GAFI**
 8. **Publication of MONEYVAL reports (update) / Publication des rapports MONEYVAL (mise à jour)**
 9. **Future mandate of MONEYVAL / Futur mandat du MONEYVAL**
 10. **Report on Training Seminar May 2007 / Rapport du Séminaire de formation – mai 2007**
 11. **Horizontal review of 2nd round reports – Report from Scientific Expert / Examen horizontal du rapport du 2^e cycle - Rapport par l'Expert scientifique**
 12. **Information from the European Union / Information de l'Union Européenne**
 13. **Information concerning anti-money laundering initiatives in other fora / Information concernant les initiatives anti-blanchiment au niveau d'autres institutions**
- **EBRD / BERD**
 - **Egmont group / Groupe Egmont**
 - **FATF / GAFI**
 - **IMF and World Bank / FMI et Banque Mondiale**
 - **UNCTC / CCTNU**

- **United Nations / Nations Unies**
- **Eurasian Group on Combating Money Laundering and Terrorist Financing (EAG) / Groupe Eurasie sur le blanchiment de capitaux et le financement du terrorisme (EAG)**

Afternoon / après-midi

14. **Progress report – Albania / Rapport de suivi – Albanie**
15. **Compliance Enhancing Procedures – Azerbaijan / Procédures visant à promouvoir la conformité - Azerbaïdjan**
16. **Information on AML/CFT initiatives in other MONEYVAL countries (tour de table) / Information sur les initiatives LAB/CFT dans d'autres pays membres de MONEYVAL (tour de table)**

Day 2: Wednesday 6 June 2007 / 2^e jour: mercredi 6 juin 2007

Morning / matin

17. **Discussion on the draft third mutual evaluation report on Poland / Discussion sur le projet de troisième rapport d'évaluation mutuelle de la Pologne**

Afternoon / après-midi

18. **Continuation of the discussion on the draft third mutual evaluation report on Poland / Poursuite de la discussion sur le projet de troisième rapport d'évaluation mutuelle de la Pologne**

Day 3: Thursday 7 June 2007 / 3^e jour: jeudi 7 juin 2007

Morning / matin

19. **Continuation of the discussion on the draft third mutual evaluation report on Poland (as necessary) / Poursuite de la discussion sur le projet de troisième rapport d'évaluation mutuelle de la Pologne (si nécessaire)**
20. **Continuation of the Tour de Table (as necessary) / Poursuite du Tour de table (si nécessaire)**

Afternoon / après-midi

21. **Future mandat of MONEYVAL – further discussion (as necessary) / Futur mandat du MONEYVAL – poursuite de la discussion (si nécessaire)**
22. **Typologies – further discussion (as necessary) / Typologies– poursuite de la discussion (si nécessaire)**
23. **Finance and Staffing / Financement et personnel**
24. **Compliance Enhancing Procedures – further discussion (as necessary) / Procédures visant à promouvoir la conformité - poursuite de la discussion (si nécessaire)**
25. **Miscellaneous / Divers.**