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MONEYVAL (2009) 16

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

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

29th PLENARY MEETING OF MONEYVAL

Strasbourg, 16 – 20 March 2009

MEETING REPORT

Memorandum
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EXECUTIVE SUMMARY

During the 29th Plenary meeting, held in Strasbourg from 16-20 March 2009, the MONEYVAL Committee:

- Discussed and adopted the third round mutual evaluation reports and summaries, as amended, on Montenegro and Ukraine;
- Discussed and adopted the First Progress reports of Monaco, San Marino, Croatia and Bulgaria as well as the revised First Progress report of the Czech Republic;
- Discussed and adopted the Second Progress report of Cyprus;
- Adopted a second Public Statement in respect of Azerbaijan under Step VI of the Compliance Enhancing Procedures;
- Decided to grant the Bureau a mandate to further review the revised public statement in respect of Azerbaijan between plenary meetings if the legislative framework is satisfactorily completed before the next plenary meeting;
- Adopted the 2008 Annual Report;
- Adopted the questionnaire for MONEYVAL's fourth evaluation round;
- Decided to align MONEYVAL's follow up procedures more closely to the FATF's revised procedures and requested the Secretariat to prepare a revised draft of the Rules of Procedure for the next Plenary meeting;
- Agreed upon the proposals to be conveyed to the FATF in relation to possible changes to the standards in preparation for the 4th round;
- Took note of the current status of work on typologies and approved a proposal to conduct two typologies projects on ML/TF through internet gambling (led by Cyprus) and on ML through insurance and private pension funds (led by Romania);
- Adopted a new procedure for composition of the Ad-Hoc Review Group by a country nominated by the Plenary to review a single report at the next Plenary;
- Took note of information on AML/CFT initiatives in MONEYVAL countries and heard information on anti-money laundering issues in other fora;
- Took note of developments related to the entry into force of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS no. 198) and the forthcoming first Conference of the Parties (April 2009);
- Received presentations on current IMF and World Bank research projects;
- Thanked Andorra, San Marino and the United States of America for their voluntary contributions to MONEYVAL.

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 Chairman, Mr Vasil KIROV (Bulgaria), opened the meeting, following which the Committee adopted the agenda as it appears in Annex I. The list of participants appears at Appendix II.
2. The Chairman then advised the Plenary that he had written a letter to the Ambassador of Azerbaijan after the last Plenary (and the issue of the December Public Statement). In this letter he had set out a list of ongoing concerns about the Bill that had passed second reading on 31 October. He expressed his personal appreciation of the measures taken by Azerbaijan since the December Public Statement (a law had been passed on third reading in February 2009 and a Presidential Decree on 23 February 2009 had authorised various implementing measures to be taken). These were available as information documents. He indicated that the Bureau would review the position and report to the Plenary.
3. The Chairman also drew attention to the exchange of letters between the FATF President and the Spanish Presidency of the Council of Europe in which the high level of performance of the Committee was referred to. The Chairman of the Committee of Ministers had indicated that the Committee of Ministers would explore ways in which MONEYVAL can be reinforced.

Item 4 – Information from the Secretariat

4.1 Agenda of evaluations and meetings for 2009

4. The Executive Secretary informed the Plenary about the completion of the IMF mission to Armenia, which will be discussed in the next Plenary in September 2009.
5. The Executive Secretary then informed the Plenary about the dates of future evaluations. MONEYVAL had also been invited to participate in a forthcoming UN Counter-Terrorism Committee Executive Directorate (CTED) mission to Azerbaijan.

4.2 Participation in the FATF meetings (February 2009)

6. The Executive Secretary reported on the FATF Plenary in February. The MONEYVAL delegation had comprised Hungary, Monaco, Poland, as well as the Chair and members of the Secretariat. The MONEYVAL Statement on Azerbaijan was displayed on the FATF website and the FATF Chairman had recommended FATF delegations to communicate the MONEYVAL Statement to their financial institutions and provide feedback to MONEYVAL. The ICRG general process for referral was still being fine-tuned, including an option which would provide for automatic referral based on the number of NCs and PCs a country received. No decisions had yet been taken. The Working Group on Evaluations and Implementation (WGEI) had begun the work of narrowing down issues for consideration preparing for the 4th Round. The list is not closed and MONEYVAL is actively contributing to this exercise. A revised text of the Methodology criteria had been agreed to address issues relating to the application of SR.IX to a supranational jurisdiction. Further work is

being undertaken on how the supranational framework is to be assessed in an evaluation of an individual State.

4.3 MONEYVAL Training Seminar (July 2009)

7. The Executive Secretary advised the Plenary that the Bureau had decided to accept the proposal by San Marino for hosting the training seminar. Hungary and Ukraine were thanked also for their offers. It was hoped that MONEYVAL could arrange meetings in those countries in future. San Marino expressed their appreciation of this decision. The Secretariat indicated that there would be a limited number of spaces for non-MONEYVAL experts who wished to be trained.

Item 5 – Annual Report of MONEYVAL activities

8. The Secretariat had circulated the Draft Annual Report; some fine-tuning was still required but comments were invited by the end of the week. The Chairman welcomed the draft report.

Item 6 – Horizontal Review of the Third Evaluation Round

9. The Executive Secretary advised the Plenary that by the end of Plenary 29 MONEYVAL will have only 3 outstanding Mutual Evaluation Reports to adopt in the 3rd round, and these should be finalised by the end of 2009. The Secretariat was beginning the process of preparing a horizontal review of the 3rd round. 3 experts would be commissioned to start work on this in 2009 as MONEYVAL will have 26 adopted reports already to review. The remainder would be reviewed in 2010, with a view to discussion of the document in the March Plenary in 2010 and publication thereafter.

Items 7 & 26 – Compliance Enhancing Procedures

7.1 Azerbaijan

10. On the first day of the Plenary the Executive Secretary drew attention to the Information Document at item 7.1 which comprehensively listed the actions taken by almost all MONEYVAL States in response to the Public Statement issued under Step VI. Several FATF countries had also issued advisories, including United Kingdom, Austria, Belgium, the Netherlands, and France.
11. The Chairman referred broadly to the actions that had been taken by Azerbaijan since December, and asked their Delegation to respond. The Azerbaijan authorities thanked the Chairman for his introduction and stressed the action that had been taken and that now would be taken as a consequence:
 - On 18 February 2009, the AML Law passed its third reading.
 - On 23 February 2009, the President of the Republic of Azerbaijan published a Decree on application of the Law of the Republic of Azerbaijan on the “Prevention of the Legalisation of Criminally Obtained Funds or Other Property and the Financing of Terrorism”. The Decree, which came into force on publication:

- establishes the Financial Intelligence Unit (the “Financial Monitoring Service” - hereafter “FMO”) under the National Bank;
 - requires the National Bank to prepare and submit a draft Statute for the FMO to the President of the Republic for approval within one month (i.e. by 23 March 2009);
 - assigns to the Cabinet of Ministers tasks within 2 months (i.e. by 23 April 2009): preparing and submitting proposals to the President of the Republic for bringing other legislative acts into conformity with the AML/CFT Law; preparing and submitting legislative acts on violations of the law; and determining the reporting forms to the FMO;
 - defines the persons or bodies constituting the “relevant executive authority” (supervisory body) for the purposes of several of the provisions in the Law (the powers of the FMO will be defined and approved by the President of the Republic).
12. The Chairman then indicated that the Bureau would consider the latest position and revert to the Plenary later in the week with their proposals in respect of the Compliance Enhancing Procedures.
13. Following discussions with the Azerbaijan authorities the issue was brought back to Plenary on the last day of the meeting. The Bureau’s view was that the law which had been passed on third reading addresses a number of the issues previously raised by MONEYVAL, though there were still some ongoing concerns. The Bureau considered that the overall package of the Law, the implementing measures and the sanctions regime set out in legislative provisions will still need to be reviewed to fully judge the effect of the legal framework in the round.
14. The Bureau recommended that the positive progress that has been made should be fully reflected in a further public statement. A draft revised public statement was circulated and the Bureau recommended its adoption. The revised statement was supported by the Azerbaijan Delegation and by others. Clarification was sought on the status of the previous public statement. The Chairman indicated that it remains in force and the revised public statement was amended to that effect.

Decisions taken

15. The revised Public Statement, as amended, was adopted for publication and is appended (Annex III). It was published on 20 March 2009.
16. The Bureau sought from the Plenary and was granted a mandate to further review the revised Public Statement between plenary meetings, if the legislative framework is satisfactorily completed before the September MONEYVAL meeting.

Item 8 - Discussion on the First Progress report of Monaco

17. The Head of delegation of Monaco introduced the members of the delegation and presented the developments that occurred in Monaco since the adoption of the report, in particular the future adoption of a new AML/CFT Law (aimed at implementing the 3rd EU directive requirements, introducing the risk-based approach, reviewing sanctions), the strengthening of on-site supervision of financial institutions, the increase of the number of SICCFIN staff responsible for supervision and of the use of external experts. She stressed that the H.S.H. Prince Albert II of Monaco had reiterated that AML/CFT matters were a

priority in the Principality. She informed delegations that a number of sovereign orders were adopted on 5 March which are already in force and she presented the main aspects. New measures (Sovereign Order of 10 June 2008 / Law of 23 December 2008) were adopted to address shortcomings in the implementation of SR.III and SR.VIII. National procedures are under consideration and a dialogue has been initiated with France to address the requirements of SR.IX. Monaco has also ratified CETS no. 30 (mutual legal assistance) and no. 24 (extradition) and the two additional protocols. The Head of delegation thanked the Secretariat for having circulated an addendum to the progress report with revised statistics.

18. Estonia, as rapporteur country, highlighted the positive developments, particularly as regards R.2, R.23, R.24, R.30, SR.II, SR.III, SR.VII, SR.VIII, SR.IX. A number of questions were asked by the Delegation. Additional clarifications were sought by the delegations of Estonia, Cyprus, Albania, France, the financial scientific expert and the Secretariat on the following issues:

- Supervisory aspects (the appointment of chartered accountants to produce annual reports and related criteria to be met, exchange of information with other supervisory authorities, sanctions as a result of the supervisory measures taken so far)
- Statistics (in particular the low number of prosecutions and convictions and the number of pending judicial inquiries)
- Staffing (whether any measures were taken to address the limited number of staff in the investigative judge's office)
- Implementation of SR.IX.

19. Monaco responded to the above-mentioned clarification requests. The low number of prosecutions and convictions was due to the length of judicial procedures to obtain information from other countries. As regards pending judicial inquiries, it was expected that some cases would be finalised in the near future, while some have been closed. No measures were considered to increase the number of staff in the investigative judge's office, as the situation was considered satisfactory. A draft text is before Parliament for adoption, which addresses the status of magistrates and their independence. As regards chartered accountants, these are persons specifically appointed by the Order, who are subject to the AML/CFT law and know the requirements in this area. As a result of on-site inspections, a number of sanctions have been applied. Finally, as regards SR.IX, plans underway include devolving the responsibility to the Police with reports being sent to SICCFIN. Very positive contacts had taken place between TRACFIN and SICCFIN to cooperate on this matter.

20. Representatives of IMF and France commended the progress made by Monaco. The IMF stressed the overall climate towards OFC and urged the authorities to adopt draft legislation as soon as possible and deliver on undertakings. He stressed that this progress report was a good example on how well the progress reporting procedures of MONEYVAL work.

21. Estonia concluded that, apart from the concern that a number of requirements were still in draft legislation pending adoption, the report and additional information provided were comprehensive and satisfactory.

Decision taken

22. The Plenary adopted the First Progress report of Monaco (as amended¹), which would be subject to automatic publication in accordance with the Rules of procedure.

Item 9 – Discussion on the First Progress report of San Marino

23. The Delegation of San Marino introduced the members of the delegation and presented the main aspects dealt with in the first Progress report. On 4 March 2009, San Marino had ratified CETS no. 024 and no. 30. Three drafts acts were examined on 16 February 2009 by the Parliament on telephone interceptions, international co-operation and NPOs.

24. The rapporteur country was Hungary, which stressed that progress had already been achieved as presented in the context of the reports submitted by San Marino under the compliance enhancing procedures so far, and recalled that San Marino had been requested to submit a further Compliance Report to the 30th Plenary meeting in September 2009. Clarifications were sought by the delegations of Hungary, Malta, Slovenia, the financial scientific expert and the Secretariat on the following issues:

- R.1 & R.2: Plans to criminalise self-laundering and introduce the criminal liability of legal persons
- The FIU: rules of appointment of the head and deputy head of the FIU and conflicts of interest
- R. 5: Any changes to the current timeframe (3 years) to eliminate bearer passbooks
- R.6: The application of enhanced CDD and requirements to put in place risk management systems and procedures
- R.30: Staffing changes in the court and the number of judges responsible for ML cases
- Progress in addressing shortcomings under R.34
- SR.VIII: the timeframe for undertaking a review under SR.VIII and finalising draft legislation
- SR.IX: whether the FIU is informed in cases of false disclosure or refusals.

25. San Marino responded to the above-mentioned clarification requests. While no changes had occurred regarding self-laundering, the Government was examining the introduction of the criminal liability of legal persons. A working group was established within the Committee of Credit and Savings on AML/CFT matters and had met twice already. As regards bearer passbooks, San Marino clarified that they would be abolished, and new

¹ Amendments cover: a footnote on the adoption on 13 March 2009 of several Sovereign Orders referred to in the text of the progress report, the rewording of the answer to progress made in respect of R.1 and the updated statistics circulated in the addendum to the report.

bearer passbooks which can be opened meanwhile are limited to EURO 15,000, and related operations are recorded and customers identified. The FIU is currently working on an electronic reporting system. The drafting of the law regarding NPOs will be finalised by the end of March 2009. As regards R. 34, the AML revision process will introduce the notion of beneficial owner, and instructions were being prepared for financial institutions on trustees. As regards the court, a number of changes had taken place. 1 judge is responsible for ML cases and international judicial cooperation. A procedure was underway to nominate two new judges and 4 assistants.

26. The representative of Slovenia, who participated in the on-site visit, commended San Marino on the progress made. This was reiterated by Hungary, which stressed that the report was comprehensive and suggested a few amendments to ensure that it reflected accurately the situation in San Marino.

Decision taken

27. The Plenary adopted the First Progress report of San Marino (as amended²), which would be subject to automatic publication in accordance with the Rules of procedure.

Item 10 – Information on AML/CFT initiatives in other fora

10.1 FATF / GAFI

28. The FATF representative referred to the latest FATF statement on countries of concern (which MONEYVAL had circulated to its members requesting feedback on it). In the last FATF statement a call for countermeasures on Iran was made. The mutual evaluation of South Africa had been adopted. There was a new initiative by the Netherlands to analyse the effects of the global financial crisis on AML/CFT. Two countries requested to be removed from regular follow-up process because of their progress: Italy and Canada. In Italy's case this was agreed after Plenary discussion. Canada, however, remains in follow-up. As noted earlier by the Executive Secretary, the FATF representative confirmed that the ICRG assessment process remained under review. It was likely that in future mutual evaluation results would be taken into account together with issues of country risk and size of the financial sector. Whatever was decided would be coordinated with the FSRBs and, he advised, should not interfere with working follow-up procedures.

10.2 IMF and World Bank

29. The IMF advised that the Armenia report was on track for September. Information was shared on technical assistance projects. The IMF noted that they now had a Multi Donor Trust Fund and are currently recruiting personnel.
30. The World Bank informed the Plenary of two events, one in Uzbekistan and one in Kazakhstan, strengthening AML measures in the region. Croatia had also sought some technical assistance.

² Amendments related to R.26 (footnote), R.13 (reply regarding reporting of STRs related to tax matters), R.6 (reply regarding enhanced CDD), revised statistics and annexes.

10.3 OSCE

31. The OSCE representative described work they had done with charities in June and on seizing criminal assets in Central Asia. He looked forward to follow-up of the event in Cyprus last year on money laundering and human trafficking.

10.4. EBRD

32. The EBRD representative informed the Plenary that the EBRD is committed to support both the FATF and MONEYVAL and is raising funds to enhance activities in the AML sector.

Item 11 - Information from the European Union

European Commission

33. The representative of the DG Internal Market and Services informed on the following issues:

- state of play concerning the transposition of the 3rd AML Directive;
- amendments to FATF Special Recommendation IX which make it now possible for MS to be in compliance with this Recommendation by applying cash controls at the EU external border without individual MS having to (re)introduce cash controls at their internal borders;
- status quo and legal status of the "list of equivalent countries".

34. The representative of the DG Justice, Freedom and Security informed the Plenary on the following issues:

- ARO : Following the Communication from the Commission to the European Parliament and the Council "Ensuring that "Crime does not pay" (dealing with proceeds of crime) released in November 2008, a first meeting of EU Assets Recovery offices was organised in Brussels in January. AROs delegates approved the creation of an informal platform. The next meeting of this platform is scheduled in May. It will be the occasion for an exchange of views aiming at better implementation of the legal framework in a view of its possible recasting. Exchanges of best practices and the fostering of mutual cooperation are also foreseen.
- Financial Investigations: EU Member States agreed to devote the next round of mutual evaluation to financial investigations. Above and beyond this 5th cycle of evaluation, the Commission has also been active for several years on Financial investigations notably within the framework of the Hague program by promoting wider use of financial investigation and financial criminal analysis as a law enforcement technique in all investigations dealing with organised crime (with the active involvement of the Guardia di Finanza (IT), the French Gendarmerie (FR), the National Police Improvement Agency (UK), the Belgian federal police, Europol and the CEPOL). - The Commission has also established a set of common minimum knowledge standards on financial investigation and financial criminal analy-

sis. In this regard, the creation of centres of excellence will help producing EU financial investigation training packages. This work is currently in progress, first deliverables being expected by the end of 2009, notably towards an EU Strategy for Financial investigation and Financial Criminal Analysis.

EU Council General Secretariat

35. A representative of the European Commission also provided information on behalf of the EU Council General Secretariat about:
- progress concerning the signing by the European Community of the Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism (CETS 198).
 - the issuing of the first implementation report of the revised EU Strategy on Terrorist Financing by the EU Counter-terrorism Coordinator.
 - concerning further work with regard to the implementation of FATF SR VIII (NPO-sector).

Items 12 & 13 – Discussion on the draft Mutual Evaluation Report on Montenegro

36. The Chairman began by welcoming the Delegation of Montenegro. Then, the Secretariat introduced the evaluation team, gave a brief overview of the on-site visit and thanked Montenegro for its cooperation and hospitality. Further, the Secretariat explained the recently amended draft document circulated in the morning.
37. The legal expert presented the changes to the draft, including Recommendations 1 and 2, SR.III and SR.IX. Changes were necessary due to problems caused by the literal translation of the Montenegrin Law that did not represent the legal tradition of the country. Additionally, the legal expert noted that generally the Montenegrin Criminal Code covers all ML issues with the exception of insider trading. Nonetheless, so far there has only been one conviction and that had not been finalised at the time of the on-site visit. Terrorist financing has been introduced into the Montenegrin Criminal Code. Two systems of confiscation have been put in place, a general and a special one. The legal expert noted that the biggest issue is the problem of freezing or seizing funds in Montenegro, as there has not been any implementation of SR.III.
38. The financial expert informed the Plenary that most of the new legislation is robust and in line with international obligations. Nonetheless, financial institutions were not seen as being aware of their obligations. The low number of STRs reported by financial institutions did raise some concerns.
39. The United States evaluator described the Montenegrin AML/CFT Law as comprehensive and stressed that the institutions are new but responsible. A gap was identified regarding the tipping off of lawyers.
40. The Montenegrin Delegation underlined the importance of AML/CFT measures and the priority afforded to law-making in line with international conventions in Montenegro.

41. The three intervener countries were: Georgia (legal aspects), Azerbaijan (financial aspects) and Albania (law enforcement aspects).
42. The Delegation of Georgia sought clarification on the following issues:
- Possibility of confiscation of property of affiliated persons when the perpetrator has only faked the transfer.
 - Procedures for the confiscation of the instrumentalities of crime without conviction.
 - Circumstances of prosecution of a legal entity without the prosecution of the respective natural person.
43. The Delegation of Azerbaijan sought clarification on the following issues:
- Requirements under Articles 25 and 29 of the Law on Prevention of ML and FT to maintain necessary records for a certain period of time.
 - Authority of the Central Bank within the framework of Art. 107 to exchange banking secrecy with foreign authorities in terms of AML/CFT cooperation.
 - Requirements under Art. 84 and 85 of the Law on Prevention of ML and FT to maintain necessary records for longer periods if requested by a competent authority after termination of a business relationship.
 - Responsibilities of the Central Bank for violation of Article 31 in relation to opening and maintaining anonymous accounts in banks and financial institutions.
44. The Delegation of Albania sought clarification on the following issues:
- Need for greater statistical clarity in paragraph 339 in order to provide an overall picture of the number of AML investigations, prosecutions and convictions.
 - Need for a rigorous monitoring mechanism (paragraph 342) preventing cases returning to Police Administration.
 - Consideration of introducing special investigative techniques by law enforcement authorities to cover all forms of ML.
 - Power of the Border Police to stop or restrain currency or bearer negotiable instruments.
 - Co-operation between Administration for the Prevention of ML and the special department within the Supreme State Prosecution.

Decisions taken

45. The Chairman proposed to change the rating for Recommendation 2 from “Largely Compliant” to “Compliant”.
46. Croatia challenged the rating on Recommendation 27 in respect of resources issues, which should have been reflected under Recommendation 30. The Plenary agreed to an upgrade to “Largely Compliant”, but it accepted that the reference to corruption having an impact on the effectiveness of implementation of Recommendation 27 should remain in the ratings box for Recommendation 27.
47. Adopted the third round draft mutual evaluation report on Montenegro as amended and its draft summary (and subject to consequential editorial changes by the Secretariat).

Item 14 – Discussion of the Revised First Progress report of the Czech Republic

48. The Delegation of the Czech Republic began by informing the Plenary about changes made to the report since the discussion in the previous plenary meeting.
49. The rapporteur country was Bosnia-Herzegovina. A number of questions were asked by the Delegation. The issue of new statistical data regarding the number of convictions and seized assets was discussed in detail.

Decision taken

50. The Plenary adopted the Revised First Progress report with an editorial amendment on page 52. The Progress report would be subject to automatic publication in accordance with the Rules of procedure.

Items 15 & 17 – Information on AML/CFT initiatives in MONEYVAL countries (Tour de Table)

51. A document compiling updated information on AML/CFT initiatives in the countries whose mutual evaluation, progress or compliance reports were not discussed during this Plenary meeting was circulated for information (MONEYVAL (2009) 17).
52. The Chairman informed the delegations which had not yet sent any information that in accordance with the new procedure, they could still do so in the week following the meeting.
53. The Executive Secretary advised the Plenary that the final compilation of information from the Tour de Table received from delegations would be available for consultation only on the restricted area website of MONEYVAL under the relevant plenary meeting.

Item 16 – Preparations for the FATF 4th round (Discussion on Recommendations 27 and 28)

54. The Executive Secretary had invited delegations in advance of the Plenary to consider proposals for improving FATF Recommendations 27 and 28. The Cyprus Delegation had proposed specific additional language for Recommendations 27 and 28. At the end of R.27, it was proposed to add “Designated law enforcement authorities should cooperate closely with the FIU of the country, in particular for the tracing of assets; the level and nature of the co-operation depends on the type of the FIU and the domestic legislation”. At the end of R.28, it was proposed to add “At least in major (serious) predicate offences, law enforcement authorities should be able to conduct parallel investigations regarding the financial aspects of the case in order to trace assets/proceeds for future confiscation purposes”. These and other proposals were discussed.

Decision taken

55. It was agreed that the Secretariat would convey the views of the MONEYVAL Plenary to FATF including the Cyprus proposals.

Item 18 – Introduction to the Questionnaire for the 4th Evaluation Round

56. The Executive Secretary introduced the questionnaire for the 4th Evaluation Round. He explained that it is structured in the format of current reports (General section, legal system and related institutional measures, preventive measures, etc.). All key and core Recommendations would be re-reviewed, whatever the rating achieved in the 3rd Round, and all other Recommendations which were rated “Non Compliant” or “Partially Compliant” in Third evaluation would be re-rated. The Bureau recommended the Questionnaire for adoption by the Plenary. The Executive Secretary highlighted that the goal was to make the evaluations shorter and more focussed.

Decision taken

57. The Plenary adopted the 4th Round questionnaire.

Item 19 – Discussion on the First Progress report of Croatia

58. The Head of Delegation of Croatia presented new developments and projects undertaken since the 3rd Round evaluation. He explained current Government AML/CFT strategy, plus some new features of the Croatian Criminal Code and recent developments in the domestic FIU.
59. The Czech Republic was the rapporteur country and presented an analysis of the progress report. It highlighted that the report was very comprehensive and detailed. Significant changes in the FIU were described. It can now receive requests from governmental bodies and has powers to suspend transactions, which they have used in 3 cases.
60. On the legal side, important amendments had been made, including the definition of money laundering, but the number of convictions still were low.
61. A question was raised on the deadlines set for submission of STRs.
62. The Czech Republic, as the rapporteur country, expressed its opinion that the report adequately answers the questions asked in the questionnaire and that the statistics were consistent and clear.

Decision taken

63. The Plenary adopted the First Progress report, which would be subject to automatic publication in accordance with the Rules of procedure.

Item 20 – Discussion on the Second Progress report of Cyprus

64. The Delegation of Cyprus introduced a number of significant changes regarding AML/CFT since the First Progress report. Co-operation between the police and the domestic FIU had been further enhanced.
65. Israel was the rapporteur country. It first recognised the excellent co-operation of the Israeli FIU with the Cypriot authorities. Further, the Delegation of Israel expressed the opinion that the report answers comprehensively all open issues.

66. Israel asked about the number of convictions mentioned in the statistics. The Delegation of Cyprus replied by elaborating on pending trials and convictions with descriptions of the relevant predicate offences. Israel asked about implementation issues regarding PEPs under the Third AML European Union Directive, and about the increase of the fine for offences committed by financial institutions. Satisfactory clarifications were given to the intervenor country in respect of the statistics on frozen proceeds and assets by the Cyprus Delegation.
67. The Chairman opened the discussion and the Secretariat also asked the Delegation of Cyprus to clarify some of the statistics. The Executive Secretary suggested a footnote where N/A had been written regarding references by the FIU to law enforcement to explain, for readers, that the Cyprus FIU has investigatory powers. This was agreed by the Plenary.

Decision taken

68. The Plenary adopted the Second Progress report, as amended, which would be subject to automatic publication in accordance with the Rules of procedure.

Item 21 – Current research projects of the IMF and World Bank

69. The IMF gave a presentation on “Applying Risk Management to AML” dealing with the development of a framework and methodology for an objective assessment of ML/FT risk.
70. The World Bank gave an overview of 20 different projects that the World Bank is currently undertaking, *inter alia* on CFT supervision, new technologies and risk, FIU governance, AML for anti-corruption purposes and also on the development of new money laundering risk assessment tools.

Item 22 - Discussion on the First Progress report of Bulgaria

71. For this item Mr KIROV vacated the chair. The session was moderated by the Vice-Chair, Mrs Eva ROSSIDOU-PAPAKYRIACOU (Cyprus).
72. The Delegation of Bulgaria began by introducing itself and presented the current AML/CFT situation in Bulgaria. There were, notably, amendments to fulfil obligations set out by the Third AML European Union Directive and some restructuring: the FIU was now under the umbrella of the State Agency for National Security (SANS).
73. Latvia was the rapporteur country. The Delegation of Latvia commented about the format of the questionnaire. After an explanation from the Secretariat, and with the agreement of the Bulgarian Delegation, the Chair proceeded to hear the progress report
74. Clarifications were sought on the independence of the FIU. The Bulgarian Delegation explained that they depend on SANS for their budget, but appointments are made on the basis of the views of the Director of the FIU, which retained all its previous powers and responsibilities. Further clarifications were given on attempted STRs (they amounted to 10 % of all transactions reported); the number of trainings on financial issues by the FIU in 2007 and 2008, particularly on Recommendation 5 and the fact that insider trading would become a predicate offence in the new Penal Code by the end of 2009.

75. Latvia, as the rapporteur country, expressed its opinion that the report adequately answers the questions asked in the questionnaire and that the statistics were consistent and clear, but that some amendments need to be made in accordance with replies given.

Decision taken

76. The Plenary adopted the First Progress report subject to necessary amendments. The report would be subject to automatic publication in accordance with the Rules of procedure.

Item 23 – Information on the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198)

77. The Executive Secretary informed the Plenary that the Convention CETS No. 198 is now in force and made reference to the First Conference of the Parties to be held in April 2009.

Items 24 and 25 – Discussion on the draft Mutual Evaluation report on Ukraine

78. The Secretariat thanked the Ukrainian authorities, especially the SCFM in Kiyv and in the regional offices, for their hospitality and their cooperation in organising the on-site visit. Then, it explained the background of the visit and introduced the experts involved in this evaluation, who presented an overview of their main findings. Then, 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.
79. The Ukrainian authorities expressed their gratitude to the assessment team and introduced the members of the Delegation. The Head of the Delegation referred to the difficulties with the on-site visit. Apart from that, he made remarks about the special situation of post-socialist developing countries in terms of the evaluation. The legal situation is problematic due to laws being in place since the 1960s. Overall the Head of Delegation informed the Plenary about the Ukraine's disagreement in terms of the law enforcement evaluation and highlighted that the number of convictions cannot be judged appropriately due to the recent implementation of the provisions.
80. The three intervener countries were: Malta (legal aspects), Lithuania (financial aspects) and Liechtenstein (law enforcement aspects).

Discussions

81. In discussions on the draft report, the interveners and delegations from Moldova, Georgia, Poland, Russian Federation, Hungary, Slovak republic, Estonia, Montenegro, Latvia, Azerbaijan, World Bank, the European Commission and the FATF sought further clarification and information, inter alia, on the following issues:
- R.1 & 2: The application of the ML offences as autonomous offences and results of investigations and prosecutions: fundamental principles of domestic law in Ukraine which inhibited to extend criminal liability for ML to legal persons;
 - SR.II and criminalisation of the financing of terrorism;

- R.3: progress and the timeframe for overcoming the shortcomings in the confiscation regime;
- R.26: the composition of the Expert Commission, its powers and its coordination with other law enforcement agencies, budget, the role of the SCFM in the fight against corruption.
- R.38 :whether Ukraine had considered establishing an asset forfeiture fund and its rating
- R. 27: the effectiveness of law enforcement's action and its rating
- R.23 & 29 : implementation of supervisory action in practice as demonstrated by the statistics
- R.13: complexity of the reporting system
- R.25: guidance and feedback provided by the competent authorities and related description by the evaluation team of the situation both under the analysis and rating box
- R.17: legal framework and application of sanctions
- risks posed by bearer securities.

Decisions taken

82. As a result of the discussions, the Plenary decided to amend the report to reflect clarifications raised by delegations³ and to modify the ratings of SR.II (upgraded from “Non compliant “to ‘Partially compliant”) and R.21 (downgraded from partially compliant to non compliant). It decided that the ratings of R. 11, R. 26, R.27 and R.38 should remain unchanged.
83. Adopted the report and draft executive summary as amended (subject to consequential editorial changes by the Secretariat).

Item 27 - Compliance Enhancing Procedures : discussion of the process generally

84. The Executive Secretary advised the Plenary that the Heads of Delegation meeting earlier in the week had discussed an Armenian proposal for a precise formula for entry into the Compliance Enhancing Procedures (CEPs). The Bureau had considered this proposal and thought it extremely constructive and timely. The Bureau proposes that we should review our CEPs as we go forward into the 4th Round. They recommend that, as associate members of FATF, MONEYVAL procedures should be more closely aligned with the FATF's current follow-up procedures. Mr John RINGGUTH outlined how the FATF follow-up now works and explained that the Bureau has asked the Secretariat to adapt the Rules of Procedure for the 4th Round to more closely align them with FATF's follow-up procedures (reflecting also the practicalities of the MONEYVAL 4th follow-up Round, which

³ Amendments related to the descriptive part, comments and recommendations related to R. 1, R.2, SR.II, R.38, R.4, R.11, R.15, R.20, R.25, R.26, R.29, R.33, statistics table on on-site inspections by supervisors.

will re-rate NCs and PCs based on on-site visits). The Plenary approved the principle and agreed to review the draft revised Rules of Procedure at the next Plenary.

Decision taken

85. The Plenary agreed in principle to align MONEYVAL's follow-up procedures even more closely with FATF's revised procedures and asked the Secretariat to produce a revised draft of the Rules of Procedure for the next Plenary meeting.

Items 28 – Typologies work

28.1 Update on the implementation of the Money service businesses project

86. The Project Leader, Mr Raul VATHRA (Estonia), provided the Plenary with an update on the project. So far 50 replies have been received, 21 MONEYVAL countries have replied. The analysis of the received questionnaires was underway.

28.2 Status of other projects discussed in the Joint Typologies meeting

87. The Project Leader, Mr Ian MATTHEWS (United Kingdom), informed the Plenary on developments in the implementation of the project and that plans are underway to initiate consultations with the private sector.
88. The FAFT updated the Plenary on other FATF on-going projects concerning sporting clubs and global threat assessment.

28.3 Future MONEYVAL Typologies

89. The Secretariat presented a paper, which had been circulated, outlining proposals received from delegations on future typologies projects which could be considered for the 9th Typologies meeting in November 2009.
90. The following proposals were introduced by delegations to the Plenary:
- The use of Internet gambling for ML and TF purposes by the Delegation of Cyprus.
 - Money Laundering through Private Pension Funds and through the Insurance Sector by the Delegation of Romania.
 - Financial proxies and their usage by investments of money stemming from illicit activities (excluding licensed financial and credit institutions being parts of financial markets) by the Delegation of Poland
 - Misuse of the typical financial products designed for the companies in order to launder illegal profits by the Delegation of Poland
91. Several delegations expressed interest in the first two topics and agreed to support through nominations of experts the project leaders' work on these projects. The Secretariat informed that a call for additional expressions of interest to join the project team would be circulated shortly after the Plenary meeting.

Decision taken

92. The Plenary took note of the current status of work on typologies and approved a proposal to conduct two typologies projects on ML/TF through internet gambling (led by Cyprus) and on ML through insurance and private pension funds (led by Romania).

Item 29 - MONEYVAL communications with member States and observers

93. This item was on the agenda as an opportunity for member States to provide feedback on the way MONEYVAL communicates with them. The Executive Secretary recalled the e-mail communication of 9 March 2009 advising members and observers that the restricted access part of the MONEYVAL website was working again. The aim was to move to a situation where we would post all plenary documents on the restricted access website and advise members when a new document was posted. Until the Secretariat has all its assistants trained on this, it will continue to operate a hybrid system of sending e-mails with new documents (as is the usual practice) and additionally posting them on the restricted access part of the website.
94. Recipients are normally only Heads of delegations. Some delegations have identified a second recipient. Others may wish to identify a second recipient. The Executive Secretary reminded delegates that we also circulate all FATF documents (which is a large undertaking). The FATF explained that, for the time being, the FATF net would not be opened up to all Associate member States, so the present position of communication of FATF material via MONEYVAL would continue.
95. The Czech Republic indicated that “second recipients” was a good idea, but suggested that all permanent members of the delegations should receive documentation. They also emphasised that documents sent should try to identify what is for information, for action, what is an FATF issue, and what is for Plenary discussion. The Executive Secretary indicated that he would take this back for discussion within the Secretariat though he considered what was proposed was what they were generally trying to do when sending documents at present. The Secretariat would liaise with delegations to obtain an up-to-date list of who ideally should receive documentation within the delegations in order to try to help delegations cope with the volume of the material. The Secretariat also indicated that there would shortly be a restricted access part of the website devoted to training materials for the use of evaluators, etc.

Item 30 – Pre-evaluation training for the 4th Round

96. The purpose of this agenda item was to explore whether countries felt there was merit in some form of pre-evaluation training, done either bilaterally or in groups of countries. There was some support for a move in this direction, and the Secretariat would consider what might be feasible in the 4th Round.

Item 31 - Ad Hoc Review Group on Experts for the next plenary meeting

97. The Executive Secretary noted that it was becoming more difficult to secure a full team of experts from different countries to make up the Ad Hoc Group. Therefore, the Bureau proposed to change the appointment procedure for the Ad Hoc Group by assigning a country to perform this role in the way rapporteur countries are appointed for Progress Report reviews. While there was some concern as to the feasibility of this in all cases in the

future, it was agreed that this should be undertaken. Some countries wanted to amalgamate the roles of Ad Hoc Group and intervenors, but it was decided to defer decisions on the future of the intervenor countries to a later date, and trial this new procedure now for appointment of the ad hoc Group.

Decision taken

98. The Plenary adopted a new procedure of composition of the Ad Hoc Review Group by alphabetical list of the countries. The terms of reference of the Ad Hoc Group would be revised accordingly to make it clear that a country is now only required to constitute an Ad Hoc Review Group to review a single draft report at a given Plenary, not all of the draft reports at a given Plenary. Where there is more than one draft report to be reviewed at a given Plenary, different countries would be appointed to review each draft report. The content of the review remains as described in the current terms of reference for the Ad Hoc Review Group. The first country to be appointed to constitute an Ad Hoc Group under this new procedure (for one mutual evaluation report) would be Albania, which would perform this role for the Armenia report in September.

Item 32 – Future representation in FATF meetings

99. The Secretariat made a call for future volunteers for FATF meetings in June and October, bearing in mind the policy that Bureau States have precedence on the available seats in the FATF Delegations allocated to MONEYVAL member States.

Item 33 – Financing and staffing

100. The Executive Secretary reported briefly on the budgetary situation and thanked the United States, Andorra and San Marino for their voluntary contributions, which are always very welcome. He also reminded the Plenary of the deadline for 3 vacancies for seconded nationals in the MONEYVAL Secretariat.

Item 34 – Miscellaneous

101. The Executive Secretary advised the Plenary about the schedule of proposed MONEYVAL evaluations covering the period 2009 to 2011, which had been circulated as a Room Document during the Plenary meeting.

ANNEX 1 / ANNEXE 1

AGENDA / ORDRE DU JOUR

Day 1: Monday 16 March 2009 / 1^{er} jour: lundi 16 mars 2009

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 / Informations communiquées par le Président**
 - 3.1 **Azerbaijan / Azerbaïdjan**
 - 3.2 **Letter from the FATF President to the Spanish Presidency of the Council of Europe / Lettre du Président du GAFI à l'attention de la Présidence du Comité des Ministres d'Espagne**
4. **Information from the Secretariat / Informations communiquées par le Secrétariat**
 - 4.1 **Agenda of evaluations and meetings for 2009 / Agenda des évaluations et réunions en 2009**
 - 4.2 **Participation in the FATF meetings (February 2009) / Participation aux réunions du GAFI (février 2009)**
 - 4.3 **MONEYVAL training seminar (July 2009) / Séminaire de formation MONEYVAL (juillet 2009)**
5. **Annual Report of MONEYVAL activities / Rapport annuel des activités de MONEYVAL**
6. **Horizontal Review of the Third Evaluation Round / Rapport horizontal sur le troisième cycle d'évaluation**
7. **Compliance Enhancing Procedures / Procédures visant à promouvoir la conformité**
 - 7.1 **Azerbaijan / Azerbaïdjan**
 - **Responses of MONEYVAL countries to the public statement / Action des Etats membres de MONEYVAL à la suite de la déclaration publique**
 - **Report from Azerbaijan / Rapport de l'Azerbaïdjan**
8. **Discussion on the First Progress report of Monaco / Discussion du Premier rapport de progrès de Monaco**

Afternoon 14h30 / après-midi 14h30

9. **Discussion on the First Progress report of San Marino / Discussion du Premier rapport de progrès de Saint-Marin**
10. **Information on AML/CFT initiatives in other fora / Informations sur les initiatives LAB/CFT dans d'autres institutions**
 - 10.1 **FATF / GAFI**
 - 10.2 **IMF and World Bank / FMI et Banque Mondiale**
 - 10.3 **UNCTC / CCTNU**
 - 10.4 **EBRD / BERD**
 - 10.5 **OGBS**

10.6 OSCE

10.7 Egmont group / Groupe Egmont

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

11. Information from the European Union / Informations de la part de l'Union Européenne

11.1 European Commission / Commission européenne

11.2 Secretariat General of the Council of the European Union / Secrétariat Général du Conseil de l'Union européenne

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

Day 2: Tuesday 17 March 2009 / 2^e jour: mardi 17 mars 2009

Morning 9h30 / matin 9h30

12. Discussion on the draft Mutual Evaluation Report on Montenegro / Discussion du projet de rapport d'évaluation mutuelle sur Montenegro

Afternoon 14h30 / après-midi 14h30

13. Continuation of the discussion on the draft Mutual Evaluation Report on Montenegro / Poursuite de la discussion du projet de rapport d'évaluation mutuelle sur Montenegro

14. Discussion on the Revised First Progress report of Czech Republic / Discussion du Premier rapport de progrès révisé de la République Tchèque

15. 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)

16. Preparations for FATF 4th round (discussion on FATF Recommendations 27 and 28 / Préparation du 4^e cycle d'évaluation de GAFI (discussion sur les Recommandations 27 et 28)

Day 3: Wednesday 18 March 2009 / 3^e jour: mercredi 18 mars 2009

09h00 - Meeting of the Heads of Delegation of MONEYVAL States / Réunion des Chefs de Délégation des Etats membres de MONEYVAL

Morning 10h15 / matin 10h15

17. Tour de table – continuation of the discussion as necessary / Tour de table - poursuite de la discussion si nécessaire

18. Introduction to the Questionnaire for the Fourth Evaluation Round / Introduction au Questionnaire pour le Quatrième cycle d'évaluation

19. Discussion on the First Progress report of Croatia / Discussion du Premier rapport de progrès de la Croatie

20. Discussion on the Second Progress report of Cyprus / Discussion du Deuxième rapport de progrès de Chypre

21. Current research projects of the IMF and World Bank / Projets de recherché en cours par le FMI et la Banque Mondiale

Afternoon 14h30 / après-midi 14h30

22. Discussion on the First Progress report of Bulgaria / Discussion du Premier rapport de progrès de la Bulgarie

23. Information on the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the proceeds from Crime and on the Financing of Terrorism (CETS No. 198) / Information sur la Convention du Conseil de l'Europe relative au blanchiment, au dépistage, à la saisie et à la confiscation des produits du crime et au financement du terrorisme (STCE n°198)

[A dinner will be organised in the evening / Un dîner sera organisé le soir]

Day 4: Thursday 19 March 2009 / 4^e jour: jeudi 19 mars 2009

Morning 9h30 / matin 9h30

24. Discussion on the draft Mutual Evaluation Report on Ukraine / Discussion du projet de rapport d'évaluation mutuelle sur l'Ukraine

Afternoon 14h30 / après-midi 14h30

25. Continuation of the discussion on the draft Mutual Evaluation Report on Ukraine/ Poursuite de la discussion du projet de rapport d'évaluation mutuelle sur l'Ukraine

Day 5: Friday 20 March 2009 / 5^e jour: vendredi 20 mars 2009

Morning 9h30 / matin 9h30

26. Compliance Enhancing Procedures (Azerbaijan) – further discussion as necessary / Procédures visant à promouvoir la conformité (Azerbaïdjan) - poursuite de la discussion si nécessaire

27. Compliance Enhancing Procedures – discussion of the process generally / Procédures visant à promouvoir la conformité - discussion sur les procédures en général

28. Typologies work / Travaux sur les typologies

28.1 Update on the implementation of the Money service businesses project / Information sur l'état de la mise en œuvre du projet sur les prestataires de services liés aux transferts de fonds

28.2 Status of other projects discussed in the Joint Typologies meeting / Etat des autres projets discutés lors de la réunion conjointe sur les typologies

28.3 Future MONEYVAL Typologies activities / Activités futures sur les typologies de MONEYVAL

29. MONEYVAL communications with member States and observers / Communication avec les pays membres et les observateurs

30. Pre-evaluation training for the 4th round / Formation préalable pour le 4^e cycle d'évaluation

31. **Ad Hoc Review Group on Experts for the next plenary meeting** / *Désignation du Groupe Ad Hoc d'experts pour la prochaine réunion plénière*
32. **Future representation in FATF meetings** / *Représentations futures dans les réunions du GAFI*
33. **Financing and staffing** / *Financement et questions de personnel*
34. **Miscellaneous** / *Divers.*

ANNEX II / ANNEXE II

LIST OF PARTICIPANTS/ LISTE DES PARTICIPANTS

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(MONEYVAL)**

**Public Statement under Step VI of MONEYVAL's Compliance Enhancing Procedures
in respect of Azerbaijan**

20 March 2009

The Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) has been concerned since 2006¹ with deficiencies in the anti-money laundering / combating the financing of terrorism (AML/CFT) regime in Azerbaijan. On 12 December 2008, at its 28th plenary meeting, a Public Statement was issued by MONEYVAL under Step VI, which remains in effect.

At its 29th plenary meeting in Strasbourg (16-20 March 2009), MONEYVAL welcomed the progress that had been made with the adoption of an AML/CFT Law on 18 February 2009 and the steps that are now being taken to complete the legal framework for an AML/CFT regime. Progress has been made in addressing many of MONEYVAL's concerns.

Azerbaijan is requested to finalise the legal structure quickly and address other identified deficiencies. Azerbaijan is encouraged to work closely with MONEYVAL to achieve this.

¹ A graduated series of steps have been applied since 2006 to reinforce MONEYVAL's concerns about Azerbaijan's non-compliance with its reference documents.