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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

SELECT COMMITTEE OF EXPERTS ON THE EVALUATION OF ANTI-MONEY LAUNDERING MEASURES
(PC-R-EV)

A REVIEW[1] OF THE ANTI-MONEY LAUNDERING SYSTEMS IN 22 COUNCIL OF EUROPE MEMBER STATES 1998-2001

[1] This report has been produced by Mr John RINGGUTH (United Kingdom), acting as a consultant on behalf of the Council of Europe (Directorate General I / Legal Affairs). It is also available in the PC-R-EV's website at the following address: http://www.legal.coe.int/economiccrime/Default.asp?fd=laundering&fn=IntroE.htm.

(A) Introduction

1. The Council of Europe has had a long engagement with the money laundering issue. As early as 1980, the Committee of Ministers of the Council of Europe adopted a formal recommendation, in which it warned against the dangers that funds of criminal origin in financial systems represent for democracy and the rule of law. It was the first international organisation to seriously address the money laundering issue.

2. The 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS N°141; hereafter "the Strasbourg Convention") is a landmark treaty, which forms an important corner-stone of international anti-money laundering standards.

3. After the fall of the Berlin wall, in 1989, many former communist states acceded to the Council of Europe, including, in 1997, the Russian Federation itself. In the early 1990s, the Council of Europe, through conferences and seminars involving the new member states, began the process of awareness-raising in respect of the dangers of money laundering for economies undergoing wholesale transformation.

4. In September 1997 the Committee of Ministers established the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (hereafter PC-R-EV) to conduct self and mutual assessments of the anti-money laundering measures in place in 21 Council of Europe countries, which were not members of the Financial Action Task Force (hereafter the FATF)[2]. The FATF itself was created in 1989 by the G7 Group of States. The FATF's worldwide membership currently comprises 29 countries, including all the European Union states and others, including the United States of America, Japan, Canada and Australia.

5. The PC-R-EV process was modelled on the practices and procedures of the FATF. The FATF, in spreading the global anti-money laundering message, is committed actively to support the work of FATF-style regional groups. As such a group, the PC-R-EV has been responsible for anti-money laundering evaluation in a critical region within the European theatre.

6. The first round of mutual evaluations commenced in April 1998 and on-site visits were concluded in December 2000. This study reviews progress in the 22 countries within the programme against the international standards to combat money laundering.

The Standards

7. The relevant international standards, against which countries were assessed are:

- The 40 Recommendations of the FATF (the FATF Recommendations);
- The 1988 UN Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances (hereafter "the Vienna Convention");
- The 1991 European Communities Directive on Prevention of the Use of the Financial System for the Purpose of Money Laundering (91/308/EEC);
- The 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (hereafter "the Strasbourg Convention").

8. The evaluations covered the legal, financial, and law enforcement measures in place to combat money laundering and made recommendations to states in all three sectors.

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[2] This number rose to 22 with the accession of Georgia to the Council of Europe in May 1999.

9. The PC-R-EV decided at the outset that, though this was a first round of evaluations, its reports should not be limited to the existence (or otherwise) of legislation, guidance, and procedures which meet the international standards. It was also agreed that, so far as possible, the reports should provide an overview of the effectiveness (or potential effectiveness) of anti-money laundering regimes.

The Region

10. The participating states were:

Albania	**Hungary**	**Russian Federation**
Andorra	**Latvia**	**San Marino**
Bulgaria	**Liechtenstein**	**Slovakia**
Croatia	**Lithuania**	**Slovenia**
Cyprus	**Malta**	**"The Former Yugoslav Republic of Macedonia"**
Czech Republic	**Moldova**	**Ukraine**
Estonia	**Poland**	
Georgia	**Romania**	

11. It will be clear that this is not a homogenous group of states. There are marked differences in terms of geographical size, population, political priorities and economic development. Despite their differences, they all shared an awareness of the need to defend their systems against money laundering. However their anti-money laundering regimes were inevitably at varying levels of development.

12. All the former Communist states were at different stages in the process of transition to market economies. Most were well advanced, having financial systems with a developing range of financial intermediaries. A smaller number, such as Albania and Georgia, still retained largely cash based economies, in which the full development of the banking sector was still a key national priority. Indeed in some countries, including "The Former Yugoslav Republic of Macedonia" and Albania, there remained within the general public a profound distrust of the financial system, which their governments were addressing. The Russian Federation, and others, had faced capital flight, sometimes on a massive scale. As well as confronting these large economic issues, governments in these countries were all committed to fight the threat to the rule of law posed by national and transnational organised crime. Such groups operated in all the countries in transition and were known or presumed to be heavily involved in money laundering.

13. The programme also contained states from other traditions with strong and fully developed financial structures. These include Liechtenstein in Central Europe, where much of the business handled by the financial sector is channelled to it through banks, trusts and lawyers. The Mediterranean islands of Cyprus and Malta also fall into this group; both of these islands had developed offshore financial sectors. In the case of Malta, a decision was taken in 1994 to phase out this sector by the end of 2004. All these states recognised that their financial systems could be attractive to money launderers, particularly at the layering and integration stages.

The Process

14. Every country in the programme answered a common, agreed mutual evaluation questionnaire and provided copies of relevant legislative texts, decrees and guidance prior to an on-site visit, generally of four days by the examination team. The evaluators met all the major players in the national anti-money laundering regimes, and in most on-site visits met representatives of banks, banking associations and other professionals with anti-money laundering obligations. All countries fully co-operated with the evaluation process.

15. After the on-site visit a draft report was drawn up and sent to the country for comment. These comments were considered by the examiners. If they thought it appropriate, amendments were made to the draft report. The draft report was then debated in plenary meeting in Strasbourg, which was attended by experts from all the countries in the programme and observer countries and institutions, such as the United States of America, the European Commission, and Interpol. The draft reports and public summaries of those reports were adopted after sometimes searching debates at the plenary meetings. A particular feature of this activity was the speed with which the states involved accepted ownership of the process and fully participated, with robust questioning, both of the country undergoing evaluation and, on occasions, of the evaluators themselves.

16. PC-R-EV, early in its existence, introduced a system of progress reports for all countries in the programme. Each country, on the first anniversary of the adoption of its report, outlined to the plenary meeting what action had been taken in respect of its recommendations. They provided detailed answers to a further questionnaire, which focussed on issues raised by the examiners.

17. In order to give as accurate a picture as possible of where countries currently stand, this study also draws upon information in the progress reports, where it is available. The evaluation cycle means that not all countries have provided progress reports. Indeed, where progress reports were given early in the process, further action on a range of issues will doubtless have been taken in some countries. Where significant developments are known to have occurred (such as the passage of preventive legislation) since the report was accepted, and no progress report has been received yet under the procedures, this study acknowledges those developments so far as possible.

18. This study was discussed at the 8th PC-R-EV Plenary meeting, which took place between 10 to 13 December 2001 and adopted reports in respect of the last three countries to be evaluated in the first round: Albania, Georgia and Moldova. The report therefore also acknowledges some significant developments which were understood to have occurred in PC-R-EV countries up to the end of that Plenary meeting. The study therefore also reflects, so far as possible, significant developments up to 13 December 2001 of which the writer has been advised. Countries were also invited to confirm the factual accuracy of information given in this report by 15 January 2002.

(B) Legal Issues

19. On the repressive side, the two relevant international treaties are the Vienna and Strasbourg Conventions.

Accessions and Ratifications

20. The Vienna Convention *inter alia* obliges contracting states to criminalise drug related money laundering and makes provision for the confiscation of the proceeds derived from and the instrumentalities used in drug trafficking, as well as providing a framework for international co-operation in the tracing, seizing and freezing of such proceeds. It is therefore critical that this Convention is brought into force by as many states as possible. Of the 22 PC-R-EV states 21 countries have now both signed and ratified the Vienna Convention. Estonia ratified it in May 2000. Albania has indicated that the instruments of ratification have been deposited. Liechtenstein has signed it but not ratified it yet.

21. The Strasbourg Convention, building on the Vienna Convention, expanded the definition of money laundering beyond offences connected with drug trafficking. It calls on contracting states to criminalise money laundering on an “all crimes” basis, while allowing a ratifying state to make a reservation by which it may declare that criminalisation of money laundering applies only to specified predicate offences or categories of predicate offence. The Strasbourg Convention also provides a very wide definition of “proceeds” and requires states to legislate for the confiscation of proceeds, or property the value of which corresponds to such proceeds, on this wide basis. It also

obliges contracting states to afford each other the widest possible measure of assistance in the identification and tracing of instrumentalities, proceeds and other property liable to confiscation, as well as assistance by way of provisional measures (such as seizing and freezing property) on behalf of requesting states, and the enforcement of foreign confiscation orders. Thus it provides a broad-ranging framework for investigation, prosecution, and confiscation of proceeds of crime. It is therefore vital that all PC-R-EV states should ratify this Convention and bring it into force in the ways envisaged in it.

22. The Strasbourg Convention has now been signed and ratified by 19 PC-R-EV states. It was encouraging to note that the Convention was ratified by 8 countries after the adoption of their evaluation reports: Albania; Andorra; Hungary; Liechtenstein; Malta; Poland; the Russian Federation; and Slovakia.

23. The States which have not ratified it so far are:

- Georgia - though this is planned to occur before 01.02.02 in accordance with its undertakings on accession to the Council of Europe;
- Moldova - though it has signed the Convention;
- Romania - though it has signed the Convention.

24. States which have not completed the ratification process in respect of the Strasbourg Convention yet are encouraged to do so quickly.

25. A cautionary note should perhaps be added to the number of ratifications. While some countries only ratify conventions when their laws have been brought into conformity with the international obligations, this was not always the case. Several countries clearly advised the examiners that though the Convention was ratified, certain Articles were not fully implemented. The same could be said for some ratifications of the Vienna Convention. “The Former Yugoslav Republic of Macedonia”, for example, had acceded to the Vienna Convention at the time of the adoption of its report, but advised that Articles 3-9 of that convention were not fully implemented. Similarly, at the time of the adoption of its report, Ukraine had ratified the Strasbourg Convention, but only drug money laundering was criminalised. Thus it was necessary, on occasions, for examiners to enquire further into whether all mandatory obligations were in fact in force.

Money Laundering Offences

26. The criminalisation of money laundering on a wide basis was regarded by all examiners as a critically important issue. The basis of criminalisation in the two relevant Conventions has been described above. For completeness, the relevant FATF standard appears in Recommendation 4, which calls on countries to criminalise money laundering as provided for under the Vienna Convention and extend the offence of drug money laundering to one based on serious offences. The FATF standard leaves it to each country to determine which serious crimes should be designated as money laundering predicate offences. A similar approach is taken under the current EC Directive, in defining money laundering by reference to criminal activity as specified under the Vienna Convention and any other criminal activity designated by each member state.

27. The table at Annex A compares the situation in each PC-R-EV state on a range of issues relating to their money laundering offences. In particular, it sets out whether a state has separate criminal legislation covering money laundering or whether it relies (alternatively or additionally) on general criminal provisions. It compares the situations in each country so far as the physical elements and mental elements of the offences are concerned. On the physical aspects it examines how closely the offences follow the language of the international texts. It compares the position in each country so far as “own proceeds” laundering is concerned and sets out, in respect of each country, whether the

money laundering offence can be prosecuted where the predicate offence is committed abroad. It describes how wide the range of predicate offences is in each country: whether they have adopted the "all crimes" approach; whether they have a "list" approach of enumerated offences; whether the range of offences is determined partly by the existence of other aggravating features (such as commission as part of an organised group) or whether the list of offences is determined to some extent by the length of sentence which can be imposed for the predicate offence. It compares the penalties or sanctions available in each country for money laundering offences. Lastly, it notes any significant changes in respect of the offence(s) of which PC-R-EV have been advised in a country's progress report, where one is available.

28. Parts of Annex A are also summarised on the table beneath. This shows which countries have, or arguably have, separate criminal offences for money laundering and whether they have adopted the "all crimes" approach or a "list" approach (or other formula for identifying predicate offences, which does not embrace the complete "all crimes" approach).

			No Separate offence of money laundering
Andorra		**v**	
Bulgaria	**v**		
Cyprus		**v** [3]	
Czech Republic	**v**		
Georgia	**v**		
Hungary		**v**	
Latvia		**v**	
Liechtenstein		**v**	
Lithuania	**v**		
Malta		**v**	
Poland	**v**		
Romania		**v**	
San Marino	**v**		
Slovakia	**v**		
Slovenia	**v**		
"The Former Yugoslav Republic of Macedonia"			
		v (Drugs only)	

29. It was encouraging to see that in 21 countries there now are or appear to be distinct criminal offences which have been introduced to criminalise money laundering.

[3] The list approach was replaced with an "all crimes" approach in November 2000.

30. In the case of Albania there was no separate criminal offence at the time of the on-site visit, but it is understood that separate provision was made for this by a new Article in the Criminal Code, which came into effect on 13.03.01.

31. Moldova has no separate criminal offences as yet, though provisions are understood to be in draft form.

32. The Czech authorities indicated that they had a separate criminal offence, but there were significant disagreements among the authorities with which the team met about its scope.

33. All countries that have enacted a separate offence have provided generally robust penalties - in some cases with prison sentences of up to 15 years, where there are particularly aggravating features.

34. That said, the results in terms of prosecutions and convictions for money laundering remain extremely modest. Obtaining reliable statistical information on a whole range of issues was extremely difficult in many evaluations. Thus, with this important caveat, it appears that 17 countries still have not achieved any convictions. The only countries which reported convictions for money laundering were:

- Andorra;
- Croatia;
- Slovakia;
- Czech Republic;
- Russian Federation.

35. For a more complete picture, the information at Annex A should be read alongside the table at Annex B, which *inter alia* also shows, so far as possible, the relative numbers of investigations, prosecutions, and convictions, both at the time of the adoption of the national report and, where applicable, at the time of the country's progress report.

36. Thus, taking the information in the two tables together, while many countries can point to the introduction of criminal legislation which is broadly in conformity with international standards, it is disappointing that so few prosecutions have been brought. This is particularly unfortunate as some countries have had criminal legislation in place for several years.

37. There are clearly many practical obstacles to prosecutions, and uncertainties about the ambit of complex legislative provisions, that have had an impact on the low number of prosecutions. Many of these obstacles were highlighted in the reports and suggestions were made as to how they might be addressed if states are to become effective in this area. Some of those suggestions went beyond the current international standards.

38. Some of these difficult issues are summarised in the analysis beneath, which covers particular aspects of anti-money laundering criminal legislation in PC-R-EV countries, and illustrates the types of problem that have contributed to the low level of prosecutions and convictions.

39. It was notable in the progress reports so far received that countries have been taking examiners' suggestions and recommendations seriously. As legislation and practice is developed, states anticipated that results would improve. It is important that they do. The point was made in many reports, and bears repeating, that countries urgently need more successful prosecutions (and major confiscation orders) to send vital signals to money launderers that this issue is taken seriously by national authorities.

The Physical Elements of the Offence

40. The mandatory elements in the two principal conventions are:

- "The conversion or transfer of property…for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the predicate offence to evade the legal consequences of his actions";

- The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property…".

41. A state shall legislate in order to introduce the following physical elements only subject to its constitutional principles and the basic concepts of its legal system:

- "the acquisition, possession or use of property," (knowing at the time…that such property was proceeds);

- participation in, association or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article."

42. Cyprus, Hungary, Latvia, Malta and Romania all have now enacted legislation that either exactly or broadly follows the language of the international texts on this element. Thus their criminal offences go beyond "conversion" or "transfer" and "concealment or disguise" and incorporate bare "acquisition, possession or use" of laundered proceeds. Some countries, like Bulgaria, relied on a traditional receiving offence for possession or use (but it was unclear whether in those circumstances evidentially difficult hurdles involving "dishonesty" would have to be overcome). However, in the main, it appeared that most states were not in a position to prosecute for simple possession of laundered proceeds, and they were urged to consider covering this in their law.

43. A related point was that in some countries the physical elements were unnecessarily restricted to acts in the performance of banking, financial or other operations. Moreover some countries restricted the offence only to sums which were of "considerable value". In the local contexts these sums were often considered to be unhelpful to the prosecution effort. Amendments to legislation were noted in the progress reports of Slovenia and Slovakia to address concerns on one or both of these issues.

44. Most countries with criminal legislation had covered attempt, aiding and abetting, facilitating and counselling. Many countries made the commission of the offence as part of a criminal group an aggravating feature, though several countries from the civil law tradition had difficulties with the common law notion of conspiracy as a basis for liability.

45. One particular contradiction was noted in several reports in respect of the physical elements of the offence. Some countries had defined money laundering in the preventive legislation broadly using the language of the international conventions on this aspect, but their criminal legislation defined money laundering more narrowly. This was confusing. Where this was an issue, the reports urged consistency between the criminal and preventive legislation on this point.

46. Indeed generally the reports urged countries, when legislating or revisiting their criminal offences, to follow the broad language of the international texts as far as possible on the physical elements of the offence, to provide themselves with the widest possible *actus reus.*

"Own Proceeds" Laundering

47. While the Strasbourg Convention permits states not to apply money laundering offences to persons who commit the predicate offence, the reports routinely urged states, if possible, to extend the offence to cover this situation.

48. Croatia, Cyprus and Malta make express provision for "own proceeds" laundering in their laws. Hungary has indicated that it also has recently made direct provision for this. Many other countries stated that they considered it was implicit that they could prosecute on this basis, but in the absence of authoritative court rulings on the point, this could not be confirmed. Other countries took the position that laundering of "own proceeds" was part of the main offence. This was thought to be the position, at the time of the adoption of their reports, in the Czech Republic, Estonia, Hungary and Poland. In the case of Poland changes in this regard were noted in the progress report.

49. The ability to prosecute on this basis is undoubtedly a positive feature in any system as it widens the reach of the offence. Prosecutions in these circumstances can also send signals that there is a clear will to prosecute money laundering in all its guises. That said, the point was made in one report (and which is of general application) that countries should guard against prosecuting money laundering cases primarily on this basis, at the expense of bringing prosecutions independently against professional money launderers. In the second round it would be helpful, both for the country itself and for examiners, if prosecution statistics could be disaggregated to show whether the offence was committed by the author of the predicate offence or a third party.

Money Laundering Prosecutions where the Predicate Crime is committed abroad

50. It is a mandatory requirement of the Strasbourg Convention that it *shall not matter* whether the predicate offence was subject to the criminal jurisdiction of the party.

51. Some countries, like Cyprus and Croatia, have made express provision for this, though others, such as Andorra, required dual criminality.

52. In most countries examiners were advised that the ability to proceed on this basis was implied in their law though, again, this was largely untested. Given the swift movement of laundered proceeds world-wide it is critical that countries can prosecute effectively in these circumstances.

53. On this, and other related issues, examiners sometimes detected a reluctance on the part of prosecutors to test the law, where there appeared to be uncertainties. This issue is considered further beneath, particularly in respect of the perceived requirements for proof generally of the predicate offence (whether foreign or domestic) in money laundering cases.

Predicate Offences

54. 13 countries now clearly have the "all crimes" approach as the basis of their money laundering offences:

Albania	**Lithuania**
Bulgaria	**Poland (since the evaluation)**
Croatia (since the evaluation)	**Russian Federation**
Cyprus	**San Marino**
Czech Republic	**Slovakia**
Estonia	**Slovenia**
Georgia	

55. Hungary moved to an "all crimes" basis in March 2000 after its report was adopted.

56. In respect of other countries, the reports urged consideration of the "all crimes" approach. It provides states with the flexibility to prosecute money laundering on the broadest basis without defining what serious underlying criminality is covered. It may in certain circumstances make it easier to prosecute money laundering offences with foreign predicates, particularly where dual criminality would otherwise be required.

57. It is pertinent to observe in this context recent developments in the European Union. These will be of particular relevance to those PC-R-EV countries which applied for EU membership. They also underline the growing international trend towards a wide predicate base for money laundering offences, and thus reinforce these messages in PC-R-EV reports. The Third Pillar Joint Action of 03.12.98 (98/699/JHA) seeks to ensure that no reservations are made or upheld by EU members in relation to Article 6 of the Strasbourg Convention "in so far as serious offences are concerned". The definition of "serious offences" in the Joint Action embraces all offences where a maximum sentence of more than one year or a minimum sentence of more than 6 months is possible. This approach is likely to be followed in the forthcoming Second European Directive.

58. Some countries go beyond the "all crimes" approach and have extended their predicate base to all "illegal" activities. While embracing the "all crimes" approach, examiners pointed out a potential practical danger in this formulation.

59. An "illegal" activities approach can result in an over-concentration of scarce prosecutorial and investigative resources on revenue or economic infringements, at the expense of investigating and prosecuting those proceeds-generating offences traditionally associated with organised crime, such as drug trafficking. This appeared, in any event, to be a problem or potential problem in some countries, whether or not the predicate base was one of illegality. In more than one report the comment was made that money laundering prosecutions should not be seen simply as vehicles for recovering revenue lost to the state. Indeed, in at least one country, the team detected an incomplete understanding of the money-laundering problem domestically beyond revenue profit-generating infringements. Thus, given the incidence of organised crime in nearly all PC-R-EV countries, the second round evaluations need to examine closely which major proceeds-generating criminal predicate offences are the subject of money-laundering prosecutions.

60. As can be seen from the table at Annex A, several countries which do not have the widest predicate base for their money laundering offences, have developed "list" approaches of varying lengths. Almost all of the countries which had chosen to enumerate particular offences in their legislation have added other offences to their list by legislative amendment since the beginning of the first round of evaluations. Frequently this was undertaken as a positive response to recommendations in a national report, where examiners had doubts as to the adequacy of their lists. Short lists were often criticised because they did not cover all the major proceeds-generating offences domestically, and just as importantly, because they can, and do, inhibit the range of international co-operation, which a state can provide.

61. A "list" approach of enumerated offences also has the disadvantage of inflexibility. It needs to be kept under review, and requires fresh legislation to add further offences. In a small number of countries the language of national legislation raised doubts as to whether the lists were fully open, and thus capable of being added to generally. Some lists, arguably, appeared to be closed or limited by the use of statutory language, such as "and other economic offences". It is noted that in countries, like Poland, where this issue was raised in the report, legislation has since been amended in this regard.

62. Other countries, as can also be seen in the table at Annex A, widened their lists of predicate offences by incorporating offences, which had particular aggravating features (e.g. where an offence, which otherwise would not be a predicate offence, was committed as part of an organised group or by an official). This certainly added a broader range of offences to the predicate base. However the evidential requirements in money laundering cases posed many difficulties for

prosecutors generally. This formula potentially adds a further layer of complication for prosecutors, especially as proving the existence of an organised group to the necessary evidential standard is never easy.

63. The other route favoured by several countries was extending the list to predicate offences for which certain periods of imprisonment could be imposed. These terms were generally of 3 years or more, or 5 years or more. However no country adopting this approach had reduced the thresholds to the terms referred to above, which are contemplated under the Third Pillar Joint Action referred to above.

64. All that said, it is encouraging that, with the exceptions of Ukraine and Moldova, all countries in the programme have money laundering offences, the range of underlying predicate offences of which, meets or exceeds the current minimum international standards applied in the first round of evaluations.

65. As noted above, evidential difficulties, or perceived difficulties, appeared to be large obstacles in the way of money laundering investigations and prosecutions. Proof of the predicate offence (whether foreign or domestic) was one problem which was often raised. In many states there was no clear understanding or agreement as to the amount of evidence that would be required to establish the predicate offence. At one end of the spectrum, the Bulgarian authorities considered that evidence of a conviction for the predicate offence was required, both for money laundering offences based on domestic and foreign predicate offences. It appeared, though not all reports covered this issue, that they were not alone in this view. Some countries, like "The Former Yugoslav Republic of Macedonia", thought this was only a requirement when establishing evidence of a predicate offence committed abroad. At the other end of the spectrum, Malta had specified clearly in its legislation that a conviction for money laundering is possible in the absence of a judicial finding of guilt in respect of the underlying criminal activity. They had provided explicitly that the underlying criminal activity could be established on the basis of circumstantial or other evidence without having to prove a conviction. This applied both to domestic and foreign predicate offences. Other countries also subscribed to this view though it was not expressed in legislation.

66. Most countries had not tested the level or type of evidence which would be required to prove the predicate offence in the absence of a conviction. Prosecutors were encouraged in the reports to test assumptions on this point, given that successful prosecutions for money laundering have been achieved in many FATF (and other) countries without a conviction for the predicate offence. This practical issue is particularly important for those geographically small countries in PC-R-EV, like Liechtenstein, where most predicate offences are likely to have been committed abroad.

67. A provision along the lines of the Maltese formulation could usefully be introduced into legislation in all those PC-R-EV countries where this issue is still subject to debate. Indeed it may be helpful to consider articulating this principle in any Protocol that may be developed to the Strasbourg Convention or indeed in any Recommendations the Select Committee is minded to advise or adopt (as is permitted under PC-R-EV's terms of reference).

The Mental Element

68. While most countries have adopted a knowledge standard, which usually allows knowledge to be inferred from objective factual circumstances, it none-the-less seems that a very high level of evidence is often considered necessary to prove the mental element of the offence. This was frequently mentioned as another difficult obstacle in the way of investigations and prosecutions.

69. This issue appeared to present particular difficulties for those countries adopting the list approach to predicate crime. In these situations knowledge of the particular crime from which the proceeds came was generally thought to be necessary and the problems involved in proving this in criminal

proceedings are self-evident. It was pointed out that in certain circumstances the "all crimes" approach could help in proving this element of the offence. It may, for example, be possible in a particular case to adduce sufficient evidence of knowledge that the proceeds came from drug trafficking generally rather than a particular instance of drug trafficking. Again, uncertainties as to the levels of proof which courts would accept on this issue often appeared to inhibit prosecutors.

70. On several occasions, examiners, in an effort to assist on this issue, made suggestions that have proved to be of value in some other jurisdictions, but which went beyond the terms of current international standards. In particular, countries were encouraged to consider a lesser mental element such as "suspicion" (with, of course, lower penalties) as an alternative to the rigours of the knowledge standard.

71. At least six countries had clearly adopted a negligence standard, as can be seen from the table at Annex A. The negligence standard is currently not a requirement of the FATF, or a mandatory requirement under the Strasbourg Convention. None-the-less countries were urged to consider the introduction of a broad negligence standard as contemplated in the two major conventions. Of those countries that had introduced a negligence standard, there was no evidence of this being deployed outside of cases of failing to fulfil reporting obligations.

72. The difficulties that the mental element presents indicates that the issue deserves revisiting in any consideration of a Protocol to the Strasbourg Convention. In particular it may be worth considering whether the lesser standard of suspicion should be incorporated as an international standard, with lesser penalties.

Evidential Difficulties Generally in Money Laundering Prosecutions

73. It will be seen from the foregoing that cumulatively all the evidential difficulties (both real and perceived) account for the low levels of success generally. Indeed in some countries examiners were left with the impression that all the problems of proof entailed in money laundering prosecutions acted as a real deterrent to starting proceedings. Some prosecutors and investigators on occasions seemed so overwhelmed by the difficulties that it appeared they had almost given up. The relevant authorities were advised to address this mindset urgently. It was recommended in several reports that all the authorities involved in these issues (police, prosecutors, officials in the relevant Ministries) review together the problems involved in proving these cases to try and reach a common understanding of the minimum levels of proof required in order to proceed. Thereafter prosecutors, as noted above, were urged to test the law in appropriate cases. Equally, Ministries of Justice have an important role to play in reviewing their criminal legislation in the light of the practical problems reported by investigators and prosecutors, and proposing amendments where appropriate.

74. The second round will address how successful countries have been in tackling these issues.

Corporate Criminal Responsibility

75. FATF Recommendation 6 provides:

"Where possible, corporations themselves - not only their employees - should be subject to criminal liability."

76. Most countries in the PC-R-EV programme have legal systems which are based on the criminal responsibility of natural persons only. Some exceptions were noted. Andorra reported that Article 9 of their Criminal Code expressly stipulates that legal entities may, at the same time as their organs or representatives, be criminally responsible for offences. This includes money laundering. Cyprus also applies its money laundering offences to legal as well as natural persons.

77. A common theme ran through the reports - the active encouragement of states, in keeping with the letter and the spirit of FATF Recommendation 6, to consider corporate criminal liability.

78. It appears from progress reports so far received that several countries are either introducing corporate criminal liability or, indeed, actively considering it. For example, at the time of the on-site visit, Slovenia was considering a Law on Legal Entities which would place criminal responsibility on the legal person where an offence was the result of a decision of the management or approved by the legal person. Such liability would not exclude parallel criminal responsibility for employees of the Company. Lithuania and Estonia have indicated that corporate criminal liability will be in forthcoming legislation, though it was unclear what forms this would take. Malta makes specific provision for the director, manager, or secretary of a company to be criminally liable as individuals for money laundering, but not for full corporate criminal liability.

79. Overall, however, progress in the direction of full corporate criminal liability appears limited so far.

80. Several countries have developed systems of administrative sanctions applicable to companies shown to have committed crimes. These sanctions include total or partial cessation of their activities, and the confiscation of criminal earnings. Such a system was reported by Albania, and was being considered by Bulgaria and Hungary.

81. In respect of administrative sanctions, examiners were clear that they needed to be effective, proportionate and dissuasive. It is obviously vital that companies are not unjustly enriched by money laundering and that so-called “co-mingled” criminal proceeds in company accounts can be traced, and made the subject of confiscation and forfeiture, wherever possible. In many countries this was not possible. While the imposition of full corporate criminal liability may make these issues easier to address, there is no doubt that the concept of corporate criminal responsibility does cause some countries fundamental legal difficulties. Where this is the case, those countries may find that they can devise proportionate, equivalent civil or administrative sanctions, which may prove ultimately to be just as effective. The PC-R-EV should examine objectively such solutions where they are in place in the second round.

82. The whole issue of corporate criminal responsibility and/or proportionate, equivalent sanctions in the context of the Strasbourg Convention deserves further consideration in international standard setting. This is a prime area for further work in the elaboration of any Protocol to the Strasbourg Convention.

Failing to Report

83. Most of the reports addressed the related issues of failing to report and tipping off.

84. Several jurisdictions within the FATF have found that clear penal provisions directly criminalising failure to report, with dissuasive criminal penalties (which catch compliance officers and others within obliged entities) can act as a strong underpinning of the preventive regime.

85. Many PC-R-EV countries approached this issue through administrative penalties. In some cases it has to be said that the financial sanctions were not pitched at a level which would be particularly dissuasive for banks or financial institutions generally.

86. That said, several countries had made criminal provision for wilful failure to report. In some countries, where this was not clearly provided for, examiners were sometimes advised by the national authorities that this issue might be covered by the offence of aiding and abetting the general money laundering offence. Similarly other general provisions in the Criminal Law were sometimes pointed to, which may or may not have been apt.

87. Some (fewer) countries had also made criminal provision for negligent failure to report.

88. The table at Annex C shows the position as it was understood in each country.

89. Wilful failure to report can be difficult to prove. While it is recognised that criminalising failing to report by negligence can be highly controversial with the sectors which have anti-money laundering obligations on them, it can considerably strengthen the underpinning of the preventive regime.

90. As seen, at least 5 countries appear to have adopted the non-mandatory "ought to have assumed" test provided for in Article 6(3) of the Strasbourg Convention, and failing to report by negligence could, in some countries, thus be considered a subset of the money laundering offence generally. Even where countries had adopted such an approach, it was far from clear whether prosecutions had been considered, or what attitudes the courts would take to prosecutions for money laundering (in whatever form) committed by negligence. It was noted that Hungary, which does not have negligence as a general basis for money laundering prosecutions, had legislated to make failing to report by negligence a separate offence.

91. Whatever the position so far as criminal liability was concerned, few prosecutions were noted for failure to report across PC-R-EV countries. This may have been due to a lack of clarity as to the criminal legal position. Equally, some countries with the clear capacity to proceed, may, understandably, have taken the view that it would be counter-productive to resort to prosecution at a time when new and controversial obligations were being brought in for financial institutions. It was noted in some countries that, where criminal responsibility for failure to report was clear, compliance officers appeared, perhaps unsurprisingly, more conscious of the importance of their obligations.

92. In any event, in the majority of reports the examiners expressed strong preferences for failure to report to be covered by criminal sanctions rather than administrative sanctions. Many countries were advised to satisfy themselves that this issue was adequately covered in their criminal legislation and/or to consider legislating separately for this. As part of this exercise countries will wish to consider, not only wilful failure to report, but failure to report by negligence.

<u>Tipping Off</u>

93. "Tipping off" is covered by FATF Recommendation 17, which provides:

"*Financial institutions, their directors, officers and employees, should not, or where appropriate, should not be allowed to warn their customers when information relating to them is being reported to the competent authorities."*

94. The issue is also addressed in similar terms in Article 8 of the EC Directive, though it goes further and prohibits disclosures also to other third parties that information has been transmitted to the authorities, or that a money laundering investigation is being carried out. Neither standard prescribes whether states should address these issues by criminal or administrative means.

95. However, again, PC-R-EV examiners in many reports gave clear advice that states should satisfy themselves that criminal provision was made for tipping off (in all its forms) or make separate provision for it. Indeed in some reports examiners went further than the international texts and advised that "tipping off" by "any person" that a report had been made to the authorities or that an investigation was under way, should be covered in the criminal context. In those countries with no preventive laws in place at the time of the adoption of their reports, the examiners advised that consideration be given to criminal sanctions for "tipping off" (and also for failure to report).

96. As the table at Annex C shows, some countries, like Cyprus and Malta, have made separate criminal provision for tipping off. Other countries pointed to various provisions in their laws which might be applicable in particular circumstances. Sometimes the offences referred to appeared more apt for prosecution in respect of failure to assist the police in their enquiries, or concealment of crime, or other like offences. By contrast, Slovenia, and some other countries, had made unauthorised disclosures in this context, particularly by members of the Financial Investigation Unit (FIU), prosecutable as breaches of Official Secrecy.

97. In Liechtenstein, at the time of the on-site visit, the examiners had serious doubts as to the effectiveness of the criminal prohibition on tipping off, given the then prevailing practice of clarifying the economic background of a potentially suspicious transaction with the customer. Though it is noted that changes to this regime have since been made, and it is understood that clarification of the economic background is now the responsibility of the newly-created FIU.

98. In any event, like failing to report, few prosecutions were noted overall.

Confiscation and Provisional Measures

99. The relevant standards connected with these issues are:

- The positive obligations on contracting parties, under Article 5 of the Vienna Convention, to take measures to confiscate proceeds derived from drugs offences set out in the Vienna Convention, and the positive obligations on contracting parties to take measures to identify, trace and seize or freeze proceeds, property or instrumentalities etc., in proceedings for relevant drugs offences for the purpose of eventual confiscation.

- FATF Recommendation 7, the broad terms of which require countries to adopt similar measures to those in the Vienna Convention, i.e. to enable their competent authorities to confiscate property laundered, proceeds from, instrumentalities used in or intended for use in the commission of any money laundering offence, or property of corresponding value, without prejudicing the rights of bona fide third parties.

- The wider positive obligation on contracting parties, under Article 2 of the Strasbourg Convention, to adopt such legislative and other measures as may be necessary to confiscate instrumentalities and proceeds or property the value of which corresponds to such proceeds, with the extended meaning of "proceeds" provided for ("any economic advantage from criminal offences").

- The broad positive obligation on contracting parties, under Article 3 of the Strasbourg Convention, to adopt such legislative and other measures as may be necessary to enable it to identify and trace property which is liable to confiscation and to prevent any dealing in, transfer or disposal of such property.

100. The confiscation of criminal proceeds, particularly in respect of offences committed by organised crime, is a serious indicator of the effectiveness of national systems on the repressive side. Major confiscation orders can act as real deterrents to crime in general and organised crime in particular. For confiscation to be effective, it is necessary that provisional measures (seizing and freezing) are available to be taken at appropriately early stages in investigations and prosecutions, so that assets are not dissipated before any eventual confiscation order can be made.

101. The evaluations looked closely at these issues. In this area the different legal traditions from which PC-R-EV countries have come were apparent. However, it is instructive, firstly, to note some common features across PC-R-EV.

102. The first common feature is that confiscation in all countries is conviction-based. No country reported *in rem* confiscation procedures. Recommendations were made in reports to several countries to consider this option, in addition to detailed recommendations on the national criminal confiscation regimes.

103. It is interesting to note that several FATF countries either have developed *in rem* systems or are considering developing such systems. These can either operate in the event of no criminal confiscation being possible, or can run alongside the criminal confiscation system. They can also provide one mechanism by which any assets suspected to be the proceeds of a predicate offence can be confiscated where the suspect has absconded or has died before or after trial. This latter issue was regularly touched upon in reports. Various legislative provisions were pointed to by countries, which, arguably, may have served this purpose, but they were often largely untested. Some countries, like Cyprus, have provisions to cover this situation, in respect of persons convicted of the predicate crime but who subsequently die or abscond, but which fall short of the wider range of situations which an *in rem* action can cover.

104. The other broad observation is that, whether or not the country had a modern confiscation system in place which met the major requirements of the international standards, operationally, confiscation systems were, to varying degrees, under-used and experience in them was only beginning to develop. Cyprus, for example, has comprehensive confiscation legal structures in place to cover the predicate offences to money laundering. Malta similarly has sound confiscation systems in place, restricted to certain offences, including money laundering, drugs and other predicate offences to money laundering. In Cyprus, the Unit for Combating Money Laundering reported, at the time of the evaluation, the equivalent of $13 million frozen (albeit that a number of these orders were in response to international requests). It is nonetheless fair to say that in both Cyprus and Malta, experience with the confiscation regimes domestically was in the process of development.

105. While it is difficult to make generalisations which cover all of the states in transition, there were some recurring themes here. In many, at the time of the evaluations, much of the relevant confiscation legislation (which was often highly complex) dated back to procedures from the former regimes, which themselves sometimes pre-dated the major international treaties. As such, they were not always fully geared to the concept of confiscation of “proceeds”, as that concept is understood and as the term is widely defined in the Strasbourg Convention.

106. In many of the states in transition in Central and Eastern Europe, nonetheless, new confiscation provisions had been introduced to meet FATF Recommendation 7, in respect of proceeds in money laundering cases. Here the confiscation regimes were usually mandatory.

107. The situation was less clear, however, when examiners considered their regimes in respect of other major proceeds-generating criminal offences. Some countries, like Estonia, at the time of the evaluation, had a general confiscation regime which applied to a limited range of offences (which had not been extended at the time of the progress report). While the reservation procedure in Article 2(2) of the Strasbourg Convention allows this, countries were generally urged to widen the list of offences which could be subject to confiscation. The Third Pillar Joint Action may also add pressure here on countries seeking EU membership to widen their lists of offences which can be subject to confiscation.

108. Other countries from the same legal background pointed to general provisions for confiscation in their legislation as founding the basis for their capacity to meet their mandatory obligations under the major conventions. Here, examiners generally found diffuse legal provisions, often in different legislative instruments, some of which were capable in theory of meeting some of the policy objectives of the major treaties.

109. One difficulty frequently encountered arose with regard to the definition of "proceeds". Many systems relied on confiscation provisions (which were generally discretionary) in respect of the "objects of the offence". These provisions often, on analysis, applied only to objects directly acquired or objects used or intended to be used in crime. Different (and sometimes contradictory views within individual jurisdictions) were sometimes expressed as to whether confiscations under such provisions could apply to substitutes or indirect proceeds, like cars and boats purchased with the direct proceeds of the crime. Many countries had not tested the relevant provisions in this regard.

110. The second problem with regard to provisions in relation to confiscation of "objects" of the crime, was that it was frequently difficult to read into such provisions an ability to make value confiscation orders. Again, practice was limited and examiners were often placed in a position of having to rely on untested assertions that this ought to be possible.

111. The third difficulty, or potential difficulty, was that in several of the states in transition, confiscation was also provided for as an additional penalty or punishment, which could be applied to all property (whether criminally or lawfully obtained). While the principle of the Strasbourg Convention is to deprive criminals of their criminally acquired gains, it is unarguable that "additional penalty" provisions may also achieve the objective of depriving criminals of their criminal proceeds by a different route. However a more practical objection was that some of these "additional penalty" provisions were discretionary and frequently not resorted to in current practice.

112. Thus a common theme in many reports was a recommendation, particularly in respect of the states in transition, to reconsider their confiscation regimes to ensure that they do meet all the requirements of the Strasbourg Convention to confiscate proceeds, as widely defined. Increasing the mandatory elements of confiscation in major proceeds-generating offences would, in many countries, be of considerable benefit. Some countries, like Bulgaria, had already recognised that their current system was not confiscation as it is envisaged by the Strasbourg Convention, and were reviewing their laws before the evaluation.

113. Equally, experience with provisional measures was mixed. Statistical evidence of provisional measures being taken was not always available. Where provisional measures were pointed to, they could usually be taken by the prosecutor, but not always at sufficiently early stages in enquiries. This was a common concern of police. Practices varied. In some countries, once a case was before the courts, prosecutors regularly sought attachment orders to preserve the position. Though even in these cases their primary motivation often appeared to be the compensation issue rather than any future confiscation order in respect of proceeds. In other countries the prosecutors were less proactive. It was noted, for instance, that no provisional measures had been taken in any of the drug money laundering cases being processed in Ukraine, even though such measures appeared permissible under existing legislation.

114. Thus there were many countries where examiners considered that there was a high risk of assets being dissipated before any confiscation order could be made. While a more proactive approach by prosecutors to existing powers would help, that will not, of itself, address another problem, which was raised in some reports in the context of dissipation of assets. In some countries, the ease with which confiscation can be frustrated by transfers to third parties, who are not bona fide purchasers for value was of concern. In the case of at least one country there was nothing to prevent such transfers to family members. The adequacy of existing arrangements in this regard was raised as an issue for consideration in several reports. This is a difficult area for countries, but it is clearly helpful if legislation addresses these issues. In the two common law jurisdictions, Cyprus and Malta, this issue is addressed in statute, though in different ways. In Malta confiscatable assets are those which remain subject to the 'control' of the accused. The Cypriot legislation makes explicit provision in relation to realisable property in the hands of third parties where the property is held by a person to whom the accused has directly or indirectly made a "prohibited" gift. This extends to

all gifts made within six years before the institution of criminal proceedings and which is directly or indirectly connected with the predicate offence and which is made for consideration, the value of which is significantly less than the actual value of the property at the time of transfer. These approaches, or variants of them, may commend themselves to other PC-R-EV countries as possible bases on which to build legislative provisions relating to transfers to third parties.

115. Overall in respect of many countries, a recurring theme was the need for a full review of the provisional measures regime to ensure that there is a modern system in place geared to the international standards.

116. Other states in PC-R-EV do not come from either Common Law traditions or from former communist systems: Andorra, San Marino and Liechtenstein.

117. In Andorra, the Criminal Code permits a judge to confiscate any sums coming from criminal activity and precautionary seizures can be taken. Specific provision for confiscation has been made in respect of money laundering to meet FATF Recommendation 7. In practice, confiscation has taken place, though the examiners described the general provisions in this area as "rudimentary", and more detailed provisions were recommended.

118. San Marino has a system of general confiscation of the profit of the offence, as well as instrumentalities, and special confiscation provisions with respect to money laundering activities which are part property-based and part value-based, though experience with these provisions appeared limited.

119. Liechtenstein law contains several provisions dealing with the confiscation of criminal proceeds and the application of provisional measures. Interestingly, the existing law can be applied to corporations. However, the examiners were concerned that the law only came into play if the proceeds exceeded a certain threshold (CHF 150,000) and recommended the deletion of this in a general review of the system. This threshold has now been removed.

120. Generally in PC-R-EV countries, the prosecutor has, upon conviction, to prove that identified assets are proceeds to the criminal standard of proof. This is not an easy task. Few countries, not from the Common Law tradition, have considered reversing the onus of proof after conviction. In the context of confiscation of proceeds from predicate offences, a court in Cyprus, upon conviction for a predicate offence, may make assumptions that all property acquired during the six years prior to the commencement of criminal proceedings was the proceeds of a criminal offence unless the contrary is proved by the accused or the court thinks there is serious risk of injustice. Similar provisions apply in Malta in respect of predicate offences.

121. It will be recalled that under the Vienna Convention state parties, in drug-related offences, may consider ensuring that the onus of proof is reversed regarding the lawful origin of alleged proceeds. In PC-R-EV reports states were regularly encouraged to consider this issue carefully. It is interesting to note in this regard that similar reverse onus provisions in respect of drugs proceeds in an English case have recently survived scrutiny by the European Court of Human Rights[2].

122. Improvements in legislation on confiscation and much greater demonstrable operational success in obtaining major confiscation orders will be critical indicators of the success, or otherwise, of national anti-money laundering regimes in PC-R-EV countries in the next few years. Both issues will need to be carefully considered by examination teams in the second round in assessing the real effectiveness of national systems.

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[2] Philips v United Kingdom, judgement of 05/07/01.

(C) Measures in the Financial and other Sectors

Scope of Anti-money Laundering Measures

123. We now turn to consideration of the preventive regimes in place in PC-R-EV countries. The FATF 40 Recommendations and the EC Directive 91/308 are the relevant benchmarks.

124. The relevant preventive recommendations in the FATF 40 Recommendations currently apply mandatorily to banks. Moreover FATF members are also mandatorily required to apply them to non-bank financial institutions, including those which are not subject to a formal prudential supervisory regime, for example bureaux de change.

125. The 40 Recommendations also invite countries to consider applying certain relevant recommendations (including Customer Identification and Record-Keeping rules) to the conduct of financial activities undertaken as a commercial undertaking by businesses or professions, which are not financial institutions, where such conduct is allowed or not prohibited. A list of twelve examples of financial activities, which could be considered, is annexed to the Recommendations. This list is not intended to be exhaustive. It includes:

- Financial leasing;
- Money transmission services;
- Trading in money market instruments;
- Life insurance and other investment related insurance;
- Money changing.

126. EC Directive 91/308, which is mandatory in EU countries, applies a preventive regime, with broadly similar obligations as appear in the preventive recommendations in the FATF 40 Recommendations, to credit and financial institutions, as defined in the Directive. The proposed new EC Directive, though not a standard in this round of evaluations, is likely to expand mandatory coverage even further, to include real estate agents, managers of casinos, dealers in high value items (only for large cash transactions), auditors, tax advisers, and accountants. Notaries and lawyers are also likely to be within its scope when they assist or act for their clients in respect of certain lines of business (financial, corporate and real estate).

127. It is against this background, of actual and likely international standards, that the range of institutions covered by preventive measures in PC-R-EV states is reviewed.

Preventive Laws

128. 17 PC-R-EV countries currently have legislative provisions in place dealing with preventive issues. Two other countries (Poland and the Russian Federation) are about to bring into force enacted legislation. This reflects a marked improvement since the beginning of the process.

129. The following PC-R-EV countries have not enacted preventive legislation:

- Ukraine;
- Georgia;
- Moldova[4].

130. Poland, which had no general preventive law in place at the time of its evaluation, has now enacted a law - the Act of November 16, 2000 on Counteracting the Introduction into Financial Circulation

[4] See paragraph 135 below.

of Property Values derived from Illegal or Undisclosed Sources. It is due to be fully implemented in the second half of 2001.

131. In the Russian Federation, in December 2000, updated versions of draft laws "On Countering the Legalisation (Laundering of Illegal Incomes) and "On amending Russian Federation Laws in Connection with the Adoption of the Federal Law on Countering the Legalisation (Laundering) of Illegal Incomes" were sent to the Government for submission to the State Duma. Legislation was introduced into the State Duma in April 2001. This legislation has since been approved, and signed into law by President Putin on 07.08.2001. It will come into effect in February 2002.

132. In Georgia the Ministry of Finance has been charged with the preparation of a draft law but work appears not to have started yet.

133. In Ukraine the examiners were shown a draft on preventing and counteracting legalisation (laundering) of proceeds. It is understood that a draft law has since been approved by the Cabinet of Ministers and submitted to the Rada (Parliament) in April 2001, though it is unclear when it will be enacted.

134. At the time of the adoption of its report (June 2000), a committee under the Ministry of Finance had prepared a Law on prevention of money laundering in "The Former Yugoslav Republic of Macedonia", which was enacted on 5 September 2001, and comes into force on 01.03.02.

135. At the time of the evaluation visit in Moldova the examiners were shown two differing draft texts of preventive legislation. The Moldovan authorities have recently indicated that on 15.11.01 the Moldovan Parliament adopted a preventive law.

136. Overall, it is encouraging to see that so much progress on this fundamental issue has been made since the process began. Those countries still without preventive laws are urged in their own interests to remedy the situation quickly.

Range of Coverage

137. The table at Annex D beneath shows the range of coverage in those PC-R-EV countries with preventive laws, which are in place and understood to be in force.

138. In many countries the discrete anti money laundering preventive legislation includes the obligations of suspicious (or unusual) transaction reporting, plus other duties such as due diligence, customer identification and record keeping. The table shows the range of institutions to which, at the very least, those countries with preventive laws have applied FATF Recommendation 15 (which provides that if financial institutions suspect that funds stem from a criminal activity they should be required promptly to report their suspicions). In the case of several countries a broader range of preventive obligations, such as customer identification and record keeping, and provisions for internal control systems, are also in place across the same range of institutions shown.

139. The table shows that the range of coverage provided for in legislation in PC-R-EV countries is generally very wide - in some cases coverage is considerably in advance of the current international standards.

140. So far as non-financial intuitions are concerned, it is notable that Albania, Croatia, Latvia and Romania have provided for particularly comprehensive coverage, which include lawyers, notaries and accountants. Indeed Latvian legislation, by providing an extended definition of financial institution, potentially catches all those conducting financial transactions, irrespective of whether financial activities constitute a person's principal line of business. While such an all-embracing approach presupposes substantial effort and ample resources for outreach to ensure that all those with obligations are fully aware of them, provisions such as this are undoubtedly sufficiently

flexible to accommodate changing international standards, as well as changing domestic anti-money laundering priorities.

141. Many of the countries, where the economies are undergoing transition, have included in their lists of obliged entities the national agencies responsible for the privatisation process. This appears a wise precaution, as it is considered that in many jurisdictions in Central and Eastern Europe large amounts of laundered proceeds are ultimately invested through the privatisation process.

Suspicious Transaction Reporting

142. Despite the wide obligations in many PC-R-EV countries, it can be seen from the table at Annex E that the vast majority of reports have come from the banks. By comparison, insurance companies, casinos, and exchange offices have barely reported. Where they have formal obligations in the law, the privatisation agencies have also made very few reports.

143. It should be borne in mind that, generally speaking in PC-R-EV countries, anti-money laundering obligations have only recently been introduced. Their introduction in most countries has been highly controversial. It is therefore perhaps understandable that the authorities have concentrated efforts so far as awareness-raising, guidance and training are concerned, on the banks. They are for most, if not all countries, the main financial intermediaries. Indeed many countries considered the banks their primary vulnerability to money laundering. Thus, generally speaking, the banking sector appeared to be responding positively to their reporting obligations. That said, it was a particular concern of the examiners that, at the time of its evaluation, no Liechtenstein bank had made a report on its own. Their progress report, however, demonstrated a marked improvement in this regard.

144. While the volume of suspicious or unusual transaction reporting from banks appeared to indicate the anti-money laundering regimes were generally working effectively in the banking sector, examiners frequently found that the spread of reporting by banks was in reality somewhat uneven. In several countries it became apparent that at least 30-50% of the reports came from only one or two commercial banks. In some countries, branches of foreign commercial banks, with strong anti-money laundering regulations, accounted for a sizeable number of the jurisdiction's reports. Therefore it is important that the authorities carefully monitor the spread of reporting and address underreporting where it appears apparent. In some countries, the Financial Investigation Unit was very proactive in approaching banks, which appeared to be underreporting. But this was not always the case.

145. The importance of maintaining and keeping up to date statistics cannot be underestimated if underreporting is to be detected and addressed. It was a particular concern in Poland, at the time of the evaluation, that the absence of such statistics meant it was unknown which banks were underreporting. This problem has now been remedied in that country. States, which have yet to introduce preventive legislation, will need to bear this issue in mind if their laws are to be effective.

146. Another complication in unpacking the statistics was that the authorities in many countries were also dealing with numerous reports from foreign sources (usually foreign financial intelligence units). Thus a proportion of a state's domestic anti-money laundering activity was externally driven. National authorities, when reviewing the effectiveness of their preventive systems, need to assure themselves that their domestic regimes are also generating the volume of work for their authorities, which reflects their perception of the money laundering problem in their own country.

147. In some countries examiners expressed concern that not all banking institutions were actually covered. The existence of credit co-operative banks and credit unions attracted comment in a number of reports. Where such institutions exist, states need to be satisfied that these, and all types of savings banks, are covered in their legislation so there are no possible hiding places for

laundered money in the banking sector. From the progress reports, it appears that generally, where this was identified as a problem, action has or is being taken.

148. In some reports it was recommended that, where the legislation did not make this explicit, the Central Bank (or other Regulatory Authority) should have a formal reporting obligation if they discovered instances of money laundering in their inspections or otherwise. Indeed it was advised in several reports that Central Banks should themselves be subject to all the relevant preventive regime where they deal directly with clients.

149. One other concern, which was noted in more than one report, was a perceived requirement in legislation for suspicions to be well-grounded, or indeed very well-grounded, before it could be passed to the authorities. While it is necessary for compliance officers to exercise some discretion as to which reports go to the competent authorities, the point was made in several reports, that it is primarily for the competent authorities themselves to establish whether the suspicion is such as to require further investigation by the police. The wording of some legislation gave the impression that employees of credit and financial institutions might have some form of investigative role. States should be careful in drafting or reviewing their legislation, that they do not, inadvertently, appear to create additional evidential hurdles for credit and financial institutions to overcome before reporting.

Customer Identification and Record Keeping

150. Insufficient Customer Identification procedures are seriously detrimental to a national anti-money laundering strategy, and to the global fight against money laundering. Countries with inadequate procedures for Customer Identification will be attractive to criminals. Adequate customer identification is therefore vital, not just in the banking sector, but throughout the whole financial sector.

151. The relevant standards are to be found in FATF Recommendations 10 and 11, and in Article 3 of EC Directive 91/308. In summary, PC-R-EV reports have examined the measures financial institutions take to identify customers (whether the customer is a natural person or a legal person) when:

(a) they establish new permanent business relationships, such as opening an account or safe deposit box;

(b) they conduct a single transaction (or connected transactions) with a non-permanent customer for a large amount in cash or non-cash (the benchmark sum being the equivalent of 15,000 ECU as set out in the EC Directive);

(c) a customer is not acting on his own behalf in relation to (a) or (b), whether the financial institution seeks to identity the third party and/or the true beneficial owner on whose behalf he is acting.

152. As part of this exercise PC-R-EV has identified those jurisdictions where FATF Recommendation 10 is clearly breached by the existence of anonymous, fictitious or bearer accounts.

153. Additionally, though the international standards are not explicit on this point, jurisdictions with numbered accounts are referred to, as they too present risks: the ability of financial institutions holding such accounts to have a comprehensive control procedure for identifying suspicious transactions is greatly restricted by the fact that the customer's identity is withheld from almost everyone dealing with transactions across those accounts.

154. On record-keeping, the relevant standards are FATF Recommendations 12, and 13, and Article 4 of EC Directive 91/308. PC-R-EV examined whether, with regard to credit and financial institutions:

- identification documentation was kept (i.e. references, records of official documents), account files and business correspondence for at least 5 years after the account is closed;

- transaction records were kept for at least 5 years following the execution of the transaction, which could be used in court proceedings.

155. From Annex F it can be deduced that clear legal provisions or other requirements of general application on account opening and commencement of business relations exist in 14 countries. In some cases these provisions apply only to banks and need extending to financial institutions generally.

156. So far as legal entities are concerned, several countries had no requirement to identify company directors as part of this process.

157. Several countries, where no general provisions are in place, referred examiners to the internal rules of institutions for account opening procedures. In these cases the national supervisors had no real overview of account opening procedures. This may be dangerous for countries which are in the process of creating or restoring public confidence in the banking sector.

158. By contrast, 17 countries provided for customer identification in the case of large transactions, broadly using the benchmark figure in the EC Directive. Here some provisions were unnecessarily limited to cash transactions, or did not cover linked transactions, which together reach the threshold. In several countries provisions for customer identification in respect of large transactions did not apply to financial institutions generally.

159. It is worth noting that in many countries the provision for identifying large cash transactions was also the provision which caught general identification requirements in respect of money exchanges in bureaux de change. Thus most transactions in bureaux de change, in many countries, escaped identification requirements entirely, as the threshold figure appeared to be too high for the local economy. Given the vulnerability of exchange houses to money laundering this was unfortunate. Some PC-R-EV countries, where use of cash remains predominant, would therefore benefit from revisiting the thresholds in the case of exchange offices.

Bearer Accounts and Numbered Accounts

160. It was explained that the existence of bearer accounts in some Central European countries is a historical legacy from the Austro-Hungarian Empire. Notwithstanding this, positive action on this issue has to be taken in those countries (and indeed, in some other PC-R-EV countries) to bring them fully into line with FATF Recommendation 10.

161. The existence of bearer accounts has also exercised the European Union where PC-R-EV countries seek to accede to the European Union, and the FATF, in its exercise aimed at identifying "non co-operative countries". Thus, PC-R-EV states, which retain these accounts (or passbooks), are well aware of the external pressures on them for abolition. Progress appears to have been made in some countries, which is shown in the table at Annex F, through the abolition of new accounts. Further action still needs to be taken, against meaningful timescales, in some other countries to convert existing accounts into accounts subject to normal customer identification procedures. PC-R-EV will also carefully examine progress on this issue in its second round, as action on this issue remains an important test of a state's willingness to make fundamental change to its systems to combat money laundering.

162. Equally, attention will be given, for the reasons set out above, to those states, which retain numbered accounts. That said, arguably, it would assist if there were an explicit international standard dealing clearly with the issue of numbered and/or coded accounts.

163. Indeed, in the first round, examiners looked very carefully at any system, which involved two or more layers, with regard to identification. Thus systems where credit and financial institutions could rely explicitly upon introduction of others (whether lawyers or other professionals, trust companies, or nominee companies), in lieu of doing their own due diligence, attracted particular comment. Whatever the motives, the existence of such structures, inhibit full compliance with FATF Recommendations, so far as identification of the ultimate beneficiary is concerned.

164. In several PC-R-EV countries there was a lack of clarity as to how far credit and financial institutions go to identify beneficial owners in third party transactions. As a first step, practice identified in Slovenia, and some other countries, may help elsewhere. In Slovenian legislation, as noted in Annex F, in the case of third party transactions, a written notarised statement with full details of the ultimate beneficiary is required.

165. Various provisions in national laws require reasonable measures to be taken to establish the true identity of beneficial owners. But what are reasonable measures? PC-R-EV countries, like others in the world, grapple with this issue, particularly where beneficial owners are legal entities, with chains of ownership. On one view, institutions should seek to identify until they are confident they have reached someone tangible. But clearer guidance, through developing international standards and best practice, would help financial institutions to address this issue more consistently and thoroughly.

166. As can be seen from Annex F, clear and comprehensive record-keeping procedures, which broadly meet the standards in FATF Recommendation 12, appear to be in place in at least 9 countries. In some countries the documentation obtained and retained at the time of establishing the business relationship was unclear. In at least one country record retention did not apply to large non-cash transactions. In some other countries provision was made for maintenance of registers. In these circumstances it was not always clear whether both the registers and transaction records themselves were to be kept. The records need to be available for reconstructing transactions in future police enquires.

167. The standard for document retention is “at least” 5 years and most countries have settled on 5 years as a practical and manageable solution. However it is simply noted that, given the often protracted length of police enquires, and the potential incompatibility of a 5 year period with some national statutes of limitation on criminal offences, countries may wish to reflect on the real adequacy of their record retention periods.

168. Customer identification and record-keeping rules were drawn up in PC-R-EV countries generally with paper-based systems in mind. Few, if any, countries gave specific guidance clearly explaining that the same rules need to apply where funds transfers via electronic payment systems are involved. Bearing in mind that many economies undergoing transition have as a national objective the development of a more cashless society, and the fact that criminals make extensive use of electronic payment systems to complicate audit trails, this issue deserves clear guidance in the future. Though not universal practice as yet, current international trends favour details of, at least, the remitter and the recipient appearing in the texts of electronic wire transfer messages. Most reports advised that this practice should be adopted with full details of the ordering and beneficiary customers, as well as the inclusion of details of the intermediary financial institutions (as this would help with later reconstructions). Equally, reports highlighted the use of the Internet in this context. The same identification and recording requirements should apply where banks or financial institutions, as part of their services, can conclude payments and/or other transactions via the Internet.

Internal Reporting, Control, Communication, Education and Staff Training.

169. FATF Recommendation 19, which is mandatory, requires financial institutions to develop programmes against money laundering, which should include, as a minimum: the development of internal policies, procedures and controls, including the designation of compliance officers at management level, and adequate screening procedures when hiring employees; an ongoing training program; and an audit function to test the system. Overall there was much more work to be done across PC-R-EV countries to achieve full compliance with this recommendation.

Compliance Officers and Internal Reports

170. Not all countries had a complete understanding of the role of a compliance officer, as envisaged in the Recommendation. Structures need to be in place within financial institutions, which allow for independent decision-making at suitably senior levels as to which suspicious reports, identified by front-line staff, should be passed to the competent authorities. In exercising such responsibilities staff should have access to all relevant information. Overall responsibility for this system should be at management level, as envisaged by the FATF Recommendation.

171. In only a few countries was there responsibility for the system at management level. For example, Croatia had, through separate legislation, provided a legal structure for suitably independent compliance officers, but the structures in place in some countries raised doubts on this issue. Only in a few countries was there clear provision for auditing compliance internally.

172. Some countries had appointed "contact persons", but their job content, on analysis, was pitched more at the liaison level with FIUs. On occasions it appeared that some designated "contact persons" lacked authority within their organisations, and doubts were raised about their real independence of action. As a result some contact persons simply became "rubber stamps" and passed all reports to the FIUs. This protected their positions but was not always helpful to the FIUs. Reporting lines within organisations were not always clearly understood. In at least one country, where each bank had a contact person, suspicious reports could bypass them altogether and go directly to the FIU from the bank teller.

173. In a small number of countries "Customer identification units" had been created to handle general anti money laundering obligations, including reporting to the FIU. A drawback with such units was that they involved a form of shared responsibility and it appeared that no one had real overall responsibility for the system.

174. In countries where the FIUs were proactive generally some of these problems were being overcome by the FIU training up the contact persons to work closely with them, almost as extensions of the FIU. In those countries the right messages were thus being given to staff of financial institutions via the FIU.

175. While the FIU plays and important role in awareness-raising and can play an important role in initial training programmes, ongoing staff training programmes are the responsibility of the financial institutions. This was not always clearly provided for. Some countries had no legal requirements for the provision of education and training on money laundering issues to financial institutions' employees, and it was left to the financial institutions themselves to decide whether it would provide employees with the necessary training. Clearer legal obligations in this regard were urged in most reports.

176. The adequacy of staff screening procedures was generally not dealt with in any detail in PC-R-EV's first round reports, and will benefit from closer consideration in the second round, when internal control systems are more widely established.

Guidance

177. In all PC-R-EV countries front-line staff need to be able to identify what is a suspicious transaction in their sector. The subjects with whom the examiners met often found it difficult to do this. In predominantly cash based economies, where large cash transactions are frequent, it can be particularly difficult to distinguish which ones are suspicious. Therefore guidance is needed.

178. The response of the authorities on the issue of guidance was varied. Some countries had, within their legislation or accompanying regulations, begun to address the problem, with lists, not necessarily exhaustive, of likely indicators or warning signs. In one or two countries the supervisory authorities had taken a positive lead in assisting the sectors under their supervision by expanding and developing issues covered by legislation or regulations. It was seen particularly in Malta that comprehensive and co-ordinated guidance notes across the supervised sectors were being developed, supplementing legal provisions.

179. Other countries, perhaps simply relying on a narrow interpretation of FATF Recommendation 19, provided no guidance by supervisory authorities or other forms of general or central guidance, either in legislation or otherwise. In such cases every obligated entity prepared its own indicators of the types of transaction which may be suspicious. In some countries this was mitigated by the need for the subject undertakings to submit their guidance to the Ministry of Finance or some other central authority.

180. However such systems lacked general transparency and did not provide for any real consistency between obliged entities within each sector. Thus, there was no level playing field in terms of anti-money laundering obligations.

181. Where little or no central guidance was provided, professional associations, on the other hand, had generally sought to fill the void with their own guidance. This was frequently based on guidance notes prepared in other countries. These initiatives by professional associations were highly commendable, but examiners regularly pointed out that guidance drawn from abroad would not always be entirely apt or relevant to the local situation.

182. Almost all PC-R-EV reports advised that the creation of general guidelines for each individual sector was a priority. The supervisory authorities, bringing their professional skills and unique insights into likely money laundering techniques in each sector, were advised to take a lead in this. They were urged to work co-operatively with their supervised sectors to create guidelines, based on local factors, in which there could be a real sense of ownership. It was generally considered that the process of creating such guidelines would profit from input from the FIU. Indeed the FIU was felt to be well placed to ensure general consistency in guidelines across all the sectors. Ensuring the production of co-ordinated guidelines was frequently recommended as a task which could be overseen by a central co-ordinating body on anti-money laundering issues, bringing together all the main actors in the anti-money laundering regime. The need for such bodies is discussed further below in considering law enforcement issues.

Supervision

Licensing

183. Attention was paid in reports to the licensing regimes for banks, and other financial institutions. Particular attention was given to the existence, or otherwise, of any authorisation procedures (including the application of the “fit and proper tests”) in relation to bureaux de change, given their vulnerability to money laundering throughout the region. Examiners also considered whether there was any regulating structure over casinos and gambling houses, where they operated.

184. In all cases, the evaluators sought to establish how countries guarded themselves against criminal infiltration of relevant institutions in the financial and non-financial sector. The recommendations in reports were often pragmatic, and sometimes went beyond existing international standards and addressed local concerns in ways that might prove effective.

185. In many countries the Central or National Banks had adopted licensing procedures for credit institutions that were soundly based on the existing international standards. These included enquires into the fitness and propriety of applicants for management. None-the-less systems could also be strengthened with supplementary checks with law enforcement so far as founding subscribers are concerned, and when monitoring subsequent significant acquisitions of share capital. It was also suggested in some reports that a requirement should be introduced, whereby the source of the original capital is checked as part of the licensing process, and as part of authorisation procedures for significant subsequent acquisitions. Such suggestions were specifically made in reports on countries where there were identified concerns about the penetration of the banking sector by criminals and their confederates. However, even in the absence of justifiable concerns in this regard, these are prudent measures. Equally prudence indicates that the competent authorities should have clear powers to deny or revoke licences where money laundering or criminal infiltration is established. In some countries, which would benefit from such powers, like the Russian Federation, they were lacking.

186. The regimes in respect of bureaux de change were varied. In some countries the Central Bank had some responsibility for them at the licensing stage. In some other countries, exchange offices existed under contractual arrangements with commercial banks. In many countries their total numbers were unknown. In more than one country foreign exchange transactions took place openly on the street. The minimum applicable standard calls for effective systems to be in place whereby the numbers of all natural and legal persons performing foreign exchange transactions are known.

187. Notwithstanding this, PC-R-EV reports often urged active consideration of formal authorisation systems, with a consistent and vigorous application of the “fit and proper” criteria, together with checks with law enforcement in relation to applicants for management.

188. In the case of gambling houses and casinos regulatory structures at licensing stages depended largely on local or municipal arrangements. In some cases it appeared there was a rather greater pre-occupation with whether outstanding tax obligations had been paid before authority to operate was granted, rather than with issues involving the integrity of the management.

189. Casinos were of particular concern, not only because they can be used for money laundering in any event, but because in several cases they have money remitting services and currency exchange services attached to them. In many reports therefore similar authorisation regimes as were suggested for exchange houses were urged in respect of the gambling industry.

Company Formation and Business Licensing

190. Many countries reported the use of shell or “butterfly” companies (which exist for short periods only) as primary vehicles for money laundering. This issue, together with the extent to which the privatisation agencies addressed these questions, was the subject of comment in several reports.

191. Privatisation agencies generally appeared to be rather distanced from the money laundering threat. In some countries it was suggested that there was resistance to probing too deeply into proposals for new businesses, because of the potential adverse effects on business investment and the development of the market economy.

192. In one country, at least, it was indicated that companies could be established by foreign citizens with only $150 capital. Such companies can clearly be used as vehicles for concealing real economic beneficiaries.

193. It is worth nothing in this context that banks in some countries may be deterred from carrying out due diligence exercises thoroughly on companies, if they perceive that the national or local authorities do not provide for adequate licensing procedures for companies in the first place. In several countries therefore for all these reasons reviews were suggested, with a view to very much stricter controls on company formation.

Anti-money Laundering Supervision

194. The need for an effective regime to check that financial and other institutions are correctly implementing anti-money laundering measures is an essential part of any system.

195. Across PC-R-EV countries, anti-money laundering supervision was more advanced in the banking sector, and, generally speaking in the non-banking financial sector there was lack of supervision. This needs much closer attention across the entire PC-R-EV region. Indeed in some countries supervision in the non-banking financial sector was virtually non-existent. This was extremely dangerous for some of the countries in transition, at the stage of economic development that they had reached.

196. Supervision was spread between various agencies and authorities. Generally the Central Bank, or a separate agency, (as in Hungary) had responsibility for the banking sector, and supervisory work in this field had commenced, to greater or lesser extents.

197. It should be said that Central Banks in some countries had been the prime movers on anti-money laundering issues generally. However their proactivity and methodologies so far as anti-money laundering supervision was concerned varied from country to country.

198. The Central Bank of Malta included money laundering issues in their on-site visits and met regularly with the internal auditors and compliance officers. Other prudential banking supervisors were less active. Most included these issues as part of general prudential supervision, while reporting that they had the power to conduct specific thematic reviews, which could include anti-money laundering measures. Few detailed reviews had taken place, though several were being planned. The more general position was that, at this stage, supervision was confined to formal compliance issues - i.e. whether systems were in place, rather than undertaking thorough checks of the effectiveness of the reporting regimes, including detailed analyses in respect of underreporting banks.

199. In some countries the FIU had a large role in supervision issues, either formally shared with the prudential supervisors (which occasionally caused confusion as to who was actually responsible) or independently. While questions were raised in the longer term about the appropriateness of the FIUs taking on such a role (which is discussed beneath in respect of law enforcement issues), in the short term, it had generally proved effective in awareness-raising, particularly in the banking sector, as the numbers of STRs from banks illustrate. It was interesting to note that sanctions, where they were capable of being imposed in respect of money laundering obligations, had been used more in the banking sector than elsewhere, either by the Central Bank (as in Latvia) or at the initiative of the FIU (as in Bulgaria).

200. The prudential banking supervisors, where they had a formal role in respect of supervision of the exchange houses, were rather less proactive in anti-money laundering supervision. Few, if any, had undertaken checks in bureaux de change.

201. The question was raised from time to time whether anti-money laundering supervision should automatically be considered part of general prudential supervision without reference to such a supervisory remit in legislation. On one view, the risks inherent (for banks especially) indicate that such supervision should not require specific statutory remits. Outside the banking sector, prudential supervisors often argued that there was a lack of formal powers in this area in their legislation.

Reports constantly recommended that other prudential supervisors, where necessary, should be given statutory powers to undertake money laundering supervision where there was doubt about this issue.

202. While it is no substitute for active supervision by the supervisory body, countries were reminded in some reports that bank auditors can play an important role in this area in sample checking (the results of which could be made available to the supervisory authority).

Non-bank and Supervision

203. Outside the banking sector anti-money laundering supervision frequently was the responsibility of specific authorities, either independent of or subordinate to the Ministry of Finance. Most countries, for example, had separate insurance supervisory authorities.

204. The examiners visited, where they existed, those departments (often in Ministries of Finance) with responsibilities for the gaming sector.

205. Examiners also met, wherever possible, with the various Commissions responsible for the Securities Market.

206. Some countries, like Estonia, are moving towards the creation of an integrated financial supervisory authority for banking, securities and insurance. Their experience may point the way forward for other countries, where (anti-money laundering) supervision is fragmented.

207. Where there were prudential supervisors outside the banking sector, most anti-money laundering activity had been undertaken by the insurance supervisors. Indeed the Bulgarian Insurance Supervision was noted as very proactive in its approach.

208. However the general picture was of non-bank supervisors who were very distanced from the money laundering issue: indeed some officials examiners met seemed to have little understanding of even the reputational risks involved for institutions which they supervised which are inherent in money laundering. There was a generally identified need for more training on money laundering issues of the supervisors themselves.

209. The reports were equally consistent and pragmatic in their approach to anti-money laundering supervision in the non-bank financial sector. Where existing prudential supervisory bodies were currently in place it was recommended that they be given clear anti-money laundering remits, and that active compliance inspections should be commenced, particularly in respect of bureaux de change, insurance and securities. Equally, in the non-financial sector, it was generally advised that anti-money laundering supervision should actively be addressed so far as casinos and gambling houses were concerned and that countries consider the desirability and practicalities of anti-money laundering supervision in other parts of the non-financial sector, which are particularly vulnerable to money laundering in the national context. This was an important issue to address, as, has been seen, so many countries had provided for anti-money laundering coverage in respect of such a commendably wide range of subjects.

(D) International Co-operation

210. International co-operation is dealt with in a number of FATF Recommendations. Some, which were regularly the subject of comments in the reports, are set out below.

Recommendation 1: to take immediate steps to ratify and implement fully the Vienna Convention

211. As seen, all PC-R-EV member states are in compliance with this Recommendation with the exception of Liechtenstein. Liechtenstein has signed the Convention, but it is understood that,

because of the nature of its relationship with Switzerland, it will only ratify the Convention in parallel with that country.

Recommendation 35: to encourage states to ratify and implement the Strasbourg Convention

212. As noted above, 19 PC-R-EV countries are now in compliance and steps are under way to ratify in all the 3 countries which have not yet done so.

Recommendation 40: countries should have procedures in place to extradite, where possible, individuals charged with a money laundering offence or related offences

213. All PC-R-EV states, unless stated below, have ratified the European Convention of Extradition and its Protocols and/or made money laundering an extraditable offence under their own laws, subject to dual criminality. Most PC-R-EV countries coming from the Civil Law tradition cannot extradite their own nationals, though some will consider doing so (Albania; Estonia; Liechtenstein). Malta will also consider extraditing its own nationals. Where countries refuse to extradite their own nationals, they will consider prosecuting them domestically for crimes committed abroad in line with Article 6.2 of the European Convention on Extradition.

214. Subject to the width of the domestic offence, in the light of the ratifications of the Vienna Convention, extradition of non-nationals for drug-related money laundering should be possible in 21 of the 22 PC-R-EV states.

215. So far as non-drug money laundering extradition is concerned, the position depends very much on whether the money laundering offence, for which extradition is sought, is punishable in the same way in the requested state. Thus, again, much depends on the width of the money laundering offence in the requested state: short lists of predicate offences, for example, can be major obstacles to some money laundering-related extradition requests. This was frequently pointed out in reports to those countries with narrow lists of predicate offences.

216. San Marino has signed, but not yet brought into force, the European Convention on Extradition. Its ratification was urged. They do have some bilateral extradition treaties. If the terms of those treaties permit the extradition of nationals then extradition can be considered. If any relevant treaty does not permit this, then a San Marino court cannot, at present, prosecute its own nationals at home for a money laundering offence committed abroad even if dual criminality is met. It was recommended in their report that the San Marino courts be vested with this power.

Mutual Legal Assistance (Judicial)

217. It is convenient to group together a number of FATF Recommendations (or parts of them) and obligations in the Strasbourg Convention which were the subject of comment under the broad heading of mutual legal assistance:

- Recommendation 37:

218. There should be procedures for mutual assistance in criminal matters regarding the use of compulsory measures (including production, search and seizure and obtaining of evidence) for use in money laundering investigations and prosecutions and in related actions.

- Recommendation 38, and Articles 8, 11 and 13 of the Strasbourg Convention:

219. These together create obligations:

    - to afford the widest possible measure of assistance in the identification and tracing of instrumentalities, proceeds and other property liable to confiscation;

- to take provisional measures at the request of another party (i.e. seizing or freezing of proceeds or property of corresponding value);
- upon request, to confiscate on behalf of another party, instrumentalities or proceeds situated in its territory, either by enforcing a confiscation order or submitting such requests to the competent authorities for the purpose of obtaining an order.

220. 20 PC-R-EV countries are now full parties to the 1959 European Convention on Mutual Assistance in Criminal Matters. Andorra has yet to sign and ratify this Convention. San Marino has signed, but not ratified it.

221. As seen, only 1 state has not ratified the Vienna Convention and 3 states have yet to ratify the Strasbourg Convention.

222. A large number of PC-R-EV states have also demonstrated their willingness to co-operate internationally through a growing number of generic bilateral agreements. From the reports it is not possible to assess how many of those agreements contain money laundering specific components. Interestingly, some countries, such as Hungary at the time of its evaluation, had set out its procedures on international co-operation in a modern legislative text, which provided for a wide range of co-operation, even in the absence of a treaty.

223. So far as assistance with criminal investigations is concerned, almost all countries appear to require dual criminality (at least where the co-operation involves coercive measures). Thus, again, the breadth of the money laundering offence is critical. Examiners also urged the widening of domestic money laundering offences to assist the ability of states to co-operate internationally.

224. This issue has particular relevance currently in the context of the FATF's exercise identifying so-called "non co-operative" countries, in which failure to criminalise laundering of proceeds from serious crime is characterised as an obstacle to international co-operation. Also relevant in this context is FATF Recommendation 33 (which is non-mandatory) which calls upon countries to try to ensure that different knowledge standards in national definitions of money laundering do not affect the ability to provide mutual legal assistance.

225. Croatia allows for mutual legal assistance regardless of the *scienter* requirement for the money laundering offence in the requesting state, and where the predicate offence is not a crime in Croatia. Poland could provide mutual legal assistance in money laundering cases significantly beyond its ability to prosecute money laundering domestically at the time of the evaluation: where the mental element was wider than the domestic offence; where the predicate crime was not a predicate in Poland; where money laundering in the requesting state covered "own proceeds" laundering; and where there was a charge for both money laundering and the predicate offence in the requesting state.

226. Any future protocol to the Strasbourg Convention might usefully embody the principle that mutual legal assistance in money laundering cases should not be restricted by a state's domestic money laundering criminal provisions.

227. In respect of several countries particular doubts were raised about the efficacy of mutual legal assistance provisions, and recommendations were made that they should be revisited. Examples of identified practices which can or may inhibit mutual legal assistance included:

- where mutual legal assistance in a state appeared not to be possible unless the predicate offence was linked to the requested state;

- where assistance could not be given in serious fiscal fraud;

- where bank secrecy provisions appeared to restrict the provision of information.

Practices such as these, which continue to inhibit mutual legal assistance, deserve close attention in the second round.

228. The ability to take provisional measures and enforce criminal confiscation orders (including value orders) was, understandably, highlighted in all reports as a critical indicator of the effectiveness of a country's international co-operation regime. At the time of the evaluations, many countries failed to meet the international standards in this regard. However, with the number of ratifications of the Strasbourg Convention since the evaluations took place, it is assumed that the position is much improved. In progress reports, countries were invited to give information on the number of confiscation orders enforced on behalf of foreign countries. It was instructive to note that, since their evaluations, Bulgaria and Estonia reported the enforcement of foreign confiscation orders. Other countries reported taking provisional measures on behalf of foreign states, but overall most countries reported no requests for confiscation or provisional measures from abroad. This may reflect the general view that, until comparatively recently, such requests to several PC-R-EV countries would have been pointless.

229. Currently Georgia and Moldova clearly do not have the ability to enforce foreign confiscation orders.

230. The completion of the ratification process of the Strasbourg Convention may not always guarantee that foreign requests for confiscation will, in all cases, be enforced. Given that some countries reported that, upon ratification, the Convention was directly enforceable, it was not always possible for the examiners to determine in those cases how a country would deal with requests coming from courts or prosecutors abroad in view of the alternative approaches to the enforcement issues permitted by Article 13. Several countries reported that after ratification they still needed laws to be passed to fully implement all provisions. Equally, given the lack of court experience with such requests, it cannot be stated with certainty that ratification of the Strasbourg Convention solves all the problems. It is far from clear how courts in a requested jurisdiction will exercise any discretion where they have it to look behind the confiscation order before deciding whether to enforce it. If the offence or the order in the requesting state was based on reverse onuses in one country, and that is not permissible in the requested country that may pose difficulties. Similarly if the order relates to a crime, for which there is not a corresponding offence in the requested state, that too may pose fundamental problems. Indeed, in some reports comments were made that countries, where confiscation is still regarded as an "additional penalty", may experience difficulties enforcing their confiscation orders in jurisdictions which clearly embrace the concept of proceeds as it is defined in the Strasbourg Convention. For these reasons, in several reports, countries were urged to pass comprehensive domestic legislation, fully setting out procedures dealing with foreign requests for enforcement of confiscation orders and other mutual legal assistance issues. In the second round of evaluations it may be useful to pay even more careful attention to progress on these issues and to establish precisely how wide a country's ability to provide international assistance in this area is.

231. One area which was not covered in much detail was the enforcement of civil confiscation orders in respect of property which is the product of crime. Some countries, like Poland, reported that they can give mutual assistance in civil confiscation. As more countries in Western Europe and elsewhere develop such systems the need for enforcement abroad of these orders will become even greater. This also is an area which may bear attention in future international standard setting.

232. A further area which may need more attention, both in any work on a future Protocol to the Strasbourg Convention, and in a second round of evaluations is the issue of international asset sharing. FATF Recommendation 38 is non-mandatory in this regard. The Vienna Convention permits but does not oblige the conclusion of such agreements. The Strasbourg Convention is silent

on this issue. The ability of a country to share assets with other countries which contributed to the success of a joint operation can, perhaps, act as an incentive to international law enforcement co-operation. Notwithstanding conceptual difficulties that may be involved for some countries, this issue would bear further consideration at international level in the future.

233. Despite the non-mandatory nature of the international texts on this point, PC-R-EV reports generally touched on the issue. Where there were problems identified it was in relation to country X sharing with country Y assets recovered in country X. Conversely there was no prohibition generally on receiving assets from another country. Other states reported either that international asset sharing was only permitted where it was covered in a specific bilateral mutual legal assistance treaty (as for example Latvia has with the USA). Similarly, where there were no relevant provisions in national laws on this issue some countries simply assumed it was not precluded. The point had not been tested in many countries as generally there was little or no experience with joint investigations. Where this issue was not probed by examiners in a country's first round report, it would be helpful to focus on it in the second round.

Non-Judicial Co-operation

234. FATF Recommendation 32 requires countries to *"make efforts to improve a spontaneous or 'upon request' international information exchange relating to suspicious transactions, persons and corporations involved in those transactions between competent authorities…"*

235. Article 8 of the Strasbourg Convention places an obligation on contracting parties to provide *"the widest possible measure of assistance"*, which includes investigative assistance. Article 10 permits countries, without prior request, to provide spontaneous information on instrumentalities and proceeds to other contracting state parties when it considers that the disclosure of such information might assist the receiving party.

236. Financial Intelligence Units, or financial analytical units are developments which occurred in the 1990s after the elaboration of the principal conventions. Consequently the Conventions do not contain any provisions dealing with co-operation between such units. For the same reasons there is no definition of such units in the two principal international conventions. It follows that there are currently no international standards in the principal Conventions directly compelling state parties, or inviting state parties, to consider the creation of such units.

237. Even though there was no direct international standard dealing with this issue, PC-R-EV reports throughout the first round have regularly addressed this issue, and, on occasions urged the creation of such units where none existed. The reports usually encouraged states in these circumstances to consider the creation of an FIU, which would meet the criteria for membership of the Egmont Group[3].

238. The existence of such units in a jurisdiction took on an added significance during the first round with the decision of the FATF to make the absence of an FIU or equivalent mechanism one of its criteria for considering whether a country could be characterised as "non co-operative."

239. FIUs broadly fall into three categories: police/law enforcement FIUs; administrative or intermediary FIUs, usually within the structure of the Ministry of Finance; or others, usually judicial under prosecutorial direction.

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[3] The Egmont Group is an established network of financial investigation units, which was formed in 1995. It admits financial investigation units or financial analytical units to membership if they meet certain criteria. The criteria used by the Egmont Group in considering the admission of a unit to its membership is that the unit should be "a central national agency responsible for receiving, analysing and disseminating financial information (i) concerning suspected proceeds of crime, or (ii) required by national legislation or regulation, in order to counter money laundering."

240. At the operational level, where they exist, FIUs tend to be the channel for communication of financial intelligence for many PC-R-EV members, either bilaterally pursuant to memoranda of understanding, through the Egmont Group channels, or directly to the foreign FIU (if they are both law enforcement FIUs).

241. The following PC-R-EV countries meet the definition and have become full members of the Egmont Group:

- Bulgaria;
- Croatia;
- Cyprus;
- Czech Republic;
- Estonia;
- Hungary;
- Latvia;
- Liechtenstein;
- Lithuania;
- Romania;
- Slovakia;
- Slovenia.

242. Poland did not have an FIU at the time of the adoption of its report, though it is understood that one was to be brought into being in the Ministry of Finance in June 2001.

243. Liechtenstein and San Marino have different arrangements. In those states supervisory authorities also act as disclosure receiving agencies. PC-R-EV were subsequently advised that Liechtenstein's authority were given power under the Due Diligence Act to co-operate with other FIUs, whether supervisory or not[5]. By contrast, the examiners considered that the Office of Banking Supervision in San Marino was only permitted to co-operate in its capacity as a supervisory authority, and that this restriction should be lifted.

244. Several states do not have FIUs, though this, of itself, may not preclude them from exchanging some information informally - usually on a police to police basis. Similarly it does not preclude supervisory authorities (where they exist) exchanging spontaneous information with other supervisory bodies. The states without FIUs are:

- Albania;
- Andorra (though, according to its progress report, one is planned);
- Malta (though it is considering creating one and has participated in the Egmont Group as an observer);
- Georgia;
- Russian Federation (though the "Interagency Centre for Preventing Legalisation of Illegally Acquired Income" acted at the time of the evaluation as the *de facto* FIU and was tasked with opening up international links);
- Ukraine.

[5] So far as Liechtenstein is concerned this reflects the position as it was, before the creation of the FIU in March 2001.

245. The fact that an FIU is a member of the Egmont Group does not ensure that it can exchange information with all types of foreign FIUs. There can be particular difficulties for intermediary FIUs exchanging information with law enforcement FIUs.

246. Some states, like Cyprus, have legislated to make the provision of information to all types of foreign FIU explicit. From the replies to some of the progress report questionnaires, it seems that FIUs in a number of PC-R-EV states within the Egmont Group are now exchanging information with counterpart FIUs of whatever type. However in some cases the picture was not clear-cut, as the FIU concerned did not appear to have received a request from an FIU abroad, which was not of the same type.

247. It is suggested therefore that the effectiveness of these arrangements in practice deserves closer attention in the second round. The ability of FIUs to exchange information with all types of counterpart units, and, indeed, the definition of an FIU itself, would bear treatment in a multilateral instrument, such as any future Protocol to the Strasbourg Convention. It is understood that the Egmont Group would welcome this.

248. More consideration could also be given to the issue of spontaneous information exchanges by supervisory authorities. This was touched upon in only a few reports. It appears some supervisory authorities have such powers, but it was unclear how frequently they had been used, or whether their use depends on reciprocity.

(E) Operational Aspects

The FIU

249. The FIU is central to the anti-money laundering efforts of most PC-R-EV members. Indeed some of the more proactive FIUs, as well as being the disclosure-receiving agencies, are very much the focal points of national anti-money laundering strategies.

250. Where an FIU was in place it generally had ready access to commercial information and public records in assessing the disclosures it received. Some officials, in more than one country in the states in transition, favoured the creation of a national assets database to assist their analytical capabilities, but conceded the many legal and practical difficulties that such registers could pose.

251. A recurring issue was the availability to the FIU of ready access to police databases. While access to previous convictions was not a problem, access to police intelligence databases often was. In the case of some non-police FIUs such access was available, though only on request. The need to put such requests in writing slowed down the analytical process in those countries. Access to police intelligence information is clearly important if the FIU is to appreciate fully which disclosures need to be prioritised, because, for instance, the police are treating the subject of a disclosure as a target. Evaluation reports frequently recommended on-line access to all police databases (including intelligence). Indeed in the report on the Czech Republic it was recommended that a police presence in its Financial Analytical Unit (an intermediary unit) could help its staff to manage intelligence and prioritise cases. The progress report indicates that this recommendation was followed.

252. Several reports commented on the difficulties experienced by some FIUs in obtaining access to tax information and, to a lesser extent, to customs information. Progress reports indicated that some steps were being taken to alleviate these difficulties but there was more work still to be done. Sharing of tax information, particularly with law enforcement FIUs, remains a controversial and difficult issue beyond the borders of PC-R-EV states. But if FIUs are to be fully effective in analysing disclosures these issues need addressing. Greater efforts need to be made to create clearer gateways for the FIU to tax information.

253. More understandings had been reached between FIUs and Customs Departments. But, even here, some FIUs were still in the process of negotiating agreements with customs departments on information sharing. The FIU needs access to Customs intelligence (including all available data on cash declarations, and information on persons who fail to make cash declarations to Customs officials).

254. One or two countries have resolved some of these problems by making Customs authorities "obliged entities", so far as suspicious transaction reporting is concerned. Others were considering doing so.

255. It was noted that Central Banks in the region generally keep data on outgoing foreign exchange transactions through the banking system. This too can be of considerable intelligence value. This was not always shared with the FIU.

256. All countries could benefit from reconsidering whether the value of relevant intelligence data that is currently available in individual agencies involved in the anti-money laundering regime could be maximised by being shared with the FIU.

257. It is worth noting at this point that in several reports on countries, where currently no FIU existed, the examiners urged that serious consideration be given to a multi-disciplinary approach in the creation of a future FIU. It was suggested that the involvement of representatives of some, or all, of the main players in the national anti-money laundering regime could be beneficial. Such an approach would certainly facilitate information flows to the FIU. Perhaps more importantly, it could help to foster a more co-ordinated approach to the national anti-money laundering strategy generally. Some existing FIUs, such as those in Romania and Cyprus, had adopted this approach.

258. A further subject of comment in reports was the ability of FIUs to seek additional financial information about the subject of a disclosure. No FIU reported difficulty in obtaining additional information about a subject's transactions from the financial institution which made the report. A number of FIUs believed they had power under their legislation to demand information about a suspect's transactions from any other financial institution once a disclosure had been made. Other FIUs felt they only had power to obtain additional information from non-reporting financial institutions where they were connected with the particular suspicious transactions. Examiners generally felt that it was important that the FIUs should have powers to obtain information from any financial institution, once a disclosure had been made. The view was expressed in several reports that such an inroad into banking and professional secrecy should not be left to interpretation (and perhaps litigation) but should be explicitly provided for in legislation, if that was national policy.

259. Article 7 of EC Directive 91/308 provides *inter alia* that credit and financial institutions shall refrain from carrying out transactions which they know or suspect to be related to money laundering, until they have informed the authorities. Those authorities are permitted, under conditions determined by their national legislation, to give instructions not to execute the operation. 6 FIUs (or equivalent bodies) in PC-R-EV countries, at the time of their evaluations, had legislative authority to postpone transactions or cause them to be postponed. These postponement periods ranged from 2 hours in the case of the Croatian FIU (though it is understood this is being extended to 48 hours), to 3 months (at the behest of the prosecution in Poland). The norm, however, was between 1 to 3 working days.

260. It appears that these powers, where they exist, were being used. They were considered to be effective in avoiding dissipation of assets at the initial stages, when evidence is still being gathered sufficient to make a decision whether or not to seek formal court orders to restrain or freeze accounts.

261. FIUs and banks were less comfortable with powers to advise postponement. Credit institutions, understandably, preferred a clear postponing provision, rather than the decision being left to them. In such circumstances there are tensions between their duties to clients, their duties to avoid tipping off (if the customer asks why the transaction has not been actioned) and any liability the court may ultimately impose on the banks as constructive trustees (if they proceed with a transaction in respect of assets which may, in due course, prove not to belong to their client).

262. Legislative powers, to be used by or at the instigation of the FIUs, to postpone transactions for short periods in advance of full freezing orders were therefore advised in several reports. While such powers will certainly assist in blocking some suspicious transactions for short periods, they will not, of themselves, resolve all the difficulties the banks may encounter in respect of proceeding with a transaction where a report has been made and no postponement order is made.

263. One report suggested that powers to postpone ought not to depend entirely on the making of a domestic disclosure, but such powers could usefully be made available to an FIU where it receives foreign intelligence about a transaction which is about to take place. This issue may be one that would benefit from further thought in the second round and/or further consideration in standard setting.

264. All reports commented on the resourcing of FIUs. As seen, this is now important in the context of the FATF's "non co-operative countries" review. PC-R-EV examiners, from the outset of the first round, regularly made the point that it was a signal of a country's real determination to fight money laundering, that the FIU was properly resourced, both in terms of personnel (including trained analysts), and information technology. This is very important, because proactive and effective FIUs, at the heart of national anti-money laundering efforts, can make a real difference.

265. The tasks an FIU can perform are numerous. Not only do they need to be adequately resourced to deal speedily with the weight of disclosures they receive (and will receive in the future, given the wide range of undertakings from which disclosures can potentially be made), but also for their important role in outreach and awareness-raising generally in the financial sector, and for training and the provision of appropriate feedback.

266. At the time of their evaluation reports all countries with FIUs, apart from Cyprus, had full time staff assigned to the FIUs. It was noted in Cyprus's progress report that 5 full-time staff, including its Head, had been permanently assigned to the FIU since the evaluation.

267. Many FIUs had ambitious plans to expand their numbers and the reports frequently underlined the importance with which this was viewed by the examiners.

268. Where the FIU received in addition to the STRs a large number of cash transaction reports, and other transaction-specific information, examiners advised, in some reports, that the FIU might usefully reassess whether all the information it received was still essential and, if so, whether it was always put to the best use. In Lithuania, it was noted, for example, that the FIU received a huge volume of cash transaction reports and a comparatively small number of STRs, but that the three ongoing cases, at the time of the evaluation, did not emanate from the reporting system at all, but from police intelligence. In Latvia also a large amount of data was received by the FIU. It is, of course, for a country's FIU to decide whether it can usefully process all the data it receives. However the point of general application for all relevant authorities to consider is - does the amount of information an FIU receives divert scarce resources from the real priority of processing the suspicious transaction reports?

269. The provision of sufficient resources to provide meaningful feedback is critical. Without appropriate feedback arrangements it will be very difficult to achieve (and sustain in the longer term) the trust and confidence of the financial sector. In several countries representatives of the financial sector commented on the cost to them, not least in training, of putting in expensive

preventive systems. Understandably, they emphasised the importance to them of receiving timely feedback, not only to improve the quality of their reporting, but also to assist them in assessing their own business risks. The authorities in all countries, therefore, need to respond positively to the financial sector on this issue.

270. Most countries were seeking to establish some systems of feedback. Lithuania, in particular, had legislated for the provision of feedback.

271. It is important for the provision of feedback that there is good co-ordination between the FIU and law enforcement and the prosecution. In some countries the FIU seemed unaware of what happened to a disclosure once it was passed to the police or judicial authorities.

272. That said, most countries undertook training seminars, where anonymised information on cases, trends and money laundering typologies was given. It was interesting to note that the Slovenian FIU, at the time of their evaluation, planned the production of a regular brochure for the financial sector with money laundering typologies.

273. Case specific feedback, however, posed problems for several countries. The confidentiality provisions in national legislation were said to be obstacles so far as some FIUs were concerned. Case by case feedback at the wrong time clearly poses problems with the "tipping off" provisions.

274. That said, the provision of generalised typologies feedback was mostly considered by examiners to be the minimalist position. Countries were also encouraged to examine their systems, and, as necessary, provide a legal basis for case-specific feedback in all cases involving suspicious transaction reports. They were then urged to commence providing such feedback, at least covering in general terms the outcome of the enquiry.

275. The role of FIUs in supervision and sanctioning under the anti-money laundering legislation has been discussed earlier. While these issues are, of course, for national authorities to decide, it was generally felt by examiners that there was an identified need to engage the prudential supervisory authorities more directly with anti-money laundering supervision. While FIUs were well-placed to undertake a role in supervision when legislation was new, most examiners saw benefits in these responsibilities moving, in time, to the regulatory authorities. It is recognised that other large jurisdictions, outside PC-R-EV, have FIUs, which also have supervisory functions. These are difficult issues for countries to assess, but at the stage of development of anti-money laundering regimes in many PC-R-EV countries there was a clear preference by examiners for involving the prudential supervisors more closely. Several reports also emphasised the related need for information about suspicious transaction reports to be passed to the relevant supervisory body to increase its overall awareness of compliance issues in its sector.

276. One final issue before leaving FIUs. The articulation of performance indicators for FIUs clearly will assist domestic assessments of an FIU's effectiveness. The consideration of this issue is very much encouraged. Where such indicators are created, it will doubtless assist the process if they, and their findings, could be made available to the examiners in the second round.

Police Units

277. The examiners considered the overall law enforcement response on anti-money laundering issues - not simply their response to the disclosures passed to them for investigation. The table at Annex E shows the overall number of disclosures to the FIU. This table should be compared with the table at Annex B - which shows the numbers ultimately passed to the police/investigating judge for further enquiries. The table at Annex B seeks to demonstrate how law enforcement and the prosecution have responded, in terms of investigations, prosecutions, convictions, provisional measures and confiscations. Where such powers exist, it also shows, on the basis of such information as there is, the position so far as early postponement of the execution of transactions by the FIU (or at its

instigation). Annex B also seeks to show how may enquiries were generated independently of the STR/UTR system, where the FIU has no direct investigative role. In a small number of jurisdictions (such as Cyprus) the FIU has a direct investigative role.

278. Reliable figures on money laundering enquiries, which were independent of the STR/UTR regime, were difficult to obtain, but what was available points towards the conclusion that there is an over-reliance on the STR system generally as the generator of anti-money laundering investigations.

279. Whether generated by the reporting system or separately, investigations of money laundering cases were generally very protracted. This was sometimes for reasons beyond national control, such as delays in the obtaining of international assistance. But even making allowances for this, domestic legal processes in some countries appeared slow and bureaucratic and, arguably, contributed to the overall problems of law enforcement.

280. Part of the problem, as seen, is that generally there was little shared understanding between police and prosecutors on what was the minimum that was evidentially required to commence a money laundering prosecution, and, as noted earlier, more guidance from prosecutors would help.

281. Examiners also considered whether police powers inhibited law enforcement. On the investigative side a much repeated concern was the difficulty in obtaining bank information sufficiently early in the investigative stages. In most countries access to bank information turned on the existence of a charge, or the proximity of a charge, or other legal proceeding. Investigators frequently described a "Catch 22" situation: they had to obtain sufficient evidence to satisfy the prosecutor to make applications for bank information, but without the bank evidence, they could not reach that necessary standard to apply to the prosecutor. Countries need to examine whether investigators should have, with appropriate safeguards, access to banking information at much earlier stages in their enquiries. Outside of PC-R-EV, some states are addressing the same issue. None-the-less this may be an area which would benefit from the elaboration of clearer international standards.

282. One problem which was identified in several reports was the need to put beyond doubt, by legislative amendment if necessary, the availability of the technique of controlled delivery in respect of criminal proceeds. While many countries had clear legislative provision for controlled delivery of drugs, it seemed to the examiners that the legislation in several countries was open to challenge on its application to proceeds.

283. With some exceptions, the legal frameworks of member states appeared to provide generally adequate police powers to combat money laundering. Special investigative techniques were generally available, subject to constitutional safeguards. The real issue for most countries was whether available powers were used proactively in money laundering cases. By and large examiners concluded that in many countries there was a clear need for a more proactive approach by law enforcement to existing powers in money laundering investigation.

284. Perhaps the major reason for the apparently small number of police-generated money laundering investigations was the overall lack of law enforcement priority given to financial investigation generally. In many countries law enforcement required much more training and support in modern techniques of financial investigation. Numerous reports commented that in major proceeds-generating offences investigating officers needed routinely to think about the proceeds and "follow the money". While this problem is by no means unique to PC-R-EV countries, examiners generally considered that there needed to be a more developed culture within law enforcement to pursue the financial aspects of significant proceeds-generating offences, particularly those involving organised crime.

285. In most PC-R-EV countries there is a large number of investigative agencies with competence to investigate money laundering cases: organised crime units; economic crime units; drugs units, tax

police; financial police, customs and others. A multiplicity of agencies perhaps inevitably meant that in some countries the overall law enforcement response appeared fragmented, with available resources spread thinly. Equally, the sharing of intelligence and co-ordination of operations was made more problematic by the number of units involved with the issue. However examiners noted an interesting approach being developed in Bulgaria (and in some other countries). Bulgarian legislation specifically provides for the creation of discrete working groups (with experts from the FIU, the police and prosecution authorities) in cases of special significance. This "task force" approach or "joint project team" approach in major money laundering cases may be helpful in other countries.

286. Each country clearly needs to develop law enforcement structures tailored to its domestic situation. In some reports, none-the-less, it was suggested that the anti-money laundering law enforcement effort might benefit from a lead investigative unit supporting the FIU, with experience in financial investigation, which could provide immediate help with rapid freezing of assets. This may be a model which could commend itself to some other countries.

The Customs Authorities

287. Customs potentially have a very important role to play in national anti-money laundering strategies. With the exception of Latvia, in PC-R-EV countries, exchange control regulations remained in existence at the time of their evaluations.

288. In some countries, however, where exchange control regulations existed, there frequently appeared to be a lack of signs or directions at points of entry, clearly stating existing currency restrictions. This could bear revisiting in some jurisdictions.

289. In some countries it was also noted that the present limits on cash, which could be brought in without any declaration, were rather high for their economies, and recommendations were made that some of these limits should be revisited.

290. Co-operation in PC-R-EV countries between the FIUs and the Customs has been touched upon earlier. It was clearly well-developed where a multi-agency approach meant that Customs was actively involved in the work of the FIU. Elsewhere, efforts were gradually being made to maximise the use of available intelligence through the development of memoranda of understanding and the agreement of clearer gateways.

291. Generally speaking, however, PC-R-EV examiners found that Customs themselves were often rather distanced from the overall money laundering problem within individual jurisdictions. They often needed more education and training with respect to the threats involved in money laundering. This was particularly unfortunate as Customs can, and in some countries, need to provide an important front-line defence against cash money laundering.

292. The profile of Customs therefore needs raising in anti-money laundering strategies, particularly of those countries with long land borders, across which criminal cash proceeds can easily be smuggled.

293. Reports frequently suggested that consideration should be given to vesting the Customs authorities with a more operational role and greater investigative authority in customs-related money laundering cases. It was noted in this context that in Poland a new Customs Inspection Unit had been created in 1998, with officers with police powers. Many of these officers were young and appeared highly motivated. Such a model may commend itself to other countries.

Co-ordination Generally

294. As seen, the reports frequently noted that better co-ordination was needed among all the agencies with operational anti-money laundering responsibilities at working level. Often the FIU performed this role and, as indicated earlier, more project-based working may assist with this.

295. However, beyond this, there was a generally identified need for more co-ordination of thinking at the strategic level.

296. The reports almost unanimously agreed that most countries would benefit from a permanent co-ordination body, chaired at a suitably senior level, bringing together the main players in the anti-money laundering regime, with the capacity and authority:

- periodically to review objectively how the system as a whole is working in practice;
- to ensure that gaps in the present regimes were identified and reported to government.

297. It was encouraging to note that several countries, where such arrangements did not exist prior to their evaluations, have now put such structures in place. They are also identifying success factors for the operation of such groups. It has been noted from progress reports that such groups have begun the process of collective working on the production of co-ordinated guidelines to the financial sector generally on identifying suspicious transactions. It will be helpful in the second round if these co-ordination bodies can point to measurable differences they have been able to make to the effectiveness of national systems.

(F) Conclusions

298. The expectations of the Committee of Ministers of the Council of Europe when setting up PC-R-EV have surely been fulfilled. The Committee has undoubtedly performed important work in its first round.

299. Its evaluations have had the benefit of input from examiners, many of whom were often heavily involved in anti-money laundering issues on a day-to-day basis within their own countries. They brought a breadth of real technical expertise to this work. This is seen in the practical and pragmatic nature of many of the detailed recommendations in the reports. Most reports, in effect, provided countries with clear blue-prints for action across all sectors by the state undergoing evaluation.

300. It was noted at the beginning of this study how the participating states had, from the outset, developed a real sense of ownership of the mutual evaluation process. A strength of the PC-R-EV's activity, which clearly helped to develop this confidence, was the complete transparency of its process.

301. There is, thus, cause for some cautious optimism in PC-R-EV's overall findings.

302. The process has clearly produced results. As the programme has developed, and as the progress reports show, PC-R-EV has seen conventions being ratified by its members, anti-money laundering legislation being passed where none previously existed, laws being amended, and guidance being put into place or revised, in response to PC-R-EV reports. Several countries, such as Liechtenstein and Estonia, responded to recommendations with encouraging speed.

303. It is worth recalling that outside PC-R-EV states many other countries also have only had real anti-money laundering systems in place for short periods of time. Indeed, several countries, with more advanced or fully-developed economies, have experienced the same problems in developing a wide-ranging preventive regime, which regularly provides suspicious transaction reports in large

numbers outside the banking sector. Likewise, law enforcement and prosecutors in non PC-R-EV countries have experienced similar difficulties in achieving successful investigations, and prosecutions, and also in obtaining, enforcing, and realising significant confiscation orders.

304. Judged against this background, many PC-R-EV countries have made very considerable progress in a very short time.

305. Generally speaking, anti-money laundering regimes are in place across most PC-R-EV states with broadly comparable preventive and repressive legislation. The preventive legislation in many countries, often, on paper at least, goes beyond the current international standards with regard to the range of institutions covered.

306. Reports of suspicious transactions are now being made to competent authorities in most PC-R-EV countries. Investigations are being undertaken, and prosecutions are being brought. It appears that more attention is now being given to the issue of confiscation as a result of recommendations in reports and debates on these issues in plenary meetings.

307. That said, the results of all this activity, as has been emphasised throughout this report, are still extremely meagre, in terms of prosecutions and confiscations. Much more needs to be done in this area, particularly in targeting those suspicious transaction reports which need swift investigative activity and restraint proceedings before assets are lost.

308. In the financial sector more work needs to be done in engaging the non-bank financial institutions with the threats inherent in money laundering, as well as engaging relevant businesses in the non-financial sector with these issues. Reporting of suspicious transactions in both of these sectors needs to increase. The current numbers of reports from the non-bank financial sector and the non-financial sector indicate either a lack of awareness of obligations, or an unwillingness to make reports by the relevant governments. More emphasis needs to be placed by the regulators on anti-money laundering supervision. Obvious abuses, such as the continued existence of bearer accounts, need addressing by the relevant governments against meaningful timescales. Credit and financial institutions need to pay closer attention to the identification of the ultimate beneficiaries of transactions if the customer identification rules are to have real teeth. Moreover, staff in credit and financial institutions need more guidance from their supervisors (or otherwise) on how to identify suspicious transactions.

309. Greater attention also needs to be paid to company formation regimes and the money laundering risks inherent in rapid electronic payment systems, and Internet banking. Most systems appeared to have been designed only to handle paper-based systems. As PC-R-EV states develop, paper based preventive regimes will become increasingly less relevant.

310. In the law enforcement sector, greater emphasis needs to be given to financial investigation and the identification of criminal proceeds generally as a routine part of the detection of major acquisitive crime. More money laundering cases will then be generated independently of the STR/UTR system. Domestic prosecutors and law enforcement have much work to do co-operatively to ensure that successful prosecutions are brought and major confiscation orders are obtained in appropriate cases. The growing capacitates of countries to afford each other the widest measure of international co-operation will also help this process.

311. One notable issue, which was revealed by the process, was that in some countries there appeared to be a lack of understanding of the importance of anti-money laundering measures being taken by law enforcement and the prosecution in respect of the traditional proceeds-generating criminal offences perpetrated by organised crime groups. A mindset appeared to be developing in some countries, which viewed anti-money laundering legislation almost exclusively as a tool in a state's campaign to recover lost revenue. This manifested itself in money laundering investigations and prosecutions largely linked to revenue-based economic infringements. Important as that issue is for

economies, which have been devastated by capital flight, it should not be the sole priority of a national anti-money laundering regime.

312. Equally, in some countries, there was an evident need for closer domestic analysis of exactly how money laundering was being achieved in their jurisdiction: was it through the banks? Was it through shell companies? Was it through the privatisation system? Exactly how vulnerable were the bureaux de change and the casinos? Examiners noted that some of the preventive laws which had been passed were not really based on clear analyses of the prevailing domestic money laundering problems. Some laws appeared to have been borrowed from neighbouring countries, or were heavily influenced by legislation from other larger non PC-R-EV European states.

313. Closer inter-agency co-operation will doubtless help to clarify domestic anti-money laundering priorities. It was clear that properly resourced and proactive FIUs have the capacity to galvanise their systems to address stubborn issues and focus collective effort. Where such units did not exist, and co-ordination was weak, examiners often saw disparate bodies seeking to craft solutions, without a real understanding of the overall national money laundering threat. It is not easy to analyse these problems on a national basis. The development of national anti-money laundering strategies does not fit easily into the agendas of governments, as the issue cross-cuts many departmental responsibilities. The importance of effective and permanent strategic co-ordination bodies, perhaps serviced by the national FIUs, cannot therefore be underestimated.

314. No country can every say it is "money laundering proof". There is a continuing need for fair and objective scrutiny of national anti-money laundering systems. It clearly helps if this is undertaken by dispassionate technical experts, who as "critical friends", can constructively assist countries in the identification of the weaknesses in their systems, and the further development of practical solutions, based on different national experiences.

315. In the second round it will be essential for examiners to try to establish whether or not the new preventive legislation has only proved in practice to be cosmetic. The examination teams will need to carefully assess whether a country has shown real political commitment to the legislation it has passed, by the provision of sufficient resources for effective implementation. Equally, it will be critical to establish whether the repressive systems are producing concrete results, by way of prosecutions and serious confiscation orders.

316. Thus, PC-R-EV has significant work to complete in its second round. By building on what has been achieved, it can continue to make a very valuable contribution to the global fight against money laundering in this critically important region of the world.

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MONEY LAUNDERING OFFENCES

ANNEX A

								RANGE OF PREDICATE OFFENCES				SANCTIONS			
STATE	SEPARATE CRIMINAL PROVISION FOR MONEY LAUNDERING	GENERAL CRIMINAL PROVISIONS USED FOR MONEY LAUNDERING PROSECUTIONS, BECAUSE NO SEPARATE CRIMINAL OFFENCE IS IN EXISTENCE	PHYSICAL ELEMENTS OF MONEY LAUNDERING OFFENCES BROADLY FOLLOW ALL RELEVANT ASPECTS OF THE PRINCIPAL CONVENTIONS, (AND INCLUDE SIMPLE POSSESSION, USE OR ACQUISITION WITHOUT FURTHER RESTRICTION (EG TO USE IN ECONOMIC ACTIVITY). NO RESTRICTION TO "CONCEALMENT" OR "DISGUISE"	"OWN PROCEEDS" LAUNDERING COVERED	OFFENCE CAN BE PROSECUTED WHERE PREDICATE CRIME COMMITTED ABROAD	NEGLIGENT MONEY LAUNDERING CAN BE PROSECUTED	MENTAL ELEMENT COVERS REASONABLE SUSPICION OR SUSPICION GENERALLY	ALL CRIMES APPROACH	LIST APPROACH (INDIVIDUALLY SPECIFIED OFFENCES)	OTHER OFFENCES WITH PARTICULAR AGGRAVATING FEATURES (EG COMMITTED AS PART OF AN ORGANISED GROUP AND/OR IN LARGE AMOUNTS, OR BY OFFICIAL PERSONS)	LIST BASED ON LENGTH OF SENTENCE FOR PREDICATE OFFENCE (EG 3+ YEARS OR 5+YEARS)	BASIC OFFENCE MAXIMUM	NEGLIGENCE	AGGRAVATING FEATURES (EG COMMITTED AS PART OF AN ORGANISED GROUP OR ON A LARGE SCALE, OR REPEATEDLY OR BY AN OFFICIAL PERSON, OR AS AN ATTORNEY-AT-LAW	CHANGES IN PROGRESS REPORT
ALBANIA	No	Yes (pre - existing)	No	Thought possible, not expressly provided for	Thought possible, but not provided for explicitly	Yes	No	Yes	N/A	N/A	N/A	3 - 10 years	3 - 10 years	3 - 10 years	
ANDORRA	Yes	No	Uncertain	Thought possible, not expressly provided for	Yes, expressly provided for but dual criminality required	Yes	No	No	Yes - Drug trafficking, hostage taking, illegal arms sales, prostitution, terrorism	N/A	N/A	8 years 20,000 Pesetas	1 year 5,000 Pesetas	10 years 80,000 Pesetas	Changes planned to the list of predicates particularly to include smuggling (June 2000)
BULGARIA	Yes	No	Broadly receiving offence said to cover possession of laundered proceeds	Thought possible but still subject to interpretation by courts	Yes, but has to be an offence under Bulgarian law and a conviction thought to be required	No	Yes	Yes	N/A	N/A	N/A	5 years or 5000 Levs	-	8 - 12 years depending on features	No changes since the adoption of the report (June 2000)
CROATIA	Yes	No	Broadly yes	Yes, expressly covered in legislation	Yes, expressly provided for	Yes	No	No	No	Yes - all criminal offences committed as part of a group or criminal organisation	All criminal offences punishable by 5 years or more	5 years	3 years		Penal Code amended from December 2000, 5 year limitation for predicate offences removed and the principle of "all Crimes" approach applied (June 2001)

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STATE	**SEPARATE CRIMINAL PROVISION FOR MONEY LAUNDERING**	**GENERAL CRIMINAL PROVISIONS USED FOR MONEY LAUNDERING PROSECUTIONS, BECAUSE NO SEPARATE CRIMINAL OFFENCE IS IN EXISTENCE**	**PHYSICAL ELEMENTS OF MONEY LAUNDERING OFFENCES BROADLY FOLLOW ALL RELEVANT ASPECTS OF THE PRINCIPAL CONVENTIONS, (AND INCLUDE SIMPLE POSSESSION, USE OR ACQUISITION WITHOUT FURTHER RESTRICTION (EG TO USE IN ECONOMIC ACTIVITY). NO RESTRICTION TO "CONCEALMENT" OR "DISGUISE"**	**"OWN PROCEEDS" LAUNDERING COVERED**	**OFFENCE CAN BE PROSECUTED WHERE PREDICATE CRIME COMMITTED ABROAD**	**NEGLIGENT MONEY LAUNDERING CAN BE PROSECUTED**	**MENTAL ELEMENT COVERS REASONABLE SUSPICION OR SUSPICION GENERALLY**	**ALL CRIMES APPROACH**	**LIST APPROACH (INDIVIDUALLY SPECIFIED OFFENCES)**	**OTHER OFFENCES WITH PARTICULAR AGGRAVATING FEATURES (EG COMMITTED AS PART OF AN ORGANISED GROUP AND/OR IN LARGE AMOUNTS, OR BY OFFICIAL PERSONS)**	**LIST BASED ON LENGTH OF SENTENCE FOR PREDICATE OFFENCE (EG 3+ YEARS OR 5+YEARS)**	**BASIC OFFENCE MAXIMUM**	**NEGLIGENCE**	**AGGRAVATING FEATURES (EG COMMITTED AS PART OF AN ORGANISED GROUP OR ON A LARGE SCALE, OR REPEATEDLY OR BY AN OFFICIAL PERSON, OR AS AN ATTORNEY-AT-LAW**	**CHANGES IN PROGRESS REPORT**
CYPRUS	Yes	No	Yes the language follows all aspects of the international texts	Yes (expressly provided for)	Yes, (expressly provided for)	Yes	Not known	Yes (since November 2000)	Yes (up to November 2000). Premeditated murder, drug trafficking, trafficking in arms, offences in connection with stolen antiquities and cultural heritage, abduction of a minor, robbery, offences contrary to the convention for the natural protection of nuclear material, attempted murder, living on the earnings of prostitution, corruption of public or private servants, other offences prescribed by regulations		Yes - any other offence punishable with 2 year or more	14 Years and or a fine	5 years and or a fine	N/A	No relevant changes (June 1999)
CZECH REPUBLIC	Arguably but significant disagreement among competent authorities as to its real scope	Yes but scope of offences unclear	Uncertain Examiners recommended following language of conventions	No	Thought possible by Czech authorities but examiners thought needed clarification	Czech authorities believe this is covered, though it was subject to interpretation by the courts	No	Yes	N/A	N/A	N/A	2 years or a fine	6 months or a fine	5 and 8 years	legislation planned to clarify that Czech Republic can prosecute money laundering when the predicate offence is committed abroad. Understood further legislation dealing with criminalisation planned (December 1999)
ESTONIA	Yes	No	No	No	Thought possible by the Estonian authorities but no court experience	No, but there are differences on aspects of interpretation	Unclear	Yes	N/A	N/A	N/A	4 years or a fine	-	10 years	No changes to the physical aspects of the offence, "own proceeds" laundering or mental element (June 2001)
GEORGIA	Yes	No	Uncertain Examiners recommended following language of conventions	Thought possible, but not expressly provided for	Thought possible by the Georgian authorities subject to dual criminality	No	No	Yes	N/A	N/A	N/A	5 years or a fine	-	10 years	

MONEY LAUNDERING OFFENCES

ANNEX A

								RANGE OF PREDICATE OFFENCES				SANCTIONS			
STATE	SEPARATE CRIMINAL PROVISION FOR MONEY LAUNDERING	GENERAL CRIMINAL PROVISIONS USED FOR MONEY LAUNDERING PROSECUTIONS, BECAUSE NO SEPARATE CRIMINAL OFFENCE IS IN EXISTENCE	PHYSICAL ELEMENTS OF MONEY LAUNDERING OFFENCES BROADLY FOLLOW ALL RELEVANT ASPECTS OF THE PRINCIPAL CONVENTIONS, (AND INCLUDE SIMPLE POSSESSION, USE OR ACQUISITION WITHOUT FURTHER RESTRICTION (EG TO USE IN ECONOMIC ACTIVITY). NO RESTRICTION TO "CONCEALMENT" OR "DISGUISE"	"OWN PROCEEDS" LAUNDERING COVERED	OFFENCE CAN BE PROSECUTED WHERE PREDICATE CRIME COMMITTED ABROAD	NEGLIGENT MONEY LAUNDERING CAN BE PROSECUTED	MENTAL ELEMENT COVERS REASONABLE SUSPICION OR SUSPICION GENERALLY	ALL CRIMES APPROACH	LIST APPROACH (INDIVIDUALLY SPECIFIED OFFENCES)	OTHER OFFENCES WITH PARTICULAR AGGRAVATING FEATURES (EG COMMITTED AS PART OF AN ORGANISED GROUP AND/OR IN LARGE AMOUNTS, OR BY OFFICIAL PERSONS)	LIST BASED ON LENGTH OF SENTENCE FOR PREDICATE OFFENCE (EG 3+ YEARS OR 5+YEARS)	BASIC OFFENCE MAXIMUM	NEGLIGENCE	AGGRAVATING FEATURES (EG COMMITTED AS PART OF AN ORGANISED GROUP OR ON A LARGE SCALE, OR REPEATEDLY OR BY AN OFFICIAL PERSON, OR AS AN ATTORNEY-AT-LAW	CHANGES IN PROGRESS REPORT
HUNGARY	Yes	No	Yes	No	Thought possible by the Hungarian authorities but untested	No general provision though being considered (failing to report by negligence covered)	No	No	Yes human trafficking, misuse of narcotic drugs infringement of an obligation of international law and bribery, and all offences punishable by 5 years or more	N/A	Yes includes all offences punishable by 5 years or more	5 years	2 years labour in the public infereit or fine	8 years	Legislation entered into force on 01.03.00 to allow for prosecution on an "all crimes" basis. The Hungarian authorities have advised (January 2001) that negligent money laundering will be introduced on 01.04.02.
LATVIA	Yes		Yes	Thought possible by Latvian authorities but not expressly covered	Thought possible by the Latvian authorities	No	No	No	List approach - 14 categories of crime said to total at least 42 criminal offences (including post on site visit amendments to the law)	N/A	N/A	5 years	-	10 years	
LIECHTENSTEIN	Yes	No	No (drug related) Yes (for offences punishable by more than 3 years imprisonment)	Yes (drug related crimes) No (other crimes	Yes	No	No	No	Money laundering is defined as an "act to prevent the determination of the origin, the funding or the confiscation of assets with respect to a range of narcotic drug related crimes and misdemeanours and money laundering (as defined) in respect of crimes punishable with more than 3 years imprisonment	N/A	Crimes punishable with 3 or more years imprisonment	3 years (drug related offences) or a fine up to 306 "daily rates" 2 years (other crimes) or a fine up to 360 times "daily rates"		5 years	Criminal provisions tightened. The list of predicate offences has been extended from crime in general to misdemeanours of bribery; "own funds" laundering is now punishable; changes made to the law to assist the prosecution when seeking to prove the *mens rea* in non drugs related money laundering cases - simple or contingent intention now sufficient (January 2001)
LITHUANIA	Yes	No	No Examiners recommended following language of international conventions	Lithuanian authorities thought it was covered implicty but subject to court interpretation	Lithuanian authorities thought this was implicit	No	No	Yes	N/A	N/A	N/A	7 years + deprivation of a particular right or rights for 3 - 5 years	-	8 years + deprivation of rights for 3 - 5 years	No change to the physical elements of the offence or with regard to money laundering by negligence, but new draft of offence would explicitly cover "own proceeds" laundering (June 2000)

MONEY LAUNDERING OFFENCES

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MALTA	Yes	No	Yes, closely follows the language of the international conventions	Yes (specifically covered by legislation)	Yes (specifically covered by legislation)	No	Yes for certain drug related predicates when money laundering prosecuted under dangerous drugs ordinance	No	All drug related criminal activity provided for in Vienna Convention. Other predicate offences: Arms trafficking. Trafficking in people for immoral purposes. Dealing in slaves. Piracy. Illegal arrests detention or confinement of a person, Wilful homicide, Wilful Gbh, Blackmail	N/A	N/A	14 Years and or a fine up to 1 million Maltese Lire	-	Life imprisonment relating to prosecutions for money laundering brought under the dangerous drug ordinance or medical and kindred professions ordinance	The list of predicate crimes has been extended to embrace the most serious crimes likely to generate proceeds including fraud, offences of prostitution, offences involving pornography or obscene articles, offences involving corrupt practices including bribery, extortion and embezzlement (Dec 99)
POLAND	Yes	No	No	No	Polish authorities thought this was possible	No general provision	Partly. Failing to report suspicions of money laundering covered; likewise employees of financial and credit institutions can be prosecuted for money laundering where the circumstances arouse justifiable suspicion	No. Polish authorities considered their list open - ended	Many specific offences eg, drug trafficking, smuggling, robbery are particularised in the offence. The examiners were concerned as to whether the list would be interpreted as open-ended	N/A	N/A	5 years 3 years (for failing to report suspicions promptly)	-	10 years	New definition of the money laundering offence includes liability for money laundering for the author of the predicate offence, abolishes the particularised list of predicate offences; and raises the sentence for the basic offence to 8 years. (January 2001)
ROMANIA	Yes	No	The language closely follows the international conventions	Romanian authorities thought it implicit in the law	Romanian authorities thought law broad enough to cover this	No	No	No	Wide enumerated list of predicate offences including drug trafficking smuggling, blackmail, bank and financial fraud	Any offences committed as part of a criminal association any offences committed with credit cards	N/A	12 years	-	15 years (if as part of an association to commit money laundering)	A range of crimes connected with corruption has been added to the predicate offence list (January 2001)

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RUSSIAN FEDERATION	Yes	No	Language did not follow the international conventions. Examiners uncertain whether the provisions are fully consistent with A6 Strasbourg convention and recommended they should be revisited	Yes	Thought possible but not provided for exphcitly	No	No	Yes based on all illegal activity	N/A	N/A	N/A	4 years fine up to 100 fines minimum wage	-	10 years + confiscation of property	-
SAN MARINO	Yes	No	While broadly following the language of the conventions unclear whether simple possession of laundered proceeds covered	No	Issues addressed in the law but unclear whether, properly interpreted, predicate offence is subject simply to dual criminality principle or whether predicate must also be subject to the jurisdication of the SM courts. Amendments recommended	Examiners considered negligent Money laundering not covered	No	Yes	N/A	N/A	N/A	3 years and "Daily fine" of 10 - 40 days based on what offender can afford	-	6 years + daily fine of 20 - 60 days	-
SLOVAKIA	Yes	Yes, an offence similar to handling stolen goods may be considered if the "considerable value" threshold for the money laundering offence is not met	Follows the language of the conventions but money laundering, cannot be prosecuted unless proceeds are of "connderable value" (300,000 SKK or $9000)	Yes	Thought possible but not provided for explicitly	No	No	Yes	N/A	N/A	N/A	5 years fine, prohibition of activity	-	8 years and 12 years	"Considerable value" requirement removed. Prosecutions can be undertaken where proceeds from crime are more that 21,600 SKK (or 500 Euro) (December 1999)

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SLOVENIA	Yes	No	No. Restricted to acts in the performance of banking, financial or other economic operations and money laundering cannot be prosecuted unless proceeds are of "considerable value"	Not expresscy provided for in legislation but considered to be permitted	Yes	Yes	No	Broadly. Organised drug trafficking, illicit trade of weapons or other unlawful activities				5 years	2 years		Penal Code amended and became effective in April 1999: Physical elements of money laundering offence now broadly follow language of the conventions; restriction to banking, financial or other economic operations removed; Clear "all crimes" approach, own proceeds laundering explicitly covered by the criminal offence; "considerable value" requirement removed as a prerequisite of the offence - becomes an aggravating feature attracting up to 8 years + a fine. Money laundering as part of criminal group is an aggravating feature attracting up to 10 years + a fine. (June 1999)
"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"	Yes	No	No. Restricted to acts in banking, financial or other economic operations; simple possession not covered	Thought possible though not expressly provided for	Not expressly provided for though the authorities thought that this was covered if there was "firm evidence" of the offence abroad	Yes	No	Broadly covers trade in narcotics, trade in arms or through other punishable action - depends on court interpretation	N/A	N/A	N/A	10 years (sentence = 1 - 10 years)	3 years or a fine	Minimum 5 years (Maximum 10 years)	
UKRAINE	Yes but only drug related	Separate receiving offence. Ukrainian authorities could not say whether it had been used in money laundering context.	No	Not expressly provided for in law but thought permissible	Not expressly provided for in law but thought permissible	No	No	No	Illegal turnover of drugs, psychotropic substances and precursors	N/A	N/A	10 years	-	15 years	-

GLOSSARY

N/A = Not Applicable

ANNEX B

INVESTIGATIONS & PROSECUTIONS INCLUDING RELATED RESTRAINT & CONFISCATION ISSUES

					INVESTIGATIONS FOR MONEY LAUNDERING INDEPENDENT OF STR/UTR REGIME									
COUNTRY	**YEAR**	**STRs / UTRs REPORTED BY FIU TO POLICE / OR TO THE PROSECUTOR**	**CLOSED BEFORE GOING TO POLICE/ PROSECUTOR**	**SUSPENSION / POSTPONEMENT OF TRANSACTION BY OR ON PROPOSAL OF FIU**	**POLICE**	**PROSECUTOR / INVESTIGATING JUDGE**	**DISMISSED AT INVESTIGATION STAGE**	**MONEY LAUNDERING CASES BEFORE THE COURTS (IE PROSECUTIONS / INDICTMENTS)**	**PROVISIONAL MEASURES TAKEN IN MONEY LAUNDERING CASES (APPLICATIONS OR VALUE IF KNOWN)**	**PROVISIONAL MEASURES TAKEN GENERALLY (APPLICATIONS OR VALUE IF KNOWN)**	**CONVICTIONS FOR MONEY LAUNDERING**	**ACQUITTALS FOR MONEY LAUNDERING**	**CONFISCATION ORDERS IN MONEY LAUNDERING CASES**	**CONFISCATION ORDERS GENERALLY**
ALBANIA (Report September 2001)		N/A (No FIU in place at time of on site visit)		N/A	2/3	27		2	N/K	N/K	-	-	-	N/K
ANDORRA (Report June 1999)	1993 - 1998	10 reported direct to judge		NO	5	19	12	5	Appears to be applied in all cases 1,500,000 FF 1,237,800 $ 100,000 $	N/K	1 (Subject of appeal)	1	- $ 1,237,800 (Upon conviction) - Chalet with value of 1,500,000 FF (where defendant died)	N/K
PROGRESS REPORT (June 2000)	1999 - 2000	3 + 6 outstanding from previous years			4	14		2	6 applications (3 on behalf of foreign states) 100,000,000 ESP		1 (16.11.99)		$ 1,570,168.82	
BULGARIA (Report June 2000)	01/11/98 - 01/09/99	18 (to prosecutors 42 (to police)		Yes 15	Unclear		0	5	$ 613,000 + 279,000 DM		0		-	
PROGRESS REPORT (June 2001)	2000 - 2001			28 $ 1,500,000	12 Investigations - unclear whether generated by police or STR systems			8		$114,720,653 (53 cases)	0			
CROATIA (Report June 2000)	04/02/97 - June 2000	14 STRs		Yes numbers N/K	1	Unclear		1	No action taken in any money laundering case	N/K	0	-	-	N/K
PROGRESS REPORT (June 2001)		52			21	11 cases sent by police to investigating judges		3	6 = $ 4,400,000 (5 = $ 3,400,000,00) (1 = Real estate valued $1 million)		1 (of 4 persons)		$ 365.000 (cash and Real estate)	N/K
CYPRUS (June 1998)	01/01/97 - 30/04/98	All cases where there are reasonable grounds for belief money laundering offence has been committed are investigated by the unit for combating money laundering (the FIU)		No			52 cases concluded	0	$ 13 million (several orders were in response to request for international assistance)		0			
		< 24 under investigation >												
PROGRESS REPORT (June 1999)	1998 - June 1999	< 49 under investigation >					Unclear	5	1 case (domestic) CY £ 92,000	See previous column	1 (July ' 98)	-	-	

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					INVESTIGATIONS FOR MONEY LAUNDERING INDEPENDENT OF STR/UTR REGIME									
COUNTRY	**YEAR**	**STRs / UTRs REPORTED BY FIU TO POLICE / OR TO THE PROSECUTOR**	**CLOSED BEFORE GOING TO POLICE/ PROSECUTOR**	**SUSPENSION / POSTPONEMENT OF TRANSACTION BY OR ON PROPOSAL OF FIU**	**POLICE**	**PROSECUTOR / INVESTIGATING JUDGE**	**DISMISSED AT INVESTIGATION STAGE**	**MONEY LAUNDERING CASES BEFORE THE COURTS (IE PROSECUTIONS / INDICTMENTS)**	**PROVISIONAL MEASURES TAKEN IN MONEY LAUNDERING CASES (APPLICATIONS OR VALUE IF KNOWN)**	**PROVISIONAL MEASURES TAKEN GENERALLY (APPLICATIONS OR VALUE IF KNOWN)**	**CONVICTIONS FOR MONEY LAUNDERING**	**ACQUITTALS FOR MONEY LAUNDERING**	**CONFISCATION ORDERS IN MONEY LAUNDERING CASES**	**CONFISCATION ORDERS GENERALLY**
CZECH REPUBLIC (Report December 1998)	01/07/96 - 01/04/98	15		Power to postpone numbers not known	11 cases (Unclear whether from UTR regime or independent of them)			2 (according to replies to mutual evaluation questionnaire) however other authorities indicated in 1996 and 1997, 36 persons were prosecuted for A 251a and 101 persons were prosecuted under A. 252*(i)	Police estimate 10% of laundered money seized but no official statistics were available to the examiners	N/K	Czech authorities advised that in 1996 7 persons were convicted and in 1997 14 were convicted under A251a and in 1996 and 1997 80 persons convicted under A252*2	N/K		No official statistics were available to the examiners.
PROGRESS REPORT (December 1999)	1999	47						1	1 case (see previous column $15 million)	N/K	0	0	-	N/K
ESTONIA (Report June 2000)	01/07/99 - 05/2000	7 (14 closed as insufficient by FIU)		Transaction of which the FIU is informed may be carried out if FIU grants written permission or within 2 days of notification	0									
PROGRESS REPORT (June 2001)	2000 - 15/05	34 14		-	N/K			6	5 accounts frozen in domestic cases (10 million EEK) 2.3 million $ on behalf of USA and 3.1million FINN	N/K	1 for failure to comply with requirements of money laundering prevention act	0	0	N/K
GEORGIA	NO SYSTEM IN PLACE OR STATISTICAL INFORMATION													
HUNGARY (Report 1999)	1994 - October 1998	3 long term investigations passed to directorate against organised crime		No provision for this	Unclear whether any independent ones				0	N/K	N/K	0	0	-
PROGRESS REPORT (January 2001)	1999	5 (on account of non money laundering crime)		#1	Unclear				1 ?	N/K	N/K	0	-	-
LATVIA (Report January 2001)	01/06/98 - 01/01/2000 1998 1999 2000 Total	 2 31 6 39		No power can advise the banks to postpone	0	0		N/K	0	0	803,64 thousand lats in attachment orders 1995 - 98 in predicate crimes	0	0	0

#1: The Hungarian authorities have advised that recent Anti-terrorist legislation includes the power to suspend suspicious transactions.

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LIECHTENSTEIN (Report for 2000)	01/01/97 - 31/12/98	45 cases		Once an STR made maker of report entitled and obliged to freeze assets until instructions received from FSA for a period not exceeding 8 working days	0	0	12	33	0	Some for foreign courts	0	0	0	N/K
PROGRESS REPORT (February 2001)	1999 2000	14 56		- -			2 0	12 56		250 million Swiss Francs (including money laundering)	0	0	0	N/K
LITHUANIA (Report June 1999)	1998	FIU (Tax police) has investigative role) 22 (STRs) 335,000 (UTRs)		No power	29 investigations		26	3 cases all based on non STR/UTR information (i.e. other intelligence)	0	N/K	0	0	0	N/K
PROGRESS REPORT (June 2000)	1999 2000 Total	66 (STRs) 415,950 (UTRs) 21 (STRs) ?85,140 (UTRs) 109 (STRs) 836590 (UTRs)			160 reports investigated leading to 14 penal cases being initiated, 2 of which were for money laundering		Unclear	5 Cases (2 from STR / UTR systems)	Seizure in 1 case of property value of 170,000 Litas and bank a/c frozen in sum of 160,000 Litas	N/K	0	0	0	
MALTA (Report December 1998)	1995 - 1998 1995 1996 1997 1998 Total	N/A - - - - -		N/A - - - - -	Police investigate all STRs 4 11 5 12 32		 26	 0 1 3 2 6	(Total value = 1,824,044.90 $) 0 4 Cases 0 5 Cases	Taken in other cases but values not known	 0 0 0 0 0	 0 0 0 0 0	 0 0 0 0 0	Confiscation orders have been made but values N/K
PROGRESS REPORT (December 1999)	1999	-		-	10			1	2 cases (1 for 16.5 million $, other value being assessed)	N/K	0	0	0	Values N/K
MOLDOVA		N/A	N/A	N/A	N/A	N/A	N/A	-	-	N/K	-	-	-	N/K possible for certain - economic offences

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POLAND (Report February 2000)	1995 - 1999 1995 1996 1997 1998 1999 Total	Number of STRs to public prosecutor Unknown		Public prosecutor can order suspension but numbers not known. The FIU when operational will have such powers	 10 11 6 27 7 61	Police advised prosecutor may have investigated 14 cases 14		3 (Total)	N/K	N/K	0	0	0	N/K
PROGRESS REPORT (January 2001)	2000	Uncertain		-	65 penal investigations some submitted as a result of STR system to prosecutor, others from police information		N/K	3	3 cases: 1 million DEM; 5 million $US PLN 300,000 + real-estate valued at PLN 700,000	N/K	0	0	0	N/K
ROMANIA (Report February 2000)	April 1999 - February 2000	43		FIU has the power; numbers N/K	87 investigations - unclear how many were independent of STR regime		N/K	3	8 seizures made in 2000 on property equivalent to 2.5 million Euro	See previous column for 2000	0	0	0	(1995 - 98) 1995 approx 39 million Lei 1996=approx 29 million Lei; 1997=39.5 million Lei; 1998=77 million Lei
PROGRESS REPORT (January 2001)	2000	130												
RUSSIAN FEDERATION (Report January 2001)		Inter agency centre advised 442 criminal investigations commenced as a result of its analyses for a variety of offences		N/A	1997 - 241 1998 - 1003 1999 - 965 Total: 2209			149 745 679 Total 1573			15 21 Total 36			349.2m Roubles (1997) 1.3 million Roubles (1998) 933 million Roubles (1999) (for economic crime)
SAN MARINO (Report January 2001)	1996 - 1999	3 STRs received in 1999 were likely to be reported to judicial authorities	2	-	0	0	-	0	0	N/K	0	0	0	N/K
SLOVAKIA (Report December 1998)	01/07/97 - 31/12/97	79	118	FIU has no such direct powers	Unclear			1/10/94 - 31/12/97, 45 persons prosecuted, 22 persons preparatory proceedings concluded	0	0	2 cases	20 defendants (some cases may have still been pending)	0	0
PROGRESS REPORT (December 1999)	1998 - end September 1999				37 Cases investigated (unclear how many independent of STR systems)		31 Cases	6 Cases		15 cases (values N/K)	1 case		1 case 20,000 Euro approx	

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					INVESTIGATIONS FOR MONEY LAUNDERING INDEPENDENT OF STR/UTR REGIME									
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SLOVENIA (Report June 1998)	1995 1996	4 Cases 13 Cases		Yes numbers N/K	3 12				(1995 -97) 3 Cases 1996 - 10,923,183, 15 DM					
	1997	11 Cases				1			1997 - 8.502.246, 00 FF					
	Total	28 Cases	68				1 (against 7 individuals rejected by State prosecution)		53.327, 00 DM 61.154, 00 USD 1998 - 1.654.084.318, 00 ITL 53,000, 00 USD		0	0	0	N/K
PROGRESS REPORT (June 1999)	1998 - 1999	5	48		16		-		2 cases before the court	3 on proposal of FIU (647.5540 DM ; 1.767.896 ITL ; 12.199 USD ; 8208 ATS ; 13.413 GBP) 1 by police (394.000 CHF ; 990 DEM ; 84.194,780 SIT {in shares})	0	0	0	N/K
"FORMER YUGOSLAV REPUBLIC OF MACEDONIA" (Report June 2000)	1997 - October 1999	No FIU	N/A	N/A	0	0	N/K	0	0	N/K	0	0	0	N/K
PROGRESS REPORT (December 2001)	2000 - 2001	0	0	0	0	0	0	0	0	N/K	0	0	0	N/K
UKRAINE (Report January 2001)	1995 - May 2000	No FIU	N/A	N/A	39 (for drug money laundering)		N/K	0	0	N/K	0	0	0	N/K

1 there was significant disagreement as to the true scope of these offences.
N/K = Not Known

ANNEX C

	Failure to Report	Tipping Off
Albania	Administrative offence except where constitutes a criminal offence under the law.	Administrative offence. No criminal sanction
Andorra	Administrative sanctions, but no separate criminalisation - though money laundering prosecutable by negligence	No separate criminal sanction but strong obligations on professional secrecy with criminal penalties for breaches
Bulgaria	Failure to report by officials criminalised in cases of "significant impact"	General administrative sanction for persons other than the FIU. For officials of the FIU disclosure is a breach of official secrecy
Croatia	Administrative offence	Administrative offence
Cyprus	Criminal offence for failure to disclose knowledge or suspicion of money laundering where relevant information obtained in the course of trade, profession or business	Criminal offence
Czech Republic	Administrative sanctions	Administrative offence save where it is a breach of penal code
Estonia	Wilful failure to report is a criminal offence	Criminal offence for employees of credit and financial institutions to disclose information about suspicious transactions
Georgia	Unclear	Unclear
Hungary	Criminal offence both for knowingly failing to report and negligently failing to report	Administrative and restricted to the making of reports and does not extend to the disclosure to the customer or a third party that a money laundering investigation is being carried out, though part of penal code may be relevant
Latvia	Failure to report unusual or suspicious transaction is clearly an administrative offence. Less clear whether any criminal provisions are apt	For the FIU criminal liability under Official Secrets legislation but unclear to the examiners whether officers of financial institutions are caught
Liechtenstein	Wilful failure to disclose is a criminal offence	Criminal provision
Lithuania	Administrative sanctions. Criminal offence of concealing a crime was pointed to. No separate criminal offence	No clear criminal offence of tipping off. Breaches of requirements of the law on prevention of money laundering are punished "in a manner prescribed by the law"

	Failure to Report	Tipping Off
Malta	Failing to report is not a criminal offence, but is an administrative infringement.	Criminal offence for an official or employee of an obliged undertaking to disclose to the client or a third person that relevant information has been transmitted or an investigation is being carried out
Moldova	No preventive law	No preventive law
Poland	Failure to report is a criminal offence when committed both wilfully and by negligence	No separate offence in the money laundering provisions which deal with tipping off any person that a report has been made or that an investigation is about to commence or is under way. Some aspects of the penal code may be apt to cover aspects but Polish authorities should satisfy themselves that money laundering in all its forms is adequately covered
Romania	Unclear in what circumstances failure to report attracts criminal penalties. Recommended by examiners that it becomes a separate criminal offence	Criminal penalties for "Tipping off" by the office (FIU). No general criminal provision
Russian Federation	Examiners recommend criminal offence	Examiners recommend criminal provision
San Marino	Examiners thought not covered by criminal offences	There are banking secrecy provisions but examiners considered the San Marino authorities should satisfy themselves that the law is comprehensive enough to cover all the circumstances in which tipping off could occur
Slovakia	No body with clear responsibility for administrative sanctions. The Slovak authorities suggested that failure to report a criminal offence may be apt	No separate offence of tipping off. Slovakian authorities thought it could be covered by offence of non-prevention of criminal offences, or as aiding and abetting the money laundering offence
Slovenia	Administrative offence	Information passed to the office is an official secret and unauthorised disclosure is prosecutable as such
"The Former Yugoslav Republic of Macedonia"	Unclear	Tipping off not prohibited
Ukraine	No preventive law	No preventive law

ANNEX D

PC-R-EV Range of Coverage in Anti-Money Laundering Legislation

	< Non - bank financial institutions >						< Non financial institutions >					
	Banks	**Non-Bank Financial institutions either generally or specified**	**Bureaux de Change**	**Investment Companies +Stockbrokers**	**Insurance**	**Comment**	**Casinos, Gambling Houses**	**Lawyers**	**Notaries**	**Accountants**	**Real Estate**	**Other natural or legal persons conducting financial transactions**
ALBANIA	√	√	√	√	√		√	√	√	√	√	√
ANDORRA	√	√	√	√	√	Law refers only to STR reporting	No	√	√	√	√	√
BULGARIA	√	√	√	√	√		√	-	√	√	-	√
CROATIA	√	√	√	√	√		√	√	√	√	√	√
CYPRUS	√	√	√	√	√	Law applies to "relevant financial Business"	No	√	√	√	-	√
CZECH REPUBLIC	√	√	√	√	√		√	-	-	-	√	√
ESTONIA	√	√	√	√	√		√	√ #1	-	√ #2	√	√
GEORGIA	NO RELEVANT LEGISLATION											
HUNGARY	√	√	√	√	√		√	√ #8	√	√	√	√
LATVIA	√	√	√	√	√		√	√	√	√	√	√
LIECHTENSTEIN	√	√	√	√ #3	√	Trustees & legal agents covered	-	√	-	√	-	√
LITHUANIA	√	√	√	√	√		-	-	√	-	-	-
MALTA	√	√	√	√	√		√	-	-	-	-	√
MOLDOVA	NO RELEVANT LEGISLATION											
POLAND	√	-	-	Stockbrokers only		# 4	-	-	-	-	-	-
ROMANIA	√	√	√	√	√		√	√	√	√	√	√
RUSSIAN FEDERATION	NO RELEVANT LEGISLATION #5											
SAN MARINO	√	√	No	No	- #6		No	-	-	-	No	-
SLOVAKIA	√	-	-	-	-	Progress report Dec 99 indicated a new act was planned for 2000	-	-	-	-	-	
SLOVENIA	√	√	√	√	√		√	-	-	-	√	√
"FORMER YUGOSLAV REPUBLIC OF MACEDONIA"	NO RELEVANT LEGISLATION #7											
UKRAINE	NO RELEVANT LEGISLATION											

This table covers countries with laws in force at the time of the adoption of their report or consideration of their progress report, and refers at least to the obligation to report suspicious transactions. Individual countries with preventive laws in place at the relevant time may also have imposed other obligations by way of customer identification etc, on some or all of the natural or legal persons above.

- **=** No measures

NO **=** There are understood to be no such institutions in a country

Footnotes

1, 2 Lawyers and accountants acting as individuals understood not to be covered

3 Including branches of foreign investment firms

4 The act of 16 November 2000, when bought into force, will cover banks, branches of foreign banks, brokerage houses, banks conducting brokerage activity, other entities engaged in brokerage activities, the National Depository For Securities, entities conducting games of chance etc, and betting, insurance companies and insurance brokers, and main branches of foreign insurance companies, inventment and pension funds, co-operative savings and credit banks, the Polish Post Office, leasing and factoring companies, residents engaged in currency exchange, notaries and real estate agents.

5 The Russian Federation has recently passed legislation.

6 The examiners were advised that all insurance companies which operate in San Marino are all Italian branches which are subject to Ital supervision.

7 "The Former Yugoslav Republic of Macedonia" has recently passed legislation which will be implemented from 01.03.02. Their authorities

ANNEX E

SUSPICIOUS / UNUSUAL TRANSACTION REPORTS / DISCLOSURES									
COUNTRY	**YEAR**	**TOTAL DISCLOSURES**	**BANKS**	**CENTRAL BANK/ REGULATOR**	**NON -BANK FIs GENERALLY (OTHER THAN BUREAUX DE CHANGE AND INSURANCE)**	**BUREAUX DE CHANGE**	**INSURANCE**	**NOTARIES/ LAWYERS**	**OTHER (INCLUDING CASINOS & CUSTOMS)**
ALBANIA (Report Sept 2001)	2000 (law operational 6.12.2000)	-	-	-	-	-	-	-	-
ANDORRA (Report June 1999)	1995 1996 1997 1998	1 3 2 4	1 3 2 4						- - - -
PROGRESS REPORT (June 2000)	June' 99 - June 2000	9	8		1				-
BULGARIA (Report June 2000)	1998 1/11/98 - 1/9/99	132	44%		9%				
PROGRESS REPORT (June 2001)	2000 2001 (up 19/4/2001)	347 91	316 88		3		3	8 1 (notary)	17 2
CROATIA (Report June 2000)	4/12/97 - June 2000	364 (STRs) (110,000 cash transaction reports)	112 STRs						250 STRs, (agency for financial transaction) + 2 others
PROGRESS REPORT (June 2001)		13,311 (STRs) (60,000 cash transaction reports)	85%		← 4% →				11% (state authorities)

ANNEX E

COUNTRY	YEAR	TOTAL DISCLOSURES	BANKS	CENTRAL BANK/ REGULATOR	NON -BANK FIs GENERALLY (OTHER THAN BUREAUX DE CHANGE AND INSURANCE)	BUREAUX DE CHANGE	INSURANCE	NOTARIES/ LAWYERS	OTHER (INCLUDING CASINOS & CUSTOMS)
CYPRUS (JUNE 1998)	1/1/97 - 30/4/98	(76 cases in all) 42 (reports internally generated) 35 (through central authority or Interpol)	12 (11 onshore 1 offshore)	1				1	63
PROGRESS REPORT (June 1999)	98 - June 1999	49 (reports)	17 (11 onshore +6 Offshore)		1			1	30
CZECH REPUBLIC (Report December 1998)	1/7/96 - 4/98	1139 unusual transaction reports (UTRs)	1062		33				
PROGRESS REPORT (DEC 1999)	1/6/98 - 24/11/99	2162 UTRs	1790			15	5		352
ESTONIA (Report June 2000)	1/7/99 - 5/2000	134	81			2		1	43
PROGRESS REPORT (June 2001)	2000	394	327			7		1	59
	2001 (to 15.5)	367	314			3		1	49

ANNEX E

COUNTRY	YEAR	TOTAL DISCLOSURES	BANKS	CENTRAL BANK/ REGULATOR	NON -BANK FIs GENERALLY (OTHER THAN BUREAUX DE CHANGE AND INSURANCE)	BUREAUX DE CHANGE	INSURANCE	NOTARIES/ LAWYERS	OTHER (INCLUDING CASINOS & CUSTOMS)
GEORGIA		No reporting system in place							-
HUNGARY (Report 1999)	1994 - Oct 1998	2300	95%						
	1994 1995 1996 1997 1998	58 STRs 470 STRs 636 STRs 480 STRs 686 STRs							
PROGRESS REPORT (Jan 2001)	1999	831	802			8	1		18 + 2 (casinos)
LATVIA (Report Jan 2001)	1/6/98 - 1/1/00	1634 UTRs + 424 STRs	1853 i.e. 90% (of all transaction reports)	65		-	-	23 (notaries)	100 (92 from foreign FIUs) + 17 (casinos)

ANNEX E

COUNTRY	YEAR	TOTAL DISCLOSURES	BANKS	CENTRAL BANK/ REGULATOR	NON -BANK FIs GENERALLY (OTHER THAN BUREAUX DE CHANGE AND INSURANCE)	BUREAUX DE CHANGE	INSURANCE	NOTARIES/ LAWYERS	OTHER (INCLUDING CASINOS & CUSTOMS)
LIECHTENSTEIN (Report Feb 2000)	1/1/97 - 31/12/1998	47 disclosures (ie 45 cases most triggered by external action [requests for legal assistance or press reports]) 3 STRs (from trustees)	0						
PROGRESS REPORT (Feb 2001)	1999 - 30/11/00	17/18 77 (7 in 1999 + 14 in 2000 from trustees)	9 48					2 13	 2
LITHUANIA (Report June 1999)	1998 1999	22 STRs (50,000 UTRs) 66 STRs (415,950 UTRs)	5 STRs 35 STRs		7 STRs 3STRs				10 STRs 28STRs
PROGRESS REPORT (June 2000)	2000 - 1/5/2000	21 STR (85,140 UTRs)	8 STRs		1STR				12STRs

ANNEX E

COUNTRY	YEAR	TOTAL DISCLOSURES	BANKS	CENTRAL BANK/ REGULATOR	NON -BANK FIs GENERALLY (OTHER THAN BUREAUX DE CHANGE AND INSURANCE)	BUREAUX DE CHANGE	INSURANCE	NOTARIES/ LAWYERS	OTHER (INCLUDING CASINOS & CUSTOMS)
MALTA (Report Dec 1998)	1995 1996 1997 1998 (to August)	7 11 4 6	7 (1 offshore) 11 (1 offshore) 4 (2 offshore 2 onshore) 4 (3 onshore 1 offshore)		1		1		
PROGRESS REPORT (DEC 1999)	1999	16	14 (10 onshore 4 offshore)	1	1				
MOLDOVA	No obligations to report suspicious transactions								
POLAND (Feb 2000)	No reliable statistics - STRs to be sent to Public Prosecutor								
PROGRESS REPORT (Jan 2001)	1999 - October 2000	62	62						
ROMANIA (Report Feb 2000)	April 1999 - Feb 2000	138 (mainly from banks, casinos and financial institutions)							
PROGRESS REPORT (Jan 2001)	2000	157	130	17 (including financial control)	10				

ANNEX E

COUNTRY	YEAR	TOTAL DISCLOSURES	BANKS	CENTRAL BANK/ REGULATOR	NON -BANK FIs GENERALLY (OTHER THAN BUREAUX DE CHANGE AND INSURANCE)	BUREAUX DE CHANGE	INSURANCE	NOTARIES/ LAWYERS	OTHER (INCLUDING CASINOS & CUSTOMS)
RUSSIAN FEDERATION (Report Jan 2001)	14/5/99 - June 2000	No formal STR system though Interagency Centre advised they received 2500 "signals" monthly		No statistics available to examiners					
SAN MARINO (Report Jan 2001)	1996 - 1999	0							
	1999	5	5?						
SLOVAKIA (Report Dec 1998)	1/7/97 - 31/12/97	106	106	Only banks covered					
	1/1/1998 - June 98	91	91						
		Total 197	Total 197						
PROGRESS REPORT (DEC 1999)	1998	217	217	Only banks covered					
	1999 (end Nov)	290	290						

ANNEX E

COUNTRY	YEAR	TOTAL DISCLOSURES	BANKS	CENTRAL BANK/ REGULATOR	NON -BANK FIs GENERALLY (OTHER THAN BUREAUX DE CHANGE AND INSURANCE)	BUREAUX DE CHANGE	INSURANCE	NOTARIES/ LAWYERS	OTHER (INCLUDING CASINOS & CUSTOMS)
SLOVENIA (Report June 1998)	1995	36 STRs + 15 UTRs selected	16						
	1996	27 STRs + 2 UTRs selected	18	2					42 *1
	1997	26 STRs - 2 UTRs selected	19						35 *2
	Total		53						36 *3
PROGRESS REPORT (June 1999)	1998	69 cases	35	1		6			27 *4
"FORMER YUGOSLAV REPUBLIC OF MACEDONIA" (Report June	When the Money Laundering Prevention Law comes into force financial institutions will report on regular and suspicious cash transactions								
PROGRESS REPORT (Sept 2001)									
UKRAINE (Report Jan 2001)	14/5/99 - June 2000			No statistics available to examiners					

FOOTNOTES

1 15 of these were the FIU's selection from cash transactions and 19 from the Agency Payment System
2 2 of these were the FIU's selection from cash transactions and 6 from the Agency Payment System
3 2 of these were the FIU's selection from cash transactions and 7 from the Agency Payment System
4 1 of these was the FIU's selection from cash transactions and 10 from the Agency Payment System

ANNEX F

IDENTIFICATION

COUNTRY	PROCEDURES IN PLACE WHEN ESTABLISHING BUSINESS RELATIONS OR OPENING ACCOUNTS FOR INDIVIDUALS & LEGAL ENTITIES	PROCEDURES IN PLACE FOR LARGE TRANSACTIONS (OR LINKED TRANSACTIONS)	PROCEDURES FOR IDENTIFYING 3rd PARTIES & BENEFICIAL OWNERS	AVAILABILITY OF ANONYMOUS, FICTITIOUS OR BEARER ACCOUNTS	AVAILABILITY OF NUMBERED ACCOUNTS	RECORD KEEPING PROCEDURES ARE IN PLACE	OTHER COMMENTS
ALBANIA (Report September 2001)	No legal obligation - each bank has its own internal rules	Yes - Legal procedures in place	Yes - (declarations of ultimate beneficiaries are required)	Not clear	Not available	Partly, No procedures on account closure	Record keeping for transactions applies to all subjects of the law
ANDORRA (Report June 1999)	Yes, Legal obligation on banks	Yes	Partly. The bank may require a client to declare that he is either acting on his own account or on behalf of a 3rd party, in which case the identity of the principal must be requested. The identification of the true beneficiary and the origin of funds should be made obligatory for persons acting as trustees, lawyers & other professionals authorised to perform financial operations.	Not available #	Available. No distinction between residents & non-residents	Yes	Identification obligations and record keeping requirements only apply to banks
PROGRESS REPORT (June 2000)							No legal changes as yet, but consultation on new law under way
BULGARIA (Report June 2000)	Partly. Procedures for credit institutions in Banking Regulations. No similar provision for financial institutions	Yes	A declaration of proceeds is required for large transactions in which the customer is expected to set out whether it is his money or someone else's. It was unclear how far banks go to obtain information about the true identity of the persons on whose behalf an account is opened.	Not clear	Not clear	Partly. Unclear if ID Documents obtained + retained at time of establishing business relationship.	
PROGRESS REPORT (June 2001)	Amendment made for all subjects of the anti-money laundering law to identify customers on establishing business relationships						Amendments made to law to make more precise record retention periods after terminating business relationships.
CROATIA (Report June 2000)	Partly, all obliged entities required to identify clients when establishing business relations. No requirement to identify company directors.	Partly - Non cash transactions not covered	No legal regulation which requires relevant institutions to take reasonable measures to identify beneficiaries when customers are not acting on their own behalf.	Not available	Not available	Yes	
PROGRESS REPORT (June 2001)							No relevant changes . New law being considered

#. This information was submitted by the Government of Andorra during the second round on-site visit (4-7 March 2002). The evaluation team has taken note of this information, the accuracy and relevance of which need yet to be assessed by the PC-R-EV Plenary.

ANNEX F

COUNTRY	*PROCEDURES IN PLACE WHEN ESTABLISHING BUSINESS RELATIONS OR OPENING ACCOUNTS FOR INDIVIDUALS & LEGAL ENTITIES*	*PROCEDURES IN PLACE FOR LARGE TRANSACTIONS (OR LINKED TRANSACTIONS)*	*PROCEDURES FOR IDENTIFYING 3rd PARTIES & BENEFICIAL OWNERS*	*AVAILABILITY OF ANONYMOUS, FICTITIOUS OR BEARER ACCOUNTS*	*AVAILABILITY OF NUMBERED ACCOUNTS*	*RECORD KEEPING PROCEDURES ARE IN PLACE*	*OTHER COMMENTS*
CYPRUS (June 1998)	Yes. Legal procedures are in place	Yes. Legal procedures are in place for one off or linked transactions in excess of £10,000.CY	Law requires reasonable measures to be taken for the purpose of establishing the identity of any person on whose behalf the applicant for business is acting	Not available	Not available	Yes	
PROGRESS REPORT (June 1999)							On 24.5.99 the Central Bank of Cyprus prescribed specific conditions for the opening of bank accounts in the name of companies whose own shares or those of their holding companies are in the form of bearer.
CZECH REPUBLIC (Report December 1998)	Partly. Subject to column 4, Legal procedures are in place which include for financial institutions opening of accounts, & establishing business relations & rental of safety deposit boxes. Law does not provide for identification of company's directors	All financial institutions legally obliged to identify customers where amounts exceed CZK 500,000. Banks obliged to identify customers where amounts exceed CZK 100,000.	The law omits to deal with situations where there are doubts as to whether a customer is acting on his or her own behalf or not. No legal provision to identify beneficial owners generally, or to ensure that professional secrecy does not create obstacles in disclosing the beneficiary of an account or transaction	bearer cash deposit books are available and exempted from ID requirements	Czech authorities advise they are not available.	Partly. No obligation to obtain and keep on file copies of official documents evidencing identity. General obligation on financial institutions to keep transaction records is lacking	
PROGRESS REPORT (December 1999)			If there are doubts financial institutions will now make appropriate precautions to find out identity of 3rd parties, under a legislative amendment	An amendment was passed by the government on 29/4/99 prohibiting form the day law enters into force the issue of new passbooks. Existing bearer passbooks will require normal identification when depositing or withdrawing		Amendments to the relevant legislation is intended to further cover record keeping issues	

#: The Czech authorities have advised that the Anti-money Laundering Act of 01.07.00 has made changes with regard to identification data and transaction records.

ANNEX F							
COUNTRY	***PROCEDURES IN PLACE WHEN ESTABLISHING BUSINESS RELATIONS OR OPENING ACCOUNTS FOR INDIVIDUALS & LEGAL ENTITIES***	***PROCEDURES IN PLACE FOR LARGE TRANSACTIONS (OR LINKED TRANSACTIONS)***	***PROCEDURES FOR IDENTIFYING 3rd PARTIES & BENEFICIAL OWNERS***	***AVAILABILITY OF ANONYMOUS, FICTITIOUS OR BEARER ACCOUNTS***	***AVAILABILITY OF NUMBERED ACCOUNTS***	***RECORD KEEPING PROCEDURES ARE IN PLACE***	***OTHER COMMENTS***
ESTONIA (Report June 2000)	Largely met so far as credit institutions are concerned though directors of companies need identifying. Not all financial institutions are covered when establishing business relations	Yes. Legal procedures are in place	Under the law if the benificary of a transaction is other than the person that appears directly in the transaction the institution should take reasonable measures to find out the identity of the real owner or beneficiary	Not available	Not available	Procedures to be prescribed in banks' internal rules. Unclear what these were. Unclear what procedures outside banking sector	
PROGRESS REPORT (June 2001)	New recommendations by the Estonian Banking Association giving more detailed instructions for member banks approved 13/2/01						Data preservation requirements for credit, financial and non-financial institutions clarified in new legislation, which came into force in Autumn 2000
GEORGIA REPORT (September 2001)	No general obligation to identify domestic customers of banks when dealing in local currency. Procedures for opening of foreign currency accounts by residents and the opening of local and foreign currency accounts by non-residents provided for.	Not required	No general binding obligation to identify beneficial owners .	Anonymous accounts are still available	not clear	No general procedures other than in situations described in column 1	
HUNGARY (Report 1999)	The relevant anti-money laundering legislation does not specifically require the identification of customers upon entering into business relations	Financial service providing organisations required to identify natural and legal persons in relation to cash transactions reaching or exceeding 2 million HUF. This does not extend to linked transactions which, taken together would exceed the threshold unless a suspicion of money laundering arises, and non-cash transactions are not covered.	The relevant anti-money laundering legislation does not specifically require the identification of beneficial owners	Financial institutions are allowed to accept savings deposits to bearer without applying identification procedures when the transaction is below HUF 2 million. Customers can have more than 1 account	Not clear	Law requires financial institutions to retain customer identification and transaction records for at least 10 years in respect of cash transactions exceeding HUF 2 million, but not non-cash transactions. No legal duty to obtain and retain customer identification documents at time of establishing an account or other business relationship	
PROGRESS REPORT (January 2001)	No legal changes, though it was stated in practice banks request their customers to present ID documents when opening an account #1	No legal changes #2	#3	Draft amendment of the banking act is going to amend legislation in order to convert the existing anonymous passbooks into named accounts. Will come into force as of date of accession to the EU #4		No relevant legal changes #5	

#1: The Hungarian authorities advise that amendments to the legislation in December 2001 specifically require the identification of customers on entering business relations.
#2: Since December 2001 this extends to connected transactions.
#3: Since December 2001 legislation specifically requires the identification of beneficial owners.
#4: Since December 2001 amendments to the law prohibit the opening of new anonymous passbooks and provide for the conversion of existing anonymous passbooks into registered ones.
#5: Since December 2001 the law has been modified to obtain and retain customer identification documents for at least 10 years when establishing business relations, including account opening.

ANNEX F							
COUNTRY	***PROCEDURES IN PLACE WHEN ESTABLISHING BUSINESS RELATIONS OR OPENING ACCOUNTS FOR INDIVIDUALS & LEGAL ENTITIES***	***PROCEDURES IN PLACE FOR LARGE TRANSACTIONS (OR LINKED TRANSACTIONS)***	***PROCEDURES FOR IDENTIFYING 3rd PARTIES & BENEFICIAL OWNERS***	***AVAILABILITY OF ANONYMOUS, FICTITIOUS OR BEARER ACCOUNTS***	***AVAILABILITY OF NUMBERED ACCOUNTS***	***RECORD KEEPING PROCEDURES ARE IN PLACE***	***OTHER COMMENTS***
LATVIA (Report January 2001)	Legal provisions for customer identification when opening an account & when requesting safe custody services. No requirement to identify corpate directors	Yes - ID required when conducting a single transaction or a series of linked transactions (cash or non-cash) in excess of 10,000 Lats	Law provides that where a credit or financial institution is aware or suspects that transactions are conducted on behalf of a 3rd party, it shall take reasonable measures to identify the beneficiary. It was not clear whether this applies to account opening. No requirement to identify beneficial owners of companies	Not available	Available	Yes	
LIECHTENSTEIN (Report February 2000)	Legal provisions in place for persons subject to the Due Diligence Act to identify by means of supporting evidence all contracting parties with whom they enter into business relations	Yes cash transactions exceeding CHF 25,000	The identity of the benefeciary is required if there is doubt whether the contracting party is acting on his own or somebody else's account. The obligation to establish the identity of beneficial ownership is waived in certain circumstances (including where business is introduced by trustees or lawyers).	Not available	Available	Preservation of all documents and records for a period of at least 10 years after a relationship has ended or the execution of a transaction.	
PROGRESS REPORT (February 2001)		The threshold limit in each transaction has been reviewed and corresponds to EURO 15,000	It is understood that upon entering business relations all financial intermediaries subject to the Due Diligence Act are now obliged to identify the contracting party, establish the beneficial owner and to collect the data necessary to draw up a business profile, and that previous exceptions to this principle have been eliminated.				
LITHUANIA (Report June 1989)	Legal provisions in place for credit and financial institutions to identify customer when conducting monetary operations, which is understood to include account opening. No requirement to verify directors of companies	Yes. Credit and financial institutions should identify both cash and non-cash and linked transactions above 50,000 Litas	There is no legal requirement to obtain information where there is doubt that the customer is acting on his own behalf, or to identify the ultimate beneficiary	Not Available	Not Available	Documents confirming monetary operations and other legal documents related to monetary operations to be preserved for 10 years after relations with customer ended and keep registers of monetary operations in excess of 50,000 Litas	
PROGRESS REPORT (June 2000)			No further legal provisions have been passed or guidance given on the identification of beneficial owners				No changes in legal provisions

ANNEX F							
COUNTRY	***PROCEDURES IN PLACE WHEN ESTABLISHING BUSINESS RELATIONS OR OPENING ACCOUNTS FOR INDIVIDUALS & LEGAL ENTITIES***	***PROCEDURES IN PLACE FOR LARGE TRANSACTIONS (OR LINKED TRANSACTIONS)***	***PROCEDURES FOR IDENTIFYING 3rd PARTIES & BENEFICIAL OWNERS***	***AVAILABILITY OF ANONYMOUS, FICTITIOUS OR BEARER ACCOUNTS***	***AVAILABILITY OF NUMBERED ACCOUNTS***	***RECORD KEEPING PROCEDURES ARE IN PLACE***	***OTHER COMMENTS***
MALTA (Report December 1998)	1994 Regulations cover applicants for business generally, subject to column 4.	1994 Regulations cover linked cash or non-cash transactions of 5000 Maltese Lira or more	1994 Regulations provide for reasonable measures to be taken for the purpose of establishing the identity of third parties. In certain cases (eg nominee companies and lawyers) the applicant for business to declare that the beneficial owner had been identified.	There still exist some bearer accounts opened pre 1994. Post 1994 bearer accounts are subject to identification at opening, transacting and closing stages, although pass books are transferable	Not Available	1994 Regulations provide for identification records at least to be kept for 5 years from completion of business and transaction records for at least 5 years	
PROGRESS REPORT (December 1999)			Draft amendments in relation to the nominee regime have been prepared for further consideration	In December 1999 the Central Bank issued a notice to all banks requiring them to stop opening further accounts, to stop accepting further deposits in existing accounts and to take steps to issue public notices requesting bearer accounts to named ones. To this effect the central bank set June 2000 as the final date			
MOLDOVA	A National Bank regulation is in place on the opening and closing of accounts for legal entities and natural persons. Applies to banks. Other undertakings, including currency exchange dealers, and stock market intermediaries, are not under an obligation to identify customers	No	No	Not Available	Not Available	National archives general regulations are in existence, but examiners recommend detailed regulations including transaction records	
POLAND (February 2000)	Resolution of Polish Banking Supervision requires financial institutions opening accounts on basis of identification documents. No requirement to identify company directors	Identification requirements under the Money Laundering Law & regulations for banks relate to cash transactions above 10,000 ECU and exchange of currency above 10,000 ECU only	It was unclear how identification of beneficial owners is covered by banks where there are doubts as to whether customers are acting on their own behalf. No requirement on stockbrokers to identify the beneficial owner	Not Clear	Not Clear	Transaction records kept for 5 years not clear about records on account opening	
PROGRESS REPORT (January 2001)		In Act of 16.11.2000 linked transactions covered	The identification requirements are extended in Act of 16.11.2000 also to beneficiaries of transactions			Register of transactions and transaction documents to cases be kept by wider range of financial and non-financial institutions	

ANNEX F							
COUNTRY	***PROCEDURES IN PLACE WHEN ESTABLISHING BUSINESS RELATIONS OR OPENING ACCOUNTS FOR INDIVIDUALS & LEGAL ENTITIES***	***PROCEDURES IN PLACE FOR LARGE TRANSACTIONS (OR LINKED TRANSACTIONS)***	***PROCEDURES FOR IDENTIFYING 3rd PARTIES & BENEFICIAL OWNERS***	***AVAILABILITY OF ANONYMOUS, FICTITIOUS OR BEARER ACCOUNTS***	***AVAILABILITY OF NUMBERED ACCOUNTS***	***RECORD KEEPING PROCEDURES ARE IN PLACE***	***OTHER COMMENTS***
ROMANIA (Report February 2000)	Customer identification does not appear in law 21/99. No explicit regulation which requires banks to identify their customers when an account is opened	All natural and legal persons subject to law 21/99 for a single operation or linked operations in Lei or foreign currency equivalent to 10,000 Euro	Identification of beneficial owners where there are doubts as to whether customer acting on own behalf applies only to legal persons	Examiners advised that no banks had anonymous accounts due to their internal arrangements	Not clear	Identification documents & transaction records to be kept for 5 years where law requires identification	
PROGRESS REPORT (January 2001)	Account opening identification procedures apply to the financial and banking system, they offer their services only on grounds of written agreements which include all the identity data of the client, based on provisions of the civil code & internal regulations of the commercial banks						
RUSSIAN FEDERATION (Report January 2001)	A number of Rules and Regulations were pointed to which are said to imply customer identification. Special procedures in place apply to foreign citizens opening rouble accounts	Not Clear	There appears to be the possibility of opening accounts on behalf of third parties where the ultimate beneficiary remains unidentified so long as he never operates the account directly	Not clear. The examiners were assured by some authorities with whom they met that anonymous bearer accounts and coded accounts do not at present exist. Others were not so sure. No legislative provision categorically prohibits such accounts	Not clear	Not Clear	
SAN MARINO (Report January 2001)	Credit & financial institutions, whether bank or non-bank subject to the supervision of the OBS are obliged to identify customers when opening an account, accepting deposits or entering into business relations with them (including rental of safety deposit boxes)	Credit & financial institutions subject to OBS identify customers when transferring or using payment instruments for amounts exceeding 30 million ITL, or when conducting a series of linked transactions below this threshold	Legal provisions provide that where relevant transactions are carried out on behalf of 3rd parties the latter shall be identified in compliance with instructions given by the OBS	Bearer passbooks exist which can be used for withdrawals/deposits only & can be opened only in Italian Lira. Anonymous joint stock companies with bearer shares exist	Not clear	Customer identification data & data relating to relevant transactions have to be kept for 5 years	
SLOVAKIA (Report December 1999)	Not clear, Nothing in Act 24/9/94, but the Banking Act requires proof of identify from customers for each transaction including the renting of safe deposit boxes	Banks required to identify transactions in excess of SKK 100,000	It was understood amendments were being drafted to identify beneficial owners	Although banks are allowed to keep anonymous bearer accounts the examiners were advised that some identification procedures are applied at the opening of the account stage	Not clear	No obligations under act 24/9/94 for record keeping either of identification data or transaction records. However banks are obliged to keep records of transaction in excess of SKK 100,000 for a period of 5 years	All procedures apply only to commercial banks though amendments to cover all financial institutions were being drafted
PROGRESS REPORT (December 1999)	New guidance to be issued in 2000			Bearer passbooks still being issued			

ANNEX F							
COUNTRY	***PROCEDURES IN PLACE WHEN ESTABLISHING BUSINESS RELATIONS OR OPENING ACCOUNTS FOR INDIVIDUALS & LEGAL ENTITIES***	***PROCEDURES IN PLACE FOR LARGE TRANSACTIONS (OR LINKED TRANSACTIONS)***	***PROCEDURES FOR IDENTIFYING 3rd PARTIES & BENEFICIAL OWNERS***	***AVAILABILITY OF ANONYMOUS, FICTITIOUS OR BEARER ACCOUNTS***	***AVAILABILITY OF NUMBERED ACCOUNTS***	***RECORD KEEPING PROCEDURES ARE IN PLACE***	***OTHER COMMENTS***
SLOVENIA (Report June 1998)	When an organisation opens an account for a customer or establishes a permanent business relationship with a client it shall at that time Identify the client	All transactions in cash, securities precious metals & stones above an amount equivalent to DEM 24,000 or in the case of connected transactions which in aggregate exceed the established limit	In the case of third party transactions a written notarised statement with full details of ultimate beneficiary. If the organisation doubts the truthfulness of the information it may deand the clients written statement	Not Available	Not Available	All necessary records & documentation on transactions maintained for at least 5 years	
PROGRESS REPORT (June 1999)							No relevant changes
"FORMER YUGOSLAV REPUBLIC OF MACEDONIA" (Report June 2000)	The examiners were advised that identification procedures have been put in place as part of internal procedures of all banks and savings houses	When the Money Laundering Prevention Law comes into force in March 2002 it is understood there will be a provision made for this	If it is obvious that the transaction is being made on behalf of a 3rd party the authorities advised that the bank or savings house can refuse it. No clear provision to identify the beneficial owners of accounts	Available. Bearer bonds can be purchased by legal and natural persons	Available	It is understood record keeping procedures are covered in the Money Laundering Prevention Law	
UKRAINE (Report January 2000)	Customer identification procedures for the opening of normal accounts and establishing business relations only apply to banks, and not other financial institutions	No financial preventive measures to identify customers involved in large transactions	At present the law does not impose an obligation on banks to identify the beneficiary where there are doubts that the customer is acting on his own behalf	Some action has been taken to stop the opening of anonymous accounts by a presidential degree in 1998, which annulled an earlier decree which allowed anonymous accounts to be held by residents and non-residents	Available	Some record keeping obligations for normal account opening by banks. None so far as transactions are concerned.	