EUROPEAN UNION
THE COUNCIL

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LIMITE

CRIMORG 63

OUTCOME OF PROCEEDINGS

from : General Secretariat

to : Multidisciplinary Working Group on Organised Crime

No. prev. doc.: 12790/1/97 - 7305/98

Subject: Meeting of the MDG on 6 and 7 April. Implementation of Recommendation No 26 and 30 of the Action Plan - money laundering (Point 5 of the Agenda)

The group discussed in depth document 7305/98 Crimorg 47 that gives a full picture of activities in regard to money laundering.

The following items were agreed:

a) Effectiveness of measures - questionnaire 12790 Crimorg 29, Enfopol 231 Rev 1:

The group agreed on the suggestion of the Presidency that the EDU questionnaire should not be issued, but should be used as a framework for further exchange of information and analysis of best practice. An experts group of EDU-Europol, Commission, General Secretariat of the Council Experts and interested delegations under the overall coordination of the Presidency would be established to analyse the effectiveness of anti-money laundering systems covered by provisions of Title VI of the Treaty of the European Union. The group will seek to identify the difficulties and possible obstacles encountered, both legal and operational, in respect of suppression of money laundering. This group will produce an analysis and make recommendations for consideration by the Multidisciplinary Group on Organised Crime in specially identified areas. Its terms of reference are set out in the Annex.

It is planned that a progress report will be presented by this group to the MDG in July 1998 and that a final report would be completed by October 1998.

Existing data should be explored by this group and Member States should make the results of the FATF evaluations available.

b) Study on the feasibility of an EU-wide system of exchange of information concerning suspicious transactions:

This topic will be subject of further discussion at a future MDG-meeting when the feasibility study of KPMG will be available.

c) Criminalisation of laundering of the proceeds of crime should be made as general as possible:

The Presidency invited the Group to discuss two options,

1. rely on the commitment of Member States to ratify the 1990 Convention by the end of 1998

2. consider to draw up a Joint Action which would specify in more detail or more fully the predicate offences.

There was broad support for option (1); it being understood that there should be a clear commitment of the Member States not to make use of reservations to the 1990 Convention, or even to withdraw them.

The Group agreed on the Presidency suggestion to enter a new article in the draft Joint Action on Asset Seizure requiring that Member States should not make use of their reservations to the 1990 Convention upon ratification.

d) Financial centres and offshore centres:

The Presidency proposed that the MDG should agree a number of guiding principles that could be a first basis of a practical programme of action.

It was agreed that tax evasion is often an excuse for money launderers to get professional assistance to send their money to offshore centres. One delegation was of the opinion that offshore centres should have the same money laundering legislation as the countries on which they are dependant.

The representative of the Commission stated that more precise knowledge on this topic is necessary and asked if any Member State would be willing to conduct a study on this subject, which could possibly be financed by the Falcone Programme. The Austrian incoming Presidency announced that it was planning to hold a seminar on financial crime-offshore centres in the autumn in Vienna.

It was agreed that this recommendation merited further discussion. Delegations were invited to submit further views on this topic before the end of May 1998.

e) Other business:

The Multidisciplinary Group further agreed that at international level the draft Mutual Assistance Convention when adopted, could provide a useful legal framework for co-operation in relation to covert investigations as well as controlled deliveries.

The extension of money laundering to negligent behaviour and the extension of the reporting obligations should be discussed in the light of a proposal for a new Council Directive on Money Laundering.

Money Laundering on the Internet should be examined on the basis of work already carried out by various international fora. It was noted that the problem of excessive cash payments has been given preliminary consideration in the Contact Committee, set up under the Money Laundring Directive, but firm conclusions have not yet been reached.

Terms of reference of the Money Laundering Experts Group

Work to be carried out by:

Overall co-ordination by Presidency
Council Secretariat and in particular its National Experts
European Commission
EDU/Europol
In close co-operation with interested Member States

Within the framework of the third pillar, the group will seek to identify the difficulties and possible obstacles encountered, both legal and operational, in respect of suppression of money laundering. To that end, the group will produce an analysis and make recommendations for consideration by the Multidisciplinary Group on Organized Crime in the areas set out below by drawing on (a) existing data collected by international bodies (with the authority of Member States as necessary) and (b) other information and expertise available within Member States:

(I) operational best practise in the collection, analysis and allocation of money laundering information/intelligence provided by FIU´s to competent authorities.

(II) strengths and weaknesses in systems for collecting data necessary for an analysis of the effectiveness of anti-money laundering systems in Member States.

(III) collation of available statistics on law enforcement and judicial activity to establish the contribution made by anti-money laundering systems in Member States.

(IV) best practice in respect of financial investigations by law enforcement authorities with special emphasis on multi-disciplinary working and inter-agency co-operation.

(V) the amount, quality and structure of resources and training devoted to anti-money laundering systems.

(VI) shortcomings in the structure and prosecution of money laundering offences, for example in relation to the definition of offences or problems in the production of evidence.

Timetable

The group will report on progress to the MDG by July 1998 and produce its final report and recommendations to the MDG by October 1998.