



MOLI-UA-2
**Follow-up Project against Money Laundering
and Terrorist Financing in Ukraine**

**Funded by the European Union and
Implemented by the Council of Europe**



Directorate General of
Human Rights and Legal Affairs
Strasbourg, 26 June 2008

Follow-up Project against Money Laundering
and Terrorist Financing (MOLI-UA-2)

Second Progress Report

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1. BACKGROUND INFORMATION

MOLI-UA2, "Follow-up Project against Money Laundering and Terrorist Financing in Ukraine", started on 1 May 2006. The Start-up conference was organised on 20 September 2006 in Kyiv, Ukraine. The present report summarises the activities carried out during the second reporting period, from 5 December 2007 to 26 June 2008.

1.1 Beneficiary Country and Entity

The Beneficiary country is Ukraine, and the entity is the State Committee for Financial Monitoring of Ukraine (SCFM).

1.2 Contracting Authority

The contracting authority is the European Commission.

1.3 Implementing Organisation

The Council of Europe is responsible for the implementation of the project and the use of the project funds under the contract with the European Commission. Within the General Secretariat of the Council of Europe in Strasbourg, the Economic Crime Division (Technical Co-operation Department, Directorate General of Human Rights and Legal affairs) is responsible for overall management and supervision of the project. A local project team composed of one Long Term Adviser, one Procurement Adviser, one Local Project Officer and one Project Assistant, based in the premises of the State Committee for Financial Monitoring of Ukraine, is supporting the project.

1.4 Project objective

Based on the success of the MOLI-UA Project Against Money Laundering implemented by the Council of Europe between February 2003 and June 2005, and fully funded by the European Commission, the Follow-up Project Against Money Laundering and Terrorist Financing (MOLI-UA-2) was launched to address the outstanding issues in the AML/CTF system of Ukraine and help the country keep the momentum in developing that system.

1.5 Project Objectives and outputs

The project foresees 3 specific objectives and 8 outputs:

Project objectives:

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|---|
| <p>1. To make Ukraine's legislation compliant with the 3rd EU Directive on the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing, and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism</p> |
| <p>2. To enhance the human capacities of key institutions of the anti-money laundering system of Ukraine (State Committee for Financial Monitoring, law enforcement agencies and judiciary and financial sector regulators/supervisors)</p> |
| <p>3. To develop the organisational and technical infrastructure of the anti-money laundering and counter terrorist financing system</p> |

Project outputs:

| | |
|----------------------------|---|
| Project objective 1 | To make Ukraine's legislation compliant with the 3 rd EU Directive on the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing, and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism |
| Output 1 | Draft amendments to the relevant legislation prepared in line with the 3 rd EU Directive and the Council of Europe Convention (ETS 198) |
| Project objective 2 | To enhance the human capacities of key institutions of the anti-money laundering system of Ukraine (State Committee for Financial Monitoring, law enforcement agencies and judiciary and financial sector regulators/supervisors) |
| Output 2 | The SCFM training strategy elaborated and implemented |
| Output 3 | The SCFM National AML Training Centre created and operational |
| Output 4 | The law enforcement agencies and judges have their training plans in investigating money laundering and terrorist financing cases and are able to implement them |
| Output 5 | Regulators and supervisors of the financial services sector implement basic training plans in international standards and best practices in countering money laundering and terrorist financing |
| Project objective 3 | To develop the organisational and technical infrastructure of the anti-money laundering and counter terrorist financing system |
| Output 6 | The International and National AML Training Centre established and Equipped |
| Output 7 | 22 regional offices of the SCFM established and equipped |
| Output 8 | The Single Information System extended to include the Ministry of Internal Affairs, pension funds and the Ministry of Transport |

37 project activities were originally planned under these outputs and 4 others within the inception phase.

| Inception phase | |
|------------------------|--|
| 0.1 | Recruit project staff |
| 0.2 | Equip project offices |
| 0.3 | Prepare a detailed work plan and an inception report |
| 0.4 | Organise a start up workshop |
| Output 1 | Draft amendments to the relevant legislation prepared in line with the 3rd EU Directive and the Council of Europe Convention (ETS 198) |
| 1.1 | Undertake a comparative analysis of the Ukraine's legislation in the light of the new European standards |
| 1.2 | Provide legal opinions on the Ukrainian legislation in force and/or proposed amendments |
| 1.3 | Organise up to 6 workshops/roundtables on the issues related to the new European AML/CTF standards |
| 1.4 | Provide assistance in the drafting of the legislative instruments identified as necessary for Ukraine to comply with new European standards |
| Output 2 | The SCFM training strategy elaborated and implemented. |
| Activities | |
| 2.1 | Assist the SCFM in completing a review of training needs of the SCFM and its regional offices |
| 2.2 | Support the SCFM in elaboration of the basic and further training plans for the HQ and regional offices staff |
| 2.3 | Train the core groups of the SCFM and its regional offices staff as trainers and assist them in carrying out up to 4 training courses for other staff |
| 2.4 | Support the SCFM in the organisation of up to 6 training seminars for the staff of the regional offices on issues of priority concern to these offices and their partner agencies in these regions |

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| 2.5 | Organise up to 3 in-country workshops for analytical staff on the operational experience of other FIUs in the analysis of data and the investigation of money laundering and terrorist financing |
| 2.6 | Organise up to 2 joint training activities to enhance cooperation between SCFM, prosecutors and judges |
| 2.7 | Organise one CFT/AML typologies meeting |
| 2.8 | Ensure follow-up training for the IT staff and analysts |
| Output 3 | The SCFM National AML Training Centre fully operational |
| Activities | |
| 3.1 | Assist in the further development of organisational structure and staffing requirements of the International and National AML Training Centre (INTC) |
| 3.2 | Assist in the development of curricula, yearly training plans and training materials (including publication thereof) |
| 3.3 | Organise up to 3 study visits for the INTC staff and SCFM trainers to training institution abroad |
| 3.4 | Support SCFM in further training the of the INTC staff |
| 3.5 | Support INTC in organisation of up to 3 training courses |
| 3.6 | Support INTC in creation and development of distant teaching / e-learning system (hardware, software and methodology) |
| 3.7 | Support the organisation of the INTC library and establishment of a list of books and /or other material to be acquired |
| Output 4 | The law enforcement agencies and judges have their training plans in investigating money laundering and terrorist financing cases and are able to implement them |
| Activities | |
| 4.1 | Assist the ministry of interior in the training needs assessment, development of training plans, curricula and training materials |

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| 4.2 | Assist in the training of staff of the law enforcement training institutions in delivery of training in financial crime and money laundering investigations and related topics |
| 4.3 | Organise study visits for trainers to experience the training solutions adopted by the law enforcement agencies within other European countries |
| 4.4 | Support the delivery of specialist anti money laundering training to the operational investigation units of the Ministry of Internal Affairs and its regional structures and the specialist anti money laundering and terrorist finance teams, including the information and intelligence requirements |
| 4.5 | Organise a workshop on legislative issues and AML/CFT international standards |
| 4.6 | Support the specialist training centres for judges and the INTC in the delivery of a specialist anti money laundering training to judges |
| Output 5 | Regulators and supervisors of the financial services sector implement basic training plans in international standards and best practices in countering money laundering and terrorist financing |
| Activities | |
| 5.1 | Assist the financial sector regulators in the determination of national standards of compliance with relevant legislation and international standards |
| 5.2 | Organise up to two three 2-day training workshops for regulators/supervisors |
| 5.3 | Organise seminars and workshops for the regulators/supervisors to highlight the best practices available in other European countries |
| 5.4 | Assist financial supervisors and regulators in elaboration of training plans and curricula for obliged institutions in their sectors |
| Output 6 | The International and National AML Training Centre equipped |
| Activities | |
| 6.1 | Assist the SCFM in analysing the needs of the INTC in terms of technical equipment and software and producing detailed specifications |
| 6.2 | Organise and carry out the procurement of the equipment and software for the INTC according to specifications |
| 6.3 | Organise and carry out purchases of books/materials for the library and finance translations of some of them |

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| Output 7 | 18 regional offices of the SCFM established and equipped |
| Activities | |
| 7.1 | Assist the SCFM in analysing the needs of the regional office in terms of repair work, equipment and software and producing detailed specifications |
| 7.2 | Organise and carry out the repair work, equipment and software procurement procedure for the regional offices according to specifications |
| Output 8 | The Single Information System extended |
| Activities | |
| 8.1 | Assist the SCFM in analysing the needs in terms of work, equipment, services and software necessary to extend the SIS and producing detailed specifications |
| 8.2 | Organise and carry out procurement of work, equipment, services and software necessary to extend the SIS according to specifications |
| 8.3 | Assist the SCFM in getting online access to new international sources of data |

1.6 Project duration

The project duration is 36 months.

2. THE PROJECT

2.1 Country situation

The most common predicate offences to money laundering in Ukraine are embezzlement, fraud, abuse of professional duties, forgery in office, sham business, violation of securities emission and circulation procedure, etc.

According to Ukrainian Authorities in the first half of 2008, prosecutors investigated 4 criminal cases against organised groups involved in legalization of the proceeds from crime. These cases were submitted to court. The Ministry of Interior of Ukraine submitted to court 15 criminal cases against organised groups which committed laundering of the proceeds from crime. In 11 cases, laundering of the proceeds from crime was committed and in 4 cases proceeds from illegal drugs turnover were legalized. Proceeds from crime in amount of UAH 6.2 million were detected under criminal cases. In the course of pretrial investigation over UAH 1.5 million of criminal proceeds were seized. Over UAH 2.4 million of criminal proceeds and property of accused at amount of 2.1 million were arrested. The Security Service of Ukraine submitted 1 criminal case into court against organised group for laundering of the proceeds from crime.

The SCFM reports that the most popular methods to launder money in Ukraine, in particular, are:

- execution of non commodity transactions with "fictitious" companies and illegal converting of funds;

- residents using agreements-orders purchase of share holdings of (non-liquid) national economic entities from connected companies nonresidents at prices exceeding market cost with further removal funds abroad;
- forming of statutory funds of newly created companies at the expense of shares bought at price exceeding nominal.

Money laundering most often was carried out by:

- using foreign economic transactions (export-import, credit and investments);
- converting centers, cash transactions;
- removal funds abroad;
- securities fraud (shares, promissory notes);
- land transactions;
- real estate transactions.

Most often to launder money criminals in Ukraine use:

- bank institutions;
- real estate dealers;
- insurance companies.

At the moment, there are no statistics how many cases were finished with secure convictions and how much money was confiscated. Those statistics will be available soon.

It should be noted that a sort of political crisis is visible as far as the co-operation between the Government and the President is concerned.

2.2 Expected results and methodology

As far as the Project Objective 1 is concerned, the expected result is harmonisation of UA AML legislation with EU and COE standards, namely 3rd EU AML/CTF Directive and Warsaw Convention (ETS 198) by adopting the new wording of the AML/CTF Law.

As the existing UA legislation is based on the 2nd EU Directive and the Council of Europe Strasbourg Convention (ETS 141) the project team decided to support the preparation of draft amendments to AML Law and other Laws to ensure better conformity with the recently adopted standards, such as the 3rd EU Directive and the Council of Europe Warsaw Convention (ETS 198). From the formal point of view, the SCFM is the responsible authority for that process was but the National Bank of Ukraine is very active in that field as well. In 2006, the Project undertook a comparative analysis of the Ukrainian legislation and arranged for a legal opinion on the first draft of the amendments prepared by the SCFM. The results of this exercise were presented at the Legal Round Table Meeting organised in December 2006 in Kyiv, Ukraine. The SCFM was strongly advised to revise the wording of the draft amendments as in the experts' opinion it was not fully harmonised with international standards and some provisions were unclear. As major discrepancies were revealed in the evaluation of the draft by the SCFM and by the National Bank of Ukraine, the Project Team decided to create a Legal Working Group, composed of the project legal experts and legislators from SCFM and NBU. The main task of the LWG was to revise the draft Law and work out the compromise between the main stake holders in order to secure strong support of the draft law during the legislative procedures in Parliament. In 2007, the project produced two more legal analyses of the draft law and organised 3 legal workshops/round tables. The draft law was slightly changed, adopted by the Government and Parliament but due to political crisis in the country, it finally did not come into force. Finally, at the beginning of 2008, following a series of meetings between the Project Team and the SCFM and NBU, both institutions decided to work together on the new draft amendment of the AML Legislation, based on the compromise approach and legal opinions produced by the Project. The new draft was presented during the legal round table organised by the project in June 2008.

The expected result under Project Objective 2 is the enhancement of the human capacities of the major institutions responsible for combating ML/TF.

That result is expected to be achieved by preparation and implementation of the AML training strategies for the SCFM, Law Enforcement Authorities and Financial Supervisors and by supporting the SCFM International Training Centre. The Project started its activities in that area by participation in or organisation of basic AML trainings for the beneficiary institutions and obligated entities supervised by them (banks, insurance companies) in 2006 and the first half of 2007. The main aim of these activities was to check the quality of existing AML training programs, level of trainers available as well as the overall AML/CTF knowledge at different types of the banking and non-banking institutions. At the beginning, it was planned to channel all training activities through SCFM INTC but because of formal problems (lack of the licence, regulations which obligated financial institutions to participate in AML trainings organised by supervisors etc) and practical ones like constant changes at INTC management, it was decided to work with several major training establishments. In the second half of 2007, the project organised the conference where high officials from major training institutions presented the existing AML training strategies and plans. At the beginning of 2008, the project organised workshop where AML/CTF training strategies of some EU Member States were presented. The existing Ukrainian training strategies were collected. A Training Strategies Working Group consisting of international and local experts was called into life to develop the overall training strategy. The TSWG has been working in 3 main areas: (a) AML training strategy for the SCFM and INTC, (b) strategies for the Law Enforcement Authorities and judges and (c) training plans for regulators, supervisors and obligated institutions in the financial sector. Proposals resulting from the TSWG work were welcomed by the Ukrainian partners and should be implemented by September 2008. Meanwhile a set of training materials was produced and is being distributed. A group of core Ukrainian experts has also been selected who are being trained as trainers. While at the beginning of the Project the key role in the training events was played by international experts, now the increasingly important role is played by local trainers which should guarantee the sustainability of the results under this Objective.

The expected result under Project Objective 3 is the enhancement of organisational and technical infrastructure of the anti-money laundering and counter terrorist financing system.

To achieve this goal the needs assessments of key institutions in term of equipment and technical infrastructure was undertaken by groups of international and local experts which was followed by elaboration of detailed technical specifications to address these needs. Once approved by the Steering Group and endorsed by the European Commission Delegation to Ukraine the procurements lists and specifications serve as the basis for tenders organised by the Council of Europe in line with its procurement rules.

3. OVERALL ACHIEVEMENTS

3.1 Overview of activities (for the reporting period)

| Project Obj. and Output | Date | Place | Activity | Status |
|--|------------------|---------------|------------------------------------|-----------|
| Objective 1 Output 1 | 13 December 2007 | Kyiv, Ukraine | Legal Working group | Completed |
| Objective 2 Output 2 Output 4 Output 5 | 28 February 2008 | Kyiv, Ukraine | Working group on Training Strategy | Completed |
| Objective 2, 3 Output 3 Output 6 Output 7 Output 8 | 05-07 March 2008 | Kyiv, Ukraine | Working group on IT and e-learning | Completed |
| Objective 2 Output 2 Output 3 Output 4 | 04 April 2008 | Kyiv, Ukraine | Seminar for prosecutors INTC/SCFM | Completed |

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| Objective 2 Output 5 | 10-11 April 2008 | Sumy, Ukraine | AML Seminar for Banking Regulators NBU TC | Completed |
| Objective 2 Output 2 Output 3 Output 4 Output 5 | 14-18 April 2008 | Warsaw, Poland | Study visit to Poland | Completed |
| Objective 2 Output 3 Output 5 | 17 May 2008 | Kyiv, Ukraine | Seminar for regulators INTC/SCFM – postponed | Completed |
| Objective 2 Output 4 | 05-06 June 2008 | Kyiv, Ukraine | Training for Academy of Judges | Completed |
| Objective 2, 3 Output 3 Output 6 Output 7 Output 8 | 11-13 June 2008 | Yalta, Crimea | Working group on IT and e-learning | Completed |
| Objective 2 Output 4 Output 5 | 11 June 2008 | Yalta, Crimea | Working group on Training Strategy | Completed |
| Objective 1 Output 1 | 12 June 2008 | Yalta, Crimea | Legal Working group | Completed |
| Objective 2 Output 1 Output 2 Output 3 Output 4 | 11-13 June 2008 | Yalta, Crimea | Yalta 2nd AML CTF conference | Completed |
| Objective 2 Output 4 | 26 June 2008 | Kyiv, Ukraine | Seminar MoI and SBU University of Int. Affairs - operational issues/legal standards | Completed |

3.2 Activities and results during the reporting period: Project Progress by Outputs

The activity plan, implemented in the reporting period, has been structured into three pillars by project objectives and is presented here accordingly:

3.2.1 Project objective 1, output 1

“To make Ukraine’s legislation compliant with the 3rd EU Directive on the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing, and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism”.

Output 1. Draft amendments to the relevant legislation prepared in line with the 3rd EU Directive and the Council of Europe Convention (ETS 198). **Result during the reporting period: partially achieved.**

3.2.1.1 Progress in the reporting period

Amendments to AML Law were adopted by the Parliament in June 2007 but they did not enter into the force due to the political situation in Ukraine. As a consequence, the situation at the beginning of 2008 was more or less the same as at the end of 2006.

The Council of Europe experts produced 3 independent legal opinions of the law¹, as adopted by the Parliament, to get an objective view on the level of conformity with the applicable international standards and the level of acceptance of experts’ recommendations formulated in their previous opinions. One of these opinions has been prepared by the Legislative Institute of Verhovna Rada and referred to the possible further steps to complete the legislative

¹See Appendixes 1, 2, 3

procedures. The other two opinions have been prepared by international experts.

- 5 and 6 December 2007, Strasbourg, France – Follow-up meeting of the Legal Working Group (LWG)

This pre-meeting was organised to discuss the draft opinions. The general evaluation of the law was positive. However, a number of comments were formulated with regard to only partial compliance of that law/draft with international standards and practice. Experts have also noted that a very complicated wording and confusing structure of the law could result in interpretation problems in the future, especially in the financial sector. The SCFM experts have in general accepted these comments. It was also noted that some standards, referring for example to confiscation regime, could not be included in the AML law and should be dealt with separately, through modification into criminal legislation. With regard to the wording and structure of the law, the Project experts were informed that it resulted from the legislative culture of Ukraine and would be difficult to change.

- 13 December 2007, Kyiv, Ukraine - Legal Working Group meeting

It was organised at the Legislative Institute of Verhovna Rada in Kyiv, and gathered the representatives of the key players in the legislative process of AML Law, the Project's legal experts, the Project management and the Representatives of the Secretary General of the COE in Ukraine. Discussion focused on such issues as:

- extension of the list of obligated institutions (including real estate agents, religious organisations);
- legislative strategy (for example there was a proposal to prepare 3 new drafts - one dealing with prevention, another one with repression and the third one covering combating of financing of terrorism).

The most important remark was made by the representative of the Verhovna Rada Administration, who informed that the Draft, which was adopted by the Parliament but not signed by the President, is considered inexistent, hence the legislative process had to be launched from zero. He also informed that the decision of the President not to sign the law was based not only on formal obstacles (dismissal of the Verhovna Rada) but also on some serious reservations with regard to the wording and the consequences of the proposed law.

Participants of the meeting agreed that the lack of appropriate co-operation between the SCFM and the National Bank of Ukraine had a significant adverse effect on the final result of the legislative procedure.

The Legal Working Group has taken the following decisions:

- all legal opinions produced so far should be brought again to the attention of all involved in the legislative procedure;
- the SCFM and the NBU are encouraged to work closely together and try to reach a consensus on as many issues as possible;
- further legislative work should progress at a significant speed in view of the forthcoming evaluation of Ukraine by the Council of Europe Moneyval Committee and the FATF.

Following to these decisions, a joint working group of the SCFM and the National Bank of Ukraine was set up in February 2008 in Kyiv.

In March and April 2008, further actions have been taken on the Project's initiative to speed up the legislative process. These included a meeting between the Representative of Secretary General of Council of Europe and the new Head of the SCFM to draw his attention to the possible results of the evaluation if the new law is not adopted.

The issue of the lack of the updated AML/CTF legislation was also raised during the meetings of the Secretary General of the Council of Europe with the President and the Prime Minister of Ukraine in April 2008.

In May 2008, the Project staff/ team was informed that the new draft law was almost ready and, more importantly, that the SCFM and the NBU reached a consensus. A short presentation of the unofficial text of the draft was delivered by the SCFM to the Project's experts.

Until the beginning of the Legal Round Table during the Yalta conference on 12 June 2008, the Project was not provided with the final text of the draft. During the Legal Round Table, the SCFM informed the participants that the interministerial consultations were finished and draft was passed to the Cabinet of Ministers. It was still being processed by the Government and the prospects were not very clear on when it could be passed to Verhovna Rada. The Project has offered its assistance on every further stage of the legislative process, including preparation of new legal opinions. The project was provided with the text of the Draft on 25 June and now is waiting for the translated version. In any case, the final result of the whole process is now in the hands of the Ukrainian Authorities.

3.2.1.2 Conclusions and issues to address (Project Objective 1)

The complete new draft AML law, which has been jointly elaborated by the SCFM and the National Bank, shall shortly be presented to the Parliament, where it will be processed together with the two earlier drafts. In any case the text resulting from the first reading can substantially differ from the draft. The date of completion of the legislative process cannot be predicted.

The Project and the Representatives of the Council of Europe in Ukraine will closely follow the developments to facilitate the adoption of the law that would comply with the international standards.

3.2.2 Project objective 2, output 2

“To enhance the human capacities of key institutions of the anti-money laundering system of Ukraine (State Committee for Financial Monitoring, law enforcement agencies and judiciary and financial sector regulators/supervisors”.

Output 2. The SCFM training strategy elaborated and implemented. **Results during the reporting period: underway**

3.2.2.1 Progress in the reference period

A Training Strategy Working Group has been created within the Project, the main task being the co-ordination at expert level of activities covering Outputs 2 - 5. Members of the group Project represent the training institutions of the FIU (SCFM), Ministry of Interior, prosecution service, judges and financial sector regulatory bodies and are supported by their colleagues from the EU countries.

The SCFM training strategy was prepared² in active co-operation with experts from different SCFM units and regional offices. **A group of trainers** from the headquarters and regional offices **was identified**. New topics and methods of training were proposed. Training strategies for law enforcement authorities and financial sector are under preparation and should be adopted in the coming months.

The following training events for the SCFM staff were organised in the reporting period:

- 14 December 2007, Kyiv, Ukraine - Training on Risk Based Approach as a new method of combating Money Laundering

² See Addendum 4

Main focus : To provide SCFM staff with knowledge regarding RISC Based Approach.

Participants: SCFM staff responsible for financial analysis and co-operation with financial sector, trainers from the INTC.

- 27-29 February 2008, Kyiv, Ukraine - Workshop for the Ukrainian training Institutions, including the INTC

Main focus: AML/CTF training strategies implemented in Belgium, the Netherlands, Sweden and Poland were presented and discussed. Training materials were distributed.

Participants:

- 11 – 13 June 2008, Yalta, Crimea - II Annual AML/CTF conference

Main focus: typologies, effective co-operation between SCFM, prosecutors and judges and operational experience of EU FIU's in the analyses of data and the investigation of ML/TF. All project beneficiaries, including their regional structures were represented. UA speakers, in general were recruited from the trainers earlier identified by the Project. Foreign experts represented EU FIU's and prosecution services or judges from Sweden, Belgium, Poland and Czech Republic as well as EUROJUST and the European Court of Human Rights (freezing of the accounts and confiscation in the light of human rights standards) shared with participants their own knowledge and experience.

- The Training strategy for the SCFM

It has been elaborated and awaits its formal approval by the Ukrainian authorities. Once approved the Project will assist in its implementation.

The Project has also financed the publication of an AML/CTF handbook to be distributed to specialists from different institutions dealing with combating of ML/TF offences.

3.2.3 Project objective 2, Output 3

"To enhance the human capacities of key institutions of the anti-money laundering system of Ukraine (State Committee for Financial Monitoring, law enforcement agencies and judiciary and financial sector regulators/supervisors".

Output 3. The SCFM National AML Training Centre fully operational. Results during the reporting period : Underway

3.2.3.1 Progress in the reference period

It has to be stressed that the INTC is now a quite different institution than it was at the beginning of the project. After the change of the management in September 2007, it became more active and operational. The Project has established an intensive co-operation with the INTC and the majority of the training activities in the reporting period were organised either at the INTC premises or in close co-operation with it. The management and staff of the INTC have been open to co-operation and creative and took active part in the work of Project's working groups: on training strategy, on IT issues and on e-learning.

On the basis of the working meetings with management of INTC, the Project has prepared a report regarding further development³ of organisational structure and staffing requirements of the INTC, to increase its efficiency and ensure more efficient utilisation of its resources.

³ See Addendum 5

- Development of curricula and training materials (handbook, presentations, CD)

The Project assisted the centre in the process of development of curricula and training materials (handbook, presentations, CD).

Main focus: to provide Ukrainian training institutions with training materials.

- 27-29 February 2008, Kyiv, Ukraine - Workshop on the preparation and implementation of AML/CTF training strategies

It was organised with the participation of representatives of the INTC, Academies of MoI, Prosecution Service, Judges, NBU and training centres of SEC and FSC.

Main focus: during the Workshop for Ukrainian training Institutions, AML/CTF training strategies available in Belgium, the Netherlands, Sweden and Poland were presented.

- 4 April 2008, Kyiv, Ukraine - AML Seminar for Prosecutors and Law Enforcement Agencies

It was aimed at prosecutors from General Prosecution Office, regional prosecution offices and representatives of regional structures of LEA (40 participants), organised by the Project together with the INTC.

Main focus : the Project's experts (Crown Prosecution Office, Assets Recovery Agency both from Belgium) focussed their presentations on the EU and other international legal standards on AML/CTF, international and local effective co-operation between state authorities, real case studies, sources and quality of evidence, confiscation and assets recovery.

- 14-18 April 2008, Warsaw, Poland - Study visit

This study visit was organised for the representatives of the INTC and other training institutions to Poland.

Main focus : During that visit the participants visited all key institutions involved in combating ML/CTF and had the opportunity to participate in the special seminar on effective methods of training with special focus on AML/CTF and anti-corruption trainings prepared by the European Institute of Public Administration – a training institution full financed by the European Union.

- 17 May 2008, Kyiv, Ukraine - AML training seminar

It was organised for 25 representatives of non-banking financial sector regulators was organised in co-operation with and at the premises of the INTC.

Main focus: the activity was aimed at providing the participants with the knowledge of the international AML/CTF standards and practices. Special focus was given to the Money Laundering risks at stock market and insurance sector.

- 11-13 June 2008, Yalta, Crimea - II AML/CTF Conference

This conference was organised together and with significant help of the SCFM and INTC as well.

Main focus: To enhance the co-operation between SCFM, prosecutors and judges. To provide participants with up-to-date knowledge regarding new ML/TF typologies.

System of e-learning is still a subject of intensive discussion within the IT and E-learning Working Group. The Project has received a draft technical specification of the possible future e-learning platform. The overall concept was subject to a very intensive discussion during the last meetings of IT & E-learning WG in March/June 2008. As the concept, was not clearly supported even by the all Ukrainian experts and provoked some reservations of the Project's experts. It is necessary to have at least one more meeting of that group to produce final recommendations.

The Project together with the INTC and the SCFM has produced a list of books (titles ?) to be purchased for the AML/CTF library which are being purchased now.

2.4 Project Objective 2, Output 4

“To enhance the human capacities of key institutions of the anti-money laundering system of Ukraine (State Committee for Financial Monitoring, law enforcement agencies and judiciary and financial sector regulators/supervisors”.

Output 4 . Law enforcement agencies and judges have their training plans in investigating money laundering and terrorist financing cases and are able to implement them. **Results during the reporting period: underway**

3.2.4.1 Progress in the reference period

In 2007, the Project team initiated the co-operation with the Academy of Judges (AJ), which both parties evaluated as exemplary.

This co-operation has so far brought the following results:

- adoption of the training strategy⁴ and agreement on the list of trainers and training plan;
- organisation of the first model training course for judges/trainers on the first week of June 2008 at the AJ, with the participation of 3 judges experienced in the area of AML/CTF from Sweden, the Netherlands and Poland on one hand and 15 judges from Appeal Courts from all over Ukraine on the other. Of particular interest was the presentation delivered by the AJ based on the analytical and statistical researches conducted within Academy and Supreme Court;
- decision to publish a collection of judgements and their justifications on AML cases in Ukraine in 2007-2008. This would be of real help to judges and the LEA;
- presentations by 2 judges-trainers based on their own practice during the Yalta conference there;
- plan of follow-up trainings to be held in September/October in Lvov and Donetsk.

The Project has also established an intensive co-operation with the Ministry of Interior and its Academy (MoIA) as well as with the Prosecutor General’s Office and its Academy (PGOA). All the above-mentioned institutions participated in the training on risk based approach at the Institute of Legislation of Verhovna Rada in December 2007, in AML/CTF Training Strategy Seminar in February 2008, study visit to Poland in April 2008 and the Yalta Conference in June 2008.

- 8 February 2008, Kyiv, Ukraine - Academy of the General Prosecution Office (PGOA) – training for prosecutors

The Project participated in the organisation of a training for prosecutors at the PGOA which was mainly organised by the UPIC project and MOLI-UA2 has contributed to it by inviting a prosecutor from Belgium to present Money Laundering case studies.

Main focus: To provide prosecutors with the knowledge regarding effective mechanism of prosecuting ML cases with international aspects.

Participants: prosecutors from Kyiv and other regions of Ukraine

- 4 April 2008, Kyiv, Ukraine- AML training seminar

It was organised for prosecutors and law enforcement Agencies at the premises of INTC – (see Output 3).

Main focus: to provide prosecutors with knowledge on international standards and best practice regarding seized assets management and confiscation.

Participants: prosecutors from General Prosecution Office and city of Kyiv prosecution offices.

⁴ See Addendum 6

The Project has **identified trainers** from those institutions who regularly participate in the project events. Proposals of AML/CTF Training Strategies for the MoIA and PGOA were prepared⁵ as a result of TSWG and are due to be implemented.

- 14-18 April 2008, Warsaw, Poland - Multi-agency study visit

It was aimed at the representatives of LEA AML training institutions as well as SCFM and financial regulators.⁶

Main focus: the participants had an opportunity to learn about the legislation, practical methods of combating ML/TF offences as well as training solutions introduced by the Polish FIU, General Prosecution Service, Police and Financial Services Authority. Elements of the relevant internal AML/CTF programs and practical issues regarding co-operation between financial sector and FIU were also presented to them during meetings organised at a commercial bank and an insurance company. The group has also participated in the special training seminar regarding effective AML training strategy organised by the European Institute of Public Administration in Warsaw.

- 26 June 2008, Kyiv, Ukraine- Training Seminar for Law Enforcement Agencies

This specialised training for the staff of MoI and SBU was delivered on financial crime investigation and special investigative techniques supporting combating ML offence. The training was organised at the SCFM/INTC premises. Co-operation with LEA and judges is effective. The work plan for the second half of the year is quite intensive.

3.2.5 Project Objective 2, Output 5

“To enhance the human capacities of key institutions of the anti-money laundering system of Ukraine (State Committee for Financial Monitoring, law enforcement agencies and judiciary and financial sector regulators/supervisors”.

Output 5. Regulators and supervisors of the financial services sector implement basic training plans in international standards and best practices in countering money laundering and terrorist financing. Results during the reporting period: underway

3.2.5.1 Progress in the reference period

The staff of financial regulators have regularly participated in the Project activities (for example RBA training seminar in December 2007, AML Training Strategy Workshop in February 2008, study visit to Poland in April 2008 and Yalta conference in June 2008). All regulators are represented in AML Training Strategy Working Group.

Trainers have been identified within all 3 financial regulators. Proposal of training strategies had been prepared⁷ and were discussed during Yalta conference. Strategies should be implemented by September 2008.

- 10-11 April 2008, Sumy, Ukraine – Seminar for banking sector

This AML seminar, organised by the project, with co-operation of the NBU and Sumy Banking Academy, was for the representatives of regional banking supervision (NBU) and banking faculty students at Sumy Banking Training Centre/University

Main focus: the Project’s expert presentations addressed the issue of risk based approach to combating ML at the financial sector (III EU AML Directive), internal AML/CTF programs at

⁵ See Addendum 7

⁶ See Addendum 8

⁷ See Addenda 9

financial institutions and co-operation between financial sector and LEA. The NBU expressed its interest in continuation of this co-operation with the Project in the future.

- 17 May 2008, Kyiv, Ukraine- AML/ CTF Training Seminar for financial regulators

25 representatives of non-banking financial sector regulators participated in this seminar, organised in co-operation with the SCFM and the INTC. The training seminar took place in the premises of the INTC.

Main focus: the activity was aimed at providing the participants with the knowledge of the international AML/CTF standards and sharing with them best practices. Special focus was given to ML risks at Stock Market and insurance sector.

- 11-13 June 2008, Yalta, Crimea – II Annual AML/ CTF Conference, “Financial Monitoring in terms of the world economy globalisation”

It was organised jointly by the SCFM of Ukraine, the Training Center and the project. During the Conference⁸, a presentation of the representative of EUROCLEAR (a governing body for 4 EU Stock Exchanges) was delivered with special focus to Money Laundering risks at banking, insurance and stock exchanges market. Presentations delivered by trainers of the UA financial regulators, acquainted the participants with the local experience regarding ML/TF risks on the financial market.

The co-operation with the financial regulators has been quite intensive and looks very promising in the future.

3.2.1.6 Conclusions and issues to address (Project Objective 2):

Training strategies:

The main difficulty in the implementation of this Output is the multitude of training establishments that provide AML/CTF courses. Practically all state agencies involved in the AML/CTF system have at least one (sometime more) training establishment responsible for the provision of specialised courses for their staff or for the entities they supervise. In most cases there exist normative acts making it obligatory for a given category of persons to undergo regular trainings in a given establishment.

Therefore it proved to be impossible to channel the majority AML/CTF courses through the INTC which was the original plan and what would seem to be most effective method. Instead, the Project management decided to co-ordinate the training process and curricula in the leading establishments. Therefore, the proposals of changes/developments of sectoral AML/CTF training strategies are being produced which will include the key elements (Ukrainian legislation and international standards and their interpretation, best practices, typologies) that should be included in all sector strategies.

As some of the courses organised by these establishments charge fees to their participants, the Project management has made it clear to all participants of the Working Group that any training event profiting from any kind of assistance or support from the Project must be offered free of charge to participants. Any training materials produced or delivered by the Project must be distributed free of charge to all interested.

INTC:

The co-operation with the INTC is good. The main issue to clarify is its status: is it an independent institution, autonomous within the SCFM or just a SCFM department with specific tasks? Linked to that is the issue of formal/administrative barriers to the effective functioning of this institution. The other quite serious problem is rapid turnover of staff, including management one of the INTC. These cannot be solved by the Project but should be addressed

⁸ See Addendum 10

urgently by the Ukrainian counterparts to make further assistance effective and its results sustainable.

3.2.6 Project objective 3, output 6

“To develop the organisational and technical infrastructure of the anti-money laundering and counter terrorist financing system”.

Output 6. The International and National AML Training Centre equipped. **Result during the reporting period: underway**

3.2.6.1 Progress in the reference period

Analysis of the needs of the SCFM/INTC in terms of technical equipment and software were prepared and detailed specifications were produced. Procurement procedures were completed. Purchases and deliveries are in progress under direct supervision of the project procurement advisor – see protocol of the IT and e-learning Working Group on 12 and 13 June 2008.⁹

The list of the books for the INTC library was agreed and confirmed by SCFM/INTC management. The purchases are in progress – see the protocol of the IT and e-learning Working Group.

3.2.7 Project objective 3, Output 7

“To develop the organisational and technical infrastructure of the anti-money laundering and counter terrorist financing system”.

Output 7. 18 regional offices of the SCFM established and equipped. **Result during the reporting period: underway**

3.2.7.1 Progress in the reference period

The Project Procurement Adviser (PPA) has analysed the needs of SCFM and regional offices in terms of equipment and software. He has analysed the needs of 9 regional offices in terms of the repair works. Detailed specifications were produced. The PPA has completed the on-site missions to 9 regional offices from 25 March 2008 to 28 April 2008, in Chernihiv, Ivano-Frankivsk, Chernivtsi, Lviv, Poltava, Zaporizhzhya, Lutsk, Zhytomyr and Kirovograd), regarding renovation processes and delivery of IT equipment.

Pending approval of the selected items and repair works by the Steering Group and endorsement by the EC – see the protocol of the IT and E-learning Working Group.

3.2.8 Project objective 3, Output 8

“To develop the organisational and technical infrastructure of the anti-money laundering and counter terrorist financing system”.

Output 8. The Single Information System extended. Result during the reporting period: underway

3.2.8.1 Progress in the reference period

In the course of the IT & E-learning Working Group activities, it was decided that extension of the SIS will cover elements proposed by the Ministry of Interior and Securities and Exchange Commission. Detailed technical specifications were produced by project experts with co-operation of local beneficiaries The proposal of the MOI received approval and support of the

⁹ See Addendum 11

experts (UA and the project's). Proposal of the SEC still needs some developments but is supported by the IT&E-L WG experts. During the Yalta conference project was informed by SCFM that last elements of the SIS extension will be GAI – Road Police and development of the selected elements of the main SIS server at SCFM. Those proposals should be supported by additional documentation prepared by beneficiaries – see the protocol of the IT and e-learning Working Group.

Connection to FIU NET was finally cancelled – funds, according to SCFM, should be used for financing other elements of the SIS.

Pending approval by the Steering Group and endorsement by the EC.

3.2.8.2 Conclusions and issues to address (Project Objective 3)

The Procurement Adviser has been hired as of January 2008.

Procurement plan¹⁰ approved by the Steering Group in December 2007 is being implemented. In particular: the i2 analytical software has been delivered, tender for the IT equipment for the SCFM and the INTC has been completed and contracts with the supplier have been negotiated; contracts for furniture have been signed. The details can be found in the report prepared by the Project Procurement Advisor.¹¹

Procurement specifications for the MOI and the Securities and Exchange Commission are being studied.

As the workload on the project resulting from misunderstandings or different interpretation of technical specifications has been higher than expected, more effort must be done in the future to make sure that ALL the specific requirements of the beneficiaries are DULY reflected in the specifications before the tendering starts.

The Project shall procure items “from the store” rather than financing the complex development work, unlikely to be finished within the Project timeframes and the results/efficiency of which cannot be sufficiently evaluated ex ante. Small pieces of development work could exceptionally be financed through agreements with the beneficiaries.

In view of the significant differences between the current needs and those originally programmed more work will be needed to properly address these needs. Therefore one cannot exclude the necessity to extend the duration of the project.

¹⁰ See Addendum 12.

¹¹ See Addendum 13.

4. CONCLUSIONS AND RECOMMENDATIONS

During the period under review the project reached the level of 75% of the implementation Objectives 1 and 2 (Outputs 1-5).

The project identified competent and reliable partners in all beneficiary institutions as well as trainers who have regularly participated in the project activities. All beneficiary institutions are active and co-operative during organisation of the project activities.

Work under all outputs is advanced and there is no indication that any of the outputs might not be fully achieved.

However, as new needs are being identified, the tasks under outputs 6-8 will need to be reformulated. This will result in the modification in Chapter 3 of the Project budget and may necessitate the extension of the Project.

5. PLANNED ACTIVITIES

Activities in the next reporting period will be organised along the following priorities:

- Further activities within Output 1, including minimum one legal round table, presentation and final legal analyse of the new AML Law, if needed;
- Continuation of the activities of working group for AML training strategy with the aim of completing the strategies and farther development of selected by the project trainers knowledge and skills. Special focus will be given to the staff of the regional offices of the beneficiary institutions and judges;
- Completion of the procurements and deliveries of the IT equipment and software
- Further assistance to the INTC including preparation of the training materials;
- Further assistance to other beneficiaries in preparation of the training materials and organisation of the AML/CTF training courses;
- Special training activities for selected by the project trainers.

Detailed work plans will continue to be prepared every two months in consultation with the beneficiaries and will be attached to the monthly updates.

5.1 Tentative work plan for the period July-December 2008

| DATES | VENUE | ACTIVITY |
|-----------------|---------------------------|--|
| 11-12 September | Kyiv region | Legal Round table |
| 30 September | Donetsk, Ukraine | Follow-up training for judges |
| 2 October | Lvov, Ukraine | Follow-up training for judges |
| 1-3 October | Davos, Switzerland | CTF Conference – Basel Institute of Governance |
| 3-4 October | Lvov, Ukraine | Regional Training / seminar LEA / SCFM |
| 9-10 October | NBU Academy Sumy, Ukraine | AML/CTF Training for NBU staff and students of banking Academy |
| 14 October | SCFM INTC Kyiv, Ukraine | AML/CTF Training for the staff of non-banking regulators |
| 23-24 October | NBU Academy Kyiv, Ukraine | AML/CTF Training for NBU staff and students of banking Academy |
| 12-15 November | Warsaw, Poland | IT Working Group meeting |
| November | SCFM INTC Kyiv, Ukraine | Training for gambling business |
| November | SCFM INTC Kyiv, Ukraine | Steering Committee |
| 17–21 November | Sweden | Study visit for SCFM Law Enforcement/Financial Regulators |
| December | Strasbourg, France | Final meeting of the TSWG |
| 2-5 December | SCFM Lvov, Ukraine | Conference on International and Local AML/CTF Legal Standards |

Appendices



MOLI-UA-2
**Follow-up Project against Money Laundering
and Terrorist Financing in Ukraine**

**Funded by the European Union and
Implemented by the Council of Europe**



Appendix 1 : Report from Legal Group meeting in Strasbourg, 5 and 6 December 2007

A meeting took place in Strasbourg to discuss the draft Law of Ukraine on Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime and Terrorist Financing (the Law). The participants consisted of representatives from the SCFM (the Ukrainian Financial Intelligence Unit), the Ukrainian Parliamentary Institute of Legislation and two international anti-money laundering and countering the financing of terrorism (AML/CFT) experts. The aim of the discussions was primarily to prepare Ukraine for the upcoming Moneyval AML/CFT evaluation, but also to try to improve the Law.

Firstly the Ukrainian experts informed about the situation in Ukraine. However the election to the Parliament was conducted several months ago there is still no Government selected. This of course affects the status of the Law, as it is not adopted by the Parliament yet even though it has been discussed in the Parliament. What will happen in the future is unclear at the moment. The Ukrainian experts discussed different ways to make a smooth adoption of the Law.

Secondly it was a discussion concerning the co-operation between different authorities in Ukraine, especially the co-operation between the SCFM and the Central Bank. This is something that has to be solved by further discussions between the authorities concerned. It was emphasized that a good co-operation is essential to be able to have an effective AML/CFT in Ukraine.

Thirdly it was a discussion on the draft Law. The overall opinion from the international experts was that the Law is mostly in line with the international standards and that the Law seems to be at a good level. However, we found the structure of the Law confusing. Many of the Articles are very long without any paragraphs, subparagraphs, point or bullet points. We were told that this is a normal way of drafting laws in Ukraine and therefore should not create any confusion domestically. The structure makes it difficult to make a reference to a certain part of the Article. A recommendation would be to make the Articles shorter or at least have paragraphs within the Articles. If not, there might be confusions during the evaluation of Ukraine. All references to paragraphs on the discussion of the Law below are therefore my own.

The following Articles of the Law were discussed;

- There is a definition of money laundering both in Article 1 (paragraph 3?) and Article 2. It is confusing to have to two definitions that are not exactly the same. Furthermore, the definitions miss the conversion and transfer of property as well as the ancillary offences. We were told that the definition in the Law is the same as the definition of money laundering in the Penal Code. It is therefore recommended to broaden the definition.
- There is no definition in the Law on terrorist financing, terrorist acts, terrorists or terrorist organisation. We were not really sure if there is a legal definition of these terms somewhere else in the Ukrainian legal system. These definitions should be defined and clear.
- We were told that "socially dangerous illicit act" in Article 1 (paragraph 2?) should be understood as "predicate offences". Without having seen the Penal Code we cannot estimate if all "designated categories of offences" in the FATF glossary are criminalized and it is therefore not possible to assess if the international standards are met. Another question is why not all crimes are covered instead of having a threshold approach.
- Assets are defined in Article 1 the Law (paragraph 7?). It is questionable if assets can be defined. The international standards define property as assets of every kind. In the Law assets are defined also as property, but we were informed that this might be a misinterpretation in the English version of the Law.

- The definition of political exposed persons (PEPs) in Article 1 does not exclude domestic PEPs (paragraph 14?). This is not in line with Article 5 (paragraph 6?) where it is said "All cases of establishment of business relations with foreign politically exposed persons,...". This confusion should be avoided.
- In Article 4 traders in precious metals and precious stones are considered as entities of initial financing monitoring. It is recommended to have a threshold for these traders in accordance with the EU Directive and the FATF Recommendations. Furthermore, also persons conducting financial transactions with goods in cash are covered as entities of initial financing monitoring. The differences between these two categories are unclear.
- It is unclear if all financial activities, as defined in the FATF glossary and the Annex to the EU Directive, is covered by Article 4 in the Law.
- Article 5 contains some enhanced CDD measures for high-risk situations, such as correspondent banking, PEPs and new technologies. Non-face-to-face situations are not mentioned. Moreover, there are no possibilities to have reduced CDD measures for low-risk situations, which is recommended to introduce.
- The last paragraph in Article 5 contains a threshold approach as referred to in Article 11. We were told that this was only for the Cash Transaction Reporting system (CTR). However, when reading the Law it might not be obvious that the threshold is only for the CTR system.
- Article 12 – 1 (paragraph 1) states that the entities of initial financing monitoring have the right to suspend a transaction. It is not recommended to let these entities to take a decision on suspension. This should be a decision taken by the FIU after a report from the entity.
- A long discussion took place on the freezing of properties in accordance with the UN lists of terrorists (UNSCR 1267 etc.). The freezing procedure in the AML/CFT Law is not in line with what is required by the United Nations.
- Article 15 refers to the 1999 UN Convention on terrorist financing, the 1990 Council of Europe Convention (Strasbourg Convention) and the FATF Recommendations (even though in the English version the reference misses the 9 Special Recommendations). It is recommended to also include a reference to the 1988 UN Convention (Vienna Convention) and the 2000 UN TOC (Palermo Convention). Maybe it should also be considered to refer to the 2003 UN Corruption Convention.

Gothenburg, 15 December 2007

Anders Cedhagen



MOLI-UA-2
Follow-up Project against Money Laundering
and Terrorist Financing in Ukraine

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Appendix 2 : Report on Meeting on Improving Legislation of Ukraine against Money Laundering and Terrorist Financing, Strasbourg, 5 and 6 December 2007

Report of A. Y. Sanchenko, the Head of the Sector of Legal Problems related to European Integration of the Institute of Legislation of the Verkhovna Rada of Ukraine, concerning Participation in the Expert

The expert meeting was organized by the Council of Europe within the framework of the Follow-up Project of the European Commission and Council of Europe against Money Laundering and Terrorist Financing in Ukraine (MOLI-UA-2).

The meeting was attended by 4 representatives of Ukrainian authorities (the State Committee of Financial Monitoring of Ukraine – S. M. Klyushke, the Deputy Head of the SCFMU; V. Y. Borsukovska, the Head of the Division of International Cooperation of the SCFMU; the Institute of Legislation of the Verkhovna Rada of Ukraine – V. G. Tretyakova, the Deputy Head of the Division of European Law and International Integration; A. Y. Sanchenko, the Head of the Sector of Legal Problems related to European Integration), 3 representatives of the Secretariat General of the Council of Europe (P. Musialkowski, the Project Manager, the Department of Criminal Problems; Y. Zhultowski, the Director of MOLI-UA-2 Project; T. Nikitina, the assistant Director of MOLI-UA-2 Project) and 2 European experts (A. Sedhagen, Sweden; R. Typa, Poland).

The aim of the meeting was to discuss the state of legislative support in Ukraine related to fight against money laundering and terrorist financing, as well as problems of its improvement considering rules of international and European law, requirements of international and intergovernmental organizations – Council of Europe, European Union, UNO, FATF, World Bank, European Bank of Reconstruction and Development etc. It is expected that in 2008 Ukraine would report before the Committee of Experts of the Council of Europe on the Evaluation of Anti-Money Laundering Measures (PC-R-EV, MONEYVAL).

When improving legislation, Ukraine has to take into account the rules of the newly adopted international acts – Convention of the Council of Europe on the Prevention of Terrorism dated 16.05.2005, as well as Directive of the European Parliament and Council 2005/60/EU dated 26.10.2005 on the Prevention of the Use of the Financial System for the Purpose of Money Laundering and Terrorist Financing.

Basic law of Ukraine in the sphere is the Law of Ukraine On Prevention and Counteraction to the Legalization (Laundering) of the Proceeds from Crime dated 28.11.2002 No. 249-IV as amended by corresponding laws in 2002, 2003, 2004 and 2005. This Law of Ukraine regulates relations in the sphere of prevention of and counteraction to putting proceeds from crime into legal circulation, and is aimed against terrorist financing.

The Verkhovna Rada of Ukraine of the V convocation considered the draft Law On Amendments to the LAW OF UKRAINE On Prevention and Counteraction to the Legalization (Laundering) of the Proceeds from Crime No. 2847 dated 28.12.2006 and adopted it on 19.06.2007 (signed by the Head of the Verkhovna Rada of Ukraine on 25.06.2007).

This is this very document that was the subject of discussion during the expert meeting.

But, taking into account Decree of the President of Ukraine On Calling Early Election to the Verkhovna Rada of Ukraine in Connection with Powerlessness of the Verkhovna Rada of

Ukraine and Pre-term Termination of its Powers dated June 5, 2007 No. 497/2007, we have grounds to believe that the Law has not become effective.

It should be noted that much work was done during drafting amendments to the effective law. There are certain professional achievements, which were made owing to the practice of applying corresponding legislation and development of this sphere of legal relations on the whole. The law acquires up-to-date features of because it is focused on bringing approximation of Ukrainian legislation to the norms of international and European law, and in particular – with legal norms of the European Union, to which Ukraine is not a member.

It should be also noted that such approximation does not envisage absolute borrowing of norms and legal terminology, but is mostly characterized by integration of essential forms into national legislative context and law enforcement practice. Legal improvements must, basically, renew, correct and deepen contents of a document, as well as simplify understanding thereof, which is a guarantee of its viability and effectiveness.

I think that text of this draft law requires further work. Its main drawbacks include inconsistency with other laws and regulations (as regards consistency of provisions and terminology) and violation of the rules of drafting technique. A law must not, in the first line, create grounds for breaches (unintentional or deliberate) of norms of the Constitution of Ukraine.

It was also recommended to edit title of the proposed draft law, taking into account that it envisaged amendments not only to the basic law against money laundering, but also to other laws (On Banks and Banking Activity, On Auditing Activity, On Advocateship, On Notaries etc). The need in covering aspects of preventing terrorist financing should also be taken into account. We would propose the following wording of the title: On Amendments to Some Laws of Ukraine Related to Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime and Terrorist Financing.

There are remarks concerning definitions of a number of terms and notions, in particular *"internal financial monitoring"*, *"business relations"*, *"political figures"*, *"transfer of funds"*, as well as unclearness of some statements *"in case of doubts concerning reliability or sufficiency of the received information"*, *"other financial transactions, which can be related to legalization (laundering) of proceeds and terrorist financing, grounded suspicion that they (financial transactions – author's comment) can be conducted for legalization of proceeds" etc.*

Definition of term *"political figures"*, which is proposed by the draft (Article 1 of the draft law), is a very complicated innovation. It requires further specification in the text of the law. Technically, it is possible through a note with complete list of state authorities, senior officials of which belong to political figures. It is necessary, because not all of such chiefs can be regarded as political figures. It is also necessary to determine a range of positions, which belong to executive positions of political parties, and the list of "state enterprises (organizations), of strategic importance for the economy and security of the state". Otherwise, practical application of the proposed definition is doomed to numerous difficulties related to its subjective interpretation.

The draft law does not contain explanations concerning grounds of doubts and suspicions (Articles 5, 6 of the draft law). It can result in taking of improper decisions and breach of the constitutional principle of and the right to the presumption of innocence (Article 62 of the Constitution of Ukraine). Besides, the Basic Law of Ukraine stipulates that relations involving human rights and freedoms, guarantees of these rights and freedoms, the main duties of the citizen, must be regulated "exclusively by the laws" (Article 92 of the Constitution of Ukraine), rather than by regulations (resolutions, orders, instructions etc). It should also be taken into account that "The content and scope of existing rights and freedoms shall not be diminished though adoption of new laws or in the amendment of laws that are in force" (Article 22 of the Constitution of Ukraine). Thus, the said grounds should be outlined on the whole.

The draft law does not determine who belongs to *"family members and close relatives of a political figure"* and it can create precedents of breaching the right to privacy. Norm of the Family Code of Ukraine (Article 3), which defines "family", cannot coincide with legal norms of other countries in full. Besides, there is a risk of breaching the right to protection of personal data. These rights are internationally recognized as fundamental human rights. Ungrounded breaches can result in applications to the European Court of Human Rights. Protection of these rights is stipulated by Article 32 of the Constitution of Ukraine.

Such imprecision will create grounds for ambiguous interpretation of such terms, notions and statements even by experts, not only by ordinary citizens, who can get into the scope of the law. It also gives way to subjective approach of officials, judges, other natural and legal entities during application of the law in practice. It would undoubtedly complicate taking measures against illegal financial transactions and terrorist financing.

The text contains a number of provisions without any certain details on their application. It should be indicated, for example, during what period of time a subject of financial monitoring has to inform the Authorized Body on certain financial transactions (Article 5 of the draft law). It is not clear, which "necessary information" must be provided by a person (client), "with whom business relations has already been established by a subject of primary financial monitoring" (Article 6 of the draft law). We should also determine grounds for conducting, by subjects of state financial monitoring, *of planned and unplanned inspections* of activity of the subjects of primary financial monitoring as regards to their compliance with legislation on prevention and counteraction to legalization (laundering) of crime proceeds and terrorist financing (Article 10 of the draft law). This Article contains a reference to indefinite *"other state authorities"*. Specification should also be made as regards proposition on mandatory financial monitoring of transactions which *"may be interrelated"* (Article 11 of the draft law). Certain doubts arise about the possibility of practical realization of legislative norm, which stipulates mandatory financial monitoring concerning *"transaction with assets, which are invested (emitted, registered, taken on stock, provided, realized or used) or will be invested (emitted, registered, taken on stock, provided, realized or used) as a result of a transaction beyond customs territory of Ukraine, if no external economic contract is concluded"* (Article 11 of the draft law). There is no list of data, which can be obtained by the Authorized Body from other bodies of executive power and bodies of local self-government, economic entities (Article 13, part two, paragraph two of the draft law). It is necessary to specify deadlines and procedure of obtaining, by the Authorized Body, of information from law-enforcement bodies and the State Customs Service on consideration of respective generalized materials (Article 13, part two, paragraph five).

It is expedient to avoid using of specific titles of the bodies of state power in the text of the law (Articles 4, 10, 13) as it does not comply with rules of legislative technique.

Rules of drafting technique are also violated, where articles of the law are too big in volume. Thus, Articles 5, 6, 8 and 10 should be properly dealt with. In particular, Article 6 "Identification of Persons Conducting Financial Transactions" should be reformatted and divided into parts, so that it begins with explanation of what identification envisages, and only than informs of cases, when it should be conducted, as well as of its specific features, etc.

Final clauses of the draft law should contain (beside propositions on amendments to the Civil Code of Ukraine, laws of Ukraine On Banks and Banking Activity and On Financial Services and State Regulation of Financial Services Markets) amendments to the Laws of Ukraine On Auditing Activity, On Notaries, On Advocateship, as well as other legislation which regulates activity of insurance companies, pawn-shops, entertainment institutions etc.

Besides, we would propose, in order to strengthen arguments in favor of the pressing need in adopting by the Verkhovna Rada of Ukraine of the discussed draft law, to supplement the Explanatory Note thereto with a comparison table containing the proposed norms of the law and norms of corresponding international legal instruments, which serve as a basis for assessment of measures realized by Ukraine against money laundering and terrorist financing, within the framework of the soon visit of MONEYVAL to Ukraine.

Legal and practical benefit can be obtained, in my point of view, from recommendations of European experts, who participated in this meeting. They provided professional advice and explanations on improvement of legislation taking into account requirements of fundamental international legal instruments and on organizational and methodic aspects of assessment of Ukraine's meeting its obligations related to membership in the Council of Europe, UNO, as well Financial Action Task Force (FATF).

I consider it advisable to discuss this draft law in format of a meeting of inter-departmental expert group on the basis of the Institute of Legislation of the Verkhovna Rada of Ukraine, and for SCFMU – to further work over the draft law taking into account the received recommendations and comments before repeated registration and consideration by the parliament of the VI convocation. Afterwards, it would be advisable to organize a number of events at the level of parliamentary committees for popularization of the draft law's ideas.

It is also important to inform the society through mass media and corresponding printed products (collections of laws and regulations for specialists from different fields of activity, students and the public, collections of scientific articles, booklets with brief information on responsibility in case of breaching corresponding legislation etc).

A. Y. Sanchenko



MOLI-UA-2
Follow-up Project against Money Laundering
and Terrorist Financing in Ukraine

Funded by the European Union and
Implemented by the Council of Europe



Appendix 3: Report from Legal Working Group, Strasbourg, France, 5 and 6 December 2007

Warsaw 21 January 2008

Robert Typa
MOLI-UA-2
Expert Council of Europe
Poland
Report from Legal Working Group
Strasbourg, France
5 – 6 December 2007

Within the framework of the Follow-up Project Against Money Laundering and Terrorist Financing in Ukraine (MOLI-UA-2), Council of Europe has organized in France the meetings with appropriate representatives of Ukrainian Authorities.

As the expert of Council of Europe I have participated in two days works of Legal Working Group. We have discussed with experts from SCFM, State Committee for Financial Monitoring (including Deputy Head – Mr. Stanislav Klushke and Victoria Borsukovska) and with legal experts from Institute of Legislation in the Parliament of Ukraine.

After the meetings with Ukrainian counterparts and analyze the draft Law on Anti-Money Laundering / Combating Financing of Terrorism (AML/CFT) I would like to present the following main problems which have to be solved during the process of the adoption of amendments to the appropriate laws in the scope of counteracting money laundering and financing of terrorism:

1) General comments:

- a) for preparation overall opinion all laws connected with *Law of Ukraine On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from crime and Terrorist Financing*, in particular:
 - law in which is definition of financing of terrorism,
 - law on SCFM,
 - all appropriate laws which are mentioned in Section VII. Final Provisions;should be analyzed. That report, on the base of provided materials, covers the conformity with international standards the AML/CFT Law only.
- b) the structure of AML/CFT law – the lack of paragraphs, subparagraphs, points, etc. – it seems that the text is not legible and it could be a lot of problems during discussion with international experts, bodies, organizations, especially during nearest the 3rd round of Council of Europe evaluation planning for the period of May/June next year;
- c) used definition have to be precise and legible – to avoid any possible doubts and misunderstanding, especially during mentioned above evaluation – for. ex. definition of money laundering, financing of terrorism, PEPs (politically exposed persons);

2) Implementation of European Union standards to the Ukrainian law:

a) *Directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing* (3rd Directive) – the prepared proposals concerning amendments to the law on AML/CFT is very professional and highly done work; in my opinion only some, following points, need clarification or changes:

- lack of “terrorist financing” definition or lack information in which law there is such a definition,
- adding National Bank of Ukraine to the list of reporting entities – the reason for that is that in many countries such a solution is implemented and after this both sides (FIU and Central Bank) have positive opinion of that – even if the were against it before change,
- creation of clear, compatible with the definition in 3rd Directive and detailed explanation from Directive on Implementing Measures, definition concerning “politically exposed persons”,
- explanation the reason/s of excluding non-state pension funds in article 4,
- quite long term of transaction suspension in article 12 prim,
- explanation concerning changes to another laws, which is mentioned in Section VII. 3. – all connected laws needs appropriate changes – form the logical point of view (but especially taking into consideration the nearest evaluation of Ukraine conducting by Council of Europe/Financial Action Task Force) it will be better, for having still effective system, to prepare all necessary changes together and not keep situation that part of legislation is in line with international standards but quite big part of them is contradictory to it,
- submission of the procedure for composition of the list of persons related to terrorist activity,

b) *Directive laying down implementing measures for 3rd Directive* (Directive on Implementing Measures):

- The Ukrainian Authorities shall use the wording and scope of this legal act for preparation better, appropriate/useful version of their amendments to the AML/CFT laws – the wording in this act was prepared by European Commission on the requests of Members and it is in many places more details than solutions presented and using by Financial Action Task Force;

3) Preparation and effective implementation rules of cooperation between Financial Intelligence Unit (State Committee for Financial Monitoring) and Law Enforcement Authorities (prosecutors, police units, secret service, customs, tax inspectors, etc.);

- all involved authorities have to understand that there is necessity for real, effective cooperation and appropriate/effective functioning by them as a part of whole, tight element of system in the area of combating money laundering and financing of terrorism – it will be very important elements of the evaluation performing by the assessors from Council of Europe and Financial Action Task Force – this particular remark is directly connected with the Recommendation 31 of FATF; on the base of it the Policy makers, Financial Intelligence Unit, law enforcement authorities and supervisors and other competent authorities should have effective mechanisms in place which enable them to co-operate, and where appropriate, co-ordinate domestically with each other concerning the development and implementation of policies and activities to combat money laundering and financing of terrorism; such mechanism should normally address:

- a) **operational co-operation and, where appropriate, co-ordination between authorities at the law enforcement / Financial Intelligence Unit level (including customs authorities where appropriate); and between the FIU, law enforcement and supervisors;**
- b) policy co-operation and, where appropriate, co-ordination across all relevant competent authorities.

Prepared by:
Robert Typa, Poland



MOLI-UA-2
**Follow-up Project against Money Laundering
and Terrorist Financing in Ukraine**

**Funded by the European Union and
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Appendix 4 : Report on Training Strategy Working Group, Kyiv, Ukraine, May 2008

SCFM/INTC Training Strategy

May 2008
STE: Elżbieta Franków-Jaśkiewicz
Thierry Loquet

The objective

The objective of the activity was to sum-up the co-operation between the project and SCFM/INTC regarding the analyses of the training needs of the SCFM/INTC staff as well as preparation of the AML training strategy, plans and curricula based on system of internal trainings in prevention and combating money laundering and financing of terrorism implemented at the INTC. In this respect it was to be investigated how the AML/CTF program produced by the competent organisational unit of The STATE COMMITTEE FOR FINANCIAL MONITORING OF UKRAINE called „Training centre for financial monitoring specialists advanced training and retraining in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing - INTC” is in accordance with internal and international practice and standards.

Preliminary planning

The procedure for the course of data collection for the analysis has been agreed in advance with the Long Term Advisor. The following material has been made available to the authors of this report for preparation of the mission:

- Professional programme -Advanced training and retraining «Counteracting to legalization (laundering) of the proceeds from crime and terrorist financing»
- Other internal training strategies & programmes for different sectors (prosecutors, police, banking sector, other)
- Letter describing Ukrainian FIU expected training activities in the field of combating money laundering and terrorism financing during the Flow-up Project against Money Laundering and Terrorist Financing in Ukraine (MOLI-UA-2).

Implementation of the mission

Methodology arrangements

The early planning was the basis for the meeting with the director of the Training centre for financial monitoring specialists advanced training and retraining in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing and with participation of Long Term Advisor and his Assistant.

The meeting resulted in a concordant agreement that the information necessary for the analysis will be collected through interviews with the members of the management and the staff from Training centre for financial monitoring specialists advanced training and retraining in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing as well as SCFM itself. Appropriate presentations will be offered to elaborate

the information in detail. The Head and Deputy Head of the INTC offered unrestricted co-operation in this matter to assist the evaluation. The methodology was based on the experience, according to which the training strategy in combating money laundering and terrorism financing must be first created and implemented by national authorities, then in most cases verified through international co-operation of competent authorities based on international training standards in combating money laundering and terrorism financing. With regard to the methodology it is to be noted that the results of the analysis of the possessed materials have been taken into account. The results of the analysis done by other experts of the Council of Europe on the earlier stage of the project have been considered as well.

Development of training programme/strategy in combating money laundering and financing of terrorism in FIU Ukraine

The Training centre for financial monitoring specialists advanced training and retraining in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing is an organisational independent unit within the STATE COMMITTEE FOR FINANCIAL MONITORING OF UKRAINE and is designed as an administrative authority which according to statutory guidelines and in line with its self-definition is a central office responsible for creation and providing advanced trainings and retraining in combating money laundering and terrorism financing for the FIU employees and other national authorities cooperating in the field of combating money laundering and terrorism financing.

In the course of FIU creation and extension, conceptions for trainings have been developed as well as conceptions for co-operation and trainings for other institutions, national authorities and foreign FIUs. In order to make (in particular) co-operation in development of the training programmes effective the special Training centre has been established.

Professional Program - Advanced training and retraining «Counteracting to legalization (laundering) of the proceeds from crime and terrorist financing» - program description.

This programme has been developed for financial monitoring specialists in the field of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing. It is designed to provide the specialists of initial and state financial monitoring entities, law enforcement and court authorities, as well as foreign FIU's with training and advanced training.

Period of training on the professional programme is 72 teaching hours, where the student's training time is planned on the basis of 9 teaching hours a day, six working days a week. The duration of classes shall not exceed 6 teaching hours a day. Thus, the maximum amount of a student's training load at the time of advanced training shall not exceed 54 hours a week.

The Programme is built on the module principles and consists of three components (general, functional and branch), each of which in its turn is divided into two parts – normative, compulsory for all students, and optional (selective). The list of training modules is designed for every category of students depending on the specific needs.

In each component the following modules are dealt with:

Normative part

The normative part includes modules which are to guarantee:

- Acquisition (updating, extending) of the knowledge and skills necessary to financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing? Irrespective of their specialization, previous experience, sphere of activities, age, professional or personal features;
- Satisfaction of state interests in the sphere of advanced training of financial monitoring specialists (including their level of professional qualification, patriotism, culture, ethics, etc.).

General component

Mastering the general component of the professional programme must enable development of basic issues concerning professional knowledge, skills and personal features of financial monitoring specialists in the sphere of counteracting to legalization

(laundering) of the proceeds from crime and terrorist financing, which are not directly connected with the mechanism of realization of the tasks and fulfillment of specific functions in this or that sphere (on the given working place). The main aim of general component training is to provide with and extend concrete knowledge of social, humanitarian, legal and economic disciplines, form the ability to apply this knowledge in practice, and correct financial monitoring specialists' outlook in order to guarantee their adequate understanding of their duties and powers as they are presented in the professional qualification description.

The contents of the general component come from Law of Ukraine «On Prevention and Counteraction to legalization (Laundering) of the Proceeds from Crime», Provision of the Cabinet of Ministers of Ukraine and the National Bank of Ukraine «On 40 FATF Recommendations» and the requirements to financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing.

First of all, this is:

High cultural level and level of civic responsibility;

Satisfaction of the requirements regarding the behavior:

- thorough execution of their duties (self-discipline)
- respect to citizens, leadership and co-workers
- protection of national interests of Ukraine
- non-abuse of their position in their own interests and non-admission of corruption acts
- objectivity and non-prejudgment in relation to legal and natural entities
- non-admission of bureaucratic and other abuses

Master knowledge and skills to use in practice the following:

- Procedure of identification of persons carrying out financial transactions
- Procedure of detection of financial transactions subject to financial monitoring and which can be related to or meant for terrorist financing
- Procedure of reporting the financial transactions regarding which there is, or there should be a suspicion that they are related to, or connected with or meant for financing terrorist activities, acts or organizations, to SCFM and law enforcement authorities
- Requirements to prevention of disclosure of information given to SCFM, as well as other financial monitoring information including that of the fact of providing such information.

At the same time, nowadays, any financial monitoring specialist in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing also needs the knowledge and skills to be able to work in the present-day complicated social, economic and political situation in Ukraine, which are characterized not only by Unitarian political state system, but also specific regional features (variety of the national composition and historic traditions, political views and religious confessions of the population, different levels of development and state of the productive forces and infrastructure of regions, climatic, geographic and ecological conditions, remoteness or proximity of the state borders, etc). It is clear that in order to successfully organize the activities on the whole territory and in all spheres financial monitoring specialists should manage up-to-date scientific systematic knowledge and instruments as well as the corresponding procedure of their realization in the form of specific administrative, consultative and advisory actions.

The normative part of the general component includes the following training modules:

Legal regulation of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing. Territorial organization of the authorities in Ukraine.

Economic and legal measures to be taken to fight economic crime and corruption

Political science. Humanitarian and social policy of Ukraine.

Optional part of the general component of the programme includes such training module as Integration of Ukraine into the EC.

Functional component

The functional component of training, retraining and advanced training of financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing is to enable the specialists to solve the problems related to their

duties and generalized professional tasks, that has to be realized through acquiring additional knowledge and skills meeting the requirements of their professional level. Unlike the general component, the cycle of disciplines included into the functional component should contribute to mastering such training subjects that will enable financial monitoring specialists to fulfill their administrative functions and duties as defined by their job instructions.

The main emphasis in this component is laid on formation of practical skills that can be guaranteed by excessive interactive methods of teaching (practical classes, seminars, round tables, discussions, business and role games, etc.) with the study (discussion, analysis, role-playing) of concrete administrative situations.

The methods of teaching of the functional component modules are also quite different. One of main peculiarities is that the trainer has to encourage the training process as much as possible, not only be a lector. Using appropriate methods, it is necessary to encourage students to exchange the corresponding information, give them the opportunity to teach each other. Providing the students with new information, it is necessary to find parallels with the knowledge they have already combining the new information with the existing background.

The normative part of the functional component of the professional programme is completed with training modules aimed at teaching the students to practical application of administrative sciences, stimulate their need to use modern technologies of process organization in the sphere of administrative management, encourage financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing to find scientific approaches to time and work management, form their need for further professional self-perfection.

The normative part of the functional component includes the following modules:

1. Mechanism of legalization (laundering) of the proceeds from crime and peculiarities of their detection
2. financial monitoring as a main element of the system of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing

The optional part of the functional component of the professional programme includes the following training modules:

1. *Information technologies and technologies of decision-making support in the sphere of counteracting to legalization (laundering) of the proceeds from crime*

Branch component

The branch component of the programme is composed of optional modules and is aimed at acquiring additional knowledge and skills of up-to-date achievements in the specific branch or sphere of activities.

The course programme provides for theoretical disciplines, topical discussions, seminars, experience exchange, study of the experience in the given sphere, round tables.

Much attention is paid to achievements and experience as a result of practical activities, achievements of economic and administrative sciences. The programmes are designed so that the student can use their own experience and the situations of their everyday practical activities.

The branch component of the programme includes such training module as Topical issues of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing.

In the curriculum of the professional programme of financial monitoring specialists advanced training and retraining in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing there are following components (blocks) and training modules related to money laundering.

General component

Legal - Legal regulation of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing

Economic - Economic and legal measure to fight economic crime and corruption

Social and psychological - Political science. Humanitarian and social policy of Ukraine; Action plan «Ukraine-NATO», Social psychology and methods of teaching

Functional component

Administrative - Mechanisms of legalization (laundering) of the proceeds from crime and peculiarities of their detection, International experience in counteracting to legalization (laundering) of the proceeds from crime and terrorist financing, Integration of Ukraine into the EC

Financial - Financial monitoring as a main element of the system of counteracting to legalization (laundering) of the proceeds from crime and terrorist

Information and communication - Information technologies and technologies of decision-making support in the sphere of counteracting to legalization (laundering) of the proceeds from crime

Cultural science - Culture of business communication

Branch component

Branch (for law enforcement authorities) - Round table «Topical issues of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing

Branch (for entities of state financial monitoring) - Round table «Topical issues of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing ».

Proposals and opinions concerning program

According to the opinion of the experts of the Council of Europe (CoE) The Professional programme, Advanced training and retraining “Counteracting to legalization (laundering) of proceeds from crime and terrorist financing” and its curriculum is a very detailed and scientific program. The program offered the knowledge of many aspects of combating money laundering and financing of terrorism, which is necessary for everyday work of the structures involved in the whole process of combating money laundering and financing of terrorism. In opinion of the experts the build up of the program on the module principles and the fact that every module consists of three components (general, functional and branch) is very positive. So, every student can build up his program depending on his specific needs.

In opinion of the experts it is worth to organize an general exam for all the trainees participating in the Branch component to check their knowledge after the course. Because these trainings are organized by the Training centre of the Ukrainian FIU, such exam could be organized by this Centre.

Besides that the students (employees of FIU and other institutions) need a training related to money laundering and financing of terrorism they also need special trainings dedicated to the confiscation of property that has been laundered or which constitutes proceeds from, instrumentalities used in, and instrumentalities intended for use in the commission of any money laundering, terrorism financing or other predicate offences, so which means the detection and absorption of earnings derived from organised crime. Without such knowledge it is difficult to combat money laundering in an effective way. This is also required by European and international standards (see the FATF Recommendation 3 and SR III) Because of that the experts recommend organisation of additional/optional trainings dedicated to the confiscation. Because criminals have shown their adaptability and opportunism in finding new channels to launder the proceeds of their illegal activities and to finance terrorism, there is also necessary to prepare professional investigators which will be ready to react earlier and more effective for a wide range of risks and vulnerabilities that can be exploited by criminal organisations and terrorist groups. To avoid such vulnerabilities it is worth to organise optional seminars/trainings concerning the risk – based approach to combat money laundering and financing of terrorism. Such knowledge will allow resources to be allocated in the most efficient way. Trainings in the risk – based approach could focus in the building a better understanding of the ML or TF risks amongst governmental bodies and the private sector, providing outreach to the private sector on ML or TF schemes and for implementing mechanisms of detection of suspicious transactions.

One of the most important issues of last years is also combating WMD proliferation. Each country should develop its system of combating WMD proliferation which is possible by implementation of international standards like FATF best practices to counter WMD

proliferation finance. So, in opinion of the experts there is a need for such training/course which will present the new trends, especially in connection to the topic mentioned above. All proposed optional seminars/courses should be organised by the Training centre. Proposed duration of each course is 1 day (8 hours).

After the verification of the program the experts propose to include into the functional component so-called strategic analysis.

This type of analysis consists in analysing the content of suspicious activity reports (SAR), then organising these reports in groups and showing common features of these reports/disclosures, which features enable distinction of individual groups.

The reports/disclosures organized and grouped as above constitute material for a broad group of law enforcement agencies (police, customs offices, tax offices etc.), which when requesting certain intelligence from FIU receive this information in a form of organized packages.

Such analysis gives basis for identification of new trends, money laundering methods; and allowed to construct the target profiles – which are a more detailed analysis and which include risk evaluation.

In opinion of the experts such knowledge will be an useful tool for both parts of the organisation – analysts and management. It is proposed to include it into the existing program on the basis of one week course/ training.

For more effective work and self study it is recommended to use on the limited basis, new IT tools like e-learning platform and e-library, which allow wider and easier access for each participant of the courses/trainings.

The experts also propose to organize on constant basis, if possible, within the MOLI project for the SCFM/INTC staff and management activities like following:

1. Training for Department of Analytical Work (Seminars, trainings, conferences, study visits)

Regular staff, including newly recruited:

- Legal basis of combating ML/TF in Ukraine with elements of the role of the other institutions of AML/CTF chain and international standards
- Financial analysis
- Cooperation with financial regulators and financial institutions
- Co-operation between FIU, MoI, SSU, prosecutors and judges
- Exchange of information between FIU'S (CIS/EU/ others), WMD proliferation - optional
- Study visit to EU FIU of administrative/ police type and other state bodies involved in the system of prevention and counteraction ML/TF – optional

Senior Management:

- Legal basis of combating ML/TF new local and international standards
- Advanced financial analysis including strategic analyses and use analytical software
- Co-operation between FIU and financial regulators/financial institutions, MoI, SSU, prosecutors, judges (Risk Based Approach, preparation and evaluation of evidence, confiscation)
- Exchange of information between FIU'S (CIS/EU/ others), WMD proliferation
- Study visit to EU FIU of administrative/police type and other state bodies involved in the system of prevention and counteraction ML/TF – optional
- Participation in the meetings of working groups of Moneyval/ Eurasian/Egmont group on typology issues - optional

2. Training for Department of Cooperation and Methodical Supplying of the System of Financial Monitoring (Seminars, trainings, conferences, study visits)

Regular staff, including newly recruited:

- Legal basis of combating ML/TF in Ukraine with elements of the role of the other institutions of AML/CTF chain and international standards
- Cooperation with financial regulators and financial institutions, priority banks

- Co-operation between FIU, MoI, SSU, prosecutors and judges
- Co-operation between AML/CTF state regulators – elements of modern methods of regulations and coordination of cooperation and supervision over financial intermediaries
- Exchange of information between FIU'S (CIS/EU/ others), WMD proliferation - optional
- Study visit to EU FIU of administrative/police type and other state bodies involved in the system of prevention and counteraction ML/TF, special focus on exchange of information within the unit, exchange of data with financial institutions as well as local and regional co-operation – optional.

Senior Management:

- Legal basis of combating ML/TF new local and international standards
- Cooperation with financial regulators and supervision over financial sector
- Co-operation between FIU, MoI, SSU, prosecutors and judges
- Co-operation between AML/CTF state regulators – coordination of cooperation and supervision over financial intermediaries on the state level
- Exchange of information between FIU'S (CIS/EU/ others) - optional
- Study visit to EU FIU of administrative/police type and other state bodies involved in the system of prevention and counteraction ML/TF, special focus on exchange of information within the unit, exchange of data with financial institutions as well as local and regional co-operation – optional.

3. Training for International Cooperation Department (Seminars, trainings, conferences, study visits)

Regular staff, including newly recruited:

- Legal basis of combating ML/TF new local and international standards (EU Directives, COE/UN Conventions, FATF Recommendations, Egmont Standards),
- Study visit to EU FIU of administrative/police type and other state bodies involved in prevention and counteraction of ML/TF;
- Participation at the meetings of MONEYVAL, FATF, EGMONT, EuroAsian Group.
Foreign language courses

Senior Management:

- Legal basis of combating ML/TF new local and international standards (EU Directives, COE/UN Conventions, FATF Recommendations, Egmont Standards) with elements of legislative techniques and international sources of Law
- Exchange of information between FIU'S (CIS/EU/ others)
- Implementation of TA projects
- Study visit to EU FIU of administrative/police type and other state bodies involved in prevention and counteraction of ML/TF
- Participation at the meetings of MONEYVAL, FATF, EGMONT, EuroAsian Group on typologies, evaluations and international co-operation and other meetings organized by international organizations and TA projects
- Foreign language courses

4. Training for Legal Department (Seminars, trainings, conferences, study visits)

Regular staff, including newly recruited:

- Legal basis of combating ML/TF new local and international standards (EU Directives, COE/UN Conventions, FATF Recommendations, Egmont Standards) - legislative techniques and international sources of Law
- Co-operation between FIU and MoI,SSU, prosecutors, judges
- Study visit to EU FIU of administrative/police type and other state bodies involved in prevention and counteraction of ML/TF
- Participation in the meetings of legal working groups of international organisations
Foreign language courses

Senior Management:

- Legal basis of combating ML/TF new local and international standards (EU Directives, COE/UN Conventions, FATF Recommendations, Egmont Standards) - legislative techniques and international sources of Law – advanced training
- Co-operation between FIU and MoI, SSU, prosecutors, judges
- Participation in the meetings of legal working groups of international organisations
- Study visit to EU FIU of administrative/police type and other state bodies involved in prevention and counteraction of ML/TF
- Exchange of information between FIU'S (CIS/EU/ others)

Foreign language courses

All these presented activities will improve the knowledge of the personnel involved in the process of combating money laundering and financing of terrorism. In the experts opinion the ideal situation would be if the staff of the SCFM has opportunity to participated at the above mentioned trainings minimum every 2/3 years.

Recommendations

- ✓ Structuring of cross-institutional co-operation in the field of combating money laundering and terrorism financing trainings

It is recommended that contacts to fiscal control, tax, customs and customs control authorities, to police and in particular to public prosecutor's offices are further intensified with the goal to create solid structures for cross-institutional co-operation in the field of organisation of common trainings and seminars for the above mentioned authorities.

A positive consequence of a more structured co-operation is that it will develop better understanding of the topics related to combating money laundering and terrorism financing like various strategies, different competencies will be understandable for all employees, which ultimately will be supportive for the work of all institutions involved into process of combating MI & TF. These joint educational activities provided not only professionally qualified training but also resulted in development of common perception of objectives and in significant increase of motivation for necessary co-operation – in spite of different competencies of involved authorities.

- ✓ It would be reasonable to set up for testing purposes and proposals for an general exam a working team with representatives from all involved authorities.
- ✓ There is also reasonable to put into program more topics connected with international law /cooperation and implementation of international standards in combating money laundering and terrorism financing.
- ✓ Establishing of contacts and working/study visits served both to present Ukrainian efforts to combat money laundering and terrorism financing and to gain information necessary for implementation in Ukraine of preferably effective combating strategies based on the experience of other countries and international organisations and to participate at combating money laundering as a member of international community. Insofar it is recommended to deepen existing contacts by organising joint trainings and seminars and study visits.
- ✓ In the experts opinion regular trainings for the staff of the SCFM should be organised at the INTC.
- ✓ As status and idea behind creation of the INTC was to established not local but international training establishment – formal co-operation with other, preferably EU training institutions is recommended as well as constant co-operation with selected international experts if it is possible according to local legislation.

Final remarks

It should not remain unmentioned that the FIU and Training centre management and staff co-operated in a very good partnership with the authors of this report and were open to discuss all questions and issues.

The experts recommend for the library of the Training Centre books of:

1. Slagjana Taseva, Money laundering, Akademski Pecat, Macedonia 2007 and
2. W. Laquer The New Terrorism, Fanaticism and the Arms of Mass Destruction; Oxford University Press, New York, Oxford 1999.



MOLI-UA-2
Follow-up Project against Money Laundering
and Terrorist Financing in Ukraine

Funded by the European Union and
Implemented by the Council of Europe



Appendix 5 : Report on the State Training Institution of Post-graduate Education "Training-methodic Center for Re-training and Professional Development of Experts of Financial Monitoring Issues in the Sphere of Combating to Legalization (Laundering) Proceeds from Crime and Terrorist Financing", Kyiv, Ukraine, March 2008

Report on the State Training Institution of Post-graduate Education "Training-methodic Center for Re-training and Professional Development of Experts of Financial Monitoring Issues in the Sphere of Combating to Legalization (Laundering) Proceeds from Crime and Terrorist Financing"

(INTC within SCFM, KIEV)

Prepared by :
Artur Sobotka – Consultant
March, 2008

INTRODUCTION

Within the framework of the Follow up Project against Money Laundering and Terrorist Financing in Ukraine (MOLI-UA-2) meetings (5-7 March 2008) in Kiev on the role of the INTC (International Training and Methodical Centre) in the process of improving awareness of the anti money laundering and combating terrorist financing knowledge were undertaken by Mr. Artur Sobotka (consultant) – expert. Furthermore, within the activities the organizational structure assessment of the SCFM has been conducted to analyze strategic objectives and role of the International Training Centre.

BACKGROUND – SCFM INTERNATIONAL TRAINING AND METHODOLOGICAL CENTRE

In Kiev (Ukraine) on 5-7 March 2008 in the SCFM a round table meetings and discussions on the role and position of the Training Methodical Centre took place. In this discussions participated:

Mr. Artur Sobotka – consultant of the Follow up Project against Money Laundering in Ukraine (MOLI – UA -2 Project);

Mr. Yakusik - Head of the Training and Methodical Centre;

Ms. Nadia Ushchapivska – member of the Training and Methodical Centre.

The infrastructure assessment took place in Kiev, Ukraine. The study visit was organized by the members of the Follow up Project against Money Laundering in Ukraine (MOLI – UA -2) Project Team (Council of Europe) and the State Committee for Financial Monitoring of Ukraine (SCFM). The main objective of the study visit was to discuss and analyze the strategic objectives, structure and infrastructure needs of the International Training Centre. The consultant would like to express his appreciation to Mr. Yakusik -Head of the INTC Kiev together with his staff from the INTC, for their co-operation and clarification their goals. In addition, the consultant would also like to thank those individuals from the "Training Methodological Council" who gave of their time and spoke about their needs and approaches.

INTC REVIEW

In the opinion of the representatives from INTC, the role of the training centre of finance monitoring is to develop of the conceptual and methodological co-operation basis between counterparts (subjects of financial monitoring, staff of law enforcement institutions and judges) as well as informing them about its elements. For that reason the organizational structure of the centre must take into consideration three main suppliers and users of the information used in the process of financial monitoring and analytical work. The information used for financial monitoring is provided from three main sources:

Subjects of primary financial monitoring ;

Computer networks and databases ;

Special local services and international organizations which exchange the information in the process of finance monitoring.

It was underlined that in terms of solving tasks of the scientific character the Centre collaborates with the educational organizations, financial and law enforcement bodies. The educational work of the centre includes:

Courses for the subjects of primary finance monitoring;

Higher education "finance monitoring" to the employees of the financial, law enforcement institutions and judges;

Functioning of the SCFM on the issues of finance monitoring.

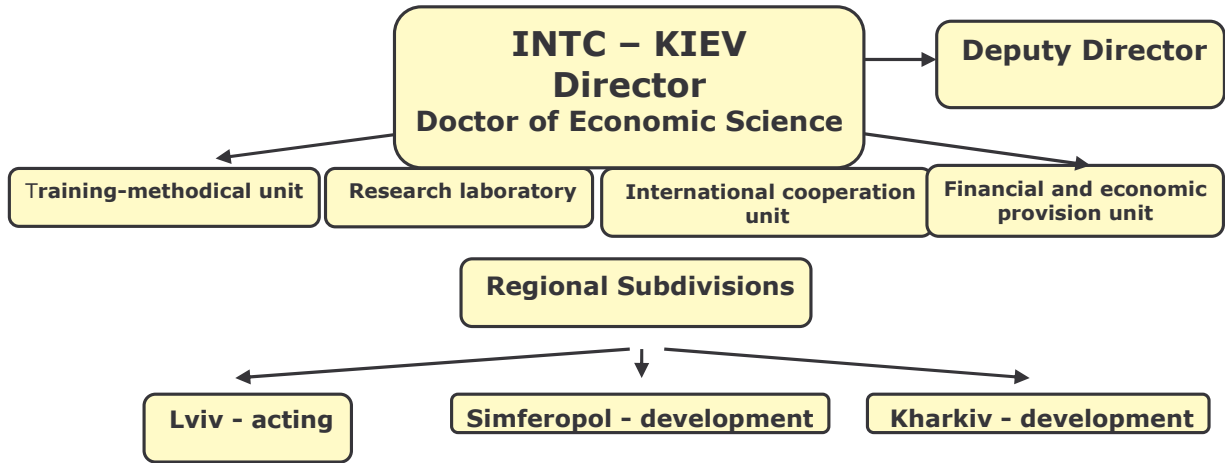
The training-Methodical Center of State Committee for Financial Monitoring of Ukraine was established on 13 December 2004 – according to the Governmental Decision. In August 2005, adoption and approval of Training Center Statute has been conducted by :

Adoption of Training Centre Structure

State registration of Training Centre

In September 2005 started up first trainings in the sphere of "Counteraction to Legalization (Laundering) of the Proceeds from Crime and Terrorist Financing"

The structure of the SCFM look as described below.



Currently the INTC is staffed with almost 20 people (17 in the Headquarter in Kiev and 3 in the branch office in Lviv). According to the concept, two more branches will be established: branches in Kharkiv and Simferopol (or Odessa) are in the process of being created. The final decision about the localization hasn't been taken yet (Simferopol or Odessa). As far as regional subdivisions are concerned it is planned to have 5 staff and 1 classroom for 20 students in each of these branches. The basic infrastructure for providing trainings in Kiev exists but due to the fact that there is no highly equipped training rooms (computers, e-library) it is recommended to conduct necessary IT reinforcement. The concept in Lviv is to have at least two trainings rooms (each for 20-25 people) in which both traditional and e-learning trainings will be provided. To achieve it, on this stage two main elements should be recognized as core ones: IT equipment and basic working conditions. As far as IT equipment is concerned actions aimed at full computerization of the SCFM branch Lviv should be completed. These actions concern the following:

- to prepare of an analytical and conceptual study of the IT system of the branch;
- to conduct of a tender procedure, as well as delivery and purchase of the computer equipment, securing the essential needs of the branch (hardware, desktop computers with software, workstation office, e-mail server).

As far as training working conditions are concerned lack of adequate working spaces has been spotted. In order to provide stationary trainings (based on the concept presented by representative of the SCFM branch Lviv) and electronic trainings using computers (training system, e-library application), gaining access to larger premises could play a fundamental role.

Duties example of the management and support staff from the INTC - branch Lviv.

| | | | | |
|--|--|--|--|--|
| Director of the western branch of the training center | Deputy Director on scientific work | Deputy director on educational work | Deputy director on financial and economic issues (chief accountant) | Deputy director on financial and economic issues (chief accountant) |
| Working out of the strategy for the development of AML Identification of priorities in terms of scientific research of the training center Analysis of the needs for the preparation of the experts on the issues of finance monitoring Preparation of analytical reports on the issues of finance monitoring Taking decisions re staff of the training center Development of the budget estimates of the training center Approvals for the financial documents of the training center Development of the training programs Development of themes of the seminars and conferences Evaluation of the necessity and control of the secrecy of the informational resources of the training center Control of quality of training materials for the level of training Submission of general proposals on practice improvement of finance monitoring Approval for tests for the trainees of the center Work in the commission of the training center | Organization of seminars and conferences Collaboration between educational organizations and scientific bodies on the issues of finance monitoring Overview and analysis of publications on finance monitoring Ensuring the literature for the training center Submission of proposals on improvement of the scientific work of the center to Director Arranging publications and distribution of materials of the center given the regime of secrecy Formation of the catalogue of typologies Preparation of the reports on the scientific work of the center Work in the examination commission of the training center | Collaboration with the subjects of finance monitoring on the issues of preparation of the appropriate personnel Composition of schedules for the trainees Submission of the proposals re magisterial staff of the center Ensuring methodical literature Submission of proposals on improvement of the training process to the Director of the center Preparation of the reports on the educational work of the center Preparation of tasks for the exams Work in the examination commission | Preparation of budget estimates of the training center Responsible for all payments of the center Responsible for the Accounting of the center | Preparation of current documentation of the training center Accepting documents from the listeners Technical preparation of materials for distribution to the trainees, control and tests Submission of the proposals re improvement of the documentation of the training center Providing trainees with the literature and performing control to ensure its return Control over the anti fire security |

CONCEPT ASSESSMENT

During the assessment meeting (5-7 March 2008, Kiev) the expert was informed that now in charge of the Training Center is Mr. Yakushik (6 people work in the Unit of e-learning). Expert was informed about the current system of courses in the Training Center. According to the

information, the SCFM is responsible for training of Directors of Regional Offices and the Training Centre for training of all other state employees and for private subjects (banks, insurance companies, etc). In the training concept it's required that study Programs for state employees should be approved by the Ministry of Education and programs for private subjects by the State Commission on Financial Services or by the State Commission on Securities and Stock Exchanges. During the meeting representatives from INTC presented new : *Program "Professional programme Advanced training and retraining Counteracting to legalization (laundering) of the proceeds from crime and terrorist financing"* (in the enclosure no 1). The analyses of the program shows that it is composed of 3 elements: general (legal, economic, political studies), functional (financial management) and sector part (studies for specific categories as judges, LEA, etc). Expert was informed that above mentioned program hasn't been already approved – still in the process of receiving formal approval by the Ministry of Education according to the Ukrainian requirements.

Analyses of the INTC activity shows that the situation in the Training Center of the SCFM was improved, when there had been changes in the management of the Center. The study process became stabilize. There were developed educational programs for professional skills development on the following courses: "Counteraction to Legalization (Laundering) Proceeds from Crime and Terrorist Financing" – for the entities of the financial monitoring and "International Standards of Counteraction to Legalization (Laundering) Proceeds from Crime and Terrorist Financing" – for FIU of foreign countries. It was already applied admission and exit testing for students. Lectures are read by high qualified scientist of such institution as below:

Kyiv National Taras Shevchenko University;
Kyiv National University of Internal Affairs;
Cybernetics Institute by V.M.Glushkova of NANU;
National Academy of Prosecutor in Ukraine;
by the experts of the SCFM and international experts.

According to the information received from the INTC, 70 lecturers of the Center perform a service contract, 2 of them are Doctors of Science, 30 – Candidates of Science. In the teaching process specialists of the Training Center are gathering and generalizing lecture materials according to the study program. These materials are developing continuously by the lecturers. The Training Center of the SCFM, the Training and Scientific Institute for Training Criminal Police Personnel of Kyiv National University of Internal Affairs and the Institute of Economics and Forecasting of NANU has signed an Agreement on scientific cooperation, with the aim to combine a scientific, training, improving methodical and practical potentiality in the sphere of counteraction economic crime including money laundering.

Statistic presented by the INTC representatives stipulates that over the last period (2004-2007) 550 persons were trained at the Training Center of the SCFM. In 2008 is planned to train 469 persons. At the same time, the representatives raises some issues concerning further development of the Training Center, which are as follows:

Rapid turnover in staff. In 2007 the management of the Center was changed three times. Today this situation is stabilized, but still such problem exists because of low salary;

The Training Center doesn't have enough space (premises) to provide the training on the high level;

The Training Center should become a main institution for the development of issues of financial monitoring – the idea needs support from the SCFM decision-makers.

The plan of the Management of the Training Centre is to transform the Training Center into the modern training scientific institution in sphere of prevention to legalization (laundering) proceeds from crime and terrorist financing. With this aim, it is suggested by INTC experts to work in the direction of development of International Academy for Financial Monitoring, in which scientific activity on the base of modern technologies, including e-learning study for professional skills development, specialists re-training, and scientific activities on issues of financial monitoring would be developed.

KEY ASPECTS OF INTC FUNCTIONALITY

The improvement of the INTC functionality has been spotted. Numerous trainings, seminars, conferences in the field of counteracting money laundering and financing of terrorism have been already organized by INTC not only by national experts, but with participation of international experts who spoke about international AML and CTF standards and approaches. Crucial in the further improvement of effectiveness of training activities of INTC are human resources (staff) and management stabilization. As far as previous experiences are analyzed, intensive fluctuation process, has make the co-operation in implementing assistance more difficult. Lack of stabilized partner make the co-operation much more complicated and could put negative impact of it's effectiveness. Staff fluctuation has also another negative effect, which cannot be unnoticed (data secure process). To minimize the risk of failure in adequate data protection process (former employees could have carried out the confidential materials produced by the INTC) - the stabilization in the HR policy is highly required (some incentives for financial stabilization are worth of considering). Furthermore, for practical reasons (lowering costs), trainings for the SCFM staff should be provided in the INTC premises. The key issue which should be also solved out is the role and the status of the INTC within SCFM – the question which should be answered is that INTC is a part of the SCFM or exists as external and independent organization. Finally, the last remark which should be pointed out considers scope of INTC activities. If the INTC has goal to achieve the status of international training centre – to be international it is highly recommended to establish necessary elements of the practical international collaboration. Acting not only locally in the sphere of providing aniti money laundering knowledge, but sharing aml knowledge internationally, requires changes in the attitude (co-operation with international experts in the process of providing aml trainings and expertise's could be the starting point within this process).

CONCLUSIONS

In the final discussion with the INTC representatives the importance of the coordination of the work of the law enforcement institutions, INTC and SCFM in process of developing most effective methods of fighting against crime was stressed out. In the expressed opinion the opportunity to discuss money laundering prevention at such wide forum (also with international experts) , where all interested communities are represented, facilities co-operation and provides a valuable platform for exchanging practical observations.

ENCLOSURE 1.

STATE COMMITTEE FOR FINANCIAL MONITORING OF UKRAINE
STATE EDUCATIONAL INSTITUTION OF POSTGRADUATE STUDIES

«Training centre for financial monitoring specialists advanced training and retraining in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing»

„agreed”

Head of SCFM of Ukraine

_____ S. Gurzhiy

« _____ » _____ 2007p

„approved”

Director of SEIPS «ITC of SCFM»

_____ I.Yakushik

« _____ » _____ 2007p.

PROFESSIONAL PROGRAMME

Advanced training and retraining

«Counteracting to legalization (laundering) of the proceeds from crime and terrorist financing»

Kiev - 2007

Approval list

APPROVED

**Head of Scientific and Methodological Commission of
the Ministry of Education and Science of Ukraine**

_____ ” _____ 2007p.

APPROVED

Head of Department of Higher Education of the

APPROVED

**Director of Scientific and Methodological Centre of
Higher Education of the Ministry of Education and
Science of Ukraine**

“ ____ ” _____ 2007p.

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Principal qualification requirements to financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing

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Forms and methods of the assessment of the students - financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing

General information

Purpose of the programme

Advanced training programme has been developed for financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing. It is designed to provide the specialists of initial and state financial monitoring entities, law enforcement and court authorities, as well as foreign FIUs with training and advanced training.

Those who received the training according to the professional programme are given the state model certificate of advanced training.

Aims of the programme:

The main aim of the professional programme is to provide advanced training for financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing.

The aims of the training are as follows:

to give and update the knowledge as well as master and develop the skills necessary for effective fulfillment of professional functions;

to adjust specialist training to the modern requirements to the professional qualification and raise the level of basic knowledge;

to form the motivation of need for lifelong learning and self-education skills;

to advance the qualification of financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing.

Period of training

Period of training on the professional programme is 72 teaching hours. According to the current Ukrainian norms set by the Ministry of Education and Science for higher education institutions (Provision on organization of teaching process in higher education institutions, approved by Decree No. 161 of the Ministry of Education and Science on 02.06.1993), a student's training time is planned on the basis of 9 teaching hours a day, six working days a week (p.4.1). The duration of classes shall not exceed 6 teaching hours a day (p.3.10.2). Thus, the maximum amount of a student's training load at the time of advanced training shall not exceed 54 hours a week.

Form of training

Form of training – internal (out of service training).

QUALIFICATION REQUIREMENTS to financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing
General requirements

According to the needs for building Ukraine as an independent, democratic social and legal state in the circumstances of transition to market economy, development of entrepreneurship and civil society, the qualification and moral qualities of a financial monitoring specialist should meet the following requirements:

be a Ukrainian patriot, aware of the state history and its peculiarities, internal and external state policy, have a wide outlook;
define tactics and strategy of their behaviour according to the requirements of democratic, social, legal state;
speak Ukrainian fluently;
keep to the legislative norms and, if necessary, defend the principles of дотримуватися law supremacy;
have stable civic position, high moral principles, stand for the truth, law and order;
have fundamental and special knowledge in the sphere of state development and management, law and market economy;
organize their work so as to effectively fulfill their functions;
constantly master and realize scientific and cultural achievements of the world civilization with respect to different cultures, religions, people's rights and peace;
always direct their activities to guarantee person's constitutional rights and freedoms;
carefully fulfill their duties stipulated by the legislative acts and their job description;
respect citizens, leadership and co-workers, keep to high communication culture, universally recognized moral norms, healthy lifestyle, strict civic positions not allowing any deeds repugnant with a state official's activities.

A financial monitoring specialist should know:

the legislation regulating relations in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing, including:

- Law of Ukraine «On Prevention and Counteraction to legalization (Laundering) of the Proceeds from Crime»;
- Decree No 532 of the President of Ukraine, 19.07.2001 "On Additional Counteraction Measures to Laundering the Proceeds from Crime";
- Decree No 1199 of the President of Ukraine, 10.12.2001 «On Preventive Measures to Laundering the Proceeds from Crime»;
- Provision No 1124 of the Cabinet of Ministers of Ukraine and the National Bank of Ukraine, 28.08.2001 «On 40 FATF Recommendations».

Normative legal acts of the State Committee for Financial Monitoring (hereinafter referred to as SCFM) and other entities of state financial monitoring supervising the activities of the entities of initial financial monitoring according to the legislation (the National Bank of Ukraine, the State Commission on Securities and Stock Market, the State Commission on Regulation of Markets and Financial Services).

Legislative and other normative legal acts regulating financial activities of the entities of financial monitoring;

Complete list of financial transactions of the entities of financial monitoring and the description of the procedures;

Duties and functions description of the employees of the entities of initial financial monitoring involved in financial transactions;

Financial monitoring rules and programmes set by the entity of initial financial monitoring;

Legislative norms stipulating for criminal, administrative and civil and legal responsibility for breach of the norms of Law of Ukraine «On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime»;

List of countries which are not part of international cooperation in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist

financing, and the list of offshore areas, which is approved by the Cabinet of Ministers of Ukraine.

A financial monitoring specialist should know how to:

Make fast and grounded decisions in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing;
Generalize proposals as to display, registration and information on financial transactions subject to financial monitoring;
Control the process and organize financial monitoring;
Make legal decisions and undertake other legal measures in the relation to the law;
Prevent violation of citizens and legal entities' rights and lawful interests;
Draw up correct official documents and give specialist consultations;
Practically apply theoretical knowledge of financial monitoring issues;
Regularly obtain advanced training, study new legislative acts and apply them in practice.

A financial monitoring specialist should be able to practically apply:

Procedure of identification of persons carrying out financial transactions;
Procedure of storing identification documents and financial transactions documents;
Procedure of detection of financial transactions subject to financial monitoring and which can be related to or meant for terrorist financing;
Criteria of assessment of probability to consider these operations as those related to legalization (laundering) of the proceeds from crime or terrorist financing;
Features of financial transactions subject to obligatory financial monitoring;
Features of financial transactions subject to internal financial monitoring;
Procedure of registering financial transactions which can be related to legalization (laundering) of the proceeds from;
Procedure of reporting the financial transactions subject to obligatory financial monitoring to SCFM;
Procedure of reporting the financial transactions regarding which there is, or there should be a suspicion that they are related to, or connected with or meant for financing terrorist activities, acts or organizations, to SCFM and law enforcement authorities;
Requirements to prevention of disclosure of information given to SCFM, as well as other financial monitoring information including that of the fact of providing such information.

A financial monitoring specialist should always be aware of up-to-date knowledge regarding methodology of detecting financial transactions which can be related to legalization (laundering) of the proceeds from crime and terrorist financing, according to the guidance of SCFM and other relevant entities of state financial monitoring.

3. STRUCTURE OF THE PROFESSIONAL PROGRAMME OF ADVANCED TRAINING

This professional programme is a document defining the contents and structure of the training programme on "Counteracting to legalization (laundering) of the proceeds from crime and terrorist financing", contents and amount of training modules of its components on the basis of given tasks and functions of the relevant specialists.

The Programme is built on the module principles and consists of three components (general, functional and branch), each of which in its turn is divided into two parts – normative, compulsory for all students, and optional (selective). The list of training modules is designed for every category of students depending on the specific needs.

Normative part

The normative part includes modules which are to guarantee:

Acquisition (updating, extending) of the knowledge and skills necessary to financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing? Irrespective of their specialization, previous experience, sphere of activities, age, professional or personal features;
Satisfaction of state interests in the sphere of advanced training of financial monitoring specialists (including their level of professional qualification, patriotism, culture, ethics, etc.).

General component

Mastering the general component of the professional programme must enable development of basic issues concerning professional knowledge, skills and personal features of financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing, which are not directly connected with the mechanism of realization of the tasks and fulfillment of specific functions in this or that sphere (on the given working place). The main aim of general component training is to provide with and extend concrete knowledge of social, humanitarian, legal and economic disciplines, form the ability to apply this knowledge in practice, and correct financial monitoring specialists' outlook in order to guarantee their adequate understanding of their duties and powers as they are presented in the professional qualification description.

The contents of the general component come from Law of Ukraine «On Prevention and Counteraction to legalization (Laundering) of the Proceeds from Crime», Provision of the Cabinet of Ministers of Ukraine and the National Bank of Ukraine «On 40 FATF Recommendations» and the requirements to financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing. First of all, this is:

High cultural level and level of civic responsibility;

Satisfaction of the requirements regarding the behaviour:

- thorough execution of their duties (self-discipline);
- respect to citizens, leadership and co-workers;
- protection of national interests of Ukraine;
- non-abuse of their position in their own interests and non-admission of corruption acts;
- objectivity and non-prejudgment in relation to legal and natural entities;
- non-admission of bureaucratic and other abuses;

Master knowledge and skills to use in practice the following:

- Procedure of identification of persons carrying out financial transactions;
- Procedure of detection of financial transactions subject to financial monitoring and which can be related to or meant for terrorist financing;
- Procedure of reporting the financial transactions regarding which there is, or there should be a suspicion that they are related to, or connected with or meant for financing terrorist activities, acts or organizations, to SCFM and law enforcement authorities;
- Requirements to prevention of disclosure of information given to SCFM, as well as other financial monitoring information including that of the fact of providing such information.

At the same time, nowadays, any financial monitoring specialist in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing also needs the knowledge and skills to be able to work in the present-day complicated social, economic and political situation in Ukraine, which are characterized not only by Unitarian political state system, but also specific regional features (variety of the national composition and historic traditions, political views and religious confessions of the population, different levels of development and state of the productive forces and infrastructure of regions, climatic, geographic and ecological conditions, remoteness or proximity of the state borders, etc). It is clear that in order to successfully organize the activities on the whole territory and in all spheres financial monitoring specialists should manage up-to-date scientific systematic knowledge and instruments as well as the corresponding procedure of their realization in the form of specific administrative, consultative and advisory actions.

The normative part of the general component includes the following training modules:

Legal regulation of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing. Territorial organization of the authorities in Ukraine.

Economic and legal measures to be taken to fight economic crime and corruption

Political science. Humanitarian and social policy of Ukraine.

Optional part of the general component of the programme includes such training module as Integration of Ukraine into the EC.

Functional component

The functional component of training, retraining and advanced training of financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing is to enable the specialists to solve the problems related to their

duties and generalized professional tasks, that is has to be realized through acquiring additional knowledge and skills meeting the requirements of their professional level. Unlike the general component, the cycle of disciplines included into the functional component should contribute to mastering such training subjects that will enable financial monitoring specialists to fulfill their administrative functions and duties as defined by their job instructions.

The main emphasis in this component is laid on formation of practical skills that can be guaranteed by excessive interactive methods of teaching (practical classes, seminars, round tables, discussions, business and role games, etc.) with the study (discussion, analysis, role-playing) of concrete administrative situations.

The methods of teaching of the functional component modules are also quite different. One of main peculiarities is that the trainer has to encourage the training process as much as possible, not only be a lector. Using appropriate methods, it is necessary to encourage students to exchange the corresponding information, give them the opportunity to teach each other. Providing the students with new information, it is necessary to find parallels with the knowledge they have already combining the new information with the existing background.

The normative part of the functional component of the professional programme is completed with training modules aimed at teaching the students to practical application of administrative sciences, stimulate their need to use modern technologies of process organization in the sphere of administrative management, encourage financial monitoring specialists in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing to find scientific approaches to time and work management , form their need for further professional self-perfection.

The normative part of the functional component includes the following modules:

Mechanism of legalization (laundering) of the proceeds from crime and peculiarities of their detection

financial monitoring as a main element of the system of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing

The optional part of the functional component of the professional programme includes the following training modules:

Information technologies and technologies of decision-making support in the sphere of counteracting to legalization (laundering) of the proceeds from crime

Branch component

The branch component of the programme is composed of optional modules and is aimed at acquiring additional knowledge and skills of up-to-date achievements in the specific branch or sphere of activities.

The course programme provides for theoretical disciplines, topical discussions, seminars, experience exchange, study of the experience in the given sphere, round tables.

Much attention is paid to achievements and experience as a result of practical activities, achievements of economic and administrative sciences. The programmes are designed so that the student can use their own experience and the situations of their everyday practical activities.

The branch component of the programme includes such training module as Topical issues of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing.

| General component | Functional component | Branch component |
|---|---|---------------------------|
| 40% total training period | 40% total training period | 20% total training period |
| 60% normative disciplines 40% optional disciplines | 40% normative disciplines 60% optional disciplines | 100% optional disciplines |

In general, 50% of total amount of training time is for disciplines (modules) of the normative part, and 50% - optional.

STRUCTURE OF CURRICULUM

of the professional programme of financial monitoring specialists advanced training and retraining in the sphere of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing

full-time internal training: A – classroom hours; C – self-preparation hours

| No | Programme components and blocks | Training modules | Total quantity | | Division of training hours | | Knowledge assessment |
|-----|---------------------------------|---|----------------|------------|----------------------------|--------|----------------------|
| | | | total | Norm. part | A | C | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 1. | General component | | 86 (32) | 34 (21) | 62 (32) | 24 (-) | |
| 1.1 | Legal | | 36 (16) | 18 (9) | 26 (16) | 10 (-) | |
| | | Legal regulation of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing | 36 (16) | 18 (9) | 26 (16) | 10 (-) | monitoring |
| 1.2 | Economic | Economic and legal measure to fight economic crime and corruption | 34 (10) | 10 (6) | 24 (10) | 10 (-) | monitoring |
| 1.3 | Social and psychological | | 16 (6) | 6 (6) | 12 (6) | 4 (-) | |
| | | Political science. Humanitarian and social policy of Ukraine | 6 (2) | 2 (2) | 4 (2) | 2 (-) | monitoring |
| | | Action plan «Ukraine-NATO» | | | | | monitoring |
| | | Social psychology and methods of teaching | 10 (4) | 4 (4) | 8 (4) | 2 (-) | monitoring |
| 2. | Functional component | | 86 (30) | 36 (22) | 62 (30) | 24 (-) | |
| 2.1 | Administrative | | 33 (14) | 18 (10) | 23 (14) | 10 (-) | |
| | | Mechanisms of legalization (laundering) of the proceeds from crime and peculiarities of their detection | 15 (6) | 9 (4) | 10 (8) | 5 (-) | test |
| | | International experience in counteracting to legalization (laundering) of the proceeds from crime and terrorist financing | 18 (8) | 9 (6) | 13 (6) | 5 (-) | monitoring |
| | | Integration of Ukraine into the EC | | | | | monitoring |
| 2.2 | Financial | Financial monitoring as a main element of the system of counteracting to legalization (laundering) of the proceeds from crime and terrorist | 30 (10) | 12 (10) | 23 (10) | 7 () | monitoring |
| 2.3 | Information and communicatio | Information technologies and of technologies | 9 (4) | - (-) | 6 (4) | 3 (-) | monitoring |

| | | | | | | | |
|--------|---|--|----------|---------|----------|---------|------------|
| | n | decision-making support in the sphere of counteracting to legalization (laundering) of the proceeds from crime | | | | | |
| 2.4 | Cultural science | Culture of business communication | 14 (2) | 6 (2) | 10 (2) | 4 (-) | monitoring |
| 3. | Branch component | | 44 (10) | - (-) | 20 (10) | 24 (-) | |
| 3.1 | Branch (for law enforcement authorities) | | 44 (10) | - (-) | 20 (10) | 24 (-) | |
| | | | | | | | |
| | | | | | | | |
| | | Round table «Topical issues of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing » | | | 4 | | |
| 3.2 | Branch (for entities of state financial monitoring) | | 44 (10) | - (-) | 20 (10) | 24 (-) | |
| | | | | | | | |
| | | | | | | | |
| | | Round table «Topical issues of counteracting to legalization (laundering) of the proceeds from crime and terrorist financing » | | | 4 | | |
| Total: | | | 216 (72) | 70 (46) | 144 (60) | 72 (12) | |

Note: hours given in brackets – according to the compressed 72-hour programme



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Appendix 6 : Report from Working Group meeting, Kyiv, Ukraine, 27-29 February 2008

A working group meeting on training strategies in the sphere of anti-money laundering and countering the financing of terrorism (AML/CFT) was held in Kiev to discuss AML/CFT training schemes in Ukraine. The participants consisted of, among others, representatives from the SCFM (the Ukrainian Financial Intelligence Unit), the Academy of Prosecutors Office, the Academy of Judges, the Academy of Securities Service, the National Bank and international experts. The aim of the discussions was primarily to discuss the AML/CFT training activity and to prepare Ukraine for the upcoming Moneyval AML/CFT evaluation.

Upcoming events during 2008 were discussed at an internal meeting the first day. A seminar for prosecutors is planned for 1-8 April in Kiev. A first AML/CFT conference for Judges will take place on 5-6 June in Kiev and will be followed by two seminars in September in Lviv and Donetsk. A second AML/CFT workshop in Yalta will take place on 11-13 June. A study visit to Sweden could possibly take place during the second half of 2008.

The SCFM informed about the ongoing AML/CFT training. Both private and public sectors are trained. There is a training centre in Kiev but also a branch in Lviv. One of the aims is to develop knowledge of financial monitoring for law enforcement, tax inspectors, prosecutors, judges and others. There is also a scientific development. Nearly 500 persons are supposed to be trained during 2008. Each of them should be trained for eight days in groups of 20 persons. They are trained in international standards and AML/CFT schemes. Moreover there has been a training session for a group from Moldova.

Representatives from the Academy of Prosecutors informed that law students are sent for special AML/CFT training on prosecutorial issues. There is also the classic university training for prosecutors. There are plans to combine the training conducted by the Academy of Prosecutors and the Academy of Judges.

The first day ended with a meeting with representatives from the Academy of Judges. The Academy was established five years ago. The idea of the Academy is to train trainers and to give these trainers an in depth training. There are seven regional branches of the Academy. The President appoints judges for five years; thereafter the Parliament can appoint a Judge permanently. A Judge must be over 25 years old, have three years of legal practice and be a citizen of Ukraine. A newly appointed judge has mandatory training programs the first five years. Only about two hours are for training on AML/CFT. A Judge deals normally with about 200 cases per month. There are approximately 7 000 Judges in Ukraine, where of 4 000 in first instance. There are 27 Courts of Appeal, one for each oblast and one Supreme Court. During 2005 and 2006 respectively 36 and 25 persons were convicted for money laundering. There are 600 money-laundering cases pending in the court system. The Academy is at the present working on a case-book where they use international practise. The Judges needs more training on international standards and analysis of court practises by international experts. Moreover there is a need to educate Judges in prosecutorial measures such as confiscation and provisional measures, typologies, weight of evidence, forensic expertise and banking secrecy. It is necessary that the Judges understands the meaning of suspicious transactions and the whole AML/CFT process. Almost all of the money laundering cases starts directly in the Court of Appeal.

The second day started with a meeting with representatives from the Central Bank. The Bank works with the analysis of the AML/CFT Law, which will be finished shortly. There after inputs are needed to improve the Law. There are still a couple of points of disagreements, such as how to limit the number of automatic reports (cash-transaction reports) and how to improve feedback to reporting entities.

The international experts informed about the training practises in their respectively countries (Belgium, the Netherlands, Poland and Sweden) and gave examples on how to improve the AML/CFT training in Ukraine.

Gothenburg, 15 March 2008, Anders Cedhagen



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Appendix 7 : Proposal AML-training strategy program for the Prosecutors, Police force (Criminal Police) and the Security Service of Ukraine, Working Group On Training Strategy, Kyiv, Ukraine, 9 June 2008

1. Introduction

The aim of this proposal is to convince the different Ukrainian representatives of the training centres of the Prosecutors, Police force and the Security Service to implement in their training programs additional training concerning anti-money laundering. Below you will find a description of those programs and the necessary comments and remarks. I would like to deal with the different authorities (Prosecutors, Police force and the Security Service), topics and frequency.

2. Prosecutors

2.1. General

The program has to consist of basic courses, but also of courses which will provide the prosecutors with specific knowledge related to money laundering. Besides that the prosecutors need a training in special investigation methods. They also need the insights how a money laundering case is built up. It means they have to understand how an investigation of a money laundering case starts, the content of the FIU report and the underlying documents, the different stages of investigation, the investigation of the intelligence, how to prepare a final indictment for the court, to have an idea of the burden of proof, the cooperation between the different state bodies and reporting entities and the specific role of the public prosecution office.

2.2. Topics

The proposal will include following courses :

General courses:

1. General bookkeeping (30 hours)
2. Financial analysis of the annual accounts (30 hours)
3. Company law (Ukrainian companies, directors, board of directors) (15 hours)
4. Criminal responsibility of directors of companies (5 hours)

Specialised courses:

1. Legal system of prevention of money laundering and repressif aspect of anti-money laundering (criminal) (including terrorist financing)
2. International standards in combating money laundering (FATF, EU, Egmont, Moneyval)
3. Role of SCFM (Ukrainian FIU) including the FIU-report (and underlying documents), the system of financial monitoring (FM) and the cooperation between FM entities and law enforcement agencies (LEA)
4. Typologies (national and international)
5. Crime qualifications (Ukrainian) including terrorist financing
6. Investigation of a money laundering case (different stages, intelligence, bankaccounts, burden of proof)
7. Special investigation techniques related to money laundering (databases, house search, seizure....)
8. Role of Public Prosecutor including final police report
9. National cooperation (between different state bodies, reporting entities, the public prosecution office, ...)
10. International cooperation (Interpol, FIU's network "Carin", ...)
11. Cases

12. Study-visits (FIU, Reporting entities, Public Prosecution Office, ...)

2.3. Frequency : 10 + 2 days study visits

1. till 3. : 1 day
4. till 8. : 6 days
9. till 10.: 1 day
- 11.: 2 days
- 12.: 2 days

3. Police force and Security Service

3.1. General

The program has to consist of basic courses, but also of courses which will provide the Criminal Police and the Security service with specific knowledge related to money laundering. Besides that the police and the Security Service investigators need a training in special investigation techniques. They also need the insights how a money laundering case is built up. It means they have to understand how an investigation of a money laundering case starts, the content of the FIU report and the underlying documents, the different stages of investigation, the investigation of the intelligence, how to prepare a final report for the prosecutors, to have an idea of the burden of proof, the cooperation between the different state bodies and reporting entities and the public prosecution office.

3.2. Topics

The proposal will include following courses :

General courses:

1. General bookkeeping (30 hours)
2. Financial analysis of the annual accounts (30 hours)
3. Company law (Ukrainian companies, directors, board of directors) (15 hours)
4. Criminal responsibility of directors of companies (5 hours)

Specialized courses:

1. Legal system of prevention of money laundering and repressif aspect of anti-money laundering (criminal) (including terrorist financing)
2. International standards in combating money laundering (FATF, EU, Egmont, Moneyval)
3. Role of SCFM (Ukrainian FIU) including the FIU-report (and underlying documents), the system of financial monitoring and the cooperation between FM entities and LEA
4. Typologies (national and international)
5. Crime qualifications (Ukrainian) including terrorist financing
6. Investigation of a money laundering case (different stages, intelligence, bankaccounts, burden of proof)
7. Special investigation techniques related to money laundering (databases, house search, seizure....)
8. Role of Public Prosecutor including final police report
9. National cooperation (between different state bodies, reporting entities, the public prosecution office, ...)
10. International cooperation (Interpol, FIU's network "Carin", ...)
11. Cases
12. Study-visits (FIU, Reporting entities, Public Prosecution Office, ...)

3.3. Frequency : 10 + 2 days study visits

1. till 3. : 1 day
4. till 8. : 6 days
9. till 10.: 1 day
- 11.: 2 days
- 12.: 2 days

4. Conclusion

The proposed list of courses is not mentioned to replace the existing courses but to give the necessary overview of the training needed by the prosecutors, the criminal police and the staff and personnel of the Security service. The aim is to provide them with a better understanding

and knowledge of the tools in order to combat money laundering and to prosecute in an effective way.

I would also like to propose an general exam for all the trainees in an independent training centre. The training centre of the Ukrainian FIU could be one of the suitable institutions.

The proposed training of 2 weeks (10 working days + 2 days study visits) can be organized several times a year (depending of the total number of participants). The initial training (exam with certificate) should be an obligatory training for the staff of all the authorities who will be working with money laundering cases. The initial training can be extended with a module "updating AML" (f.e. changes in the law, new international standards, best practises, ...) for those who have passed the exam. Duration of this updated AML training: 2 days (no exam, but little test). This updated training is an obligatory course which have to be attended every year by those people who are working in the field of combating money laundering.

As an Council of Europe Consultant, I am willing to support the set up of the program (including the examination system) and I am also prepared to give some courses mentioned in the above mentioned list. I hope that the different authorities will accept this program or modify their programs in order to comply with the above mentioned proposals.

Kyiv, 9.06.2008

Thierry LOQUET

Public Prosecutor, Crown Prosecution Office, Financial Division



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Appendix 8 : Report on Multi-agency study visit to Warsaw, Poland, 14-18 April 2008

| | |
|-------------------------------|--|
| Activity Details ID# | |
| Title: | MULTI-AGENCY STUDY VISIT TO WARSAW, POLAND |
| Description: | |
| Status: | Completed |
| Date: | 14 - 18 April, 2008 |
| Country(ies): | <u>Ukraine</u> |
| Joint Programme: | Programme: <u>Follow-up Project against Money Laundering and Terrorist Financing (MOLI-UA 2) (Logframe)</u> Project Purpose: To contribute to the prevention of and fight against money laundering and terrorist financing in Ukraine in accordance with European and other international standards and best practices. Expected Result: To enhance the human capacities of key institutions of the anti money laundering system of Ukraine [State Committee for Financial Monitoring; Law Enforcement Agencies, judiciary and financial sector regulators/supervisors]. |
| Working Method: | Training/seminar |
| Location: | Warsaw, Poland |
| Service: | DG I Legal Affairs |
| Outputs delivered as per TOR: | |
| Output 2 | The SCFM training strategy elaborated and implemented. |
| Activity 2.3 | Train the core groups of the SCFM and its regional offices staff as trainers and assist them in carrying out up to 4 training courses for other staff. |
| Output 3 | The SCFM National AML Training Centre fully operational. |
| Activity 3.3 | Organise up to 3 study visits for the INTC staff and SCFM trainers to training institution abroad. |
| Output 4 | The law enforcement agencies and judges have their training plans in investigating money laundering and terrorist financing cases and are able to implement them. |
| Activity 4.3 | Organise study visits for trainers to experience the training solutions adopted by the law enforcement agencies within other European countries. |
| Output 5 | Regulators and supervisors of the financial services sector implement basic training plans in international standards and best practices in |

| | |
|---------------|--|
| | countering money laundering and terrorist financing. |
| Activity 5.1 | Assist the financial sector regulators in the determination of national standards of compliance with relevant legislation and international standards. |
| Activity 5.3. | Organise seminars and workshops for the regulators/supervisors to highlight the best practices available in other European countries. |

The multi-agency study visit was organised by the Moli-UA 2 Project Team. The activity was aimed at providing the participants with the knowledge of the international AML/CTF standards and experience of the European countries in this area as well as to demonstrate good practices of cooperation between different state agencies whose sphere of interest is related to the AML/CTF.

During that visit the participants visited all key institutions involved in combating ML/CTF and had the opportunity to participate in the special seminar on effective methods of training with special focus on AML/CTF and anti-corruption trainings prepared by the European Institute of Public Administration – a training institution fully financed by the EU.

Participants

Number of participants – 17 people.

Description of the event

On 14 April 2008 (Monday) the participants were welcomed by the Ministry of Finance of Poland and the Polish FIU in particular being a part of it. They got to know about the structure and organization of the FIU in general, whereas the last part of the presentations was devoted to the IT System of Polish FIU.

On the following day, 15 April 2008 (Tuesday) the visitors learned about the work of the Combating Organized Crime Bureau of the General Prosecutor's office and visited the Police Headquarters (Central Investigation Bureau) in the afternoon.

The whole day of 16 April 2008 (Wednesday) was dedicated to the seminar organized by the National School of Public Administration. The visitors learned the following:

1) Introduction to EIPA, its training strategy and methodology, co-operation with other training centers and European institutions – presented by Ms Miriam Allam, EIPA 2) Introduction to AML/CTF initiatives and their coordination in EU agencies (Europol, Eurojust, Moneyval, Egmont Group) presented by Ms Mara Wesseling, EIPA Maastricht; 3) Planning and implementing an anti-corruption strategy (incl. addressing issues of AML and international cooperation and training strategies). – by Dr Pawel Mlicki, EIPA external expert and former Resident Adviser (seconded national expert from the Dutch local authorities) for the EU project 'Strengthening the implementation of the Anti-Corruption strategy in Poland'

On Thursday, 17 April 2008 the first part of the day was spent with the Polish Financial Supervisory Authority: banking supervision, insurance supervision and securities market supervision. [the participants had the opportunity to see how the unified regulatory body operates and assess the advantages of such system. In the afternoon, they were invited to have a city tour of Warsaw.

The last day, 18 April 2008 (Friday) was foreseen for the visit to the Warta Insurance Company and Credit Bank, where the representatives of the AML Department told the visitors about their system of prevention of and combating ML operations used in banks, insurance companies and securities market ML, and risk based approach application.

In all the institutions visited during these week, the participants were given numerous examples of case studies connected with the real/probable situation of ML and examples of effective co-operation between financial institutions and LEA (FIU, prosecution service, etc.).

Results:

The core group of representatives of training institution of LEA and financial regulators as well as SCFM and INTC were trained. Participants were provided with the detailed knowledge re all elements of the Polish AML/CTF legal and organizational system, which is based on the EU/COE standards. During the seminar at the EIPA reps of training institutions were provided with the knowledge re effective methods of AML/CTF and anti-corruption training methods.

Conclusions and implications for the future activity:

Activity was successful and its multiagency format helped participants understand various problems and needs of institutions involved at AML/CTF chain but on the different stages. Combination of theoretical seminars (EIPA) with practical presentations (FIU, General Prosecution Office, FSA) seems to be effective combination. Follow-up visits are planned.

Jaroslav Zoltowski
LTA MOLI-UA-2

08.06. 2008 Kiev



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Appendix 9 : Anti Money Laundering Training Strategy Proposal

National Bank of Ukraine

Author : Jos De Wit RA CFE CAMS

INTRODUCTION

One of the most important tasks of a regulator of the financial sector is to monitor the approach of anti money laundering within the financial sector. This is important for the reliability of the financial system of Ukraine. One of the issues within an international accepted approach of anti money laundering is the training of relevant persons in the several aspects of money laundering and anti money laundering. Also during evaluations of international bodies, like FATF, IMF, Worldbank a lot of attention will be paid to training programs for regulators and the financial sector. As been said the regulators have to monitor the anti money laundering approach of the financial sector. They have to advise the sector how to implement anti money laundering programs. To indicate special risks for the financial sector etc. The implication of this is, that within a regulating body like the national bank of Ukraine there have to be experts in the field of anti money laundering. These experts we will find within inspection and audit departments. More in general all employees of the National bank need a certain basic knowledge of money laundering and anti money laundering.

WHO HAVE TO BE TRAINED

- 1 The higher Management of the National Bank need to know the specific money laundering issues and they need to know, how in general anti money laundering has been approached in Ukraine
- 2 Employees, who investigate the financial sector in Ukraine like auditors and inspectors need a detailed knowledge about the risks of money laundering for the financial sector in Ukraine, how these risks are approached by the financial sector. They have to monitor the anti money laundering programs within the financial sector. They have also to judge the training program within the financial sector
- 3 All employees with contacts to the financial sector need basic knowledge of money laundering and anti money laundering
- 4 Students on the Academy of banking of the national bank of Ukraine need a knowledge of the several aspects of money laundering and anti money laundering, because they are the future members of management within the regulation bodies of the financial sector and the financial sector itself

TRAINING

The intensity of training depends on the audience:

Ad 1

I have experience with the management of the financial sector in a country in the Middle East. There is a three hours seminar developed in which management has been informed about the risks and the impact of money laundering and what in general has to be implemented by regulators and the financial sector. This approach is very effective to give management the knowledge and the information which they need to fulfill their management role, to understand

the investments , which have to be made to be in compliance with international rules and regulations as far as it concerns anti money laundering.

Ad 2

For these experts we need an intensive training program which can be concluded (if NBU decides to do so) with an exam developed by the Association of Anti Money Laundering Specialists (ACAMS). Passing the exam qualifies the person as CAMS (Certified anti money laundering specialist). This official qualification is an international accepted title and gives a guarantee for the international financial world, that in Ukraine qualified persons pay attention to money laundering and anti money laundering.

We can use as training program, which has been developed by the University of Maastricht in the Netherlands by Professor Eddy Vaassen and Jos de Wit. This program takes 8 days

Day one

Introduction money laundering

Definitions

Methods and strategies

Social effects. Macro economic consequences, and global impact of money laundering

Cases

Day two

Laws definitions and responsibilities

Fatf ,basel regulations, EU directives, US patriot act

Local laws and regulations

Anti money laundering policies program and procedures

Internal control consequences

Day three

Risk based approach of anti money laundering

Best practices in implementing an AML solution

Anti money laundering and IT support

Name and list checking

Day four

AML and enterprise risk management

The role of audit in anti money laundering

The relationship between compliance and financial economic crime

Day five

Special investigations from a law enforcement perspective

Special investigations by the financial sector itself

Day six

Know your customer, the view of the regulators

willful blindness and other legal aspects

training programs

Day seven

exam preparation

Day eight

exam

ad 3

For these group of people an e-learning training program can be used. There are several e-learning programs developed in the world and also for sale

Ad 4

For these students, there are two possibilities. There can be a training program of two days which covers the following issues

- 1 systems and techniques of money laundering and terrorist finance
- 2 international and national laws and regulations
- 3 aml programs
- 4 investigations.

CONCLUSION

I learned that within the National Bank of Ukraine there are several anti money laundering training programs in place. If the above mentioned structure of a training strategy will be followed. I am convinced, that the approach of anti money laundering within the National Bank of Ukraine can meet every international standard

June 2008

Jos de Wit



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Appendix 10 : Report on II annual AML/CTF conference “financial monitoring in terms of the world economy globalisation”, Yalta, Crimea, 11-13 june 2008

Venue: Yalta, Crimea, Ukraine

11-13 june 2008

| | |
|-------------------------------|--|
| Activity Details ID# | |
| Title: | II ANNUAL AML/CTF CONFERENCE “FINANCIAL MONITORING IN TERMS OF THE WORLD ECONOMY GLOBALISATION” |
| Description: | |
| Status: | Completed |
| Date: | June 11 – 13, 2008 |
| Country(ies): | <u>Ukraine</u> |
| Joint Programme: | Programme: <u>Follow-up Project against Money Laundering and Terrorist Financing (MOLI-UA 2) (Logframe)</u> Project Purpose: To contribute to the prevention of and fight against money laundering and terrorist financing in Ukraine in accordance with European and other international standards and best practices. Expected Result: To enhance the human capacities of key institutions of the anti money laundering system of Ukraine [State Committee for Financial Monitoring; Law Enforcement Agencies, judiciary and financial sector regulators/supervisors]. |
| Working Method: | Training |
| Location: | Kiev, Ukraine |
| Service: | DG I Legal Affairs |
| Outputs delivered as per TOR: | |
| Output 1 | Draft amendments to the relevant legislation prepared in line with the 3 rd EU Directive and the Council of Europe Convention (ETS 198). |
| 1.3 | Organise up to 6 workshops/roundtables on the issues related to the new European AML/CTF standards. |
| Output 2 | The SCFM training strategy elaborated and implemented. |
| 2.3 | Train the core groups of the SCFM and its regional offices staff as trainers and assist them in carrying out up to 4 training courses for other staff. |
| 2.4 | Support the SCFM in the organisation of up to 6 training seminars for the staff of the regional offices on issues of priority concern to these offices and their partner agencies in these regions |
| 2.5 | Organise up to 3 in-country workshops for analytical staff on the operational experience of other FIUs in the analysis of data and the investigation of money laundering and terrorist financing |

| | |
|----------|---|
| 2.6 | Organise up to 2 joint training activities to enhance cooperation between SCFM, prosecutors and judges |
| 2.7 | Organise one CFT/AML typologies meeting. |
| Output 3 | The SCFM National AML Training Centre fully operational. |
| 3.5 | Support INTC in organisation of up to 3 training courses. |
| Output 4 | The law enforcement agencies and judges have their training plans in investigating money laundering and terrorist financing cases and are able to implement them. |
| 4.5 | Organise a workshop on legislative issues and AML/CFT international standards. |

The II ANNUAL AML/CTF CONFERENCE “FINANCIAL MONITORING IN TERMS OF THE WORLD ECONOMY GLOBALISATION” was organized by MOLI-UA 2 Project Team with the assistance of the SCFM and Training center. The Conference took place in Yalta, Crimea. The activity was aimed to exchange experience and enhance cooperation between Ukrainian and foreign agencies. Within the framework of the II Annual AML/CTF Conference was organized legal round table, IT Working group and Working group on Training strategies.

The role of the Project Team was to organize the event. The Project provided the speakers on the issues of international standards and cooperation, typologies, etc. and experts for the Working Groups.

Participants

The event was attended by Ukrainian and international experts. Number of participants – 49 Ukrainian experts, 14 foreign experts.

Description of the event

The Conference started with the opening speeches of **Stanislav Klushke**, Deputy Head of the SCFM and **Jaroslav Zoltowski**, MOLI-UA-2 Long-term Advisor, Project Team Leader on June 11, 2008. Then the floor took the representative of the SCFM: **Anatoliy Podkorytov**, Head of the Cooperation and Financial Monitoring Methodical Support Department presented the SCFM 2007 Annual report and **Volodymyr Komashko**, Legal Department Head, presented the new draft law on prevention of and counteraction to legalization of the proceeds from crime and terrorist financing.

After that **Ivan Yakushik**, Director, SCFM TC devoted his speech to the main activities of the State Training Institution of Postgraduate Education of the SCFM (TC). The issues of International AML/CTF standards were introduced by **Anders Cedhagen**, CoE expert, Judge, Court of Appeals, Gothenburg, Sweden.

The session of the day was closed by the speeches of **Oleksiy Bereznyy**, Director of the Department for Prevention of Banking system application for Legalization of Proceeds from Crime and Terrorism Financing, NBU, **Sergiy Didenko**, Senior Teacher, Banking Department, Cherkassy Institute of Banking, NBU, **Olena Krykliy**, Docent of Department of Banking, Ukrainian Academy of Banking, NBU who talked about the issues of financial monitoring in the banking system, conceptual bases of the optimization of the system of financial monitoring in banks, requirements to clients' identification.

After the break the floor was opened for judges and prosecutors. **Nataliya Akhtyrskya**, Vice-rector, Head of Criminal Law Department, Academy of Judges paid attention to court practice evidences in the sphere of legalization (laundering) of the proceeds from crime. **Vasyl Oguretskyy**, Deputy Head of Criminal Cases Judicial Division of Donetsk Region Court of Appeals presented the analysis of the court examination of cases related to legalization (laundering) of the proceeds from crime

The following problemes: correlation of organized crime, corruption and legalization (laundering) of the proceeds from crime: criminal and legal aspects; prevention of and counteraction to legalization of the proceeds from crime; cooperation of Prosecutor's Office with the SCFM of Ukraine were introduced by **Olena Honcharova**, Head of the Department for

Law Compliance while Implementation of External Economic Activity and Investment Activity, Counteraction to Legalization of the Proceeds from Crime, Prosecutor's General Office of Ukraine; **Vitaliy Kuts**, Academic Vice rector, National Academy of Prosecution of Ukraine; **Oleksandr Kalman**, Head, Department of Criminal Law and Criminology, National Academy of Prosecution of Ukraine.

The first part of the working day was closed by discussion.

After the lunch the second part of the day started with the criminal and security aspects were delivered by **Sergiy Chernyavskyy**, Doctoral Candidate, National University of internal Affairs; **Oleksandr Korystin**, Head, Economical Safety Department, National University of internal Affairs; **Vitaliy Kralich**, Senior Teacher, National Academy of Security Service of Ukraine.

The Conference continued with the presentation of the representative of the State Customs Service of Ukraine - **Yuriy Davydenko**, on the role and place of the State Customs Service in the system of prevention of legalization (laundering) of the proceeds from crime.

Then the Senior Lawyer in the European Court of Human Rights - **Pavlo Pushkar**, touched upon the problems confiscation of property. And the new AML standards in III Directive were delivered by Jos de Wit, CoE expert, ACAMS Board member, Maastrich, the Netherlands

After that the representatives of the financial regulators took the word. **Oleg Mysiura**, Deputy Head, Supervisory and Legal Department; Head, Financial Monitoring Unit, State Commission for Securities and Stock Market of Ukraine, spoke about the system of monitoring and prevention of using securities as a means of legalization (laundering) of the proceeds from crime. **Dmytro Tkachenko**, Director of the Legal Department, State Commission for Regulation Financial Services Markets in Ukraine, told about the place State Commission for Regulation Financial Services Markets in Ukraine in the system of financial monitoring.

The first day of the II ANNUAL AML/CTF CONFERENCE "FINANCIAL MONITORING IN TERMS OF THE WORLD ECONOMY GLOBALISATION"

Was closed by the Working Group on Training Strategies (see Report from WG on training strategies dated 11 June 2008)

The second day of the Conference was devoted to the typologies, IT and E-learning working group and Legal round table. During the day were presented ML typologies in Ukraine, Poland, Belgium Sweden, Czech Republic by the following experts: **Zhanna Yelagina**, Head, Analytical Unit, SCFM / **Maksim Zasoba**, Chief specialist, Analytical Department, SCFM (Ukraine); **Elzbieta Frankow-Jaskiewicz**, FIU / **Jerzy Iwanicki**, General Prosecutor's Office (Poland); **Bart Van Hulst**, FIU / **Thierry Loquet**, Crown Prosecution (Belgium); **Magnus Bolin**, Public Prosecution (Sweden); **Jaromir Neuzil**, International Cooperation Department, FIU / **Boris Havel**, JurD, General Prosecutor's Office (Czech Republic).

Re the IT working group and Legal round table see Reports on IT WG and Report on Legal round table.

The third day was mostly dedicated to discussion and sum-up. But also **Jarlath Spellman**, CoE expert, Prosecutor, EUROJUST National Representative for Ireland, the Netherlands, introduced the EUROJUST activities re ML/TF offence and **Wojciech Paczuski**, CoE expert, GIF, Poland, spoke about international standards re trans-border transportation of cash. The Conference was closed by the feedback from WG on Training Strategies, IT and E-learning, Legal Round Table. MOLI UA 2 Project activities plan, which was given by **Jaroslav Zoltowski**, Long-term Advisor, Project Team Leader, and chairmen's closing remarks.

Results:

It was the second conference of such a scale and it was a great opportunity to gather representatives of all the beneficiaries of the Project. They were able to learn about the problems, achievements and future aspirations of other agencies involved in AML/CTF and share their experiences. The participants also received up-to-date information about typologies, new techniques and methods and products used in ML from the perspective of many other European countries. The conference was highly evaluated, also due to the fact that it combined both theoretical and practical approaches to the problem.

Conclusions and implications for the future activity.

The Project will definitely organise the same kind of conference again next year as it is seen as very important for good cooperation between different agencies both within the country and on the international scale.

Jaroslav Zoltowski
LTA MOLI UA 2

19.07.2008



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Appendix 11 : Minutes of the meeting of the IT and e-learning Working Group, Yalta, Crimea,
11-13 June 2008

FOLLOW-UP PROJECT AGAINST MONEY LAUNDERING AND TERRORIST FINANCING IN
UKRAINE (MOLI-UA-2)

Second annual AML/ CTF conference Yalta, the autonomous Republic of Crimea
11-13 June 2008

Attended:

Mr. S. Klushke

Mr. P. Musialkowki

Mr. J. Zoltowski

Mr. A. Sobotka

Mr. R. Stepien

Mr. V. Davidyuk

Mr. S. Starchevskiy

Ms V. Borsukovska

Mr. O. Misiura (SCSSM)

D. Tkachenko

I. Martynyuk

O. Kyianychnenko

Mr. D. Romaniuk

Ms. T.Nikitina

Mr. O. Lapko (MIA)

Head:

1. Procurement procedures for SCSSM/MoIA. The issue of connecting these institutions to the SIS.

1) State Commission for Securities and Stock Market of Ukraine

The specification presented was not formulated in a clear and comprehensive way, it lacks the structure and the purpose. It was decided to send a letter to the Commission where the requirements re 1) hardware and software (in case it is to be purchased); 2) project description, aims and methods to be used should be clearly stated.

The necessity to develop the concept of the check and control system (what for and in which way the system should work) was also emphasized. The specific technical requirements should also be indicated clearly (programming languages, etc.)

The specification does not meet the requirements, so it is advisable to revise it taking into account the SCFM specialists' expert opinion. Furthermore it should also be approved by the CoE.

R. Stepien's expert opinion in Ukrainian translation was given to the representatives of the Commission on 12 June 2008.

It is also should be clear that the Moli Project will not undertake to develop the system. However, it can provide a grant for the SCSSM which will make it possible for them to design the system or have it designed.

The SCFM shall send the SCSSM model requirements (specification) no later than 24.06.2008. The Commission, in its turn, shall submit the revised specification by 15.09.2008.

2) Ministry of Internal Affairs

Generally, the specification submitted was regarded as acceptable, though several questions need to be clarified. The answers from the MIA shall be received by **23.06.2008**. R. Stepien's expert opinion in Ukrainian translation was given to the representatives of the MIA on **12 June 2008**.

2. Feedback from the Council of Europe (CoE) tenders board re finalized procedures and realization of the contracts present by Mr. Przemyslaw Musialkowki

1) Lot 1

According to the technical specifications approved by the Steering Committee the CoE held the tender and selected a winner – RGdata Ltd. The contract is ready and the translation was handed in to the SCFM in order to co-ordinate with the supplier. The deadline (13.06.08) was set for the SCFM to finally check the contract and have it approved by the supplier. It was decided to complete Lot 1 by 17 June 2008 by signing the contract. (1. RGdata, 2. SCFM, 3. CoE). The SCFM should define the procedure of acceptance of the goods and a model statement of acceptance.

2) Lot 2

According to the technical specifications approved by the Steering Committee the CoE held the tender and selected a winner – Kvazar Micro Techno.

On 17 May a letter signed by Mr. Klushke, Deputy Head of the SCFM, commenting on the contract was received. The participants of the WG tried to bring the proposals of Kvazar Micro Techno' proposals into line with the requirements set forth by the Committee.

The main discrepancies between the SCFM specification and Kvazar Micro Techno's proposal were as follows:

1) licensing terms for system and applied software 2) licenses for card readers use. Finally two possible ways to solve the situation were proposed:

1. Kvazar shall receive (to be sent by the SCFM no later than 13 June 2008) a copy of the agreement between the Ministry of Education of Ukraine and the Microsoft Co. according to which buyers provided they are state and/or educational institutions, may expect additional discounts. On the basis of the above agreement, Kvazar may get better conditions for software licensing. Due to the fact that the specification states licensing of the software for the state institutions which stipulates for special price policy, Kvazar is expected to bring their proposal in line with the technical requirements of the SCFM.

SCFM shall prepare a letter stating that they are ready to accept monitors according to Kvazar Micro co. specification if the latter undertakes to bring in line with the SCFM requirements provisions re 1) OS Windows and Office licensing, and 2) licenses for card readers use and concluding two separate agreements with SCFM and TC SCFM acting as beneficiaries. *істання card readers та укладання двох окремих договорів, де бенефіціарами будуть ДКФМ та НМЦ.* The two variants were offered:

1. Kvazar will revise the terms of OS licensing (Windows XP Pro and Windows Vista Business) for the SCFM on the basis of the agreement between the MEU and the Microsoft, that is the possibility to supply OS Windows XP Pro and applications taking into account the discounts stipulated for state/educational institutions and reduce the number of the necessary licenses according to the SCFM technical requirements.
2. In case of their refusal to do so, SCFM shall prefer to buy the hardware, the card readers and the OSs deleted from the specification.

Re. the card readers, there were the following proposals:

1. Keyboards and external card readers which connect to processors will be purchased separately (in this case licenses (certificates) and key-cards are also necessary to be purchased).
2. card readers can be removed from the specification, instead simple ordinary keyboards can be purchased.

In case the company refuses to accept any offer, the CoE shall be informed about that.

Mr. Davidyuk and Mr. Starchevskiy informed the participants of the WG about the request they had made re terms of purchase and support for OS Windows XP and the reply they had obtained was that the above OS would be in sale till 30.06.2008 for wholesale clients (over 5000 computers), and till 31.01.2009 for all others. This information can be regarded as grounds to avoid (dispute) the Kvazar Micro refusal to supply the above OS to the SCFM as stated in the SCFM specification.

3) Xeropoligraph (air conditioning)

The contract signed, the first installment done.

4) Galkon (furniture)

The contract signed, the first installment done.

3. SIS

The SCFM representative said that within the Project framework State Road Inspection of the MIA functional subsystem will be connected to SIS. He also mentioned the necessity to enhance the subsystems of the following agencies: the State Tax Administration of Ukraine, the Ministry of Internal Affairs, the Administration of Border Service, the State Customs Service of Ukraine and the State committee for Financial Monitoring of Ukraine. The SCFM shall submit technical requirements re the above procurement to the Council of Europe before **15.09.2008**.

4. Microstrategy та Visual Links

Mr. Musialkowski informed that it was decided to have a tender. Now the list of companies which are able to supply the necessary hardware and software is being compiled (the SCFM shall submit the list of companies no later than 23.06.2008). As soon as the companies which will take part in the tender are defined, the decision re the type of the tender (open/closed) will be made. The SCFM shall submit the revised requirement for the products.

5. Reserved Data Base

The SCFM shall submit to the Steering Committee which will take place on 27 June 2008, the RDB concept including:

1. concept
2. estimated budget (financial justification)
3. sources of financing (at the cost of what, saved money etc.)

The RDB shall be regarded as an additional task of the Project due to the means available for that.

6. E-learning

The issue will be heard during the next meeting of the working group.

Due to the fact that the participants of the Working Group said that were satisfied with the activities and achievements of the Project as to IT and procurement, as well as the new tasks of the Project, it was decided to apply to the European Commission for the extension of the MOLI-UA-2 Project till at least the end of the year 2009, at the next meeting of the Steering Committee which will take place on 27 June 2008.



MOLI-UA-2
Follow-up Project against Money Laundering
and Terrorist Financing in Ukraine

Funded by the European Union and
Implemented by the Council of Europe



Appendix 12 : List of purchases planned under the MOLI-UA-2 project, June 2008 – April 2009

1. Repair works of 9 regional subdivisions of SCFM Lot1

Interim report output: 7.2 repair work, equipment and software procurement procedure for the regional offices

Project budget article: 3 item 3.2.4 Installation and renovation work regional offices

Total cost: 558057,7 UAH means 75007,75 EUR

| № | The SCFM regional offices | Premises renovation | |
|-----------|---------------------------------|---------------------|-----------------|
| | | UAH | EURO |
| 1 | Volyn Regional office | x | |
| 2 | Kirovograd regional office | 95475 | 12832,66 |
| 3 | Zaporizhzhya regional office | 68872 | 9257 |
| 4 | Chernigiv regional office | 58728 | 7893,55 |
| 5 | Lviv regional office | 295522 | 39720,7 |
| 6 | Ivano-Frankivsk regional office | 21801 | 2930,24 |
| 7 | Poltava regional office | x | |
| 8 | Zhytomyr regional office | x | |
| 9 | Chernivtsi regional office | 17659,68 | 2373,6 |
| 10 | Total | 558057,7 | 75007,75 |

2. Repair works of 8 regional subdivisions of SCFM Lot2

Interim report output: 7.2 repair work, equipment and software procurement procedure for the regional offices

Project budget article: 3 item 3.2.4 Installation and renovation work regional offices

Total cost: 153557,00 UAH means 20311,79 EUR (rate 1 Euro = 7,56 UAH)

| № | The SCFM regional offices | Premises renovation | |
|----------|-----------------------------|---------------------|-----------------|
| | | UAH | EURO |
| 1 | Zakarpattia Regional office | 9752 | 1289,95 |
| 2 | Nikolaiev regional office | 25600 | 3386,24 |
| 3 | Lugansk regional office | 26557 | 3512,83 |
| 4 | Rivne regional office | 35244 | 4661,90 |
| 5 | Kherson regional office | 10662 | 1410,34 |
| 6 | Khmielnicki regional office | 45742 | 6050,53 |
| 7 | Total | 153557 | 20311,79 |

3. Conditioners for 9 regional subdivisions of SCFM: Volyn, Kirovograd, Zaporizhzhya, Chernigiv, Lviv, Ivano-Frankivsk, Poltava, Zhytomyr, Chernivtsi regional office.

Interim report output: 7.2 repair work, equipment and software procurement procedure for the regional offices

Project budget article: 3 item 3.2.4 Installation and renovation work regional offices
Total cost: 244435 UAH means 32333 EUR (rate 1 Euro = 7,56 UAH)

4. Conditioners for 11 regional subdivisions of SCFM

Interim report output: 7.2 repair work, equipment and software procurement procedure for the regional offices

Project budget article: 3 item 3.2.4 Installation and renovation work regional offices
Total cost: 298753 UAH means 39518 EUR (rate 1 Euro = 7,56 UAH)

5. Access control systems for 24 regional subdivisions of SCFM

Interim report output: 7.2 repair work, equipment and software procurement procedure for the regional offices

Project budget article: 3 item 3.2.4 Installation and renovation work regional offices
Total cost: 355200 UAH means 48000 EUR

6. Ministry of Internal Affairs

Interim report output: 8.2 procurement of work, equipment, services and software necessary to extend the SIS

Project budget article: 3 item 3.2.6. Computer equipment for law enforcement authorities and financial regulators

Purchasing equipment and software for introducing Informational and Reference System (IRS) on the lost documents, which has been developed by MIA in pursuance of Decree of the President of Ukraine dated July 18, 2007 No 624 "On Measures for Strengthening Protection of Rights of the Citizens, who are Bank Depositors, and other Bank Clients and Ensuring Stability of the Banking System"

Estimated Cost

| No | Cost item | Total number | Price / cost, € | | |
|--------|---|--------------|-----------------|----------|-----------|
| | | | per piece | Subtotal | |
| 1 | Central Server | 1 | 23000.00 | 23000.00 | |
| 2 | Reserve Server | 1 | 23000.00 | 23000.00 | |
| 3 | Workstation | 5 | 1200.00 | 6000.00 | |
| 4 | Encryptic Information Protection Server | 1 | 8000.00 | 8000.00 | |
| 5 | Data Archiving System | 1 | 14000.00 | 14000.00 | |
| 6 | Software | 2 | 13000.00 | 26000.00 | |
| Total: | | | | | 100000.00 |

7. Furniture for regional subdivisions of SCFM

Interim report output: 7.2 repair work, equipment and software procurement procedure for the regional offices

Project budget article: 3 item 3.2.3 Computer equipment and furniture regional offices
Total cost: 229417,5 UAH means 31002,36 EUR

8. Bookshelves for library of INTC

Interim report output: 6.2 procurement of the equipment and software for the INTC

Project budget article: 3 item 3.2.2 Office furniture training center

Kyiv 13874 UAH means 1825.53
Lviv 37947 UAH means 4993.03

Total cost: 51821.UAH means 6818.56 EUR

9. Books for library of INTC

Interim report output: 6.3 purchases of books/materials for the library and finance translations of some of them.

Project budget article: 3 item 3.5.2 Book for NTC library

Total cost: 36000UAH means 4860 EUR. Prepared by D. Romaniuk, Procurement Advisor



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Appendix 13 : Procurement Progress Report, December 2007 - June 2008

i2 - Real-Systems

DGHL/75/007 contract "Procurement of the i2 software for SCFM". Total amount is 77883,60 EUR.

The task is fully finished. **Act of acceptance** signed up.

Books - "Taki Spravy"

DGHL/47/2007 contract "Publication of handbook *Countering the legalization of proceeds from crime and the terrorist financing* for the SCFM" Total amount is 20 760,86 EUR (ex 7,81 means 162 264,49UAH) The price of one book is 4,15EUR (ex 7,81 means 32,453UAH).

The task is fully finished.

Final payment has done by CoE.

19.06.08 Mr. Przemysław Musiałkowski, Head, AML/CTF Unit, CoE, sent the letter to Mr. Klushke regarding confusions on free distribution of handbooks by INTC (because of legal misunderstandings according Ukrainian law).

Furniture - Galkon

DG-HL/64/ 2007 contract "Supply, delivery and installation of furniture to the International and National AML/CTF Training Centre, Ukraine" Total amount in UAH is 238 362,30 (ex.7,41 means 32 167,65 EUR).

The contract is signed up by sides on the 21.04.2008.

Prepayment sent to Galkon.

According information from Galkon shipment should be ready up to 10.07.2008

Server rooms air-condition - Kseropoligraf

DG-HL/602/2007 contract "Supply, delivery and installation of air-conditioning devices in server compartments of 18 regional offices of SCFM. " Total amount is 42 930,00 EUR.

The contract is signed up by sides on the 21.04.2008.

Prepayment sent to KSEROPOLIGRAF. Plan of delivery goods within 10days sent to SCFM, however not all regional offices are ready to receiving air-condition sets which is an issue to be addressed by the SCFM.

Hardware and Software LOT-1 - RGdata

DG-HL/513/2007 contract "Purchase of IT network equipment and software "The total amount for LOT 1 is 224,648.20 EUR.

A bilingual version of the final contract already signed up by RGdata and sent to SCFM for signature.

Hardware and Software LOT-2 – Kvazar

The total amount for LOT 2 will be about 510 000,00 EUR.

On base of TS accepted by steering group, CoE made a tender and found Kvazar as a winner. Due to complaints from SCFM that the contract is not in line to SCFM present needs (letter from Mr. Klushke 17.05.2008), CoE started negotiations with the winner to make final specification as close as possible to SCFM's present needs. During the last IT working group we agreed proposal of changes to the contract specification and sent it to Kvazar. Kvazar accepted to change final specification and split it into two parts:

- one for SCFM with total cost 297898,7EUR
- and second one for INTC with total cost 106647EUR

Microstrategy and Visual Analytics software for SCFM

During last IT working group we received from SCFM modified version of technical documentation. We are waiting for list of Ukrainian companies which are able to take part in tender. Tender will announce in form accordance to list of companies from SCFM.

Repair works of 9 regional subdivisions of SCFM Lot1

Total cost: 364 520,40 UAH means 49 259 EUR

The SCFM examined the proposals of the 9 SCFM regional offices regarding the expenditures for renovation of the SCFM regional offices according to the MOLI-UA2 budget article 3 item 3.2. I have visited all 9 regional subdivisions of SCFM, to check the status of offices before they start repair works.

The SCFM regional offices, which submitted the proposals, examined the services market and received three proposals. Having examined the proposals was made the conclusion that the proposed services price are on the same level. They propose to regard as priority the proposal which has the lowest price. Procurement Adviser agreed with recommendation of SCFM.

Repair works of 8 regional subdivisions of SCFM Lot2

Procurement Adviser received from SCFM names of next 8 regional offices for renovation and started visiting regional subdivisions of SCFM, to check the status of offices before they start repair works. Detailed information is needed from SCFM regarding, renovation range, costs and as minimum 3 offers per region.

Access control systems

Procurement Adviser leans to SCFM recommendation to choose the cheaper offer from Integrator.

Integrator; 04107 Kiev, tel.+38(044)206-40-41; e-mail : support@integrator.ua

Total cost: 364 520,40 UAH / 7,4 UAH/EUR = 49 259 EUR

Conditioners for regional subdivisions of SCFM

Due to I expected excessive difficulties to sign contracts with 24 specific suppliers I asked SCFM to find supplier of conditioner systems whole country range. Procurement Adviser received offer from one company and wait for next two offers as minimum.

Furniture for regional subdivisions of SCFM

2007.11.08 SCFM sent us requirements for furniture for regional subdivisions of SCFM. Then they found 3 companies and send us 3 offers with letter and recommendation from Mr.Klushke on the 27.02.2008.

1. Kontinent; total 229417,5 UAH means 31002,36 EUR

2. Ukrestmebel; total 332125 UAH means 44881,76 EUR

3. MKU; total 325775 UAH means 44023,65 EUR

Procurement Adviser visited recommended company in Zaporizhzhia and leans to SCFM recommendation to choose the cheaper offer from Kontinent. Kontinent already prepared all addendums to contract.

Library of INTC - bookshelves

Procurement Adviser unofficially agreed with INTC changing of library localisation. Room 215 on I-st floor Bialoruska office is much better than last localisation on server room. INTC is searching for as minimum 3 offers for bookshelves.

Library of INTC – books

Procurement Adviser received list of books signed by Mr. Klushke fulfilled with 73 titles. Total cost is 36000UAH, means about 4860 EUR. Procurement Adviser agreed with INTC draft contract and sent it to CoE. INTC is ready for purchasing just after receiving money in UAH from CoE.

Ministry of Internal Affairs

According agreement made during IT & E-learning Working Group meeting on March 2008, we received draft TS from MIA, translated it and sent to our expert. His estimate of this new version of TS is very high. MIA will modernize TS according comments from our expert and it will be ready for acceptance during next Steering group 27 June 2008.

State Commission of Securities and Stock Market

According agreement made during IT & E-learning Working Group meeting on March 2008, we received requirements to software for SCSSM which should to be design by Project, translated it and sent to our expert. In his opinion it's not possible to call for a bid on the base of SCSSM requirements.

During last IT working group we agreed that SCFM will help SCSSM to made new TS.

Prepared by D. Romaniuk, Procurement Advisor.