

The experience of the Council of Europe / MONEYVAL with FATF SR VI

3rd Conference on Hawala

Abu Dhabi, 2-3 April 2005



The Council of Europe and MONEYVAL

- **The Council of Europe**

- An international organisation, established 1949 with a general competence, excluding only military questions, but mostly well-known for its activities in the field of protection/promotion of democracy and human rights
- Activities in the crime field: standard setting, technical cooperation, research, monitoring (MONEYVAL for money laundering and terrorist financing, but also GRECO for corruption)
- MONEYVAL: an FSRB which is an integral part of an international organisation (the only example?)

The “Strasbourg Convention”

Relevant standards: 1990 Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime (“Strasbourg Convention”)

- First Council of Europe (legally binding) instrument in the penal field to impose a legal obligation of a substantive nature: to criminalise money laundering
- But also (very important): obligation to take several measures to target the proceeds of crime (=policy): tracing, seizing, confiscating
- A legal basis for international cooperation (FIU, police, judicial cooperation)
- ratifications: all 46 CoE members + Australia (Convention is opened to non CoE member States)

Revision of the Strasbourg Convention

A process initiated in 2003, final draft adopted earlier this year:

- updating the Convention in a field where there have been many changes and raising the standards: reversal of the burden of proof, access to banking information, prohibition of tipping off, corporate liability, refining of the money laundering offence, preventive mechanisms and reporting to an FIU, measures to facilitate international cooperation (exchange of banking information, monitoring bank accounts, repatriation and sharing of assets, cooperation between FIUs etc.)
- Extension of the scope: all provisions will now apply to the financing of terrorism (as defined in the 1999 UN Convention for the suppression of the Financing of terrorism)

The MONEYVAL Committee (1)

- Created in 1997
- Covers those CoE member States not already covered by the FATF: Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech republic, Estonia, Georgia, Hungary, Latvia, Liechtenstein, Lithuania, Moldova, Malta, Monaco, Poland, Romania, Russian federation, San Marino, Serbia and Montenegro, Slovakia, Slovenia, “The former Yugoslav Republic of Macedonia”, Ukraine
- Main task: mutual evaluation and peer pressure, on-site visits, multidisciplinary evaluation teams (legal, law enforcement, financial aspects) – began in 1998
- Accessorily: typologies meetings, horizontal reports and self assessments, training seminars for evaluators

The MONEYVAL Committee (2)

Has completed 2 rounds of evaluations. Results: almost 50 reports adopted and all countries which have undergone the two evaluation rounds comply with the basic requirements established by the Committee, notably:

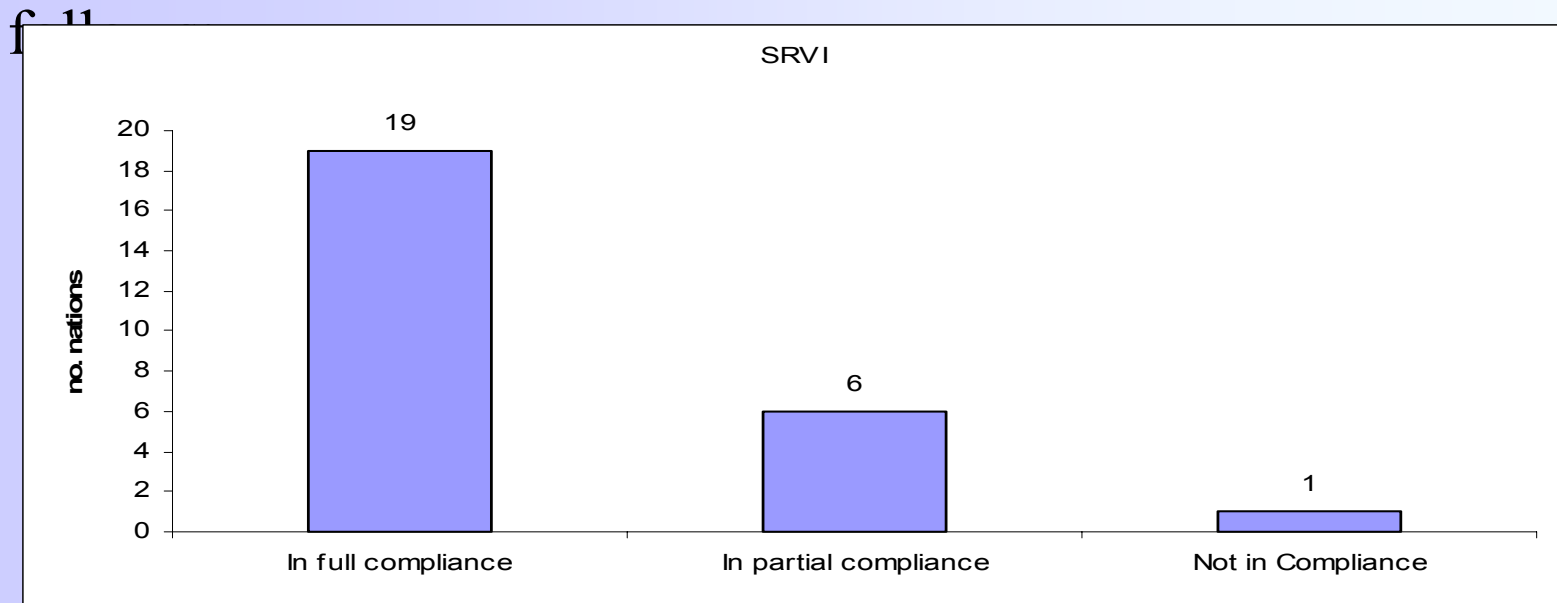
- Existence of a money laundering prevention mechanism
- Existence of an FIU
- Existence of mechanisms to freeze, seize and confiscate proceeds of money laundering and crime

Is beginning the 3rd round on the basis of the new common methodology:

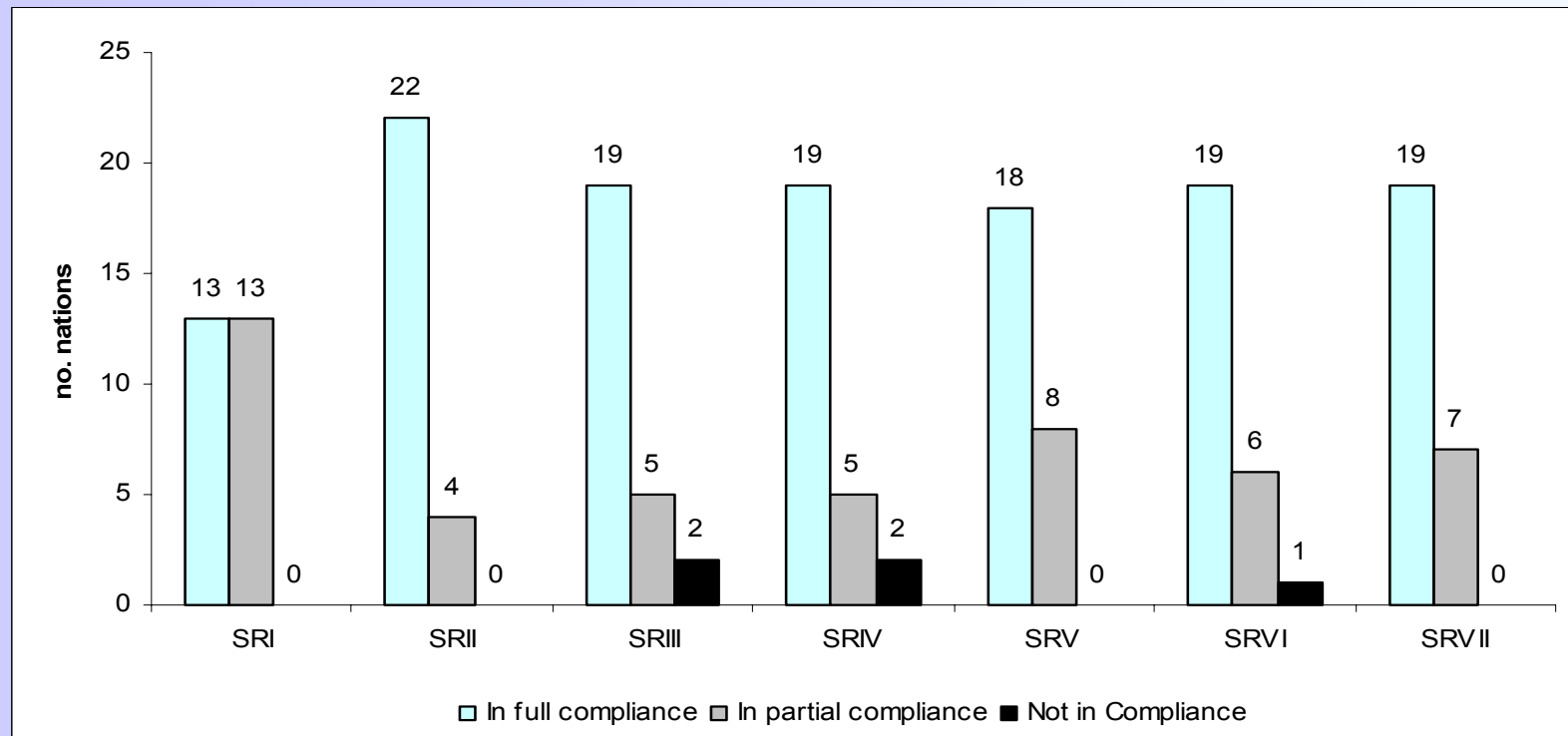
- For the moment: little experience with Hawala and applying the new methodology (in particular SRVI on alternative remittance)

Results of the self assessment against the 8 Special Recommendations (1)

- Mirroring the FATF initiative, a self-assessment by the MONEYVAL countries against the 8 (7) Special Recommendations on terrorist financing was conducted in 2002 and updated in 2004. For SRVI, the result was as



Results of the self assessment against the 8 special recommendations (2)



Alternative remittance - FATF SR VI

A high standard

The results of the self assessment were (extremely) positive. Not sure if the on-site visits will reveal a similarly positive picture. 2 reasons:

Reason 1: The standards of SRVI are high (see interpretative note):

- Jurisdictions should require licensing **or** registration of persons (natural or legal) that provide money/value transfer services, including through informal systems;
- Jurisdictions should ensure that money/value transmission services, including informal systems (...), are subject to applicable FATF Forty Recommendations (2003) (**in particular, Recommendations 4-16 and 21 to 25**) and the Eight Special Recommendations (in particular SRVII); and
- Jurisdictions should be able to impose sanctions on money/value transfer services, including informal systems, **that operate without a license or registration and that fail to comply with relevant FATF Recommendations.**

Alternative remittance providers in practice

Reason 2: alternative remittance services are an important sector, apart from Hawala :

- A large variety of formal business networks providing money transfer services/money delivery at destination: Internationally: Western Union, Moneygram, Travelex, American Express etc. and several similar networks operating regionally or nationally
- A large variety of services: cash to cash, cash to cheques, bearer cheques, account to cash, reloadable money cards etc.
- A large variety of operators: financial institutions and post offices, but also foreign exchange offices, travel agencies, gas stations, retail shops and supermarkets, tourism offices and travel service agencies etc
- Variable standards and practices during the customer/recipient identification process

Reasons to be worried (1)

- there has been little evidence so far that hawala (or hundi, Fei-chien) is a serious issue in MONEYVAL countries; things are changing though: increasingly, human smuggling and trafficking, larger sales of counterfeited goods found in MONEYVAL countries in relation with other regions of the world (e.g. Asia) and possible use of hawala-type systems mentioned in relation with cash couriers (to be published soon: results from a joint FATF-MONEYVAL typologies exercise, with a workshop on THB/IM/HS)
- money transfer services is acknowledged as being a serious issue: for the transfer of criminal assets, payment of criminal services (human smuggling), laundering of proceeds (e.g. through money transfer activity connected with another business activity; disguising payments for human trafficking/smuggling in the form of legitimate income sent to the family)

Reasons to be worried (2)

- Anecdotal evidence suggests that in some cases, those with anti-money laundering responsibilities (FIU) in certain countries are not aware of the money transfer services available in their country (provided by “unexpected” businesses)
- Money transfer services seem to be developing in certain areas of Europe (because of introduction of the Euro, increased movements of people and workers): CSQ: increasing competition between service providers and risks of reduced vigilance + increased workload for agencies involved in AML/CFT

Reasons to be worried (3)

- Services are offered by economic operators/businesses which are not traditionally a target of AML/CFT requirements, or do not operate through the usual (regulated) financial system: risks of loopholes in the monitoring/supervision coverage (and the licensing/authorisation). Distinction between formal and informal systems is tricky, even with the interpretative note

Conclusions

- MONEYVAL countries (will) have much to do for the time being with usual formal and informal remittance services and networks: may require enhanced scrutiny + AML/CFT involvement not only of the ultimate network-affiliated business, but also of the network management (interesting: little on AML/CFT policy on their websites) - international coordination required
- The fact that SRVI applies equally to formal and informal transfer systems, and to both AML and CFT is mostly welcome
- Vigilance required as regards the importance and development of Hawala-like systems in MONEYVAL countries and in this respect, experience from outside MONEYVAL is also mostly welcome

For further information

www.coe.int/moneyval

www.coe.int