



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 14 December 2012

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GENVAL 94

NOTE

From : Incoming Irish Presidency
To : Working Party on General Matters including Evaluations (GENVAL)
Subject : Follow-up to mutual Evaluation Reports

1. Recommendation N° 15 of the High Level Group on Organised Crime, set up under the Irish Presidency in December 1996 and whose Report was adopted by the European Council meeting at Amsterdam in June 1997, provided that "*a mechanism should be established, based on the experience with the model developed in the FATF (Financial Action Task Force), to mutually evaluate the application and implementation at national level of the European Union and other international instruments and undertakings in criminal matters as well as ensuing national law, policies and practices*". The Recommendation also noted that the evaluation should be based on certain principles: "*parity of the Member States, mutual trust, pre-established scope and criteria for the evaluation ... and check-lists and an assurance that experts from all Member States will participate, at some stages, in the evaluation process*".
2. Following this Recommendation, the Joint Action 97/827/JHA of 5 December 1997¹, establishing a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime, was adopted.

¹ OJ C 251, 15.8.97, p 11.

3. Five rounds of mutual evaluations have been undertaken within the framework of the Joint Action. Nine further country visits have so far been organised during the ongoing 6th Round. More than 110 reports have been adopted by the Multidisciplinary Group on Organised Crime (MDG) and its successor Working Party on General Matters including Evaluations (GENVAL).
4. At the meeting of GENVAL on 6 November 2012, one delegation raised the issue of follow-up to the reports and queried what follow up should be taken, if any, to the conclusions and recommendations of the country reports.
5. As noted, the mutual peer evaluation system has largely drawn upon the FATF model as it was in 1997. Once a full cycle of evaluation has been finalised, the Presidency has drafted a generic report with general conclusions and recommendations. This report has sometimes (but not always) been discussed by the Council. As part of this report, it has been recommended that each Member State notify the Council of what steps it had taken regarding the country specific recommendations, normally 18 months after the evaluation. Usually, the Minister responsible (or the Chair of CATS) signed a letter to this effect to his/her counterpart. When the Member States reported back, the General Secretariat published the information in an official Council document. No further follow-up was undertaken.
6. It should be noted that the FATF follow up has undertaken a number of changes since 1997. Moreover, several other mutual evaluations have been added at the international level (Council of Europe's GRECO (Group of States against Corruption) and GRETA (Group of Experts on Action against Trafficking in Human Beings) and UNCAC (United Nations' Convention against Corruption) to mention some.
7. The Irish Presidency wishes to initiate a discussion in GENVAL on whether delegations consider that the mutual peer evaluations function satisfactorily, or if delegations consider that a strengthened follow-up should be undertaken in relation to country specific reports. If so, how should a reinforced follow up be construed?

8. In this context, it should be noted that the practice has been that once the three "peer experts" have agreed on the text of the report with the Member State concerned, the practice has been that MDG/GENVAL adopted the report "*by consensus*" (an expression deliberately chosen in 1997 to indicate that delegations did not have to agree with each and every aspect of the conclusions and recommendations).
9. The sixth round of mutual evaluation will finish in 2014. Similarly to other rounds, it is expected that both the individual reports and the final report will lead to further improvements in international judicial co-operation [and influence future Commission proposals to be submitted within the concerned area].
10. *The Presidency invites delegations to consider/ indicate [for/at the next GENVAL meeting on 16 January 2013] if they think that the follow-up regime to the mutual evaluation rounds should be strengthened.*
