

MEASURES TO COMBAT ECONOMIC CRIME, INCLUDING MONEY-LAUNDERING

E. Opening for the Second Session (21 April 2005)

Chair (*spoke in French*): Ladies and Gentlemen, it's my pleasure to welcome you to this meeting of Committee 2. Yesterday our workshop made a lot of progress and addressed many complex questions having to do with economic crime, with the aid of our distinguished Panellists. I am confident that today we are going to continue being successful in our efforts, and I would now like to call upon you to join the workshop and to look into the workshop's questions on money-laundering.

Having heard yesterday's discussions, I am very confident that Mr. Hans Nilsson, our Moderator, will continue to lead an active discussion during the workshop so as to make concrete and substantial conclusions to fight economic crime, including money-laundering.

But before I call upon Mr. Nilsson to join me in moderating the round-tables, it's my very great honour and pleasure to introduce to you Mr. Peeraphan Prembooti, the Keynote Speaker for this morning. He is the Secretary-General of the Anti-Money Laundering Board of our host country. You have the floor, Sir.

Keynote Speech for the Second Session

Pol. Maj. Gen. Peeraphan Prembooti: Good Morning Distinguished Ladies and Gentlemen, it is a great pleasure for me to have an opportunity to deliver a keynote speech at this important 11th United Nations Congress Workshop to my esteemed colleagues and distinguished delegates from all over the world. First of all, I would like to welcome all of you to the Kingdom of Thailand - the land of a thousand smiles, and I hope you enjoy your stay in Thailand. I also wish to express my sincere thanks to all of the staff of the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) who have been working to organize and make this Workshop possible.

My keynote speech today will provide an introduction to issues related to anti-money laundering -or AML in short. The focus is on a legal framework, the importance of international cooperation and the enhanced role of the financial intelligence units or FIUs. I will also touch on capacity building and technical assistance required by new AML entities.

"Money-Laundering" has a long history dating back to 1931 when the United States Court convicted a Mafia group headed by Al Capone, on charges of tax evasion. The Mafia group obtained dirty money from underground business undertakings that yielded them huge profits which they claimed came from a Laundromat that was, in fact, just a front business. In 1973, with the incidence of the Watergate scandal, the term "money-laundering" was officially used to explain the process of how "dirty money" moved into the campaign of a US political party.

We all recognize that transnational organized crime, money-laundering, and economic crime are often linked and organized crime groups will use their ill-gotten gained profit to infiltrate or acquire control of legitimate businesses. The consequence of money-laundering will put all legal establishments out of business with the practice of bribing individuals, and even governments, with the dirty money.

Money-laundering is one of the growing and ongoing problems facing the international economy, whilst the fundamentals of this crime remain largely the same, technology has offered, and will continue to offer, a more sophisticated and circuitous means to convert ill-gotten proceeds into legal tender and assets.

We are all aware that money-laundering consists of 3 stages: (1) *Placement*; remove dirty cash to avoid detection from law enforcement (2) *Layering*; attempt to conceal and disguise by moving money in and out offshore bank accounts of front companies (3) *Integration*; the final stage in the process where money is integrated into the legitimate financial system.

The reasons why criminals launder their dirty money are to: (1) avoid tax (2) make it appear legal (3) avoid prosecution (4) increase profits, and (5) avoid the seizure of their illegal wealth.

Money-laundering is related to unlawful undertakings that can only yield dirty money. Because the ill-gotten gains are not safe to keep and could cause suspicion about the source, criminals must find ways to clean or launder the money to make it appear legal in order to use such disguised proceeds of crime. And because money is an effective tool for all serious organized crimes, the whole justice systems are urged to run around the clock to cut off the criminals' chance to use their ill-gotten gains.

Some laundering techniques can be very simple such as using the money to buy luxury cars or transferring the money to someone else. More complicated means may include using commercial loopholes to conceal the actual source of the funds or assets.

In the Asia-Pacific region, the most common methods are the purchase of valuable commodities such as gems and jewellery; use of casinos; structuring of transactions; informal money transfer using underground banking and alternative remittance services; use of false identities; investment in business; use of nominees, trusts, family members or third parties; and use of foreign bank accounts.

In a couple of years, it is likely that this region will be faced with even more complex methods, such as investment in capital markets; use of shell companies/corporations; and the use of offshore banks and corporations.

These more complex ways make scrutinizing very difficult. So the methods of scrutiny need to be supported by an efficient legal backbone.

The legal backbone can be stretched by a promulgation of anti-money laundering law. We have seen many countries that have established and improved their anti-money laundering framework from time to time by making money-laundering a crime under their domestic law. Certainly the criminalization of money-laundering should be conducted in accordance with global standards, such as those laid down in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention 1988) and the United Nations Convention against Transnational Organized Crime 2000 (Palermo Convention) which lay a foundation for the criminalization of money-laundering.

The Vienna Convention is perhaps the most important drug control instrument. But the limitation is that predicate offences for money-laundering relate only to drug trafficking offences.

So, later the world community adopted the Palermo Convention that imposes an obligation on all member states to apply its money-laundering offences to “the widest range of predicate offences”.

I am pleased to say that the Thai Government has shown a strong commitment to combat money-laundering by promulgating the Anti-Money Laundering Act of 1999 (AMLA 1999). The Anti-Money Laundering Office – AMLO, a new law enforcement agency, was established under the AMLA 1999 and is the national focal point of Thailand’s Financial Intelligence Unit or FIU.

Perhaps the best player in the field at the moment is the Financial Action Task Force (FATF). In April 1990, it issued a set of international standards on anti-money laundering known as the “Forty Recommendations”. These recommendations were first revised in 1996 and again in June 2003.

The Forty Recommendations were complemented by Eight Special Recommendations on combating the financing of terrorism, which were adopted following the 9/11 events. In September 2004, the FATF issued an additional recommendation, the Ninth Special Recommendation, regarding cash couriers.

The FATF encourages countries to specify in their money-laundering law beyond its minimum recommendation of predicate offences to be included in their money-laundering law.

So the revised FATF Forty plus Nine Recommendations apply not only to money-laundering but also to terrorist financing. This will have a great impact on most countries that take the time to implement the changes.

Countries now have to be sure that they have the anti-money laundering and combating the financing of terrorism (we know it as AML/CFT in short) system in place, if they do not wish to be listed as non-cooperative countries and territories. This of course calls for cooperation from all sectors - the legislature has to amend laws; and banking as well as non-banking businesses are required to know their customers and act on Customer Due Diligence.

The money-laundering message is already heard across the world. Many regions have formed so-called “FATF-style Regional Bodies” (FSRBs) aiming to strengthen member countries’ capability to comply with the

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FATF standards.

In the Asia/Pacific region, most States are members or observers of the Asia-Pacific Group on Money Laundering (APG). The APG adopted the FATF Recommendations at its annual meeting in 2003 in Macao. So far the members have been assisting each other in capacity building efforts and organizing mutual evaluation exercises.

As the world's technology advances, money-laundering techniques become faster, easier, and more complicated. This poses a big obstacle for officials to investigate and arrest the perpetrators.

No doubt, fighting against cross-border money-laundering will be more effective with the help of colleagues overseas. The support may be rendered for the analysis and investigation of suspicious transactions, or for investigation of money-laundering crimes, confiscation of assets, or extradition.

A gateway to cooperation is through mutual legal assistance. It is assistance provided by one country to another. Countries could make assistance available, for instance, in requesting information, enforcing overseas freezing and confiscation orders, and sharing of assets. But, please note that what assistance can be given and what assistance can be requested will vary from country to country.

Member states in the Asia-Pacific region exchange information and have enhanced the implementation of money-laundering and terrorist financing counter-measures through the Asia/Pacific Group on Money Laundering (APG) as I mentioned earlier. Thailand became an APG member in April 2001.

Another gateway to external cooperation is through the Financial Intelligence Unit. Since the 1990's, many countries have been keen to justify their national strategies in order to combat money-laundering that has become a serious crime that goes beyond boundary lines. A group of officers are tasked to work as a national focal point called a "Financial Intelligence Unit", normally referred to as FIUs. This special unit will be responsible for receiving and analyzing financial information and then disseminating it to relevant law enforcement agencies to take proper action in order to combat the new crime of the century - "money-laundering".

The FIUs work and share information among themselves, usually on the basis of a memorandum of understanding. As an example, AMLO Thailand has entered into arrangements with 15 states for the exchange of financial intelligence. If there is no such agreement, the exchange of information can be undertaken on a reciprocal basis.

A number of FIUs have formed an international body known as the Egmont Group, following the Seven Industrial Countries (G7) meeting in 1995 at the Egmont-Arenberg Palace in Brussels. The Group provides a forum for member states to discuss issues common to FIUs and to foster cooperation as well as to advise FIUs under development. As of June 2004, there are 95 FIU members of the Egmont Group from all over the world and this will continue to grow. Thailand officially joined the Egmont Group in October 2001 and is one of the eight countries from Asia.

Therefore I would like to recommend that each country should afford another country, on the basis of a treaty, arrangement or other mechanism for mutual legal assistance as well as information exchange. Assistance in criminal matters and, if possible, civil matters should help every country to achieve the mutual goal of combating money-laundering on a global scale.

In improving the capability of the AML/CFT regime, technical assistance has a real role to play.

Technical assistance and capacity building in national anti-money laundering operations and systems can be extended to countries in the following main areas:

- Develop a regional training programme for law enforcement officials and related entities, namely prosecutors, judges, asset freezing and forfeiture officers;
- Assistance and resource mobilization to develop AML/CFT legislation, financial sector and FIU legislation, and updating of AML legislation to reflect the FATF 40 plus 9 Recommendations;

- Establishment of an FIU in countries where there is no FIU in place yet;
- Boost information exchange and intelligence network. Now the range of reporting entities is widened to include the non-banking sector, such as casinos, company service providers, and legal and accounting professionals. This makes the nature of reports received more varied and brings up issues of methods of analysis and training of staff.

In the past years a wide variety of assistance is being provided across the whole continuum of AML/CFT systems ranging from legislative drafting to awareness raising.

Many organizations and governments have lent their hands to raise the AML/CFT capability of the less advanced countries. Among these are the World Bank, the IMF and the Asian Development Bank – to name but a few.

Some of the programmes come in the form of regional projects, such as the ASEM Anti-Money Laundering Project which aims to develop sustainable institutional capacity in Asian ASEM countries to address money-laundering at a national, regional and international level. AMLO Thailand is proud to be part of this important project by hosting the project office in our building.

Technical cooperation programmes can also be arranged on a bilateral basis like AMLO and AUSTRAC of Australia, namely an exchange of experts and work attachment. We are more than willing to have foreign FIU staff attached with us for the purpose of knowledge exchange.

To conclude my remarks here, I would like to say that no matter what the money-laundering trends will be, it is important for law enforcement regimes worldwide to keep our capability “One Step Ahead” of the criminals. Briefly speaking, money-laundering is the ‘Crime of the Century’ that is not a duty of one nation but rather of all nations to reduce the threat to world security.

Lastly, may I say again that the Royal Thai Government is proud to co-host this important UN Congress. If we can be of any help at all to make your stay more pleasurable, please do not hesitate to let us know.

Thank you for your attention.

Chair (*spoke in French*): Thank you, Sir. I shall now call upon Mr. Hans Nilsson to help me in moderating the round-table and to introduce the invited experts. You have the floor, Sir.