

## **GROUP 2**

### **ISSUES CONCERNING THE INVESTIGATION OF CORPORATE CRIME**

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#### **I. BACKGROUND**

Corporate crime is affecting us globally. This transnational problem has a serious impact on a country's economy. It is important that this growing problem be tackled and that effective measures are put in place to assist in the prevention of corporate crime in our countries. International co-operation should be enhanced to ensure that we all are making a concerted effort to unify our support and commitment to eradicating this crime. In this context, this report is based on the information obtained from the lectures delivered by the experts in their respective fields, the individual presentations of the group members and group discussions. Guidance, comments, suggestions and strategic advice was provided by the group advisers.

#### **II. INTRODUCTION**

Group 2 started its discussion on 13 September 2007. The group elected, by consensus, Mr. Jayasuriya as its chairperson, Mr. Yokoyama as its co-chairperson, Ms. Correa as its rapporteur, and Ms. Singh as its co-rapporteur. The group was assigned to discuss "Issues Concerning the Investigation of Corporate Crime". The group agreed to conduct its discussion in accordance with the following agenda:

- 1) Characteristics of investigations into corporate crime: the current situation with regards to the issues concerning the investigation of corporate crime in each country;
- 2) Effective measures against corporate crime:
  - 2.1) Acquisition of information on corporate crime;
  - 2.2) Strengthening the resources of investigative authorities;
  - 2.3) Collection of material and electronic evidence;
  - 2.4) Measures to obtain statements and collate evidence;
- 3) Co-operation between investigative authorities at the state level;
- 4) Co-operation between foreign investigative authorities.

#### **III. SUMMARY OF DISCUSSIONS AND DELIBERATIONS**

##### **A. Characteristics of Investigations into Corporate Crime: Issues in Each Country**

The group had previously discussed the issues relating to corporate crime in plenary with other Course colleagues, and considering the fact that Group One was tasked with contemplating the definition of "corporate crime", Group Two therefore decided not to make any attempt to give a specific definition.

However, during the lectures and the discussions within the group, the boundaries of a broad framework of this type of crime were discussed. Accordingly, the group agreed that the discussions should focus on financial/commercial/economic crimes involving corporate entities which have a serious impact on the economic and social stability of the countries concerned.

Members expressed their views on different aspects, such as the nature of the offence, the nature of potential suspects, the nature of potential witnesses and the nature of the investigative authorities.

Having deliberated on these matters, the group identified the following as the main characteristics of corporate crime:

1. Involvement of Various State Agencies

Corporate crime can be committed in different ways, such as tax evasion, financial fraud, money laundering, illegal practices affecting stock exchanges, etc. Therefore, in order to conduct an efficient investigation, it is important to make use of strategic partners such as customs, inland revenue, stock exchange, and fair trade commissions and to utilize the expert knowledge they possess in their respective fields.

Existing domestic systems empower different entities to investigate into each of these separate activities. Therefore, as it stands, many different state entities conduct investigations in relation to matters pertaining to corporate crime.

2. Effective Use of State Resources

Arising out of the consideration reflected under item A.1 *supra*, the group unanimously agreed it is imperative that all the resources directed into different entities be utilized in a co-ordinated manner to ensure state resources are used effectively and efficiently.

3. Specialized Expertise

The group discussed extensively the different ways in which corporate crime could be committed and agreed that the developments in the technological field had provided advanced instruments and different techniques with which wrongdoers can commit corporate crime. In addition, corporate crime involves specialized fields such as accounting, taxation, securities and exchanges, banking and investments, and customs. Therefore, investigators who are generally trained to investigate ordinary crimes will face difficulties in investigating corporate crime unless they are given extensive training and knowledge of these new technological developments and training in specialized fields.

4. The Nature of the Witness

During the discussions all members expressed their views on the nature of potential witnesses in corporate crime. It was agreed in many instances that co-workers and employees of the potential suspects are the people who would be able to provide valuable information and evidence relating to wrongdoings of the suspects. Therefore investigations relating to corporate crime would always require addressing the security concerns of potential witnesses. In this regard the group extensively discussed the law relating to protection of whistleblowers in Japan and South Africa. Participants from these countries provided an overview of their respective legislation and the group agreed on the importance of introducing such a system in relation to corporate crime investigations.

It was further discussed that some countries, such as South Africa, make use of the plea bargaining system. However its application, and that it operates within the framework of the law, is important. However, a majority of the participants were of the view that the existing systems in their respective countries do not provide such mechanisms and any changes to the existing systems would require extensive discussion and agreement between various state agencies in the country. This creates legal difficulties in using these kinds of individuals as witnesses.

5. Nature of the Suspects

The group identified this feature considering the involvement of corporate entities and that the people holding positions in the senior management of such entities are involved in the commission of corporate crime. Their financial capabilities and economic influence and the consequent pressures that they could exert on state agencies require independent bodies to conduct investigations into corporate crime.

6. Complexity of the Investigation

All of the above mentioned features reflect the complexity of an investigation into corporate crime. Therefore, the group agreed to identify these features as characteristics of corporate crime. The group further agreed that different activities of individuals and corporate entities, financial and commercial transactions, transactions related to properties etc., and the involvement of different levels of jurisdictions further reflect the complexity of corporate crime.

#### 7. Involvement of Different Financial and Commercial Institutions

An investigation into corporate crimes would always involve examination of material available in the banking, financial and commercial systems as the wrongdoers would mostly use such institutions as vehicles to commit corporate crime. Therefore, the group identified this feature as a characteristic of corporate crime.

### **B. Effective Measures against Corporate Crime**

#### 1. Acquisition of Information on Corporate Crime: Current Situation and Problems

The chairperson (from Sri Lanka) described briefly how the investigative authorities seek assistance from a magistrate to conduct investigations. The co-chairperson (from Japan) explained the current process regarding the Whistleblower Protection Act, which protects whistleblowers from dismissal, and that in Japan investigative authorities obtain banking information from financial institutions, which provide the information voluntarily and speedily.

The participant from Panama stated that there are many ways in which the authorities in Panama can become aware of a crime. However, it is important that investigations conducted by the judicial police or the prosecutor reach the same objective. With regard to corporate crime, the control and supervision measures of the regulatory authorities allow that some information about suspicious activities of a corporation can be evaluated to begin a formal investigation.

Then the participant from Mexico stated that legally, in some countries, special techniques of obtaining information such as undercover operations, protection of offender-witnesses, controlled delivery and electronic or other forms of surveillance, etc., can be applied only in the investigation of certain offences like organized crime related with money laundering and not in the investigation of corporate crime, unless the corporation is involved or is being used as a medium or instrument to commit crime by members of an organized criminal group. Therefore, he suggested that the group focus on the normal techniques of investigation permitted by the domestic legal systems, the sources of information that are needed for the investigation and the way which one could obtain such information.

The participant from the Japan Fair Trade Commission (JFTC) stated the importance of anonymous sources to initiate an investigation.

The South African participant discussed the following issues: a wide array of legislation regulates the acquisition of information, including the Criminal Procedure Act, the criminal law statutes, the Constitution of the Republic of South Africa, the South African Police Act, etc. There are specific procedures and techniques under the legislation which guide the management of a crime scene from the inception of a complaint, to the mass media, dealing with informants and the various types of protection our laws offer. It must be mentioned that in the Republic of South Africa every informer is treated with the utmost confidentiality and the identity of such an informer is protected. The South African law makes abundant provision for the protection not only of the whistleblowers but for all types of witnesses. There is also a toll free number in many countries where callers can provide information to the police.

The other recognized sources of information are by email and Internet. The group also discussed the practice of using the media as a source of information.

Professor Naito stated that the group should also focus on how to analyse quality information and the credibility thereof and further asked the group to consider whether undercover operations could be an effective way to gather evidence of corporate crime.

The participant from Panama stated that special investigative techniques can be used in the investigation of corporate crimes, such as money laundering, which are related to drug offences and some cases of fraud. The experience in the investigation of these cases shows us that many of them involve criminal organizations which use business entities to conceal the proceeds of illegal acts.

The participant from Mexico again stated that legally, in various countries, the special investigative techniques that are established to gather or collect evidence in relation to organized crime cannot be applied

in investigations of corporate crime if the offence doesn't have any relation to organized crime; besides, he stated that he knows there are various countries which, even though they have signed and adopted the United Nations Convention against Transnational Organized Crime, have not made any changes in their respective legal systems in order to establish these special investigative techniques for the purpose of effectively combating organized crime, much less to investigate or combat corporate crime.

The chairperson observed that there was a question as to whether the legal framework relating to organized crime and money laundering could be used as a guide to establishing a legal framework relating to corporate crime. Therefore, using special methods of investigation relating to corporate crime is an issue that has to be given more consideration by all countries.

Professor Naito mentioned that some countries do not adopt undercover operations as a method of gathering information in terms of corporate crime. He further stated that Financial Information Units in respective countries have the capabilities to track suspicious information, which is generally recognized as one of the most useful and efficient sources of information of money laundering and other related offences.

The Brazilian participant stated that in the existing law in her country there is no criminal liability for corporate crime. Therefore, the authorities have to investigate only natural persons (of the corporate entity) who commit crime. Therefore, the participant is of the view that it is possible to use traditional techniques such as undercover operations, surveillance, etc. in order to gather information in relation to corporate crime.

## 2. Strengthening the Resources of Investigative Authorities: Current Situation and Problems

The group embarked upon discussing the strengthening of resources of investigative authorities. In this regard the chairperson discussed the issue surrounding the need for employing persons with necessary qualifications and skills. He further explained that in Sri Lanka graduates are directly recruited to the rank of Assistant Superintendent of Police. To investigate corporate crime it is necessary for investigators to improve their specialized knowledge.

The Mexican participant said that the prosecutor or the faculty person who conducts the investigation is required to have special knowledge in different fields such as customs, taxes, stock exchange, accounting, etc., as well as knowledge of how the mechanism of the crime functions and how those fields work and change; and moreover, whether it is applied or not and how things work, for example, how to trace, catch or intercept communications.

The co-chairperson said that sharing of expertise through personnel exchanges among related agencies occurs frequently in Japan. For example, experts specialized in tax investigation from the Tokyo Regional Taxation Bureau are posted at the Special Investigation Department of the Tokyo District Public Prosecutors Office and at the Tokyo District Court. The co-chairperson asked how Mexico conducts its investigations, and if it is possible to share information with other countries. In that regard the participant of Mexico gave an explanation of how an investigation is conducted in relation to organized crime and in relation to other offences where corporate crime is involved; and how the collected information can be shared.

According to the participant from Panama, regarding resources of investigative authorities, there are three important categories which can be identified: human, technical and legal. In this regard, investigators in Panama are trained in the Detective Academy where they learn investigation techniques, the legal framework, etc. These investigators are in possession of university degrees in different areas of expertise and they are specialized in investigating crimes such as corporate crime. It is necessary that the investigators are provided with the technical tools to carry out their tasks efficiently. This includes typical examples of technical tools such as the surveillance of suspects, and the analysis of information from computing hardware and software. The participant identified the laws and the legal framework that supports an investigation.

Regarding legal resources the group has already recognized that some countries may have gaps in the application of special investigative techniques in the investigation of corporate crime.

The participant from Brazil mentioned the training investigators receive at the Police Training School and

also the training they receive in specialized skills such as accounting, information technology, and special investigative techniques.

The participant from South Africa discussed the following issues: From a human resource perspective a person must undergo a course before he or she can become a detective; likewise, before joining a specialized field detectives will undergo specialized training. Ms. Singh explained further that from a financial and logistical perspective, detectives have sufficient legal tools for a wide range of investigative techniques.

The participant from Mexico said that even if a country has special investigative units or special faculty agents in relation to corporate crime, training is always needed and is still not sufficient, and he therefore expressed the need for ongoing training, taking into consideration that special fields, such as taxes, customs, stock exchange, investments, etc., are continuously in flux, and that criminals always find new and different ways to commit crime.

The group recognized that training is a common problem affecting all countries.

The participant from Mexico stated that in his country it is established that the prosecutor needs to take some courses annually in order to continue to be a prosecutor, and besides, the prosecutor needs to identify what he or she needs and take courses by him or herself if he or she wants to be specialized and investigate in the best and most efficient way.

The co-chairperson observed that in terms of economic crime investigators have to co-operate with the authorities of other countries. Therefore knowledge of the issues relating to mutual international co-operation and exchange of information is indispensable.

The participant from Mexico stated that it is important to know how the legal systems of other countries function in order to know how to obtain proofs, conduct the investigation and establish co-ordination. It is time consuming to obtain information from other countries.

### 3. Collection of Material and Electronic Evidence: Current Situation and Problems Affecting Each Country

In this regard the chairperson stated that the group should focus on how to collect and apply this evidence.

It was explained that the current situation in Japan is that whilst they are in the process of obtaining a court order, investigators can impose an immediate but temporary freeze on the account.

The chairperson stated that from a Sri Lankan perspective the law recognizes that information stored as electronic facts can be used as evidence in a trial. There is no prohibition on investigators seizing electronic data as evidence. Experts are necessary to assist in the retrieval and analysis of evidence when required.

The co-chairperson stated that in Japan, according to the Criminal Procedure Act, electronic information and hard copies can serve as evidence. However, the difficulty in investigation is the vast quantity of data collected and the time within which it is required to analyze such data; in this situation experts are required.

The participants from Japan stated that it is important to collect information from the data that is stored as electronic evidence. A difficult situation arises when an email message is stored in an external server.

The participant from Panama stated that the advancement of technological information used by criminals creates a problem which hampers the successful investigation and prosecution of corporate crime. Evidence such as electronic material, computer files, digital images, etc., may help during depositions and trial. In many corporate crimes the companies secretly commit crimes and systematically hide the evidence; therefore it is necessary to train investigators to gather this kind of evidence, which is very important to obtain in the initial stages of the investigation.

It was explained that in South Africa, the South African Police Service makes use of forensic experts who are currently employed in the South African Police Service, to assist in obtaining electronic evidence.

Sometimes it is necessary to use external experts to obtain evidence. However, this can be a lengthy and expensive procedure.

The participant from Brazil stated that, as in Japan, it is possible to collect evidence from electronic data. The problem arises with the volume of information and the time it takes to analyse such data. However, in Brazil there are units of full-time forensic investigators but there are too few such staff in relation to the number of investigations.

The chairperson noted that it is necessary to provide prior notice and opportunity to the opposing party to examine the computers and servers involved. The difficulties would arise when the server is located in a foreign jurisdiction.

The participant from Mexico said that the subject in discussion is collection of material and electronic evidence so it relates not only to electronic evidence inside a computer or the computer itself; it covers also financial and bank statements, account books, e-mail and ordinary correspondence, orders of deposit or transfer of money, tax statements, etc., therefore the discussion must include these materials, the identification of sources of information and how to obtain them. Besides, if the investigator or the prosecutor knows how the mechanism of the economic or financial crime functions, he or she can identify what material is needed to prove the elements of the crime; in other words, which is the important or necessary material and how he or she can obtain it applying the domestic legal system of his or her own country.

The chairperson provided an overview of the subject concerned. He stated that all the laws are similar in relation to the admissibility of computer evidence. However, issues arise in an investigation considering the volume of such material that needs to be collected and analysed. Therefore, experts to assist in the retrieval and analysis of such information become necessary. To obtain assistance from foreign jurisdictions one has to use mutual legal assistance. The main issue that will arise in this regard is the timeframe within which such retrieval and analysis should be carried out, especially in terms of speedy investigations.

The participant from Mexico added that in the investigation of economic or financial crime and the collection of material such as account books and documents in relation to the operation of the corporation, sometimes it is better to establish the corresponding co-ordination or co-operation with the administrative authorities which have the power to visit the suspect, and review and collect this material instead of obtaining a search warrant, because such action is easier and faster. However, if the place where the material and electronic evidence is located is private property which the other administrative authorities do not have legal power to visit and review, it is necessary to obtain a court order or judicial warrant to collect and seize such evidence.

Professor Naito stated that, in most economic crimes, documentary evidence is critically important to prove the facts; therefore, investigative authorities have to make every effort to collect such evidence from every institution, especially from financial institutions. He also pointed out that, in some countries, there is difficulty for investigative authorities in collecting documentary evidence from certain professionals, especially private attorneys, due to their constitutional rights and legal privilege. The chairperson responded by stating that in Sri Lanka the record of communications between the client and the lawyer are privileged. The co-chairperson added that in relation to an attorney and client, one has difficulties in obtaining the information.

The Japanese participant from the JTFC stated that the JTFC may, in order to conduct necessary administrative investigations with regard to a case, collect reports from persons concerned.

The participant from Mexico said that in his country's legal system, there's no restriction on obtaining evidence or statements from legal or accounting advisers; the problem is that if they have a relationship with the offender or they have participated in the crime, they are not going to give any information and say anything. Therefore, if the results of the investigation establish this relationship or participation, it's better to obtain a warrant in order to collect and seize the evidence and after that to take their statements. And in regard to the relationship between the attorney and the suspect, if it's legally and formally established in the investigation, there's no possibility of obtaining any statement from the attorney, because he or she has the right to not disclose anything; besides, the group doesn't need to focus on these attorneys because the

prosecutor or investigator is not going to obtain anything and what is important is what the professional advisers know and what relationship they have with the commission of the crime. This is the information we are looking for.

The South African participant emphasized the importance of collecting material evidence from the relevant parties, such as the revenue office. Companies' laws make provisions to ensure that documentation is kept for a certain period of time.

The co-chairperson indicated that it is difficult to obtain information from an attorney in regard to the client, and it was recognized that due to the differences in the legal systems of each of the represented countries, there was difference of opinion regarding whether or not the communication between attorney and client should be privileged.

Professor Naito stated that Japanese law makes provision for attorneys and certain professions to refuse to comply with a warrant for search and seizure in some cases; however, this shall not apply if, for example, the refusal is deemed to be an abuse of rights wholly in the interest of the accused.

#### 4. Measures to Obtain Statement Evidence

The co-chairperson stated the importance in corporate crimes of statement evidence regarding discussions between suspects and others held behind closed doors.

In Japan there is no system of plea bargaining or of providing immunity to suspects. Therefore, sometimes prosecutors face difficulties in obtaining statements from suspects. There are some discussions about the introduction of plea bargaining and immunity. However, at present, the idea is not fully accepted by Japanese society.

The participant from Panama stated that the witness is usually close to the main offenders; therefore it is usually difficult to obtain this kind of evidence in the initial stages of the investigation. In many cases of crimes involving corporations or business entities, the confidential information (about the illegal activity) is handled by a few people who are in positions of authority in the company.

With regards to statement taking in South Africa, the technique of interrogation is important. The South African Police Service makes use of an interview system. Investigative interviews are conducted through a systematic search for the truth in respect of a crime and alleged crime. Statements must comply with the provisions of consent. The statement shall be signed by the person who made it, and shall contain the declaration by such person to the effect that it is true to the best of his or her knowledge. It is also important that all elements of the crime must be reflected in the statement.

The rapporteur stated that in Brazil, by law, an offender who voluntarily makes statement must receive a reduced penalty. Witnesses must make a statement otherwise he or she will be committing a crime. It is also necessary to develop interrogative techniques. In Brazil, there is no legal framework governing plea bargaining or immunity.

The participant from Mexico stated that is important to distinguish or identify who really is a witness in order to obtain his or her statement, because anyone who has participated or collaborated as an accomplice in the commission of the crime is not a witness; therefore if the legal system allows it, it is possible to apply a plea bargain or immunity. Maybe the confusion arises because in fact, in these last cases, the accomplice is treated as a witness but legally he or she is not. However, what is important is to know who the relevant witness is, how to take or obtain his or her statement and when the best time is, and to do this efficiently. First the investigator or prosecutor needs to know how the mechanism of the financial or economic crime works; second, how to examine him or her, in other words, what to ask, how to approach him or her, etc., (for this purpose the development of special interrogative techniques is required); third, the witness statement must be directed in order to prove the specific subjective elements of the crime's description such as knowledge, intention or purpose and his or her culpability.

**C. Co-operation between Investigative Authorities at the State Level**

The Mexican participant stated that during the investigative stage the secretive and sophisticated nature of the crime must be taken into consideration, remembering that the commission of corporate crime involves different specialized areas, such as taxes, customs, stock exchange, accounting, etc., and in order to prove efficiently its commission, co-operation between the investigator or prosecutor and the administrative investigative authorities at state level is required. This is necessary because the administrative authorities have special knowledge and expertise in relation to the facts that can constitute the crime, and have legal powers to visit the corporation, review it and collect material. This is important because if the investigator or the prosecutor is conducting a secret investigation the offender won't know that he or she is under an investigation; on the other hand, if the prosecutor asks for and executes a search warrant, the offender becomes aware of the investigation, and may try to avoid justice, moving him or herself and the profits of the crime to another country and destroying the rest of the evidence.

In South Africa the current position is that there is an integrated, multi-disciplinary approach in the co-operation of the investigative authorities at state level. The South African Police Service investigates criminal activity and has allocated the responsibility of investigating money laundering to specific units. The South African Revenue Service and the Customs Service is responsible for revenue collection and the investigation of tax evasion and evasion of custom duties and works closely with law enforcement agencies on money laundering. Within the National Prosecution Agency (NPA), the Directorate of Special Operations (Scorpions) investigates and prosecutes a range of serious cases. The NPA's Asset Forfeiture Unit supports the police and other law enforcement structures in all aspects of forfeiture.

The Brazilian participant stated that administrative authorities and criminal authorities can share information, and that the criminal authorities can ask for any kind of information from the administrative authorities and can use such information in court after disclosing it.

The chairperson said that this issue is important. The group had already identified the involvement of different state agencies as a characteristic of corporate crime. It is necessary to discuss how the investigative authorities, two different state entities, share and co-operate with each other and how they can launch a successful prosecution.

The co-chairperson stated that criminal investigative authorities will not ask administrative bodies to collect evidence. However, if tax authorities, for example, find illegal practices, they will report them to the investigative authorities. And criminal authorities may ask administrative bodies to show the evidence they have collected.

The participant from Mexico stated that co-ordination with administrative investigative authorities is more relevant when the investigation of corporate crime involves different specialized areas, such as taxes, customs, stock exchange, accounting, etc., because in all of them, it is necessary to find the legal truth of the facts, to regard or collect proofs and to identify which is the crime committed; taking into consideration that legally, at the beginning or during an investigation the crime which appears to have been committed is often not the crime which is identified at the close of the investigation. Besides, sometimes different administrative investigative authorities and the prosecutor are investigating the same suspects or corporate entity. Therefore in order to succeed in the investigation, co-ordination is the better tool, especially when the crime is money laundering, because its commission involves these different specialized areas.

The participant from the JFTC stated that the JFTC is able to use information from other agencies, such as the prosecutor's office, as a basis for starting investigation.

The chairperson expressed his reservations about the legality of using an administrative body as a conduit to obtain evidence against an accused person. He further expressed the desirability of sharing information legally collected by the administrative body with the criminal investigators to achieve an efficient and effective prosecution.

In Panama, the power to carry out criminal investigation is centralized in the Public Prosecutors Office; therefore the information required to complete investigation is provided by any governmental or private

institution when it is requested by the prosecutor. In the cases of administrative investigations, if the authority discovers an illegal activity established by the Penal Code, and it is necessary to carry out one administrative investigation at the same time, the administrative agency sends copies about the alleged offence and all the evidence to the prosecutor.

#### **D. Co-operation between Foreign Investigative Authorities**

The chairperson discussed the issues surrounding corporate crime. He elaborated on the fact that in most instances corporate crime spreads outside national jurisdictions. Therefore the importance and relevance of co-operation between foreign jurisdictions becomes imperative. However, issues may arise in relation to the available timeframes and the proper understanding of the nature and location of material available overseas. The visiting expert from the European Anti-Fraud Office (OLAF) described how the administrative investigation body of the European Union works directly with different state organs. However, the possibility of adopting such methods between two countries raises several issues. The method described by the visiting expert was formulated with the agreement of all state parties concerned.

The co-chairperson stated that assets can be located in foreign countries so it is necessary to have the assistance of foreign authorities. Japan receives co-operation through Interpol and mutual legal assistance from foreign states and if it has signed a criminal matters treaty, investigative authorities can directly establish assistance with foreign countries.

The participant from the Japan Fair Trade Commission stated that international co-operation is very important. The JFTC endeavours to accelerate international co-operation in competition policies through exchanges of opinions with overseas competition authorities, execution of Bilateral Antimonopoly Cooperation Agreements and Economic Partnership agreements, and positive participation in various international conferences.

The participant from Brazil explained that international co-operation in Brazil is through Interpol and that it takes time to obtain information through formal channels.

In Panama, Interpol is used, like many countries, as a source to obtain further information. In the field of international co-operation and mutual legal assistance, Interpol was considered an informal source; however, currently Interpol is recognized as the world's largest international police organization to facilitate international co-operation in criminal investigations, even where diplomatic relations do not exist between particular countries.

In South Africa international co-operation is important. The current position is that South Africa makes use of mutual legal assistance to obtain information. Interpol is one of the most important organizations which provides information and facilitates international co-operation in the investigations of criminal offences. It was further mentioned that the visiting expert from Singapore made an important contribution when he stated the importance of investigative authorities understanding what treaties and bilateral agreements are in place in the cases of extradition.

The chairperson stated that it is necessary to give authorities involved in investigation knowledge of the legal frameworks of foreign countries for the purpose of obtaining legal assistance.

The Mexican participant stated that in most cases, the commission of corporate crime affects, has repercussions or takes place in two or more jurisdictions. International trade, characterized today by the velocity with which mercantile and financial traffic and exchange of services take place in general, in conjunction with economic globalization and the immense technological advances in communications, plus the dynamism with which corporations operate in the international environment, mobilizes huge sums of money daily from one financial centre to another, and has become fertile ground for the commission of corporate crime and the concealment or laundering of its profits. Therefore, co-ordination and enforcement of mutual legal assistance in investigation is more than relevant, not only to gather or collect proofs, but also in the conduct of joint investigations and in the identification and location of the profits of crime with the purpose of seizing or freezing them and later on confiscating them.

#### IV. RECOMMENDATIONS

At the end of the discussion the participants of the group reached a consensus regarding the following recommendations, as possible countermeasures to corporate crime.

1. The development of a basic guideline document in the investigation of financial/commercial/economic crimes involving corporate entities which have a serious impact on the economic and social stability of countries. The guideline document should include: a) the legal study of the elements of the crime; b) the identification of the sources of information; c) the techniques of investigation that could be applied; d) methods of interrogation; e) collection of material or evidence that can be used to prove the elements of the crime, etc.;
2. The development of interrogative techniques for victims, witnesses and suspects;
3. The establishment or strengthening of the co-operation between prosecutors or police officers and the administrative investigative authorities at state level who have the power to conduct administrative investigation in relation to corporate crime;
4. The strengthening of the co-ordination between police officers and prosecutors from the beginning of the investigation;
5. The establishment or strengthening of co-operation with foreign countries to develop joint investigations and a close working relationship in fighting corporate crime, the enforcement of mutual legal assistance treaties to share information and collect evidence, and the identification and location of the profits or proceeds of crime with the purpose of seizing or freezing them and later confiscating them;
6. The enhancement of the expertise of administrative investigative authorities, police officers and prosecutors in the areas of investigation of corporate crime and the strengthening of financial resources for investigative authorities to train them in order to acquire or improve their specialized knowledge.

In addition to the above-mentioned recommendations, it became clear that the majority of the participating countries do not provide special investigative techniques to investigate corporate crime and such mechanisms and any changes to the existing systems would require extensive discussion and agreement between various state agencies in accordance with the domestic laws in the respective countries. Therefore the group suggests the following:

1. An investigation or a study to assess whether special investigative techniques, in accordance with the domestic law, could be applicable in the field of corporate crime;
2. A comparative study of the legal frameworks in some countries as an aid to providing sufficient legal tools to support the investigators in their work.