

**The 128th International Training Course  
( 30 August - 8 October 2004 )**

1. Main Theme of the Course

Measures to Combat Economic Crime, including Money Laundering

2. Rationale

Economic crime is one of the most serious problems which the international community is now faced with. Economic crime includes a broad range of illegal activities: from conventional types such as fraud, embezzlement, breach of trust and corruption to newly recognized types such as offences in which criminals abuse the financial system; offences against free and fair trade; violation of intellectual property rights; fraudulent price manipulation and insider trading in the stock/financial markets; and money laundering. These new types of crimes, especially large-scale cases, have drawn the public's attention recently. Economic crime also covers many activities instrumental to the above mentioned offences, such as forgery of documents and payment cards and computer related crimes, especially the misuse of the Internet. Economic crime furthermore encompasses corporate crimes including window-dressing, tax evasion and violation of regulations, and on the other hand, consumer fraud such as pyramid scheme which can often involve many victims. In addition, the definition and the scope of fraud itself differs from one country to another, and in some countries fraud embraces a very wide range of dishonest activities. Furthermore, experience has shown us that these various forms of economic crimes are often interwoven and interrelated; for example, a criminal group may be involved in fraud or embezzlement using various fraudulent methods in collusion with corrupt public officials or company executives, and then launder their ill-gotten money.

The reason why economic crime has become more serious is that it now often takes place beyond national borders. The globalization of the economy as well as rapid development and the worldwide spread of communications technology, including the Internet has offered to criminals new and easier opportunities to commit economic crime transnationally. Economic crime sometimes creates a great number of victims and substantial loss, leads to the bankruptcy of companies, and can also cause great loss to public property. Besides such direct damage, this crime may pose a deleterious impact on legitimate business, undercut the confidence in and reputation of the financial system, destabilize the market economy and ultimately undermine the sound socio-economic development in each country.

One of the characteristics of recent economic crime is the complex and sophisticated nature of its modus operandi. The use of high-technology has been growing drastically; criminals fully exploit the Internet and electronic commerce, for example, they conduct multiple frauds against many victims simultaneously, and also carry out identity theft and identity fraud as well as consumer fraud and auction fraud using fraudulent or fakeweb-sites.

The transnational nature of this crime hampers its detection, and makes the tracing and return of the proceeds of crime much more difficult. In addition to that, evidence which is preserved in computers can be instantaneously altered or destroyed.

Another remarkable characteristic is that most economic crimes are committed on a large scale by groups in a well-organized fashion, and such groups range from organized criminal groups to legitimate companies. In such cases, it is difficult for the authorities to gather information from insiders and to see the whole picture of their illegal activities, which hinders the authorities from bringing the leaders to justice.

Among the economic crimes, money laundering should be our main focus. Criminals, whose ultimate purpose is to make money, always conceal and launder their ill-gotten proceeds and then reinvest them into further illegal activities or into legitimate business to make even more profits. According to research by the United Nations and others, estimates of the amount of money laundered globally in one year range from between \$500 billion and \$1 trillion. Money laundering is one of the economic crimes, which can undermine the integrity and stability of legitimate economic and financial systems. It also poses an immeasurable threat to the sound development of countries' economic and financial systems and it may even threaten the stability and the security of the government as well. In addition, due to its transnational nature, money laundering has a negative impact on the international economic and financial system.

Furthermore, money laundering techniques have become increasingly sophisticated and complicated. For example, criminals cunningly use shell corporations and off-shore financial centers as a safe haven for illicit funds. They target countries and areas where the regulations and law enforcement are not effective. In recent years, the involvement of professionals such as lawyers and accountants is of great concern. With stricter examination of customers by financial institutions, criminals often use alternative remittance systems such as underground banking in order to evade the laws and regulations.

The United Nations has granted priority to combating economic crime so as to address this global issue effectively. The United Nations adopted the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in 1988, which requires State Parties to criminalize money laundering and take necessary measures to trace, freeze and forfeit the proceeds in relation to drug offences. The United Nations also adopted the UN Convention against Transnational Organized Crime in 2000, which comprehensively provides for various practical measures to effectively tackle transnational organized crime, and requires State Parties to extend the scope of predicate offences of money laundering beyond drug trafficking to all serious crimes. Where economic crime is committed in organized way, this Convention is applicable and the countries can combat it in a concerted manner based on it.

The United Nations furthermore adopted the UN Convention against Corruption in October 2003, which requires State Parties to criminalize bribery of foreign public officials

and to facilitate the return of government assets to the country of origin. This Convention provides for a comprehensive strategy against corruption, including preventive measures, and this is applicable to economic crime in connection with corrupt practices in the public sector.

At the 11<sup>th</sup> UN Congress to be held in Thailand (Bangkok) in 2005, the provisional agenda “Economic and Financial Crimes: Challenges to Sustainable Development” has been approved, and a workshop on the topic of “Measures to Combat Economic Crime, Including Money laundering” is scheduled to take place. In view of the magnitude of this topic, UNAFEI, in collaboration with the Government of Sweden, is going to coordinate this Workshop and is now in the process of preparing for it. This Workshop will include a panel discussion to be made by several experts based on a hypothetical case scenario of economic crime. This will provide an opportunity to exchange best practices and information in the fight against economic crime among countries, including improvement of legal frameworks, innovative practical approaches and international cooperation.

The other international fora have also actively addressed this issue, especially the Financial Action Task Force on money laundering (FATF) established by the G-7 Summit in 1989, which developed the international standards known as “The Forty Recommendations”, which set out a comprehensive blueprint for countries to implement effective anti-money laundering programmes. The FATF examines the 29 member countries and territories’ progress in implementing “The Forty Recommendations” through self-assessment and a mutual evaluation procedure, and also publishes a list of Non-Cooperative Countries and Territories to encourage those countries to improve their programmes. “The Forty Recommendations” was revised in 2003 in order to strengthen the mechanisms to control money laundering, reflecting new best practices. In addition, since 1997 regional initiatives have been taken, for example the Asia/Pacific Group on Money Laundering (APG) has addressed this issue to facilitate the implementation of internationally accepted money laundering standards. Each country has to recognize the gravity of this new challenge and tackle economic crime, including money laundering with more effective countermeasures.

To begin with, we need to examine ways to improve investigation, prosecution and trial. First we should take into consideration the establishment of a special investigation unit or agency consisting of experts who have sufficient expertise and capacity to appropriately tackle complicated economic crimes. Secondly, considering that influential politicians and high-ranking public officials may sometimes be deeply involved in economic crimes, the investigative agencies should act independently so as not to be influenced by them. Thirdly, concerning the investigative methods, in addition to the improvement of conventional methods, new types of investigative techniques such as interception of communications and undercover operations should be introduced and utilized. Moreover, it is necessary to consider introducing a system of protection of whistle-blowers and/or immunity for the purpose of collecting information and critical statements. It is also imperative to establish enforceable measures to collect records from

financial institutions and not to be hampered by bank secrecy laws. Fourthly, at the trial stage, in some cases where witnesses are reluctant to testify due to fear of retaliation by the offenders or criminal groups, we need to explore measures for securing their testimony, such as a witness protection programme.

Next, we need to review and strengthen our legal framework to combat various types of emerging economic crimes, and to discuss the punishment of legal persons. There are various views in respect of the imposition of sanctions against economic crimes: for example, some say that criminal sanctions against economic crime are too lenient, and others say that civil or administrative sanctions should be utilized more in combination with criminal punishment. Since we need to pay due attention to various factors, it is important to determine what kinds of sanctions against economic crime are more effective and should be taken.

Because economic crime is committed in order to gain profit, it is most effective and critical to deprive criminals of the proceeds of crime. By doing so, we can deprive criminals of their incentive to commit crime. It is therefore imperative to establish an appropriate legal framework for the forfeiture and confiscation of illegal proceeds as well as for freezing their funds. To this end we have to strengthen and implement the mechanisms for tracing money both domestically and internationally when it is transferred overseas. It is also necessary to establish mechanisms to combat money laundering such as to: promote customer due diligence (CDD) measures in the financial institutions such as identifying the beneficial owner to prevent anonymous accounts being opened; impose a legal duty on financial institutions to make suspicious transaction reports (STR) to the designated authority; establish a Financial Intelligent Unit (FIU); and ensure that designated law enforcement authorities have responsibility for money laundering investigations. Due to the global nature of economic crime, the harmonization of countermeasures by all countries and international cooperation is indispensable, especially so as not to create safe havens for criminals and their illicit proceeds. If some countries do not join our concerted battle, the illicit money will flow into those countries to be laundered. In this context, each country needs to work together by implementing the above-mentioned international standards. In addition, we have to make every effort to explore better ways to ensure that international cooperation, including information exchange mechanisms and mutual legal assistance and extradition is carried out in a more effective and expeditious manner.

On the other hand, the importance of “prevention” of economic crime cannot be overlooked. Every government and corporation should be required to establish a legal and/or organizational system of “good governance” so that transparency and accountability is ensured. It is worthy of consideration to introduce independent monitoring organizations and/or an ombudsmen system for this purpose. Additionally public awareness and education in relation to economic crime is essential. In consideration of the above, UNAFEI, as a regional institute (affiliated with the United Nations) for the prevention of crime and the treatment of offenders, is holding the 128th International Training Course on the theme of “Measures to Combat Economic Crime, including Money Laundering.”