

Keynote Speech by  
Hon. Chief Justice Sobchok Sukharomna  
President of the Supreme Court of Thailand

At UNAFEI on 27<sup>th</sup> August 2010

on the topic

“Attacking the proceeds of crime: identification, confiscation, recovery  
and anti-money laundering measures”

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[Mr. Masaki Sasaki, Director of UNAFEI,]

Distinguished members of UNAFEI,

Ladies and gentlemen,

It is a great pleasure for me to be invited to share with you on the topic “Attacking the proceeds of crime: identification, confiscation, recovery and anti-money laundering measures”. I am greatly honored by the fact that I am also one of the UNAFEI’s alumni here in Japan; and I am glad to be part of this prestige institute. I am told that the attendance from more than eight countries is overwhelming, as I can see for myself today. In my opinion this reflects that the work you do is of great importance, and that the topics are of great interest in many countries. Crime is pervasive in nature and has become a global problem with developing countries being affected the most. It slows down the economic development and causes inequality and injustice to the society. Root causes of crimes are difficult to eradicate. However, the problem would be seriously much worse if the judiciary, prosecutorial and all

government authorities who have the responsibility to uphold the rule of laws themselves ignore their duties. Whenever the public loss their faith and trust in the justice system, we – judges, public prosecutors and policemen – cannot live in peace.

I personally admire UNAFEI in meticulously designing this training course to focus on the measure to attack the crime prevention effectively. Please allow me to take this opportunity to share some thoughts with you about the crime prevention measures in Thailand, especially our anti-money laundering mechanism.

Thailand, like many countries in Asia, has faced the uneasy task of combating widespread criminal activities. Most underground operations, such as drug trafficking, corruption, human trafficking, prostitution, and extortion, committed by organized criminal groups, have generated huge sums of money. Criminals engaged in these crimes need ways to process this dirty money into legitimate funds so that their original source will not be traced; hence, the crime of money laundering. It is employed at many levels of criminality, from small-scale criminals to international criminal organizations. Money laundering at the international level has recently emerged on a massive scale in Thailand because of the globalization of the economy and the internationalization of organized crime. Dirty money from one country can be easily transferred to another country without detection and prevention by law

enforcement agencies. To fight money laundering efficiently, Thailand needed a law that could combat it effectively. Finally, it was concluded that the law that allowed the authorities to put money launders behind bars and confiscate assets suspected of being related to serious offences were the most effective tools for suppressing money laundering; which has been increasingly difficult to control.

To combat money laundering effectively, the Thai Parliament enacted the Anti-Money Laundering Act B.E. 2542 (1999) which criminalizes money laundering and creates a civil forfeiture system for confiscating assets involved in predicate offences. The statute was enacted to address the growing problems surrounding international organized crime. Large sums of money funding illicit activity flowed freely throughout Thailand and across much of South East Asia. The Anti Money Laundering Act has curbed this flow.

Nevertheless, the Anti-Money Laundering Act covers only 8 predicate offences such as narcotics trafficking, sexual offences, corruption, customs evasion and terrorism. That makes the scope of predicate offences too narrow and falls short of international standards. To prevent the crime by using anti-money laundering law effectively, the Anti-Money Laundering Act should also include all serious offences, if possible, or the minimum list of acceptable designated categories of offences such as environmental crime, foreign exchange violations,

illegal gambling, arms trafficking, labour fraud, bid rigging, share manipulation, excise tax evasion, loan-sharking and intellectual property rights offences. More importantly, the nature of money laundering has recently changed dramatically, becoming an increasingly transnational phenomenon.

In Thailand, the Police Department and the Department of Special Investigation (DSI) are primarily responsible for investigating the criminal offence of money laundering. They both have the authority to detect, identify, investigate, interrogate, and collect evidence related to the criminal offence of money laundering. In case there is probable cause to believe that a person committed such an offence, the police or the DSI will forward the case to the public prosecutor. If the public prosecutor considers that the evidence is insufficient, the public prosecutor may drop the case or instruct the police or the DSI to collect more evidence. However, if the public prosecutor considers that there is probable cause to believe that an offence has been committed, the public prosecutor will file a criminal lawsuit against the offender. The burden of proof, like other criminal cases, will be on the public prosecutor to prove beyond reasonable doubt that the defendant is guilty as charged. If the public prosecutor is unable to prove beyond reasonable doubt that the defendant committed a criminal offence of money laundering, the court will acquit the defendant.

Ladies and gentlemen,

The fact that crime prevention has an impact on both the social and the justice system - and vice versa – has become a part of our primary concern. And one of the major measures to prevent money laundering is to improve the cooperation and coordination between different sectors in the criminal justice system and the society – both governmental and non-governmental sectors. Hence, in my opinion we must focus on improving relations between sectors, in both national and international levels, in order to underline the necessity of cross-sector co-operation and strive to tear up the borders between the different sectors.

In this aspect, I would like to mention an example of international co-operation in which Thailand has been entered into during these recent years. Thailand is a founding member of the Asia-Pacific Group on Money Laundering (APG), which is a regional anti-money laundering group. The APG was established in 1997 to help jurisdictions within the Asia-Pacific region to adopt and enforce internationally accepted standards. This includes enacting laws which criminalize the laundering of the proceeds of crime, and dealing with mutual legal assistance, confiscation, forfeiture and extradition. It also provides guidance for setting up systems to report and investigate suspicious transactions. In addition, Thailand has also signed Mutual Legal Assistance Treaties (MLATs) with the United States, Canada and the

United Kingdom. The MLATs generally allow the exchange of evidence and information in criminal and related matters. In money laundering and asset forfeiture cases, they can be extremely useful as a method of exchanging banking and other financial records. The MLATs are an assurance of formal mutual legal assistance, but most international co-operation conducted in Thailand is by direct contact between Thai police and their foreign counterparts. Such co-operation has been given and received on the basis of goodwill, mutual respect and common interest in fighting crime. Moreover, Thailand also co-operates with other countries' law enforcement officials on a range of investigations related to money laundering and narcotics trafficking.

The purpose of these activities, as I said, are to promote further cooperation and mutual information sharing with the aim to improve the crime prevention and use the resources more effectively. I am convinced that if sectors cooperate, basing their cooperation on shared values and mutual interests, we will be able to fill the gaps that exist between sectors. This again will create opportunities for progress in the field of crime prevention, and will, in the end, be the best for the victims and the society as a whole.

Ladies and gentlemen,

Your presence here at this training course signals your interest in and concern for crime prevention issues. We have these interests in common. We have to work further to invite others to join us in striving to prevent that people become the victims of crime.

I feel confident that the training course will contribute to our understanding of the challenges I have mentioned and improve our knowledge of how we can meet these challenges in the future. There are a great many threats facing the important work of crime prevention, and there are a number of serious problems that have to be addressed.

Finally, ladies and gentlemen, I would like to pay my compliments to UNAFEI – for having put together such a comprehensive program with a wide and innovative perspective.

I wish you all a fruitful session. Thank you.

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