

IN THIS ISSUE

| | <i>Page</i> |
|---|-------------|
| LETTER FROM THE DIRECTOR | 1 |
| THE 119TH INTERNATIONAL TRAINING COURSE..... | 3 |
| CURRENT SITUATION OF AND COUNTERMEASURES AGAINST TRANSNATIONAL ORGANIZED CRIME | |
| Course Rationale..... | 3 |
| Course Summary | 6 |
| Lecture Topics | 7 |
| Individual Presentation Topics | 10 |
| Group Discussion Sessions | 12 |
| Group 1 Phase 1 | |
| Group 2 Phase 1 | |
| Group 3 Phase 1 | |
| Group 1 Phase 2 | |
| Group 2 Phase 2 | |
| Group 3 Phase 2 | |
| Observation Visits | 37 |
| Group Study Tours..... | 38 |
| Special Events | 40 |
| Reference Materials Distributed..... | 43 |
| Visiting Experts | 48 |
| Participants | 49 |
| INFORMATION ABOUT PROGRAMMES | 52 |
| Recent Activities..... | 52 |
| Forthcoming Training Programmes..... | 53 |
| The 120th International Seminar | 53 |
| Forthcoming Activities..... | 54 |
| ADMINISTRATIVE NEWS..... | 55 |
| FACULTY & STAFF OF UNAFEI | 56 |

LETTER FROM THE DIRECTOR

It is my privilege to inform readers of the successful completion of the 119th International Training Course on “Current Situation of and Countermeasures against Transnational Organized Crime”, from 10 September to 1 November 2001. In this Course we welcomed 11 Japanese and 16 overseas participants: 10 from Asia, 4 from South America, and 2 from Africa. They included members of the police, judiciary and other high-ranking public officials. As this newsletter demonstrates, this Course was extremely productive. It consisted of Individual Presentations, Group Workshop Sessions, visits to relevant criminal justice agencies, and presentations by visiting experts and *ad hoc* lecturers.

This training course coincided with a historic change in the attitude of the world to challenging international organized crime. The entire perspective with which countries around the world approach international organized crime changed forever after the atrocities in the USA on 11 September 2001. These tragedies marked the second day of this Course and the resultant investigations prevented two of our visiting experts, who were due to attend, from coming to UNAFEI. Working against the background of the incidents in the USA and the following events, the participants engaged themselves admirably in the subject matter of this course. In doing so they responded to the global community’s call for improved international cooperation and reflected the desire of the world to develop new strategies against international organized crime.

The 119th International Training Course further proved to be significant and timely in that it was held when the United Nations Convention on Transnational Organized Crime (hereinafter the “UN TOC Convention”) is soon expected to enter into force by ratification of the many member states. The General Assembly adopted the UN TOC Convention in November 2000 and last December, in Palermo, Italy, the Convention was signed by more than 120 countries. At present 132 countries have already signed and 10 of these countries are represented by the participants’ countries.

The TOC Convention provides us with both the tools and the blueprint with which we can combat transnational organized crime. This should go hand in hand with various methods which need to be adopted at all levels of the criminal justice system. At the legislative level, criminalization of participation in an organized criminal group, establishment of money laundering offences, adoption of confiscation measures, and criminalization of the bribery or intimidation of witnesses and officials are recommended.

This Course examined the current trends and issues in investigating such crimes, particularly the expansion of investigative techniques in the areas of electronic surveillance, controlled delivery, undercover operations, immunity systems and witness and victim protection programmes. It is recognized that transnational organized crime is increasing in the global community at a rate that demands action from us all. Its perpetration, by either explicitly or implicitly criminal organizations, has proved a serious problem in various countries of the world, including those in the Asia-Pacific region.

The effectiveness of surveillance and investigative techniques for transnational organized crime needs to be secured through corresponding changes in domestic and international legislative provisions and legal practices. As is evident now, more than at any time before, without a coordinated and cooperative approach between all criminal justice agencies - locally, nationally and globally - the prevalence and growth of transnational organized crime will not be contained.

During the eight-week period, the participants diligently and comprehensively examined measures to prevent and combat transnational organized crime. This was accomplished primarily through comparative analysis of the current situation of and problems in investigative practices, including legislative and technological issues, in relation to such crime. Our in-depth discussions enabled us to put forth effective and practical solutions to the emerging and existing problems of organized crime in the global society.

I would like to offer my sincere congratulations to all the participants for their successful completion of the Course, made possible by their strenuous efforts in particularly difficult global times. My heartfelt gratitude goes to the visiting experts and *ad hoc* lecturers who contributed a great deal to the Course's success. Furthermore, I appreciate the indispensable assistance and cooperation extended to UNAFEI by the various agencies and institutions which helped diversify the programme.

A warm tribute must be paid to the Japan International Cooperation Agency (JICA) for its immeasurable support throughout the Course. At the same time, I must express great appreciation to the Asia Crime Prevention Foundation (ACPF) and its branch organizations for their substantial contributions. Lastly, I owe my gratitude to all the individuals whose unselfish efforts behind the scenes contributed significantly to the successful realization of this Course.

Upon returning to their home countries, I genuinely believe that, like their predecessors, the strong determination and dedication of the participants will enable them to contribute significantly to the improvement of their respective nation's criminal justice systems, and to the international society as a whole.

Finally, I would like to reiterate my best regards to the participants of the 119th International Training Course. I hope that the experience they gained during the Course proves valuable in their daily work, and that the human bonds fostered among the participants, visiting experts, lecturers and UNAFEI staff will continue to grow for years to come.

November 2001

Mikinao Kitada
Director, UNAFEI

THE 119TH INTERNATIONAL TRAINING COURSE
“CURRENT SITUATION OF AND COUNTERMEASURES AGAINST
TRANSNATIONAL ORGANIZED CRIME”

Course Rationale

In proportion to the expansion of the international exchange in people and goods, the number of transnational crimes has been increasing. Transnational criminal organizations have been among the first to take advantage of the new global reach made possible by the revolutions in communications, transportation and commerce. Transnational organized crime is a growing threat to the security of the international society and the stability of sovereign states. It undermines the integrity of legitimate national economies, global financial systems, the rule of law and fundamental social values.

Drug trafficking, money laundering, use of violence and extortion, acts of corruption, trafficking in women and children, illicit manufacturing of and trafficking in firearms, the illegal trafficking and transportation of migrants, computer-related crime, and the illegal trafficking in stolen vehicles, perpetrated under the influence of criminal organizations, have been serious problems throughout the world, including Asia and the Pacific region. For example, the smuggling of migrants disrupts the established immigration policies of the destination countries and often involves human rights abuses. The exploitative nature of the trafficking in human beings often amounts to a modern form of indentured servitude, with forced prostitution ranking highest among the means of exploitation. Smuggling and trafficking have become major sources of income for criminal organizations at the national and international level.

In recognition of the gravity of the above-mentioned situation, the United Nations has given special attention to the issue of transnational organized crime. In November 2000, the General Assembly adopted the United Nations Convention against Transnational Organized Crime (hereinafter referred to as “the TOC Convention”), with its two protocols on trafficking in persons (especially women and children) and the smuggling of migrants, respectively. The TOC Convention was opened for signature by member states in December 2000 in Palermo, Italy. More than 120 countries attended the Conference and signed the TOC Convention, which will be open for signature until 12 December 2002, in New York, USA.

One of the most important tasks for the criminal justice system is to expose the illegal activities of organized criminals, as well as their structures, and to punish them effectively. However, organized criminals often remain undetected and beyond arrest because of the difficulties and complexity inherent to the investigation of organized crime. In particular, it is difficult to penetrate into the core of organized criminal groups and to catch their ringleaders. In order for law enforcement officials to reach such criminals, they need innovative legal weapons.

The TOC Convention requires party countries to introduce a variety of remarkable countermeasures to combat transnational organized crime. One of the most significant articles is Article 5, requiring member states to criminalize participation in an organized criminal group. Article 20 requires member states, within its possibilities and under the conditions prescribed by its domestic law, to take necessary measures to allow for the appropriate use of controlled delivery, electronic surveillance and undercover operations. Similarly, Article 26 refers to mitigating punishment for a cooperative accused and immunity from prosecution to aid in the investigation and

prosecution of organized criminals.

In order for evidence through the above methods to be admitted as substantial evidence in trial, revision of the evidentiary rules in each country may be needed. Member states are encouraged to adopt witness and victim protection measures, such as establishing procedures for physical protection, and permitting testimony to be given through the use of communications technology (Articles 24 and 25 of the TOC Convention).

In addition, bearing in mind that organized criminal groups launder the proceeds of their crime and therefore the criminalization of money laundering is an effective method to contain organized crime, the TOC Convention incorporates comprehensive anti-money laundering clauses in Articles 6 and 7.

Moreover, international cooperation is indispensable to the combat of transnational organized crime. Consequently, the TOC Convention contains very broad and comprehensive clauses for international cooperation in criminal matters, such as the confiscation of crime proceeds (Article 13), disposal of confiscated proceeds (Article 14), extradition (Article 16) and mutual legal assistance (Article 18).

It is evident that the TOC Convention provides the international community with very powerful and effective action against transnational organized crime. Thus in order to both utilize the provisions of the Convention and to implement effective methods for investigating, prosecuting and punishing transnational organized criminals, it is significant to analyze the situation of the said crimes, and to examine the feasibility and modality of the methods to address them.

Taking this background into consideration, UNAFEI, as a regional institute (affiliated with the United Nations) for the prevention of crime and the treatment of offenders, has decided to undertake a series of international training courses and seminars for the coming years under the general theme of “transnational organized crime”. This course is part of UNAFEI’s continuing commitment to this internationally important theme.

Giving due consideration to the above rationale, this training course purports to explore the ways and means of strengthening and improving methods and techniques in the fight against transnational organized crime. Particular focus will be given to the effective implementation of the TOC Convention. Sharing practical information and experiences on how other countries tackle our common issues will facilitate our efforts in the fight against transnational organized crime.

In the discussion of this course, focus will be placed on the following elements:

- (1) Overview of the Situation of Transnational Organized Crime. Current Situation of:
 - (a) Illicit drug trafficking
 - (b) Illegal firearms trafficking
 - (c) Human (women and children) trafficking
 - (d) Money laundering
 - (e) Others (excluding terrorism)
- (2) Components and Legal Frameworks for Combating Transnational Organized Crime:
 - (a) Criminalization of participation in an organized criminal group
 - (b) Anti-money laundering systems
- (3) Tools Facilitating the Investigation of Transnational Organized Crime and Methods for Obtaining

Cooperation with Witnesses to Punish Organized Criminals. Current Situation of, Problems and Solutions for:

- (a) Controlled delivery
 - (b) Electronic surveillance (Wire-tapping, Communications interception etc.)
 - (c) Undercover operations
 - (d) Immunity systems
 - (e) Witness and victim protection programmes
- (4) Ways and Means of Strengthening and Improving International Cooperation, Particularly through Implementation of the Mechanism of Mutual Legal Assistance and Extradition.

Course Summary

Lectures

In total, 10 lectures were presented by visiting experts, 5 by *ad hoc* lecturers and 6 by the faculty and Deputy Director. Five distinguished criminal justice practitioners from abroad served as UNAFEI visiting experts. They lectured on issues relating to the main theme, and contributed significantly to the Course by encouraging discussions after their own lectures, participating in the discussions of other programmes, and conversing with the participants on informal occasions.

Additionally, *ad hoc* lectures were delivered by distinguished senior officials of the Government of Japan. Lecturers and lecture topics are listed on pages 7 to 9.

Individual Presentations

During the first three weeks, each Japanese and overseas participant delivered a forty-five minute or one-hour Individual Presentation respectively, which introduced the actual situation, problems and future prospects of his/her country. These papers were compiled into a book entitled "COUNTRY REPORTS FOR THE INTERNATIONAL TRAINING COURSE IN CRIME PREVENTION" and distributed to all the participants. The titles of these Individual Presentation papers are listed on pages 10 and 11.

Group Workshop Sessions

Group Workshop Sessions further examined the subtopics of the main theme. In order to conduct each session effectively, the UNAFEI faculty selected individuals to serve as 'group members' for the sub-topics, based on their response to a questionnaire previously distributed. Selected participants served as chairpersons, co-chairpersons, rapporteurs or co-rapporteurs, and faculty members served as advisers. Each group's primary responsibility was to explore and develop their designated topics in the Group Workshop Sessions. The participants and UNAFEI faculty seriously studied the topics and exchanged their views based on information obtained through personal experience, the Individual Presentations, lectures and so forth. After the Group Workshop Sessions, reports were drafted based on the discussions in the conference hall. These reports were subsequently presented in the Report-Back Session, where they were endorsed as the reports of the Course. Summaries of the Group Workshop reports are provided on pages 12 through 35.

Visits and Special Events

Visits to various agencies and institutions in Japan helped the participants obtain a more practical understanding of the Japanese criminal justice system. In addition to the Course's academic agenda, many activities were arranged to provide a greater understanding of Japanese society and culture, with the assistance of various organizations and individuals, including the Asia Crime Prevention Foundation (ACPF). For more detailed descriptions, please refer to pages 36 through 41.

Lecture Topics

UNAFEI Lectures

Mr. Keiichi Aizawa, *Deputy Director, UNAFEI*

- Crimes Related to the Computer Network

Professors' Lectures

- 1) Mr. Yasuhiro Tanabe, *Professor, UNAFEI*
 - Current Crime Trends in Japan
- 2) Mr. Yuichiro Tachi, *Professor, UNAFEI*
 - Investigation and Prosecution, the Criminal Justice System in Japan
- 3) Mr. Toru Miura, *Professor, UNAFEI*
 - The Criminal Justice System in Japan: the Courts
- 4) Mr. Kenji Teramura, *Professor, UNAFEI*
 - Institutional Corrections in Japan
- 5) Ms. Mikiko Kakihara, *Professor, UNAFEI*
 - Community-Based Treatment of Offenders in Japan

Visiting Experts' Lectures

- 1) Dr. Matti Joutsen (Finland)
 - International Cooperation against Transnational Organized Crime: the General Development
 - Extradition and Mutual Legal Assistance in Criminal Matters
 - International Cooperation against Transnational Organized Crime: the Practical Experience of the European Union
- 2) Mr. Severino H. Gaña, Jr. (Republic of the Philippines)
 - The Current Situation of and Countermeasures against Transnational Organized Crime in the Republic of the Philippines (Part 1)
 - The Current Situation of and Countermeasures against Transnational Organized Crime in the Republic of the Philippines (Part 2)

3) Mr. Dimitri Vlassis (United Nations)

- Overview of the Provisions of the United Nations Convention against Transnational Organized Crime and its Protocols
- The Global Situation of Transnational Organized Crime, the Decision of the International Community to Develop an International Convention and the Negotiation Process
- Efforts of the Centre for International Crime Prevention to Promote Expedient Entry into Force of the United Nations Convention against Transnational Organized Crime and its Protocols and Expected Impact of these New Instruments

4) Mr. James E. Moynihan (United States of America)

- The Organization and Role of the FBI in General Including a Brief Overview of other Law Enforcement Agencies in the U.S.A. which Investigate Transnational Organized Crime

5) Mr. Edward C. Shaw (United States of America)

- The Role of the FBI in Investigating Transnational Organized Crime and the Relationship between Japanese Law Enforcement Agencies and the FBI

Ad Hoc Lectures

1) Mr. Kenji Higashikawa

Chief Liaison Officer, International Affairs Department, National Police Agency, Japan

- Overview of the Police in Japan

- 2) Mr. Noriaki Mizuno
Director, Financial Intelligence Office, Financial Services Agency, Japan
 - The Role of JAFIO and the suspicious Transaction Report System in Japan
- 3) Mr. Hiroshi Kawamura
Assistant Vice-Minister of Justice (Deputy Director for Criminal Affairs Bureau), Ministry of Justice, Japan
 - Current Issues within the Criminal Justice Administration of Japan
- 4) Mr. Masahiko Okubo
Deputy Director (Superintendent), 2nd Organized Crime Control Division, Criminal Investigation Bureau, National Police Agency, Japan
 - Control of Organized Crime in Japan
- 5) Mr. Minoru Shikita
Chairman, Board of Directors, Asian Crime Prevention Foundation
 - Action Against Terrorism

Individual Presentation Topics

Overseas Participants

- 1) Mr. Oscar Antonio Goyanes (Argentina)
 - Money Laundering
- 2) Mr. Bechem Eyong Eneke (Cameroon)
 - The Republic of Cameroon Country Report
- 3) Ms. Gina Antonella Ramos Giron (Honduras)
 - The Actual Situation of Organized Crime in Honduras
- 4) Mr. Shankar Pratap Singh (India)
 - Transnational Organized Crime: the Indian Perspective
- 5) Mr. Jan Samuel Maringka (Indonesia)
 - Transnational Organized Crime in Indonesia
- 6) Mr. Timur Bulatov (Kyrgyzstan)
 - General Description of the Drug Situation in Kyrgyztan
- 7) Mr. Noupanh Mahaphonh (Laos)
 - Crime Prevention: Human (Women and Children) Trafficking
- 8) Mr. Zainal Rashid Bin Hj Abu Bakar (Malaysia)
 - Current Situation of and Countermeasures against Transnational Crime in Malaysia
- 9) Mr. Sazali Bin Salbi (Malaysia)
 - Current Situation of and Countermeasures against Transnational Organized Crime in Relation to Corruption in Malaysia
- 10) Mr. Bholā Prasad Kharel (Nepal)
 - Country Report
- 11) Mr. Saad Imtiaz Ali (Pakistan)
 - The Present Situation of Transnational Organized Crime and Countermeasures against Transnational Organized Crime
- 12) Mr. Zafarullah Khan (Pakistan)
 - Country Report
- 13) Mr. Miguel Angel Moran Flores (Peru)
 - Combating Drug Related Crime in Peru
- 14) Mr. Sittipong Tanyapongpruch (Thailand)
 - Transnational Organized Crime in Thailand

- 15) Mr. Charles Muchwangali (Uganda)
 - Current Situation of and Countermeasures against Transnational Organized Crime in Uganda
- 16) Mr. Raphael Angel Romero Sibulio (Venezuela)
 - Money Laundering in Venezuela

Japanese Participants

- 16) Mr. Masakazu Ameku (Japan)
 - Overview of Illegal Drug Cases in Japan and Countermeasures Implemented
- 17) Mr. Takao Hamada (Japan)
 - Personal Reflections on the Current Situation and Countermeasures against Transnational Organized Crime
- 18) Mr. Yasunari Hataguchi (Japan)
 - The Present Condition and Countermeasures of Transnational Organized Crime in Japan from the Viewpoint of a Judge
- 19) Ms. Mayumi Ichikawa (Japan)
 - Female Drug Offenders and Organized Criminals in Japanese Prisons
- 20) Mr. Tsunekazu Kobashi (Japan)
 - Controlled Delivery
- 21) Mr. Takashi Maruoka (Japan)
 - Deportation Procedure in Connection with Human Trafficking
- 22) Ms. Azumi Misawa (Japan)
 - Activities of Organized Criminal Groups: Two Cases of Violations of the Immigration Control and Refugee Recognition Law
- 23) Ms. Reiko Ota (Japan)
 - Current Situation of and Countermeasures against Transnational Organized Crime in Japan
- 24) Mr. Takahiro Satou (Japan)
 - Behind the Global Society
- 25) Mr. Taizo Yokoyama (Japan)
 - The Current Situation of the Japanese Law in Combating Transnational Organized Crime
- 26) Mr. Masayuki Takeda (Japan)
 - The Current Condition of Transnational Organized Crime in Japan and the Role of the PSIA in Making Effective Use of Information Gathering Functions for Measures against Transnational Organized Crime

transnational organized crimes. A large variety of drugs are involved, the majority of which are cannabis (marihuana and hashish), opiates (opium and heroin), stimulants and cocaine.

According to the United Nations Office for Drug Control and Crime Prevention, cannabis continues to be widely cultivated and trafficked. More than 155 countries reported seizures of cannabis in 1999. In the Central Asian Republics, fields of cannabis cover several thousands of hectares and these constitute the major source of supply for the illicit Russian drug market. Indoor cultivation of cannabis continues to develop especially in the Netherlands, Canada and the U.S.A. Opium production was however in decline in the year 2000 in some countries. It is mainly produced in Afghanistan, Myanmar, Laos, Thailand, Colombia and Mexico. The routes used by traffickers are many.

B. Country Specific Situation

1. Cameroon

Cameroon is in a region where drug trafficking is expanding. It is more of a transit than a producing country. It however produces a very insignificant quantity of marihuana when compared with the volume of production in the rest of the world. Much of what is consumed in the country is smuggled into it from the neighboring countries, especially from Nigeria. Cameroon does not grow cocaine. At present there are no known groups in the illicit drug business in Cameroon.

2. Honduras

Drug trafficking in Honduras has increased in the last few years because it has a very good geographical location, i.e., it lies in the heart of Central America and, adjacent to two oceans. That is an advantage for the drug traffickers. In the south of the country drugs are smuggled in by land, most of the time from Nicaragua and El Salvador, and in the north of the country the trafficking is more often carried out by sea, and drugs from Colombia reach Honduras via speed boats.

Honduras is not only a transit country but it also has a lot of consumers. The trafficking occurs not only inside the country but there is international trafficking among the countries of South and Central America. Traffickers use Honduras as a transit country for a final destination, that is, the U.S.A.

3. Japan

The most frequently abused drugs in Japan are stimulant drugs (mostly metamphetamine) and the second is cannabis. In the year 2000, the seizure of stimulant drugs totaled 1,026.9 kg. Arrests made in violation of the Stimulant Drug Control Law totaled 18,942. The seizure of dried cannabis amounted to as much as 306.4 kg. The main sources of stimulant drugs are traced to China and North Korea. Most of the cannabis came from the Philippines, Thailand and Netherlands.

4. Kyrgyzstan

In Kyrgyzstan the most commonly abused drugs are opiates (opium and heroin). Cannabis use is gradually increasing. A small amount of stimulant drugs such as ecstasy is also abused. Opium is produced in Afghanistan. Most of the opium is transferred to Europe and the USA through Russia, and the rest are consumed in Kyrgyzstan. Cannabis is produced in Kyrgyzstan. Approximately 90% of cannabis is exported to Russia, and the rest is consumed in Kyrgyzstan. Stimulant drugs like ecstasy is produced in Europe, and trafficked to Kyrgyzstan through Russia and consumed in Kyrgyzstan.

| | | |
|-----------------------|------------------------------------|------------|
| Co-Chairperson | Mr. Yasunari Hataguchi | (Japan) |
| Rapporteur | Mr. Sittipong Tanyapongpruch | (Thailand) |
| Co-Rapporteur | Mr. Takashi Maruoka | (Japan) |
| Members | Mr. Noupahn Mahaphonh | (Laos) |
| | Mr. Zainal Rashid Bin Hj Abu Bakar | (Malaysia) |
| | Mr. Bholu Prasad Kharel | (Nepal) |
| | Mr. Charles Muchwangali | (Uganda) |
| | Mr. Takao Hamada | (Japan) |
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| | Prof. Hiroshi Tsutomi | (UNAFEI) |
| | Prof. Mikiko Kakihara | (UNAFEI) |

Report Summary

I. INTRODUCTION

Although this planet has many beautiful things for us to enjoy, on the dark side there are still the unpleasant activities of transnational organized criminal groups. Their operations exist in various forms, including but not limited to, illegal firearms trafficking and human trafficking.

Illegal firearms' trafficking has recently developed into a serious problem. Many of the firearms are mainly smuggled for internal use of one nation. However, there are certain amounts of firearms that have been smuggled by criminal groups for making profit as well as for fueling the operation of international terrorism.

Human trafficking, especially in women, children and migrants is another area that has increased recently in terms of volume and practice. The International Organization for Migration (IOM) estimated that the global human trafficking industry generates up to US\$ 8 billion each year from this "trade on human misery." Nearly 2 million children are abused and trafficked globally every year.

II. ILLEGAL FIREARMS TRAFFICKING

The term "illegal trafficking" includes any form of transfer where firearms, parts, components or ammunition move from one country to another without the approval of the countries concerned. Basically there are three categories of country involved in this type of trafficking as follows:

- (i) Illegal manufacturing countries
- (ii) Transit countries
- (iii) Effected countries

A. African continent

In Uganda, Tanzania and Nigeria, illegal firearms come from their neighboring countries.

B. Asian Continent

In Pakistan, certain categories of weapons are illegally manufactured in its tribal areas.

Pakistan is also an effected country. The reason is that from 1979 to 1988, when the people of Afghanistan fought a war with the former Soviet Union, many categories of weapons entered this country. In Nepal firearms are mainly smuggled for the purpose of dacoits and political activities from the neighboring countries.

In India, the state of Punjab was affected by terrorist activities during the 1980's, and Jammu and Kashmir has been particularly vulnerable to arms trafficking across the border. Thailand is found to be a transit and effected country. In the past 10 years, a number of firearms have been smuggled in and out of Thailand into Burma and Cambodia. The Philippines is an illegal manufacturing and effected country. Malaysia is an effected country. Investigations show that most of the firearms are smuggled from neighboring countries such as Thailand and the Philippines either by organized groups or individuals where they can be obtained quite cheaply and easily.

Papua New Guinea is considered to be an effected country. Papua New Guinea is also faced with increasing illegal firearms trafficking. Reports indicate that firearms trafficking occur in areas like the highlands where people have been using them in their tribal fights.

Japan could be categorized as one of the effected countries by the trafficking of firearms. In Japan, the possession of firearms is strictly controlled by the Firearms and Swords Control Law. However, occasionally firearms are used in crimes, especially in robbery cases. The majority of authentic handguns seized were trafficked into Japan from foreign countries by crime syndicates.

C. Latin American Continent

Argentina, Venezuela, Brazil and Honduras have the same problem where weapons have been smuggled into these countries. A few organized gangs in Honduras have a capability to manufacture their own hand made guns and almost all the juveniles in those groups have one each and they often use them in committing crimes.

III. HUMAN (WOMEN, CHILDREN AND MIGRANTS) TRAFFICKING

Trafficking in human beings implies illegal movement of people from one country to another country in violation of existing national laws and procedures. In human trafficking activity, attention has been paid mostly to women and children because they can be easy victims. Basically, there are 2 categories of country involved in this human trafficking as follows:

- (i) Source countries
- (ii) Destination counties

Focusing on the trafficked persons, there are two types of human trafficking. Some persons, mainly women and children, are forced to engage in labor including prostitution in exchange for money and are exploited. Thus, they are engaged in so-called forced labor. On the other hand, some persons voluntarily engage in illegal work with the purpose of getting money. They are so-called illegal immigrants.

A. Global Perceptions of Human Trafficking - African Continent

Apart from South Africa and Libya, the other countries in Africa are source countries of human trafficking. South Africa is a destination country for trafficked persons. Furthermore the country is also a transit point for trafficking operations between developing countries and Europe, the United States and Canada.

B. Global Perceptions of Human Trafficking - Asian Continent

Laos, Burma, Cambodia and Nepal are source countries. India, China, Thailand and Malaysia are both source and destination countries for trafficked persons. Young women from Indonesia, Thailand and the Philippines are trafficked into Malaysia for sexual exploitation.

Pakistan's domestic flesh trade does not appear to be backed by powerful organized criminal networks as it is in other countries of the world. A large number of Indian young girls from southern India have been sent to Saudi Arabia and Gulf countries for the same purpose of sexual exploitation. Moreover certain syndicates have been identified who send men and children to labor in western and far eastern countries, including Japan and certain rich Arab countries.

In Japan, although there are a few instances of trafficking in the strict sense, there are many illegal immigrants (smuggling).

IV. ANALYSIS

A. Causes

1. Illegal Firearms Trafficking

Focusing on the causes of the above-mentioned kinds of trafficking, some factors can be seen in common. Apparently, one of the common causes is the fact that these two kinds of trafficking could bring enormous sums of monetary benefit, both in cash and in kind to transnational crime organizations.

It is analyzed that illegal arms proliferation is a global phenomenon. It has extracted a heavy toll in terms of human lives and socio-economic development of entire regions. In Asia, especially Afghanistan the death toll has passed 200,000 (dead and injured during the war) and is still rising. In India, Pakistan, Cambodia, Sri-Lanka and some African states, they continue to see conflict related deaths in the hundreds.

In Latin American and countries such as Argentina, Brazil, and Honduras, firearms were exchanged for illegal drugs and money making. The relationship between arms and narcotic dealers overlaps, thus creating a deadly combination. It is analyzed that illegal trafficking of arms disturbs the public peace, tranquility and disturbs the balance of the economy – thus reducing the reliance of the public on government organization, thereby causing anarchy.

2. Human Trafficking

It is analyzed that the favorite destinations of illegal migrants are the developed industrialized nations like the U.S.A, Japan, Canada, Germany and France. Most women from under developed countries wind up as sex slaves or maidservants in the abovementioned countries.

The problem has increased in both size and seriousness by the growing involvement of organized crime groups. These groups have disrupted the immigration policies of the governments. Therefore there are substantial humanitarian concerns and issues related to the global problem of alien smuggling.

B. *Modus Operandi*

1. *Illegal Firearms Trafficking*

The *modus operandi* (hereinafter “m.o.”) of the trafficking route is as follows:

- (a) Firearm arrives in receiving country as undeclared or misdeclared item and included with other goods, consigned to a fictitious name and address.
- (b) Firearm can also be dismantled into pieces and included among metal items or machinery parts legally imported or exported in containerized cargo.
- (c) Firearms are sometimes thrown from vessels, boats and etc. at pre-arranged areas some distance from the shore where they are later picked up by small boats and brought to undisclosed places.

2. *Human Trafficking*

The *modus operandi* of the trafficking route is as follows

- (a) Some persons arrive at the destination hiding in the container cargo. This sea route is the typical and traditional m.o.
- (b) Some persons take airplanes with forged or altered passport and other necessary documents. This air route is a relatively new one.

V. CONCLUSION

Looking at the current situation, we urgently need to take the necessary countermeasures against trafficking in firearms and humans. These crimes have tremendous harmful effects on each country involved. Firearms’ trafficking causes social and political instability, and human trafficking results in disruption of families in source countries and economic and social disorder in effected countries as well as violation of human rights of victims, especially women and children. International law and other legal frameworks have regrettably been insufficient to combat these crimes. Law enforcement in each country and international cooperation in this field seems to have been ineffective and inefficient so far. Taking into due consideration such situations, the U.N. Convention against Transnational Organized Crime and the Protocol against trafficking in persons especially women and children, and the Protocol against the smuggling of migrants were adopted in November of last year. The Protocol against Illicit Trafficking, Parts, Its components and Ammunition was also adopted in May of this year. All agencies involved in criminal justice have to make every effort to eradicate trafficking in firearms and humans by fully utilizing these new legal tools.

Group 3 ANALYSIS OF CURRENT SITUATION OF MONEY LAUNDERING
Phase 1

| | | |
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Report Summary

I. A BRIEF OVERVIEW

Money laundering briefly means “making dirty money look clean”. It can be defined as, “the processing of the criminal proceeds to conceal their illegal origin.” The objective of the money launderer is to disguise the illicit origin of the substantial profits generated by the criminal activity, so that such profits could be used as if they were derived from a legitimate source.

The extent of money laundering is difficult to estimate since it is an illegal activity for which no exact data or statistics are available. However, the International Monetary Fund (IMF) has estimated that the aggregate size of money laundering in the world could be somewhere between two to five percent of the world’s gross domestic product (GDP). Using 1996 statistics, this would translate into approximately US \$590 billion to US \$1.5 trillion, which reflects the magnitude of the problem.

Experience further discloses, that a money laundering operation basically consists of three phases or stages. The first phase is the “placement” i.e. where cash enters the financial system. The second phase consists of “layering” i.e. where the money is routed through a number of transactions so that any attempt to trace the origin of money is lost. The last or the third phase consists of “integration” i.e. the money is brought back into the economy with the appearance of legitimacy and thus, integrated within the lawful economy leaving no trace of the illegal money for the various law enforcement agencies of the different countries.

II. GLOBAL CONCERN

Realizing the gravity of the problem, the United Nations (UN) adopted the Vienna Convention, 1988 against the Illicit Traffic in Narcotics, Drugs, and Psychotropic substances which, *inter alia*, incorporated incrimination of money laundering in an international treaty for the first time.

The Financial Action Task Force (FATF) was founded in 1989 by the G7 summit in Paris, to examine methods to combat money laundering. It published its report in 1990, in which the Forty Recommendations were made to combat the menace of money laundering. The UN adopted the Convention against Transnational Organized Crime in November 2000 and this was opened for signatures by member states in December 2000. This convention requires member states to further intensify and fortify their efforts against money laundering.

III. LEGISLATION

In *Japan*, the "Law Concerning Special Provisions for the Narcotic and Psychotropic Control Law, etc., and Other Matters for the Prevention of Activities Encouraging Illicit Conducts and Other Activities Involving Controlled Substances Through International Cooperation" (hereinafter, the Special Narcotics Law) was concluded on 2 October 1991 and enforced from 1 July 1992. Furthermore, the "Law for the Punishment of Organized Crime and the Control of Criminal Earnings" (hereinafter, the Law for the Punishment of Organized Crimes) was concluded on 12 August 1999, and enforced from 1 February 2000.

In *Malaysia*, before the introduction of the Anti-Money Laundering Act 2001, the country did not have any specific law on money laundering. However there are various substantive laws making it an offence for ‘laundering’ of illegally obtained money or assets. One of the most effective legislation is the Dangerous Drug (Forfeiture of Property) Act 1988 (the FOP Act). Although there is no definition or usage of the term “money laundering” under the FOP, but there is a provision that states that it is an offence for any person either by himself or on behalf of another, to commit the act of laundering of illegally obtained property.

Another country in the Asia region, *Indonesia*, also pays serious attention to this matter. The Government of the Republic of Indonesia is truly concerned regarding money laundering, as is reflected by its ratification of some of the following important conventions connected with Money Laundering, such as the ratification of the Convention on Psychotropic Substances 1971 (by Law No. 8 Year 1996) and the ratification of the United Nations Convention Against Illicit Traffic and Psychotropic Substances (by Law No. 7 Year 1997).

In *Thailand*, the Money Laundering Control Act BE 2542 (1999) was introduced with the setting up of the Office of Anti-Money Laundering by the Government of Thailand. During the first 9 months of its existence the office managed to confiscate a total of more than 240 million bahts.

In *Nepal*, The extent of money laundering is very difficult to estimate. It is an illegal act for which no statistics are available.

In *India*, at present, there is no specific money laundering law. The Prevention of Money Laundering Bill was introduced into Parliament by the Government of India but the same still remains to be enacted as law. However, at present there is already a set of legislation existing in India intended to deal with economic offenders. Such laws/legislation are specifically intended to deprive the offenders of the proceeds and benefits derived from the commission of offences. Besides, certain other legislation also provides for the confiscation or forfeiture of the proceeds or assets of certain crimes.

In *Argentina*, new legislation (law enacted on 5 March 2000) considers money laundering as an autonomous crime. It means that the laundering of assets is not only penalized when it is obtained from the traffic of narcotics, but also includes other illegal activities such as terrorism, traffic of weapons, of human beings or other human organs, crimes against the Public Administration, and such other offences where the Penal Code provides punishment with a minimum of 3 years in jail. The same law includes the obligation on the part of certain people, that the text specifically mentions, of denouncing operations and/or suspicious activities.

In *Venezuela*, the anti drugs law was enacted and made more comprehensive on 30 September 1993. This law was made to adapt to the current problem relating to drugs and it includes the procedure in cases of money laundering, their prevention, control and inspection of the bank and financial entities by the authorities. The Venezuelan national assembly has also discussed the future enactment of a law that would fight against organized crime

In *Peru*, the Law only punishes money laundering when it emanates from the illicit trafficking of drugs. When the money relates to other offences like corruption, fraud, kidnapping, robbery, etc it is not covered by money laundering provisions. Thus, in Peru money laundering is confined only to the cases where drug money is involved. It is also incorporated by the law (ordinance legislative) of 10 April 1992, that banks report any unusual or suspicious transactions above ten thousand dollars to the authorities in each case.

Money laundering in *Honduras* is only related to drug trafficking. Before 1993 the money laundering law did not exist. It was only mentioned in one article of the drug law. In 1998 the money laundering law was enacted, but it only relates to drugs. However, the attorneys that deal with the said crime are working on some reforms in the law. They are trying to establish a money laundering law related to other crimes also such as stolen vehicles, kidnappings, bank robberies, human trafficking, etc.

Uganda is a developing country with a low economic base. Because of this, criminals find it easy to invest their proceeds from illegal activities into Uganda. Since the government needs investors to uplift the economy, little scrutiny is made to establish the origin of huge amounts of money. Currently, there is no legislation in place to cater for money laundering. This is a new concept. However, there is an anti- money laundering committee consisting of experts from the Uganda Revenue Authority, police, immigration, commercial banks and bank of Uganda. The committee is charged with drafting a law on money laundering. In East Africa, a training workshop on combating money laundering was held in Arusha, Tanzania in August 1999 and has led to the creation of National Anti-Money Laundering Committee, which are affiliates of the Eastern and Southern Africa Anti-Money Laundering Group (E.A.S.A.A.M.L.G.).

IV. INSTITUTION OF STRs/ FIUs

As far as *Japan* is concerned, the Suspicious Transaction Report (STR) system was first introduced into Japanese legislation by the enactment of the Special Narcotics Law. Subsequent to this, the Law for the Punishment of Organized Crimes was enacted in 2000, which introduced a

comprehensive STR system. The scope of predicate offense of money laundering was expanded to almost all organized crimes. Based on the above law, the Japan Financial Intelligence Office (JAFIO) was established in the Financial Agency as the Japanese Financial Intelligence Unit (FIU).

The records of the Narcotics Division of the *Malaysia Police Department* reveal that the traffickers in Malaysia are mostly individuals or small groups who capitalize on drug trafficking industry for personal gains. Drug proceeds are sometimes concealed within the proximity of their home or invested in other illegal activities such as loan-sharking and book markings. Taking into consideration the Forty Recommendations of the FATF on money laundering, the government of Malaysia in the middle of the year 2001 introduced the Anti-Money Laundering Act 2001.

In *Indonesia*, the Criminal Proceeding Act 1981, provides that the investigator shall be an official of the state police of the Republic of Indonesia or a certain official of the civil service who is granted special authority by law. Referring to this statement, in practice, the police official is the investigator for general crimes such as murder, theft, robbery and so forth. And public prosecutors are also authorized to be the investigators for special crimes such as corruption cases. In corruption cases, the Attorney General's Office has successfully handled a lot of corruption cases, and saved large amounts of state assets.

In *India*, a number of law enforcement agencies (primarily operating under the Ministry of Finance) are engaged in the collection of intelligence and also investigation of economic offences and frauds, including money laundering.

Argentina contemplated setting up a Commission for dealing with activities relating to money laundering (Unidad de Información Financiera –U.F.I.- Financial Information Unit). The U.F.I. requires certain people and corporations or companies to inform them of any data that looks suspicious. The promulgation of this Law has proved to be very significant for Argentina, which has incorporated most of the Forty Recommendations of the FATF.

In *Venezuela*, penal action is carried out by the District Attorney of the Public Ministry and it is the D.A. who directs the investigation, giving instructions to the Police in relationship to the investigation of crime. Since the above law has not yet been approved by the National Assembly, Venezuela cannot be said to have a legislative instrument to combat money laundering and the criminal organizations involved.

V. CONCLUSION

In summation, it can be safely stated that national strategies are inherently inadequate in responding to the challenges posed by transnational organized crime, including money laundering, since they cross multiple borders, involve multiple jurisdictions and a multiplicity of laws.

The rapid growth in transnational organized crime and the complexity of the investigation requires a truly global response. At present, the measures adopted to counter organized crime are not only predominantly national, but also different from one country to another. It is, thus, absolutely imperative to increase global cooperation between the world law enforcement agencies and to continue to develop the tools which will help them effectively in countering transnational organized crime, including money laundering.

**Group 1
Phase 2**

**TOOLS FACILITATING THE INVESTIGATION OF
TRANSNATIONAL ORGANIZED CRIME**

| | | |
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Report Summary

I. INTRODUCTION

The use of traditional investigative methods to combat illicit drug trafficking has proved to be very difficult and ineffective. This state of affairs therefore calls for the use of special investigative tools such as controlled delivery, undercover operations and electronic surveillance (wiretapping, communications interception etc...) by law enforcement agencies to effectively control illicit drug trafficking.

The biggest question therefore is how to use these techniques consistent with the rule of law and respect of human rights. The answer to this cannot be universally obtained and this will depend on the legal system, practice and culture of each country. There is a need therefore, to strike an agreement as to what extent the privacy rights of individuals can be respected and at the same time keeping them (people) safe from the effects of transnational organized crime.

The use of these techniques varies from country to country, and for this reason the group had to focus on them individually. However the group has adopted the definition of Controlled Delivery that is contained in Article 2 of The United Nations Convention Against Transnational Organized Crime, 2000.

The Electronic Surveillance investigative method was the theme of a lot of discussions in the group, since every country has its own methods and devices. One thing that all the participants are aware of, is the fact that criminal investigations are becoming increasingly more difficult as criminal techniques become even more sophisticated. The challenge for criminal investigators is to keep pace with criminal *modus operandi* by using increasingly sophisticated investigative techniques, and one of them that has been extremely successful is electronic surveillance, including both silent video surveillance and interception of wire, oral, or electronic communications.

Although the concept of undercover operations is the same, the practice is however quite different amongst the countries of this group. It is important to note that all the three investigative tools pose common problems and require common solutions for the countries represented in the group. The problems are lack of adequate trained personnel, inadequate finances to train and equip their personnel, labor intensive and time-consuming methods, non-existent legislation, and no efficient international cooperation, especially with regard to CD. The proposed solutions are that countries should train specialized personnel, make provision of optimum finances to train and provide adequate equipment, enact special legislation to define all terms, lay down general procedures of protection of officers and agents, and the rights of individuals, encourage international cooperation.

II. CONTROLLED DELIVERY

Controlled Delivery (CD) is an anti-drug trafficking technique that has been divided into 3 categories in our group, namely:

- A. Country in which it is stipulated by law; (Japan) In Japan, a special law concerning narcotics was enacted on 1 July 1992. This law enabled law enforcement officers to utilize transnational live / clean CD.
- B. Country in which it is in the process of being stipulated by law; (Honduras) In Honduras, by the new Penal Procedures law, this kind of investigation is included as “special investigative methods” and it will be conducted under the supervision of a Judge.
- C. Country in which it is not stipulated by law; (Cameroon, Kyrgyzstan and Pakistan) Cameroon, Pakistan and Kyrgyzstan do not have a specific law to deal with controlled delivery and in that sense the CD there is not formalized or institutionalized by law. CD is used but as a part of the normal police practical work including all other investigation/ detection techniques.

III. ELECTRONIC SURVEILLANCE

With the exception of wiretapping, which has been stipulated by law in Japan, Japanese law enforcement officers like their counterparts in Cameroon, Honduras, Kyrgyzstan and Pakistan generally carry out electronic surveillance as part of their practical work in the course of investigations.

A. Cameroon

The use of electronic devices to track down or watch or record the activities of criminals maybe described as electronic surveillance. This anti-drug trafficking technique is also used by the law enforcement officers in Cameroon as part of their normal routine duty in the criminal investigation process. The law enforcement officers may resort to wire-tapping to secretly follow up or monitor unlawful arrangements between criminals on target telephones. These cases call for the indispensable assistance of the Post and Telecommunications Department. The phone or the location would require to be monitored 24 hours a day, seven days a week and, perhaps even much longer. Equipped with micro cameras, video cameras and micro tape recorders of all sorts, the law enforcement officers equally obtain or record vital information from criminals without alerting them.

B. Honduras

The police agencies in Honduras, mainly those that investigate illicit drug trafficking, have a series of electronic devices that are indispensable tools for electronic surveillance, among them we can mention; interception of phone conversations (wire tapping), micro video cameras (pencils, calculators, sun glasses, wallets, etc.), wireless microphones in miniature, night vision.

C. Japan

In Japan, interception of telephone or other electric communications (wiretapping including e-mail tapping, etc.), videotaping and audio tapping using microphones are the main tools of electronic surveillance. The Law Concerning Interception of Communications came into effect in August 2000. Before this law was enacted, interception of electronic communications was conducted on the basis of the interpretation of the Code of Criminal Procedure.

D. Kyrgyzstan

Wiretapping and the bugging of rooms and living space takes place. These measures are realized in two ways: listening to the crime plan via instruments and listening in order to gather evidence. The difference between these two forms is, information received by the former method cannot be used as evidence in the court whereas the information received from the latter can be used as evidence in the court. These methods help operative units of law enforcement agencies with technical support of special units.

E. Pakistan

The following tools are used for conducting electronic surveillance in Pakistan; wiretapping or phone bugging, video cameras, audio tapping, laser beams for bugging, still camera while following the suspects, mobile surveillance of the suspects, electronic bugging by plugs, pens etc.

IV. UNDERCOVER OPERATIONS

All countries represented in this group do not have any special legislation on undercover operations. Notwithstanding this, their law enforcement officers, use undercover operations as an essential investigative tool.

A. Cameroon

Law enforcement officers are known to use trickery and deception to arrest persons involved in a criminal activity. Undercover operations embrace both trickery and deception. This anti-crime control and prevention technique is used in cases involving big organized criminal operations. For example, the technique may be used in drug controlled delivery operations. Undercover operations demand a sizeable number of law enforcement officers and are generally time-consuming. A complex and sophisticated crime network may take quite a reasonable amount of time to investigate, using, a large number of officers and agents. Equally, it is worth mentioning the risk to life posed by these operations involving very dangerous crime groups.

B. Honduras

In Honduras we understand undercover operations to mean a police agent or investigator getting inside of an organized group to identify the suspects and also getting to know all the illegal activities that the organized group is actually involved in. In Honduras, the police agencies use this technique but only in big cases or when it is extremely necessary, because it involves a lot of resources, a lot of time and it is also very dangerous. Honduras is getting a lot of assistance from neighboring countries, and also from the United States, in training investigators and exchanging concerned personnel.

C. Japan

Japan does not have general provisions concerning undercover operations. However, article 58 of the Narcotics and Psychotropics Control Law provides that a narcotics agent can receive a narcotic drug from any person “under the permission of the Minister of Health, Labor and Welfare”. There is a similar regulation in Article 45 of the Opium Law, and also, Articles 27-3 of the Firearms and Swords Control Law which provides that, under the permission of the Prefectural Public Safety Commission, a police officer or a Coast Guard officer can receive or borrow guns or their parts, or receive live cartridges of guns from any person. According to judicial precedent, the courts have decided each case of undercover operations whether it was legitimate or not according to the degree of necessity and suitability.

D. Kyrgyzstan

Undercover operations in the Kyrgyzstan Republic have no legislative basis. Therefore undercover operations are regulated by secret departments in every law enforcement organization, for example in the national security service. Information acquired through undercover operations is not legal evidence and cannot be used in court.

E. Pakistan

The technique's common uses are to collect information about criminal gangs, their methods of operation and their future plans for drugs smuggling. Through such operations the law enforcement agencies are able to infiltrate the highest levels of organized groups. Nevertheless we visualize that the Afghan internal war with the Northern Alliance and the air attacks on Afghanistan by the U.S.A. may increase illegal drug trafficking by organized gangs to a considerable extent. Therefore the Taliban followers involved in this lucrative trade will try to smuggle out their stockpiles of drugs to generate funds for the on going internal and external war. Such a large scale of expected smuggling may be difficult to handle by our agents due to resource and other constraints.

V. GROUP VISION

From the foregoing presentation it is important to note that all the three investigative tools pose common problems and require common solutions for the countries represented in the group.

A. Problems

- (i) Lack of adequate trained personnel
- (ii) Inadequate finances to train and equip their personnel
- (iii) Labor intensive and time-consuming
- (iv) No existing legislation
- (v) No efficient international cooperation, especially with regard to CD.

B. Solutions

- (i) Countries to train specialized personnel
- (ii) Provision of optimum finances to train and agencies that will provide adequate equipment.
- (iii) Formulation of special legislation to define all terms, lay down general procedure of protection of officers agents, and the rights of individuals.
- (iv) Encourage international cooperation.

| | | |
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Report Summary

I. INTRODUCTION

It is more difficult than one can expect to bring the members of organized criminal groups to justice. The organized criminal groups do exist in some countries, and the authorities in such countries try every effort to cope with them. Effort has been made by applying the concept of “conspiracy” and/or creating the new offence of “participation in an organized criminal group” in order to get the culprits to justice. Once the suspect has been arrested, the legal proceedings then begin, and the final stage of criminal proceeding is to prove beyond reasonable doubt that such crimes have been committed by certain defendants. The United Nations Conventions against Transnational Organized Crime (“TOC Convention”) requires State Parties to ensure that their laws criminalize either conspiracy or participation in an organized criminal group, or both in Article 5. It is basically understood that this provision offers the State Parties two options and comes from the preceding arguments and practices of the European Union.

In addition, organized criminal groups’ activities are not easy to detect. Generally, the witness may be an insider or accidentally witness the crime. However, they have the tendency to avoid involvement in any legal proceedings for fear of their safety. Therefore, special tools, namely the immunity system and witness and victim protection programmes, carefully constructed to ease this obstacle are indeed important.

II. CRIMINALIZATION OF PARTICIPATION IN AN ORGANIZED CRIMINAL GROUP

A. TOC Convention (Article 5)

B. Analysis of Current Situation

In Laos, Malaysia, Pakistan and Uganda, the concept of conspiracy has been adopted. In Nepal, neither the concept of conspiracy nor participation has been adopted so far. In Japan, the situation is the same as Nepal in principle with a few exceptions. In Thailand, the concept of participation has been adopted.

C. Benefits

- 1) The criminal justice authorities would have the possibility of intervening at an earlier stage of the criminal activity;
- 2) All people concerned could be charged with conspiracy or participation even if their roles have been marginal;
- 3) The prosecutor need not prove complicity in each and every act of crime;
- 4) The concepts of conspiracy and participation allow, in effect, double punishment: one for the conspiracy or participation, and one for the offences committed in furtherance of the conspiracy or participation;
- 5) Legislation referring to conspiracy and organized criminal groups could provide the framework for the use of civil measures in addition to punishment;
- 6) The citizens could be kept away from criminal acts and organized criminal groups (deterrent effect).

D. Drawbacks

- 1) The concepts are ambiguous and confusing, in particular if juries are involved. The legal practice has shown that the concepts can be confusing even to trained lawyers;
- 2) There is possibility that the concepts might violate the principle of legality, which requires definition of precisely what acts or omissions constitute criminal conduct;
- 3) This ambiguity raises concerns regarding legal safeguards, such as ensuring that the defendant knows exactly what conduct he or she is charged with having committed;
- 4) The ambiguity also raises concerns that the concepts will be used to expand the scope of criminal behavior to an unacceptable extent; and
- 5) The concept of conspiracy has been used, in the view of some, to “convert innocent acts, talk and association into felonies”. The discussion within the European Union regarding the joint action requiring Member States to criminalize participation in an organized criminal group shows that these same qualms exist regarding this latter concept. The concern here is that the concepts may be abused by over-zealous prosecutors.

III. IMMUNITY SYSTEM

A. TOC Convention (Article 26)

B. Analysis of Current Situation

In Pakistan and India (according to the Penal Code), this system has been provided by the law in the High Court and the Court of Sessions according to the tenure of imprisonment. Whereas in Japan this system has not been adopted in any legislation, in some cases the court has reduced a defendant's punishment by considering his/her cooperation to find out the true facts depending on the cases.

In Laos, Malaysia, Nepal, Thailand and Uganda, the immunity system has not been applied. In these countries only the mitigation of punishment can be considered if the accused assists the investigator to investigate the crime and crime proceeds, and there is an arrest of criminals according

to the law.

C. Benefits

Granting immunity from prosecution has actually led to solving many serious crimes.

D. Drawbacks

The possibility the criminal can escape from his liability is very high in this system. If prosecutors abuse his power to grant immunity, it may increase negative perception of criminal justice to the general public in the country. It is also violation of equality and rule of law of the country. The citizen may not be confident in the judiciary and law enforcement authorities of that country.

IV. WITNESS AND VICTIM PROTECTION PROGRAMMES

A. Need for Reform

Legal, physical and financial protection should be provided to important witnesses especially in sensitive cases so that they can feel comfortable without any fear in court. This is not only because of preventing threats/violence to the witnesses but also as a guarantee in gaining the confidence of witnesses in supporting the prevention and detection of organized crime. Article 25 of TOC Convention encourages the world's nations to adopt measures which will guarantee the protection of witnesses.

B. Analysis of Current Situation

We realized that the Witness Protection Programmes could be categorized as:

- Countries with Witness Protection Programmes in their legislation
- Countries with Witness Protection Programmes annexed as new articles in existing Acts
- Countries that are still in the process of drafting the Bill
- Countries that are still considering the implementation of Witness Protection Programmes

For examples of legislated countries, the United States started their Federal Witness Security Programme in 1970 which sought to guarantee the safety of witnesses who agreed to testify for the government in organized crime cases. Even though the programme is costly, the result has made it worth the cost. The Philippines has the same kind of law providing witness protection.

In Japan, the witness protection programme such as the video link system and setting up a screen between the witness and the defendant, has been embodied in the Code of Criminal Procedure and the related law. In Thailand, the "Witness Protection Bill" proposed by the Ministry of Justice is under discussion in Parliament. We learned that Nepal is now considering utilizing the Witness Protection Programme. Anyhow there are still many countries that do not have this programme.

C. Benefits

The programmes will encourage the co-operation of people in the fight against transnational organized crimes.

D. Drawbacks

Due to the large amount of finances required and the human resources needed to devise or even implement this programme, many countries may fail to adopt it. It is also difficult to define the scope of the witness protection programme.

V. CONCLUSION

All states are required to ensure that their legislation criminalizes conspiracy and/or participation in an organized criminal group. Furthermore, in responding to the threat of transnational crime, criminal justice authorities have felt it necessary to intervene as soon as possible in order to prevent crime, break-up criminal organizations and apprehend offenders before they make good their escape. States parties are also required to carefully choose the best options, keeping in mind their domestic legal and social systems.

Immunity generally refers to the process of exemption from prosecuting a person accused of a crime. In Japan the system is not legislated. The absence or existence of an immunity system depends on a country's culture, history, national sentiment and their domestic laws. Regarding witness and victim protection programmes, it was appreciated that the statement of accomplices has proved useful in prosecution involving organized crime cases, as it helps law enforcement agencies to penetrate such gangs.

These strategies have been endorsed by the TOC Convention since the year 2000. Since the TOC Convention provides and covers all effective countermeasures against transnational organized crime for us, it is imperative to ratify and implement the Convention as soon as possible, harmonizing it with the domestic legal system of each country.

Group 3 COUNTERMEASURES AGAINST MONEY LAUNDERING Phase 2

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Report Summary

I. INTRODUCTION

In view of the fact, that “money laundering” is at the center of predominantly all other criminal acts, it becomes an integral part of any transnational organized crime. Hence, any genuine effort to combat the “Transnational organized crime” has to necessarily address to the serious issue of adopting countermeasures to fight the menace of money laundering.

Since the goal of a large number of criminal acts is to generate a profit for the criminal that carries out the act, the processing of the criminal proceeds through money laundering assumes critical importance, as it enables the criminal to disguise their illegal origin and helps him in enjoying the proceeds of his crime without any threat. Thus, money launderers are continuously looking for new methods and routes for laundering their ill-gotten proceeds from crime. The criminals do this by effectively exploiting the differences between the national anti-money laundering systems and tend to move their networks to countries and financial systems with weak or ineffective countermeasures. Therefore, the possible social and political consequences of money laundering, if left unchecked or dealt with ineffectively, can be very grave and serious for any country.

This inevitably brings to fore the need for having an effective and organized system to deal with money laundering by adopting suitable countermeasures in the legislative systems and law enforcement mechanism of various countries. In a broader sense, some of the countermeasures would include making the act of money laundering a crime; giving the investigative agencies the authority to trace, seize and ultimately confiscate the proceeds derived from criminal activity and building the necessary framework for permitting the agencies involved to exchange information amongst themselves and their counterparts in other countries. The countermeasures to combat money laundering calls for a truly global response making it absolutely imperative for increased global cooperation between the law enforcement agencies of different countries in effectively dealing with the menace of money laundering by the transnational organized criminal groups.

II. THE GLOBAL RESPONSE

Realizing the gravity of the problem, the international comity of nations has tried to come up with a global response. The United Nations adopted the Vienna Convention, 1988 against the Illicit Traffic in Narcotic Drugs and Psychotropic substances, which, inter-alia, incorporated the incrimination of money laundering activity as a criminal act in an international treaty for the first time.

In response to the mounting concern over money laundering, the Financial Action Task Force On Money Laundering (FATF) was established by the G-7 Summit held in Paris in 1989. The FATF was given the responsibility of examining the money laundering techniques and trends, reviewing the actions which had already been taken at the national and international level and the further measures which were required to be taken to combat money laundering. In April 1990, FATF issued a report containing a set of the Forty Recommendations which provided a detailed plan of action needed to combat money laundering. The Forty Recommendations were further revised and made more comprehensive by the FATF in 1996.

III. THE FORTY RECOMMENDATIONS

The Forty Recommendations of the FATF, apart from the general framework, can be broadly classified under three major heads viz:

- 1) The existence or creation, within the legal framework of each country, a law criminalizing the act of money laundering, as defined by the Vienna Convention of 1988 on NDPS.
- 2) The existence or creation or strengthening of the legal and financial systems in different countries, which would provide the law enforcement and investigating agencies effective tool to combat money

laundering.

3) Strengthening of the International Cooperation between different countries at all levels, so as to enable an organized and concerted effort of the various law enforcement agencies of the different countries, in successfully combating money laundering.

IV. NON CO-OPERATIVE COUNTRIES AND TERRITORIES

The FATF continued to further review the Forty Recommendations from time to time with regard to their effectiveness in dealing with the crime relating to money laundering and also the implementation by the various countries of the recommendations made more comprehensive in 1996. On 22 June 2001, the FATF published its Twelfth Annual Report which outlines its main achievements, including the significant progress made in relation to work on Non Co-operative Countries and Territories (NCCTs). The FATF has revised and updated its list of NCCTs which now includes the following countries / territories i.e. Cook Islands, Dominica, Egypt, Guatemala, Hungary, Indonesia, Israel, Lebanon, Marshall Islands, Myanmar, Nauru, Nigeria, Niue, Philippines*, Russia, St. Kitts and Nevis and St. Vincent and the Grenadines. The FATF has suggested that all countries should be especially vigilant in their financial dealings / transactions with the above mentioned NCCTs and if necessary, take additional countermeasures.

V. THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

The United Nations Convention against Transnational Organized Crime (TOC) 2000 has effectively combined many of the anti-money laundering mechanisms explored at the international level into one comprehensive legal instrument. The convention on TOC addresses a number of issues, raised through several international initiatives, which in many instances were earlier not legally binding, into an international legal instrument having force. The convention has recognized that a considerable amount of valuable work related to the fight against money laundering has been undertaken by a number of organizations and has suggested that countries should seek guidance from such initiatives.

The UN Convention on TOC borrows from the 1998 General Assembly Political Declaration and extends the definition of money laundering to include money derived from all serious crimes which are defined as those offences which are punishable by a maximum sentence of at least four years or more.

In its focus on issues more directly related to financial institutions, the convention requires member countries to establish comprehensive regulatory and supervisory regimes for banks and also non-banking financial institutions. It requires that such regimes should specifically address the issue of customer identification, record keeping and suspicious transaction reporting. It stresses the importance of the exchange of information at the national and international levels and in that context highlights the role of Financial Intelligence Units (FIU) for the purpose of collecting, analyzing and disseminating information. It also highlights the need for co-operation amongst the law enforcement, judicial and financial regulatory authorities of different countries.

VI. SOME COUNTERMEASURES AGAINST MONEY LAUNDERING

The workshop, after having deliberated at length and in detail, highlight three subjects which

* It needs to be emphasized that the Philippines has since enacted the Anti Money Laundering Act on 29 September 2001.

are regarded to be very important in strengthening the implementation of the Forty Recommendations. The three subjects are enumerated as follows:

A. Knowing Your Customers

Money laundering is conducted by depositing proceeds of crime to financial institutions, hiding such proceeds of crime, and disguising them as if they originated from legitimate economic activity. In order to detect money laundering in the most effective way, it is important to obtain illegal proceeds at an early stage. Therefore, the Forty Recommendations prescribe countermeasures, including identification of the person at the time of the opening of his or her bank account.

B. Asset Forfeiture System

Asset forfeiture system is veritable tool for law enforcement and judicial criminal process to deprive criminals of illegally acquired proceeds, and plough back such proceeds to the community for the greater good of the society. The legal provisions regarding assets forfeiture system differ from country to country.

C. Gatekeepers

The process of laundering illegal money normally goes through three different stages, that's 'investment', 'layering' and 'integration'. Naturally these three stages are used by the launderers as a means to circumvent money laundering countermeasures through more complex schemes. This increase in complexity means that those individual desiring to launder criminal proceed must turn to the expertise of legal professionals, accountants, financial consultants, and other professionals to aid them in the movement of such proceeds. The types of assistance that this professional provide are the gateway through which the launderers must pass to achieve the above stages. Thus the legal and accounting professionals serve as a sort of 'gatekeepers' since they have the ability to furnish access (knowingly or unwittingly) to the various functions that might help the criminal with the funds to move or conceal.

One solution to overcome the above problem is to include these professional gatekeepers under the same anti-money laundering obligations as financial intermediaries when they perform their professional functions. In other word, these professional gatekeepers are required to identify the identity of their client with which they are dealing with and to cannel any suspicious transaction reports (STR) to the relevance authority / financial intelligence unit (FIU) or to face the penalties which come with the obligation in failing the do so.

VII. CONCLUSION

It may, thus, be seen that the problem of money laundering is being seriously viewed by the international community with the concern it rightly deserves. Subsequent to the 11 September 2001 terrorist attacks on the World Trade Center and the Pentagon in the USA, the issue of money laundering has suddenly assumed altogether a new dimension of funding of terrorist organizations all over the world and the pre-dominant use of money laundering by the terrorist criminal organization in funding their activities. However, the global response to the challenge posed has been overwhelming, as is evident by the media coverage (CNN – 23 October 2001) where it was reported that more than 140 countries from all parts of the world are co-operating in tracking down funds of the criminal organizations and more especially terrorist funds which are suspected to be involved in money laundering activity at different stages in various countries.

The workshop, after having deliberated at length and in detail, is of the considered view that new challenges posed by the money launderers calls for new initiatives, techniques and tools to combat the menace of money laundering. To this end, the new techniques and tools would necessarily have to include 'controlled delivery', 'electronic surveillance' including 'wiretapping', whenever necessary, and also 'undercover operations'. The workshop is also of the considered view that there should also be a provision in the domestic laws of each country for prosecution of the so called "gatekeepers" i.e. the legal professionals, accountants, financial consultants and other professionals who provide the requisite expertise, without which it would not be possible for the organized criminal groups to invest large sums of money without getting detected.

Observation Visits

| <i>Date</i> | <i>Agency/Institution</i> | <i>Main Persons Concerned</i> |
|--------------------|---|--|
| Sept. 18 | Tokyo Metropolitan Police Department | • Mr. Yasuo Mikuni Police Inspector |
| Sept. 18 | Tokyo District Public Prosecutors Office | • Mr. Takashi Okubo Deputy Director General Affairs Department |
| Sept. 18 | Ministry of Justice | • Mr. Kunihiro Matsuo Vice-Minister of Justice |
| Sept. 28 | Fuchu Prison | • Mr. Kanichiro Ishiwatari Special Assistant to Director of Fuchu Prison |
| Oct. 4 | Fuchu Police Station and Okunitama Police Box | • Mr. Masao Tada Inspector Fuchu Police Station |

| <u>Date</u> | <u>Agency/Institution</u> | <u>Main Persons Concerned</u> |
|--------------------|----------------------------------|--|
| Oct. 22 | Tokyo District Court | <ul style="list-style-type: none"> • Mr. Megumi Yamamuro Presiding Judge Fifth Criminal Division • Mr. Takashi Matsumoto Judge Fifth Criminal Division |
| Oct. 22 | Supreme Court | <ul style="list-style-type: none"> • Mr. Yukihiro Imasaki Director, Second Division Criminal Affairs Bureau • Mr. Junichi Shirakura Liaison Officer Secretariat Division General Secretariat |
| Oct. 26 | Kodaira Fifth Elementary School | <ul style="list-style-type: none"> • Mr. Shunsuke Kikuoka Vice-Principal |

Group Study Tours

| <u>Date</u> | <u>Group</u> | <u>Agency/Institution</u> | <u>Main Persons Concerned</u> |
|--------------------|---------------------|--|--|
| Oct. 12 ~ 13 | Nagoya (Group 1) | <ul style="list-style-type: none"> • Nagoya District Public Prosecutors Office • Nagoya High Public Prosecutors Office • Nagoya Detention House | <ul style="list-style-type: none"> • Mr. Akiharu Mizoguchi Chief Prosecutor • Mr. Shigenori Ishigro Deputy Superintending Prosecutor • Mr. Kenji Kameoka Warden |

| | | | |
|-----------------|------------------------|--|--|
| Oct. 12 ~ 13 | Sendai (Group 2) | <ul style="list-style-type: none"> • Sendai District Public Prosecutors Office • Sendai High Public Prosecutors Office • Sendai Probation Office • Sendai Regional Parole Board • Aoba Juvenile Training School for Girls | <ul style="list-style-type: none"> • Mr. Yuki Kawachi Superintending Prosecutor • Mr. Hiroshi Nakajima Chief Prosecutor • Mr. Yasunori Komatsu Director • Mr. Toru Sakasaki Secretary-General • Mr. Shuichi Kamata Superintendent |
| Oct. 12 ~ 13 | Fukushima (Group 3) | <ul style="list-style-type: none"> • Fukushima Prison • Fukushima District Court • Fukushima District Public Prosecutors Office • Fukushima Probation Office | <ul style="list-style-type: none"> • Mr. Takuya Oyama Warden • Mr. Toshinobu Akiyama, Mr. Toshiaki Harada Chief Judges • Mr. Takehiko Shiono Chief Prosecutor • Mr. Shu Kobayashi Director of Supervision |
| Oct. 12 ~ 13 | Iwate (Group 4) | <ul style="list-style-type: none"> • Morioka District Public Prosecutors Office • Iwate Police Headquarters • Iwate Police Academy | <ul style="list-style-type: none"> • Mr. Hideaki Beppu Chief Prosecutor • Mr. Kenji Izuwara Superintendent of Police • Mr. Ken Nakagawa Superintendent of Police |
| Oct. 12 ~ 13 | Aomori (Group 5) | <ul style="list-style-type: none"> • Aomori District Public Prosecutors Office • Aomori Prefectural Police Headquarters | <ul style="list-style-type: none"> • Mr. Toshio Yanagi Chief Prosecutor • Mr. Masayoshi Masuzawa Deputy Director of Traffic Control Division |
| Oct. 12 ~ 13 | Shikoku (Group 6) | <ul style="list-style-type: none"> • Takamatsu High Public Prosecutors Office • Kagawa Police Headquarters | <ul style="list-style-type: none"> • Mr. Norio Munakada Superintending Prosecutor • Mr. Toshinori Otaki Chief of General Affairs Department |
| Oct. 18 ~ 20 | Okinawa | <ul style="list-style-type: none"> • Okinawa Prefectural Police Department • Okinawa Regional Narcotic Control Office • Naha District Public Prosecutors Office | <ul style="list-style-type: none"> • Mr. Hiroyuki Ota Chief of Police • Mr. Masaaki Sunakozawa Director • Mr. Seisui Kamigaki Chief Prosecutor |

| | | | |
|-----------------|----------------------|--|--|
| Oct. 28 ~ 31 | Hiroshima- Kansai | <ul style="list-style-type: none"> • Coast Guard Academy • Police Box (behind Universal Studios Japan) | <ul style="list-style-type: none"> • Mr. Ikuo Ikeda Director General Affairs Division • Mr. Keiji Okada Assistant Police Inspector Osaka Prefectural Police Headquarters |
|-----------------|----------------------|--|--|

Special Events

Sep. 10 *Welcome Party*

Sept. 13, 14, 17, 19, 21 25, 27, and 28

Japanese Conversation Classes

The overseas participants attended Japanese conversation classes provided by JICA and the ACPF. They learned practical Japanese expressions. The sensei (teachers) were Mr. Michio Kawachi, Ms. Mariko Kambayashi, Ms. Kimiko Hiraiwa, Ms. Kazue Suzuki and Ms. Yukiko Shiina. *Iroiro Arigato Gozaimashita.*

Sept. 18 *Reception by Vice-Minster of Justice*

After visiting the Ministry of Justice, a reception was held by the Vice-Minister of Justice, Mr. Kunihiko Matsuo, at the Lawyers Club.

Sept. 20 *UNAFEI Olympics*

The UNAFEI Olympic Games were held on the grounds of the Training Institute for Correctional Personnel. The participants competed in such events as the three-legged race, racket relay and the true-false quiz. Afterwards, there was a friendship party at UNAFEI.

Sept. 22 *Tea Ceremony*

'*Cha-no-yu*' or '*Sado*', a formal Japanese tea ceremony, was demonstrated for the participants in UNAFEI Lounge B by Ms. Soue Kubo, an Ura Senke Tea Master, and her apprentices.

Sept. 29 and Oct. 6 *Home Visits*

ACPF Fuchu Branch organized dinners for the participants in the homes of members from the Fuchu International Exchange Salon, Tokyo Fuchu Rotary Club and Soroptimist International of Tokyo, Fuchu. The hosts were Ms. Kaoru Yajima, Mr. Yoshiyuki Sakano, Mr. Yasuhiro Momota, Mr. Rinshi Sekiguchi, Ms. Junko Ogawa, Mr. Takeshi Mutou, Ms. Kazuko Takano and Mr. Tsuneo Kashima.

Oct. 3 *Suntory Musashino Brewery*

At the invitation of the Fuchu Rotary Club, the participants visited the Suntory Musashino Brewery and were given a guided tour. Mr. Yujiro Nishio, Vice-President of the Fuchu Rotary Club hosted a party afterwards at the Brewery.

Oct. 6 *Fuchu Art Museum and Park*

The participants enjoyed a visit to the Fuchu Art Museum after which they were able to experience the sights of Fuchu no Mori Park.

Oct. 6 *Tokyo Horse Race Course*

At the invitation of the Fuchu Rotary Club, the participants observed and bet on horse races at the Tokyo Horse Race Course. Mr. Tatsuhiko Yuchi, Deputy General Manager of the Tokyo Horse Race Course, hosted the event.

Oct. 10 *UNAFEI-ACPF International Bowling Tournament*

ACPF Fuchu Branch sponsored the UNAFEI-ACPF International Bowling Tournament. The participants enjoyed bowling and socializing with members of the ACPF Fuchu Branch.

Oct. 12 & 13 *Visits to ACPF Branches*

The overseas participants were invited on local trips by six branch organizations of the ACPF, namely: Iwate, Shikoku, Sendai, Nagoya, Fukushima, and Aomori. Each branch held a reception in honor of the participants visiting their region.

Oct. 15 *Flower Arrangement*

A group of volunteer instructors led by Ms. Kuniko Mori and Ms. Junko Oishi, explained and demonstrated to the participants '*Ikebana*', traditional Japanese flower arrangement. Afterwards, the participants had the opportunity to arrange the flowers themselves

Oct. 17 *T.I.C.P. Friendship Party*

The Training Institute for Correctional Personnel held a friendship party for the participants at their Institute. The participants saw a variety of entertainment and participated in various Japanese games and songs such as *sekai wa futari no tameni* during the party.

Oct. 18 ~ 20

Okinawa Trip

After official visits to the Okinawa Prefectural Police Department, the Okinawa Regional Narcotic Control Office and the Okinawa District Public Prosecutors Offices, the participants enjoyed sightseeing, including visits to Shurijo Castle Park, the South East Botanical Gardens, Manzamo, the Peace Memorial Museum, Mabuni Hill, the Monument of Himeyuri and Himeyuri Peace Museum.

Oct. 22

Courtesy Visit to Supreme Court Justice

The participants were invited into the private chambers of Mr. Tsugio Kameyama, a Justice of the Supreme Court.

Oct. 22

Koto Concert

The Ensemble 21st Century, a group of volunteer musicians, performed traditional Japanese 'Koto' music for the participants at UNAFEI.

Oct. 23

VPOs' International Training

Ten Volunteer Probation Officers visited UNAFEI for an International Training Programme. It was jointly organized by UNAFEI and the Rehabilitation Bureau of the Ministry of Justice of Japan. A discussion session and friendship party were arranged to exchange views between the VPOs and the participants.

Oct. 28 – 31

Hiroshima-Kansai Study Tour

Hiroshima: On their first day, the participants visited the Peace Memorial Museum and Peace Memorial Park in Hiroshima. The next day, the participants visited the Coast Guard Academy and Miyajima Island, located in the Seto Inland Sea near Hiroshima.

Kyoto: On their third day, the participants visited the Police Box behind Universal Studios Japan and the Panasonic Hall of Science and Technology. The next day, the participants went on a guided bus tour to Nijo Castle, Kinkakuji Temple and the Kyoto Imperial Palace.

Nov. 1

Farewell Party

Reference Materials Distributed

United Nations Convention against Transnational Organized Crime and its Protocols

- (1.) United Nations Convention against Transnational Organized Crime
- (2.) Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime
- (3.) Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime
- (4.) Signatures- Tuesday, 12 December to Friday, 15 December 2000
- (5.) Report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime on the work of its first to eleventh sessions. (United Nations General Assembly 20 March 2001, A/55/383/Add.2)
- (6.) Interpretative notes for the official records (Travaux Preparatoires) of the negotiation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (United Nations General Assembly 21 March 2001, A/55/383/Add.3)
- (7.) Summary of the United Nations Convention against Transnational Organized Crime and Protocols thereto (UNODCCP)
- (8.) After Palermo: An Overview of what the Convention and Protocols Hope to Accomplish (UNODCCP)

The History of Combating Transnational Organized Crime – Efforts by the United Nations, etc.

- (1.) Milan Plan of Action (Milan, Italy, 6 September 1985, Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders)
- (2.) United Nations Convention Against Illicit Traffic In Narcotic Drugs And Psychotropic Substances (Vienna, 20 December 1988, United Nations Economic and Social Council)
- (3.) Commentary On The United Nations Convention Against Illicit Traffic In Narcotic Drugs And Psychotropic Substances (United Nations Publication)
- (4.) Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Council of Europe, 8 June 1990)
- (5.) Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering
- (6.) Naples Political Declaration and Global Action Plan against Organized Crime (Naples, Italy, 23 November 1994, World Ministerial Conference on Organized Transnational Crime)
- (7.) United Nations General Assembly resolution 49/159 of 23 December 1994, entitled “Naples Political Declaration and Global against Organized Transnational Crime”.
- (8.) Political Declaration and Action Plan against Money Laundering (New York, 10 June 1998, The Twentieth Special Session of the United Nations General Assembly)
- (9.) UN General Assembly Special Session on the World Drug Problem 8-10 June 1998 Feature
- (10.) G8 Communiqué OKINAWA 2000 (Okinawa, 23 July 2000)

- (11.) Medium-term plan for the period 2002-2005 (United Nations General Assembly Official Records Fifty-fifth Session, Supplement No.6 (A/55/6/Rev.1))

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- (1.) Law for Punishment of Organized Crimes, Control of Crime Proceeds and Other Matters
- (2.) Law concerning Interception of Communications for the purpose of Criminal Investigation
- (3.) Law concerning Prevention of Unjust Acts by Boryokudan Members
- (4.) Law concerning Special Provisions for the Narcotics and Psychotropics Control Law, etc. and Other Matters for the Prevention of Activities Encouraging Illicit Conducts and Other Activities Involving Controlled Substances through International Cooperation
- (5.) Immigration Control and Refugee Recognition Act
- (6.) Firearms and Swords Control Law

Money Laundering

- (1.) Basic Facts about Money Laundering
- (2.) More about FATF and its Work
- (3.) The Forty Recommendations (Financial Action Task Force on Money Laundering, FATF), 1990 (revised in 1996)
- (4.) FATF Report on Money Laundering Typologies 2000-2001 (FATF, 1 February 2001)
- (5.) FATF Annual Report 2000-2001 (FATF, 22 June 2001):
 Summary
 Annual Report
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 Review to Identify Non-Cooperative Countries or Territories: Increasing the Worldwide Effectiveness of Anti-Money Laundering Measures
- (6.) The Rule of the Law in the Global Village, Issues of Sovereignty and Universality, A symposium on The Occasion of The signing of the United Nations Convention against Transnational Organized Crime, Countering Abuse of the Banking System-Where Do We Stand (Palermo Italy, 12-14 December 2000, Ian Carrington Financial Expert UN Global Programme against Money Laundering)
- (7.) United Nations Global Programme against Money Laundering (UN Office for Drug Control and Crime Prevention, Global Programme against Money Laundering)
- (8.) Attacking the profits of crime; Drugs, Money and Laundering (UN Office for Drug Control and Crime Prevention, Global Programme against Money Laundering)
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- (10.) Enhancing Contributions To Combating Money Laundering: Policy Paper (26 April 2001, The IMF and the World Bank)
- (11.) Money Laundering: Trends and Techniques (Ms. Susan L. Smith, Senior Trial Attorney and International Money Laundering Counsel, Asset Forfeiture and Money Laundering Section, Criminal Division U.S. Department of Justice, U.S.A.)
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- (14.) Proceeds of Crime (Money Laundering) Regulations – Consultation Paper (December 1999, Finance Canada)
- (15.) Proceeds of Crime (Money Laundering) Act 2000, c. 17 (Department of Justice Canada)
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- (17.) The National Criminal Intelligence Service (NCIS) reports record suspicious financial transaction disclosures (1 August 2001, NCIS, UK)
- (18.) Money Laundering: Threats and Countermeasures (7 May 2001, Asian Development Bank)
- (19.) Asia-Pacific laundering \$200 billion a year (9 May 2001 Japan Times)
- (20.) Money Laundering: Muddying the Macroeconomy (Mr. Peter J. Quick, the Advisor of the IMF's Monetary and Exchange Affairs Department)
- (21.) Feature Money Laundering (Mr. Damien Hendrickx, ICPR 482/2000)
- (22.) Money Laundering, A Global Threat and the International Community's Response (Mr. William R. Schroeder, May 2001, FBI Law Enforcement Bulletin)
- (23.) Offshore Financial Centers, The Channel Islands and the Isle of Man (Mr. Mark D. Ferbrache, February 2001, FBI Law Enforcement Bulletin)
- (24.) Banking On Cocaine, A “Sting” Operation in the U.S. Leads to the arrest of thirty-one bankers and an insight into the dirty business of money laundering (1 June 1998, Time)

Current Situation of Transnational Organized Crime

- (1.) International Crime Threat Assessment (18 December 2000, U.S. Government Interagency Working Group)
- (2.) Transnational Organized Crime In the United States: Defining the Problem (Mr. Louise I. Shelley, Director, Center for the Study of transnational Organized Crime and Corruption, American University)
- (3.) 2001 UK Treat Assessment (9 August 2001, National Criminal Intelligence Service, N.K.)
- (4.) European Market Expands for Colombian Cocaine (29 May 2001, New York Times)
- (5.) Japan: Organized Crime, Taking Care of Business (30 November 2000, Velisariou Kattoulas)
- (6.) Recession hits Osaka-based Yakuza (26 June 2001, Eric Johnston, The Japan Times)

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- (1.) World Situation with regard to Illicit Drug Trafficking and Action Taken by the Subsidiary Bodies of the Commission on Narcotic Drugs (E/CN.7/2000/5)
- (2.) Activities of the United Nations International Drug Control Programme (E/CN.7/2000/9)
- (3.) 2nd Conference on Drugs Policy in Europe (Brussels, 28-29 February 2000)
- (4.) Narcotics Control Reports 2000 (Bureau for International Narcotics and Law Enforcement Affairs, U.S. Department of State)
- (5.) The National Drug Control Strategy: 2001 Annual Report (Office of National Drug Control Policy, U.S.A.)

Current Situation of Illicit Trafficking in Firearms and Human Beings

- (1.) Reexamining the Importance of Firearm Investigation (Mr. William J. Vizzard, May

- 1999, FBI Law Enforcement Bulletin)
- (2.) Global Programme against Trafficking in Human Beings (E/CN.15/1999/CRP.2)
 - (3.) Trafficking in Human, (UPDATE, UNODCCP, January 2000)
 - (4.) Victims of Trafficking and Violence protection Act 2000 (Trafficking in Persons Report (July 2001, Department of State, U.S.A.)
 - (5.) Child trafficking in West and Central Africa an Overview (23 February 2001, Dr. Rima Salah, UNICEF Regional Director for West and Central Africa)
 - (6.) Organized Crime and People Smuggling/Trafficking to Australia (May 2001, Ms. Rebecca Tailby, Australian Institute of Criminology)

Criminalization of participation in an Organized Criminal Group and Conspiracy

- (1.) Legal Framework and Investigation Tools for Combating Organized Crime, The Italian Experience (Mr. Giuliano Turone (Prosecuting Trial Attorney, Thailand, 30 November 1999)
- (2.) Enterprise Theory of Investigation (Mr. Richard A. Mcfeely, May 2001, FBI Law Enforcement Bulletin)
- (3.) Drug Conspiracies (Mr. Edward M. Hendrie, June 1999, FBI Law Enforcement Bulletin)
- (4.) Principal Witness Regulations to Suppress Organized Crime in Germany (Dr. Johan Peter Wilhelm Hilger, Former Head of Division of Judicial System Federal Ministry of Justice, Germany)

Investigation Tools (Wire Tapping, Undercover Operations and Controlled Delivery etc.)

- (1.) 2000 Wire Tap Report (Administrative Office of the United States Courts)
- (2.) Regulations of Investigatory Powers Act 2000 (The Criminal Law Review, February 2001, U.K.)
- (3.) Entrapment and Wiretapping as a Means of Investigation (Mr. Dagmar Kube ,Bali, December 1997)
- (4.) Electronic Surveillance (Mr. Thomas D. Colbridge, FBI Law Enforcement Bulletin, February 2000)
- (5.) House Requires FBI to Report on E-Mail Wiretaps (23 July 2001, Yahoo News)
- (6.) Interception of Email, Some Legal Issues (7 August 1998, Clive Feather, U.K.)
- (7.) Measures of Investigations in Cases of Organized Crime in the Criminal Process of Germany (Dr. Johan Peter Wilhelm Hilger, Former Head of Division of Judicial System Federal Ministry of Justice, Germany)
- (8.) Effective Methods to Combat Transnational Organized Crime in Criminal Justice Processes (Mr. Bruce G. Ohr, Chief, Organized Crime and Racketeering section, Criminal Division, U.S. Department of Justice)
- (9.) Undercover and Sensitive Operation Unit (Attorney General's Guidelines on FBI Undercover Operations Revised 11/12/92)
- (10.) Undercover Investigations and the Entrapment Defense (Mr. Thomas V. Kukura, FBI Special Agent, FBI Law Enforcement Bulletin, April 1993)
- (11.) Managing Undercover Stress, The Supervisor's Role (Stephen R. Band, FBI Law Enforcement Bulletin, February 1999)
- (12.) Avoiding the Informant Trap (Mr. James E. Hight, FBI Law Enforcement Bulletin, November 1998)
- (13.) Controlled Delivery (Dr. Johan Peter Wilhelm Hilger, Former Head of Division of Judicial System Federal Ministry of Justice, Germany)
- (14.) Conducting Successful Interrogations (Mr. David Vessel, FBI Law Enforcement

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- (1.) Organized Crime / Witness Protection in Germany (Dr. Johan Peter Wilhelm Hilger, Former Head of Division of Judicial System Federal Ministry of Justice, Germany)
- (2.) Combating Organized Crime: the Legislative and Regulatory Framework (Mr. William P. Schaefer, Assistant US Attorney, Thailand, 30 November 1999)

Mutual Legal Assistance and Extradition

- (1.) Model Treaty on Mutual Assistance in Criminal Matters (United Nations General Assembly Resolution 45/117 of 14 December 1990)
- (2.) Report of the Intergovernmental Expert Group Meeting on Mutual Assistance in Criminal Matters, held at Arlington, Virginia, United States of America, from 23 to 26 February 1998 (E/CN.15/1998/7)
- (3.) Complementary provisions for the Model Treaty on Mutual Assistance in Criminal Matters (United Nations General Assembly Resolution 53/112 of 9 December 1998)
- (4.) Model Treaty on Extradition (United Nations General Assembly Resolution 45/116 of 14 December 1990)
- (5.) Report of the Intergovernmental Expert Group Meeting on Extradition, held at Siracusa, Italy, from 10 to 13 December 1996 (E/CN.15/1997/6)
- (6.) Complementary provisions for the Model Treaty on Extradition (United Nations General Assembly Resolution 52/88 of 12 December 1997)
- (7.) Manual on the Model Treaty on Extradition and Manual on the Model Treaty on Mutual Assistance in Criminal Matters; An Implementation Guide (International Review of Criminal Policy, Nos. 45 and 46, 1995)
- (8.) International Cooperation in Criminal Matters – Extradition and Mutual Legal Assistance (Mr. Mikinao Kitada, UNAFEI Resource Material Series No.51, at 291, 1997)
- (9.) Treaty on Extradition between Japan and the United States of America (Treaty No.3 of 1980)

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INFORMATION ABOUT PROGRAMMES

Recent Activities**1. Training Programme: Juvenile Delinquent Treatment Systems**

UNAFEI is conducting its Second Training Course on the Juvenile Delinquent Treatment System for Kenyan criminal justice officials who are working for the prevention of delinquency and the treatment of juvenile delinquents in their country. The training course, entitled “Juvenile Delinquent Treatment Systems”, starts on 5 November and will end on 29 November 2001. The course exposes Kenyan officials to the workings of the Japanese juvenile justice and treatment system through lectures and observation visits to relevant agencies. As a result of this comparative study, the officials will successfully develop action plans for the implementation and development of institutional and community-based treatment systems for juvenile delinquents in Kenya.

2. Training Programme: Corruption Control in Criminal Justice

UNAFEI is conducting its Fourth Training Course on Corruption Control entitled “Corruption Control in Criminal Justice” from 5 November to 30 November 2001. In this course, twelve foreign officials and three Japanese officials engaged in corruption control will comparatively analyze the current situation of corruption, methods of corruption prevention, and measures to enhance international cooperation in this regard.

3. Kenya-UNAFEI Joint Seminar

The Government of Kenya, UNAFEI and JICA held a joint seminar in Nairobi, Kenya on the theme of, “Effective Administration of Juvenile Justice”. There were about one hundred participants from the police, prosecution, judiciary and the prison, probation and children’s departments in Kenya. The Seminar focused on the role of the police, prosecution and the judiciary in juvenile justice and analyzed how coordination between the relevant agencies involved in juvenile justice could be improved. The UNAFEI delegation consisted of 6 members of UNAFEI as well as a member of the Japanese Family Court and the Japanese Police. The Seminar was held from 14 to 17 August 2001.

Forthcoming Training Programmes

1. The 120th International Seminar

The 120th International Seminar, entitled “Effective Administration of the Police and the Prosecution in Criminal Justice” is scheduled to be held from 15 January to 15 February 2002. The 120th International Seminar will examine the current situation of different police and prosecution systems, identify any issues and problems and explore countermeasures to improve and enhance these systems in order to provide models for more effective administrations.

Rationale

Crime is of major concern to all countries. As societies have been developing and changing more rapidly, crimes have become more complex and sophisticated. What poses a great threat to society is not only an upsurge of crimes but also an increase of more complicated crimes such as organized crime and transnational crime. Whereas the agencies involved in criminal justice systems have been making every effort to combat such crimes, regrettably, the system does not always work fully and efficiently. Looking at the problems in the system, a major obstacle to achieving the goals of criminal justice process (i.e., the investigatory and prosecutorial stages) is less efficient and successful than expected in spite of their extremely important roles. In other words, insufficient investigation and inappropriate screening of cases can cause various problems such as low conviction rates, overloading of courts, delays in trial proceeding, and the increase of prisoners awaiting trial, which seriously violate the rights of defendants and have an impact on society.

Under such circumstances, the systematic and functional reform of the police and prosecution has been or is being carried out in some countries throughout the world. In addition, one of the topics to be discussed at the eleventh session of the United Nations Commission on Crime Prevention and Criminal Justice to be held in 2002, will be “Criminal Justice Reform”. Therefore, it is right time to reconsider the criminal justice system, in particular the police and the prosecution, from the viewpoint improving the system as a whole. Unless both agencies function effectively and effectively, any law or international conventions would not have the desired effect of fighting crime. Considering this situation, we focus our discussion on how the police and the prosecution system should operate. Essentially we must identify the problems that arise in the criminal justice process and find the best way to make the process and system more effective.

In considering the issues of the police and prosecution, firstly, discussion has to be focused on the police structure. Needless to say, the police system itself should be sufficiently organized to carry out its tasks successfully. Effective cooperation and coordination amongst different investigative agencies, and between the national headquarters and the local police, are furthermore required.

Of the problems that hinder effective investigations, arbitrary political influence is one of the greatest concerns. It is, therefore, imperative to discuss how to structure safeguards which do not allow undue external influences to be exerted by arbitrary political interventions and pressure.

Secondly, there is the relationship between the police and prosecutors. Since they are intrinsically linked and inseparable, in light of their roles, they must complement each other in order to conduct investigation successfully. Effective cooperation between them must be realized. In some countries, prosecutors consult with the police even at an early stage, and give advice or instruction to them to complete the investigation while responding respecting the independence of the police. Although the power vested with prosecutors differs throughout the various systems worldwide, it is

imperative to discuss and ascertain the best system and practices for the effective and successful investigations ensuring between them.

Thirdly, we must discuss how to enhance prosecutorial functions, especially case screening. Effective and appropriate case screening conducted by the competent agencies (public prosecutors, police prosecutors, magistrates, or courts) is crucial to secure a sound and efficient criminal justice system, although case screening systems and evidentiary standards for prosecution differ from one country to another. This topic also looks at the issue of which agencies or systems would be more appropriate to conduct case screening effectively.

Giving due consideration to the above rationale, this Seminar intends to explore more effective administration of the police and the prosecution in criminal justice systems in each of the participating countries. By clarifying and analyzing the actual situation and problems, sharing experiences and knowledge, we will be able to find the most appropriate direction towards effective police and prosecution systems.

In the discussions of this seminar, focus will be placed on the following elements:

1. Effective police systems:
 - (a) Current situations and problems
 - (b) Conceivable measures to improve police systems
 - (c) Independence from arbitrary political and external influence
2. Cooperation between the police and prosecutors:
 - (a) Systematic relationship between the police and prosecutors
 - (b) The role of prosecutors in criminal investigations, such as advice and instructions to the police
3. Effective case screening by prosecutors or other competent agencies:
 - (a) Current situations and problems
 - (b) Countermeasures to improve case screening

Forthcoming Activities

1. Philippines-UNAFEI Joint Seminar

The Philippines-UNAFEI Joint Seminar will be held in Manila under the theme of "Community Involvement in the Criminal Justice Administration" from 5 to 8 December 2001. The Government of the Republic of the Philippines, JICA and UNAFEI will organize the Joint Seminar.

ADMINISTRATIVE NEWS

Overseas Trips by Staff

Mr. Keiichi Aizawa (Deputy Director) and Mr. Kenji Teramura (Professor) visited Costa

Rica from 14 to 28 July 2001 where they presented lectures on behalf of UNAFEI at the Third International Training Course on Effective Treatment Measures to Facilitate Reintegration into Society .

Mr. Mikinao Kitada (Director), Mr. Yuuichirou Tachi (Professor) and Mr. Kunihiro Suzuki (Staff) visited the People's Republic of China from 15 to 22 July 2001 for the purpose of fostering international exchange between the respective criminal justice administrations.

Mr. Hiroshi Tsutomi (Professor) and Mr. Kei Someda visited Kenya as short-term experts, as part of a JICA international assistance scheme providing special support to the Children's Department of Kenya from 24 July to 14 September 2001.

Ms. Sue Takasu (Professor) attended the Inter-Governmental Open-Ended Expert Group Meeting to Prepare Draft Terms of Reference for the Negotiation of an International Legal Instrument against Corruption in her capacity as a representative of the Japanese Government, from 30 July 2001 to 3 August 2001.

Mr. Mikinao Kitada (Director), Mr. Tora Miura (Professor), Mr. Yasuhiro Tanabe (Professor) and Ms. Mikiko Kakihara (Professor) formed the UNAFEI delegation which attended the joint Kenya-UNAFEI Seminar in Nairobi, Kenya from 6 to 22 August 2001.

Mr. Yasuhiro Tanabe (Professor) attended the International Association of Prosecutors' Annual Conference in Sydney, Australia from 1 September to 8 September 2001 where he made a presentation to the conference.

Mr. Keiichi Aizawa (Deputy Director) participated in the Seminar on Extradition and Mutual Legal Assistance as a visiting lecturer in Laos from 22 September to 1 October 2001.

Mr. Mikinao Kitada (Director) attended the 17th Law-Asia Conference held in Christchurch, New Zealand from 3 to 8 October 2001 where he was invited to speak at two of the sub-sessions.

Mr. Kenji Teramura (Professor) acted as an observer at the 21st Asian and Pacific Conference of Correctional Administrators which was held in Cheng Mai, Thailand from 20 to 27 October 2001.

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Mr. Kenji Teramura

Chief of Information & Library Service Division, Professor

| | |
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| Mr. Yuichiro Tachi | Professor, 119 th Course Programming Officer |
| Mr. Yasuhiro Tanabe | Professor, 119 th Course Sub-Programming Officer |
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| Mr. Hiroshi Tsutomi | Professor |
| Ms. Mikiko Kakihara | Professor |
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