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## REPORTS OF THE COURSE

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### GROUP 1

#### MEASURES TO COMBAT ECONOMIC CRIME, INCLUDING MONEY LAUNDERING

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<i>Chairperson</i>	Mr. Alfred Kofi Asiama-Sampong	(Ghana)
<i>Co-Chairperson</i>	Mr. Kazuya Tonoike	(Japan)
<i>Rapporteur</i>	Mr. Titawat Udornpim	(Thailand)
<i>Co-Rapporteur</i>	Mr. Yasuharu Kawase	(Japan)
<i>Members</i>	Mr. Kiyohiro Tanaka	(Japan)
	Mr. Khamphet Ouanheane	(Laos)
	Mr. Khin Maung Win	(Myanmar)
	Mr. Ronald Bei Talasasa	(Solomon Islands)
<i>Advisers</i>	Dep. Dir. Tomoko Akane	(UNAFEI)
	Prof. Motoo Noguchi	(UNAFEI)
	Prof. Tamaki Yokochi	(UNAFEI)

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### I. INTRODUCTION

The members of Group 1 unanimously agreed that economic crimes including money laundering may cause a devastating effect on the economies of nations, as they increase in scope, intensity and sophistication. It was noted that economic crimes impede a country's economic, social and political development, especially that of developing countries that are more vulnerable to money laundering.

It was further observed that, in recent years, globalization has provided organized criminal syndicates with an environment to significantly broaden the range of their illegal activities. In addition, there is a link between economic crimes, money laundering, and organized crimes. Economic crimes and organized crimes often involve money laundering, causing bad effects on business, development, governance and the rule of law.

The Group made discussions based on the understanding that the objective of money launderers is to disguise the illegal origin of criminal proceeds so that they can be used as if from legitimate sources.

Considerations were also given to forms and methods of economic crimes and money laundering as they occur in individual countries, and problems they present to respective criminal justice systems. An increased threat of these crimes, coupled with the globalization and the explosion of communication technology, requires each country to put in place effective legislative measures to combat it.

The following sections briefly illustrate the situation of each country of the group members. Each section was initially drafted by the member(s) from that country with discretion as to the area to be focused on, depending on varying situations from country to country.

### II. THE SITUATION OF GHANA

#### A. The Current Economic Crime, Including Money Laundering

In Ghana different types of economic crimes occur. They include embezzlement, drug trafficking, bribery, corruption, counterfeiting, fraud by false pretences, bank fraud, internet fraud, insider trading, and stock manipulation. The following three actual cases will illustrate the modus operandi of these crimes.

##### 1. Impersonation

The victim received a phone call allegedly from the Embassy of country A in Ghana, claiming that the Ambassador agreed to assist the victim and his family in entering country A. Then the victim received another call from the same person stating that the cost of visa and flight tickets had already been paid and the travel arrangements for the victim and his family had been confirmed. The victim agreed to pay \$20,000 as a part of the travel cost. The police, after being consulted by the victim, arrested the accused who had pretended to be the head of the Visa Approval Section of the Embassy of country A for fraud.

## 2. Bank Fraud

Two men attempted to conduct fraud against the Central Bank using its fake letterheads. They designed the letterheads at an internet cafe and forged the signature of the Deputy Governor of the Bank. Then they informed the Bank that the said amount had been transferred from two foreign banks into an account and requested that the money be disbursed to the account holder. The bank had a tip off and the police arrested the two men.

## 3. Internet Fraud

Two men used a credit card that belonged to a foreign businessman to order goods in the amount of \$4,000 from abroad through the Internet. After the goods had been delivered, it was found that the credit card was a stolen card. When the goods arrived, the Criminal Investigation Department collaborated with FEDEX and arrested the criminals.

## **B. Problems**

In Ghana, the weak capacity of law enforcement offices and their inaccessibility to relevant information are serious problems, and they greatly hamper the detection and investigation of crimes. Traditionally, crimes were investigated by conventional law enforcement agencies such as the Police, Customs, Narcotic Control Board, and Immigration offices. However, because of the occurrence of a wide range of economic crimes these days, the functions of these traditional agencies are impeded by:

lack of expertise, modern equipment and modern methods of investigation;  
high cost of proactive investigation of crimes;  
lack of independence in initiating and conducting an investigation; and  
lack of logistic supplies to law enforcement agencies.

## **C. Legal Framework**

In Ghana, the Criminal Code 1960, Act 29 is the main legal provision on this matter, although some other laws deal with certain economic crimes. The Government is preparing laws to deal with cyber crimes and other modern economic crimes.

One of the existing problems is that a criminal court cannot enforce its order for recovery of property or value unless the victim brings a civil suit against the offender.

In conformity with the 1988 UN Convention (Vienna Convention), Ghana enacted the Narcotic Drug (Control, Enforcement, and Sanctions) Law 1990, Provisional National Defence Council Law 236 and criminalized laundering of proceeds from narcotic drugs. When the money is laundered through fraud or some other offences, it is punishable under the Criminal Code.

Currently, the Money Laundering (Proceeds of Crime) Bill, 2005 is before the Parliament. Some of the features of this Bill include the establishment of a financial intelligence unit (FIU), customer identification, record keeping, monitoring of suspicious transactions, procedures for seizure and confiscation, and restraining orders. These conform to the UN Transnational Organized Crime Convention and the FATF Recommendations. The Bill makes money laundering an extraditable offence and includes provisions on the seizure of property in relation to foreign offences where there is a mutual legal assistance agreement.

Also before Parliament is the Whistleblower Bill to provide a way that individuals, for the public interest, can disclose information that relates to corruption, or other illegal conduct or practices, to investigative authorities while protecting the individuals who reported it.

## **D. Institutional Measures to Combat Economic Crime**

Apart from the existing legal framework for combating economic crime including money laundering, the following bodies contribute significantly to reduce crimes in Ghana:

1. Courts;
2. Bank of Ghana;
3. Serious Fraud Office (SFO);
4. The Police;
5. The Attorney General's Department;

6. Securities Regulatory Commission;
7. Narcotics Control Board;
8. Immigration Service;
9. Customs, Excise and Preventive Service (CEPS); and
10. Bureau of National Investigation (BNI).

#### **E. Other Measures to Combat Economic Crime**

In addition, the Government of Ghana provides the following measures to fight against economic crimes:

1. The reward system;
2. Modern information system (Geographic Information System - a functional database of criminals to monitor their movement);
3. Security training institutions;
4. Special tribunals for Government officials to deal with those who are involved in malpractice and corruption in public sector institutions;
5. Public awareness programmes in the mass media; and
6. A courts inspection unit, under the judiciary, is to be set up to inspect judges' records and examine the fiscal situations of the judiciary.

### **III. THE SITUATION OF JAPAN**

#### **A. Current Situation of Economic Crimes, including Money Laundering**

In Japan, various kinds of economic crimes occur everyday as a result of economic activities, including many large-scale ones that use a corporation as a vehicle. For example, under the recent economic recession, there have been fraud cases where companies sold non-existent financial products to customers, promising high returns. There were also cases of breach of trust by directors of financial institutions who extended bad loans without sufficient collateral, knowing the borrower was in a difficult financial situation.

However, the economic crimes that are bringing about particularly serious social problems recently are those abusing bank accounts. Especially, loan sharking, the "it's me" scam and fictitious billing which are collectively known as "the three major types of abuse of bank accounts".

Loan sharking is a loan with an illegally high interest rate often accompanied by a threat if the loan is not paid back.

The "It's me" scam is a fraud using telephone calls pretending to be the receiver's close relatives such as a son or grandson, and requesting money. The offender deceives the victim by a false story such as "I've been involved in a car accident, and I need money to settle the trouble. Please transfer the money to the bank account of the other party".

Fictitious billing is also a fraud that charges fees for non-existent services. In this fraud, letters requesting non-existing charges such as "you have not paid the Internet fee for visiting a site with a fee," are sent to people at random, and addressees are requested to transfer money to the designated bank account if they call the cell phone number indicated in the letter.

These economic crimes are committed by groups led by Japanese gangsters. They launder the proceeds of crime by purchasing bearer securities or transferring the money to bank accounts in foreign countries.

#### **B. Legal System**

In Japan, there are laws to punish economic crimes, and there are laws to prevent and punish money laundering as follows:

The Anti-Drug Special Law came into effect in July 1992, creating the suspicious transactions reporting system for drug crime offences.

The Anti-organized Crime Law came into effect in February 2000, establishing a FIU. This law expanded the scope of predicate offences to other serious crimes.

The Law on Customer Identification and Retention of Records on Transactions by Financial Institutions

came into effect in January 2003. This law requests financial institutions to conduct customer identification and keep records of their transactions.

The number of suspicious transaction reports exceeded 40,000 in 2003. Financial institutions can close the bank account when the account is suspected of being used for crimes.

### **C. Problems**

There is no law to punish the crime of conspiracy in Japan. The predicate offences are in principle crimes with five years imprisonment or more as the maximum penalty.

Japanese investigators can not use controlled delivery except for cases of drug crimes, and wiretapping except for certain serious crimes such as murder or illegal drug trafficking for the purpose of profit. Judicial bargaining is also not allowed in Japan. When a crime such as loan sharking or an “it’s me” scam is investigated, it is often difficult to identify the criminal as cellular phones are often used. It is also difficult to arrest criminals higher up in the group’s hierarchy.

There is no procedure to confiscate proceeds of crime in civil proceedings, and as a result, it is sometimes difficult to recover the victim’s damages.

Japan has laws to punish money laundering, but there have not been many cases that have led to the arrest and prosecution of the offenders. This is because of the difficulty in proving that there was knowledge that the money was the proceeds of crime as a mental element.

### **D. Solutions**

In order to become a party to the UN Transnational Organized Crime Convention, Japan needs to criminalize conspiracy and expand the scope of predicate offences. The Diet is discussing the revision of the Penal Code and other laws.

The introduction of wiretapping and judicial bargaining need to be examined, as well as the reversal of the burden of proof relating to the mental element of crimes.

Procedures to confiscate proceeds of crime in civil proceeding and provide access to compensation and restitution for victims should be established.

It is also important that investigators make much more efforts to punish the crime of money laundering.

## **IV. THE SITUATION OF LAOS**

### **A. Introduction**

Economic crime, including money laundering is a part of the major transnational organized crime that needs cooperation among regional, national, and international law enforcement bodies.

### **B. Current Situation of Economic Crime, Including Money Laundering**

Laos started to develop the present legal system in 1989. Currently, Laos does not have laws to regulate all aspects of society. For instance, it does not have an anti-money laundering law yet.

At present, economic crimes, including money laundering in Laos are increasing, including the violation of the Environment and Resources Law, Finance Bank Law, Enterprise and Commerce Law, Industry and Labour Law, Science and Technologies Law, and Public Administrative Law.

### **C. Legal System**

The United Nations Development Programme (UNDP) has assisted legal reform in Laos since 1982. The Swedish International Development Cooperation Agency (SIDA) has provided financial and technical assistance to the Ministry of Justice since 1990. Japan International Cooperation Agency (JICA) also assisted in drafting new laws. These institutions often invite foreign experts to hold workshops to introduce basic legal principles and assist in drafting laws.

Laos legal reform is closely linked to international assistance and conditions of loan agreements that the Government has signed with international financial institutions such as the World Bank, International Monetary Fund, and the Asian Development Bank.

The government of Laos has adopted a medium term national legal development plan.

The plan is expected to be a road map for further development of the Laos legal system. In addition, the Government had to enact five implementing regulations or Prime Minister's Decrees in relation to accounting law, budget law, business law, law on the promotion and management of foreign investment, and a decree on arbitration.

#### **D. Problems**

Economic crimes in Laos are increasing, especially in big cities. In addition, there are new types of economic crimes arising. In the past, most economic crimes were smuggling of traditional goods across the border, but now there is illegal smuggling of cars, trucks, and cement. There are also offences against national resources such as illegal logging and forest destruction. In addition, there are black markets for foreign currency exchange.

#### **E. Solutions**

In order to control economic crimes, including money laundering, effectively, anti-money laundering laws need to be made. The Government should issue a legal instrument to direct concerned ministries and agencies on how to deal with these crimes. The Government should make a lot of effort to train law enforcement officers to carry out their tasks effectively. Until the anti-money laundering law is made, the Government needs to instruct concerned Government agencies as to how to carry out their tasks to cope with the crime at each stage of the combating process.

### **V. THE SITUATION OF MYANMAR**

#### **A. Introduction**

Economic crime is one of the most serious problems facing the international community. Economic crime includes a broad range of illegal activities: conventional types of crimes such as fraud, embezzlement, breach of trust and corruption; offences that abuse financial systems or offences against free and fair trade such as fraudulent price manipulation and insider trading in the stock/financial markets; and money laundering.

A market economy system has been practiced in Myanmar since 1989. Businesses have to be registered at the Ministry of Commerce. There are at present more than 15,000 businesses registered in Myanmar, but most of them are not operating for various reasons. At present, various kinds of economic crimes are occurring in Myanmar.

#### **B. Current Situation of Economic Crime, Including Money Laundering In Myanmar**

In Myanmar, most economic crimes are investigated by the Myanmar Police Force and Bureau of Special Investigation (BSI). The BSI is specially formed for investigating economic crimes and malpractices of public servants. Economic crimes prevalent in Myanmar are: counterfeiting, fraud, crimes against intellectual property rights, smuggling, foreign currency related crime, and manipulation of market price. These are prosecuted under relevant laws.

Myanmar is a state party to the 1988 UN Drug Convention (Vienna Convention) and 2000 UN Transnational Organized Crime Convention. To be in line with the resolutions of the 1998 UN General Assembly, Myanmar enacted the Control of Money Laundering Law (CMLL) on 17 June 2002, and the Rules for CMLL on 5 December 2003.

The Myanmar Government formed the Central Control Board (CCB) and Financial Intelligence Unit (FIU) in line with the CMLL and its Rules. The CCB prescribed the threshold amount so that banks, financial institutions, and the Land Records Department can report transactions above the threshold and suspicious and unusual transactions of cash/property to the FIU. The FIU received and analyzed 1,554 cash transaction reports and eight property transaction reports during the first seven months, but, up to date, there have been no confirmed suspicious and unusual transactions.



### **C. Legal System**

Most of the drug-related money laundering cases were investigated, prosecuted and the proceeds confiscated under the 1993 Narcotic Drug and Psychotropic Substance Law before the enactment of the CMLL.

Whoever commits money laundering offences contained in the Narcotic Drug and Psychotropic Substance Law is liable on conviction to be punished with imprisonment for a minimum of 10 years and a maximum unlimited period. The predicate offences, except those contained in the Drug Law, on conviction are liable to be punished with imprisonment for a maximum of 10 years and a fine.

The CCB formed an investigative body to conduct enquiries into two private banks (Asia-Wealth Bank and Myanmar May Flower Bank) that were allegedly involved in money laundering. The Investigative body consists of eight members, headed by an experienced auditor who, however, does not have the technical knowledge and skill for a money laundering investigation.

The CCB and FIU have held two local workshops and four training courses on money laundering for staff of relevant departments and agencies, especially on matters related to the FIU's cooperation with relevant authorities in the investigation of transnational drug crimes and seizure of assets in collaboration with the Drug Enforcement Administration of the United States and Australian Federal Police.

### **D. Problems**

Anti money laundering tasks and enforcement measures to be implemented are all unfamiliar to Myanmar. Therefore, it is necessary to enhance the technical expertise and knowledge of the investigative authorities, banks and financial institutions, and the judiciary, by holding training courses and workshops. As for reports on suspicious and unusual transactions, it is necessary for officers and the staff of bank and financial institutions to receive appropriate training so that they can differentiate the suspicious transactions. Nowadays some personnel are being trained under the arrangements of the Central Bank of Myanmar. The personnel from the FIU discussed money laundering activities, suspicious transaction reporting, banks' due diligence, and the "know your customer" rule.

Investigators (the police) can get some information to trace money laundering from banks and financial institutions, but most of the public are using underground banking systems (Hundi) for the transfer of cash.

### **E. Solution**

Myanmar has committed to cooperate with the international community in the fight against money laundering. Myanmar enacted the CMLL and its Rules, and the Mutual Assistance in Criminal Matters Law was enacted very recently in order to cooperate more easily with the international community.

However, due to the lack of knowledge and experience on money laundering and financial investigation in general, education of the staff and officials of banks, private sectors and government agencies is needed.

## **VI. THE SITUATION OF THE SOLOMON ISLANDS**

### **A. Introduction**

It is interesting to note that when one talks about economic crime or money laundering in the Solomon Islands, the first reaction will be, "it has nothing to do with us as yet, we are not at risk," or, "we do not have the resources to deal with the issue." Whether it is deliberately misconceived or by pure ignorance on the part of our criminal justice officials, the burning truth is that, there is no room for complacency. Crime, as is widely known, does not respect society, cultural identity or territorial sovereignty. Its' aim is to gain from its activity and gain at any cost, leaving trails of bitterness, anguish and fear on the part of its victims. On that basis, the challenges facing authorities responsible for enforcing the "Money Laundering and Proceeds of Crime Act 2002", are more pressing than ever before.

The objective of money launderers is to disguise the illicit origin of profits generated by criminal activities, so that the profits can be used as if they were derived from legitimate sources. (see UNAFEL, Annual Report for 2000 and Resource Material Series no. 59, pp. 625, 657).

## **B. Current position**

Solomon has had its fair share of economic crime, ranging from ordinary misdemeanours, such as simple larceny or theft, embezzlement, conversion, to serious felonies as forgery, fraudulent representations and conspiracy to commit a felony.

The following are summaries of two cases that almost decapitated the Solomon economy.

### **1. Family Charity Fund**

A woman who claimed to be a medical doctor lured people to believe that she could pay millions in returns if they would join her money making scheme. She successfully convinced some credible people in society who assisted her in defrauding thousands of clients. The clients paid \$250 each and were promised a hundred fold after three months. The three months waiting period turned into another three months and the waiting continued. It became apparent that the scheme was a scam, only benefiting the directors of the scheme. The directors travelled overseas and continued to promise the returns to the clients. But there were no returns. The directors began blaming the Prime Minister and the Governor of the Central Bank for withholding the payments. The clients were so convinced that they threatened to burn down the Central Bank and the Prime Minister's office. The Governor and the Office of the Prime Minister had to make public explanations that there was no money for returns and that the scheme was a scam. The clients were not convinced and continued to believe the directors. The directors were finally arrested and sentenced to five years imprisonment. Some clients still believe that the directors will pay them after they are released from prison.

### **2. Raonk - Government Deal**

The National Government was approached by a person from neighbouring Bougainville who lured Government officials into believing that if the Government pays \$10,000,000 to his money making scheme, he would pay millions of dollars in return.

The Government was convinced and finally signed a contractual agreement with Raonk. The Government was yet to fulfil its part of the obligation when it was alerted to the failure of the deal. It is not clear whether investigations were carried out on this matter.

### **3. Other Suspicious Deals**

#### **(i) Medical University**

An academic from India colluded with one or two Government Ministers and some business entrepreneurs, and introduced a programme that offers Medical Degree Courses. About 15 students from overseas enrolled. They advertised the programme on the Internet portraying a medical campus by showing government buildings that accommodate government offices that had nothing to do with the medical programme. This case is under investigation. However, there's no law that clearly defines this type of activity as a crime.

#### **(ii) Solomon Mutual Insurance**

This is an insurance company, a joint venture of the national provident fund (workers savings scheme) and a company in Papua New Guinea. It is suspected that no capital was invested from an overseas partner but most of the money that met the cost of the operation might have come from the savings scheme. The Director of Public Prosecutions and the Comptroller of Insurance took up a case in the High Court against SMI but were unsuccessful. It appears that the legal regime against money laundering would be a suitable recourse.

## **C. Legal System**

The Penal Code, including the Drugs Act, provides for the criminalization of general crime, including those referred to above.

The Money Laundering and Proceeds of Crime Act 2002 was passed by Parliament but is yet to enter into force.

## **D. Problems**

The problems facing the Solomon Islands are quite immense, such as limited resources and expertise

both in the investigative and prosecutorial parts of the criminal justice agencies. Another factor is mere ignorance and lack of knowledge on the subject.

### **E. Solutions**

It is now time to think seriously about the likely consequences of an ongoing evil of being complacent over many issues. As no one can guarantee that there are no money laundering activities ongoing in the Solomon Islands, no one should pay half-hearted attention to this global issue. It is recommended therefore that the Money Laundering Act 2002 should be enacted without delay. In addition to that, there should be regular intensive training courses for investigators and prosecutors.

## **VII. THE SITUATION OF THAILAND**

### **A. Current Situation of Economic Crime in Thailand**

Thailand has faced many large-scale cases such as financial and securities fraud (fraudulent activities and malpractice in financial institutions and the stock market), price manipulation in the stock market, and insider trading. Consumer fraud using a pyramid scheme is also common.

Illegal gambling, mostly on football and the underground lottery, and pirated goods permeate daily life. Drug Trafficking has been the most serious crime in Thailand for decades. Especially methamphetamine or “Ya-Baar”.

In the past, these wrongdoers mostly established shell companies in Caribbean nations and kept the money in shell companies’ bank accounts. Nowadays they keep their proceeds in cash and hide it somewhere. Another widely used method is buying expensive cars or stocks, reselling them, and keeping the cash in another person’s bank account. Some bought high cash-flow businesses such as hotels or restaurants. Buying and selling of real estate, precious stones, Buddha Images (some are worth more than \$1 million USD), and antique items have also been used for laundering money.

### **B. Law**

The Securities and Exchange Act B.E. 2535 (1992) empowered the Office of the Securities and Exchange Commission of Thailand to supervise the capital market. It also has power to examine unfair securities trading, i.e. insider trading, price manipulation, etc.

The Anti-Money Laundering Act (AMLA) of Thailand poses duties on financial institutions to require customer identification. It requires financial institutions, the Office of Land and Real Estate and service-providers of investment and capital movement to report any suspicious transactions or any transaction that is for a significant amount of money or a high value asset.

Thailand’s AMLA has eight predicate offences (revised on 11 August 2003).

### **C. Problems**

To request a customer’s identification and report suspicious transactions are not enough because it cannot track beneficial owners.

The scope of predicate offences is limited. Some main crimes such as gambling and intellectual property offences are not included. These would not fulfil the objective of the Act to discourage a criminal’s incentive in economic value.

Investigators lack manpower and budget to detect crime all over the country.

### **D. Solutions**

It is beyond question that economic crime causes great harm to society. This type of crime is usually committed by well-organized groups with good management and wise use of communications technology. Moreover, they spread their criminal activities by cooperating with other organized criminal groups beyond national borders. With sophisticated methods, they can conceal their proceeds, reinvest in both legal and illegal businesses and gain more profits. For conventional laws that were designed to deal mainly with individual crimes, it is difficult to detect and prevent crimes caused by organized groups. Each country has its own methods to deal with transnational organized crimes, but the methods need to be synchronized to



enable cooperation with other countries. To make it possible, each country should accept various UN Conventions and adjust domestic laws to comply with the requirements.

Not only financial institutions but also corporations in securities and the stock exchange market should take the Customer Due Diligence (CCD) measures. The same applies to dealers in precious items, real estate agents, lawyers, and accountants. Furthermore, the Government should request them to take a fit and proper test to create good corporate governance.

Full measures for CCD should be introduced to the AMLA such as measures to identify the beneficial owner and measures to understand the ownership and control structure of the customer as a legal person.

By taking a threshold approach, all serious crimes should be predicate offences of money laundering. Criminals move very fast in laundering their proceeds and the State should act proactively and respond quickly to tackle their criminal proceeds.

Whistleblowers and informants should be protected by law, or incorporated in the AMLA, in order to encourage them to report any economically unreasonable transactions to investigators.

### VIII. CASE STUDY

The group held further discussions using a hypothetical case that can be summarized as follows:

Mr. A, a manager of Bank F, granted a loan to Mr. B, president of Company K who is an old friend of Mr. A, knowing that there was a possibility that the loan would not be paid back. Ms. C, a mistress of Mr. B, who was asked by Mr. B to find a way to repay the loan, established a shell company and conducted a consumer fraud using a part of the loan. Mr. A, Mr. B and Ms. C all received proceeds from the fraud.

Subsequently, the criminal proceeds of the fraud was put into country Z's bank accounts, then withdrawn by ATMs, and then used to pay back the loan, purchasing real estate and bearer securities, or distributed as personal gains among the fraud group. Ms. D, an accountant in country Z, played a key role in a series of money laundering activities.

The interpretation of Mr. A's act of granting the loan differs from country to country. In Japan and Ghana, Mr. A's act can be prosecuted for breach of trust. In Japan, Mr. B may be prosecuted as an accomplice of the breach of trust depending on the situation. While in Thailand, Myanmar, Laos and Solomon Islands, Mr. A's act does not constitute a crime and should be handled through civil proceedings.

It was noted that, in the latter group of countries, the loan proceeds are not themselves criminal proceeds and therefore, their laundering does not constitute the crime of money laundering. This may be regarded as insufficient by some other countries in view of an international trend to make money laundering punishable in as many situations as possible.

Despite differences of systems among countries, Mr. A's act is at least considered to be a violation of the internal code of his bank in all the countries. Some participants noted the need for strict supervision of financial institutions, especially in developing countries where Mr. A's act does not constitute a crime.

All participants agreed that Ms. C should be charged for fraud, but there were different opinions as to who should be tried as a principal(s) of this crime. Some thought that Ms. C is the principal, and Mr. B and Mr. A are both accessories. Some thought that Mr. B and Ms. C are both principals and Mr. A is an accessory. Others thought that all of the three should be categorized as principals. However, all agreed that the criminal responsibilities of Mr. B and Ms. C are greater than that of Mr. A.

It was reported that, in Ghana, the occurrence of fraud has been decreasing since the introduction of a reward system for informants. The group agreed that the introduction of a mechanism to encourage and protect informants in relation to certain corporate crimes, such as a whistleblower system, would be necessary.

In relation to an issue related to money laundering in this case, the group members agreed that customer identification before opening a bank account is critical to prevent it from being used for illegal purposes. It was discussed that awareness raising and training of financial institutions, who are to actually conduct customer identification and customer due diligence, are particularly important, especially in the initial stage of the enactment of relevant laws or introduction of these systems. It was also noted that the recently revised FATF 40 Recommendations request financial institutions to identify the true ownership of bank accounts.

The Japanese participants explained the introduction of the Customer Identification Law enacted in January 2003. Before that, customer identification was encouraged in guidelines issued by bankers associations, but it was not mandatory. The new law made it a legal obligation of financial institutions. It was reported that the Japanese Government made a great effort to make the new law known to financial institutions. Seminars were held and pamphlets were distributed to bankers associations and financial institutions, both on legal aspects and actual day-to-day practice. Financial institutions are also instructed to review the appropriateness of customer identification procedures for existing bank accounts that were created before the enactment of the law. If a particular account is found suspicious in this regard, the account holder will be requested to submit additional documents, and upon its failure, the account will be subject to more stringent supervision, and in some cases the bank may eventually close the account. Bearer securities mentioned in the case study are also subject to customer identification under the new law at the time of purchasing and selling, but there is a tendency for banks to hesitate to implement it strictly when customers who purchased bearer securities before the enactment of the law want to sell them.

The group examined possible approaches and challenges of the investigation of this case, based on an example using the Japanese legal system. The group agreed that the investigation of Ms. D, who conducted most of the money laundering activities, is critical for the success of the investigation and prosecution of this case. However, it is not clear if the investigative authorities of Country Z initiate investigation of this case by themselves. Neither the original crime of the breach of trust in relation to the loan by Bank F to Company K, nor the subsequent consumer fraud in another country, was committed in Country Z. In addition, bank accounts opened in country Z that were used for money laundering were under the name of individuals who were irrelevant to this criminal group, as the information on these individuals was collected in a criminal way in another country. Under this situation, it may not always be the case that Country Z recognizes the existence of Ms. D's money laundering activities on its own and will start an investigation. Then, requests for mutual legal assistance to Country Z would be key to move things forward.

The group discussed the issue of alternative remittance systems as a possible obstacle for investigative authorities, as alternative remittance providers usually do not conduct customer identification and leave no transaction records. The group members revisited the revised FATF 40 Recommendations that changed the definition of financial institutions to include all types of money or value transfer services, including informal or alternative remittance systems. As a result, these are also subject to the requirements of FATF 40 Recommendations now.

## IX. OBSERVATIONS

The group did not intend to reach certain conclusions on the subject matter as it placed more significance on brainstorming type discussions, learning from different systems in other countries. Through this process, all the members of the group reconfirmed their belief that each country's criminal justice system must be based firmly on its historical, economic, cultural, and social environment. However, the group members also renewed the sense of urgency about the need to establish an effective mechanism to cope with developing typologies of economic crimes, including money laundering. The following are some of the observations shared among the group members:

- 1) Economic crimes are mostly committed by organized criminal groups. Moreover, these crimes are often committed beyond national borders and therefore pose difficulties to investigative authorities that are based on the traditional notion of a sovereign country. A number of UN Conventions were intended to work as the key instruments to overcome such difficulties. It is fortunate that many countries in the world have realized the significance to catch up with these international initiatives and made efforts to adjust their national legal systems.

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- 2) As money launderers continue to move from countries where there are stringent legal and institutional regimes to combat money laundering to countries where such regimes are non-existent or lax, collective efforts by countries that do not allow loopholes for criminals are important.
- 3) Each country is also requested to provide mutual assistance to foreign counterparts in the course of investigation, indictment and trials to the extent possible, and to closely cooperate among law enforcement authorities within the country.
- 4) Information sharing among investigative authorities is central to the successful and effective investigation of complex economic crimes, including money laundering. This should be enhanced at the national, regional, and international level. International forums such as the Egmont Group of FIU provide immense technical information, knowledge, and a network and each country is strongly encouraged to make the best use of these resources.
- 5) The use of informal channels to obtain information or evidence from foreign countries is strongly recommended. This applies to cases where a mutual legal assistance treaty does not exist between the countries in question, and to cases where such a treaty exists but speedy provision of information or evidence is critical. As official procedures stipulated in mutual legal assistance treaties often use diplomatic channels that take time, it is recommended that informal channels be also used to obtain necessary information and evidence, simultaneously or before the diplomatic channels. In this connection, investigators should always bear in mind the issue of admissibility of evidence in criminal courts.
- 6) Attendance on UNAFEI training courses is also useful in enriching their participants' professional networks. After spending one month together, a participant will be comfortable about sending an email to his UNAFEI classmate, who is his counterpart in another country, to discuss an appropriate way of informal mutual legal assistance.