

行政院所屬各機關因公出國人員報告書

(出國類別：出席國際會議)

參加第二十一屆劍橋國際經濟犯罪論壇
(The 21st Cambridge International
Symposium On Economic Crime) 出國報告

會議期間：九十二年九月十一日至十二日

會議地點：英國劍橋

報告人：慶啟人 法務部檢察司 調部辦事檢察官

報告日期：中華民國九十二年九月三十日

目 錄

壹、 前言.....	1
貳、 議程.....	2
參、 我國簡報—台灣之洗錢防制、反恐怖法制及實務之成果報告..	7
肆、 美國愛國者法案關於防制洗錢規定對於他國之影響.....	9
伍、 對於拉丁美洲及加勒比海各國境外金融中心反洗錢評鑑之客觀 標準.....	12
陸、 心得及建議.....	16
附件.....	18
一、 議程（英文版）	
二、 ANTI-MONEY LAUNDERING AND ANTI-TERRORISM IN TAIWAN（「台灣之洗錢防制、反恐怖法制及實務」簡報英文版）	
三、 Recent Achievements in Taiwan's anti money laundering and anti terrorism work（「台灣之洗錢防制、反恐怖法制及實務之成果」報 告英文版）	
四、 The Patriot Act and its Implications for Non-US Jurisdictions（簡報）	
五、 Offshore Centers of Latin America and the Caribbean: The Need for a Level Playing Field in the Search for Integrity	

壹、前言

英國劍橋大學於本（二〇〇三）年九月七日至十三日於該校基督學院舉行「第二十一屆劍橋國際經濟犯罪論壇」（The 21st Cambridge International Symposium On Economic Crime）¹，筆者任職法務部檢察司，因基於職務及所承辦業務之便，受邀出席於九月十一日之研討會中報告台灣防制洗錢及反恐之法制及國際合作經驗。承蒙本部陳部長定南、次長及檢察司蔡司長、洪副司長之支持及鼓勵，得以憑藉職務關係，有幸獲得機會參與此學術盛會，獲益良多。

本件邀請係倫敦政經學院之 Barry Rider 教授，曾於本年三月三日與本部共同主辦有關「打擊恐怖份子及罪犯資金之洗錢防制研討會」時提出。Rider 教授係劍橋國際經濟犯罪論壇之總監兼共同主席，每年該論壇均舉辦為期一週之年度密集研討會，探討國際間有關經濟犯罪之議題，並於會後將與會講座之論文報告彙集成冊以學術期刊出版。本年適值美國「九一一恐怖攻擊事件」屆滿兩年，故研討會以打擊組織犯罪、金融犯罪及恐怖活動以促進金融穩定為主題，並從扣押、沒收洗錢犯罪所得探討如何阻斷恐怖份子之金脈。

此研討會每年吸引來自世界各地之資深官員、外交官、法官、檢察官、執法人員、學術單位及金融專業人士，交換各國之學術研究及執法經驗。藉此機會，可與世界各地之學術機構及政府部門之學者專家或執法人員交換防制經濟犯罪之法制、政策及執法等相關資訊及經驗，並有助於未來對歐盟司法互助之推展。

限於法務部業務規劃及預算經費，雖有幸應邀並奉派出席該研討會，惟並未全程參與此研討會，僅於九月十一日上午應邀出席會議提出簡報，該場研討會主題為：「由各國觀點看禁止污染財富之發展」，提出報告之國家除我國外，計有來自英國、美國、加拿大、瑞士、德

¹ 關於研討會之活動內容請參考網站：www.crimesymposium.org。

國柏林及香港之學者、警政、執法官員及檢察官等，與會者均提出各國有關防制洗錢及反恐之法制及實務經驗。此外，於當日及前一日下午，亦應主辦單位邀請參與有關「美國愛國者法案關於防制洗錢規定對於他國之影響」及「對於拉丁美洲及加勒比海各國境外金融中心反洗錢評鑑之客觀標準」之小組討論，與各該場次受邀出席之學者專家交換心得。

貳、議程²

本年度劍橋國際經濟犯罪論壇舉行為期六天之研討會，各場次研討會議題均極為豐富，議程自每日上午八時起，進行特別早餐小組討論，其後分別為上午之綜合簡報及下午之分組討論，議程安排緊湊，每日均進行至下午六時五十分始結束。再由主辦人安排於基督學院之大廳舉行正式晚宴，晚宴係以傳統劍橋大學之用餐儀式進行，惟於晚宴前先於該學院草坪舉行雞尾酒會，來自世界各地之與會人員得以自由交談，係一難得輕鬆之社交時間。晚宴用餐時間極盡冗長，且儀式繁複，包括晚禱、敬酒、致祝詞、演講均以英國貴族禮儀進行，極為講究。幸好筆者跟隨各國代表遵從主人盛情安排之晚宴流程，也還適應這異國文化，此部分雖非此行公務，惟亦是筆者生平難得之經驗。

由於議題豐富，頗有值得參考之處，故略為翻譯，惟謹就筆者參與研討及簡報之部分（二〇〇三年九月十日至十一日）將議程列出如下：

一、 九十二年九月十日（星期三）

13:45 議題：洗錢對於科技界所帶來的風險

主席：Dr. Michael Taylor, 英國內閣情報及安全部長

² 原文議程資料參閱附件一，內容包含各場研討會子題及參與簡報或座談之主講人之專業背景。

(The Intelligence and Security Secretariat,
Cabinet Office)

報告人：

Mr. Robert Pocica (Pfizer 公司之企業安全部主任，
前美國司法部聯邦調查局網路詐欺查緝中心
之監督特別代理人)

Mr. Tony Hutchings (英國國內犯罪小隊，國內高科
技犯罪小組，助理稽查偵探)

Mr. John Sliter (加拿大皇家騎警商業犯罪組稽查偵
探)

Mr. G Philip Rutledge (美國賓州證券委員會首席律
師)

Mr. Richard Clayton (劍橋大學電腦安全小組)

Dr. Massimo Nardo(義大利 Ufficio Italiano dei Cambi
之經理人)

Dr. James Backhouse (倫敦大學政經學院電腦安全研
究中心主任)

Mr. Alexander Drobik (Gartner Group 之研究部門副
主管)

15:30 茶敘

15:45—17:15 分組討論

分八組進行討論：

1. 打擊網路犯罪

Dale Miskell: 美國司法部聯邦調查局網路犯罪
查緝中心監督特別代理人

2. 租稅制度與洗錢防制

3. 全球洗錢系統之側面觀察

4. 愛國者法案對於美國司法權以外地區之影響

5. 洗錢防制與人權

6. 從奈及利亞觀點看經濟犯罪防制
7. 歐盟金融服務法之最近發展
8. 投資經理人協會暨證券交易人協會談公司治理
議題

17:20—18:50 小組討論

分七組進行討論

1. 英國有關詐欺案件之偵查協調—以英國白領犯罪
查緝中心為例
2. 金融機構間之訊息交換
3. 國際刑事法庭
4. 保險詐欺
5. 九一一後之資訊隱私
6. 監聽及蒐集電子證據
7. 恐怖主義之企業

18:50—19:30 雞尾酒會

19:30 晚餐

二、九十二年九月十一日（星期四）

8:00—9:00 早餐會報：金融行動小組關於禁止資助恐怖份
子之行動計畫

報告人：

John Broome（澳洲臥龍崗大學顧問兼訪問教
授，前任亞太防制洗錢組織澳洲籍共同主席）

Mr. John McFarlane（澳洲國防武力學院國防研
究中心跨國及國土安全計畫主任）

Dr. Riccardo Sansonetti（瑞士聯邦財政部金融市
場科副主管）

9:05 專題演說

主席：Barry Rider（論壇主持人兼共同主席）

演講人：

Mr. Edward H. Jurith (美國國家毒品防制政策辦公室總顧問)

Ms. Jane Earl (英國資產回復局主任)

9:45 第八場研討會

議題：由國家觀點討論禁止污染財富之發展

主席：David Hayton 教授 (倫敦大學國王學院法學教授及巴哈馬最高法院法官)

報告人：

Mr. David Hartnett (英國國家稅收委員會稅收政策主管)

Mr. Peter German (加拿大皇家騎警渥太華總部負責辦理金融犯罪警官兼督察主管)

Mr. Richard Jones QC (伯明罕及倫敦高等法院律師)

Dr Katlen Blocker (柏林律師)

Ms Judith Schmidt (瑞士洗錢防制忠副主管)

Mrs Sara Dayman (倫敦律師)

Mr Lee Radek (美國司法部國際洗錢特別顧問)

Ms Chi-Jen Ching (中華民國法務部檢察官)

Mr Darryl Saw SC (香港副主任檢察官)

茶敘

11:00 第九場研討會

議題：由國際觀點討論禁止污染財富之發展

主席：Sir Ivan Lawrence QC, 下議院內政委員會，皇家地方法院推事及前任主席

報告人：

Mr Joergen Storbeck, 國際刑警組織歐洲分部主任

Mr Simon Regis, 英國內政部司法合作組主

管

Mr Jean Francois Thony, 凡爾賽上訴法院資深法官兼國際貨幣基金助理顧問 (華盛頓特區)

Ms Kimberley Prost, 刑事科主管兼法律及憲法事務局副主管 (Commonwealth Secretariat)

Mr Jonathan Winer, 華盛頓特區 Alston & Bird LLP 金融服務公司顧問, 前美國司法部掌管國際毒品犯罪部門之副助理國務卿

Ms Elizabeth Jacobs, 美國證管會國際事務室主管

13:00 午餐

14:00 第十場研討會

議題：由境外金融中心及銀行秘密之觀點看保護國際金融制度之完整性

主席：Mr Saul Froomkin QC, 論壇主席, 前百慕達檢察總長

報告人：

Mr Reginald Rhoda QC, 直布羅陀檢察總長

Mrs Judith Jones-Morgan, 聖文森檢察總長

Dr Kern Alexander, 倫敦大學高階法律研究中心國際金融規範資深研究員

Dr Shazeed Ali, 牙買加檢察總署助理檢察總長及西印地安大學法律系教授

Mr Ricardo Alba, 巴拿馬

15:30 休息

15:45—17:15 分組討論

分八組進行討論

1. 論可疑交易之監視

2. 國際檢察官協會關於如何追訴金融犯罪及恐怖犯罪之討論
3. 民事扣押
4. 適當注意義務之實務運作
5. 電信市場詐欺
6. 組織犯罪中應使法人負主觀責任之討論
7. 從信託法之效力討論查扣有關民事責任之資產
8. 由企業內部之告密討論揭發企業犯罪之問題

叁、我國簡報—台灣之洗錢防制、 反恐怖法制及實務之成果報告³

我國於民國八十六年制定亞洲第一部洗錢防制法，為能進一步符合國際防制洗錢之標準，並採納亞太防制洗錢組織（APG）對台灣進行相互評鑑後所提建議，於民國九十一年起檢討修正我國洗錢防制法，擴大洗錢之前置犯罪（即重大犯罪）之範圍，增訂金融機構對於大額交易之申報制，賦予檢察官對於疑似洗錢之交易工具得以凍結之權責，同時為遵守國際公約有關全球合作打擊洗錢犯罪之精神，增訂有關沒收、扣押及凍結資產之國際司法互助之規定等，該修正草案於今（九十二）年二月六日公布，並於同年八月六日施行。

依新修正之洗錢防制法第八條之一，檢察官得於偵查犯罪時，凍結洗錢之交易，即檢察官於偵查中，有事實足認被告利用帳戶、匯款、通貨或其他支付工具從事洗錢者，得聲請該管法院指定六個月以內之期間，對該筆洗錢交易之財產為禁止提款、轉帳、付款、交付、轉讓

³ 有關我國簡報部分，筆者於研討會中之口頭報告原文，請參閱附件二。主辦單位並要求參與本屆「劍橋國際經濟犯罪論壇」之學者專家另提出詳盡之書面報告，筆者所提報告 Recent Achievements in Taiwan's anti money laundering and anti terrorism work（「台灣之洗錢防制、反恐怖法制及實務之成果」報告英文版）請另參閱附件三。

或其他相關處分之命令。其情況急迫，有相當理由足認非立即為上開命令，不能保全得沒收之財產或證據者，檢察官得逕命執行之，但應於執行後三日內報請法院補發命令。此一規定有助於與國際合作打擊恐怖活動，並得以保全扣押及沒收犯罪所得之方式，實質切斷資助恐怖份子之金脈，以遏阻恐怖份子以洗錢方式隱匿恐怖行動，並因此減低所造成之損害。

有關反恐作為部分，強調我國目前雖非聯合國會員國，但對於共同維護國際和平之努力向不餘遺力，且臺灣身為地球村之一份子，尤不能置身於世界反恐行動之外，自應積極配合建構相關反恐作為及完備法律制度，以與世界各國建立反恐合作關係。反恐怖行動法草案係由法務部草擬完成，草案內容包括：(1) 參考相關國際反恐怖公約及法令對於恐怖行動之定義，訂定有關恐怖行動、恐怖組織及恐怖份子之定義，以為執法依據；(2) 明定反恐怖行動處理單位由行政院召集政府相關部門成立行政院反恐怖行動小組，以統籌規劃並執行相關反恐怖行動；(3) 訂定由國家安全局負責統合反恐行動有關情資，研判及提供反恐怖行動專責小組、情治機關及相關權責單位；(4) 賦予國家安全局局長在處理重大恐怖攻擊事件之需要時，為避免人民遭受緊急危難，得命阻斷或限制相關通信；(5) 為防範恐怖分子對我國網路之攻擊、破壞、干擾及入侵等作為，及利用本國網路作為攻擊他國網路之跳板，有保存相關網路跨境資料以供相關單位調查防範之必要，故於草案中規定電信事業應使其通信系統之軟硬體設備具有保存及提供網際網路跨境連線通信紀錄之功能與義務；(6) 對有事實疑為恐怖份子所使用作為從事恐怖行動之動產、不動產及其他財產（如有價證券等），賦予行政院海岸巡防署署長、法務部調查局局長及內政部警政署署長得為扣留或禁止處分之命令，以應付反恐怖行動之需要；(7) 得對疑為恐怖份子資金流動得加以凍結。

此外，筆者並於報告中指出，我國雖非聯合國之會員國，無法加入「聯合國國際反毒公約」及「聯合國打擊跨國有組織犯罪公約」，

獲得國際之刑事司法互助。惟我國於二〇〇二年三月間已與美國簽訂台美刑事司法互助協定，日後雙方將基於相互尊重、互惠與共同利益，藉由刑事事務之司法互助，以增進雙方所屬領土內執法機關有效之合作，提供有關、追訴、犯罪防制及相關刑事司法程序之相互協助，其範圍包括取得證言或陳述；提供供證之文件、紀錄及物品；確定關係人之所在或確認其身分；送達文件；為作證或其他目的而解送受拘禁人；執行搜索及扣押之請求；協助凍結及沒收資產、歸還補償、罰金之執行程序；以及各項不違反受請求方所屬領土內法律之任何形式之協助。對加強我國與美國雙方執法人員共同打擊毒品、洗錢、經濟犯罪、網路犯罪等跨國性犯罪將建立一經常性之正式合作管道，同時對於協助美國進行反恐怖活動，亦有積極之助益。此協定之簽署對於我國在國際合作打擊犯罪方面之努力跨出一大步。在現今全球反恐、防制洗錢及懲治國際性重大犯罪之趨勢下，未來亦可以上述刑事司法互助協定為與參考藍本，尋求與我國無邦交卻有實質關係之國家，簽訂類似之刑事司法互助協定。

肆、美國愛國者法案

關於防制洗錢規定對於他國之影響

九月十日下午筆者參加一場有關美國愛國者法案對於他國影響（The Patriot Act and its Implication for Non-US Jurisdictions）之分組討論，主持人之一之 John Broom 係澳洲臥龍崗大學之訪問教授，前曾任國內犯罪主管機關主席。John Broom 對於美國愛國者法案之若干規定有精湛並發人深省之評述⁴，謹摘要如下：

一、前言：

二〇〇一年美國發生九一一恐怖攻擊後，世界局勢因此大為轉

⁴ 請參閱附件五之簡報大綱。

變，惟恐怖主義早已存在，並非新生；恐怖攻擊所造成的高死亡率也是眾所週知；向來世人對恐怖份子所造成的傷害是極為憤怒然而大多未曾採取具體之報復行動。九一一事件後卻有強烈之轉變，之所以不同於前，乃因事件發生於美國本土，美國直接受到影響。美國向來有他的政治意志及廣大的資源去做他認為應該的事。

不過受到九一一事件直接影響的只有美國，何以現今全球共同加入反恐？其真正的原因除了反恐是共同利益外，當然也因美國向各國施壓所致。

九一一後世界各國之反應可分為三方面：其一，對於恐怖主義之戰爭：例如對於阿富汗立即發動戰爭，此種戰爭之特性在於沒有特定劃分之戰場、戰區，對於恐怖份子之戰爭改變了傳統戰爭之法則。其二，反恐作為因政治目的變為積極，例如多數國家表明支持反恐，並加強警戒、提昇國家安全等積極行動。其三，美、英各國及世界其他國家均以立法方式禁止恐怖主義，例如美國在九一一事件後，國會在六週內即通過愛國者法案，而英國亦於二〇〇一年十二月月中，以包裹立法方式修正通過「二〇〇一反恐、犯罪及安全法案」，此外超過五十個國家均於二〇〇二年四月前完成反恐立法。

二、世界反恐立法之趨勢

關於以立法禁絕恐怖主義，於世界各國言之，尚屬新興趨勢，多數國家立法上首重於加強調查此類犯罪之權力，特別賦予警察在監聽、搜索、扣押及蒐集犯罪情資上更大之權限，其原因乃在於恐怖活動所帶來新的威脅，屬於一種新型態之犯罪。故於立法上將利用生化武器、攻擊基礎建設及破壞大眾運輸系統均歸類為恐怖犯罪。為有效遏阻恐怖活動，立法趨勢上更將資助恐怖主義定義為新型態之恐怖犯罪。並檢討修正現行防制洗錢犯罪之作法，以結合反恐作為，有效對抗恐怖主義藉洗錢方式獲取資助。

三、美國愛國者法案有關反恐規範對於外國銀行之規定爭議

美國愛國者法案（USA PATRIOT ACT）係「提供阻絕恐怖主義所需適當手段以鞏固美國法案」（The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism）以首字縮寫而來之簡稱，此處為符合議題，僅限於就本法案有關規定涉及國際部分提出分析，並且針對金融機構申報義務及犯罪所得沒收部分有關境外司法管轄權（Long arm jurisdiction）之規定加以說明。

愛國者法案之立法目的為「阻止並懲罰美國境內及世界各地恐怖份子行為、加強執法調查手段及其他目的」，其中涉及國際之重要規範在 Title III 有關防制國際洗錢暨遏阻資助恐怖份子之部分。本篇有關外國銀行之規定頗具爭議，主要爭議點為在美國境內及境外之外國銀行帳戶涉及恐怖份子犯罪時，得對該外國銀行沒收該犯罪所得。相關條文為：

- Sec. 311 對涉及重要洗錢之地區、金融機構或國際交易行為採取特別措施；
- Sec. 312 往來帳戶與私人銀行帳戶之特別稽核；
- Sec. 313 禁止外國空頭銀行在美設立往來帳戶；
- Sec. 314 共同努力以遏阻洗錢活動；
- Sec. 315 將國外貪瀆罪行納入洗錢犯罪；
- Sec. 316 因涉及恐怖活動致財產遭沒入時之權利維護；
- Sec. 317 境外（long-arm）司法管轄權及於從事洗錢活動之外籍人士；
- Sec. 318 經由外國銀行之洗錢活動；
- Sec. 319 美國跨行帳戶資金之沒入。

最具爭議者要屬 Sec. 319，條文規定：「為本條或藥物管制法規定之沒入之目的，若一資金存入某外國銀行，且該銀行與美國某存保金融機構間開有跨行帳戶，則此筆資金應視為存入美國之跨行帳戶，因

此與該筆款項有關的任何禁制、查封令或扣留令將適用該機構，且該跨行帳戶內之資金將可據此予以禁止處分、沒入或扣留，數目最多可達該外國帳戶內所有資金」。根據本條規定，對於查扣之資金進一步遭沒入時，政府無需證明該資金即為當初存入該外國銀行的同一筆資金即可執行沒入。有關提供防制洗錢之銀行紀錄並規定，在美國設有分支機構之外國銀行，應於一百二十小時內提供該金融機構在美國國內所開設之帳戶之相關資訊。此外，財政部長或司法部長得對任何在美國設有往來帳戶的外國銀行發出傳票，要求提供有關此等往來帳戶之紀錄，包括存放於國外有關該資金存入該外國銀行的資訊。若該外國銀行收到傳票卻無法配合提供相關資訊，則存保金融機構於財政部長或司法部長書面通知後，應終止與該外國銀行之往來關係。

四、結論

上述規範係美國將其政策及法律毫無選擇性地對外輸出之最佳例證，對於外國銀行而言，符合美國要求可能違反該國關於銀行秘密或個人隱私之國內法律規範，金融機構必須在法律及商業命令之矛盾間做抉擇，原先取得跨國合作打擊犯罪所簽訂之國際協定及雙邊司法互助條約竟成了多此一舉（毫無必要之規範）。美國愛國者法案施行後，有關疑似涉及恐怖活動而遭查扣資金之外國銀行之案件及金額多寡，雖有若干案件及相關資料，但截至目前尚無官方之統計數據。不過對於查扣在美國設有帳戶之外國銀行之資金，並不限於不服從美國要求提供資訊之情況；且此類查扣外國銀行資金之方式可能成為處理此類案件最簡便之方式，然而愛國者法案有關遏阻資助恐怖份子之洗錢規範，多數為中央銀行及商業機構所不知。John Broom 教授因此質疑以此方式建立有關國際刑事犯罪或恐怖活動之調查互助是否正當，並懷疑其所造成之負面影響將遠大於立法目的所欲達成之目的。

伍、對於拉丁美洲及加勒比海各國 境外金融中心反洗錢評鑑之客觀標準

來自巴拿馬之 Mr Ricardo Alba 於九月十一日下午兩點之第十場研討會（討論議題：由境外金融中心及銀行秘密之觀點看保護國際金融制度之完整性）中提出對於拉丁美洲及加勒比海各國境外金融中心反洗錢評鑑之客觀標準⁵，頗有參考價值，謹摘要如下：

「境外金融中心」（Offshore Centers），或稱「國際金融服務中心」（International Service Centers），係一提供外國人或非本國居民關於金融、法律及其他服務之國家、城市或地區。其與「避稅天堂」（Tax Heavens, TH）之不同在於：後者為低稅率或無課稅之國家或領域。惟無可否認地確實是有些「境外金融中心」便等同於「避稅天堂」。

目前世界上約有六十個境外金融中心，少數擁有大量營業資本之境外金融中心係設於富裕國家，其餘多數境外金融中心係設於經濟低度開發之小國，其所提供之服務係該國之主要外匯收入及經濟來源。

境外金融中心所提供之主要服務為個人及法人之金融服務、境外基金經營、管理、信託及公司經營、投資管理、顧問、會計及法律服務等，對於個人隱私之保護，使其不受不當之干擾，是這些境外金融中心之服務特色，也是其受歡迎之重要因素。

境外金融中心可能被濫用為金融犯罪之主要因素在於：嚴格的銀行保密條款、有關確認客戶身份之要求極低或根本無此要求、允許以秘密公司組織之帳戶存在並且無善良管理人之注意義務之規範。境外金融中心因而成為逃稅、詐欺、侵占及毒品犯罪等隱藏不法所得之管道。

近年來拉丁美洲、加勒比海各國以及歐亞太平洋之境外金融中心均逐漸採取若干防制洗錢及禁止資助恐怖份子之措施，例如重視有關

⁵ 請參閱附件五。

毒品犯罪之洗錢行為、將洗錢行為罪刑化、大量通貨交易應留存紀錄、交易紀錄應保存一定期間、可疑交易應申報、建立金融情報單位、確認不法資產並予沒收、沒收財產分享制度之採用、簽訂司法互助協定、與美國交換報稅資料、採用巴塞爾議定書、承諾報稅資訊透明化並與 OECD 交換報稅資料等，同時在犯罪偵查及沒收犯罪與主管機關合作，並遵守國外有關提供資訊之相關規定。

設立於貧窮國家之境外金融中心漸漸成為富裕大國譴責係洗錢及逃稅之淵藪，尤其這些金融機構擁有該國無法向其居民取得之財產所得之相關資料。相關之壓力來自美國、聯合國、金融行動小組（FATF）及經濟合作發展組織（OECD），要求這些國家採取國際組織如中美洲反毒聯盟（Inter American Commission for the Control of Drugs Abuse, CICAD）之相互評鑑機制，以努力達成防制洗錢之目標。

二〇〇二年，FATF 片面列出二十五種評量標準，對於不遵守該組織於一九九〇年所提出之四十點建議者，列入不合作國家（non-cooperative countries and territories, NCCT）之名單。許多境外金融中心所在之國家，特別是不與他國交換洗錢資訊者因而名列其中。此一不合作國家名單，不僅影響該國之國家形象，更因 FATF 要求其會員國與名單內之國家為金融交易時應採取特別防範措施，造成各國與列名不合作國家之往來銀行為金融交易之困難。當年名列不合作國家者，包括 FATF 之會員及非會員國，其中位於拉丁美洲及加勒比海國家者包括巴哈馬、開曼群島、多明尼加、格瑞那達、瓜地馬拉、巴拿馬、聖文森等。其後，上述國家乃致力改善反洗錢之法律要件及國內之執法成效，特別是關於迅速提供洗錢之資訊，除瓜地馬拉外，均已被剔除於不合作國家之黑名單之列。

關於 FATF 之上述其評鑑，引起中美洲及加勒比海國家之不滿，質疑其缺乏客觀標準，Ricardo Alba 主張此類評鑑之正當程序應根據下列標準：

1. 評估一國之金融、商業及專業服務遭罪犯濫用之難易度。
2. 確認上述專業服務遭濫用之程度。
3. 檢視為避免其專業服務遭罪犯濫用並沒收非法資產已採行之法規。
4. 檢視法規對於相關活動課以善良管理人義務之間接可行性。
5. 審查對抗上述濫用所採施行措施之模式對於其他國家若採取相同標準所帶來的壓力。
6. 評估所採取之措施對於防制犯罪、沒收非法資產及國際交換情資之有效性。
7. 評估 FATF、OECD、IMF 及其他外國政府或國際組織單向採行其自行所擬之評鑑標準，並自行監督執行評鑑之必要。
8. 因評鑑而承受相同壓力之各國共同努力之可能性。
9. 不合作國家受此禁令採取報復措施之可能性。
10. 受此評鑑影響而單向提供資訊者請求財產上損害賠償之可能性。
11. 研究採行下列新標準之影響：
 - 國家之國際形象
 - 專業服務提供者與其客戶及主管機關之關係
 - 採取新標準之實務面及所須成本
 - 法令規範及自行約束之可能機制
 - 國際採取單一標準之可行性
 - 各國間有關專業服務之競爭力
 - 採取單一標準對於國家間之公平競爭之影響

Alba 認為評鑑若採行上述新的客觀標準，將使已開發國家之打擊金融犯罪作法較為客觀、公平，在技術上亦較為可行。

筆者認為 Alba 對世界主要經濟大國或國際組織所主導反洗錢政策之主流趨勢敢於提出質疑，除顯示主流派在執行評鑑之政策制定及執行程序有球員兼裁判之缺乏客觀性外，亦可見經濟弱勢國家對抗世界主要國家所推動之國際標準幾無反對之可能。筆者無意評論 FATF 所制定之反洗錢評鑑及 Alba 提出之相對標準，僅簡要概論如上述篇幅，留作紀錄供後人參考。在此不論上述兩派代表主流與非主流立論之孰優孰劣，其實國際現實亦無所謂優劣，跟隨主流是國際化之勢所

必然。反主流將招致其他國家之抵制或禁令報復。中美洲及加勒比海國家曾被 FATF 列入不合作國家所遭遇之國家形象危機及金融業之困境即為著例，儘管 Alba 提出評論為上述國家發聲，中美洲及加勒比海國家已然全盤接受 FATF 之政策建議，亦可見國際組織所帶動之主流趨勢之壓力。

陸、心得及建議

本屆劍橋國際經濟犯罪論壇，共有來自世界各地之學者、專家及包括法官、檢察官等執法人員約兩百名，首次應邀出席此一頗負盛名之國際學術研討會，至感榮幸。雖然係學術性之會議，惟與會者多出身實務，且代表各國公務或執法機關者頗多，藉此機會得以相互交流，並吸收彼此法制及實務之經驗，誠屬難能可貴。且因學術研討會並非政府間之國際組織，會議進行毫無政治包袱，與會者來自各地，便得以盡情表達該國法制及實務，亦能接納彼此意見，海闊天空之研討，有別於政治性國際會議須步步為營顧及國家尊嚴。此次中國大陸亦派遣其證管會公務員六至八人出席會議，未見提出任何報告，卻也聆聽筆者大談台灣防制洗錢及反恐法制之成就，而毫無政治性之抗議即為一例。

本部調查局常年編列預算補助此一學術論壇，故主辦該論壇之 Dr Barry Rider 對於來自台灣之與會代表極為禮遇，本部應可利用此一機會，藉參加此各國官方代表均極重視之學術盛會，以增加台灣公部門（如：執法機關）在國際舞台之曝光率，同時藉此機會吸收他國之制度及執法運作，可以相互比較，以做為日後立法或執法之參考。

以法務部而言，想要在國際組織或國際會議中以正式之官方角色與各國之公務部門合作交流，因其代表國家之執法機關，仍有強烈之政治色彩，以當今之國際現實，仍有或多或少之困難，然而藉著參與本論壇之研討會，卻能與歐美多數主要國家之執法部門交流，如有意於會後經營與參加者之機關或個人之聯繫，俟有個案彼此需要合作打擊犯罪時，則可藉機推動雙邊之司法互助。

附 件 一

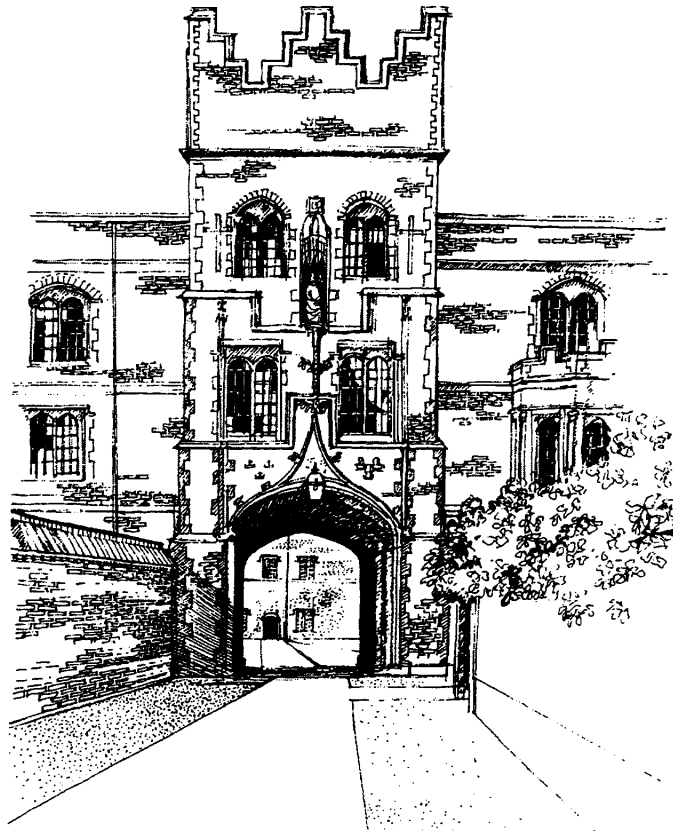
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Financial Crime, Terror and Subversion The Control of Risk in a Destabilised World Economy

The annual Cambridge International Symposium on Economic Crime, which is now in its twenty-first year, is a unique event. It is unrivalled in the contribution that it makes to promoting understanding of the issues involved in successfully preventing and controlling economically motivated serious crime and thereby facilitating meaningful and practical responses, including fostering international co-operation. The Symposium brings together, in one of the oldest medieval Colleges of the University of Cambridge, ministers, senior officials, diplomats, judges, regulators, law enforcement and security officers, the intelligence community, financial intermediaries, bankers, professional advisers, compliance officers and scholars from around the world. It has attracted well over 900 participants from over 80 countries each year and many return year after year.

The Twenty-first Symposium will focus on the practical issues facing all those who are involved, in whatever capacity, in protecting and promoting the stability and integrity of the financial sector, in dealing with the risks presented by serious crime and, in particular, organised crime and terrorists. The extensive programme will address a wide range of issues, some old – but many new – which need to be considered in ensuring the stability and health of national economies as well as the world order. While analysing these issues in the context of the global economy, the symposium will focus on the practical problems facing those responsible for the detection, prevention and control of these risks. It will also address the many legal and other risks facing those responsible for compliance with the various legal and regulatory regimes that have been developed to impede the laundering of the proceeds of crime and the funding of terrorist organisations. Particular emphasis will be placed on the implications of the ‘Financial War on Terror’ for those who handle other people’s wealth in the course of their business, and for those who advise them.

Drawing on a unique network of real experts, from around the world, the Organising Institutions have, with the advice and involvement of governments and inter-governmental agencies, constructed a programme which is unparalleled in its breadth and depth. Over two hundred experts, through keynote addresses, lectures, plenary and practical workshops focus not only on the real issues relating to the prevention, interdiction and disruption of serious crime and terrorist activity, but also the implications that such initiatives have on the conduct of banking and financial business. A glance at the programme will manifest not only the level of support that the annual Cambridge Symposium receives from the world’s leading agencies, but also the practical orientation of the deliberations.

The Cambridge Symposium has never been just a conference! It is organised on a non-profit making basis by some of the world’s most distinguished academic and research institutions, with the active involvement and support of many governmental organisations. It was founded, twenty-one years ago, to promote international co-operation in the fight against serious economic crime and its record is its best testament. The opportunity for making new contacts and renewing old friendships is second to none. Those who are concerned, at whatever level, to protect and promote the integrity, stability and security of their national economy, enterprise or institution, cannot afford to miss this unique event.

Professor Barry AK Rider
Symposium Director and Co-Chairman

The Organising Institutions

The Centre for International Documentation on Organised and Economic Crime
The Institute of Advanced Legal Studies, University of London
The Society for Advanced Legal Studies
The International Chamber of Commerce
The British Institute of International and Comparative Law
Cass Business School, City University, London
Centre for European and International Financial Law, The University of Siena, Italy
The Australian Institute of Criminology
The Centre for Strategic and Global Studies, Russian Academy of Sciences
The Nathanson Centre for the Study of Organized Crime and Corruption, York University, Canada
The Computer Security Research Centre, London School of Economics and Political Science, University of London
The British Institute of Securities Laws
The Paolo Baffi Centre for Monetary and Financial Economics, Università Commerciale Luigi Bocconi, Milan
The Dickinson School of Law, The Pennsylvania State University, USA
The Stockholm School of Economics, Sweden
Kero University, Japan
Department of Business Law and Taxation, Monash University, Australia
University of the Free State, Republic of South Africa
Center for International Financial Crimes Studies, University of Florida, USA
Hungarian Academy of Sciences
Institute of Latin American Studies, School of Advanced Study, University of London
Institute for Legal Studies, Bulgarian Academy of Sciences
Computer Security Group, University of Cambridge
Centre for Criminology, The University of Hong Kong

In association with: Jesus College, University of Cambridge

Sunday, 7th September 2003

- 12:00-
16:30 Registration in the Marquee, Jesus College, Cambridge
- 18:30 Cocktails in the Marquee generously hosted by *The Journal of Financial Crime*
- 19:30 Dinner in Hall and Upper Hall: Welcome by **Professor Barry AK Rider**, The Director, Institute of Advanced Legal Studies, University of London, Professor of Law, University of London, Executive Director of CIDOEC, President of The British Institute of Securities Laws, Fellow Commoner of Jesus College, Cambridge and Barrister
- After-dinner Addresses by **Mr John McFall MP**, Chairman, House of Commons Treasury Select Committee and **Mr Jonathan Charkham**, Former Chief Commoner of the Corporation of London, Visiting Professor, Cass Business School, City University and former Adviser to the Governor of the Bank of England, introduced by **Dr Chizu Nakajima**, Co-Director of the Symposium and Director of the Centre for Financial Regulation, Cass Business School, City University with a vote of thanks by **Mr Saul Froomkin QC**, Symposium Chairman and Chairman of CIDOEC, Senior Litigation Partner, Mello Jones & Martin (Bermuda), and former Attorney General of Bermuda and Director of Criminal Law, Federal Government of Canada

Monday, 8th September 2003

- 08:30 **Opening Keynote Addresses**
Chair: **Mr Saul Froomkin QC**, Symposium Chairman
- **The Rt Hon The Lord Goldsmith QC**, The Attorney General for England and Wales
 - **The Hon Mr Michael Chertoff**, Assistant Attorney General and Head of the Criminal Division, US Department of Justice
 - **Mr Robert Wardle**, The Director, Serious Fraud Office of England and Wales
 - **The Hon Dr Miguel Urrutia**, Governor, Central Bank of Colombia
 - **Mr Claes Norgren**, President, Financial Action Task Force XV and Director General, Competition Authority, Sweden
 - **Professor Mario Serio**, Il Consigliere, Consiglio Nazionale della Magistratura, Rome
- Coffee**
- **Mr Cherng-Maw Yeh**, Director General, Investigation Bureau, Ministry of Justice, Taiwan
 - **Mr Horst Intscher**, Director, Financial Transactions and Reports Analysis Centre of Canada
 - **The Hon Judge Hancke**, High Court, Bloemfontein and Chairman of the Council, University of the Free State, Republic of South Africa
 - **Mr Raymond Kendall**, The Honorary Secretary General, Interpol and President, Supervisory Commission, European Anti-Fraud Office (OLAF)
 - **Dato' Seri Salleh Mat Som**, Commissioner of Police and Director of Criminal Investigation Department, Royal Malaysian Police
 - **The Hon Judge Gabriel Cavallo**, Federal Judge, Chamber of Appeal, Argentina
- 12:45 **Group Photograph**, Jesus College
- 13:15 **Lunch** in Hall and Upper Hall, Jesus College
- 14:30 **Session I: Stability as a Policy and Enforcement Objective**
Chair: **The Rt Hon The Lord Hacking**, Barrister, Littleton Chambers, London
- **Mr Creon Butler**, Chief Economist, HM Foreign and Commonwealth Office, UK
 - **Ms Patricia Jackson**, Special Advisor on Financial Stability, Bank of England
 - **Dr William Witherell**, The Director, Financial, Fiscal and Enterprise Affairs, Organisation for Economic Co-operation and Development (OECD), Paris
 - **Professor Jon Mills**, Dean and Professor of Law, Levin College of Law, University of Florida and former Speaker of the Florida Legislature
- Tea**
- **Mr Peter Neville**, The Director General, Guernsey Financial Services Commission
 - **Professor Mark Pieth**, University of Basel and Chair, OECD Working Group on Corruption
 - **Dr Mads Andenas**, The Director, The British Institute of International and Comparative Law and Senior Research Fellow, University of Oxford
 - **Professor Donato Masciandaro**, Professor of Monetary Economics, The Paolo Baffi Centre for Monetary and Financial Economics, Università Commerciale Luigi Bocconi, Milan
 - **Professor Peter Nolan**, Judge Institute, University of Cambridge and Fellow of Jesus College, Cambridge
- 18:45 Cocktails in the Marquee

19:30 Dinner in Hall and Upper Hall, Jesus College

Both generously hosted by **The International Compliance Association**

After-dinner Addresses by **HE Mr Masaki Orita**, Ambassador Extraordinary and Plenipotentiary of Japan to the Court of St James and **Ms Joyce Rabens**, Minister Counsellor for Economic Affairs, US Embassy, London introduced by **Professor John Maher**, Commissioner, Pennsylvania Securities Commission, sometime Dean and Professor Emeritus, The Dickinson School of Law, The Pennsylvania State University, and immediate past Chairman, Atlantic Liberty Savings, FA with a vote of thanks by **Dr Chizu Nakajima**, Symposium Co-Director.

Tuesday, 9th September 2003

SPECIAL BREAKFAST WORKSHOP – 8:00–9:00

International Co-operation in Tax Matters

Mr William Frei, Deputy Head of the Economic and Financial Affairs Division, Federal Department of Foreign Affairs, Switzerland

Mr John Middleton, Director, Compliance Risk Management Strategy, HM Inland Revenue, UK

Mr James Springer, Senior Counsel for International Tax Matters, Tax Division, US Department of Justice

09:05 **Keynote Addresses**

Chair: **Dr Cécile Ringgenberg**, Senior Partner, Ringgenberg & Schulthess, Geneva

- **The Hon Dr Giuseppe Lumia**, Member of the Italian Parliament, Member and former Chairman, Anti-Mafia Commission, Italian Parliament
- **The Hon Mr John A Maher III, CPA**, Member, Pennsylvania House of Representatives and Chairman, Subcommittee on Public Transportation, and Founder of Maher Duessel CPAs

09:45 **Session II: Organised Crime - the risks of penetration, subversion and corruption**

Chair: **Mr David Lock**, Chairman, Service Authority for the National Criminal Intelligence Service and the National Crime Squad, UK and former Parliamentary Secretary, Lord Chancellor's Department

- **Mr Terry Burke**, Head of Financial OCU, National Crime Squad, UK
- **Mr Willie Hofmeyr**, Head of Asset Forfeiture Special Unit, Republic of South Africa
- **Mr Kevin Carwile**, Deputy Chief, Organized Crime and Racketeering Section, US Department of Justice
- **Dr George Henry Millard**, Special Adviser to the Commissioner of Police, Brazilian Civil Police
- **Professor Hisao Katoh**, Professor of Criminal Law and Criminology, Keio University, Japan

Coffee

11:30 **Session III: Terrorist Activity in the Financial Sector – direct and indirect risks**

Chair: Professor Barry Rider, **Symposium Director and Co-Chairman**

- **Mr Stefan Cassella**, Deputy Chief, Asset Forfeiture and Money Laundering Section, US Department of Justice
- **Mr Koji Kishima**, Deputy Director, Financial Intelligence Office, Financial Services Agency of Japan
- **Mr Sarabjit Singh**, Director General of Police, Punjab, India
- **Dr Evan Bell**, Senior Legal Assistant, Department of Public Prosecutions for Northern Ireland
- **Mr Alistair Munro**, Director, Investigation Services, Deloitte & Touche
- **Professor Leonid Fituni**, The Director, Centre for Strategic and Global Studies, Russian Academy of Sciences, Moscow
- **Dr Margaret Beare**, The Director, The Nathanson Centre for the Study of Organized Crime and Corruption, York University, Toronto

13:15 **Lunch** in Hall and Upper Hall, Jesus College

14:00 **Session IV: Economic Crime – the financial system as victim**

Chair: **Professor Michael Levi**, Professor of Criminology, Cardiff University

- **Mr Stefan Gannon**, General Counsel, The Hong Kong Monetary Authority
- **Mr Eisuke Nagatomo**, Executive Officer, Compliance and Market Surveillance, Tokyo Stock Exchange
- **Mr John Moscow**, Assistant District Attorney, Office of the District Attorney of New York
- **Mr Richard Pratt**, The Director General, Jersey Financial Services Commission
- **Mr Nicolas Burbidge**, Senior Director, Compliance Division, Office of the Superintendent of Financial Institutions, Canada
- **Mr Martyn Bridges**, Partner, Investigation Services, Deloitte & Touche

15:30

Tea

PLENARY WORKSHOP I – 15:45-17:15

Does the Punishment Fit the Crime? Financial Institutions and Punishment under the Patriot Act

Mr Ian Comisky, Partner, Blank, Rome LLP, Philadelphia
Mr Plato Cacheris, Partner, Baker & McKenzie, Washington DC
Mr Harvey Silets, Senior Partner and General Counsel, Katten Muchin Zavis Rosenman, Chicago
Judge Lurana S Snow, Magistrate-Judge for the Southern District of Florida
Ms Carmina Hughes, Special Counsel, Division of Banking Supervision and Regulation,
Board of Governors of the Federal Reserve System, USA

PARALLEL PLENARY WORKSHOP I – 15:45-17:15

Jurisdictional Co-operation in Tackling Money Laundering and Terrorist Financing: the advantages of working together under a common approach

Mr Paul Heckles, Head of Enforcement, Isle of Man Financial Supervision Commission
Mr Peter Neville, The Director General, Guernsey Financial Services Commission
Mr Richard Pratt, The Director General, Jersey Financial Services Commission

PLENARY WORKSHOP II – 17:20-18:50

Accounting for Integrity

Mr John Friedland, General Editor, *International Journal of Disclosure and Governance*
The Hon Mr John A Maher III, CPA, Member, Pennsylvania House of Representatives and Chairman, Subcommittee on Public Transportation, and Founder of Maher Duessels CPAs
Professor Larry Cata Backer, Professor of Law, Dickinson School of Law, The Pennsylvania State University
Professor Georges Selim, Chair, Centre for Research in Corporate Governance, Cass Business School, City University, London
Mr Nobuo Tateisi, Chairman, OMRON Corporation, Japan and Member of the Board, Tokyo Stock Exchange

PARALLEL PLENARY WORKSHOP II – 17:20-18:50

The Bank of England and HM Treasury: 'Freezing of Terrorist Assets in the UK'

Mr Tom Dawlings, Financial Sanctions Unit, Bank of England
Mr David Faulkner, International Financial Services, HM Treasury, UK

WORKSHOP 1 – 17:20-18:50

Taxing the Proceeds of Crime

Mr Martyn Bridges, Partner, Investigation Services, Deloitte & Touche
Mr Alistair Munro, Director, Investigation Services, Deloitte & Touche

WORKSHOP 2 – 17:20-18:50

Compliance – The Practical Skills

Mr Stuart Bazley, Head of Compliance and Legal Counsel, Edward Jones Ltd, London
Mr Jason Haines, Research Fellow in Financial Compliance, Institute of Advanced Legal Studies, University of London
Mr David Maxwell, Senior Policy Adviser, APCIMS (Association of Private Client Investment Managers and Stockbrokers)

WORKSHOP 3 – 17:20-18:50

Hundi and Hawala – 'underground banking systems'

Dr Mahmood Bagheri, Lecturer in International Economic Law, Brunel University
Mr David Copley, Regional Financial Intelligence Officer, National Criminal Intelligence Service, UK
Dr Fath El-Rahman El Sheikh, Legal Adviser, Kuwait Investment Authority

WORKSHOP 4 – 17:20-18:50

Curtailing Economic Crime and Terrorism – The Balance of Reputation, Appropriateness and Law

Mr Simon Gleeson, Partner, Allen & Overy, Solicitors, London
Mr John Mair, Group Financial Crime Director, Group Compliance, Lloyds TSB Bank plc
Mr Mark Tantum, Head of Forensic Investigators, UK and Europe and Leader, European Financial Crime Campaign, Deloitte & Touche

<p align="center"><u>WORKSHOP 5 - 17:20-18:50</u></p> <p align="center">Initiatives Against Organised Crime (Case Studies)</p> <p>Professor Takeyoshi Imai, Faculty of Law, Hosei University, Japan Mr Alain Chung Ping Sham, Head of Triad, Organised Crime and Anti-Terrorist Section and Senior Assistant Director of Public Prosecutions, Department of Justice, Hong Kong Dr Constantin Stefanou, Fellow, Institute of Advanced Legal Studies, University of London Dr Helen Xanthaki, Senior Research Fellow and Academic Director, Sir William Dale Centre for Legislative Studies, Institute of Advanced Legal Studies, University of London</p>	<p align="center"><u>WORKSHOP 6 – 17:20-18:50</u></p> <p align="center">Economic Crime in Central and Eastern Europe</p> <p>Mr Richard Alexander, Research Officer in European Financial Law, Institute of Advanced Legal Studies, University of London Dr Janusz Bojarski, Chair of Criminal Law and Criminal Policy, Nicholas Copernicus University, Torun, Poland Professor Leonid Fituni, The Director, Centre for Strategic and Global Studies, Russian Academy of Sciences, Moscow Mrs Svetla Konstantinova, Attorney at Law, Bulgaria and former Counsellor, Bulgarian Embassy, London Ms Anna Markovskaya, Cass Business School, City University, London Mr William Tupman, Senior Lecturer, Department of Politics, University of Exeter</p>
<p align="center"><u>WORKSHOP 7 – 17:20-18:50</u></p> <p align="center">Establishing and Running FIUs</p> <p>Mr Alan Lambert, Consultant, Caribbean Anti-Money Laundering Programme and former Head of Hertfordshire Police Financial Investigation Unit</p>	<p align="center"><u>WORKSHOP 8 – 17:20-18:50</u></p> <p align="center">‘ESRC Study on Following the Money Trail’ What the changes in FATF, IMF, anti-terrorism measures have done for international governance</p> <p>Professor Michael Levi, Professor of Criminology, Cardiff University</p>
<p align="center"><u>WORKSHOP 8a – 17:20-18:50</u></p> <p align="center">Transparency and the Media Sanction: Does Public Exposure Defeat Crime?</p> <p>Mr Stephen Grey, Investigative Journalist, <i>The Sunday Times</i> Mr Raymond Kendall, The Honorary Secretary General, Interpol and President, Supervisory Commission, European Anti-Fraud Office (OLAF)</p>	

18:50 Cocktails in the Marquee

19:30 Dinner in Hall and Upper Hall

Both generously hosted by **Lloyds TSB Bank plc**

After-dinner Addresses by **The Rt Hon Lord Justice Brooke**, Court of Appeal, England and Wales and former Chairman of the Law Commission for England and Wales and **Mrs Rosalind Wright**, Chair, Fraud Advisory Panel and former Director, Serious Fraud Office of England and Wales and former General Counsel, Securities and Futures Association, introduced by **Mr Saul Froomkin QC**, Symposium Chairman with a vote of thanks proposed by **Mr Christopher Wiscarson**, Managing Director, International Banking Division, Lloyds TSB Bank plc

Wednesday, 10th September 2003

SPECIAL BREAKFAST WORKSHOP – 8:00-9:00

The US Department of Justice, ‘The Patriot Act’

Mr Kevin Carwile, Deputy Chief, Organized Crime and Racketeering Section, US Department of Justice
Mr Lee Radek, Special Counsel for International Money Laundering, US Department of Justice

09:05 Keynote Addresses

Chair: **Dr Chizu Nakajima**, Co-Director of the Symposium

- **Ms Carol Sergeant**, Managing Director, Regulatory Processes and Risk Directorate, Financial Services Authority, UK
- **Dr Carlo Santini**, Director General, Ufficio Italiano dei Cambi, Italy

09:45 Session V: **The Banking System at Risk**

Chair: **Professor Alec Chrystal**, Associate Dean, Head of Faculty of Finance and Professor of Money and Banking, Cass Business School, City University, London and formerly Senior Adviser, Bank of England

- **Mr Charles Freeland**, Deputy Secretary General, Bank of International Settlements, Basle
- **Ms Carmina Hughes**, Special Counsel, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, USA
- **Mr Philip Schädler**, Director, Liechtenstein Bankers’ Association
- **Mr Jeremy Thorp**, Director, Financial Crime, British Bankers’ Association
- **Dr Fath El-Rahman El Sheikh**, Legal Adviser, Kuwait Investment Authority

- **Mr Richard Collins**, Group Compliance Director, Lloyds TSB Bank plc, London
- **Mr Thomas Roche**, Deputy General Counsel and Senior Vice President, Federal Reserve Bank of New York

Coffee

11:30 Session VI: The Financial Markets at Risk

Chair: **Mr Andrew Whittaker**, General Counsel to the Board, Financial Services Authority, UK

- **Mr Thomas Newkirk**, Associate Director of Enforcement, US Securities and Exchange Commission
- **Mr Neil Stocks**, Managing Director and Head of Group Compliance, UBS
- **Mr Paul Heckles**, Head of Enforcement, Isle of Man Financial Supervision Commission
- **Mr Geoff Mhlanga**, Managing Director, Zimbabwe Stock Exchange and Chairman, African Association of Stock Exchanges
- **Mr Lawrence Boyce**, Vice President, Sales Compliance and Registration, Investment Dealers' Association of Canada
- **Mr Peter van den Broeke**, Chair, Fraud Sub-Committee, International Association of Insurance Supervisors
- **Ms Joan Manley**, Deputy Director, Division of Enforcement, Commodity Futures Trading Commission

13:00 Lunch in Hall and Upper Hall

13:45 Session VII: 'Techno – Risk'

Chair: **Dr Michael Taylor**, The Intelligence and Security Secretariat, Cabinet Office, UK

- **Mr Robert Pocica**, Director of Corporate Security, Pfizer Inc and former Supervisory Special Agent, Internet Fraud Complaint Center, Federal Bureau of Investigation, US Department of Justice
- **Mr Tony Hutchings**, Assistant Detective Inspector, National Hi-Tech Crime Unit, National Crime Squad, UK
- **Mr John Sliter**, Detective Inspector, Commercial Crime Branch, Royal Canadian Mounted Police
- **Mr G Philip Rutledge**, Chief Counsel, Pennsylvania Securities Commission
- **Mr Richard Clayton**, Computer Security Group, University of Cambridge
- **Dr Massimo Nardo**, Manager, Ufficio Italiano dei Cambi, Italy
- **Dr James Backhouse**, The Director, Computer Security Research Centre and Reader, London School of Economics and Political Science, University of London
- **Mr Alexander Drobik**, Vice President, Research, Gartner Group

15:30 Tea

PLENARY WORKSHOP III – 15:45-17:15

Fighting Cybercrime

Supervisory Special Agent Dale Miskell, Internet Fraud Complaint Center , the Federal Bureau of Investigation, US Department of Justice

<p style="text-align: center;"><u>WORKSHOP 9 – 15:45-17:15</u></p> <p style="text-align: center;">Taxation and Money Laundering</p> <p>Mr Pietro Sansonetti, Partner, Schellenberg Wittmer, Geneva</p>	<p style="text-align: center;"><u>WORKSHOP 10– 15:45-17:15</u></p> <p style="text-align: center;">The Patriot Act and its Implications for Non-US Jurisdictions</p> <p>Mr John Broome, Consultant, Visiting Professorial Fellow, University of Wollongong and former Chairman, National Crime Authority, Australia</p> <p>Mr John McFarlane, Director, Transnational and Homeland Security Program, Australian Defence Studies Centre, Australian Defence Force Academy</p>
<p style="text-align: center;"><u>WORKSHOP 11 -15:45-17:15</u></p> <p style="text-align: center;">Moving Targets? - Adapting Profiles for Global Anti-Money Laundering Systems</p> <p>Dr James Backhouse, The Director, Computer Security Research Centre and Reader, London School of Economics and Political Science, University of London</p> <p>Mr Bernard Dyer, Computer Security Research Centre, London School of Economics and Political Science, University of London</p> <p>Dr Massimo Nardo, Manager, Ufficio Italiano dei Cambi, Italy</p>	<p style="text-align: center;"><u>WORKSHOP 12 – 15:45-17:15</u></p> <p style="text-align: center;">Control of Money Laundering and Human Rights</p> <p>Professor Fletcher Baldwin, Chesterfield Smith Professor of Law and The Director, Center for International Financial Crimes Studies, University of Florida</p> <p>Mr David Corker, Partner, Corker Binning Solicitors</p> <p>Dr Michelle Gallant, Assistant Professor of Law, Faculty of Law, University of Manitoba</p> <p>Mr Monty Raphael, Senior Partner, Peters & Peters, Solicitors, London</p>

<p align="center"><u>WORKSHOP 13 -15:45-17:15</u></p> <p>The Control of Economic Crime - a Nigerian Perspective Dr Dennis Ude Ekumankama, The Director and Secretary, Corporate Affairs Commission, Nigeria</p>	<p align="center"><u>WORKSHOP 14 -15:45-17:15</u></p> <p align="center">Recent Developments in EU Financial Services Law Mr Richard Alexander, Research Officer in European Financial Law, Institute of Advanced Legal Studies, University of London Dr Andrew Haynes, Head, Institute of Finance, University of Wolverhampton</p>
<p><u>WORKSHOP 15 - 15:45-17:15</u></p> <p>APCIMS-EASD (Association of Private Client Investment Managers and Stockbrokers-European Association of Securities Dealers): 'Issues in Corporate Governance' Chair: Mr Leo Goldschmidt, Chairman, Corporate Governance Committee and Director, APCIMS-EASD Mr Stilpon Nestor, Principal, Nestor Advisors Ltd</p>	

<p><u>PLENARY WORKSHOP IV – 17:20-18:50</u></p> <p>Co-ordination of Fraud Investigation in the UK- The Case for a UK White Collar Crime Centre Chair: Mr Ken Farrow, Detective Chief Superintendent, City of London Police Mr Dave Churchill, Detective Inspector, West Midlands Police Mr Mike Dixon, Detective Sergeant, Metropolitan Police and formerly ICPO Interpol Liaison, National Criminal Intelligence Service Mr Hank Jenson, National White Collar Crime Center, Canada Ms Helen Shwery, Executive Officer, Canadian Health Care Anti Fraud Association Mr John Sliter, Detective Inspector, Commercial Crime Branch, Royal Canadian Mounted Police</p>
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<p><u>PARALLEL PLENARY WORKSHOP III – 17:20-18:50</u></p> <p align="center">Exchange of Information between Financial Regulators Dr George Gilligan, Logan Senior Research Fellow, Department of Business Law and Taxation, Monash University, Australia Ms Elizabeth Jacobs, Assistant Director, Office of International Affairs, US Securities & Exchange Commission Mr G Philip Rutledge, Chief Counsel, Pennsylvania Securities Commission Mr Toru Shikibu, Financial Minister, Embassy of Japan, London and former Director, Financial Services Agency, Japan</p>
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<p align="center"><u>WORKSHOP 16 –17:20-18:50</u></p> <p>The International Criminal Court – a new dimension? Dr Kern Alexander, Senior Research Fellow in International Financial Regulation, Institute of Advanced Legal Studies, University of London Dr Mads Andenas, The Director, The British Institute of International and Comparative Law and Senior Research Fellow, University of Oxford Mr Khawar Qureshi, Barrister, Serle Court, London</p>	<p align="center"><u>WORKSHOP 17 – 17:20-18:50</u></p> <p align="center">Insurance Frauds Dr George Henry Millard, Special Adviser to the Commissioner of Police, Brazilian Civil Police Dr Christopher Parsons, Reader in Insurance, Cass Business School, City University, London</p>
<p align="center"><u>WORKSHOP 18 - 17:20-18:50</u></p> <p align="center">Financial Privacy after 9/11 Dr Nancy Baldwin, Attorney at Law, Florida Mr Anton Keller, The Secretary, Swiss Investors Protection Association, Geneva Mr G Montgomery Rankin, Attorney at Law, Florida Professor Ziqiang Ye, Associate Professor, Institute of Law, Chinese Academy of Social Sciences, Beijing</p>	<p align="center"><u>WORKSHOP 19 – 17:20-18:50</u></p> <p align="center">Interception and Electronic Evidence Collection Mr Peter German, Chief Superintendent and Officer in Charge, Financial Crime, Royal Canadian Mounted Police Headquarters, Ottawa</p>
<p><u>WORKSHOP 20 – 17:20-18:50</u></p> <p align="center">The Business of Terrorism Mr William Tupman, Senior Lecturer, Department of Politics, University of Exeter, Director, Unit for Research on Community Safety, member of advisory boards of Intercentre, University of Messina, Institute of Risk and Security Management, Rome and Center for International Financial Crimes Studies, University of Florida</p>	

18:50 **Cocktails in the Marquee**
19:30 **Dinner in Hall and Upper Hall**
Both generously hosted by **Citigroup Inc**, New York

After-dinner Addresses by **HE Tarald Osnes Brautaset**, Ambassador Extraordinary and Plenipotentiary of the Royal Norwegian Embassy to the Court of St James and **The Hon Mr Justice Toulson**, Chairman of the Law Commission for England and Wales, introduced by **Dr Chizu Nakajima**, Symposium Co-Director, with a vote of thanks proposed by **Professor Johan Henning**, The Director of the Centre for Company and Partnership Law, Institute of Advanced Legal Studies, University of London and **The Dean of the Faculty of Law, The University of the Free State, Republic of South Africa**

Thursday, 11th September 2003

SPECIAL BREAKFAST WORKSHOP – 8:00-9:00

The Financial Action Task Force's Initiatives Relating to Terrorist Financing

Mr John Broome, Consultant, Visiting Professorial Fellow, University of Wollongong, former Chairman, National Crime Authority, Australia and former Co-Chair, Asia-Pacific Group on Money Laundering

Mr John McFarlane, Director, Transnational and Homeland Security Program, Australian Defence Studies Centre, Australian Defence Force Academy

Dr Riccardo Sansonetti, Deputy Head of the Financial Markets Section, Federal Finance Administration, Switzerland

09:05 Keynote Addresses

Chair: **Professor Barry Rider**, Symposium Director and Co-Chairman

- **Mr Edward H Jurith**, The General Counsel, Office of National Drug Control Policy, The Executive Office of the President of the United States
- **Ms Jane Earl**, The Director, Assets Recovery Agency, UK

09.45 Session VIII: Interdicting Tainted Wealth – developments from national perspectives

Chair: **Professor David Hayton**, Professor of Law, King's College, University of London, Barrister, 5 Stone Buildings, Lincoln's Inn, Acting Justice, Supreme Court of the Bahamas and formerly one of HM Recorders

- **Mr David Hartnett**, Head of Revenue Policy, Board of Inland Revenue, UK
- **Mr Peter German**, Chief Superintendent and Officer in Charge, Financial Crime, Royal Canadian Mounted Police Headquarters, Ottawa
- **Mr Richard Jones QC**, Barrister, No 5 Chambers, Birmingham and London
- **Dr Katlen Blöcker**, Lovells Solicitors, Berlin
- **Ms Judith Schmidt**, Deputy Head, Anti-Money Laundering Control Authority, Switzerland
- **Mrs Sara Dayman**, Partner, BDO Stoy Hayward, London
- **Mr Lee Radek**, Special Counsel for International Money Laundering, US Department of Justice
- **Ms Chi-Jen Ching**, Prosecutor, Ministry of Justice, Taiwan
- **Mr Darryl Saw SC**, Deputy Director of Public Prosecutions, Hong Kong

Coffee

11:00 Session IX: Interdicting Tainted Wealth – developments from an international perspective

Chair: **Sir Ivan Lawrence QC**, one of HM Recorders and former Chairman, Home Affairs Committee, House of Commons

- **Mr Jürgen Storbeck**, The Director, Europol
- **Mr Simon Regis**, Head, UK Central Authority, Judicial Co-operation Unit, HM Home Office
- **Mr Jean-François Thony**, Senior Judge, Court of Appeal of Versailles and Assistant General Counsel, International Monetary Fund, Washington DC
- **Ms Kimberley Prost**, Head, Criminal Law Section and Deputy Director, Legal and Constitutional Affairs Division, Commonwealth Secretariat
- **Mr Jonathan Winer**, Counsel, Financial Services Group, Alston & Bird LLP, Washington DC and former Deputy Assistant Secretary of State, International Narcotics and Law Enforcement, US Department of State
- **Ms Elizabeth Jacobs**, Associate Director, Office of International Affairs, US Securities and Exchange Commission

13:00 Lunch in Hall and Upper Hall

14:00 Session X: Protecting the Integrity of the International Financial System – perspectives from offshore financial centres and private banking

Chair: **Mr Saul Fromkin QC**, Symposium Chairman and former Attorney General of Bermuda

- **Mr Reginald Rhoda QC**, The Attorney General, Gibraltar

- **Mrs Judith Jones-Morgan**, The Attorney General, St Vincent and Grenadines
- **Dr Kern Alexander**, Senior Research Fellow in International Financial Regulation, Institute of Advanced Legal Studies, University of London
- **Dr Shazeeda Ali**, Assistant Attorney General, Attorney General's Department, Jamaica and Lecturer in Law, Faculty of Law, University of the West Indies, Jamaica
- **Mr Ricardo Alba**, President, Agrica-Lex, Panama

15:30

Tea

<p>PLENARY WORKSHOP V – 15:45-17:15</p> <p>The Wolfsberg Group – Monitoring for Suspicious Transactions: Reality or Myth?</p> <p>Mr Matthew Cooper, Group Money Laundering Reporting Officer, Barclays Bank plc Mr Pierre Grumbacher, Executive Director, Market Strategy & Development, IT & Resources, UBS AG Mr James McGinnis, Managing Director, JP Morgan Securities Inc, New York Mr Richard Small, Director of Global Anti Money Laundering, Citigroup Inc, New York</p>	
<p>WORKSHOP 21 – 15:45-17:15</p> <p>The International Association of Prosecutors</p> <p>Prosecuting Financial Crime and Terror – a forum</p> <p>Chair: Mr Barry Hancock, General Counsel, International Association of Prosecutors and Associate Research Fellow, Institute of Advanced Legal Studies, University of London</p> <p>Mr Alan McQuillan, Assets Recovery Agency, Northern Ireland Ms Kimberly Prost, Head, Criminal Law Section and Deputy Director, Legal and Constitutional Affairs Division, Commonwealth Secretariat Ms Susan Taylor, Crown Prosecution Service of England and Wales Ms Mary Troland, US Department of Justice, US Embassy, London Mr Paul Wilkins, Attorney General's Office, Guernsey</p>	
<p style="text-align: center;">WORKSHOP 22 - 15:45-17:15</p> <p style="text-align: center;">Civil Forfeiture</p> <p>Dr Evan Bell, Senior Legal Assistant, Department of Public Prosecutions for Northern Ireland Mrs Sarah Dayman, Partner, BDO Stoy Hayward, London</p>	<p style="text-align: center;">WORKSHOP 23 – 15:45-17:15</p> <p style="text-align: center;">Due Diligence in Practice</p> <p>Mr G Montgomery Rankin, Attorney at Law, Florida Mr Michael Ricks, Michael Ricks & Associates Mr Graham Ritchie, Director, International Professional Research and Training Unit, Institute of Advanced Legal Studies, University of London</p>
<p style="text-align: center;">WORKSHOP 24 – 15:45-17:15</p> <p style="text-align: center;">Telemarketing Fraud</p> <p>Mr Mike Dixon, Detective Sergeant, Metropolitan Police and formerly ICPO Interpol Liaison, National Criminal Intelligence Service, UK Mr Mike Hayley, Office of Fair Trading, UK Mr Duncan McKelvie, West African Organised Crime Section, National Criminal Intelligence Service, UK Mr John Sliter, Detective Inspector, Commercial Crime Branch, Royal Canadian Mounted Police</p>	<p style="text-align: center;">WORKSHOP 25 – 15:45-17:15</p> <p style="text-align: center;">Making Corporations Accountable and the Attribution of 'Knowledge' within an Organisation</p> <p>Professor Johan Henning, Director of the Centre for Company and Partnership Law, Institute of Advanced Legal Studies, University of London and The Dean of the Faculty of Law, The University of the Free State, Republic of South Africa Professor Paul Latimer, Department of Business Law and Taxation, Monash University, Australia Dr Cheong Ann Png, International Monetary Fund</p>
<p style="text-align: center;">WORKSHOP 26 – 15:45-17:15</p> <p style="text-align: center;">Civil Asset Tracing: the efficacy of trust law</p> <p>Mr Andrew Goodman, Associate, Private Client Team, Taylor Wessing, Solicitors, London Mr Toby Graham, Partner, Taylor Wessing, Solicitors, London</p>	<p style="text-align: center;">WORKSHOP 27– 15:45-17:15</p> <p style="text-align: center;">'Whistleblowing'</p> <p>Mr Peter German, Chief Superintendent and Officer in Charge, Financial Crime, Royal Canadian Mounted Police Headquarters, Ottawa Ms Sandradee Joseph, King's College, University of London</p>

PLENARY WORKSHOP VI – 17:20-18:50

Drug Trafficking, Financial Crime and Terrorism

Chair: Mr Edward H Jurith, The General Counsel, Office of National Drug Control Policy, The Executive Office of the President of the United States

Dr Albert E Brandenstein, Director of Technology, Counter-Drug Technology Assessment Center, Office of National Drug Control Policy, The Executive Office of the President of the United States

Mr Brian R Coleman, Director, Police Scientific Research Branch, Home Office, UK

Mr Chris Westphal, Chief Executive Officer, Visual Analytics, Inc, Maryland

SPECIAL WORKSHOP – 17:20-18:50

The US Securities and Exchange Commission – fighting financial crime

Mr Thomas Newkirk, Associate Director of Enforcement, US Securities and Exchange Commission

WORKSHOP 29 – 17:20-18:50

Correspondent Banking and Money Laundering – Practical Issues

Dr Joachim Kaetzler, Attorney, CMS Hasche Sigle, Frankfurt

WORKSHOP 30 - 17:20-18:50

Financial Action Task Force's Initiatives in Regard to Non-Co-operative Countries and Territories (NCCT)

Mr John McFarlane, Director, Transnational and Homeland Security Program, Australian Defence Studies Centre, Australian Defence Force Academy

Professor Wassim Shahin, Dean, School of Business, Byblos, Lebanese American University

WORKSHOP 31 - 17:20-18:50

The Accountability at Law of Financial Regulatory and Banking Authorities – making them pay for 'their' mistakes

Dr Mads Andenas, The Director, The British Institute of International and Comparative Law and Senior Research Fellow, University of Oxford

Mr Saul Froomkin QC, Symposium Chairman
Dr Dalvinder Singh, Senior Lecturer in Law, Department of Law, Oxford Brookes University

WORKSHOP 32 - 17:20-18:50

Recent Terrorism in Malaysia, Including Links to Al Qaeda

Mr Mohammed Shah, Superintendent of Police, Royal Malaysian Police and Lecturer, Senior Police Officers' College, Malaysia

Mr William Tupman, Senior Lecturer, Department of Politics, University of Exeter

WORKSHOP 33 – 17:20-18:50

Lawyers As Launderers

Dr Nancy Baldwin, Attorney at Law, Florida
Mr Andrew Campbell, Department of Law, University of Wales, Aberystwyth
Mr Henry Rossbacher, Attorney at Law, The Rossbacher Firm, Los Angeles
Professor Avrom Sherr, Woolf Professor of Legal Education, Institute of Advanced Legal Studies, University of London

18:50 **Cocktails in the Marquee**

19:30 **Dinner in Hall and Upper Hall, Jesus College**

Both generously hosted by the **Association of Certified Fraud Examiners**

Addresses by **HE Shri Ranendra Sen**, High Commissioner for India and **The Hon Justice Dame Heather Steel**, Royal Courts of Justice and Master of the Worshipful Company of Pattenmakers, introduced by **Mr Graham Ritchie**, Director, International Professional Research and Training Unit, Institute of Advanced Legal Studies, University of London, with a vote of thanks by **Mr Robert Marsh Tipping**, Court of Assistants, Worshipful Company of Pattenmakers

Friday, 12th September 2003

SPECIAL BREAKFAST WORKSHOP – 8:00-9:00

Civil Enforcement under the Financial Services and Markets Act 2000

Mr Roger Best, Partner, Clifford Chance
Mr Martin Saunders, Partner, Clifford Chance

9:05

Keynote Addresses

Chair: **Dr Mads Andenas**, The Director, The British Institute of International and Comparative Law and Senior Research Fellow, University of Oxford

- **Mr Saul Froomkin QC**, Symposium Chairman and Senior Litigation Partner, Mello Jones & Martin (Bermuda)
- **Mr Nicholas Ilett**, Director of Directorate C “Intelligence, Operational Strategy and Information Technology”, European Anti-Fraud Office (OLAF)

09: 45

Session XI: Exposure to Legal Risk – the Civil Law

Chair: **Mr Geoffrey Rowland QC**, The Deputy Bailiff, Guernsey

- **Mr Nicholas Davidson QC**, Barrister, New Zealand
- **Mr Henry Rossbacher**, Attorney at Law, The Rossbacher Firm, Los Angeles
- **Avv Alessandro Napolitano**, Lovells Studio Legale, Rome
- **Ms Marie-Claire Sparrow**, Barrister, 118 Chancery Lane and Legal Adviser to the French Embassy, London
- **Dr Katlen Blöcker**, Lovells Solicitors, Berlin
- **Professor Johan Henning**, The Director of the Centre for Company and Partnership Law, Institute of Advanced Legal Studies, University of London and The Dean of the Faculty of Law, The University of the Free State, Republic of South Africa

Coffee

11:15

Session XII: Exposure to Legal Risk – the Criminal Law

Chair: **Mr Tom Lloyd**, Chief Constable, Cambridgeshire Constabulary

- **Mr Keith Oliver**, Partner, Peters & Peters, Solicitors, London
- **Mr Marcelo J Ruiz**, Pastoriza & Eviner Abogados, Buenos Aires and former Counsellor, Argentine Embassy, London
- **Mr Saul Froomkin QC**, Symposium Chairman and Senior Litigation Partner, Mello Jones & Martin (Bermuda)
- **Professor Angela Itzikowitz**, University of Witwatersrand School of Law, Republic of South Africa
- **Dr Joachim Kaetzler**, Attorney, CMS Hasche Sigle, Frankfurt
- **Professor Paul Latimer**, Department of Business Law and Taxation, Monash University, Australia
- **Mrs Svetla Konstantinova**, Attorney at Law, Bulgaria and former Counsellor, Bulgarian Embassy, London
- **Professor Takeyoshi Imai**, Faculty of Law, Hosei University and Adviser to the Ministry of Justice of Japan

13:15

Lunch in Hall and Upper Hall, Jesus College

14:00

Session XIII: Exposure to Regulatory Risk

Chair: **Mr George Staple QC**, Consultant, former Partner, Clifford Chance, former Director of the Serious Fraud Office of England and Wales and former Chairman of the Fraud Advisory Panel

- **Dr Dayanath Jayasuriya**, Attorney-at-Law, Sri Lanka and former Director General, Sri Lanka Securities and Exchange Commission
- **Mr Frans van Proosdij**, Senior Supervisor, Dutch Central Bank
- **Dr Hans-Peter Bauer**, Managing Director, Head, Group Regulatory Strategy and Relations, UBS
- **Mr Stuart Bazley**, Head of Compliance and Legal Counsel, Edward Jones Ltd, London
- **Mr G Philip Rutledge**, Chief Counsel, Pennsylvania Securities Commission
- **Ms Susan Galli**, Senior Anti-Money Laundering Co-ordinator, Citigroup Inc, New York
- **Mr Wilmer Parker III**, Partner, Gillen Cromwell Parker & Withers LLC, Atlanta and former Assistant US Attorney, US Department of Justice

15:30

Tea

PLENARY WORKSHOP VII – 15:45-17:15

The Control of Corruption

Chair: **Dr Denis Osborne**, Consultant in Governance, Development and Training and former HM High Commissioner to Malawi, HM Overseas Development Administration

Mr Peter Alldridge, Drapers’ Professor of Law, Queen Mary, University of London

Dr George Gilligan, Logan Senior Research Fellow, Department of Business Law and Taxation, Monash University, Australia

Mr Guillermo Montenegro, Federal Prosecutor, Argentina

Mr Mallam Nuhu Ribadu, Executive Chairman, Economic and Financial Crimes Commission, Nigeria

Mr Gary Scanlan, Department of Law, City University, London

<p align="center"><u>WORKSHOP 34 – 15:45-17:15</u></p> <p align="center">Financial Controls and Civil Rights</p> <p>Mr Henry Rossbacher, Attorney at Law, The Rossbacher Firm, Los Angeles</p> <p>Mr William Tupman, Senior Lecturer, Department of Politics, University of Exeter, Director, Unit for Research on Community Safety, member of advisory boards of Intercentre, University of Messina, Institute of Risk and Security Management, Rome and Center for Financial Crimes Studies, University of Florida</p>	<p align="center"><u>WORKSHOP 35 – 15:45-17:15</u></p> <p align="center">SALS Working Group on Company Law Reform</p> <p>Mr Christopher Hale, Partner and Head of Private Equity, Travers Smith Braithwaite, London</p> <p>Mr Julian Harris, Senior Information Officer, Institute of Advanced Legal Studies, University of London</p> <p>Professor Johan Henning, The Director of the Centre for Company and Partnership Law, Institute of Advanced Legal Studies, University of London and The Dean of the Faculty of Law, The University of the Free State, Republic of South Africa</p>
<p align="center"><u>WORKSHOP 36 – 15:45-17:15</u></p> <p align="center">The Use of Trade Finance and other Financial Instruments for Fraud and Money Laundering – an update</p> <p>Chair: Captain P Mukundan, Director, Commercial Crime Services, The International Chamber of Commerce</p>	<p align="center"><u>WORKSHOP 37 – 15:45-17:15</u></p> <p align="center">The Bali Bombings and Asia-Pacific Co-operation: Politics or Pragmatism?</p> <p>Mr John McFarlane, Director, Transnational and Homeland Security Program, Australian Defence Studies Centre, Australian Defence Force Academy</p>

<p><u>PLENARY WORKSHOP VIII – 17:20-18:50</u></p> <p>Underground Banking</p> <p>Chairman: Professor John Maher, Commissioner, Pennsylvania Securities Commission, sometime Dean and Professor Emeritus, The Dickinson School of Law, The Pennsylvania State University and immediate past Chairman, Atlantic Liberty Savings, FA</p> <p>Mr Navin Beekarry, Commissioner, Independent Commission Against Corruption, Mauritius</p> <p>Mr John T Canfield, Assistant Customs Attaché, US Embassy, London</p> <p>Mr David Copley, Regional Financial Intelligence Officer, National Criminal Intelligence Service, UK</p> <p>Professor Leonid Fituni, The Director, Centre for Strategic and Global Studies, Russian Academy of Sciences, Moscow</p> <p>Dr Dayanath Jayasuriya, Attorney-at-Law, Sri Lanka and former Director General, Sri Lanka Securities and Exchange Commission</p> <p>Miss Angela Leong, Research Associate Fellow, Centre for Criminology, The University of Hong Kong</p>	
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<p><u>PARALLEL PLENARY WORKSHOP IV – 17:20-18:50</u></p> <p>The OECD Harmful Tax Practices Initiative</p> <p>Mr Jeffrey Owens, Head, Centre for Tax Policy and Administration, Organisation for Economic Co-operation and Development (OECD), Paris</p> <p>Ms Grace Perez-Navarro, Centre for Tax Policy and Administration, Organisation for Economic Co-operation and Development (OECD), Paris</p>

<p align="center"><u>WORKSHOP 38 - 17:20-18:50</u></p> <p align="center">Money Laundering and International Commerce</p> <p>Mr Eric Ellen, Chairman of First Approach and former Director of the ICC – International Maritime Bureau and Chief Constable of the Port of London</p> <p>Ms Lin Kuo, Director, First Approach</p>	<p align="center"><u>WORKSHOP 39 - 17:20-18:50</u></p> <p align="center">The Mafia and Terrorism</p> <p>Professor Hisao Katoh, Professor of Criminal Law and Criminology, Keio University, Japan</p> <p>Professor Ernesto Savona, Catholic University in Milan and Director of Transcrime, Research Centre on Transnational Crime, University of Trento, Italy</p>
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<p align="center"><u>WORKSHOP 40 - 17:20-18:50</u></p> <p align="center">Art Theft</p> <p>Mr Charles Hill, Art Risk Consultant, The Charles Hill Partnership</p>	<p align="center"><u>WORKSHOP 41 - 17:20-18:50</u></p> <p align="center">Class Actions - A Way Ahead?</p> <p>Mr Clive Wolman, Associate Research Fellow, Institute of Advanced Legal Studies, University of London</p>
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<p><u>WORKSHOP 42 - 17:20-18:50</u></p> <p>The Internet and Money Laundering</p> <p>Professor Fletcher Baldwin, Chesterfield Smith Professor of Law and The Director, Center for International Financial Crimes Studies, University of Florida</p> <p>Dr David Chaikin, Chairman and CEO, Cyberbrief PTY Ltd</p> <p>Mr Jason Haines, Research Fellow in Financial Compliance, Institute of Advanced Legal Studies, University of London</p> <p>Mr G Montgomery Rankin, Attorney at Law, Florida</p>	
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18:50

Cocktails in the Marquee

19:30 **Dinner in Hall and Upper Hall, Jesus College**
Both generous hosted by **Clifford Chance**
After-dinner Addresses by **Lieutenant General Sir Michael Willcocks, KCB**, Gentleman Usher of the Black Rod and **HE Mrs Alma Rosa Moreno**, Ambassador Extraordinary and Plenipotentiary of Mexico to the Court of St James, introduced by **Dr Chizu Nakajima**, Symposium Co-Director, with votes of thanks by **Mr Saul Froomkin QC**, Symposium Chairman, and **Professor Barry Rider**, Symposium Director and Co-Chairman

Saturday, 13th September 2003

SPECIAL BREAKFAST WORKSHOP – 8:30-9:30

Economic Crime in China

Miss Angela Leong, Research Associate Fellow, Centre for Criminology, The University of Hong Kong
Mrs Ying Li, Director, Legal Development Centre, Supreme People's Procuratorate of the People's Republic of China and General Secretary, Shenzhen Legal Committee
Professor Ziqiang Ye, Associate Professor, Institute of Law, Chinese Academy of Social Sciences, Beijing, People's Republic of China and Visiting Fellow, Institute of Advanced Legal Studies, University of London

09:45 **Session XIV: Avoiding and Controlling the Risks**

Chair: **Mr Saul Froomkin QC**, Symposium Chairman

- **Mr Colin Bamford**, Barrister, 3-4 South Square and former Chief Executive, The Financial Law Panel
- **Professor John Maher**, Commissioner, Pennsylvania Securities Commission, sometime Dean and Professor Emeritus, The Dickinson School of Law, The Pennsylvania State University and immediate past Chairman, Atlantic Liberty Savings, PA
- **Mr Andrew Sowter**, Compliance Officer, Bear Stearns, London
- **Mr Shiraz Mahmood**, Senior Manager, Compliance, Internet and E-Commerce, HSBC and formerly of the Financial Services Authority, UK
- **Dr George Gilligan**, Logan Senior Research Fellow, Department of Business Law and Taxation, Monash University, Australia
- **Mr Ricardo Alba**, President, Agrica-Lex, Palma
- **Mr Saverio Mirarchi**, Managing Director, Global Compliance Division, Bank of New York

Coffee

11:30 **Session XV: The New Order!**

Chair: **Her Hon Judge Diana Faber**, Judge of the Crown Court and former Commissioner, Law Commission for England and Wales

- **Professor Ernesto Savona**, Catholic University in Milan and Director of Transcrime, Research Centre on Transnational Crime, University of Trento
- **Professor Dan Magnusson**, Swedish National Economic Crimes Bureau, Stockholm
- **Ms Wendy Tien**, Trial Attorney, Civil Division, US Department of Justice
- **Mr Mallam Nuhu Ribadu**, Executive Chairman, Economic and Financial Crimes Commission, Nigeria
- **Mr Kevin Roddy**, Partner, Hagens Berman, LLP, Los Angeles, California
- **Dr Denis Osborne**, Consultant in Governance, Development and Training and former HM High Commissioner to Malawi, HM Overseas Development Administration

13:15 **Lunch in Hall and Upper Hall**

14:15 **Session XVI: Sustaining the 'War' – human rights and proportionality**

Chair: **Sir Kenneth Warren**, Chairman of the Board of Governors, Witan Hall, Reading and former Chairman of the House of Commons Select Committee on Trade and Industry

- **Mr John Moscow**, Assistant District Attorney, Office of the District Attorney of New York
- **Mr Monty Raphael**, Senior Partner, Peters & Peters, Solicitors, London
- **Dr Dan Mitchell**, Senior Fellow, The Heritage Foundation and Founder, The Center for Freedom and Prosperity
- **Mr William Tupman**, Senior Lecturer, Department of Politics, University of Exeter, Director, Unit for Research on Community Safety, member of advisory boards of Intercentre, University of Messina, Institute of Risk and Security Management, Rome and Center for International Financial Crimes Studies, University of Florida
- **Mr Edwin Jefferson**, Police Service of Northern Ireland
- **Mr Jonathan Winer**, Counsel, Financial Services Group, Alston & Bird LLP, Washington DC and former Deputy Assistant Secretary of State, International Narcotics and Law Enforcement, US Department of State

- **Professor Fletcher Baldwin**, Chesterfield Smith Professor of Law and The Director, Center for International Financial Crimes Studies, University of Florida
- **Ms Claire de Than**, Lecturer in Law, Department of Law, City University, London

16:15 **Closing Remarks** by **Mr Saul Froomkin QC**, Symposium Chairman, **Professor Barry AK Rider**, Symposium Director and Co-Chairman and **Dr Chizu Nakajima**, Symposium Co-Director

18:45 **Cocktails and Informal Buffet Supper** in the Marquee

Workshops

Participation in the non-plenary workshops will be restricted so as to facilitate informal discussion. Registration for workshops will be undertaken on a first come basis. The convenors for each workshop are indicated in the programme, but discussion will be open to all those participating.

Official Publications

Those registering for the full programme will receive an annual subscription to both *The Journal of Financial Crime* and *The Journal of Money Laundering Control* and will on registration receive a full set of relevant background documentation on the programme.

The Symposium “Faculty”

Mr Ricardo Alba, President, Agrica-Lex, Panama
Dr Kern Alexander, Senior Research Fellow in International Financial Regulation, Institute of Advanced Legal Studies, University of London
Mr Richard Alexander, Research Officer in European Financial Law, Institute of Advanced Legal Studies, University of London
Dr Shazeeda Ali, Assistant Attorney General, Attorney General’s Department, Jamaica and Lecturer in Law, Faculty of Law, University of the West Indies, Jamaica
Mr Peter Aldridge, Drapers’ Professor of Law, Queen Mary, University of London
Dr Mads Andenas, The Director, The British Institute of International and Comparative Law and Senior Research Fellow, University of Oxford
Professor Larry Cata Backer, Professor of Law, Dickinson School of Law, The Pennsylvania State University
Dr James Backhouse, The Director, Computer Security Research Centre and Reader, London School of Economics and Political Science, University of London
Dr Mahmood Bagheri, Lecturer in International Economic Law, Brunel University
Professor Fletcher Baldwin, Chesterfield Smith Professor of Law and The Director, Center for International Financial Crimes Studies, University of Florida
Dr Nancy Baldwin, Attorney at Law, Florida
Mr Colin Bamford, Barrister, 3-4 South Square and former Chief Executive, The Financial Law Panel
Dr Hans-Peter Bauer, Managing Director, Head, Group Regulatory Strategy and Relations, UBS
Mr Stuart Bazley, Head of Compliance and Legal Counsel, Edward Jones Ltd, London
Dr Margaret Beare, The Director, The Nathanson Centre for the Study of Organized Crime and Corruption, York University, Toronto
Mr Navin Beekarry, Commissioner, Independent Commission Against Corruption, Mauritius
Dr Evan Bell, Senior Legal Assistant, Department of Public Prosecutions for Northern Ireland
Mr Roger Best, Partner, Clifford Chance
Dr Katlen Blöcker, Lovells Solicitors, Berlin
Dr Janusz Bojarski, Chair of Criminal Law and Criminal Policy, Nicholas Copernicus University, Torun, Poland
Mr Lawrence Boyce, Vice President, Sales Compliance and Registration, Investment Dealers’ Association of Canada
Dr Albert E Brandenstein, Director of Technology, Counter-Drug Technology Assessment Center, Office of National Drug Control Policy, The Executive Office of the President of the United States
HE Mr Tarald Osnes Brautaset, Ambassador Extraordinary and Plenipotentiary of the Royal Norwegian Embassy to the Court of St James
Mr Martyn Bridges, Partner, Investigation Services, Deloitte & Touche
The Rt Hon Lord Justice Brooke, Court of Appeal, England and Wales and former Chairman of the Law Commission for England and Wales
Mr John Broome, Consultant, Visiting Professorial Fellow, University of Wollongong, former Chairman, National Crime Authority, Australia and former Co-Chair, Asia-Pacific Group on Money Laundering
Mr Creon Butler, Chief Economist, HM Foreign and Commonwealth Office, UK
Mr Nicolas Burbidge, Senior Director, Compliance Division, Office of the Superintendent of Financial Institutions, Canada
Mr Terry Burke, Head of Financial OCU, National Crime Squad, UK
Mr Plato Cacheris, Partner, Baker & McKenzie, Washington DC
Mr Andrew Campbell, Department of Law, University of Wales, Aberystwyth
Mr John T Canfield, Assistant Customs Attaché, US Embassy, London
Mr Kevin Carwile, Deputy Chief, Organized Crime and Racketeering Section, US Department of Justice
Mr Stefan Cassella, Deputy Chief, Asset Forfeiture and Money Laundering Section, US Department of Justice
The Hon Judge Gabriel Cavallo, Federal Judge, Chamber of Appeal, Argentina
Dr David Chaikin, Chairman and CEO, Cyberbrief PTY Ltd
Mr Jonathan Charkham, former Chief Commoner of the Corporation of London, Visiting Professor, Cass Business School, City University and former Adviser to the Governor of the Bank of England
The Hon Mr Michael Chertoff, Assistant Attorney General and Head of the Criminal Division, US Department of Justice
Ms Chi-Jen Ching, Prosecutor, Ministry of Justice, Taiwan
Professor Alec Chrystal, Associate Dean, Head of Faculty of Finance and Professor of Money and Banking, Cass Business School, City University, London and formerly Senior Adviser, Bank of England
Mr Dave Churchill, Detective Inspector, West Midlands Police
Mr Richard Clayton, Computer Security Group, University of Cambridge
Mr Brian R Coleman, Director, Police Scientific Research Branch, Home Office, UK
Mr Richard Collins, Group Compliance Director, Lloyds TSB Bank plc, London
Mr Ian Comisky, Partner, Blank, Rome LLP, Philadelphia
Mr Matthew Cooper, Group Money Laundering Reporting Officer, Barclays Bank plc
Mr David Copley, Regional Financial Intelligence Officer, National Criminal Intelligence Service, UK
Mr Nicholas Davidson QC, Barrister, New Zealand
Mr Tom Dawlings, Financial Sanctions Unit, Bank of England
Mrs Sara Dayman, Partner, BDO Stoy Hayward, London
Ms Claire de Than, Lecturer in Law, Department of Law, City University, London
Mr Mike Dixon, Detective Sergeant, Metropolitan Police and formerly ICPO Interpol Liaison, National Criminal Intelligence Service, UK
Mr Alexander Drobik, Vice President, Research, Gartner Group
Mr Bernard Dyer, Computer Security Research Centre, London School of Economics and Political Science, University of London
Dr Dennis Ude Ekumankama, The Director and Secretary, Corporate Affairs Commission, Nigeria
Ms Jane Earl, Director, Assets Recovery Agency, UK
Dr Fath El-Rahman El Sheikh, Legal Adviser, Kuwait Investment Authority
Mr Eric Ellen, Chairman of First Approach and former Director of the ICC – International Maritime Bureau and Chief Constable of the Port of London
Her Hon Judge Diana Faber, Judge of the Crown Court and former Commissioner, Law Commission for England and Wales
Mr Ken Farrow, Detective Chief Superintendent, City of London Police
Mr David Faulkner, International Financial Services, HM Treasury, UK
Ms Silvia Fazio, Institute of Advanced Legal Studies, University of London
Professor Leonid Fituni, The Director, Centre for Strategic and Global Studies, Russian Academy of Sciences, Moscow
Mr Charles Freeland, Deputy Secretary General, Bank of International Settlements, Basle
Mr William Frei, Deputy Head of the Economic and Financial Affairs Division, Federal Department of Foreign Affairs, Switzerland
Mr John Friedland, General Editor, *International Journal of Disclosure and Governance*
Mr Saul Froomkin QC, Symposium Chairman and Chairman of CIDOEC, Senior Litigation Partner, Mello Jones & Martin (Bermuda), and former Attorney General, Bermuda and Director of Criminal Law, Federal Government of Canada
Dr Michelle Gallant, Assistant Professor of Law, Faculty of Law, University of Manitoba
Ms Susan Galli, Senior Anti-Money Laundering Co-ordinator, Citigroup Inc, New York

Mr Stefan Gannon, General Counsel, The Hong Kong Monetary Authority
Mr Peter Gorman, Chief Superintendent and Officer in Charge, Financial Crime, Royal Canadian Mounted Police Headquarters, Ottawa
Dr George Gilligan, Logan Senior Research Fellow, Department of Business Law and Taxation, Monash University, Australia
Mr Simon Gleeson, Partner, Allen & Overy, Solicitors, London
Mr Leo Goldschmidt, Chairman, Corporate Governance Committee and Director, APCIMS-EASD
The Rt Hon The Lord Goldsmith QC, The Attorney General for England and Wales
Mr Andrew Goodman, Associate, Private Client Team, Taylor Wessing, Solicitors, London
Mr Toby Graham, Partner, Taylor Wessing, Solicitors, London
Mr Stephen Grey, Investigative Journalist, *The Sunday Times*
Mr Pierre Grumbacher, Executive Director, Market Strategy & Development, IT & Resources, UBS AG
The Rt Hon The Lord Hacking, Barrister, Littleton Chambers, London
Mr Jason Haines, Research Fellow in Financial Compliance, Institute of Advanced Legal Studies, University of London
Mr Christopher Hale, Partner and Head of Private Equity, Travers Smith Braithwaite, London
The Hon Judge Hancke, High Court, Bloemfontein and Chairman of the Council, University of the Free State, Republic of South Africa
Mr Barry Hancock, General Counsel, International Association of Prosecutors and Associate Research Fellow, Institute of Advanced Legal Studies, University of London
Mr Julian Harris, Senior Information Officer, Institute of Advanced Legal Studies, University of London
Mr David Hartnett, Head of Revenue Policy, Board of Inland Revenue, UK
Mr Mike Hayley, Office of Fair Trading, UK
Dr Andrew Haynes, Head, Institute of Finance, University of Wolverhampton
Professor David Hayton, Professor of Law, King's College, University of London, Barrister, 5 Stone Buildings, Lincoln's Inn, Acting Justice, Supreme Court of the Bahamas and formerly one of HM Recorders
Mr Paul Heckles, Head of Enforcement, Isle of Man Financial Supervision Commission
Professor Johan Henning, The Director of the Centre for Company and Partnership Law, Institute of Advanced Legal Studies, University of London and The Dean of the Faculty of Law, The University of the Free State, Republic of South Africa
Mr Charles Hill, Art Risk Consultant, The Charles Hill Partnership
Mr Willie Hofmeyr, Head of Asset Forfeiture Special Unit, Republic of South Africa
Ms Carmina Hughes, Special Counsel, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, USA
Mr Tony Hutchings, Assistant Detective Inspector, National Hi-Tech Crime Unit, National Crime Squad, UK
Mr Nicholas Ilett, Director of Directorate C "Intelligence, Operational Strategy and Information Technology", European Anti-Fraud Office (OLAF)
Professor Takeyoshi Imai, Faculty of Law, Hosei University and Adviser to the Ministry of Justice, Japan
Mr Horst Intscher, Director, Financial Transactions and Reports Analysis Centre of Canada
Professor Angela Itzikowitz, University of Witwatersrand School of Law, Republic of South Africa
Ms Patricia Jackson, Special Advisor on Financial Stability, Bank of England
Ms Elizabeth Jacobs, Assistant Director, Office of International Affairs, US Securities & Exchange Commission
Dr Dayanath Jayasuriya, Attorney-at-Law, Sri Lanka and former Director General of the Sri Lanka Securities and Exchange Commission
Mr Edwin Jefferson, Police Service of Northern Ireland
Mr Hank Jensen, National White Collar Crime Center, Canada
Mr Richard Jones QC, Barrister, No 5 Chambers, Birmingham and London
Mrs Judith Jones-Morgan, The Attorney General, St Vincent and Grenadines
Ms Sandra Dee Joseph, King's College, University of London
Mr Edward H Jurith, The General Counsel, Office of National Drug Control Policy, The Executive Office of the President of the United States
Dr Joachim Kaetzler, Attorney, CMS Hasche Sigle, Frankfurt
Professor Hisao Kato, Professor of Criminal Law and Criminology, Keio University, Japan
Mr Anton Keller, The Secretary, Swiss Investors Protection Association, Geneva
Mr Raymond Kendall, The Honorary Secretary General, Interpol and President, Supervisory Commission, European Anti-Fraud Office (OLAF)
Mr Giannis Keramidis, Lecturer in Law, University of Westminster
Mr Koji Kishima, Deputy Director, Financial Intelligence Office, Financial Services Agency of Japan
Mrs Svetla Konstantinova, Attorney at Law, Bulgaria and former Counsellor, Bulgarian Embassy, London
Ms Lin Kuo, Director, First Approach
Professor Paul Latimer, Department of Business Law and Taxation, Monash University, Australia
Mr Alan Lambert, Consultant, Caribbean Anti-Money Laundering Programme and former Head of Hertfordshire Police Financial Investigation Unit
Sir Ivan Lawrence QC, one of HM Recorders and former Chairman, Home Affairs Committee, House of Commons
Miss Angela Leong, Research Associate Fellow, Centre for Criminology, The University of Hong Kong
Professor Michael Levi, Professor of Criminology, Cardiff University
Mrs Ying Li, Director, Legal Development Centre, Supreme People's Procuratorate of the People's Republic of China and General Secretary, Shenzhen Legal Committee
Mr Tom Lloyd, Chief Constable, Cambridgeshire Constabulary
Mr David Lock, Chairman, Service Authority for the National Criminal Intelligence Service and the National Crime Squad, UK and former Parliamentary Secretary, Lord Chancellor's Department
The Hon Dr Giuseppe Lumia, Member of the Italian Parliament, Member and former Chairman, Anti-Mafia Commission, Italian Parliament
Professor Dan Magnusson, Swedish National Economic Crimes Bureau, Stockholm
Professor John Maher, Commissioner, Pennsylvania Securities Commission, sometime Dean and Professor Emeritus, The Dickinson School of Law, The Pennsylvania State University and immediate past Chairman, Atlantic Liberty Savings, FA
The Hon Mr John A Maher III, CPA, Member, Pennsylvania House of Representatives and Chairman, Subcommittee on Public Transportation, and Founder of Maher Duessels CPAs
Mr Shiraz Mahmood, Senior Manager, Compliance, Internet and E-Commerce, HSBC and formerly of the Financial Services Authority, UK
Mr John Mair, Group Financial Crime Director, Group Compliance, Lloyds TSB Bank plc
Ms Joan Manley, Deputy Director, Division of Enforcement, Commodity Futures Trading Commission
Ms Anna Markovskaya, Cass Business School, City University, London
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Mr James McGinnis, Managing Director, JP Morgan Securities Inc, New York
Mr Duncan McKelvie, West African Organised Crime Section, National Criminal Intelligence Service, UK
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Mr John McFarlane, Director, Transnational and Homeland Security Program, Australian Defence Studies Centre, Australian Defence Force Academy

Mr Alan McQuillan, Assets Recovery Agency, Northern Ireland
Mr Geoff Mhlanga, Managing Director, Zimbabwe Stock Exchange and Chairman, African Association of Stock Exchanges
Mr John Middleton, Director, Compliance Risk Management Strategy, HM Inland Revenue, UK
Professor Jon Mills, Dean and Professor of Law, Levin College of Law, University of Florida and former Speaker of the Florida Legislature
Dr George Henry Millard, Special Adviser to the Commissioner of Police, Brazilian Civil Police
Mr Saverio Mirarchi, Managing Director, Global Compliance Division, Bank of New York
Supervisory Special Agent Dale Miskell, Internet Fraud Complaint Center, the Federal Bureau of Investigation, US Department of Justice
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* Subject to confirmation

Please note that, having regard to the number and calibre of the speakers involved, it is inevitable that changes in the programme will take place

Jesus College, Cambridge

Jesus College was founded as a college, in the University of Cambridge, in 1496, by Bishop Alcock of Ely. The history of the College is, however, rather more ancient. An order of nuns occupied the site and buildings for at least two hundred and fifty years before this. Since the inception of the annual Cambridge Symposium, twenty years ago, the Master and Fellows of the College have been pleased to host the event and the College administers all financial matters pertaining to the programme

Principal Organising Institutions

The Centre for International Documentation on Economic and Organised Crime (CIDOEC)

CIDOEC was established as a non-profit making organisation in 1988 to promote collaborative and comparative research in the prevention and control of organised and economic crime. It is based in Cambridge and Reading, although it has branches in southern Africa, North America, Latin America and the Far East. The Chairman of CIDOEC's Advisory Board is Mr Saul Froomkin QC, a former Attorney General of Bermuda.

The Institute of Advanced Legal Studies

The IALS was established in 1947 and is a constituent member of the School for Advanced Study of the University of London. Although part of the University of London, the Institute's role is national, and is funded by government on this basis. Its library is the national law library and the Institute's research staff is concerned with promoting and conducting research across a broad spectrum of legal and related issues, including the prevention and control of economic crime. The Institute's Advisory Council is chaired by The Rt Hon The Lord Hope of Craighead, Lord of Appeal in Ordinary.

The Society for Advanced Legal Studies

The Society is a registered charity concerned with promoting collaborative research between practising lawyers, academics and those involved in the administration of justice in Britain and elsewhere. Membership of the Society as a Fellow or Associate Fellow is open to anyone who has a post-graduate degree in law or a related discipline and or who has the right to practise law in any jurisdiction. The Society's Advisory Council is chaired by The Rt Hon The Lord Scott of Foscote, Lord of Appeal in Ordinary.

The Centre for Financial Regulation, Cass Business School, City University, London

Cass Business School is one of the leading business and management schools in the UK and has the advantage of being based in the City of London, with the Lord Mayor as the University's Chancellor. The Centre for Financial Regulation was established to promote and conduct research, across a broad spectrum of disciplines, in the area of financial regulation. The Chairman of the Centre's Advisory Council is Sir Kenneth Warren.

Symposium Chairman

Mr Saul Froomkin QC

Chairman of CIDOEC and Senior Litigation Partner, Mello Jones & Martin (Bermuda), former Attorney General, Bermuda and Director of Criminal Law, Federal Government of Canada

Symposium Director and Co-Chairman

Professor Barry AK Rider

The Director, Institute of Advanced Legal Studies, University of London, Professor of Law, University of London, Executive Director of CIDOEC, President of The British Institute of Securities Laws, Fellow Commoner of Jesus College, Cambridge and Barrister

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附 件 二



ANTI-MONEY LAUNDERING AND ANTI- TERRORISM IN TAIWAN

Chi-Jen Ching

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The Cambridge International Symposium
on Economic Crime

September 11, 2003

Cambridge, U.K



INTRODUCTION

- ⊕ The progress of Anti-money laundering law in Taiwan
- ⊕ The draft act for combating terrorism
- ⊕ International cooperation on attacking terrorist funds and money-laundering

The Money Laundering Control Act

- ⊕ Promulgated in 1996 and came into force on Apr. 23, 1997
- ⊕ The first comprehensive anti-money laundering law in Asia, relating to confiscation of proceeds of crime and international co-operation
- ⊕ Amended on Feb. 6, 2003

OVERVIEW OF THE ANTI-MONEY LAUNDERING SYSTEM IN TAIWAN

- ⊕ Policy: the Ministry of Justice, the Ministry of Finance
- ⊕ Financial regulation: the Ministry of Finance, the Central Bank of China
- ⊕ Law enforcement: the Public Prosecutors' Office; National Police Administration, Money Laundering Prevention Center of the Ministry of Justice Investigation Bureau



ANTI-MONEY LAUNDERING LAWS IN TAIWAN

- ⊕ Establishing administrative prevention mechanisms
- ⊕ Criminalizing money laundering as an independent crime
- ⊕ Seizing and forfeiting the proceeds of money laundering crimes
- ⊕ International cooperation



Administrative Prevention Mechanisms

- ⊕ Financial record keeping and reporting of currency transaction to designated agencies
 - ▣ currency transactions exceeding NT1 million
 - ▣ suspicious transactions
- ⊕ Establishing Money Laundering Prevention Center
- ⊕ Setting up Financial Account Inquiry System



Money Laundering Prevention Center

- ⊕ Processing suspicious transactions reports from financial institutions
- ⊕ Collecting, analyzing money laundering information
- ⊕ Assisting investigation of money laundering crimes
- ⊕ Sharing money laundering intelligence with foreign law enforcement agencies



Money Laundering Offenses

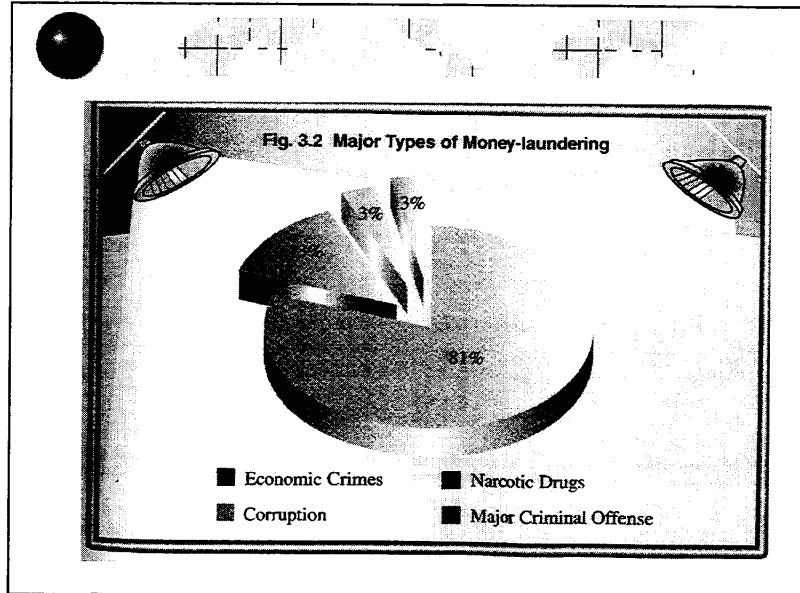
- ⊕ Defined in Article 2 of the MLCA:
Whoever knowingly,
 - ⊗ Concealing or hiding the property or interests in the property of oneself;
 - ⊗ Receiving, transporting, storing, intentionally buying, or acting as a broker to manage the property or interests in the property of other person;
 - ⊗ Property or interests obtained through the committing of “serious crimes”

Serious Crimes

- ⊕ Predicate crimes to constitute a money laundering crime.
 - ▣ Threshold approach
 - ▣ Listed crimes approach
- ⊕ New law broadens the scope of of predicate crime to meet the FATF 40 Recommendations

Serious Crimes

- ⊕ Threshold approach: the minimum punishment is five or more years imprisonment
 - ▣ Corruption and bribery
 - ▣ Illicit trafficking in narcotic drugs
- ⊕ Listed crimes in Article 3 of MLCA:
 - ▣ Trafficking in human beings
 - ▣ Counterfeiting currency
 - ▣ Illicit trafficking in weapons, munitions and explosives
 - ▣ Organized Crime
 - ▣ Sexual exploitation
 - ▣ Other crime in the Smuggling Punishment Statute, Securities Exchange, Banking and Bankruptcy Act



Punishment for Money Laundering

- ⊕ 5 years imprisonment or less for whoever launders money obtained from one's own serious crime; 3 million NT maximum fine
- ⊕ 7 years imprisonment or less for whoever laundering money obtained from other's serious crime; NT\$5 million maximum fine
- ⊕ 3 to 10 years imprisonment for engaging in money laundering as their major source of income
- ⊕ Criminal liability for representatives, employees of legal entity



Enforcement Issues

- ⊕ Freezing of criminals' assets
- ⊕ Seizing criminals' property for quasi-confiscation or recovery
- ⊕ Forfeiting the proceeds of money-laundering crimes



Freezing of criminals' assets

- ⊕ Temporarily blocking the suspicious accounts
- ⊕ Motion made by prosecutors and decided by judges
- ⊕ Reporting to the court within 3 days after the freezing of the account without the court order in case of emergency
- ⊕ Assisting foreign requests for search based on reciprocal agreement in the scope of "serious crime"



Seizing criminals' property

- ◆ To ensure the property or the interests in the property can be recovered
- ◆ For quasi-confiscation or recovery
- ◆ Assisting foreign requests for seizure based on reciprocal agreement in the scope of "serious crime"



Confiscation

- ◆ Article 12 of the MLCA
 - ❖ Confiscating the property or interests in the property obtained from money laundering
 - ❖ Assisting enforcement of requests from foreign government based on reciprocal agreement



Confiscation

- ◆ Article 38 of the Criminal Code
 - ▣ Contraband
 - ▣ Instrumentalities used or prepared for crime
 - ▣ Proceeds of the crime
- ◆ Article 7 of the Organized Crime Prevention Act
 - ▣ Confiscating the overall property of the criminal organization except which belong to the victims



ANTI-TERRORISM ACT IN TAIWAN

- ◆ Drafted by MOJ in 2002
- ◆ Defining and punishing terrorism activity
- ◆ Establishing Anti-Terrorism Task Force
- ◆ Enhancing domestic security against terrorism
- ◆ Enhancing surveillance procedures
- ◆ Improving intelligence collection
- ◆ Attacking terrorist funds



Definition of Terrorism Activity

- ✦ Planning and organizing violent crimes
 - ▣ Causing death or serious injury
 - ▣ Hijacking public transportation, Kidnapping
 - ▣ Releasing poison, virus, fire, explosion, etc.
- ✦ Committed by an individual or an organization with the intent to cause public threat
- ✦ Motivated by political, religious, racial or other beliefs



Enhancing Surveillance Procedures

- ✦ Removing obstacles to investigating terrorism
 - ▣ Authority to intercept wire, oral, and electronic communications relating to terrorism
- ✦ Requiring ISP to preserve and provide trans-border IP records



Improving intelligence collection

- Authority of coordinating and processing anti-terrorist intelligence: National Security Bureau
- Providing international terrorist intelligence to Anti-Terrorist Action Special Task Force and Intelligence Bureau



Attacking Terrorist Funds

- Seizing or imposing sanctions against disposition of property
- Freezing funds related to terrorists
- Establishing terrorists financial information files



Punishment for Terrorist

- ⊕ Death penalty, life imprisonment or more than 10 years imprisonment for terrorism activity
 - ⊖ Up to 2 years imprisonment for preparatory crime
- ⊕ Confiscating the proceeds of the crime and the instrumentalities used for the crime



Punishment for Terrorist

- ⊕ 5 years imprisonment or more for participating in terrorists organizations; NT\$100 million maximum fine
- ⊕ 1 to 7 years imprisonment for terrorist financing; NT\$10 million maximum fine
- ⊕ Jurisdiction extended over ROC nationals committing terrorist crimes outside the country



International Cooperation

- ◆ Joining international organizations
- ◆ Mutual legal assistance agreements
- ◆ Forfeiture asset sharing with foreign law enforcement agencies
- ◆ Establishing terrorists financial information files
- ◆ Implementing FATF Special Recommendations relating to deterring terrorists financing



Joining International Organizations

- ◆ **Multilateral Contacts**
 - ▣ Asia Pacific Group on Money Laundering (February, 1997)
 - ▣ EGMONT GROUP (June, 1998)
- ◆ **Bilateral Contacts**
 - ▣ With the USA: FBI, DEA, Secret Service, IRS, FIUs (Financial Intelligence Units)
 - ▣ Other law enforcement agencies: Australia, Canada, New Zealand, Japan



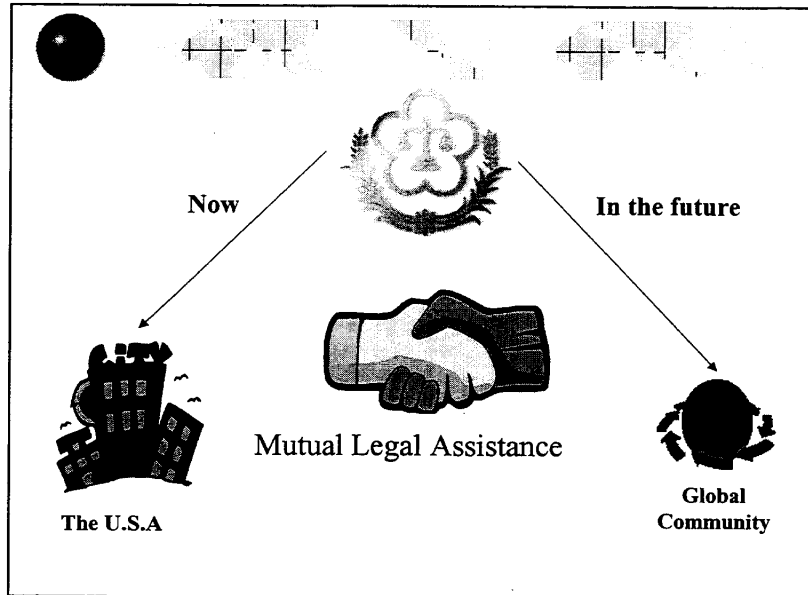
Mutual Legal Assistance Agreement

- ◆ Agreement between Taiwan and USA in criminal matters (signed in March, 2002)
- ◆ Scope of assistance
 - ❑ Executing requests for searches and seizures;
 - ❑ Assisting in proceedings related to immobilization and forfeiture of assets;
 - ❑ Any other form of assistance not contrary to the laws of the requested party




Forfeiture Assets Sharing with Foreign Law Enforcement Agencies

- ◆ Based on reciprocal agreements
- ◆ Requesting assistance from foreign law enforcement agencies on forfeiting the proceeds from money laundering
- ◆ Sharing the forfeiture assets with the cooperative foreign agencies or international organizations



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法 務 部
 Ministry of Justice

Thank You!



附 件 三

The 21st Cambridge International Symposium on Economic Crime
Financial Crime, Terror and Subversion
The Control of Risk in a Destablished World Economy

**RECENT ACHIEVEMENTS IN TAIWAN'S
ANTI MONEY LAUNDERING AND ANTI
TERRORISM WORK**

Chi-Jen Ching
Prosecutor
Ministry of Justice
Taiwan

Recent Achievements in Taiwan's anti money laundering and anti terrorism work

By Chi-Jen Ching
Prosecutor,
Ministry of Justice, Taiwan
2003/9/29

Taiwan has made important, concrete strides forward in recent years in its campaign to sever criminal profiteers from their criminal profits and breaking the links between terrorist and their funding. These strides forward are taking place on all fronts: statutory changes, establishment of interagency groups, increased cooperation with foreign law enforcement agencies and increased domestic awareness of the importance of the involved issues.

In this paper we will discuss Taiwan's achievements of the past few years as well as future plans and future challenges. We will focus on the areas of Taiwan's successes in investigating and prosecuting money laundering cases, Taiwan's criminal forfeiture laws, Taiwan's anti-terrorism policy and practices and Taiwan's achievements in the area of international cooperation. Taiwan is justifiably proud of the achievements in these areas but there is, alongside of that, the realization that there are future challenges to be met, weak links that must be strengthened and that the challenge of breaking the "lines of money" that fuel criminality and terrorism requires ongoing sustained efforts.

I. Introduction: Taiwan's Criminal Justice System

To place Taiwan's efforts in context, some background on Taiwan's criminal justice system would be useful. Taiwan is a multi-party constitutional democracy that inherited the criminal law system first developed by the Republic of China at its founding in 1912. That system can be simply described as a "continental" or "inquisitorial" system. Taiwan's modern system has much in common with the German and Japanese criminal justice systems. The emphasis is on statutory law rather than case law and the jury system is not used. Taiwan's court system has three levels: District Courts, which are the trial courts; High Court, which are the

intermediate appeals courts and the Supreme Court, which is the highest appellate court. Taiwan also has a Counsel of Grand Justices, which is responsible for interpreting Taiwan's constitution.

Taiwan's criminal justice system underwent a major revision in September of 2003 with the introduction of over 100 amendments to the Criminal Code. The criminal trial system has shifted from a "continental-inquisitorial" system to what has been termed a "Modified Adversarial System". This new trial system incorporates elements from the American and Japanese adversarial systems and places an increased emphasis on evidence law, cross-examination and a more active trial role for the prosecutor.

The major government agencies involved in the criminal justice system are: the Ministry of Justice, which has oversight for the prosecution function; the Judicial Yuan, which has oversight for the judicial function and the Ministry of Interior which oversees the National Police Administration. In the battle against money laundering and ending terrorist funding, the Ministry of Finance and the Central Bank of China also play key roles.

II. The Anti-Money Laundering System in Taiwan

Overview

Taiwan has always been a leader in Asia in the battle against money laundering. As a prime example of that leadership, in 1996 Taiwan promulgated the first money laundering control act in Asia. Taiwan's Money Laundering Control Act (MLCA) was the first comprehensive anti-money laundering act in Asia that covered both the seizure and forfeiture of proceeds of criminal activities as well as establishing a framework for Taiwan's international cooperation in this area. After having the initial legislation in place and operating for a few years, the need for refinements and additions to the law became apparent. In response to that Taiwan reviewed and revised most of the original statutes to better meet the challenges posed by terrorism and the responsibilities brought on by Taiwan's mutual legal assistance agreements with foreign law enforcement agencies. The Money Laundering Control Act underwent major amendments, which came into effect on February 6 of 2003.

Taiwan's anti money laundering system has three major components; policy, financial regulation and law enforcement. The Ministry of Justice (MOJ) is responsible for drafting policy in relation to money laundering prevention and the revision of related laws and regulations. The MOJ is also responsible for

implementation of international cooperation project as well as supervising the prosecution function. This latter task involves oversight of prosecution and police investigations, including the detection and investigation of money laundering cases.

The task of regulation of financial institutions falls to the Ministry of Finance and the Central Bank of China. These two agencies establish the regulations for the banking and finance sectors in Taiwan, and an obvious part of that is the establishment of mechanisms for the banking and finance sectors to assist with the detection and prosecution of money laundering cases.

The third component is law enforcement and this third component involves the coordinated action of the Public Prosecutors offices, the National Police Administration and the Money Laundering Prevention Center, which is an agency within the Ministry of Justice Investigation Bureau. The Money Laundering Prevention Center (MLPC) is in many ways the “epicenter” of anti-money laundering work in Taiwan. Although of course all the components are important, the MLPC acts as the “clearinghouse” for money laundering detection, prevention and information.

The Framework of the Anti-Money Laundering Law in Taiwan

Taiwan’s efforts to end “dirty money” takes place in a framework with a number of major components. As just mentioned the MLPC serves acts as a kind of “center point” for Taiwan’s anti-money laundering work. The MLPC formally went into operation on April 23, 1997, the same day when the Money Laundering Control Act went into effect.

The major tasks of the MLPC include the following:

1. To design both long term and mid-term strategies for money laundering prevention in Taiwan.
2. The handling and processing of Suspicious Activity Reports (SAR’s) submitted by financial institutions.
3. The collection, analysis, and organization of money laundering data.
4. Providing assistance to domestic law enforcement agencies in the investigation of money laundering cases and to act as liaison and central coordinating agency for cases falling under the Money Laundering Control Act.
5. To engage with foreign counterpart agencies in information exchanges, joint personal training and joint investigation of money laundering cases. This task involves the establishment of contacts, planning, coordination and implementation of joint projects.
6. The establishment and maintenance of databases for money-laundering

intelligence.

In addition to establishing the MLPC to process the suspicious transactions reports from financial institutions, the MOJ also established a Financial Account Inquiry System to trace the capital flow of criminals and criminal enterprises.

The frontline of the war against money laundering is however the financial institutions. They are a critical part of the anti-money laundering framework. The Money Laundering Control Act requires that every financial institution establish its own money laundering prevention guidelines and procedures, and submit those guidelines and procedures to the competent authority and the Ministry of Finance for review. The content of the money laundering prevention guidelines and procedures shall include the following items: 1) the money laundering prevention operation and the internal procedures regulating money laundering activities; 2) the periodical on-job training of the money laundering prevention instituted or participated by the financial institution referred to in this Act; 3) the designation of a responsible person to coordinate and supervise the implementation of the established money laundering prevention guidelines and procedures; 4) Other cautionary measures established by the competent authority and the Ministry of Finance

For any financial transaction exceeding 1 million New Taiwan dollars (about USD29, 000), and for any financial transaction suspected to involve a money laundering activity, the financial institutions shall identify the status of the customer and keep the transactions records, and forward a report to the designated agency.

Criminalizing Money Laundering as an Independent Crime

The Money Laundering Control Act criminalizes money laundering; which is defined in Article 2 of this Act as:

“Whoever knowingly conceals or hides the property or property interests obtained through the commission by oneself of a “serious crime”; or receiving, transporting, storing, intentionally buying, or acting as a broker to manage the property or property interests obtained through the commission of a “serious crime” by another party.”

The phrase “serious crimes” has a specific legal meaning in Taiwanese criminal law. In reference to the term as used in the Money Laundering Control Act, “serious crimes” are the predicate crimes by which a charge or conviction for money laundering can be based.

The new amendments to the Money Laundering Control Act considerably broadened the scope of predicate crimes to meet the FATF 40 Recommendations. The approach used in the newly amended law says that there are two “categories” of

predicate crimes. One category is any crime for which the minimum punishment is five or more years imprisonment. The second category of predicate crimes is the crimes specifically listed in the Money Laundering Control Act. This list of “serious crimes” which can be predicate crimes to money laundering includes: corruption; bribery; trafficking in narcotic drugs, weapons, munitions and explosives; trafficking in human beings; organized crime, sexual exploitation (including sexual exploitation to children); counterfeiting currency and some specific property crimes proscribed in the Criminal Code of which the proceeds are up to \$20 million New Taiwan dollars, and other crimes against the Smuggling Punishment Statute, Securities Exchange, Banking and Bankruptcy Act.

Turning to some of the numbers, the Ministry of Justice Investigation Bureau *Anti-Money Laundering Yearbook for 2003* reports (figures are from year 2002):

- Number of SARS (suspicious activity reports) handled and processed were 1,140 cases
- Number of money laundering cases prosecuted were 89 cases

It is anticipated that the new amendments to the Money Laundering Control Act will cause the number of prosecuted cases to greatly increase in the coming years.

III. Seizing and Forfeiting the Proceeds of Money Laundering Crimes

Article 38 of Criminal Code provides for confiscation of proceeds of the crime and instrumentalities used either in the crime or in preparation for commission of a crime. However, to be subject to confiscation, the proceeds and instrumentalities must belong to the criminal. In addition to this principal rule of confiscation set forth in the Criminal Code, the Money Laundering Control Act provides that the property or interests in the property obtained by a person through committing the crime of money laundering shall be confiscated without prejudicing the rights of bona fide third parties. That provision states: “the property or property interests obtained from the commission of a crime by an offender violating the provisions set forth in Article 9 of this Act, other than such which should be returned to the injured party or a third party, shall be confiscated, regardless the property or property interests belong to the offender or not. Whenever the above property or property interests can not be confiscated in whole or in part, the value thereof shall be indemnified either by demanding a payment from the offender or by offsetting such value with the property of the offender.”

The last provision of that section is important in that it requires the defendant to provide “restitution”, or as the code refers to it “indemnification”, for the return of any profits they acquired by virtue of their illegal money laundering.

Article 7 of the Organized Crime Prevention Act also addresses confiscation. It states: “The overall property of a criminal organization owned by an offender acting in contravention of Article 3 of his Act shall be traced for collection or confiscated after deducting any portion belonging to the victims. Where the property cannot be confiscated in part or in whole, then an amount equivalent to the ascribed monetary value of the said property shall be traced and levied.

If the source of obtaining the property can not be legally established, any property obtained by an offender acting in contravention of Article 3 of this Act after participating in the criminal organization shall be traced for collection or confiscated subsequent to deducting the portion to be returned to the victims. Where the property cannot be confiscated in part or in whole, then an amount equivalent to the ascribed monetary value of the said property shall be traced and levied.”

To ensure the property or the interests in the property can be recovered and to indemnify the value of the criminals’ property or property interest obtained from the commission of crimes, the law provides temporary measures to seize the criminals’ property and allows for freezing of suspected money-laundering assets of the criminals to allow for investigation into the possibility of money laundering crime.

The new law allows for temporarily blocking of suspicious accounts for a period of up to 6 months. The motion to freeze or block a suspicious account must be made by prosecutors and will be ruled on by judges who will base their decision on whether there exist “reasonable grounds” to believe that the account is being used for money laundering. The prosecutor can also freeze the criminals assets without court order, but it must be in case of emergency, and the prosecutor has to report to the court within 3 days after the freezing of the account. In addition, the new law allows for the freezing of assets at the request of another jurisdiction if based on reciprocal agreements and if the crime would fall within the scope of “serious crimes” in Taiwan. This is true no matter whether the crime is under investigation in Taiwanese jurisdiction or not. This article also provides for assisting enforcement of requests from foreign governments again based on reciprocal agreements and again if the crime under investigation falls within the scope of “serious crimes” as defined by Taiwanese law. This provision is also applicable regardless of whether the crime is under our investigation in Taiwan.

Future Steps in Anti-Money Laundering

As the MOJIB Anti-Money Laundering Yearbook 2003 pointed out; “one of the

major factors that would make success or failure of money-laundering prevention work is the attitude of the front-line financial institutions”. And the key to enhancing an “anti-money laundering attitude” among front line workers in the financial institutions is education. There has been an ongoing program put on by the MOJIB to provide information and education to workers in the banking and finance sectors. This program will continue and hopefully in the near future more and more bank employees will be exposed to anti-money laundering training. Towards that end, in 2002, the MLPC translated and published 100 Case Studies of Egmont Group. Having such case studies available in the Chinese language is a great help in educating front line personal in the detection of suspicious transactions. Education is a high priority for the near term future.

The other major future challenge is coming to grips with money laundering through channels other than banks and financial institutions. Law enforcement experts are certain that there exists in Taiwan a large “underground economy”. And Taiwanese law enforcement is equally certain that a large amount of money laundering occurs through various channels of this underground economy. Thus, this underground economy represents the next major “frontier” for Taiwan’s anti-money laundering efforts.

IV. Anti-Terrorism Policy and Practice

The MOJ drafted in 2002 a comprehensive Anti-Terrorism Act. Its purpose was to deter and punish terrorist acts, enhance Taiwan’s national security and to promote international counter-terrorism cooperation. It was drafted in part, to affirm Taiwan’s acceptance as a member of the international community of its responsibilities in the international campaign to eliminate terrorist activities and terrorist funding.

The draft bill includes a number of important provisions; among them are; establishing a definition under Taiwanese law of “terrorist activity” and the criminalizing of such activities, providing enhanced surveillance procedures, improving intelligence collection and the disruption of terrorist funding.

Under this draft, “terrorist activity” is defined as “the planning and organizing of violent crimes, committed by an individual or an organization with the intent to cause public threat or danger and motivated by political, religious, racist or other beliefs”. The “violent crimes” mentioned in the draft include crimes causing death or serious injury such as hijacking public transportation, kidnapping, wide scale poisoning, use of biological weapons, arson, the use of an explosive device, among others.

The provisions seeking to enhance surveillance procedures aim to remove obstacles to investigating terrorism including expansion of the authority to intercept wire, oral and electronic communications relating to terrorist activities. One specific example of this expansion of authority is the draft's provision allowing the Director General of the National Security Bureau to authorize wire tapping without a court order if the person under investigation is not a resident of Taiwan. Another example of this expanded authority is the right to require Internet service providers to produce trans-national Internet records in order to expedite the tracing of terrorist communications.

Punishments for Terrorist Activity

Criminologists have found that criminal punishments deter criminals, be they terrorist, street criminals or white-collar crime, if the punishments have three qualities. These three are: severity, celerity, and certainty. The provisions of Taiwan's anti-terrorism bill, which allow increased authority to engage in surveillance, are aimed at making "certain" terrorist activity is detected. The inter-agency Anti Terrorism Action Group (discussed supra) aims to create a coordinated plan to ensure that terrorism is dealt with quickly; the quality of "celerity". The aim of the punishment provisions in the Anti-terrorism bill is to ensure that punishments for terrorist activities are sufficiently "severe".

Turning to the punishment provisions; upon conviction for terrorism as defined in Article 2 of the draft (see definition *infra*) the defendant shall be sentenced to death, life imprisonment, or a prison term of not less than ten years. Attempted terrorist acts are also punishable as are preparatory crimes. Furthermore, all property used in furtherance of the terrorist activity shall be confiscated. Defendants convicted of the crime of joining a terrorist organization shall be sentenced to not less than five years in prison and a fine maybe imposed of up to one hundred million New Taiwan dollars.

There is another important provision, which is included in Article 14. It states that "those who have been convicted of having financed a terrorist organization shall be sentenced to imprisonment for a period of one to seven years and a fine maybe imposed of up to ten million New Taiwan dollars. This provision is important in that it is imperative to cut terrorist off from their sources of funding. It is common in a terrorist organization for the actual "terrorist", i.e. those directly carrying out the terrorist activity to be a separate group from those funding the activities. To end terrorism the law must target and punish both groups. Article 14 of Taiwan's draft bill does exactly that; punish the terrorist and punish their "fundraisers".

Anti Terrorism Action Group

The law of course cannot enforce itself. The fight against international terrorism requires the concerted efforts of nations and within each nation the fight requires the concerted and coordinated efforts of many government agencies. To enhance Taiwan's efforts to thwart terrorist activities in January of 2003 the Executive Yuan established the Anti-Terrorism Action Group. According to the Ministry of Justice's "*Key Points for Setting Up the Anti-Terrorism Action Group*" "To counter terrorist activities, ensure national security, maintain social peace and order, the Executive Yuan specifically sets up this Anti-terrorist Action Group. The tasks of this group are as follows:

- a. orchestration of policy on anti-terrorist action.
- b. formulation and execution of related laws and ordinances related to anti-terrorist action
- c. establishment and review of an emergency system for anti-terrorism action
- d. training, education and publicity on anti-terrorist action.
- e. supervision and evaluation on matters related to anti-terrorism action
- f. other matters related to anti-terrorism action."

The Anti-Terrorism Action Group has a mandate to meet every three months and the meetings are attended by representatives from the full range of involved government agencies including, but not limited to; the National Security Bureau, the Ministry of Interior (responsible for Taiwan's police forces), Ministry of National Defense, Ministry of Justice and others. The meetings often involve consultation with experts and scholars regarding measures Taiwan should take to combat terrorist activity.

Future Directions in Anti-Terrorism Work

The major goal for the near term future in regards to Taiwan's anti-terrorism work is the passage of the Anti-terrorism bill. The Ministry of Justice's completed draft has been submitted to the Executive Yuan for review. It is hoped that that process will be completed soon. After review and approval by the Executive Yuan the bill will be introduced into the Legislative Yuan, which will, hopefully, quickly pass the bill into law.

V. International Cooperation

The topic of anti-terrorism leads naturally to a discussion of Taiwan's international cooperation. Given the nature of modern day terrorism and the realities of criminal money laundering, effectively combating either requires a large measure of international mutual assistance between law enforcement in different countries. Taiwan is aware of this and is responding to this reality despite Taiwan's somewhat hampered position within the international community. Taiwan's program of international cooperation in the area of anti-money laundering and anti-terrorism work has five major components, which are authorized by Article 14 of the Money Laundering Control Act, which states:

"For the purpose of controlling international money laundering activities, the government may, based on the reciprocal principle, enter into cooperative treaties, or other international written agreements in regard to the control of money laundering with foreign governments, institutions or international organizations."

The five major components include 1. joining international organizations related to anti money laundering, 2. entering mutual legal assistance agreements, 3. sharing forfeited assets with foreign law enforcement agencies, 4. establishing financial files for individuals and groups connected with terrorist activities and 5. implementing FATF Special Recommendations relating to the deterrence of terrorist financing.

Turning first to Taiwan's participation in international organizations, progress in that area can be divided into multilateral and bilateral "successes". In reference to multilateral groups, Taiwan has been a member of the Asia Pacific Group on Money Laundering since 1997 and the EGMONT Group since 1998. There have been an equal number of bilateral "successes" with Taiwan having worked alongside various law enforcement agencies in the United States, Australia, Canada, New Zealand and Japan. Taiwan has worked with the American FBI, the DEA, the Secret Service, the Internal Revenue Service and various Financial Intelligence Units.

The second major component of Taiwan's program of international cooperation is Mutual Legal Assistance Agreements. These international agreements are authorized by Article 14 of the Money Laundering Control Act, which states:

"The government of the Republic of China may, based on the principle of reciprocity, enter into cooperative treaties or other international written agreements relating to the prevention of money laundering activities with foreign governments, institutions or international organizations to effectively prevent and eradicate international money laundering activities."

With this in mind, and in order to improve the effectiveness of bilateral cooperation with law enforcement authorities in the United States, Taiwan signed in March of 2002, the Mutual Legal Assistance Agreement in Criminal Matters with the United States. The scope of assistance includes:

- (1) Procedures for taking the testimony or statements of persons located in the other party's jurisdiction;
- (2) The securing of documents, records, and other items of evidence located in the other party's jurisdiction;
- (3) Assistance in locating or identifying persons;
- (4) Service of process for legal documents;
- (5) Transferring persons in custody for testimony or other purposes;
- (6) Executing requests for searches and seizures;
- (7) Assisting in proceedings related to seizure and forfeiture of assets; and
- (8) Any other form of assistance not contrary to the laws of the requested party.

This agreement is a very valuable step forward for both the U.S. and Taiwan and it hoped that the future would bring more such agreements with other countries.

The Money Laundering Control Act also has a part in international cooperation. Several of the provisions of that Act involve international cooperation; among them are Article 12 and 12-1. Turning first to Article 12, which allows for the confiscation of criminal proceeds, it states: "The property or property interests obtained in the commission of a crime by an offender violating the provisions set forth in Article 9 of this Act...shall be confiscated...[this provision] also applies to foreign governments, foreign institutions or international organizations requesting our government's assistance in a particular money laundering activity based on the reciprocal treaties or agreements entered with our government relating to the prevention of money laundering activities, whenever the activity engaged by the offender constitutes a crime under Article 3 of this Act regardless such activity is being investigated or tried in this jurisdiction."

Article 12-1 goes on to state: "The property or property interests confiscated, other than cash, investment securities or negotiable instruments, may be distributed by the Ministry of Justice to the prosecutor offices, the police departments, or other government agencies assisting the investigation of the money laundering activities for official use...The Ministry of Justice may distribute the confiscated property or property interests in whole or in part to a foreign government, foreign institution or international organization which enters a treaty or agreement in accordance with Article 14 of this Act to assist our government in confiscating the property or property interests obtained by an offender from his or her commission of a crime or crimes."

What these legal provisions mean in effect is that Taiwan is committed to the concept of international cooperation in fighting money laundering and terrorism, based on the international law doctrine of mutual reciprocity. In a broader sense these legal provisions are a symbol of Taiwan commitment to being an involved and responsible member of the international law enforcement community.

Epilogue

Taiwan has made a solid beginning in its efforts to eradicate the bane of money laundering and the threat of terrorism. A comprehensive anti-money laundering law featuring a number of new amendments is in place; a carefully drafted anti-terrorism law is moving through the legislative process and a number of special groups have been formed. The structure is in place. The goal now for Taiwan is to continue to move forward in both the areas of anti-money laundering and anti-terrorism work.

Appendixes

Appendix I

MONEY LAUNDERING CONTROL ACT

Promulgated on October 23,1996.

Full text 15 Articles plus Articles 2, 3, 5, 6, 7, 8, 8-1, 9, 10, 12, 12-1, 13 amended and promulgated by Presidential Order February 6, 2003.

Article 1

This Act is explicitly enacted to regulate unlawful money-laundering activities and to combat related serious crimes.

Article 2

The “money-laundering activities” referred to in this Act includes the following activities:

1. disguising or concealing the property or property interests obtained from a serious crime or crimes committed by oneself.
2. concealing, accepting, transporting, storing, intentionally buying, or acting as a broker to manage the property or property interests obtained from a serious crime or crimes committed by others.

Article 3

The “serious crimes” referred to in this Act includes the following crimes:

1. The crimes which are punishable by 5 years or more in prison.
2. The crimes prescribed in Articles 201 and 201(1) of the Criminal Code.
3. The crimes prescribed in Article 240, Paragraph 1, Article 241, Paragraph 2, and Article 243, Paragraph 1 of the Criminal Code.
4. The crimes prescribed in Article 296, Paragraph 1, Article 297, Paragraph 2, Article 298, Paragraph 2, and Article 300, Paragraph 1 of the Criminal Code.
5. The crimes prescribed in Articles 340 and 345 of the Criminal Code.
6. The crimes prescribed in Article 23, Paragraphs 2, 4, 5, and Article 27, Paragraph 2 of the Regulations for Prevention of the Sexual Transaction with Children and Teenagers.

7. The crimes prescribed in Article 8, Paragraph 2, and Article 11, Paragraph 2, Article 12, Paragraphs 1, 2, and 3, Article 13, Paragraphs 1 and 2, of the Control of Fire Arms, Ammunition and Harmful Knives.
8. The crimes prescribed in Article 2, Paragraphs 1 and 2, and Article 3, Paragraphs 1 and 2 of the Statute for Punishment of Smuggling.
9. The crimes prescribed in Article 171 of the Securities Exchange Act, in violation of Article 155, Paragraphs 1 and 2, and Article 157(1), Paragraph 1 of the Securities Exchange Act.
10. The crimes prescribed in Article 125, Paragraph 1 of the Banking Law.
11. The crimes prescribed in Articles 154 and 155 of the Bankruptcy Law.
12. The crimes prescribed in Article 3, Paragraph 1 and latter part of Paragraph 2, Articles 4 and 6 of the Organized Crime Prevention Act.

The following crimes also fall into the category of the “serious crimes” if the property or property interests obtained from the commission of the following crime(s) exceed NT 20 million dollars:

1. the crimes prescribed in Article 336, Paragraph 2 of the Criminal Code.
2. the crimes prescribed in Articles 87 and 91 of the Government Procurement Law.

Article 4

The “property or property interests obtain from the commission of the crime” referred to in this Act include the following items:

1. the property or property interests obtained directly from the commission of the crime.
2. the remuneration obtained from the commission of the crime.
3. the property or property interests derived from the transfer or sales of the property or property interests obtained from the commission of the crime. This provision, however, is not applicable to a third party who obtains in good faith the property or property interests prescribed in the preceding two subsections.

Article 5

The “financial institutions” referred to in this Act include the following institutions:

1. banks;
2. trust and investment corporations;
3. credit cooperative associations;
4. credit department of farmers’ associations;

5. credit department of fishermen's associations;
6. postal service institutions which also handle the money transactions of deposit, transfer and withdrawal;
7. negotiable instrument finance corporations;
8. credit card companies;
9. insurance companies;
10. securities brokers;
11. securities investment and trust enterprises;
12. securities finance enterprises;
13. securities investment consulting enterprises;
14. securities depository enterprises;
15. futures brokers;
16. other financial institutions designated by the Ministry of Finance.

The forgoing provisions governing financial institutions set forth in this Act shall apply to jeweler's shops or other financial institutions if they have been designated by the Ministry of Justice as being likely to be used for money laundering purposes after the Ministry of Justice has consulted with the competent authorities.

If the competent authorities for jeweler's shops and other financial institutions designated by the Ministry of Finance are undetermined, those competent authorities will be designated by the Executive Yuan.

The Ministry of Justice may, as it deems necessary, require banks or trust and investment corporations to accept monetary instruments other than cash as payment for financial transactions.

Article 6

Every financial institution referred to in this Act shall establish its own money laundering prevention guidelines and procedures, and submit those guidelines and procedures to the competent authority and the Ministry of Finance for review. The content of the money laundering prevention guidelines and procedures shall include the following items:

1. The money laundering prevention operation and the internal procedures regulating money-laundering activities.
2. The periodical on-job training of the money laundering prevention instituted or participated by the financial institution referred to in this Act.
3. The designation of a responsible person to coordinate and supervise the

implementation of the established money laundering prevention guidelines and procedures.

4. Other cautionary measures prescribed by the competent authority and the Ministry of Finance.

Article 7

For any financial transaction exceeding a certain amount of money, the financial institutions referred to in this Act shall ascertain the identity of customer and keep the transaction record as evidence, and submit the financial transaction, the customer's identity and the transaction record to the designated authority.

The amount and the scope of the financial transaction, the procedures for ascertaining the identity of the customer, and the method and length of time for keeping the transaction record as evidence referred to in the preceding paragraph shall all be established by the Ministry of Finance after consulting with the Ministry of Justice and the Central Bank of the Republic of China.

Any person who violates the provisions set forth in the first paragraph of this Article shall be imposed a fine between NT 200,000 dollars and NT 1 million dollars.

Article 8

For any financial transaction suspected to be a money laundering activity, the financial institutions referred to in this Act shall ascertain the identity of the customer and keep the transaction record as evidence, and report the suspect financial transaction to the designated authority.

The reporting financial institution will be discharged from its confidentiality obligation to the customer if the institution can provide proofs that it was acting in good faith when it reported the suspect financial transaction to the designated authority in compliance with the preceding paragraph of this Article.

The designated authority, and the scope and procedures of the reporting referred to in the first paragraph of this Article shall all be established by the Ministry of Finance after consulting with the Ministry of Interior, the Ministry of Justice and the Central Bank of the Republic of China.

Any person who violates the provisions set forth in the first paragraph of this Article shall be imposed a fine between NT 200,000 dollars and NT 1 million dollars. However, if the violating financial institution is able to prove that the cause of such

violation is not attributable to the intentional act or negligent act of its employee(s), no fine shall be imposed.

Article 8-1

If the prosecutor obtains sufficient evidence to prove that the offender has engaged in the money laundering activity by transporting, transmitting, or transferring a monetary instrument or funds through bank deposit, wire transfer, currency exchange or other means of payment, the prosecutor may request the court to order the financial institution to freeze the offender's account for any activities of withdrawal, transfer, payment, delivery, assignment or other related property disposition. If the prosecutor has probable cause to believe that the property or property interests obtain from the commission of crime by the offender would likely be disappeared without an order from the court under exigent circumstances, the prosecutor may execute the order first and request the court's ratification of order in three days. However, if the prosecutor is unable to obtain the court's ratification of order in three days, the prosecutor must cease the execution of order immediately.

During trial, the presiding judge has discretion based on his authority to order the financial institution to freeze the offender's account for any activities of withdrawal, transfer, payment, delivery, assignment or other related property disposition.

The order either by court or by the prosecutor to freeze the offender's account in a financial institution for any activities of withdrawal, transfer, payment, delivery, assignment or other related property disposition must be in writing and is subject to the provisions set forth in Article 128 of the Criminal Code.

The first paragraph of this Article is applicable to cases where a foreign government, foreign institution or an international organization requests our government to assist it in investigating a particular money laundering activity based on the corporative treaties or other international written agreements entered with our government relating to the prevention of money laundering activities, if the money laundering activity engaged by the offender constitutes a crime under Article 3 of this Act regardless such money laundering activity is being investigated or tried by our government.

If the financial institution refuses to comply with the order either by court or by the prosecutor to freeze the offender's account for any activities of withdrawal, transfer, payment, delivery, assignment or other related property disposition, the financial institution is punishable under the provisions set forth in Book 4 of the Criminal

Procedure Law.

Article 9

Any person who is engaged in money laundering activity referred to in Article 2, Subsection 1 of this Act shall be sentenced to imprisonment of not more than five years and, in addition thereto, be imposed a fine of not more than NT 3 million dollars.

Any person who is engaged in money laundering activity referred to in Article 2, Subsection 2 of this Act shall be sentenced to imprisonment of not more than seven years and, in addition thereto, be imposed a fine of not more than NT 5 million dollars.

Any person who is routinely engaged in money laundering activities referred to in Article 2, Subsections 1 and 2 of this Act shall be sentenced to imprisonment between three years and ten years, in addition thereto, be imposed a fine between NT 1 million dollars and NT 10 million dollars.

In case the representative of a legal person, or the agent, employee or other worker of a legal person or a natural person has engaged in money laundering activities set forth in the preceding three paragraphs within the scope of his or her employment, the offender shall be punished in accordance with the provisions set forth in the preceding three paragraphs of this Article. In addition, the legal person or the natural person that the offender represents or works for, shall also be imposed a fine in accordance with the provisions set forth in the preceding three paragraphs, unless the representative of a legal person or a natural person has done his or her best to prevent or abort the money laundering activities.

Any person who turns himself or herself in within six months after he or she has engaged in the money laundering activities set forth in the preceding four paragraphs, his or her sentence shall be exempted. Any person who turns himself or herself in later than six months after he or she has engaged in the money laundering activities set forth in the preceding four paragraphs, his or her sentence shall be reduced or exempted. Any person who confesses to the police during the custodial interrogation or confesses to the judge during the trial that he or she has engaged in the money laundering activities set forth in the preceding four paragraphs, his or her sentence shall be reduced.

Article 10

Where a person is engaged in the money laundering activity set forth in Article 2, Subsection 2 of this Act to conceal, accept, transport, store, intentionally buy, or act as a broker to manage the property or property interests obtained from a serious crime or crimes committed by his or her lineal relatives, spouse or any other relatives living together and jointly owning property, his or her sentence or fine may be reduced.

Article 11

Any government official who reveals, discloses or hands over papers, documents, pictures, information or things relating to the reported suspect financial transaction or reported suspect money laundering activity to others, shall be sentenced to imprisonment of not more than three years.

Any employee of a financial institution who is not a government official reveals, discloses or hands over papers, documents, pictures, information or things relating to the reported suspect financial transaction or reported suspect money laundering activity to others, shall be sentenced to imprisonment of not more than two years, be sentenced to detention, or be imposed a fine of not more than NT 500,000 dollars.

Article 12

The property or property interests obtained by an offender from his or her commission of a crime or crimes in violation of the provisions set forth in Article 9 of this Act, other than such which should be returned to the injured party or a third party, shall be confiscated, regardless they belong to the offender or not. If the property or property interests obtained by an offender from his or her commission of a crime or crimes in violation of the provisions set forth in Article 9 of this Act can not be confiscated in whole or in part, the value thereof shall be indemnified either by demanding a payment from the offender or by offsetting such value with the property of the offender.

To protect the property or property interests obtained by an offender from his or her commission of a crime or crimes in violation of the provisions set forth in Article 9 of this Act for the purpose of indemnification, the offender's property may be seized if necessary.

The first two paragraphs of this Article is applicable to cases where a foreign government, foreign institution or an international organization requests our government to assist it in investigating a particular money laundering activity based

on the corporative treaties or other international written agreements entered with our government relating to the prevention of money laundering activities, if the money laundering activity engaged by the offender constitutes a crime under Article 3 of this Act regardless such money laundering activity is being investigated or tried by our government.

Article 12-1

If the property or property interests confiscated in accordance with the provisions set forth in the preceding Article are monetary instruments other than cash, investment securities or negotiable instruments, those property or property interests may be distributed by the Ministry of Justice to the prosecution authority, the police, or other government agencies assisting the investigation of the money laundering activities for official use.

The Ministry of Justice may distribute the confiscated property or property interests in whole or in part to a foreign government, foreign institution or international organization which enters a treaty or agreement in accordance with Article 14 of this Act to assist our government in confiscating the property or property interests obtained by an offender from his or her commission of a crime or crimes.

The management, distribution and use of the property or property interests stated in the preceding two paragraphs shall be established by the Executive Yuan.

Article 13

In case any fine imposed in accordance with this Act has not been paid within the prescribed time, the case shall be removed to the Executive Bureau in the Ministry of the Justice for compulsory execution pursuant to the applicable law.

Article 14

To effectively prevent and combat the international money laundering activities, the government of the Republic of China may, based on the reciprocal principle, enter into corporative treaties or other international written agreements relating to the prevention of money laundering activities with foreign governments, institutions or international organizations.

Article 15

This Act shall go into effect six months after promulgation.

END*****

Appendix II

ANTI TERRORISM BILL

Draft by the Ministry of Justice and has been submitted to the Executive Yuan for review. After passed by the Executive Yuan, it will be sent to the Legislative Yuan for enactment.

Article 1

This Act is formulated to prevent and control terrorist acts, ensure national security, promote international cooperation against terrorism, and jointly maintain world peace.

Whatever not provided in this Act, provisions of other laws apply.

Article 2

The terrorist acts mentioned in this Act refer to the following planned, organized acts motivated from personal or organized political, religious, racial, ideological or other specific faith and intended to stir fears among the public:

1. Committing homicides
2. Inflicting critical wounds
3. Setting fires
4. Hurling, planting, or detonating an explosive contrivance
5. Abducting people
6. Hijacking public or private boats, vehicles, aircraft or controlling their movement
7. Interfering in or sabotaging electronic, energy, or information systems
8. Setting off nuclear energy, radioactivity
9. Releasing poisons, gases, bacteria or other matters harming to human health

The terrorist organizations mentioned in this Act refer to syndicates formed by more than three persons and possessing an internal management structure aimed at engaging in terrorist acts.

The terrorists mentioned in this Act refer to people who perpetrate a terrorist act or

join or finance a terrorist organization.

Article 3

To prevent and control terrorism, the Executive Yuan shall assemble the related ministries and agencies of the government to form an anti-terrorism action group, whose organization, tasks, and other related affairs shall be prescribed by the Executive Yuan.

When a terrorist act occurs or threatens to occur, the various related agencies at all levels responsible for peace and order, investigation and prevention, shall be subject to the command of the anti-terrorism action group.

When a terrorist act occurs or threatens to occur and this has caused or may cause damage, the governments at all levels shall activate the mechanism for disaster prevention and rescue in accordance with the Law of Disaster Prevention and Rescue and abide by the command of the anti-terrorism action group mentioned in paragraph I.

Article 4

The National Security Bureau shall be responsible for coordinating the gathering and processing of anti-terrorism intelligence. It shall also provide in time the Executive Yuan's anti-terrorism action group, law-enforcement agencies and related organizations with the intelligence and information, and other related intelligence and information, on internationally branded terrorist organizations, terrorists, or suspected terrorist organizations or terrorists. The law-enforcement agencies and organizations shall keep secret of the intelligence and information received from the National Security Bureau. They shall not make public such intelligence and information without the National Security Bureau's agreement.

The regulations governing the coordinating of anti-terrorism set forth in the preceding paragraph shall be prescribed by the National Security Bureau.

The various law-enforcement organizations shall actively collect the intelligence and information related to foreign and domestic terrorist acts and shall immediately forward them to the National Security Bureau. When other government agencies have got intelligence and information related to terrorist acts, they shall handle the intelligence and information according to their power and responsibility and immediately forward them to the National Security Bureau. This shall not be subjected to the secret-keeping provisions of other laws.

Article 5

The Ministry of National Defense shall properly adjust the organization and equipment of the military to support anti-terrorist actions.

Article 6

If there is a need for intercepting the communications of terrorist organizations or individual terrorists to ward off the harm of a terrorist act to the national security, the Director of the National Security Bureau may issue a communications-interception warrant.

If the person subject to communications interception mentioned in the preceding paragraph has a household registration in the Republic of China, the issuance of the communications-interception warrant must be approved by the competent judge of the High Court of the locality of the National Security Bureau, except in the event of an emergency situation.

Under the circumstances of the preceding proviso, the director of the National Security Bureau shall inform the competent judge of the High Court of the locality of the National Security Bureau about the issuance of the said warrant for the judge's after-the-fact approval. If no approval comes within forty-eight hours, the intercepting shall be stopped immediately.

To meet the need in handling a major terrorist attack and protect the people from immediate dangers and sufferings, the director of the National Security Bureau may order to cut off or restrict related communications.

Article 7

To prevent terrorists from using Internet to engage in terrorist acts, the telecom enterprises shall make their software and hardware facilities capable of preserving and providing the records of trans-border Internet on-line communications.

The afore-mentioned records of trans-border Internet on-line communications refer to the records of Internet transmission from the starting point to the destination point.

The tele-com enterprises mentioned in paragraph 1 shall, based on the need of the Ministry of Justice's Investigation Bureau for trans-border on-line tele-communications records, plan the software and hardware requirement, the timetable of installation and the maintenance cost and discuss these with the Investigation Bureau. The facilities shall be installed after a decision is made in the

discussions. If need be, the Directorate General of Tele-communications under the Ministry of Transportation and Communications shall help out.

If there are facts to substantiate the suspicions that terrorists are using Internet to engage in a terrorist act, the tele-com enterprises shall, in keeping with the request of the law-enforcement agencies, preserve and provide the record of Internet on-line communications conducted at an Internet location within a specific area.

The limitation of preservation for the records mentioned in the preceding paragraph is ninety days. If necessary, the limitation may be extended, but not longer than another ninety days and only one extension is allowed.

The cost for installing and maintaining the software and hardware facilities mentioned in paragraph I shall be paid from the budget of the Investigation Bureau of the Ministry of Justice.

Article 8

If necessary, the law-enforcement authorities may detain a person when facts have led to the suspicion that he or she is a terrorist.

The period of detention mentioned in the preceding paragraph is limited to twenty-four hours.

Article 9

If there are supporting facts, the law-enforcement authorities may inspect a place that is suspect of being a location for suspected terrorists to keep their articles or equipment for use in a terrorist act, the cars, boats, aircraft or other transportations that may be taken by the terrorists.

To prevent a terrorist action, the law-enforcement authorities may enter a residence, building, or any other place for inspection if there are facts leading to suspicions that terrorists would use or have used the facility and if the law-enforcement authorities believe that they have to enter the building or place because the life and property of the people are in danger.

Article 10

If it is necessary for preventing a terrorist act, the minister of Coast Guard Administration, Executive Yuan, the director-general of Investigation Bureau of the Ministry of Justice and the director-general of National Police Agency of the Ministry of the Interior may order the detention of, or a disposal ban on, movable, immovable, or other assets when facts have led to suspicions that terrorists are

using them for terrorist acts.

The order of detention or disposal ban mentioned in the preceding paragraph shall not last for over a month. The period may be extended, but the extension shall not exceed two months and only one extension is allowed.

The assets detained according to the provisions of paragraph I , except those that shall be confiscated, foreclosed, destroyed, or returned after being converted into cash, shall immediately be returned to the owner if continued detention is not necessary. If no one comes to take it or there is no way for it to be returned, the national treasury shall be given the ownership. This provision also applies to the return of an asset after being converted into cash.

Article 11

In case the people involved are not content with the measures taken by law-enforcement authorities in accordance with the provisions of Articles 8 to 10, they may file an appeal or an administrative lawsuit according to the law.

Article 12

If there are facts that terrorists use accounts, money transfer, currency or other instruments of payment for terrorist acts, the minister of Coast Guard Administration, Executive Yuan, the director-general of Investigation Bureau of the Ministry of Justice and the director-general of National Police Agency of the Ministry of the Interior may apply, within a period of six months, to the court for an order to ban the withdrawal, account transfer, payment, disbursement, or take other related disposal. In an emergency if there is reason to believe that without such an order a terrorist act cannot be prevented, the minister of Coast Guard Administration, Executive Yuan, the director-general of Investigation Bureau of the Ministry of Justice and the director-general of National Police Agency of the Ministry of the Interior may directly order an execution of such a measure, but they shall appeal to the court within three days to issue an after-the--fact order. If the court does not issue the order within three days, the execution shall be stopped.

In case of discontentment with the order mentioned in the preceding paragraph, the provisions on complaints set forth in Section Four of the Code of Criminal Procedure shall apply *mutatis mutandis*.

Article 13

Those who have engaged in the terrorist acts set forth in paragraph I of Article 2 shall be sentenced to death, life imprisonment, or a prison term not less than ten

years.

An attempt offense of the crime set forth in the preceding paragraph shall be punishable.

A preparatory offense of the crime set forth in the preceding paragraph shall be sentenced to not more than two years in prison.

The articles used for committing the crime set forth in the preceding paragraphs I-III and the receipts thereof shall be confiscated irrespective of whether they belong to the criminal except the portion that shall be returned to the victim(s) or the third person.

Article 14

Those who have joined a terrorist organization shall be sentenced to not less than five years in prison and may be imposed a fine not more than one hundred million New Taiwan Dollars (NT\$100 million) in addition thereto.

Those who have financed a terrorist organization shall be sentenced to imprisonment between one year and seven years, and may be imposed a fine not more than ten million New Taiwan Dollars (NT10 million) in addition thereto.

Article 15

A citizen of the Republic of China who has committed the crime of the preceding two articles outside the country shall be punished according to this Act whether it is punishable or not in the place where the crime is perpetrated.

Article 16

The offense against the crimes set forth in paragraphs I to III of Article 13 and Article 14 of this Act shall be regarded as a felony prescribed in paragraph I of Article 3 of the Money Laundering Control Act and an offense of the crime set forth in paragraph I of Article 5 of the Communications Protection and Surveillance Act, which may issue an intercepting warrant. Unless otherwise prescribed in this Act, the related provisions of the Money Laundering Control Act and the Communications Protection and Surveillance Act shall apply.

Article 17

If the offender of this Act who has surrendered himself or herself and has provided related materials for investigation and this has led to the exposure of a terrorist organization or terrorists or this has prevented a terrorist act, he or she shall be

exempted from the penalty prescribed in this Act. If he or she has made a confession of facts during the trial and this confession has led to the discovery of other terrorist organization(s), terrorists, and therefore a terrorist act is forestalled, the penalty shall be reduced.

Article 18

If a tele-com enterprise violates the provisions of Article 7 without legitimate reasons, it shall be fined by the Ministry of Transport and Communications for an amount between half a million New Taiwan Dollars and two and half million New Taiwan Dollars (NT\$500,000 to NT\$2.5 million). If no improvement is made after being noticed to do so, the fine shall be continued by the day and the license of the enterprise may be cancelled.

Article 19

Everyone who knows terrorists shall make an accusation.

If the accusation leads to the discovery of a terrorist act, the identity of the accuser shall be kept in secret and he or she shall be awarded with a cash reward for the accusation. The reward regulation shall be drawn up by the Ministry of the Interior for approval by the Executive Yuan.

Article 20

To prevent and control international terrorism, the government and its authorized organizations may, on the basis of reciprocity, sign with the government or organizations of a foreign nation or an international organization an anti-terrorism treaty or other international pact of anti-terrorism cooperation.

Article 21

This Act shall come into effect on the day of promulgation.

END*****

附 件 四

The Patriot Act and its Implications for Non-US Jurisdictions

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21ST INTERNATIONAL CONFERENCE ON ECONOMIC CRIME
7-14 SEPTEMBER 2003

JESUS COLLEGE

UNIVERSITY OF CAMBRIDGE

BACKGROUND

- **THE WORLD BEFORE SEPTEMBER 11 2001**
- **Money Laundering -Its about the financial system**
- **The 40 Recommendations of the FATF**
- **Global acceptance but slow progress**
- **NCCT process (The carrot and stick approach)**

11 SEPTEMBER 2001 – THE WORLD CHANGED

- Terrorism not new
- High death tolls from terrorism not new
- International reaction was usually outrage but inaction
- Why this was different – America involved directly (homeland). They had the political will and resources to do whatever they thought was needed.
- Why the Global Coalition? – Genuinely shared concerns and some pressure.

REACTION

- The War on Terrorism
 - Immediate action in Afghanistan
 - A war without battle lines
 - War lets you change the rules
- Political need to be seen to act
 - Reactions in many countries
 - Enhanced alerts, upgraded security, lots of activity

REACTION

- Legislation announced in USA, UK and elsewhere
- In US the Patriot Act is passed within 6 weeks
- In UK a package of amendments contained in Anti-terrorism, Crime and Security Act 2001 passed by mid December
- More than 50 countries had legislated by April 2002

LEGISLATIVE APPROACH

- In general
 - New and enhanced investigative powers
 - ‘new threats’ – new offences
 - Financing of terrorism specifically targeted
- Enhanced powers of police/LEAs
 - Wire taps
 - Search and seizure powers
 - Information collection

LEGISLATIVE APPROACH

- **Enhanced offences**
 - Biological weapons
 - Attacking infrastructure
 - Mass transport systems
- **Terrorist Financing**
 - New offences
- **New anti-money laundering initiatives**
- **Linked AML and CFT as a 'single' issue**

USA PATRIOT ACT

- **The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism**
- **Focus on the international aspects**
 - Not looking at the domestic matters except to the extent they affect other nations
 - Financial institution disclosure
 - Proceeds of crime
- **Long arm jurisdiction**
 - Just got longer

PATRIOT – KEY PROVISIONS

- Purpose of the Act - 'To deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes'.
- Title III of US HR 3162 relates to international money laundering and terrorist financing.

SCOPE OF PATRIOT ACT

- Title I Enhancing Domestic Security Against Terrorism
- Title II Enhanced Surveillance Procedures
- Title III International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001
- Title IV Protecting the Border
- Title V Removing Obstacles to Investigating Terrorism
- Title VI Providing for Victims of Terrorism, Public Safety Officers, and Their Families
- Title VII Increased Information Sharing For Critical Infrastructure Protection
- Title VIII Strengthening the Criminal Laws Against Terrorism
- Title IX Improved Intelligence
- Title X Miscellaneous

TITLE III – FOREIGN BANKS

- Key issues
 - Foreign banks inside/outside the USA
 - Recovery of proceeds of crime
- Key sections
 - S 311 – special measures
 - S 312 – enhanced due diligence
 - S 313 – shell banks
 - S 314 – cooperative efforts
 - S 315 – foreign corruption offences
 - S 316 – forfeiture protection (anti-terrorist)
 - S 317 – long arm jurisdiction
 - S 318 – laundering through foreign banks

TITLE III – FORFEITURE

- S 319 – seizing funds
- “For the purpose of a forfeiture under this section or under the Controlled Substances Act, if funds are deposited into an account at a foreign bank, and that foreign bank has an inter-bank account in the United States with a covered financial institution, the funds shall be deemed to have been deposited into the inter-bank account in the United States, and *any* restraining order, seizure warrant, or arrest warrant in rem regarding the funds may be served on the covered financial institution, and funds in the inter-bank account, up to the value of the funds deposited into the account at the foreign bank, may be restrained, seized, or arrested.”

TITLE III – FORFEITURE

- No need to establish link between forfeited assets and seized funds
- Owners may contest but subject to fugitive disentitlement doctrine (28 USC 2466)
- Provide information on accounts within 120 hours for US accounts
- Provide information of overseas accounts of correspondent bank
- If no information provided US bank must terminate correspondent relationship

WHAT DOES THIS MEAN?

- US policy and law exported without choice
- Compliance with US request may breach domestic law on bank secrecy or privacy
- Financial institutions have to decide between legal or the commercial imperatives
- International agreements and mutual legal treaties are rendered nugatory
- No figures on the number of cases or amounts involved
 - Some information on some cases
 - Gibson

WHAT DOES THIS MEAN?

- Seizure of funds from US accounts not limited to cases of 'non compliance' with US requests for assistance
- Seizures may become the 'easy way' despite claims of limited use
- All of this is virtually unknown in many regions. Central banks and commercial institutions seem unaware of these provisions.
- Is this the way to build international assistance on either criminal or terrorist investigations?
- Effective strategy or dangerous precedent?

附 件 五

**TWENTY FIRST INTERNATIONAL SYMPOSIUM
ON ECONOMIC CRIME**

**Jesus College, University of Cambridge
Great Britain**

Thursday 11th September 2003.

**OFFSHORE CENTRES OF LATIN AMERICA
AND THE CARIBBEAN:
THE NEED FOR A LEVEL PLAYING FIELD IN
THE SEARCH FOR INTEGRITY**

**Ricardo M. Alba
President
Agrica- Lex
Panama**

CONTENT:

Introduction.

Concept and practice of level playing field.

Definition of Offshore Centres.

Number and location.

Set of main services.

Sources of potential abuse.

Usefulness of offshore services.

Offshore Centres in Latin America and the Caribbean.

Measures adopted to improve integrity.

Pressures against Offshore Centres.

Financial Action Task Force

Organisation for Economic Co-operation and Development.

Improvement of integrity standards by Panama.

The need of a level playing field.

A fair approach for the adoption of legislation.

Introduction.

Integrity is a set of absolute moral values, which should be a leading and common principle in all human activity. Fairness, due process and the absence of force in international relations are in the core of the principle and application of integrity. In practice some of the measures adopted by Offshore Centres in the last years to avoid the abuse of their financial services by criminals, and specially to supply information to foreign countries, have been to a great extent the outcome of pressures exerted by rich countries and organisations controlled by them, following schemes of “name, blame and shame”, and disregarding the possible damage to economic and competition standards of those Centres. Although there is no doubt on the commitment to combat financial and therefore to enhance levels of integrity, there is the need to establish a framework of level playing field in the international efforts to combat such crimes.

Concept and practice of level playing field.

- All the countries should be subject to identical regulations for identical activities, and they should be implemented at the same time, and in the event of non-compliance the consequences should be identical.
- Discussion of the topics to be carried out in the World Forum, including all the jurisdictions that could be affected by the project.
- Adequate consideration of the competitive aspects, such as reasonable degree of financial privacy.
- Adoption of regulations considering the degree of risk, thus balancing the restrictions for legal business with the harmful practices endeavouring to avoid.

Definition of Offshore Centres.

Offshore Centres or International Service Centres are countries, cities or jurisdictions that provide financial, legal and other services to foreigners or non-residents. Tax heavens (TH) are countries or

territories with low taxation or no taxation at all. Some of the OC are also classified as TH.

Number and location of Offshore Centres.

There are some 60 OC around the world. A small amount of them that represent the largest share of the world offshore businesses are located in rich countries but the majority are based in small countries and territories with a low economic development, where offshore services are a relevant part of their foreign income and economic output.

Main services provided by Offshore Centres.

The main services provided by OC are personal and corporate banking services, offshore fund management and administration, trust and company administration, investment management and advice, accountant and legal services, and ship management. Protection of confidentiality from undue interference is an important element in the demand for Offshore Services.

Sources of potential abuse.

Value judgements about factors that might allow abuse of OC Centres for financial crimes are related to rigid bank secrecy, minimal or no identification requirements, easiness of confidential corporate formation and the lack of due diligence testing. It is said that offshore Banks are routinely used to hide unsavoury practices from tax evasion, commodity fraud, embezzlement, and drugs.

Usefulness of offshore services.

Argumentation in favour of OC Centres enumerates factors such as the increase in the level of economic activity, employment and welfare of hosting countries, protection of individual customers from erratic and arbitrary economic policies of Governments, and protection of individual savings from politically unstable, and insecure environment in their countries of origin. It also allows for provision of financial services to individuals and corporations from Banks at a lower cost and higher rates of return than in home countries.

Offshore Centres in Latin America and the Caribbean.

Anguilla, Antigua, Aruba, Bahamas, Barbados, Belize, Cayman Islands, Montserrat, Nevis, Netherlands Antilles, Panama, St. Kitts, St. Lucia, St. Vincent and Grenadines, Turks and Caicos, Uruguay, Virgin Islands (British) and Virgin Islands (USA).

Measures adopted to improve integrity.

During the last years, Offshore Centres of Latin America and the Caribbean, as well as those of Europe, Asia, and the Pacific, have adopted a set a measures to prevent and control money laundering and finance of terrorism, and to provide tax information. Those measures have as basic objectives:

- To adopt and comply with programmes and methods to prevent and control money laundering.
- Co-operate with authorities to prosecute criminals.
- Co-operate with authorities to forfeit assets of criminal origin.
- Co-operate with authorities to comply with request of information and other requirements from abroad.
- Demonstrate to authorities that compliance of due diligence regulations is being properly undertaken.

More specific measures adopted by all of the above mentioned Offshore Centres in relation to the prevention and control of money laundering are:

- Drugs money laundering as a crime.
- Money laundering crime beyond drugs.
- Record of large transactions in cash and monetary instruments.
(1)
- Maintenance of record for a large period.
- Reports of suspicious transactions.
- Financial Intelligence Units (2).
- Illegal asset identification and forfeiture.

- Agreements for sharing forfeited assets. (3)
- International agreements with Compliance agencies.
- Customs declaration of large sums of cash and monetary instruments. (4)
- Mutual Legal Assistance Treaties.
- Due diligence obligations to non- Bank institutions.
- “Safe harbour” for disclosure of suspicious transactions.
- Tax Information Exchange Agreements with U. S. A. (5)
- Commitment to transparency and tax information exchange with OECD made by “tax heavens”. (6)
- Adoption of Basle Banks regulations.
- Adherence to the Convention of Rome to combat terrorism.
 - (1) Excepting Antigua & Barbuda, Dominica, Granada, Montserrat, St. Lucia, St. Vincent & Grenadines, and Uruguay.
 - (2) Excepting Belize.
 - (3) Excepting Belize and St. Lucia.
 - (4) Excepting Aruba, Bermudas, St. Lucia, St. Vincent & Grenadines, and Uruguay.
 - (5) Excepting Anguilla, Aruba, Belize, Montserrat, Panama, St. Kitts and Nevis, and Uruguay.

(6) Barbados was exempted to make the Commitment. Uruguay was not classified as tax heaven in the OECD' 2000 Report.

Pressures against Offshore Centres.

OC in poor countries have become the target of rich countries and organisations created by them mostly in order to get information on money laundering and tax evasion from residents that their own authorities are not able to collect. To some extent, those pressures tend to dismiss the fact that OC, at the same time that they are committed to the objectives of prevention and control mentioned below, they are also committed to balance the commercial goals of their institutions with the need of prevention and control, maintaining competitive standards for customers service, and protecting from unlawful interference, the funds and information supplied by customers to financial institutions. Organisations that apply such pressures try to justify them on the basis that OC are reluctant to enact standards to prevent financial crimes, especially those aimed for supplying information on criminal and tax matters. Some OC also argue that targeting them is aimed towards reducing

competition on international services, favouring rich countries through non- tariff barriers. The relevant pressures and initiatives toward offshore services come from the USA Government, the United Nations Organisation (UNO), the Financial Action Task Force (FATF) and the Organisation for Economic Co-operation and Development (OECD). A more fair encouragement for the adoption of standards is promoted by the Inter American Commission for the Control of Drugs Abuse (CICAD) by means or to promote Model Regulations and Mutual Evaluation Mechanisms (MEM), that provides evaluation achievements in the effort against money laundering based in the countries multilateral assessments.

The Financial Action Task Force.

In 2002, FATF unilaterally issued 25 Criteria for Non-Co operative Countries and Territories in an international effort against money laundering (NCCT), to be applied to those who- in accord with unilateral evaluation carried out by FATF- failed to comply with the FATF 40 Recommendations issued in 1990. In June 2002, some of the countries that met the criteria for “non-co operative”, especially OC, whenever related to the lack of international supply of information, were placed in a list of the so-called “non co- operative countries and territories” (NCCT). Not only was it harmful to the international image of the countries in the List, but FAFT also required members to instruct their financial systems, so as to put in practice “special measures of caution” in transactions with the financial systems of listed countries. These special measures implied difficulties to carry out financial transactions with correspondent Banks, both in FATF and non-FATF members. Countries and territories of Latin America and the Caribbean placed in such list were Bahamas, Cayman Islands, Dominica, Grenada, Guatemala, Panama, St. Kitts and Nevis, and St. Vincent and Grenadines. After satisfying requirements of legislation and

implementation of measures, especially those related to improve their ability to exchange of information through more expedite means, all of them have been removed with exception of Guatemala. The FATF have carried on the blacklisting and removal of countries and territories from the list, with the operational support of regional bodies in Asia, the Caribbean, Europe and South America, but more participation in the process of evaluation has been currently undertaken by the International Monetary Fund. Countries subjected to the NCCT expressed their concerns on its unilateral and discriminative nature, the lack of transparency and due process, and even the way FATF bypassed its own regional bodies, such as the Caribbean Financial Action Task Force.

The Organisation for Economic Co-operation and Development.

In 1998, OECD started the Programme to Counteract Harmful Tax Practices, establishing unilateral criteria on harmful tax competition. The Forum created by OECD among members identified 35 “tax havens” that must make a commitment to eliminate harmful tax practices, otherwise they would be included in a list of “non co-operative tax heavens” and applied “co-ordinated defensive measures”, namely sanctions, by OECD member countries. Pressure by the Bush Administration caused changes in the Programme at the middle of 2001, affecting the concerns on “ring fenced” and similar tax practices. The original deadline for Tax Havens to reach a commitment with OECD was changed from 31 October 2001 to 28 February 2002. From February 2002 onward countries rushed to get committed on transparency and effective exchange of information with OECD before the deadline, so that sanctions could be avoided. The legislation to implement the commitment must be ready no later than by the end of the year 2005. A list of “Non co-operative Tax Havens” was issued at the middle of April 2002 and “defensive counter measures” (sanctions) were to be applied from April 2003 onward. There has been a strong argumentation from the “committed countries” and jurisdictions towards a level playing field in the process in order to get uniform and fair compliance from the part of OECD countries and non-OECD countries. Committed OC and other countries and jurisdictions have created and joined the International Trade and Investment Organisation (ITIO) as a vehicle to present their concerns on the lack of level playing field to OECD.

Improvement of integrity standards by Panama.

Panama is a country of 75,000 square kilometres, 3.3 million population, 11 thousand million dollars of annual GDP and a large proportion of output, and foreign income obtained by international financial, legal, commercial and transportation services. Since 1986, Panama has established a legal and operational infrastructure to combat money laundering. The Financial Analysis Unit, established in 1995, was the first in Latin America and the Caribbean. Information Exchange, regarding money laundering and other crimes with foreign countries has been carried out through rogative letters, exchanges between authorities based in the Vienna Convention and MLAT. The relative amount of information supplied to requesting countries is greater than that received from requested countries. In the year 2000, Panama enacted new legislation to expand the list of predicate offences for money laundering, the activities committed to due diligence obligations and to allow the direct exchange of information between the Financial Analysis Unit and similar organisations around the world.

Activities carried out in Panama either by Panamanians or non-residents have a taxation rate of 30-35%, therefore Panama is not a tax haven. It is possible to exchange tax fraud information and other tax crimes, if authorised by a Judge. Based in the model set up by OECD, several countries have started to apply discriminatory measures against international financial services provided by Panama.

On April 2002, Panama reached a commitment with the OECD on the principles of transparency and tax information exchange, on the condition that those principles will be applied following the rules of level playing field. As a matter of fact, exchange of fiscal information is not worth to Panama because, having a territorial taxation system, the country does not require information on incomes and other sources of foreign income from residents in Panama.

As it could be seen, the response to the policy of “name, blame and shame” and to the pressure from FATF, OECD and other sources has been to honour and enhance the commitment for international co-operation, no matter how arbitrarily and discriminative the country has been subjected of those pressures, and despite the potential damage to competitive international legitimate services provided by Panama.

In summary, Panama is a well regulated OC that has adopted legislation to combat money laundering, public corruption, terrorism and finance of terrorism, and is compromised to exchange information on fiscal matters provided a level playing field could be widely established.

The need for a level playing field.

Continuous and fluid international co-operation against money laundering, tax crimes and other offences must be a priority for nations to enhance global levels of integrity, as well as the fight against poverty and ignorance. Powerful countries must improve their own collection of information on residents. The common effort toward integrity and fair international co-operation should respect laws of every country, and their right to carry out activities that provides for the needs of the population. Policies of "name, blame and shame" do not yield good results in the long run. Real dialogue should provide for a level playing field amongst bilateral or multilateral parties.

A fair approach in the adoption of measures.

Therefore, the right context for the adoption of measures to avoid the criminal abuse in financial services, allows countries and institutions to comply with legislation and regulations, making feasible fair international co-operation, protecting competitiveness in financial services and not hurting the economy of legitimate service-providers countries is not "name, blame and shame". A fair process must be based on:

- Assessment of the vulnerability of the country to the abuse of its financial, commercial and professional services by criminals.
- Identification of financial, commercial and professional practices that contribute to such degree of vulnerability to abuse.
- Inventory of legislation and regulation already adopted by the country in order to avoid the risk of abuse of service by criminals and the forfeiture of illegal assets.
- Inventory of the indirect availability of legislation and regulation as a result of due diligence standards imposed to other activities.
- Review of the patterns of implementation of measures against those abuses undertaken by countries that are the source of pressure to other countries for the adoption of standards.

- Assessment on how effective those measures have been in terms of prevention and control of crimes, forfeiture of illegal assets and international exchange of information.
- Evaluation of exigencies of FATF, OECD, IMF and other foreign governments and organisations aimed at the adoption of new standards unilaterally elaborated by them and subject to their unilateral supervision.
- Possibility to join efforts with countries that are subjected to the same pressures.
- Possibility to adopt retaliation countermeasures in the event that sanctions are to be imposed.
- Possibility to ask for economic compensation in the event of unilateral supply of information.
- Study of the effects of the adoption of new standards or measures on:
 - International image of the country.
 - Relationship between service providers with customers and authorities.
 - Practical aspects and cost of implementing new standards.
 - Possible mechanisms of regulation and self-regulation.
 - International uniformity in the adoption of standards.
 - Competitiveness of services compared with the supply by other countries.
 - Fair international treatment and competition due to the adoption of standards.

Finally, this approach to evaluate the adoption of new standards to combat financial crimes, either under pressure or not, is more feasible to be successfully developed by countries having political will, technical ability and moral integrity.

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