APEC Anti-Corruption and Transparency Experts Task Force - 2008 Deliverables Report

Purpose: Consideration
Submitted by: SOM Chair
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Introduction

In 2007 Ministers endorsed a model Code of Conduct for Business, a model Code of Conduct Principles for Public Officials and complementary Anti-Corruption Principles for the Private and Public Sectors, encouraging its implementation in the small and medium enterprise (SME) sectors. They also urged those member economies yet to ratify the United Nations Convention against Corruption to quickly do so, where appropriate.

Ministers endorsed the actions for Fighting Corruption through Improved International Legal Cooperation, which reaffirms our strong commitment to prosecute acts of corruption and to strengthening cooperation on extradition, mutual legal assistance and the recovery and return of proceeds of corruption.

Leaders met in Sydney last year acknowledged that regional economic integration requires not only enhanced trade and investment liberalisation and facilitation but also greater attention to ‘behind-the-border’ issues that impact on trade and commerce. Leaders pledged to provide individual and collective leadership to improve the business environment by addressing these issues.

In that regard, and among other key areas, Leaders reaffirmed our commitment to combat corruption and promote good governance in order to build prosperity and a predictable business environment. The APEC statement on "Fighting Corruption through Improved International Legal Co-operation" reinforces our strong commitment to strengthening cooperation on extradition, prosecution, mutual legal assistance and the recovery of proceeds of corruption. We endorsed the complementary Anti-Corruption Principles for the Public and Private Sectors with their codes of conduct and urged full implementation of these practical measures to combat corruption.

Furthermore, the global nature of corruption and the implementation of the punitive and preventive anticorruption policies and practices consistent with the United Nations Convention against Corruption require that APEC coordinate closely with other international activities, for which the Task Force would provide the single point of contact to promote and facilitate such interaction.

2008 Progress Activity Report

Since the its beginnings in 2004 Economies agreed that APEC can make a difference by working together to fight corruption and ensure transparency, cutting the cost of corruption to their economies and create a culture of integrity and shared prosperity.

In 2008, SOM approved the renewal of the mandate for the ACT granting a new mandate for three more years to expire in May 2011 after which SOM shall review the work of the Task Force and decide whether to extend its mandate.

ACT Core Deliverables

During the year, ACT held the 6th and 7th ACT plenary and carried out a comprehensive work in order to achieve its 2008 deliverables to be forwarded for Ministers’ endorsement. Also, APEC Senior Officials have reaffirmed it continues support to the APEC agenda to fight against corruption and its implication and costs for trade.

In August this year, SOM note the progress of the Anticorruption Task Force and encouraged members to conclude the intersessional consultations for the approval of its 2008 expected deliverables.

As instructed, ACT officials endorsed the main deliverables including:

- The Lima Anti-Corruption Declaration on Financial Markets Integrity (ANNEX 1). This regards comprehensive anticorruption strategies including efforts to restore the public trust, ensure government and market integrity, disrupt and dismantle corrupt and illicit networks, and protect
against the abuse of our financial system through financial intelligence and law enforcement cooperation related to corrupt payments and illicit financial flows.

- The Guidelines on Private-Public Actions against Corruption (ANNEX 2). The guidelines are meant to promote the establishment and development of private sector participation within economies’ to strengthen their anti-corruption systems and service efficiency and transparency in the public administration, through the identification of anti-corruption priorities in administrative reform policies; and the promotion of focused anti-corruption strategies in interaction between the higher public sector and the commercial sector. It stressed the importance of government participation in promoting best practices for entrepreneurial ethics and to enhance private sector capacity for accounting and financial disclosures to prevent and detect acts of corruption.

- Implementation of the Code of Conducts for Business. ACT approved Australia’s proposal for implementing a Code of Conduct for businesses that Chile and Vietnam volunteered to implement. The Conduct for businesses and its implementation plan was endorsed by Ministers and Leaders in Sydney in 2007.

- Endorse the outcomes of the Vietnam Workshop on Anticorruption and Administrative Reform (held in Hanoi from 25-26 June 2008). As depicted in the workshop’s report there was a clear consensus among the experts and participants that this sort of measure will certainly contribute to the improvement of the business environment through good practices on corporate governance

ACT endorsed the workshop recommendations summarised as follow (ANNEX 3): 1) Administrative reform and anti-corruption have an interactive linkage, with good administrative reform being an effective method of preventing and combating corruption and vice-versa. 2) Anti-corruption bodies play an important role in promoting administrative reform through inspection, supervision and anti-corruption work. 3) Cumbersome and prolonged administrative procedures often give rise to corrupt acts; damage the interests of the private sector; and have a negative impact on economic development. 4) It is necessary to have a standard index toolkit to evaluate the management of public finance. 5) Regarding the crime of bribery, both sides—demand (public officials) and supply (private sector) - have to bear joint responsibility.

- Endorse the outcomes of the ACT seminar on Special International Cooperation to Facilitate Asset Recovery (ANNEX 4). This seminar on Asset Recovery discussed and provided suggestions and good practices to improve cooperation on asset recovery. Economies have emphasized the importance of mutual legal assistance mechanism for recovering the proceeds from corruption including multilateral and bilateral treaties, voluntary channel, and other means to support prosecutors’ works. APEC economies are already enforcing different lawful responses which include supporting the international legal frameworks.

**ACT 2009 Project Proposal**

ACT has endorsed four quality proposals in order to implement Ministers and Leaders mandates as well as members priorities on fighting against corruption.

- Implementation of the APEC Code of Conduct for Business
- Capacity building workshop on effectively addressing corruption in the developing economies.
- Capacity-Building Workshop on Formulating Strategies for Strengthening Inter-Agency.
- Governance in Private and Public Sector.

**Decisions sought from Ministers**

Senior Officials seek:

1. Ministers’ endorsement of
   a) The Lima Anti-Corruption Declaration on Financial Markets Integrity
b) The Guidelines on Private-Public Actions against Corruption

c) The implementation plan of the *Code of Conduct for Business*,

Senior Officials request Ministers to endorse:

2. The outcomes and recommendations of the workshop on *Anticorruption and Administrative Reform* held in Vietnam and the seminar on *Special International Cooperation to Facilitate Asset Recovery* held in Lima.

Senior Officials also seek that:

3. This work be reflected in the APEC Ministers’ and Economic Leader’s Statements.
Annex 1

LIMA ANTICORRUPTION DECLARATION

APEC ACT Task Force’s Deliverables for Senior Officials, Ministers, and Leaders

*Combating Corruption and Related Illicit Financial Crimes through Effective Public-Private Partnerships: Promoting Clean Government, Asset Recovery, Market Integrity and Transparent Financial Systems*

Building on the strong political commitment expressed by APEC Leaders in recent years to confront high-level corruption, end impunity through improved international cooperation, deny safe haven to corrupt officials and those who corrupt them, and prevent the abuse of the global financial system, we reiterated our commitment to promote a more clean and transparent region in the Asia Pacific.

We agreed to further strengthen international cooperation to combat corruption and money laundering and to raise awareness of illicit finance challenges posed to our economies by corrupt entities and transnational organized crime.

We recognized that the prevention, investigation, prosecution and punishment of serious corruption and financial crimes as well as the recovery and return of proceeds of corruption cannot be achieved without effective international legal cooperation. In support of our earlier APEC anticorruption commitments, we encouraged APEC economies to continue working towards the effective implementation of the United Nations Convention Against Corruption (UNCAC) and the revised Financial Action Task Force (FATF) recommendations, where appropriate.

Consistent with the objectives and principles outlined in this important instrument, and in line with each economy’s legal framework, we decided to strengthen international cooperation in preventing and combating corruption, particularly through extradition, mutual legal assistance, and the recovery and return of proceeds of corruption and to intensify efforts against money-laundering and illicit financing that adversely impact our financial markets.

We further encouraged all economies to work together to navigate through governance challenges including those where officials abuse their power and for APEC to support useful mechanisms for effectively dealing with high-level corruption, ending impunity, and recovering looted resources. Anticorruption strategies when robustly implemented, along with efficient and transparent public financial management systems, are indispensable for promoting shared prosperity, securing social peace, and nurturing sustainable development and economic freedom.

At the Lima APEC Anticorruption Seminar conducted in October 2007, the World Bank and United Nations informed that the cross-border flow of global illicit proceeds related to corruption, criminal activities, and tax evasion is between $1 trillion and $1.6 trillion per year.

We concur that this substantial loss of economic potential robs our economies of their promise and our people of their dreams by misappropriating public investment away from development areas that need it most, such as public sector modernization, and infrastructure and social development including quality access to water, sanitation, education, healthcare, and housing.

The public sector and the private sector have a shared responsibility and complementary roles in the fight against corruption. By working together, both sectors can facilitate economic growth, increase investment, and create greater prosperity throughout the Asia Pacific region. We encouraged our economies to foster greater dialogue and partnership between both sectors at the local and international levels. Independent anti-corruption authorities should connect and coordinate public-private partnerships through various cooperative and networking channels.
This includes robust implementation by all economies of the APEC Code of Conduct for Business and the APEC Conduct Principles for Public Officials, within the fundamental principles of each economy’s legal system.

We commend efforts undertaken by member economies to develop comprehensive anticorruption strategies including efforts to restore the public trust, ensure government and market integrity, disrupt and dismantle corrupt and illicit networks, and protect against the abuse of our financial system through financial intelligence and law enforcement cooperation related to corrupt payments and illicit financial flows.
APEC GUIDELINES FOR PUBLIC-PRIVATE ACTION AGAINST CORRUPTION

1. Increased private sector participation in the establishment and development, within the economies, of programs and initiatives to:
   
a)  Strengthen economies’ anti-corruption systems; identify anti-corruption priorities in administrative reform policies and promote focused anti-corruption strategies in sectors of higher public sector/business interaction.

   b)  Increase public accountability through access-to-information norms and procedures and clear guidance through public registry of required formalities.

   c)  Reducing the opportunities for corruption by promoting service efficiency through streamlined administrative requirements, clear and reasonable processing times, reduced red-tape and “administrative silence” provisions, among others.

   d)  Review periodically regulatory controls on business activity, identify constraints and propose appropriate reforms.

   e)  Reduce time and cost of administrative requirements and licensing for SME starts.

   f)  Establish and maintain systems of procurement based on transparency, competition and objective criteria in decision-making.

   g)  Encourage the use of innovative tools such as concentrated one-stop services, e-services, e-procurement, online licensing and tenders, case tracking and electronic data sharing.

   h)  Create and maintain watchdog mechanisms (such as anonymous on-line reporting of incidents) and protection for whistle blowers in sectors of public-private interaction most vulnerable to corruption practices.

   i)  Minimise opportunities for conflict of interest through appropriate and reasonable restrictions on professional activities of former public officials, if related directly to their former functions.

2. Increased public sector involvement in the establishment, development and maintenance, with the private sector, of programs and initiatives to:

   a)  Identify and disseminate best practices on entrepreneurial ethics, including contractual relations with the government, for their voluntary implementation.

   b)  Promote transparency among private entities, including, where appropriate, the identity of legal and natural persons involved in the establishment and management of corporate entities.

   c)  Prevent the misuse of procedures regulating private entities, including procedures regarding subsidies and licenses granted by the government for commercial activities.

   d)  Enhance in the private sector capacities and standards for accounting, maintenance of books and records, financial statement disclosures and auditing, to prevent and detect acts of corruption.

   e)  Promote formal and informal cooperation as appropriate between law enforcement agencies and the private sector.

3. Agree that APEC economies shall, according to their capacities, afford one another the widest measure of technical assistance in helping to develop these guidelines for public-private action against corruption in the APEC region.
Under the framework of capacity building activities on preventing and combating corruption of APEC, the Government Inspectorate of Vietnam (GIV) developed a project to hold an international symposium with the theme: ‘Anti-corruption and administrative reform’ and the funding for this project was approved by APEC Budget Management Committee (BMC) in 2007. GIV started preparing for this Symposium right from the beginning of 2008. From June 25-26, 2008, the Symposium was successfully held at the Hanoi Horison Hotel, Vietnam. The followings are the main outcomes of the Symposium:

100 delegates, including 40 local and 60 international ones, participated in the Symposium. International delegates include representatives from 13 APEC member economies; 7 international organizations/institutions: Inter-America Development Bank (IADB), TI Chapter in Australia, UNDP Vietnam, UNODC Vietnam, WB Vietnam, Vietnam Competitiveness Initiative (VNCI), STAR project Vietnam; representatives of APEC Secretariat; as well as representatives of representative offices of APEC member economies in Hanoi. Vietnamese delegates include representatives of GIV and other related agencies at central and local level, such as: Central Steering Committee on Preventing and Combating Corruption, the Office of the Government, Ministry of Home Affairs, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Public Security, Ministry of Planning and Investment, the State Bank of Vietnam, Hochiminh National Academy for Politics and Administration, the Supreme People’s Procuracy, Hanoi City Inspectorate, and Vietnam Chamber of Commerce and Industry.

Under the main theme of Anti-corruption and Administrative Reform, the Symposium’s discussion sessions focused on 5 sub-topics: (1) Administrative reform for effective anti-corruption; (2) Role of inspection/anti-corruption agencies in boosting up administrative reform; (3) Administrative procedure reform for effective prevention of corruption; (4) Public finance reform for effective anti-corruption; and (5) Private sector with administrative reform for the purpose of anti-corruption. 21 speakers from anti-corruption agencies of APEC member economies, international and regional organizations/institutions and the private sector made presentations on these 5 sub-topics. With many new interesting issues mentioned and practical recommendations made, 21 presentations attracted very active discussions and opinion exchanges of all the delegates participating in the Symposium.

After the 5 discussion sessions, participants came to common agreement that:

First, administrative reform and anti-corruption has an interactive linkage, good administrative reform is an effective solution to prevent and combat corruption and vice-versa, good anti-corruption work will promote the results of administrative reform. The main measures to enhance this interactive relationship include: (1) closely combine the implementation of administrative reform with anti-corruption works, especially in the aspect of enhancing openness and transparency in the operation of state agencies; promote ethics and integrity of public servants; and increasing the use of advanced technology in public management activities; (2) closely strengthen the cooperation relationship between the leading agency in the implementation of administrative reform programs and the bodies granted with anti-corruption function.

Second, anti-corruption bodies play an important role in promoting administrative reform. Through the inspection, supervision and anti-corruption work, the shortcomings and loopholes of the administration system and management mechanism will be detected and recommended for improvement. The important thing is that inspection/anti-corruption agencies have proper powers so that their conclusions and recommendations are implemented seriously in reality.

Third, the cumbersome and prolonged administrative procedures are the causes for bad behaviors and corrupt acts, damaging the interests and rights of the citizen, hindering business activities of the private sector, having negative impacts on the economic development and reducing
the trust of the citizen on the state administration. Operational processes of state administration agencies as well as administrative procedures must be publicized, transparent and simplified so that there will be no opportunity for bad behaviors, corrupt acts; the application of e-service model needs to be encouraged.

Fourth, it is necessary to have a standard index toolkit to evaluate the management of public finance: (1) feasible budget; (2) comprehensive budget supervision and ensuring transparent budget operation; (3) the budget is appropriate with the government policies; (4) budget expenditure is under control; (5) accounting books, voucher and financial reports meet the requirements of management and supervision; and (6) effective external examining and auditing.

Fifth, regarding the crime of bribery, both the two sides: demanding (state officials) and supplying (private enterprises) shall have to bear the responsibility. The important thing is that in the public sector, it is necessary to reduce discretionary decisions and increase transparency and accountability; and in the private sector, it is necessary to mobilize collective efforts to create an equal playing field, enhance a non-bribery culture through the building, disseminating and applying the code of conduct for business.

At the closing session of the Symposium, member economies affirmed that the outcomes of the symposium would contribute to enhancing the effectiveness of anti-corruption activities in the region in the future and agreed to propose the ACT to keep encouraging member economies to develop capacity building projects in forms of training courses, workshops and symposiums like this Symposium organized by GIV.

It can be said that the Symposium has reached its preset objective of being a forum for representatives from anti-corruption agencies of APEC member economies, international and local experts and scholars on administrative reform and anti-corruption and representatives from the private sector to discuss and exchange views and practical experiences to figure out effective ways to promote the interactive relationship between administrative reform and anti-corruption. In this spirit, the Government Inspectorate of Vietnam is glad for having made certain contributions to the ACT’s capacity building activities for the effective implementation of the commitments on transparency and anti-corruption that our APEC member economies’ Leaders have made.
Final Consultant’s Report

“Special International Cooperation to Facilitate Asset Recovery within the scope of the Fight against Anticorruption”

Lima, Peru, October 2-3, 2008

General Considerations

APEC Anti-Corruption and Transparency Experts Task Force (ACT) held the workshop “Special International Cooperation to Facilitate Asset Recovery within the scope of the Fight against Anticorruption” in Lima, Peru, on the October 2-3, 2008. The event was opened by the Peruvian Minister of Justice, Her Excellency Rosario Fernandez, and closed by the Vice Minister of Justice, His Excellency Erasmo Reyna.

The workshop was attended by members of 11 of the 21 APEC economies, representatives from the Peruvian government: Ministry of Justice, Foreign Affairs, General Attorney’s Offices, Controller General’s Office, the Financial Intelligence Unit, and participants from several institutions.

1. Opening Remarks

The Workshop was opened by Dr. Rosario Fernandez, Minister of Justice, who welcomed all participants to the Workshop. During her speech she stated the goals of the Peruvian government and the objectives already reached in the area of anticorruption. She expressed that the government is committed to deter corruption at all costs; for that purposes the Ministry of Justice has taken important measures such as the provision of training to justice operators, the sanctioning of new procedural rules, which have already been put into practice in different regions, the proposal of innovative legislation (such as foreclosure and asset freezing), the promotion of transparency and a more active and direct relationship with the citizens, through press releases and mass media presentations to publicize State policies. She finally stated the Peruvian government is confident that events such as the one we held in Lima shall serve to provide relevant input and build capacity in our mid and top level justice operators who will in turn repeat these experiences in their scope of actions.

2. Group discussions

All participants were divided into three groups, each of them comprised by 15 participants from different economies as well as local participants from different related institutions. They were given methodological instructions that concluded with the following recommendation: “Please note several principles of courtesy that apply to the discussions and the reporting of the discussion results (which we hope will encourage frank discussion):

Non attribution: Unless an individual who made a comment to a group expresses a desire that his/her comment be attributed to him/her, the comment is treated as if from an anonymous source.

Constructive comments: The concerns expressed about issues encountered in MLA/asset recovery should be stated without placing responsibility or particular persons, institutions or economies. The goal is to identify a general problem and to jointly work toward a solution”.

Groups were given one hour to discuss three different topics, and discussions were guided and facilitated by the following experts: Rick Messick, Guillermo Jorge, and Brian Pierce / Andrew Boname, which were to center their comments on the following topics:
Group A

Resources and institutional capacity supporting your mission – Stove Piping

Is information shared between agencies regarding corruption prosecution and asset recovery cases? Agencies that may be involved include the following:

- Anti-corruption agency
- Attorney General’s office
- Public Prosecutor’s office
- The Financial Intelligence Unit
- The Money Laundering investigative unit

Are personnel adequately trained in law, procedures, financial investigative techniques, mutual legal assistance requests, asset tracing/freezing/etc?

Group B

Domestic legal framework

- Has the UNCAC been adopted and implemented?
- Are the corruption and money laundering laws adequate?
- Are special investigative techniques such as surveillance, wiretapping, undercover operations, etc. available?

Mutual Legal Assistance (MLA)

- Are mutual legal assistance procedures for preparing/sending requests understandable and adequate?
- What technical obstacles exist such as translation requirements, dual criminality, specialty (use of MLA results limited to particular offenses), types of special investigative procedures available, the admissibility of evidence obtained, etc.

Group C

Special Issues associated with money laundering in organized crime

- Common obstacles
- Usefulness of the Civil Asset Forfeiture Law
- Are we as organized as “organized crime”?
- Key tools in the puzzle: Special Investigative Techniques
- Common defects in the region
- Effectiveness of witness protection and assistance programs/regulations

After discussions were concluded, participants were asked to present their conclusions and to appoint a spokesperson to deliver them to the audience. Representatives from Singapore, Chile, and Peru were selected by their peers to present these results, which were later addressed by the experts during their presentations.

3. Discovering acts of corruption – Investigation at domestic level,
   Mr. Guillermo Jorge – International Expert

Mr. Jorge’s presentation was divided into two main parts. The initial part of it covered the issue referred to the planning of the criminal investigation, where he suggested establishing one or more working hypothesis, orderings facts and testing the rationality; whether political, economic or commercial of alternative means. Then he suggested the sketching of the strategies to prove those hypotheses by the designing of a plan to collect the evidence, and including instances for the revision, redefinition and discarding of working assumptions. Mr. Jorge also recommended the revision of the working
teams to decide whether the members are capable of following the plan and their reliability. His presentation also referred to the revision of external resources which shall be useful for the investigation, separating them at two levels: Technical (for local and inter-institutional cooperation), Strategic (for local political support); and both levels (International community, financial centers, and intelligence). Finally, he stated the importance to revise the alignment of the case at policy level in terms of results, whether these are in line with criminal policies and goals.

The second part of his presentation dealt with the conduction of asset investigation. Here, Mr. Jorge insisted on the importance of the investigation of assets of the target, family and associates, keeping in mind to verify registries, such as real estate, vehicles, horses, boats, plains; shareholding; beneficial ownership (for corporate vehicles, trusts, and IBC) in corresponding jurisdiction, and mainly requesting data from the financial system: bank accounts, securities, insurance policies, etc. Also, he recommended the identification of jurisdictions where the target holds his/her assets by thoroughly investigating the following: Telephone records, immigration records, personal contacts from the target's personal computer, business cards, e-mail, postal mail and fax memory. He also mentioned the different means to initiate informal contacts with reps from different jurisdictions to obtain input on available asset recovery mechanisms and legal proceedings.

He finalized his presentation referring to the issue of gathering evidence abroad, where he stressed the importance of the use of the INTERPOL to get non coercive measures and UIFs cooperation for financial information.

4. Stove Piping and Special Investigative Techniques, Mr. Luis Vargas Valdivia
Former Special Anticorruption State Attorney (Peru)

Mr. Vargas’s presentation was quite thorough and rich in first hand information on investigative techniques, and he used examples and aspects of his personal experience as Anticorruption State Attorney to provide the audience with the key elements that enabled his service in recovering assets in an amount of over 100 million Dollars illicitly obtained by top level officials during the Fujimori regime, from different jurisdictions in Europe (Switzerland and Lichtenstein, among others), America (The U.S., Panama and Mexico) and some other locations in South East Asia. His presentation also focused on Stove Piping, a major trouble for the carrying out of investigations. He also covered technical issues involving special investigative techniques, which referred to undercover investigation, integrity testing, where he was quite extensive and the audience benefited from first hand advice on integrity testing and other tools. Finally, he analyzed the need for legal criminal provisions and investigative mechanisms that supported domestic investigation.

5. Following Money Trails – Investigation of traces of assets at International level,
Mr. Rick Messick – The World Bank (USA)

Rick Messick delivered a lively and quite interesting presentation that kept the audience’s interest and later translated into several questions that extended the presentation long beyond the time foreseen for this, which reflected the importance of the topics he presented and the eagerness of the audience (mainly composed by on hand officials from different economies) to get acquainted with these issues. Mr. Messick reported on how nominee participants in corporations can be used to shield ownership, control and investors, and how bearer bonds can be used to the same end. His presentation also went through the tactical issues associated with seeking evidence regarding these corporations in various types of jurisdictions. It was clear from his presentation that the participants were hungry for practical, capacity-building, workshops and training events.

During the second part of his presentation, the World Bank’s expert presented sample documents and instrumental evidence that showed different means used by corrupt public servants to conceal the proceeds of their illicit actions. Mr. Messick provided excellent examples of how easy it is to incorporate corporations in a State like Nevada or Idaho using “name lenders”, and how this system was used in the past to created different “layers” to cover the destination of assets under the names of phony corporations that were facades that made it difficult to trace moneys in, sometimes, more than three continents.
Mr. Messick’s presentation was an extraordinary display of first hand knowledge and versatility, which the participants enjoyed very much.

6. **Money/asset laundering in cases of high corruption - Dr. Carlos Briceño and Dr. Pedro Gamarra Johnson, Special Prosecutors, Ministry of Justice (Peru)**

These two presentations provided elements referring to laundering of assets/money in corruption webs. It provided examples of key emblematic cases in the judicial context, the methods and systems used by corrupt individuals and groups of individuals to hide proceeds of corruption to later re-enter them into “legal” status. During the second part of this joint presentation, Prosecutor Pedro Gamarra mentioned the importance of prevention elements that will also support the discovery and prosecution of corruption offenses, exposing public officers to public scrutiny that will promote prosecution for illicit enrichment, as well as policies that enforce standards relating to conflicts of interest, gifts, etc.

7. **The Anti-Money Laundering Systems, corruption cases and advances in extradition and mutual legal assistance - Mr. Kim Yong Nam, Senior Public Prosecutor – Seoul’s High Prosecutor’s Office (Korea)**

During his presentation, Senior Prosecutor Yong Kim made several points about the structures of the legal framework that supports money laundering violations specifically, including a broad range of criminal acts that qualify as predicate offenses. He also made clear, in acknowledging that most business executives involved in corruption offenses, that it is essential to recover stolen assets as a way to deter corruption offenses. Mr. Yong Kim explained that Korea’s legislation follow a presidential order, issued October 12, 1993, where all financial accounts are to be opened under the real name. He also commented that since 2001, Korea has criminalized asset and money laundering by issuing two acts: The Act on the Registration and Punishment of Concealment of Proceeds from Crimes (Act on Proceeds from Crimes), and the Act on Report on Specific Financial Transaction Information and Utilization Thereof, etc. (Act on Financial Transaction Report). He was also extensive in detailing data on a relevant emblematic case, the Samsun Corporation case, as an example of the advances of Korea in matters of investigation and anti laundering actions. The Senior Prosecutor also referred to statistics on resolved cases and on the different countries and economies with which Korea has signed treaties on Mutual Legal Assistance for Criminal Matters.

8. **Asset recovery in Organized Crime, Mr. James Shaw, Advisor – Organized Crime and Corruption - UNODC**

James Shaw, the UNODC representative in Lima, gave a useful presentation that provided a very interesting strategic approach, including the use of administrative agencies as additional resources for use in going after assets and corrupt officers, the need for a good legal and regulatory framework. He also provided some discussion of the conventions applicable to transnational crime such as the UNCAC and the Inter American Convention against Corruption.


The presentation made by the expert provided by the Presidency of the Council of Ministers (Public Management Secretary) served to have a general view of the international legal framework, where he made a thorough analysis of at least three of the most relevant international conventions that serve as legal framework for new legislation for, among other considerations, asset recovery processes, as well as the role of the reform of the State to help achieve better results.
10. Peru: Experience on procedures to obtain the recovery and repatriation of assets after the Fujimori Regime - Dr. Eduardo Castañeda Garay, Special Regional Prosecutor for Organised Crime

Mr. Castañeda provided an important presentation where its experience focused on the results of the procedures to obtain the recovery and repatriation of assets and money after the Fujimori regime, where he provided great examples of success.

11. Mutual Legal Assistance and Consensual cooperation: Freezing, Confiscation and effective collaboration - Dr. Brian Pearce, Assistant Attorney, U.S. Department of Justice

Mr. Pearce made an interesting presentation that focused on issues related to the admissibility of evidence, dual criminality, the value and need for informal assistance and formal requests. He also referred to the legal mechanisms available such as communication, as basis for initiating a temporary asset freeze. It will also address the value of "liberalized" cooperation, such as that premised statutorily on promises of reciprocation, rather than a formal agreement.

Brian Pearce also responded to the concerns expressed about the reticence of the financial centers to support Asset Recovery, agreeing with Guillermo Jorge, as he made the point that financial centers are now sometimes so proactive that the victim countries learning of possible stolen assets have to scramble to make a case that will support initial freezing. During the second part of his presentation, the US Assistant Attorney briefly described how requests for MLA are routed to the field and then to particular Assistant US Attorneys to process, giving people some understanding that the process of getting a response is not as easy as pushing a button. He also reviewed various technical issues that can arise in MLA that may impede delivery of assistance, which also helped people to understand that their expectations about MLA may sometimes be unreasonable. So part of the benefit of the program was getting a reality check on expectations, so that there was an improved understanding of what each side must do to make the process work.

12. Conclusions

After concluding with the presentations, the Peruvian ACT Chair hosted a Final Discussion Panel comprised by three experts (Rick Messick, Guillermo Jorge, and Brian Pearce), where these had the opportunity to address final issues and sort of round up their presentations by including in these final minutes, aspects that had raised interest of some participants that were brought up during the intermissions. All three experts were generous enough to answer the final round of questions opened by the Chair, which, unpredictably, were quite many, and it showed, in our opinion, the interest raised by the issues and the presentations of our speakers.

The wrapping up of the workshop was carried out by Andrew Boname, the U.S. representative, who did an extraordinary job summing up all presentations and expressing the most relevant issues and aspects of asset recovery and MLA brought up by the presenters and by all participants during the discussion session and along the multiple questions that came up during most presentations. This part also raised the interest of some participants who felt encouraged and free to ask and express opinions, suggestions and recommendations regarding their own experiences, among which the following can be summed up:

- Participants expressed their interest in having the ACT task force organize further activities designed to provide specialized input on matters of informal cooperation and MLA;
- Economies warmly welcomed the benefit of discussion sessions where their opinions and experience sharing on special issues are dealt with.
- Participants supported and were grateful for illustrative presentations where physical evidence was actually introduced.
- Representatives expressed their satisfaction for the use of horizontal active participation methodology, where interaction was forged.
The closing remarks were made in turn by the Chair, who warmly thanked all participants and recognized the job performed by the speakers, and by His Excellency, Dr. Erasmo Reyna, Vice-Minister of Justice, who also thanked the participants and reaffirmed the commitment of the government to continue fighting corruption and encouraged the ACT to carry out more events such as the one that took place in Lima.

It may also be important to highlight something that shall be later confirmed by the corresponding sources: This workshop led to the planning of regional training, which is apparently to be funded by the World Bank, and conducted by the International Center for Asset Recovery, that will provide skills development for A/C personnel involved in investigating and prosecuting corruption, and particularly as it relates to tracing and recovering assets. This would be a detailed program, lasting approximately 10 days, that includes a practical exercise, that goes for 4 or 5 days, that has the participants work through nearly 100 different documents, and thousands of data points.

Finally, it is worth mentioning that the organization of this workshop in charge of the consultant writing this report was not free of some domestic administrative difficulties, which were resolved thanks to the excellent job of APEC General Secretariat (Luis Romero, specially), the well trained and highly professional personnel at the Peruvian Ministry of Foreign Affairs (Mr. Raul Salazar, Mr. Romulo Acurio, Ms. Romy Tincopa, and Ms. Alicia Espinoza), Rosa Alvarez, the administrative assistant hired by the Secretariat, the Vice Minister of Justice, Mr. Erasmo Reyna who was of extraordinary help for the success of this event; the UNODC representative in Lima, Mr. James Shaw, who made all possible efforts to donate the translation services and the small cocktail party we offered the participants on the first day of sessions, the administrative people of the CEAN (Special High Level Commission for APEC matters), and in a very special way, thanks to Andrew Boname, the U.S. representative, who made an important contribution to the methodology and topics, and who also made huge efforts contacting speakers and using his professional network for the benefit of the workshop.

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