**NETWORK OF ANTI-CORRUPTION PROSECUTORS IAP 2019 REMARKS BY SOLICITOR GENERAL SINGAPORE KWEK MEAN LUCK S.C.**

1. Mr. Kamran Aliyev, distinguished speakers, ladies and gentlemen. Thank you for inviting me to speak in this meeting of the Network of Anti-Corruption Prosecutors. I am very pleased to be here.
2. There was a time, where many thought that the world was flat. Around 500 BC, it was Pythagoras that informed us, that the world is round. In recent years, some 2500 years after Pythagoras, writers such as Thomas Friedman, have in turn advocated, that the world *is flat*. What Friedman means, is that due to globalisation and technological advancements, historical and geographical divisions are increasingly irrelevant in our world.
3. This flatness, facilitates economic activity. It also facilitates criminal activity, including corruption. This flatness poses challenges, for our more formal modes of international cooperation between law enforcement agencies (“**Agencies**”), such as the use of mutual legal assistance treaties (“**MLATs**”) and extradition treaties. The flatness poses challenges in at least two ways – scale and speed.

The challenges

1. Let me touch first on *scale*. With businesses operating globally, corruption – especially private sector corruption - can take place across multiple jurisdictions. This means that relevant information and evidence for our enforcement work, resides outside of our jurisdiction. What complicates this is that the information and evidence could reside in more than one external jurisdiction. Our agencies have no coercive power to obtain the information needed to decide if a full investigation is warranted, let alone whether a prosecution is made out.
2. Second, *speed*. Even if the Agency obtains sufficient evidence within the jurisdiction to pursue an investigation, the proceeds of crime may by then have been transferred out of the relevant jurisdiction. There is an urgent need to freeze the proceeds of crime inside the domestic jurisdiction and in other relevant external jurisdictions, while investigations are ongoing.
3. The major challenge facing Agencies is that we are built and empowered to investigate and tackle domestic corruption issues, when the bigger cases of corruption are increasingly no longer solely domestic in nature.
4. For prosecution of anti-corruption corruption cases, there is a triangle of 3 key elements that we as agencies need to pursue –– evidence, proceeds of crime and perpetrator. In a flat world however, any of these three could be outside of our jurisdiction and powers.
5. We can look to formal legal processes for international cooperation to deal with this. But such processes usually take time, and can delay investigations. With delay, evidence may deteriorate and evidence may also be destroyed. Evidence can also disappear. For example, banks and servers are only required to hold electronic records for a limited period of time. Criminal proceeds could also be dissipated during that delay.
6. Another limitation of the formal cooperation model, is that only one jurisdiction is deeply involved in investigating. The requested jurisdictions are not party to the investigation, and only play a more passive role, of providing the specific information or cooperation requested through MLA. To be fair, many countries do assist as much as they can within such formal channels. And they often go out of the ambit of the MLATs to help, for example, by obtaining publicly available government records or help to arrange witness interviews that are given to the investigating jurisdiction on a voluntary basis.
7. But there are nevertheless limitations. As much as the requested jurisdiction seeks to help, such aid is limited to what the investigating jurisdiction requests. But because of information gaps, the investigating jurisdiction may not even know what to ask of the other jurisdiction or where the evidence might be located.

Joint and parallel investigations

1. To overcome this, a number of jurisdictions have begun embarking on what I call “Joint Investigations” on the same suspect, for cases that take place over multiple jurisdictions. Another mode is “Parallel Investigations”, for where the subject matter overlaps, but the different Agencies are investigating different suspects.
2. The nature of cross-border corruption is that there is often conduct that constitutes offences across several jurisdictions. Under a “Joint Investigation” or “Parallel Investigation” model, the relevant authorities consider opening its own domestic investigation. In this way, the Agency can utilise the full range of its investigation powers. This in turn allows intelligence to be shared and helps to preserve evidence and proceeds of crime in the different jurisdictions.
3. Let me give an example where Singapore engaged in parallel investigations with the US for a corruption case. In 2013, Singapore’s law enforcement agency for investigating corruption, the Corrupt Practices Investigations Bureau (“CPIB”), received information from the US Naval Criminal Investigative Service (“NCIS”) that a company incorporated in Singapore was the focus of bribery and fraud investigations in the US.
4. This Singapore company provided ship-husbanding services to the US Navy in various ports in the Pacific and South-East Asia. Ship husbandry is the provision of services to a ship at port, including services such as customs formalities, fuelling, supplies, repairs amongst others. The CEO of the company bribed, amongst others, an employee of the US government who worked in Singapore as a lead contract specialist for the US Navy. The employee was a Singapore citizen. In return for the bribes, she provided the CEO with classified information in connection with the scheduling of ships. The CEO then used the information and bribed US Navy personnel to divert the US Navy vessels to ports where the company had a presence and secured lucrative contracts to supply the vessels. The US investigations uncovered the largest and most extensive bribery and fraud conspiracy in the history of the US Navy.
5. The bribery took place in various ports around the world. The CEO and the victim (the US Navy) were in the US. But because part of the corruption took place in Singapore, Singapore’s CPIB commenced domestic investigations on the suspects residing in Singapore. This started an informal parallel investigation arrangement with the NCIS.
6. The results of the parallel investigation were that the US and Singapore were able to separately pursue their own investigations, and at the same time share valuable intelligence that assisted each other’s investigations. This enabled the US extradition requests for 2 suspects from Singapore to be reviewed and approved expeditiously. Valuable evidence could be quickly secured and the investigations scoped, leading to a successful prosecution of the suspects in the US and Singapore. It is a shining example of law enforcement cooperation across geography and across legal systems in pursuit of governance by the rule of law.
7. To be clear, Joint investigations and Parallel Investigations are not without limitations. We still need the formal legal processes. For example, if there was a trial in Singapore, we would need the MLA process to obtain admissible evidence at trial. But what Parallel Investigations did was to allow for the sharing of intelligence, to expedite and enhance our respective investigations.
8. The benefits of Joint or Parallel Investigations are not restricted to evidence. They can also help prevent the dissipation of criminal proceeds. A MLA request to seek the cooperation of another country to trace and seize assets, can take significant time, during which the assets may disappear. With Joint or Parallel investigations, the country where the assets flowed into can exercise domestic powers of investigation to restrain the assets, for being connected to a domestic criminal offence.
9. In Singapore, we do this through our Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act, or CDSA. It is our money laundering statute. As part of our compliance with FATF standards, the CDSA criminalises the transfer, concealment and removal (amongst others) of benefits of criminal conduct into and out of Singapore. Criminal conduct under the CDSA includes both domestic and foreign corruption offences. If proceeds of a suspected foreign corruption offence are transferred to Singapore, our agencies can conduct parallel investigations over a suspected money laundering offence in Singapore and exercise domestic powers of investigation to restrain the assets. This is useful if the case in the foreign jurisdiction is still at the investigation stage. But to maintain the restrain over assets arising from foreign corruption offences, the Singapore Police needs to periodically satisfy our Court that the parallel investigations into the money laundering offences are active and ongoing. This, in turn, depends on regular updates on the status of the foreign investigations.
10. The 1MDB case serves as one example of this. Singapore opened domestic investigations after it discovered that moneys from the 1MDB fund in Malaysia flowed into Singapore in connection with suspected embezzlement of the fund in Malaysia. We traced the fund flows into bank accounts in Singapore and quickly restrained various assets, including bank accounts and properties. Thanks to strong cooperation between the Singapore and Malaysian authorities, we were eventually able to obtain court orders to return a substantial sum of moneys to Malaysia. To-date, Singapore has obtained court orders to return S$50.3 million 1MDB-related funds to Malaysia. If we waited for an MLA request, the assets may well have all been dissipated before any request could be made.

Conclusion

1. I began by speaking about the closely connected nature of our flat world. Yet, even now, there are those who speak of de-globalisation, of regional blocs developing. Even if such developments take place, they are unlikely to shake the global networks of financial flows. Any further divisions amongst countries in the midst of a financial network that remain international in scope, makes it more challenging for all of us, in this business of prosecuting corruption. It makes it all the more important then, that we gather from different countries, as we do in this conference, to better understand each other and work together.