Institute for Legal Support and Technical Assistance

National Conference 2023

Effective Implementation of Anti-Money Laundering and Counter-Financing of Terrorism Measures

"AML-CFT, the Mutual Evaluation Process and the Way Forward"

2-3 March, 2023

National Convention Centre, Vientiane Capital

Organised by :

Office of the Supreme People's Prosecutor (OSPP)

Institute for Legal Support and Technical Assistance (ILSTA)

สำนักงานอัยการสูงสุด
Office of the Attorney General

สำนักงานป้องกันและปราบปรามการฟอกเงิน
Anti-Money Laundering Office (AMLO)

Cambodia Financial Intelligence Unit

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Institute for Legal Support and Technical Assistance
6th Floor, NNN Building, Bourichane Road, Phonsinouan Village, Sisattanak District, Vientiane, Lao PDR
Tel: (+856) 21 41 0095, Email: contact@ilsta.org, Website: www.ilsta.org

This report comprises summaries of the experts, foreign representatives, and government officials' contributions during the National Conference. The summaries are prepared by ILSTA and due to limited space cannot reflect the entire content of the material covered.

Presentations at the Conference were delivered in English and Lao language and translated respectively by a team of qualified translators. As with many languages, it is not possible to translate in an equal terminology from Lao into English and vice versa. In this report, the Lao content reflects the most accurate interpretation of the presentations as delivered during the conference.

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National Conference 2023

The OSPP-ILSTA National Conference took place on 2-3 March 2023, at the National Convention Centre, Vientiane Capital. The subject of the Conference was **Effective Implementation of Anti-Money Laundering and Counter-Financing of Terrorism Measures – "AML-CFT, the Mutual Evaluation Process and the Way Forward".**

Laos is undergoing its second Mutual Evaluation (ME) by FATF, which assesses a country's compliance with the international standards on anti-money laundering and counter-financing of terrorism (AML- CFT).

This 2023 Conference brought together 380 delegates from all 17 provinces of Lao PDR, and the central agencies, namely the Office of the Supreme People's Prosecutor, Military Prosecutors, the People's Supreme Court, the Ministry of Public Security, the Anti-Money Laundering Intelligence Office of the Bank of Lao PDR, the Lao Customs Department of the Ministry of Finance, the State Inspection and Anti-Corruption Authority, the Prime Minister's Office, the President's Office, the Ministry of Foreign Affairs, the Ministry of Home Affairs, the Ministry of Justice, the Ministry of Industry and Commerce, the Lao Bar Association, and the Department of Forestry Inspection.

Financial intelligence units (FIUs) of Cambodia, Thailand, and the Philippines presented their country experiences in FATF ME process, which was a highlight of this important conference.

The Office of the Attorney General of Thailand (OAG) detailed cases of transnational crimes and the nexus with money laundering. ILSTA's AML-CFT experts presented on the ME process, including the emphasis on the effectiveness of the country's AML-CFT framework.

The National Conference was organised with the support of Luxembourg Aid and Development and the Ministry of Finance of Luxembourg.

Foreword



Transnational organised crime threatens the security, stability, and socio-economic development of countries within the region and throughout the world. Drug-related crimes are linked with money laundering as we know, and this has an immense impact on our economy and imposes a disproportionate burden on vulnerable populations. The massive damage these crimes can cause prompts us to have strong enforcement measures in place in cooperation with foreign countries so that the criminals will have no safe haven.

To address the need for enhanced and uniform global standards for anti-money laundering and counter-terrorist financing (AML-CFT), the Financial Action Task Force (FATF) was established in 1989. This organisation sets international standards to ensure that national governments can maximise efficiency in going after illicit funds related to organised crimes, such as drug trafficking, illicit arms trading, and cyber fraud. **The 40 Recommendations and 11 Immediate Outcomes** play a crucial role in defining the globally accepted level of AML-CFT laws and enforcement policies. Compliance therewith is key to protecting the State, its financial systems, and its people from being exploited. Non-compliance could even result in being cut off from the international financial system or placed under economic sanctions.

Recognising the importance of cooperation and coordination in combatting transnational crimes and associated money laundering, the Government of Lao PDR has established organisations mandated to tackle specific issues, such as the Lao National Commission for Drug Control and Supervision (LCDC), the National Steering Committee on Human Trafficking (NSC), and the National Coordination Committee for Anti-Money Laundering and Counter-Financing of Terrorism (NCC). Other government offices with legal authority in solving criminal matters in accordance with the justice process, such as the Office of the Supreme People's Prosecutor (OSPP), the People's Supreme Court (PSC), Ministry of Public Security (MPS), and Ministry of Justice (MOJ) are also working towards effectively addressing these crimes.

We all need to coordinate and cooperate to address money laundering and financing of terrorism effectively.

This ***National Conference on Effective Implementation of Anti-Money Laundering and Counter-Financing of Terrorism Measures*** is held in this broader context with the objective of building collective knowledge through exchanging lessons learned on AML-CFT and countering organised crime. Representatives of all of the aforementioned organisations have participated in the National Conference each year, with the exceptions being the years 2021 and 2022, when we were unable to hold conferences due to the COVID-19 pandemic. This year, we will see more than 380 participants from all seventeen regions and the central government, in addition to speakers from foreign financial intelligence units from across the Mekong region and foreign subject-matter experts.

This Conference will be an invaluable opportunity for the Lao PDR government, especially the OSPP, the PSC, the MPS, the Anti-Money Laundering Intelligence Office (AMLIO) of the Bank of the Lao PDR, the Customs Department of the Ministry of Finance, the State Inspection Authority, and other relevant authorities to share their lessons learned and discuss the issues they face in their daily operations. After attending these sessions, in which global experts and regional government officers will share their quality expertise and experiences, officers from central and regional authorities are expected to be the driving forces for AML-CFT efforts of their respective regions and offices.

I believe that this National Conference helps in strengthening the capacities of relevant officials, and the regional workshops would powerfully support the dissemination of the takeaways and lessons learned from the National Conference.

I would like to take this opportunity to thank the Government of Luxembourg for their valuable support. I would also like to thank ILSTA for its significant cooperation in organising this Conference and the regional workshops and for preparing and printing this Conference Report.

Mr. Xaysana Khotphouthone
Prosecutor General
Office of the Supreme People's Prosecutor of Lao PDR



National Convention Centre
Vientiane Capital
Lao PDR

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Mr. Khamphet Somvorlachit



Transnational organised crimes, especially drug-related crimes and associated money laundering activities, seriously impact vulnerable populations. The Lao government is treating combatting the spread of narcotics as its national agenda and has established various committees responsible for combatting money laundering, terrorist financing, human trafficking, and illicit drug control and supervision. It has also revised relevant laws and developed manuals for criminal evidence and extradition. It is in this light that today's Conference is held with the objective of studying together and exchanging lessons learned on combatting money laundering and terrorist financing and countering organised crime.

Chargé d'affaires a.i. of the Embassy of Luxembourg to Lao PDR

Mr. Sam Schreiner



Combatting money laundering and terrorist financing is of great importance for Luxembourg, a banking nation. Luxembourg, therefore, is pleased to support Laos' initiative and efforts in strengthening ties with foreign governments for mutual legal assistance (MLA) in criminal matters, especially for AML-CFT purposes. Mr. Schreiner further commended Laos' commitment to being a leader in combatting money laundering and terrorist financing in the Mekong region by hosting this Conference and commencing a regional dialogue on this topic.

President and Director General of ILSTA

Mr. Richard Philippart



Complying with FATF standards in combatting money laundering and terrorist financing is of crucial importance, both because it is an effective way of cutting the flow of illegitimate funds and because it will save a country from secondary consequences such as declines in international trade, investment, aid, and foreign currency inflows. This Conference is an important event bringing together all national agencies, regional partners, and global experts to share best practices in implementing AML-CFT compliance according to international standards. We are grateful to the Luxembourgish government for their financial support, which has made this event possible.

Presentations: Day 1, 2 March, 2023

The Role of the Financial Action Task Force and the FATF Standards

Mr. Alastair Bland, ILSTA Expert



FATF was established in 1989 to lead global action against money laundering and the financing of terrorism. Because organised criminal groups do not respect national borders, there needs to be harmonisation of laws and collaboration between countries. FATF sets standards, ensures a coordinated global response, and helps national authorities to go after the dirty money of criminals dealing in illegal drugs, human trafficking, and other crimes.

FATF monitors countries to ensure they are implementing the standards fully and effectively and holds countries that do not comply with the standards to account. This is done through the Mutual Evaluation (ME) process conducted by one of the FATF Regional Bodies. For Laos, the Asia Pacific Group (APG) conducts the ME.

MEs assess whether a country has the required laws and regulations on AML-CFT in place and the country's effectiveness in implementing those laws. There is a strong correlation between the two areas, as effectiveness requires that law enforcement and investigative agencies have clear mandates defined by laws and regulations to carry out their roles. Identifying and understanding a country's AML-CFT threats and risk is crucial as national authorities must be able to assess where to allocate resources, such as in freezing, seizing, and restraint of assets. Collaboration between agencies and developing informal relationships between counterparts in neighbouring countries are essential for the effective implementation of FATF standards.



FATF 4th Round Ongoing and Completed Mutual Evaluations

Mr. Ian Matthews, ILSTA Expert



A FATF Mutual Evaluation (ME) is a peer-review process where members from different countries assess another country's anti-money laundering and counter-financing of terrorism (AML-CFT) compliance. An ME comprises two components: Technical Compliance and Effectiveness. Technical Compliance looks at whether a country has the required AML-CFT regulations in place, and Effectiveness checks whether the AML-CFT regime is protecting the country's financial system from abuse. The emphasis of the ME is primarily on Effectiveness.

The country being assessed must demonstrate that it effectively protects against criminal abuse of its financial system. This can only be achieved if the different components of a country's AML-CFT system are working well together. The assessment team looks at 11 key areas, called 'Immediate Outcomes', and assesses how well the country is doing under each one.

The expert presented the 11 Immediate Outcomes and pointed to some of the common weaknesses identified from the results of the 4th Round of MEs. The lack of skilled and experienced personnel and difficulties in identifying the proceeds of crime were issues in the areas of investigation, prosecution, and confiscation. Accuracy and completeness of data, transparency, and incomplete assessment of risk were common weaknesses in the areas of beneficial ownership and non-profit organisations (NPOs). Other reasons for lower ratings were a lack of guidance given to the private sector and the confusion between terrorism risk and terrorist financing risk.

Results from the 4th Round revealed that most countries still do not have all the laws and regulations in place, a requirement of Technical Compliance. After the ME, countries that do not yet satisfy the two components undergo Regular or Enhanced Follow-ups or they are referred to the International Cooperation Review Group (ICRG) to complete a one-year observation period.



FATF's International Cooperation Review Group Process

Mr. Alastair Bland, ILSTA Expert



The International Cooperation Review Group (ICRG) Process reviews and closely monitors the progress of jurisdictions with strategic AML-CFT deficiencies that present a risk to the international financial system. A country may be reviewed by the ICRG based on threats, vulnerabilities, or particular risks.

The two most common reasons for a country to be reviewed by the ICRG are nomination by an individual FATF delegation or regional body and referral based on ME results. An individual FATF delegation or regional body may nominate a country if it has cause to believe there are specific money laundering, terrorist financing, or proliferation threats in that country. Other grounds for nomination are failure to make sufficient progress despite being under Enhanced Follow-up and a consistent lack of international cooperation.

Referrals based on ME results happen when the jurisdiction fails to meet certain threshold ratings for Technical Compliance and Effectiveness. The country has approximately 16 months from the adoption of its ME report to demonstrate how it has implemented the recommendations for all areas rated Low or Moderate. If it fails to do so, the country is placed on the so-called FATF grey list, and an Action Plan is developed. A grey-listed country must report at each FATF plenary to show its progress. FATF requires a high-level political commitment from countries under the review process to implement the required legal and operational reforms. In order to be removed from the review process, the country must address all or nearly all components of its Action Plan.



Overview and Implementation of Anti-Money Laundering and Countering the Financing of Terrorism in Lao PDR

Ms. Nantha Phommavongsa, Deputy Director General, Anti-Money Laundering Intelligence Office (AMLIO), Bank of the Lao PDR



Lao PDR has been gradually strengthening its AML-CFT regime over the past twenty years and is a party to all of the major United Nations Conventions dealing with AML-CFT. Money laundering was first criminalised in Laos in 2005 under Article 64 of the amended Penal Law. The Anti-Money Laundering Intelligence Unit (AMLIU) was established in 2007, and Laos was admitted to the APG in the same year. AMLIU was renamed as the Anti-Money Laundering Intelligence Office (AMLIO) in 2015 with an expanded mandate, both domestically and internationally, and serves as the focal point of financial intelligence analysis, which it disseminates to law enforcement agencies.

Laos underwent its first ME in 2010 and was listed as a 'jurisdiction under increased monitoring', or 'grey-listed', in 2012. To rectify its AML-CFT deficiencies, Laos established the National Coordination Committee for Anti-Money Laundering and Counter-Financing of Terrorism (NCC) in 2014 to coordinate all AML-CFT matters, and promulgated its AML-CFT law in the same year.

Between 2014 and 2016, Laos promulgated 19 legislation and regulations on AML-CFT, including one Decree, two Instructions, twelve Regulations, and four Guidelines. The new legislation resulted in Laos meeting most of the technical requirements of the FATF Recommendations, and Laos was subsequently removed from FATF's grey list in 2017. Laos is currently undergoing its second ME Process, and the final report will be delivered at the FATF Plenary in July 2023.



Panel Discussion—Cambodia, Thailand, and the Philippines' Experience with FATF Mutual Evaluations

Panelists:

Ms. Socheat Hem, Director, Cooperation Department of CAFIU

Ms. Supranee Satitchaicharoen, Director, Cooperation and Standard Development Division, AMLIO

Atty. Ronel U. Buenaventura, Acting Deputy Director, Commitments and Policy Group, AMLC



Moderators:

Mr. Ian Matthews, ILSTA Expert

Ms. Jacqueline Arend, Advisor, CSSF

Representatives from financial intelligence units (FIUs) of Cambodia, Thailand, and the Philippines shared their experiences with FATF evaluations. Panelists answered the questions posed by Mr. Matthews.

1. **If you had to go through the Mutual Evaluation again, what would you have done differently?**

The panelists unanimously underscored the need to prepare for the MEs well in advance, as the implementation takes time, and the Effectiveness of new measures can only be assessed when they have been in place for a certain amount of time. The Philippines wants to make its AML-CFT efforts sustainable rather than only focusing on getting good results in the ME. Ms. Socheat Hem from the Cambodian Financial Intelligence Unit (CAFIU) stressed the importance of coordination between the assessment team and all authorities in the country. Ms. Arend from the Luxembourg Supervisory Authority for the Financial Sector (CSSF) added that, based on her experience as an assessor, understanding the definition of the technical terms was crucial to the successful implementation of AML-CFT measures. She noted the correlation between the correct implementation of the Recommendations and the Effectiveness of a jurisdiction's laws and practice.

2. After the on-site visit and the feedback from the assessors, was the first draft of your Mutual Evaluation what you were expecting?



Ms. Supranee from the Anti-Money Laundering Office (AMLO) of Thailand answered that the results had been worse than she expected and suggested the reasons for this were the assessors' lack of understanding of Thai Laws, the difficulties in communication using translators, and the lack of attention to detail when going through the FATF methodology. She stressed that national governments need to communicate with the assessors to assist in their comprehension of the domestic legal system and approach the FATF methodology in a detail-oriented manner, including paying attention to the footnotes. Ms. Socheat Hem from Cambodia stated that it faced difficulties due to its civil law system, whereas the assessors came from common law jurisdictions.

3. As the process involves many agencies, how did your country coordinate the response to the draft Mutual Evaluation Report?



The CAFIU coordinated the response to the draft Mutual Evaluation Report using Telegram as their main means of communication. Ms. Arend highlighted the importance of limiting the agencies that directly deal with the draft, as having too large of a panel would pose difficulties, and recommended asking for changes and clarifications in the first draft early in the Evaluation process, as it becomes more difficult to revise the draft at later stages.

4. What are the key takeaways from going through the face-to-face meeting?



The panelists all agreed on the difficulty of sending a high-level official as a representative while ensuring that the representatives were well-informed about all the details of the discussions. From the assessors' perspective, Ms. Arend stressed that the face-to-face meetings are indispensable for assessors, as this is the last chance to collect information from the national governments. Both sides must be well prepared so that the exchange is smooth and effective.

5. What would you advise a country that is about to go through the Plenary process?

Both representatives from Cambodia and Thailand emphasised the need to prioritise key issues and strategically prepare for the discussions by gathering evidence. Mr. Buenaventura from the Philippine Anti-Money Laundering Council Secretariat (AMLC) underscored the need to be mentally prepared and have the full team well briefed before and during the Plenary. Thailand added that the process would be smoother if a country could convince the assessors prior to the Plenary that an upgrade to country status was due.

6. Concerning the ICRG process, how long is a realistic period for a country to properly address all of its Action Plan items?



The Philippine representative answered that countries usually exceed the timeframe given by the assessors to address all of their action plans by about a year, depending on the human resources allocated to the task.



Day 2, 3 March 2023

Mutual Legal Assistance in Criminal Matters in the Context of Lao PDR

Ms. Vilaysinh Dainhansa, Deputy Director General, Department of Planning and International Cooperation, Office of the Supreme People's Prosecutor



The Lao PDR is a party to several international and bilateral treaties on mutual legal assistance in criminal matters, namely, the United Nations Convention against Transnational Organized Crime (UNTOC) (2003); the ASEAN Mutual Legal Assistance Treaty (MLAT) (2004); and Lao-Vietnam (1998), Lao-China (1999), and Lao-North Korea (2008) Mutual Legal Assistance Agreements. In terms of domestic Law, Laos adopted a Law on Mutual Legal Assistance in Criminal Matters in December 2020. Laos is also a member of the South East Asia Justice Network (SEAJust), established in 2020 to support regional judicial cooperation.

For mutual legal assistance, OSPP is the central authority and coordinating point that analyses requests, coordinates with other relevant agencies, and communicates with the requesting State. According to Lao MLA law, an MLA request must fit within the scope of requests provided under Article 7 and meet the technical requirements under Article 10. MLA requests may be rejected for reasons listed under Article 8, such as the perceived impact on sovereignty, lack of dual criminality, and the underlying offence being of a political nature.

Laos has provided and received assistance most frequently from Vietnam, in addition to a substantial number of requests from Thailand and some from Japan, the United States, Sweden, Germany, China, and Poland. Among the requests received, 95% are sent to the provinces for implementation.



The most significant difficulties that OSPP faces in implementing MLA requests are language barriers and a lack of understanding of the laws and legal systems of the counterparty. A handbook with a complete set of instructions is being developed to tackle these challenges.

Regional Legal Cooperation in Southeast Asia

Mr. Phoosit Tiravanichpong, Director, ASEAN Center for International Legal Cooperation, Office of the Attorney General of Thailand



Due to the development of seamless global transportation, cyber communication through WhatsApp, Line, Facebook, and other such apps, and new financial tools, crimes these days have become borderless.

In Southeast Asia, ASEAN provides the legal framework for formal international legal cooperation. The MLAT was adopted in 2004. A working treaty was set up to negotiate and draft the ASEAN Extradition Treaty (AET) in 2019, and the member countries aim to finish the draft in 2023. The spirit of ASEAN-MLAT and the future AET is based on consultation, mutual trust, and ASEAN's common interests against transnational organised crime.

Informal legal cooperation has developed with the establishment of the South East Asian Justice Network (SEAJust), which adds to the formal cooperation through UNTOC and United Nations Convention against Corruption (UNCAC). Informal global networks can quickly share information between law enforcement agencies around the globe. In Mr. Phoosit's words, a 'wider cooperation [is] better cooperation.'

The challenges of international cooperation, such as differences in legal systems, language barriers, and delays in responding, can be solved by greater networking and consultation. Video conference court hearings have been used for the first time for a witness in Thailand, who was unable to travel, to testify remotely for proceedings in France and Norway, which had submitted MLA requests to Thailand. The Golden Triangle Prosecutor Network is another example of a successful initiative of a smaller group bound by common interests. Mr. Phoosit concluded by emphasising the need for cooperation between law enforcement agencies to apprehend powerful and sophisticated transnational criminals.



Mutual Legal Assistance and International Cooperation in Asset Recovery

Mr. Boonyawut Boonvatikran, Public Prosecutor, International Affairs Department, Office of the Attorney General of Thailand



Thailand has received increased requests for MLA cooperation in seizure, forfeiture of property, and asset recovery in recent years. Thailand's MLA law was amended in 2016. In the past, a high standard of proof was required for non-conviction-based freezing orders and confiscation, often resulting in the funds disappearing before conviction. Under the amended law, prosecutors only have to prove the asset is the proceeds or instrument of a crime to use these orders, even when the party is deceased. Value-based confiscation, used only where bilateral treaties allow for it, refers to a method of confiscation of a cash amount equivalent to the value of the property determined to be proceeds or instruments of crimes. Returning proceeds of a crime also requires a treaty basis.

The expert detailed a case study of Mr. Alexander Cazes, who operated AlphaBay Market, a dark web marketplace. The server was located in Thailand, and Mr. Cazes received fees from the transactions. Thailand received an MLA request from the United States for extradition and to freeze the proceeds of the crime. The fees were paid by cryptocurrencies, including Bitcoin. There was a huge amount of cryptocurrency. Thai law enforcement agencies (LEAs) managed to get an undercover officer to enter the house and get the keys to the cryptocurrency, but there were several issues. Is cryptocurrency an asset under the law? How do you freeze it or seize it? Thailand did not have a government wallet for Bitcoin. Nevertheless, the US did have a government wallet, and Thailand was able to transfer about USD 22 million to the US government wallet.

Mr. Cazes committed suicide in custody. Under the traditional approach, the case would have ended there. Under the new MLA amendment, however, non-conviction -based forfeiture is allowed. Since the crypto assets were proven to be the proceeds of crime, Thailand was able to forfeit and return them to the United States. This was the first case to which the asset recovery law was applied. Other assets from the case were liquidated at an auction and transferred back to the United States. Mr. Boonyawut concluded by stating that this success was a positive step towards improving the efficacy of the Thai asset recovery procedures.



Extradition and Cooperation Against Wildlife Crime

Mr. Puvadet Prommakrit, Public Prosecutor, International Affairs Department, Office of the Attorney General of Thailand



In Thailand, transnational crime technically falls under the authority of the Attorney General. In reality, however, investigations of such crimes are almost always delegated to the police at the location of the crime. Thailand has an extensive international cooperation framework through both formal and informal channels. Where there is a difference between provisions in a treaty and a domestic law, the treaty's provision will prevail. Thailand extradites Thai nationals if a treaty that binds the two states provides for extradition.

The Boonchai case (2017-2022) provides an example of transnational wildlife crime prosecution and money laundering litigation. Wildlife crime is low in risk yet high in reward. It is estimated that the illegal trade is worth between USD 7-23 billion globally each year.

In the Boonchai case, profilers at Suvarnabhumi Airport identified Mr. Chen, a Chinese national travelling from Johannesburg, as a high-risk passenger. Upon his arrival at the airport, the authorities scanned his luggage and found items suspected to be rhino horns. The Thai authorities allowed the luggage to be delivered to Mr. Chen under surveillance and found that he had an accomplice, Mr. Nikorn, a quarantine officer working at the airport.



Seized items: 14 segments of rhino horns (12 white rhino horns and 2 black rhino horns)
Total weight: 11.16 kg.
Estimated customs value: 16,740,000 THB (approx. 471,000 USD)

The Thai police suspected they were part of an organised group, so they interrogated Mr. Nikorn, who said he was hired by Mr. Chen to receive and deliver the horns to another person, also hired by Mr. Chen, for 150,000 Baht. The police made Mr. Nikorn call and set up a meeting with the person to whom he was to hand the rhino horns. Mr. Van Hoa, a Vietnamese national, showed up at the meeting and was arrested. Later on, based on Mr. Nikorn's testimony, the Thai police succeeded in arresting the kingpin of the criminal organisation, Mr. Boonchai, who is half-Vietnamese and half-Thai, at the Thai-Lao border. This case made headlines not only because of the apprehension of the kingpin but also because of its transnational scope, involving South Africa, Thailand, Laos, Vietnam, and China.

From an AML perspective, this case was sent to AMLO for a parallel financial investigation. The four alleged offenders were charged with three main offences: smuggling, wildlife offences and wildlife disease offence. Three defendants, Mr. Chen, Mr. Nikorn and Mr. Van Hoa pleaded guilty, whereas Mr. Boonchai pleaded not guilty. Mr. Nikorn later recanted his testimony against Mr. Boonchai. The trial court and appellate court dismissed the case against Mr. Boonchai, stating that the case was only supported by hearsay evidence. There were no telephone or internet records, and Mr. Nikorn withdrew his testimony. The prosecution appealed the decision to the Supreme Court, which overturned the lower court's decision and convicted Mr. Boonchai. This is one of the rare examples of kingpins being convicted. A parallel financial investigation for the predicate offences of smuggling and offences related to natural resources resulted in Mr. Boonchai's assets being seized. The AML investigation is still ongoing.



The expert stressed the importance of effectively implementing AML measures in parallel to the prosecution of predicate offences to cut the cycle of crime. The parallel proceedings place a heavy burden on the defendants, who have to simultaneously deal with all of them, which further dissuades the criminals and diminishes the lucrativeness of running a criminal enterprise.



The Use of Financial Intelligence and Money Laundering Investigations and Prosecutions (IO.6 & IO.7)

Mr. Alastair Bland, ILSTA Expert



The FATF Mutual Evaluation assesses a country's use of financial intelligence and the country's record of investigation and prosecution of money laundering cases under Immediate Outcomes 6 and 7.

Immediate Outcome 6 provides guidelines for how financial intelligence should be used in an effective system to investigate money laundering offences. FIUs must be established as the central agency for the receipt and analysis of any suspicious reports which may indicate that money from criminal offences is being laundered. It is crucial that FIUs are able to operate autonomously and disseminate data both spontaneously and on request. They should protect their data and ensure the anonymity of informants. Effective FIUs ensure competent authorities are receiving reports and analyses that support the operational needs of LEAs. This requires FIUs and other competent authorities to cooperate and exchange information. The focus is not just on the FIU but on how financial intelligence is shared and used by the authorities.

Immediate Outcome 7 provides guidelines for competent authorities that are prosecuting offences and punishing offenders for dissuading potential criminals from committing such offences. An effective system for investigating and prosecuting money laundering offences must pursue parallel financial investigations. During an ME, FATF assessors look at the ratios between investigations and prosecutions and to what extent different types of money laundering cases are prosecuted. The types of cases investigated and prosecuted should be consistent with the country's threats and risk profile and with national AML-CFT policies.

The components of the system responsible for investigation, prosecution, conviction, and sanctions should be functioning coherently. This can be assessed by the number of successful prosecutions for proceeds-generating crimes and money laundering and is an important deterrent to potential offenders. Identifying, tracing, freezing, and seizing criminal assets require skilled personnel with the authorisation and full legal powers to carry out their mandates.



Implementation of AML-CFT Supervision and Programs for Financial Institutions and Designated Non-Financial Professionals and Businesses (IO.3 & IO.4)

Mr. Ian Matthews, ILSTA Expert



Immediate Outcome 3 requires appropriate supervision of Financial Institutions (FIs), Designated Non-Financial Businesses and Professions (DNFBPs), and Virtual Asset Service Providers (VASPs), whereas Immediate Outcome 4 requires the supervised entities and persons to adequately apply preventative measures and report suspicious transactions.

FIs are not limited to banks, and FATF measures apply to all aspects of their businesses. DNFBPs, however, are only covered when they conduct certain activities or transactions above a certain value threshold.

A supervisory system should have four main features: market entry, engagement, corrective actions, and sanctions. The first two are preventive measures, and the other two are reactive measures. At the market entry phase, supervisory authorities must prevent criminals or their associates from owning, controlling, or managing FIs, DNFBPs, or VASPs at the time of licensing or registration. Unregistered or unlicensed entities and persons must be detected and removed from the market. Such supervision must be on an ongoing basis, and entities must be re-examined when ownership changes or new people are appointed to key roles.On-site and off-site surveillance and inspections are imperative in detecting irregularities. Corrective actions and sanctions must be effective, proportionate, and dissuasive and should vary in terms of types and severity. It is important to allocate attention and resources on the basis of risk, known as the risk-based approach (RBA). Supervisors need to assess risk at three levels: national, sector, and individual entity. Across jurisdictions, most countries have either a low or moderate rating on IO.3.

The RBA also applies to preventive measures that should be taken by FIs, DNFBPs, and VASPs. These entities and individuals first need to understand their money-laundering and terrorist financing risks and obligations to counter them. Resources must be allocated according to the relative seriousness of each risk. FATF has issued guidance that each sector can rely on to understand necessary measures to mitigate risk. For client risk assessment, customer due diligence and record keeping are key. In high-risk situations, such as engaging with politically exposed persons, new technologies, and specific jurisdictions, enhanced measures must be taken. Whenever entities or individuals detect suspicious transactions, they have to report them to the financial intelligence unit of their respective jurisdiction. As assessors predominantly assess the compliance with IO.4 through speaking to the entities, engagement of all FIs, DNFPBs, and VASPs is crucial to obtain a high rating.







Non-profit Organisations (Recommendation 8 & IO.10)

Mr. Alastair Bland, ILSTA Expert



FATF used the term NPO for the first time following the September 11th terrorist attacks in the US in 2001. FATF defines an NPO as 'a legal person or arrangement or organization that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of "good works"'.

Under Recommendation 8, countries should identify which subset of organisations fall within the FATF definition and use all relevant sources of information to identify features and types of NPOs which are likely to be at risk of terrorist financing abuse in order to take proportionate and effective actions to address the risks identified.

An effective approach in identifying, preventing, and combatting terrorist misuse of NPOs involves outreach, supervision and monitoring, effective information gathering, and the capacity to respond to international requests for information. Countries must put in place mechanisms to ensure the transparency of these organisations to identify and prevent terrorist financing and protect vulnerable NPOs from abuse by terrorist groups.

Countries need to find the right balance between supervision and monitoring, on the one hand, while ensuring that the measures put in place to protect NPOs from terrorist financing should not disrupt or discourage legitimate charitable activities.

AML-CFT Investigations Asset Seizure and Management of Seized Assets Case Examples (IO.8)

Mr. Warasret Surapananontchai, Director of Financial Intelligence Analysis Section, Financial Intelligence Division, Anti-Money Laundering Office of Thailand
Pol. Lt. Col. Bodinthorn Wiyaborn, Director of Property Preservation and Management Sub-division 2, Asset Management Division, Anti-Money Laundering Office of Thailand



AMLO responds to notices concerning the commission of one of the 28 predicate offences by initiating an investigation of associated persons and assets connected with the commission of the offence. AMLO examines the links between the target and his family, the target's action, and the target's property.

It is important that investigators reach out to both government agencies and private persons so that the investigation identifies all related individuals and generates an overall map of connections that enable the investigators to trace the financial transactions. The structure of transactions revealed through the investigations can be very complex. Nevertheless, as cybercrimes and transnational crimes cause huge losses to the country, governments must conduct these investigations.

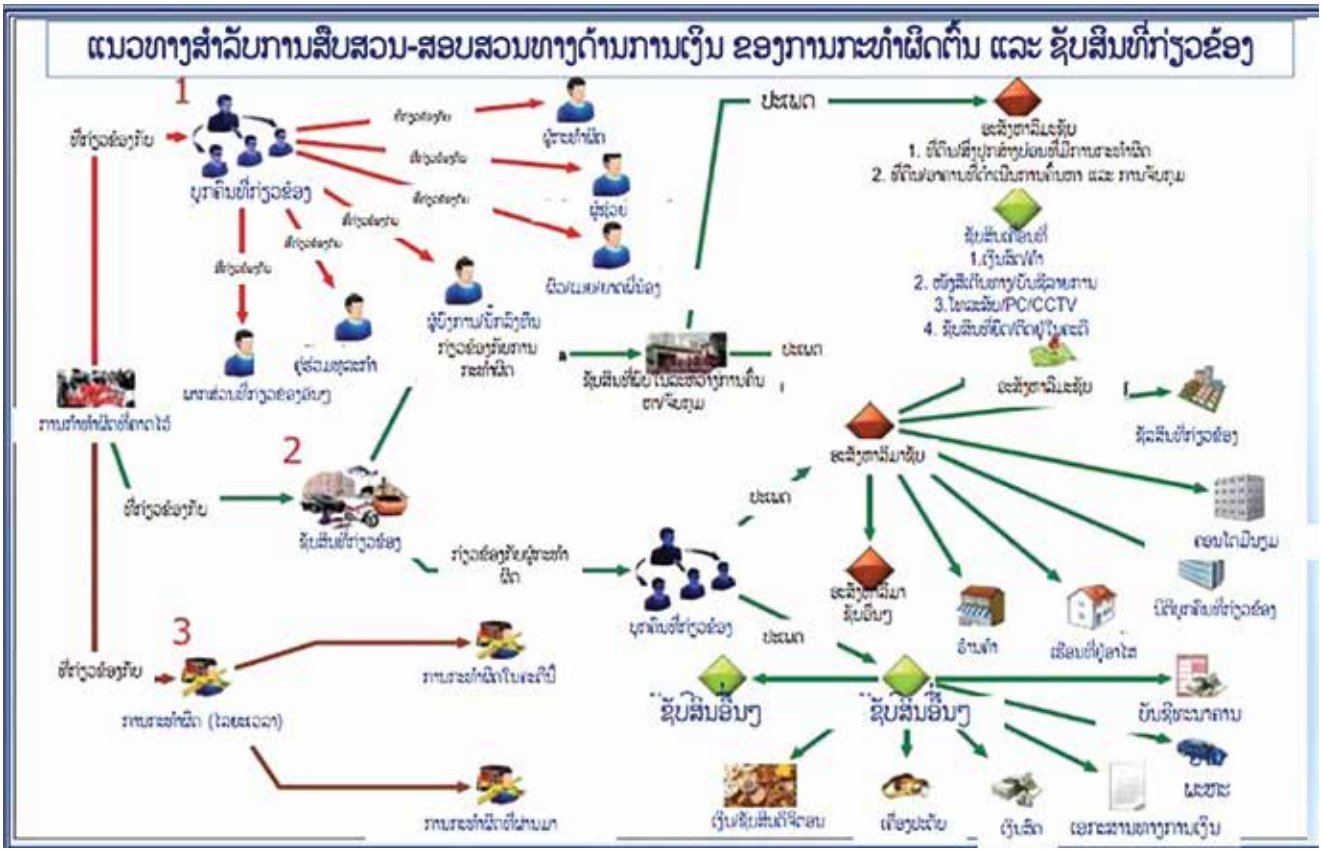


Pol. Lt. Col. Bodinthorn provided details of pre-and-mid-trial asset seizures. Pre-trial seizures could be conducted based on an order of the Transaction Committee or an order of the Secretary-General of the Anti-Money Laundering Board. During trials, the order must come from the court. A court order is required to permanently dispose of the assets through either vesting the assets in the state or returning the property to its original owner.

To adequately and effectively manage seized assets, they need to be classified into categories, such as whether they are movable, perishable, difficult to store, alive, vehicles, luxury items, company shares, contractual rights, precious metals, jewellery, amulets, cash, or bank deposits. For example, for animals, AMLO seeks the assistance of animal welfare experts. For items that need proper maintenance, such as leather items and cars, AMLO has to ascertain the appropriate level required to maintain value or maximise liquidation.



Thailand has a program for appropriately managing immovable property and carries out surveys for management purposes, coordinating with local officers, the results of which go into a unified system. While having custody over seized assets, the government rents them out or uses them, if such is feasible.



If the seized asset is a business, the government can allow the business to conduct its operations as usual and pay a certain amount to the manager instead of shutting it down. AMLO also holds property auctions to liquidize assets. The presenter emphasised the utmost importance of cooperation for successful AML-CFT investigations and protecting team members from harm in this fast-changing environment.





Q&A Session



Q&A sessions were held on each day of the Conference. Many attendees took advantage of this opportunity to ask questions based on their day-to-day work. An attendee from a regional prosecutor's office asked whether their office could exchange information directly with a regional procurator's office in Vietnam for an ongoing investigation and whether they could ask for the extradition of a fugitive who is in Vietnam.

A representative from the Lao Central Authority for MLA, Ms. Vilaysinh Dainhansa, answered that direct information exchanges are allowed based on the bilateral treaty between Lao PDR and Vietnam, but extradition of the accused person would not happen. It is important to distinguish between MLAs, on the one hand, which are on a voluntary basis, and extradition, which is on a non-voluntary basis.

A follow-up question asked about transferring seized proceeds of crimes from Laos to a foreign state and how Laos would benefit from such proceedings. The Central Authority representative answered that the host country would not directly benefit from transferring the asset as a form of legal assistance. Laos helps the requesting country based on the principle of reciprocity and justice. The representative noted that the Cambodian Central Authority has previously suggested that Lao PDR and Cambodia should divide the assets for cases requiring forfeiture in one country and transfer to another.

The Deputy Prosecutor General of Lao PDR, Mr. Khamphet Somvorlachit, asked the Thai AMLO for more details on money laundering procedures, including freezing, seizing, and confiscating assets and how to calculate the proceeds of crimes. Thai AMLO representative, Mr. Warasret Surapananontchai, explained that once the transaction committee receives an order to seize or freeze the property, the authorities would notify the owner of the property to give him or her the opportunity to oppose the seizure. If the owner cannot provide a clear explanation of the legitimacy of the source of acquisition of the property, AMLO would send the matter to the prosecutor, who would bring it to the civil court to seek confiscation. If the defendant is acquitted of predicate offences, the seized assets will be returned. He added that all assets purchased using the proceeds of crimes are the subject of forfeiture. Nevertheless, if a third party unknowingly purchased the proceeds of crimes or items purchased with proceeds of crimes, the government would consider returning the seized asset to the third-party buyer.





Closing remarks

Mr. Richard Philippart, President and Director General, Institute for Legal Support and Technical Assistance



Some of the common themes that emerged during this National Conference were the need for cooperation within the various offices and agencies of the government, the commitment of high-level officials, taking sufficient time for reforms, and the importance of coordination. This Conference has been a platform for increased formal and informal collaborations among government agencies within the region, and ILSTA looks forward to supporting the continuation and expansion of discussions from now until the next National Conference in 2024.

Mr. Khamphet Somvorlachit, Deputy Prosecutor General, Office of the Supreme People's Prosecutor of the Lao PDR



This National Conference has underlined the importance of learning from the theory and practice of prosecutions in the Mekong region. Mr. Khamphet thanked the engagement of the experts and participants in terms of the cultural and informational exchange. In order to implement the outcomes of this Conference effectively and efficiently, he urged all participants to disseminate the message in their respective regions and offices and implement the lessons learned in their day-to-day work for enhanced capacity building.

Mr. Khamphet expressed his gratitude to the government of the Grand Duchy of Luxembourg for providing financial support to this Conference and expressed his hope for continued support. He further thanked and congratulated his co-chair, Mr. Richard Philippart, for his organisation's support for the OSPP and relevant agencies in their modernisation, development, and regional integration, and thanked the speakers who traveled from countries within the region and beyond.



Conference Recommendations 2023

- Continue this Conference as an annual meeting for capacity building and sharing lessons learned
- Carry out three provincial conferences on combatting organised crime AML-CFT and its implications and ME process
- Continue and renew support for implementing the recommendations of the 2020 National Conference (as there were limitations and restrictions due to the COVID-19 pandemic)
- Strengthen data collection and analysis on organised crimes and money laundering and the cooperation between domestic authorities
- Continue to strengthen regional cooperation, both formal and informal, on AML-CFT investigations
- Support the OSPP and relevant authorities in events in the Mekong Subregion addressing organised crime and money laundering



APPENDIX

Table of Abbreviations

ABBREVIATION	DEFINITION
AET	ASEAN Extradition Treaty
AML	Anti-Money Laundering
AMLC	Philippine Anti-Money Laundering Council Secretariat
AMLIO	Anti-Money Laundering Intelligence Office of the the Bank of the Lao PDR
AMLIU	Anti-Money Laundering Intelligence Unit
AMLO	Anti-Money Laundering Office of Thailand
APG	Asia/Pacific Group on Money Laundering
CAFIU	Cambodian Financial Intelligence Unit
CFT	Counter-Financing of Terrorism
CSSF	Luxembourg Supervisory Authority for the Financial Sector
DNFBPs	Designated Non-Financial Businesses and Professions
FATF	Financial Action Task Force
FI	Financial Institutions
FIUs	Financial Intelligence Units
ICRG	International Cooperation Review Group
ILSTA	Institute for Legal Support and Technical Assistance
IO	Immediate Outcome
LCDC	Lao National Commission for Drug Control and Supervision
LEAs	Law Enforcement Agencies
ME	Mutual Evaluation
MLA	Mutual Legal Assistance
MLAT	ASEAN Mutual Legal Assistance Treaty
MPS	Ministry of Public Security
MOJ	Ministry of Justice
NCC	Lao National Coordination Committee for Anti-Money Laundering and Counter-Financing of Terrorism
NPO	Non-Profit Organisation
NSC	Lao National Steering Committee on Human Trafficking
OSPP	Office of the Supreme People's Prosecutor
PSC	The People's Supreme Court of the Lao PDR
RBA	Risk-Based Approach
SEAJust	South East Asia Justice Network
UNCAC	United Nations Convention against Corruption
UNTOC	United Nations Convention against Transnational Organized Crime
VASPs	Virtual Asset Service Providers

Conference photos









