Fish Forests and Filthy Lucre

Illegal Logging Scenario

Prepared by the Anti Money Laundering Assistance Team Attorney-Generals Department, February 2010
SCENARIO FRAMEWORK

1. The following facts and circumstances are entirely fictitious and are designed to provide a framework for discussion of key issues relating to illegal logging and related corrupt payments including the detection, investigation and laundering of proceeds of crime.

2. The scenario is intended to provide points for discussion on the following key focus areas;
   - Illegal logging operations
   - Law enforcement investigation nationally and internationally
   - Financial Intelligence Unit (FIU) data collection, analysis and dissemination
   - Undertaking criminal asset proceedings
   - Sourcing and utilising foreign evidence
   - Preventing money from being diverted or stolen

3. The countries involved in the scenario include the fictitious country of Davisland which is rich in natural resources such as forests and regional fishing grounds but is largely undeveloped and has a population living mostly in a subsistence based society spread throughout the small island nation in isolated community groups. Money from the sale of natural resources is needed to meet health, education and local infrastructure development costs. There is a history of corruption with moderate if any money actually benefiting the citizens of the country.

4. Various international banks operate in Davisland including Westpac, ANZ and Davisbank. Most are based in the capital city Delton with some regional representation in the larger communities. The local currency is the Davis Dollar which is currently half the value of the US dollar.

5. Davisland has received international assistance to establish an FIU as well as training for its local Police in respect to corruption and money laundering investigations. Their legislation is reasonably comprehensive and provides for the sourcing of material and investigation of most criminal offences. The recently passed AML legislation compliments the amendments to the criminal code which include the making and receiving of corrupt payments being classified as serious offences. The FIU is based within the Police department and works closely with the anti corruption unit.

6. Other countries involved in the scenario include Singapore and Malaysia which are highly developed countries with well established local and international banking operations. The use of the countries is intended to provide a realistic aspect to the movement of money through foreign accounts via the international banking network.

SCENARIO COMMENCEMENT
7. Two logging companies operate in Davisland and both have been accused of paying below market rates for logs, incorrectly classifying the quality of the timber to reduce payments and logging in excess of their allowed quotas. Local villagers who are the traditional land owners are concerned about siltation in the rivers affecting fishing in their traditional river and coastal fishing locations. They are also concerned about land degradation and mud slides. Money promised to the villages has not been fully provided and the local schools and hospitals have only been partly completed. The road into the logging operation has been fully constructed but has raised concerns about water run off with resulting erosion and siltation of local streams. The logging companies are AXIS Corporation (AC) and Pacific Timber Resources (PTR). Both companies are foreign owned with operations throughout the Pacific. The harvested logs are exported to various countries in the region.

8. Allegations have been made to the DPI, Police and the FIU in the past that the logging operations conducted by AXIS Corporation utilised methods to avoid accurate reporting including re-calculating weighbridge volumes as the basis for payments, trucks by-passing the weighbridge, volumes being recorded on paper with changes made at a latter time and there being no validation of the means for transforming weighbridge volumes into volumes used for payments to government agencies. It was also alleged that there were insufficient controls managed by the monitoring agencies.

9. 1st of June 2009 – The Davisland FIU receive a Suspicious Transaction Report (STR) from Westpac bank who advise that they have received a single cheque from a customer which was issued by the Central bank of Davisland and made payable to the local accounting firm of Harley Accountants. The suspicion followed an education program conducted by the FIU to assist in locating payments that may indicate a theft of government funds or corrupt payments. Banks have been asked to question the basis for the payment of the cheque from the customer at the time of the transaction and to report those which do not appear to be legitimate. On this occasion the customer, a young woman who stated she worked for Mr Harley, could not provide any explanation for why she had received and was transacting the cheque. The cheque was for $1.5 Million Davis Dollars. The FIU which operates from within the Police Department commence an investigation.

10. Harely Accountants have a history of receiving funds which appear to be suspicious in nature based on the lack of explanation about their source and in the manner in which they are often transferred overseas or converted to cash shortly after receipt. The FIU have looked at this business before. The clients of the business include senior government and political figures.

11. The FIU contact Westpac Bank and obtain current banking details from the accounts of Harely Accountants however it is 2 weeks before the records are received and analysed. The records show that the cheque was deposited into the trust account and immediately following clearance was transacted with $1 Million Davis Dollars being sent to the Singapore Account of Sovereign Financial Services and $500,000.00 Davis Dollars being withdrawn in cash. The cash withdrawal was undertaken at a regional branch of the Westpac Bank and the bank staff did not report the
transaction as a STR. At this time significant cash transactions were not captured by the FIU however the new AML legislation will require banks to report on all cash transactions over $10,000.00 after 1 January 2010.

12. The FIU contact the Central bank and are advised that the source cheque was a correctly issued and endorsed finance department cheque issued by the Department of Primary Industry (DPI).

13. The FIU make a formal request to the DPI to locate details of the payment however they are advised that their request is being considered and will be responded to in due course. Consideration is given to executing a search warrant with the use of the FIU assigned Police investigators however due to the sensitivities of undertaking this sort of action it is not progressed.

14. A search warrant is executed on the accounting firm Harley Accountants and their records in relation to the receipt of the cheque are obtained. Lisa, the business secretary was the only person present at the time of the search. She stated that she had received a cheque from a client of the firm and dealt with it under direct instruction from Mr Harley. She is reluctant to identify the client but the file indicates that the firms billing was charged to Mr Murray LENT who the Police know is a senior public servant in the DPI. The firms records indicate that immediately after clearance of the cheque they were instructed to transfer the amount of $1 Million to an account nominated by Mr LENT in Singapore in the name of Sovereign Financial Services at the HSBC. Lisa states that Mr Harley withdrew the cash himself whilst visiting a client on the neighbouring Island of Docla. She does not know what happened with the cash and there is no record in the client file or in the trust account other than a bill for services totalling $70,000.00 which was paid.

15. The FIU undertake enquiries into other payments connected to Mr LENT and find that he has received international funds transfers sent from Sovereign Financial Services on a number of occasions into his BSP account in Delton. Warrants are used to obtain detailed records of Mr LENT’s accounts and it is found that he has received over $2 Million in transfers from Sovereign Financial Services over the past 3 years.

16. Police sources indicated that Mr LENT lives in a luxurious house in Delton and has a beach house on the Island of Docla which is also quite luxurious. Mr LENT has been the senior officer responsible for the administration and sign off on all logging contracts for the past five years following his appointment which was arranged by his cousin Kelly MOSKA who is the Minister for Primary Industry. Mr MOSKA was elected 5 years ago during a change of government and was assigned the ministerial role.
DISCUSSION POINTS FOR GROUP REVIEW AND PRESENTATION

OFFENCES

- Which types of criminal offences can you identify from this scenario?
- Which jurisdictions have they occurred in?
- List the key points that make you suspect these offences have been committed?
- What are the evidence/intelligence gaps that you can see?

INFORMATION

- What enquiries would you undertake to fill the evidence gaps?
- How would you make those enquiries?
- What options might be available to you in order to locate the relevant banking records in Davisland?
- Summarise what information you would need to obtain from overseas?
- What issues do you think need to be considered in obtaining foreign evidence including the use of options such as Police to Police and Mutual Assistance?
- What problems or successes have you experienced in the past with foreign

FIU

- What further details could you seek from the Davisland FIU or a foreign FIU?
PROCEEDS OF CRIME

• What assets can you identify that would be suitable for proceeds of crime recovery action?

• What information do you think you might need to show that the assets are proceeds of crime?

• How could you quantify the benefit that the targets are believed to have made from their involvement in this activity?

• What could you do in respect to assets sent to or derived in foreign jurisdictions?