

SPEECH OF DIRECTOR, CBI DURING 7TH INTERPOL GLOBAL PROGRAMME ON ANTI CORRUPTION, FINANCIAL CRIME AND ASSET RECOVERY

(FEBRUARY 10, 2014 AT CBI (HQ), NEW DELHI)

Ladies and gentlemen,

On behalf of the Central Bureau of Investigation, I extend a very warm welcome to all of you present here today for the inauguration of the 7th INTERPOL Global Programme on Anti-Corruption, Financial Crime and Asset Recovery for South Asia, with emphasis on supply side of Corruption. As the winter is bidding adieu and spring is round the corner, the weather in Delhi is at its hospitable best. I compliment the officers of INTERPOL and CBI for choosing such pleasant time for organizing this Capacity Building Programme.

We feel privileged to partner with INTERPOL and US Department of Justice, US Securities and Exchange Commission in jointly conducting this training programme. I am happy to mention that this is the fourth such partnership between CBI Academy and INTERPOL for conducting Global Training Programme, which are of great relevance for Law Enforcement officers of South Asia.

When the talk turns to corruption, the focus is on the demand side of the equation, on public officials who abuse their office for private gain. Frequently, the supply side is given less attention. Those who pay bribes are sometimes depicted as innocent parties, victims of extortionary practices of wily public servant. The reality is that corruption is a two-way street, for every bribe taker there is a bribe payer. The collusive corruption is a formidable challenge, particularly for public individuals and institutions fighting bribery and corruption.

Unlike, the theme of the first and second global programme on Anti-Corruption and Asset Recovery, this training programme intends to focus on supply side corruption or active bribery. The aim is to address weak transparency and accountability in international trade, taxation and export credit regimes that may facilitate corruption. Targeting the supply-side of corruption is an imperative and India is in the process of addressing this emerging area as part of various measures that are being adopted to make Indian legal framework compliant to United Nations Convention against Corruption. The proposed PC Act Amendment Bill, 2013 criminalises the active bribery in consonance with the international standards. Similarly, the Foreign Public Officials and Officials of Public International Organisations Bill, 2011 adequately covers both passive and active bribery and places them on equal footing.

Law Enforcement agencies have to look beyond borders to track these illicit funds siphoned off their countries and ensure their freezing and subsequent attachment. The efforts are sometimes long drawn and protracted and take decades to succeed. International Cooperation is, therefore, essential for successful recovery of assets that have been transferred to or hidden in foreign jurisdictions. Gathering evidence in such a manner that success is achieved in a foreign jurisdiction is the foremost challenge. Once, confiscation is achieved cooperation is critical for repatriation and restitution. Mutual Legal Assistance Treaties are a proactive tool in the hands of various law enforcement agencies is ensuring cooperation with other countries. India has inked as many as 36 MLATs to facilitate such cooperation.

Asset Recovery, no doubt, is a vexed process of administering justice. But, without achieving it, one can't claim that Justice is delivered. The conviction based asset forfeiture is time consuming and labyrinthine. Some countries resort to Non-conviction Based Confiscation, which is simple in procedure and swifter in recovery. Hence, non-conviction Based Confiscation is being adopted increasingly. In many jurisdictions, Non-conviction Based Confiscation can be established on a lower standard of proof and this helps ease the burden on the enforcing authorities.

The illicit funds or proceeds of crime which are moved across borders originate from three sources namely bribery and corruption, criminal activity and commercial tax evasion. These illicit flows are facilitated by loopholes in the international financial system, the system's opacity and the lack of enforcement of due diligence requirements and more importantly the provisions of bank secrecy and privacy in tax havens. India is member of FATF and is compliant to AML-CFT regime.

By exploring a wide variety of issues such as criminalization, managing conflict of interest in the public and private sectors, internal company controls, corruption between private sector agents and sustainable development, the programme would like to bring much needed clarity in the minds of regulatory and law enforcement officers of this region.

All of us in South Asia are developing countries and our law enforcement agencies are grappling to tackle this under belly of corruption which is well entrenched. We cannot afford to procrastinate this hideous issue which sooner or later will become a Frankenstein and devour all initiatives of government and corner huge developmental funds. Capacity building has, therefore, to be taken seriously on this complicated issue.

Here, I would like to stress that our anti-corruption laws have evolved around addressing corruption issues in the government and therefore the Laws are focused in tackling corruption by government or public servants. Now, the tables are slowly turning with more and more important areas made over to the private sector for implementation. The new Companies Act is an important milestone in this regard.

The Anti-Corruption Laws may also focus on restraint and confiscation of ill-gotten wealth. Some of the states like Odisha, Bihar, MP have enacted special Local laws which are essentially Non Conviction Based Asset Recovery Laws. Government of India is also proposing inclusion of a separate chapter in the Prevention of Corruption Act. The issue of compulsory audit of Private Corporates is being debated vigorously in India. I hope this conference will provide participants with valuable opportunities to exchange experiences on various such measures aimed at reducing the supply side of corruption.

No enquiry or investigation is successful without gathering of intelligence. Intelligence has to be gathered from various sources such as audit reports of companies, reports by the Financial Investigating Units, Civil and Administrative Proceedings, spontaneous disclosures by private entities under the Tax Laws, Audit Reports, Whistle Blowers, Media and Civil Society Reports, and asset and income declarations by public officials under Tax laws or conduct regulations. Once solid intelligence is gathered discreetly, procedures under the criminal law can be initiated by registration of a case followed by investigation.

Here, I would like to stress that professional investigation require a lot of expertise in the particular field. CBI believes in multi-disciplinary Investigating team. The investigating teams consist of not just basic police investigating officers, but also experts from banks and financial institutions as well as private entities who are experts in Forensic Accounting and Asset Recovery. The valued inputs from the prosecutors are sought and incorporated right from the start of investigation. The end result of this professional approach is a thorough probe complemented by water tight evidence which are difficult to contradict in criminal proceedings.

CBI, being designated as National Central Bureau of India has also been a pioneer in seeking information from foreign countries through the INTERPOL and NCBs of various countries as well as through legal channels such as Mutual Legal Assistance Treaties and Letters Rogatory. Our experience in such investigation and recovery of assets from foreign jurisdictions is mixed.

I am sure that the deliberations during this Training Programme would further enhance the capacity of the participants which would lead to a better outcome in achieving the difficult area of tackling corruption on the supply side and proactively recovering assets in the emerging global scenario. I am happy to note that Mr. S. Jagannathan has pooled together the best faculty not only from India but also from U.S. Department of Justice and U. S. Securities and Exchange Commission.

I am thankful to our valued faculty from the United States of America and our guest faculty from India for having spared their valuable time in the cause of this training. I am also thankful to the Law Enforcement Agencies of the participating countries in deputing their officers for this training in India. I wish all the participants a very pleasant stay in New Delhi and hope that you leave this conference with renewed faith in the power of your collective actions as members of this initiative to make real impact on corruption in the region.

Thank you.