



**Asia-Pacific
Economic Cooperation**

2015/SOM3/ACT/NET/001

Agenda Item: 2

Draft Agenda

Purpose: Consideration
Submitted by: ACT Chair

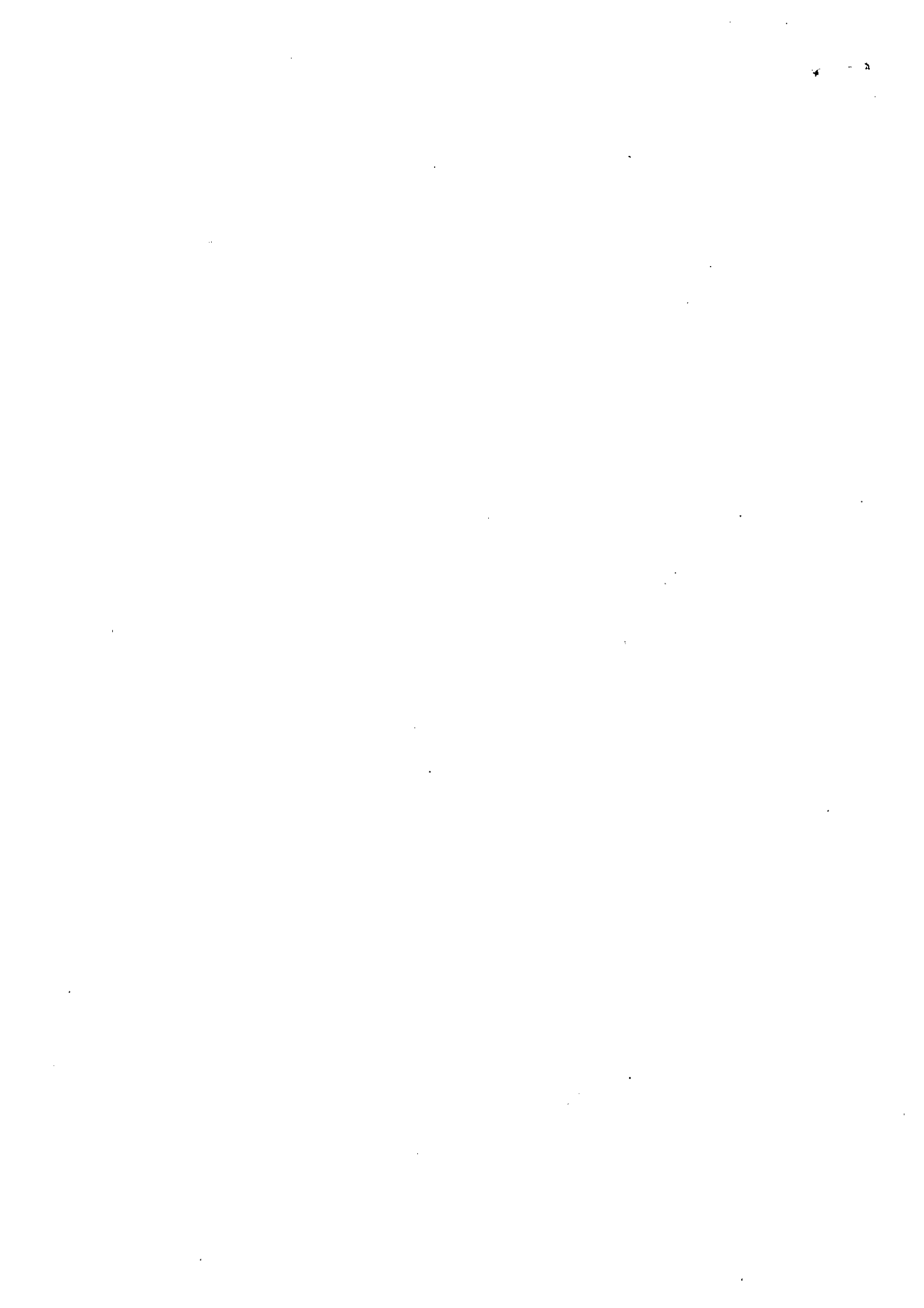


APEC
PHILIPPINES
2 0 1 5

**APEC Network of Anti-Corruption Authorities and
Law Enforcement Agencies Meeting
Cebu, Philippines
23 August 2015**

DRAFT AGENDA	
THE 2 nd APEC ANTI-CORRUPTION AND TRANSPARENCY NETWORK OF ANTI-CORRUPTION AUTHORITIES AND LAW ENFORCEMENT AGENCIES (ACT-NET) MEETING	
23 August 2015	
08:45-09:00	Registration
09:00-09:15	1. Opening Address by ACT Chair
09:15-09:30	2. Adoption of the Agenda
09:30-09:45	3. Agency Introduction Each economy to introduce the delegation members and update on the ACT-NET Focal Point List.
09:45-10:15	4. Work Report of the ACT-NET Office in 2014-2015
10:15-10:30	<i>Coffee Break</i>
10:30-11:45	5. Discussion of proposed ACT-Net Action Plan regarding Informal Cooperation
11:45-12:30	6. Fugitive Repatriation and Informal International Cooperation
	Ways to provide informal cooperation proposed presenters: <ul style="list-style-type: none"> • US, Australia, and Canada to present on multi-lateral task forces • Canada to brief on 'Efforts in combating International Corruption cases' • China to introduce its cross border law enforcement operation "Sky Net" and "Fox Hunt" and present the "LI Huabo" case and others • Economies to share experiences on economy to economy
12:30-14:00	<i>Lunch</i>
14:00-15:00	7. Anti-money Laundering and Asset Recovery
	International Cooperation in Asset Recovery and Money Laundering proposed presenters: <ul style="list-style-type: none"> • China to present on Special Operation on Combating Cross-border Illicit Money Transfer through Underground Money Shops. • US (DoJ) to present on case studies • Member Economies invited to discuss panel topic • Investigative or prosecution files, bank records, intelligence, and other documents
15:00-15:15	<i>Tea Break</i>
15:15-16:15	8. International Cooperation in Bribery Cases
	Proposed presenters: <ul style="list-style-type: none"> • Hong Kong to present on case studies • Russia to present on "Asset recovery: step-by-step guide on international cooperation"

	<ul style="list-style-type: none"> • Economies to share their cases of successful international cooperation with an emphasis on the similarities and differences between the law enforcement systems, and, given these systems, practical ways to assist each other • Lessons learned
16:15-16:45	9. Discussion of ACT-NET Terms of Reference, ACT-NET Member's Profile, and Planning the 2016 ACT-NET Meeting
16:45-17:00	Group Photo
17:00-17:30	10. Closing Remarks
	ACT Chair





**Asia-Pacific
Economic Cooperation**

2015/SOM3/ACT/NET/005
Agenda Item: 5

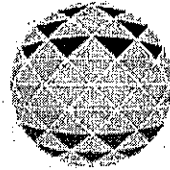
**ACT-NET Course of Action on Fighting Corruption,
Ensuring Transparency and Promoting Cooperation**

Purpose: Consideration
Submitted by: ACT Chair



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**APEC Network of Anti-Corruption Authorities and
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**ACT-NET COURSE OF ACTION ON FIGHTING CORRUPTION, ENSURING
TRANSPARENCY AND PROMOTING COOPERATION**

The Asia-Pacific Economic Cooperation (APEC) is a forum composed of 21 member economies (Australia; Brunei Darussalam; Canada; Chile; China; Hong Kong, China; Indonesia; Japan; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; The Philippines; Russia; Singapore; Republic of Korea; Chinese Taipei; Thailand; United States and Vietnam) established in 1989 with the main purpose of promoting free-trade and facilitating economic growth throughout the Asia-Pacific Region.

WHEREAS, recognizing the threat that corruption poses in the promotion of free-trade and facilitation of economic growth throughout the Asia-Pacific Region, the APEC Leaders agreed, when they met in Chile in 2004, that the member economies should work together to fight corruption;

WHEREAS, in 2005, the member economies created the Anti-Corruption and Transparency Experts' Task Force (ACT) which was upgraded in status to a working group (WG) in March 2011, to act as the lead in anti-corruption initiatives within the APEC framework with the goal of collaborating with all APEC sub-fora to enhance regional integration, particularly by reducing roadblocks at borders to support the realization of a free-trade area in the Asia-Pacific;

WHEREAS, to advance greater collaboration among anti-corruption authorities and law enforcement agencies, the member economies established at the 17th ACTWG Meeting in Indonesia in 2013 the Network of Anti-Corruption Authorities and Law enforcement Agencies (ACT-NET), which will be under the auspices of the ACTWG;

WHEREAS, the ACT-NET is primarily tasked to develop an inter-economy network connecting anti-corruption and law enforcement officers to enhance informal cross-border cooperation between agencies responsible for investigations and prosecutions of corruption, bribery, money laundering, and illicit trade and the identification and return of the proceeds of those crimes; and

WHEREAS, it has always been a challenge for law enforcement authorities to investigate and prosecute criminals involved in transnational corruption, bribery, money laundering, and illicit trade due to the difficulties in procuring the necessary information, evidence and other documents;

WHEREAS, although Mutual Legal Assistance Treaties are valuable instruments in obtaining data internationally, the processes involved are long and tedious due to diversity of laws of both the receiving and requesting country, hence, the need for an informal or open channel of sharing of information;

WHEREFORE, acknowledging the importance of international cooperation in the fight against corruption, the member economies have agreed on the following:

I. General Statement

The member economies hereto establish a general framework for cooperation in preventing and combating corruption through: (a) information exchange leading to successful investigations and prosecutions of corruption related cases, (b) identification and recovery of the proceeds of these crimes, and (c) enhancing capacities of anti-corruption institutions.

II. Areas of Cooperation

The member economies agree to:

- a. Provide the requesting member economy, as soon as practicable, through informal means, information, evidence, and other related documents which may aid law enforcement authorities in investigations and prosecutions of corruptions, bribery, money laundering, illicit trade, and identification and recovery of the proceeds of these crimes;
- b. Facilitate support from other anti-corruption stakeholders whose support is considered necessary such as but not limited to other government agencies, private sector, academe, media, NGOs, CSOs, Pos, and the community; and
- c. Jointly develop knowledge sharing and capacity building programs that will facilitate exchange of best practices, experience and tools against corruption.

III. Implementation Arrangements

- a. The member economies shall establish enabling universal policies and guidelines that will facilitate informal sharing of information within the confines of national and international laws and regulations.
- b. The ACT-NET, under the policy direction of the ACTWG, shall function as a regional platform for informal sharing of information among anti-corruption investigators and prosecutors.

- c. The member economies shall designate their respective focal points and alternates.
- d. The member economies shall endeavor to document and share best practices and lessons learned from activities undertaken in this Course of Action.
- e. The member economies shall identify and provide needed resources to implement the initiatives identified under this Course of Action.

IV. Confidentiality of Information

The information, evidence or documents obtained from member economies shall be kept confidential and will not be disseminated to any party for any purpose without prior consent in writing by the member economy which provided the same.

V. Amendment and Supplement

A member economy may amend or supplement any part of this Course of Action with the written consent of the other member economies, and such amendment or supplement shall become effective on such date as may be determined by the member economies and which shall form part of this Course of Action.

VI. Settlement of Disputes

Any dispute arising out of the interpretation, application or implementation of this Course of Action on Fighting Corruption, Ensuring Transparency and Promoting Cooperation shall be resolved through negotiation.

VII. Effectivity

This ACT-NET Course of Action on Fighting Corruption, Ensuring Transparency and Promoting Cooperation shall take effect on the date of its signing by a majority of the member economies for a period of three (3) years and shall be automatically renewed for the same period unless majority of the member economies agree in writing for any amendments, supplementation or cancellation hereto.

The termination of this Course of Action shall not compromise any on-going activities of member-economies in accordance with this Course of Action unless involved member economies agree otherwise.

IN WITNESS WHEREOF, the undersigned authorized representatives of the respective member economies have signed this ACT-

NET Course of Action on Fighting Corruption, Ensuring Transparency and Promoting Cooperation this ____ day of ____, 2015 at _____.

AUSTRALIA

BRUNEI DARUSSALAM

CANADA

CHILE

CHINA

HONGKONG, CHINA

INDONESIA

JAPAN

MALAYSIA

MEXICO

NEW ZEALAND

PAPUA NEW GUINEA

PERU

THE PHILIPPINES

RUSSIA

SINGAPORE

REPUBLIC OF KOREA

CHINESE TAIPEI

THAILAND

UNITED STATES

VIET NAM





**Asia-Pacific
Economic Cooperation**

2015/SOM3/ACT/NET/002

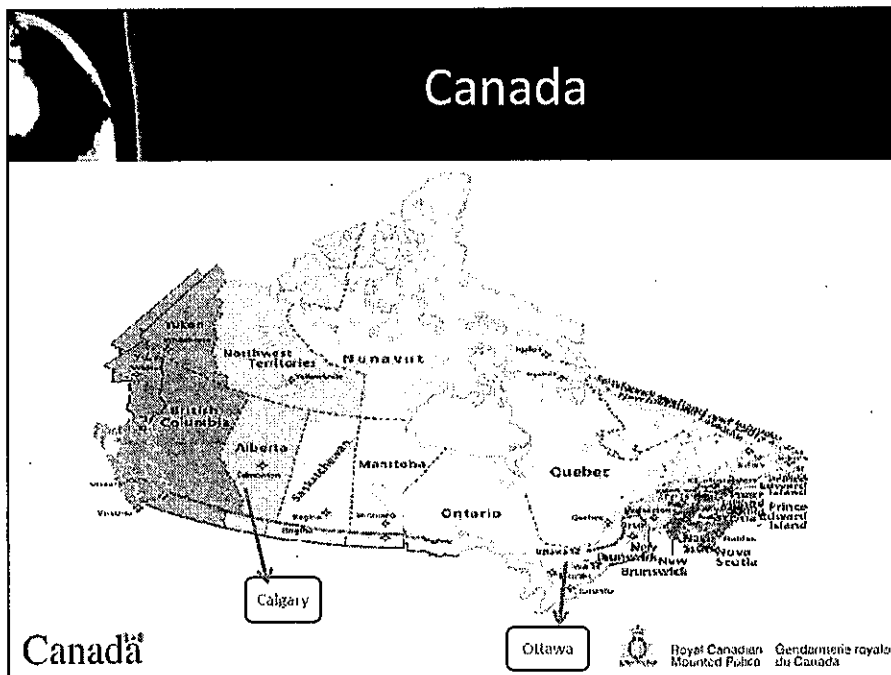
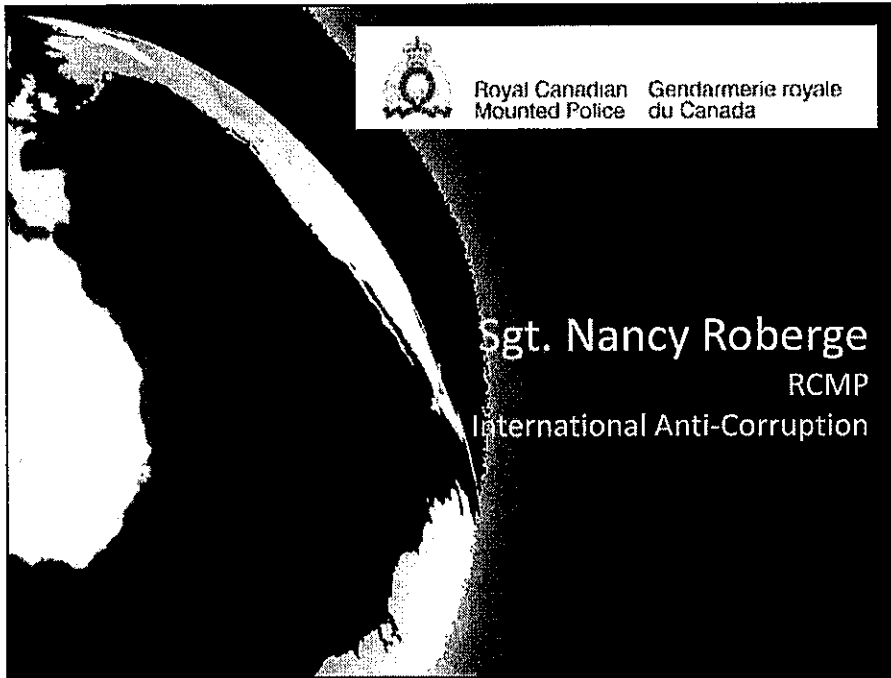
Agenda Item: 6

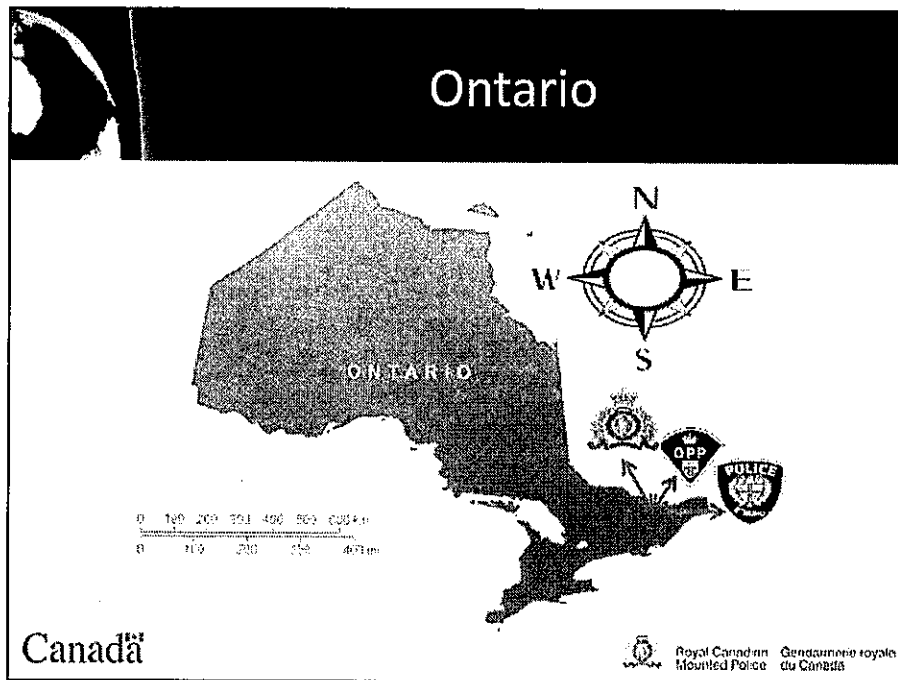
Efforts in Combating International Corruption

Purpose: Information
Submitted by: Canada



**APEC Network of Anti-Corruption Authorities and
Law Enforcement Agencies Meeting
Cebu, Philippines
23 August 2015**





Evolution of the Anti-Corruption Movement

- 1997 - Organization for Economic Cooperation and Development (OECD) Convention
- 1998 - Canada ratified the OECD Convention
- 1999 – Canada: The Corruption of Foreign Public Officials Act


Canada

Royal Canadian Mounted Police Gendarmes royaux du Canada

The slide features a title 'Evolution of the Anti-Corruption Movement' at the top. Below the title is a bulleted list of three key events: the 1997 OECD Convention, Canada's ratification of the convention in 1998, and the passage of the Corruption of Foreign Public Officials Act in 1999. The slide includes the 'Canada' logo in the bottom left and the logos for the Royal Canadian Mounted Police and Gendarmes royaux du Canada in the bottom right.

Evolution of the Anti-Corruption Movement

- 2005 - United Nations Convention Against Corruption (UNCAC) entered into force.
- 2007 UNCAC - Ratified by Canada
- 2013 - Canada: Corruption of Foreign Public Officials Act was amended
- 2015 - Canada: Extractive Sector Transparency Measures Act



Canada

Royal Canadian Mounted Police Gendarmerie royale du Canada


Corruption of Foreign Public Officials Act

Every **person** commits an offence who, in order to obtain or retain an advantage in the course of business, directly or indirectly gives, offers or agrees to give or offer a loan, reward, advantage or benefit of any kind to a foreign public official or to any person for the benefit of a **foreign public official** :

- As consideration for an act or omission by the official in connection with the performance of the official's duties or functions; or
- To induce the official to use his or her position to influence any acts or decisions of the foreign state or public international organization for which the official performs duties or functions.


Canada

Royal Canadian Mounted Police Gendarmerie royale du Canada



Corruption of Foreign Public Officials Act


Who can be charged?




Is deemed to have committed that act or omission in Canada if the **person** is:

- a Canadian citizen;
- a permanent resident who, after the commission of the act or omission, is present in Canada; or
- a public body, corporation, society, company, firm or partnership that is incorporated, formed or otherwise organized under the laws of Canada or a province.

Canada

 Royal Canadian Mounted Police Gendarmerie royale du Canada




Corruption of Foreign Public Officials Act


Who can be charged?

Every person who commits an act or omission outside Canada that, if committed in Canada, would constitute:

- an offence,
- a **conspiracy** to commit,
- an **attempt** to commit,
- being an **accessory after the fact**, or
- any **counselling** of an offence,




Canada


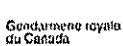
 Royal Canadian Mounted Police Gendarmerie royale du Canada

Corruption of Foreign Public Officials Act

Definition: Foreign Public Official

(a) A person who holds a legislative, administrative or judicial position of a foreign state;





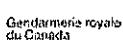
Canada  Royal Canadian Mounted Police  Gendarmerie royale du Canada

Corruption of Foreign Public Officials Act

Definition: Foreign Public Official


(b) A person who performs public duties or functions for a foreign state, including a person employed by a board, commission, corporation or other body or authority that is established to perform a duty or function on behalf of the foreign state, or is performing such a duty or function; and



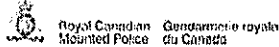
Canada  Royal Canadian Mounted Police  Gendarmerie royale du Canada

Corruption of Foreign Public Officials Act

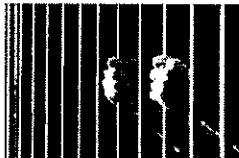
Definition: Foreign Public Official



(c) An official or agent of a public international organization that is formed by two or more states or governments, or by two or more such public international organizations.

Canada 


Corruption of Foreign Public Officials Act

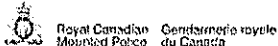



No statute of limitations.

Punishments

- Persons: Liable to **imprisonment** not exceeding five years at the time the legislation was passed. It was increased from 5 years to 14 years on June 19, 2013.
- Corporations: **Fines only, unlimited.**


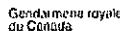



Canada 



Extractive Sector Transparency Measures Act (ESTMA)


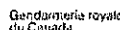
All entities involved in the commercial development of oil, gas or minerals, in Canada or elsewhere, to **report payments** made to domestic or **foreign governments** annually and make the information contained in those reports public. (Came into force on June 1, 2015)


Canada  Royal Canadian Mounted Police 



Government of Canada's Integrity Regime


Ineligibility to do business with Govt.
- 10 year ban if supplier is convicted or absolutely/conditionally discharged for listed offences, including bribing a foreign public official. Can be cut to 5 years if supplier can demonstrate it: cooperated with law enforcement authorities or; have taken remedial action(s) to address wrongdoing.


Canada  Royal Canadian Mounted Police 



Canada's International Corruption (CFPOA) Prosecutions


- 1. Hydro-Kleen Group Inc.** – January 2005, bribery Sec. 3(1)(a) of the *Corruption of Foreign Public Officials Act (CFPOA)*, received \$25,000 in fines and penalties.
- 2. Niko Resources Ltd.** – June 2011, bribery Sec. 3(1)(b) *CFPOA*, received \$9.5million in fines and penalties.

Canada  Royal Canadian Mounted Police Gendarmerie royale du Canada



Canada's International Corruption (CFPOA) Prosecutions

- 3. Griffiths Energy International Inc.** – January 2013, bribery Sec. 3(1)(b) *CFPOA*, received \$10.35million in fines and penalties
- 4. Mr. Nazir Karigar** – May 2014, conspiracy to bribe Sec. 3(1)(b) *CFPOA*, was sentenced to 3 years in prison.


Canada  Royal Canadian Mounted Police Gendarmerie royale du Canada



Canada's International Corruption Cases Before the Courts


- 1. SNC-Lavalin Group Inc. - February, 2015, GROUPE SNC-LAVALIN INC.** and two of its subsidiaries, were charged with bribery Sec. 3(1)(b) *CFPOA* and fraud Sec. 380(1)(a) of the *Criminal Code*.
- 2. Sami Bebawi, Constantine Kyres and Stéphane Roy - January 2014,** charges were laid against two former SNC Lavalin executives, and the lawyer for Sami Bebawi, with bribes to foreign public officials in Libya.

Canada  Royal Canadian Mounted Police Gendarmerie royale du Canada



Canada's International Corruption Cases Before the Courts

- 3. Robert Barra, Dario Berini, and Shailesh Govindia - June 2014,** U.S. nationals Barra (former Cryptometrics CEO) and Berini (former Crypto. COO) and U.K. national Govindia (an agent for Crypto.) were charged for agreeing to pay bribes in violation of the *CFPOA*.
- 4. Kevin Wallace, Zulfiquar Ali Bhuiyan, and Abul Hasan Chowdhury - September 2013,** charges were laid against Wallace, Bhuiyan and Chowdhury for bribes in violation of the *CFPOA*.

Canada  Royal Canadian Mounted Police Gendarmerie royale du Canada




Outreach Program

- University Programs
- Law firms
- Government
- Foreign Delegations
- Other groups


Canada



Royal Canadian Mounted Police Gendarmerie royale du Canada

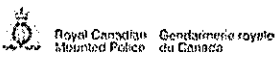


International Anti-Corruption



Sgt. Nancy Roberge

Canada



Royal Canadian Mounted Police Gendarmerie royale du Canada



**Asia-Pacific
Economic Cooperation**

2015/SOM3/ACT/NET/003

Agenda Item: 7


Case Studies

Purpose: Information
Submitted by: USA



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**APEC Network of Anti-Corruption Authorities and
Law Enforcement Agencies Meeting
Cebu, Philippines
23 August 2015**



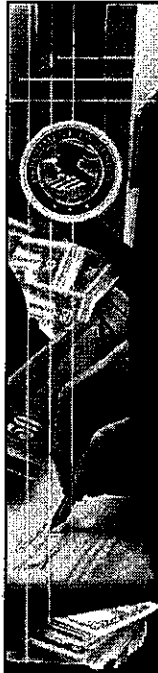
**THE 2ND APEC ACT-NET
MEETING**

Case Studies

August 23, 2015
Cebu, Philippines




**U.S. Non Conviction
Based Forfeiture Law**

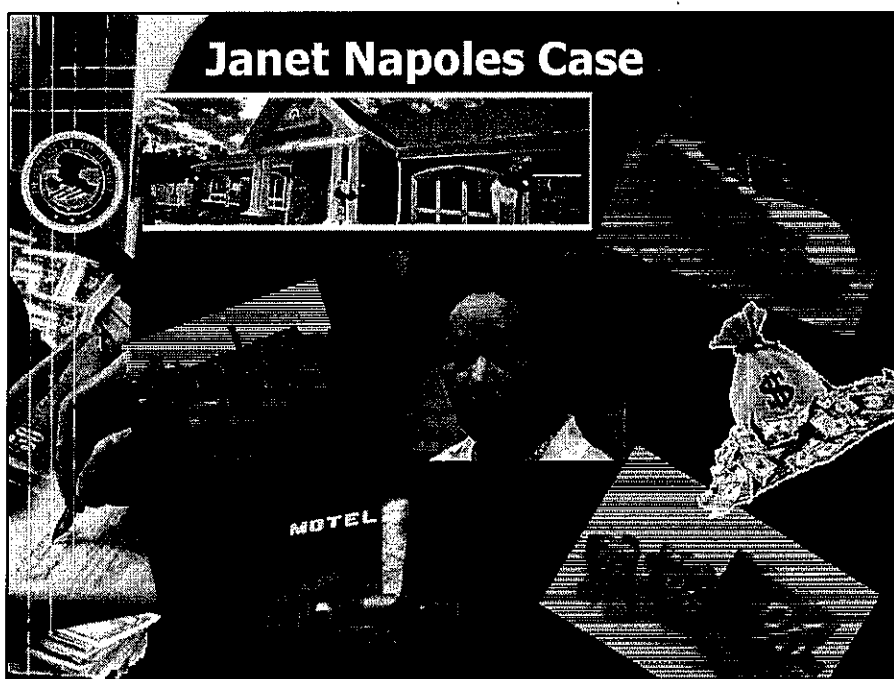


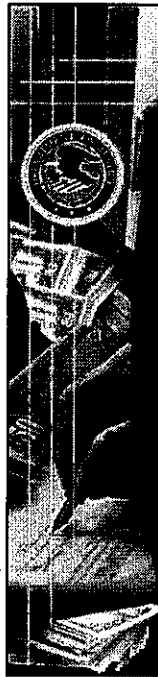
Non-Conviction Based
Routes

- In rem proceeding against the property
- Preponderance of the evidence
- Does not depend on conviction
- Remedial



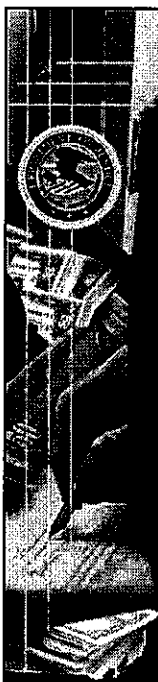
Case Studies



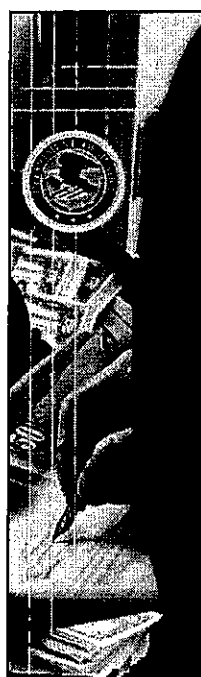


Janet Napoles Case

- Pork Barrel Scam
- Malampaya Fund Scam
- Fertilizer Fund Scam

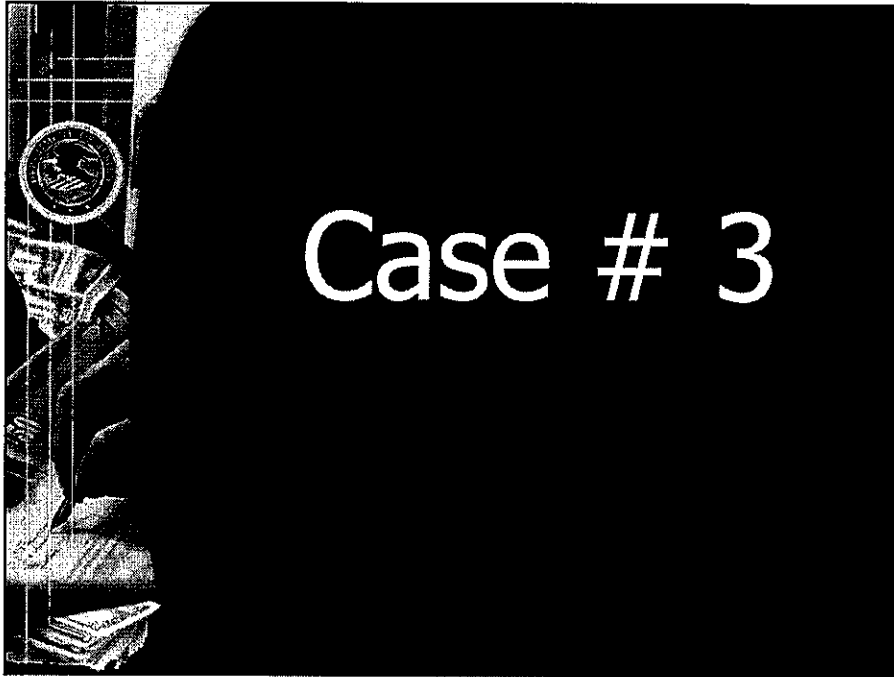


Case # 2

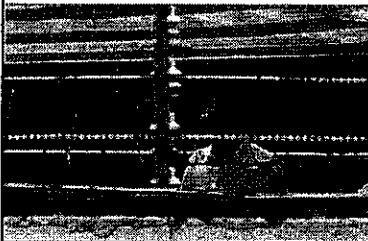


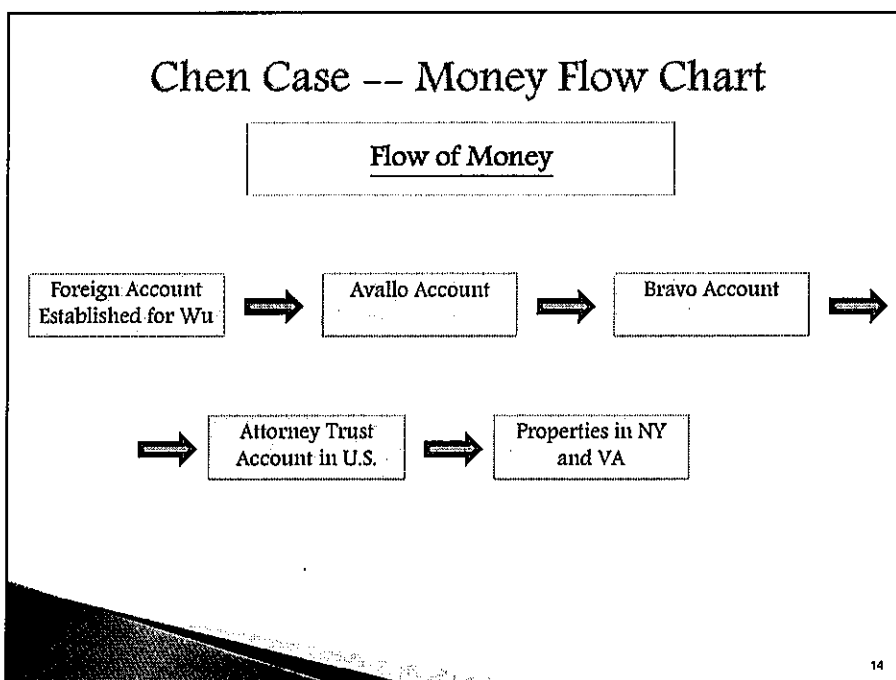
**Former President of the Republic of
Korea, Chun Doo-hwan**

- Secret Fund (over \$200 million USD)
- Multiple shell corporations and nominees
- Defendant property traceable to the Secret Fund



An Introduction to Chen Shui-Bian,
Former Leader of Taiwan





Verified Complaint for Forfeiture *in Rem* filed in Southern District of New York

▪ July 14, 2010- U.S. filed a complaint (1:10-cv-05390) against Real Property known as Unit 5B of the Onyx Chelsea Condominium located at 261 West 28th Street, New York, New York. (approx. value: \$1,600,000 USD)



Building Lobby

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Verified Complaint for Forfeiture *in Rem* filed in Western District of Virginia

▪ July 14, 2010- U.S. filed a complaint (3:10-cv-00037) against Real Property known as 2291 Ferndown Lane, Keswick, Virginia. (approx. value: \$550,000 USD)



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**U.S. Seizes Ex-Taiwan Leader's
Manhattan Condo, Virginia House**

-The Wall Street Journal

**U.S. SEIZES TWO HOMES
LINKED TO TAIWAN'S CHEN**
-BANGKOK POST

**U.S. SEIZES TWO HOMES LINKED
TO TAIWAN'S CHEN SHUI-BIAN**

-SOUTH CHINA MORNING POST

U.S. seized two upscale properties linked to
Chen Shui-bian


-The China Post

**U.S. seizes houses bought by Chen Shui-
bian's family**

-Taipei Times


U.S. forfeits properties worth USD 2.1 million of
ex Taiwanese Prez

-Sunny Live (India)



**Jennifer Wallis
Trial Attorney
Department of Justice
Asset Forfeiture and Money
Laundering Section**

Jennifer.Wallis@usdoj.Gov





**Asia-Pacific
Economic Cooperation**

2015/SOM3/ACT/NET/004

Agenda Item: 9

Anti-Corruption and Transparency Network - Terms of Reference

Purpose: Consideration
Submitted by: ACT Chair



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**APEC Network of Anti-Corruption Authorities and
Law Enforcement Agencies Meeting
Cebu, Philippines
23 August 2015**

Anti-Corruption and Transparency Network (ACT-NET)

Terms of Reference

1. Introduction

Corruption erodes social integrity and fairness, undermines government accountability and public trust, and impedes healthy economic growth. Observing the urgent demand for enhancing joint efforts against transnational corruption, we APEC economies are strongly obliged to advance greater collaboration among anti-corruption and law enforcement authorities in the Asia-Pacific region. Building upon previous anti-corruption commitments, we agreed to establish a network of Anti-Corruption & Law Enforcement Authorities (ACT-NET) at the 17th APEC Anti-Corruption and Transparency Working Group (ACTWG) Meeting in Indonesia, 2013.

As a mechanism under the auspices of the ACTWG, the ACT-NET is a collegiate body of anti-corruption and law enforcement officials that will report annually to the ACTWG. The ACT-NET will supplement existing cooperation programs and assist in the implementation of ACTWG's decisions and other international initiatives against corruption. It will provide an informal platform for bilateral case cooperation, or multilateral if appropriate, in the areas of corruption, bribery, money laundering, and illicit trade subject to the purview of individual member organizations. In conjunction with the ACTWG, it will coordinate with other anti-corruption organizations and activities to facilitate contact, communication, and capacity-building among regional anti-corruption partners, and advance pragmatic cooperation in fighting corruption, bribery, money laundering, and illicit trade.

2. Purpose

To this end, the ACT-NET defines its functions as follows:

- To establish and develop an inter-economy network connecting anti-corruption and law enforcement officers to enhance informal cross-border cooperation between agencies responsible for investigations and prosecutions of corruption, bribery, money laundering, and illicit trade and the identification and return of the proceeds of these crimes. The ACT-NET will function as an informal platform for regional anti-corruption investigators and prosecutors to more easily consult, coordinate, and share effective practices with their counterparts from other economies in order to more efficiently and effectively carry out these activities.
- To share experiences, case studies, investigative techniques, investigative tools, and effective practices in order to help build more efficient cross-border cooperation in and enhance the capacity of economies' fight against corruption, bribery, money laundering, and illicit trade and their identification and return of

the proceeds of these crimes. Such activities may include supporting, in coordination with the ACTWG, workshops and seminars to be held throughout the APEC region.

- To provide an informal platform for bilateral or multilateral case cooperation, subject to the purview of individual member organizations, in the areas of corruption, bribery, money laundering, and illicit trade as well as in the identification and return of the proceeds of those crimes. Through this informal platform, the ACT-NET, in coordination with the ACTWG, will advance pragmatic anti-corruption cooperation activities in support of economies' commitments to the provisions of the United Nations Convention against Corruption (UNCAC). On the basis of its routine relationship-fostering efforts, the ACT-NET shall complement international efforts against corruption and bribery.

3. Structure

Under the direction of the ACTWG, the ACT-NET will be solely composed of anti-corruption and law enforcement authorities from APEC member economies. All economies will identify specific focal points for ACT-NET-related cooperation activities. With the concurrence of the ACTWG, the ACT-NET may coordinate capacity building programs with relevant international organizations, institutions, associations and projects whose knowledge and experience can substantially contribute to the capacity building purpose of the ACT-NET.

As a collegiate body, ACT-NET will set its own agenda and activities. For continuity purposes, ACT-NET may choose one permanent ACT-NET Chair from its members [one permanent ACT-NET Co-Chair from its members to co-chair with a Co-Chair from the hosting economy of the ACTWG]. The ACT-NET Chair [Co-Chairs] will work closely with the hosting economy of the ACTWG each year. An ACT-NET Office will be established at the working level to handle the network's administrative tasks, including maintaining a list of contact points and providing assistance in conducting/coordinating capacity building programs. ACT-NET members will periodically review the hosting of administrative needs at ACT-NET meetings.

4. Administration

The ACT-NET will meet annually back-to-back at one of the ACTWG Meetings each APEC year.

