

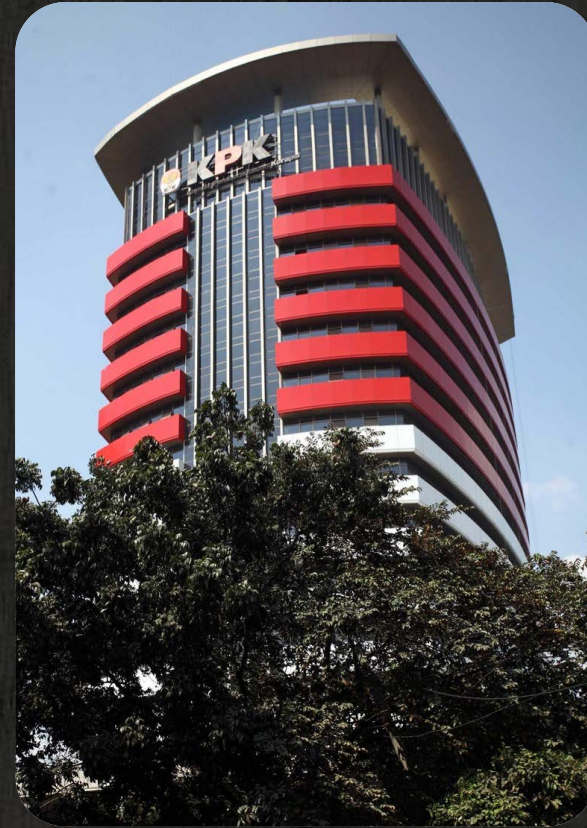
# The Real Challenges in Investigating and Prosecuting Multi-Jurisdictions Corruption Cases: *KPK experiences*

Laode M Syarif , Ph.D (*KPK Commissioner*)  
The 7th ICAC Symposium, Hong Kong



# KPK in a Nutshell

- ◆ Established in 2003
- ◆ Independent from the Executive, Legislative, Judiciary and other powers (Auxiliary Body)
- ◆ Responsible to the Public
- ◆ Financially, KPK is audited by the Indonesian Supreme Audit Board
- ◆ Lead by 5 commissioners (Collective Collegial)
- ◆ +/- 1500 officers
- ◆ +/- 450 investigators-prosecutors and supporting unit





# KPK Duties

**Law No. 30/2002**  
On Corruption Eradication  
Commission



# Fighting Corruption is NOT Easy

ASIA > East Asia SE Asia South Asia Australia/NZ

## Indonesian antigraft investigator flown to Singapore for treatment after acid attack



## BREAKING: Suspected bombs found at KPK leaders' houses

Kharishar Kahfi  
The Jakarta Post

Jakarta / Wed, January 9, 2019 / 01:11 pm

NEWS BUSINESS SE ASIA OPINION LIFESTYLE TRAVEL MULTIMEDIA



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## KPK leadership under attack

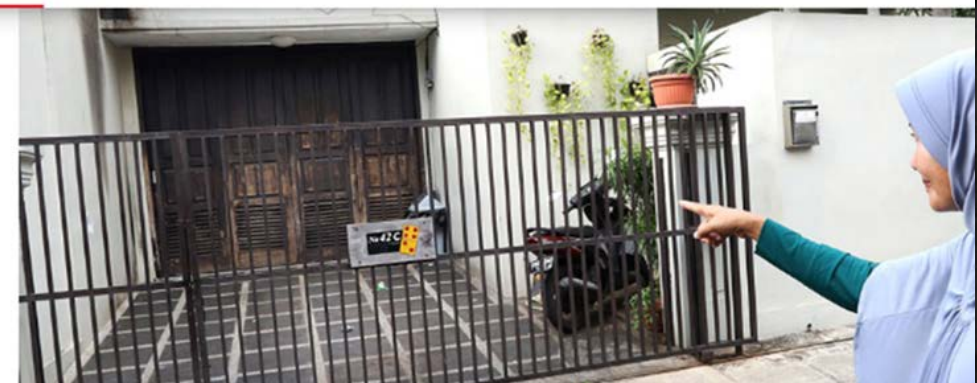
Kharishar Kahfi and Marguerite Afra Sapiie

The Jakarta Post

Jakarta / Thu, January 10, 2019 / 11:09 am



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# Corruption Cases Successfully Prosecuted by KPK (2004- 2018)



- ◆ 247 Member of Parliaments (central and local parliament)
- ◆ 26 Ministers/Head of Ministerial Level
- ◆ 20 Governors
- ◆ 101 Mayors or Head of Regent
- ◆ 7 Commissioners of General Election; Judicial; Anti-Monopoly Commissions
- ◆ 4 Ambassadors (incl. former Chief National Police) and 4 General Counsels
- ◆ 1 Governor of Central Bank & 5 Deputy Governor
- ◆ LEA: Chief Justice + Justice of Constitutional Court, 22 Judge, 2 High rank Police, 7 Prosecutors
- ◆ 199 High ranking Govt. Official echelon I & II (Director General, Secretary General, Deputy, Director, etc.)
- ◆ 238 private sectors
- ◆ **6 Corporations** (per 31 April 2019)

*\*per 31 December 2018*







# Supreme Court Regulation No.13/2016 on the Procedures of Corporate Criminal Liability

- ◆ Provide clear definition of 'corporation'
- ◆ Establishing standard/conditions of criminal acts/conducts of corporation
- ◆ Regulate the relationship between parent & sister companies and beneficial owners of the corporation
- ◆ Provide clear guidance for law enforcement agencies to investigate & prosecute corporation
- ◆ Provide various possible penalties for the corporation



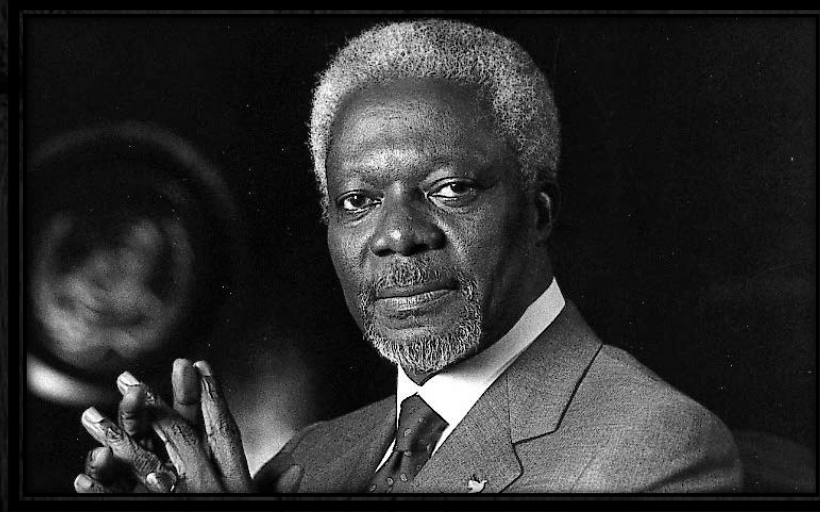
## Corporation Named as Suspect by KPK

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1. **PT. Duta Graha Indah** (Corruption related to Udayana Hospital Construction project)
2. **PT. Nindya Karya** (Corruption related to Sabang Port loading dock construction project)
3. **PT. Tuas Sejati** (Corruption related to Sabang Port loading dock construction project)
4. **PT. Putra Ramadhan** (Money laundering related to local government project in Kebumen)
5. **PT. Merial Esa** (Bribery related to Sea Security Agency project)
6. **PT. Palma Satu** (Bribery related to Forestry License)

*We are STARTING to Prosecute Corporations*





*If crime crosses all borders,  
so must law enforcement*

*Kofi Annan*

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# How international cooperation works?

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## KPK Experiences

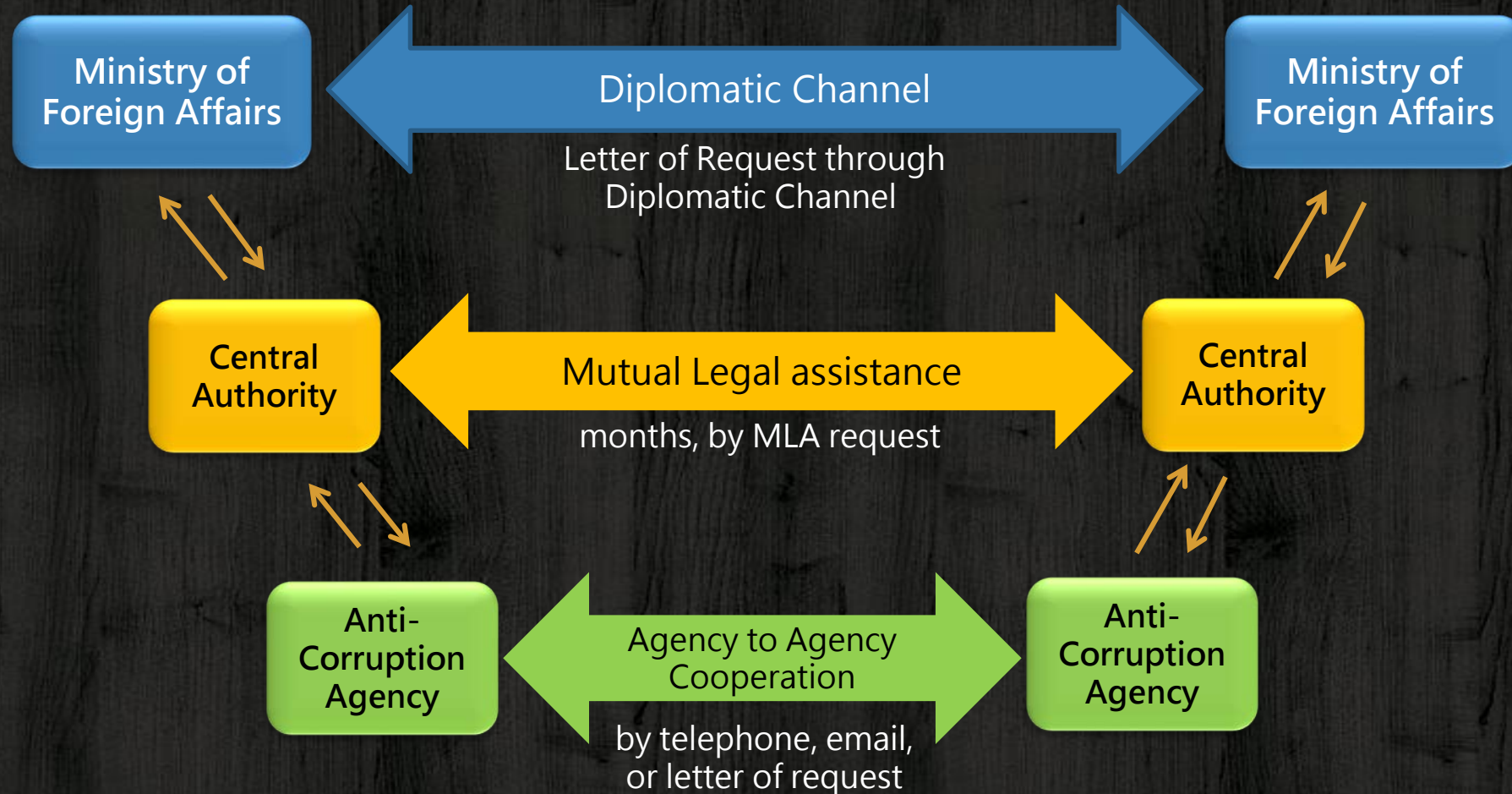
- ◆ Agency to Agency Cooperation
- ◆ Mutual Legal Assistance
- ◆ Interpol Channel
- ◆ FIU Channel (Egmont Group)
- ◆ Immigration (Deportation)

## UNCAC Ch. IV

- ◆ Extradition (art.44)
- ◆ Transfer of sentenced person (art.45)
- ◆ Mutual Legal Assistance (art.46)
- ◆ Transfer of Criminal Proceeding (art.47)
- ◆ LEA cooperation & Joint Investigation (art.48 & 49)



# Information Sharing Mechanisms





# *Nazaruddin Case*

## *...2011...*

**Nazaruddin**, Member of Parliament, **Treasury of Ruling Political Party** named suspect related to the development project of SEA-Games athlete village in South Sumatera



# Nazaruddin Voyage



## *Nazaruddin Case Facts*



- He was a treasury of Political Party
- Named as suspect related to the development project of SEA-Games athlete village
- He has been sentenced for **13 years in prison** for gratification and money laundering case
- He established at least "38 companies" to laundered his corruption
- KPK has confiscated his known assets (factory-plantation-buildings-land, etc)







# *Rolls-Royce Case*

## *...2018...*

Bribery case involving former CEO of Garuda Indonesia related to the airline's procurement of Rolls-Royce aircraft engines.

# *Rolls Royce Case Fact*

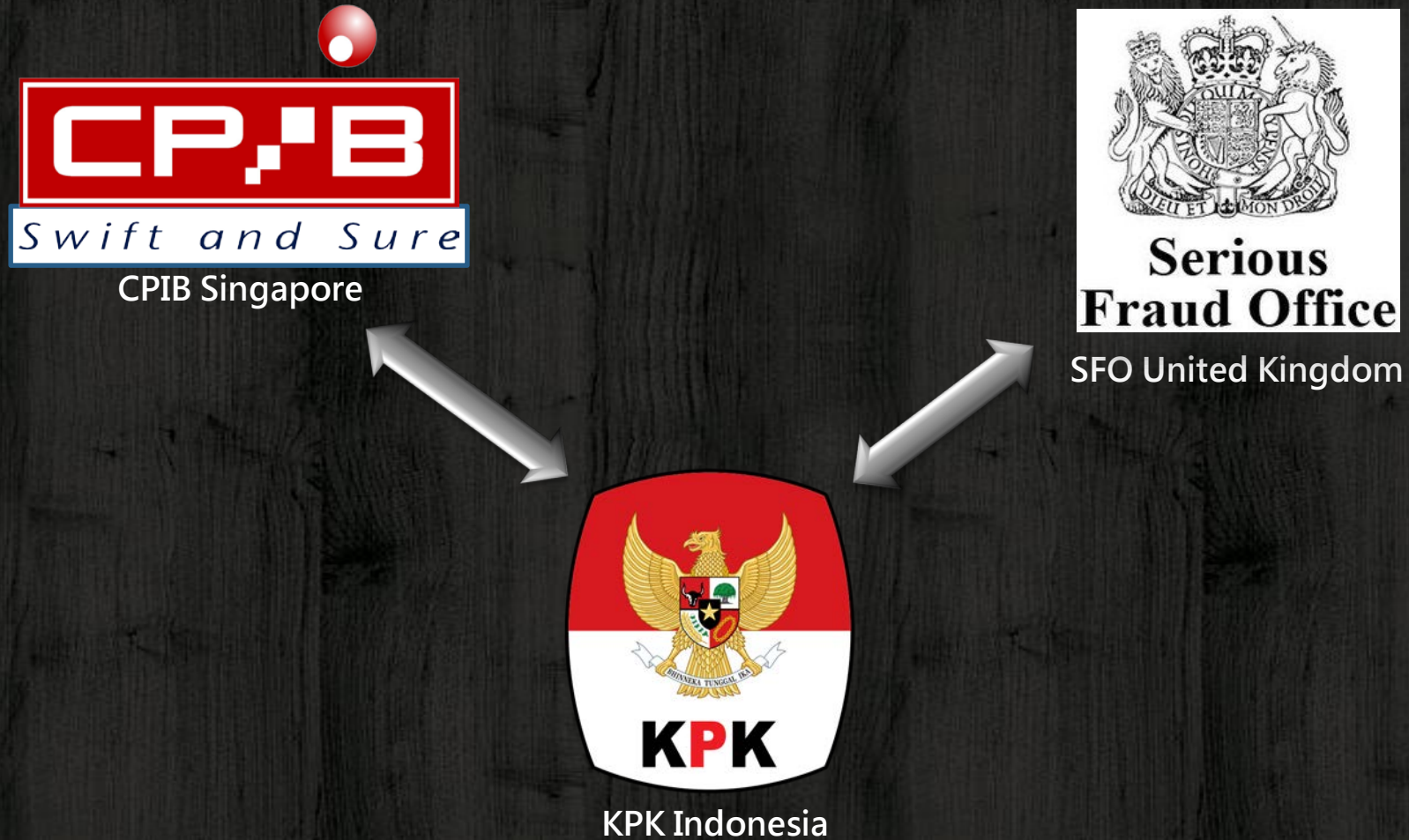


- Investigation started from a report from Serious Fraud Office (SFO) UK on allegations of bribery and corruption involving Rolls-Royce and Indonesian businessmen
- Emirsyah Satar (Former CEO of PT. Garuda Indonesia) and Soetikno Soedarjo (beneficial owner of Connaught International Pte Ltd.) named as suspect in this case
- Emirsyah is suspected of accepting bribes of 1.2 million euros (US\$1.28 million) and US\$180,000, as well as items worth US\$2 million through Soetikno company in Singapore





## Multi - Jurisdictional Investigation for Rolls - Royce Case





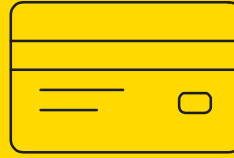
# *e-KTP Case*

## *...2014 present...*

***Electronic Identity Card*** case involving “High Ranking Official” (Speaker + Members of Parliament, Minister, Private Sectors)



## *e-KTP Case Facts*



- ◆ The Ministry of Home Affairs Official & Parliament collaboratively arranged the SCAM and pre-determined:
  - the tender participants,
  - the winner of the tender,
  - the technology used,
  - including how to HIDE the illegal Money in offshore account
- ◆ The State LOSS around USD 176 Million
- ◆ Multijurisdictional investigation (Indonesia-Singapore-US-India-Mauritius)



# *e-KTP Case Suspect/Convict*

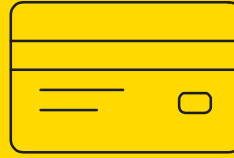


1. Setya Novanto, Speaker of the Parliament
2. Markus Nari (Member of Parliament)
3. Irman (Ministry of Home Affairs High Rank Official)
4. Sugiharto (Ministry of Home Affairs High Rank Official)
5. Andi Narogong (Private Sector)
6. Anang Sugiana Sudihardjo (Private Sector)
7. Irvanto Hendra Pambudi Cahyo (Private Sector)
8. Made Oka Masagung (Private Sector)





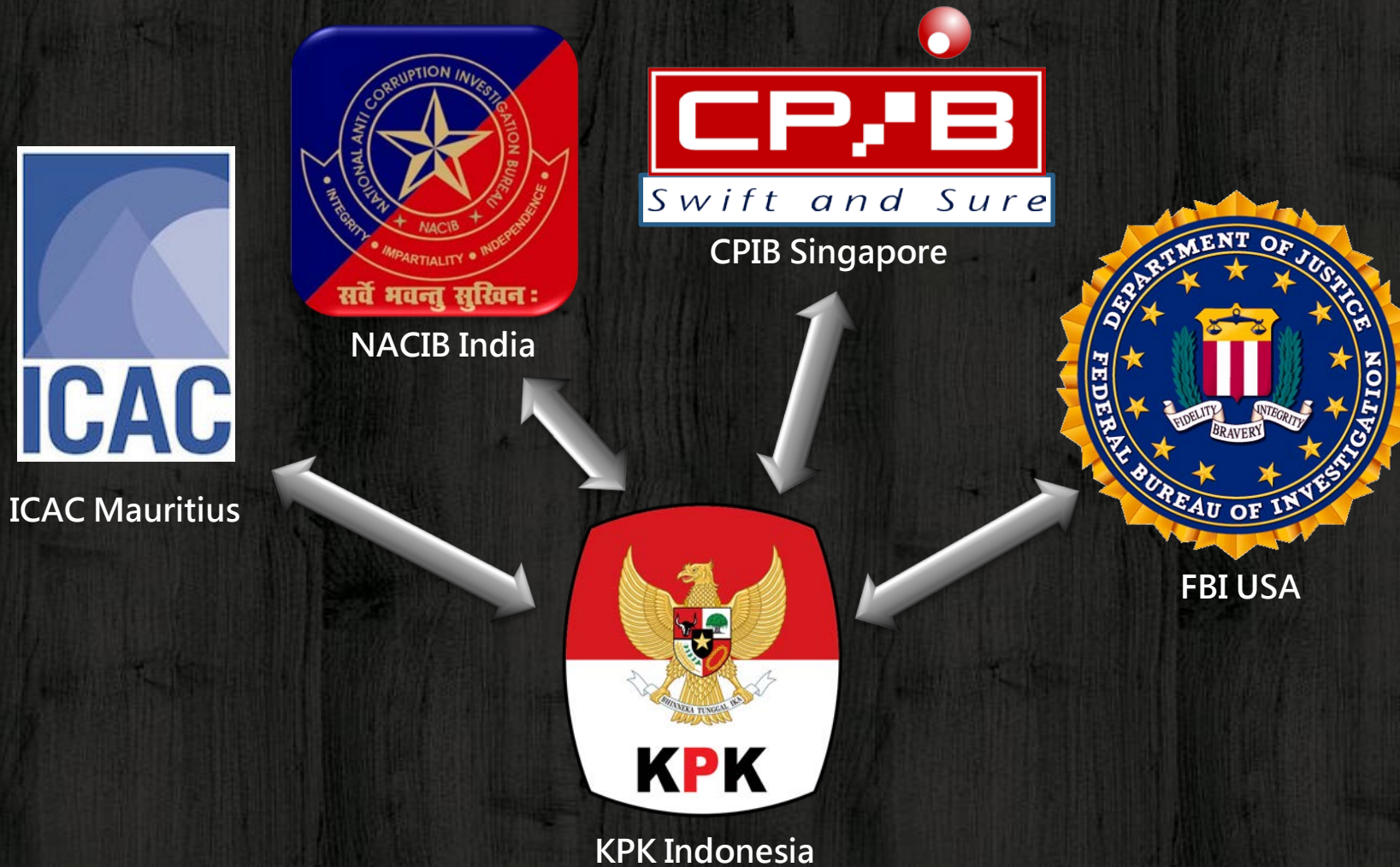
## When Lawyer & Medical Doctor Conspiring to Save Novanto



- ◆ His Lawyer and Medical Doctor “Pre-Arranged” Traffic Accident for Novanto.
- ◆ With the help of Journalist, Novanto RUN a way from KPK and INTENTIONALLY hit the Electric Pole close to the ‘pre-arranged’ Hospital, while his Lawyer and Doctor waiting for him.
- ◆ They BOOKED One hospital floor for the ‘injured’ Novanto.



## Multi - Jurisdictional Investigation for e - KTP Case





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*Setya Novanto*  
*Former Speaker of the House of Parliament*



- ❖ Received bribes from corporations for the procurement of Electronic ID Card
- ❖ Convicted for corruption and money laundering and punished for 15 years of imprisonment



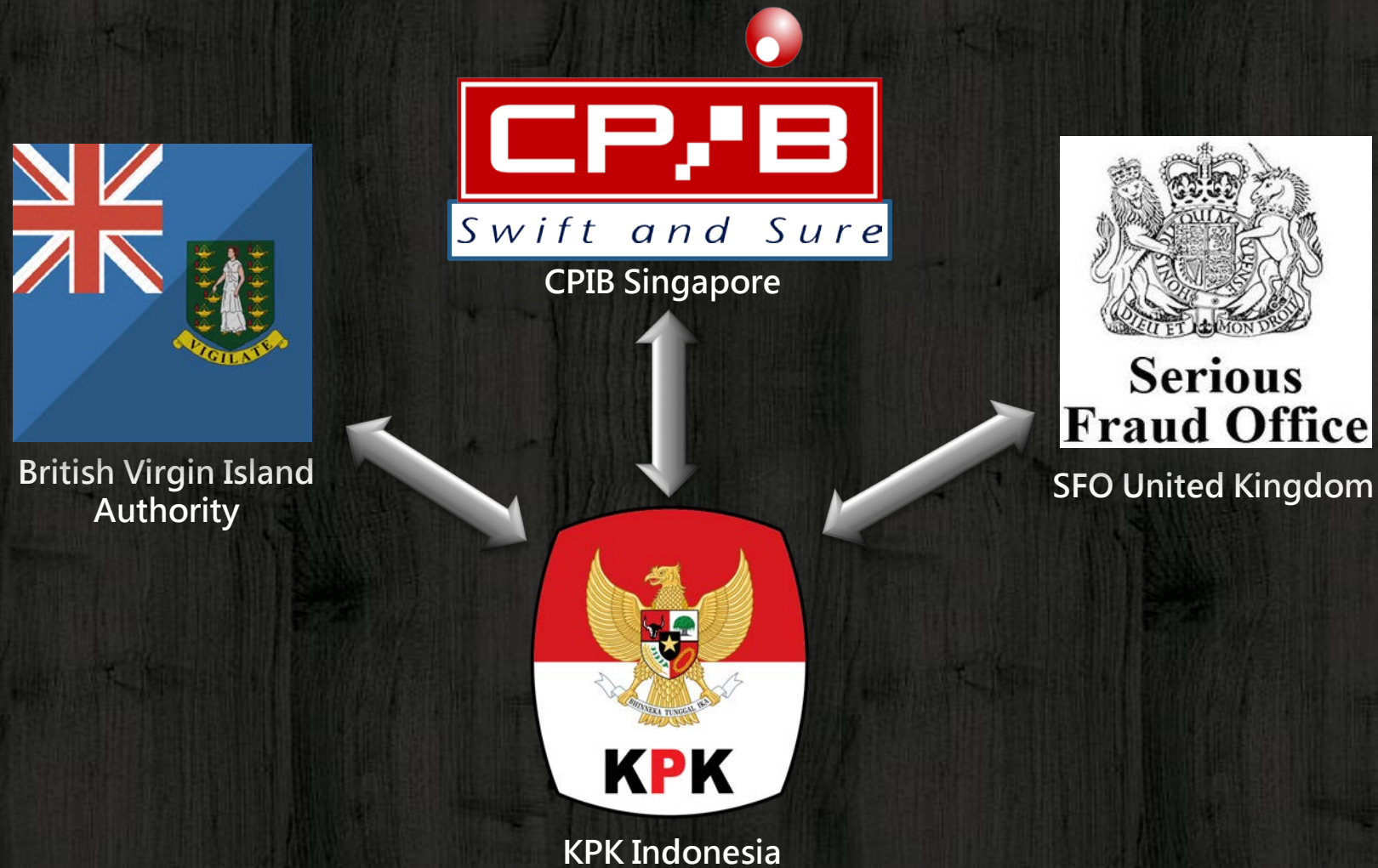
# *INNOSPEC Case*

*..2004-2005...*

INNOSPEC Ltd. Bribe PT. Pertamina (Indonesian SOE)  
officials to sell additive Tetra Ethyl Lead (TEL)



## Multi - Jurisdictional Investigation for INNOSPEC Case



## *INNOSPEC Case Suspect/Convict*



1. Suroso Atmomartoyo  
(Former Director of state oil-  
and-gas operator of PT.  
Pertamina)
2. Willy Sebastian Liem  
(Director of PT. Soegih  
Interjaya)
3. Muhammad Syakir (Director  
of PT. Soegih Interjaya)





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## ***INNOSPEC Case Fact***



- ◆ KPK found the involvement of foreign legal entities in the bribe scheme to Indonesian official
- ◆ Multijurisdictional investigation (Indonesia-Singapore-British Virgin Island-UK)
- ◆ Willy Sebastian Lim, the owner of PT. Sugih Interjaya, was set up a company in BVI then open a bank account in Singapore.
- ◆ In order to receive fee payment from TEL business. Once INNOSPEC receiving money from Pertamina for selling TEL, INNOSPEC will sent money to PT. Sugih Interjaya through the account of Octel Global Inc in Singapore as selling agent fee, then Willy Sebastian Lim sent part of the fee to Suroso Atmomartoyo's account in Singapore.

# Multi -jurisdiction Investigation Challenges



- ◆ Non-cooperative jurisdictions;
- ◆ Legal System Differences (civil vs. common law, dual criminality requirement, refusal of in absentia trial, etc.);
  - ◆ Process of MLA or diplomatic channel;
  - ◆ Lack of resources (cost, manpower, expertise etc.);
- ◆ Rapid movement and sophisticated modus operandi facilitated by globalization and technology;
  - ◆ Language barrier among Law Enforcement Officers




# Mutual Legal Assistance

The traditional mutual assistance regime	The “new, improved” mutual assistance regime
bilateral	multilateral
limited scope of offences	broad scope of offences
assistance limited to the service of summons	many possible forms of assistance
use of central authority	possibility of direct contacts between lower level authorities requesting and granting assistance
broad grounds for refusal	few grounds for refusal
requested State applies solely its own laws in granting assistance	procedures requested by the requesting State can be applied if these are not contrary to the laws of the requested State
bureaucratic	“good practice” standards followed; e.g. the possibility of consultation before possible refusal

*In Reality: It takes time & ineffective to combat “fast-moving” corruption cases*

# Agency to Agency Cooperation

Pros	Cons	
Fast and efficient	Only for intelligent purpose	
Less-Bureaucratic	Evidence gathered can't be used in court proceeding	
Both Speak in the 'law enforcement language'		

- ◆ Our Current Legal Framework is not designed to FIGHT Fast-Moving Corruption Cases
- ◆ There is an URGENT Need to INTRODUCE New Legal Framework to Fight "FAST-MOVING CRIMES"





*Thank You ICAC!*

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Commissioner

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