

# **MEMORANDUM OF UNDERSTANDING**

**Between**

**The Serious Fraud Office of the United Kingdom**

**And**

**The Supreme Prosecutors' Office of the Republic of Korea**

**On Enhancing Cooperation**

## **Paragraph 1 (Purpose)**

1. The Serious Fraud Office (SFO) of the UK and The Supreme Prosecutors' Office(SPO) of the Republic of Korea ("the parties") are committed to working together in the public interest to achieve the appropriate outcomes in the investigation and prosecution of serious or complex fraud and bribery and corruption offences. In support of that aim, this Memorandum of Understanding ("MoU") sets out the framework for effective liaison and communications between the SFO of the UK and the SPO of the Republic of Korea.
2. The aims of this MoU include:
  - a. To assist cooperation and co-ordination between the parties, through the exchange of information, for the prevention and detection of serious economic crime. Such assistance would be carried out in the performance of the parties' respective statutory functions in the public interest, so far as such assistance is lawful;
  - b. To provide arrangements for cooperation and the exchange of information.

## **Paragraph 2 (Legal Status and Effect)**

1. The Parties are genuinely committed to pursuing the aims and purposes of this MoU in good faith, and intend to act in accordance with its terms on a voluntary basis to enhance mutual cooperation.
2. Nothing in this MoU shall, or is intended to:
  - a. Create any legal or procedural right or obligation which is enforceable by either of the parties against the other; or

- b. Create any legal or procedural right or obligation which is enforceable by any third party against either of the parties, or against any other third party; or
- c. Prevent either of the parties from complying with any law which applies to them; or
- d. Fetter or restrict in any way whatsoever the exercise of any discretion which the law requires or allows the parties to exercise; or
- e. Create any legitimate expectation on the part of any person that either of the parties will do any act (either at all, or in any particular way, or at any particular time), or will refrain from doing any act.

### **Paragraph 3 (Roles and Responsibilities)**

1. The SFO was set up in April 1988 following the report of the Fraud Trials Committee under the late Lord Roskill.
2. The SFO's status and powers derive from the Criminal Justice Act 1987 (CJA 1987). Section 1(3) of that Act provides that the Director may investigate any suspected offence which appears to him on reasonable grounds to involve serious or complex fraud (including offences of bribery and corruption).
3. In considering whether to take on an investigation, the Director of the SFO considers:
  - a. Whether the matter undermines UK commercial / financial plc in general and in the City of London in particular;
  - b. Whether the actual or potential loss involved is high;
  - c. Whether actual or potential harm is significant;
  - d. Whether there is a very significant public interest element and
  - e. Whether there is a new species of fraud
4. The principal power is contained in section 2 of the CJA 1987, which gives the Director or a designated member of staff the power to require a person or entity to provide information to the SFO for the purpose of an investigation.
5. The SPO was separated from the Court and established as an independent organization in August 1948.
6. The SPO derives the status and powers from Constitution, the Korean Criminal Procedure Act and Prosecutors' Office Act. The Prosecutor General heads the SPO and directs and supervises the entire organization of the Prosecution Service as stipulated in the Prosecutors' Office Act, Article 12.

7. The Prosecution Service in the Republic of Korea, as a representative of public interests, has the statutory authority for:
  - a. Investigation of crimes, filing of prosecutions and matters necessary for maintenance thereof;
  - b. Direction for and supervision of judicial police officers with respect to the investigation of crimes;
  - c. Direction for and supervision of the execution of judgments.

**Paragraph 4 (Information Sharing)**

1. Where it is lawful and in the public interest to do so, the parties agree to timely disclosure of information to the other so that suspected criminality is properly assessed, and where appropriate, investigated.
2. The SFO may provide information to the SPO pursuant to the gateways at sections 3(5)(c) of the CJA 1987.
3. Depending on (i) how such information was obtained and (ii) the use to which the information will be put by the receiving party, the disclosing party may be under a legal requirement to provide the person from whom the information was obtained with an opportunity to object to disclosure before reaching a decision on whether the information may lawfully be disclosed through these gateways. Where there is no such legal requirement, the disclosing party may, at its sole discretion, voluntarily provide such advance notification, but is not required to do so as a pre-condition to cooperation or exchange of information pursuant to this MoU.
3. The SPO may furnish the SFO with the information when necessary for investigating a crime, and instituting and sustaining a public prosecution as set out in the Personal Information Protection Act, Article 18(7)(9).
4. Exchange of information under this MoU and in accordance with the laws applicable to the disclosing party may take place voluntarily as well as in response to a request.
5. The disclosing party also agrees to notify the recipient of:
  - a. Any restrictions on the use to which the information can be put; and
  - b. Any restrictions which apply to the onward disclosure of the information.

In the absence of such notification, the receiving party may assume that there are no such restrictions (in addition to any restrictions that apply as a matter of law).

6. Neither party will disclose data supplied by the other to any outside organization unless:
  - a. Permitted by law (in which case the receiving party will always first seek and obtain the consent of the supplying party before providing disclosure); or
  - b. Required by law (in which case the receiving party will, so far as is practicable, first notify the supplying party before providing disclosure).
7. The recipient of information from the other party will:
  - a. Keep the information secure;
  - b. Only use the data for the purposes for which they have received it;
  - c. Ensure that only people who have a genuine business need to see that data will have access to it;
  - d. Use the information only for legal investigations;
  - e. Liaise or co-operate where appropriate to avoid action that prejudices or may prejudice an investigation by another party or person;
  - f. Report data losses or wrongful disclosure to the Single Points of Contact (see below);
  - g. Follow retention and destruction guidelines.

Proper purposes may also include further lawful disclosure of the information, such as to persons under investigation, witnesses, legal advisers, prosecuting bodies, and law enforcement agencies.

#### **Paragraph 5 (Practical Exchange of Information)**

All information exchanged between the parties should be passed via the following individuals who are the designated Single Points of Contact (SPOCs) for their organization for the purposes of this MoU:

<b>All Enquiries</b>	
<b>Serious Fraud Office of the United Kingdom</b>	
Head of Intelligence	+44 (0)20 7239 7272 <a href="mailto:Intelligenceunit@sfo.gsi.gov.uk">Intelligenceunit@sfo.gsi.gov.uk</a>
<b>The Supreme Prosecutors' Office of the Republic of Korea</b>	
Chief of the International Cooperation Center	+82 (0)2 34802526 <a href="mailto:koreapros@spo.go.kr">koreapros@spo.go.kr</a>

**Paragraph 6 (Additional Assistance)**

Either of the parties may request additional cooperation with the aims in paragraph 1 and such requests shall be given due consideration.

**Paragraph 7 (Freedom of Information)**

When there is a request for information from a member of the public under relevant freedom of information law then the party receiving the request will inform the other party, and invite representations on the potential impact of disclosure.

**Paragraph 8 (Costs/Charges)**

No charges will be made in relation to the supply of information by either party.

**Paragraph 9 (Resolving Problems)**

Problems that arise between the parties will be resolved through discussion by the SPOCs, with escalation to more senior managers where necessary.

**Paragraph 10 (Length of Operation of MoU and Review Arrangements)**

1. This MoU will come into force upon signatures of the parties and will last initially for a period of five years. Such time period can be extended by agreement in writing of both parties.

2. The parties will use their best endeavours to review its operation every two years.
3. Any changes to this MoU may be agreed in writing.
4. This MoU may be terminated by written notice of either participant to the other participant.

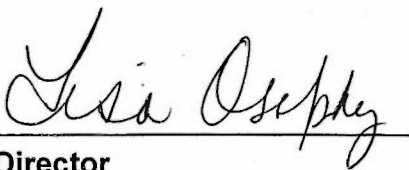
**Paragraph 11 (Transparency)**

This MoU is a public document and the parties may publish it as they separately see fit

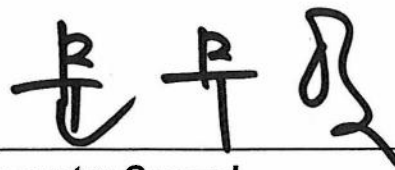
Signed on 24.12. 2018 in 2(two) original copies in English and Korean, all text being equally valid.

**For the Serious Fraud Office  
of the United Kingdom**

**For the Supreme Prosecutors' Office  
of the Republic of Korea**



**Director  
Lisa Osofsky**



**Prosecutor General  
MOON, Mooil**