

## **TOPIC No. 13**

### **INVESTIGATION OF PRECURSOR DIVERSION CASES**

<b>DURATION OF SESSION:</b>	<b>45 MINUTES TO 1 HOUR</b>
<b>SUGGESTED METHOD:</b>	<b>LECTURE</b>
<b>TRAINING AIDS:</b>	<b>OHP, POWERPOINT PRESENTATION</b>
<b>AIM OF THE SESSION:</b>	

The session aims at familiarizing the participants with how an investigation into a precursor diversion case may start, how the investigation is to be carried out, what precautions should be taken and ultimately how the investigation report should be prepared.

#### **OBJECTIVE OF THE SESSION:**

At the end of the session, each participant will be able to:

- 1) Initiate an investigation into a precursor diversion case;
- 2) Make effective investigation in such a case; and
- 3) Prepare an investigation report.

#### **POINTS TO BE COVERED:**

- The starting point for any precursor diversion case may be an information regarding likely diversion of precursors in a case.
- Where such diversion has already taken place, information about completion of such attempt would mark the beginning of the investigation.
- Investigation may spring from the monitoring exercise itself. It may arise from a PEN received.
- A proper analysis of the information, from whatever source it has been received, is necessary.
- Attempt should be made to gather as much intelligence as possible as it would be of great help during the subsequent investigations.
- Normally, receipt of information would follow its verification, identification of the suspects, vehicles, routes and premises.
- In many countries, export authorizations are scrutinised by law enforcement officials before actual authority to ship is granted. This is carried out to help governments determine those consignments that might be liable to diversion. Some countries have specific 'risk-assessment' strategies in place to enable them to carry out this process accurately
- It is imperative that law enforcement keeps abreast of emerging trends in criminal methods and diversion routes and anticipates new tactics.
- Investigations may spring up from the questioning attitude of an investigator. There are some normal questions that should arise in the mind of a precursor investigator. For instance, in the case of export of precursors, the

following check list may help an investigator:

- Does the exporting company actually exist?
- Is it registered for the purpose?
- Is the chemical ordered and its quantity consistent with the use for which it is specified?
- Is there a requirement for this particular chemical in the recipient country?
- Is it a first time order? Is it part of an irregular ordering pattern?
- Could the chemical have been obtained at a better price more locally?
- Has the customer specified any unusual packaging requirements, i.e. small containers when industrial use is claimed?
- Is the consignment to travel by airfreight? Is this cost effective for the particular chemical?
- Is the delivery address bona-fide? Do the delivery requirements specify a Post Office box number?
- Is the consignment destined for a named individual within a company?

- Of course these are just a few examples - many questions can be asked by the investigating/enquiring officer. Some of these questions might equally be applied to consignments ordered domestically, or indeed at import or in transit.
- For the 'transit' countries, it is important to question whether there is a need for the consignment to be shipped through their territory in the first place - what is the precise reason or benefit for so doing?
- Whatever be the triggering point for an investigator in a precursor case, search of persons, premises, vehicle may be normal initiatives to follow.
- Usual precautions/formalities that are required to be taken/observed in a search operation for any other contraband/offence would be applicable in case of precursors as well.
- During search operation, special attention needs to be paid to the recovery of the following documents:
  - Past shipping bills/Bills of entry;
  - Transport documents;
  - Private documents relating to transactions;
  - Diaries having telephone numbers;
  - Documents relating to bank accounts;
  - Documents relating to properties.
- The afore-mentioned documents may provide both valuable clues and evidence about the links existing between members of the trafficking syndicates, links abroad, and flow of money earned out of the illegal venture.
- Recovered documents call for immediate scrutiny. Telephone numbers noted in the recovered telephone diaries need to be analysed for any patterns that may emerge from such scrutiny.

- Print outs of the suspect numbers should be immediately obtained if so permitted by law. They would reveal meaningful linkages.
- Photocopies of bank account opening forms should be immediately obtained. Often, bank accounts relating to illicit imports/exports of precursors in the garb of licit commodities are opened in fictitious names. Photograph on the bank account opening form can help in locating and identifying the person who was operating the account.
- Bank officials may be questioned as to who was visiting the bank for withdrawing money from the bank account.
- If precursors are seized, samples should be drawn as per the prescribed procedure.
- Immediate follow up action is of the essence in an investigation of precursor diversion.
- In case of seizure of documents/goods, proper documentation is to be created to show passage of these documents etc. through various hands/custody, i.e. 'chain of custody' should be clearly established so that no allegation of substitution of documents may arise.
- Statements recorded by Customs officer are admissible as evidence in courts in some countries, for instance in India and Sri Lanka. Statement should inter alia contain the following information:
  - Place, date and time;
  - Name and address of person giving testimony;
  - Name and title of person asking questions;
  - Names and addresses of persons who are witnesses;
  - Information given to the party concerning his rights relating to self-incrimination;
  - The fact that the legal provisions empowering the investigator to question (for instance in India Section 67 of the NDPS Act) have been explained;
  - Signature of the person preparing the statement.
- The following suggestions will help the investigating officer to follow through and to obtain answers that are complete and accurate:
  - Use short questions confined to one topic that can be clearly and easily understood. Ask questions that require narrative answers. Avoid "yes" and "no" answers, whenever possible.
  - Whenever possible avoid questions that suggest part of the answer, i.e. "leading questions". Occasionally a leading question may be used to obtain information from a hostile witness or to refresh the recollection of a witness.
  - Question the subject about how he learned what he states to be fact. He should also be required to give the factual basis for any conclusions he states.
  - Be alert so as to prevent the subject from aimlessly wandering. Where possible require a direct response.

- Prevent the subject from leading the officer far afield. He should not be allowed to confuse the issue and leave basic questions unanswered.
- Concentrate more on the answers of the witness than on the next question.
- To avoid an unrelated and incomplete chronology, the officer should clearly understand each answer and ensure that any lack of clarity is eliminated before continuing.
- When all important points have been resolved, terminate interview; if possible, leave the door open for further contacts with the subject.
- The investigating officer should get the answers from the person under questioning to the following basis questions:
  - (a) Who?
  - (b) What?
  - (c) Where?
  - (d) When?
  - (e) How?
  - (f) Why?
- After completion of investigation, an investigation report should be prepared. The investigation report should contain:
  - a) Table of contents;
  - b) Body of report;
  - c) List of exhibits;
  - d) List of witnesses;
  - e) Appendices;
  - f) Exhibits.
- The body of the report should contain:
  - a) Introduction;
  - b) Summary of Findings;
  - c) Explanation of the accused;
  - d) Evidence;
  - e) Comments of the prosecution on the explanation of the accused;
  - f) Conclusion and recommendation.
- The essentials of a good investigation report are fairness, accuracy, completeness, uniformity, consciousness and logical presentation. Reporting the facts with fairness is as important as procuring them with impartiality.