

Supreme Prosecutors Office News Release

The Prosecutor General Huang Shi-Ming is particularly concerned with the decision as to whether an appeal against the Lafayette military procurement fraud case will be filed, and has invited members of the Special Investigation Division – including Director Chen Hong-Da, Division Supervisors Xue Wei-Ping, Zhang Jin-Feng and Lin Feng-Wen, and prosecutors Cai Chiu-Ming and Ke Yi-Fen – for four and a half days of concentrated discussions. Yesterday (Saturday) he had also invited the Chief Prosecutor of the Taiwan High Prosecutors Office Yen Da-He, Chief Prosecutor of the Taipei District Prosecutors Office Yang Zhi-Yu, Director Prosecutor of the Public Prosecution Division Zheng Ti-Sheng, prosecutors Guo Li-Juan and Lin Da as well as Director Chen Hong-Da of the Special Investigation Division for a joint consultation meeting that lasted from 4 p.m until 10 p.m.

According to Prosecutor General Huang, Lei Xue-Ming, Wang Chin-Sheng, Cheng Zhi-Po, Kang Shi-Chun, Xuan Peng-Lai and Yao Neng-Jun (deceased) had been ordered to carry out such enormous and complex military procurement project within an extremely short period; even though there may be a number of administrative errors, without adequate positive evidence one cannot find that Lei Xue-Ming had in fact committed any criminal fraud or illegality. Under Article 161, Paragraph 1 of the Code of Criminal Prosecution as amended in 2002, “a prosecutor shall bear the burden of proof with regards to the defendant’s facts of the offense, and shall indicate the means of proof”; in other words, in addition to fully satisfying the formal burden of proof of “producing evidence”, a prosecutor is also responsible for “indicating the means of proof” to convince the court and cause the court to be “certain” of the facts constituting the defendant’s offense (see conclusions of the 4th Criminal Court Meeting of the Supreme Court on April 30, 2002). In this case, despite almost one year of investigations by the special investigation Division specifically formed on August 1, 2000 to investigate this case, and almost 9 years of court hearings ever since public prosecution was initiated on July 5, 2001, there is still inadequate positive evidence to substantiate the allegations that Lei Xue-Ming had committed any criminal fraud or illegality. To avoid further waste of valuable judicial resources, increasing the burden on the courts and the defendants, and exposing the defendants – who are very likely innocent of the allegations – to the torture of further lengthy judicial trials, Prosecutor General Huang has instructed after the meetings that:

1. It is appropriate that no appeals will be filed in the case of violation of the Anti-Corruption Statute against Lei Xue-Ming. As for the court’s judgment regarding common criminal income derived by Guo Li-Heng, Guo Wen-Tian and Wang Chuan-Pu and confiscation of the same, the court has made certain errors in its findings of fact and applications of the law, and an appeal will therefore be filed against this part. These instructions have been issued to the Taipei District Prosecutors Office for careful consideration.
2. The Special Investigation Division shall continue to investigate other persons involved in

receiving kickbacks and prosecute them according to law.

November 7, 2010

Special Investigation Division