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Seminar on Identifying, Restraining and Recovering Stolen Assets in the OSCE Region
Political Segment
Opening Plenary Session

The Art of Shifting Political Will

I would like to thank the OSCE, UNODC, the World Bank and the Basel Institute for holding this important conference and for providing me with an opportunity to address this distinguished audience. This has been a highly technical, detailed and hopefully highly useful couple of days, but today we are supposed to be leaving the minutiae behind to look at the most important element in asset recovery – Political Will. Without the political will to restore stolen assets, the tools and mechanisms will be irrelevant.

My name is Heather Lowe, and my job is to create political will.

I work for a civil society organization based in Washington, DC called Global Financial Integrity. Global Financial Integrity attempts to quantify illicit capital flight leaving developing countries and find ways to curtail that illicit capital flight. Our definition of illicit capital flight is where the movement of money is breaking laws in either the country of original, a country of transit or the destination country. We look at how the international financial system facilitates, and indeed encourages, that illicit capital flight. Our most recent estimate of illicit capital flight out of developing countries was in the order of \$903 billion in 2009.

I work with anti-corruption groups, tax justice groups, investors, law enforcement officers, companies, faith based groups, labor unions and others to generate the political will in the US to move the US government toward policies and new laws that support anti-corruption, anti-tax evasion and anti-money laundering objectives.

GFI is also the administrative body for something called the Task Force on Financial Integrity and Economic Development. This international task force is comprised of a coordinating committee of international NGOs like Transparency International, Global Witness and Christian Aid, 11 supporting governments,¹ a group of progressive economists and about 140 allied organizations around the world. I work with this network to generate political will in those same areas on an international level and in foreign countries. The blog on the Task Force website has postings that go viral in places like India, Pakistan, Ethiopia and Malaysia. Our job is to keep issues surrounding illicit capital flight on the international agenda, and we have done that with ever increasing success.

And so I am here today to talk about how to generate political will.

¹ Canada, Chile, Denmark, France, Germany, Greece, India, Netherlands, Norway, South Africa, Spain.

Is there a political will issue in asset recovery? You've heard the figures over the past two days: It has been estimated that \$20 - \$40bn in corrupt money is moved in developing and transitional countries each year. Only \$5 billion has been recovered in the past 15 years, however. Nobody has done the math for you yet: That works out to about a 1% recovery rate. That is a very strong indication that political will is lacking across the board, despite some recent positive movement such as the Swiss Duvalier law and the actions against Obiang's assets in France and the US.

We know that political will is lacking when we hear the stories of MLAT requests being entirely ignored by the government receiving the request because the request was not in the form they wanted, as opposed to reaching out to the requesting country to explain how the information in the request needs to be different so that they can process it. Silence as opposed to support. Zero political will.

Political will is not rocket science. At some point as a child, you learned that in order to get someone to do what you wanted them to do, you had to figure out what motivated them. You may have explained to your parents how you could use that new bicycle you had your heart set on to get to and from school or for an after school job. You knew that your parents would be swayed by arguments that, in the end, benefitted them in some way.

Political will is no different. If I asked each of you to think for a moment of something that was influencing your own government to drag its feet on asset recovery issues, you would instinctively have an answer pretty quickly. Maybe its pressure from the banking industry, which funds election campaigns. Maybe a particular country is of great military or commercial importance for your country and your leaders do not want to appear to take a position on the country's politics. The point is that if you sat down and thought about it for a few minutes you'd have a pretty good list to choose from.

Most of the time people stop there, however. Perhaps they know that bank pressure is the main problem in their country, but they don't think about how to either lessen its impact or increase the importance of other interest to counter balance the negative pressure - making it easier for governments to act. If you want to increase political will, you need to go on to that next step – figuring out how to either neutralize or counterbalance the negative pressures.

In order to determine how best to increase political will, you really have to do that analysis. In my opinion, political will with respect to asset recovery is probably swayed by five factors, to varying degrees, in each country –

1. pressure from private interests that stand to gain or lose from a proposed government action;
2. the geopolitical ramifications of a particular action or position;
3. the will or interest of the people/the moral implications;
4. in some cases, the immediate self-interest of the governing elite; and
5. sometimes an outside event.

I do not have time in 10 minutes to take you through an example, but the key is to identify your objective – that could be eradicating anonymous shell companies in your country, getting your country to actually implement a specific section of UNCAC, cutting the speed with which your government is able to freeze assets in half, reducing the red tape preventing you from processing MLAT requests efficiently. Once you've identified your goal, go through this list of factors and determine what forces or people will be supportive of your goal and who will be against it and why. You are likely to have both sides represented in each heading, even if one seems to dwarf the other.

Then you look at each of those you have listed as being against your plan and determine if you can challenge them directly – by meeting with them and convincing them they should support your plan, or pointing out the flaws in their position either publicly or in private meetings.

This is politics, though, so we have to be realistic. There are many times when you can't challenge the critics directly for political reasons, which makes your supporters all the more important. You have to think about how you can make their opinion matter MORE to the political decision-makers than the opinion of those who will try to undermine your plan.

Which brings me to identifying and choosing your messengers. Now that you have the arguments, you have to think carefully about the personality of the person you need to convince to take your side, your target, and figure out who would be an effective messenger to convince that person. Is the person very religious? Perhaps bring someone senior from their faith group to a meeting. Are they former prosecutors? See if some prosecutors or law enforcement officers are willing to have a chat with them. Do they have a particular interest in a country or region of the world? Get a few letters from people in that country or region who can speak about how your initiative would improve things for them. Think creatively and always use more than one approach.

If this sounds like a lot of work to you, it can be, but remember that changing political will takes time, and you won't be taking all actions all at once. You want to build the momentum, build the pressure. Give people a little time to think about arguments presented before sending in another messenger.

Finally, if you are in a country where the press can take a position on your issue, by all means reach out to educate journalists and get their support. Give them stories that demonstrate why the country's leaders need to push your initiative through. Give the public something they can get behind and support!

I am going to end today with a homework assignment. Most people would agree that one of the biggest barriers to not only asset recovery but also the prevention of those assets fleeing in the first place is the anonymous corporation. Those are corporations created in all parts of the world, where ownership or control of that company is never disclosed or is hidden through layer upon layer of international companies and trusts.

This is also an area where the political will to solve the problem is severely lacking. FATF/GAFI consulted financial industry representatives and civil society organizations about what the international standard should be on this issue. There was loud and clear support from both the financial industry and civil society organizations (which doesn't happen very often) for FATF to set an

international standard that required ownership and control information to be collected by the bodies who create companies.

But the FATF member countries were not willing to make that the minimum standard, much less prohibit the creation of anonymous companies under their own legal systems.

We all know it is a significant problem, so let's solve this – let's move the political will on this issue. Your homework is to get back to me either at this conference, via email, etc. with what you think are some of the barriers on this issue in your country, who would be a good messenger to try to change the dialogue, and ideas for engaging that messenger. On the flip side, if you would like to support the movement to eradicate anonymous shell companies in the US, we would certainly welcome supportive letters, juicy stories about how an anonymous US shell company ended your investigation, or other forms of support like phone calls to or meetings with key Members of Congress. I am always looking for new messengers.

My email address is hlowe@gfintegrity.org, and I look forward to hearing from you.