

Notes for Remarks

Hon. Roy Cullen, P.C., C.A.

3rd GOPAC Global Conference: Kuwait 2008

Anti-money laundering Workshop # 2

The StAR Initiative

The Sheraton Hotel & Towers, Kuwait City

Emerald A Room

November 18th, 2008

3:15 pm – 4:45 pm

- Welcome to all.
- Introduce myself (Chair, GOPAC Canadian Chapter & Team Leader, GOPAC Anti-money laundering Task Force / as Parliamentary Secretary to Canada's Minister of Finance in from 1999-2001, I facilitated the passage of Canada's anti-money laundering legislation, and the establishment of Canada's financial intelligence unit – Financial Transactions Reports Analysis Centre of Canada, or FINTRAC).
- GOPAC's members have stated clearly that the fight against corruption must be enjoined with initiatives to combat the laundering of corrupt funds, and the recovery of stolen corrupt assets.
- We have committed ourselves to this principle and to these objectives.
- Introduce other members of the panel –
 - Mary King, former Senator, Trinidad & Tobago;
 - Ted Greenberg, Senior lawyer, World Bank, Financial Market Integrity Branch, and leader on asset forfeiture issues at the World Bank.
 - Webb Franklin, former Member of Congress (Mississippi), United States of America (and member of the recently created North American chapter of GOPAC).
 - Ed Shorrock, Head of Forensic and Regulatory Services, BAKERPLATT (private sector law firm involved in litigation, forensic accounting and asset recovery).
 - Giavanni Gallo, UNODC (and/or Hatem Aly)

- The objectives of today's workshop are to-
 - Engage all of you in how you can assist in the recovery of stolen corrupt assets and return them to their rightful owners – the citizens;
 - Hear from our panellists about their perspectives on this topic and how GOPAC should be talking this problem;
 - Create awareness in the StAR initiative {World Bank and United Nations Office on Drugs & Crime – (UNODC)}
 - Finalize a draft resolution on the fight against money laundering and asset recovery for this global conference; and,
 - Engage in a general discussion.
- We have 1½ hours only, so I have asked all the panellists, including myself, to limit their remarks to about 10 minutes and then we will open the floor to questions/comments and discussion.
- GOPAC, as stated in the last anti-money-laundering resolution passed in Arusha, is committing itself to dialoguing with the offshore and international banking community with the objective of limiting or eliminating the laundering of corrupt funds through financial institutions such as these. GOPAC has begun this process by contacting the Offshore Group of Banking Supervisors (OGBS).
- The stated aim of OGBS is to participate with relevant international organisations in setting and promoting the implementation of international standards for cross-border banking supervision, and for combating money laundering/terrorist financing and encourage members to

apply high standards of supervision based on internationally accepted principles.

- In a letter I wrote to Mr. Colin Powell, the chair of OGBS, I indicated that parliamentarians throughout the world have expressed a strong desire to obtain further information and training in money laundering; in particular, I stated that they would be interested in knowing what legislative and other tools are available to them so that they can assist in the reduction or elimination of money laundering in their respective countries.
- I asked Mr. Powell if GOPAC could work with his organization to achieve the same degree of enhanced cooperation that his members have accomplished in the fight against terrorist financing and drug crimes, and enhance this cooperation to the fight against the laundering of corrupt money.
- OGBS understands the benefits of working together, and they are anxious to participate in a meeting GOPAC is organizing with the offshore banking community to map out a program to better address the fight against the laundering of corrupt money, and the recovery of stolen assets.
- GOPAC is continuing its dialogue with the Offshore Group of Banking Supervisors as a result of this letter. We have come to the realization also that we must deal with the governments in the offshore banking jurisdictions and in this connection we are working with the IMF on a proposal to begin a dialogue with these countries with the objective of improving the detection and recovery of laundered corrupt funds.

- It should be noted that achieving full cooperation with the offshore banking community in denying safe haven to the corrupt is a challenging task. Many issues arise. For example, many tax haven countries, by virtue of their own legislation, are able to invoke non-cooperation if a request breaches confidentiality agreements—on the basis that complying with the requested information would run contrary to that country’s national interest.
- Likewise, many offshore banking jurisdictions insist on “dual criminality,” meaning that the offence alleged by the country requesting the cooperation must also be an offence in the jurisdiction where the bank is located.
- The “double jeopardy” argument may also be raised.
- Another problem is that states pursuing corrupt individuals in an attempt to recover stolen assets may, from time to time, embark on fishing expeditions where they draw on vague allegations and circumstantial evidence that a corrupt leader has embezzled funds and deposited them in an offshore bank. The offshore banks reasonably expect some specificity to the request for information but it is unreasonable for the bank to ask for the numbers of specific bank accounts from the complaining government officials. If the government officials trying to recover the missing funds had the bank account numbers, the problem would generally be much closer to being solved.
- Usually, the trails to the missing money are not so strong. Having said that, the offshore bank must be careful also not to comply with a newly elected government that is on a politically inspired “witch hunt” to discredit the outgoing administration.

- Differences in evidentiary procedures also abound, and there are other issues.
- Notwithstanding the challenges, there seems to be some goodwill to cooperate and GOPAC is pursuing this aggressively.
- In Arusha, you made the point clear that we should not only focus on off-shore banks, but to international financial institutions generally. We are doing this and we hope to work in collaboration with the World Bank to address these problems as they pertain to IFI's generally.

Later on you will hear from the World Bank and the UNODC how they will work together with the GOPAC Anti-Money laundering Task Force, under the auspices of the StAR initiative, to support countries in their efforts to recover the stolen assets kept in foreign jurisdictions.

Let's hear now from our extremely qualified panel.