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MONEY LAUNDERING/TRANSNATIONAL FINANCIAL CRIME AND CORRUPTION: A HIGH PRIORITY FOR THE 21ST CENTURY

Whatever the facts and findings of the Bank of New York/Russian money laundering case, it is representative of larger, inter-related global problems: weak, non-transparent global and country banking systems, poor oversight and accountability, strong transnational criminal networks and official and corporate corruption.

As global integration, new technologies and democracy has taken root in the 1990s, international financial crimes, such as money laundering and public and private sector corruption, should be among the highest priority issues for the new millennium. They present a new pressing threat to global economic and political stability that requires new creative solutions involving partnerships between the public and private sectors. When combined with the overall weakness of the world's financial system, as exhibited most recently in the Asian financial crisis, they have the potential to rock governments and create regional and global economic and political instability.

Just as Russian legislation was inadequate for the profound economic transition, the international financial community is poorly equipped with a legislative and enforcement framework to cope with the global economy. The Russian money in the Bank of New York case epitomizes the inadequacies of our present system. It is a wake-up call to the public and private sectors and the multi-lateral community.

An analysis of the Bank of New York's multi-billion dollar Russian money laundering scandal vividly reveals the complexity, severity and myriad public policy and private sector issues confronting the global community. This case should also be an alarming wake-up call to US and Russian policy makers, including Congress and the White House, multi-lateral institutions -- such as the IMF and the World Bank, financial institutions and regulators -- and the public. Scandals of this nature are not new and are not specific to Russia. However, the analysis of the money flows will help us understand the depth and breadth of Russian organized crime and corruption activities in the US and around the world.

While we do not know all of the facts, the magnitude, multiplicity and unholy marriage of players and countries in the Bank of New York case, in both the private and public sectors, is representative of a larger problem and clearly illustrates the need to address both its causes and symptoms. This global problem is estimated to be similar in size to the international narcotics trade currently estimated to be as high as \$500 billion annually. Thus, it should be treated as seriously and holistically as the war on drugs and should be seen as an important source of money for drugs and other criminal activities.

It's not just a Russian mob issue anymore. Venerable US and multi-national corporations and financial institutions, a host of countries such as the US, Switzerland, Russia and the United Kingdom, and funds from multiple criminal, corrupt, donor and legitimate sources, are all part of this complex picture whether they are directly implicated in this case. Research conducted at TraCCC on a number of Russian money laundering cases reveal the complex sources of illicit capital

and the complexity of the money laundering routes and methods.

The root causes are varied but primarily relate to the a "culture of secrecy" that exists within the cultures of the diplomatic, multi-lateral and business communities, inadequate international law enforcement cooperation and high-level public and private corruption. The failure of multinationals and international lending institutions to understand the extent and impact of organized crime and corruption have made many turn a blind eye to these phenomena. The unregulated nature of the transitional Russian economy provided more opportunities for speculation, insider trading, asset stripping and movement of assets to offshore locations.

A NEW NATIONAL SECURITY THREAT

Transnational crime and corruption of this scale and nature represents a threat to national security. They have the potential to destabilize political and economic systems -- particularly in transition countries and emerging markets such as Russia, Mexico, Indonesia and Brazil. In addition, they impact disproportionately the poor and emerging middle class.

During the 1990's we began to rethink the military/national security issue within the post-Cold War global order. On the dawn of the new millennium we need to rethink the financial/national security issue within the context of the new global financial order.

THE NET RESULT: SECTORAL PERSPECTIVES/ISSUES

The net result of high level corruption, large scale money laundering and financial and economic stability is that it impacts society in general because dirty money feeds the coffers of transnational criminal networks involved in a wide range of illicit activities, including nuclear and weapons smuggling and narcotics and human trafficking. It also places at risk the security of the public's investments in pension funds and the stock market.

For the financial sector, more transparency, accountability and regulatory oversight are required. Current internal employee guidelines and training, as well as existing external regulations/laws and procedures related to international cooperation and information sharing are inadequate. Among other things, "know your customer" and "know your employee" rules should be re-evaluated and effectively but fairly enforced within a democratic context including respect for privacy rights. Maintaining the public's faith in the US and global financial system must be among the most important objectives of this united effort.

For the foreign policy sector and multi-lateral financial institutions, such as the IMF and the World Bank, new policies and procedures for dispensing and monitoring aid and loans must be developed. "Know your donee" rules, conditionality, sanctions, independent audits and civil society monitoring and oversight mechanisms should be developed and enforced. For diplomatic and political reasons, governments and multi-laterals may have to sometimes deal with corrupt public officials and representatives of the private sector. However, they should not do so with a blind eye or without accountability or regard to its full impact on the public and reforms.

For the private and professional sectors, our research shows that money laundering and high-level corruption at this scale can not be consummated without the complicity of an army of "bankers", accountants, lawyers, business and financial advisors. These and other professions and corporations should adopt the kind of practices, ethical standards and procedures that make them part of the solution -- not part of the problem. They should also be held accountable when they knowingly advance the interests of criminal networks and/or corrupt officials and help launder or hide dirty money.

For public policy makers, new laws and procedures must be developed to address a panoply of inter-related problems. Enhanced international cooperation, transparency and accountability, as well as more civil society oversight, should be the key reform goals. In addition, if legal instruments like the amended US foreign corrupt practices act, the new OECD anti-bribery treaty, the organization of American states anti-corruption treaty and other international commitments (such as those made by member countries of the financial action task force) are to have meaning and make a difference, they need to address the full range of problems and to be properly enforced. This will require more oversight and monitoring from civil society, policy makers and the law enforcement community. Of particular import is the need to step-up international efforts to regulate off-shore banking centers and shell corporations. More regulatory oversight and accountability are needed in many countries in the developing, transition and developed world. Future economic assistance to developing and transition countries should be conditioned on banking, transparency and accountability reforms.

For policy makers in transition countries and emerging markets, these kinds of transnational problems present an opportunity to focus on key institutional, political and economic reforms that will enable them to become part of and compete in the new global economic and political community. At the macro level, the majority of these countries should devote special attention to creating key institutions such as an independent media, accounting chambers (GAOs), judiciary and parliament and regulatory oversight institutions -- particularly those related to the banking sector. At the micro-level, special attention should be devoted to strengthening the financial sector by adopting and enforcing international norms, laws, policies and regulatory standards that promote investment, transparency, accountability and public trust in the banking system.

For the international law enforcement and intelligence communities, more effective ways to enhance national and international coordination, to undertake joint investigations and prosecutions and to work more closely with civil society must be found. We need to help provide the resources and incentives to promote cooperation, promote reforms and build public trust and participation.

RECOMMENDATIONS

1. Rethink regulation of global financial markets

We need to rethink how we regulate financial markets in the global environment. The costs of failing to address large-scale financial crime are severe because this activity is potentially very threatening

to the US and the welfare of all citizens. The end of the Cold War has made us rethink national security in the military arena. We need to give equal attention to rethinking financial security in the international financial arena. National sovereignty of many countries may have to be diminished to facilitate international cooperation.

2. Need to be more vigilant in addressing grand corruption

We need to be much more vigilant in addressing grand corruption both in foreign leaders and in those individuals at home who facilitate corrupt activities in the global markets. The lawyers, investment firms, bankers and accountants who facilitate corruption and organized crime must be subject to greater scrutiny and to appropriate sanctions.

3. Need special inter-agency focus on non-drug related money laundering

Prevention of large scale money laundering requires greater coordination of intelligence, law enforcement work, political and financial analysis. It cannot be addressed by training programs alone but needs to be addressed in a coordinated way as we now approach drug trafficking. The bank of New York case progressed to far because we lacked an inter-disciplinary approach and adequate human resources assigned to the problem.

4. Cannot politicize issue of corruption otherwise will polarize rather than unite those addressing the problem

We need to prevent the politicization of the Russian corruption issue. By doing this, we are losing the support of those who are our natural allies on this issue. We are also undermining long term Russian-US relations that are needed to address this problem.

5. Need to address transnational financial crime and corruption in times of high profit as well as times of reduced profit such as in Russia today

We need to address the financial crimes and corruption issue in times when individuals are making money as well as at such times as now after the Russian crisis in which there is less money to be made. We must change the incentive system so it is in the interests of individuals to conduct greater due diligence on their clients and to say no to questionable clients and transactions.

6. In Russia, need to encourage policies that bring money from the shadow economy without legitimizing the theft of the Russian state

Within the Russian context, reforms must be focused on developing a middle class and stake holders in a market economy and democratic society. Policy must be focused on developing a rational tax policy in cooperation with members of Russian parliament which will limit capital flight and diminish the control of organized crime. Strategies must be developed to bring back capital from the shadow economy without granting an amnesty to capital that was acquired at the costs of citizens' lives or the impoverishment of citizens.

7. Russia needs to enact legislation and adopt effective enforcement strategies

Russia needs to develop new corporate governance/ethics rules, respect for contract sanctity, effective and fair enforcement of judicial decisions, balanced regional regulation by federal and state authorities, proper income and asset disclosure, adoption and implementation of international accounting and procurement standards. New legislation needs to be adopted in the tax, criminal law, money laundering and asset forfeiture procedure arenas.

8. International banking, multinational corporations and lending institutions must enhance oversight within their institutions and in international operations

In the international banking, multinational corporate and multinational lending institutions more transparency, accountability and regulatory oversight is required. Current internal employee guidelines and training, as well as existing external regulations/laws and procedures related to international cooperation and information sharing are inadequate and must be enhanced. Among other things, "know your customer" and "know your employee" rules should be re-evaluated and effectively but fairly enforced within a democratic context

9. Greater oversight is needed in international loan policy. More attention must be paid to preventing diversion of money by corruption and organized crime.

For the foreign policy sector and multi-lateral financial institutions, such as the IMF and the World Bank, new policies and procedures for dispensing and monitoring aid and loans must be developed. "Know your donee" rules, conditionality, sanctions, independent audits and civil society monitoring and oversight mechanisms should be developed and enforced. Greater cooperation must occur with internal watchdogs such as accounting chambers. The essential role of a free press in investigating corruption must be recognized and journalists must be granted greater freedom to information and protections in case they are threatened for their reporting.

10. Greater attention must be paid to developing policies to seize and repatriate assets which promote development and public policy goals.

New and improved international policies concerning asset seizure and forfeiture laws, particularly policies related to non-drug related cases, should also be re-examined, since they provide the fuel for other forms of criminality, asset forfeiture policies should be developed which help foster international development and public policy goals such as clean environment and human rights.