Vladimiro Montesinos was head of Peru’s intelligence service and advisor to President Alberto Fujimori between 1990 and 2000. In September 2000, secret videos were televised showing him bribing a congressman. Subsequent investigations uncovered approximately 2,400 tapes showing Montesinos bribing judges, politicians and the news media in connection with defense procurement contracts, his involvement in the arms trade and other activities.

Peruvian officials estimated that more than US$2 billion were stolen from the state, a figure equal to nearly nine percent of Peru’s current stock of external public debt. Around $1 billion is believed to have been sent overseas and Montesinos is suspected to have amassed a fortune worth US$800 million through bribes.

Montesinos was eventually apprehended by authorities in Venezuela, in June 2001 and brought to trial in Peru. He was convicted of illegally controlling Peru's intelligence agency and sentenced to nine years imprisonment. He was subsequently convicted of embezzlement and pleaded guilty to accepting bribes and sentenced to a further thirteen years of imprisonment.

So far, Peru has recovered US$184 million in the Cayman Islands, Switzerland and the United States and has a further $47 million frozen in other jurisdictions. Peru was successful in recovering stolen assets because of two key factors: first, quick action by the Peruvian authorities in setting up a system to facilitate investigation and prosecution of Montesinos and his associates; and second, a high level of cooperation from foreign countries, including spontaneous assistance and the use of innovative approaches to asset recovery.

Among the systems put in place, Peru established an Ad-Hoc Prosecutorial Office to deal with high-level corruption cases. Prosecutors were hired from the private sector and specialist anti-corruption courts and a specialist court of appeal were established. These efforts ensured that investigations were adequately resourced and the legal proceedings would be protected from interference.

In addition, legislation was enacted to put in place a plea bargaining mechanism allowing those subject to prosecution, with the exception of leaders and some public officials, to engage with prosecutors in plea agreements, often providing information in exchange for a reduced sentence. This was valuable in helping prosecutors secure convictions and avoid years of litigation. More importantly, it enabled authorities to quickly obtain information to assist in the tracing of the stolen assets.

Congress also passed legislation that helped deal with the privileges of high-ranking officials. Under the constitution, high ranking officials could only be accused by a Congressional Committee and judged by Congress. New legislation allowed prosecutors to undertake preliminary investigations and provided them with provisional powers to conduct searches, access banking information and restrict the transfer of property prior before charging officials.

---

3 According to Peruvian Prime Minister Carlos Ferrero quoting the findings of prosecutors’ investigations. Published on The Associate Press on August 6th 2004.
This package of legal and institutional reforms was instrumental in launching investigations, bringing corruption cases to judgment quickly and facilitating the tracing of stolen funds. The extent to which the reforms marked a departure from Peru’s legal tradition and the speed with which they were enacted and implemented serves to demonstrate how much can be achieved when there is broad political commitment to tackle corruption.

The second factor contributing to Peru’s relative success story was the willingness of foreign governments to cooperate with Peru’s investigations and to use their domestic legal regimes creatively to recover stolen assets. The day after Montesinos videos became international news, a suspicious transaction report was filed with the Swiss financial intelligence unit. The accounts related to this report were provisionally frozen, preventing the transfer of the funds and allowing the Zurich Examining Magistrate time to start an investigation into money laundering. Simultaneously, the Swiss authorities alerted the Peruvian authorities to the ongoing investigation and evidence and invited them to submit a request for mutual legal assistance, an early example of spontaneous cooperation.

Following up on information provided by the Swiss authorities and using their plea bargaining arrangements, the Peruvian authorities were able to demonstrate the corrupt origin of part of the funds frozen in Switzerland and secure waivers from account holders. Peruvian authorities recovered US$77 million within two years of the accounts being frozen, without requiring a conviction or civil forfeiture.

Suspicious transaction reports also launched investigations of a Montesinos associate in the United States. These led to the discovery of financial holdings in the United States and other jurisdictions related to illegal commissions and embezzlement of the Military Pension Fund. Non-conviction based confiscation launched against assets held in United States were uncontested.5

Investigations in Peru and the United States revealed a money trail leading to the Cayman Islands. There the authorities could only freeze assets where the requesting authorities had initiated proceedings against the account holder. However, in response to the Peruvian authorities’ request the financial intelligence unit used anti-money laundering laws to freeze funds in the absence of legal proceedings against the account holder on grounds that they were the proceeds of corruption. Again, the Peruvian authorities used their plea bargaining provisions to secure waivers from account holders and the stolen assets were returned to Peru without the need for convictions.

Peruvian authorities took measures to ensure that recovered assets were used effectively and transparently and these measures helped sustain support for asset recovery efforts at home and abroad. In October 2001, the authorities established a Special Fund for Management of Illegally Obtained Money against Interests of the State, a fund overseen by a board comprised of representatives of government agencies involved in the fight against corruption. Procedures were put in place for the transparent use of the recovered assets across a range of programs. Ultimately, the most of the funds were allocated to the law enforcement agencies overseeing the fund.

The activities of Montesinos and his associates went undetected for nearly a decade which demonstrates that procedures intended to ensure enhanced due diligence failed across many jurisdictions and financial institutions. Reports of the Swiss Federal Banking Commission reveal that one financial institution – eventually sanctioned by the Commission - failed to

---

identify Montesinos as a Politically Exposed Person, something that could have been determined through a rudimentary search of publicly accessible information, and failed identify the source of funds in unusual transactions.