



# Conference of the States Parties to the United Nations Convention against Corruption

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## Working Group on Asset Recovery

### Eleventh Meeting

Vienna, 24-25 August 2017

## Draft report

### Addendum

## III. Overview of progress made in the implementation of asset recovery mandates

1. The Secretariat provided an overview of the progress made in the implementation of the mandates of the Working Group regarding: (a) developing cumulative knowledge; and (b) building confidence and trust between requesting and requested States. With regard to the development of cumulative knowledge, it was, *inter alia*, noted that the Tools and Resources for Anti-Corruption Knowledge (TRACK) portal had been continuously developed and expanded, and at the time of reporting, contained laws, information and jurisprudence from over 180 jurisdictions. It was also noted that in January 2016, UNODC launched an e-learning anti-corruption tool that included an asset recovery module. The secretariat further reported on its contribution to the finalization of a step-by-step guide to support the practical application of “the Guidelines for the Efficient Recovery of Stolen Assets” developed during the Lausanne process. The Secretariat offered for the consideration of the Working Group different options with regard to ways to collect and publish data on the volume of assets seized, confiscated and returned or disposed of by States parties in carrying out mandates contained in Conference resolution 6/3. The Working Group was also briefed on the efforts the Secretariat undertook to implement the mandates contained in resolutions 6/1 and 6/4 and was informed about the work being carried out to strengthen confidence and trust between requesting and requested States through the use of practitioners’ networks, as well as engaging in advocacy in a number of international forums.

2. Speakers highlighted the importance of the full implementation of chapter V as a main pillar of the Convention of applying a comprehensive and holistic approach to the fight against corruption at both national and international levels. It was noted that Conference resolutions 5/3, 6/2 and 6/3 provided important guidance for enhancing international cooperation in asset recovery in line with chapter V of the Convention. Many speakers also emphasized that developing countries suffered disproportionately from the negative impact of corruption and illicit financial flows on their economies. The importance of asset return in the context of financing for development and achieving the sustainable development goals was highlighted in that regard.

3. A number of speakers emphasized the progress made in their national asset recovery efforts and presented information on recent national legal and institutional



reforms and initiatives with regard to enhancing their respective countries' capacity to effectively cooperate in asset recovery cases. Such reforms included the adoption of comprehensive domestic legislation, including specialized legislation on mutual legal assistance, asset recovery and money-laundering, development of country-specific asset recovery guides, establishment of centralized and specialized agencies and appointment of specialized law enforcement personnel on asset recovery and the management and disposal of seized and confiscated assets, and inclusion of asset recovery clauses in mutual legal assistance agreements. Several speakers cited concrete examples of successful asset recovery in transnational corruption cases.

4. Cognizant of the crucial importance of complying with national legislation and the rule of law, several speakers reported on practical challenges due to excessive procedural requirements and related delays in the asset recovery process, lack of familiarity with domestic legal procedures, lack of trust and confidence between requesting and requested States, as well as differences in procedures in various jurisdictions. The speakers also urged the international community to strengthen efforts for effective asset recovery. Some speakers also referred to the difficulties of recovering assets from financial centres and tax havens.

5. The complexity of asset recovery cases, difficulties in inter-agency coordination at the domestic level, challenges in tracing of assets and in the timely sharing of information were highlighted. Many speakers underlined the need to share good practices and to enhance capacity-building activities. The importance of addressing the issue of illicit financial flows more generally was also noted by several speakers.

6. One speaker highlighted the importance of addressing the issue of recovering cultural and historical artefacts and urged States to cooperate with his country in that regard, by, inter alia, providing technical assistance.

7. Speakers welcomed the assistance provided by UNODC and the Stolen Asset Recovery Initiative, as well as other technical assistance providers, and welcomed important international initiatives such as the Global Forum on Asset Recovery, the Arab Forum on Asset Recovery, regional networks of asset recovery practitioners, and the International Centre for Asset Recovery.

8. One speaker suggested that the Conference and the Group could consider focusing on issues such as finding solutions to practical problems in asset recovery due to differences in the legal systems of Member States, identifying the most important areas of bilateral and multilateral cooperation, designing practical steps to facilitate asset recovery processes, identifying key decision makers in different jurisdictions, simplifying relevant procedures and providing new tools, and enhancing capacities and establishing good will among States parties. The speaker also highlighted that successful international cooperation and technical assistance were crucial for the success of asset recovery.

9. Several speakers welcomed the Study prepared by the Secretariat on effective management and disposal of seized and confiscated assets contained in document ([CAC/COSP/WG.2/2017/CRP.1](#)) and emphasized the usefulness of sharing of information on domestic systems for management of confiscated assets.

10. One speaker noted that States had different mechanisms for the disposal of returned assets and the decision how to dispose and manage returned assets falls under the sovereignty of the State to which the assets were returned. He also highlighted a bilateral asset sharing treaty that his country had concluded with another State party as a good practice.

11. One speaker noted the significant progress that had been made in the field of asset recovery since the adoption of the Convention. He made reference to the International Expert Meeting on the Management and Disposal of Recovered and Returned Stolen Assets, including in support of sustainable development held in Addis Ababa in February 2017 and the progress made in that meeting in developing constructive ideas on how to advance the identification of good practices for the process of asset return. The speaker also referred to a bilateral MOU that his country

had concluded where the issue of management of the returned assets had been specifically stipulated.

12. One delegation proposed to negotiate a separate international instrument under the auspices of the United Nations on asset return, while taking into account the existing international conventions in this area. The speaker noted that such an instrument could fully address the existing legal gaps, uncertainties and discrepancies in legal provisions of different States with regard to seizure, confiscation and recovery of criminal proceeds. This instrument could also address the issues of inadequate regulations on the execution of asset recovery requests in the context of mutual legal assistance, as well as the matters of disposal of seized, confiscated and returned assets.

13. One speaker specifically supported the proposal. He highlighted that it could strengthen the political will of States to return assets, bridge the gap between different legal regimes and will also provide a basis for a constructive cooperation among States.

14. Some delegations welcomed the proposal, in particular in view of harmonizing fragmented domestic approaches to asset recovery and the challenges that continued to exist in this area.

15. Some other speakers noted that in their view Chapter V of the Convention had adequately addressed the process of asset recovery and no additional international instrument was required in that regard. One speaker specifically noted that such a discussion before the finalization of the review of Chapter V of the Convention would be premature.

#### **IV. Forum for advancing practical aspects of asset recovery, including challenges and good practices**

16. Several speakers emphasized the central role of the Group as a forum for sharing good practices, experiences and obstacles encountered in the area of asset recovery. In addition, given the focus of the ongoing second cycle of the Implementation Review Mechanism on chapter V of the Convention and its unique potential to collect valuable information on this topic, the work of the Group was stressed as being particularly relevant. The importance of Resolution 6/2 of the Conference of the States Parties entitled “Facilitating international cooperation in asset recovery and the return of proceeds of crime” was also highlighted by several speakers.

17. Several speakers also underlined the importance of other regional and international forums and mechanisms to advance cooperation in the area of asset recovery. In this context, several speakers highlighted the benefits of joining existing regional networks of asset recovery practitioners, such as the Camden Asset Recovery Interagency Network (CARIN), the Asset Recovery Interagency Network-Asia Pacific (ARIN-AP), the Asset Recovery Network of the Financial Action Task Force of Latin America (GAFILAT), as well as the European Union Platform of Asset Recovery Offices (ARO). In addition, some speakers provided an update on and highlighted the value of several events having taken place since the last meeting of the Group, including the Expert Meeting on the Management and Disposal of Recovered and Returned Stolen Assets, held in Addis Ababa in February 2017, and the Conference on Promoting International Cooperation in Combating Illicit Financial Flows and Enhancing Asset Recovery to Foster Sustainable Development, held in Abuja in June 2017.

18. Other speakers welcomed the practical guides or manuals that had been developed by several countries providing useful information on the channels of communication and the requirements for mutual legal assistance to jurisdictions seeking cooperation in asset recovery cases. One speaker provided an update on the Lausanne Process and Guidelines for the Efficient Recovery of Stolen Assets, as well as on an upcoming step-by-step online guide.

19. The challenge of providing timely and effective mutual legal assistance was highlighted by many speakers as a key requirement for being in full compliance with chapter V of the Convention. One speaker emphasized that in line with article 43 of the Convention, international cooperation was not limited to criminal matters but also comprised civil and administrative matters. Another speaker pointed out that it was a good practice to use the Convention as legal basis for international cooperation and asset recovery. The need to simplify the procedures and to execute the requests for assistance as expeditiously as possible was also noted. Several speakers also encouraged States to spontaneously share information that could facilitate asset recovery, in line with article 56 of the Convention. In the same vein, several speakers mentioned that building trust and confidence was often facilitated through the voluntary sharing of information. Several speakers reported on new mutual legal assistance treaties, as well as asset-sharing agreements they had entered into with other States. One speaker noted that all their new mutual legal assistance treaties included provisions on the disposal of assets.

20. Several speakers shared information about concrete asset recovery cases which had either been successfully concluded or where they had faced challenges which they had not been able to overcome yet. One challenge mentioned by several speakers was the identification of the victims of corruption. However, one speaker also noted that the State should be seen as the primary victim of corruption and that problems related to the identification of victims should not stand in the way of returning assets efficiently and expeditiously. The lack of beneficial ownership transparency was another challenge referred to by several speakers, and recent efforts by many countries to enhance transparency through various measures, including the introduction of public registers, were mentioned. Also in that respect, one speaker stressed the crucial role that tax authorities and the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes could potentially play in the fight against bribery and, more broadly, other offences under the Convention. It was recalled that the OECD had developed a manual to raise tax authority officials' awareness of acts of corruption.

21. The importance of creating specialized prosecution units and asset recovery offices was highlighted by several speakers. On that point, a number of delegates informed the Group that their countries had recently established such units or offices and charged them with the identification, tracing, freezing, recovery as well as the management and disposal of the proceeds of crime.

22. Several speakers noted that their countries had only limited experience and capacities in the field of asset recovery and return. The lack of resources, including human, financial and technical resources, as well as limited training to the officials involved, was reported. Specialized and targeted technical assistance was noted as important in this regard. One speaker noted that there was a growing body of evidence and practical experiences in this area, which was of great value and should guide future efforts.