



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

Distr.: Limited  
25 August 2017

Original: English

## Working Group on Asset Recovery

### Eleventh Meeting

Vienna, 24-25 August 2017

## Draft report

### Addendum

## V. Thematic discussion

### Thematic discussion on proactive and timely sharing of information, in accordance with Article 56 of the Convention

1. The Secretariat introduced the background note on proactive and timely sharing of information, in accordance with article 56 of the Convention ([CAC/COSP/WG.2/2017/2](#)). The document was based on information provided by States parties in response to a Note Verbale sent on 2 May 2017, as well as the country reports and executive summaries of 156 States parties that had finalized their country reviews on article 46, paragraph 4, of the Convention, which is closely linked to article 56. The document reflected the current state of knowledge about treaties, national legislation and country practice. The Secretariat suggested good practices for further discussion by the Group in six areas: (1) spontaneous information-sharing without a treaty base and without assurance of reciprocity, (2) specific legislation on spontaneous sharing of information, (3) the institutions that should be granted the right to spontaneously transmit information, (4) the role of receiving countries, (5) spontaneous information-sharing in cases of administrative freezing orders, (6) spontaneous information-sharing in settlements cases.

2. The panellist from Switzerland informed the Group that Swiss legislation foresaw spontaneous transmission of information at three levels. He introduced the practice of proactive information-sharing at these three levels, and explained their advantages and disadvantages respectively. At the judicial level, Swiss authorities could share confidential information directly with their foreign counterparts even at the stage of preliminary investigations, with a view to supporting foreign proceedings with evidence or encouraging the submission of a formal mutual legal assistance request for obtaining relevant evidence. The panellist noted obstacles in sending information that was not subject to a letter rogatory. In comparison, spontaneous transmission of information between Financial Intelligence Units (FIUs) was subject to stricter conditions, such as a requirement of approval by the FIU and limited application only in cases related to money-laundering or financing of terrorism. Such transmission could be very useful as it might give rise to financial investigations. However, it was naturally confined to the information that the Swiss FIU possessed. The relatively recent legislation on spontaneous transmission of information at the administrative level foresaw that the Government body which had frozen funds had the authority to send relevant information abroad, which was instrumental for foreign



countries in conducting further steps towards asset recovery. The panellist proceeded with relevant statistics, and stressed that only one case had been recorded to date at the administrative level, while at the judicial and FIU levels spontaneous disclosure was a frequent practice.

3. The panellist from Belgium presented the former Tunisian President Ben Ali case from the perspective of Belgium. Domestic legislation had not been enacted to support the implementation of EU decision 2011/72/CFSP from 31 January 2011 concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia. However, Belgium opened a national investigation into money-laundering and, on the basis of the Convention, used three paradigms: Swiftly freezing and seizing relevant assets, setting up a system for proactive information exchange and establishing direct contact with Tunisia to assist with the mutual legal assistance request. Following this, a platform for operational information-sharing in asset tracing investigations related to Tunisian ex-President Ben Ali and his family members was set up as a project platform on the I 24/7 Secure Network of INTERPOL. The panellist concluded that opening national investigations and establishing information-sharing networks could be considered as good practices in this process, as they facilitated dialogue and built mutual confidence which was important for the later asset return stage. She proposed that the Working Group should further consider how focal points for information exchange from the various networks could be brought together and communication and coordination between various networks could be improved.

4. The panellist from the Egmont Group informed the Group about the role of the Group in spontaneous information-sharing. As a body of Financial Intelligence Units, the Egmont Group was established in 1995 and had to date 156 members. According to article 11 of the Egmont Group Principles for Information Exchange, Financial Intelligence Units should exchange information freely, spontaneously and upon request, on the basis of reciprocity. The EGMONT Group provided a secure information-sharing platform, the Egmont Secure Web, which member institutions could use to share information. The speaker highlighted that the capacity and equipment of the Financial Intelligence Unit were important for efficient information-sharing. The speaker supported his intervention with an example of a case between Lebanon and Tunisia, in which sharing of information between Financial Intelligence Units had been instrumental for the successful recovery of assets.

5. In the ensuing discussion, speakers expressed their commitment to proactive and timely sharing of information and reported on their countries' experience in this regard. They referred to their countries' specific legislation or explained that their institutions shared information without legislation, on the basis of established practice or the Convention. They further shared relevant provisions in their regional treaties such as article 6 of the Security Convention of the Gulf Cooperation Council. One speaker informed the Group about a new regional agreement with regard to a high-profile case involving various jurisdictions, in which a number of measures for the strengthening of international cooperation in criminal matters were set out, including spontaneous sharing of information. Another speaker informed the Group about the assistance provided by the StAR Initiative to his country in accessing global and regional networks such as the Global Focal Point Initiative supported by Interpol and StAR, Eurojust and EGMONT. He also made reference to the Arab Forum on Asset Recovery. He highlighted that spontaneous disclosure, as well as asset recovery in general, depended on political commitment of both sides and the availability of technical capacity for swift information-sharing.

6. Speakers also referred to related types of informal cooperation, for example, consultations before the submission of a mutual legal assistance request, information exchange that did not require formal mutual legal assistance or support provided to the requesting country in the preparation of a mutual legal assistance request. One speaker highlighted that specifically in settlement cases, success often depended on cooperation of various jurisdictions and therefore the spontaneous sharing of information was of high importance.