



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

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Asset recovery

Kenya, Nigeria and State of Palestine: draft resolution

Strengthening asset recovery to support the 2030 Agenda for Sustainable Development

The Conference of the Parties to the United Nations Convention against Corruption,

Recalling that the return of assets of illicit origin is a fundamental principle of the United Nations Convention against Corruption,¹ and bearing in mind that chapter V of that Convention is one of the chapters critical to the successful implementation of the Convention,

Emphasizing the importance of international cooperation in the area of asset recovery, including in relation to tracing, freezing and confiscating the proceeds of crime in accordance with the provisions of the Convention, and recalling article 51 of the Convention, obligating States parties to afford one another the widest measure of cooperation and assistance with regard to the return of assets,

Taking note of the contributions of the Stolen Asset Recovery Initiative, the International Centre for Asset Recovery and similar initiatives committed to improving the capacity of States to effectively implement the Convention and, in particular, the recommendations made as part of these initiatives to improve the process of asset recovery,

Taking note also of the draft non-binding guidelines on the management of frozen, seized and confiscated assets,² developed by the United Nations Office on Drugs and Crime pursuant to Conference resolution 7/1 on the basis of the study prepared by the Office entitled *Effective Management and Disposal of Seized and Confiscated Assets*, which is aimed at enhancing the effective implementation of article 31, paragraph 3, of the Convention,

Taking note further of the study conducted by the Stolen Asset Recovery Initiative entitled *Left Out of the Bargain: Settlements in Foreign Bribery Cases and Implications for Asset Recovery*, which highlights the use of settlements and other alternative legal mechanisms to conclude transnational corruption cases, and the implications of such use for asset recovery,

* [CAC/COSP/2019/1](#).

¹ United Nations, *Treaty Series*, vol. 2349, No. 42146.

² [CAC/COSP/2019/16](#), annex.



Recalling General Assembly resolution [70/1](#) of 25 September 2015, entitled “Transforming our world: the 2030 Agenda for Sustainable Development”, in which the Assembly adopted a comprehensive, far-reaching and people-centred set of universal and transformative Sustainable Development Goals and targets, committed itself to working tirelessly for the full implementation of the Agenda by 2030, and recognized that eradicating poverty in all its forms and dimensions, including extreme poverty, was the greatest global challenge and an indispensable requirement for sustainable development, and bearing in mind that strengthening the recovery of stolen assets and their return to their countries of origin will support the implementation of the 2030 Agenda,

Reaffirming the commitment of States parties, and determined to give effect to the obligations set out in chapter V of the Convention to prevent, detect and deter the international transfer of proceeds of crime and to strengthen international cooperation in asset recovery,

Reiterating that corruption in all its forms, including illicit enrichment, poses a serious challenge to the stability and security of States, undermines institutions, ethical values and justice and jeopardizes sustainable development and the rule of law,

Recalling its resolution 5/3 of 29 November 2013 on facilitating international cooperation in asset recovery, and reiterating the importance of the spontaneous sharing of information without prejudice to domestic law, the expeditious return of proceeds of crime consistent with article 57, paragraph 3, of the Convention and the establishment of practical guidelines to facilitate the recovery of assets,

Recalling also the Addis Ababa Action Agenda of the Third International Conference on Financing for Development,³ in which the international community was encouraged to develop good practices on asset return,

Noting 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 from 14 to 16 February 2017, and the international expert meeting on the return of stolen assets, held in Addis Ababa from 7 to 9 May 2019,

Noting also the Global Expert Group Meetings on Corruption involving Vast Quantities of Assets held in Lima from 3 to 5 December 2018 and in Oslo from 12 to 14 June 2019,

Noting with concern the ongoing problem of the increase in funds of illicit origin flowing from developing countries in particular, and the danger that increase poses to the sustainable development, rule of law and security of nations,

Recognizing that States continue to face challenges in the recovery of assets owing, inter alia, to differences in their legal systems, the limited implementation of tools such as non-conviction-based confiscation, as foreseen in article 54, paragraph 1 (c) of the Convention, the complexity of multi-jurisdictional investigations and prosecutions, lack of familiarity with the mutual legal assistance procedures of other States parties and difficulties in identifying and exposing the flow of proceeds of corruption,

Noting in particular that a large proportion of the proceeds of corruption, including those emanating from transnational bribery and other offences established under the Convention, have yet to be returned to the requesting States parties, their prior legitimate owners and victims of the crimes,

Recalling its resolution 7/1, in which it stressed the need for countries to ensure, in accordance with national legislation, that there are adequate mechanisms in place to manage and preserve the value and condition of assets pending the conclusion of confiscation proceedings, with a view to returning the assets in the future, and, where

³ General Assembly resolution [69/313](#), annex.

appropriate, non-conviction-based proceedings to recover identified proceeds of crime,

Concerned about the practical difficulties that both requested and requesting States face in asset recovery,

Recalling its resolution 6/2 of 6 November 2015, in which it noted the trend of the use of settlements and other alternative legal mechanisms by some States parties to conclude transnational corruption cases, and mindful that these new mechanisms, which have enhanced enforcement actions in some corruption cases worldwide, should be used in such a way that is mindful of the goals of the Convention to enhance the recovery of proceeds of crime and international cooperation among all affected States parties,

Noting that very small share of monetary sanctions are ultimately returned to the victims in settlements,

Recalling its resolution 6/2, in which it noted the growing practice of the use of settlements and other alternative legal mechanisms by States parties in concluding transnational bribery cases, and calling upon States parties to give due consideration to the involvement of the States parties in which the bribery originated or in which foreign officials were bribed,

Noting with concern that the failure to involve all relevant States parties in cases where settlements and alternative legal mechanisms are used, may, in some cases, have negative implications for efforts to prevent and sanction corruption,

Recalling its resolution 6/3 of 6 November 2015, in which it encouraged States parties to make widely available information on their legal frameworks and procedures, including those used in settlements and alternative legal mechanisms, in a practical guide or other format designed to facilitate use by other States, and encouraged States parties and the United Nations Office on Drugs and Crime to continue sharing experiences and building knowledge on the management, use and disposal of frozen, seized, confiscated and recovered assets, and to identify good practices as necessary,

1. *Urges* all States parties, in accordance with the United Nations Convention against Corruption,¹ to cooperate to recover assets derived from corruption, including embezzled public funds and stolen assets, to prevent and detect transfers of proceeds of crime including off-the-books assets derived from corruption, at home and abroad, and to demonstrate strong commitment to ensuring the return or disposal of such assets, including their return to the countries of origin, in accordance with article 57 of the Convention;

2. *Urges* States parties to, in accordance with the fundamental principles of their legal systems, take appropriate measures to promote transparency and accountability in the management of public finances, including recovered and returned assets;

3. *Emphasizes* that the utilization of returned assets is the sole responsibility of the requesting State and that no conditionalities may be imposed on the return of such assets;

4. *Urges* States parties, when concluding mutually acceptable arrangements for the return and final disposal of confiscated assets pursuant to article 57, paragraph 5, of the Convention, to fully respect the principles of sovereign equality and the territorial integrity of States and of non-intervention in the domestic affairs of other States, in line with article 4 of the Convention, and encourages States parties to share information on challenges and progress in concluding and implementing such agreements;

5. *Also urges* States parties, consistent with chapter V of the Convention, to ensure that they have adequate legal and institutional frameworks in place to prosecute corruption, to detect the illegal acquisition and transfer of assets derived

from corruption, to request and provide international legal cooperation, including mutual legal assistance, to ensure that there are suitable mechanisms in place – conviction-based and, where appropriate, non-conviction-based – to recover through confiscation the identified proceeds of corruption, to enforce foreign conviction-based and non-conviction-based orders in accordance with the requirements of the Convention and to ensure that such frameworks are enforced, and encourages technical assistance in this regard;

6. *Encourages* States parties to, in accordance with their domestic laws and in line with domestic priorities, consider the 2030 Agenda for Sustainable Development⁴ in the use of returned assets;

7. *Calls upon* States parties to give particular and timely consideration to the execution of requests for mutual legal assistance in asset recovery;

8. *Urges* requested States parties to respond in a timely manner to requests for assistance, pursuant to the terms specified in article 46 of the Convention;

9. *Encourages* States parties, where appropriate and in accordance with national law, to consider and review the best way to regulate the management of recovered and returned assets with a view to efficiently preserving and managing such assets and to continue to exchange their practical experience with interested States and providers of technical assistance upon request, taking into consideration, inter alia, the draft non-binding guidelines on the management of frozen, seized and confiscated assets;²

10. *Encourages* all States parties to participate and offer the largest degree of cooperation in the systematic collection of data on international asset recovery in corruption cases in order to identify trends in asset recovery volumes and practices, promote transparency and benefit from the implementation of the 2030 Agenda for Sustainable Development;

11. *Requests* the Secretariat, and invites the Stolen Asset Recovery Initiative, subject to the availability of extrabudgetary resources, to:

(a) Continue to provide States parties with information and knowledge products relevant to the implementation of chapter V of the Convention;

(b) Collect information from States parties on international asset recovery cases in relation to offences established in accordance with the Convention, including on volumes of assets frozen, seized, confiscated and returned; report on the findings to the Open-ended Intergovernmental Working Group on Asset Recovery and the Conference at their next sessions, and update the Asset Recovery Watch database;

(c) Continue to maintain and update the settlements database and to provide regular updates to the Open-ended Intergovernmental Working Group on Asset Recovery;

(d) Study how the use of settlements in practice could further promote the effective application of chapter V of the Convention;

(e) In consultation with States parties, and taking into account, inter alia, the information gathered during the first and second review cycles of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, and by panels and studies, to continue to collect information on the legal frameworks, legal procedures and judicial actions taken by States to recover proceeds of crime derived from offences established in accordance with the Convention;

(f) Collect information from States parties on the most common challenges in the judicial process with regard to asset recovery, and provide an analytical report to guide technical assistance;

⁴ General Assembly resolution [70/1](#).

12. *Directs* the Open-ended Intergovernmental Working Group on Asset Recovery to:

(a) Continue to collect information, with the support of the Secretariat, regarding the use by State parties of settlements and other alternative mechanisms and analyse the factors that influence the differences between the amounts realized in settlements and other alternative legal mechanisms and the amounts returned to affected States, with a view to considering the feasibility of developing guidelines to facilitate a more coordinated and transparent approach for cooperation among affected States parties;

(b) Collect information from Member States on challenges, good practices and lessons learned, and procedures allowing the confiscation of proceeds of corruption without a criminal conviction;

(c) Report its findings on each of these matters to the Conference of the States Parties at its next session, with the support of the Secretariat;

13. *Urges* States parties that use settlement and other alternative legal mechanisms to resolve corruption-related cases to collaborate with all relevant States parties to enhance international cooperation, information-sharing and the recovery of proceeds of crime;

14. *Calls upon* States parties that impose monetary sanctions through settlement and other alternative legal mechanisms, in accordance with their domestic law, to return the criminal fine and confiscated proceeds to the victims;

15. *Calls* the attention of States parties to Conference resolution 6/2, in which it directed the Open-ended Intergovernmental Working Group on Asset Recovery to initiate the process of identifying best practices for identifying victims of corruption, and encourages Member States to provide information on existing laws and practices on identification and compensation of victims of corruption;

16. *Directs* the Open Ended Inter-Governmental Working Group on Asset Recovery, with the assistance of the Secretariat, to sustain the process of identifying best practices and developing guidelines for proactive and timely sharing of information, in accordance with article 56 of the Convention;

17. *Encourages* States parties to enhance international cooperation and asset recovery by interpreting terms such as “proceeds of crime” and “victims of crime” in a manner consistent with the Convention;

18. *Calls upon* Member States to consider waiving or reducing to the barest minimum reasonable expenses deducted when recovering assets, particularly when the requesting State is a developing country, bearing in mind that the return of illicitly acquired assets contributes to sustainable development;

19. *Welcomes* the outcome of meetings of the Open-ended Intergovernmental Working Group on Asset Recovery, and requests the Working Group to develop a new multi-year workplan to continue its analytical work during the period 2020–2021, designating specific agenda items to be discussed as the main topic for each session;

20. *Requests* the Secretariat, within existing resources, to assist the Working Group in the performance of its functions, including by providing interpretation services in the six official languages of the United Nations;

21. *Invites* States parties and other donors to provide extrabudgetary resources for the purposes identified in the present resolution, in accordance with the rules and procedures of the United Nations.