



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

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Working Group on Asset Recovery

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Draft report

Addendum

III. Forum for discussions on capacity-building and technical assistance

1. At its meetings held jointly with the Implementation Review Group on 29 May 2019, the Working Group on Asset Recovery considered item 5 of its agenda entitled “Forum for discussions on capacity-building and technical assistance”, as well as item 4 entitled “Technical assistance” of the agenda of the Implementation Review Group. The joint meetings were held in line with resolution 6/1 of the Conference, in which the Secretariat was requested to structure the provisional agendas of the Implementation Review Group and the other subsidiary bodies established by the Conference in such a way as to avoid duplication of discussions, while respecting their mandate and pursuant to the workplan agreed for 2017–2019.¹
2. To facilitate the Group’s discussion a panel was organized on technical assistance required and technical assistance provided in relation to the management of frozen, seized and confiscated assets.
3. A representative of the Secretariat outlined how the draft non-binding guidelines on the management of frozen, seized and confiscated assets had been developed in line with resolutions 7/1 and 7/3 of the Conference of the States Parties. The representative recalled that earlier versions of the draft non-binding guidelines had been presented at the twelfth session of the Open-ended Intergovernmental Working Group on Asset Recovery and at the second resumed ninth session of the Implementation Review Group.
4. The representative informed the Group that the non-binding guidelines contained in document [CAC/COSP/WG.2/2019/3](#) reflected the comments received from States parties, including in response to Note Verbale CU 2019/27/DTA/CEB/CSS dated 28 January 2019. In addition, the representative presented concrete examples of the changes made, such as the removal of the annotations under each specific guideline, in view of making them more user-friendly and improving their practical application.

¹ Information on the panel on technical assistance required and technical assistance provided in relation to chapter V of the Convention and the ensuing discussions, which was held during the joint meetings of the two Working Groups, is contained in the report of the tenth session of the Implementation Review Group.



5. The panellist from Czechia made a presentation on the management of seized assets in his country, including relevant developments and challenges. He noted that asset management policies had been evolving due to dramatic increases in the volumes of the seized assets. For that purpose, a Centre for Seized Assets had been established in his country, with a two-fold objective, namely, preserving the value of assets and reducing asset maintenance costs. He also referred to challenges encountered in the asset management process, such as lack of coordination in pre-seizure planning between police investigators and asset management offices, the lack of specialized personnel in terms of managing seized assets, difficulties arising from coordination between various competent authorities, and inadequate public awareness and confidence in this regard. In addition, the panellist highlighted the importance of international cooperation and provided information on the membership, objectives and activities of the Criminal Assets Management and Enforcement Regulators Association (CAMERA).

6. The panellist from the State of Palestine recalled the unique legal tradition and system of his country and referred to its national efforts in adopting anti-corruption legislation and in amending it in order to duly reflect the recommendations emanating from the first cycle review under the Convention. In referring to successful cases of recovering assets from foreign jurisdictions, he highlighted challenges that his country had faced, such as the lack of national seizure and confiscation measures for corruption cases, and difficulties in negotiating mutual legal assistance agreements with other States. The panellist indicated that in none of the asset recovery cases to date, the Convention had been used as a basis. He expressed his country's willingness to learn from the good practices of other States in strengthening institutional arrangements in this area. The panellist referred to a request sent by his country for a training on "The Management of Seized and Confiscated Assets, and on the use of the UNCAC in Asset Recovery". He explained that the training was organized at the Rule of Law and Anti-Corruption Centre (ROLACC) in Doha and was jointly delivered by UNODC and the Central Office for Seizure and Confiscation (COSC) in Belgium. He also noted that pursuant to that training, the State of Palestine was considering establishing a dedicated asset management office.

7. The panellist from Italy outlined the tasks carried out by his country's National Agency for the Management and Disposal of Assets Seized and Confiscated from Organized Crime. He highlighted that, after the final confiscation, assets stolen by national and/or transnational organized crime groups were returned to the local communities by allocating them for social reuse or for the institutional purposes of the State, such as re-allocation to law enforcement organizations. For example, confiscated assets had been donated to volunteer organizations and were used to establish youth centres or provide assistance to victims of trafficking in persons. He underscored the high symbolic value of social reuse of demonstrating that criminal organizations were not invincible. With regard to the confiscation of companies, the panellist noted that, for each company, an assessment was being carried out to determine whether it could continue to operate licitly, or whether it had to be dissolved. He indicated that it was important to avoid dissolving licit companies, whose business model remained viable, in order to preserve employment and job opportunities.

8. A panellist from UNODC presented information about seizures and confiscations of cryptocurrencies. He explained the unique nature of cryptocurrencies and highlighted their wide use in the commission of various types of crimes, including corruption. He also stressed the challenges encountered by law enforcement authorities in seizing and confiscating cryptocurrencies as their transactions were decentralized. In addition, he noted the challenges regarding their management, and the dilemma in whether to keep or sell them, due to the constant fluctuation of their value. He provided information on the technical assistance provided by UNODC to States in addressing challenges posed by cryptocurrencies, in particular the training courses, which encompassed practical exercises, guidelines, software and eLearning modules, and encouraged States parties to avail themselves of training courses.

9. During the ensuing discussion, one speaker acknowledged the importance of bilateral and multilateral agreements in facilitating mutual legal assistance and shared information on his country's good practices in this area. He also stressed that his country had faced practical challenges in managing seized and confiscated assets, in particular in maintaining seized assets until their final confiscation.

10. In addition, one speaker raised a question on the applicable conditions for pre-confiscation sale of assets, while another speaker required more information on the seizure of bitcoins.

11. In response to queries and comments raised, a panellist explained that, in his country, pre-confiscation sales could be applied, subject to certain conditions, mainly to movable assets, which: (a) were perishable; (b) may lose their value rapidly; (c) were difficult to maintain or needed special maintenance expertise; (d) were too costly to maintain relative to their value; or (e) were easily replaceable. He also highlighted that other types of assets could be sold with the consent of the owner. The panellist further introduced his country's practices regarding the disposal of confiscated assets, such as compensating victims, or allocating them to the State budget. In response to a question on jurisdiction matters, another panellist explained the steps and measures that could be taken by law enforcement in seizing and confiscating bitcoins, such as locating the keys (passwords) for bitcoins. He also noted the role played by the so-called gatekeepers, in identifying the owners of the bitcoins and, in this regard, he stressed the importance of ensuring that such gatekeepers were licensed or registered by central banks or securities commissions and that bitcoin businesses were licensed and regulated.

12. A representative of the secretariat also drew the attention of the meeting to UNODC's study entitled *Effective Management and Disposal of Seized and Confiscated Assets 2017*.
