LOOK AT HOW TO USE THE REVIEW PROCESS FOR ADVOCACY ON TOPICS SUCH AS ACCESS TO INFORMATION, PUBLIC CONTRACTING OR ANTI-MONEY LAUNDERING AND ASSET RECOVERY

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ANTI-MONEY LAUNDERING

• Summary of UNCAC requirements (UNCAC Articles 14.1, 14.4, 52.1, 52.2, 52.3, 52.4 and 58)

• Article 14.1 & 4: Measures to prevent money-laundering

• Article 52.1 to 52.4: Additional requirements on banks & financial institutions

• Determining implementation into law & enforcement

• Assessment of implementation and enforcement
MEASURES FOR DIRECT RECOVERY OF PROPERTY

• A) Summary of UNCAC requirements (UNCAC Articles 53 and 56)
  • Articles 53 (a): Civil action - Ownership claims
  • Article 53 (c): Confiscation procedure - Ownership claims
  • Article 53 (b): Compensation for damages
  • Article 56: Proactive information sharing

B) Determining implementation into law & enforcement:
CONFISCATION TOOLS

• A) Summary of UNCAC requirements (UNCAC Article 54.1)
  • Article 54(1)(b): Confiscation of assets of foreign origin (see also UNCAC Article 23)
  • Article 54(1)(c): Confiscation without conviction

• B) Determining implementation into law & enforcement: Key questions and potential weaknesses
INTERNATIONAL COOPERATION FOR THE PURPOSE OF CONFISCATION

• A) Summary of UNCAC requirements (UNCAC Articles 54.2, 54(1)(a), 55(1), 55(6) and 56)

• Article 54(2)(a-c): Enforceability of foreign seizure orders, seizure upon foreign request and provisional measures

• Articles 54(1)(a), 55(1) & 55(6): Enforceability of foreign confiscation orders

• Article 56: Special cooperation
• Determining implementation into law & enforcement: Key questions, potential weaknesses and additional enforcement issues to consider

• Key questions to address while reviewing implementation
  • E.g. Is there a law on MLA which provides for the seizure of property upon foreign requests, and the enforcement of foreign seizure and confiscation orders?
  • Has your jurisdiction ever considered the possibility of introducing additional provisional measures to secure the assets (if not already introduced)?
THE RETURN AND DISPOSAL OF CONFISCATED PROPERTY

• Summary of UNCAC requirements (UNCAC Article 57)

• Domestic legislation should provide for the disposal and return of confiscated property as follows:

• Articles 57(3)(a) & (b): Where the confiscation is ordered in the requesting country and enforced in the requested country (i.e. in your jurisdiction) through MLA (cf. UNCAC Article 55), legislation should provide for the return of property to the requesting country

• Article 57(4) & (5): Reasonable costs and agreements on final disposal
• B) Determining implementation into law & enforcement: Key questions, potential weaknesses and additional enforcement issues to consider

• Key question to address while reviewing implementation: Are there provisions in your domestic legislation providing for the disposal and return of confiscated assets of foreign origin?
STATISTICS AND CASE INFORMATION

• Information on asset recovery cases

• SUMMARY OF GOOD PRACTICE AND DEFICIENCIES

• MONEYVAL CoE 32 Member States
  • Peer Review based on the FATF Model
  • FATF 40 Recommendations form 1996/2003

• Examples q/a

• https://rm.coe.int/report-on-fourth-assessment-visit-anti-money-laundering-and-combating-/1680715adc