



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

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## Sixth session

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### Draft report

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### Addendum

## IV. Asset recovery and international cooperation

1. At its 7th meeting, on 4 November 2015, the Conference considered agenda item 5, “Asset recovery”, and agenda item 6, “International cooperation”.
2. Alexander Konovalov (Russian Federation), in his capacity as President of the Conference, chaired the debate. In his introductory remarks, he recalled Conference resolution 5/3, entitled “Facilitating international cooperation in asset recovery”, Conference resolution 5/1, entitled “Enhancing the effectiveness of law enforcement cooperation in the detection of corruption offences in the framework of the United Nations Convention against Corruption”, and Conference resolution 4/2, entitled “Convening of open-ended intergovernmental expert meetings to enhance international cooperation”.
3. The secretariat provided an update on the sessions of the Open-ended Intergovernmental Working Group on Asset Recovery held since the last session of the Conference. In addition, information was provided on the activities carried out to develop cumulative knowledge, build confidence between requesting and requested States, and provide capacity-building and technical assistance to States. The relevant information is contained in documents CAC/COSP/2015/3, CAC/COSP/WG.2/2014/4, CAC/COSP/WG.2/2015/4 and CAC/COSP/2015/CRP.6.
4. The secretariat further provided an update on the third open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption (CAC/COSP/EG.1/2014/3) and the fourth meeting of the experts and introduced the note by the Secretariat on international cooperation in civil and administrative proceedings for the detection of offences established in accordance with the United Nations Convention against Corruption (CAC/COSP/EG.1/2015/2).



5. In the ensuing discussion, many speakers supported the launching of the second cycle of the Review Mechanism, expressing their expectation that it should provide an evaluation of the scope and efficiency of international asset recovery efforts, highlight remaining shortcomings and challenges, and help countries to overcome practical difficulties both domestically and in their cooperation with each other.
6. Several speakers supported the activities of the Open-ended Intergovernmental Working Group on Asset Recovery and the experts to enhance international cooperation under the United Nations Convention against Corruption. One speaker noted the importance of ensuring synergy between the experts to enhance international cooperation under the Convention and a similar expert group under the Conference of the Parties to the United Nations Convention against Transnational Organized Crime.
7. Many speakers emphasized that asset recovery is a fundamental principle of the Convention and a crucial element in achieving sustainable development. One speaker highlighted the connection between asset recovery and human rights, indicating that the recovered proceeds of crime could be used to assist the countries of origin in complying with their human rights obligations.
8. Speakers referred to various obstacles to successful asset recovery, including differences in legal systems and the complexity of the process, the lack of trust and political will, and the shortage of specialized technical capacities in many countries. Speakers further called for the elimination of safe havens for illicit funds, and of obstacles posed to international cooperation by bank secrecy. One speaker stressed in that regard the importance of depoliticizing asset recovery and focusing rather on technical solutions.
9. Another speaker indicated that absconding offenders had been identified as one of the main challenges to successful asset recovery. He also noted that sought persons frequently changed their nationality in order to avoid extradition, and underscored that the nationality held at the time of the commission of the offence should be the determining factor in extradition procedures.
10. Several speakers highlighted good practices that had helped their countries' authorities overcome some of the remaining obstacles encountered in their cooperation with foreign counterparts. Those speakers mentioned in particular the importance of enhancing the capacities of authorities and practitioners handling cases, being a member of various networks of asset recovery practitioners, posting liaison officers in foreign jurisdictions, sharing information proactively, introducing non-conviction-based confiscation mechanisms, preparing mutual assistance and asset recovery guides, and establishing financial intelligence units.
11. One speaker, while welcoming the efforts made to develop guidance for practitioners on asset recovery, raised the question of whether the time had come to consider adopting a separate protocol to the Convention to address some of the remaining barriers to asset recovery.
12. Several speakers underscored the benefits of cooperating in civil and administrative matters related to corruption. One speaker referred to the note by the Secretariat on international cooperation in civil and administrative proceedings for the detection of offences established in accordance with the

Convention (CAC/COSP/EG.1/2015/2), and voiced his concern with regard to the necessity to clearly distinguish between the scope of the measures available under article 46 of the Convention on one hand, and the scope of article 43 on the other, with the understanding that the principal aim of chapter IV of the Convention was cooperation in criminal matters.

13. Some speakers reported recent legal reforms that implemented the requirements of the Convention, including the adoption of specific legislation on the freezing, seizure and confiscation of proceeds of crime, the enactment of new mutual legal assistance laws, and the establishment of dedicated asset recovery offices. One speaker noted a significant increase in the number of Convention-based requests his country's competent authority had handled: 70 incoming requests for mutual legal assistance and 5 outgoing requests for extradition.

14. Several speakers commended the technical assistance provided by the United Nations Office on Drugs and Crime (UNODC), in particular through the Stolen Asset Recovery (StAR) Initiative managed jointly with the World Bank, and emphasized the crucial importance of the availability of such assistance in the highly complex field of asset recovery.

15. Underscoring the importance given to asset recovery in the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, the representative of Ethiopia noted the work, led by UNODC with the support of Italy, of the expert group meeting on the management, use and disposal of frozen, seized and confiscated assets, held in Reggio Calabria, Italy, from 2 to 4 April 2014, and the work, led by the International Centre for Asset Recovery, of the international experts workshop on returning stolen assets held in Kusnacht, Switzerland, on 24 and 25 October 2013. He further announced the intention of his Government to host, as a follow-up to the Third International Conference on Financing for Development, an international expert meeting to share experiences and identify good practices in the return and disposal of recovered assets and their use for the benefit of society.

16. A representative of the StAR Initiative reported on the progress made in the recovery of assets and drew the attention of delegations to existing gaps. The speaker highlighted the key role of financial centres in preventing and detecting illicit transfers, as well as the importance of efforts made with regard to beneficial ownership transparency.

17. A representative of the United Nations Convention against Corruption Coalition noted the importance of the principles of accountability and transparency, and expressed concern about the low level of implementation of article 53 (b) of the Convention. In addition, the speaker noted that immunities constituted a major obstacle to prosecution and underscored that more efforts were required to limit its scope.

18. A representative of Transparency International Russia outlined the gaps in legislation and law enforcement practices relevant to asset recovery, and possible means of improvement based on the standards enshrined in the Convention.