



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

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Report on the meeting of the Open-ended Intergovernmental Working Group on Asset Recovery held in Vienna on 24 and 25 August 2017

I. Introduction

1. In its resolution 1/4, the Conference of the States Parties to the United Nations Convention against Corruption established the Open-ended Intergovernmental Working Group on Asset Recovery. In its resolutions 2/3, 3/3, 4/4, 5/3, 6/2 and 6/3, the Conference decided that the Working Group should continue its work to advise and assist the Conference in the implementation of its mandate with respect to the return of the proceeds of corruption.

2. In addition, in its resolution 6/2, the Conference directed the Working Group to: (a) initiate the process of identifying best practices for identifying victims of corruption and the parameters for compensation; (b) initiate the process of identifying best practices and developing guidelines for proactive and timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention; (c) collect information, with the support of the Secretariat, regarding States parties' use of settlements and other alternative mechanisms and analyse the factors influencing 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 and effective return; and (d) report its findings on each of those matters to the Conference at its subsequent session, with the support of the Secretariat.

II. Organization of the meeting

A. Opening of the meeting

3. The Open-ended Intergovernmental Working Group on Asset Recovery held its eleventh meeting in Vienna on 24 and 25 August 2017.

4. The meeting of the Working Group was chaired by Friedrich Däuble (Germany). In opening the meeting, the Chair recalled the mandate of the Working Group and referred to Conference of the States Parties resolution 6/2, on facilitating international cooperation in asset recovery and the return of proceeds of crime, and Conference resolution 6/3, on fostering effective asset recovery, which were both adopted by the



Conference at its sixth session, held in Saint Petersburg, Russian Federation, from 2 to 6 November 2015.

5. The Director of the Division for Treaty Affairs of the United Nations Office on Drugs and Crime (UNODC) welcomed Japan as the most recent State party to the Convention. He made reference to the adoption of the 2030 Agenda for Sustainable Development, which created new momentum for asset recovery, and briefed the Working Group on recent developments. Networks of practitioners for asset recovery had been strengthened and new ones had been formed, such as the Asset Recovery Inter-Agency Network for the Caribbean, which had been inaugurated in early 2017. While important challenges remained, a number of activities and initiatives were being undertaken to address them. The work of UNODC on the management and disposal of seized and confiscated assets continued, with a view to identifying good practices. The second cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption provided an opportunity for States parties to thoroughly review their legal and institutional frameworks for asset recovery and to request technical assistance to address their needs. UNODC, in particular through the Stolen Asset Recovery (StAR) Initiative, which was a partnership with the World Bank, provided technical assistance in all regions, and the Director expressed the readiness of the Office to continue assisting States parties in the full implementation of chapter V of the Convention.

6. The Secretary of the Working Group introduced the topics for the Group's thematic discussions, namely: (a) proactive and timely sharing of information, in accordance with article 56 of the Convention; and (b) good practices for identifying victims of corruption and the parameters for compensating them, including as part of the disposal of recovered assets. He provided an overview of the documentation prepared to support the discussion. The Secretary noted that asset recovery continued to be high on the political agenda and had gained new momentum, especially following the adoption of the 2030 Agenda for Sustainable Development and the Addis Ababa Action Agenda of the Third International Conference on Financing for Development. Asset recovery was therefore being discussed in a number of international forums and several United Nations bodies, such as the General Assembly and the Human Rights Council. The Secretary urged States parties to strive for consistency and coordination in those discussions by recalling the unique character of the Convention as the only legally binding international instrument against corruption and the authoritative international legal framework for asset recovery.

7. The representative of Angola, speaking on behalf of the Group of African States, highlighted asset recovery as a fundamental pillar of the Convention and emphasized the importance of the unconditional return of assets to the countries of origin in accordance with the Convention, in particular in the light of the right to development. The speaker recalled the Addis Ababa Action Agenda and welcomed recent international events on asset recovery and the fight against illicit financial flows, including the international conference, organized in partnership with Norway, on promoting international cooperation in combating illicit financial flows and enhancing asset recovery to foster sustainable development held in Abuja from 5 to 7 June 2017, the focus of which had been policy measures, tools and strategies. Making reference to the mandates given to the Working Group by the Conference in its resolution 6/2, he highlighted that, in the context of settlements and other alternative mechanisms, the development of guidelines to facilitate a more coordinated and transparent approach for cooperation among affected States parties and effective return would assist States parties in their efforts. He expressed the serious concern of the Group of African States about weaknesses in international cooperation and information-sharing as well as about continuing barriers to asset recovery at the technical and political levels. He called upon all requested States parties to commit political will and reform national systems with a view to supporting the recovery and swift return of stolen assets and highlighted the need to provide technical assistance to requesting States.

8. The representative of the European Union highlighted the importance of a sound national confiscation policy for the functioning of international asset recovery. He expressed support for the Addis Ababa Action Agenda and highlighted that returned assets should be used in a transparent manner that contributed to sustainable development. He made reference to directive 2015/849 of the European Parliament and the Council of the European Union, on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing, directive 2014/42/EU of the European Parliament and of the Council, on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union, and a new legislative proposal by the European Commission on mutual recognition by member States of freezing and confiscation orders. He informed the Group that the possibility of a further legal instrument was being considered, in order to broaden the scope for accessing centralized bank and payment account registers, including by anti-corruption agencies and asset recovery offices. The speaker also made reference to a Council of the European Union resolution on a model agreement for setting up a joint investigation team, and the draft Lausanne guidelines for the efficient recovery of stolen assets. At the operational level, the European Commission facilitated cooperation between the States members of the European Union by supporting the European Union Asset Recovery Offices Platform, through the Secure Information Exchange Network Application of the European Police Office (Europol), and the Camden Asset Recovery Inter-Agency Network.

B. Adoption of the agenda and organization of work

9. On 24 August 2017, the Working Group adopted the following agenda:
1. Organizational matters:
 - (a) Opening of the meeting;
 - (b) Adoption of the agenda and organization of work.
 2. Overview of progress made in the implementation of asset recovery mandates.
 3. Forum for advancing practical aspects of asset recovery, including challenges and good practices.
 4. Thematic discussions:
 - (a) Proactive and timely sharing of information, in accordance with article 56 of the Convention;
 - (b) Good practices for identifying victims of corruption and the parameters for compensating them, including as part of the disposal of recovered assets.
 5. Forum for discussions on capacity-building and technical assistance.
 6. Adoption of the report.

C. Attendance

10. The following States parties to the Convention were represented at the meeting of the Working Group: Afghanistan, Algeria, Angola, Argentina, Austria, Azerbaijan, Bahrain, Belarus, Belgium, Benin, Bolivia (Plurinational State of), Brazil, Brunei Darussalam, Burkina Faso, Canada, Chile, China, Colombia, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czechia, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Japan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Libya, Malaysia, Mauritius, Mexico, Morocco, Myanmar, Namibia, New Zealand, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal,

Qatar, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, State of Palestine, Sudan, Switzerland, Thailand, Togo, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam, Yemen and Zimbabwe.

11. The European Union, a regional economic integration organization that is a party to the Convention, was represented at the meeting.

12. The following United Nations programmes and funds, institutes of the United Nations crime prevention and criminal justice programme network and specialized agencies of the United Nations system were represented by observers: United Nations Environment Programme, United Nations Interregional Crime and Justice Research Institute and the World Bank.

13. The following intergovernmental organizations were represented by observers: Asian-African Legal Consultative Organization, Commonwealth of Independent States, International Anti-Corruption Academy, International Criminal Police Organization (INTERPOL) and International Institute for Democracy and Electoral Assistance.

III. Overview of progress made in the implementation of asset recovery mandates

14. The representative of the secretariat provided an overview of the progress made in the implementation of the mandates of the Working Group regarding developing cumulative knowledge and building confidence and trust between requesting and requested States. With regard to the development of cumulative knowledge, it was, *inter alia*, noted that the Tools and Resources for Anti-Corruption Knowledge (TRACK) portal had been developed and expanded and, at the time of reporting, contained laws, information and jurisprudence from over 180 jurisdictions. It was also noted that, in January 2016, UNODC had launched an e-learning anti-corruption tool that included an asset recovery module. The speaker further reported on the secretariat's contribution to the finalization of a step-by-step guide to support the practical application of the draft Lausanne guidelines for the efficient recovery of stolen assets. The speaker offered different options for the consideration of the Working Group with regard to ways to collect and publish data on the volume of assets seized, confiscated and returned or disposed of by States parties, in order to carry out the mandates contained in Conference resolution 6/3. The Working Group was also briefed on the efforts that the secretariat had undertaken to implement the mandates contained in resolutions 6/1 and 6/4 and was informed about the work being carried out to strengthen confidence and trust between requesting and requested States through the use of practitioners' networks and through engaging in advocacy in a number of international forums.

15. Speakers highlighted the importance of the full implementation of chapter V in order to apply a comprehensive and holistic approach to the fight against corruption at both the national and international levels. It was noted that Conference resolutions 5/3, 6/2 and 6/3 provided important guidance for enhancing international cooperation in asset recovery in line with chapter V of the Convention. Many speakers also emphasized that developing countries suffered disproportionately from the negative impact of corruption and illicit financial flows on their economies. The importance of asset return in the context of financing for development and achieving the Sustainable Development Goals was highlighted in that regard.

16. A number of speakers emphasized the progress made in their national asset recovery efforts and presented information on recent national legal and institutional reforms and initiatives with regard to enhancing their countries' capacity to effectively cooperate in asset recovery cases. Such reforms included the adoption of comprehensive

domestic legislation, including specialized legislation on mutual legal assistance, asset recovery and money-laundering, the development of country-specific asset recovery guides, the establishment of centralized and specialized agencies and the appointment of specialized law enforcement personnel for asset recovery and the management and disposal of seized and confiscated assets; and the inclusion of asset recovery clauses in mutual legal assistance agreements. Several speakers cited examples of successful asset recovery in transnational corruption cases.

17. Cognizant of the crucial importance of complying with national legislation and the rule of law, several speakers reported on practical challenges resulting from excessive procedural requirements and the resulting delays in the asset recovery process, lack of familiarity with domestic legal procedures, lack of trust and confidence between requesting and requested States, and differences in procedures in various jurisdictions. The speakers also urged the international community to strengthen efforts for effective asset recovery. Some speakers also referred to the necessity of recovering assets from financial centres and tax havens, and existing difficulties in that regard.

18. The complexity of asset recovery cases, difficulties in inter-agency coordination at the domestic level and challenges related to the tracing of assets and the timely sharing of information were highlighted. Many speakers underlined the need to share good practices and to enhance capacity-building activities. The importance of addressing the issue of illicit financial flows more generally was also noted by several speakers.

19. One speaker highlighted the importance of addressing the issue of recovering cultural and historical artefacts and urged States to cooperate with his country in that regard by, *inter alia*, providing technical assistance.

20. Several speakers welcomed the assistance provided by UNODC and the StAR Initiative, as well as other technical assistance providers, and also welcomed important international initiatives such as the Global Forum on Asset Recovery, the Arab Forum on Asset Recovery, regional networks of asset recovery practitioners and the International Centre for Asset Recovery of the Basel Institute on Governance.

21. One speaker suggested that, because of the close connection between the second cycle of the Implementation Review Mechanism, on the implementation of chapters II and V, and the work of the Working Group, the Conference and the Working Group could consider focusing on issues such as finding solutions to practical problems in asset recovery that resulted from differences in the legal systems of Member States. That could involve identifying the most important areas of bilateral and multilateral cooperation, designing practical steps to facilitate asset recovery processes, identifying key decision makers in different jurisdictions, simplifying relevant procedures and providing new tools, and enhancing capacities and establishing goodwill among States parties. The speaker also highlighted that successful international cooperation and technical assistance were crucial for the success of asset recovery.

22. Several speakers welcomed the conference room paper containing a study prepared by the secretariat on effective management and disposal of seized and confiscated assets ([CAC/COSP/WG.2/2017/CRP.1](#)) and emphasized the usefulness of sharing information on domestic systems for the management of confiscated assets.

23. One speaker noted that States had different mechanisms for the disposal of returned assets and that decisions on how to dispose and manage returned assets fell under the sovereignty of the State to which the assets were returned. As an example of a good practice, he highlighted a bilateral asset-sharing treaty that his country had concluded with another State party.

24. One speaker noted the significant progress that had been made in the field of asset recovery since the adoption of the Convention. He made reference to 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 progress made at that meeting in developing constructive ideas on how to advance the identification of good practices for the process of asset return. The speaker also referred to a bilateral memorandum of understanding that his country had concluded, in which the management of returned assets had been specifically addressed.

25. Some delegations pointed to the need to strengthen the international legal regime on asset recovery by elaborating, under the auspices of the United Nations, a comprehensive international legal instrument in that field, taking into account existing treaties. It was noted that such an instrument could fully address the existing legal gaps, uncertainties and discrepancies in the legal provisions of different States with regard to the seizure, confiscation and recovery of criminal proceeds. Such an instrument could also address the issues of inadequate regulations on the execution of asset recovery requests in the context of mutual legal assistance, as well as the disposal of seized, confiscated and returned assets. It was highlighted that such an instrument could strengthen the political will of States to return assets, bridge the gap between different legal regimes and provide a basis for constructive cooperation among States.

26. Some delegations welcomed the proposal, in particular in relation to harmonizing fragmented domestic approaches to asset recovery and the challenges that continued to exist in that area. Some delegations asked the secretariat to further elaborate on the proposal during the preparations for the subsequent Working Group meeting.

27. Some other speakers noted that, in their view, chapter V of the Convention adequately addressed the process of asset recovery and emphasized that they would not support an additional international instrument. Some speakers specifically noted that such a discussion before the finalization of the review of chapter V of the Convention would be premature.

IV. Forum for advancing practical aspects of asset recovery, including challenges and good practices

28. Several speakers emphasized the central role of the Working Group as a forum for sharing good practices, experiences and obstacles encountered in the area of asset recovery. In addition, given the focus of the ongoing second cycle of the Implementation Review Mechanism on chapter V of the Convention and its unique potential to collect and analyse valuable information on the topic, the work of the Working Group was stressed as being particularly relevant. The importance of Conference resolution 6/2, entitled “Facilitating international cooperation in asset recovery and the return of proceeds of crime”, was also highlighted by several speakers.

29. Several speakers also underlined the importance of other regional and international forums and mechanisms to advance cooperation in the area of asset recovery. In that context, several speakers highlighted the benefits of joining existing regional networks of asset recovery practitioners, such as the Camden Asset Recovery Inter-Agency Network, the Asset Recovery Inter-Agency Network for Asia and the Pacific, the Asset Recovery Network of the Financial Action Task Force of Latin America against Money-Laundering and the European Union Asset Recovery Offices Platform. In addition, some speakers provided an update on and highlighted the value of several events that had taken place since the last meeting of the Working Group, including the meeting on the management and disposal of recovered and returned stolen assets held in Addis Ababa in February 2017 and the conference on promoting international cooperation in combating illicit financial flows and enhancing asset recovery to foster sustainable development held in Abuja in June 2017.

30. Other speakers welcomed the practical guides and manuals developed by several countries that provided useful information on the channels of communication and the

requirements for mutual legal assistance to jurisdictions seeking cooperation in asset recovery cases. One speaker provided an update on the Lausanne Process and the draft Lausanne guidelines for the efficient recovery of stolen assets, as well as on a forthcoming step-by-step online guide.

31. The challenge of providing timely and effective mutual legal assistance was highlighted by many speakers as a key requirement for being in full compliance with chapter V of the Convention. One speaker emphasized that, in line with article 43 of the Convention, international cooperation was not limited to criminal matters but could also be employed in relation to civil and administrative matters. Another speaker pointed out that it was a good practice to use the Convention as a legal basis for international cooperation and asset recovery. The need to simplify the procedures and to execute the requests for assistance as expeditiously as possible was also noted. Several speakers also encouraged States to spontaneously share information that could facilitate asset recovery, in line with article 56 of the Convention. In the same vein, several speakers mentioned that building trust and confidence was often facilitated through the voluntary sharing of information. Several speakers reported on new mutual legal assistance treaties and asset-sharing agreements that they had entered into with other States. One speaker noted that all his country's new mutual legal assistance treaties included provisions on the disposal of assets.

32. Several speakers shared information on specific asset recovery cases that had been successfully concluded or in relation to which challenges were faced that had not yet been overcome. One challenge mentioned by several speakers was the identification of the victims of corruption. However, one speaker also noted that the State should be seen as the primary victim of corruption and that problems related to the identification of victims should not stand in the way of returning assets efficiently and expeditiously. The lack of transparency in relation to beneficial ownership was another challenge referred to by several speakers, and recent efforts by many countries to enhance transparency through various measures, including the introduction of public registers, were mentioned. Also in that respect, one speaker stressed the crucial role that tax authorities and the Global Forum on Transparency and Exchange of Information for Tax Purposes of the Organization for Economic Cooperation and Development (OECD) could potentially play in the fight against bribery and, more broadly, other offences under the Convention. It was recalled that OECD had developed a manual to raise tax officials' awareness of acts of corruption.

33. The importance of creating specialized prosecution units and asset recovery offices was highlighted by several speakers. A number of delegates informed the Working Group that their countries had recently established such units or offices and had charged them with the identification, tracing, freezing and recovery of the proceeds of crime, as well as the management and disposal of such proceeds.

34. Several speakers noted that their countries had only limited experience and capacities in the field of asset recovery and return. A lack of resources, including human, financial and technical resources, and limited training provided to relevant officials were reported. Specialized and targeted technical assistance was noted as important in that regard. One speaker noted that there was a growing body of evidence and practical experience in that area that was of great value and should guide future efforts.

V. Thematic discussion

A. Thematic discussion on proactive and timely sharing of information, in accordance with article 56 of the Convention

35. The representative of 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 and on

the country reports and executive summaries of the 156 States parties that had finalized their country reviews on article 46, paragraph 4, of the Convention (that paragraph being closely linked to article 56). The document reflected the current state of knowledge about treaties, national legislation and country practice. The speaker suggested good practices for further discussion by the Group in six areas: (a) spontaneous information-sharing without a treaty basis and without assurance of reciprocity; (b) specific legislation on spontaneous sharing of information, (c) the institutions that should be granted the right to spontaneously transmit information; (d) the role of receiving countries; (e) spontaneous information-sharing in cases of administrative freezing orders; and (f) spontaneous information-sharing in settlements cases.

36. The panellist from Switzerland informed the Working Group that Swiss legislation foresaw the spontaneous transmission of information at three levels. He explained the practice of proactive information-sharing at those three levels and gave details on their advantages and disadvantages. At the judicial level, Swiss authorities could share confidential information directly with 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 that obstacles existed with regard to sending information that was subject to a letter rogatory. In comparison, under Swiss law, spontaneous transmission of information between financial intelligence units was subject to stricter conditions, such as approval by the unit, and was limited to cases related to money-laundering or the financing of terrorism. Such transmission could be very useful, as it might give rise to financial investigations. However, it was naturally restricted to the information that the Swiss financial intelligence unit possessed. The relatively recent legislation on spontaneous transmission of information at the administrative level foresaw that the Government body that had frozen funds had the authority to send relevant information abroad, which would enable foreign countries to conduct further steps towards asset recovery. The panellist provided relevant statistics and stressed that only one case had been recorded to date at the administrative level, while at the judicial and financial intelligence unit levels, spontaneous disclosure of information was a frequent practice.

37. The panellist from Belgium presented the case involving the former President of Tunisia, Mr. Ben Ali, from the perspective of Belgium. Domestic legislation had not been enacted to support the implementation of Council of the European Union decision 2011/72/CFSP of 31 January 2011, concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia. However, Belgium had opened a national investigation into money-laundering and, on the basis of the Convention, had swiftly frozen and seized relevant assets, set up a system for proactive information exchange and established direct contact with Tunisia to assist with the mutual legal assistance request. Following that, a platform for operational information-sharing in asset-tracing investigations related to Mr. Ali and his family members had been set up 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 that process, as they facilitated dialogue and built mutual confidence, which were important for the later stage of asset return. She proposed that the Working Group further consider how focal points for information exchange from the various networks could be brought together and how communication and coordination between various networks could be improved.

38. The panellist from the Egmont Group informed the Working Group about the role of the Egmont Group in spontaneous information-sharing. A body of financial intelligence units, the Egmont Group had been established in 1995 and had 156 members. Under principle 11 of the Egmont Group Principles for Information Exchange between Financial Intelligence Units, 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,

Egmont Secure Web, which member institutions could use to share information. The speaker highlighted the importance of the capacity and equipment of the financial intelligence unit for efficient information-sharing. The speaker provided an example of a case between Lebanon and Tunisia, in which the sharing of information between financial intelligence units had been instrumental in the successful recovery of assets.

39. In the ensuing discussion, speakers expressed their commitment to the proactive and timely sharing of information and reported on their countries' experience in that regard. They referred to their countries' specific legislation or explained that their institutions shared information on the basis of established practice or the Convention, instead of legislation. They shared relevant provisions of their regional treaties, such as article 6, subparagraph (a), of the Security Agreement of the Gulf Cooperation Council. One speaker informed the Working 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 the StAR Initiative, Eurojust and the Egmont Group. 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 the political commitment of requested States and the availability of technical capacity for swift information-sharing.

40. 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 and support provided to the requesting country in the preparation of a mutual legal assistance request. One speaker highlighted that, in settlement cases in particular, success often depended on cooperation among various jurisdictions; the spontaneous sharing of information was therefore of high importance.

B. Thematic discussion on good practices for identifying victims of corruption and the parameters for compensating them, including as part of the disposal of recovered assets

41. A representative of the secretariat briefed the Working Group on actions taken to support the implementation of resolution 6/2 with regard to the collection of information on the use of settlements and other alternative mechanisms. He informed the Group that a note verbale requesting the provision of relevant information from all States parties and signatories had been sent in May 2017. Few States had responded to report recent amendments to their domestic legislation introducing settlements or similar alternative mechanisms in criminal cases based on the recommendation of the public prosecution and approval by judicial authorities. Such mechanisms allowed for the possibility of a mitigated punishment in exchange for the return of illegal gains and due compensation to the victim. One State reported on its extensive use of settlements for the prosecution of legal and natural persons implicated in foreign bribery offences, though it also outlined that the monetary sanctions applied in those proceedings could not be considered to be the assets subject to return based on the requirements of chapter V of the Convention. The response of that State further highlighted that effective intergovernmental cooperation was crucial for the success of international asset recovery efforts.

42. With regard to the issue of victim compensation, a representative of the secretariat referred to resolution 6/2, in which the Conference directed the Working Group to initiate the process of identifying good practices for identifying victims of corruption and the parameters for compensation, as well as to conference room paper [CAC/COSP/WG.2/2016/CRP.1](#), prepared for the tenth meeting of the Working Group. The speaker recalled that the Working Group, at its tenth meeting, had requested the

secretariat to continue its efforts, subject to the availability of resources, in gathering information on the topic, including through soliciting information from States parties and organizing an expert panel at the eleventh meeting of the Group. The speaker explained that, in order to implement that mandate, a note verbale had been sent on 2 May 2017 inviting all Member States to continue sharing information on the issue. From the 10 responses received, the secretariat had concluded that, while legal avenues existed for victims to claim compensation, very few compensation cases concerning victims of corruption had been reported and it was largely unknown how the existing legal frameworks operated in practice. However, the second cycle of the Implementation Review Mechanism was a useful source of information on the issue of victim compensation, in particular in the context of articles 53 and 57. It was to be hoped that further work and analysis might be conducted in the context of the review of implementation of those and other articles as the second cycle progressed.

43. The panellist from the United Kingdom described measures taken and challenges faced in an international corruption case in which another State had been a victim of the corrupt practices of a company based in the United Kingdom. Following a settlement agreement and judgment, a payment had been made “for the benefit of the people” that had ultimately been used to improve the education sector in that country. The panellist noted that several significant lessons had been learned for the United Kingdom from that case. In particular, the case had illustrated the importance of effective domestic inter-agency coordination. In addition, the panellist explained that it was unlikely that judgments would be issued in such unspecific terms in future, and that the courts would be asked for a much clearer shaping of responsibilities in compensation payments. He also stressed the need for cooperation between the relevant States so as to increase confidence levels on both sides. The panellist emphasized that it was important to address the high expectations of external observers regarding ensuring that corruption did not taint the process, as well as ensuring that the funds were used sensibly and without permanent financial consequences as a result. The importance of transparency and accountability was noted in that regard.

44. The panellist from Indonesia presented a case in which assets had been returned to Indonesia following a 20-year-long civil case regarding bribe payments to an executive of a State-owned company by the company’s contractors. The case had been adjudicated in another country, where the funds had been laundered. The panellist noted several key lessons learned from that case with regard to returning assets to victims. They included the need for greater transparency in both the requested and requesting States, the need for more prompt recovery of public funds, the need for robust legal frameworks and the use of asset recovery networks to support international cooperation in recovery efforts. He added that States parties incurring damage as a result of corruption should consider using alternative mechanisms to mutual legal assistance, such as direct recovery through civil action, which could sometimes be more effective.

45. In the ensuing discussion, on the subject of settlements, one speaker highlighted his country’s understanding that the fines applied as punitive sanctions in settlement cases were not considered proceeds of crime in the sense of the Convention. He also outlined the need to ensure transparency and accountability in the disposal of assets and stressed that effective intergovernmental coordination was crucial for international efforts to fight corruption and recover stolen assets. Another speaker noted that, in his view, settlements and alternative mechanisms could not be considered as the most effective avenues for asset recovery and that better coordination between the application of different legal measures, including civil, administrative and criminal measures, was important for the success of international asset recovery efforts. Another speaker highlighted the importance of international cooperation for facilitating and reducing the costs of asset recovery through civil proceedings.

46. With regard to victim compensation, speakers welcomed the transparent and accountable allocation of returned assets to compensate victims and enhance

development in States. They emphasized the need to ensure that returning States were mindful of their obligation regarding the unconditional return of assets, in accordance with the Convention. Speakers noted the various available avenues and trade-offs related to recovering assets and compensating victims. They underscored the importance of engaging in a balancing exercise in each case, taking into account the length of proceedings, as well as the consequences to victims and the risk that bribe-payers might not be subject to prosecution in the case of civil proceedings.

47. Several speakers noted that there was no one-size-fits-all approach, including in terms of the identification of victims. One speaker noted that identifying victims involved complicated analysis; that complexity increased substantially depending on the type of corruption offence involved. One speaker noted that a State could be a victim even in cases involving the culpability of its own officials. Several speakers suggested increased efforts that could be taken by States to ensure the return of assets to victims, such as greater building of trust, information sharing, inter-agency coordination and the use of foreign representation where it assisted in facilitating returns. Speakers noted that they had learned a number of lessons and were improving their approaches to the return of assets, including for victim compensation, such as through the use of clear procedures or guidelines.

48. The Secretary of the Working Group noted the discussion with appreciation and emphasized that the second review cycle, with its focus on chapter V of the Convention, would generate more knowledge on how States parties implemented their obligations. In the context of settlements and other alternative mechanisms, the punitive and retributive nature of relevant fines or disgorgement ought to be further taken into account, particularly in the context of the discussion on compensating the victims of corruption offences. The Secretary further noted with appreciation the discussion distinguishing between the legal means used to compensate victims and the disposal of assets. He suggested that consideration could be given by States to providing guidance to judges and other practitioners on the need for consistency of domestic actions with the obligations undertaken by the country concerned under the Convention. He welcomed further discussion by the Group relating to issues such as the basis for the assessment of risk to the returned assets and the disposal of assets.

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

49. A representative of the secretariat gave a briefing on technical assistance and capacity-building provided by UNODC, primarily through the StAR Initiative.

50. The representative of the StAR Initiative provided more detail on technical assistance activities. She explained that country engagements were designed as multi-year programmes and covered a range of diverse activities, including: (a) assistance with tactical analysis, establishing asset recovery strategies, financial investigation techniques, asset disclosure and forensic audits in preparation for cases; (b) case management advice; (c) facilitation of contacts and case consultations with other jurisdictions; and (d) the drafting and processing of mutual legal assistance requests. UNODC and the StAR Initiative worked with financial intelligence units, law enforcement officials, public prosecutors, central authorities, judges and magistrates and ministries of foreign affairs, finance and justice, along with a range of other officials from all regions.

51. Such assistance involved both generic capacity-building activities and targeted, case-related engagement. StAR Initiative methodologies included more traditional training workshops, the placement of mentors and the practical facilitation of coordination and cooperation, both domestically and internationally.

52. During the previous year, 24 countries, one asset recovery forum and three regional networks had received such assistance through the StAR Initiative, and new requests had been received from 7 countries.

53. The representative of the secretariat also introduced the study on effective management and disposal of seized and confiscated assets contained in conference room paper [CAC/COSP/WG.2/2017/CRP.1](#). The study was the result of a joint initiative of UNODC and the Region of Calabria, Italy, and the information contained therein had been collected from 64 countries. As further trends emerged, the study would provide a basis for the formulation of good practices or, in some areas, of criteria for informed policy choices. The study was submitted to the Working Group for comments by 30 September 2017. On the basis of the work done in relation to the study, the Governments of Ethiopia and Switzerland organized a workshop on the management and disposal of recovered and returned assets in Addis Ababa in February 2017 that had brought together, for the first time, asset recovery practitioners and experts on financing for development. Participants in the meeting had concluded that more work was required on the management of seized and confiscated assets pending the return, end use and disposal of returned assets and on the modalities and negotiation of agreements for returning assets.

54. The panellist from Spain presented to the Working Group the structure and mandates of the Office for Asset Recovery and Management (ORGA), which comes under the scope of the Ministry of Justice and takes action pursuant to an order by any competent judge or court, at the request of the Public Prosecution Service or on its own initiative. ORGA was established in 2015 and it was actively involved in all stages of the asset recovery process, namely the tracing, seizing, return, conservation, management and realization of returned assets and their subsequent allocation. Members of the national police and *guardia civil* were attached to ORGA to carry out investigations. The analysts had direct access to many different databases when fulfilling judicial orders. The panellist also outlined the importance of effective domestic inter-agency coordination and the proactive use of opportunities afforded by various global and regional asset recovery focal point networks, including the use of their databases and secure contact channels. The panellist highlighted the role played within the Ministry of Interior by the Intelligence Centre against Terrorism and Organized Crime (CITCO), the asset recovery office within the police, and the law enforcement agencies (national police and *guardia civil*). He also highlighted the need to enhance information exchange in order to provide for access by all asset recovery offices to bank account databases.

55. The panellist from the United Republic of Tanzania explained that the confiscation of corruptly obtained proceeds was generally governed by the Prevention and Combating of Corruption Act and the Proceeds of Crimes Act. In cases where assets were restrained, the services of the Registration Insolvency and Trusteeship Agency and other registered institutions could be employed. The Registration Insolvency and Trusteeship Agency, the Prevention and Combating of Corruption Bureau, the police and the judiciary were responsible for applying seizure procedures. The attorney general of the country was responsible for applying forfeiture procedures, on the basis of the Proceeds of Crimes Act. Although responsibility for asset management was not vested in one particular institution and the law did not specifically regulate inter-agency coordination in that regard, in practice, all the relevant agencies coordinated their actions well. The panellist informed the participants about the establishment of a specific unit for asset tracing and recovery within the Prevention and Combating of Corruption Bureau to investigate offences involving properties obtained corruptly.

56. The panellist from France introduced the French Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC). He explained that, building on international experiences and best practices, France had opted for the model of a single agency to unite the functions of an asset recovery office and an asset management office. As a result of that double function, AGRASC reported to two ministries, namely, the Ministry of Justice and the Ministry of Finance. The panellist highlighted that the Agency was entirely self-funded, with the main share of its income stemming from revenue generated from frozen and seized assets. While its mission was to assist the courts and law enforcement agencies, it did not have judicial

or police powers. In addition to the management of seized assets, the Agency was also tasked with international legal assistance in criminal matters, including exchange of information within networks such as the Camden Asset Recovery Inter-Agency Network. Seized movable assets could be sold before a final judgment to facilitate the management of assets, and even if a judgment in favour of the defendant was made, the proceeds would be returned only after any other public debts had been discharged.

57. The panellist from Honduras presented the Office for the Administration of Seized Property (OABI). He recalled that the legal basis for its work was the Act on the Illicit Use and Trafficking of Drugs and Psychotropic Substances, the Anti-Money-Laundering Act, the Financing of Terrorism Act and the Act on the Confiscation of Illicit Goods. Under those acts, OABI, as a specialized administrative body, was responsible for both the management of frozen and seized assets and the final disposal of confiscated assets. The panellist highlighted that OABI was empowered to make seized objects, such as vehicles, planes and vessels, available for temporary use by State organs. Furthermore, the Office could also authorize the anticipated sale or lease of assets, including real estate. In cases where the management of seized assets required specialist skills and knowledge, the Office could outsource administration to third parties. It was stressed that that possibility was very useful in cases where complex assets, such as ongoing business concerns, had to be managed. In addition, the Office was tasked with the compensation of victims through the restitution of confiscated assets in the case of certain offences, including corruption.

58. Speakers briefed the Working Group on their work on asset management. Several speakers emphasized the need for capacity-building and technical assistance in that area, while others informed the group of their efforts to provide technical assistance on a bilateral basis.

59. One speaker specifically highlighted his country's efforts to ensure that seized and confiscated assets were disposed of in a manner that ensured the use of the assets for the benefit of the communities affected.

60. Several speakers stressed the importance of technical assistance provided by other States parties, UNODC and the joint UNODC/World Bank StAR Initiative in the field of asset recovery generally, including in the field of countering the financing of terrorist organizations.

61. One speaker specifically noted the long-term cooperation of his country with UNODC and the StAR Initiative and reported on the results achieved, including the improved capacity of law enforcement practitioners, the establishment of a working relationship with requested jurisdictions and the seizure of assets located in financial centres.

62. Several speakers highlighted the role played by asset recovery inter-agency networks, such as the Camden Asset Recovery Inter-Agency Network and similar bodies in other regions, in fostering trust and cooperation. One speaker informed the Working Group of efforts to set up a new asset recovery inter-agency network for Central Asia.

63. Several speakers emphasized the importance of transparency with regard to the management of seized, confiscated and returned assets, also in the context of sustainable development. Some speakers noted the progress made in the discussions on the end use of returned assets, including in support of the Sustainable Development Goals, as well as on modalities and negotiation of agreements for returning assets. In that context, some speakers welcomed the outcome of 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 in February 2017.

64. In that regard, some speakers emphasized that no conditions could be imposed on the use and disposal of returned assets, as decisions in that regard were a sovereign matter for States.

65. One speaker underlined the important role of civil society, and in particular investigative journalists, in the fight against corruption and asset recovery.

VII. Conclusions and recommendations

66. The Working Group re-emphasized the importance of the continuing efforts of States parties to build trust and confidence, overcome differences in legal systems, simplify procedures and develop new technical tools. To that end, the Working Group highlighted the importance of improving and strengthening political will.

67. The Working Group urged States parties to continue to work towards identifying and addressing practical barriers to cooperation in asset recovery and finding solutions.

68. The Working Group noted the initiative of the secretariat to organize, with support from the Russian Federation, an expert group meeting on transparency of beneficial ownership, and requested the secretariat to update the Group on the outcomes of that meeting.

69. The Working Group re-emphasized the need for States parties to make information on settlements and other alternative mechanisms available, including, where appropriate, through public means.

70. The Working Group recommended further discussion on specific cases and lessons learned relating to various practical aspects of victim compensation. The Working Group also encouraged States parties to share any existing guidelines or principles in that area that were followed by practitioners in their jurisdictions.

71. The secretariat, in consultation with the Working Group, should continue its efforts to identify best practices and develop guidelines for proactive and timely sharing of information. Further to the points for discussion proposed in document [CAC/COSP/WG.2/2017/2](#), it could be discussed how focal points for information exchange from the various networks could be brought together and how communication and coordination between various networks could be improved. The Working Group welcomed the initiative to establish interlinkages between combating illicit financial flows and enhancing asset recovery through effective international cooperation and capacity-building.

72. The Working Group welcomed the study on the effective management and disposal of seized and confiscated assets contained in [CAC/COSP/WG.2/2017/CRP.1](#) and encouraged the secretariat to continue work on good practices in that regard.

73. The Working Group noted with appreciation the results of the international expert meeting on the management and disposal of recovered and returned stolen assets and encouraged further compilation of experiences with a view to identifying good practices in that regard.

74. On the basis of the discussions on approaches taken to manage and dispose of seized and confiscated assets, the Group recommended further work on the identification of good practices employed by States parties in that area, including the use of recovered assets to support the achievement of the Sustainable Development Goals. In that respect, gathering additional information on experiences in concluding arrangements and agreements for the disposal of recovered assets in line with the Convention, and analysis of that information, as well as information that was being accumulated through the second cycle of the Implementation Review Mechanism, could provide a useful basis for further discussions on the issue by the Group.

75. While acknowledging ongoing challenges in the implementation of chapter V of the Convention, the Working Group welcomed the progress that had been made in enhancing the recovery and return of stolen assets and, in particular, the positive role played by UNODC and the joint UNODC/World Bank StAR Initiative in supporting that process. The Working Group called upon States to support the efforts of UNODC and the StAR Initiative in the field of asset recovery.

VIII. Adoption of the report

76. On 25 August 2017, the Working Group adopted the report on its meeting ([CAC/COSP/WG.2/2017/L.1](#) and Add.1-3).
