



ARIN-AP Informal Cooperation on Exchange of Information

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ASSET RECOVERY CENTRE (PPA)
of
THE ATTORNEY-GENERAL'S OFFICE of THE REPUBLIC of INDONESIA

Points of presentation

- Asset Recovery Inter-agency Network-Asia Pacific (ARIN-AP);
- Informal cooperation on transnational asset recovery;
- Article 56 UNCAC;
- Challenges in spontaneous exchange of information;
- Benefits of having ARIN-AP network;
- Conclusion.

ARIN-AP Network

- Secretariat in Supreme Prosecutors' Office of the Republic of Korea;
- Consists of 21 members and 8 observers;
- 2018 Presidency: Indonesia-Asset Recovery Centre of The Attorney-General's Office of the Republic of Indonesia (Australia-2015, Republic of Korea-2016, and Japan-2017);
- Latest event: Criminal Asset Recovery Management (CAMS) Seminar, 7-9 May 2018 held in Yogyakarta, Indonesia, co-hosted by Indonesian AGO and Australian DHA.

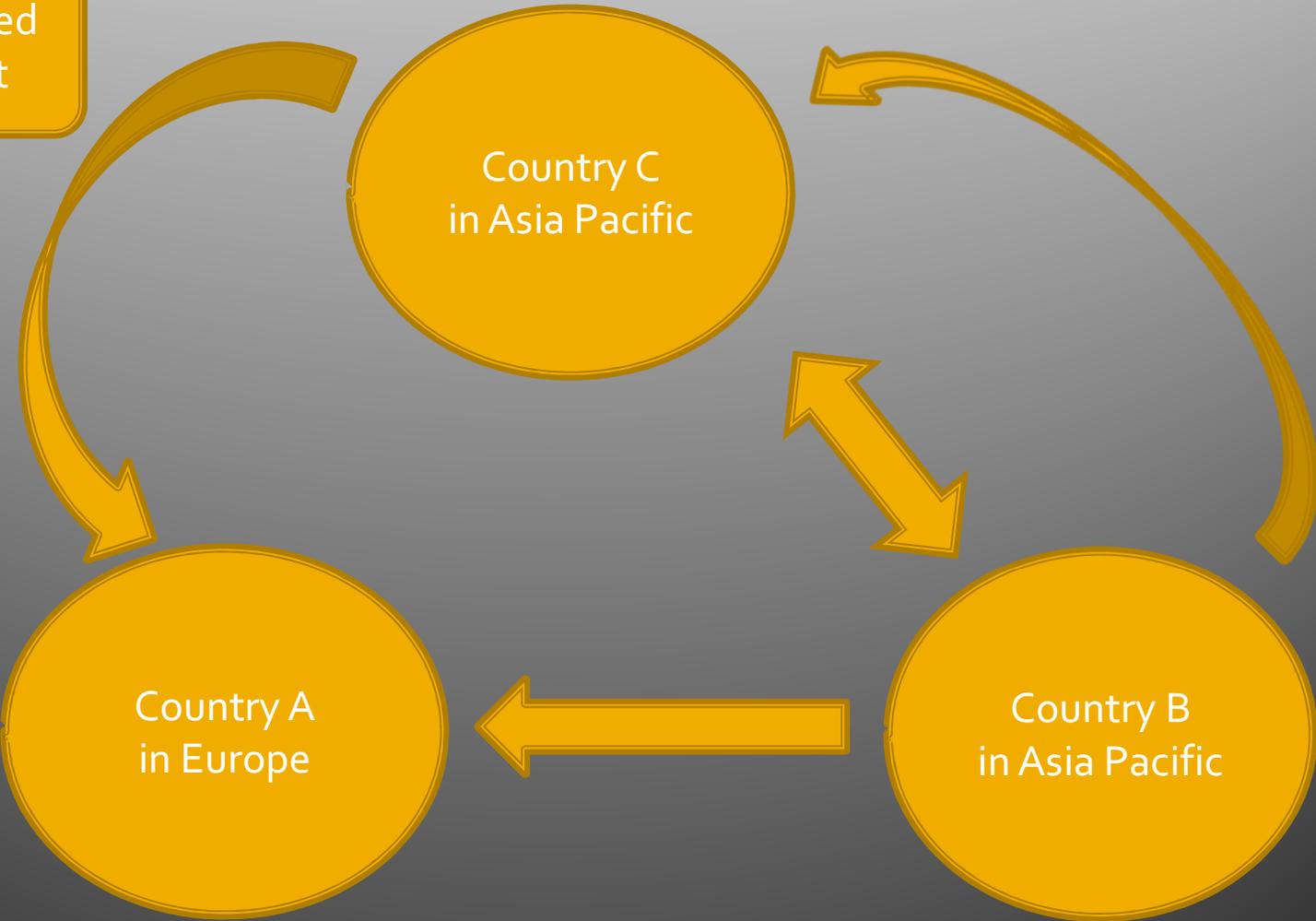
Informal cooperation on transnational asset recovery

- A State cannot exercise its jurisdiction to another state, without international cooperation;
- The scope of transnational asset recovery include: proceeds of crime, instrumentalities, and payment for compensation or restitution;
- Needs mechanisms to exchange information at early stage as an informal channel, compliment the formal mechanism (mutual legal assistance-MLA).

Article 56 UNCAC

- Special Cooperation: “Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.”
- Spontaneous exchange of information: without prior request, disclose information to other jurisdiction on suspicious proceeds of offences under UNCAC;
- It may relate to asset controlled by criminals, but may also include suspicious asset in the hands of innocent third party.

Flows of tainted money/asset



PROCEEDS OF CORRUPTION

Challenges in spontaneous exchange of information

- No investigation being conducted against the suspicious asset or the persons relevant to the asset;
- The requested state does not have legal framework and/or mechanism to enable joint investigation or other form of international cooperation that make the information useful;
- Lack of guidelines and best practices to deal with spontaneous exchange of information within the frame of ARIN-AP network.

Benefits of having ARIN-AP network

- ARIN-AP can communicate with other jurisdiction through the Secretariat of other CARIN-type networks;
- Speedy communication between the Networks can lead to more effective coordination on proper actions to follow up the information shared informally;
- It may strengthen the formal request through MLA channels, because the concept of CoC (Centre of Excellent) that allows ARIN-AP contact points to provide expertise and effective advice within the scope of their jurisdiction's legal frameworks;
- With an informal atmosphere, best practices, friendship and trust are developed in any ARIN-AP events.

Conclusion

- Spontaneous exchange of information may be done informally through asset recovery informal networks, such as ARIN-AP and CARIN;
- Needs mechanisms and guidelines on how to handle the information shared within the network;
- It should not compete any formal requests (MLA); instead, it may strengthen the formal channels.

Thank You