

28 May 2018

English only

**Open-ended Intergovernmental Working
Group on Asset Recovery**

Vienna, 6 and 7 June 2018

Item 5 of the provisional agenda

**Forum for discussions on capacity-building and
technical assistance****Summary of the study on effective management and
disposal of seized and confiscated assets****Note by the Secretariat**

1. The study was initially the product of a cooperation of the United Nations Office on Drugs and Crime (UNODC) with the government of Calabria, Italy. It is based on a broad participatory process. Two expert group meetings were held in Reggio di Calabria, Italy, in April 2014 and in Vienna in September 2015. The draft study was already widely disseminated among government representatives and experts at the eleventh meeting of the Open-ended Intergovernmental Working Group on Asset Recovery, in Vienna, 24–25 August 2017. The study and a set of draft good practices emanating from the work, were also the subject of an international expert group meeting on identifying good practices in the management and disposal of seized and confiscated assets, held in Washington, D.C., on 7 and 8 December. Furthermore, it was presented in a range of other forums, all with a view to solicit further input and information from practitioners in this field. Currently the secretariat is incorporating the new comments and information received. The study is made available to this Group with a view to encourage States parties to provide further comments and updates to the secretariat (http://www.unodc.org/documents/corruption/Publications/2017/17-07000_ebook_sr.pdf). The aim is to finalize the study for submission to the second resumed session of the Implementation Review Group to be held from 12–16 November 2018 when the issue of criminalization and law enforcement is on its agenda.
2. In its resolution 6/3, entitled “Fostering effective asset recovery”, the Conference encouraged States parties and UNODC to continue sharing experiences and building knowledge on the management, use and disposal of frozen, seized, confiscated and recovered assets, and to identify good practices as necessary, building upon existing resources that address the administration of seized and confiscated assets, including with a view to contributing to sustainable development. The study presents the experiences of 64 countries on the management and disposal of seized and confiscated assets at the domestic level and identifies a number of areas that would lend themselves to further discussion on good practices.
3. With regard to the administration of assets prior to a final confiscation:
 - The possibility of non-judicial authorities issuing urgent freezing orders.



- Flexible legislation offering a choice between freezing and seizure orders and providing wide discretion to tailor appropriate orders to a specific case.
 - Dedicating sufficient capacity to pre-seizure planning, particularly to evaluate the costs and risks of restraining assets.
 - Freezing orders that leave the asset under control of the owner and pose restrictions on its use.
 - Pre-confiscation (or anticipated) sale with the consent of the owner and that of the agency responsible for enforcing the seizure order.
 - Pre-confiscation (or anticipated) sale without the consent of the owner in defined circumstances, in accordance with the principles of national legislation.
 - Mechanisms for the protection of third parties during the interim order.
4. With regard to the enforcement of confiscation orders and the disposal of confiscated assets:
- Especially in value-based confiscation, legislation that provides for realization measures that go beyond civil collection.
 - For object-based confiscation, legislation or guidelines that establish criteria to use to decide whether to retain or sell an asset.
 - Articulation in the legislation expressing the fundamental policy choice for the disposal of confiscated assets: allocating them to the national revenue fund or to specific programmes or a special fund.
 - If proceeds of confiscation orders are to be paid into a special fund: adoption of specific rules for its use, infrastructure, management, oversight, transparency and auditing requirements.
 - If confiscated proceeds are used for law enforcement projects: adoption of tight controls and clear policies to avoid direct links between seized assets and rewards provided to law enforcement, to avoid negative incentives.
 - If confiscated proceeds are applied for social reuse in affected communities: establishment of infrastructure to support, monitor and account for such projects.
5. With regard to the institutional structure, further discussions on possible good practices could cover the following areas:
- The use of private sector actors (court-appointed asset managers or subcontractors);
 - Systems that allow asset recovery offices and asset management offices to achieve self-funded status;
 - Electronic databases to improve information management on restrained and confiscated property.

Furthermore, for the following broad categories, criteria should be further discussed to allow countries to make informed policy choices:

- Asset management capacity within law enforcement;
- Asset management capacity within an existing public sector entity that has experience in dealing with the management and disposal of assets;
- A stand-alone entity for the management of seized and confiscated property.