

International Expert Meeting on the management and disposal of recovered and returned stolen assets, including in support of sustainable development

14 to 16 February 2017

**United Nations Conference Centre
Addis Ababa, Ethiopia**

Background

The international community has recognized the damaging effects of corruption on development in an unprecedented manner in its 2030 Agenda for Sustainable Development and has included Sustainable Development Goal (SDG) 16 which requires States to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”¹, through reducing illicit financial flows, strengthening the recovery and return of stolen assets, substantially reducing bribery and corruption, and developing effective, accountable and transparent institutions at all levels.

Furthermore, the Addis Ababa Action Agenda of the 3rd International Conference on Financing for Development² (Addis Ababa, 13-16 July 2015) supports the Stolen Asset Recovery Initiative (StAR) of the United Nations and the World Bank, and other international initiatives that support the recovery of stolen assets and further encourages the international community to develop good practices on asset return.

Chapter V, Article 51 of UN Convention against Corruption (UNCAC) establishes the recovery and return of the proceeds of corruption as a “fundamental principle” of the Convention and stipulates that States parties shall afford one another the widest measure of cooperation and assistance in that regard (article 51). In its article 57, it establishes that in cases of embezzlement of public funds or of the laundering of embezzled public funds, pursuant to Article 55, and on the basis of a final judgment obtained by the requesting country, confiscated funds should be returned to the requesting state party. Whereas for the proceeds of other offences, a differentiating regime regarding the return of confiscated property, upon the receipt of a final judgment, takes into account factors of prior ownership, the recognition of damage to a requesting state party and the recognition of victims of the crime for which the assets were confiscated has been adopted taking into account damages, prior ownership and victims.³

¹ See http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E.

² See Addis Ababa Action Agenda, para. 25, http://www.un.org/esa/ffd/wp-content/uploads/2015/08/AAAA_Outcome.pdf

³ Different from UNCAC, the United Nations Convention against Transnational Organized Crime (UNTOC) establishes the principle of asset sharing and the restitution to victims. Based on UNTOC,

At its 5th session the Conference of the States Parties to the United Nations Convention against Corruption adopted resolution 5/3 on “Facilitating international cooperation in asset recovery” which, inter alia, “encourages States parties and the United Nations Office on Drugs and Crime to share experience on the management, use and disposal of frozen, seized and confiscated assets, and to identify best practices as necessary, building upon existing resources that address the administration of seized assets, and to consider developing non-binding guidelines on this issue”.

Moreover, at its 6th session, the Conference of the States Parties to the United Nations Convention against Corruption adopted resolution 6/3 on “Fostering effective asset recovery” which “encourages States parties and the United Nations Office on Drugs and Crime to continue sharing experience 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”.

There is both a need and an opportunity to build further knowledge about the diverse approaches that have been applied by countries in tackling the return and disposal of assets in transnational corruption cases. This would help to identify lessons learned with a view to facilitating future returns in line with the overall objectives of the Convention.

The purpose of the workshop, thus, is to:

- Explore the different approaches which have been applied by countries in the management of recovered and returned assets;
- Determine the underlying rationale as well as advantages and disadvantages of these different approaches;
- Assess whether there are any good practices emerging based on past experience.

UNODC developed a model agreement on international asset sharing which was endorsed by the UN Crime Commission in May 2005 and by the UN General Assembly in December 2005 (ECOSOC Resolution 2005/14: www.un.org/en/ecosoc/docs/2005/resolution%202005-14.pdf). This model on sharing confiscated proceeds of crime can be used by countries to strengthen international cooperation in the confiscation and disposal of the proceeds of crime covered by the UNTOC. However, it is not applicable to asset recovery under UNCAC.

Agenda and organization of work

Day 1: Tuesday 14 February 2017		
<i>Time</i>	<i>Item</i>	<i>Title or description</i>
13:00-13:30		Registration
13:30-15:00	1	<p>Setting the stage</p> <p>Welcoming remarks by the Host, Wedo Atto, Deputy Commissioner of the Federal Ethics and Anti-Corruption Commission of Ethiopia</p> <p>Remarks by Representative of the Swiss Government, Ambassador Andrea Semadeni</p> <p>Remarks by UNODC, Brigitte Strobel-Shaw, Chief of Conference Support Section, UNODC</p> <p>Tour de Table</p> <p><i>Facilitators/Rapporteurs: Simona Schreier (UNODC); Elsa Gopala Krishnan (StAR)</i></p>
15:00-15:30		Coffee Break
	2	<p>Bringing together two constituencies</p> <p>This session is aimed at providing an opportunity for dialogue between asset recovery experts, development practitioners and specifically participants with a background on financing for development. In two parts, participants are to elaborate past work streams and practical and policy agendas moving forward.</p>
15:30-16:30		<p>Part 1: Current state of the international debate on the management of recovered and returned assets at the international level</p> <p>This part of the session will inform participants on the current state of policy considerations on the management of returned assets and look at key issues and trends, also with regard to the intergovernmental processes in the context of the Conference of the States Parties to the United Nations Convention against Corruption. In particular, presentations will be made on the outcomes of an international workshop, ‘Returning Stolen Assets’, held in Küsnacht, Switzerland, October 2013; as well as the outcome of the Expert Group Meeting on the Management, Use and Disposal of Frozen, Seized and Confiscated Assets, held in Calabria, Italy, April 2014. . In addition the meeting will be informed about other international fora which place asset recovery high on the agenda, such as the Anti- Corruption Summit held in London in 2016 and the work of the G20 Anti-Corruption Task Force.</p> <p><i>Moderator: Salome Steib (Switzerland)</i></p> <p><i>Panellists: Phil Mason (UK); Andrey Onufrienko (Russian Federation); Shervin Majlessi (UNODC/StAR); Hermione Cronje (StAR); Gretta Fenner (ICAR)</i></p> <p><i>Facilitators/Rapporteurs: Simona Schreier (UNODC); Elsa</i></p>

		<i>Gopala Krishnan (StAR)</i>
16:30-17:00		Break
17:00-18:00		<p>Part 2: Relevance of Asset Return to implementing the SDG's Part 2 of the session will place the debate on recovered and returned assets in the wider development context. The session will brief participants on sustainable development goal 16.4 and the Addis Ababa Action Agenda. The session will discuss how SDG 16.4 can be translated into practice and what it means in terms of the management of seized and recovered assets.</p> <p><i>Moderator: Belachew Gutulo (Ethiopia)</i> <i>Panellists: Peter Chowla (UNDESA Financing for Development Office); Mohamed Omar Gad (Egypt); Marianne Loe (Norway); H.E. Eugenio Maria Curia (Argentina)</i> <i>Facilitators/Rapporteurs: Salome Steib (Switzerland); Shervin Majlessi (StAR)</i></p>
19:00		Cocktail/Dinner hosted by the Government of Ethiopia
Day 2: Wednesday 15 February 2017		
9:00-10:20	3	<p>Management of seized and confiscated assets pending return Particular focus of this session will be on the management, disposal/return of moveable (non-monetary) assets, as well as of real estate and corporate assets. Another aspect for consideration in this session will be the recovery of costs of asset management; and interests and profits derived from the management of seized and confiscated assets.</p> <p><i>Moderator: Jean-Michel Verelst (Belgium)</i> <i>Panellists: Lucio Alves Angelo Junior (Brazil); Anatole Yezhov (Ukraine); Francesco Puleio and Giovanni Tartaglia (Italy); Engels Jiménez (Costa Rica)</i> <i>Facilitators/Rapporteurs: Elsa Gopala Krishnan (StAR) ; Shervin Majlessi (StAR)</i></p>
10:20-10:40		Coffee Break
	4	<p>Practical modalities for the return and disposal of assets In three parts, the session will discuss, taking into account past experiences, which modalities are used to facilitate the return of corrupt assets to the countries of origin. The session will provide an opportunity for considering what systems of accountability and transparency could facilitate the return of embezzled funds to the country of origin, both from the perspectives of the requesting and the requested states. It will further look into the use of settlements and their implications on the recovery and return of stolen assets.</p>
10:40 -12:00		Part 1: Case-specific agreements or mutually acceptable arrangements for the final disposal of confiscated property,

		<p>Art. 57 V UNCAC</p> <p>Part one of the session will look at past case-specific agreements and arrangements for asset recovery. Specific topics for consideration will be the rationale and the content of such agreements, particularly based on examples of existing agreements and their execution.</p> <p><i>Moderator: H.E. Eugenio Maria Curia (Argentina)</i></p> <p><i>Panellists: Stephen Campbell (US); Ibrahim Magu (Nigeria); Thelma Aldana (Guatemala); Daniela Hänggi (Switzerland)</i></p> <p><i>Facilitators/Rapporteurs: Gretta Fenner (ICAR) ; Shervin Majlessi (StAR)</i></p>
12:00-13:15		<p>Part 2: Accountability and transparency in the management of returned assets</p> <p>Part 2 of the session is to consider systems of accountability and transparency which would facilitate the return of embezzled funds, particularly when returned assets are being channelled back into the general state budget of the country from which they were stolen. These could include “enhanced” country systems building on existing systems and mechanisms with additional control systems to ensure enhanced accountability and transparency. The possibility of creating autonomous funds and similar arrangements with distinct governance structures could be a further possibility for consideration. A further issue for discussion during this session is the role of State and Non-State Actors in the management and disposal of returned assets.</p> <p><i>Moderator: H.E. Abubakar Malami (Nigeria)</i></p> <p><i>Panellists: Hans-Jürgen Gruss (Independent expert); Maris Urbans (Latvia), Cecilia Garcia Diaz (Peru)</i></p> <p><i>Facilitators/Rapporteurs: Gretta Fenner (ICAR) ; Shervin Majlessi (StAR)</i></p>
13:15-14:45		<p>Lunch Break</p>
14:45-16:15		<p>Part 3: Use of settlements and their implications on the recovery and return of stolen assets</p> <p>The purpose of this session is to discuss existing practices in involving affected countries in settlements and other alternative legal mechanisms. Specific points of consideration of this session could be the impact these practices have played by using funds received as a result of settlements for the compensation of victims.</p> <p><i>Moderator: Hans-Jürgen Gruss (Independent expert)</i></p> <p><i>Panellists: Kimani Muthoni (Kenya); Stephen Campbell (US); Simon Maembe and Christopher Misigwa (Tanzania) ; Aaron Bornstein (Independent expert); Elsa Gopala Krishnan (StAR)</i></p> <p><i>Facilitators/Rapporteurs: Shervin Majlessi (StAR); Simona Schreier (UNODC)</i></p>
16:15-16:40		<p>Coffee Break</p>

16:40-18:10	5	<p>Use of returned assets to compensate victims and support the sustainable development goals and the Addis Ababa Action Agenda?</p> <p>This session will consider the development aspects of asset recovery and specifically how returned assets can contribute to supporting the sustainable development agenda and the Addis Ababa Action Agenda. It will consider measures to identify and compensate victims. The session is further meant to discuss the role national sustainable development strategies and national development agencies can play in support of the asset recovery agenda; and at what stage of the process the line ministries involved in the discussions on return will need to include not only the ministries of justice, but also the ministries of development (or similar ministries).</p> <p>Chapter V of the United Nations Convention against Corruption recognises as a fundamental principle the return of assets stolen through corrupt means. Similarly, Paragraph 25 of the Addis Ababa Action Agenda pledges to “encourage the international community to develop good practices on asset return”, and Goal 16(4) of the Sustainable Development Goals also pledges to “strengthen the recovery and return of stolen assets”.</p> <p><i>Moderator: Phil Mason (UK)</i></p> <p><i>Panellists: Nicole Ruder (Switzerland); Rodrigo Garza (Mexico); Angela Ponce (Philippines); Bolaji Owasanoye (Nigeria); Wellington Cabral Saravia (Brazil)</i></p> <p><i>Facilitators/Rapporteurs: Salome Steib (Switzerland); Elsa Gopala Krishnan (StAR); Simona Schreier (UNODC)</i></p>
19:00		<p><i>Apero Riche hosted by the Government of Switzerland</i></p>
<p>Day 3: Thursday 16 February 2017</p>		
9:00-11:00		<p>Towards good practices for the management and return of stolen assets</p> <p>Breakout sessions</p> <p>In three groups the Expert Group Meeting will review the discussions of the past 1 ½ days and focus at identifying current practices and approaches with a view to determining emerging good practices for the management and return of stolen assets in support of sustainable development.</p> <p><i>Moderators for breakout sessions: Shervin Majlessi (StAR), tbc and Gretta Fenner (ICAR)</i></p> <p><i>Facilitators/Rapporteurs: Salome Steib (Switzerland); Elsa Gopala Krishnan (StAR); Simona Schreier (UNODC)</i></p>
11:00-11:30		<p><i>Coffee Break</i></p>

11:30-12:30		<p>Towards good practices for the management and return of stolen assets</p> <p>Report back to the Expert Group from the breakout sessions and deliberations on which of the identified practices and approaches could constitute good practices for the management and return of stolen assets in support of sustainable development.</p> <p><i>The Moderators of the breakout sessions will present their respective groups discussion and findings: Shervin Majlessi (StAR), tbc and Gretta Fenner (ICAR)</i></p> <p><i>Facilitators/Rapporteurs: Salome Steib (Switzerland); Elsa Gopala Krishnan (StAR); Simona Schreier (UNODC)</i></p>
12:30-14:00		<p>Lunch Break</p>
14:00 -15:00	6	<p>Conclusions and the way forward</p> <p>While providing a forum for summarizing the discussions during the past days, the session is meant to take stock of areas that require further knowledge and capacity building and make proposals for next steps, which could be taken further in another international expert meeting. Furthermore, the meeting will discuss in what way the outcomes of the meeting are intended to feed into the Forum on Financing for Development to be held in May 2017, as well as the Working Group on Asset Recovery scheduled for August 2017 and the Conference of the States Parties to the United Nations Convention against Corruption in November 2017.</p> <p><i>Moderator: UNODC/StAR</i></p> <p><i>Panellists: Switzerland, Ethiopia, Belgium, Argentina, Nigeria, Independent expert, UK, ICAR, StAR</i></p> <p><i>The moderators of the sessions each with a five minute summing up of their sessions with salient points.</i></p> <p><i>Facilitators/Rapporteurs: Salome Steib (Switzerland); Brigitte Strobel-Shaw (UNODC)</i></p>
15:00-15:15	7	<p>Closing remarks by the Host, Ali Suleiman, Commissioner of the Federal Ethics and Anti-Corruption Commission of Ethiopia</p>