



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

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## Second session

Nusa Dua, Indonesia, 28 January-1 February 2008

Agenda item 3

### Asset recovery

#### **Australia, Canada, Liechtenstein, Mexico, Portugal,\* Switzerland and United States of America: draft resolution**

#### **Asset recovery**

*The Conference of the States Parties to the United Nations Convention against Corruption,*

*Bearing in mind* that the return of assets is one of the main objectives and also a fundamental principle of the United Nations Convention against Corruption<sup>1</sup> and that States parties to the Convention are obligated to afford one another the widest measures of cooperation and assistance in that regard,

*Recalling* its resolution 1/4, in which it established an interim open-ended intergovernmental working group to advise and assist it in the implementation of its mandate on the return of proceeds of corruption,

*Seriously concerned* about the practical difficulties of asset recovery for States when seeking restoration of assets located abroad and when providing assistance to other States in such recovery efforts,

*Recognizing* the particular importance of asset recovery to poverty reduction, development and the rule of law,

*Understanding* that fulfilment of the asset recovery obligations under the Convention requires States parties to both adopt and implement effective legislation and measures for the freezing or seizure and confiscation of corruption proceeds, the detection of corruption proceeds and international cooperation,

*Stressing* that technical assistance must respond to the specific needs and legal traditions of the States seeking such assistance,

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\* On behalf of the States Members of the United Nations that are members of the European Union.

<sup>1</sup> General Assembly resolution 58/4, annex.



*Acknowledging* the need to strengthen cooperation in cases involving asset recovery and to provide targeted in-country technical assistance to build legislative and enforcement capacity,

*Recalling* the commitment of States parties to exchange experiences and possible solutions for the effective detection, tracing, freezing or seizure, confiscation and return of corruption proceeds, consistent with the requirements of the Convention,

1. *Welcomes* the report of the meeting of the Open-ended Intergovernmental Working Group on Asset Recovery held in Vienna on 27 and 28 August 2007;<sup>2</sup>

2. *Decides* that the Working Group shall continue its work to advise and assist the Conference of the States Parties to the United Nations Convention against Corruption on implementation of the provisions of the United Nations Convention against Corruption<sup>3</sup> that relate to asset recovery;

3. *Also decides* that the Working Group shall meet during the third session of the Conference and, as appropriate, shall hold at least one intersessional meeting, within existing resources;

4. *Urges* States parties, signatory States, intergovernmental organizations and donors to support sustained in-country technical assistance in implementing the Convention, in particular its chapter on asset recovery and its provisions on the investigation and prosecution of corruption offences, and taking into consideration existing initiatives such as the Anti-corruption Mentor Programme of the United Nations Office on Drugs and Crime, the International Centre for Asset Recovery and the Stolen Asset Recovery Initiative;

5. *Urges* States parties, signatory States, intergovernmental organizations and donors and recipients to increase in-country coordination in the delivery of technical assistance for asset recovery;

6. *Requests* the Secretariat, in conjunction with existing initiatives and within existing resources, to organize focused expert group meetings, with due regard for equitable geographical representation, to support the Working Group in compiling practical guidance for effective mechanisms for the detection, freezing or seizure, confiscation and return of assets, and notes that such meetings should focus on issues including:

- (a) Analysis of legal and regulatory frameworks;
- (b) Basic evidentiary requirements under national law;
- (c) Effective confiscation systems;
- (d) Money-laundering related to corruption;
- (e) Responsibility of financial institutions and financial intelligence units for ensuring effective reporting of suspicious transactions;
- (f) Mutual legal assistance to freeze or seize and confiscate assets;

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<sup>2</sup> CAC/COSP/2008/4.

<sup>3</sup> General Assembly resolution 58/4, annex.

7. *Encourages* States parties and signatory States to provide a list of focal points, to be maintained by the Secretariat, that could be made available, on request, to provide to States parties and signatory States intergovernmental advice on and informal assistance in asset recovery, including in the areas of detection, freezing or seizure, confiscation and return of assets;

8. *Requests* the Secretariat to organize, within existing resources, meetings of those focal points to promote and strengthen informal channels of communication and cooperation, taking into account, where appropriate, existing regional initiatives;

9. *Calls on* States parties and signatory States to assist the Secretariat in coordinating the establishment and maintenance of a database containing national legislation on implementing the provisions of the Convention that relate to asset recovery and mutual legal assistance, including as required by article 55, paragraph 5, of the Convention;

10. *Calls on* the United Nations Office on Drugs and Crime to assist States parties and signatory States in strengthening the central authorities for mutual legal assistance established pursuant to article 46, paragraph 13, of the United Nations Convention against Corruption by leveraging ongoing efforts to implement the United Nations Convention against Transnational Organized Crime<sup>4</sup> and to expand the Mutual Legal Assistance Request Writer Tool for purposes of formulating requests for asset recovery;

11. *Decides* that the Working Group shall submit reports on its activities to the Conference before the third session of the Conference;

12. *Requests* the Secretariat to assist, within existing resources, the Working Group in the performance of its functions, including by providing interpretation services.

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<sup>4</sup> United Nations, *Treaty Series*, vol. 2225, No. 39574.