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Digest of Asset Recovery Cases



St. Petersburg, 3 November 2015



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Digest of Asset Recovery Cases – Process

- Recommendations of the Working Group on Asset Recovery to prepare an analytical study of asset recovery cases
- Expert Group Meeting on 2 and 3 April 2012
- Dissemination of the draft Digest at the 5th session of the COSP in November 2013 in Panama
- Release of final product during the Asset Recovery Working Group in September 2015
- https://www.unodc.org/documents/corruption/Publications/2015/15-05350_Ebook.pdf

Digest of Asset Recovery Cases – Content

- Chapter I: Noteworthy Cases of Corruption
- Chapter II: Forms and Devices of Concealment of Proceeds of Acts of Corruption
- Chapter III: Initiation of Asset Recovery Cases
- Chapter IV: International Cooperation in Identifying, Freezing or Seizing and Tracing Proceeds of Crime
- Chapter V: Tools and Mechanisms for Recovery and Confiscation of Stolen Assets
- Chapter VI: Return and Disposal of Assets
- Chapter VII: Conclusions

Glossary





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Digest of Asset Recovery Cases – Some conclusions

- ✓ States are encouraged to fully implement chapter III of UNCAC while practicing flexible approach to dual criminality and use the Convention as a basis for international cooperation.
- ✓ Importance of implementing asset disclosure and money laundering prevention measures and the establishment of FIUs.
- ✓ States are encouraged to consider establishing specialized anti-corruption and asset recovery bodies, providing civil society with capabilities to initiate legal action (*partie civile, ex parte*), introducing specific legislation on asset recovery (e.g. Canada and Switzerland).



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Digest of Asset Recovery Cases – Some conclusions

- ✓ States are encouraged to consider how identification and restraint orders work together to avoid dissipation of assets.
- ✓ States are encouraged to introduce NCB forfeiture, allow domestic courts to recognize foreign confiscation orders and actively coordinate actions with foreign counterparts.
- ✓ States are encouraged to consider entering into agreements on the return and disposal of assets and setting up transparent and accountable regimes for their management.



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Effective management and disposal of seized/frozen and confiscated assets





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Balancing policy objectives

- ✓ Deprive the offender of ill-gotten gains
- ✓ Compensate victims
- ✓ Mitigate damages done to society
- ✓ Undermine organized crime, terrorism and economic crime
- ✓ Protect the legal economy against infiltration by organized crime
- ✓ Create an economically viable asset recovery system (cost-benefit analysis)
- ✓ Preserve the value of seized and confiscated assets for the benefit of the state, society and victims
- ✓ Ensure accountability and transparency of and public confidence in the asset recovery system



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Diversity of Legal Frameworks

Providing legal powers to effectively manage seized assets and preserve their value, e.g. powers to:

- ✓ Invest in maintenance and storage
- ✓ Protect against abuse and damage by the owner/third parties
- ✓ Dispose of seized assets under certain conditions
- ✓ Use assets pending final confiscation
- ✓ Restrain the use of assets (in lieu of seizure)
- ✓ Pursue both conviction based and non-conviction based forfeiture



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International cooperation in the management of seized/frozen and confiscated assets

- ✓ Recognition and direct enforcement of non-conviction based forfeiture orders in particular between jurisdictions;
- ✓ Recognition and direct enforcement of asset management orders for complex assets;
- ✓ Asset sharing among countries that contributed to the recovery.



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Institutional arrangements

Most countries have institutionalised their AR system using a combination/any of the below:

- ✓ Specialized asset recovery office (ARO)
- ✓ Specialized asset management office (AMO)
- ✓ Creating an asset management unit within an existing agency
 - “Law enforcement model”
 - “Asset management model”
- ✓ Outsourcing asset management: private players



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Operational arrangements

While operational arrangements vary significantly, most systems entail:

- ✓ Asset recovery fund
- ✓ Pre-seizure planning
- ✓ Centralized database
- ✓ Mix of skill sets required to manage different types of assets
- ✓ Allowing the contracting of outside expertise and capacity (storage, maintenance, auctioning/sales)

For more information:

www.unodc.org/corruption
<http://star.worldbank.org/star/>
www.track.unodc.org

