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**Eighth session**

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**Conference room paper submitted by the Governments of  
Japan and the United States of America: G20  
Anti-Corruption Working Group Side Event:  
Best Practices in Promoting Transparency and  
Accountability in Asset Return (9 October 2019) \***

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## Chair's Summary

### I. Introduction

In the G20 Anti-Corruption Action Plan 2019-2021, the G20 Anti-Corruption Working Group (ACWG) committed to exploring ways to strengthen domestic measures as appropriate, as well as international cooperation, to identify, trace, and freeze or seize the proceeds of corruption crime and set out actions to improve the cooperation and coordination between countries on the management and return of confiscated property, including with regards to transparency and accountability.

In line with the above-mentioned objective of the G20 Anti-Corruption Action Plan, the United States organized a side event on “Best Practices in Promoting Transparency and Accountability in Asset Return” on 9 October 2019, on the margins of a meeting of the G20 ACWG. The purpose of the side event was to build upon the progress made by the international community in promoting more effective, transparent, and accountable asset return. The event built on the efforts of previous initiatives, including the Global Forum on Asset Recovery and the International Expert Meetings on a) the Management and Disposal of Recovered and Returned Stolen Assets, including in support of sustainable development, and b) the Return of Stolen Assets, both held in Addis Ababa, and sought to share lessons learned in asset return and disposition as well as sharing information on innovative approaches to promoting transparency and accountability. To this end, successful asset return cases were presented to highlight good practices and strategies to overcome challenges in asset return and disposition. Furthermore, initiatives and innovative approaches to promoting transparency and accountability were presented based on those case examples.

Participants at the side event requested the Chair of the side event to present a summary of the event to the Conference of the States Parties to the United Nations Convention against Corruption, to be held from 16 to 20 December 2019 in Abu Dhabi, United Arab Emirates, as a Conference Room Paper, to highlight the lessons learned and good practices discussed.

### II. Background

With the entry into force of the United Nations Convention against Corruption (the “Convention”), the international community has for the first time agreed on a comprehensive set of rules governing asset recovery. In particular, chapter V of the Convention establishes the recovery and return of such assets 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). Moreover, the Convention sets forth substantive provisions to address specific measures and mechanisms of international cooperation for the purpose of the recovery and return of assets derived from offences covered by the Convention. In its article 57, it establishes that the proceeds of embezzlement should be returned upon confiscation to the requesting State party, whereas for the proceeds of other

offences, a differentiating regime has been adopted taking into account damages, prior ownership and victims.<sup>1</sup>

At the United Nations Sustainable Development Summit in 2015, States committed to significantly reduce, by 2030, illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime (Sustainable Development Goal (SDG) 16.4). Since the adoption of the SDGs, countries have begun to explore how returned assets can, among other objectives, contribute to sustainable development. As a result, anti-corruption measures generally, including the use of returned assets, have been high on the international agenda. For instance, the conclusions and recommendations of the 2017 Economic and Social Council (ECOSOC) Forum on Financing for Development follow-up (“FfD Forum”) encouraged States to strengthen international cooperation on the recovery and return of stolen assets, recognized that asset return was a priority and supported “continued exchanges on the development of good practices on asset return”<sup>2</sup>.

Progress has been made in this regard, including at previous expert meetings: An expert meeting on the management and disposal of recovered and returned stolen assets, including in support of sustainable development, was held in Addis Ababa in February 2017 (“Addis I”). The meeting was convened by the Governments of Ethiopia and Switzerland, together with UNODC, and brought together for the first time asset recovery practitioners and Financing for Development experts. Participants at the expert meeting emphasized that returned assets should not be stolen again but used to support investment in the SDGs. Furthermore, they concluded that more work was required in this area.<sup>3</sup>

In addition, the cohosts and focus countries of the Global Forum on Asset Recovery (GFAR) held in Washington D.C. from 4 to 6 December 2017 adopted the GFAR principles for disposition and transfer of confiscated stolen assets in corruption cases. These principles address approaches and mechanisms for enhancing coordination and cooperation and for strengthening transparency and accountability of the processes involved with asset recovery.<sup>4</sup>

Following up on these mandates and initiatives, the Governments of Ethiopia and Switzerland, together with UNODC, invited experts from over 30 jurisdictions to return to Addis Ababa from 7 to 9 May 2019, to attend an International Expert Meeting on the Return of Stolen Assets, building upon the progress made during Addis I. The “Addis II” meeting aimed at developing good practices on asset return, taking into account, inter alia, the Convention, the SDGs, and other processes and initiatives such as the GFAR principles. To this end, the expert meeting analysed cases in which

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<sup>1</sup>Different from the United Nations Convention against Corruption (UNCAC), the United Nations Convention against Transnational Organized Crime (UNTOC) establishes the principle of asset sharing and the restitution to victims.

<sup>2</sup> See E/FFDF/2017/3, para. 10<sup>3</sup> <https://www.unodc.org/unodc/en/corruption/addis-egm-2017.html>

<sup>3</sup> <https://www.unodc.org/unodc/en/corruption/addis-egm-2017.html>

<sup>4</sup> [https://star.worldbank.org/sites/star/files/20171206\\_gfar\\_communique.pdf](https://star.worldbank.org/sites/star/files/20171206_gfar_communique.pdf)

assets were returned to identify trends and developments, common obstacles to international cooperation in the return of assets and innovative ways at overcoming them, including the available options for ensuring the return of assets in line with UNCAC.<sup>5</sup>

The outcome of the Addis II meeting was presented at the UNCAC Asset Recovery Working Group held in May 2019 in Vienna,<sup>6</sup> which confirmed that there was both ongoing interest and a need to discuss and further develop aspects of asset return and to collect data on State practices.

### **III. Summary of discussions**

The side event was opened by Mr. Chitaru Shimizu, Director of the International Safety and Security Cooperation Division, Foreign Policy Bureau at the Japanese Ministry of Foreign Affairs, and Mr. Jeffrey Schlagenhauf, Deputy Secretary-General of the Organisation for Economic Co-operation and Development (OECD).

In his opening remarks, Mr. Shimizu thanked the United States and UNODC for the initiative to organize the side event and highlighted the international framework for asset recovery provided by the Convention. In this regard, he underscored the importance of ensuring that proceeds derived from corruption offences be confiscated and returned through international cooperation. He emphasized the necessity of securing transparency and accountability in both requested and requesting States to reduce any potential risks of corruption during the process. Furthermore, Mr. Shimizu also referred to the common goal of securing smooth and transparent asset recovery, as set forth in the G20 Anti-Corruption Action Plan 2019-2021. He highlighted the importance of discussing asset return at the eighth session of the Conference of the States Parties with a wide range of States, international organizations and civil society organizations, and expressed the hope that information on the outcome of the discussions held during the side event would constitute an important input to such continued dialogue.

Echoing the challenges highlighted by Mr. Shimizu, Jeffrey Schlagenhauf noted the complexity of issues related to asset recovery and asset return, notably concerning the difficulty of separating illicit from licit funds, the challenges related to international cooperation, and differences in practice concerning issues of seizure and freezing. Furthermore, the question to whom assets should be returned to was not always easy to answer. In his remarks, he underscored the crucial importance of asset recovery and asset return in disincentivizing economic crime and ensuring that criminals do not benefit from their actions. Mr. Schlagenhauf also highlighted the need for cross-border and multi-stakeholder cooperation as the only way to address risks and informed participants of relevant OECD

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<sup>5</sup> <https://www.unodc.org/unodc/en/corruption/meetings/addis-egm-2019.html>

<sup>6</sup> <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup2/2019-May-29-30/V1905966e.pdf>

initiatives, such as the Global Forum on Transparency and Exchange of Information for Tax Purposes, the OECD Oslo Dialogue as a platform for a whole of government exchange, the Global Network of Law Enforcement Practitioners against Transnational Bribery and the OECD Working Group on Bribery.

#### **A. Panel 1: Existing Guidelines/Best Practices**

Based on questions asked by Moderator Andrew Preston, Head of the Joint Anti-Corruption Unit, Home Office, United Kingdom, the panellists outlined the existing international framework for the recovery and return of assets and initiatives undertaken to promote the effective recovery and return.

Sophie Meingast, Crime Prevention and Criminal Justice Officer at UNODC, highlighted the international framework for asset return established through Chapter V (Asset recovery) of the United Nations Convention against Corruption. At the outset, she noted that article 51 of the Convention established the return of assets pursuant to Chapter V of the Convention as a fundamental principle and set forth that States parties should afford one another the widest measure of cooperation and assistance in this regard. Furthermore, she informed participants of a) the measures for direct recovery of property foreseen in article 53 of the Convention and b) the provisions governing the return and disposal of assets as per article 57 of the Convention, in particular its paragraphs 3 and 5, which established the obligation to return assets. She further noted that depending on the offence from which the assets in question stemmed from, there was a requirement for such returns, as well as the possibility for States who wish to do so to conclude agreements or mutually acceptable arrangements, on a case-by-case basis, for the final disposal of confiscated property.

Sharing preliminary findings on the implementation of Chapter V of the Convention from the country reviews that had been conducted by the time of the meeting, Ms. Meingast indicated that, with regard to direct recovery provisions, most States had taken the approach of recognizing other States parties as legal persons and applying provisions granting locus standi to legal persons to foreign States, or of having specific statutory provisions enabling foreign States to initiate civil action in their courts. However, many States had not yet had any practical experience in applying these provisions. Regarding the recognition of claims of property rights by another State party, many States referred to the general regulations on the protection of bona fide third parties in criminal proceedings, while others indicated that, at the time of the review, there were no avenues available for foreign States to have their legitimate ownership recognized in confiscation proceedings. With regard to the asset return provisions of article 57 of the Convention, preliminary findings indicated that most States whose reviews had been concluded had some provisions on the return or disposal of assets. However, these were applicable only to specific offences in some States, while in others, a return of assets was possible only under narrow procedural circumstances or at the discretion of a Minister. While few of the States whose reviews had been conducted had practical experience in returning assets, many

States were in the process of reforming their legislation to bring it in line with the Convention. Most States had no impediments to concluding agreements as per article 57, paragraph 5 of the Convention.

Walter Reithebuch, Senior Policy Advisor on Anti-Corruption and Asset Recovery at the Swiss Federal Department of Foreign Affairs' Agency for Development Cooperation, shared information on the Addis I and II meetings, co-hosted by Ethiopia and Switzerland. He outlined how the Addis process, based on UNCAC as a fundamental basis, as well as the Addis Ababa Action Agenda and the SDGs, offered a space for experts and practitioners from requesting and requested countries to share experience, learn from good practices and come to a common understanding on the common goal of returning assets in an effective and efficient manner. The Addis I meeting identified three workstreams as requiring additional work to develop good practices on asset return, (1) Management of seized and confiscated assets pending return; (2) The end use/disposal of returned assets, including in support of the SDGs; and (3) modalities and negotiation of agreements for returning the assets. To advance work in this regard, an international expert meeting had been convened in Guatemala in May 2018 focusing on workstreams (1) and (2), and workstream (3) had been advanced at the Addis II meeting, held in Addis Ababa in May 2019. At that meeting, participants had come to several conclusions and highlighted inter alia the importance of transparency and accountability in the asset return process. Mr. Reithebuch further explained how the outcome of the Addis process was feeding back into Vienna-based processes, in particular the Conference of the States Parties to the Convention and one of its subsidiary bodies, the Asset Recovery Working Group.

Kellen McClure, Anticorruption Advisor at the Bureau of International Law Enforcement and Narcotics Affairs at the U.S. State Department, outlined how the objectives of GFAR had been to (a) reaffirm collective political will to strengthen international cooperation on asset recovery cases; (b) build capacity among practitioners; (c) make progress on actual ongoing asset recovery cases; and (d) contribute to global thinking on returning or disposing of recovered assets back to the people harmed by corruption. As a result, the GFAR principles for disposition and transfer of confiscated stolen assets in corruption cases were adopted by the co-hosts and the focus countries of the Global Forum in 2017 (Nigeria, Tunisia, Sri Lanka, Ukraine, United Kingdom and United States). In explaining the principles, he noted that these could be grouped into three focus areas: 1) early stages of the asset return process; where principles 1 (Partnership), 2 (Mutual interests) and 3 (Early dialogue) were applicable; 2) mechanisms of return; to which principles 7 (case-specific treatment), 8 (Consider using an agreement under UNCAC article 57(5)), and 4 (Transparency and accountability) could be applied and consideration could be given to principle 10 (Inclusion of non-government stakeholders); and finally 3) how assets could support victims; for which principles 5 (Beneficiaries), 6 (Strengthening anti-corruption and development) and 9 (Preclusion of benefit to offenders) provide guidance.

Mr. McClure underscored the importance of the GFAR principles as a model for countries engaged in asset returns. He described how, since the Addis I meeting, some practical application of the

principles had emerged, first with a return of USD 7 million to Kyrgyzstan handled in line with the principles, even though there was no specific mention of them. Furthermore, returns from the United States to Malaysia in the 1MDB case further illustrated the practical use of the principles, and a potential return from the United States to Nigeria was being discussed along the same lines.

In the ensuing discussion, participants raised concrete issues for consideration, such as the issue of banks refusing to return money to a requesting State on the basis of a settlement, challenges in international cooperation that were also being encountered in asset return processes, and the lack of information on the gap between assets that had been frozen and confiscated and those that had been returned to requesting States parties. In their responses, panellists highlighted the usefulness of obtaining domestic confiscation orders and requesting their enforcement abroad to facilitate asset return. Furthermore, as many countries relied on international cooperation legislation for asset return and faced similar challenges in asset return processes as in other international cooperation processes (such as the differences in legal systems that can imply challenges when executing e.g., non-conviction-based forfeiture orders in countries that may only have a limited scope of application of such provisions as the domestic level, language differences, etc.), many of the issues encountered in traditional forms of international cooperation also applied in asset return. With regard to the gap between assets frozen and confiscated and those returned, a representative of the joint UNODC/World Bank Stolen Asset Recovery (StAR) Initiative shared information on data that had been collated in a publication entitled “Few and Far - The Hard Facts on Stolen Asset Recovery”<sup>7</sup> and informed participants that a more comprehensive update of the report was being prepared. The first draft of the updated study was due to be released in 2020.

#### **B. Panel 2: Lessons Learned in Asset Return and Disposition**

Based on case examples of successful asset returns, the second panel discussed lessons learned by countries with experience in returning recovered assets and explored how these lessons could be applied to future returns. Moderated by Brigitte Strobel-Shaw, Chief of the Corruption and Economic Crime Branch at UNODC, panellists addressed questions related to how transparency and accountability were promoted throughout the asset return and disposal process.

Lessons learned from the conclusion and implementation of one of the newest asset return agreements, the Framework for Return of Assets from Corruption and Crime in Kenya (FRACCK), were presented by Tom LeFeuvre, Director of Global Markets and International Agreements at the Ministry of Foreign Affairs of the Government of Jersey. In characterizing the FRACCK, he underscored its multi-party nature, indicating that Kenya, Jersey, Switzerland and the United Kingdom were party to the framework. Furthermore, he highlighted that the FRACCK was non-binding and open-ended and thus provided a common structure for asset returns for several different cases and different assets. As such, the FRACCK could be used for future returns, also by other participants that could join the FRACCK if so agreed. As some of the FRACCK’s main benefits Mr.

<sup>7</sup> [https://star.worldbank.org/sites/star/files/few\\_and\\_far\\_the\\_hard\\_facts\\_on\\_stolen\\_asset\\_recovery.pdf](https://star.worldbank.org/sites/star/files/few_and_far_the_hard_facts_on_stolen_asset_recovery.pdf)

LeFeuvre noted that it encouraged transparency and accountability, fostered a sense of partnership between States, created momentum and was a vehicle to facilitate dialogue on asset return through a shared structure. In this regard, he underscored how the FRACCK reinforced the principles enshrined in UNCAC. Mr. LeFeuvre also expressed hope that a meeting of FRACCK Steering Committee would take place before the end of the year, and that this milestone could be used to develop a bilateral asset return agreement for the return of assets from Jersey to Kenya.

Julius Muraya, Deputy Director of Asset Recovery and Legal Support at the Ethics and Anti-Corruption Commission in Kenya, shared information on the asset recovery cases leading up to the conclusion of the FRACCK. In particular, he highlighted two large-scale cases in which assets had been recovered, the Grand Regency case and the Sajjad properties case. Based on these cases, he informed participants of his Office's strategy for sharing information on such recoveries with the public to avoid misinformation. Underscoring the importance of transparency and accountability, Mr. Muraya showed examples of public handing over of titles to recovered land, signs on ambulances that had been funded through recovered assets and events held to further disseminate information on recovered assets in Kenya, in particular in areas from which assets had been stolen. Furthermore, events related to asset recovery and asset return had been televised and were included in the annual calendar to ensure that the public had access to information on asset recovery and could follow the progress made. The attention and high visibility generated by the FRACCK had been beneficial in ensuring that information related to asset recovery and asset return was being made available and had given people the power to demand and reinforce accountability.

Kyle Freeny, Trial Attorney at the Money Laundering and Asset Recovery Section of the U.S. Department of Justice, informed participants that USD 1.7 billion had been restrained in connection with the 1MDB case, in which the United States had cooperated with Luxembourg, Malaysia, Singapore and Switzerland. In separate indictments, the U.S. Department of Justice filed complaints for non-conviction-based forfeiture, which developed into the largest corruption-based matter handled at the time of reporting. Approximately USD 200 million secured through the forfeiture of a hotel in New York City and proceeds of the blockbuster "The Wolf of Wall Street" had been returned to Malaysia, while final forfeiture orders were being pursued for the remaining assets. Factors that made the asset return go very smoothly and quickly were, according to Ms. Freeny, the clarity of who the victim was and the close and constant coordination with Malaysia. In particular, she highlighted the coordination with the Attorney-General's Chambers of Malaysia, including prior to the final forfeiture order, on the best return mechanism to use in each case, given that the United States could resort to either asset sharing agreements when receiving substantial assistance from another State or remission when returning the assets to victims. Based on the specificities of the cases, an asset sharing agreement was used for one return while remission was used for the other. In addition to the close cooperation, Ms. Freeny highlighted that the Malaysian counterparts had provided assistance already at the investigative stages and had given a lot of forethought to arriving at just, accountable and transparent means for return, and an understanding was reached that the



funds would be used to pay off 1MDB's debts. To this end, the funds were placed in an account for 1MDB, which provided visibility on how the funds were being used for both States.

Xavier-Baptiste Ruedin, Head of the Task Force Asset Recovery at the Swiss Federal Department of Foreign Affairs' Directorate of International Law, shared the lessons learned by Switzerland in asset return and informed the participants of legislative reform undertaken in Switzerland to facilitate such returns. As a crucial takeaway from the Swiss asset return experience, he highlighted the partnership between requesting and requested States as key to success in asset recovery and noted the tension that sometimes occurred between a speedy and a good return. By way of example, he shared information on a return of USD 321 million to Nigeria (Abacha II return), for which a letter of intent was signed in March 2015, outlining that the returned assets were to be used for the benefit of the Nigerian population and recognizing the need to satisfy the scrutiny of civil society and the international community. The publicly available return treaty was signed at GFAR in December 2017 and reflects most GFAR principles, including the importance of returning the assets in an accountable and transparent manner, thus returning not only the assets but also strengthening trust in institutions.

Furthermore, he provided information on the Swiss Federal Act on the Freezing and the Restitution of Illicit Assets held by Foreign Politically Exposed Persons (Foreign Illicit Assets Act, FIAA), which entered into force in July 2016. Mr. Ruedin indicated how the FIAA complemented traditional mutual legal assistance and provided a legal basis for preventive freezing of assets of politically exposed persons in certain circumstances, such as when the government or certain members of the government of the country of origin had lost power or when the country of origin was unable to satisfy the requirements for mutual legal assistance owing to the total or substantial collapse, or the impairment, of its judicial system. He pointed out that the FIAA allowed the Swiss Government to instigate administrative confiscation proceedings if a mutual legal assistance process did not succeed, even in the absence of a prior criminal conviction of the politically exposed person or their close associates. Asset returns based on FIAA required an agreement on the practical arrangements for returning assets and had to be directed at improving the living conditions of the local people and strengthening the rule of law. Furthermore, non-governmental organizations could also be involved to the extent possible.

In the ensuing debate, participants discussed measures to deter attempts to hide assets, such as the automatic exchange of information among tax and law enforcement authorities, the establishment of specialized units and legislative reform, including on non-conviction-based forfeiture, which was seen as a particularly useful tool for asset recovery. Panellists also discussed the importance of publishing information on asset recovery and asset return to increase accountability and transparency while recognizing that increased communication on these matters may lead to the perception that certain jurisdictions are frequently associated with such cases. In addition to the importance of preventive measures, participants also discussed challenges related to international cooperation, in particular with regard to obtaining banking information on accounts opened by public officials abroad. To overcome such difficulties, participants stressed the importance of enabling legislation

and practical measures such as establishing partnerships based on mutual trust and making use of networks such as the Directory of Competent National Authorities maintained by UNODC, the OECD Global Network of Law Enforcement Practitioners against Corruption, and the World Bank Group's International Corruption Hunters Alliance.

### **C. Panel 3: Collaborative Approaches to Promoting Transparency and Accountability:**

The third panel was moderated by Susan Snyder, Director of Design and Learning at the U.S. State Department's Bureau of International Narcotics and Law Enforcement Affairs, and focused on exploring how government and non-government stakeholders can work together to promote transparency and accountability in the asset return process.

Elsa Gopala Krishnan, Financial Sector Specialist at the StAR Initiative, noted how GFAR contained a workstream dedicated to civil society and constituted a good platform for collaboration on asset recovery. She further highlighted the need for efficient and solid asset management at the domestic level to ensure that assets are being maintained leading up to any returns. She referred to the outcomes of the Implementation Review Mechanism for the Convention concerning the implementation of article 31, paragraph 3, relating to asset management, and indicated that this had been one of the areas where needs for technical assistance had frequently been identified. In this regard, UNODC produced a study on the "Effective management and disposal of seized and confiscated assets"<sup>8</sup>, which formed the basis for draft non-binding guidelines on the management of frozen, seized and confiscated assets that had been developed in line with resolutions 7/1 and 7/3 of the Conference of the States Parties. The draft non-binding guidelines had been discussed by States parties at various meetings of subsidiary bodies of the Conference and were again to be made available to the Conference of the States Parties at its upcoming eighth session, to be held in Abu Dhabi from 16 to 20 December 2019.

Ms. Gopala-Krishnan also referred to the above-mentioned update of the "Few and Far" study and the ongoing update of the StAR Asset Recovery Watch Database and Settlements Database<sup>9</sup> in an effort to share more data and information on successfully concluded asset returns. In this regard, she invited participants to submit information and updates on their successful asset returns to showcase examples and share lessons learned.

David Ugolor, Executive Director of the African Network for Environmental and Economic Justice in Nigeria, explained his organization's work in monitoring the use of the assets returned by Switzerland (the so-called "Abacha II return"). He emphasized how the lessons learned in the Abacha I return had been applied to the Abacha II return to ensure the safeguarding of assets and increasing accountability and transparency and noted how one of the provisions of the return agreement included

<sup>8</sup> [https://www.unodc.org/documents/corruption/Publications/2017/17-07000\\_ebook\\_sr.pdf](https://www.unodc.org/documents/corruption/Publications/2017/17-07000_ebook_sr.pdf)

<sup>9</sup> <https://star.worldbank.org/corruption-cases/>

the involvement of civil society. The returned assets were being used to bolster the National Social Safety Nets project through the disbursement of 5.000 Naira monthly to each beneficiary. Mr. Ugolor indicated how, through civil society monitoring, it was found that some officials had deducted money from these monthly disbursements, which was reported to the government. These reports led to the prosecution of the responsible officials and resulted in the dismissal and suspension of some of them. Furthermore, he highlighted that through media involvement and publicity around the transfer of money, public awareness of the return and the use of the returned assets had been increased, thus contributing to strengthened accountability and transparency and a greater public confidence that the assets will be used for the benefit of the Nigerian people.

Oscar Solorzano, Country Manager for Peru at the International Centre for Asset Recovery, outlined Peru's experience in receiving returned assets and the legislative reforms undertaken to facilitate asset recovery. He highlighted how initial asset returns to Peru had sometimes been criticized for the way in which returned assets were invested and spent and outlined the legislative reforms that had been undertaken to facilitate asset recovery and asset return. In this regard, he shared information on the non-conviction-based forfeiture legislation and the institutional framework established in Peru for asset management. He noted how, while the responsibility for monitoring expenditure lies with the Ministry of Finance, the National Seized Property Programme (PRONABI) published results of expenditure, and the Comptroller-General's Office had revamped its mandate and was implementing simultaneous control mechanisms. He also referred to the participation of civil society organizations foreseen in the budget law regarding the assignment and expenditure of the public budget, in reflection of GFAR principle 10.

Mr. Solorzano also referred to challenges in receiving returned assets, in particular with regard to administering assets such as aircrafts, businesses and other assets requiring specialized asset management capacities, and ensuring that returned assets were not being stolen again. In this context, he underscored the need for enforcement and external monitoring mechanisms.

Sara Brimbeuf, Advocacy Officer at Transparency International (TI) France, shared information on TI's advocacy efforts on asset return. She highlighted how a French criminal court had convicted a high-level foreign official for money-laundering offences and confiscated EUR 150 million in a trial that started with three criminal complaints filed against high-level officials by civil society twelve years ago. While a decision had been reached in one of the three cases, the others were still ongoing and reaching trial stages. Following this landmark decision, a bill on the return of stolen assets had been adopted almost unanimously by the Senate and was expected to be passed by the end of 2019. The bill aimed at isolating confiscated stolen assets within the French budget and storing them in special funds while waiting for a return to facilitate a clear overview of assets subject to return. In addition, and inspired by the Swiss asset return legislation, the bill contained a general principle of asset return inspired by the GFAR principles. In explaining TI's advocacy strategy, Ms. Brimbeuf underscored how the judicial pressure resulting from the complaints filed by civil society had been crucial in advancing the asset return debate and in creating momentum for the asset return bill to be

tabled. As a second stage of advocacy, she highlighted the importance of demonstrating that asset return was feasible and being done at the international level and of sharing experience, good practices and lessons learnt on how to effectively and efficiently return assets.

Participants discussed the possibilities for donor countries to support civil society organizations in building their capacity to carry out monitoring, including through building knowledge in and establishing direct contact with Embassies located in requesting States. In this regard, reference was made to the multi-stakeholder workshops on the Implementation Review Mechanism that UNODC organized for focal points and governmental experts and civil society representatives to disseminate information on the Convention and the Review Mechanism and to create a space for dialogue between government and civil society counterparts, as well as to open source information workshops facilitated by the StAR Initiative. Participants also encouraged the compilation of all knowledge and documentation compiled by the G20 ACWG on one single website to avoid duplication of efforts and to build on existing resources.

#### **IV. Conclusions**

Based on the panel discussions, participants concluded the following:

- The return of recovered assets is a priority for all countries involved; it should be everyone's ultimate goal.
- Both returning and receiving countries have domestic and international obligations related to asset return and thus both have an interest in ensuring returns comply with these obligations.
- Countries need to work together to ensure recovered assets are returned in an efficient manner that complies with domestic and international commitments and addresses the interests of all stakeholders. In this regard, it is important to ensure the widest measure of international cooperation possible.
- Returning and receiving countries have a shared interest in ensuring that the asset return process goes as smoothly as possible. Political will and technical capacity play a critical role in this regard.
- Each asset recovery case is different; there is no one-size-fits-all solution to asset return.
- Promoting transparency and accountability in the return process can promote trust, credibility and confidence among the returning and receiving countries and their citizens.
- Non-governmental stakeholders can play a critical role in the asset return process, including through monitoring returns, providing technical assistance, or through advocacy on the importance of transparent and accountable returns.
- The international community is still learning about what works and what does not work in asset return. Therefore, it is critical that countries continue to share experiences and lessons learned.

## **V. Good practices**

- Engage in early and continuous communication throughout the whole asset recovery process, particularly in the asset return stage. This communication builds trust and can resolve issues that emerge.
- Recognize that asset return needs requesting and requested States to cooperate and needs to be based on mutual respect.
- Demonstrate political will and commitment to anti-corruption and asset return. This can help build credibility and confidence in the process and provide incentives for strong collaboration.
- Ensure transparency in the return process. This can help promote more efficient returns, increase trust among governments and citizens, and safeguard assets from being misappropriated or re-criminalized.
- Involve non-governmental stakeholders in the process where possible and appropriate.
- Designate dedicated points of contact who can coordinate within their own government and with other governments.
- Make use of networks such as the Directory of Competent National Authorities maintained by UNODC, the OECD Global Network of Law Enforcement Practitioners against Corruption, and the World Bank Group's International Corruption Hunters Alliance to facilitate international cooperation.
- Provide technical assistance to address gaps and challenges that affect effective asset return, and promote transparency and accountability.

## **VI. Way forward**

- Continue this work within the G20 ACWG, including through a potential “Good Practice Guide on Asset Return”
- Invite UNODC to continue to brief on this subject and the findings of the UNODC second cycle of implementation reviews in this regard.
- Encourage active G20 participation in the UNCAC Asset Recovery Working Group, where these topics are being discussed.

## Annex I

**G20 Anticorruption Working Group Side Event:****Best Practices in Promoting Transparency and Accountability in Asset Return***9 October 2019**OECD Headquarters, Paris, France*

9:30 – 9:45	<p><b><u>Opening Session:</u></b></p> <ul style="list-style-type: none"> <li>- Welcome from co-chairs</li> <li>- Remarks by Jeffrey Schlagenhauf, OECD Deputy Secretary-General</li> </ul>
9:45 – 10:30	<p><b><u>Existing Guidelines/Best Practices:</u></b></p> <p><i>The international framework for asset recovery and return is outlined in Chapter V of the UN Convention against Corruption (UNCAC). Since the adoption of UNCAC, there have been several initiatives to promote the effective recovery and return of the proceeds of corruption. This session will provide an overview of several of these major initiatives and the outcomes they have achieved.</i></p> <p><i>UNCAC Chapter V</i></p> <ul style="list-style-type: none"> <li>- Sophie Meingast, Crime Prevention and Criminal Justice Officer, UNODC</li> </ul> <p><i>Addis Ababa Initiative</i></p> <ul style="list-style-type: none"> <li>- Walter Reithebuch, Senior Policy Advisor, Anti-Corruption and Asset Recovery, Agency for Development Cooperation, Federal Department of Foreign Affairs, Switzerland</li> </ul> <p><i>Global Forum on Asset Recovery</i></p> <ul style="list-style-type: none"> <li>- Kellen McClure, Anticorruption Advisor, Bureau of International Law Enforcement and Narcotics Affairs, State Department, United States</li> </ul> <p>Moderator: Andrew Preston, Head of the Joint Anti-Corruption Unit, Home Office, United Kingdom</p>
10:30-10:45	Coffee Break
10:45 – 12:00	<p><b><u>Lessons Learned in Asset Return and Disposition:</u></b></p> <p><i>As more international asset recovery cases come to a successful conclusion, countries are increasingly working on repatriating confiscated assets in line with their domestic laws and international obligations. This includes promoting transparency and accountability throughout the asset return and disposition process. This session will explore various lessons learned by countries with experience returning recovered assets and how these lessons can be applied to future returns.</i></p>

	<ul style="list-style-type: none"> <li>- Tom Le Feuvre, Director, Global Markets and International Agreements, Ministry of Foreign Affairs, Government of Jersey</li> <li>- Julius Muraya, Deputy Director, Asset Recovery &amp; Legal Support, Ethics and Anti-Corruption Commission, Kenya</li> <li>- Kyle Freeny, Trial Attorney, Money Laundering and Asset Recovery Section, Department of Justice, United States</li> <li>- Xavier-Baptiste Ruedin, Head of the Task Force Asset Recovery, Directorate of International Law, Federal Department of Foreign Affairs, Switzerland</li> </ul> <p>Moderator: Brigitte Strobel-Shaw, Chief, Corruption and Economic Crime Branch, UNODC</p>
12:00 – 13:30	Lunch Break
13:30 – 15:00	<p><b><u>Collaborative Approaches to Promoting Transparency and Accountability:</u></b>  <i>Effective asset return and disposition requires innovative thinking and close cooperation between various stakeholders. This session will explore how various government and non-government stakeholders can work together to promote transparency and accountability in the return process.</i></p> <ul style="list-style-type: none"> <li>- Elsa Gopala-Krishnan, Financial Sector Specialist, Stolen Asset Recovery Initiative</li> <li>- David Ugolor, Executive Director, African Network for Environmental and Economic Justice</li> <li>- Oscar Solorzano, Country Manager for Peru, International Centre for Asset Recovery</li> <li>- Sara Brimbeuf, Advocacy Officer, Transparency International-France</li> </ul> <p>Moderator: Susan Snyder, Director, Design and Learning, Bureau of International Narcotics and Law Enforcement Affairs, U.S. State Department</p>
15:00 – 15:30	<p><b><u>Wrap up/Way Forward</u></b>  This session will summarize good practices discussed during the side event and discuss possible next steps on this workstream.</p>