



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

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## Open-ended Intergovernmental Working Group on Asset Recovery

Vienna, 25-26 August 2011

Item 2 of the provisional agenda\*

### Implementation of resolution 3/3 of the Conference of the States Parties and of the recommendations of the Working Group

## Progress made in the implementation of the recommendations of the Open-ended Intergovernmental Working Group on Asset Recovery

### Background paper prepared by the Secretariat

#### I. Introduction

1. At its first session, the Conference of the States Parties to the United Nations Convention against Corruption (the Conference) adopted resolution 1/4, by which it established the Open-ended Intergovernmental Working Group on Asset Recovery (the Working Group). In that resolution, the Conference decided that the Working Group was to advise and assist the Conference in the implementation of its mandate on the return of proceeds of corruption. The Working Group was set up in accordance with article 63, paragraph 4, of the United Nations Convention against Corruption (the Convention).

2. In the same resolution, the Conference also decided on the functions of the Working Group, which included, inter alia, assisting the Conference in developing cumulative knowledge in the area of asset recovery, identifying capacity-building needs and encouraging cooperation among relevant existing bilateral and multilateral initiatives and to contribute to the implementation of the related provisions of the Convention under the guidance of the Conference; Facilitating the exchange of information, good practices and ideas among States; and building confidence and encouraging cooperation between requesting and requested States.

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\* CAC/COSP/WG.2/2011/1.



3. Also in the same resolution, the Conference decided that the Working Group shall meet during the sessions of the Conference and, as appropriate, shall hold at least one intersessional meeting within existing resources. The Conference further decided that the Working Group should submit to it reports on its activities.

4. At its second and third sessions, the Conference decided to continue the work of the Working Group. It also decided that the Working Group shall hold at least two meetings prior to the next sessions of the Conference in order to perform its mandated task, within existing resources. The Working Group held its first meeting in Vienna, on 27 and 28 August 2007,<sup>1</sup> its second intersessional meeting on 25 and 26 September 2008,<sup>2</sup> its third meeting on 14 and 15 May 2009,<sup>3</sup> and its fourth meeting on 16 and 17 December 2010.<sup>4</sup>

5. The present background paper has been prepared to inform the Working Group on the status of implementation of its mandates and of the recommendations of the Conference relating to asset recovery. It also provides an account of the discussions of the Working Group at its prior meeting. It is aimed at assisting the Working Group in its deliberations and in determining its future work.

## **II. Overview of the Status of Implementation of the Recommendations of the Conference of the States Parties and the Working Group**

6. Previous discussions in the Working Group may be divided according to three themes: Developing cumulative knowledge; Building confidence and trust between States requesting the recovery of assets and requested States; and technical assistance, training and capacity-building.

7. With respect to the development of cumulative knowledge on asset recovery, the Working Group noted the continuing need to overcome practical challenges and barriers faced by States parties in the implementation of Chapter V of the Convention, including the lack of capacity of practitioners to deal with asset recovery cases.

8. The Working Group stressed in its discussions that building of confidence and trust was a crucial component of the work on asset recovery, particularly as a means of increasing political will, developing a culture of mutual legal assistance and cooperation and paving the way for successful international cooperation.

9. Regarding technical assistance, the Working Group discussed relevant approaches to asset recovery such as capacity-building and training, gap analyses, the drafting of new laws where necessary and the facilitation of the mutual legal assistance process. It recognized the urgent and constant need to provide training to personnel of authorities involved in asset recovery, especially in the tracing, seizure and confiscation of proceeds of corruption.

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<sup>1</sup> CAC/COSP/2008/4.

<sup>2</sup> CAC/COSP/WG.2/2008/3.

<sup>3</sup> CAC/COSP/WG.2/2009/3.

<sup>4</sup> CAC/COSP/WG.2/2010/4.

10. Since its first meeting, the Working Group discussed the need to strengthen coordination of various initiatives in asset recovery. In this regard, the United Nations Office on Drugs and Crime (UNODC) and the World Bank have established the Stolen Asset Recovery (StAR) Initiative in September 2007, which became fully operational at the end of 2008. Its goal is to encourage and facilitate the systematic and timely return of proceeds of corruption and to improve global performance in the return of stolen assets.

## **A. Developing cumulative knowledge**

### **1. Recommendations**

11. The Working Group has consistently given high priority to the availability, creation and management of knowledge on asset recovery. The Working Group welcomed the progress made by the Secretariat on the legal library and the comprehensive knowledge portal known as TRACK. The Working Group recommended that such a tool should contain not only legislation but also analytical work, in particular for the better understanding of complex procedural requirements.

12. The Working Group highlighted the usefulness of the existing knowledge products of the StAR Initiative in building national capacity, and requested the Secretariat to prepare a list of the StAR Initiative knowledge products and to ensure their widest possible dissemination.

13. The Working Group recommended the development of practical tools for asset recovery, in particular a practical step-by-step manual that should be tailored to the needs of practitioners in asset recovery cases and be used for capacity-building measures.

14. The Conference of the States Parties also urged the further study and analysis of how legal presumptions, measures to shift the burden of proof and examination of illicit enrichment frameworks facilitate the recovery of corruption proceeds.

#### *Action taken*

15. The basic tool for collecting information on domestic legislation and other measures to implement the Convention against Corruption is the self-assessment checklist, endorsed by the Conference of the States Parties in its resolution 3/1 to serve the purposes of the mechanism for the review of implementation of the Convention. Legal data submitted through the checklist and validated by States parties under review, including judicial decisions rendered in asset recovery cases, will also feed into the UNODC Legal Library (the Legal Library).

16. The Legal Library is designed to collect, systematize and disseminate updated and validated legal knowledge on anti-corruption and asset recovery in relation to the Convention. Building on information elicited through the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, the key objective of the Legal Library is to facilitate the analysis and distribution of current and validated legal knowledge to help strengthen implementation of the Convention and promote ratification or accession by States. An initial dataset of laws, regulations and administrative practices of over 175 States has been compiled,

and a detailed analytical breakdown of how this legislation relates to the provisions of the Convention has been conducted.

17. The legal library is part of a broader project known as “Tools and Resources for Anti-Corruption Knowledge” (TRACK), which at the initial stages of its development was referred to as “Knowledge Management Consortium”. TRACK is a web-based portal and collaborative forum for anti-corruption and asset recovery practitioners and partner institutions, that collects and disseminates knowledge on anti-corruption and asset recovery, including case studies, best practices and policy analyses. TRACK will also offer links to relevant databases, such as the UNODC database of asset recovery focal points, the expanded mutual legal assistance request writer tool and the StAR Asset Recovery Database. Apart from StAR, other international partners of TRACK are the United Nations Development Programme, the International Association of Anti-Corruption Authorities, the Asian Development Bank, the Organisation for Economic Cooperation and Development, the Basel Institute on Governance and the U4 Anti-Corruption Resource Centre. The Legal Library and TRACK will be launched in July 2011.

18. While existing knowledge on the implementation of Chapter V of the Convention, such as case studies, best practices and policy analyses, will be made available through TRACK, a number of policy studies addressing knowledge gaps in specific areas of asset recovery have been produced through the StAR Initiative. Those knowledge products are the following:

(a) Asset Recovery Handbook: A Guide for Practitioners. Published in December 2010, the handbook is designed as a quick-reference “how-to” manual for law enforcement, investigating magistrates, and prosecutors. The handbook guides practitioners as they grapple with the strategic, organizational, investigative, and legal challenges of recovering assets, and outlines techniques and procedures that would facilitate recovery of corruption proceeds;

(b) Towards a Global Architecture for Asset Recovery. This policy note was presented as a consultative draft at the third session of the Conference of States Parties to the Convention against Corruption in November 2009. It reviews the status of asset recovery at a global level and lays out an agenda for action;

(c) Politically Exposed Persons: Preventive Measures for the Banking Sector. Published in 2010, this report combines policy recommendations and good practices aimed at making it harder for corrupt politically exposed persons to launder their money, and make it easier to achieve return of stolen assets;

(d) A Good Practice Guide for Non-conviction-based Asset Forfeiture. Based on the practical experience of experts from different regions and legal systems, this guide identifies the key legal, operational and practical concepts that a non-conviction-based asset forfeiture system should encompass to be effective. Published in 2009, the Guide is also available in Spanish and Russian;

(e) Management of Returned Assets: Policy Considerations. This publication, also published in 2009, reviews some of the issues that national authorities may wish to consider when planning for the management of returned assets;

(f) Income and Asset Declarations: Tools and Trade-offs, second edition in two volumes. This guide is scheduled for publication in July 2011 and seeks to

provide practical advice on the design and implementation of income and asset declaration systems;

(g) The study “Lowering Barriers to Asset Recovery”, which identifies and analyses the barriers that impede the recovery of stolen assets located within financial centres, has been published in June 2011, while the Report on the Misuse of Corporate Vehicles, describing how legal entities are used to conceal the interest of corrupt officials in the proceeds of corruption, is scheduled for publication during the summer of 2011. These publications, together with the report on Progress of Donor Commitments on Anti-Corruption made at the High-Level Forum of the Organisation for Economic Cooperation and Development (OECD) in Accra, will be made available at the fourth meeting of the Working Group;

(h) Looking forward, and building on growing experience, a study on quantification of the proceeds of corruption, prepared jointly by StAR and OECD, and another study on the impact of settlements on international cooperation on asset recovery will be published in 2011.

19. In response to the recommendation made by the Conference in its resolution 3/3, a global study on illicit enrichment as an anti-corruption tool is being finalized. In order to promote greater understanding of the relevant provision of the Convention against Corruption, it will include an examination of legal and policy issues on the matter. The study on illicit enrichment is expected to be published during the summer of 2011, and will be made available to the Working Group at its fourth meeting.

## **2. Recommendations**

20. The Working Group stressed the importance of modern information technology in developing cumulative knowledge, and requested the Secretariat to continue its work to expand the Mutual Legal Assistance Request Writer Tool and to develop similar products.

### *Action taken*

21. UNODC pursued efforts to expand the Mutual Legal Assistance Request Writer Tool, which is regarded as a user-friendly computer-based tool that would help States preparing, transmitting and receiving mutual legal assistance requests. While the basic structure and features will remain unaltered, the expanded version of the tool will offer additional features and possibilities in the area of asset recovery. The revised version of the Mutual Legal Assistance Request Writer Tool is being prepared and is expected to be finalized before the end of 2011.

22. Software applications GoAML and GoCASE, developed by UNODC, are still available to Member States and may be of use to asset recovery practitioners.<sup>5</sup>

23. Modern information technology is fully incorporated by UNODC in the development of resources to support the asset recovery process. Such resources include TRACK (cf. above para. 17), the legal library (cf. above para. 16), the self-assessment checklist (cf. above para. 15) and the database of focal points (cf. below para. 49).

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<sup>5</sup> For more information, see <http://goaml.unodc.org/> and <http://gocase.unodc.org/>.

### 3. Recommendations

24. The Working Group requested UNODC to continue its efforts, in consultation with Member States, to compile asset recovery cases with a view to preparing an analytical study of such cases, building on relevant experience of the Office. The Working Group encouraged interested Member States to contribute voluntarily to such efforts, including through the self-assessment checklist and with due regard to the confidentiality of sensitive information.

#### *Action taken*

25. An increasing number of asset recovery cases is being made available to the Secretariat. In response to the notes verbales issued by the Secretariat on 30 June 2009 and 22 January 2010 (CU 2009/87 and CU 2010/5) seeking the cooperation of States in preparing a compilation of cases related to the recovery of proceeds of corruption, States parties and States signatories to the Convention have submitted 10 cases with an adequate level of detail. The Secretariat will treat this material in a manner that respects confidentiality restrictions requested by the States.

26. Another source of asset recovery cases is the Database of International Asset Recovery Cases developed by the StAR Initiative which is currently being finalized. This database contains 75 cases dealing with all aspects of asset recovery and often comprising a number of related proceedings in more than one jurisdiction, and will be made available to practitioners through the StAR website and the UNODC TRACK web portal. The database will be maintained in coordination with UNODC. States parties are invited to submit cases also to the StAR Initiative for inclusion in the database, or to indicate whether they would allow UNODC to include them in the database when submitting them to UNODC.

27. Cases drawn from the above-mentioned sources, supplemented by additional cases to be provided by States parties including through the self-assessment checklist during the review of Chapter V of the Convention in the second review cycle, constitute a sufficient basis for an analytical study as requested by the Working Group, which will be initiated by the Secretariat in the following months. This study will draw on the experience gathered by UNODC in compiling the "Digest of Terrorist Cases". This digest aims at giving practitioners and policymakers an overview of how prosecutors and courts worldwide have dealt with terrorist cases and some key legal aspects and implications thereof. As recommended by the Working Group, UNODC intends to build on this experience, and, following the same methodology, to identify and analyse those asset recovery cases expected to be of particular interest to States parties.

### 4. Recommendations

28. The Working Group reiterated the need for activities aimed at developing cumulative knowledge to be carried out with broad consultation and participation of experts from different regions and legal systems.

#### *Action taken*

29. The StAR Initiative endeavours to include in the drafting of its products the inputs of expert practitioners from both developed and developing countries as well as different regions. StAR also takes into account the practices of both civil and

common law jurisdictions. Generally, with respect to each knowledge product, a core team is established to collect and analyse information and cases and develop the first draft, which is presented in a workshop or conference where practitioners are invited to discuss and comment on the draft. Then, the core team develops the draft in close collaboration with practitioners.

30. A recent example of such consultation is the expert group meeting on illicit enrichment, held in Washington D.C., on 28 and 29 April 2011 (similar processes were used for other StAR products, including the Misuse of Corporate Vehicles). This meeting was convened by the StAR Initiative to discuss and critically review the draft study on illicit enrichment. Participants from a wide range of jurisdictions and legal systems were invited to contribute based on their own jurisdiction's experience, and to support their views with case law and statistics available. Similarly, for the drafting of the Asset Recovery Handbook, a workshop was organized for practitioners in May 2010 in Marseille, France, whereas recommendations of practitioners attending a workshop in Lausanne, Switzerland, in April 2010 were taken into consideration in the drafting of "Lowering the Barriers to Asset Recovery".

31. Broad consultation and participation in developing cumulative knowledge is also ensured through peer reviews of drafts of knowledge products, which allow practitioners to put forward and discuss comments and suggestions. Input is provided for the consideration of the drafting team in writing or during ad hoc peer review meetings. All StAR products have gone through peer review processes. A recent example is the peer review meeting organized in May 2011 in the context of the study on the Quantification of Proceeds of Corruption, which is under development by the StAR Initiative.

## 5. Recommendations

32. Tools and knowledge products need to be widely disseminated and follow-up on their effectiveness and usefulness should be considered by the Conference or the Working Group.

### *Action taken*

33. All tools and knowledge products developed by UNODC are widely disseminated. For example, the Mutual Legal Assistance Request Writer Tool is available online.<sup>6</sup> The "Tools and Resources for Anti-Corruption Knowledge" (TRACK) will be presented as a web-based portal to ensure broad accessibility. The Legal Library, being part of TRACK, will also be available online.

34. Similarly, the StAR Initiative knowledge products are available on the Internet through both the StAR website and the UNODC website. Also, StAR has the policy to distribute widely its products through various means, including through presentation at events and meetings attended by StAR representatives. For example, the Good Practices Guide for non-conviction-based asset forfeiture (cf. above para. 18 (d)) has been presented, discussed, and disseminated at regional workshops and meetings of international and regional bodies, including the Conference of the States Parties to the United Nations Convention against Corruption, the

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<sup>6</sup> [www.unodc.org/mla/](http://www.unodc.org/mla/).

G8 Lyon/Roma Working Group, and the Financial Action Task Force, as well as practitioner networks such as the International Criminal Police Organization (INTERPOL), Eurojust, the Camden Asset Recovery Inter-Agency Network (CARIN), and the Asset Recovery Inter-Agency Network of Southern Africa (ARINSA). These activities have attracted a high degree of interest and contributed in the considerable success of StAR publications: the Politically Exposed Persons study is in second place and the Asset Recovery Handbook in fourth place among best-selling publications of the World Bank Group. Moreover, dissemination efforts resulted in requests for technical assistance from States in Africa, Asia and Latin America. A law on non-conviction-based forfeiture was recently adopted by a State party that was provided with technical assistance.

## **6. Recommendations**

35. At its third session, the Conference of the States Parties underlined that financial institutions should adopt and implement effective standards of due diligence and financial disclosure. This was previously noted by the Working Group and it highlighted the need to increase the responsibility of financial institutions and the financial intelligence units overseeing them, including through introducing measures to prevent or deal with, as appropriate, failure to report threshold or suspicious transactions; and fostering exchange of knowledge and data. The Working Group recommended to include such institutions in the development of cumulative knowledge on asset recovery; it also encouraged the work on the preventive measures contained in Chapter V of the Convention and placed emphasis on effective financial investigations.

### *Action taken*

36. “No Safe Havens: A Global Forum on Asset Recovery and Development” (Global Forum), co-sponsored by the StAR Initiative and the Government of Switzerland, took place in the World Bank Paris office on 8-9 June 2010. The Global Forum brought together over 120 participants from 18 countries, including representatives of the financial and private sector, civil society organizations, and international and bilateral development agencies.

37. Through the World Bank and the UNODC observership to the Financial Action Task Force (FATF) and the Group of 20, the StAR Initiative has also promoted the recommendations and lessons learned from its analytical work, not least to ensure that tackling the proceeds of corruption received utmost priority in anti-money-laundering efforts (particularly from financial intelligence units and law enforcement) — and due diligence by financial institutions.

38. Under its Global Programme against Money-Laundering (GPML), UNODC has mentors working in the field to assist selected Member States in building effective systems against money-laundering and the financing of terrorism, including by strengthening financial intelligence units, the analysis of financial information and the development of financial intelligence. A key component of GPML is assisting States to enhance expertise and skills of criminal justice officials in the investigation and prosecution of complex financial crimes.

39. The capacity-building activities provided in this context include training on how to conduct effective financial investigations. Other activities relate to the

conduct of enhanced scrutiny of accounts sought or maintained by or on behalf of politically exposed persons, and how financial institutions can foster the effective implementation of their enhanced scrutiny based on the StAR publication “Politically Exposed Persons: Preventive Measures for the Banking Sector” (cf. above para. 18 (c)). StAR team members also participated actively in workshops and discussions with financial institutions, including in the context of the Wolfsberg Group, on such issues, in order to promote the policy recommendations and more active measures by the financial sector against the proceeds of corruption.

40. The perspective of and input from financial institutions has also been included, in the development of cumulative knowledge on asset recovery, in the framework of the StAR Initiative. For example, the policy paper on politically exposed persons involved consultations with financial institutions, regulatory authorities and financial intelligence units in Argentina; France; Hong Kong, China; Jersey; Liechtenstein; Switzerland; the United Kingdom of Great Britain and Northern Ireland; and the United States of America.

## 7. Recommendations

41. The Working Group recommended that products such as the Good Practices Guide on non-conviction-based forfeiture be considered for the implementation of other provisions of the Convention. With regard to legislative tools, the Working Group recommended exploring the selection of areas in which the preparation of models or best practice guides was feasible, such as for the restraint, freezing and confiscation of assets.

### *Action taken*

42. A number of existing knowledge products intended to assist asset recovery practitioners are useful for the implementation of the other provisions of the Convention. These include the upcoming study on illicit enrichment, the asset recovery handbook and the good practice guide to income and asset declaration which can be useful in supporting the prosecution of cases of corruption and assisting financial institutions in identifying politically exposed persons. Also, the asset recovery handbook includes a chapter dedicated to tracing assets that emphasizes the importance of securing stolen assets as quickly as possible.

43. The assessment of areas in which the preparation of models or best practice guides is feasible is in progress. At the same time, UNODC has developed model laws that are closely linked to asset recovery. These model laws include: the 2007 Model Law on Mutual Assistance in Criminal Matters,<sup>7</sup> the 2005 Model Legislation on Money-Laundering and Financing of Terrorism (for civil law systems),<sup>8</sup> and the 2009 Model Provisions on Money-Laundering, Terrorist Financing, Preventive Measures and the Proceeds of Crime (for common law systems).<sup>9</sup> At the regional level, in the framework of the Legal Assistance Programme for Latin America and the Caribbean, UNODC has developed in 2011 model legislative provisions on

<sup>7</sup> For further information, it is available at [www.unodc.org/pdf/legal\\_advisory/Model%20Law%20on%20MLA%202007.pdf](http://www.unodc.org/pdf/legal_advisory/Model%20Law%20on%20MLA%202007.pdf).

<sup>8</sup> [www.unodc.org/documents/money-laundering/2005%20UNODC%20and%20IMF%20Model%20Legislation.pdf](http://www.unodc.org/documents/money-laundering/2005%20UNODC%20and%20IMF%20Model%20Legislation.pdf).

<sup>9</sup> [www.unodc.org/documents/money-laundering/Model\\_Provisions\\_2009\\_Final.pdf](http://www.unodc.org/documents/money-laundering/Model_Provisions_2009_Final.pdf).

in rem forfeiture in Latin America. The model legislative provisions were presented at the Financial Action Task Force (FATF), the Financial Action Task Force of South America against Money-Laundering (GAFISUD) and the Inter-American Drug Abuse Control Commission (CICAD). UNODC plans to commence implementation efforts in specific countries before the end of 2011. An annotated version of the model legislative provisions in Spanish is also under preparation.

44. Consideration is still being given by UNODC to ways of developing model provisions for asset recovery. One approach would be to elaborate model provisions for asset recovery in a single document, covering all aspects that can become relevant for the full implementation of the relevant provisions of Chapter V of the Convention against Corruption. An alternative approach being considered is to develop model provisions focusing on those articles that have not yet been covered by any of the existing model laws.

## **8. Recommendations**

45. The Working Group has repeatedly invited States parties, with the support of the Secretariat, to complete the chapter of the self-assessment checklist dealing with asset recovery, so as to gather information on the implementation of the Convention on articles relating to asset recovery, including information on case law at the national level both in requesting and requested States, as well as focusing on the assessment of existing measures, the compilation of good practices and the identification of technical assistance needs.

### *Action taken*

46. The Conference of the States Parties to the Convention against Corruption decided in its resolution 3/1 that the comprehensive self-assessment checklist shall be used as the basis for the Implementation Review Mechanism of the Convention against Corruption. An improved version of the self-assessment checklist was presented to the Implementation Review Group at its second session, held in Vienna, from 30 May 2011 to 3 June 2011, and is available in all six official languages of the United Nations. The Conference decided that the implementation of Chapter V of the Convention will be reviewed in the second five-year cycle of the Mechanism. However, information on the implementation of Chapter IV of the Convention on international cooperation, which could be relevant to the implementation of provisions on asset recovery, will be collected during the first cycle of the Mechanism. In that context, the thematic implementation reports prepared by the Secretariat under para. 35 of the Terms of Reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, will compile good practices, challenges, observations and technical assistance needs contained in the country review reports, and will therefore provide useful information with respect to international cooperation.

## **B. Building confidence and trust between requesting and requested States**

### **1. Recommendations**

47. The Working Group emphasized that there was a need for informal channels of communication and cooperation, either prior to making a formal request for mutual legal assistance or in cases where no formal request was required. In particular, the Working Group stressed the need to make effective use of cooperation with law enforcement agencies and financial intelligence units, while recognizing the role of the judiciary in international cooperation procedures to ensure accountability and due process. At the domestic level, the Working Group recommended close cooperation between anti-corruption agencies, law enforcement agencies and financial intelligence units. In this regard, it was pointed out that regular meetings could enhance possibilities for asset recovery.

48. The Working Group further highlighted the importance of the work on the establishment of a network of contact points for asset recovery. While the Conference and its Working Group were seen as serving as a platform for the exchange of knowledge and experience, a network of focal points could provide further opportunities for dialogue, which were deemed essential. The Working Group underlined the need for a global network of focal points on asset confiscation and recovery with technical expertise. The Working Group also stressed the importance of regional networks of focal points and the need for collaboration and coordination with those networks, and requested the Secretariat to prepare a background paper on existing networks of focal points, including the database of asset recovery focal points under the StAR Initiative, for consideration by the Working Group within the context of implementation of operative paragraphs 5 and 6 of resolution 3/3 of the Conference. The Working Group highlighted that the full cooperation of States and international organizations was essential for the establishment and maintenance of such a network.

#### *Action taken*

49. UNODC has compiled a database of asset recovery focal points designated by Member States. In March 2011, the Secretariat addressed note verbale CU 2011/54 to Member States inviting them to submit information designating asset recovery focal points in order to expand the database. As at 15 June 2011, 40 Member States had notified the Secretariat of designated focal points.<sup>10</sup>

50. Through the StAR Initiative, support was also provided for the creation of the StAR/INTERPOL Asset Recovery Focal Points Platform (the StAR/INTERPOL Platform), which is a database established by the StAR Initiative in partnership with

<sup>10</sup> The States that have notified the Secretariat of designated focal points are Afghanistan, Algeria, Armenia, Australia, Austria, Bahrain, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Cape Verde, Denmark, Ecuador, Egypt, El Salvador, Guatemala, Jordan, Kenya, Latvia, Malaysia, Malta, Mauritius, Mexico, the Netherlands, Pakistan, Palau, Peru, the Philippines, Poland, Portugal, the Russian Federation, Rwanda, Serbia, Slovenia, Sweden, Switzerland, the Syrian Arab Republic, Turkey, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

INTERPOL and launched on 19 January 2009. Its primary purpose is to assist in the furtherance of investigations rather than to facilitate mutual legal assistance.

51. In addition to the Asset Recovery Focal Point Database, UNODC, the World Bank and the StAR Initiative have contributed to the support, creation and strengthening of regional networks relating to asset recovery. These are mainly informal regional networks directed towards mutual legal assistance. UNODC, the World Bank and StAR also used the Group of Twenty Action Plan against corruption to encourage those States parties to lead by example in designating as soon as possible their Convention against Corruption Asset Recovery and StAR/INTERPOL focal points.

52. Existing networks of asset recovery focal points are discussed in detail in a separate background paper prepared by the Secretariat (CAC/COSP/WG.2/2011/3).

## **2. Recommendations**

53. The Working Group recommended exploring the feasibility of adopting a help desk approach for asset recovery to give advice at the initial stages of a case in an informal manner and refer requesters to counterparts who would be able to provide further assistance.

54. The Working Group also recommended that UNODC explore how the database of asset recovery focal points could be amended with a view to making it possible to ascertain the contact details of persons in other jurisdictions.

### *Action taken*

55. The StAR/INTERPOL Platform provides the name and contact details of a specified individual within the police force of a participating country. Designated officials are available 24 hours a day, seven days a week, to respond to emergency requests for assistance when immediate action is required. The system relies on the details of a contact point being secure, which enables the contact point receiving a request for immediate assistance to have comfort that the person asking for assistance is a law enforcement official. Seventy-six countries have provided focal point details to the StAR/INTERPOL Platform. A first meeting of the members of the network of focal points took place on 13 and 14 December 2010, immediately preceding the fourth meeting of the Working Group. A second meeting of the focal points will be held in Lyon from 11 to 13 July 2011. A communications platform to enable focal points to communicate on a secure basis is currently being developed.

## **3. Recommendations**

56. The Working Group recommended strengthening the cooperation between financial intelligence units, anti-corruption authorities and national authorities responsible for mutual legal assistance, at both the national and international levels. In this context, the Working Group requested the Secretariat to invite those Member States that had not done so to designate a central authority responsible for requests for mutual legal assistance, and make available a list of the authorities to the Conference. Further cooperation with existing networks and institutions such as the Egmont Group of Financial Intelligence Units and the International Association of Anti-Corruption Authorities (IAACA) should be explored.

*Action taken*

57. In March 2011, the Secretariat sent note verbale CU 2011/52 requesting all States parties to the Convention that had not done so to designate central authorities responsible for requests for mutual legal assistance. As at 15 June 2011, 91 States parties had notified the Secretariat of the designated central authorities. A comprehensive, updated list of designated authorities with relevant contact information will be made available to the Working Group and the Conference.

58. Through its Global Programme against Money-Laundering, UNODC works with financial intelligence units to assist them in joining the Egmont Group and to implement the Egmont standards of exchange of information on money-laundering and financing of terrorism. The World Bank provides similar assistance, part of it in coordination with the Egmont Group.

59. UNODC continues to work closely and support the activities of IAACA. It participates in the IAACA Executive Committee and is regularly consulted with regard to the programme of work and the formulation of strategic future plans of the Association. UNODC participated and provided input in the Expert Group Meeting on IAACA Work Plan, held in Singapore from 17 to 20 January 2011.

60. UNODC, World Bank and StAR engagement with FATF is leading to increased attention by this body on how it can foster the international fight against the laundering of the proceeds of corruption. Furthermore, the report on the global architecture on asset recovery (see above para. 18 (b)) includes a note to donor agencies, including advice on linking anti-money-laundering and anti-corruption strategies.

**4. Recommendation**

61. The role of the private sector in the fight against corruption continues to be regarded as crucial. The Working Group recommended that the Secretariat continue to promote partnerships with the private sector, in particular with financial institutions, in order to assist them in complying with their obligations under the Convention and facilitate asset recovery. The Working Group encouraged States parties to support the efforts of the Secretariat, inter alia, by developing partnerships at the national level.

*Action taken*

62. UNODC is mandated to prevent and fight corruption in partnership with the full spectrum of stakeholders, including the corporate community. UNODC continued to participate actively in the work of the United Nations Global Compact Working Group on the Tenth Principle (the Global Compact Working Group) focusing on the private sector's commitment to fight corruption. The Office participated in the eighth meeting of the Global Compact Working Group, held in Copenhagen on 16 May 2011, which discussed, among others, legal incentives based on the Convention against Corruption that can encourage cooperation with law enforcement, including reporting of internal incidents of corruption. UNODC also participated in the United Nations Global Compact Annual Meeting, held in Copenhagen on 17 May 2011.

63. UNODC and the United Nations Global Compact have jointly developed an anti-corruption e-learning tool for the private sector. Through six interactive modules based on real-life dilemma scenarios, the tool provides concrete guidance to members of the corporate community on the practical application of anti-corruption principles based on the Convention. It serves both the objective of awareness-raising about the risks of corruption, as well as its aims to educate the private sector on the contribution it can make to end corruption. The tool was presented to the wider public on 9 December 2010 on the occasion of the International Anti-Corruption Day and is currently available free of charge from the websites of both UNODC and United Nations Global Compact.

64. UNODC is a recipient of financing for anti-corruption projects through the Siemens Integrity Initiative. The US\$ 100 million Initiative, which is part of the World Bank-Siemens AG comprehensive settlement agreed in 2009, will finance three UNODC projects over three years. Siemens' partnership with UNODC will support anti-corruption efforts in three crucial areas: reducing vulnerabilities in public procurement systems; creating legal incentives in line with the Convention against Corruption to encourage corporate integrity and cooperation; and educating current and future business and public leaders about the true costs of corruption and how compliance with the Convention can help to protect both the public good and business interests.

65. There was a considerable demand coming from financial institutions and professionals for the policy paper "Politically Exposed Persons". The StAR Initiative used this document to engage private sector on the one hand (in particular in the context of the Wolfsberg Group) and FATF, to ensure that international good practices on Politically Exposed Persons are strengthened.

## **5. Recommendations**

66. The Working Group emphasized the need for the Secretariat to further strengthen its work with regard to promoting dialogue between requested and requesting States, building trust and confidence and nurturing and further strengthening the political will in ensuring asset recovery, including in its work with other intergovernmental organizations and in the context of the Group of 20. The Group encouraged States parties to seek to remove barriers to asset recovery, in particular by simplifying domestic procedures and by strengthening such procedures to prevent their misuse.

### *Action taken*

67. The Conference and working groups, as well as the Implementation Review Group, provide opportunities for dialogue and strengthening political commitment. In addition, UNODC and the StAR Initiative actively engage in advocacy in a number of international forums to strengthen political will, including in the Anti-Corruption Working Group established by the Group of 20. UNODC was invited to participate in the Anti-Corruption Working Group as an observer. The Anti-Corruption Working Group held a meeting in Jakarta on 27 and 28 September 2010 and adopted an Action Plan, which was approved by Heads of State in Seoul in November 2010. UNODC, the World Bank and StAR have remained active participants in the Anti-Corruption Working Group, supporting its work to promote implementation of the Action Plan.

## **6. Recommendations**

68. The Working Group requested the Secretariat to continue to ensure that all activities of the StAR Initiative comply strictly with the legal framework and international standards established by the Convention. It also requested the Secretariat to continue to report to it and to the Conference on the activities of the StAR Initiative on a regular basis.

### *Action taken*

69. The StAR Initiative operates within the legal framework of the United Nations Convention against Corruption. Its activities aim at fulfilling the mandates of the Conference and the Working Group. A formal partnership agreement between UNODC and the World Bank Group governs the StAR Initiative. Three representatives of UNODC are members of the StAR Management Committee, which oversees the activities of the StAR Initiative and sets its overall policies and priorities. At the working level, two UNODC staff members work as part of the StAR secretariat in Washington D.C. and contribute to the day-to-day management of the Initiative, in close coordination with the UNODC secretariat in Vienna. All StAR products undergo a peer review process (see para. 31 above), with UNODC nominating peer reviewers for each product. As a matter of general practice, training courses and specific country engagements include UNODC staff on the team carrying out the missions. An account of the activities under the StAR Initiative has been provided to the Working Group and the Conference at every meeting subsequent to the establishment of StAR.

## **C. Technical assistance, training and capacity-building**

### **1. Recommendations**

70. The Working Group stressed the high demand for technical assistance for the implementation of Chapter V of the Convention, especially for legal advisory services. Tailor-made approaches were required. It emphasized the importance of providing technical assistance in the field of mutual legal assistance, to officials and practitioners to enable them to draft requests and responses to requests.

71. The Working Group emphasized the importance of strengthening the capacity of legislators, law enforcement officials, judges and prosecutors on matters relating to asset recovery. It stressed the need for specialized training on asset recovery and capacity-building activities. In addition to activities such as seminars and training courses, the Working Group encouraged the Secretariat to organize such training using, inter alia, innovative technology such as electronic learning programmes.

72. The Working Group recommended that UNODC seek to forge more partnerships and coordinate additional technical assistance activities in matters related to asset recovery with other relevant organizations and bodies, and requested the Secretariat to promote ways and means for Member States to request technical assistance from the StAR Initiative at both the national and regional levels.

*Action taken*

73. In the area of legislative assistance, UNODC has responded to requests from States with respect to conducting a desk review of draft legislation, as well as providing existing legislation through its legal library. In addition, in the context of several ongoing gap analyses, UNODC is assisting States in reviewing their implementation of the asset recovery chapter and will as a future step, where requested, provide advice on actions required to fill identified gaps.

74. In the framework of the StAR Initiative, technical assistance in the various stages of asset recovery proceedings is provided upon request from States. The goal is to help States collect and analyse information that will facilitate progress in asset recovery efforts and inform the decision-making of national authorities, and to assist in making international cooperation, in particular mutual legal assistance, more effective. Such assistance is materialized by, for example, sponsoring meetings and workshops that bring together relevant parties at the national, regional and international levels as necessary; making available advisory services to support the preparation of analytical reports, legal research, assistance with audits and financial analysis; and making available advisory services to support the preparation and analysis of mutual legal assistance requests or other forms of international cooperation.

75. As at 5 June 2011, 27 States had submitted formal requests for technical assistance to the StAR Initiative. Another three States had submitted requests for further assistance to follow-up on previous support provided. Of these, six requests relate to assets frozen; five to mutual legal assistance on ongoing cases; two to the work of countries as honest brokers in cooperation with financial centres; and four to the development and launching of asset recovery programmes. In addition, UNODC has provided assistance to one State relating to mutual legal assistance at the request of that State.

76. The nature of the assistance offered varies and is fully tailored to the specific needs of the requesting State: in some cases, assistance is geared towards policy dialogue and facilitation of contacts between national authorities and financial centres; in other cases, assistance has focused on capacity-building activities and on providing advisory services to support specific asset recovery cases. Obviously, assistance in the context of a specific asset recovery case may differ from what had been identified at the gap analysis stage.

77. A number of asset recovery training courses have been conducted jointly with StAR, including regional events in the Pacific Islands, the Middle East and North Africa, South and Central America, Southern and Eastern Europe, East and Southern Africa and in South and East Asia. Training has been delivered at two levels: introductory workshops aimed at raising awareness about asset recovery; more advanced training courses have been organized to address the technical aspects of asset recovery. The introductory workshops have generally been held at a regional level, to allow practitioners to share experiences and develop contacts, including contacts in regional financial centres. Those events are designed for higher-level decision makers who do not need extensive training on hands-on asset recovery techniques and procedures. In addition, specialized training on specific topics or to specific groups has been provided.

78. UNODC, the World Bank and StAR have provided assistance to the Arab League in the preparation and implementation of a two-day regional workshop on asset recovery under relevant international conventions. The workshop will take place in the headquarters of the Arab League, in Cairo, in June 2011, with the participation of the United Nations Development Programme (UNDP) and the Arab Anti-Corruption and Integrity Network, and will bring together high level representatives of anti-corruption agencies of Member States of the Arab League, in charge of supervising mutual legal assistance and asset recovery requests.

79. Based on the assessment that technical training was most effective when it was immediately used by the recipients, in particular in circumstances where it was related to a specific and direct activity (legislative reform, institutional reform, actual case), training provided under the StAR Initiative will in future be more strongly linked to country engagement with the intention of more closely targeting skills development unto recipients who have urgent and direct need to put this training into practice. A pilot course is also being undertaken with the East African Association of Anti-Corruption Agencies to develop a pool of trainers, who would be able to transfer skills on asset recovery to counterparts in the region, as and when they are going to use those skills. Training materials will be derived as far as possible from the Asset Recovery Handbook and related knowledge products. StAR will prioritize its country specific assistance in situations where there is an ongoing asset recovery case, or where the prospects that StAR assistance will help develop such a case in the short term is likely.

80. UNODC has partnered with the Government of Austria, with the support of the European Anti-Fraud Office, in the establishment of the International Anti-Corruption Academy, hosted in Laxenburg, Austria. Asset recovery will feature prominently in the curricula of this institution. Representatives of UNODC participated in the International Steering Committee, which provided strategic direction and leadership until the Academy became a fully fledged international organization on 8 March 2011. The Academy will provide both standardized and tailor-made trainings as well as academic degree-based programmes, and will offer a platform for dialogue and networking activities. Its full programme will commence in the 2011/2012 academic year.

81. The Secretariat is currently exploring the possibility to establish e-learning programmes in asset recovery.

82. UNODC has started expert consultations regarding the development of an academic programme on anti-corruption for students. Initial discussions are ongoing on the content and structure of a draft academic programme with a view to facilitate the adaptability and applicability of the programme in countries worldwide.

83. UNODC has forged additional partnerships with other organizations and bodies for the purpose of coordinating technical assistance activities related to asset recovery, including with IAACA, the Organization of American States, the Asia-Pacific Economic Cooperation and the Organization for Security and Cooperation in Europe, as well as with the Government of Switzerland through the Lausanne process. UNODC has also been actively involved in those efforts through its work with the Development Assistance Committee of the Organization for Economic Cooperation and Development and the Anti-Corruption Task Team of the Committee's Network on Governance (GOVNET).

## **2. Recommendations**

84. Recognizing that Chapter V of the Convention would be reviewed during the second cycle of the Implementation Review Mechanism, the Working Group stressed the importance of preparing States parties for the review of implementation of that chapter and structuring its work accordingly; For that purpose, the Working Group recommended that the Secretariat develop, through the StAR Initiative or other relevant initiatives, a multi-year workplan for consideration by the Working Group at its meeting to be held in Vienna, on 25 and 26 August 2011.

### *Action taken*

85. A proposed workplan is submitted for the consideration of the Working Group in a separate background paper (CAC/COSP/WG.2/2011/4).

## **D. Reporting and follow-up**

86. The Working Group may wish to provide guidance on the further implementation of the recommendations made at its previous meetings. It may further wish to build on and add further recommendations as it deems appropriate.

87. The Working Group may wish to discuss ways and means to adequately prepare States parties for the review of implementation of Chapter V of the Convention against Corruption. In this context, the Working Group may wish to consider and assess the activities proposed in the multi-year workplan prepared by the Secretariat.

88. With regard to the need to enhance cumulative knowledge on asset recovery, the Working Group may wish to identify areas where further knowledge products could be developed. In particular, the Working Group may wish to discuss the planned compilation of asset recovery cases that the Secretariat intends to develop, and provide guidance as to the scope of the analysis to be performed.

89. The Working Group may wish to provide guidance on the role of UNODC and the StAR Initiative in the delivery of training and technical assistance, and encourage States to profit from available opportunities for capacity-building activities on asset recovery.