



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

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Open-ended Intergovernmental Working Group on Asset Recovery

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Item 2 of the provisional agenda*

**Presentation of the proposed multi-year workplan for
the activities of the Working Group, covering the
period 2012-2015**

Proposed multi-year workplan for the activities of the Open-ended Intergovernmental Working Group on Asset Recovery, covering the period 2012-2015

Note by the Secretariat

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.
2. At its second, third and fourth 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. Also at its fourth session, the Conference requested the Working Group to prepare a multi-year workplan to be implemented until 2015. At its fourth and fifth meetings, the Working Group had also recommended that a multi-year workplan be developed to guide its future activities.
3. Four meetings of the Working Group will take place in the period from 2012 to 2015. Pursuant to the mandates given to UNODC by both the Conference of the States Parties and the Working Group, and building on proposals submitted by

* CAC/COSP/WG.2/2012/1.



States parties, the Secretariat has prepared a workplan to structure the work of the Working Group until 2015.

4. The proposed multi-year workplan aims at preparing States parties for the review of implementation of Chapter V of the Convention during the second cycle of the Implementation Review Mechanism, and allows the Working Group to structure its work accordingly, as envisaged by the Working Group since its fourth meeting in December 2010.

5. It is proposed, that at the beginning of each meeting of the Working Group a presentation be made of the progress made in the implementation of mandates in the area of asset recovery. The discussion during each meeting will subsequently focus on specific articles of chapter V.

6. In order to respond to the wish of States parties to be provided with a forum for discussion on practical aspects of asset recovery, including challenges and good practices, the proposed workplan foresees the organization of a panel discussion during each meeting. The panel discussion would address issues pertaining to the implementation of specific provisions of chapter V, thus introducing the debate thereon. The discussion may also address specific, practical and substantive aspects of asset recovery and other developments of potential interest to States parties.

7. In implementing the proposed structure of work, the Working Group may also wish to request the Secretariat to compile and present examples of implementation, including relevant initiatives, good practices and challenges with regard to each of the articles under discussion. In this regard the Working Group could request the Secretariat to prepare background papers on specific topics based on inputs and contributions provided.

8. The proposed structure of the meetings of the Working Group until 2015 is outlined below and presented to the Working Group for discussion and guidance to the Secretariat on the implementation of the workplan and its further development.

2012 Meeting

Standing items

Overview of progress made in the implementation of asset recovery mandates, including presentation of finalized knowledge products.

Forum for discussions on practical aspects of asset recovery, including challenges and good practices.

Forum for discussions on capacity-building and technical assistance.

Thematic discussion

Discussion on cooperation in confiscation: Article 54 — Mechanisms for recovery of property through international cooperation in confiscation, and article 55 — International cooperation for purposes of confiscation

Topics to be discussed may include the enforcement of confiscation orders taken by a foreign court, measures to allow confiscation without a criminal conviction, measures to permit confiscation of property of foreign origin by adjudicating an offence of money-laundering, and examples of how measures to shift the burden of proof could facilitate asset recovery.

The elements contained in the request according to article 55, paragraph 3, could also be discussed, with particular focus on practical experiences in meeting those requirements and how requesting and requested States can best work together to ensure the effectiveness of restraint and confiscation measures, as well as attempts to simplify legal procedures and prevent the abuse of these procedures.

A further topic for discussion could be good practices for domestic coordination on asset recovery procedures in requesting and requested States, including the creation of dedicated units and/or the appointment of specialized staff.

The use of networks for international cooperation in confiscation, and the creation of a global network of asset recovery focal points as mandated by the Conference, could be a further point for discussion.

2013 Meeting

Standing items

Overview of progress made in the implementation of asset recovery mandates, including presentation of finalized knowledge products.

Forum for discussions on practical aspects of asset recovery, including challenges and good practices.

Forum for discussions on capacity-building and technical assistance.

Thematic discussion

Discussion on article 52 — Prevention and detection of transfers of proceeds of crime

It is suggested to present and discuss legislative initiatives and concrete measures aiming at ensuring that financial institutions adopt and implement effective customer due diligence measures; identification of beneficial ownership; identification and enhanced scrutiny of assets belonging to individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such measures could include establishment of national or central registries of bank accounts, and other publicly available registries (company registries, land registries etc.), especially when they permit to conduct electronic searches. Furthermore, good practices in requests for notifications under article 52 (2) and (6), examples of effective financial disclosure systems for public officials and ways to manage them could be discussed.

A panel discussion could bring together representatives from authorities supervising the banking sector, and from financial institutions to provide information on their perspectives and approaches.

Discussion on article 53 — Measures for direct recovery of property

Topics to be discussed may include the possibility of States parties to initiate civil action in the courts of other States parties, and the sharing of recent experiences of payment of compensation or damages to States parties affected by corruption offences, including with reference to the difficulties to calculate damage in the context of payment of compensation to States parties.

2014 Meeting

Standing items

Overview of progress made in the implementation of asset recovery mandates, including presentation of finalized knowledge products.

Forum for discussions on practical aspects of asset recovery, including challenges and good practices.

Forum for discussions on capacity-building and technical assistance.

Thematic discussion

Discussion on article 56 — Special cooperation, and article 58 — Financial intelligence unit (FIU)

The main topics here would be good practices and examples of legislation allowing for spontaneous disclosure of information on proceeds of offences to other States parties, and cooperation between FIUs and investigative authorities. The secretariat could review relevant information submitted in the context of the ongoing review of implementation of chapters III and IV in relation to article 46 paragraph 4 of the Convention, in order to identify positive experiences. Regarding article 58, it could be envisaged to introduce the debate with the presentation of an official from an FIU who would present the role of the FIU in processing and disseminating suspicious transaction reports.

Discussion on cooperation in freezing and seizure: article 54 — Mechanisms for recovery of property through international cooperation in confiscation, and article 55 — International cooperation for purposes of confiscation

Topics to be discussed may include challenges and good practices in identifying the location and estimated value of property and in obtaining bank account numbers in advance, good practices relating to seizure and restraint of assets for a time period sufficient to preserve assets while foreign proceedings are pending, and how requesting and requested States parties can jointly ensure that the concept of “reasonable basis” (article 54.2 (a)) is satisfied. Further topics may include examples of requirements relating to property designation in requests, how to meet them and how to simplify legal procedures and prevent the abuse of these procedures.

2015 Meeting

Standing items

Overview of progress made in the implementation of asset recovery mandates, including presentation of finalized knowledge products.

Forum for discussions on practical aspects of asset recovery, including challenges and good practices.

Forum for discussions on capacity-building and technical assistance.

Thematic discussion

Article 57 — Return and disposal of assets

States may wish to expand, exchange views and share good practices on the topics introduced by the panel discussion, as above tentatively indicated.

Topics to be discussed may include the practice followed for the deduction of reasonable expenses incurred in investigations, prosecutions or judicial proceedings. Ways to reduce the overall cost of asset recovery. Examples of agreements/arrangements on a case-by-case basis for the final disposal of confiscated property. Implementation of article 57 paragraph 3 (b) and (c) “When the State party *reasonably establishes* its prior ownership of such confiscated property or when the requested State party recognizes damage to the requesting State party as a basis for returning the confiscated property.”