



# 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, 29 and 30 August 2013

Item 2 of the provisional agenda\*

**Overview of progress made in the implementation of asset  
recovery mandates**

### **Progress made in the implementation of asset recovery mandates**

#### **Note by the Secretariat**

#### **I. Introduction**

1. In its resolution 1/4, adopted at its first session, the Conference of the States Parties to the United Nations Convention against Corruption, established the Open-ended Intergovernmental Working Group on Asset Recovery. 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.

2. In the same resolution, the Conference defined the functions of the Working Group including, inter alia, assisting the Conference in developing cumulative knowledge in the area of asset recovery, particularly on the implementation of articles 52-58 of the United Nations Convention against Corruption, such as through mechanisms for locating, freezing, seizing, confiscating and returning the instruments and proceeds of corruption, identifying capacity-building needs and encouraging cooperation among relevant existing bilateral and multilateral initiatives; facilitating the exchange of information, good practices and ideas among States; and building confidence and encouraging cooperation between requesting and requested States.

3. Also in the same resolution, the Conference decided that the Working Group should meet during the sessions of the Conference and, as appropriate, should 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.

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\* CAC/COSP/WG.2/2013/1.



4. 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 should hold at least two meetings prior to the next sessions of the Conference in order to perform its mandated task, within existing resources.

5. The Working Group held its first through sixth meetings annually in Vienna from 2007 to 2012.<sup>1</sup>

6. The present background paper has been prepared to inform the Working Group at its 7th meeting on the status of implementation of its recommendations and those of the Conference relating to asset recovery. It is aimed at assisting the Working Group in its deliberations and in determining its future activities.

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

7. Previous meetings of the Working Group have focused on three main themes: developing cumulative knowledge; building confidence and trust between requesting and requested States; and technical assistance, training and capacity-building.

8. With respect to the development of cumulative knowledge on asset recovery, 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, has been noted. The Working Group expressed its interest in the development of legal knowledge and related products.

9. The importance of building confidence and trust between requesting and requested States for asset recovery was also stressed in the discussions of the Working Group, in particular as a means of increasing political will, developing a culture of mutual legal assistance, especially for the benefit of developing countries, and paving the way for successful international cooperation.

10. The Working Group also discussed types of technical assistance relevant to asset recovery such as capacity-building and training, gap analyses, assistance in drafting new legislation 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, with a view to enhancing their capacity in tracing, freezing, seizing and confiscating proceeds of corruption.

11. The Working Group has repeatedly noted 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. StAR works with developing countries and financial centres to prevent the laundering of the proceeds of corruption and to facilitate more systematic and timely return of stolen assets.

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<sup>1</sup> CAC/COSP/WG.2/2012/4.

## A. Developing cumulative knowledge

### 1. Tools for gathering and sharing information

12. The Working Group has consistently given high priority to the availability, creation and management of knowledge on asset recovery. It particularly commended the progress made by the Secretariat on the United Nations Convention against Corruption Legal Library and the comprehensive knowledge portal developed by UNODC known as TRACK.

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

14. 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.

15. 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 proceeds of corruption.

#### *Action Taken*

16. The Legal Library is part of the web-based platform known as “Tools and Resources for Anti-Corruption Knowledge” (TRACK), which was launched by UNODC on 1 September 2011.<sup>2</sup> The Legal Library is an electronic repository of legislation, jurisprudence, anti-corruption strategies and institutional data from 178 States. Developed and administered by UNODC and supported by the StAR Initiative and partner organizations, the Legal Library collects and disseminates indexed and searchable legal information according to each provision of the Convention, and thus provides a detailed analytical breakdown of how States have implemented the Convention, including with regard to its provisions on asset recovery. Legal data received in the context of the Implementation Review Mechanism and validated by States parties under review, including judicial decisions rendered in asset recovery cases, is also being used to update the information contained in the Legal Library.

17. TRACK includes a special section on asset recovery<sup>3</sup> that links directly to the legislation of 178 countries relevant to chapter V of the Convention.<sup>4</sup> TRACK also contains direct links to the Asset Recovery Watch, a database developed by the StAR Initiative with information on 199 past and current asset recovery cases involving corruption, and to the knowledge products published by the StAR Initiative.<sup>5</sup> The Puppet Masters Database of Grand Corruption Cases of the StAR Initiative is a compilation of large-scale corruption cases involving the misuse of legal structures to conceal the origin and ownership of stolen assets, launched in

<sup>2</sup> TRACK is available at [www.track.unodc.org](http://www.track.unodc.org).

<sup>3</sup> [www.track.unodc.org/assetrecovery/Pages/home.aspx](http://www.track.unodc.org/assetrecovery/Pages/home.aspx).

<sup>4</sup> [www.track.unodc.org/LegalLibrary/Pages/home.aspx?chapter=5](http://www.track.unodc.org/LegalLibrary/Pages/home.aspx?chapter=5).

<sup>5</sup> [http://star.worldbank.org/corruption-cases/search/site?db=All&f\[0\]=bundle%3Aarw](http://star.worldbank.org/corruption-cases/search/site?db=All&f[0]=bundle%3Aarw).

October 2011.<sup>6</sup> A database on settlements in cases of transnational bribery is being finalized by StAR (in the context of the study on settlements, see para. 20 below).

18. In addition to the information available through TRACK, a number of policy studies addressing knowledge gaps in specific areas of asset recovery have been produced through the StAR Initiative. The process of translating these studies into all official languages of the United Nations is ongoing.

19. In December 2012, the StAR Initiative published the study “On the Take: Criminalizing Illicit Enrichment to Fight Corruption”. The publication is the first comprehensive study of illicit enrichment laws and provides a broad analysis of the challenges in both drafting and implementing the criminal offense of illicit enrichment.

20. A study on settlements in cases of transnational bribery and asset recovery is being finalized. This study explores and analyses the practice of settlements in international bribery cases and their implications for the recovery and return of assets. In anticipation of the publication of the study, a workshop entitled “Left Out of the Bargain - Settlements in foreign bribery cases and their effects on asset recovery” was organized during the 15th International Anti-Corruption Conference, conducted in Brasilia, Brazil on 7-11 November 2012, to discuss some conclusions of the study. The study is planned to be launched at the fifth session of the Conference of the States Parties to be held in Panama from 25 to 29 November 2013. In addition, StAR is currently working with the Organization for Economic Cooperation and Development (OECD) to update a study on tracking anti-corruption and asset recovery commitments from 2011. The report will analyse law enforcement data from OECD countries on assets frozen or confiscated between 2011 and 2012, highlight policy legislative and institutional developments, and make recommendations.<sup>7</sup>

## **2. Mutual Legal Assistance Request Writer Tool and similar products**

21. 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*

22. Based on the results of the Expert Group Meeting on the expansion of the Mutual Legal Assistance Request Writer Tool conducted in Vienna on 14 and 15 December 2011, UNODC has finalized the tool and is currently testing its functionality in practice. The expanded version of the Tool offers new features relevant for the asset recovery process. UNODC is also considering further improving the tool by placing it on a more modern technological platform.

23. Modern information technology is fully incorporated by UNODC in the development of resources to support the asset recovery process. These resources include TRACK and the Legal Library (see para. 16), the self-assessment checklist

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<sup>6</sup> <http://star.worldbank.org/corruption-cases/assetrecovery/>.

<sup>7</sup> The 2011 report is available from <http://star.worldbank.org/star/publication/tracking-anti-corruption-and-asset-recovery-commitments>.

(see paras. 39-41), the StAR Initiative's Asset Recovery Watch Database (see para. 17), Puppet Masters Database of Grand Corruption Cases (see para. 17) and forthcoming settlements database (see paras. 17 and 20), the directories of asset recovery focal points and central authorities (see paras. 48 and 49), the Global Focal Point Initiative established by INTERPOL and StAR (see para. 50).

### **3. Analytical study of asset recovery cases**

24. The Working Group requested UNODC to continue its work, in consultation with Member States, on collecting and systematizing information on asset recovery cases with a view to preparing an analytical study of such cases, building on the relevant experience of the secretariat. The Working Group encouraged Member States to contribute to the work of the secretariat and provide information on both successful and unsuccessful cases, including through the self-assessment checklist and with due regard to the confidentiality of sensitive information.

#### *Action taken*

25. UNODC has continued its work on developing a Digest of Asset Recovery Cases, a compilation and analysis of cases related to the recovery of proceeds of corruption, building on the experience acquired when preparing the Digest of Terrorist Cases and following the same methodology. 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), States parties and signatories to the Convention have submitted ten cases with an adequate level of detail that were used for the preparation of the Digest. This material was treated in a manner that respected confidentiality restrictions requested by the States concerned. The analysis contained in the Digest also drew on cases from the Asset Recovery Watch database developed by the StAR Initiative.

26. Based on the recommendations of the Expert Group Meeting that brought together experts from all geographic regions as well as representatives of the StAR Initiative and was held on 2 and 3 April 2012 in Vienna, UNODC continued its work on the drafting of the comprehensive Digest. The draft Digest will be distributed to Member States for comments.

### **4. Consultation with and participation of experts from different regions and legal systems and wide dissemination of tools and knowledge products**

27. 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.

28. 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*

29. All tools and knowledge products developed by UNODC are widely disseminated on the Internet or through presentation at events. The Mutual Legal

Assistance Request Writer Tool is available online,<sup>8</sup> and TRACK, including the Legal Library, is a web-based portal to ensure broad accessibility.

30. StAR knowledge products are presented continuously at expert group meetings, training workshops and regional conferences. Similarly, the knowledge products are available on the Internet through the UNODC and StAR websites, and the TRACK portal. The StAR Initiative is pursuing translations of all its publications into Arabic, French and Spanish, which are or will be made available on the StAR website. Russian versions of some publications are also available, and translation into additional languages may be envisaged upon request and with the support of States. Particularly, some of the most popular StAR publications, i.e., the Asset Recovery Handbook and Non-Conviction-based Forfeiture Guide are available in Arabic, English, French, Russian and Spanish. Also, products are disseminated widely through press outreach and interviews, as well as presentation at events, meetings, social media and blogs. These activities have attracted a high degree of interest and contributed to the considerable success of the publications globally.

#### **5. Close cooperation with financial institutions and financial intelligence units and greater effectiveness of financial investigations.**

31. 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 as previously highlighted by the Working Group, which had noted the need to increase the responsibility of financial institutions and financial intelligence units overseeing them. 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*

32. UNODC and the World Bank, through their observer status in the Financial Action Task Force (FATF) and the Group of Twenty (G-20) Finance Ministers and Central Bank Governors, ensured, inter alia, that in efforts to counter money-laundering, attention is also given (particularly from financial intelligence units and law enforcement agencies) to combating the laundering of proceeds of corruption through the explicit recognition of corruption as a predicate offence to money-laundering and to ensuring due diligence on the part of financial institutions.

33. Under the UNODC Global Programme against Money-Laundering (GPML), UNODC mentors continued to assist 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. 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.

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<sup>8</sup> [www.unodc.org/mla/](http://www.unodc.org/mla/).

34. Assistance was provided to requesting States by UNODC through a network of anti-money-laundering mentors and regional anti-corruption advisors for developing skills of criminal justice officials in the investigation and prosecution of complex financial crimes. This capacity-building support included delivering training on conducting effective financial investigations. UNODC continued its work to develop, in cooperation with the United Nations Development Programme and the World Bank, a course on conducting financial investigations for practitioners in Arab States.

35. Representatives of the StAR Initiative also participated actively in workshops and discussions attended by representatives of financial institutions, including in the context of the work of the Wolfsberg Group, an association of eleven global banks that aims to develop standards in the financial services industry, in order to promote policy recommendations and more active measures by the financial sector against the laundering of proceeds of corruption. Furthermore, StAR provided input to the FATF guidance notes on detection and seizure of the proceeds of corruption, including by providing corresponding technical materials.

## **6. Model Legislative provisions and best practices guides**

36. The Working Group recommended that products such as “Stolen Asset Recovery: A Good Practices Guide for Non-Conviction Based Asset Forfeiture” be considered for the implementation of other provisions of the Convention.

### *Action taken*

37. UNODC is assessing the feasibility of models or best practice guides for asset recovery, either in a single document or in model provisions focusing on specific articles. Such specific areas could be identified taking into account the thematic discussions on specific articles of the Convention in the Working Group, as programmed in the multi-year workplan of the Working Group.

## **7. Gathering of information on the implementation of the articles of the Convention relating to asset recovery, including through the self-assessment checklist**

38. The Working Group has repeatedly invited States parties, with the support of the Secretariat, to complete the section of the self-assessment checklist on asset recovery, so as to gather information on the implementation of the provisions of the Convention on asset recovery, including information on case law at the national level, to assess their efforts and identify further steps to implement chapter V of the Convention, to compile good practices and to identify technical assistance needs.

### *Action taken*

39. Upon request of several States and in the context of ongoing technical assistance activities, UNODC is supporting countries in the use of the current self-assessment checklist as a tool to conduct a gap analysis and assess their efforts towards full implementation of chapter V of the Convention and, based on the outcome, provides advice on the actions required to address identified challenges. Four gap analyses have been conducted or are ongoing, and five more requests have been received.

40. The review of chapter V during the second review cycle (2015-2020) will provide a unique opportunity to gather and validate country-specific information on asset recovery. Experience from the first review cycle shows that the Review Mechanism is a powerful instrument to generate dialogue and inter-agency cooperation. In many countries, inter-institutional committees have been created for the review process and the Government has sought dialogue with civil society and the private sector. The self-assessment process has also been used as an opportunity to refine States parties' data collection. At the international level, States parties have seized multiple opportunities to exchange their experiences and good practices in implementation of the chapters under review. The outcome of the reviews on criminalization and law enforcement and particularly on international cooperation will be highly relevant for the review of Chapter V. It is currently accessible through the executive summaries of country reports and the thematic reports prepared by the Secretariat. Further, a number of countries have agreed to publish their full country reports. In many instances, the country reports have contributed to the planning of domestic reforms. In several cases, a broad national dialogue has taken place to tackle the gaps identified during the review process and to establish action plans. The Review Mechanism has also provided a platform to identify technical assistance needs and validate them based on the peer review, and communicate them in a coordinated manner.<sup>9</sup>

41. To prepare the review of chapters II and V, UNODC has developed a proposal for testing the review of implementation of Chapters II and V of the Convention based on an improved version of the self-assessment checklist for use in the second cycle. The revised checklist will be based on lessons learnt from the first cycle. The revised checklist will, inter alia, eliminate three strings of question flows, thus significantly reducing the number of questions. Optional guidance on the information sought will be available. Under consideration are also the creation of thematic clusters on money-laundering and asset recovery. Under the pilot testing, the checklist would be tried by a limited number of States parties, on a voluntary basis. The results from the pilot would allow for a more informed discussion on the better use of the checklist to collect the required information while at the same time not placing an unnecessary burden on reviewed and reviewing States. Furthermore, the pilot will provide participating countries with an opportunity to conduct an assessment of chapters II and V of the Convention based on a streamlined tool and receive assistance with the assessment and the development of an action plan based on the assessment, if needed.

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

### **1. Central authorities, asset recovery focal points and networks**

42. The Working Group requested the Secretariat to invite those Member States that had not done so to designate a central authority for mutual legal assistance. The Conference made a request to all States parties along the same lines.

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<sup>9</sup> General information on the Review Mechanism is available from [www.unodc.org/unodc/en/treaties/CAC/IRG.html](http://www.unodc.org/unodc/en/treaties/CAC/IRG.html).



43. The Conference requested the Working Group to continue considering the issue of establishing a global network of asset recovery focal points as a network of practitioners, without duplicating existing networks, to facilitate more effective cooperation. The Working Group underlined the need for a global network of focal points on asset confiscation and recovery with technical expertise, and emphasized the need for collaboration and coordination with regional networks.

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

45. 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.

46. 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.

#### *Action taken*

47. As at 19 June 2013, 103 States parties had notified the Secretariat of their designated central authorities.

48. UNODC compiled a database of asset recovery focal points designated by States parties to the Convention, following the submissions made after three notes verbales to States parties and signatory States from 2009 to 2011 (CU 2009/143 in September 2009, CU 2011/54 in March 2011 and CU 2011/162 in October 2011), inviting them to proceed to the designation and notification of their asset recovery focal points in accordance with the recommendations of the Working Group and the Conference. The importance of the designation of asset recovery focal points was highlighted during the meeting of experts to enhance international cooperation under the United Nations Convention against Corruption held in Vienna on 22 and 23 October 2012.

49. As at 19 June 2013, 56 States parties and two signatories had notified the Secretariat of their designated focal points.<sup>10</sup> The online directory of designated central authorities and asset recovery focal points is available on the website of UNODC. States parties are encouraged to circulate information on the online directory of designated central authorities to relevant national institutions.<sup>11</sup>

<sup>10</sup> Afghanistan, Algeria, Armenia, Australia, Austria, Bahrain, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Burkina Faso, Canada, Cape Verde, Chile, Denmark, Ecuador, Egypt, El Salvador, Finland, Germany (signatory), Guatemala, Indonesia, Israel, Jordan, Kenya, Latvia, Lebanon, Liechtenstein, Luxembourg, Malaysia, Malta, Mauritius, Mexico, Myanmar, Netherlands, Nigeria, Pakistan, Palau, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Rwanda, Serbia, Singapore, Slovenia, Sweden, Switzerland, Syrian Arab Republic (signatory), Togo, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America and Viet Nam.

<sup>11</sup> Available at [www.unodc.org/compath\\_uncac/en/index.html](http://www.unodc.org/compath_uncac/en/index.html).

50. The Global Focal Point Initiative established by the StAR Initiative in partnership with the International Criminal Police Organization (INTERPOL) was launched in January 2009. Its objective is to support investigation and prosecution of corruption and economic crime through international cooperation and informal assistance (i.e. prior and subsequent to the submission of formal requests for mutual legal assistance) for the purpose of identifying, tracing, freezing and ultimately recovering the proceeds of corruption and economic crime. The initiative has established a virtual platform on the secure web site of INTERPOL. This platform which is connected by the INTERPOL's I-24/7 secure communication network, enables Focal Points, authorized by their INTERPOL National Central Bureaus (NCBs), to exchange information and technical knowledge on corruption and asset recovery. To date, 177 dedicated Focal Points representing 99 countries participate in the platform. The 4th Global Focal Point Conference on Asset Recovery was held from 3 to 5 July 2013 in Bangkok.

51. UNODC and the StAR Initiative have also contributed to the creation and strengthening of regional networks engaged in asset recovery and confiscation, in particular the Asset Recovery Inter-Agency Network of Southern Africa (ARINSA) and the regional asset recovery network established by GAFISUD countries (Red de Recuperacion de Activos de Gafisud — RRAG). In September 2012, UNODC and StAR participated in an ongoing discussion on the possibility of creating an asset recovery focal point network in the OSCE/CIS regions during the seminar "Identifying, Restraining and Recovering Stolen Assets in the OSCE Region". Furthermore, discussions are under way for the establishment of a similar network in East Africa.

52. At the request of the Government of the Republic of Korea, UNODC has provided substantive advice towards the establishment of an asset recovery inter-agency network for Asia and the Pacific (ARIN-AP), a regional network of prosecutors and law enforcement officials to promote the comprehensive international cooperation necessary to effectively combat money-laundering and conduct successful asset recovery. An expert meeting on the development of ARIN-AP was held in Seoul in December 2012. The meeting was organized with support from the Supreme Prosecutor's Office of the Republic of Korea and UNODC and was attended by experts from the region as well as from existing regional networks.

## **2. Cooperation between financial intelligence units and anti-corruption agencies**

53. The Working Group has recommended strengthening cooperation between financial intelligence units, anti-corruption authorities and central authorities responsible for mutual legal assistance at the national and international levels. 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*

54. 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 countering money-laundering and the financing of terrorism. The Financial Action Task

Force (FATF) Recommendation 36 mandates countries to take immediate steps to become party to and fully implement the Convention.

55. The StAR Initiative actively encourages States to enhance cooperation between their financial intelligence units with a view to facilitating the exchange of information and informal cooperation on financial investigations. In the context of its country-specific technical assistance, it has helped financial intelligence units to accelerate accession to the Egmont Group, through dedicated workshops for FIU analysts.

56. UNODC works closely with and supports the activities of the International Association of Anti-Corruption Authorities (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. The Fifth IAACA Seminar was held from 22-24, June, 2013 in Jinan, China. The main topic of the seminar is UNCAC Chapter VI, entitled “Technical Assistance and Information Exchange”. The Seventh Annual Conference and General Meeting of IAACA will be held in Panama from 22 to 24 November 2013.

### **3. Cooperation with the private sector**

57. The Working Group has 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 to 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*

58. UNODC continued its work with private sector entities aimed at promoting the implementation of the Convention among members of the business community and, in particular, the work to promote integrity in the financial system and asset recovery. UNODC particularly engaged with banking associations and other entities in the banking sector, thereby actively seeking avenues to cooperation in topics related to the prevention and detection of transfers of proceeds of crime.

59. UNODC and the StAR Initiative actively engage in advocacy in a number of international forums, including in the Business 20 (B20), an offshoot of the G-20 and a forum for the large multi-lateral corporations, as well as in the World Economic Forum and in its Partnering Against Corruption Initiative (WEF PACI). In the G-20 Anti-Corruption Action Plan for 2013-2014, the business sector is recognized as an important stakeholder in anti-corruption efforts, and transparency within the private sector as a critical element. The B20 Task Force on Improving Transparency and Anti-Corruption (May 2013) has recommended, inter alia, that the G-20 Anti-corruption Working Group should have permanent status as a standing committee of the G-20 and that the representatives of the B20 Task Force and of the G-20 Anti-Corruption Working Group should have regular meetings to identify regulatory improvements and discuss their impact on the corporate sector. The recommendations further refer to combating the solicitation of bribes, training and capacity-building in the private and public sectors and ensuring collective action. The Third Annual High-Level Anti-Corruption Conference for G-20 Governments

and Business, held in Paris on 25 and 26 April 2013, was organized jointly by the Russian Presidency in the G-20 and OECD and supported by UNODC. The Group of Eight (G-8) announced on 18 June 2013 the G-8 Action Plan Principles to Prevent the Misuse of Companies and Legal Arrangements.<sup>12</sup> Many of the recommended actions are in line with the findings and recommendations of StAR study “The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It”.<sup>13</sup> The issue of beneficial ownership also plays a prominent role in the Deauville Partnership Action Plan on Asset Recovery.<sup>14</sup>

#### **4. Promoting dialogue and removing barriers to asset recovery**

60. 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 political will in ensuring asset recovery, including in its work with other intergovernmental organizations and in the context of the G-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*

61. UNODC actively engages in advocacy in a number of international forums to strengthen political will, including in the Conference and its Working Groups, at meetings of INTERPOL, the European Union and Eurojust and in the Anti-Corruption Working Group established by the Group of Twenty (G-20).

62. Asset recovery ranks high in the G-20 Anti-Corruption Action Plan for 2013-2014. The plan includes, inter alia, the establishment of a denial of entry experts’ network. G-20 countries further committed to continue to benchmark themselves against the agreed asset recovery principles/framework, share good practices and guidance on asset recovery, and continue engagement with the StAR Initiative. National guides on mutual legal assistance and asset tracing tools for asset recovery purposes have been made publicly available by the G-20 countries.<sup>15</sup> G-20 countries further committed to promoting the transparency of legal entities in order to identify good practices.

63. From 11 to 13 September 2012 the first Arab Forum on Asset Recovery was held in Doha and co-organized by the State of Qatar and the United States of America presidency of the Group of 8 (G-8) and supported by the StAR Initiative. The Forum was launched in the context of the Deauville Partnership for Arab countries in Transition which was launched at the Deauville Summit of the Group of Eight (G-8) in 2011 and its Action Plan adopted in 2012, in which StAR is identified as a key partner.<sup>16</sup> As part of the Deauville Action Plan on Asset Recovery, each

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<sup>12</sup> [www.gov.uk/government/publications/g8-action-plan-principles-to-prevent-the-misuse-of-companies-and-legal-arrangements](http://www.gov.uk/government/publications/g8-action-plan-principles-to-prevent-the-misuse-of-companies-and-legal-arrangements).

<sup>13</sup> <http://star.worldbank.org/star/publication/puppet-masters>.

<sup>14</sup> [www.state.gov/j/inl/rls/190483.htm](http://www.state.gov/j/inl/rls/190483.htm).

<sup>15</sup> <http://track.unodc.org>, [www.g20.org/load/781360563](http://www.g20.org/load/781360563).

<sup>16</sup> For information on the Arab Forum on Asset Recovery, see <http://star.worldbank.org/star/node/283>.

G-8 member undertook to enhance transparency by publishing a guide on its asset recovery laws and procedures. The States of the Group of Eight, and Switzerland, published their country guides on the web page of the Arab Forum, in several languages.<sup>17</sup>

64. The workplan developed as a follow-up to the forum outlined three special sessions on technical challenges. Special Session I, held in Qatar from 2 to 4 April 2013, addressed domestic coordination and the asset recovery guides produced by the G-8 countries and Switzerland.<sup>18</sup> Its objectives were to share good practices and lessons learned for domestic coordination; develop skills in formulating an investigative plan for an asset recovery case and an overarching strategy for all investigations; share knowledge with asset recovery practitioners on the effective use of the asset recovery guides produced by the G-8 countries and Switzerland; develop skills to plan and draft a formal mutual legal assistance request; and provide a platform for bilateral and multilateral side-meetings between the countries seeking asset recovery and the various G-8, partner and regional countries.

65. Special Session II, held from 11 to 13 June 2013 in Sharm el-Sheikh, Egypt, addressed financial investigations in support of asset recovery. Its objectives were to share good institutional practices in conducting financial investigations, including participation in practitioners networks (such as the INTERPOL-StAR Focal Points network and others); increase awareness of results-oriented strategies to plan and lead financial investigations involving multiple targets, assets and jurisdictions, and to establish a clear link between corrupt acts and their proceeds; develop skills to identify and utilize a number of approaches to conducting financial analysis and investigations; gain familiarity with various tools and techniques for successful financial investigations (i.e., bank accounts analysis, tracing of assets and visualization of results); provide a platform for bilateral and multilateral side-meetings between the countries seeking asset recovery and the various G-8 members, partner and regional countries. Special Session III, to be held in September 2013, will focus on the role of civil society in asset recovery. The second Arab Forum on Asset Recovery was scheduled to be held in October 2013.

66. At the occasion of the first Arab Forum on Asset Recovery, Attorney General of Qatar Dr. Ali bin Fetais al-Marri was appointed as UNODC Regional Special Advocate for Stolen Asset Recovery. The recent return to Tunisia of \$28.8 million from Lebanon, through a concerted effort of the two Governments and the UNODC Regional Special Advocate for Stolen Asset Recovery, was a visible success of this engagement.<sup>19</sup> The UNODC-appointed Regional Special Advocate for Stolen Asset Recovery will, according to his mandate, continue facilitating dialogue in asset recovery cases. Qatar has also established the International Centre for Rule of Law and Anti-Corruption that focuses on empowering Arab countries to prevent and combat corruption. It is envisaged that the centre will play an important role for capacity-building also in the area of asset recovery.

67. Through the StAR Initiative assistance had been provided to Tunisian authorities since the fall of President Ben Ali's regime in January 2011 in defining

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<sup>17</sup> <http://track.unodc.org/assetrecovery/Pages/home.aspx>,  
<http://star.worldbank.org/star/ArabForum/country-guides-asset-recovery-0>.

<sup>18</sup> Ibid.

<sup>19</sup> <http://blogs.worldbank.org/psd/tunisiacashbackthestartofmoretocome>.

the main features of their asset recovery strategy, including through the placement of an advisor on asset recovery in Tunisia. In February 2011, assistance was provided for the establishment of a National Committee for the Recovery of Stolen Assets in Foreign Jurisdictions and several workshops to train various government and law enforcement agencies were held between February and August 2012. Furthermore, a comprehensive strategy was designed for successes in asset recovery, combining domestic criminal prosecution, mutual legal assistance and criminal proceedings initiated in foreign jurisdictions, and by promoting and facilitating bilateral or multilateral contacts with foreign counterparts and other international fora (including the Egmont Group, Eurojust and INTERPOL). Bringing together at several occasions, representatives from the Tunisian Asset Recovery Committee, police agencies, investigative judges and prosecutors with key international counterparts engaged in recovery efforts regarding Tunisian assets in key target jurisdictions was regarded as particularly effective. Following international cooperation processes coordinated by the Committee and mutual legal assistance requests, more than \$80 million, two airplanes and a boat were identified and frozen or seized in Switzerland, France, Belgium and Italy. The plane seized by order of the Paris Prosecutor's Office and owned by Ben Ali's son-in-law was returned to Tunisia and seized by Tunisian authorities in July 2011. While the value of the airplane was limited compared to varying estimates of the total value of Tunisian stolen assets, this first success laid the foundation for the recovery of other assets by showing that property can be returned even before the finalization of the case. Another plane in Switzerland and two yachts in Italy and Spain were subsequently recovered by various legal avenues.

## **5. Topics of discussion at the Working Group and the Conference**

68. 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, to commence in 2015. For that purpose, the Working Group recommended that a multi-year workplan be developed to structure its work until 2015.

69. The Working Group expressed its appreciation for presentations of new legislation on asset recovery adopted by States parties in compliance with the Convention and recommended that the Secretariat strive at future meetings to foster the same pragmatic approach. The Group noted the importance of providing a forum for discussing the practical aspects of asset recovery, including challenges and good practices.

### *Action taken*

70. The Working Group at its sixth meeting adopted a workplan aimed at structuring its work so as to cover all matters dealt with in chapter V of the Convention in thematic discussions, thus contributing in their preparation for the review of implementation of chapter V.<sup>20</sup>

71. Further, the Working Group decided to include into the agenda of the working group as standing items a forum for advancing practical aspects of asset recovery,

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<sup>20</sup> CAC/COSP/WG.2/2012/4.

including challenges and good practices, and a forum for updates on and developments relating to thematic discussions of the previous session.

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

72. The Working Group highlighted the high level of demand for technical assistance in the implementation of chapter V of the Convention, especially for legal advisory services, and the need for tailor-made approaches. It has 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.

73. The Working Group has also emphasized the importance of strengthening the capacity of legislators, law enforcement officials, judges and prosecutors on matters relating to asset recovery and has 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 has encouraged the Secretariat to organize training sessions using innovative technology such as electronic learning programmes.

74. The Working Group requested the Secretariat to continue to ensure that all activities of the StAR Initiative complied 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 a regular basis on the activities of the StAR Initiative.

75. 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 has 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*

76. In the area of legislative assistance, UNODC has responded to several requests from States with respect to conducting desk reviews of legislation or draft legislation. In addition, UNODC is working with several States in assessing their implementation of the provisions of chapter V of the Convention in a gap analysis (see para. 41). UNODC also continued to provide training on asset recovery and related international cooperation matters either at a regional or national basis upon request.

77. The StAR Initiative continued to provide demand-driven, country-specific assistance to States in their asset recovery efforts. The nature of the assistance offered varied between policy dialogue, facilitation of contacts between national authorities and their counterparts in other jurisdictions, advisory services and sponsoring meetings and workshops that bring together relevant parties at the national, regional and international levels. In the area of capacity-building, StAR continued to offer tailor-made training programmes at three levels: (a) introductory workshops to raise awareness about asset recovery; (b) advanced training courses on

all technical aspects of asset recovery; and (c) case-related training seminars. At present, the StAR Initiative is providing country-specific technical assistance upon request in 28 countries or groups of countries.

78. The UNODC Regional Office for the Middle East and North Africa under the European-Union-funded project “Supporting Measures to Combat Corruption and Money Laundering and to Foster Asset Recovery” organized in 2013 a series of training workshops for financial investigations and asset recovery in Cairo, Egypt. The full programme is composed of seven phases to be conducted by trainers from the International Center for Asset Recovery in the course of the year 2013 with the aim of training 190 practitioners and ten Egyptian trainers.

79. StAR devised and organized two training workshops in Egypt on the challenges associated with obtaining beneficial ownership information from foreign jurisdictions/international financial centres. The foreign experts present at the meeting were counterparts dealing with the Egyptian mutual legal assistance requests in their own jurisdictions. StAR also facilitated meetings between Egyptian authorities and relevant counterparts.

80. UNODC has signed a Memorandum of Understanding with the Iraqi Commission of Integrity and initiated an anti-corruption project for Iraq 2013-2015 in cooperation with US-INL. The project includes strong components on asset recovery, including a full gap analysis of Chapter V of the Convention. During the planning and initial implementation stage of the project, two training courses for Iraqi national authorities were held in Baghdad. The first event (3 and 4 April 2013) focused on strengthening the capacity of Iraqi authorities to engage in mutual legal assistance and extradition, as a follow-up on the Convention against Corruption implementation review of Iraq. In the second event, held from 11 to 13 June, preventive measures were discussed, with a special focus on the Iraqi asset declarations system. A third workshop is planned for September 2013 to determine priority areas for further technical assistance, based on the gap analysis.

81. StAR responded to a request of the Government of Libya to assist and accelerate its efforts to seek and receive international cooperation especially through capacity-building, assistance in international cooperation and institutional support. At various opportunities, StAR facilitated contacts with relevant counterparts. Furthermore, good practices for the setting up of a dedicated asset recovery committee were shared with the Libyan authorities.

82. In Romania, support was provided to the new Asset Recovery Office (ARO), and design an inter-institutional support programme for asset recovery. A training curriculum was prepared in consultation with the authorities. The objective of the capacity-building component is to create a cadre of asset recovery expertise through a three phase training-of-trainers programme which is being implemented between November 2012 and October 2013. The training curriculum is expected to be adopted by the National Training Institute for Magistrates (NIM). As a follow-up to the training, the Minister for Justice set up an inter-institutional working group on asset recovery.

83. A workshop was held by the StAR Initiative in July 2012 to relevant practitioners in Senegal on the general challenges in asset recovery and international cooperation. Through a continued engagement since then, assistance was provided to the Senegalese authorities in particular by enabling channels of communication



between Senegalese authorities and foreign counterparts. Recently, StAR appointed a mentor to be posted in Dakar within the Ministry of Justice, for a six-month period.

84. A Regional Workshop was organized by the UNODC Regional Programme for Afghanistan and Neighbouring Countries, in partnership with the Economic Cooperation Organisation (ECO) on International Cooperation in Asset Recovery for the Countries in West and Central Asia and held in Tehran on 10-11 October 2012. Participants from Afghanistan, Iran (Islamic Republic of), Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan and Turkey discussed strategic and practical issues of asset recovery.

85. UNODC is supporting the Government of Panama in the operation of the Regional Anti-corruption Academy for Central America and the Caribbean (ARAC) in Panama. The Academy was officially inaugurated on 1 November 2012. Three training modules were developed: (a) Prevention of corruption in the public sector, (b) Prevention of corruption in the private sector, (c) Investigation and prosecution of corruption offenses. In the third module, asset recovery will play a prominent role.

86. In November 2012, UNODC signed a cooperation agreement with the International Anti-Corruption Academy based in Laxenburg, Austria, with a view to, inter alia, providing substantive expertise on the Convention in training courses conducted at the Academy, including in the areas of international cooperation and asset recovery.

#### **D. Quantification efforts and examples of return**

87. At its sixth meeting, the Group decided that discussions on progress in asset recovery could be based on a quantification of assets returned and asset recovery actions taken.

##### *Actions taken*

88. Whether the international community has achieved actual recoveries to a satisfying extent is difficult to measure, since there is no mechanism to collect comprehensive information on all international asset recovery cases. However, The StAR Asset Recovery Watch database is a useful tool to monitor asset recovery both quantitatively and qualitatively.<sup>21</sup> It does not purport to be exhaustive, due to persisting knowledge gaps and the inevitable time lag until cases become known and documentation becomes available in order for the case to be added to the database. US\$ 4 billion are recorded in Asset Recovery Watch as returned. The bulk of this amount falls under the category of returned proceeds of embezzlement or misappropriation of public funds, for which article 57, paragraph 3 (a), of the Convention prescribes mandatory return. Others relate to other proceeds of corruption, mainly resulting from foreign bribery and related cases, and to further categories such as voluntary reparation payments. A further effort to quantify frozen, confiscated and returned assets will be made in the updated version of the

<sup>21</sup> StAR Asset Recovery Watch may be accessed at <http://star.worldbank.org/corruption-cases/arwcases>.

study on tracking anti-corruption and asset recovery commitments, currently undertaken in cooperation with the OECD (see para. 20)

89. The following figures refer to some examples of recent recoveries based on publicly available information:

- \$28.8 million corruptly acquired by Tunisia's former President Zine El Abidine Ben Ali were returned to Tunisia from Lebanon in May 2013.<sup>22</sup>
- Two airplanes were returned to Tunisia: (a) one from France — value \$20-28 million), (b) another one from Switzerland (value unknown).<sup>23</sup>
- Two yachts were returned to Tunisia: (a) one from Spain, owned by a family member of Zine El Abidine Ben Ali, estimated value €5-8 million;<sup>24</sup> (b) one from Italy, owned by a family member of Zine El Abidine Ben Ali, estimated value \$626 000, in April 2013.<sup>25</sup>
- \$14.2 million (approximate value of mansion) were returned to Libya by a default judgment (private civil action) against Capitana Seas Limited, the legal owner of a mansion in London; the United Kingdom's High Court of Justice was satisfied that a family member of former President Quaddafi was the sole ultimate beneficial owner of the defendant company.<sup>26</sup>

90. The following figures relate to forfeited assets in corruption cases:

- \$401,931 were forfeited by the United States Department of Justice in assets traceable to Diepreye Solomon Peter Alamieyeseigha, a former Governor of Bayelsa state, Nigeria, in June 2012;<sup>27</sup>
- Real property of an estimated value of more than \$700,000 was forfeited in May 2013; the property had been purchased with corruption proceeds traceable to Diepreye Solomon Peter Alamieyeseigha, a former Governor of Bayelsa state, Nigeria; thereby executing a forfeiture order by the District Court of Maryland.<sup>28</sup>

91. Asset Recovery Watch records about \$1.3 billion in total pending returns. This figure, again, needs to be considered in context, as it includes over \$400 million in restitution ordered in one single case where it is unknown if the defendants have the ability to pay and the \$356 million judgment awarded by a court in the United States to the Marcos-era victims of human rights violations which is still under appeal by the Marcos family.

<sup>22</sup> <http://blogs.worldbank.org/psd/tunisiacashbackthestartofmoretocome>, <http://star.worldbank.org/star/news/tunisia%E2%80%99s-cash-back>

<sup>23</sup> [http://www.nytimes.com/2012/06/08/world/middleeast/libya-egypt-and-tunisia-try-to-recover-assets.html?pagewanted=all&\\_r=1](http://www.nytimes.com/2012/06/08/world/middleeast/libya-egypt-and-tunisia-try-to-recover-assets.html?pagewanted=all&_r=1) (accessed 20 June 2013).

<sup>24</sup> <http://www.channelstv.com/home/2013/05/24/tunisia-moves-to-recover-ben-alis-stolen-assets/> (accessed 20 June 2013).

<sup>25</sup> [www.foxnews.com/world/2013/04/15/tunisia-gets-back-yacht-belonging-to-ex-dictator-nephew/](http://www.foxnews.com/world/2013/04/15/tunisia-gets-back-yacht-belonging-to-ex-dictator-nephew/) (accessed 20 June 2013).

<sup>26</sup> <http://star.worldbank.org/corruption-cases/node/19587>.

<sup>27</sup> [www.justice.gov/opa/pr/2012/June/12-crm-827.html](http://www.justice.gov/opa/pr/2012/June/12-crm-827.html).

<sup>28</sup> [www.justice.gov/opa/pr/2013/May/13-crm-628.html](http://www.justice.gov/opa/pr/2013/May/13-crm-628.html).

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

92. The Working Group may wish to provide further guidance on the implementation of the recommendations made at its previous meetings, in particular with a view to establishing a global network of asset recovery focal points.

93. With regard to the need to enhance cumulative knowledge on asset recovery, the Working Group may wish to provide guidance on areas where further knowledge products could be developed. In particular, the Working Group may wish to provide guidance on possible areas for model legislative provisions and best practices guides based on the thematic discussion on its agenda.

94. 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 at the national and regional levels and encourage States to take advantage of available opportunities for capacity-building in the area of asset recovery.

95. The Working Group may particularly wish to provide guidance on actions to be taken to further advance the full implementation of chapter V of the Convention and to ensure its application in practice, inter alia, by encouraging Member States to conduct gap analysis of chapter V by using the updated self-assessment checklist.

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