



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

Distr.: General
2 September 2022

Original: English

Open-ended Intergovernmental Working Group on Asset Recovery

Vienna, 7–11 November 2022

Item 4 (b) of the provisional agenda*

**Thematic discussions: collection of information on
international asset returns, including challenges,
good practices and lessons learned**

Collection of information on international asset returns, including challenges, good practices and lessons learned

Note by the Secretariat

Summary

The present document has been prepared pursuant to resolution 9/2 of the Conference of the States Parties to the United Nations Convention against Corruption, entitled “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthening international cooperation: follow-up to the special session of the General Assembly against corruption”. It provides an overview of international recoveries and returns of stolen assets and insights into the current state of cross-border repatriation practices of the States parties to the United Nations Convention against Corruption. The document contains an updated excerpt of the analysis presented in a conference room paper prepared by the Stolen Asset Recovery (StAR) Initiative (CAC/COSP/2021/CRP.12).

* [CAC/COSP/WG.2/2022/1](#).



I. Introduction

1. The need for better information on the practice of international asset recovery has been repeatedly highlighted by the Conference of the States Parties to the United Nations Convention against Corruption,¹ by the Open-ended Intergovernmental Working Group on Asset Recovery and by the second International Expert Meeting on the Return of Stolen Assets, held in Addis Ababa from 7 to 9 May 2019, and it is frequently raised by civil society organizations.
2. In response, the Stolen Asset Recovery (StAR) Initiative, as part of its data-collection project, produced a paper on mapping international recoveries and returns of stolen assets under the Convention, which included an analysis of international returns of proceeds of corruption that took place between 2010 and 2019 and was issued as a conference room paper (CAC/COSP/2021/CRP.12).
3. In paragraph 52 of the political declaration adopted at the special session against corruption held in June 2021 (General Assembly resolution S-32/1), the General Assembly emphasized the common commitment of Member States to consolidating and expanding the global knowledge and data collection on asset recovery and return through gathering and sharing information on challenges and good practices, as well as on volumes of assets frozen, seized, confiscated and returned in relation to corruption offences, and the number and types of cases, as appropriate, while ensuring the protection of personal data and privacy rights.
4. In its resolution 9/2, entitled “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthening international cooperation: follow-up to the special session of the General Assembly against corruption”, the Conference requested the United Nations Office on Drugs and Crime (UNODC), in coordination with the StAR Initiative, to expand global knowledge and data collection on asset recovery and return through gathering and sharing information on challenges and good practices, as well as on volumes of assets frozen, seized, confiscated and returned in relation to corruption offences. The Conference also requested UNODC to collect information on the number and types of asset return cases, as appropriate, while ensuring the protection of personal data and privacy rights, drawing upon existing efforts, within existing resources.
5. In April 2022, in line with this mandate, UNODC sent a note verbale inviting States parties to provide information on their involvement in international asset returns for the period 2020–2021, including the number of asset return cases, amounts returned, and parties and assets involved. The note verbale contained a detailed questionnaire to which, as at 15 July 2022, 27 States parties had provided responses.
6. The present document has used the responses received to the note verbale to update the relevant parts of the analysis presented in the aforementioned conference room paper (CAC/COSP/2021/CRP.12), focusing on the analysis of reported asset returns and barriers to international cooperation and domestic data collection. The conference room paper also analysed confiscations and asset freezes, which are not covered in the present note.

II. Methodology

7. An objective of the StAR Initiative’s ongoing project to collect data on practices and on global progress in international efforts to recover and return proceeds of corruption is to investigate the observation that there is a disconnect between high-level international commitments on asset recovery and actual practices at the country level. Better data on corruption-related asset recoveries and returns worldwide serve multiple purposes, namely, to:

¹ See resolutions 6/3, 8/9 and 9/2 adopted by the Conference.

- (a) Identify trends in asset recovery and return practices and volumes;
- (b) Measure progress towards target 16.4 of the 2030 Agenda for Sustainable Development to, by 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime;
- (c) Promote transparency and accountability in international asset recovery;
- (d) Improve understanding of existing challenges and barriers to trace, restrain, confiscate and return assets internationally;
- (e) Provide case examples for national authorities embarking on efforts to trace, restrain, confiscate and return assets internationally.

8. In order to collect information from States parties on their involvement in international asset recovery efforts in a systematic way, two questionnaires were developed and circulated. The first questionnaire, developed by the StAR Initiative, encouraged authorities to share information on international asset recovery efforts involving their country for the period 2010–2019. It requested authorities to provide information on proceeds of foreign corruption that they had frozen, seized or confiscated in their own jurisdiction and returned to another country, as well as information on any proceeds of corruption that the country received from another country where those assets were held. Information was also collected from countries that facilitated the asset recovery process in other ways, for example by initiating legal action to recover proceeds of corruption in a third country or by acting as a mediator to facilitate a return between two other States.

9. Only cases with an international element were included in the scope of the questionnaire, meaning that the process involved proceeds of corruption that were moved from the country of origin of the public official involved to a different “holding State”. The data collection also included cases where a destination State restrained or confiscated proceeds of foreign corruption initiated by a domestic investigation in the absence of a foreign request from the State harmed by corruption.

10. The second questionnaire (see para. 5 above) focused on completed international asset returns and obstacles related to data collection covering international asset returns for the period 2020–2021.

11. For the purpose of the questionnaires, international asset transfers made directly to a foreign Government or to a third party, such as an international organization, were considered as completed returns. The transfer could have been conducted in any manner, such as a direct wire transfer to a government account, physical transfer of the asset, or transfer of legal title or shares using an escrow or trust account.

12. Although the information collected through the questionnaires provided valuable new insights into the spread and scale of involvement in international asset recovery efforts related to corruption offences globally, the reported cases do not reflect all such efforts and should not be taken as comprehensive accounting of all international asset returns between 2010 and 2021. Some States’ responses included only a selection of cases that met the criteria for the present note, some States did not submit a response and others noted that they may have been involved in such cases but did not have the required information available to complete the questionnaires.

13. Responsibility for the accuracy of the information provided rests solely with the individual countries. It was not possible to verify independently whether all reported cases did in fact meet the criteria for asset recovery cases.

14. Since information was collected from States involved in various roles of the asset recovery process (as the country of origin, country of asset location or a third country involved in the process), the same recovery or return action was sometimes reported by several States. For the summary figures of assets returned shown in table 6, duplicates were manually removed, to the extent possible, where sufficient information to allow identification of duplicates was provided in the responses.

15. The other case statistics shown in the present note, however, comprise the full sample of reported cases as provided in States' responses. Since the level of detail provided in the responses varied and the case details presented in the responses of various States did not always match up perfectly for duplicates, it was not possible to remove duplicates from the summary statistics without arbitrarily deciding to include one State's response over that of another State.

Terminology

16. The following definitions of terminology should be assumed for the purposes of the present note:

(a) "Proceeds of corruption" are proceeds of crime ("any property derived from or obtained, directly or indirectly, through the commission of an offence" (art. 2 (e) of the Convention)) derived from corruption offences in accordance with the Convention (arts. 15–25),² including money-laundering cases involving international asset recovery with a corruption offence as a predicate offence;

(b) "International asset recovery" is defined in the broadest possible sense to encompass any international transfer of proceeds of corruption to another State, prior legitimate owner, or victims harmed by corruption in another State;

(c) "Country of asset location" is the country or State where the proceeds of corruption are located and is also sometimes referred to as the "destination country" or "holding State";

(d) "Country of origin" is the country of origin of the public official involved. It is typically the country where the original corruption offence took place and is also sometimes referred to as the "source country" or "victim State";

(e) "Transit country" is the country (other than the country of origin and the country of asset location) through which proceeds of corruption have passed;

(f) "Third country" is any country other than the country of origin or the country of asset location;

(g) The terms "source country" and "destination country" are used interchangeably with "country of origin" and "country of asset location", respectively, and may describe jurisdictions, States or countries regardless of their political status.

III. Analysis of responses

17. The following 44 countries and jurisdictions³ reported involvement in at least one cross-border asset return involving corruption proceeds between 2010 and 2021: Argentina, Australia, Bahrain, Bangladesh, Bosnia and Herzegovina, Brazil, Brunei

² Namely, bribery of national public officials; bribery of foreign officials and officials of public international organizations; embezzlement, misappropriation or other diversion of property by a public official; trading in influence; abuse of functions; illicit enrichment; bribery in the private sector; embezzlement of property in the private sector; laundering of proceeds of crime, concealment; and obstruction of justice.

³ The total number of responding States and jurisdictions was 87: Albania, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Chile, China, Costa Rica, Czechia, Dominican Republic, Egypt, Eswatini, Finland, France, Greece, Guatemala, Guinea-Bissau, Holy See, Hungary, India, Iraq, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Latvia, Lebanon, Lesotho, Liechtenstein, Lithuania, Luxembourg, Malaysia, Mauritius, Mexico, Mongolia, Morocco, Myanmar, New Zealand, Nigeria, North Macedonia, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Serbia, Seychelles, Singapore, South Africa, Spain, State of Palestine, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela (Bolivarian Republic of), Viet Nam, Guernsey (United Kingdom), Hong Kong (China), Isle of Man (United Kingdom), Jersey (United Kingdom) and Macao (China).

Darussalam, Chile, China (including Hong Kong, China, and Macao, China), Dominican Republic, Egypt, France, Hungary, India, Italy, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Latvia, Lebanon, Liechtenstein, Luxembourg, Malaysia, Mongolia, New Zealand, Nigeria, Oman, Pakistan, Panama, Peru, Philippines, Qatar, Republic of Korea, Russian Federation, Singapore, South Africa, Switzerland, Trinidad and Tobago, Tunisia, United Kingdom of Great Britain and Northern Ireland (including the Crown Dependencies of the Isle of Man and Jersey)⁴ and United States of America.

Table 1
Number of responses by State income level from States that reported asset returns

| <i>Income level^a</i> | <i>Number of States</i> |
|---------------------------------|-------------------------|
| High | 22 |
| Upper-middle | 13 |
| Lower-middle | 9 |
| Low | 0 |
| Total | 44 |

^a As classified by the World Bank Country and Lending Groups.

Table 2
Number of responses by regional grouping from States that reported an asset return case

| <i>Region</i> | <i>Number of States</i> |
|--|-------------------------|
| African States | 4 |
| Asia-Pacific States | 18 |
| Eastern European States | 4 |
| Latin American and Caribbean States | 7 |
| Western European and other States ^a | 11 |
| Total | 44 |

^a For the purposes of the present note, the Crown Dependencies of the Isle of Man and Jersey are included in the group of Western European and other States.

18. Over the past 11 years, States in all regions of the world were involved in efforts to return proceeds of corruption (see table 2). The number of States pursuing cross-border asset recovery cases involving proceeds of corruption is growing rapidly. A total of 51 per cent of States that submitted a survey response reported involvement in at least one international asset return case involving proceeds of corruption, either completed or in progress. The number of States that reported involvement in international asset freezes, confiscations or recoveries is even higher (72 per cent (63 of 87 responses received)).

19. Among States that did not report participation in international asset recovery efforts, multiple respondents reported that they could not provide information on asset recovery, as the required data were not available. Six States that did not include any case information in their response⁵ explained that relevant cases may exist but that information on international recovery efforts was not collected in a systematic manner, whereas none of the other States provided any information as to why no cases had been reported. Several States reported that their national statistics concerning proceeds of crime connected to another country did not differentiate on the basis of the type of offence, so it was not possible to list returned or received funds related to

⁴ For the purposes of the present note, the United Kingdom and the Crown Dependencies of the Isle of Man and Jersey were counted separately.

⁵ Czechia, Finland, Greece, Guinea-Bissau, Lithuania and Viet Nam.

corruption offences. One State reported participation in several ongoing asset recovery cases, but noted that they were confidential.⁶

20. Among members of the Organisation for Economic Co-operation and Development (OECD), the number of countries that reported pursuing cross-border asset recovery efforts did not increase significantly compared with the number reported in the 2014 report *Few and Far: The Hard Facts on Stolen Asset Recovery*, jointly published by the StAR Initiative and OECD.⁷ Of the 24 OECD members that responded to questionnaires, 12 reported cross-border asset return cases since 2010 and 12 did not report any information on cases.

21. Information on involvement in asset recovery involving corruption proceeds was collected systematically from non-OECD countries for the first time through the questionnaires, and the response rate reflected a high level of interest in the topic from those countries, as the majority of States that responded to the questionnaires (63 out of 87) were non-OECD countries.

22. Responses that reported involvement as a country or jurisdiction of origin in a cross-border asset recovery effort were overwhelmingly from non-OECD countries (22 non-OECD; 3 OECD) and it is noteworthy that there were more non-OECD countries that reported involvement as a country or jurisdiction of asset location for foreign corruption proceeds compared with OECD countries (15 non-OECD; 13 OECD). Those figures indicate not only an increase in the overall number of countries involved in international asset recovery but also a diversification in the destination countries for proceeds of corruption.

23. While the final destinations of proceeds of crime are typically the largest, or regional, global financial centres, questionnaire responses showed as many as 28 different destination countries or jurisdictions engaged in international cooperation over restraining and returning proceeds of corruption. Unsurprisingly, the majority of responses reporting involvement as a destination country or jurisdiction were high-income countries (20 jurisdictions), but eight middle-income countries also reported cases as a “country of asset location”. Among the countries reporting involvement in cases as a source country, seven were high-income countries.

24. Table 3 illustrates the identification of a responding State or jurisdiction as an asset location jurisdiction, an origin jurisdiction, a jurisdiction that initiated legal action or a transit jurisdiction in its response, broken down by income level, using World Bank Group classifications. The various categories within “role in asset recovery process” are not mutually exclusive; it was possible for a State or jurisdiction to report involvement in several categories. In fact, seven countries reported involvement in cross-border asset return, both as the asset location State in some cases and as the source of proceeds of corruption in others.⁸

⁶ Thailand.

⁷ Larisa Gray and others, *Few and Far: The Hard Facts on Stolen Asset Recovery* (Washington, D.C., World Bank and Organisation for Economic Co-operation and Development, 2014).

⁸ Brunei Darussalam, Egypt, India, Italy, Jordan, Morocco, Panama, Portugal, Romania and the Republic of Korea.

Table 3
Identified role in asset return process by income level

| <i>Income level</i> | <i>Jurisdiction of asset location</i> | <i>Jurisdiction of origin</i> | <i>Jurisdiction initiating legal action^a</i> | <i>Transit jurisdiction</i> | <i>Both jurisdiction of asset origin and location</i> |
|---------------------|---------------------------------------|-------------------------------|---|-----------------------------|---|
| High | 20 | 7 | 9 | 3 | 3 |
| Upper-middle | 5 | 9 | 4 | 1 | 2 |
| Lower-middle | 3 | 9 | 4 | 0 | 2 |
| Low | 0 | 0 | 0 | 0 | 0 |
| Total | 28 | 25 | 17 | 4 | 7 |

^a Jurisdictions did not always indicate in their responses whether they had initiated legal action in their responses; in many cases only “country of origin” or “country of asset location” was selected.

25. In total, responses included information on 140 asset return cases covering the period 2010–2021. Nigeria reported involvement in the highest number of asset returns (19), followed by the United States (11), Malaysia, the Russian Federation, Tunisia and the United Kingdom (6 each) and Latvia, Mongolia, the Republic of Korea, Singapore and South Africa (5 each).⁹

26. There is some variation as to how States decided to define a case in their response, for example whether multiple asset recovery actions relating to the same defendant or that were part of a larger investigation were reported as separate cases or summarized under one case entry. For example, Malaysia listed six different asset returns related to embezzlement from its 1Malaysia Development Berhad sovereign wealth fund during the period 2018–2020 as six separate cases in its response, whereas the United States summarized four wire transfers returned by the United States to Malaysia during the period 2019–2021 and the return, in which it assisted, of the superyacht *Equanimity* from Indonesia to Malaysia as a single case in its response.

⁹ Cases reported by the United States in its response to the questionnaire are only examples of recoveries and returns of foreign corruption proceeds and so do not constitute all foreign corruption-related forfeitures that the United States was involved in during the time period.

Table 4
Involvement in international asset returns

| <i>Reporting country</i> | <i>Number of cases reported</i> |
|--|---------------------------------|
| Nigeria | 19 |
| United States | 11 |
| Malaysia, Russian Federation, Tunisia, United Kingdom | 6 |
| Latvia, Mongolia, Republic of Korea, Singapore, South Africa | 5 |
| Switzerland ^a | 4 |
| Australia, Bangladesh, Brazil, Egypt, India, Lebanon, Peru | 3 |
| Argentina, Bosnia and Herzegovina, China, ^b Dominican Republic, France, Italy, Jordan, Kuwait, Liechtenstein, New Zealand, Pakistan, Trinidad and Tobago, Jersey (United Kingdom) | 2 |
| Bahrain, Brunei Darussalam, Chile, Hungary, Kazakhstan, Kyrgyzstan, Luxembourg, Oman, Panama, Philippines, Qatar, Isle of Man (United Kingdom) | 1 |

^a Switzerland stated that the returns it reported on the questionnaires did not constitute a comprehensive overview of its asset recovery cases, as statistics on the return of assets related to corruption proceeds were not available. Instead of additional information on assets returned or confiscated since 2010, authorities noted that “in the past 30 years, Switzerland has returned over \$2 billion to the benefit of looted populations by negotiating and signing agreements governing the final disposition of the assets with, among others, Kazakhstan, Nigeria and Turkmenistan.”

^b Including Hong Kong, China, and Macao, China.

27. Among countries of origin, Nigeria and Malaysia reported receiving the highest amounts of corruption-related assets from foreign jurisdictions (see table 6). Nigeria reported receiving over \$1.2 billion in repatriated corruption proceeds. Malaysia reported receiving six returns, all related to the 1Malaysia Development Berhad case, with a total value of \$739 million,¹⁰ and an additional 1Malaysia Development Berhad-related return by the United States to Malaysia of \$452 million, which took place in May 2021 (included in the response from the United States). The combined total of the returns was nearly \$1.2 billion in repatriated corruption proceeds to Malaysia during the period 2018–2021.¹¹

28. Among countries of asset location, the United States reported the highest amount of foreign corruption proceeds confiscated, restrained and repatriated to other countries.

¹⁰ In the response of Malaysia, the return of the superyacht *Equanimity* is valued at the yacht’s lower sales price of \$126 million, rather than its purchase price of \$250 million.

¹¹ The figure does not include the settlement by which Goldman Sachs agreed to pay nearly \$3 billion in fines to authorities in multiple countries related to charges under the United States Foreign Corrupt Practices Act, through which Malaysia also recovered assets. It also does not include a separate \$3.9 billion settlement that the Malaysian branch of Goldman Sachs reached with the Government of Malaysia in July 2020.

Table 5
Value of reported asset returns by country of asset location

(United States dollars)

| <i>Reporting country</i> | <i>Cumulative value</i> |
|---------------------------------------|-------------------------|
| United States of America ^a | 1 828 023 940 |
| Switzerland ^b | 386 600 000 |
| Jersey (United Kingdom) | 328 241 000 |
| Singapore | 319 457 738 |
| Liechtenstein | 203 142 811 |

^a Cases reported by the United States in its response to the first questionnaire are examples of recoveries and returns of foreign corruption proceeds, which do not constitute all foreign corruption-related forfeitures in which the United States was involved during the period 2010–2021.

^b Jurisdictions did not always indicate in their responses whether they had initiated legal action in their responses; in many cases only “country of origin” or “country of asset location” was selected.

Table 6
Value of reported asset returns by country of origin

(United States dollars)

| <i>Reporting country</i> | <i>Cumulative value</i> |
|--------------------------|-------------------------|
| Nigeria | 1 205 341 754 |
| Malaysia ^a | 1 192 086 758 |
| Russian Federation | 314 860 825 |
| Tunisia ^b | 138 360 000 |
| Brazil | 82 198 770 |

^a This figure includes \$739,723,758 in returned assets reported by Malaysia and an additional return of \$452,363,000 that took place in May 2021, after Malaysia submitted its questionnaire response, that was reported by the returning country, the United States. In the response from Malaysia, the return of the superyacht *Equanimity* is valued at the yacht’s lower sales price of \$126 million, rather than its purchase price of \$250 million.

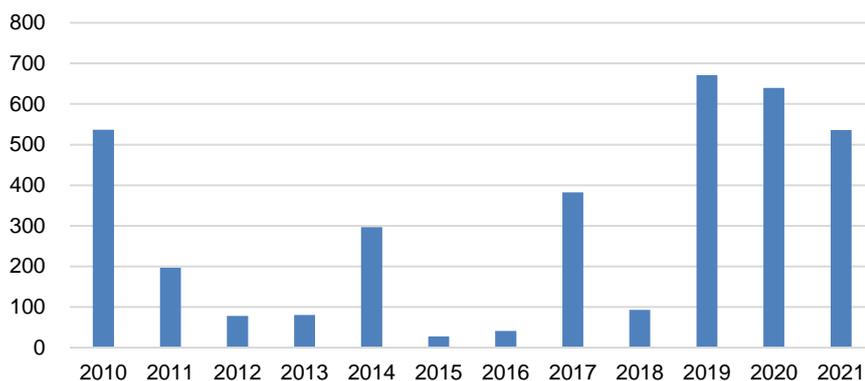
^b The listed value of reported asset returns for Tunisia only includes information from responses received for the April 2020 questionnaire.

29. Considerable values of asset returns by countries of asset location to countries of origin were also reported by Switzerland, Jersey (United Kingdom), Singapore and Liechtenstein (see table 4). It is therefore worth noting the growing number of reported cross-border asset return cases and the high level of participation in such cases by countries across all regions of the world.

30. Figure I and table 7 show the combined values of assets returned between 2010 and 2021 that were reported by States. The reported cases and total values are examples that represent a snapshot of international asset recovery efforts related to corruption offences; they are not comprehensive and do not reflect all such efforts that took place during the time frame.

Figure I
Combined value of assets returned over time

(Millions of United States dollars)



Note: Values are based solely on data from the questionnaires, with duplicates excluded where identified, using annualized figures for returns over multiple years. In addition, returns accounting for \$540,119,795 were noted in the questionnaires, but with no date, so have not been included in the figure.

Table 7

Total value of reported asset returns of proceeds of corruption, 2010–2021^a

(United States dollars)

| <i>Reported asset returns</i> | <i>Cumulative value</i> |
|-----------------------------------|-------------------------|
| First questionnaire (April 2020) | 4 114 938 949 |
| Second questionnaire (April 2022) | 47 279 839 |
| Total | 4 162 218 788 |

^a Duplicates excluded (where identified); any case with end date prior to 2010 excluded.

Questionnaire results

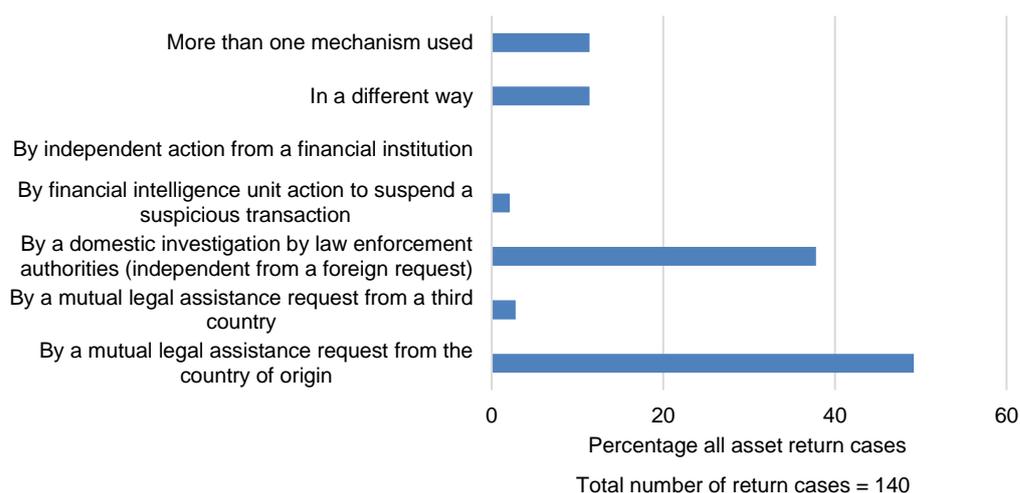
31. Paragraphs 32 to 45 below provide results from the two questionnaires, focusing on quantitative analysis of individual questions that were included in the forms for reporting completed asset returns.

Initiation of asset restraint

32. An analysis of information on how asset restraints were initiated in the reported cases highlights the importance of proactive efforts by destination countries to pursue the gains of foreign corruption for successful asset returns. Around 49 per cent of the asset restraints were initiated by a mutual legal assistance request from the country of origin of the public official involved, which is in accordance with a “traditional” cross-border asset recovery action that involves a requesting jurisdiction of origin and a requested jurisdiction where corruption proceeds are kept concealed.

33. A surprising finding was that around 38 per cent of all cases (53 out of 140) were initiated by a domestic investigation by law enforcement authorities, independent of a foreign request. That could be an indication that proactive actions by financial centres to close safe havens for corrupt funds and to protect their financial systems against abuse have been effective and that those actions play a critical role in meeting the goals of the Convention.

Figure II
Method for initiating asset restraint stated for reported asset return cases

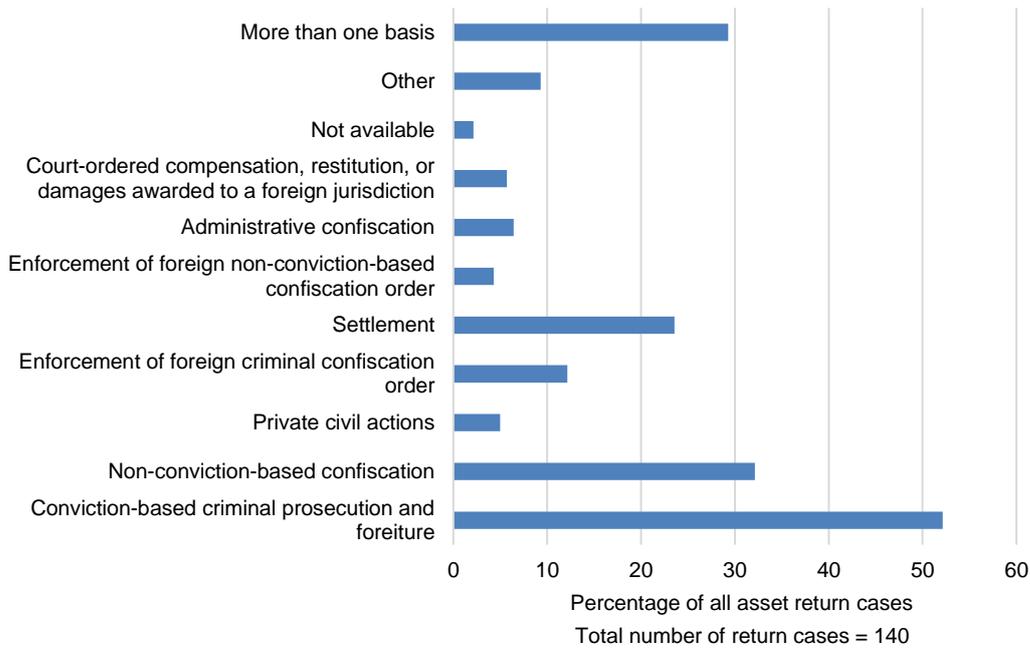


Legal basis for asset recovery

34. Conviction-based criminal confiscation remained the most frequently cited legal mechanism for cross-border asset recovery efforts, used in more than half of all reported cases (52 per cent), followed by non-conviction-based confiscation (32 per cent) and settlements (23 per cent). In 29 per cent of cases, more than one option was selected as the legal basis for a given case.

35. With more States involved in cross-border asset recovery, recognition and enforcement of foreign judgments and confiscation orders are becoming more critical to avoid duplication of law enforcement efforts. A total of 12 per cent of asset returns involved an enforcement of a foreign criminal confiscation order, while only 4 per cent involved an enforcement of a foreign non-conviction-based confiscation order. Those findings, combined with the answers to the questions on barriers to asset recovery (see sect. IV), where problems related to the enforcement of non-conviction-based confiscation orders in foreign jurisdiction were highlighted as among the most frequently cited barriers, suggest that the issue requires more attention, both at the international policy level and in domestic reforms, and related technical assistance.

Figure III
Stated legal basis stated for asset restraint



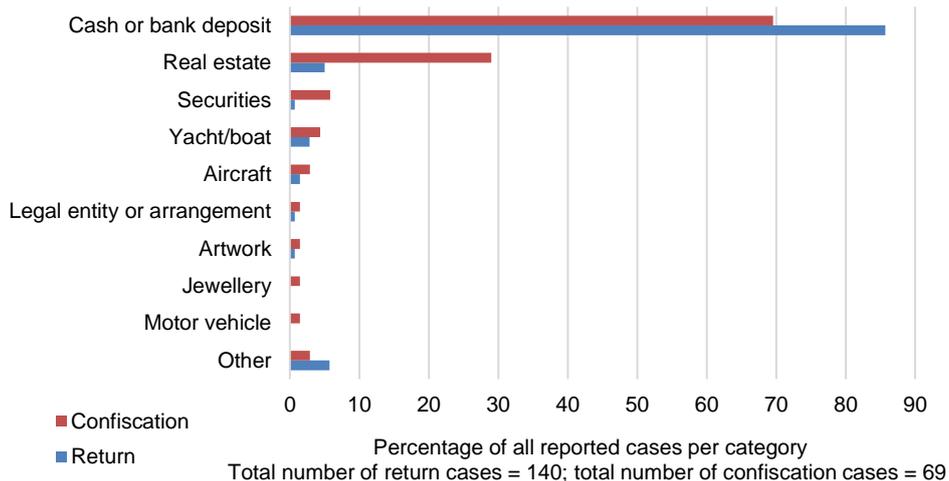
Legal basis for international cooperation

36. The questionnaires included a question regarding the legal basis for international cooperation related to international asset returns. The responses demonstrated that the Convention serves as a legal basis for States involved in international asset recovery, as in 59 out of 140 cases (42 per cent), the Convention had been used as a legal basis for international cooperation related to the case.

Asset type at time of confiscation and asset return

37. Responses to a question regarding the asset type at the time of confiscation and return of the corruption proceeds showed that, in most cases, assets were in the form of cash or bank deposits (85 per cent at the time of return and 69 per cent at the time of confiscation). Real estate was the next most frequently stated type of asset (5 per cent at the time of return and 29 per cent at the time of confiscation). Other types listed included securities, yachts, aircraft, legal entities or arrangements, and artwork. Many cases included multiple responses to the question.

Figure IV
Asset type at point of confiscation and return



38. The dominance of bank deposits in the international asset recovery efforts captured in the survey could be related to a higher incidence of detection of such assets, as the banking sector is generally more strictly regulated under anti-money-laundering rules than other sectors of the economy and financial systems that come into contact with proceeds of crime. The relatively frequent mentions of real estate at the confiscation stage of asset returns also highlight the importance of increasing anti-money-laundering regulations in that sector, along with other anti-corruption efforts such as collaborating with real estate associations and creating real estate registries with information on the beneficial owners of real estate in sought-after locations.

Existence of an agreement for the disbursement of returned assets

39. Under article 57, paragraph 5, of the Convention, States involved in the return of proceeds of corruption may also give special consideration to concluding agreements or mutually acceptable arrangements, on a case-by-case basis, for the final disposal of confiscated property. Although not all examples of asset returns reported by States involved confiscated property (some funds involved court orders for compensation payments or fines), most reported asset returns were linked to confiscated assets. States that reported involvement in a cross-border asset return stated that, in around half of those cases (47 per cent), no agreement was drawn up over the use and disbursement of returned funds, while in around 40 per cent of cases, some form of agreement existed. In seven cases (5 per cent), assets were shared between parties in an asset-sharing agreement.

Table 8

Agreement type for the disbursement of returned assets

| <i>Agreement</i> | <i>Number</i> | <i>Percentage</i> |
|--|---------------|-------------------|
| An agreement under the Convention against Corruption, art. 57, para. 5 | 23 | 16.4 |
| Asset-sharing agreement | 7 | 5.0 |
| Another type of agreement | 36 | 25.7 |
| Any agreement mechanism ^a | 57 | 40.7 |
| No agreement | 66 | 47.1 |
| Total number of reported cases | 140 | – |

^a Selection of multiple responses possible for this question. “Any agreement mechanism” shows the number of responses that listed at least one of the three options (agreement under the Convention against Corruption art. 57, para. 5/asset-sharing agreement/another type of agreement).

40. Concluding agreements or mutually acceptable arrangements is a possibility foreseen by the Convention on a case-by-case basis. The responses show that such agreements are not standard practice among States involved in cross-border asset recovery efforts of proceeds of corruption. In almost half of reported asset returns, States did not conclude an agreement over the use or disbursement of assets. Moreover, in most cases, limited information was made publicly available on the return of proceeds of corruption. Only a few States of asset location routinely issue press releases at the time when funds derived from foreign corruption offences are finally confiscated in their jurisdiction, or, in the case of returns, at the time when the funds are transferred to a State of origin.

Use of asset recovery networks or other initiatives to help facilitate the asset recovery effort

41. In a number of returns, States reported making use of asset recovery networks or other initiatives to facilitate international cooperation in the asset recovery effort. The networks and mechanisms mentioned most frequently in the responses were the Egmont Group of Financial Intelligence Units, the StAR Initiative and the International Criminal Police Organization (INTERPOL)/StAR Initiative Global

Focal Point Network on Asset Recovery. In addition to a list of asset recovery networks provided in the survey, write-in responses listed a wide variety of other forums, mechanisms or initiatives that were used to improve international cooperation, including the European Union Agency for Criminal Justice Cooperation, the United Nations Interregional Crime and Justice Research Institute, the Criminal Asset Identification Platform of France, direct bilateral meetings between law enforcement of Governments involved in a specific case, diplomatic channels, cooperation between banks and foreign law enforcement, multi-agency domestic investigative task forces and international task forces (such as the 1Malaysia Development Berhad international task force).

Table 9
Asset recovery networks used

| <i>Asset recovery networks</i> | <i>Number of cases</i> |
|--|------------------------|
| Egmont Group | 20 |
| StAR Initiative technical assistance | 14 |
| INTERPOL/StAR Global Focal Point Network on Asset Recovery | 11 |
| International Anti-Corruption Coordination Centre | 8 |
| Asset Recovery Inter-Agency Network for Asia and the Pacific | 4 |
| Camden Asset Recovery Inter-Agency Network | 2 |
| European Union Asset Recovery Offices International Centre for Asset Recovery technical assistance | 1 |
| Other | 23 |

Existence of parallel investigations in both country of origin and country of asset location

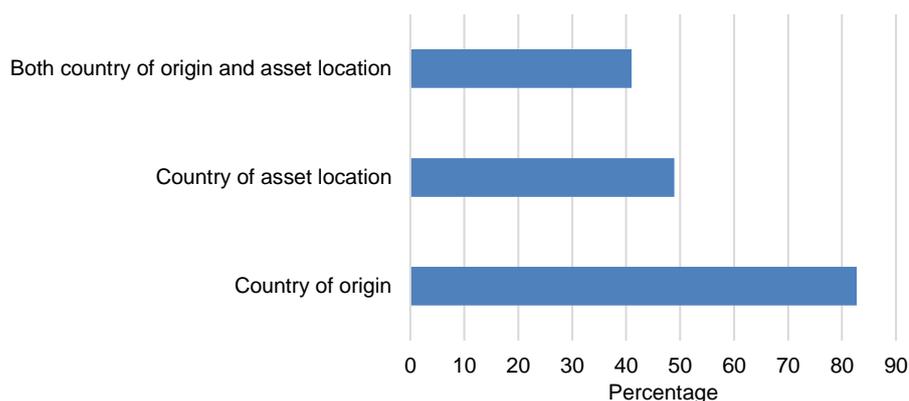
42. The Guidelines for the Efficient Recovery of Stolen Assets highlight, in guideline 8, parallel investigations as a good practice:

Conducting parallel, joint or otherwise contemporaneous investigations means investigating facts, which constitute criminal offences in the involved jurisdictions at the same time. Thus, in complex cases spanning into two or more jurisdictions, having contemporaneous investigations enables combining the investigative expertise from the involved jurisdictions to complement the efforts of one another.

43. The value in conducting parallel investigations in both jurisdictions involved in the asset recovery effort was also noted in the outcome report of the second International Expert Meeting on the Return of Stolen Assets.¹² To better understand the role of parallel investigations, the questionnaires included a question about whether there was an investigation or prosecution related to the case in the country of origin, in the country of asset location or in both.

¹² Available at www.unodc.org/unodc/en/corruption/meetings/addis-egm-2019.html.

Figure V
Investigations in the country of origin and country of asset location



44. States reported that, for over 80 per cent of reported asset returns, there had been an investigation in the country of origin, while almost half of the reported asset return cases (49 per cent) involved investigations in the country of asset location and around 40 per cent of cases reported investigations in both. Notably, responses from the first questionnaire, which also covered confiscations and freezes, show that completed asset returns had a higher rate of parallel investigations in both the country of origin and in the country of asset location when compared to asset recovery actions at the confiscation stage and asset freeze stage.

45. The fact that a significant share of successful asset returns was the result of parallel investigations further supports the recommendation that countries collaborate across jurisdictions and initiate investigations in both the country of origin and country of asset location to complement law enforcement efforts. The high rate of investigations in asset location countries further highlights the importance of proactive actions to pursue proceeds of foreign corruption.

IV. Barriers to international asset recovery

46. The first questionnaire, prepared by the StAR Initiative, presented a list of 25 factors that could potentially represent barriers to international asset recovery across different stages of the process.¹³ Authorities completing the survey were asked to indicate the degree to which the factors represented barriers to successful recovery of proceeds of corruption, based on their country's experience and past involvement in international recovery efforts. A scale of 1 to 5 was used, with 1 signifying that the factor represented no barrier at all and 5 that the factor represented a major barrier.

47. Although the use of a scoring system did not allow for countries to provide further details about their experiences, it did provide a clear initial indication of major barriers that continue to exist. A total of 73 States responded to the section on barriers to asset recovery in the survey, in full or partially.¹⁴

48. The rankings in the tables below are based on average scores among country authorities that responded to the respective question. A higher mean score therefore

¹³ The present section is an edited excerpt of conference room paper CAC/COSP/2021/CRP.12 and only contains information submitted by States in response to the first questionnaire distributed in April 2020. The updated questionnaire distributed in April 2022 did not include any questions on barriers to asset recovery. On the topic, see also Kevin M. Stephenson and others, *Barriers to Asset Recovery: An Analysis of the Key Barriers and Recommendations for Action* (Washington, D.C., World Bank, 2011).

¹⁴ Responses submitted by Belarus, Bosnia and Herzegovina, Bulgaria, Ireland, Japan, Paraguay and Switzerland did not include any information regarding barriers to asset recovery.

means that more respondents considered the factor to be a significant barrier to their asset recovery efforts.¹⁵

Table 10

Elements considered major barriers to international asset recovery

| <i>Rank</i> | <i>Barrier</i> | <i>Mean score (out of 5)</i> | <i>Number of responses^a</i> |
|-------------|---|------------------------------|--|
| 1 | International cooperation: non-responsive or overly broad mutual legal assistance refusals by country of asset location | 3.14 | 64 |
| 2 | Investigation and asset tracing: difficulties in identifying and verifying beneficial ownership of suspected corruption proceeds | 3.13 | 68 |
| 3 | Freezing, seizure and confiscation: difficulties in proving the link between asset and criminal offence | 3.03 | 68 |
| 4 | International cooperation: problems related to enforcements of non-conviction-based confiscation orders in a foreign jurisdiction | 3.00 | 50 |
| 5 | Freezing, seizure and confiscation: differences in evidentiary requirements and standards of proof between legal systems | 2.94 | 66 |

^a A total of 73 States responded.

Table 11

Elements least likely to be a barrier to international asset recovery

| <i>Rank</i> | <i>Barrier</i> | <i>Mean score (out of 5)</i> | <i>Number of responses^a</i> |
|-------------|--|------------------------------|--|
| 1 | Domestic coordination: lack of effective framework for exchange of information between different government agencies | 1.79 | 68 |
| 2 | Freezing, seizure and confiscation: lack of availability of effective freezing mechanisms | 1.82 | 66 |
| 3 | Domestic coordination: overlapping responsibilities or lack of clarity over responsibilities between different government agencies | 1.83 | 65 |
| 4 | Investigation and asset tracing: lack of effective legal investigative tools | 2.05 | 64 |
| 5 | Freezing, seizure and confiscation: lack of availability of equivalent-value-based confiscation | 2.08 | 59 |

^a A total of 73 States responded.

49. States perceive two factors as especially problematic barriers to successful international asset recovery under chapter V of the Convention: non-responsive or overly broad mutual legal assistance refusals by the country of asset location and difficulties in identifying and verifying beneficial ownership of suspected corruption proceeds. The first barrier indicates that there remains a strong need to support States in international cooperation throughout the asset recovery process and an equally strong need to improve efficiency of the mutual legal assistance process and increase effectiveness of informal cooperation before any mutual legal assistance process begins. The second barrier confirms one of the premises of Conference resolution 9/7, namely that lack of beneficial ownership transparency is a major impediment to achieving the goals set out in chapter V of the Convention.

50. Among the jurisdictions that do not allow non-conviction-based confiscation for corruption offences, the three top barriers with the highest overall scores, by a wide margin, all relate to the lack of availability of non-conviction-based confiscation in their own jurisdictions or to problems with enforcing non-conviction-based orders in foreign jurisdictions. The responses suggest the growing use and central importance

¹⁵ For Botswana and Ukraine, different agencies submitted multiple responses for section D. Where the scores diverged, multiple responses for each country were combined by selecting the higher value.

of non-conviction-based confiscation in cross-border asset recovery cases involving corruption proceeds.

Table 12

Elements considered major barriers to international asset recovery by jurisdictions that do not allow non-conviction-based for corruption offences

| <i>Rank</i> | <i>Barrier</i> | <i>Mean score (out of 5)</i> | <i>Number of responses^a</i> |
|-------------|---|----------------------------------|--|
| 1 | International cooperation: inability to execute foreign non-conviction-based orders because of lack of domestic non-conviction-based confiscation | 4.00 | 18 |
| 2 | Freezing, seizure and confiscation: lack of availability of non-conviction-based confiscation | 3.94 | 17 |
| 3 | International cooperation: problems related to enforcements of non-conviction-based confiscation orders in a foreign jurisdiction | 3.75 | 12 |

^a A total of 23 States responded.

51. Among all 25 factors listed in the survey, the factors with the largest variance in scores were two factors related to non-conviction-based confiscation (“lack of availability of non-conviction-based confiscation” and “inability to execute foreign non-conviction-based orders because of lack of domestic non-conviction-based confiscation”) and, thereafter, two factors related to asset management mandates and capacity (“lack of clarity over mandate for asset management responsibilities” and “lack of capacity for asset management”). As some jurisdictions have mechanisms for non-conviction-based confiscation and others do not, it is not surprising that factors related to the availability of non-conviction-based confiscation received diverging scores from responding States. The high variance for factors related to asset management indicates that asset management of corruption proceeds presents significant challenges for some States but not others. Low-income and lower-middle income States that responded to the survey rated the three factors related to asset management (costs, mandate and capacity) in the list as more problematic than upper-middle and high-income States did.

52. Jurisdictions that are involved in both sides of the asset recovery process responded to the first questionnaire as source and destination countries for corruption proceeds, as well as in other roles such as a third country mediating or brokering agreements between requesting and requested States. A State’s interests, position and perceived barriers to what is considered a successful return of corruption proceeds depends on the role of that State in the process. The tables below show the top barriers (by average score) for different groups of responding States based on their identification as a jurisdiction of asset location or a jurisdiction of origin.¹⁶

¹⁶ If a State reported involvement in cases in several categories, for example as a source country in one case and a destination country in a different case, then its responses to the section on barriers is included in both tables. The category “country that initiated legal action to recover proceeds of corruption” was typically selected (if it was selected at all) in combination with either “country of origin” or “country of asset location”, with a few exceptions for asset recovery actions in which a third country (neither source nor destination State) initiated legal action.

Table 13
Elements considered major barriers to international asset recovery by countries identified as a jurisdiction of asset location

| <i>Rank</i> | <i>Barrier</i> | <i>Mean score (out of 5)</i> | <i>Number of responses^a</i> |
|-------------|--|------------------------------|--|
| 1= | Freezing, seizure and confiscation: difficulties in proving the link between asset and criminal offence | 2.91 | 33 |
| 1= | Freezing, seizure and confiscation: differences in evidentiary requirements and standards of proof between legal systems | 2.91 | 32 |
| 2 | Investigation and asset tracing: difficulties in identifying and verifying beneficial ownership of suspected corruption proceeds | 2.85 | 33 |
| 3 | International cooperation: non-responsive or overly broad mutual legal assistance refusals by country of asset location | 2.79 | 29 |

^a A total of 34 States responded.

Table 14
Elements considered major barriers to international asset recovery by jurisdictions by countries identified as a jurisdiction of origin

| <i>Rank</i> | <i>Barrier</i> | <i>Mean score (out of 5)</i> | <i>Number of responses^a</i> |
|-------------|---|------------------------------|--|
| 1 | Investigation and asset tracing: difficulties in identifying and verifying beneficial ownership of suspected corruption proceeds | 3.48 | 29 |
| 2 | International cooperation: non-responsive or overly broad mutual legal assistance refusals by country of asset location | 3.47 | 30 |
| 3= | Freezing, seizure and confiscation: differences in evidentiary requirements and standards of proof between legal systems | 3.38 | 29 |
| 3= | International cooperation: problems related to enforcements of non-conviction-based confiscation orders in a foreign jurisdiction | 3.38 | 24 |

^a A total of 31 States responded.

53. Difficulties in proving the link between an asset and criminal offence appear high on the list of top barriers for countries of asset location and countries that initiated legal action to recover assets (in first and third place, respectively). For countries of origin, apart from problems related to identifying and verifying beneficial ownership (in first place), non-responsive or overly broad mutual legal assistance refusals by the country of asset location and differences in evidentiary requirements and standards of proof between legal systems are the major barriers. Countries that did not report any cases also scored non-responsive or overly broad mutual legal assistance refusals by country of asset location as the most significant barrier, likely indicating that some requests to foreign jurisdictions related to corruption proceeds traced abroad were made but did not lead to international cooperation. That same group of countries also rated factors related to the asset return process as more significant barriers than other groups did, those factors being difficulties in negotiating mutually acceptable terms for an agreement under article 57, paragraph 5, of the Convention, and containing the risk of returned proceeds being “re-corrupted”.

54. Countries across all groups highlighted problems related to the enforcement of non-conviction-based confiscation orders in a foreign jurisdiction as an important barrier to cross-border asset recovery.

V. Data collection issues and impact of the coronavirus disease pandemic

55. The second questionnaire on asset returns for the period 2020–2021 included three new questions on obstacles in data collection and challenges related to the

coronavirus disease (COVID-19) pandemic. Ministries and departments of Justice,¹⁷ police,¹⁸ asset recovery offices¹⁹ and public prosecutor's offices²⁰ were among the most frequently cited bodies responsible for the data collection on asset recovery. In terms of obstacles to data collection, several States noted the absence of centralized databases with information on asset recovery²¹ and that the majority of asset recovery information needed to be collected manually, which took more time and required more resources. Other obstacles included confidentiality or anonymity of cases,²² lack of data collection on international cooperation,²³ absence of bodies responsible for data collection²⁴ and challenges related to the federal government structure.²⁵

56. In terms of challenges related to the COVID-19 pandemic, States highlighted difficulties related to transition to telecommunication²⁶ and digital forms of cooperation with other jurisdictions.²⁷ The challenges highlight the importance of building digital capacity to mitigate the negative impacts of emergencies. Other challenges included delays in judicial proceedings²⁸ and mutual legal assistance cooperation,²⁹ inability to travel³⁰ and disruptions in global mail delivery.³¹ Some States also highlighted challenges related to reduced staff presence³² and a lack of technical assistance to conduct investigations.³³

57. While the gradual relaxation of pandemic-related restrictions is likely to address the above-mentioned challenges, the responses remain valuable when preparing for potential future emergencies that may disrupt the normal operation of public and private entities.

VI. Key findings and conclusion

58. The two questionnaires represent the largest systematic effort to date to collect information on international asset recovery efforts related to corruption offences directly from national authorities. While the information collected does not represent, and should not be interpreted as, comprehensive accounting of all relevant asset recovery cases that fall within the time frame and scope of the present document, it nonetheless constitutes a large sample of cases that offer valuable insights into the practice of cross-border efforts to restrain, confiscate and return proceeds of corruption.

59. The data challenge several commonly held assumptions about the implementation of the Convention's chapter on asset recovery, namely that only a small number of countries are engaged in efforts to recover corruption proceeds beyond their borders and that it is extremely rare for any proceeds of corruption to be returned to the countries from which they were stolen or countries that suffered harm

¹⁷ Bosnia and Herzegovina, Burkina Faso, China (including Hong Kong and Macao), Czechia, France and Luxembourg.

¹⁸ Australia, Czechia and Hong Kong, China.

¹⁹ Luxembourg, Spain and Macao, China.

²⁰ Kuwait and Peru.

²¹ Bosnia and Herzegovina, Czechia, Luxembourg and Peru. States highlighted different issues, such as a lack of information on specific offences or absence of asset recovery data in their existing databases.

²² Czechia, Hungary, Thailand and Tunisia.

²³ Czechia.

²⁴ Albania.

²⁵ Australia.

²⁶ Czechia, Hungary and Mongolia.

²⁷ Australia and Egypt.

²⁸ Burkina Faso and France.

²⁹ Egypt and Thailand.

³⁰ Burkina Faso, France and Tunisia.

³¹ Australia, Luxembourg and Thailand.

³² Hungary.

³³ Tunisia.

from corruption. The high number of responses from States to the two questionnaires indicated a significant interest in the topic.

60. Conducting the survey also confirmed the difficulty of collecting, gaining access to and sharing information related to international asset returns, highlighting the need for more efficient centralized data-collection systems at country level to register assets frozen, seized, confiscated and returned. The challenge reaffirmed the importance of guideline 13 of the revised draft non-binding guidelines on the management of frozen, seized and confiscated assets: “Having central asset registration systems and databases in place throughout the asset management process is instrumental in accountably managing seized, frozen and confiscated assets. Therefore, States may wish to consider establishing information technology systems and databases for asset registration, as appropriate” (CAC/COSP/2019/16, guideline 13).

61. The key findings of the data-collection exercise may be summarized as follows:

(a) **Over the past 12 years, efforts to trace and restrain stolen assets across borders have become significantly more common, with a marked increase in examples of completed returns of corruption proceeds between 2017 and 2021.** While many challenges remain throughout the recovery and return process, the new data show that the prolonged visibility of the topic of asset recovery in the international community has spurred countries to action. International asset recovery of proceeds of corruption can no longer be considered a rare occurrence;

(b) **While the final destinations of proceeds of crime are often the largest, or regional, global financial centres, survey data show a diversification of destination countries for assets stolen by corrupt public officials.** A total of 28 destination countries were reported as having been engaged in international cooperation over the return of proceeds of foreign corruption in their jurisdiction since 2010;

(c) **Seven countries reported involvement in cross-border asset recovery efforts on both sides of the process, namely as the asset location State in some cases and as the source of corrupt funds in others.** The finding further supports the observation that the number of States involved in actions under chapter V of the Convention in different roles is growing;

(d) **Survey data alone show that \$4.1 billion in corruption proceeds have been returned to countries since 2010.** Although the data on relevant returns are not comprehensive, the indication of the quantity of corruption proceeds tied up in recovery actions offers new figures on the scale and global spread of recovery actions under chapter V of the Convention;

(e) **An analysis as to how asset restraints were initiated highlights the importance of proactive efforts by destination countries to pursue the gains of foreign corruption that were found in their jurisdiction, thereby ending safe havens for corrupt funds.** In 38 per cent of reported asset returns, the asset restraint was initiated by a domestic investigation by law enforcement authorities in the destination State, independent from a foreign request;

(f) **Conviction-based criminal forfeiture remained the most frequently cited legal mechanism for cross-border asset recovery efforts, used in just over half of all reported cases (52 per cent), followed by non-conviction-based confiscation (32 per cent) and settlements (23 per cent);**

(g) **With more States involved in cross-border asset recovery, recognition and enforcement of foreign judgments and confiscation orders are becoming critical to avoid duplication of law enforcement efforts;**

(h) **Although tracing, restraining, and (if certain conditions are met) returning stolen assets are time-consuming and resource-intensive, the process does not always take decades.** In the case examples from the StAR Initiative survey, the average time period between the asset freezing order and the start of the return of

funds is less than four years, and the average time period between the confiscation order and the start of the return is just over two years;

(i) **Agreements over the transfer and use of returned assets are being concluded, but often scant information about these agreements is available.** States noted that, in 40 per cent of all reported examples of asset return, some form of agreement over the return or disbursement of assets existed. An agreement (or other information regarding the return) was only made available publicly or upon request in 29 of the reported cases of asset returns;

(j) **The two major barriers to successful international asset recovery under chapter V of the Convention noted by States were perceived non-responsive or overly broad mutual legal assistance refusals by the country of asset location and difficulties in identifying and verifying beneficial ownership of suspected corruption proceeds;**

(k) **Responses further emphasized the growing use and central importance of non-conviction-based confiscation in cross-border asset recovery cases involving corruption proceeds.** Problems related to enforcement of non-conviction-based confiscation orders in a foreign jurisdiction were also highlighted as representing a significant barrier to cross-border asset recovery.
