



GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases

The co-hosts and four focus countries at GFAR reaffirmed their commitment to the return and disposition of confiscated stolen assets as articulated in UNCAC. They highlighted the importance of technical assistance towards successful asset recovery and disposition. They reflected further on their experiences, and emerging lessons, from previous instances of returns.

Cognisant of the work already going on under the auspices of UNODC, and the call in the Addis Ababa Action Agenda¹ for the international community to develop good practices on asset return, GFAR participants offered the following considerations for principles that would promote successful asset return.

These Principles address approaches and mechanisms for enhancing coordination and cooperation, and for strengthening transparency and accountability of the processes involved. Nothing in these Principles is intended to infringe national sovereignty or domestic principles of law.

PRINCIPLE 1: PARTNERSHIP

It is recognised that successful return of stolen assets is fundamentally based on there being a strong partnership between transferring and receiving countries. Such partnership promotes trust and confidence.

PRINCIPLE 2: MUTUAL INTERESTS

It is recognised that both transferring and receiving countries have shared interests in a successful outcome. Hence, countries should work together to establish arrangements for transfer that are mutually agreed.

PRINCIPLE 3: EARLY DIALOGUE

It is strongly desirable to commence dialogue between transferring and receiving countries at the earliest opportunity in the process, and for there to be continuing dialogue throughout the process.

PRINCIPLE 4: TRANSPARENCY AND ACCOUNTABILITY

Transferring and receiving countries will guarantee transparency and accountability in the return and disposition of recovered assets. Information on the transfer and administration of returned assets should be made public and be available to the people in both the transferring and receiving country. The use of unspecified or contingent fee arrangements should be discouraged.



PRINCIPLE 5: BENEFICIARIES

Where possible, and without prejudice to identified victims, stolen assets recovered from corrupt officials should benefit the people of the nations harmed by the underlying corrupt conduct.

PRINCIPLE 6: STRENGTHENING ANTI-CORRUPTION AND DEVELOPMENT

Where possible, in the end use of confiscated proceeds, consideration should also be given to encouraging actions which fulfill UNCAC principles of combating corruption, repairing the damage done by corruption, and achieving development goals.

PRINCIPLE 7: CASE-SPECIFIC TREATMENT

Disposition of confiscated proceeds of crime should be considered in a case-specific manner.

PRINCIPLE 8: CONSIDER USING AN AGREEMENT UNDER UNCAC ARTICLE 57(5)

Case-specific agreements or arrangements should, where agreed by both the transferring and receiving state, be concluded to help ensure the transparent and effective use, administration and monitoring of returned proceeds. The transferring mechanism(s) should, where possible, use existing political and institutional frameworks and be in line with the country development strategy in order to ensure coherence, avoid duplication and optimize efficiency.

PRINCIPLE 9: PRECLUSION OF BENEFIT TO OFFENDERS

All steps should be taken to ensure that the disposition of confiscated proceeds of crime do not benefit persons involved in the commission of the offence(s).

PRINCIPLE 10: INCLUSION OF NON-GOVERNMENT STAKEHOLDERS

To the extent appropriate and permitted by law, individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, should be encouraged to participate in the asset return process, including by helping to identify how harm can be remedied, contributing to decisions on return and disposition, and fostering transparency and accountability in the transfer, disposition and administration of recovered assets.

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1. Financing for Development conference, July 2015, para 25

