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Conference Room Paper prepared by the StAR Initiative: Mapping international recoveries and returns of stolen assets under UNCAC: an insight into the practice of cross-border repatriation of proceeds of corruption over the past 10 years.

At its last session in December 2019, the UNCAC Conference of the States Parties welcomed in resolution 8/9 StAR's ongoing effort to update and collect relevant data regarding asset recovery cases, requested the UNODC Secretariat, and invited StAR to collect information from States Parties on international asset recovery cases in relation to offences established in accordance with the Convention, including on volumes of assets frozen, seized, confiscated and returned. Following up on the mandates of resolution 8/9, the UNODC Secretariat circulated a note verbale to UNCAC States Parties in April 2020, that included a questionnaire developed by StAR and encouraged authorities to provide information on international asset recovery efforts involving their country since 2010. Updates on progress in the collection of responses from States Parties were provided at the meetings of the Working Group on Asset Recovery in 2020 and 2021.

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Stolen Asset Recovery Initiative
The World Bank • UNODC

Mapping international recoveries and returns of stolen assets under UNCAC: an insight into the practice of cross-border repatriation of proceeds of corruption over the past 10 years

CONFERENCE VERSION

Introduction

Moving the gains from corruption abroad to evade national law enforcement is often the first step before they are invested in luxury real estate, investment funds, or quietly deposited in bank accounts owned by opaque corporations, foundations or trusts in destination countries. In recent years, cross-border asset recovery related to high profile international corruption investigations has received a notable uptake in attention and momentum. While still a relatively niche topic on the global anti-corruption agenda, it has high salience at international policy discussions with plenty of international commitments to increase efforts to recover and return pilfered public funds. But, unlike in the earlier years after UNCAC went into force, when news of actual repatriations of assets diverted by corrupt public officials were 'few and far between', observers have noted that recently, not a year has passed without a repatriation of funds back to a country from where assets were corruptly stolen.

In 2017, during the first Global Forum on Asset Recovery, Switzerland, Nigeria and the World Bank signed a trilateral Memorandum of Understanding over the return of the "Abacha II" funds, US$321 million going towards direct cash transfers to poor households, with the World Bank playing a monitoring role. In 2018, Indonesia returned a US$250 million luxury yacht "Equanimity" that was bought with embezzled funds from Malaysia's sovereign investment fund 1MDB back to the Malaysian government, with assistance provided by the United States. The tainted superyacht became a symbol of kleptocratic greed and was sold a year later at a significant loss, for US$126 million. Between 2019 and 2021, the United States returned over US$1 billion in funds that were stolen from Malaysia's 1MDB fund back to the Malaysian government via four wire transfers, in what represents the United States' largest forfeiture-based recovery of corruption proceeds to date.[1] In 2020, Switzerland and Uzbekistan signed a framework agreement over the return of around US$131 million in already confiscated assets related to criminal proceedings against the daughter of the former Uzbek president, with a view to investing the funds in development projects.[2] In 2021, the United Kingdom returned £4.2 million in assets stolen by the former Governor of Delta

[1] This figure includes four wire transfers of misappropriated 1MDB funds; it does not include the return of the Equanimity yacht, that was purchased for approx. US$250 million, which was returned by Indonesia to Malaysia with assistance from the United States. The figure also does not include the Goldman Sachs settlement in which the global financial institution agreed to pay nearly $3 billion in fines to authorities in multiple countries related to charges under the U.S. Foreign Corrupt Practices Act, through which Malaysia also recovered assets.

[2] https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-80393.html

State James Ibori and his associates to Nigeria and returned £450,000 in funds forfeited from the son of Moldova's former prime minister, Vladimir Filat. For both these returns, the United Kingdom published the Memorandum of Understanding on the return of the funds – a remarkable step to bring greater transparency into the asset return process.

Nonetheless, despite these major-but-anecdotal developments in the world of asset recovery, comparatively little is still known about the scale, spread, and practice of cross-border restraints and returns of assets related to corruption cases, the subject of chapter V of UNCAC. Two reports published by StAR and the OECD in 2014 and 2011, "Few and Far—The Hard Facts on Stolen Asset Recovery" and the earlier "Tracking Anti-Corruption and Asset Recovery Commitments", are the only systematic attempts at collecting information on cases and quantities of assets frozen, confiscated, and returned, directly from country authorities.[3] Combined, they cover corruption-related asset recoveries by OECD countries between 2006 and June 2012. The 2014 report's main messages are sobering:

- "For the majority of OECD members, there is a disconnect between high-level international commitments and practice at the country level. (…) Of those [OECD members] that responded, most reported very little progress.
- The data on asset recovery cases continue to be scarce. (…)
- Few and Far: Ultimately, a huge gap remains between the results achieved and the billions of dollars that are estimated stolen from developing countries. Only US$147.2 million was returned by OECD members between 2010 and June 2012, and US$276.3 million between 2006 and 2009, a fraction of the $20–40 billion estimated to have been stolen each year."

However, comparing figures of stolen assets that have been returned to their source country, often after multi-year cross-border investigations and forfeiture actions, side-by-side with highly speculative and misleading estimates of assets that could have been diverted through corruption globally, adds little value.

Other reports make important contributions to the field in a different way – by describing and analyzing individual asset recovery cases in detail,[4] by offering commentary on domestic and international policy developments,[5] or by providing practical guidance to practitioners involved in asset recovery efforts on tools, good practices, and innovative legal avenues for restraining and recovering corruption proceeds, e.g. StAR's Asset Recovery Handbook.[6]

But despite significant interest in the topic, information on the practice of international recoveries and returns of proceeds of corruption remains scattered, using different formats and varying terminology, and is, in many instances, not publicly available at all. While some countries have taken steps towards increasing transparency by publishing some details on confiscations or asset returns related to international corruption cases, usually after a judgment has been obtained or after the transfer of assets has been completed, this has not yet become an international norm. Furthermore, no information on states' involvement in international recoveries and returns of

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3 See: StAR/OECD, "Few and Far—The Hard Facts on Stolen Asset Recovery", 2014; StAR/OECD "Tracking Anti-Corruption and Asset Recovery Commitments", 2011.

4 See: UNODC Digest of Asset Recovery Cases, 2015; ICAR Working Paper Series 24, It takes two to tango – decision-making processes on asset return, Basel Institute on Governance, October 2017.

5 See: FACTI Panel Background Paper 7, Recommendations for accelerating and streamlining the return of assets stolen by corrupt public officials, July 2020; Accountable Asset Return, Corruption Watch (CW) and Transparency International UK (TI-UK), 2017.

6 https://star.worldbank.org/resources/asset-recovery-handbook-guide-practitioners-second-edition

proceeds of corruption has been collected systematically – from OECD countries since 2012 and non-OECD countries ever - a gap that this project seeks to fill.

Goals of the project

The objective of the project is to investigate the observation that there is a disconnect between high-level international commitments on asset recovery and actual practice at the country level. For this purpose, StAR set out to collect data on actual practices and global progress in international efforts to recover and return proceeds of corruption in a systematic way from all UNCAC States Parties.

The need for better information on the practice of international asset recovery has been highlighted by the UNCAC Conference of the States Parties, including in resolutions 6/3 and 8/9, by the UNCAC Working Group on Asset Recovery, by the "Addis II" UNODC international expert meeting on asset returns held in Addis Ababa in 2019,[7] and it is frequently raised by NGOs and civil society organizations.

Better data on corruption-related asset recoveries and returns worldwide serves multiple purposes:

- Identify trends in asset recovery and return practices and volumes
- Measure progress towards target 16.4 of the 2030 Agenda for Sustainable Development: by 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime.
- Promote transparency and accountability in international asset recovery in line with the GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases, which were formulated during the Global Forum on Asset Recovery in 2017.[8]
- Improve our understanding of existing challenges and barriers to trace, restrain, confiscate, and return assets internationally
- Provide practical case examples and inspiration for country authorities embarking on efforts to trace, restrain, confiscate, and return assets internationally

Asset Recovery and the UN Convention against Corruption (UNCAC)

The UN Convention against Corruption (UNCAC) enshrines the return of stolen assets diverted through corruption as a fundamental principle of the Convention. Chapter V, which is entirely devoted to international asset recovery of proceeds of corruption, was a major breakthrough in international law as the first international instrument to explicitly address recovery and the return of proceeds of crime located in another country. As a result, UNCAC's provisions on asset recovery are widely regarded as the main achievement of the treaty.

They can be seen as a logical corollary of two previous UN treaties: the 1988 Vienna Convention on drug control (United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances) and the 2000 Palermo Convention on organized crime (United Nations Convention against Transnational Organized Crime, UNTOC). Both conventions paved the way for UNCAC's principle on the return of stolen assets by addressing the need for international cooperation to trace and confiscate proceeds of crime located in a foreign country, i.e. going after the money. UNCAC

[7] https://www.unodc.org/unodc/en/corruption/meetings/addis-egm-2019.html
[8] https://star.worldbank.org/sites/star/files/the-gfar-principles.pdf

was the first international treaty that details mechanisms and conditions for the repatriation of confiscated assets in article V. UNTOC has a provision about returning confiscated proceeds of crime or property to a requesting state, where such a request exists, in article 14.2 - but only so that the state can compensate victims of the crime, or return property to prior owners. The differences with respect to the treatment of asset recovery and returns in these treaties are connected to the nature of the criminal offenses that these treaties govern: the link between assets and a state is stronger for corruption offenses, and in particular for embezzlement of public funds, since corruption offenses often involve state assets or abuse of public positions, whereas for drug-related or organized crime assets, it is not necessarily the state in which the criminal offense took place that has ownership rights to the criminal assets.

The recovery and return of criminal assets is a complex process that can take many different shapes, depending on the type of corruption offense, how the recovery effort is initiated and by whom, whether a criminal conviction exists in the state of origin, whether criminal or civil process is used – or both, which legal mechanisms to restrain assets are available in the destination state, whether the state harmed by corruption has requested a return of their stolen assets, and many other factors. This is reflected in the drafting of UNCAC's article 57 which compels states to return proceeds of corruption to a requesting state if certain conditions hold: in the case of embezzlement of public funds, when a final judgment in the state requesting the return exists, return of confiscated assets is obligatory under the treaty. For other corruption offenses (incl. bribery), when a final judgment in the state requesting the return exists, confiscated assets shall be returned on the basis of the state requesting the return proving prior ownership or on the basis of recognition of damages caused to a requesting state. In all other cases, and this includes situations in which the recovery action is initiated by the destination state or by a third party rather than by the state that suffered harm at the hands of corrupt officials, the Convention sets forth that states should "give priority consideration to returning confiscated property" to the requesting state, to prior legitimate owners or to compensation of the victims.

Questionnaire Content

To collect information from country authorities on their involvement in international asset recovery efforts in a systematic way, StAR developed a new questionnaire in 2019. The questionnaire was first presented during a side event at the UNCAC Working Group on Asset Recovery in May 2019; it was revised following discussions during the side event and two rounds of written inputs from delegations and external experts, including civil society.

The questionnaire has four sections: 1) a section on summary statistics on international asset recovery efforts, 2) a section on more detailed information on specific asset recovery cases – completed returns, confiscations, and asset freezes or restraints, 3) a section on barriers to international asset recovery, and 4) a section with 17 questions about the country's policy, legal, institutional framework for international asset recovery.

For the purpose of this data collection effort, "proceeds of corruption" is defined as proceeds of crime ("any property derived from or obtained, directly or indirectly, through the commission of an offence", Art. 2(e) UNCAC) derived from corruption offences in accordance with UNCAC Art.15-

25,[9] including money laundering cases involving international asset recovery with a corruption offense as a predicate offence.

"International asset recovery" was defined in the broadest possible sense to encompass any international transfers of corruption proceeds to another state, prior legitimate owner, or victims harmed by corruption in another state. This included return mechanisms UNCAC, Art. 53, measures for direct recovery through civil litigation or court-ordered compensation or damages to a country harmed by corruption, and Art. 57, as well as international returns of proceeds of corruption as part of settlement agreements, asset-sharing agreements, or other scenarios - irrespective of the mechanisms used to restrain, confiscate, and return the corruption proceeds. The reason why such a broad definition was adopted was a desire that to capture, to the extent possible, actual practices of international recoveries and repatriations of proceeds of corruption, rather than limit the scope to specific return mechanisms.

The questionnaire asks authorities to provide information on proceeds of foreign corruption they restrained 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 these 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 who facilitates a return between two other states.

Only cases with an international element are included in the scope of the questionnaire, which means that the process must involve at least two countries and proceeds of corruption that were moved from the country of origin of the public official involved to a different 'holding state'. While not every corruption-related asset restraint finally results in an international transfer of the assets to another state, prior legitimate owner, or victims harmed by corruption, the questionnaire instructions advised to include only cases that involve another state – as the source of the assets in question, as the destination of assets, or as the location where the corruption offenses took place – and exclude purely domestic asset recovery without any international element. The data collection includes cases where a destination state restrained or confiscated proceeds of foreign corruption initiated by a domestic investigation, absent a foreign request from the state harmed by corruption.

For completed returns, the asset transfer does not need to be made directly to a foreign government but could also be made to a third party, such as an international organization. The transfer could be conducted through any manner, such as a direct wire transfer to a government account, physical transfer of the asset, transfer of legal title or shares, via escrow or trust account, or other scenarios.

For ongoing legal cases, authorities completing the questionnaire could redact sensitive information from their response, such as names of persons or foreign jurisdictions involved.

Country authorities that have been involved in any international asset recovery cases since 2010 were invited to complete the section on detailed case information, while authorities that have not

[9] 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.

been involved in any international asset recovery cases, or were unable to provide information on such cases, only completed the sections on barriers and on their policy, legal, institutional framework.

Distribution

Beginning in late 2019, StAR initially distributed the questionnaire directly to country authorities that receive assistance from StAR or are engaged with the Initiative in another context. At its eighth session in December 2019, the UNCAC Conference of the States Parties, inter alia, welcomed in resolution 8/9 StAR's effort to update and collect relevant data regarding asset recovery cases, requested the UNODC Secretariat, and invited StAR to collect information from States Parties on international asset recovery cases in relation to offences established in accordance with the Convention, including on volumes of assets frozen, seized, confiscated and returned. Following up on the mandates of resolution 8/9, the UNODC Secretariat circulated a note verbale to UNCAC States Parties in April 2020, which included the questionnaire and encouraged authorities to provide information on international asset recovery efforts involving their country since 2010. Due to the coincidence of the distribution with the peak of the covid-19 pandemic, many authorities' capacity to respond and collect relevant information was significantly constrained, and StAR extended the timeline of the collection of responses to achieve a higher rate and better quality of responses.

Government agencies that completed the questionnaire differed from country to country. They include Ministry of Justice, Public Ministry, Ministry of the Interior, Home Office, Department of Home Affairs, Attorney General's or Public Prosecutor's office, Ministry of Foreign Affairs (International Law Directorate), National Accountability Bureau, State Audit Institution, Anti-Corruption Commission, Integrity Commission, Financial Intelligence Unit, Directorate on Corruption and Economic Crime, National Bureau of Investigation, National Transparency Authority (Special Secretariat for Financial and Economic Crime Unit), Anti-Money Laundering Council, High Judicial and Prosecutorial Council, and others.

Terminology

There is different nomenclature for the description of states that are involved in different roles in the asset recovery process and the most frequently used terms have evolved over time. In this report, the following terms were adopted:

> **Country of Asset Location.** The country of asset location is defined as the country or state where the proceeds of corruption are located. Also sometimes referred to as the "Destination Country" or "Holding State".
>
> **Country of Origin.** The country of origin of the public official involved. Also sometimes referred to as the "Source Country" or "Victim State".[10]

[10] The StAR survey included the following definition for country of origin: "The country of origin is typically the country where the original corruption offence took place. For corruption cases involving embezzlement offences, it is the country from which public funds were misappropriated. For cross-border bribery cases, it is typically the country of origin of the public official or entity involved, or it can be the jurisdiction of the bribe-payer."

Transit country. A country (other than the country of origin and the country of asset location) through which corrupt funds passed.

Third country. Any country other than the country of origin or the country of asset location.

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.

Generally, the terms "Requesting Jurisdiction" and "Requested Jurisdiction" are avoided because they presume the existence of a request for an asset freeze, a request for mutual legal assistance, or a request for a return of assets from a source country to a destination country, which exists in most - but not necessarily in all - cross-border asset recovery actions.

Depending on country context, the terms confiscation and forfeiture of assets can have different meanings. In the survey and in this report, the term 'confiscation' is used in line with the definition in article 2(g) UNCAC according to which: "'Confiscation' which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority".

Methodology

While the information collected through the StAR survey provides new valuable insights into the spread and scale of involvement in international asset recovery efforts related to corruption offenses globally, the reported cases do not reflect all such efforts that took place and should not be represented as a comprehensive accounting of all assets recovered, confiscated or frozen between 2010 and 2021. Some states' responses included only a selection of cases that meet the criteria for this report; some states did not submit a response; and other states informed StAR that they may have been involved in cases but did not have any information available to complete the survey.

Responsibility for the accuracy of the information provided rests solely with the individual countries. It was not possible to independently verify whether all reported cases did in fact meet the criteria for asset recovery cases in the survey. The survey included a detailed description of the criteria for asset recovery efforts to include in the response, outlined above, namely: 1) that assets involved had to be corruption proceeds in accordance with UNCAC Art.15-25; 2) that assets were moved to a different jurisdiction from the jurisdiction of origin of the public official involved, and 3) that the freeze, confiscation, or return happened between 2010 and 2019. The end of the time period was later extended to include 2020 and 2021, for states that submitted their response in 2021.

Since information was collected from states involved in the asset recovery process in different roles – as the country of origin, the country of asset location, or as a third country involved in the process – the same recovery or return action was sometimes reported by several different countries. For the summary figures of assets returned, confiscated, and frozen in table 12, duplicates were manually removed to the extent that this was possible, i.e. where sufficient information to allow identification of duplicates was provided in the response.

The case statistics on pages 18-28 of this report, however, comprise the full sample of reported cases as provided in states' responses. Since the level of detail provided in the responses varied and different states' responses for case details 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 another state's response. For example, a country of origin may have included details about the use of asset recovery networks or the legal mechanism for recovery of assets used in their jurisdiction that was not available to the country of asset location, which reported the same case from the perspective of the country returning the funds. For this reason, the case statistics represent the full survey data, as provided in states' responses, which includes a few duplicate cases.

For a number of reasons, there is a bias in the reported information towards confiscation-based asset recovery actions. This has to do with the emphasis in UNCAC's chapter V on confiscated assets, as well as with the format of the survey, which asked state to provide information on assets derived from corruption offenses that were frozen, confiscated or returned in three different sections. While a handful of cases included in the "asset returns" section involve court-ordered compensation payments or fines that did not involve any confiscations, the vast majority of reported returns are confiscation-based.

How many and which states are actively involved in cross-border asset recovery efforts involving corruption proceeds? In which roles in the asset recovery process?

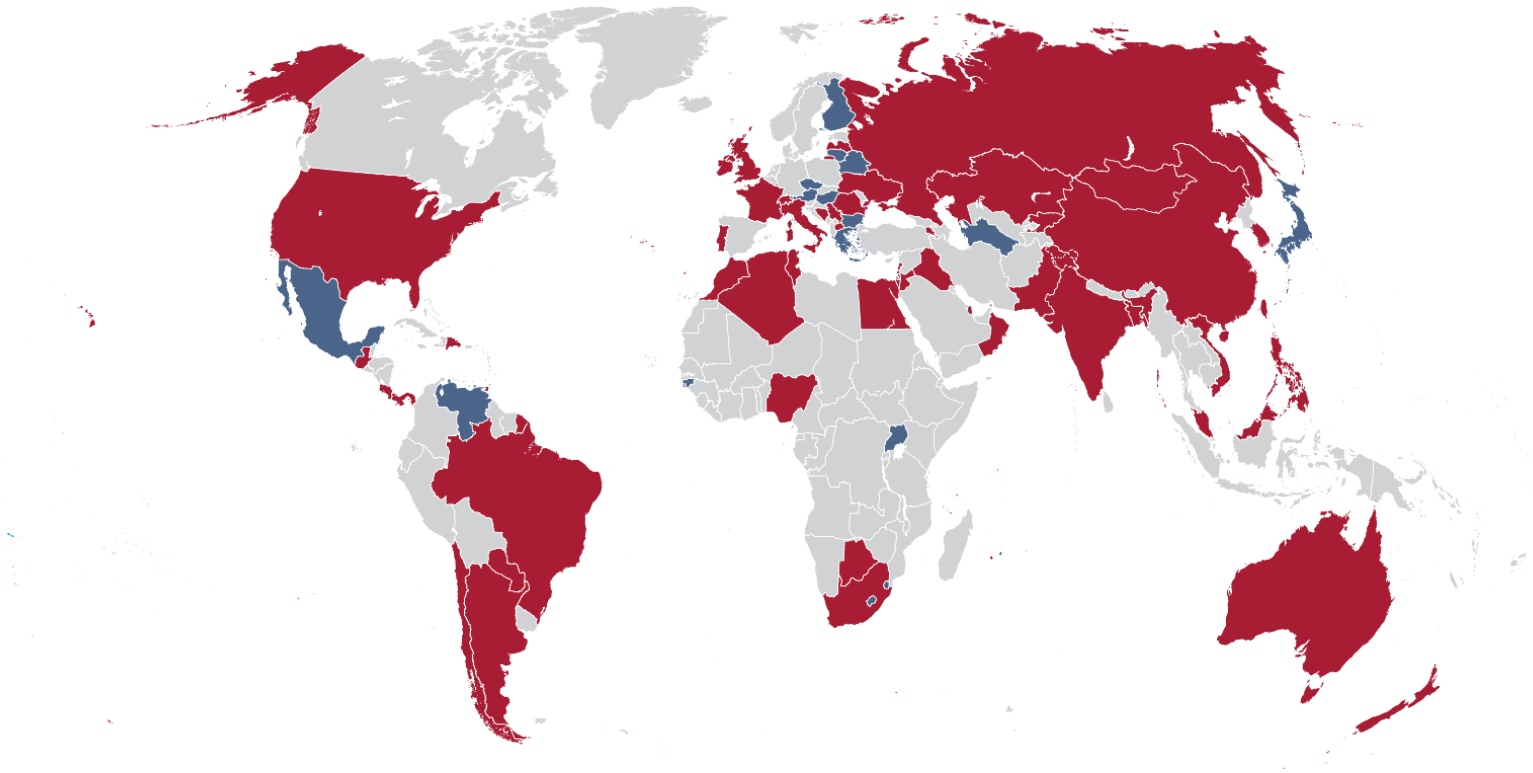
A summary of responses to the StAR survey

Table 1 - Responses by Income Level	
	No.
HIGH	36
UPPER-MIDDLE	24
LOWER-MIDDLE	16
LOW	2
Total	78

(World Bank classification)

Table 2 - Responses – Regional breakdown	
	No.
EAP (East Asia & Pacific)	11
ECA (Europe & Central Asia)	31
LAC (Latin America & Caribbean)	11
MENA (Middle East & North Africa)	12
NA (North America)	1
SA (South Asia)	3
SSA (Sub-Saharan Africa)	9
Total	78

(World Bank classification)



RED = Responded & reported involvement in at least one international AR case since 2010 (freeze/confiscation/return)

BLUE = Responded & did not report involvement in any cases

GREY = No survey response received

Table 3	
States reported involvement in at least one cross-border asset recovery case involving corruption proceeds since 2010 (freeze/confiscation/return)	States submitted survey response & did not report any cross-border cases involving corruption proceeds since 2010 (for different reasons)
Algeria, Argentina, Armenia, Australia Bangladesh, Bosnia & Herzegovina, Botswana, Brazil, Brunei, Chile, China (including Hong Kong SAR and Macao SAR), Costa Rica, Dominican Republic, Egypt, France, Guatemala, Guernsey, Holy See, India, Iraq, Ireland, Isle of Man, Israel, Italy, Jersey , Jordan, Kazakhstan, Kyrgyz Republic, Latvia, Lebanon, Liechtenstein, Luxembourg, Malaysia, Mongolia, Morocco, New Zealand, Nigeria, North Macedonia, Oman, Pakistan, Panama, Paraguay, Philippines, Portugal, Qatar, Romania, Russian Federation, Serbia, Seychelles, Singapore, South Africa, South Korea, Switzerland, Trinidad & Tobago, Tunisia, Ukraine, United Kingdom, United States, Vietnam [total: 59]	Austria, Bahrain, Belarus, Bulgaria, Czech Republic, Eswatini, Finland, Greece[11], Guinea-Bisseau, Hungary, Japan, Lesotho, Lithuania, Mauritius, Mexico, State of Palestine, Turkmenistan[12], Uganda, Venezuela [total: 19]

Table 4 – Responses by Involvement in Cross-Border Asset Recovery Cases Involving Corruption Proceeds	Total	Regional Breakdown						
		EAP	ECA	LAC	MENA	NA	SA	SSA
# of countries reported involvement in at least one case	59	10	22	9	10	1	3	4
# of countries reported involvement in at least one completed return (C1)	40	9	13	6	6	1	3	2
# of countries reported involvement in at least one confiscation (C2)	24	5	9	2	3	1	2	2
# of countries reported involvement in at least one freeze (C3)	48	8	19	5	9	1	2	4
# countries responded & did not report any cases	19	1	9	2	2	0	0	5
Total # of responses received[13]	78	11	31	11	12	1	3	9

Most striking about this table is that it shows states in all regions of the world, over the past 10 years, involved in efforts to trace, restrain, or return corruption-related illicit gains. The "club" of states pursuing cross-border asset recovery cases involving corruption proceeds is growing rapidly. 76% of states that submitted a survey response reported involvement in at least one international asset recovery case involving corruption proceeds, at different stages of the process. Only 19 responding states (24% of 78 responses received) did not report any involvement in any cross-border AR efforts that involve another jurisdiction, and for the majority of these states, the lack of information provided is due to lack of data availability. Only 6 of the states that did not include any

[11] While Greece's response did not include information on specific cases, it included relevant statistics on asset tracing requests sent, received, and answered by the Hellenic Asset Recovery Office between 2013-2019 to and from other E.U AROs and members of the CARIN network, related to corruption and money laundering offenses, indicating the country's pursuit of cross-border cases.

[12] Switzerland reported an asset return to Turkmenistan of US$1.3 million in January 2020 (FDFA press release), however, Turkmenistan's response (received 06/2020) did not include information on this return or on any others, therefore the country appears in the "did not report any cases" category.

[13] Responses from Hong Kong SAR (China) and Macao SAR (China) are included under China's response in tables 1-4.

case information in their response[14] positively confirmed that their national authorities had not been involved in any completed returns, confiscations, or freezes since 2010, either involving foreign corruption proceeds in their jurisdiction or a case involving a domestic corruption offense with assets located abroad. Seven states that did not include any case information in their response[15] explained that relevant cases may exist but that information on international recovery efforts was not collected in a systematic manner; and for the remaining states no information on the reason why no cases were reported was provided. Several states explained that their national statistics concerning forfeitures, returned or received proceeds of crime connected to another country do not differentiate based on the type of offense, so it was not possible to list freezes, forfeitures, returned or received funds related to corruption offenses.[16]

The "club" of states that are pursuing cross-border asset recovery cases involving corruption proceeds is growing rapidly.

Four additional countries did not submit a survey response confirmed over email to StAR or in a letter to UNODC that, to the best of their knowledge, national authorities had not been involved in any cross-border asset recovery cases involving corruption proceeds during the timeframe 2010-2020: Cambodia, Denmark[17], Iceland, and Moldova[18]. Spain did not submit a response due to the country's lack of centralized information on asset seizure, forfeiture, and cross-border returns.[19]

This is the first time that any information on involvement in asset recovery involving corruption proceeds was collected systematically from non-OECD countries and the response rate among non-OECD countries reflects their high level of interest in this topic: the majority of states that responded to the StAR survey (58 out of 78 total) were non-OECD countries.

Among OECD members, the number of countries that reported pursuing cross-border asset recovery efforts did not increase significantly compared to the 2014 StAR/OECD "Few & Far" report. During 2010-12, 8 OECD countries reported pursuing cross-border asset recovery cases

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14 Austria, Eswatini, Lesotho, Mauritius, Mexico, Uganda. Uganda noted that the country had been involved in an attempted recovery of assets from another jurisdiction that was not successful due to a lack of sufficient evidence that the funds were proceeds of corruption.

15 Czech Republic, Finland, Greece, Guinea-Bisseau, Hungary, Lithuania, Vietnam.

16 For example, Finland noted: "Police keeps the statistics in pre-trial investigation phase. Forfeitures by the Courts or information concerning returned or received proceeds of crime connected to another country belongs to the Ministry of Justice, however no statistics available based on the type of crime. (...) Unfortunately Finland´s statistics doesn´t make it possible to identify sums connected to different kind of crimes, for example to corruption crimes. In the future corruption cases can be traced more easily, because a few months ago the Police Board has added corruption classification to our registers". Lithuania explained in their response: "It seems that Lithuania does not collect such data. We have asked many institutions to fill up the questionnaire, but we got the responses that they do not collect such data. The National Court Administration also has checked this information in their information system, but they couldn't find such cases. Our colleagues from the Ministry of Justice, International Department, also indicated that they hadn't corruption cases related with international asset recovery. Regarding the information received from the relevant Lithuanian institutions, we can presume (not confirm 100%) that we hadn't such cases since 2010."

17 Denmark's Ministry of Justice explained that "the State Prosecutor for Serious Economic and International Crime (SØIK) has informed that it cannot recall having handled such cases. It should be noted however, that corruption cases may have been managed by the local police districts, without SØIK being informed of it." In addition, the Justice Ministry noted that "SØIK has informed the Danish Ministry of Justice that it is unfortunately not possible to calculate the frozen/seized and confiscated proceeds in cases of corruption." (via email to StAR, 26 Aug 2020)

18 Moldova's letter from 18 June 2020 concerned the time frame 2010-2019, prior to an international asset return of £456,068.38 in September 2021 from the United Kingdom to Moldova.

19 Spanish Office for Asset Recovery and Management (ORGA): "The Office for Asset Recovery and Management is not an agency that collects centralized statistical data on seizure and forfeiture" (via email to StAR, 21 Jan 2021). We were referred to Spain's Statistics Unit of the General Council of the Judiciary, which also informed that they do not collect any relevant information on asset recovery related to corruption offenses.

involving corruption proceeds, while 12 OECD countries did not report any cases, and the remaining OECD countries did not respond to the survey. Combined with an earlier report that covered the period from 2006-09, in total 10 OECD countries reported pursuing cases between 2006-12.[20]

Of 22 OECD members that responded to the new survey in total, 14 reported pursuing cross-border asset recovery cases since 2010; 8 OECD countries did not report any information on cases, and the remaining OECD countries did not respond. However, only 2 OECD countries (Austria and Mexico) actually confirmed that they had not been involved in any cases; the rest cited lack of data availability or did not provide any reason for not including information on cases.

Responses that identified as a country or jurisdiction of origin in a cross-border AR effort are overwhelmingly from non-OECD countries (26 non-OECD; 3 OECD; 3 key partners identified as a country of origin) – but interestingly there were more non-OECD countries that identified as a country or jurisdiction of asset location for foreign corruption proceeds compared to OECD countries (21 non-OECD; 13 OECD; 2 key partners identified as a country of asset location). This points not only to an increase in the overall number of countries involved in international asset recovery, it also shows a diversification of international destination countries for proceeds of corruption.

Responses show not only an increase in the overall number of countries involved in international asset recovery, they also show a diversification of international destination countries for proceeds of corruption.

While proceeds of crime mostly wind up in the largest or regional global financial centers, survey responses show as many as 36 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 are high-income (25 jurisdictions), but 11 middle income countries also reported cases as a "country of asset location". Likewise, among the countries reporting involvement in cases as a source country are also 8 high-income countries.

The table below illustrates responding states' or jurisdictions' identification as an asset location jurisdiction, an origin jurisdiction, as a jurisdiction that initiated legal action, or a transit jurisdiction in their response, broken down by income level, using the World Bank's classifications. The "role in asset recovery process" categories are not mutually exclusive; it was possible for a state or jurisdiction to report involvement in several categories. In fact, ten countries reported involvement in cross-border asset recovery efforts (freezes, confiscations or returns) on both sides of the process, i.e. in some cases, as the asset location state and in other cases as the source of corrupt funds.[21]

[20] The countries that reported pursuing cross-border asset recovery cases involving corruption proceeds during 2010-12 were: Belgium, Canada, Luxembourg, Netherlands, Portugal, Switzerland, United Kingdom, and the United States. Australia and France reported cases in the earlier StAR/OECD report that covered the time period from 2006-09. See: StAR/OECD, "Few and Far—The Hard Facts on Stolen Asset Recovery", 2014; StAR/OECD "Tracking Anti-Corruption and Asset Recovery Commitments", 2011

[21] Brunei, Egypt, India, Italy, Jordan, Morocco, Panama, Portugal, Romania, South Korea

Table 5 - Identified Role in Asset Recovery Process by Income Level					
	Jurisdiction of Asset Location	Jurisdiction of Origin	Jurisdiction initiated legal action[22]	Transit Jurisdiction	No cases reported
HIGH	25	8	13	3	9
UPPER-MIDDLE	7	12	7	1	5
LOWER-MIDDLE	4	12	4	0	3
LOW	0	0	0	0	2
Total (no. of jurisdictions)	36	32	24	4	19

In total, survey responses included information on 338 cases, which are divided into three stages of the asset recovery process: 123 completed asset returns, 54 asset confiscations, and 161 asset freezes/asset restraints. The time period covered by the questionnaire circulated to UNCAC States Parties was 2010 – 2019, however, since data collection continued throughout 2020-21, many states also included some freezes, confiscations, or returns that happened during '20-21. Due to the long duration of some asset recovery actions, the dates of some freezing orders or confiscation orders fall outside this time period, i.e. earlier than 2010.[23]

Table 6 - Total Reported Cases (returns/confiscations/freezes)		
	Reporting Country	No of Cases Reported
1	USA	29
2	Nigeria	25
3	Australia	15
4	Latvia India China (incl. Hong Kong SAR and Macao SAR)	14
5	United Kingdom	13
6	South Africa	12
7	Singapore	11
8	Panama Liechtenstein	10
9	South Korea	9
10	Malaysia Argentina Brazil Italy	8

As noted above, the sample of cases on which information was collected does not represent a comprehensive accounting of all relevant asset recovery cases that fall within the timeframe and scope of this report. While some states' responses included *all* relevant asset recovery cases in which the state was involved in, other states' responses included only a selection of cases. Reasons for not including information on all relevant asset recovery efforts varied – most often states cited a lack of availability of information in a centralized format.

Tables 6-9 below combine cases that were reported by states identifying as countries of origin, countries of asset location, transit countries, or involvement in an asset recovery action in another role, e.g. facilitating a return or initiating legal action to recover assets as a third country.

The United States reported involvement in the highest number of asset recovery cases overall (29) in their

[22] Jurisdictions did not always indicate having initiated legal action in their responses; in many cases only 'country of origin' or 'country of asset location' was selected.

[23] The earliest freezing order reported by respondents is from July 2003; the most recent from December 2020. The earliest confiscation order reported is from December 1996; the most recent from September 2020. The earliest reported asset return is an outlier from May 1999 (i.e. outside the timeframe of the survey, excluded from summary figures), thereafter, the earliest return is from 2008-2011; the most recent from January 2021.

response, followed by Nigeria (25), Australia (15), Latvia, India, and China (including Hong Kong SAR and Macao SAR) (14), United Kingdom (13), South Africa (12), and Singapore (11).[24]

There is, of course, some variation in how states decided to define "a case" in their response – whether multiple asset recovery actions related 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 Malaysia's 1MDB sovereign wealth fund in 2018-20 as six separate "cases" in their response. The United States summarized four wire transfers returned by the US to Malaysia from 2019-21 and the return of the Equanimity yacht from Indonesia to Malaysia that the US assisted in returning – all 5 returns are combined as just one "case" in their response.

Table 7 - Involvement in Asset Returns

Reporting Country	No of Cases Reported
Nigeria	19
USA	11
Malaysia	6
Latvia Singapore South Africa South Korea Tunisia	5
Russian Federation United Kingdom	4
Australia Bangladesh Brazil India Lebanon Switzerland[25]	3

Table 8 - Involvement in Asset Confiscations

Reporting Country	No of Cases Reported
USA	7
United Kingdom Brunei	5
Italy Latvia China (incl. Hong Kong SAR and Macao SAR)	4
Australia Liechtenstein	3
Nigeria South Africa South Korea	2

Table 9 - Involvement in Asset Freezes

Reporting Country	No of Cases Reported
USA	11
India	10
Australia Panama	9
China (incl. Hong Kong SAR and Macao SAR)	8
Argentina Brazil France Latvia Liechtenstein Morocco Romania Seychelles Singapore South Africa	5
Guernsey (UK) Luxembourg Nigeria Portugal Serbia United Kingdom	4

Among countries of origin, Nigeria and Malaysia both top the list as the countries that reported receiving the highest amounts of corruption-related assets from foreign jurisdictions (see table 11). Nigeria reported 19 completed returns since 2010 totaling over US$1.2 billion in repatriated corruption proceeds. Malaysia reported receiving six returns, all related to the 1MDB case, totaling

[24] Cases reported by the United States in their response to the StAR questionnaire are examples of recoveries and returns of foreign corruption proceeds, which do not constitute *all* foreign corruption related forfeitures that the US was involved in during the time period.

[25] See disclaimer in the footnote below about Switzerland's response

US$739 million[26], plus an additional 1MDB-related return by the United States to Malaysia in the amount of US$452 million, which took place in May 2021 (included in the United States' response). Combined, these returns amount to nearly US$1.2 billion in repatriated corruption proceeds to Malaysia, all between 2018-21.[27]

Among countries of asset location, the United States is clearly the most active in going after proceeds of foreign corruption, with the highest *number* of completed returns, confiscations, and freezes reported in the survey, as well as the highest *amounts* of foreign corruption proceeds that the country repatriated to other countries, confiscated and restrained. This is not only a reflection of the popularity of the United States as a place to invest or spend proceeds of corruption by foreign public officials; the large number of forfeitures and completed returns are a direct result of a deliberate policy decision to prioritize the fight against international corruption and kleptocracy in law enforcement. The United States Department of Justice has a team of specialized prosecutors dedicated to pursuing these cases under a program known as the Kleptocracy Asset Recovery Initiative, which is responsible for investigation and litigation to recover proceeds of corruption by foreign public officials. Based on the United States' response to the StAR survey, the Kleptocracy Asset Recovery Initiative returned, or assisted in returning, over US$1.8 billion in proceeds of corruption since 2010. In addition, the United States reported forfeitures with a combined value of US$141 million and an additional US$1.6 billion in asset freezes or restraints.[28]

Among countries of asset location, the United States is a global leader in international recovery of foreign corruption proceeds, with the highest *number* of completed returns, confiscations, and freezes reported in the survey, as well as the highest *amounts* of foreign corruption proceeds that the country repatriated to other countries, confiscated and restrained.

Table 10 – Value of Reported Asset Returns by Countries of Asset Location

Reporting Country	Cumulative USD Value
USA[29]	1,828,023,940
Switzerland[30]	370,300,000
Jersey	328,241,000
Singapore	319,457,738
Liechtenstein	203,142,811

Table 11 – Value of Reported Asset Returns by Countries of Origin

Reporting Country	Cumulative USD Value
Nigeria	1,205,341,754
Malaysia[31]	1,192,086,758
Russian Federation	311,238,000
Tunisia	138,360,000
Brazil	82,198,770

[26] Return of the Equanimity yacht is valued at the yacht's lower sales price of US$126 million rather than its purchase price of US$250 million in Malaysia's response.

[27] The figure does not include the Goldman Sachs settlement in which the global financial institution agreed to pay nearly $3 billion in fines to authorities in multiple countries related to charges under the U.S. Foreign Corrupt Practices Act, through which Malaysia also recovered assets. It also does not include a separate US$3.9 billion settlement that the Malaysian branch of Goldman Sachs reached with the Malaysia in July 2020.

[28] Cases reported by the United States in their response to the StAR questionnaire are examples of recoveries and returns of foreign corruption proceeds, which do not constitute all foreign corruption related forfeitures that the US was involved in during the 2010-21 time period.

[29] See footnote 28

[30] See disclaimer in footnote 31

[31] This figure includes US$ 739,723,758 in returned assets reported by Malaysia and an additional US$452,363,000 return that happened in May 2021, after Malaysia's survey response was submitted, that was reported by the returning country, United States. The return of the Equanimity yacht is valued at the yacht's lower sales price of US$126 million rather than its purchase price of US$250 million in Malaysia's response.

After the United States, the highest cumulative values of asset repatriations that were reported in the StAR survey by countries of asset location that returned funds to a country of origin were reported by Switzerland, Jersey, Singapore, and Liechtenstein (see table 10).

Numbers of ill-gotten gains stolen by corrupt public officials in the millions and billions easily grab people's attention – but to assess progress towards the goals of chapter V of UNCAC, it is important to not to only look at the overall *amounts* of stolen assets that have been frozen, confiscated, or repatriated. The *number of cases pursued* and the *level of participation in international asset recovery actions by countries around the world* matter just as much to assess progress.

> To assess progress towards the goals of chapter V of UNCAC, the *number of cases pursued* and the *level of participation in international asset recovery actions by countries around the world* matter just as much as *asset amounts* frozen, confiscated, and returned.

The *asset amounts* that are tied up in recovery efforts are directly related to the volume of the underlying crime; therefore, increases in amounts returned/confiscated/ frozen alone cannot simply be interpreted as a sign of progress. International cooperation over an asset recovery action that leads to a successful repatriation of US$300,000 or US$3 million in stolen public funds to a country of origin of the public official involved is often the result of significant investigative and prosecutorial efforts by the countries involved, and deserves just as much credit and attention as a sign of progress towards the goals of UNCAC's chapter V as a repatriation of US$300 million.

Important takeaways from this section are, therefore, the growing number of cross-border asset recovery cases that were reported via the survey, and the high level of participation in such cases by countries in all regions of the world.

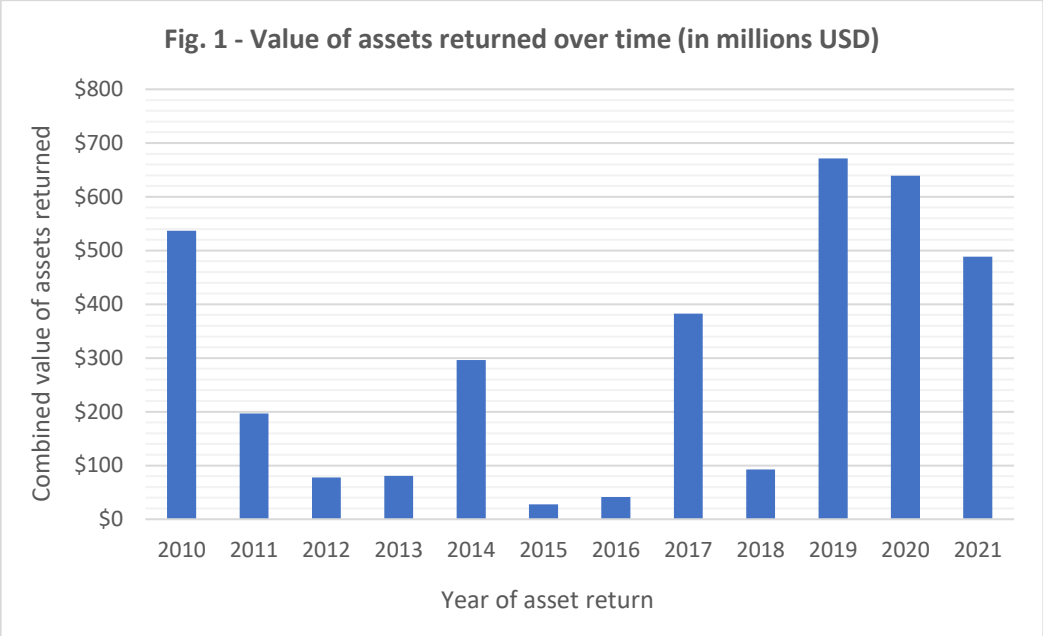
Switzerland's position in the tables, which reflect only information collected through the StAR survey, may raise some questions as the country has been involved in many more corruption-related asset recovery actions and the tables do not reflect the full extent of Switzerland's international asset recovery actions under UNCAC. This is explained by the fact that the Swiss response to StAR's survey was limited to only three returns, to Nigeria in 2017, Kazakhstan in 2013-17 and Turkmenistan in 2020, and one confiscation of assets related to Haiti in 2013, even though Switzerland was involved in a much larger number of cases over the past decade.[32]

The graphs and table below show the combined values of assets frozen, confiscated, and returned between 2010 and 2021 that were reported by states in the StAR survey. As mentioned in the methodology section above, the reported cases and total values are examples that represent a snapshot of international asset recovery efforts related to corruption offenses; they are not comprehensive and do not reflect all such efforts that took place during this time frame.

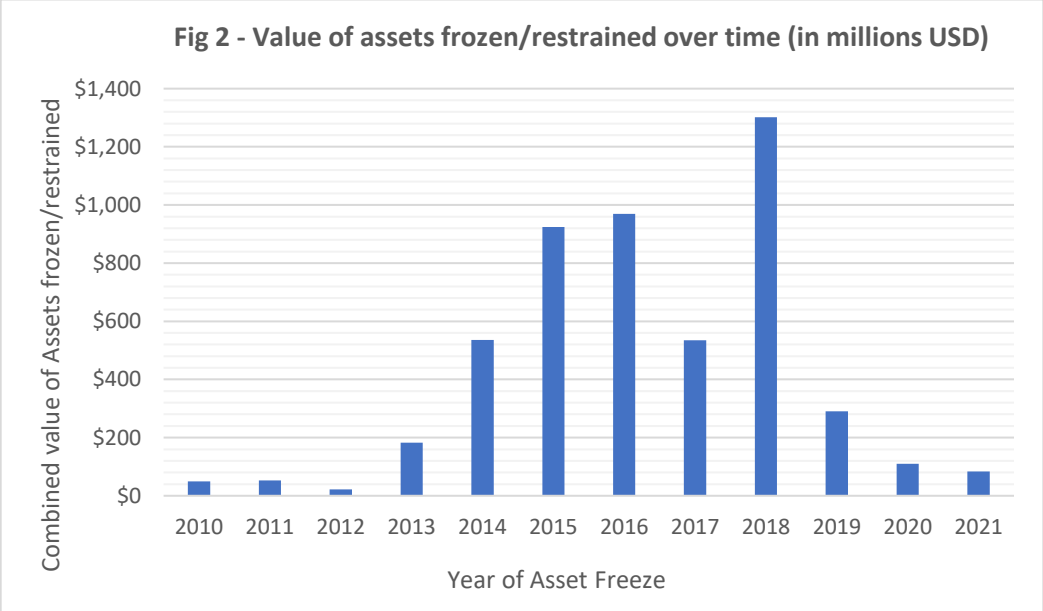
[32] Switzerland informed that the three returns represent merely a percentage of the total number of the country's asset recovery cases, not a comprehensive overview, but that statistics on the return of assets related to corruption proceeds were not available. In lieu of additional information on assets returned or confiscated since 2010, authorities noted that "in the past 30 years, Switzerland has returned over US$2 billion to the benefit of looted populations by negotiating and signing agreements governing the final disposition of the assets with – among others – Nigeria, Kazakhstan and Turkmenistan."

Table 12: Total values of assets in reported asset recovery actions in StAR survey, 2010-21	
	USD Value
Assets Returned	4,114,938,949
Assets Confiscated	266,868,642
Assets Frozen	5,301,143,809
Total	**9,682,951,400**
Duplicates excluded (where identified); any case with end date prior to 2010 excluded	

Reported data on returns of corruption proceeds show an increase overall amounts of returned funds from 2019 onwards, driven in part by asset returns to Malaysia related to the 1MDB investigation.



Based only on data from StAR survey. Duplicates excluded (where identified). Using annualized figures for returns over multiple years. No date provided for returns totaling USD 540,119,795.



Based only on data from StAR survey. Duplicates excluded (where identified). Using annualized figures for freezing actions over multiple years. No date provided for freezes totaling USD 131,948,625.

These figures include two additional cases that are not yet included in the section on case statistics below (due to the date of submission of the cases): two returns by the United Kingdom that took place in 2021 (£4,600,000 returned to Nigeria in March 2021 and £456,068.38 returned to Moldova in September 2021

Case Statistics

This section provides a few results from the StAR survey, focusing largely on quantitative analysis of the detailed questions that were included in the forms for reporting completed asset returns, asset confiscations, and asset freezes/restraints. Additional qualitative analysis of the responses will be included in a forthcoming publication by the Stolen Asset Recovery Initiative.

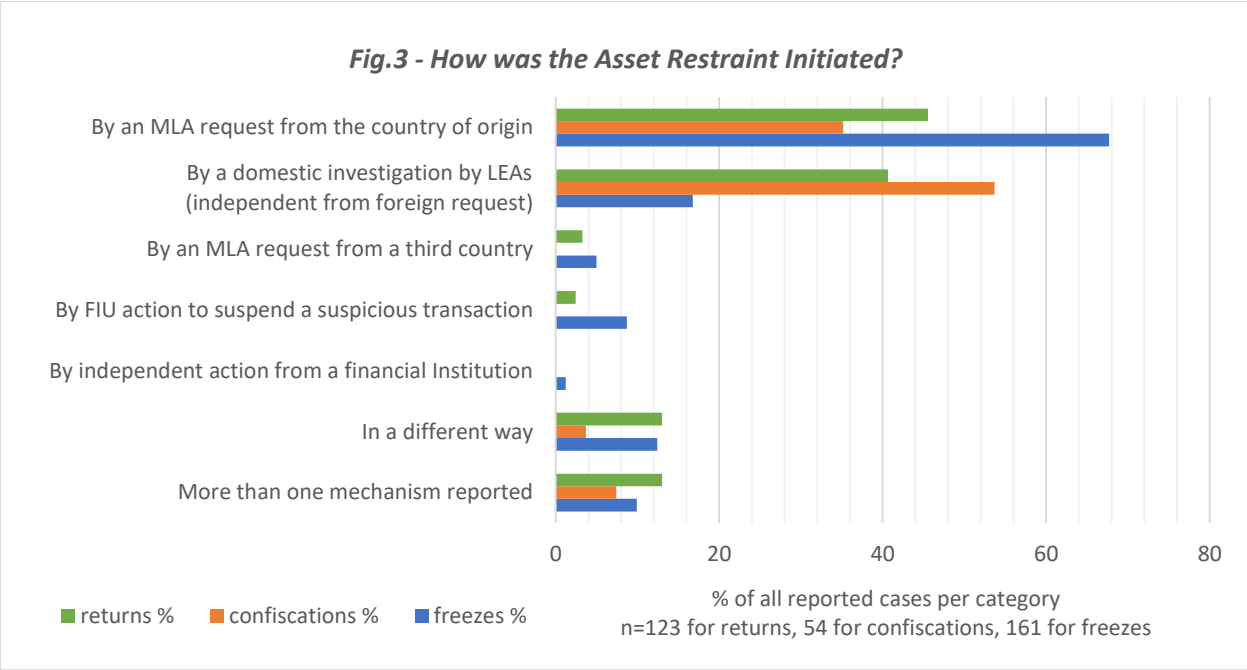
How was the asset restraint initiated?

An analysis of information on how asset restraints were initiated in the cases that were reported via the StAR survey highlights the importance of proactive efforts by destination countries to go after the gains of *foreign* corruption for successful asset recoveries and returns. Across all reported cases (338 – returns/confiscations/freezes combined), over half of the asset restraints were initiated by a mutual legal assistance request from the country of origin of the public official involved. This 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 stashed away.

What is less expected, and quite noteworthy, is that countries reported around one third of all cases (106 out of 338) were initiated by a domestic investigation by law enforcement authorities, independent from a foreign request. For asset returns and asset confiscations, the number of cases that were initiated, not by a request from a country of origin, but instead by a domestic investigation in the reporting country, independent from a foreign request, is even higher than for the full sample of cases: for 41% of reported asset returns and 54% of confiscations, the asset restraint that led to the return/confiscation was reportedly initiated by a domestic investigation by law enforcement authorities in the destination state, independent from a foreign request. This can be interpreted as a promising sign that pro-active actions by financial centers to end safe havens for corrupt funds and protect their economies and financial systems against abuse by the corrupt can work – and that these actions play a critical role in meeting the goals of the Convention.

Table 13 - How was the Asset Restraint Initiated?

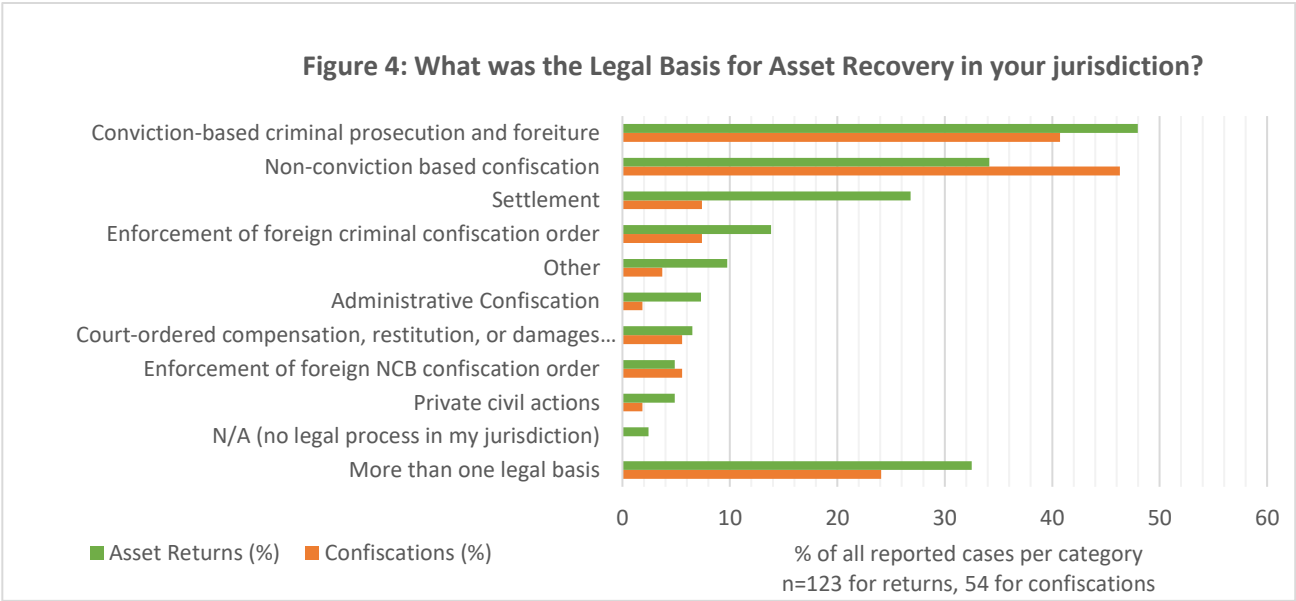
n = no. of reported cases	Only Asset returns n=123		Only Asset confiscations n=54		Only Asset freezes n=161	
	n	*%*	*n*	*%*	*n*	*%*
By an MLA request from the country of origin	56	45.5	19	35.2	109	67.7
By an MLA request from a third country	4	3.3	0	0	8	5.0
By a domestic investigation by law enforcement authorities (independent from a foreign request)	50	40.7	29	53.7	27	16.8
By FIU action to suspend a suspicious transaction	3	2.4	0	0	14	8.7
By independent action from a financial institution	0	0.0	0	0	2	1.2
In a different way	16	13.0	2	3.7	20	12.4
More than one mechanism cited	16	13.0	4	7.4	16	9.9



What was the Legal Basis for Asset Recovery?

Conviction-based criminal forfeiture remained the most frequently cited legal mechanism for cross-border asset recovery efforts overall, used in just over half of all reported cases (51%), followed by non-conviction based (NCB) confiscation (28%) and settlements (10%). (In 33% of cases, more than one option was selected as the legal basis for a given case.)

Use of NCB was even higher if freezes are excluded from the sample: in the reported asset returns and confiscations: around one third (34%) of returns and 46% of confiscations involved assets restrained through NCB confiscation. Around one quarter of asset returns (27%) involved settlements.



With more states involved in cross-border asset recovery, recognition and enforcement of foreign judgments and confiscation orders is becoming more critical than before to avoid duplication of law enforcement efforts. States reported that non-conviction based confiscation was a legal basis in 34% of asset returns and close to half (46%) of all reported confiscations. 14% of asset returns involved an enforcement of a foreign criminal confiscation order, while only 5% involved an enforcement of foreign NCB confiscation order.

This, combined with the results of the questions on barriers to asset recovery (see section below), where problems related to the enforcement of NCB confiscation orders in foreign jurisdiction were highlighted as among the most frequently cited barriers, suggests that this area deserves more attention – both at the international policy level and for national-level reforms, and related technical assistance.

With more states involved in cross-border asset recovery, recognition and enforcement of foreign judgments and confiscation orders is becoming more critical than before to avoid duplication of law enforcement efforts.

The lack of reports of use of other 'private civil actions' to recover corruption proceeds is, at least in part, a result of the survey's methodology and distribution mechanism. Most countries used their investigative and/or prosecutorial authorities to complete the survey that may not be aware of all relevant civil recovery actions. Authorities generally only reported asset recovery actions in which federal authorities were involved and the responses do not capture actions in which only regional or other sub-national authorities were involved. (Note that non-conviction based confiscation was listed as a separate answer option in the survey, as shown in the graph above, alongside "private civil actions (incl. insolvency process)".

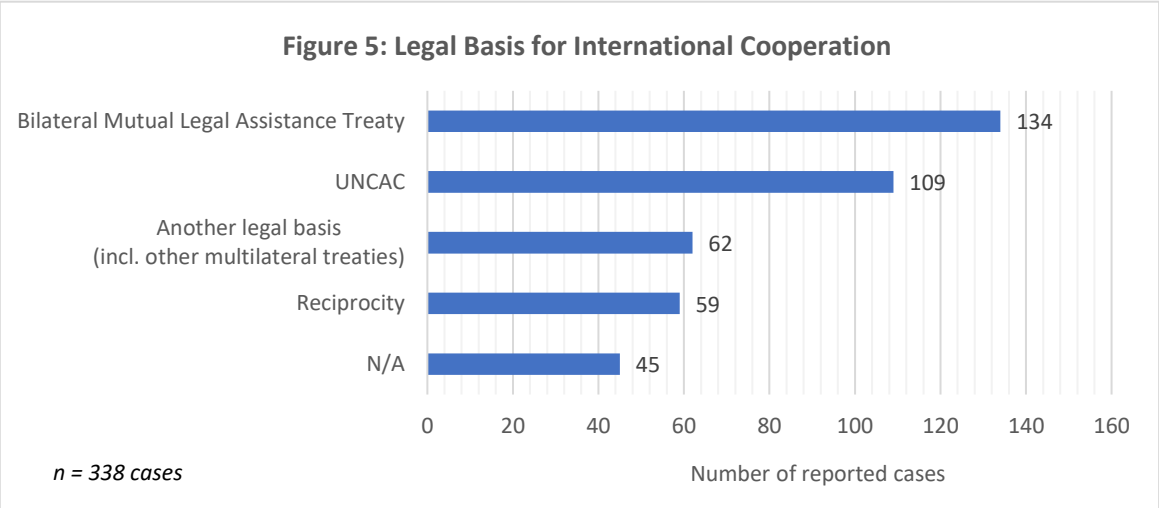
Table 14 - Asset Freezes - What was the Legal Basis for Asset Recovery? (n = 161 freezes)		
n = no. of reported cases	*n*	*%*
Conviction-based criminal prosecution and forfeiture	91	56.5
Non-conviction based confiscation	28	17.4
Administrative Freeze	16	9.9
Other	22	13.7
More than one legal basis cited	7	4.3

What was the legal basis for international cooperation?

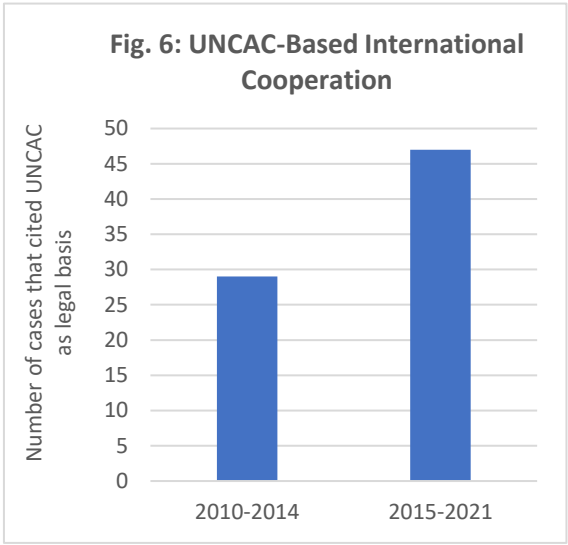
The StAR survey included a question about the legal basis for international cooperation related to the return, confiscation, or freeze – and the responses show that UNCAC in fact serves as a very practical purpose as a legal basis for states involved in international asset recovery. In as many of 109 out of 338 cases (32%), UNCAC was used as a legal basis for international cooperation related to the case (see figure 5 below). 263 cases (78%) reported by states included a response to this question (i.e. cited any legal basis for this question), meaning that of the cases that listed any legal basis at all, 41% made use of UNCAC.

Moreover, responses indicate that the use of UNCAC as a practical legal basis for international cooperation appears to be increasing over time. While the overall sample size of cases is not very large, it is the best and only information available on this topic in a comparable format. UNCAC was

cited more frequently as a legal basis for returns, confiscations, or freezes that were completed more recently, in the timespan between 2015-2021, compared to 2010-2014. This is quite a positive sign that the Convention plays an important role as a legal basis in the actual, everyday practice of international cooperation in cross-border asset recovery efforts.



Responses show that the Convention plays an important role as a legal basis in the actual, day-to-day practice of international cooperation in cross-border asset recovery efforts.



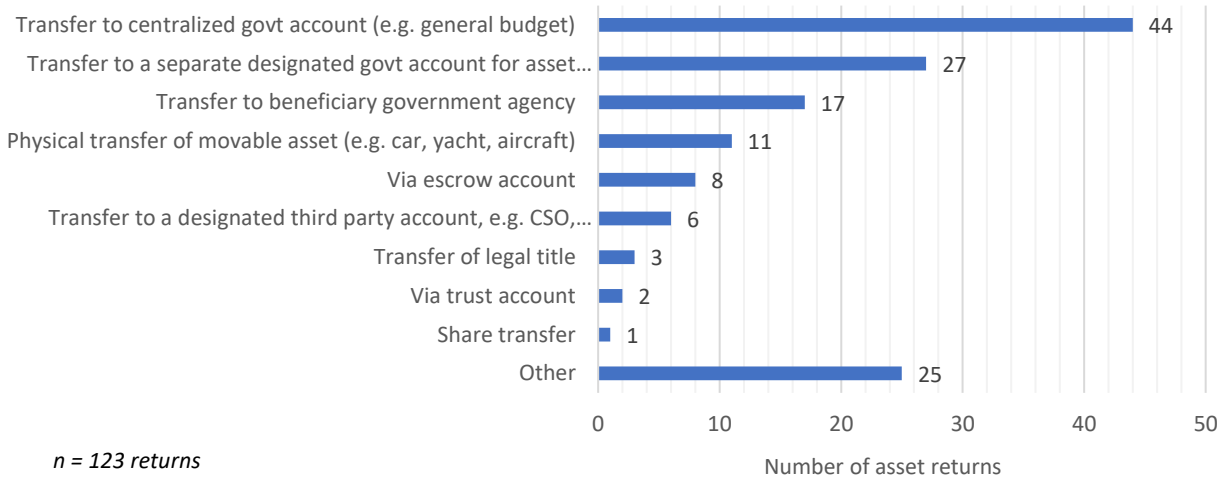
How are corruption proceeds being returned to foreign jurisdictions in practice?

This very practical question offers new insights into the practice of asset returns that have never previously been analyzed. The StAR survey included a question about the manner of the asset transfer for repatriated corruption proceeds – whether the funds were returned via a direct wire transfer to a centralized government account (e.g. general budget); via a wire transfer to a specific beneficiary government agency; a wire transfer to a separate, designated government account for the asset return; a wire transfer to a designated account held by a third party[5],e.g. an international organization or a civil society organization; via physical transfer of a movable asset (e.g. car, yacht, artwork, aircraft); via an escrow account; a trust account; transfer of legal title; a transfer of shares;

or in a different way. This is the first time that such practical information about the conduct of asset returns was collected in a comparable format from country authorities, and the survey results are shown in figure 7.

In 44 cases (36%), states reported that the funds were returned via wire transfer to a centralized government account (e.g. general budget), while 27 cases (22%) involved wire transfers to a separate, designated government account for the asset return and 17 cases (14%) involved direct wire transfers to a beneficiary government agency. There were 11 examples of cases where the return of corruption proceeds was done via physical transfer of movable asset and in 6 example of cases where funds were returned to a designated account held by a third party. As already noted above, the overall sample size of 123 reported returns is not very large, yet it is the only information available in a comparable format.

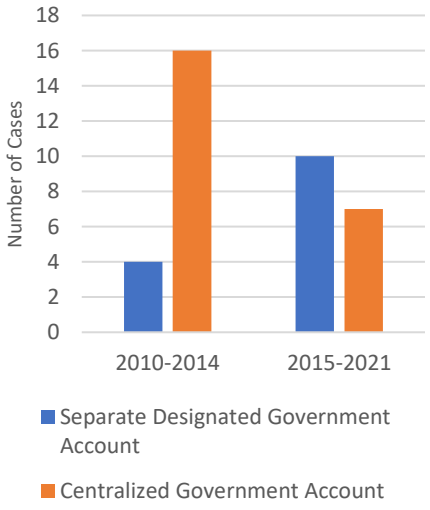
Figure 7: Manner of Asset Transfer



n = 123 returns

There has been a growing attention in recent years to what happens *after* corruption proceeds are repatriated to another country, and a corresponding demand for examples of agreements over the use of returned funds under UNCAC Art.57(5), where these exist, and further analytical work on this subject. In this context, it is noteworthy that transfers made to a separate designated account for the asset return, or via an escrow account, allow for better monitoring mechanisms – and therefore ultimately greater transparency and accountability in the return process – compared to transfers to a general centralized government account. The data suggest a possible trend towards a growing use of separate accounts for funds returned more recently, during 2015-2021, compared to funds returned during the first half of the past decade, with the caveat that the number of observations for this question is fairly low (see figure 8).

Figure 8: Trends in Manner of Asset Transfer

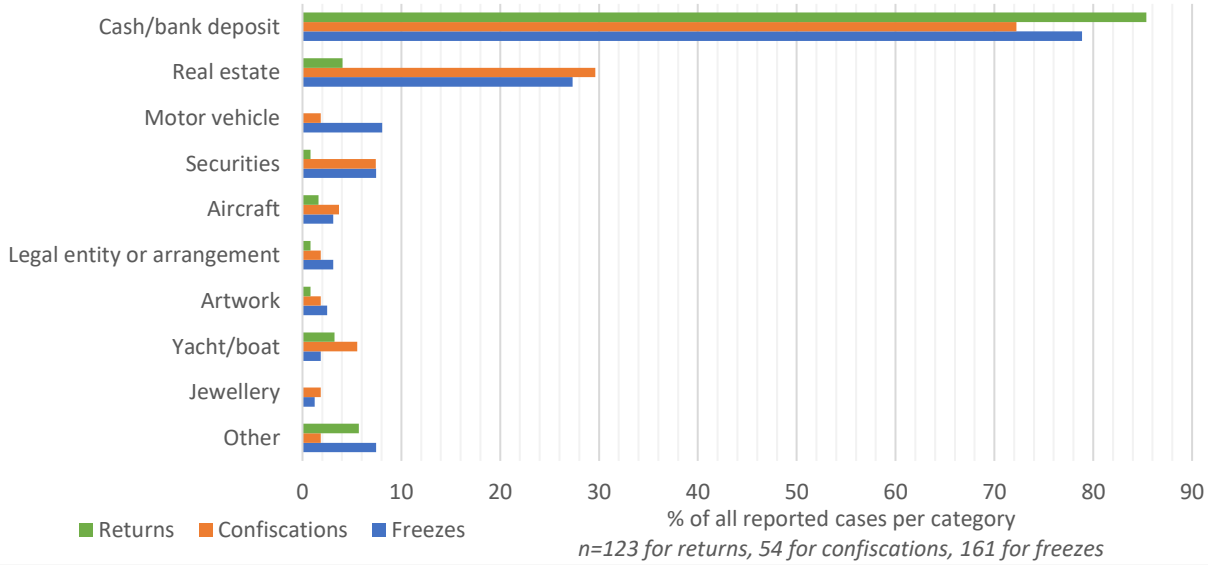


The "Other" category for this question included a wide variety of responses from states, entered manually. These include, among others: returned by check, returned by US Treasury check, a direct transfer to a victim, confiscated funds transferred to an embassy as per forfeiture order, a wire transfer to in injured state-owned company or to a state airline, transfer to an account of the Bank of International Settlements, transfer to a lawyer's bank account who is acting on behalf of the government of the country of origin, payment to the public prosecution's bank account for penalties, change in ownership registration of asset, and via funds provided to development projects.

Asset Type at Time of Freeze/Confiscation/Asset Return

Responses to a question about the asset type at the time of the freeze, confiscation, or return of the corruption proceeds show that in the vast majority of cases, assets were cash/bank deposits (85% of returns; 72% of confiscations; 78% of freezes). Real estate was the second most frequently cited type of asset; 30% of reported confiscation and 27% of reported freezes/asset restraints involved corruption proceeds invested in real estate. Other than that, there were a handful of reports of securities (in 17 cases), motor vehicles (14 cases), yachts (10 cases), aircrafts (9 cases), legal entity or arrangement (7 cases), and artwork (6 cases). Many cases included multiple responses for this question.

Figure 9: Asset Type at Time of Freeze/Confiscation/Return



The dominance of bank deposits in the international asset recovery efforts captured in the survey could be related to a higher incidence of *detection*, as the banking sector is generally more strictly regulated under anti-money laundering rules than other sectors of the economy and financial system that come into contact with proceeds of crime. The responses also suggest that banks and other financial institutions remain the most important private sector actors in the fight against international corruption. But the mentions of real estate also highlight the importance of increasing AML regulations in the real estate sector, alongside other anti-corruption efforts such as, for example, collaborating with real estate associations and creating real estate registries with information on the beneficial owners of real estate in sought-after locations. Likewise, the mentions

of luxury goods (motor vehicles, yachts, aircraft, artwork) purchased with corruption proceeds point to a need for increased engagement with the sales professionals in these sectors, and, possibly, stronger anti-money-laundering controls.

Time span between asset freeze, asset confiscation, and asset return

Tracing, restraining, and – if certain conditions are met – returning proceeds of crime to countries that were harmed by corrupt acts of public officials is an extremely time-consuming and resource-intensive process. Many known examples of successful asset returns span many years, and sometimes even decades. Using the dates provided in the reported cases of asset returns, table 15 below shows the average and maximum time periods between asset freeze, asset confiscation, and asset return in the sample.

Since asset returns, and in some cases also freezes and confiscations may occur in several tranches over multiple years, time spans were calculated using two different dates: *start* and *end* of the freezing order, confiscation order, or asset return.

Whereas the process is often onerous and lengthy, it does not always take decades. In the case examples reported in the survey, the average time period between asset freezing order and the start of the return process is less than 4 years. The average timespan between confiscation order and start of the return process is only a little over two years. This is surprisingly short in contrast to the commonly held view that international asset recovery processes are rare and usually take many years, or decades.

Table 15 – Time spans between Freeze, Confiscation, and Return

N = No. of returns with dates provided	Average Timespan (months)	Max. timespan (months)	n
Start of Asset Freeze Order to Start of Asset Return	45	169	69
Start of Asset Freeze Order to End of Asset Return	57	180	70
Start of Confiscation Order to Start of Asset Return	26	154	72
Start of Confiscation Order to End of Asset Return	37	156	73

Existence of an agreement for the disbursement of returned assets

Under UNCAC Art.57(5), states involved in the return of corruption proceeds can give special consideration to concluding agreements, on a case-by-case basis, for the final disposal of confiscated property. While not all examples of asset returns reported by states in the StAR survey involve confiscated property (some funds involve court orders for compensation payments or fines), the majority of reported asset returns are linked to confiscated assets. States that reported involvement in a cross-border asset return said that in around half of these cases (49%), there was no agreement over the use and disbursement of returned funds, while in just under half (45%), some kind of agreement existed. In 7 cases (6%), assets were shared between parties in an asset-sharing agreement.

Table 16 - Was there any agreement for the disbursement of returned assets?	*n*	*%*
An agreement under UNCAC Art.57(5)	18	14.6
Asset-sharing agreement	7	5.7
Another type of agreement	33	26.8
Any Agreement Mechanism[33]	55	44.7
No agreement	60	48.8
Total (no. of cases)	123	-

Table 17 - Is the text Is the text of the agreement publicly available, or available upon request?	*n*	*%*
Yes	22	17.9
No	43	35.0
N/A (no agreement)	48	39.0
Total (no of cases)	123	-

Concluding agreements over the use and disbursement of the assets is voluntary under UNCAC and the responses show that such agreements do not yet appear to be standard practice among states involved in cross-border asset recovery efforts of corruption proceeds. In (at least) half of reported asset returns, and likely more, states did not conclude an agreement over the use or disbursement of assets.

Further, in most cases, little information is made publicly available on the return of corruption proceeds. A handful of states of asset location routinely issue press releases at the time when funds derived from foreign corruption offenses 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. But this practice is not yet a norm globally despite persistent calls for greater transparency in asset returns from civil society. There are only a few examples of returns where the underlying agreement, if one exists, is published (see box, which also includes some external data from public sources that was not reported via the survey).

The "another type of agreement" category in table 16 includes a wide variety of responses from states, entered manually, which sometimes suggested that the question, which was aimed at agreements that govern the use or disbursement of returned assets, was not always well understood. Respondents listed any agreements, including, among others, bilateral agreements between governments,[34] bilateral MLA treaties (which govern international cooperation but do not typically include provisions on returns of proceeds of crime), settlement agreements between parties involved, plea-bargain agreements, deferred prosecution agreements, implementation of legal mechanisms of compensation for confiscated assets under the country's criminal procedure code, and others. It is therefore likely that the overall number of responses in table 16 that list any agreement mechanism (55 cases) overstates the number of cases with an agreement *over the intended use and disbursement of returned assets*. The same issue also affects the responses in table 17 about whether the text of the agreement is publicly available, or available upon request.[35]

[33] 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 UNCAC 57.5/asset-sharing agreement/another type of agreement).

[34] Bilateral agreements between governments can also fall under 'an agreement under UNCAC Art.57(5)', so the difference between these two categories is not in all cases meaningful.

[35] Table 17 reflects responses without any corrections. But in some cases, "yes" was selected even though the respondent noted that the agreement was only accessible to parties directly involved, or available through diplomatic channels, i.e. not publicly available.

Examples of published press releases or agreements over the repatriation of corruption proceeds

2017: 'Abacha II' return of US$321 million from Switzerland to Nigeria (MOU published; information on World Bank's monitoring role)

2019: Peruvian authorities published official information about agreements reached with Brazilian construction company Odebrecht over recoveries through civil reparations

2019-21: United States Department of Justice press releases announcing recoveries and returns to Malaysia related to their 1MDB investigation (Oct 2019; April 2020; May 2020; Sept 2020; August 2021)

2020: Trilateral agreement between Switzerland, Luxembourg and Peru over return of around US$26 million from Switzerland and Luxembourg to Peru (agreement published by Switzerland, by Luxembourg)

2020: Trilateral agreement between USA, Jersey, and Nigeria over repatriation of US$311.7m to Nigeria (agreement published)

2020: Return of approx. US$1.3 million from Switzerland to Turkmenistan to go towards a United Nations Development Programme health programme (press release)

2020: Framework agreement between Switzerland and Uzbekistan on principles for restitution of confiscated assets related to Gulnara Karimova (MOU published; sets out general principles for the return with specific modalities to be determined in a separate agreement)

2021: Return of £4.2 million from the UK to Nigeria related to former Governor of Delta State James Ibori and his associates (MOU published)

2021: Return of £456,068.38 from the UK to Moldova related to Luca Filat (MOU published)

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

In around one third of all reported cases (105 out of 338 cases), states said that they made use of asset recovery networks to facilitate international cooperation in the asset recovery effort. The networks mentioned most frequently in the responses are the Egmont Group and the INTERPOL/StAR Global Focal Point Network. The frequent use of the Egmont Group, an informal network of Financial Intelligence Units (FIUs) that facilitates cooperation and intelligence sharing, is a sign of the important role of FIUs in cross-border corruption investigations and asset recovery efforts.

Table 18: Use of AR Networks

	No. of cases
Egmont Group	42
INTERPOL/StAR Global Focal Point Network	21
StAR Technical Assistance	15
CARIN IACCC	9
ARIN-AP ARINSA	3
EU's AROs	2

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: UNODC's Special Regional Representative for Asset Recovery, EUROJUST, UNICRI, France's Criminal Asset Identification Platform (PIAC), direct bilateral meetings between law enforcement of governments involved in the case, diplomatic channels, cooperation between banks and foreign law enforcement, multi-agency domestic investigative taskforces, and international task forces, e.g. 1MDB International Task Force.

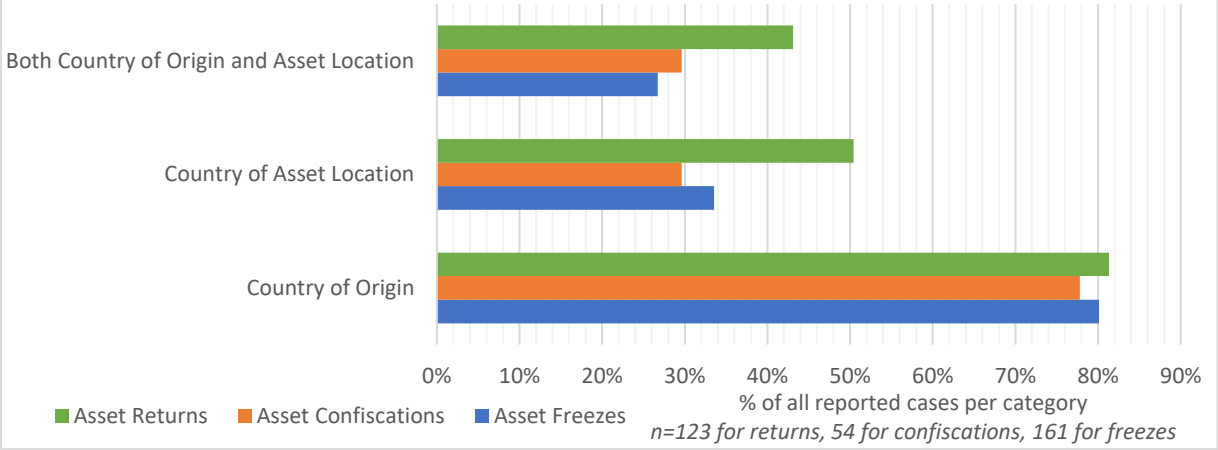
Existence of Parallel Investigations in both Country of Origin and Country of Asset Location

The Lausanne 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. This is particularly useful in cases of complex financial crimes, e.g. money laundering and its predicate offences such as corruption-related crime, that affect all the involved jurisdictions due to the transnational nature of the offence. […] Both the requested and requesting jurisdictions should consider opening parallel criminal investigations into the criminal offences related to the facts, with a view to establishing wrongdoing in the involved jurisdictions."[36]

The value in conducting parallel investigations in both jurisdictions involved in the asset recovery effort is also noted in the outcome report of the 2019 Addis Ababa Expert Group Meeting on the Return of Stolen Assets.[37] To better understand the role of parallel investigations, the survey included a question about whether there is or was an investigation or prosecution related to this a case in the country of origin and/or in the country of asset location.

Figure 10: Existence of Investigations in Country of Origin & Country of Asset Location by Type of Asset Recovery Action



Notably, completed asset returns show a higher rate of parallel investigations in both country of origin and in the country of asset location (43%), compared to asset recovery actions at the confiscation stage (29.6%) and asset freeze stage (26.7%). The same is true for the existence of an investigation in the country of asset location: for over half of reported returns (50.4%), authorities responded that there was an investigation related to this case in the country of asset

[36] https://learn.baselgovernance.org/mod/page/view.php?id=884
[37] https://www.unodc.org/unodc/en/corruption/meetings/addis-egm-2019.html

location, compared to 29.6% for reported asset confiscations and one third (33.5%) for asset freezes.

The fact that a significant share of successful asset returns were the result of parallel investigations supports the rationale for the recommendation in the Lausanne Principles for countries to collaborate across jurisdictions and initiate investigations in both country of origin and country of asset location to complement law enforcement efforts. Also, the higher rate of investigations in asset location countries for asset returns vis-à-vis confiscations and freezes further supports the importance of proactive actions to go after proceeds of *foreign* corruption.

Barriers to International Asset Recovery

The StAR survey presented a list of 25 factors that can potentially represent barriers to international asset recovery across different stages of the process.[38] Authorities completing the survey were asked to indicate the degree to which the factors actually represent barriers to successful recovery of proceeds of corruption, based on their country's experience and past involvement in international recovery efforts. Responses were collected on a scale of 1 to 5, where 1 means the factor represents "no barrier at all" and 5 means the factor represents "a major barrier".

It should be noted that this way of assessing the relevance of certain barriers via assigning a simple score of 1 to 5 leaves out many details about countries' specific experiences that are better described in a different format. However, there is value in numbers: in total, 73 states (out of 80 total responses received) responded to the section on barriers to asset recovery in the survey, in full or partially,[39] and this format allows for a rudimentary, high-level comparison of authorities' perceptions of barriers to asset recovery.

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 means that more respondents considered the factor to be a significant barrier to their asset recovery efforts.[40] In the tables below, N indicates the number of valid responses from states for the respective question.

Table 19 - Major Barriers - Highest Average Scores - All Responses (total: 73)

Rank	Barrier	Mean	N
1	International Cooperation: Non-responsive or overly broad MLA refusals by country of asset location	3.14	64
2	Investigation & Asset Tracing: Difficulties in identifying and verifying beneficial ownership of suspected corruption proceeds	3.13	68
3	Freezing, Seizure & Confiscation: Difficulties in proving the link between asset and criminal offence	3.03	68
4	International Cooperation: Problems related to enforcements of NCB confiscation orders in a foreign jurisdiction	3.00	50
5	Freezing, Seizure & Confiscation: Differences in evidentiary requirements and standards of proof between legal systems	2.94	66

[38] On this topic, also see StAR report "Barriers to Asset Recovery: An Analysis of the Key Barriers and Recommendations for Action", 2011. https://star.worldbank.org/resources/barriers-asset-recovery

[39] Responses from Belarus, Bosnia & Herzegovina, Bulgaria, Ireland, Switzerland, Paraguay, and Japan did not include any information regarding barriers to asset recovery in section D.

[40] For Botswana and Ukraine different agencies submitted multiple responses for Section D. Where the scores diverged, multiple responses per country were combined by selecting the higher value.

Table 20 - Not a barrier - Lowest Average Scores - All Responses (total: 73)			
Rank	Barrier	Mean	N
1	Domestic Coordination: Lack of effective framework for exchange of information between different government agencies	1.79	68
2	Freezing, Seizure & 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 & Asset Tracing: Lack of effective legal investigative tools	2.05	64
5	Freezing, Seizure & Confiscation: Lack of availability of equivalent-value-based confiscation	2.08	59

Across the board, states perceive two factors as especially problematic barriers to successful international asset recovery under UNCAC's chapter V: non-responsive or overly broad MLA 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 MLA process and increase effectiveness of pre-MLA informal cooperation. The second barrier confirms something that we have long known but nonetheless deserves repeating: that lack of beneficial ownership transparency is a major impediment to achieving the goals set out in chapter V of the Convention.

MLA refusals by countries of asset location and identifying/verifying beneficial ownership of suspected corruption proceeds were scored as the two most problematic barriers by authorities.

Responses to questions on barriers to asset recovery point to the growing use and central importance of NCB confiscation in cross-border asset recovery cases involving corruption proceeds.

Notably, among the jurisdictions that do not allow NCB confiscation for corruption offences, based on their responses to a question in part E of the survey, the three top barriers with the highest overall scores, by a wide margin, all relate the lack of availability of NCB confiscation in their own jurisdiction or to problems with enforcing NCB orders in foreign jurisdictions. These responses point to the growing use and central importance of NCB confiscation in cross-border asset recovery cases involving corruption proceeds.

Table 21 - Highest Average Scores - Countries that do not allow NCB for corruption offenses (total: 23)			
Rank	Barrier	Mean	N
1	International Cooperation: Inability to execute foreign NCB orders because of lack of domestic NCB confiscation	4.00	18
2	Freezing, Seizure & Confiscation: Lack of availability of NCB confiscation	3.94	17
3	International Cooperation: Problems related to enforcements of NCB confiscation orders in a foreign jurisdiction	3.75	12

Among all 25 factors listed in the survey, the factors with the largest variance in scores were two factors related to non-conviction-based (NCB) confiscation ("Lack of availability of NCB confiscation" and "Inability to execute foreign NCB orders because of lack of domestic NCB 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"). Since some countries have mechanisms for NCB confiscation and others do

not, it is not surprising that factors related to the availability of NCB 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 for others. Low-income and lower-middle income states that responded to the survey rated the three factors related to asset management (costs, mandate, capacity) in the list as more problematic than upper-middle and high-income states.

"Where you stand is where you sit." Jurisdictions that are involved in both sides of the asset recovery process responded to the StAR survey – as source and as destination countries for corruption proceeds, as well as in other roles like a third country mediating or brokering agreements between requesting and requested states. The adage "where you stand is where you sit" also applies to international asset recovery: states' interests, positions, and perceived barriers to what is considered a successful return of corruption proceeds depend on the role of the state in the process. The tables below show the top barriers (by average scores) for different groups of responding states based on their identification as a jurisdiction of asset location, a jurisdiction of origin, or states that did not report any cases.

Notes on categories:

- If a state reported involvement in cases in several of these categories, for example as a source country in one case and a destination country in a different case, then their responses to the section on barriers is included in both tables.
- The category "country that initiated legal action to recover proceeds of corruption" (if it was selected at all) was typically selected 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 initiated legal action that was neither source nor destination state.

Table 22 - Highest Average Scores - Countries identified as Jurisdiction of Asset Location (total: 34)			
Rank	Barrier	Mean	N
1	Freezing, Seizure & Confiscation: Difficulties in proving the link between asset and criminal offence	2.91	33
	Freezing, Seizure & Confiscation: Differences in evidentiary requirements and standards of proof between legal systems	2.91	32
2	Investigation & Asset Tracing: Difficulties in identifying and verifying beneficial ownership of suspected corruption proceeds	2.85	33
3	International Cooperation: Non-responsive or overly broad MLA refusals by country of asset location	2.79	29
Highest Average Scores - Countries identified as Jurisdiction of Origin (total: 31)			
Rank	Barrier	Mean	N
1	Investigation & Asset Tracing: Difficulties in identifying and verifying beneficial ownership of suspected corruption proceeds	3.48	29
2	International Cooperation: Non-responsive or overly broad MLA refusals by country of asset location	3.47	30
3	Freezing, Seizure & Confiscation: Differences in evidentiary requirements and standards of proof between legal systems	3.38	29
	International Cooperation: Problems related to enforcements of NCB confiscation orders in a foreign jurisdiction	3.38	24

Difficulties in proving the link between asset and criminal offence appears 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, aside from problems related to identifying and verifying beneficial ownership (in first place), non-responsive or overly broad MLA refusals by the country of asset location and differences in evidentiary requirements and standards of proof between legal systems are front and center. Countries that did not report any cases also scored non-responsive or overly broad MLA 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 result in successful international cooperation. This group of responding countries also rated factors related to the asset return process as more significant barriers than the other groups: difficulties in negotiating mutually acceptable terms for an agreement under UNCAC Art. 57(5) and containing the risk of returned proceeds being "re-corrupted".

Countries across all different groups flagged problems related to enforcements of NCB confiscation orders in a foreign jurisdiction as an important barrier to cross-border asset recovery.

Full list of 25 potential barriers to international asset recovery provided in StAR Survey

Investigation & Asset Tracing ➢ Lack of effective detection mechanisms leading to opening corruption investigations ➢ Lack of specialized investigative or prosecutorial capacity in anti-corruption ➢ Lack of effective legal investigative tools ➢ Difficulties in identifying and verifying beneficial ownership of suspected corruption proceeds ➢ Absence of plea-bargaining mechanism
Freezing, Seizure & Confiscation ➢ Lack of availability of effective freezing mechanisms ➢ Difficulties in proving the link between asset and criminal offence ➢ Differences in evidentiary requirements and standards of proof between legal systems ➢ Lack of availability of NCB confiscation ➢ Lack of availability of equivalent-value-based confiscation[41]
Asset Management ➢ High costs of asset management during recovery process ➢ Lack of capacity for asset management ➢ Lack of clarity over mandate for asset management responsibilities
Asset Return ➢ Absence of domestic legal provisions that allow for the return of confiscated assets without an agreement (Art.57, UNCAC) ➢ Difficulties in negotiating mutually acceptable terms for an agreement under UNCAC Art. 57(5) or an asset-sharing agreement ➢ Lack of available options that contain the risk of returned assets being "re-corrupted" ➢ Lack of request for return of assets from country of origin
Domestic Coordination ➢ Lack of effective framework for exchange of information between different government agencies ➢ Overlapping responsibilities or lack of clarity over responsibilities between different government agencies

41 Equivalent-value-based confiscation allows for legitimate assets that are equivalent in value to proceeds of crime to be restrained or confiscated in cases where the actual proceeds cannot be located or no longer exist (also sometimes referred to as "substitute assets"). In some jurisdictions, it is called "extended confiscation". See article 31(1), UNCAC.

International Cooperation

- Lack of clarity over correct communication channels and focal points in foreign countries
- Non-responsive or overly broad MLA refusals by country of asset location
- Insufficient use of informal international cooperation mechanisms pre-MLA
- Inability to execute foreign NCB orders because of lack of domestic NCB confiscation
- Problems related to enforcements of criminal confiscation orders in a foreign jurisdiction
- Problems related to enforcements of NCB confiscation orders in a foreign jurisdiction[42]

Policy, Legislative, and Institutional Framework for Asset Recovery

The final part of the survey consists of 17 questions about the country's policy, legislative, and institutional framework for international asset recovery, including questions about the jurisdiction's availability of NCB confiscation for corruption offences, availability of unexplained wealth provisions or illicit enrichment laws that can be applied in corruption cases, whether the jurisdiction has a specialized investigatory or prosecutorial unit focused on foreign corruption and/or international asset recovery, and more. In total, 74 states (out of 80 total responses received) responded to this section, in full or partially.[43] A quick overview of all responding countries' replies is presented in table 23.[44]

The responses include a number of interesting findings, such as:

- Around half of all states that responded to this question (33 out of 68) said that they have in the past entered into an agreement or MOUs designed to facilitate the transfer of corruption proceeds to/from another jurisdiction. (Q12)
- 60% of responding states said that they have adopted new policies aimed at enhancing and facilitating international recovery and return of corruption proceeds since 2012, and 46% report that the new policies been applied in practice. (Q15)
- 61% of responding states report that they have adopted new laws or regulations aimed at enhancing and facilitating international recovery and return of corruption proceeds since 2012, and one third confirm that cases been brought pursuant to new legislation. (Q16)

However, it is evident that most of the responses in this section are more insightful to consider at the individual country level, rather than in aggregate form. Many states provided highly valuable, detailed explanations of their national legislative, institutional and policy frameworks – to analyze all exceeds the format and scope of this report.

In light of the finding that an increasing number of countries worldwide are engaged in cross-border asset recovery processes and the observed diversification in destination states for corruption proceeds beyond traditional global financial centers, there is a corresponding demand for better resources on other countries' asset recovery frameworks for practitioners from foreign jurisdictions, especially for practitioners from jurisdictions with little or no experience in pursuing cross-border asset recovery. For this reason, the StAR initiative plans to use the responses in this section as a

42 Problems incl. delays, lack of recognition of confiscation orders in foreign jurisdiction

43 Responses from Bosnia & Herzegovina, Bulgaria, Ireland, People's Republic of China, Morocco, and Switzerland did not include any information regarding legal/institutional/policy framework for asset recovery in section E.

44 The table reflects the replies as provided in the response; no adjustments were made. In some cases, respondents' interpretation of a question was not fully clear, or not consistent across respondents.

basis for country-specific fact sheets or guides, to be made available on StAR's website, with the agreement of national authorities that completed the survey.

The table below presents the responses to 17 questions in the StAR survey about countries' policy, legislative and institutional frameworks exactly as they were reported by states, without any corrections or adjustments. For some questions, misunderstandings about the interpretation of the question may have led to a higher number of "yes" responses than justified.

Table 23	Number of countries			
N = no. of countries that responded to the respective question	Yes	No	See explanation	n
E1. Does your jurisdiction allow non-conviction based (NCB) asset confiscation for corruption offences?	40	24	10	74
E2. Does your jurisdiction allow direct enforcement of foreign criminal confiscation orders?	37	24	13	74
E3. Does your jurisdiction allow direct enforcement of foreign NCB forfeiture orders?	20	33	18	71
E4. Does your jurisdiction allow foreign countries to initiate civil actions in your domestic courts to recover corruption proceeds?	46	10	15	71
E5. Do you permit courts (or other competent authorities) to order compensation, restitution, or other damages to the benefit of a foreign jurisdiction?	52	5	12	69
E6. Does your jurisdiction permit rapid freezing of proceeds of foreign corruption based on a request from a foreign jurisdiction?	61	4	8	73
E7. Does the FIU in your jurisdiction have the power to suspend suspicious transactions?	44	20	6	70
E8. Can evidence obtained through MLA requests be used in NCB proceedings in your jurisdiction? (MLA treaties are often limited to criminal proceedings.)	41	17	12	70
E9. Does your jurisdiction have a specialized prosecution and/or investigative unit focused on pursuing foreign corruption offences and/or international asset recovery cases?	45	19	10	74
E10. Does your jurisdiction permit spontaneous disclosures of information on proceeds of corruption to a foreign jurisdiction, consistent with Articles 46(4) and 56 of UNCAC?	54	8	8	70
E11. Does your jurisdiction have unexplained wealth provisions or illicit or unjust enrichment laws that can be applied in corruption cases?	51	17	5	73
E12. Has your jurisdiction ever entered into any agreements, arrangements, MOUs, etc. designed to facilitate the transfer of corruption proceeds to/from another jurisdiction?	33	26	9	68
E13. In practice, does your jurisdiction have an established, standard policy for asset-sharing agreements, e.g. a 50-50 split? Or are all asset-sharing agreements negotiated on a case-by-case basis?	Standard	Case-by-case	19	72
	5	48		
E14. Manner of asset transfer: does your jurisdiction have any specific requirements related to receiving proceeds of corruption from another jurisdiction?	8	47	12	67
E15A. Since 2012, has your jurisdiction adopted any important new policies aimed at enhancing and facilitating international recovery and return of corruption proceeds?	37	24	-	61
E15B. Have the new policies been applied in practice?	26	21	9	56
E16A. Since 2012, has your jurisdiction adopted any important new law and/or regulation aimed at enhancing and facilitating international recovery and return of corruption proceeds?	38	24	-	62
E16B. Have any cases been brought pursuant to new legislation?	20	33	6	59
E17. Does your jurisdiction publish (or make available on request) any aggregate annual statistics about completed international asset returns (related to any offences, not necessarily specific to corruption offences)?	22	41	-	63

Conclusion

The StAR survey represents the largest survey on international asset recovery efforts related to corruption offenses conducted to date that collects information on involvement in asset freezes, confiscations, and returns directly from country authorities. While the information collected does not represent and should not be interpreted as a comprehensive accounting of all relevant asset recovery cases that fall within the timeframe and scope of this report, it nonetheless constitutes a large sample of examples of such cases that offer valuable insights into the practice of cross-border efforts to restrain, confiscate, and return corruption proceeds.

The data challenges several commonly held assumptions about the implementation of UNCAC's chapter on asset recovery: (1) that only a small number of countries globally are engaged in efforts to recover corruption proceeds from abroad, (2) that it is extremely rare that any assets are ever actually returned to the countries from which public funds were stolen, countries that suffered harm from kleptocracy or other forms of corruption, and (3) that if corruption proceeds end up being returned, the entire process always takes decades.

Overall, the high number of responses from states to the StAR survey signals an unprecedented interest in the topic and the explosion of states – but also other actors such as civil society – involved in efforts to trace, restrain, and return corrupt funds across borders should be viewed as a sign of the rise of anti-kleptocracy norms globally.

Key findings

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

- **The "club" of states that are pursuing cross-border asset recovery cases involving corruption proceeds is growing rapidly.** While only 10 countries reported pursuing such cases during 2006-2012 in two StAR/OECD reports published in 2011 and 2014 (that collected information from OECD countries), 61 states reported involvement in at least one cross-border asset freeze, confiscation, or completed return of corruption proceeds between 2010 and 2021 in the new StAR survey.

- **While proceeds of crime often wind up in the largest or regional global financial centers, survey data show a diversification of international destination countries for stolen assets by corrupt public officials.** As many as 36 different destination countries reported having been engaged in international cooperation over restraining and returning proceeds of *foreign* corruption in their jurisdiction since 2010.

- **Ten countries reported involvement in cross-border asset recovery efforts on both sides of the process, i.e. in some cases, as the asset location state and in other cases as the source of corrupt funds.** This further supports the observation that the club of states involved in actions under UNCAC's chapter V in different roles is growing. It also breaks up the entrenched

dynamic between destination and source countries that sometimes dominates the international debate on asset recovery.

- **Based on survey data alone, close to US$10 billion (US$ 9.7 billion) in corruption proceeds have been either frozen, restrained, confiscated in a destination country or returned to a country that was harmed by corruption since 2010.** This figure includes over US$4.1 billion in assets that have been returned internationally since 2010 and US$5.3 billion in assets frozen or restrained. While not a comprehensive picture of all relevant returns, the quantity of corruption proceeds tied up in recovery actions offers a stark contrast to previous figures available on the scale and global spread of recovery actions under chapter V of UNCAC.

    - Assets amounts in recovery efforts are directly related to the volume of the underlying crime and increases in amounts alone cannot simply be interpreted as a sign of progress. However, when considered alongside other factors, such as an increase in the overall *number* of international asset recovery actions, an increase in the number of states (and other actors) that are involved in cross-border recovery efforts, and an increase in legal avenues available – all these developments over the past 10 years taken combined clearly are an indicator of progress towards the goals of UNCAC's chapter V.

- **Ending safe havens for corrupt funds: an analysis of information on how asset restraints were initiated highlights the importance of proactive efforts by destination countries to go after the gains of *foreign* corruption that are stashed away in their jurisdiction.** In 41% of reported asset returns and 54% of confiscations, the asset restraint was initiated by a domestic investigation by law enforcement authorities in the destination state, independent from a foreign request.

- **Conviction-based criminal forfeiture remained the most frequently cited legal mechanism for cross-border asset recovery efforts overall, used in just over half of all reported cases (51%), - followed by non-conviction based (NCB) confiscation (28%) and settlements (10%).** Use of NCB was higher in the reported asset returns and confiscations, compared to freezes: around one third (34%) of returns and 46% of confiscations involved assets that were restrained through NCB confiscation.

- **With more states involved in cross-border asset recovery, recognition and enforcement of foreign judgments and confiscation orders is becoming more critical than before to avoid duplication of law enforcement efforts.** 14% of reported asset returns involved an enforcement of a foreign criminal confiscation order, while 5% involved enforcement of foreign NCB confiscation order.

- **Whereas tracing, restraining, and – if certain conditions are met – returning stolen assets is time-consuming and very resource-intensive, the process does not always take decades.** In the case examples from the StAR survey, the average time period between asset freezing order and the start of the return of funds is less than 4 years, and the average time period between the confiscation order and the start of the return is only a little over two years.

- **Concluding agreements over the transfer and use of returned assets is not yet standard practice – but it appears to be gaining popularity.** Around half of all states that responded to this question said that they have in the past entered into an agreement or MOUs with another

jurisdiction designed to facilitate the transfer of corruption proceeds. Similarly, in 45% of all reported examples of asset returns, states said that some kind of agreement over the return or disbursement of assets existed.

- Despite a lot of emphasis on transparency in asset returns among civil society groups and other actors, transparency norms in asset recovery and returns have not yet gained much ground. Informing the public, especially in source countries that are receiving assets from another jurisdiction, about the transfer of corruption proceeds and their intended use is an important step to enhance government accountability and increase trust. Yet, responses indicate that agreements (or other information regarding the return) were only made available publicly in 16 of the reported cases of asset returns, while for the large majority of returns little or no information on the fact that corruption proceeds were being returned, or on how the returned assets would be used, was made available publicly. There are, however, a few notable exceptions mostly from recent years where authorities issued press releases or published the agreements over the return.

- States generally perceive non-responsive or overly broad MLA refusals by the country of asset location and difficulties in identifying and verifying beneficial ownership of suspected corruption proceeds as two major barriers to successful international asset recovery under UNCAC's chapter V. Another factor that was frequently rated as a significant barrier are difficulties in proving the link between asset and criminal offence.

- Responses further emphasize the growing use and central importance of NCB confiscation in cross-border asset recovery cases involving corruption proceeds.
  Problems related to enforcements of NCB confiscation orders in a foreign jurisdiction were also highlighted as representing a significant barrier to cross-border asset recovery. In fact, among jurisdictions that do not allow NCB confiscation for corruption offences, the top three factors rated as representing significant barriers all related to lack of availability of NCB confiscation or to problems with enforcing NCB orders.

These findings and additional qualitative analysis of the responses from the StAR survey will be featured in a forthcoming publication by the Stolen Asset Recovery Initiative. The responses will also be used to update StAR's Asset Recovery Watch, a public database that tracks efforts by prosecution authorities worldwide to go after assets that stem from corruption.

States that wish to submit additional responses (to update or complement their initial response or submit a new response) to be included in the StAR report or in StAR's database are welcome to do so. Please contact StAR to obtain the survey and discuss your contribution.

The Secretariat and the StAR Initiative would like to thank all states that put time and effort into preparing a survey response and contributing information for this project. The information provided is highly valuable for a better understanding of the practice of international asset recovery under UNCAC.