

Italy Asset Recovery Action Plan Implementation Road Map 2013

Action Plan commitment	Progress so far	Timetable for next steps
<p>Seek to enhance responsiveness: Take into account the importance of transition countries' requests for case assistance in recovering proceeds of corruption and organized crime and accordingly give them priority, where legally permissible, and encourage regional partner countries to do the same. Implementation: Immediate</p>	<p>In February 2012 Italy established the Asset Recovery Working Group for domestic coordination, among MFA, Justice, Interior, Guardia di Finanza (financial police) Treasury, FIU/Banca d'Italia, Court of Appeal of Rome and Customs Agency. The group has given great attention to the Arab Spring asset recovery case work.</p> <p>The group has provided intensive assistance to the Egyptian, Tunisian and Libyan Authorities.</p> <p>The Financial Security Committee (Comitato Sicurezza Finanziaria) is another multi-agency body, set up at the Ministry of Economy and Finance, which has proved very effective in enhancing domestic coordination, inter alia, on asset freeze related activity and concurred to asset recovery . The Committee avails itself of the services of the "Rete Esperti" (network of experts) group which also contributes to preliminary work useful for asset recovery too.</p>	<p><u>Ongoing:</u> The WG will continue to provide the fullest possible measure of support to Arab Countries in Transition seeking assistance in the recovery of stolen assets.</p>
<p>Adopt and enforce international frameworks: Ratify the U.N. Convention Against Corruption as soon as possible, and take steps to enhance their enforcement of laws against foreign bribery, in order to provide a universal legal framework for asset recovery cooperation.</p>	<p>Italy has subscribed: EU Convention of Strasbourg on Laundering, search, seizure and Confiscation of the Proceeds from Crime (1990); EU Convention against Corruption (1997); OECD Convention against Bribery in International Business Transactions (1997); Council of Europe Criminal Convention against Corruption (1999); UN Convention of Palermo against Transnational Organised Crime (2000); UN Convention against Corruption/UNCAC (2003).</p> <p>Italy is a partner of StAR and a member of CARIN (Camden Asset Recovery Inter-Agency Network). Italy implements the FATF/GAFI recommendations on asset recovery.</p> <p>Law n. 190 of 6th November 2012 on Anti-corruption brings a comprehensive set of measures aimed at preventing and repressing corruption and illegality in the Public Administration, facilitating the asset recovery and addressing the illicit financial flows. It gives a follow-up to main international instruments to which Italy has subscribed.</p> <p>Law n. 146 of 16th March 2006 (following the ratification of</p>	<p><u>Fully implemented.</u></p>

	<p>the UN Convention of Palermo) introduced important innovations in terms of the prevention, investigation and prosecution related to: a. serious crimes; b. participation and support to "organized crime" groups; c. "laundering" proceeds of crimes, i.e.:</p> <ol style="list-style-type: none"> (1) the introduction of procedures about customer identification, record financial transactions, storage of information and reporting of suspicious transactions; (2) the improvement of international cooperation in the field of intelligence, judicial and police cooperation; (3) the introduction of the concept of "transnational crime groups" to be able increasing penalty of imprisonment from one third to one half; (4) the introduction of the concept of "value confiscation" for seizing and confiscating the equivalent value of product, profit and price of transnational crime; (5) the administrative liability of companies involved in the fulfillment of a.m. crimes; <p>d. crimes related to "corruption"; e. offenses against the "Public Administration";</p> <p>The above mentioned legislations have led a real improvement of the asset recovery work-stream too.</p> <p>In Italy, the Department for Public Administration is also member, inter alia, of the EPAC (European Partners Against Corruption), a European informal network.</p>	
<p>Promote transparency and effective cooperation. Each G8 member will:</p>		
<p>Publish a guide that describes specific steps required for assistance and cooperation in matters related to tracing, freezing, confiscation, and return of proceeds of corruption, whether through formal mutual legal assistance (MLA) or other forms of cooperation and make the guide available in Arabic</p>	<p>The "Italian Asset Recovery Tools & Procedures - A Practical Guide for International Cooperation" (Asset Recovery Guide) is published on the StAR website and is available in Arabic, English and French language versions. http://star.worldbank.org/star/ArabForum/country-guides-asset-recovery-0</p>	<p><u>Fully implemented</u></p>
<p>Designate or appoint the office/persons responsible for inquiries, guidance, or other investigative cooperation permitted by law, both for MLA and for other forms of cooperation not requiring MLA requests</p>	<p>The International Police Cooperation Service (Servizio per la Cooperazione Internazionale di Polizia – SCIP) serves as the Italian Asset Recovery Office (EU Council framework decision 845/2007/JHA). SCIP is an interagency service for international operational police cooperation, and comprises</p>	<p><u>Fully implemented</u></p>

	<p>the national Central Bureau-Interpol, the Italian Europol National Unit and the S.I.Re.N.E. Division.</p> <p>The Italian Ministry of Justice serves as the Central Authority for international judicial and legal assistance in criminal matters.</p> <p>Police-to-police and intelligence enquiries can be initiated through the Italian representatives on CARIN, the Focal Point network, Interpol and Egmont and/or the contacts given in the Italian Asset Recovery Guide.</p>	
<p>Designate the appropriate points of contact to relevant networks, including but not limited to the global asset recovery Focal Point network, UNCAC COSP, and CARIN, that may be useful for coordination</p>	<p>Italy has designated authorities responsible for MLA requests relating to asset recovery as well as points of contact for law enforcement cooperation with UNODC and other relevant networks. Italy participates in the Global Focal Point Initiative supported by StAR/INTERPOL..</p>	<p><u>Fully implemented</u></p>
<p><u>Facilitate cooperation leading to effective recovery.</u></p>		
<p><u>Each G8 member will act urgently on the following key measures:</u></p>		
<p>Ensure that there are mechanisms in place for enforcement of foreign orders of confiscation unless inconsistent with fundamental principles of domestic law. This would include, wherever possible, considering measures as may be necessary to enforce non-conviction based confiscation orders (such as confiscation orders which do not require a criminal trial and conviction), at a minimum in the circumstances envisaged by UNCAC and FATF Recommendations. Such enforcement should be permitted even in the absence of a domestic system for non-conviction based confiscation or other equivalent avenue</p>	<p>Italian law provides for a very comprehensive and far-reaching confiscation framework which is based on a threefold approach: a) a traditional conviction based confiscation of assets derived from the offence; b) a system of confiscation based on the alleviation of the burden of proof for convicted persons who cannot justify the origin of their assets. Once we have established the relationship between the before mentioned assets (compared to legal income) with the convicted person of serious and organised crimes, we can ask to Judicial Authority to proceed with confiscation; and c) a preventive system of confiscation for assets in possession not only of persons belonging to mafia-type organizations but also persons with tendencies to illegal behavior and frequent perpetrators of common crime.</p> <p>Italy allows for a variety of a plea bargain called <i>patteggiamento</i> (Code of Criminal Procedure, Articles 444–48) which has been used to resolve corruption cases and is applicable to asset recovery cases.</p>	<p><u>Fully implemented.</u></p>
<p>Consider, to the extent consistent with fundamental principles of domestic law and judicial proceedings,</p>	<p>Italy has a comprehensive non-conviction based confiscation system. If the foreign jurisdiction does not yet have a foreign</p>	<p><u>Fully implemented</u></p>

<p>establishing systems that allow for recovery through non-conviction-based confiscation or equivalent (at minimum in cases of death, flight, or absence) and adopting legislation that establishes a non-criminal standard for burden of proof or reverses the onus of proof through rebuttable presumptions</p>	<p>order against the asset, Italian Courts may be able to initiate an action, either as a criminal confiscation or as a “non-conviction based” (freezing and confiscating assets irrespective of a prior conviction of the owner in a criminal court) confiscation.</p>	
<p>Ensure that domestic legal frameworks (i.e., legislation and/or regulations) allow for swift identification and tracing of assets, including in response to international requests.</p>	<p>Concerning the rapid locating and freezing of the assets, the Italian system has a variety tools. For identifying and locating bank accounts, a national registry is accessible for police investigations (a court order is required). The information related to bank accounts may also be obtained for AML (in relation to suspicious transaction enquiries) and fiscal purposes and in the course of the procedure for the application of a prevention measure. Real estate owners’/deed registration holders, must register with a national registrar customarily accessible by law enforcement agencies. Another registrar available to Police contains mandatory data for every company and shareholders trading on national level. Securities are registered nationally level and (foreign) trust instruments are held with AML/CFT obliged agents.</p>	<p><u>Fully implemented.</u></p>
<p>Ensure that domestic legislation and/or regulations allow sufficient time frames for freezing assets during the pendency of foreign investigations and proceedings</p>	<p>Assets frozen in Italy remain frozen until a court discharges (cancels) the freezing order. Nevertheless, the freezing can not be indefinitely. It must be concluded within a reasonable time with the confiscation of the asset or its return.</p> <p>Italy fully implements the EU and UN sanctions regimes that freeze assets related to the former regimes in Egypt, Libya, Tunisia and Syria.</p>	<p><u>Fully implemented</u></p>
<p>Ensure that mutual legal assistance regarding asset recovery can be granted in the absence of a bilateral legal assistance agreement, under appropriate circumstances. If necessary, and without prejudice to the preceding point, recognize UNCAC as a sufficient legal basis for mutual legal assistance (MLA) by States Parties</p>	<p>Italy’s domestic laws on mutual legal assistance (MLA) are widely drawn and allow Italian Authorities to provide adequate bilateral assistance even where there is no treaty basis.</p>	<p><u>Fully implemented</u></p>
<p>Ensure that MLA requests for freezing can be permitted on an <i>ex parte</i> basis (i.e., no requirement to give the asset holder the opportunity to contest beforehand the provision of MLA)</p>	<p>MLA freezing requests are not subject to the prior consent of the asset holder. The owner of the assets – as any other citizen – can use all the available legal tools to defend itself before the competent Judicial Authority.</p>	<p><u>Fully implemented</u></p>

<p>Allow domestic officials, in accordance with its domestic laws, to alert a foreign jurisdiction to an ongoing investigation in the disclosing jurisdiction and indicate that existing information could be of interest, a proactive form of assistance, and to do so on a peer-to-peer basis where permissible</p>	<p>Italian law enforcement officials are able to alert counterparts in a foreign jurisdiction to information that could be of interest. Normally, in these cases, the Italian law enforcement agencies send alerts, messages or reports through the Interpol National Office or the Europol National Unit located at International Police Cooperation Service of Minister of Interior (Servizio per la Cooperazione Internazionale di Polizia – SCIP). The Italian authorities can also conclude bilateral agreements on police cooperation and security.</p>	<p><u>Fully implemented</u></p>
<p>In case of a barrier to execution of a mutual legal assistance request, promptly communicate the nature of the difficulty to the requesting authorities so that it may be corrected expeditiously</p>	<p>According to Italian experience with Egypt, Tunisia and Libya, the pre-MLA (Mutual Legal Assistance) is essential in allowing a successful outcome of MLA requests. Court of Appeal of Rome, International Police Cooperation Service of Minister of Interior (Servizio per la Cooperazione Internazionale di Polizia – SCIP) and Guardia di Finanza (during AML investigation and spontaneous police cooperation) play an essential role, showing a practical and collaborative approach that is extremely appreciated by the Arab Countries in Transition. This approach also allows for practical prioritization of the cases in order to reduce the whole asset recovery process.</p>	<p><u>Ongoing</u>: Italian Authorities are engaged and remain available to assist all requesting countries in the Middle East and North Africa region at pre-MLA phase too.</p>
<p>Enhance case cooperation:</p>		
<p>During the post-transition period, work with local officials in requesting transition countries on the underlying investigations to develop leads for records and assets located abroad as well as to facilitate international legal assistance. This would include, upon request, sending practitioners (whether from the G8 country governments themselves, relevant international organizations and initiatives or other appropriate sources) to the requesting country</p>	<p>Italy established in February 2012 a multi-agency operational Working Group to increase and accelerate Italian efforts on asset recovery.</p> <p>Italy has provided full assistance to Tunisian, Libyan and Egyptian Authorities, sharing information and prioritizing cases.</p>	<p><u>Ongoing</u>: Italian Authorities remain available to assist all requesting countries in the Middle East and North Africa region.</p>
<p>Measures Related to Technical Assistance and Capacity Building:</p>		
<p>Provide Specialized Training: During the post-transition period, to the extent possible, provide funding and/or in-kind expertise to ensure that specialized training by international practitioners from relevant public authorities, whether from the G8 country governments themselves, relevant international organizations and initiatives (such as, inter alia, the World Bank/UN Office of Drugs and Crime Stolen Asset</p>	<p>Italy (Banca d'Italia and FIU with the collaboration of the MFA) has provided a training course mainly on the financial aspects of asset recovery (25-27 September). The invitation to attend the seminar is being addressed to Central Banks and Financial Intelligence Units from Deauville Partnership Countries and others (Egypt, Libya, Tunisia, Yemen, Morocco</p>	<p><u>Fully implemented</u></p>

<p>Recovery Initiative - StAR), or other appropriate sources is provided to requesting transition countries. The key topics would include: financial investigations, financial document analysis, asset confiscation and forfeiture, requesting international assistance, asset recovery and asset management tools, and other topics identified by the requesting countries</p>	<p>and Jordan).</p> <p>The seminar offered an overview of international best practices to combat corruption and to recover stole assets in light of the most recent developments in the international fight against ML and terrorism financing. The seminar stressed the importance of the new FATF standards and the 2005 Warsaw Convention, the role of UN and EU financial sanctions to prevent asset flight, the use of AML/CFT measures to prevent and combat corruption (increase of transparency; detection, investigation, prosecution and recovery of stolen assets), the best practices on Politically Exposed Persons (in terms of verification and risk management).</p> <p>A special attention has been devoted to the tools employed for identifying and freezing illicit funds (reconstruction of transactions; investigations; confiscation and provisional measures), to the role of international cooperation (between law enforcement and judicial sector; exchange of information among FIUs) and to the Italian experience of cooperation among national Authorities in this field (such as the setting up of a specific task force in Milan involving representative of Bank of Italy, Italian tax police, the local prosecutor's office and various investigative bodies to tackle economic crime: this approach has been recommended by the OECD as best practice worldwide; or analysis of case studies involving requests for international judicial cooperation, also in terms of seizure documentation and capital held abroad).</p>	
<p>Support domestic coordination: During the post-transition period, assist a requesting transition country in setting up locally an Asset Recovery Task Force (ARTF), as a domestic coordination measure for the transition country partner, comprised of representatives of relevant law enforcement agencies (police, customs, prosecutors, etc) and regulatory bodies (such as financial intelligence units, central banks etc.), among whose functions will be cooperation with international practitioners</p>	<p>See above.</p>	<p><u>Ongoing:</u> Banca d'Italia organizes regularly technical seminars and training courses to the benefit of Arab Countries in Transition as well.</p>

<p>Promote legal and institutional reforms: During the post-transition period, to the extent possible, assist a requesting transition country in drafting appropriate legislation and/or institutional reforms that will adhere to international standards, including, but not limited to, in pursuing criminal and/or non-conviction based forfeiture legislation; and to establish systems for disclosure of assets and interests by senior public officials and appropriate relations, consistent with international best practices; and other relevant legal frameworks. Urge relevant international organizations to assist in this regard</p>	<p>Italy has not yet received bilateral requests for assistance in this area by Deauville partners countries</p>	<p><u>Ongoing:</u> Italian Authorities remain available to assist all requesting countries in the Middle East and North Africa region.</p>
<p>Strengthen frameworks to manage recovered funds: During the post-transition period, to the extent possible, assist a requesting transition country with legislative drafting advice or other assistance in setting up locally a central fund, to receive assets confiscated at home or abroad and to ensure transparency in their administration.</p>	<p>Italy has not yet received bilateral requests for assistance in this area. Italy has good knowledge and skills on these topics. The Italian AMO (Assets Management Office) is the “National Agency for the administration and the destination of sized and confiscated assets from organised crime (A.N.B.S.C.- Agenzia Nazionale per l’amministrazione e la destinazione dei beni sequestrati e confiscati alla criminalità organizzata.)”. It was Established by a National Government Act of 2010, in order to (in a nutshell): a. advice and counsel Judicial Authorities during the proceedings; b. supply provisional management of the assets during the proceedings; c. undertake administration and allocation of forfeited and confiscated assets.</p>	<p><u>Ongoing:</u> Italian Authorities remain available to assist all requesting countries in the Middle East and North Africa region.</p>
<p>Support the Arab Forum on Asset Recovery: Support the establishment of and participate as appropriate in the Arab Forum on Asset Recovery, including through financial support, where possible, expertise, and attendance at the inaugural meeting at the appropriate level.</p>	<p>Italy participated in the first Arab Forum on Asset Recovery, with a high-level delegation including experienced practitioners to run workshops and offer bilateral casework meetings.</p> <p>Asset Recovery represents for Italy a high priority in the Deauville Partnership frame. This is the reason why, in line with the outcomes of three technical Special Sessions, we strongly support the organization of the Second Arab Forum.</p>	<p><u>October 2013:</u> Italy will attend the second AFAR with a high-level delegation, supported by senior officials and law enforcement practitioners. Italy has participated to the three sectoral seminars organized by the UK Presidency in 2013.</p> <p>We will work with all partners at the second Arab Forum to establish the governance structure and objectives for the future of the Arab Forum on Asset Recovery. Priority should remain high considering the sensitivity and the importance given by Public Opinion of the Arab Countries in Transition. We will remain steadily engaged in this field.</p>

