



Global Forum on Asset Recovery Washington, DC, December 4-6, 2017

**Co-hosted by the United Kingdom and the United States of America
with the support of the Stolen Asset Recovery Initiative (StAR),
a partnership of the World Bank and the United Nations Office on Drugs and Crime**

In-session summary

This in-session summary is provided to GFAR participants in advance of a comprehensive report that will be compiled and circulated following the meeting. It reflects the deliberations of the Forum up to, but not including the closing. GFAR deliverables, including asset recovery and beneficial ownership guides submitted by participating countries are made available on the GFAR webpage: <https://star.worldbank.org/star/about-us/global-forum-asset-recovery-gfar>

1. High Level Opening Session

The high level opening session was chaired by Ceyla Pazarbasioglu (Senior Director, Finance & Markets Global Practice, the World Bank Group) and featured remarks from Sandie Okoro (Senior Vice President and General Counsel, the World Bank Group), Hon. Jeff Sessions (Attorney General, the United States of America), Baroness Williams of Trafford (Minister for Countering Extremism, the United Kingdom), Hon. Abubakar Malami (Attorney General and Minister of Justice, Nigeria), Hon. Jayantha Jayasuriya (Attorney General, Sri Lanka), H. E. Mabrouk Kourchid (Minister of State Domains and Land Affairs, Tunisia), H.E. Valeriy Chaly (Ambassador to the United States, Ukraine), H. E. Ambassador Roberto Balzaretto (Secretary of State & Head of the Directorate of International Law, Federal Department of Foreign Affairs, Switzerland), and John Brandolino (Director, Division for Treaty Affairs, UNODC).

High level participants stressed that asset recovery was an integral part of the fight against corruption. They highlighted the need to address obstacles to asset recovery, such as the lack of international cooperation, inadequate national legislation and weak capacity of law enforcement agencies charged with investigation and prosecution of corruption crimes and the tracing, seizure, confiscation and return of stolen assets. Exchanging experience and enhancing cooperation between different jurisdictions, as well as the establishment of networks of practitioners specializing in asset recovery were referred among the steps to address those challenges.

Speakers welcomed the Global Forum on Asset Recovery and recalled that it had been a key commitment of the Anti-Corruption Summit 2016 in London. They thanked the co-hosts, focus countries and the StAR Initiative for its realization. They expected that the forum provided an opportunity to come to concrete and practical solutions both at the operational and at the political level, and welcomed that it brought asset recovery practitioners and development practitioners together. They further stressed the role of civil society and the media in asset recovery.



During the opening session, a Memorandum of Understanding between Nigeria, Switzerland, and the World Bank Group was signed. Remarks were given by H.E. Ambassador Roberto Balzaretto (Switzerland) and H.E. Ambassador Pio Wennubst (Vice Director-General, Head of Global Cooperation Department, Agency for Development and Cooperation, Federal Department of Foreign Affairs, Switzerland), Hon. Abubakar Malami (Nigeria) and Rachid Benmessaoud (Country Director, Nigeria, the World Bank Group). The Memorandum relates to a return of 321 million US\$ from Switzerland to Nigeria, that were illicitly acquired by the family of the late Former President of Nigeria General Sani Abacha. The Memorandum captures the tripartite agreement on the World Bank's monitoring role and the modalities of the funds repatriation and disbursement.

The \$321 million in funds being returned will be applied to the National Social Safety Net Project, which is financed by a credit extended by the International Development Association (IDA, the World Bank's concessional lending arm). The Bank will monitor the use of the funds in the same manner as it monitors the use of the IDA Credit. While the World Bank's role is limited to monitoring the use of the funds, the responsibility for the use of the funds is with the Federal Government of Nigeria

2. Session I: Coordination and Collaboration in Asset Recovery

2.1. Work Stream 1 & Work Stream 2 (combined session): Making Effective Use of Networks to Maximize Cooperation *before* the MLAT Process: Lessons Learned from CARIN, INTERPOL and the Egmont Group

Participants in this session shared insights on the role of the Egmont Group in asset recovery as well as lessons learned from the establishment of CARIN and the newly established International Anti-Corruption Coordination Centre (IACCC). Speakers highlighted the important role of networks in complex multi-jurisdictional asset recovery cases before the mutual legal assistance process, showcasing an example from Belgium. While limitations existed on the type of information which could be shared through networks, they could provide agencies with helpful informal contact points in other jurisdictions.

Highlighted challenges included problems with interagency coordination, a lack of trust between jurisdictions and concerns about information leakage, an inability to effectively use financial intelligence units' channels for sharing information that could be rendered as admissible evidence for the mutual legal assistance process, and difficulties related to diverse standards of evidence requirements in different jurisdictions. Highlighted good practices included using appropriate, complementary networks at different stages of the investigation, proactive outreach to counterparts in jurisdictions of interest, and measures to enhance the capacity of law enforcement agencies in charge of formal and informal international cooperation. There was strong agreement on the critical role of informal cooperation before mutual legal assistance proceedings for the success of asset recovery cases.

2.2. Work Stream 3: Domestic Coordination: Lessons Learned on Striking the Right Balance with Policy and Technical Experts

A panel discussion showcased examples of domestic cooperation bodies (tasks forces, specialized units, and committees) in Nigeria, Sri Lanka, Switzerland, Tunisia and the United States. Panellists highlighted that the success of domestic coordination hinged on the political



will of all involved Government institutions and the powers and multidisciplinary skillset assembled (including financial intelligence units, police, prosecutors and investigative judges, central banks, customs services and in some countries also non-state actors). Among the most important roles of a coordination entity was to serve as the single interlocutor for international cooperation, communicating with foreign counterparts and ensuring a coordinated approach to mutual legal assistance requests. The ensuing discussion turned to the institutional structures used for the management of seized and confiscated assets, including pre-confiscation sale and disposal, professional asset managers, and centralized data-keeping on seized and confiscated assets.

3. Session II: Tracing Stolen Assets

3.1. Using Technology and Innovative Techniques to Trace Assets

Speakers discussed a number of issues including the complexities of investigations into transactions involving virtual currency, the growing importance of using of open source information for financial investigations, as well as the urgency of finding innovative solutions for the tracing, freezing, confiscation and recovery of assets. It was highlighted that various legal avenues could be pursued to achieve successful asset recovery, including conviction and non-conviction-based confiscation. Proactive cooperation with foreign counterparts, as well the important role of civil society in corruption investigations and asset recovery was also emphasized. It was particularly noted that the concept of asset recovery should be applied more broadly and not only in relation to embezzlement, but also to bribery, fraud and other corruption and economic crimes.

3.2. Tracing Stolen Assets: Engaging the media and civil society in investigating corruption

Speakers from civil society organizations and investigative journalists described their work in making available information that could be useful for law enforcement in asset recovery cases. Examples included the presentation of a software that was developed to analyse asset declarations by Ukrainian Government officials, the Mossack Fonseca papers, as well as investigations into beneficial ownership of high-value real estate and investigations to follow the money in order to create consequences for those funding and profiting from genocide or other mass atrocities in Africa.

It was noted that civil society and media could uncover impressive amounts of information to which law enforcement did not have access, while on the other hand not always possessing comparable expertise, technical tools and legal powers. Speakers described how the active involvement of media and civil society in the investigation of corruption had in some cases led to public awareness-raising on corruption and asset recovery, thus contributing to policy and legislative reforms. The active participation of civil society could thus change fundamental approaches to the fight against corruption in the long run. However, it was noted that in some instances law enforcement authorities had treated media reports and civil society involvement with scepticism and full-fledged investigations on the basis of such information had not been opened.



4. Session III: Tools for Success

4.1. Work Stream 1 and 2 - Using Innovative Legal Tools for Asset Recovery

Speakers from Nigeria, Switzerland and the United Kingdom explained innovative legal tools used in their respective countries such as rapid freezing powers, non-conviction based forfeiture, the reversal of the burden of proof, illicit enrichment and unexplained wealth orders.

In the United Kingdom, civil asset recovery orders can be obtained on a balance of probabilities, independent of any criminal prosecutions. The speaker shared information on unexplained wealth orders. This new tool, which is due to come into force in early 2018, requires reasonable grounds for suspicion that known sources of the respondent's lawfully obtained income would be insufficient to purchase this property. The speaker from Switzerland explained that the Swiss system was very flexible and open in providing assistance to requesting States needing to secure assets in Switzerland by means of freezing and seizure orders. In Nigeria, although non-conviction based provisions had been available in various laws for some time, law enforcement agencies had largely focused on criminal forfeiture. Moves were now afoot to encourage expanded use of non-conviction based asset recovery through an asset recovery guideline, which addressed, among others, common human rights challenges based on the presumption of innocence and the property right provisions.

In the ensuing discussion, participants raised questions about the use of the assertion of fiscal fraud to explain wealth. Italy had passed a law to disregard tax fraud as an explanation for the derivation of wealth. The issue of enforcing non-conviction-based orders in jurisdictions that do not have non-conviction-based orders, such as Switzerland was also raised.

4.2. Works Stream 3- Technical Assistance: State of Play and Needs of Focal Countries

The discussions between the representatives of Nigeria, Sri Lanka, Tunisia, and Ukraine provided an opportunity for focal countries to identify technical assistance needs with bilateral and multilateral assistance providers. Common needs identified by the focus countries included primarily Information Technology tools to enhance asset tracing and database management, institution-building in the field of asset recovery, and improvements in asset management practices. The four focus countries acknowledged these needs positively, and communicated to the donors that these were important areas to continue anti-corruption efforts.

Focus countries also reported on the technical assistance they had received by a variety of multilateral and bilateral donors, ranging from institution building, strategic planning and media strategies to assistance in mutual legal assistance requests. They specifically highlighted different forms of trainings, including multi-agency approaches and train-the-trainers programmes. While legislative assistance had been required in some cases, in others the assistance had focused on training in order to make full use of the existing legal framework.

Donors, including the Governments of Switzerland, the United Kingdom and the United States, as well as technical assistance providers including the United Nations, the StAR Initiative and the International Centre for Asset Recovery, pledged to continue their support for the four focus



countries. This support will include bilateral and multilateral engagement, legal assistance, and the promotion of policy dialogue.

5. Session IV: Tell Us How You Did That - Work Streams 1, 2, and 3

Practitioners from requesting and requested jurisdictions shared their experience of specific asset recovery cases highlighting the obstacles they faced and innovative ways through which they were able to achieve successful outcomes.

In the ensuing discussion, speakers highlighted a number of good practices that were crucial for success. One of them was the adequate legal framework providing the key tools for prosecutors to act. Such a framework would allow them to pursue different avenues (civil, administrative and criminal) for asset recovery simultaneously. Another key aspect mentioned by all speakers was the personal interaction between prosecutors in the requesting and requested jurisdiction. It was emphasized that the development of trust between practitioners was crucial for better exchange of information, including via spontaneous disclosures and in the preparation of mutual legal assistance requests. Coordination at the domestic level, including by developing a coordinated strategy within the country and a strategic approach to engaging with foreign jurisdictions and private consultants was also highlighted. The importance of ensuring strong political will in addition to improving the technical aspects of cooperation was also emphasized.

6. Special Events:

6.1. 10 Years of the Stolen Asset Recovery Initiative

The 10th anniversary of the founding of the Stolen Asset Recovery (StAR) Initiative was celebrated with a reception. Speakers during the reception reflected on the importance of partnerships for asset recovery: between requesting and requested countries, between national institutions, between policy makers, practitioners and civil society, between international and regional networks and finally the partnership between the World Bank Group and UNODC to establish the StAR Initiative. Speakers complimented many highlights of StAR's work to support countries in their efforts to recover stolen assets; policy advocacy to lower the barriers to asset recovery; sharing knowledge of best practices in asset recovery; and fostering international cooperation through partnerships to recover assets and deter new flows.

6.2. The Arab Forum on Asset Recovery Special Event

The Arab Forum on Asset Recovery was launched in 2012 to facilitate the recovery of assets for the countries impacted by the Arab Spring with a primary focus on Egypt, Libya, Tunisia and Yemen. The event brought together perspectives from requesting and requested countries with a view to taking stock and identifying lessons learnt from the Arab Forum on Asset Recovery.

Speakers considered that the Arab Forum on Asset Recovery had helped to create a better understanding of asset recovery and had supported legislative reforms in requesting countries. They considered that the process had increased the trust between requesting and requested



jurisdictions. Technical assistance had been provided in the context of the Arab Forum on Asset Recovery to requesting countries, including by the StAR Initiative. The role of the Rule of Law and Anti-Corruption Center in Qatar in the process was also discussed. The StAR Initiative had been requested to compile a lessons learned document on the Arab Forum on Asset Recovery process, including an overview of all its session reports. Several inputs had been received from G7 countries and those of the Deauville Partnership and the discussion during this special event was to be integrated into the final report and circulated.

7. Side events

7.1. Toward a Win-Win New Option for Stolen Asset Return: The BOTA Foundation and the Concept of Philanthropication thru Privatization (PtP)

Philanthropication thru Privatization (PtP) is a concept that seeks to promote an option for the creation of independent charitable foundations when publicly owned or controlled assets are transformed into private wealth. The BOTA Foundation in Kazakhstan was discussed as an example of this. The speaker in the event outlined key recommendations for PtP advocates, including, to develop a PtP case statement for the foundation, recruit allies such as civil society organizations, the Government and businesses, secure funding for the advocates of PtP and raise public awareness.

7.2. Presentation on Asset Management Study

UNODC launched a study on the “Effective Management and Disposal of Seized and Confiscated Assets” at the seventh session of the Conference of the States Parties to the United Nations Convention against Corruption, held in Vienna in November 2017 (https://www.unodc.org/documents/corruption/Publications/2017/17-07000_ebook_sr.pdf).

In the side event, an overview of the publication was given. Italy addressed specific challenges and innovative solutions developed in dealing with the management of property seized in terms of its Anti-Mafia legislation. The country’s experiences with social re-use were also highlighted. Participants discussed good practices emerging from the study and reflected on their countries’ challenges in managing seized assets and disposing of confiscated assets. Participants also shared the institutional arrangements adopted to deal with asset management and disposal. Developing internationally agreed good practices in this area was a crucial next step which would assist Member States to properly address the management of seized and confiscated assets.

7.3. New Developments: How Global Beneficial Ownership Transparency Can Change the Game on Asset Recovery

According to World Bank research, anonymously owned companies are used 70% of the time to launder the proceeds of grand corruption. They also enable fraud, organized crime and tax evasion, at great costs to citizens. Beneficial ownership transparency is critical to prevent and tackle money-laundering and to enable asset recovery. The speaker in this session explored new developments in the field of beneficial ownership transparency at national and global levels,



specifically addressing the global concern on the use of corporate bodies and companies to hide the true owners of assets as was evident in the investigative journalism story on the Mossack Fonseca Papers. She specifically addressed the issue of beneficial ownership registries.

8. Civil Society Agenda

Civil society organizations conducted a series of discussions with regard to the contributions of non-state actors to asset recovery.

They discussed how civil society organizations could conduct investigations, what were their comparative advantages and disadvantages in uncovering relevant information for asset recovery and, in particular, how this information could become evidence admitted in court. Further, discussions explored the use of litigation by civil society organizations in the asset recovery process.

Specific substantive sessions targeted the investigative techniques which civil society organizations could use for investigating beneficial ownership, particularly in the context of companies. The use of asset declarations was also discussed, specifically showcasing the example of a Ukrainian organization that had made available big amounts of data relating to electronically searchable asset declarations and information on political exposed persons. Finally, the role of civil society organizations in the monitoring of the use of returned funds was discussed, with a view to preventing that such funds were re-looted again. A brain-storming session on transparency standards for asset recovery was also conducted.

Civil society organizations of the four focus countries prepared reports with concrete recommendations for their respective Governments and presented them to Government representatives who were invited to provide a response on what steps they are taking on asset recovery. Civil society organizations also distributed a communiqué with recommendations for asset recovery at the global level.

9. Bilateral Meetings

In the lead up to GFAR, intensive preparations were undertaken in the four focus countries to organize bilateral and multijurisdictional case meetings to make progress on specific asset recovery cases. Over 80 meetings were foreseen in advance of GFAR and more took place during the meeting, including many informal discussions between practitioners from different countries meeting for the first time.