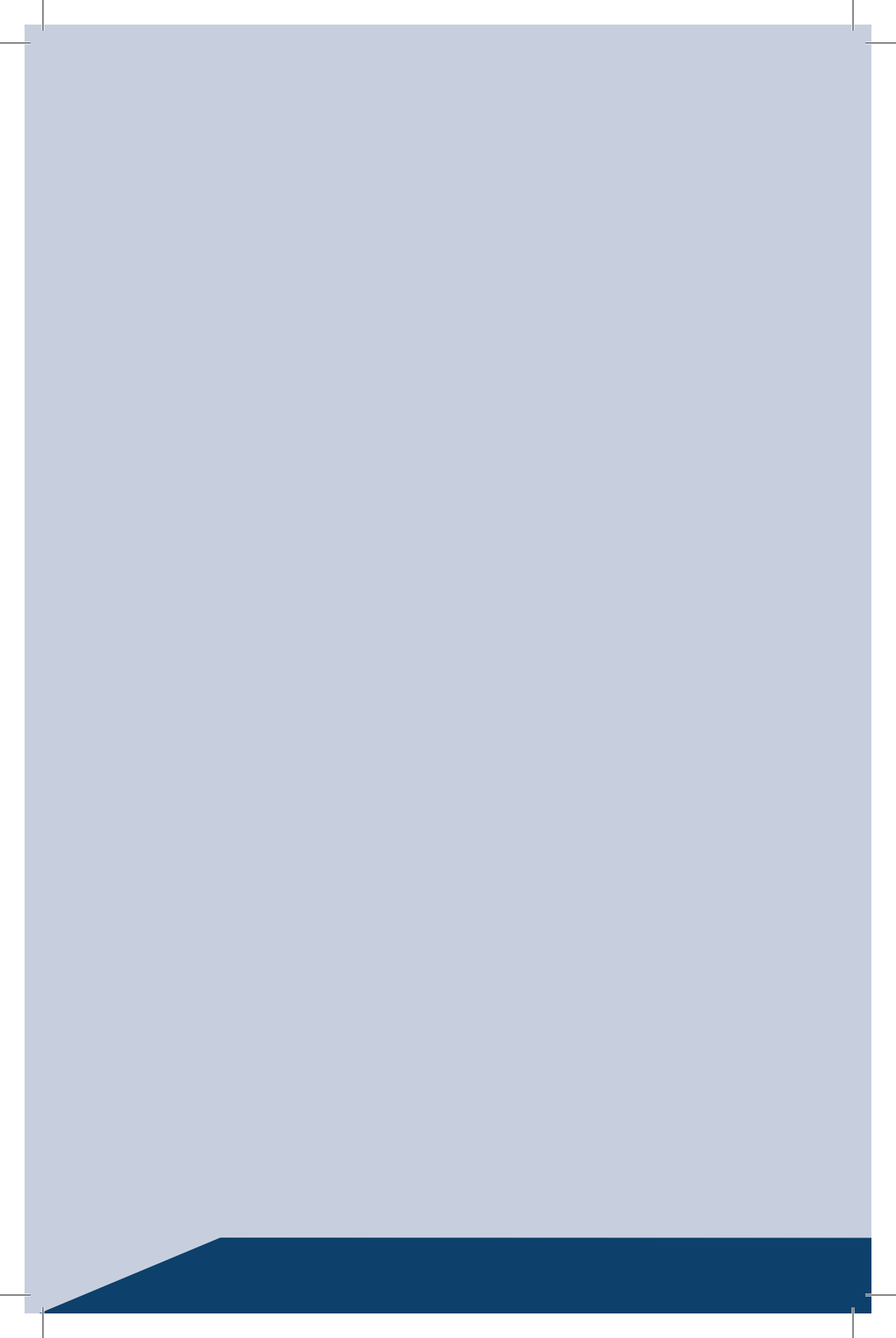


**U.S. Asset Recovery
Tools & Procedures:
*A Practical Guide
for International
Cooperation***





INTRODUCTION

The United States is firmly committed to the global fight against corruption. We are also determined to protect our economy from the corrosive influence of foreign corruption by preventing corrupt leaders from investing stolen money or bribes in the United States or laundering these tainted funds through our financial system. In furtherance of this objective, the Department of Justice (DOJ) launched the Kleptocracy Asset Recovery Initiative¹ in 2010, staffed with dedicated attorneys tasked to investigate and prosecute cases to seize and forfeit the ill-gotten gains of corrupt foreign leaders and their cronies. These attorneys work with partners around the globe in the fight against corruption, and their recent accomplishments have been significant. With the assistance of our international counterparts, the Kleptocracy Asset Recovery Initiative has restrained in U.S. courts more than \$3.2 billion in assets linked to foreign corruption. These assets are the subject of ongoing, often-difficult confiscation litigation. Since 2010, we have successfully completed recovery and assisted foreign governments in the recovery of over \$150 million in assets, which have been repatriated or are in the process of repatriation, and we are actively investigating cases involving hundreds of millions of dollars of additional assets linked to other allegations of foreign corruption.

To continue to succeed in this global corruption work, the United States works to forge close working relationships with our international colleagues so that affected parties can timely and efficiently share the information necessary to successfully collect evidence of corruption, and locate, seize, and confiscate ill-gotten gains. This guide, released by the U.S. Departments of Justice and State, provides practical information on how the United States can assist other countries in the recovery of corruptly obtained assets and criminal proceeds in general. It is not meant to be a comprehensive document but is designed to guide overseas colleagues on how the U.S. confiscation system operates (a system that U.S. law calls “forfeiture”) and contains suggestions to facilitate the confiscation assistance process.

Asset recovery work can be a complex and lengthy process and dealing with the legal systems of countries with different laws and legal traditions can be challenging. However, the growing number of success stories sends an important signal that the global law enforcement community will not allow corrupt government leaders to steal and profit from the people they are obligated to serve.

¹Kleptocracy comes from the Greek words *kleptein*, to steal, and *kratia*, to govern: a government controlled by thieves.

GETTING STARTED

There are two basic ways to request assistance from the United States: informal and formal. Informal requests through law enforcement channels can provide prompt access to information from public or voluntary sources, or where evidence can be obtained through non-coercive investigative techniques. Typically, formal requests are necessary where information or evidence must be obtained through coercive means or in a particular manner to ensure its admissibility in court, such as for the collection of financial records or compulsory witness statements. The purpose of this guide is to provide information about how to use both methods to obtain information and assistance from U.S. law enforcement authorities in the most efficient manner. The formal method involves Mutual Legal Assistance (MLA) requests through multilateral or bilateral treaties or agreements and often requires significant resources from the requesting state that can take considerable time to execute. We welcome and encourage informal inquiries because substantial information can be obtained without formal procedures and because informal assistance may expedite subsequent formal requests. Outlined below is a list of the key U.S. agencies that work on international asset recovery cases and can provide such assistance. Also below are some ways the United States can provide assistance before another country initiates a formal request and to help better shape a formal request when MLA channels are necessary.

U.S. Agencies Involved in Asset Recovery Cases

Department of Justice, Criminal Division, Money Laundering and Asset Recovery Section (MLARS):

This is the lead U.S. litigating agency on asset recovery in kleptocracy matters; its personnel also assist in requests from foreign jurisdictions for information and assistance in recovering assets from corruption and other crimes. We encourage our partners to first contact MLARS to discuss how the United States can help obtain evidence and information formally and informally.

Department of Justice, Criminal Division, Office of International Affairs (OIA):

This office is the central authority for the United States and is authorized to receive and assign all formal MLA requests for execution. Foreign governments should send all formal requests to OIA for assistance from the United States. OIA should also be consulted on how best to submit such a written request before it is transmitted.

Federal Bureau of Investigation (FBI) and the Department of Homeland Security, Homeland Security Investigations (HSI):

These law enforcement agencies have specialized investigative units of dedicated financial investigators assigned to specifically combat global corruption. They often form teams along with U.S. Internal Revenue Service (IRS) agents. In particular, the FBI has established an International Corruption Unit with its headquarters in Washington, D.C. and agents based in Washington, D.C. and other key cities in the United States. In addition, each of these agencies has representatives posted in many U.S. embassies around the world who can facilitate assistance in support of foreign investigations, particularly by providing informal assistance directly and by reaching back to their colleagues in other foreign posts and in U.S. offices. Practitioners from other jurisdictions can contact the FBI or HSI agents working in their country through the U.S. embassies in their countries to make inquiries or discuss their cases before making any formal request.

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I. Overview

There are five to six steps—in every country—to recovering illegal proceeds either from corruption or crime in general:

1. Identifying the underlying crime and admissible evidence establishing the criminal conduct;
2. Identifying and locating assets subject to confiscation;
3. Demonstrating (through evidence) the link between the assets and the criminal conduct;
4. Seizing or freezing the assets;
5. Confiscating the assets; and
6. Repatriating and disposing of confiscated assets.

II. Identifying and Proving the Criminal Conduct

The successful recovery of assets requires sufficient evidence of criminal conduct in a form admissible in U.S. courts. Evidence provided by countries seeking assistance that details the underlying corrupt conduct, as well as the officials, associates, and legal structures involved, is crucial at later stages of litigating confiscation actions. It is also important to identifying criminal proceeds, obtaining and maintaining restraints, and preserving assets during an investigation and trial. Corruption offenses often involve conduct within the country where the official holds office and internationally where some of the criminal conduct, legal structures, or money flows have occurred through international financial and economic systems. Timely sharing of evidence of criminality obtained by investigations in the corrupt official's country can be essential to obtaining evidence of criminal conduct overseas through formal and informal assistance.

III. Identifying and Locating the Assets

The goal of most money laundering is to conceal the links between criminal conduct and assets or between assets and the persons engaged in criminal conduct. To be successful in assisting countries in identifying illegal assets they believe are in the United States, specific information is often necessary regarding underlying embezzlement, bribery, or other corrupt acts. Information that may be necessary includes:

- The mechanisms for payments and particular financial transactions, as well as associates and legal entities believed to be involved in moving and concealing the kleptocracy proceeds;
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The amount and timing of transfers of funds or purchases, as well as the names and specific identification information for persons or legal entities in whose names the assets may be held or who may be signatories on bank or other financial accounts;

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- The location of assets, the destinations for frequent travel of foreign officials, or the location of their family members or relatives in the United States can also be helpful; and
- The identity of people who served as facilitating money launderers, including financial advisors or lawyers who aided in the movement of the funds, is sometimes important.

Please also keep in mind that in some instances the United States can exercise jurisdiction over criminal conduct, money laundering transactions, and assets that involved or affected the U.S. financial system, even if the assets are not located in the United States. For example, international wire transfers of corruption proceeds in U.S. currency may violate U.S. law and may provide a basis for U.S. asset recovery through its non-conviction based confiscation laws. U.S. legal processes can sometimes be used to freeze or seize, and ultimately confiscate, assets traceable to funds laundered in part through our financial system with the assistance of the country where the stolen funds ultimately were invested. The United States has had significant cooperation from other countries in non-conviction confiscation matters.

A. Informal Police-to-Police or Prosecutor-to-Prosecutor Requests

1. Direct Communication With Prosecution or Law Enforcement Offices:

a. Routine Investigative Assistance

Sometimes a country has solid financial intelligence on the location of property or other assets located in the United States obtained illegally, but they need further verification. That country can make an informal request asking the United States to undertake routine investigative measures such as witness interviews, visual surveillance, and public record searches, such as corporate formation data or real estate records. In order to request this type of assistance, contact MLARS, using the contact information at the back of this guide, or the FBI, HSI or IRS at the U.S. embassy in your jurisdiction. Confirming information through informal requests is often helpful before preparing and transmitting a formal MLA request for restraint or confiscation in order to avoid delays caused by the need to supplement formal requests. However, as explained below, U.S. laws make it difficult for the United States to provide information regarding the existence of bank accounts or bank account balances and regarding e-mail except in response to a formal MLA request.

Questions on Legal Procedure and/or Strategy

Advance contact by e-mail or telephone to MLARS or OIA legal practitioners prior to a formal MLA request may help resolve practical or legal obstacles to identification of assets. Such communication can also enable U.S. prosecutors and investigators time to prepare appropriate documents for submission to courts or take other

action to facilitate a response to formal MLA requests. U.S. officials may also have helpful suggestions on the best way to proceed for recovering assets and obtaining information necessary to recover assets in the United States that will save foreign partners valuable time and effort. Useful things to consider include:

- Neither U.S. prosecutors nor the U.S. financial intelligence unit can issue restraining or seizure orders; a court order is required.
- It may be much faster and efficient for both countries if it is possible for the requesting country's courts to issue a seizing or restraining order or a confiscation order under conditions which permit a U.S. court to enforce those orders against assets in the United States. These foreign court orders must be transmitted through MLA requests. However, where possible, specific requirements under U.S. law for enforcement of foreign orders should be discussed with MLARS before such foreign orders are obtained.
- To obtain court orders to perform a legal search of premises or e-mail accounts, U.S. law requires justification by a higher level of proof than for other coercive orders and needs to be supported by up-to-date evidence of criminal activity related to the premises or e-mail accounts. Discussing what will be needed may result in obtaining the evidence faster or lead to the conclusion that a formal MLA request for such a coercive action may not be possible.

b. Developing Local Relationships with U.S. Agencies

For answers to questions on how to proceed or a need for further clarification of U.S. laws and practices, please contact MLARS or the FBI, HSI or IRS officials at the nearest U.S. embassy. The more details you can provide, the greater the likelihood that satisfactory results will follow.

2. Investigative Networks

a. Practitioner Networks

In addition to U.S. representatives posted at embassies abroad and in U.S. offices, there are networks of asset recovery practitioners through which member practitioners can discuss cases, ideally on secure computer systems or by telephone. For example, discussions with vetted subject matter experts could help an investigator in Country A to informally learn if there are assets in Country B. In addition, Country A could alert Country B that there is unusual activity in its financial or commercial sectors or unusual travel patterns. These informal conversations may also smooth the way for making effective formal investigative or confiscation assistance.

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An example of these networks includes the Camden Assets Recovery Inter-Agency Network (“CARIN”), which has well over 50 member and observer jurisdictions and is linked to six similar CARIN-style regional networks covering an additional 60 jurisdictions. Requests to practitioners through the CARIN network are generally supposed to be made through the jurisdiction’s CARIN or CARIN-style network representatives. The CARIN and CARIN-style networks are not limited to corruption matters, but facilitate confiscation assistance with respect to all manner of criminal proceeds. More information can be obtained at carin@europol.europa.eu. The United States is a member of CARIN.

The Global Focal Points Network on Asset Recovery, coordinated by INTERPOL and the Stolen Asset Recovery Initiative (StAR), a joint initiative between the World Bank and the United Nations Office on Drugs and Crime, is a more corruption-focused practitioners’ network also designed to provide cooperation in asset recovery cases. The Global Focal Points Network can provide secure information exchange and identify points of contact in participating jurisdictions. It also conducts regular meetings of practitioners to facilitate case-coordination in multi-jurisdictional and bilateral matters. More information can be obtained at <https://www.interpol.int/Crime-areas/Corruption/International-asset-recovery>. The United States participates in the Global Focal Points Network.

b. Egmont Group

The Egmont Group is an association of Financial Intelligence Units (FIUs) from around the world, including the United States Financial Crimes Enforcement Network (FinCEN), that have agreed to share financial intelligence with one another in criminal and terrorism matters. When domestic legislation permits, law enforcement officials from a member of the Egmont Group can request financial intelligence from FinCEN through its FIU. The bulk of FinCEN’s information comes from suspicious activity reports, currency transaction reports, and cross-border cash transportation forms, as well as public records.

Information obtained from FIUs is often law enforcement sensitive and legally restricted for use as financial intelligence to help identify actual evidence that can be subsequently obtained through other formal means. Therefore, FIU information should not be presented in court as actual evidence. In other words, the source of this information often cannot be made public, but it can be important intelligence information that may lead the investigation to identify records to seek through a formal MLA request or to locate substantial assets that may become subject to confiscation. In some instances, it can be used to gain financial intelligence information faster than a formal MLA request. Your own FIU may be able to provide great assistance in accessing information maintained by FinCEN through the Egmont Group mechanisms. For more information go to www.egmontgroup.org.

B. Formal Requests

1. The general rule is that formal MLA requests are required if obtaining the information will require a coercive measure under U.S. law.

This includes:

- a. Requests for bank account records or wire transfer records;
- b. Requests for records from businesses or third parties where the person or entity refuses to provide records voluntarily;
- c. Certificates or other documents authenticating business or public records;
- d. Searches of premises, computers, or other electronic devices;
- e. Telephone, text, and/or e-mail records;
- f. Enforcement of a foreign restraining order or confiscation order; and
- g. Compelling or otherwise obtaining sworn testimony which a person refuses to provide voluntarily.

2. Legal Basis for a Formal Request

When a foreign jurisdiction requests formal legal assistance from the United States, they must state in the MLA request the legal basis under which the request is made. Usually the MLA request is based upon either a bilateral treaty or a United Nations or other multilateral treaty described below:

a. Mutual Legal Assistance Treaty (MLAT)

An MLAT is a bilateral treaty between two jurisdictions which dictates how a request can be made and for what purposes. The United States has MLATs with nearly 100 jurisdictions². The MLATs outline what information must be included in a request.

b. United Nations and Other Conventions

If a country does not have a bilateral treaty with the United States or any other country from which it is seeking legal assistance, a United Nations or regional convention can often be used if the requesting and requested countries have ratified the convention and the conduct is covered by the convention. The requirements for submitting valid MLA requests in conventions are generally similar to those described below, but each convention listed below has a section that describes the information which should be included in the MLA request.

- For corruption and related money laundering offenses, the United Nations Convention against Corruption (UNCAC);

²For a list of countries with whom the U.S. has a treaty for mutual legal assistance please go to: <http://www.state.gov/j/inl/rls/nrcrpt/2015/vol2/239045.htm>.

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- For “organized crime” offenses—offenses committed by three or more persons that can garner prison sentences of four or more years—and related money laundering offenses, the United Nations Convention against Transnational Organized Crime (UNTOC);
- For drug offenses and related money laundering offenses, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988 Vienna Convention);
- For terrorism offenses, and related money laundering and terrorist financing offenses, the United Nations Convention on Terrorism and Terrorism Financing; and
- For a wide variety of offenses, but limited to jurisdictions in the Western Hemisphere, the Inter-American Convention on Mutual Legal Assistance of the Organization of American States.

3. Requirements

Generally, the following information must be provided in a formal request seeking evidence or coercive assistance from the United States:

- Name of the bilateral treaty or multilateral convention (see above) that is being relied upon to support the request;
- Name of the authority conducting the criminal investigation or prosecution;
- Factual summary of the case, which includes how the assets in question are linked to the illegal conduct (the more detailed, the better the result);
- Text of the legal provisions or statutes, including penalties, on which the investigation or prosecution is based;
- Targets of the investigation or prosecution and names of entities or other legal structures involved in the criminal activity (including available identification information such as dates of birth, passport or identification numbers, corporate registration information, etc.);
- Explanation of the assistance sought and its relevance to the investigation or proceeding that forms the basis of the request; and
- Any special requirement, such as confidentiality or urgency, and why these are necessary.

For assistance in preparing a MLAT request, DOJ’s OIA is the primary contact for the proper form of all requests for formal legal assistance. OIA lawyers will work with their foreign counterparts to execute the requests for mutual legal assistance. OIA is also extremely helpful in providing guidance on how best to draft these requests. A preliminary call or e-mail to OIA can often expedite the MLAT process significantly.

IV. Seizing or Restraining Assets

A. Restraint Based on the Enforcement of a Foreign Restraining Order

1. Under U.S. law, the United States may, in some cases, enforce a foreign court's restraining order. The requesting country must provide DOJ's OIA with a request, made under the relevant MLAT, one of the UN or other regional conventions, or another formal agreement providing for mutual confiscation assistance.
2. The request must include:
 - a. A summary of the facts of the case supported by evidence that a crime was committed, that the assets in the United States to be seized/frozen resulted from that criminal conduct, and a reasonable basis to believe they will be forfeited. Be sure to double check the relevant MLAT or convention for other requirements;
 - b. A copy of the restraining order from the requesting jurisdiction's court that **specifically** identifies the assets in the United States to be restrained, or in the alternative, an order which clearly states that it restrains all of the assets belonging to the accused. If the restraint does not specify the assets belonging to the accused, it must provide the maximum amount of criminal proceeds that may be confiscated at the end of the foreign proceedings and the amounts restrained already in the investigation;
 - c. A statement or explanation from the requesting jurisdiction that it complied with due process requirements, which includes the process followed (or which will be followed if the order was *ex parte*³) for giving notice of all proceedings to all persons with a protected interest in the property subject to confiscation in sufficient time to be able to claim their rights to it;
 - d. Certification that the foreign court issuing the order has the jurisdiction – the legal authority – to issue such orders; and
 - e. Certification that there is no evidence the order was obtained by fraud.

B. Temporary Restraint (Freezing or Seizing) Based Solely on a Foreign Arrest or Charge

1. Under U.S. law, U.S. prosecutors may request U.S. courts to order a temporary (renewable) 30-day restraint of assets subject to confiscation located within the United States based upon evidence of an arrest or charge in the foreign country. However, there must be a strong factual and legal basis to believe that sufficient information will quickly be available to restrain and forfeit the asset under U.S. law, rather than the confiscation of such assets under foreign law. Because these strong assurances supported by facts and law must be made and kept, this type of relief is seldom authorized in the United States.

³*Ex parte* means that no notification is given to affected parties or the public-at-large about the case before the U.S. order is obtained.

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2. In pursuing such a restraint, a U.S. prosecutor can apply to a court where the property is located for an ex parte order restraining the property subject to confiscation for not more than 30 days while waiting for further evidence to support the initiation of a non-conviction based confiscation action in U.S. courts. The motion may require an affidavit from the foreign country's lawful authorities and could require the appearance in court in the United States by the affiant. This 30-day order may be extended if the U.S. authorities can show "good cause" for the extension.
3. Based on the evidence and summary provided by the requesting country to the United States, the U.S. prosecutor must demonstrate to the court in the United States:
 - a. The basis for belief that the person arrested or charged has committed the underlying crime(s);
 - b. The nature of the foreign charges and the basis for the belief that the person arrested or charged has property in the United States that is subject to confiscation under U.S. law;
 - c. Evidence that the property to be restrained is traceable to the illegal proceeds, or is an instrumentality, of the offense charged; and
 - d. Why a restraining order is needed to preserve the availability of the property for the period of time that is necessary to obtain evidence that will be used in support of the eventual confiscation of the property under U.S. law.

C. Request for an Order Restraining Assets in the United States Before a Charge or Restraining Order Has Been Obtained or Issued in the Foreign Jurisdiction

1. In some rare instances, prosecutors in the United States can seek a restraining order from U.S. courts on behalf of a foreign country in order to restrain property in the United States before a foreign defendant has been arrested or charged. This is done to ensure the assets in the United States do not disappear once the defendant has been arrested and could notify persons to move the money or dispose of the property. The duration of these restraining orders can be very limited and the degree of evidence required can be very strictly interpreted so it is advisable to consult with OIA and MLARS as early as possible to determine how we can help.
2. The requesting country must provide to OIA under the relevant MLAT or convention the following:
 - a. A summary of the facts of the case and any other information required under the specific treaty or convention;
 - b. An affidavit (a statement given under a sworn oath) from a foreign official with knowledge of the case that includes:
 - The history of the investigation and identities of suspects and their companies or businesses;

- The foreign statutory or legal citations and a summary of the offenses being investigated and/or charged and the confiscation authority for such offenses;
 - The dates of the offenses and the factual basis for the potential charges;
 - A description of the assets to be restrained (with verified bank account numbers or other identifying information);
 - a detailed explanation of the relationship between the specific assets to be restrained in the United States and the criminal conduct of the suspect;
 - a detailed explanation of any connection between any suspects and any corporate entities in whose name the assets may be held;
 - The supporting evidence, and anything indicating reliability of that evidence;
 - The reasonable basis to believe that charges will be placed in the very near future and that the property will be forfeited in the future;
 - Whether the identified assets are subject to confiscation as proceeds, property traceable to proceeds, or as instrumentalities, or instead will be one day subject to a value-based judgment (money judgment) even in the absence of a connection between the assets and the charged criminal activity; and
 - An affirmation that “due process”, namely, the right to notice of the proceedings and opportunity to be heard as a third-party innocent owner, has or will be followed in the proceedings and investigation.
3. The requesting country must provide enough information about the statutes and crimes being charged so that the U.S. prosecutor can show the court that **dual forfeitability** exists. That is, the underlying foreign criminal conduct justifying restraint or ultimately confiscation in the requesting jurisdiction must also be recognized as a crime under U.S. law for which confiscation would be available if the same acts or omissions occurred in the United States. Additionally, the affiant may need to appear in the court in the United States to provide evidence to the U.S. court.

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V. Confiscation of Assets

A. Non-Conviction Based Confiscation for Violations of U.S. Law

1. Under U.S. law, the Justice Department can initiate non-conviction based (NCB) confiscation proceedings against corruption proceeds and instrumentalities, including both property located in and outside the United States, if they are traceable to criminal acts in the United States or to criminal conduct occurring in part in the United States. Useful things to consider about NCB confiscations include:
 - a. This type of confiscation is encouraged by U.N. conventions and is a practice supported by certain recommendations issued by the Financial Action Task Force. It is an action against the property rather than a criminal defendant and, therefore, does not require a criminal conviction or a U.S. court's jurisdiction over the owner of the property. In pursuing NCB confiscation, the U.S. court must have jurisdiction over the property subject to confiscation, which may require only a limited connection to the United States, such as transactions in the U.S. financial system.
 - b. NCB confiscation actions require proof of a direct link between the illicit asset and the criminal conduct. Proof that the official has unexplained wealth may be helpful evidence, but may not alone be sufficient. The burden of proof for establishing NCB forfeiture is a civil "preponderance of evidence" standard, or that it is more likely than not that the asset was the proceeds of a crime or used to facilitate a crime.
 - c. The Justice Department can initiate its own NCB confiscation proceeding against proceeds and instrumentalities of certain designated predicate crimes for money laundering, which includes a broad list of foreign predicate offenses and other U.S. offenses with inherently international elements, such as the cross-border transportation of property obtained by theft or fraud that is valued over \$5,000.
2. In the event that U.S. authorities will pursue a confiscation action in U.S. courts, the United States will need from foreign law enforcement authorities all available evidence establishing the connection between the property and the foreign criminal activity, such as financial records, witness interviews, sworn testimony, relevant laws establishing criminal acts; charging documentation if applicable; and other pertinent information upon request.
3. Requests seeking the NCB seizure/confiscation of criminal property in the United States should include the following additional information:
 - a. Identification of the assets to be restrained or confiscated (including account numbers or other detailed identifying information);

⁴Confiscation based on a criminal conviction is also available under U.S. law. The United States can bring a parallel or successive criminal prosecution of a suspect investigated or charged abroad, if the conduct committed or related money laundering also violated U.S. law, which may also result in confiscation. This requires the physical presence of the criminal offender in the United States and is unlikely in foreign corruption cases. Contact OIA or MLARS if you believe it may be possible for the United States to obtain jurisdiction over the foreign official.

- b. Explanation of the relationship between the specific assets to be restrained or confiscated in the United States and the criminal conduct of the suspect (so that the United States can examine the possibility of bringing its own confiscation action);
- c. Explanation of connections between any suspects and any nominees or corporate entities in whose name the assets may be held;
- d. Identification of any restraining order that has been issued by a court of the requesting jurisdiction; and
- e. Identification of any final confiscation judgments obtained in the requesting jurisdiction as well as the procedural history of these judgments.

B. Enforcement of a Foreign Final Judgment of Confiscation

1. Under U.S. law, in certain circumstances the United States can petition a U.S. court to enforce a final order of confiscation entered by a foreign court. The order may include specific assets in the United States traceable to the offense or in some cases, assets representing the uncollected balance of value-based confiscation. The requesting country can submit to OIA an MLA request to enforce their court's final judgement of confiscation.
2. The following is required in the MLA submission:
 - a. A detailed summary of the facts of the case and any other information required under the specific treaty or convention;
 - b. A certified copy of the final, non-appealable confiscation judgment; and
 - c. An affidavit (a statement under oath) stating:
 - The judgment is not subject to further appeal;
 - The requesting country complied with due process (including giving notice of all proceedings to all persons with an interest in the property in sufficient time to claim any rights to it);
 - The court issuing the judgment has the jurisdiction (the legal right) to issue such judgments; and
 - There is no evidence the judgment was obtained by fraud.

Wherever possible, jurisdictions interested in this assistance should contact OIA or MLARS in advance of the entry of the order, if possible to increase the likelihood that it will meet U.S. criteria for enforcement.

VI. Repatriation and Disposition of Recovered Assets

A key objective of the Kleptocracy Asset Recovery Initiative is to recover assets for the benefit of the people of the country harmed by the abuse of public office through transparent and accountable means. Asset recovery sends the important message that corruption does not pay and helps the United States deny safe haven to the proceeds of kleptocracy. Transparent and accountable repatriation and disposition of confiscated assets can reinforce the anti-corruption objectives of criminal investigation, help ameliorate some of the effects of corruption, and demonstrate that misappropriated funds or ill-gotten gains have been recovered and can be put to purposeful public use.

Of course, repatriation and disposition of confiscated assets is dependent upon the identification, restraint, and confiscation of such assets, and the execution of confiscation judgments. International cooperation can be vital to such successful asset recovery actions. The effect of the legal process of confiscation is to extinguish property rights of an individual or legal entity and to vest that interest in the government, whether as the result of criminal conviction and confiscation at sentencing, NCB confiscation, or enforcement of a foreign forfeiture judgment.

The United States has flexible legal authority to repatriate and dispose of confiscated assets to certain victims of crime or in recognition of a foreign government's assistance. However, the different legal mechanisms available may vary depending upon the circumstances of individual cases. Through this legal framework, even before the formation of the Kleptocracy Asset Recovery Initiative, the United States has repatriated millions of dollars in recovered corruption proceeds through collaboration with its partners around the world. Foreign authorities should consult with MLARS regarding the different mechanisms available for repatriation and disposition of recovered assets in the context of particular cases.

CONTACT INFORMATION

Money Laundering and Asset Recovery Section (MLARS)

United States Department of Justice

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Email: kleptocracy@usdoj.gov

Telephone: +1 202 514-1263 (ask for an attorney in the International Unit)

Fax: +1 202 514-5522

Office of International Affairs (OIA)

United States Department of Justice

1301 New York Ave., NW, Washington, DC 20005

Attorneys are assigned responsibility for particular countries so ask for an attorney who is assigned responsibility for assistance issues involving your country.

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Office of Anti-Crime Programs

United States Department of State

2401 E St., NW, Washington, DC 20037

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“The fight against corruption requires the commitment and cooperation of every nation. The United States stands ready to assist its partners around the globe in combatting corruption, and we will deny foreign corrupt officials the use of our markets and the enjoyment of our goods. We will be steadfast in our resolve.”

-U.S. Attorney General Jeff Sessions



United States Department of State