



## 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

### Summary of discussions

#### 1. High Level Opening Session

This session was chaired by **Ms. Ceyla Pazarbasioglu**, Senior Director, Finance and Markets Global Practice, the World Bank Group, and featured remarks by **Ms. Sandie Okoro**, Senior Vice President and General Counsel, the World Bank Group, **Hon. Jeff Sessions**, Attorney General, the United States, **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, **Hon. Mabrouk Kourchid**, Minister of State Domains and Land Affairs, Tunisia, **H.E. Valeriy Chaly**, Ambassador Extraordinary and Plenipotentiary of Ukraine to the United States, **H.E. Roberto Balzaretto**, Secretary of State and Head of the Directorate of International Law, Federal Department of Foreign Affairs, Switzerland and **Mr. John Brandolino**, Director, Division for Treaty Affairs, United Nations Office on Drugs and Crime.

Ms. Pazarbasioglu noted that the Global Forum on Asset Recovery (GFAR), by bringing together representatives from 28 countries, provided an impressive amount of global expertise. She stressed that the four focus countries (Nigeria, Sri Lanka, Tunisia, Ukraine) required proactive support and that the Forum provided an excellent opportunity to share good practices and experiences in asset recovery. She emphasized the role of media and civil society in the fight against corruption and in asset recovery, and the improvement of global capacity in tracing and returning assets.

Ms. Okoro recalled the famous “cancer of corruption” speech by former World Bank President James Wolfensohn in 1996 and highlighted that GFAR brought together asset recovery and development specialists. It provided an opportunity to advance concrete asset recovery efforts of the four focus countries. She made reference to the 2016 Anti-Corruption Summit in London and to previous asset recovery forums supported by StAR, and highlighted the role of the focus countries and the co-hosts.

Hon. Jeff Sessions stressed that corruption eroded the confidence of people and investors and was a major detriment to development. He referred to sophisticated methods used by criminals to launder money and commit crimes internationally. He further noted the importance of international cooperation, especially exchange of evidence, and listed a number of important cases where the United States were able to successfully seize and return assets. He highlighted the recent steps of the Department of Justice to improve its capacity, including by increasing staff focused on international cooperation in two additional specialized units and increasing the capacity to react on weaknesses in data security and intellectual property fraud. Finally, he

emphasized that while cooperating internationally, practitioners needed to ensure both the respect of international borders and the effectiveness of their work.

Baroness Williams of Trafford referred to the Anti-Corruption Summit in London in 2016 as a watershed in the fight against corruption. She highlighted in particular the creation of the International Anti-Corruption Coordination Centre in July 2017. She emphasized that both requesting and requested countries required close partnerships and networks to achieve success, and action needed to be taken with a view to finding practical solutions. The United Kingdom had taken action by carrying out a number of reforms, including by establishing a beneficial ownership register that contained over four million companies, and by introducing unexplained wealth orders, as well as a legislation that allows companies to be held accountable on the basis of proven failure to prevent tax evasion.

Hon. Abubakar Malami described Nigeria's efforts to create an efficient prevention system, including through the introduction of a single treasury account that disburses all budgets to all Ministries and public agencies and biometric checks for those entitled to payments. Such measures had already led to government savings for government officials as well as corruption prevention measures. Nigeria was also pursuing the adoption of a new Procurement Act and the Proceeds of Crime Act containing provisions on an asset management agency. He noted that Nigeria had also introduced a policy of entitling people reporting about stolen asset to certain portions of the recovered funds, which facilitated asset recovery work. The Attorney General referred to the Nigerian Economic and Financial Crimes Commission as one of the leading agencies with a mandate to investigate and prosecute corruption crimes in the country. He also emphasized the important role played in the fight against corruption by Nigerian civil society organizations.

Hon. Jayantha Jayasuriya described his country's legal system, legislation and agencies in charge of fighting corruption and pursuing asset recovery cases. He noted that in order to address challenges associated with fighting corruption, Sri Lanka had introduced important amendments to its legislation. The Attorney General noted that further amendments to the legislation were being drafted with the assistance of the StAR Initiative, including for the introduction of civil forfeiture procedures into the Sri Lankan legal system for the first time. He further noted that Sri Lanka had established a dedicated task force team on asset recovery in addition to the specialized national authorities charged with the fight against corruption. The Attorney General also emphasized the importance of proactive international cooperation.

Hon. Mabrouk Kourchid noted that since 2011 Tunisia had been actively developing its democratic institutions and good governance. A Commission had been established to coordinate the country's asset recovery efforts as well as a database with information on stolen assets and national asset recovery had advanced considerably. The Minister noted that Tunisia worked on asset recovery with the help of the StAR Initiative and UNODC. He emphasized that article 57 of the United Nations Convention against Corruption had not been yet fully implemented and international cooperation in asset recovery needed to be improved. He welcomed GFAR as an important platform to exchange new ideas on how to improve asset recovery.

H.E. Valeriy Chaly emphasized that all institutions pursuing asset recovery in Ukraine participated in GFAR, and that Ukraine had taken significant steps to reform its law enforcement agencies in charge of the fight against corruption. He further noted that Ukraine was working on the creation of a special Anti-Corruption Court. The Ambassador mentioned some important results achieved by his country in the confiscation and return of assets illicitly acquired by the former Ukrainian President, Viktor Yanukovich and his associates, including

returns from the United Kingdom and Latvia, ongoing cooperation with the United States, and seizures in Switzerland and a number of European countries. Further international cooperation was under way with 40 jurisdictions.

H.E. Roberto Balzaretto stressed that GFAR provided the opportunity to link progress on policy and the practical aspects of asset recovery. He referred to the case of the former president of the Philippines, Ferdinand Marcos, in which the Swiss Government decided to proactively seize his illicitly acquired assets in 1986, thereby changing paradigms of asset recovery in Switzerland and beyond. The Ambassador further referred to the Lausanne process that had provided an important platform for the exchange of experiences between asset recovery practitioners and the Addis Ababa process led by Ethiopia and Switzerland for identifying best practices on asset return. The Memorandum of Understanding between Switzerland and Nigeria was highlighted as an important achievement and served as an example for partnership and pragmatism, two elements that made successful asset recovery possible.

Mr. John Brandolino referred to the seventh session of the Conference of the States Parties to the United Nations Convention against Corruption held in Vienna in November 2017. He noted that the increased interest in asset recovery had resulted in practical activity. The Global Forum brought together the elements for successful asset recovery: political will, technical expertise, cross-border cooperation and demand from civil society. The speaker highlighted the recent release of a number of important publications by the StAR Initiative, the strengthening of the StAR's ongoing support of the networks of asset recovery practitioners and the signing of the MOU between Switzerland and Nigeria as important developments that had provided a positive momentum for the successful conduct of GFAR.

The opening session featured a signing ceremony for a Memorandum of Understanding between Nigeria, Switzerland, and the World Bank. Remarks were given by **H.E. Roberto Balzaretto**, and **H.E. Pio Wennubst** (Vice Director-General, Head of Global Cooperation Department, Agency for Development and Cooperation, Federal Department of Foreign Affairs, Switzerland), **Hon. Abubakar Malami** and **Mr. Rachid Benmessaoud** (Country Director, Nigeria, the World Bank). The Memorandum related to a return of \$321 million dollars from Switzerland to Nigeria, that were illicitly acquired by the family of the late Former President of Nigeria General Sani Abacha. The Memorandum captured 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 were to be applied to the Nigerian National Social Safety Net Project, which was financed by a credit extended by the International Development Association (IDA, the World Bank's concessional lending arm). The Bank was to 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 was limited to monitoring the use of the funds, the responsibility for the use of the funds was with the Federal Government of Nigeria.

Hon. Abubakar Malami noted that the signing of the Memorandum had demonstrated the political will to fight corruption in both Nigeria and Switzerland. H.E. Roberto Balzaretto stressed that the Memorandum was an innovative solution for the recovery of funds and expressed the hope it would become the first of several agreements and as such represent an important milestone in international asset recovery efforts. H.E. Pio Wennubst underscored that the agreement was a further step towards the implementation of the commitments made in the Addis Ababa Action Agenda and that the agreement with Nigeria contained workable solutions for the return of funds. He thanked the team of the World Bank for its support and expressed the hope that this kind of agreement would start a broader movement towards cooperation.

## 2. Session I: Coordination and Collaboration in Asset Recovery

### 2.1. Work Streams 1 and 2: Making Effective Use of Networks to Maximize Cooperation before the mutual legal assistance process: Lessons Learned from CARIN, Interpol and Egmont

The session was chaired by **Mr. Frederic Raffray** (Camden Assets Recovery Interagency (CARIN) Network Steering Group) and featured presentations by **Ms. Laure du Castillon** (Deputy Magistrate at the Brussels Public Prosecutor's Office, Belgium), **Ms. Karin Grudd** (CARIN Network, Detective Inspector and Financial Investigator, National Operations Department, Swedish Police), and **Mr. Rupert Broad** (Head of the International Anti-Corruption Coordination Centre (IACCC), UK).

Ms. Du Castillon presented a case involving the Egmont Group, in which Belgian prosecutors received information, including beneficial ownership information and references to transactions into other jurisdictions, through the Group, in a multi-jurisdictional embezzlement case involving shell companies. Belgium had also used the Naples II Convention for this case, which authorizes spontaneous exchange of information between customs administrations in the European Union. The whole process only took three weeks. The panellist highlighted the real-time information available through networks, as well as the advantages of a single source of information for multi-jurisdictional cases. However, to obtain admissible evidence for a trial, an official mutual legal assistance request is necessary. She suggested that it would be useful to consider establishing a better coordination between different networks and creating a global comprehensive network of asset recovery practitioners.

Ms. Grudd presented lessons learned from the establishment of the CARIN network. CARIN is an informal network of European, non-European and US judicial and law enforcement practitioners that was established in 2002. The core element of the CARIN network is its contact list, comprising two contact points per jurisdiction. CARIN facilitates the exchange of operational requests related to asset recovery in an informal manner. The establishment of a secure platform for the exchange of information is being debated, and CARIN is seeking closer cooperation with Gulf countries, several of which have been attending CARIN meetings as observers since 2015.

Mr. Broad described the newly established International Anti-Corruption Coordination Centre (IACCC) that aims to coordinate the global law enforcement response to international grand corruption cases. Established in July 2017, the IACCC brings together law enforcement officers from seven countries into a single location in London with those law enforcement officers being granted access to their different national databases. IACCC uses existing channels to disseminate information to requesting countries, such as the Egmont Group. IACCC prefers to receive incoming requests through law enforcement channels in order to allow for due diligence before processing the request. It also provides investigative assistance to requesting countries to improve their mutual legal assistance requests. Countries conducting investigations should be aware that information contained in a request to the IACCC would be shared among its seven participating agencies.

In the ensuing discussion, it was highlighted that the networks were complementary and investigators could use different networks strategically for different purposes, and could also contact StAR in its role as a contact point between the networks. A StAR publication on the different features of the networks is forthcoming. UNODC also maintains a database of focal points for cooperation in civil and administrative proceedings (according to article 43 paragraph 1 of the Convention), and a database of country-specific asset recovery focal points. It was

discussed that a cultural shift should be supported, since in some countries the use of informal networks was viewed critically and formal channels were preferred.

Some of the challenges identified by speakers related to information leakage from the networks, lack of communication between FIUs and law enforcement agencies, difficulties with ensuring that the requested intelligence reached the right person, delays of mutual legal assistance following the informal exchange, and weaknesses in the capacities of central authorities. The “Global Central Authority Initiative” of the International Institute for Justice and the Rule of Law supported central authorities in their capacity-building.

The idea of a “red mutual legal assistance request” to expedite urgent requests was floated. A representative from Interpol reported that Interpol was in the process of developing a silver notice system that targeted assets, their location, and entities associated with these assets and which was expected to be launched in 2018.

## 2.2. Work Stream 3:

### **Domestic Coordination: Lessons Learned on Striking the Right Balance with Policy and Technical Experts**

The session was chaired by **Ms. Ladidi Bara’atu Mohammed** (Assistant Director, International and Comparative Law Department, Ministry of Justice, Nigeria) and featured country specific presentations by **Ms. Monia Aydi** (General Counsel of State, Tunisia), **Ms. Mary Butler** (Chief, International Unit, Money Laundering and Asset Recovery Section, Department of Justice, United States), **Mr. Pierre-Yves Morier** (Head of the Task Force Asset Recovery, Directorate for International Law, Federal Department of Foreign Affairs, Switzerland) and **Mr. J.C. Weliamuna** (Chairman of the Presidential Task Force for the Recovery of Illegally Acquired State Assets (START), Sri Lanka).

Mr. Weliamuna described how the fight against corruption became a priority after the election in 2015 which led to a change in government. START was established comprising all important domestic institutions and the Government decided to give the lead to a representative of civil society. Challenges included weaknesses in the legislative framework and in information-sharing between different agencies. Civil society has continuously worked with the investigation authorities on asset recovery cases. Legislation on asset recovery is being drafted and is expected to be in place in 2018. The panellist highlighted the need for international cooperation, which had to be based on a consolidated domestic framework.

Ms. Butler explained the Department of Justice Kleptocracy Initiative and the respective international unit, comprising 18 dedicated prosecutors working with other federal agencies such as the FBI, FinCEN (the U.S. FIU), Homeland Security and the IRS. A major role is played by law enforcement attachés and legal attachés (LEGATs) in American Embassies, but also by contacts in civil society and media. The unit can enforce foreign restraint orders and request the enforcement of foreign confiscation orders. It uses both criminal and civil forfeiture, the latter especially if the offender is unable or unwilling to face trial in the United States, if for example he or she is dead, has state immunity or is protected by the Government where they reside. As a result, so far 3.5 billion USD in assets linked to foreign corruption has been frozen. The cases range from 2 million USD to 1.5 billion USD. The panellist explained that generally the unit decided whether to accept a case and that relatively small cases were particularly accepted to help requesting States that made their first steps in asset recovery.

Mr. Morier described the several offices and authorities that deal with investigations in his country as well as the different type of possible restraint measures that had to be coordinated. Switzerland has created a framework with an overall strategy for all agencies with a clearly defined lead, coordinated by the Task Force for Asset Recovery. Switzerland has been pro-active in detecting and freezing assets linked to foreign corruption since the Ferdinando Marcos case in 1986, and proactive freezes have been undertaken in a number of cases since then. The country's anti-corruption strategy runs in parallel to its development aid policy. The main lesson is the importance of co-ordination both at the national and at the international level, and the need to rely on the expertise of all players involved. Other lessons learnt include the need to establish a robust mutual legal assistance system and a clear port of call for contacts, and to ensure that due attention is given to communication with partner States and the public.

Ms. Aydi gave an overview of the National Committee for Asset Recovery in Tunisia set up in 2011. It was chaired by the Governor of the Central Bank, with members from the Ministries of Finance, Justice, Foreign Affairs, and the State Prosecutor's office. The aim was to process information on stolen assets from the judicial system. An example of current work with the Swiss authorities was cited. After four years, the Committee had finished its work and provided a list of stolen assets, together with case files, actions taken and connected information. The Ministry of State Domain took on the Commission's mandate. Further, the State Prosecutor provided regular reviews of international actions and provides asset management.

The moderator of the session described how Nigeria had different agencies with different mandates for asset recovery, and the legal steps used in Nigeria, including orders forfeiting assets where the prosecutor needs this for evidence, and the use of civil measures to seize assets. Asset management was an issue as it did not sit naturally with law enforcement. She concluded that the condition for successful international asset recovery is that basic tools need to be in place at the national level.

The discussion that followed turned to issues relating to asset management, and the lack of national capacity in countries pursuing international asset recovery. Some countries are using existing expertise in insolvency and liquidation, highlighting the importance of outside expertise in asset management. Especially complex assets must be managed in a way that maintains their value but at the same time reduces risks.

### **3. Session II: Tracing Stolen Assets**

#### **3.1. Work Streams 1, 2 and 3:**

##### **Using Technology and Innovative Techniques to Trace Assets**

This session was chaired by **Ms Victoria Reid** (Operations Manager, International Corruption Unit, National Crime Agency, United Kingdom) and featured interventions by **Mr. James P. Daniels** (Special Agent Cyber Crimes HQ, Internal Revenue Service, United States), **Mr. John Gilkes** (Senior Managing Director, FTI Consulting), and **Mr. Dan Claman** (Principal Deputy Chief, International Unit, Money Laundering and Asset Recovery Section, Department of Justice, United States).

Mr. Daniels explained the complexities of investigation of transactions involving virtual currency. He emphasized that the use of virtual currency was very common. The main challenges associated with tracing illegal transactions involving virtual currency are their fast processing and the existence of virtual currency exchanges in various jurisdictions without regulatory control. Illegal transactions in virtual currency have the same features as illegal transactions in cash. Despite the possibility to trace transactions in virtual currency, investigators are not always able to identify the owners of the assets in question. Despite the challenges associated with this new area, the panellist stressed that

assets in virtual currency can be seized and forfeited when appropriate investigative techniques are applied.

Mr. Gilkes outlined the growing importance of using open source information for financial investigations and asset tracing. Such information includes entries generated by social networks users, for example, 2 billion active users on Facebook and 340 million users on Twitter. During financial investigations, it is important to identify the network of close associates of a suspect. Usually the investigations focus on key persons and jurisdictions, including offshore jurisdictions. Finally, it was also emphasized that investigations using social media can be effective only as part of broader and more comprehensive criminal and financial investigations.

Mr. Claman described the complexities of tracing and recovering assets in the case of a former high-ranking Nigerian official. The evidence of the corrupt nature of his assets came to light in the United Kingdom and they opened a money laundering and corruption investigation. To be successful, the investigators needed to prove the underlying criminal activity, identify the assets, and demonstrate a link between the two. The corresponding investigation in the United States was initiated based on requests received from the United Kingdom. Two real estate properties were forfeited in the United States based on non-conviction based forfeiture, and an investment account worth US\$400,000 was identified by tracing it from a check that had been used to purchase one of the properties. The success of this investigation was due to the forensic accounting and advanced technological software used for tracing the illicit proceeds.

In the ensuing discussion, participants underscored the importance of using innovative approaches and new technologies in the investigation of corruption and financial crimes. One speaker noted that assets of the above-mentioned high-level Nigerian official were confiscated using non-conviction based forfeiture in South Africa, based on affidavits produced by Nigerian prosecutors. One of the participants noted that commercial banks can be sued for facilitating the laundering of assets. Proactive cooperation with foreign counterparts including via liaison officers as well the important role of civil society and investigative journalism in corruption investigations and asset recovery was highlighted. National anti-corruption bodies should therefore ensure support from local communities. Speakers additionally emphasized that asset recovery should be pursued not only in relation to embezzlement, but also to bribery, fraud and other corruption and economic crimes.

### 3.2. **Work Streams 1, 2 and 3: Tracing Stolen Assets: Engaging the media and civil society in investigating corruption**

This session was moderated by **Ms. Deborah L. Wetzel** (Senior Director, Governance Global Practice, World Bank) and featured interventions by **Ms. Louise Story** (New York Times), **Mr. Kevin Hall** (McClatchy News Syndicate), **Mr. Dmytro Chaplynskyi** (White Collar Hundred, Ukraine) and **Mr. Jonathan Benton** (Director of Operations, Europe, The Sentry).

Mr. Chaplynskyi discussed two projects initiated in 2014. First, the website [declarations.com.ua](http://declarations.com.ua) made 22,000 asset declarations publicly available in a searchable format; formerly stored on hard copies, they have been digitalized by volunteers. Once Ukraine launched e-declarations, [declarations.com.ua](http://declarations.com.ua) launched a set of tools to work efficiently with both paper and e-declarations. The page receives 800,000 hits per working day. [Pep.org.ua](http://Pep.org.ua) makes 26,433 profiles of politically exposed persons and their assets (including legal entities and information from national and foreign registries) available. The translation of the information on PEPs is nearly final, and there are plans to also translate the information on asset declarations, allowing for increased usage by foreign public and private institutions.

Mr. Hall discussed his experience working on the Mossack Fonseca papers and the Paradise Papers, which both contain large amounts of data. He described how the consortia having access to the data

reviewed and processed the data, made it searchable and released it in chunks. This required a high level of coordination and trust between 400 journalists working on it for over 15 months. These sources provided a basis to distinguish between the legitimate and the illegitimate use of offshore accounts. One of the findings of the analysis was that bearer shares are increasingly replaced by foundations as instruments for money-laundering.

Ms. Story described her work as an investigative reporter in an investigation into the owners of the Time Warner Center in New York, including national and foreign PEPs. It took one year until the owner of each of the 200 units in the building was identified. One focus was the use of shell companies in the purchasing of high-end real estate, often as a cover for money-laundering and fraud. The series of articles published as a result generated a public discussion and led to regulatory reform which includes a new reporting obligation for the title insurance companies of certain high-value properties.

Mr. Benton explained that The Sentry is an organization investigating money flows in order to go after those funding and profiting from genocide or other mass atrocities in Africa. The Sentry cooperates with a number of civil society organizations that are ready to engage in the evidentiary process of corruption investigations. This process creates a wealth of information that can be put at the disposal of law enforcement and investigators. Once made available, this information can contribute to ensuring that high-level suspects of grand corruption cases are denied access to the banking system.

In the ensuing discussion, speakers referred to the difficulties of finding the necessary funding for the work of civil society and investigative reporters, some of which are operating on the basis of foreign donor money. Some pointed out how even the amount of information available for example in the Mossack Fonseca papers, is not automatically taken into account by policy makers and have in many cases not yet led to policy changes. Further, the technical and budgetary limitations of law enforcement agencies in developing countries often prevents a systematic evaluation of such databases containing significant amount of data on owners and transactions. Institutions and initiatives such as StAR and ICAR are trying to bridge the gaps, and governments are accountable to keep the commitments of the 2016 London Anti-Corruption summit, which can also help make progress in law enforcement. One speaker pointed out the importance of public perception, and advocated a cultural change from idealizing wealth towards a critical attitude and a questioning of wealth. She drew a parallel with the current shift in attitude to sexual harassment which in a matter of months has made certain behaviour no longer acceptable.

#### 4. Session III: Tools for Success

##### 4.1. Work Streams 1 and 2: Using Innovative Legal Tools for Asset Recovery

This session was moderated by **Mr. Daniel Claman** (Principal Deputy Chief, International Unit, Money Laundering and Asset Recovery Section, Department of Justice, United States) and included presentations by **Ms. Liz Baker**, (Head, Proceeds of Crime and International Assistance Division, Serious Fraud Office, United Kingdom), **Mr. Pascal Gossin** (Head, Mutual Assistance Unit I: Seizure and Handing over of Assets, Division for International Legal Assistance, Federal Office of Justice, Switzerland), **Mr. Pierre-Yves Morier** (Head, Task Force Asset Recovery, Directorate for International Law, Federal Department of Foreign Affairs, Switzerland), and **Professor Bolaji Owasanoye** (Executive Secretary, Presidential Advisory Committee against Corruption, Nigeria).



Ms. Baker gave an overview of non-conviction based confiscation (civil recovery) in the United Kingdom. Civil recovery orders can be obtained in civil proceedings before the High Court in respect of property that is proceeds of crime or property traceable to such property. The civil standard of balance of probabilities applies, and the procedure is independent from the possible opening of criminal proceedings. The panellist highlighted the importance of the availability of investigative powers to gather evidence to support civil remedies such as customer information orders, production orders, search and seizure warrants and interception and monitoring of communication. She also explained that an unexplained wealth order is an investigative tool to compel a person to provide a statement within a specified time regarding the nature of their interest in property, how it was obtained and where it was held. Failure to comply can result in the court presuming property is recoverable property. This new tool was introduced in the Criminal Finances Act 2017 and is due to come into force in early 2018. Likely challenges to the reversed burden of proof are anticipated. Another challenge relates to situations in which respondents have commingled explained and unexplained wealth.

The two panellists from Switzerland highlighted the flexible asset restraint system of their country, which allows authorities to freeze assets quickly and keep funds restrained for a long time. Switzerland has three types of freezing powers:

- An administrative freeze imposed under the authority of the Federal Council which has a double nature: preventive and for purposes of confiscation. This preventive freeze has been used successfully in Switzerland to freeze assets for many requesting countries, including the Philippines, DRC, Haiti, Tunisia, Egypt, Libya, Cote d'Ivoire, and Ukraine. The freeze for purposes of confiscation is possible if mutual legal assistance cannot succeed because of dysfunction of the judiciary or situations in which the procedure in the requesting State does not respect the minimal standards of human rights.
- A freeze based on mutual assistance: Seizure may be ordered by the Swiss Federal Office of Justice as well as by cantonal and federal prosecutors upon a mutual legal assistance request and according the Swiss law on International mutual legal assistance (IMAC).
- A freeze based on criminal law: assets might be frozen in the framework of investigations lead by the Swiss criminal prosecution authorities.

Requesting States were encouraged to make contact with central authorities in the United Kingdom and Switzerland to discuss the most appropriate way to obtain evidence and secure assets.

Prof. Bolaji explained that there are four types of forfeiture available in his country:

- Interim forfeiture of assets pursuant to a court order;
- Forfeiture of proceeds of an offence or asset acquired from proceeds of an offence for which the defendant has been convicted;
- Forfeiture of assets which derive from an offence for which the defendant has been discharged or acquitted, under certain circumstances, and
- Non-conviction based forfeiture, when the defendant has fled the jurisdiction; the defendant is a PEP who acquired unexplained wealth; the asset has been abandoned or disowned; and when the defendant uses an intermediary or middleman to acquire the asset.

The panellist stated that although Nigeria has non-conviction based forfeiture, law enforcement agencies have largely focused on criminal forfeiture. Nigeria is currently in the process of passing a Proceeds of Crime Act with similar provisions to the UK non-conviction based forfeiture and a wider range of investigative powers. Challenges against the non-conviction based forfeiture are based on human rights concerns relating to the presumption of innocence and the right to property. Moves are now afoot to encourage its use through an asset recovery guideline. The guideline addresses common human rights challenges and identifies constitutional provisions that allowed for civil and criminal forfeiture of property to address such concerns.

The ensuing discussion addressed possible conflicts between domestic confiscation and mutual legal assistance relating to the same property. This scenario is considered more likely with the use of non-conviction based forfeiture given the lower threshold. It was stated that, for example in Switzerland, priority is usually given to the mutual legal assistance process over the domestic process. Further, it was noted that Swiss courts have been able to execute mutual legal assistance requests for non-conviction based confiscation, provided there is an open criminal investigation in the requesting State, even though NCB is not provided for under Swiss law.

Further, unexplained wealth proceedings are sometimes challenged by the explanation of a suspect that their wealth is not derived from illegitimate sources but, although legitimate, not honestly declared in order to avoid taxes. Italy passed a law in 2017 which explicitly excludes tax fraud as an acceptable explanation for the derivation of wealth in ‘unexplained wealth’ cases.

## 4.2. Work Stream 3:

### Technical Assistance: State of Play and Needs of Focal Countries

This session was facilitated by **Mr. Oliver Stolpe** (Task Team Leader, StAR), with interventions by **Mr. Artem Sytnik** (Director of National Anti-corruption Bureau - NABU, Ukraine), **Mr. Anton Yanchuk** (Director, Asset Recovery and Management Agency, Ukraine), **Judge Mohamed Wasef Jlaiel** (Deputy Attorney General of the Republic of the General Directorate of Criminal Affairs, Tunisia), **Ms. Ladidi Mohammed** (Assistant Director, International and Comparative Law Department, Ministry of Justice, Nigeria), **Mr. Yasantha Kodagoda** (Solicitor General, Stolen Asset Recovery Task Force (START), Sri Lanka) and **Mr. Sarath Jayamann** (Director General, Commission to Investigate Allegations of Bribery and Corruption - CIABOC, Sri Lanka).

The speakers from Ukraine provided a description of their respective organizations (ARMA, NABU), but primarily focused on successful techniques and future needs. Two of Ukraine’s primary issues in asset recovery and anti-corruption are the development of a media strategy and long-term strategic planning. At the time of GFAR, a media campaign needed to garner the support from the Ukrainian citizens and keep them engaged on issues of public corruption. Regarding Ukraine’s long-term strategy, there is a need for information technology tools, trainings focused on open source intelligence and best practices in asset recovery and a strong human resources department that can effectively recruit the best people. In addition, there is no clear asset recovery policy development.

Mr. Jlaiel discussed the international community’s support of Tunisia’s legal professionals in asset recovery best practices and the Mutual Legal Assistance process. Judge Jlaiel thanked StAR, UNODC, and the German Development Agency for training Tunisian judges and exposing them to European practices and counterparts that have helped move Tunisia in the right direction. Going forward, Tunisia requires capacity-building in special investigation techniques for judges and prosecutors, software and logistical support to analyse financial criminal acts, and capacity-building for the judicial police.

Ms. Mohammed referred to Nigeria’s ongoing progress in asset recovery, while acknowledging that certain legal and policy areas are in need of improvement. In particular, she pointed out that practitioners do not make full use of all legislative tools available. Further, the country is facing challenges with asset management. Training and assistance programs provided to Nigeria’s asset recovery authorities have helped identify these gaps. But additional needs include the establishment of a central database of seized and confiscated assets, continuous capacity-building and training of investigators and judges, also at the State and local level, and national and regional strategies for the implementation of technical assistance. While she acknowledged the gains as a result of the

assistance, she drew attention to the shortfalls which need to be addressed as part of a long-term strategy.

Sri Lanka's speakers explained how new their authorities are to the asset recovery field and that technical assistance has only started within the past three years. However, this assistance has been crucial for them. Specifically, technical assistance and cooperation from the World Bank, StAR, UNODC, the United States, and the United Kingdom has jumpstarted the country's asset recovery efforts. 2015 saw the majority of developments, with the creation of START and the Financial Criminal Investigation Unit bolstering both the legal authorities and law enforcement. The two speakers finished by discussing further technical assistance needs, including the development of a comprehensive criminal law for the seizure and confiscation of assets, the establishment of a single electronic platform to monitor and process mutual legal assistance requests, and continued and sustainable training of investigators in investigating corruption offences and making use of asset declarations.

In the ensuing discussion, speakers described the different aspects of technical assistance that their respective countries or organizations had received and provided. The technical assistance questions contained in the UN Convention against Corruption self-assessment checklist and the country review reports on chapter V were referenced as a useful tool for donors to identify and prioritize needs. South-South cooperation was also mentioned as an area that should be supported, not only in times in which traditional donors often faced budget constraints. The speakers closed with a frank discussion on additional technical assistance efforts that are still required and noted an evaluation of what has worked and what needs to be improved should be undertaken.

The moderator concluded by summarizing the discussion with the following points:

- Efforts in development of proceeds of crime legislations are needed;
- Continuous training of legal practitioners is needed, to enable them to use all legislative tools available to them, in particular on asset tracing and mutual legal assistance;
- Specific areas mentioned: creation of anticorruption courts and asset management;
- Income and asset declaration is a useful tool for recovery;
- Best practices are needed as countries develop their long-term strategies;
- Institution-building in the field of asset recovery, and support for the coordination of existing institutions;
- Support in the advocacy to ensure draft laws are adopted by Parliament is necessary;
- Information Technology tools, asset tracing and support to networking across borders are common requirements;
- StAR should work with partners to achieve further gains in asset recovery, but other donors and technical assistance providers also play an essential role;
- Each focus country is at a different level, but they have all made progress in the run up to GFAR. They could also look at themselves as technical assistance providers, not just recipients (South-South cooperation).

## 5. Session IV: Work Streams 1, 2, and 3:

### Tell Us How You Did That

This session was facilitated by **Mr. Emile van der Does de Willebois** (Lead Financial Sector Specialist, StAR). The experience of Brazil was presented by **Mr. Boni de Moares Soares** (Director, International Affairs Department, Attorney General's Office), the case of Switzerland and Ukraine was presented by **Ms. Laura Schurr** (Mutual Assistance Unit I: Seizure and Handing over of Assets, Division for International Legal Assistance, Federal Office of Justice, Switzerland) and **Mr. Yevgeniy Yenin** (Deputy Prosecutor General, Office of the Prosecutor General, Ukraine), and the

cooperation between Switzerland and Tunisia by **Mr. Mounir Chedly** (Rapporteur in Chief of State Litigation, Tunisia) and **Mr. Pascal Gossin** (Head of the Mutual Assistance Unit I: Seizure and Handing over of Assets, Division for International Legal Assistance, Federal Office of Justice, Switzerland).

Mr. Soares gave a presentation on the “Car Wash Case”, a high-value multijurisdictional money-laundering case involving inter alia the Brazilian multinational construction conglomerate Odebrecht. The panellist outlined a number of important reasons for success. Firstly, Brazil has comprehensive anti-corruption legislation that allows for civil and administrative liability of legal persons. The authorities can conclude leniency agreements with the implicated companies and can negotiate settlements, given that legal persons can be held criminally liable in Brazil. Secondly, Brazil actively uses law enforcement cooperation channels and asset recovery practitioners’ networks. The Central Authority has initiated a number of civil actions overseas, working with private lawyers and accountants. The proactive information-sharing by some foreign jurisdictions has enabled Brazilian authorities to open criminal cases in Brazil. Further, Switzerland returned some assets even before relevant proceedings were finalised in Brazil.

Ms. Schurr referred to some successful examples by Switzerland to freeze proceeds upon request from the Ukrainian authorities. The Swiss Federal Office of Justice designated the Yanukovych case a priority mutual legal assistance case, thus facilitating and speeding up the transmission of the relevant evidence. In February 2014, alleged proceeds were frozen in Switzerland. Since the spring of 2016, Switzerland has been submitting relevant evidence to the Ukrainian authorities. Throughout the ongoing cooperation with Ukraine on those cases, the Swiss authorities have proactively shared information with their Ukrainian counterparts. The parties have also conducted extensive consultations with the assistance of ICAR to address deficiencies in the initial mutual legal assistance requests submitted by Ukraine.

Mr. Yenin outlined some challenges and successes relevant to his country’s ongoing asset recovery efforts. He commended the assistance provided by the Swiss authorities and noted that both parties were able to establish a constructive working relationship based on trust. The panellist further noted that domestically the Prosecutor General’s Office of Ukraine was able to confiscate around 1.5 billion US dollars’ worth of assets. He further highlighted that direct informal contacts with foreign counterparts, spontaneous sharing of information by them, as well as their strong political will to cooperate are important factors behind the successful progress of the Ukrainian asset recovery efforts. The panellist also mentioned practical problems posed by dual criminality and the use of innovative technologies, such as dark net and the use of cryptocurrencies.

Mr. Chedly explained the actions undertaken by the Tunisian Government in order to recover the assets illicitly acquired by the country’s former president Ben Ali and his associates. He referred to challenges in Tunisia’s cooperation with Switzerland that, inter alia, were also due to deficiencies in initial mutual legal assistance requests prepared by Tunisian authorities. He also noted that eventually some of the associates of Ben Ali proposed to negotiate arrangements providing for the return of assets in exchange to leniency in criminal prosecution of their corrupt conduct.

Mr. Gossin confirmed that initially his country had experienced difficulties in executing Tunisian mutual legal assistance requests. However, the Swiss authorities were able to initiate their own domestic investigation of money laundering offences, which eventually led to the return of assets to Tunisia. He also highlighted the benefits of the Swiss regulations allowing freezing of assets for a time sufficient to address procedural legal challenges associated with the asset recovery process. He also stressed that due to other challenges, including those related to alleged human rights violations during domestic Tunisian proceedings, obtaining confiscation orders in Switzerland took a

considerable time. However, he also noted that based on mutual efforts of both jurisdictions, significant amounts of assets were eventually recovered.

In the ensuing discussion, speakers exchanged experiences on strategic approaches to pursuing international asset recovery cases. In particular, the Brazilian panellist explained that his country's authorities try to prioritize traditional international cooperation channels over civil litigation involving private counsels. He noted that there are certain difficulties associated with hiring private counsel, including a cumbersome selection and hiring process that must follow Government procurement rules, as well as the high costs of employing private consultants. He further explained that Brazil had opted not to use litigation funders and had been able to negotiate favourable terms with private litigators it hired in jurisdictions of interest. With regard to the leniency agreements used by the Brazilian authorities, he highlighted that it was possible to negotiate mitigated punishment and even provide immunity from prosecution to defendants provided they are not leaders of organized criminal groups. The panellist also called upon the representatives of central authorities and law enforcement agencies to consider enhancing their cooperation and represent each other's interests in their respective jurisdictions more proactively.

## 6. Bilateral and multijurisdictional meetings

In the lead up to GFAR, intensive preparations were undertaken between the U.S., U.K., StAR, and the four focus countries to organize bilateral and multijurisdictional case meetings to make progress on specific asset recovery cases. Over 100 bilateral and multijurisdictional took place during the meeting, including many informal discussions between practitioners from different countries meeting for the first time.

## 7. Closing Round Table

The closing roundtable was chaired by **Mr. Jan Walliser** (Vice President for Equitable Growth, Finance and Institutions, World Bank). Presentations were given by **Ms. Ladidi Bara'atu Mohammed** (Assistant Director, International and Comparative Law Department, Ministry of Justice, Nigeria), **Hon. Jayantha Jayasuriya** (Attorney General, Sri Lanka), **Hon. Mabrouk Kourchid**, Minister of State Domains and Land Affairs, Tunisia, and **Mr. Yevgenyi Yenin** (Deputy Prosecutor General, Office of the Prosecutor General, Ukraine), as well as **Mr. David Ugolor** (Founder and Executive Director of Africa Network for Environment and Economic Justice ANEEJ) on behalf of civil society participants.

Mr Walliser highlighted that asset recovery is not an end in itself but a tool to make sure justice is served. GFAR has led to tangible results in this effort, including through the bilateral and multijurisdictional meetings which have identified concrete future steps that will be concretized in the case work in the coming months. Further, he considered the panel discussions useful for the sharing of good practices and innovative legal and technical tools. He highlighted the role of civil society in asset recovery. He also stressed that asset recovery is a long-term process requiring patience and continued dedication, in close connection with the entire anti-corruption agenda.

Ms. Mohammed stated that Nigeria valued its role as a focus country of GFAR so highly that it had organized a national preparatory conference with a broad range of national stakeholders, with the support of the United Kingdom and Sweden. She expressed gratitude for the support provided by the StAR Initiative and highlighted that the bilateral meetings with other jurisdictions were fruitful and productive. Praising the important success achieved in the signing of the Memorandum of Understanding with Switzerland and the World Bank, she indicated that a similar agreement was being negotiated with the United States.

Attorney General Jayasuriya underlined that, apart from information-sharing and the exchange of experience, the unique feature of GFAR was the opportunity to advance concrete cases in bilateral and trilateral meetings. Sri Lankan officials had the opportunity to discuss 43 of their cases with several jurisdictions and conducted their first multijurisdictional meetings, thereby improving their understanding of the legal requirements in the requested jurisdictions and establishing personal contacts with counterparts in requested countries. The speaker also made reference to the Memorandum of Understanding between Nigeria, Switzerland and the World Bank as an inspiring example that returned funds to serve the people.

Hon. Mabrouk Kourchid referred to the media coverage of the Global Forum, which helped to raise awareness on asset recovery. He highlighted the importance of political will and assured partners of the political will of his government to make progress on asset recovery. He further highlighted the importance of effective confiscation procedures and the enforcement of foreign enforcement orders, even in the absence of the accused person. In this context, he expressed his gratitude to the Swiss Government for its cooperation and to StAR for its help in identifying reasonable procedures. He reported that the bilateral meetings had given them an opportunity to discuss and find agreements on the freezing of assets over extended time periods, with a view to the finalization of judicial processes and their eventual return.

Mr. Yenin stressed the transnational nature of corruption cases and reported that 90% of the corruption cases investigated by his institution required international cooperation. The bilateral meetings were an excellent opportunity to discuss asset recovery requirements in general and case specific issues, with a view to completing asset recovery cases as soon as possible. The speaker made reference to the public protests against corruption Ukraine especially in 2014, which made clear that the Ukrainian people did not tolerate corruption. While legal and institutional challenges in the country remain, asset recovery needs to be addressed as a matter of priority, and requires the help of the international community.

Mr. Ugolor highlighted the global and country-specific recommendations elaborated by the civil society organizations during GFAR. He stressed that the underlying cases of asset theft had to be addressed, in particular by measures improving financial transparency. In this context, the country specific recommendations included, inter alia, calls for:

- Establishing a beneficial ownership register for companies in the United States;
- Making available the information on assets held in overseas territories in the beneficial ownership register in the United Kingdom;
- Adopting the Proceeds of Crime Act, creating a single body for the implementation of the anti-corruption strategy, and strengthening the authority of the FIU in Nigeria;
- Adopting the Proceeds of Crime Act, ensure public dissemination of asset declarations and strengthening information-sharing among institutions in Sri Lanka;
- Criminalizing illicit enrichment, encouraging officials to make asset declarations in Tunisia;
- Introducing anti-corruption courts, and ensure the transparency of pre-trial settlements in Ukraine.

## 8. Closing Session: The Way Forward

Remarks were given by **Mr. Richard Glenn** (Acting Deputy Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs, United States) and **Mr. Richard Riley** (Director of Strategic Centre for Organized Crime, Office of Security and Counter Terrorism, Home Office, United Kingdom).

Mr. Glenn highlighted that the objectives of the Forum were to reaffirm political will, build capacity and make progress on ongoing asset recovery cases, and that they had all been achieved. He noted

that the United Nations Convention against Corruption, which provides the first legally binding framework on asset recovery, has only been in force since 2005, and that countries around the world have made significant progress in asset recovery since its adoption. He further mentioned that initiatives such as the Arab and Ukraine Fora on Asset Recovery were models for the Global Forum and provided examples for how the international community could respond when emerging needs arose. The speaker highlighted that face-to-face case consultations are critical for success in asset recovery and that civil society plays an important role throughout the process. He recalled that asset recovery is not the end goal in, but that the ultimate goal is that stolen assets benefit the people affected by corruption. He mentioned, the Memorandum of Understanding concluded by Nigeria, Switzerland and the World Bank as a case in point. Mr Glenn stated that GFAR was not an end, but only a touchstone on the way forward towards more successful asset recovery.

Mr. Richard Riley delivered a statement on behalf of the United Kingdom as co-host of the Global Forum. In this statement, the United Kingdom reaffirmed its commitment to tackling corruption and made four pleas:

- Persistence to the identify, freeze, confiscate and return stolen assets;
- The public good should be the common value around which policy makers, law enforcement and civil society build a coalition, against the common enemy of kleptocracy;
- Prevention is an important part of asset recovery and should receive more attention;
- Partnerships within law enforcement, between law enforcement and administrative institutions, between States, with civil society organizations and with the private sector are key for successful asset recovery.

## **Annex I: GFAR Communiqué and annex**

### **GLOBAL FORUM ON ASSET RECOVERY COMMUNIQUE**

**Washington D.C.  
December 4-6, 2017**

The **United Kingdom of Great Britain and Northern Ireland** and the **United States of America** co-hosted the first Global Forum on Asset Recovery (GFAR) in Washington DC on 4-6 December 2017, with support from the Stolen Asset Recovery Initiative (StAR), a joint initiative of the World Bank and UN Office of Drugs and Crime. The forum focused on the recovery of assets stolen from **Nigeria, Sri Lanka, Tunisia and Ukraine**.

Over 300 participants representing 26 jurisdictions as well as international organisations, civil society and media, came together at GFAR to recommit to the global asset recovery agenda; share best practices; provide technical training to asset recovery practitioners; and support capacity building initiatives. Most importantly, GFAR provided the opportunity for over 80 bilateral and multi-jurisdictional meetings to make progress on significant asset recovery cases in the four focus countries. It provided a platform for the signing of new agreements, including a significant new MOU between Nigeria, Switzerland and the World Bank which sets out the return of \$321m of recovered assets.

The United Kingdom, the United States, Nigeria, Sri Lanka, Tunisia and Ukraine, welcome the renewed commitment to the global asset recovery agenda demonstrated at GFAR. Specifically, we:

- Welcome the high-level political commitment from all participating countries to continue to afford one another the widest measure of cooperation and support in asset recovery, consistent with relevant provisions of the UN Convention against Corruption, and to use GFAR to translate commitments into reality.
- Commit to continue to strengthen efforts to prevent corruption before it starts, including implementing codes of conduct, ethics training, whistle-blower protections, and integrity in public institutions, and urge other countries to do so. These efforts can protect assets and prevent them from being stolen.
- Recognize the importance of strengthening international asset recovery processes and implementation of the UN Convention against Corruption as the global legal framework on asset recovery. We reiterate the importance of strengthening the recovery and return of stolen assets consistent with Goal 16 of the UN Sustainable Development Goals.
- Call on states to implement asset recovery commitments including the G20 High-Level Principles on Asset Recovery and commitments made at the 2016 London Anti-Corruption Summit where 21 countries committed to strengthening or reinforcing legislation to ensure stolen assets can be recovered and 11 countries committed to developing guidelines for the transparent and accountable return of stolen assets.
- Recognize the important role of international organisations and practitioner networks, including the Stolen Asset Recovery Initiative Camden Asset Recovery Interagency Network (CARIN) and similar bodies, the Global Focal Points Network on Asset Recovery, Egmont Group, and the newly created International Anti-Corruption Coordination Center (IACCC).





- Recognize the multi-stakeholder nature of asset recovery and will continue to promote dialogue, trust and collaboration between civil society, media, law enforcement and other government bodies.
- Acknowledge the valuable contribution made by civil society organizations, and will continue to provide support for their work. We urge states to provide funding to support global asset recovery efforts.
- Acknowledge the important efforts of the Arab and Ukraine Fora for Asset Recovery, organized under the leadership of the G7 between 2011 and 2015. These galvanized political will on asset recovery, prompted action across multiple jurisdictions, and facilitated detailed practitioner exchanges. Arab Forum countries came together at GFAR to discuss experiences and lessons learned from the AFAR process, which will be outlined in a final report. We commit to applying this knowledge in our ongoing asset recovery efforts.
- Acknowledge that challenges exist, and agree that success in asset recovery requires partnership and that responsibilities and efforts are needed on both the requesting and requested sides.

We recognise the important role that the inaugural GFAR has played in providing a platform to:

- Sign a Memorandum of Understanding between Nigeria, Switzerland and the World Bank setting out the return of \$321m of recovered assets.
- Discuss transparency in the return of assets and welcome the *GFAR Principles for the Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases*.
- Share experience around innovative approaches to asset recovery including forensic accounting tools, and legal tools such as non-conviction based asset forfeiture, illicit enrichment provisions and rapid freezing powers.
- Consider the renewal of freezing measures or extending statutes of limitations of offenses so that assets remain frozen in the context of lengthy legal processes.
- Commit to strengthen cooperation as well as continue to make progress on asset recovery cases and call on other states to do the same, recognizing the importance of an effective and coordinated law enforcement response and of building dialogue, trust and collaboration between jurisdictions.
- Commit to participate actively in expert-level deliberations under the UN Convention against Corruption, including its Asset Recovery Working Group, to help share our challenges and lessons learned with the global law enforcement community.
- Recognize the importance of creating opportunities for states to share experience and good practice, and welcome GFAR reconvening as required, when significant and complex asset recovery case coordination efforts are necessary. Hosts and organizers will be determined based on the country or countries in need and the type of assistance identified collectively by financial centers and requesting countries.

## **ANNEX: GFAR PRINCIPLES FOR DISPOSITION AND TRANSFER OF CONFISCATED STOLEN ASSETS IN CORRUPTION CASES**

*The co-hosts and four focus countries at GFAR reaffirmed their commitment to the return and disposition of confiscated stolen assets as articulated in UNCAC. They highlighted the importance of technical assistance towards successful asset recovery and disposition. They reflected further on their experiences, and emerging lessons, from previous instances of returns. Cognisant of the work already going on under the auspices of UNODC, and the call in the Addis Ababa Action Agenda<sup>1</sup> for the international community to develop good practices on asset return, GFAR participants offered the following considerations for principles that would promote successful asset return.*

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

**Principle 1: Partnership.** It is recognised that successful return of stolen assets is fundamentally based on there being a strong partnership between transferring and receiving countries. Such partnership promotes trust and confidence.

**Principle 2: Mutual interests.** It is recognised that both transferring and receiving countries have shared interests in a successful outcome. Hence, countries should work together to establish arrangements for transfer that are mutually agreed.

**Principle 3: Early dialogue.** It is strongly desirable to commence dialogue between transferring and receiving countries at the earliest opportunity in the process, and for there to be continuing dialogue throughout the process.

**Principle 4: Transparency and accountability.** Transferring and receiving countries will guarantee transparency and accountability in the return and disposition of recovered assets. Information on the transfer and administration of returned assets should be made public and be available to the people in both the transferring and receiving country. The use of unspecified or contingent fee arrangements should be discouraged.

**Principle 5: Beneficiaries.** Where possible, and without prejudice to identified victims, stolen assets recovered from corrupt officials should benefit the people of the nations harmed by the underlying corrupt conduct.

**Principle 6: Strengthening anti-corruption and development.** Where possible, in the end use of confiscated proceeds, consideration should also be given to encouraging actions which fulfill UNCAC principles of combating corruption, repairing the damage done by corruption, and achieving development goals.

**Principle 7: Case-Specific Treatment.** Disposition of confiscated proceeds of crime should be considered in a case-specific manner.

**Principle 8: Consider using an Agreement under UNCAC Article 57(5).** Case-specific agreements or arrangements should, where agreed by both the transferring and receiving state, be concluded to help ensure the transparent and effective use, administration and monitoring of returned proceeds. The transferring mechanism(s) should, where possible, use existing political and institutional frameworks

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<sup>1</sup> *Financing for Development conference, July 2015, para 25*



and be in line with the country development strategy in order to ensure coherence, avoid duplication and optimize efficiency.

Principle 9: Preclusion of Benefit to Offenders. All steps should be taken to ensure that the disposition of confiscated proceeds of crime do not benefit persons involved in the commission of the offence(s).

Principle 10: Inclusion of non-government stakeholders. To the extent appropriate and permitted by law, individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, should be encouraged to participate in the asset return process, including by helping to identify how harm can be remedied, contributing to decisions on return and disposition, and fostering transparency and accountability in the transfer, disposition and administration of recovered assets.

## Annex II: GFAR special events and side events

### 1. Special Events:

#### a. 10 years of StAR

The 10<sup>th</sup> anniversary of the founding of the Stolen Asset Recovery (StAR) Initiative was celebrated. **Ms. Fernanda Zavaleta** (Senior Communications Officer on behalf of Ms. Ceyla Pazarbasioglu, Senior Director, Finance & Markets Global Practice, The World Bank Group), **Mr. John Brandolino** (Director, Division of Treaty Affairs, UNODC) spoke at the special event. Additional remarks were provided by **Mr. Frederic Raffray** (Crown Advocate, Bailiwick of Guernsey), **Ms. Yira Mascaró** (StAR Coordinator); and **H.E. Roberto Balzaretto** (Secretary of State and Head of the Directorate of International Law, Federal Department of Foreign Affairs of Switzerland).

#### b. The Arab Forum on Asset Recovery

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. It was chaired by **Mr. Jean Pesme** (Former Coordinator of the Stolen Asset Recovery Initiative) and featured presentations by **Mr. Ahmed Ewais** (Public Prosecutor, Egypt), **Ms. Freya Jackson** (Counselor, UK), **Mr. Mohamed Kammoun** (First Investigative Judge, Tunisia), and **Mr. Mohamed Askri** (Judge, Qatar).

The objective of the session was to conduct a stocktaking of lessons learned from the Arab Forum on Asset Recovery (AFAR) process for the benefit of GFAR and other subsequent initiatives. The session brought together perspectives from requesting and requested countries, practitioners and policy makers. 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.

Speakers considered that the Arab Forum on Asset Recovery had helped 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.

Five main issues emerged related to asset recovery efforts: political will, coordination, building trust (i.e., how to prepare bilateral work, structuring interactions, etc.), the sharing of asset recovery/beneficial ownership tools, and capacity building (exchange of what has and hasn't worked in financial centers and developing countries). The role of civil society was also highlighted.

### 2. Side events

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

A presentation was given by **Mr. Lester Salamon** (Director, The Philanthropication thru Privatization (PtP) Initiative, Johns Hopkins University and the East-West Management Institute). The presenter explained that Philanthropication thru Privatization (PtP) was a concept that sought to promote an option for the creation of independent charitable foundations when publicly owned or controlled assets were transformed into private wealth. The BOTA Foundation in Kazakhstan was discussed as an example of this. The speaker 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.

**b. Presentation on Asset Management Study**

This side event was chaired by **Mr. Francesco Testa** (Chief Public Prosecutor of Chieti, Italy). A presentation was held by **Ms. Hermione Cronje** (former Regional Head of the Asset Forfeiture Unit in South Africa, StAR consultant).

Ms. Cronje presented the UNODC study on the Effective Management, Use, and Disposition of Seized and Confiscated Assets that was launched at the Conference of the States Parties to UNCAC in November 2017.

The study reflects the asset management experience of 64 countries from all regions and different legal systems. It addresses the management of seized assets before confiscation, the final disposal of assets, and the institutional arrangements that have been adopted to manage seized and confiscated assets. The speaker noted that there is no one-size-fits all solution and that the study shows the different challenges countries face as well as detailed solutions. Such solutions, however cannot be directly imported to other jurisdictions without adaptation. Each country needs to assess its own capacity based on the level of development of the asset recovery system. Directly following GFAR there was an international expert group meeting on identifying good practices emerging from the study that can serve as the basis for non-binding guidelines.

In the ensuing discussion, a number of speakers shared information on the asset management systems in their countries. Emerging international standards were welcomed. One speaker noted that while the discussion currently aimed at developing non-binding guidelines, a binding instrument in future could not be excluded, because for successful international cooperation a common ground on the mechanisms for disposal of assets was important.

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

The session was moderated by **Ms. Heather Lowe** (Legal counsel, Global Financial Integrity). Panellists were Ms. Sylvia Bluck (Governance Adviser, Anti-Corruption Team DFID, United Kingdom), Andrii Sliusar (Project Manager Transparency International-Ukraine), and Zosia Szykowski (Project Manager, Open Ownership).

The speaker from the United Kingdom highlighted the problem of corporate vehicles used to move money round the world and hide assets. At the Anti-Corruption Summit in London in 2016, States committed to put in place transparent structures for companies as well as beneficial ownership registries. At the time of the Global Forum, only the United Kingdom and Ukraine had a beneficial ownership registry in place. The United Kingdom has had a company's registry since 1840; updating information has been an ongoing challenge.



In Ukraine, information from the cadastral registry was transferred to block chain technology in October 2017. The companies' information on beneficial ownership process was growing slowly because of the manner in which the data was initially stored.

The speaker from Open Ownership explained the organization's mission, which was to simplify access to company information, through the website <https://register.openownership.org>. The organization also provided technical support to interested countries in putting up beneficial ownership registries.

In the subsequent discussion, participants discussed ongoing challenges in beneficial ownership transparency. Examples included the verification of beneficial ownership information and its use in countries where such data was not yet openly available. It was noted that for example in the United States, some States were reluctant to put in place beneficial ownership requirements because companies provided a source of revenue. However, discussions have started in the context of the financing of terrorism.

## Annex III: Civil society sessions

### a. Overview of the Asset Tracing & Recovery Process.

This session featured a presentation by **Mr. Jonathan Spicer** from the International Center for Asset Recovery (ICAR). The speaker gave a presentation on four stages of asset recovery, namely the pre-investigative, investigative, judicial and return stages. He distinguished between informal and formal means of cooperation to obtain information and evidence from foreign jurisdictions. Barriers to effective investigations include delays, difficulties in international co-operation and inexperience of investigating teams.

Following the presentation, speakers addressed the differences between a fishing expedition and a legitimate mutual legal assistance request, and emphasised the need to use informal measures prior to submitting formal requests for assistance. The duration of freezing orders was also discussed with a view to the duration of court processes, keeping in mind that successful due process challenges sometimes result in the release of assets. Another issue raised concerned how to handle human rights based appeals on in absentia convictions.

### b. How CSOs can Conduct Investigations.

This session featured a presentation by **Mr. Jonathan Benton**, from The Sentry. He explained how non-State actors could contribute to the investigation of assets. The need to build trust between Governments and civil society was highlighted.

In the ensuing discussion, speakers discussed means of obtaining company information in other countries and pointed out the usefulness of having open or half open registries. Speakers discussed how to go about setting up investigative chains through the use of company information. Speakers further spoke of the need for CSOs to network across jurisdictions, noting in this regard the great risk involved, as well as the significant amount of information and the trust and confidence needed. Risk mitigation strategies include email encryption systems, strategic storage of data and choice of meeting places.

### c. How CSOs can use litigation to intervene in and enhance the Asset Recovery Process

The session was moderated by **Ms. Fatima Kanji**, from the International State Crime Initiative, Queen Mary University of London. The speakers were **Mr. Ken Hurwitz**, from Open Society Foundation, **Mr. Youssef Belgacem**, from Iwatch, and **Mr. Timothy Adewale**, from the Socio-Economic Rights and Accountability Project, SERAP.

In their presentations, the speakers discussed various case studies concerning asset recovery. One speaker presented a multi-jurisdictional case overview of proceedings that CSOs had been involved in. Another speaker spoke about partnerships with journalists in following the money related to specific cases, as well as cooperation with organizations in foreign jurisdictions. One speaker pointed out that communities needed to be aware of the fact that the assets stolen were theirs, and described cases showing that citizens have a role to play in asset recovery. In one such case, he explained that the Court held that the Government should disclose detailed information about assets stolen and recovered. In another case, he described a decision in which it was held that assets that had been recovered must contribute to the socio-economic life of the people.

**d. Presentation of GFAR CSO reports with government representatives invited to provide a response on what steps they are taking on asset recovery.**

This session was moderated by **Ms. Gillian Dell**, from the UNCAC Coalition, and included the following speakers from the GFAR Focus countries: **Mr. Youssef Belgacem**, IWatch (Tunisia); **Mr. David Ugolor**, ANEEJ (Nigeria); **Mr. Mahesh Herat**, Transparency International (Sri Lanka); **Ms. Tetiana Shevchuk**, ANTAC (Ukraine); **Ms. Susan Hawley**, Corruption Watch, and Government representatives from Nigeria, the United Kingdom and the United States.

The CSO representatives noted with appreciation, the support of some of their Governments and made recommendations at the global level such as:

- (1) The passage and updating of relevant laws;
- (2) The provision of sufficient financial and technical resources to newly established Asset Recovery and Management offices;
- (3) Merging the anti-corruption mandate under a single anti-corruption body, and ensure that it takes a multi-stakeholder approach to coordination;
- (4) Creation of a national database of all recovered assets to ensure accountability and transparency;
- (5) Strengthening of the anti-money laundering framework and FIU to meet FATF and Egmont Group standards;
- (6) Ensuring that recovered assets were used to meet the Sustainable Development Goals and to compensate victims;
- (7) Creation of a comprehensive mechanism for monitoring use of recovered assets;
- (8) Enhancing the role of CSOs in asset recovery, including sharing of information and communicating about ongoing cases;
- (9) Strengthening of institutions and inter-agency coordination;
- (10) Enhancing transparency and participation of civil society.

Speakers also made similar recommendations for destination countries based on the following themes: (1) Beneficial ownership; (2) the AML framework and due diligence requirements; (3) Transparency; (4) Resources for enforcement; (5) Non- Conviction Based (NCB) forfeiture assistance, including MLA.

The Government representatives in attendance welcomed the recommendations, noting that they were already in the process of implementing some of them. For example, in Nigeria the Proceeds of Crime Act has passed one house and was likely to pass through the other house shortly. The representative of the United States Kleptocracy Initiative expressed appreciation for CSO engagement and described efforts being undertaken by the Government following their FATF evaluation, and a new round of sanctions to be announced against kleptocrats. The United Kingdom Home Office representative detailed efforts in their country following the 2016 Anti-Corruption summit.

**e. Understanding Beneficial Ownership (BO)/ Anonymous Companies- Investigative techniques which CSOs can use.**

The Session was moderated by **Mr. Nate Sibley** from the Kleptocracy Initiative, and included **Ms. Debra La Pravatte**, from The Sentry; **Mr. Stephen Baker**, from the International Bar Association; **Ms. Tetiana Shevchuk**, from ANTAC, Ukraine; and **Mr. Auwal Musa**, from CISLAC, Nigeria, as speakers.

Speakers discussed the problem that corporations frequently used complex structures to disguise beneficial ownership, also pointing to specific cases in Ukraine and Nigeria.



In the ensuing discussion, speakers discussed the importance of global cooperation to determine beneficial ownership. Speakers discussed their domestic and global efforts in the context of beneficial ownership, including the development of a global register of beneficial ownership, given the transnational nature of money laundering. It was noted that while many developing countries still had a long way to go in terms of generating information on beneficial ownership, destination countries should continue their efforts. Speakers also discussed the need for continued involvement of CSOs in this area, including further advocacy on this subject.

**f. Asset Declarations – a Key Role in Asset Recovery and Tell Us How You Did That: Ukraine CSO representatives showcase domestic PEP database and Asset Declaration database.**

This Session was moderated by **Ms. Asoka Obeyesekere**, from Transparency International (Sri Lanka), and speakers included **Mr. Timothy Adewale** from SERAP (Nigeria); **Ms. Laura Pop** and **Ms. Ivana Rossi**, from the StAR Initiative; **Ms. Daria Kaleniuk**, from ANTAC (Ukraine); and **Mr. Dmitry Chaplinsky**, from White Collar Hundred (Ukraine).

One speaker presented the asset declarations regime in Nigeria, Sri Lanka, and Ukraine, including with reference to specific tools to aid in investigations. Speakers from the StAR Initiative introduced the StAR Initiative’s publications on asset declarations, including a recent publication entitled, “Getting the full Picture on Asset Declarations” which analysed implementation data gathered from 60 countries globally.

In the ensuing discussion, speakers discussed the feasibility of declarations addressing campaign financing, and the challenges involved, versus the use of transparency of campaign financing measures to address the same issue. They discussed the costs involved in the databases as well as the human resources required. They further discussed whether public disclosures were preferable to private, and noted the benefits of public disclosures in terms of investigative journalism and civil society efforts, given that many corruption cases were uncovered in that manner. Speakers also noted the importance of having good verification systems.

**g. Monitoring Returned Assets: The Role of CSOs in Ensuring that Money is Not Re-looted.**

The session was moderated by **Dr. Otive Igbuzor**, from Centre-LSD (Nigeria) and featured presentations by **Mr. David Ugolor**, from ANEEJ (Nigeria), **Ms. Tetiana Shevchuk**, from ANTAC (Ukraine), and **Ms. Fatima Kanji**, from the International State Crime Initiative, Queen Mary University of London.

Speakers presented three case studies on asset returns and discussed how the use of returned assets could be monitored. With reference to the Abacha case, one speaker spoke about the use of non-State actors to monitor returned assets in Nigeria. Another speaker addressed the first lessons learnt in returning assets to Ukraine. One speaker gave a presentation on modalities for return, looking at a case study from Uzbekistan.

In the ensuing discussion, speakers noted the reluctance of States to return assets without monitoring, as well as the difficulty of monitoring when those responsible for the monitoring were not local. They recognised that CSOs were better placed for this purpose and needed to be strengthened in this regard to ensure their effectiveness. Speakers pointed out the importance of having CSOs at the table from the beginning, and the need to improve collaboration in this respect. They further acknowledged the need for States receiving the returns to take greater control of ensuring that internal checks were in place to secure assets for their intended purposes, and including non-governmental stakeholders in the process.

#### **h. CARIN and Asset recovery Inter Agency Networks**

**Ms. Karin Grudd**, a speaker from the Camden Asset Recovery Inter Agency Network (CARIN) gave an introductory presentation on the asset tracing, freezing, seizure and confiscation work conducted by CARIN which covered 56 States and was established to address the need to speed up and systematize the pre-MLA process, given the importance of information sharing.

#### **i. Brainstorming session on transparency standards for asset recovery.**

A brainstorming session on transparency standards for asset recovery was moderated by **Mr. Agatino Camarda**, from Civil Forum for Asset Recovery. This was an interactive session about how CSOs could better obtain information and make the asset recovery process more transparent.

The first issue in the discussion was the type of information CSOs look for. Speakers explained that there needs to be some basic information available without compromising investigations such as the volume of ongoing cases, their value, and how restitution is handled after returns.

Speakers further discussed the sharing of experiences from Nigeria and Ukraine, together with the transparency concerns following recent confiscations. In terms of minimum standards that can be developed, speakers welcomed using OGP national action plans to include the asset recovery process, such as in the case of Nigeria.

## Annex IV: Civil Society Statement for the Global Forum on Asset Recovery

On the occasion of the first Global Forum on Asset Recovery co-hosted by the United States and the United Kingdom in Washington D.C., USA, 4-6 December 2017, GFAR focus country civil society organisations, the UNCAC Coalition<sup>2</sup> Working Group on Asset Recovery and international civil society organisations seek commitments by participating governments in line with UNCAC based on the following recommendations:

### ***1. Governments must address the underlying causes of asset theft and recognise that asset recovery is a complex two-way street.***

Weak financial regulation and financial secrecy are key factors that enable the large-scale theft of state assets. Those countries and jurisdictions where corrupt wealth ends up, and whose commercial actors are involved either in paying bribes or helping facilitate money laundering, have a joint responsibility for the theft of state assets. It is their duty to ensure that their systems are not conducive to the laundering of corrupt wealth. To that end, they must commit to:

- ensuring that professional enablers in their jurisdictions who help hide corrupt wealth whether through complicity or wilful ignorance, and that commercial actors and individuals who engage in acts of grand corruption, whether through bribery or money laundering, face prosecution and sanction sufficient enough to deter future illicit activity;
- closing down secrecy loopholes by creating public and well verified Beneficial Ownership registers for companies, trusts and property;
- ensuring that their corporate and financial regulation framework is robust and fully FATF compliant, particularly with regard to ensuring that there are legal requirements, proactively enforced, on financial institutions and other gatekeepers to conduct proper customer due diligence;
- requiring oil, gas, and mining firms to publish what they pay to governments for the extraction of natural resources so that citizens can hold governments and companies accountable for how revenues are used in order to reduce the risk of their theft, and to monitor whether bribery or corruption has occurred.

Equally, those countries from which corrupt wealth comes have a responsibility to prevent the acquisition of corrupt wealth within its borders and its transfer abroad. To that end, they must commit to:

- ensuring that corrupt actors in their jurisdictions face prosecution and sanction according to international standards of due process;
- ensuring transparency and accountability in the procurement and management of public finances, in line with Article 9 of the UNCAC, including ensuring transparent oversight of public revenues by independent audit bodies in accordance with international financial standards;
- creating public and well verified Beneficial Ownership registers for companies, property and trusts, and ensuring effective regulation of financial institutions;
- ensuring that asset declaration registers are public, and robustly and routinely verified;
- implementing proactively the Extractive Industries Transparency Initiative to ensure increased transparency over natural resource revenues and to prevent their theft.

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<sup>2</sup> The UNCAC Coalition is a network involving 350 civil society organisations in more than 100 countries promoting implementation of the UN Convention against Corruption (UNCAC). It includes civil society organisations in both origin and destination countries, including the four focus countries of the 2017 GFAR meeting.

## ***2. Countries must work together urgently and proactively to find ways to identify and overcome the main obstacles to asset recovery***

The process of asset recovery remains painfully slow. Only 1.6% of stolen assets frozen by OECD countries between 2006-2010 have been returned.<sup>3</sup> Six years after the Arab Spring, only \$1 billion of \$165 billion stolen by former rulers in the region has been recovered. The United Nations Economic Commission for Africa found that illicit flows from Africa could be up to \$50 billion a year.<sup>4</sup> In that regard, and in order to give effect to Resolution 7/1 from the 2017 Conference of States Parties to the United Nations Convention against Corruption, countries must commit to:

- verifying independently that relevant law enforcement bodies, including Financial Intelligence Units, are properly resourced, fully independent of political interference, have the necessary expertise, and the mandate to uncover corrupt wealth as a priority;
- notifying other jurisdictions spontaneously and promptly of suspicions of corrupt activity, to providing prompt assistance upon request from other jurisdictions and to keeping statistical data to measure progress in this regard;
- simplifying legal procedures for asset recovery and providing assistance, including by developing legal tools to allow confiscation of the proceeds of corruption and to provide assistance without a criminal conviction.

## ***3. Asset recovery must be accountable and transparent at all stages***

The current absence of data from all countries on asset recovery, both requesting and requested states, is a startling failure of accountability that makes it impossible to measure the effectiveness of global and national asset recovery processes. While recognising that asset recovery can be a protracted legal process, transparency as to the volume and value of ongoing cases would significantly help build trust in the process. To address this serious failing, countries should commit to:

- collecting, maintaining and publishing comprehensive data, on investigations and prosecutions of grand corruption and associated asset recovery cases, including: publication of all court decisions and indictments; the volume of assets frozen, confiscated and returned by jurisdiction; volume of compensation in foreign bribery cases; sanctions taken against financial intermediaries; and statistical data on the timeframe within which Mutual Legal Assistance requests for grand corruption cases are dealt with;
- providing regular updates on progress in investigations that are in the public domain and creating avenues of communication with non-state actors, such as CSOs and whistle-blowers, who can provide crucial information for investigations;
- working to harmonise statistical measurements for data on asset recovery at a global level and standards for transparency, through international fora such as the UNCAC and Open Government Partnership.

## ***4. Asset recovery must be put to the purpose of ending impunity for grand corruption.***

Asset recovery is not merely a technocratic process to recover assets but a political process that signals commitment to fighting corruption and to depriving those who engage in acts of grand corruption of the benefits. Secret agreements between authorities and corrupt actors and blanket amnesties for groups of persons or individuals should have no place in the asset recovery process. Equally immunities for public officials must not be used to undermine the asset recovery process. To that end, countries must commit to:

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<sup>3</sup> Between 2006 and 2009, 277 million out of 1.225 USD billion frozen; and between 2010-2012, 147.2 million out of 1.398 billion USD frozen. OECD, *Illicit Financial Flows from Developing Countries: Measuring OECD Responses*, 2014, p. 88

<sup>4</sup> <https://www.uneca.org/iff>

- ensuring that any settlements or amnesty agreements reached with corrupt actors are legal, available in the public domain with full details of the corrupt activity and sanctions imposed detailed, subject to judicial oversight, and that they provide victims and relevant community stakeholders the right to provide statements and evidence. Such settlements must avoid blanket immunity clauses which undermine public confidence in the fight against corruption, and must not be used to deny requests for assistance from other affected jurisdictions;
- ensuring that domestic immunities for public officials are strictly limited with transparent and effective procedures for suspending them and that immunities and other privileges enjoyed by public officials – domestic, foreign and international – are not abused or used to shield individuals from accountability for corruption offences.

***5. The role that civil society has to play in asset recovery should be properly and formally recognised.***

Civil society has a key role to play in exposing corruption and identifying evidence that could lead to a formal investigation; in bringing proceedings where there are domestic constraints in doing so; in monitoring returned assets; in generating and maintaining domestic political will to pursue investigations and conclude prosecutions; and helping to inform the public about asset recovery process and to ensure that the voice of victim communities and the population is heard during the asset recovery process. To ensure that CSOs can play this role to the full, governments must commit to:

- protecting the legislative and political space for CSOs to work on grand corruption and asset recovery and to ensuring that CSOs working in this area and whistleblowers are not subject to harassment or restrictions;
- engaging CSOs in a regular and meaningful way on asset recovery issues, including by seeking their input into development of national asset recovery strategies and legislation;
- ensuring that law enforcement bodies commit to regular and constructive engagement with CSOs, including by drawing up protocols for how they handle and respond to information from CSOs, and by developing transparent processes that identify whether action has been taken on allegations of grand corruption;
- allowing prominent public-spirited citizens or organisations to bring public interest claims, initiate criminal proceedings or join as parties to criminal proceedings in relation to acts of grand corruption and the recovery of proceeds of corruption;
- ensuring CSOs are involved in decisions around how stolen assets are returned.

***6. Assets recovered should be used for repairing the harm caused by grand corruption and for meeting Goal 16 of the Sustainable Development Goals (SDGs).***

Assets confiscated as a result of successful grand corruption enforcement actions, whether assets stolen from the state, or compensation for bribery, should be returned in a manner that is transparent, accountable and that actively contributes to building accountable and transparent institutions in line with Goal 16 of the SDGs or repairs the damage caused to society. To this end, governments must commit to:

- engaging a wide range of stakeholders, including CSOs, in determining how returned assets should be used to best repair the harm caused and to meet the SDGs;
- ensuring that there is sufficient monitoring of and public accountability for how returned assets are managed and used, including through national level institutions and engagement of CSOs;
- ensuring that where a receiving country is non-compliant with UNCAC Articles 9, 10 and 13 (transparency and accountability in public financial management; public reporting and participation of society), resulting in a lack of effective oversight of returned funds, returning and receiving countries should in consultation with a broad spectrum of relevant experts and non-state actors find ways of repatriating stolen assets that ensures they cannot be re-looted.

***7. A regular multilateral and multi-stakeholder framework for dealing with asset recovery is desirable but must be transparent and accountable.***

Multilateral and multi-stakeholder fora are an important means of maintaining political will to push the asset recovery agenda forward. However, to be effective and to maximise the opportunities created by such fora, they must commit to:

- making tangible and measurable commitments to advance asset recovery efforts and ensuring some form of accountability mechanism such as a commitment by participating governments to make public on an annual basis and within one year, a report by each country present at the relevant forum on progress made on asset recovery and commitments made;
- ensuring that CSOs are meaningfully included in the fora as relevant stakeholders, in particular by: ensuring that there is a transparent and open policy for CSO participation; integrating CSOs as far as possible into the main agenda; and creating meaningful opportunities for dialogue with government and law enforcement on asset recovery policy and where appropriate specific cases;
- reporting in an open and concrete manner on the successes and difficulties faced in specific cases, so that the barriers that continue to exist in asset recovery processes can be more effectively identified and overcome.

4th December 2017