

Japan Asset Recovery Action Plan Implementation Road Map 2013

Action Plan commitment	Progress so far	Timetable for next steps
Measures Related to Technical Assistance and Capacity Building:		
Seek to enhance responsiveness: Take into account the importance of transition countries' requests for case assistance in recovering proceeds of corruption and organized crime and accordingly give them priority, where legally permissible, and encourage regional partner countries to do the same. Implementation: Immediate	Japan has not received bilateral requests for case assistance in recovering assets from transition countries. (外)	<u>Ongoing:</u> Japan will continue to explore the possibility to deliver necessary assistance to transition countries.
Adopt and enforce international frameworks: Ratify the U.N. Convention Against Corruption as soon as possible, and take steps to enhance their enforcement of laws against foreign bribery, in order to provide a universal legal framework for asset recovery cooperation.	Japan signed the UNCAC in 2003, but the bills necessary to implement the Convention have not been approved by the Diet so far. (外)	<u>Ongoing:</u> The government is now accelerating the preparation for establishing domestic laws to ratify the UNCAC at the earliest possible timing.
Promote transparency and effective cooperation.		
Each G8 member will:		
Publish a guide that describes specific steps required for assistance and cooperation in matters related to tracing, freezing, confiscation, and return of proceeds of corruption, whether through formal mutual legal assistance (MLA) or other forms of cooperation and make the guide available in Arabic	Japan's guide is published on the StAR website and is available in Arabic, English and French language versions. http://star.worldbank.org/star/ArabForum/country-guides-asset-recovery-0 (外)	<u>Fully implemented</u>
Designate or appoint the office/persons responsible for inquiries, guidance, or other investigative cooperation permitted by law, both for MLA and for other forms of cooperation not requiring MLA requests	Japan's guide contains information on main agencies supporting asset recovery cases, which are Ministry of Justice, Ministry of Foreign Affairs and National Police Agency. Its published guidance is available online at: http://star.worldbank.org/star/ArabForum/country-guides-asset-recovery-0 (外)	<u>Sufficiently implemented</u>
Designate the appropriate points of contact to relevant networks, including but not limited to the global asset recovery Focal Point network, UNCAC COSP, and CARIN, that may be useful for coordination	Japan has not been a member of any existing contact network, however so far has actively participated in preparatory meetings held in Seoul to launch a new asset recovery network in Asia Pacific region. (外)	<u>2013:</u> Asset recovery network could be established in Asia Pacific region in the near future. Japan will join the network after necessary consideration and continue its efforts for better coordination among points of contact.
Facilitate cooperation leading to effective recovery.		
Each G8 member will act urgently on the following key measures:		
Ensure that there are mechanisms in place for enforcement	Based on a MLA request from other countries, after	

<p>of foreign orders of confiscation unless inconsistent with fundamental principles of domestic law. This would include, wherever possible, considering measures as may be necessary to enforce non-conviction based confiscation orders (such as confiscation orders which do not require a criminal trial and conviction), at a minimum in the circumstances envisaged by UNCAC and FATF Recommendations. Such enforcement should be permitted even in the absence of a domestic system for non-conviction based confiscation or other equivalent avenue</p>	<p>identifying assets concerned, Japan can provide assistance for foreign order of confiscation under <i>the Law for Punishment of Organized Crimes, Control of Proceeds and Other Matters</i> (so-called “<i>Anti-Organized Crime Law (AOCL)</i>”). Detailed information can be seen in the Japan’s guide: http://star.worldbank.org/star/ArabForum/country-guides-asset-recovery-0 However, the AOCL is yet to cover non-conviction based confiscation (so-called NCB). Therefore, Japan currently cannot provide assistance for foreign order of non-conviction based confiscation. (法)</p>	
<p>Consider, to the extent consistent with fundamental principles of domestic law and judicial proceedings, establishing systems that allow for recovery through non-conviction-based confiscation or equivalent (at minimum in cases of death, flight, or absence) and adopting legislation that establishes a non-criminal standard for burden of proof or reverses the onus of proof through rebuttable presumptions</p>	<p>Same as above (法)</p>	
<p>Ensure that domestic legal frameworks (i.e., legislation and/or regulations) allow for swift identification and tracing of assets, including in response to international requests.</p>	<p>Based on a MLA request from other countries, Japanese legal frameworks allow for swift identification and tracing of assets under the AOCL. (法)</p>	<p>Sufficiently implemented</p>
<p>Ensure that domestic legislation and/or regulations allow sufficient time frames for freezing assets during the pendency of foreign investigations and proceedings</p>	<p>Under the AOCL, when Japan receives MLA request for asset freezing and if there is already an institution of prosecution in the requesting country, the asset freezing continues until the final judgement. If there is yet no prosecution in the requesting country, the initial duration of the asset freezing is 45 days, but the duration can be extended upon request. (法)</p>	<p>Sufficiently implemented</p>
<p>Ensure that mutual legal assistance regarding asset recovery can be granted in the absence of a bilateral legal assistance agreement, under appropriate circumstances. If necessary, and without prejudice to the preceding point, recognize UNCAC as a sufficient legal basis for mutual legal assistance (MLA) by States Parties</p>	<p>Under LIAI, Japan can provide mutual legal assistance without any bilateral/multilateral legal agreement as long as reciprocity is assured. (法)</p>	<p>Fully implemented</p>
<p>Ensure that MLA requests for freezing can be permitted on an <i>ex parte</i> basis (i.e., no requirement to give the asset holder the opportunity to contest beforehand the provision</p>	<p>Assistance for foreign order of freezing is dealt with under the AOCL. Under this law, freezing is permitted on an <i>ex parte</i> basis. (法)</p>	<p>Fully implemented</p>

of MLA)		
Allow domestic officials, in accordance with its domestic laws, to alert a foreign jurisdiction to an ongoing investigation in the disclosing jurisdiction and indicate that existing information could be of interest, a proactive form of assistance, and to do so on a peer-to-peer basis where permissible	Concerning financial information, JAFIC exchanges suspicious transaction information with foreign FIUs in a positive and expeditious manner. (警)	
In case of a barrier to execution of a mutual legal assistance request, promptly communicate the nature of the difficulty to the requesting authorities so that it may be corrected expeditiously	There is no legal restriction in conducting this kind of direct contact. Japan has always communicated with requesting authorities when there was an issue in MLA. (法)	Sufficiently implemented
Enhance case cooperation:		
During the post-transition period, work with local officials in requesting transition countries on the underlying investigations to develop leads for records and assets located abroad as well as to facilitate international legal assistance. This would include, upon request, sending practitioners (whether from the G8 country governments themselves, relevant international organizations and initiatives or other appropriate sources) to the requesting country	Japan has not yet received bilateral requests for assistance in this area. (外)	Ongoing: Japan will work with UNODC to explore the possibility to deliver necessary assistance to transition countries.
Measures Related to Technical Assistance and Capacity Building:		
Provide Specialized Training: During the post-transition period, to the extent possible, provide funding and/or in-kind expertise to ensure that specialized training by international practitioners from relevant public authorities, whether from the G8 country governments themselves, relevant international organizations and initiatives (such as, inter alia, the World Bank/UN Office of Drugs and Crime Stolen Asset Recovery Initiative - StAR), or other appropriate sources is provided to requesting transition countries. The key topics would include: financial investigations, financial document analysis, asset confiscation and forfeiture, requesting international assistance, asset recovery and asset management tools, and other topics identified by the requesting countries	Japan has not yet received bilateral requests for assistance in this area. However Japan has explored the possibility to deliver necessary assistance to transition countries. (外)	Ongoing: Japan will work with UNODC, through StAR initiative, to provide training for prosecutors, judges and financial analysts in Tunisia.

<p>Support domestic coordination: During the post-transition period, assist a requesting transition country in setting up locally an Asset Recovery Task Force (ARTF), as a domestic coordination measure for the transition country partner, comprised of representatives of relevant law enforcement agencies (police, customs, prosecutors, etc) and regulatory bodies (such as financial intelligence units, central banks etc.), among whose functions will be cooperation with international practitioners</p>	<p>Japan has not yet received bilateral requests for assistance in this area. However Japan has explored the possibility to deliver necessary assistance to transition countries. (外)</p>	<p><u>Ongoing:</u> Japan will work with UNODC, through StAR initiative, to provide training for members of the Asset Recovery Committee from Libya (South-South exchange of experiences).</p>
<p>Promote legal and institutional reforms: During the post-transition period, to the extent possible, assist a requesting transition country in drafting appropriate legislation and/or institutional reforms that will adhere to international standards, including, but not limited to, in pursuing criminal and/or non-conviction based forfeiture legislation; and to establish systems for disclosure of assets and interests by senior public officials and appropriate relations, consistent with international best practices; and other relevant legal frameworks. Urge relevant international organizations to assist in this regard</p>	<p>Japan has not yet received bilateral requests for assistance in this area. (外)</p>	<p><u>Ongoing:</u> Japan will continue to explore the possibility to deliver necessary assistance to transition countries.</p>
<p>Strengthen frameworks to manage recovered funds: During the post-transition period, to the extent possible, assist a requesting transition country with legislative drafting advice or other assistance in setting up locally a central fund, to receive assets confiscated at home or abroad and to ensure transparency in their administration.</p>	<p>Japan has not yet received bilateral requests for assistance in this area. (外)</p>	<p><u>Ongoing:</u> Japan will continue to explore the possibility to deliver necessary assistance to transition countries.</p>
<p>Support the Arab Forum on Asset Recovery: Support the establishment of and participate as appropriate in the Arab Forum on Asset Recovery, including through financial support, where possible, expertise, and attendance at the inaugural meeting at the appropriate level.</p>	<p>Japan has so far supported G8 efforts over the Arab Forum on Asset Recover and Japan participated last year in the first Arab Forum on Asset Recovery in Doha and the delegation included experienced practitioners. In 2013, Japan's FIU (JAFIC) participated in the Special Session in Egypt. (外)</p>	<p><u>October 2013:</u> Japan will participate in the second Arab Forum on Asset Recovery held in Morocco and its delegation would include law enforcement practitioner or FIU.</p>