

## U.S. AFAR Action Plan Implementation Road Map

Action Plan commitment	Progress so far	Timetable for next steps
<p><b>Seek to enhance responsiveness:</b> Take into account the importance of transition countries' requests for case assistance in recovering proceeds of corruption and organized crime and accordingly give them priority, where legally permissible, and encourage regional partner countries to do the same. Implementation: Immediate</p>	<p>In addition to the Kleptocracy Asset Recovery Initiative launched by the United States' Department of Justice (DOJ) in 2011, the United States has a DOJ Attaché based in Cairo, as well as a team of attorneys in the DOJ who are devoted to (1) promoting case cooperation between Deauville Partnership countries and the DOJ and to (2) providing technical training on asset recovery to Deauville Partnership countries. The United States also plans to place an attorney in Doha who will be dedicated to promoting such case cooperation and providing such training. In addition, the DOJ has attorneys dedicated to facilitating mutual legal assistance between the United States and Deauville Partnership countries and has implemented a policy of prioritizing mutual legal assistance requests from transition countries.</p>	<p><u>Ongoing:</u> The MENA-region-based attorney will be in Doha, Qatar, in November 2013.</p>
<p><b>Adopt and enforce international frameworks:</b> Ratify the U.N. Convention Against Corruption as soon as possible, and take steps to enhance their enforcement of laws against foreign bribery, in order to provide a universal legal framework for asset recovery cooperation.</p>	<p>The United States ratified the UNCAC in 2006 and is fully compliant with its obligations.</p> <p>The Foreign Corrupt Practices Act (FCPA) of 1977 is the most vigorously enforced anti-bribery legislation in the world. The United States has a specialized unit, the Fraud Section of the Department of Justice, which is dedicated to tackling foreign bribery.</p>	<p><u>Fully implemented</u></p>
<p><b>Promote transparency and effective cooperation.</b> <b>Each G8 member will:</b></p>		
<p><b>Publish a guide</b> that describes specific steps required for assistance and cooperation in matters related to tracing, freezing, confiscation, and return of proceeds of corruption, whether through formal mutual legal assistance (MLA) or other forms of cooperation and make the guide available in Arabic</p>	<p>The United States' guide is available in the 6 UN languages (Arabic, English, French, Spanish, Russian, and Mandarin Chinese) and is published on the StAR website: <a href="http://star.worldbank.org/star/ArabForum/country-guides-asset-recovery-0">http://star.worldbank.org/star/ArabForum/country-guides-asset-recovery-0</a></p> <p>The English version is also available at: <a href="http://www.state.gov/documents/organization/190690.pdf">http://www.state.gov/documents/organization/190690.pdf</a></p>	<p><u>Fully implemented</u></p>
<p><b>Designate or appoint the office/persons responsible for inquiries, guidance, or other investigative cooperation</b></p>	<p>The U.S. Department of Justice's Office of International Affairs is responsible for inquiries and guidance related to</p>	<p><u>Fully implemented</u></p>

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<p>permitted by law, both for MLA and for other forms of cooperation not requiring MLA requests</p>	<p>MLA.</p> <p>Police-to-police and intelligence enquiries can be initiated through U.S. representatives on CARIN, the Global Focal Point network, and Egmont, or via the contacts provided in the U.S. asset recovery guide, including:  <a href="mailto:kleptocracy@usdoj.gov">kleptocracy@usdoj.gov</a>.</p> <p>The U.S. asset recovery guide is available at  <a href="http://star.worldbank.org/star/ArabForum/country-guides-asset-recovery-0">http://star.worldbank.org/star/ArabForum/country-guides-asset-recovery-0</a> and at  <a href="http://www.state.gov/documents/organization/190690.pdf">http://www.state.gov/documents/organization/190690.pdf</a></p>	
<p><b>Designate the appropriate points of contact to relevant networks</b>, including but not limited to the global asset recovery Focal Point network, UNCAC COSP, and CARIN, that may be useful for coordination</p>	<p>The United States has designated points of contact for each of the relevant networks:</p> <p><b>Focal Point network:</b> Represented by the Department of Justice’s Asset Forfeiture and Money Laundering Section.</p> <p><b>UNCAC CoSP:</b> Represented by the Department of State’s Bureau of International Narcotics and Law Enforcement Affairs.</p> <p><b>CARIN:</b> Represented by the Department of Justice’s Asset Forfeiture and Money Laundering Section and the United States Marshals’ Service; can be reached at <a href="mailto:CARIN@usdoj.gov">CARIN@usdoj.gov</a>.</p>	<p><u>Fully implemented</u></p>
<p><b><u>Facilitate cooperation leading to effective recovery.</u></b></p> <p><b><u>Each G8 member will act urgently on the following key measures:</u></b></p>		
<p><b>Ensure that there are mechanisms in place for enforcement of foreign orders of confiscation</b> 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</p>	<p>The United States can enforce foreign confiscation orders issued in criminal and non-conviction-based confiscation proceedings pursuant to 28 U.S.C. § 2467.</p>	<p><u>Fully implemented</u></p>

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<p>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>Consider, to the extent consistent with fundamental principles of domestic law and judicial proceedings, <b>establishing systems that allow for recovery through non-conviction-based confiscation</b> 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>The United States has a series of statutes, including but not limited to 18 U.S.C. § 981 and 21 U.S.C. § 881, that permit for non-conviction-based asset recovery (known as civil forfeiture). The United States’ civil forfeiture statutory framework is much more robust than the minimum standards established by the UNCAC and the FATF recommendations. The burden of proof in U.S. civil forfeiture proceedings is the civil standard, that is, “by the preponderance of the evidence,” which is a lower burden of proof than is required for criminal conviction.</p>	<p><u>Fully implemented</u></p>
<p><b>Ensure that domestic legal frameworks (i.e., legislation and/or regulations) allow for swift identification and tracing of assets</b>, including in response to international requests.</p>	<p>The United States’ Financial Intelligence Unit (FIU), FinCEN, is responsible for providing financial intelligence in response to international requests for assistance in tracing assets. FinCEN is a member the Egmont Group which provides for a channel of sharing FIU information following strict Egmont Group protocols.</p> <p>CARIN is an informal forfeiture group, composed of forfeiture legal practitioners and investigators from fifty-six jurisdictions, that promotes the establishment of an informal asset forfeiture international assistance points-of-contact network. U.S. CARIN contacts process 50 to 75 incoming asset tracing exercises a year for their foreign counterparts to the extent this can be done without the need of a formal assistance request.</p> <p>Formal requests for assistance to swiftly identify and trace assets subject to confiscation are assigned by the U.S. Department of Justice to a specialised international confiscation unit within the Asset Forfeiture and Money Laundering Section of the Department of Justice for execution using the same variety of intrusive investigative powers that are available to U.S. law enforcement and prosecutors in domestic investigations.</p>	<p><u>Fully implemented</u></p>

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<p><b>Ensure that domestic legislation and/or regulations allow sufficient time frames for freezing assets</b> during the pendency of foreign investigations and proceedings</p>	<p>Pursuant to 28 U.S.C. § 2467, the United States can seek to enforce foreign restraining orders and restrain (freeze) assets located in the United States that are subject to foreign criminal or non-conviction-based confiscation proceedings. Assets remain frozen until a court dismisses the restraining order.</p>	<p><u>Fully implemented</u></p>
<p><b>Ensure that mutual legal assistance regarding asset recovery can be granted in the absence of a bilateral legal assistance agreement</b>, 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>The United States may provide mutual legal assistance regarding asset recovery pursuant to bilateral and multi-lateral agreements, including pursuant to the UNCAC. The United States can also provide certain forms of mutual legal assistance regarding asset recovery absent any bilateral or multi-lateral agreement.</p>	<p><u>Fully implemented</u></p>
<p><b>Ensure that MLA requests for freezing can be permitted on an <i>ex parte</i> basis</b> (i.e., no requirement to give the asset holder the opportunity to contest beforehand the provision of MLA)</p>	<p>Upon application to a court, the United States can seek <i>ex parte</i> to enforce foreign restraining orders and to restrain (freeze) property subject to pending foreign criminal and non-conviction-based confiscation proceedings.</p>	<p><u>Fully implemented</u></p>
<p><b>Allow domestic officials, in accordance with its domestic laws, to alert a foreign jurisdiction to an ongoing investigation</b> in the disclosing jurisdiction and indicate that existing information could be of interest, a proactive form of assistance, and to do so on a peer-to-peer basis where permissible</p>	<p>Many U.S. law enforcement agencies have attachés in U.S. embassies around the world who act as conduits of information and may alert foreign law enforcement of ongoing investigations either spontaneously or as provided for in numerous law enforcement to law enforcement agreements. U.S. CARIN network contacts are permitted to contact foreign peers about the need for confiscation assistance in ongoing investigations.</p>	<p><u>Fully Implemented</u></p>
<p>In case of a barrier to execution of a mutual legal assistance request, promptly communicate the nature of the difficulty to the requesting authorities so that it may be corrected expeditiously</p>	<p>The U.S. Department of Justice has attorneys, including a DOJ Attaché in Cairo, dedicated to facilitating mutual legal assistance between the United States and Deauville Partnership countries. Those attorneys are able to work directly with Deauville Partnership countries to facilitate mutual legal assistance and overcome deficiencies in mutual legal assistance requests.</p>	<p><u>Fully Implemented</u></p>
<p><b><u>Enhance case cooperation:</u></b></p>		
<p><b>During the post-transition period, work with local officials in requesting transition countries on the underlying</b></p>	<p>The U.S. Department of Justice (DOJ) has three prosecutors in the MENA region (UAE, Egypt, and Algeria). A fourth one</p>	<p><u>Ongoing</u></p>

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<p><b>investigations to develop leads for records and assets located abroad</b> as well as to facilitate international legal assistance. This would include, upon request, sending practitioners (whether from the G8 country governments themselves, relevant international organizations and initiatives or other appropriate sources) to the requesting country</p>	<p>especially dedicated to the work of the Arab Forum on Asset Recovery will be posted to Doha in November 2013.</p> <p>These attorneys complement the work of the Kleptocracy Unit of DOJ's Asset Forfeiture and Money Laundering Section (AFMLS). The Kleptocracy Unit was formally instituted in 2011 to specifically identify and recover assets of corrupt officials, their families, and cronies. These attorneys have either met or worked with Deauville Partnership country officials either in their countries or in Washington D.C. The Unit has also extended an invitation for Deauville Partnership practitioners to come to the Kleptocracy Unit and work side by side with the Units lawyers and financial investigation team.</p> <p>U.S. government practitioners have also repeatedly visited Egypt to develop case work and share information.</p>	
<p><b>Measures Related to Technical Assistance and Capacity Building:</b></p>		
<p><b>Provide Specialized Training:</b> 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</p>	<p>The United States has developed five tailored asset recovery courses for the Deauville Partnership countries. The U.S. Department of Justice delivered four courses (a survey course and three advanced courses) in Egypt in the spring of 2013 and will continue to provide training through the winter of 2014. The United States will deliver a survey course to Yemen in November 2013 and deliver advanced courses in 2014. The United States also plans to deliver the survey course to Libya and Tunisia in early 2014.</p> <p>Under the auspices of the Arab Forum on Asset Recovery, the United States has also provided training on domestic co-ordination in asset recovery, financial investigations, and the role of civil society in asset recovery.</p> <p>In addition, the U.S. Department of Justice has sent attorneys to transition countries to provide training in effective mutual legal assistance and is in the process of negotiating a bilateral</p>	<p><u>Ongoing</u></p>

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	mutual legal assistance treaty with Tunisia which will provide for a broad range of mutual legal assistance.	
<b>Support domestic coordination:</b> 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>The United States provided training at AFAR Special Session I on domestic coordination.</p> <p>In addition, the United States' Justice Attaché in Cairo is providing support to the Egyptian authorities as they establish an Asset Recovery Task Force in Egypt.</p>	<u>Ongoing:</u> The United States is willing and able to provide assistance to Deauville Partnership countries seeking support on domestic coordination of asset recovery.
<b>Promote legal and institutional reforms:</b> 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>The United States has offered assistance in this area but has not yet received specific bilateral requests.</p> <p>Regionally, the United States supports the UN Development Programme (UNDP)'s and the Organisation for Economic Co-operation and Development (OECD)'s regional integrity programs, which, <i>inter alia</i>, assist Deauville Partnership countries in implementing reforms called for in the Asset Recovery Action Plan, with \$1.7 million granted to UNDP in 2012-2013 and over \$1 million granted in 2012-2013 to OECD.</p> <p>The U.S. has also pledged \$50 million to the Deauville Partnership Transition Fund which can support specific projects for technical assistance from Egypt, Tunisia, Libya, Yemen, Jordan and Morocco. Projects related to asset recovery, anti-corruption or related topics are eligible for consideration from the Transition Fund.</p> <p>In addition, the U.S. Department of Justice is in the process of negotiating a bilateral mutual legal assistance treaty with Tunisia which will provide for a broad range of mutual legal assistance.</p>	<u>Ongoing:</u> The United States is willing and able to provide assistance to Deauville Partnership countries on legislative and institutional reform.
<b>Strengthen frameworks to manage recovered funds:</b> 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	<p>The United States has offered assistance in this area but has not yet received specific bilateral requests for assistance.</p> <p>The United States has worked with international organizations such as the IMF on joint projects for asset</p>	<u>Ongoing:</u> The United States is willing and able to provide assistance to Deauville Partnership countries on legislative and institutional reform.

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<p>receive assets confiscated at home or abroad and to ensure transparency in their administration.</p>	<p>management in the region.</p>	
<p><b>Support the Arab Forum on Asset Recovery:</b> 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>The United States helped launch the Arab Forum on Asset Recovery (AFAR) in its role as the 2012 G8 Presidency and participated in the first AFAR in Doha, providing a high-level delegation including experienced practitioners to participate in workshops and bilateral casework meetings.</p> <p>In 2013, the United States continued to play an active role, working with the UK, StAR, and Qatar, in the planning and delivery of the three Special Sessions, providing expert trainers and participating in bilateral meetings at all three sessions. The United States also provided funding to the StAR initiative to support its work on AFAR.</p>	<p><u>October 2013:</u> The United States will send a Ministerial-level delegation, supported by senior officials and law enforcement practitioners, to the Second Arab Forum on Asset Recovery in October 2013.</p>