



# Conference of the States Parties to the United Nations Convention against Corruption

Distr.: Limited  
25 August 2011

Original: English

---

**Open-ended Intergovernmental Working  
Group on Asset Recovery**  
**Fifth Meeting**  
Vienna, 25 and 26 August 2011

## **Draft report**

### **Addendum**

### **III. Implementation of resolution 3/3 of the Conference and of the recommendations of the Working Group**

1. The Chair opened the consideration of item 2 of the agenda. A representative of the Secretariat presented document CAC/COSP/WG.2/2011/2 on the status of implementation of recommendations of the Working Group on asset recovery and the Conference of the States Parties, highlighting progress made and major developments. In the area of developing cumulative knowledge, he stressed the importance of TRACK and the UNODC Legal Library, which are web-based tools collecting, systematizing and disseminating legal knowledge on anti-corruption and asset recovery, and expanded on the publications of the StAR Initiative, their drafting process and their dissemination. He also made reference to the efforts of UNODC to implement the Working Group's recommendations to undertake an analytical compilation of asset recovery cases and to explore the feasibility of the preparation of model legal provisions related to asset recovery.

2. With respect to recommendations aimed at building confidence and trust, the representative of the Secretariat made reference to the database of asset recovery focal points compiled by the Secretariat and the compilation of a comprehensive list of central authorities responsible for Mutual Legal Assistance designated by States parties. The representative presented the efforts of UNODC with a view to engaging with the private sector and encouraging its commitment to combat corruption. On technical assistance, training and capacity-building, the representative noted the forms of technical assistance and training provided by the secretariat and the StAR Initiative. He also made reference to the new approach to training activities to be followed by the StAR Initiative in the future, which would prioritize addressing assistance needs in relation to specific asset recovery cases.



3. In the ensuing debate, speakers attached great importance and interest in the development of legal knowledge and related products and stressed their positive impact in the creation of a common legal background for practitioners. Speakers welcomed the involvement of a broad range of experts from different legal systems in the preparation of knowledge products, and stressed the importance of ensuring that this practice was maintained in the future. It was further suggested by one speaker that the Working Group be consulted on planning and research undertaken in relation to the preparation of future knowledge products.
4. Speakers expressed great interest in and support to the anticipated analytical study of asset recovery cases and noted that such a study should also include data on non-successful attempts to recover proceeds of corruption and problems faced in the implementation of asset recovery and mutual legal assistance frameworks, particularly chapter V of the UNCAC.
5. With respect to the development of model legal provisions, speakers stressed the need to take into account the diversity of legal systems of States that could make use of such a tool.
6. Several speakers underscored the importance of building trust and confidence between States requesting the recovery of assets and requested States as in previous deliberations of the Working Group. Recent events prompting an increase of requests for asset recovery related to cases of corruption brought this issue to the fore and disappointment was expressed by some speakers at the relatively low degree of cooperation they had received. Political will was not always followed through with actions and, in some cases, requests had met with outright refusal without further consideration. In that context, the view was expressed that progress in the implementation of the asset recovery provisions of the United Nations Convention against Corruption was limited, primarily due to the lack of confidence between States. Speakers stressed that reluctance to cooperate and respond to asset recovery requests did not correspond to the commitments made by States when agreeing on the text of the Convention against Corruption.
7. Some speakers highlighted the importance to associate with the private sector, and in particular financial institutions, in the overall efforts to strengthen cooperation and achieve effective recovery of assets, and welcomed the efforts of the secretariat towards this goal.
8. Several speakers welcomed the establishment of a database of asset recovery focal points and central authorities under the UNCAC, as a means to encourage and enhance direct communication between officials of requesting and requested States. The importance of informal contacts with counterparts prior to the submission of official requests was regarded as a crucial element for successful asset recovery cooperation.
9. The work of the StAR Initiative was highly valued. More specifically, one speaker commended the work undertaken by the StAR Initiative and its contribution to moving forward the asset recovery agenda. Another speaker stressed that technical assistance provided in the framework of the StAR Initiative was very beneficial, both in terms of enhancing skills and sharing experience. This notwithstanding, speakers stressed the importance of diversifying activities in pursuit of the objective of promoting the full implementation of Chapter V of the Convention, especially in view of the complexity of the Chapter and the need for

additional tools in anticipation of the review of implementation of chapter V of the Convention. The importance of ensuring that technical assistance requests are responded to was highlighted.

10. The Secretary of the Conference of the States Parties stressed the importance and positive outcome of the partnership between the World Bank and UNODC under the StAR Initiative. He further noted that this partnership was developed in response to and strict compliance with the mandates given by the Convention and the Conference of the States Parties, and that it allowed for efficient action, optimum use of limited resources and leverage of expertise.

11. A representative of the StAR Initiative presented an overview of the preliminary findings of the study on illicit enrichment. She indicated that the research found that just over 40 countries had enacted illicit enrichment provisions, and that even fewer countries had actually prosecuted illicit enrichment. It further found that countries often lacked skills and resources in the investigation and prosecution of illicit enrichment. The study found that all countries addressed asset recovery in their illicit enrichment provisions, and there was evidence of confiscation after conviction. The preliminary conclusions of the study indicated that the process did not violate due process and human rights and that the issue should be assessed holistically, also looking at the criminal justice system of the country. The study was distributed to the Group with the request to provide comments and suggestions by 30 September 2011.

12. A representative for the United Nations Office of the High Commissioner on Human Rights (OHCHR) underlined the detrimental impact of corruption, including illicit enrichment, on human rights. He recalled the resolution of the Human Rights Council 7/11 which mandated the Office to extend its work in this regard, and indicated that the Office was in the process of preparing studies that addressed the negative impact of corruption on human rights. Acknowledging OHCHR's contribution in the study of the StAR Initiative on illicit enrichment, he reiterated the Office's readiness to assist countries, in cooperation with UNODC, World Bank and StAR Initiative. During the discussion on the matter, one speaker proposed, that given the detrimental effect of corruption from a human rights standpoint, the creation of an international anti-corruption court could be envisaged.

13. Speakers welcomed the development of the illicit enrichment study by the StAR Initiative, as mandated by the Working Group. Several speakers stressed that their countries had adopted legal and other measures to enable the criminalization of illicit enrichment and the confiscation of relevant assets, and to enhance international cooperation in this regard. It was suggested that a comparison between the declaration of assets of senior public officials and their real income might allow a country to confiscate illicit assets. Several speakers underlined that enabling the confiscation of assets without conviction would in some cases, resolve several issues arising from the process.

14. Two speakers reported on legislation on illicit enrichment enacted in their jurisdictions and requested that it be reflected in the study. One delegation highlighted that the criminal offence on illicit enrichment established in its country carried the sanction of a fine.