



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

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**Open-ended Intergovernmental Working
Group on Asset Recovery
Fourth Meeting**
Vienna, 16 and 17 December 2010

Draft report*

Addendum

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

1. In response to queries by delegations, the Secretary clarified that the United Nations Convention against Corruption remained the only legal framework of the StAR initiative. He further clarified that all States parties to the Convention were equally eligible for technical assistance under the initiative. Furthermore, the activities carried out under the StAR initiative were conducted by the secretariat with a view to responding to the mandates given to it by the Conference of States Parties and the Working Group. Reference was made to the documents regulating the partnership between the two organizations which are publicly available on the StAR initiative website. Several speakers considered UNODC's visibility in the StAR initiative to be disproportionate to its contribution. One speaker proposed as an immediate measure to place all StAR publications on UNODC's website.

IV. Thematic Discussion

A. Working towards a global network on asset recovery

2. The representative of UNODC on the StAR Initiative informed the Working Group on the meeting of the StAR/INTERPOL asset recovery focal points held in Vienna on 14 and 15 December 2010. The meeting was attended by focal points representing 42 countries that are part of the StAR/INTERPOL asset recovery focal points database. The database had been launched in January 2009 and included

* The present document is being issued without formal editing.



74 States to date. One of the meeting participants provided the Working Group with information on the discussions and recommendations that focused, inter alia, on enhancing informal and operational assistance, fostering direct contacts between law enforcement agencies, and building complementarity with regional networks. Speakers welcomed the establishment of the database and called for its use and regular updating.

3. The Working Group noted the important role of networks in exchanging experience, informal communication prior to the submission of formal mutual legal assistance requests and capacity-building. Such networks would not substitute but rather prepare and support the use of formal requests for mutual legal assistance. The Working Group highlighted the need to establish a global network of asset recovery focal points. Some speakers considered such a network could be established using the StAR/Interpol Asset Recovery Focal Points Database as a starting point and platform and that more nominations for the database were to be encouraged. Regardless of the use of the database as a global network, the need to ensure nominations of a greater number of asset recovery focal points by Governments was stressed. Speakers highlighted that any global network needed to complement and build on regional networks and their activities should be coordinated. One speaker suggested that a global network should focus on the exchange of experience, while regional networks could carry out operational assistance and capacity-building.

B. Financial investigations and asset-tracing

4. The Working Group considered the topic of financial investigations and asset tracing. Following an introduction by the UNODC representative in the StAR initiative, three presentations were delivered.

5. The representative of the United States provided the Working Group information on his country's processes for and experience of asset tracing in asset recovery actions, noting the Kleptocracy Asset Recovery Initiative launched by the US Attorney General. He stressed the crucial importance of asset tracing at the investigative stage and of identifying those assets as well as the location of evidence, of other possible criminal actors, and of witnesses and leads for the investigation. Asset tracing was key to proving the underlying crime, for providing a basis for confiscation and for mutual legal assistance. He outlined the different roles in asset tracing and the types of evidence to be used. Challenges included the complexity of international banking transactions, the use of trusts and corporate structures to frustrate investigations, and the cost of financial expertise.

6. The representative of South Africa outlined her country's approach to financial investigations and asset tracing, noting that key to successful financial investigations was a strong relationship with financial service providers. She summarized the different steps to establishing financial profiles, beginning with desktop searches from both open and closed sources and checks with financial intelligence units and banks. Once the asset base of the subject was established, a detailed financial investigation was launched, inter alia with subpoenas and police requests. She emphasized the use of manuals and information technology tools as well as the regional network ARINSA. Challenges included the lack of experienced

financial investigators, the reluctance of banks to provide information without subpoenas, and inadequate legislation. She stressed opportunities with regional networks, capacity-building for investigators and prosecutors and joint training initiatives.

7. The observer for the World Bank delivered a presentation on a case study to the Working Group, emphasizing the importance of collecting evidence and securing the assets. The study focused on a case involving a banking institution and strategies to recover commercial property following criminal prosecution and conviction of one of the bank's former senior manager. He stressed the work accomplished at the investigative phase in several jurisdictions to build a strong body of evidence and to trace the assets.

8. Speakers welcomed the changes in national legal frameworks that had contributed in recent years to making asset recovery less cumbersome. They stressed that the full implementation of Chapter V was an ongoing process and further efforts were needed to strengthen legal frameworks and build capacity. The crucial importance of ever increasing political will and the development of a culture of mutual assistance and cooperation was highlighted. Speakers noted the particular challenges in asset tracing faced by countries that did not have integrated and efficient information systems or did not have sufficient specialized capacity in asset tracing. It was further highlighted that one of the challenges in asset recovery cases was to determine the categories of information available in the requested State. More generally, speakers highlighted the need to find ways and means to overcome obstacles to effective international cooperation created by the differences of legal and judicial systems.

V. Adoption of the report

9. On 17 December 2010, the Working Group adopted the report on its meeting (CAC/COSP/WG.2/2010/L.1 and Add.1).
