



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

Distr.: General
22 June 2011

Original: English

Open-ended Intergovernmental Working Group on Asset Recovery

Vienna, 25-26 August 2011

Item 5 of the provisional agenda*

Consideration of a multi-year workplan

Preparing the ground for reviewing the asset recovery chapter: proposed multi-year workplan, 2011-2015

Background paper prepared by the Secretariat

I. Introduction

1. The Working Group on Asset Recovery at its fourth meeting held in December 2010, stressed the importance of preparing States parties for the review of implementation of Chapter V of the United Nations Convention against Corruption (the Convention) which would be reviewed during the second cycle of the Implementation Review Mechanism and wished to structure its work accordingly. For that purpose, the Working Group recommended that the Secretariat develop, through the Stolen Asset Recovery (StAR) Initiative or other relevant initiatives, a multi-year workplan for consideration by the Working Group at its meeting to be held in Vienna, on 25 and 26 August 2011. The requested workplan is outlined below.

II. Priorities and objectives

2. The overall priority of asset recovery is to deny safe havens for the proceeds of corruption. The Secretariat, particularly through its partnership with StAR, supports international efforts in this regard and works with developing countries and financial centres to prevent the laundering of the proceeds of corruption and to facilitate more systematic and timely return of stolen assets. Closely linked to this support is work to prepare States parties for the review of the implementation of Chapter V of United Nations Convention against Corruption to commence in 2015.

* CAC/COSP/WG.2/2011/1.



3. Since the Convention entered into force in December 2005, asset recovery has risen in prominence on the global agenda, and there has been a significant growth in available knowledge products, together with some increase in practical experience. This means that asset recovery is an extremely dynamic field and this in turn means that long-term plans are likely to change while new experiences are realized.
4. This workplan aims to work towards the achievement of two main objectives: The first objective is to prepare States parties for the start of the review of Chapter V in the context of the Mechanism for Reviewing the Implementation of the Convention in 2015. The second objective is to make asset recovery work in practice. Both objectives are mutually reinforcing and cannot be seen in isolation of each other. Whatever activities are being carried out to prepare States parties for a successful review of their asset recovery measures in the years following 2015, is likely to also improve the systems that will make asset recovery work in practice. At the same time, assistance provided to countries in support of actual asset recovery work, will prepare these countries for the reviews of the chapter.
5. Accordingly this workplan is divided in two sections: A relatively detailed plan for the period leading up to the fifth session of the Conference of the States Parties in 2013 and an outline of a plan for the period until the sixth session of the Conference of the States Parties in 2015. To meet the extensive technical needs in strengthening implementation of Chapter V of the Convention, the United Nations Office on Drugs and Crime (UNODC) entered into a partnership with the World Bank, the Stolen Asset Recovery (StAR) Initiative. The activities presented in this workplan represent work that will be undertaken by UNODC directly, and possibly in cooperation with other stakeholders, as well as the work undertaken through the partnership with the World Bank.
6. The workplan is structured along the main categories of mandates given to UNODC by the Conference of the States Parties and the Working Group: (i) Developing cumulative knowledge; (ii) Technical assistance, training and capacity building; and (iii) Building confidence and trust and partnerships. While continuing to work in the areas of knowledge creation, partnerships and international standards, it is envisaged that more focus will be placed on providing assistance to countries upon request.
7. The lessons learned in the period 2011-2013 will be used to develop the more detailed workplan for the period 2013-2015. Starting with the fifth meeting of the Working Group on Asset Recovery to which this workplan is submitted for consideration, there are a range of opportunities to revisit the workplan against progress in its implementation, identifying successful practices and other areas where there might be a need for shifting focus or where additional detail is needed. The Working Group would have several opportunities prior to the 2015 launch of the next review cycle to review progress in the implementation of the workplan, i.e. its annual meetings in 2012, 2013 and 2014. It is proposed that a more detailed plan for 2013-2015 taking into account lessons learned, be presented to the seventh meeting of the Working Group in 2013 for consideration. The fifth session of the Conference of the States Parties in 2013 would be presented with a report of the Working Group in order to be able to review progress midway in the run-up to the start of the new cycle.

A. Developing knowledge

8. The primary vehicle through which the Secretariat has developed knowledge was the StAR Initiative. A substantial body of knowledge on asset recovery has been developed. These investments in knowledge creation have advanced the debate on critical asset recovery issues and have established credibility in the field. They have also helped bring together practitioners from a wide range of countries, helping establish networks that support the Working Group's operational objectives. The challenge ahead is to disseminate the knowledge that has already been generated effectively and facilitate its application in support of asset recovery activities.

9. New knowledge products will be developed under StAR in response to specific requests from the policymaking bodies and in order to maintain the position of the partnership as an intellectual leader in the field. This will also ensure, in a cost effective way, that knowledge products remain up-to-date.

10. There will be continued support for the development of tools for practitioners that can facilitate the asset recovery process and monitoring of international progress in asset recovery.

1. Follow-up on existing products

11. Table 1 contains a list of products projected to be completed by the end of 2011. Dissemination plans and plans for translation for each of these products are under way and include launch events and presentations at selected international events.

12. Some of the key products will be used to develop training materials, notably the Asset Recovery Handbook and the Income and Asset Declaration Guide. The demand for training materials is projected to increase in the period 2011-15 in preparation for the start of the review of Chapter V of the Convention against Corruption in 2015.

2. New knowledge products

13. Significant demand for new knowledge products is not anticipated in the next few years: The products projected to be delivered by the end of 2011 (see table 1) fulfil most of the mandates given by the Working Group which are closely linked to ongoing technical and policy debates over international standards relevant to asset recovery.

14. However, two new products have been identified: The Working Group requested the preparation of a review and options paper on asset recovery networks for the Working Group. This paper has been submitted to the Working Group for its consideration and is contained in document CAC/COSP/WG.2/2011/3. It is anticipated that as a follow-up to this paper a policy note on the use of networks will be generated for asset recovery practitioners. In addition, in response to a need identified by the World Bank Group-sponsored Corruption Hunters' Alliance, StAR is preparing a study of national practices that lead to settlements in transnational corruption cases and allow for the compensation of victims. This study is scheduled for delivery in mid-2012.

15. At this stage, and with the information available to the Secretariat, no need for other specific knowledge products is foreseen beyond 2012.

3. Development of tools for practitioners

16. Through the development of the UNODC Legal Library, an initial dataset of laws, regulations and administrative practices of over 175 States has been compiled, and a detailed analytical breakdown of how this legislation relates to the provisions of the Convention has been conducted. The Legal Library is part of a larger project known as “Tools and Resources for Anti-Corruption Knowledge” (TRACK), which is a web-based portal and collaborative forum for anti-corruption and asset recovery practitioners and partner institutions, that collects and disseminates knowledge on anti-corruption and asset recovery, including case studies, best practices and policy analyses. The Legal Library and TRACK are expected to be launched in the summer of 2011. Throughout the period to 2015, work will be undertaken to update the legal library and TRACK based on submissions by States parties. This in turn will provide a solid starting point for States parties when completing the self-assessment checklist.

17. The Working Group also asked the Secretariat to continue work on the Mutual Legal Assistance Request Writer tool. The original version of the tool remains available and is disseminated by UNODC through several technical assistance projects. The Secretariat is considering various options for updating the tool. It is now envisaged to convene a meeting of practitioners to consider the design and operational features of a new version of this electronic tool. Work in the period until 2013 will concentrate on follow-up software development and training.

18. Throughout the period to 2015 the Secretariat will continue to update the case database developed in response to the mandate of the Working Group. Asset recovery cases, supplemented by additional cases to be provided by States parties, will constitute the basis for an analytical study, as requested by the Working Group, aimed at giving practitioners and policymakers an overview of how prosecutors and courts worldwide have dealt with asset recovery cases and some key legal aspects and implications thereof.

19. In order to be in a position to monitor the level of international asset recovery activity and track the progress of prominent cases under way, StAR will develop and provide maintenance and regular updating for the “asset recovery watch” an easy to use database containing updated information in asset recovery cases which will also be accessible through TRACK.

B. Technical assistance and capacity-building

20. Technical assistance will be a key priority area for StAR and UNODC in their efforts to prepare countries for the reviews in the years following 2015. This can address all aspects of the national authorities’ asset recovery capabilities: legislative, institutional, operational and those related to international cooperation. Broader assistance for legislative development will be provided through UNODC. Assistance for institutional development will be aimed at supporting the work of national authorities on specific cases or to implement specific articles of the Convention.

21. Case-related country assistance has been and will continue to be generally provided through StAR. Such assistance will focus primarily on requesting countries that have launched or are actively pursuing asset recovery cases or are likely to do so in the short to medium term. Assistance will include capacity-building and advisory services on specific cases, and will be driven by identifying the best means to help each requesting country make progress in asset recovery processes. At the same time, StAR will develop means of better consultations with States parties to ensure engagement with all States parties which may be interested in receiving StAR assistance.

22. This work will continue throughout the period until 2015. An assessment will be required by the Working Group in due course based on the nature of requests received and the impact of responses to such needs. This assessment would aim to determine whether the approach to providing technical assistance in the area of asset recovery was effective.

23. Recognizing that asset recovery is a lengthy process, with cases typically taking five or more years from the launch of an investigation until an initial verdict is reached, progress in country engagements will be measured in terms of the development of national authorities' capability to undertake asset recovery (improvements in legal framework, teams established, availability of specialized expertise, etc.) and progress in specific cases (launch of investigations, contacts with foreign jurisdictions, mutual legal assistance, freezing orders, etc.).

1. Case-related country assistance

24. Case-related asset recovery assistance provided through StAR will be in an advisory and facilitating role and will be at any stage in the asset recovery process, from the launch of an investigation through to the return of the proceeds of corruption following a legal judgment.

25. Examples of country assistance through the StAR Initiative may include: (i) Functioning as an honest broker by facilitating cooperation between national authorities on potential and ongoing asset recovery cases; (ii) Providing advisory services and training on the preparation of mutual legal assistance requests in specific cases with a view to facilitating cooperation between and among national authorities; (iii) Providing advisory services and training to support the management of specific cases in order to assist the authorities make informed decisions; (iv) Providing advisory services and training to support the development of dedicated teams working on asset recovery cases; and (v) Placing on the ground advisers in situations where extensive support linked to cases is required for extended periods of time (e.g. six to twelve months).

2. Self-assessment and gap analysis

26. Assessment of asset recovery regimes and identification of measures that could be taken to strengthen such regimes and make them compliant with the relevant provisions of the Convention against Corruption are first steps to any longer-term capacity-building support. UNODC will continue to assist countries upon request in completing "gap analysis" processes using as the basis the self-assessment checklist and will as a future step, where requested, provide advice on actions required to fill identified gaps. A significant increase in requests for gap

analysis has been noticed in past months, as countries wish to avail themselves of this opportunity to prepare for the review process. Where appropriate and feasible, the gap analysis will be jointly conducted with the United Nations Development Programme (UNDP). A joint guidance note has been prepared with UNDP on the process of gap analysis entitled “Going beyond the minimum”. Nevertheless, additional resources may be required for the Secretariat to be able to respond to these needs.

3. Legislative reform

27. Advisory services and training to support the drafting and implementation of legislation will continue to be a priority. Legislative assistance, be it by way of conducting a desk review of draft legislation, or by providing examples of existing legislation through the legal library, is available to States parties upon request. Several States parties are making use of this opportunity in the context of the ongoing reviews in the first cycle of the review mechanism, by providing draft laws for comments to the reviewers and the Secretariat. It can be anticipated that this will significantly increase for the area of asset recovery in the years leading up to the second cycle and the review of the asset recovery chapter. Depending on the volume of such requests received, additional resources may be required to enable the Secretariat to respond to all requests.

4. Capacity-building and training

28. Training will continue to be delivered at two levels: introductory workshops aimed at raising awareness about asset recovery which will generally be held at a regional level, to allow practitioners to share experiences and develop contacts, including contacts in regional financial centres. Those events are designed for higher-level decision makers who do not need extensive training on hands-on asset recovery techniques and procedures. In addition, more advanced and specialized training courses can be provided upon request to address technical aspects of asset recovery, specific topics or specific groups of asset recovery practitioners, including central authorities and other asset recovery focal points.

29. UNODC has begun expert consultations regarding the development of academic programmes on anti-corruption for students in law schools and business schools. Initial discussions are ongoing on the content and structure of draft academic programmes with a view to facilitating the adaptability and applicability of such programmes worldwide.

30. Technical training is most effective when it is immediately used by the recipients, in particular in circumstances where it is related to a specific and direct activity (legislative reform, institutional reform, actual case). Based on this assessment, training provided under the StAR Initiative will in future be more strongly linked to country engagement with the intention of more closely targeting skills development for recipients who have urgent and direct need to put this training into practice, i.e. are directly participating in asset recovery processes, or are expected to do so in the near future.

C. Building trust and partnerships

31. International cooperation is essential to making progress in asset recovery cases. In order to support and facilitate cooperation, work will continue in order to forge or strengthen partnerships with international organizations and support partnerships between and among national authorities. These partnerships will focus on support to operational activities.

1. The role of networks

32. Following the first meeting of the StAR-INTERPOL Focal Points Network in December 2010, StAR will continue to support the development of this network for secure information exchange and cooperation among asset recovery practitioners. This is expected to facilitate the identification of corruption cases, asset-tracking and collaboration during the investigation of asset recovery cases.

33. This partnership is also expected to help the Secretariat through StAR to collaborate with INTERPOL in operational activities at the country level to support the investigation of corruption cases, as requested by national authorities.

34. There will be continued support to the development and operation of existing or new regional networks of practitioners such as the Asset Recovery Inter-Agency Network of Southern Africa (ARINSA) or the Camden Asset Recovery Inter-Agency Network (CARIN).

35. In addition, it is proposed that work be focused on the establishment of a forum for Central Authorities nominated under article 46 (13) of the Convention. This has been an area where not much progress has been made and which has been identified as crucial in order to ensure effective asset recovery in practice. Discussions by the Working Group on networks, based also on the background paper submitted to it, are expected to provide further guidance on how to proceed with respect to central authorities.

36. Assistance to networks will focus on encouraging coordination among them to increase operational efficiency and reduce the risk of duplication. The policy work on networks to be undertaken will help inform future support to networks, with a focus on their contribution to developing and strengthening international cooperation on asset recovery cases.

37. These networks can provide a framework for operational cooperation and capacity-development. The contribution of the Secretariat to these networks may include collaboration in training activities and some technical assistance. The prominence of networks as bodies that help inform policy and disseminate knowledge and training is likely to increase in the period 2013-2015.

2. Promoting the asset recovery agenda

38. The ongoing work to advocate for the strengthening and effective implementation of Chapter V of the Convention against Corruption in international forums will continue to be a priority.

39. The Secretariat, both directly and through StAR, will continue to participate in the G20 and support its anti-corruption action plan, to promote asset recovery, to

ensure that it is an integral part of the G20 agenda, and that G20 members (as financial centres) are strongly urged to take operational steps on asset recovery (in prevention, detection, prosecution, confiscation and return).

40. The Secretariat will continue to monitor the development of agendas and debate related to asset recovery in other international forums and seek to influence these agendas and debates when appropriate.

3. Cooperation with other organizations

41. Both the Financial Action Task Force (FATF) and the Working Group on Bribery of the Organisation for Economic Cooperation and Development (OECD) have become more engaged in the asset recovery agenda. Collaboration with the OECD Working Group on Bribery in order to promote mechanisms for the recovery of the proceeds of bribery is ongoing and an initial first step is a joint study on the quantification of the proceeds of bribery expected to be published in late 2011. UNODC and the World Bank enjoy observer status in the Working Group on Bribery and will follow up on the treatment of recovery of the proceeds of bribery in the third-round review process and in discussions on operational issues. While FATF is expected to reach agreement on revised recommendations by the end of 2011, StAR input will continue to be focused towards ensuring that the FATF assessment methodology and focus on effectiveness reflects more attention to corruption (and asset recovery).

42. Collaboration with the Development Assistance Committee of the OECD is ongoing and centres on reporting on asset recovery commitments in the Accra Agenda for Action and providing guidance to development agencies on asset recovery issues. The Secretariat will continue to play a key role in the “global governance agenda” by acting as a platform for (among other priorities) bringing together several dimensions of the “proceeds of corruption” and “illicit flows” agenda, which are sometimes overly fragmented.

43. Developments and meeting schedules of other international groups, particularly banking industry groups, such as the Wolfsberg Group, will be monitored closely, and when it is deemed appropriate representatives will participate in these meetings and enter into communications with the organizations.

44. StAR will continue to engage with the International Centre for Asset Recovery (ICAR) of the Basel Institute on Governance, as appropriate, taking into account the reshaping of strategic priorities to support asset recovery.

45. StAR will collaborate with Transparency International, the UNCAC Civil Society Coalition and other interested non-governmental organizations in the implementation of an advocacy programme to increase civil society awareness of asset recovery. This will entail the development of training materials and delivery of training in consultation with StAR. This support will be concentrated in the period before the seventh meeting of the Working Group and results will be reviewed prior to providing any further support.

D. Communications

46. Effective communication is essential to developing the asset recovery agenda and it will be important to maintain dedicated capacity to sustain and develop communications activities throughout the 2011-2015 workplan.

47. All StAR Initiative knowledge products are available on the Internet through both the StAR website and the UNODC website. In addition, TRACK will link both to the StAR and the UNODC websites and is thus one of the most important tools for achieving communications objectives.

48. Further work is needed to establish StAR (be it through the World Bank website or UNODC website) as the “go-to” site on asset recovery by ensuring access to more tailored information and by keeping the site up-to-date and to ensure that it is the first point of reference when TRACK users make asset recovery related enquiries.

49. Effective dissemination strategies for StAR publications are essential in order for the information to reach a broad base of stakeholders. In addition, it is envisaged to make better use of social-networking opportunities, to prepare newsletters, and provide more systematic translation of products and communications material into official languages of the United Nations.

E. The way forward

50. The Working Group has a crucial role to play in monitoring progress towards the implementation of the workplan, assessing whether priorities set at this stage are being met or may need to be revisited given that this is a fast evolving field.

51. Specifically in the area of technical assistance and capacity-building the Working Group may wish to assess progress and effectiveness, in due course, based on the nature of requests received and the impact of the responses to them. Such assessment would aim to determine whether the approach to providing technical assistance in the area of asset recovery is effective.

52. It is envisaged that future meetings of the Working Group will become increasingly technical in nature, with a view to strengthening the group’s technical role in guiding implementation of the Convention against Corruption, strengthening the asset recovery regime and advising on the review of implementation of Chapter V of the Convention against Corruption. Specific parts of the meetings will thus be dedicated to discussing certain aspects of the ongoing work. In the fifth meeting of the Working Group its technical segment may focus on the work on networks and the asset recovery case database, as well as a presentation of the illicit enrichment study.

Table 1
Knowledge products status and follow-up in 2011-13

PRODUCT	AUDIENCE	STATUS	FOLLOW-UP
Global Architecture for Asset Recovery	Policy Makers.	Printed November 2009	
Guide for Non-Conviction Based Forfeiture	Policy Makers and Practitioners.	Printed May 2009	Translations.
Asset Recovery Handbook	Practitioners.	Printed November 2010	Dissemination. Translations. Training materials.
Management of Returned Assets	Policy Makers.	Printed November 2009	
Politically Exposed Persons	Policy Makers and Practitioners.	Printed May 2010	Translations.
Income and Asset Declarations second edition in 2 volumes.	Policy Makers and Practitioners.	Peer review completed. Printing July 2011.	Translations. Training materials.
Lowering Barriers to Asset Recovery.	Policy Makers.	Peer review completed. Printing May 2011	Dissemination Translations
Misuse of Corporate Vehicles in Corruption Cases	Policy Makers	Peer review completed. Printing June 2011	Dissemination. Translations.
Illicit Enrichment (with OCHR)	Policy Makers and Practitioners	Draft prepared. Printing Summer 2011	Dissemination. Translations
Quantification of Proceeds of Bribery (with OECD)	Policy Makers and Practitioners.	Drafting. Printing August 2011	Dissemination. Translations. Training materials.
Report on Accra Agenda for Action Commitments (with OECD)	Policy Makers.	Drafting. Delivery June 2011.	Dissemination
<i>Issues note on Asset Recovery Networks</i>	<i>Policy Makers.</i>	<i>New. For delivery August 2011</i>	<i>Preparation and dissemination.</i>
<i>Settlements in Corruption Cases</i>	<i>Practitioners and Policy Makers.</i>	<i>New. For delivery June 2012</i>	<i>Preparation and dissemination.</i>