



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

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Agenda item 5

Asset recovery

Islamic Republic of Iran:* revised draft resolution

International cooperation in asset recovery

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

Bearing in mind that the return of assets is one of the main objectives and a fundamental principle of the United Nations Convention against Corruption¹ and that the States parties to the Convention are obligated to afford one another the widest measure of cooperation in that regard,

Recalling its resolution 1/4, by which it established the Open-ended Intergovernmental Working Group on Asset Recovery, and its resolutions 2/3 and 3/3, in which it decided that the Working Group should continue its work,

Welcoming the conclusions and recommendations of the Working Group and noting with interest the background paper prepared by the Secretariat on the progress made in the implementation of those recommendations,

Determined to give effect to the obligations set out in chapter V of the United Nations Convention against Corruption in order to prevent, detect and deter in a more effective manner the international transfer of proceeds of crime and to strengthen international cooperation in asset recovery,

Concerned about the difficulties, particularly the practical difficulties, that both requested and requesting States face in asset recovery, taking into account the particular importance of the restitution of stolen assets for sustainable development and stability, and noting the difficulties of providing information establishing a link between proceeds of corruption in the requested State and the crime committed in the requesting State, which in many cases can be difficult to prove,

* On behalf of the States Members of the United Nations that are members of the Group of 77 and China.

¹ United Nations, *Treaty Series*, vol. 2349, No. 42146.



Encouraging requested States parties to respond to requests for assistance pursuant to article 46 in the absence of dual criminality,

Noting the efforts made by all States parties in tracing, freezing and recovering their stolen assets, in particular those States parties in the Middle East and North Africa, taking into consideration recent developments in those States in fighting corruption, and the efforts of and willingness expressed by the international community to assist them in the recovery of those assets in order to preserve stability and sustainable development,

Recognizing that States parties continue to face challenges in recovering assets owing to differences between legal systems, the complexity of multi-jurisdictional investigations and prosecutions, lack of familiarity with the mutual legal assistance procedures of other States and difficulties in identifying the flow of corruption proceeds, and noting the particular challenges posed in recovering the proceeds of corruption in cases involving individuals who are or have been entrusted with prominent public functions and their family members and close associates,

Acknowledging the vital importance of ensuring the independence and effectiveness of authorities charged with investigating and prosecuting corruption crimes and of recovering the proceeds of such crimes by several means, such as establishing the necessary legal framework and allocating the necessary resources,

Concerned that some persons accused of crimes of corruption have managed to escape justice and thus have eluded the legal consequences of their actions, and have been successful in hiding their assets,

Calling on all States parties, acting as both requested and requesting States, to commit the political will to act together to recover the proceeds of corruption,

1. *Renews* the commitment of all States parties to the United Nations Convention against Corruption² to effective national action and international cooperation to give full effect to chapter V of the Convention and to contribute effectively to the recovery of the proceeds of corruption;

2. *Urges* States parties that have not already done so to designate a central authority and, where appropriate, focal points;

3. *Urges* States parties to take a proactive approach to international cooperation in asset recovery by making full use of the mechanisms provided for in chapter V of the Convention, including by initiating requests for assistance, making spontaneous disclosures of information on proceeds of offences to other States parties and considering making requests for notifications, in accordance with article 52, paragraph 2 (b), of the Convention, and, where appropriate, implementing measures to permit the recognition of non-conviction-based forfeiture judgements;

4. *Encourages* requesting States to ensure that adequate national investigative procedures have been initiated and substantiated for the purpose of presenting mutual legal assistance requests, and in this context encourages requested States to provide, when appropriate, information on legal frameworks and procedures to the requesting State;

² Ibid.

5. *Calls upon* States parties to give particular and timely consideration to the execution of international mutual legal assistance requests, particularly those related to the concerned States in the Middle East and North Africa, as well as other requesting States that need urgent action, and to ensure that the competent authorities of requested States have adequate resources to execute requests, taking into account the particular importance of the restitution of these assets for sustainable development and stability;

6. *Also calls upon* States parties to afford one another the widest possible cooperation and assistance in the identification of stolen assets and proceeds of corruption and in the extradition of individuals accused of the predicate offences, consistent with the Convention;

6 bis. *Encourages* States parties to compile and provide information in accordance with article 52 of the Convention, and to undertake other actions that help to establish the linkage between assets and offences under the Convention;

7. *Urges* States parties to ensure that procedures for international cooperation allow for the seizure and restraint of assets for a time period sufficient to preserve those assets in full pending proceedings in another State, and to allow or expand cooperation in the enforcement of foreign judgements, including through awareness-raising for judicial authorities;

8. *Encourages* States parties to remove barriers to asset recovery, including, inter alia, by simplifying their legal procedures and preventing abuse of those procedures;

9. *Also encourages* States parties to remove additional barriers to asset recovery by ensuring that financial institutions and, where applicable, designated non-financial services and professions adopt and implement effective standards to ensure that such entities are not being used to hide stolen assets, which may include such measures as customer due diligence requirements; the identification and enhanced scrutiny of assets belonging to individuals who are or have been entrusted with prominent public functions, and to their family members and close associates; the collection and provision of beneficial ownership information, and by ensuring, in accordance with the Convention and domestic law, through robust regulatory action, that they adequately implement those requirements;

10. *Urges* the study and analysis of, inter alia, the results of asset recovery actions and, where appropriate, how legal presumptions, measures aimed at shifting the burden of proof and the examination of illicit enrichment frameworks could facilitate the recovery of corruption proceeds;

11. *Also urges* States parties and signatories to the Convention to strengthen the capacity of legislators, law enforcement officials, judges and prosecutors to deal with matters relating to asset recovery, including in the areas of mutual legal assistance, confiscation, criminal confiscation and, where appropriate, non-conviction-based forfeiture, in accordance with domestic law and the Convention; and civil proceedings, and to give the highest consideration to providing technical assistance in these fields, upon request;

12. *Encourages* the further development of initiatives to provide assistance in asset recovery cases at the request of States parties, such as those of the International Criminal Police Organization and similar regional institutions;

13. *Encourages* States parties to use and promote informal channels of communication, in particular prior to making formal requests for mutual legal assistance, by, inter alia, designating officials or institutions, as appropriate, with technical expertise in international cooperation in asset recovery to assist their counterparts in effectively meeting requirements for formal mutual legal assistance;

14. *Decides* that the Open-ended Intergovernmental Working Group on Asset Recovery shall continue its work to advise and assist the Conference in the implementation of its mandate with respect to the return of the proceeds of corruption and shall hold at least two meetings prior to the fifth session of the Conference, within existing resources;

15. *Requests* the Working Group to prepare the agenda for the multi-year workplan to be implemented until 2015;

15 bis. *Decides* that the future meetings of the Working Group will follow a multi-year workplan for the period up to 2015, when the second cycle of the Implementation Review Mechanism begins;

16. *Also decides* that the Open-ended Intergovernmental Working Group on Asset Recovery shall continue to consider the issue of establishing a global network of United Nations Convention against Corruption asset recovery focal points as a network of practitioners, without duplicating existing networks, to facilitate more effective cooperation, in particular, mutual legal assistance, on cases relating to asset recovery;

17. *Requests* the Secretariat, within existing resources, to assist the Working Group in the performance of its functions, including by providing interpretation services in the six official languages of the United Nations.