

COALITION STATEMENT ON PROMOTING ASSET RECOVERY AND COUNTERING LAUNDERING OF CORRUPTLY TAKEN ASSETS

The time has come to act. Beyond shedding light on the devastating impact of grand corruption, the Arab spring has revealed major anti-money laundering deficiencies, and the huge difficulties of getting the money back even after the dictator has been pushed from power.

Corrupt money transferred out of developing and transitional economies is conservatively estimated at US\$20 to US\$40 billion per year. Hundreds of billions in much needed funds for development have already been taken over the last few decades.

While recovery of stolen funds could greatly contribute to development in those countries, prevention of such outflows through greater financial transparency and anti-money laundering efforts would reduce the harm done by corruption in the first place. By ratifying the United Nations Convention against Corruption (UNCAC), States Parties have made commitments on both of these issues

As the fourth Conference of State Parties (CoSP) to the UN Convention against Corruption (UNCAC) convenes in Marrakesh, Morocco, and people throughout the Arab world struggle to get back their countries' stolen funds, the UNCAC Coalition calls on States Parties to adopt resolutions to (1) fulfil their commitment to Chapter V by removing barriers to asset recovery; (2) improve their anti-money laundering efforts in practice.

Asset Recovery

Of the hundreds of billions in ill-gotten assets misappropriated over the course of the last fifteen years, no more than US\$5 billion has been recovered and even less has been returned to the countries from which these assets were taken. There is a variety of reasons for this, including the fact that asset recovery processes are complex; they require a great deal of resources and expertise and depend on effective cooperation between the jurisdictions involved.

In this regard, the UNCAC Coalition *welcomes the Stolen Asset Recovery Initiative's (StAR) report "Barriers to Asset Recovery" and applauds its key recommendations* which aim to facilitate judicial cooperation in the area of asset recovery and allow for rapid tracing and temporary freezing or seizing of assets before a formal mutual legal assistance (MLA) request is received

However, the Coalition is also concerned that even the introduction of these measures would not fully address the twofold problem that too few asset recovery cases are brought to justice and those which are brought do not lead to effective compensation for victims.

Consequently, the UNCAC Coalition calls on the 4th CoSP to adopt a resolution:

- Endorsing the recommendations in the StAR Barriers report and urging States Parties to implement them. In particular, and in light of the recent asset recovery efforts in the Arab world, State Parties should be called upon to enact and implement a legal framework for asset recovery that makes it easier to freeze and return funds including in cases where there is limited capacity in the country from which the assets were stolen, and in situations where it is difficult or impossible to bring prosecutions against corrupt officials;
- Creating an international fund dedicated to providing assistance in the area of asset recovery;

- Mandating the Intergovernmental Working Group on Asset Recovery to study the possibility of introducing a complaints mechanism in connection with asset recovery efforts as well as the possibility of using escrow accounts for frozen assets;
- Recognizing that citizens from victim countries are collectively victims under the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power adopted by General Assembly Resolution 40/34 of 29 November 1985 and can be represented by *bona fide* public interest representatives in civil or criminal litigation or other appropriate procedures;
- Reminding States Parties of their commitment under UNCAC Article 9 to take appropriate measures to promote transparency and accountability in the management of public finances, including timely reporting of revenue and expenditure; and calling on States to ensure such transparency and accountability also with respect to returned assets.

Anti-money laundering efforts

Since an ounce of prevention is worth a pound of cure, special consideration should be given to anti-money laundering regulations in the global fight against grand corruption.

While the international community has largely succeeded in getting basic anti-money laundering standards introduced in most countries, their effective application and enforcement is still lacking.

Consequently, the UNCAC Coalition calls on the 4th CoSP to adopt a resolution:

- Calling for States Parties to promptly comply with requirements under the UNCAC and other international standards for the prevention of money laundering, with a focus on their application. This should include enforcement of requirements that banks identify the beneficial owners of funds, and that they identify customers who are Politically Exposed Persons (PEPs) and report suspicious transactions made by them to the Financial Intelligence Unit. Before accepting funds from high risk senior political figures, banks should be required to conduct due diligence that satisfactorily establishes that the source of funds is derived from legitimate activity, in particular if there is a significant disparity between the PEP's wealth and their official income. In addition, States Parties should carry out an in-depth review of how their banks handle the risk associated with PEPs, as the UK has just done, and publish the results;
- Calling for States Parties to require mandatory national level registers disclosing the beneficial ownership of companies and the settlors, trustees and beneficiaries of trusts or regulatory systems with equivalent effect. Registries of the ownership of companies should be made public or, at a minimum, States Parties should be called upon to share this information with relevant investigative and judicial authorities both domestically and internationally, and should make the information available to financial institutions to assist with their customer due diligence processes;
- Calling for States Parties to introduce comprehensive witness and whistleblower protection legislation in line with UNCAC Articles 32 and 33 to help enable the detection of money laundering and other corruption offences;
- Requesting UNODC to prepare a detailed report for the 5th CoSP on global anti-money laundering prevention and enforcement efforts, including a survey of practices on the above three points and concrete recommendations.

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