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Other matters

Document submitted by the UNCAC Coalition, a non-governmental organization not in consultative status with the Economic and Social Council***

The following document is being circulated in accordance with paragraph 1 (i) of resolution 4/6 of the Conference of the States Parties to the United Nations Convention against Corruption and rule 17, paragraph 3 (b), of the rules of procedure for the Conference.

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*** The present document is processed in the form in which it was received.



Civil Society Statement on Asset Recovery

6 June 2018

We are a group of civil society organisations including UNCAC Coalition members, Transparency International chapters and other groups and have prepared this statement as an input to discussions on Member States' discussions on Asset Recovery, taking place on 6 -7 June 2018, which will address the issue of timely information-sharing in line with UNCAC Article 56. This statement will focus on other issues that are within the scope of these discussions, in particular the lessons learned to date from the first ever Global Forum on Asset Recovery (GFAR) in December 2017 co-hosted by the US and UK and focusing on Sri Lanka, Tunisia, Nigeria and Ukraine.

Civil society organisations made several inputs to the GFAR in November 2017, including an opening and closing statement, annexed to this document and a set of reports on GFAR countries, assessing their roles in prevention of the laundering of corruption proceeds and their asset recovery systems and processes.

Three of the main messages that we sought to convey were:

- Asset recovery must be accountable and transparent at all stages
- The role that civil society has to play in asset recovery should be properly and formally recognized
- Assets recovered should be used for repairing the harm caused by grand corruption and for meeting Goal 16 of the Sustainable Development Goals (SDGs)

We believe the GFAR showed the potential benefits of establishing a regular framework for dealing with asset recovery. Such framework should be multilateral, multi-stakeholder, transparent and accountable.

We welcome the GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases adopted by the GFAR co-hosts and four focus countries. In particular, we welcome Principles 4, 5, 6 and 10 as follows:

- Principle 4: Transparency and accountability which states that "Transferring and receiving countries will guarantee transparency and accountability in the return and disposition of recovered assets. Information on the transfer and administration of returned assets should be made public and be available to the people in both the transferring and receiving country...."
- Principle 5: Beneficiaries which states that "Where possible, and without prejudice to identified victims, stolen assets recovered from corrupt officials should benefit the people of the nations harmed by the underlying corrupt conduct."
- Principle 6: Strengthening anti-corruption and development, which states that "Where possible, in the end use of confiscated proceeds, consideration should also be given to encouraging actions which fulfil UNCAC principles of combating corruption, repairing the damage done by corruption, and achieving development goals."
- Principle 10: Inclusion of non-government stakeholders, which states that "To the extent appropriate and permitted by law, individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, should be encouraged to participate in the asset return process, including by helping to identify how harm can be remedied, contributing to decisions on return and disposition, and fostering transparency and accountability in the transfer, disposition and administration of recovered assets."

We encourage Member States to adopt these principles. We further urge those countries that were involved in GFAR to work with StAR and UNODC to develop research and recommendations for best practice in the application of these principles. In particular, we note that while Principle 10 calls for the inclusion of non-governmental stakeholders in the asset recovery process, these stakeholders are rarely invited to be part of discussions about how stolen assets should be returned and to which beneficiaries. We believe that their inclusion in these discussions is crucial to achieving the transparency and accountability laid out in Principle 4.

Additionally, we urge those Member States who were involved in GFAR to make public progress made to date on confiscating and returning assets that belong to the four focus countries.

Bearing in mind that weak financial regulation and financial secrecy are key factors that enable the large-scale theft of state assets and, in that connection, the importance of creating public and well verified Beneficial Ownership registers for companies, property and trusts, we commend the United Kingdom for adopting legislation that requires the government to ensure public registers will be present in the 14 Overseas Territories (OTs) by the end of 2020. We encourage the UK to do all it can to encourage the Crown Dependencies and other countries that have not yet done so to commit to a similar timeline of adoption and implementation.

Bearing in mind that asset theft is facilitated by professional enablers, often in both requesting and requested states, who in many cases go unpunished for their role in such facilitation, we urge each Member State to commit to publishing what action it has taken, regulatory or otherwise, against professional enablers when making public that it has confiscated stolen assets.

This statement was amended in order to be approved for release by UNODC as a Statement to the IRG. You find the Statement in its original wording here: https://uncaccoalition.org/en_US/civil-society-statement-for-the-uncac-working-group-on-asset-recovery-session-june-2018/

Annexes

- Civil Society Statement for the Global Forum on Asset Recovery, 4 December 2017, <https://uncaccoalition.org/civil-society-statement-for-the-global-forum-on-asset-recovery/>
 - Civil Society Statement for the Global Forum on Asset Recovery Closing Session, 6 December 2017, <https://uncaccoalition.org/civil-society-statement-for-the-global-forum-on-asset-recovery-closing-session/>
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