

International Experts Workshop on Returning Stolen Assets

Küsnacht (Zürich), Switzerland, 24-25 October 2013

1 Background

In the last two decades, the recovery of assets stolen by public officials and senior politicians through corruption and related crimes has received considerably increased attention, especially amongst specialists and policy makers concerned with development and anti-corruption issues. A key trigger for this trend was the adoption, ten years ago, of the UN Convention against Corruption (UNCAC). The UNCAC, which entered into force in 2005, is the first international treaty in which signatory states endorsed asset recovery as a fundamental principle.

More recently, developments in the so-called 'Arab Spring' countries have again highlighted the importance of asset recovery and raised this topic beyond the circle of specialists. Indeed, the public in these countries is demanding very vocally the return of assets stolen by their former political leaders, and the topic regularly makes it to the front page of newspapers in both requesting and requested countries.

Despite the fact that so far, examples of successful repatriation of assets are few and far apart, it can be hoped that with growing experience and capacity to trace and recover stolen assets the number of actual returns will increase in the coming years. A key concern however that remains for many actors involved is that the mechanism for actually repatriating stolen assets is usually decided in an ad hoc fashion; practitioners have no guidelines and little past practice to go by when these decisions are made.

2 Purpose and methodology

This first in a series of workshops on the return of stolen assets aims to contribute to closing this gap by encourage a frank dialogue about issues that are of concern for requesting and requested countries. In doing so, the workshop does not promote one process over another but aims to help identify key factors for consideration by all concerned parties when agreeing on the appropriate mechanism for the return of stolen assets.

For this purpose, the workshop will discuss experiences made with different mechanisms used in the past, such as direct return to national budgets, collective returns through bilateral aid programmes or specialised institutions, return through externally monitored national programmes, or the establishment of dedicated trust funds. This case analysis will help identify the rational and decisive factors behind the choice of a certain mechanism over others.

Workshop deliberations will also look carefully at the role of key stakeholders in the repatriation efforts and the decision-making processes leading thereto, with a view to clarifying their responsibilities and potential scope of influence and action. The workshop will then analyse how such choices may or may not be generalised to establish good practice for comparable situations in the future.

The workshop will be composed of plenary discussions and break out groups. The discussions will be held under Chatham House rules (<http://www.chathamhouse.org/about-us/chathamhouserule>).

3 Output and follow-up

Based on the discussions during the workshop, a draft policy paper will be developed to present the policy choices and different typologies used in the past. The paper will be used as a basis for further discussions during a next workshop (first half 2014) which should be held with a larger group of participants, including from countries that have not yet made the experience of repatriation of stolen assets. This second workshop may also consider developing recommendations to assist countries in their decision making process about the mechanism for managing recovered assets.

24 October 2013 (Thursday)

09:30 am Opening session

- Opening remarks: *Gretta Fenner*, Managing Director, Basel Institute on Governance, and *Valentin Zellweger*, Head, Directorate for Public International Law, Swiss Federal Department of Foreign Affairs
- The topic of asset management during the UNCAC negotiations (*Dr Muhyieddeen Touq*, former Chair of the Ad-Hoc Committee for the Negotiation of the UNCAC)
- Asset return and development (*Phil Mason*, Senior Anti-Corruption Advisor, Financial Accountability and Anti-Corruption Team, Department for International Development, UK)
- Management of returned assets: Policy considerations (*Badr N. El Banna*, UNODC)

11 am Coffee break

11:15 am Learning from the past

Moderator: *Eugenio Curia*, Ambassador, Member of the Superior Council of Ambassadors, Ministry of Foreign Affairs and Worship, Argentina (formerly UNCAC negotiator, UNCAC CoSP Vice-Chairman)

- Returning stolen assets: The Philippines' experience (*Andres D. Bautista*, Chairman, Presidential Commission on Good Government, Philippines)
- Returning Stolen Assets: Learning from the past - The Abacha funds (*Antonio Suarez-Martinez*, Partner, Edwards Wildman Palmer UK LLP)
- The recovery of assets arising from criminal activity: The Peruvian experience from the perspective of the defense (*Luis Vargas Valdivia*, Peru)
- Discussants: *Pascal Gossin*, Swiss Federal Office of Justice; *Teresa Turner Jones*, US Department of Justice; and *Olaolu Adegbite*, Director of Operations, EFCC Nigeria

1 pm Lunch

2 pm Learning from the past (cont'd)

- Returning assets through development cooperation (*Sylvain Corderoy*, Swiss Agency for Development Cooperation/SDC)
- Returning stolen assets: The BAE's settlement and Tanzania (*Edward Hoseah*, Director General, Prevention and Combating Corruption Bureau (PCCB), Tanzania)
- Experiences with the return of assets to Brazil (*Sérgio Ramos de Matos Brito*, State Attorney, International Department of the Office of the Solicitor General, Office of the Attorney-General)
- Discussants: *Phil Mason*, UK DFID; *Lucie Wellig*, Office of the Attorney General of Switzerland; and *Robert Leventhal*, US Department of State

3:45 pm Coffee break

4 pm Role of third parties in the management of returned assets

Moderator: *Pascale Baeriswyl*, Head of Task Force Asset Recovery, Directorate of International Law, Federal Department of Foreign Affairs, Switzerland

- Report from the G8 Arab Forum on Asset Recovery Special Session III (*Hans-Juergen Gruss*, Consultant, formerly World Bank)
- Returning assets through an NGO, the experience of the BOTA Foundation (*Yevgeniy Zhovtis*, Chairman of the Board, BOTA Foundation)
- The experience of IREX in overseeing the return of stolen funds to Kazakhstan (*Jill Miller*, Deputy Director, IREX USA/BOTA Foundation)

6 pm: Departure for dinner

25 October 2013 (Friday)

9 - 10:30 pm Breakout groups

Group 1: End-use

Moderator: *Hans-Juergen Gruss* (Consultant, formerly World Bank), **Rapporteur:** *Pedro Gomes Pereira* (ICAR)

Against the background of the past cases presented in the previous plenary session and the participants' experience in their countries, this breakout group will discuss different possibilities for the end use of returned assets, and identify factors (country situation, case history, etc.) that may help determine the appropriate end use.

Group 2: Transparency

Moderator: *Olivier Bürki* (SDC), **Rapporteur:** *Salomé Steib* (SDC)

Transparency is a fundamental principle of the UNCAC and is an important tool to prevent corruption. Ensuring transparency in the use of confiscated assets will address the common concern of requesting and requested countries that returned funds are not at risk of being siphoned off again. This breakout group will discuss the concept of transparency in the context of asset repatriation, and share experiences and ideas for how to effectively ensure an adequate level of transparency in the management of returned assets.

10:30 am Coffee break

11 am Findings from the breakout groups by rapporteurs

11:30 am Way forward – Closing panel

A panel of experts conclude the workshop with a discussion on their personal findings from the workshop and challenges and a realistic outlook for the future dialogue on the return of stolen assets.

Moderator: *Gretta Fenner Zinkernagel*, Managing Director, Basel Institute on Governance

Panelists: *Teresa Turner-Jones* (US), *Andy Bautista* (Philippines), *Badr N. El Banna* (UNODC), *Secilia Hinojosa Cuba* (Peru), *Jill Miller* (IREX/BOTA Foundation) and *Edward Hoseah* (Tanzania)

Co-chairs' summary and concluding remarks:

Valentin Zellweger, Head, Directorate for Public International Law, Federal Department of Foreign Affairs of Switzerland, Switzerland

1 pm End of workshop (Lunch provided)