



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

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Report on the meeting of the Open-ended Intergovernmental Working Group on Asset Recovery held in Vienna on 25 and 26 August 2016

I. Introduction

1. In its resolutions 1/4, 2/3, 3/3, 4/4, 5/3, 6/2 and 6/3, the Conference of the States Parties to the United Nations Convention against Corruption established and continued the work of the Open-ended Intergovernmental Working Group on Asset Recovery.
2. In addition, in its resolution 6/2, on facilitating international cooperation in asset recovery and the return of proceeds of crime, the Conference directed the Working Group to (a) initiate the process of identifying best practices for identifying victims of corruption and the parameters for compensation; (b) initiate the process of identifying best practices and developing guidelines for proactive and timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention; (c) collect information, with the support of the Secretariat, regarding States parties' use of settlements and other alternative mechanisms and analyse the factors that influence the differences between the amounts realized in settlements and other alternative legal mechanisms and the amounts returned to affected States, with a view to considering the feasibility of developing guidelines to facilitate a more coordinated and transparent approach for cooperation among affected States parties and effective return; and (d) report its findings on each of these matters to the Conference of the States Parties at its next session, with the support of the Secretariat.

II. Organization of the meeting

A. Opening of the meeting

3. The Working Group on Asset Recovery held its tenth meeting in Vienna on 25 and 26 August 2016.



4. The meeting of the Working Group was chaired by Friedrich Däuble (Germany). In opening the meeting, the Chair presented the condolences of the Working Group to the Governments of Italy and Myanmar following the earthquakes in those countries, recalled the mandate of the Working Group and referred to resolution 6/2, on facilitating international cooperation in asset recovery and the return of proceeds of crime, and resolution 6/3, on fostering effective asset recovery, adopted by the Conference at its sixth session, held in St. Petersburg, Russian Federation, from 2 to 6 November 2015.

5. The Secretary of the Working Group briefly introduced the specific topics for the Group's thematic discussion: States parties' use of settlements and other alternative mechanisms, and good practices for identifying victims of corruption and parameters for their compensation. He provided an overview of the documentation prepared to support the discussion and highlighted the complex and technical nature of the topics selected.

6. The representative of Tunisia, speaking on behalf of the African Group, stressed the importance of asset recovery as a fundamental pillar of the Convention. Tunisia attached great importance to the implementation of the provisions of chapter V of the Convention on asset recovery, in particular with regard to the freezing, tracing, seizure and confiscation of stolen assets and their unconditional return to the countries of origin. He emphasized the detrimental effect of corruption on development and underscored that the repatriation of stolen assets was an international obligation under the Convention. The representative welcomed the adoption of resolution 6/2 by the Conference, aimed at guiding the future work of the Working Group, reiterated the view of the African Group that the adoption of guidelines would contribute to a more coordinated and effective approach to asset recovery, and expressed concern at the absence of effective international cooperation and information-sharing. The representative called for enhanced political will, strengthened international cooperation and simplified procedures to facilitate asset recovery, and highlighted the importance of technical assistance in that regard, including through the Stolen Asset Recovery (StAR) Initiative. The representative also underscored the importance of the Group's work as a forum to share experience and assist the Conference in implementing asset recovery-related mandates.

7. The representative of Uruguay, speaking on behalf of the Latin American and Caribbean Group, highlighted the importance of recovering stolen assets so that the stolen public resources could be used to finance crucial public services and support sustainable development. He called for strong political will to allow for the speedy recovery and return of stolen assets to their countries of origin, and noted the crucial role of international cooperation in that regard. Furthermore, the representative reaffirmed the importance of the second cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption as offering an opportunity to share information on good practices and address remaining challenges encountered in the effective implementation of chapter V of the Convention. He further stressed the importance of technical assistance related to asset recovery, in particular through capacity-building, analysis of challenges, legislative assistance and facilitation of mutual legal assistance, and called upon the Secretariat to further strengthen the provision of technical assistance for asset recovery.

8. The representative of the European Union reported on the new directive on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union. He highlighted the improvements made through the adoption and implementation of the directive, in particular with regard to rapid freezing and extended confiscation and asset management, as well as the maintenance of up-to-date statistics on the freezing, confiscation, recovery and return of the proceeds of crime. The representative further noted that, while the directive maintained conviction-based confiscation as the general rule, it also introduced non-conviction-based confiscation as an additional tool, at least in cases of flight or illness. Furthermore, he stated that the European Commission had been called upon to analyse the feasibility of introducing non-conviction-based confiscation in general in the European Union, and was monitoring the mutual recognition of freezing and confiscation orders between member States of the European Union. The representative further stressed the importance of asset tracing, and reported on the progress made in that regard since the establishment of national asset recovery offices and their connection through the Secure Information Exchange Network Application communications database. He encouraged a more proactive and systematic use of asset tracing and financial investigations, and noted the operational capacities of the European Police Office (Europol) and the judicial cooperation body of the European Union (Eurojust) in supporting the competent national authorities in the tracing and identification of criminal proceeds. The representative also took note with appreciation of the initiative for the development of practical guidelines for the efficient recovery of stolen assets.

B. Adoption of the agenda and organization of work

9. On 25 August 2016, the Working Group adopted the following agenda:
 1. Organizational matters:
 - (a) Opening of the meeting;
 - (b) Adoption of the agenda and organization of work.
 2. Overview of progress made in the implementation of asset recovery mandates.
 3. Forum for advancing practical aspects of asset recovery, including challenges and good practices.
 4. Thematic discussions:
 - (a) Thematic discussion on States parties' use of settlements and other alternative mechanisms;
 - (b) Thematic discussion on good practices for identifying victims of corruption and parameters for their compensation.
 5. Forum for discussions on capacity-building and technical assistance.
 6. Adoption of the report.

C. Attendance

10. The following States Parties to the Convention were represented at the meeting of the Working Group: Afghanistan, Algeria, Angola, Argentina, Armenia, Australia, Austria, Bangladesh, Belgium, Bolivia (Plurinational State of), Brazil, Brunei Darussalam, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czechia, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Libya, Liechtenstein, Luxembourg, Malaysia, Malta, Mauritania, Mexico, Morocco, Myanmar, Namibia, Netherlands, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, State of Palestine, Sudan, Swaziland, Switzerland, Thailand, Timor-Leste, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam and Yemen.

11. Japan participated as an observer.

12. The European Union, a regional economic integration organization that is a party to the Convention, was represented at the meeting.

13. The following United Nations programmes and funds and institutes of the United Nations crime prevention and criminal justice programme network were represented by observers: United Nations Development Programme and Basel Institute on Governance.

14. The following intergovernmental organizations were represented by observers: Asian-African Legal Consultative Organization, Europol, European Public Law Organization, International Anti-Corruption Academy, International Criminal Police Organization (INTERPOL), League of Arab States, Organization for Security and Cooperation in Europe and Regional Anti-Corruption Initiative secretariat.

15. The Sovereign Order of Malta, an entity maintaining a permanent observer office at Headquarters, was also represented.

III. Overview of progress made in the implementation of asset recovery mandates

16. The Secretariat provided an overview of the progress made in the implementation of the mandates of the Working Group regarding: (a) developing cumulative knowledge; and (b) building confidence and trust between requesting and requested States. With regard to the development of cumulative knowledge, it was noted, inter alia, that the Tools and Resources for Anti-Corruption Knowledge (TRACK) portal developed by the United Nations Office on Drugs and Crime (UNODC) had been actively used and had recorded over 56,000 page views between 1 June 2015 and 31 May 2016. The Secretariat further reported on its work in the execution of the mandates contained in Conference resolutions 5/3 and 6/3, and referred to the preparations for an international expert meeting on the

management and disposal of recovered and returned stolen assets, including in support of sustainable development, planned for the fourth quarter of 2016 in Addis Ababa, with the support of the Governments of Ethiopia and Switzerland. The Secretariat also gave an update on the work being carried out to strengthen confidence and trust between requesting and requested States through the use of practitioners' networks, as well as engaging in advocacy in a number of international forums, including the International Association of Anti-Corruption Authorities, the Egmont Group, the Anti-Corruption and Transparency Experts' Working Group of the Asia-Pacific Economic Cooperation Forum, INTERPOL, the European Union and Eurojust, the Group of Seven (G-7) and the Group of 20 (G-20) Anti-Corruption Working Group and the Global Organization of Parliamentarians against Corruption. Moreover, participants were briefed on the conduct of the fourth Arab Forum on Asset Recovery, which had focused on the theme of "searching for results in asset recovery" and been co-hosted by the Governments of Germany and Tunisia in December 2015. The Secretariat concluded its briefing by providing an overview of the key outcomes of the Anti-Corruption Summit hosted by the United Kingdom in London in May 2016. UNODC had actively contributed to the Summit, which had launched, inter alia, a global forum on asset recovery.

17. Taking into account the need to comply with national legislation and the rule of law, several speakers emphasized that significant challenges remained owing to excessive procedural requirements and related delays in the asset recovery process, lack of familiarity with domestic legal procedures, lack of trust and confidence between requesting and requested States, and differences in such procedures, in particular with regard to confiscation regimes. The complexity of asset recovery cases, difficulties in inter-agency coordination at the domestic level, and challenges in tracing assets and in the timely sharing of information were also highlighted. One speaker highlighted the difference between the concepts of recovery and return of assets and noted that article 57 of the Convention might be interpreted in different ways. Problems in practice could emerge if there were interpretations that might tend towards giving discretionary powers to requested States regarding the return of assets.

18. One speaker noted that international cooperation in the return of assets to legitimate owners would be provided in accordance with the spirit of the Convention and within the limits of its language, in particular its article 57. He also noted that the return of illicit assets was the final result of mutual legal assistance procedures, which came after other steps, such as the exchange of information, the issue of orders of seizure or confiscation, the recognition of such orders between States parties and, finally, the effective enforcement of those orders.

19. Speakers also emphasized the importance of asset recovery contributing to sustainable development.

20. One speaker stressed the importance of enhancing political will to continue international cooperation in facilitating asset recovery and referred to the lack of standardized procedures and the modest resources available to many States for asset recovery. The need to share good practices and to enhance capacity-building activities, as well as the crucial role of certain legal tools, including non-conviction-based confiscation, were also underlined.

21. A number of speakers emphasized the progress made in asset recovery and presented information on recent national legal and institutional reforms and initiatives with regard to enhancing the capacity of their respective jurisdictions to effectively cooperate in asset recovery cases. Such reforms, inter alia, included the adoption of comprehensive domestic legislation with innovative mechanisms such as reversal of the burden of proof and development of country-specific guides explaining such legislation, the establishment of centralized and specialized agencies on asset recovery and management and disposal of seized and confiscated assets, the inclusion of asset recovery clauses in mutual legal assistance agreements, the setting up of inter-agency asset recovery task forces, and concrete examples of successful asset disposition in cases related to corruption offences involving foreign public officials.

22. Many speakers reiterated their support for Conference resolutions 5/3, 6/2 and 6/3 as important bases for enhancing international cooperation in asset recovery, in line with chapter V of the Convention.

23. Speakers welcomed the assistance provided by UNODC and the StAR Initiative, as well as other technical assistance providers, and also welcomed important international initiatives such as the Global Asset Recovery Forum, the Arab Forum on Asset Recovery, the global focal point initiative of the StAR Initiative and INTERPOL, and several regional networks of asset recovery practitioners, such as the Camden Asset Recovery Inter-agency Network and the Asset Recovery Inter-Agency Network for Eastern Africa, along with the International Centre for Asset Recovery. In that regard, one speaker requested UNODC assistance in sharing good practices in developing model asset recovery agreements and creating a specialized asset management office.

24. One speaker proposed that victims of corruption should include both natural and legal persons, as well as the State and the communities that have been harmed. She further suggested that the typologies of such harm should include social harm, as well as reputational damage. The speaker noted that the term “proceeds of corruption” must be construed in the widest possible manner in accordance with article 2 of the Convention. Finally, she emphasized the importance of adopting guidelines on proactively sharing information in accordance with article 56 of the Convention, including in the context of settlements and other alternative mechanisms.

IV. Forum for advancing practical aspects of asset recovery, including challenges and good practices

25. Many speakers underlined the importance of the Working Group as a forum for the exchange of good practices and the sharing of experiences. They stressed the importance of that work given that the second cycle of the implementation review mechanism would examine the implementation of chapter V of the Convention. The adoption of resolution 6/2 was recalled and welcomed as a milestone in the field of asset recovery.

26. Several speakers reported on new legislation or amendments to existing laws that had been adopted by their countries in order to facilitate the recovery of assets and to effectively implement chapter V of the Convention. Specific legislative

measures were aimed at improving mutual legal assistance in the context of asset recovery, and included the introduction of non-conviction-based or extended confiscation, as well as laws and procedures regulating the management and disposal of the proceeds of corruption and related offences.

27. One delegate provided a comprehensive overview of his country's new Foreign Illicit Assets Act, which was intended to consolidate, in a single, comprehensive piece of legislation, all measures concerning the freezing, confiscation and restitution of foreign assets, including measures to support the rendering of mutual legal assistance to other States parties. The delegate underlined that, even where the granting of mutual legal assistance in the form of a forfeiture order was not possible owing to the failure of the mutual legal assistance procedure, targeted freezing and administrative confiscation could be initiated by the Government, leading to restitution based on an agreement with the requesting country, or granted unilaterally. Finally, he underlined that, in accordance with article 31, paragraph 8, of the Convention, a presumption of the illicit origin of the assets was stipulated in the act.

28. Most speakers noted how legislative measures to ensure a comprehensive normative framework for asset recovery remained fundamental. One speaker noted that his country had amended its criminal procedure code in order to make confiscation of the proceeds of crime mandatory even in the event of a settlement between the prosecutor and the defendant, and the compensation for damages or the recovery of the proceeds of crime an integral part of the punitive system. Another speaker outlined how her country, instead of fully reversing the burden of proof, had adopted a dynamic concept of the burden of proof, whereby each party had to put forward its best evidence in order to support its position. A couple of speakers noted how their countries had already established non-conviction-based forfeiture, and highlighted the difficulties encountered with other States that had not yet established that concept in their domestic law and therefore refused to cooperate. Therefore, they requested enhancement of the application of article 31 of the Convention. Several speakers emphasized the importance of international cooperation in the field of asset recovery and called for more positive and effective action and more bilateral or multilateral dialogue or relevant agreements so as to transform political will into concrete progress with a flexible attitude.

29. Several speakers underscored the complexity of asset recovery and how that called for pragmatic and innovative solutions. One speaker noted how the creation of a national strategy had brought together governmental and non-governmental actors to help identify weaknesses in the system for combating corruption. A number of speakers, in emphasizing the importance of inter-agency coordination and cooperation, described various types of inter-agency forums that had been established for the purpose of enhanced information-sharing among relevant national actors.

30. The importance of creating specialized asset recovery offices was highlighted by several speakers. On that point, a number of delegates informed the Working Group that their countries had recently established such offices and charged them with the identification, tracing, freezing, recovery, management and disposal of the proceeds of crime. One speaker added that, while such a body had been created in his country, authorities now needed capacity-building and training to ensure that it became fully operational. Other speakers called for the establishment of domestic

asset recovery funds and databases to keep track of asset recovery cases. The social reuse of confiscated assets was also identified as a way to reinvest such assets in society.

31. In emphasizing the international dimensions of corruption in general and asset recovery in particular, several speakers noted how international cooperation remained a cornerstone of their work. In that context, several speakers highlighted the benefits of joining existing regional networks of asset recovery practitioners, such as the Camden Asset Recovery Inter-Agency Network, the Asset Recovery Inter-Agency Network for Eastern Africa, the Asset Recovery Inter-Agency Network for West Africa, the Asset Recovery Inter-Agency Network for Asia and the Pacific, the Asset Recovery Network of the Financial Action Task Force of Latin America, and the European Union platform of asset recovery offices. Other speakers welcomed the practical guides that had been developed by several jurisdictions, providing useful information on the channels of communication as well as the requirements for mutual legal assistance to jurisdictions seeking cooperation in asset recovery cases. Another speaker explained how joint investigations had been carried out by requesting and requested States. In the same vein, several speakers mentioned that the building of trust was often facilitated through the voluntary sharing of information in line with article 56 of the Convention.

32. Many speakers shared insights about concrete asset recovery cases which had either been successfully concluded or in which they had faced challenges that they had not yet been able to overcome. Such challenges included requests that were never answered or even acknowledged by the requested country, the absence of dual criminality and overly cumbersome procedural requirements by the requested State party. One speaker noted that her country's asset recovery efforts had been complicated through the use of arbitration forums based on international investment treaties. Several speakers expressed the need for political will, and one speaker highlighted how her country had managed to return assets even in the absence of specific asset recovery legislation because of the country's decisive political will and flexibility in implementing the Convention and internal legislation.

V. Thematic discussion

A. Thematic discussion on States parties' use of settlements and other alternative mechanisms

33. The Chair introduced the item, referring to the background note prepared by the Secretariat on settlements and other alternative mechanisms in transnational bribery cases and their implications for the recovery and return of stolen assets (CAC/COSP/WG.2/2016/2).

34. The Secretariat provided a brief overview of the content of the background note, which built on the conclusions of *Left Out of the Bargain: Settlements in Foreign Bribery Cases and Implications for Asset Recovery*, a study produced by the StAR Initiative of the World Bank and UNODC in 2013. The note analysed additional data on settlements that had been concluded between mid-2012 and the end of April 2016. The note demonstrated that settlements and other alternative mechanisms had continued to constitute an important tool in resolving cases of

foreign bribery and related offences. It was highlighted that a significant gap seemed to remain between the amounts that had been realized through settlements and other alternative mechanisms and those which had been returned to the countries whose public officials had allegedly been bribed in the respective cases. It was also noted that, while the findings of the study remained largely relevant, a fully conclusive assessment of the use of settlements and other alternative mechanisms in concluding transnational corruption cases and their implications for the recovery and return of stolen assets would require a more in-depth and comprehensive analysis.

35. The panellist from the United Kingdom made a presentation on the Serious Fraud Office, a specialized prosecuting and investigating authority in charge of tackling serious corruption and economic offences. The panellist explained several scenarios under which a settlement could be concluded. The panellist noted that a deferred prosecution agreement could be entered into when the public interest would properly be served by not prosecuting an alleged offender and a court had agreed that it was in the interests of justice and that the terms of the agreement were fair, reasonable and proportionate.

36. In the Standard Bank case, the Government of the United Republic of Tanzania sought to raise a credit of \$600 million for an infrastructure project. Standard Bank entered into a competition for the performance of that service, engaging in the process an intermediary company named Enterprise Growth Market Advisors Limited, charging a fee of 1 per cent of \$600 million for its services. The ensuing investigation revealed that the company had not performed any services and that the fee constituted a kickback scheme and had actually been used to bribe several public officials. In the ensuing criminal case, the court found that the Government of the United Republic of Tanzania had suffered harm because the 1 per cent kickback had been taken out of funds intended for the Government. The Government was also entitled to the restitution of the paid interest on the full \$600 million, which by the time of repayment had amounted to \$1,046,196. The panellist further noted that, unlike in the Standard Bank case, it was not always possible for the court to find that losses caused by a bribery scheme were easily identifiable and quantifiable.

37. The panellist from the United Republic of Tanzania presented the legislative framework for asset recovery in his country. He noted that the domestic confiscation regime was based on conviction-based forfeiture. He further outlined the main challenges that his country was facing in its asset recovery efforts, including the lack of a non-conviction-based confiscation regime, limited capacity and resources, and challenges in international cooperation. He highlighted the important role of UNODC, including through the StAR Initiative, as a technical assistance provider to his country in the area of asset recovery.

38. The panellist presented the Standard Bank case from the perspective of the United Republic of Tanzania. He commended the cooperation of the authorities of the United Kingdom and, in particular, the prompt sharing of information that had allowed for the investigation and prosecution of individuals involved in the case domestically. The panellist noted that the investigation revealed that some of the shareholders of Enterprise Growth Market Advisors Limited were high-ranking Tanzanian Government officials. The investigation also clearly demonstrated that the company did not perform any work as an intermediary between the Standard Bank and the Government of the United Republic of Tanzania. The panellist

emphasized that the case had had great significance with regard to the development of approaches to the investigation and prosecution of corruption offences in his country. The panellist further stated that the effective use of deferred prosecution agreements by the authorities of the United Kingdom in that case had prompted the authorities in the United Republic of Tanzania to consider introducing similar legislation domestically.

39. The panellist from the United States presented the Foreign Corrupt Practices Act and the unit in the Department of Justice charged, together with a number of other agencies, with implementing the Act. He clarified that the unit had not dealt with asset recovery directly, mostly because the proceeds of bribery offences usually were no longer with the company but with the corrupt official, in the form of, for example, offshore bank accounts or property acquired with such proceeds. The panellist stressed that the Department of Justice was committed to recovering such assets through forfeiture actions or confiscation and had recently taken additional steps to further enhance its capacity to cooperate with other jurisdictions in that regard.

40. The panellist mentioned that, although the unit charged with implementing the Foreign Corrupt Practices Act had a limited role in asset recovery, its actions against bribe payers, including in the context of settlements, had helped asset recovery cases pursued by the jurisdictions whose officials had been bribed, i.e. by producing evidence that could be used in such proceedings.

41. With regard to criminal fines and disgorgement of profits, the panellist made specific reference to the definition of proceeds of crime contained in article 2 of the Convention, explaining that such fines and disgorgement were not covered by that definition. Fines were calculated in line with respective Department of Justice guidelines, taking into account various factors, such as the size of the company, the extent of the cooperation of the company with the authorities' investigation, and the pervasiveness of the crime, as well as anti-corruption compliance controls and remediation of the company.

42. The panellist from Brazil highlighted the relevant legal framework of his country, namely its anti-bribery law, which had established the possibility of leniency agreements for companies as a non-criminal sanction for corruption offences, and its organized crime law, which had established the possibility of concluding cooperation agreements with cooperating (alleged) offenders. The panellist further clarified that leniency agreements served essentially as an investigative tool to discover facts and gather evidence.

43. Additionally, the anti-bribery law had established agreements that allowed for reduction of the otherwise applicable fines by up to two thirds and an exemption from any other judicial, civil and administrative sanctions. However, the possibility of entering into such agreements existed only when the company had spontaneously provided information on wrongful acts and admitted participation and involvement in such wrongdoing. Moreover, the law stipulated that such agreements were available only when the company provided for full restitution of any illicit gains and compensation for any damages caused.

44. The panellist further stressed the importance of sharing the terms of settlements with other affected jurisdictions, with a view to supporting investigations against the recipient of the bribe as well as in order to come to a

common understanding of various terms relevant in the context of settlements, such as “proceeds of crime”, “damages” and “administrative, civil and judicial fines”.

45. The panellist concluded by stressing several remaining challenges to international cooperation caused by the use of settlements, such as the sharing of all evidence obtained by the settling jurisdiction and of the full terms of the settlement, including any admission of guilt or responsibility by the (alleged) offender.

46. In the ensuing discussion, speakers highlighted the importance of proactive sharing of information at all the stages leading up to the conclusion of settlements, in line with article 46, paragraph 4, and article 56 of the Convention.

47. Some speakers further stressed the importance of transparency, including judicial oversight, the sharing of information and shared responsibility in the context of settlements and related international cooperation. In that regard, a number of speakers expressed concern regarding the lack of involvement of requesting and affected States in settlement proceedings and the disposal of assets.

48. A number of speakers noted the importance of further studying how criminal proceeds and applicable sanctions were understood and applied in different jurisdictions.

49. One speaker underscored the importance of the definition of criminal proceeds under article 2 of the Convention covering any property derived from or obtained, directly or indirectly, through the commission of an offence, as well as the broad scope of the application of the Convention according to its article 3. The speaker noted that therefore not only the bribe received by the public official but also all other profits generated by the bribe giver, in the form of commercial contracts, licences and similar benefits, should be considered as property obtained or derived through the commission of an offence. She also stated that the State and the public in general could be considered as victims of such corrupt transactions. The speaker further noted the importance of focusing on the objectives of Conference resolution 6/2 and on working towards a common understanding and a uniform approach to addressing the challenges to the recovery and return of assets caused by the use of settlements.

50. Several speakers expressed their concerns with regard to an apparent trend of imposing conditionalities on the return of assets that were the proceeds of illicit acts, including assurances of the legitimate use of such assets by the requesting State in the future.

51. Another speaker noted that the Convention could be used as a legal basis for cooperation in administrative and civil matters in the context of asset recovery, and pointed to the importance of having discussions on that matter at future meetings of the Working Group.

52. The panellist from the United Kingdom further noted that the specific circumstances of each individual settlement were important, as they had implications for the respective opportunities to recover and return assets to other affected countries. She also noted that judicial oversight played a crucial role in ensuring the transparency and fairness of settlements in the United Kingdom. The panellist mentioned that the United Kingdom was working on the adoption of its compensation policies applicable to asset recovery in the context of settlements.

53. The panellist from the United States re-emphasized the importance of distinguishing criminal proceeds from criminal fines and disgorgement of profits in the context of settlements. He further noted the complex nature of settlements and the absence of consensus on who could be considered a victim of foreign bribery, as that term was not defined in the Convention. He concluded by stressing that successful asset recovery was very much dependent on the active enforcement of anti-corruption laws in both requesting and requested States.

B. Thematic discussion on good practices for identifying victims of corruption and parameters for their compensation

54. The representative of the Secretariat recalled Conference resolution 6/2, in which the Conference had called upon the Working Group to initiate the process of identifying best practices for identifying victims of corruption and the parameters for compensation, and noted that a large proportion of the proceeds of corruption were yet to be returned to the requesting States parties, their prior legitimate owners and victims of the crimes. The representative introduced a note prepared by the Secretariat on good practices in identifying the victims of corruption and parameters for their compensation (CAC/COSP/WG.2/2016/CRP.1). The note was principally based on the findings and observations emanating from the country reviews conducted under the first cycle of the Implementation Review Mechanism. Practices of States and parameters of compensation discussed in the document included: (a) definition and identification of victims of corruption; (b) legal proceedings for compensation — who could initiate them and the nature of proceedings; (c) factors taken into consideration when awarding compensation; (d) who was liable to pay compensation; and (e) enforcement of compensation judgments. The representative of the Secretariat noted that the Working Group might wish to consider tasking the Secretariat with continuing to gather information on good practices in relation to the identification and compensation of victims, including through soliciting additional information from States parties, holding an expert group meeting on the issue and/or organizing an expert panel at the eleventh meeting of the Working Group.

55. In the ensuing discussion, several speakers reaffirmed the commitment of their jurisdictions to compensation of and restitution for all victims of corruption. Delegates highlighted improvements made to their national legal frameworks and mechanisms which allowed for States, individuals and legal entities to be compensated as victims. Speakers re-emphasized the importance of international cooperation for the purposes of compensating victims of corruption, including providing effective mutual legal assistance, expediting cases and avoiding unnecessarily cumbersome procedures. One speaker called for advancing international cooperation in civil and administrative proceedings, as well as for full and effective implementation of article 53 (b) of the Convention. In that context, she specifically called on States parties to ensure that their laws provided legal standing to other countries to claim compensation for damages suffered by local governments or other governmental entities within a State, recalling the provisions of Conference resolution 6/4 in that regard.

VI. Forum for discussions on capacity-building and technical assistance

56. The representative of the Secretariat gave a briefing on technical assistance and capacity-building provided by UNODC, primarily through its StAR Initiative jointly implemented with the World Bank.

57. He explained that country engagements were designed as multi-year programmes and covered a range of diverse activities, including tactical analysis and establishment of asset recovery strategies, financial investigation techniques, asset disclosure, forensic audits in preparation for cases, case management advice, facilitation of contacts and case consultations with other jurisdictions, as well as the drafting and processing of mutual legal assistance requests. UNODC and the StAR Initiative worked with financial intelligence units, law enforcement, public prosecutors, central authorities, judges and magistrates, and ministries of foreign affairs, finance and justice, along with a range of other officials from all regions.

58. Such assistance entailed both generic capacity-building activities and targeted, case-related engagement. StAR Initiative methodologies included more traditional training workshops, as well as the placement of mentors and the practical facilitation of coordination and cooperation, both domestically and internationally. During the previous year, 22 countries, one asset recovery forum and two regional networks had received such assistance through the StAR Initiative, and new requests had been received from six countries.

59. Speakers underscored the importance of technical assistance for the successful implementation of the Convention and for effective asset recovery, and highlighted the crucial role of international organizations in coordinating support for countries seeking to enhance implementation of the Convention. They welcomed the work of the StAR Initiative and called for the provision of continued financial support to it. Speakers noted that technical assistance programmes needed to be designed according to the specific needs and characteristics of each country and with a view to building trust and confidence, as well as political will. Reference was made to the Arab Forum on Asset Recovery as a venue for discussion and technical assistance follow-up. The upcoming Global Asset Recovery Forum was to build on the experiences and successes to date.

60. One speaker noted ongoing support provided to UNODC for country reviews conducted under the Implementation Review Mechanism. Speakers also referred to examples of bilateral technical assistance to combat corruption, which included a programme on combating illicit financial flows, and the placement of resident mentors and advisors on combating money-laundering. One speaker referred to the side event held on the margins of the Working Group to provide an update on the Lausanne process initiative on practical guidelines for the efficient recovery of stolen assets. He welcomed the feedback received and referred to the continued dialogue leading up to the next meeting under the Lausanne process, to be held in February 2017.

61. The observer for INTERPOL made reference to the INTERPOL/StAR Initiative platform of global focal points and highlighted how the platform facilitated the exchange of information related to fighting corruption and recovering assets. There were 121 countries and 216 focal points registered on the platform.

The speaker also noted the efforts of INTERPOL in regard to building capacity through national and regional training sessions within the framework of the INTERPOL Global Programme on Anti-Corruption, Financial Crimes and Asset Recovery. The observer for the International Anti-Corruption Academy provided information on the various courses offered by the Academy and shared information on the Academy's efforts to support the implementation of the Convention, in particular its chapter V on asset recovery.

VII. Conclusions and recommendations

62. The Working Group re-emphasized the importance of the continuing efforts of States to build trust and confidence and to remove barriers to asset recovery, and to that end highlighted the importance of improving and increasing political will.

63. The Working Group emphasized the importance of asset recovery in contributing to the deterrence of corruption and the achievement of the Sustainable Development Goals.

64. While acknowledging continuing challenges in the implementation of chapter V of the Convention, the Working Group welcomed the progress that had been made in enhancing the recovery and return of stolen assets and, in particular, the positive role of UNODC and the joint UNODC/World Bank StAR Initiative in supporting that process.

65. The Working Group called upon States to support the efforts by UNODC and the StAR Initiative in the asset recovery field. The Working Group also called upon States to support efforts with a view to the organization of the Global Asset Recovery Forum in 2017.

66. The Working Group recommended that States parties make information on settlements and other alternative mechanisms available, including, where appropriate, through public means.

67. The Working Group recommended that States parties, as appropriate, make information available on their legal frameworks and procedures regarding asset recovery, as well as how States distinguished between the various forms of monetary sanctions that might be imposed as part of settlements and other alternative mechanisms.

68. The Working Group encouraged States to provide to the Secretariat information on their legal framework and practice relevant to the use of settlements and other alternative mechanisms in concluding transnational corruption cases in accordance with Conference resolutions 6/2 and 6/3, with a view to contributing to an informed discussion to consider the feasibility of developing guidelines to facilitate a more coordinated and transparent approach for cooperation among requested and requesting States parties and effective return.

69. The Working Group requested the Secretariat to continue its efforts, subject to the availability of resources, in gathering information on good practices in relation to the identification and compensation of victims in accordance with Conference resolution 6/2, including through soliciting information from States parties and organizing an expert panel at the eleventh meeting of the Working Group.

70. The Working Group noted the initiative of the Governments of Ethiopia and Switzerland with the support of the Secretariat to organize an international expert meeting on the management and disposal of recovered and returned stolen assets, including with a view to contributing to sustainable development, and requested the Secretariat to update the Working Group on the outcomes of that meeting.

VIII. Adoption of the report

71. On 26 August 2016, the Working Group adopted the report on its meeting (CAC/COSP/WG.2/2016/L.1 and Add.1-5).
