

Asset recovery

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FACTI ISSUES NOTE

The FACTI Panel published its [interim report](#) on 24 September 2020.

The FACTI Panel will hold a series of high-level virtual regional consultations with global stakeholders from 9 to 23 November 2020. The consultations aim to discuss possible means to address the shortcomings identified in the interim report. To orient the consultations a series of short issues papers are being presented along with guiding questions for the consultations.

INTRODUCTION

If the proceeds of corruption find their way into another country, the origin country will have to rely on international cooperation to confiscate and return the assets. Despite the entry into force of the UN Convention Against Corruption (UNCAC) in 2005 and recent progress in this area, the known volume of asset returns by any means accounts for only a tiny fraction of the proceeds of corruption laundered worldwide.

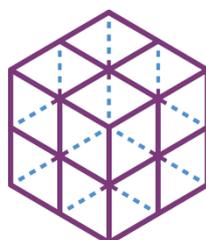
In 2014, StAR and the OECD published the most recent and reliable data about asset recovery, finding that between 2006 and June 2012, around \$2.6 billion of assets were frozen and only around \$423.5 million were returned by OECD countries. While no comparable analysis of international returns of proceeds of corruption is available since 2012, open-source research on asset recovery cases by StAR showed that between 2012 and 2019 \$1.4 billion in proceeds of corruption were repatriated internationally.

Although UNCAC constitutes a major breakthrough, international cooperation is far from being effective. In fact, requested states have enormous discretion in whether and when to provide international

cooperation and requesting states continue to face burdensome and lengthy mutual legal assistance (MLA) procedures – especially those that are seeking to recover assets stolen by former long-lasting kleptocratic rulers.

Despite the recent development of principles about the return and disposal of assets, there are still many challenges when it comes to repatriating assets to the country of origin especially in situations where there is no trust between jurisdictions involved. Countries returning assets have sought voluntary agreements on the ultimate disposal of assets, saying they want the resources to reach the people of the nations harmed by corruption. Yet countries of origin invoke sovereignty and rightful ownership of the assets in rejecting oversight of disposal. None of the voluntary guidelines offer permanent solutions for every case, and the gap in trust potentially hinders asset return, penalizing the ultimate victims of corruption.

Last, collecting and disseminating reliable, comprehensive and disaggregated data on the actual volume of assets seized, confiscated and returned is critical for a



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comprehensive picture of asset recovery efforts and assessing effectiveness in meeting UNCAC's commitments. It is a startling failure that most UNCAC States Parties neither collect nor publish asset recovery data, and what data there is remains scattered, partial and inconsistent. Transparency and accountability can help restore trust and bring credibility to the whole process of asset recovery.

LOOKING FORWARD

Returning resources to countries that are victims of corruption should be more transparent, easier and faster, while still maintaining accountability. To that end, the Panel would like to explore innovative, concrete and balanced solutions to ensure

effective, accountable and transparent asset return in all cases.

Guiding question for the consultations:

- **What proposals do you have to ease and accelerate the whole asset recovery process and ultimately enhance the volume of asset recoveries?**
- **Bearing in mind the sensitive nature of sovereignty questions, how should the world ensure effective, accountable and transparent asset return in all cases?**
- **How can the international community enhance data collection and dissemination in asset recovery?**

Further details on the high-level regional consultations can be found on the FACTI Panel website: <http://www.factipanel.org/events>.

