

RECOMMENDATIONS

We hereby acknowledge the following points.

Preamble - Recognition of Current Situation:

1. Economic crimes, including corruption and money-laundering, are committed for the purpose of obtaining profit. Thus, identifying, freezing, seizing and confiscating the proceeds of crime are the most effective measures against those criminal activities. Further, the successful confiscation and recovery of the proceeds of corruption are vital to eradicate poverty and to secure sustainable economic development and the rule of law, especially in developing countries.
2. A variety of problems impede the abilities of prosecutors and investigators to confiscate and recover the proceeds of corruption, such as weaknesses in the prevention and control of money-laundering, legal loopholes, lack of expertise and resources to successfully trace, freeze and confiscate assets, both domestically and internationally, as well as insufficient trustful international co-operation.
3. As international transactions have become increasingly easy to conduct, so too has it become easier to move corruption and money-laundering proceeds across borders. Investigation and prosecution authorities face immense challenges in tracing and proving complex transnational flows of money and successfully freezing and confiscating the illegally acquired, transferred and diverted assets, particularly when the assets are located abroad. Under these circumstances, international co-operation among financial and criminal justice authorities in the relevant countries and mutual legal assistance in the freezing and confiscation of the proceeds of corruption have become focal issues in recent years. It has, therefore, become indispensable for each country to both adopt and fully implement effective legislation and practical measures for identifying, freezing, confiscating and repatriating the proceeds of corruption as may be provided in existing international agreements and conventions.

We hereby adopt by consensus the following Recommendations:

Recommendations:

1. Accession to the United Nations Convention against Corruption should be duly considered in order to utilize the Convention as an effective tool for identifying, freezing, confiscating and repatriating of the proceeds of corruption;
2. To implement obligations in the UNCAC, criminalization of acts of corruption in accordance with the UNCAC should be duly considered by respective countries. Such acts of corruption criminalized in accordance with the Convention should be included as predicate offences of money laundering;
3. Establishment of a Financial Intelligence Unit to gather and analyse information regarding financial transactions is considered essential to detect money-laundering and the laundering of the proceeds of corruption. Establishment of an FIU is called for by Article 14 of the UNCAC. FIUs should be adequately empowered and staffed so that they will be able to carry out their functions effectively and without undue influence. FIUs should provide the widest possible co-operation to their foreign counterparts without unduly restrictive conditions;
4. Financial institutions and FIUs should comply with relevant FATF 40+9 recommendations, which are the accepted international standards for an effective anti-money-laundering regime, especially those regarding the duty to verify every customer's identity and beneficial ownership and to report suspicious transactions;
5. In order to effectively detect the proceeds of corruption, criminal justice authorities and officials should pay adequate attention to suspicious transactions reported to their FIUs;
6. Criminal justice authorities and FIUs should develop the capacity of their officers by providing professional training on financial investigations including accounting procedures, new payment methods, and recent developments in identifying, freezing, confiscating and repatriating proceeds of corruption;

7. Law enforcement authorities should not ignore the myriad ways that the proceeds of corruption are moved and be alert to the fact that not all funds are moved through the formal financial sector. In order to combat cash smuggling and to promote targeting and interdiction of cash couriers, law enforcement and other relevant authorities should enhance international sharing of information and experience as regards the modes of operation employed by cash couriers and effective detection methods;
8. Establishment of an obligatory asset disclosure system for appropriate public officials, including high-ranking officials and politicians, should be considered. Access to such information should be granted to appropriate investigative authorities;
9. In order to prevent dissipation of the proceeds of corruption, adequate legislation and procedures should be enacted so that criminal justice authorities or FIUs are empowered to promptly take freezing measures;
10. Criminal justice authorities, upon receipt of a request from another country to freeze the proceeds of corruption located in their country, should act promptly to ensure that the funds are so restrained;
11. To ensure the effectiveness of freezing orders, authorities should be able to obtain such orders without alerting the subject of the investigation;
12. Adequate legislation and procedures for criminal conviction-based asset confiscation should be enacted, and properly implemented;
13. Where not already in effect, consideration should be given to enacting a law to allow for the confiscation of proceeds of corruption without a criminal conviction, especially in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases;
14. The possibility of shifting the burden of proof regarding the origin of alleged proceeds of corruption should be considered;
15. Concerning cases involving the embezzlement of public funds or the laundering of such embezzled funds, a legal mechanism which allows a requested country to return those confiscated funds to a requesting country should be in place, as mandated by Article 57 of the UNCAC;
16. Criminal justice authorities should effectively utilize mutual legal assistance as a measure to realize freezing, confiscation and recovery of proceeds of corruption;
17. Criminal justice authorities should provide the widest possible co-operation to their foreign counterparts so that proceeds of corruption can be effectively and promptly detected, frozen, confiscated and recovered. Such co-operation should be provided without unduly restrictive conditions;
18. Criminal justice authorities should strengthen and utilize informal channels with their counterparts in other jurisdictions prior to making a formal request for mutual legal assistance in order to facilitate active information exchange. Sharing of draft requests should be encouraged in order to avoid delays and to ensure that final versions will be executable in the requested country;
19. All investigative agencies are encouraged to build trustful co-operation at the domestic, regional and international levels, to ensure efficient investigations for a better prospect of conviction and/or asset recovery;
20. Participation in international fora, such as this Regional Seminar on Good Governance, to exchange experiences and possible solutions with other jurisdictions, should be encouraged. Participants should share with criminal justice and other authorities in their respective jurisdictions the knowledge gained from such international fora; and
21. Notice should be taken of assistance provided by the joint UNODC-World Bank Stolen Asset Recovery Initiative in developing and implementing measures to facilitate asset recovery.