

Deauville Partnership with Arab Countries in Transition
Governance Pillar
Action Plan on Asset Recovery

Asset recovery, in the wake of the Arab Spring, has become a more urgent area of focus in the region and in the international community. The Action Plan identifies concrete measures to promote cooperation and case assistance, capacity building efforts and technical assistance. The plan also suggests a collaborative regional initiative, the Arab Asset Recovery Forum, for discussion and cooperation on continued efforts. The proposals below are grounded in principles and precedent from other international agreements/forums, including among others the U.N. Convention Against Corruption (UNCAC); the OECD Anti-Bribery Convention; the Financial Action Task Force (FATF) Recommendations; the G20 Anticorruption Action Plan; the Third High Level Forum on Aid Effectiveness (Accra Agenda for Action); and the UN Transnational Organized Crime Convention.

Specific actions by G8 members to promote effective cooperation in asset recovery will include:

Measures to Promote Cooperation and Case Assistance

- Political commitment to asset recovery: In the 2012 G8 Summit communiqué, signal their political commitment to cooperate on asset recovery, and, through that and other channels, urge representatives of relevant international organizations to give high priority to transition countries' requests for technical assistance related to recovering proceeds of corruption.
- Seek to enhance responsiveness: Take into account the importance of transition countries' requests for case assistance in recovering proceeds of corruption and organized crime and accordingly give them priority, where legally permissible, and encourage regional partner countries to do the same.
Implementation: Immediate
- Adopt and enforce international frameworks: Ratify the U.N. Convention Against Corruption as soon as possible, and take steps to enhance their enforcement of laws against foreign bribery, in order to provide a universal legal framework for asset recovery cooperation.
Implementation: Ongoing

- Promote transparency and effective cooperation:

Each G8 member will:

- publish a guide that describes specific steps required for assistance and cooperation in matters related to tracing, freezing, confiscation, and return of proceeds of corruption, whether through formal mutual legal assistance (MLA) or other forms of cooperation and make the guide available in Arabic¹;
- designate or appoint the office/ persons responsible for inquiries, guidance, or other investigative cooperation permitted by law, both for MLA and for other forms of cooperation not requiring MLA requests; and
- designate the appropriate points of contact to relevant networks, including but not limited to the global asset recovery Focal Point network, UNCAC COSP, and CARIN, that may be useful for coordination.

Implementation: September 2012

- Facilitate cooperation leading to effective recovery:

Each G8 member will act urgently on the following key measures:

- Ensure that there are mechanisms in place for enforcement of foreign orders of confiscation unless inconsistent with fundamental principles of domestic law. This would include, wherever possible, considering measures as may be necessary to enforce non-conviction based confiscation orders (such as confiscation orders which do not require a criminal trial and conviction), at a minimum in the circumstances envisaged by UNCAC and FATF Recommendations. Such enforcement should be permitted even in the absence of a domestic system for non-conviction based confiscation or other equivalent avenue;
- Consider, to the extent consistent with fundamental principles of domestic law and judicial proceedings, establishing systems that allow for recovery through non-conviction-based confiscation or equivalent (at minimum in cases of death, flight, or absence) and adopting legislation that establishes a non-criminal standard for burden of proof or reverses the onus of proof through rebuttable presumptions;

¹ The Russian Federation intends to undertake significant legal steps in this area, and will publish a guide upon the completion of this process. The Russian Federation will inform on progress by no later than September 2013.

- Ensure that domestic legal frameworks (i.e., legislation and/or regulations) allow for swift identification and tracing of assets, including in response to international requests;
- Ensure that domestic legislation and/or regulations allow sufficient time frames for freezing assets during the pendency of foreign investigations and proceedings;
- Ensure that mutual legal assistance regarding asset recovery can be granted in the absence of a bilateral legal assistance agreement, under appropriate circumstances. If necessary, and without prejudice to the preceding point, recognize UNCAC as a sufficient legal basis for mutual legal assistance (MLA) by States Parties;
- Ensure that MLA requests for freezing can be permitted on an ex parte basis (i.e., no requirement to give the asset holder the opportunity to contest beforehand the provision of MLA).
- Allow domestic officials, in accordance with its domestic laws, to alert a foreign jurisdiction to an ongoing investigation in the disclosing jurisdiction and indicate that existing information could be of interest, a proactive form of assistance, and to do so on a peer-to-peer basis where permissible.
- In case of a barrier to execution of a mutual legal assistance request, promptly communicate the nature of the difficulty to the requesting authorities so that it may be corrected expeditiously.

Implementation: Ongoing

- Enhance case cooperation:
 - During the post-transition period, work with local officials in requesting transition countries on the underlying investigations to develop leads for records and assets located abroad as well as to facilitate international legal assistance. This would include, upon request, sending practitioners (whether from the G8 country governments themselves, relevant international organizations and initiatives or other appropriate sources) to the requesting country.

Implementation: Ongoing

Measures Related to Technical Assistance and Capacity Building

- Provide Specialized Training: During the post-transition period, to the extent possible, provide funding and/or in-kind expertise to ensure that specialized training by international practitioners from relevant public authorities, whether from the G8 country governments themselves, relevant international

organizations and initiatives (such as, inter alia, the World Bank/UN Office of Drugs and Crime Stolen Asset Recovery Initiative - StAR), or other appropriate sources is provided to requesting transition countries. The key topics would include: financial investigations, financial document analysis, asset confiscation and forfeiture, requesting international assistance, asset recovery and asset management tools, and other topics identified by the requesting countries.

- Support domestic coordination: During the post-transition period, assist a requesting transition country in setting up locally an Asset Recovery Task Force (ARTF), as a domestic coordination measure for the transition country partner, comprised of representatives of relevant law enforcement agencies (police, customs, prosecutors, etc) and regulatory bodies (such as financial intelligence units, central banks etc.), among whose functions will be cooperation with international practitioners.
- Promote legal and institutional reforms: During the post-transition period, to the extent possible, assist a requesting transition country in drafting appropriate legislation and/or institutional reforms that will adhere to international standards, including, but not limited to, in pursuing criminal and/or non-conviction based forfeiture legislation; and to establish systems for disclosure of assets and interests by senior public officials and appropriate relations, consistent with international best practices; and other relevant legal frameworks. Urge relevant international organizations to assist in this regard.
- Strengthen frameworks to manage recovered funds: During the post-transition period, to the extent possible, assist a requesting transition country with legislative drafting advice or other assistance in setting up locally a central fund, to receive assets confiscated at home or abroad and to ensure transparency in their administration.
- Support the Arab Forum on Asset Recovery: Support the establishment of and participate as appropriate in the Arab Forum on Asset Recovery, including through financial support, where possible, expertise, and attendance at the inaugural meeting at the appropriate level.

Implementation: Ongoing

Specific actions by transition countries to promote effective cooperation in asset recovery will include:

- The Arab Forum on Asset Recovery: Agree to the establishment of and participate in, an *Arab Forum on Asset Recovery*, which will serve in part as a coordinating mechanism on this issue, through periodic meetings and other activities, and with the support and involvement of the regional partners. The Forum should draw upon the related efforts of relevant international organizations, including the StAR Initiative and the UN, avoiding duplication and drawing upon best practices and expertise. The Forum is intended to provide a platform for:
 - policy dialogue to raise awareness of and introduce the measures to facilitate effective asset recovery;
 - regional training, and identification of needs for country-specific capacity building;
 - developing a repository about MLA and similar requirements of financial center countries, translated in Arabic;
 - developing a regional network of expertise.
 Implementation: September 2012 and ongoing

- Pursue legal and institutional reforms: Each transition country will consider the following key measures to facilitate cooperation and effective recovery:
 - Take measures to adequately investigate and substantiate requests for assistance.
 - Move forward in pursuing membership of the Egmont Group, in designating officials to UNCAC COSP and to the global asset recovery Focal Point initiative, and in participating in other relevant international institutions to ensure coordination of all available resources aiding in asset recovery efforts.
 - Adopt and enforce customer due diligence and beneficial ownership rules that are consistent with international best practices.
 - Adopt and apply asset declaration and conflict of interest rules that are consistent with international best practices.
 - Adopt rules to require politically exposed persons having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities.
 Implementation: Ongoing, with new frameworks in place by September 2013

- Enhance domestic coordination: Each transition country seeking the recovery of assets intends to create an Asset Recovery Task Force (ARTF) to serve as the

focal point for the country in coordination and cooperation requests on asset recovery with the G8 and other countries. In doing so, the transition countries:

- Intend to request any assistance needed to set up the ARTF from the G8 or a particular G8 country, or a relevant international organization, via a request from the highest level official responsible for the issue of cooperation on asset recovery.
- Intend to ensure that dedicated, experienced law enforcement officials from the relevant agencies of the country will be appointed to the task force.
- Intend to allow ARTF access to all relevant financial documents that the task force deems necessary to track assets, including asset declarations by public officials, and to allow that information to be shared with international subject matter experts working with the task force as appropriate.
- Intend to designate one of their experienced financial investigators to liaison with a relevant G8 country's law enforcement unit to facilitate investigation.

Implementation: September 2012 and ongoing

- Cooperation on reform: Each transition country intends to work with international legal experts on legislation for both criminal and non-conviction based asset forfeiture frameworks and for establishing a central fund to manage and dispose of assets which can be used for the benefit of the country, including for the purposes of funding domestic expenditures associated with further efforts to pursue asset recovery.

Implementation: Ongoing

Reporting

All Partner countries will keep the Presidency and one another well informed, on their progress in implementing the specific actions agreed to above and will plan to take stock of the progress of the Deauville partnership, coordinated by the Presidency, by September 1, 2012.