G20 ANTI-CORRUPTION PRIORITIES

ASSET RECOVERY

Why is it important?

Asset recovery and return are fundamental principles under the United Nations Convention against Corruption, which is a legally-binding anti-corruption treaty that was adopted by the UN General Assembly in 2003.

Asset recovery has been a priority of the G20 Anti-Corruption Working Group for many years; it is seen as a crucial element in combating corruption as well as other types of illicit finance. Asset recovery involves the identification and confiscation of assets that have been acquired with illicit funds and the return of those assets to the victim. Asset recovery is also a priority for the Financial Action Task Force (FATF) as it is considered a key pillar in a country's approach to combating money laundering and terrorist financing.

Effective international asset recovery mechanisms can prevent corrupt actors and their families from enjoying their illicit wealth, thereby having a deterrent effect, and preventing criminals from benefiting from their crimes. Strengthening asset recovery mechanisms and returning stolen funds also promotes the rule of law and improves trust in the criminal justice system.

What does this mean in practice?

In 2011, the G20 developed nine key principles on asset recovery. The principles require countries to make asset recovery a policy priority, implement legislation to support the application of global AML standards, establish a wide range of legislative options for asset recovery and adopt laws that facilitate international cooperation.

International cooperation is an absolutely crucial element in successful asset recovery, particular with regards to the proceeds of corruption. In many cases, assets may be appropriated by corrupt actors in their home country but the proceeds of their corruption are sequestered in a major financial center like the UK or the US. Robust asset recovery mechanisms seek to return assets to the countries where they were stolen from and promote an inclusive global economy.

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What does it mean if you don't get it right?

Corruption has a particularly significant impact on developing economies with the UNODC estimating that developing economies lose between $20 - 40 billion a year through bribery, misappropriation of funds and other corrupt practices. Corruption can have a devastating impact on the country from which assets are stolen. When millions of dollars are pilfered from public funds, a country may not be able to provide basic services to its people. Many studies have found that corruption significantly decreases economic growth and that high levels of corruption are associated with lower GDPs and increased economic inequality.

Despite some improvement over the last 15 years, it is clear that current international asset recovery mechanisms are not good enough. The UNODC estimates that less than 1% of global illicit financial flows are recovered. Under the current presidency, FATF has made it a priority to improve international asset recovery efforts including changes to the FATF's recommendations in relation to asset recovery. Together with INTERPOL, the watchdog organized an event in 2022 with 150 high-level experts which discussed ways to promote national policies and actions that prioritize the tracing, seizure and confiscation of criminal assets; how to enhance national and international operational cooperation and effective information sharing. The event was followed by a global summit hosted by the Guardia di Finanza of Italy to bring together over 300 experts to learn from each other. A second event took place in February 2023.

FATF evaluations show that many countries, including G20 countries, do not have the effective asset recovery mechanisms in place or do not make it a policy priority. For example, in Indonesia's recent mutual evaluation, it was noted that while Indonesia had a strong legal framework in place, the effectiveness of its efforts could be improved. The mutual evaluation noted that 'although Indonesian authorities pursue illicit assets laundered abroad, the amounts recovered transnationally are low.' In South Africa's mutual evaluation, it was noted that the country did not take advantage of some of the international legal mechanisms for cooperation and that 'efforts for the recovery of assets from "State capture" and proceeds moved to other countries have been less successful to date.' In Europe, Moneyval, the FATF-style regional body for the region, stated in its 2022 annual report that 'the recovery of proceeds from crime across states remains insufficient'. In particular, Moneyval found that states needed to enhance powers and resources around the confiscation of criminal assets.

Past G20 commitments - why is it important now?

Asset recovery has long been a priority of the G20 but it is clear that there is still much work that needs to be done to improve international mechanisms and to improve returns. Russia's full-scale invasion of Ukraine has also triggered a global conversation about appropriate mechanisms to seize Russian-linked assets and how the recovered funds could be used to fund the reconstruction of Ukraine. G20 countries, including the US, UK, Canada and the EU have been at the forefront of these discussions.

Previous publications from the G20 on asset recovery include:

- Nine key principles on asset recovery (2011)
- Good practice in asset disclosure systems in G20 countries (2014)

Past G20 commitments - why is it important now?

G20 countries are engaged in many initiatives to improve global asset recovery mechanisms, focused in particular on the sharing of information and expertise. For example, Argentina, Mexico and Brazil are members of the GAFILAT Asset Recovery Network (RRAG) which was established in 2009 to facilitate the identification, tracing, and recovery of criminal proceeds.

Data shows an increased number of consultations since the network's inception, especially in relation to drug-trafficking offences. The assistance program against transnational organized crime of the European Union and LATAM countries also developed a guide in 2022, called the PACcTO, to disseminate asset recovery experiences with a practical approach for the operators of the justice systems, police and other relevant authorities of beneficiary countries.

Some G20 countries are also leading the way in asset recovery. Italy substantially outperforms all FATF member countries in terms of money laundering convictions (4,927 reported in 2013) and asset confiscations (US$9 billion in 2018). Most of the success derives from a well-developed and resourced law enforcement agency, with a deep understanding of the organized crime threat as a social security issue, but also of some legal mechanisms which allow partial reverse burden of proof as well as preventative confiscation.

The United States continues being a strong leader in confiscating the proceeds of crime. In early 2023, it announced the repatriation to Nigeria of approximately $1million that were traceable to the kleptocracy of former Governor of the State of Bayelsa.

In addition, some G20 countries have introduced new laws which support effective asset recovery. In May 2022, Canada introduced measures to allow confiscation of sanctioned assets where there had been a breach of international peace and security, human rights violations, or acts of significant corruption. While this model is likely to meet challenges over due process and human rights concerns, the Canadian approach showed initiative and an attempt to test the boundaries of current asset recovery mechanisms. France's so-called Biens Mal Acquis ("ill-gotten gains") cases allow activists and civil society to take action against corrupt officials in former French colonies, recover the assets and repatriate them.

This is an excellent example of the role of civil society in ensuring successful asset recovery and the model has been used in other countries including Spain and Switzerland. In January 2022, the UK government introduced a framework for transparent and accountable asset return. This framework looks to identify how assets can be returned to the country they were stolen from in a way that prevents the assets from being "re-corrupted". In addition to the framework, the UK government has signed a number of MoUs with countries in relation to asset recovery such as Nigeria and Moldova.

One civil society group described the UK's framework as a 'global precedent' and a 'pioneering model' for translating international commitments into actions but cautioned that much work needs to be done to improve asset recovery more generally.