Outcome of the second intersessional meeting on preparations for the special session of the General Assembly against corruption
19-20 November 2020

Item 1. Opening of the meeting and adoption of the agenda

1. H.E. Mr. Harib Saeed Al Amimi, the President of the Conference of the States Parties to the United Nations Convention against Corruption at its eighth session welcomed participants to the second intersessional meeting of the Conference on preparations for the special session of the General Assembly against corruption (UNGASS 2021). The meeting adopted its agenda, as recommended by the extended Bureau of the Conference.

Item 2. Preparations for the special session of the General Assembly against corruption in 2021

2. Under this item, the President recalled that this meeting was being held in accordance with General Assembly resolution 74/276, entitled “Special session of the General Assembly against corruption”, which outlined the modalities for the special session and for the preparatory process for that session.

3. In his opening remarks, Mr. John Brandolino, the Director of the Division for Treaty Affairs of UNODC, inter alia, noted that the international anti-corruption community faced the challenge of making real, measurable progress in preventing and combating corruption both at the national level and transnationally. He also noted that globalization had turned corruption into a global phenomenon in need of a global response and that the fight against corruption could only be won if countries took the necessary action at the national level, with the current pandemic only having made matters worse. He referred to the increased demand for effective anti-corruption measures and stressed that this required the political will of governments and effective policy interventions. Furthermore, he emphasized that, during the preparatory process for the special session, Member States would seek to find the common denominators on action against corruption and expressed appreciation for the active contributions of the Member States, as well as for the participation of all the stakeholders and for the initiatives established to support the process. He expressed hope that the political declaration to be adopted by the General Assembly would define a substantial, innovative roadmap, which would guide the work of the international community for years to come. Moreover, he stressed that UNODC would continue to support the international community in preventing and combating corruption and would also continue to provide to the Conference all the necessary technical and substantive support in its preparatory work, as mandated by the General Assembly.

(a) Status of preparations for the special session

4. The President recalled that, in its resolution 74/276, the General Assembly inter alia reiterated the importance of an inclusive preparatory process, including substantive consultations and invited the Conference to hold up to three intersessional meetings to advance such consultations. The President also recalled that, in line with the workplan adopted by the Conference at its eighth session, held in December 2019, this was the second
in a series of three intersessional meetings and its substantive focus was on international cooperation and asset recovery.

5. Furthermore, the President recalled that, in the same resolution, the General Assembly:
(a) had reiterated its invitation to the Conference of the States Parties to lead the preparatory process for the special session by addressing all organizational and substantive matters in an open-ended manner;
(b) had also requested the Conference to produce, in due time, a concise and action-oriented political declaration agreed upon in advance by consensus through intergovernmental negotiations under the auspices of the Conference for adoption by the General Assembly at its special session.

6. H.E. Mr. Hamad Al Kaabi, the Permanent Representative of the United Arab Emirates and one of the co-facilitators of the informal consultations on the draft political declaration, informed the meeting that the negotiations on the draft political declaration were expected to conclude in time for the special session of the Conference, which would be convened for the purpose of approving the political declaration on 7 May 2021. He recalled that the co-facilitators had convened, on 21 July 2020, the first round of informal consultations to present the workplan and the timeline and to discuss the structure of the political declaration and that, on 17 August, they had circulated the “zero” draft of the political declaration, together with a compilation of the contributions on the political declaration received from States parties to the Convention. In addition, he informed the meeting that, since the first intersessional meeting, the co-facilitators had convened four rounds of informal consultations and finalized the first reading at the informal consultations on 10 November and that additional submissions had been received from organizations in the UN system, IGOs, NGOs, academia and other relevant stakeholders. He expressed gratitude for the high level of interest among the stakeholders and emphasized that, although the submissions had not been directly reflected in the zero draft, they were meant to inspire and feed into the continuing drafting process.

(b) General discussion

7. Delegations thanked the President, the co-facilitators of the informal consultations on the draft political declaration, and the secretariat, for convening the meeting and the informal consultations despite the disruptions caused by the COVID-19 pandemic. In particular, they expressed gratitude for the skilful leadership of the co-facilitators and the commitment demonstrated by States parties in the informal consultations on the draft political declaration.

8. Speakers underlined the cost and negative impact of corruption and noted that it undermined the rule of law, and endangered sustainable development, peace and security. Many speakers highlighted the devastating effect of corruption in particular on developing countries, aggravated by the COVID-19 pandemic, and stressed the exacerbated risks of unemployment, public health issues and poverty in these countries due to an additional draining of resources needed to close development gaps. Speakers noted that fighting corruption had become even more urgent, as it posed a threat both to States’ immediate response to the COVID-19 pandemic and longer-term recovery efforts.

9. Speakers stressed the critical role of the Convention, the Conference and its subsidiary bodies, and the Implementation Review Mechanism in the collective fight against corruption, in identifying gaps and good practices, as well as in providing useful measures to implement
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UN Convention against Corruption at its eighth session

at the national level and a meeting forum for peer learning and finding solutions to common difficulties. They noted that the full and effective implementation of the Convention was of utmost importance to respond to international challenges. Speakers also stressed that over 15 years after the Convention came into force, while significant progress had been made, it was time to discuss and determine what further action could be taken collectively to counter corruption and tackle impunity.

10. In this context, many speakers welcomed the unique and timely opportunity presented by the special session of the General Assembly against corruption in 2021 as a forum to take stock of global efforts and commitments and find joint solutions to shared challenges. To design a methodology for a better future, all States should work together and contribute to the political declaration. Delegations expressed optimism that the spirit of the Vienna consensus would lead to the adoption of a concise, action-oriented and forward-looking political declaration that would be impactful and improve the effectiveness of global anti-corruption efforts on the basis of a transparent and inclusive process.

11. While some speakers called for more ambition and the urgency to find innovative approaches to countering corruption, other speakers highlighted the need to make full use of existing instruments and improve their domestic implementation and international cooperation before entering into discussions on additional instruments. One speaker highlighted that bold and creative thinking needed to be balanced with what was feasible in practice. Several delegations noted that the identification of challenges through the ongoing second cycle of the Implementation Review Mechanism would help States parties enhance their understanding of difficulties that need to be addressed and assist in effectively deploying the existing range of available tools. Some speakers noted that the political declaration should contain concrete commitments as well as practical and effective measures. Against this background it was also suggested that a follow-up mechanism to these commitments and timelines for their implementation and assessment of progress could help ensure stronger impact.

12. In line with the substantive focus on international cooperation and asset recovery, speakers stressed that asset recovery was a common and shared responsibility. At the same time, several speakers expressed concern about the volume of recovered and returned assets constituting only a tiny fraction of hidden or laundered proceeds of crime. They noted that despite the strong framework for asset recovery provided by the Convention, its implementation needed to be strengthened as a matter of urgency as the process of returning assets remained burdensome and lengthy. The issue of safe havens, including in global financial centres, where corrupt officials could hide, launder and enjoy the proceeds of their crimes while depriving the country of origin of crucial domestic funds needed to achieve the Sustainable Development Goals was raised by several delegations.

13. Beyond recovering and returning stolen assets, speakers suggested to take preventive action to deny safe havens for proceeds of crime and make financial centres unattractive for such investments. In this regard, speakers called for increased transparency in the financial sector, including through central bank account and beneficial ownership registers, which they suggested should be the global standard in particular for financial centres, with a view to identifying and holding accountable the hidden beneficiaries of complex corporate structures and breaking alliances between political and military leaders, public institutions and private businesses. Likewise, laws and oversight mechanisms to address enablers, facilitators and service providers acting as intermediaries in corrupt transactions should be developed and strengthened. Cooperation with the financial sector and the halting of transactions prior to
the transfer of funds across borders were highlighted as additional methods in this regard, as was the criminalization and prosecution of money-laundering, including through an all-crimes approach to avoid difficulties faced by prosecutors in having to prove corruption as a predicate offence.

14. Several speakers suggested innovative modalities for asset recovery, including in international cooperation, and highlighted the added value of special investigative techniques, financial intelligence and new technologies; non-conviction-based or civil forfeiture, including for interests and profits; and unexplained wealth orders. One speaker suggested that a platform providing data on property and asset declarations could bring additional value.

15. The need to compensate state and non-state victims was also emphasized, both by representatives of States parties and of civil society organizations. Many speakers also highlighted the need for assets to be returned in a transparent and accountable manner to developing countries where resources had been depleted. It was noted by some speakers that accountability of return processes could be enhanced through monitoring and auditing, through inclusion of civil society in these processes or through negotiation of a new multilateral instrument on asset recovery. Some speakers noted the need for asset return not to be subject to any conditions. Several speakers recalled the principles of sovereign equality, territorial integrity and non-intervention in the domestic affairs of other States as enshrined in article 4 of the Convention. One speaker suggested that a dispute mediation mechanism was needed.

16. International cooperation, based on effective criminalization and law enforcement, was highlighted as key to effective cross-border enforcement and asset recovery. The existing framework should be used more efficiently for this purpose, as its potential was far from being exhausted and States parties should now focus on its practical application and prioritize closing remaining implementation gaps.

17. To overcome differences in legal systems, speakers highlighted the need for direct cooperation and information exchange channels between law enforcement agencies prior to the formal mutual legal assistance process. The importance of existing networks was highlighted by several speakers, including asset recovery interagency networks, law enforcement practitioner networks such as the INTERPOL I-24/7 system, or the Egmont Group of Financial Intelligence Units. One speaker noted the value added by accessible databases that contain focal points and relevant laws. Cooperation with relevant international organizations was also highlighted as important in this context.

18. Speakers further emphasized the need for adequate resources and capacity-building measures, noting that specialized prosecutors and judges, and sufficient human and financial resources for police, law enforcement and judicial authorities and anti-corruption authorities were essential. Several speakers highlighted the value of providing timely, effective and long-term sustainable technical assistance, for example in building the capacity of partner countries' authorities, in strengthening inter-agency cooperation in anti-corruption efforts, and in specialized areas such as financial investigations.

19. Other issues addressed included the challenges and opportunities provided by digitalization and modern technologies such as e-government tools; civic education on corruption; the need to address the links between corruption and other forms of crime; and the need to keep statistics and improve methodologies for measuring corruption. The vital
role of oversight bodies, such as supreme audit institutions, and the judicial and legislative branches, and the importance of providing them with independence, resources and protection was noted by some speakers. The inclusion of these authorities could assist in identifying corruption risks and lead to increased transparency, accountability and scrutiny of management of public funds, procurement, public participation and access and delivery of justice. Some speakers also emphasized the need to respect human rights and fundamental freedoms, the rule of law, due process and the principle of proportionality and cautioned that anti-corruption efforts should not be used to falsely attack political opponents or harm innocent parties.

20. The support of non-governmental stakeholders in countering corruption, including the private sector, civil society organizations, journalists, media, academia, whistle-blowers, youth and religious organizations, was underlined by several speakers. The speakers noted their role in holding the public and private sectors accountable was noted and as such they needed access information, freedom of speech and protection from harassment, intimidation, physical attacks and death. Partnerships with the private sector were also referred to as crucial, including by working with small and medium-sized enterprises and providing incentives for a clean business environment.

(c) Denying safe havens to corruption offenders and their proceeds of crime

21. In his introductory remarks, a representative of the secretariat noted that the importance of the topic was highlighted by the continuing challenges many countries were facing in the area of denying safe havens, as also observed in the course of the Implementation Review Mechanism, in particular with regard to extradition and asset recovery. In this regard, the representative recalled that in its resolution 7/1, the Conference of the States Parties had reaffirmed that the return of assets was a fundamental principle of the Convention and urged all States parties to afford one another the widest possible measures of cooperation and assistance to facilitate effective asset recovery, thus denying safe havens to the proceeds of crime and to persons who have committed offences established in accordance with the Convention.

22. A panellist from China presented the efforts that her country had taken to prevent China from becoming a destination for corruption offenders and the proceeds of their crimes. She highlighted a number of efforts that China had undertaken in recent years to improve its domestic anti-corruption legal framework, such as the establishment of a commission responsible for investigating duty-related offences and the enactment of a law on mutual legal assistance in criminal matters. While noting that China considered the Convention to be the main framework in the fight against corruption, the panellist also emphasized the numerous bilateral instruments her country had concluded, as well as, among other things, China’s efforts in the context of the of the G20 Anti-Corruption Working Group. Concluding her statement, the panellist emphasized some challenges her country encountered in the course of extradition of individuals suspected of corruption offences, such as unresponsiveness to the requests and refusals to surrender the relevant individuals. She called on States parties to actively implement the Convention, increase international cooperation in anti-corruption matters, and strengthen law enforcement efforts to effectively deny safe haven for corruption offenders and the proceeds of their crimes.

23. A panellist from Nigeria provided an overview of his country’s national anti-corruption framework, focusing on the National Anti-Corruption Strategy and Action Plan. The
recovery of proceeds of corruption was defined as one of five main pillars of the strategy. He indicated that his country had made significant steps to deny safe haven to corruption offenders and the proceeds of their crimes, including through the adoption of the Mutual Assistance in Criminal Matters Act 2019, the Proceeds of Crime (Recovery and Management) Agency Bill, and Presidential Executive Orders aimed at strengthening the mechanisms for identifying, tracing and repatriating illicit assets. The panellist further noted that several agreements on recovering stolen assets had been concluded with other States, and assets associated with corruption offences had been recovered from several jurisdictions. The panellist also outlined the crucial role of the national FIU in enhancing international cooperation on recovering illicit assets related to corruption. In conclusion, the panellist highlighted the importance of fighting corruption collaboratively and taking proactive measures to deny safe havens to corruption offenders.

24. A panellist from the United States discussed his country’s efforts in denying safe haven and recovering the proceeds of corruption. In particular, he spoke about the Kleptocracy Asset Recovery Initiative, which had been set up with the aim of prosecuting and investigating high-level foreign officials. He further noted that the Initiative had prosecuted cases involving several jurisdictions, working collaboratively with other law enforcement partners. In addition, the panellist recounted the Initiative’s successful cooperation with law enforcement authorities from Malaysia and other jurisdictions in identifying, confiscating and returning assets of significant value in the context of the 1MDB high-profile case involving the embezzlement of public funds. He stressed that the success and speed of these efforts were augmented by the willingness and ability of law enforcement authorities from multiple jurisdictions to cooperate and collaborate meaningfully and quickly. The panellist noted that a variety of mechanisms had been used – ranging from cooperation through FIUs to spontaneous sharing of information and formal requests – but he also observed that national regulations sometimes restricted law enforcement authorities’ ability to share information. He emphasized the need for the international law enforcement community to keep pace with the reality of the commercial world and work collaboratively to develop more robust mechanisms.

25. In the ensuing discussion, one speaker emphasized that denying safe havens was the shared responsibility of all States parties, but that it should start with adopting and enforcing effective domestic measures. As an example, she noted that her country had adopted legislation that allowed for the imposition of financial sanctions and visa ineligibility for corruption offenders. The speaker urged States parties to establish, train and resource competent authorities and to provide them with the necessary tools to participate in the international cooperation process effectively. The transmittal of mutual legal assistance requests through electronic communication channels was highlighted by the speaker as a reliable and effective means of international cooperation. At the same time, the speaker noted that States should not lower the legal requirements for extradition and international cooperation, as those standards were in place to protect the fundamental rights of individuals and ensure due process.

26. Several speakers stressed the importance of informal cooperation in the investigative stage, particularly because significantly facilitated information exchange between international counterpart. However, they also noted that formal cooperation remained important since data received through informal cooperation channels could not usually be used in the prosecution of offenders. One speaker also pointed out that her jurisdiction had established a domestic mechanism for the repatriation of assets and that it had signed a number of agreements on extradition with other States.
27. The importance of the principle of *aut dedere aut judicare* was also discussed. Two speakers noted that nationality is not the decisive factor when deciding on extradition requests in their jurisdictions, but that several factors should be considered, such as which country had jurisdiction, where the evidence was located, and in which jurisdiction prosecution was most feasible. In this regard, another speaker informed that his country prioritized the return of proceeds of crime to the country of origin in parallel with the prosecution of corruption offenders under its domestic law.

(d) Challenges in identifying, tracing and freezing proceeds of corruption, and possible solutions

28. In her introductory statement, a representative of the secretariat noted that many States parties had expressed their interest in this topic as it was crucial to successful asset recovery. She noted that challenges in the identification and tracing of assets often related to the fact that corrupt actors frequently used corporate and financial structures to hide their assets. Therefore, it was of crucial importance that law enforcement had sufficient tools to determine the beneficial owners of such entities. Referring to the good practices that had been identified in this regard in the country reviews conducted during the second cycle of the Implementation Review Mechanism, she noted that publicly accessible registers on beneficial ownership and central bank account registers had been determined to be useful tools in this regard.

29. A panellist from Chile outlined measures taken to facilitate for the identification and tracing of assets in foreign jurisdictions. He highlighted the importance of a swift identification of the assets as a first step of the asset return process. The panellist noted that the two main reasons for the refusal of formal requests for assistance in the identification of assets were (a) the use of excessively broad requests (so-called “fishing expeditions”); and (b) the fact that some national legislations require previous investigations. The panellist stressed the importance of using open source information as well as informal and interinstitutional cooperation prior to making any formal requests for mutual legal assistance in order to accelerate the process and to ensure successful asset returns. In this regard, the panellist cited, as an example of a basis for cooperation between prosecutors, the Interinstitutional Cooperation Agreement signed in Mexico by 18 Iberoamerican Prosecutor’s Offices, members of the Iberoamerican Association of Public Prosecutor’s Offices (AIAMP). In addition, the panellist underscored the added value of cooperation through the International Criminal Police Organization and the Egmont Group of Financial Intelligence Units, as well as through specialized networks such as Asset Recovery Network of the Financial Action Task Force of Latin America (RRAG) and the Camden Asset Recovery Inter-agency Network (CARIN).

30. A panellist from the joint UNODC/World Bank Stolen Asset Recovery (StAR) Initiative highlighted the need for concrete and reliable data on the freezing, seizure, confiscation and return of assets. In this regard, he noted that the StAR Initiative was conducting a data gathering exercise to determine the levels of asset confiscation and return. The panellist informed the meeting that, during the exercise, States had referred to a number of challenges they had encountered in successful asset recovery, such as the need to link an asset to a specific offence, which can be particularly difficult if offences had occurred a long time ago, the enforcement of confiscation orders abroad, the need to identify beneficial owners of assets and third parties involved in setting up legal entities. Addressing these challenges,
States had outlined that tools such as civil remedies, confiscation of assets of equivalent value and non-conviction-based confiscation as well as beneficial ownership registers and central registers of bank accounts were especially helpful in successfully recovering assets.

31. A panellist from Italy focused his intervention on asset tracing and the identification of proceeds of crime for the purposes of seizure and confiscation. He provided an overview of the Italian legal framework and experience in the fight against organized crime and corruption, namely through tracing, freezing and confiscating proceeds of crime. In this regard, he highlighted three major concerns were (a) the low amount of seizures when compared with the estimated turnover of crime and money-laundering; (b) the difference between the amounts of assets seized and confiscated; and (c) the complexity and duration of confiscation procedures, which are frequently exacerbated when an international element is added. The panellist suggested as a solution the technological empowerment, in particular to achieve accuracy and speediness of investigations, “following the money”, also taking in account the need of a beneficial ownership transparency enhancement. He stressed the crucial role of information technology for the tracing and identification of assets and, by way of example, shared insights on three systems that had been implemented in Italy: (a) the central register of accounts, consisting of information on legal and beneficial owners of bank accounts readily available to competent authorities; (b) the SIDNA databank, a tool managed by the National Antimafia and Counter Terrorism Directorate that collects, processes and compares all existing information regarding “serious crimes”, so providing a complete and holistic information, generating new investigative inputs; and (c) the “Molecola” Programme, a tool available for the Italian Economic and Financial Police (Guardia di Finanza) that cross-checks data from various databases, which are therefore made interoperable. He pointed out that the global value of the confiscated assets in Italy (to date €25 billion) confirms the relevance also of such systems of tracing and identification of illicit assets.

32. A panellist from Nigeria underscored that asset recovery and return remained a priority for Africa. To enhance asset recovery, he indicated the need to also focus on recovering assets that are hidden within the domestic territory of the State from which they had been stolen, and indicated that asset recovery should also include the return of artefacts and artworks that had been taken during colonial times. In addition, he also highlighted that the use of different standards by jurisdictions could have a negative effect in the asset recovery process and called for the clarification of such standards. Furthermore, the panellist reiterated a proposal to place confiscated funds in escrow accounts while negotiations were being conducted for the return of these assets, thus ensuring that the assets yield interest for the requesting States. Furthermore, while underscoring the sovereign right of requesting States to determine the use to which returned assets will be put, the panellists indicated the need to set transparent standards for the use of returned assets for the benefit of the people, thus aiding transparency of the process and accelerating asset return. The panellist also referred to the implementation of blacklists to prevent the action of enablers and stressed the role of developed countries in ending tax heavens. In concluding, the panellist emphasized the importance of capacity-building and international cooperation for the fulfilment of the Sustainable Development Goals, as well as for the development and implementation of effective asset returns frameworks with clear timelines.

33. A panellist from Slovenia stressed the importance of (a) transparency, (b) the need for an efficient regulative framework in the prevention of money-laundering and terrorist financing and (c) for effective cooperation at the national and international levels in the fight against corruption. In this regard, she shared information on tools such as the Access to Public
Information Act, the national Open Data portal, and the Slovenian Business Register, a publicly accessible central database containing information about all business entities involved in a profit or non-profit activity whose principal place of business is located in Slovenia. The panellist also noted that Slovenia had created an online service to make transactions of and other flows of money from public institutions and state-owned-companies publicly available. Furthermore, she highlighted the creation of the Beneficial Ownership Register, in which business entities are obliged to enter accurate and up-to-date data on their beneficial owners. The data are automatically cross-checked with other registers established in Slovenia and compliance is supervised by the Office for Money Laundering Prevention and the Financial Administration. The panellist explained that general information was available publicly and free of charge, while competent authorities such as law enforcement agencies, judicial authorities, supervisory authorities and the Financial Intelligence Unit had access to all data in the register, including the full address, full date of birth and tax numbers of the beneficial owners. Privileged access was also granted to reporting entities when conducting customer due diligence.

34. In the ensuing discussion, speakers shared information on various measures that had been taken in their countries to overcome challenges in the identification, tracing, seizure or freezing and confiscation of assets. In particular, one speaker referred to the establishment of a comprehensive system for tax registration, requiring all legal entities to register with the federal tax service and making available information, including on beneficial ownership, to all competent authorities. Several speakers also highlighted the need to make international cooperation more efficient and effective and strengthen trust between requesting and requested States. One speaker noted how the results of the second cycle of the Implementation Review Mechanism would be helpful for States parties to identify the best way forward, including with regard to strengthening the international legal framework for asset recovery. Another speaker underscored the importance of having a practitioner-oriented approach to asset recovery to continue building on the increasing success of asset recovery. In this regard, several speakers highlighted the importance of domestic cooperation and coordination, including with tax authorities, as a building block for successful asset recovery, and called on States to provide adequate resources and training to competent authorities to be able to ensure that outgoing requests for assistance contain all required information and incoming requests for assistance can be addressed in an efficient and timely manner. Furthermore, the importance of reliable data, including on proceeds of crime, and the need to give practitioners the tools required for asset identification and tracing was recalled. In this regard, one speaker highlighted how non-conviction-based confiscation had been crucial to the asset recovery efforts of his country, and invited others to consider introducing such measures at the national levels.

35. Several speakers underscored the opportunity offered by the special session of the General Assembly to advance successful asset recovery. In particular, they noted the importance of granting, to the extent possible, public access to information, including information contained in central databases, and enhance and further strengthen existing instruments and groups focused on international cooperation. Speakers also highlighted the need to use modern technology to successfully “follow the money” and ensure that differences in legal systems did not create obstacles to international cooperation. Referring to beneficial ownership transparency, several speakers emphasized the importance of having information on beneficial ownership readily available and accessible to facilitate national and international investigations and subsequent asset recovery and asset return.
36. In his introductory statement, a representative of the secretariat noted that many States parties had emphasized the importance of effective international cooperation in combatting corruption, especially when such corruption involved vast quantities of assets. He recalled that the Conference had adopted a resolution in which it, inter alia, urged States parties to increase their efforts and take measures to prevent and counter corruption, and also address acts of corruption involving vast quantities of assets. The representative also highlighted the Riyadh Initiative that had recently been launched with a view to enhancing cooperation by establishing a Vienna-based operational network of law enforcement authorities. He indicated that UNODC would provide secretariat functions for this initiative with support from its partners and donors. He further informed the delegates of the activities undertaken by UNODC to support the implementation of the Oslo Statement on Corruption Involving Vast Quantities of Assets.

37. At the outset, a panellist from Belgium observed that bribery of foreign public officials was one of the classic patterns of corruption offences involving vast quantities of assets. In this context, she discussed the obligation – established in accordance with article 8(4) of the Convention – for Belgian officials posted at its diplomatic posts to report cases of suspected corruption involving Belgian individuals or Belgian companies operating abroad. The panellist emphasised that a culture of judicial diplomacy should be strengthened and that it would be worthwhile to consider how article 8(4) of the Convention could be reinforced. The panellist further highlighted the need for transparency and accountability in relation to asset recovery. The panellist concluded by stressing that it was important to improve global mechanisms to combat corruption, and noted that UNGASS 2021 was a fitting opportunity to start reviewing, under the auspices of the United Nations, convincing solutions and innovative practices to strengthen the effectiveness of the Convention.

38. A panellist from Brazil stressed the importance of international cooperation in civil and administrative proceedings to combat corruption. He observed that with the increasing focus on asset recovery in addition to ensuring criminal accountability of corruption offenders, civil and administrative proceedings could offer valuable tools for authorities. He noted that since it remained challenging to enforce conviction-based confiscation orders, the role of cooperation in civil and administrative proceedings, especially at the international level, should be enhanced. That would ensure the availability of additional legal mechanisms for effective asset recovery in complex cases, especially when dealing with vast quantities of assets. The panellist noted that this would give anti-corruption authorities the flexibility to tailor their approach to the prevailing circumstances and available evidence in a given case, enhancing a toolbox approach when facing cases of corruption. The importance of informal cooperation at various levels to expedite the mutual legal assistance process was also emphasized as a key aspect to the success of transnational cases of corruption.

39. A panellist from China shared her country’s experience in optimizing international cooperation and assistance mechanisms on asset recovery. She stressed the importance of establishing effective domestic mechanisms and noted that her country had set up a Fugitive Repatriation and Asset Recovery Office to coordinate anti-corruption efforts. The panellist further indicated that measures had been taken towards enhancing the capacity of national and foreign authorities to recover stolen assets. She noted that in order to strengthen practical cooperation in the asset recovery process, efforts had been made towards requesting other States parties to recognize and enforce Chinese court orders. She further highlighted her
country’s experience in cooperating with other States by providing information about corruption offenders in order to enable the foreign State to investigate and prosecute. In conclusion, she urged all States parties to agree on the importance of asset recovery and the denial of safe haven, to enhance cooperation in asset recovery processes and to strengthen their domestic laws to increase the efficiency of asset recovery.

40. A panellist from Nigeria recalled that the Convention obliged States Parties to afford one another the widest measure of cooperation and assistance with regard to the return of assets and mutual legal assistance. In this regard, she emphasized the importance of spontaneous information sharing and the establishment of practical guidelines. The panellist also discussed the question of what constituted “vast quantities of assets” and whether it depended on certain thresholds or should be defined in relation to the size of a requesting State’s economy. She further stressed the need for accessibility, transparency and predictability of mutual legal assistance procedures. The vital role of the networks of practitioners and initiatives as well as the practicability of applying the principle of reciprocity in international cooperation were also highlighted. The panellist also emphasized the importance of the management of recovered assets pending their return to preserve their value, and she noted that only appropriate or reasonable expenses should be deducted before returning recovered assets.

41. A panellist from Peru discussed several ways in which international judicial cooperation mechanisms could be optimized. The panellist stressed the importance of direct communication between law enforcement authorities, and recounted several lessons learned in this regard. For example, she noted that in addition to more traditional channels for communication like central authorities and established networks for international cooperation, the Peruvian authorities were increasingly using information technology solutions to communicate with their foreign counterparts on the coordination and follow-up of requests for legal assistance. She further underscored the value of joint investigative teams, as well as the spontaneous sharing of information as envisaged by article 46(4) of the Convention. The panellist also stressed the importance of ensuring that information regarding points of contact remained up to date, including in the online directory of Competent National Authorities.

42. A panellist from the Basel Institute on Governance discussed non-conviction-based confiscation. He noted the lack of harmonization for this type of confiscation across jurisdictions, which could hinder international cooperation in enforcing such orders. The panellist observed that Article 46 of the Convention requires States Parties to afford mutual legal assistance “to the fullest extent possible,” which required requested States to ascertain which legal solutions available under its domestic laws would best enable it to accede to a request for mutual legal assistance. The panellist noted that over the last 20 years, international standards appeared to have emerged favouring non-conviction-based confiscation as a suitable way of recovering proceeds from corruption. The panellist also expressed the view that State should ensure that their laws and practices respect international standards related to due process. He also noted that, on the other hand, requested States should make a sincere effort to apply the principles that favour the prosecution of crimes and the recovery of assets.

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