

REPORT ON ACT-NET TRAINING WORKSHOP ON ASSET RECOVERY
20-22 MARCH 2018
BANGKOK, THAILAND

Summary

The Central Commission for Discipline Inspection/the Ministry of Supervision of China, the National Anti-Corruption Commission of Thailand, and the Regional Office for Southeast Asia and the Pacific of the United Nations Office on Drugs and Crime co-hosted the APEC Network of Anti-Corruption Authorities and Law Enforcement Agencies (ACT-NET) Training Workshop on Asset Recovery on 20-22 March, 2018 in Bangkok of Thailand. 30 experts lectured at the workshop while over 100 participants representing 21 APEC economies, Switzerland, 7 international organizations, legal professionals, and relevant academia participated. The workshop inspired discussion in its 5 sessions, namely, “Basic principles and International Framework in Asset Recovery”, “Tracing Assets and Anti-Money Laundering”, “Freezing and Confiscating Assets”, “Repatriation of Proceeds of Corruption” and “Interactive session on Guidelines for Asset Recovery”. The participants found the workshop useful to their practical work and appreciated that the co-hosts offered them a platform for learning good practices and make acquaintance of the fellow law practitioners of other economies.

Good Practices

All members have been attaching great importance to promote their work of asset recovery and the international cooperation in this area. Three major practices were identified as good practices in general cooperation on asset recovery and more specific good practices introduced regarding key areas of asset recovery, namely, tracing assets and anti-money laundering, freezing and confiscating assets, and repatriation of proceeds of corruption

For General Cooperation on Asset Recovery

1. To adopt specific laws of asset recovery and anti-money laundering. For instance, the Proceeds of Crime Act 2002 (the POCA) of Australia; the Freezing Assets of Corrupt Foreign Officials’ Act (FACFOA) of Canada; Singapore also has provisions related to recovering and returning proceeds of crime in a number of laws such as the *Corruption, Drug Trafficking and Other Serious Crime Act*, the *Prevention of Corruption Act*, and the *Organized Crime Act 2015*.
2. To establish a specific agency for asset recovery. For instance, the multi-agency Criminal Assets Confiscation Taskforce in Australia, the Asset Recovery Center established in Indonesia, the Suspicious Transaction Reporting Office (STRO) in Singapore, etc. Besides, the majority of APEC economies have set up FIUs, which facilitated tracing of stolen assets.
3. To keep timely communication. All the participants agreed that it is critical for the requesting and requested parties to conduct timely communication, including direct contacts, in particular from the initial stage of a case.

For Specific Areas of Asset Recovery

1. *Tracing Assets and Anti-Money Laundering*

- 1) To draw up an investigation plan.
- 2) To ensure the legitimacy of investigation measures.
- 3) To make full use of FIUs. Besides providing and analyzing financial information, FIUs often have the power to stop suspicious transactions and freeze assets temporarily. FIUs help a lot in tracing assets in a number of economies such as Thailand, Indonesia and Singapore.
- 4) Evidence preservation is important.

2. *Freezing and Confiscating Assets*

- 1) It's better to freeze the proceeds of corruption as soon as it is traced and identified so as to prevent further transfer or consumption of the assets.
- 2) It's necessary to fully understand the requirement of the requested party for confiscation and freezing of assets and provide adequate and accurate information accordingly.

3. *Repatriation of Proceeds of Corruption*

A number of economies sign bilateral agreements or similar documents with the requested parties, which has largely promoted the efficiency and effectiveness of the repatriation process.

Recommendations

Based on the discussions at the training workshop, ten recommendations have been proposed by the co-hosts that are aimed at enhancing asset recovery cooperation among APEC economies in line with "zero-tolerance in attitude to corruption, zero loopholes in mechanism for asset recovery and zero obstacles to cooperation".

I. Commitment

1. APEC members shall reiterate the political commitment to denying safe haven to corruption, especially proceeds of corruption, and promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption and in particular in asset recovery based on mutual respect and trust.
2. APEC members shall fully implement the requirements of the United Nations Convention against Corruption (UNCAC) and make full use of its international cooperation and asset recovery provisions, as well as of law enforcement networks such as APEC ACT-NET, and shall consider, where appropriate, concluding bilateral mutual legal assistance treaties to further facilitate asset recovery cooperation.
3. APEC members shall bear in mind that the return of assets is a fundamental principle of UNCAC and afford one another the widest measure of cooperation and assistance in investigation, prosecution and judicial proceedings in relation to corruption offences, as well as with regard to the return of assets derived from such offences.

II. Cooperation

4. APEC members shall be aware of the importance of information sharing and exchange, especially financial information, to asset recovery cooperation, and strive to enhance financial information sharing and anti-money laundering cooperation by such means as setting up a regional financial information sharing mechanism. APEC members shall, in consistence with their domestic law and international standards, prevent the transfer of proceeds of corruption, including by identifying suspicious financial transactions through effective due diligence practices, and proactively share financial information relating to corruption offences without prior request in order to enable investigation and prosecution of such offences and subsequent international cooperation where appropriate.

5. APEC members shall recognize the importance of domestic coordination as well as comprehensive international cooperation mechanisms, including direct contacts, through which relevant authorities in charge of international cooperation, including financial intelligence, law enforcement and judicial authorities, can effectively collaborate with each other for timely and effective identification, tracing, freezing and seizure of proceeds of corruption.

6. APEC members shall, in accordance with the requirements of UNCAC and consistent with applicable domestic legal requirements, give effect to freezing and seizing and confiscation court orders issued in requesting jurisdictions and where appropriate consider taking additional flexible measures including criminal, civil and administrative to confiscate and recover proceeds of corruption.

7. APEC members shall proactively use UNCAC as a legal basis for mutual legal assistance and asset recovery and, where appropriate, consider concluding agreements or mutually acceptable arrangements for the return and final disposal of confiscated assets in line with this Convention, with the aim to return the proceeds of corruption to their legitimate owners consistent with the principle of non-interference in the domestic affairs of other States.

III. Capacity Building

8. APEC members shall exchange best practices and information on successful cases of cooperation and asset recovery between them, and provide regular education and training to asset recovery practitioners.

9. APEC members shall encourage country-specific studies and seek to adopt and share guidelines, procedures and guides on mutual legal assistance, asset recovery and other forms of international cooperation to facilitate return and disposal of assets.

10. APEC members shall recognize the important role the international organizations and initiatives, such as UNODC, the World Bank/UNODC Stolen Asset Recovery Initiative (StAR) and International Centre for Asset Recovery (ICAR), play in the asset recovery area, in particular as providers of relevant technical assistance, and shall strengthen cooperation with them, so as to bring their expertise and resources into full use, particularly, for the purposes of capacity building and technical assistance.

Annex: No Safe Haven to Stolen Assets---Ten Recommendations on Asset Recovery

ANNEX

No Safe Haven to Stolen Assets -Ten Recommendations on Asset Recovery¹

Based on discussion at APEC Network of Anti-Corruption Authorities and Law Enforcement Agencies (ACT-NET) Training Workshop on Asset Recovery (Bangkok, Thailand, 20-22 March 2018).

The Central Commission for Discipline Inspection/the Ministry of Supervision of China, the National Anti-Corruption Commission of Thailand, and the Regional Office for Southeast Asia and the Pacific of the United Nations Office on Drugs and Crime co-hosted the APEC Network of Anti-Corruption Authorities and Law Enforcement Agencies (ACT-NET) Training Workshop on Asset Recovery on 20-22 March, 2018 in Bangkok of Thailand. The workshop, a step to implement APEC leaders' anti-corruption commitment including the Beijing Declaration against Corruption, represented the first capacity building activity dedicated to asset recovery among APEC economies, focusing on technical issues in the key aspects of asset recovery, from tracing, freezing, seizure, confiscation to return. 30 experts lectured at the workshop while over 100 participants representing 21 APEC economies, Switzerland, 7 international organizations, legal professionals, and relevant academia participated.

The workshop reiterated the importance of global, regional and bilateral asset recovery cooperation, shared best practices, analyzed past lessons and discussed the way forward. It has been widely recognized that flow of proceeds of corruption disturbs international economic and financial order as well as undermines rule of law and social justice. However, the lack of technical skills and problems in international cooperation still pose as major hindrances to effective recovery of proceeds of corruption. This training workshop provided an opportunity of capacity building, as well as a platform for exchange and discussion among APEC economies and beyond. As a result of the workshop, ten recommendations aimed at enhancing asset recovery cooperation among APEC economies and based on the principles of "zero-tolerance in attitude to corruption, zero loopholes in mechanism for asset recovery and zero obstacles to cooperation", have been proposed as follows:

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¹ The document "No Safe Haven to Stolen Assets -10 recommendations on Asset Recovery" represents only and exclusively the views of the participants who attended the Workshop.

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