

Note to Rapporteur

When writing the long workshop report, please consider if the workshop responded to the below 14th IACC objectives and report on where you think appropriate.

Objectives:

- a) Produce strategies to overcome the effects of corruption on human security, climate governance, natural resources and energy markets and in the corporate world
- b) Propose strategies to overcome the stumbling blocks impeding effective multi stake holder engagement
- c) Find solutions to implementation challenges of anti-corruption instruments from a global to local level
- d) Showcase and facilitate effective partnership building and collective action
- e) Incorporate new actors and innovative strategies in the fight against corruption
- f) Map out and assess emerging trends and future scenarios in the fight against corruption
- g) Enrich the global debate by showcasing the experiences of the host country and the region.

The long report should be sent in Word Format (indicating the title and workshop name in the name of the file) to the IACC Team via email to iacc@transparency.org no later than **26 November 2010**. Please remember that the moderator should sign off on the report before it is submitted to the IACC team.

Many thanks,

IACC team

Long WORKSHOP REPORT FORM

Number and title of workshop: WS 1.5 State and Non-State Actors: a Multi-Stakeholder Approach to Recovering Stolen Assets

Coordinators: Tim Steele, Stolen Asset Recovery Initiative (StAR) and Pedro Gomes Pereira, Basel Institute on Governance.

Date and time: 11 November 2010, 1730-1930

Moderator: Alan Bacarese, Basel Institute on Governance

Rapporteur: Tim Steele, StAR

Panellists (Name, institution, title)

- Fabienne Aemisegger, Swiss Federal Department of Foreign Affairs (FDFA)
- Jesse Wachanga, State Counsel, Kenyan Anti-Corruption Commission
- Michael Peel, Legal Correspondent, Financial Times
- Robert Palmer, Global Witness

Summary (300 words)

Asset Recovery is enshrined as a fundamental principle of the United Nations Convention Against Corruption. There is much political support for asset recovery but comparatively little practical action. During a High-Level Forum on Asset Recovery in Paris in June 2010 participants repeatedly called for a multi-stakeholder approach to asset recovery; this call was echoed during the Non-State Actors Experts' Meeting in Laxenburg in September 2010 and during the inaugural meeting of the Anti-Corruption Academy.

This workshop brought together practitioners and activists from three of the main stakeholder groups, civil society, the media and governments. Business was not represented.

The audience heard from representatives of the governments of Switzerland and Kenya that success in asset recovery was possible but that asset recovery involved complex investigative and legal processes together with high levels of trust and cooperation between two states. We also learnt how political support for these initiatives was vital and of some of the innovations that Switzerland had made to facilitate the return of stolen assets to their Country of origin.

The workshop also heard how the media and civil society can not only help build the political space to enable governments to take forward asset recovery cases but also seek to engage in litigation against corrupt heads of state and generate information on who has stolen what.

The timing of the workshop was excellent, the previous day two French Civil Society Organizations had obtained a judgement in the highest court in France which will lead to an investigation into property holding in France with a view to potential asset recovery. Description and discussion of this success formed a significant portion of the audience discussion at (and after) the workshop.

Summary of presentations (300 words per panellist)

1st Panellist – Fabienne Aemisegger

Fabienne started presentation by highlighting the success that Switzerland has had in combating money laundering and corruption in the last 25 years. She pointed out that Switzerland has returned over USD 1.7 billion in stolen assets to victim countries, more than any other Country.

In the next stage of the presentation she discussed the five pillars around which Switzerland has built its asset recovery programme namely: prevention, due diligence requirements, obligation to report suspicious activities, mutual legal assistance efforts and the restitution of stolen assets.

She moved on to discussion of the complexity and difficulty involved in successfully concluding asset recovery cases and emphasized the need for cooperation between the requesting and requested state.

Fabienne finished the presentation by discussing a recent innovation in Swiss Law. On October 1, 2010 Switzerland passed the 'Federal Act on the Restitution of Assets of Politically Exposed Persons obtained by Unlawful Means' also known as the 'Restitution of Illicit Assets Act'. In summary when it is deemed that a request for mutual legal assistance cannot produce an outcome due to the failure of state structures in the requesting state the Swiss Federal Council can take steps to freeze, confiscate and ultimately return the assets obtained by unlawful means for the benefit of the citizens of the requesting state.

2nd Panelist – Jesse Wachanga

The next presentation continued the theme by highlighting the need for cooperation between states to combat the actions of criminals who were able to move money around the World with impunity. Jesse reflected on the unfortunate practice which had been observed in international conferences in which developing Countries had cited lack of legal assistance from developed Countries as the sole reason for lack of progress in asset recovery.

He stated that as a practitioner he had realised that the initial responsibility lay with the requesting state (which more often than not was a developing Country) to establish the criminal behaviour and the assets that had been accumulated with as a result of this criminal behaviour. Cases very often stopped before this point and before cooperation started. He dwelled on many of the specific complexities of prosecuting asset recovery cases.

The audience were then told how asset recovery was a new and complex area and how just about everyone in the World was new to the area and still learning and emphasized that Countries need to work with a positive attitude towards each other.

3rd Panelist – Michael Peel

This presentation started with an explanation that it was specifically about how journalists could help take forward the asset recovery agenda and what they needed to do so. Michael informed that a good story comprises of (i) large sums; (ii) interesting spending habits; (iii) tells us something bigger about how the world and corruption works; and (iv) have an international political dimension. Beyond publicizing the case and influencing the public opinion on the harms caused by corruption he questioned what is the role of the journalist beyond this should be.

Michael presented numerous cases of Nigerian political figures that had laundered Nigerian

assets through corruption to different financial centres. These presentations highlighted how effectively a good journalist can bring asset recovery cases to life and stimulate interest in supporting those who are trying to ensure the return of stolen assets.

He then answered his earlier question by highlighting the importance of the media in ensuring transparency and accountability of actions by political figures.

The presentation was concluded with a request to the audience to supply material for future stories.

4th Panelist – Robert Palmer

Robert started with the assertion that civil society has been playing a critical role in the combating of corruption and money laundering. In that regards, Global Witness, has been exposing corrupt heads of state and their unlawful assets.

He then discussed that one of the main challenges was obtaining reliable information-one of the key element that have enabled Global Witness to make exposes has been access to court documents.

Robert focused his examples on the unlawful wealth of the Equatorial-Guinean Head of State and his family, as well as their lavished lifestyle. He compared the wealth that the Head of State has, with the natural resources the country has, and with the standard of living of the Equatorial Guinean population.

He finished by also requesting the audience for information for new exposes.

Main Outputs (200 words, narrative form)

The workshop reiterated that corruption is a global problem and that for the fight against corruption in general and asset recovery specifically to be successful a global multi-stakeholder cooperation was needed. Governments need to robustly implement all articles of Chapters 4 and 5 of the United Nations Convention Against Corruption.

Another output identified during the workshop was the fact that both developing and developing states must take the initiative in identifying and prosecuting corruption cases. As such, states should understand the linkages between the anti-corruption regime and the anti-money laundering regime in tackling corruption and take the appropriate measures to ensure their financial institutions meet global standards in undertaking customer due diligence and reporting of suspicious transaction.

Finally the need for non-state actors play a key role in building political space for the asset recovery process and the implementation of measures to tackle the laundering of the proceeds of corruption through transparency and publicity of actions undertaken by states, heads of states and senior public officials was reconfirmed to a fresh audience..

Recommendations, Follow-up Actions (200 words narrative form)

The workshop demonstrated the need to have an increased co-operation between state and non-state actors seeking to adopt a multi-stakeholder approach to combating corruption and the associated looting of assets. The first recommendation is that Governments internationally and civil society internationally should actively seek to cooperate more closer on bringing about what is a common global interest, the return of assets to those who they have been stolen from.

The second recommendation is that governments should increase efforts to implement agreed global standards on anti-corruption and anti-money laundering and civil society should continue to work to build political space for governments to do this work.

Judging by the number of people queuing to talk to Michael and Robert at the end of the workshop and the interventions made by participants for follow-up action in their own Countries it we should be seeing some articles generated by information obtained. The third recommendation is that those with information which may lead to asset recovery should make sure that the information is given to those who will act on it, most especially agencies tasked with investigating corruption.

Highlights (200 words please include interesting quotes)

"At conferences I have heard African colleagues blame financial centres for not returning stolen monies. I would have joined this blame game if I had not been involved in the practical realities of asset recovery." Jesse Wachanga

"Any return of stolen assets would need the prior proof of illegality." Jesse Wachanga

"Stories need excitement; cases must be interesting." Michael Peel

"In my view civil society has played a critical role in getting looted assets back to the country they were looted from." Robert Palmer

"NGOs like Global Witness are targeting standard setters, regulators and banks... high level corruption is not possible without banks." Robert Palmer

"Switzerland remains convinced that its reputation as a financial centre is critically important and it is not in its interest to harbour illicit money." Fabienne Aemisegger

"Switzerland has repatriated more than any other country... approximately USD 1.7 billion."
Fabienne Aemisegger

Signed and date submitted

Basel, 29th November 2010

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.