



# UNODC

United Nations Office on Drugs and Crime



## UNCAC CHAPTER V – ASSET RECOVERY



***“Restoring proceeds of corruption to their rightful owner is a development imperative. By returning corrupt funds, we can mobilize resources to reduce poverty and achieve the Sustainable Development Goals. It is also the right thing to do.”***

**Ghada Fathi Waly,  
Executive Director, UNODC**

Developing countries lose between US\$20 to US\$40 billion each year through bribery, misappropriation of funds, and other corrupt practices.<sup>1</sup> Much of the proceeds of corruption find “safe haven” in the world’s financial centers. These criminal flows are a drain on social services and inhibit economic development. This is why the recovery of these proceeds is particularly important for developing countries, including ASEAN Member countries.

The United Nations Convention against Corruption (UNCAC) is the world’s only legally-binding, anti-corruption instrument, to which UNODC is the guardian. The Convention was adopted by the General Assembly in October 2003 and entered into force in December 2005. To date, there are 190 States parties to UNCAC, representing a ground-breaking commitment to tackle corruption.

UNCAC establishes the return of assets as a “fundamental principle” of the Convention. The provisions of Chapter V on asset recovery set forth a framework, in both civil and criminal law, for tracing, freezing, confiscating, and returning funds obtained through corrupt acts.

Chapter V requires States parties **to prevent and detect the transfers of proceeds of crime**. Financial institutions are to: verify customers’

The **Stolen Asset Recovery Initiative (StAR)** is a partnership between the World Bank Group and UNODC that was established in 2007. It supports international efforts to end safe havens for corrupt funds. StAR works with developing countries and financial centers to prevent the laundering of proceeds of corruption and to facilitate more systematic and timely return of stolen assets through four key pillars:

- Empowerment;
- Partnerships;
- Innovation; and
- International Standards.

States can request StAR assistance.

For more information, visit:  
<https://star.worldbank.org/>

identity; know the identify of the beneficial owners of high-value accounts; and apply enhanced scrutiny of accounts connected to those entrusted with prominent public functions for the purpose of detecting and reporting suspicious transactions. States are further required to issue advisories that provide guidance to these institutions to comply with these measures.

Measures are to be implemented to prevent the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group.

States are also required to consider mandating public officials with a connection to a financial account in a foreign country to report that relationship to the appropriate authorities and to maintain appropriate records relating to those accounts.

Chapter V further requires that States take **measures for the direct recovery of property**,

<sup>1</sup> World Bank and United Nations Office on Drugs and Crime, Asset Recovery Handbook: A Guide for Practitioners. Available from [https://www.unodc.org/documents/corruption/Publications/StAR/StAR\\_Publication\\_-\\_Asset\\_Recovery\\_Handbook.pdf](https://www.unodc.org/documents/corruption/Publications/StAR/StAR_Publication_-_Asset_Recovery_Handbook.pdf)



including by: allowing other States to initiate civil actions to establish title or ownership of corruptly acquired property; allowing courts to order those who have committed offences to pay compensation or damages to another State; and recognizing another State's claim as a legitimate owner of property acquired through the commission of an UNCAC offence.

Mechanisms are to be created by States for the **recovery of property through international cooperation in confiscation**. This includes States permitting their competent authorities to act on a confiscation order by another State, and to order the confiscation of such property of foreign origin in accordance with procedures under its domestic law.

Authorities are also required to freeze or seize property upon request from a State that provides a reasonable basis for the requested State to believe that there are sufficient grounds for taking that action.

States that have received a request for the confiscation of the proceeds of crime must engage in **international cooperation for the purposes of confiscation** of those proceeds. This includes submitting the request for the order of confiscation, and giving effect to it, if such an order is granted. Measures are also required to be taken to identify, trace and freeze or seize those proceeds, with the purpose of eventual confiscation. If no other agreement or arrangement is in place that allows it to do so, a State party may use the Convention as a legal basis for such action.

**Special cooperation** is encouraged. Measures should be taken to allow countries to share information in relation to the proceeds of offences another with State when this might assist the receiving State in investigating or prosecuting a corruption offence or might lead to a request under Chapter V.

A country must further adopt measures that enable it to **return confiscated property** when acting on the request of another State. In the case of embezzlement or the laundering of public funds, the funds are to be returned to the requesting State. For the proceeds of any other offence covered by UNCAC, the property is to be returned to the requesting State when that State has reasonably established its prior

### StAR Publications, of example, include:

#### [Asset Recovery Handbook: A Guide for Practitioners, Second Edition](#)

Designed as a how-to manual, the handbook guides practitioners as they grapple with the strategic, organizational, investigative, and legal challenges of recovering assets that have been stolen by corrupt leaders.

#### [The Role and Responsibilities of Gatekeepers in the Fight against Illicit Financial Flows: A Unifying Framework](#)

High-profile investigations, from the Panama Papers to the more recent FinCEN Files, have drawn widespread attention to the essential role of certain professional industries in relation to international financial fraud, corruption schemes, and tax evasion.

#### [Taxing Crime: A Whole of Government Approach](#)

This publication focuses on the benefits of interagency cooperation between tax authorities and law enforcement agencies working on preventing, detecting, and recovering the illicit financial flows derived from tax evasion, corruption, and money laundering.

ownership of the property, or if the requested State recognizes damage to the requesting State as a basis for returning the confiscated property.

Lastly, Chapter V requires States to cooperate with one another for the purpose of preventing and combating the transfer of the proceeds of crimes, and asks States to consider establishing a Financial Intelligence Unit (FIU). The FIU is responsible for receiving, analyzing and disseminating to authorities reports of suspicious financial transactions.

The full text of UNCAC Chapter V is available at [https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

