



**UNODC**

United Nations Office on Drugs and Crime

# Implementing Asset Recovery under UNCAC

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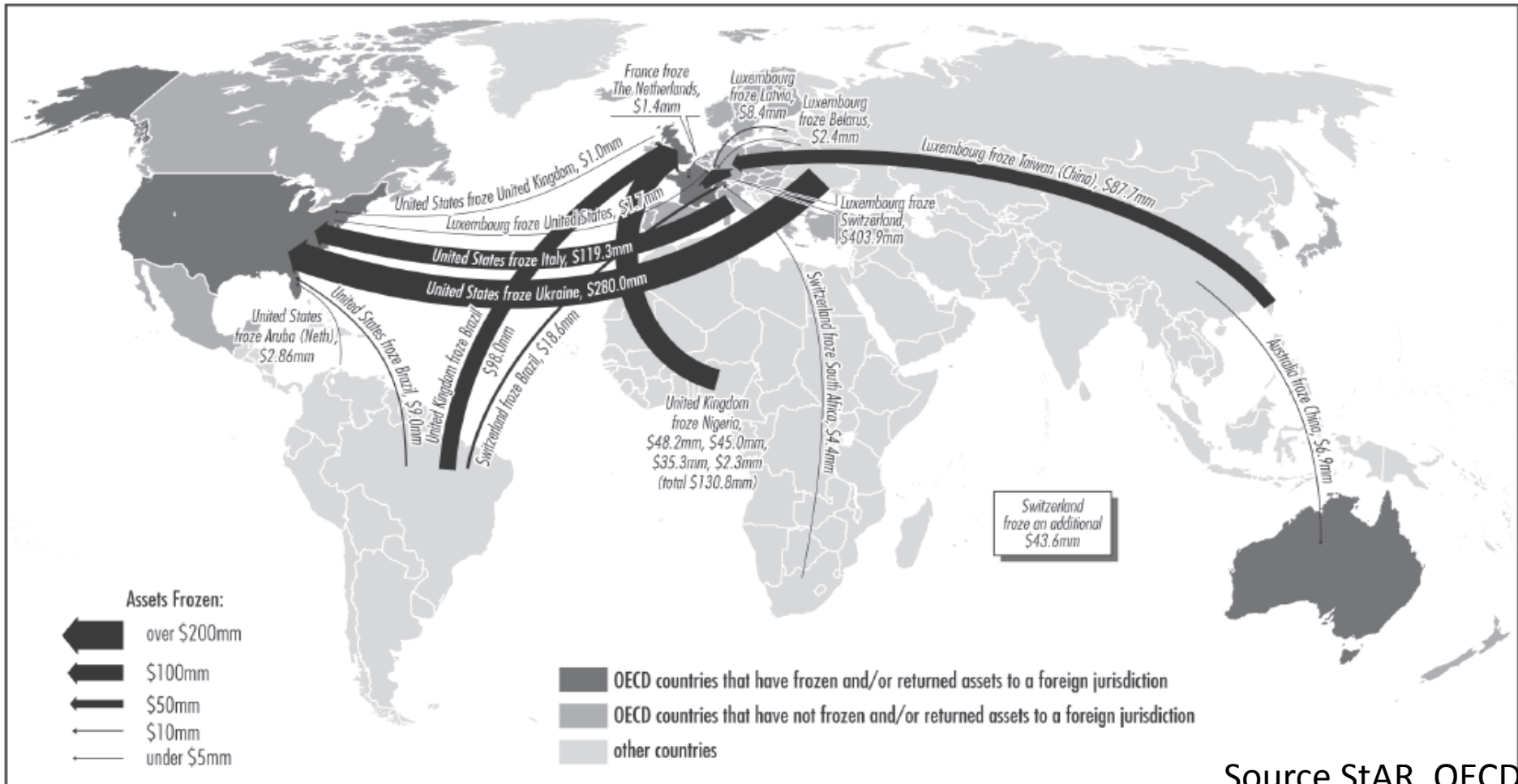
# Chapter V, Asset Recovery - a major breakthrough, but.....

“The return of assets is a fundamental principle of this Convention...

Parties shall afford one another the widest measure of cooperation and assistance in this regard” **(Art. 51)**

# AR – A status quo: only few transnational AR cases

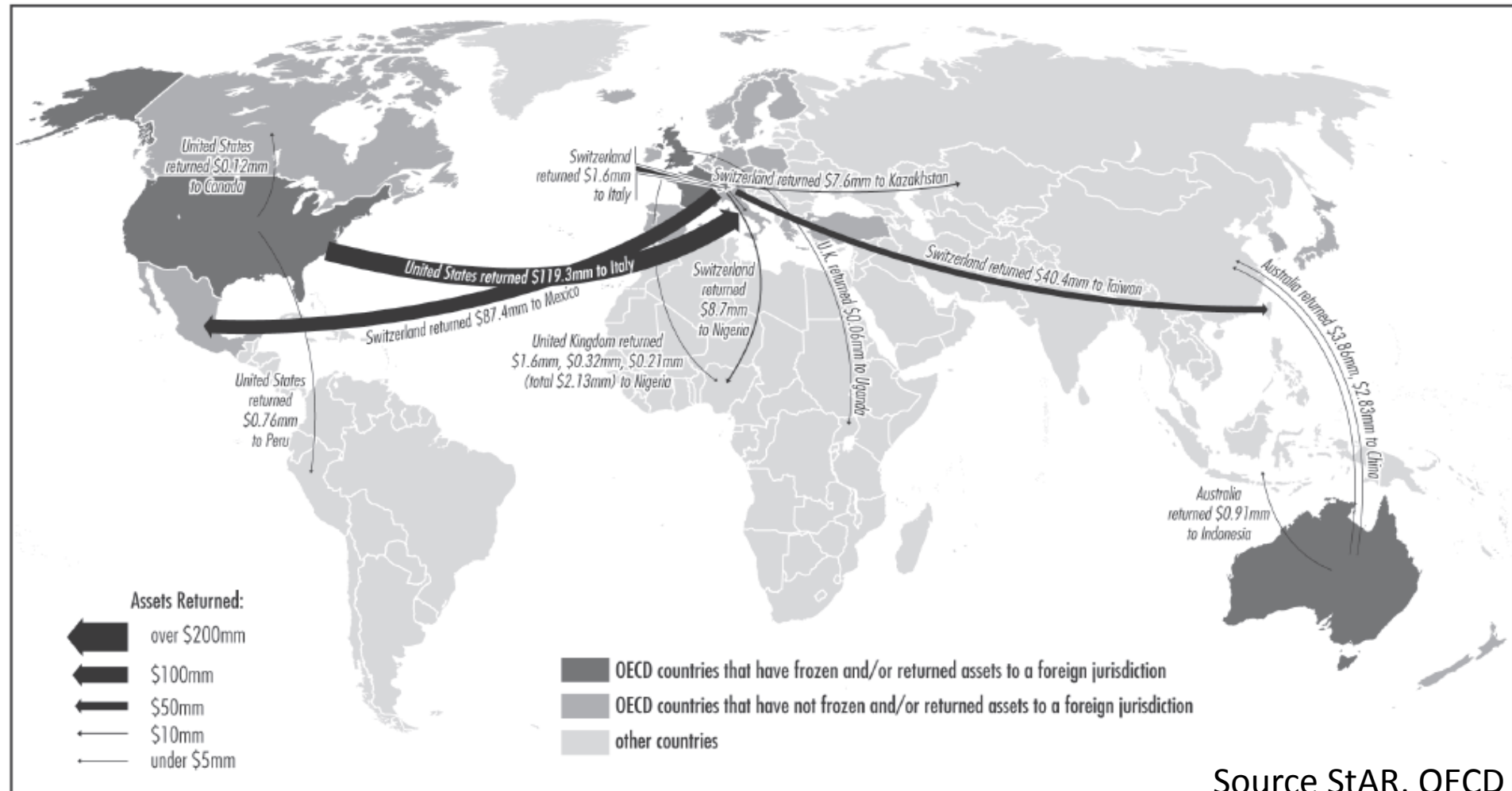
Assets frozen by 30 OECD countries, 2006-09





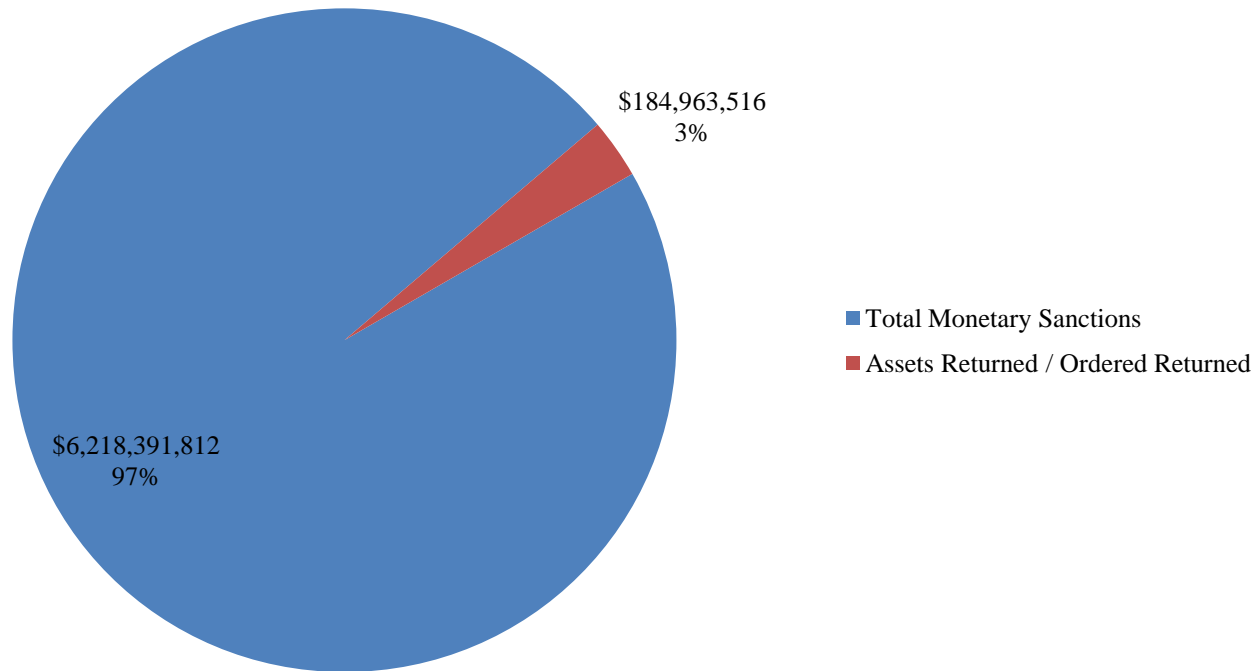
# Even fewer returns

Assets returned by 30 OECD countries, 2006-09



# Asset Recovery and Settlements - Preliminary Findings of a StAR Study

## Total Monetary Sanctions and Assets Returned / Ordered Returned (1999 – 2012)



# Barriers to Asset Recovery

- Legal impediments
  - to trace, seize and confiscate at national level – domestic legislation
  - to cooperate effectively at international levels – ratification & implementation of relevant international treaties (UNCAC) as well as multi-lateral MLA treaties
  - Illicit enrichment offences
  - Non Conviction Based Forfeiture Systems

# Barriers to Asset Recovery

- Institutional and operational limitations
  - Domestic coordination
  - Resources, capacities and skills
  - Specialized and dedicated units
  - Financial investigations skills, tools and resources
  - Publicly accessible asset registries
  - Drafting effective MLA requests

# Barriers to Asset Recovery

- Communication and Trust
  - Membership in informal networks (StAR/Interpol AR focal point network, ARINSA, CARIN)
  - Empowerment of practitioners to engage in informal contacts with peers in foreign jurisdictions
  - Channels for informal cooperation (police to police, FIU to FIU, prosecutor to prosecutor)
  - Information sharing and transparency
  - Spontaneous cooperation
  - Trust is earned!



# Working Group on Asset Recovery

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- **Development of cumulative knowledge:** knowledge management center and practical tools for asset recovery
- **Enhancement of confidence and trust through formal and informal networks** of focal points
- **Tailor-made training and capacity-building** for policy makers, legislators and practitioners



Next session: Vienna, August 2012

## **GLOBAL NETWORKS – PRE-MUTUAL LEGAL ASSISTANCE**

The Global Focal Point Initiative established by StAR-INTERPOL  
104 members

The Global Focal Point Initiative established by StAR-INTERPOL  
120 members

Camden Asset Recovery Inter-Agency Network (CARIN) 35  
members 22 observers

Asset Recovery Inter-Agency Network of Southern Africa (ARINSA)  
9 members

Red de la Recuperación de Activos de GAFISUD (RRAG) 23  
agencies and 24 participating countries

The European Judicial Network.

Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition of the Organization of American States (OAS)

Ibero-American Legal Assistance Network (IberRed)

The Judicial Regional Platforms of Sahel and Indian Ocean Commission Countries.

Central Authorities as designated by States parties to the UNCAC

92 countries have nominated central authorities in accordance with article 46 (13) of UNCAC.

UNCAC Asset Recovery Focal Points

Consists of 38 countries that designated their asset recovery focal points.

Includes 43 different agencies designated by 38 States.

- The existing networks required for dealing with the preparatory stages of asset recovery are functioning well.
- Building of the functional networks between central authorities dealing with the formal mutual legal assistance remains the main challenge.
- Despite the recognized value many countries are not yet members of networks that could assist in asset recovery.

# Findings of the Review Mechanism – Chapter IV

- Little use of UNCAC for direct treaty based cooperation – lack of familiarity of practitioners with UNCAC
- Response time for international cooperation
- Widely varying evidentiary requirements
- Spontaneous provision of information possible – yet..
- CA existent but not communicated to SG
- Limited communication channels and languages
- Communications are greatly facilitated where countries participate in regional or intl. networks