



How to repatriate the stolen assets to the country of origin

Daniel Uribe
Programme Officer
South Centre

Leading questions?

- What is the role of tax officials in cases of asset recovery or compensation for damage?
- How can tax officials be of benefit for identifying assets and tracing proceeds of crime?
- What mechanisms can be put in place to facilitate asset recovery?

What is asset recovery?

Art. 51 (UNCAC): The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard

Aim: Identify the proceeds of crime which are transferred abroad, **recover and repatriate** them to the country from which they were taken or to *their rightful owners (restitution)*.

World Bank estimates that developing countries lose [US\\$20-40 billion](#) each year due to corruption

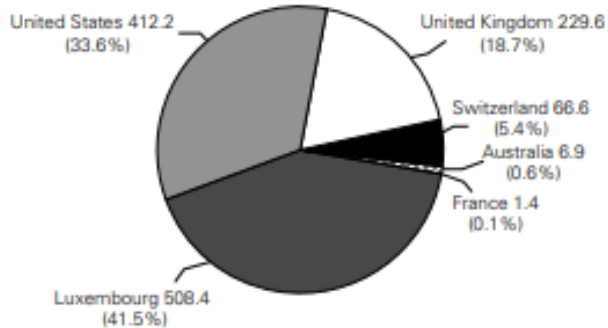
Why asset recovery

Source: STAR Initiative, Few and Far The Hard Facts on Stolen Asset Recovery (2014)

OECD Country Reports of Assets Frozen and Assets Returned to Foreign Jurisdictions (USD Millions)

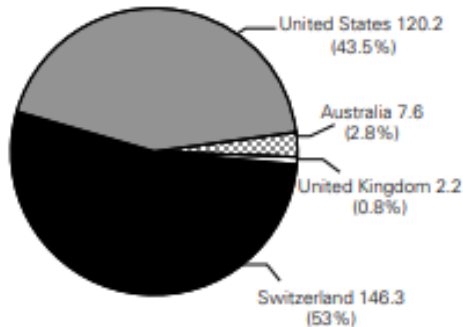
A. 2006-09

a. Assets frozen



Total \$1,225 million

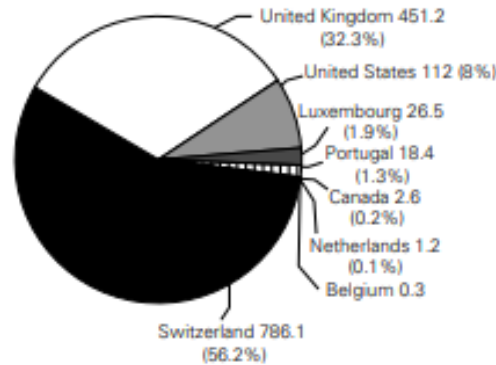
b. Assets returned



Total \$276.3 million

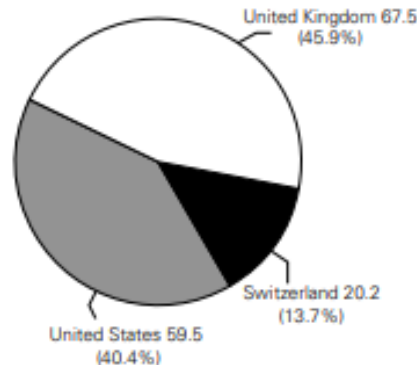
B. 2010-June 2012

a. Assets frozen



Total \$1,398 million

b. Assets returned



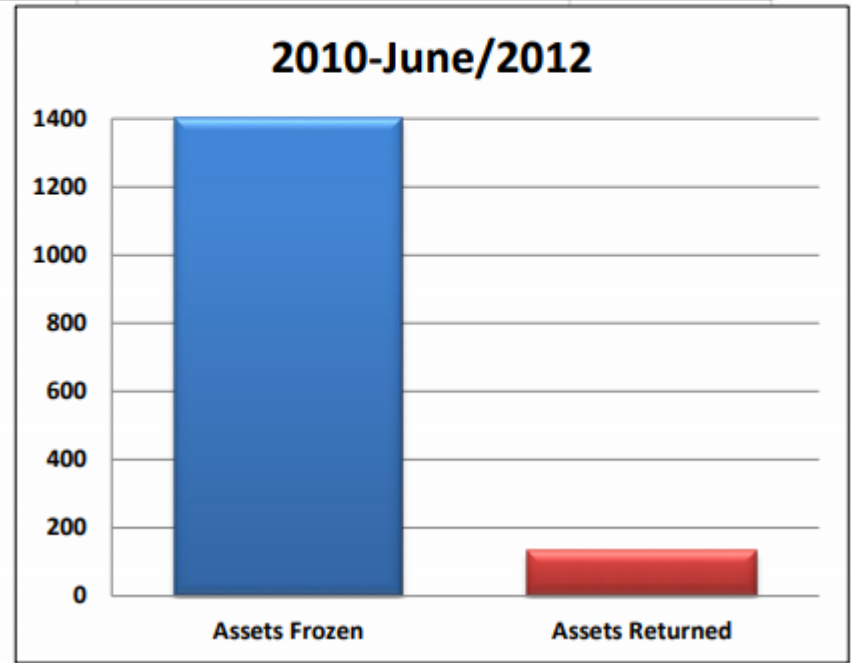
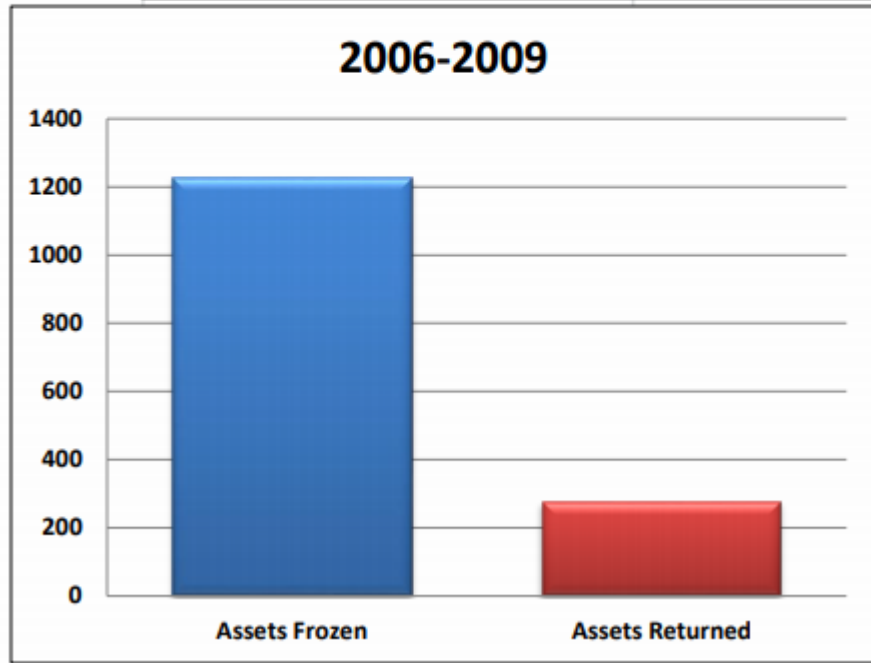
Total \$147.2 million

World Bank estimates that developing countries lose between **US\$20-40 billion** each year due to corruption

Why asset recovery

Assets Frozen and Returned (2006-June 2012, OECD countries, in USD million)

	2006-2009	2010-June/2012	Total
Assets Frozen	1225	1398	2623
Assets Returned	277	131	408



Source: <http://star.worldbank.org>

Procedural matters

Ownership claims

- Initiate a civil action in its courts
- Intervene as a third party in a confiscation procedure

Compensation

- Stand before their courts and seek compensation or damages for the harm caused by the commission of a corruption offence

Procedural matters



Obstacles to asset recovery

According to the World Bank this could be:

- **General barriers and institutional issues:** lack of political will to identify asset recovery as a priority and failure to attend to anti-money laundering measures to prevent asset flight.

- **Legal barriers and requirements that delay assistance:** onerous requirements for mutual legal assistance, banking secrecy, lack of non-conviction based recovery procedures and restrictive evidentiary and procedural legislation.

- **Operational barriers and communication issues:** difficulty identifying contact points in other countries and delays in processing mutual legal assistance requests or poorly drafted requests.

Asset recovery and tax

Asset recovery and tax

Recover proceeds of corruption: When a legal entity is involved, the can request to be part of proceedings of insolvency and bankruptcy if the entity is liable for unpaid taxes.

Wrongful trading: this might involve mismanagement and could include failing to pay company tax liabilities or to file statutory return

Strengthen accountability and transparency: Illicit financial flows normally include tax evasion as its main source.

Collection of evidence and identification of assets: Tax agencies and officials have an important role for identifying the origin of possible assets and collaborate with other agencies to identify suspicious transactions within corporate groups (shell companies).

Complementary readings

- Tackling poverty with recovered assets: The Mantra Model in:
<https://aneej.org/wp-content/uploads/2019/10/Mantra-Field-Report-final-compressed.pdf>
- STAR Initiative, Going for Broke Insolvency Tools to Support Cross-Border Asset Recovery in Corruption Cases in:
<https://star.worldbank.org/sites/star/files/going-for-broke.pdf>
- Report of the International Expert Meeting on the return of stolen assets – “ADDIS II” (2019) in
https://www.unodc.org/documents/corruption/AddisEGM2019/Report_EGM_return_of_stolen_assets_Addis_II.pdf

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