

Confiscation and Asset Recovery

Challenges in Practice

Place du Molard 3, CH-1204 Geneva, Switzerland
Telephone +41 22 310 22 66 | Telefax +41 22 310 24 86 | mail@mbk.law

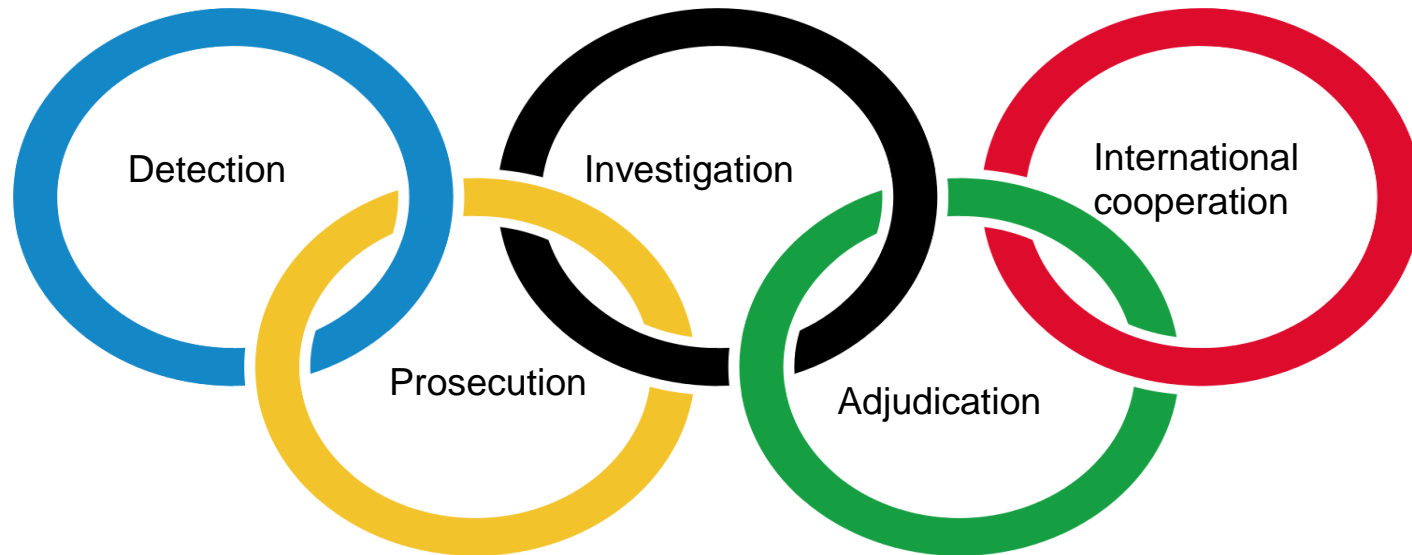
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- Multinational corporation
- 5 layers of companies within the corporate structure
- Payment of bribes to foreign public officials
- Use of various bank accounts, including the company own bank
- Lack of organization within the company

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Multi-jurisdictional co-operation

1. Multiple jurisdictions
 2. Obtaining and providing MLA
 3. Legal framework
 4. Level of Evidence required
-
- Structure of the corporation
 - Defence strategy
 - Forum shopping and double jeopardy
 - Out of court settlements/DPA/Plea Agreements/Enforcement Actions

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INTERNATIONAL COOPERATION

- Timing
- Co-ordination with all foreign counterparts
- Gathering of intelligence
- Division of tasks

- Mutual legal assistance
- Judicial authorities only!
- Legal bases: Multilateral conventions , bi-lateral treaties, domestic law
- Goal: obtaining evidence not intelligence

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CHALLENGES in MLA

- Lack of contact prior to the formal transmittal of request
- Difficulties in establishing/maintaining contacts (due to frequent changes within authorities) Lack of support from the requesting state during appeal procedures
- Incomplete Statement of Facts (dual criminality examination) OECD and UNCAC Convention assumes it to be fulfilled
- Language Problems (translation and legal concepts)
- Opaque/no division of tasks
- Incomplete settlements/sanctioning

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GUIDELINES FOR EFFICIENT RECOVERY OF STOLEN ASSETS

English العربية Français Español

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The Practical Guidelines are a set of international good practices intended to enhance the effectiveness and efficiency of requesting and requested states in the asset recovery process.



What are the guidelines?

Asset recovery is an intricate and time-consuming process. The Guidelines for the Efficient Recovery of Stolen Assets unravel the asset recovery process, breaking it down into practical, manageable guidelines, allowing a targeted audience to focus on the asset recovery process in a comprehensive manner.

The Guidelines are accompanied by a non-binding step-by-step approach. They both intend to assist practitioners, policymakers and legislators to better plan each step of the process. The breakdown into guidelines and step-by-steps enable viewing the asset recovery process

Who are they for?

- **Practitioners** (e.g., intelligence officers, law enforcement and judicial authorities) can in the short-term gain knowledge and perspectives into the asset recovery process, resulting in medium- to long-term enhanced capacities for both originating and receiving jurisdictions to recover stolen assets.
- **Policymakers** will have a better understanding of the asset recovery process in a manner that will allow them to propose targeted policies potentially resulting in a meaningful impact.
- **Legislators** will be able to address legal challenges posed by and within the asset recovery

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APERÇU GÉNÉRAL 1: EXAMEN PRÉLIMINAIRE 2: GEL DES ACTIFS 3: ENQUÊTE
4: MOMENT OPPORTUN 5: ENJEUX JURIDIQUES 6: CONTACTS 7: COMMUNICATION
8: ENQUÊTES PARALLÈLES 9: PROJET DE DEMANDE D'ELI 10: EXÉCUTION DE LA DEMANDE D'ELI

Guideline 2: Restraining assets

Guideline 1: Preliminary review

Prior to a criminal investigation, involved jurisdictions should undertake a sufficient preliminary review of any indications and allegations, using all available sources, including financial and law enforcement intelligence and open source, and where appropriate share financial information with concerned FIUs, with a view to support subsequent criminal investigations.

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Step 1 Receive allegation

Potential sources of allegations may include SARs/STRs/financial intelligence, whistle-blowers, witnesses, informants, victims, media reports, requests for MLA or (foreign) law enforcement agencies, and referrals from Foreign Affairs Offices.

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Mutual Legal Assistance x

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Introduction

Download the MLA Tool

Frequently Asked Questions

Demonstration of the MLA Tool

Legal Tools

Mutual Legal Assistance Request Writer Tool

Mutual legal assistance is one of the most decisive weapons States have to fight serious international crime. For mutual legal assistance requests to be effective, they often need to be generated quickly and in such a way as to avoid legal obstacles that can arise when criminal justice practitioners from different legal systems attempt to work together.

The Mutual Legal Assistance Request Writer Tool (MLA Tool) has been developed by UNODC to assist States to draft requests with a view to facilitate and strengthen international cooperation.

The MLA tool:

- Requires virtually no prior knowledge or experience with drafting mutual legal assistance requests
- Helps to avoid incomplete requests for mutual legal assistance and therefore minimizes the risk of delay or refusal.
- Is easily adjustable to any country's substantive and procedural law
- Enables the user to retrieve key information on treaties and national legislation
- Features an integrated case-management tracking system for incoming and outgoing requests


Step by step, the MLA Tool guides the casework practitioner through the request process for each type of mutual assistance, using a series of templates. Before progressing from one screen to the next, the drafter is prompted if essential information has been omitted. Finally the tool consolidates all data entered and automatically generates a correct, complete and effective request for final editing and signature.

The MLA Tool is currently available in English, French, Spanish, Russian, Portuguese, Bosnian, Croatian.

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Stolen Asset Rec: x

star.worldbank.org/corruption-cases/assetrecovery/?f%5B0%5D=bundle%3Apuppet_masters



Stolen Asset Recovery Initiative
The World Bank and UNODC

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STAR Databases : Asset Recovery Watch | Settlements Database | All Corruption Cases

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Search the Database: **SEARCH**

Database	Jurisdiction	Year
Asset Recovery Watch	Andorra	-Year
Settlements	Angola	Money laundering implicated?
All Databases	Anguilla	UNCAC Article(s) implicated?
	Antigua and Barbuda	
	Argentina	
	Australia	
	Austria	
	Azerbaijan	

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Thank you

Dr. Claire A. Daams MA LL.M. Advocaat

Place du Molard 3, CH-1204 Geneva, Switzerland
Telephone +41 22 310 22 66 | Telefax +41 22 310 24 86 | mail@mbk.law

MONFRINI BITTON KLEIN

———— SWISS LITIGATORS ————

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