



Conference of the States Parties to the United Nations Convention against Corruption

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Asset recovery

Ghana, Morocco, Nigeria and United Kingdom of Great Britain and Northern Ireland: revised draft resolution

Enhancing the use of beneficial ownership information to strengthen asset recovery

The Conference of the States Parties to the United Nations Convention against Corruption,

Recognizing that beneficial ownership transparency is critical for combating corruption and tackling the misuse of legal persons and legal arrangements to conceal the proceeds of offences established in accordance with the United Nations Convention against Corruption,¹

Recognizing also that the loss of resources caused by corruption, including complex cases such as those involving multiple national jurisdictions and vast quantities of assets, may constitute a substantial proportion of the resources of States and has a particularly negative impact on developing countries,

Recalling article 12, paragraph 2 (c), of the Convention, which requires States parties to take measures to promote transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities,

Recalling also article 14, paragraph 1 (a), of the Convention, which requires that each State party shall institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer identification and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions,

Recalling further article 52, paragraph 1, of the Convention, which requires that each State party shall, without prejudice to article 14, take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to

¹ United Nations, *Treaty Series*, vol. 2349, No. 42146.



conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates, and that such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer,

Recalling its resolution 4/4 of 28 October 2011, entitled “International cooperation in asset recovery”, in which it encouraged States parties to remove additional barriers to asset recovery by ensuring that financial institutions and, where applicable, designated non-financial services and professions adopt and implement effective standards to ensure that such entities are not being used to hide stolen assets, by, inter alia, adopting such measures as the collection and provision of beneficial ownership information,

Recalling also its resolution 5/3 of 29 November 2013, in which it encouraged States parties to cooperate in order to implement the necessary measures to enable them to obtain reliable information on beneficial ownership of companies, legal structures or other complex legal mechanisms, including trusts and holdings, used to commit crimes of corruption or to hide and transfer proceeds,

Recalling further that, in its resolution 5/3 and in its resolution 6/3 of 6 November 2015, it urged States parties to ensure that reliable beneficial ownership information on companies was accessible onshore to law enforcement agencies and other relevant authorities, including, as appropriate, financial intelligence units and tax administrations, thus facilitating the investigation process and the execution of requests,

Recalling the political declaration adopted by the General Assembly at its special session against corruption on 2 June 2021,² entitled “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation”, in which Member States committed to making efforts in international cooperation and taking appropriate measures to enhance beneficial ownership transparency by ensuring that adequate, accurate, reliable and timely beneficial ownership information was available and accessible to competent authorities and by promoting beneficial ownership disclosures and transparency, such as through appropriate registries, where consistent with the fundamental principles of domestic legal systems and using as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering, and in which Member States committed, to that end, to developing and implementing the measures necessary to collect and share such information on the beneficial ownership of companies, legal structures and other complex legal mechanisms, and to enhancing the ability of competent authorities in that regard,

Recalling also its resolution 9/7 of 17 December 2021 on enhancing the use of beneficial ownership information to facilitate the identification, recovery and return of proceeds of crime,

Reaffirming the commitment of States parties and determined to give effect to the obligations set out in chapter V of the Convention in order to identify, detect, trace, freeze, seize, confiscate, recover and return in a more effective manner the proceeds of crime and to strengthen international cooperation in asset recovery in that regard,

Recognizing that those who engage in corrupt acts, whether natural or legal persons, should be held accountable and prosecuted by the competent authorities, consistent with the requirements of the Convention, and that all efforts should be made to conduct investigations into assets illegally acquired by them and to recover such assets,

² General Assembly resolution S-32/1, annex.

Taking note of the report of the High-level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda,³

Concerned about the challenges that competent domestic authorities face in accurately and expeditiously identifying beneficial owners of legal persons and arrangements for the purpose of preventing, detecting, investigating and prosecuting offences established in accordance with chapter III of the Convention and enabling the identification, recovery and return of assets in accordance with chapter V of the Convention,

Recalling the political declaration, in which States parties recognized that preventing and countering corruption and illicit financial flows and recovering and returning confiscated assets, in accordance with the Convention, could contribute to effective resource mobilization, poverty eradication, sustainable development and the enjoyment of all human rights, also recognized that corruption was often transnational in nature and reiterated the need for strong international cooperation and assistance in the prevention, detection, investigation and prosecution of corruption offences, as well as in the recovery and return of confiscated assets in accordance with the Convention,

Noting applicable international standards on beneficial ownership, in accordance with domestic law, in which, inter alia, countries are urged to enhance the transparency of beneficial ownership information through the provision of adequate, accurate and up-to-date information on the beneficial ownership and control of legal persons, including, where appropriate and consistent with domestic law, through registries or other alternative mechanisms that can be obtained or accessed in a timely fashion by domestic competent authorities in order to enable the recovery and return of assets in accordance with the Convention,

Acknowledging the progress made by States parties in enhancing their domestic frameworks to achieve greater beneficial ownership transparency, and encouraging them to further step up their efforts in this regard,

Recalling that, in the political declaration, Member States recognized the role that technologies could play in support of anti-corruption measures, including in public procurement and with regard to asset and conflict of interest declarations by public officials to appropriate authorities, in accordance with the fundamental principles of domestic law, to promote transparency, interaction with citizens and accountability, and the importance of strengthening cooperation and the exchange of best practices on the development and application of such technologies, and resolved to promote, while safeguarding personal data protection and privacy rights, the use of technological innovations to prevent, detect and combat corruption and facilitate digital government in that regard by leveraging technological advancements, including systems and programmes that improved the ability of the competent authorities to conduct financial analysis, such as the United Nations Office on Drugs and Crime software goAML,

Underlining that the fully effective implementation of the provisions of the Convention, including with respect to preventive measures, criminalization and law enforcement, and international cooperation, is essential to efforts in support of asset recovery and return,

Emphasizing that the return of assets is a fundamental principle of the Convention, and that States parties shall afford one another the widest measure of cooperation and assistance in this regard,

Recalling that, in the political declaration, Member States noted with appreciation the important role of civil society, academia, the private sector and the media in identifying, detecting and reporting on cases of corruption, and committed to taking appropriate measures, within their means and in accordance with the fundamental principles of their domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations,

³ A/75/810/Rev.1, annex.

community-based organizations and the private sector, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption,

1. *Calls upon* States parties to ensure or continue ensuring access to adequate, accurate and up-to-date beneficial ownership information of legal persons and legal arrangements, and, as necessary, consider maintaining historical records, that is searchable by domestic competent authorities, including, as appropriate, financial intelligence units and tax administrations, in accordance with domestic law;

2. *Urges* States parties to cooperate closely with one another, bearing in mind the need to provide one another the widest measures of international cooperation, in accordance with the United Nations Convention against Corruption and domestic law, to facilitate the efficient exchange of adequate, accurate and up-to-date beneficial ownership information in a timely manner and, where appropriate and feasible, through the use of digital and innovative technologies, including to facilitate the recovery and return of assets;

3. *Calls upon* States parties, in accordance with the Convention and the fundamental principles of their domestic law, to adopt a multipronged approach to beneficial ownership transparency through appropriate mechanisms that provide access to adequate, accurate and up-to-date beneficial ownership information on legal persons and legal arrangements in order to facilitate the investigation and prosecution of cases of corruption and the identification, recovery and return of assets;

4. *Invites* States parties to consider taking such measures as may be necessary, in accordance with their domestic law, to include a definition of beneficial ownership of legal persons and legal arrangements in domestic legislation or regulation and to ensure that beneficial ownership information is made available through national systems;

5. *Encourages* States parties to collect and maintain adequate, accurate and up-to-date beneficial ownership information, where appropriate and in accordance with the fundamental principles of their domestic legal systems and domestic law, so that domestic competent authorities may obtain and access beneficial ownership data in a timely manner;

6. *Encourages* States parties that have not already done so to consider, in accordance with their domestic law, setting up and/or making available appropriate access by competent authorities to adequate, accurate and up-to-date beneficial ownership information of legal persons and legal arrangements;

7. *Encourages* States parties to make use of relevant beneficial ownership information, as appropriate, in accordance with the Convention and domestic law, to prevent, investigate and prosecute corruption and money-laundering and to facilitate the identification, recovery and return of assets;

8. *Urges* States parties to take measures to facilitate, in accordance with the fundamental principles of their legal systems, as appropriate, access to beneficial ownership information by domestic public procurement authorities;

9. *Also urges* States parties to take appropriate measures, within their means and in accordance with domestic law, to promote the active participation of individuals and groups outside the public sector in the prevention of and the fight against corruption;

10. *Encourages* States parties, in accordance with their domestic law, to further a common understanding of the essential elements of beneficial ownership and the means of identifying the beneficial owners of various types of legal persons and legal arrangements and to ensure the availability of data that allow for their identification;

11. *Urges* States parties to further implement paragraph 1 of article 52, which requires States parties, as may be necessary and in accordance with their domestic

law, to require financial institutions within their jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates;

12. *Also urges* States parties to ensure that non-compliance with beneficial ownership regulations by legal persons and legal arrangements is subject to appropriate, effective, proportionate and dissuasive civil, administrative or criminal penalties, in accordance with the fundamental principles of their domestic law;

13. *Further urges* States parties to increase their efforts to prevent and counter corruption that involves vast quantities of assets, noting that no country alone can effectively combat complex cases involving multiple jurisdictions, and that international cooperation and technical assistance are needed in the prevention of and fight against corruption, including asset recovery;

14. *Urges* States parties to make use of opportunities for cooperation and peer learning through existing practitioner-based networks, in accordance with the Convention and domestic law;

15. *Calls upon* States parties to, in accordance with the Convention and domestic law, remove obstacles and challenges hindering access to and the use of adequate, accurate and up-to-date beneficial ownership information by domestic competent authorities in a timely manner that can be used to detect corruption and identify, recover and return assets;

16. *Encourages* States parties, in accordance with the Convention and domestic law, to further strengthen or establish channels of communication, to facilitate the sharing and exchange of beneficial ownership information and to remove obstacles and address challenges in efforts to prevent, investigate and prosecute corruption and to recover and return assets;

17. *Also encourages* States parties, with the assistance of the secretariat, to share, on a voluntary basis, examples of good practices in promoting beneficial ownership information transparency to facilitate the recovery and return of assets, in accordance with the Convention and domestic law, and financial disclosure requirements for public officials, while avoiding the duplication of work undertaken by other international forums;

18. *Decides* that the Open-ended Intergovernmental Working Group on Asset Recovery and the Open-ended Intergovernmental Working Group on the Prevention of Corruption should, within their mandates and without duplicating the work of other relevant international organizations, include in their workplans for the period 2024–2025 the topic of good practices and challenges with respect to beneficial ownership information in order to detect, deter and prevent acts of corruption and to enhance the recovery and return of assets in accordance with the Convention;

19. *Requests* the secretariat, within existing resources, to collect and update information provided by States parties on a voluntary basis with regard to which States parties maintain a registry or alternative mechanism on beneficial ownership information, together with information on how to make requests for such information, and to report on progress made in this regard to the Conference at its future sessions and to its relevant subsidiary bodies;

20. *Requests* the United Nations Office on Drugs and Crime to convene an intergovernmental meeting with the participation of relevant experts, subject to the availability of resources, in close coordination with States parties, to identify and share best practices and challenges in the use of beneficial ownership information, including on how the recovery and return of assets could be facilitated by beneficial ownership information, and develop case studies for States parties on best practices and challenges identified;

21. *Also requests* the United Nations Office on Drugs and Crime, as appropriate, to continue providing technical assistance, capacity-building and material support, upon request, to States parties, on the basis of their needs and priorities, with regard to establishing and implementing domestic beneficial ownership information mechanisms in order to facilitate the recovery and return of assets, in accordance with the Convention and domestic law;

22. *Invites* States parties and other donors to provide extrabudgetary resources for the purposes identified in the present resolution, in accordance with the rules and procedures of the United Nations.
