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## **I. Background**

Despite positive strides made possible by the acceptance of transparency and accountability as hallmarks of good governance, the theft of public assets continues to be a serious problem. According to the World Bank's own estimates, corrupt money associated with bribes received by public officials from developing and transition countries is estimated at US\$20 billion to US\$40 billion per year – a figure equivalent to 20 to 40 percent of official development assistance. Over the past two decades, international awareness of the challenges in the recovery of such assets has been increasing. The United Nations Convention Against Corruption (UNCAC) and several international initiatives on asset recovery, such as the Stolen Asset Recovery (StAR) Initiative, evince the importance that the international community is attaching to this issue.

There are many examples of abuses of power by politically exposed persons (PEPs) ranging from simple theft to more sophisticated embezzlement and fraud. The methods are manifold and constantly evolving. Moreover, while there are examples of those who act with impunity, arrogantly and blatantly displaying extravagant lifestyles grossly disproportionate to their legitimate incomes, the majority are stealthier operatives who are skilled in hiding ill-gotten assets and specialists in moving plundered funds from the affected state to the banking systems of other jurisdictions.

Corruption is not exclusive to developing countries, even if its impact is felt far more accurately there. The behavior of those who steal public funds and their facilitators in financial centers has serious consequences for economies in question and undermines confidence in public institutions. If committed systematically, such kleptocracy drains a population of its national income thereby impeding the necessary investment in health, education or basic infrastructure.

Both developing and developed states have thus a shared responsibility not only to address graft and corruption, but also to ensure that their domestic legal systems are supportive in preventing and combating corrupt practices and the transfer of assets of illicit origin and in returning such assets. It is therefore of the utmost importance to

prevent, combat and penalize corruption and the laundering of its proceeds at all levels and to return illicit assets to their country of origin.

## **II. The Philippine – Swiss experience**

The Marcos case marked the beginning of the global asset recovery agenda and has set new standards for future restitution and potential use of illegally acquired funds. It is one of the first and most prominent cases where assets looted from a state by a corrupt dictator have been returned to the rightful sovereign owner in a fair manner by using funds recovered for the benefit of the population. Recovery from the Marcos ill-gotten wealth was the major source of funding for the agrarian reform program, a social justice program enshrined in the 1987 Philippine Constitution. In addition, PhP10 billion (US\$ 230 Million) of the money recovered from the Marcos illicit assets has been set aside for the purpose of providing compensation to the victims of martial law as a direct and clear acknowledgement of the Republic's moral and legal obligation to the victims of human rights violations.

The Philippine government's work, through the Presidential Commission on Good Government, in close cooperation with Switzerland has had a positive and lasting impact on both Philippine and Swiss perspective, legislation and practices in the field of Asset Recovery. A number of legal hurdles had to be overcome before a total of US\$ 684 million could be transferred from Switzerland to the Philippines in 1997. This restitution marked one of the largest sums ever returned by any government to a country formerly ruled by a kleptocratic regime. The successful process of returning the Marcos assets to the Philippines has been an important learning experience for both the Philippines and Switzerland, as well as for the international community. The Marcos restitution has become a model for the recovery of stolen assets. It also had a direct impact on the negotiations of the UN Convention against Corruption (UNCAC) which devotes an entire chapter to Asset Recovery.

## **III. Outline of the workshop in the ASEM framework**

Based on this experience, the Philippines and Switzerland would like to share knowledge and best practices with other ASEM member states by organizing a workshop for government officials working in this area where different aspects and possible challenges of corruption, asset recovery and restitution can be discussed.

That said, the workshop – while taking off from the shared RP-CH history on this matter – goes beyond a mere revisiting of this experience. While it aims to discuss lessons learned, it is also envisioned as a proactive undertaking to tackle the issues of the day. Indeed the corruption of PEPs is still a major concern the world over; hence countries of origin and financial centers must continue to commit the political will to work together to overcome obstacles to effective asset recovery and efficiently deter those who wish to put funds out of the reach of relevant authorities. ***(Please see attached program draft).***

## Possible subjects to be discussed:

- ❖ Effective prevention of corruption
  - ✚ *"Mapping Actual Asset Recovery Instances: An Environmental Scan"*
  - ✚ *"Developing Responsive Anti-Corruption Strategies in Partnership with Civil Society: Exploring the Role of Citizens and Stakeholders in Detection, Tracing and Recovery"*
- ❖ Good governance
  - ✚ *"Upholding Accountability as a Democratic Imperative: Responding to Corruption with Effective Sanctions and Remedies"*
- ❖ Legal instruments and regulatory compliance
  - ✚ *"Examining the Legal Framework for Asset Recovery: Bridging the Divide Between Concept and Experience"*
  - ✚ *"Making Effective Use of Anti-Money Laundering Architecture: Optimizing Mechanisms for Theft Detection and Successful Recovery"*
- ❖ Providing a platform for bilateral exchanges and establishing personal contacts between authorities involved in Asset Recovery proceedings
  - ✚ *"Strengthening International Cooperation in a Changing World: Keeping the Rapid Evolution of Illicit Schemes in Check with Open Lines of Communication and Constant Collaboration"*
- ❖ Possible topics for working groups:
  - ✚ *Utilization of recovered funds*
  - ✚ *Mechanisms for remembrance*
  - ✚ *Asset management*
  - ✚ *Asset Recovery in the Digital Age: Maximizing the uses of technology and social media*

## **IV. Methodology**

The workshop will include expert presentations, panel discussions and active involvement of the participants. The workshop will be co-chaired by the Philippines and Switzerland. A summary of the salient findings will be provided to the participants at the conclusion of the workshop.

## **V. Target Participants**

- ❖ Approximately 60 participants
- ❖ Senior government officials who may come from:
  - ✚ Asset Recovery Agencies;
  - ✚ Financial Investigation Units (FIUs);
  - ✚ Justice Ministries; and/or
  - ✚ Other relevant departments.

## **VI. Logistics**

Proposed Date: 19-21 November 2014  
(2½ days)

Venue: Manila, Philippines

Workshop Organization: Research and Development Division  
Presidential Commission on Good Government

*with the support of*  
Directorate for Public International Law  
Swiss Federal Department of Foreign Affairs