



# CFATF Monthly Article

CFATF Secretariat Research Desk  
August 9, 2021

## Characteristics of a Good Asset Recovery System: FATF June 2021 Plenary, Process and Legal Mechanisms for Asset Recovery, Rec 38, and the role of ARIN CARIB [Part 1]



# FATF June 2021 Plenary (1)



Asset Recovery (AR) is one of the key tools of effective action against money laundering and terrorist financing (ML/TF).

Removal of profits = removal of the incentives that drive criminal activity.

AR compensates the victims of crime and keeps illicit funds out of the financial system and broader economy.

AR disrupts criminal activity, reduces dangers to and builds trust in a fair society and rule of law.

# FATF June 2021 Plenary (2)



A large majority of assessed countries in the 4<sup>th</sup> Round of mutual evaluations achieved only low or moderate levels of effectiveness in their ability to confiscate the proceeds of crime.



# FATF June 2021 Plenary (3)



At the FATF June 2021 Plenary, the FATF finalised a report on the, “Operational Challenges Associated With Asset Recovery” for government authorities that analyses the key obstacles to asset recovery and how to overcome them.

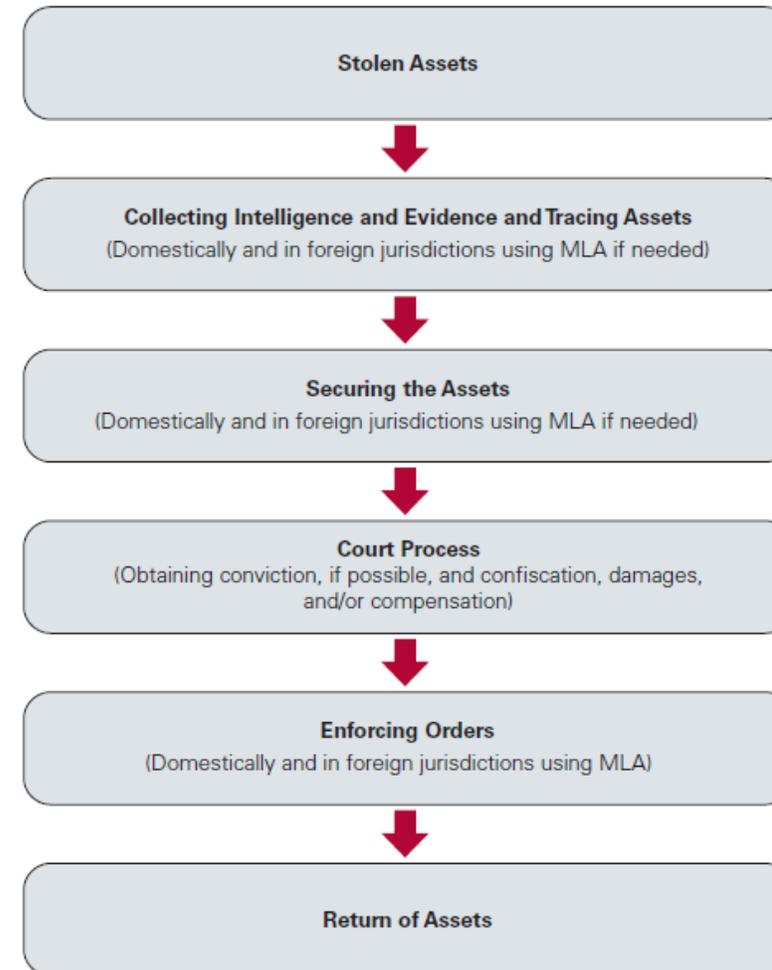
The FATF will consider how to follow-up at its October 2021 meeting.

Source: Outcomes FATF Plenary, 20-25 June 2021

# Process of recovering Stolen assets from from the StaR publication



**FIGURE 1.1** Process for Recovering Stolen Assets



Source: World Bank.  
Note: MLA = mutual legal assistance.



# Legal Mechanisms for Asset Recovery



## Legal Mechanisms

Domestic criminal prosecution and conviction-based confiscation, followed by an MLA request to enforce orders in foreign jurisdictions.

Private civil actions, including formal insolvency proceedings- UNCAC, art. 53(c), calls on states parties to permit another state party to initiate a civil action in domestic courts.

## Legal Mechanisms

Non-Conviction based confiscation (NCBC) [not allowed in all jurisdictions] followed by an MLA request to enforce orders in foreign jurisdictions.

Administrative confiscation-typically carried out by an authorized agency (such as a police unit or a designated law enforcement agency)

Other avenues, such as taxation, fines, and compensation orders in criminal trials.