

The Transparency International Bangkok Declaration

Bangkok, Thailand, 9th November 2010.

THE (Transparency International) BANGKOK DECLARATION ON STOLEN ASSETS RECOVERY AND THE MANAGEMENT OF FROZEN ASSETS

We, the representatives of Transparency International (TI) meeting in Bangkok, Thailand, on 9th day of November 2010 at the 2010 Annual Members Meeting of TI call upon all governments to give high priority on the international agenda (at the Group of 20, in the African Union, ASEAN and similar organizations, at the United Nations and in the World Bank and at other multilateral official institutions), without delay, to the critical issues related to the repatriation of stolen assets.

This resolution reflects the fact that despite some asset recovery successes, several countries are experiencing difficulties today in their endeavor to trace, seize, recover and repatriate assets and money illegally appropriated and transferred abroad by their nationals and other collaborators. Moreover, well over US\$ 140 billion has been illegally and corruptly appropriated from Africa alone, by politicians, soldiers, businesspersons and other leaders, and kept abroad in the form of cash, stocks and bonds, real estate and other assets. While the issue of the circulation of criminal proceeds and money laundering is now being addressed to some extent, the status of frozen assets for the duration of litigation or resolution of disputes arising out of the ownership of these assets is not being directly addressed.

Background and General Considerations:

In determining action-oriented recommendations (see below), leaders of the TI movement from more than 100 countries affirmed the fundamental human right to development of all peoples; took note of the September 2010, United Nations' High Level Summit on the Millennium Development Goals; and, emphasized the negative role that corruption has played in undermining fragile democracies and hindering efforts to sustainable development.

The TI membership underscored the significant history of official statements, declarations and conventions that relate to the issue of repatriation of stolen assets and the relative failure so far of official actions to match the official rhetoric. In this regard TI's Annual Meeting noted the developments in the international legal framework under the United Nations Convention against Corruption and the African Union Convention on Preventing and Combating Corruption; interventions aimed at creating a global socio-economic order, including, the Extractive Industries Transparency Initiative and the Stolen Asset Recovery Initiative (StAR) of the World Bank.

TI recalled the Nyanga Declaration of March 2001 by 11 TI African chapters, and the Nairobi Declaration of April 2006 by seven TI chapters and the Recommendations for TI Action on Asset Recovery adopted in Bali in October 2007. TI emphasised today that the issues raised in this declaration pertain to the injustices done to peoples in many parts of the developing world beyond the African region and that the repatriation of stolen assets is a matter of great concern to peoples cheated by corrupt leaders in many parts of Asia, the Middle East, Central and Eastern Europe, Latin America, as well as Africa.

TI noted that the international community needs to recognise that institutions, corporations or individuals who agreed to receive or facilitate the transfer, investment or management of stolen assets cannot morally be the entities dealing with the same funds during the period for which the funds are frozen. In addition, agents of many financial institutions still travel to countries scouting for investments and assisting with the movement of ill-gotten assets. Moreover, regardless of the fact that stolen wealth becomes identifiable, traceable and potentially recoverable, these agents are comforted by the fact that the freezing of the stolen assets has no repercussions on the financial institutions they represent.

Recommendations:

Accordingly the TI global anti-corruption movement resolved at its Bangkok Annual Meeting that:

1. Governments across the landscape of the developing world should take action to prevent assets from being stolen, prosecute those alleged to have stolen assets and demonstrate the political will to fight corruption in a meaningful way.
2. Countries in which the stolen assets are located should respond swiftly to requests for mutual legal assistance and develop and enforce laws and regulations that prevent frozen assets from staying lodged with the same institution, corporate structure or individual that accepted the asset prior to the freezing order.
3. Financial institutions which do not release frozen assets to the legally declared owner after a release order has been issued by the competent jurisdiction should be held legally liable.
4. Financial institutions should release frozen assets accrued of interest calculated on the basis of time elapsed between freeze and release.
5. The World Bank and/or Regional Development Banking Institutions should create escrow accounts for frozen assets and that all governments and the international community should, as a matter of priority, ensure the swift transfer of all frozen assets to these accounts.
6. The international community should act to establish the necessary regulative framework for mutual cooperation and for such escrow accounts without delay. Given that the handling of stolen assets is illegal, it is unacceptable that so much wealth stolen from Africa and many other developing regions and supposedly frozen is allowed to circulate freely in the economies of some of the world's wealthiest nations in Europe, the Americas, the Middle East and diverse offshore havens.
7. International initiatives aimed at the promulgation of a more just global socio-economic order, including campaigns for debt cancellation, should include an explicit focus on recovering and repatriating assets stolen from developing countries as a necessary condition to the realisation of a more just and fair global community.
8. Countries should tighten their anti-money laundering efforts to ensure that funds illicitly appropriated from developing countries are not granted safe havens in banks or non-bank financial institutions, or through trusts or similar entities operating in those countries.

Adopted in Bangkok, Thailand, this 9th day of November 2010
