

# Chambers AND PARTNERS

## GLOBAL-WIDE: An Introduction to Asset Tracing & Recovery (Law Firms)

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Band 1 : Asset Tracing & Recovery (Law Firms)





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### International Asset Tracing and Recovery at 25: Where Do We Stand?

At the beginning of this century, international asset recovery was still a nascent concept and did not exist as a specific legal practice. It is true, however, that many of the legal remedies used in international asset recovery have existed for several decades.

In common law jurisdictions, the 1970s saw the emergence of the modern asset recovery tools, such as the Norwich Pharmacal Application (1974), the Anton Piller Order (1975), the Bankers Trust Disclosure Order (1980) and the Mareva Injunction (1980) (which led to the Worldwide Freezing Order in 2006).

In the 1990s, several multilateral treaties were adopted, providing for enhanced international co-operation in the searching, freezing and forfeiture of proceeds of crime, such as the 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects and the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

On the insolvency front, the adoption of the UNCITRAL Model Law on cross-border insolvency in 1997 was a milestone.

Personally, I came upon international tracing of assets for the first time in 1996 by pure luck, as while I was a trainee lawyer, my supervisor, the late Jean-Eric Combe, generously invited me to co-author the Switzerland chapter of Maxwell's first edition of *Asset Tracing of Assets*, edited by Michael Ashe KC and Professor Barry Rider, which was published in 1997. Two years later, in 1999, luck struck again: in the year I joined Enrico Monfrini's law firm, he was instructed by the Federal Republic of Nigeria to recover the assets of the late Sani Abacha, a case that shaped my professional life as an asset recovery practitioner.

Since then, many institutional developments led asset recovery to become an international priority and a recognised practice.

### ***UNCAC: The Foundational Treaty***

The first international instrument to recognise asset recovery as such was the 2003 United Nations Convention against Corruption (UNCAC).

During the negotiations of the Convention, countries agreed that asset recovery should be one of its fundamental principles. Furthermore, for the first time in an international instrument, the use of private remedies was expressly mentioned in Article 53, which requires state parties to permit foreign states to initiate civil proceedings in their domestic courts to establish ownership or title to property acquired through corruption-related offences. It also mandates that domestic legal systems enable courts to order individuals convicted of such offences to pay compensation or damages to other state parties that have suffered harm.

Today, UNCAC has nearly reached universality, with 190 members. The latest example of their co-operation on asset recovery was an "Intergovernmental Meeting on Enhancing the Use of Beneficial Ownership Information to Strengthen Asset Recovery", which took place in Vienna in April 2025.

### ***ICC FraudNet: the First Institutional International Asset Recovery Practitioners Network***

In parallel with UNCAC's emergence, private-sector efforts to recover fraud proceeds also gained traction. In 2004, the International Chamber of Commerce (ICC), recognising that fraud knew no boundaries, launched ICC FraudNet, an international network of asset recovery lawyers that brings together leading practitioners with expertise in cross-border fraud, asset tracing and enforcement, to facilitate multi-jurisdictional collaboration in complex cases, allowing clients – whether states, insolvency practitioners, corporations or victims of fraud – to pursue co-ordinated asset recovery strategies worldwide.

ICC FraudNet is now present in more than 80 countries and has seen the emergence of several competing networks and non-governmental organisations (NGOs).

## ***The Stolen Asset Recovery Initiative (StAR)***

In 2007, in the wake of the adoption of UNCAC, the World Bank and the United Nations Office on Drugs and Crime (UNODC) launched the Stolen Asset Recovery Initiative (StAR), in order to support countries in the recovery of stolen public assets, strengthen international co-operation, and develop the legal and institutional capacity needed to trace and return the proceeds of corruption.

Among its many projects, StAR has taken a thought leadership role in advocating for the use of private remedies to recover proceeds of corruption, such as *Asset Recovery Handbook: A Guide to Practitioners* (2011, re-edited in 2020), *Public Wrongs, Private Actions: Civil Lawsuits to Recover Stolen Assets* (2014) and *Going for Broke: Insolvency Tools to Support Cross-Border Asset Recovery* (2019).

## ***The IBA Asset Recovery Subcommittee and Committee***

The International Bar Association (IBA) has also institutionalised asset recovery as a legal discipline. In 2012, the IBA created the Asset Recovery Subcommittee within its Anti-Corruption Committee. Beyond presenting at IBA conferences and publishing papers on the use of private remedies for asset recovery, the Asset Recovery Subcommittee developed institutional partnerships with UNCITRAL, StAR, the UNCAC Review Mechanism, the OECD Working Group on Bribery, the Camden Assets Recovery Interagency Network (CARIN), and NGOs active in the field.

In 2023, a standalone IBA Asset Recovery Committee was created, which today counts more than 300 members and continues to develop these presentations, publications and institutional collaborations.

## ***The Financial Action Task Force***

The original 1990 recommendations of the Financial Action Task Force (FATF), while referring to enhanced co-operation among countries to freeze, seize and forfeit proceeds of crime, did not expressly mention asset recovery as such. It was only in 2012 that FATF first used the term “asset recovery”, in its paper “Best Practices on Confiscation (Recommendations 4 and 38) and a Framework for Ongoing Work on Asset Recovery”.

In its Strategic Priorities for 2022–24, FATF explicitly prioritised asset recovery as a core objective of the global anti-financial crime regime, and in 2023, FATF Recommendations 4 and 38 and their respective Interpretative Notes were amended to reflect this priority.

This prioritisation will further accelerate the co-operation among countries to improve asset recovery legal regimes and practices.

## ***UNCITRAL's Asset Tracing and Recovery Project***

Following a 2017 United States proposal and an International Colloquium held in Vienna in 2019, the United Nations Commission on International Trade Law (UNCITRAL) entrusted its Working Group V in 2021 to launch a project to develop and harmonise procedural tools for private cross-border asset recovery.

At its 66th session in May 2025 in New York, the Working Group V finalised drafts of the “Toolkit for expedited asset tracing and recovery in insolvency proceedings” and of the “Background notes on asset tracing and recovery in insolvency proceedings”, which will be submitted for adoption to UNCITRAL at its 58th session in July 2025 in Vienna.

Building on the success of the UNCITRAL Model Law on cross-border insolvency, once adopted, these instruments will provide states with an internationally recognised framework of procedural options designed to enhance asset recovery, not only in the context of insolvency, but also more generally.

### **Conclusion**

A quarter of a century has seen asset recovery come to maturity. From its fragmented beginnings, international asset recovery has grown into a coherent global practice, blending public and private law, civil and criminal enforcement blended with cross-border insolvency, and multilateral co-operation with private-sector innovation.

As we mark 25 years since the field began taking shape, the momentum continues. Asset recovery now lies at the core of global efforts to enforce judgments, combat corruption and restore justice. The next 25 years promise to be just as transformative.

### ***About the firm:***

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