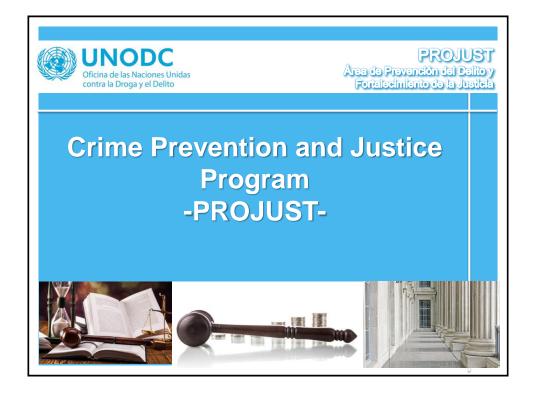


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Secretariat for Multidimensional Security

INTERNATIONAL COOPERATION: EFFECTIVE ASSET RECOVERY STRATEGIES





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Área de Prevención del Delito y Fortalecimiento de la Justicia

1. LEGISLATIVE ASISTANCE

- Components
- Model Law
- Legislative and technical Assistance (Colombia, El Salvador, Costa Rica y Mexico)



ABOUT UNODC

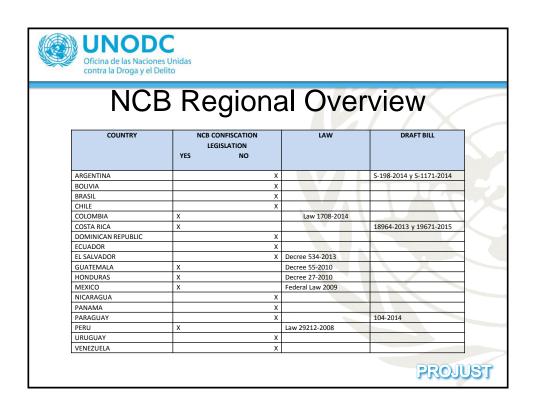
Among different working areas UNODC provides technical assistance for the drafting and implementation of Non-Conviction-Based Confiscation (NCB) laws and regulations.

Additionally it contributes to the process of adopting the bills that can be used in cases recovery of stolen assets taking into consideration the following:

- International legal framework to asset recovery
- National Legal Regulations

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From Conviction- based Confiscation to Non-conviction-based Confiscation

Conviction Based Forfeiture		Non Conviction Based Forfeiture
Against the person	Object	Against the asset.
Criminal charges against person.	Action	Government action against the asset as offender.
As part of the criminal judgment.	Time	Before, during or after of judgment, o (in some countries) without criminal charges.
Criminal Judgment → <u>Beyond all possible doubt.</u> Assets associated to the offenses.	Evidence	Conduct contrary to the law. Connection between crime and asset. Evidence of criminal conviction is not necessary.
Defendant lost interest in the asset .	Lost	Asset forfeiture, taking in to consideration to the innocent owner.

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Two ways to incorporate NCB into a legislation

In the criminal case		Separately Civil Action
In the criminal case: doesn't exist conviction, seized. assets	Case	Separately Civil Action: Before, during, or after of the criminal judgment, or (in some countries) even in the absence of criminal charges.
Criminal Criminal Procedure.	Jurisdiction	Civil Civil Procedure.
As part of the criminal judgment.	Time	Before, during, or after of the criminal judgment, or (in some countries) even in the absence of criminal charges.
Beyond all possible doubt.	Evidence rating	Most likely that no.
Sweden, Liechtenstein, Thailand	Countries	Civil Law: Colombia, Quebec (Canada) Customary Law: South Africa, United Kingdom and EEUU



Main topics related to NCB Confiscation

- Against the asset.
- Autonomy and independence.
- Imprescriptibility
- Criminal Offenses under NCB proceeds.
- Retrospective Legislation.
- Judgment effects.

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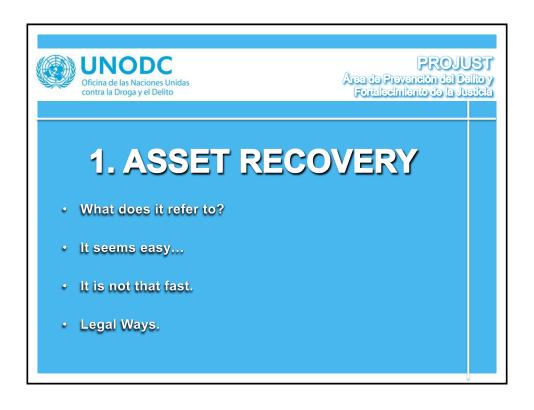


NCB advantages and effectiveness

- Criminal sentence is not required.
- · Rules of evidence.
- · Best practices.

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2. INTERNATIONAL JUDICIAL COOPERATION

- Four Key Principles.
- Strategic Planning.
- ¿How does the cooperation phenomenon operate in the practice?



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3. BARRIERS FOR ASSET RECOVERY

- 1. General, institutional issues and others.
- 2. Legal and requirements that delay legal assistance.
- 3. Operational as communication matters.



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4. RECOMMENDATIONS

- General
- Public Policy





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5. FULFILLMENT OF INTERNATIONAL CONVENTIONS ON ASSET RECOVERY

- United Nations Convention against Transnational Organized Crime.
- United Nations Convention against Corruption.

