

Human Rights Council – 40th Session

Resolution: The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation

Statement at action: Explanation of Vote

21 March 2019

Australian Statement

Australia recognises the importance of the repatriation of funds of illicit origin to their rightful owners and the critical role international cooperation, both formal and informal, plays in facilitating this. Accordingly, we are broadly supportive of the intent of this resolution.

However, we consider that the resolution misinterprets aspects of the United Nations Convention Against Corruption (UNCAC) and we welcome the opportunity to bring these to the attention of the parties.

Specifically, creating an obligation that all countries repatriate funds to origin countries ‘without condition’ and ‘urgently’ is not required by the UNCAC. The Convention makes no reference to conditionality or urgency, which in our view is significant—it recognises the need to consider requests for repatriation on a case-by-case basis. Requests for the repatriation of funds of illicit origin are not always straightforward and eliminating the possibility for including conditions, or requiring that such requests be dealt with urgently at the cost of other considerations, leave little room for the interpretative analysis and due diligence which are so often essential to ensuring just outcomes.

In respect of references in the resolution to the “right to development”, Australia has previously made its position clear. We note the diversity of views of States on the “right to development” and that it has not been defined in any international legally binding instrument to which Australia is a party. Australia recognises its obligations with respect to development as required under the UN Charter and the international human rights treaties to which it is a party.