
PROCEEDINGS OF THE

Eighth Annual General Meeting and Conference of Heads of Anti-Corruption Agencies in Commonwealth Africa

Transcorp Hilton Hotel, Abuja, Nigeria
14–18 May 2018



The Commonwealth

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Message from the Secretary-General

Excellency, honourable ministers, distinguished delegates, Commonwealth friends and colleagues...

We meet within a month of the conclusion of a highly successful Commonwealth Heads of Government Meeting – CHOGM as it is more generally known. Prime Minister Mitchel of Grenada, who has attended every CHOGM since 1997, called it the best CHOGM yet – he spoke for many.

This may not be surprising because of international tension and disagreement. It represented the coming together of 53 countries from 6 regions representing one third of the world's population, 25 per cent of land mass, 78 per cent of the world's oceans and 2.4 billion people, 60 per cent of whom are under the age of 30, to form a binding agreement on matters of global importance to us all.

We are also just weeks away from the hurricane season in the Caribbean and the start of storms across Asia. Climate changes can devastate and destroy lives, livelihoods and wreak untold damage to physical and social infrastructure – unleashing a tide of destruction which is difficult to withstand; a climactic avalanche which we have somehow to stem, and with which we must now somehow deal.

And over the next four days, we will be seeking to meet the challenge of another, equally ferocious, ravenous storm, although it takes a different form – that of corruption which robs our children of the funds needed to fund schools which feed their talents and their parents aspirations; the food they need to grow strong to meet development and educational milestones, which they crave and need to prosper in order to meet the challenges of this exciting millennium with its complexities; the technological explosion which is striving to keep pace with the growth and expectation of a more demanding and ecologically more ravenous era; to deliver the sustainable solutions with which to regenerate our world – this common earth which we jointly inhabit; and provide the housing, infrastructure, energy and fair systems which will see them clear their tender years into a prosperous and safe future, to a more bountiful and generous old age.

We all know that the difference between the money we need to deliver the hopes and aspirations contained in our Commonwealth Charter 2013 and the commitments we all made when we signed up to the UN Sustainable Development Goals (SDGs) in 2015 and the money we have, is the sum equivalent to that which is egregiously siphoned off by the corrupt practices of the greedy, uncaring, pernicious few. That is, billions, if not trillions of dollars.

This conference and by the attendance of all here present is a demonstration that there are those who are not prepared to accept this as a tenable state of affairs and are, together, prepared to challenge it with every fibre of our being and create a paradigm shift to achieve it.

This is a powerful and seminal moment in Commonwealth history. The Commonwealth family came together at CHOGM to articulate a clear vision for a fairer future, a more prosperous future, a more sustainable future and a more secure future.

You will be aware that President Buhari [President Muhammadu Buhari, President of the Federal Republic of Nigeria] participated very fully at that meeting, and made significant contributions, just as he did at the Commonwealth Secretariat's Anti-Corruption Summit 'Talking Corruption Together', six weeks after I became Secretary-General. As President Buhari famously said in London in May 2016, 'I want my money back'. As you will showcase this week, you are getting that money back. That is why I was so eager to come to Nigeria, a stalwart partner on this issue from the very beginning.

Globally, we are facing a tsunami of corruption. In 2015, the UN Office on Drugs and Crime (UNODC) estimated that the amount of money laundered globally each year is 2 to 5 per cent of global domestic product or between 800 billion and 200 trillion dollars. It is estimated that corruption costs the African continent over 148 billion dollars per annum.

You, the heads of anti-corruption agencies, will be seeking to meet this challenge. You are leading the fight against this tsunami. You are the early warning mechanisms, the rapid responders, mobilisers, you put in place necessary, critical measures that enable us to 'build back better'.

I would like to share a few of the inspiring stories on how you on the continent are beginning to win the battle against corruption:

- Botswana's Directorate on Corruption and Economic Crime is currently investigating 26 suspects who are accused of money laundering and fraud to the tune over 300 million pula, which is equivalent to 85 million US dollars.
- The Asset Recovery Unit of Uganda's Inspectorate of Government is currently investigating three cases to the value of 5 million dollars.
- In Mauritius, the Asset Recovery Investigation Division is pursuing criminal proceedings in a case that is valued at about half a billion dollars.
- South Africa's Special Investigations Unit which, between 2015 and now, has recovered assets or prevented fraud equivalent to 13 billion rand, which is just over 1 billion dollars.
- Here in Nigeria, over 3 billion dollars of ill-gotten gains have been recovered.

I would like to put on record my deepest admiration and gratitude for all anti-corruption agencies gathered here today, including those at the forefront of cases I have just highlighted.

It is prescient that we are gathered here in Abuja at the invitation of the Economic and Financial Crime Commission (EFCC) of Nigeria, which under the excellent and forthright stewardship of its Acting Chair, Mr Ibrahim Magu, continues to effect real change and deliver positive results.

I also want to recognise and applaud the distinguished efforts of Professor Bolaji Owasanoye and his team at the Presidential Advisory Committee Against Corruption in promoting the reform agenda of the government on the anti-corruption effort.

We also owe His Excellency President Buhari immense gratitude for his wisdom and leadership.

I commend the CHOGM Communiqué to you and would draw your attention particularly to the section headed 'Serious and Transnational Organised Crime'. The CHOGM Communiqué records that Commonwealth Heads of Government resolved

to tackle the enablers of serious and transnational organised crime, including corruption, illicit financial flows, money laundering, terrorist financing, poaching and illegal wildlife trade, by co-operating with international and regional bodies.

They further encouraged:

- enhanced co-operation among member countries' law enforcement and prosecution bodies;
- strengthening co-operation with the private sector;
- supporting the Commonwealth Network of Contact Persons, which facilitates co-operation between jurisdictions in criminal justice matters; and
- adopting and implementing recommendations of the Financial Action Taskforce to strengthen anti-money laundering and countering terrorist financing regulations.

Heads noted that the fight against corruption can succeed if countries co-operate effectively to tackle it through implementation of international and regional conventions and standards. They agreed that Commonwealth countries should therefore scale up international co-operation by working progressively towards advancing the exchange of information, which will enhance domestic resource mobilisation.

Under the CHOGM theme of 'Towards a Common Future', the determination to act together on these matters falls within the particular focus of working towards 'A more secure future'. They also relate close to our other CHOGM areas of focus: 'A Fairer Future', 'A More Prosperous Future' and 'A More Sustainable Future'.

Heads of Government affirmed the convening power of the Commonwealth as an enabler of experience sharing, and our gathering here in Nigeria is a very practical expression of that collaboration in action. It is an opportunity for professional practitioners in our Commonwealth member countries in this region to exchange ideas, to learn from others what works, what doesn't work, to be alert to emerging challenges, and to plan and build together.

That is what we mean by working towards a common future in the true spirit of 'Commonwealth'. It is a spirit animated by goodwill and by partnership.

And so, I commend the sustained and regular co-operation being carried forward through this Eighth Commonwealth Conference of Anti-Corruption Agencies in Africa, which enables immensely valuable knowledge and know-how to be shared for the benefit of all our member countries in this region – and more widely.

The ease with which we are able to do so is the result of factors such as our common language, strong cultural connections, similar systems of government and administration, and the common law. These factors combine to create Commonwealth Advantage, and we can build on this to tackle the very worrying rise in recent times of trans-national offences.

In addition to corruption, there is money laundering, financing of terrorism and violent extremism, cybercrime, modern slavery and human trafficking – all of which are referred to in the recent CHOGM Communiqué. To be effective in countering corruption, and other threats to the welfare, security and prosperity of our citizens, we have to match our national, regional and Commonwealth responses to the rising incidences.

We need continually to improve and innovate, strengthening our capabilities and co-operation.

To facilitate co-operation and sharing of new and clever ways of working and delivery, we have launched the Commonwealth Innovation Hub. I encourage you to familiarise yourselves with what this offers.

I also urge you to make fullest possible use of the Commonwealth Office of Civil and Criminal Justice Reform. My purpose in creating this new facility is to assist member countries with reform of legislation, and to provide technical support towards strengthening the rule of law and the capacity of the institutions and officials working to consolidate it. The office is currently working with the British Standards Institute and the Global Infrastructure Anti-Corruption Centre on a package of Commonwealth Integrity Benchmarks.

The benchmarks will serve as an advocacy tool to encourage adoption of anti-corruption measures and adherence to high standards of integrity in government processes, including through trade- and economic-based arguments. They will also provide practical guidance on clear steps that can be taken in government processes, and by the private sector, to build integrity and combat corruption. There will be a checklist against which progress can be measured. The plan is for the benchmarks package to include a summary of requirements for key anti-corruption standards and commitments, with Commonwealth examples of good practice on implementation and enforcement.

Initial elements of the package will be presented during this conference, and feedback and recommendations from participants will be most valuable. As we move forward, there will be a formal process of consultation with our member countries in order to take all views into account, and we would anticipate the benchmarks package could be presented for adoption in Rwanda two years from now when our Heads of Government next meet.

An example of recent Commonwealth Secretariat work with a member country resulted from the request of His Excellency President Buhari for technical assistance with the recovery of proceeds of corruption. Working with the Presidential Advisory Committee Against Corruption, a Stakeholders' Meeting on the Management of Recovered Stolen Assets was convened in Abuja in July 2016. That meeting developed and adopted a Management Framework for the Administration of Recovered Stolen Assets in Nigeria. Following the endorsement of the Assets Recovery Framework, a centralised assets management and administration committee has been set up to administer the recovered stolen assets pending the promulgation of the Proceeds of Crime Act.

We have also supported a non-conviction-based training programme for judges and prosecutors in Nigeria. An outcome of the programme has been the development and adoption of a set of Guidance Notes for Judges and Prosecutors, published and endorsed by the Chief Justice of the Federation of Nigeria. These are now widely used by courts with jurisdiction over money laundering cases for effective and efficient forfeiture of proceeds of corruption.

Another fine example of the way in which we work is the Commonwealth Africa Anti-Corruption Centre in Botswana. It was created in 2013, with the very generous support and partnership of the Government of Botswana. Heads of anti-corruption agencies, department heads and many other officers have benefitted from innovative professional learning and capacity development programmes offered by the centre.

It is in practical and collaborative ways such as this, working with and among our member countries, that we continually raise the standards we set for ourselves in the Commonwealth, in response to the expectations of our citizens.

I want to applaud you all. I applaud the fact that eight out of ten of the best performing countries in Africa on Transparency International's Corruption Index and the Mo Ibrahim Index of African Governance are Commonwealth members and that there are no Commonwealth African countries in the ten most corrupt countries in the world.

However, we can – and we must – go further. I believe that the development and roll-out of a Commonwealth Integrity Index will act as a further weapon in our armoury to tackle this global tsunami. By doing so, we truly are working and acting towards the goal which I have so often enunciated.

It is to put the 'common' into 'Commonwealth', and 'common' into 'wealth'.

That is our task – let's set to work!

I know we in Africa say that nobody eats for free. However, we can no longer continue to sit idly and watch while a few eat what is meant to be for all us as the majority starve. The fantastic work you are doing ensures the food is shared equitably.

Secretary-General of the Commonwealth,
The Rt Hon Patricia Scotland QC

Remarks by Dr Roger Koranteng

Interim Adviser and Head, Public Sector Governance, Commonwealth Secretariat, UK

Your Excellency, President of the Federal Republic of Nigeria, Commonwealth Secretary-General, Ag. Chairman, EFCC, heads of anti-corruption agencies in Commonwealth Africa, distinguished invited guests, heads of anti-corruption agencies, the press corps, ladies and gentlemen. I wish add a note of welcome to you all for honouring our invitation to be here with us today, and a special welcome to The Rt Hon. Patricia Scotland, Commonwealth Secretary-General.

I will like to focus my overview on the genesis of our association – the Association of Anti-Corruption Agencies in Commonwealth Africa – and how far it has travelled.

A central part of the Commonwealth's endeavours is to help member countries face up to corruption and tackle its destructive impact. I must say, that since our association was established in 2011, Commonwealth member countries in Africa have been generally doing relatively better than their global counterparts.

The Commonwealth is ideally placed in its strategic efforts to foster genuine partnerships among all member states. Its effectiveness is built upon the 'ownership' by its members, and the trust and confidence that member countries have in the Commonwealth Secretariat to work on this important agenda for dealing with corruption.

The Commonwealth Secretariat seeks to support member states to develop and adopt measures and strategies to combat corruption and improve governance. To this end, the Commonwealth Secretariat prioritised anti-corruption work to strengthen good governance through a reduction in corruption and thereby promoting accountability and integrity in the Commonwealth.

To achieve this end, the Commonwealth Secretariat supported in-country collaborative approaches to deal with issues of corruption by mobilising all key institutions and other stakeholders involved in monitoring, detecting and responding to corruption-related issues. Following years of in-country work, the Commonwealth Secretariat decided in 2011 to bring all heads of anti-corruption agencies (ACAs) in Commonwealth Africa to a conference. That First Conference of Heads of Commonwealth Africa Anti-Corruption Agencies was held in Gaborone, Botswana, in May 2011. HE Lt Gen. Seretse Khama Ian Khama, the President of the Republic of Botswana, opened the landmark conference. The conference agreed on the urgent need for strengthening anti-corruption agencies and the promotion of regional network of anti-corruption agencies.

A direct result or outcome of the first conference was the creation of a practitioners' network of heads of anti-corruption agencies in Commonwealth Africa (now referred as the Association of Anti-Corruption Agencies in Commonwealth Africa – AACACA). The conference sought to broker the exchange of ideas and practices among Commonwealth African countries, and to encourage the sharing of expertise in areas where they have a comparative advantage. The heads of anti-corruption

agencies agreed to meet annually for peer-to-peer review and innovative experience sharing, the host and venue for the annual conference being rotated among member countries.

This led to the institutionalisation of annual peer review conference/meetings of the heads of agencies. These annual heads of ACAs meetings act as a focal point for the network, providing a forum through which heads have peer-reviewed country anti-corruption reports and shared transferable experiences and peer learning. Meetings have so far been held in Botswana in 2011, Zambia in 2012, Mauritius in 2013, Ghana in 2014, Tanzania in 2015, Namibia in May 2016 and Malawi in 2017. This year, the heads of anti-corruption agencies in Commonwealth Africa are meeting Abuja, Nigeria.

The Second Conference for Heads of Anti-Corruption Agencies in Commonwealth Africa was held in May 2012 in Livingstone, Zambia. The Second Conference called for a secretariat to be set up to co-ordinate the affairs of the association. On behalf of the Secretariat, I invited member countries to consider sponsoring and hosting the association's secretariat after conferring with their respective governments. Botswana's government offered a better proposal to host the Commonwealth Anti-Corruption Agencies' Secretariat in Gaborone.

Having accepted Botswana's concrete offer to host Secretariat for the Association of Anti-Corruption Agencies in Commonwealth Africa, we at the Commonwealth Secretariat decided to change the concept of a Secretariat to a Centre – naming it the Commonwealth Africa Anti-Corruption Centre (CAACC), mindful that a Centre's functions are more encompassing than those of a Secretariat. Particularly, when heads of ACAs indicated that lack of training of their staff was a major problem, the Centre's major function would be training.

On 25 February 2013, the Commonwealth Secretariat, the Government of Botswana and the Association of Anti-Corruption Agencies in Commonwealth Africa demonstrated commitment to tackling the issue of corruption in a systematic manner by launching the Commonwealth Africa Anti-Corruption Centre in Gaborone. This landmark achievement reaffirms the Commonwealth's commitment to fight corruption.

After the launching the centre, the Commonwealth Secretariat responded to a request from the Government of Botswana to release me to travel to Botswana to operationalise the Commonwealth Africa Anti-Corruption Centre. Thus, I went to and stayed in Botswana – where I operationalised the centre, structured the centre, designed and delivered capacity building programmes, and ensured the centre was up and running before I returned to my base in London.

The centre provides training and other anti-corruption initiatives for all Commonwealth African countries in areas such as investigations, public education and prevention, prosecution, professional ethics, leadership and monitoring and evaluation (M&E), including baseline and annual surveys, twinning and other exchanges. The centre is designed essentially to become the prime vehicle for building and strengthening the capacity of anti-corruption agencies in Commonwealth Africa.

The conference is essentially a peer-to-peer review meeting, where heads of ACAs will share strategies, best fit solutions and approaches to tackling corruption and promoting good governance on the continent.

This week's conference offers an experience-sharing opportunity for all heads of anti-corruption agencies in Commonwealth Africa to share innovative experience, toolkits and best practices, and to learn from each other. The conference objectives will be achieved through a combination of presentations, group discussions and networking during and outside of the sessions.

The presence of the Commonwealth Secretary-General at this meeting reaffirms the Commonwealth Secretariat's commitment to support member countries' anti-corruption efforts to root out systemic corruption at both the national and international levels. The Commonwealth Secretariat is keen and committed to assist the anti-corruption agencies to achieve meaningful and long-lasting work to combat corruption and to enhance good governance on the continent.

Finally, I would like to thank you the heads of ACAs who have travelled with me and have kept faith with me since Botswana 2011, to work together to build this formidable community of practice in Africa. Mr Tim Steele, Director UNODC, our major partner in supporting our anti-corruption effort, stated that the Association of Anti-Corruption Agencies in Commonwealth Africa is the only formidable and successful anti-corruption association still standing tall on the continent.

My hope and prayer is that the association will continue to go from strength to strength, now that we have even a bigger champion of anti-corruption, the Rt Hon. Patricia Scotland, the Commonwealth Secretary-General's, support.

I thank, the African Development Bank for its desire to partner with the centre to share its success with the whole of Africa, to enable the continent to improve its anti-corruption credentials.

I look forward to an exciting conference.

Thank you.

Contents

Message from the Secretary-General	iii
Remarks by Dr Roger Koranteng	viii
Interim Adviser and Head, Public Sector Governance, Commonwealth Secretariat, UK	viii
Acronyms and Abbreviations	xiii
Introduction	xv
Day 1: 14 May 2018	1
Day 2: 15 May 2018	20
DAY 3: 16 May 2018	38
DAY 4: 17 May 2018	52
Annex 1: Draft Programme	60
Annex 2: List of Participants	66
Annex 3: Communiqué	71
Annex 4 Country Papers	73

Acronyms and Abbreviations

ACA	anti-corruption agency
ACC	anti-corruption commission
ACTU	anti-corruption and transparency unit
AfDB	African Development Bank
AU	African Union
CAACC	Commonwealth Africa Anti-Corruption Centre
CHOGM	Commonwealth Heads of Government Meeting
CHRAJ	Commission on Human Rights and Administrative Justice (Ghana)
CRA	corruption risk assessment
DCEC	Directorate on Corruption and Economic Crime (Botswana)
EACC	Ethics and Anti-Corruption Commission (Kenya)
EFCC	Economic and Financial Crimes Commission (Nigeria)
EOCO	Economic and Organised Crime Office (Ghana)
ICAC	Independent Commission Against Corruption (Mauritius, Hong Kong)
ICPC	Independent Corrupt Practices and Other Related Offences Commission
IG	Inspectorate of Government (Uganda)
IG-ODS	Inspectorate of Government – Online Declaration System (Uganda)
MLA	mutual legal assistance
MOU	Memorandum of Understanding
NACS	National Anti-Corruption Strategy
PCCB	Prevention and Combating of Corruption Bureau (Tanzania)
PEP	politically exposed person
SIU	Special Investigating Unit (South Africa)
StAR	Stolen Asset Recovery (UN report)
TI	Transparency International
UNCAC	United Nations Convention Against Corruption
UNODC	United Nations Office on Drugs and Crime

Introduction

This report highlights the proceedings of the Eighth Annual General Meeting and Conference of Heads of Anti-Corruption Agencies in Commonwealth Africa, held from 14–18 May 2018 at Transcorp Hilton Hotel, Abuja, Nigeria under the theme 'Partnering Towards Assets Recovery and Return'. The conference was convened by the Commonwealth Secretariat and the Economic and Financial Crimes Commission. The conference is a peer-to-peer review meeting. The objectives of the conference were:

1. To strengthen cooperation and collaboration among the Anti-Corruption Agencies in Commonwealth Africa; and
2. To share country innovations in the fight against corruption.
3. To share strategies, best fit solutions and approaches to tackling corruption and promoting good governance on the continent.

Day 1: 14 May 2018

Welcome Remarks by Ibrahim Magu, Acting Chairman, Economic and Financial Crimes Commission

Madam Secretary-General and dear colleagues, I wish to warmly welcome you to Abuja. The fact that you have all chosen to attend the Commonwealth Heads of Anti-Corruption Agencies conference at this time, in our capital city, speaks to the high regard you have for Nigeria and I consider it a thunderous applause for our modest anti-corruption efforts, spearheaded by no less a person than President Muhammadu Buhari.

There are leaders of states today who are not assertive on matters of state policy; you can hardly say with any conviction that such and such is the position held by such leaders on issues of national or international significance.

You cannot, however, say that of President Buhari, who from the very beginning, even while he sought political office, publicly requested to be judged on his anti-corruption credentials more than on any other.

Very early in the life of his administration, the President declared that:

'The institutions of State dedicated to fighting corruption will be given independence and prosecutorial authority without political interference.'

I can confirm to you, Madam Secretary and my dear colleagues, that the promise has been kept.

The fact that the fight against corruption is central to the administration of President Buhari is not accidental. That is what has defined the entire public lives of our President and his Vice, and we are extremely lucky at this time in the life of our nation to have the most committed anti-corruption administration led by the President piloting the affairs of Nigeria.

I dare say there has never been a better, more focused and committed team as far as anti-corruption is concerned, anywhere in Africa, than the current leadership in Nigeria. This commitment springs from deep humane roots watered by the unshakable conviction that corruption is at the very centre of the developmental challenges bedevilling our country and indeed, Africa, today.

That conviction, which I share, has informed the unrestrained and unqualified support of Mr President for every policy or action aimed at eliminating the cankerworm in our lives.

I say '*unrestrained*' and '*unqualified*' advisedly, but really, President Buhari gives us, the anti-corruption agencies in Nigeria, unrestrained support, qualified only by his insistence that the anti-corruption war be carried out under the strict, unyielding guidance of the law.

Madam Secretary-General and dear colleagues, I have come to see from very close quarters that the most valuable support you need to do this job, is that of the masses mixed with the political will at the very top. Once you have that, the sky would only be your starting point. It is my belief and expectation that you all have similar experiences in that regard in your various jurisdictions.

Over the next four days, with peer review being at the core of this our much-valued annual cross-jurisdictional interface, we are going to be sharing defining experiences from our peculiar situations and circumstances, our strategies, tactics and so on.

Beyond the confines of our professional and intellectual exchanges, I wish to urge us all to seize this unique opportunity, to forge lasting friendships, contacts and collaborations across our different law enforcement agencies and jurisdictions. Invariably when bureaucratic bottlenecks and red-tape threaten to jeopardise law enforcement activities across jurisdictions, such relationships intervene for the good of all.

If we need any more motivation to do this, let us have at the back of our minds that the criminals who collectively supply our *raison d'être*, have absolutely no qualms forging such cross-border operational alliances to perpetrate crimes and cover their tracks.

Madam Secretary-General and my dear colleagues, may I on behalf of my brother heads of anti-corruption agencies in Nigeria, say a hearty welcome to you all. Please, savour the best of our Nigerian hospitality.

We are most honoured by your presence. I thank you all for coming and we hope you will thoroughly enjoy your stay in Abuja.

Keynote Address and Official Opening by HE Vice President of the Federal Republic of Nigeria Prof. Osinbanjo

It is a special pleasure to join you, at this Eighth Commonwealth Conference of Heads of Anti-Corruption Agencies in Africa.

I speak to the converted when I say that for us in Africa, corruption continues to be one of the greatest challenges of our time; a problem that threatens the very existence, and continued survival, of our societies. It has been rightly described as a crime against humanity, because of the implications on the lives and livelihoods of all, especially the poorest. It undermines democracy and the rule of law, distorts markets, erodes quality of life, allows organised crime and terrorism to flourish, and triggers needless wars and bloodshed. And indeed, much has been lost and is still being lost. A report that may be frequently cited in this gathering is the one by the One Campaign, titled the *One Trillion Dollar Scandal*.

The 2014 report claims that developing countries lose US\$1 trillion annually to corporate transgressions, most of it traceable to the activities of companies with secret ownership.

Another report that may enjoy a major mention here is the 2015 report of the High-Level Panel on Illicit Financial Flows from Africa. Chaired by our guest of honour, former South African President Thabo Mbeki, the panel stated in its report that Africa had lost over US\$1 trillion over a 50-year period and that Africa loses more than US\$50 billion annually to illicit financial flows. Most of these illicit flows are perpetrated in the extractive sector and through companies with hidden ownership.

The cost of corruption therefore imposes on all African countries and governments a moral obligation to fight it with vigour and political will, by strengthening all institutions and systems involved in law enforcement, as well as in promoting a culture of transparency and accountability. While public sector corruption is the usual focus, the private sector's complicity is significant, as when large multinational corporations engage in tax evasion or transfer pricing.

But it is the complex web of public-private collusion and connivance that results in the proceeds of corruption ending up in foreign countries and especially in their financial institutions and systems. Dismantling the conspiracies that facilitate export of stolen assets is probably as important as the theme of this conference, 'Partnering towards Assets Recovery and Return'. It underscores the fact that fighting corruption is futile if we do not ensure that the proceeds of corruption find no safe haven. And that such proceeds are fully recovered and promptly repatriated. Recovering stolen assets not only accomplishes the goal of restitution, it also serves as a potential deterrent to future corruption.

Article 51 of the United Nations Convention Against Corruption (UNCAC) states unequivocally that return of assets is a fundamental principle of the convention, and mandates states parties to afford one another the widest measure of co-operation and assistance in this regard. Similarly, Article 16(1)(c) of the African Union Convention for Preventing and Combating Corruption obligates states parties to adopt such legislative measures as to enable repatriation of proceeds of corruption. The effective implementation of these conventions depends to a considerable extent on the willingness, co-operation and the assistance of states in the areas of mutual legal assistance (MLA), law enforcement co-operation, assets recovery and return, and technical assistance. Regrettably, the procedures to obtain mutual legal assistance to seize, confiscate and repatriate proceeds of corruption are often complex and problematic, and in urgent need of reform.

The absence of a legal basis for co-operation in some countries, differences in legal and procedural frameworks, language barriers, bank secrecy, jurisdictional issues, a lack of funding – are some of the obstacles standing in the way of effective mutual legal assistance. I'm pleased to note that there is evidence of a renewed commitment to collectively identifying the most effective means of overcoming all of these existing legal and technical obstacles to assets recovery and return.

The Global Forum on Asset Recovery (GFAR), which held its inaugural meeting in Washington, DC, in December 2017, is one good example; the latest effort toward facilitating assets recovery and return. The meeting brought together governments from four countries from which resources have been stolen – Nigeria, Sri Lanka, Tunisia and

Ukraine – and those from countries that tend to be the destinations for these looted resources, to co-ordinate efforts aimed at identifying those resources and ensuring successful repatriation.

The GFAR saw the signing of a Memorandum of Understanding between Nigeria and the Government of Switzerland for the return of an additional US\$320 million of the Sani Abacha money. Included in that agreement is the commitment that the funds would be invested in one of the Nigerian government's flagship social investment programmes – a conditional cash transfer scheme targeted at the poorest and most vulnerable households in our country.

I should point out that Nigeria has been at the forefront of sponsoring resolutions aimed at enhancing MLA and assets recovery and return. In 2015, Nigeria and South Africa, on behalf of African countries, sponsored a resolution titled: 'Facilitating International Cooperation in Asset Recovery and the Return of Proceeds to Crime', Resolution 6/2 2015. This resolution was passed at the Sixth Session of the Conference of States Parties of the UNCAC held in Saint Petersburg, Russian Federation, in 2015. Other resolutions include: 'Facilitating International Cooperation in Asset Recovery', Resolution 5/3 2013, in Panama City, Panama in 2013; and 'Strengthening Mutual Legal Assistance for International Cooperation and Asset Recovery', Resolution 7/1 2017, in Vienna, Austria in 2017; both of these sponsored exclusively by Nigeria.

Nigeria has also worked hard to mobilise other countries, especially African countries, around the issue of assets recovery; and we were key participants in the London Anti-Corruption Summit of 2016, which marked a milestone for our administration's anti-corruption agenda.

Permit me to mention an issue crucial to the assets recovery and repatriation effort: the use of anonymous companies. Masked corporate ownership is deeply implicated in the corruption story. Yes, we know that anonymous companies are not always illegal or are not always designed to harm. But we also know that secrecy provides a convenient cover for the criminal and the corrupt. And we are not just operating from a theoretical or hypothetical standpoint: our lived experience has shown clearly that anonymous corporate ownership serves as a vehicle for masking conflicts of interest, corruption, tax evasion, money laundering and even

terrorism financing. If nothing else, the 'Panama Papers' clearly illustrated the global scale and spread of this problem. So, this is a global challenge, and nothing less than a truly global approach will be needed to tackle it.

This is why we salute the United Kingdom, Norway, Netherlands and Denmark for leading the way in establishing public registers of the real, human owners of companies in their countries. We call on other G8 and G20 countries not only to follow suit, but also to initiate actions to end corporate secrecy in some of their dependencies. This is also why we find it laudable that Open Ownership and its partners have established a global register of beneficial ownership, with entries on about two million companies. It is important to underscore the fact that opacity in one section of the globe undermines openness in the other. We need to break down this wall together.

Distinguished ladies and gentlemen, African countries must come together to keep the issue of assets recovery and return on the front-burner of international discourse. Continuing partnership and collaboration cannot be over-emphasised. I also urge our governments to embrace the proactive sharing of information; we cannot afford to allow historical suspicions and cynicism to undermine the important work of fighting corruption and reversing its impact. It is only through collective action that we can stay ahead of the criminal elements who rob our countries and our citizens of their present and future.

We must also work hard to build co-operation and mutual understanding with our global partners. We must insist that recovered stolen assets be returned to the country of origin, without any preconditions, in line with Article 51 of UNCAC. Furthermore, both requesting and requested states should agree to apply the highest possible standards of transparency at all stages – not just of the recovery and return process, but also in the management and disposal of recovered and repatriated assets. And it goes without saying that these returned stolen assets must be utilised in a manner that brings maximum benefit to the citizens of the victim country.

In conclusion, may I call on governments of African states to more actively provide funding for anti-corruption agencies. The fight against corruption is far more sophisticated, vicious and nuanced than ever before. In many of our countries it is in the nature of 'state capture', where the strongest arm of the polity is the corrupt superstructure represented in the formal and informal structures of the state and society. So when corruption fights back in such systems, the courage and commitment of agency operatives is not enough. We must provide adequate resources to investigate, adequately equip operatives, protect their families, and to protect whistleblowers and witnesses.

Let me say to you heads of anti-corruption agencies in Commonwealth Africa, you have found yourselves in roles that could change the destinies of your nation if you deliver on your mandates. You simply cannot afford to fail.

On our part as the Government of Nigeria, we are irrevocably committed to the fight against corruption. I'm sure you're all aware that the African Union in 2017 designated President Buhari as its Anti-Corruption Champion for the year 2018. In that capacity, one of President Buhari's priorities is ensuring the realisation of a common African position on assets recovery and assets return.

In closing, I would like to thank the Commonwealth for establishing this body to foster co-operation and peer learning in the daunting but surmountable battle against corruption.

I have no doubt that the resolutions and commitments that will emerge from this conference will be game-changing.

As I wish you very fruitful deliberation, it is now my privilege and pleasure to declare the conference open. Thank you very much.

Vote of thanks by Paulus Noa, Director-General, Anti-Corruption Commission Namibia



Mr Paulus Noa, Director-General, Anti-Corruption Commission, Namibia

Mr Noa expressed appreciation to all. He said heads of anti-corruption agencies were entrusted with a heavy national duty, which could cost them their future and their lives as they often felt isolated as a result of the nature of the work they were carrying out.

He said:

'We as head of anti-corruption agencies gain strength and confidence when we see and listen to our political leaders addressing us and reiterating their commitment to the fight against corruption. Indeed, your excellences your message this morning reassures us that we are not fighting this virulent scourge alone. We have a strong political force behind us.'

Mr Noa commended the high-powered dignitaries from Nigeria and personalities present on the high table and event, saying that it was encouraging. He thanked African Heads of State and government for declaring 2018 as the African Anti-Corruption year under the theme 'Winning the Fight Against Corruption, a Sustainable Path to Africa's Transformation'.

The speaker hailed the unreserved and dedicated commitment of President Muhammadu Buhari in championing the anti-corruption fight in 2018 and beyond on the continent. He congratulated the Nigerian president, saying heads of anti-corruption

agencies (ACAs) were willing to work together with him in raising awareness on the corrosive economic effects of corruption.

He went on to urge that collectively all should fight relentlessly to ensure there was a true return of stolen assets. The assets were needed back to the countries of origin and Africa could not develop at the desired pace if these assets were still stashed in foreign countries and illicit financial outflows were still taking place on the African continent.

He thanked former President Thabo Mbeki for the work he was doing for the African continent with regard to the outflows and what should be done in repatriating illicit outflows. He thanked Rt Hon. Patricia Scotland and the Commonwealth Secretariat for their support to the association, adding it was a strong platform through which heads of anti-corruption agencies and their delegates could collaborate and form coalitions to build a stronger society.

The presenter observed that Dr Roger Koranteng was pivotal for the success made through the platform, acknowledging his role as being instrumental in the successful establishment of the association and the Commonwealth African Anti-Corruption Centre (CAACC) for research and training based in Gaborone, Botswana. The centre had richly invested in the capacity of anti-corruption officials on the continent in all areas of operation including leadership and management training for the heads of anti-corruption agency. He thanked the Acting Chairman of the EFCC for hosting the conference and for his commitment and exemplary role in the fight against corruption.

The session ended with the Nigerian National Anthem, after which guests took a tour of an exhibition created by the Economic and Financial Crimes Commission (EFCC) of items recovered by the agency, photographs of some high-profile suspects and convicts on anti-corruption charges.

Agenda Item 2: 'Partnering Towards Assets Recovery and Return', presentation by Mr Thabo Mbeki, former President Republic of South Africa



Exhibition tour by Commonwealth Secretary-General and Nigeria Vice President

Former President of South Africa, Thabo Mbeki, in his presentation based on the theme of the conference 'Partnering Towards Assets Recovery and Return', said that he supported the decision to focus on that theme. He added that one of the challenges faced by the African continent was in addressing the corrosiveness of corruption.

He went on that issues of eradication of underdevelopment and poverty from the African continent were key to improve standards of living. He cited African Union's (AU) summit which gave a special assignment to President Muhammadu Buhari to lead the AU offensive against corruption.

He said the simple propositions that informed the decisions and actions necessary to recover and return stolen assets were:

- that there were some in African countries who occupied senior positions in government and had the opportunity and who succeeded in stealing resources to export to other countries; and
- there were jurisdictions internationally which were ready and willing to harbour these stolen public resources.

He said as Africans, countries had a legitimate right to intervene with these jurisdictions that agreed on returning the stolen assets; also there were procedures laid down to facilitate such recovery and return to ensure full co-operation.

This Eighth Conference, he said, was taking place to discuss the process for the recovery of assets, non-conviction-based propositions on assets recovery, the framework for the return of assets and the whistleblowers policy. These were matters of the technical sphere rather than strategic in terms of the mandate of ACAs in Africa.

Mbeki reminded the conference that the January 2018 AU's 30th Ordinary Assembly of Heads of State and Government had dedicated that year to the fight against corruption, under the theme 'Winning the Fight Against Corruption a Sustainable Path to Africa's Transformation'.

He declared that strong institutions were necessary to fight corruption: ACAs must be empowered and insulated from political influence. Increased collaboration between law enforcement authorities and ACAs was also important to win the fight. He suggested that as 2018 was Africa's year against corruption, ACAs must elaborate and lead strong campaigns against corruption.

He then urged that all African countries should domesticate the UN and AU conventions against corruption, should build a viable partnership to share experiences about how best to win the fight, and must join the African Champion President Buhari in his campaign to ensure that there were strong anti-corruption agencies, that the agencies were independent and capable to act without fear, and that strong institutional co-operation existed between the anti-corruption agencies and law enforcement authorities. The conference theme on assets recovery and return of assets towards domestic resource mobilisation should be discussed with a view to achieving that aim within the context of the AU agenda 2063 and UN agenda 2030.

The July 2015 Third International Conference on Financing for Development meeting in Addis Ababa had made important recommendations on domestic resource mobilisation. The speaker observed that effective use of domestic resources was very important. Africa was a net creditor to the rest of the world, despite the flow of official assistance – this a result of illicit financial outflows from Africa. The conference needed to take steps that would reduce the outflows to ensure development for Africa and should propose a work-plan towards the return of the stolen billions.

Mr Mbeki referred to the UN's StAR [Stolen Asset Recovery] report of 2017, on the disconnect between the high level international commitment of Organisation for Economic Co-operation and Development (OECD) countries to assets recovery, with the fact that 14 OECD countries did not respond to the survey and those that did, reported little progress. He stated that given this situation, criminals were encouraged to launder the proceeds of crime continuously, despite the issue being discussed internationally and extensively at several fora.

The presenter observed that the successful return of stolen assets was based on strong partnerships, which were important between the transferring and receiving countries, along with mutual interest for a successful outcome. He recommended that the conference should pay particular attention to discussing the recommendations of the OECD and StAR initiative document of 2017. The document recommended high-level commitment to assets recovery, as both developing and developed countries needed to adopt complementary strategic policies to combat corruption and recover assets. Development agencies needed to prioritise assets recovery in their planning. They should also provide necessary resources and adequate funding to support assets recovery in terms of investigation, prosecutions, international co-operation, and training of foreign and domestic practitioners' policy development work and institutions. It was important that they guaranteed a wide range of assets recovery tools were available and used. Both developed and developing countries should ensure there was a wide range of mechanisms in place, such as the ability to rapidly freeze assets, to confiscate in the absence of a conviction, to return assets as part of agreements, and to reverse and shift the burden of proof.

There was a need to build capacity in developing countries, as assets recovery required effective investigations in both the requested and requesting countries and many developing countries would need technical assistance to take such actions. In addition, the collection of statistics to measure results was crucial, as this was essential to show countries were fulfilling their commitments.

Lastly, Mr Mbeki said it was important to guide domestic policy to development, resource allocation and strategic planning, hence the conference should deliberate on this.

Plenary

Botswana shared experience that the most difficult aspect was the 'how' part. For example, as the conference was itemising corruption as the number one issue, other sectors such as the health sector could be specifying HIV, while another may be talking about poverty eradication. The member state believed that these were the kind of things that were bedevilling efforts on anti-corruption. Another comment was on taking a more holistic approach: in Botswana's experience, countries had been approaching the issue in silos rather than linking to corruption. What they needed to do was to see organisations as dynamic, living and also growing and changing in form. If countries saw other developmental projects enacted – for example, a programme on poverty eradication – it would force that government to move more quickly on procurement and corruption. He then asked for experience on how to proceed.

Lesotho wanted to know what practical measures could be recommended to insulate institutions against political influence; appointees needed to be insulated from the people who had appointed them. Another question indicated the importance of co-operation between member states, yet at the same time facing issues of secrecy regarding individual legislation in countries. When another country made requests, the law became a problem. How could this be tackled?

Sierra Leone said the presentation showed there had to be willingness from the transferring state and the receiving state and, as the Vice President of Nigeria said in his presentation, there was about US\$300 million that was going to be returned with the condition that it would be used for social investment programmes. The member thought that the transferring country giving conditionalities raised sovereignty issues, as well as constitutional and legal problems.

Rwanda wanted to know, at the African Union level, what should be the real control mechanism against Africans on corruption; letting money go out, how could countries combine efforts to get it right between stakeholders? Also, with corruption money going to Europe and America, what international tools existed to force recipient countries to reject these stolen funds?

Responding to the Botswana question, Mr Mbeki said participants needed to agree that as African ACAs, they spearheaded the fight against corruption. When they met as African Commonwealth ACAs, these were the issues they must discuss. Practically, what were they doing to reduce incidences of corruption? They needed to share experiences. It was important that the issue of recovery was placed in the larger context of mobilisation of domestic assets to provide social amenities to bring the issue closer to citizens. It should be discussed that with no corruption, countries could have brought development to the villages. The fight against corruption could not be left solely in the hands of ACAs – there should be general ownership. It was the task of the ACAs to ensure that their actions became part of a popular struggle. Because in the end, the only way to influence politicians was if they knew the population could act against them. This also dealt with the question of insulation of anti-corruption institutions from political influence. If the population took a position that this was their fight, it made it more difficult for politicians to try to influence institutions in a manner that made them ineffective.

On the question on what tools: he cited an instance of a fishing company which engaged in illegal fishing in South African waters. The authorities caught up with the operation, but by then the company had sold the fish and put the money in US banks. The US has laws against that kind of behaviour and so together they were able to recover and return the funds. The US has legislation on funds obtained illegally and on returning those funds.

In another instance, there was the issue of profits being moved from a South African company, which opened an office in Zurich, Switzerland. It sent two junior staff to that country, employed two Swiss nationals and then registered the company in Zurich before moving the company to London. This operation was detected as being fraudulent. These actions were a device used to export money from South Africa to pay the so-called company owner (fake). The three tax authorities (in South Africa, Switzerland and the UK) returned the US\$2 billion back to South Africa. A number of jurisdictions had the legal framework in place which the OECD required to solve the matter.

On conditionalities: Mr Mbeki stated that receiving countries may have a stereotype that returned funds would not necessarily be used for the correct

purposes. He agreed with the issue of sovereignty; however, the issue of anti-corruption had to be prioritised to ensure that what countries were doing was succeeding. They needed to mobilise the population to take ownership of this fight.

The (AU summit) report stated that as part of the implementation, there was a requirement for annual reporting on what was being done. Until that point, the report had not been submitted because at best only two countries had responded. The next deadline was July 2018. This provided a story that told countries about themselves, whether they had the political will. The ACAs had become important players in holding countries to their commitments. He concluded that resources were necessary to fulfil the dreams of development and provisions of infrastructure.

Agenda Item 3: Country Presentations

BOTSWANA: 'Initiatives /Challenges in the Fight Against Corruption' presentation by Ms Boitshoko Chockie Matlhare



Presentation by Ms Boitshoko Chockie Matlhare

Table 1 Anti-corruption initiatives in Botswana

S/N	Platform	Initiative
1	Corruption Prevention Committees	<ul style="list-style-type: none"> Facilitate and perform anti-corruption initiatives at ministries/department/parastatals Promotion of ownership of anti-corruption and integrity building through corruption prevention committee toolkit Corruption prevention plans Risk registers Anti-Corruption Policy
2	Performance contracting (Performance Monitoring Tool)	<ul style="list-style-type: none"> Review tool for anti-corruption initiatives in the public sector started in 2012 Three levels (anti-corruption framework; corruption prevention strategies; corruption control measures)
3	Anti-Corruption Units	<ul style="list-style-type: none"> Review tool for anti-corruption initiatives in the public sector started in 2012 Three levels (anti-corruption framework; corruption prevention strategies; corruption control measures)
4	Task teams	<ul style="list-style-type: none"> Different disciplines Deal with complex cases Skills imparting

Ms Boitshoko Chockie Matlhare started with a country background, that Botswana was landlocked with a population of just over 2 million people. Politically it operated as a multi-party state, exported diamonds and beef, and was one of the fastest growing economies.

However, she observed that citizens had a high dependency on the state, in a nation that was in continuous need of provision of social safety nets; infrastructure development; agricultural subsidies and increases in housing.

Consequently, competition for limited resources had created opportunities for corruption.

An Act (1994) of Parliament had established the Directorate of Corruption with the following mandates: prevention, public education and investigations. She noted that Botswana had continued to maintain 'good' Transparency International (TI) rankings.

Botswana had created corruption prevention committees (CPC) and had been able to achieve a number of anti-corruption initiatives, as summarised in Table 1.

In order to support its anti-corruption work and make it more effective, Botswana had put in place a Proceeds and Instruments of Crimes Act (PICA) in 2014. This recorded the following successes:

- applicable law: Proceeds and Instruments of Crime Act (PICA)(Cap) 8:0;
- an AFU within the Directorate of Public Prosecutions (DPP);
- seven trained senior prosecutors;
- a review tool for anti-corruption initiatives in the public sector started in 2012.

Recorded notable cases in which funds were restrained or confiscated included those outlined in Table 2.

Table 2 Notable cases

Case	Amount (US\$)	Restrained/ Confiscated
1	184,947.92	Restrained/ Confiscated
2	142,950.00	Restrained
3	85,000.00	Restrained
4	150,000.00	Restrained
5	173,586.972	Pending forfeiture

Ms Seretse went on to summarise some of the challenges that Botswana had faced in its anti-corruption work. These included:

- delayed declaration of the assets law;
- constraints in terms of financial and human resources;
- problems sourcing and keeping skilled staff ('greener pastures'); and
- difficulty in measuring the total impact of anti-corruption programmes.

Lessons learnt, meanwhile, included:

- the need to monitor and evaluate the effectiveness of initiatives;
- the importance of motivation for innovation;
- the low participation of civil society;
- that partnerships with international bodies were necessary; and
- the need to measure the real impact of anti-corruption initiatives.

The speaker provided a list of countries that had received support from Botswana in terms of anti-corruption work (Table 3) and those visited to date in order to gain work experience in this area (Table 4).

Table 3 Countries in receipt of anti-corruption support

Country /Agency	Objective
Nigeria Defence Force	Mandate of the DCEC*, Success and Challenges
Kenya Defence Force	Mandate of the DCEC, Success and Challenges
Tanzania Defence Force	Mandate of the DCEC, Success and Challenges

* Botswana's Directorate on Corruption and Economic Crime

Table 4 Countries visited to gain anti-corruption work experience

Country /Agency	Objective
Mauritius, Tanzania and Zambia	Establishment of Anti-Money Laundering Unit
Australia and Indonesia	Interventions and best practices in corruption prevention
Rwanda and Tanzania	Declaration of Assets Legislation

The speaker concluded that in addition to all the work carried out with respect of anti-corruption so far, Botswana also had corruption prevention as a priority going forward as this was considered to be a vehicle for the whole society.

CAMEROON: 'Innovative Projects in the Fight against Corruption in Cameroon', presentation by Rev. Dr Dieudonné Massi Gams Chairman of the National Anti-Corruption Commission of Cameroon (CONAC)

1 Introduction and background

The National Anti-Corruption Commission of Cameroon, better known by its French acronym, CONAC, was created by a Presidential Decree on March 11, 2006. It is an independent public body placed under the authority of the President of the Republic and has as main mission to CONTRIBUTE to the fight against corruption.

The Commission went operational in March 2007 following the appointment of a Chairman, a Vice-Chairman, nine members of the Coordination Committee, as well as a Permanent Secretary by the President of the Republic. Work, however, began in 2008 with the recruitment of the first staff of the Permanent Secretariat. The staff are deployed to the three Divisions (Investigations, Prevention and Communication, Studies and Cooperation) and three Services (General Affairs, Mails and Archives, and Translations) that make up the Permanent Secretariat.

Besides investigating the first denunciations, communicating on the missions of the Commission and knitting the first cooperation ties, the elaboration of operational documents comprised the main tasks of the first years of work. These documents, elaborated with the help of the technical and financial partners of Cameroon, include: the National Anti-Corruption Strategy (NACS); the National Integrity

Education Programme (NEPI) and the Charter of the National Coalition Against Corruption (NCAC).

Today, several tools are being used to implement these strategic documents and foster CONAC's vision of having a Cameroon where integrity will be the watchword for every citizen. Besides administrative and financial audits, controls and investigations, the following intervention tools are used to reach out to the population for an all-inclusive fight:

- **the Rapid Results Initiative (RRI)** which makes use of the PrECIS tool to implement the National Anti-Corruption Strategy (concomitant use of actions of Prevention, Education, Condition, Incentives and Sanctions to obtain visible change within 100 days);
- **the Rapid Intervention Unit (RIU)** which carries out operations to unmask on-going acts of corruption;
- **Sector-oriented anti-corruption campaigns** to ensure that actors in the Cocoa, Coffee, Cotton, Forestry and Education sectors resist corruption;
- **Anti-Corruption Caravans** to build a critical mass of positive actors ready to say "No" to corruption;
- **Corruption-free Competitive Entrance Examination (COSCO)** for justice, transparency and equity in public examinations;
- **ESPACE CONAC radio and television productions** to educate, inform and sensitise the public on dangers of corruption and how to combat the ill;
- **CONAC monthly Newsletter** which reviews activities of the Commission, including tips on how to combat corruption; and
- **the Annual Reports** which presents the state of the fight against corruption in Cameroon – actions, results and prospects)

June 2017 to April 2018 was a period full of innovations at the National Anti-Corruption Commission of Cameroon. We will, for the purpose of this report, limit ourselves to five of such innovative activities. These include: the acquisition of a call free number, the organisation of sector-oriented caravans, the creation of Integrity Clubs, the production and broadcast of micro radio and television programmes, the training and designation of CONAC coaches in government administrations and impromptu visits to government administrations by teams led by CONAC.

2 Innovative work and initiatives implemented

A. Acquisition of a call free number: 1517

The acquisition of a call free number by CONAC has increased popular participation in the fight against corruption and pushed fear into the camp of corrupt civil servants. A telephone, an indispensable communication gadget nowadays, is today a weapon against corruption. The population is using it to denounce corruption at no cost. The psychological impact is evident. There is fear in the ranks of corrupt civil servants.

The call free number, 1517, was launched during a press conference on April 24, 2018. Press releases, radio and television spots, billboards and banners

also accompanied the launching of the number. Calls are received between 7:00am to 6:00pm and are free of charge from all networks in Cameroon.

The greatest challenge is receiving and sorting out the bulk of calls (about 200 per day); more than three quarters of which are unrelated to corruption. The staff in charge of the hotline have become marital counselors, land dispute negotiators, chieftaincy problems advisers, etc).

This notwithstanding, the move to acquire a hotline has been lauded by the population as the Commission is more accessible. In effect, a hotline is indispensable in mobilizing popular support in the fight against corruption and is therefore an asset to all anti-corruption commissions.

B. Anti-corruption sensitisation caravans

CONAC has organised six anti-corruption caravans between June 2017 and April, 2018 in different towns in the country. The overall objective of the caravans is to mobilise the population to adopt integrity as a way of life and canvass for popular support in the fight against corruption. The target of CONAC is to create a critical mass of positive actors ready to say NO to corruption.

Following is a synopsis of the caravans organised over the last 11 months.

	Venue/Date	Reason	Theme	Target
1	Yaounde 06/07/2017	Upsurge of commuting during vacation	No to corruption in the transport sector	Transporters
2	Douala 22/09/2017	Start of the 2017-2018 school year	Back to school without corruption	Education stakeholders
3	Ngaoundere 9/12/2017	International Anti-Corruption Day	Your NO against corruption counts	Finance, Forestry and Wildlife, Media, Customs, Health, Law Enforcement, Justice
4	Ebolowa 08/02/2018	National Youth Day	Youths say NO to corruption	Youths
5	West Region 06/03/2018	International Women's Day	Women unite against corruption	Women
6	Bertoua 27/04/2018	International Workers' Day	Public service is free of charge. Reinforce with the affixation of CONAC anti-corruption boards in public administrations	Workers, most especially civil servants

In all, the six caravans have permitted CONAC to reach out to over a million people directly and millions of others indirectly through the media and other communication tools such as banners, flyers, stickers, posters, t-shirts, caps, etc.

The main lesson learnt in the organisation of caravans is that the success of the event lies in the details, therefore the need for meticulous preparation. Formal invitations have to be sent on time. The public needs to be properly informed of the activity through press releases, banners, TV and radio spots and billboards. Gadgets for distribution, such as t-shirts, caps, flyers and stickers, should be printed in great quantity and on time. The logistics of the caravan is primordial for its success (cars, meals, escorts, first aid medical care, animation).

The organisation of a caravan also needs a multi-talented team (communicators, investigators, accountants, cashiers, secretaries, cleaners, etc), adapted with regards to the specificity of each caravan.

C. Creation of Integrity Clubs

In October 2017, CONAC created Integrity Clubs in all seven state universities of the country as part of the measures to implement the National Education Integrity Programme. The Club officials were trained and installed. The operation continues in private higher institutions of learning as well as in secondary and high schools. The Integrity Clubs are expected to promote integrity in their institutions and also channel denunciations of acts of corruption to school authorities and to CONAC.

CONAC provides technical and material assistance to clubs when need be. The National Anti-Corruption Commission is obliged to work with officials of the different education sectors if clubs have to be created in all schools nation-wide.

D. Production and broadcast of micro programmes on radio and television

The six-minute programmes highlight the socio-economic and judicial consequences of specific acts of corruption. Broadcast began in March 2018 on the national radio and television. The programmes come up twice weekly on radio and twice weekly on television. The target is the general public and the objective is to educate

the population on the multi-facets of corruption (causes and manifestations) and the ensuring costs (effects) of corruption.

The main production challenge is getting knowledgeable and uncontroversial resource persons, preserving the innocence of the accused until proven guilty in the courts and keeping up with production.

The immediate reaction has been the involvement of the population. Some citizens are already sending in video clips of corruption scenes filmed with their mobile phones for consideration.

For an anti-corruption agency to go into such a venture, it must arm itself with competent professionals and audio-visual production equipment. Negotiations must also be carried out with local media outlets to ensure broadcast.

E. CONAC coaches for public and para-public administrations

Government Ministries and Para-public structures are expected to implement the National Anti-Corruption Strategy adopted by the government of Cameroon in 2011. The PrECIS tool and the Rapid Results Initiative are the main implementation instruments. The PrECIS implies the concomitant use of actions in five domains (Prevention, Education, Condition, Incentives and Sanctions), while the RRI entails the implementation of easy-to-realise actions which can produce palpable results in less than a hundred days.

In the past, members of civil society organisations were assigned to follow up the implementation of anti-corruption activities in ministries. Some of them, however, abused this function by requesting payments from the ministries they supervised.

The National Anti-Corruption Commission then decided to replace these civil society actors with staff of the Commission. The personnel for the task have been trained as coaches and assigned Ministries.

There is now the better follow up of anti-corruption activities and reactivation of dormant anti-corruption units. Anti-corruption agencies should thus be careful with the choice of persons they use for their outreach activities or representation.

F. Impromptu visits to public administrations

This novelty came in with the evaluation of the level of implementation of the execution of Regional Anti-Corruption Plans of Actions for 2017. During the regional workshops organised to this effect, a mixed team of officials led by CONAC carried out impromptu visit to some public administrations in the regions. The visits led to a general reawakening in the fight against corruption in the ten Regions as all the structures worked hard to be ready if a CONAC team should visit.

3 Exchange visits

Since the last meeting of Heads of Anti-Corruption structures in Malawi, the National Anti-Corruption Commission of Cameroon has carried out one visit; to Nigeria. This was from August 8 to 12 2017. The three-day study visit took the delegation of three persons to the Economics and Financial Crimes Commission (EFCC) and to the Independent Corrupt Practices Commission (ICPC).

The form of the visit was the same for both structures: meetings with top management, visits of the different services, examination of the different strategies (prevention, education, communication, investigations), appreciation of resources (human and technical) and discussions on a possible formal partnership.

At the end of the working visit, a formal partnership was signed with the ICPC. meanwhile, CONAC is examining possibilities of sending its staff for training at the academies of the EFCC and the ICPC.

4 Visit of the Commonwealth Secretary-General to CONAC

On the invitation of the Cameroonian Head of State, the Secretary General of the Commonwealth, Rt. Hon. Patricia SCOTLAND, was in Cameroon from the 20th to the 23rd of December, 2017 for a working visit.

During her stay, she held a working session with the main governance Institutions of Cameroon at the Headquarters of the National Anti-Corruption Commission. On the occasion, she praised CONAC for the actions carried out to fight against corruption in Cameroon.

While noting that she is conscious of the work that is being done by anti-corruption agencies in Commonwealth Africa, under the supervision of Dr Roger KORANTENG, Rt. Hon. SCOTLAND promised her support to the association of Heads of anti-corruption agencies in Commonwealth Africa.

Plenary

Mauritius asked if Botswana had issues with getting support from civil society and public trust in the anti-corruption fight. The member asked this question as a result of reported criticism of ACAs by the press, which undermined their efforts.

South Africa asked if Cameroon's branding of cars posed challenges or dangers to members. Had they experienced any challenges such as public antagonism?

Rwanda wanted to know the formula that Botswana applied in order to be ranked number one in Africa every year in terms of fighting corruption. The country wished to emulate Botswana in this respect.

Nigeria asked Botswana about its feedback processes on cases investigated and sent to the Director of Public Prosecution, as well as how such feedback may help in carrying out their work. Botswana in responding to question on public participation said despite having plans in place, luck was also needed. One of the things that made the country good was the ability to expose corruption; this was its number one strategy. However, its second strategy was the government's budgeting system – there were strict financial rules that must also be adhered to.

Regarding feedback on cases, Botswana responded that when there was a high-profile case they involved the prosecutors. However, challenges remained in this regard which included staff, skills etc. On the issue of civil society, Botswana agreed that press apathy affected the country – but in the end public opinion ruled, because it was the public that finally supported the anti-corruption drive.

On the Integrity Clubs' management, Cameroon said the ACA liaised with the supervisor of the school to assist in ensuring the programme succeeded; where the supervisor could not assist, the ACA helped. Also, meetings with top officials of institutions, empowering schools with messages/slogans, supporting Integrity Clubs with relevant

anti-corruption campaign gadgets and training were all part of the strategies adopted to get results. Cameroon had also written a book, *Programmes on Integrity*, in support of its anti-corruption work.

In response to the question on car stickers/branding, Dr Dieudonné said the ACA in Cameroon was one of the country's most credible institutions. When people saw the vehicle, they came out to support. The ACA played the role of ombudsman, bringing more people to the caravan. The branding was mostly used during outreach endeavours; when it came to audits and investigations, the vehicles were hardly used.

Zambia wanted to know how Cameroon prevented its anti-corruption campaign from being overshadowed by the various national and international days commemorations when held on such days. How did its anti-corruption campaigns gain prominence when woven into Workers Day or Women's Day, without it being overshadowed? Cameroon responded that they only needed to inform the authorities that the ACA would be there, and the objective was to pass on a message. So stickers, T-shirts and other message-bearing items were used strategically, done in such a manner that the anti-corruption message still stood out when other commemorations were taking place.

GHANA: 'Innovative Projects Done in the Fight Against Corruption – Success Stories of Ghana', presentation by the Economic and Organized Crime Office (EOCO), Ghana

The presenter on behalf of Ghana's Economic and Organized Crime Office (EOCO), commenced by summarising a number of cases handled by the office:

- GYEDA Officials were successfully prosecuted, convicted and sentenced.
- A case involving the National Service Scheme (NSS).
- A case against the Ghana Maritime Authority (GMA).
- Social Security and National Trust (SSNIT) – this case was on procurement fraud.

- A businessman known as Mr. Woyome, who was wrongly paid 52 million new cedi dubbed judgment debt.
- The former chief executive officer (CEO) of Ghana Cocoa Board, Stephen Kwabena Opuni, was charged with incurring a financial loss to the state.
- Ibrahim Mahama was charged with tax evasion and issuance of fake cheques, where about GHS14 million was recovered and returned to the state.
- A case involving the National Ambulance Services, where monies were paid for ambulances that were not delivered.
- Nayele Ametefe – Funds were confiscated and returned to the state as part of assets tracing.
- Bus branding – In this case, Selasi Ibrahim allegedly over-inflated the cost of branding the Metro Mass Transit buses with the portraits of Former Presidents of Ghana. This was intended in give visibility to the sitting President in the run up to the 2016 general elections.
- MASLOC – Here, the former CEO of MASLOC, Sedina Tamakloe, was investigated by EOCO for taking GHS500,000 from the company reserves. She invested this amount to make a large interest payment to herself.
- EOCO and other law enforcement and anti-corruption agencies such as the Ghana Anti-Corruption Commission (GACC) and the Commission on Human Rights and Administrative Justice (CHRAJ) had formed anti-corruption clubs in most secondary schools.
- EOCO, for example, through its public education outfit, had visited about 20 second cycle institutions in Accra and its environs to inform people on the mandate of EOCO and matters relating corruption.

The speaker went on to outline some of the main challenges faced by EOCO in implementing its initiatives:

- There was a lack of political will in the country to handle issues relating to corruption.

- Given the relaxed legal regime in Ghana, corruption was treated as a misdemeanour under the Criminal Code. Although it was an enhanced misdemeanour, in other Asian countries corruption was seen as a felony and attracted the severe penalty.
- There was inadequate education on corruption-related issues.
- Archaic legislation: The Criminal and Other Offences Act, 1960 (Act 29) had not seen any major amendment since coming into force.
- There was a lack of punitive action against corrupt officials. For instance, there were no clear-cut punishments for bribery and corruption.
- The National Anti-Corruption Policy (NACAP), which was a brainchild of UNCAC and other anti-corruption institutions, had at the time of the conference not yet been fully embraced by ministries, departments and agencies, nor by the public.
- The speaker noted inadequate awareness creation by civil society groups and faith-based organisations.
- Inaccurate records and data: There were no accurate records and data available to trace certain corrupt practices.
- The speaker observed that Ghana had an ineffective asset tracing regime. There was also no legislation in place regarding assets management nor any on assets disposal.
- Corrupt officials were not being questioned based on their wealth/lifestyles because there was no clear-cut legislation on lifestyle evidence. There was also an absence of civil forfeiture of ill-gotten assets involving corrupt officials.
- A final challenge highlighted was the absence of plea bargaining in Ghana's statute with regards to corruption-related trials in the courts.
- Through the Anti-Money Laundering Acts, the Mutual Legal Regime and Electronic Transactions, corrupt officials had been prosecuted and convictions secured.
- With the Public Procurement Law passed, together with the Public Financial Management Act, procurement fraud had reduced to the barest minimum.
- With the passage of the Whistleblower Act in 2006, corrupt practices had reduced in the public sector.
- A Procurement Ministry under a Minister of State had been created to oversee procurement-related issues.

Reflections, lessons and conclusion

The speaker concluded the presentation with some reflections and lessons, the first of which was that the fight against corruption needed a multi-sectorial approach and required institutional and inter-agency co-operation, collaboration and co-ordination. In addition, politically exposed persons (PEPs) should not be treated differently when found culpable for their actions and omissions. Justice must not only be done but must also be seen to be done, without fear or favour, in order to enhance public confidence in the legal regime or system.

The legal framework should be tailored to respond to the dynamics of the new wave of crimes perpetuated by the influx of technology. Archaic laws could not be resorted to in dealing with new age crimes. Finally, the problem with regard to curbing corruption was not about a lack of adequate laws, but rather enforcement of laws that already existed.

Curbing corruption required a concerted effort by all. Indeed, countries needed to build public capacity to condemn and fight corruption and to make corruption a high-risk, low-gain activity.

GHANA: 'The Fight Against Corruption', presentation by Mr Joseph Whittal

The Commission on Human Rights and Administrative Justice (CHRAJ) spoke on Ghana's multisystem approach in the fight against corruption. The country had in place a constitutional body, a Whistleblowers Act and mandate. Mr

Nonetheless, the presenter on behalf of EOCO noted that there had been some notable results arising out of its initiatives:

Whittal also drew the conference's attention to a national dashboard reporting tool used to monitor and evaluate performance. They had also created a WhatsApp group, a social media platform, which enabled citizens' contributions on the fight against corruption.

EOCO then spoke on success gained in assets tracing and recovery, and mentioned the tremendous help it had received from the US Federal Bureau of Investigation (FBI) and the UK National Crime Agency (NCA). He also highlighted collaboration with sister anti-corruption agencies like those in Nigeria and within Africa in apprehending criminals and observed that partnerships were key in assets tracing and recovery.

NIGERIA: 'Role of ICPC in Fighting Corruption: Strategic Innovations, Achievements and Challenges', presentation by Dr Musa Usman Abubakar, Ag. Chairman, the Independent Corrupt Practices and Other Related Offences Commission (ICPC), Nigeria

Dr Musa Abubakar commenced his presentation with a brief background to the establishment of the Independent Corrupt Practices and Other Related Offences Commission (ICPC). A robust step for an all-out war against corruption began in 1999 when the then President Olusegun Obasanjo forwarded a Bill to Prohibit Corruption to the National Assembly. This was the first bill to be passed six months after he was sworn into office. The Bill resulted in the creation of ICPC in September 2000.

The Act mandates the ICPC under Section 6(a-f):

- to enforce the provisions of the ICPC Act or any other law prohibiting corruption;
- to examine the practices, systems and procedures of ministries, departments and agencies to address corruption vulnerabilities;
- to instruct, advise and assist ministries, departments and agencies on ways by which fraud or corruption may be eliminated or minimised;

- to advise heads of ministries, departments and agencies on proper ways of discharging their duties to reduce incidences of bribery and corruption;
- to educate the public against corruption; and
- to enlist public support in combatting corruption.

The ICPC was therefore a multi-functional anti-corruption agency (ACA) with investigative/prosecutorial, preventive and education/public enlightenment functions.

The speaker continued that the enforcement mandate and its limitations included but were not limited to the following:

- prolonged trials;
- consumption of a lot of resources;
- diminution in the value of assets;
- irretrievability of secreted funds and public doubts; and
- little or no allowances for innovation, as it extended beyond the purview of the commission to the judiciary.

Notwithstanding these limitations, he stated there was a huge prospect of success with the Enactment of the Administration of Criminal Justice Act, 2015.

Looking forward, the ICPC was exploring working with the Federal Ministry of Finance to monitor the Government Integrated Financial Management Information System (GIFMIS) and the Integrated Payroll and Personnel Information System (IPPIS) personnel payment platforms. He noted there was already ongoing co-operation with the Pension Transitional Arrangement Directorate (PTAD) to prevent corruption in the pension process.

Education/public enlightenment of the ICPC

On the topic of education, Dr Musa Abubakar said the ICPC had developed a **national values curriculum**, adopted by the National Council on Education for infusion of core values in relevant subjects in schools. It was also working in partnership with some universities in the country to teach and develop anti-corruption strategy.

He noted the development of **platforms for mass mobilisation** against corruption, such as:

- the National Anti-Corruption Coalition (**NACC**), which was a broad assemblage of civil society organisations (CSOs) that galvanises local engagement of the populace to act against corruption – anti-corruption vanguards;
- the National Anti-Corruption Volunteer Corps (**NAVC**) for critical youth activism against the scourge; and
- **Anti-Corruption Clubs in schools** to inculcate positive values in children at the basic education level.

There were also synergies with **professional bodies, trade associations and community-based organisations** to address issues of professional misconduct connected with infractions of anti-corruption legislation.

The speaker said that ICPC's investigation activities were lawyer driven with lawyers' inputs required at every stage of the investigation: pre-investigation, investigation and post-investigation. They also made use of non-conviction-based asset forfeiture, Sections 44, 45 and 48 of the ICPC Act, 2000.

He highlighted that preventive mandates included but were not limited to:

- setting up of anti-corruption and transparency units (ACTUs) in the ministries departments and agencies;
- conducting systems studies on ministries, departments and agencies;
- development of corruption risk assessment (CRA) to assess corruption vulnerabilities of ministries, departments and agencies;
- engaging citizens in the governance process at the local level to make input into the budgetary process from formulation to implementation;
- conducting a review of personnel expenditure of ministries, departments and agencies to mop-up unspent allocation and limit corruption opportunities; and
- during the initial exercise, billions of naira had been misused or embezzled would be returned to the Treasury.

Successes of ICPC innovations

Dr Musa Abubakar continued his presentation on the ICPC by summarising some of its innovations and successes. These included more active participation of citizens in the anti-corruption war, along with increased compliance with extant rules and regulations by ministries, departments and agencies due to presence of ACTUs in more than 400 ministries, departments and agencies.

A systems study and review was conducted that helped in identifying corruption-prone processes, with solutions offered. The activities of the commission in mopping up unspent balances had also resulted in the deployment of the e-governance platforms IE, GIFMIS and IPPIS. This development saved the Nigeria more than N100 billion in personnel costs in 2013, and N68 billion in 2017.

The University System Study and Review (USSR), a fact-finding and problem-solving strategy, was undertaken to determine whether university policies, practices and procedures helped corruption. The USSR report on the exercise gave rise to collaboration with the National Universities Commission (NUC). This in turn led to:

- the closure of 63 illegal institutions;
- prosecution of their proprietors;
- development of a template for systems studies in the education sector; and
- a directive to universities to develop five-year integrity plans to address conflict resolution mechanisms, gender protection and grievance resolution procedures.

It was noteworthy, the speaker said, that the USSR was being considered for adoption at the international level.

In collaboration with the National Primary Health Care Development Agency (NPHCDA), the commission reviewed 1,355 projects for primary healthcare centres and identified 629 abandoned projects. It then compelled those responsible for the abandoned projects to go back to complete the projects.

The commission, with the support of the Maritime Anti-Corruption Network and in conjunction with UN Development Programme (UNDP) and the Technical Unit on Governance & Anti-Corruption Reforms (TUGAR), conducted

corruption risk assessments (CRAs) of six seaports resulting in the creation of a Harmonised Standard Operating Procedure (SOP); and the installation of a Port Service Support Portal (PSSP) as a mechanism for addressing complaints by port users to prevent corruption.

Cash and assets were also recovered using the Non-Conviction-Based Forfeiture of Assets Initiative, while the lawyer-driven approach to investigation had helped in:

- reducing the cost of operations;
- making sure decisions on petition were carried out speedily; and, above all,
- providing checks on excesses in the investigation process.

Challenges

There had, however, been a number of challenges, including that the ACTU innovation was initially not well received. There was also a dearth of proper records, challenging the effective implementation of non-conviction-based asset forfeiture. Red tape was another challenge highlighted by the speaker, along with the bureaucratic bottlenecks that were intrinsic to the delayed implementation of some public service innovations.

Further challenges included harassment, threats, intimidation and, sometimes, dismissal from service of whistleblowers. Witnesses were also found to have been offered financial incentives to flee. This resulted in a poor rate of conviction in high-profile cases.

In conclusion, Dr Musa Abubakar recommended that fighting corruption was an enormous battle that could only succeed with a purposive combination of a prevention strategy and unrelenting enforcement. Therefore, effective engagement and management of relationships with both internal and external stakeholders was *sine qua non* to keeping information and feedback flowing.

Plenary

Delegates asked Ghana to clarify the types of gifts given to students when debates and quizzes were held. Ghana responded that this depended on the anti-corruption agency's financial budget situation at that time. Over time, gifts had ranged from televisions, cash, text books and other mementos.

On the preference for WhatsApp over Facebook in reaching its young audience members, Ghana's said WhatsApp was available on a hand-held device, mobile telephones in particular, with such devices available even the hinterlands of the country and more prevalent even in remote areas. WhatsApp provided a simpler and cheaper platform.

On illicit enrichment, the speaker said the laws had relevant provisions. He added that even if a person was not a public officer and amassed wealth, the office could invite the person to provide evidence. Another measure that could be used to confirm ownership was to require the person to provide evidence of paying tax. The onus in this respect was placed on the individual to provide evidence of ownership.

Further explanations were requested of Nigeria on its lawyer-driven investigation process. Nigeria responded that lawyers were better equipped to know what the laws entailed. Processes for conducting searches in the course of investigation were also better handled by lawyers.

A delegate observed that Nigeria's ICPC appeared to have the same model as that of Hong Kong and asked if Hong Kong's operational model had been adopted. The speaker agreed that the ICPC nomenclature was fashioned after that of Hong Kong and that the Hong Kong template was officially adopted through a partnership when ICPC commenced operations.

Eswatini also wanted Nigeria to shed more light on involving people in budgetary processes, as this strategy appeared attractive. Nigeria responded that it organised Citizens' Engagement Forums at the grassroots level, where people were sensitised on the need to request amenities, infrastructure, markets, boreholes and any other things they needed before presentations of budgets were made by their respective political leaders, even at the local government level.

Asked if the ICPC's Anti-Corruption Academy of Nigeria (ACAN) was accessible for international trainings or if it was limited to training agencies in Nigeria only, the Acting Chairman of ICPC said nations could collaborate with the ICPC. The speaker said the academy was accessible to international participants. He added it had designed anti-corruption programmes and had made provision for bespoke programmes.

A Nigerian journalist wanted to know more about the ICPC's engagement with young people. He also asked what the ICPC was doing to take the message of anti-corruption to the rural areas. ICPC responded that it remained passionate about engaging school pupils while they were young. The national value curriculum was in place, inculcating accountability, integrity and similar values at, especially, the basic education level. A partnership with the National Teachers Institute (NTI) was ongoing while another with the Universal Basic Education Commission (UBEC) had also been sustained.

On monitoring the over 400 anti-corruption and transparency units (ACTUs), the Chair responded that although the ACTUs were staff of the anti-corruption units of the ministries, departments and agencies and they reported directly to the ICPC when they observed any breaches. ACTUs reported yearly to the ICPC. A monthly ACTU meeting in the respective ministry, department or agency with the respective ICPC desk officers present provided another monitoring mechanism. Reports of ACTU engagement were also forwarded to the ICPC. The circumstances of each ACTU were also measured through the reports it forwarded to the ICPC.

On non-conviction-based (NCB) forfeiture, the speaker said usually when information was received from a whistleblower and the suspect was a public servant, then the process was started. The ICPC went to court and the suspect was invited to explain how he or she acquired the property concerned. When enquiries had been made as to who owned the property, an interim forfeiture could be secured and publication made.

Day 2: 15 May 2018



Presentation by Neil Stansbury



Presentation by Matthew Moorhead

Agenda Item 1: 'The Development of a Commonwealth Benchmarks Package', presentation by Neil Stansbury and Matthew Moorhead, Commonwealth Secretariat

Matthew Moorhead and Neil Stansbury made a presentation on the rationale for the development of the Commonwealth benchmark package, the need for good practices and experiences to be shared, and possibilities of feedback ideas circulated for individual country inputs.

Moorhead commenced by stating that the Commonwealth Secretariat was exploring options for the development of an 'Anti-Corruption Benchmarks' package that could be created in consultation with member countries for possible consideration at CHOGM in 2020. The benchmarks, he revealed, would provide another tool to help governments tackle corruption.

In his contribution, Neil Stansbury spoke on the complicity of the United Kingdom in money laundering. He said people tended to abuse emergency procurement procedures, hence the need for good project management processes. He emphasised the need for financial controls and the importance of training staff on what to do when they came across corruption at the work place. He advised that organisations could get certified by independent auditors, monitor the award and contracting process and make online reporting available.

The presenters said should funding be available, the benchmarks would be designed to be scalable into a larger project. They said the aims of the benchmarks could include the following:

1. to provide an advocacy tool for encouraging Commonwealth member countries to adopt and adhere to high standards of integrity and anti-corruption measures in government processes, including through trade and economic-based arguments;
2. to provide practical guidance to Commonwealth member countries on clear steps that could be taken to promote integrity and combat corruption, both in government processes, as well as within private sector organisations; and
3. to provide a simple 'checklist' against which progress under (2) above could be measured.

According to the presenter, the Commonwealth Secretariat had worked with its members to strengthen anti-corruption measures for many years. Some of the activities carried out were:

1. in 2000, a Commonwealth Expert Group adopted the Framework for Commonwealth Principles on Promoting Good Governance and Combating Corruption;
2. Commonwealth Heads of Government called on member countries to sign, ratify and implement UNCAC;

3. in 2016, the Commonwealth Secretariat convened the 'Tackling Corruption Together' Conference, attracting a high level of participation and interest from around the world; and
4. in 2017, the Secretariat undertook an information gathering exercise to review the use and role of standards in Commonwealth countries in anti-corruption efforts.

Even though still at an early draft stage, the presenter said the possible content for each of the benchmarks would be as follows:

1. **Rationale for that benchmark:** That is, why is this an important benchmark?
2. **Core principles:** That is, the minimum requirements which should be complied with so as to conform with that benchmark.
3. **Examples:** Real case examples of a situation in which that benchmark is being successfully complied with by a government or organisation.
4. **Guidance:** Guidance on implementing, with references to information sources, templates etc.

According to the presenter, possible benchmark topics formation would be guided, to a reasonable extent, with the inclusion of all necessary key topics that provide the foundation for effective anti-corruption management by government. He said these topics were: anti-corruption laws; the judiciary; investigating and prosecuting authorities; debarment; assets recovery; government approval procedures; public sector procurement procedures; public sector project management procedures; public sector financial controls; organisational anti-bribery management systems; independent project monitoring; independent project auditing; transparency; reporting; freedom of speech and the press; and possible others.

On consultation and timing, the presenter said the Commonwealth Secretariat had its plans in place. In terms of **consultation**, the presenter said the Secretariat:

- would like to consult widely with relevant departments/ agencies from Commonwealth country governments on the content and wording of the benchmarks before publication; and

- would send the draft for comment to, inter alia, all anti-corruption agencies for input and comment.

On **timing**, the presenter said if countries were supportive, the Secretariat aimed to have a final version ready for consideration by Heads at CHOGM 2020.

They concluded on the need for transparency in government procedure; according to the presenters, 'sunshine kills corruption'. Hence, they advocated for a good international process on how to disclose corrupt acts.

Plenary

Botswana was concerned about the handling of anti-corruption cartels given that the people benefitting from corruption were themselves in government. The response was that the EU Commission, the UK and the US utilised the tool of immunity; professional handling of cartels became effective once there was no initial government tip-off.

Mauritius wanted to know if witness protection was guaranteed and if there were cases where witnesses had been targeted after coming forward with information. The response was that bravery was usually the motivation behind the action of whistleblowers. There was a difference between a person 'blowing a whistle' and losing their job and that person getting killed. If sacked, whistleblowers could go to court. Also, the identity of the witness could be kept anonymous.

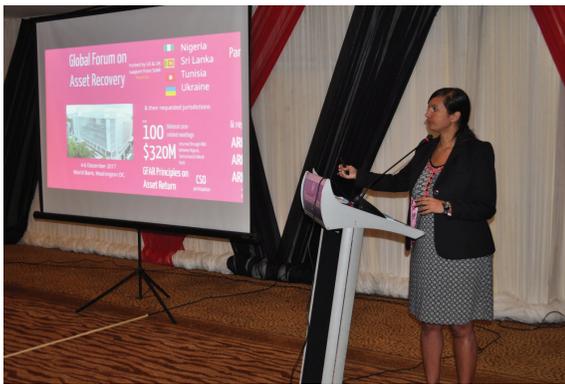
Eswatini's delegate expressed concern about sanctions for non-compliance. The presenter responded that it was difficult for countries to sanction others. Eswatini also wanted to know why there were separate benchmarks for anti-corruption organisations and countries. The UK said the country was monitored by two other nations and their reports could highlight any deficiency. Uganda acknowledged that most monies lost in African countries were lost in the construction sector. The delegate stated that ACAs met and talked while politicians met to discuss the issues elsewhere, so they wanted a forum for discussion between ACAs and political heads.

Ghana said it appeared that when there was a multiplicity of standards, compliance levels fell. The UNCAC, the AU, the UN conventions, the World Bank and the IMF all had different compliance

standards; now there were Commonwealth standards, too. The presenter's response was to cross-refer to the guidance on the standards via relevant statements and principles. They were not implementing new rules and laws.

Other comments on the presentation included the need to expand financial controls and to get civil society organisations better engaged. Moorhead added that communication was key in order to reach out and build consensus with the governments of member states.

Agenda Item 2: 'Assets Recovery and Return', presentation by Ms Elsa Gopala Krishnan, Financial Sector Specialist, UNODC, StAR Initiative



Presentation by Ms Elsa Gopala Krishnan

Elsa Gopala Krishnan spoke on the activities of the Stolen Asset Recovery Initiative (the 'StAR Initiative') under the UNCAC framework.

The presenter said that political barriers caused a huge gap between assets recovery and returned assets. Yet there were several different mechanisms to carry out assets recovery, criminal prosecution and confiscation. For example, she said non-conviction-based confiscation (assets forfeiture) could be achieved administratively through a country's tax procedures.

The speaker went on to advocate involvement with policy-making bodies like UNCAC and the UN Convention on Trans-Organisational Crime (UNTOC) with working groups that help bring practitioners together in order to use informal relationships when working on cases among countries.

Ms Gopala said partnerships and networks were important tools to build trust at the regional level. Also, income and assets declaration was a powerful tool, as this could help expose discrepancies. She cited some adoptable examples: the WhatsApp group as a more secure encrypted platform used in Central America and a good problem-solving approach, along with trainings and meetings for judges on the return and disposal of recovered assets and other agreements.

Plenary

Namibia thanked the StAR presenter for the partnership with World Bank on the StAR initiative, but was concerned that African member states had no policy documents with which to operate. He said that research showed that African member states had shown no commitment to their home-made brand. He challenged them on the fact that 'charity begins at home'. Also, he observed that there was no common method at the AU level on how to approach countries used to secret illegal funds. He stated that out of 55, only 39 African countries had signed and ratified the AU conventions. African member states were not doing enough. The right legal frameworks needed to be active. Those who had not signed should be encouraged to do so, while others who had signed had still to ratify. He asked African countries to speak with one voice, so they would be taken seriously by foreign countries. He encouraged President Buhari, the host of this particular conference, to rise up to this task.

Cameroon observed that the issue of recovery of assets was political, stating that when America was behind the recovery, things moved faster; but when other countries attempted to retrieve assets, it became very difficult. He thus recommended that a non-discriminatory international body be set up to address this issue.

Agenda Item 3: Country Presentations

MAURITIUS: 'Fighting Corruption and Money Laundering: Innovative Projects of the Independent Commission against Corruption (ICAC) for Better Effectiveness', presentation by Jaynaidoo Soobrayen

The presenter gave a brief background of the anti-corruption agency of Mauritius. He said the Independent Commission against Corruption (ICAC) was set up in the country in 2002 to fight corruption and money laundering, by virtue of the enactment of the Prevention of Corruption Act (POCA) and the Financial Intelligence and Anti-Money Laundering Act (FIAMLA) in the same year. He pointed out that these two pieces of legislation defined the mandate of the commission to investigate and prosecute these crimes, as well as to educate the public, and to advise and assist public bodies in the development and application of best practices to prevent corruption.



Presentation by Jaynaidoo Soobrayen

The presenter said there were currently 142 members of staff distributed within the four divisions of the commission. The Investigation Division had a staff of 85 persons and was advised, in its investigative function, by a team of eight lawyers and two legal research officers, which formed the Legal Division. The Corruption Prevention and Education Division had 25 staff to discharge its mandate. The commission was at the start of a reform phase, where the development of three projects would seek to re-engineer the operations and service functions of the ICAC. These three projects, he pointed out, constituted the new pillars for a more effective institution in the future.

The three projects of the commission

The new management of the Independent Commission Against Corruption (ICAC) took office in July 2016. The main task of the Director-General was to ensure that the commission had the capacity to face the growing challenges of financial crime, often relying on latest technological platforms and resulting from increasing financial globalisation. After 14 years of existence, it was high time that the commission assessed its effectiveness in fighting corruption and money laundering. The new management's mission to bring the organisation to another level in its service delivery to the Mauritian nation triggered this evaluation process and led to the reform plan. Three flagship projects were identified to constitute the foundation upon which the restructuring of the four divisions would lie.

These projects were:

1. the computerisation of all operations and processes at the commission;
2. a complete review of the systems and procedures within the four divisions; and
3. The implementation of a modern performance management system to evaluate the performance of staff.

The expectation was that the combined impact of these three projects would result in greater effectiveness. The impact of these projects, according to the presenter were:

- At the time of the conference, the computerisation project had reached a critical stage, had significantly improved work processes and was bringing about a new work culture within the whole organisation.
- The processes had been redefined and updated to ensure greater accountability, work discipline and commitment. Human and capital resources were used more cost-effectively and responsibly.
- The Investigation Division had been equipped with modern technological tools to meet the ever-growing challenges of financial crime. The next phase to the project would be the implementation of a modern and comprehensive case management system (CMS) which would integrate the work flows of the commission, i.e., the Board, the Investigation and Legal Divisions. The CMS

would also aim at providing the Investigation Division with appropriate analytical tools so to be more efficient and effective in its operations.

- Likewise, the services of a consultant in human resources management had been enlisted by the commission to develop a modern Performance Management System (PMS). With this system, staff members' performance was being assessed more objectively against agreed key performance indicators and well-defined performance standards.

New investigative strategy

The presenter pointed out that previously, ICAC's investigations had been more corruption-related and focused only on securing convictions and nothing more. The current investigative strategy was more intelligence-based and focused more on the illicit gains of criminals. The presenter said that the combined effects of the three aforementioned projects had enriched this strategy. He said the development of Standard Operating Procedures (SOPs) and the Performance Management System (PMS) had, respectively, streamlined all processes and motivated staff to be better committed and results-oriented in their actions.

The challenges of financial crime to investigation

- Modern financial systems allowed criminals to transfer huge amounts of money instantly through personal computers and smart phones.
- Criminals were using currency exchange dealers, casinos, automobile dealers, gold dealers, real estate's promoters, trading companies and other sophisticated systems to launder their illicit funds, if these were not used to finance terrorism.

It was in the face of these challenges, Mr Soobrayen went on, that the management had taken the decision to come up with its three lead projects. To effectively combat corruption and money laundering, law enforcement must have means which were at least as sophisticated as those used by the criminals, if not more so. It was in this context that the ICAC thought it essential to invest in the

acquisition of digital forensic tools to examine computers and other technological devices used by criminals for evidence.

This proactive and technology-based method of investigation demanded that there was a set of law-compliant procedures in place at the commission to guide investigators, so as to avoid challenges in court. It also called for more transparency, accountability and devotion on the part of staff. The objectives of the systems review and the PMS projects were precisely and respectively to elaborate codes of practice for investigators to ensure greater accountability, and to develop the necessary frameworks to assist staff in acquiring this professional ethos.

The presenter pointed to the fact that ICAC had invested in technological tools. The commission had, since mid-2017, set up a digital forensic laboratory on its premises. This unit was staffed by two digital forensic investigators with hands-on experience in cybercrime investigation, one of whom was a police officer on secondment to the commission. He said it was the commission's plan to reinforce this team with the recruitment of other professionals in computer forensics. The acquisition of additional forensic analytical tools was also on its agenda. The objective was to render this laboratory more efficient and effective. At the time of the presentation, the team was mainly assigned the task of examining and acquiring evidence from digital apparatus secured during an investigation.

ICAC had also invested in the acquisition of a modern and fully equipped digital interview room. It was necessary to invest in this high-tech investigative equipment in order to avert allegations of coercive methods of interviewing coming from suspects and lawyers. This tool not only served as a protection to investigators against such allegations, but also called for better accountability on their part, over and above guaranteeing transparency and confidence in ICAC's methods of investigation. The commission was planning to digitalise at least two more interview rooms in the near future.

UGANDA: 'The Inspectorate of Government Online Declaration System (IG-ODS)', presentation by Annet Kyakunda Twine, Director, Leadership Code Inspectorate of Government, Uganda



Presentation by Annet Twine Kyakunda

The presenter explained to participants that the Inspectorate of Government (IG) was a constitutional body established under Chapters 13 and 14 of Uganda's constitution. The IG was operationalised by the Inspectorate of Government Act, 2002 and Leadership Code Act, 2002. She went on that the IG had four broad functions: the Ombudsman, anti-corruption, leadership code enforcement, and education and prevention functions.

2.0 Operationalisation of the IG-ODS

According to the presenter, the IG-ODS [Online Declaration System] was operationalised by the Leadership Code (Declaration Form) Regulations 2016 on 1 June 2016, which was gazetted on 20 May 2016. Since then, the IG had no longer received hard copies of declarations of income, assets and liabilities.

Ms Kyakunda further stated that from inception, the IG had registered more than 25,000 leaders onto the system, of which 22,645 had successfully declared their income, assets and liabilities, giving a compliance rate of 90.6 per cent. To the IG, this was a greater rate of compliance never achieved before when leaders were using the manual system to make declarations, as shown in Table 5.

The status of the system, which was undergoing an upgrade that constituted development of the second phase of the system, intended to:

1. improve the filing system to enable leaders to update their declarations of incomes, assets and liabilities, in the upcoming declaration period;
2. develop a self-registration system, which would allow leaders and focal persons to register details of the leaders into the system; and
3. operationalise the electronic verification of declarations that would be received through the IG-ODS.

The presenter said that as was characteristic of new systems, the IG-ODS faced a number of challenges. These included, among others:

1. Incorrect particulars of leaders submitted to IG to update the registers. A self-registration module for leaders and focal persons to mitigate this challenge was being developed.
2. Low levels of technology literacy in various categories of leaders. To address this, the IG had set up mobile support teams that went out to the leaders. In addition, materials on how to use the system had been developed. These included: a user manual, IG-ODS brochure, IG-ODS 'Frequently Asked Questions', CDs, a help button on the form, and also identification of focal persons per institution. These mechanisms helped guide the leaders to complete the forms online.

Table 5 Income, assets and liabilities declarations

Year	No. submitted	Total registered	Compliance %
2017	22,645	25,000	90.6
2015	21,870	25,000	88
2013	21,043	25,108	84
2011	19,110	22,350	86

3. Unavailable or bad internet connectivity in remote areas of the country. To address this challenge, the support team had acquired portable MiFi /Wi-Fi routers to make internet connectivity easy. Additionally, the team had worked with the local government authorities to find locations that had internet connectivity to conduct the trainings.
4. Challenges within the legal framework, in particular the delayed amendment of the Leadership Code Act to provide for the establishment of the Leadership Code Tribunal and the absence of a non-conviction based assets recovery legislation.

The Constitution of Uganda, Article 235 (A) provided for a Leadership Code Tribunal to hear and determine all breaches and offences under the code.

Following a Supreme Court ruling in 2007, in a landmark case involving a Member of Parliament, that the Inspectorate of Government was not an appropriate tribunal provided for under the constitution, a process to amend the Leadership Code Act commenced in 2009. The IG had caused vacation from parliament by the member due to failure to declare his income, assets and liabilities.

It took eight years to have the amendment passed. While the amendment provided for the Leadership Code Tribunal as sought, other important provisions of the Act were removed which have hindered, for instance, the enforcement of the Leadership Code Act. The declaration of the incomes, assets and liabilities of the spouse, children or dependants was removed. The speaker noted that through experience, most illicitly acquired assets were conveniently hidden in the names of spouses, children or dependants of the declarants.

Another challenge in the amendment of the Leadership Code Act was removal of major breaches of the Act, such as false declarations and excess or under declaration of property. This strongly affected the verification reports that found cases of false declarations and hidden assets by leaders. Nor did the amendment provide for penalties for breaches, such as failure to declare, conflict of interest and anticipatory declaration. It was therefore noted that the process of amendment of the Act had to be repeated.

Absence of a non-conviction based assets recovery legislation was also an impediment to Inspectorate of Government's assets recovery initiatives. Non-conviction-based procedures, the speaker explained, were civil and administrative in nature, and may result in voluntary settlements saving time and resources for prosecution. The absence of such legislation meant Uganda still depended on securing a conviction in court where orders for recovery were granted under the Anti-Corruption Act. The prosecution process was tedious, took a lot of time and the outcome was uncertain. However, there was resistance to enacting assets recovery legislation, because it was thought to be an abuse of human rights to recover assets before a person was convicted of an offence.

Results of the innovation

The IG-ODS had been overwhelmingly supported and successfully registered a 90.6 per cent (22,645) level of declaration compliance against the expected number of 25,000 leaders. It greatly improved the process of filing declarations of income, assets and liabilities and achieved the following benefits/advantages:

1. It was considerably cheaper for both the leaders and the IG, because it reduced human time in terms of travel to IG offices, printing costs, transport costs and data entry costs. The IG-ODS was reported to be fast, efficient and effective, and, thus, far less costly.
2. Leaders were able to submit their declarations to the Inspectorate of Government from anywhere in the world, as long as they had their IG-ODS number. They did not have to travel to any of the IG offices.
3. The system had been developed with advanced security features to guarantee safety and security of information. In addition, a number of security tests such as a penetration test, load and volume tests, usability and compatibility, among others, had also been carried out.

The system employed two-factor authentication to ensure that the right leader accessed the right form, by using: a system that generated a unique number for each leader, called the IG-ODS number; a password created by the leader; and a token sent by SMS to the mobile phone number of the leader. The system was therefore very safe and secure.

4. During the manual declarations, the leaders would submit incomplete declarations. However, with the IG-ODS, leaders were not able to submit incomplete information and thus the system had solved the problem of incomplete declarations – which had been a challenge to verification.
5. Space that had been needed for the manual declaration forms was no longer required.
6. IG-ODS had eased the process of data capture, search, analysis, comparison and retrieval.
7. Ms Kyakunda said they had commenced IG-ODS Phase II, which intended to electronically synchronise the declared data with the databases in other state agencies such as the Uganda Revenue Authority, the Land Registry and the Uganda Registration Services Bureau, among others. This process would help to validate leaders' data as well as track the assets of the leaders. This would eventually ease the process of investigations and assets recovery where need may arise.
8. She went on that the IG-ODS was an invaluable tool in assets recovery efforts. The IG-ODS contained personal financial information of high net worth Public Officers. The database aids asset tracing and verification as well as Assets recovery.
2. Identifying key partners for the project at all levels, both internal and external, was very important. These partners may offer, financial or technical support. The IG identified the following partners: National Information Technology Authority – Uganda (NITA-U), the Ministry of ICT, the Directorate of Ethics and Integrity and the Uganda Revenue Authority. Externally they received support from the StAR Initiative/World Bank, UNDP, DANIDA and Strengthening Uganda's Anti-Corruption and Accountability Regime (SUGAR) Technical Advisory Facility (TAF)/DFID.
3. Developing the system in-house saved on costs for upgrades and scope changes. Besides cost reductions, the development team was able to easily translate the requirements into the system, because they understood the internal workings of the organisation.
4. It was important to document the process at every stage of development.
5. A decision was taken to completely phase out the manual system/paper-based declarations. This decision helped leaders to adapt faster to the use of the online system. The development of the system was phased to ease the implementation of the project. Phase I was completed by development of the user interface and basic reports. IG had embarked on Phase II, which involved upgrading of the user interface and development of the Electronic Verification Tool.

She observed to the conference that the information contained in declaration forms (for example, personal details like addresses, phone contacts, national ID numbers, TIN; cost and date of purchase, along with location and usage of assets; and bank accounts) was indispensable for assets tracing and recovery.

Reflections and lessons learnt

She said several lessons had been learnt in the implementation of the IG-ODS:

1. That the support of top management of the institution was key to the success of the project. If management was not engaged in the development and implementation process, the project could fail.
6. Phase III would involve full integration with other government databases.
7. It was important to train key officers and Focal Persons in every institution with a backup team of committed IG staff both at headquarters and regional offices.
8. Also key was to conduct continuous public awareness building and sensitisation through use of radio and television programmes, and developing information, education and communication materials such as manuals and brochures.

Conclusion

Ms Kyakunda concluded her presentation by stating that based on the benefits achieved, it was recommended that countries with assets declaration regimes in their jurisdictions should explore the possibility of electronic web-based declarations, as this could be an important tool in faster assets tracking and recovery. This, she said, enabled the system to store a large number of declarations securely and in formats that could be easily analysed. In addition, it built the capacity of staff to bring about in-house innovations.

Plenary

Lesotho wanted to know who *'the leaders'* referred to in Uganda's presentation were. In response, Uganda said they were provided for in a leadership schedule and included people from the top to heads of departments, then those in the judiciary and parliament. Lesotho also asked Uganda if it had assets recovery and forfeiture incorporated into law. Uganda responded that UNCAC had been incorporated into the anti-corruption laws of Uganda. The anti-corruption body did not need to go to court to get an order; it could issue one directly. She cited an example of a young man of about 40 years old, found with 120 land certificates. Upon commencing forensics, it was discovered that he had even more. Assets recovery and forfeiture was being used effectively to prosecute him.

Cameroon wanted Mauritius to clarify how and where video interviews were conducted. Mauritius responded that interviews were carried out with video recording openly in the interrogation room. This, she said, was done to prevent allegations that confessions had been performed in a coercive manner.

ZAMBIA: 'Partnering towards Assets recovery and its Returns', presentation by Clifford Moonga on behalf of Zachariah Phiri, Director-General Anti-Corruption Commission, Zambia



Presentation by Mr Clifford Moonga

The presenter explained that Zambia was a signatory to the United Nations Convention against Corruption (UNCAC) and had since its membership endeavoured to abide by and implement the requirements and provisions enshrined in various instruments, including meeting resolutions.

He pointed out that the theme **'Partnering towards Assets recovery and Its Returns'** could not have come at a better time. This was because criminals engaged in financial and economic crimes had for a long time looked at corruption as a lucrative evil, as they continued to benefit from proceeds of crime even after being convicted. This trend of criminals having access to the proceeds of crime had immensely contributed to underdevelopment in developing countries. This conference, and its theme therefore, he said, should be an opportunity to enhance the various best practices so far identified to improve assets recovery measures and the management of recovered assets.

He pointed out that Zambia had, to a certain extent, made developments in assets recovery. The country had forged partnerships with other jurisdictions to ensure that illegally acquired assets, which in most cases were externalised outside the country, were returned.

Background to assets recovery in Zambia

Prior to Zambia domesticating UNCAC in 2010, the country had relied on the Corrupt Practices ACT of 1980 – which was later amended in 1996 and became the Anti-Corruption Commission Act, Chapter 91 of the Laws of Zambia and the Penal Code – as the principal pieces of legislation used in the fight against illegally acquired assets. However, these laws were not effective enough, as they were not responsive to advances in technology. The style and manner, as well as sophistication involved, in the commission of financial crimes was to a considerable extent and beyond the ambit of that legislation, hence the need to amend the law as well ratify and domesticate some initial instruments, conventions and protocols.

To this effect, Zambia ratified the following initial instruments, inter-alia:

- United Nations Convention against Corruption
- The African Union (AU) Convention on Preventing and Combating Corruption
- Southern Africa Development Community (SADC) Protocol against Corruption

Additionally, in 2010, the country enacted the following **legal provisions**:

- Forfeiture of Proceeds of Crime Act of 2010
- Financial Intelligence Act of 2010
- Public Interest (Whistleblower Protection) Disclosure Act of 2010
- National Prosecutions Act of 2010
- Plea Negotiations and Agreements Act of 2010

Prior to 2010, however, the country had put in place the following laws aimed at assets recovery:

- Prohibition and Prevention of Money Laundering Act of 2001
- Banking and Financial Services Act
- Bank of Zambia Anti-Money Laundering Directives
- Banking and Financial Regulations of 2003

He noted that to ensure compliance to the greatest extent possible, Zambia had embarked on the revision of the Anti-Corruption Act, with

a view to domesticate the initial instruments mentioned earlier to which Zambia was a party. All the initial and regional instruments mentioned were domesticated in 2012 in the Anti-Corruption Act No. 3 of 2012 and this was the legislation the country was now using. The country had also embarked on another legislative review process starting with the Anti-Corruption Act to align it to the constitutions which were amended in 2016 and to bring it in line with initial best practices.

In addition, he said, the legislative review process would be the precursor to the development of regulations to various pieces of legislation and would involve different stakeholders, as enshrined in the National Anti-Corruption Strategic Plan (2017–2021). Additionally, under the said Strategic Plan, several laws had been identified which required further harmonisation and refining. It was hoped that the exercise could be concluded as soon as possible.

Assets recovery efforts in Zambia

Currently, the presenter said, cases of money laundering and other economic and financial crimes were dealt with by the Anti-Money Laundering Unit of the Drug Enforcement Commission, the Anti-Corruption Commission and the Anti-Frauds Department of the Zambia Police Service. However, in order to effectively deal with forfeiture of stolen assets and management of recovered assets, the Government of the Republic of Zambia had approved a revised operational structure of the country's National Prosecutions Authority (NPA), so that it could include the Asset Forfeiture Unit. The unit would also be mandated to implement the Forfeiture of Proceeds of Crime Act.

The Asset Forfeiture Unit at NPA was not yet operational, because the institution was still developing regulations to guide its operations to make it compatible with the procedures and processes of other law enforcement agencies involved in combating economic and financial crimes.

Another effort, Mr Clifford Moonga said, was that Zambia was a founding member of the Assets Recovery Inter-Agency Network of Southern Africa (ARINSA). Through this agency, Zambia hoped to enhance its determination to deprive criminals of their ill-gotten profits through exchange of intelligence information, capacity building and

providing recommendations to SADC and the AU on tackling corruption and financial crimes.

He pointed out that Zambia was a member of the International Police (Interpol), which had helped the country to speedily recover stolen assets and had also helped other countries recover their stolen assets in Zambia – especially in instances where mutual legal assistance had proved to be difficult to obtain.

A success story of assets recovery for Zambia

In 2002, the Anti-Corruption Commission (ACC) instituted investigations into suspected corruption against a company called TEDWORTH Properties Incorporation Limited, which was incorporated in Panama. This was in relation to the manner in which four real estate properties had been acquired in Zambia.

Investigations into the case revealed that the properties were being managed by Zambians, but the managers refused to disclose who the real beneficiaries of the properties were. This scenario led to the Anti-Corruption Commission (ACC) making a public gazette notice in the media as per legal requirements. The notice made provision for any ownership claimants of the properties to come forward. After three months, no ownership claim had been made on the properties and the ACC issued a legal order for them to be forfeited to the state.

Realising the action taken by the ACC, TEDWORTH Properties then approached the High Court claiming ownership of the properties and accusing the ACC of having illegally issued the forfeiture notice. In 2010, the High Court of Zambia ruled in favour of TEDWORTH Properties and asked the commission to account for the management of the properties. Following the ruling by the High Court in favour of TEDWORTH, the ACC made an appeal in the Supreme Court of Zambia. In 2016, the Supreme Court overturned the High Court ruling, stating that the gazette notice by the ACC on the properties was legal and that all the disputed properties should be forfeited to the state. It was also learnt that the properties, whose beneficiaries were initially unknown, belonged to the late and former Republican President of Zambia, Dr Frederick Chiluba.

By 2017, the forfeited properties had a market value of **US\$400 million**. While the case was ongoing, the real estate properties were rented to various clients and had accumulated rentals of more than **US\$40**

million in a local currency bank account and over **US\$1.2 million** in a foreign currency bank account in Zambia.

Challenges in assets recovery

Many challenges had been identified that were delaying institutional efforts to deprive criminals of stolen property. These challenges included:

- **Incompatibilities between legislation and court processes:** Legally, it was noted that restriction notices on properties tended to be time-bound, with a specific timeframe within which they were active, while investigations tended to take longer than the period of the restriction notices.
- **Lack of co-operation:** Cases that were transnational in nature tended to be difficult to deal with, especially in instances where there was no bilateral agreement between the countries.
- **Lack of technical expertise:** The area of assets recovery was relatively new. This therefore meant that professionals involved in assets recovery and management of forfeited properties had inadequate expertise to institute appropriate processes.
- **Demands by countries that held tainted properties to retain 20 per cent worth of the forfeited properties:** Countries that held tainted property had demanded to also benefit from the forfeited property, a situation which some countries described as being inappropriate in terms of law enforcement.
- **Variations of offences:** Matters or actions that may be criminalised as constituting corruption in one jurisdiction may be considered to be customary in others, thereby posing a challenge when it came to transnational financial crimes.
- **Lack of a dedicated and effective inter-agency co-operation mechanisms for assets recovery:** Although networks such as ARINSA exist, these did not oblige countries to attend to requests such as mutual legal assistance from other countries. ARINSA was only a platform through which willing members could exchange intelligence information.

- **Inadequate financial resources:** This posed a challenge to developing countries to follow up on assets secreted in foreign jurisdictions and to deal with lengthy legal processes – which may require considerable international travel.

Lessons learnt and way forward

- Fighting corruption required commitment, patience, courage and professionalism in the midst of adversity.
- Given the complexity involved in recovering stolen assets, there was a need to expand on building and disseminating knowledge and international best practices.
- There was also the need to develop effective and co-ordinated approaches for practitioners in both requesting and requested states.
- The Stolen Asset Recovery (STAR) Initiative should be utilised fully in investigating complex international corruption cases involving tracing of proceeds of crime, which were commonly disguised and mingled with legitimate funds.
- Asset forfeiture units could be established and operationalised to effectively deprive beneficiaries of ill-gotten proceeds and instrumentalities of crime. These units could also be used to manage and control confiscated properties.
- All UNCAC states parties needed to co-operate and demonstrate full commitment in assets recovery and the return of proceeds of crime. They should also make available contact persons or institutions as technical experts in international co-operation and assets recovery, in order to make it possible for effective support in meeting legal requirements – especially in the area of mutual legal assistance.

Country visits

The speaker reported that in 2017, Zambia did not visit any country for benchmarking and neither was it visited for a similar purpose. However, various countries, including Botswana, South Africa and Mauritius, were visited by Zambia for capacity building programmes.

Conclusion

The presenter concluded his presentation by asserting that recovery of assets and management of forfeited properties was a great step in tackling economic and financial crimes, especially in this era where criminals were seen to be benefiting from stolen properties.

As Commonwealth countries in Africa, he hoped that through the exchange of information at the meeting, members would tap into opportunities that could contribute to them having greater capacities to trace, freeze and confiscate the proceeds of crime. Only then could they boast of leaving the criminals with nowhere to hide and begin looking at corruption and other related financial crimes as an atrocity against humanity.

NAMIBIA: 'Namibia's context in the Fight against Corruption', presentation by Tobias Amoonga, Anti-Corruption Commission



Presentation by Tobias Amoonga

The presenter established that Namibia has a constitutional democracy, with separation of the three branches of state, namely: the legislative, the executive and the judiciary. The democratic system also includes a parliamentary two-chamber system comprising the National Assembly (law-making body) and National Council (House of Review). Thus, in 2003, the Anti-Corruption Act was enacted and came into operation in 2005. Then, the Anti-Corruption Commission (ACC) became fully operational in 2006, with the mandates to receive

or initiate and investigate allegations of corrupt practices; educate the public and disseminate information on the evils and dangers of corruption; and take measures for the prevention of corruption in public and private bodies.

Namibia's Vision 2030, NDPs 1–5 and Harambee Prosperous Plan (HHP)

Since 1995, every fifth year, Namibia develops a five-year National Development Plan and, in addition, a Harambee Prosperous Plan, which was introduced in 2016. In all those national plans, fighting corruption had been one of the target issues. The realisation of the need to do more had resulted in the issues of transparency and accountability being accorded a central role in the Harambee Prosperity Plan under the two sub-pillars:

- accountability and transparency; and
- improved performance and service delivery.

Namibia's New Public Procurement Act

The speaker went on to explain that the new Public Procurement Act No.15 of 2015, which came into effect on 1 April 2017, generally aimed to regulate the procurement of goods, works and services, the letting or hiring of anything or the acquisition or granting of rights for or on behalf of, and the disposal of assets of public entities. It aimed to:

- establish the Procurement Policy Unit and the Central Procurement Board of Namibia and provide for their powers and functions;
- provide for the procurement committees and procurement management units and their powers and functions;
- provide for the appointment of bid evaluation committees and their functions;
- provide for procurement methods and bidding process, bidding challenge and review;
- provide for preferences to categories of persons, goods manufactured, mined, extracted, produced or grown in Namibia, to Namibian registered small and medium enterprises, joint venture businesses, local suppliers, contractors and service providers; and incidental matters.

As was reported by Namibia at the Seventh Commonwealth Review Meeting of Heads of Anti-Corruption Agencies in Africa in 2017, the Central Procurement Board was established to further enhance transparency and the Ministry of Finance set up a special unit (the Procurement Policy Unit) that would investigate concerns regarding the adjudication and award of tenders and give feedback to the public. Internal Institutional Procurement Committees were established in each office, ministry and agency. All these had come into effect on 1 April 2017. Equally, tender exemptions due to the creation of artificial emergencies were no longer condoned. Moreover, a national workshop was conducted in April 2017 for all public institutions to introduce the new Public Procurement Act and strictly enforce its implementation by all offices, ministries and agencies.

Whistle-blower Protection Act and Witness Protection Act

The Whistle-blower Protection Act 10 of 2017 and Witness Protection Act 10 of 2017 had been passed by parliament, though they were yet to come into force. They would come into force on a date to be determined by the Minister of Justice in the *Government Gazette*.

National Anti-Corruption Strategy and Action Plan (NACS)

Mr Amoonga continued that NACS had been approved by the Cabinet in August 2016 and was officially launched on 26 September 2016. It aimed to bring all stakeholders 'under one roof' to make their contribution in the fight against corruption for a corrupt-free nation. It would be realised through the achievement of six strategic objectives, which rested on a number of institutional pillars; these jointly supported their attainment by:

1. increasing the level of political accountability;
2. preventing corruption in government offices, ministries, agencies and state-owned enterprises;
3. strengthening efforts to deter corruption;
4. conducting extensive anti-corruption education;

5. preventing corruption in the private sector; and
6. engaging civil society and the media in combating corruption.

He reported that a Steering Committee had been established to monitor and evaluate the implementation of the strategy. The committee compiled quarterly and annual reports, which informed on progress on the implementation of the strategy. An induction workshop provided NACS Steering Committee (NACSC) members with a mandate for their role in overseeing the implementation of the strategy. The NACSC was divided into four clusters, with each cluster overseeing the implementation of activities under one or two NACS Strategic Objectives. The NACSC and clusters were assisted in their deliberations and activities by a Secretariat housed at ACC.

The outcome indicators in these documents, which were also outcome indicators for the strategy, included: increased ranking on the Mo Ibrahim Sub-index of Accountability; improved ranking in Africa as measured by Transparency International (TI); full implementation of the NACS by 2019; and an improved TI Index (score).

While the Namibian government aimed for improvement in the Mo-Ibrahim and TI ratings, the actual results had either stayed the same or slightly worsened.

As of end of March 2018: 54 per cent of all NACS activities had been completed; 13 of the 22 implementing bodies (59%) were known to be implementing NACS actions; seven (7) organisations had activities related to increasing transparency, with 45 per cent of these activities in the process of being implemented; and eight (8) policies/legislations were in the process of being amended/ enacted/ addressed.

Three (3) **policies/legislations** had been completed. They were: the Whistle-blower Protection Act 10 of 2017; the Witness Protection Act 10 of 2017; and the Self-Regulatory Code of Ethics and Conduct for Namibian Print, Broadcast and Online Media.

Education themes focused on: procurement; anti-corruption awareness; Electoral Act No. 5 of 2014 provisions; integrity and ethics; and the Code of Ethics and Conduct for the Media, reaching more than 6,300 participants.

Strategic Objective 1

The presenter highlighted that under Strategic Objective 1, public institutions were addressing specific vulnerabilities by systematic implementation of prevention measures. The Anti-Corruption Commission (ACC) had conducted five (5) corruption risk assessments of public institutions, while consolidation of the Public Enterprises Governance Act was being drafted through the Ministry of Justice to enhance transparency and integrity in public enterprises. A comprehensive manual on *Policy Frameworks, Principles and Directives* had been approved by Cabinet, and public enterprises (PEs) procurement policies were now required to be aligned with the Procurement Act of 2015.

The Procurement Policy Unit had carried out the following:

- an extensive awareness programme on the new procurement legislation; and
- training for more than 2,800 public officials and business people.

Declaration of interest was now compulsory for all public officials with the amendment to Regulation 11 of the regulations under the Public Service Act of 1995.

Strategic Objective 2

This involved activities focused on strengthening the ACC, strengthening anti-corruption legislation and addressing specific vulnerabilities in public institutions. In this respect, the ACC had created a new Division for Forensic Services. A study report on delays in corruption cases and recommendations to eliminate these had been completed and a Criminal Justice Sector Reform Task Force had been set up to address the recommendations. The Ministry of Finance Inland Revenue had established the Transfer Pricing Unit to curb illicit financial inflows/outflows. Meanwhile, the Financial Intelligence Centre was preventing the laundering of the proceeds of crime through various measures, including issuing three determinations under *Government Gazette* No. 6253 of 2017 related to understanding beneficial ownership of trusts, companies and close corporations.

Strategic Objective 3

This objective covered conducting extensive anti-corruption education. Namibia Institute of Public Administration and Management (NIPAM) had developed flagship programmes for personnel of public institutions and conducted 30 workshops for public officials. The ACC had also organised two public debates at institutions of higher learning and trained 200 life skills teachers to introduce anti-corruption themes in schools.

Strategic Objective 4

Strategic Objective 4 aimed to prevent corruption in the private sector. Two workshops were organised by the ACC in this regard: the first aimed to identify and address corruption vulnerabilities in the fisheries industry; the second focused on assessing and aligning legislation applicable to the Namibian extractive industry with international industry standards. Both workshops produced recommendations.

Strategic Objective 5

Civil society organisations and the media were involved under this strategy. The National Planning Commission had received support from the EU to review the Civic Organizations Partnership Policy, while the Media Ombudsman had developed and launched the Self-Regulatory Code of Ethics and Conduct for Namibian Print, Broadcast and Online Media.

Mr Amoonga continued that the fight against corruption had been further strengthened by the introduction of assets declaration by public office bearers. Civil servants were also obliged to declare their business interests. The government was contemplating the idea of consolidating the law on declaration of assets by public officials.

Anti-Corruption Commission

He said there were two core functional directorates under the ACC, namely: the Directorate of Investigations and the Directorate of Public Education and Corruption Prevention.

Public education: The directorate segmented public education into various programmes to be able to reach every Namibian. Programmes included: the Public Officials Awareness Programme; the Youth Outreach Programme; Faith-based Organisation Programme;

Community Outreach Programme; the Media Awareness Programme; Material Development Programme; and the Business Action Against Corruption Programme.

Anti-Corruption Education Manual: The Anti-Corruption Commission had developed a manual to accelerate preventative efforts among learners and promote a culture of anti-corruption among the youth at an early age. The manual was officially launched in 2013. It covered various corruption-related issues, topics and themes as they appeared in the Grades 4 to 12 life skills syllabi. It was developed to serve as a resource book for Grades 4 to 12 life skills teachers to help integrate anti-corruption topics into daily lessons.

The manual also aimed to engage learners through various participatory activities in the form of debates, discussions, research and drama. Training of life skills teachers on the implementation of the manual commenced in 2015 and as at May 2018, about 900 teachers had been trained. In addition, about 56 regional school counsellors in the country had been trained to monitor the implementation of the manual in schools.

Corruption prevention

The speaker said corruption prevention could not be achieved without proper management of public and private institutions and resources, by means of effective implementation of government policies, systems, procedures and programmes. In view of the above, Namibia had thus adopted an Integrity Management (IM) Programme and Policy and System Analysis Approach. To further strengthen corruption prevention, an *Ethics and Anti-Corruption Reference Guide* was also developed as to implement annual ethics training for all offices, ministries and agencies' staff and private enterprises.

Ethics and Anti-Corruption Reference Guide: As per the requirement in NACS Strategic Objective 2 (Action 2.1.5), ACC, permanent secretaries of all offices, ministries and agencies, boards of private enterprises and integrity committees in all offices, ministries and agencies were required to implement compulsory annual ethics training for offices, ministries and agencies' staff and private enterprises. The ACC developed an *Ethics Guide* in response to this requirement. The guide was primarily intended to be used by the ACC in training

public officials on ethics and anti-corruption. However, it could also serve as basic reference on ethics and anti-corruption.

It should be noted that there were other guides produced by the ACC to complement this guide. These included the *Corruption Risk Assessment Reference Guide* and the *Public Education and Corruption Awareness Reference Guide*.

Partner exchange, peer-to-peer engagements and remaining challenges

Mr Amoonga explained that the Directorate of Public Education and Corruption Prevention (DPECP) had prioritised skills development as an important element to achieve its goals. In 2017/18, an on-job training on system examination had been planned. In this regard, a study tour to the Independent Commission Against Corruption (ICAC) in Mauritius was undertaken by two staff members from DPECP on 6–8 February 2018.

The study tour was prompted by the remarkable achievement made by ICAC in preventing corruption, particularly, the method in which ICAC conducted systems examination. Therefore, the aim of the study tour was to benchmark on the processes of examining practices, systems and procedures in an organisation. The knowledge acquired would assist ACC staff members to broaden their knowledge and skills on conducting systems examinations.

In terms of challenges, the speaker said that financial constraints and lack of training in specialist skills such as forensic investigations and corruption prevention remained issues among ACC staff.

Conclusion

In conclusion, the presenter said that with the Anti-Corruption Strategy and Plan of Action, the ACC intended to strengthen good governance. The Anti-Corruption Commission would, therefore, resources permitting, undertake at least one benchmark visit during the current financial year.

The Anti-Corruption Commission had carried out its mission to lead the fight against corruption in Namibia, as mandated by both the Constitution of the Republic of Namibia and its enabling legislation. The primary mandate of the commission was to combat corruption, hence, the commission intended to learn from international good practices.

Plenary

Cameroon asked Zambia if it had received assistance from Interpol on assets recovery. Zambia confirmed that assistance had been received in relation to a matter where a search was conducted at the residence of a suspect who had proceeds of crime.

Nigeria asked Zambia how the country co-ordinated the activities of the different organisations to prevent conflict of interest and also how administrative forfeiture was undertaken in the country to prevent human rights infringements. In response, Zambia said three agencies had forfeiture units and regulations that were cross-cutting, which created some duplication. Further, Zambia gave an instance where assets belonging to a former President were attached and the defence team argued that there was a violation of human rights, even though during the course of investigation the former President distanced himself. Yet when the case went to court, his lawyers claimed the property belonged to the former President's wife. Nonetheless, the Supreme Court ruled that there was no violation of human rights.

Cameroon asked to what extent public sensitisation was carried out in both Zambia and Namibia, and what was being done about public education. The response from Namibia was that the agency was mandated to sensitise and solicit support.

Agenda Item 4: 'Asset Tracing and Recovery – an International Perspective', presentation by Jonathan Tickner and Nick Vamos, partners at Peters and Peters Solicitors LLP, UK

'Third Party Funding of International Litigation', presentation by Neil Purslow, Founder and Director at Therium Capital Management Limited



Presentation by Jonathan Tickner

In their presentation, the partners explained that the problem of money laundering had been estimated to have cost Africa between 30 and 60 billion dollars each year in terms of bribery and misappropriation of funds and other corrupt acts. This was a sum that equalled over half of the resources spent funding education for the entire continent.

In explaining the intricacies of international assets tracing and recovery, they said there was no 'one size fits all' solution as the scale of global corruption was too big to be tackled by the criminal justice system alone.

Assets tracing and recovery tools could be applied through the criminal process and international mutual legal assistance or through the civil process. This could entail seeking worldwide freezing and disclosure orders; third party disclosure orders; search and seizures orders; passport orders; and securing and enforcing foreign judgments. It could also be through UN, EU-level restrictions via misappropriation sanctions.



Presentation by Nick Vamos

The presenters said any given case could involve navigating governments, corporations, law enforcement agencies, regulators, financial institutions, non-governmental organisations (NGOs), politically exposed persons (PEPs) and high-net worth individuals.

They said when tracing assets you needed speed. There existed problems of limited access to financial intelligence and the high evidential burden in criminal prosecution, citing Nigerian James Ibori and Sani Abacha's example and the delay in the recovery process for traced assets.

They expanded further on civil assets recovery as a useful tool, especially where proceeds of crime had been identified but it was not possible to secure a conviction, or where a conviction had been secured but no confiscation order made, or where assets were restrained but had not been forfeited. Claimants could ask the High Court for an order of damages, restitution and other interim orders that could prevent funds from being dissipated.



Presentation by Neil Purslow

The four stages of assets recovery, as detailed by the presenters, were:

Stage 1: Triage/preliminary case assessment. This includes intelligence gathering, investigation and establishing the tracing strategy, identification of preferred jurisdiction, causes of action to be taken and determining availability of third-party funding.

Stage 2: Evidence gathering. This process involves working with forensic IT experts/accountants, relating with regulatory bodies, civil society organisations and collecting evidence from offshore jurisdictions.

Stage 3: Securing assets/evidence. This involves securing the assets and evidence in the case of possible litigation and enforcement, through such measures as search orders, worldwide freezing orders, receivership orders and passports orders.

Stage 4: Enforcement and confiscation. This is the effective implementation of the three stages above.

Plenary

Mauritius asked, in order to get a disclosure order from a bank in another jurisdiction, what was the minimum evidence that needed to be provided. The presenter's response was that applying for an order was not easy but possible. He added that the case still had to be prepared and all evidence provided. He said it was necessary to show that there was applicable law in Mauritius that the person had breached the law.

Malawi was concerned about appellate procedure for civil forfeitures. Mr Tickner responded that in terms of statute of limitation, the rule was six years from the date of knowledge under English law. To convince the court, an explanation had to be provided as to why proceedings did not commence as soon as becoming aware of the stolen funds.

Mr Femi Falana, SAN, from Nigeria added to this by stating that he had a fiat from the Attorney-General of Nigeria to pursue banks that had Abacha funds and had traced funds to more than 150 banks around the world. However, when he wrote to them, they replied that the statute of limitation had passed. He wanted to know if that would apply to criminal issues that may involve the bank, taking into consideration the case of the Mau- Mau Police in Kenya, which happened in the 1950s and the UK government had to settle.

Rwanda wanted to know about the responsibility of countries that received illicit funds through their banking system but remained quiet. When repatriation of assets happened, it took many years.

Responding, the presenters said it was not necessarily a problem of political will, because technical issues must be dealt with when using mutual legal assistance (MLA). The legal process must be followed, which placed legal obstacles in the way of the victim country. They added that what could be seen as a lack of desire to act could be due to legal issues.

A delegate sought to know if the partners had any experience to share in respect of assets tracing and recovery from the 'Panama Papers'. They responded that they had not acted on any cases for claimants, but had given legal advice to clients whose identities they could not disclose.

Elsa Gopala Krishnan, the representative from StAR/UNODC, wanted to know if the law firm had dealt with the government directly and was curious to know what criteria had been used to pull out of an engagement, particularly when the government had committed resources to the recovery process. In their response, the presenters stated that they had not dealt with government directly, but through law firms. In principle there was no impediment to dealing with government, they added, but it was more comfortable dealing with large law firms.

On disengagement, they said the code allowed for termination when 'it goes south'. However, they had not had cause to use the termination right in that way. What usually happened was that if things began to go wrong, they tried to settle rather than walk out.

DAY 3: 16 May 2018

Agenda Item 1: Country Presentations

TANZANIA: 'Innovative Project Done in the Fight Against Corruption', presented by Mr Valentino Mlowola



Presented by Mr Valentino Mlowola

Mr Valentino Mlowola reported that according to the Corruption Perception Index of 2017 issued by Transparency International, Tanzania was the second least corrupt country in the East Africa Region, being preceded by Rwanda, and the 103rd least corrupt country in the world.

He briefed that the National Anti-Corruption Home Grown Indicators Survey carried out by the government (the Prevention and Combating of Corruption Bureau [PCCB]) in 2017 showed that the country's overall corruption index – based on both perception and quantitative measures – stood at 63.5 per cent, while the overall index of anti-corruption efforts was 31 per cent. This suggested that more efforts were required, since there was still a substantial level of corruption while the extent of anti-corruption efforts was rather low.

He further reported that the Mo Ibrahim Index on African Governance Report of 2016 placed Tanzania in 17th position among 54 African countries, scoring 57.5 per cent. A recent 2017 survey carried out by the NGO TWaweza showed more than 80 per cent of Tanzanians interviewed believed that corruption had been eradicated.

Success stories

According to the presenter, one of the success stories recorded by the PCCB was the establishment of the Asset, Tracing and Recovery Unit within the unit in 2014, mainly to investigate unexplained property. Another success recorded was that Tanzania had developed a system of blacklisting companies convicted of corruption. Once a company was found to have been involved in corruption under Section 62 of the Public Procurement Act No.7 of 2011, the company would be blacklisted and barred from participating in further tenders. Examples of blacklisted companies for the previous year include Oxford University Press East Africa Limited, China Communications Construction Company Limited, China Geo-Engineering Corporation and NORCONSULT.

He said that PCCB was being supported by the Basel Institute on Governance (Switzerland) in the area of financial investigation, asset tracing and recovery. Experts from the Basel Institute were based at PCCB Head Office to work with investigators and prosecutors on a daily basis. This had added great value to the work and PCCB officers were learning from them. Alongside this programme, a number of PCCB, DPP and FIU officers had been trained and Basel Institute then identified four officers who underwent a special training of trainers programme on financial investigation, asset tracing and recovery to become certified trainers. They were now training other PCCB investigators based in the regions and districts.

Innovation 1: Introducing the subject of anti-corruption in primary schools

The PCCB, in collaboration with the Tanzania Institute of Education (TIE), had entered into an agreement to introduce anti-corruption as a

subject as part of primary schools' curriculum. This was a milestone achievement in the fight against corruption in Tanzania, as youth were a target group for changing the mindset of the country's people.

Innovation 2: Provision of an anti-corruption training package in every government workshop and seminar

The Government of Tanzania issued a circular to all CEOs to make sure they invited a PCCB officer to provide training on anti-corruption in every government seminar and workshop they conducted.

Challenges

Outstanding challenges were reported by Mr Mlowola as follows:

- **International co-operation** on investigating grand corruption cases through mutual legal assistance. He said it took longer to receive a response for requested evidence from abroad and sometimes other countries refused to co-operate.
- **The ineffective regime of legal sanctions.** This was evident when the legal sanctions provided by the Prevention and Combating of Corruption Act (PCCA), 2007, were examined. They appeared to be lenient, with the preference for fines over imprisonment 'watering down' the legal sanctions that were important to punish offenders and discourage potential offenders from indulging in corruption.

Plenary

Cameroon wanted to find out if it was possible to have the list of blacklisted companies found to have been involved in corruption in Tanzania. He further enquired on what the reactions of governments were when they were discovered and if the cases had been taken to court. He said this would be interesting for Cameroon, as there were many companies involved in similar cases in his country. Tanzania responded that when procurement procedures were flouted, companies were blacklisted. This he considered to be enough punishment, because they were then denied the opportunity to participate in contracts. At the same time, going to court could take a lot of time.

South Africa recognised the large stakeholder engagement in Tanzania and enquired as to how large the PCCB workforce was. Tanzania responded that the PCCB was located in every district in Tanzania and had a department of community education which carried out sensitisation using technology (mobile phones etc).

Sierra Leone asked about the rhetoric of the new Tanzanian President in fighting corruption and the tendency for such enthusiasm to get in the way of legal realities. He also enquired if the political rhetoric was getting in the way of the work of the PCCB. Tanzania agreed that it was common for new Presidents to make promises to fight corruption; however, the current President was resolute in his promise and asked for patience. He nonetheless said it was necessary to strengthen institutions – to not only have 'strong men'. He asked for support in the fight against corruption.

Ghana was interested in knowing how large PCCB's budget was. He also asked why PCCB considered inadequate support from the public to be a challenge. Tanzania responded that PCCB had a presence in every district and conducted seminars in every village. The budget received by PCCB was not very much, though sufficient. He added there were ongoing talks with the government to increase the budget.

Namibia requested a copy of the communiqué developed in the UK, so as to sensitise his government on actions regarding anti-corruption measures. Tanzania appealed to the Commonwealth Secretariat to share the communiqué from the conference, which commented on beneficial ownership registry.

GHANA: Presented by Martin Amidu, Ghana Independent Special Prosecutor



Presented by Martin Amidu

Mr. Martin Amidu, the newly appointed Special Prosecutor of Ghana presented the work of the special prosecutor in Ghana: its prospects and challenges. He said the Office of the Special Prosecutor, subject to the Constitution is not subject to the direction or control of a person or an authority in the performance of its functions. It makes it abundantly clear that subject to clause 4 of article 88 of the Constitution, the Office shall for the purpose of the Act be authorized by the Attorney General to initiate and conduct prosecution of corruption and corruption related offence. This is the provision which arguably cedes the prosecutorial authority of the Attorney General for corruption and corruption related matters to the Special Prosecutor. He explained the functions of the Special Prosecutor. Its divisions, secretariat, and other staff of the Office and the fact that the office has Police and Other powers. In terms of his vision for the Office, he stated that "I intend to be the leader that will bring that change in Office of the Special Prosecutor to actualize the desire of Ghanaians to see a change in the strategy and tactics of dealing with the fight against corruption and graft". He said that to enable the office to achieve the above vision it is a necessity for the office to be Independent and Impartial, and that it is needless for public officer or political officeholder to fear the Special Prosecutor's Office. He concluded by stating that the Office of the Special Prosecutor

is lucky to be the beneficiary of powers and authorities which its predecessor anti-corruption agencies did not have to fight the persistent canker of corruption which has at every turn of the momentum to liquidate it in one epoch finds regeneration in another. Ghanaians expect that the Office of Special Prosecutor under my watch should meet their expectations of dealing with the canker in a manner that makes crime, crime and not politics. The fight this time round shall transcend political party and government boundaries. God willing, holding a political party membership card will cease to be an insurance against the crime of corruption and corruption related offences under the Office of the Special Prosecutor. In the meantime, all I could say is: Let us let time tell whether we succeed or we fail.

Plenary

Uganda advised the Ghana Special Prosecutor not to underplay the power of politics in the fight against corruption, given that politics was, he said, quite insidious. He further advised that Heads of ACAs should learn to have their politics right without being partisan. Another observation made by Uganda was the requirement for complainants to sign and thumbprint the complaint.

In his response, the Ghana Special Prosecutor thought it was a mistake for politics generally to be limited to partisan beliefs. He believed everyone was political but should not be influenced by partisan politics. He said that was why in society there were groups of people with 'like minds'. Africa could never make progress if countries allowed politicians to dictate their work. With respect to the question on requiring complainants to sign complaints, he said the law required it; however, if the complainant had not signed, the office could still investigate.

SOUTH AFRICA: 'Innovation through Strategic Thought and Governance', presented by Nazreen Pandor



Presented by Nazreen Pandor

The presenter informed the conference that South Africa had a five-pronged approach to innovation: organisational innovation, organisational reform, criminal asset recovery fund, innovative targets for growth and benchmarking.

On organisational innovation, the presenter said the strategic focus was to achieve appropriate legal outcomes against perpetrators of maladministration and corruption, and to influence proactively the systemic and behavioural root causes of administrative irregularities and corruption.

In terms of organisational reform, the presenter said the Special Investigating Unit (SIU) was re-designing the current organisation structure to become a blueprint for how forensic investigations and civil litigations were carried out in the public sector. In doing so, they were currently conducting a thorough organisation diagnostic focusing on the organisation's culture, roles, positions and strategic framework. The reasons she gave for the reforms were to enable the SIU to make a significant impact in combating corruption and preventing maladministration across all spheres of government, as well as positioning the SIU as the preferred forensic investigative and trusted civil litigation professional service provider.

On innovative targets for growth, the presenter said the implementation of relevant and proactive initiatives was taking place to prevent the reoccurrence of fraud and corruption cases as a result of systemic weaknesses in the public sector and to positively influence the behaviour of South African citizens. The presenter further highlighted the following sub-programmes as being critical to the growth process: prevention and advisory, market data analytics, central case registration and monitoring, case assessment, case management and investigation, and forensic legal and civil litigation sub-programmes.

Regarding innovative use of recovered funds, the presenter said Cabinet had approved 42 million rand (R) to the SIU to support the Anti-Corruption Task Team (ACTT). These funds were broken down as follows:

- R23 million for communication strategy activities in line with the Anti-Corruption Strategy;
- R8.2 million to develop a National Anti-Corruption Strategy for South Africa;
- R5.8 million for training of government officials through DPSA and the National School of Government; and
- R5 million for the establishment of the Special Tribunal under the SIU Act, conditionally recommended to the project.

Finally, on benchmarking the presenter said a study tour had been carried out to the Independent Commission Against Corruption (ICAC), Hong Kong.

Swaziland: 'Innovative Projects in the Fight Against Corruption', presented by Dr Ndiphethe Olive Mabila

According to the Swaziland's presenter, the country's Anti-Corruption Commission (ACC) had the legal mandates of prevention and education, investigation and prosecution.

Dr Mabila gave the following as innovations carried out by the ACC to bring services closer to the people.



Presented by Dr Ndiphetho Olive Mabila

Innovative work or initiatives implemented

The Anti-Corruption Commission had continued to foster its mandate articulated in its 2014–2018 Strategic Plan, which had five (5) pillars: resourcing, legislation and policy, governance, delivery and partnerships. In the quest to improve services and bring them closer to the people, the ACC was able to:

- Bring decentralised operations to at least one region, Manzini which was officially launched in December 2017 by the Honourable Minister of Justice and Home Affairs.
- Complete a National Corruption Perception Survey in 2017 in collaboration with the Ministry of Justice and Constitutional Affairs. The results of the survey had been disseminated to the media and a few stakeholders. Further, the survey findings would be disseminated to all sectors, which were expected to identify issues related to their sector and subsequently draw up 2018/2019 action plans for their interventions.
- Carry out a risk assessment for two institutions; assessments were conducted in the private and public sectors.

- Use sport as a vehicle to disseminate anti-corruption information to public and private institutions' employees. Here a soccer kit branded with anti-corruption messages was used and educational material disseminated.
- Following public reports on corruption, it was able to undertake interventions through: surprise audits conducted for Government Agricultural Extension Services Centres around the country and capacity building for head teachers and school committees conducted as specific interventions for some schools. Here, educational material was also disseminated.
- Collaborate with the Swaziland Institute of Management Public Administration (SIMPA) on a presentation on corruption issues to groups of public officers attending the college. Efforts were also underway to extend working with other colleges to implement provision of the Prevention of Corruption Act (POCA) to new student intake.
- Launch ACC's website with a reporting feature in December 2017, which further gave the public access to report corruption complaints without having to come to the ACC offices.
- Initiate Asset Forfeiture and Information Gathering Units. However, assistance was still much needed from sister agencies to develop the units – including setting up other units that included asset tracing and forfeiture.
- Collaborate with the police in disseminating educational materials through various police stations around the country.
- Refer a total of six (6) new matters to the Director of Public Prosecution's (DPP's) Office and these were pending applications before court.

Main challenges faced

According to Dr Mabila, corruption was a key focal area in the Government Programme of Action 2013–2018 and Vision 2022. The main challenges faced in implementation of programmes centred on the following:

- Parliamentary investigation of the ACC: Immediately following the end of the ACC Commissioner's contract (Advocate Thanda Mngwengwe), parliament resolved to institute

a direct investigation into the institution calling for members of the public who were victims to come and appear before a select committee comprising of Members of Parliament (MPs). The Attorney-General was engaged for legal advice on the issue and he stated that the executive, judiciary and legislature were clients of the ACC; hence it would be simpler if the investigation was done by an independent entity. There was some 'back and forth' as the executive felt the investigation should not continue while parliament was adamant that it had constitutional power to perform the investigation. The ACC was exposed, according to the speaker, and could face being disbanded if the investigation continued. This was the last term of parliament as it had just two months before the five-year term expired. It was worth noting that some MPs had pending corruption cases, while some were aware that they were under investigation.

- Resources:
 - The ACC experienced a further decline in budget allocations along with other government entities due to financial constraints. There still remained a need to strengthen resource mobilisation.
 - The Prevention and Education Section had a staff of three (3) servicing the whole country and efforts for additional staff had been hindered by budgetary constraints.
- The slow justice system: Prosecution and finalisation of cases in court continued to be time-consuming which frustrated the course of fighting corruption and stakeholder perceptions of the institution.
- Slow Strategic Plan implementation: Implementation of the Strategic Plan was also taking a long time due to lack of resources.
- An enabling national policy had still not been finalised due to reliance on funding partners.
- Utilisation of technical assistance instruments to source assistance from sister organisations had also been slow, again due to fiscal challenges.

Plenary

Mauritius wanted to find out from South Africa if the proclamation by the President to start investigations was only for politically exposed persons and if all the technological tools used were customised for purpose or if they were available as third party tools. South Africa stated that all the cases had to have a proclamation signed by the President. Regarding technological tools, the member said the application was developed in-house by the agency.

Uganda requested South Africa to confirm if the special tribunal was provided for by law and, if not, why it had not been set in place. Uganda also wanted to know if the anti-corruption court proposed by Eswatini would be set up by legislation or by another mechanism. She further offered to share experiences with Eswatini on how to set up an anti-corruption court without legislation, as had been done in her country.

On the question of the special tribunal, Eswatini said it was in operation as far back as the 1990s, but was frustrated by lawyers who took advantage of legal technicalities and, as such, the tribunal was suspended. However, an amendment to the legislation was approved in 2012 and this addressed all the technicalities exploited in the previous law.

Namibia wanted Eswatini to confirm if the budget of the ACC had been suspended based on allegations that it was involved in corrupt acts and how the agency was operating without a budget if these allegations were true. Eswatini acknowledged that the budget had been suspended, albeit for one week, after which it was released. However, an aspect of the budget that remained suspended was the special fund used to pay informants, provision of special services and protection of witnesses.

Botswana asked the extent of education penetration carried out by South African to galvanise people on values and ethics, in view of the number and structure of the respective provinces. South Africa responded that it had stakeholder forums and worked with the premier offices as each premier had its own anti-corruption unit. She added that the various offices of the premier had entered into Memoranda of Understanding (MOUs) with the anti-corruption office.

RWANDA: 'Online Declaration of Assets System (ODAS)', presented by Mr Anastase Murekezi



Presentation by Mr Anastase Murekezi

Mr Murekezi summarised the background of the Office of the Ombudsman. He said the office was established in 2003 by the Constitution of the Republic of Rwanda; it was revised in 2015 and its mission, powers, organisation and functioning were determined by Law No. 76/2013 of 11/9/2013. He added that the main mission of the Office of the Ombudsman was to prevent and fight corruption in public, private and non-government institutions and to promote good governance, transparency and accountability. The Office of the Ombudsman was mandated to receive annually, not later than 30 June, declarations of assets from officials determined by the law and had to verify the sources of those assets. The office received the declaration of assets of political organisations recognised in Rwanda and verified their origin and use.

On innovative work or initiatives implemented, the presenter said there was an Online Declaration of Assets System (ODAS), which commenced in 2011 and was a self-service tool that allowed officials to declare their assets online. Mr Murekezi said ODAS was implemented to allow concerned officials to declare their assets from anywhere without having to travel to the Office of the Ombudsman. For the year 2016/2017, officials who declared their assets through ODAS numbered 11,148 representing 99.5

per cent. The other 53 officials (0.5%) who failed to declare their assets received administrative sanctions (retention of a quarter of their salary).

Mr Murekezi gave the following as challenges faced in implementing the initiatives:

- limited electricity and internet connectivity in rural areas;
- that the system needed to be updated vis a vis the new technologies; and
- the ICT skills of declarers.

He also gave the following as results from the online assets declaration innovation:

- Increased efficiency: ODAS was easy, efficient, a safe and cheap method of filing, reporting, tracing and recovery of assets declared.
- It provided high-quality service delivery: ODAS was a self-service tool that allowed officials to declare assets via the internet by using personal electronic devices (iPad, phone, laptop) from anywhere.
- It had transformed administration: ODAS had removed administrative procedures that used paper in assets declaration.
- Easy tracing of ones' assets: Once ODAS was integrated with other online systems in the country (the ID system, land system and revenue system), it would become very easy to identify the real assets of declarers.
- It facilitated access to and sharing of information between countries: This would help the tracing and recovery of assets, wherever they were located.
- The tool identified illicit enrichment cases; convicted officials were ordered to return illegally acquired assets. In five cases of illicit enrichment investigated by the Office of the Ombudsman, eight persons had been convicted and an amount of 984, 211,950 Rwandan francs (RF; more than US\$1 million) were to be recovered.

KENYA: 'Innovative Initiatives Implemented in the Fight Against Corruption (Success Stories)', presented by Benson Marimba on behalf of Rev. Rtd, Archbishop Eliud Wabukala, EBS



Presentation by Benson Marimba

Mr Marimba explained that the Ethics and Anti-Corruption Commission (EACC) had been established pursuant to Article 79 of the Constitution to enforce Chapter Six of the Constitution and related laws through: investigations; assets recovery; public education and awareness; review of systems of public bodies; and promotion of standards and best practices in ethics and integrity.

He said the innovative initiatives implemented included prioritisation of impactful investigations and recovery of illegally/corruptly acquired assets. He explained that prioritisation of impactful investigations took into consideration the following parameters: monetary value; complexity; personalities involved; and public interest.

The presenter emphasised the need for recovery of illegally/corruptly acquired assets, while at the same time recognising that assets recovery had emerged as a major global concern but was a difficult process even under ideal circumstances, as misappropriated funds were usually hidden abroad. He gave the following as strategies to enhance recovery: promotion of the use of alternative dispute resolution (ADR); cross-border co-operation; continuous capacity building; the

institution of assets recovery cases in court; voluntary surrenders (especially on land and government houses illegally acquired); conducting investigations that incorporate legal counsel; and a multi-agency approach.

The speaker went on to identify the following as challenges:

- **Domestic challenges:** lengthy, protracted and delayed court cases; adverse decisions by courts; inadequate co-operation by some institutions; duplication of structures and bureaucracy; a lack of overarching co-ordination; limited capacity in terms of human resources and technology; and inadequate resources.
- **Barriers under MLA:** dual criminality; delays in responding to a request under MLA; the costs involved; banking secrecy laws; variations in laws; the inability to recognise and enforce foreign confiscation and restraint orders.

Plenary

Cameroon wanted Rwanda to confirm who the officials required to declare assets were and what type of assets they were required to declare. Responding, Rwanda stated that potential officials required to declare online were all cabinet members, judges, officials in the army, the police, local government officials and all people involved in financial resources management. He however added that the law allowed the Office of the Ombudsman to annually add persons whom it considered to be at risk of corruption.

Eswatini wanted Rwanda to clarify the conditions for declaration to be carried out by relatives of a public officer, given that such a relative might be driven by vengeful motives they could compromise the reliability of the declaration. Responding, Rwanda stated that officials would be required to make the declaration of his/her spouse and children themselves. He added that if the official was newly employed, he/she had just four weeks to declare his assets and, on leaving the service, the official had two weeks to declare.

LESOTHO: 'Innovative project done in the fight against Corruption – 'Success stories'', presented by Adv. Peter Matekane



Presentation by Adv. Peter Matekane

In his introductory statement, Mr Matekane said Lesotho's three-pronged strategy of prevention, education and investigation had proved to be insufficient and, as such, the country had introduced an assets recovery strategy which he believed to be an effective strategy in the fight against corruption.

According to the presenter, in recent decades, it had become increasingly clear to the international community that the criminal justice system had not lived up to the adage that 'crime does not pay'. Criminals were for a variety of reasons able to keep and enjoy the spoils of their crime. This situation was offensive to public morality and was in itself a powerful incentive for crime. Mr Matekane said the reason for this trend was the recognition that criminal forfeiture on its own was an insufficient law enforcement tool. The development of a new strategy was civil in nature and independent of criminal prosecution. This, in his opinion, was an effective method to quickly deal with property to safeguard against its dissipation and hiding.

Mr Matekane identified the following as initiatives implemented by Lesotho: the creation of a specialist unit and expertise; integration of

assets recovery work with law enforcement work; building relationships with key stakeholders; and external partnerships.

He added the initiatives had led to the following results:

- An increase in asset forfeiture reports, the larger number generally from the police.
- An increase in number of intelligence reports, especially from the Finance Intelligence Unit.
- An increase in number of intelligence reports relating to the tax affairs of individuals, especially from the tax authority.
- Reports with a specific mandate from the Parliamentary Public Accounts Committee (PAC).
- Reports from the judiciary.
- Directorate on Corruption and Economic Office (DCEO) investigators tended to have a better understanding of assets forfeiture.
- With the assets recovery initiative, publicity and stakeholder sensitisation, Lesotho was able to freeze 1.3 billion Rand worth of contracts in various ministries involving tender corruption and procurement irregularities.
- The total number of asset forfeiture related reports cases received in 2017 was 11 and monies involved were 16.7million. The total number of reports in 2018 (January to May) was 41. the total monies involved were 1.7 billion Rand.

Plenary

Nigeria wanted clarification from Lesotho on whether managers of recovered assets were staff of the agency. Lesotho responded that they had learnt from South Africa that having external asset managers was expensive; in view of that, they had asset managers in Lesotho.

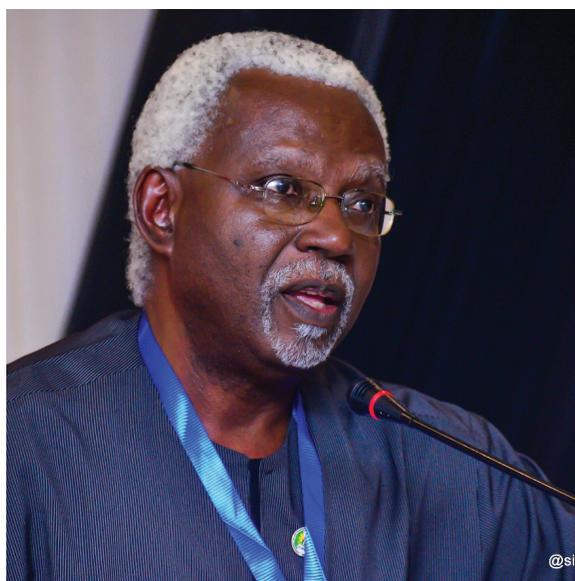
Namibia wanted Lesotho to confirm who controlled the assets recovery fund when assets had been auctioned. Responding, Lesotho said the funds were kept in an account without being spent.

South Africa wanted to find out how cordial the relationship was between the Lesotho ACA and the Financial Intelligence Centre (FIC), given that they were about to enter into an MOU with the FIC. Lesotho confirmed that both agencies

had a cordial working relationship and engaged regularly in meetings and trainings. He gave his recommendation for the MOU to be entered into.

Uganda wanted to know who bore liability in the event that the funds or assets recovered were mismanaged by the authority or in the event that a case was lost by the government. Lesotho responded that the assets were usually left in the custody of suspects. However, a valuation and inventory were taken of the assets, after which they were handed over to the suspects – thereby transferring the liability to them.

Agenda Item 2: 'Measures to Prevent Illicit Financial Flows in Africa', presented by Mr Ekpo Nta



Presentation by Mr Ekpo Nta

In his introduction, Mr Nta said when talking about illicit financial flows in Africa, there was the need to understand the mindset of African leaders. Most African leaders spent precious time jetting all over developed economies chasing 'cap-in-hand' development aid from foreign governments and donor agencies, in order to prop up substantial portions of their national budgets – especially in vital sectors like health, education, water and sanitation, and the extractive industries. He said he observed that in many African countries, the government did not adequately fund anti-corruption agencies (ACAs) but relied majorly on donor funds. This was at variance with the precondition stipulated by UNCAC that required governments to adequately fund ACAs and give them their independence.

The presenter said when the Heads of Government realised that donor funds were not coming as before, they changed focus to harnessing the illegal funds that were leaving the continent to enable them achieve their mandates. As such, they set up the High-Level Panel on Illicit Financial Flows from Africa headed by Thabo Mbeki, former president of South Africa, to achieve the following:

- determine the nature and patterns of illicit financial outflows from Africa;
- establish the level of illicit financial outflows from the continent;
- assess the complex and long-term implications of illicit financial flows for development;
- raise awareness among African governments, citizens and international development partners of the scale and effect of such financial outflows on development; and
- propose policies and mobilise support for practices that would reverse such illicit financial flows.

He said the panel made some findings, which included the following:

- Africa was haemorrhaging by losing more than US\$50 billion through illicit financial outflows annually and empirically the panel concluded that:
 - *'large commercial corporations are by far the biggest culprits of illicit outflows, followed by organised crime and corrupt practices in Africa are facilitating these outflows, apart from and in addition to the related problem of weak governance capacity. Large corporations have the means to retain the best available professional legal, accountancy, banking and other expertise to help them perpetuate their aggressive and illegal activities. Similarly, organised criminal organisations, especially international drug dealers, have the funds to corrupt many players, including and especially in governments, and even to 'capture' weak states.'*
- In order to end illicit financial flows, the report highlighted the need to have continuous research, not only by the ECA, but also by other relevant regional and national bodies

and making such research findings easily available in addressing the illicit financial flows phenomenon. It noted that African governments must have the political will to address illicit financial flows, and not leave it to only the technical capacity of its agencies and technocrats.

Mr Nta further posited that there were several strategies that could be adopted to prevent illicit financial flows from Africa. These included some of the following:

- **Specialised agencies for financial crimes** – The most critical strategy that countries needed for the prevention of illicit financial flow from Africa, was for countries that were yet to have one, to immediately set up and equip a specialised agency so that these could focus strictly on conducting research, and preventing, investigating and prosecuting economic and financial crimes on a sustainable basis.
- **Remuneration packages for anti-corruption agencies** – The remuneration package of such an anti-corruption agency should be able to attract and retain the best professional staff, who could match international and private sector counterparts. He said that during his time as the head of Nigeria's Independent Corrupt Practices and Other Related Offences Commission (ICPC), he had encouraged skilled professionals and academics to spend one or two years with the commission through secondments and sabbaticals.
- **Developing measurements for prevention** – The Federal Government of Nigeria had introduced several electronic initiatives to manage government revenue for personnel, recurrent and capital appropriations and expenditures. Some of such initiatives included the following:
 - **Integrated Personnel Payroll Information System (IPPIS)** – In terms of personnel, the IPPIS was introduced for the management of the Federal Government of Nigeria employees' records. It automatically dealt with the payment of salary and wages of federal employees, deductions and remittances of tax, and payroll deductions like health insurance, pension contributions and national housing contributions, to other third parties
 - **Government Integrated Financial Management Information System (GIFMIS)** – In terms of recurrent and capital expenditure, the GIFMIS was an IT-based system for budget management and accounting that was being implemented by the Federal Government of Nigeria to improve public expenditure management processes and resources to be more efficient and effective, enhance greater accountability and transparency across ministries and agencies.
 - **Bank Verification Number (BVN)** – The Federal Government of Nigeria had gone ahead with introducing more proactive financial management initiatives. On 14 February 2014, the Central Bank of Nigeria launched a centralised biometric identification system for the banking industry tagged the Bank Verification Number (BVN). This unique initiative, which had inputs from several stakeholders including the Banker's Committee and anti-corruption agencies, revolutionised the banking sector and provided several benefits. It also aided regulatory bodies and law enforcement agencies in weeding out thousands of ghost accounts used to siphon funds from public services and to defraud unsuspecting victims locally and internationally. As a preventive tool, it continued to save the country billions of naira and provided a verifiable means of tracking down criminals.
 - **Treasury Single Account (TSA)** – Another initiative was the complete implementation of the Treasury Single Account (TSA). This was an integrated electronic payments and collections platform which had enabled the Federal Government of Nigeria to take full control of more than 3 trillion naira (US\$15 billion) of its cash assets, as at the end of the first quarter of 2016, which hitherto had been scattered in several commercial banks with thousands of unco-ordinated bank accounts.¹
- **Corruption risk assessment (CRA) of e-governance payment platforms** – Corruption risk assessment (CRA) was a strong corruption prevention tool, carried

1 https://en.wikipedia.org/wiki/Treasury_single_account

out to check vulnerable areas of corruption in systems, procedures and programmes of any institution so as to block any breeding areas for corruption. Furthermore, the CRA would enable all stakeholders to draw-up integrity plans that would improve the safety and security of the e-governance payment platforms. The CRA was carried out in collaboration with other anti-corruption agencies and other stakeholders with support from the European Union (EU) and United Nations Office on Drugs and Crime.

- **Nigerian Voluntary Asset and Income Declaration Scheme (VAIDS)** – The Nigerian Minister of Finance had come up with a brilliant initiative, VAIDS. It was a time-limited opportunity for taxpayers to regularise their tax status relating to previous tax periods and pay any taxes due. In exchange for fully and honestly declaring previously undisclosed assets and income, tax payers benefitted from forgiveness of overdue interest and penalties, and the assurance they did not face criminal prosecution for tax offences or tax investigations. It also covered undeclared assets in foreign jurisdictions.

Plenary

South Africa wanted to know the factors taken into account and the template developed for the corruption risk assessment. Mr Ekpo Nta responded that useful tools including systems study and review were used. He referred South Africa to the Chairman of the ICPC for such materials.

Lesotho wanted to ask what had been escalating illicit financial flows since the problem had been identified and what was preventing African countries from combating the menace. The presenter responded that anti-corruption agencies must be much more proactive. He said the ICPC issued advisories to government and the general public on the trends.

The head of Nigeria's anti-corruption unit in the Foreign Affairs Ministry advised ACAs and governmental bodies to collaborate, with a view to developing an international anti-corruption penal code. This would provide for sanctions on countries and their financial institutions if they violated the code by receiving funds stolen from other countries.

Agenda Item 3: 'Whistleblowers Policy on Recovery of Assets', presented by Prof Itse Sagay (SAN)



Presentation by Prof Itse Sagay

In his presentation, Prof. Sagay said that the website of the Ministry of Finance in Nigeria stated that the whistleblowers programme was designed to encourage anyone with information about a violation of financial regulations, mismanagement of public funds and assets, financial malpractice, fraud and/or theft to report it. In other words, the Whistle Blowers Programme was another weapon in the federal government's armoury in the war against corruption. It was an aspect of the broader non-conviction based recovery of property programme of the government.

In terms of to whom such disclosures should be made, Prof. Sagay said the primary recipient for disclosures was the Ministry of Finance. However, information could also be submitted to any relevant anti-corruption agency, like the EFCC or the ICPC. Some recipients listed in the Whistle Blower Protection Bill included police officers, the auditor-general of the federation, the Fiscal Responsibility Commission, the Federal Inland Revenue Service (for tax fraud), a designated officer in a ministry, the National Judicial Council (where the disclosure relates to a judicial officer), and the presiding officer of a legislative house (where the disclosure relates to a legislator).

The presenter said the ministry's policy statement stipulated a financial reward of between 2.5 and 5 per cent of the amount recovered, where information provided led to the voluntary return of stolen or concealed public funds or assets. To qualify for the reward, the whistleblower must provide the government with information it did not already have and could not otherwise have obtained from any other publicly available source. The actual recovery must be on account of the information provided by the whistleblower.

He concluded that the absence of legislation (a Whistle Blowers Protection Act) could diminish public enthusiasm to engage in whistleblowing, particularly in the area of protection. This involved identity protection, protection against victimisation and, in serious cases, relocation to a new address and acquisition of a new identity. However, the Whistle Blowers Policy constituted a binding and enforceable contract between the ministry and anyone who, acting on the invitation of the ministry, gave information leading to the recovery of assets. The only way the ministry and therefore the federal government could avoid liability, was to insert a clear disclaimer in its policy statement and website to the effect that the ministry's offer was not binding and would not mature into a contract when accepted and performed by any whistleblower.

Plenary

Ghana wanted the speaker to throw more light on the clause that said whistleblowers would be paid on the voluntary return of assets. They also questioned the rationale that whistleblowers should not make a report based on malice or vindictiveness. Prof. Sagay responded that though voluntary return was contained in the policy, he didn't believe it made sense. He recounted an incidence where a report was made and when attempts were made to recover the funds, the thief put up resistance. Hence, the issue of voluntary return should not be a condition. On the question of vindictiveness, Prof. Sagay said it didn't matter whether the report was made out of vindictiveness, but if the whistleblower was involved in the offense, they too would be prosecuted. The EFCC equally commented on the issue of vindictiveness, saying that the agency struck a balance in this regard and potential whistleblowers were required to enter into an agreement with the EFCC that if the information was given in bad faith or found to be untrue, they would be prosecuted.

Justice Banjoko wanted to find out if there was an independent tribunal where the staff of a ministry could make reports. Responding, the speaker said such reports could be made to any agency that was relevant, who would investigate, recover and hand over to the Ministry of Justice.

Cameroon wanted to find out if taxes were deducted before the funds were made available to the whistleblower. Prof. Sagay responded that anybody who earned an income was compelled to pay tax, saying the ministry would deduct the same before handing over the funds to the whistleblower.

A participant wanted to know if the agreement was made in advance or at what stage did the agreement enter into effect. In response, Prof. Sagay said the agreement was a unilateral contract made to the whole world. It was concluded when anybody provided or fulfilled the conditions put in the advertisement.

Agenda Item 4: 'Assets Recovery and Returns: The Role of African Development Bank', presented by Mr Bubacarr Sankareh



Presentation by Mr Bubacarr Sankareh

In his introduction, Mr Sankareh said the fight against corruption was the responsibility of everyone, including the African Development Bank (AfDB).

He said corruption remained a threat to development in Africa and posed a risk to achieving the 'High 5s' of providing power (electricity),

feeding, industrialising, integrating and improving the quality of life of the people of Africa. He added that corruption negatively affected the Bank's reputation and could potentially erode the trust of partners and shareholders. This in turn could impede resource mobilisation efforts and hinder the Bank's efforts to stimulate sustainable economic development and social progress in Africa.

His presentation further highlighted preventive measures the AfDB adopted to deal with fraudulent entities, as well as investigations and sanctions processes which included debarment.

Mr Sankareh said the role of the AfDB in assets recovery was in the areas of technical and financial support, as well as training and capacity building for ACAs. He added that other areas of collaboration took place on a regional and continental basis and included sharing intelligence information.

Plenary

Uganda commented that there was an incident some years bank in Uganda, where a member of staff of the AfDB in that country was involved in a case, but there was a challenge as to whom the issued should be referred. They were delighted to know that the bank had a unit where such complaints could be referred.

Mr Greg Fairley wanted to know what an ideal outcome was for the AfDB in terms of sanctions and if there was an information sharing list across the continent. The AfDB responded that once sanction decisions had been made, they were made public and if online queries were carried out, the names of the companies debarred by the bank as well as other development banks would be revealed. Companies debarred by the AfDB were referred to cross-debarred entities. He added that internally, the AfDB also had an internal system called an 'integrated risk tool' that incorporated publicly available information as well as a grey list of entities that had not been debarred but had issues. He said such information was shared with individuals, units and departments in the bank whenever they had cause to deal with them.

DAY 4: 17 May 2018

Agenda Item 1: Country Presentations



Presentation by Mary Phombeya

MALAWI: 'Success Stories and Initiatives in the Fight Against Corruption in Malawi', presented by Mary Phombeya

The presenter spoke on innovations carried out by the Anti-Corruption Bureau, Malawi. She said such initiatives centred on engaging young people through the Sports Bonanza and Youth Forum. In 2017, the bureau launched a district integrity programme. She said Malawi did not have an assets recovery law, yet the country had managed to recover assets using certain agencies – though the process was slow.

SIERRA LEONE: 'Innovative Project in the Fight against Corruption', presented by Commissioner Adv. Macauley

In his presentation, Commissioner Adv. Macauley spoke about innovative projects embarked upon during the year under review by Anti-Corruption Sierra-Leone. These included:



Presentation by Commissioner Adv. Macauley

- the Pay No Bribe (PNB) Campaign, an innovative reporting mechanism for citizens to anonymously report incidents of petty corruption and bribery they encountered daily in the key service delivery sectors;
- Overt Operations, a preventive approach by which the ACC asserted itself in corruption-prone and revenue-generating sectors; and
- Online Assets Declaration, which helped in the tracking and tracing of the assets of public servants which may have been acquired by corruption.

Plenary

Kenya wanted to know if Sierra Leone had a Director of Public Prosecution solely responsible for handling corruption cases. Sierra Leone said it had a Director of Public Prosecution.

Malawi wanted to know how Sierra Leone had managed with not trusting the Transparency International index for Sierra Leone, and to what extent had the sole-assessment of itself been effective. Sierra Leone's response was that the agency shared corruption data information on its website, and politicians do not like it. Monthly reports were also sent to diplomatic missions in Sierra Leone.

Agenda Item 2: 'Assets Recovery and Returns: Prospects and Challenges', presented by Hon. Justice HA Abiru Justice of the Court of Appeal Jos Division, Nigeria



Presentation by Hon. Justice HA Abiru

Justice Abiru started his presentation by saying that the proceeds of a corrupt enterprise had also been identified as causing corruption. Control of substantial resources furnished the holder with the financial resources necessary to infiltrate and pervert law enforcement agencies and political and judicial institutions. Money could be used to discourage law enforcement from pursuing criminal investigations, used to 'purchase' politicians favourable to a more liberal crime control climate, and could be used to influence judicial decision-making when alleged criminals were brought before the courts.

He said, another factor that came to feature in the proceeds of crime dialogue was terrorism. While past discussions on the topic were borne out of concern about criminal revenues and the underlying crime that produced those revenues, terrorism raised the connection among and between crimes: that the proceeds of one illegal activity facilitated the commission of another.

The dual components of anti-money laundering strategy, criminalisation and second-generation prevention and detection apparatus formed one pillar of the assault on criminal moneys or moneys from unlawful activity. Forfeiture laws constituted the other. Forfeiture was the surrender or loss of property or rights without compensation.

The speaker identified four different types of forfeiture models: criminal forfeiture, the forfeiture of things related to convictions, the forfeiture of objects *malem in se* (objects for which their physical form testifies to their unlawful character) and civil forfeiture. Commonly, the first two types were described as instruments of the criminal law, because forfeiture in each case was triggered by a criminal conviction, i.e. conviction-based forfeiture. The latter two were defined as civil devices, because they were not contingent upon criminal convictions, i.e. non-conviction-based forfeiture.

He went on that civil asset forfeiture or non-conviction-based forfeiture was a remedial statutory device designed to recover the proceeds of unlawful activity, as well as property used to facilitate unlawful activity without the necessity of arresting or prosecuting the perpetrator of the unlawful activity. Civil forfeiture laws did not create offences, nor did they prohibit any conduct or impose any penalty, fine or imprisonment on an individual.

A generic word for the phrase 'proceeds of crime' was 'assets'. Thus, recovery of assets referred to the process of identifying, tracing and recovering the proceeds of crime and/or unlawful activity, such as corruption, and returning it to the victims of the crime and/or unlawful activity.

On rationale for recovery of assets and its potentials: law enforcement should not only be to arrest the wrongdoer and put him in jail for some period of time, but also to remove the tools of the crime from circulation so that they could not be used again, either by the wrongdoer himself once he gained his release or by members of his organisation. Assets recovery was therefore a form of incapacitation. Assets recovery took the profit out of crime.

Justice Abiru then outlined some challenges to assets recovery. These difficulties involved preventing assets from leaving the victim jurisdictions; preventing stolen assets from entering financial centres; and identifying and

tracing assets. Another major difficulty was achieving international co-operation on the many facets of identifying and recovering stolen assets. The challenges further included: lack of trust; lack of a comprehensive assets recovery policy; lack of effective co-ordination among the various 'cooks in the kitchen'; differences in legal tradition; unbalanced notice requirements that resulted in dissipation of assets; bank secrecy laws; and lack of a non-conviction-based confiscation mechanism.

Plenary

Mauritius commended the fact that judges were now realising that they were part of the fight against corruption and could no longer afford to stand aloof. Justice Abiru responded that the speed and effectiveness of evidence brought to court was now better than it used to be.

EFCC, Nigeria, observed that ACAs should be given a portion of the monies recovered and that mechanisms for assets recovery should be set in place.

Lesotho asked what needed to be done to improve the effectiveness of assets recovery? In response, the presenter recommended that participants should read a book titled *Barriers to Assets Recovery: An Analysis of the Key Barriers and Recommendations for Action* (Washington DC, World Bank, 2011).

Security Africa (Nigeria) wanted to know why there was a high level of requests for extradition that were not being honoured by Western countries. Professor Bolaji Owasonoye of PACA, Nigeria, responded that this was deliberate in certain instances. He added that there may be international judicial processes. He reiterated that laws were being made in recipient countries that were not favourable to the return of assets to Africa. Africans needed to enact laws that were favourable to Africa and needed to rise up against nations hampering assets recovery processes.

Agenda Item 3: Country Presentations

SEYCHELLES: Presentation by Mary De Silva Head of Anti-Corruption Commission of Seychelles (ACCS)



Presentation by Mary De Silva

The presenter, Mary De Silva, head of the Anti-Corruption Commission of Seychelles (ACCS), said a means to 'investigate, detect and prevent corrupt practices' had been established under the Anti-Corruption Act 2016.

In the year under review, the ACCS had:

- carried out the first public survey on corruption in Seychelles, directed at analysing corruption in the country and creating a benchmark of public perception on corruption; and
- created a prevention and education programme targeting schools, the public sector and government entities, as well as the general public.

The speaker highlighted that the ACCS was a self-governing, neutral and independent body and was not subject to the direction or control of any person or authority.

MOZAMBIQUE: 'Declaration of heritage in the context of the Public Probity Law: An initiative to prevent and combat corruption', presented by Lino Mathe of the Central Bureau for Combating Corruption, Republic of Mozambique



Presentation by Lino Mathe

In his presentation, Mr Lino Mathe spoke on the constant aspect of the law of public probity (LPP) which was enforced in Mozambique, as the declaration of patrimony on the part of civil servants.

Innovations in Mozambique's legal framework included extension of the compulsory declaration of assets to a larger universe of public servants. He added that the latest materialisation/effectiveness of the LPP was the creation of commissions of reception and verification for declarations, as well as procedures. He said political office holders, judges and prosecutors, managers and holders of posts in the central and local administration of the state had to declare their assets. Also included were members of the board of directors of Mozambique Bank.

The presenter said some of the challenges faced included insufficient staff numbers, lack of adequate space to shelve declarations, and poor ability to prove compliance of the declarations with declarants' reality. However, despite the declaration and its challenges, there were many cases which remained unsanctioned.

Plenary

Malawi commended the efforts of the Anti-Corruption Commission of Seychelles (ACCS), encouraging them to collaborate more with other ACAs in the Commonwealth in order to leverage on their experiences. Seychelles acknowledged the need to network and indicated readiness to meet with the EFCC chair, the AU and the Commonwealth Africa Anti-Corruption Centre (CAACC). The delegate also expressed hope of getting the necessary help to bolster their efforts.

Botswana asked if Mozambique's Anti-Corruption Commission was still a unit in the Attorney-General's Office, to which Mozambique affirmed. Botswana asked how did Seychelles, being a small country like them where everyone seemed to know each other, manage the fear of likely repercussions of reporting one another. Seychelles responded that the close familiarity enabled them actually access intelligence.

A delegate asked about the level of co-operation between Seychelles and its fellow ACAs in Commonwealth Africa regarding repatriation of funds secreted in its territory. Seychelles responded that efforts were made to return the monies to the countries of origin. She added that the ACA did not have prosecutorial powers, so handed over cases to the Attorney-General; hence the prosecution process was delayed. Seychelles accepted the law establishing the ACA was flawed and said there was work in progress to amend it.

Nigeria observed that the distinction made by public officers accused of corruption that their action should be treated as professional malfeasance, rather than a crime, was wrong. Handling such cases as professional malfeasance had implications for MLA requests, where dual criminality was necessary to gain the assistance of the requested country.

Agenda Item 4: 'Non-Conviction Based Assets Recovery', presented by Hon. Justice Joseph Olubunmi Oyewole, Justice of the Court of Appeal, Nigeria



Presentation by Hon. Justice Joseph Olubunmi Oyewole,

In his presentation, Justice Oyewole said that in addition to prevention, the central objective of any serious anti-corruption mechanism must be to seize every illegally acquired asset in the possession of the criminal and pauperise him, if possible, to serve as deterrence.

He described the subject of interest in corruption investigation and prosecution was invariably politically exposed persons (PEPs), i.e. a person who had been entrusted with a prominent public function or an individual who was closely related to such a person (Article 2, UNCAC). PEPs were generally perceived to be 'untouchable' by the law.

Considering the centrality of illegal and greedy assets acquisition to corruption, depriving the criminal of his proceeds had proved to be 'the silver bullet'. Hence, proceeding against such criminal acquisition should take place, either by way of criminal prosecution or civil process (non-conviction-based assets forfeiture).

Plenary

Lesotho sought the presenter's opinion in helping with challenges in the country in terms of compelling perpetrators to disclose properties. Justice Oyewole recommended that the example of Nigeria's ACAs, the ICPC and EFCC, which required an assets declaration form to be completed as soon as a person was invited, could really help, as this had been shown to be effective for Nigeria.

Uganda said that the law of its nation did not allow a person to be challenged over their ownership of a property. Justice Oyewole responded that assets forfeiture procedures were civil. It was the court proceeding against the property in question, not the individual. Malawi commented that it had the same provision and it was very effective.

Lesotho wanted the presenter to shed more light on the relationship between judges and ACAs on the same issue. Justice Oyewole said both the ACAs and the judiciary must be quite knowledgeable about the concept. They must be abreast of the situation; the judiciary must be supported.

Dr Koranteng commented that the criminals were always ahead of the ACAs and so bank biometrics might not be sufficient. He said that this was why a good whistleblower policy was important and might be the answer to the question.

Agenda Item 4: 'Human Rights Issues Surrounding the Non-Return of Assets to Country of Origin', presented by Mr Femi Falana, SAN, Lawyer, Human Rights Activist and Partner, Falana and Falana Chambers



Presentation by Mr Femi Falana

Mr Femi Falana, SAN, in his presentation focused on the abuse of the human rights of people of corruption victim countries such as Nigeria, due to the refusal to return stolen funds and other assets by countries which held them. What this refusal gave rise to was a massive and accelerated transfer of wealth from the developing world to developed economies, much of which was stolen from treasuries across Africa and in the rest of the developing world. Western governments conveniently hid behind the free movement of capital ideology in order to 'fold their arms and turn the other way' for the decades after the end of the Cold War.

Repatriation of illicit funds made available much needed additional resources for development, poverty alleviation and the fulfilment of human rights. He said Article 1(1) of the International Covenant on Economic Social and Cultural Rights (ICESCR) (1976), stated that, *'All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue*

their economic, social and cultural development'.

Article 20(1) of the African Charter on Human and Peoples' Rights provided for freedom of economic development by permitting countries to pursue their economic development according to the policy they elected themselves.

The speaker went on that the Stolen Asset Recovery Initiative (StAR) was a UN/World Bank initiative focused on tracing and the return of stolen assets. In a manner which smacked of hypocrisy, Western countries which received and kept stolen wealth arrogantly turned around to point accusing fingers at victim countries. The US had, on its part, since stepped up the pressure on corrupt foreign officials by enacting the new Kleptocracy Asset Recovery Rewards Act, which passed through Congress in February 2018. The AU meanwhile had declared 2018 the **'Year of Combating Corruption: A Sustainable Path to Africa's Transformation'**. While this declaration was timely, how the AU would achieve its set goal remained an open question.

In conclusion, Mr Falana said the recovery and return of stolen assets stashed in Western economies, along with the transparent and accountable management and use of returned funds, would help strengthen the ability of victim countries to fortify the rule of law, improve access to justice (and, consequently, enjoyment of human rights) and reduce state impunity.

Plenary

Kenya commented relating to the return of government finance, recovered monies and properties, that participants had a responsibility as anti-corruption professionals to initiate arrangements in their countries for the proper capture and depositing of forfeited/ returned assets.

Ghana observed that Mr Falana was a notable and passionate anti-corruption fighter. His presentation underscored the need for anti-corruption professionals to not merely be 'armchair corruption fighters', but rather to be passionate and committed – even at risk of their own lives.

Agenda Item 5: Country Presentation

NIGERIA: 'Changing the Narratives on Anti-Corruption in Nigeria', presented by Ibrahim Magu Ag. Chairman, Economic and Financial Crimes Commission (EFCC)



Presentation by Ibrahim Magu

In his presentation, Mr Ibrahim Magu, said collaboration brought the delegates together and it was important as it helped them to relate informally and formally. He noted that jurisdictional requirement usually caused delays. He said the FBI, NCA and anti-corruption agencies needed to agree on a template on mutual legal assistance. Just like trade, they needed to liberalise their operations in order to get results. He added that there it was necessary for all ACAs to track each other's activities by regularly checking the websites.

Mr Magu said the activities of the EFCC in recent years had given rise to a paradigm shift, from associating Nigeria's name with corruption, to opening new frontiers for effective collaboration with economic development partners across the globe. This was achieved through the country's strategy of making Nigerians part of the anti-corruption war; every Nigerian was important, as the war belonged to all.

The speaker went on to outline achievements, which included:

- For the first time in Nigeria's history, senior military officers, including former service chiefs, a number of serving and retired generals, their civilian counterparts, former ministers, governors and several politicians had been investigated and arraigned for allegedly diverting over US\$15 billion meant for the procurement of arms to combat the Boko Haram insurgency in North East, Nigeria.
- One prominent investigation was that of a former petroleum resources minister, Diezani Alison Maduekwe. Properties worth millions of dollars were traced to her and other people directly connected to her. EFCC operatives recovered cash and jewellery worth millions of US dollars from her house.
- The EFCC was able to remove several cartels in the oil sector, with many corrupt oil dealers arrested in the subsidy fraud investigation. These syndicates normally worked 'hand in glove' with government officials to fraudulently divert government funds.
- A senior advocate from Nigeria was convicted in a case prosecuted by the EFCC.
- The number of EFCC's convictions was growing steadily, with a total of 486 convictions between November 2015 and 2018. At the same time, the commission had recovered more than N500 billion for the government, organisations and individuals.
- As an effective strategy in maintaining the narrative of anti-corruption, the welfare of EFCC officers was of paramount concern. Efforts were in place to review their overall welfare and the commission would put in more effort to actualise its goals.

Plenary

Ghana was interested in knowing how many lawyers the EFCC had. The EFCC responded that the commission had 150 lawyers to date and hoped to recruit more, but engaged external senior lawyers (SANs) for some of its cases. Most lawyers were located in the Lagos and Abuja offices, because there were more cases to be handled in those cities.

Seychelles wanted to know if a percentage of recovered stolen funds went to the EFCC as a reward for its recovery efforts; and if the EFCC had a training academy and the persons responsible

for training its staff. EFCC's response was that the commission was not given any percentage of recovered stolen funds. Development partners like UNDP and UNODC offered support in respect of training staff in addition to train-the-trainer arrangements in-house. The EFCC had its own training academy.

South Africa was impressed by the work of the EFCC and the ICPC. It was surprised and concerned, however, at Nigeria's suspension from the EGMONT Group. EFCC's response was that most such issues like suspension by the EGMONT Group were clear indications of corruption fighting back. South Africa was also worried about how the EFCC ensured that the monies being recovered did not return into corruption. EFCC said recovered funds were secured in Nigeria's government coffers.

Ghana wanted clarifications on how closely the EFCC worked with the ICPC. EFCC said it was working with the ICPC. A joint taskforce had been formed with the ICPC and other relevant agencies. EFCC was always willing to partner. For example, it partnered with the police since, as 'the mother of all law enforcement agencies'.

Cameroon asked how the EFCC preserved assets that could easily deteriorate while waiting for judgement. EFCC responded that a court order was quickly secured, but this could not be guaranteed every time. Indeed, a lot of waste was recorded in this respect. Non-conviction-based forfeiture was also being utilised, as was protection of properties under investigation.

Annex 1: Programme

Commonwealth Secretariat and The Federal Republic of Nigeria

Eighth Commonwealth Conference of Heads of Anti-Corruption Agencies in Africa

Transcorp Hilton, Abuja, Nigeria

14–18 May 2018

'Partnering Towards Assets Recovery and Return'

MONDAY, 14 May 2018

TIME	TOPIC	RESOURCE PERSON(S)
Director of Ceremonies: Cyril Stober, Veteran Newscaster		
Conference co-ordinator: Dr Roger Koranteng, Commonwealth Secretariat, UK		
08:00 – 09:00	Registration of Heads of ACAs and Invited Guests	EFCC Secretariat
09:00 – 10:30	Arrival of Guest of Honour	His Excellency Vice- President, President of Nigeria
	National and AU Anthems	Nigeria Police Brass Band
	Welcoming Remarks	Mr Mustafa Magu, Ag. Chairman, EFCC
	Conference overview	Dr Roger Koranteng Interim Adviser and Head, Public Sector Governance
	Musical Interlude	
	Remarks by the Special Guest	Rt Hon. Patricia Scotland Commonwealth Secretary-General
	Remarks by the Guest of Honour	Mr Mbeki, Former President of South Africa
	Keynote Address and Official Opening	His Excellency Vice President of Nigeria
	Musical Interlude	
	Vote of Thanks	Mr Paulus Noa Director-General Namibia ACC
	AU and National Anthems	Nigeria Police Brass Band
	Official Photograph	
	10:30 - 11:00	Refreshments

TIME	TOPIC	RESOURCE PERSON(S)
11:00 – 12:00	Assets Recovery and Returns: The Role of Development Partners Ms Elsa Gopala Krishnan, Financial Sector Specialist, UNODC, StAR Initiative	Paulus Noa Director-General (Namibia)
	Questions & Discussion	
12:00 – 13:00	Presentations by Countries (max 20mins) Botswana Cameroon Questions & Discussions	Chair Malawi
	LUNCH	
14:00 – 15:30	Presentations by Countries (20mins each) Ghana (CHRAJ) Ghana (EOCO) Nigeria (ICPC) Questions & Discussions	Chair Botswana
	TEA BREAK	
16:00 – 17:00	Human Rights Issues surrounding the Non-Return of Assets in Country of Origin Femi Falana, SAN. Lawyer, Human Rights Activist and Partner Falana & Falana Chambers Questions & Discussions	Chair Ghana (CHRAJ)

TUESDAY 15 May 2018

TIME	TOPIC	RESOURCE PERSON(S)
09:00 – 10:00	The Development of a 'Commonwealth Benchmarks Package' Neill Stansbury Matthew Moorhead Commonwealth Secretariat Questions & Discussions	Chair Tanzania

TIME	TOPIC	RESOURCE PERSON(S)
10:00 – 11:00	<p>Presentations by Countries (20mins each)</p> <p>Kenya</p> <p>Lesotho</p> <p>Questions & Discussions:</p>	<p>Chair</p> <p>Cameroon</p>
11:00 – 11:15	TEA BREAK	
11:15 – 12:15	<p>Presentations by Countries (20mins each)</p> <p>Mauritius</p> <p>Uganda</p> <p>Questions & Discussions</p>	<p>Chair</p> <p>Rwanda</p>
12:15 – 13:15	<p>Presentations by Countries (20mins each)</p> <p>Zambia</p> <p>Namibia</p> <p>Questions & Discussions</p>	<p>Chair</p> <p>Swaziland</p>
13:15 – 14:15	LUNCH	
14:15 – 15:15	<p>Asset Tracing and Recovery – an International Perspective</p> <p>Mr Jonathan Tickner, Partner at Peters & Peters Solicitors LLP, UK and Mr Nick Vamos, Partner at Peters & Peters Solicitors LLP, UK</p>	<p>Chair</p> <p>Uganda</p>
15:15 – 15.30	TEA BREAK	
15:30 – 16:30	<p>Third Party Funding of International Litigation</p> <p>Mr Neil Purslow, Founder and Director at Therium Capital Management Limited</p> <p>Questions & Discussions</p>	<p>Chair</p> <p>Mauritius</p>
17:00	<p>CAACC Advisory Board Meeting</p> <p>Botswana, Kenya, Ghana, Mauritius, Swaziland, AfDB, Commonwealth Secretariat</p>	<p>Dr Roger Koranteng</p> <p>Convener</p>

WEDNESDAY, 16 May 2018

TIME	TOPIC	RESOURCE PERSON(S)
09:00 – 10:00	<p>The work of the Special Prosecutor in Ghana: Its prospects and challenges</p> <p>Martin Amidu Ghana Special Prosecutor</p> <p>Questions & Discussions</p>	<p>Chair</p> <p>Rose Nunu Seretse CEO, BERA Botswana</p>
10:00 – 11:00	<p>Presentations by Countries (20mins each)</p> <p>South Africa Swaziland Questions & Discussions</p>	<p>Chair</p> <p>Lesotho</p>
11:00 – 11:15	TEA BREAK	
11:15 – 12:15	<p>Presentations by Countries (20mins each)</p> <p>Seychelles Malawi Questions & Discussions</p>	<p>Chair</p> <p>Nigeria (ICPC)</p>
12:15 – 13:15	<p>Measures to Prevent Illicit Financial Flows in Africa</p> <p>Mr Ekpo Una Nta Former Chairman ICPC Full time Commissioner Salaries, Incomes and Wages Commission</p> <p>Questions & Discussions</p>	<p>Chair</p> <p>Ghana (EOCO)</p>
13:15 – 14:15	LUNCH	
14:15 – 15:15	<p>Whistle blowers Policy on Recovery of Assets</p> <p>Professor Itse Sagay (SAN). Professor of Law and Constitutional Law Expert. Chairman Presidential Advisory Committee on Anti-Corruption (PACAC)</p> <p>Questions & Discussions</p>	<p>Chair</p> <p>Justice AA Banjoko Justice of the High Court of FCT Nigeria</p>
15:15 – 15:30	TEA BREAK	

TIME	TOPIC	RESOURCE PERSON(S)
15:30 – 16:30	Assets Recovery and Returns: The Role of African Development Bank Mr Bubacarr Sankareh, Ag Director Office of the Integrity and Anti-Corruption African Development Bank Questions & Discussions	Chair Mozambique
16:30 – 17:30	'Islands of Success' in combatting corruption on the African continent: Research Findings Dr Roger Koranteng Commonwealth Secretariat Questions & Discussions	Chair The Gambia

THURSDAY, 17 May 2018

TIME	TOPIC	RESOURCE PERSON(S)
09:00 – 10:00	Assets Recovery and Returns: Prospects and Challenges Hon. Justice HA Abiru Justice of the Court of Appeal Jos Division Questions & Discussions	Chair South Africa
10:00 – 11:00	Presentations by Countries (20mins each) Tanzania Nigeria (EFCC) Questions & Discussions	Chair Zambia
11:00 – 11:15	TEA BREAK	
11:15 – 12:15	Presentations by Countries (20mins each) Rwanda Sierra Leone Questions & Discussions	Chair Kenya
12:15 – 13:15	Non-Conviction Based Assets recovery Hon. Justice Joseph Olubunmi Oyewole Justice of the Court of Appeal Questions & Discussions	Chair Seychelles
13:15 – 14:15	LUNCH	

TIME	TOPIC	RESOURCE PERSON(S)
14:15 – 15:00	Group work Group 1 Group 2 Group 3	Facilitator Dr Roger Koranteng
15:00 – 15:15	TEA BREAK	
15:15 – 16:30	Plenary	
	Drafting of the Communiqué	

FRIDAY 18 May 2018

TIME	TOPIC	RESOURCE PERSON(S)
09:00 – 11:00	Annual General Meeting of the Heads of ACAs or Representatives only Discussion of Communiqué	Mr Reyneck Matemba AAACA Chairperson Dr Roger Koranteng Commonwealth Secretariat
11:00 – 11:30	TEA BREAK	
11:30 – 12:30	Meeting of the Heads of ACAs continues	Mr Reyneck Matemba AAACA Chairperson Dr Roger Koranteng Commonwealth Secretariat
12:30 – 13:30	LUNCH	
13:30 – 15:00	CLOSING Reading of the Communiqué' Remarks by Chairman Closing Address by Guest of Honour	Arrival of Guest of Honour
15:00 – 15:30	TEA BREAK	
	FREE AFTERNOON	

Annex 2: List of Participants

Eighth Commonwealth Regional Conference for Heads of Anti-Corruption Agencies in Africa

Transcorp Hilton, Abuja, Nigeria

14– 18 May 2018

	ORGANISATION	NAME / POSITION
1	Botswana	Mr Victor Brunoh Paledi Director-General DCEC Gaborone
2	Botswana	Ms Boitshoko Chockie Matlhare DCEC Gaborone
3	Botswana	Mr Mogolodi Rantsetse CAACC Gaborone
4	Botswana	Mr Mapho CAACC Gaborone
5	Botswana	Ms Itseng Mompoti BPSC Gaborone
6	Cameroon	Rev. Dr Dieudonné Massi Gams Chairman National Anti-Corruption Commission Cameroon
7	Cameroon	Mr Dieudonné Epo Head of the Studies and Cooperation Division National Anti-Corruption Commission Cameroon
8	Cameroon	Mrs Irene Morikang Tche Head of the Prevention and Communication Division National Anti-Corruption Commission Cameron
9	Ghana – EOCO	Mr Kwasi Korankye Amoah Ag. Executive Director Economic and Organised Crime Office PO Box AC 80, Accra

	ORGANISATION	NAME / POSITION
10	Ghana – EOCO	Abubakari Issah Economic and Organised Crime Office PO Box AC 80, Accra Ghana
11	Ghana – EOCO	Angela Dugbaki Akunyah Economic and Organised Crime Office PO Box AC 80 ACCRA Ghana
12	Ghana	Mr Martin Amidu Special Prosecutor Office of the Special Prosecutor PO Box M 60 Accra Ghana
13	Ghana CHRAJ	Mr Joseph Whittal Commissioner Commission on Human Rights and Administrative Justice Old Parliament House High Street Accra Ghana
14	Ghana CHRAJ	Charles Ayamdo Director, Anti-Corruption Commission on Human Rights and Administrative Justice Old Parliament House High Street Accra Ghana
15	Kenya	Eliud Wabukala Wamukheke Chairman Ethics and Anti-Corruption Commission (EACC) Nairobi
16	Kenya	Benson Kairichi Marimba – Deputy Director Ethics and Anti-Corruption Commission (EACC) Nairobi
17	Lesotho	Mr Borotheo Matsoso Director-General PO Box 16060 Maseru. Lesotho
18	Lesotho	Peter Matekane PO Box 16060 Maseru. Lesotho

	ORGANISATION	NAME / POSITION
19	Namibia	Mr Paulus Noa Director-General ACC PO Box 23137, Windhoek
20	Namibia	Mr Tobias Amoonga Chief Public Education and Corruption Prevention Officer PO Box 8008, Swakopmund
21	Malawi	Mr Reyneck Thokozani Matemba Director-General Anti-Corruption Bureau PO Box 2437 Lilongwe, Malawi
22	Malawi	Aggrey Genesis Bokosi Mwale Anti-Corruption Bureau PO Box 2437 Lilongwe, Malawi
23	Mauritius	Miss SB Jhungeer ICAC Mauritius
24	Mauritius	Mr J Soobrayen ICAC Mauritius
25	Mozambique	Mr Bernardo Duce
26	Mozambique	Mr Diogo Chirindze
27	Rwanda	Mrs Anastase Murekezi Rwanda Ombudsman PO BOX 6269 Kigali Rwanda
28	Seychelles	Mary De Silva CEO Anti-Corruption Commission PO Box 1456 Victoria Mahe Seychelles
29	Sierra Leone	Adv. Macauley Commissioner Anti-Corruption Commission Freetown
30	Sierra Leone	Mohamed Kroma Prosecutor Anti-Corruption Commission Freetown

	ORGANISATION	NAME / POSITION
31	South Africa – SIU	Adv. Andy Mothibi Head of Special Investigating Unit Pretoria, SA
32	South Africa – SIU	Mr Leonard Lekgetho (Projects Director- SIU) E Pretoria, SA
33	Swaziland	Dr NO Mabila Deputy Commissioner Administration Swaziland Anti-Corruption Commission PO Box 4468 Mbabane Swaziland
34	Swaziland	Miss Winile Dlamini Principal Assistant Secretary (Administration Officer) Swaziland Anti-Corruption Commission PO Box 4468 Mbabane Swaziland
35	The Gambia	Mr Landing Kinteh Inspector-General of Police The Gambia Police Service Banjul The Gambia
36	Tanzania	Mr Valentino Mlowola Director General PCCB Dar es Salam
37	Uganda	Irene Mulyagonja Kakooza Inspector of Government Uganda
38	Uganda	Ms Annet Kyakunda Twine Director of Leadership Code
39	Zambia	Mr Kapetwa Phiri, Director-General
40	Zambia	Queen Chibwe Senior Community Education Officer
41	Botswana	Rose N Seretse Former Director-General, DCEC, Botswana
42	UK	Dr Roger Koranteng Head & Adviser, Anti-corruption Commonwealth Secretariat (GNR)

	ORGANISATION	NAME / POSITION
43	Commonwealth Secretariat, UK	Barnie Choudhury
44	Commonwealth Secretariat, UK	Senyo Agbohlah
45	Commonwealth Secretariat, UK	Matthew Moorhead Commonwealth Secretariat
46	London	Neill Stansbury
47	London	Ben Oguntala LL. B Hons. LL.M Banking & Finance Laws African-in-Chief
48	London	Mr Greg Farley
49	London	Mr Anthony Isibor
50	London	Mr Kasim Olawale
51	London	Mr Jonathan Tickner Partner at Peters & Peters Solicitors LLP, UK
52	London	Mr Nick Vamos Partner at Peters & Peters Solicitors LLP, UK
53	London	Mr Neil Purslow & Ms Ellora MacPherson, Founder and Director at Therium Capital Management Limited, UK
54	Botswana	Ms Maurine Lesego Bome
55	Botswana	Mr Bakae Karata Ministry of Local Gov't and Rural Development
56	Botswana	Mr Meshack Motsomane Ministry of Health and Wellness
57	Botswana	Mr Peter Mafokate
58	Zambia	Mr Clifford Moonga Acting Director Legal and Prosecutions
59	Kenya	Emily Ibeere – Senior Officer, EACC
60	Kenya	Farida Kokita – Communications Officer, EACC
61	South Africa	Ms Nazreen Pandor Head of Communication SIU South Africa –
62	Malawi	Charity Temwachi Mphande
63	Malawi	Catherine Nkhoma
64	Malawi	Egrita Mayamiko Ndala
65	Malawi	Mary Sinai Phombeya
66	Malawi	Susan Anne Phiri

Annex 3: Communiqué

Eighth Regional Conference for Heads of Anti-Corruption Agencies in Commonwealth Africa, Transcorp Hilton Hotel, Abuja, Nigeria

(14-18 May 2018)

Theme: Partnering Towards Assets Recovery and Return

COMMUNIQUÉ

WE, the Heads and Representatives of Anti-Corruption Agencies in Commonwealth Africa, meeting at the Eighth Regional Conference of Heads of Anti-Corruption Agencies in Commonwealth Africa (the Conference) hosted by the Economic and Financial Crimes Commission (the EFCC), Nigeria, sponsored by the Commonwealth Secretariat at Transcorp Hilton Hotel, Abuja, Nigeria, from 14-18 May 2018,

NOTING with gratitude the invaluable support and warm hospitality provided by the Federal Government of Nigeria, the EFCC and the people of Nigeria, the honour of the presence of His Excellency President Muhammadu Buhari, President of the Federal Republic of Nigeria, represented by His Excellency Yemi Osinbajo, Vice President of the Republic of Nigeria, at the Opening of the Conference,

INSPIRED by the presence, participation and commitment of the Secretary-General of the Commonwealth Secretariat, Rt. Hon. Patricia Scotland QC, General Yakubu Gowon and General Abdulsalami Abubakar, former Heads of State of the Federal Republic of Nigeria, His Excellency Thabo Mbeki, former President of the Republic of South Africa and Nobel Laureate, Wole Soyinka, at the Conference,

CONCERNED ABOUT the heavy losses that Africa suffers as a result of illegal transfers of proceeds of corruption and crime out of Africa,

RECOGNISING the need to strengthen cooperation and collaboration among the Anti-Corruption Agencies in Commonwealth Africa for purposes of facilitating assets recovery and return,

ACKNOWLEDGING the benefits of a platform for discussing emerging issues and sharing good practices and country innovations in the fight against corruption,

HAVING made presentations on the theme of the Conference, discussed innovative measures employed by anti-corruption agencies and explored other aspects of the programme of the Conference,

SATISFIED that a full exchange of views and innovative experiences among anti-corruption agencies and other participants has taken place at the Conference,

1. **CALL** upon African countries to strengthen cooperation and partnership in the tracing, recovery and return of assets in accordance with Article 54 of the United Nations Convention against Corruption and Article 16 of the African Union Convention on Preventing and Combating Corruption,
2. **URGE** Anti-Corruption Agencies in Africa to effectively combat illicit financial flows,
3. **ENCOURAGE** African Countries to maintain a publicly available register of the beneficial owners of corporate entities and the level of ownership,
4. **FURTHER ENCOURAGE** African Countries to enact and vigorously implement asset forfeiture legislation to facilitate assets recovery and return,
5. **APPEAL** to judicial and prosecuting authorities to co-operate, support and fast track prosecution of corruption cases in their jurisdictions,

6. **DRAW** the attention of Anti-Corruption Agencies to the vulnerability of the extractive and construction sectors to corruption, money laundering and illicit financial flows,
7. **FURTHER CALL** on African countries to ensure the independence and provide adequate resources for anti-corruption agencies to enable them to trace, recover and return assets,
8. **WELCOME** the initiative of the Commonwealth Secretariat to develop a Commonwealth Benchmarks package on anti-corruption and integrity standards and also call upon the Commonwealth Secretariat to incorporate existing benchmark packages,
9. **RECOGNISE** the importance of whistleblowing in the fight against corruption, assets recovery and return, further **URGE** African Countries to enact a strong whistleblowing legislation and provide protection to whistleblowers,
10. **FURTHER ENCOURAGE** Anti-Corruption Agencies in Africa to explore innovative ways of delivering public education, awareness and sensitisation messages to the general public about tracing and recovering of assets,
11. **URGE** Anti-Corruption Agencies in Africa to sustain and deepen relationships, exchange of knowledge, experience learning and benchmarking visits,
12. **FURTHER URGE** African countries to develop integrity education programmes targeting children,
13. **APPRECIATE** the efforts made by the Centre to secure funding and support for the institution and **REQUEST** the Centre to continue to explore avenues for securing funding and support,
14. **FURTHER CALL** upon Anti-Corruption Agencies to pay the annual Heads of Anti-Corruption Agencies in Commonwealth Africa subscription fees on time.
15. **NOTE WITH APPRECIATION** the contribution of the Commonwealth Secretariat and Government of Botswana in setting up the Commonwealth Africa Anti-Corruption Centre (the Centre) to build the capacity of officers of Anti-Corruption Agencies and **URGE** Anti-Corruption Agencies to participate in the capacity building programmes offered by the Centre
16. **RECOGNISING** the deleterious effect of corruption on our respective countries **URGE** the Commonwealth Secretariat to introduce Anti-Corruption forum as one of key events at the Commonwealth Heads of Government Meetings.
17. **EXPRESS** appreciation to the President, the people of the Federal Republic of Nigeria, the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC) for the hospitality extended to delegates during their stay in Nigeria.
18. **FURTHER EXPRESS** profound appreciation to the Commonwealth Secretariat for having the vision to establish the Association of the Anti-Corruption Agencies in Commonwealth Africa and co-sponsoring and co-organising the Eighth Conference in succession.
19. **AGREE** that the next Regional Conference of Anti-Corruption Agencies in Commonwealth Africa in 2019 will be hosted by Uganda in partnership with the Commonwealth Secretariat.
20. **ELECT** Nigeria (EFCC) as the Chair and Uganda (IGG) as the Vice-Chair of the Association of the Anti-Corruption Agencies in Commonwealth Africa.

HELD AT ABUJA, NIGERIA, THE 18TH DAY OF MAY 2018.



BOTSWANA Country Report

Commonwealth Africa Anti -Corruption Agencies' Heads Meeting 14-18th May 2018;
Abuja Nigeria

BRIEF INTRODUCTION & BACKGROUND.

A landlocked country with 70 percent of its territory being the Kalahari Desert, Botswana is a mid-sized country of just over two million people and is one of the most sparsely populated nations in the world. Around 10 percent of the population lives in the capital and largest city, Gaborone¹. Botswana was once one of the poorest countries in the world with a GDP per capita of about US\$70 per year in the late 1960s, the country has since however transformed itself into one of the fastest-growing economies in the world, now boasting a GDP per capita of about \$16,400 per year as of 2013². Botswana has been one of the world's fastest growing economies, averaging 5% per annum over the past decade. Its reliance on commodities renders it vulnerable to international market fluctuations. Economic activity is expected to intensify to 4.5% in 2017, up to 4.8% by 2019. Economic growth will be driven by the mining activity, construction, services sector and intensified public investments (World Bank Group, 2018)

However, that growth was highly concentrated in the diamond mining sector, so that the revenue so generated accrued almost exclusively to the mining companies and the State because mining rights in Botswana are state-owned.

The task of the state then was to distribute the benefits of mining among the rest of the economy and society, which then led to unusually high dependence on the state. In time, an unhealthy patron-client relationship was established between the state on one hand and the general population, with the private sector and even civil society organizations acting as clients for state support.

Every sector therefore looked to the state as the distributor of development projects and benefits. It was from there that dependency by all on the state for roads, water, schools, health facilities, agricultural subsidies and housing, and social safety nets would grow and give rise to the seeds of early corruption. It can be argued it was in part the scarcity

¹ Statistics Botswana 2011

² World Bank 2018

of public resource and the associated competition for limited resources that created opportunities for corruption.

The 1990s saw a rise in the number of corruption scandals and cases. The major ones were land and housing allocation scandals in 1991 and 1992 (Republic of Botswana, 1991; Republic of Botswana, 1992; Good, 1994; Sebudubudu, 2003). Those affairs led to the temporary resignations of a minister and the Vice President and there were several similar cases in the construction industry relating to the general national procurement system. It was in that context that the government created the DCEC in 1994, and re-structured the Police, which had been responsible for investigating corruption before the establishment of the DCEC.

The DCEC as an agency; assisted by other oversight bodies such as the Auditor General and Public Procurement and Asset Disposal Board has played a pivotal role in the country's stance of 'zero tolerance to corruption'. This is demonstrated by the country's rankings particularly Transparency International Corruption Perception Index. Botswana, Seychelles, Cabo Verde, Rwanda and Namibia all score better on the index compared to some OECD countries like Italy, Greece and Hungary. In addition, Botswana and Seychelles, which score 61 and 60 respectively, do better than Spain at 57³.

1. INITIATIVES IMPLEMENTED

The DCEC has over the years come up with several preventative and investigative initiatives to achieve its mandate. We have in the past annual meetings presented on the following initiatives which we continue to uptake. These initiatives, with their brief introductions are as follows;

1A. Corruption Prevention Committees

CPC is a strategy that permits organizations to facilitate & perform anti-corruption initiatives at their workplaces by themselves. The introduction of CPC's is a way of

³ Transparency International 2018

decentralizing corruption prevention and in the process, promoting ownership of such initiatives. Through the preventative aspect of the strategy the DCEC has been crafting anti-corruption programmes to be implemented by the various stakeholders. Unfortunately it has become evident that the stakeholders have not been doing much as they viewed corruption prevention as secondary to their core business.

1B. Performance Contracting

DCEC has also introduced the mainstreaming of anti-corruption strategies in the public sector as an anti corruption initiative. This has led to Performance Contracting which started in 2012. This has resulted in a tool which is divided into three levels of eradicating corruption in the Public Sector namely; level 1- Anti-Corruption framework, Corruption Prevention Strategies which is level 2 and Level 3 on Corruption Control Measures. The framework permeates all Ministries and the rationale among others is to improve service delivery and to eventually have a corrupt free Public Service. For plausible execution of this initiative, Ministries are required to submit biannual reports to DCEC in return DCEC is responsible for; tracking implementation of anti-corruption initiatives to the said institutions, provide advisory services, evaluate and score performance at the end of financial year. This has resulted in Institutionalized concept of anticorruption strategies in the Public Sector.

1C. Anti-Corruption Units

These are preliminary investigating and transaction monitoring Units at Ministries. There were started in 2011 and have so far been established in 16 Ministries. Anti-Corruption Units have caused for timely administrative actions at Ministries which has a direct impact in the reduced number of allegations received by the DCEC. The Directorate in 2014 engaged a consultant to determine the effectiveness of our prevention strategies. One of the key recommendations was to monitor and evaluate our programmes and initiatives. A Monitoring and Evaluation (M&E) framework is being developed and

officers being trained in M&E. All this is a build up for the DCEC to have a professional M&E function.

2. INITIATIVES FOR 2018

2A. Implementation of Proceeds and Instruments of Crimes Act (PICA 2014)

In 2014 Parliament enacted law (PICA) to deprive persons convicted of certain crimes of the benefits or rewards gained from such crimes; to deprive persons of property suspected to be a proceed or instrument of crime, to deal with issues such as money laundering, racketeering and other incidental and connected matters. This law repealed that of 1990; Proceeds of serious crimes.

PICA is a civil forfeiture is a regime which is not conviction based. The regime secures property suspected to be proceeds or instrument of crime using a lesser burden of proof, that being 'a balance of probabilities'.

PICA helps in avoiding for proceeds of crime to be dispersed not only after conviction but during the criminal investigations as the standard of proof of criminal cases is 'proof beyond reasonable doubt'. The length of time it takes to secure a conviction can be detrimental to the case as it may give respondents time dissipate the proceeds of crime in question, which will not only affect the burden of proof but also depriving the State from securing the proceeds of crime.

Comparison Of The Repealed Law And PICA

PICA 2014, deprives both investigated and convicted persons of certain crimes of the benefits or rewards gained from crime or of property suspected to be proceeds or instrument of crime. Whilst the Proceeds of Serious Crime Act of 1990, deprived only persons who are convicted of serious crimes of benefits or rewards gained from such crimes.

The repealed 1990 Act, deprived property, instruments, benefits and rewards gained from crimes after conviction, whilst PICA 2014, can do so during criminal investigation, trial and after conviction using the balance of probabilities.

The repealed 1990 act deprives persons convicted only of serious crimes which were “serious offences” defined as *a maximum penalty, being death or imprisonment for not less than two years*. Whilst PICA 2014 broadens the scope depriving persons of “foreign serious crime related activity”, “unlawful activities” and “serious offences” meaning *offences for which the minimum penalty is a fine of P2000.00 or imprisonment for a period 2 years, or both*.

PICA 2014, has wider scope in the fight against crime by dealing with issues of racketeering which the 1990 act did not. Racketeering is the forming or running of an organization or group to carry out illegal activities that result in the commission of any offence.

Office of the Receiver

PICA established an Office of the Receiver which consist of a Receiver and other necessary officers may appointed.

The office of Receiver shall be a public office, and accordingly the Public Service Act shall apply. A Receiver is appointed by the Minister of Defence, Justice and Security on such terms and conditions as he thinks fit.

The mandate of the Office of the Receiver is to be responsible for preserving the value of the property suspected to be proceeds or instrument of crime in respect of an order made under PICA or under any written law. In order to take control of the property, a Receiver will make an application for a Restraining Order, made by a Court of Law to restrain property for the purpose of Chapter II, Confiscation under Civil Penalty and Civil Forfeiture. As mentioned in section 35(3) and 43(1) the Receiver may do anything reasonably necessary to preserve the value of the property.

2B.Task Teams

DCEC introduced sector based investigations in order to group investigators with a particular background & experiences to target those sectors that they are qualified to investigate or deal with. These sectors are Finance, Construction, Forensic, Transport, Education & Immigration, Lands & Housing and General purposes. Those with experience and educational background suiting those sectors are selected to serve in them. This initiative has brought the following benefits

- Other officers who do not have the skills are offered assistance cheaply
- DCEC has been able to break syndicates and to a certain extent been able to establish methods mostly employed by perpetrators especially in the Transport and Lands sector.
- DCEC has also been able to build rapport with stakeholders especially in the bank and telecommunications sector through the establishment of Digital Forensic.

Still with the above benefits; the initiative presented shortcomings such as too much specialisation restricts diversity less synergy between groups. To address this we have introduced Investigation Task Teams to complex cases. A slight difference with sector based is with Task Teams employees of different disciplines are brought in to work on a case and the team is dissolved upon completion of the particular case.

COUNTRIES RECEIVEDVISITED

Over the past year DCEC has held information sharing activities with different countries as tabulated below. The DCEC is humbled by the number of benchmarking requests after last year's meeting in Malawi.

DCEC RECEIVED ACA VISITORS

COUNTRY/AGENCY	OBJECTIVE
Nigeria	Mandate of the DCEC, Successes & challenges
Kenya	Mandate of the DCEC, Successes & challenges
Tanzania	Mandate of the DCEC, Successes & challenges
TOTAL	3
ACA VISITED DCEC	
COUNTRY/AGENCY	OBJECTIVE
Mauritius, Tanzania & Zambia,	Establishment of Fully fletched Anti Money Laundering Unit
Australia & Indonesia	Seek new Interventions and best practices for adoption.
Rwanda & Tanzania	Declaration of Assets Legislation
TOTAL	7

CONCLUSION

Despite the efforts the country has made in the anti -corruption drive, the DCEC is still to record satisfactory levels in terms of implementation of recommendations emanating from its interventions. These include recommendations emanating from audits, risk assessments and preliminary inquiries. As an institution we are also not working tirelessly to make inroads into the Private Sector. Despite the codification of the Private Sector Code of Conduct, we are yet to see a satisfactory uptake of anti- corruption initiatives by independent companies. The DCEC has also come up with various strategies to catalyze active involvement of the Civil Society. All these efforts are meant

to reinvigorate institutionalization of anti- corruption and to place these sectors at par with government Ministries.

Analysts have also observed that more could be done in the legal framework to strengthen the fight against corruption. (Mosime & Kaboyakgosi, 2017) note Botswana's fight against corruption as admirable but with shortcomings for lack of laws on declaration of assets and liabilities and freedom of information. In his inauguration speech last month; the new President has pledged to pass the declaration of assets law. This shows the continuous unwavering political will the anti-corruption has always enjoyed.

Bibliography

Mosime, S., & Kaboyakgosi, G. (2017). Africa's Democratic Developmental State (DDS) or Outright Flattery? Towards Inclusive Democratic Developmental State. In *Towards Democratic Developmental States in Southern Africa* (p. 119). Weaver Press.

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INNOVATIVE PROJECTS IN THE FIGHT AGAINST CORRUPTION IN CAMEROON

A presentation by Rev. Dr. Dieudonné MASSI GAMS, Chairman of the National Anti-Corruption Commission of Cameroon (CONAC) at the 8th Commonwealth Review Meeting of Heads of Anti-Corruption Agencies in Africa. Transcorp Hilton, Abuja, Nigeria. 14 – 18 May, 2017.

1. Introduction and background

The National Anti-Corruption Commission of Cameroon, better known by its French acronym, CONAC, was created by a Presidential Decree on March 11, 2006. It is an independent public body placed under the authority of the President of the Republic and has as main mission to CONTRIBUTE to the fight against corruption.

The Commission went operational in March 2007 following the appointment of a Chairman, a Vice-Chairman, nine members of the Coordination Committee, as well as a Permanent Secretary by the President of the Republic. Work, however, began in 2008 with the recruitment of the first staff of the Permanent Secretariat. The staff are deployed to the three Divisions (Investigations, Prevention and Communication, Studies and Cooperation) and three Services (General Affairs, Mails and Archives, and Translations) that make up the Permanent Secretariat.

Besides investigating the first denunciations, communicating on the missions of the Commission and knitting the first cooperation ties, the elaboration of operational documents comprised the main tasks of the first years of work. These documents, elaborated with the help of the technical and financial partners of Cameroon, include: the National Anti-Corruption

Strategy (NACS); the National Integrity Education Programme (NEPI) and the Charter of the National Coalition Against Corruption (NCAC).

Today, several tools are being used to implement these strategic documents and foster CONAC's vision of having a Cameroon where integrity will be the watchword for every citizen. Besides administrative and financial audits, controls and investigations, the following intervention tools are used to reach out to the population for an all-inclusive fight:

- ✓ **the Rapid Results Initiative (RRI)** which makes use of the PrECIS tool to implement the National Anti-Corruption Strategy (concomitant use of actions of Prevention, Education, Condition, Incentives and Sanctions to obtain visible change within 100 days);
- ✓ **the Rapid Intervention Unit (RIU) which** carries out operations to unmask on-going acts of corruption;
- ✓ **Sector-oriented anti-corruption campaigns** to ensure that actors in the Cocoa, Coffee, Cotton, Forestry and Education sectors resist corruption;
- ✓ **Anti-Corruption Caravans** to build a critical mass of positive actors ready to say « No » to corruption;
- ✓ **Corruption-free Competitive Entrance Examination (COSCO)** for justice, transparency and equity in public examinations;
- ✓ **ESPACE CONAC radio and television productions** to educate, inform and sensitise the public on dangers of corruption and how to combat the ill;
- ✓ **CONAC monthly Newsletter** which reviews activities of the Commission, including tips on how to combat corruption; and
- ✓ **the Annual Reports** which presents the state of the fight against corruption in Cameroon – actions, results and prospects)

June 2017 to April 2018 was a period full of innovations at the National Anti-Corruption Commission of Cameroon. We will, for the purpose of this report, limit ourselves to five of such innovative activities. These include: the acquisition of a call free number, the organisation of sector-oriented caravans, the creation of Integrity Clubs, the production and broadcast of micro radio and television programmes, the training and designation of CONAC coaches in government administrations and impromptu visits to government administrations by teams led by CONAC.

2. Innovative work and initiatives implemented

A. Acquisition of a call free number: 1517

The acquisition of a call free number by CONAC has increased popular participation in the fight against corruption and pushed fear into the camp of corrupt civil servants. A telephone, an indispensable communication gadget nowadays, is today a weapon against corruption. The population is using it to denounce corruption at no cost. The psychological impact is evident. There is fear in the ranks of corrupt civil servants.

The call free number, 1517, was launched during a press conference on April 24, 2018. Press releases, radio and television spots, billboards and banners also accompanied the launching of the number. Calls are received between 7:00am to 6:00pm and are free of charge from all networks in Cameroon.

The greatest challenge is receiving and sorting out the bulk of calls (about 200 per day); more than three quarters of which are unrelated to corruption. The staff in charge of the hotline have become marital counselors, land dispute negotiators, chieftaincy problems advisers, etc).

This notwithstanding, the move to acquire a hotline has been lauded by the population as the Commission is more accessible. In effect, a hotline is

indispensable in mobilizing popular support in the fight against corruption and is therefore an asset to all anti-corruption commissions.

B. Anti-corruption sensitization caravans

CONAC has organised six anti-corruption caravans between June 2017 and April, 2018 in different towns in the country. The overall objective of the caravans is to mobilise the population to adopt integrity as a way of life and canvass for popular support in the fight against corruption. The target of CONAC is to create a critical mass of positive actors ready to say NO to corruption.

Following is a synopsis of the caravans organised over the last 11 months.

	Venue/Date	Reason	Theme	Target
1	Yaounde 06/07/2017	Upsurge of commuting during vacation	No to corruption in the transport sector	Transporters
2	Douala 22/ 09/2017	Start of the 2017-2018 school year	Back to school without corruption	Education stakeholders
3	Ngaoundere 9/12/2017	International Anti-Corruption Day	Your NO against corruption counts	Finance, Forestry and Wildlife, Media, Customs, Health, Law Enforcement, Justice
4	Ebolowa 08/02/2018	National Youth Day	Youths say NO to corruption	Youths
5	West Region 06/03/2018	International Women's Day	Women unite against corruption	Women
6	Bertoua 27/04/2018	International Workers' Day	Public service is free of charge. Reinforce with the affixation of CONAC anti-corruption boards in public administrations	Workers, especially civil servants

In all, the six caravans have permitted CONAC to reach out to over a million people directly and millions of others indirectly through the media and

other communication tools such as banners, flyers, stickers, posters, T-Shirts, Caps, etc.

The main lesson learnt in the organization of caravans is that the success of the event lies in the details, wherefore the need for meticulous preparation. Formal invitations have to be sent on time. The public needs to be properly informed of the activity through press releases, banners, TV and radio spots and billboards. Gadgets for distribution, such as T-Shirts, caps, flyers and stickers, should be printed in great quantity and on time. The logistics of the caravan is primordial for its success (cars, meals, escorts, first aid medical care, animation).

The organisation of a caravan also needs a multi-talented team (communicators, investigators, accountants, cashiers, secretaries, cleaners, etc), adapted with regards to the specificity of each caravan.

C. Creation of Integrity Clubs

In October 2017, CONAC created Integrity Clubs in all seven State universities of the country as part of the measures to implement the National Education Integrity Programme. The Club officials were trained and installed. The operation continues in private higher institutions of learning as well as in secondary and high schools. The Integrity Clubs are expected to promote integrity in their institutions and also channel denunciations of acts of corruption to school authorities and to CONAC.

CONAC provides technical and material assistance to clubs when need be. The National Anti-Corruption Commission is obliged to work with officials of the different education sectors if clubs have to be created in all schools nation-wide.

D. Production and broadcast of micro programmes on radio and television

The six-minute programmes highlight the socio-economic and judicial consequences of specific acts of corruption. Broadcast began in March 2018 on the national radio and television. The programmes come up twice weekly on radio and twice weekly on television. The target is the general public and the objective is to educate the population on the multi-facets of corruption (causes and manifestations) and the ensuing costs (effects) of corruption.

The main production challenge is getting knowledgeable and uncontroversial resource persons, preserving the innocence of the accused until proven guilty in the courts and keeping up with production.

The immediate reaction has been the involvement of the population. Some citizens are already sending in video clips of corruption scenes filmed with their mobile phones for consideration.

For an anti-corruption agency to go into such a venture, it must arm itself with competent professionals and audio-visual production equipment. Negotiations must also be carried out with local media outlets to ensure broadcast.

E. CONAC Coaches for Public and Para-public administrations

Government Ministries and Para-public structures are expected to implement the National Anti-Corruption Strategy adopted by the government of Cameroon in 2011. The PrECIS tool and the Rapid Results Initiative are the main implementation instruments. The PrECIS implies the concomitant use of actions in five domains (Prevention, Education, Condition, Incentives and Sanctions), while the RRI entails the implementation of easy-to-realise actions which can produce palpable results in less than a hundred days.

In the past, members of civil society organisations were assigned to follow up the implementation of anti-corruption activities in ministries. Some of them,

however, abused this function by requesting payments from the ministries they supervised.

The National Anti-Corruption Commission then decided to replace these civil society actors with staff of the Commission. The personnel for the task have been trained as coaches and assigned Ministries.

There is now the better follow up of anti-corruption activities and reactivation of dormant anti-corruption units. Anti-corruption agencies should thus be careful with the choice of persons they use for their outreach activities or representation.

F. Impromptu Visits to public administrations

This novelty came in with the evaluation of the level of implementation of the execution of Regional Anti-Corruption Plans of Actions for 2017. During the regional workshops organised to this effect, a mixed team of officials led by CONAC carried out impromptu visit to some public administrations in the regions. The visits led to a general reawakening in the fight against corruption in the ten Regions as all the structures worked hard to be ready if a CONAC team should visit.

3. EXCHANGE VISITS

Since the last meeting of Heads of Anti-Corruption structures in Malawi, the National Anti-Corruption Commission of Cameroon has carried out one visit; to Nigeria. This was from August 8 to 12 2017. The three-day study visit took the delegation of three persons to the Economics and Financial Crimes Commission (EFCC) and to the Independent Corrupt Practices Commission (ICPC).

The form of the visit was the same for both structures: meetings with top management, visits of the different services, examination of the different strategies (prevention, education, communication, investigations), appreciation of resources (human and technical) and discussions on a possible formal partnership.

At the end of the working visit, a formal partnership was signed with the ICPC. meanwhile, CONAC is examining possibilities of sending its staff for training at the academies of the EFCC and the ICPC.

4. VISIT OF THE COMMONWEALTH SECRETARY GENERAL TO CONAC

On the invitation of the Cameroonian Head of State, the Secretary General of the Commonwealth, Rt. Hon. Patricia SCOTLAND, was in Cameroon from the 20th to the 23rd of December, 2017 for a working visit.

During her stay, she held a working session with the main governance Institutions of Cameroon at the Headquarters of the National Anti-Corruption Commission. On the occasion, she praised CONAC for the actions carried out to fight against corruption in Cameroon.

While noting that she is conscious of the work that is being done by anti-corruption agencies in Commonwealth Africa, under the supervision of Dr. Roger KORANTENG, Rt. Hon. SCOTLAND promised her support to the association of Heads of anti-corruption agencies in Commonwealth Africa.

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Anti-Corruption Benchmarks

Abuja, Nigeria

May 2018



The Commonwealth

Background

- The Commonwealth Secretariat is exploring options for the development of an "Anti-Corruption Benchmarks" package that could be created in consultation with member countries for possible consideration at CHOGM in 2020.
- The Benchmarks will be another tool to help governments tackle corruption.
- The Benchmarks will be designed to be scalable into a larger project, should funding be available.

Background

The aim of the benchmarks is to:

1. Provide an advocacy tool for encouraging Commonwealth member countries to adopt and adhere to high standards of integrity and anti-corruption measures in government processes, including through trade and economic-based arguments;
2. Provide practical guidance to Commonwealth member countries on clear steps that can be taken to promote integrity and combat corruption, both in government processes, as well as within private sector organisations; and
3. Provide a simple ‘checklist’ against which progress under (2) above can be measured.

Background

- The Commonwealth Secretariat has worked with its members to strengthen anti-corruption measures for many years.
- In 2000 a Commonwealth Expert Group adopted the *Framework for Commonwealth Principles on Promoting Good Governance and Combating Corruption*.
- Commonwealth Heads of Government have called on member countries to sign, ratify and implement UNCAC.
- In 2016 the Commonwealth Secretariat convened the *Tackling Corruption Together* conference, attracting a high level of participation and interest from around the world.
- In 2017, the Secretariat undertook an information gathering exercise to review the use and role of standards in Commonwealth countries in anti-corruption efforts.

Possible content of Benchmarks

The Benchmarks are still in early draft stage, but the possible content would be, for each benchmark:

- 1. Rationale for that benchmark:** i.e. why is this an important benchmark?
- 2. Core Principles:** i.e. the minimum requirements which should be complied with so as to conform with that benchmark.
- 3. Examples:** Real case examples of a situation in which that benchmark is being successfully complied with by a government or organisation.
- 4. Guidance:** Guidance on implementing, with references to information sources, templates etc.

Possible Benchmark topics (1)

The following are possible topics for benchmarks. The intention would be, as far as reasonable, to include all necessary key topics which are the foundations of effective anti-corruption management by government.

- Anti-corruption laws
- Judiciary
- Investigating and prosecuting authorities
- Debarment
- Asset recovery
- Government approval procedures
- Public sector procurement procedures

Possible Benchmark topics (2)

- Public sector project management procedures
- Public sector financial controls
- Organisational anti-bribery management systems
- Independent project monitoring
- Independent project auditing
- Transparency
- Reporting
- Freedom of speech and the press
- Others?

Consultation / Timing

Consultation:

We would like to consult widely with relevant departments / agencies from Commonwealth country governments on the content and wording of the Benchmarks before publication.

We will send the draft for comment to, inter alia, all Anti-Corruption Agencies for input and comment.

Timing:

If countries are supportive, we aim to have a final version ready for consideration by heads at CHOGM 2020

Q&A / Discussion

- Comments on the concept.
- Comments on the content.
- Additional suggestions for topics.
- Willingness to participate.

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The Commonwealth

Measures to Prevent Illicit Financial Flows in Africa
Paper presented at the 8th Conference of the Association of Heads of Anti-corruption Agencies in
Commonwealth Africa in Abuja on Wednesday, 16th May, 2018

By

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Board Member, National Salaries, Incomes and Wages Commission, Nigeria

I am delighted to be invited as a Resource person to the 8th Conference of the Association which is hosted by Nigeria having been hosted by other Member-Countries in the past.

It is very apt that the theme of this year's conference is "Partnering towards Asset Recovery and Return" and issues related thereto concerning International cooperation in the recovery of assets, Imperatives of return of assets to countries of origin, Non-conviction based assets forfeiture, The Whistle Blowers Policy as a viable tool in the recovery of assets, etc.

I was requested to speak on "Measures to Prevent Illicit Financial Flows in Africa". It is likely that other Resource persons will take you through the whole gamut of financial crimes and its many variants and in addition provide startling figures of how Africa is hemorrhaging through illicit financial flows outwards. Africa is also hemorrhaging through Licit Financial outflows which on the surface are legal but tainted with disproportionate treaties and trade arrangements. My contribution to this discourse will be from the point of view of my experience as a former Head of an Anti-corruption Agency and as a current Board Member representing Africa on the Board of the International Anticorruption Academy (IACA).

Regrettably, most African **Leaders** spend precious time jetting all over developed economies chasing cap-in-hand development aid from foreign governments and Donor Agencies in order to prop up substantial portions of their national budgets especially in vital sectors like health, education, water and sanitation, extractive industries. The anticorruption sector has also been a major beneficiary of foreign donor funds to supplement their operations because their home governments would not fund them adequately as recommended by the United Nations Convention against Corruption (UNCAC). These African leaders erroneously believe that since

post-2nd World War Europe was resuscitated by the massive injection of resources under the Marshall Plan this could be replicated by their piecemeal approaches.

In spite of supposedly huge inflows of donor funds, coupled with their internally generated and earned export funds, African nations soon realized that these were not enough for the continent to achieve meaningful progress expected by the New Partnership for Africa's Development (NEPAD), Millennium Development, and later, Sustainable Development, goals. It further realized that both capital flight and illicit financial flows far outstripped the inflow of foreign donor aid. Faced with this reality, Africa needed to find its resources if the continent was to escape from the deeply entrenched yoke of poverty, disease and nihilistic civil strife which was worsened by its huge blossoming unemployed restive youthful population. At this point it should be noted that there is a distinction between capital flight which is largely driven by macroeconomic reasons and illicit financial flows as it is the latter that concerns us because of its debilitation effect on our continent.

Having come to the grim realization that if the continent could harness and reverse the detrimental effects of IFFs on Africa, the 4th Joint Annual Meeting of the African Union Commission/United Nations Economic Commission for Africa (AU/ECA) Conference of Ministers of Finance, Planning and Economic Development adopted Resolution 886 mandating the establishment of a **High Level Panel on Illicit Financial Flows from Africa**. The Panel was chaired by H. E. Thabo Mbeki, former President of the Republic of South Africa, and comprised nine other members. The Panel's Terms of Reference called for it to:

1. Determine the nature and patterns of illicit financial outflows from Africa;
2. Establish the level of illicit financial outflows from the continent;
3. Assess the complex and long-term implications of IFFs for development;
4. Raise awareness among African governments, citizens and international development partners of the scale and effect of such financial outflows on development; and
5. Propose policies and mobilize support for practices that would reverse such illicit financial outflows.¹

The IFF Report (which I refer to as the Thabo Mbeki Report) is very instructive as it has been the most comprehensive research on IFF undertaken within the continent. The findings were startling having found out that Africa was hemorrhaging by losing more than \$50 billion through illicit financial outflows annually and empirically concluded that 'large commercial corporations are by far the biggest culprits of illicit outflows, followed by organized crime and corrupt

¹ https://www.uneca.org/sites/default/files/PublicationFiles/iff_main_report_26feb_en.pdf

practices in Africa are facilitating these outflows, apart from and in addition to the related problem of weak governance capacity. Large corporations have the means to retain the best available professional legal, accountancy, banking and other expertise to help them perpetuate their aggressive and illegal activities. Similarly, organized criminal organizations, especially international drug dealers, have the funds to corrupt many players, including and especially in governments, and even to “capture” weak states’

In order to end IFF the Report highlighted the need to have continuous research, not only by the ECA but other relevant regional and national bodies and making such research findings easily available in addressing the IFF phenomenon, and that African Governments must have the political will to address IFF and not leave it to only technical capacity of its agencies and technocrats.

The Thabo Mbeki Panel presented a Progress Report to the 7th Joint Annual Meetings of the ECA Conference of African Ministers of Finance, Planning and Economic Development and African Union Conference of Ministers of Economy and Finance in March 2014 in Abuja, Nigeria. The Report provided an update of the Panel’s work and its emerging findings.

The Ministerial Statement issued after this meeting reported as follows:

“20. We deplore the unfortunate situation whereby Africa loses \$50 billion a year in illicit financial flows. These flows relate principally to commercial transactions, tax evasion, criminal activities (money laundering, and drug, arms and human trafficking), bribery, corruption and abuse of office. Countries that are rich in natural resources and countries with inadequate or non-existent institutional architecture are the most at risk of falling victim to illicit financial flows. These illicit flows have a negative impact on Africa’s development efforts: the most serious consequences are the loss of investment capital and revenue that could have been used to finance development programmes, the undermining of State institutions and a weakening of the rule of law.

“21. We pledge to take the necessary coordinated action nationally, regionally and continentally to strengthen our economic governance institutions and machinery, focusing especially on tax administration, contract negotiations, and trade-related financial leakages. In addition, we will engage with the international community, in the context of the ongoing discussions on the reform of global economic governance, in order to highlight our concerns regarding illicit transfers, including the question of tax havens.”

Contemporary Effect of IFFs in Africa

Four years down the line the African continent, in the most part, is witnessing a worsening effect of IFFs resulting in development funds being channeled by both criminal cartels and governments into procuring arms to fund or battle terrorism, civil wars, insurrections, militancy, electoral violence, religious intolerance, etc. This has led to an unprecedented migration of young vulnerable and unskilled African youth undertaking suicidal missions in unserviceable boats to Europe. All hope is not lost because most States have gone into hitherto non-existing or unattractive alliances to coordinate these threats to nationhood and rebuild weak or weakened public institutions and enkindle trust of their citizens. Of course the international community, especially those that were recipients and beneficiaries of massive IFFs, have a choice of accepting these economic and social migrants or discussing and accepting the urgently needed reforms of global economic governance. Some concrete steps are being taken to assist on a sustainable manner a hemorrhaging African continent equip its youthful population with good education and life skills and opportunities for self-employment.

Role of Anticorruption Agencies in Preventing IFF

The traditional role of Anticorruption Agencies (ACAs), especially in contemporary Africa, is that of an alternate police force investigating and prosecuting all acts of corruption, including financial crimes, instead of the holistic approach recommended by the United Nations Convention against Corruption (UNCAC). Some ACAs like the Independent Corrupt Practices and Other Related Offences Commission (ICPC) established by Act of Parliament in 2000 has 70% of its mandate centered on Prevention and Education activities in Section 6 (b-d) of the Corrupt Practices and Other Related Offences Act 2000. This is in addition to its powers of investigation and prosecution provided for under Sections 6(a) of the Act.

The key players in the IFF cycle include the following:

A. Commercial/Industrial Concerns

Large multi-national conglomerates or local ones especially in the extractive industries like mining, petroleum and other industries like textiles, food processing, pharmaceuticals, telecommunications, etc. There is need to begin to address the emerging role a lot of Chinese Companies are playing in the mining industries as they move in with heavy equipment into our hinterlands without regard to environmental considerations.

Agro-based medium and small-scale businesses that engage large scale cross-border trade directly or indirectly. Some foreign investors facing difficulties in repatriating their profits due to scarcity of foreign exchange have resorted to massively buying up economic crops like cocoa and grains from local farmers and compromising State officials while moving these items across the borders to sell them abroad without paying taxes or investing in further improved production or mechanization. Of course this also involves unregulated logging of precious woods and endangered animals.

B. Organised Criminal Groups

- Oil bunkering
- Human trafficking
- Gun running
- Smuggling
- Logging

C. Corrupt Practices

- Procurement fraud in public services and goods especially in offshore components.
- Tax fraud involving properties in multiple offshore jurisdictions
- Private Sector corruption of public officials
- Foreign exchange round-tripping of donor funds, multiple tiers

General Vs Specialised Anticorruption Agencies

Generally ACAs are not fully equipped to effectively address the IFF and other financial crimes in the areas involving (a) Commercial/Industrial Concerns and (b) Organised Criminal Cartels listed above. That's why UNCAC strongly recommended the setting up of specialised Agencies to address emerging criminal trends like money laundering and drugs. It was in furtherance of this that Countries like Nigeria established the Economic and Financial Crimes Commission (EFCC) to address Money laundering, terrorist financing and other financial crimes. The National Drug Law Enforcement Agency (NDLEA) and the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) were established in 1990 and 2003 respectively to address the issues relating to hard drugs and trafficking in human beings.

In Ghana, I am aware that the country established the Economic and Organised Crime Office (EOCO) on 30th December 1993 as a specialised agency to address serious financial or economic loss to the State, drug trafficking, money laundering and to recover the proceeds of crime. It also set up another anticorruption agency known as the Commission on Human Rights and Administrative Justice (CHRAJ) also in 1993.

Specialised Agencies for Financial Crimes

It is my submission that the most critical strategy that we need for the prevention of IFF from Africa, is for countries that are yet to have one, to immediately set up and equip Specialised Agencies so that these can focus strictly on conducting research, preventing, investigating and prosecuting economic and financial crimes on a sustainable basis. If these specialised agencies are able to prevent the loss of the estimated \$50billion annual IFF from Africa it would have been worth the investment and it is no gainsaying that they are performing very well given the international support available through the Financial Action Task Force (FATF), created in 1989, is an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing and other regional bodies like the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) established in 1999 and Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) which was established in 2000 by the Economic Community of West African States (ECOWAS).

Inter-Governmental Action Group against Money Laundering in West Africa (GIABA)

GIABA presents one of the best homegrown processes for tackling financial crimes in Africa. It is engaged in in-depth research and publication of typologies of financial crime. It has so far carried out over 21 National Risk Assessments and Vulnerability Studies in West and Central Africa and specific countries like Nigeria².

All countries desirous of understanding and addressing the scorch of financial crimes must first of all thoroughly digest and implement the findings of the studies already undertaken by GIABA. Some of the notable ones which I have listed below contain a mine of information.

1. Nigeria National Money Laundering & Terrorist Financing Risk Assessment (2016 and 2017 Reports both released in 2018).
2. Money Laundering Resulting from the Counterfeiting of Pharmaceuticals in West Africa (2017).

² <https://www.giaba.org/reports/typologies/reports.html>

3. Typologies Studies on Money Laundering Arising from Electronic Counterfeiting and Intellectual Property Theft in West Africa. (2017)
4. Typologies Studies on Money Laundering Arising from Electronic Counterfeiting and Intellectual Property Theft in West Africa (2017)
5. Terrorist Financing In West And Central Africa (2016)
6. MONEY LAUNDERING RELATED TO FRAUD IN PUBLIC PROCUREMENT IN WEST AFRICA: A CASE STUDY OF NIGERIA *This report presents an analysis of public procurement fraud in Nigeria and how this crime feeds into money laundering in the country. Nigeria has one of the most dynamic political and economic systems in West Africa.*
7. The Nexus between Small Arms and Light Weapons and Money Laundering and Terrorist Financing in West Africa (2014) *This report presents the key findings of a study commissioned by GIABA to explore the relationship between illicit trade in small arms and light weapons (SALWs), on one hand, and money laundering (ML) and terrorist financing (TF), on the other hand, in west Africa. The last two decades has seen the centrality of illicit trade in SALWs to the deterioration of security.*
8. Terrorist Financing in West Africa (2014) *The Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) and the FATF collaborated on a typologies research project to identify the methods used by terrorists, terrorist groups, and their supporters in the West African region to collect, transfer and utilise funds. The project team used data provided by experts based in five West African countries where there have been serious and frequent incidences of terrorism: Burkina Faso, Mali, Niger, Nigeria and Senegal.*
9. A Review of the State of Implementation of Anti-Money Laundering Measures in Relation to Financial Inclusion In GIABA Member States (2014)
10. Typologies of Money Laundering through the Real Estate Sector in West Africa (2009)

In 2007, GIABA conducted a comprehensive Technical Assistance Needs Assessment (TANA) of its member States³. In practice there is hardly a sustained synergy between the anti-corruption and other Ministries like Finance, Economic Planning, Interior and Justice in the fight against financial crime. The Ministry of Justice only gets involved at the end of the cycle during prosecution. The Ministry of Finance and the Ministry of Interior, where the Immigration and/or

³ See https://www.giaba.org/about-giaba/technical-assistance-to-member-states_650.html

Customs & Excise and Prisons are located, depending on the Country, are more concerned with their core mandates.

Nigeria addressed this problem by setting up an Inter-Agency Task Team (IATT) which comprises of a multitude of agencies dealing directly or indirectly with all forms of corruption including financial crimes. IATT members are expected to have joint trainings, share information online real time, and have mutual respect for each other, among other collaborations.

The focus of these specialised agencies should be more on designing preventive anticorruption strategies especially in IT and banking, in collaboration with professional associations in accounting, banking, auditing, insurance, legal, agricultural, etc. In ICPC we developed a lot of technical partnerships and carried out System Studies and Reviews of processes in government agencies. The remuneration package of such Anticorruption Agencies should be able to attract and retain the best professional staff that can match international and private sectors counterparts. We indeed encouraged skilled professionals and academics to spend one or two years with our Commission through secondments and sabbaticals.

Developing Measurements for Prevention

The sensational publicity surrounding the enforcement, prosecution and recovery of economic and financial crimes dominate our mass media to the extent that it has become the yardstick for measuring performance of anticorruption agencies. Regrettably, this has done immense damage to the psyche of budget allocation for prevention activities in such specialised or anticorruption agencies and when this is relegated the tendency is to seek ‘publicity’ which catches the attention of the Budget Allocators and political supervisors. The Federal Government of Nigeria has introduced several electronic initiatives to manage government revenue for personnel, recurrent and capital appropriations and expenditures. There is therefore need to design performance indicators for these agencies in order to help measure their successes for attendant publicity and recognition. Let us look at some of the initiatives undertaken in Nigeria in line with the recommendations above.

Integrated Personnel Payroll Information System (IPPIS)

For Personnel, the Integrated Personnel Payroll Information System (IPPIS) was introduced for the management of Federal Government of Nigeria employees’ records. It automatically deals

with the payment of Salary and Wages of federal employees, deductions and remittances of taxes and payroll deductions like health insurance, pension contributions, national housing contributions, to other third parties⁴. Although it is yet to cover the entire federal employees there has been tremendous gains in reducing ghost workers in the ministries and agencies already enrolled. States are already carrying out and implementing State-based IPPIS platforms in the face of inability to pay regular salaries in order to identify employees who should be on their payroll.

Government Integrated Financial Management Information System (GIFMIS)

For Recurrent and Capital Expenditure, the Government Integrated Financial Management Information System (GIFMIS) is an IT-based system for budget management and accounting that is being implemented by the Federal Government of Nigeria to improve Public Expenditure Management processes and resources more efficiently and effectively, enhance greater accountability and transparency across Ministries and Agencies.

Before the implementation of IPPIS and GIFMISS electronic platforms, the Office of the Auditor-General of the Federation and ICPC had to independently undertake very laborious processes of physically inspecting books of accounts and safes and reconcile bank statements in order to track illegal rush end –of-year procurements, payments or warehousing of funds in commercial banks. Thereafter whatever was left of recovered funds was returned to the Consolidated Revenue Fund and breaches were sanctioned.

Bank Verification Number (BVN)

The Federal Government of Nigeria has gone ahead to introduce more proactive financial management initiatives. In February 14, 2014 the Central Bank of Nigeria launched a centralised biometric identification system for the banking industry tagged Bank Verification Number (BVN)⁵. This unique initiative, which had inputs from several stakeholders including the Banker's Committee and Anticorruption Agencies revolutionised the banking sector provided several benefits. It also aided regulatory bodies and law enforcement agencies in weeding out thousands of ghost accounts used to siphon funds from the public services and to defraud

⁴ <https://www.ippis.gov.ng/>

⁵ <https://nibss-plc.com.ng/bvn/>

unsuspecting victims locally and internationally. As a preventive tool it has continued to save the country billions of Naira and provides a verifiable means of tracking down criminals.

Treasury Single Account (TSA)

Another initiative was the complete implementation of the Treasury Single Account (TSA). This is an integrated electronic payments and collections platform which has enabled the Federal Government of Nigeria to take full control of over 3 trillion Naira (\$15 billion) of its cash assets as at the end of the first quarter of 2016 which hitherto been scattered in several commercial banks with thousands of uncoordinated bank accounts⁶. TSA had been in existence in several other countries as recommended by the International Monetary Fund (IMF) as a platform where all government funds are collected in one account in order to reduce borrowing costs, extend credit and improve government's fiscal policy among other benefits to government⁷.

Corruption Risk Assessment (CRA) of e-governance Payment Platforms⁸

However based on the outcome of several investigations of abuses of these platforms, ICPC relying on Section 6 (b-d) of its Act conducted in 2017 of Federal Government of Nigeria e-governance payment platforms in respect of the IPPIS, GIFMIS and Treasury Single Account (TSA) in order to enhance the efficiency of the nation's public expenditure systems. Corruption Risk Assessment (CRA) is a strong corruption prevention tool, carried out to check vulnerable areas of corruption in systems, procedures and programmes of any institution so as to block any breathing areas of corruption. Furthermore, the CRA would enable all stakeholders to draw-up integrity plans that will improve the safety and security of the e-governance payment platforms. The CRA was carried out in collaboration with other anti-corruption agencies and other stakeholders with support from the European Union (EU) and United Nations Office on Drugs and Crime (UNODC).

This conduct of the CRA of the e-payment platforms was motivated by our success in a prior CRA exercise conducted by the ICPC in collaboration with other stakeholders to address the

⁶ https://en.wikipedia.org/wiki/Treasury_single_account

⁷Sailendra Pattanayak; Israel Fainboim. "Treasury Single Account: Concept, Design, and Implementation Issues" (PDF). International Monetary Fund Working Paper mentioned in https://en.wikipedia.org/wiki/Treasury_single_account.

⁸ <http://icpc.gov.ng/2016/12/16/make-e-governance-platforms-secure-icpc-chairman-tasks-stakeholders/>

corruption-prone weaknesses discovered by ICPC in the Ports Sector in Nigeria. All the government agencies and stakeholders operating in the Nigerian ports were assisted to develop their Standard Operating Procedures (SOPs) and Anti-Corruption Policies (ACPs). All these were later harmonised into a single Port Service Support Portal (PSSP), an online real time e-portal platform, which was then domiciled in the Nigeria Shippers' Council. These were launched by the Vice President, Prof. Yemi Osinbajo in June 2016 to afford users an efficient service delivery, complaints and redress system to mitigate corruption in the operating procedures of the sector. It has greatly eased the way of doing business in our ports⁹.

Corruption Risk Assessment of the Typologies of Illicit Financial Flows:

I have taken this Corruption Risk Assessment example to illustrate the way Anticorruption Agencies can directly engage in reducing IFFs. According to the Thabo Mbeki Report “..... the convention of breaking IFFs into the three components of commercial activities, criminal activities and corruption was substantially correct in the case of Africa. We took note of existing estimates, which assess commercial activities as accounting for 65 per cent of IFFs, criminal activities for 30 per cent and corruption for around 5 per cent, but we decided to take a more nuanced view based on the information available to us in the African context (Kar and CartwrightSmith, 2010)¹⁰.

Although corruption only accounted for 5% of the identified IFFs, the same principle could be applied by Anticorruption Agencies undertaking Corruption Risk Assessments in collaboration with other relevant stakeholders, in identifying the opportunities in the governance and regulatory regimes and sectors that allow IFFs through (a) unscrupulous commercial activities and (b) by organised criminal cartels which account for 65% and 30% respectively.

Taxation

⁹ <http://icpc.gov.ng/2016/06/22/icpc-set-to-launch-port-anti-corruption-initiatives/>

¹⁰ https://www.uneca.org/sites/default/files/PublicationFiles/iff_main_report_26feb_en.pdf

The Thabo Mbeki Report mentioned taxation as an area worthy of scrutiny and recommends implementation of initiatives of universal application already developed anywhere in the world by such institutions as the OECD, the G8 and G20, the European Parliament and the African Tax Administration.

Nigerian Voluntary Asset and Income Declaration Scheme (VAIDS)

The Nigerian Minister of Finance has come up with a brilliant initiative known as the Nigerian Voluntary Asset and Income Declaration Scheme (VAIDS). It is a time-limited opportunity for taxpayers to regularize their tax status relating to previous tax periods and pay any taxes due. In exchange for fully and honestly declaring previously undisclosed assets and income, tax payers will benefit from forgiveness of overdue interest and penalties, and the assurance they do not face criminal prosecution for tax offences or tax investigations. It covers undeclared assets in foreign jurisdictions. It offered a grace period of nine months from July 1, 2017 to March 31, 2018, for tax defaulters to voluntarily pay back to the government what they owe. This has been extended to June 30, 2018 by the President. As at March 8, 2018 the Federal Inland Revenue Service announced that two hundred and sixty-two persons have so far paid N20billion naira and further disclosed that “We have identified properties worth N2tn that belong to corporate organisations that have never filed any tax and now we are in the process of getting a court order to start selling those properties if the owners do not come and pay the taxes.¹¹. The Initiative is expected to see a lot of collaboration between the Federal Ministry of Finance, Federal Inland Revenue Service, Anticorruption Agencies, foreign governments and whistle blowers.

Tax Holidays and related Incentives

According to the Thabo Mbeki Report, ‘African countries grant a host of tax incentives such as tax holidays, investment allowances, tax rate reductions and use administrative discretion in order to attract foreign direct investment’. These are thoroughly exploited by a number of unscrupulous foreign businesses who re-apply for the same incentives using new company names which suggests that there is need for synergy between the Immigration Department and all stakeholders in order to capture all information on one e-portal which is accessible to all parties and the public.

¹¹ <http://punchng.com/voids-262-nigerians-paid-n20bn-in-eight-months-says-fowler/>

Asset Recovery and Return to Countries of Origin

This has been a very controversial area which has seen countries from where IFFs and other assets were stolen from complaining of lack of cooperation by countries of destination. It is fraught with convoluted legal processes and has been the subject matter of hundreds of bilateral and multilateral meetings. The UNCAC has provided guidelines which provide for assets recovery and return. The Stolen Assets Recovery Initiative, which is a partnership of the World Bank and the United Nations Office on Drugs and Crime (UNODC), has clearly identified this huge divide in its publication which shows the huge quantum of recovered assets compared to negligible returns.

African States must know when and how to leverage on existing platforms in countries where their IFFs and other stolen assets are domiciled. These include parliamentary caucuses, civil societies, media and other influential and reputable pressure groups and of course bilateral contacts by Heads of Governments. Expert staff must be developed and retained in African Anticorruption Agencies, Ministries of Justice, Foreign Affairs and Finance on a sustainable manner devoid of adhoc postings.

New partners should be sought to help in the international legal processes involved in such asymmetric negotiations. The African Development Bank in response to a plea by African Ministers of Finance has set up free legal advisory services to assist requesting Member States avail themselves of legal services in the negotiation of complex commercial transactions since 2010.

International Anticorruption Academy (IACA)

Recognising the urgent need to address the Illicit Financial Flows from developing countries, as well as the need to champion the recovery and return of stolen assets, Nigeria proposed/sponsored a resolution (which was co-sponsored by Egypt) at the 6th Assembly of State Parties of the International Anticorruption Academy (IACA) held at Sharm El Sheik, Egypt in October 2017. I have taken the liberty of reproducing the draft resolution as an annexure so that you can all pick areas that interest your Agency and country.

Only five African Countries: Egypt, Nigeria, Sudan, Togo and Uganda attended the Assembly with two others: Morocco and Swaziland attending as Observers. There are 71 Member States in IACA with only Africa having only 11 full members and 3 Signatories awaiting full

membership. I am using this opportunity as a Board member representing the Africa Region to invite more of us to join IACA. It is an affiliate of the United Nations and has become a leading Institution for academic research and learning in the field of anticorruption. It runs Masters and Ph.D programmes and bespoke programmes through Summer Academies in different parts of the world. It can be invited to assist in researching special needs in any country.

Conclusion

While noting the important roles various established anticorruption agencies and regulatory bodies have played to substantially eliminate illicit financial flows from Africa, special mention must be made of the commendable roles African-based investigative journalists like Premium Times that participated in the exposure of the Panama papers, Coalition of Civil societies, professional bodies and whistle blowers have also played. There is need for them and other citizens in tertiary institutions, public and organised private sectors to be further encouraged by exposing them to online investigation tools and critical workshops.

African countries should begin to pay very serious attention to Africans in diaspora who are repatriating substantial funds to their home countries. Nigerians in diaspora officially repatriated an estimated \$22billion dollars in 2016 which could actually be higher given that some funds are sent through travelling family members and friends. ICPC developed an MOU to assist them invest in the housing sector.

Africa should get its act together and realise that it is potentially the richest continent given its young vibrant youth compared to other continents, its vast natural and human resources which can fund its growth. We should be moving from the euphoria of recoveries and return of stolen assets to that of proactively preventing leakages in order to retain our finances within the continent. Our youth should be encouraged to engage in IT and start-up business competitions instead of immoral television soaps.

Research should guide our investments coupled with open governance principles. I am in agreement with the conclusions of the Thabo Mbeki Report that ‘tackling the issue of illicit

financial flows requires concerted efforts by countries of origin and destination countries alike....'

ANNEXURE

ASSEMBLY OF PARTIES SIXTH SESSION

Doc #: AOP6-Res-4

RESOLUTION¹² **ON FACILITATING TRAININGS, CAPACITY BUILDING AND RESEARCH** **IN ASSET RECOVERY AND RETURN**

The Assembly of Parties,
Recalling the purpose of the International Anti-Corruption Academy (IACA) as expressed in Article II of the Agreement for the Establishment of the International Anticorruption Academy as an International Organization, hereinafter referred to as “the Agreement”,
Emphasizing that the availability of technical assistance can play an important role in enhancing the ability of Parties to the Agreement, including by strengthening capacity and by institution-building, to prevent and combat corruption effectively,

Recognizing the importance of IACA as a centre of excellence for education, training, and academic research in the anti-corruption field, including in the area of asset recovery,

Underlining the importance of collaboration in joint efforts at the global and regional levels in support of the United Nations Convention against Corruption (UNCAC) and other relevant regional instruments,

Recalling that the United Nations General Assembly welcomed in paragraph 65 of its Resolution A/Res/71/208 the work of IACA as a centre of excellence for education, training and academic research in the anti-corruption field - including in the area of asset recovery - and looked forward to IACA’s continued efforts in this regard to promote the goals and implementation of the UNCAC,

Recalling also Resolution 6/10 of 6 November 2015 adopted by the sixth Conference of the States Parties to the UNCAC on “Education and training in the context of anticorruption”, where IACA’s work received explicit tribute,

¹² <https://www.iaca.int/governance/assembly-of-parties.html>

Recalling further Resolution 6/2 of 6 November 2015 on "Facilitating international cooperation in asset recovery and the return of proceeds of crime" and Resolution 6/3 of 6 November 2015 on "Fostering effective asset recovery" adopted by the Conference of the States Parties to the UNCAC,

Noting that the return of assets of illicit origin is a fundamental principle of the UNCAC, and bearing in mind that Chapter V of the UNCAC is one of the chapters critical to the successful implementation of that Convention,

Noting with deep concern the steady increase in funds of illicit origin flowing from developing countries in particular, and the danger that this increase poses to sustainable development, the rule of law, and security of nations; and aware of the difficulties that States face in asset recovery, taking into account the importance of the recovery of proceeds of crime and corruption, including for promoting the rule of law

Adopted by the 6th session of the Assembly of Parties and strengthening a culture of accountability as well as for sustainable development and stability,

Desirous of IACA providing the manner of support that Parties find useful, Recognizing the urgent need for professional training and capacity-building and research in the field of prevention, identification, tracing, recovery, and return of proceeds of corruption including by strengthening the capacity of and provision of technical assistance to, upon request, the relevant anti-corruption training institutes at national level,

Underlining that the return and/or disposal of illicitly acquired assets to the requesting State, particularly when it is a developing country or Least Developed Country, provides important resources for the respective States,

Being aware of the need for developing capacity in the requesting States, particularly in a developing country or Least Developed Country, which are seriously affected by flows of funds of illicit origin,

1. Calls upon IACA to conduct trainings for professionals and practitioners working in the field of asset recovery and return of assets of illicit origin and carry on research in this field, within available resources;
2. Invites IACA to also conduct tailor-made trainings and programmes on asset recovery according to the specific needs of States, upon request;
3. Urges IACA to assist States, upon request, in their efforts to strengthen the capacity of relevant anti-corruption training institutes at national level, in the field of asset recovery;
4. Invites Parties to consider providing voluntary resources and expertise to support IACA in this regard;
5. Requests IACA, within existing resources and in accordance with its mandate as set out in the Agreement, to embark on academic research activities in the field of asset recovery, giving particular emphasis to identifying the major obstacles for asset recovery and to publish the outcomes of such research for the use of Parties as well as the international community;
6. Calls upon IACA to carry out research on asset recovery, including the existing legal framework, and conduct an analysis on best practices and challenges with the purpose of fostering the implementation of existing legal regimes, which would contribute also to enhancing international cooperation in the area of asset recovery;
7. Encourages IACA to analyze and publish the emerging trends of funds of illicit origin and their effects on the development of the States of origin;
8. Calls upon IACA to prioritize the needs of participants from developing countries and Least Developed Countries for relevant trainings and capacity-building programmes, and make efforts, within available resources, to offer scholarships and/or fee discounts for such participants, and invites donors and States to provide support in this regard;
9. Invites States and other donors who are in a position to provide appropriate resources for the purposes identified in the present Resolution, to do so;
10. Requests the Executive Secretary/Dean to report to the seventh session of the Assembly of Parties the programme developed in this regard and its implementation plan.

Adopted by the 6th session of the Assembly of Parties

INNOVATIVE PROJECTS DONE IN THE FIGHT AGAINST CORRUPTION-SUCCESS STORIES OF GHANA

**BY: A.C.P. K. K. AMOAH (RTD) AG, EXECUTIVE DIRECTOR
ECONOMIC & ORGANIZED CRIME OFFICE ACCRA- GHANA**

In recent times, corruption has become a major issue of concern in the international community because of its corrosive impact on economic growth, human rights and poverty reduction.

WHAT IS CORRUPTION?

* The term “**corruption**” is used as a shorthand reference for a wide range of illicit or illegal activities.

* Although there is no conventional or clear-cut global definition as to what constitutes corrupt behaviour, most definitions share a common emphasis upon the abuse of public power or position for private benefit or selfish gain.

DEFINITION OF CORRUPTION

For instance, the Oxford Unabridged Dictionary defines corruption as:

“perversion or destruction of integrity in the discharge of public duties by bribery or favour.”

Webster’s Collegiate Dictionary defines it as:

“inducement to wrong by improper or unlawful means (as bribery).”

A succinct definition of corruption used by the World Bank is: *“the abuse of public office for private gain.”*

This definition is similar to that employed by Transparency International, a leading NGO in the global anti-corruption effort:

THE TWO FOLDS OF CORRUPTION

Corruption may be seen in two main folds;

1. It is an abuse of an influential position for private gain and

2. It is an exploitation of a system for securing unmerited and undue advantage.

Corrupt acts involve at least one government actor, many corrupt acts also involve;
Non-government actors who seek private advantages from governments.

Transparency international (2005), the article 4 of the convention defines corruption as:
“the use of the entrusted powers for private gain.”

TYPES AND OTHER FORMS OF CORRUPTION

According to Transparency International, corruption is in two types, that is to say, ‘petty’ and or
“grand” corruption.

“Grand Corruption” is the type of corruption which is on the high scale whereby political
decision makers create law and apply them to promote their well-being, their positions and
personal powers and ambitions.

“Petty Corruption” is normally applied by public administrators to some degree.

The following forms of corruption can also be distinguished;

1. BRIBERY:

The promise, offer of giving of any benefit that improperly affects the actions and decisions of a
public official.

2. EMBEZZLEMENT:

This is the theft of resources by persons entrusted with authority and control over this valuable resource. For example,

- (a) An official who uses a government vehicle as a “family vehicle” for transporting his wife and/or children on errands;
- (b) An official who uses the government garage to repair his private vehicle.

3. FRAUD:

This is a criminal deception involving some form of trick, false pretense or misrepresentation to unjustly obtain a benefit or gain. An examples is; Claiming allowances (per diem) without having undertaken a trip.

4. INTIMIDATION:

This is where a person threatens the general public, a particular section of the public, a person or a company to change a view point, to do or not to do something.

5. EXTORTION:

This refers to unlawful and intentionally gaining some advantage, material or immaterial from another person or entity by placing illegitimate pressure in the form of threats of intimidation.

6. ABUSE OF POWER:

This is where one uses vested authority to improperly benefit or give undue preferential treatment to any group or individual or using vested authority to discriminate against any group or individual.

7. CONFLICT OF INTEREST/ROLE CONFLICT:

Acting or failing to act on a matter where an individual has an interest or where another person or entity which stands in a relationship with this individual has an interest.

8. NEPOTISM:

Ensuring that family members are appointed to the public service or that cronies receive contracts from state resources.

9. MONEY LAUNDERING:

This refers to washing dirty money by channeling it through legitimate enterprises. That is to say concealing the source, nature, location, ownership and control of illegal money or resources.

10. IDENTITY THEFT:

This is known as cloning of the identity of unsuspecting victims associated with organized crime and syndicates.

SOME KNOWN CAUSES OF CORRUPTION

- Political Instability;
- Poor remunerations;
- Lack of effective Corruption reporting system;
- Low levels of integrity;
- Absence of good record keeping and data;
- Poor management practices in public institutions;
- Insecure and precarious tenure of Office;
- Personal greed and ambition;
- Family/Social pressure, obligations and insatiable demands;
- High Cost of living and
- Inadequate procurement regime(Public-Private-Partnership).

1.THE LEGAL REGIME / INITIATIVES IMPLEMENTED IN GHANA AGAINST CORRUPTION

- Whistleblowers’ Act 2006, (ACT 720),
- Economic and Organised Crime Act, 2010(ACT 804);
- Mutual Legal Assistance Act, 2010 (ACT 807);
- Narcotic Drugs(Control Enforcement and Sanctions Act,1990 (PNDCL236);
- Public Procurement Act, 2003, (ACT 663) & Amendment Act 2016, (ACT 914);
- Public Financial Management Act,2016(ACT921);
- Witness Protection Bill(Yet be passed);
- Petroleum Revenue Amendment Act,2015(ACT 893);
- Office of the Special Prosecutor Act,2017(ACT 959);
- Right to Information Bill(Yet to be passed),and
- Anti-Money Laundering Amendment Act, 2014,(ACT 874).

2. GLOBAL ACTION AGAINSTCORRUPTION

These are Instruments and processes deployed internationally against corruption and Ghana is part of these instruments.

Global efforts with regard to the fight against corruption have led to the adoption of the following instruments and processes;

- The United Nations Convention Against Corruption;
- The African Union Convention on Preventing and Combating Corruption;
- UN Convention Against Transnational Organized Crime;
- UN Declaration Against Corruption and Bribery in the International Commercial Transactions;

- International Code of Conduct for Public Officials;
- OECD Convention on Combating Bribery of Public Foreign Officials in International Business Transactions;
- Financial Action Task Force(FATF)and
- Establishment of ECOWAS Inter-Governmental Action Group against Money-Laundering in West Africa (GIABA).

3. VIBRANT CIVIL SOCIETY ORGANIZATIONS (CSOS)

Civil Society Organizations (CSOs) such as the Centre for Democratic Development (CDD), Ghana Integrity Initiative (GII) , which is the local chapter of Transparency International.

The Commonwealth Human Rights Initiative (CHRI) Ghana Chapter and the Ghana Anti-Corruption Coalition(GACC) all play watchdog roles on issues of corruption and have almost always kept government officials as well as public officers on their toes.

4. NACAP

The National Anti-Corruption Action Plan (for short NACAP) is Ghana’s national framework to drive anti-corruption activities for the next ten years (2015-2024).

The development of the NACAP is an unqualified contribution to the fight against corruption and the promotion of national development.

Under the NACAP, there is a three pronged approach to fighting corruption through Public **EDUCATION, PREVENTION and ENFORCEMENT.**

The NACAP action plan for Ghana has Four(4) Strategic Objectives namely;

- ❖ **To Build Public Capacity to Condemn and Fight Corruption and to make Corruption a High-Risk, Low-Gain Activity;**
- ❖ **To Institutionalize Efficiency, Accountability and Transparency in the Public, Private and Not-For-Profit Sectors;**

❖ **To Engage Individuals, Media and Civil Society Organizations in Reporting and Combating Corruption, and**

❖ **To Conduct Effective Investigations and Prosecutions of Corrupt Conduct.**

In 2015 out of 43 Implementing Agencies(MDAs) which were supposed to report to the Office of the President and the CHRAJ, only 19 reported and the rest were queried by the Office of the President.

A directive has been issued to all MDAs and MMDAs to budget for the activities of the NACAP and if it is found out that any MDA or MMDA which did not budget for it has to re-budget.

Ghana would be reviewed on corruption internationally in line with the Development Goals.

Ghana would be assessed on Strategic Objective 4 by the UNCAC. Two Countries will do the review. This review will be done online and the information would be sent to the UNDOC.

Additionally in 2015, Ghana was reviewed on

(1) The Anti-Corruption laws in Ghana that were criminalized

(2) Efforts being made with regard to international cooperation aimed at combating corruption.

Recommendations were made by the UNDOC and CHRAJ and key among the recommendations were the passage of the Conduct of Public Officers Bill, Witness Protection Bill and some amendments to the Whistle Blowers Act.

This year the emphasis is actually on the Prevention of Corruption and Asset Recovery.

4) Vibrant Opposition/Political Parties: The opposition in Ghana often champions the course of corruption and perception about corruption holding the feet of government officials to fire and putting the ruling government on its toes.

Section 21 of the Political Parties Act, 2000 (ACT 574) requires all registered political parties to file their audited accounts else, they would be sanctioned.

Indeed, plans far advanced for the passage of a Bill that will give a cap or ceiling on the amount of money to be spent by presidential candidates during general elections.

5. Private Sector:

The private sector is also a part of the corruption menace. The private sector is often seen as the engine of growth and as such must be brought on board in the fight against corruption.

6. Traditional Authorities and Religious Bodies

The Traditional authorities and religious bodies as well as faith-based institutions, have a crucial role to play in the fight against corruption. The Traditional Authorities highlight our value systems and also promote public ethics and morality.

7. OFFICE OF THE SPECIAL PROSECUTOR:

The Office of the Special Prosecutor is set to create awareness as well as prosecute cases of corruption and corruption related offences to prevent corruption in the public sector.

Under the Special Prosecutor Law there is an effective Asset Tracing, Recovery and Management as well as Plea Bargaining.

8. ECONOMIC & ORGANIZED CRIME OFFICE:

All Officers of the EOCO have filled and filed their Assets Declaration forms in line with the Asset Declaration regime where all Public Officers who earn a certain salary are to fill the Asset Declaration form and lodge same at the Auditor-General's Office.

THE EOCO HANDLED THE FOLLOWING CASES

- GYEDA-Officials were successfully prosecuted, convicted and sentenced;
- National Service Scheme (NSS);
- Ghana Maritime Authority (GMA);
- Social Security and National Trust (SSNIT) on procurement fraud;
- A businessman known as WOYOME who was wrongly paid GHCM52 judgment debt;

- The former CEO of Ghana COCOBOD; Stephen Kwabena Opuni is charged on Financial loss to the state;
- Ibrahim Mahama on Tax evasion and issuance of dud cheques where about GHS14 Million was recovered to the state.;
- National Ambulance Services, where monies were paid for Ambulance buses which were not delivered;
- NAYELE AMETEFE-Her multi -dollar was confiscated to the state as part of Asset tracing;
- BUS BRANDING- Selasi Ibrahim allegedly over inflated cost of branding the Metro Mass Transit buses with the portraits of former presidents of Ghana. This was intended in give visibility to the sitting president in the run up to the 2016 general elections.
- MASLOC-The former CEO of MASLOC Sedina Tamakloe is being investigated by EOCO for taking Gh500,000 from the coffers of MASLOC and invested same to make huge interest for herself;
- The EOCO and other Law Enforcement and anti-corruption Agencies such as the GACC and CHRAJ have formed anti-corruption clubs in most second cycle institutions;
- The EOCO for example, through its Public Education outfit has visited about 20 second cycle institutions in Accra and its environs to sensitize on the mandate of EOCO and matters relating corruption;

OTHER MECHANISMS PUT IN PLACE

- The President has appointed a Minister responsible for procurement to plug the loopholes in public procurement;
- In Ghana the Ghana Integrated Financial Management Information System(GIFMIS) has been set up to help reduce corrupt practices. If something does not have a budget line, it stands rejected under the GIFMIS;
- The PFM Act, Internal Audit Act and the Ghana Audit Service issue notices to MDAs and MMDAs at the end of each financial year to prepare their financial statements and heads of MDAs and MMDAs are sanctioned if they fail to prepare same;

- Under the PFM Act if one has knowledge of a corrupt act of another person but fails to report same he or she is equally liable.
- The Auditor-General of Ghana threatened to name and shame, or publish the list of Corrupt Public Officials and possibly prosecute them if they do not make arrangement to pay back looted funds;
- The Auditor –General’s 2012 came out with a report on the activities of the Savanna Accelerated Development Authority(SADA). Where over 300 million Ghana Cedis of the taxpayer was wasted on the Azuntaba Tree Planting Exercise and the Guinea fowl project which brought the SADA unto its knees;
- Under the Petroleum Revenue Management Act, 2011 (ACT 815) The Public Interest and Accountability Committee (PIAC) was set up to monitor how revenue from Ghana’s oil is utilized or applied. For Example, the PIAC is said after physically visiting some 6 projects sites allocated in 2016 in the Northern, Upper East and Upper West Regions three of the projects funded from the oil revenue were purportedly paid for but were not executed. These projects are the Duri dam rehabilitation and an irrigation project in the Upper West Region and 6 unit classroom at the Farakiyya School in the Northern Region.
- There is also the proposed amendment to portions of the Criminal and other Offences Act, 1960(ACT 29) in line with the calls made by the UNCAC. Corruption which is a misdemeanor will now be a second degree felony offence;
 - The corruption crusade is being taken to the churches and mosques as well as the palaces.
 - Currently, some former Ministers and sitting Members of Parliament are being investigated for allegedly drawing double salaries.
- In **Proverbs 18:16** it was stated that: **‘A man’s gift opens the way and ushers the giver access to important people or to great things’**
 - In the fight against corruption, this does not mean tangible or material gifts but it could be skills and other talents one may be endowed with.
 - For example, the gift of interpreting dreams gave Joseph the opportunity to be engaged in the palace of Pharaoh.

MAIN CHALLENGES FACED IN IMPLEMENTING THE INITIATIVES

- ❖ There is the lack of Political will do handle issues relating to corruption;
- ❖ Relaxed legal regime-In Ghana corruption is a misdemeanor in the Criminal code. Even though it is an enhance misdemeanor. In other Asian countries corruption is seen as a felony and attracts the death penalty.
- ❖ There is inadequate Education on issues that border on corruption;
- ❖ Archaic legislation. The Criminal and other offences Act, 1960(Act29) has not seen any major amendment;
- ❖ Absence of punitive action against corrupt official. For instance, there are not clear cut punishment on bribery and corruption;
- ❖ NACAP which is a brainchild of the UNCAC and other anti-corruption institutions is not yet to be fully embraced by MDAs MMDAs as well as the citizenry.
- ❖ Inadequate awareness creation by Civil Society Groups and faith-based organizations;
- ❖ Inaccurate records and data: There are no accurate records and data to trace certain corrupt practices that have been perpetrated;
- ❖ There is also an ineffective asset tracing regime;
- ❖ There is no legislation with regard to Asset Management;
- ❖ There is no legislation on Asset disposal;
- ❖ Corrupt Officials with their ill-gotten wealth are not being questioned base on their Life style because there is no clear-cut legislation on life style evidence;
- ❖ There is the absence of civil forfeiture of ill-gotten assets involving corrupt officials.
- ❖ There is the absence of plea bargaining in our statute with regards to corruption related trials in the Courts.

RESULTS OF THE INITIATIVES

- ❖ Through the Anti-Money Laundering Acts, the Mutual Legal Regime and Electronic Transactions, corrupt officials have been prosecuted and convictions secured,
- ❖ With the Public Procurement Law passed together with the Public Financial Management Act, procured fraud has reduced to the barest minimum;
- ❖ Passage of the Whistle blower Act in 2006, has reduced corrupt practices in the public sector;

- ❖ A Procurement Ministry under a Minister of State has been created to oversee procurement-related issues.

REFLECTIONS AND LESSONS LEARNT

- ❖ The fight against corruption needs a multi-sectorial and requires institutional and inter-agency cooperation, collaboration and coordination.
- ❖ Besides politically exposed persons (PEPs) must not be treated differently when they are found culpable for their actions and omissions.
- ❖ Justice must not only be done but must also be seen to have been done without fear or favour in order to enhance public confidence in the legal regime or system.
- ❖ The legal framework must be tailored to respond to the dynamics of the new wave of crimes perpetuated by the influx of technology. We cannot resort to archaic laws to deal with new age crimes.
- ❖ Finally, the problem with regard to curbing corruption is not about the lack of adequate laws but rather the enforcement of the already existing.

RECOMMENDATIONS THAT COULD BE SHARED

- Vibrant Media;
- Effective Civil Society Groups;
- Adoption of the National Anti-Corruption Action Plan (NACAP);
- Establishment of strong and independent institutions;
- Passage of draconian and Punitive punishment for corrupt practices;
- Rule of Law and Democracy;
- Accountable and transparent government;
- Better remunerations;
- Effective monitoring by development partners as to how aids and grants are applied;
- There must be Public Sector Reforms;

- Facilitating reporting of corruption and protecting victims and whistleblowers;

- ❑ Parliament must enact anti-corruption legislation devoid of partisan or other narrow considerations;
- ❑ There must be continuous demand for transparency and accountability in all sectors of national life especially the public sector;
- ❑ Non-interference by political leaders in the enforcement of law.

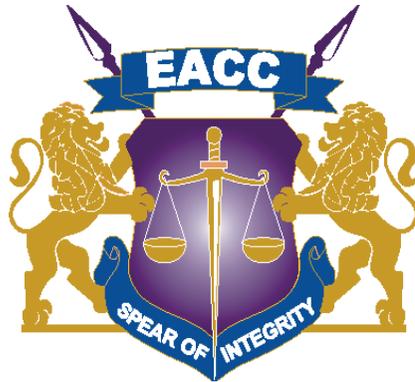
CONCLUSION

Curbing of corruption requires a concerted effort by all and sundry indeed we need to build Public Capacity to Condemn and Fight Corruption and to make Corruption a High-Risk, Low-Gain Activity.

Sunshine they say, is the best disinfectant against corruption.

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ETHICS AND ANTI-CORRUPTION COMMISSION

KENYA

**COUNTRY PAPER ON INNOVATIVE INITIATIVES IMPLEMENTED IN THE
FIGHT AGAINST CORRUPTION (SUCCESS STORIES)**

**SUBMITTED DURING THE 8TH COMMONWEALTH REGIONAL CONFERENCE
FOR HEADS OF ANTI-CORRUPTION AGENCIES IN AFRICA**

ABUJA, NIGERIA

14TH – 18TH MAY, 2018

Conference Theme: Partnering Towards Assets Recovery and its Return

**ARCHBISHOP (RTD.) ELIUD WABUKALA, EBS
CHAIRMAN, ETHICS AND ANTI-CORRUPTION COMMISSION**

TABLE OF CONTENTS

1. INTRODUCTION	3
2. INNOVATIVE INITIATIVES IMPLEMENTED.....	4
2.1 PRIORITIZATION OF IMPACTFUL INVESTIGATIONS	4
2.2 RECOVERY OF ILLEGALLY/CORRUPTLY ACQUIRED ASSETS	5
3. MAIN CHALLENGES FACED IN IMPLEMENTING THE INITIATIVES.....	7
3.1 Domestic Challenges.....	7
3.2 Barriers under MLA.....	7
3.3 Other Challenges	8
4. RESULTS OF THE INNOVATION.....	9
5. REFLECTIONS AND LESSONS LEARNT.....	10
6. RECOMMENDATIONS	11

1. INTRODUCTION

In Kenya, the Ethics and Anti-Corruption Commission (EACC) is the principal agency that is mandated under the law to combat and prevent corruption and unethical conduct. The Commission is vested with the powers and functions to, *inter alia*, investigate corruption, economic crimes and ethical breaches, trace and recover illegally/corruptly acquired assets, educate the public and enlist and foster their support in combating corruption and economic crimes as well as employ programmes to prevent corruption.

Article 252 (1) of the Constitution and Section 13 (2) (c) of the Ethics and Anti-Corruption Act gives the Commission powers to conduct investigations on its own initiative or on a complaint made by any person. Upon completion of an investigation, if the Commission finds that the state or public officer conferred upon himself or another person public property or funds, then it is empowered under Section 11 (1) (a) (k) of the Act to *inter alia* institute and conduct proceedings in court for purposes of the recovery or protection of public property, or for freezing or confiscation of proceeds of corruption or those related to corruption, or the payment of compensation, or other punitive and disciplinary measures as well as recommend prosecution of the concerned officer(s).

Corruption is a crime of gain. The gain makes people be inclined to engage in corruption. Therefore, recovery of stolen assets is an integral part of the prevention, detection of and punishment for the crime of corruption.

2. INNOVATIVE INITIATIVES IMPLEMENTED

2.1 PRIORITIZATION OF IMPACTFUL INVESTIGATIONS

Whereas the Commission receives numerous reports for investigation, it will not have the necessary resources to investigate every allegation that falls within its mandate. Therefore, there is need to prioritize investigations with the highest impact. This takes into consideration the following parameters-

a) Monetary value

- The Commission will give priority to investigations in which the amount in question at the National Government level is at least Ksh.50 Million (approximately 500,000 US Dollars);
- The Commission will give priority to investigations in which the amount in question at the County Government level is at least Ksh.10 Million (approximately 100,000 US Dollars);

b) Complexity

- These involve cases that are multifaceted or difficult, in particular:
- Matters which involve international cooperation- mutual legal assistance and extradition proceedings;
- Transactions which cut across several institutions- public or private; or
- Transactions in which offences alleged or disclosed touch on the mandates of several agencies.

c) Personalities involved

The Commission is giving priority to cases wherein the profile of individuals being investigated and/or recommended for prosecution is high, notably:

- State Officers;
- Accounting officers;
- Renowned private sector leaders and business personalities; or
- High net worth individuals whose lifestyles vary with known sources of income.

d) Public interest

These are cases where the measure or extent, is perceived to affect the public good, including matters:

- Which affect a wide cross-section of the society;
- Whose determination will establish a precedent;
- Whose outcome may lead to a change in Government policy; or
- Where persons involved hold or previously held State offices and therefore are held to a higher threshold of public trust.

2.2 RECOVERY OF ILLEGALLY/CORRUPTLY ACQUIRED ASSETS

Asset recovery has emerged as a major global concern. The most recent international convention targeting corruption, the United Nations Convention Against Corruption, emphasizes asset recovery as a primary principle, which all States Parties should endeavor to support.

The recovery of stolen assets is a difficult process under ideal circumstances, but is routinely complicated by conditions in developing or failing states, including but not limited to systemic corruption and limited locally available resources.

Misappropriated funds or kickbacks to initiate otherwise illegal projects are usually hidden abroad. This embezzlement and related predicate crimes result in tremendous economic harm, manifesting in many forms, including underdevelopment, environmental destruction, and even death among the vulnerable sections of a population.

Sequestration of stolen or illegally and corruptly acquired assets acts as a big deterrence for engaging in criminal activity. The Commission has therefore given priority to investigations that lead to tracing, protection and recovery of such assets, which are then returned to their rightful owners. Some of the strategies to enhance recovery which the Commission is emphasizing on include the following-

- Promotion of the use of Alternative Dispute Resolution (ADR) in line with the provisions of the Constitution of Kenya. Several initiatives have been commenced and parties have shown interest in negotiations especially in surrender of illegally acquired public property;
- Cross border cooperation towards tracing and repatriation of assets stashed in foreign jurisdictions;
- Continuous capacity building for technical officers;
- Institution of Asset Recovery cases in court for high value property;

- Conduct investigations that incorporate legal counsel;
- Multi agency approach through consistent and continuous engagement with key stakeholders to build synergy in understanding the ever-evolving nature and complexity of corruption and economic crimes.

3. MAIN CHALLENGES FACED IN IMPLEMENTING THE INITIATIVES

3.1 Domestic Challenges

- i) Lengthy protracted and delayed court cases challenging investigations and recovery proceedings initiated by EACC;
- ii) Adverse decisions by courts;
- iii) Inadequate cooperation by some institutions and persons of interest in the investigation process;
- iv) Duplication of structures and bureaucracy e.g. EACC, Asset Recovery Agency (ARA), Financial Reporting Centre (FRC);
- v) Lack of overarching co-ordination;
- vi) Limited capacity, lack of skilled human resources, technical capacity and equipment, high turnover of staff;
- vii) Inadequate Resources;
- viii) Lack of statistical data and/or non-availability of documents;

3.2 Barriers under MLA

- i) Dual Criminality;

- ii) Delays in responding to a request under MLA from a State Party – lengthy and complicated procedures;
- iii) Costs involved in the tracing, freezing or seizure of assets;
- iv) Banking Secrecy Laws – banks are reluctant in releasing customer information;
- v) Variation of laws in different jurisdictions;
- vi) Inability to recognize and enforce foreign confiscation and restraint orders;
- vii) Reluctance and or delay in obtaining evidence from other jurisdictions, destruction of the evidence and slow process of preservation of assets held in other jurisdictions;
- viii) Inability to return assets to originating jurisdictions;
- ix) Communication barriers/translations are time wasting.

3.3 Other Challenges

- i) Insidious/secret nature of corruption: In most of the cases, everyone involved is a beneficiary and has an interest in maintaining secrecy;
- ii) 'Politicization' and 'ethnisation' of corruption therefore raising unwarranted issues that make dismantling corruption networks difficult;
- iii) Apathy or ignorance of citizens and their failure to perform their civic duty;
- iv) Lack of sufficient cooperation among the institutions involved in the criminal justice in relation to corruption cases;
- v) Frequent changes in the Commissions' leadership and subsequent transitions have impacted negatively on levels of collaboration regionally and internationally.

4. RESULTS OF THE INNOVATION

1. In February 2018, Kenya entered into a framework agreement with Switzerland, United Kingdom and Jersey to collaborate in the fight against corruption for Return of Assets from Corruption and Crime (FRACC). The illegally acquired proceeds will in turn be repatriated back to Kenya for the benefit of public projects as provided for by UNCAC. Some notable assets recovered include-
 - a) **\$5.3M** (KShs 535M) frozen by the Government of Jersey in relation to KPLC contracts and an agreement between the two Governments was signed to ensure the repatriation of the funds for development projects in Kenya.
 - b) More than **\$2.2M** (KShs 222M) stolen in the Anglo Leasing scandal has been frozen by the Swiss Government, and will be pumped back into the country's economy after the Swiss Government inked a deal with Kenya in February 2018.
 - c) **\$498,481** (KShs 50M) arising out of the conviction and sentence in the Smith and Ouzman (Chickengate) in the UK. The money was sent to Kenya and was used to purchase 7 ambulances for the Kenyan Government. On July 3 2017, The President handed these ambulances to seven counties.
2. The use of asset tracing and recovery by EACC has led to a significant improvement in its performance during the FY 2016/2017 and managed to save Kenyans loss of \$77.7 M (Kshs 7.7 billion) as indicated below-
 - a) Recovery of illegally acquired public assets in cash stood at \$138,564 (Kshs 13.9M)

- b) Land and immovable properties was valued at \$2.4M (Kshs 242.1)
 - c) Preserved assets was valued at \$13.5M (Kshs 1.3B)
 - d) Averted loss through disruptions was valued at \$61.5M (Kshs 6.1B)
3. The establishment of a fully equipped laboratory within the EACC aimed at integrating technology in investigations has enhanced the quality of investigations.
 4. Strategic alliance and collaboration with regional and international anti-corruption bodies has led to successful completion of cases currently pending in court. Funds lost in some of these scandals have been repatriated by UK to Kenya.

5. REFLECTIONS AND LESSONS LEARNT

Criminal prosecution for corruption is not enough. There is need for enhancement of operations that will lead to an increase in the tracing and recovery of assets illicitly acquired. It is our considered view that perpetrators of corruption will only feel the sting of corruption, if all they illegally appropriated for themselves is taken away and even in death their families are denied enjoyment of the same.

The recoveries and disruption of corrupt deals means that the assets were returned back to the public while some preserved pending completion of litigation. The effects of the Commission's action highlighted herein had a positive impact on the development and economy of the country because the concerned public properties and assets are now safe and being utilized for the right purpose.

6. RECOMMENDATIONS

1. Enhance capacity of enforcement agencies charged with the mandate of asset recovery.
2. Engage early in international cooperation - Encourage, pursue, and maintain all methods of informal assistance before initiation of a formal MLA request to save on time.
3. Develop mechanisms of collaboration between the agencies to avoid duplication and counterproductive competition.
4. Amendment of laws to harmonize the roles of the various agencies and government bodies.
5. Provide simplified recovery processes
6. Training in asset tracing and recovery
7. Identification of asset recovery cases at the earliest possible stage of investigation and appropriate action immediately taken to immobilize target assets from further transfer or movement of liquid assets
8. Effective and appropriate sanctioning and enforcement regime.

COUNTRY PAPER

FOR

MALAWI

ON

SUCCESSSES AND CHALLENGES

ON SOME INNOVATIONS

BY

ANTI CORRUPTION BUREAU-(ACB)-MALAWI

INTRODUCTION

The Anti-Corruption Bureau (ACB), Malawi is a government institution established under Section 4(1) of the Corrupt Practices Act (CPA) No.18 of 1995.

It has two mandates: Corruption Prevention and Law Enforcement.

- Corruption Prevention mandate is fulfilled through Corruption Prevention and Public Education Departments.
- Law Enforcement mandate is fulfilled through Investigations and Legal and Prosecutions Departments

The Bureau has made great strides in the fight against corruption in all Departments.

However, ACB is yet to win the battle because the corrupt are devising ways of beating the systems and traps that are set to deter them.

Therefore ACB believes that ACAs must be creative to match with innovations that perpetrators of the vice are using to beat the systems.

INNOVATIONS IN PUBLIC EDUCATION

The Public Education Department has six officers against an estimated population of over 17, 000, 000 people. To reach out to all these people, PED relies heavily on partners to help in civic education. Innovations in PED come from -

- the creativity of its officers
- adoptions from various countries, some of which are not in Commonwealth. These have been modified to suit the local setting

The Bureau considers the following public education initiatives to have proven effective in the fight against corruption in the country:

Innovation 1 Public Interface Meetings

These are outreach meetings held by the Dept. aimed at addressing or resolving corruption issues in the communities.

Duty bearers (mostly public officers) and members of the communities/service users meet at a venue.

The Dept. facilitates availability of the duty bearers, who are to respond to issues raised by members of the public. Duty bearers usually come from public offices like police, public hospitals, city councils and also traditional leadership, etc.

PROCESS

The Dept. analyses complaints received by the ACB in all the four regional offices plus those from partners who are on the ground. People explain what happens in the hearing of duty bearers and duty bearers are asked to respond right there. Then they agree on how to stop the malpractice.

SUCSESSES

Admission of the wrongs done and working out the way forward there and then.

A promise to change after being reported.

Community empowerment.

CHALLENGES

Reluctance of some duty bearers to attend the meetings and some actually disappear on the day of the function afraid to face people.

LESSON LEARNT

Proper prior arrangement with superiors on what is expected of them, attendance is assured.

Innovation 2 Partnerships with other organizations

Realizing that the fight against corruption requires everyone's participation to succeed, the Anti-Corruption Bureau through its Public Education Department entered into a number of partnerships.

The most successful and rewarding partnership is the one that the Dept. entered with National Initiative for Civic Education Trust (NICE).

National Initiative for Civic Education (NICE) Trust

It is a civic and voter education project established in 1999 to deliver civic education on a permanent basis countrywide with adequate personnel in all the districts of Malawi.

NICE has libraries both in urban and rural areas.

PROCESS

Signing of the Memorandum of Understanding (MOU) which is shared to all NICE officers in the country.

NICE complements the work of the Bureau by using its officers and volunteers to mobilize people and organize meetings in communities on our behalf, mainstream corruption issues in their civic education programmes and put our literature in their libraries.

SUCCESS

The country wide distribution of Information Education and Communication (IEC) materials across the country through NICE libraries and volunteers.

Officers and volunteers trained by the ACB mainstream issues of corruption in their day to day civic education work. NICE officers live in communities that is why PED depends on them to mobilize people to meetings.

NICE invites Bureau officers at no cost to make anti-corruption presentations during their functions.

Sharing of both human and financial resources.

CHALLENGE

Some officers take a casual approach to relay our invitation messages resulting in low patronage.

LESSON LEARNT

If you choose a partner that shares your vision and aspirations, things work smoothly. (Few other MOUs signed did not flourish and survive due to the absence of financial incentives they expected in return).

Some partners can be liabilities and not assets, therefore there should be a clause on termination in case you disagree.

Innovation 3

Establishment of Anti-Corruption Clubs

They are established upon demand and on volunteer basis.

There is a letter to express their interest.

There are sixty (60) clubs across the country, mostly community based; 5 are University based.

Members of the clubs are trained before they start their work.

Club members sensitize people in their communities on issues of corruption, report cases of corruption and also assist those who would like to report corruption by directing them to the Bureau.

The clubs are monitored by ACB and NICE Offices.

SUCSESSES

They assist with IEC materials distribution with or without financial assistance.

The clubs partly addresses the human resource challenge in the Department since part of the work is devolved to them.

Some clubs members have been incorporated into various area development committees at local level to ensure transparency and accountability, in the process they have at times foiled corruption conspiracies.

Some clubs have very organized drama groups that are used in sensitization as edutainment.

CHALLENGES

Passiveness of some clubs once they realize that support is not forthcoming despite having full knowledge that their work is voluntary.

Some clubs with youthful membership easily die out as members get married or relocate to new places in search of jobs or to do businesses.

LESSON LEARNT

Clubs that have old and mature membership outlive those with youthful membership only. So have a mixed group.

ACCs should be demanded by the communities themselves after realizing a need.

Innovation 4 Youth Programmes

The aim of this initiative is to:

- ▶ inculcate a culture of integrity among the youth.
- ▶ introduce anti-corruption issues to them as early as possible so that they start appreciating its evils and dangerous effects at a tender age with the hope of molding a clean generation.
- ▶ The initiative targets both in-school (secondary schools) and out-of-school youths.
- ▶ In schools, there are motivational talks and the other group with football and netball bonanza.

Youth in Primary Schools

PED is working with the Malawi Institute of Education to push for more inclusion of anti-corruption issues in the primary school curriculum as well.

The material was presented at the standard 7 curriculum review workshop which took place in 2016.

Working towards doing the same for other classes during such curriculum reviews which are done in phases.

CHALLENGES

Unwillingness of some head teachers to give civic educators time to make the presentations.

On incorporating corruption issues into the primary school syllabus, some experts resist new material arguing that curriculum is already bulky.

It is difficult to measure its impact in short term, since the real impact will be seen when they become adults.

Innovation 5

Investigations Department

Forensic Unit

Why this unit?

With advancement in technology, a lot of criminal cases are committed using IT equipment.

During investigation of many cases, the ACB has been seizing gadgets used to store data.

However, inadequate capacity to extract digital data made cases to take too long a time (some were sent to UK, Norway) for extraction. And back for analysis.

The long process tainted the image of the ACB in terms of its performance

SUCSESSES

So far have registered 11 convictions since the inception of the IBM i 2 training.

Four (4) officers have undergone training in digital data extraction.

Speedy conclusion of cases, especially on the well known cases dubbed "cashgate" where a lot of public money was squandered.

CHALLENGES

With high staff turn over, there is continual need for training of officers.

There is need for more finances to train other officers in the Department (4 vs 18 investigators!!!)

Annual Licences/subscription for forensic devices are expensive.

Adoption of innovations from other countries

Rwanda

Youth programs: continual youth engagement through annual youth congress, youth anti-corruption clubs debates.

Commemoration of anti-corruption week vs anti-corruption day.

Botswana

Partnering with national broadcaster to cover our activities for free.

The need to come up with training manuals for public institutions that ask ACB to make presentations to new recruits.

Zambia

Institutional Integrity committees.

Conclusion

The purpose of this paper has been to share some success stories that the Anti-Corruption Bureau, Malawi has experienced over the years with focus on its Public Education and partly on Investigation work.

Through sharing of innovations, success stories and experiences, anti-corruption agencies can adopt innovations from a pool of ideas and later adapt them to suit their countries.

Country Paper - ICAC Mauritius

FIGHTING CORRUPTION AND MONEY LAUNDERING: INNOVATIVE PROJECTS OF THE ICAC (Mtius) FOR BETTER EFFECTIVENESS

Country Paper

Introduction

The Independent Commission Against Corruption (ICAC) was set up in Mauritius in 2002 to fight corruption and money laundering by virtue of the enactment of the Prevention of Corruption Act (PoCA) and the Financial Intelligence and Anti-Money Laundering Act (FIAMLA) in the same year. These two pieces of legislation define the mandate of the Commission to investigate and prosecute these crimes, as well as to educate the public, and to advise and assist public bodies in the development and application of best practices to prevent corruption. There are currently 142 members of staff who are distributed within the four Divisions of the Commission. The Investigation Division has a staff of 85 persons.¹ It is advised, in its investigative function, by a team of eight lawyers and two legal research officers, which form the Legal Division. The Corruption Prevention and Education Division has presently 25 staff to discharge its mandate. The Commission is currently at the start of a reform phase in where the development of three projects will seek to re-engineer the operations and service functions of the ICAC. These three projects constitute the new pillars for a more effective institution in the future.

The three projects of the Commission

The new management of the Independent Commission Against Corruption (ICAC) took office in July 2016. The main task of the Director-General has been to ensure that the Commission has the capacity to face the growing challenges of financial crime often relying on latest technological platforms, resulting from increasing

¹ Including 20 Police Officers on secondment.

Country Paper - ICAC Mauritius

financial globalization. After fourteen years of existence, it was high time for the Commission to assess its effectiveness in fighting corruption and money laundering. The new management's mission to bring the organization to another level in its service delivery to the Mauritian nation, has triggered this evaluation process and led to the reform plan. Three flagship projects were identified to constitute the foundation upon which the restructuring of the four divisions would lie. These projects are namely: (i) the computerization of all operations and processes at the Commission; (ii) a complete review of the systems and procedures within the four Divisions, and (iii) the implementation of a modern performance management system to evaluate the performance of staff. The expectation is that the combined impact of these three projects would result in greater effectiveness.

The impact of these projects

To date, the computerization project has reached a critical stage in its implementation. It has significantly improved the work processes and is bringing a new work culture within the whole organisation. The processes have been redefined and updated to ensure greater accountability, work discipline and commitment. Human and capital resources are used more cost-effectively and responsibly. Besides, the Investigation Division has been equipped with modern technological tools to meet the ever growing challenges of financial crime. The next stage to this project will be the implementation of a modern and comprehensive case management system (CMS) which will integrate the work flows of the Commission, i.e., the Board, the Investigation and Legal divisions. The CMS will aim also at providing the Investigation Division with appropriate analytical tools to be more efficient and effective in its operations.

It was important to review and enhance the systems and procedures in place at the Commission after fourteen years of existence. The Commission has the legitimate

Country Paper - ICAC Mauritius

ambition to be a model organisation in the country in terms of transparency, accountability and integrity. This review exercise was conducted by the Systems Enhancement branch of the Corruption Prevention and Education Division of the Commission. Nearly 75% of its recommendations have been implemented so far. Standard Operating Procedures for each Division are being developed with a view to ensuring better compliance and accountability.

Likewise, the services of a consultant in human resources management have been enlisted by the Commission to develop a modern performance management system (PMS). With this system, staff's performance is being assessed with more objectivity against agreed key performance indicators and well-defined performance standards. The PMS is contributing to bring about a work culture geared towards more professionalism and discipline, and above all, with a higher level of integrity and accountability from staff of the Commission.

The new investigative strategy of the ICAC

Since the new management took office, the investigative strategy of the Commission has undergone important changes. Previously, ICAC's investigations were more corruption-related and focussed only at securing convictions and nothing more. The major flaw of that strategy was that it overlooked the link between the corruption proceeds and money laundering, such that we hardly investigated the assets of officials suspected or convicted of corruption. Our money laundering investigation strategy also was reactive, i.e., it was based essentially on complaints received at the Commission.²

The current investigative strategy is more intelligence-based and it focuses more on the illicit gains of criminals. The combined effects of the three aforementioned

² See our country paper for the 7th meeting in June 2017.

Country Paper - ICAC Mauritius

projects have enriched this strategy. As highlighted above, the Commission is budgeting for the acquisition of high-technology tools to strengthen its investigative arm. This policy decision has become necessary in view of the new trends in financial crime and the techniques employed by criminals to launder their illicit funds. Besides, the development of standard operating procedures and the performance management system have respectively streamlined all processes and caused staff to be more committed and result-oriented in their actions.

The challenges of financial crime to investigation

Combating corruption and money laundering in today's world is an enormous challenge for any country. Financial crime has become increasingly international in scope, and more complex in nature. Modern financial systems allow criminals to transfer huge amounts of money instantly through personal computers and smart phones. Criminals are using currency exchange dealers, casinos, automobile dealers, gold dealers, real estate's promoters, trading companies and other sophisticated systems to launder their illicit funds, if these are not used to finance terrorism.

It is in the face of these challenges that the management has taken the responsible decision to come up with these three lead projects. Actually, to effectively combat corruption and money laundering, law enforcement must have the means which are at least as sophisticated as those used by the criminals, if not more so. It is in this context that the ICAC has thought it essential to invest in the acquisition of digital forensic tools to examine computers and other technological devices used by criminals for evidence. This proactive and technology-based method of investigation demands that there is a set of law-compliant procedures in place at the Commission to guide investigators, so as to avoid challenges in court. It also calls for more transparency, accountability and devotion on the part of staff. The objectives of the

Country Paper - ICAC Mauritius

systems review and the PMS projects are precisely and respectively to elaborate codes of practices for investigators to ensure greater accountability, and to develop the necessary frameworks to assist staff in acquiring those professional ethos.

Investing in technological tools

In line with the computerization project, the ICAC has, since mid-2017, set up a Digital Forensic Laboratory on its premises. This unit is currently manned by two Digital Forensic investigators with hand-on experience in cybercrime investigation, one of whom is a Police Officer on secondment to the Commission. It is in the Commission's plan to reinforce this team with the recruitment of other professionals in computer forensics. The acquisition of additional forensic analytical tools is also on its agenda. The objective is to render this laboratory more efficient and effective. Currently, this team is mainly assigned the tasks of examining and acquiring evidence from digital apparatus secured during an investigation.

The ICAC has also invested into the acquisition of a modern and fully equipped digital interview room. It was necessary to invest in this High-Tec investigative equipment in order to avert allegations of coercive method of interviewing coming from suspects and lawyers. This tool not only serves as a protection to investigators against similar allegations, but it also calls for more accountability on their part, over and above guaranteeing transparency and confidence in our methods of investigation. The Commission is planning to digitalise at least two more interview rooms in a near future.

The impacts of the projects on the three other divisions of the ICAC

- ***The Legal Division***

This Division operates jointly with the Investigation Division. It comprises 10 staff. The lawyers tender preliminary advice on investigation files and they prosecute cases

Country Paper - ICAC Mauritius

where the office of the Director of Public Prosecutions advises prosecution. The computerization, systems review and PMS projects are having the same positive impacts on this Division as on the Investigation Division. With the implementation of the case management system (CMS), the channelling of files between these two divisions will be honed with a higher level of integrity and accountability.

- ***The Corruption Prevention and Education Division (CPED)***

Succinctly, the mandate of this Division is: (i) to work in collaboration with the management of public organisations to render these institutions more corruption resistant; (ii) to sensitise and educate the civil society on the dangers of corruption, and (iii) to develop partnership with its collaborators in the public and private sectors, including civil society, to wage war against corruption.

As stated above, the System Enhancement Branch (SEB) has been at the heart of the systems review project. “Charity begins at home” is the saying. This unit has conducted quite a number of systems reviews and developed as many best practices guides for public institutions since the 14 years of existence of the ICAC. But never had the Commission thought of requesting an appraisal of its own systems before July 2016! The report of the SEB was blunt: the systems and processes within the four divisions of the Commission have to be strengthened with proper sets of written procedures.

Therefore, the three projects have impacted positively on this Division also. It is worthy to note that the Commission’s prevention and education strategies have evolved over the years, from the conduct of Corruption Prevention Reviews to the implementation of a Public Sector Anti-Corruption Framework (PSACF) for public bodies. The main features of the PSACF are that each public body has to develop and implement an anti-corruption policy. This initiative has proven to be an effective

Country Paper - ICAC Mauritius

tool in fighting corruption in the public sector. To address corruption involving the political class, the Commission, with the assistance of the Commonwealth Secretariat, has contributed in the elaboration of a Code of Ethics for members of the National Assembly of Mauritius. This document is due to be ratified and adopted by the government very soon.

At present, the main challenge for the Commission in matters of prevention and education remains the development and implementation of a National Anti-Corruption Policy and Strategy.

- ***The Corporate Services Division***

This Division comprises 41 members of staff and forms the administrative arm of the ICAC. It is equally concerned with these three projects. It is now deriving all the benefits of a freshly commissioned electronic Documents Management System (eDMS) for the management of administrative files, and an Enterprise Resource Planning (ERP) to manage physical assets, finance and human resources of the ICAC.

The Performance Management System (PMS) currently in place at the Commission has been developed by a consultant with the assistance of the staff of the Human Resource Office (HRO) of the ICAC. This new system of staff's performance appraisal cuts across the four divisions of the Commission. It is going on its second year of implementation and a lot of positive results, as highlighted above, have come out of it.

Cooperation as a new idea for effectiveness

The ICAC has also taken the initiative of setting up a working group for inter-agency collaboration in 2017. This platform regroups all local law enforcement agencies (LEAs) including financial regulators for better work relationship and coordination.

Country Paper - ICAC Mauritius

This initiative gives effect to the 2nd recommendation of the FATF on “national cooperation and coordination”. The structure and terms of reference of this working group are yet to be finalised and adopted. However, capacity building programmes and conferences are organised by the ICAC and other members of the group where staff of each are convened. The proposed objectives of this working group will be:

1. To work in close collaboration and support each other in the prevention and detection of financial crimes including corruption, money laundering, fraud, tax evasion, smuggling, and terrorist financing, among others.
2. To share relevant intelligence to allow each party to take relevant actions in furtherance of their respective mandate under the law.
3. To provide for timely exchange of information in relation to the detection of corruption, money laundering, terrorist financing and of any predicate offence.
4. To formalise the inter-agency partnership in the form of memoranda of understanding (MoU).
5. To ensure, despite our diverging priorities, that all the partners do take ownership of the project and contribute positively in its advancement for the benefit of all the stakeholders in the pursuance of our respective mandate.
6. To collaborate in building the capacity of personnel in matters of common interest to fight financial crime more effectively.

Conclusion

Corruption and money laundering cannot be fought successfully without the support of civil society. To maintain people’s trust in the organisation, the ICAC is resolutely committed to the success of these three projects and the initiative of setting up the

Country Paper - ICAC Mauritius

inter-agency working group. Besides being innovative, the projects and the initiative have the potentials of making the Commission's new approach to combat these crimes more effective.

8TH CONFERENCE OF HEADS OF ANTI-CORRUPTION AGENCIES IN COMMONWEALTH AFRICA: PARTNERING TOWARDS ASSETS RECOVERY AND RETURN.

THE WORK OF THE SPECIAL PROSECUTOR IN GHANA: ITS PROSPECTS AND CHALLENGES: MARTIN A. B. K. AMIDU, SPECIAL PROSECUTOR OF GHANA

Mr. Chairman,

Colleague Heads of Anti-corruption Agencies in Commonwealth Africa,

Other participants at this 8th Conference

Ladies and Gentlemen

It gives me pleasure to find myself amongst such august company of our dear continent's heads of anti-corruption agencies in Commonwealth Africa who by virtue of our shared colonial histories share similar experiences of nationhood, parliamentary constitutional democracy, coup d'états anchored mainly upon allegations of corruption in the body politic, experiments in forms of constitutionalism, separation of powers and forms in the exercise of the executive, legislative and judicial powers of state, rule of law, all to the ultimate end of securing for our nations forms of good governance for the mass of our peoples under a regime of a national constitution.

But before I get ahead of myself with the history of corruption in Commonwealth Africa and particularly in Ghana in which I have been an active player in the political arena for a few decades now, I wish from the bottom of my heart on my own behalf and on behalf of the Office of the Special Prosecutor of Ghana to thank the Chairman of the Economic and Financial Crimes Commission of the Federal Republic of Nigeria, Mr. Ibrahim Magu, and his Commission, and the Commonwealth Secretariat for extending an invitation to me, as the Special Prosecutor of the Republic of Ghana to join the rest of you at this Conference here in Abuja.

My invitation letter to this Conference requested me to share my vision for my current assignment as the Special of Ghana with participants. I had, therefore, written out an outline of what in my view is the vision of the Office of the Special Prosecutor to which I was nominated,

approved by Parliament after an almost nine hour vetting process beamed worldwide, and appointed by the President on 23rd February 2018. My parliamentary approval process at which my responses to the questions and enquiries by Honourable Members of Parliament were on oath, more than adequately state my personal vision for the Office of the Special Prosecutor for which I was being vetted. For the purpose of this conference I had tried to capture in a nutshell my perspectives of the vision for the institution which I was approved by Parliament and appointed by the President of the Republic of Ghana to lead.

But on Monday, 14th May 2018, however, when the programme for the conference was given to me for the first time I found out for the first time that I was to share with participants my perspectives specifically on the “The Work of the Special Prosecutor: Prospects and Challenges”.

BRIEF POLITICAL AND HISTORICAL CONTEXT OF ACT 959

The work of the Special Prosecutor of the Republic of Ghana is set out for him in the Office of the Special Prosecutor Act, 2017 (Act 959). The Office came into existence on the 3rd January 2018 with the notification in the Gazette of the enactment of the Office of the Special Prosecutor Act, 2017 (Act 959). The Office of the Special Prosecutor Act is available on the world-wide-web for anybody who cares to read it and to find out what the work of the Special Prosecutor entails and the challenges he may face in the face of Africa’s long struggle pre and post-independence to fight the canker of corruption. I could, therefore, rightly assume that my the nature of the work we each do as heads of anti-corruption agencies in our various countries we each have had an interest in what happens in each other’s country. Consequently the work of the Special Prosecutor as spelt out clearly in the enabling Act is already known amongst almost all of us here. That makes my work easier this morning and may be after talking for ten minutes on the perceived prospects and challenges my remit should be done.

But that shortcut will not locate the Office of the Special Prosecutor Act within the context of Africa’s struggle since independence to achieve not only political independence but above all that economic independence that gives her and her peoples’ control over their natural and

material resources devoid of corruption, and the lack of transparency and accountability in the body politic.

There is nobody in this conference who does not know that Ghana has since her independence experienced the birth and death and rebirth of various anti-corruption institutions and mechanisms for combating corruption. Here in this conference you may all be aware of and familiar with the Commission for Human Rights and Administrative Justice, and the Economic and Organized Crime Office as some of the anti-corruption institutions in Ghana.

As Deputy Attorney General for the Republic of Ghana, I supervised the birth and establishment of the Serious Fraud Office which sadly died and gave birth to the EOCO. In the same capacity, upon the coming into force of the 1992 Constitution, I supervised and championed through Parliament the Commission on Human Rights and Administrative Justice Act, 1993 which has since been amended and added to and subtracted from by other anti-corruption legislation.

The 1969 and 1979 Constitutions of Ghana both established the Office of an Ombudsman. The Consultative Assembly of Ghana, 1991, midwifed and gave birth to the current Fourth Republican Constitution of Ghana, 1992. I was not only the Deputy Attorney General at the time; I was also the Chairman of the House Committee of the Assembly representing the then Greater Accra Region's Committees for the Defence of the Revolution at that time. The 31st December Revolution under whose values and norms Ghana was governed at the time was in both theory and practice anchored in eradicating corruption, lack of transparency and accountability in governance and restoring economic power to the mass of ordinary Ghanaians. And the Consultative Assembly was mandated to craft a Constitution that will make corruption history in the prospective new Constitutional dispensation.

The solution which the Consultative Assembly found to minimize once and for all time the scourge of corruption and abuse of power in Ghana was by creating the Commission for Human rights and Administrative Justice with extensive anti-corruption functions in the 1992 Constitution. This was in addition to the Serious Fraud Office which the revolutionary regime had already established and operationalized. The Constitution was approved without any dissent at a referendum of Ghanaians in April 1992 to come into force on 7th January 1993.

Twenty-five years down the line the majority of the people of Ghana have again confirmed in the last elections that corruption has over the years since the coming into force of the 1992 Constitution been on the ascendancy and not the decline. Like it or not, corruption and the perception of corruption has cost Governments the loss of political power in Ghana and was clearly manifested in the last Presidential and Parliamentary Elections in 2016. Governance and political analysts appear agreed that corruption, the fight against corruption, and promises to tackle the canker of corruption played no mean part in the change in Ghana in Government at the 2016 Elections.

Before the advent of the current Fourth Republican Constitution, 1992 and the latest change of in Government in Ghana on 7th January 2017 Ghana had since independence on 6th March 1956 experienced military coups in February 1966, January, 1972, June 4, 1979, and 31st December 1981 – the 31st December Revolution. In all these unconstitutional upheavals and changes in Governments, corruption or the perception of corruption in governance, lack of accountability and transparency in governance and the looting of the public purse have always been justification for the military interventions in each experiment in Ghana’s Constitutional democracy.

SUMMATION OF THE STRUCTURE AND FUNCTIONS OF THE OFFICE

The Office of the Special Prosecutor Act, 2017 (Act 959) is the latest attempt from Ghana’s political and Constitutional history to establish a more efficient and effective mechanism in the fight against the canker of corruption which is perceived to be pervasive within the body politic. The Act contains the standard anti-corruption provisions, enhanced protections and indemnity for the Office of the Special Prosecutor and for the first time the ceding of those portions of the Attorney Generals prosecutorial powers affecting corruption and corruption related offences to the Special Prosecutor.

Objects and Functions

The Act establishes the Office of the Special Prosecutor as a body corporate with perpetual succession with the attendant attributes of legal personality and spells out three main objectives for the Office, namely:

- (i) investigate and prosecute alleged corruption or suspected corruption and corruption related offences,
- (ii) recover the proceeds of corruption and corruption related offences, and
- (iii) take steps to prevent corruption.

The functions entrusted to the Office are also functions you are all familiar with and include:

- (a) the investigation and prosecution of cases of alleged or suspected corruption and corruption related offences under the Public Procurement Act, 2003 (Act 663);
- (b) investigation and prosecution of cases of alleged corruption and corruption related offences under the Criminal Offences Act, 1960 (Act 29) involving public officers, politically exposed persons and persons in the private sector involved in the commission of the offence;
- (c) investigation and prosecution of cases of alleged or suspected corruption and corruption related offences involving public officers, politically exposed persons and persons in the private sector involved in the commission of the offence under any other relevant law;
- (d) recover and manage the proceeds of corruption;
- (e) disseminate information gathered in the course of investigation to competent authorities and other persons the Office considers appropriate in connection with the offences specified in paragraphs (a) and (b);
- (f) co-operate and coordinate with competent authorities and other relevant local and international agencies in furtherance of this Act;
- (g) receive and investigate complaints from a person on a matter that involves or may involve corruption and corruption-related offences;
- (h) receive and act on referrals of investigations of alleged corruption and corruption related offences by Parliament, the Auditor-General's Office, the Commission on Human

Rights and Administrative Justice, the Economic and Organized Crime Office and any other public body; and

(i) perform any other functions connected with the objects of the Office.

The Mandate of the Office

The Office of the Special Prosecutor, subject to the Constitution is not subject to the direction or control of a person or an authority in the performance of its functions. It makes it abundantly clear that subject to clause 4 of article 88 of the Constitution, the Office shall for the purpose of the Act be authorized by the Attorney General to initiate and conduct prosecution of corruption and corruption relate offence. This is the provision which arguably cedes the prosecutorial authority of the Attorney General for corruption and corruption related matters to the Special Prosecutor.

The Board of the Office

By the operation of the Constitution, the Office of the Special Prosecutor has a governing Board which consists of the Special Prosecutor, the Deputy Special Prosecutor, six institutional representatives from six anti-corruption, security and intelligence agencies not below the rank of Director nominated by the Head of the respective agency, and one other person who is female representing the Anti-corruption Civil Society Organizations.

The Board elects its own chairperson from amongst its members other than the Special Prosecutor and the Deputy Special Prosecutor. The functions of the Board are to:

- (a) formulate policies necessary for the achievement of the objects of the Office;
- (b) ensure the proper and effective performance of the functions of the Offence;
- (c) advice the Special Prosecutor on the recruitment and selection of the Secretary and other senior staff of the Office;
- (d) develop and monitor implementation of a code of conduct for the staff of the Office;

(e) facilitate cooperation between the Office and relevant national investigative bodies to ensure the proper and effective performance of the functions of the Office; and

(f) advise the Special Prosecutor on any policy matters that may be referred to the Board by the Special Prosecutor.

The provision of the Act spelling out the Board's functions was at pains to under-score the fact that "the Board shall not interfere in the day to day functions of the Office." Members of the Board are put under very strict and stringent fiduciary duties and responsibilities in the discharge of their duties.

Qualification and Appointment of the Special Prosecutor and the Deputy

The Special Prosecutor and the Deputy Special Prosecutor are subject to strict nomination and approval process by Parliament before they may be appointed by the President. Their positions and status is notionally equated to those of a Justice of the Court of Appeal and a Justice of the High Court respectively and they enjoy security of tenure and independence on the same basis as those applicable to of superior court justices.

Functions of the Special Prosecutor

The Special Prosecutor has three functions, namely:

- (1) he is accountable to the Board in the performance of his functions under the Act,
- (2) despite the forgoing subsection (1) the Special Prosecutor shall have full authority and control over the investigation, initiation and conduct of the proceedings under the functions of the Office, and
- (3) the Special Prosecutor may assign responsibilities to an authorized officer but shall not be relieved of the ultimate responsibility for the performance of the assigned responsibility.

Divisions, Secretariat, and other staff of the Office

The Act also establishes four main divisions for the Office which answers to its objects – administration, investigations, prosecutions, and assets recovery and management. What may make a difference may be the residual division that the Board may establish necessary for the effective performance of the functions of the Office. The Act also establishes a Secretariat for the Office headed by a Secretary who has responsibility for the day to day administration of the Office and is answerable to the Special Prosecutor in the performance of functions under the Act; and arranges the meetings of the Board. The appointment of the other Staff is the prerogative of the President under article 195 of the Constitution. Other staff may also be transferred or seconded to the Office at the request of the Special Prosecutor and the Office may engage the services of relevant professional experts on the recommendation of the Board.

Police and Other powers of the Office

The Special Prosecutor and authorized officers shall exercise the powers of a police officer specified in the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) or any other enactment. The Office has powers to request for information, make production orders or apply for such orders, powers of search and seizure of documents, search and seizure of tainted or suspected tainted, making freezing orders and applying for freezing orders, realization of property, mutual legal assistance and many other powers to enable the Office to efficiently and effectively discharge its functions under the Act.

OPERATIONALIZATION OF ACT 959

I have already referred to my nine hours of parliamentary approval vetting and subsequent appointment by the President of the Republic of Ghana as the first Special Prosecutor under the Act on 23rd February 2018. On 26th February 2018 I was shown to a small rented residential apartment of four bedrooms and boys quarters which was in the process of being converted into the Office of the Special Prosecutor. This rented residential premise which is located within and surrounded by other residential property and overlooked by a hotel – the hotel Wangara – currently houses the Office and the three seconded staff I have been able to recruit in April and May this year. I eventually got a head of accounts seconded by the Controller and Accountant

General to the Office on 2nd May 2018 and I subsequently secured authorization from him for the opening of bank accounts in the name and on behalf of the Office.

I have insisted that the Board must be composed without further delay to enable the Office to take the steps that are necessary with its input to actualize the wishes of the people of Ghana in demanding a new approach to fighting corruption after the 2016 Elections. With the nomination of the female representative of the Anti-Corruption Civil Society Organizations the Board is ready for inauguration and appointment. The President has assured me that he is going to inaugurate the Board without waiting for the parliamentary approval and appointment of the Deputy Special Prosecutor who was nominated a few weeks ago and incidentally is being vetted by Parliament today. This will facilitate my ability to establish an effective Secretariat and to put in place the mechanisms for recruitment of staff for the various divisions and units of the Office.

Public Interest and Support

Ghanaians do not appear to have the patience to wait for the composition of the core of the Office before demanding that their complaints and petitions be received and investigated. Consequently, with the secondment of a private Secretary and a Records Officer to my Office I began the recorded receipt of all correspondence that had been pending before and since my assumption of Office. All petitioners and complainants have received responses to their complaints and petitions with an indication of what the Office will do when it is fully operationalized. Steps have also been taken to ensure that evidence and witnesses are not tempered with. Such is the interest shown in the work of the Office that most of the responses to complainants and petitioners find their way into the press to demonstrate what actions the complaints or petitioners are taking to vindicate issues of corruption and corruption related offences.

Disappointing Draft Legislative Instrument

I have in exercise of the powers vested in me as the Special Prosecutor initiated preliminary investigations into some of the complaints and petitions received by the Office. I have also gather intelligence in number of serious cases of abuse of public office for private gain which

will soon lead to full scale corruption investigations of some public officers and politically exposed persons past and present.

To facilitate the work of the Office the Act requires the Minister for Justice within ninety days upon the assumption of office of the Special Prosecutor, in consultation with the Board, by legislative instrument to make Regulations to prescribe the manner of tracing tainted property, the procedure for the declaration of property and income; seizure and management of tainted property and assets in respect of freezing orders issued under the Act; confiscation and pecuniary penalty orders; the submission of complaints; disposal of assets; the procedure for reporting to the public in respect of corruption and corruption related cases handled by the Office and convictions secured; and to provide generally for the effective implementation of the Act.

A month after my assumption of office, members of Anti-corruption Civil Society Organizations notified me that they had been requested by the Ministry of Justice to send inputs for the drafting of the Regulations mandated by the Act for my Office. I wrote a memo to the Director of Legislative Drafting in the Ministry of Justice calling her attention to the information I had received and pointing out that I had not be informed of the steps being taken to provide my Office with the requisite Regulations and made suggestions for drafting the Regulations. I received a response from the Attorney General and Minister of Justice directly to my memorandum in terms I was disappointed with. Then two months after my assumption of duty I received a first draft of a “Legislative Instrument for the Office of the Special Prosecutor (Operations) Regulations, 2018”. They were said to have been drafted with inputs received from anti-corruption organizations, the Department for International Development, and the Economic and Organized Crime office and covered aspects of the matters specified under section 78 of Act 959.

What surprised me was that the Regulations contained complaints procedures that showed a total lack of understanding of the fact that the Office of the Special Prosecutor is now in addition to being an independent anti-corruption law enforcement agency also entrusted with the prosecutorial discretion to prosecute suspected offenders. Consequently, its complaints procedures must be consistent with basic law enforcement procedures that will enable it to investigate corruption and corruption related offences without the knowledge of the suspect until

there is evidence for a full scale investigation necessitating the suspect being invited for interrogation.

Let me share the provisions of three of the draft Regulations on complaints and investigations with you.

“Receipt of complaint

4. The Office shall, within seven days after receipt of a complaint, acknowledge receipt of the complaint and specify in the letter to the complainant, the time within which to follow up on any action taken in respect of the complaint.

Transmission of complaint

5. (1) where the Office considers that a complaint lodged with the Office is a matter within the mandate of the Office, the special Prosecutor shall cause a copy of the complaint together with a request for comment and response to be transmitted to the head of the body or organization or the person against whom the complaint is made.

(2) The head of the body or organization or the person against whom the complaint is made shall, within seven days from the date of receipt of the complaint or any further period as the Special Prosecutor may specify, submit the response together with any comments to the special Prosecutor.

7. (1) Where the Office decides to institute a full investigation into the complaint, the office shall within seven days after taking the decision, invite for an interview (a) the complainant where necessary, (b) a representative of the body, organization or person against who the complaint is made; and (c) any other person considered necessary for the investigation. (2) The invitation shall be in writing and state the date, time and place of the meeting which shall not be less than ten days from the date of the invitation. (3) A person appearing before the Special Prosecutor to respond to a complaint shall (a) be informed of the particulars of the complaint; (b) be afforded a full opportunity to (i) respond to the complaint; and (ii) question any witness; (c) be given a fair hearing; and

(d) appear in person and may be accompanied by counsel. (4) The records of the investigations shall be in writing.”

This is supposed to be a first draft from the Office of the Attorney General and Minister for Justice of the Government that appointed me to be Special Prosecutor more than two months after my assumption of Office and without consultation with me. My reaction! First, I pointed out in my immediate reply the same day I received the draft on 26th April 2018 that the Attorney General’s letter forwarding the draft legislative instrument to me was dated 18th April 2018 while the draft legislative instrument she had forwarded to me is dated 24th April 2018. I stated my casual opinion that the Office of the Special Prosecutor is a law enforcement agency under the Act and not a Commission of Enquiry or a Commission on Human Rights and Administrative Justice. I asked further whether the procedure set forth did not render nugatory the protection guaranteed Whistleblowers under the Whistleblowers Act. I concluded by stating that I will submit the draft Regulations to the Board when it is appointed and forward its recommendations to the Minister. I promised to make my personal opinion on the Regulation known when they are ready since the professional staff of my Office was made up of only me.

I make this example to show the challenges that could be faced by the good intentions of Presidents who companion honestly and sincerely the fight against corruption in their nations. It is my hope that after the appointment of the Board the Office shall with its support have a proper operational legislative instrument consistent with its investigatory, intelligence, law enforcement and prosecutorial functions.

MY EXPECTATIONS AND COMMITMENTS AS SPECIAL PROSECUTOR

Between February 2012 and my surprise nomination, approval by Parliament, and appointment as the Special Prosecutor under the Office of the Special Prosecutor Act, have fought for integrity in governance and the protection of the public purse both in the Supreme Court of Ghana and in the media through my personal website.

Had I been asked a week before my nomination announcement whether I would accept to be Special Prosecutor, my answer would have been in the negative. I am also sure that had His Excellency the President of the Republic of Ghana been asked whether he was certain I would

accept his offer to be the Special Public prosecutor, he would have said he was doubtful. But the generality of Ghanaians were demanding for me to be appointed the Special Prosecutor. Ghanaians had nick named me the Citizen Vigilante because of my anti-corruption and other advocacy work at personal expense against the political party of which I was a foundation member.

Those who have read the President of Ghana's speech at both my nomination announcement and appointment as the Special Public Prosecutor Would have been left in no doubt that even though we belonged to different political camps and had over the years crossed swords as lawyers advocating on seminal constitutional and legal issues at the Supreme Court of Ghana since the inception of the Fourth Republican Constitution - each had profound respect for each other's integrity and honour as citizens who put Ghana First. The President assured me he wanted me to team up with him to minimize corruption in the body politic. I am therefore before you because the mutual assurances and commitments from the President of the Republic of Ghana and me to make this war against corruption and corruption related offences work under the Office of the Special Prosecutor Act.

Leadership with an alternate vision

The tools for fighting corruption are well known and documented. Several conferences, workshops and seminars have been held over the years all aimed at minimizing the canker of corruption and corruption related offences. The death and rebirth of anti-corruption organizations in many a nation is testimony to this fact.

So, what is new and special about the Office of the Special Prosecutor and what special innovation can any Special Prosecutor make to the status quo ante to make any difference?

The Presidents Anti-corruption vision

At the present epoch in Ghana's political history it has been blessed with the emergence of a President of the Republic who in my considered view has shown a commitment to lead the fight against corruption and corruption related offences – all to the end that the mass of the people rather than a select political and economic elite will be the prime beneficiaries of the national cake.

The first step in putting in place an alternate vision for achieving this goal has been the actualization of the President's electoral promise to set up an Office of an Independent Special Prosecutor free from executive control to lead the fight against corruption. The President of Ghana is in no doubt that the achievement of his vision cannot materialize without his personal and official support to make the Office of the Special Prosecutor viable.

My Vision for the Office

In my considered view, organizations are social constructions and they fail or succeed depending on their values, norms, and cultures. One cannot talk about minimizing or attempting to fight corruption without the critical attributes of integrity, honour, transparency, accountability, and above all professionalism at all levels of the organizational structure. Laws are just a string of sentences intended to be obeyed and backed by sanctions but they are not self-executory. Laws dependent on the social interactions they generate in various forms to succeed within group and organizational settings.

Here again a leadership with an alternate vision is unavoidable if there must be change from the status quo ante. No successful prevention, investigative, prosecutorial, or asset recovery strategy can make a difference unless there is a new leadership of the Office of the Special Prosecutor that exhibits sincere and committed integrity, honour, transparency, accountability, and professionalism in abiding by and implementing the values, norms and culture generally of the institution.

I intend to be the leader that will bring that change in Office of the Special Prosecutor to actualize the desire of Ghanaians to see a change in the strategy and tactics of dealing with the fight against corruption and graft. In the whole of my public career spanning more than two decades in various ministerial positions in Government in Ghana, I have endeavoured like Caesar's wife, to be above suspicion in implementing organizational norms and values. I have always led by example and without fear or favour, affection or ill will and bound only by the principles of the rule of law and constitutionalism. That I believe is what has earned me the right to be before you as Ghana's special Prosecutor today.

Guiding principles in exercise of prosecutorial discretion

The Constitution of Ghana mandates the publication by Constitutional or Statutory Instrument of Regulations to govern the exercise of discretionary power. None has been made since the coming into force of the Constitution but the Constitution itself and the decided case by the Supreme Court provide that the common law forms part of the Constitution of Ghana. Accordingly, in the hallowed tradition of the law, the common law and the Anglo-Ghanaian system of criminal justice administration the Special Prosecutor is prohibited from engaging in political activities. The Special Prosecutor in directing investigations and making decisions whether to prosecute is prohibited by the Code of Conduct and Ethics of Lawyers from agreeing to demands on his time and prestige to participate in the operation of the machinery of practical politics. This is to allow the prosecutor to have a detached and impartial view of all groups in the society.

The prosecutor cannot even if he so wished to investigate all crimes in which complaints are made to his office. What every prosecutor is ethically required to do is to *“select the cases for prosecution and to select those in which the offence is the most flagrant, the public harm the greatest, and the proof the most certain.”* He is ethically not to *“pick people he thinks he should get, rather than pick cases that need to be prosecuted.”* Throughout my career as Deputy Attorney General, Minister for the Interior and later Attorney General I have been guided by the concluding hallowed words of Justice Robert H. Jackson in a speech he made to The Second Annual Conference of the United States Attorney on April 1, 1940 at the Great hall of the Department of Justice Building in Washington, D.C.:

“Sensitiveness to fair play and sportsmanship is perhaps the best protection against the abuse of power, and the citizen’s safety lies in the prosecutor who tempers zeal with human kindness, who seeks truth and not victims, who serves the law and not factional purposes, and who approaches his task with humility.” (See page 7 thereof).

I have been guided by these noble principles which reflect the substance of the Code of Etiquette and Ethic of the Legal Profession in Ghana which I have lectured on at the Ghana Bar Association as a guest speaker and to completing students of the Ghana Law School in Accra and Kumasi. I intend the Office of the Special Prosecutor to be guided by these ideals and values in the execution of its functions under the Act.

Necessity for the Independence and Impartiality of the Office

I take the view that a holder of the Office of the Attorney General, the Solicitor-General, the Director of Public Prosecutions, the Registrar-General, and now the Special Prosecutor should in accordance with the binding code of conduct and ethics of the Legal Profession resign rather than bow to political interference. This is because as quasi-judicial officers both pursuant to the Anglo-Ghanaian common law and fortified by the 1992 Constitution there is only one right way to do the quasi-judicial jobs entrusted to them as lawyers under the Constitution to investigate and prosecute fellow citizens suspected of crime. Either quit or be fired at a moment's notice should you be asked to do something that is unconstitutional, illegal or morally repugnant to equity and good conscience. See FBI-Director Wray's answers at his Senate confirmation hearing recently.

I have written about this on my website before but I repeat its gist for the benefit of those who may not have read the article or may have forgotten this commitment to the code of conduct and ethics of lawyers as being universal. The importance of legal ethics for quasi-judicial officers was vindicated and demonstrated during the Presidency of George W. Bush of the USA. Unbeknown to President Bush his Attorney-General, Ashcroft, was on admission at the hospital and Comey who was then Deputy Attorney General was Acting Attorney General with the then-FBI Director Muller running the FBI when aides to the President tried to take advantage of Ashcroft's indisposition to push through an extension of the controversial warrantless eavesdropping programme. The former Acting Director of the FBI-Director, Wray, who was then working at the Department of Justice, Comey and the then-FIB Director Muller put their jobs on the line and opposed the move. President Bush backed down when he got to know that his top law enforcement officers would all resign if he went ahead with the extension. As President Bush narrates in his memoirs he could as Chief Executive have still gone ahead and extended the programme but he realized that that would result in a disaster for his administration and pulled back. Power when granted even in full must never be exercise capriciously.

Needless for public officer or political officeholder to fear the Special Prosecutor's Office

No public officer or political office holder should fear the Special Prosecutor when he conducts his office with honour and integrity. The corrupt or potentially corrupt ones should have everything to worry and fear under my watch. I will show no mercy from the Office of the Special Prosecutor under my watch. You can negotiate to admit the offence and pay reparation and avoid prosecution and sin no more as the law allows in certain circumstances. But showing mercy and letting dangerous and serious criminal looters of the national purse go free with their booty is a crime against the Constitution and people of Ghana and will not happen under my watch as the Special Prosecutor.

CONCLUSIONS

The Office of the Special Prosecutor is lucky to be the beneficiary of powers and authorities which its predecessor anti-corruption agencies did not have to fight the persistent canker of corruption which has at every turn of the momentum to liquidate it in one epoch finds regeneration in another. Ghanaians expect that the Office of Special Prosecutor under my watch should meet their expectations of dealing with the canker in a manner that makes crime, crime and not politics. The fight this time round shall transcend political party and government boundaries. God willing, holding a political party membership card will cease to be an insurance against the crime of corruption and corruption related offences under the Office of the Special Prosecutor. In the meantime all I can say is: Let us let time tell whether we succeed or we fail.

DATED AT ABUJA, NIGERIA, THIS 16TH DAY OF MAY 2018

MARTIN A. B. K. AMIDU
(SPECIAL PROSECUTOR - GHANA)

THE RIUM.

THIRD PARTY FUNDING OF INTERNATIONAL LITIGATION.

Neil Purslow
Chief Investment Officer
Therium Capital Management Limited

15 May 2018

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THERIUM.

INTRODUCTION.

- What is third party litigation funding and what is the present state of the industry?
- Working with a litigation funder.
- Case studies.
- Q&A

THERIUM.

BACKGROUND TO THERIUM.

- One of the early movers: launched in January 2009.
- Institutional backing: >\$700m raised since April 2015; third largest litigation funder in the world and one of the most active outside the US.
- Circa 120 cases funded with \$36 billion of potential claim value.
- Founding member of the Association of Litigation Funders of England and Wales ('ALF') and represented on the ALF Board.
- International reach: cases touching on 5 continents currently with a broad investment mandate and a presence in Jersey, London, New York, Germany, Oslo and Spain.
- All forms of commercial litigation and international arbitration; financial services cases are common.

‘TRADITIONAL’ LITIGATION FUNDING.

- Funder agrees to fund legal costs in return for a percentage of the damages and/or a multiple of the funding.
- Funding is typically not a loan: investment is lost if case is lost. No interest or arrangement fees charged.
- Principal activity of most funders is providing funding. Funders do not generally provide additional services or purchase the claim.
- Client retains control of the case and decides when to settle within the parameters of legal advice.
- Funding can pay for all or a proportion of costs (including tribunal costs and expenses, expert fees, security for costs and enforcement costs), or just a proportion of costs with balance carried on contingency or disbursements only.
- Funder can provide an indemnity for adverse costs risk as part of the funding, or funder / client can source ATE insurance independently.

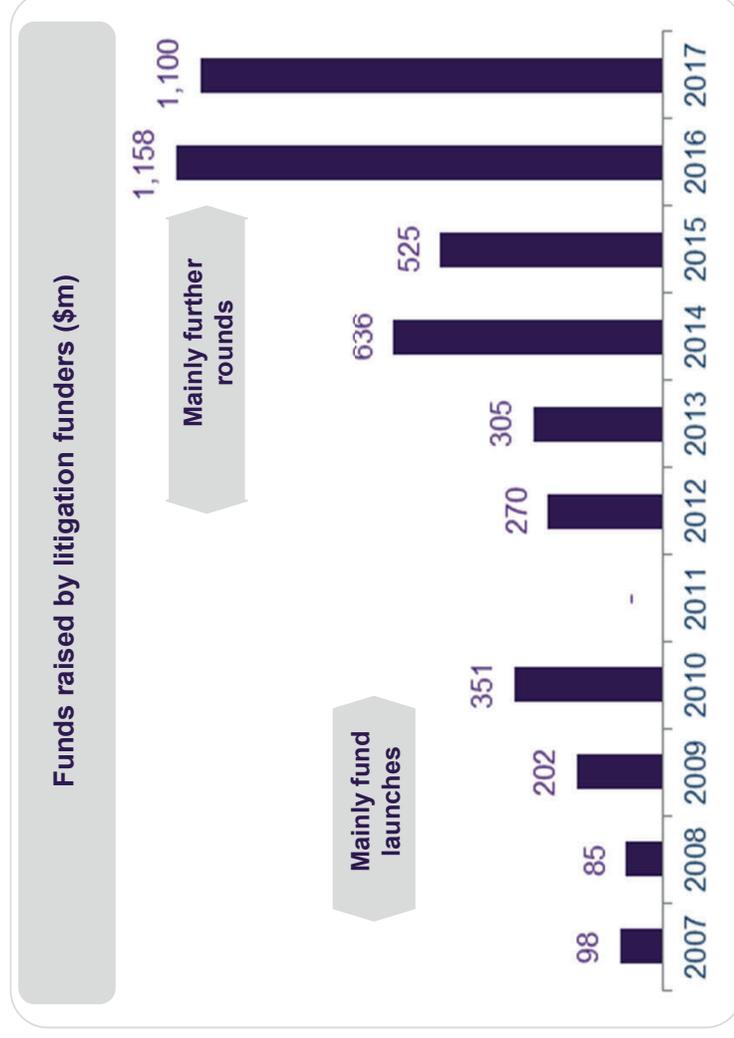
TYPICAL FUNDING TERMS.

- Funding single cases typically for return of capital plus the greater of 1) a multiple of the funding commitment, usually 3x, and 2) a percentage of damages.
- Precise terms vary between cases: funding commitment may be taken in stages, percentage may be flat across the whole case (ie 30%), follow the stages (ie 10% / 20% / 30%) or reduce as recovery increases (ie. 30% on damages up to €xm, 15% between €Xm and €Ym and 5% above €Ym).
- Funding cost can be lower if the funder is funding a portfolio of cases with results crossed across the portfolio reflecting the lower risk to the capital.
- Funder will typically agree the budget for costs and adverse costs risk up front so the funding commitment is transparent.

DRIVERS FOR THE USE OF LITIGATION FUNDING.

- Relaxation of historic legal restrictions since 2001 in Australia, UK, and now Hong Kong and Singapore.
- Structural factors drive the use of litigation funding:
 - For law firms:
 - Typical preference for funding over risk taking.
 - Expenses can be significant:- barristers, local counsel, investigators, forensic accountants.
 - For clients:
 - Budget constraints vs high cost of international litigation.
 - Risk mitigation.
 - Political considerations.
 - Funders have balance sheets and appetite for litigation risk:
 - Alternative investment strategy for institutional investors.
 - Non-correlated asset class.
 - Potential for high returns.
 - Medium terms time horizon.

- Significant investment into the sector:
 - C. \$300m raised in each of 2012 and 2013
 - C. \$500m raised in each of 2014 and 2015
 - C. \$1bn raised in each of 2016 and 2017
- Funders operate a variety of models but typically structured as investment funds.
- UK, US and Australia are the major centres for litigation funding.
- ALF membership now 9 funders of which 4 or 5 have scale; other players focussed exclusively on the US.
- Larger funders are active internationally, frequently with local expertise.



THE INTERNATIONAL CONTEXT.

- The growth of litigation funding is one of the big trends in litigation internationally:
 - Freshfields Bruckhaus Deringer’s International Arbitration 10 Trends in 2017: #1 “*Third party funding continues its move into the mainstream*”;
 - Freshfields also report on the “*material increase in the range and sophistication of litigation funding options across Europe*” assisting in the development of an active claimant bar for class and collective actions in Europe.
- Liberalisation of any legal constraints:
 - France: Paris Bar Council resolution supports third party funding as being in the interests of clients and counsel and permissible under French law (21 February 2017)
 - Hong Kong and Singapore: legislative change in place or planned.
 - Republic of Ireland: swimming against the current?
- Client demand: 60% of companies reporting use of alternative fee arrangements with outside counsel (Norton Rose Fulbright Litigation Trends Survey 2016).
- Deployment of funds: reportedly £723m committed to legal claims in the UK alone 2016 (from £575m in 2015) (research by UK law firm RPC).

REGULATION OF LITIGATION FUNDING.

- Association of Litigation Funders of England and Wales, established in November 2011. 9 members currently including all the major players in the UK and the three biggest funders internationally.
- Code of Conduct is leading regulatory framework internationally.
 - Code of Conduct governs:
 - Control
 - Termination of funding arrangements
 - Capital adequacy
- Code only applies to litigation in Courts of England and Wales.
- Regulation in other jurisdictions typically follows ALF model or focusses on single issues (conflicts of interest in Australia, disclosure of funding in the US and arbitration).

- Approach the relationship as a partnership which is likely to last years.
- Be open, be frank and do not oversell the claims.
- Up front due diligence into claim and risks.
- Potential benefits of litigation funding:
 - Money!
 - Strategic input.
 - Costs management.
- Control of the litigation.

THERIUM.

WHAT DO WE LOOK FOR IN A CLAIM?

- Strength of the claim – legal merits. Evidence and issues.
- Quantum – how will this be calculated; what information do we have about quantum?
- Economics – funding budget versus core quantum: 1:6 to 1:10 minimum.
- Degree of development of the claim: what stage has the case reached procedurally; what are the risk and issues and how will those develop.
- Enforcement: ability of the defendant to meet any judgment or award.
- Identity and probity of the claimant.
- Local legal requirements: legality of funding, bar code(s) and ethical rules, usury and regulatory issues, legal privilege.

- What is the plan? Up front strategy and scoping is essential.
 - Nature of the claim?
 - Quantum of the claim?
 - Who will be the defendant?
 - What assets are there to meet the judgment?
 - How accessible are those assets? Can they be removed easily?
 - What will it cost to run the claim?
 - Where will the claim be litigated?
- Governance?
 - Who owns the claim?
 - Who will run the claim; expertise and experience?
 - Who will manage and control the claim?
 - How will the funder's investment be protected from policy changes?

CAST STUDY 1.

- Case type: offshore trust dispute with asset tracing.
- Parties: trust beneficiaries against private trust company, family members.
- Status: ongoing
- Jurisdictions: British Virgin Islands, London.
- Assets: London, but also Panama, Switzerland and Hong Kong.



CAST STUDY 2.

- Case type: fraud and asset tracing to recover proceeds of crime.
- Parties: companies and businesses who were the victims of crime against the organised crime group and recipients of the proceeds of crime.
- Status: commencing.
- Jurisdictions: UK.
- Assets: London, Pakistan, Dubai and elsewhere.

THERIUM.

CAST STUDY 3.



- Case type: arbitration to recover misappropriated assets.
- Parties: Therium, contractual counterparties and bank.
- Status: ongoing.
- Jurisdictions: UK, Curacao, Liechtenstein, Switzerland,.
- Assets: Liechtenstein, Curacao, Switzerland and Germany.

THERIUM.

QUESTIONS?

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Asset Tracing and Recovery - an International Perspective



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Asset Recovery

There is no "one size fits all" solution.

Over the last ten years, the main tools employed in the recovery of international assets have been:

- Criminal process and international mutual legal assistance based asset recovery
- Civil process based asset recovery that includes, amongst other things, the seeking of: Worldwide Freezing & Disclosure Orders; Third Party Disclosure Orders; Search & Seizure Orders; Passport Orders and Securing & Enforcing Foreign Judgments
- UN and EU level restrictions e.g. 'Misappropriation Sanctions'

Any given case can involve navigating governments, corporations, law enforcement agencies, regulators financial institutions, NGOs, PEPs and high net worth individuals.

The Problem

It is estimated that in Africa alone, between \$30 billion to \$60 billion is lost each year to bribery, misappropriation of funds and other corrupt acts.*

This is equal to over half of the resources spent funding education for the entire continent every year.

*How Much Do We Have To Pay?, Valentina Bianchini, UNDP Africa, 2017



In the UK

- Dirty money gravitates to London.
- The UK National Crime Agency admits *"we don't know what the true amount is, but it's in the tens or hundreds of billions."*
- Transparency International estimates at least £4.2 billion of suspicious funds are held in London by PEPs and other individuals facing corruption allegations abroad.



The International Response

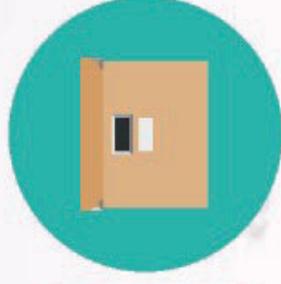
International asset recovery is usually understood as the return of illicitly obtained public funds, from foreign jurisdictions.

Chapter V of UNCAC offers the minimum international standards for asset recovery, which include prevention, international cooperation and enforcement.

Criminal Asset Recovery

Despite plenty of activity, the UK's performance in recovering and repatriating corrupt assets is poor.

Why?



Here's why...

- Investigation, prosecution, conviction and final confiscation order in origin State
- Use of slow and technical Mutual Legal Assistance frameworks to freeze assets and obtain evidence
- Criminal standards of proof in both jurisdictions
- High degree of trust and co-operation
- Time!!!

For example...

- James Ibori: guilty plea in UK court in 2012 but criminal confiscation is still not resolved.
- Sani Abacha: first MLA requests to the UK in 2000.
- Arab Spring: no money returned via criminal courts despite huge amount of UK Governmental support.

Looking forward....

Each case will vary in terms of evidence, jurisdictions, underlying offences, legal challenges and practical obstacles.

The key is to:

- Choose the right strategy for the right case
- Have a range of legal tools available
- Have a flexible approach

Civil Asset Recovery

Civil asset recovery is a useful tool, especially where proceeds of crime have been identified but it is not possible to secure a conviction, or a conviction has been secured but no confiscation order made, or where assets are restrained but have not been forfeited.

Claimants can ask the High Court for an order of damages, restitution, an account of profits, seizure or a constructive trust, as well as a whole host of interim-orders that prevent funds from being dissipated. E.g. freezing injunctions.



What's Possible?

- Third-party disclosure is possible (e.g. against Banks), if the court thinks that it is in the interest of justice.
- Other civil asset recovery tools can also be issued such as: Search Orders; Passport Seizure Orders; Charging Orders etc.
- Worldwide Freezing Injunctions can be obtained pre-judgment to prohibit the dissipation of assets and can also be granted against non-parties to the action.
- Evidence can be shared by law enforcement for use in civil proceedings.



No "one size fits all" solution

The scale of global corruption is too big to be tackled by the criminal justice system alone.

Civil remedies can provide the speed, flexibility and international reach to play a key part in the repatriation of stolen assets.

Sovereign States are increasingly pursuing civil actions across the globe, with London being the pre-eminent choice for establishing jurisdiction.

The Four Stages of Asset Recovery



Stage #1

Stage #2

Stage #3

Stage #4

Stage 1: Triage/Preliminary case assessment

This is an initial assessment to:

- Fact find and gather intelligence
- Establish an investigation and tracing strategy
- Identify a preferred jurisdiction:
 - *The High Court has jurisdiction over any defendant domiciled in England & Wales*
 - *The UK courts can have jurisdiction over non-domiciled defendants e.g. under Regulation 1215/2012, Jurisdiction Agreements, Common Law*
 - *Defendants may be sued in a State where they are not domiciled, if it can be demonstrated that another jurisdiction is more appropriate*
 - *s.25 relief in support of foreign proceedings*
- Formulate causes of action:
 - *claims against the briber (e.g. rescission, damages etc.)*
 - *claims against the bribed agent (e.g. damages, recovery of the bribe etc.)*
- Determine the availability of third party funding

Stage 2: Evidence gathering

Evidence gathering is a vital aspect of the asset recovery process.

This process may involve:

- Working with forensic IT experts/ accountants, regulatory agencies, and civil society organisations.
- Obtaining information from third parties (which may require a range of civil disclosure orders e.g. *Norwich Pharmacal* relief against banks or financial institutions).
- Collecting evidence from offshore jurisdictions.

Stage 3: Securing the assets and evidence

Measures to protect evidence and assets that may become subject to litigation and enforcement include:

- Search Orders
- Worldwide Freezing Orders
- Receivership Orders
- Passport Orders

Example 1

Working Together

Civil and criminal powers can compliment each other to achieve the same objective.

Evidence gathered in multiple jurisdictions using domestic criminal powers or MLA, can be used in civil proceedings.

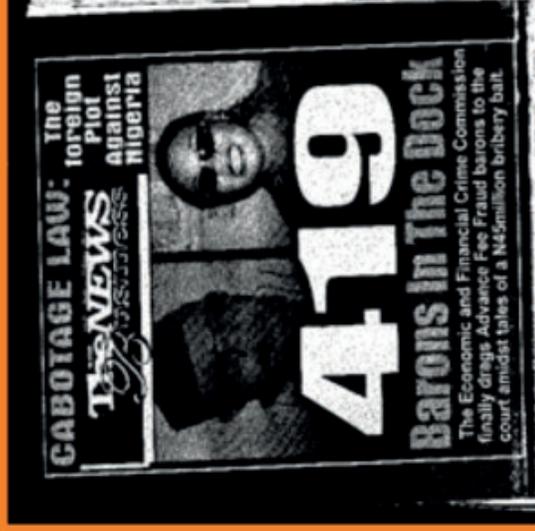
Assets already subject to criminal restraint can be repatriated through civil orders.

Stage 4: Enforcement & confiscation

- Effective implementation of the first three stages in the asset recovery framework, will ensure that appropriate remedies from the available suite of legal solutions are pursued.
- Summary Judgment.
- In certain circumstances, the English court may be used to secure and enforce foreign judgments and repatriate assets.

Banco Noroeste

A Case Study



Facts

Stages 1 & 2

Stage 3

Stage 4

The Facts

We were instructed by the Brazilian bank Banco Noroeste after \$242 million had been stolen and laundered through various countries, for the ultimate benefit of Nigerian nationals.

The money was laundered through countries including:

- Hong Kong
- Switzerland
- the UK
- the US
- Singapore
- Nigeria

Here a senior official at the bank was conned into siphoning off the \$242 million, in exchange for a \$13 million kickback on a fake contract for the building of an airport in Abuja.

This is still considered to be one of the largest 419 scams ever!

Stages 1 & 2

A criminal investigation was then launched in Switzerland.

Under criminal powers of recovery:

- Key bank accounts were frozen
- Banco Noroeste was given early access to the evidence gathered

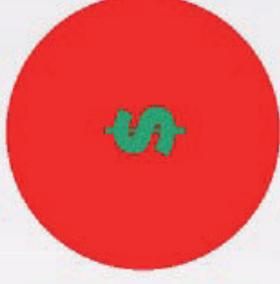


Stage 3

- Civil Proceedings launched in the UK
- Involved 42 defendants

We sought a plethora of civil asset recovery tools including:

- Search & seizure
- Freezing injunctions
- Passport seizure
- *Norwich Pharmacal* relief
- Third party debt
- Interim payment
- Summary judgement
- Charging Orders
- Orders for sale



Result @ Stage 3

Interim and summary judgments were obtained against one of the Nigerian fraudsters in the amounts of :

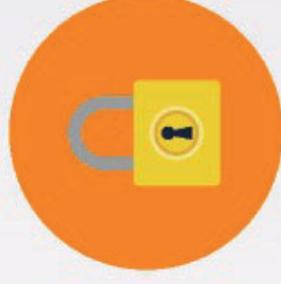
- US \$150 million (interim judgment)
- US \$290 million (summary judgment)

Stage 4



The civil judgments worth US \$150 million and US \$290 million were then moved back to Nigeria and California to be enforced.

Criminal convictions and fines were then secured against three nationals in Nigeria.



Result @ Stage 4



Amaka Anajemba:

- 2 ½ years in prison
- Ordered to repay \$25.5 million
- Ordered to surrender her properties in Nigeria, the UK, the US and Switzerland

Emmanuel Nwude-Odenigwe:

- *Additionally charged with attempted bribery and attempted kidnapping of a prosecution witness*
- *Sentenced to five concurrent sentences of five years each (totalling 25 years)*
- *All assets were seized*
- *Ordered to disgorge \$110 million to victim shareholders*
- *Plus he was ordered to pay \$10 million as an additional fine to the federal government*

Nzeribe Okoli:

- *Sentenced to four years in prison*



Questions?

Thank you for your time

Asset Tracing and Recovery - an International Perspective



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ROLE OF ICPC IN FIGHTING CORRUPTION: STRATEGIC INNOVATIONS, ACHIEVEMENTS AND CHALLENGES

BACKGROUND

The resolve to fight and win the war against corruption in Nigeria led to the enactment of the Corrupt Practices and Other Related Offences Act 2000 (“ICPC Act, 2000”). Barely six months after he was sworn the then President Olusegun Obasanjo forwarded a bill to prohibit corruption to the National Assembly for consideration, and it was passed and signed into law on the 13th of June 2000. The Act birthed the Independent Corrupt Practices and Other Related Offences Commission (ICPC), which was inaugurated on the 29th of September 2000.

The ICPC Act is similar to the law establishing the Independent Commission against Corruption of Hong Kong, in that, it mandates under Section 6(a-f) can be summarized under three major heading, namely; enforcement, prevention and mass mobilization. As such, the ICPC is a multi-functional Anti-Corruption Agency (ACA) with investigative/prosecutorial, preventive and educational/public enlightenment functions.

The traditional mode of enforcement (i.e. investigations/prosecutions), though often attractive as it promises sanctions for corruption, is a post-fact response with limitations, such as:

- i. Prolonged trials,
- ii. waste of resources,
- iii. diminution in value of asset,
- iv. Irretrievability of secreted funds and public doubts.
- v. little or no allowances for innovations as it extends beyond the purview of the Commission to the judiciary.

Notwithstanding these limitations, the Commission remains resolute in investigating and prosecuting corruption and other related offences. There is huge prospect of success with the enactment of Administration of Criminal Justice Act, 2015.

With respect to preventive and educational/public enlightenment functions, the Commission has some leeway to come up with innovations which will help deliver on the mandate. Over the years, the Commission has designed various initiatives to address the endemic nature of corruption through preventive measures.

STRATEGIC INNOVATIONS

ICPC has developed several initiatives some of which are:

- Use of ***Non-Conviction Based Asset Forfeiture***- Sections 44, 45 and 48 ICPC Act, 2000.
- Setting up of Anti-Corruption and Transparency Units (***ACTUs***) in the ***MDAs***,
- ***Conducting Systems Studies*** on MDAs
- Development of ***Corruption Risk Assessment (CRA)*** to assess corruption vulnerabilities of MDAs.
- Engaging ***citizens in the governance process*** at the local levels to input into the budgetary process from formulation to implementation.
- Development of ***National Values Curriculum*** for the infusion of core values in the relevant subjects at the basic classes in schools. Adopted already by the National Council on Education. ICPC is currently in partnership with some universities in the country to teach and develop anti-corruption strategy.
- Development of ***platforms for mass mobilization*** against corruption such as the National Anti-corruption Coalition (NACC), which is a broad assemblage of CSOs that galvanizes local engagement of the populace to act against corruption, Anti-Corruption Vanguard, National Anti-corruption Volunteer Corps (NAVVC) for critical youth activism against the

scourge and Anti-Corruption Clubs in schools to inculcate positive values in children at the primary education level.

- Synergies with **professional bodies, trade associations, Community Based Organisations** to address issue of professional misconducts connected with infractions of anti-corruption legislations. This aims at helping businesses to develop “Early Warning Signs” against unethical practices within their organisations and the industry in which they operate.
- Conduct of review of **Personnel Expenditure of MDAs** to mop-up unspent allocation and limit corruption opportunity. During the initial exercise billions of naira that would have been misused or embezzled were returned to chest. Looking ahead ICPC will explore working with Federal Ministry of Finance to monitor IPPIS payment platform and collaborate with Pensions administrators. There is already an ongoing cooperation with Pension Transitional Arrangement Directorate (PTAD) which regulates pension administration to prevent corruption in the process.
- Institution of **tax payment profile in investigation** involving companies in organized private sector. Experience has shown that while organisations in the private sector are not wanting in active corruption,

they often remiss in their responsibility to pay taxes which impacts on good governance. In partnership with the Federal Inland Revenue Services, the Commission is blocking corruption prone processes.

- Establishment of the ***Anti-Corruption Academy of Nigeria (ACAN)*** to serve as a specialized institution, not just for training of staff and public officers, but to serve as a centre for studying corruption and conducting scientific research into the malaise, as well as provide state authorities with evidence-based findings to combat corruption.
- Development of a ***Draft National Ethics and Integrity Policy*** in conjunction with office of the immediate past Special Adviser on Ethics and Values to restore integrity and restore transparency and accountability in the public sector and engineer attitudinal change among the entire citizenry.
- Setting up of ***toll free lines*** to encourage confidential reporting by citizens of corruption and corrupt practices in public and private offices. This is to prevent backlashes and victimization that whistle blowers often suffer as a result of their courage to speak out. It is expected that a comprehensive national legislation on whistle blowing will guarantee safety for complainants.

- Robust relationship with Embassies to reduce incidents of corruption in the issuance/processing of visas..
- Intervention in the Health Sector to channel more funds into critical areas of clinical medicine and infrastructure by monitoring diversion of funds, poor contract managements, etc.
- Interfacing with the Bureau of Public Procurement (BPP) to reduce or eliminate pre-bidding and post-bidding corrupt practices.
- Conducting intelligence-led investigations aimed at not only ensuring prosecution of erring suspects, but **RECOVERING** assets acquired through illegal means, etc.
- Improved partnership with foreign Anti-Corruption Agencies to help track illicit flow of assets and fugitives..
- **RECORDED SUCCESSES OF THE INNOVATIONS**
- The several innovations implemented by the Commission have delivered tremendous results ranging from active participation of citizens in the anti-corruption war to reviews of corruption-prone systems in identified sectors.
- ACTUs have in no small measure provided for the Commission more than a presence in over 400 MDAs in the federal service. This is quite an achievement considering that the Commission has only fifteen State

Offices across the Federation. ACTU members are *Ethics and Compliance officers* in their MDAs and report directly to the Commission. This has increased compliance with extant rules and regulations. It is worth noting that the ACTU model has been adopted by UNODC as international best practice and is being processed for international application.

- Systems Study and Review conducted by the Commission over the years have been helpful in identifying the corruption-prone processes and proffering solutions. For instance, the Systems Study and Review of Personnel Cost expenditure profile carried out by ICPC in 2006-2008 and in 2011 and 2016 revealed huge sums of unspent balances in the accounts of MDA. The amounts were recovered and returned to Government Treasury.
- The activities of the Commission in mopping up these unspent balances resulted in the deployment of the e-governance platforms i.e, Government Integrated Financial Management Information System (GIFMIS) and the Integrated Payroll and Personnel Information System (IPPIS). This development was reported in 2013 by the then Minister of Finance to have saved the nation over ₦100 billion in personnel costs. As at March 2018, 511 MDAs were already on IPPIS.

- In another development, the University System Study and Review (USSR) which was a fact-finding and problem-solving strategy that focused on examination of current policies, practices, procedures, behaviours and systems of universities to determine if they aid corruption and to what extent. Three universities were randomly selected for the study and the reports generated from the study have up till date been undisputed.
- The USSR report also gave rise to collaboration of the Commission with the National Universities Commission (NUC) which led to the closure of 63 illegal institutions, prosecution of their proprietors, development of a Template for Systems Studies in the Education Sector, a directive to Universities to develop 5-year Integrity Plans to address conflict resolution mechanisms, gender protection and grievance resolution procedures.
- Collaborations with the Ministry of Foreign Affairs and Foreign Embassies on forgery of *Note Verbale* and Visas. This collaboration has brought sanity in visa processing in Embassies whose operations were affected by touts and scam artists. The synergy has recently led to convictions of visa scammers charged to court by ICPC. The British Government has, arising from the success and prospect of greater

cooperation, donated vehicle to ICPC and promised further technical assistance in that regard.

- Also, the Commission in collaboration with the National Primary Health Care Development Agency (NPHCDA), reviewed 1,355 projects for primary healthcare centres and identified 629 abandoned projects. It then compelled those who had been mobilized in excess of work done to go back to site. This ensured value for money sourced from public funds.
- The Commission, with the support of the Maritime Anti-corruption Network and in conjunction with UNDP and TUGAR, has conducted a Corruption Risk Assessment (CRA) of six seaports namely; Apapa, Tin Can, Onne, Port Harcourt, Calabar and Warri. This resulted in a harmonized Standard Operating Procedure (SOP) and the installation of a Port Service Support Portal (PSSP) as a mechanism for addressing complaints by port users to prevent corruption. It is worthy of note that Nigeria is the first country to have applied a CRA to assess operations at its sea ports.
- The Commission has been able to recover, using its initiative non-conviction-based forfeiture of assets, not only cash but also assets in implementation of this innovation.

CHALLENGES IN IMPLEMENTING THE INITIATIVES

Some of the challenges faced in implementing the initiatives include the initial aversion to change particularly within MDAs. The ACTU innovation was initially not well received, but with the support of the Head of Service of the Federation through policy directives to the MDAs, this challenge has been resolved and further improvement in ethical disposition of public servants is attainable.

Also effective implementation of non-conviction based asset forfeiture is faced with dearth of proper records. The poor attitude of public officers towards assets declaration posed and the lack of proper mechanism of checking their excesses continue to pose a big challenge to this initiative.

Some of the initiatives require collaborations with several other government agencies, redtapism and bureaucratic bottleneck intrinsic to the public service delayed their implementation longer than the Commission envisioned.

Inadequate funding was a critical challenge in realising some of the innovations. For instance, the establishment of a world-class anti-corruption academy is capital intensive and funding was a huge impediment.

General public appears to rate the Commission very low taking into consideration the poor rate of conviction in high profile cases. For there to be conviction evidence must be laid before the court by witnesses. However, observations reveal that witnesses are not forthcoming due to absence of

Witness Protection Policy. They are often harassed, threatened, dismissed or intimidated, and at times offered juicy financial incentives to flee.

The cash incentives introduced for whistleblowing has motivated people to volunteer information that can potentially lead recoveries of stolen wealth. The Commission is now between the devil and the dark blue sea. It either ignores the information and risks being accused of compromise or goes ahead to do the operation and not recover anything. Prosecuting the whistleblowers for false information will scare them away from providing us the much needed information.

REFLECTIONS AND LESSON LEARNT

Most of the successes recorded by the Commission in the implementation of the innovations highlighted were only made possible by leveraging on relationships as well as collaborating with other MDAs. It is therefore important to sustain and effectively manage relationships at various levels with stakeholders in the fight against corruption.

RECOMMENDATIONS

Fighting corruption is an enormous battle that can only succeed with a purposive combination of prevention strategy and unrelenting enforcement.

Therefore effective engagement and management of relationships with both internal and external stakeholders is sine qua non to keeping information and feedback flow. It also enhances cooperation to achieve the desired outcome of any organization, anti-graft agencies inclusive.

Thank you.

Independent Corrupt Practices and Other Related Offences Commission .



**8TH COMMONWEALTH CONFERENCE
OF HEADS OF ANTI-CORRUPTION AGENCIES
IN AFRICA**

***RWANDA COUNTRY PAPER : ONLINE
DECLARATION OF ASSETS SYSTEM (ODAS)***

ABUJA - NIGERIA MAY 14 - 18, 2018

OFFICE OF THE OMBUDSMAN OF RWANDA

1. BACKGROUND OF THE OFFICE OF THE OMBUDSMAN OF RWANDA

The Office of The Ombudsman of Rwanda was established in 2003 by the Constitution of the Republic of Rwanda revised in 2015.

Its mission, powers, organization and functioning are determined by law n° 76/2013 of 11/9/2013.

The main mission of The Office of The Ombudsman of Rwanda is to prevent and fight corruption in public, private and non-government institutions and to promote good governance, transparency and accountability.

The Office of The Ombudsman of Rwanda is mandated to receive annually, not later than 30th June the declaration of assets from Government High Ranking Officials and other Officials determined by the law n° 76/2013 of 11/9/2013 establishing the mission, powers, organization and functioning of The Office of The Ombudsman; and to verify the sources of those assets in order to know if they were acquired legally.

Additionally, The Office of The Ombudsman of Rwanda receives not later than 30th September of each fiscal year the financial statements of Political Organizations recognized in Rwanda and verifies the origin and use of their assets. This enables Political Organizations to be efficient and more accountable to the public which is the key element of good governance. The Office of The Ombudsman of Rwanda present its annual report to The President of The Republic of Rwanda and The Parliament (The Senate and The Chamber of Deputies) and other High Institutions receive the copy.

There is no doubt that declaration of assets has contributed in preventing and fighting against corruption and to the promotion of integrity among Government Officials and Political Organizations in Rwanda. It is deemed necessary to enhance this initiative in order to be more efficient in preventing and fighting corruption in public and private institutions.

2. INNOVATIVE WORK OR INITIATIVES IMPLEMENTED

➤ *ONLINE DECLARATION OF ASSETS SYSTEM (ODAS)*

The reception of declaration of assets started in 2004 using booklets; but since 2011 up to date, the declaration of assets is done online using internet. **This is Online Declaration of Assets System (ODAS)**. ODAS is an original and unique innovation and creativity of The Office of The Ombudsman implemented in order to handle the problem of managing and analyzing the declaration of assets because the number of declarers is increased every year (from 3 267 in 2004 to 11 200 in 2017).

The Online Declaration of Assets System (ODAS) is a self-service tool that allows declarers to declare their assets via internet. This application also retrieves easily various declaration of assets of declared assets information to The Office of The Ombudsman.

The Public Officials concerned by declaration of assets are:

- High Ranking Officials
- Other Officials governed by the Leadership Code of Conduct
- Senior Officers in Rwanda National Police, Judges, Prosecutors and Judicial Police Officers
- Directors and Heads of Services in Public Institutions
- Executive Secretaries of Sectors
- Officials in charge of managing and controlling of public finance and property
- Members of Tender Committees in Public Institutions
- Officials in charge of taxes and revenues
- Officials in charge of land management
- Public Notaries

- Officials of The Office of The Ombudsman in charge of preventing and fighting injustice, corruption and monitoring the leadership code of conduct and controlling assets.
- Other Officials determined by the Institution where they serve.

The Online Declaration of Assets System (ODAS) was implemented to allow concerned Officials to declare their assets from anywhere without having to move to The Office of The Ombudsman.

Those assets are:

- Immovable assets (houses, land)
- Movable assets (livestock, vehicles, items in shops, domestic materials, etc.)
- Money in banks, in contract, shares in companies or industries
- Debts (to you or to others)
- Personal assets of the spouse (if there is the regime of separation of property)
- Personal assets of children below 18 years.

For the year 2016/2017, Officials who did their declaration of assets through ODAS were 11.148 (99,5%); and 53 (0,5%) Officials who failed to declare their assets received administrative sanctions (retention of a quarter of one month salary).

According to the Law, faults relating to declaration of property shall include:

- failure to submit declarations;
- partial declaration or false declaration.

The Office of The Ombudsman shall request the person required to declare his/her property to submit another declaration once the fault is committed for the first time.

The Office of The Ombudsman shall request the Employer to impose administrative sanctions to the person who committed faults relating to the declaration of property in the following manner:

- Second time of failure: **blaming**;
- Third time: **retention of a quarter of one month salary**;
- Fourth time: **expulsion**.
 - When the declaration of property is rejected for the second time for reasons notified to the concerned person in writing, The Office of The Ombudsman shall commence investigations.
 - In the event the investigations show that the property declaration is intentionally false, the concerned person shall be liable to temporary suspension, and, in case of recidivism, to expulsion.
 - Where faults referred to declaration of assets have been committed by an Authority governed by the Organic Law determining the leadership code of conduct, such an Authority shall be liable to an administrative fine of from five hundred thousand (500,000) to one million (1,000,000) Rwandan Francs.
 - In case of recidivism, he/she shall be liable to an administrative fine of from one million (1,000,000) to two million (2,000,000) Rwandan Francs.

In order to prevent and fight corruption, the laws are being modified and completed. The law on fighting corruption was adopted by The Parliament.

The main changes that are in that law are:

- The corruption offences are imprescriptible;
- The new offences are provided for in the new law, such as abuse of functions;
- Increasing the corruption penalties;
- There is no criminal liability for a person who gives or receives an illegal benefit and informs the justice organs before the commencement of criminal investigation;
- Confiscation of proceeds of corruption when the defendant is found guilty of corruption.

The Code of Criminal procedure is also being modified. There are some changes including the provision of plea bargaining in Rwandan Law.

Also Rwanda established the National Advisory Council to Fight against Corruption and Injustice (NACACI) as a strategy to prevent and fight against corruption, where Heads of Institution Members share information on where corruption is, adopt strategies to fight it and form an investigation joint team. Also they organize together sensitization public awareness campaigns in preventing corruption.

“Holding people accountable for corruption has huge political cost but it is not as high as cost of corruption”

By H.E Paul KAGAME, President of The Republic of Rwanda

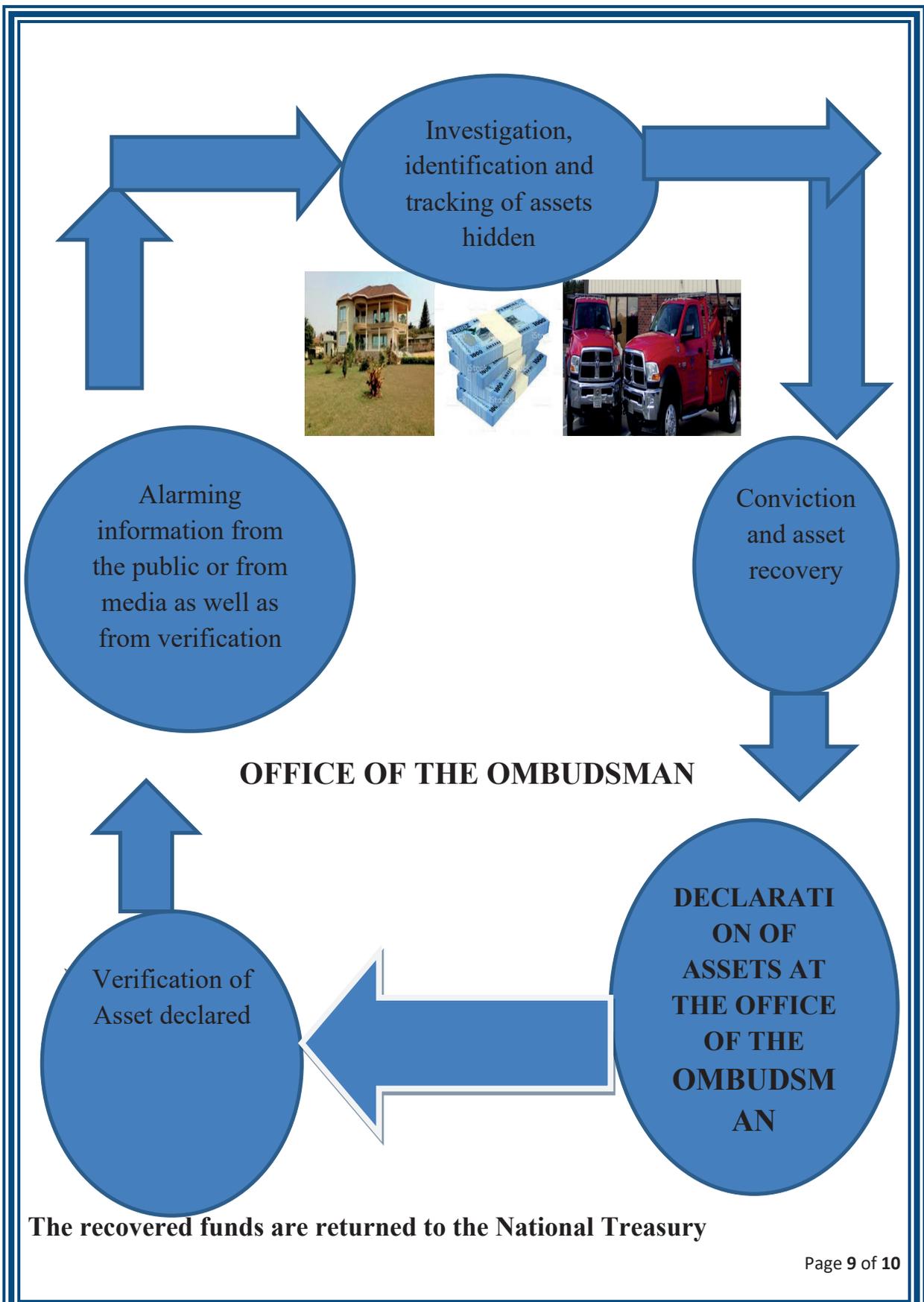


3. MAIN CHALLENGES FACED IN IMPLEMENTING THE INITIATIVES

- Limited electricity and Internet connectivity in rural area
- System required to be up dated vis à vis the new technologies
- ICT skills of declarers
- Analysis of declared assets is not done by the system

4. RESULTS OF THE INNOVATION

- **Increases efficiency:** ODAS is easy, efficient, safe and cheap in filing, reporting, tracing and recovery of assets declared.
- **Provides high quality service delivery:** ODAS is a self service tool that allows to declare assets via internet by using IPAD, phone or laptop from anywhere.
- **Transforms administration:** ODAS has removed administrative procedures using paper in assets declaration.
- **Easy tracing of one's assets:** Once ODAS is integrated with other online systems in the Country (ID system, Land system and Taxes system), it will become very easy to identify the real assets of declarers. The verification of assets is very easy by ODAS in terms of comparison of declared assets year by year.
- **Facilitates access to and sharing of information between Countries:** this will help the tracing and eventually recovery of assets wherever located;
- **Identifies illicit enrichment cases:** convicted Officials are ordered to return the illegally acquired assets. In 5 Cases of illicit enrichment investigated by The Office of The Ombudsman of Rwanda from 2014 – 2017, eight (8) persons were convicted and an amount of 984, 211,950Rwf (More than **1 million USD**) are to be recovered.
- **Assets declaration helps in tracing and recovering illegally acquired assets**



The recovered funds are returned to the National Treasury

5. REFLECTIONS AND LESSONS LEARNT

- Asset Declaration System is facilitated by high political will
- Promoting integrity and transparency among Public Officials;
- Innovation and creativity as well as mindset change in public administration;
- Need of a strong and safe back up of declaration of assets;
- Encouraging the civil servants and Public Institutions to use information technology, and facilitating archiving of declarations of assets;
- Contributing to partnership between The Office of The Ombudsman of Rwanda and other Institutions with similar mandates at national, regional and international levels in systems development and tracing, verification, and recovery of assets illegally acquired.

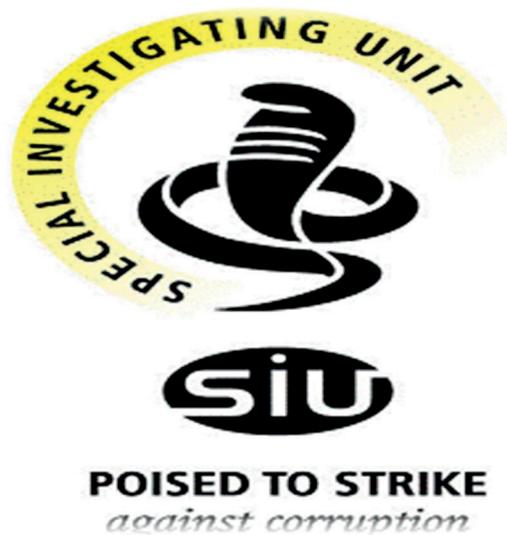
6. RECOMMENDATIONS THAT COULD BE SHARED

For effectively overcoming challenges, the following measures should be taken:

- Upgrading and sharing ODAS with African Anti-Corruption Agencies;
- Strengthening capacity to use ICT and expanding connectivity;
- Integrating ODAS with other online systems in the Country (ID system, Land management system and Taxes management system) in order to be effective in tracing, verification and recovery of assets.

Country Paper Presented in Abuja, on 16th May 2018

**SOUTH AFRICAN COUNTRY PAPER ON INNOVATIVE PROJECTS UNDERTAKEN BY THE SIU
IN FIGHT AGAINST CORRUPTION**



Presented at the 8th Commonwealth Regional Conference

For Heads of Anti- Corruption Agencies in Africa,

14-18 May, 2018

Nigeria

Subject:

Case Registration and Monitoring System

Background

The Annual Performance Plan for 2018/2019 refers. Programme 2's (Investigations and Legal Counsel) purpose is to ensure the adequate execution of the mandated service delivery of the SIU. The first sub-programme specifically deals with Case Registration and Monitoring. In particular the services to be performed are defined as:

- Centrally registering all allegations received;
- Management of allegation registration communication channels;
- Updating of a central database to reflect case status;
- Analysis of case reports, the reporting of blockages and identification of performance improvements; and
- Ensuring the relevant external reporting, follow-ups and communication from a central point

The first two new strategic objectives of programme 2 for 2018/2019 are specifically:

- To ensure that each case is centrally reported and monitored; and
- To ensure that each allegation is assessed in accordance with standardised criteria

It is with this clear purpose in mind that we propose the piloting and implementation of such a central register where all allegations are registered, tracked and assessed effectively and according to predetermined standards.

The standardised criteria/Case Assessment Committee guidelines ("**guidelines**") for assessing each allegation is being finalised for implementation along with the system.

Vibe

Vibe is a product within the MicroFocus software suite currently licenced to the SIU. Vibe has the attributes required to accurately fit the business requirements and provide workflow and reporting in order to raise the visibility on the allegations registered centrally. In addition to the registration of these allegations, the workflow built into the system underpinned by the business rules and aligned to the guidelines will ensure that all matters are tracked according to predetermined standards.

The approach

As we already had the case registration and case assessment forms which were being used manually across the provinces in the management of allegations received, the first step then, was to create an electronic version of these forms so that they could be captured online, thereby forming the basis for the new central register. This is complete.

Alignment with the guidelines

The guidelines were used as a basis for creating the alerts and notifications and identification of the key role players in the process. The imminent approval of these guidelines will allow us to make the final tweaks required in order to fully align the system with these guidelines.

Role Players

The following role players are key in the successful implementation of the system:

- Provincial Heads
- Senior Manager: Case Registration and Monitoring
- Manager: Case Registration
- Manager: Case Monitoring
- Senior Manager: case Assessment
- Specialist: Case Assessment
- Case Assessment Committee (“**CAC**”) members
- Case Assessment Committee Chairperson
- Members of the CAC (Forensic/Senior Forensic Lawyer(s)) identified for drafting and settling of the motivations for proclamation

Access to the System

No one will have Delete access to any of the system entries.

The following members have access to the system:

- Each Provincial Head and nominated support team who will be responsible for ensuring the registration of all provincial allegations received within the agreed period. The access rights will be Create, Read and Modify. Viewing of allegations will be restricted to those received within the Province

- Head of Unit, Deputy Head of Unit, CAC members and Case Registration Monitoring System (“**CRMS**”) team members will have Create, Read and modify access and will be able to view all allegations received across the Provinces
- ICT support team as custodians of the system data will have administrative rights to the system and all allegations registered

There will be a full audit trail available on all transactions performed on any and all allegations registered in the system.

Workflow – alerts and notifications

As per the guidelines the following alerts, turnaround times and notifications will apply:

1. Provincial Heads are required to acknowledge receipt of the complaint in writing and thereafter oversee the completion, verification and capturing of the Registration form on the SIU’s electronic Case Registration Monitoring System (“**CRMS**”) within **2 working days** of the lead being received by a member of the SIU. The CAC and CRMS team members will all receive an email notification that a new allegation has been registered
2. The Provincial Head and Senior Managers CRMS will receive an email notification should the period in paragraph 1 above be exceeded (in other words, if the complaint is registered more than 2 working days after receipt)
3. A timeframe of **21 working days** is proposed for the collection and analysis of the necessary documents. The CAC members, CAC Chairperson, relevant Provincial Head and the Senior Managers of CRMS will receive a notification should this period be exceeded
4. It is proposed that the Case Assessment form along with an accompanying memo must be completed and attached to the allegation registered on the CRMS. This should be completed within **5 working days** of expiry of the time period referred to in paragraph 2 above. The CAC members, CAC Chairperson, relevant Provincial Head and the Senior Managers of CRMS will receive a notification should this period be exceeded
5. The CAC must convene fortnightly to assess new matters unless circumstances dictate otherwise. The Senior Managers: CRMS, CAC Chairperson, CAC members and the Deputy Head of the Unit will be notified by email should the fortnightly dates be missed
6. The CAC must conclude its assessment and record the outcome of the assessment and the CAC’s recommendation in the designated space in the Case Assessment Form within **2 working days** of meeting. The Senior Managers: CRMS, CAC Chairperson, CAC members and the Deputy Head of the Unit will be notified by email should the fortnightly dates be missed

7. If the CAC is unable to make a decision based on the Case Assessment form and the accompanying memo, and to the extent that it may be necessary, the CAC may designate one or more members of the CAC and the SIU member who completed the initial analysis to meet with the complainant in order to seek clarity on issues. The CAC member(s) and the SIU member who completed the initial analysis have **10 working days** of being tasked as aforesaid, where after the CAC must complete its assessment and record its decision on the CRMS submit its recommendation to the HoU and DHoU as per paragraph 6 above
8. After the decision by the CAC, then either the HoU or the DHoU must record their decision in the designated space in the Case Assessment form within **2 working days** of receipt of such email notification. The CAC Chairperson, HoU and DHoU will receive an email notification should this period be exceeded
9. If the decision is to proceed with a motivation (or amend/extend an existing Proclamation) then the chair of the CAC shall designate a member of the CAC to draft the motivation and necessary supporting documents. The motivation et al should be drafted within **5 working days** and attached to the allegation registered on the system. The designated CAC member for the motivation, CAC Chairperson and DHoU will receive an email notification should this period be exceeded
10. The CAC Chairperson, in consultation with the drafter of the motivation, will settle the motivation et al within **5 working days after the period** in paragraph 7 above. The CAC Chairperson, the DHoU and the HoU will receive an email reminder should this period be exceeded
11. The HoU and/or the DHoU must provide their comments and inputs to the CAC Chairperson **2 working days**. The CAC Chairperson, the DHoU and the HoU will receive an email reminder should this period be exceeded

Please see Annexure "A" for the electronic Case Assessment form.

The CRMS with its workflow, notifications and turnaround times will certainly improve the visibility of the allegations received and ensure that these allegations are registered, tracked and assessed according to predetermined standards **provided that complaints are registered on the CRMS.**

While the system is in User Acceptance Testing phase, there are a number of changes that still have to be applied and implemented in order to bring the CRMS in step with the proposed CAC guidelines.

The final implementation date is planned for 1 April 2018 in order to support the new Case Registration, Case Monitoring and Case Assessment teams.



Special Investigating Unit

POISED TO STRIKE AGAINST CORRUPTION



NEW OPPORTUNITY ASSESSMENT FORM

New opportunity code:

PART A – TO BE COMPLETED BY SIU MEMBER WHO DEALT WITH THE COMPLAINANT

1. Background of the referral (who, what, when and where)?

2. State institution involved?

3. Please provide a summary of allegations in an attached memo

Please address the following areas:

- the allegations (specify what the actual complaint is about e.g. does it involve procurement irregularities, corruption, failure to deliver on the contract etc.
- the period covered by the allegations
- briefly set out how the documents collected support the allegations – please attach specific relevant supporting documents to the extent that it is necessary
- whether there any other investigations proceeding or pending in regard to the allegations
- the value of the losses incurred or value of the contracts involved
- implicated officials, companies, CCs and third parties

- potential risks

4. Sources of information - Set out the nature of information available to substantiate the allegations in order that immediate consideration may be given to the drafting of a Motivation for a Proclamation:

Description	Hard copy or electronic copy?

5. Are there any other investigations or proceedings currently pending in relation to the allegations? If so, please elaborate

6. Is the state institution in a position to fund an SIU investigation?

- Yes No

(indicate the available budget if such information is known)

PART B – TO BE COMPLETED BY THE CASE ASSESSMENT COMMITTEE

7. Is the matter within the SIU's mandate? Yes No

8. Motivate your answer to question 7 with reference to section 2(2) of the SIU Act (state institution, public money etc.)

9. Are there considerations for not pursuing the matter? E.g. Lack of necessary skills, risks

10. What are the prospects of civil recovery? Is prescription imminent? If so, please elaborate.

11. Please specify the likely outcomes/impact

12. Are specialised skills and/or technology required to pursue the matter? If so, please describe.

13. What is the likely timeframe for the investigation once proclaimed?

What resources will be required?

14. Are the allegations addressed by an existing Proclamation?

Yes No

If yes, please elaborate

15. Has the SIU previously performed a similar investigation at the state institution?

Yes No

If yes, provide details.

16. Should the matter be referred to another State institution? Yes No

17. If yes, which State institution?

18. Will the SIU refer the matter to such other State institution?

Yes No

19. Is this an urgent or high priority matter? If yes, please elaborate

CAC RECOMMENDATION

Date:

HoU/DHoU DECISION

Date: _____

SWAZILAND (ESWATINI) ANTI-CORRUPTION COMMISSION REPORT AT THE 8TH COMMONWEALTH REVIEW MEETING OF HEADS OF ANTI-CORRUPTION AGENCIES IN AFRICA

1. INTRODUCTION AND BACKGROUND

The Anti- Corruption Commission (ACC) is a Government Department under the Ministry of Justice and Constitutional Affairs and it reports to Parliament through Ministry. The institution was established 1998 by the Anti-corruption Oder of 1993 which was repealed and replaced by Prevention of Corruption Act of 2006 which facilitated the re-establishment of the current ACC office in 2008.

The Commission is headed by the Commissioner and assisted by two Deputy Commissioners, however, the positions of Commissioner and Deputy Commissioner Operations are currently vacant and processes are underway to fill them up.

Staff complement currently stands at 43. The Operations Department consists of twenty 20 investigators and three (3) officers for the Prevention and Education Section. The Administration Department has 20 staff members including support staff.

Mandate

The Commission's legal mandate within the framework of the Prevention of Corruption Act 2006 covers:

- Prevention and Education; educate the general public, public and private bodies on the forms and dangers of corruption. Examine practices and recommend ways of averting corrupting corruption.
- Investigations; Receive and investigate complaints of alleged or suspected corrupt practices and refer appropriate cases to the Director of Public Prosecutions

National Efforts

Corruption continues to be cited as a high concern for the country. The Central Bank Governor recently expressed concern that corruption continues to be a hindrance to development in the country which results to monthly losses of \$5.4 million potential Government revenue. He called for strengthening of collaborative effort by all stakeholders in fighting corruption.

The Kingdom of Eswatini (Swaziland) has however, continued to experience strong political will and commitment to strengthen the fight against corruption. His Majesty King Mswati III has consistently condemned and urged Emaswati to refrain from

corrupt practices for country to attain sustainable development. After His Majesty pronounced zero tolerance for corruption in 2012, His Majesty's Government responded to the call by making corruption a standalone pillar in the 2013 – 2018 Government Programme of Action. Additional resources were also provided towards combating the scourge. In 2016 the Head of State opened 4th session; He pronounced the establishment of a Specialized Commercial Court aimed at fighting commercial crimes and corruption

Early this year, 2018 in opening parliament, the King reaffirmed the need to upscale the fight against corruption which he labelled as the enemy of development and direct investment. He disclosed to the nation that Swaziland has joined other members of the African union in declaring 2018 as the African Anti- Corruption year and urged everyone to play their part.

Government has continued to visibly support the fight against corruption initiative by;

- Collaborative efforts of the InterN Agency Task Team made of ACC, Director of Public Prosecution Office (DPP), Police and Financial Intelligent unit on high profile cases.
- Continued financial support for the Commission although, the allocated budget has been reduced for the past two years due to economic constraints.
- A national Corruption Perception Survey for 2017 was finalized and launched by the Honourable Minister of Justice in December 2017.
- A Special Unit for corruption has been recently formed under the DPP. This will look into prosecutions that assist with corruption cases.
- Amendment of the Prevention of Corruption Act 2006 to align with international legislation was initiated by UNODC and will be soon handed over to the AG's office soon.

2. INNOVATIVE WORK OR INITIATIVES IMPLEMENTED

The Anti-Corruption Commission has continued to foster its mandate articulated in its 2014 -2018 Strategic Plan which has five (5) pillars of: Resourcing, Legislation and Policy, Governance, Delivery and Partnerships. In the quest to improve services and bring them closer to the people, the Commission was able to;

- Decentralized operations to at least one region, Manzini which was officially launched in December 2017 by the Honourable Minister of Justice and Home Affairs. The Manzini region is located at the centre of the country and the other regions will be covered when funding is received.
- Completed a National corruption Perception Survey, 2017 in collaboration with the Ministry of Justice and Constitutional Affairs. The results of the survey have been disseminated to the media, police and CANGO. Furthermore, the survey findings will be disseminated to all sectors that will be expected to identify issues related to their sector and subsequently draw up 2018/2019 action plans for their interventions.
- Risk Assessment for two institutions; Private and public were conducted
- Sports have been used as a vehicle to disseminate anti-corruption information to public and private institution's employees; where a soccer kit branded with corruption offenses is used and educational material disseminated.
- Following public reports on corruption, interventions were undertaken through; surprise audits conducted for Government Agricultural Extension Services Centres around the country and capacity building for head teachers and school committees were conducted as specific interventions for some schools where educational material was also disseminated.
- Collaboration with the Swaziland Institute of Management Public Administration (SIMPA) for presentation on corruption issues to groups of public officers attending the college. Initiations to extend working with other colleges were undertaken to implement provision of the POCA to new student intake.
- A revamped ACC's website with a crime reporting feature was launched in December 2017, however, its functioning is still has some teething problems and hence the results and impact are yet to be ascertained.
- The long awaited Asset Forfeiture and Information Gathering Units have been initiated. However, assistance is still much needed for these to move forward.
- Collaboration with the police in disseminating education material through the various police stations around the country.
- 6 cases were referred to the DPP's office and fresh matters are still pending court application.

- A specialized unit for corruption under DPP to look into prosecutions of ACC cases have been opened.

3. MAIN CHALLENGES FACED

Corruption is a key focal area in the Government Programme of Action 2013 -2018 and vision 2022. Main challenges faced in implementation of programmes centred on;

- Resources;
 - A reduced budget was allocated to the department and further budget release was short due to cash flow constraints. There was a significant progressive decline in the financial resource allocation in the last two years thereby impeding the delivery of major results. There still remains a need to strengthen resource mobilization.
 - The Prevention and Education Section still has a staff of three (3) servicing the whole country and efforts for additional staff had been hindered by budgetary constraints.
 - Exodus of staff for greener pastures. Staff members are constantly poached by private institutions such as banks and parastatals and offer them competitive remuneration which the institution cannot match as civil servants salaries are regulated by government. This grossly affects the work progress at ACC.
- Prolonged Prosecution; prosecution of court cases continued to be slow which frustrates the course of fighting corruption and stakeholder perception of the institution. The High Court has recently hired more judges which the aim of speeding up cases. There is still a great need for the establishment of commercial courts which can tackle corruption related cases speedily.
- Slow Strategic Plan Implementation: Implementation of the strategic plan continued to slow due to lack resources and some expertise.
- Enabling National Policy is still in not finalized as funding partner did not release needed funding and hence stakeholder forum not yet re-established pending finalization of policy.
- Initiations to collaborate with some institutions to implement provisions of the POCA were met with resistance.

- Utilization of technical assistance instrument to source assistance from sister organizations has been slow due to fiscal challenges.

4. RESULT OF THE INNOVATIONS

- Decentralizing of offices and the launch of the ACC website has seen a slight increase in the number of total reported corruption cases. Reporting of cases is expected to progressively increase as the availability of the regional offices and the website are popularized.
- The launching of the National Corruption Perception Survey 2017 has informed the country of the need to put in place further corruption mitigating measures. The report call for stimulation of the legislative reform for the development of framework to strengthen law enforcement and punitive measures, promotional of capacities for accountable and resource management, encouraging reporting on unethical malpractice, growing a culture for prudent public procurement and management of resources.
- Through prevention and education initiatives the Commission continued reach all dimensions of stakeholders through multimedia and interactive meetings. Organizations and communities continue to make demands of the services due sensitization on corruption issues.
- There were reduced cases of corruption reporting from the institutions who were cited for corrupt practices after they were capacitated together with their stakeholders.
- The survey findings dissemination will inform how the Commission fared in the multi sector approach given that AU has declared 2018 as the African Anti-Corruption.
- The Anti- Corruption Commission, Eswatini returned an exchange twinning programme with Lesotho and Botswana where working experiences and sporting activities were shared.

5. REFLECTIONS AND LESSONS

It is vital to finalize the review of the enabling guidelines i.e. Prevention of Corruption ACT 2006 and the National Anti-Corruption Policy as they form the foundation of the operations of the Commission and will guide the way forward.

Consideration for strategic partnership with private and international entities for sponsorship of programmes would be a beneficial strategy to expand the work of the institution in the face of constraint resources under relevant guidelines.

The volatility of the anti – corruption environment calls for officers to be skilled with innovative ways of investigations and prevention. This however, hinges on availability of resources for continuous training and exposure. Upholding and enhancing of relations with development partners would be helpful. The Commission value the beneficial partnership with the Commonwealth Africa Anti –Corruption Centre who continues to sponsor training. The Embassy of the United States of America in Collaboration with International Law Enforcement Agency (ILEA) have recently sponsored training in Public Corruption and Financial Investigations for our investigators.

6. RECOMMENDATIONS THAT COULD BE SHARED

ACC agencies continue to strengthen and intensify efforts to fight corruption, strengthen collaborative effort, invent and implement innovative strategies against corruption. The regional and international conferences provide a good platform for the ACC to exchange ideas and learn best practices from other Agencies and to foster cooperation as corruption knows no boundary.



**THE INSPECTORATE OF GOVERNMENT ONLINE
DECLARATION SYSTEM (IG-ODS)**

**Presentation to the 8th Commonwealth Review Meeting of Heads of Anti-
Corruption Agencies in Africa**

by

**Annet Twine Kyakunda
Director Leadership Code
INSPECTORATE OF GOVERNMENT**

MAY 2018

1.0 Background and Introduction

The Inspectorate of Government (IG) is a constitutional body established under chapter 13 and 14 of the Constitution of Uganda. The IG is operationalized under the Inspectorate of Government Act, 2002 and the Leadership Code Act, 2002. The IG has four broad mandates: the Ombudsman Function, the Anti-Corruption Function, the Leadership Code Enforcement function and the Education and Prevention function.

As noted, one of the functions of the Inspectorate of Government is to enforce the Leadership Code Act. Under the Act, specified leaders are required to declare their income, assets and liabilities to the Inspector General of Government (IGG) three months after assuming a position of Leadership and thereafter every two years in the month of March.

Since the Act came into force on 12th July 2002, leaders were filing their declarations of income, assets and liabilities manually and in hard copy. While leaders were able to file their declarations, there were a number of challenges that the Inspectorate of Government faced in particular the high cost of procuring, distributing, collecting and storing declaration forms for over 25,000 (twenty five thousand) leaders for every declaration period. This posed another challenge of data entry into the Leadership Code database system. On the other hand Leaders would have to travel long distances to deliver the declarations to the IG offices. This was costly and also time consuming. In addition, the leaders would cause long queues at IG office during the declaration period which is a period of one month.

In order to address the above challenges and also cope with current national and global Information Technology trends, the IG designed and developed the

Inspectorate of Government Online Declaration System (IG-ODS) in-house by our staff both in the IT Unit and in the Directorate of Leadership Code.

Because of this, we have been able to continuously update and upgrade the system to fit the needs of the leaders, as well helping us to greatly reduce the costs of engaging external consultants.

The system was designed to enable the IG receive, process and manage the declarations electronically.

2.0 Operationalization of the IG-ODS

The IG-ODS was operationalized by the Leadership Code (Declaration Form) Regulations 2016 on 1st June 2016 which was gazetted on 20th May 2016. Since then the IG no longer receives any hard copies of the declaration of income, assets and liabilities.

From inception, the IG has registered over 25,000 leaders into the system out of which, 22,645 have successfully declared their income, assets and liabilities, giving a compliance rate of 90.6%. To the IG, this is a greatest rate of compliance which was never achieved when leaders were declaring using the manual system as shown in the table below;

Year	No. submitted	Total registered	Compliance %
2017	22,645	25,000	90.6
2015	21,870	25,000	88
2013	21,043	25,108	84
2011	19,110	22,350	86

Status of the system

Currently, this system is undergoing an upgrade that constitutes development of the 2nd phase of the system, which includes the following activities;

- i) Improving the filing system to enable leaders update their declarations of incomes, assets and liabilities, in the upcoming declaration period.
- ii) Developing of a self registration system, which will allow leaders and focal persons to register details of the leaders into the system.
- iii) Operationalizing the electronic verification of declarations that will be received through the IG-ODS.

3.0 Challenges

Characteristic of new systems, the IG-ODS faced a number of challenges which included, among others;

1. Incorrect particulars of leaders that were submitted to IG to update the registers.
 - We are now developing a self registration module for leaders and focal persons to mitigate this challenge.
2. Low levels of technology literacy in various categories of leaders.
 - The IG set up mobile support teams that went out to the leaders. In addition, materials on how to use the system were developed. These included: a user manual, IG-ODS brochure, IG-ODS Frequently asked questions, CDs, help button on the form, and also

identification of focal persons per institution. These mechanisms guided the leaders to fill the forms online.

3. Unavailable or bad internet connectivity in remote areas of the country.
 - The support team acquired portable mifi/wifi routers to make internet connectivity easy.
 - The team worked with the local government authorities to find locations that had internet connectivity to conduct the trainings.
4. Challenges within the legal framework in particular the delayed amendment of the Leadership Code Act to provide for the establishment of the Leadership Code Tribunal.

The Constitution of Uganda article 235 (A) provides for a Leadership Code Tribunal to hear and determine all breaches and offences under the Code.

Following a Supreme Court ruling in 2007, in a landmark case involving a Member of Parliament, that the Inspectorate of Government is not an appropriate tribunal provided for under the constitution, a process to amend the Leadership Code Act commenced in 2009. The IGG had caused vacation from Parliament by a Member due to failure to declare his income, assets and liabilities.

It took 8 years to have the amendment passed. While the amendment provided for the Leadership Code Tribunal as sought, other important provisions of the Act were removed which hinders the enforcement of the Leadership Code Act, for instance;

- The declaration of the incomes, assets and liabilities of the spouse, children or dependants was removed.

It should be noted that through experience most illicitly acquired assets are conveniently hidden in the names of spouses, children or dependants of the declarants.

- Another challenge in the amendment of the Leadership Code Act was removal of major breaches of the Act such as false declarations and excess or under declaration of property. This strongly affects the verification reports that find cases of false declarations and hidden assets by leaders.
- The amendment also did not provide for penalties for breaches such as failure to declare, conflict of interest and anticipatory declaration.

It is therefore noted that the process of amendment of the Act has to be repeated.

4.0 Results of the Innovation

The IG-ODS was overwhelmingly supported and successfully registered a 90.6% (22,645) level of declaration compliance against the expected number of 25,000 leaders. It greatly improved the process of filing declarations of income, assets and liabilities and achieved the following benefits/advantages to both the IG and the declarants;

- i) It is considerably cheaper for both the Leaders and the IG, because it reduces human time to move to IG offices, printing costs, transport costs and data entry costs. The IG-ODS is fast, efficient and effective, and, thus, far less costly.
- ii) Leaders are able to submit their declarations to the IGG from anywhere in the world, as long as they have their IG-ODS number. They do not have to move to any of the IG offices.
- iii) The system was developed with advanced security features to guarantee safety and security of information. In addition, a number of security tests such as penetration test, load and volume tests, usability, and compatibility among others were also carried out.

The system employs the 2-factor authentication to ensure that the right leader accesses the right form by using;

- a) A system generated unique leader's number called the IG-ODS number
- b) A password created by the leader
- c) A token sent by SMS to the mobile phone number of the leader

The system is therefore very safe and secure.

- iv) During the manual declarations, the leaders would submit incomplete declarations. However, with the IG-ODS, a leader is not able to submit incomplete information and thus the system has solved the problem of incomplete declarations which was a challenge to verification.
- v) Given that the system is computerized, it solved the IG's problem of lack of storage space for the manual declaration forms.

- vi) IG-ODS has eased the process of data capture, search, analysis, comparison and retrieval.
- vii) We have commenced IG-ODS Phase II which intends to electronically synchronize the declared data with the databases in other state agencies such as the Uganda Revenue Authority, the Land Registry, and Uganda Registration Services Bureau among others. This process will help to validate leaders' data as well as track the assets of the leaders. This will eventually ease the process of investigations and asset recovery where need may arise.
- viii) The IG-ODS is an invaluable tool in the Asset Recovery efforts. The IG-ODS DATABASE contains personal financial information of high net worth Public Officers which aids asset tracing and verification as well as Asset Recovery.

Information contained in a declaration form is indispensable for Asset tracing and recovery such as

- Personal details like addresses, phone contacts, National ID number, TIN
- Cost and date of purchase
- Location and usage of Asset
- Bank Accounts

5.0 Reflections and lessons learnt

Several lessons were learnt in the implementation of the IG-ODS. These include:

- i) The support of the top management of the institution is very key to the success of the project. If the members of the management do not get engaged in the development and implementation process, the project may fail.
- ii) Identifying key partners for the project at all levels, both internal and external is very important. These partners may offer, financial or technical support. The IG identified the following partners: National Information Technology Authority – Uganda (NITA-U). Ministry of ICT, Directorate of Ethics and Integrity and Uganda Revenue Authority. Externally we got support from StAR Initiative/World Bank, UNDP, DANIDA, SUGAR TAF Facility/DFID
- iii) Developing the system in-house saves a lot of costs for upgrades and scope changes.

Besides the cost reduction, the development team was able to easily translate the requirements into the system because they understood the internal workings of the organization.
- iv) It is important to document the process at every stage of development.
- v) A decision was taken to completely phase out the manual system/paper based declarations. This decision helped leaders to adapt faster to the use of the online system.
- vi) Phasing of the development of the system to ease the implementation of the project. Phase I was completed by development of the user interface and basic reports. We have embarked on Phase II which involves upgrading of the user interface and development of the Electronic Verification Tool. Phase III will involve full integration with other government Databases.

- vii) Importance of training of key officers and Focal Persons in every institution with a back up team of committed IG staff both at headquarters and Regional offices.
- viii) Conducting continuous public awareness and sensitization through use of Radio and Television programs, and developing information, education and communication materials such as manuals and brochures is important.

Conclusion

Based on the benefits achieved, we recommend that countries which have Asset declaration regimes in their jurisdictions should explore the possibility of electronic web based declarations as it is an important tool in quicker asset tracing and recovery.

The system is able to store a large number of declarations securely and in formats that can be easily analyzed. In addition, it builds capacity of the staff to bring about in-house innovations.

Thank you

FOR GOD AND MY COUNTRY

MAY 2018

TESTIMONIES BY HEADS OF ANTI-CORRUPTION AGENCIES

Ibrahim Magu, Nigeria

Since May 2015 we've recovered over USD \$5 billion. The initiative by the Secretariat to bring the anti-corruption agencies in the Commonwealth Africa countries has brought tremendous improvement in the process and procedures relating to cross-border crime, corruption, fraud and money laundering.

The initiative of having these heads of corruption interactions as a result of creation of the Heads of Anti-Corruption Agencies in Commonwealth Africa has brought understanding and collaboration, and easier exchange of intelligence and information. This has reduced the bottle neck relating to process and procedure in mutual legal assistance. Sometimes you need to exchange information informally because you don't delay. Now, because of our relationships and informal contact, if you have information, if you have any requests, we can talk. This wasn't the case before.

For instance, just recently, somebody who had debt in Nigeria ran to Ghana. My Ghanaian colleagues called me and said 'Look Magu, you have this person, get me the necessary court processes, get the arrest warrant etc. etc. and I will tender those things in my country and I will keep this man, so you can come and take him'. That was how we got the person extradited.

It is very, very, very good. It helps us to exchange information, intelligence, both formally and informally. I think this Association of Anti-Corruption Agencies in Commonwealth Africa should be extended to cover the whole of Commonwealth because you have a wider reach when it is entire Commonwealth. I think because of the progress we have made so far in the Association, I'm not new so I know what I'm talking about, I know the benefit we have got from this so it's very necessary. Because this is cross-border crime. It's not one nation. We have to collaborate.

The Secretariat has done a lot. I know we are working hand-in-hand with the National Crime Agency in the UK, so it's very effective. And my colleague in Ghana, in Cameroon, in Sierra Leone. It's working, believe me.

The initiative actually came from Dr Roger Koranteng and there is regular contact. He's knows almost everybody that is in the anti-corruption community in Commonwealth Africa. I did not also mention the forum created in Botswana in terms of training and building capacity in the Anti-Corruption Agencies in Commonwealth Africa. This has created a very robust relationship and it's going to help.

BOX QUOTE: "The initiative by the Secretariat to bring the anti-corruption agencies in the Commonwealth Africa countries has brought tremendous improvement in the process and procedures relating to cross-border crime, corruption, fraud and money laundering"

Irene Mulyagonja, Uganda

The Inspectorate of Government has a three-fold mandate. We are charged with investigating and prosecuting corruption. We are also the national ombudsman institution, which means we are also in charge of ensuring strict adherence to the rule of law and principles of justice in public institutions. The other role we have is investigating the implementation of the leadership code, which is recorded in the Leadership Code Act, an act was enacted in 2002.

The Inspectorate of Government has had support from the Commonwealth Secretariat since I came into office in the year 2012. Starting 2014 we interacted with other institutions in the Africa region through the Commonwealth Association Anti-Corruption Authorities.

The Commonwealth Association Anti-Corruption Authorities has supported the Inspectorate of Government, especially with training of staff to empower them to improve their skills that are required for doing the work we are mandated to do by the constitution of the Republic of Uganda. Several members of staff have attended training at the Commonwealth Centre in Botswana, and they have gone through courses in investigation, on the ombudsman function of the Inspectorate of Government and it has greatly improved their skills.

Of particular note is the improvement in skill in the investigative capacity. Our strategy planners first strategy goal is improving efficiency and effectiveness in investigating and prosecuting corruption, and that has been supported by the Commonwealth Secretariat. Because of that the Inspectorate of Government now boasts of investigating high level cases of corruption. Right now, investigations are going on for the prosecution of cases to the tune of USD \$5 million.

In addition to that the Inspectorate is concluding cases in the anti-corruption court in Uganda where various high profile individuals are being prosecuted for corruption. The estimated recoveries that are going to be made come up to about USD \$7.5 million.

The Inspectorate of Government has a strategic objective to improve the capacity of its staff to improve the manner in which they do business in the Inspectorate, and this has also been supported by the Commonwealth Secretariat. Dr Roger Koranteng has been holding training for heads of anti-corruption institutions in various leadership and management requirements because most of us, when we come to do this work as heads of anti-corruption agencies, we are not trained in what we are supposed to do. For instance, when I came in I had been a judge of the High Court so I hardly knew about management of institutions. Through the training courses that have been held with the support of the Commonwealth Secretariat and led by Dr Roger Koranteng I as an individual learned a lot from these trainings.

It actually transformed the way I look at my role as Inspector General of Government because when I came in I used to get bogged down by doing the work that was supposed to be done by my members of staff. But through training in leadership and management with the support of the Commonwealth Secretariat I was able to lay down my tools as a technical person and take on the more strategic role of being the leader of this institution.

So I am really grateful for the support of the Commonwealth Secretariat and in particular our appreciation as the Inspectorate Government goes to Dr Roger Koranteng because not only has he organised these training for leadership and management for heads of Anti-Corruption Agencies, but he has also come to countries when invited to do this training for our members of staff. He has been to Uganda and he has delivered the training session with our staff, which they very much appreciated. The training was also at a strategic level with the directors of the Inspectorate, and also their immediate reports who are the managers. They have been supported and improved their skills of supervising staff. They of course look forward to another visit by Dr Roger Koranteng, who himself facilitated the training. They enjoyed it very much and are looking forward to more.

BOX QUOTE: “When I came in I had been a judge of the High Court, so I hardly knew about management of institutions. The support of the Commonwealth Secretariat, led by Dr Roger Koranteng, transformed the way I look at my role as Inspector General of Government”

Shakila Jhungeer, Mauritius

I thank the Commonwealth for the initiative of hosting this platform in Africa on the theme on *Partnering towards Asset Recovery and Return*. The world is facing a really critical situation. We are in front of a big crisis when we have numbers of trillions of dollars being spent on corruption. In Mauritius itself, we have recovered more than USD \$5 million as assets. I must state that the Commonwealth has a great role that plays in the work we do.

The main achievement we have from the Commonwealth is the training and guidance. For example, in 2015, we had two training sessions. One was on management and leadership and the other one was money laundering and corruption which our staff really benefited from. Last year, we had another training session with all the senior officials of law enforcement agencies which was led by Dr Roger Koranteng.

Therefore, I must thank the Secretary-General Rt Hon Patricia Scotland for all the help and support she has been providing at the Independent Commission Against Corruption Mauritius. I also thank her for the strong signal that she is sending by hosting this platform in Africa, most importantly, I thank her for being an icon for women's empowerment. Last but not the least, I would also like to thank Dr Roger Koranteng for all his help and support. He has always been available, even from his desk in London.

Roger has also facilitated the process of drafting a code of conduct for parliamentarians in Mauritius. Roger has played a major role in training our staff because, as institutions, we rely on the capabilities of our staff to move forward so if our staff do not have enough competence we lack behind. So, with all the training that has been done, our staff have actually built their capacity and we have seen the result. We expect future collaborations and capacity building from the Commonwealth and remain thankful for everything.

I will conclude with, the theme of this meeting starts with the world 'partnering', this is really important because we are living in a world of advanced crime and if the criminals are teaming up so must we in the fight against corruption.

BOX QUOTE: "I thank Secretary-General Patricia Scotland for all the help and support she has been providing at the Independent Commission Against Corruption. I would also like to thank Dr Roger Koranteng who facilitated the process of drafting a code of conduct for parliamentarians in Mauritius."

Ekpo Una Nta, Nigeria

In the last year, Nigerian anti-corruption agencies have cumulatively recovered around USD \$3 billion. Internally, we have also carried out quite a lot of recoveries. It is principally because of the much more coordinated and focused recovery project put together by the Federal Government of Nigeria in collaboration with the partners in the Commonwealth and other regional bodies.

The Commonwealth Secretariat has been very focused and has given a lot of direction to the anti-corruption process in Nigeria. We are in a better position to understand this process because of having the shared values as being a member of the Commonwealth. This has really paid off because when we

come to share experiences, we are talking with peer groups who also have the same process as we do.

Dr Roger Koranteng has been the force behind all the processes. He has brought in the kind of energy you would expect a team of persons putting together single-handedly. From 2011, when the Commonwealth Association of Heads of Anti-Corruption Agencies in Africa came together, we have come to see him as a true coordinator. He inspires people to give beyond what they are capable of. We often think we have reached the zenith of our operations, when you speak with Koranteng, he draws new linkages and brings experts in areas you may have the need. I must say that he is an asset to the Commonwealth and, in fact, in Nigeria, we see him as a valued friend and asset who is easily accessible to us.

BOX QUOTE: “In the last year, Nigerian anti-corruption agencies have cumulatively recovered around USD \$3 billion. The Commonwealth Secretariat has been very focused and has given a lot of direction to the anti-corruption process in Nigeria”

N-K Noa, Namibia

The commission wants to express its utmost profound appreciation to the Commonwealth Secretariat for the general support they have been rendering to the commission and particularly to the heads of anti-corruption agencies. Not only me as the only anti-corruption agency Namibia but all heads of anti-corruption agency in commonwealth Africa because we have richly benefitted from what the Secretariat has done for us through Dr Roger Korateng. To mention just the main thing that came as a result of this funding that has been provided through the Centre we have been able to train our officials, in other words to build the capacity of the anti-corruption commission in various fields, either through investigation, public education and corruption prevention as well as prosecution division.

Dr Roger was able to really do a lot for us because in the case of Namibia he came specifically to train the top management and middle management on management and leadership and this we invited him to come and do after myself in the capacity as head of anti-corruption agencies attended a training that he offered to all heads of anti-corruption agency in Commonwealth Africa and I found out that it was very helpful and productive.

It was the first training on leadership and management that I attended and since then I requested him to come to Namibia so that he could train all of us at a broader level. when he came the enthusiasm was so high that it was not only the managers at the Anti-Corruption Commission but directors, deputy directors and managers from other institutions also joined us and then we went through that training for a whole week and it really helped us a lot.

Another important thing that came from the Secretariat is that we were provided with an opportunity to come together as anti-corruption agencies to attend forums, such as this one in Nigeria, to exchange experience and good practices and through these we able to include other additional anti-corruption measures that we did not have before.

BOX NOTE: “We have richly benefitted from what the Secretariat has done for us. The main thing that came as a result of this funding, we have been able to build the capacity of the anti-corruption commission in various fields, either through investigation, public education and corruption prevention”

N D Mutivi, South Africa

We are here obviously as part of the Commonwealth Africa heads of anti-corruption agencies, we have found this Commonwealth anti-corruption agencies as a very useful platform where we share practices, we share ideas in essence we benchmark with other colleagues in Commonwealth Africa.

It's a very useful platform but in particular some of the training programs that Dr Roger Koranteng has championed, he has in particular visited our country South Africa where he led some of the leadership training in the special investigative unit. Recently we hosted the Commonwealth Africa heads of anti-corruption agencies where Dr Koranteng was leading a three to four day leadership training.

We have found that very useful and we really look forward to continue to participate in the Commonwealth head of anti-corruption agencies to ensure that it strengthens and also develop its members

Working with the Secretariat and the Commonwealth Africa anti-corruption centre, which is situated in Botswana, there's been quite a number of training programmes that we've sent our members who are responsible in interacting with our prosecuting authority to ensure that assets are recovered. When they return from those trainings you could see that they really have picked up the skills to ensure that they interact with our asset forfeiture unit and to date we have recovered trillions worth of assets.

BOX QUOTE: "Working with the Secretariat and the Commonwealth Africa anti-corruption centre in Botswana, there have been quite a number of training programmes that we've sent our members. When they return you could see that they really have picked up the skills to interact with our asset forfeiture unit, and to date we have recovered trillions worth of assets"

Rose Seretse, Botswana

I want to first thank the Commonwealth Secretariat for the fact that the Centre was set up in Botswana, in partnership with the government of Botswana and the Commonwealth Secretariat.

The Commonwealth Secretariat is doing a lot in terms of providing assistance to the Centre on issues of training, research, and capacity building for countries that belong to Commonwealth Africa. On an occasional basis, staff are sent to the Centre, they receive training on issues such as investigation, corruption prevention, and monitoring and evaluation. The Centre is providing the budget. It's also providing the resource persons and in all this. I must say that really, without the Commonwealth Secretariat, the fight against corruption, especially in Commonwealth African countries would be very difficult.

Of particular note I want to thank Dr Roger Koranteng, who has been with the Centre right from day one. He has been a pillar of strength for the Centre, he is the one who has taken the fight against corruption with so much commitment and vigour in providing the guidance to the Centre. I want to thank the Commonwealth Secretariat for releasing him during the early days and continuing to release him now. I have seen Dr Roger over the years as an asset not only to the Centre but to other Commonwealth African countries and the entire Commonwealth community, in that he is really providing guidance and helping African Commonwealth countries to fight corruption.

It has had a lot of impact, particularly that officers have been capacitated now. Their skills have improved, particularly investigation, prosecution, corruption prevention, and community education.

The research level has also improved, in that now the different officers are able to do research on corruption before they can engage in any form of anti-corruption. This is all because of the help of the Commonwealth Secretariat, and in particular of Dr Roger Koranteng.

BOX QUOTE: “Officers’ skills have improved, particularly investigation, prosecution, corruption prevention, and community education. This is all because of the help of the Commonwealth Secretariat, and in particular Dr Roger Koranteng.”