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His Excellency, Mr Ali Sulaiman, Commissioner of the Federal Ethics and Anti-Corruption Commission
Ambassador Andrea Semadeni, Swiss Government,
Ms Strobel-Shaw, Chief of Conference Support Section, UNODC

13 February 2017

Recommendations to the International Expert Meeting on the management and disposal of stolen assets, Addis Ababa, 14-16th February 2017

Dear Mr Sulaiman, Mr Ambassador and Ms Strobel-Shaw

We are members of the UNCAC Coalition's Civil Society Working Group on Accountable Asset Return and are writing to you on the occasion of the International Expert Meeting on the management and disposal of recovered and returned stolen assets in Addis Ababa in February. We see the meeting as an important milestone in the ongoing efforts to improve the return of assets in line with the overall objectives of the UN Convention against Corruption. We hope that it will pave the way to further advances at the Global Forum on Asset Recovery in July and the UNCAC Conference of States Parties in November this year.

In particular, we wish to convey our support for building consensus around some clear global principles for the management and return of stolen assets which include accountability and transparency in line with UNCAC Article 9. We also urge the allocation of such assets to support meaningful implementation of SDG 16 and to compensate the poorest sections of society most harmed by corruption.

We note with regard to this subject that civil society organisations, including those represented in our working group, have accumulated considerable experience and expertise on issues of accountability and transparency and we believe we could contribute a useful perspective to ongoing discussions about asset return.

For that reason, we believe that it would be useful for the International Expert Meeting to allocate some time to discuss how civil society organisations can be included in such forums. We welcome the decision of the Nigerian government in including a CSO representative in its delegation to the International Expert Meeting and encourage the organisers of such events to invite civil society observers. In that connection, we note that Article 13 of UNCAC calls for states to promote actively the participation of civil society and Resolution 6/3 from the 6th Conference on State Parties affirms "*the important role that civil society could play in asset recovery and return.*" The Arab Asset Recovery Forum recognized the important role that civil society can play in the asset recovery process. Further, the role that civil society has to play in effective implementation of SDG 16 particularly in the building of effective and accountable institutions is widely recognized.

Principles for managing and disposing of recovered and returned stolen assets

We believe from our collective experience of observing and monitoring the process for return of assets in each of our specific contexts, that the following principles should guide the management and disposal of recovered and returned stolen assets:

1. *Stolen assets that are recovered should be returned to the country of origin, in line with UNCAC Article 51.* This is a fundamental principle under UNCAC that must be respected. Furthermore, we believe that it is in the interests of all parties to UNCAC that assets are returned in a manner that supports the implementation of all parts of the Convention, including the prevention of corruption.
2. *Both returning and receiving countries agree to apply the highest possible standards of transparency at all stages of the recovery and return process.* Such a principle is in the mutual interests of both returning and receiving countries and will serve the implementation UNCAC Articles 9 (2), 10 and 13. Such transparency should include publication of amounts recovered and to be returned, via the media and on government websites, **prior to return**, as well as the date the money is to be returned and the modality of return. This transparency should apply to both returning and receiving countries.
3. *Both returning and receiving countries should commit to apply the highest possible standards of accountability in the management and disposal of recovered and returned stolen assets.* Recovered and returned funds should be managed in accordance with UNCAC Article 9. A report on how returned funds have been spent and audited should be made to the relevant legislature of the country receiving the funds and made public in both receiving and returning countries.
4. *Returned stolen assets should be used to remedy the harm their theft caused, including by providing planned services or procurements lost through their removal and in line with SDG 16.* CSOs have a useful role to play in helping identify how harm can be remedied and should be invited to participate in decision-making processes about asset repatriation.
5. *Where regular budgeting and accounting processes lack transparency and accountability and where a receiving country is non-compliant with UNCAC Articles 9, 10 and 13, resulting in a lack of effective oversight of returned funds, returning and receiving countries should in consultation with a broad spectrum of relevant experts and non-state actors find alternative means of managing the stolen assets.* This could include: the establishment of special budgeting and accounting processes, the setting of up an escrow account until compliance with UNCAC Articles 9, 10 and 13 are achieved, or the use of an independent non-state actor to disburse the returned assets in line with the principles above, as happened with the BOTA Foundation in Kazakhstan.

The use of settlements and their implications

The UNCAC Coalition Civil Society Working Group on Accountable Asset Return notes that settlements are used in various different contexts in relation to stolen assets. Settlements or agreements between countries regarding stolen assets are allowed under UNCAC and can be an appropriate way of negotiating the return of stolen assets. However, the Working Group notes that settlements should also be subject to the following standards:

1. *Settlements must be made in a transparent and accountable manner, including being made public with as much detail included as possible.*
2. *Settlements should not include clauses that provide for immunity from prosecution.*



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- 3. Countries entering into settlements should ensure that a full assessment of the harm caused by the corruption to which the settlement relates is made, and that compensation for that harm is specifically addressed.*

Broad and inclusive definition of victim and harm

We welcome the inclusion in the agenda of the International Experts Meeting of the issue of identifying and compensating victims of corruption. We believe that compensating victims should be central to asset recovery cases, and that broad definitions of victims of corruption to include affected communities are essential. Additionally, we believe that full assessments of the harm caused by corruption are essential to the fight against corruption. We urge participants at the meeting to seek consensus on ways in which the harm caused by corruption can be more adequately reflected in court and out of court proceedings in all countries.

We would be grateful if you would share this letter with all participants at the International Experts Meeting.

ACIJ, Argentina
ANEEJ, Nigeria
Anti-Corruption Action Centre, Ukraine
Centre to Combat Corruption and Cronyism, Malaysia
Centre for Transparency Advocacy, Nigeria
CIFAR, Berlin
CISLAC, Nigeria
Corruption Watch, UK
Development Dynamics, Nigeria
Economic Research Centre, Azerbaijan
GAPAFOT, Central African Republic
Governance Institutes Network International (GINI), Pakistan
Government Accountability Project, US
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International State Crime Initiative, Queen Mary's University, London
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Pakistan Rural Workers Social Welfare Organisation
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