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<th>Abbreviation</th>
<th>Description</th>
</tr>
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<tr>
<td>ACC</td>
<td>Anti-Corruption Commission</td>
</tr>
<tr>
<td>ADSU</td>
<td>Anti-Drugs and Smuggling unit</td>
</tr>
<tr>
<td>AFU</td>
<td>Asset Forfeiture Unit</td>
</tr>
<tr>
<td>AFF</td>
<td>Asset Forfeiture Fund</td>
</tr>
<tr>
<td>AGM</td>
<td>Annual General Meeting</td>
</tr>
<tr>
<td>AM</td>
<td>Asset Management</td>
</tr>
<tr>
<td>AML</td>
<td>Anti-Money Laundering</td>
</tr>
<tr>
<td>APA</td>
<td>African Prosecutors Association</td>
</tr>
<tr>
<td>ARID</td>
<td>Asset Recovery Investigation Division</td>
</tr>
<tr>
<td>ARIN-AP</td>
<td>Asset Recovery Inter-Agency Network – Asia Pacific</td>
</tr>
<tr>
<td>ARIN-EA</td>
<td>Asset Recovery Inter-Agency Network – East Africa</td>
</tr>
<tr>
<td>ARINSA</td>
<td>Asset Recovery Inter-Agency Network for Southern Africa</td>
</tr>
<tr>
<td>ARIN-WA</td>
<td>Asset Recovery Inter-Agency Network – West Africa</td>
</tr>
<tr>
<td>CARIN</td>
<td>Camden Asset Recovery Inter-Agency Network</td>
</tr>
<tr>
<td>CTF</td>
<td>Counter Terrorism Financing</td>
</tr>
<tr>
<td>DCEO</td>
<td>Directorate on Corruption &amp; Economic Offences</td>
</tr>
<tr>
<td>DEC</td>
<td>Drug Enforcement Commission</td>
</tr>
<tr>
<td>DFID</td>
<td>Department for International Development</td>
</tr>
<tr>
<td>DPP</td>
<td>Directorate of Public Prosecutions</td>
</tr>
<tr>
<td>ESAAMLG</td>
<td>East and Southern African Anti-Money Laundering Group</td>
</tr>
<tr>
<td>FATF</td>
<td>Financial Action Task Force</td>
</tr>
<tr>
<td>FIA</td>
<td>Financial Intelligence Authority</td>
</tr>
<tr>
<td>FIC</td>
<td>Financial Intelligence Centre</td>
</tr>
<tr>
<td>FIU</td>
<td>Financial Intelligence Unit</td>
</tr>
<tr>
<td>FPOCA</td>
<td>Forfeiture of Proceeds of Crime Act</td>
</tr>
<tr>
<td>GPML</td>
<td>Global Program against Money Laundering, Proceeds of Crime and the Financing of Terrorism</td>
</tr>
<tr>
<td>Acronym</td>
<td>Full Form</td>
</tr>
<tr>
<td>-----------</td>
<td>-------------------------------------------------------------</td>
</tr>
<tr>
<td>IACCWC</td>
<td>Inter-Agency Committee on Combating Wildlife Crime</td>
</tr>
<tr>
<td>ICAC</td>
<td>Independent Commission Against Corruption</td>
</tr>
<tr>
<td>IFF</td>
<td>Illicit Financial Flows</td>
</tr>
<tr>
<td>INL</td>
<td>Bureau of International Narcotics and Law Enforcement Affairs</td>
</tr>
<tr>
<td>INTERPOL</td>
<td>International Criminal Police Organisation</td>
</tr>
<tr>
<td>LEA</td>
<td>Law Enforcement Agency(ies)</td>
</tr>
<tr>
<td>LMPS</td>
<td>Lesotho Mounted Police Service</td>
</tr>
<tr>
<td>LRA</td>
<td>Lesotho Revenue Authority</td>
</tr>
<tr>
<td>MRA</td>
<td>Mauritian Revenue Authority</td>
</tr>
<tr>
<td>NCB</td>
<td>Non-Conviction Based (forfeiture)</td>
</tr>
<tr>
<td>NDPP</td>
<td>National Director of Public Prosecutions</td>
</tr>
<tr>
<td>NPA</td>
<td>National Prosecuting Authority</td>
</tr>
<tr>
<td>POCA</td>
<td>Prevention of Organised Crime Act / The Proceeds of Crime Act</td>
</tr>
<tr>
<td>PICA</td>
<td>Proceeds and Instruments of Crime Act</td>
</tr>
<tr>
<td>PPP</td>
<td>Prosecutor Placement Programme</td>
</tr>
<tr>
<td>SACJF</td>
<td>Southern African Chief Justices’ Forum</td>
</tr>
<tr>
<td>SADC</td>
<td>Southern African Development Community</td>
</tr>
<tr>
<td>TOC</td>
<td>Transnational Organised Crime</td>
</tr>
<tr>
<td>TBML</td>
<td>Trade Based Money Laundering</td>
</tr>
<tr>
<td>UNCAC</td>
<td>United Nations Convention Against Corruption</td>
</tr>
<tr>
<td>UNODC</td>
<td>United Nations Office on Drugs and Crime</td>
</tr>
<tr>
<td>UNTOC</td>
<td>United Nations Convention against Transnational Organised Crime</td>
</tr>
<tr>
<td>WLFC</td>
<td>Wildlife and Forestry Crime</td>
</tr>
<tr>
<td>ZACC</td>
<td>Zimbabwe Anti-Corruption Commission</td>
</tr>
<tr>
<td>ZPA</td>
<td>Zambia Prosecuting Authority</td>
</tr>
<tr>
<td>ZRA</td>
<td>Zambia Revenue Authority</td>
</tr>
<tr>
<td>ZRP</td>
<td>Zimbabwe Republic Police</td>
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</tbody>
</table>
The Asset Recovery Inter-Agency Network for Southern Africa (ARINSA), has been at the forefront and instrumental in interrupting Illicit Financial Flows (IFF) in the Southern and Eastern African regions and beyond. ARINSA continued supporting its Member States’ efforts within the scope of Anti-Money Laundering and Asset Recovery, successfully ensuring that the criminals were deprived of proceeds from crime. Based on the Camden Asset Recovery Inter-Agency Network (CARIN) model which caters for European and North American countries in the field of asset tracing, freezing, seizure and confiscation, ARINSA has been championing the “taking the proceeds from crime” mantra that guides its work and successes in the region for the past 10 years. Our network has brought together Investigators, Prosecutors, Judges, Magistrates, law enforcement practitioners and other professionals to address the recovery of proceeds from crime from its 16 member countries in Southern and Eastern Africa, namely: Angola, Botswana, Eswatini, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Uganda, Zambia and Zimbabwe. Similar to CARIN, ARINSA’s objective is to increase the effectiveness of its members’ efforts, on a multi-agency basis, to deprive criminals of their illicit profits through sharing and exchanging information using informal channels and promoting internationally recognised best practices on asset recovery.

The secretariat of ARINSA is hosted by both the National Prosecuting Authority (NPA) of South Africa and the Regional Office of Southern Africa of the United Nations Office on Drugs and Crime (UNODC-ROSAF). The NPA serves as the operational secretariat which processes incoming and outgoing requests of the network, provide operational and technical support to ARINSA Member States and also hosts the Prosecutor Placement Programme (PPP), an initiative where non-South African asset recovery lawyers from the relevant prosecution authorities are placed within the NPA Asset Forfeiture Unit for a period of four weeks to gain practical experience in the field of asset recovery.

The strategic and administrative secretariat functions of ARINSA are carried out by UNODC Southern Africa under its Global Programme against Money Laundering (GPML). It is guided by the three Drug Control Conventions international instruments namely: Convention on Psychotropic Substances (1971); United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988); and Single Convention on Narcotic Drugs (1961). Included is the Convention Against Transnational Organised Crime (UNTOC) and the Convention Against Corruption (UNCAC), as well as the International Convention for the Suppression of the Financing of Terrorism.

The practical impact of the work of ARINSA can be seen through several avenues which translated into clearly actionable and measurable results - first the culture of generally focusing on conviction-based forfeiture as a means of fighting crime is shifting. Many ARINSA countries have or are in the process of putting in place non-conviction-based (NCB) forfeiture laws which enable the recovery of proceeds and instrumentalities of crime, in the absence of a conviction. As a result, in practice, ARINSA prosecutors are increasingly using these NCB procedures that are parallel to criminal proceedings, the successes are highlighted under the profiles of each country in the report. Some countries are also increasingly resorting to plea agreements to ensure that illicit profits and funds are confiscated and returned to the State (see Angola, Tanzania and Kenya country profiles).

Secondly, direct impact may be seen through the individual representatives of ARINSA member countries, known as Contact Points, who are practitioners such as Prosecutors and Investigators involved in asset forfeiture. They actively participate in the running of the network, including training
activities, the Prosecutor Placement Programme (PPP), discussions with mentors/consultants and in identifying technical assistance needs in their respective countries. Many Contact Points have reported cases which they have led or otherwise participated in, that have allowed them to implement the lessons learnt during the training or mentorship support received from ARINSA. As a result of the work reported by these Contact Points, ARINSA is proud to announce that for the year 2019 alone, an amount of USD 4.7 billion worth of assets (including money) have been successfully confiscated and forfeited to the States from criminals respectively. Another USD 4.1 billion has been seized and restricted from 486 seizure cases across the network, pending litigation. This shows that collectively over USD 5 billion in illicit financial flows have been interrupted and removed from the hands of the criminals in all 16 ARINSA member countries over the past two years.

Lastly, during the 10th Annual General Meeting (AGM) of ARINSA which was held in Dar es Salaam, Tanzania, from 12-14 June 2019, the network witnessed an increase in political commitment and support, much needed for the combating and interrupting illicit financial flows in the region. The AGM was attended by high-level delegates from ARINSA Member States including the Vice President of the United Republic of Tanzania H.E. Samia Hassan Suluhu; eight Directors of Public Prosecutions (DPP) agencies; four Ministerial level attendees; one Deputy DPP; and six members of the judiciary. A major outcome of the meeting was the adoption of the Dar es Salaam Declaration (Dar Declaration). In that declaration, ARINSA countries, recognised the need to provide resources to law enforcement for their efforts in confiscating the proceeds from crime, henceforth, they undertook to strive to secure additional financial and human resource allocation to law enforcement or asset forfeiture units to fight crime and forfeit the proceeds of crime and other assets.

The adoption of the declaration is a major victory for the long-term sustainability of ARINSA since funding law enforcement efforts from seized funds would provide much needed resources that may be used to support the network. The Dar Declaration is attached as an annex to the report.

It is my pleasure to report you that ARINSA continued to advance international policy dialogue on asset forfeiture with a view to advance the development of innovative approaches and practices in pursuing the tracing, recovery and return of stolen assets. In this regard, in April and September 2019, ARINSA representatives attended the meeting of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) to discuss activities and opportunities in the area of asset forfeiture. Meetings with the African Prosecutors Association (APA), the Southern African Chief Justices’ Forum (SACJF), SADC and The Southern African Regional Police Chiefs Co-operation Organisation (SARPCCO) are also scheduled to continue this dialogue.

It is also an honour for me as the outgoing President of the network to welcome the new incoming President from Mauritius whom I believe will take ARINSA to even greater heights than Tanzania did. We will indeed continue to support the new President in leading the network to uncharted paths of greatness.

Finally, I would like to convey a special message of appreciation to the ARINSA donors for their continued and unwavering financial and other forms of support, the United Kingdom’s Department for International Development (DFID) and US Department of State’s Bureau of International Narcotics and Law Enforcement Affairs (INL). ARINSA managed to grow in stature and record its lessons and successes through your financial backing and your belief in the ARINSA vision.

As Mwalimu Julius Nyerere once said, “cooperation and not confrontation”. ARINSA Member States believe that through international cooperation, we will succeed in disrupting criminals and forfeiting both their proceeds and instrumentalties, leaving no place for them to hide or benefit from their criminal activities. We, therefore, encourage more States to join ARINSA as it is the leading network for asset recovery in Africa.

Karibuni na Asante Sana!

Biswa Mganga
President of ARINSA
In 2019 UNODC continued its efforts to support countries in the region to combat money laundering, the financing of terrorism and cybercrime through its support to the ARINSA network. The year 2019 marks ten years since the establishment of ARINSA. In March 2009, UNODC organised a consultative meeting with Asset Recovery Practitioners from Southern African countries to gather and establish a regional network based on the Camden Asset Recovery Inter-Agency Network (CARIN) model in Europe. As a result, ARINSA was formed. For the past ten years, ARINSA has been growing both in terms of impact and footprint across the region, as a formidable player in the sphere of asset recovery. This report seeks to highlight the impact of the ARINSA network and its partners in their fight against transnational organised crime. The report will also highlight partnerships with other networks like CARIN and regional bodies like the Southern African Development Community (SADC); the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG); and the African Prosecutors Association (APA) in enhancing the much-needed international cooperation in the fight against illicit financial flows in the region.

Contact Points within ARINSA establish links and build trust through discussion meetings held in person, communication through the ARINSA website, and through participation in informal WhatsApp groups used to exchange information. There are currently 51 participants in the Contact Points WhatsApp group and 27 participants in the Steering Committee WhatsApp group. As a result, various avenues are available for Contact Points to request assistance by telephone, email, the ARINSA platform, the WhatsApp group, or in person at different events. The current information gathering system is manual with UNODC and NPA staff sending emails to and phoning the Contact Points to gather information on the cumulative number of coordination requests. In certain instances, UNODC is contacted for assistance with follow up.

As a result of these efforts, during 2019 the secretariat processed 19 requests for assistance. The cases often involve ongoing investigations and therefore detailed information is not entirely available. Cooperation requests were also made both to and from other asset recovery networks outside the Southern and East African Region. The majority of assistance sought and given concerned asset tracing, as well as sharing of the names and contact details of relevant practitioners.

Capacity building and other support activities provided to ARINSA countries have impacted the region in various ways. First, Contact Points to the network, reported implementing lessons they had learnt through training activities in their cases, resulting in a more systematic application of asset forfeiture principles in proceeds of crime cases. This has also led to an increase in the number of cases in which assets were frozen or seized. In 2019 this translated to 486 number of cases in which assets were frozen or seized and 471 that were forfeited in ARINSA countries. These seizures and confiscated amounted to a total of USD 4.1 billion and USD 4.7 billion, respectively.

Contact Points also reported the enactment and application of non-conviction forfeiture legislation following awareness-raising activities and training activities. This has marked a departure from traditional conviction-based forfeiture, providing practitioners with a broader range of tools with which to confiscate assets.

Contact Points further identified changes in planned action following mentor visits. These include changes in strategy and approach to cases. Eight hundred thirty four cases of money laundering investigations were launched in 2019, compared to two hundred and forty three in 2018.
The ARINSA Website

UNODC administers the ARINSA platform for the ARINSA network as well as practitioners involved in money laundering and asset recovery. This website allows secure communication between Contact Points within the network, also provides message boards or forums in which practitioners meet virtually to discuss issues of concern. Various other tools are contained in this website such as publications on asset forfeiture, over 90 judgments and decisions handed down in member countries, statistics on money laundering and asset forfeiture as well as the latest legal and other developments in different countries.

In 2019, the ARINSA website, http://new.arinsa.org, continued to be used as an information sharing and exchange platform. The site provides two functional areas firstly, the members’ login area and the public area. The public area provides ARINSA’s news updates; a media monitor that delivers global news on money laundering; a description of the ARINSA network; a calendar of upcoming events and downloadable publications which include previous annual reports. The members’ login area is populated with several platforms which include the Wildlife and Forestry Crime Platform, Investigator Placement Programme and the Prosecutor Placement Programme. In addition the site has a gallery of events from when the network started and country Information which includes legislation, and case studies, a case law blog, and video seminars.

The website was launched in July 2015 and continues to grow in use. By the end of 2019, the site had 739 users and recorded 1,896,291 hits.

<table>
<thead>
<tr>
<th>YEAR (END)</th>
<th>NUMBER OF USERS</th>
<th>NUMBER OF HITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>450</td>
<td>62,346</td>
</tr>
<tr>
<td>2016</td>
<td>620</td>
<td>74,050</td>
</tr>
<tr>
<td>2017</td>
<td>905</td>
<td>292,231</td>
</tr>
<tr>
<td>2018</td>
<td>589</td>
<td>2,999,994</td>
</tr>
<tr>
<td>2019</td>
<td>739</td>
<td>1,896,291</td>
</tr>
</tbody>
</table>

Table 1: Growth of website users and recorded hits.

ARINSA has achieved a lot in setting and implementing programmes that fortify the asset forfeiture regime in Money Laundering, Wildlife Crimes, Cybercrimes and Financing Terrorism (CFT) cases, through training workshops with a view of enhancing knowledge and skills to law enforcement officers. In 2019, ARINSA with the support of UNODC hosted 29 (13 regional and 16 national) training events and workshops for law enforcement Officers and two Prosecutor Placement Programme intakes held by NPA South Africa. ARINSA also placed mentors in eight member countries to provide hands-on mentorship on case investigations, legislative as well as policy advice.

A significant highlight for ARINSA in 2019 was undoubtedly its 10th Anniversary Celebration that coincided with the Annual General Meeting (AGM) hosted in Dar es Salaam, Tanzania on 12 June 2019. This event included the attendance of high-level delegations from member countries, and a significant outcome of the event, the Dar es Salaam Declaration (Dar Declaration) which was signed by all ARINSA countries. In that declaration, member countries recognised the need to provide additional resources to law enforcement for their efforts in confiscating the proceeds from crime. An undertaking to secure additional financial and human support to law enforcement or asset forfeiture units to fight crime and forfeit the proceeds of crime and other assets, was taken. This was a major achievement for the network, which is still regarded as an informal venture promoting the exchange of information and increasing the effectiveness of members’ efforts in depriving criminals of the illicit profits.
The Money Laundering and Asset Forfeiture overview in ARINSA countries

ARINSA countries have continued to increase their capacity to investigate, prosecute and ensure the restraint of criminal proceeds for their eventual forfeiture. Contact Points have identified the main crimes generating proceeds as money laundering, corruption, drug trafficking and theft. The least committed crime is cybercrime. Below is a table providing an overview of the leading crimes generating proceeds, that were forfeited in member countries in 2019.

The table on the following page are types of crimes per country based solely on the reports submitted to the secretariat by ARINSA Member States. The types of crimes recorded are not listed in any particular order but they are of, as and when information is received or updated from Member States. The commonly identified crimes that cut across as reported are corruption/fraud, money laundering, drug trafficking, human trafficking, environmental crime, cybercrime and theft. The table categorise these crimes into two groups, namely: crimes from which assets are mostly forfeited and new emerging crimes in the country. Although cybercrime is reported as the least criminal activity from which assets are forfeited, it is, however, the leading emerging crime in the region. That is indicated in 12 of 16 countries, followed by environmental crime (wildlife, maritime) reported by six of 16 countries, with theft being the least reported in this category.

ARINSA has continued to strengthen partnerships in the Eastern and Southern African regions to advance international and regional policy dialogue, promote regional cooperation and development through the recovery of assets as well as to raise its profile as an asset recovery network. Based on consultations with the UNODC Advisers, mentors as well as Contact Points, Trade-Based Money Laundering (TBML) was identified as an emerging (crime) threat. Perpetrators are turning to money laundering outside the financial system since the financial system has gradually become a more challenging environment in which to launder illicit funds. Despite this challenge, law enforcement agencies in the region cannot yet detect and prevent trade-based money laundering. Also, as countries in the region move towards e-commerce and other internet-based activities, cybercrime and cryptocurrencies have been identified as areas of growing concern.
<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>CRIMES FROM WHICH ASSETS ARE MOSTLY FORFEITED</th>
<th>NEW EMERING CRIMES IN YOUR COUNTRY</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Botswana</td>
<td>• Money Laundering</td>
<td>• Cybercrime</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Corruption/Fraud</td>
</tr>
<tr>
<td>2. Eswatini</td>
<td>• Drug Trafficking</td>
<td>• Corruption/Fraud</td>
</tr>
<tr>
<td></td>
<td>• Money Laundering</td>
<td>• Drug Trafficking</td>
</tr>
<tr>
<td>3. Kenya</td>
<td>• Corruption/Fraud</td>
<td>• Corruption/Fraud</td>
</tr>
<tr>
<td></td>
<td>• Drug Trafficking</td>
<td>• Cybercrime</td>
</tr>
<tr>
<td></td>
<td>• Environmental Crime</td>
<td>• Money Laundering</td>
</tr>
<tr>
<td></td>
<td>• Human Trafficking</td>
<td>• Terrorism</td>
</tr>
<tr>
<td></td>
<td>• Theft</td>
<td>• Theft</td>
</tr>
<tr>
<td>4. Lesotho</td>
<td>• Corruption/Fraud</td>
<td>• Cybercrime</td>
</tr>
<tr>
<td></td>
<td>• Theft</td>
<td>• Drug Trafficking</td>
</tr>
<tr>
<td></td>
<td>• Money Laundering</td>
<td>• Human Trafficking</td>
</tr>
<tr>
<td>5. Madagascar</td>
<td>• Corruption/Fraud</td>
<td>• Corruption/Fraud</td>
</tr>
<tr>
<td></td>
<td>• Money Laundering</td>
<td>• Cybercrime</td>
</tr>
<tr>
<td>6. Malawi</td>
<td>• Corruption/Fraud</td>
<td>• Environmental Crime</td>
</tr>
<tr>
<td></td>
<td>• Theft</td>
<td>• Cybercrime</td>
</tr>
<tr>
<td>7. Mauritius</td>
<td>• Corruption/Fraud</td>
<td>• Violent Crime</td>
</tr>
<tr>
<td></td>
<td>• Drug Trafficking</td>
<td>• Money Laundering</td>
</tr>
<tr>
<td></td>
<td>• Money Laundering</td>
<td>• Cybercrime</td>
</tr>
<tr>
<td>8. Namibia</td>
<td>• Corruption/Fraud</td>
<td>• Cybercrime</td>
</tr>
<tr>
<td></td>
<td>• Drug Trafficking</td>
<td>• Money Laundering</td>
</tr>
<tr>
<td></td>
<td>• Theft</td>
<td>• Cybercrime</td>
</tr>
<tr>
<td>9. Seychelles</td>
<td>• Corruption/Fraud</td>
<td>• Money Laundering</td>
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<tr>
<td></td>
<td>• Theft</td>
<td>• Cybercrime</td>
</tr>
<tr>
<td></td>
<td>• Money Laundering</td>
<td>• Environmental Crime</td>
</tr>
<tr>
<td>10. South Africa</td>
<td>• Corruption/Fraud</td>
<td>• Money Laundering</td>
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<tr>
<td></td>
<td>• Drug Trafficking</td>
<td>• Cybercrime</td>
</tr>
<tr>
<td></td>
<td>• Theft</td>
<td>• Environmental Crime</td>
</tr>
<tr>
<td></td>
<td>• Money Laundering</td>
<td>• Trade in Illicit Goods</td>
</tr>
<tr>
<td>11. Tanzania</td>
<td>• Cybercrime</td>
<td>• Cybercrime</td>
</tr>
<tr>
<td></td>
<td>• Environmental Crime</td>
<td>• Environmental Crime</td>
</tr>
<tr>
<td></td>
<td>• Human Trafficking</td>
<td>• Drug Trafficking</td>
</tr>
<tr>
<td>12. Uganda</td>
<td>• Corruption/Fraud</td>
<td>• Environmental Crime</td>
</tr>
<tr>
<td></td>
<td>• Money Laundering</td>
<td>• Cybercrime</td>
</tr>
<tr>
<td>13. Zambia</td>
<td>• Corruption/Fraud</td>
<td>• Money Laundering</td>
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<tr>
<td></td>
<td>• Drug Trafficking</td>
<td>• Environmental Crime</td>
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<td></td>
<td>• Theft</td>
<td>• Environmental Crime</td>
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<td></td>
<td>• Money Laundering</td>
<td>• Cybercrime</td>
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<tr>
<td>14. Zimbabwe</td>
<td>• Money Laundering</td>
<td>• Cybercrime</td>
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<tr>
<td></td>
<td>• Drug Trafficking</td>
<td>• Environmental Crime</td>
</tr>
<tr>
<td></td>
<td>• Theft</td>
<td>• Human Trafficking</td>
</tr>
</tbody>
</table>

*Table 2: Types of common crimes prosecuted per ARINSA member country*

1. No information was received from Angola and Mozambique.
ARINSA activities in 2019

The year 2019 turned out to be a very busy year for the network with various activities being implemented, these ranged from workshops and training events, consultative meetings, mentorships to the Prosecutor Placement Programme (PPP) and the special AGM which coincided with the ARINSA 10th Anniversary Commemoration.

WORKSHOPS AND TRAINING EVENTS

Workshops and training events are an integral part of ARINSA’s capacity building and cross learning initiatives. They present an opportunity for participants to share their experiences and challenges thereby gaining feedback from their peers and professional advice from the experts that are appointed to facilitate these workshops.

In total, 29 workshops were conducted in 2019 with 13 being regional and 16 as national workshops. The 13 regional workshops conducted by ARINSA brought together participants from all 16 member states (with 2-3 participants from each country). The regional workshops covered a range of topics from asset management, cybercrime, civil advocacy for prosecutors, counter financing of terrorism, cash smuggling, wildlife crime, and fostering international cooperation on illicit financial flows and asset forfeiture. The 16 national workshops, on the other hand, focused on wildlife crime, law enforcement action concerning cash smuggling, countering the financing of terrorism, anti-corruption and money laundering, intending to address challenges and targeting officials based on the identified need.

Graph 2: ARINSA led workshops conducted in 2019

An ARINSA mentor facilitating one of the workshops in Eswatini
## 2019 REGIONAL WORKSHOPS

<table>
<thead>
<tr>
<th>TITLE</th>
<th>DATE</th>
<th>CITY, COUNTRY</th>
<th>COUNTRY(IES) PARTICIPATING</th>
<th>FEMALE</th>
<th>MALE</th>
<th>NO. OF PEOPLE TRAINED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regional Asset Management Workshop - Pre-Seizure Stage</td>
<td>18 – 20 February 2019</td>
<td>Windhoek, Namibia</td>
<td>Angola, Botswana, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Uganda, Zambia, Zimbabwe.</td>
<td>14</td>
<td>20</td>
<td>34</td>
</tr>
<tr>
<td>Civil Advocacy for Lawyers in Lusaka</td>
<td>25 February - 1 March 2019</td>
<td>Lusaka</td>
<td>Zambia, South Africa, Botswana, Tanzania, Lesotho, Zimbabwe.</td>
<td>4</td>
<td>7</td>
<td>11</td>
</tr>
<tr>
<td>ARINSA Steering Committee</td>
<td>11 – 12 April 2019</td>
<td>Dar es Salaam, Tanzania (Ramada Hotel)</td>
<td>Botswana, Namibia, South Africa, Tanzania, Zimbabwe, Mauritius, UNODC</td>
<td>9</td>
<td>11</td>
<td>20</td>
</tr>
<tr>
<td>ARINSA Steering Committee</td>
<td>10 June 2019</td>
<td>Dar es Salaam, Tanzania (Serena Hotel)</td>
<td>Botswana, Namibia, South Africa, Tanzania, Zimbabwe, Mauritius, UNODC</td>
<td>10</td>
<td>14</td>
<td>24</td>
</tr>
<tr>
<td>ARINSA Annual General Meeting (AGM)</td>
<td>12 – 14 June 2019</td>
<td>Dar es Salaam, Tanzania</td>
<td>Angola, Austria, Botswana, Canada, Eswatini, Ghana, Italy, Kazakhstan, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Netherlands, Seychelles, South Africa, Tanzania, Uganda, United Kingdom, Zambia, Zimbabwe.</td>
<td>145</td>
<td>232</td>
<td>377</td>
</tr>
<tr>
<td>Regional Wildlife Crime Train-the-Trainer Workshop (Group 1)</td>
<td>7 – 11 October 2019</td>
<td>Pretoria, South Africa</td>
<td>Mozambique, South Africa, Seychelles, Mauritius, Madagascar, Angola (Seychelles didn’t attend)</td>
<td>3</td>
<td>12</td>
<td>15</td>
</tr>
<tr>
<td>Regional Wildlife Crime Train-the-Trainer Workshop (Group 2)</td>
<td>14 – 18 October 2019</td>
<td>Pretoria, South Africa</td>
<td>Botswana, Namibia, Uganda, Zimbabwe and South Africa</td>
<td>4</td>
<td>15</td>
<td>19</td>
</tr>
<tr>
<td>Regional Wildlife Crime Train-the-Trainer Workshop (Group 3)</td>
<td>21 – 25 October 2019</td>
<td>Lilongwe, Malawi</td>
<td>Malawi, Zambia, Eswatini, Tanzania, Kenya and Lesotho (Lesotho didn’t attend)</td>
<td>4</td>
<td>7</td>
<td>11</td>
</tr>
</tbody>
</table>
### 2019 REGIONAL WORKSHOPS

<table>
<thead>
<tr>
<th>TITLE</th>
<th>DATE</th>
<th>CITY, COUNTRY</th>
<th>COUNTRY(IES) PARTICIPATING</th>
<th>FEMALE</th>
<th>MALE</th>
<th>NO. OF PEOPLE TRAINED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regional Civil Advocacy</td>
<td>16 – 20 December 2019</td>
<td>Durban, South Africa</td>
<td>Botswana, Kenya, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Uganda, Zambia, Zimbabwe</td>
<td>7</td>
<td>20</td>
<td>27</td>
</tr>
</tbody>
</table>

Table 3: List of regional events hosted by ARINSA in 2019

### 2019 NATIONAL WORKSHOPS

<table>
<thead>
<tr>
<th>TITLE</th>
<th>DATE</th>
<th>CITY</th>
<th>COUNTRY</th>
<th>FEMALE</th>
<th>MALE</th>
<th>NO. OF PEOPLE TRAINED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wildlife Crime Law Enforcement Workshop with Rangers and Investigators</td>
<td>8 – 11 July 2019</td>
<td>Maun</td>
<td>Botswana</td>
<td>2</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>Wildlife Crime Follow the Money Chain Workshop with Rangers and Investigators (Group 1) - Kenya</td>
<td>5 – 6 August 2019</td>
<td>Nairobi</td>
<td>Kenya</td>
<td>2</td>
<td>21</td>
<td>23</td>
</tr>
<tr>
<td>Wildlife Crime Follow the Money Chain Workshop with Rangers and Investigators (Group 2) - Kenya</td>
<td>7 – 8 August 2019</td>
<td>Nairobi</td>
<td>Kenya</td>
<td>1</td>
<td>19</td>
<td>20</td>
</tr>
<tr>
<td>Wildlife Crime Follow the Money Chain Workshop with Rangers and Investigators (Group 3) - Kenya</td>
<td>9 – 10 August 2019</td>
<td>Nairobi</td>
<td>Kenya</td>
<td>2</td>
<td>19</td>
<td>21</td>
</tr>
<tr>
<td>Wildlife Crime Follow the Money Chain Workshop with Rangers and Investigators (Group 3) - Lusaka</td>
<td>16 – 17 August 2019</td>
<td>Lusaka</td>
<td>Zambia</td>
<td>3</td>
<td>19</td>
<td>22</td>
</tr>
<tr>
<td>Wildlife Crime Follow the Money Chain Workshop with Rangers and Investigators (Group 2) - Lusaka</td>
<td>18 – 19 August 2019</td>
<td>Lusaka</td>
<td>Zambia</td>
<td>1</td>
<td>16</td>
<td>17</td>
</tr>
<tr>
<td>Wildlife Crime Follow the Money Chain Workshop with Rangers and Investigators (Group 3) - Lusaka</td>
<td>21 – 22 August 2019</td>
<td>Lusaka</td>
<td>Zambia</td>
<td>2</td>
<td>11</td>
<td>13</td>
</tr>
<tr>
<td>National Law Enforcement Workshop on Cash Smuggling (Eswatini)</td>
<td>20 – 22 August 2019</td>
<td>Mbabane</td>
<td>Eswatini</td>
<td>10</td>
<td>8</td>
<td>18</td>
</tr>
<tr>
<td>National Law Enforcement Workshop on Cash Smuggling (Lusaka)</td>
<td>26 – 29 August 2019</td>
<td>Lusaka</td>
<td>Zambia</td>
<td>7</td>
<td>12</td>
<td>19</td>
</tr>
<tr>
<td>Mozambique Surge Workshop - National Workshop II on the Investigation, Prosecution and Adjudication of Terrorism-related Offences, including the Financing of Terrorism</td>
<td>11 – 13 September 2019</td>
<td>Maputo</td>
<td>Mozambique</td>
<td>5</td>
<td>28</td>
<td>33</td>
</tr>
<tr>
<td>Wildlife Crime Law Enforcement Workshop with Rangers and Investigators (Follow up on July workshop)</td>
<td>23 – 26 September 2019</td>
<td>Maun</td>
<td>Botswana</td>
<td>3</td>
<td>16</td>
<td>19</td>
</tr>
<tr>
<td>National Law Enforcement Workshop on Cash Smuggling (Gaborone)</td>
<td>1 – 3 October 2019</td>
<td>Gaborone</td>
<td>Botswana</td>
<td>7</td>
<td>8</td>
<td>15</td>
</tr>
</tbody>
</table>
### 2019 NATIONAL WORKSHOPS

<table>
<thead>
<tr>
<th>TITLE</th>
<th>DATE</th>
<th>CITY, COUNTRY</th>
<th>COUNTRY</th>
<th>FEMALE</th>
<th>MALE</th>
<th>NO. OF PEOPLE TRAINED</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Law Enforcement Workshop on Cash Smuggling (Seychelles)</td>
<td>8 – 10 October 2019</td>
<td>Mahe</td>
<td>Seychelles</td>
<td>7</td>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td>National Law Enforcement Workshop on Cash Smuggling (Zanzibar)</td>
<td>15 – 17 October 2019</td>
<td>Zanzibar</td>
<td>Tanzania</td>
<td>1</td>
<td>13</td>
<td>14</td>
</tr>
<tr>
<td>Zimbabwe - Law Enforcement Specialist Workshop</td>
<td>25 – 29 November 2019</td>
<td>Victoria Falls</td>
<td>Zimbabwe</td>
<td>6</td>
<td>14</td>
<td>20</td>
</tr>
<tr>
<td>Malawi Law Enforcement Specialist Workshop</td>
<td>2 – 5 December 2019</td>
<td>Lilongwe</td>
<td>Malawi</td>
<td>3</td>
<td>9</td>
<td>12</td>
</tr>
<tr>
<td>The Mozambique Multi-Stakeholder Anti-Corruption and Money Laundering Coordination Meeting</td>
<td>11 – 12 December 2019</td>
<td>Maputo</td>
<td>Mozambique</td>
<td>17</td>
<td>36</td>
<td>53</td>
</tr>
</tbody>
</table>

Total: 79 264 343

**Table 4: List of national events hosted by ARINSA in 2019**

### 2019 NATIONAL JUDICIAL RETREATS

<table>
<thead>
<tr>
<th>TITLE</th>
<th>DATE</th>
<th>CITY, COUNTRY</th>
<th>COUNTRY</th>
<th>FEMALE</th>
<th>MALE</th>
<th>NO. OF PEOPLE TRAINED</th>
<th>AUDIENCE TYPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judicial Colloquium with TIP Project</td>
<td>23 – 25 September 2019</td>
<td>Windhoek</td>
<td>Namibia</td>
<td>10</td>
<td>30</td>
<td>40</td>
<td>Judges, Magistrates, Registrars and Judicial Clerks</td>
</tr>
<tr>
<td>The Mozambique Judicial Colloquium on Money Laundering and Corruption</td>
<td>11 – 12 December 2019</td>
<td>Maputo</td>
<td>Mozambique</td>
<td>14</td>
<td>14</td>
<td>28</td>
<td>Magistrates</td>
</tr>
<tr>
<td>Eswatini Judicial Retreat</td>
<td>13 – 14 December 2019</td>
<td>Mbabane</td>
<td>Eswatini</td>
<td>18</td>
<td>19</td>
<td>37</td>
<td>Magistrates</td>
</tr>
</tbody>
</table>

**Table 5: National Judicial retreats**

### ARINSA CONSULTATIVE MEETINGS

In 2019, a consultative meeting was held with the Southern African Development Community (SADC) entitled, “fostering international cooperation on illicit financial flows and asset forfeiture”. The objective of this workshop, which was the first of its kind between the two organisations, was to provide an opportunity for enhancing multi-stakeholder discussions on asset forfeiture between various practitioners. It further facilitated the ongoing exchange of experiences in the implementation of existing international, regional and national initiatives to combat IFFs, as well as views on how best to achieve further progress to address challenges. Apart from highlighting benefits of international cooperation, the meeting shed light on the importance of national-level coordination and collaboration, and the need to use forfeited assets for development initiatives and the strengthening of law enforcement infrastructure. The meeting also assisted in the development of concrete recommendations for further regional action at the SADC Ministerial level. This event brought together over 40 delegates from the Financial Intelligence Units (FIU), Asset Forfeiture Units and Anti-Corruption Agencies from SADC countries due to their significant overlaps in combating IFFs through asset forfeiture.

A further consultative meeting was a two-day event from 11-12 December 2019 organised in cooperation with the Mozambican government and its stakeholders. The theme of the event was “the Mozambique Multi-Stakeholder Anti-Corruption and Money Laundering Coordination Meeting”. The Central Office for the Fight against Corruption of Mozambique (GCC), in partnership with UNODC, brought together various stakeholders and experts on anti-corruption and money laundering in Mozambique to:

1. Share their views on preventing and combating corruption and money laundering in Mozambique in 2020;
2. Consider collaboration on anti-corruption and money laundering in 2020, in particular on prevention, law enforcement, and international cooperation;

3. Adopt an action plan on preventing and combating corruption and money laundering in Mozambique in 2020. The participants included representatives of different government bodies, such as the GCCC, the Ministry of Economy and Finance, the Ministry of Justice, the Financial Intelligence Unit (GIFIM), SERNIC, the Courts/Judiciary, the Prosecuting Authority, Tax Authority and the Bank of Mozambique, as well as representatives of civil society organisations, the private sector, financial and technical partner agencies.

THE PROSECUTOR PLACEMENT PROGRAMME (PPP)

The PPP is a four-week long programme, which exposes participants to the theory and practice of asset forfeiture. The facilitators cover various topics such as asset forfeiture proceedings, their civil nature, application vs action proceedings, ex parte proceedings, utmost good faith, onus, standard of proof, disputes of fact, rules of court, non-conviction-based forfeiture, conviction-based forfeiture, legal drafting, drafting heads of argument, financial investigations, execution and enforcement of orders, mutual legal assistance. Following these introductory courses, participants are deployed to regional NPA offices in Port Elizabeth, East London and Durban so that they gain practical hands-on experience by working on actual cases as they shadow South African Prosecutors.

Two sessions of the Prosecutor Placement Programme (PPP), hosted by the National Prosecuting Authority (NPA) of South Africa, were held from 8 July to 2 August and 16 September to 11 October 2019. The first session included two participants per country, from Namibia, Kenya, Tanzania, Malawi and Botswana.

The second session included two participants from Zimbabwe, Madagascar, Lesotho, Zambia and Uganda.
THE MENTORSHIP PROGRAMME

Under the mentor programme, financial investigators and prosecutors were on request sent to eight ARINSA countries to assist them in continuing to develop their asset forfeiture regimes. The countries that benefited from this programme in 2019 are Angola, Botswana, Eswatini, Lesotho, Malawi, Namibia, Uganda, the Seychelles, Zambia and Zimbabwe.

Mentors are independent consultants with expertise in their field who provide short-term targeted technical assistance. During their deployment within these ARINSA countries, their main tasks were to meet with practitioners to provide technical advice, as well as to ensure that assistance provided is in accordance with prioritised training needs identified. Mentors remain available to all ARINSA countries upon request.

ARINSA GAP ANALYSIS

To better assist ARINSA countries to respond to illicit financial flows and money laundering effectively, a gap analysis was developed. The creation of a “gap analysis” questionnaire is a useful way to ascertain a country’s or a region’s operational capacity to investigate and prosecute ML/TF cases and to seize and forfeit assets, before giving targeted national assistance. This operational capacity gap analysis questionnaire is based on the FATF’s report on Operational Issues Financial Investigations Guidance (2012), which provides ideas and concepts that can be incorporated into an AML/CFT framework. The gap analysis also includes questions tailor-made to identify asset forfeiture gaps in the region.

UNODC developed the operational capacity gap analysis questionnaire based on the overarching concepts, strategies and techniques contained in the guidance which were meant to apply to different legal systems and different types of operational frameworks. In terms of implementation, it takes about two to three weeks to conduct the gap analysis in consultation with all relevant stakeholders and to complete the questionnaire. The results of the gap analysis are compiled and shared with relevant stakeholders in line with consent granted by each country. The gap analysis may be conducted remotely as a desk review or in person.

The outcome of the gap analysis will assist ARINSA countries in:

- Identifying technical assistance needs
- Identifying regional trends
- Prioritising needs
- Informing policy/strategies
ARINSA’S 10TH ANNIVERSARY ANNUAL GENERAL MEETING

From 12-14 June 2019, the 10th Annual General Meeting (AGM) of ARINSA was held in Dar es Salaam, Tanzania. The special 10th Anniversary commemoration event hosted at Julius Nyerere International Convention Centre (JNICC) was attended by 366 participants on 12 June 2019, including the Vice President of Tanzania and various other high-level attendees, such as eight DPPs, four Ministerial level attendees, one Deputy DPP, and six members of the judiciary. A major outcome of the meeting was the Dar es Salaam Declaration (Dar Declaration) which was signed by member countries at the 10th Anniversary celebrations of ARINSA. In that declaration, ARINSA countries, recognising the need to provide resources to law enforcement for their efforts in confiscating the proceeds of crime, undertook to strive to secure additional financial and human resource allocation to law enforcement or asset forfeiture units to fight crime and forfeit the proceeds of crime and other assets.

UNODC with the support of ARINSA member countries finalised eight publications during the reporting period, which were launched at the 10th Anniversary meeting. The reports include the following:

- **Annual Report** – The 10th Anniversary edition showcased the major achievements in terms of asset forfeiture, by the ARINSA countries over the last ten years. The annual report also provided an overview of ARINSA’s activities in the past year. It also showed details of results achieved by member countries as a result of asset forfeiture efforts. These include cases, arrests and other significant achievements as well as challenges experienced.
- **Manual on Conducting Open Source Investigations** - Accessing information from foreign jurisdictions is a frequent barrier to asset forfeiture. To facilitate the international sharing and obtaining of information useful to investigations, the ARINSA secretariat compiled a manual on open source information. With the assistance of the Contact Points, this guide was developed to reflect information that is readily available and accessible in each of the ARINSA member countries (without the need of a warrant or court order). This often includes land, vehicles registrations, company documents as well as other information. This information will assist investigators and other practitioners by explaining how to access resources that are publicly available. In addition, this publication sheds light on jurisdictions that are particularly open as sources of information, as well as those that are not, to assist in highlighting the need for awareness raising and advocacy in this regard.
- **ARINSA Strategic Plan** – Outlines ARINSA’s work and strategy from 2018 to 2022.
- **The Asset Forfeiture Glossary of Terms for Prosecutors and Financial Investigators** - It is a...
compilation and definition of terms which frequently arise in financial investigations and cases. Given that many of the practitioners in ARINSA are new to this field and may not be aware of this specialised terminology, this manual was developed as a useful tool for asset forfeiture. This manual was initially published in 2015 and is undergoing an update to include various new terms.

- **ARINSA Manual** – Updated to include provision for six permanent members and two new members on a rotational basis to offer every country a chance to eventually be part of the steering committee. The manual also encourages gender balance in the steering committee representation.

- **Casebook** – from Southern and Eastern Africa. It consists of case summaries depicting how the process of asset recovery is implemented in each jurisdiction, highlights the good practices, challenges experienced by practitioners, as well as lessons that may be learnt from the different countries. The casebook may be used in future to develop practical and country-specific technical assistance and training programs for the ARINSA countries.

- **Wildlife Manual** – Assists first responders to wildlife crime scenes, to preserve the scene of the crime and follow the money chain.

- **Asset Management Manual** – Provides an overview of the asset management process, allowing additions to be made by each jurisdiction as they adapt it to each country’s specific needs and legislation.

These publications are available on the ARINSA website as well as the UNODC website: https://www.unodc.org/southernafrica/en/aml/aml.html.
ARINSA | Annual Report 2019

10TH ANNIVERSARY AGM GALLERY

The Vice President of United Republic of Tanzania H.E. Samia Hassan Suluhu arriving at the AGM

Registration of the AGM delegates

Various audience that attended the AGM

Singing of the Tanzanian National anthem observed at the AGM

Head of delegations for ARINSA members signing the Dar es Salaam Declaration

Mr Hein Prinsloo from Seychelles delivering his country’s presentation at the AGM
Adv. Olivia Martha Imalwa from Namibia leading the Namibian delegation at the AGM

Mr. JP Willemse delivering a presentation at the AGM

Flag bearers making an entry into the hall.

Former ARINSA President, Adv. Mpho Letsoalo being honoured at the AGM

Some of the VIP delegates at the AGM

AGM delegates at the gala dinner at Serena Hotel
ARINSA MEMBER COUNTRIES’ INSTITUTIONAL STRUCTURES

ARINSA has made significant progress towards making sure criminals are deprived of the proceeds of crime in the region. This has been achieved by investing time and resources, through holding annual general meetings which serve as stock-taking exercises, regular technical assistance and training events with judges, magistrates, lawyers and law enforcement agents both regionally and nationally.

It is worth noting that ARINSA member countries are all at different stages in building their asset recovery regime. This is due to varying domestic, political and economic environments. Some countries already have all three key components of asset recovery regime in place, that is the Asset Forfeiture Unit, Asset Forfeiture Fund, and the Asset management unit.

By the end of 2019, asset recovery components in ARINSA countries as reported by the Contact Points include the following: 15 Asset Forfeiture Units, 14 Asset Forfeiture Funds, and six dedicated asset management offices. Mozambique is currently the only member without a fully operational AFU, AFF and AM however, the government of Mozambique has put in place interim measures with the support of ARINSA while setting up the legislation that support the establishment of a well-functioning AFU.

The breakdown of established components in ARINSA countries is as follows:

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>ASSET FORFEITURE UNIT</th>
<th>ASSET FORFEITURE FUND</th>
<th>ASSET MANAGEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Angola</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Botswana</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Eswatini</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Kenya</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Lesotho</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Madagascar</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Malawi</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Mauritius</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Mozambique</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Namibia</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Seychelles</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>South Africa</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Tanzania</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Uganda</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Zambia</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Zimbabwe</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>15</strong></td>
<td><strong>14</strong></td>
<td><strong>6</strong></td>
</tr>
</tbody>
</table>

*Table 6: The breakdown of established components in ARINSA countries*
ANGOLA

32,7 million (2020) ²

Angolan Kwanza (AOA, Kz)

2018

² https://www.worldometers.info/world-population/angola-population/ accessed on 14 May 2020
ASSET RECOVERY LEGISLATION

1. **The Repatriation of Financial Resources Law - Law 9/18 of 26 June.**

2. **Presidential Decree No. 289/18 of 30 November.**

3. **The Law on Coercive Repatriation and Extended Loss of Goods - Law 15/18 of 26 December.**

4. **Presidential Decree no. 141/18, of 7 June and Presidential Decree no. 72/20, of 20th March - State Asset and Share Management Institute (IGAPE).**

5. **Presidential Decree no. 324/19, of 7 November, The General Vault of Justice manages the assets seized or recovered in the context of criminal procedures.**

1. **THE REPATRIATION OF FINANCIAL RESOURCES LAW - LAW 9/18 OF 26 JUNE**

This law was created as an amnesty, to allow people that have benefited both directly and indirectly from corruption, to give back to the Government without any penalty, such as: criminal, disciplinary or tax. This law established the voluntary and coercive repatriation, the regulatory principles, and necessary procedures. It was in force for six months, however, the Angolan citizens (that conflicted with the law) did not adhere to it.

2. **PRESIDENTIAL DECREE NO. 2899/18 OF NOVEMBER 30**

   - Establishes the terms and conditions for the application of voluntarily and coercively repatriated resources.
   - Establishes the legal regime of authorization for the issuance of Public Debt Securities by the Minister of Finance in foreign currency.
   - In article 14.º establishes that the repatriated financial resources revert to the State and must be deposited in the Central Bank (the National Bank of Angola).
   - Also establishes that the recovered resources are allocated to financing social projects included in public investment programs.

3. **LAW NO. 15/18 - LAW ON COERCIVE REPATRIATION AND EXTENDED LOSS OF ASSETS**

In December 2018, after the Law on Voluntary Repatriation of capital had no assorted effects, the State created the Law on the Coercive Repatriation of Capitals and the extended Loss of Assets. Also founded the National Service for Asset Recovery.
THE NATIONAL SERVICE FOR ASSET RECOVERY OF ANGOLA

The National Service for Asset Recovery of Angola was created under the Law No. 15/18 - Law on Coercive Repatriation and Extended Loss of assets.

MISSION

- Identification, location and seizure of assets, financial assets in Angola or abroad.
- Ensure international cooperation.
- To exercise the other attributions conferred by law. (Institute civil proceedings in the courts).

IMPACT OF ARINSA

Angola, like other ARINSA members, has participated in ARINSA organised regional workshops and training events. These include the workshops on Cybercrime, Asset Management, ARINSA Contact Points retreat, Wildlife Crime Train-the-Trainer, countering the Financing of Terrorism, Train-the-Trainer X2, ARINSA AGM, Law Enforcement on Cash Smuggling and the UNODC-SADC Meeting on fostering international cooperation on illicit financial flows and asset forfeiture. Apart from the workshops, Angola is one of the countries that received ARINSA mentorship assistance in 2019. The mentorship visit to Luanda, Angola, was conducted jointly with the ARINSA Adviser and UNODC Programme Coordinator and sought to:

- Conduct interviews with the relevant Angolan stakeholders; and
- Determine areas for technical assistance in connection with the ARINSA objectives.

The team achieved the overall objectives of the mission. Meetings were held with the relevant stakeholders falling within the scope of both mission objectives and those of ARINSA, ranging in the context of the asset recovery process and in terms of asset forfeiture. These meetings sought to streamline the activities being developed by UNODC ROSAF through both ARINSA and the new project on asset forfeiture and combating illicit financial flows for Angola, which is to be funded by the European Commission.

The following institutions were engaged during the mentor visit to Angola:

- Attorney-General’s Office (Procuradoria-Geral da República – PGR)
- Court of Accounts (Tribunal de Contas – TC)
- Criminal Investigation Service (Serviço de Inteligência Criminal – SIC)
- External Intelligence Service (Serviço de Inteligência Externa – SIE)
- Financial Intelligence Unit of Angola (Unidade de Inteligência Financeira de Angola – UIF)
- General Inspectorate for the State Administration (Inspeção-Geral de Administração do Estado – IGAE)
- National Bank of Angola (Banco Nacional de Angola – BNA)
- Provincial Courts of Luanda (Tribunal Provincial de Luanda)
- State Security and Intelligence Service (Serviço de Inteligência e Segurança do Estado – SINSE)
- Tax and Customs Agency (Agência-Geral Tributária – AGT)
**Recovered Assets, Funds and Restraining Orders Secured**

The National Service for Asset Recovery, recovered the money from the Sovereign Fund of Angola (FSDFA), due to contracts prejudicial to the country that the former president of the fund signed (José Filomeno dos Santos) with a foreign company Quantum Global Investments that involved over 3,000,000,000.00 USD (three billion USD), in order for them to invest. The service recovered 2,350,000,000.00 USD (two billion three hundred and fifty million USD) in cash and the other 1,000,000,000.00 USD (one billion USD) in assets, such as hotels, gold mines and resorts.

The executive created a project called Integrated Intervention Plan in the Municipalities (PIIM), for the 164 Municipalities of Angola, that covers civil construction, education, health, administration, and will endorse 2,000,000,000 USD (two billion USD) of the amounts recovered by the Angolan Sovereign Fund. This project is already being implemented.

The National Service for Asset Recovery has also confiscated a school, founded and furnished with public funds, that has been returned to the Ministry of Education. The school was being ran by a private corporation, which had turned it into a private school and charging exorbitant fees and thus facilitating the exclusion of about 9,000 children from that region from attending the school and having a decent education.

This case involved the former Governor of Luanda Province.

Below is the breakdown of the recoveries made by the National Service for Asset Recovery of Angola in 2019:

<table>
<thead>
<tr>
<th>Asset Recovered</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>FSDFA (Money)</td>
<td>2,350,000,000.00 USD</td>
</tr>
<tr>
<td>FSDFA (Other Asset)</td>
<td>1,000,000,000.00 USD</td>
</tr>
<tr>
<td>Benguela Medicines Factory</td>
<td>5,000,000,000.00 USD</td>
</tr>
<tr>
<td>Luanda Medicines Factory</td>
<td>8,000,000,000.00 USD</td>
</tr>
<tr>
<td>Luanda Textile Factory</td>
<td>273,333,333.00 USD</td>
</tr>
<tr>
<td>Benguela Textile Factory</td>
<td>273,333,333.00 USD</td>
</tr>
<tr>
<td>K.Norte Textile Factory</td>
<td>273,333,333.00 USD</td>
</tr>
<tr>
<td>Luanda Port Terminal</td>
<td>195,000,000.00 USD</td>
</tr>
<tr>
<td>Lobito Port Terminal</td>
<td>80,000,000.00 USD</td>
</tr>
<tr>
<td>30.98% of Economic Banc Shares</td>
<td>Awaiting evaluation</td>
</tr>
<tr>
<td>72 properties</td>
<td>40,000,000.00 USD</td>
</tr>
<tr>
<td>8 vehicles</td>
<td>320,000,000 USD</td>
</tr>
<tr>
<td>Money (Kz)</td>
<td>15,681,049,806.03 Kz.</td>
</tr>
<tr>
<td>Money (USD)</td>
<td>313,143,540.34 USD</td>
</tr>
<tr>
<td>Money (EUR)</td>
<td>9,629,057.93 EUR</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4,731,463,540.34 USD</strong></td>
</tr>
<tr>
<td></td>
<td><strong>15,681,049,806.03 Kz.</strong></td>
</tr>
<tr>
<td></td>
<td><strong>9,629,057.93 EUR</strong></td>
</tr>
</tbody>
</table>

**Table 7: Recoveries made by the National Service for Asset Recovery of Angola in 2019**

**Noteworthy Cases**

Additionally, 45 Cases have been referred to the Court in which the State claims the following values: 4,100,338,741.07 USD (four billion one hundred million three hundred and thirty eight thousand seven hundred and forty one and seven USD) and 729,901,337.863.76 KZ (seven hundred and twenty nine billion nine hundred and one million three hundred and thirty seven thousand eight hundred and sixty three and seventy six KZ). In December 2019, the National Service for Asset Recovery requested a freezing order to seize all of Isabel dos Santos’ assets, the daughter of the former Angolan president. The Court granted the freezing order to the following assets:

The Bank accounts in Angola registered in the name of Isabel dos Santos, her husband Sindika Dokolo and her manager, Mário Filipe Leite da Silva. Their shares in:

- **Banco BIC** (Isabel dos Santos holds 25% of the shareholdings through its company SAR - Sociedade de Participações Financeiras S.A and 17.5% through its Finisantoro Holding Limited company under Maltese law);
- **Banco BFA** (51% of shareholdings through Unitel S.A, in which Isabel dos Santos holds 25% through Vidatel, Ltd.);
- **Unitel, SA** (25% of the shares that Isabel dos Santos holds through the company Vidatel, Ltd.);
- **ZAP MEDIA, SA** (Isabel dos Santos holds 99.9% of the shares through the company FINSTAR-Sociedade de Investimentos e Participações, S.A);
- **FINSTAR-** Sociedade de Investimentos e Participações S.A (Isabel dos Santos is the beneficial owner of 100% of the shareholdings);
- **CIMANGOLA II SA, CIMINVEST -** Sociedade de Investimentos e Participações S.A (where Isabel dos Santos and Sindika Dokolo are beneficial owners);
- **CONDIS-** Sociedade Distribuição Angola, S.A (Isabel dos Santos holds 90% of the shares and Sindika Dokolo, 7%);
- **Continente Angola, Lda.** (Isabel dos Santos is the ultimate beneficiary);
- **SODIBA-** Sociedade de Distribuição de Bebidas de Angola, Lda. And SODIBA PARTICIPAÇÕES S.A (which the Defendant, Isabel dos Santos is the beneficial owner).
BOTSWANA

2.3 million (2020) ³

Botswana Pula (BWP)

2009

³ https://www.worldometers.info/world-population/botswana-population/ accessed on 14 May 2020
Botswana has one of the network’s most advanced asset management office. Its legislation allows for the establishment of an office for a receiver, which manages all the seized and recovered assets of the state. As a result, other member countries are learning from Botswana’s experience on how to model their asset management unit while also taking into consideration their legislation.

In Botswana, the Declaration of Assets and Liabilities Act entered into force on 22 October 2019. The Implementation of the Act means that senior government officials, as well as political officials, are now mandated to declare their assets. These declarations will go a long way in ensuring transparency and assisting law enforcement in identifying and tracing illicit assets. Former trainees and participants in various ARINSA events, including the PPP, participated in the development of this legislation. Other amendments to the legislation include the Trade Act (Exemptions) (No 68) Regulations of October 2019 and the Financial Intelligence Act (Cap 08:07) specifically the Regulations of October 2019.

**BOTSWANA ASSET RECOVERY LEGISLATION**

1. Proceeds and Instruments of Crime Act (PICA)
2. The Rules of the High Court
3. The Authentication of Documents Act
4. The Penal Code
5. The Corruption and Economic Crime Act
6. The Road Traffic Act
7. Immigration Act
8. Drugs and Related Substances Act
9. Anti-Human Trafficking Act
10. Wildlife Conservation and National Parks Act

The over-riding statute which governs all the asset forfeiture proceedings is the Proceeds and Instruments of Crime Act (PICA). This act controls how prosecutors bring conviction and non-conviction-based forfeitures. The act governs when, after getting a seizure, should the final forfeiture application be made, it controls the office of the receiver and how it manages the assets. PICA establishes the crime of money laundering.
3. The Penal Code is the main Criminal Law Act. It has a long list of crimes which, once proven, the proceeds thereof can be forfeited. The Prosecutors draft papers using PICA and they provide all the evidence proving these crimes in their investigator’s affidavit.

4. The Corruption and Economic Crime Act lists crimes more related to corruption, such as bribery and unjust enrichment. For example, if it is alleged that a prominent person benefited from some criminal and the criminal later received a government tender, as with all the other statutes, Prosecutors draft their pleadings using PICA but the standard of proof will come from the Corruption Act.

5. The Road Traffic Act is applied when there is alleged vehicle theft.

6. Immigration Act applies in a case where there is a building/house(s) that is used to harbour illegal immigrants. Prosecutors are then able to apply this act to arrest the owner of the building/house(s) and make an application that the property is either a proceed or an instrumentality of a crime.

7. The Drugs and Related Substances Act is applied when there is evidence to prove that a vehicle was used to transport drugs, or perhaps a property was purchased with drug money or if a house/property was customised into a drug lab, then evidence is brought to court and the property is seized.

8. Anti-Human Trafficking Act, there are many players in the human trafficking chain. If investigators and Prosecutors have evidence of vehicles used to transport victims, or houses/properties where they are kept after being trafficked, then these can be forfeited to the state.

9. The Wildlife Conservation and National Parks Act governs all the national parks and the plants and animals therein. If a suspect is arrested and convicted for poaching, Prosecutors can apply for the vehicle used to transport the tusks to be forfeited or any property he has bought with the money.

10. Counter-Terrorism Act (2004) - An Act to provide for measures to prevent and combat acts of terrorism including financing of terrorism; to establish the Counter-Terrorism Analysis and Fusion Agency and to provide for matters related thereto.

1. The Rules of the High Court governs all the procedures which are to be followed in the high court. The Rules are the underlying controls that Prosecutors must comply with when bringing a PICA application. They provide a guideline on how the Prosecutors can publish the application to effect service in another country.

2. The Authentication of Documents Act governs how the filing of proper affidavits should be done and the process to be followed when dealing with documents emanating from outside the country.
IMPACT OF ARINSA

Botswana is one of the founding member countries of ARINSA together with nine other countries. It has a permanent seat in the ARINSA Steering Committee. As a result of its long-standing ARINSA membership, Botswana has benefited substantially from the network as well as contributing to the network’s growth.

- Botswana also hosted three national workshops that were organized by ARINSA. The first two workshops held in Maun focused on Wildlife Crime Law Enforcement with Rangers and Investigators. These took place in July and September respectively. While the third workshop held in Gaborone in October 2019 focused on law enforcement on cash smuggling.
- Two Prosecutors from Botswana attended the PPP during the first intake which took place in July to August 2019. In total, ten AFU Prosecutors received their training through the ARINSA/UNODC/NPA (SA) Prosecutor Placement Program, over the years.
- Apart from the workshops, Botswana also received ARINSA mentorship assistance in 2019 where the mentor visited the country twice (in April and July 2019). The mentor worked closely with the Contact Points on providing hands-on support to Prosecutors and Investigators on their cases. The mentor also conducted both the above-mentioned Wildlife Crime workshops for the Rangers and Investigators in Maun.

Table 8: Recovered assets, funds and restraining orders secured

<table>
<thead>
<tr>
<th>NUMBER OF NEW ML CASES*</th>
<th>NUMBER OF NEW CASES WITH SEIZURES*</th>
<th>USD VALUE OF NEW SEIZURE* ORDERS</th>
<th>NUMBER OF NEW FORFEITURE ORDERS (IN USD)</th>
<th>USD VALUE OF NEW FORFEITURE ORDERS (IN USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td>11</td>
<td>511,097.40</td>
<td>1.00</td>
<td>1,800,000.00</td>
</tr>
</tbody>
</table>

RECOVERED ASSETS, FUNDS AND RESTRAINING ORDERS SECURED

For the year 2019, Botswana launched 14 cases of money laundering, with 11 of them being cases with seizures. The value of the seizure orders amounted to 511,097.40 USD (five hundred and eleven thousand and ninety seven and forty USD). Only one successful forfeiture application was made which amounted to 1,800,000 USD (one million and eight hundred thousand USD).

Botswana AFU have restrained the following properties pending final forfeiture:
- Money amounting to BWP 978,780.23,
- A White VW Golf registered B 666 BGP;
- A Beige Trailer registered B 377 BGG,
- A Blue BMW registered B 759 BBM;
- A White Mini Cooper registered B 357 BFN;
- A Black Mercedes Benz registered B 789 ANX;
- Office Furniture valued at BWP 35,000.00;
- 2x ACER A315 N3350 Celeron Laptops valued at BWP 9,100.00;
- 2x Lenovo Notebook Laptops valued at BWP 8,462.50.
ESWATINI

1,16 million (2020) 4

Lilangeni (SZL)

2009

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4 https://www.worldometers.info/demographics/swaziland-demographics/ accessed on 14 May 2020
Eswatini is then one of the founding members of the ARINSA Network. The Kingdom of Eswatini, represented by the office of the Director of Public Prosecutions and officers under the Royal Eswatini Police, formed part of a delegation of practitioners that met in Pretoria on 23 and 24 March 2009 and agreed to establish the Asset Recovery Inter-Agency Network for Southern Africa (ARINSA). Currently, the Eswatini Asset forfeiture unit now has five prosecutors in the DPP chambers, one of the prosecutors is also acting in the capacity of Asset Manager.

The Kingdom of Eswatini became one of the last countries to sign the Dar Declaration, on 19 September 2019, at the first meeting of the National Asset Recovery Committee in Mbabane, Eswatini. The National Asset Recovery Committee is an inter-agency mechanism intended to coordinate matters relating to tracing and securing the proceeds of crime. The Prime Minister of Eswatini, cabinet ministers and other high-level officials were in attendance to witness the signing ceremony as Eswatini committed to strengthening its efforts to combat illicit financial flows and money laundering to pursue the proceeds of crime. This event was a huge success because Eswatini until that point, had not made much headway compared to other middle-income countries in the region in terms of money laundering as well as asset forfeiture. It is expected that the signing of the Dar Declaration by Eswatini and the establishment of the National Asset Recovery Committee marks a turning point in its efforts.

**ESWATINI ASSET RECOVERY LEGISLATION**

1. Prevention of Organised Crimes Act in 2018 (POCA)

The Kingdom of Eswatini passed the Prevention of Organised Crimes Act in 2018 (POCA). The Act provides for asset recovery in the Kingdom. Since the inception of the Act, the country has migrated from utilising different pieces of legislation for asset recovery. Some pieces of legislations utilised for asset recovery before the promulgation of the POCA have been repealed. Others, like the Pharmacy Act 1912 as well as the Money Laundering and Financing of Terrorism (Prevention) Act 2011 have remained. However, the POCA is currently widely utilised for the process of asset recovery in the Kingdom. This is because POCA, unlike the other pieces of legislation, makes provision for a full and clear process of asset recovery.

The POCA makes provision for both conviction and non-conviction-based recovery.
CONVICTION BASED

The POCA makes provision for a court conviencing a person, to enquire of any benefit the convicted person might have received in respect of the convicted offence or any other criminal activity the court finds to be sufficiently related to the criminal activity which forms the basis of the conviction. Conviction based is provided for under Part IV - VII of the POCA. The cited parts provide for restraining orders, enquiry process and realisation of property.

NON-CONVICTION-BASED

Non-conviction-based asset recovery provisions under the POCA provide for the forfeiture of proceeds of any criminal activity committed within the Kingdom or outside as well as instrumentalities of a scheduled offence. This is provided for under part VIII- XI of the POCA. The parts make provision for preservation orders as well as the final forfeiture orders.

- Part XI establishes the Criminal Assets Recovery Fund.
- Part XII establishes the criminal asset recovery committee.
- Part VIII makes provision for asset recovery investigations.
IMPACT OF ARINSA

ARINSA introduced the Kingdom of Eswatini to the concept of Asset Recovery. As a result of being one of the long-standing members of ARINSA, the Kingdom of Eswatini has benefited through capacity building workshops and training events that are organized by the network, including sending their Prosecutors for the PPP.

The Kingdom of Eswatini also hosted the ARINSA national workshop for law enforcement on cash smuggling in August 2019 for officials from the office of the DPP, Police and Customs.

The Kingdom of Eswatini further received mentorship assistance from ARINSA. The assigned mentor engaged with institutions such as the Royal Eswatini Police Service, the Anti-Corruption Commission, Eswatini Revenue Authority, the Director of Public Prosecutions and the Principal Secretary in the Ministry of Justice and Constitutional Affairs. The mentorship focused on providing legislative advice (POCA) and made presentations on civil forfeiture of assets which was appreciated by the participants.

As a result of the network’s support to Eswatini, both civil and criminal proceedings are now conducted simultaneously. While criminals are prosecuted for their offences, civil proceedings are carried out at the same time on preservation and forfeiture of their illegally obtained assets. This is a huge milestone for The Kingdom of Eswatini which did not have a fully operational Asset Forfeiture Unit prior to all these interventions.

The Kingdom of Eswatini’s Prosecutors are also taking part in the PPP training and exposure programme on asset forfeiture conducted by NPA South Africa through ARINSA.

RECOVERED ASSETS, FUNDS AND RESTRAINING ORDERS SECURED

The Kingdom of Eswatini launched 34 new cases of money laundering, all of them with seizures. The value of the seizure orders amounted to 218,367.80 USD. In addition, ten successful forfeiture orders were made which amounted to 131,574.50 USD.

Table 9: Recovered assets, funds and restraining orders secured

<table>
<thead>
<tr>
<th>NUMBER OF NEW ML CASES*</th>
<th>NUMBER OF NEW CASES WITH SEIZURES*</th>
<th>USD VALUE OF NEW SEIZURE* ORDERS</th>
<th>NUMBER OF NEW FORFEITURE ORDERS (IN USD)</th>
<th>USD VALUE OF NEW FORFEITURE ORDERS (IN USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>34.00</td>
<td>34.00</td>
<td>218,367.80</td>
<td>10.00</td>
<td>131,574.50</td>
</tr>
</tbody>
</table>

NOTEWORTHY CASES

- Case No. 246/19; Money in cash (€39,760.00) seized at the border; Motor vehicle suspected to be from the proceeds of dagga dealing; Money in cash (€18,900.00) found in the same house with dagga.
- Case No. 248/19; Motor vehicles (Toyota Alteeza, Honda Civic, BMW); Money in cash (€24,051.60); Cellphones, designer shoes, trousers and shirts (All proceeds of a University robbery)
- Case No. 1311/18; Motor vehicle smuggling dagga through the border using a false compartment.
- Case No. 1892/18; Money in cash (€40,700.00); motor vehicles (Toyota Quantum, Toyota Ipsum, Nissan Sunny); cellphones; building material; chainsaw; water tanks (All proceeds of a theft of money amounting to €900,000.00).
- Case No. 1270/18; Hino Truck smuggling illegal cigarettes through border using a false compartment.
IMAGES OF SOME OF THE RECOVERED PROPERTIES

Forfeited Houses

Forfeited Hino truck and pieces of furniture

Forfeited car with the drugs that were found inside
KENYA

52.3 million (2020)  

Kenyan Shilling (Ksh)

2018

KENYA ASSET RECOVERY LEGISLATION

1. Anti-Corruption and Economic Crimes Act 2003;
2. Ethics and Anti-Corruption Act;
3. Proceeds of Anti-Money Laundering Act, Act No. 9 of 2009 and
4. Prevention of Terrorism Act, Act No. 30 of 2012

IMPACT OF ARINSA

Kenya enjoyed a good relationship with ARINSA from the days of being an observer until it became a member of the network.

Kenya has benefited through capacity building workshops and training events organised by the network. These events provide an opportunity for members and non-members to share their experiences and lessons learnt within their jurisdiction regarding asset recovery processes and legislations, delegates also network during these events and form relationships that extend beyond the workshops attended. The year 2019 also saw Kenya (Prosecutors) attending the ARINSA led PPP hosted by the NPA South Africa.

Kenya, Nairobi also hosted to the following four ARINSA organised workshops:

- Three National Wildlife Crime ‘follow the money chain’ workshops for Rangers and Investigators in August 2019;
- One Regional Counter Financing of Terrorism (CFT) Train the Trainer Workshop in October 2019.

Following the attendance by Kenyan representatives at the ARINSA asset management workshops, Kenya has since started working on its asset management policy, having been inspired by ARINSA's asset management publication. The ARINSA asset management publication provides a skeletal overview of the process which is to be tailored by
each member jurisdiction as it includes details specific to its jurisdiction. Since this requires a clear policy, particularly in a jurisdiction such as Kenya that does not have a single institution dedicated to the management of assets, a draft policy on asset management has been prepared by some of the participants that attended the ARINSA asset management workshops based on the knowledge and lessons gained from the said workshop, which draft has been tabled before the Commissioners of the Ethics and Anti-Corruption Commission for deliberation before the same can be used by the Commission to seek for a law on asset management.

In 2019, Kenya launched 53 new cases of money laundering, with 25 of them being cases with seizures. The value of the seizure orders amounted to 7,686,642.74 USD. In addition, five successful forfeiture orders were obtained, which amounted to 5,286,642.74 USD.

NOTEWORTHY CASES

1. KENYA CIVIL APPEAL NO. 184 OF 2018 STANLEY MOMBO AMUTI VS KENYA ANTI-CORRUPTION COMMISSION

The Kenya Anti-Corruption Commission (now Ethics and Anti-Corruption Commission) instituted civil proceedings against one Stanley Mombo Amuti, who was a senior Finance Officer at the Nairobi Water and Sewerage Company Ltd seeking forfeiture of unexplained assets, in the form of cash and immovable properties under section 55 of the Anti-Corruption and Economic Crimes Act (ACECA). EACC sought for forfeiture of the sum of 1,409,760.20 USD being the cumulative bank deposits made by the appellant between September 2007 and 30th June 2008 and 325,000 USD being the value of the immovable properties. Upon hearing the Originating Summons, the learned judge found that the appellant was in possession of unexplained assets valued at 412,080 USD and ordered for forfeiture; this judgement resulted in this appeal.

The Court of Appeal after hearing the arguments by both parties found that the appeal had no merit, upheld the judgement of the trial court for forfeiture of 412,080 USD to the state having been found to be unexplained assets under the provisions of section 55 of ACECA.

The said judgement was delivered on 10 May 2019.
2. ACEC SUIT NO. 21 OF 2018 (O.S): ETHICS & ANTI-CORRUPTION COMMISSION ¬VS¬ THOMAS GITAU NJOGU & 4 OTHERS

The Commission after receiving a report that a senior Assistant Accountant General at the State Department for Interior and Co-ordination of National Government, one Thomas Gitau Njogu had embezzled public funds which he had used to amass wealth, the Commission undertook investigations into the said allegations. From the report received, the Commission had reasonable suspicion that the Mr Njogu, through his office had access to unauthorized office cash referred to as “buffer cash” and was appropriating the money for his personal benefit. The money accessed by Mr Njogu was successively deposited into various bank accounts daily through his wife, who was sued as a co-defendant, one Teresia Njeri Gitau.

Investigations revealed that Mr Njogu and his wife had incorporated a limited company, Njegit Investments Limited (the 3rd defendant), on 10 February 2017 and at the time the Commission commenced its investigations in August 2017, the 3rd defendant had purchased properties worth Kshs 53,600,000/- (53,000 USD) and a motor vehicle purchased at Kshs 624,000/- (6,240 USD). The Commission reasonably suspected that this company was incorporated to launder the proceeds of economic crimes. During investigations, the Commission also recovered Kshs 1,240,050/- (12,400.50 USD) in Mr Njogu’s residence, Kshs 6,983,000 (6,983 USD) and 3,500 USD in his office during an official search.

The explanation that Mr Njogu and his wife gave was that the cash deposits we mostly made up of friendly loans that were given by two of their friends; each friend advancing them Kshs. 20 million (200,000 USD). No schedules of payment or repayment were produced neither Mr Njogu nor his wife. The explanation that was given by Mr Njogu and his wife were found to be unsatisfactory by the Commission and forfeiture proceedings were instituted against Mr Njogu, his wife and the corporate vehicle they had incorporated for forfeiture of Kshs. 115,861,542.29 USD (1,158,615.42).

The Court its judgement delivered on 3rd December 2019, found the defendants to be in possession of unexplained wealth to the tune of approximately Kshs. 112 million (1,120,000 USD), including a motor vehicle, 2 immovable properties and cash at bank and ordered forfeiture of the same to the state.

3. ACEC SUIT NO. 9 OF 2016 : EACC VS PETER NDEGWA & 9 OTHERS

The defendants in this matter were officials of the defunct Makuyu County Council and private individuals, operating local businesses. The county officials together with public officials from National Treasury hatched a scheme to defraud the County Council money. The County officials roped in the private business owners within the Makuyu District into the scheme. The County officials opened a bank account without the authority of the County Council and through this fraudulent bank account; County Council funds amounting to Kshs. 28 Million (280,000 USD) were channelled to this account and withdrawn for private use by the defendants. Some of the money paid to a public official working for National Treasury was used to purchase a motor vehicle for a third party; this car was impounded by the Anti-Corruption Commission through a Court order during the trial. Another official used part of the money paid to him to purchase commercial vehicles for business, but the Commission obtained a freeze order against the seller’s account.

Civil recovery proceedings were commenced by the Ethics and Anti-Corruption Commission and judgment was entered on 22 July 2019 in its favour of the Commission for Kshs. 28,655,709 (286, 557.09 USD), the court ordered that the motor vehicle that has been impounded be sold and the proceeds released to the exchequer as the law, the motor vehicle that had been purchased by one of the County officials using the impugned money to be forfeited to the state and all monies in accounts that had been frozen be released by the bank for onward transmission to the exchequer.

4. ELC NO. 317 OF 2015; EACC ¬VS¬ THE RIFT VALLEY DEVELOPMENT TRUST REGISTERED TRUSTEE T/A TECHNOLOGY FARM

Kenya Anti-Corruption Commission (the predecessor of the Ethics and Anti-Corruption Commission) received a report in 2003 from the Police Commander Investigating Officer, Nakuru of alleged illegal sale of the Public Trust’s land by the Principal of Rift-Valley Institute of Science and Technology, which property is registered in the name of Rift Valley Development Trust Registered Trustee (Public Trust) and the Rift Valley Institute of Science and Technology (RVIST), an institution advancing education to the public to a Public Trust. The illegal sale was done without consent or approval of the Trustees.
The Trust Deed expressly provided that the land in question was to be utilised for the establishment of institutions or schemes for the advancement of education and development. After investigations were concluded, the Commission established that the erection, establishment, maintenance and management of RVIST was one of the key objects the public trust and was intended to be fulfilled using the funds collected from the public. RVIST was established in 1978 and was run by a Board of Governors with the assistance of the then Ministry of Education, Science and Technology.

RVIST stands on one of the Public Trust’s farms called the technology farm. This farm was measuring approximately 2,700 acres. In 1996, RVIST was facing financial glitches which contributed to stalled projects. The Board of Trustees agreed to sell part of the technology farm to offset its debts. The Board of Trustees tasked the farm manager and the Principal of RVIST to market the land at market rate and report back to the Board of Trustees for approval. The said Principal single-handedly identified prospective buyers and proceeded to cause three out of the five parcels of land owned by the Public Trust (L.R. Nos 5636/1, 7385/6 and 3380/4) to be consolidated into one parcel of land L.R. No. 22771. Subsequently, L.R. No. 22771 was illegally subdivided into 6 parcels, i.e. L.R 22771/1 to 22771/6 and transferred to private persons.

Some of these private persons subsequently transferred the illegally acquired properties to other private persons, who then subdivided the properties further. Two thousand five hundred ninety-four acres (2,594) acres were surrendered willfully back to the Government through an out of court settlement. The Commission upon pursuing the remaining 25 acres, the Court on 3 December 2019 gave judgement in favour of the Government; it cancelled all titles in respect of the 25 acres and ordered that emanating from a subdivision of L.R. No. 22771/2 illegally transferred to a private person, held that the land comprised in these titles should revert to a Public Trust, the Rift Valley Development Trust Registered Trustees, which should be given vacant possession within 30 days from 3 December 2019.

The Maasai people are an indigenous ethnic group of semi-nomadic people settled in Kenya and northern Tanzania.

University of Nairobi Land. The land measures 4.9 Hectares. This property was illegally allocated to a company registered by a private individual but was recovered through a negotiated process in Court. This property is value at 20,000,000 USD.

Kenya Railways Corporation Limited property illegally allocated to one of the leading oil companies recovered in 2019.
LESOTHO

2.1 million (2020)  

Lesotho Loti (LSL)

2009

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LESOTHO ASSET RECOVERY LEGISLATION

1. MONEY LAUNDERING AND PROCEEDS OF CRIME ACT 6 OF 2008

Lesotho only started applying to test the application of this act before the courts of law in 2014. The Lesotho legislation caters for the application of both conviction and non-conviction-based forfeiture. The law provides for the establishment of the Criminal Asset Recovery Fund (CARF) which is a central fund for the government where all the forfeited and recovered funds are paid into.

The custodianship of the asset forfeiture unit in Lesotho lies with the Directorate of Corruption and Economic Offences (DCEO). As such, applicants in all the matters has the DCEO as the authority, as opposed to other jurisdictions where the applicant is the NDPP. The government makes use of the office of the Director of Public Prosecutions (DPP) mainly in criminal matters. The DPP has the power to institute criminal proceedings against any person in any court.

IMPACT OF ARINSA

Lesotho has been a member of the network for a long period; as a result, it has benefited tremendously due to its long-standing membership and the support on offer from ARINSA. Previously Lesotho received assistance from ARINSA in the form of mentorship, hands-on case prosecution advice, and judicial retreats for the judicial Officers.

- In February 2019, Lesotho received mentorship to assist its Law enforcement officials with case management and Intel, and financial information gathering which could be used or come handy for successful prosecutions. The mentorship outputs resulted in the following results:
  - Increased investigative capacity through mentoring, technical assistance, learning and development, to successfully identify, investigate, seize and prosecute cases related to ML/FT and asset recovery.
  - Consultations conducted outlining the progression of initiatives through the ARINSA project and anticipated outcomes to the key stakeholders - Directorate on Corruption and Economic Offences (DCEO); Financial Intelligence Unit Lesotho (FIU), Lesotho Mounted Police Service (LMPS); and Lesotho Revenue Agency (LRA).
  - Delivered direct practical guidance and mentoring in the investigation of complex financial crime investigations involving AML/CFT, asset recovery and corruption.
  - Developed and implemented Excel-based database for exhibit case management – completed. Review of quality assurance and implementation underway.
  - Developed and implemented Excel-based database for prosecution case management – completed. Review of quality assurance and implementation underway.
Reinstituted plans for delivery of part-day workshops on Financial Investigation, AML/CFT, Wildlife Crime, Asset Recovery learning and development. Encouraged and facilitated increased participation of key agency personnel in UNODC eLearning opportunities.

- Focused practical guidance in the investigation of money laundering, terrorism finance, wildlife crime, and asset recovery cases to the four key agencies.

Beside mentorship, two Prosecutors from Lesotho’s DCEO also attended the second intake of the PPP that took place in September 2019 and gaining hands-on experience on the process of drafting civil forfeiture applications.

In addition, Lesotho government officials from various institutions (DPP, FIU, DCEO) attended ARINSA capacity building workshops and events in 2019.

In 2019, Lesotho launched eleven new cases of money laundering, with two of them being cases with seizures. The value of the seizure orders amounted to 350,000.00 USD. No forfeiture cases were reported for the year as most of the cases are before high court pending final ruling and will be reported once finalised.

### Recovered Assets, Funds and Restraining Orders Secured

<table>
<thead>
<tr>
<th>NUMBER OF NEW ML CASES*</th>
<th>NUMBER OF NEW CASES WITH SEIZURES*</th>
<th>USD VALUE OF NEW SEIZURE* ORDERS</th>
<th>NUMBER OF NEW FORFEITURE ORDERS (IN USD)</th>
<th>USD VALUE OF NEW FORFEITURE ORDERS (IN USD)</th>
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<td>11.00</td>
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Table 11: Recovered assets, funds and restraining orders secured

### Noteworthy Cases

**Standard Lesotho Bank:** MONOT profile was created and linked to two accounts, MMR construction and Reliable Plan. Seven customer information files were linked to MONOT by an internal employee syndicate. She was able to have access to those seven sub-accountancy accounts and transferred 17.7 million to various accounts held in Nedbank, FNB and Standard bank in RSA as well as local banks in Lesotho. Ten million was transferred to RSA while 7.7 million was disbursed to purchase property in Lesotho.

**Tsepo Financial Services:** A two employee syndicate, they would engage both fictitious and legitimate companies to enter into a loan scheme agreement with TFS. They would further recruit non-employees of those companies, forge pay-slips and letters of employment to present to TFS as employees. TFS was defrauded of five million over three months, and the money was disbursed to purchase property. Seventeen accused have been charged with money laundering, and the property has been frozen.

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IMAGES OF SEIZED PROPERTY

Seized houses

Seized vehicles

Seized property
RECOVERED ASSETS

Recovered vehicles

Recovered houses
MADAGASCAR

26,2 million (2020) 7

Malagasy Ariary (MGA)

2016

7 https://www.worldometers.info/world-population/madagascar-population/ accessed on 20 May 2020
MADAGASCAR ASSET RECOVERY LEGISLATION


2. The international cooperation bill in penal matters - Law No. 2017-027 on international cooperation in criminal matters (Loi n°2017-027 relative à la coopération internationale en matière pénale) - adopted in January 2018 and in June 2018 created a specialized tribunal, the Pole Anti-Corruption (PAC), with the mandate to decide corruption and money laundering cases.


These latter two draft laws contain provisions for non-conviction-based forfeiture and management of seized assets which are critical to the effectiveness of Madagascar’s AML/CFT strategy.

Ordinance n°2019-015 on the Recovery of Illicit Assets, the only legislative instrument on the subject, was adopted by the Parliament in February 2020. This is because the High Constitutional Court ruled that all the Ordinances promulgated in 2019 be adopted by Parliament and changed into laws. The next step is the signing off by the President of the Republic and its publication at the Gazette. In terms of ARINSA’s assistance to Madagascar with the enactment of this law, the contact point had the following remarks:

“The enriching exchanges shared during the general assemblies of the network, the various tools and publications available on the ARINSA website but also the training of Malagasy stakeholders, have enabled Madagascar to achieve the current objective. We are certain that this is one of the many steps towards increasing Madagascar’s effectiveness in depriving criminals of criminal instruments and illicit profits.”

CURRENT SITUATION OF MADAGASCAR ON THE RECOVERY OF ILLICIT ASSETS

I) Strengths:

- Establishment of the Antananarivo Anti-Corruption Pole, a specialized court to preside over corruption and similar cases as money laundering, terrorist financing and economic and financial offences.
- Effectiveness of the law 2016-021 on the seizure and confiscation chamber, which has been operational since September 2018.
- Specific Law on Asset Recovery has been adopted.
- Several seizure decisions have already been taken.
  - Freeze of bank accounts
  - Seizure of vehicles
II) Weaknesses:

- Impossibility of executing real estate seizures, for want of law prescribing the preliminary registration or the inscription in the land register (envisaged by the law 2018-043 but without the power of publicity).
- Risk of devaluation and decline of assets due to the absence of an asset management agency to safeguard the seized and confiscated assets.

Officials from the Anti-Corruption System, including the Safeguarding Committee for Integrity, the FIU “SAMIFIN” and the anti-corruption bureau “BIANCO”, initiated work in 2019 to reflect on the advisability of creating the future national structure dedicated to the management and recovery of illicit assets.

The objectives were to make an overall inventory of the situation of Madagascar in terms of seizure and/or confiscation of illicit assets and/or goods, to define a suitable form for the said structure to allow it to accomplish the tasks which are vested in him.

**IMPACT OF ARINSA**

Previously in 2018, Madagascar had received two mentorship visits from one of the ARINSA enlisted mentors to assist with the review of Madagascar AML legislation and its application and to provide coaching to FIU (SAMIFIN) on effective information gathering/sharing by and with LEAs. Madagascar had the privilege of attending workshops conducted by ARINSA in 2019, with French translation available for its delegation as a French-speaking nation. Additionally, Madagascar for the first time has sent 2 candidates to attended PPP in 2019. They also benefit from successful cooperation at the regional level, particularly with Mauritius where their cooperation, information and intelligence, has led to the arrest of a renowned international heroin trafficker in 2019.

The country benefited from the enriched exchange of information by participating in ARINSA capacity building workshops and events in 2019.

**RECOVERED ASSETS, FUNDS AND RESTRAINING ORDERS SECURED**

Madagascar is one of the few member countries that reported a high number (191) of new money laundering cases and a high number of new cases with seizures (96) as per the above table. However, the challenge remains that Madagascar’s Anti-Corruption Pole does not have the service of an evaluator and therefore unable to report value or render the evaluation of the asset resized or confiscated.

<table>
<thead>
<tr>
<th>NUMBER OF NEW ML CASES*</th>
<th>NUMBER OF NEW CASES WITH SEIZURES*</th>
<th>USD VALUE OF NEW SEIZURE* ORDERS</th>
<th>NUMBER OF NEW FORFEITURE ORDERS (IN USD)</th>
<th>USD VALUE OF NEW FORFEITURE ORDERS (IN USD)</th>
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<td>191</td>
<td>96</td>
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</table>

*Table 12: Recovered assets, funds and restraining orders secured
IMAGES OF SEIZED PROPERTY
Images of Seized Property

Seizure of 25 kilos of gold and foreign currency (60 000 € & 7 000 $) in Mauritius, in January 2019.

Seizure of 21 kilos of heroin, in May 2019.
MALAWI

19.1 million (2020)  

Malawi Kwacha (MWK)

2009

8 https://www.worldometers.info/world-population/malawi-population/ accessed on 20 May 2020
One of the new emerging crimes with calamitous impact in Malawi is environmental crime, particularly wildlife crime. According to FIA, Malawi has been identified as Southern Africa’s “principal transit hub” for wildlife traffickers, moving illegal products from within and outside Malawi due to its low interception and conviction rates. Criminal syndicates are using different means to launder the illegal proceeds and properties acquired from wildlife crime including the use of legitimate businesses, and the use of third parties to receive and transfer the illegal proceeds and conceal properties obtained from proceeds of crime.

The introduction of the new laws (i.e. Financial Crimes Act 2017 and the National Parks and Wildlife Act of 2017) has since assisted the Malawi government in fighting back and scaling down wildlife crime. Heavy sentences imposed on those found guilty of the crime include imprisonment sentences of up to 30 years with no option of a fine. The level of cooperation amongst different LEAs has also improved since the establishment of the Inter-Agency Committee on Combating Wildlife Crime (IACCWC). The committee was set up in 2014 to foster collaboration among key national Law Enforcement Agencies in combating poaching and illegal wildlife trade in Malawi. Thirteen (13) agencies forming part of this initiative include Malawi Police Service, Malawi Defence Force, Office of the Director of Public Prosecutions, Department of Immigration, Judiciary and Financial Intelligence Authority.

MALAWI ASSET RECOVERY LEGISLATION

Currently, Malawi has a comprehensive set of laws which tackle money laundering, terrorist financing and other financial crimes as well as asset recovery. These include:

1. Constitution (Laws of Malawi as at 31 December 2014)
3. Criminal Procedure and Evidence Code (Chapter 8.01 of the Laws of Malawi)
5. Financial Crimes Act of 2017

Malawian laws provide for both conviction-based and non-conviction-based forfeiture. Malawi’s primary piece of legislation in this regard is the Financial Crimes Act (FCA) of 2017. It introduces, for the first time, a comprehensive part on civil forfeiture. It also tackles conviction-based forfeiture in greater detail than the previous laws did. Generally, Malawi has forfeiture provisions across a range of pieces of legislation such as the Criminal Procedure and Evidence Code on section 113; the Corrupt Practices Act (CPA) in sections 23(1), 36A, 36B, 41, section 25(g) of the Penal Code, the Police Act and sections 59, 60, 63 and 86 of the FCA. These laws provide for competent authorities to obtain provisional orders, as well as final forfeiture orders.

- The seizure powers extend to the currency which is involved in illegal externalisation. Section 55 of the FCA empowers an authorised officer to use reasonable force where necessary, to seize and detain suspicious imports and exports of currency.
- Under Section 56 of the FCA, similar powers exist in relation to the seizure of currency or bearer negotiable instruments that are illegally imported or exported or
attempted to be imported or exported in contravention of exchange control rules.

- Seizure powers also take care of terrorist funds. Section 58 of the FCA empowers a competent authority to seize cash suspected on reasonable grounds to belong to a terrorist or intended for use for terrorist acts.
- Further, section 62 of the FCA requires a reporting institution to freeze immediately funds suspected to belong to a terrorist or intended for terrorist acts.
- Still, on provisional measures, Section 65 and 68 of the FCA gives a competent authority the power to obtain a preservation order and to seize property that is subject to a preservation order.
- Notably, the FCA under section 128 creates, for the first time in Malawi, the Confiscation Fund. This is where funds or property that has been confiscated or is subject to a preservation order should be deposited. The Fund vests in the Minister of Finance, and the Financial Intelligence Authority is the administrator. Malawi is yet to develop rules for disbursements from the Fund, even though section 132 of the FCA stipulates the purposes for which the Fund may be utilised. Malawian Contact Points have also reached out to ARINSA requesting assistance with the development of its own asset management.

**IMPACT OF ARINSA**

Having been one of the founding members of the network, Malawi has benefited substantially from ARINSA; this includes the support Malawi received on the development of its asset recovery regime albeit not overlooking the role of other external bodies.

In 2019 Malawi also had two of their Prosecutors attending the PPP in South Africa where they learnt and acquired practical experience on civil forfeiture and its processes.

Malawi is benefiting a lot from the Wildlife Crime Trainings that are being facilitated by UNODC/ARINSA. Two trainings on Wildlife Crime were held in Lilongwe, the first in October 2019, and the second in December 2019. More officers have been sent on similar training organised by ARINSA in other ARINSA member countries. The capacity built from this training will go a long way in dealing with wildlife crimes in Malawi, as the participants range from Prosecutors, Financial Intelligence Authority Analysts and Investigators, Police Investigators and Game Rangers.

The country also benefited from the enriching exchange of information and peer learning by participating in the ARINSA capacity building workshops and events in 2019.

**RECOVERED ASSETS, FUNDS AND RESTRAINING ORDERS SECURED**

In 2019, Malawi launched nineteen new cases of money laundering, with twelve of them being cases with seizures. The value of the seizure orders amounted to 400,920 USD. In addition, two successful forfeiture orders were obtained, which amounted to the value of 136,334 USD.
NOTEWORTHY CASES

The year 2019 saw Malawi obtaining its very first preservation order in pursuit of the civil forfeiture of money and residential properties in a big fraud case. These assets are suspected to be proceeds of a big procurement fraud which occurred in Malawi's Reserve Bank by a senior manager. The amount stolen is K340,000,000.00 (456,376 USD) and property preserved so far is more than half of this stolen amount. Being the first pursuit of civil forfeiture, the preservation order has already been challenged by the defendant. This is an indication that civil forfeiture will attract considerable litigation. The court, however, has sustained the preservation order. This is an exciting time in Malawi's asset recovery scheme, as this case will shape the civil forfeiture jurisprudence. The order was obtained by the Financial Intelligence Authority, which has the powers to pursue civil forfeitures under the Financial Crimes Act, among other competent authorities. The prosecution of the case will be handled by the Directorate of Public Prosecutions, while the investigations in the case, as well as the tracing of more of the suspect's assets is being done by the Fiscal and Fraud Police Unit. The case has demanded collaboration from these three law enforcement authorities due to its complex nature.

1. Furthermore, Malawi is pursuing seizures and preservation of property suspected to have been acquired by suspects in a big fuel-fraud case. There is suspicion that fuel meant for state-run electricity generators was misappropriated by a syndicate of workers in charge of the delivery and receipt of the fuel. The fuel is worth K1.6 billion (2,147,651 USD). So far, houses and vehicles have been seized from some of the suspects, and investigations into more suspects and more property are still on-going.

2. Malawi has not been spared from the increase in wildlife crime. The recent trend shows that there are syndicates involving locals and Chinese nationals in these cases. On 13 November 2019, four convicts, among them were two Chinese nationals, were sentenced to six years imprisonment for illegally possessing specimen of listed species. The four were found in possession of 21.5kgs of ivory, valued at K31,879,000.00 (42,791 USD). The two Chinese nationals are also being prosecuted in Malawi for more wildlife offences together with other suspects. They have been charged with the possession of pangolin scales weighing 1.65 kgs, eight chopsticks made from ivory, 103 cut pieces of rhino horn, and also two Hippo teeth. All of this valued at over 200,000.00 USD. Asset recovery efforts in all these cases are in motion.

IMAGES OF RECOVERED PROPERTY

The generators whose fuel was misappropriated.
MAURITIUS

1.2 million (2020) ¹⁰

Mauritian Rupee (MUR)

2013

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¹⁰ https://www.worldometers.info/world-population/mauritius-population/ accessed on 20 May 2020
MAURITIUS ASSET RECOVERY LEGISLATION

1. Asset Recovery Act 2012
2. The Financial Intelligence and Anti Money Laundering Act 2002 (FIAMLA)

1. THE ASSET RECOVERY ACT 2012

The Asset Recovery Act 2012 (henceforth ARA) provides the legal framework for asset recovery in Mauritius. When this legislation was first passed, the Asset Recovery function was assigned to the Office of the DPP. In fact, the DPP was the Enforcement Authority. In January 2016, the ARA was amended by Parliament. The main change that occurred was that the function of Asset Recovery was transferred from the DPP to the FIU. The FIU is now the Enforcement Authority.

In addition to the Asset Recovery Act 2012, Finance and Audit (Recovered Assets Fund) Regulations 2014 also provides for the establishment of the Recovered Assets Fund, into which all funds recovered by the Enforcement Authority are paid. These regulations make provision for the management of the Recovered Assets Fund and set out the procedure to be followed when transferring the recovered funds to the Consolidated Fund. In January 2016, with the amendments to ARA, the Asset Recovery Unit was replaced by the Asset Recovery Investigation Division (ARID).

Statutory Functions of ARID

The main functions of ARID under the ARA consist of conviction-based asset recovery and non-conviction-based recovery (civil asset recovery). In simple terms, the ARID’s role is to locate any property which is or is believed to have been acquired by proceeds of crime and to prevent any use or dissipation of this property by its owners until completion of court proceedings. At the end of such proceedings, depending on the outcome of the case and of any resulting appeals, the property which was restrained or restricted by ARID is either transferred to the Recovered Assets Fund (if the accused is found guilty) and eventually to the Consolidated Fund or returned to the accused (if the latter is cleared of all charges by a court of law). Also, the funds may be utilised to compensate victims and to fund courses provided to ARID staff.

Applying for Orders under the Asset Recovery Act 2011 – Relevant Procedure

All applications for restraining or restriction orders are made by the Enforcement Authority, with an officer of ARID swearing the required affidavit on its behalf. The same applies to confiscation and recovery orders. All applications under the Act are made to the Judge in Chambers. Applications for renewal of orders, their variation or revocation are also made to the Judge in
Chambers. The Enforcement Authority is not empowered to vary or revoke orders.

a) Conviction Based Asset Recovery

Section 9 of the ARA provides the legal framework for this category of asset recovery. When a person has been charged with or convicted of an offence or a criminal enquiry is ongoing, the Enforcement Authority may apply to the Judge in Chambers for a Restraining Order. Such an order aims at protecting property that is reasonably believed to be proceeds of crime, an instrumentality of the offence or terrorist property. It also protects any other property in which the concerned person has an interest which is not a lawful one. When a Restraining Order is granted, it is served on all financial institutions, and the latter is prohibited from conducting any operation on any bank accounts which the accused holds with them. Any cash which has been seized and which is the subject of a Restraining Order is taken over by ARID and is deposited in the Restraining/Restriction Account (RRA) which is under the scrutiny of the Recovered Assets Fund Committee. All sums in the RRA are subject to Judges’ orders and cannot be dealt with unless so ordered by the Judge.

It is an offence under Section 15 of ARA to do so without the authority. Only when all court proceedings have been fully exhausted that a decision can be taken concerning funds in the RRA. For example, if the person is convicted, the Enforcement Authority may apply for a Confiscation Order concerning to the benefit derived from the offence. Similarly, victims can only be compensated after the proceedings are fully exhausted.

b) Civil Asset Recovery

Where property is reasonably believed by the Enforcement Authority to be recoverable and to be proceeds or an instrumentality or terrorist property, it may apply for a Restriction Order concerning such property. Unlike conviction-based asset recovery, in these cases, there is no requirement of a criminal charge or enquiry. Any cash seized is also deposited into the RRA and is subject to the same restrictions as set out in the previous paragraphs. Bank accounts are simply restricted at the level of financial institutions.

Amendments to ARA Sections 2, 3(2), 9(a), 10(1)(b), 13, 27, 29, 35(1), 36(6)(b), 37(2)(b), 40(1), 41(6), 46(2)(a)(iii), 49(8)(a), 54(1), 56 (1) and (4), 57(1), 58(1).

The scope of the above provisions has been extended to any benefit which is derived or is likely to be derived from criminal activity. Before this amendment, the scope of these provisions only extended to proceeds and instrumentalities. Consequently, this amendment will enable ARID to take action as provided by the ARA in relation to any benefit as well.

Recognizing the serious problem of corruption and the need for improved mechanisms to combat its devastating impact and facilitate the recovery of corruption proceeds, the ARID has made some amendment in their existing law which are as follows:

Amendments to Section 7(2) (g)

Section 7 of ARA provides for payments that may be authorised by the Director of the FIU out of the Recovered Assets Fund, which is established under Section 6 of ARA. Section 7(2) (g) made provision for the funding of capacity building required by the Enforcement Authority for the ARA. It has now been amended such that the Director may authorise payments for the funding of any expenses which may be required by the Enforcement Authority (henceforth EA) but also expenses related to the general objective of combating money laundering and terrorism finance. It is expected that this source of funding would greatly assist in the enhancement of the technical skills of relevant officers involved in AML/CFT but also will support other stand-alone projects which are required to improve ARID’s operations. It must be highlighted that this will address to some extent, the recommendations made in the Mutual Evaluation Report (MER) in relation to ARID’s staffing and skills.
Amendments to Section 17(1)

Section 17(1) has been amended such that Confiscation Orders may be applied for by the EA concerning proceeds, a benefit as well as instrumentalities. Prior to the amendment, instrumentalities were excluded from this section, and this shortcoming had been identified in the MER. By making this amendment, ARID has directly addressed the observation made in the MER.

Amendments to Section 16(3) and 33(2)

These provisions concern the duration of Restraining and Restriction Orders, respectively. Both types of orders are granted for an initial period of months. However, the law was ambiguous in relation to the possible extensions. There was confusion as to whether the extension period of 3 years provided in the ARA was inclusive of the initial 12 months. Consequently, the amendment has now clarified that the extension period of 3 years is in addition to the initial 12-month period.

Amendments to Section 34

Section 34 concerns Recovery Orders applied for by the EA. The difficulty with this section was that Recovery Orders could only be applied for when the property in question was believed by the EA to be worth more than Rs 500,000. This threshold has now been removed, and it is expected that the EA will now have a wider scope of intervention for recoveries. A second issue with Section 34 was that a Recovery Order could only be applied for in relation to proceeds, instrumentalities or terrorist property. It has now been amended to include benefits as well.

Amendments to Section 47

Section 47 sets out the EA's power to require the production or disclosure of information from any person. The practical concern with this section is that such requests are currently paper-based. In addition to the cost to the environment, the main issue was that the process was resource and time intensive. The amendment has been made to optimize the use of resources and time within ARID by digitalizing the process. Consequently, requests and replies may now be made in electronic form, and any reply obtained by electronic means shall be admissible as evidence in applications made under the ARA. It is expected that this will reduce delays and will enable ARID to operate more efficiently.

Amendments to Section 48

Section 48 sets out the EA's power to require customer information from financial institutions. The difficulty is the same as the one outlined for Section 47 above, and the rationale for the amendment is identical.

Amendments to Section 59(4)

The rationale behind setting out additional institutions is to enhance information sharing among relevant bodies. The ultimate goal is for the EA to be more productive, and for processes to be time-efficient. Currently, it is facing difficulty in obtaining information from some stakeholders since this is not specifically provided in the law. It is expected that the present amendment will provide a solution.
2. THE FINANCIAL INTELLIGENCE AND ANTI MONEY LAUNDERING ACT 2002 (FIAMLA)

FIAMLA is also relevant since it makes provision for communication between FIU and ARID. It furthermore designates the latter as an investigatory authority under the FIAMLA.

IMPACT OF ARINSA

In addition to capacity building and information sharing events, the ARINSA membership provides a forum for Mauritius to enhance support from other ARINSA members in the fight against money laundering, financing of terrorism and other financial crimes. This support includes:

- Expanding and systematising international cooperation between members in the reciprocal exchange of information.
- Increasing the effectiveness of staff of Asset Recovery Investigation Division by the training received from ARINSA in various fields.
- Fostering better and secure communication among ARINSA members through the application of technology, presently via the ARINSA website.

The value of information exchange on the ARINSA forum in support of respective law enforcement efforts has proven to be highly significant to Mauritius as today, their financial services are a strong pillar of the economy, representing 10% of GDP, employing over 13,000 people and encompassing over 20,000 global businesses. This ability to exchange financial information has been beneficial in following the financial trail in law enforcement investigations. Opening and maintaining this line of communication among the ARINSA members has benefited Mauritius by providing swift and quick response to requests sent. Information exchange between ARINSA members has been of high value for Mauritius since sometimes it is the only portal for an exchange of information between jurisdictions. In addition, being an ARINSA member allows access to case laws of different member countries and related documents, the contact information of all members, and sanitised case typologies.

‘As part of the recognised global network, Mauritius has taken advantage of the cooperation and mutual assistance fostered by the group. Meetings and workshops provide a forum for the sharing of best practices and allow all members to share experiences and ideas, offer advice, and learn from the successes and mistakes of colleagues. This has helped the Asset Recovery of Mauritius a lot. Being an ARINSA member has fostered a collegial environment over the years, a forum of goodwill where colleagues meet, become acquainted and openly and eagerly assist one another.’

Similarly, Mauritius has also benefited from exchange of information and peer learning by participating in the ARINSA capacity building workshops and events in 2019:

RECOVERED ASSETS, FUNDS AND RESTRAINING ORDERS SECURED

In 2019, Mauritius investigated 85 new cases of money laundering, with one of them being a case with seizure. The value of the seizure orders amounted to 186,164 USD. In addition, six successful forfeiture orders were obtained, which amounted to the value of 164,153 USD.

<table>
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<th>NUMBER OF NEW ML CASES*</th>
<th>NUMBER OF NEW CASES WITH SEIZURES*</th>
<th>USD VALUE OF NEW SEIZURE* ORDERS</th>
<th>NUMBER OF NEW FORFEITURE ORDERS (IN USD)</th>
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Table 14: Recovered assets, funds and restraining orders secured
NOTEWORTHY CASES

1. **OB 1304/2019 ADSU – IMPORTATION OF HEROIN WITH AN AVERMENT OF TRAFFICKING**

On 28 March 2019 at 16.00 hrs, at SSR International Airport, a South African National arriving from Johannesburg by Flight SA 190 was profiled. As he was strongly suspected of having drugs concealed in his body cavity, he was questioned and allowed to check in his hotel at Flic-en-Flac under discreet Police surveillance.

On 29 March 2019, at his hotel, in Police presence, he purged 21 pellets of Heroin (about 314.10 gm), following which a Controlled Delivery Exercise was set up as per Section 55 of the Dangerous Drugs Act 2000.

During the controlled delivery exercise, the South African National received instructions from his foreign contact through the telephone for the delivery of the drugs to the local contact. On the same day, at about 13.00 hrs, Mr Laurent and others came to take delivery of the drug from the South African National and Police arrested them on the spot. They are well known to be drug traffickers operating in Port Louis.

During their arrests, the following exhibits were secured:

- R60,000/-;
- A Private Car;
- A motorcycle;
- Mobile Phones.

The South African National was later admitted to hospital where he purged 60 more Pellets of Heroin (about 944.95 gm). Total Number of Pellets of Heroin: 81

Gross indicative weight: 1,259.05 gm
Approximate street value: R18,885,750/- (equivalent to 525,000 USD/-)

During enquiry for the predicate offence of Drug Trafficking, a referral was made to the Assets Recovery Investigation Division for confiscation procedure.

The outcome of the search effected at the Guesthouse

A total sum of around R9,766,000 and jewellery worth R1.8 million were secured from two safes found at the Guest House, as well as an Audi car number registered in the name of Mrs Lola which was there in the garage.

The following vehicles were secured at the residence of the subject:

- A sports Cycle registered in the name of Mr Jackson
- 2 Sports cars
- 1 Luxury car
- 1 car audio sound system

All the properties listed above have been restrained as they are being suspected of having been acquired with proceeds emanating from drug trafficking.

2. **DRUG DEALING CASE**

An enforcement referral was sent to the Asset Recovery Investigation Division regarding a drug-dealing case involving several members of a family. The suspects involved were arrested in July 2018 under the provisional charge of possession of drugs. After investigations were carried out by the Police, the case was then referred to the Asset Recovery Department.

At our end, the investigators gathered all important information on the suspects and the analysis on various bank accounts was carried out. We identified that the suspects hold various companies and assets such as land, building and vehicles worth millions of rupees. The suspects also conspired with other people to hide some of their assets and hold it on their names. After having carried out all the required analysis and investigation on the nature of the transactions, the ARID drafted a report and, an affidavit was made in order to proceed with a restraining order to freeze some of their assets.

The worth of those assets is MUR 50 million (USD 1.5 million).
IMAGES OF RECOVERED PROPERTY

Pellets of Heroin purged by a South African National arrested in Mauritius

Bank notes totalling to Rs 1.8M secured from a safe at the residence of Mrs Lola

The house of Mr Laurent

Audi car number registered in the name of Mrs Lola seized from the guesthouse

2 Sport cars registered in the name of Mr Laurent

Property seized from the Family Drug-Dealing Case
MOZAMBIQUE

31.1 million (2020) ¹¹

Mozambican Metical

2017

¹¹ https://www.worldometers.info/world-population/mozambique-population/ accessed 20 May 2020
In Mozambique, there are several ongoing significant cases such as the case of the “Hidden Debts”, which is a multi-jurisdictional fraud and corruption case involving companies that requested external financing from private banks with guarantees from the Mozambican State amounting to about USD 2 billion. These cases are being investigated and prosecuted using very basic laws which do not always explicitly address complex financial investigations and prosecutions. To address these gaps, Mozambique is in the process of enacting laws, explicitly addressing the proceeds of crime as well as mutual legal assistance. ARINSA has been informed by the Ministry of Justice of Mozambique, that this is an area that they would appreciate the assistance.

In addition, the office of the Attorney General has set up a multidisciplinary team for asset recovery, which is deemed a precursor to the future asset recovery office. This team is leading the drafting process for the new asset recovery law, which has been pending for some time.

**MOZAMBIQUE ASSET RECOVERY LEGISLATION**

5. Notice no 4/. GBM/2015 17 June, additional rules to be considered on the customer due diligence.
7. Lei de prevenção e combate ao tráfico ilícito de estupefacientes – Lei 3/97, de 13 de Marco (41, 49, 50, 51, 52, 53 e 78).

**IMPACT OF ARINSA**

As a member of the network, Mozambique has benefited by attending different ARINSA training events focusing on topics such as cybercrime, countering the financing of terrorism, wildlife and cash smuggling. The Mozambican national authorities have requested ARINSA’s assistance in providing legal advice on the pending law, including on strengthening provisions related to the management of assets.

Mozambique has also requested advice with its pending legislation so that funds may be set aside for development. As part of their request, they asked to be informed on the asset management and forfeiture fund models currently being used by their member countries. ARINSA is in the process of assisting Mozambique in this regard with several meetings planned for the upcoming year.
In response to an increased need for technical assistance in the area of illicit financial flows due to pending cases, ARINSA hosted a donor coordination event on 10 December 2019. This event did not only provide an opportunity for raising ARINSA’s profile but also reduced the likelihood of duplication of activities and enhanced coordination, providing a road map of relevant planned activities in Mozambique for 2020.

Mozambique has also benefited from the enriching exchange of information and peer learning by participating in the ARINSA capacity building workshops and events in 2019.

RECOVERED ASSETS, FUNDS AND RESTRAINING ORDERS SECURED

Mozambique is still experiencing challenges with coordinating the reporting of the different agencies working on asset forfeiture. The ARINSA secretariat is working closely with the newly appointed Mozambique Contact Points in finding ways to resolve the challenges.
IMAGES OF SEIZED PROPERTY

Dois Apartamentos, Cidade de Maputo – Two apartments, in Maputo City

Moradia no Bairro Cidade de Maputo – House/home in Maputo City

Viaturas - Vehicles

Audi car number registered in the name of Mrs Lola seized from the guesthouse

Imóvel localizado, Cidade de Maputo – Apartment in Maputo City

Uma residência geminada com dois pisos - semi-detached residence with two floors
NAMIBIA

2.5 million (2020)\textsuperscript{12}

Namibian Dollar (NAD)

2009

\textsuperscript{12} https://www.worldometers.info/world-population/namibia-population/ accessed 22 May 2020
Namibia is one of the founding members of the network, having been part of ARINSA since its establishment in 2009. The Asset Forfeiture Unit within the Office of the Prosecutor General (“OPG”) is mandated to recover the proceeds of unlawful activities either through a criminal or civil process as provided for in the Prevention of Organized Crime Act, 29 of 2004 (“POCA”). As one of the founding member countries of ARINSA together with 9 other countries, Namibia has a permanent seat in the ARINSA Steering Committee. It participated in both the steering committee meetings held in April and June 2019.

NAMIBIA ASSET RECOVERY LEGISLATION

The legislation governing Asset recovery is the Prevention of organised Crime Act 29 of 2004, supported by other legislation such as:

1. Financial Intelligence Centre – Act 13 of 2012
2. Criminal Procedure Act 51 of 1977

IMPACT OF ARINSA

- ARINSA is an excellent platform to obtain information that a member country may require from another country when carrying out financial investigations.
- The training and technical assistance programs are beneficial to capacity building both in the asset forfeiture unit other agencies, i.e., the Namibian Police, the Financial Intelligence Centre, the Judiciary etc. Through the ARINSA training on asset management, the Namibian Police was able to set up an Asset Management Sub-Division headed by a member of the Anti-Money Laundering and Terrorist Financing and Proliferation: Asset Recovery Division of the Namibian Police. An asset management manual has also been developed to this effect.
- Through the technical assistance provided by ARINSA, the Asset Recovery Unit to work through the Asset recovery cases. The proceeds of unlawful activities are transferred to the Asset Recovery Fund to ensure that criminals do not benefit from crime. During 2019, a sum of N$10 429 510.80 (613 500.64 USD) was forfeited to the State as a result of the various Asset Recovery laws.
- The technical assistance provided by ARINSA has, in turn, led to law enforcement agencies receiving benefits from the recovered assets. In 2019 the following distributions were made from the Asset Recovery Fund:
  - N$703,908.60 (48,545.42 USD) was released assigned to the Namibian Police to purchase a 4x4 vehicles and its trailer and accessories. The funds are currently being used for the benefit of the Asset Recovery Division within the Namibian Police to ensure that they have all the necessary equipment that would enable them to carry out investigations in a more efficient manner.
  - N$146,532.07 was released and assigned to the Namibian Police for investigations.
  - N$255,000.00 was released and assigned to the Ministry of Safety and Security to review and update Namibia’s AML/CFT/PF National Policy and Strategy.
N$1,150,408.00 was released and assigned to the Ministry of Finance to pay external auditors for criminal investigations.

The Asset Recovery regime has proven to be an essential instrument, not only for taking away the proceeds of unlawful activities, but also returning properties to the victims of such illegal activities. In 2019, a sum of N$527,034.18 (32,939.64 USD) was returned to victims of crime.

Two Namibian Prosecutors attended the PPP in 2019, making up a total of the participants, countrywide. Since the attendance of the PPP, Namibia has made great strides towards Conviction-Based and Non-Conviction based Asset Recovery.

ARINSA scheduled various trainings that were hosted in Namibia. These pieces of training placed Namibia in an advantageous position because there was a fair distribution of capacity building across multiple agencies in the country.

The Asset Recovery regime has proven to be an essential instrument, not only for taking away the proceeds of unlawful activities, but also returning properties to the victims of such illegal activities. In 2019, a sum of N$527,034.18 (32,939.64 USD) was returned to victims of crime.

A Judicial Colloquium was held in Windhoek, Namibia from 23-25 November 2019. 33 judicial officers from Namibia were in attendance.

Namibia has also participated in the ARINSA capacity building workshops and events in 2019.

Namibia also had the privilege of hosting an ARINSA placed mentor who worked with various officials/authorities in April 2019 by providing advice on potential and current confiscation cases. The mentor helped Investigators working with Prosecutors in the identification of potential asset forfeiture and money laundering cases. The mentor delivered a series of short lectures on asset recovery in general, with a focus on asset tracking and identification in Namibia and abroad, including provisional seizure and freezing, confiscation/forfeiture, asset management, case management and statistics.

Investigators from the Economic Crime Department, the Money Laundering Unit, Tax Authorities, Asset Forfeiture Unit and the Asset Management Unit participated in these sessions, which also included a discussion of several real-life cases. Dedicated training for drafting international requests were also provided. He also advised investigators at the Namibian Police and other law enforcement agencies on file management, forfeiture processes like search and seizures, document handling, interviewing and chain of evidence. The advice was also given on specific investigative methodology to be followed in addressing and investigating the proceeds of crimes.
RECOVERED ASSETS, FUNDS AND RESTRAINING ORDERS SECURED

In 2019, Namibia investigated 30 new cases of money laundering, with 12 of them being cases with seizures. The value of the seizure orders amounted to 523,973 USD. In addition, 10 successful forfeiture orders were obtained which amounted to the value of 339,994 USD.

NOTEWORTHY CASES

3. IN THE CRIMINAL CASE OF S V ZHAO ZHAO ZHOUBING
A Chinese national was charged with contravention of the exchange control regulations and money laundering offences in terms of section 6 of POCA. The accused absconded and his bail of N$100 000 was forfeited and paid to the Asset Recovery Fund.

On 5 February 2019, the High Court of Namibia on an application made by the Prosecutor General granted a preservation application in respect of 9 9991 USD. On 28 June 2019, the property mentioned above was forfeited to the state on the grounds that the property was acquired with proceeds from dealing in illegal diamonds, Fraud and money laundering. The total value of the property forfeited is N$139 875.40.

5. IN THE EX PARTE MATTER OF THE PROSECUTOR GENERAL CASE NUMBER HC-MD-CIV-MOT-POCA-2019/00454 (CIVIL FORFEITURE)
On 6 December 2019 the High Court of Namibia, on an application made by the Prosecutor General granted a preservation application in respect of 2 houses, a Jeep Cherokee, a home -built tractor, a Toyota Land Cruiser and a Volkswagen VW 250 Polo. The value of the properties preserved is N$3 500 000.

6. IN THE CRIMINAL CASE OF S V WANG KETHONG (CONVICTION-BASED)
A Chinese national businessman was convicted of contravening the exchange control regulations and for money laundering offences in terms of section 4 of POCA. He was sentenced to a fine of N$50 000.00 or imprisonment of 24 months. He paid the fine and a sum of 13 300 USD was confiscated to the State and settled into the Asset Recovery Fund.

7. IN THE MATTER OF THE PROSECUTOR GENERAL V DIVUNDU RAINBOW (CIVIL FORFEITURE)
The High Court of Namibia granted a forfeiture order in respect of N$517 698.43 in local bank accounts. The money was forfeited on the basis that it is the proceeds of illegal activities, namely, fraud and money laundering offences in terms of sections 4 of POCA. The forfeited sum of N$517 698.43 was thereafter paid to the victims.

<table>
<thead>
<tr>
<th>NUMBER OF NEW ML CASES*</th>
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<tr>
<td>30</td>
<td>12</td>
<td>523,973</td>
<td>10</td>
<td>339,994</td>
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</table>

Table 15: Recovered assets, funds and restraining orders secured
8. **IN THE EX PARTE MATTER OF THE PROSECUTOR GENERAL**  
**CASE NUMBER POCA 2019/00149 (CIVIL FORFEITURE)**

On 6 May 2019, the High Court of Namibia on an application made by the Prosecutor General granted a preservation application in respect to the positive balances in four bank accounts and two sectional title apartments on the grounds that the properties are the proceeds of contravention of the foreign exchange regulations and money laundering. Further, the sectional title apartments are instrumentalities of offences, namely, contravention of the exchange control regulation. The total value of the preserved properties is N$2 300 000.

**SIGNIFICANT JUDGMENTS FROM THE HIGH COURT AND SUPREME COURT OF NAMIBIA DURING 2019**

**ASSEGAAI V THE PROSECUTOR GENERAL- HIGH COURT**

In this case, the Prosecutor General obtained a preservation order in respect to the positive balances in four bank accounts and 2 Sectional title apartments on the grounds that the properties are the proceeds of contravention of the foreign exchange regulations and money laundering. Further, the sectional title apartments are instrumentalities of offences, namely, contravention of the exchange control regulation. The total value of the preserved properties is N$2 300 000 (135 294 USD).

The interested parties brought an application for rescission of the preservation order on the grounds that it was erroneously obtained. The Prosecutor General successfully raised a point in limine, inter alia, that the rescission application was based on the wrong statutory provision as it ought to have been made in terms of section 58 of POCA. The matter is currently proceedings for forfeiture.

**THE PROSECUTOR GENERAL V KAMUNGUMA- SUPREME COURT**

In this case, the Prosecutor General obtained a preservation order in respect of N$2 300 000 (135 294 USD) in a bank account and a vehicle on the basis that the money was proceeds of fraud and money laundering offences. In the High Court, the respondents successfully raised a technical point that it was not permissible for the PG to rely on affidavits deposed to in the preservation application without annexing those affidavits to her affidavit in support of the forfeiture application. The court concluded that as the evidence of the PG was based on hearsay, and there was no admissible evidence establishing that the preserved assets were proceeds of unlawful activities.

In the Supreme Court, the Court of Appeal overturned the High Court’s decision and forfeited the properties on the basis that it was proceeds of unlawful activities.

**THE PROSECUTOR GENERAL V KENNEDY- SUPREME COURT**

In this case, the Prosecutor General obtained a preservation of property order in respect of a vehicle on the basis that it was an instrumentality of rape. In the High Court, the Court dismissed the PG’s forfeiture application for the vehicle on the grounds that the vehicle was merely incidental to the commission of the offence.

On appeal, the Supreme Court overturned the High Court’s decision, the vehicle was functional to the commission of the crime. The Polo was reasonably directly connected to the crime and that it was the method by which respondent transported the complainant to the spot where he intended to rape her, and he did rape her.
IMAGES OF RECOVERED PROPERTY
MEDIA COVERAGE OF SOME OF THE CASES IN NAMIBIA

Judges clarify money laundering


Mixed Results in court for DRC general


AN ARMY general from the Democratic Republic of Congo had mixed fortunes in Namibian courts over the past six days, with the Supreme Court finding last
SEYCHELLES

98,297 (2020) ¹³

Seychelles Rupee (SCR)

2016

¹³ https://www.worldometers.info/world-population/seychelles-population/ accessed 24 May 2020
SEYCHELLES ASSET RECOVERY LEGISLATION

1. Proceeds of Crime Act (POCA).
2. The Anti-Money Laundering Act (AMLA)

The (POCA) act also makes provision for conviction (criminal) and non-conviction-based (civil) forfeitures.

IMPACT OF ARINSA

Seychelles has received a lot of support from ARINSA in various forms.

- In 2019, an ARINSA enlisted mentor was sent to Seychelles to conduct a gap analysis and identify areas that need support and technical assistance by ARINSA. The mentor completed a country visit to Seychelles with the primary objective to conduct an analysis of the country’s operational capacity to investigate and prosecute ML/TF cases and to seize and forfeit assets. The mentor would also provide recommendations for training and capacity building initiatives based on the gap analysis.

- A gap analysis was conducted from 17 June – 6 July 2019 in consultation with the following authorities: Financial Crime Investigations Unit (FCIU), Commissioner of Seychelles Police, Financial Intelligence Unit (FIU), Financial Services Authority, Attorney General’s Office, Ministry of Environment, Energy and Climate Change, Commissioner of Customs, British High Commission. The mentor compiled the report and shared it with ARINSA detailing all the gaps and areas where ARINSA could provide support.

- Key findings include a recommendation for Seychelles to develop standard operating procedures or manuals to guide ML/TF investigations and another SOP for assets management which will aid with the pending formalisation of an asset management legislation.

- Seychelles sought further assistance from ARINSA to obtain additional technical aid in designing such manuals to provide a step by step guide. The mentor has now been tasked to assist with this matter, starting in August 2020.

- Seychelles has also sent delegates from different government institutions that have benefited from the ARINSA conducted regional workshops. An ARINSA national workshop on law enforcement with an emphasis on cash smuggling was also held in Mahe, Seychelles in October 2019. The institutions that participated in this workshop included the Police, Tax authorities, Customs and FIU.
RECOVERED ASSETS, FUNDS AND RESTRAINING ORDERS SECURED

In 2019, Seychelles investigated seven new cases of money laundering, with four of them being cases with seizures. The value of the seizure orders amounted to 1,332,915 USD. No final forfeiture orders have been obtained yet.

NOTEWORTHY CASES

1. GOVERNMENT OF SEYCHELLES VS VLADIMIR BORISENKO

During January 2019 the Supreme Court of Seychelles granted an Interim Order (Section 3) under the Proceeds of Crime Act (POCCA) for the cash amount of 54,700.00 USD. The criminal conduct was the failure to declare monies found in his possession under Section 34A of the Anti-Money Laundering Act. On proceeding through Customs at Seychelles International Airport, Mr Borisenko did not declare the amount in his possession as required by law. He also changed his version of the origins of the cash on different occasions. The value of the property is 54,700.00 USD.

After a lengthy time in court, an Interlocutory Order (Section 4) was set down for 28 November 2019 for the ruling.

2. GOVERNMENT OF SEYCHELLES VS JOHN JOSEPH SIFFLORE & OTHERS

In July 2019 the Supreme Court of Seychelles granted an Interlocutory Order (Section 4) under the Proceeds of Crime Act (Civil Confiscation) for the suspected proceeds of drug trafficking to the amount of SCR 92,750.00 and Euro 230 and two motor vehicles. A third vehicle was sold contrary to the court order, and the seller of the vehicle was found guilty of Contempt of Court and fined SCR 95,000.00. The total value of the property is SCR 351,303.50.

11. GOVERNMENT OF SEYCHELLES VS NORTHERN STAR & OTHERS

During August 2019 the Supreme Court of Seychelles granted an Interim Order (Section 3) of the Proceeds of Crime Act (Civil Confiscation) for 16 motor vehicles. During an investigation by the Anti-Narcotics Bureau (ANB), four suspects were arrested for drug trafficking. The suspected drug traffickers had a car rental business and used the car rental as a front for their drug operations. The value of the property is SCR 4,311,209.00.

An application for an Interlocutory Order (Section 4) under the Proceeds of Crime Act (Civil Confiscation) has already been filed in court.

12. GOVERNMENT OF SEYCHELLES VS STEVE CHANG TAVE AND NATASIA CHANG TAVE

During September 2019 an application for an Interlocutory Order (Section 4) under the Proceeds of Crime Act (Civil Confiscation) was filed against a property belonging to two known drug traffickers. It is suspected that a property they own was obtained with the proceeds of crime that is drug trafficking.

<table>
<thead>
<tr>
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<th>USD VALUE OF NEW SEIZURE* ORDERS</th>
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<td>7</td>
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<td>1,332,915</td>
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<td>0</td>
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</tbody>
</table>

Table 16: Recovered assets, funds and restraining orders secured
13. GOVERNMENT OF SEYCHELLES VS PETER ROSELIE

During October 2019 the Supreme Court of Seychelles granted an Interim Order (Section 3) of the Proceeds of Crime Act (Civil Confiscation) for five brand new BMW X5’s. The criminal conduct was that Mr Roselie handed over false documents to Customs and the deceit led to Customs issuing an import permit. The handing over of the false documents committed the offence of forgery and uttering of false documents. The concealing and disguising of the source of the funds committed the offence of Money Laundering. The value of the five BMW X5’s is SCR 3, 546,245.00.

An Interlocutory Order (Section 4) is in the process of being applied for.

IMAGES OF RECOVERED PROPERTY

Money and vehicles seized from the “Government of Seychelles vs John Joseph Siflore & others” drug trafficking case
IMAGES OF RECOVERED PROPERTY

Seized vehicles from the “Government of Seychelles vs Northern Star & Others” drug trafficking case

Seized vehicles from the “Government of Seychelles vs Peter Roselie” forgery and money laundering case

Seized property from the “Government of Seychelles vs Steve Chang Tave and Natasia Chang Tave” drug trafficking case
SOUTH AFRICA

59.3 million (2020) ¹⁴

South African Rand (ZAR)

2009

SOUTH AFRICA ASSET RECOVERY LEGISLATION

The asset forfeiture Unit in South Africa falls under the mandate of the National Prosecuting Authority (NPA). In 1999, the NPA established the Asset Forfeiture Unit (AFU) to ensure the implementation of Prevention of Organised Crime Act, Act 121 of 1998 (POCA). The mandate of the unit is to take the profit out of crime by utilising both conviction and non-conviction-based confiscation and forfeiture proceedings.


PREVENTION OF ORGANISED CRIME ACT, ACT 121 OF 1998 (POCA)

In terms of Chapters 5 and 6 of POCA, only the NDPP is allowed to initiate or institute asset forfeiture proceedings. However, POCA specifically allows for parties, either foreign or domestic, with interest in the property to claim the property in the processes described hereunder.

Chapter 5 of POCA (Conviction based)

In terms of section 24 of the POCA a High Court may, for purposes of issuing a confiscation order, enquire into any benefit a convicted person may have derived from an offence.

Chapter 6 of POCA (Non-conviction based)

Section 38 of the POCA deals with preservation orders.

In terms of section 38((1) the National Director of Public Prosecutions may by way of an ex parte application apply to a High Court for an order prohibiting any person, subject to such conditions and exceptions as may be specified in the order, from dealing in any manner with any property.

- Section 38((2) provides that the High Court shall make an order referred to in section 38((1) if there are reasonable grounds to believe that the property concerned:
  o is an instrumentality of an offence;
  o is the proceeds of unlawful activities; or
  o is the property associated with terrorist and related activities.

For a full description of the act, please follow this link https://www.gov.za/documents/prevention-organised-crime-act

INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS ACT, 1996 (ACT NO. 75 OF 1996) (ICCMA)

The International Co-operation in Criminal Matters Act, 1996 (Act No. 75 of 1996) (ICCMA) governs the provision of mutual legal assistance from South Africa.

Chapter 4 thereof concerns confiscation and transfer of proceeds of crime. In terms of the ICCMA, assistance can be
provided to requesting States, when a formal letter of request has been issued. It is a requirement to apply for the letter of request as part of an asset forfeiture application which would then be issued by the court in terms of the ICCMA (see sec 2, 19 and 23). Only upon the Court granting such an application, is the letter sent to the Director-General for sending on to the requested State.

**IMPACT OF ARINSA**

South Africa plays a role of the of a mentor to a lot of ARINSA member states due to its long-standing experience and application of the civil forfeiture cases. The country also plays a role in hosting the ARINSA secretariat, which provides both the administrative (UNODC) and technical and operational assistance (NPA) functions to the network. The NPA further hosts annual PPP, an initiative where non-South African asset recovery lawyers from the relevant prosecution/law enforcement authorities are placed within the NPA Asset Forfeiture Unit for four weeks to gain practical experience in the field of Asset recovery.

South Africa further hosted six of the 13 ARINSA conducted regional workshops and has since participated in the following ARINSA capacity building workshops and events in 2019:

- Contact Points retreat and Regional Asset Management Workshop - Pre-Seizure Stage hosted in Cape Town, South Africa.
- Senior Managers: countering the Financing of Terrorism Train-the-Trainer workshop hosted in - Gaborone, Botswana.
- Regional Asset Management Workshop - Post-Seizure stage hosted in - Cape Town, South Africa.
- Regional Law enforcement on Cash Smuggling Workshop hosted in Dar es Salaam, Tanzania.
- Regional countering the Financing of Terrorism Train-the-Trainer workshop hosted in Nairobi, Kenya.
- Regional Wildlife Crime Train-the-Trainer Workshop hosted in - Pretoria, South Africa.
- UNODC-SADC Meeting on fostering international Cooperation on Illicit financial Flows and Asset forfeiture hosted in – Pretoria, South Africa.
- Regional Civil Advocacy Train-the-Trainer hosted in, Durban, South Africa.
- ARINSA AGM hosted in - Dar es Salaam, Tanzania.

**RECOVERED ASSETS, FUNDS AND RESTRAINING ORDERS SECURED**

In 2019, South Africa launched 17 new cases of money laundering. There were also on 167 cases with seizures reported. The value of the seizure orders amounted to 11,469,666 USD. In addition, three hundred and twenty (320) successful forfeiture orders were obtained, which amounted to the value of 16,504,381 USD.

<table>
<thead>
<tr>
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<td>167</td>
<td>11,469,666</td>
<td>320</td>
<td>16,504,381</td>
</tr>
</tbody>
</table>

*Table 17: Recovered assets, funds and restraining orders secured*
NOTEWORTHY CASES

As part of its endeavours to continue making an impact on several crime types, the AFU made a concerted effort to undertake cases addressing several priority crime areas such as drugs, fraud corruption, environmental crimes and illicit financial flows, amongst others. The cases mentioned here are some of the notable cases that were undertaken to address such focus areas.

1. ADDRESSING DRUG DEALING ACTIVITIES

NDPP VS SMIT AND OTHERS

The SAPS followed up on information they received and uncovered a hydroponic lab used to cultivate cannabis. The SAPS also found cannabis to the value of an estimated R10 million on the farm. The AFU Cape Town obtained a restraint in the amount of R22.8 million in the matter. The prosecution is ongoing.

TIERHOEK BOERDERY

The SAPS searched a farm and found narcotics, foreign currency and Kruger rands in possession of the accused. The AFU Cape Town obtained a confiscation in the amount of R3.5 million on 6 September 2019. To date, an amount of R1.25 million has been recovered and paid to victims.

2. ADDRESSING CORRUPTION

ROBERT ABBU AND OTHERS

This matter relates to allegations against the ex-Mayor of the Ethekwini Municipality (“Ethekwini”), Zandle Gumede (“ex-Mayor Gumede”), the Chairman of the Human Settlements and Infrastructure Committee, Councillor Mondli Mthembu (“Mthembu”), The Chairman of Ethekwini’s Bid Adjudication Committee (BAC), Sandile Ngcobo (“Ngcobo”) and the Deputy Head: Strategic and New Developments at DSW, Robert Abbu (“Abbu”), who acted in concert with four corporate entities to circumvent the outcome of the supply chain management (“SCM”) protocols of Ethekwini. As a result of being awarded the unlawful contracts, the said four corporate entities were paid R230 571 760.96 as at end February 2019.

On 4 October 2019 the Asset Forfeiture Unit, KZN obtained a restraint order to the value of R51.2 million. These assets include among other things immovable property located in Zimbali and Umhlanga Rocks, luxury vehicles which include a Lamborghini, Porsche and Jaguars, assets hidden in trusts and companies and cash in bank accounts. The court-appointed curator bonis has been ordered to locate a property to the value of R230 571 760.96. The criminal matter is ongoing.

MLONZI MATTER

In this matter employees of the Amathole District Municipality colluded with a paint supplier to commit tender fraud. The AFU obtained a restraint in the amount of R23.6 million. The criminal trial is ongoing.

NDPP vs SIYENZA 2

The matter entails the collusion between municipal employees and a service provider to build toilets in rural areas for the amount of R406 million. The AFU Eastern Cape obtained a further restraint to the value of R81 million in the ongoing case against the accused. The AFU already forfeited a house in this matter in the previous financial year.
3. ADDRESSING ENVIRONMENTAL CRIMES

NDPP VS MUDAU

A vehicle was confiscated as an instrumentality in the smuggling of a pangolin. The vehicle was forfeited to the State on 18 June 2019.

BYUGSHU KIM

The accused was found in possession of endangered flora and protected plants. The Cape Town Office of the AFU obtained a confiscation in the amount of R2.5 million against the defendant on 28 January 2020. To date, an amount of R976 746 has been recovered and paid into CARA on 24 February 2020, further recovery is ongoing.

PROJECT RAMBO

The SAPS Western Cape launched a project named Rambo targeting a syndicate involved in the poaching and smuggling of Abalone. The project was a great success. The AFU Cape Town obtained six separate preservation orders against proceeds held by the perpetrators. A total of R1.7 million was preserved on 18 September 2019 and forfeited on 9 December 2019. Recoveries are in the process of being finalised.

LIAO WEN CHEN

The AFU Cape Town obtained a preservation order against Liao Wen Chen and Daxiong Wen Chen for the illegal possession and smuggling of abalone. A preservation order was obtained on 7 June 2019 for R2.13 million. The matter is ongoing.

4. ADDRESSING MONEY LAUNDERING AND ILLICIT MONEY FLOWS

NDPP VS NIELSEN AND HAYAT

The AFU assisted Denmark in recovering monies and property bought with proceeds of fraud committed by Nielsen while in the employ of the Danish Government. She created false beneficiaries of social grants and paid the funds to herself. The AFU obtained a number of preservations in the previous financial years. The AFU received a forfeiture to the value of R3.89 million on 27 June 2019. Other forfeiture orders are in the process of being acquired. The recovered monies will be returned to Denmark.

NDPP VS WU

The matter entails the contravention of exchange control regulations. The South African Reserve Bank conducted an investigation into the dealings of Ultra Gain Trading CC and its sole member Li Yu and found clear contraventions of the regulations. The AFU obtained preservation in this matter on 30 April 2019 in the amount of R30.1 million. A forfeiture order was obtained on 6 February 2020 in the amount of R31.7 million. The recovery is in process.
F MOHAMED MATTER
The respondent attempted to smuggle cash in the amount of R18 million to Dubai while travelling from OR Tambo International. He was found in possession of USD 1.26 million and 4,520 Pounds Sterling. The Johannesburg office of the AFU obtained a forfeiture order to the value of R18.58 million on 11 September 2019. An amount of R25.8 million was recovered and paid into CARA on 17 December 2019. The increase in value is due to the weakening of the Rand.

PEC MATTER
The PEC matter involves monies obtained by means of an illegal pyramid scheme. The AFU obtained a forfeiture order in the amount of R137.5 million in this matter on 20 February 2020. The money is in the process of being recovered and will be paid to the victims.

AIKPEHAE MATTER
Police acted on information and searched the premises of the suspect. They found a large amount in foreign currency, which was undeclared. Suspect offered all the money found there as a bribe not to be arrested. Suspect arrested for possession of suspected stolen goods, foreign currency and attempted bribery. The AFU Johannesburg obtained a confiscation in the amount of R9.53 million on 16 July 2019.

MAKDA MATTER
The accused was involved in the bulk smuggling of cash from the OR Tambo International Airport. The Johannesburg Office of the AFU obtained a forfeiture order in the amount of R7.46m on 10 June 2019, and the full amount was paid into CARA by 8 July 2019.

5. ADDRESSING FRAUD/ECONOMIC CRIMES
NDPP vs UMNOTHO
The AFU obtained preservation for proceeds of tender fraud committed in the Eastern Cape to the value of R18 million.

BOBROFF MATTER
Ronald and Darren Bobroff carried on business as directors of Ronald Bobroff & Partners Inc (The Firm) where they practised as specialist personal injury attorneys. They had entered into multiple fee agreements with their clients. In some instances, up to three agreements were signed with each client: These agreements were, inter alia:

- Percentage contingency fee agreements also known as common law contingency fee agreements. In terms of this contingency fee agreement The Firm was entitled to a fee amounting to 25% to 30% plus VAT of the amount recovered on behalf of the client;
- An attorney and own client fee agreement. In terms of this agreement the firm is entitled to an hourly fee exclusive of VAT in respect of any work done on the clients’ behalf;
- A “no win – no fee” mandate. In terms of this agreement the firm is entitled to an hourly fee with respect to any work done by professional staff and non-professional services;
- A contingency fees agreement in terms of the Contingency Fees Act 66 of 1997 (the CFA). In terms of this agreement, the firm was entitled to fees in respect of all time spent at an agreed rate per hour plus VAT or part thereof pro rata and a success fee equal to double the standard fee in respect of all time spent at the hourly rate. The fee will be charged to the client will either be as calculated at the hourly rate stated earlier and doubled, or will be equal to an amount of 25% of the monetary award recovered on the client’s behalf, whichever is the lesser.

Ronald and Darren’s modus operandi was to convince clients to these agreements in order to disguise the aforesaid fraud, theft and tax evasion.

In addition, Ronald and Darren invested a substantial amount of the firm’s monies in a section 78(2A) investment account which was opened under the name “Zunelle”. The “Zunelle” account was, however, not reflected as a trust creditor account in the firm’s trust accounting records. The absence of the “Zunelle” account from the firm’s trust accounting records was highly unusual and indicated an intention on the part of Ronald and Darren to conceal the existence of the “Zunelle” account.

The monies were possibly invested in terms of section 78(2A) under the name of “Zunelle” to avoid the taxation of the interest earned on the monies invested while granting Ronald and Darren with the opportunity to launder funds without being detected.

Israeli authorities informed the AFU via the CARIN network that they had funds in a bank account held by Bobroff and his son. The AFU requested the Israeli authorities to freeze 27 million Israeli Shekels in the accounts of Darren and Ronald Bobroff.
The AFU brought a preservation application in terms of Section 38 of the Prevention and Combating of Corrupt Activities Act 121 of 1998 for R101.5 million.

The AFU has obtained a forfeiture order on 21 August 2019 for R104 million.

PAMELA PILLAY MATTER
The AFU Durban obtained two forfeiture orders to the value of R27.6 million and R12.6 million in respect of an inheritance that was stolen in terms of a fraudulent will. The recovery of the proceeds is ongoing.

TATA ZONKE (MBEMBA) MATTER
The accused were involved in the illicit smuggling of cigarettes across the border. The Mmabatho Office of the AFU obtained a confiscation in the amount of R11 million on 15 August 2019.

FERNANDES AND OTHERS
The accused committed VAT fraud in the amount of R110 million in VAT claims. The perpetrators were assisted by a SARS employee. The Cape Town office of the AFU confiscated an amount of R8.3 million on 21 February 2020. The recovery is in process.

BENGIS MATTER
In May 2001, the South African authorities seized a container containing unlawfully harvested West Coast Rock Lobster from Arnold Bengis and his company Hout Bay Industries Pty Limited. The said harvest was designated for the USA for distribution through Hout Bay's US associates.

Bengis and his associates were charged for violation of the South African Marine Living Resources Act 81 of 1998. In April 2002, Bengis entered into a Plea Bargaining Agreement in terms of which Hout Bay paid R12 million fine and consented to the forfeiture of two fishing boats valued at 7 049 08 USD. The forfeited amount was paid into CARA in full and final settlement of the criminal proceedings.

Arnold Bengis, Jeffrey Noll and David Bengis were prosecuted and convicted in the United States of America (USA) federal charges of violating the Lacey Act (importation of fish and wildlife in violation of foreign law) together with contravening the US Customs laws. On 19 July 2017, the United State District Court for the Southern District of New York made a forfeiture order against Arnold Maurice Bengis for USD 37.2 million (“the forfeiture Order”).

The Republic of South Africa, being a victim of the underlying crimes and having registered its claim in respect of the proceeds of the offences, was a party to the said proceedings. With the co-operation of the American Government and the Jersey Government, the monies were repatriated to South Africa. An amount of R99 million was paid into CARA on 22 July 2019.

NDPP vs NASSER AND OTHERS
The accused was caught in a trap buying unpolished diamonds from an undercover SAPS agent. The AFU Kimberley obtained a confiscation order in a previous financial year. Two recoveries were made in this matter. On 23 May 2019, an amount of R2.3 million was paid into CARA, and an amount of R1.9 million was paid into CARA on 15 August 2019.

6. STATE CAPTURE CASES

NDPP vs REGIMENTS CAPITAL
Management in Transnet colluded with Regiments Capital to re-invest the Transnet Employees’ Pension Fund. The pension fund was looted and the money used to buy stock and other assets. The Investigative Directorate secured a restraint on Capitec shares held by the perpetrators. The value of the shares at the time of the restraint amounted to R1.1 billion.

7. STATE CAPTURE INQUIRY
TANZANIA

59.7 million (2020)¹⁵

Tanzanian Shilling (TZS)

2009

¹⁵ https://www.worldometers.info/world-population/tanzania-population accessed 04 June 2020
TANZANIA ASSET RECOVERY LEGISLATION

3. The Drug Control and Enforcement Act, No 15 of 2015 as amended.

Tanzania is using conviction-based forfeiture to deprive criminals of their ill-gotten assets. The non-conviction-based forfeiture law in this country is still on the enactment process. Various pieces of legislations have forfeiture provisions but the main law that deals specifically with forfeiture and confiscation of the proceeds and instrumentalities of crime in Tanzania is THE PROCEEDS OF CRIME ACT (POCA) [Cap. 256 R.E. 2002] as amended.

1. THE PROCEEDS OF CRIME ACT, 2018

The Proceeds of Crime Act, 2018 make provisions for dealing with proceeds of crime, it applies to Tanzania Mainland. Zanzibar is using The Anti Money Laundering and Proceeds of Crime Act, No 10 of 2009 (AMLPOCA) to deal with asset forfeiture proceedings. All these laws are conviction-based law. The proceedings under POCA starts with an application for restraint order and ends with an application for forfeiture. Section 38(1) of Cap. 256 R.E.2002 provides for application for Restraint Order made by the Director of Public Prosecutions. The application is made even before the conviction of the accused with the purpose to preserve the value of the assets pending final determination of the case.

Section 9 & 14 provides for application and grant of confiscation/forfeiture Orders of the proceeds and instrumentalities of offence. The application is made by the Director of Public Prosecutions not later than six months from the conviction where a person is convicted of a serious crime.

In granting the orders sought the court may have regard to the following:

- Any hardship that may reasonably be expected to be caused to any person by the operation of such an order;
- The use that is ordinarily made or was intended to be made of the property; and
- The gravity of the offence concerned.

Section 21 of the Act provides for pecuniary penalty orders whereas the application can be made to the court for that order in respect of benefits derived by a person from the commission of an offence. The court can assess the value of the benefits acquired and grant the orders sought accordingly.
OTHER LEGISLATION WHICH PROVIDES FOR ASSET FORFEITURE


Sections 351 & 352 gives power to the court to forfeit the instrumentality of any crime after conviction of an accused person. The procedure is that prayer should be made by the prosecution on top of the sentence, which will be provided by the court.

The Drug Control and Enforcement Act, No 15 of 2015 as amended

Sections 46 to 53 provides for forfeiture to the government of properties owned by the drug convict on the date of conviction and three years before the date he was charged in court. The procedure for application for forfeiture orders are those provided under the Proceeds of Crime Act (aforementioned).

The Prevention and Combating of Corruption Act No. 11 of 2007

Sections 40-44 provides for the powers of the court to make an order for forfeiture of proceeds of corruption. This order can be made upon the prayer by the prosecution.

The Economic and Organized Crime Control Act, Cap 200 R.E 2002 as amended

This law has undergone several amendments where several serious offences in various laws have been added as economic offences, and therefore the forfeiture provision to be applied on conviction of those serious offences is that provided under EOCCA. Examples of the crimes which are now economic offences are money laundering, offences under section 18 of The Mining Act, Offences under Section 22 of the Electronic and Postal Communication Act etc.

Section 60(3) of the Economic and Organized Crime Control Act provides for the powers of the court to make orders of confiscation and forfeiture of instrumentalities and proceeds of crime in addition to any other sentence.

The Wildlife Conservation Act, 2009

Section 111(1) provides for the power of the court to order for forfeiture of instrumentalities of crime committed under this law together with forfeiture of animals, livestock or trophy in respect of which the offence was committed.

IMPACT OF ARINSA

• After joining ARINSA Tanzania established the Asset Forfeiture and Recovery Section (AFRS) at the National Prosecutions Services, formally the Office of the Director of Public Prosecutions, AFRS is responsible for coordination and institution of asset forfeiture proceedings in the country. Likewise, the Tanzania Police Force established the Financial Crimes Unit (FCU), which is responsible for financial and property investigation. The establishment of these Sections was a success due to proper guidance from ARINSA.

• Other benefits from ARINSA include participation in the Prosecutors Placement Programme (PPP) where to date 17 prosecutors have been benefited from the programme and improved their knowledge and skills needed to do asset recovery work.

• Furthermore, Tanzania has benefited from ARINSA training and judicial retreats for Judges, Magistrates, Prosecutors, Investigators and other law enforcement officers handling money laundering, wildlife crimes, terrorism financing, drugs and organized crimes and asset forfeiture. This helped the country to start the implementation of its asset forfeiture laws mainly the Proceeds of Crime Act (POCA) which despite being enacted in 1991 was not implemented by the time Tanzania joined ARINSA in 2009.

• Tanzania has also benefited from the Mentorship program coordinated by ARINSA where asset forfeiture
experts were stationed in the Asset Forfeiture Division/Units and Investigative Agencies to assist prosecutors and investigators in asset recovery investigation, drafting applications and review of asset forfeiture laws.

- ARINSA has enhanced our International Cooperation to a great extent, now Tanzania is able to informally cooperate with 16 member states with a view of obtaining information on the matters regarding asset forfeiture and other criminal matters before formally requesting for Mutual Legal Assistance.

Tanzania has also participated in the ARINSA capacity building workshops and events in 2019.

**RECOVERED ASSETS, FUNDS AND RESTRAINING ORDERS SECURED**

In 2019, Tanzania launched 67 new cases of money laundering. There were also ten cases with seizures reported. The value of the seizure orders amounted to 2,023,895 USD. In addition, seven successful forfeiture orders were obtained, which amounted to the value of 2,125,477 USD.

<table>
<thead>
<tr>
<th>NUMBER OF NEW ML CASES*</th>
<th>NUMBER OF NEW CASES WITH SEIZURES*</th>
<th>USD VALUE OF NEW SEIZE* ORDERS</th>
<th>NUMBER OF NEW FORFEITURE ORDERS (IN USD)</th>
<th>USD VALUE OF NEW FORFEITURE ORDERS (IN USD)</th>
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<tr>
<td>67</td>
<td>10</td>
<td>2,023,895</td>
<td>7</td>
<td>2,125,477</td>
</tr>
</tbody>
</table>

*Table 18: Recovered assets, funds and restraining orders secured*
NOTEWORTHY CASES

1. ECONOMIC CRIME CASE NO. 1 OF 2019, REPUBLIC VERSUS SAJID ABDALLAH AND 11 OTHERS

The accused persons stood charged in the Resident Magistrate’s Court of Mwanza with the offence of unauthorised possession of minerals. Upon arrest, they were found in possession of 327.59 kg of gold valued at Tshs 27,018,968,158, six kilograms of jewels, two purity measuring machines and money amounting to Tshs 305,000,000. On 27 March 2019 they were convicted and sentenced to pay a fine of Tshs 527,000,000. The Court further ordered the forfeiture of the 32.59 kg of gold, cash of Tshs 305,000,000 and two motor vehicles.

2. CRIMINAL CASE NO. 159,2018, REPUBLIC VERSUS GERALD AYATA

The accused was charged with the offence of unauthorised possession of minerals in Simanjiro District Court. The accused was found to be in possession of 495.328 gms of Tanzanite minerals valued at Tshs 7,136,000. On 13 March 2019, the accused was convicted of the offence he stood charges and was sentenced to pay a fine of Tshs 6,000,000. 495.328 grams of Tanzanite was forfeited to the government.

3. CRIMINAL APPEAL NO. 22 OF 2019, REPUBLIC VERSUS BAAREND VAN BRAKEL

The accused person was charged in the Resident Magistrate’ Court of Mwanza for the offence of unauthorised possession of minerals where he was found in possession of 5.72 kgs of gold valued at 171,459.35 USD. He was convicted and sentenced to pay a fine of Tshs 10,000,000 and Tshs 27,000,000 as royalty. In addition, the Court forfeited the 5.72 kgs of gold to the government. The accused's appeal to the high court was dismissed for lack of merit.

4. CRIMINAL CASE NO. 265 OF 2019, REPUBLIC VERSUS KUMAR PATEL AND ANOTHER

The accused persons were charged with the offences of failure to keep a mineral register and failure to keep minerals in safe custody in the Resident Magistrate’s Court of Arusha. Upon their arrest, the accused persons were found in possession of coloured gemstone weighing 34.822 kgs valued at Tshs 53,569,639.43. On 8 July 2019 the accused persons were convicted and sentenced to pay a fine of Tshs 50,000,000 and further, forfeited the 34.822 kgs of gold to the Government.

5. ECONOMIC CRIMES CASE NO. 18 OF 2019, REPUBLIC VERSUS ROONEY AND 2 OTHERS

The accused were arraigned in the Resident Magistrate’s Court of Mbeya with the offence of unauthorized possession of minerals. The accused were found in possession of 1,043.33 grams of gold valued at Tshs 8,508,65.65. Upon being convicted on 10 July 2019, the accused were sentenced to pay a fine of Tshs 30,000,000 and 1,043.33 of gold were forfeited to the government.

6. ECONOMIC CRIME CASE NO. 46 OF 201, REPUBLIC VERSUS FAISAL ABDLAZIZ ALY & OTHERS

The accused persons stood charged with the offences of unauthorized disposition of minerals and occasioning loss to the specified authority in the Resident Magistrate’s Court of Dar es Salaam at Kisutu. On 27th August, 2019, both accused persons were convicted of the offences they were being charged of and sentenced to pay a fine of Tshs 125,000,000. Subsequently, the Court ordered the accused persons to compensate the Mining Commission the amount of Tshs 261,513,13 and forfeited Tshs 42,470,000 and 75,000 Rwandan Franc to the Government.

7. ECONOMIC CRIME CASE NO. 5/2019, REPUBLIC VERSUS DONALD NJONJO & OTHERS

The accused persons were charged in the Resident Magistrate’s Court of Dar es Salaam at Kisutu for the offences of unauthorized disposal of minerals and money laundering. The persons were accused of unlawfully disposing of 2,794.5 grams of gold valued at 121,155.45 USD. They were convicted on the offences charged on 11 September 2019 and sentenced to pay a fine of Tshs 113,000,000. Further, the Court forfeited the gold bars and jewels, and Tshs 22,765,000 were deposited in the Asset Forfeiture and Recovery Account.
8. **ECONOMIC CRIMES CASE NO. 8 OF 2018, REPUBLIC VERSUS CHARLES MARWA WARIOBA AND ANOTHER.**

The Resident Magistrate’s Court of Mwanza on 5 September 2019 convicted and sentenced the accused persons who were charged with the offences of unlawful exportation of minerals weighing 35.34 kgs of gold valued at Tshs 2.2 billion. Hence, the accused were sentenced to pay a fine of Tshs 230,000,000 and 35.34 kgs of gold forfeited to the government.

9. **MISCELLANEOUS ECONOMIC APPLICATION NO. 18 OF 2019, REPUBLIC VERSUS RAJA EDWARD MABANGA**

The accused was found in possession of 66.60 carats of diamond valued at Tshs 7,303,503 and was arraigned in the Resident Magistrate’s Court of Dar es Salaam at Kisutu for the offence of Unlawful possession of Minerals. However, the accused died before the hearing of the matter. The Republic thus lodged a forfeiture application in Court, and the 66.60 carats of diamond were forfeited to the Government on 9 September 2019.

10. **ECONOMIC CRIME CASE NO. 47/2019, REPUBLIC VERSUS KELVIN ESSOA NKONYI**

The accused was found dealing in the business of exportation of minerals without having a licenced permit, thus was arraigned in the Resident Magistrate’s Court of Dar es Salaam at Kisutu for the offence of unlawful exportation of minerals for possession of 500 grams of gold valued at 21,465 USD which is equivalent to Tshs 49,370,588.55. On 25 July 2019, the Court both convicted and sentenced the accused to pay a fine of Tshs 3,000,000 and forfeited the 500 grams of gold to the Government.

11. **ECONOMIC CRIME CASE NO. 41/2019 REPUBLIC VERSUS MIRAJDIN IBRAHIM TAJDIN**

On 1 August 2019, the Resident Magistrate’s Court of Dar es Salaam at Kisutu convicted the accused persons who stood charged with the offence of unauthorised possession and exportation of minerals and possession of an unrefined gold bar weighing 8.7 grams valued at 3,636.2 equivalent to Tshs 8,364,916. Upon conviction, the Court sentenced the accused to pay a fine of Tshs 20,000,000 and forfeited the unrefined gold bar to the Government.

12. **ECONOMIC CRIMES CASE NO. 61/2019 REPUBLIC VERSUS HANY AHMED ABDELSALAM AHMED**

The accused was charged in the Resident Magistrate’s Court of Dar es Salaam at Kisutu with the offence of unauthorized exportation of minerals which were 11.12 carats of diamond valued at 5,238.12 USD equivalent to Tshs 12,050,113.42. On 30th July, 2019, the accused was convicted and sentenced to pay a fine of Tshs 5,000,000 and the 11.12 carats of diamond were forfeited to the Government.

13. **ECONOMIC CRIME CASE NO. 73 OF 2017, REPUBLIC VERSUS HAFIDHI SHAMTE@ RASHID SHAMTE AND OTHERS**

The accused persons were charged in the Resident Magistrate’s Court of Dar es Salaam at Kisutu with the offences of undercharging and occasioning loss to the specified authority. On 7 October 2019, the accused persons were convicted sentenced to pay a fine of Tshs 30,000,000 each and on top of the sentence they were ordered to compensate the Government the amount of 3,748,751 USD. Further, the Court forfeited a house located on Pot No. 33 Mikocheni Medium Density Dar es Salaam to the Government.

14. **ECONOMIC CRIME CASE NO. REPUBLIC VERSUS LI LING AND OTHERS**

The accused persons were charged with the offence of unlawful possession of government trophies in the Resident Magistrate’s Court of Dar es Salaam. In October 2019, they pleaded guilty to the charges and were convicted on their plea and sentenced to pay a fine of Tshs 70,000,000. Further, the Court forfeited a motor vehicle make TOYOTA PRADO with Registration Number T 982 CDH.
IMAGES OF RECOVERED PROPERTY

Confiscated Minerals (Stone gems and Blue Sapphire, and Gold)

Confiscated Gold and cash
UGANDA

45.6 million (2020)  

Ugandan Shilling (UGX)

2018

UGANDA ASSET RECOVERY LEGISLATION

- The Anti-Corruption Act as amended. Provides for restraining and confiscation of crime proceeds under Sections 53 -64.
- The Anti Money Laundering Act: Provides for the restraining orders, confiscation orders, pecuniary orders (Section 71 to 97 of the Anti-Money Laundering Act).
- The Trial on Indictment Act and Magistrates Court Act: These are procedural laws for High Court and Magistrate Courts, respectively, and they empower courts to award compensation to victims of crime.

Uganda is still using only the conviction-based legislation and lacks legislation for civil forfeiture. Furthermore, there is still a challenge with Uganda not having a dedicated Asset management division in place to manage all the seized and recovered assets.

IMPACT OF ARINSA

Uganda has registered several benefits from its association with and membership to ARINSA.

- Key among these benefits is capacity building for Law Enforcement Officers:
  - Ugandan law enforcement officers including prosecutors, investigators, financial analysts and wildlife officials have been trained in asset recovery, asset management, money laundering, cybercrime, handling wildlife crimes, counter-terrorism and financing of terrorism in 2019.
  - All prosecutors in the Asset Recovery Division have attended and received training from the Prosecutor Placement Program offered by ARINSA. To date, ten prosecutors have been trained under PPP with 2 Prosecutors trained on beneficial ownership.
- In addition, Uganda benefited from the Mentorship Programme in 2019, during which an expert worked with us to identify training needs in handling asset recovery and money laundering cases.
- Establishing contacts with other ARINSA contact persons for easy exchange of information.

- With the acquired skills from the various training, Uganda has registered several achievements, including:
  - Establishment of the Asset Recovery Division and an Asset Recovery Account.
  - Improved capacity to investigate and prosecute asset recovery and money laundering cases that has resulted in effective recoveries and restraining of illicitly acquired property.
  - Secured Restraining Orders in several cases.
  - Cascading the acquired skills and knowledge through training of other law enforcement officers (mainly investigators and prosecutors, who have not benefited from ARINSA trainings).

NOTEWORTHY CASES

- Uganda Vs. Kamya Valentino & 3 Others involving Shs.8.4 billion (approximately USD 3 million).
- Uganda Vs. Sserwamba David & Others involving 1,450,000 USD.

RECOVERED ASSETS, FUNDS AND RESTRAINING ORDERS SECURED

In 2019, Uganda investigated six new cases of money laundering, of which three of them were cases with seizures. The value of the seizure orders amounted to 102,203 USD. In addition, nine successful forfeiture orders were obtained, which amounted to the value of 105,426 USD.

<table>
<thead>
<tr>
<th>NUMBER OF NEW ML CASES *</th>
<th>NUMBER OF NEW CASES WITH SEIZURES *</th>
<th>USD VALUE OF NEW SEIZURE * ORDERS</th>
<th>NUMBER OF NEW FORFEITURE ORDERS</th>
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<td>6</td>
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<td>102,203</td>
<td>9</td>
<td>105,426</td>
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</table>

Table 19: Recovered assets, funds and restraining orders secured

RESTRAINING ORDERS SECURED / SEIZED PROPERTY

- Uganda has also initiated an execution process to recover Shs.50,623,859,290 (approximately 14,062,185 USD) in cases where criminals were ordered to repay stolen funds to the government.
- Also obtained restraining orders restricting the disposal of 201 real estate property, 12 motor vehicles, shares in 3 private companies and funds on bank accounts.
- Eight hundred thirty two (832) pieces of ivory weighing 2,903kg and Pangolin scales were seized from Vietnamese nationals, who are being prosecuted for being in possession of prohibited goods.
ZAMBIA

18.3 million (2020) ¹⁷

Zambian Kwacha (ZMW)

2009

¹⁷  https://www.worldometers.info/world-population/zambia-population/ accessed on 26 May 2020
Money laundering investigations in Zambia are conducted by various law enforcement agencies which include the Anti-Money Laundering Investigations Unit (AMLIU), The Anti-Corruption Commission (ACC), The Zambia Police Service (ZPS) and the Zambia Revenue Authority (ZRA). The country has an Administrative type of Financial Intelligence Unit which gathers financial intelligence and receives all suspicious transaction reports and disseminates them to the different law enforcement agencies. After investigations have been concluded, prosecution of all the matters is done by the Director of Public Prosecutions (DPP) who heads the National Prosecutions Authority.

**ZAMBIA ASSET RECOVERY LEGISLATION**

In Zambia, there are a plethora of Laws that provide for forfeiture of proceeds of crime and instrumentalities of crime. Be that as it may, the spirit of the Forfeiture of Proceeds of Crime Act (FPOCA) No. 19 of 2010 is that all forfeitures should be done under FPOCA.

- In 2012, Cabinet approved the structure of the National Prosecutions Authority (NPA), which included the Asset Forfeiture Department (AFD). One of the strategic objectives of AFD is to enforce the provisions of FPOCA. The AFD is meant to ensure that FPOCA is effectively implemented. FPOCA provides for conviction-based forfeiture, non-conviction-based forfeiture and confiscation.

- The AFD’s cooperating agencies are Zambia Police, Drug Enforcement Commission, Anti-Corruption Commission, Task Force on the Mukula Tree, Zambia Revenue Authority (ZRA), Financial Intelligence Center (FIO), Bank of Zambia, Road Transport and Safety Agency (RATSA), Patents and Company Registration (PACRA), Immigration Department, Securities and Exchange Commission.

As earlier stated, Zambia has various legal provisions that provide for forfeiture of property used in or realised from the commission of crimes. The following are the various fragmented pieces of legislation which also provide for forfeiture or confiscation:

5. Customs and Excise Act, Cap 322.
8. The Merchandise Marks Act.
IMPACT OF ARINSA

Zambia greatly benefited from its membership and close association with ARINSA in the following:

CAPACITY BUILDING

During the year under review Zambia had the privilege of having officers in key Institutions trained in the following programs that were held by ARINSA and UNODC:

- Four officers attended training on Civil Advocacy in Civil Forfeiture applications held in Lusaka. This training was facilitated by ARINSA together with UNODC.
- 2 Prosecutors attended Prosecutor Placement Program in South Africa.
- A National Anti-Smuggling workshop in Lusaka at Sarovar Hotel which was attended by five stakeholder institutions.
- 3 ARINSA national wildlife workshops for Game Rangers and Investigators were held in Chilanga, Lusaka. The participants for the workshop were drawn from different provinces around the country.
- An officer from NPA attended an ARINSA wildlife training in Malawi in October 2019.
- An officer attended a UNODC Train-the-Trainers Workshop in Kenya on Countering Terrorism Financing in October 2019.

- The AFD through the support of UNODC and ARINSA organized and conducted a CFT training at Protea Tower were 10 Institutions were represented.
- 5 officers attended a train the trainer wildlife training in Livingstone organized by ARINSA in December 2019.
- Three officers attended a train the trainer Workshop on Civil Advocacy on Asset Forfeiture organized by ARINSA in Durban in December 2019.
- The DPP with one officer attended a High delegation Meeting in Pretoria organized by ARINSA and APA in January 2020.
- 12 Public Prosecutors and Advocates in the National Prosecution Authority are currently undertaking the e-learning on Money Laundering course being offered on the UNODC e-learning platform.

TECHNICAL ASSISTANCE

A Mentor was designated to Zambia to mentor law enforcement officers in Zambia. The institutions who benefited from the Mentor were:

- National prosecution Authority;
- Drug Enforcement Commission;
- Financial Intelligence Unit;
- Zambia police;
- Department of National Parks and Wildlife;
- Zambia Revenue Authority;
- Immigration;
- Anti-Corruption Commission;
- Bank of Zambia; and
- Anti-Terrorism Centre.

The mentor held one on one meetings with key officers and workshops with Investigators, Advocates and Public Prosecutors on Money Laundering. There were five Workshops conducted by the Mentor in conjunction with the AFD. Further Zambia received technical assistance in the area of Asset Management through the development of a draft Asset Management Manual.
In 2019, Zambia investigated 232 new cases of money laundering, of which 70 of them were cases of seizures. The value of the seizure orders amounted to 7,145,298 USD. In addition, nine successful forfeiture orders were obtained, which amounted to the value of 6,588,000 USD. Zambian Contact Points have attributed the spike in money laundering investigations to several reasons, including more exceptional awareness campaign drives around the country.

### NOTEWORTHY CASES

1. **IMMOVABLE ASSETS**
   - The country forfeited 51 houses and 11 plots under Administrative Forfeiture from one case which involved a public official. Below are some of the photos of the said houses.
   - In the case of THE PEOPLE V FRED HALWINDI, a house valued at 75,000.00 USD was forfeited to the State in the Eastern Province of Zambia under Conviction Based Forfeiture.
   - On Residential house in one case was forfeited to the State under Conviction based forfeiture.

<table>
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<tr>
<th>NUMBER OF NEW ML CASES*</th>
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Table 20: Recovered assets, funds and restraining orders secured
2. MOVABLE ASSETS

- In the case of DPP V. RE 12 VEHICLES, twelve motor vehicles were forfeited to the State under non-conviction-based forfeiture from one case.
- In the case of THE PEOPLE V MARTIN MUKANZU +1, a Toyota Fortuner has forfeited to the State under Conviction based forfeiture from one case.
- In the case of THE PEOPLE V. PHILIP GANDER, a Mercedes Benz Motor vehicle was forfeited to the State under Conviction based forfeiture.
- In the case of DPP V ABRAHAM HEZBORN CHINTU & OTHERS, nine Motor vehicles and ZMW 934, 272, 19,509 USD were forfeited to the state under non-conviction-based forfeiture and restituted to complainants.
- Two motor vehicles were forfeited to the State in one case together with money amounting to 40,000.00 USD.
- In a case referenced, LIV/IR01/2009, LIV/CR 12/2009, six pieces of natural diamonds weighing 11.9 CARATS valued at 22,800.00 (at the rate of 100.00 USD to 150.00 USD per carat).

3. CASH

- In the case of THE PEOPLE V BEN KAPOKA, 10,000.00 USD was forfeited to the State under Conviction based forfeiture in one case.
- In the case of THE PEOPLE V ALFRED SAKALA + OTHERS, 5,900.00 USD was forfeited to the State in a settlement out of court.
IMAGES OF RECOVERED PROPERTY

Motor vehicles were forfeited to the State

Immovable assets under administrative forfeiture from one case which involved a public official
ZIMBABWE

14.8 million (2020) ¹⁷

Zimbabwean Dollar/ US Dollar

2009

¹⁷ https://www.worldometers.info/world-population/zimbabwe-population/ accessed on 26 May 2020
ZIMBABWE ASSET RECOVERY LEGISLATION

Zimbabwe uses both conviction-based and non-conviction-based methods to forfeit assets and has the following legislation in place:

1. The Criminal Procedure and Evidence Act
2. The Customs and Excise Act
3. The Parks and Wildlife Act
4. The Trafficking in Persons Act
5. The Money Laundering and Proceeds of Crime Act
6. Exchange Control Act

The principal legislation regarding conviction-based asset forfeiture is the Criminal Procedure and Evidence Act [Chapter 9:07].

- Section 62 empowers the court convicting any person of any offence the power to declare forfeited to the State any weapon, instrument, the article used in the commission of the offence or any article seized. In addition, there are other pieces of legislation which provide for conviction-based asset forfeiture.
- Section 188 of the Customs and Excise Act [Chapter 23:02] provides for the forfeiture of any goods which are the subject matter of an offence under the Act and any ship, aircraft, vehicle or any other thing used for the removal of goods which are liable to forfeiture.
- Section 106 of the Parks and Wildlife Act [Chapter 20:14] empowers the court to order the forfeiture of any weapon, explosive, fishing net, tent, vehicle, aircraft or boat used in connection with an offence under the Act.
- In terms of section 6 of the Trafficking in Persons Act [Chapter 9:25] proceeds from or instrumentalities of the crime of trafficking in persons or property which has been, is being, or is intended to be used commit the crime, or property which belongs to or is controlled by any organised criminal group involved in the commission of the offence is tainted property and therefore liable to forfeiture.
- Section 50 provides for the confiscation of any property identified as tainted property or terrorist property where a person is convicted of a serious offence.
- Section 79 empowers the Court to issue civil forfeiture orders in respect of property that is suspected to be tainted or terrorist property whenever such property is identified. In addition, the Act provides for the granting of unexplained wealth, freezing, interdicts, as well as benefit recovery orders.
IMPACT OF ARINSA

Zimbabwe has benefited from ARINSA in several ways. Below are some of the benefits of being an ARINSA member:

- The country received assistance in drafting the Money Laundering and Proceeds of Crime Act.
- Another form of assistance was provided in drafting unexplained wealth legislation which has since been passed.
- Assistance with requests for mutual legal assistance with other states.
- Two Zimbabwean Prosecutors attended the ARINSA Prosecutor Placement Programme in 2019.
- Capacity Building Workshops on Asset Forfeiture, Asset Management, Wildlife.
- Assistance in drafting the Asset Recovery Manual.
- Mentorship Programmes - In 2019 Zimbabwe also hosted an ARINSA advisor who completed the operational gap analysis for the country and identifying gaps that needs the support of ARINSA or national government response. One of the key recommendations was that ARINSA should deliver workshops on Combating Cash Smuggling for the Zimbabwe authorities as it is very common to see travellers carrying large amounts of cash through the border and Zimbabwe law enforcement agencies requested a workshop on how to detect and seize currency and BNI that are not for legitimate use.
- ARINSA further conducted a national wildlife law enforcement workshop for Investigators, Wildlife Officers and Prosecutors held in Victoria Falls, Zimbabwe. The participants for the workshop were drawn from different provinces around the country.

RECOVERED ASSETS, FUNDS AND RESTRAINING ORDERS SECURED

In 2019, Zimbabwe investigated 232 new cases of money laundering, of which seventy 70 were cases with seizures. The value of the seizure orders amounted to 7,145,298 USD. In addition, nine successful forfeiture orders were obtained, which amounted to the value of 6,588,000 USD.

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Table 21: Recovered assets, funds and restraining orders secured
Zimbabwe Anti-Corruption Commission (ZACC) chairperson Justice Loice Matanda-Moyo says the commission has recovered property worth over $100 million from looters as efforts intensify to combat graft.

She said ZACC had registered an increase in criminal convictions of late and was working with academics to come up with legal structures to enhance the fight against corruption.

Justice Matanda-Moyo said this in an interview on the sidelines of a signing ceremony for a Memorandum of Understanding (MoU) between ZACC and other stakeholders such as the National Prosecuting Authority (NPA), Reserve Bank of Zimbabwe’s Financial Intelligence Unit, Zimbabwe Republic Police (ZRP), the Immigration Department and the University of Zimbabwe (UZ), among others.

She said ZACC was only dealing with the forfeiture of properties and money, while the NPA was going to court for confirmation.
Conclusion and Way Forward

Through observations and lessons learned, 2019 has been one of ARINSA’s busiest calendar year, for both the network and the members, respectively. A great deal has been achieved in terms of increasing the footprint of the network as a key player in fighting crime and disrupting illicit financial flows in the region. Member states have updated and reinforced their legislations to support their efforts on asset recovery. Typical examples of such countries are Madagascar, Botswana and Tanzania. Other members have made great strides in setting up their Asset Recovery Regime, for instance, in the case of Eswatini and Mozambique. There has also been a general increase in the number of requests received from similar networks such as CARIN, confirming the effectiveness of dealing with proceeds of crime through these types of networks. The secretariat reported 19 cases, referred to in ARINSA countries and through other networks such as CARIN and Asset Recovery Interagency Network – Asia Pacific (ARIN-AP).

An increase in collaboration and enhanced exchange of information between counterparts in the member states has also been noted, where countries are sharing best practices and supporting those who are still catching up in terms of their asset recovery regime and legislation. A multi-stakeholder meeting held in Mozambique is one of such cases where a three-day meeting was conducted with different national government agencies. The focus of the meeting was collaboration on anti-corruption and money laundering in particular on prevention, law enforcement, and international cooperation. Another case of collaboration and exchange of information was observed with the support and information provided to Eswatini by other members in drafting legislation that guides the role and functions of the AFU.

With regards to building ARINSA’s profile and increasing its footprint, the ARINSA secretariat has reached out to United Nations Economic Commission for Africa (UNECA) and other UN bodies, as well as to relevant organisations involved in financing for development, such as SADC and ESAAMLG in building a partnership. In 2019, ARINSA hosted joint-meetings with SADC, APA and ESAAMLG on fostering international cooperation on illicit financial flows and asset forfeiture. These meetings facilitated the ongoing exchange of experiences in the implementation of existing global, regional and national initiatives to combat IFFs, as well as views on how best to achieve further progress to address identified challenges. Apart from highlighting the benefits of international cooperation, these meetings shed light on the importance of national-level coordination and collaboration, and the need to use forfeited assets for development initiatives and the strengthening of law enforcement infrastructure. There are also future meetings planned with the Southern African Chief Justices Association (SACJF) and SARPCCO which intend to continue this dialogue.

ARINSA has also partnered with civil society, particularly academia, in the implementation of some of its activities. In this regard, the City of London University worked closely with the ARINSA secretariat and Contact Points in the development of the proceeds of crime casebook. The judicial officers and prosecutors have highly appreciated the casebook in the regions, and a lot of extra printed copies have been requested through ARINSA Contact Points and from the few judicial retreats conducted. ARINSA secretariat is in further talks to partner with the University of Cape Town in the development of accredited training modules for some of the e-learning courses.

Moving forward, ARINSA aims to continue to advance the dialogue on asset forfeiture through all its platforms to escalate the development of innovative approaches and practices in pursuing the tracing, recovery and return of stolen assets as well as disrupting the illicit financial flows in the region.
We, the Representatives of the Members of the Asset Recovery Inter-Agency Network of Southern Africa (ARINSA), having assembled in Dar es Salaam, Tanzania, on 12 June 2019, to reaffirm our shared commitment to strengthen asset recovery and foster cooperation and information exchange between ARINSA Contact Points and international partners:

Noting with concern that transnational organised crime and illicit financial flows resulting from crimes such as corruption, terrorist financing, wildlife crime, illegal fishing, cybercrime, illicit drug trafficking, illicit trafficking in precious metals, illicit mining, illicit trade of timber and wildlife, trafficking in persons, cause inestimable damage in Africa and continue to be challenges that do not recognise national or regional boundaries;

Recognising the negative impact of transnational organised crime and illicit financial flows to security and development, and acknowledging the adverse effect to service delivery, infrastructure and society at large including vulnerable communities or groups such as women and children;

Determined to deny safe haven for and disrupt the flows of illicit finance related to criminal activities;

Recognising that in order to deprive criminals and terrorist organisations of the proceeds and instrumentalities of crime, it is crucial that Member take all measures to seize, freeze and confiscate all proceeds and instrumentalities;

Recognising the need for engaging at both regional and international levels to facilitate the recovery of assets and the exchange of information;

Recognising that the proceeds of crime, if confiscated, can be used to address the damage caused, compensate victims, as well as contribute to initiatives such as supporting law enforcement to fight crime and recover assets;

Recognising that ARINSA is aimed at strengthening international cooperation for the recovery of the proceeds of crime and countering the financing of terrorism;


Acknowledging that although individual and collective efforts by members in asset recovery have made strides, there remains a need for further attention given that member countries continue to incur losses through illicit financial flows;

Aware that the context outlined above requires ARINSA members to take proactive steps to enact appropriate legislation, and ensure quality investigations, prosecutions and asset recovery;

Recognising in this regard, that asset forfeiture units and practitioners working in this area remain under-resourced, thus unable to effectively address the scourge of trans-national organised crime and illicit financial flows;

Recognising the importance of strong inter-agency coordination amongst various national law enforcement agencies and other institutions whose work is relevant to asset forfeiture;

Recognising that effective management and preservation of seized and confiscated assets remain crucial for the realisation of the proceeds and instrumentalities of crime;

The Dar es Salaam Declaration on Strengthening Asset Forfeiture for Development

ANNEXURE
Recognising the merits of providing certainty as to the destination of recovered funds such as through asset forfeiture funds;

Recognising the need to strengthen capacity building at both regional and national levels of those in law enforcement working in asset forfeiture to address this challenge effectively.

To that end, aware of the need for joint action, ARINSA Members undertake to:

- **Promote** ARINSA and the asset forfeiture agenda in both national and international fora and ensure that asset forfeiture remains in the forefront both on the development agenda, as well as a major tool in the fight against transnational organised crime and illicit financial flows;

- **Strengthen** cooperation with both regional and international partners working in asset forfeiture;

- **Strengthen** inter-agency coordination amongst various national practitioners working in asset forfeiture;

- **Continue** efforts to strengthen capacity at both regional and national levels to address transnational organised crime and illicit financial flows effectively, in particular to mitigate its impact on service delivery, infrastructure and society at large, including vulnerable communities or groups such as women and children;

- **Encourage** the development and sharing of expertise and/or the creation of joint task teams to promote regional asset forfeiture, as well as cooperation through regional joint investigations;

- **Implement** measures that enable effective management of assets to ensure the preservation and eventual realisation of their value;

- **To continue support** to the ARINSA Contact Points to enable their further contribution and participation in the network;

- **To strengthen** asset forfeiture processes and capacity building to enhance the regional ability to counter money-laundering and illicit financial flows;

- **Undertake** and continue to adopt and enhance national measures to strengthen capacity building and international cooperation mechanisms;

- **Strive to secure** additional financial and human resource allocation to law enforcement or asset forfeiture units to fight crime and forfeit the proceeds of crime and other assets;

- **Consider** the direct use of a portion of the recovered funds to fund national and/or regional asset forfeiture initiatives;

Official communique on the assets recovered in Angola