



ARINSA

ASSET RECOVERY
INTER-AGENCY NETWORK
SOUTHERN AFRICA

TAKING THE PROCEEDS FROM CRIME

THE STORY OF ARINSA

Seychelles
Tanzania
Mauritius
Zambia
Zimbabwe
Angola
Botswana
Kenya
Malawi
Mozambique
Uganda
Lesotho
Swaziland
Madagascar
South Africa
Namibia
Seychelles
Tanzania
Mauritius
Zambia
Zimbabwe
Angola
Botswana
Kenya
Malawi
Mozambique
Uganda

Taking the Proceeds from Crime The Story of ARINSA



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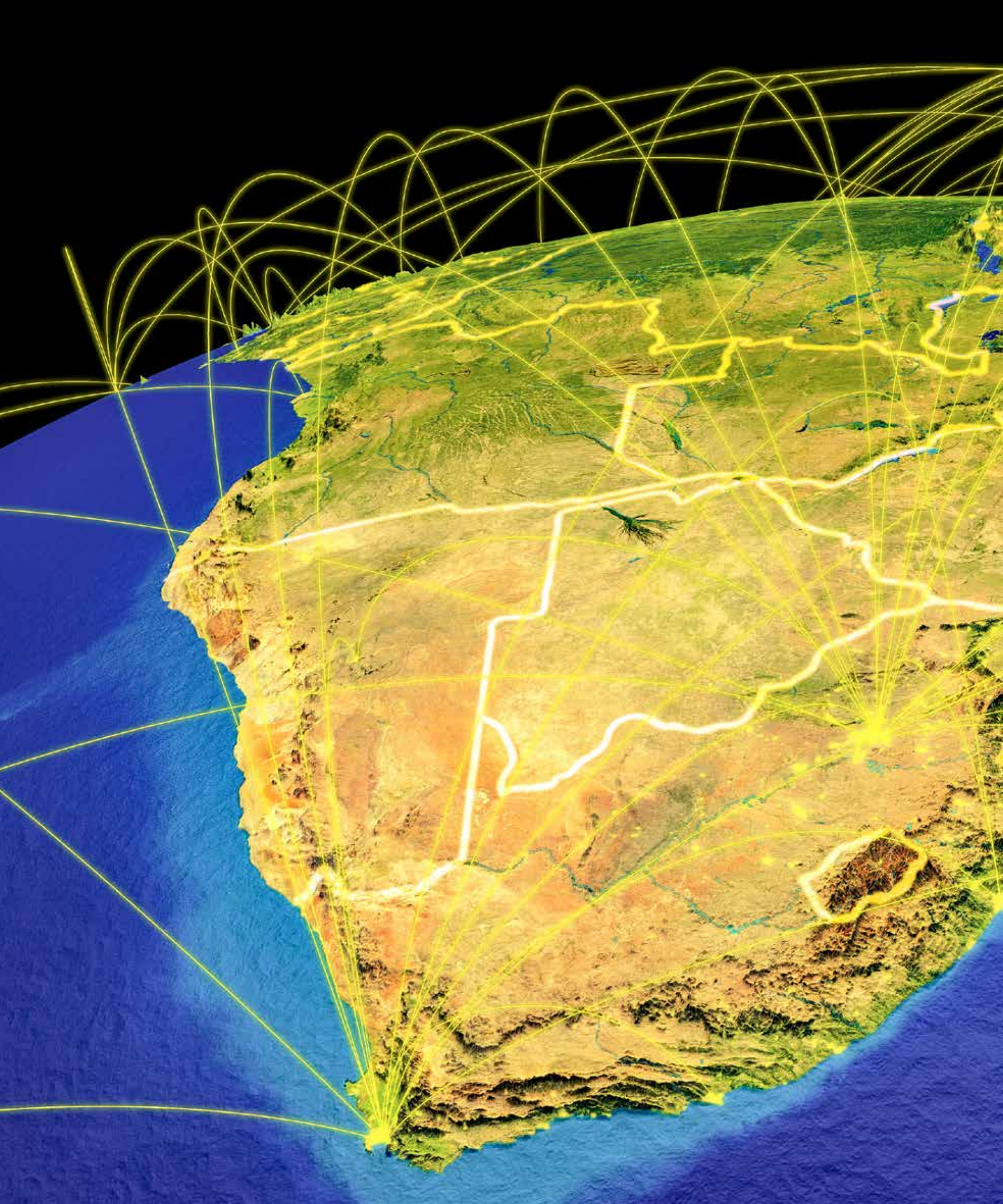
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*"Ten years of ensuring that
criminals are deprived of the
proceeds of crime in Africa"*

ADDRESS BY THE PRESIDENT OF ARINSA

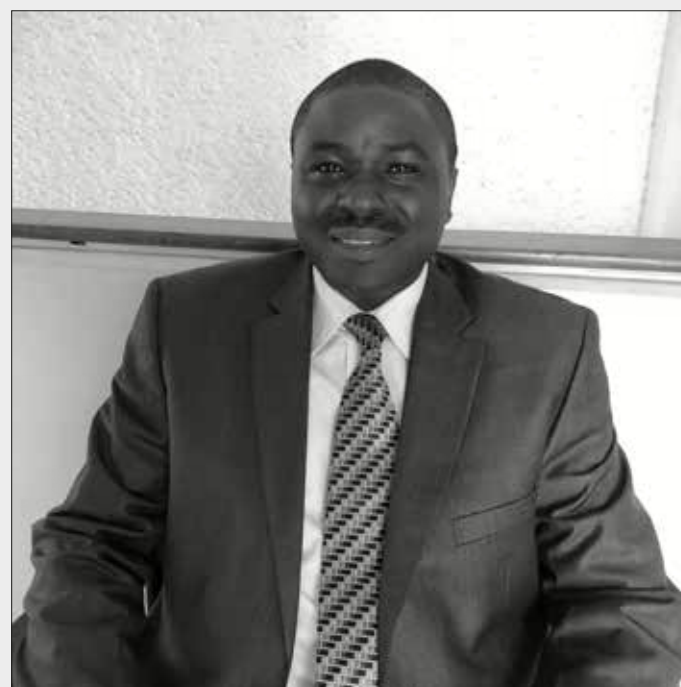


2019 marks a great year for the United Republic of Tanzania and all member states of the Asset Recovery Inter-Agency Network for Southern Africa (ARINSA), as we are celebrating the 10th anniversary of ARINSA. This is a historical event in our region and the whole world as we will be expecting several heads of states or their representatives to grace our Annual General Meeting as a sign of showing commitment to fight crimes using forfeiture provisions. This is evidence of support from heads of states in the region in the fight against crime with a view of making the region a safe haven for all human beings and all living creatures, to stay and enjoy.

In the 1960's Tanzania was in the front line of the emancipation of the Southern Saharan region and hosted many freedom fighters, who finally gained their independence. This year, we are gathering in Tanzania with concerted efforts of disarming the criminals by forfeiting them their ill-gotten wealth, upholding the rule of law and removing all types of exploitation and injustice in society. I am therefore privileged to welcome you all to the beautiful country of Tanzania to participate in the 10th anniversary of our network with a proud past and exciting future.

This year we are celebrating 10 years of achievements of ARINSA. This network was established in the year 2009 following the decision of delegates from law enforcement and prosecution agencies from nine countries in the Eastern and Southern African region namely; Botswana, Lesotho, Mauritius, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe, who met in Pretoria to discuss the creation of an informal network of investigators and prosecutors to enable them to share information relating to tracing, seizure and confiscation or recovery of proceeds of crime.

It is clear that, one of the reasons why criminals commit crimes is to acquire wealth and power. So, in order to deter this criminal behaviour, the criminal justice system needs to ensure that criminals are not only convicted but are also dispossessed of assets acquired through their criminal activities. Participants agreed that without dispossessing them of these properties, criminals will continue to pose a threat to public order, safety and economic stability, as they will become untouchable and immune to prosecution. Indeed, that will be a violation of other people's constitutional rights.



Biswalo Mganga, President of ARINSA

Without forfeiture, criminal justice system actors tend to join the criminal groups by accepting bribes and corruption from criminals or divulging information that helps criminals to escape justice. As a result, rich criminals will not be prosecuted and/or convicted and will continue to be a threat to society and to economic development. Many people may be tempted to join the criminal groups because crime is seen as paying. This explains not only reasons for the establishment of ARINSA but also its role in our region.

As I refer to the proud past of ARINSA, I wish to acknowledge the achievements of ARINSA from its establishment to date. ARINSA started in 2009 with only nine member states, as stated above. Since then, seven new members have joined, increasing membership to 16 namely; Angola, Kenya, Madagascar, Malawi, Mozambique, Seychelles



Mr Biswalo Mganga, the current President of ARINSA, Mr Rashid Ahmine and Mr Jeff Radebe, Minister of Justice.

and Uganda. This increase is a result of the focused leadership of the network which is steady, assured and hard-headed but most of all, with a clear vision for progress that ARINSA needs. At this juncture, I wish to extend my gratitude to the former and first President of ARINSA, Mr Mpho Letsoalo; Mr Clive Scott, the first ARINSA advisor (2009 to 2012); Mr Fitz-Roy Drayton, the second ARINSA advisor (from 2012 to present); and the ARINSA Secretariat for their immeasurable support.

From 2015 to date, ARINSA has achieved a lot in setting and implementing programmes that strengthen professionalism in the asset forfeiture regime, anti-money laundering, wildlife crimes, cybercrimes and Counter Financing Terrorism (CFT), through training workshops with a view of enhancing knowledge and skills to law enforcement officers in 56 training events and workshops. The CFT workshops were designed for senior managers or representatives, who were required to consider the most appropriate national and regional strategies for action and training in the field of CFT. Unfortunately, we have failed to conduct some further training due to a lack of funding.

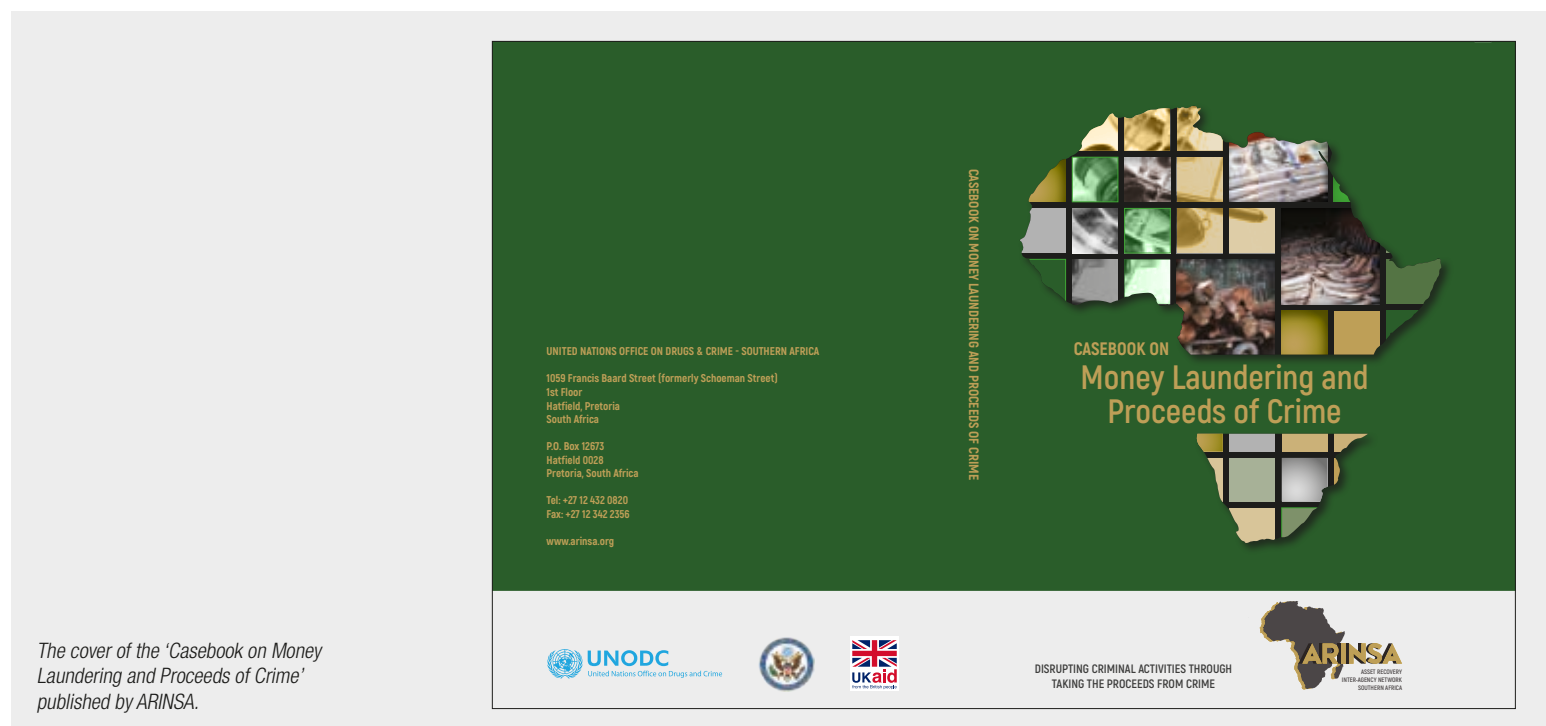
For the purposes of building capacity, ARINSA introduced the Prosecutor Placement Programme (PPP) whereby prosecutors are placed in the Asset Forfeiture Unit in the National Prosecution Authority of South Africa. ARINSA also introduced a mentorship programme, whereas asset forfeiture experts were stationed in member states. These programmes have been very useful because they have improved knowledge, skills and experience needed by prosecutors and investigators to do asset recovery work. Since 2009 to date, a total number of 136 law

enforcement officers have attended the PPP. The countries that have benefited from the PPP programme are; Botswana, Burundi, Ethiopia, Lesotho, Madagascar, Malawi, Mauritius, Namibia, Nigeria, South Africa, South Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

I further report to you that ARINSA has enhanced international cooperation among member states and non-members with a view of obtaining information on matters regarding asset forfeiture and other criminal matters before formally resorting to mutual legal assistance. Due to all these, member states have been able to initiate a total number of 416 restraint/preservation applications and 142 forfeiture/confiscation applications. The total value of restraint/preservation orders is US \$594,295,001.09. The total value of proceeds of crime recorded by member states stands at US \$1.406bn. This record shows that Africa is no longer a safe haven for criminals.

ARINSA has managed to prepare the ARINSA Case Digest which will be used as a reference book for prosecutors and judicial officers handling forfeiture applications in court and a source of information and knowledge on matters relating to anti-money laundering, organised crimes and asset forfeiture. The cases have been collected from all member states so as to have a comprehensive digest. I take this opportunity to convey my heartfelt thanks to all focal persons, the ARINSA Steering Committee and Secretariat for the work well done, and call upon everyone to render the same support in future for the betterment of our network.

Apart from that, ARINSA has prepared an Open Source Manual which will also be a guide on anti-money laundering and asset forfeiture. Both



The cover of the 'Casebook on Money Laundering and Proceeds of Crime' published by ARINSA.

the ARINSA Case Digest and Open Source Manual will be launched at the AGM. ARINSA has a website that can be accessed by members and non-members at different levels. The website has an e-learning platform, an information sharing platform and other various platforms for members only. It is a profound repository of information that is helpful to members and I want to encourage all prosecutors, judicial officers and law enforcement officers to register themselves with the secretariat in order to have the right of access.

Just like any other network, ARINSA is facing some challenges. One of them is lack of funding for self-sustainability. Despite our important role of disrupting criminals and their criminal activities, we still depend on donor funds to support our activities. It is high time now to have our own sources of funds. The ARINSA Steering Committee has formed a sub-committee that will come up with a proposal of the best funding model that will be discussed by the steering committee and thereafter seek opinion from member states. At this stage, we may need intervention from policymakers in our respective countries to commit some funds from taxpayers to fight crime. The support we are now getting from donors is also from their taxpayers. ARINSA recognises and appreciates the continued support of the Department of International Development (DFID), Bureau of International Narcotics and Law Enforcement Affairs (INL), United Nations Office on Drugs and Crime (UNODC) and all our other partners and friends. We thank them and ask them to continue to support our network.

Another challenge member states are facing is management of assets prior to obtaining the final confiscation order. Many properties are left in the hands of law enforcement officers and others in the hands of the owners as a result they continue to lose their value or become totally of no use after the final forfeiture or confiscation order. ARINSA is preparing a manual that can help its member states to better manage the assets and conduct training workshops for the similar aim.

We, ARINSA member states believe that, through international cooperation, we will succeed in disrupting criminals and make them realise that "CRIME DOES NOT PAY", and that Africa is not a safe haven for their ill-gotten wealth. We, therefore, encourage more states to join ARINSA as it is the leading network for asset recovery.

Mwalimu Nyerere once said, "cooperation and not confrontation". Let us cooperate with each other and confront the criminal network by forfeiting both proceeds and instrumentalities and leave no place for criminals to hide.

Karibuni na Ahsante Sana!

Biswalo Mganga
President of ARINSA



EXECUTIVE SUMMARY

The ARINSA network:

has used a combination of strategies to achieve different network objectives including Annual General Meetings and regional events to demonstrate the relevance and success of the network to members (showing value) and non-members (encouraging participation), and to build trust between countries;

- utilised the mentor placement programme to deepen institutional change and change collaborative practices among relevant institutions at a national level;
- provided the Prosecutor Placement Programme (PPP) to build regional capacity in asset forfeiture and recovery prosecutions;
- utilised financial investigation experts to sharpen investigation techniques among law enforcement agents through several regional and national training courses and workshops;
- identified contact points in each country to facilitate operational requests between countries, to assess and report the country's training and support needs, and to act as national-level champions for the network;
- promoted the ARINSA website as a forum for open learning and exchange between countries, to highlight successes, and to allow countries to liaise directly on case information;
- has constantly brought in new topics and training to keep abreast in dealing with new crime trends.

PROGRESS TOWARDS GOALS

ARINSA has made constant progress towards the goal of making sure criminals are deprived of the proceeds of crime.

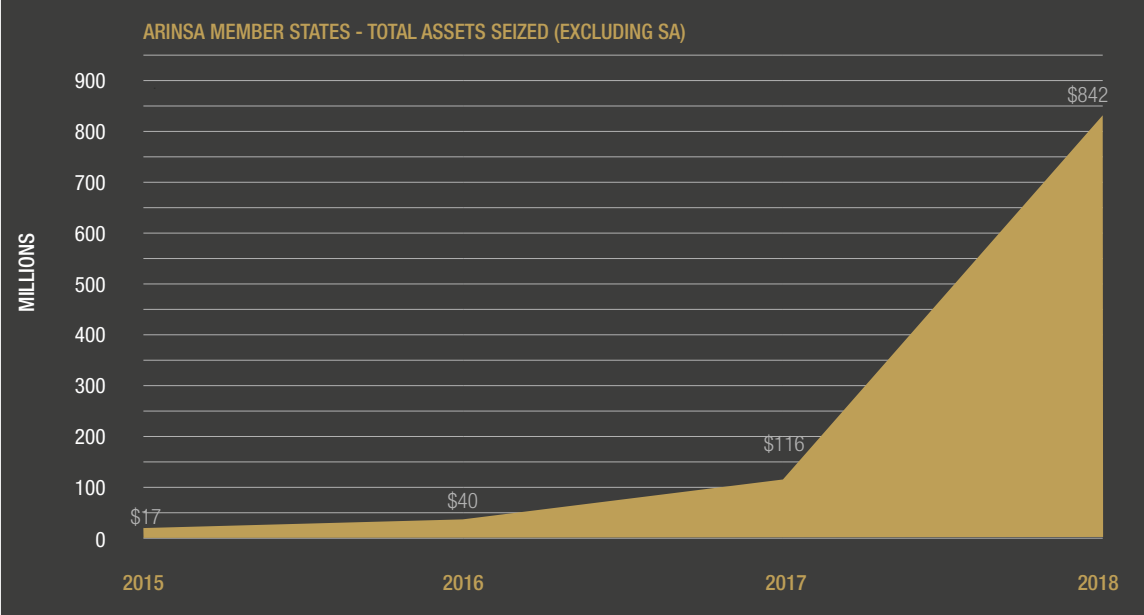
ARINSA has been capacitating member countries through several ways holding Annual General Meetings, technical assistance and training events with judges, magistrates, lawyers and law enforcement agents both regional and in-country, the network has opened up the space for non-conviction-based civil forfeiture.

The 16 Member countries forming the network are beginning to strengthen legislation, practices, policies, and procedures at a national level. From the network's inception in March 2009, 10 member countries have now established an Asset Forfeiture Unit (AFU), five countries established an Asset Forfeiture Fund (AFF); and four have established an Asset Management Unit (AMU).

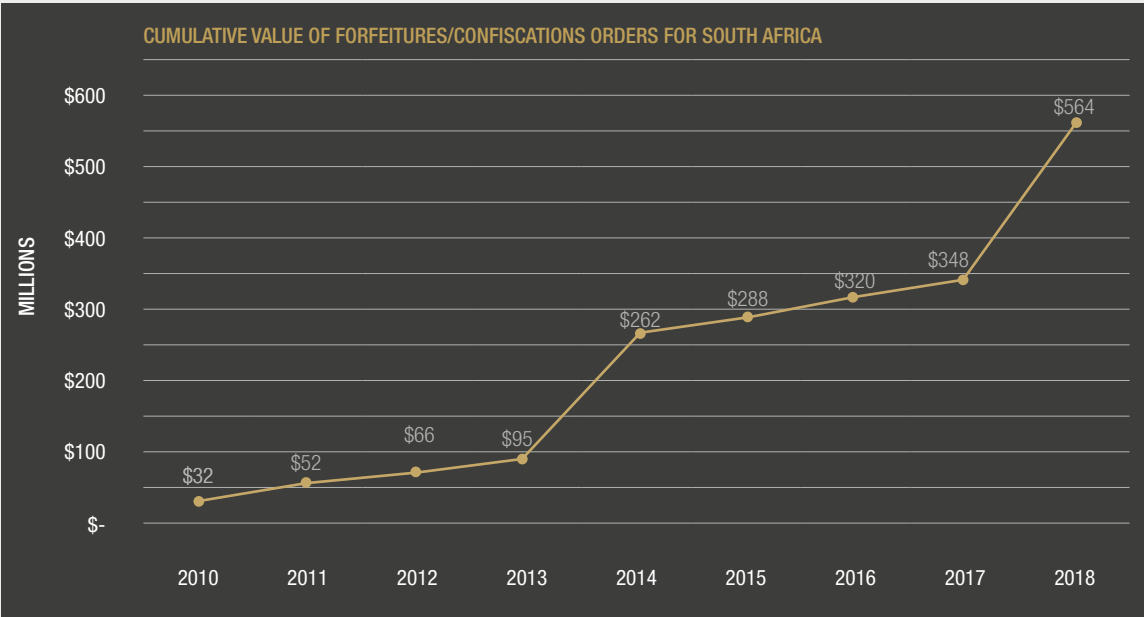
ARINSA tracks the number of new money laundering, asset forfeiture, preservation order, and confiscation order cases in member countries. According to the figures provided by member countries, new money laundering cases increased by 69% from 355 in 2016 to 600 in 2017¹; new asset forfeiture cases increased by 35% from 419 in 2015 to 567 in 2017; new preservation order cases increased by 200% from 87 in 2015 to 261 in 2017; and new confiscation order cases increased by 500% from nine (9) cases in 2016 to 54 in 2017².

¹ 2015 data not provided in the annual reports

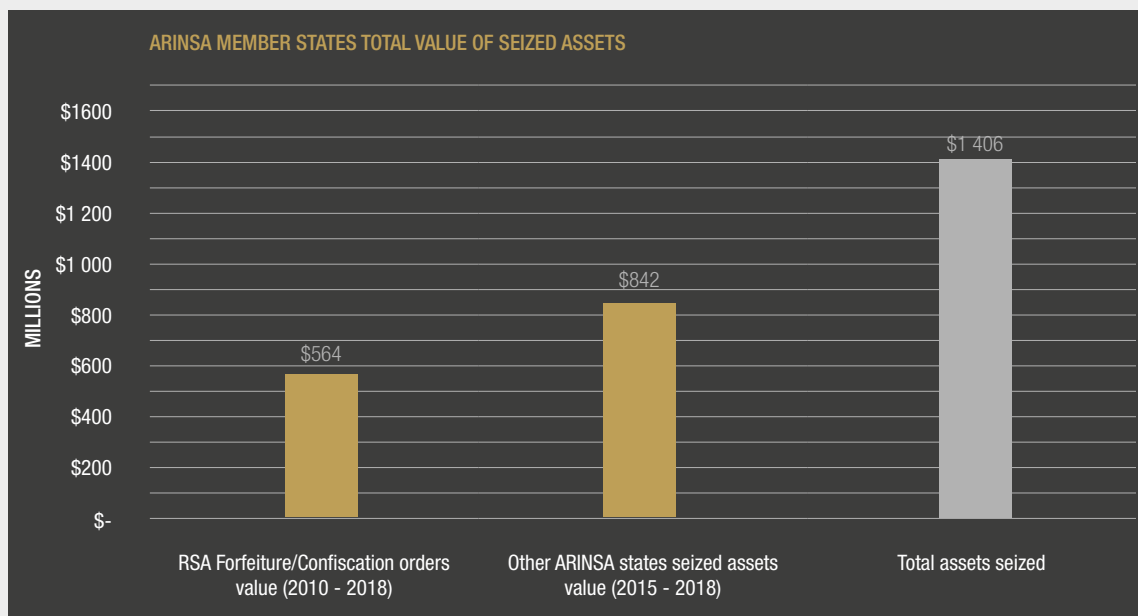
² 2015 data not provided in the annual reports. Note that the 2016 figures are worked backwards from the percentage increases reported in the ARINSA project completion report (using a reverse percentages calculator). Also, note that the quality of this data is unknown – there is no case tracking system in place to verify the numbers provided.



The graph above represents the contribution of the total value of assets seized by ARINSA members states between 2015 to 2018 and these figures reported in the graph exclude South Africa’s contribution. The total value of assets seized increased significantly from US \$17million in 2015 to a remarkable US \$842 million by 2018. The total value is excluding South Africa’s contribution which will be reported separately.



The graph above represent the contribution of South Africa forfeiture and confiscations orders value from 2010 until 2018. South Africa has kept records of their asset forfeiture/confiscation for a very long time as shown by the graph above. The graph shows a steady increase in the value of assets forfeited/ confiscated from US \$32 million in 2010 to US \$564 in 2018.



The graph above represents a combined effort on the total value of seized assets by all ARINSA member states from the beginning of 2010 until end of 2018. A total of over US \$1.4 billion has been seized to date. South Africa alone has contributed about 40% of the overall total value estimated at US \$564 million, while other ARINSA member states have jointly managed to seize assets to the value of US \$842 million, which constitute about 60% over the overall total.



ABOUT ARINSA



The Asset Recovery Inter-Agency Network for Southern Africa, known as ARINSA, is a multi-agency, informal network of practitioners between participating countries for exchanging information, model legislation and country laws in asset forfeiture, confiscation and money laundering.

The network plays a key role in supporting member countries' asset forfeiture regimes with the view of removing proceeds of crime and providing a disincentive for committing such crime, thereby contributing to the strengthening of governance measures and anti-corruption policies.

The ARINSA network fosters multi-agency partnerships with other ARIN networks worldwide as part of a global sphere of influence on matters of asset forfeiture and recovery.

Impact is at the core of the ARINSA network and the following objectives are framed to ensure that the network delivers on its mandate:

Establish a network of contact points – Long lasting and trusting relationships among members is a thread that keeps the network cohesive and enhances the sharing and exchange of information. The continuous interaction of contact points through various platforms and ongoing development and training of practitioners' skills and capabilities is the key to a strong and progressive asset forfeiture network.

Focus on the proceeds of all crimes within the scope of international obligations – The ARINSA network provides technical assistance and expertise to address the proceeds of crime guided by three main instruments namely; Drug Control Conventions (Convention on Psychotropic Substances (1971), United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), Single Convention on Narcotic Drugs (1961), the Convention Against Transnational Organized Crime (UNTOC) and the Convention Against Corruption (UNCAC), as well as the International Convention for the Suppression of the Financing of Terrorism. ARINSA also supports the adoption of global standards developed by the Financial Action Task Force (FATF), the major standard-setter in the field of Anti-Money Laundering (AML).

Establish itself as a centre of expertise in all aspects of tackling the proceeds of crime – ARINSA brings together the most important players and experts, to participate and contribute towards building a repository of knowledge and expertise in the field of taking proceeds from crime. ARINSA collects information on the ARINSA website from a broad view, with the

aim of improving processes and the effectiveness of systems for taking the proceeds from crime.

Promote the exchange of information and good practice – The network aims to create an open channel of information exchange and sharing through creation of a synthesis of data and evidence, peer exchange, publications and various platforms such as the ARINSA website, informal WhatsApp groups, regular face-to-face meetings and many other channels in order to continuously improve and develop good work practices in following the proceeds of crime. These platforms are widely open to all relevant stakeholders.

Undertake to make recommendations to bodies such as the African Union (AU) and the Southern African Development Community (SADC) relating to all aspects of tackling the proceeds of crime – ARINSA aims to provide regional governing bodies with recommendations based on good quality data and evidence-based practice in line with current trends.

Act as an advisory group to other appropriate authorities – The ARINSA Secretariat seeks to establish itself as an advisory partner for several authorities within the region and beyond.

Facilitate, where possible, training in all aspects of tackling the proceeds of crime – ARINSA seeks to develop an inclusive and wholistic approach to capacitate member countries through targeted capacity building initiatives, directed at emergent challenges in the region. Various technical assistance and training interventions ensure that member countries are brought to speed with the current realities in the region.

Emphasise the importance of cooperation with the private sector in achieving its aim – Taking a multi disciplinary approach is key in taking proceeds from crime. Public/private partnerships and information exchange are highly effective in preventing and controlling risks posed by money laundering and financing of terrorism.

Encourage members to establish national asset forfeiture units, national asset management policies, legal frameworks and asset forfeiture funds – The establishment of legal and regulatory frameworks as well as infrastructure and skills required is fundamental for asset forfeiture. ARINSA has been instrumental in assisting member countries establish asset forfeiture units, asset forfeiture funds and asset management units in member countries.

INTRODUCTION

Countering the illicit financial flows from Africa has emerged as a significant problem for the continent. The Thabo Mbeki report of 2015 estimated that annually over 50 billion USD in assets left the continent every year. It was also estimated that at least 40% of that total was the proceeds of crime. There is no suggestion that this figure has declined in 2019.

Criminal activity, including, but not limited to corruption, wildlife crime, illegal logging and forestry crime, extractive industries and illegal fishing have all contributed to the illicit financial flows from Africa.

ARINSA - THE EARLY DAYS

The Asset Recovery Inter-Agency Network for Southern Africa (ARINSA) is a regional initiative that has as part of its mandate to address this problem. ARINSA is an informal network of prosecutors and investigators sharing information on the proceeds of crime. ARINSA was established in 2009, following a meeting of ministers in South Africa. It was established that the Secretariat Services for ARINSA would be provided by the National Prosecuting Authority (NPA) in South Africa and supported by the United Nations Office on Drugs and Crime (UNODC).

ARINSA DEVELOPS

As ARINSA celebrates the 10th anniversary of its creation, it is worth reflecting on the most significant achievements of the network. Since 2009, the membership of ARINSA has increased from the original nine member countries to 16 countries.

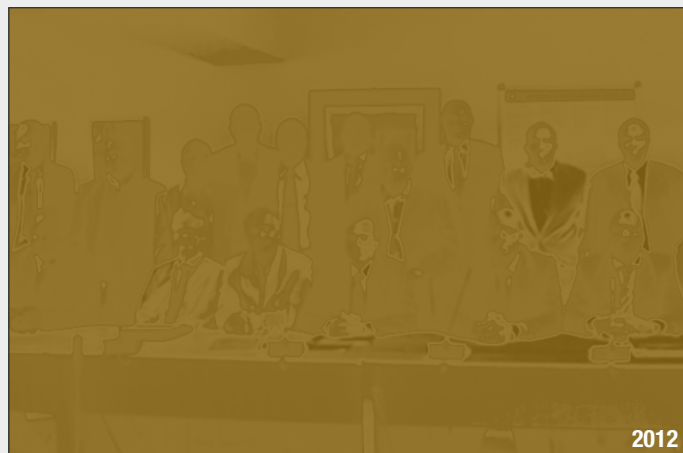
This means that the opportunity to share information within Southern and Eastern Africa has increased significantly. ARINSA through its outreach has made connections with eight other networks across the world, meaning that there is virtually no part of the globe where the proceeds of crime cannot be traced.

The network is led by two strong presidencies, firstly Botswana and now Tanzania. The Steering Committee is made up of the member countries and determines the future of the network for the benefit of the network and its activities. The Steering Committee has been instrumental in developing an operation manual for the network, the recently launched case book on proceeds of crime and asset management manuals.

The structures for successful asset forfeiture, including Asset Forfeiture Units, Asset Management Systems and Asset Forfeiture Funds have increased across the region. The proceeds of crime are also being used to promote and support law enforcement activity in the region. Using the proceeds of crime to fight crime has been one of ARINSA's central tenets.



"Leaving the criminals with nowhere to hide" - Fitz-Roy Drayton, Adviser (Asset Forfeiture Money Laundering and Proceeds of Crime)



ARINSA Contact Points Meeting held at the NPA Offices in South Africa - September 2012. Fortunately, every effort has been made since then to balance gender, as reflected in the 2019 Steering Committee Meeting.

Perhaps the most attention-grabbing development has been the value of assets seized that represents the proceeds of crime in the region. In 2014, very few countries in the ARINSA had reported proceeds of crime cases and money laundering investigations. From a surprising report of US\$17 million being seized in 2015, the figure has steadily increased each year. In 2019, as ARINSA celebrates its 10th anniversary, the members can report over US\$ 600 million in seized assets for 2018. This represents a real tangible achievement in a relatively short time period.

ARINSA – THE FUTURE

ARINSA's greatest achievements are intangible. Over the past ten years the network has been able to develop a high level of trust amongst the

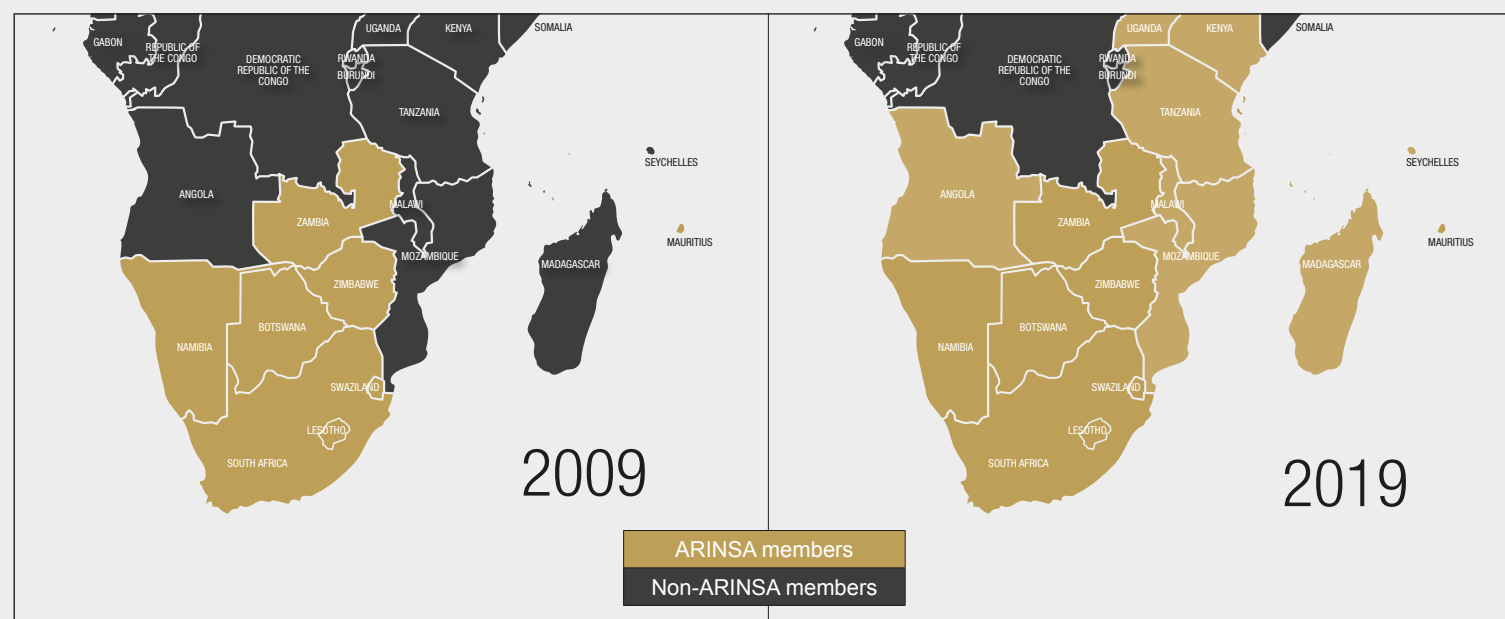
member countries enabling the speedy exchange of information. There is also a sense of pride and ownership of the network by the members that has driven the success of the past 10 years. ARINSA can be proud of being a network of African countries working together for the benefit of African countries.

ARINSA celebrates 10 years this year and there is a lot to celebrate, as this is a strong network and will continue to strive to achieve its unofficial motto of:

“leaving the criminals with nowhere to hide”

Fitz-Roy Drayton, Adviser (Asset Forfeiture Money Laundering and Proceeds of Crime).

ARINSA MEMBERSHIP





MADAGASCAR



Madagascar joined the ARINSA network in 2017 and was identified as a jurisdiction in need of receiving technical assistance (TA) because of the increasing crisis related to the illicit trafficking of their natural resources (wildlife and environmental crimes) within the country, as well as the expressed limited capacity of authorities to pursue money laundering offences related to these crimes. The lack of expertise relating to money laundering/proceeds of crime investigations was also identified as an issue that authorities are working to address through technical assistance. The country's official languages are Malagasy and French.

LEGISLATION

Madagascar passed its first Anti-Money Laundering (AML) law in 2004, Law No. 2004-020. However, it is largely outdated and does not meet many of the international standards set by the Financial Action Task Force (FATF) since the revision of the 40 recommendations in 2012. Madagascar has the political will to reinforce its Anti-Money Laundering/Counter Terrorism Finance efforts. It has adopted in January 2018 the International Cooperation Act in Penal Matters (Law n°2017-027) and in June 2018, created the Anti-Corruption Pole (PAC), a specialised court for corruption cases, economic and financial offenses, with the mandate to decide corruption and money laundering cases. The bill to revise the previous AML/CFT law was promulgated into law (Law n° 2018-043) by the President of the Republic on 13 February 2019. The second bill, on Illicit Asset Recovery (Project Law n°015/2017 of 13 June 2017 on the Recovery and Assignment of Illicit Assets) is still before Parliament and the reading has again been set over to a later date. These latter two legislations contain provisions for non-conviction-based forfeiture and management of seized assets, which are critical to the effectiveness of Madagascar's AML/CTF strategy. It is also worthy to note that in 2018, Madagascar has been the subject of two reviews; one by the International Monetary Fund (IMF) under the Extended Credit Facility Arrangement (July 2018), where \$44.25 million US disbursement was approved; and another by the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG), which assessed Madagascar's compliance with the Financial Action Task Force (FATF) recommendations (September 2018). These reports reveal significant ML/TF risks due to weak governance, widespread grand corruption and the need to strengthen its framework. Madagascar is in the final stages of completing the National Risk Assessment and conclusions will be presented to the national stakeholders and authorities in April 2019. At the end of this session, Madagascar will formulate a National Strategy to combat those identified risks.

Madagascar is creating a centralised digital platform for information sharing, linking key stakeholders (Anti-corruption Bureau; the National Gendarmerie, Customs; Mining; and the Financial Intelligence Unit (FIU). The specifications were completed, the platform has been developed and is currently being operationalised in all the partner institutions.

| | |
|--------------------------|---|
| LOCATION | Island country off the coast of East Africa |
| POPULATION | 25 million (2016) |
| ARINSA MEMBERSHIP | Madagascar was an observer member since 2014 and attained membership status in June 2016. |





MALAWI

Malawi continues to be a proud ARINSA member. It has been a journey of successes, challenges and learning curves in relation to money laundering and asset recovery. In September 2013 it was discovered that from April 2013 to September 2013 there had been a systematic, orchestrated plunder of government resources that had resulted in the theft of K24 billion. This theft involved participants from the public and private sector and involved four government ministries and the Malawi Defence Force (MDF). In all these institutions, companies that had neither performed services nor provided goods were paid from the Malawi Government account.

TRAINING

Malawi has benefited a lot from ARINSA's capacity building efforts. Since ARINSA's inception, a good number of officers from the Financial Intelligence Authority, investigators from the Anti-Corruption Bureau (ACB) and the Police as well as prosecutors from the ACB and the DPP's office have attended different training workshops organised by ARINSA. These capacity building efforts include the Prosecutor Placement Programme which 18 (3 female) prosecutors have attended so far.

RELEVANT DOMESTIC LEGAL FRAMEWORK

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:

- Constitution (Laws of Malawi as at 31 December 2014)
- Penal Code 1930 (amended in 2012)
- Criminal Procedure and Evidence Code (Chapter 8.01 of the Laws of Malawi)
- Corrupt Practices Act 1995 (amended in 2004)
- Financial Crimes Act 2017

These are the laws that have guided the investigation and prosecution of the biggest fraud scandal to date in Malawi, commonly known as the Cash-gate Scandal, among other high-profile cases.

The Financial Crimes Act is a recent AML/CFT law which has introduced civil forfeiture to the regime and has closed certain gaps which were present in the repealed Proceeds of Crime, Money Laundering and Terrorist Financing Act. Civil forfeiture is yet to be tested.

| | |
|-------------------|---|
| LOCATION | South East Africa |
| POPULATION | 18.1 million (2016) |
| ARINSA MEMBERSHIP | Malawi attained membership status in June 2010. |



The gigantic Mulanje Mountain

ARINSA AS A SOURCE OF INFORMATION AND NETWORKING

Malawi benefits from the different sources of information that are loaded onto the ARINSA Website and benefits greatly from the networking which ARINSA promotes too. The contact points know who to contact in each member country when they need assistance. The secretariat too is a convenient central point for informal dissemination of requests within the network and beyond. Even though this dissemination avenue has not been explored yet by Malawi, it is a comfort knowing that it can be used in the future when the need arises.

ARINSA INVOLVEMENT

- Since 2015 ARINSA's support to Malawi has allowed increased focus in addressing proceeds of crime/money laundering/financial profiling and not only predicate offences.
- ARINSA, through a mentor attached to the ACB, has provided useful input in the review of both active and potential cases, including a number of high-level investigations.

SUCCESSSES

- Twenty-six Cash-gate suspects prosecuted, convicted and sentenced (10 yet to be sentenced)
- Some assets recovered to the state e.g. vehicles, cash and houses (almost \$1m)

One of the Cash-gate convicts, Mr Leonard Kalonga laundered MK520m. He facilitated, abetted and aided acquisition of six Scania Marcopolo buses, from the proceeds of serious crime between April and September 2013. The seized buses have now been restituted to the state and Mr Kalonga was slapped with a 7.5 years jail term on 15 March 2018. A total value of MK3.7b, five buses, five other vehicles and houses have been confiscated so far.

WAY FORWARD WITH ARINSA

- Looking forward to more networking with other law enforcement agents
- Looking forward to more training courses in emerging trends like crypto currency and cybercrime
- More prosecutor placement programmes
- Commencement of investigator placement programmes
- More literature loaded on the ARINSA website



*Buses recovered from Leonard Kalonga
(Photo: mwnation.com)*



Targeted property built by a Cash-gate convict, Thereza Senzani who has since died, parts of which are suspected to have been built using criminal proceeds

High Court finds 10 people guilty in K210m Cashgate case: Kamtengeni acquitted

January 10, 2019 Owen Khamula - Nyasa Times [12 Comments](#)

The High Court in Lilongwe has found 10 people guilty of theft, money laundering and conspiracy to commit a felony in connection with a 2011 Cashgate case involving K201 million.

The court has found that married couple and business partners Cornelius and Yvonne Kaphantengo used their company Nova Technology and General Dealing Ltd to siphon money from the Ministry of Disability which was distributed to 9 civil servants from the ministry and Accountant General Department.



Some of the convicts in Cashgate affair

2011 Cashgate case involving K201 million.



KENYA



LEGISLATION COVERING ASSET RECOVERY, ANTI-MONEY LAUNDERING (AML) AND COUNTER FINANCING OF TERRORISM (CFT)

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

BENEFITS FROM ARINSA

Ten investigators, who include forensic financial analysts and five prosecutors have received specialised training under ARINSA mainly on investigations techniques in areas of cybercrime, intelligence, forensic analytics, asset tracking and asset recovery. Through ARINSA, Kenya has created partnerships with various countries and institutions like Western Union, through which it has received both informal and formal assistance from the United Kingdom (UK) and recovery of expatriated funds has been made possible. Due to the specialised training courses offered to investigation teams in the various law enforcement institutions, intelligence collection in asset recovery, asset tracing, countering terrorism financing, wildlife and AML cases has increased significantly. To some extent, this interaction contributed to the Ethics and Anti-Corruption Commission being ranked second best on overall compliance with the anti-corruption policy and procedure framework among 17 Commonwealth Africa Anti-Corruption Agencies (ACAs); it was ranked second in evidence, exhibit handling in Africa.

ARINSA has created a forum that will enable the Ethics and Anti-Corruption Commission to use in order to pursue evidence that is held up by companies within the Southern part of Africa.

RECOVERED ASSETS, FUNDS AND RESTRAINING ORDERS SECURED

Kenya has recovered 6.6 Billion (US \$ 60,600,000) worth of assets from July 2013 to date. Recently the Ethics and Anti-Corruption Commission recovered land belonging to the University of Nairobi, worth KShs. 2,000,000,000 (US \$ 20,000,000) that was illegally allocated to an individual and handed back to the learning institution. So far, the Anti-Corruption Commission through its investigative team had disrupted corrupt schemes and averted loss of public money worth Kshs. 5,200,000,000 (US \$ 50,200,000).

In current financial year (2018/2019), 10 restraining orders have been secured restricting transfer/disposal of properties and cash.

| | |
|-------------------|---|
| LOCATION | East Africa |
| POPULATION | 49.7 million |
| ARINSA MEMBERSHIP | Kenya has been an observer for several years and attained membership status in June 2018. |



Two massai men walking together



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 valued at US \$ 20,000,000.



A section of Woodley houses in Woodley Estate, Nairobi. The Commission filed suits to recover 103 houses belonging to Nairobi County, illegally allocated to private individuals. Some surrendered on their own volition, 18 houses were recovered through the court process and 48 cases are still pending determination. The 18 recovered houses are worth US \$ 3,600,000.



An aerial view of Uhuru gardens, in Mombasa County. This property was valued at US \$ 120,000,000.



Mayor's house in Nairobi's Lavington. The mayor's house had been illegally allocated to a Minister and the Commission instituted a civil case, the house was recovered and returned to Nairobi County through National Treasury.



Grand Regency Hotel in Nairobi. The hotel was recovered from a private individual who had used fraudulently acquired public funds to build the hotel. The hotel was recovered by the Ethics & Anti-Corruption Commission.



LESOTHO



INTRODUCTION

In recent decades, it has become increasingly clear to the international community that the criminal justice system does not live up to the adage that crime does not pay. Criminals are for a variety of reasons able to keep and enjoy the spoils of their criminal activities. This is offensive to public morality and is in itself a powerful incentive to commit crime. The reason for this trend is the recognition that criminal penalty on its own is an insufficient law enforcement tool. The development of a new strategy is civil in nature and is independent of criminal prosecution. It is an effective way to quickly deal with property to safeguard against its dissipation and hiding.

Each state party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.

Lesotho's three-pronged strategy, namely prevention, education and investigation has proved to be insufficient.

Lesotho introduced an asset recovery strategy believed to be effective in the fight against corruption, however, its effectiveness depends largely on the partnership with the outside world, therefore developing partnership agreements will be ideal.

ARINSA remains the major partner in the forefront and the impact of ARINSA in Lesotho towards the development of an asset forfeiture strategy and its effectiveness is incontrovertible.

THE JOURNEY WITH ARINSA

Lesotho joined ARINSA in 2009 as one of the founding members and slowly developed to be an active participant in the implementation of ARINSA strategic plans. A significant gain was the partnership, collaboration and cooperation that ARINSA instilled amongst member countries in the sharing of intelligence and offering one other assistance in the investigation of cases. The implementation of asset recovery as an effective tool in the fight against corruption and money laundering proved to be a major shift in the right direction, and a great milestone to be cherished. This development was an empowering tool in the armoury needed to fight this scourge. For the first time Lesotho realised the importance of asset forfeiture and implemented the laws relating thereto.

MONEY LAUNDERING AND PROCEEDS OF CRIME ACT

The Money Laundering and Proceeds of Crime Act 6 of 2008 was only tested in 2014 before the courts of law. The law embodies both conviction and non-conviction-based forfeiture. Restraint and preservation applications are made *ex parte* and without notice. The law also caters for the establishment of the Criminal Asset Recovery Fund (CARF).

| | |
|--------------------------|--|
| LOCATION | Southern Africa (enclaved country within the border of South Africa) |
| POPULATION | 2 million |
| ARINSA MEMBERSHIP | One of the founding members of ARINSA in 2009. |



The currency of the Kingdom of Lesotho is the Loti (plural: maLoti)

The applicant in all matters is the Directorate on Corruption and Economic Offences, as the authority, compared to other jurisdictions where the applicant is the National Directorate of Public Prosecutions (NDPP).

BENEFITS AND LESSONS

Lesotho had the opportunity to benefit from the Prosecutor Placement Programme which imparted skill, knowledge and expertise to prosecutors. To date, ARINSA through UNODC has trained six prosecutors from Lesotho. It is also worth sharing that with the technical assistance offered by ARINSA, Lesotho was able to establish an Asset Forfeiture Unit to deal specifically with related cases. A Criminal Asset Recovery Fund was also established.

It is not only prosecutors who receive training benefits from this network, but even the investigators, asset managers and the judicial officers. Lesotho can share benefits and lessons at AGM platform on an annual basis, and benefit from experiences and challenges of other sister countries. This opportunity is a benefit the country never had before the establishment of ARINSA.

Going forward, Lesotho sees ARINSA as a respected brand across the world. We see member countries working together to fight corruption. We see our respective countries creating a zero tolerance to corruption and upping their efforts in the recovery of assets.

Lesotho has started sensitising the respective permanent secretaries (chief accounting officers in government ministries). These are the people from whom the country requests and subpoenas information.

Judicial training has always been one of the biggest challenges Lesotho has faced. The first phase of the judicial retreat was triggered and was launched in June 2017. The second phase took place in 2018 with assistance from UNODC.

The National Director of Public Prosecutions, Head of Asset Forfeiture and Head of Operations gave assurance of assistance in asset forfeiture. Chief amongst issues discussed was an emphasis on developing partnerships regarding asset recovery and return.

LESSONS LEARNT

- Asset forfeiture work to be dedicated to financial investigators who are equipped with accountancy background;
- Recruiting financial analysts to analyse bulky financial statements to avoid delays in evidence gathering;
- Asset recovery work often requires a considerable amount of administrative work to ensure that court deadlines are met; seized assets are properly supervised, and court orders are enforced;



Former Prime Minister to RSA investigated/indicted for tender corruption involving 120 million



Former Minister of Finance in M770million scandal – partnering with Republic of South Africa to trace, freeze and return assets



- Increased efforts to train and develop law enforcement agencies;
- Increased efforts to build partnerships, and collaborate with sister countries in identifying, tracing and recovering assets;
- More cooperation needed from the financial institutions, FIU and tax authorities;
- There is a need for jurisdictions to work together to deal with/ manage assets that are transferred and hidden within various jurisdictions.

CONCLUSION

“Crime does not pay” as demonstrated by the number of assets being seized in Lesotho.



Crime does not pay - as demonstrated by the number of assets being seized in Lesotho.



TANZANIA



BACKGROUND

Tanzania is a country within the African Great Lakes region. It borders Uganda to the North; Kenya to the Northeast; Comoro Islands at the Indian Ocean to the East; Mozambique and Malawi to the South; Zambia to the Southwest; and Rwanda, Burundi, and the Democratic Republic of the Congo to the West.

Its population is over 55 million, which is united by one national language Kiswahili, despite the more than 100 different languages which are spoken by various tribes in Tanzania.

The Ngorongoro Crater which is often referred to as “Africa’s Garden of Eden” is the largest unbroken and unflooded volcanic caldera in the world. The “Serengeti Migration” is the longest and largest recorded overland animal migration in the world. The Serengeti plains account for over 18,641 square miles and the migration itself travels 500 miles on the path from Tanzania to the Masai Mara Reserve in Kenya. Approximately 80% of the Serengeti plains are protected by the Tanzanian and Kenyan government.

TANZANIA AND ARINSA

In 2009 the meeting of the Directors of Public Prosecutions of Tanzania, South Africa, Zambia, Namibia, Botswana, Eswatini and Lesotho that was held in Pretoria, South Africa resolved among other things the establishment of ARINSA. Therefore, Tanzania is one of the founding members of Asset Recovery Inter Agency Network for Southern Africa (ARINSA).

The rationale for the establishment of ARINSA was sharing and dissemination of information on asset forfeiture cases with a view to disrupt criminal activities by confiscating assets that potentially could have been beneficial to the individuals, companies or organisations who have engaged themselves directly or indirectly in criminal activities.

In 2009, soon after joining ARINSA, Tanzania established the Asset Forfeiture and Recovery Desk. The Desk was responsible for coordination and institution of asset forfeiture proceedings in court. After recognition of its importance, in 2011 the Desk was upgraded to the Asset Forfeiture and Recovery Section (AFRS), led by an Assistant Director. After good performance and the vital role played in the fight against crimes, in 2018 AFRS became a full directorate within the National Prosecutions Services (NPS), mandated to deal with all matters pertaining to Asset Forfeiture and Recovery. The Directorate has three sections namely; Asset Forfeiture and Recovery, Transnational and Organised Crimes and Cybercrime.

On the other hand, the Tanzania Police Force has also established the Financial Crimes Unit (FCU) which is responsible for financial and

| | |
|--------------------------|---|
| LOCATION | East Africa |
| POPULATION | 55 million |
| ARINSA MEMBERSHIP | One of the founding members of ARINSA in 2009 |



A male elephant grazes in Amboseli National Park with Mt. Kilimanjaro in the background.

property investigations. Also, a similar unit is in place in the Prevention and Combating of Corruption Bureau. In these institutions, Focal Points have been appointed.

District levels were established for handling forfeiture proceedings in courts, data collection and record keeping.

BENEFITS AND ACHIEVEMENTS

For the purposes of building capacity in the newly established Asset Forfeiture Divisions/Units in the member states, ARINSA introduced Prosecutors Placement Programme (PPP). Tanzania benefited from this programme whereas Mr Biswalo EK Mganga, the current Director of Public Prosecutions in Tanzania, who is now the President of ARINSA, attended the programme in the First Batch in 2009. To date, 16 prosecutors from NPS Tanzania have attended the PPP which has helped them to improve their knowledge and skills in asset potential cases. This has led to the increase of asset forfeiture and restraint orders and the value of recovered properties.

Furthermore, Tanzania has benefited from ARINSA training courses and judicial retreats to judges, magistrates, prosecutors, investigators and other law enforcement officers. The training courses were aiming at enhancing capacity for better dealing with money laundering, wildlife crimes, drugs, organised crimes and asset forfeiture. This indeed has helped the country to implement asset forfeiture laws, particularly the Proceeds of Crime Act (POCA) of 1991 Cap 256, which came into force in 1994 but was not tested in court as there was neither restraint nor forfeiture orders prior to PPP.

Tanzania has also benefitted from the mentorship programme coordinated by ARINSA where asset forfeiture experts were stationed in Asset Forfeiture Divisions/Units and Investigative Agencies to assist

prosecutors and investigators in asset recovery investigation, drafting applications and reviewing of asset forfeiture laws.

ARINSA has enhanced Tanzania's international cooperation to a great extent, now as the country is able to informally cooperate with 16 member states with a view to obtaining information on matters regarding asset forfeiture and other criminal matters before formally requesting mutual legal assistance.

Over the period of six years, with the assistance of ARINSA in the above areas, Tanzania has been able to initiate 34 restraint applications and from them, obtained 13 restraint orders, three freezing orders and seized 343.59 Kgs of gold. Twenty forfeiture applications have been made and 11 forfeiture orders obtained. In some cases the country has secured orders on compensation to the victims of crimes. As a result of these efforts, 343.59 kgs of gold valued at US\$12 639 762, 78,932.81 kgs of gemstones valued at US\$1 842 943, 2 849.45 carats of Tanzanite and red Garnet valued at US\$385 830.32, 5 920 cattle, 30 motor vehicles, 10 houses and three plots of land and cash to the value of US\$2.3 million have been forfeited or confiscated.

The total value of restraint orders as of January 2019 is US\$3.2 million and total value of forfeiture and confiscation orders as of January 2019 is US\$34 million.

All the properties pictured to the right were proceeds of crime and benefits accrued from commissioning of crimes. The accused were convicted of money laundering and fraud offences and their properties were eventually forfeited.

Tanzania is determined to see ARINSA becoming the leading network on asset forfeiture in the world. Through branding our network, we hope that more members will join our network and donors will continue to support ARINSA.



Tanzanian Prosecutors took part in the Prosecutor Placement Programme in Pretoria, South Africa during 2014.



Properties forfeited which were acquired from proceeds of crime.



SEYCHELLES



BENEFITS AND VALUABLE LESSONS LEARNT THROUGH ARINSA

Seychelles formally became a member of ARINSA in June 2016 at the AGM in Pretoria, South Africa.

Since then several participants from the Financial Intelligence Unit (FIU) and different law enforcement agencies in Seychelles have benefited from different training and technical assistance from ARINSA, both locally and overseas.

In September 2016 several participants from different law enforcement and other agencies attended a Money Laundering and Proceeds of Crime Investigations workshop held in Seychelles by ARINSA. Topics discussed and covered included asset management and Seychelles acquired knowledge on best practices in asset forfeiture and asset management.

Representatives from the Asset Forfeiture Unit and the Police benefited from workshops on Countering the Financial of Terrorism in Pretoria, held in August and October 2017.

A representative from the Asset Forfeiture Unit attended a Cybercrime and Open Source workshop in Namibia in August 2017.

TECHNICAL ASSISTANCE

A request was sent to ARINSA to assist in an investigation where the beneficial owners of two Seychelles-registered international business companies, who were suspected of contravening the Seychelles International Business Companies Act, transferred funds to Mauritius.

Seychelles requested assistance from ARINSA who then requested Mauritius to assist with the investigation. Valuable information was obtained with regard to the IBCs that were registered in Mauritius and the identity of beneficiaries who received funds from those accounts.

Mauritius identified that the persons of interest did not have any assets in Mauritius.

| | |
|-------------------|--|
| LOCATION | East Africa (archipelago country in the Indian Ocean made up of 115 islands) |
| POPULATION | 94,000 |
| ARINSA MEMBERSHIP | Joined in ARINSA in June 2016. |



ARINSA moderators with some participants in Seychelles (ARINSA Workshop on Money Laundering and Proceeds of Crime Investigations)



SOUTH AFRICA



The Asset Forfeiture Unit (AFU) was established in May 1999 in the Office of the National Director of Public Prosecutions to focus on the implementation of Chapter 5 and 6 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998). The AFU was created in order to ensure that powers in the Act to seize criminal assets would be used to their maximum effect in the fight against crime, and particularly, organised crime.

STRATEGIC OBJECTIVES

The National Development Plan (NDP) made it clear that the government of South Africa is now placing an increased emphasis on multi-agency cooperation. One of the strategic objectives of the AFU is to increase its footprint and impact of its work together with its law enforcement partners. They have formed joint initiatives such as adoption of joint priority focus crime areas and setting targets with the view of enhancing the much-needed cooperation and more importantly, with the view of making a significant impact in the identified priority areas.

The unit has developed a two-pronged approach aimed at continuing to deliver the impact on specified priority crime areas, including emerging crimes such as illicit financial flows, while at the same time making extensive use of chapter 6 in identifying areas such as government and private sector corruption.

THE INCREASED FOCUS ON HIGH VALUE CASES

The second strategic initiative was to focus limited resources on high value and complex cases that make great impact. Active participation in Ministerial Task Teams, The Premier's Anti-corruption Forum and an inclusive case strategy to deal with high-end corruption matters has proved to be highly effective in the optimal utilisation of resources given the limited budget and capacity. The AFU has also started working on state capture cases in order to combat corruption at the highest levels.

USING CHAPTER 6 OF POCA WHEN POSSIBLE

Making use of chapter 6 of POCA which provides for forfeiture independently of the criminal process, assisted in speeding up the finalisation of cases. This approach further limits costs.

| | |
|-------------------|---|
| LOCATION | South Africa |
| POPULATION | 55 million |
| ARINSA MEMBERSHIP | One of the founding members of ARINSA in 2009 |



The majestic Drakensberg.



Palace of Justice in Church Square, Pretoria.

AFU INITIATIVES

The AFU has developed a number of initiatives to improve its impact and performance and these include:

- Working more closely with partners
- Increased focus on high value cases
- Using chapter 6 of Prevention of Organised Crime Act (POCA)
- Working closely with the DPPs to broaden the use of forfeiture
- Combatting corruption
- Special Investigating Unit (SIU)

NOTABLE CORRUPTION CASES

NDPP VS LAMOER AND OTHERS

In April 2017 the AFU Cape Town obtained a restraint order against SAPS Provincial Commissioner A. Lamoer and Brigadiers Van Der Ross and Govender to the amount of R1.63 million. Pursuant to a guilty plea and conviction of the accused, the AFU instituted and obtained a confiscation order.

NDPP VS EMILY MATHE

The defendant worked in the Office of the Chief Justice and bribed the Forensic Auditor in the office to make findings which would exonerate her from any wrongdoing following allegations of fraud against her. R15 000 was forfeited to the State in October 2017.

NDPP VS NOMBEMBE

The Defendant obtained tenders for cleaning materials at the Mquma Municipality corruptly. He supplied black refuse bags to the Municipality at grossly inflated prices. A forfeiture order for R2.5 million was obtained in Port Elizabeth in November 2017. Despite the Defendant passing on, the AFU proceeded against the deceased estate and obtained the forfeiture order to recover the government loss.

NDPP V HATTINGH

The case in question addressed corruption at municipality level. The AFU working together with its partners such as the City of Cape Town and the SAPS, obtained a restraint order valued at approximately R7.5m against the assets of a certain Paul Matthew Hattingh who abused his position as member of the Bids Adjudication Committee of the Municipality to award certain tenders to companies owned by his wife and daughter. The matter is also still pending.



Rosettenville, Johannesburg, South Africa, Booyens magistrate court.

NDPP VS ZERANZA (PTY) LTD AND OTHERS

National Treasury paid a total of R2 billion in grants in terms of the Division of Revenue Act (DORA) to the Nelson Mandela Bay Metropolitan Municipality (NMBM) for the Integrated Public Transport System Project (the IPTS).

Pursuant to forensic investigations, it was found that a number of entities and individuals were paid in terms of corrupt relationships with NMBM employees.

The AFU PE has obtained restraint orders against houses of Zeranza and Wessels valued in excess of R10 million. Further preservation orders to the value of R1.3 million were obtained in respect of property that was acquired with proceeds of unlawful activities.

NDPP VS NDLONDLO FAMILY TRUST

Monies were awarded to the Ndlondlo Family Trust by the Department of Rural Development and Land Reform in KwaZulu-Natal based on fraudulent claims submitted. The Trust bought a farm, equipment and cattle with the monies. A forfeiture order for the farm was obtained in the amount of R2.2 million on 22 June 2017.

NDPP VS MCKINSEY/TRILLIAN MATTER

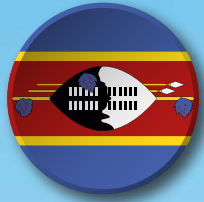
McKinsey Consulting was awarded a consulting contract with Eskom. The contract was irregularly awarded, and services were not rendered in terms of the contract. The Bloemfontein and Durban AFU Offices collaborated on the preparation of the preservation application and obtained a preservation order in the amount of R1.595 billion in December 2017.

NDPP VS ESTINA FARM MATTER

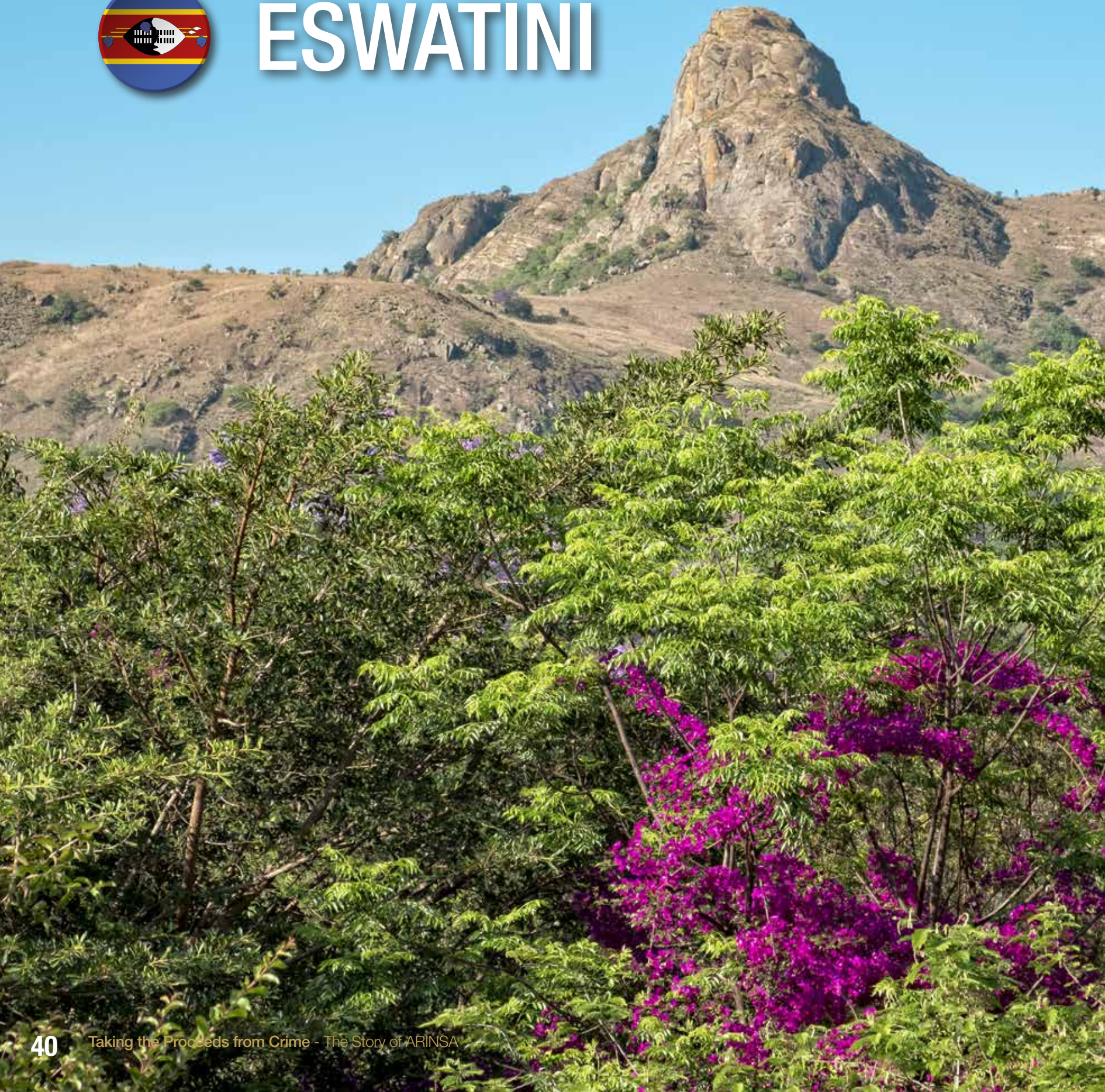
Monies intended for the development of a dairy farm in the Free State were transferred to unrelated entities and used for personal gain, *inter alia* to pay for a wedding. The Bloemfontein and Durban Offices collaborated on the matter and obtained a restraint against the accused in the amount of R220 million in February 2018.

NDPP VS TEGETA EXPLORATION AND RESOURCES AND OTHERS\ENVIRONMENTAL REHABILITATION FUNDS

The AFU Pretoria obtained a preservation order in respect of Mining Rehabilitation Funds to the amount of R1.75bn in March 2017 for the Koorfontein and Optimum mines, which were being misused in contravention of Section 41 of the Mineral and Petroleum Resources Development Act 28 of 2002, read together with the National Environmental Management Act (NEMA).



ESWATINI



ESWATINI'S BACKGROUND

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). Eswatini is then one of the founding members of the ARINSA Network.

ASSISTANCE RECEIVED FROM ARINSA

It was through the foundation of ARINSA that the Kingdom of Eswatini was introduced to the concept of asset recovery. ARINSA has gone to extra lengths in providing technical assistance and training on asset recovery through placement programmes, workshops and mentorship programmes for the Kingdom of Eswatini. The Kingdom has been working with ARINSA as a network for mutual cooperation on asset recovery.

TRAINING RECEIVED THROUGH ARINSA

PROSECUTOR PLACEMENT

Ten prosecutors under the Director of Public Prosecutions have been trained by ARINSA under this programme. This training has had a great impact on the prosecution of asset recovery related cases and it has given birth to the establishment of the Asset Recovery Unit under the Office of the Director of Public Prosecutions. The trained prosecutors initiated the drafting of the Prevention of Organised Crimes Act 2018, by the Attorney-General's Office. It was through this training that the Office of the Director of Public Prosecutions in the Kingdom has been able to institute civil forfeiture applications.

WORKSHOPS

Several officers under the Office of the Director of Public Prosecutions, financial investigators, financial intelligence unit officers, rangers, immigration and customs officials have been trained by ARINSA on money laundering, terrorism financing, wildlife crime and tracing the proceeds of such crimes, forensic and financial investigation, and advanced advocacy drafting skills to mention a few. All these training courses have been the cornerstone for the effective processing of asset recovery cases.

| | |
|--------------------------|--|
| LOCATION | Southern Africa |
| POPULATION | 1.093 million |
| ARINSA MEMBERSHIP | One of the founding members of ARINSA in 2009. |



MENTORSHIPS PROGRAMMES

ARINSA has provided the Kingdom of Eswatini with a mentorship programme which has assisted in the operationalisation of the Money Laundering Act 2011 as amended in 2016, financial and forensic investigations. Various cases have been investigated under the guidance of the ARINSA mentors. The mentors have contributed immensely towards the drafting of the Prevention of Organised Crime Bill that was passed into an Act in 2018. Under the guidance of the mentors, appropriate structures for the asset recovery unit under the Director of Public Prosecutions and Royal Eswatini Police Service have been formulated. The proposed structures are undergoing implementation, and this has led to the appointment of prosecutors and financial investigators to deal with asset recovery matters.

MUTUAL COOPERATION WITH OTHER COUNTRIES

ARINSA has assisted a lot in matters of mutual assistance between member states. As a country, Eswatini is able to receive information quickly from other countries who are also ARINSA members. We are thus able to implement the international aspect of asset recovery. The flow of information from one country to another has been assisted by the ARINSA initiative of having affiliated contact persons in the several member states trained by ARINSA.

In concluding, ARINSA has been the engine behind the Kingdom's asset recovery programme which requires international cooperation. Eswatini would like to see ARINSA grow in membership and cover the whole of Africa for cooperation in matters of asset recovery.



Training workshops have been the cornerstone for the effective processing of asset recovery cases.



ARINSA has provided the Kingdom of Eswatini with a mentorship programme which has assisted in the operationalisation of the Money Laundering Act 2011 as amended in 2016, financial and forensic investigations.



E23bn 'Dirty' Money

CERTAIN ILLICIT DEALINGS IN THE SHADOWS

| Name of product/service | Prevalence rate |
|---|-----------------|
| Unlicensed foreign trade | High |
| Unlicensed 2nd hand cars (imports) | High |
| Unlicensed foreign selling money to SAC | High |
| Violation of foreign exchange regulations | High |
| Black market sale of alcohol, cigarettes | High |
| Unemployment at border points | High |

“We have taken a stand against money laundering. You cannot come with E50 000 without proof of source”

LARGE SHADOW ECONOMY

It has been said that 37.4 per cent of the GDP was money circulating outside the tax net. It must be said that 37.4 per cent of the GDP was money circulating outside the tax net. It must be said that 37.4 per cent of the GDP was money circulating outside the tax net.

Assets seized.



BOTSWANA



LEGISLATION

Botswana employs both conviction-based and non-conviction based asset forfeiture regimes.

Legislation covering Anti-Money Laundering (AML) and Counter Terrorism Financing (CFT): ML is covered under the Proceeds and Instrument of Crime Act, Chapter 08:03 as amended by Act No. 8 of 2018.

Counter Financing of Terrorism (CFT) is covered under the Counter Terrorism Act of 2014, as amended in 2018.

BENEFITS FROM ARINSA

Three officers from Botswana comprising of one from Botswana Police, one from the Financial Intelligence Agency, as well as one from the Directorate of Intelligence Services benefited from ARINSA courses. All eight of the Asset Forfeiture Prosecutors working in the AFU have been trained under the UNODC/ARINSA Prosecutor Placement Programme. The ARINSA programme included, Training Workshop on Financial Crimes, Terrorism Financing workshop, and Workshop on Asset Forfeiture & Money Laundering for Judges & Magistrates on 4 and 5 June 2017. Botswana hosted a UNODC Mentor for Law Enforcement & Prosecutors Workshop from September/November 2017 and February/ March 2018. Seventeen prosecutors benefited from the Prosecutor Placement Programme at the Asset Forfeiture Unit in South Africa.

Two officers, one from the Directorate of Public Prosecutions (DPP) and one from the Botswana Police Service (BPS), who are ARINSA contact persons, have benefited from the Asset Management Workshops.

RECOVERED FUNDS AND RESTRAINING ORDERS SECURED

Table 1: Civil Penalty and Forfeiture Applications

| CASE NO: | NATURE | VALUE (BWP) | STATUS |
|----------|------------------|---|------------------|
| 1 | Civil Penalty | BWP 700,000 per Respondent (4 Respondents) | Granted |
| | Civil Forfeiture | P14,295,000 (34 Plots) | |
| 2 | Civil Forfeiture | P214,000,000 (cash, movable and immovable property) | Pending hearing |
| 3 | Civil Penalty | P9,100,000 (cash at Bank) | Pending judgment |
| 4 | Civil Forfeiture | P60, 000, 000 Property | |

| | |
|-------------------|--|
| LOCATION | Southern Africa (Landlocked) |
| POPULATION | 2.3 million |
| ARINSA MEMBERSHIP | One of the founding members of ARINSA in 2009. |



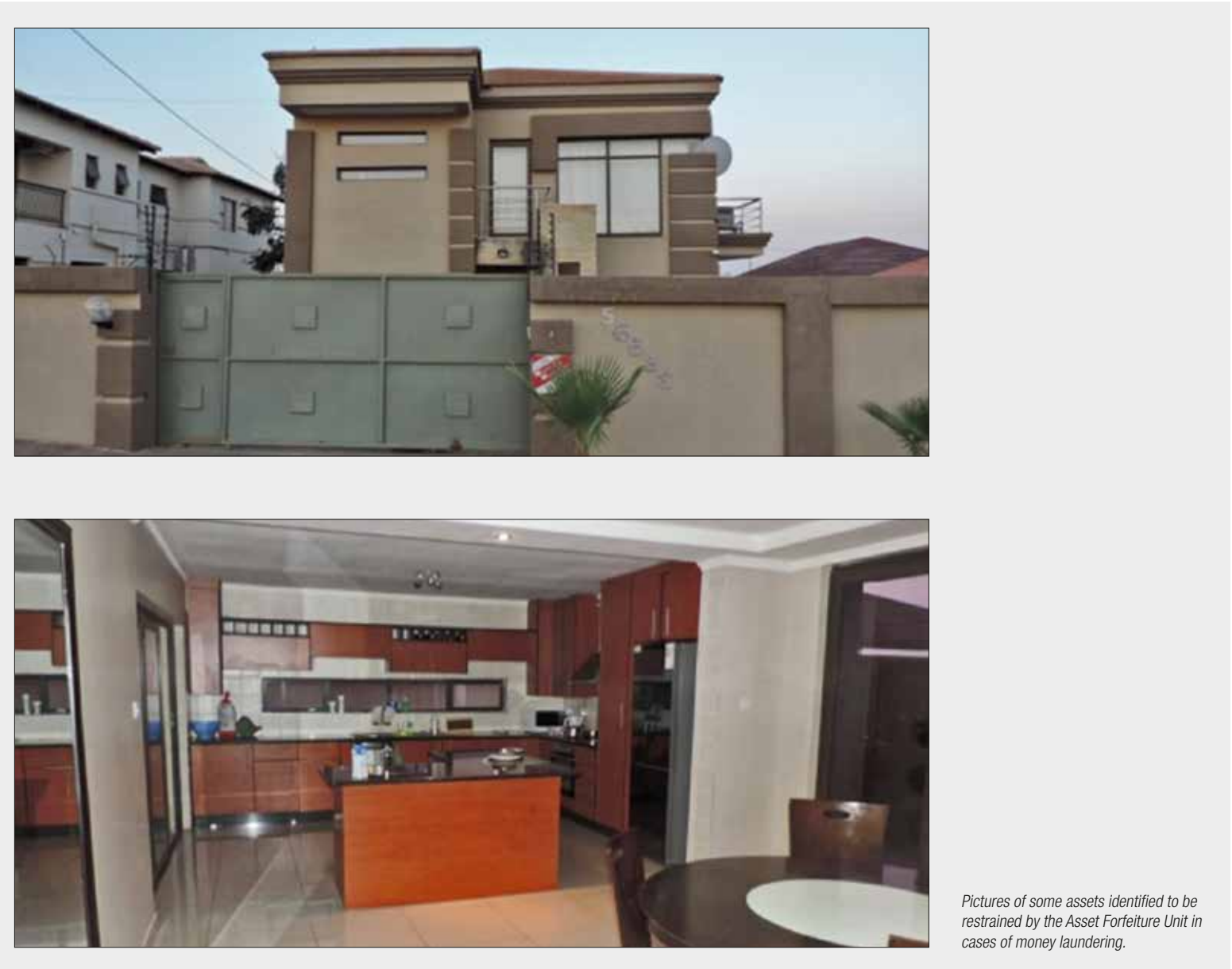
Elephants roaming the Okovango Delta in Botswana

Table 2: Restraints

| CASE NO: | NATURE | VALUE (BWP) | STATUS |
|----------|-----------------------------|--|-----------------------|
| 1 | Bank Account | P1,735,869.72 | Property restraint |
| 2 | Cash | P110,570.50 | Under restraint |
| | Movable Property | 5 cars, furniture and electronic equipment | Under restraint |
| 3 | Cash | P1,078,800.00 | Under restraint |
| | Car (estimate value) | P700,000.00 | |
| 4 | Cash | US\$ 184 947.92 | Mention on 18/03/2019 |
| 5 | Cash | BWP 807 615.69 | Under restraint |
| 6 | Cash and immovable property | BWP 986 688.59 | Under restraint |
| 7 | Cash | BWP 128 445.52 | Under restraint |

ADMINISTRATIVE FORFEITURE

Under the Proceeds and Instrument of Crime Act of 2014 there are regulations which allow LEA to seize and forfeit property. Under this process a total of BWP 121 123.75 has been forfeited to the State and remitted into the Confiscation Trust Fund under the Office of the Receiver. This is the money derived from dealing in drugs.



Pictures of some assets identified to be restrained by the Asset Forfeiture Unit in cases of money laundering.





ZAMBIA

BEFORE ARINSA

Zambia was a pioneer of the African countries who started the trend of prosecuting former presidents and their high officials for corruption done during their tenure in government. Property was seized and most of it was left unmanaged and dilapidated because at the time, there was no guiding legislation such as the Forfeiture of Proceeds of Crime Act No. 19 in 2010 (FPOCA) in place. If Zambia had been a member of ARINSA at the time, the processes and outcomes of those cases would most probably have been different because Zambia would have been enlightened about non-conviction-based forfeiture and best practices in asset recovery.

LEGISLATION

Zambia enacted the FPOCA in 2010. The Unit finalised a draft of the Rules and Regulations. The draft is at the Legislative drafting department and once they conclude it, it will be forwarded to the Chief Justice and the Minister of Justice respectively, before it may be passed as Law.

There are also the Prohibition and Prevention of Money Laundering Act and the Anti-corruption Act.

ASSET FORFEITURE UNIT AT NPA

There is an established Asset Forfeiture Unit (AFU) at the National Prosecuting Authority (NPA). The challenge is that the full structure has not yet been approved. The only approved position under the AFU is the head's position.

BENEFITS OF ARINSA

Zambia has benefited tremendously in technical assistance and training from her association with the ARINSA network. ARINSA has greatly helped in bridging the gap of gathering intelligence information. Through the informal networks, our law enforcement has managed to get international information when Mutual Legal Assistance through formal channels has failed. Close interaction and association with ARINSA greatly assisted Zambia in taking the route to form an Asset Forfeiture Unit under the National Prosecuting Authority. The network was also influential in testing the waters under FPOCA in the Austin Liato case where, billions of Kwachas were forfeited to the state from a former minister. The following are some of the programmes that Zambia benefited from under ARINSA:

| | |
|--------------------------|--|
| LOCATION | Southern Africa (Landlocked) |
| POPULATION | 18.05 million |
| ARINSA MEMBERSHIP | One of the founding members of ARINSA in 2009. |



Morning light at Victoria Falls from Zambia looking into Zimbabwe

PROSECUTOR PLACEMENT PROGRAMMES

The Prosecutor Placement Programme (PPP) is an initiative of ARINSA meant to transfer skills and share experiences among prosecutors from different countries within the region. Zambia has benefited by sending some of its prosecutors to South Africa for not only theoretical training but practical experience through placement with experienced prosecutors in South Africa. This has proved to be very effective. The eight prosecutors (five female) who took part in the programme have greatly enhanced their capacity in asset forfeiture due to the practical exposure in drafting court documents and attending the court processes relating to asset forfeiture and recovery.

TRAINING PROGRAMMES

ARINSA has scheduled various training events in which Zambia took part. Stakeholders from different institutions have benefited from the various events. Beneficiaries include the National Prosecution Authority, Drug Enforcement Commission, Financial Intelligence Centre, Zambia Police and National Anti-Terrorism Centre. The training programmes, among others, included the following;

- Asset tracing, management of seized assets, cybercrime investigations, training in terrorist financing, beneficial ownership and financial investigations

Following proceeds of wildlife crime, launching of a manual on wildlife training and combatting cash couriers

ANNUAL GENERAL MEETINGS

The Annual General Meetings are very beneficial to Zambia as they create great opportunities to not only interact and create strong networks, but also forge rapport with other ARINSA members. The information gained is helpful to the country in understanding money laundering and asset recovery trends that are prevalent in the region and the efforts that other countries employ in combatting such crimes. The meetings also provide an opportunity for Zambia to showcase achievements and share challenges with the view of learning from others.

MENTORSHIP PROGRAMME

Zambia has also benefited from this resource from ARINSA because two mentors have so far been sent to Zambia.

EXCHANGE OF INFORMATION

As alluded to earlier, Zambia has informally exchanged information with other countries which has been useful in the production of formal requests, i.e. Mutual Legal Assistance or Letters of Requests from foreign countries.

The activities discussed above have been made possible through ARINSA and the United Nations Office on Drugs and Crimes. The programmes have helped in building capacity in the asset forfeiture regime of Zambia.

SUCCESS STORIES

Several asset forfeiture and money laundering cases have gone to court since Zambia joined ARINSA. Cases such as the Austin Liato case. One such case is the Kapoko case, whose judgment was passed in late 2018. This case in question is related to a former employee of the University Teaching Hospital (UTH) under the Ministry of Health who was convicted on allegations of theft by a public servant. He was charged contrary to 272 and 277 of the Penal Code Chapter 87 of the Laws of Zambia and Money Laundering contrary to section 7 of the prohibition of Money Laundering Act No. 14 of 2001. The significance of this case was that it reinforced the right message to the public that crime does not pay.

- The following assets were forfeited from the Kapoko Case: eight (8) vehicles, seven (7) properties, all stolen monies deposited in banks by Henry Mulenga Kapoko and all other properties not specifically listed but were produced in court as proceeds of crime
- From Zukas Musonda Kaoma: ten (10) vehicles and all other properties not specifically listed but were produced in court as proceeds of crime

Zambia is making strides using non-conviction based forfeiture. A number of cases are awaiting judgment which were commenced using the non-conviction based asset forfeiture. An instance is the case of Yotam Banda and five others, where a forfeiture order of over 2 million Kwacha in assets was granted.

In a bid to ensure that criminals do not benefit from their ill-begotten gains and ensuring that crime does not pay, Zambia continued her efforts in asset forfeiture and the following are some cases of note:

CONVICTION-BASED FORFEITURE APPLICATIONS

- **Director of Public Prosecutions vs Cassius Machina and two others.** This application was made following the conviction of

the Respondents for a serious offence. Assets involved included cash and various household goods, all obtained from proceeds of crime. Judgment was delivered by the High Court and a Restitution order made, ordering that the property in question be given to the interested party.

- **Director of Public Prosecutions vs Chawezi Mumba.** This application involved a motor vehicle which was used to commit a serious offence for which the Respondent was tried and convicted. This case is pending delivery of judgment.
- **Director of Public Prosecutions vs Yotam Banda (alias Mwale) and others.** A forfeiture order was made forfeiting where the following property was attached; a house on a piece of land with two bedroom quarters, 415,000.00 Zambian Kwacha, US\$9,820.00, an insurance policy worth 130,000.00 Zambian Kwacha, various household goods and motor vehicles.
- A forfeiture order was obtained in the Eastern Province of Zambia where a dwelling house was forfeited to the State.

NON-CONVICTION BASED FORFEITURE APPLICATIONS

- **Director of Public Prosecutions vs Tomnel Investment and Zamwen Investments Limited:** Case argued in the High Court and involved 114 pairs of shoes bearing counterfeit trademarks.
- **Director of Public Prosecutions vs Jessy Kapyelata Tapalu and another:** The case is in the High Court of Zambia. The case involves property acquired through unlawful means. The Respondent was an employee of a state-owned bank in Zambia and she was involved in fraudulent activities involving Money Gram funds.
- **Director of Public Prosecutions vs Sydney Mwansa and 2 Others:** The case is in the High Court of Zambia. The Respondent was arrested and prosecuted for drug dealing offences and property seized is a subject of a non-conviction based forfeiture application and property includes a pistol, a piece of land with incomplete structures in an upmarket area in Lusaka and a dwelling house. The estimated value of the property involved is 3.4 million Zambian Kwacha.
- **Director of Public Prosecutions vs Abraham Hezborn Chintu trading as Isungile Payment Solutions, Ikulile Initiative and others:** Case involves funds obtained by the Respondents and property acquired through operating a financial business without a licence from the Central Bank. The Central Bank has applied as an interested party and seeking an order that depositors be paid back the money through the Central Bank.



A forfeiture order was made forfeiting where the following property was attached; a house on a piece of land with two bedroom quarters, 415,000.00 Zambian Kwacha, US\$9,820.00, an insurance policy worth 130,000.00 Zambian Kwacha, various household goods and motor vehicles.



A former Service Chief in the Defence Forces was involved in fraudulent activities involving theft, abuse of authority of office, concealing ownership of property which is from proceeds of crime and possession of property reasonably suspected to be proceeds of crime.

MINISTRY OF INFRASTRUCTURE

This matter was reported to the Drug Enforcement Commission alleging theft of public funds amounting to over K6.0 million at the Ministry of Housing and Infrastructure Development between March 2017 and November 2017. Funds meant for various activities were diverted for personal use.

Six persons from the Ministry of Housing and Infrastructure Development were charged and arrested on money laundering charges. Property suspected to be proceeds of crime was seized, including six pieces of land and three motor vehicles.

MINISTRY OF GENERAL EDUCATION

The Auditor-General's report for the year 2016 revealed that payments worth 3,5 million Zambian Kwacha were made to two accounting officers from the Ministry of General Education (MOGE) without being approved. Cheques were raised without any supporting documentation or approvals. A forensic audit further revealed that nine officers had gotten payments corruptly. The department was defrauded of 13 million Zambian Kwacha. The persons were charged and arrested for offences of money laundering and properties suspected to be proceeds of crime were seized. Six motor vehicles, nine houses, two farms, and a plot of

land were seized.

MINISTRY OF DEFENCE

A former Service Chief in the Defence Forces was involved in fraudulent activities involving theft, abuse of authority of office, concealing ownership of property which is from proceeds of crime and possession of property reasonably suspected to be proceeds of crime. The incumbent appeared before the courts charged with money laundering and abuse of authority of office. The pictures below show the properties that were seized.

SEIZURES

Zambia seized various assets suspected to be proceeds of crime. Among the items seized were real estate, vehicles, household goods, office furniture and equipment, farm animals, etc. The estimated value of the assets seized in 2018 is ZMW 71 million. In addition, cash in bank accounts totalling ZMW 13,043,732.02 and US\$ 59,901.56 was seized. (Pictures on page 53 show some of the seized items.)

TREND ANALYSIS OF CASES INVESTIGATED

During 2018, an increase in cases of fraud and embezzlement of public funds involving officers in the public sector was noted. This included fraud



Zambia seized various assets suspected to be proceeds of crime. Among the items seized were real estate, vehicles, household goods, office furniture and equipment, farm animals, etc.

emanating from abuse of authority of office by various public officials. Other notable typologies included cybercrime and credit card fraud.

It has been noted that the most prevalent type of money laundering that was being used by the suspects was by conversion of proceeds of crime into livestock, real estate and motor vehicles.

ANTI-MONEY LAUNDERING AWARENESS ACTIVITIES

A total of 97 awareness activities were conducted across the country in 2018 and a total of 29,883 persons were reached. Among the institutions sensitised were banks, micro-financial lending institutions, government ministries and departments, churches and institutions of learning, i.e. colleges and universities, etc. Further, officers from the Anti-Money Laundering and Investigations Unit (AMLIU) featured on both private and public radio and television programmes to discuss money laundering and fraud prevention. These awareness activities led to an increase in the number of cases reported from the institutions.

TRAINING ATTENDED

Zambia benefited from various professional development training events which ensured that officers were kept abreast of the current trends in money laundering. Twelve officers were sent abroad. There were various training events on wildlife in various countries in which various agencies from Zambia benefited. Lusaka-based officers underwent training in Virtual Currency Investigation conducted by the Conference of Western Attorneys General (CWAG) African Alliance Partnership (AAP) in Lusaka. Furthermore, Zambia benefited from the training of officers facilitated by ARINSA and UNODC in Civil Advocacy, both in 2018 and 2019.

GOING FORWARD

Zambia would greatly benefit from more judicial retreats on asset forfeiture as gaps have been identified. Capacity building for investigators in financial investigations is another essential need and more technical assistance and training should be considered.

Technical assistance in branding would also go a long way in giving voice to the forfeiture laws. Making the unit and the law relating to forfeiture visible throughout the country through posters and billboards that “crime does not pay” would go a long way in sending the right message to members of the public.



NAMIBIA



“When I think of ARINSA, I think of great connections, friendships and a tool that has helped me in my asset recovery journey.”

– Kavejamua Ngavetene (Former Prosecutor: Asset Recovery Unit)

Namibia, a country situated in Southwest Africa, is distinguished by the Namib Desert along its Atlantic Ocean coast. The country is home to diverse wildlife, including a significant cheetah population. Etosha National Park’s salt pan draws game including rhinos and elephants. Namibia is one of the founding member countries of ARINSA.

THE ASSET RECOVERY UNIT

INTRODUCTION

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 Organised Crime Act, 29 of 2004 (POCA). The legislation is still considered new in the context of decided case law. There have been several attacks on the legislation since its enactment in May 2009. The most relevant decisions relating to this legislation were:

- The full bench of the **High Court decision of Shalli vs The Attorney General and Another**, where the constitutionality of chapter 6 was unsuccessfully challenged;
- The Supreme Court matter of **The PG vs Uuyuni** where the in camera provision of section 98 and *ex parte* provision of section 51 were unsuccessfully challenged;
- The **PG vs Taapopi** matter where the interpretation of regulation 7, read with section 51 of POCA was unsuccessfully challenged.

The measurement of the success of the unit is determined by the number of forfeiture and confiscation orders. In order to obtain a forfeiture order, the OPG must first apply for a preservation of property order.

PRESERVATION ORDERS OBTAINED

During the period of May 2011 to September 2018 the OPG applied for 68 preservation of property orders to the value of approximately N\$100 000 000 (US\$7 142 857.14).

Five preservation applications were either withdrawn or lapsed due to an issue raised about the *locus standi* of prosecutors who are not admitted as legal practitioners to appear in civil courts. In all these cases new preservation orders were obtained.

| | |
|--------------------------|---|
| LOCATION | Southern Africa (Atlantic Ocean – Western border) |
| POPULATION | 2.5 million |
| ARINSA MEMBERSHIP | One of the founding members of ARINSA in 2009. |



Ship Wreck along the Skeleton Coast in Western Namibia

FORFEITURE ORDERS OBTAINED

During the period of May 2011 to September 2018, the OPG applied for 57 forfeiture of property orders. Of the 57 forfeiture applications, 47 orders were granted. The value of the orders is approximately N\$55 000 000.00 (US\$3 928 571.43). Three forfeiture applications were dismissed by the High Court and are subject to appeal in the Supreme Court. The appeals relate to:

- Whether the property was essential or mere incidental to the commission of an offence;
- Whether a forfeiture application can be said to contain evidence if reliance is placed on the evidence attached to the preservation application, which did not form part of the forfeiture application;
- Whether a forfeiture application requires the Registrar to issue it as a separate and distinct application from the preservation application.

CONVICTION-BASED FORFEITURE

During the period of May 2011 to September 2018, the OPG applied for nine confiscation orders. The OPG obtained eight subsequent realisation orders to the value of N\$2 279 071.51 (US\$162 790.82). One application for confiscation was dismissed by a magistrate. The matter was appealed, and the High Court forfeited a cash amount of N\$3 000 000 to the State in terms of the Criminal Procedure Act 51 of 1971. The OPG has identified a large number of criminal cases that have asset forfeiture potential. These cases are still ongoing. There is currently one criminal case in which OPG has applied for confiscation.

THE UNIT'S SUCCESSES

Asset recovery is an important tool in the fight against organised crime. Asset recovery goes further than conviction in criminal cases, it ensures that the proceeds of unlawful activities are taken away from the perpetrators and that criminals do not benefit from their unlawful activities. However, the asset recovery laws were not enforced without challenges:

The Supreme Court delivered the Taapopi judgment confirming that all preservation applications are applied for *ex parte* due to the fact that there was no respondent at the preservation stage. The Court ruled that regulation 7(b) (dealing with service) of the POCA regulations was not applicable to preservation applications.

The Supreme Court delivered a judgment on New Africa dimension confirming that proceeds of unlawful activities do not only refer to offences, but also include conduct that contravenes the laws of Namibia.

THE UNIT'S FAILURES

The nature of the dismissals of the applications is technical. The technicalities relate to procedural points which the Supreme Court is required to give clarity on.

MAJOR CASES IN THE LAST 10 YEARS

WU XIN PING

The PG successfully applied for a forfeiture order in respect of N\$3 002 896.50 (US\$214 492.57) on the grounds that the money was proceeds of the sale of counterfeit goods and money laundering. The money was found in a box that was kept at a shop situated at the China Town shopping complex in Windhoek.

PUGALNANTHY

The PG successfully obtained a realisation of property order relating to a confiscation order that was granted in respect of N\$1 402 975.85 (US\$100 212.56). The accused persons were convicted of fraud, forgery and theft.

AVESHE

The PG successfully obtained a forfeiture order in respect of 21 bank accounts, two houses and seven vehicles to the sum of N\$20 850 000 (US\$1 489 285.71) on the grounds that the properties are the proceeds of fraudulent VAT refunds that were paid out by the Ministry of Finance to Angolan nationals. The value of the fraudulent refunds was N\$114 000 000.00 (US\$8 142 857.14).

SHALLI

The PG successfully obtained a forfeiture order in respect of N\$3 600 000 (US\$ 5 257 142.86) which was kept in a Zambian bank account on the grounds that it was proceeds of bribes received by the former Chief of the Namibian Defence Force and Namibia's former High Commissioner to Zambia. The money has been returned to Namibia with the help of the Zambian authorities.



The PG successfully obtained a forfeiture order in respect of N\$3 600 000 (US\$ 5 257 142.86) which was kept in a Zambian bank account on the grounds that it was proceeds of bribes received by the former Chief of the Namibian Defence Force and Namibia's former High Commissioner to Zambia.



The PG successfully obtained a confiscation and realisation order in Shivute in respect of property to the value of N\$371 615.93 (US\$26 543.91). The property included a house, a vehicle, cash and furniture.

FORT NOX

The PG successfully obtained a forfeiture order for N\$1 100 000 (US\$ 78 571.42) on the grounds that it was proceeds of money laundering. This case involved two companies that were registered with false identity documents. Bank accounts were opened in the companies' names and a sum of N\$32 271 858.6 (US\$ 2 305 132.76) was deposited in the two companies' bank accounts. Most of this money was transferred to foreign jurisdictions.

SHIVUTE

The PG successfully obtained a confiscation and realisation order in respect of property to the value of N\$371 615.93 (US\$26 543.91). The property included a house, a vehicle, cash and furniture. The accused person was convicted of fraud and theft.

CARVALHEIRA

The Prosecutor-General (PG) successfully obtained a confiscation and realisation order in respect of property to the value of N\$80 697.73 (US\$5 764.12). The property included money and a vehicle. The accused person was convicted of illegal dealing in diamonds.

NEW AFRICA DIMENSIONS

The PG successfully obtained a forfeiture order on four bank accounts with a sum of N\$2 357 434.48 (US\$ 168 388.18) and a GTI Golf. The grounds for forfeiture were that the properties were the proceeds of corruption, where two individuals corruptly colluded with officials in the Ministry of Agriculture, Water and Forestry (MAWF) and defrauded the MAWF of N\$9 834 143,91 (US\$702 438.85).

SWASTEM TRUST

The PG successfully obtained a forfeiture order on a Family Trust bank account with a sum of N\$4 800 000 (US\$ 342 857.14). The grounds for forfeiture were that the property was the proceeds of fraud, dealing in unpolished diamonds and money laundering. The funds were deposited into a Namibian Family Trusts bank account from South Africa under the disguise of a non-repayable 'loan' from an American company.



Pictures reflecting some of the asset recovery cases in Namibia

Progress on training

- Eight unit members have undergone the Prosecutor Placement Programme in South Africa.
- ARINSA has scheduled various training courses that were hosted in Namibia. Stakeholders from different institutions have benefited from these .
 - Practical Asset Recovery Training in Swakopmund in August 2014 involved various stakeholders, the Anti-corruption Commission, Nampol, Prosecution and Financial Investigations Centre.
 - Judges training (Judicial retreat) Swakopmund, July 2015.
 - Cybercrime and open source investigations workshop, February 2019.

BENEFITS OF BEING AN ARINSA MEMBER

- ARINSA is a good platform to obtain information that a member country may require from another country when carrying out financial investigations.
- The exchange of information within the ARINSA community promotes the effective implementation of the asset recovery laws in the country.
- The training and technical assistance programmes 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.
- ARINSA represents a family. The network promotes good working relationships between people from the various member countries and in turn, the governments of the respective countries as a whole.



Training hosted by ARINSA mentor to Namibian police officers, 2019, Windhoek



Cybercrime workshop, 2019, Windhoek

- Through the technical assistance provided by ARINSA, the Asset Recovery Unit is able to work through the asset recovery cases. The proceeds of unlawful activities are transferred to the Asset Recovery Fund. In 2016, an amount of N\$10 000 000 (US\$714 285.71) was released from the Asset Recovery Fund and assigned to the Namibian Police. The funds are currently being used for the benefit of the Asset Recovery Division in Nampol to ensure that they have all the necessary equipment that would enable them to carry out investigations in a more efficient manner. During 2016, an amount of N\$20 000 000 (US\$1 428 571.43) was released to the Financial Intelligence Centre and Nampol to fund their investigations.
- The Asset Recovery regime has proven to be an important instrument, not only for taking away the proceeds of unlawful activities, but also returning properties to the victims of such unlawful activities. For instance, in the Shivute case, N\$308 622.40 (US\$22 044.46) was returned victims.

VOTE OF THANKS

The OPG would like to express their gratitude to ARINSA for the important role it has played in the fight against crime. As times are changing and crime is evolving; it is notable that crime has no borders. The Namibian Asset Recovery Unit was set up with the help of Clive Scott, the first UNODC mentor to Namibia. We are grateful for his guidance and commitment. We are especially grateful to the UNODC and ARINSA for the continued support and commitment in helping us in the fight against organised crime.



UGANDA

LEGISLATION

The Anti-Money Laundering Act 2013 as amended, and the Regulations made thereunder in 2015. The Anti-Terrorism Act 2002 as amended by the Anti-Terrorism Amendment Act 2017, The Anti-Terrorism Regulations 2017. Uganda’s legal system employs the conviction-based asset forfeiture system.

BENEFITS FROM ARINSA

Eight prosecutors from the Anti-Corruption Department of the Office of the DPP (ODPP) have participated in the prosecutor placement programme to date. This department is responsible for directing investigations and prosecuting cases of corruption and money laundering. It also houses the Asset Recovery Unit which has three designated prosecutors and two investigators from the Uganda Police Force.

Over the years, several prosecutors, financial analysts from the Financial Intelligence Authority (FIA) and police investigators from Uganda have also benefited from specialised training under ARINSA.

The interaction with ARINSA has greatly enhanced the capacity of prosecutors in Uganda to trace assets and seize/freeze the proceeds of crime. This is evident in the unit’s annual reports.

Using the plea-bargaining initiative, the Asset Recovery Unit has been able to recover properties before their dissipation and avoid the lengthy legal processes and numerous legal challenges lodged in courts to frustrate the recovery of crime proceeds.

RECOVERED FUNDS AND RESTRAINING ORDERS SECURED

Between 2013 to date a total of US\$26,553,699,019 (approximately US\$ 7,176,675) has been recovered from investigations and prosecution of misappropriated funds and transferred to the Consolidated Fund.

Currently seven restraining orders have been secured, restricting the disposal of the following properties: 126 registered properties (land) worth US\$ 1,753,794, motor vehicles (12) and 12 bank accounts.

| | |
|-------------------|---|
| LOCATION | East Africa |
| POPULATION | 45 million |
| ARINSA MEMBERSHIP | 2018 but before then had observer status. |



Crossing the equator in Uganda.

ASSET RECOVERY EFFORTS BY THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS (ODPP)

BACKGROUND

Recovery of crime proceeds in the ODPP is undertaken by the Asset Recovery Division, whose responsibility is to ensure that criminals are deprived of illicit proceeds through effective identification, seizure and confiscation of crime proceeds and through enforcement of asset recovery orders.

The division executes this mandate through the following key activities:

- Guiding police investigations on identification and seizure of crime proceeds and instruments of crime.
- Prosecuting asset recovery applications, including applications for restraining orders and execution of compensation orders.
- Conducting prosecution-led investigations in money laundering cases and illicit enrichment.
- Ensuring that the asset recovery orders are effectively implemented.

THE LEGAL FRAMEWORK FOR ASSET RECOVERY

The core asset recovery laws are:

- 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 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.

FORMS OF ASSET RECOVERY

Crime proceeds are essentially recovered through:

- Restraining and confiscation of crime proceeds.
- Compensation orders awarded to victims of crime.
- Plea bargaining through which suspects willingly offer to return the stolen funds (usually after pleading guilty).



Officers from the Asset Recovery Unit and Public Relations Office prepare to receive members of the public and the President of Uganda at a public exhibition on 10 December 2018 to commemorate the International Anti-Corruption Day. Corruption is the biggest predicate for ML in Uganda. ARINSA was promoted at the event.



Pictures of some assets seized by the Asset Recovery Unit in cases of money laundering

NOTABLE ASSET RECOVERY SUCCESSSES

ESTABLISHMENT OF THE ASSET RECOVERY DIVISION

Drawing from its experience with the Asset Forfeiture Unit of South Africa, the ODPP formally established the Asset Recovery Division in July 2015, with core staff of three prosecutors and two investigators.

FUNDS RECOVERED FROM PROSECUTED CASES

Between 2013 and 30 May 2017, the ODPP recovered Shs.26,108,307,487 (approximately US\$7.3 million), from prosecution of cases relating to misappropriation of public funds. The money is mainly paid as a result of compensation orders and plea bargain agreements between prosecution and the accused persons.

Between June 2017 to date, a total of Shs.445,391,532 (approximately US\$123,720) was recovered and deposited on the Asset Recovery Account with the Bank of Uganda.

RESTRAINING OF TAINTED PROPERTIES

Seven restraining orders through which the disposal of the following properties was executed: 184 properties, 12 motor vehicles, 12 bank accounts and 220 shares in three private companies.

Other restrained properties are electronics including: Samsung Galaxy Note 4, an iPhone model A1586, a wristwatch 'ice' brand and an Apple iPad.

SUCCESSFUL PROSECUTION OF MONEY LAUNDERING CASES

Prosecution of money laundering cases has been concluded in the following cases:

Uganda vs Sserwamba David & Others. The case involved theft of US\$ 1,450,000 from Equity Bank through a conspiracy between the bank employees and their accomplices. The accused persons used the stolen funds to acquire properties, but they concealed ownership of the properties by registering them in names of their relatives and associates. The accused persons were convicted of embezzlement and money laundering and sentenced to different terms of imprisonment. In addition, the accused persons were ordered to refund the stolen funds to the bank. The illicitly acquired assets were valued and handed over to the bank.

Uganda vs Kanya Valentino & three Others. The key suspect was an accountant with the Embassy of Sweden in Uganda and he used his position to embezzle Shs.8.4 billion (approximately US\$3 million) from the



Pictures of some assets seized by the Asset Recovery Unit in cases of money laundering



KAMPALA, UGANDA, Bulange Lukiiko (meaning Parliament) of the Kingdom of Buganda.

embassy. He used some of the money to acquire properties mainly real estate and luxurious motor vehicles, but disguised ownership of these properties by registering them in the name of a sham company where his parents in law were shareholders. Other properties were registered in the names of the suspect's wife and most of the stolen funds were deposited in her bank account.

Through a plea bargain process, the accountant was convicted of embezzlement of Shs.8.4 billion, while his wife and parents in law were convicted of money laundering for their roles in concealing the illicitly acquired property. The accountant was sentenced to three years' imprisonment and ordered to repay the full sum of Shs.8.4 billion to the embassy after selling 10 prime properties, which he had illicitly accumulated. In addition, the accused persons forfeited cash amounting to Shs.429,220,586 (US\$ 119,228), US\$ 400 and five luxurious motor vehicles to the government.

In both cases, the crime proceeds were timely identified and restrained before hearing of the cases was concluded.

ENFORCEMENT OF COMPENSATION ORDERS

Enforcement process is ongoing for seven compensation orders to recover Shs.50,623,869,290 (US\$14,062,185) in compensation orders that were issued in favour of government and Shs.17 billion in cases involving the private sector as the victims of concluded corruption and money laundering cases. The properties in some of these cases have already been identified and their disposal has been restrained pending their attachment and sale to realise the compensation amounts.

IMPROVED IN ASSET RECOVERY MEASURES

Improvement in asset recovery measures is forcing suspects to become more willing to offer plea bargain and offer to pay back stolen funds.

GOOD ASSET RECOVERY PRACTICES

The Asset Recovery Division has adopted some good practices which are partly responsible for the successes registered thus far:

A special Asset Recovery Account was opened by the Accountant-General with the Central Bank at the request of the DPP. This is where the recovered funds are deposited.



Services of four court bailiffs have been included among the pre-qualified service providers retained by the ODPP. Their services are used to execute asset recovery related court orders.

Prosecution-led investigations: All asset recovery investigations and cases of money laundering and illicit enrichment are prosecution-led. Prosecutors and investigators work in close consultation throughout the investigation process to ensure effective identification and recovery of crime proceeds.

Embedded investigators: Currently, two investigators are seconded by the police and attached to the Asset Recovery Division. The ODPP is in the process of securing more detectives to the division.

Collaboration with key stakeholders. The ODPP has established and maintained a good working relationship with law enforcement agencies including the Financial Intelligence Authority, Uganda Revenue Authority, the Uganda Police Force, Bank of Uganda and some commercial agencies.

CHALLENGES / WAY FORWARD

The ODPP has benefited from technical assistance and training offered by UNODC, ARINSA and the Asset Forfeiture Unit of South Africa (AFU). Through these, eight prosecutors have been trained by ARINSA under the Prosecutor Placement Programme, and two prosecutors were trained on beneficial ownership.

However, the ODPP has technical challenges requiring continuous training of the investigators and prosecutors in the following areas of:

- Identification, seizure and confiscation of crime proceeds and instruments of crime
- Analysis of financial evidence
- Management of restrained and confiscated property
- Realisation and disposal of confiscated property
- International cooperation and mutual legal assistance in money laundering and asset recovery cases
- Prosecution of money laundering cases

In terms of legislation, Uganda's asset recovery efforts are greatly hampered by lack of a civil forfeiture law.



ZIMBABWE

LEGISLATION

Zimbabwe uses both conviction and civil based asset forfeiture systems and has the following legislation in place:

- The Money Laundering and Proceeds of Crime Act (2013)
- The Criminal Procedure and Evidence Act
- The Money Laundering and Proceeds of Crime Act
- Exchange Control Act (Regulations, 2018).

BENEFITS OF JOINING ARINSA

Eight prosecutors (three female) from the National Prosecuting Authority have participated in the Prosecutor Placement Programme which seeks to equip prosecutors with the necessary skills in asset recovery-related matters. Personnel from various agencies in the country such as the Judicial Services Commission, Police, Zimbabwe Parks and Wildlife Authority, Zimbabwe Revenue Authority (ZIMRA), Zimbabwe Anti-Corruption Commission (ZACC) as well as the Financial Intelligence Unit (FIU) have also received training through mentorship programmes and workshops on proceeds of crime and money laundering, cash courier, terrorist financing, cybercrime and wildlife crime.

Crime knows no international boundaries and joining ARINSA has made it easier for the government agencies to access information beyond national boundaries.

THE FIRST CASE OF MONEY LAUNDERING IN ZIMBABWE

Arthur Chikukwa, a Harare businessman was jailed for an effective four years after being convicted of fraud and money laundering. He defrauded a prospective coal miner of over US\$2.7 million. Below is a photograph of one of the properties which was forfeited from the accused and returned to the complainant.



| | |
|--------------------------|--------------------------------------|
| LOCATION | Southern Africa |
| POPULATION | 16 million |
| ARINSA MEMBERSHIP | One of the founding members in 2009. |



Great Zimbabwe is a medieval city in the South-Eastern hills of Zimbabwe near Lake Mutirikwe and the town of Masvingo.



A house which was forfeited to the State in the case of the State vs Ngonidzashe Gumbo. The accused who was a commissioner with the Anti-Corruption Commission had bought the house with State funds and registered the house in the name of a private company in which he was a joint owner.



1,682kg of gold worth US\$67 000 which was recovered from a South African citizen as he tried to smuggle it outside Zimbabwe.



The picture shows Akashinga Rangers, Africa's first armed, all women anti-poaching unit. It is a community-driven conservation model, empowering disadvantaged women to restore and manage a network of wilderness areas as an alternative to trophy hunting.

These poachers arrested by Akashinga Rangers in the Zambezi valley.



Four poachers who were arrested in February, 2016 by Rangers in Matusadonha National Park with a live pangolin.



MAURITIUS



LEGISLATION

Mauritius uses both conviction-based and civil asset forfeiture. legislation dealing with money laundering and proceeds of crime include; Dangerous Drugs Act 2000: S 45 and S 45 A (now repealed), Prevention of Corruption Act 2002: Part VII (now repealed), Prevention of Terrorism Act 2002: S 16 and S 17 (now repealed) and the Asset Recovery Act 2011. The Enforcement Authority (EA) was established following the enactment of the Asset Recovery Act to recover property and instrumentalities derived from an unlawful activity. Formerly, the Director of Public Prosecutions, for the purposes of the Act, was the EA.

The Act was operationalised on 1 February 2012 and an Asset Recovery Unit (ARU) was created to implement the new legislation. On 26 January 2016, the Act was amended, and the powers of the Enforcement Authority were conferred to the Director of the Financial Intelligence Unit (FIU) and the name of the office is now known as the Asset Recovery Investigation Division (ARID).

MISSION AND VISION STATEMENT

ARID's mission statement is that of "Working together to rid society of crime". The vision statement is that of, "An Asset Recovery Unit that fights crime through quality investigation and litigation".

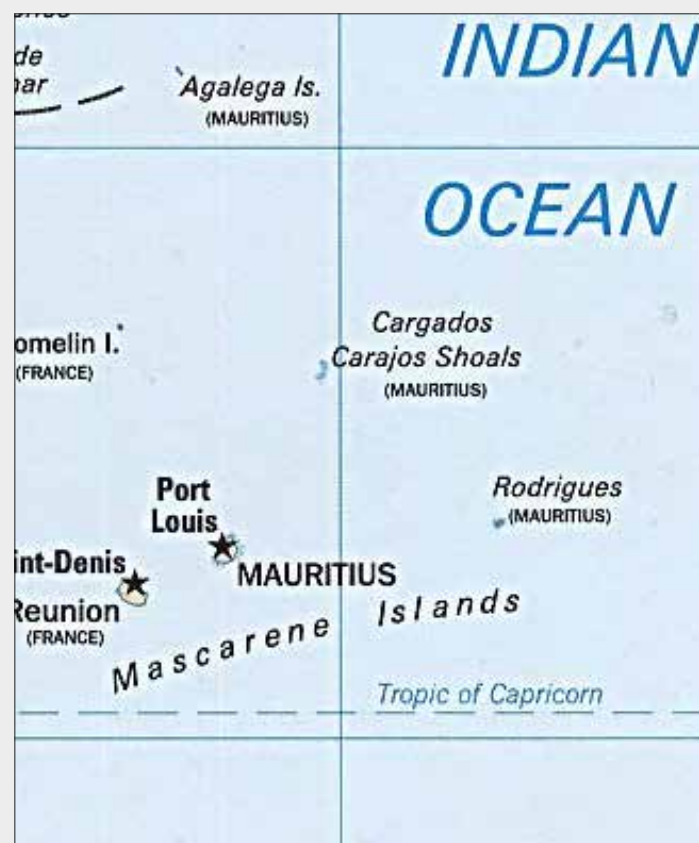
The aims of the ARID include;

- To disrupt crime and to make Mauritius a hostile environment for criminals by the recovery of proceeds from unlawful activities
- To ensure that crime does not pay
- To help in the fight against crime and assist the victims of crimes
- To take the profit out of crime

BENEFITS, INTERACTIONS AND EXPECTATIONS FROM ARINSA

Being a member of ARINSA, Mauritius benefited from technical assistance and training from different programmes such as Anti-Money Laundering workshops, countering the financing of terrorism, cybercrime workshops, and asset management workshops among many others. Participants were familiarised on investigative tools, restraining orders, civil forfeiture and mutual legal assistance. Mauritius also benefited from the mentorship programme where many high-profile cases were successfully tackled. Mentors have been able to guide and assist in the process of taking cases to court.

| | |
|--------------------------|---|
| LOCATION | 2,000 kilometres off the Southeast coast of the African continent |
| POPULATION | 1.253 million |
| ARINSA MEMBERSHIP | One of the founding members in 2009. |



Seven colours of earth in Chamarel, Mauritius.

Mauritius can proudly say that through ARINSA, ARID office has a sound foundation and a basic understanding of relevant laws, procedures and practices in asset recovery. ARINSA has facilitated networking and the establishment of relationships between countries.

THE WHITE DOT CASE

In 2012, the Police started an investigation into a massive Ponzi scheme fraud case following complaints by members of the public. Investigations revealed that the sum of over US\$19.7 million was misappropriated. Through the application of best practices learnt through ARINSA, all challenges were dealt with speedily.

Contacts in Switzerland were established through CARIN using the ARINSA platform. Law enforcement authorities in Switzerland managed to freeze sums of money which were in the hands of the respective beneficiaries. The sum of CHF 40 163.05 was seized in Switzerland and the same was transferred to Mauritius and victims were compensated.

ARINSA workshops are always eye opening and the expertise brought by ARINSA has made ARINSA a partner of choice in the proceeds of crime arena in Southern Africa.

Mauritius’s expectation is to see ARINSA transformed to the next level and to be a vibrant network with more membership. Every member country should have a fully functional Asset Forfeiture Unit in the next few years. More training facilities should be made available to countries.

Figures from 2012 to 2019 (to date)

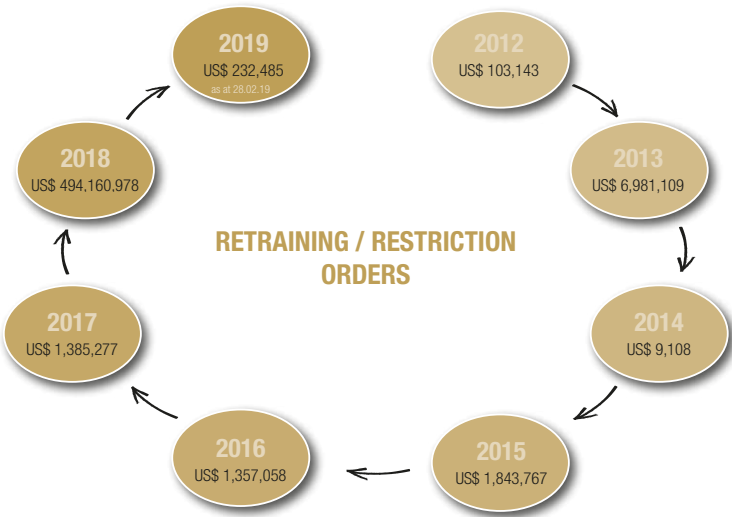
| YEAR | RESTRAINING/ RESTRICTION ORDERS (US\$) | CONFISCATION ORDERS (US\$) | RECOVERY ORDERS (US\$) |
|-------|--|----------------------------------|---------------------------|
| 2012 | 103,143 | - | - |
| 2013 | 6,981,109 | - | - |
| 2014 | 9,108 | - | - |
| 2015 | 1,843,767 | - | - |
| 2016 | 1,357,058 | 4,384 | - |
| 2017 | 1,385,227 | - | 1,326,873 |
| 2018 | 494,160,978 | 499,885 | 341,597 |
| 2019 | 232,485**+ | - | - |
| Total | 506,072,875 | 504,269 | 1,668,470 |

**+10 vehicles, 4 M/Cycles, Building & Land, 2 Speed Boats (not yet evaluated)

The table above represents the total amount of monies/assets categorised into restraining/restrictions orders, confiscation orders and recovery orders from 2012 to 2019 (until to date).

RESTRAINING/RESTRICTION ORDERS

The figure below shows the restraining and restriction orders amounting to US\$ 506,072,875.

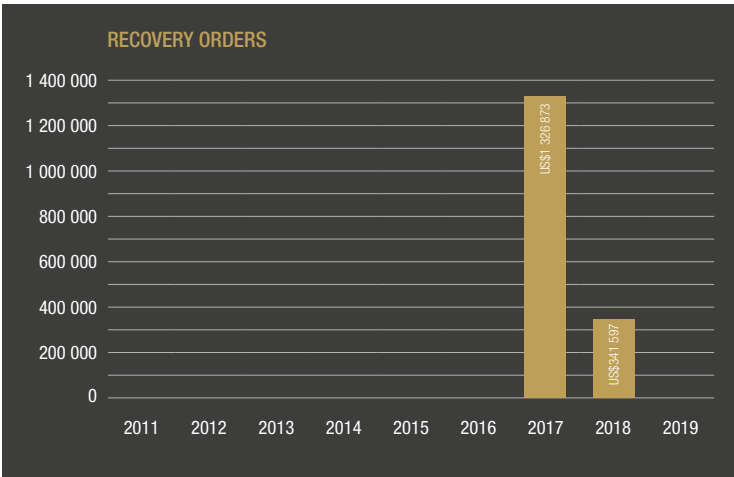


CONFISCATION ORDERS (MUR)

The bar chart below depicts confiscated assets/monies amounting to US\$ 504,269.

RECOVERY ORDERS (MUR)

The bar chart shows the recovery orders amounting to US\$ 1,668,470.





Boat seized in 42kgs drug dealing case.



117kgs drugs dsecured in 2018 from gas cylinders.



Bobcat secured.



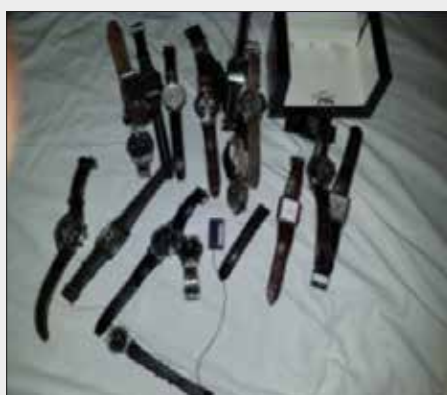
Boat seized at La Reunion for drug case in Mauritius.



La Balise Marina Villa seized.



Monies secured.



Watches.



Apartment.



Boats.

EVENTS WITH ARINSA

In 2013, Mr Fitzroy Drayton an AML advisor with UNODC conducted a workshop in Mauritius. Participants at the workshop from ARID, Mauritius Revenue Authority, the police, Independent Commission and Anti-Corruption Act (ICAC), and bank officials were familiarised on financial investigative tools, restraining orders, money laundering indictments, confiscation and mutual legal assistance. Through case study examples, participants acquired knowledge of best practices.

Furthermore, Mauritius participated in the Mentorship Programme of ARINSA. The mentors have been able to guide and assist the country in the process of managing a case file as well as taking cases to court. It can be proudly said that mentors have been instrumental in the development of knowledge and skills among the participants.

Six prosecutors (one female) have been beneficiaries of the Prosecutor Placement Programme from the beginning of ARINSA.

CONCLUSION

The capacity building programme by ARINSA on topics such as beneficial ownership and financial investigations have boosted the morale of officers to go the extra mile. The Southern African region has not been immune to illicit financial flows as witnessed by an increase in the number of cash seizures at ports of entry. It can be rightly said that the rewarding job that ARINSA is carrying out places Mauritius in a position to meet the challenges of the future and ensure that every country in Southern Africa can be a significant deterrent to those who may be considering it as a place to conduct their criminal activities.

“Leave the criminals with nowhere to hide”



Mauritius participated in the Mentorship Programme of ARINSA. The mentors have been able to guide and assist the country in the process of managing a case file as well as taking cases to court. It can be proudly said that mentors have been instrumental in the development of knowledge and skills among the participants.



Workshops organised by ARINSA

SPECIALISED TRAINING THROUGH UNODC



UNODC Southern Africa through ARINSA, provided training and retreats for over 3000 investigators, prosecutors and judicial officials in 2014/18. The training was primarily in the form of regional and national workshops. It has been remarked that there cannot be a successful prosecution and judgement unless there has been a properly conducted investigation. The training provided by UNODC has covered all aspects of the asset forfeiture process from investigation to prosecution and adjudication. The training has included, *inter alia*:

WILDLIFE CRIME

UNODC has developed a programme for the training of first responders in wildlife crime cases. The web-story below went viral when it was published in 2017.

ARINSA TAKES THE FIGHT AGAINST POACHING TO THE FRONTLINE



As the sun rises over the Kalahari Desert in Botswana tourists from all over the world enjoy viewing the magnificent wildlife that Southern Africa has to offer. However, for the Botswana Department of Wildlife and National Parks a grim duty has to be performed ... counting the dead animals. Each morning patrols check their regions to see how many animals have been killed during the previous night by poachers, not for food or sustenance ... but for profit.

Poaching in industrial proportions has blighted the African continent as criminal gangs kill rhinos, elephants, pangolins and other animals for no other reason than the huge profit that the products from these

animals can make. It is estimated by UNODC that wildlife crime generates in excess of USD 10 billion a year annually, making it the fourth most lucrative criminal offence.

The Asset Recovery Inter-Agency Network for Southern Africa (ARINSA), recognising the heart of this problem is the profit, has delivered specialised training for 40 rangers in Kasane and Maun in Botswana over the course of four days. The rangers came from as far afield as the remote districts of Chobe National Park and the Central Kalahari National Park.

The training did not focus on poaching offences and catching poachers but following the money trail to lead to the confiscation of the proceeds of crime. The rangers have been identified as the key personnel as they are the first responders in wildlife crime. The evidence that is collected by them can help to identify the syndicates involved in wildlife crime and lead to their assets being confiscated.

The workshops introduced the rangers to Botswana's Proceeds and Instruments of Crime Act of 2014 which allows for confiscation with or without a criminal conviction.

The workshops were the first of their kind and as pilot programmes will be developed to be delivered to the region's most critically affected by wildlife crime.

Hopefully, by following the money trail and applying the lessons learned this will leave the criminals with nowhere to hide."



Specialised training by ARINSA

COUNTER-CASH COURIER TRAINING

Cash courier training provided an opportunity for practitioners engaged in border control, to develop their knowledge and skills in the mechanisms for monitoring cross-border transportation of cash and bearer negotiable instruments (BNIs), as well as the identification and interdiction of cash couriers.

FINANCIAL INVESTIGATION TRAINING COURSE

In-depth training to national financial investigators and prosecutors in the current methods and practices used to develop and conduct financial investigations in the field of AML.

FORENSIC ACCOUNTING

The training course addressed the illegal economy by training law enforcement officers to analyse a criminal organisation as a business (though a criminal one).

CYBERCRIME

Cyber-crime and issues related to the Internet and emerging technology affect us all. These courses have provided guidance to investigators on how to use technology to investigate the proceeds of crime.

BENEFICIAL OWNERSHIP

The use of legal persons and arrangements to disguise the proceeds of crime has been an emerging problem. The Panama Papers clearly show the extent to which these instruments are used. This course provides guidance on investigation and prosecution of proceeds of crime cases where identifying beneficial ownership is an issue.

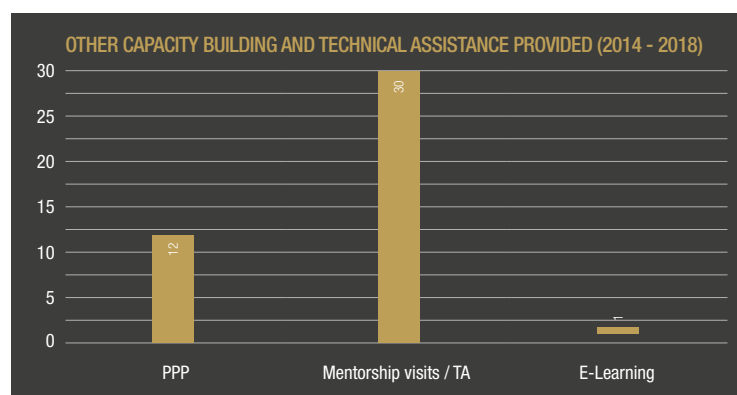
TERRORIST FINANCING

The financing of terrorism can take place anywhere. Terrorism financing is not limited to those countries that have active terrorist problems. This course enables prosecutors and investigators to identify terrorist financing in their jurisdictions and take appropriate action to prevent the funds being used for terrorist acts.

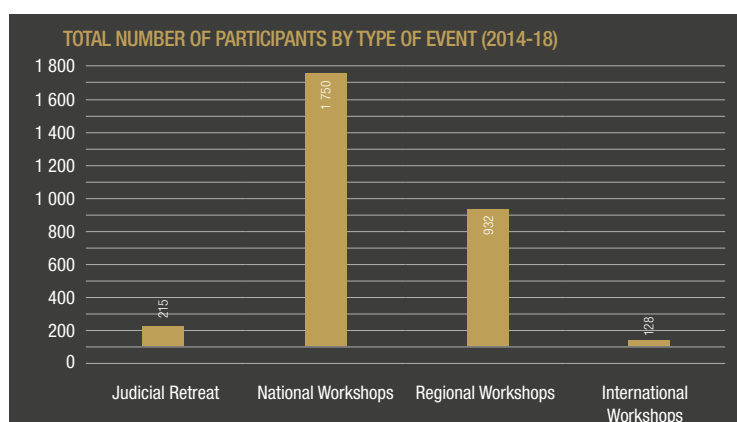
JUDICIAL RETREATS

Specialised Judicial Retreats have been held on a regional and national basis. The Retreats highlight to the judicial officers the importance of proceeds of crime action.

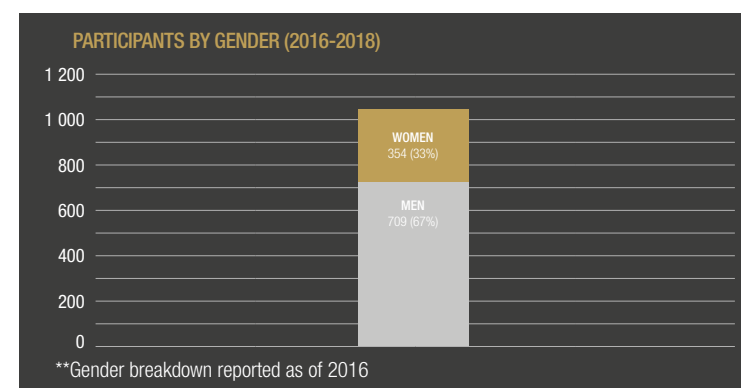
The training delivered from 2014 till 2019 has been analysed in the tables below. ARINSA has organised and conducted a total of 110 workshops from January 2014 until December 2018 and 30 Mentorship visits to provide technical assistance. National workshops were conducted the most (68) than any other workshops, making up 70% of all the workshops conducted. Only two International workshops were conducted (2014, and 2015) and six Judicial retreats during this period.



ARINSA also prides itself by providing other forms of capacity building and technical assistance to its member countries through Prosecutor Placement Programmes (PPPs), Mentorship visits and E-learning short-courses. For the period 2014 to 2018, there were 30 mentorship visits provided, and 12 PPP intakes (three times over four years, except in 2018).



As expected, National workshops had more participants (1 750) than other workshops, because there were many National workshops conducted. These made up 58% of all workshops' participants. The two International workshops had the least number of participants with 128 participants.





MENTORSHIP PROGRAMME

In proceeds of crime cases, the transition from classroom learning and training to actual case work can often be difficult. Getting those first few cases to court and dealing with real assets can be a daunting task.

In order to bridge that gap, the UNODC devised a mentorship programme for the ARINSA countries. The mentors who had many years of law

enforcement experience were deployed on a month on month off basis to provide practical “hands on” guidance to investigators and prosecutors. The mentors under the supervision of the UNODC adviser were able to assist countries in making the progression from classroom-led training to taking cases to court.

BILL MALONE



In August of 2016 I joined the ARINSA programme as an AML/CFT trainer and mentor and was assigned to the Republic of Namibia. Upon arrival the Namibian officials with whom I worked were very welcoming, extremely professional and very eager to learn new and innovative ways to combat money laundering and terrorist financing related to wildlife and other profit generating crimes.

Throughout my time in Namibia I worked under the auspices of Namibia’s Financial Intelligence Centre (FIC) which is the lead agency for the AML/CFT portfolio in Namibia. Over the course of the next two years I worked closely with the Asset Forfeiture Unit (AFU), the Anti-Money Laundering Unit of the Namibian Police (NAMPOL), the FIC, the EU and several other non-governmental agencies to build a cohesive and comprehensive approach to combatting money laundering and terrorist financing within the country.

One of the significant milestones during my two-year tenure was the building and equipping of Namibia’s first integrated AML unit within NAMPOL. This unit works closely with the Asset Forfeiture Unit to bring cases before the courts for prosecution and the forfeiture of proceeds of crime. In setting-up this unit, the Government of Namibia clearly demonstrated its strong commitment to AML/CFT, by using the proceeds of the Asset Forfeiture Fund (AFF) to help finance and equip this new entity. Through the development of strong partnerships with the EU, Namibia’s Legal Assistance Centre (LAC) and the other members of the ARINSA network, investigators and prosecutors have benefited from extensive training and the sharing of investigative best practices from around the region. As the ARINSA programme continues to grow and strengthen there is no question that the region will become more effective in its ability to combat any sort of crime, i.e. wildlife poaching, drug trafficking, etc. that generates illicit funds. Without the guidance and support of the ARINSA programme, this work would not have been possible.

PROSECUTOR PLACEMENT PROGRAMME



INTRODUCTION

The Prosecutor Placement Programme (PPP) is a training initiative of ARINSA in which South Africa (AFU) plays an intrinsic function and has done so since 2009, and more comprehensively and significantly, since 2012.

ASSET RECOVERY NETWORK: ARINSA

As the need to fight transnational organised crime especially corruption increased, so the need for international instruments like the UN Convention Against Transnational Organised Crime 2000 and UN Convention Against Corruption 2005 arose. These enjoined countries who became signatories to the conventions to put in place certain legislation, including legislation pertaining specifically to asset recovery.

In so implementing the obligations, it became increasingly clear that a framework of engagement between countries was required that specifically focused on intelligence sharing and capacity-building. Asset recovery networks emerged across the globe and formalised into recognised bodies. The Southern African network is known as ARINSA: Asset Recovery Inter-Agency Network of Southern Africa.

It is important for all countries to appreciate the global transnational nature of the work of asset recovery. This facilitates support for one another and assistance in a particular field which requires international cooperation. The overarching rationale for such cooperation is the reality that in many cases criminals prefer to invest their ill-gotten gains outside of the country in which the crimes were perpetrated, not only to keep them out of the reach of their own law enforcement environment, but also to increase the returns on their investments in economies that are stronger. In addition, assets move easily across borders. Criminals also take advantage of poor international interaction between countries. A big picture approach also helps develop an awareness that extends beyond one's own country's challenges. Such an awareness enables the sharing of best practices and contributes to finding solutions to challenges that may be more helpful than holding a one-dimensional view of the problem.

The UNODC helped establish ARINSA. As indicated above, ARINSA's two main aims were to help build capacity and facilitate intelligence sharing between countries. The network is mainly financially supported by DFID (the UK Department of International Development) and INL (Department of State).

ARINSA is comprised of 16 member countries. A secretariat was constituted which is currently comprised of the UNODC and South Africa (the Asset Forfeiture Unit (AFU) within the National Prosecution Authority).

THE PROSECUTOR PLACEMENT PROGRAMME

The PPP is a critical initiative that addresses the above realities of transnational crime. It is included in ARINSA's training plan as a permanent annual training intervention.

This is a programme where asset recovery lawyers from the relevant prosecution/law enforcement authorities are placed within the AFU for a period of four weeks.

The first two weeks consist of a joint training session in Pretoria where all attendees attend training together; whereafter the various attendees are then allocated for the remaining two weeks to specific regional offices of the AFU for more practical exposure to the implementation of asset recovery law. (The two-week induction course also includes new appointees to the AFU. The rationale for their inclusion in the PPP is again to build relationships between all ARINSA countries – inclusive of South Africa.).

INTENTION

The intention of the first two weeks of joint training is two-fold. The first is to provide a sound foundation of a basic understanding of the relevant law, procedures and practices in asset recovery, generally using the framework of the South African experience. The second intention is to facilitate networking and the establishment of relationships between countries in order to support the work of ARINSA and the implementation of asset recovery beyond the programme.

THE NATURE OF THE COURSE

The course is both theoretical and highly practical in nature. It is a set programme that has been formulated through using both the hindsight of experience since 2009 and constant feedback received through formal evaluations which is conducted at the end of each session.

Although it is based on the framework of the South African context, it accommodates foreign law and perspectives as much as possible so that it is customised to the needs of countries.

Two key outcomes of the training content are sought to be achieved. The first is the development of a basic understanding of various aspects of asset recovery, the second is to develop the practitioner him/herself.

The content includes: Conviction and non-conviction-based forfeiture, financial investigations, execution of forfeiture orders, asset management, legal drafting and personal branding.

A moot court session is included where attendees are to prepare a case based on a case study, submit written pleadings and argue the matter before a trainer who is sufficiently skilled to extricate the relevant legal issues during argument for learning purposes.

WHEN IS THE COURSE PRESENTED?

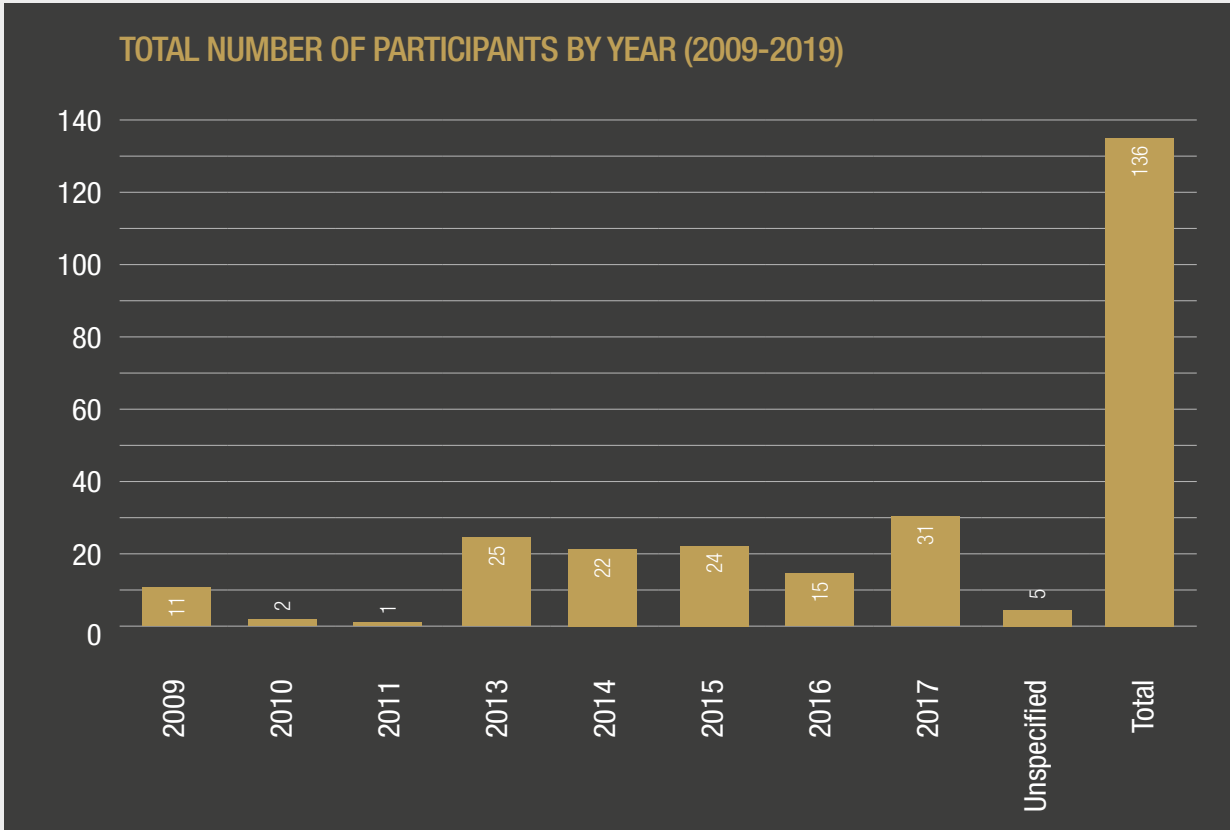
Three sessions of four weeks are held annually, usually in May, August and November of each year. A maximum of 10 persons can be accommodated per session.

CONCLUSION

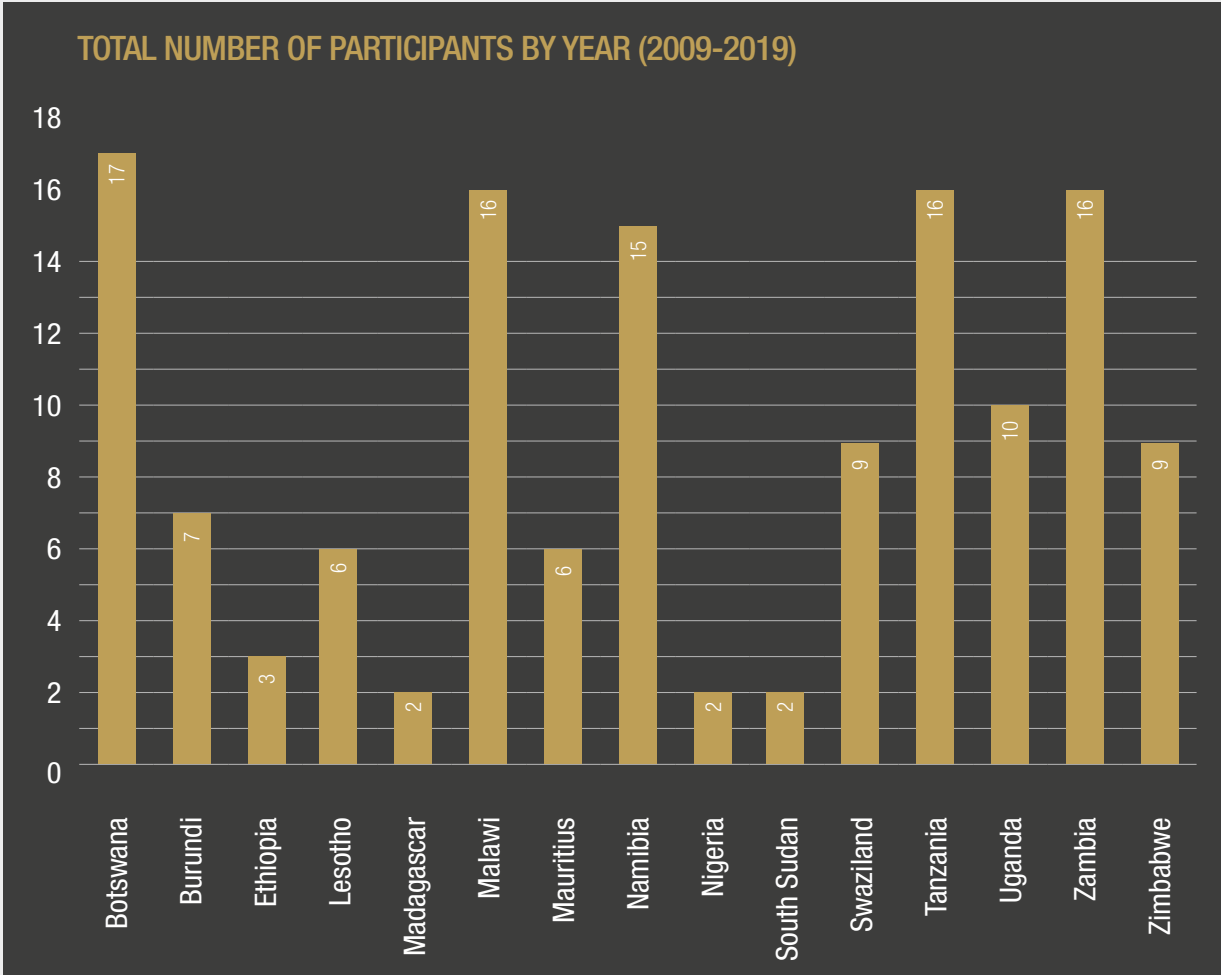
It is hoped that the programme develops with advanced training being provided in the future, so as to ensure that a sustained fight against crime is launched across the continent.

2009 - 2019

A total of 136 lawyers from prosecution (or other relevant law enforcement) agencies were trained from 2009 to 2019. One judge also attended.



The officials emanated from the following countries (not limited to ARINSA countries only): Botswana (17), Burundi (7), Eswatini (9), Ethiopia (3), Lesotho (6), Madagascar (2), Malawi (16), Namibia (15), Nigeria (2), South Sudan (2), Mauritius (6), Tanzania (16), Uganda (10), Zambia (16) and Zimbabwe (9).



Each country is at a different stage of development in respect of asset recovery law and processes, and all drew value from the sessions.

COMMUNICATIONS AND MEDIA



THE ARINSA WEBSITE

One of the key achievements for Asset Recovery Inter-Agency Network for Southern Africa (ARINSA) in dealing with the problem of money laundering in the Southern African region has been the creation of an ARINSA website. The website was launched at the ARINSA AGM held in Pretoria, South Africa in July 2015.

The website provides two functional areas firstly, the members' login area and the public area.

The public area provides news updates and has a media monitor that delivers global news on money laundering. There is a description of the ARINSA network and a calendar of upcoming events.

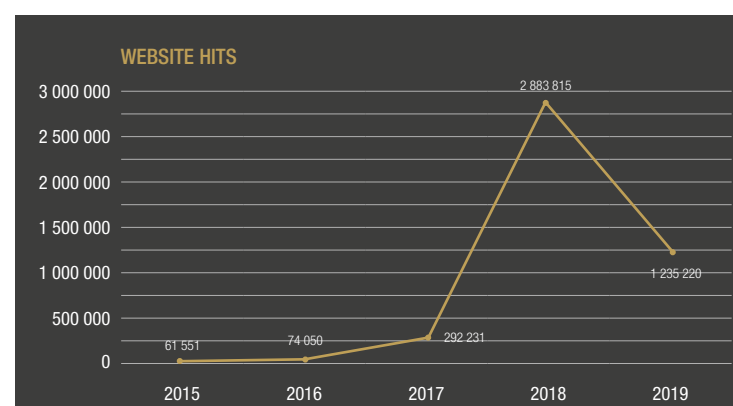
The members' login area provides a number of platforms for members including the Wildlife and Forestry Crime Platform, Investigator Placement Programme, Prosecutor Placement Programme, ARINSA Gallery, Country Information and Video Seminars.

New and interactive platforms were developed for the website in 2016 including a case blog, online feedback and online AML survey platform. The website has been actively used since its launch on 2 July 2015. In the year of the launch the website received over 60 000 hits. In 2016 the website received over 130,300 hits and had 620 registered members of the ARINSA community. In 2017 the website received over 290 000 hits and over 900 registered members. The number of hits shot abruptly in 2018 due to increase in demand and e-learning activities within the region. The hits rose to 2.8 million hits. Members are using the website to communicate and share information with each other, thereby keeping up to date with modern trends in money laundering, curbing crime and recovering the proceeds of crime.

The tool serves as a platform for the sharing of information in asset recovery cases. On top of being a website, the tool is a repository of proceeds of crime legislation, case studies, documentation and media from the countries in the region as well as other relevant legislation and documentation from other jurisdictions. Currently there are over 53 case studies on the database. Over and above the cases, there are many different articles in the ARINSA community section which include

newspaper articles, presentations from previous workshops and events, among others. The tool also offers online training for distance learning.

Since the website's launch there has been over 4.5 million recorded hits and membership has risen to over 600 active asset forfeiture specialists from Africa, the United Kingdom, Canada, Australia and many other countries. All inactive members are automatically removed from the platform.



To learn more about the ARINSA website, visit <http://new.arinsa.org>.

THE ARINSA WHATSAPP MESSENGER GROUPS

ARINSA is actively using WhatsApp Messenger for sending of text messages, voice calls and video calls, images, other media and documents between users of the same group. Since its inception ARINSA has now created several groups based on areas of expertise. It is particularly useful due to its end-to-end encryption security feature.

LINKEDIN

ARINSA is also available on LinkedIn. <https://www.linkedin.com/in/arinsa-asset-recovery-network-southern-africa-7148b8145/>

COMMENDATIONS



TEL: (264)-61-256102
FAX: (264)-61-224979



14 October 2016

Mr. Fitzroy Drayton
Anti-Money Laundering Adviser
Asset Recovery Inter-Agency Network
for Southern Africa (ARINSA)
Regional Office for Southern Africa
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P.O. Box 12676
Hatfield, 0028
PRETORIA, South Africa

Chief Justice's Chambers
Supreme Court
Private Bag 13398
WINDHOEK
NAMIBIA
9000

Dear Mr. Drayton

LETTER OF APPRECIATION

I wish to express my deep appreciation for the invaluable support given by the Asset Recovery Inter-Agency Network for Southern Africa (ARINSA)'s representatives at the Southern African Chief Justices' Forum Annual Conference held recently in Windhoek, Namibia.

The theme of the Conference was "Contemporary issues of the prevention of transitional organised crime with special reference to cybercrime, terrorism, money laundering, human trafficking and proliferation - the Judiciary's Response".

The presentations by ARINSA were an eye opener to the many delegates on the tremendous work done by ARINSA in combating cross border crimes through its multi-dimensional network. The preventatives shared important information, which is highly appreciated by the delegates.

The expertise exhibited by ARINSA and its associates at the Conference has made ARINSA an important partner of the Southern African Chief Justices' Forum and its constituent judiciaries in their ongoing judicial education efforts.

I commend you for the job well done and look forward to future cooperation as we continue to build capacity for our judicial officers in the area of organised crime.



Peter S. Shivute
CHIEF JUSTICE OF NAMIBIA





LIST OF ABBREVIATIONS

| | |
|-------------------|---|
| ACC | Anti-Corruption Commission |
| ADSU | Anti-Drugs and Smuggling Unit |
| AFU | Asset Forfeiture Unit |
| AFF | Asset Forfeiture Fund |
| AM | Asset Management |
| AML | Anti-Money Laundering |
| AMU | Asset Management Unit |
| ARIN-AP | Asset Recovery Interagency Network – Asia Pacific |
| ARIN-CARIB | Caribbean Asset Recovery Inter-Agency Network |
| ARIN-EA | Asset Recovery Interagency Network – East Africa |
| ARINSA | Asset Recovery Inter-Agency Network for Southern Africa |
| ARIN-WA | Asset Recovery Inter-Agency Network – West Africa |
| BURS | Botswana Unified Revenue Services |
| CARIN | Camden Asset Recovery Inter-Agency Network |
| CCID | Central Crime Investigation Division |
| CRADEC/TJN | Centre Régional Africain pour le Développement Endogène et Communautaire / Tax Justice Network |
| CTF | Counter Terrorism Financing |
| DCEC | Directorate on Corruption and Economic Crime |
| DCEO | Directorate on Corruption and Economic Offences |
| DEC | Drug Enforcement Commission |
| DFID | Department for International Development |
| DPP | Directorate of Public Prosecutions |
| ESAAMLG | East and Southern African Anti-Money Laundering Group |
| EU | European Union |
| FATF | Financial Action Task Force |
| FIC | Financial Intelligence Centre |
| FIU | Financial Intelligence Unit |
| GPML | Global Program Against Money Laundering, Proceeds of Crime and the Financing of Terrorism |
| ICAC | Independent Commission Against Corruption |
| ILEA | International Law Enforcement Academy |
| INL | Bureau of International Narcotics and Law Enforcement Affairs |
| LMPS | Lesotho Mounted Police Service |
| LRA | Lesotho Revenue Authority |
| MRA | Mauritian Revenue Authority |
| NDPP | National Director of Public Prosecutions |
| NPA | National Prosecuting Authority |
| RRAG | Rede de Recuperacion de Activos de Grupo de Accion Financiera de Sudamerica (GAFISUD) in South and Central America. |
| SADC | Southern African Development Community |
| SRA | Swazi Revenue Authority |
| UBO | Ultimate Beneficial Owner |
| UNCAC | United Nations Convention Against Corruption |
| UNICRI | United Nations Interregional Crime and Justice Research |
| UNODC | United Nations Office on Drugs and Crime |
| UNTOC | United Nations Convention Against Transnational Organized Crime |
| WLFC | Wild Life and Forestry Crime |
| ZPA | Zambia Prosecuting Authority |
| ZRA | Zambia Revenue Authority |

NOTES



A series of horizontal dotted lines spanning the width of the page, intended for handwritten notes.

NOTES

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.



Angola
Botswana
Kenya
Malawi
Mozambique
Uganda
Lesotho
Swaziland
Madagascar
South Africa
Seychelles
Tanzania
Mauritius
Zambia
Zimbabwe
Angola
Botswana
Kenya
Malawi
Mozambique
Uganda
Lesotho
Swaziland
Madagascar
South Africa
Seychelles
Tanzania
Mauritius
Zambia
Zimbabwe
Angola
Botswana
Kenya
Malawi
Mozambique
Uganda
Lesotho



UNODC

United Nations Office on Drugs and Crime

Physical Address

United Nations Office on Drugs & Crime
- Southern Africa
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