


Joint High-Level Technical Meeting on the Legal Frameworks for the Implementation of the

# COMMON AFRICAN POSITION ON ASSET RECOVERY (CAPAR)



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 3rd and 4th November 2022

 Julius Nyerere Building, African Union Commission, Addis Ababa, Ethiopia



Co-Organized by:



## Introduction

1. This Concept Paper is aimed at enabling the joint convening of a technical meeting to consider two important documents aimed at implementation of the Common African Position on Asset Recovery (CAPAR). The documents are entitled:
  1. Legal framework for asset recovery by African states; and
  2. Proposal for setting up an Escrow Account for recovered African Assets.
2. The African Union Commission's Department of Political Affairs, Peace and Security (PAPS) and the Coalition for Dialogue on Africa (CoDA) on behalf of the Working Group on the Implementation of the CAPAR, commissioned the preparation of frameworks in line with the previous decisions of the High-Level Panel on the Illicit Financial Flows (IFFs) from Africa and the aforementioned CAPAR Working Group.

## Background and Context

3. Following the adoption of the African Union (AU) High Level Panel Report on Illicit Financial Flows, the African Union adopted a Special Declaration passed in Addis Ababa, Ethiopia (January 2015) (**Assembly/AU/Decl.5 (XXIV)**) in which it called for all financial resources lost through illicit capital flight and illicit financial flows to be identified and returned to Africa to finance the continent's development Agenda. The declaration further directed the African Union Commission, supported by member states, to mount a diplomatic and media campaign for the return of illicitly out flown assets. Subsequently the 31st Summit of the African Union Assembly adopted the Nouakchott Declaration on the African Anti-Corruption Year (June, 2018) (**Assembly/AU/Decl.1 (XXXI)**) in which it called upon international partners and allies to agree on a transparent and efficient timetable for the recovery and return of African.

4. In response to these calls, and recognizing the efforts of the High-Level Panel; the African Union Champion on Anti-Corruption, H.E Muhammadu Buhari, in his report reiterated the need to develop a CAPAR as a priority in recognition of the adverse impact that the non-recovery and return of IFFs has on the enjoyment of human rights in the source country. Further acknowledging that the efforts and strategies towards the recovery and return of African assets must be situated and contextualized in the broader historical, political, economic and social narrative of Africa (including the theft of African artefacts, slavery and colonization of Africa), the African Union accordingly requested its Commission, African Union Advisory Board on Corruption, African Development Bank, United Nations Economic Commission for Africa, Coalition for Dialogue on Africa and other stakeholders in the Consortium, to scale up their collaborative work, in partnership with the National Anti-Corruption Agencies.
5. The CAPAR is a policy advocacy instrument aimed at assisting AU Member States to trace, identify, repatriate and effectively manage their assets, including artefacts, in a manner that respects their sovereignty and for the benefit of African peoples who are victims of illicit financial flows. Consequently, in February 2020, it was presented to the 33rd Assembly of AU Heads of States and Governments and was adopted under AU Decision **Assembly-AU-Dec.774 (XXXIII)**. The CAPAR now stands as the bedrock for our continent's legal and technical framework for negotiating the return of Africa's stolen assets and illicit capital flights, taken illegally out of our shores and hosted in foreign jurisdictions. With this landmark adoption, the next step is the sensitization of all continental and international stakeholders on the pillars and key components of the CAPAR as well as the holistic implementation of its proposed policy recommendations by AU Member States and their global partners.
6. The Working Group on the implementation of the CAPAR was accordingly established to achieve this and to guide the national, regional, continental and global efforts to address Africa's global asset recovery agenda. The Working Group will lead the implementation of the CAPAR by boosting the capacities of AU Member States and their relevant institutions to inaugurate and execute its policy recommendations. In line with these, a senior consultant was engaged to develop necessary frameworks for the progression of the CAPAR.
7. While the CAPAR sets out the recommended measures and actions required to effectively address the continuous loss of Africa assets and to effectively identify, recover and manage Africa asset that are in, or recovered from foreign jurisdiction, many States have argued that implementation of the CAPAR is complicated by the requested States (States holding African Assets). It is proposed that tools be developed to assist African States engage the recovery of their assets.

## Objectives

8. The objective of this Validation Workshop is to consider the draft legal and technical framework for the implementation of the CAPAR and a framework on the establishment of an escrow account (to hold assets in dispute or under negotiation). Two documents entitled:
  1. Draft Legal framework for asset recovery by African states; and
  2. Proposal for setting up an Escrow Account for recovered African Assets.
9. Have been developed and circulated to the members of the Working Group established by the HLP. It is proposed to have a physical workshop for consideration of the two documents.
10. The Draft Legal framework for asset recovery by African states proposes a comprehensive approach to the implementation of the Asset Recovery approach in a holistic way. The Framework highlights the challenges faced by African States in recovering their assets; key legal issues that African states face in recovering their assets.
11. The Proposal for setting up an Escrow Account for recovered African Assets recommends innovative ways in which an Escrow Account or multiple Escrow accounts can be established to preserve and grow assets of African origin kept outside the respective countries at great loss and to the detriment of development aspirations of African States.

## Expected Outcome

12. It is expected that the Workshop of the Working Group will consider the two documents as working papers for their review and if acceptable, adoption. If adopted the two documents will be forwarded to the HLP for consideration. If eventually adopted these instruments strengthen the implementation of the CAPAR at national, sub-regional and regional level by providing African countries with ready to use tools for pursuing illicit financial flows.

## Proposed Agenda and Venue

13. The proposed Agenda for the meeting is attached.
14. The physically attended meeting will be held on 3 and 4 November Julius Nyerere Building, African Union Commission HQ, Addis Ababa, Ethiopia. English and French will be the working languages and simultaneous interpretation services will be provided. Participation is strictly by invitation only.
15. For further information, please contact: Ms. Souad Aden-Osman, Executive Director, CoDA.  
Email: [Aden-Osmans@africa-union.org](mailto:Aden-Osmans@africa-union.org)

## AGENDA

### Thursday 03 November

8:30 – 09:00am	<b>Opening Session</b> Chaired by Professor Bolaji Owasanoye, Chairperson of Independent Corrupt Practices Commission, Nigeria <ul style="list-style-type: none"><li>- Introductions by Patience Chiradza, Director for Governance and Conflict Prevention, AU-PAPS</li><li>- Welcoming Remarks by Barrister Akere Muna, Member of the HLP &amp; Co-Chair of the CAPAR Working Group</li><li>- Adoption of the Agenda</li><li>- Update of the Work of the AU-HLP by Mrs. Souad Aden-Osman, Coordinator of the Secretariat of the AU-HLP</li></ul>
09:00 – 10:30 am	<b>Presentation and Discussion of the Draft Legal Framework for the recovery of African Assets</b> by Stephen Karangizi, Senior Legal Consultant, AU-HLP Secretariat
10:30 – 10:45 am	Coffee Break
10:45am– 12:00 pm	<b>Continued Discussion of the Draft Legal Framework for the recovery of African Assets</b> Chaired by Mr. Thierry Mbulamoko, Coordinator, Agency for the Prevention and Fight against Corruption, Democratic Republic of Congo
12:00 – 1:30 pm	Lunch
1:30 – 3:00 pm	<b>Presentation and Discussion of the Proposal on the setting up of an Escrow Account for African assets</b> by Stephen Karangizi, Senior Legal Consultant, AU-HLP Secretariat
3:00 – 3:30 pm	Coffee Break
3:30 – 5:00 pm	<b>Continued Discussion of the Proposal on the setting up of an Escrow Account for African assets (contd.)</b> Chaired by Mr. Mor Ndiaye, Chairman, National Office for the Recovery of Criminal Assets, Senegal
7:00 – 9:30 pm	Cocktail Dinner or Cultural Evening

### Friday 04 November 2022

10:00 am – 12:30 pm	<b>Consideration of the Proposed Way Forward</b> by Madam Aicha Boudiaf, Vice President, Northern Africa Pan African Lawyers Union (PALU)
10:00 am – 12:30 pm	<b>Next Steps &amp; Closure of the meeting</b> by Mr. Chris Khunga, Director of Legal and Prosecutions, Anti-Corruption Bureau, Malawi
1.00 pm	Lunch