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**ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION**



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**ASSET RECOVERY EXPERT FORUM**

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**The AALCO Secretariat  
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New Delhi – 110021  
(INDIA)**



# ASSET RECOVERY EXPERT FORUM

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## **I. INTRODUCTION**

### **A. Background**

1. The topic of “**Asset Recovery Expert Forum**” was introduced by the Republic of Indonesia vide Explanatory Memorandum dated 15 September 2023 (No.AHU.UM.01.01-733), in the provisional agenda of the Sixty-First Annual Session of Asian-African Legal Consultative Organization (AALCO) held in Bali Indonesia from 16 to 20 October 2023. The explanatory memorandum advocated the importance of establishing an Asset Recovery Expert Forum comprising of senior officials, academics, and/or other relevant parties who had experience and expertise in recovering stolen assets from foreign jurisdictions.<sup>1</sup>

2. The Explanatory Memorandum identified the following areas of discussion and functions of the Asset Recovery Forum:

1. Sharing best practices of asset recovery;
2. Discussing the challenges in recovering stolen assets;
3. Discussing ongoing cases requiring international cooperation carried out by member countries;
4. Bridging and addressing practitioners’ knowledge gaps; and
5. Ensuring that the asset recovery process involving multiple jurisdictions between member countries can be conducted effectively.

3. Additionally, the following objectives were expected to be reached through the proposed agenda:

1. Discuss and conclude the establishment of an asset recovery expert forum;
2. Discuss and conclude on the duration of the asset recovery expert forum; and
3. Discuss and conclude on the host country for the first session of the asset recovery asset forum.

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<sup>1</sup> The Concept Note was submitted for the consideration of Member States by the AALCO Secretariat vide Note Verbale dated 18 September 2023. This concept note is annexed with this Secretariat Report.

**B. Deliberations at the Sixty-First Annual Session of AALCO [Bali, Republic of Indonesia, 16 October- 20 October 2023]**

4. H.E. Dr. Kamalinne Pinitpuvadol, Secretary-General of AALCO, introduced the new topic of the Asset Recovery Expert Forum during the Sixty- First Annual Session of AALCO. He shed light on the significance of the topic for the Afro-Asian countries while also noting the interest of the international community at large on this issue. He highlighted the severe impact of the theft of public assets from low and middle-income countries, which posed a significant barrier to development, along with its negative impact on the economy and society at large. He called for the creation of a common technical and expert forum and encouraged the Member States for further discussion on this topic.

5. Thereafter, the President of the Sixty-First Annual Session of AALCO opened the floor for statements from Member States. The following delegations delivered statements on the agenda item: the Republic of Indonesia, the Republic of India, the Islamic Republic of Iran, Malaysia, the People’s Republic of China, Japan and the delegate of the Observer State of the Republic of Tunisia.

6. **The delegate of the Republic of Indonesia** addressed the General Plenary to explain about the newly proposed Agenda item on the Asset Recovery Expert Forum and expressed gratitude for the support given to Indonesia's proposal. He explained his position by making three points.

7. Firstly, the significance of asset recovery for Asian and African countries was emphasized. The delegate spoke on the urgency for international cooperation on asset recovery as had been attested to by various regional and international organizations, including AALCO, The Association of Southeast Asian Nations (ASEAN), the African Union, the United Nations, and the G20. The plenary was informed about the continuous efforts to enhance international cooperation in asset recovery, which also included the United Nations Sustainable Development Goals (SDG) 16 which aims to strengthen the recovery and return of stolen assets by 2030. The G20 High-Level Principles on Strengthening Asset Recovery Mechanisms which underscore the international community's commitment to enhancing cooperation in this area were also cited.

8. Secondly, the delegate explained the legal framework of recovering assets by explaining Article 51 of the UN Convention Against Corruption (UNCAC). The proposed role of the AALCO Asset Recovery Expert Forum was explained. It was explained that the AALCO's Asset Recovery Expert Forum will neither supplement nor replace the existing ones, rather it will complement and aim to provide a platform for AALCO to solicit perspectives of the Asian and African countries within the goals and objectives of AALCO and the Bandung spirit. It was stated that through the Forum, the Member States can share, exchange their views, and learn from one another the best practices and success stories by experts who have carried out that process.

9. Thirdly, the delegate cited two notable cases from Indonesia's experience in recovering stolen assets. The delegate concluded by explaining the proposed composition of the Forum. It was stated that the forum should comprise of experts of AALCO's membership. It could be senior officials, investigators, prosecutors, scholars and other relevant officials who have experiences and/or expertise or whose line of work consisted of dealing with international cooperation in recovering stolen assets from foreign jurisdictions. As a first step, a contact group between the experts of Asset Recovery from AALCO Member States was proposed to be established. This contact group may conduct informal meetings both in person or virtually to discuss their common concerns related to asset recovery.

10. **The delegate of the Republic of India** welcomed the initiative of Indonesia to establish the AALCO Asset Recovery Expert Forum. Although seeking further clarification on the modalities of the forum as mentioned by the Indonesian delegation, the delegate reiterated India's strong support for the initiative. The delegate emphasized India's commitment to the global fight against corruption and highlighted asset recovery as a key principle in the international anti-corruption regime. It was stated that India is prepared to share its experiences and best practices in asset recovery with the Forum. The delegate expressed confidence that the expert forum would provide valuable guidance to Member States in tracing, identifying, restraining, confiscating, and repatriating stolen assets.

11. **The delegate of the Islamic Republic of Iran** commended Indonesia for hosting and bringing the issue of asset recovery to the agenda. He highlighted that, despite the implementation of the Convention against Corruption twenty years ago, corruption remains a significant global

challenge. The delegate emphasized the need for strengthened international cooperation and political will to combat corruption, especially amidst challenges to multilateralism.

12. The delegate praised the United Nations Convention on Corruption (UNCAC) as the only universally legally binding anti-corruption instrument, noting its comprehensive legal framework for asset recovery. However, he regretted that the Convention's provisions on asset recovery have been underutilized and urged Member States to use UNCAC as a legal basis for cooperation in the absence of bilateral agreements. The delegate stressed the importance of a coordinated international response to effectively return assets derived from corruption, deny safe havens for such assets, and compensate victims.

13. **The delegate of Malaysia** expressed sincere gratitude to Indonesia for proposing the establishment of an Asset Recovery Expert Forum within AALCO, acknowledging it as a commendable initiative addressing the critical issue of asset recovery. The delegate explained that Malaysia had established a robust legal framework for asset recovery, supported by several domestic laws, which were facilitated by the Mutual Legal Assistance (MLA) Treaty Framework, which is crucial for effective international cooperation in locating, freezing, and recovering assets linked to criminal activities.

14. The delegate expressed Malaysia's full support for Indonesia's proposal for the Asset Recovery Expert Forum, believing it would significantly benefit Member States by enhancing collaborative efforts to combat financial crimes and recover stolen assets. However, Malaysia emphasized the importance of ensuring the forum operated efficiently without redundancy or duplication, complementing existing asset recovery forums and networks within the Asian-African legal community.

15. **The delegate of the People's Republic of China** discussed the country's efforts in advancing the rule of law for fugitive pursuit and asset recovery, highlighting a strong legal foundation. He explained that the recent revisions to the Criminal Procedure Law introduced procedures for confiscating illegal gains when suspects flee or deceive authorities, aligning with the UN Convention against Transnational Organized Crime. Judicial interpretations have been issued to enhance the effectiveness of these procedures.



16. The delegate informed that China requires foreign parties to recognize and enforce relevant criminal judgments or non-conviction confiscation rulings from China's Court in accordance with China's law on International Traditional Assistance in Criminal Matters and Criminal Procedure Law. Other countries may also request China's assistance in confiscating and returning illicit gains and case-related assets. In practice, China has also successfully retrieved criminal assets through confiscation, return, and sharing agreements as the requested parties rely on its own freezing orders. The delegate mentioned the challenges, including reluctance from some countries to cooperate, differences in legal systems and procedures, and instability in cooperative relationships to the asset recovery procedures.

17. The delegate stated that China advocates for stronger political will from all countries to repatriate criminal assets and deny safe havens for corrupt individuals. It emphasizes overcoming legal system differences, prioritizing the return of assets to their rightful owners or compensating victims, and consolidating cooperation through bilateral treaties and agreements. Effective communication and case-by-case cooperation are essential for overcoming technical challenges and improving international cooperation efficiency.

18. **The delegate of Japan** appreciated Indonesia's initiative to include a dedicated agenda on asset recovery at the AALCO Annual Session and the proposal to establish an Asset Recovery Expert Forum. He emphasized Japan's recognition of the complexity of asset recovery and the importance of cooperation between relevant authorities. It was stated that Japan had been actively working on asset recovery through capacity-building programs for developing countries, particularly in Asia and Africa, through the United Nations Asian Far East Institute for the Prevention of Crime and Treatment of Offenders (UNAFEI). It was stated that Japan believed asset recovery should be addressed both regionally and globally, emphasizing the role of the Asset Recovery Working Group under the United Nations Convention against Corruption. The delegate noted the importance of regional cooperation and highlighted existing networks like The Financial Action Task Force (FATF)-style regional bodies and Asset Recovery Inter-agency Networks (ARIN), which facilitate asset tracing, freezing, and confiscation.

19. It was informed that Japan supported Indonesia's proposal, provided its role and function are clearly distinguished from existing bodies. The delegate agreed with India on the need to

discuss the modalities of the expert forum in detail, including how AALCO Member States can exchange experiences and promote regional cooperation. The delegate reiterated Japan remained open to listening to the views of Indonesia and other Member States and was committed to constructive discussions. He concluded by thanking Indonesia for their comprehensive proposal and contribution to the field of asset recovery.

20. **The delegate of the Republic of Tunisia** praised Indonesia's proposal to establish an Expert Forum for Asset Recovery, emphasizing its importance in addressing the human rights impacts of the non-recovery of stolen assets, particularly in resource-scarce times. Highlighting the significant obstacle that the misappropriation of public funds poses to the development of emerging countries, he noted how it perpetuates poverty and infrastructure fragility.

21. It was stated that Tunisia, a signatory to the United Nations Convention against Corruption since 2008, has taken active steps to recover stolen assets, establishing a special committee for strategy and international cooperation. This committee has employed various investigative and prosecution tools, including international legal assistance and participation in civil law cases abroad.

22. The delegate highlighted the creation of the Arab Forum on Asset Recovery (AFAR) in 2012, which supports asset recovery efforts for countries in democratic transition. He emphasized that while the UN Convention against Corruption provides a binding framework for asset recovery, significant obstacles remain. These include reluctance from some countries to cooperate, differences in legal systems, and complex investigations. It was informed that Tunisia's government had a legal and supervisory framework conforming to international standards to ensure returned funds are allocated to development. A special committee was established in 2020 under the Tunisian Presidency to recover illicit assets abroad, comprising various subcommittees focused on coordination, investigation, regulatory evaluation, and diplomatic support. The delegate stressed the need for unconditional and transparent cooperation between requesting and requested countries, emphasizing human rights and sustainable development.

23. Finally, it was stated that Tunisia had engaged in bilateral coordination with countries holding embezzled assets. The delegate concluded by underscoring the importance of international

cooperation, technical assistance, and the exchange of best practices to ensure the rapid recovery of illicit assets and uphold human rights.

24. **The delegate of the Republic of Indonesia** expressed gratitude for the support received from Member States regarding the proposal for an Asset Recovery Expert Forum. He emphasized that the forum was not intended to duplicate existing forums such as UNCAC, but to complement them and ensure effective operation. The delegate stated that Indonesia sought advice from the Secretariat on the format of this forum to guarantee its efficiency. The forum could coincide with the AALCO Annual Sessions or be held inter-sessionally. It was stated that the goal is to create a network of expert contacts from AALCO Member countries to facilitate swift assistance in asset recovery without lengthy searches for the appropriate authorities.

## **II. GENERAL DISCUSSIONS AND RECENT DEVELOPMENTS**

### **A. The Concept of Asset Recovery?**

25. Asset Recovery – as outlined in the UN Convention against Corruption (UNCAC chapter V) – refers to the process by which the proceeds of corruption transferred abroad are recovered and repatriated to the country from which they were taken or to their rightful owners. A precise account of the proceeds of corruption circulating the globe is not possible, but the World Bank estimates that developing countries lose US\$20-40 billion each year due to corruption.<sup>2</sup> This money could be spent on tackling poverty, providing decent public services and achieving the Sustainable Development Goals. This significant injustice often occurs ostentatiously and in plain sight, but due to legal and institutional complexities and lack of cooperation between States it is all too easy for the corrupt to hold on to their ill-gotten gains.

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<sup>2</sup> Brun, Jean Pierre; Dunker, Gabriele; Gray, Larissa Alanna; Panjer, Melissa; Power, Richard John; Stephenson, Kevin Mark, *Barriers to asset recovery: an analysis of the key barriers and recommendations for action (English)*, Stolen Asset Recovery (StAR) initiative Washington, D.C.: World Bank Group <<https://documents.worldbank.org/en/publication/documents-reports/documentdetail/204221468338390474/barriers-to-asset-recovery-an-analysis-of-the-key-barriers-and-recommendations-for-action>> accessed 18 June 2024

26. According to the Basel Institute on Governance<sup>3</sup>, Asset Recovery involves the confiscation of illicit assets, usually the proceeds of crime, and the return of these assets to the legitimate owner(s). Assets can take the form of money or other items of value, for example real estate, precious metals, investments such as shares, virtual assets such as crypto currencies, race horses, luxury goods, or an aeroplane.

27. Asset Recovery can be a purely *domestic* process when the funds have been hidden or invested in the jurisdiction where they were illegally obtained. It can also be *international*, when the funds have been sent to another jurisdiction.

28. The process of asset recovery is complex but generally covers four basic phases: *pre-investigation* (verification of information), *investigation* (often including seizing/freezing assets and international cooperation to obtain intelligence or evidence), *judicial proceedings* (following which the court may issue a confiscation order for the assets), and *disposal or return* (where the assets are returned to the rightful owner).

## **B. Existing Legal Framework on Asset Recovery**

### **1. The United Nations Convention against Corruption (UNCAC) 2005**

29. UNCAC is the only legally binding universal anti-corruption instrument.<sup>4</sup> Presently, with 190 parties UNCAC enjoys near universal ratification.<sup>5</sup>

30. The Convention's far-reaching approach and the mandatory character of many of its provisions makes it a unique tool for developing a comprehensive response to a global problem.

31. The process of tracing, freezing, confiscating and returning the stolen assets to their country of origin is usually a complex and lengthy one, involving multiple jurisdictions and often

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<sup>3</sup> The Basel Institute is an independent not-for-profit organization which was established in 2003 in Basel, Switzerland. It partners worldwide to advance knowledge, practice and policy on anti-corruption, asset recovery and business integrity. It provides guidelines and research on asset recovery, including practical tools for practitioners. <https://baselgovernance.org/> accessed 17 June 2024

<sup>4</sup> United Nations Convention against Corruption (adopted 31 October 2003, entered into force 14 December 2005) 2349 UNTS 41 (UNCAC)

<sup>5</sup> [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-14&chapter=18#EndDec](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-14&chapter=18#EndDec) last accessed 17 June 2024. 47 Member States of AALCO are also party to the UNCAC.

complicated by technical, legal or political barriers. Recognizing the serious problem of corruption and the need for improved mechanisms to combat its devastating impact and facilitate the recovery of corruption proceeds, the international community introduced a new framework in the United Nations Convention against Corruption. Chapter V of the convention provides this framework for the return of stolen assets, requiring states parties to take measures to restrain, seize, confiscate, and return the proceeds of corruption. According to the Convention's Chapter V, Article 51:

*“The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard.”*

There are three main bodies on asset recovery under UNCAC discussed as under:

**A. The Conference of the States Parties (COSP)**

32. COSP is the main policy-making body of the Convention, supporting States parties and signatories in their implementation of the Convention and giving policy guidance to the United Nations Office on Drugs and Crime (UNODC) to develop and implement anti-corruption activities. The Conference was established pursuant to article 63 of the Convention. The Conference meets every two years and adopts resolutions and decisions in furtherance of its mandate.

33. The COSP has created subsidiary bodies, operating under its mandate, to assist in carrying out its work. They are meant to advise the Conference and make recommendations to help deliver its mandate (in accordance with article 63, paragraph 7 of the Convention).

34. Resolution 6/3 of the Conference of the States Parties to the United Nations Convention against Corruption on “Fostering effective asset recovery” encourages States parties and the UNODC to continue sharing experiences and building knowledge on the management, use and disposal of frozen, seized, confiscated and recovered assets, and to identify good practices as

necessary, building upon existing resources that address the administration of seized and confiscated assets, including with a view to contributing to sustainable development.<sup>6</sup>

35. The Tenth session of the Conference of the States Parties to the United Nations Convention against Corruption was held in Atlanta, United States of America from 11-15 December 2023.

## **B. Implementation Review Mechanism**

36. The actual implementation of the Convention into domestic law by States parties is evaluated through a unique peer-review process, the Implementation Review Mechanism. The Implementation Review Mechanism (IRM) is a peer review process that assists States parties to effectively implement the Convention. In accordance with the terms of reference, each State party is reviewed by two peers - one from the same regional group - which are selected by a drawing of lots at the beginning of each year of the review cycle. The functioning and the performance of the IRM is guided and overseen by the Implementation Review Group, an open-ended intergovernmental group of States parties which is a subsidiary body of the CoSP and was created together with the IRM in Resolution 3/1.<sup>7</sup> The first cycle of the Review Mechanism started in 2010 and covers the chapters of the Convention on Criminalization and Law Enforcement and International cooperation. The second cycle, which was launched in November 2015, covers the chapters on Preventive measures and Asset recovery. UNODC is the secretariat of the Review Mechanism.

37. To support States parties' efforts to fully implement the Convention, UNODC delivers technical assistance in various corruption-related thematic areas, such as prevention, education, asset recovery, integrity in the criminal justice system, etc.

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<sup>6</sup> COSP to UNCAC, 'Continuation of the review of implementation of the United Nations Convention against Corruption' Resolution 6/1 (02-06 November 2015)  
<https://www.unodc.org/documents/treaties/UNCAC/COSP/session6/Resolutions/V1609639e.pdf> accessed 17 June 2024

<sup>7</sup> COSP to UNCAC, 'Review mechanism' Resolution 3/1 (09-13 November 2009)  
<https://www.unodc.org/documents/treaties/UNCAC/COSP/session3/V1051985e.pdf> accessed 17 June 2024

### **C. Open-ended Intergovernmental Working Group on Asset Recovery**

38. The Open-ended Intergovernmental Working Group on Asset Recovery, called the Working Group on Asset Recovery is a subsidiary body of the COSP to the UNCAC. This Working Group on Asset Recovery is responsible for assisting and advising the COSP in the implementation of its mandate with the return of proceeds of corruption. This function is pursuant to Chapter V of UNCAC, which enshrines the recovery and return of stolen as a fundamental principle of the Convention.

39. Since its establishment in 2006, the Working Group on Asset Recovery holds one inter-sessional meeting per year, during which time participants are able to exchange information and develop recommendations to be presented to the Conference. The Seventeenth session of the Open-ended Intergovernmental Working Group on Asset Recovery which was held from 4 - 8 September 2023 discussed the following<sup>8</sup>:

1. Overview of progress made in the implementation of asset recovery mandates.
2. Practical aspects of asset recovery, including trends, challenges and good practices.
3. Thematic discussion on good practices and challenges with respect to the establishment of effective financial disclosure systems for appropriate public officials.
4. Technical assistance.
5. Follow-up to the special session of the General Assembly on challenges and measures to prevent and combat corruption and strengthen international cooperation.

40. The Eighteenth session was held on 10 - 14 Jun 2024 in Vienna, Austria. The thematic focus of the eighteenth meeting of the Working Group was on:

- (a) Good practices and challenges with respect to beneficial ownership information in order to detect, deter and prevent acts of corruption and to enhance the recovery and return of assets in

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<sup>8</sup> COSP to UNCAC, 'Report of the Open-ended Intergovernmental Working Group on Asset Recovery' CAC/COSP/WG.2/2023/4 (05-08 September 2023) <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup2/2023-September-4-8/CAC-COSP-WG.2-2023-4/2318796E.pdf> accessed 17 June 2024

accordance with the Convention;<sup>9</sup>

(b) Follow-up to the special session of the General Assembly on challenges and measures to prevent and combat corruption and strengthen international cooperation: illicit financial flows and challenges, obstacles and barriers to international cooperation.

The Working Group also did an overview of the progress made in the implementation of mandates.

## **2. Stolen Asset Recovery Initiative (StAR)**

41. The Stolen Asset Recovery (StAR) Initiative was launched in September 2007 by the World Bank and the UNODC to promote the ratification and implementation of the United Nations Convention against Corruption, and specifically Chapter V, which provides the first comprehensive framework for asset recovery. This innovative partnership supports international efforts to end safe havens for corrupt funds.<sup>10</sup> StAR works with developing countries and financial centres to prevent the laundering of the proceeds of corruption and to facilitate more systematic and timely return of stolen assets.

42. Further, **the Global Forum on Asset Recovery (GFAR)**, organized by the StAR Initiative, GFAR brings together countries and international organizations to discuss best practices and challenges in asset recovery.<sup>11</sup>

## **3. United Nations Convention against Transnational Organized Crime (UNTOC)**

43. Adopted in 2000, also known as the Palermo Convention, UNTOC provides a framework for cooperation to combat transnational organized crime, including money laundering and asset recovery. Its provisions includes measures for the confiscation and seizure of assets derived from organized crime and promotes international cooperation in tracking and recovering these assets.<sup>12</sup>

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<sup>9</sup> COSP to UNCAC, ‘Report of the Open-ended Intergovernmental Working Group on Asset Recovery’ CAC/COSP/WG.2/2024/2 (10-14 June 2024)

<https://track.unodc.org/uploads/documents/UNCAC/WorkingGroups/workinggroup2/2024-June-10-14/CAC-COSP-WG.2-2024-2/2406076E.pdf> accessed 25 July 2024

<sup>10</sup> <https://star.worldbank.org/focus-area/asset-recovery-process> last accessed 18 June 2024

<sup>11</sup> <https://star.worldbank.org/case-study/global-forum-asset-recovery-gfar> accessed 17 June 2024

<sup>12</sup> United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 29 September 2003) 2225 UNTS 209 (UNCTOC)



UNTOC is the main international instrument in the fight against transnational organized crime. The Convention represents a major step forward in the fight against transnational organized crime and signifies the recognition by Member States of the seriousness of the problems posed by it, as well as the need to foster and enhance close international cooperation in order to tackle those problems. UNTOC serves as a predecessor to UNCAC. It was generally agreed that that Convention could not cover the issue of corruption in a comprehensive manner hence a separate Convention was required to tackle corruption, which led to the adoption of UNCAC.

#### **4. The Global Operational Network of Anti-Corruption Law Enforcement Authorities**

44. The Global Operational Network of Anti-Corruption Law Enforcement Authorities (the GlobE Network) was established in 2021 through a consultative process facilitated by the UNODC. The Network is open to anti-corruption law enforcement authorities of all UN Member States and States parties to the UNCAC. The Network is governed by its members and is supported by the United Nations Office against Drugs and Crime (UNODC) which provides the Network's secretariat.

45. Through the GlobE Network, operational law enforcement authorities with an anti-corruption mandate can join forces to advance transnational corruption cases. These authorities include anti-corruption agencies, police forces, prosecutor's offices and offices of the attorney general, asset recovery offices and financial investigation units. The network provides support to investigators and prosecutors through the GlobE Secure Communications Platform (SCP) for swift, secure exchange of information and other specialized resources and tools. With partners, the Network strives for effective and efficient transnational cooperation between practitioners world-wide.

#### **5. Financial Action Task Force (FATF)**

46. FATF is an intergovernmental organization established in 1989 which sets international standards to combat money laundering, terrorist financing, and other threats to the integrity of the international financial system. As a policy-making body, the FATF works to generate the

necessary political will to bring about national legislative and regulatory reforms in these areas.

47. One of the core aims of the FATF is to deprive criminals of their illicit assets. In partnership with INTERPOL, the FATF is working with national authorities to ensure that asset recovery is a key pillar of a countries' approach to tackling money laundering and terrorist financing. It is vital for national authorities to develop effective systems to trace, seize and confiscate stolen funds and assets, and to return them to the country of origin.

48. The FATF is working to promote national policies and actions that achieve these aims by highlighting the importance of enhancing operational co-operation at all levels and improving information sharing between the public and private sectors.

49. In October 2023, the FATF Plenary agreed on amendments to the FATF Recommendations that will provide law enforcement, Financial Intelligence Units (FIUs), Prosecutors, other asset recovery practitioners and competent authorities with a more robust toolkit to target and confiscate criminal asset.<sup>13</sup>

## **C. Regional Framework**

### **1. Asset Recovery Inter-Agency Networks**

50. Asset Recovery Inter-Agency Networks (ARINs) are informal international or regional networks that bring together law enforcement practitioners operating in the field of asset tracing, freezing, seizure and confiscation. There are many such ARINs such as Camden Asset Recovery Interagency Network, known as CARIN, The Asset Recovery Inter-Agency Network for Southern Africa (ARIN-SA), The Asset Recovery Interagency Network for Asia Pacific (ARIN-AP), among others.

### **2. African Union Convention on Preventing and Combating Corruption (AUCPCC):**

51. Adopted in 2003, this Convention encourages Member States to adopt measures for the

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<sup>13</sup> FATF (2012-2023), 'International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation', FATF, Paris, France [www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatfrecommendations.html](http://www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatfrecommendations.html) accessed 18 June 2024

return of assets obtained through corruption. It emphasizes the importance of mutual legal assistance and cooperation in asset recovery.<sup>14</sup>

### **3. The Common African Position on Asset Recovery (CAPAR)**

52. The Common African Position on Asset Recovery (CAPAR) was unanimously adopted by the Heads of State and Government of the African Union at their thirty-third Assembly in Addis Ababa. CAPAR is a soft law instrument for recovery of stolen assets from Africa. It aims to assist African Union Member States to identify, repatriate and effectively manage these assets in a manner that respects their sovereignty.<sup>15</sup>

## **III. REPORT OF THE INTER-SESSIONAL MEETING ON ASSET RECOVERY EXPERT FORUM- “BEST PRACTICES OF RECOVERING STOLEN ASSET FROM ASIAN AND AFRICAN COUNTRY” FRIDAY, 21 JUNE 2024**

**Date and Venue:** Friday, 21 June 2024; AALCO Permanent Headquarters, New Delhi

[Jointly organised by the Republic of Indonesia and the Asian African Legal Consultative Organization (AALCO) Secretariat]

53. The delegates of the following Member States attended the meeting: Syrian Arab Republic, Republic of Sudan, Mongolia, Burkina Faso, Ghana, the Republic of Korea, the Republic of Indonesia, the People’s Republic of China, the State of Kuwait, Malaysia, the Republic of Türkiye, the Republic of India, the Republic of Philippines, the Republic of Yemen, the Democratic Socialist Republic of Sri Lanka, the Islamic Republic of Pakistan, the State of Qatar, the Republic of the Union of Myanmar, the Federal Republic of Somalia.

### **Summary of Discussions**

1. The Event was divided into Three Parts:

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<sup>14</sup> African Union Convention on Preventing and Combating Corruption (adopted 01 July 2003, entered into force 05 August 2006) [https://au.int/sites/default/files/treaties/36382-treaty-0028\\_-\\_african\\_union\\_convention\\_on\\_preventing\\_and\\_combating\\_corruption\\_e.pdf](https://au.int/sites/default/files/treaties/36382-treaty-0028_-_african_union_convention_on_preventing_and_combating_corruption_e.pdf) accessed 17 June 2024

<sup>15</sup> <https://au.int/en/documents/20221024/common-african-position-asset-recovery-capar> accessed 17 June 2024

- Inaugural Session
- First Session: the Inter-Sessional Meeting on Asset Recovery Expert Forum- “Best Practices of Recovering Stolen Asset from Asian and African Country”
- Second Session: Meeting between Member states to Establish Contact Group of Asset recovery Forum

### **Inaugural Session**

54. H.E. Dr. Kamalinne Pinitpuvadol, Secretary-General of AALCO commenced the meeting with his Welcome Address. He welcomed all the participants and expert panelists. He especially thanked the Government of Indonesia for their collaboration for the Inter-Sessional meeting. He then gave a brief summary of the introduction of the topic of Asset Recovery Expert Forum.

55. Ms. Ina Krisnamurthi, Ambassador Extraordinary and Plenipotentiary Embassy of the Republic of Indonesia to India, in capacity of the Presidency of Indonesia of the Sixty-First Annual Session of AALCO, in her opening remarks shed light on the significance of the Inter-Sessional meeting. Importance of asset recovery for developing nations and highlighting the challenges in recovering stolen assets were also discussed.

56. Special Remarks were delivered by the Ms. Uma Sekhar, Additional Secretary, Legal and Treaties Division, Ministry of External Affairs, Republic of India wherein she joined in congratulating the AALCO Secretariat and the Government of the Republic of Indonesia for organizing the Inter-Sessional Meeting. It was informed that India is committed to the cause of the Asset Recovery, noting the importance of justice and the integrity of legal and financial systems.

57. Thereafter, the Keynote Address was delivered by Mr. Cahyo Muzhar, Director General of Legal Administrative Affairs, Ministry of Law and Human Rights, Government of the Republic of Indonesia wherein he expressed gratitude for the collaboration from the AALCO Secretariat and acknowledged the presence of various distinguished delegates and representatives. He highlighted the common challenges faced by Asian and African countries, particularly in asset recovery from crimes like corruption and transnational organized crimes. He clarified that the

forum would not duplicate existing mechanisms but complement them, drawing on successful examples from other regions and initiatives. Indonesia's experience in asset recovery was shared.

58. The representative from the Embassy of the Syrian Arab Republic thanked the Panel for their Inaugural remarks and noted the importance of the topic while proposing leveraging on new technologies, mass media, and communications to raise awareness about asset recovery. He suggested that international media efforts could educate the public that corruption and the misappropriation of assets are moral transgressions.

### **First Session: Inter-Sessional Meeting of Asset Recovery Expert Forum “Best Practices of Recovering Stolen Asset from Asian and African Country”**

59. The Panel consisted of Mr. Andry Indrady, Director of Central Authority and International Law, Government of the Republic of Indonesia as the moderator, Mr. Cahyo Muzhar and Mr. Visakh K, Deputy Director, Enforcement Directorate, Ministry of Home Affairs, Republic of India as Experts from the Indonesia and India respectively.

60. This form consisted of the Experts sharing their respective experiences from their respective Countries.

61. The Director-General discussed Indonesia's experience with asset recovery, noting the numerous challenges faced and lessons learned in the process. He highlighted the importance of a robust legal framework and international collaboration. He explained the concept of asset recovery and its significance for the victim States. In this context, he highlighted the importance of international cooperation and legal frameworks such as mutual assistance and extradition. Elaborate detailed requirements for the complex process of recovering assets by victim States, including the investigations, evidences and prosecutions in the process were highlighted. He also stressed that legal expertise and international cooperation was effective in recover of stolen assets. The need for an asset recovery forum within AALCO to facilitate cooperation and knowledge sharing was underlined. The Member States were encouraged to support and adopt the establishment of the Expert Forum during the Sixty-Second Annual Session in Bangkok this year.

62. Mr. Visakh K, Deputy Director, Enforcement Directorate and the expert from the Government of India took the floor and expressed gratitude to AALCO for the inviting him for the Inter-Sessional Meeting and highlighted the global issue of asset recovery. He echoed his fellow experts and pointed out the complex process such as difficulties in identifying and tracing assets across different legal jurisdictions, emphasizing the importance of cooperation and the use of informal channels for asset recovery. India's efforts and proactive approach to address these issues, including the existing legal framework in India and India's involvement in international initiatives for the recovery of stolen assets were shared. Examples of successful international cooperation and importance of trust and communication in informal channels was highlighted.

63. After the presentations, the floor was open for an interactive session.

64. Representative from the Embassy of Burkina Faso and the Representative from the Embassy of the Republic of Sudan congratulated the attendees. They also extended appreciation to AALCO and the Government of Indonesia for organising this Inter-Sessional Meeting. They also highlighted the significance of the topic and the necessity of creating such a forum for raising awareness about the complex issue of Asset Recovery to the Member States of AALCO.

65. Representative from the High Commission of Ghana also commended AALCO and the Government of the Republic of Indonesia for the initiative on Asset Recovery. The question of utility of the World Bank's Asset Recovery Handbook in aiding in the process of Asset Recovery and specifically India's experience on the same was put forward to the Experts.

66. The Expert from Indonesia explained the proposed role of the AALCO Secretariat in the functioning of the Asset Recovery Expert Forum, by way of preparation of a list of experts and to facilitate communicating and organising meetings. The possibility of the AALCO Secretariat to act as a platform to ease communication among the Member States was discussed. Possibility of AALCO Secretariat serving as learning centre by inviting speakers or officials was also observed.

67. The expert from India highlighted India's efforts to reclaim assets stolen during colonial times, particularly ancient idols from the southern states. The expert agreed with Ghana's view and advocated for person-to-person trust-building and practical workshops.

## **Second Technical Session: Meeting between Member States to Establish Contact Group of Asset Recovery Expert Forum**

68. The Panel consisted of H.E. Dr. Kamalinne Pinitpuvadol, Mr. Cahyo Muzhar and Dr. Shikhar Ranjan, Director, AALCO as the Moderator.

69. The second technical session highlighted two key issues to be dealt with: firstly, to discuss on the qualifications or criteria for the experts that are going to be nominated by each Member State for the Expert Group and secondly, to discuss the role and functions of the AALCO Secretariat. The Director-General suggested some possible roles that the AALCO Secretariat could take up: as a facilitator for experts of Member States for consultations and discussions; the Secretariat could also serve as a think tank or a reference for Member States and it could also collect and develop a depository of legislations/ policies from Member States pertaining to asset recovery; Secretariat could also serve as a Reference for regional arrangements by facilitating Member States' access to regional arrangements or treaties; and AALCO Secretariat could act as a consultation centre for FATF Membership by supporting Member States wishing to join the FATF by sharing experiences from current FATF members.

70. The Secretary-General expressed appreciation for the opportunity to discuss the establishment of an Expert Forum on Asset Recovery. He emphasized the importance of continuous consultation with Member States. While highlighting the need for clear guidelines on the nomination of experts by Member States based on specific criteria and qualifications, he underscored the importance of establishing clear procedures for the operation of the expert forum, including how Member States can seek assistance from the Secretariat. He noted that the role of the AALCO Secretariat would be to assist this body in functioning effectively and suggested facilitating discussions among Member States to reach an agreement in future sessions.

71. The Director-General proposed that the Secretariat could organise focused group discussions to develop practical guides, create a standardized template for Mutual Legal Assistance (MLA) for streamlining the process. He spoke of a long term goal of establishing an Asia-Africa template for MLA and extradition, and ultimately, an Asian-African treaty on Mutual Legal Assistance, despite the challenges posed by differing legal systems. He proposed setting up of an umbrella body, which could be determined by the Secretariat.

72. Representatives from the Member States expressed support for the initiative and stressed the importance of carefully selecting experts for such an important forum. Further collaboration among the Member States regarding the topic was also reiterated.

73. The representatives further emphasized the importance of considering AALCO's structure in formulating references, determining membership, assessing the resource needs of the group, and understanding how AALCO would manage these aspects if the decision to create the forum is taken.

74. The Secretary-General clarified that AALCO's statutory rules envisage the Annual Session as plenary organ of the Organization. They also permit holding of inter-sessional meetings, sub-committees, and open-ended working groups constituting the Member States. He pointed out that under the current statutory framework there is no express rule stating the establishment of a new body within AALCO. He noted that while think tanks offer flexibility and can be set up for specific functions as needed, it is essential to revisit AALCO's statutory rules to determine if creating a think tank is feasible. Consultation with the Member States about the proposal to establish such a group could be done during the upcoming Annual Session in Bangkok. He expressed the need for feedback from the Member States to inform the decision-making process is vital to the Organisation.

75. The Director-General encouraged Member States to nominate experts based on minimum requirements during the Sixty-Second Annual Session in Bangkok while the Secretariat could begin to work on a draft template and preliminary list of experts. He pressed upon the necessity for a list of contact, template and possibly a model law treaty on mutual legal assistance for Asian and African countries. This proactive approach would help Member States understand the importance and roles of the expert group before its official establishment. By presenting clear products and outcomes, the proposal would convince Member States of the group's value.

76. The event was concluded by presenting a Vote of Thanks by the Director-General, Mr. Cahyo wherein he thanked the AALCO Secretariat and the participants for their inputs. He stressed that Asset Recovery is a matter of critical concern especially in relation to the return of stolen assets from international crimes such as corruption, money laundering, fraud, and embezzlement. He emphasised the need of proactive approach from the Member States to the topic.



77. The Secretary-General of AALCO, Dr. Kamalinne Pinitpuvadol, thanked the Government of the Republic of Indonesia and the participants and reiterated that during the upcoming Annual Session, the Member States will have discussions on the nomination of experts and draft template agreement.

#### **IV. COMMENTS AND OBSERVATIONS OF THE AALCO SECRETARIAT**

78. The issue of Asset Recovery is an important topic for the Asian and African Member States. Even though there are a multitude of fora for recovering assets, yet effectively recovering assets involve lengthy and complex legal processes across multiple jurisdictions. There is a need for effective communication and coordination among the Member States to expedite asset recovery. The proposal of the Republic of Indonesia for the Expert Forum is with the objective of facilitating the process of asset recovery by sharing best practices, legal procedures, and contacts within each Member State's legal system.

79. It is suggested that the Member States have insightful deliberations for the guidance and way forward on the issue, in particular on:

- a) the establishment of the Asset Recovery Expert Forum,
- b) guidelines on the nomination of experts by Member States based on specific criteria and qualifications,
- c) procedures for the operation of the Expert Forum, and
- d) role of the AALCO Secretariat.

To provide direction and facilitate the ongoing work of the Organization on this topic, the Secretariat has prepared a draft resolution for the consideration and potential adoption by the Member States during the Annual Session.

## V. ANNEXURE

### ANNEX-I Concept note of Asset Recovery Expert Forum



KEMENTERIAN HUKUM DAN HAK ASASI MANUSIA  
REPUBLIK INDONESIA  
DIREKTORAT JENDERAL ADMINISTRASI HUKUM UMUM  
Jalan H.R. Rasuna Said Kav. 6-7, Kuningan, Jakarta Selatan 12940  
Telepon 021-5202387-5221619 Faksimili 021-5221619  
Laman: [www.ahu.go.id](http://www.ahu.go.id)

Ref. : AHU.UM.01.01-**733**

15 September 2023

Subject : Proposal of Asset Recovery Expert Forum for  
the 61<sup>st</sup> Annual Session of AALCO

**H.E. Dr. Kamalinne Pinitpuvadol**  
**Secretary-General of Asian-African Legal Consultative Organization (AALCO),**

I'm very thankful for our fruitful meetings and site inspection in Bali, 6-7 September 2023 to ensure all necessary preparations and arrangements for the 61<sup>st</sup> Annual Session of AALCO.

As you may recall in our meeting, we have discussed the proposal to establish Asset Recovery Expert Forum in the 61<sup>st</sup> Annual Session of AALCO comprising senior officials, academics, and/or other relevant parties that has experience and expertise in recovering stolen asset from foreign jurisdictions. This expert forum can be utilized to accommodate consultation, discussion, exchange views and information related to the followings:

1. Sharing best practices of asset recovery;
2. Consulting challenges in recovering stolen assets;
3. Discussing ongoing cases required an international cooperation carried out by member countries;
4. Bridging and addressing practitioners' knowledge gaps; and
5. Ensuring that the asset recovery process involving multiple jurisdictions between member countries can be conducted effectively and successfully.

Considering the importance and the objective of this expert forum, therefore we propose to include this agenda to be discussed at the 61<sup>st</sup> Annual Session of AALCO. The detail proposal of the said forum is attached to this letter for your reference and consideration.

Thank you, and I look forward to hearing your advice and consideration.

  
**Cahyo R. Muzher**  
Director General of Legal Administrative Affairs  
Ministry of Law and Human Rights of the Republic of Indonesia



**Ministry of Law and Human Rights**  
**Republic of Indonesia**



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**ASSET RECOVERY EXPERT FORUM CONCEPT  
NOTE**

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**The AALCO**  
**Secretariat 29-C,**  
**Rizal Marg,**  
**Diplomatic Enclave, Chanakyapuri,**

**ASSET RECOVERY EXPERT FORUM CONCEPT NOTE**

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## **I. Background**

1. The theft of public assets from low- and middle-income countries is an immense development problem. The amount of money stolen from these economies and in- transition jurisdictions that is hidden in foreign jurisdictions each year is estimated to be a significant proportion of international financial flows (World Bank and UNODC 2007). The societal costs of corruption far exceed the value of assets stolen by public leaders. Corruption and financial crimes weaken confidence in public institutions, damage the private investment climate, and ruin delivery mechanism for poverty alleviation programs or public services such as health and education.

2. The international community has responded to the challenge. A key target of United Nations Sustainable Development Goal 16—Peace, Justice and Strong Institutions—is to “significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime” (emphasis added). The target recognizes an intrinsic connection between the drain of development resources by illicit financial flows and the need to recover stolen assets for the achievement of sustainable development.

3. In responding the critical issues to recover stolen assets, almost of the countries raised their commitment and strategic steps to overcome those issues, both through multilateral, regional, and bilateral cooperation. On 9 November 2010, placed in Bangkok, not less than 100 member countries of Transparency International (TI), declared their commitment at the moment of 2010 Annual Members Meeting of Transparency International to call upon all governments to give high priority on the international agenda (at the Group of 20, in the African Union, ASEAN and similar organizations, at the United Nations and in the World Bank and at other multilateral official institutions), without delay, to the critical issues related to the repatriation of stolen assets.

4. A similar wave of response has also happened in African region since many reports and research shown that African countries have placed asset recovery as one of the serious issues to be prioritized. This seriousness was proven by many occasions of African countries forum that have been utilized in unifying their policies and focus of developmental agenda, such as the 24<sup>th</sup> Ordinary Session of the Assembly of Heads of State of the African Union in Addis Ababa, Ethiopia; the 29<sup>th</sup> Ordinary Session of the Assembly focusing on the theme “Winning the Fight Against Corruption: A Sustainable Path to Africa’s Transformation”; and etc.

5. The existence of such wave of responds indicate that the countries all over the world, including Asia and Africa, reach a culmination point to sound and declare their commitment and political will. However, in the past decade, it was proven that asset

recovery has become a crucial issue to be carried out by taking into account that it always contains many processes, beginning from identification, tracing, securing (freezing- seizing), and then confiscating: the asset recovery process can be considered as usually complex and lengthy.

6. By looking at the former practices to recover stolen assets, including the effort of the Indonesian Government in returning stolen assets placed in other jurisdictions, it is undeniable that asset recovery requires strong coordination and collaboration with domestic agencies and ministries in multiple jurisdictions with different legal systems and procedures, both related to special investigative techniques and skills to “follow the money” beyond national borders and the ability to act quickly to avoid any dissipation of assets.

7. To optimize the positive impact of the 61<sup>st</sup> Annual Session of the AALCO, we do propose an agenda to be held in the main session of the AALCO, namely an agenda to discuss and conclude the establishment of expert forum on asset recovery by considering that the gathering of Asian and African countries in this forum can be maximized to address their common concern in recovering stolen assets. The submission of this agenda is also based on the Article 1 of the Statutes of AALCO revised and adopted at the Bali Session on 2004, that one of the purposes and objectives of the AALCO is to exchange views, experiences, and information on matters of common concern having legal implications.

## **II. Legal and Political Considerations**

This proposal is made under legal and political considerations that has been concluded by the countries in Asian and African region, namely:

1. Article 1 of the Statutes of AALCO revised and adopted at the Bali Session on 2004;
2. The (Transparency International) Bangkok Declaration on Stolen Assets Recovery and the Management of Frozen Assets;
3. The 24<sup>th</sup> Ordinary Session of the Assembly of Heads of State of the African Union, held in Addis Ababa, Ethiopia, adopted the Special Declaration on Illicit Financial Flows;
4. The 29<sup>th</sup> Ordinary Session of the Assembly adopted the theme: “Winning the Fight Against Corruption: A Sustainable Path to Africa’s Transformation”; and
5. Common African Position on Asset Recovery (CAPAR) concluded at the 36<sup>th</sup> Ordinary Session 06 - 07 February 2020 Addis Ababa, Ethiopia.

### **III. Purposes and Objectives**

We do realize that Asian and African countries have taken such necessary steps to combat money laundering by recovering stolen assets through their own position and strategies as shown by their regional declaration respectively. However, the problem is there is no technical and expert forum between both regions to discuss the development of the threat, vulnerability, to consult actual challenges in recovering stolen assets and also to share best practices and success stories. Therefore, we do propose that the 61<sup>st</sup> Annual Session of AALCO can be a forum to discuss and conclude the establishment of asset recovery expert forum comprising of senior officials, academics, and/or other relevant parties that has experience and expertise in recovering stolen asset from foreign jurisdictions.

This expert forum can be utilized to accommodate a discussion, exchange views, and information related to the followings:

1. Sharing best practices of asset recovery;
2. Consulting challenges in recovering stolen assets;
3. Discussing ongoing cases required an international cooperation carried out by member countries;
4. Bridging and addressing practitioners' knowledge gaps; and
5. Ensuring that the asset recovery process involving multiple jurisdictions between member countries can be conducted effectively.

### **IV. Specific Objectives**

This proposed agenda is expected to reach three specific objectives:

1. Discuss and conclude the establishment of asset recovery expert forum; and
2. Discuss and conclude on the session period of the asset recovery expert forum; and
3. Discuss and conclude on the host country for the 1<sup>st</sup> session of the asset recovery asset forum.

### **V. Proposed Date**

(to be confirmed)

## ANNEX-II

SECRETARIAT'S DRAFT  
AALCO/RES/DFT/62/S19  
13 SEPTEMBER 2024

### ASSET RECOVERY EXPERT FORUM

*The Asian-African Legal Consultative Organization at its Sixty-Second Session,*

**Concerned** about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law,

**Acknowledging** that preventing and fighting corruption at all levels and in all its forms is a priority and responsibility of all Member States, and acknowledging the importance of promoting, facilitating and supporting international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery,

**Noting** the particular concern of developing countries regarding the urgent need to return assets of illicit origin derived from corruption, in particular to countries from which they originated, consistent with the principles of the United Nations Convention against Corruption, in particular chapter V thereto, so as to enable countries to design and fund development projects in accordance with their national priorities in view of the importance that such assets can have to their sustainable development,

**Concerned** also that developing countries lose billions of dollars every year through illicit financial flows,

**Noting** the efforts of relevant international organizations and practitioner networks, whose activities are aimed at, *inter alia*, ensuring the effective sharing of information, best practices and experiences in asset recovery and the administration of proceeds of crime that have been frozen, seized or confiscated,



**Recalling** that the repatriation of funds of illicit origin requires the close and transparent coordination and cooperation of requesting and requested States, including between competent authorities, in particular the judicial authorities and central authorities, within the shared responsibility to facilitate efficient international cooperation for the prompt recovery of assets of illicit origin,

**Having considered** the Secretariat Document No. AALCO/62/BANGKOK/2024/SD/S19,

**Welcoming with appreciation** the initiative of the Government of the Republic of Indonesia to propose the topic of Asset Recovery Expert Forum,

**Noting** that the Head of Delegations had approved the inclusion of the topic in the agenda of the Sixty-First Annual Session,

**Taking note of** the deliberations on the topic at the Sixty-First and Sixty-Second Annual Sessions,

**Appreciating** the convening of the Inter-Sessional Meeting on Asset Recovery Expert Forum,

1. **Mandates** the Secretary-General to explore ways and means of constituting an AALCO Asset Recovery Expert Forum in consultation with the Member States;
2. **Requests** the Secretariat to assist in the convening of an Inter-sessional meeting to finalize the terms of reference of the Asset Recovery Expert Forum;
3. **Directs** the Secretariat to further continue the work on this topic; and
4. **Decides** to place this item on the agenda of the Sixty-Third Annual Session of AALCO.