



**PERMANENT MISSION OF THE REPUBLIC OF THE PHILIPPINES
TO THE UNITED NATIONS AND OTHER INTERNATIONAL
ORGANIZATIONS, GENEVA**

NV-EPG-19-2019

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva presents its compliments to the Secretariat of the Human Rights Council Advisory Committee and, with reference to the latter's Notes Verbales Nos. OHCHR/HRCTMD/AC21//NVIF and OHCHR/HRCTMD/AC21//NVTACB both dated 07 December 2018 on the studies conducted by the HRC Advisory Committee, has the honor to provide the contributions/inputs of the Philippines in the attached documents relating to:

- "The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation" (HRC resolution 34/11), and;
- "The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights" (HRC resolution 37/23).

The Permanent Mission of the Philippines assures the Human Rights Council Advisory Committee on the Philippines' continued commitment in advancing the promotion, protection and fulfilment of all human rights.

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva avails itself of this opportunity to renew to the Secretariat of the Human Rights Council Advisory Committee the assurances of its highest consideration.

Geneva, 21 January 2019

THE HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE SECRETARIAT

Palais des Nations
1211 Geneva
Switzerland



**INPUTS FROM THE GOVERNMENT OF THE PHILIPPINES
TO THE HRC ADVISORY COMMITTEE STUDY ON
“THE ROLE OF TECHNICAL ASSISTANCE AND CAPACITY-BUILDING IN
FOSTERING MUTUALLY BENEFICIAL COOPERATION IN PROMOTING AND
PROTECTING HUMAN RIGHTS”
(AS MANDATED IN HRC RESOLUTION 37/23)**

Paragraph 5 of resolution 37/23 of the Human Rights Council (HRC) entitled “The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights” requested the HRC Advisory Committee to conduct a study on the role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights, and to submit a report thereon to the Human Right Council before its forty-third session in March 2020.

The Philippines fully commits to the importance of constructive dialogue as well as in the positive contribution in providing States technical assistance and capacity building, upon the consent of the State concerned, to strengthen mechanisms and create more impact on the ground in the implementation of the States’ policies, efforts and programs to advance the promotion, protection and fulfil of human rights. The Philippines places high importance to the unique peer review process through the Universal Periodic Review (UPR) mechanism.

Recommendation

In this regard, the Philippines recommends that technical assistance and capacity-building on human rights cooperation, upon the consent of the State concerned, should be **Universal Periodic Review (UPR) -focused**.

The Philippines believes that declarations of support or cooperation during a country’s UPR should be a citable foundation and/or reference regarding the formulation of technical assistance and capacity-building between and among States in promoting and protecting human rights.

This has the positive effect of strengthening the UPR process as a genuine multilateral human rights mechanism that promotes cooperation of States through technical assistance and capacity-building in the field of human rights.

**INPUTS FROM THE GOVERNMENT OF THE PHILIPPINES
TO THE HRC ADVISORY COMMITTEE STUDY ON
“THE NEGATIVE IMPACT OF THE NON-REPATRIATION OF FUNDS OF ILLICIT
ORIGIN TO COUNTRIES OF ORIGIN ON THE ENJOYMENT OF HUMAN RIGHTS,
AND THE IMPORTANCE OF IMPROVING INTERNATIONAL COOPERATION”
(AS MANDATED IN HRC RESOLUTION 34/11)**

The Philippines' Anti-Money Laundering Council (AMLC-Philippines) takes an active role in the implementation and monitoring of the United Nations Convention Against Corruption (UNCAC), as mandated by Executive Order No. 171 s.2014.

It is estimated that hundreds of billions of Philippine pesos or 20% of the Philippines' yearly national budget is lost to corruption, as observed in the Philippine Mutual Evaluation Report of 2009.

AMLC filed 30 applications for bank inquiries from 2013 to 2018. Majority of those conducted from 2013 to 2015 were related to the Priority Development Funds (PDAF) scam by subject lawmakers. In 2018, the AMLC also filed four money laundering complaints predicated on graft and corruption, and plunder.

In a study conducted by the AMLC-Philippines on the Philippine exposure to external threats¹ based on suspicious transaction reports (STRs) filed from 2013-2017, majority of corruption-related offenses were generated and remained in the Philippines. Inflow and outflow of alleged illicit funds only account for less than 1% of the reported values in the STRs filed. The study was also able to identify source countries for the illicit funds, as well as destination countries.

The Philippines shall conduct further study on the exposure of the country to external threats, including corruption. This will be included in the Third Second National Risk Assessment² (NRA), which is scheduled in 2020.

CHALLENGES IN THE UTILIZATION OF NON-REPATRIATED ASSETS

Illicit funds or assets which are proceeds of crimes may be forfeited through the filing of a civil forfeiture case under the Philippines' Republic Act No. 9160 or the Anti-Money Laundering Act, as amended and A.M. No. 05-11-04-SC (Rules of Procedure in Cases of Civil Forfeiture, Asset Preservation under Republic Act No. 9160). A foreign State may seek repatriation of funds in the Philippines through a request for Mutual Legal Assistance.

¹ Threats (Crimes) originating within and outside the country's jurisdiction that involve money laundering of proceeds generated from various predicate offenses.

² The National Risk Assessment (NRA) on Money Laundering (ML) and Terrorist Funding (TF) is a government-wide assessment of the overall exposure of the country to money laundering and its related predicate offenses, terrorism and terrorist financing. The period covered by the 2nd NRA is 2015 – 2016.

In the Philippine legal framework, however, during the pendency of the proceedings and prior to the order of forfeiture, the property or funds are still owned by the respondents to the case. There is no authority for the AMLC-Philippines to use confiscated funds other than their repatriation to the requesting State. It is only upon the finality of a judgment on forfeiture can the State dispose of the said funds and property, and only in accordance with the judgment rendered by the court. As such, there is no legal basis for the utilization of non-repatriated assets for other purposes other than those stated in the judgment of the court.

BEST PRACTICES ON INTERNATIONAL COOPERATION

International cooperation has proven to be essential in the repatriation of illicit funds. The Philippines successfully exercised such initiatives in the following cases of illicit funds:

- **“PDAF scam” case** In the course of investigation conducted by local authorities on alleged unlawful appropriation and use of the Priority Development Funds (PDAF) of subject lawmakers (“PDAF scam”), it was discovered that the mastermind and her family members transferred money to the United States of America (USA). The AMLC thus sought the assistance of the Financial Intelligence Unit (FIU)-USA of the said jurisdiction through the **Egmont Secure Web**. Feedback from the foreign FIU yielded positive results, providing material information showing how the money was transferred as well as senders and recipients of the same. The information gathered also established that money changers were acting as conduits in the transfer of funds.

Moreover, the Philippines’ AMLC, National Bureau of Investigation, and the Office of the Ombudsman acted on the **Mutual Legal Assistance Treaty (MLAT)** request from the USA for the production of documents in relation to the seizure and eventual forfeiture of the properties of the mastermind and members of her immediate family in the said jurisdiction, which were acquired at the time that the PDAF scam was ongoing.

Close coordination with US authorities have resulted to the filing of a civil forfeiture case against illicit assets found in the USA approximately amounting to US\$12.5 million, and the indictment of the mastermind and her cohorts in converting to their own benefit about US\$20 million PDAF by purchasing real estate properties and shares in two businesses in the USA.

Recently, a USA federal grand jury has indicted the mastermind and her cohorts for conspiring to funnel in and out of the USA some US\$20 million Philippine public funds obtained through this multi-year bribery and fraud scheme.

- **Bangladesh Bank Heist** Although not related to corruption, the case of the Bangladesh Bank Heist demonstrates the effectiveness of the countries’ international cooperation. Bangladesh has no existing MLA Treaty with the Philippines, but **regular coordination** between the AMLC-Philippines and the Bangladesh financial intelligence unit resulted in the repatriation of illicit funds.

The AMLC-Philippines hosted the “First Operation High Rollers U\$101 Bank Heist Case Coordination Meeting” upon the request of the Interpol-Lyon, France. This meeting was attended by police officials from Interpol Lyon, Country Y, China, Japan, Singapore, and representatives from various Philippine law enforcement agencies. All representatives mutually agreed to work together to trace the movements and freeze the assets of the suspects. The AMLC-Philippines and representatives of the Bangladesh government held periodic meetings.

Civil forfeiture cases were filed against personalities who were found to be involved in the laundering of funds. In an Order dated 16 September 2016, the court granted the third-party of Bangladesh through the Department of Justice (DOJ) and declaring that the People’s Republic of Bangladesh as the rightful owner of the amount totalling US\$4,630,000 and PHP488,280,000. The aforementioned forfeited amount was ordered to be released in favour of the People’s Republic of Bangladesh. **END.**



REFERENCE: OHCHR/HRCTMD/AC21/NVIF

Subject: The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights

The secretariat of the Human Rights Council Advisory Committee presents its compliments to all Permanent Missions to the United Nations Office and other international organizations at Geneva and, with reference to its note verbale of 16 August 2018 concerning the implementation of resolution 34/11 of the Human Rights Council on "*The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation*", has the honour to inform them that the deadline for submission of inputs has been extended to **7 January 2019**. A copy of the aforementioned note verbale is attached for ease of reference.

The secretariat of the Human Rights Council Advisory Committee avails itself of this opportunity to renew to the Permanent Missions to the United Nations Office and other international organizations at Geneva, the assurances of its highest consideration.

7 December 2018



REFERENCE: OHCHR/HRCTMD/AC21/NVIF

Subject: The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights

The Secretariat of the Human Rights Council Advisory Committee, presents its compliments to all Permanent Missions to the United Nations Office and other international organizations at Geneva, and has the honour to refer to resolution 34/11 of the Human Rights Council on "The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation." The resolution is attached for ease of reference.

Paragraph 31 of the resolution requests "the Human Rights Council Advisory Committee to conduct a study, in continuation of the study requested by the Human Rights Council in its resolution 31/22, on the possibility of utilizing non-repatriated illicit funds, including through monetization and/or the establishment of investment funds, while completing the necessary legal procedures, and in accordance with national priorities, with view to supporting the achievement of the Goals of the 2030 Agenda for Sustainable Development, contributing to the enhancement of the promotion of human rights and in accordance with obligations under international human rights law, and to submit the requested study to the Council at its thirty-ninth session."

In addition, paragraph 32 of the resolution requests the Advisory Committee, when preparing the above-mentioned study, to seek further views and the input of Member States, relevant international and regional organizations, United Nations bodies, including the Office of the High Commissioner, and the United Nations Office on Drugs and Crime, national human rights institutions and non-governmental organizations and other relevant stakeholders in order to finalize the above-mentioned study.

Furthermore, it should be noted that at its thirty-eighth session, the Human Rights Council decided to extend the time for the Advisory Committee to complete the study so that it is submitted to the Council at the forty-second session taking place in September 2019.

The Human Rights Council Advisory Committee welcomes the input of your respective governments concerning, names of recognized experts, concrete data, statistics, best practices and major challenges in the utilization of non-repatriated illicit funds with view to supporting the achievement of the Goals of the 2030 Agenda for Sustainable Development as mentioned in paragraph 31 referred to above.



We would be grateful if any information recipients may wish to provide could be sent to the Secretariat of the Advisory Committee **by 30 November 2018:**

Secretariat of the Human Rights Council Advisory Committee
OHCHR - United Nations Office at Geneva
CH-1211 Geneva 10, Switzerland
E-mail: hrcadvisorycommittee@ohchr.org
Fax: +41 22 917 9011

The Secretariat of the Human Rights Council Advisory Committee avails itself of this opportunity to renew to the Permanent Missions to the United Nations Office and other international organizations at Geneva, the assurances of its highest consideration.

16 August 2018

**Human Rights Council****Thirty-fourth session**

27 February – 24 March 2017

Agenda item 3

Resolution adopted by the Human Rights Council on 23 March 2017**34/11. The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation***The Human Rights Council,**Guided by the purposes and principles of the Charter of the United Nations,**Reaffirming the Universal Declaration of Human Rights, the Declaration on the Right to Development, the Vienna Declaration and Programme of Action and other relevant human rights instruments,**Reiterating the commitment to ensure the effective enjoyment of all civil, political, economic, social and cultural rights for everyone, including the right to development, and the obligation of all States, regardless of their political, economic and cultural systems, to promote, protect and respect all human rights and fundamental freedoms,**Recalling General Assembly resolutions 60/251 of 15 March 2006, 62/219 of 22 December 2007 and 65/281 of 17 June 2011, and Human Rights Council resolutions 5/1 and 5/2 of 18 June 2007, 11/11 of 18 June 2009 and 16/21 of 25 March 2011,**Recalling also General Assembly resolutions 54/205 of 22 December 1999, 55/61 of 4 December 2000, 55/188 of 20 December 2000, 56/186 of 21 December 2001, 57/244 of 20 December 2002, 58/205 of 23 December 2003, 59/242 of 22 December 2004, 60/1 of 16 September 2005, 60/207 of 22 December 2005, 61/209 of 20 December 2006, 62/202 of 19 December 2007, 63/226 of 19 December 2008, 64/237 of 24 December 2009, 65/1 of 22 September 2010, 65/169 of 20 December 2010, 67/192 of 20 December 2012, 68/195 of 18 December 2013, 68/309 of 10 September 2014 and 69/199 of 18 December 2014,**Recalling further Human Rights Council resolutions 17/23 of 17 June 2011, 19/38 of 23 March 2012, 22/12 of 21 March 2013, 25/9 of 27 March 2014, 28/5 of 26 March 2015 and 31/22 of 24 March 2016,**Recalling that human rights, as recognized in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International*

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Covenant on Economic, Social and Cultural Rights, are universal, indivisible, interrelated and interdependent,

Reaffirming the commitments of States parties to the United Nations Convention against Corruption thereunder, recognizing that the Convention is aimed at promoting and strengthening measures to prevent and combat corruption more efficiently and effectively, and that the return of assets is one of the objectives and a fundamental principle of the Convention,

Reaffirming also that all peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law, and that in no case may a people be deprived of its own means of subsistence,

Recognizing that respect for and adherence to the principles of transparency, accountability and participation are critical factors in ensuring use of returned illicit funds,

Recognizing also that fighting corruption at all levels is a priority and that flows of funds of illicit origin deprive countries of resources required to progressively realize human rights, including economic, social and cultural rights, and in particular the right to development, in such a way that threatens the stability and sustainable development of States, undermines the values of democracy, the rule of law and morality and jeopardizes social, economic and political development,

Recalling the United Nations Convention against Corruption, underlining its central role in fostering international cooperation to combat corruption and to facilitate the return of the proceeds of corruption-related crimes, and stressing the need for universal adherence to the Convention and for its full implementation, and the full implementation of the resolutions and decisions of the Conference of the States Parties to the Convention,

Recalling also that the United Nations Convention against Corruption underlines that States parties should not decline to render mutual legal assistance, pursuant to the Convention, including on the ground of bank secrecy, and in accordance with the domestic law of the requested State,

Concerned that the relative amount of wealth from developing countries held abroad is much greater than that from developed countries, and that a significant amount of that wealth held offshore may involve illicit funds,

Welcoming the adoption by the General Assembly of the 2030 Agenda for Sustainable Development,¹ and the inclusion therein of targets 16.4, 16.5, 16.6 and 16.10, which underline the commitment of States to significantly reduce by 2030 illicit financial and arms flows, to strengthen the recovery and return of stolen assets and to combat all forms of organized crime, to substantially reduce corruption and bribery in all their forms and to develop effective, accountable and transparent institutions at all levels, and to ensure public access to information and to protect fundamental freedoms, as implementing these targets will contribute to the enjoyment of all human rights, in particular economic, social and cultural rights,

Welcoming also the adoption by the Third International Conference on Financing for Development, held in Addis Ababa in July 2015, of the Addis Ababa Action Agenda,²

¹ General Assembly resolution 70/1.

² General Assembly resolution 69/313.

which underlined, in particular, that measures to curb illicit financial flows will be integral to achieving sustainable development,

Welcoming further the convening of an experts meeting on the issue of the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, pursuant to Human Rights Council resolution 28/5,

Noting the work carried out by different United Nations bodies, including the United Nations Office on Drugs and Crime, and international and regional organizations in preventing and combating all forms of corruption,

Bearing in mind that the prevention and eradication of corruption is a responsibility of all States, and that States should cooperate with one another, in accordance with the United Nations Convention against Corruption, with the support and full involvement of other stakeholders,

Bearing in mind also that, in accordance with the requirements of the United Nations Convention against Corruption, those who engage in corrupt acts, whether natural or legal persons, should be held accountable and prosecuted by the competent authorities, and that all efforts should be made to conduct a financial investigation into assets illegally acquired by them and to recover such assets through domestic confiscation proceedings, international cooperation for purpose of confiscation and appropriate recovery measures,

Encouraging all relevant United Nations mechanisms to continue their consideration of the negative impact of illicit financial flows on the enjoyment of human rights, to further explore policy responses to the phenomenon, and to coordinate their efforts in this regard,

Recognizing that strong and efficient domestic legal systems are essential in preventing and combating corrupt practices and the transfer of assets of illicit origin and in returning such assets, and recalling that the fight against all forms of corruption requires strong institutions at all levels, including at the local level, able to take efficient preventive and law enforcement measures consistent with the United Nations Convention against Corruption, in particular chapters II and III thereof,

Appreciating the continued efforts of the Conference of the States Parties to the United Nations Convention against Corruption, through its various intergovernmental working groups, to oversee the review process of the implementation of the Convention, to advise on the provision of technical assistance for building institutional and human capacity in States parties for the prevention of corruption, and to enhance international cooperation, including in the return of the proceeds of crime,

Noting with appreciation the Lausanne process initiative on practical guidelines for efficient asset recovery, developed by 30 States parties in close collaboration with the International Centre for Asset Recovery and with the support of the Stolen Asset Recovery Initiative of the World Bank and the United Nations Office on Drugs and Crime, which are aimed at providing effective and coordinated approaches to asset recovery for practitioners from requesting and requested States,

Affirming the responsibilities of requesting and requested States in the return of the proceeds of crime, cognizant that requesting States must seek return as part of their duty to ensure the application of the maximum available resources to the full realization of all human rights for all, including the right to development, address human rights violations and combat impunity, and that requested States, on the other hand, have a duty to assist and facilitate the return of the proceeds of crime, including through judicial assistance, as part of their obligation of international cooperation and assistance under chapters IV and V of the United Nations Convention against Corruption and in the field of human rights,

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, within the shared responsibility to facilitate efficient international cooperation for the prompt recovery of assets of illicit origin,

Concerned at the challenges and difficulties that both requested and requesting States face in the return of the proceeds of crime, owing to, inter alia, differences in legal systems, the complexity of multijurisdictional investigations and prosecutions, lack of familiarity with the mutual legal assistance procedures of other States and difficulties in identifying the flow of funds of illicit origin, noting the particular challenges in recovering them in cases involving individuals who are or have been entrusted with prominent public functions and their family members and close associates, and recognizing that legal difficulties are often exacerbated by factual and institutional obstacles, and noting also the difficulties of providing information establishing a link between the proceeds of corruption in the requested State and the crime committed in the requesting State, which in many cases may be difficult to prove,

Asserting the urgent need to repatriate illicit funds to the countries of origin without conditionalities, in accordance with the United Nations Convention against Corruption and the relevant resolutions of the Conference of the State Parties, as well as the commitments made at the 2005 World Summit and the 2010 high-level plenary meeting of the General Assembly on the Millennium Development Goals to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, and urging all States to step up their efforts to trace, freeze and recover those funds,

Noting the particular concern of developing countries and countries with economies in transition regarding the 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,

1. *Takes note* of the report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, focusing on labour rights in the context of economic reform and austerity measures,³ prepared pursuant to Human Rights Council resolution 25/16;
2. *Also takes note* of the final study on illicit financial flows, human rights and the 2030 Agenda for Sustainable Development prepared by the Independent Expert;⁴
3. *Welcomes* the report of the High-level Panel on Illicit Financial Flows from Africa, which highlighted the gravity of the problem of illicit financial flows in the continent, ranging from \$50 billion to \$60 billion a year;
4. *Calls upon* all States that have not yet acceded to the United Nations Convention against Corruption to consider doing so as a matter of priority;
5. *Urges* requesting and requested States to cooperate to recover the proceeds of corruption, in particular embezzled public funds, stolen assets and unaccounted-for assets, including those that are found in safe havens, and to demonstrate strong commitment to

³ A/HRC/31/60.

⁴ A/HRC/31/61.

ensuring the return or disposal of such assets, including their return to the countries of origin, to their prior legitimate owners or to the victims of the crime;

6. *Calls upon* all States to consider enacting legislation to address offences by business enterprises, including multinational corporations, that deprive Governments of legitimate domestic sources of revenue for the implementation of their development agendas, in compliance with their international obligations, including international human rights law;

7. *Also calls upon* all States to seek to reduce opportunities for tax avoidance, to consider inserting anti-abuse clauses in all tax treaties and to enhance disclosure practices and transparency in both source and destination countries, including by seeking to ensure transparency in all financial transactions between Governments and companies to relevant tax authorities;

8. *Asserts* the urgent need to return the proceeds of crime to the requesting countries without conditionalities, in accordance with the United Nations Convention against Corruption and with due process, to strive to eliminate safe havens that create incentives for transfer abroad of stolen assets and illicit financial flows, and to strengthen regulatory frameworks at all levels;

9. *Encourages* requested State parties to respond to requests for assistance and to consider adopting such measures as may be necessary to enable them to provide a wider scope of assistance, pursuant to article 46 of the United Nations Convention against Corruption, in the absence of dual criminality;

10. *Calls upon* all States to consider waiving or reducing to the barest minimum reasonable expenses deducted when recovering assets, particularly when the requesting State is a developing country, bearing in mind that the return of illicitly acquired assets contributes to the achievement of the Sustainable Development Goals;

11. *Reiterates* the importance of full compliance with international human rights law in relation to the return of proceeds of crime, in particular due process rights in criminal or civil law matters against persons presumed to be responsible for corruption, tax evasion or other related criminal conduct and with respect to freezing and forfeiture;

12. *Invites* the Conference of the States Parties to the United Nations Convention against Corruption to consider ways of adopting a human rights-based approach in the implementation of the Convention, including when dealing with the return of the proceeds of crime, and appreciates the continued efforts of the Open-ended Intergovernmental Working Group on Asset Recovery of the Conference to assist States parties in fulfilling their obligations under the Convention to prevent, detect and deter in a more effective manner the international transfer of the proceeds of crime and to strengthen international cooperation in asset recovery;

13. *Notes with appreciation* the Stolen Assets Recovery Initiative of the World Bank Group and the United Nations Office on Drugs and Crime, and encourages coordination among existing initiatives;

14. *Notes* the importance of the International Monetary Fund and the World Bank publishing estimates of the volume and composition of illicit financial flows on an annual basis to monitor progress in implementing target 16.4 of the Sustainable Development Goals on illicit financial flows;

15. *Calls upon* States to continue to consider the establishment of an intergovernmental working group on the negative impact of illicit financial flows on the enjoyment of human rights, and to explore further policy responses to the phenomenon;

16. *Realizes* that, while illicit financial outflows from the least developed countries may account for only a small portion of all outflows of funds of illicit origin worldwide, they have a particularly negative impact on social development and the realization of social, economic and cultural rights in these countries, given the size of their economies;

17. *Underscores* that the repatriation of funds of illicit origin is key for States that are undergoing a democratization and reform process and for improving the realization of economic, social and cultural rights, including the right to development, and for fulfilling their obligation to meet the legitimate aspirations of their peoples;

18. *Acknowledges* the important role that civil society can play in exposing corruption and drawing attention to the negative impact of the non-repatriation of funds of illicit origin on the rule of law and the realization of economic, social and cultural rights, and reiterates in this context the obligation of States to protect reporting persons in accordance with article 33 of the United Nations Convention against Corruption and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;

19. *Welcomes* national initiatives to adopt anti-money-laundering legislation as an important step in the fight against corruption and the willingness demonstrated by some States to cooperate in facilitating the return of the proceeds of crime, and calls for more robust regulations in this regard, including through the implementation of policies aimed at reducing the flow of the proceeds of crime, ensuring their return and the provision of technical assistance to developing countries;

20. *Encourages* all States to share best practices in the freezing and recovery of funds of illicit origin;

21. *Calls for* further international cooperation through, inter alia, the United Nations system, in support of national, subregional and regional efforts to prevent and combat corrupt practices and the transfer of assets of illicit origin, in accordance with the principles of the United Nations Convention against Corruption, and in this regard encourages close cooperation at the national and international levels between anti-corruption agencies, law enforcement agencies and financial intelligence units;

22. *Calls upon* all States requested to repatriate funds of illicit origin to uphold fully their commitment to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, in accordance with the United Nations Convention against Corruption, and to make every effort to achieve the repatriation of funds of illicit origin to the requesting States in order to diminish the negative impact of non-repatriation, including on the enjoyment of human rights, in particular economic, social and cultural rights, in the countries of origin by, inter alia, lowering the barriers imposed on requiring jurisdictions at the tracing stage and enhancing cooperation in this regard between competent agencies, in particular taking into account the risks of dissipation of those funds and, where appropriate, by delinking confiscation measures from a requirement of conviction in the country of origin;

23. *Calls upon* all States requesting the repatriation of funds of illicit origin to uphold fully their commitment to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, and to apply the principles of accountability, transparency and participation in the decision-making process regarding the allocation of repatriated funds to the realization of economic, social and cultural rights in order to improve prevention and detection procedures, correct identified weaknesses or mismanagement, prevent impunity, provide effective remedies directed at creating conditions for avoiding new human rights violations and improve the overall administration of justice;

24. *Reaffirms* that it is the obligation of the State to investigate and prosecute corruption, calls upon all States to strengthen criminal proceedings directed at freezing or restraining funds of illicit origin, and encourages requesting States to ensure that adequate national investigative procedures have been initiated and substantiated for the purpose of presenting mutual legal assistance requests, and in this context encourages requested States to provide information on legal frameworks and procedures to the requesting State and to remove barriers to asset recovery, including by simplifying their legal procedures;
25. *Underlines* that there is also a corporate responsibility to comply with and respect all applicable laws and human rights, and a need for greater access to effective remedies by victims in order to realize effective prevention of, and remedy for, business-related human rights harm, as set out in the Guiding Principles on Business and Human Rights;
26. *Calls upon* requesting and requested States with practical experience in asset recovery to develop, as appropriate, in cooperation with interested States and providers of technical assistance, non-binding practical guidelines, such as a step-by-step guide for efficient asset recovery, with a view to enhancing effective approaches to asset recovery based on best practices, practical experience and the lessons learned from past cases, while being mindful to seek to add value by building upon existing work in this area through innovative and efficient means;
27. *Encourages* States parties to consider, where appropriate, and in accordance with national law, the opportunity of referring to the draft Lausanne guidelines for efficient recovery of stolen assets in their practice, and any other relevant instruments,
28. *Stresses* the need for transparency in financial institutions and effective due diligence measures to be applied by financial intermediaries, calls upon States to seek appropriate means in accordance with their international obligations to ensure the cooperation and responsiveness of financial institutions to foreign requests to freeze and recover funds of illicit origin and the provision of an efficient mutual legal assistance regime to States requesting repatriation of those funds, and encourages the promotion of human and institutional capacity-building in that regard;
29. *Recalls* the importance of the Implementation Review Mechanism of the United Nations Convention against Corruption, and urges States parties to comply with their obligations in the conduct of country reviews to enhance effective implementation of the Convention as a preventive measure for the outflow of illicit financial flows;
30. *Welcomes* the work undertaken by the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, and requests him to continue to consider the impact of illicit financial flows on the enjoyment of human rights as part of the mandate;
31. *Requests* the Human Rights Council Advisory Committee to conduct a study, in continuation of the study requested by the Human Rights Council in its resolution 31/22, on the possibility of utilizing non-repatriated illicit funds, including through monetization and/or the establishment of investment funds, while completing the necessary legal procedures, and in accordance with national priorities, with view to supporting the achievement of the Goals of the 2030 Agenda for Sustainable Development, contributing to the enhancement of the promotion of human rights and in accordance with obligations under international human rights law, and to submit the requested study to the Council at its thirty-ninth session;
32. *Also requests* the Advisory Committee to seek, if necessary, further views and the input of Member States, relevant international and regional organizations, United

Nations bodies, including the United Nations Office on Drugs and Crime, national human rights institutions and non-governmental organizations in order to finalize the above-mentioned study;

33. *Requests* the United Nations High Commissioner for Human Rights to provide all assistance and financial resources necessary to allow the Independent Expert to carry out the mandate set out in the present resolution, and calls upon all relevant stakeholders, including States and United Nations bodies and agencies, and other international and regional entities to cooperate fully with the Independent Expert in this regard;

34. *Requests* the Secretary-General to bring the present resolution to the attention of all Member States and the forums dealing with the issue of the repatriation of funds of illicit origin within the United Nations system for consideration and necessary action and coordination as appropriate, particularly within the context of the Conference of the States Parties to the United Nations Convention against Corruption;

35. *Decides* to continue its consideration of this matter under the same agenda item.

*56th meeting
23 March 2017*

[Adopted by a recorded vote of 30 to 1, with 16 abstentions. The voting was as follows:

In favour:

Bangladesh, Bolivia (Plurinational State of), Botswana, Brazil, Burundi, China, Congo, Côte d'Ivoire, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Ghana, India, Indonesia, Iraq, Kenya, Kyrgyzstan, Mongolia, Nigeria, Philippines, Qatar, Rwanda, Saudi Arabia, South Africa, Togo, Tunisia, United Arab Emirates, Venezuela (Bolivarian Republic of)

Against:

United States of America

Abstaining:

Albania, Belgium, Croatia, Georgia, Germany, Hungary, Japan, Latvia, Netherlands, Panama, Paraguay, Portugal, Republic of Korea, Slovenia, Switzerland, United Kingdom of Great Britain and Northern Ireland]



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COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND

www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

REFERENCE: OHCHR/HRCTMD/AC21//NVTACB

Subject: The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights

The secretariat of the Human Rights Council Advisory Committee presents its compliments to all Permanent Missions to the United Nations Office and other international organizations at Geneva and, with reference to its note verbale of 16 August 2018 concerning the implementation of resolution 37/23 of the Human Rights Council on "*The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights*", has the honour to inform them that the deadline for submission of inputs has been extended to **7 January 2019**. A copy of the aforementioned note verbale is attached for ease of reference.

The secretariat of the Human Rights Council Advisory Committee avails itself of this opportunity to renew to the Permanent Missions to the United Nations Office and other international organizations at Geneva, the assurances of its highest consideration.

7 December 2018

A handwritten signature in black ink, appearing to be a stylized 'S' or similar character.



General Assembly

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6 April 2018

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Human Rights Council

Thirty-seventh session
26 February–23 March 2018
Agenda item 3

Resolution adopted by the Human Rights Council on 23 March 2018

37/23. Promoting mutually beneficial cooperation in the field of human rights

The Human Rights Council,

Guided by the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action, and recalling all relevant international human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Recalling previous resolutions adopted by the General Assembly and the Human Rights Council on international cooperation in the field of human rights,

Reaffirming that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing, and that all human rights must be treated in a fair and equal manner, on the same footing and with the same emphasis,

Reaffirming also that all human rights derive from the dignity and worth inherent in the human person and that the human person is the central subject of human rights and fundamental freedoms, and consequently should be the principal beneficiary and should participate actively in the realization of these rights and freedoms,

Reaffirming further that, while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, all States, regardless of their political, economic and cultural systems, have the duty to promote and protect all human rights and fundamental freedoms,

Reaffirming that the work of the Human Rights Council shall be guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation, with a view to enhancing the promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development,

Acknowledging the important role that mutually beneficial cooperation among all relevant stakeholders can play in promoting and protecting all human rights in an increasingly interrelated world,

Emphasizing the responsibility of all States, in conformity with the Charter of the United Nations, to develop and encourage respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Emphasizing also that genuine dialogue and cooperation in the field of human rights should be constructive and based on universality, indivisibility, non-selectivity, non-politicization, equality and mutual respect, with the aim of promoting mutual understanding, expanding common ground and strengthening constructive cooperation, including through capacity-building and technical cooperation,

Considering that international cooperation in the field of human rights, in conformity with the purposes and principles set out in the Charter and international law and based on the principles of cooperation and genuine dialogue, makes an effective and practical contribution to preventing violations of human rights and fundamental freedoms and strengthening the capacity of States to comply with their human rights obligations for the benefit of all human beings,

Recognizing the importance of technical assistance and capacity-building provided in consultation with, and with the consent of, the States concerned in promoting mutually beneficial cooperation in the field of human rights,

Recognizing also the role of the universal periodic review in, inter alia, promoting the universality, interdependence, indivisibility and interrelatedness of all human rights, establishing a cooperative mechanism based on objective and reliable information and on interactive dialogue, and ensuring universal coverage and equal treatment of all States in contributing to the promotion and protection of human rights and mutually beneficial cooperation,

Recognizing further that dialogue among religions, cultures and civilizations in the field of human rights could contribute greatly to the enhancement of international cooperation in this field,

Recognizing the importance of fostering international relations based on mutual respect, fairness, justice and mutually beneficial cooperation, and of building a community of shared future for human beings in which human rights are enjoyed by all,

1. *Calls upon* all States to uphold multilateralism and to work together to promote mutually beneficial cooperation in the field of human rights, and encourages other stakeholders, including international and regional organizations and non-governmental organizations, to contribute actively to this endeavour,

2. *Reiterates* the important role of technical assistance and capacity-building in promoting and protecting human rights, calls upon States to strengthen human rights technical assistance and capacity-building through mutually beneficial cooperation, upon the request of and in accordance with the priorities set by the States concerned, and welcomes in this regard North-South, South-South and triangular cooperation;

3. *Emphasizes* the importance of the universal periodic review as a mechanism based on cooperation and constructive dialogue with the objective of, inter alia, improving the situation of human rights on the ground and promoting the fulfilment of the human rights obligations and commitments undertaken by States, and calls upon all States and relevant stakeholders to participate constructively in it;

4. *Invites* relevant United Nations human rights mechanisms and procedures to continue to pay attention to the importance of mutually beneficial cooperation in promoting and protecting all human rights;

5. *Requests* the Human Rights Council Advisory Committee to conduct a study on the role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights, and to submit a report thereon to the Human Rights Council before its forty-third session.

54th meeting
23 March 2018



[Adopted by a recorded vote of 28 to 1, with 17 abstentions. The voting was as follows:

In favour:

Angola, Brazil, Burundi, Chile, China, Côte d'Ivoire, Cuba, Democratic Republic of the Congo, Ecuador, Egypt, Ethiopia, Iraq, Kenya, Kyrgyzstan, Mexico, Mongolia, Nepal, Nigeria, Pakistan, Panama, Philippines, Qatar, Saudi Arabia, Senegal, South Africa, Togo, United Arab Emirates, Venezuela (Bolivarian Republic of)

Against:

United States of America

Abstaining:

Afghanistan, Australia, Belgium, Croatia, Georgia, Germany, Hungary, Japan, Peru, Republic of Korea, Rwanda, Slovakia, Slovenia, Spain, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland]