

Framework for Countering Corruption and Economic Crime: Towards effective law enforcement

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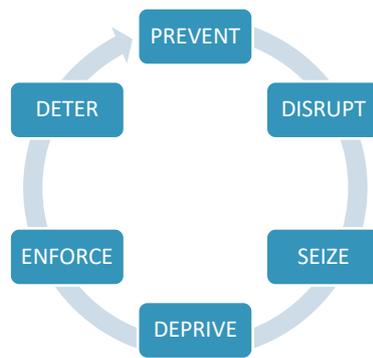
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Global Integrity Anti-Corruption Evidence project
Fighting High-level Corruption in Africa:
Learning from Effective Law Enforcement



ACRONYMS

ACA: Anti-corruption Agency
AML: Anti-Money laundering
CEBC: Corruption and Economic Crime Bureau
CSOs: Civil Society Organisations
DPP: Director of Public prosecutions
FBOs: Faith-based Organisations
FIU: Financial Intelligence Unit
IG: Inspector/s General
JMLIT: Joint Money-Laundering Intelligence Taskforce
NACS: National Anti-Corruption Strategy
NCECC: National Corruption and Economic Crime Centre
NECIB: National Economic Crime & Integrity Board
NECS: **National Economic Crime Strategy**
MDAs: Ministries, Departments and Agencies
PCs: Performance Contracts
PIO: Public Interest Observatory
PPDA = Public Procurement [& Disposal] of Assets body
SAO = Supreme Audit Office



Committed to safeguarding human rights and property

High-level corruption and economic crime are complex and continually evolving. They impact heavily on citizens, the business community and the economy. They encompass, among other offences:

- Theft, embezzlement and false accounting
- Fraud, scams and schemes (Ponzi, boiler-room, pyramid etc.)
- Corruption and mis-procurement (including bribery and extortion)
- Cyber-crime and computer misuse (including identity theft)
- Environmental crime, including illegal wildlife trade, logging and mining
- Money laundering (including virtual/crypto assets)
- Illegal possession and externalisation of foreign exchange (cash and EFTs)
- Illicit Financial Flows (international trade mis-invoicing, tax abuse, cross-border corruption and transnational financial crime, foreign direct investment etc.)
- Tax and excise duty fraud and evasion
- Insurance, health scheme and social safety net fraud, deception and forgery
- Terrorist financing

This paper looks at the economic crime environment and the challenges it presents but will focus on public sector corruption, which also takes many forms; can be on the part of an individual or group; and is often difficult to detect.

The paper is part of the output of the project '[Fighting high-level corruption in Africa: Learning from effective law enforcement](#)' funded by the Global Integrity-FCDO Anti-Corruption Evidence Programme (2019-21). The research project is the first systematic and comparative study of law enforcement efforts targeting high-level (grand) corruption in Africa. It aims to identify both enabling and constraining factors for effective law enforcement. The focus on the specifics of enforcement practice generated evidence that has been missing in anti-corruption research. The project compares investigations, prosecutions and asset recovery in Nigeria and Malawi, where high-level corruption is rife but has been targeted by the authorities. The Framework for Countering Corruption and Economic Crime is informed by the team's extensive research on law enforcement and high-level corruption in Nigeria (Page, 2021 "[Innovative or Ineffective? Reassessing Anti-corruption Law Enforcement In Nigeria](#)") and Malawi (Anders, 2021 "[Law Enforcement And High-level Corruption In Malawi: Learning From Cashgate](#)"). For brief summaries of findings and recommendations see the project's policy briefs on [Nigeria](#) and [Malawi](#).

Public servants can steal public property and falsify claims for allowances, overtime payments and expenses. They can abuse their personal authority, soliciting bribes for the performance of their public duties. They can be offered and accept bribes, for the misuse of their powers in the award of a contract or for turning a blind eye to some infringement. In so doing, these public servants impede the provision of good quality public services and can even endanger life through substandard performance of government contracts.

These realities have spawned innumerable attempts to address the consequences of personal decisions by public servants to break the rules:

THE CORRUPTION CAROUSEL



Corruption, an entrenched and stubborn condition and process, arising from moral failure, addressed by a plethora of resource intensive but persistently inadequate legal measures.

CORRUPTION ON SUPPLY SIDE



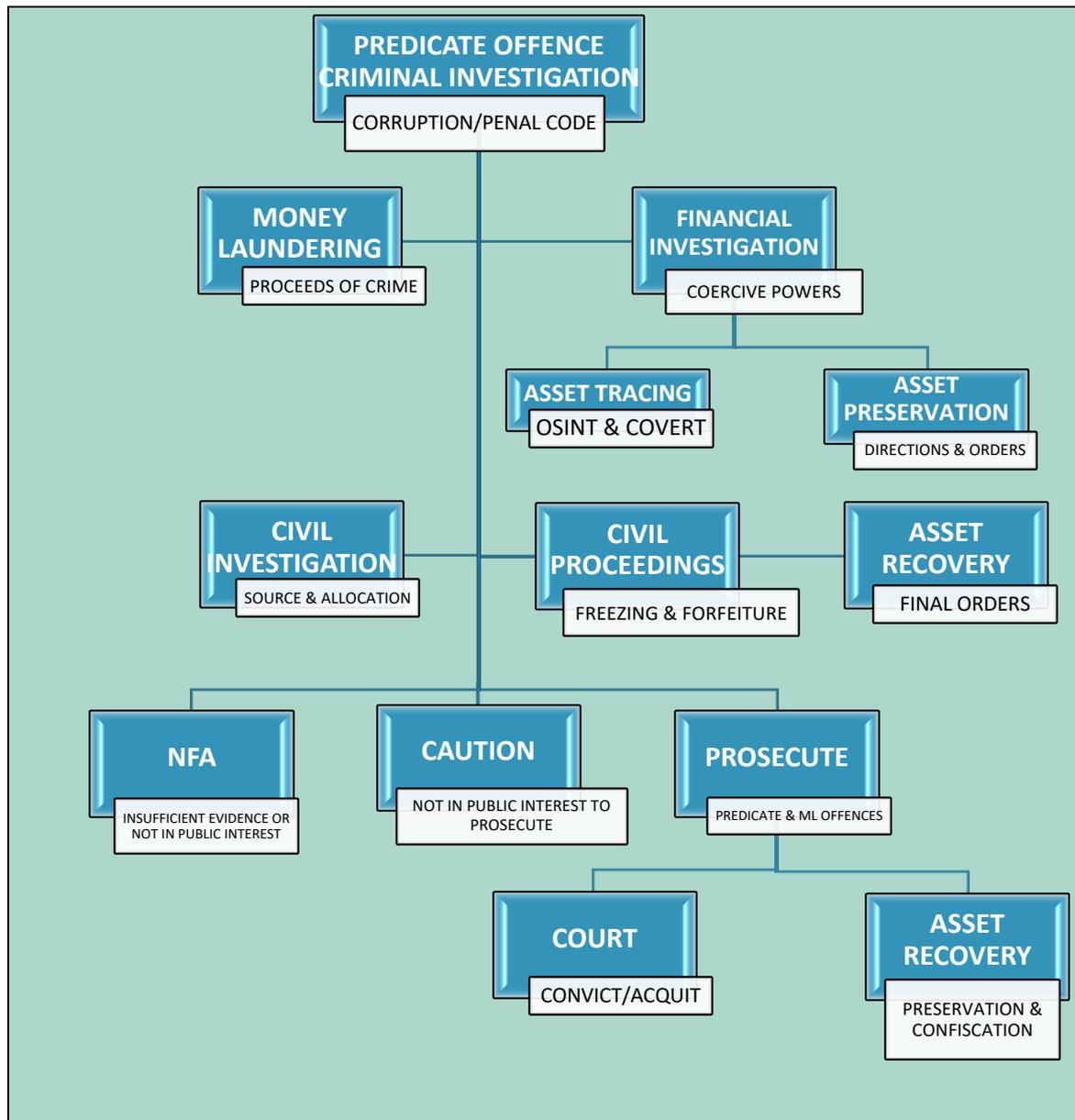
Management and supervisory failings, deliberate or negligent, sustain conditions for breach of rules and procedures, committed without detection or consequences or sanction.

Audit findings and recommendations, consigned to oblivion by management, disclose weaknesses in process, for future exploitation.

Abuse of power by corrupt senior staff encourages bad behaviour among corruptible staff.

THE CORRUPTION COURT CASE

The criminal and anti-social behaviour of the corruptors and the corrupt not only causes loss but imposes heavy costs on the state to respond to it. From simple, occasional acts of self-enrichment to large-scale, organised and complex raids on public finances, a highly regulated, expensive and slow process must be in place for the investigation and prosecution of alleged or suspected offending, the tracing of the proceeds of crime and the recovery of illicit assets from perpetrators, while respecting their constitutional rights to the presumption of innocence, a fair trial and quiet enjoyment of property.



OSINT = Open-Source Intelligence, e.g., public records and registers, social media accounts
NFA = No Further Action

It is important to analyse the challenges and consider how to:

- increase awareness of potential impact of ignoring proceeds of crime
- agree coherent strategy and success measures
- devise incentive scheme and framework of accountability
- ensure sound performance data or benchmarks, to support decision-making
- address operational issues, e.g., inaccurate and incomplete data, outdated ICT systems and poor joint working of actors
- design and enforce effective sanctions for non-payment of pecuniary penalties

STAGES



ACTORS



Prosecutors and civil court lawyers, of various government or para-statal offices, conduct most interlocutory and final hearings, with evidence provided by investigators. Financial investigators to provide support to government lawyers before, during and after the restraint and confiscation hearings and to help with enforcement.

A specialist Asset Recovery Agency may have authority and jurisdiction to act in criminal and civil court cases, in some or all interlocutory and final hearings.

The judiciary may adopt special courts and/or rules of court for dealing expertly and expeditiously with designated corruption and economic crime cases and associated or free-standing proceedings concerning illicit assets.

POLICY & GOVERNANCE



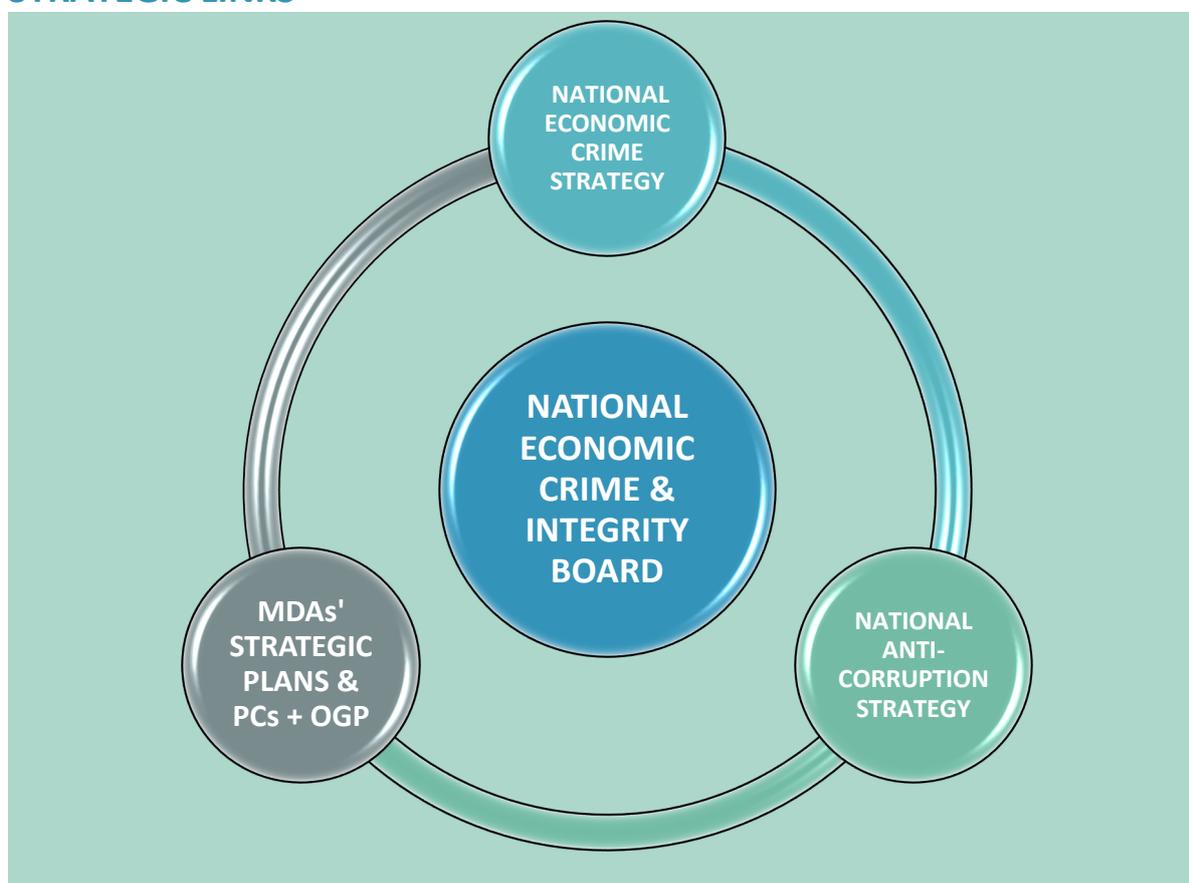
Government responsible for the policy and legislation on restraint and confiscation orders.

To succeed in changing the situation, there must be a genuinely collaborative (multi-agency and multi-disciplinary), politically-championed driver in play, to make a difference to and buttress the response to Corruption and Economic Crime.

With the shared aim of driving down the incidence and impact these afflictions, a **National Economic Crime & Integrity Board** [NECIB] could enhance the partnership of the principal actors who are to deliver progress against any **National Anti-Corruption Strategy** [NACS] and **National Economic Crime Strategy** [NECS]:

- Law enforcement agencies
- Government Ministries, Departments and Agencies, para-statal and local government
- Regulatory and supervisory bodies
- Private sector stakeholders, including business and civil society organisations

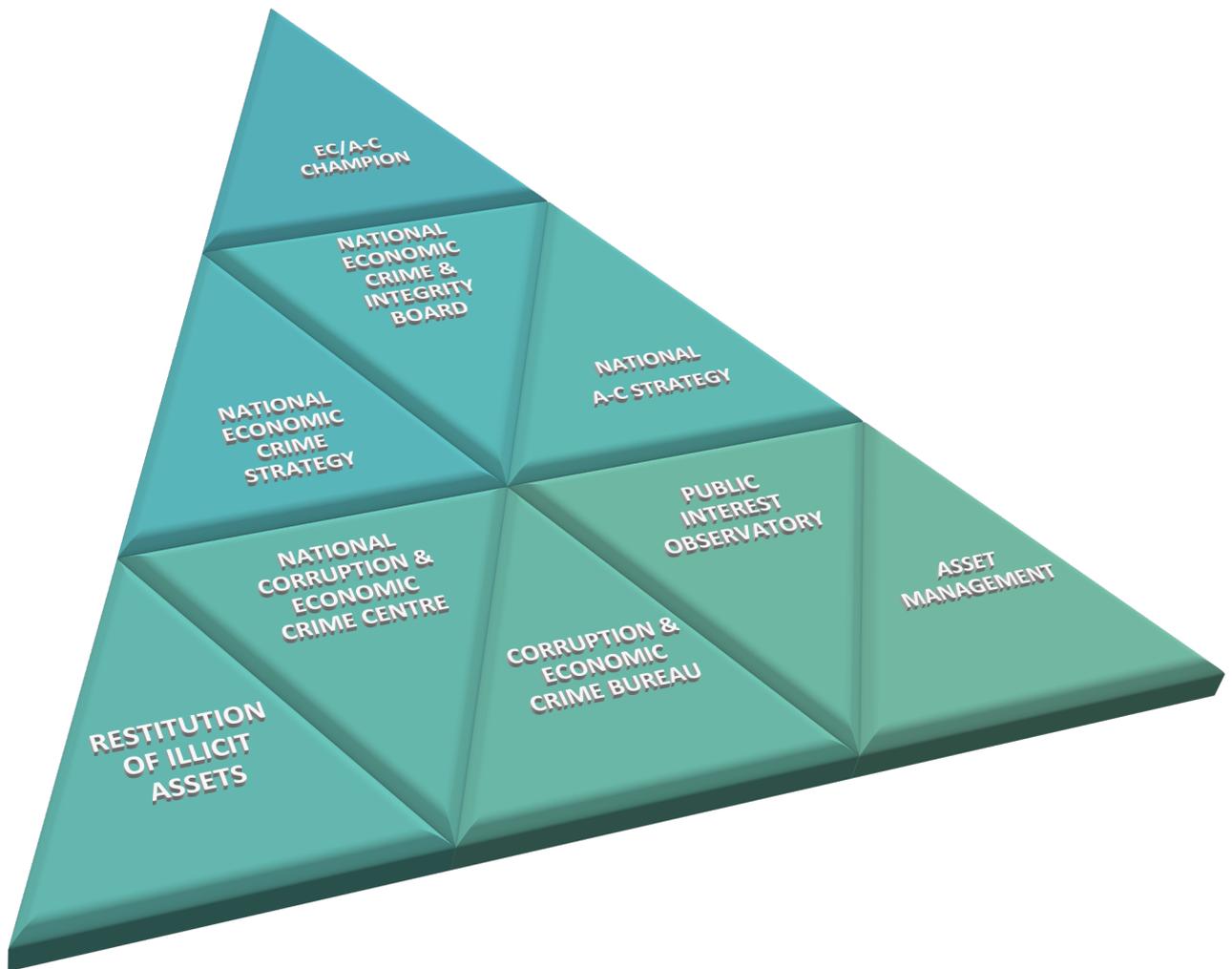
STRATEGIC LINKS



NECS to incorporate national strategies for meeting anti-money laundering [AML] and counter-financing of terrorism [CFT] obligations under UNCAC and FATF

MDAs = Ministries, Departments and Agencies | **PCs** = Performance Contracts

OGP= Open Government Partnership



- **Cabinet Minister** designated as **Champion** for government-wide response to Economic Crime and Anti-Corruption efforts
- **NECIB** [Heads of department and senior private sector representatives], chaired by Ministers [of Finance and Justice?], to superintend implementation of NECS and NACS; act on National Risk Assessment, aligning NECS, NACS and multiple lower-level strategies; provide strategic direction for NCECC, identify priorities and set goals and targets; collate and analyse performance indicators and report to Head of State/Government.
- **NCECC** [senior practitioners] to deliver NECIB objectives and advise/inform NECIB
- **CECB** to investigate, prosecute and preserve/recover and manage illicit assets
- **PIO** to marshal CSOs/FBOs, news media and collective action watchdogs, to monitor actors

NATIONAL ECONOMIC CRIME & INTEGRITY BOARD



DPP = Chief prosecutor | **ACA** = Anti-corruption Agency | **FIU** = Financial Intelligence Unit

POLICE includes intelligence bureaux and specialist units (e.g., fraud, organised crime)

TAX authority enforces laws on taxes, customs and excise duties and cash at border

Central Bank enforces financial institutions' AML policies; prosecutes illicit forex

JMLIT = Joint Money-Laundering Intelligence Taskforce

IMMIGRATION enforces passport and citizenship laws

ENVIRONMENT = Wildlife, Timber and Extractive Industries

Registrars of companies, trusts, land and vehicles share information with law enforcement agencies

PO Assets = Declarations by public officers of assets, liabilities and business interests

Local government and parastatal strategic plans reflect NECS and NACS

Ombudsman/FOI [Freedom of Information] might be known as Public Protector or similar

SAO = Supreme Audit Office | **PPDA** = Public Procurement [& Disposal] of Assets body

IG = Inspector/s General

CSOs and FBOs = Civic Society Organisations and Faith-Based Organisations

NECIB comprises heads of all institutions concerned with protection of public assets and regulation of their custody and application, also registration of ownership of private assets; and representatives CSOs/FBOs.

NECIB commissions, interprets and addresses National Risk Assessments under UNCAC and FATF; devises and promotes policies and actions to form action plans; informs the development of the NCECC's strategic plan and receives feedback and performance data.

SHARED OBJECTIVES OF NECIB

- Be accountable for ensuring that there is no safe space for the commission or facilitation of Corruption and Economic Crime
- Be the collective voice for the response to Corruption and Economic Crime
- Prioritise and plan the multi-agency response
- Bring the full force and capabilities of partners to secure co-ordinated criminal, civil and regulatory action
- Public communication, through all channels, on activity, challenges and performance

With serial uplifts in capability, the NECIB should progress and endeavour to target high-risk areas, by making best use of its members' combined operational powers, capacity and skills.

DELIVERY

Through formulation and collective, parallel implementation of holistic and attuned NACS and NECS and departmental strategic plans, the **Outcome** expected is a reduction in the number and scale of criminal threats to and assaults on communal economic and social interests.

Co-operation and collaboration, within and between the public and private sectors, are necessary, to:

- make the most of what the government has and can do
- invest in and build increased capacity and capability
- enable state and non-governmental actors to work better together

To achieve these objectives, through **Law Enforcement** and effective use of an **Asset Tracing & Recovery Scheme**, three key elements have to be in place –

- **investigators**, responsible for finding evidence and identifying and locating assets
- **lawyers**, to convict offenders and litigate for preservation/deprivation of assets
- **receivers**, managing and disposing of seized and recovered assets

Efficiently, economically and effectively meeting the objectives requires **whole-hearted teamwork** among law enforcement partners and other actors in the economic crime field.

However, when actors begin to work beyond their traditional boundaries, in a 'joined-up' manner, it is important that risks inherent in this arrangement are identified and managed, because the actions of individual constituents are likely to affect the activities of others.

Common risks include:

- parties working towards different goals - outcomes not being achieved if goals are not shared, aligned and clearly defined
- goals not being achieved, if sufficient and appropriate resources are not made available, including skilled people
- failure of operations - not meeting their objectives, when leadership is unclear
- lack of accountability for success or failure, if roles and responsibilities are unclear

HOW NECIB WORKS

- 1 Understand the Economic Crime threat and NECIB's own capabilities
- 2 Define operational priorities and develop a partnership response
- 3 Task and co-ordinate effective action across the whole system [NCECC]
- 4 Drive delivery and assess the impact

1 Referrals come into the NECIB via various routes and agencies, including intelligence pipelines and agency requests.

2a Partners work together to share their collective understanding of the threat and may commission intelligence work to improve the threat picture.

2b The NECIB considers the received intelligence and assessments and identifies high priority threats, agreeing to allocate resources to tackle them.

3 The NECIB develops a joint plan, outlining an end-to-end response - Pursue, Protect, Prevent and Prepare - and allocates actions for partner-members.

4a The NECIB drives the tasking and co-ordination of NCECC partner agencies and leads dialogue with other agencies and the private sector, to explore actions they could take to help address the threat.

4b Partner-members execute their actions. The NECIB drives the response, identifying further opportunities for them to collaborate, tracking progress against plans and measuring impact.

HOW DOES NECIB ADD VALUE?

Working together means a better prioritised, quicker and much more effective response to economic crime, benefiting the public, businesses and economy:

- **Less harm** - for the public and to business
- **More** - criminals disrupted and prosecuted
- **More** - criminals assets denied and recycled
- **Stronger** reputation - for business to operate and invest

Delivering a major change in how Economic Crime is tackled and making the best use of investment by:

- Ensuring the most effective use of resources and capabilities - through design of the strategic response to corruption and economic crime drawing on competences across the public and private sector
- Making a difference where it really matters - working with partners, to ensure that collective efforts are focused on the highest priority threats and criminal individuals
- Delivering more impact through investigations - driving greater co-operation among partner-members, to deliver more effective frontline investigations
- Building public confidence - as the collective authority on corruption and economic crime, increasing public trust and support through results

Achieving benefits for partners

- Access to the best intelligence and data
- Access to specialist operational tools and capabilities
- Financial information assisting others to tackle crime
- Sharing risk and building system-wide resilience
- Developing personnel and capabilities together
- Setting priorities to inform law enforcement development and investment

POTENTIAL

NECIB can grow, bringing together more partners from across law enforcement, government, regulatory bodies and the private sector; and could assist in policymaking for and supervision of the expeditious disposal of corruption and Corruption & Economic Crime cases, through the use of special courts/judges/magistrates and/or customised rules of court¹.

NECIB could also host and service a **Money Laundering Intelligence Taskforce**, like the UK's [JMLIT](#)² and South Africa's more recently launched [SAMLIT](#).

A feedback loop between the policy setters, the superintendents and practitioners can inform reviews of the effectiveness of policies and practices, re-setting goals and objectives and learning what works best, leading to development of good practice and standard operating procedures for collaborating entities.

A successful strategy can generate funding for the ATR community out of recovered assets, relieving the state and the collaborating partners of some of the cost of the enterprise. The public can see and expect to see measurable improvement in the quality of public services and manifestations of the recycling of illicit assets into public works and benefits.

¹ Cf. Tanzania

² JMLIT is a partnership between law enforcement and the financial sector, to exchange and analyse information relating to money laundering and wider economic threats, an innovative model for public/private information sharing that has generated very positive results since its inception in 2015 and is internationally considered to be an example of best practice.

Evidence that the state is taking seriously its NACS and a NECS will appeal to the general public and the business world, as well as enhance its evaluation and assessment for compliance with FATF Recommendations and the requirements under the UNCAC. Confidence in the state's handling of corruption, money laundering and asset recovery will be reflected in domestic and international investment in the economy. Tackling tax avoidance and using the tax regime in tandem with anti-corruption law enforcement will boost state income for public services. Addressing illicit financial flows will also preserve funds for the improvement and provision of public services.

NATIONAL CORRUPTION & ECONOMIC CRIME CENTRE [NCECC] COMBINED PROFICIENCY AND RESOURCES

Whole System Response

- Multi-agency tasking and co-ordination
- Maximising access to and the use of all national assets and competencies
- Using the powers and influence of all organisations to best overall effect
- Demonstration of financial benefits of denial of illicit assets

Data and Intelligence

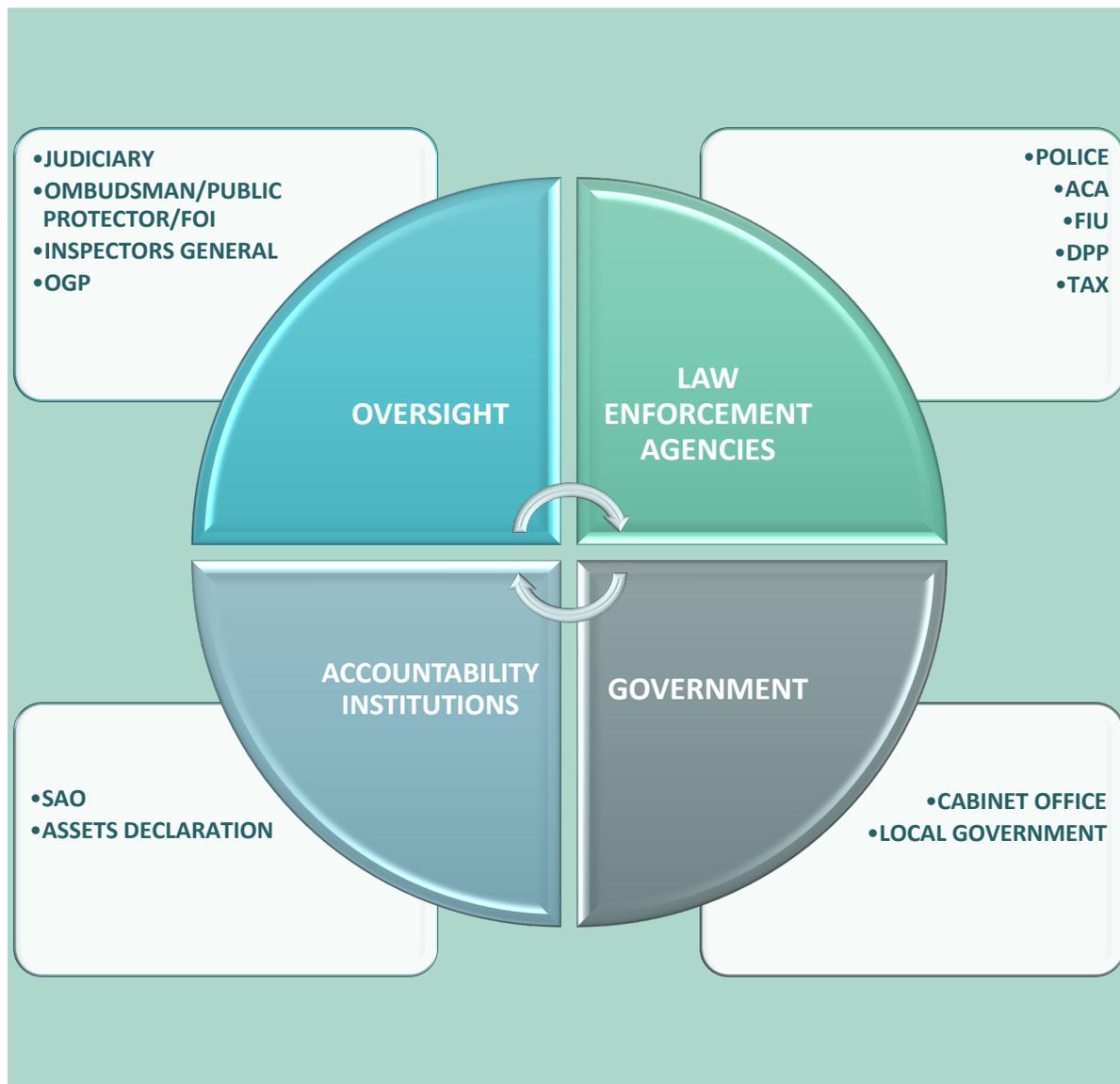
- Identification of new sources of data and intelligence
- Intelligence sharing between partners
- Effective use of data and intelligence

Tools

- Effective use of operational assets and capabilities across all organisations
- Development of new tools which have mutual benefit for partners

People

- Aligning resources to priority risks
- Effective use of collective knowledge and expertise
- Facilitating innovation to solve problems



NCECC is composed of senior practitioners, with their home departments’ authority to receive, share and discuss intelligence and evidence; to make decisions and bind their home department; and sign and execute Information Sharing Agreements, Joint Protocols and Service Level Agreements.

NCECC receives its strategic direction and objectives from the NECIB; implements NECIB-approved Action Plans to deliver the objectives; and provides to the NECIB performance data, analysis and ME&L, to inform future strategy.

NCECC appraises cases referred by members and the public, agrees which should go to the CECB and adopts MoUs for resourcing and financing its work, superintending its activity.

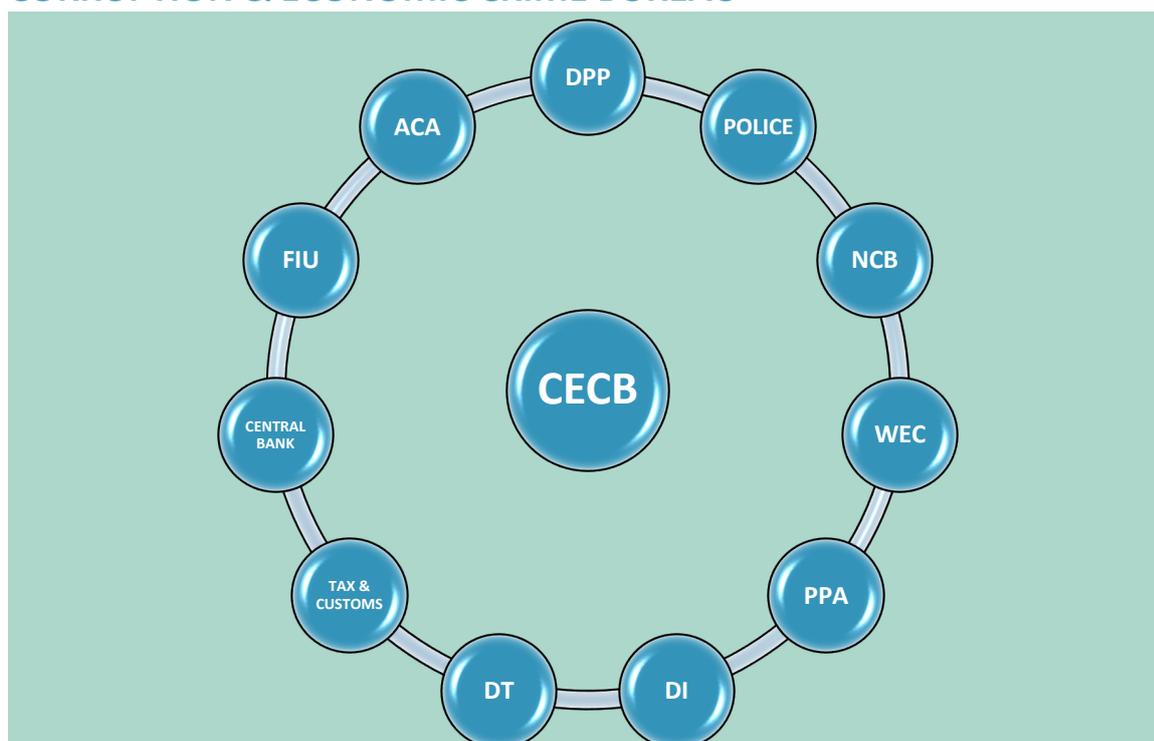
Policy and good practice approved by the NECIB will be promulgated by the NCECC for application by the CECB, which will provide feedback and propose adjustments to law and policy for NCECC’s and NECIB’s consideration.

A priority objective is to drive up asset recovery performance, through more use of proactive asset-denial instruments in tax and civil recovery regimes, key in disrupting criminals and syndicates and depriving them of illicit assets.

The NECC can co-ordinate and lead activity to address the threat of illicit finance, by:

- ensuring that, to flex LEAs' collective proactive and reactive response, an integral part of intelligence development is the early identification of potential recovery opportunities and location of suspect assets
- establishing proactive LEA denial activity as a mainstream response to illicit finance threat
- developing a framework for receipt and referral of potential casework, to enable LEAs and partner agencies to optimise their collective approach
- promoting disruptive tactics as a valid operational response, alongside familiar ones
- developing, employing and sustaining referral mechanisms, performance management information and public-private-partnership approaches, to deliver maximum impact, by joining up intelligence, assets and capabilities in a CECB

CORRUPTION & ECONOMIC CRIME BUREAU



NCB - National Crime Bureau | **WEC** - Wildlife & Environmental Crime
PPA - Public Procurement Authority | **DI** - Department of Immigration | **DT** - Drugs Theft

The Council of Europe commends teamworking, in its Manual of Best Practices in the fight against financial crime:-³

³ <http://data.consilium.europa.eu/doc/document/ST-9741-2013-INIT/en/pdf>

‘When investigating a complex crime, especially of financial nature, bringing people together in a team with different competences provides a strong basis for combating it effectively. The multi-agency platforms developed in several States seem to be the most efficient tools for fighting organised financial crime, particularly when planning of the investigation is defined, prioritised and steered jointly. FATF Recommendation 31 states that countries should ensure that competent authorities have responsibility for expeditiously identifying, tracing and initiating actions to freeze and seize property that is, or may become, subject to confiscation; or is suspected of being proceeds of crime. Countries should also make use, when necessary, of permanent or temporary multidisciplinary groups specialised in financial or asset investigations. Recommendation No 8 in the final report of the fifth round of mutual evaluations states that the Member States should set up permanent co-operation structures or mechanisms between all separate law enforcement authorities (police, customs, border guards, etc.), including also relevant non-law enforcement authorities, with a view to their acting jointly against financial crimes. Such a multi-agency structure or mechanism should be composed of members of different authorities, offering a multi-disciplinary partnership approach in its investigations into the suspected proceeds of criminal conduct. The multi-disciplinary approach has certain key elements: it involves easier communication and co-operation between different law enforcement agencies; it requires smaller costs and it achieves more valuable results; it is more efficient because of the integrated management of the case.’

OFFICE FOR RESTITUTION – DIVISION OF CECB



1. A criminal conviction is always important to combat and deter corruption but post-conviction confiscation may not always be the best route to asset recovery. Sometimes, a civil forfeiture (non-conviction based) or a civil action may be more apt or a combination of criminal and/or civil actions would be most effective. A specialist office is necessary, within the CECB.

2. Successful⁴ asset tracing and recovery [ATR] necessitates methodical steps and considerations:

- assembly of a multi-agency, multi-disciplinary team⁵
- team assessment and evaluation of the facts, to understand the case
- effective case management by the team
- management of the legal, practical and operational challenges⁶
- identification of key allies and, sometimes,
- communication with foreign practitioners

3. This consensus-forming aids the selection of the appropriate legal method/s for ATR and for making a mutual legal assistance request for authorities in other jurisdictions, to pursue enforcement of domestic court orders.

4. The core principles of successful ATR include:

- Protection of human rights⁷ through ethical and professional conduct
- Proactive co-operation among asset recovery and law enforcement authorities
- Early identification and location of assets of criminal/unexplained origin
- Prompt seizure of criminal/illicit assets, to prevent concealment or dissipation
- Management and preservation of seized assets, to avoid depreciation before adjudication and realisation
- Swift court proceedings and short periods for enforcement of judicial orders
- Effective management of confiscated/forfeited assets, in the public interest
- Pre-emptive institutional co-operation, at regional, national and international levels
- Measures to use the results of ATR, to gain trust and support of society

ATR TEAMS⁸

5. Normally, an experienced prosecutor would guide investigations, because s/he is ultimately responsible for presenting the case to the court. S/he must ensure that investigators and analysts prepare cogent, reliable, admissible evidence, necessary to establish the grounds for provisional measures⁹ and, ultimately, forfeiture/confiscation.

6. In addition, s/he acts as an interface with judges when officers need judicial authorization to deploy special investigative measures such as monitoring orders etc.

7. FISTs should include:

- investigators with experience in gathering business and financial intelligence, identifying complex illegal schemes, following the money trail and using electronic surveillance, search warrants and investigative interview skills
- individuals with the expertise necessary to analyse financial, banking and accounting documents, including electronic transfers, financial statements and tax or customs records

⁴ Efficient, effective and economical

⁵ FIST – Financial Investigations & Sanctions Team

⁶ In cases involving multiple jurisdictions, a number of different avenues may be pursued — for example, domestic confiscation followed by an MLA request for enforcement in one jurisdiction and private civil recovery in another

⁷ Right to human dignity, personal life, fair trial, presumption of innocence, proportionality of sanction imposed, double criminality principle (non bis in idem); property rights

⁸ A relationship of trust among partners is necessary, to ensure successful and proactive co-operation for all asset recovery stages, namely collecting and sharing intelligence data, gathering evidence in an investigation for use in a prosecution or the freezing, seizure, confiscation and repatriation of the proceeds of corruption and economic crime.

⁹ Restraint or Preservation Orders

8. In some cases, it may be useful or necessary to appoint experts or consultants who bring technical expertise in financial analysis, forensic accounting, and computer forensics. Prosecutors also require similar expertise and experience to present the case effectively in court: sometimes, professional expertise may have to be brought in. [Special prosecutors could be appointed in cases involving PEPs, to prevent conflicts of interest, to guarantee independent investigations and to ensure that the ATR process is credible.]

ENVIRONMENTAL NEEDS

- Public policy priorities and implementation of policies and procedures to ensure that the restitution of illicit assets is an integral part of investigations and prosecutions of corruption and economic crime
- Adequate and compatible terms & conditions, dedicated office space and facilities for multi-disciplinary teams, modern and sustainable ITC resources
- Fit-for-purpose laws, regulations and policies for ATR and asset management
- Space and rules for asset retention, management and realisation
- Confiscation fund and policies for distribution of recovered assets

PUBLIC INTEREST OBSERVATORY



PIO to participate in non-sensitive discussions on policy and performance, representing the interests of the general public in formulation of policy; monitor performance of NECIB, NCECC and CECB; and report to stakeholders and public on achievements, challenges and failures.