



GUIDELINE FOR CIVIL SOCIETY ORGANIZATIONS IN THE MANAGEMENT AND MONITORING OF PROCEEDS OF CRIME



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JULIET IBEKAKU-NWAGWU, LL.M, FCIN, CAMS





JULIET IBEKAKU-NWAGWU, LL.M, FCIN, CAMS
Postgraduate Researcher, Asset Recovery/Legal Expert
School of Law, Politics and Sociology,
University of Sussex,
United Kingdom

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TABLE OF CONTENTS

<i>About the African Center for Governance, Asset Recovery and Sustainable Development</i>	<i>iv</i>
<i>About CLEEN Foundation</i>	<i>viii</i>
<i>List of Abbreviations</i>	<i>viii</i>
<i>Foreword</i>	<i>xi</i>
<i>Preface</i>	<i>xii</i>
INTRODUCTION	
1 OBJECTIVES OF GUIDELINE	1
2 METHODOLOGY	1
3 UNDERSTANDING ASSET RECOVERY THROUGH INTERNATIONAL, REGIONAL AND DOMESTIC MECHANISMS	1
3.1. What Is Asset Recovery?	
a) United Nations Convention Against Corruption (UNCAC) 2003	
b) African Union Convention on Preventing and Combating Corruption (AUCPCC) 2003	
c) Proceeds of Crime Act 2022	
3.2 What Is Asset Return	
3.3 Important of Asset Recovery and Return	
4 THE PARTICIPATION OF CSOS IN TRANSPARENT AND ACCOUNTABLE MANAGEMENT OF RECOVERY, RETURN AND USE OF PROCEEDS OF CRIME	4
5 INITIATIVES THAT SUPPORT CSOS' ROLE IN MONITORING THE USE OF RETURNED ASSETS	6
5.1 Legal Frameworks	
a) United Nations Convention against Corruption (UNCAC)	
b) African Union Convention Prevention and Combatting Corruption (AUCPCC)	
c) UNCAC Coalition on the Use of Recovered Assets	
d) Global Forum on Asset Recovery (GFAR)	
e) Civil Society Principles for Accountable Asset Return	
6 CSOS MONITORING-CLEEN FOUNDATION AS A CASE STUDY	10
6.1 Importance of Asset Return Agreement	
6.2 Procedure for Recruitment of CLEEN Foundation	
6.3 Monitoring Procedure	
6.4 Evaluations Tools	
7 LESSONS LEARNED FROM MONITORING	14
8 RECOMMENDATIONS	15
9 CONCLUSION	15
GALLERY OF PHOTOS	16



REFERENCES	20
LIST OF FIGURES	
1.0 Relevant Organizations	2
1.1 Importance of Asset Recovery	4
1.2 Specific Roles of CSOs in Asset Recovery	5
1.3 UNCAC Coalition Model	8
1.4 GFAR Principles	9
1.5 Civil Society Principles for Accountable Asset Return	10
1.6 Monitoring Procedures Employed	13



ABOUT THE AFRICAN CENTER FOR GOVERNANCE, ASSET RECOVERY AND SUSTAINABLE DEVELOPMENT AND CLEEN FOUNDATION

The African Center for Governance, Asset Recovery, and Sustainable Development is an independent civil society organization with headquarters in Abuja, Nigeria. We collaborate with national governments, international and regional organizations, and NGOs to promote good governance, sustainable development, and the rule of law across Africa and globally.

We work around the world to foster national and international cooperation in the recovery and return of proceeds of corruption and illicit finance back to countries of origin in line with Chapter V of the United Nations Convention against Corruption (UNCAC) and Goal 16 of the UN Sustainable Development Goals (SDGs). We believe that returning stolen assets will enable countries in the global South, particularly in Africa to address inequality, reduce poverty, innovate, and build sustainable partnerships.

The African Center has three thematic objectives, namely:

- **Thematic Objective 1: Improving Governance and Accountability Systems of Government.** This is done through engagement with justice sector institutions, the parliament, the executive arms of government, and professional bodies on issues related to the rule of law, peace and security, anti-corruption, anti-money laundering, combatting of financing of terrorism, gender equality, and building of partnerships across different sectors. This approach includes capacity building, the development of national strategies, integrity pillars, and the development of policy briefs, as well as legal and regulatory frameworks in line with international standards and conventions.
- **Thematic Objective 2: The Recovery and Return of Stolen Assets.** Here, we undertake an analysis of national authorities' compliance with the United Nations Convention Against Corruption, Financial Action Task Force Recommendations, and the Global Forum on Asset Recovery (GFAR) Principles. The African Center also provides relevant training embedded within the rule of law and human rights principles for law enforcement officials, prosecutors, and judges.
- **Thematic Objective 3: The Implementation of United Nations Sustainable Development Goals.**

The African Center works to reinforce the links between governance, asset recovery and sustainable development goals. Our work is done through the promotion of the rule of law, strengthening justice institutions, preventing illicit financial flows, recovering stolen assets as well as advocating the social reuse of returned assets to support victims and promote social and economic development.

Through strategic approaches such as capacity building, legal framework development, and quantitative/qualitative analysis, we work to foster national and international cooperation in asset recovery and sustainable development.

The African Center has recently concluded the publication of a Compendium on Anti-Corruption: Lessons Learned from 2015 to 2023 with the support of the MacArthur Foundation. The Center is a



UNCAC Coalition of Civil Society Organizations member and plays active roles within the Asset Recovery and the Grand Corruption Working Groups, working closely with Transparency International, Open Ownership, Digital Evidence and Cyber Forensic Institute (DECFI), and the Nigerian Institute of Advanced Legal Studies (NIALS).

More information on our work can be found on our website: <https://lnkd.in/dRGufXjF>

CONTACT ADDRESS:

No 4 Boke Street, Wuse II Abuja

+234 915 119 5616

info@africancenterdev.org

Linkedin: [africenterdev](#)

Facebook: [africenterdev](#)

Instagram: [africenterdev](#)

Twitter: [africenterdev](#)



ABOUT CLEEN FOUNDATION

CLEEN Foundation is an indigenous NGO with offices in across 6 geo-political zones in Nigeria, the organization has gained recognition for its efforts in promoting public safety and security for over 25 years. CLEEN Foundation promotes security, justice, and good governance in Nigeria. Through our research, advocacy, capacity building, and partnership initiatives, we strive to create positive change and drive sustainable development. At CLEEN Foundation there are two key focus areas: promoting security, justice, and good governance, and strengthening democratic institutions. In the pursuit of a safe and just society, we work towards enhancing public safety, protecting citizens' rights, and promoting accountability and transparency in governance. Additionally, it is focused on strengthening democratic institutions to ensure active citizen participation and foster a vibrant democracy.

CLEEN Foundation utilizes a multi-faceted approach that encompasses research, advocacy, capacity building, and partnership/collaboration. Through rigorous research, the Foundation gain insights into the challenges faced in the areas of security, justice, and governance. CLEEN utilize these findings for evidence-based advocacy, engaging with stakeholders to drive policy reforms and institutional changes. Additionally, CLEEN Foundation prioritizes capacity building to empower individuals and organizations, and foster partnerships and collaborations to leverage collective resources and expertise. This comprehensive approach enables the Foundation to create a meaningful and sustainable impact.

CLEEN Foundation also provides technical assistance related to improving access to justice, enhancing the quality and timeliness of justice delivery, strengthening public trust in the Police and Judiciary, establishing safeguards for professional ethics, and facilitating coordination across justice sector institutions. CLEEN Foundation actively participates in anti-corruption efforts, advocating for transparent and accountable practices in public institutions while citizen engagement is at its core, promoting active participation in governance processes, and fostering dialogue with policymakers and influencers.



LIST OF ABBREVIATIONS

ACAS	Anti-Corruption Agencies
AFRICAN CENTER	African Center for Governance, Asset Recovery and Sustainable Development
AML	Anti-money laundering
ANEEJ	Africa Network for Environmental and Economic Justice
ARMU	Asset Recovery Management Unit
AUCPCC	African Union Convention Preventing and Combating Corruption
CCB	Code of Conduct Bureau
CFT	Countering the financing of terrorism
CFRN	Constitution of the Federal Republic of Nigeria
CIFAR	Civil Forum for Asset Recovery
CSO	Civil Society Organization
EFCC	Economic and Financial Crime Commission
FATF	Financial Action Task Force
FGD	Focus Group Discussion
FIRS	Federal Inland Revenue Service
FMOJ	Federal Ministry of Justice
FOI	Freedom of Information
FRN	Federal Republic of Nigeria
GFAR	Global Forum on Asset Recovery
GIABA	Intergovernmental Action Group against Money Laundering and Financing of Terrorism in West Africa
HAGF	Honourable Attorney-General of Federation
ICPC	Independent Corrupt Practices and Other Related Offences Commission
IFF	Illicit Financial Flows
IMF	International Monetary Fund
ICPC	Independent Corrupt Practices and Other Related Offences Commission
LEA	Law Enforcement Agencies
MANTRA	Monitoring of Recovered Assets through Transparency and Accountability
MCO	Mining Cadastre Office
MDA	Ministries, Departments and Agencies
MER	Mutual Evaluation Report
MLA	Mutual Legal Assistance
MLPP	Money Laundering Prohibition and Prevention
MOU	Memorandum of Understanding
NFIU	Nigerian Financial Intelligence Unit
NGOs	Non-Governmental Organizations



NSA	Non-State Actors
NPF	Nigeria Police Force
POCA	Proceeds of Crime Act
SDGs	Sustainable Development Goals
STAR	Stolen Asset Recovery Initiative
TI	Transparency International
UK	United Kingdom
UNCAC	United Nations Convention against Corruption
UNODC	United Nations Office on Drugs and Crime
USA	United States of America
USDOJ	United States Department of Justice



FOREWORD

In recent years, Nigeria has witnessed notable strides in asset recovery. This is coupled with the Nigerian government's request that foreign nations where Nigerian stolen wealth is purportedly concealed make greater steps to assist Nigeria in recovering these assets.

Despite Nigeria's progress in asset recovery, problems of transparency and the effective utilization of the assets remain. Concerns regarding the management and distribution of this resource warrant the need for guidelines and procedures to be clearly defined to guarantee efficient utilization of recovered assets. Transparency is essential in creating public trust and showing the government's political will. Fraud in the asset recovery landscape could disrepute the process and jeopardize government efforts.

Nigeria developed measures to protect the country against such practices and ensure proper control of the recovered assets. It was necessary to put adequate monitoring and auditing mechanisms in place to achieve accountability and prevent mismanagement.

In 2020, the Federal Republic of Nigeria (FRN), the United States of America and the Bailiwick of Jersey signed a Trilateral Asset Agreement to enable a transparent and efficient repatriation of \$ 311 million for the benefit of the people of Nigeria. The Parties agreed that the forfeited assets be used exclusively for the purpose of financing the following projects namely: the Lagos to Ibadan Expressway; the Abuja to Kano Road; and the Second Niger Bridge.

CLEEN Foundation was recruited through a competitive bidding process as monitors for the Agreement to provide visibility and ensure that the recovered funds were utilized appropriately at the selected projects in a bid to ensure accountability and transparency.

The Foundation has within its contract period carried out a series of monitoring activities such as project site visits, quarterly reports, holding nationwide press conferences, producing and airing radio messages across the regions of North, South-East and South-West while continually maintaining visibility by frequently updating Nigerians through the website (www.assetrecovery.org.ng). However, more strategies must be employed to provide further visibility and information to Nigerians and all critical stakeholders.

This Guideline aims to develop awareness among CSOs and other non-state actors on the procedure for monitoring returned assets to countries of origin.

Gad Peter
Executive Director



PREFACE

The recovery and return of proceeds of crime to their countries of origin is a critical step towards reducing corruption, promoting accountability, and supporting sustainable development. Civil Society Organizations (CSOs) and non-state actors (NSAs) have a vital role to play in ensuring that these returned assets are managed and monitored transparently and accountable. This resource, "Guideline for Civil Society Organizations in the Management and Monitoring of Proceeds of Crime," provides a comprehensive guide for CSOs to participate effectively in this process.

Drawing on the experience of the Center for Law Enforcement, Education Network (CLEEN) Foundation as a monitor under the Trilateral Asset Return Agreement among Nigeria, Jersey, and the United States of America, this guideline shares valuable insights and lessons learned from this engagement. The Guide covers the international, regional, and domestic legal mandates for CSO participation, as well as practical strategies for collaboration with governments and other actors to ensure that returned assets contribute to sustainable development goals.

This guideline aims to provide an overview of how CSOs can assist in the transparent use of returned assets, inspire successful engagement in the asset recovery process, and support CSOs seeking to participate in monitoring proceeds of corruption returned to countries of origin. Additionally, it provides insight into the procedure for asset recovery at both domestic and international levels, making it a useful guide not only for CSOs but also for academic practitioners and public officials working in this sector.

We hope that this Guideline will serve as a valuable resource for all stakeholders working towards a more transparent and accountable management of returned assets, and ultimately contribute to the global effort to reduce corruption and promote sustainable development.

Juliet Ibekaku-Nwagwu,
Executive Director,
African Center for Governance, Asset Recovery and Sustainable Development



INTRODUCTION

This Manual aims to provide guidelines to Civil Society Organizations (CSOs) on how to monitor the use of assets recovered and returned to countries of origin. The manual can be used for the monitoring of domestic and internationally recovered and returned assets. In this manual, we share our experience on how the Center for Law Enforcement Education Network (CLEEN) Foundation became the monitor under the Trilateral Asset Return Agreement signed among Nigeria, Jersey, and the United States of America and what lessons can be learned from this engagement. The manual covers the international, regional, and domestic legal mandates for the participation of CSOs in the monitoring of the use of returned assets, and how CSOs can engage with governments in their countries to ensure that returned assets are managed in a transparent and accountable manner taking into consideration the need to contribute to sustainable development goals, particularly SDG 16.4, and 16.5.

1. OBJECTIVES OF GUIDELINE

The objectives of this Guideline for CSOs are:

- To provide an overview of how CSOs may assist in the transparent use of returned assets through both independent and collaborative methods.
- Inspire CSOs to explore ways to successfully engage in the asset recovery process, including collaboration with other actors, to deny criminals the proceeds of their crime and return assets to their rightful owner(s).
- Provide an overview to support CSOs seeking to participate in the monitoring of proceeds of corruption returned to countries of origin.

2. METHODOLOGY

The Guideline adopted the following approaches: a literature review of reports, laws, policies, and asset recovery best practices and qualitative analysis of secondary data.

3. UNDERSTANDING ASSET RECOVERY THROUGH INTERNATIONAL, REGIONAL AND DOMESTIC MECHANISMS

3.1 What is Asset Recovery?

a) United Nations Convention against Corruption (UNCAC) 2003.

The United Nations Convention against Corruption (UNCAC, 2003) provides that international asset recovery and return procedures require the widest measure of international cooperation among countries. As set out in Articles 51 to 57 of UNCAC, countries are required to take necessary measures through their law enforcement and financial institutions to trace, freeze, seize, recover, confiscate, and return assets derived from corruption.

*The International Centre for Asset Recovery (ICAR) defines "asset recovery as the confiscation and return of illegally obtained assets usually money to the country from which they were stolen"*¹.



Transparency International (TI) describes the asset recovery process as: “the legal procedure by which a nation, government or its people retrieve resources and other assets that were stolen from another jurisdiction by corrupt practices.”²

- b) African Union Convention on Preventing and Combating Corruption (AUCPCC) 2003
This Convention was adopted in Maputo in July 2003 and reflects the African countries' consensus on how to combat the prevalence of corruption. It outlines the actions to be undertaken by countries to prevent and criminalise corruption and ensure international collaboration on asset recovery. It aims to eliminate corruption in both the corporate and public sectors and create the essential conditions for accountability and transparency.

It requires signatory countries to adopt legal measures, including international cooperation and mutual legal assistance, that enable the confiscation of proceeds and instrumentalities of crime. Countries are also urged to work with civil society and the media in the fight against corruption and give them opportunities to hold the government accountable.

- c) Proceeds of Crime (Recovery and Management) Act, 2022
In May 2022, Nigeria enacted the comprehensive Proceeds of Crime (Recovery and Management) Act 2022³. This law established a standard framework for managing and disposing of forfeited assets. Before enacting this law, Nigeria relied on various provisions in the Economic and Financial Crime Commission (EFCC), Independent Corrupt Practices and Other Related Offences Commission (ICPC), Code of Conduct Bureau (CCB), and National Drug Law Enforcement Agency (NDLEA), Nigeria Financial Intelligence Unit (NFIU), Mutual Legal Assistance (MLA) Acts to freeze, seize and recover proceeds of crime at the domestic and international levels.

POCA - RELEVANT ORGANIZATIONS



Figure 1.0 Relevant Organizations



Highlights:

- Non-conviction-based and criminal confiscation of crime proceeds.
- Effective collaboration among competent authorities in the recovery and return of stolen assets.
- The management of seized assets may include disposal through sale or other means.
- Once sold, the proceeds are paid into the designated federal government confiscation of assets account.
- POCA gives the relevant organizations power to manage and do everything possible to preserve the seized property.
- Relevant organisations have the mandate to engage consultants, and asset managers for the management of assets recovered within the country, and ensure accountability in the management of forfeited assets, including effective administration of forfeited assets.

3.2 What is Asset Return?

Asset return refers to the process of repatriating or returning proceeds of crime that are hidden or diverted through money laundering to foreign jurisdictions⁴. It is regarded as the methods through which the proceeds of corruption located abroad or also amassed within a country (domestic asset return) are recovered and returned to the rightful owners⁵.

UNCAC requires the return of confiscated assets to legitimate owners or victims of corruption. States have always asserted their rights as victims. Since the UNCAC does not recognize non-state actors, CSOs such as Transparency International (TI) have argued that non-state actors (NSAs) should be considered as representatives of citizens of countries where the proceeds of corruption are located or countries from where the assets were taken from for the purpose of negotiating the return of these assets, particularly in instances where the leadership of a country of origin is not “willing or able” to initiate the recovery of assets for various reasons (Dell, 2023).

3.3 Importance of Asset Recovery and Return

Asset recovery deprives corrupt persons from profiting from their crimes⁶. It also aims to deter future corruption and return stolen assets to their rightful owners. Legitimate owners could be a country, a sub-national entity, or a corporate body, non-state actors, or individuals.

The Stolen Asset Recovery (StAR) initiative, a body set up by the World Bank and the United Nations Office on Drugs and Crime (UNODC) noted that from 2010 to 2023, over US\$16 billion in earnings from corruption have been frozen, seized, confiscated in a foreign country or returned or repatriated to the country of origin where it originally came from⁷.

The importance of asset recovery cannot be overemphasized as the process of returning the money obtained through public corruption to the nations and individuals from whom it was originally taken will lead to repairing social injustices, restoring societal trust, and providing much-needed funding for development.

The World Economic Forum noted that “If a percentage of the billions of stolen monies were recovered and returned to the victims, citizens would benefit and corrupt officials would be held accountable, all at no cost to taxpayers. To achieve the twin aims of justice and development, policymakers must rapidly invest in asset recovery initiatives as a means of combating kleptocracy and effecting positive change”⁸.

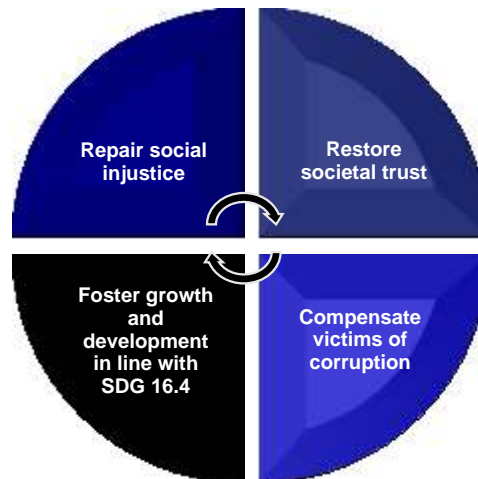


Figure 1.1 Importance of Asset Recovery

4. THE PARTICIPATION OF CIVIL SOCIETY ORGANIZATIONS (CSOS) IN THE TRANSPARENT AND ACCOUNTABLE MANAGEMENT OF THE RECOVERY, RETURN AND USE OF PROCEEDS OF CRIME

Civil society organizations have become an indispensable part of the asset recovery process.⁹ In 2014, the Basel Institute of Governance issued a Guide on the role of civil society organisations in asset recovery (2014), indicating that CSOs can represent the victims of corruption at the stage of the utilization of returned assets¹⁰.

However, civil society's role cannot only be limited to identifying potential beneficiaries during the seizure and after ultimate confiscation. CSOs could significantly improve transparency and governance in underdeveloped nations. Such organisations can contribute to enhanced public discourse on issues concerning the creation and implementation of government budgets, as well as support better transparency of returned assets which are public funds¹¹.

CSOs have crucial and decisive functions in all the stages of asset recovery and management. They can be involved in the following ways:

- **Involvement in the Stages of Asset Recovery:** CSOs are crucial in various asset recovery and return phases. During the pre-investigative stage, they help gather information, research reports, and raise awareness about the proceeds of crime. These reports assist the relevant organizations in initiating investigations. During the investigative stage, they can follow up and monitor the inquiry while putting pressure on the prosecuting group. For conviction-based recovery, CSOs can monitor the judicial proceedings¹².
- **Awareness Creation:** Awareness-raising activities include campaigns highlighting the importance of asset recovery and its role in the fight against corruption, as well as development initiatives to increase demand for asset recovery and raise knowledge about the roles and duties of key stakeholders. Activities such as petitions, open letters, social media posts, and videos aimed at reaching a larger audience and conveying messages about the necessity of asset recovery, and its role in the fight against corruption. Campaigns also involve informing the public on the importance of asset recovery and systemic vulnerabilities.

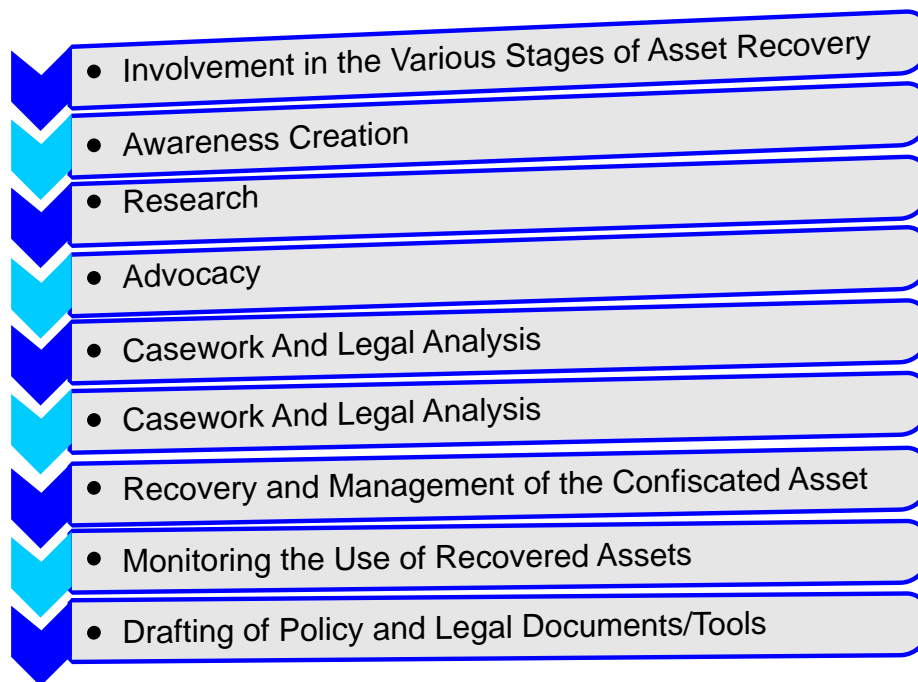


Figure 1.2 Specific Roles of CSOs in Asset Recovery

- **Research and Public Relations:** CSOs have researched and documented corruption cases in several countries. Civil society has a role in giving citizens a voice, demanding more transparency, and informing the public about the asset recovery process. Additionally, they provide a robust basis for sustainable development by combining hard and soft resources, such as the ability of law enforcement institutions and the political resolve to combat criminal networks.¹³
- **Advocacy:** CSOs work to impact political will, encourage public policy reform, increase government accountability for asset recovery and associated obstacles, and push for greater private-sector preventative mechanisms. Examples include campaigning and lobbying the government for asset recovery-related legislative, institutional, and policy reform. CSOs are well-known for their flexibility in deploying advocacy activities and methods to affect policy change. They can utilize both insider and external approaches while advocating, including direct engagement with policymakers through lobbying, protests, social activities, or media campaigns.¹⁴
- **Legal Analysis:** Legal analysis and documentation in the context of asset recovery are activities that create useful information and intelligence for relevant government entities such as financial intelligence units, and investigative and prosecuting agencies. Some CSOs can help the government uncover and expose illegal assets acquired by corrupt officials and enablers by conducting financial investigations or forensic audits. If there is legal standing in the law, CSOs could begin legal proceedings regarding stolen assets based on the legal analysis of a particular case.
- **Recovery and Management of the Confiscated Asset:** CSOs can monitor to ensure that confiscated assets are returned and disposed of in compliance with the provisions of international, regional and national legal frameworks. They must effectively monitor the strategies used by the relevant organizations and participants to manage and dispose of confiscated assets to ensure transparency and accountability. CSOs can also support legal actions and promote legal procedures and arrangements for managing assets.¹⁵



- Monitoring the Use of Recovered Assets: CSOs play a vital role in monitoring the re-use of recovered assets. Their active involvement and unbiased scrutiny ensure transparency and accountability in the asset recovery process. CSOs act as watchdogs, promoting good governance and pushing for effective asset management. They can ensure that recovered assets are used for intended purposes and benefit those who have been affected by corruption or other illicit practices.
- Drafting of Policy and Legal Documents/Tools: CSOs can initiate dialogues with relevant organizations by drafting policy briefs that can be used as advocacy documents.

5. INTERNATIONAL INITIATIVES THAT SUPPORT CSOS'S ROLES IN MONITORING THE USE OF RETURNED ASSETS

Civil society organizations have played a vital role in aiding the repatriation and effective use of looted funds.¹⁶ The initiatives in relation to the roles of CSOs and the rationale for their participation in fighting corruption, supporting the recovery, return and monitoring the use of returned or confiscated assets can be found in the following laws, policies, and initiatives:

5.1 Legal Frameworks and Initiatives

- a) Article 13 of the UN Convention Against Corruption (UNCAC) states that:
The principles in UNCAC reflect relevant provisions of UNCAC which CSOs have used in advocacy. They include,

“Each State Party shall take appropriate measures, within its means and by fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of, and the fight against corruption and to raise public awareness regarding the existence causes and gravity of the threat posed by corruption”.

- Article 5 requires the *participation of society* in the prevention of corruption,
- Article 9 requires *transparency in public procurement and the management of public finance*.
- Article 10 calls on countries to *enhance transparency in public administration, facilitate public access to decision-making authorities, and publish information on the risks of corruption*.
- Article 63 of UNCAC establishes the Conference of States Parties (CoSP), the main decision-making body, and urges it to set out rules for *requiring the inclusion of non-governmental organizations in the UNCAC review processes*.

- b) At the regional level, Article 12 of the African Union Convention on Preventing and Combating Corruption (AUCPCC) provides that:

- State Parties should undertake to be fully engaged in the fight against corruption and related offences and in popularizing this Convention with the *full participation of the media and civil society at large*.
- Create an enabling environment that *will enable civil society and the media to hold governments to the highest levels of transparency and accountability in the management of public affairs*.
- Ensure and provide for civil society participation in the civil society monitoring process and consultation with civil society in implementing this Convention.



- Ensure the *media is given access to information in cases of corruption and related offences*, on condition that the dissemination of such information does not adversely affect the investigation process and the right to a fair trial.

Additionally, based on its 2018 annual theme, 'Winning the fight against corruption: A Sustainable path to Africa's Transformation,' the African Union (AU) developed the Common African Position on Asset Recovery, emphasizing the critical role of civil society and urging states to increase civil society involvement in asset recovery.

The Common African Position on Asset Recovery (CAPAR) is the collective opinion of African Countries on the retrieval and utilization of recovered assets acquired through corruption and illegal means. The CAPAR outlines recommended actions to address the ongoing loss of African assets and manage those in foreign jurisdictions while respecting Member States' development priorities and sovereignty¹⁷.

There are several collective positions that Africans emphasize in the utilization of returned assets and these are:

- The process for recovering looted assets be transparent and efficient, and every stakeholder involved show accountability and transparency.
- All recovered assets be returned to the country of origin.
- All recovered assets be invested into the development of public projects and used in fostering economic growth such as investment in education and the healthcare sector to reduce and eradicate poverty.
- The importance of international cooperation be emphasized in efforts to recover stolen assets.
- African Countries advocate for measures to prevent future re-looting of recovered assets.

To ensure the efficient management of recovered assets, Pillar 4.2 (Article 21) advises the creation and maintenance of the framework for management, enhancing legal and policy frameworks and implementing strategies like the monitoring of the assets by relevant stakeholders such as CSOs. Article 26 further states the emphasis on the inclusion of other non-state actors, such as civil society and the media under domestic laws.

c) UNCAC Coalition on the Use of Recovered Assets

The United Nations Convention against Corruption (UNCAC) Coalition is an alliance of Civil Society Organizations dedicated to promoting and monitoring the implementation of the United Nations Convention against Corruption (UNCAC).¹⁸

The coalition works towards ensuring that governments and stakeholders comply with the commitments taken under the UNCAC and apply effective measures to prevent and fight corruption. The UNCAC Coalition is focused on the effective use of recovered assets and ensuring the proper management and utilization of these assets as it is crucial to its fight against corruption and in ensuring the recovered assets are returned to their rightful citizens or used for the development and benefits of society.

The UNCAC Coalition emphasizes transparent processes and accountability in the utilization and disbursement of recovered assets by establishing oversight mechanisms to prevent the re-looting of already recovered assets. They ensure that recovered assets are used for legitimate purposes such as project funding and economic welfare and growth¹⁹.



They also raise awareness about the importance of asset recovery and the fight against corruption to Governments globally, by advocating for the best practices, the UNCAC Coalition also aims to enhance global international cooperation and coordination, especially in asset recovery and overall effective against corruption worldwide.



Figure 1.3 UNCAC Coalition Model

The Coalition, directly and via its members, advocates for enhanced transparency and civil society participation in all UNCAC fora, including the Conference of States Parties, Implementation Review Group sessions, working groups, and national review processes. The coalition encourages CSOs to participate in and contribute to the UNCAC review process. It has championed written submissions, open letters to the government and declarations like the Atlanta Civil Society Declaration was among the declarations issued and adopted during the 10th session of COSP in 2023²⁰.

d). Global Forum on Asset Recovery

At the Global Forum on Asset Recovery (GFAR), civil societies' participation in the process of asset recovery was thoroughly examined, and a set of global principles was approved by State Parties in consultation with participating CSOs. The Global Forum of December 2017, which brought together four countries, namely, Nigeria, Sri Lanka, Tunisia, and Ukraine, provided an opportunity for CSOs to participate in the discussions on the use of internationally recovered assets from these four countries²¹. The meeting was organized by the United States of America, and the United Kingdom with support from the Stolen Asset Recovery (StAR). The civil society participation was led by the UNCAC Coalition against Corruption²².

The Communique of the Washington 2017 meeting reiterated the principles of GFAR to include *ten principles, namely, Partnership; Mutual Interests; Early Dialogue; Transparency and Accountability; Beneficiaries; Strengthening Anti-Corruption and Development; Case Specific Treatment; Use of the Agreement framework set out under Article 57 (5) of UNCAC; Preclusion of benefits to Offenders; and Inclusion of Non-Government Stakeholders*²³

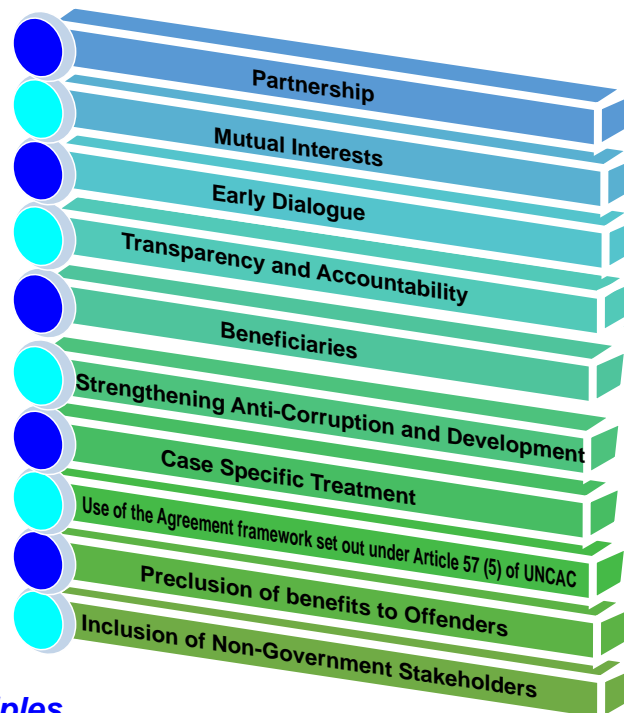


Figure 1.4 GFAR Principles

Principle 10 emphasizes that "non-state actors, such as civil society, non-governmental organizations, and community-based organizations, should be encouraged to participate in the asset return process".

This includes assisting in determining how harm can be remedied and contributing to decision-making on the return and disposition of stolen assets²⁴. These principles, reiterate the international legal basis for the inclusion of CSOs, and NGOs or CBOs in the ongoing dialogue for asset return and its social reuse.

e) Civil Society Principles for Accountable Asset Return

The Civil Society Principles for Accountable Asset Return were developed because of an extended consultation process that involved Civil Society Organizations before the June 2021 UN General Assembly Special Session (UNGASS) on corruption²⁵. These guidelines can be adopted for both domestic and foreign asset recovery. It reiterated and emphasized the indispensable role of CSOs in a transparent and accountable asset recovery process. The joint submissions to the UNGASS against corruption involved the participation of several CSOs from the global South and North²⁶. They developed four principles which include: Transparency and participation, Integrity, Accountability, Victim restitution, and other beneficiaries.



Figure 1.5 Civil Society Principles for Accountable Asset Return

6. CSO MONITORING - CLEEN FOUNDATION AS A CASE STUDY

Following several years of litigation and negotiations that extended from 2000, approximately US \$311 million of the assets diverted by the Abacha family as reported in forfeiture proceedings in the US and Jersey were returned to Nigeria. An agreement was signed among the Federal Republic of Nigeria, the United States, and the Island of Jersey (the 2020 Tripartite Agreement) on 3 February 2020 to allow for the procedure for the return and use of the funds for the benefit of the Nigerian people²⁷.

The forfeiture proceedings reported that the funds were laundered through the US financial system before being kept in Jersey bank accounts under the names of Doraville Properties Corporation, a British Virgin Islands corporation. In 2014, a United States Federal Court in Washington, D.C. forfeited the money as property implicated in the illegal laundering of Nigerian corruption revenues from 1993 to 1998, when General Abacha was Head of State.²⁸ In 2018, the Federal Republic of Nigeria, the United States of America, and the Bailiwick of Jersey began negotiating processes for repatriating, transferring, disposing, and managing assets which led to the tripartite agreement.

The Parties agreed that the forfeited assets would only be used to fund the projects outlined in Article 6 of the Asset Agreement and further described in Schedule 1 (the Projects). The projects include the Lagos to Ibadan Expressway, the Abuja to Kano Road, and the Second Niger Bridge. It was also agreed that part of the funding would be used to pay the Monitoring Civil Society Organization (CSO) and the independent designated auditor's fees. The implementing agency for these projects is the Nigeria Sovereign Investment Authority (NSIA) while Julius Berger Nigeria Ltd. ("JBL") and Reynolds Construction Company Ltd. ("RCC"), together known as the "EPC Contractors," are the contractors in charge of the projects²⁹.

6.1 Importance of Asset Return Agreements

The Trilateral Agreement was adopted within the framework of Article 57 and 59 of UNCAC. It is a pivotal pact aimed at fostering cooperation and accountability in various sectors and it stands as a major milestone in fostering international diplomacy, marking a significant agreement between three



nations aimed at fostering cooperation, stability, and mutual benefit however, the implementation of any agreement depends not only on its outlined information but also on its monitoring procedures. This is where Civil Society Organizations play a vital role as crucial actors in ensuring transparency and accountability throughout the asset recovery process.

The 2020 Agreement clauses reflected five pillars of accountability in contrast to the agreement signed among Nigeria, Switzerland and World Bank in 2017³⁰. The additional pillars were based on lessons learned from managing the 2017 returned assets. Specifically, the Agreement reiterated the values of transparency by requesting parties to:

- Recruit a CSO and an independent auditor to monitor the implementation of the Agreement³¹;
- Identifying those who should not have access to the fund³²;
- Setting aside a specified amount of money for the payment of two oversight structures rather than relying on donors³³.
- Recruitment of an external auditor
- Setting up of a monitoring committee that meets quarterly to discuss progress and review challenges.

At the time of negotiating the agreement, the projects had already been approved by the Nigerian National Assembly under the 2018 Appropriation Act to be managed by the National Sovereign Investment Authority within the development framework of the Presidential Infrastructural Projects.

This funding was therefore timely in escalating and supporting the development of key development priorities of the former government.

Article 8 of the Agreement states that CSOs would serve on the Monitoring Team with government stakeholders to guarantee strict compliance with the disbursement plan and provide regular project updates. Schedules 6 and 7 of the Agreement provided detailed information about a CSO's experience, skills, and selection process. Schedule 7 required the Competent Authority of the Federal Government of Nigeria to use the existing procurement procedures under the Bureau for Public Procurement Act, 2007 to recruit a CSO to oversee project implementation on an ongoing basis.

The parties to the agreement, namely Nigeria, US, and Jersey were also part of the panel that reviewed the CSO recruitment process. To ensure that the monitoring CSO was not removed before the funds were depleted, the agreement provided that the CSO's mandate under the contract of recruitment would be renewed annually until the recovered assets were spent.

In addition to monitoring the use of funds, the CSO was required to track other criminal activities, such as human trafficking, and protect vulnerable members of society, monitor the procurement process, the spending analysis, and the engineering and infrastructural monitoring.

The main mandates of the CSO included creating a transparent monitoring program that includes:

- Receiving quarterly reports and



- conducting site visits (including unannounced visits) as per Article 8(9) of the Agreement.
- Generating and disseminating regular reports. Such reports shall be at least quarterly (the CSO Reports) and sent to the Competent and Implementing Authority of the parties to the Agreement,
- Compiling and publishing the Final Report (the CSO Final Report) within three (3) months of the NSIA Final Report. Such report shall be provided to the Competent and Implementing Authorities of the parties to the Agreement.

6.2 The Procedure for the Recruitment of CLEEN FOUNDATION

Following the agreement reached by the parties to the trilateral agreement, the selection procedure and request for expression of interest were announced and published in international and local journals. Nineteen (19) CSOs were selected by the panel set up to manage the recruitment.

- The parties from Jersey and the US participated in the review of the selection process until the award of the contract. After the bidding process, and after obtaining a "No Objection" letter from BPP, CLEEN Foundation was announced as the winner of the bid.
- The recommendations of the parties were then forwarded to the Federal Executive Council (FEC) for approval. This procedure was to ensure compliance with the Procurement laws in Nigeria. In February 2021, the Federal Government of Nigeria through the Federal Ministry of Justice awarded the CLEEN Foundation a contract to monitor the returned assets, on behalf of Nigerian citizens.
- The appointment of the CLEEN Foundation as the monitoring CSO³⁴ underscored the commitment to transparency, accountability, and effective governance of the management of the returned assets by all parties involved in the Trilateral Agreement. Through a rigorous process and transparent hiring procedure, CLEEN FOUNDATION was chosen as the monitoring Civil Society Organization (CSO) of the project³⁵.
- Although the initial contract was supposed to last for twelve months, from February 10, 2021, to January 9, 2022, with a three-month extension to prepare and submit a final report, with the option of renewal if performance was satisfactory, the contract has now been renewed twice with the concurrence of US and Jersey because of additional funds that were recovered from UK (2022)³⁶ Ireland (2022)³⁷ and US (2023)³⁸. The ongoing monitoring is anticipated to end in April 2024 following the second renewal in 2023³⁹.
- The transfer of these funds to the NSIA under the PIDF projects received the support of all the countries and they all supported the monitoring of the funds by an existing CSO, to prevent delay and waste of resources in introducing a new monitoring framework.

6.3 Monitoring Procedure

- Procurement monitoring: CLEEN supervises the procurement process of the entire project including the procurement of all materials, and the use of subcontractors for the projects. This is done through:
 - Use of project procurement data collection form
 - Review of completed forms
 - Analysis and summary of collated responses
 - Development of field visit reports



- Project Site Visitations: CLEEN Foundation holds regular technical site visitations to the project sites. These visitations are characterized by activities such as:
 - Consultative team meetings,
 - Physical inspections
 - Monitoring to ensure reported projects
- Anti-human trafficking Monitoring: CLEEN deployed a tool to ensure compliance with anti-human trafficking and labour laws. This ensures that issues of any form of human trafficking are duly reported and dealt with. Mechanisms employed include:
 - Reports from in-person engagements with Contractors,
 - Collected data
- Spend Analysis: As part of its monitoring procedure is the spend analysis. This includes a review of disbursements, expenses, and investments, and financial data collected from contractors.
 - Use of data collection tool
 - Reports from an independent auditor
 - Financial information from contractors
- Engineering and Infrastructure Monitoring: CLEEN employed the use of these methodologies to carry out the engineering and infrastructure monitoring of the project
 - Review of relevant quality control documents
 - Discussion with responsible quality control personnel
 - Field observation of the procedure of material standardization

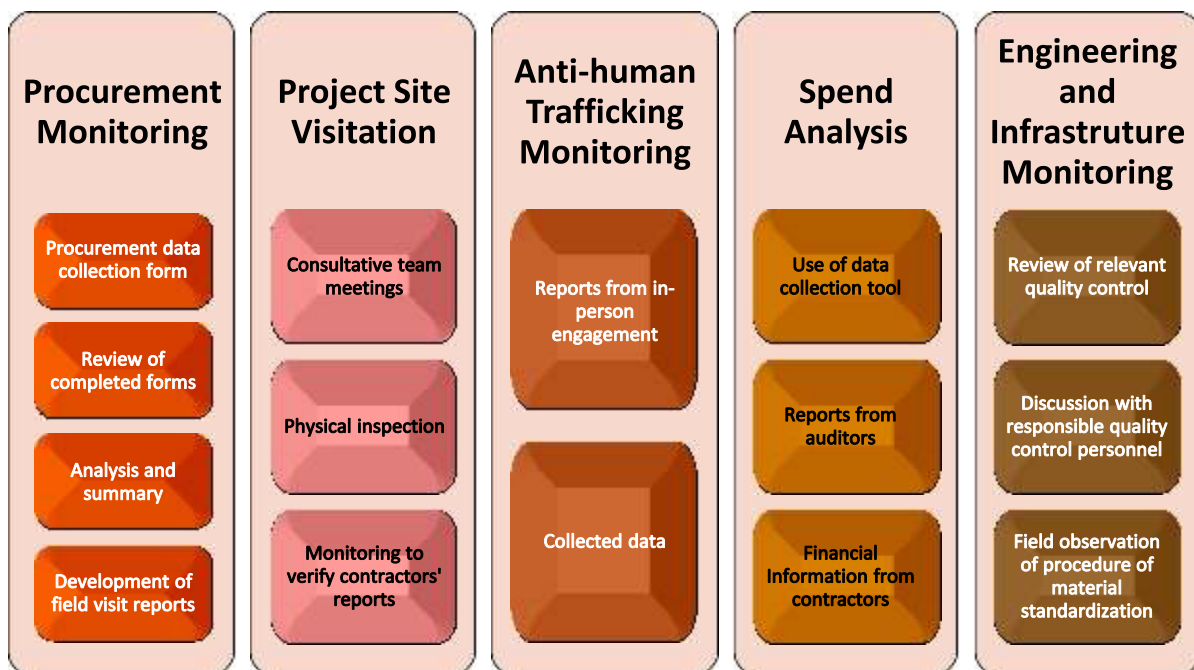


Figure 1.6 Monitoring Procedures Employed



6.4. Tools Employed By CLEEN Foundation In The Monitoring Of The Use Of Returned Assets

- Deployment of Technology Tools: CLEEN Foundation deployed its Mobile App to electronically receive real-time information from citizen stationary monitors stationed at each construction site, allowing it to monitor and report critical findings at project locations, which were then assessed and escalated to necessary authorities. The app primarily includes a standardized checklist of questions to assess the level of daily work performance at the individual project site locations⁴⁰.
- Development of a Website: CLEEN Foundation developed a website named Assetmonitoring⁴¹ that can be easily accessible to the public for the reporting of the progress of the projects. The website provides up-to-date information on project status updates through photographic evidence, jingles and interviews of the citizens can be found on this website.
- Regular CSO Roundtable Discussions: CLEEN Foundation held a CSO's Roundtable debate on the usage of recovered assets in Nigeria, and the discourse centred on the government's effort in the utilization through road development, and local CSOs' involvement by monitoring the projects to ensure transparency.⁴²
- Use of Radio Jingle and Social Media: Use of radio jingles in different languages to create awareness for citizens at the sub-national levels. Also, use of social media to broadcast the repatriation and monitoring work.
- Regular Site Visits: These visits ensured that the contractors were closely monitored and information on the each step of the project were obtained and published.
- Quarterly Meetings with the Implementation Bodies: CLEEN Foundation meets with the FMOJ, NSIA, and Deloitte, to give an overall report on the progress of the project. Financial reports are also given on the extent of the use of the repatriated assets.
- Dissemination of Documentary on the Project: The documentary captured the project implementation framework and provided feedback from citizens and various stakeholders on the utilization of the recovered assets and impact across the country⁴³.

7. LESSONS LEARNED AND RECOMMENDATIONS FROM CLEEN'S FOUNDATION'S EXPERIENCE ON MONITORING RETURNED ASSETS

Lessons learned from the field monitoring can be summarised into the following themes:

- a) The experience of monitoring the use of returned assets was generally regarded as satisfying and unique. For some participants, it was their first time seeing how road construction is executed. Some would like to see more information provided throughout a project cycle to ensure that citizens understand the technicalities involved in infrastructure development.
- b) Challenges encountered were related to the interaction among contractors and the sharing of information between project contractors and managers, especially during monitoring. Monitors would like to see that project managers of road contractors are adequately briefed on how to provide support to monitors.
- c) Monitors would like to have a database of information related to the project to allow for a comprehensive analysis of the project from the beginning to the end. They noted that the



project had already commenced before the assets were returned and applied as a supplementary budget.

- d) Citizens' participation and engagement were reported as satisfactory. Citizens living near the project sites were reported as excited to have been given the opportunity to participate as monitors.
- e) The monitors were encouraged by government support and applauded the initiative, which allowed citizen engagement in the use of returned assets through the "open government partnership" policy.
- f) The collaboration and seamless communication between CLEEN Foundation, the government, and international partners ensured the successful execution of the agreement.

8 RECOMMENDATIONS

- a) The communities recommended that additional members of the communities, particularly the youth representatives, be employed during monitoring so that they could act as the people's voice. They also observed that the equitable distribution of the returned assets to cover various zones in the country ensured fairness and is commendable.
- b) Additional funding be provided in subsequent agreements to create awareness among the project communities, CSOs, and government and project-implementing institutions.
- c) Monitors recommended that all the partners should work towards a shared goal of ensuring that citizens benefit from returned assets, which would be better achieved with an established internal and external communication platform and work plan.
- d) Monitors also advised additional visibility and media coverage of government use of returned assets.

9. CONCLUSION

The Guideline provides insight into the procedure for asset recovery at the domestic and international levels. It is useful for CSOs seeking to participate in the proceeds of crime recovery, return, and use, as well as academic practitioners and public officials working in this sector.

As noted earlier, the inclusion of CSOs in the asset recovery process aims to guarantee that returned assets are used for the benefit of the citizens of the nation affected by the underlying corrupt conduct and contribute to the nation's development. Transparency and accountability are important.

CSOs are vital in managing and monitoring repatriated assets as they act as a link between the government and citizens. Their role entails raising awareness and monitoring the management and use of returned assets. Various international conventions and initiatives highly encourage CSO engagement.

Lessons learned so far in Nigeria are that CSO engagement is essential to ensuring transparency and accountability in domestic and international recovery measures. It addresses opaqueness and ensures efficient utilization of assets recovered by anti-corruption agencies or through international asset returns. Additionally, it improves CSOs' knowledge and closes the communication gap and



GALLERY OF PHOTOS

THE PROJECTS



CONSTRUCTION OF THE SECOND NIGER BRIDGE



PHYSICAL INSPECTIONS- 5TH VISITATION TO THE SECOND NIGER BRIDGE



CONSULTATIVE TEAM MEETING- 7TH VISIT TO SECOND NIGER BRIDGE



CSO ROUNDTABLE DIALOGUE ON ASSET RECOVERY, ABUJA



CONSTRUCTION OF THE OF THE ABUJA TO KANO ROAD



7TH MONITORING VISIT TO THE CONSTRUCTION OF THE ABUJA/KANO ROAD



5TH VISIT TO LAGOS-IBADAN-CONSULTATIVE MEETING



FIFTH MONITORING VISIT TO THE LAGOS/IBADAN ROAD



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