

**Framework for the Return of Assets from  
Corruption and Crime in Kenya  
(FRACCK)**

**Between**

**Government of the Republic of Kenya**

**and**

**Swiss Federal Council**

**and**

**Government of the United Kingdom**

**and**

**Government of Jersey**

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## **FRAMEWORK FOR THE RETURN OF ASSETS FROM CORRUPTION AND CRIME IN KENYA (FRACCK)**

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1. The Government of the Republic of Kenya is committed to eliminating corruption. Many partners are supporting these efforts, including through donor funds to strengthen Kenya's capacity to tackle corruption and hold those responsible to account through investigative and judicial processes.

2. Part of tackling corruption involves strengthening public support for action against corrupt practices. Activities to support this include seizing the proceeds of corruption held overseas and repatriating them to Kenya to support development projects; thereby highlighting the opportunity costs of corrupt use of public funds. The value of this approach has been demonstrated through the return of fines deriving from the Smith and Ouzman case in the UK.

3. The Government of the United Kingdom, the Government of Jersey, the Swiss Federal Council ('the Partners') and the Government of the Republic of Kenya declare their common understanding on the following Framework for the Return of Assets from Corruption and Crime to Kenya (FRACCK). FRACCK should be guided by the following principles:

- a) In line with the United Nations Convention against Corruption (UNCAC), in particular Art. 57, recovered state assets deriving from corruption should be returned by the Partners (less costs) to Kenya wherever possible. Non-state assets may also be returned in this way;
- b) Returns should follow a final and executable judgment;
- c) In the spirit of the Global Forum on Asset Recovery's Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases, returns should proceed in a transparent and accountable manner with the mutual consent of both the Government of the Republic of Kenya and the Partner offering the return. To this end, each Partner may conclude with the Government of the Republic of Kenya agreements or mutually acceptable arrangements according to Art. 57 para. 5 of the UNCAC;
- d) Returned assets should be used to pursue clearly identified development objectives, for example in the health sector, that benefit the people of Kenya in line with the 2030 Agenda for Sustainable Development and Vision 2030;
- e) The Government of the Republic of Kenya and the Partners will decide on projects to deliver these objectives, as well as the modalities and organisations to implement the identified projects and programmes;
- f) The proper use made of the returned assets should be subject to an appropriate monitoring and evaluation;
- g) Lessons learned should be used to inform future repatriations.

4. It is expected from the Partners and the Government of the Republic of Kenya to establish a FRACCK Steering Committee. The Steering Committee should be comprised of:

- a) The Executive Office of the President of the Republic of Kenya - Convener;
- b) The Attorney General of the Republic of Kenya;
- c) The National Treasury of the Republic of Kenya;
- d) The Asset Recovery Agency of the Republic of Kenya;
- e) The Ethics and Anti-Corruption Commission of the Republic of Kenya;
- f) The Ambassadors, High Commissioners and/or government representatives from all the partners.

5. It is foreseen that the Steering Committee will meet twice yearly under the Chairmanship of the Office of the President of the Republic of Kenya, to:

- a) Identify potential assets to be recovered;
- b) Identify potential implementing organisations;
- c) Decide unanimously on priorities for the use of returned funds;
- d) Monitor progress in returning assets;
- e) Receive reports on the progress and outcomes of projects being funded in the framework of FRACCK; and
- f) Learn lessons for future returns.

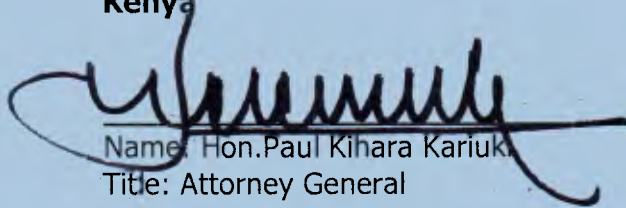
6. The Steering Committee should be supported by a Working Group that may meet quarterly (and additionally as appropriate). The Working Group may incorporate representatives from the Partners, other agencies within the Government of the Republic of Kenya and, where jointly so decided, representatives from implementing organisations and/or civil society.

7. The FRACCK is not intended to create any legally binding obligations. The FRACCK is not set up to be exclusive. Other countries that have anti-corruption laws and that have identified proceeds of corruption that they are willing to return to Kenya may join the FRACCK as new Partners with the consent of all the existing Partners and the Government of the Republic of Kenya.

8. The FRACCK comes into operation upon the last signature of all the Partners and the Government of the Republic of Kenya.


Signed in four originals in the English language.

Place, Nairobi  
Date: 9<sup>th</sup> July, 2018  
**For the Government of the Republic of Kenya**



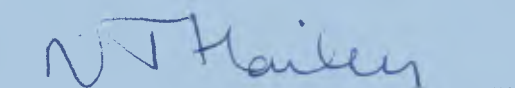
Name: Hon. Paul Kihara Kariuki  
Title: Attorney General

Place, Nairobi,  
Date: 9<sup>th</sup> July, 2018  
**For the Swiss Federal Council**



Name: Dr. Ralf Heckner  
Title: Switzerland Ambassador to Kenya

Place, Nairobi  
Date: 25/10/2018  
**For the Government of the United Kingdom**



Name: NIZ HAILLEY  
Title: HIGH COMMISSIONER

Place, Nairobi  
Date: 11<sup>th</sup> December  
**For the Government of Jersey**



Name: SENATOR IAN GORST  
Title: MINISTER FOR EXTERNAL RELATIONS