



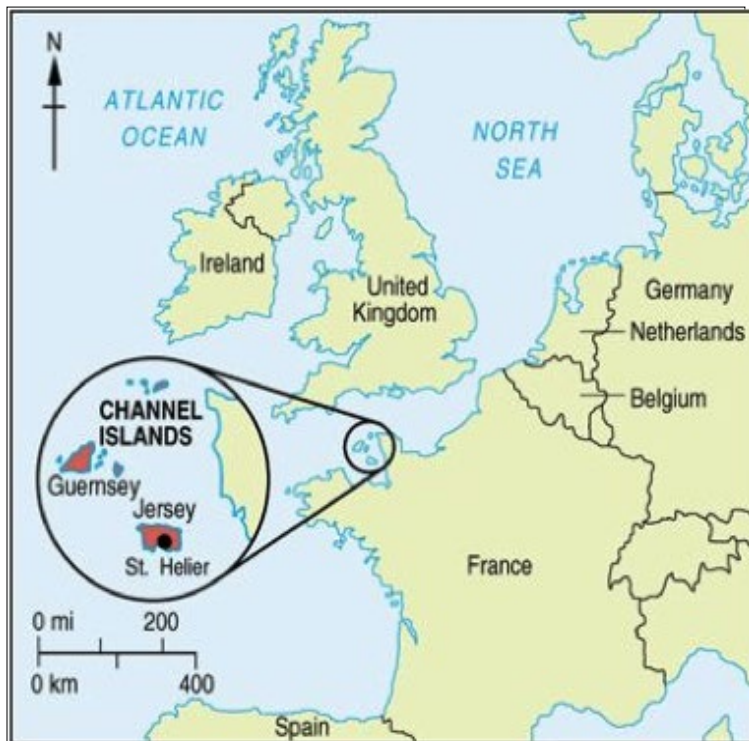
UN CONVENTION AGAINST CORRUPTION

**OPEN – ENDED INTERGOVERNMENTAL
WORKING GROUP ON ASSET RECOVERY**

**THIRD PARTY CHALLENGES AND THEIR IMPACT ON
ASSET RECOVERY UNDER CHAPTER V**

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INTRODUCTION – JERSEY AS A JURISDICTION



- A British Crown Dependency
- A mixed common law/civil law jurisdiction



INTRODUCTION – JERSEY AND ASSET RETURNS

- **Proceeds of Crime (Jersey) Law 1999**
- **Criminal Justice (International Co-operation) (Jersey) Law 2001**
 - **AG is the designated authority for mutual legal assistance**
 - **Independent, non-political Law Officers appointed by the Crown**
- **Civil Asset Recovery (Jersey) Law 2007**
- **Previous asset returns**



THIRD PARTY CHALLENGES AND IMPACT ON ASSET RETURNS

- **Case Study: Doraville/Abacha monies**
- **Public domain judgments: www.jerseylaw.je**
 - **Jersey Legal Information Board**

THIRD PARTY CHALLENGES AND IMPACT ON ASSET RETURNS

- **Doraville Properties Corporation: BVI Company.**
- **1999 Suspicious Transaction Report.**
- **Almost US\$500 million in Jersey.**
- **2003 Criminal Prosecution.**
 - **US\$163 million returned to Nigeria via an Asset Sharing Agreement.**

THIRD PARTY CHALLENGES AND IMPACT ON ASSET RETURNS

- **Balance of approximately \$325 - \$330 million in investment portfolios.**
- **US proceedings to forfeit Doraville assets on basis that they had been laundered through the US financial system.**
- **Proceedings issued by US District Court for the District of Columbia on 18 November 2013. In rem default judgment obtained.**
- **Jersey proceedings under Civil Asset Recovery (International Co-operation) (Jersey) Law 2007**
 - **Property Restraint Order (PRO) granted 25 February 2014 by the Royal Court of Jersey (similar to a freezing order).**

THIRD PARTY CHALLENGES AND IMPACT ON ASSET RETURNS

- **Four sets of third party challenges:-**
 - **Doraville/Abacha family – Property Restraint Order.**
 - **Lawyers – claim for contingency fees.**
 - **Bank – set off/lien/trust arising from claims by the liquidators of a Madoff Feeder Fund in the New York Courts.**
 - **[Federal Republic of Nigeria – constructive trust civil claim to the Doraville assets].**
- **Effect – delay, legal costs, erosion of trust.**

THIRD PARTY CHALLENGES AND IMPACT ON ASSET RETURNS

- **Doraville challenge to PRO: Appeals up to the Privy Council: Defeated.**
- **Lawyers' claim to fees: up to the US Court of Appeal: Defeated.**
- **Bank's claim to set off/lien/trust claim: Jersey's Royal Court: Ongoing.**
- **Federal Republic of Nigeria : Jersey's Royal Court: Claim confined to Doraville's reversionary or contingent interest in the assets, subject to the US's proceedings under the 2007 Law. Claim stayed pending determination of the 2007 Law proceedings.**

THIRD PARTY CHALLENGES AND IMPACT ON ASSET RETURNS

- **We have achieved registration of the US judgment by order of Jersey's Royal Court in February 2019.**
- **Doraville's assets largely realised and being paid into Civil Asset Recovery Fund.**
- **Tripartite negotiation of Asset Sharing Agreement in progress with US and Nigeria.**

THIRD PARTY CHALLENGES AND IMPACT ON ASSET RETURNS

- **Lessons learned:**
 - **Legislative framework**
 - **Building confidence and trust – negotiation, regular dialogue**
 - **Teamwork – DOJ; AG for Nigeria**
 - **Taking legal action**
 - **International Co-operation (Protection from Liability) (Jersey) Law 2018**
 - **Persistence pays!**



THIRD PARTY CHALLENGES AND IMPACT ON ASSET RETURNS

Questions?

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