



Inter-Governmental Action  
Group Against Money  
Laundering in West Africa

## Mutual Evaluation Report

Anti-Money Laundering and  
Combating the Financing of Terrorism

Executive Summary

7 May 2008

NIGERIA

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## Executive Summary

### Mutual Evaluation of the Federal Republic of Nigeria

#### 1. Background Information

1. This report provides a summary of the AML/CFT measures in Nigeria as of September 24 to October 5, 2007 (the days of the on-site visit). The report describes and analyses those measures and provides recommendations on how certain aspects of the system could be strengthened. It also sets out Nigeria's levels of compliance with the FATF 40 + 9 Recommendations (see attached table on the Ratings Compliance with the FATF Recommendations).

2. The Federal Republic of Nigeria occupies a surface landmass of about 923,768 km<sup>2</sup> in the Western part of Africa. The Republics of Benin, Chad, Cameroon and Niger, all French-speaking countries, surround it, whereas Nigeria is an English-speaking country. Nigeria is estimated to be the largest country in sub-Saharan Africa, both in terms of size and population. Nigeria's population is estimated at 140 million with an annual growth rate of more than 3%.

3. Nigeria operates an executive presidential system of government modeled after that of United States, with executive powers vested on an elected President and the elected Governors of 36 States. Nigeria is a federation consisting of 3 tiers of government, namely, the federal, state and local governments. There is separation of powers and functions between the tiers. Each of the 36 states has an elected Governor and an elected State Assembly of between 24 and 40 members depending on the size of the population of each state. All elected officers have four year term tenure. The third tier comprises of 774 Local Government Areas. There is a two –term constitutional limit on the tenure of the President and the Governor.

4. Nigeria had been described as one of the most corrupt countries in the world<sup>1</sup>. Pervasive corruption in Nigeria constitutes a major threat and underlies most of the money laundering cases reported in recent time. In the past three years, more than 10 ex-Governors and political leaders, who were alleged to have embezzled public funds estimated at USD\$250 billion have been arrested and charged to court<sup>2</sup>. Most of these funds are alleged to

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<sup>1</sup> Transparency International (TI) Corruption Perception Index from 1995 to 2007.

<sup>2</sup> Investigations and court records revealed this during the trial of some of these officials

be hidden in western banks and offshore centers, while a significant amount have been laundered through the acquisition of properties, luxury cars and purchase of high net worth shares in blue chip companies.

5. Nigeria has demonstrated a commitment to AML/CFT issues both within the country as well as in the region. Nigeria has the most elaborate legal framework against corruption, economic and financial crimes in the region. In 1995, the first Anti Money Laundering (AML) Act was approved and enacted but covered only drug related laundering offences since the only predicate offence for ML at that point was drug trafficking. The Money Laundering (Prohibition) (MLP) Act of 2004 replaced the 1995 AML Act and corrected this anomaly. Money laundering is thus now considered a criminal offence in Nigeria, regardless of the source of funds.

6. In the past 4 years, Nigeria commenced the implementation of a number of changes both in terms of legislative and institutional reforms. The new legislation includes the enactment of the Economic and Financial Crimes Act, 2004, which led to the establishment of the Economic and Financial Crimes Commission (EFCC) as the coordinating agency for all AML related cases. The Nigeria Financial Intelligence Unit (NFIU) was also established in 2005 under the EFCC to receive, analyze and disseminate financial intelligence to law enforcement agencies and other relevant institutions.

7. Furthermore, relevant laws that would enhance accountability and transparency in government business have been enacted recently to strengthen anti-corruption efforts. They include:

- 2007 Nigeria Extractive Industry Transparency Initiative (NEITI) Act;
- 2007 Public Procurement Act;
- 2007 Federal Inland Revenue Service (FIRS) Act;
- Four 2007 Tax Reform Acts;
- 2007 Central Bank of Nigeria (CBN) Act;
- 2007 Statistics Act;
- The Fiscal Responsibility, Act, 2007

8. While corruption, particularly grand corruption by serving and ex-political office holders has been identified as one of the most common predicate offences through which laundering is facilitated, Nigeria still retains immunity of certain public officials and the non requirement for disclosure of declared assets for public scrutiny in the Constitution. Section 308 of the 1999 Constitution provides that certain public officers – the President, Vice President, 36 Governors and the Deputy Governors shall not be subject to civil and criminal prosecution during their stay in office.

9. Proceeds from advance fee fraud, drug trafficking, illegal oil bunkering, bribery and embezzlement, contraband smuggling, theft, and financial crime constitute a major source of money laundered in Nigeria. Money laundering methods that exist in Nigeria include

investment in real estate; wire transfers to offshore banks; political party financing; deposit in foreign bank accounts; use of professional services, such as lawyers, accountants, and investment advisers; and cash smuggling.

## 2. Legal System and Related Institutional Measures

10. Nigeria has criminalized money laundering under the Money Laundering (Prohibitions) Act, 2004, the National Drugs Law (Enforcement) Act, 1989, and the Economic and Financial Crimes, Act, 2004. Money laundering offences cover the conversion, transfer, concealment, or disguise, possession and acquisition of property in a manner that is largely consistent with the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) the UN Convention against Transnational Organized Crime (Palermo Convention) Nigeria has also ratified the UN Convention against Corruption.

11. Nigeria adopted the all crimes approach in the defining the scope of predicate offences. There is a broad range of ancillary offences to the money laundering offences. Money laundering applies to both natural and legal persons, and proof of knowledge can be derived from objective factual circumstances. Legal persons are liable to a maximum of Naira250,000, and withdrawal of licenses, while natural persons are liable to a maximum of Naira1,000,000 fine or 3 to five years imprisonment or both fine and imprisonment and the possibility of suspension from professional activity for 5years. Directors and officers of financial institutions are also liable for neglecting to carry out their obligations under the MLP Act. There is lack of comprehensive statistics on money laundering investigations, prosecutions and convictions due to lack of effective coordination mechanisms. It is therefore difficult to determine how many money laundering cases have been investigated and prosecuted. Overall, the AML legislation is not effectively implemented.

12. Nigeria has ratified the UN Convention for the Suppression of the Financing of Terrorism 1999 on 28<sup>th</sup> April 2003 and 7 out of the 13 UN terrorism conventions. Attempt has been made to criminalize the financing of terrorism through Section 15 of the EFCC Act. Within the existing legal framework, there is evidence that the authorities have taken steps to confront terrorist activities whether the threat has an international nexus or it is purely domestic in nature such as the Niger Delta situation or it is one with religious dimension as a few cases in Northern Nigeria suggest. It has been established by the authorities that there is a connection between the purchase of weapons and terrorist activities in the vulnerable regions of the country. The DSS, which is responsible for interdiction of terrorists also, asserted that between 1999 and 2007, it investigated 29 cases involving money laundering and terrorist financing. The details of these cases were not provided to the Assessors. The implementation of the existing framework has revealed some practical challenges. The major one being that EFCC Act does not provide a comprehensive framework for dealing with the tripartite offences of terrorism, namely, financing of terrorism, terrorists act and terrorist organizations, as envisaged by the FATF Special Recommendations and the UN Financing of Terrorism Convention. A comprehensive bill for the prevention of terrorism that will address the observed shortcoming is currently before the National Assembly.

13. Nigerian law provides for the confiscation of laundered properties which represent proceeds from, instrumentalities used in and instrumentalities intended to be used for the commission of money laundering, and other illegal acts and property of corresponding value. At the moment, the types of confiscation and recovery measures provided in the law are

criminal conviction based confiscation, seizure and forfeiture of cash and assets either through plea bargain or through a court order. No rules have been made by the Attorney-General under section 31 (4) and 43 of the

EFCC Act to guide the management and disposal of forfeited or confiscated properties. The current regime also does not set out modalities relating to freezing having regard to the rights of persons who have grievances in conformity with FATF Recommendations. The absence of a comprehensive FT legislation implies that no statutory provisions is applicable to the confiscation of terrorist related properties and therefore the measures required under SR.III.1 is not effectively implemented

14. There is an absence of a clearly defined and uniform process for implementing UN Security Council Resolutions (UNSC) 1276 and 1373. The Central Bank has issued a circular to the banks to forward suspicious transactions relating to TF to the NFIU but this circular is not being effectively implemented in the absence of a legal framework and a coordination mechanism.

15. The legal provisions relating to the FIU are set out in Section 1 (2) of the Economic and Financial Crimes Commission (Establishment) Act (EFCC Act) and the EFCC Board Resolution of 2 June, 2004. The NFIU is an administrative type FIU that became fully operational in January 2005. Pursuant to Paragraph 1 of the EFCC Board Resolution, the main function of the NFIU is to receive, analyze and disseminate Suspicious Transaction Reports (STRs) related to AML/CFT activities in Nigeria. As such, NFIU is the central authority with the mandate to receive, analyze and disseminate information on STRs as required by Recommendation 26.

16. The NFIU is mandated under Paragraphs 7 and 8 of the EFCC Board Resolution to provide guidance on reporting procedures and templates to FIs and DNFBPs. The guidance is provided either directly by the NFIU or in conjunction with the CBN and takes the form of guidance notes and instruction manuals. These guidance notes and circulars, while not a law or regulation are binding on all FIs and DNFBPs.

17. The NFIU's operational independence is based on the EFCC Board Resolution of June, 2004. Although the NFIU is housed within EFCC and derives its budget from EFCC's budgetary allocation, the NFIU informed the assessors that it remains operationally autonomous from the EFCC. However, based on the analysis of the EFCC Act, there still remain some concerns about how independent the NFIU is from the EFCC. While the monthly newsletters released by the NFIU are informative and are published regularly, the contents lack statistics regarding the number of STRs or CTRs collected or analyzed, or the number of cases that had been referred by the NFIU to law enforcement agencies for further investigation or prosecution. The newsletters also do not contain information on AML/CFT typologies or trends identified from the information collected and analyzed.

18. The Economic and Financial Crimes Commission (EFCC) is the central coordinating agency in the investigation of money laundering. However, the Nigerian Police Force, and the National Drug Law Enforcement Agency (NDLEA) have powers to investigate offences related to laundering to a lesser extent.

The Department of State Security (DSS) is charged with the investigation and collection of intelligence related to terrorism and terrorist

financing in collaboration with the NFIU and other related agencies. EFCC, ICPC, and NDLEA have powers to apply for seizure, forfeiture and confiscation orders from the court. The EFCC and the NDLEA can apply scientific method in the investigation of money laundering and terrorist financing, including controlled delivery, interception of communication records, and documents required for effective investigation and prosecution of

cases. The Nigerian authorities reported that these methods are used during investigation, in addition to the power to waive arrest when there is reasonable ground to suspect that an offence have been committed. There were significant gaps observed in the area of national coordination and skills set available in the agencies. More resources would be required in order to strengthen the capacity of the agencies to handle large and complex cases.

19. Nigeria has implemented measures to detect the physical cross-border transportation of currency and bearer negotiable instruments that relate to money laundering and terrorist financing. The declaration system is still applicable in major airports, seaports and borders and has not covered all entry points in the country.

### **3. Preventive Measures – Financial Institutions**

20. The Nigeria legal system utilizes laws commonly referred to as “Acts”, regulations, and circulars. In terms of hierarchy, the Act of National Assembly takes precedence over any other law, followed by state law, bye-laws, regulations or directives arising from an existing law. Government agencies can issue regulations, circulars and guidance based on an existing law and these regulations, and guidance would only have the force of law if it refers to the original law. The power to enforce such a directive or regulation must be derived from an existing law. The legal framework for preventive measures is applicable to all the financial institutions, which include the banking, insurance and capital markets/securities sectors. Each supervisory authority has an applicable legislation and regulation which provides guidance to institutions in the finance, insurance and capital markets. The Central Bank of Nigeria (CBN) is responsible for supervising banks; the National Insurance Commission (NAICOM) is responsible for regulating insurance companies; and the Securities and Exchange Commission (SEC) is responsible for overseeing the capital market operations in Nigeria. Each of the regulatory agencies has developed basic regulation with respect to identification and verification of customers.

21. The CBN’s KYC Directive and Money Laundering Examination Procedure/Methodology Guidance Note both provide procedures for ensuring that FIs do not maintain anonymous accounts, particularly accounts with foreign transaction activity. The NAICOM reviewed and revised the Insurance Industry Policy Guidelines (IIPG) of 2004, so that the Customer Due Diligence (CDD) and Know Your Customer Guidelines (KYCG) for insurance companies would be in conformity with the provisions of the MLP Act. Sections 74, 75, and 100 of the Rules and Regulations of the Investment and Securities Act (ISA) require capital market operators to obtain proper customer identification information before entering into a business relationship. SEC is yet to develop a guideline for brokerage firms.

22. Existing CDD measures are not quite comprehensive and not uniformly implemented across reporting agencies. Record keeping requirements have been implemented but Nigeria needs to determine beneficial ownership, identify politically exposed persons (PEPs), and define clear procedures in law or regulation for correspondent banking, implementation of new technologies, and non-face to face customers. Nigeria has not implemented effective measures concerning risks in technology or the establishment of non face-to-face business transactions. Bureau de Change (BDC) and other money exchange remittances businesses need to

maintain identification information of customers in a more effective manner. There is no explicit requirement in the laws for wire transfers generally and especially on terrorist financing.

Secrecy provisions do not prohibit the implementation of FATF standards.

23. There are provisions requiring the examination of all complex or unusual large transactions that have no apparent or visible economic or lawful purpose, the background and purpose of such transaction, before reporting in writing, however, such transactions are treated as STR in reporting to NFIU. Financial institutions are not required to pay special attention on countries not applying FATF recommendations and no counter measures are applied to countries that do not apply FATF recommendations.

24. The MLP Act, under Section 6, requires all financial institutions and designated non-financial institutions to draw up a written report containing all relevant information on transaction or suspicious transaction whether or not it relates to the laundering of the proceeds of a crime or an illegal act for submission to the NFIU within 7 days after the transaction. In addition, the CBN issued a circular (BSD/13/2006) in August 2006, requiring all FIs to forward suspicious transaction reports (STR) to the NFIU where the suspicious and unusual transactions include potential financing of terrorism, and terrorist acts but the terrorist financing legal framework does not exist at the moment and thus this guidance may not be complied with by FIs and OFIs. The MLP Act does not explicitly provide for the protection of persons who report in good faith. Tipping off is generally prohibited and there is a criminal sanction applicable to officials of financial institutions who tip off suspects.

25. The supervisory authorities have policies to ensure the existence of internal controls, audit functions, appointment of compliance officers and programs on employee training, however, this is not effectively implemented across the financial institutions. The guidelines on the application of FIs AML/CFT measures is not explicit on what is required from foreign branches and subsidiaries when they are not able to effectively implement AML/CFT standards in a host country. There is no requirement by law that prohibits the establishment or operation of shell banks in Nigeria. FIs are not required by law to ensure that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.

26. The Central Bank of Nigeria (CBN) is responsible for the supervision of banks and other financial institutions; Securities and Exchange Commission (SEC) is responsible for the capital market while the National Insurance Commission (NAICOM) supervises the insurance sector. Supervisory agencies are all empowered by the various provisions of their enabling laws to

carry out inspection (on-site and off-site) of the activities of financial institutions. Each institution has its budget and can hire their staff. The amount of resources devoted to supervision is not always adequate and staff is not very familiar with their AML/CFT supervisory roles. In this regard, CBN and the SEC have been conducting joint AML/CFT supervisory visits but this remains grossly inadequate.

27. The CBN is the only institution authorized to issue licenses to financial institutions and other financial institutions based on a guidance note titled 'Requirements for a New Bank License' that set out information

required from investors such as, sources of funding, fitness, integrity and security screening processes. Before appointing any director or chief executive, every bank shall seek to obtain specific approval from the CBN. The BOFIA specifies a list of circumstances that prevent a person from being appointed or from continuing to act as a director of a bank. All substantive shareholders (5% and above shareholding) are required to undergo “fit and proper” tests. For FIs management/board appointments, the CBN indicated that appointees would normally undergo “fit and proper” test criteria and other checks to ensure that appointees are qualified, and experienced for the position.

28. The CBN is also responsible for the initial licensing of natural and legal persons that provide money or value transfer service, including currency exchange. The CBN issued revised guidelines for bureau de change (BDCs) in May 2002 to cover issues related to the application for license, capital and management requirements. Not much has been done with regard to money changers that operate without licenses. SEC in compliance with section 8 (w) ISA Rules 15 (3) approves directors and management staff employed in the capital market. Rule 71 further requires Issuing Houses in public offers to submit the list of allottees with 50,000 or 5% and above for approval. Rule 109 (A) requires public companies to file information on beneficial ownership of 5% and above. NAICOM’s new processes and procedures require all directors of insurance institutions to complete a personal history form as part of the ‘fit and proper’ assessment.

29. The CBN, SEC, and NAICOM are yet to develop “risk based approach” in the supervision of financial and other financial institutions and the methodology used for determining future allocation of supervisory resources was in the early stages of development. The NAICOM, CBN and SEC laws make it mandatory for regulated institutions to allow unhindered access to all records and documents. Regulatory and supervisory authorities all have powers to compel production of books, documents and records in respect of their business relationships, including information related to accounts. The following provisions are of note:

30. The CBN’s AML/CFT supervisory function is mostly incorporated within the timetable of prudential onsite examinations: commercial banks once per year once and community banks once every two years. In the case of 'other financial institutions' it was unclear as to the inspection cycle. The CBN is formally charged with the supervisory oversight of the 542 bureau de change operating in Nigeria. In 2006 the CBN inspected 297 bureau de changes; however it was unclear to what extent AML/CFT factors were incorporated within these inspections. Furthermore no inspections of this sector had been undertaken for the first nine months of 2007 either solely by the CBN, or jointly with the NFIU. Joint NFIU inspections are also in place

for the investment and security sector. During January – May 2007, 40 inspections were jointly undertaken between SEC and the NFIU.

31. In the case of the insurance sector, ongoing supervision and monitoring is conducted solely by NAICOM. Due to the recapitalization exercise embarked on by the government in the insurance sector no specific AML/CFT inspections have taken place since early 2006. Prior to embarking on the recapitalization and consolidation process 52 insurance companies were inspected By NAICOM in 2005/06, of these 19 (36%) were found to have failed to comply with AML requirements in legislation. Non-compliance related to: non appointment of a compliance officer, lack of in-house training, failure to file CTRs and STRs, and non

implementation of the industry Know Your Customer Guidelines. Of the 19 companies identified as having failed to comply with AML/CFT requirements, it was unclear as to whether any formal sanctions were issued.

32. There are a variety of criminal and civil sanctions available to the relevant designated authorities. Sanctions applicable also include suspension, cancellation, revocation to withdrawal of licenses of financial institutions, insurance companies and investment and capital market operators. Directors, managers, and other officers may be personally liable if they fail to take all reasonable steps to secure the financial institution's compliance with relevant legislation and for non-compliance with the directives issued by supervisory entities. The breaches that have been recorded across all the sectors in recent times include failure to implement appropriate CDD requirements, non reporting of transactions that exceed the threshold, poor preservation of records, failure to report international transactions, non-appointment of a compliance officer, and non compliance with training programmes for staff AML controls. Most of the sanctions implemented have included the award of fines and referral to law enforcement agencies. However, sanctions applied so far are not considered to be effective, proportionate or dissuasive.

#### **4. Preventive Measures – Designated Non-Financial Businesses and Professions (DNFBPs)**

33. The obligations laid in the relevant AML laws apply to the non-financial professionals and business. The covered professions and businesses include, Casinos, Dealers in Jewelry, Cars and Luxury goods, Chartered/Professional accountants, Audit firms, Tax Consultants, Clearing and Settlement Companies, Legal Practitioners, Supermarkets, Hotel and Hospitality Industries, Estate Surveyors and Values, Precious Stones and Metals, Trust and Company Service Providers, Pool Betting, Lottery, Non-Government Organizations and Non-Profit Organizations. They may also include such other businesses as the Federal Ministry of Commerce – the supervisory ministry - may from time to time designate.

34. In September 2005, SCUML was established by Decision No EC (2005) 286 of the Federal Executive Committee as a specialized unit of the Federal Ministry of Commerce

(FMC), with responsibility for supervising DNFBPs. Consequently, SCUML has been mandated to monitor, supervise and regulate the activities of all DNFBPs. In performing its ongoing monitoring requirements, SCUML has undertaken a number of steps to categorize the allocation of future supervisory resources. This has included a risk review of the DNFBP sector and the implementation of a three staged monitoring process. Casinos and other businesses and professions are required to verify, and record the identity of customers, including the nature of business and amount involved in each transaction. As with financial institutions, the mechanisms used for checking customer identification could either be an international passport, driving license, national identity card, bearing a photograph and physical address. The MLP Act requires verification and registration to be done at the point of introduction of the business and when the transaction exceeds USD 5,000. The non-availability of protection for reporting entities and the tipping off requirements are also applicable to the DNFBPs sector.

35. There are concerns regarding the ability of the DNFBP sector to implement their obligations under the AML legislation. It was obvious that beyond the basic customer identification and record keeping requirements, the DNFBP sector appear unclear as to their wider CDD obligations. At the moment, there is no legal provision requiring DNFBPs to observe internal controls, develop training policies, conduct training, appoint compliance officers or institute audit functions. The sanctions regime has yet to be implemented and therefore remains untested in relation to effectiveness and operational independence of SCUML.

## **5. Legal Persons and Arrangements and Non-Profit Organizations**

36. The Companies & Allied Matters Act, 1990 (CAMA) is the legal framework for the registration of legal persons including trust companies, foundations, charities and NGOs. The Corporate Affairs Commission (CAC) is responsible for the implementation of the CAMA and is also charged with the registration of businesses. CAC is a specialized agency under the Federal Ministry of Commerce. In 2001, the Corporate Affairs Commission improved its operations in line with modern technology by migrating from manual registration process to electronic registration system.

37. The CAC maintains information on all legal entities, including ownership and control of companies, trustees, and charity organizations. There are no restrictions on competent authorities to access information available on CAC database. Furthermore, the CAC requires that every company maintain at its registered office, a register of members with information on the names, address of each shareholder, the number of shares that he holds and the date that each person becomes or ceases to be a member. The register is updated once there is a change in the information provided to CAC. The register is open for inspection by members of the company or the public. However, there is no requirement for beneficial ownership information to be collected by CAC or stored by the companies. The powers of the law enforcement agencies to access and request further information on beneficial ownership seem to be effective.

38. The Corporate Affairs Commission has the responsibility to register Non-Profit Organizations (NPOs). However, where such NPO is registered as LTD/GTE, the Ministry of Justice will also be involved in verifying the object of the company/NPO. As at 2007, it is estimated that 30,000 NPOs – religious based organizations and charity organizations have been registered by CAC. NPOs in Nigeria are owned in the first instance by those who append their names on the forms submitted at CAC. However, they maybe other beneficial owners, who may not want their names to appear on the registration document and who may have substantial interest in the NPO, including chairing the board meetings and determining how the NPO would be managed.

39. Since most NPOs and charitable organizations rely on donations from internal or external sources, they remain vulnerable to money laundering and terrorist financing. There is no framework for monitoring the source of funding, accounting or management of funds or resources available to NPOs in Nigeria. There is no central authority for supervising NPOs, religious and charitable organizations. Once registered, they are not required to report back to CAC. They are only required to provide information regarding any change that may

have occurred since its registration. Nigerian FIU indicated that it has commenced the monitoring of NPOs and other religious organizations for possible ML/TF activities. It has obtained access to CAC's database and currently has a list of 15,439 NPOs that it is profiling in different parts of the country with a view to determining source of funding, objectives and ownership. This process is still at early stage and therefore the assessors could not obtain information relating to the outcome of this initiative. SCUML also has access to the CAC data base and is in the process of identifying NGOs and religious organizations that involved in money laundering or terrorist financing. It plans to register the NGOs for the purpose of enhancing its onsite visits. It is expected that SCUML would develop a more strategic program to enhance interaction with NPOs for the purpose of fulfilling their AML/CFT obligations.

## **6. National and International Cooperation**

40. Policy Makers, LEAs, and Supervisors maintain working relationship through the EFCC Board. Members of the board are drawn from relevant law enforcement agencies and financial sector supervisory authorities such as the Central Bank of Nigeria, Securities and Exchange Commission, National Insurance Commission, Nigeria Intelligence Agency, Department of State Services, the Nigeria Police Force, National Drug Law Enforcement Agency, and Nigeria Customs Service. Section 6 of the EFCC Act confers authority on the EFCC to act as the coordinating agency for anti-money laundering matters in the Nigeria. The EFCC, CBN, and the NFIU have been leading the process of developing anti-money laundering policies for the country. There is an inter-agency steering committee chaired by EFCC, which was set up to formulate policies related to anti-money laundering as the need arises. However, this committee is ad hoc in nature and does not meet as often as is required. The DSS has been appointed the focal agency for the coordination of anti-terrorism and terrorist finance matters. Other law enforcement agencies are part of the anti-terrorism

initiative of the DSS. Nigeria has ratified the Vienna Convention, the Financing of Terrorism Convention, the Palermo Convention and the UNCAC.

41. Cap 235 LFN 1990 on Mutual Legal Assistance with Commonwealth countries permits the provision of widest possible range of mutual assistance to Commonwealth Member States. In the West Africa sub-Region, Nigeria has ratified the ECOWAS Protocol on Mutual Legal Assistance, which is applicable to Member States in the region. For non-Commonwealth and non-ECOWAS Countries, the Constitution permits the negotiation of multilateral and bilateral Agreements on Mutual Legal Assistance. Nigeria does not have a comprehensive legislation on international cooperation. Mutual legal assistance related legislation has to be distilled from multiple legislation and various multilateral and bilateral agreements. The Attorney –General and Minister for Justice is responsible for the negotiation and implementation of mutual legal assistance treaties. So far, no regulation has been issued regarding the process for initiating and concluding MLAs. Dual criminality is required for mutual legal assistance, including non-coercive measures and may affect requests for

freezing orders and investigation where the offence is not criminalized under Nigerian law. Nigeria has Mutual Legal Assistance Treaties (MLATs) with Commonwealth Member States, ECOWAS/GIABA Member States, Russia, United States and Iran.

42. The EFCC and the NDLEA are empowered to confiscate proceeds of money laundering offence committed either in Nigeria or in a foreign country. Furthermore, Section 20(c) of the EFCC Act, 2004 and Section 18(c) of the NDLEA Act, 1989 empower the authorities to seize instrumentalities used in or intended for use in the commission of any money laundering or financing of terrorism or other predicate offences. Nigerian laws may permit the enforcement of foreign non-criminal confiscation orders even though civil based forfeiture is not yet recognized under existing laws. These powers are limited with regard to combating of terrorist financing.

43. Nigeria has extradition legislation. However, the legislation is subject to the Constitution requirement with regard to the application of dual criminality principles. This requirement may inhibit efficient execution of international cooperation requests. There is no time limit regarding the length of time required to respond to extradition requests and concerns have been expressed regarding the efficiency of the existing process. In the absence of a comprehensive terrorist financing legislation, extradition requests for FT offences may face legal challenges if presented to the court.

44. Nigeria has implemented measures to facilitate administrative cooperation between domestic authorities such as the CBN, SEC, NAICOM, DSS, Customs and NFIU and other foreign counterparts outside the MLA process.

## **7. Resources and Statistics**

45. The structure of law enforcement agencies in Nigeria allows for operational independence in the investigation of ML/TF and other organized crime. However, the legal framework is often ambiguous with regards to supervisory line of authority. The AG's power over criminal prosecution is too broad. As a political appointee and also the Minister for Justice, there are concerns that this power may be used to hinder effective administration of justice in the country. With the exception of EFCC, the other agencies are not adequately funded. Human and material resources are limited across all the other enforcement agencies. Training opportunities are not evenly distributed despite the presence of specialized training units in EFCC and NDLEA.

46. Statistics on ML/TF prosecution and investigation, including assets forfeited or confiscated are not centrally coordinated. Statistics concerning the total number of money laundering and terrorism and terrorist financing cases under investigation or prosecution in Nigeria were either contradictory, not easily accessible and in some cases not available.