



INTER-GOVERNMENTAL ACTION GROUP AGAINST MONEY  
LAUNDERING IN WEST AFRICA

# *GIABA REPORT*

## THREAT ASSESSMENT OF MONEY LAUNDERING AND TERRORIST FINANCING IN WEST AFRICA

*May 2010*

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## **PREFACE**

1. Money is the lifeblood of crime, as it is of any business, and so the legitimisation of illicit proceeds is essential for organised criminals to return a profit on their nefarious activities. As such, the fight against money laundering is a crucial part of international efforts to prevent and disrupt criminal activity of all types. Furthermore, the financing of terrorism poses a significant threat throughout the world, and so multilateral efforts to starve terrorists of the funds they require to carry out attacks is a key component in broader efforts to ensure international peace and security. In this context, the Financial Action Task Force (FATF) launched a Global Threat Assessment aimed at discerning the nature and scale of the threat faced by states around the world from money laundering and terrorist financing. This report seeks to contribute to the Global Threat Assessment process.

2. The threats of money laundering and the financing of terrorist are of significant concern in West Africa. Indeed, certain considerations pertinent to West Africa, such as the size of the informal economy, the nature of tax evasion in the region, the problem of corruption, and the region's role as a drug transit point, present particular difficulties with regard to money laundering and the financing of terrorism. Accordingly, a thorough understanding of the unique environment for money laundering and terrorist financing in West Africa is an essential part of any threat assessment. Taking these considerations firmly into account, this report seeks to contribute to understanding of the principle sources of illicit funds in West Africa, the methods by which they are laundered and to broadly estimate the scale of laundering.

3. In order to achieve these objectives, Aegis Defence Services (Aegis) was tasked by the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) to conduct a threat assessment of money laundering and terrorist financing in the West Africa region. The report below presents the team's findings. This report has required contributions from government officials, diplomats, financial regulators, law enforcement officials, international organisations and a range of people from civil society organisations and businesses. The team would like to extend its sincere thanks to all interlocutors, who have been both frank and engaging. All have been invaluable.

## **ABBREVIATIONS**

<b>AML</b>	Anti-Money Laundering
<b>BCEAO</b>	Central Bank of West African States
<b>CDD</b>	Customer Due Diligence
<b>CFT</b>	Countering the Financing of Terrorism
<b>CTR</b>	Currency Transaction Report
<b>DNFBP</b>	Designated Non-Financial Businesses and Professions
<b>DNFI</b>	Designated Non-Financial Institution
<b>FATF</b>	Financial Action Task Force
<b>FIU</b>	Financial Intelligence Unit
<b>GIABA</b>	Inter-Governmental Action Group against Money Laundering in West Africa
<b>IMF</b>	International Monetary Fund
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>PEP</b>	Politically Exposed Person
<b>STR</b>	Suspicious Transaction Report
<b>UN</b>	United Nations
<b>UNODC</b>	United Nations Office on Drugs and Crime

## EXECUTIVE SUMMARY

1. This report conducts a threat assessment of money laundering and terrorist financing in the West Africa region, specifically in Benin, Cape Verde, Côte d'Ivoire, the Gambia, Ghana, Nigeria and Senegal. The introduction outlines the objectives of the study and includes a description of the methodology and operational approach, which included data collection from open source material, as well as a range of interviews with relevant observers, local officials, and key practitioners and decision makers. This was followed by detailed analysis seeking to examine the source of illicit funds, how they are laundered, and where they are being moved to, and in doing so, throw light on a range of issues, including the weaknesses in regional efforts to tackle laundering and the consequences of money laundering for the rule of law.
2. The first chapter addresses West Africa's **informal economy**, which is a major vulnerability with regard to money laundering. It comprises perhaps 60-70% of formal regional GDP. In very general terms, the informal economy is the unregulated non-formal portion of the market economy that produces goods and services for sale. The large size of the informal economy in the region goes hand-in-hand with the cash- and commodity-based nature of the region's economy. A distinction is drawn, though, between the merely informal on one hand and the outright criminal on the other; the major categories of predicate criminality for the purposes of money laundering being tax evasion and smuggling.
3. There are numerous different methodologies of tax evasion which often vary according to the size and international exposure of an entity; some estimates put government revenue loss from tax evasion as high as 50% of potential revenues. Funds from tax evasion can be concealed as business profits and they can also be diverted into the informal economy and real estate sectors.
4. Cocoa, diamonds, cash and arms are identified as key contraband commodities for smuggling. Smuggling is closely connected to trade-based money laundering, and the regions export processing zones and porous borders are key vulnerabilities.
5. **Corruption** has a particularly corrosive impact on state capacity and is a concern in West Africa at all levels. The chapter tackling corruption deals with the various strata, from the lowest to the highest level, involving the judiciary, public service provision, the extractive industries, and the nexus between high political office and organised crime. Corruption thrives thanks to insufficient and poorly implemented institutional safeguards and a lack of freedom of information; it is also a major predicate offence for money laundering purposes, a significant source of illegal proceeds, and a means by which efforts to prevent money laundering are undermined. Corrupt officials often use their position of power to aid the laundering of the proceeds of corruption, highlighting the need for strong provisions regarding PEPs in AML/CFT regimes. The property and formal banking sector are particularly at risk from funds derived from corruption.

6. The illicit proceeds from **drugs trafficking** derive primarily from the region's trans-shipment role for heroin and especially cocaine, as well as on a smaller scale from cannabis production. In particular, small aircraft and ships bring cocaine in from Latin America, and then it is repackaged and sent on, especially to Europe, primarily by carriers or mules on commercial aircraft, but also by sea or across the Sahara desert. The laundering of drugs money in the region is principally connected to the sustenance and expansion of drugs trafficking networks, which can be large and sophisticated. There are also, though, signs of the laundering of drugs profits in the region, especially in the property market. The street value of cocaine passing through the region has been estimated at some \$1 billion in 2009, and while the United Nations Office on Drugs and Crime (UNODC) has recently noted a fall in cocaine quantities passing through West Africa, the weakness of preventive capacity in the region ensures that this route from South America to Europe remains open and a major contributor to illegal earnings for the purposes of money laundering.

7. The chapter on **private sector fraud** covers advance fee – or “419” – fraud, as well as other crimes of deception, including insurance, ATM, identity and share fraud, and currency counterfeiting. Much of this activity is especially abundant in Nigeria, the region's largest economy, but private sector fraud continues to expand throughout the region, and is an increasingly prolific source of illicit funds. In particular, criminals often make use of new mobile telecommunications technology, and law enforcement bodies must keep pace with the new challenges this poses. Fraudsters also frequently utilise their proximity to and understanding of the formal financial sector to launder criminal proceeds, as well as channelling illicit money through front businesses and into cash-based purchases.

8. The broader **other crimes** chapter covers human trafficking and smuggling, which numbers in the hundreds of thousands of persons annually; oil bunkering, which may generate about \$13 billion a year in illegal proceeds; and various other crimes, including car-jacking, kidnap and armed robbery. These predicate crimes are all major aspects of the region's money laundering architecture, since these criminals contribute to the level of laundering activity, which can be both sophisticated in nature, as is often the case with the high end of oil bunkering, and less complex, as is often the case with the proceeds of armed robbery. The informal economy in particular provides a useful means of obscuring the nature of these activities, although laundering in the formal sector is also extensive.

9. Finally, the report addresses the **financing of terrorism**. While the FATF and other anti money laundering bodies bracket the financing of terrorism with money laundering, to some extent this category of crimes is distinct. The difference arises because while laundering legitimises criminal proceeds, the financing of terrorism tends to put funds derived from both legitimate and illegal activity to nefarious use; in effect, it reverses the logic of laundering. The scale of the funds is also generally smaller, but they clearly have significant impact. One area of concern in West Africa is that the Lebanese political party, Hezbollah, has something of a funding network in the region. While much of the charitable fund raising carried out in the region is undoubtedly legitimate, concerns about the use of some funds to support terrorist acts is a major concern. Other concerns about terrorist financing relate to the activities of al Qa'eda in the Mahgreb, which operates in the Sahara desert.

10. The recommendations to West African governments in the report are contained both at the end of each chapter, and also in full in the report's **conclusions**. These recommendations include issues such as: the need to upgrade tax administration systems; suggestions to enhance the regulation and monitoring of financial institutions, as well as designated non-financial businesses and professions; means to strengthen the probity and capacity of customs and air- and sea-port security; measures to improve the collection, dissemination and analysis of criminal intelligence; how to improve the investigative and other capacities of independent anti-corruption bodies; stricter regulation in areas where funds are laundered, especially real estate; and stricter customer due diligence in financial institutions and AML/CFT standards in trade finance with respect to the major oil bunkering problem in Nigeria.

11. The report finds three key areas that would benefit from further study. These are: the relation of the informal economy to money laundering, and methods of applying anti-money laundering regulation to the grey or black economy; the question of tax evasion and its connection to money laundering; and corruption, which is a major contributor to laundered funds and simultaneously weakens the preventive regulatory regimes.

# 1

## INTRODUCTION

1. This report seeks to make a contribution to analysis of the threat of money laundering and terrorist financing activity in West Africa, and also to put forward a menu of policy recommendations that should improve anti-money laundering and countering the financing of terrorism efforts in the region. The challenge, both for GIABA and individual governments across West Africa, of implementing an effective AML/CFT regime requires significant resources, in terms of both finance and expertise. Such resources can often be stretched thin, especially given the multitude of other pressing imperatives that governments face, and allocation must be carried out with efficiency. In the context of the fight against money laundering and terrorist financing, resources must be apportioned first to those areas most in need of improvement, according to relative risk. Such a judgement requires in-depth knowledge not only of the vulnerability of an area to money laundering but also of the threat; specifically, of the nature of the predicate crimes and activities from which illicit funds are derived, and of the way in which criminals seek to launder it.

### *Objectives*

2. The objectives of the investigation and subsequent report were to:
  - I. Determine the potential risks and vulnerabilities for money laundering.
  - II. Analyze the underlying factors, including practices (predicate crimes) that could engender money laundering and terrorist financing.
  - III. Attempt to quantify the extent and dimensions of the problem.
  - IV. Determine the effects and impact of money laundering on the rule of law, security, stability and overall economic development of the region.
  - V. Determine if possible, the specific impact of money laundering on the ECOWAS Regional Integration Programme.
  - VI. Determine the legal, institutional and programmatic capacity to rapidly respond to the challenges of money laundering.
  
3. GIABA stipulated that Aegis should focus its investigations and analysis on the following seven West African countries: Benin, Cape Verde, Côte d'Ivoire, the Gambia, Ghana, Nigeria,

and Senegal. The TORs stated explicitly that “the immediate objective of the project is to provide an assessment of the extent, pattern, potential impact and consequences of money laundering on the economies of the sampled Member States.”

4. In line with the terms of reference, this report seeks to examine the threat posed by the predicate offences that underpin money laundering activity in West Africa. In doing so, though, it seeks to throw light on a range of issues, including the weaknesses of AML/CFT efforts and of efforts to strengthen regional integration, as well as the consequences of money laundering for the rule of law. The report also seeks to quantify the extent of money laundering in relation to each of the predicate offences, and thereby to draw some sense of the scale and impact of money laundering in West Africa.

### *Methodology*

5. Data for analysis was collected from a wide range of sources. These included:

- An extensive and continuous desk-based review of relevant open source data on money laundering and terrorist financing in the seven West African countries under scrutiny. This included but was not limited to:
  - Local and international media and news sources;
  - Financial crime and anti-money laundering and terrorist financing organisations such as the FATF and affiliated regional bodies, and the international money laundering information network (IMOLIN);
  - Open source government data, including from the respective governments of the seven jurisdictions under scrutiny, and relevant international observers such as the us department of state and the UKFCO;
  - Local and international civil society and non-governmental organisations such as transparency international, the Kimberley process secretariat, global financial integrity, human rights watch, the tax justice network and the international crisis group;
  - International multilateral organisations such as the un, the world bank, the OECD and the IMF;
  - Complimentary internet-based media searches using a number of different search engines.

- Proprietary AML databases, including detailed information on the threats of and vulnerability to money laundering and terrorist financing in 234 jurisdictions worldwide, carried out by Aegis, which provide regular updates on the worldwide money laundering and terrorist financing environment for a variety of compliance officers in the financial sector. These updates include maintenance of the Country Anti-Money Laundering (CAML) ratings, based on a weighted index of six main criteria: the quality of regulation; the transparency of financial institutions; the quality of financial supervision; the prevalence of organised crime; the extent of corruption; and the potential for money laundering/terrorist financing. The extensive research and analysis undertaken to prepare the AML updates and to arrive at the CAML ratings has contributed to a comprehensive in-house database of intellectual property relating to the topic. The team drew on this intellectual property to support the additional desk-based research that underpinned the project, and has set out in Annex 1 of the report its numerical assessments of each of the ECOWAS jurisdictions.
  
- Specialist information collection teams were deployed to the region where, in conjunction with the support of GIABA's national correspondents in the seven jurisdictions under review, they developed and carried out a programme of in-depth interviews with a range of government officials and law enforcement officers involved in AML/CFT and law enforcement efforts in the individual jurisdictions, including:
  - Officials from government bodies in key legislative and regulatory positions, such as in the Central Bank, Ministry of Finance (or equivalent), Ministry of Trade and Industry (or equivalent), Ministry of Justice (or equivalent) and financial, free zone and other relevant regulators;
  - Officials responsible for the administration of AML/CFT regimes in the jurisdictions, particularly those working in financial intelligence units;
  - Law enforcement and criminal intelligence officials such as police, customs officials, intelligence officials and specialist anti-drugs crime, counter-terrorism and anti-economic crime officials;
  - Key employees of relevant business associations such real estate, banking, commerce and foreign exchange.

At all points the teams sought to interview key decision makers in these positions. These interviews were structured and the vast majority involved physical visits to the offices of the interviewee. At these meetings the team explained very clearly the purpose of the review and GIABA's terms of reference. The interviewees, in these cases, were aware that their input would be used to contribute to the report's findings; that the team might make explicit reference to such input in its final report to GIABA; and also that direct reference to individual officials would not be made. A number of these officials have existing close links with GIABA and a large

number were law enforcement officials or AML/CFT practitioners with close and unique understanding of the topic. Both of these points added to the weight accorded to their testimony in the development of this report's conclusions and recommendations.

- Lastly, the research teams interviewed – both formally and informally – a large number of carefully selected exclusive, and in some cases sensitive, additional sources. Some of these interviews were carried out in-country by the teams, where operational circumstances permitted. Others were carried out by the teams in-country but not as part of the formal deployments. A small number were conducted in third countries. These sources included: legal professionals; business leaders; bankers and other financial sector professionals; journalists and regional analysts; diplomats; employees of international and regional organisations; international aid agency employees; and civil society leaders. The teams conducted these interviews on the understanding that the identities of the interlocutors would not be revealed, thereby affording the interviewees maximum discretion in what they were able to disclose. It is difficult to demonstrate here the access of such sources and the accuracy of their observations. In each case, however, the team has sought to satisfy itself that the testimony of the sources can be relied on by seeking corroborative input from multiple sources and by checking the information gleaned from un-named sources against open source material and the material generated by the formal interviews. In the text of the report, the team has opted to describe the status of sources to the extent possible without revealing their identities, in order to assure GIABA of the validity of their contributions. Careful consideration has also been given to the analytical weight that the testimony of such sources should bear.

6. All interviews conducted in the course of this report have sought to ensure a degree of homogeneity through the application of standard questions on a range of issues. This approach was based on the six factors outlined above, with factors including: the nature of the AML/CFT legislation; the nature of the financial sector (both formal and informal) and the transparency of financial institutions; the implementation of the AML/CFT rules and the broader system of financial regulation; the nature of criminal activity in the state, organised or otherwise; the prevalence of corruption or related criminal activity in the jurisdiction; and those facets of the economy which might facilitate money laundering or terrorist financing (which might include a wide range of factors such as the existence of a significant precious stone sector, the real estate registration regime, or the influence of an ethnic community). These measures ensured an element of control with regard to the information collection process. Of course, each interview also had to take account of the relevant peculiar circumstances, and given that comparisons between jurisdictions are necessarily not between like and like (for instance, in West Africa some states adhere to a common law system while others apply civil law), interviewers also had to include additional questions to take differences into account and did depart from this process on some few occasions. As such, the interview process sought to combine the rigour of a controlled system of questioning with freedom to respond to local circumstances. In terms of sources, the team has made no payments nor provided other inducements to any in-country

sources. Payments have, however, been made to specialist consultants and advisors where necessary to seek their input in order to ensure delivery of the highest quality of information to GIABA.

7. Once the data had been collected, a process of objective analysis was carried out. The bulk of this report focuses on analysis of the collected information, rather than on the application of particular money laundering models to the data. The traditional theoretical approaches to money laundering, such as that of dividing the process into three stages – *placing* the money into the system, *layering* the funds to hide their origin, and *integrating* them by converting them into legitimate assets – are of great value for assessing the nature of an offence. However, their application may be confusing when applied to certain offences, such as counterfeiting, where entering a forged bill into circulation amounts to placing, layering and integration simultaneously. The researchers were, though, highly aware of such models and sought at all points to integrate them into their thinking. In addition, a strict legal assessment of each jurisdiction’s AML/CFT regime was not central to the process and presentation of analysis because GIABA’s Mutual Evaluation process tackles such aspects extremely effectively. Instead, this report focuses more on the political economy and threat of money laundering in the relevant jurisdictions so as not to replicate previous work. Legal considerations were also, however, taken firmly into account throughout the process of analysis.

8. The data collection and investigation was conducted on a country-by-country basis, due to considerations of both logistics and understanding. Nevertheless, the subsequent analysis was made and is presented on both a regional and a country-specific basis as appropriate.

9. Throughout the process of research, the team collecting the information and compiling the report sought to ask three key questions. First, the team asked: where is the money coming from? As such, this report focuses on the predicate offences fuelling money laundering. The research team drew up a list of major predicate offences based on analysis of the information gathered; the list is not exhaustive, but includes the most significant predicate crimes with regards to money laundering and terrorist financing. Each of these predicate crimes thus receives individual focus in the report.

10. Second, the team asked: how is the money being laundered? Each section of the report seeks to identify the key processes of laundering. Striking similarities between sectors have emerged from this assessment, with classic areas of vulnerability such as real estate, precious metals, jewellery, and high value consumer durables playing a key role in the laundering process. Of course, financial institutions and instruments also come under consideration. Much laundering mirrors the economic activity of West Africa, and in this context it appears that perhaps the most important sector of concern is real estate, which is also one of the most popular means by which to store value – both legitimate and illegitimate – in West Africa. GIABA has already addressed this issue in a recent typologies report on real estate and money laundering.<sup>1</sup> However, gold smuggling in Ghana, the export of diamonds from Liberia and Sierra Leone

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<sup>1</sup> GIABA, *Typologies of Money Laundering through Real Estate in West Africa*, February 2009

through Côte d'Ivoire and the export of oil from Nigeria are among other significant sources of funds and methods of laundering.

11. Finally, the team asked: where is the money going? Consequently, this report assesses the direction of laundering flows, albeit subject to the major difficulties in following illicit financial flows into or out of a jurisdiction. The report has identified a number of key patterns of movement, for instance from Côte d'Ivoire to Lebanon, or from Nigeria to the UK's offshore financial centres or Switzerland. Generally, though, the pattern is one of financial outflows from the region, resembling the difficulties some West African states have in attracting inward foreign direct investment. Notwithstanding this conclusion, some jurisdictions have appeal as places to launder funds. Such activities tend to have links to existing flows of contraband, particularly to drug traffickers..

12. While the findings presented in this report are based firmly on fact, there are, in both practical and analytical terms, there are a number of political, social and economic constraints to which this report is subject. Research was occasionally limited by the scarcity of some relevant data on crime, criminal finance and financial intelligence, owing to weaknesses in data collection in West Africa, the size of the informal economy and, more generally, the opacity of crime. Other difficulties emerged with regard to definitions; indeed, some crimes act as a catch all (such as fraud, which might include embezzlement, insider trading and deception). The report takes a broad approach, however, so as to avoid comparative legal assessment of offences in each jurisdiction, and instead to broadly assess the political economy of the predicate offence of money laundering in West Africa: for instance, the chapter on informal economy covers offences such as tax evasion as well as broader non-criminal practices that facilitate money laundering. In addition, the reliability of some of the data collected rests to a certain extent on the trustworthiness of sources interviewed – both those in-country and those elsewhere. However, the reliability or otherwise of data was then taken into account in analysis. Indeed, where possible the team sought routes around all limitations; and where appropriate tempered the conclusions.

13. Furthermore, in seeking to quantify the extent of the threat of money laundering and terrorist financing in West Africa, the report contains a number of estimations of the amount of money derived from various different predicate crimes that is laundered in the region annually. Making such estimates is fraught with pitfalls: the available figures from which to make calculations are often incomplete; they sometimes do not correspond exactly with the particular definition of a crime used in the report; and, most importantly, a significant amount of the real level of crime is unreported, and thus any estimation must account for a necessarily unknown quantity. Nevertheless, utility exists in making such estimates where possible, notwithstanding the limitations, since they provide a rough guideline to the scale of the problem. In cases where estimates have been made in the report, therefore, the imperfections and weaknesses particular to that calculation have been noted, so as to prevent misapprehensions with regard to their nature.

14. The project highlighted three key areas for further assessment. First, the report concludes that much illicit money simply disappears into the informal economy, and consequently the size of the informal economy in the region constitutes a significant vulnerability in terms of

preventing money laundering and the financing of terrorism. In this context, an assessment of how best to expand regulatory control of the informal economy would be of great value in strengthening AML efforts. Second, a related concern is the scale of tax evasion in West Africa. This report details both tax evasion which occurs because of the scale of operations within the informal economy and tax evasion carried out by entities, including multinational corporations, operating in the formal economy. The money lost has a significant negative impact on state capacity. Given the scale of the problem, a more detailed study dedicated solely to tax evasion and money laundering, and in particular to the means by which successful West African AML/CFT regimes can enhance the tax receipts of governments in the region, would be of the greatest value. The third and final area in need of greater assessment is that of corruption. Corruption plays a dual role in terms of money laundering in West Africa, first by contributing to the flows of illicit funds laundered and second by weakening those very institutions that tackle money laundering, such as the regulatory and law enforcement authorities. In this context, further study of the nexus between money laundering and corruption in West Africa would be of the greatest benefit in tackling these offences .

## 2

### INFORMAL ECONOMY

1. West Africa's economy is predominantly characterised by informal activity. The term 'informal economy' simply refers to all economic activities by workers and economic units that are, in law or in practice, covered insufficiently or not at all by formal arrangements.<sup>2</sup> In very general terms, the informal economy is the unregulated non-formal portion of the market economy that produces goods and services for sale. The many street traders and vendors throughout the region working unregistered and unregulated are the most visible part of the informal economy, but small-scale modern manufacturing and service enterprises linked to national and even international markets are often at the core of the informal economy.

2. The informal economy in West Africa is large; the French Development Agency (AFD) estimates that in Benin and Senegal the informal economy accounts for as much as 60% of GDP<sup>3</sup>, and as such is valued in these two countries respectively at about \$3.3 billion and \$6.5 billion.<sup>4</sup> A measure of between 60% and 70% of GDP is probably representative of the region. The informal economy is, though, difficult to gauge, and measures are not always representative of its importance. This problem is most acute in states with important commodity export sectors, since exports often provide value disproportionate to their impact on the local economy. The distinction between formal and informal is most visible in the labour market. In Benin, estimates as to the proportion of the labour force that works in the informal sector are as high as 80% to 95%,<sup>5</sup> while in Ghana approximately 80% of the labour force may work in the informal sector.<sup>6</sup> According to the World Bank the formal sector in Senegal accounts for only three percent of the jobs created every year.<sup>7</sup>

3. The informal economy in West Africa is almost entirely cash and commodity based, and throughout the region, cash is used to purchase most things, including high-value goods such as electronics, cars and land.<sup>8</sup> According to the World Bank, across Africa more than 80% of households do not use formal banking.<sup>9</sup> Legal experts in Accra, for instance, estimate that 80%

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<sup>2</sup> UN paper, 2006, *Rethinking the Informal Economy: Linkages with the Formal Economy and the Formal Regulatory Environment*

<sup>3</sup> Inter Press Service News Agency, Africa: Informal Sector Also Needs Skills Training, 11 June, 2008

<sup>4</sup> Calculations based on African Development Bank Macroeconomic Indicators, 2007

<sup>5</sup> Inter Press Service News Agency, 11 June, 2008, Africa: Informal Sector Also Needs Skills Training, and 'Benin Country Profile', Business Anti-Corruption Portal, <http://www.business-anti-corruption.com/country-profiles/sub-saharan-africa/benin/background-information/>

<sup>6</sup> The Statesman (Ghana), 30 April 2007, The informal sector in Ghana

<sup>7</sup> AFP, January 2007

<sup>8</sup> Interview with insurance officials in Abuja, December 2008; Interview with customs official in Abidjan, November 2008

<sup>9</sup> The World Bank, 2009, *Africa-Development in the Private Sector*

of Ghana's economy is cash based,<sup>10</sup> while in Nigeria, the Central Bank of Nigeria asserts that only approximately 23% of the population have a bank account.<sup>11</sup> The largely unbanked nature of the economy stems from a number of factors such as a lack of trust between bank and customer, compounded by cultural barriers.<sup>12</sup>

4. Furthermore, one should note that the practices that are observed in the informal sector go against standard requirements for banks on transparency of financial operations, accounting procedures and compiling financial statements. As result, many potential clients do not access regular bank services. Those excluded from the formal services, however, will turn to a decentralized financial system as a makeshift solution in most of the West African countries, as this suits their situation better. This decentralized system has developed significantly, as evidenced by the large number of clients in each of the countries, and the volume of deposits amounting to billions of CFA francs. Through this system, the stakeholders in the informal sector mobilize savings and benefit from small funds which enable them to create wealth in their national economies. Increased and appropriate vigilance must be deployed to protect this special week financial link through which a considerable amount of money is channelled into the global financial system. Otherwise, its close link to the informal sector and its practices will expose the latter to money laundering.

5. The limited capacity of the formal economy to absorb surplus labour is also significant, while weaknesses in regulatory enforcement and corruption have also allowed informal economies to flourish across the whole of Africa. This situation is a continent-wide phenomenon, although Cape Verde is exceptional within the region: according to an official within the central bank in Praia, the majority of Cape Verdeans have bank accounts.<sup>13</sup>

6. The lack of banks offering formal clearing facilities has provided space for informal value transfer systems that are vulnerable to money laundering. Remittance companies in effect act as payment systems facilitating the transfer of funds for domestic and foreign trade, and offering limited deposit facilities. Groups which transfer funds in an informal manner, such as hawala,<sup>14</sup> have a presence throughout Africa, but their presence is more widespread in East Africa, although hawala is uncommon in West Africa. Nevertheless, a variety of informal value transfer systems have proliferated in West Africa: in Senegal, for instance, the African Development Bank estimates that 46% of money transfers are informal.<sup>15</sup> As much as 70% of these are transferred in the carrier system, which consists of an individual carrying large amounts of cash, usually in excess of \$15,000, and travelling to the country for distribution. Closer compliance with FATF Special Recommendation IX on cash couriers would limit this activity.

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<sup>10</sup> Interview with lawyers in Accra, February 2009

<sup>11</sup> The World Bank estimates this proportion at 21%: World Bank, *Africa-Development in the Private Sector* (2009)

<sup>12</sup> Interview with Ghana Real Estate Developers Association in Accra, February 2009

<sup>13</sup> Interview with Central Bank officials in Praia, March 2009

<sup>14</sup> *Hawala* systems operate through a network of individuals or 'hawaladars' who act as money brokers. The *hawaladar* contacts another broker in a recipient city, instructing them to release funds to the relevant person; the two sides confirm the arrangement by giving out passwords. All transactions are carried out by a series of promises based on honour rather than legal rights. The balance owing between the hawaladars is settled usually through trade or by writing off a debt owed to the same value as the loan given. Interpol, *The hawala alternative remittance system and its role in money laundering*, 2000

<sup>15</sup> African Development Bank, 2008, *Migrant Remittances: A Development Challenge*

Another system is generally referred to as ‘fax’, and usually consists of a trader based in Senegal handing over money to a beneficiary in exchange for goods or other merchandise sent by a friend or relative living abroad.<sup>16</sup> . A recent study by the Senegalese CENTIF on alternate remittances has confirmed such practices.

7. Senegal is not alone. Cape Verde’s economy has long been dependent on emigrant remittances. In particular, the Cape Verdean community in the north-east US sends large sums of money to the islands,<sup>17</sup> often through informal value transfer systems, as well as through deals between local businesses. However, cash transfers are probably more common; numerous money service businesses in the main diaspora countries transfer funds cheaply and quickly. According to the International Fund for Agricultural Development, in 2006 \$391 million – or 34.2% of Cape Verde’s GDP – entered Cape Verde as remittances.<sup>18</sup> The number of illegitimate foreign exchange traders on the streets of Praia is evidence of the amount of foreign money entering the country by informal means. These two countries are demonstrative of a problem throughout the region.

8. The informal economy presents significant conceptual difficulties for an appraisal of money laundering. A strict application of currency and other regulations renders many informal transfers criminal, despite their essential roles in local economies and communities.

9. A significant amount of criminal activity is, though, hidden within and associated with the informal economy. This chapter will not classify all informal economic activity as criminal. Instead, we shall focus on two key predicate offences related to the informal economy – tax evasion and smuggling, including the key vulnerability of cash smuggling. It must be noted that these offences are closely linked( without taxes and border controls, smuggling amounts to no more than legitimate trade).<sup>19</sup>

### *Tax evasion*

10. Tax evasion is a predicate offence for money laundering, as well as a significant weakness – most prominently in terms of budgetary revenues – for many states in West Africa. The scale of the problem for West African governments is dramatic. Nigeria is the region’s biggest economy but taxes amount to a mere 6.1% of Nigeria’s GDP of about \$170 billion.<sup>20</sup> The reasons are manifold; one is that double taxation charged by both federal and state governments discourages some companies from making fair tax declarations.<sup>21</sup> Other states in West Africa face different problems. The government of Côte d’Ivoire, where large swathes of the country have been beyond government control since the uprising in 2002, has only collected tax from those parts of the country under its administration, although this problem is easing as an

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<sup>16</sup> Report from Senegalese legal expert commissioned by Aegis, London, March 2009

<sup>17</sup> Interview with Procuradia Geral officials, Cape Verde, March 2009

<sup>18</sup> International Fund for Agricultural Development (IFAD), 2006, *Sending Money Home: World Remittance Flows to Developing and Transition Countries*

<sup>19</sup> Nordstrom, Carolyn, *Global Outlaws: Crime, Money and Power in the Contemporary World*, London, 2007

<sup>20</sup> Heritage Foundation, *Index of Economic Freedom*, 2009

<sup>21</sup> Interview with a Federal Inland Revenue Services official in Abuja, December 2008

administrative presence returns to the north.<sup>22</sup> Throughout West Africa, low-level tax evasion is also prevalent: street traders operate without a license, taxis are unregistered and many employees from all sectors do not declare their earnings. National administrations generally lack the resources or political will to engage in lengthy investigations into tax evasion cases, while corruption facilitates evasion.

11. Certain sectors have a particular reputation for non-payment of taxes. For instance, self employment accounts for 70% of informal employment in Sub-Saharan Africa; if South Africa is excluded, the share is 81%.<sup>23</sup> Typically, self-employed individuals do not pay themselves a regular wage or pay taxes, meaning that swathes of the economy remain outside formal tax collection. In this context, real challenges also exist in implementing a system of standardized invoices to enforce value added tax (VAT). In Ghana, for example, registered businesses are obliged to charge 12.5% VAT and 2.5% National Health Insurance Levy (NHIL) on all taxable sales.<sup>24</sup> They are also obliged to keep records of sales and purchases, invoices and VAT/NHIL charged and paid, and to submit monthly returns of sales and purchases made.<sup>25</sup> It is, however, common practice for Ghanaian businesses to operate with two types of receipt. The first is for the VAT inspector and cannot be tampered with; a second receipt, kept away from the eyes of the taxman and issued to customers, distorts the reality of the transaction, most often purporting that no sale or service has been done. The same media reports state that this practice is common among some ethnic minorities in the region.: Tax officials in Côte d'Ivoire also pointed to the non-payment of goods and services tax as the biggest problem faced by the tax collection authorities in the country and the main tax-related predicate offence for money laundering purposes.<sup>26</sup>

12. Failure to pay taxes is by no means limited to those people who work for themselves; those with regular wages also avoid paying tax. According to Inland Revenue authorities in Lagos, it is particularly difficult to prove the wages companies pay their employees and tax their income.<sup>27</sup> High-level tax evasion is also extremely significant. Wealthy individuals and high income earners purposefully exploit their privileged status to undermine national tax regimes. High net worth individuals and corporations dodge taxes by withholding tax documentation, understating their revenue and diverting cash into hidden accounts or assets.<sup>28</sup>

13. Indeed, multinational corporations are also guilty of evading taxes owed to states in West Africa. Differing tax rates across the world incentivise corporations to shift taxable income through mispricing. A domestic parent company headquartered in a low-tax jurisdiction, which has a foreign affiliate operating in a high-tax jurisdiction may over- or under-invoice imports and exports of goods or services between such branches to avoid higher taxation. The widespread paying of bribes by companies and the receipt of bribes within tax administrations and at border

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<sup>22</sup> Interview with tax authorities in Abidjan, November 2008

<sup>23</sup> World Bank, 2004, *The Informal Economy*

<sup>24</sup> PriceWaterhouseCoopers, *A Quick Guide to Taxation in Ghana*, 2006

<sup>25</sup> PriceWaterhouseCoopers, *A Quick Guide to Taxation in Ghana*, 2006

<sup>26</sup> Interview with tax officials, Abidjan, November 2008

<sup>27</sup> Interview with Federal Inland Revenue Authorities, Abuja, December 2008

<sup>28</sup> Ibid.

points worsens the situation. The US oil company Halliburton admitted that its officials had paid bribes amounting to \$2.4 million to tax officials in Nigeria in return for favourable tax treatment worth more than \$14 million.<sup>29</sup> Offshore financial centres often play a key role in such transactions, since degrees of opacity are essential for criminal to prevent law enforcement agencies from tracking transactions.

14. Quantifying amounts lost to tax evasion is difficult; neither the World Bank nor the International Monetary Fund (IMF) have tried to investigate or quantify tax evasion, but according to one expert from the World Bank, tax evasion and other forms of corruption are estimated to reduce tax revenues in some countries by as much as 50%.<sup>30</sup> Using this top-end estimation with the US Central Intelligence Agency's figures for the seven jurisdiction's budgetary revenues in 2008, a rough approximation for the value of tax evasion in the seven countries studied is \$43.5 billion. Research by the Ghanaian Ministry of Justice conducted in 2006 revealed that 12 sampled companies owed nearly 12 billion cedi (\$8.4 billion) in unpaid taxes.<sup>31</sup> The British non-governmental organisation (NGO), Christian Aid, has calculated that just two forms of tax evasion by major corporations – transfer mispricing<sup>32</sup> within multinational corporations and falsified invoicing between apparently unrelated companies – cost the developing world \$160 billion per year in lost revenue.<sup>33</sup>

15. In Africa as a whole, losses linked to transfer mispricing may exceed \$10 billion a year.<sup>34</sup> The seven jurisdictions that are the focus of this study comprise about 14.4% of Africa's total GDP.<sup>35</sup> Assuming that losses linked to transfer mispricing correlate with GDP,<sup>36</sup> a proportionate figure of losses for the jurisdictions under scrutiny would amount to about \$1.44 billion. This figure, though, is the broadest estimate, since the earnings of multinational firms vary enormously between states depending on the nature of the economy; for instance, Nigeria, as the pre-eminent oil producer will suffer more from this phenomenon than countries producing less valuable commodities.

16. The movement and concealment of funds derived from tax evasion differs, often according to their origin. Many small-scale funds derived from tax evasion and connected to entities already operating in the informal sector simply remain in the informal economy, essentially forming additional revenue for the business or individual. These actors may save the

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<sup>29</sup> Tax Justice Network for Africa, *Looting Africa: Some Facts and Figures*, December 2006

<sup>30</sup> Interview with David Kaufman, Global Governance Director, World Bank, quoted in UK Africa All Party Parliamentary Group, 2006, *The Other Side of the Coin: the UK and Corruption in Africa*

<sup>31</sup> Daily Graphic (Ghana), 5 December 2006, Who pays taxes in Ghana

<sup>32</sup> Transfer mispricing, or the deliberate abuse of transfer pricing, is a major conduit for illicit financial flows. Companies avoid taxes by mispricing trade transactions between different jurisdictions and subsidiaries, allowing their profits to be moved offshore without being taxed. Transfer mispricing can be done by over-invoicing imports and under-invoicing exports and re-invoicing through an apparently unrelated partner in an offshore territory.

<sup>33</sup> Christian Aid, *Death and Taxes: the True Toll of Tax Evasion*, May 2008

<sup>34</sup> Tax Justice Network for Africa, *Looting Africa: Some Facts and Figures*, December 2006

<sup>35</sup> African Development Bank, *Macroeconomic Indicators*, 2007

<sup>36</sup> A country's GDP is one major indicator of that country's level of multi-national corporate activity – and the threat, therefore, of exposure to transfer mispricing. Nevertheless, there are a number of weaknesses with assuming this as a statistical correlation, and a number of other important variables that are much less easily quantifiable are not included. The figure arrived at must, therefore, be viewed within its analytical constraints.

additional funds, with real estate being the most popular means to hold value. Evidence suggests that illicit proceeds have flooded into the region's booming property industries, for instance in Accra, and Cape Verde, alongside much legitimate money.<sup>37</sup> Vulnerabilities in the real estate sector are of significant threat; few questions are asked within the sector about the origin of funds as developers fear losing out to less scrupulous competitors.<sup>38</sup> In Cape Verde, undeclared inflows into the unregulated property sector avoid property and capital gains taxes. A common practice involves under-declaring the value of properties to the Land Registry, thus reducing the total amount paid under Cape Verde's 3% sales tax.<sup>39</sup> Tax evaders also spend their artificially boosted incomes in a manner compatible with their wealth and status. Larger sums of money thus enter the formal economy through the purchasing of high value goods such as luxury cars.<sup>40</sup> Some of the illegal proceeds will enter the formal financial system, for instance as overstated profit in business transactions. In addition, multinational companies who derive funds from tax evasion – often through transfer mispricing – generally reprocess the money in the formal sector, often within the same business conglomerate through subsidiaries, and ultimately use it to bolster net profits. In the context of these forms of tax evasion, effective enforcement of customer due diligence measures (as set out in FATF Recommendations 5, 6, 11 and 12) are crucial to prevent the laundering of funds derived from tax evasion.

### *Smuggling*

17. Smuggling is a major source of illicit revenues. Porous borders, non-government controlled territories and weak security are present throughout the region. As a result of these and other factors, smuggling is especially difficult to detect, interdict and quantify in West Africa. The Economic Community of West Africa States (ECOWAS) is committed, with certain caveats, to attaining the free movement of goods, capital and persons, which is an added challenge to dealing with smuggling. Such a policy is, of course, a highly positive step in terms of the region's economic development. Effective supervision, though, is essential but difficult. The ECOWAS rules are complex and their abuse results in smuggling; in certain jurisdictions some commodities are banned or exempted from the ECOWAS provisions, while importers are not permitted to bring in certain goods from outside ECOWAS. In addition, formal declarations or requests for permission are necessary to trade in certain goods.<sup>41</sup> When traders fail to comply

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<sup>37</sup> Interview with Ministry of Finance officials, Accra, February 2009; Interview with Central Bank in Praia, March 2009

<sup>38</sup> Interview with Portuguese Africa analyst, London, March 2009

<sup>39</sup> Ibid.

<sup>40</sup> Interview with Tax Department, Abidjan, November 2009

<sup>41</sup> In Nigeria, for example, the following commodities are banned: nylon tyre core, multifilament nylon chafer fabrics and tracing cloth, mattress tickings, narrow fabrics, trimmings and linings, made-up fishing nets, gloves for industrial use, canvas fabrics for manufacture of fan belts, moulding cups lacra, elastic bands, motifs, textile fabric and articles for technical use, transmission or conveyor belt or belting of textile materials, poly propylene primary backing materials, fibre rope, mutilated rags, sacks and bags, men's footwear and bags of leather and plastic (excluding ladies), soap and detergents, furniture, assembled bicycles, flowers, fresh fruits, cutlasses, axes, spades, shovels, wheel barrows, pork and pork products, mutton, lamb and goat meat, toothpastes, pencils, ball point pens, plastic plates, knives, spoons, forks, cups, buckets, bowls, bins containers and hangers, barites and bentonites, vegetable oil, corrugated boards and cartons, live and dead birds.

with these rules their actions may amount to a predicate offence for the purposes of money laundering.

18. The border between Benin and Nigeria is reflective of the problem of smuggling in West Africa. Close ethnic ties between indigenous inhabitants especially those living along the borderline, predominantly amongst the Eguns,<sup>42</sup> and weak frontier policing facilitate intense commercial and smuggling activity between the two countries. Most indigenes of Badagry and Idiroko have dual nationality and families often straddle the border.<sup>43</sup> Some ethnic groups from the Nigerian side rent or own flats on either side of the border – especially along the creeks in Badagry and the littoral areas of Cotonou – that act as bases from which groups carry out smuggling.<sup>44</sup> It is generally difficult to identify the perpetrators of this crime because of extended family ties and similarities in language.

19. Smuggling at the border is prolific. Beninese in Cotonou and Port Novo and Nigerians living in Badagry (Lagos State) and in Idiroko (Ogun State) trade used automobiles, used clothes and shoes across the border. Oil tankers smuggle fuel to Benin and return to Nigeria with contraband. Ambulances and hearses that transfer injured persons and corpses to Benin also bring in smuggled goods.<sup>45</sup>

20. One practice is to conceal valuable goods amongst commodities with low import tariffs in order to avoid paying full import tax.<sup>46</sup> Indeed, along all of Nigeria's borders, smuggling is at very high levels: in 2008, the total value of seized goods in reported cases of smuggling – excluding cases that involved drugs or cash – was 3.63 billion naira (\$24.5 million).<sup>47</sup> Such an environment is not unique to the border between Nigeria and Benin, and is common across the region. In Côte d'Ivoire, for instance, illegal trade across the border with Ghana is extensive in commodities such as motorcycles and textiles.<sup>48</sup>

#### *Diamonds, cocoa and arms: key contraband commodities*

21. Certain commodities are moved extensively throughout the region. Perhaps the most renowned contraband flow in the region is the illicit diamond trade. The main producers of diamonds in West Africa are Liberia and Sierra Leone, and to some extent Guinea and Côte d'Ivoire. Diamonds are easy to smuggle and are a crucial money laundering tool because they are portable and easily concealable in a person's belongings when travelling. Much of the diamond trade passes through jurisdictions that neighbour producing countries. For instance, sources in Abidjan suggest that considerable volumes of diamond were smuggled from Liberia through Côte d'Ivoire to the international market.<sup>49</sup> In September 2005, investigations

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<sup>42</sup> The Eguns (on the Nigeria and Benin side) and Fons (on the Benin part of the border) share a lot of religious and cultural affinities and inter-marry

<sup>43</sup> Based on onsite visit to border and meetings with law enforcement professionals, Abuja, December 2008

<sup>44</sup> Based on onsite visit to border and meetings with law enforcement professionals, Abuja, December 2008

<sup>45</sup> Based on onsite visit to border and meetings with law enforcement professionals, Abuja, December 2008

<sup>46</sup> Interview with Nigeria Customs Services, Lagos, December 2008

<sup>47</sup> Ibid.

<sup>48</sup> Interview with economic police representative, Abidjan, November 2008

<sup>49</sup> Interview with western diplomat, Abidjan, November 2008

by Global Witness (an international non-governmental organisation that works to prevent the corrupt exploitation of natural resources) revealed that diamonds mined in rebel-held Forces Nouvelles areas in northern Côte d'Ivoire were being smuggled into Mali and Guinea.<sup>50</sup> In general, the diamonds are moved to markets in Surat in India and Antwerp in Belgium. According to the Indian Directorate of Revenue Intelligence, diamond traders in Surat often receive diamonds smuggled on fishing boats. Once arrived at destination, their origins become difficult to trace and they can be sold on with forged Kimberley certification, which is available illegally in Abidjan amongst other West African cities.<sup>51</sup>

22. A number of laundering techniques are used in relation to diamonds; for instance, the undervaluation of diamond exports and use of double invoicing are common means to transfer value.

23. Calculating the value of the illicit diamond trade is difficult, partly due to the predominance of artisanal mining in the industry. Variations in price are significant: local diggers in Sierra Leone, for example, are thought to sell their diamonds for as little as a fifth of their value.<sup>52</sup> In one reported incident, a diamond dealer paid a miner \$30,000 for a large diamond and promptly sold it to an exporter for \$180,000.<sup>53</sup> A broad assessment is possible, however. In 2007, Guinea, Sierra Leone and Liberia officially produced \$191 million worth of diamonds.<sup>54</sup> These figures are questionable, though: Sierra Leone's official export figures, for instance, may significantly understate the country's production levels. Sierra Leone's official figures value production at \$142 million worth of diamonds a year, but in 2006 the Peace Diamond Alliance estimated that production could be worth as much as \$400 million a year.<sup>55</sup> Given these figures, illegal production is worth about \$258 million, which is leaving the country across land and sea borders; undoubtedly, some of these diamonds are traversing the territory of the seven jurisdictions which are the focus of this report.

24. Cocoa is another commodity frequently smuggled in the region. Some 40% of the world's cocoa comes from Côte d'Ivoire; it comprises 35% of the country's export earnings.<sup>56</sup> During the conflict in Côte d'Ivoire, hundreds of thousands of tons of cocoa were allegedly smuggled into surrounding West African countries. Beans were smuggled from both rebel-held and government-controlled areas. In 2005, the Ivorian Minister of Economy and Finance claimed that for several years at least 300,000 tonnes of cocoa per year have been smuggled out of Côte d'Ivoire into neighbouring West African countries – representing about 20% to 25% of total official output.<sup>57</sup> Cocoa analysts in Abidjan noted that this created two particular smuggling routes for cocoa.<sup>58</sup>

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<sup>50</sup> Global Witness, *Making it work: why the Kimberley process must do more to stop conflict diamonds*, November 2005

<sup>51</sup> Indian Express, 25 June 2007, Blood Diamonds being processed in Surat

<sup>52</sup> Global Witness, *The Truth About Diamonds*, November 2006,

<sup>53</sup> The New York Enquirer, 26 July 2006, Dirty Diamond Industry: De Beers Makes Something out of Nothing

<sup>54</sup> Kimberley Process 2007 Production Report

<sup>55</sup> Diamond Industry Annual Review, 2006

<sup>56</sup> Global Witness, *The Truth About Diamonds*, November 2006

<sup>57</sup> Voice of America, 22 September 2005, Ivory Coast Cocoa Allegedly Being Smuggled to Neighbours

<sup>58</sup> Ibid.

25. Firstly, cocoa in the government-controlled south is smuggled to or from Ghana depending on the state of the market: Ghana, through the Ghana Cocoa Board (COCOBOD), has relatively controlled cocoa prices, whereas the price of beans in Côte d'Ivoire is more closely aligned to international prices, so the beans move across the Ghana-Côte d'Ivoire border depending on their relative price in the two countries. There can also be a high demand for Ghanaian cocoa beans in Côte d'Ivoire due to their generally higher quality.<sup>59</sup> Estimates suggest that between 30,000 and 50,000 tonnes of cocoa cross the border between Ghana and Côte d'Ivoire annually.

26. Secondly, in the north of Côte d'Ivoire, where in some areas government control is limited, cocoa is smuggled to Burkina Faso. As much as 20,000 to 40,000 tonnes of cocoa are smuggled annually to Burkina Faso, where it is sent to ports in Togo for export.

27. Cocoa is a significant source of government revenue in countries like Côte d'Ivoire and Ghana.<sup>60</sup> Profits from government plantations tend to fund government spending, and cocoa profits in general have played a role in the crisis in Côte d'Ivoire. A UN Panel of Experts has estimated that 20% of government military spending had come directly from the cocoa industry in the form of contributions, loans and grants.<sup>61</sup> Profits generated from cocoa in the north of the country may have funded rebel activities.<sup>62</sup> For ordinary smugglers, though, the funds amount to increased revenues; farmers may reinvest such increased earnings back into agricultural production or into additional spending. Using the above figures as a basis for an estimate, the value of cocoa smuggled out of Côte d'Ivoire would amount to about \$849 million on estimates of price at \$2,830 as at 14 July 2009 taken from the London International Financial Futures and Options Exchange (LIFFE). The contraband cocoa travelling north to Burkina Faso is valued at between \$56 million and \$113 million, and of that travelling between Côte d'Ivoire and Ghana at between \$77 million and \$126 million. The remaining cocoa most likely travels to Liberia, Guinea and Mali, as well as leaving Côte d'Ivoire through its ports, although the two routes outlined above are the most popular.

28. The smuggling of illicit commodities, such as guns, is a major source of illicit funds. Arms trafficking is most prevalent in areas of rebel activity, such as the Niger Delta and northern Côte d'Ivoire. The leader of the main militant group in Nigeria, the Movement for the Emancipation of the Niger Delta (MEND), Henry Okah, was last year accused of gun-running and arrested in Angola.<sup>63</sup>

29. Weapons used in illegal oil bunkering come from South Africa, Democratic Republic of Congo and Angola primarily by sea.<sup>64</sup> The Nigeria Customs Service (NCS) says the operation of

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<sup>59</sup> Ghana Business News, 1 January 2009, Cocoa Alert: Ghana Cocoa to be Smuggled into Ivory Coast

<sup>60</sup> Interview with tax officials, Abidjan, November 2008

<sup>61</sup> Global Witness, *Natural Resources in Conflict*: [http://www.globalwitness.org/pages/en/natural\\_resources\\_in\\_conflict.html](http://www.globalwitness.org/pages/en/natural_resources_in_conflict.html)

<sup>62</sup> Ibid.

<sup>63</sup> Reuters, 5 March 2008, Nigeria Charges Oil Delta Rebel Okah with Treason

<sup>64</sup> Interview with residents in Niger Delta, Port Harcourt, November 2008

unauthorised private jetties allows for the smuggling of arms and ammunitions.<sup>65</sup> Nigeria's waterways, NCS assert, are porous, poorly patrolled by security agencies and open to criminal activities. The NCS also states that it lacks funding to purchase and deploy armed assault boats to address the activities of criminals on the waterways – most of which are in the southern part of Nigeria. . Many NCS officers state their reluctance to being posted to NCS Marine Corps because of the hazards of the job; in 2005 nine officers lost their lives whilst in pursuit of criminals.

30. Waterways are not the only means by which arms enter Nigeria. Hearses, ambulances and oil tankers have been caught trying to smuggle arms and ammunition into Nigeria from Benin Republic. Ammunition is reportedly smuggled in spare tires and through other means.<sup>66</sup> Another ruse used on that border is to conceal arms in ECOWAS approved commodities so that during spot checks customs officers find ECOWAS goods and wave shipments through.<sup>67</sup>

31. In Côte d'Ivoire, where a UN arms embargo was imposed in 2004, arms continue to be trafficked over the northern and western borders to supply militia groups there.<sup>68</sup> According to UN officials in Abidjan, the border where Liberia, Guinea and Côte d'Ivoire meet is a hot spot for arms smuggling.<sup>69</sup> Most of these are small arms coming in from across West Africa. Trucks loaded with yam, bags of maize, rice, textiles, sand and stones are used to hide weapons and ammunition.<sup>70</sup> There are also fears that arms smuggling could resume in Senegal's Casamance region as a result of the instability in Guinea-Bissau.<sup>71</sup>

#### *Laundering techniques*

32. A crucial means to launder funds derived through smuggling is through trade-based money laundering, which is the process of disguising the proceeds of crime and moving value through the use of trade transactions. In practice, this can be achieved through the misrepresentation of the price, quantity or quality of imports or exports in order to transfer additional value across borders.<sup>72</sup> The most common techniques of trade-based money laundering in Nigeria, for example, include over- and under-invoicing of goods and services and falsely describing goods and services.<sup>73</sup>

33. Other methods include multiple invoicing of goods and services.<sup>74</sup> Customs services struggle to determine if receipts displayed for verification at the points of entry are genuine or

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<sup>65</sup> Interview with Nigeria Customs Service in Abuja, December 2008

<sup>66</sup> Based on onsite visit by Aegis staff and conversations with law enforcement professionals, Abuja, December 2008

<sup>67</sup> Interview with Nigeria Customs Service, Lagos, December 2008

<sup>68</sup> Interview with western diplomat in Abidjan, November 2008

<sup>69</sup> Interview with UN Police in Abidjan, November 2008

<sup>70</sup> Interview with UN Police in Abidjan, November 2008

<sup>71</sup> Interview with Guinea-Bissau analyst, London, March 2009

<sup>72</sup> Financial Action Task Force, *Trade Based Money Laundering*, June 2006

<sup>73</sup> Interview with Nigeria Customs Services, Lagos, December 2008

<sup>74</sup> Financial Action Task Force, *Trade Based Money Laundering*, June 2006

not.<sup>75</sup> Customs and port authorities may also tend to focus on classic smuggling, rather than on misallocations of price on legitimate imports, especially if these occur in small amounts on numerous shipments. Corruption is also a concern, with prominent businesses, such as car importers, working closely with port authorities in certain jurisdictions. In this context, port security is a major concern.

34. Export processing zones (EPZs), also known as Special Economic Zones, represent a particular vulnerability in this context. EPZs generally offer low or zero tariffs on imports of goods for re-export, often subject to provisions obliging companies in the zones to employ local workers. The zones can be geographic in nature or they can amount to little more than a legal status enjoyed by companies in the export processing sector; most EPZs in West Africa are geographic in nature, and countries including Ghana, Nigeria and Senegal offer or are developing forms of EPZs. These zones are purposefully designed with ease of access in mind, in order to attract business and promote economic growth. The relatively high volume of goods flowing into and out of them makes satisfactory due diligence, monitoring and policing on cargos in line with the FATF Recommendations difficult, and smugglers are attracted by this same feature.

35. Insufficient due diligence regarding business investments in free zones is reported: NEPZA has low levels of manpower and expertise to dedicate to due diligence, and even when a red flag is raised in connection with a source of funds, the resulting further investigations are often significantly constrained by the lack of resources. A further weakness is that companies in the export zones are not under an obligation to register with the Nigerian company registry, thus weakening transparency.<sup>76</sup> There is also evidence that pirated goods such as CDs are smuggled through the free trade zones.<sup>77</sup> In Ghana, the government found that luxury cars imported free of tariff were diverted to the local market, although officials stressed that these instances were limited in numbers.

36. The large volume of goods passing through industrial free zones (IFZs) also eases trade-based money laundering, since papers can easily be forged or commodities under- or over-invoiced, especially when they comprise bulk imports of base commodities. Discussions with a range of EPZ regulators across the region raised concerns about the efficacy of measures aimed at preventing trade-based money laundering, not least owing to the limited understanding of the practice and its implications.

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<sup>75</sup> Interview with Nigeria Customs Services, Lagos, December 2008 and Financial Action Task Force, June 2006, *Trade Based Money Laundering*: The key element is the misrepresentation of the price of the good or service in order to transfer additional value between the importer and exporter. By invoicing the good or service at a price below the “fair market” price, the exporter is able to transfer value to the importer, as the payment for the good or service will be lower than the value that the importer receives when it is sold on the open market. Alternatively, by invoicing the good or service at a price above the fair market price, the exporter is able to receive value from the importer, as the payment for the good or service is higher than the value that the importer will receive when it is sold on the open market.<sup>75</sup>

<sup>76</sup> Meeting with the Nigerian Export Processing Zones Authority (NEPZA) in Nigeria, December 2008.

<sup>77</sup> Alli, Franklin, ‘Nigeria: When Government Policy Aids Smuggling’, *Vanguard*, November 2008

## *Cash smuggling*

37. Perhaps the most important ‘commodity’ smuggled in West Africa for the purposes of money laundering is cash, which crosses the region’s borders freely in breach of FATF Special Recommendation IX. Cash is the main means of payment and also comprises a contraband commodity itself. Many interlocutors throughout the region have stressed the difficulty of complying with FATF Special Recommendation IX in the West Africa.<sup>78</sup> Permeable borders, communities that straddle borders and corrupt border officials make this recommendation especially hard to meet. Further, much cross-border cash flows are derived from essentially legitimate rather than criminal activity; many of the countries in the region have considerable historical business ties and these transactions have long been carried out in cash. The volume of this activity can obscure to law enforcement agencies cash being smuggled across border that is derived from criminal rather than business activity. This situation is compounded by inefficiencies in and constraints on the banking system, which also encourage smuggling. Sources from the both the private and public sectors in the region asserted that businessmen and criminals often prefer to move cash across borders rather than use the banking sector due to the significant time delays and, in some cases, large charges associated with the latter. Further, there is limited understanding of the banking system (compounded by relatively low levels of education) in the population and a lack of trust in the formal financial sector. Also,, cash is easily portable and accepted in large quantities throughout the region.

38. Cash smuggling is facilitated by the complicity of some airport security agents and other officials working at the airport,<sup>79</sup> and passage can be eased by the liberal paying of bribes.<sup>80</sup> Prominent businessmen, including those from ethnic minority communities in Côte d’Ivoire, regularly charter aircraft to fly from Abidjan or other West African cities directly to Beirut or other cities.<sup>81</sup> These flights undergo minimum scrutiny and have been linked to cash smuggling rings.<sup>82</sup> In Ghana, cash smuggling through Kotoko airport has been intense. A loophole in Ghana’s system of currency declaration had made the country attractive to cash smugglers. Under the previous rules, any amount of cash could exit the country as long as the individual could prove that the money had entered the country. However, anyone wishing to disguise capital flows could easily over-declare funds on entry.<sup>83</sup> In response, in October 2008 the Central Bank changed declaration rules to both make mandatory a declaration of currency on entry to Ghana, regardless of value, and to oblige individuals to transfer over \$10,000 through banks or other authorized dealers.<sup>84</sup> This measure is expected to reduce cash smuggling, although foreign diplomats in Accra contend that individuals continue to leave Ghana carrying large quantities of cash.<sup>85</sup>

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<sup>78</sup> Interview with CENTIF (FIU) in Abidjan, November 2008

<sup>79</sup> Interview with Non-governmental agency in Accra, February 2009

<sup>80</sup> *Ibid*

<sup>81</sup> International Assessment and Strategy Center, *Hezbollah’s External Support Network in West Africa and Latin America*, August 2006,

<sup>82</sup> Interview with Agence National de Strategie et intelligence (ANSI) in Abidjan, November 2008

<sup>83</sup> Interview with officials at the Bank of Ghana, November 2008

<sup>84</sup> Bank of Ghana, Notice No BG/GOV/SEC/2008/26

<sup>85</sup> Interview with western diplomats in Accra, February 2009

39. Cash smuggling is also particularly frequent at the Nigeria/Benin border. Smugglers on either side of the border move cash between the two countries, often hidden in bales of clothes and within the soles of shoes.<sup>86</sup> Nigerian naira, British pounds, US dollars and euros, as well as counterfeit notes printed on either side of the border, are all smuggled. The smugglers hide funds in a variety of sealed items, such as cans of tomato paste, frozen turkeys, local bread, as well as in bags of rice and containers of vegetable oil and in the boots of smuggled cars.<sup>87</sup> In 2007/8, the value of undeclared cash seized at borders by Nigerian authorities was approximately \$9.2 million, principally in US dollars. The average size of the individual quantities seized was approximately \$200,000.

40. Cash is also smuggled through the postal system. The Nigeria Postal Services is legally allowed to provide money transfer services to the public on a commercial basis. Customers can send a maximum of £1,500 (~\$2,500) to the UK and \$3,000 to the USA, but for larger sums customers must identify themselves. Two problems arise in this context. First, the limits are, however, commonly exceeded. Second, cash is frequently sent without an appropriate declaration, since customers are unwilling to declare money for fear of pilfering.<sup>88</sup> The option to transfer money electronically, which has existed since 2006, is still not widely used, suggesting that individuals prefer sending physical cash in the post as they can do so undetected.<sup>89</sup> A new screening machine donated by the UK's Serious Organised Crime Agency (SOCA) in September 2008 has made such crimes detectable but money still travels by post.<sup>90</sup>

41. The financial sector, also, facilitates large cash transfers. The banks sometimes permit large sums of cash to pass through their payment systems. Some banks, including large western banks, do not observe regulations aimed at monitoring currency movements.<sup>91</sup> Prosecutions occur if customs can prove the money has gone overseas and fines of up to five times the value of the transfer are enforced. However, prosecutions are scant owing to difficulties following and tracing funds.

42. An alternative means of smuggling foreign currency is by using foreign currency companies, usually bureaux de change, with offshore accounts.<sup>92</sup> According to customs service officials in Lagos, in Nigeria an individual typically credits the bureau de change and then withdraws funds from its foreign account.<sup>93</sup> Such transactions are completely untraceable because personal data is not collected when using a bureau de change, nor are receipts issued. A multitude of roadside foreign exchange traders also exist in major cities<sup>94</sup> in Nigeria, few of them registered with the Association of Bureaux de Change Operators of Nigeria (ABCON) and the Central Bank of Nigeria (CBN).

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<sup>86</sup> Based on onsite visit to border and meetings with law enforcement professionals, Abuja, December 2008

<sup>87</sup> Meetings with officials on Benin/Nigeria, supported by visits to the border, December 2008

<sup>88</sup> Interview with NIPOST in Abuja, December 2008

<sup>89</sup> Interview with NIPOST in Abuja, December 2008

<sup>90</sup> Interview with NIPOST in Abuja, December 2008

<sup>91</sup> Interview with official in the Ministry of Economy and Finance in Abidjan, November 2008

<sup>92</sup> Interview with custom service officials in Lagos December 2008; interview with Narcotics Control Board in Accra, February 2009

<sup>93</sup> Interview with custom service officials in Lagos December 2008

<sup>94</sup> Lagos, Ibadan, Abuja, Kano, Benin, Port Harcourt, Kaduna, Ibadan, Maiduguri, Onitsha, Abuja, Jos

43. The Ghana Association of Forex Bureaus also estimates that there are as many as ten times more illegal forex bureaus as there are licensed ones and government efforts to tackle the black market are largely ineffective. In Ghana, while a forex bureau may only sell up to \$10,000, no cap exists on the amount of foreign currency one can buy.<sup>95</sup>

44. The illicit foreign exchange market dates back to before 1988, when it was a crime to hold foreign currency,<sup>96</sup> and is well established. Forex bureaus are happy to facilitate the movement of funds. According to risk consultants in Accra, cash smugglers are given fake receipts for purchases of foreign currency in return for a fee.<sup>97</sup> In Cape Verde, money changers (*cambistas*) are the preferred means of changing money as only relatively small amounts can be changed in the banks. Although illegal, experts in Praia state that the practice is generally tolerated: indeed, the main changing street by the market in Plato is located between the central bank and the police headquarters.<sup>98</sup> *Cambistas* are sometimes backed by drug dealers seeking a means to launder their earnings; one *cambista* was arrested in 2006 carrying €10,000 - evidence of the relatively large scale of the exchanges taking place.<sup>99</sup>

45. It is difficult to calculate how much of the money that is made from smuggling leaves the different jurisdictions and the region as a whole. It is likely that a significant amount is invested in other parts of the world. As previously mentioned, money made by diaspora communities in West Africa is presumed to be sent to countries of origin. Indeed, interlocutors in Ghana described their concerns about the capital flight nature of some fund movements, which they perceive as a national security issue.<sup>100</sup>

46. Within the region, depending on the sum, money is often moved to countries with more developed banking sectors; for example to Nigeria or Ghana. While these countries have stronger banking systems than their neighbours, due diligence is still lacking: corrupt public officials and politicians are able to use their influence and wealth to avoid STRs. Plenty of evidence also suggests that a large part of illicit funds that are wanted, to avoid the financial sector are invested in properties throughout the region, since real estate is the preferred means of saving in the region. As with money made from tax evasion, investments are made in construction with little difficulty because the facilitating professionals ask few questions and carry out minimal due diligence.

## Recommendations

47. To address the issues described in this chapter it is necessary to think about the informal economy in terms of the predicate crimes that exist within it; namely tax evasion and smuggling, and the countries' vulnerability to these crimes, as epitomised by cash smuggling.

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<sup>95</sup> Interview with Ghana Association of Forex Bureaus in Accra, February 2009

<sup>96</sup> Interview with Ghana Association of Forex Bureaus in Accra, February 2009

<sup>97</sup> Interview with compliance professional,, Accra, February 2009

<sup>98</sup> Interview with legal experts in Praia, March 2009

<sup>99</sup> Interview with legal experts in Praia, March 2009

<sup>100</sup> Interview with Ministry of National Security officials, Accra, January 2009

### *Tackling tax evasion*

- 1) All jurisdictions should ensure that tax evasion is defined in national and regional legal standards as a predicate crime for anti-money laundering purposes, in line with Financial Action Task Force Recommendation 1.;
- 2) Tax administration systems require modernisation with capacity building in personnel and the introduction of electronic databases so that more efficient tax records can be kept. Registration records must be kept up to date. For those businesses that are registered, closer attention needs to be paid to their taxation. For those that are not, the governments must dedicate resources to registering and maintaining a centralised database of tax information. Licensing of all traders, but especially those dealing across borders, must be enforced more effectively, and they should be sanctioned if they fail to comply, subject to the operational constraints present in the region. An amnesty might encourage increased registration. Education efforts to convince people to engage with such a process are also key to overcoming any aversion to paying tax.
- 3) Local tax authorities should forge links with other tax collection agencies around the world, as well as with taxation experts from the World Bank, International Monetary Fund or other major donors. Together, these elements should work to improve the tax collection systems. A focus on customs is especially important owing to the large proportion of revenue collected from import tariffs compared to income or corporate taxation in developing states.
- 4) Co-operation in investigating tax evasion is crucial. Information sharing between countries ought to be formalised so that it is clear in which jurisdictions tax is being paid and where it is evaded. Such measures will enhance mutual efforts against money laundering in accord with FATF Recommendation 40 on international co-operation. Furthermore, states would benefit from a range of bilateral tax information exchange agreements on the Organisation for Economic Co-operation and Development (OECD) model so as to facilitate the investigation of laundered funds from West African tax evasion in other key jurisdictions. Particular jurisdictions to work with might include the British Virgin Islands, the Isle of Man, Jersey, Monaco and Switzerland. States should work to garner the diplomatic support necessary to secure these agreements; key partners in such efforts might include France, the US and the UK.
- 5) Local authorities should work to curtail the use of the offshore sector – both within and outside the region – for hiding illicit funds, in line with international efforts to increase transparency in tax havens. ECOWAS states should support efforts to ensure such standards are mainstreamed. In order to address transfer mispricing, for instance, companies ought to be required to report their activities on a country-by-country basis; such measures would greatly increase accounting transparency. Furthermore, ECOWAS states should work to enhance co-operation against tax evasion in line with Article 40 of

the 1975 ECOWAS treaty, by building such issues into all law enforcement and financial harmonization programmes.

- 6) Throughout the region there is a lack of full appreciation of the importance of taxation; widespread education programmes ought to be implemented, working closely with those groups with influence in local societies. Popular support for efforts to curtail tax evasion is essential for any such efforts to succeed. GIABA can play a key role in arranging conferences on the links between tax evasion, money laundering and the fiscal capacity of states.

### *Smuggling*

- 7) All jurisdictions must ensure that smuggling is considered a 'serious offence' for the purposes of predicate offences for money laundering, in line with FATF Recommendations 1 and 2.
- 8) The authorities in the region should work to strengthen border controls so as to limit the risk of smuggling. Such efforts should include deployment of more personnel, funds and equipment. All staff working in positions of frontier security should be screened to ensure their probity and honesty in line with FATF Recommendation 30. This screening process must be sustained and carried out regularly as a means to limit the risk of corruption.
- 9) The key agency tasked with tackling smuggling in the jurisdictions concerned is that of customs, which also plays an important role in revenue collection. All governments must seek to ensure the probity and strength of their customs services. Measures to improve their capacity would include establishing/strengthening internal affairs departments, increasing resources, salaries and perks, and additional training with a particular focus on trade-based money laundering. Relationships aimed at establishing best practice must be encouraged with the World Customs Organisation, the United Nations and other entities like the European Union. Useful models to compare to might include the establishment of the customs system in Kosovo.
- 10) The region's free trade zones must be subject to increased scrutiny by law enforcement agencies. Abuse of free zones is common and the large flows of goods facilitate trade-based money laundering. The authorities supervising these zones must be well resourced and work closely with their counterparts in customs, the police and other key agencies. In addition, they must have training in identifying trade-based money laundering typologies and must share information with the relevant financial intelligence unit (FIU). Lax application of regulations is highly likely to attract launderers.
- 11) All companies applying for a licence or other right to operate in export zones must be subject to strict due diligence assessments and registration requirements. Staff monitoring registration must be subject to integrity checks themselves, and registration

must be fully up to date. Penalties must be levelled against those entities that fall short of regulatory requirements.

- 12) Law enforcement bodies must co-operate across regional borders more closely in line with FATF Recommendations 36 and 40, particularly regarding intelligence gathering and sharing on individuals and entities suspected to be involved in smuggling and related laundering. Such co-operation must be through a formalised structure rather than merely through improved personal relationships, although the latter is also of importance. Useful models with which to compare might include the EU's Border Assistance Mission in Moldova and Ukraine.
- 13) Airport authorities must receive increased resources so as to improve their ability to prevent smuggling; for instance, through the use of better screening devices. One means to reduce the risk of corruption in airport security services may be to make use of external services immune from political and other pressure.
- 14) Port security in the region must be improved to help prevent smuggling and money laundering. All ports should have International Shipping and Port Facility Security Code (ISPS) accreditation. A range of measures to improve supervision of imports might include more frequent and effective inspection and the computerization of inspection records, but none of these measures will prove effective without reliable staff. As such, port staff should also be subject to checks; increased resources will be necessary to do so.
- 15) Countries must work to prevent the movement of cash throughout the region. Measures to strengthen the regime must include stringent enforcement of wire transfer regulations on banks in line with FATF Special Recommendation VI and the application of sanctions where they are ignored. In such cases, rapid responses to financial institutions' requests for information are essential. In addition, currency declaration regimes must be effectively controlled and policed at borders and airports in line with FATF Special Recommendation IX. The FIU should analyse the flow of cash and provide information to all key agencies tackling the issue. The authorities should then alter regulations to limit the problem – as the Ghanaian Central Bank has done to prevent cash transiting Ghana.
- 16) Money change bureaus and money transfer companies can be easy preys to money launderers through the financial system due to their weak capacities and poor awareness of AML provisions regarding their clients. This requires on the part of the authorities setting up appropriate regulation that factor in identification and registration of the relevant stakeholders, as well as adequate training to implement due diligence measures (R 5 to 8) and record keeping (R.10 and SR VII of the FATF). A watchdog mission should also be set up to trace and punish all unlicensed operators. Finally, these agents and establishments should comply with STR obligations when in doubt (R 13).
- 17) The strengthening of the oversight of postal services would improve standards at post offices throughout the region. National post services must also apply effective customer

due diligence standards and related data should be collected centrally. The services ought to have screening capabilities to detect smuggled cash; checks on personnel are also necessary to limit the risk of theft. The establishment of conferences between the security officials of each state's postal service would be a good means to improve service security. GIABA might be a useful forum to encourage co-operation between regional postal services on money laundering.

- 18) Throughout the region smuggled money is frequently invested in high-end property markets. Guidelines for real estate sectors should take full account of the risks of money laundering. Most countries have regimes in place that broadly satisfy international measures, but enforcement is lacking. As such, anti-money laundering policy-makers should establish national plans to prevent money laundering in the real estate sector, and should then seek to co-ordinate application of the plans on a regional basis. Regulation of real estate should include thorough customer due diligence and suspicious transaction reporting requirements.
- 19) Car dealerships are a key means used to reinvest the proceeds of smuggling. The authorities must ensure that AML/CFT regulations apply and are enforced against car dealerships, and apply the provisions outlined in FATF Recommendation 20 on other non-financial businesses. Those dealerships closest to ports or with the largest import/export businesses must be subject to particular scrutiny.
- 20) Benin, Cape Verde, Gambia, Nigeria and Senegal must seek to join the Kimberley Certification Process even if they do not produce diamonds, since the stones are easy to smuggle across borders, thereby facilitating smuggling and money laundering. Gambia is a particular concern given its historic association with diamond smuggling from Sierra Leone in the 1990s. Steps should also be taken to make certificates for raw materials such as diamonds harder to forge. Law enforcement agencies in the region should establish training programmes for customs, police and other relevant services so as to improve their ability to recognize counterfeit documentation and to investigate its provenance. The establishment of a co-ordination mechanism for the Kimberley Process in ECOWAS would be one means to improve regional harmonisation on these efforts. In addition, relevant governments should ensure that a system of registration and supervision of precious metal and stone dealers is in place and fully operational, in accordance with FATF Recommendation 16.

#### *Tackling vulnerabilities*

- 21) Understanding the scale and nature of the informal economy is essential both for the development of economies in the region and for tackling money laundering and other associated crimes. All states must improve their collection of statistics, by establishing mechanisms to collect, harmonise and make available statistics as necessary, in line with FATF Recommendation 32. Without such measures, understanding the nature of the problem and measuring progress becomes much more difficult.

- 22) The weakness of payment systems and the bureaucratic constraints on money transfers are one reason many people choose to operate outside the formal economy. Local actors should improve the efficiency of local banking systems by engaging with the international banking sector and with prominent international donors such as the World Bank and International Monetary Fund to provide expertise and resources for improvement. Government sponsored education campaigns on the banking system would be valuable in this context. Combined with close observance of FATF Recommendation 10 on record keeping, this measure should improve capacity to prevent money laundering.
- 23) Governments in the region should expand regulation to cover the informal economy to ensure that rules go beyond regulation of designated non-financial businesses and professionals (DNFBPs), in accordance with FATF Recommendation 20. Key sectors to consider might include traders in desirable consumer durables and other high value items. FIUs should form teams to assess which sectors are most at risk. A centralized database of licensed importers available to the FIU and other law enforcement agencies would be a useful tool in this context.
- 24) A key component of the informal economy is the existence of informal value transfer systems. Local authorities should introduce and enforce legislation prohibiting informal transfer of funds without registration and licensing, in line with FATF Special Recommendation VI. Supervisory and law enforcement agencies must also enhance their supervision of such activities. They must build links with countries at the other end of the remittance chain – for instance, the Senegalese authorities might work closely with the French authorities in policing informal transfers. Prior to these steps, an education campaign is necessary to engage key participants in informal finance, such as the Mourides in Senegal, more closely in the process of registration and supervision. Such a move should facilitate the establishment of an administrative and regulatory apparatus that is considered legitimate by the public.

# 3

## CORRUPTION

1. Corruption has long been a major problem across West Africa. It is a major predicate crime for money laundering due to both the frequency with which corrupt acts occur and the aggregated sums of money involved. A senior source in a respected anti-corruption civil society organisation in Dakar estimated, for instance, that more than of all laundered funds in Senegal derives from corruption.<sup>101</sup>

2. To give an idea of the volume of funds involved, in 2006 the former Nigerian president, Olusegun Obasanjo, quoting an African Union report, stated that cost of corruption to African countries exceeds an estimated \$148 billion annually.<sup>102</sup> This figure may be used to arrive at a working estimation of the cost of corruption in the seven jurisdictions under scrutiny, providing it is assumed that these jurisdictions have, on average, a level of corruption comparable to the average for Africa as a whole.<sup>103</sup> Based on these assumptions, and using GDP figures for 2007 published by the African Development Bank,<sup>104</sup> Aegis can calculate a working estimate for the total annual cost of corruption for the seven West African jurisdictions under scrutiny of over \$20 billion.<sup>105</sup> The economic downturn may increase incentives, and indeed the perceived need, for corruption, although revenue streams may diminish. Nevertheless, the figure remains useful as a rough guideline as long as the constraints inherent in calculating the proceeds of crime and the analytical gaps are taken into account.

3. Corruption is also one of the most corrosive predicate crimes faced by states in the region. Corruption can drastically undermine democratic institutions and the electorate's trust in the executive, and ultimately present a very real threat to political stability by corrupting politicians and bureaucrats. It also embodies a significant obstacle in the fight against organised crime and money laundering as it undermines the efficacy of justice systems, law enforcement and regimes of financial oversight. In particular, public corruption in connection with the rising

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<sup>101</sup> Meeting with a respected anti-corruption civil society organisation in Dakar, November/December 2008

<sup>102</sup> Obasanjo was making reference to an African Union report: BBC News, 'The Cost of Corruption in Africa', 17 February 2006. The estimation of \$148 billion is widely used as a guideline for the annual quantity of corruption in Africa by African leaders, academics, international organisations and the local and international media; however, analysts should take account of analytical constraints in any such estimate.

<sup>103</sup> This seems to be a fair assumption: the average ranking in Transparency International's Corruption Perceptions Index for the seven jurisdictions studied over the past three years ranges over the middle two quarters of the regional rankings for all jurisdictions in Africa (see [Corruption Chapter Annex 1] for more detail)

<sup>104</sup> African Development Bank, *Annual Macroeconomic Indicators* (2007)

<sup>105</sup> There are a number of difficulties and inconsistencies in quantifying corruption, and in calculating such estimates from the available data. This estimate is not intended to be an entirely accurate number, but, calculated from figures published by reputable sources, and within the significant methodological limits, it may act as a useful guideline with which to work.

threat of drug trafficking and the high volume of illicit funds associated with this activity is one of the most significant threats faced in the region.

4. The sources of funds derived from corruption vary widely and are contingent on who perpetrated the initial corrupt act; further, levels of corruption across the region range from the only moderately apparent to the systemically embedded. This chapter will assess these manifestations, in conjunction with an account of the means by which funds variously derived from corrupt practices are laundered.

#### *Petty corruption*

5. Corruption involving low-level public officials and law enforcement agents, such as police officers and customs and immigrations officials, is common in all seven jurisdictions under question. This activity involves the acceptance or solicitation of bribes in exchange for a certain action, or a lack of action. This action can range from a public official merely carrying out their duty as they ought, to their turning a blind eye to an illegal activity or facilitating a crime in some way. Such abuse of position is frequent in the region.

6. The corruption of border officials is of particular significance throughout the region and officials regularly exploit their position of relative power over various cross-border flows. Bribes are often solicited, for instance, in return for the performance of duties for which officials are employed, such as visa stamping or signing import certification documents. Border officials often turn a blind eye to – or are actively involved in – the smuggling of illicit goods such as cash, drugs, arms, people or stolen property at airports, land borders and ports. This is generally in return for a bribe, often of a value relative to that of the goods involved.<sup>106</sup> Such activity is a major source of funds for laundering.

7. The level of corruption in a country is, to an extent, relative to the utility of corrupt activity for the individuals involved. Corruption is often a means of income supplementation, and the strength of this imperative is, of course, connected to the level, security and regularity of wage payment. The likelihood that individuals submit to this imperative is itself relative to the likelihood of being caught, and the potential costs if they are. Low payment of public officials is common in West Africa. Moreover, in jurisdictions where the flows of funds into public accounts and around government agencies are insecure and irregular – whether as a result of other forms of corruption, economic hardship, administrative instability or physical insecurity – payment can be low and erratic. Guinea-Bissau and Côte d’Ivoire are examples where political instability and physical insecurity have obstructed the regular flow of legitimate funds, forcing public servants to turn to corrupt forms of income.<sup>107</sup> Such insecurity often means that officials

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<sup>106</sup> An Aegis source emphasised that the border between Benin and Nigeria, for instance, is one example of the complicity of border officials in smuggling

<sup>107</sup> In Côte d’Ivoire this situation has been so bad that officials have even been forced to flee from areas of the country, retracting the state’s reach and the rule of law, and allowing criminal economies to expand

can act with relative impunity. In certain cases across the region, corruption as a form of income supplementation has extended to the armed forces.

8. Even in the more stable and secure countries in the region, such as Ghana and Senegal, low-level corruption as a means of wage supplementation is apparent. In these cases, such corruption has reached a certain level of institutionalisation and is to an extent part of normal administration. The strong cultures of patronage that exist throughout the region, which exist along lines of ethnicity, family, religion or local community, facilitate the public acceptance of corrupt practises.

9. Corruption perpetrated by mid-level officials is also common. This corruption often takes a similar form to that perpetrated by low-level officials. In some cases, though, the methodology of corruption differs as the tools an official can use to generate illicit funds are often dependent on the responsibility they command. Evidence from senior public sector sources in Nigeria suggests that mid-level officials may engage in the wholesale falsification of documents – a bill of lading or invoice, for example – an activity dependent on position in the administrative hierarchy. Another form of corruption is the falsification of public accounts documents in Nigeria, leading to a certain amount of embezzlement of public assets by both low- and mid-level public servants.<sup>108</sup> Nigeria is by no means the only example of this, though, and the misspending of moderate to low amounts of public money by mid-level officials is relatively common in the region.<sup>109</sup>

10. Low- and mid-level corruption does not often generate very large sums of money per transaction. All evidence suggests, however, that the total volume of illicit funds generated from such corruption is substantial – in addition to which, it does create an important vulnerability. Money generated in this way often goes directly into the informal economy without any purposeful laundering. At the lowest levels, the small funds generated are used to ease daily living costs and may also be directed towards minor luxuries, including consumer durables such as desirable consumer durables or mobile phones. At more substantial levels, the proceeds of low- and mid-level corruption may be used to make home improvements; to contribute towards savings used to buy a plot of land or small property; or to make investments in real estate developments. Funds may also be sent to friends and family, often elsewhere within and occasionally outside the country. In these cases such funds often flow along religious and/or ethnic lines. This means that it is unlikely that a major volume of the funds derived from low- and mid-level corruption enters the formal banking sector, although some do, often through community and local banks.

### *Judicial Corruption*

11. Corruption of the judicial systems in the region is particularly problematic, and the solicitation and acceptance of bribes among members of the judicial service is common in many

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<sup>108</sup> Meeting with source at Nigeria's Independent Corrupt Practises and Other Related Crimes Commission (ICPC), December 2008

<sup>109</sup> Emphasised by a number of public sector sources in Benin, Côte d'Ivoire, Senegal and Ghana

jurisdictions under question.<sup>110</sup> The high value of many bribes and corrupt value transfers means that judicial corruption can embody a substantial source of illicit funds, as well as a significant obstacle to the effective investigation and conviction of all crimes, including corruption and money laundering.

12. Corruption generally takes the form of a bribe – cash, a gift or less commonly simply ‘status’ or ‘career capital’ – and the outcome required in return can range from dropping an investigation; ensuring a certain outcome in a trial; or forcing the investigation of – and possibly the conviction of – another person.

13. Such practices have become deeply embedded in some of the justice systems in West Africa. Evidence suggests that corrupt members of the judiciary do not act alone, though of course they might in some cases; rather, they work as part of a corrupt network within the justice system. In 2006, for instance, a recording was aired by one radio station exposing a Senegalese public prosecutor accepting a bribe of CFA15 million (\$32,000). The Inspector General’s Office of the Ministry of Justice took administrative and disciplinary sanctions against the magistrates at fault, namely early retirement for the General Prosecutor, a professional ban for the Justice Clerk and a change of post for the Deputy Prosecutor.<sup>111</sup>

14. In Côte d’Ivoire, an informal system of agents known as ‘margouillats’ exists, each of whom work for a particular magistrate and solicit bribes on their behalf, acting as an intermediary.<sup>112</sup> In Benin, there is evidence for a level of institutionalised corruption that has entailed sponsorship relationships: a criminal or person of influence with criminal ties sponsors a member(s) of the judicial system, transferring to them a steady stream of payments in return for their future cooperation, whenever it should be needed.<sup>113</sup>

15. The payments that members of the judiciary receive tend to relate to the nature of the case or investigation being prejudiced. Corrupt practices can occur in low-level court cases and any administrative matter involving the judiciary, in which case the payment may be of a fairly low value. In many jurisdictions in the region, though, corruption can also interfere with the very highest-level cases. The perception exists, for instance, that the investigation and trial of high-value drugs smuggling cases has often failed due to corruption.<sup>114</sup> In such cases the value of the assets earned through corruption is likely to be considerable, given both the often substantial financial means at the disposal of the accused, and the significant punishment assigned in event of conviction.<sup>115</sup> Low pay levels in many West African judicial services constitute a significant vulnerability, making members of the judiciary highly susceptible to

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<sup>110</sup> This was asserted by sources across the legal profession, civil society and public sector in Benin, Côte d’Ivoire, Ghana, Nigeria and Senegal

<sup>111</sup> Transparency International, ‘Country Report: Senegal’, *Global Corruption Report 2008*, 2008

<sup>112</sup> Integrated Regional Information Network (United Nations Office for the Coordination of Humanitarian Affairs), *Côte d’Ivoire: The inescapable justice of injustice*, 12 July 2007

<sup>113</sup> Meeting with a source in a leading anti-corruption civil society organisation in Benin, March 2009

<sup>114</sup> Such a view was, for instance, asserted during a meeting with a source in the Ghanaian legal profession, February 2009. For more detail on corruption in connection with drugs smuggling, see the Drugs Trafficking chapter.

<sup>115</sup> A deduction corroborated by assertions from sources in the legal profession and from civil society across the region, as well as by diplomatic sources

corruption to supplement their income. Furthermore, the judicial services of West Africa are increasingly confronted by the rising financial power of organised criminals and money launderers; most particularly in connection with drugs trafficking.

16. Sources in many of the jurisdictions in question have argued that the significant sums of money at the disposal of some gangs and individuals involved in drugs trafficking have undermined some judicial systems. This activity has a dual impact, both as a source of funds derived from corruption, and as a substantial vulnerability. Such a situation constitutes a threat in Guinea-Bissau but other countries in the region are also to an extent vulnerable to such situations.

17. In addition to the financial incentive for corruption, judicial systems are particularly vulnerable to corruption where the judiciary lacks adequate independence from the executive. The judicial services in many of the jurisdictions studied may not have such independence.<sup>116</sup> It is clear that appointments for key judicial positions in the region are not fully insulated from executive influence, and sources in both Nigeria and Ghana have emphasised a degree of politicisation in both countries' judicial systems.<sup>117</sup> This lack of judicial independence is often exploited by the executive, suggesting that there is a high-level of judicial involvement in political corruption.

18. Many such cases of judicial involvement in political corruption involve some form of high-value transfer, reaching significant levels in some instances. This is not always the case, however: a magistrate may, given the explained issues surrounding judicial independence, simply be subordinate to the will of a non-legal superior with significant influence, in either political or cultural terms.

19. The means by which the proceeds of judicial corruption are laundered depends on the volume of funds involved and the tools available to particular agents. At the lower levels, the proceeds generated may not reach particularly high volumes, and are likely to be used in relatively high-value cash-based transactions. These might concern goods such as autos (or auto spare parts), desirable consumer durables or jewellery. The property sector has particular vulnerability to funds derived from judicial corruption. Sources have argued that a high proportion of funds derived from judicial corruption are laundered through the property and construction sectors.<sup>118</sup> Both mid-level funds and funds that might reach into the millions of dollars can also be laundered through the formal banking sector, thanks particularly to extensive vulnerabilities in customer due diligence measures in banks across the region.<sup>119</sup>

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<sup>116</sup> Civil and common law jurisdictions take different approaches in securing the autonomy of the judiciary, with each approach having relative merits. This report is concerned with the operational independence of the judiciary, rather than with the differences between the two main legal systems in West Africa.

<sup>117</sup> Meetings with a leading accountant and a legal practitioner in Ghana, February 2009.

<sup>118</sup> This assertion was iterated by a range of sources from public offices, civil society organisations, judicial systems, real estate developers' associations and financial institutions across the region

<sup>119</sup> Interview with bank compliance officer, Ghana, January 2009

### *High-level corruption*

20. Judicial corruption often goes hand in hand with high-level corruption, and the latter is a substantial source of illicit funds flows throughout West Africa. It is also a major vulnerability as regards the effectiveness of regulatory and law enforcement agencies. In West Africa, corruption of this kind can involve extremely large individual sums of money. In Nigeria, for instance, a high official was charged with embezzling approximately \$98 million during his time as inspector general of police; he was convicted in 2005.<sup>120</sup> Perhaps the most significant source of illicit funds from corruption concerns the corruption of cash-flows related to medium- and large-scale public procurement contracts. Public contract-based corruption is most evident in the property and construction sectors, the extractive industries, and the water sector.

21. Although Cape Verde has a good and improving record on corruption, it offers a good case study of the dynamics involved in government contract-based corruption in the property and construction sectors across the region. The country's boom in property development – a trend that has occurred throughout the region – produced a series of scandals involving local governments. . In January 2006, local government officials in Cape Verde signed a contract with a private Portuguese company, Sociedade Lusa de Negócios-Cabo Verde (SLN-CV), to provide assistance with planning and attracting private investment for part of a project to bring in €50 million in investment over the next 15 years for the construction of luxury hotels and the expansion of the islands' power, water and transport infrastructures. In November that year, the company announced a tender for the first projects. However, anger over the unduly favourable conditions of the contract towards SLN drew fierce criticism in the media and from the main opposition party, the MPD, which accused the Minister of Justice of corruption in awarding the contract. This eventually forced his resignation. The government admitted that there had been “some irregularities” in the contract and subsequently cancelled it.<sup>121</sup> Repeated accusations concerning contract-based corruption in the property sector have also been made in Cape Verde against other high-level public servants.<sup>122</sup>

22. Corruption concerning contracts in the extractive industries sector – often regarding procurement – is another significant source of illicit funds from high-level public corruption. In Nigeria, there are a number of allegations of corruption and graft concerning high-value contracts with foreign firms – some surrounding mining contracts with firms from the Indian sub-continent, for instance.<sup>123</sup> While these are, of course, only allegations, well-placed sources, both from the public sector and from civil society, have expressed the opinion that such corruption is frequent and reaches high levels of government.<sup>124</sup>

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<sup>120</sup> Human Rights Watch, *Criminal Politics: Violence, “Godfathers” and Corruption in Nigeria*, Vol.19, No.16(A), October 2007

<sup>121</sup> Interview with Portuguese Africa analyst, London, March 2009

<sup>122</sup> Interview with Portuguese Africa analyst, London, March 2009

<sup>123</sup> Meeting with Special Control Unit Against Money Laundering, Nigeria, December 2008

<sup>124</sup> *Ibid*; and meetings with the Federal Inland Revenue Service, the Economic and Financial Crimes Commission, and a leading Nigerian bank, December 2008

23. There are a number of vulnerabilities that are specific to contract-based corruption in the extractive industries across the region. Ghana acts as a good case study of these vulnerabilities, given its rapidly expanding petroleum sector and established mining sector. Indeed there are grave concerns over the transparency of the process for the formulation and award of contracts, particularly in the extractive industries.<sup>125</sup> Indeed, the country has faced criticism for awarding large contracts in the commodity export sector – primarily of gold, cocoa and timber – without an open bidding process.<sup>126</sup> The Revenue Watch Institute has voiced concern about the fact that contracts have been awarded to Tullow Oil, Anadarko and Kosmos Energy through direct negotiation rather than an open and competitive bidding process.<sup>127</sup> Indeed, a paucity of accountability and transparency is often a key cause of high-level corruption across the region.

24. Public procurement contract-based corruption in the water sector is also an important source of illicit funds. Benin offers a good case study in this instance. International commentators have highlighted that water sector procurement processes, particularly in connection with local government contracts, lack transparency and are often exploited. The cost of contracts is frequently artificially inflated, and funds – some of which are derived from international aid programmes – are channelled away from their intended use. This is often via the fabrication of false costs in contracts, after which the assigned funds are siphoned off. A source in the Ministry of Energy and Water has been quoted as saying that “the cost of these [management] contracts is inflated. Since only the mayor’s signature is required [to finalise a contract], it ends up being the consumer who pays the higher costs.”<sup>128</sup>

25. Embezzlement is a primary means through which contract-based corruption takes place. Sources in many of the jurisdictions have asserted that embezzlement by high-level public officials and some politicians is apparent across many different forms of government activity. In Cape Verde, for instance, audits by the General Inspectorate of Finances have uncovered missing public funds at various Cape Verde government bodies, most notably the autonomous fund of the justice ministry where lax accounting had permitted more than CVE1 billion (\$12m) of questionable expenditure.<sup>129</sup>

26. It must at this point be noted that states across West Africa suffer from a number of informational, legislative and operational vulnerabilities. The chief weakness is that concrete evidence and statistics regarding high-level public corruption are often difficult to obtain. Weak public accounting standards are common in many countries throughout the region, while auditors are often not independent. Beninese public accounts, for instance, are audited both internally and externally, but discrepancies between the two results often arise, providing an opportunity for corruption. This weakness is exacerbated by low operational standards of accounting in both the internal and external auditors. In Nigeria, the extent of cooperation between the executive

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<sup>125</sup> Meetings with a source from the World Bank and a source in real estate development, Ghana, February 2009

<sup>126</sup> Meetings with a source from the World Bank and a source in real estate development, Ghana, February 2009; Revenue Watch Institute, *Country report: Ghana*, 2008

<sup>127</sup> Revenue Watch Institute, *Country report: Ghana*, 2008

<sup>128</sup> International Regional Information Networks, Benin: Water Sector Corruption Enormous, *UN Office for the Coordination of Humanitarian Affairs*, 17 February 2009

<sup>129</sup> Interview with Cape Verde analyst, London, March 2009

and legislative arms of government in auditing the accounts of the Nigeria National Petroleum Corporation has raised concerns.<sup>130</sup> In Ghana, questions have been raised by a number of transparency advocacy organisations that management of the Ghana Audit Service (GAS), the country's supreme audit institution, suffers from inadequate independence from the executive.<sup>131</sup>

27. West Africa also lacks, by varying degrees, an effective freedom of information culture: sources in all seven countries emphasised that information – even that which ought legally or constitutionally to be made available; and even that which bears little importance – is often difficult to obtain. This is as much a problem of bureaucracy and culture as it is of legislation and political will, although the latter is of course important. A freedom of information bill is yet to pass in Nigeria, for instance.<sup>132</sup> Ghana, too, is yet to pass such a bill, although a draft is pending cabinet approval.<sup>133</sup> Across the region, interlocutors emphasised that the problem is that openness in public information flows is not culturally institutionalised.

28. A source of illicit funds derived from corrupt practices that stands somewhat apart from other forms of corruption – and is possibly the most significant area of alarm as regards corruption in West Africa – is the involvement of politicians and high-level officials in organised crime. In many of the jurisdictions evidence suggests a degree of active and passive complicity in organised criminal activities such as the smuggling of drugs and other illicit goods among those occupying high public office.<sup>134</sup> This is unsurprising given the levels of immunity enjoyed by those in the higher echelons of government, in combination with the potential rewards that may be gained, both financially and partially as a result, in terms of influence.

29. The extremely large volume of funds generated from corruption among high-level officials and politicians poses a significant threat to the economies of West Africa and is laundered in a variety of ways. Those with political influence may make use of their powers to aid the laundering of illicit funds. These individuals can also use their influence to protect themselves from investigations and AML measures, as well as compromising investigations that have already been initiated. This problem is closely connected to weaknesses in the region's AML regimes regarding Politically Exposed Persons (PEPs). Corrupt public officials and politicians can use their influence – both political and financial – to prevent suspicious transaction reports (STRs) on their activities. These problems are by no means unique to Nigeria, and indeed full compliance in wider due diligence measures in the banking sector across the region is moderate to low.<sup>135</sup> In particular relation to PEPs, there is a cultural obstacle across the region to reporting superiors to a government authority; this must be overcome to ensure compliance with FATF Recommendation 6 on PEPs.

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<sup>130</sup> Meeting with senior official of the Nigerian national assembly, December 2008

<sup>131</sup> Open Budget Initiative, 2008 Country Report: Ghana, *Open Budget Index 2008*, 31 December 2008. The concerns primarily surround the lack of judicial and parliamentary oversight over the appointment of the head of the GAS in practice

<sup>132</sup> The bill has been waiting for passage for over five years

<sup>133</sup> Interview with Ministry of Justice officials, Accra, January 2009

<sup>134</sup> Interview with western diplomats, Abidjan, November 2009

<sup>135</sup> Interviews across the region with officials from central banks, the legal and business sectors, FIUs and civil society

30. Laundering of money through front businesses is another method used by criminals throughout the region. It has been noted – in Ghana, for instance – that many public officials as well as politicians have extensive business interests outside their public sector roles.<sup>136</sup> While this is not in itself evidence of money laundering, such businesses provide convenient outlets for illicit funds and must be monitored with this in mind. A number of vulnerabilities facilitate these and similar activities. Low audit standards and incomplete lines of reporting in the case of an account discrepancy are two such vulnerabilities. It is also relatively easy for a public official or politician to merge corrupt earnings with legitimate earnings to provide capital for the expansion of a business, for instance.

31. These vulnerabilities mean that a significant amount of money from this form of corruption enters the formal financial sector. Indeed, it is likely that the perpetrators are often inclined to put funds through the formal sector for several reasons. First, the amount of money involved is significant and can reach millions of dollars, which means it is safer to introduce money into the formal sector. Second, the derivation of funds, particularly in cases of corruption surrounding large inflows of funds to government accounts in connection to a particular contract, is often from banked – and frequently foreign – companies and individuals, making it easier to launder such illicit funds through the formal financial sector. One area of investment highlighted in Nigeria is the insurance sector. Sources from Nigeria’s financial sector have noted the significant volume of suspicious transaction reports that involve PEPs; a source in the insurance sector noted that PEPs generated the majority of STRs.<sup>137</sup> This situation would point to significant levels of laundering activity within the Nigerian political establishment in this sector. The transfer of funds related to corruption in the region is not always carried out through the formal sector, however; indeed, such agents are likely to make use of the ease with which one can move cash across borders around the region.

32. A considerable amount of these funds – although by no means the majority – leaves the country, and indeed often the region, for investment elsewhere in the world. This is a pattern that has also been highlighted in other jurisdictions in the region. It is thought that once in the formal sector, funds are used to take advantage of the recently low property prices in these regions.<sup>138</sup>

33. The domestic property sector is another major area in which the funds derived from high-level corruption are laundered. Sources in the vast majority of organisations questioned across the region cited significant investments made by holders of public office in the property and construction sectors, in addition to their purchases of high-value goods, that displayed means more extensive than politicians’ and public officials’ legitimate income would warrant. In Ghana, for instance, a number of sources voiced suspicion over the spending patterns of politicians and other high-level public officials with regard to significant purchases in the property sector, as well as of automobiles and other high-value goods.<sup>139</sup> Indeed, sources across the region highlighted the substantial amount of money from corruption that goes into these

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<sup>136</sup> Interview with real estate professionals, Accra, January 2009

<sup>137</sup> Meeting with leading Nigerian assurance company, December 2008

<sup>138</sup> Meeting with the Nigerian National Insurance Commission, Nigeria, December 2008

<sup>139</sup> Meetings with a diplomatic source and sources in the real estate development sector, February 2009

avenues.<sup>140</sup> Money laundering through the real estate industry was the subject of a typology study by GIABA, and some cases were presented.

34. Lastly, it must be noted that the proceeds of graft are not always in monetary form. These can also be in the form of fixed assets such as property or other high-value gifts, many of which are relatively easy to launder and difficult to investigate. The transfer of property rights, for instance, is poorly supervised in almost all jurisdictions. Property deeds are easily forged, as are the relevant certificates for high-value goods such as gold and diamonds. PEPs involved in corruption are, again, likely to use their political influence to facilitate these activities.

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<sup>140</sup> For more information on money laundering in property sector see Drugs Trafficking chapter

## Recommendations

Fighting corruption relies on a combination of four key elements; first, the establishment of standards of good governance; second, the creation of effective enforcement mechanisms against corrupt activity; third, the creation of systems of oversight such as effective auditing standards; and finally, education campaigns to raise awareness of the risks of corruption. Anti-money laundering standards play a key role in all four areas.

- 25) Each jurisdiction should establish plans to improve the rule of law. All jurisdictions must fully integrate their anti-money laundering and countering the financing of terrorism regimes into such plans, since effective financial regulation is a key aspect in establishing a strong system of the rule of law and concomitantly reducing the risk of corruption. Legislative measures in line with the UN Convention on Corruption are additional means of contribution to the rule of law. In addition, there must be added structural protection within institutions, such as whistleblower provisions and civil liability provisions in line with FATF Recommendation 14, for those making reports on corrupt practice and any related laundering; such measures must be effective in reality and not just in law. No one can be above the law, regardless of their status in their society.
- 26) The countries should ratify and implement the UN Convention against corruption- the Merida Convention. In the same vein, they should be encouraged to adopt a legislation establishing effective anti-corruption bodies. In particular, domestic anti-corruption watchdogs must have a level of independence from the executive that allows them to carry out investigations without prejudice; they must also have a productive relationship with the judiciary. Intensive due diligence into the staff at these bodies is essential to ensure their integrity in line with FATF Recommendation 30. In terms of operational efficacy, anti-corruption bodies must be sufficiently resourced with technology, funds and qualified personnel to enable them to carry out their investigations adequately, in line with FATF Recommendation 27.
- 27) With a concern for effectiveness of the anti corruption body of Senegal, the President of the Anti Corruption/Concussion Commission ( CNLCC) asked for increased legal powers, deploring this institution's incapacity to initiate prosecution on its own, without any external requests.
- 28) International collaboration is necessary to improve efforts, and lessons can be learnt from those agencies that have proven successful, such as Hong Kong's Independent Commission Against Corruption (ICAC). In that context, meetings with bodies like ICAC arranged by GIABA and ECOWAS could enhance AML/CFT strategy.
- 29) Anti-money laundering regulations are most applicable in terms of corruption when concerning politically exposed persons (PEPs). The states in the region must not only adhere to the Financial Action Task Force definition of a PEP in line with FATF Recommendation 6, but go further so as to ensure that the definition takes account of local differences and includes domestic PEPs. Such a definition needs to be broadly

accepted and applied by law enforcement, supervisory agencies and financial institutions, since many senior public and political party officials have queried law enforcement agencies for referring to them as a PEP.

- 30) Judges and court officials are key gatekeepers regarding corruption and money laundering, and their probity is essential for the establishment of the rule of law. All jurisdictions must have in place mechanisms that enforce high standards of probity in these key professions. Such measures might include effective internal affairs departments and bodies dedicated to maintaining probity amongst those in key public positions. Each jurisdiction must ensure that effective sanctions are deployed against judges and court officials involved in corruption or money laundering. This could feasibly be combined with increased pay – thus diminishing one incentive for corruption – and the establishment of electronic payment systems that increase transparency.
- 31) Lawyers and accountants are key gatekeepers in relation to corruption and money laundering. Professional bodies such as bar and other professional associations must monitor their members and act decisively on any complaints against members who fail to adhere to the appropriate standards.
- 32) Understanding the complexity of money laundering and its links to corruption are highly important. Key gatekeepers like judges, lawyers, notaries and accountants must attend specialised education programmes regarding both anti-corruption and anti-money laundering. This will improve their understanding of their role in terms of the rule of law. GIABA might contribute usefully to such action by helping to organise such conferences and bringing together gatekeepers from other regions through FATF Style Regional Bodies (FSRBs), such as the East and Southern African Money Laundering Group.
- 33) Other public officials, particularly those with control over substantial budgets, present a major corruption and associated money laundering risk. As such it is recommended that, where possible, all members of the public sector be paid well and regularly. In addition to this, relevant asset declarations by politicians and public officials must be fully enforced so as to ensure the efficacy of such declarations.
- 34) Multinational companies have obligations to comply with AML/CFT regimes in home and foreign jurisdictions. Local authorities should work closely with international companies to establish effective anti-corruption regimes and compliance with reporting obligations for AML/CFT purposes. Any individuals assisting multinational companies in evading their obligations should face legal sanction.
- 35) Much corruption in West Africa is associated with the export of particular commodities, such as oil, diamonds or cocoa. A key effort to prevent corruption might be to encourage international commodity exchanges to look at the risk of money laundering linked to commodity transactions. Such moves will force international traders to act with greater care.

- 36) Regional bodies such as GIABA need to forge correspondingly stronger links with commodity exchanges. In this context, Ghana's government must ensure that its Ghana Petroleum Regulatory Authority is immune from such risk.
- 37) Local authorities must seek to establish closer links with bodies that can offer expertise in internationally accepted accounting standards. The World Bank, the Organisation for Economic Co-operation and Development (OECD), the International Accounting Standards Body (IASB) and the FATF may be able to provide support in this area. Efforts to establish higher auditing standards will reduce the risk of embezzlement, as well as corruption-related money laundering, since accountants are crucial gatekeepers
- 38). Those states with effective auditing standards must help those with lower standards, since perceptions of low standards and the risk of exposure to money laundering may deter investment regionally.
- 39) Freedom of Information bills should be passed and properly implemented in all jurisdictions. Such measures will be most effective in conjunction with extensive education programmes among public officials regarding the benefits of open lines of information transfer.
- 40) All the jurisdictions must maintain widespread anti-corruption education programmes, both among public sector officials and the public, to help root out the culture of corruption and to explain the links between corruption and money laundering – and indeed the threat these pose to the integrity of the state. These campaigns must target the elements of societies with the greatest influence, such as government, the media, churches and mosques, and local community groups of various forms. Extensive education programmes throughout reporting institutions and individuals should be implemented to remove the cultural impediment to reporting.

# 4

## DRUGS TRAFFICKING

1. West Africa's location, its favourable social and political environment, and the existence of well-developed smuggling networks, have made it an important region in the international drug trade, both as a producer of cannabis and transshipment point for cocaine and heroin (although some cocaine is being processed in the region).

2. Some states, such as Nigeria, have a long history of involvement in the international trade of heroin and cannabis.<sup>141</sup> It is, however, the more recent increase in the cocaine trade through the region that has generated enormous sums of illicit proceeds which contribute to money laundering.<sup>142</sup> The Gambia, Guinea and Guinea-Bissau have become prime targets for traffickers owing to their attractive geography – with dozens of coastal islands, inland swamps and river inlets where traffickers can deliver, store and transfer drug shipments – and their weak institutional structures. Côte d'Ivoire, Ghana, Nigeria, Senegal and Sierra Leone are also, however, significant transshipment points for illicit drugs.

### *The drugs trade in West Africa*

3. West Africa's illicit drugs trade can be traced back at least as far as the 1950s when farmers were arrested for growing cannabis, and heroin was discovered on its way from Beirut to New York.<sup>143</sup> Today, the region is a significant producer of cannabis, but not of drugs such as cocaine, heroin, or methamphetamines, although some production of the latter takes place in the region and may be growing, according to police sources in Accra, Ghana. West Africa has instead come to play a significant role as a transit region in the supply of drugs to Western Europe and the United States (US).<sup>144</sup> The most prominent drug transiting through West Africa

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<sup>141</sup> Stephen Ellis, West Africa's International Drug Trade in *African Affairs*, April 2009

<sup>142</sup> UNODC, Cocaine Trafficking in West Africa: The threat to stability and development, 2007

<sup>143</sup> Stephen Ellis, *West Africa's International Drug Trade*, African Affairs, April 2009

<sup>144</sup> The economic attractiveness of the drugs trade is strong and growing, supported by historical and linguistic links across the Atlantic – for instance between Brazil, Cape Verde and Guinea-Bissau or between Ghana and some of the Caribbean states. Many drivers of the trade are external. The success of US and other states' efforts to carry out a strong interdiction policy in the Caribbean and the growing influence of the Mexican cartels over cocaine supply routes into the US has forced Colombian drug producers to diversify their business over the last decade. In response, and in part driven by the relative strength of the euro against the US dollar in recent years, Colombian producers have targeted the European market by transiting through West Africa. Anecdotal evidence of Colombian activities is strong, and Mexican and other supply networks have followed in the Colombians' wake. The route across the Atlantic on the 10<sup>th</sup> latitude corridor is now well trodden enough to have gained a nickname, Interstate 10.

at present is cocaine, and the quantities have grown rapidly at points in the last decade, but appear to have declined slightly of late.<sup>145</sup>

4. Methods of drug smuggling in West Africa vary. The United Nations Office on Drugs and Crime (UNODC) has highlighted that traffickers tend to operate in two forms; either foreign syndicates, control trafficked drugs from source to destination, or foreign syndicates use local facilitators in West Africa to move the drugs on.<sup>146</sup> Gangs from West Africa are also, however, becoming more active in the sourcing, producing and selling of drugs, and so division into separate types of groups is necessarily hard.<sup>147</sup>

5. In relation to cocaine, the preferred method of importing cocaine is flying shipments from Venezuela to West Africa in light aircraft, which can operate below radar level, or by shipping them across the Atlantic in small ships, commonly fishing smacks. When arriving by air, drugs are either dropped into the sea and brought ashore by launches, or landed at any number of small airstrips along the West African coast. The drugs are then stored locally in preparation for transport to Europe by air or sea. Key airstrips include Faranah and Boke in Guinea, and Djugudul and Cufar in Guinea-Bissau. Traffickers have frequently switched airstrips after authorities have closed down their operations.<sup>148</sup> This problem is not unique to Guinea or Guinea-Bissau; the UN Police mission in Côte d'Ivoire has made efforts to survey landing strips in that country, so as to highlight their importance in relation to cocaine smuggling.<sup>149</sup> A further means of bringing cocaine into the region is by boat, particularly through containerised shipping but also on fishing vessels. Police or customs officials in the relevant ports may often facilitate the movement of the cocaine in exchange for payment.

6. The problem has reached significant proportions in Guinea-Bissau. The Bijagós Islands have become a key area of operations and there have been numerous reports of warehouses and landing strips being used by traffickers on these islands. In December 2006 police discovered a drugs warehouse on Bubaque in the Bijagós Islands, located in Guinea-Bissau's coastal waters, which reportedly had two tonnes of cocaine inside. An estimated 30 tonnes of cocaine passed through Guinea Bissau in 2007, but only around 10% was intercepted by the authorities which are poorly equipped to counter the threat.

7. There is also rising evidence of trafficking in a neighbouring country. According to Guinea's Office Central Anti-Drogue (OCAD), more than one tonne of cocaine was seized in 2007, and 7.5 tonnes was seized between August and September 2008.<sup>150</sup> Recent incidents have included the arrest in May 2008 of Venezuelan and Colombian traffickers who were caught

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<sup>145</sup> United Nations Office on Drugs and Crime, *Drugs as a Security Threat in West Africa*, October 2008. However, cocaine seizures in West Africa have declined slowly over the past two years, which presents some (though inconclusive) evidence that for the moment the use of the West African route is declining (United Nations Office on Drugs and Crime, *Transnational Trafficking and the Rule of Law in West Africa: A Threat Assessment*, July 2009). The likely quantities transiting the region remain large, nevertheless.

<sup>146</sup> United Nations Office on Drugs and Crime, *Drugs as a Security Threat in West Africa*, October 2008

<sup>147</sup> Stephen Ellis, *West Africa's International Drug Trade in African Affairs*, April 2009

<sup>148</sup> United Nations Office on Drugs and Crime, *Drugs as a Security Threat in West Africa*, October 2008

<sup>149</sup> Interview with UN Police Mission sources in Abidjan, Côte d'Ivoire November 2008

<sup>150</sup> Reuters, 10 October 2008, Guinea: Drug trade 'potentially more dangerous than Guinea-Bissau'

stockpiling drugs in a warehouse in Kipé, in the suburbs of Conakry, and the high-profile arrest of senior officials in Boko who were suspected of involvement in night-time drug drops at the local airstrip. One son of the former Guinean president, Lansana Conte, also confessed to drugs trafficking in February 2009, having been arrested earlier in the same month. Efforts by the authorities to tackle the problem have been beset by lack of resources and political will, and many suspected traffickers have been quickly released and allowed to leave the country.<sup>151</sup>

8. Countries not traditionally associated with the drugs trade also face growing problems. Ghana is increasingly becoming a transit point for cocaine and heroin, in addition to its longstanding cannabis production and trade. Cocaine enters Ghana through the airport from South America and also from Sierra Leone, or comes in along the coast on fishing vessels.<sup>152</sup> Some of the cocaine stays in the country, leading to increased consumption, but most exits through the airport, with some leaving by land to Nigeria and Burkina Faso.<sup>153</sup> Cocaine also exits through the ports, often hidden in bulk cargo containers to Europe (often to Belgium or the Netherlands, and then by post at times to the UK).<sup>154</sup> One area of particular concern is the use of VIP lounges in airports to carry out drugs transfers, since politicians or senior officials can travel subject to only the lightest security measures.<sup>155</sup> Drugs also cross the border into Ghana from Togo, and heroin crosses from Côte d'Ivoire. A range of Ghanaian interlocutors stressed to the Aegis team that drugs trafficking provided the bulk of funds laundered in Ghana.<sup>156</sup>

9. Nigeria has long been an import and transit country for drugs.<sup>157</sup> Today, heroin and cocaine often enter Nigeria through Lagos and Abuja international airports. The drugs, which come in the case of heroin from Pakistan and its environs, and in the case of cocaine from South America, are repackaged once in Nigeria and sent to the US or Europe. A certain amount of cannabis also leaves Nigeria for Niger, where it is consumed in large amounts. The porosity of borders and scale of trade at seaports mean drugs leave Nigeria in almost all directions; shipments move north, for instance, across the desert since the harsh terrain presents particular difficulties for law enforcement.

10. Another border of particular concern is that with Benin, where ethnic and linguistic ties, combined with a tradition of freewheeling commerce, make many forms of smuggling common. Traffickers on that border conceal drugs using a variety of means: for instance, by ingestion, and in holy books, mobile telephones, gearboxes sent back to the UK for repair, luggage, beaded ceremonial canes for chiefs, baby shoes, cadavers, cushion seats of wheel chairs, picture frames, frozen poultry (especially turkey) and fried beef.<sup>158</sup> Some seizures have been notable: in 2006, Nigeria's National Drug Law Enforcement Agency (NDLEA) seized 14.2 tonnes of cocaine in a

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<sup>151</sup> Reuters, 10 October 2008, Guinea: Drug trade 'potentially more dangerous than Guinea-Bissau'

<sup>152</sup> Interviews with Ghanaian security officials, Accra, January 2009

<sup>153</sup> Interviews with Narcotics Control Board, Accra, January 2009

<sup>154</sup> Interviews with Ghanaian security officials, Accra, January 2009

<sup>155</sup> Interview with regional money laundering analyst, London, March 2009

<sup>156</sup> Interviews with Ghanaian and Ivoirian security officials, Accra, February 2009, Abidjan, November 2008

<sup>157</sup> Nigeria has played a role in the international marijuana trade since the 1960s. It was in the 1980s, however, that drug trading became prevalent. By 1988, 2,000 Nigerians were reported to be serving sentences for drug offences abroad (New Nigerian: 2,000 Nigerians in foreign jails for drug offences, 13 May 1998)

<sup>158</sup> Interview with Nigerian drugs enforcement officials, Lagos, November 2008

container vessel with the aid of South Africa Police Service and the cooperation of the UK's Serious Organised Crime Agency (SOCA).<sup>159</sup> Loose knit Nigerian criminal groups also play a key role in regional drugs smuggling, operating in states like Côte d'Ivoire, Gambia and Senegal.<sup>160</sup>

11. Once repackaged in the region, the drugs are often transported by air from West Africa either by couriers, who hide the drugs in their luggage,<sup>161</sup> or by 'mules', who carry the drugs inside their bodies. Drug gangs sometimes use a 'shotgun' approach, placing large numbers of smugglers on a single flight on the assumption that some will get through.<sup>162</sup> Deaths of smugglers from burst packages that have been ingested have become fairly common, and criminals also use nationals whose passports are not considered high risk by customs officials; Singaporean women, for instance, are currently being targeted by Nigerian drugs gangs.<sup>163</sup> The airports most at risk are the largest ones with direct connections to European cities, such as Dakar's Leopold Senghor, Accra's Kotoka, and Nigeria's Murtala Mohammed international airports. These airports have stronger security than smaller regional ones, but to some extent that is offset by the increased numbers of passengers and the corruption of some law enforcement officers, especially security and customs officials.<sup>164</sup>

12. Cocaine also enters Europe by sea.<sup>165</sup> Drugs are smuggled using international shipping routes into the EU; the large ports in Dakar and Abidjan are especially vulnerable given the volume of container traffic. The port in Ouidah in Benin has also seen major seizures – of 424 kg of cocaine in 2007, compared to 23kg in 2006 and 22kg in 2008.<sup>166</sup> West African territorial waters are vulnerable: the Ghanaian authorities seized 2 tonnes of drugs on the MV Benjamin, a fishing vessel, in 2006 (although this haul subsequently disappeared),<sup>167</sup> while the Senegalese authorities seized a tonne off its coast near Mbour in mid 2008.<sup>168</sup> A set of other routes also exist. The first route passes into southern Spain or Portugal, either by boat along the West African coast or through Morocco; second, into southern Italy from Tunisia and Libya, having crossed the desert; finally, across the Mediterranean into the Balkans. Colombian groups tend to control the first route, while Italy's organised crime groups like 'Ndrangheta' control entry into Europe in the middle route, and Bulgarian or Russian gangs control the Balkan route.<sup>169</sup> Of course, the drugs economy, its supply routes and associated gangs are flexible and constantly changing, and other routes have emerged. Nigerian diaspora communities throughout the world, for instance, are key traders. Nigerians in Asia, the Middle East and South America source the

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<sup>159</sup> Interview with Nigerian drugs enforcement officials, Lagos, November 2008

<sup>160</sup> United Nations Office for Drugs and Crime, *Transnational Organised Crime in West Africa*, 2005

<sup>161</sup> According to UNODC, 221 such couriers were intercepted transporting drugs into the EU in 2006

<sup>162</sup> International Narcotics Control Board, *Annual Report 2008*

<sup>163</sup> Agence France Press, 10 March 2009, African gangs recruiting Singaporean women via web: police

<sup>164</sup> Interviews with security experts in the diplomatic communities in Dakar, Abidjan, Accra and Abuja

<sup>165</sup> UNODC, *Drug Trafficking as a Security Threat in West Africa*, October 2008

<sup>166</sup> Numbers provided by Brigade Economique et Financieres in Benin

<sup>167</sup> The Statesman (Ghana), 4 November 2006, MV Benjamin cocaine case resumes

<sup>168</sup> Daily Telegraph, 4 December 2008, Cocaine: the African connection

<sup>169</sup> Interviews with intelligence analysts, London, November 2008

drugs, those across West Africa and in South Africa facilitate the carrying, while those in North America and Europe receive and sell the drugs.<sup>170</sup>

13. The United Nations Office on Drugs and Crime (UNODC) has identified the rise of drug-trafficking networks as the principal threat to the economic and political stability of West Africa, as has been highlighted by the recent political events in Guinea-Bissau.<sup>171</sup> The United Nations is especially concerned that the growth of trafficking networks could reverse the progress made in recent years with improving governance and peace-building, and is considering targeted sanctions against drug traffickers.<sup>172</sup> International cooperation is being stepped up with a series of projects – which are being implemented by the UNODC – to boost the capacity of local drug enforcement agencies, disrupt existing networks and strengthen local governance institutions, as well as to arrange regional conferences on the issue.<sup>173</sup>

14. Additional international initiatives are seeking to tackle the smuggling of cocaine. European states have established a pan-European agency called the Maritime Analysis and Operations Centre (MAOC). The MAOC is an intergovernmental organisation based in Lisbon that comprises about two dozen personnel from military, intelligence and policing backgrounds. MAOC emerged in response to calls from France, Spain and the United Kingdom for action against cocaine trafficking. Ireland, Italy, the Netherlands and Portugal also contributed to the centre and since September 2007, the MAOC has facilitated the seizure of about 40 tonnes of cocaine.<sup>174</sup> MAOC acts as an intelligence clearing hub on drugs issues, coordinating its activities with the US Joint Inter-Agency Task Force South, which tackles drugs smuggling in the Caribbean region. MAOC is working increasingly closely with West African security services – for instance in Cape Verde – as well as with Canada, Germany, and Europol. A range of different national bodies aimed at tackling drugs trafficking, including the US Drug Enforcement Agency (DEA), the United Kingdom’s Serious and Organised Crime Agency (SOCA) and the French National Police, are also engaging closely with West African countries.<sup>175</sup>

15. International efforts are especially salient given that throughout West Africa many security services struggle to tackle drugs trafficking effectively, owing to limited resources and weak political will. In numerous meetings in the region, the Aegis team encountered a particular focus on cannabis production and smuggling, to the extent that other drugs were not seen as major concerns.<sup>176</sup> In Côte d’Ivoire, for instance, it became clear that drugs were not considered a matter of national security and fell to the police rather than the security services.<sup>177</sup> This focus is highly regrettable since the value and scale of the cocaine threat makes it a major concern, including to political and democratic integrity and stability, and efforts to improve awareness of the threat presented by cocaine, heroin and synthetic drugs are crucial.

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<sup>170</sup> Stephen Ellis, *West Africa’s International Drug Trade* in African Affairs, April 2009

<sup>171</sup> UNODC, *Drug Trafficking as a Security Threat in West Africa*, October 2008

<sup>172</sup> BBC News, 8 October 2008, Guinea Bissau drugs sanctions threat

<sup>173</sup> UNODC, *Drug Trafficking as a Security Threat in West Africa*, October 2008

<sup>174</sup> The MAOC remit covers the entire eastern Atlantic region, from the Caribbean south to the Cape of Good Hope

<sup>175</sup> Janes Intelligence Review, Volume 21, Number 4, April 2009, Secret Weapon

<sup>176</sup> For example: Interviews with security personnel in Côte d’Ivoire and Ghana

<sup>177</sup> Interview with security services personnel in Abidjan, November 2008

### *Cape Verde case study*

16. With the growth of drugs-trafficking networks across West Africa, Cape Verde is also concerned by the trade, and over the last five years there have been increasing arrests of drug mules at Cape Verdean airports and evidence of trafficking networks operating in the archipelago. Traffickers have primarily used Cape Verde as a jumping off point for international flights to Western Europe, and, to date, their operations have focused on recruiting Cape Verdean drug mules to smuggle drug capsules in their stomachs to the EU countries. Drugs enter Cape Verde much as they do throughout West Africa – either smuggled in by ship or dropped by aircraft – and only a small quantity is consumed locally. In the past, drug use by the population was low, especially that of drugs injected intravenously, which is reflected in the rate of HIV infection. Drugs are increasingly used by Cape Verdean youths, however, and some areas, such as Terra Branca in Praia, have a particular problem with marijuana and cocaine use. Coupled with the sharp growth in tourism over the past decade and the emergence of a small wealthy class, the demand for marijuana and cocaine in the main urban centres has grown, further encouraging the flow of drugs into Cape Verde. Nevertheless, most drugs appear to be smuggled out of the country by air using mules, and it is likely that a large amount is also smuggled out by ship. Both methods are used to transport drugs predominantly either to other West African countries or directly to Western Europe.

17. The rise of drug-trafficking has been accompanied by a relative surge in violence between rival gangs and criminality in general. In Praia this has been particularly acute. The rise in violent crime has even brought some gangs into direct confrontation with the authorities. During the second half of 2004 the authorities made a series of cocaine seizures at airports across Cape Verde, arresting more than 25 suspects. In response, gunmen attempted to assassinate the chief prosecutor of Praia, Arlindo Figueredo, who was investigating the murder of two local businessmen linked to the drug gangs. The attack failed, but the violence has continued as a bitter feud between rival drug gangs has been played out in the slums of Praia.<sup>178</sup> Another factor in the rise in violence has been the steady trickle of Cape Verdean criminals into the country following their deportation from the USA after completing prison sentences. Although Cape Verdean nationals, many of these criminals have spent their entire lives in the USA, often involved in significant gang violence, and their willingness to up the ante in terms of violence has contributed to a spate of brutal killings in Praia.<sup>179</sup>

18. In response to the growth of trafficking networks and the surge in crime, the government has reacted strongly, bolstering the police presence across Praia and coordinating their operations with the military police in areas where the gangs operate.<sup>180</sup> Cape Verde has received assistance from Interpol in developing anti-narcotics strategies for its international airports and coast guard, and from the US Coast Guard in enhancing its capacity to pursue and board vessels at sea,

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<sup>178</sup> Interview with Judicial Police, Praia, March 2009

<sup>179</sup> Interview with Judicial Police, Praia, March 2009

<sup>180</sup> Interview with Judicial Police, Praia, March 2009

leading to increased drug seizures over the last five years.<sup>181</sup> As part of these efforts, the judicial police has set up a special anti-drugs unit, *Secção Central de Investigação do Tráfico de Estupefacientes (SCITE)*, which has greatly increased drugs seizures at Cape Verde's airports and ports.<sup>182</sup> In 2007, 508 kg of cocaine was seized in a container heading for the EU, and in 2008 172 kg of cocaine was seized, again in a container heading for the EU.<sup>183</sup>

19. Drug seizures at Cape Verdean ports have also increased: in July 2007 six men – three from Cape Verde, two from Senegal and one from Guinea – were arrested as they were unloading 10 kg of cocaine from a small fishing boat which had sailed from Dakar. A total of €46,000 of purported drug money was seized. In 2008, Cape Verdean authorities assert that approximately 195.5kg of cocaine and 580.7kg of cannabis were seized. So far, the level of illegal funds seized by the police has been low, usually less than €50,000. These sums of money are consistent with low-level drug smuggling and funds to finance drug mule operations. This suggests that most of the financial flows associated with the drug trade are not taking place in Cape Verde, and that the country is primarily being used as a staging post in the drug network. In addition, to date there is no evidence of international criminal networks using Cape Verdean banks systemically to launder illicit funds and transfer them clandestinely across the world. In fact, the Cape Verdean authorities assert that there were no money laundering or terrorist financing convictions in 2008. It is, however, highly likely that some illicit drug-related funds have passed through the banking system or the local cash economy, and several investigations are currently under way into the flow of illicit funds which could uncover extensive links to international criminal networks.<sup>184</sup>

#### *Laundering of drug money*

20. The economic impact of drug-trafficking on the West African economy is becoming increasingly apparent. The UN estimates the total street value of drugs passing through West Africa at over \$2 billion per year,<sup>185</sup> four times the GDP of Guinea-Bissau and more than twice that of the Gambia. 2008 estimates suggested that this figure amounts to perhaps 35% of Europe's estimated annual cocaine imports of 150 to 200 tonnes a year.<sup>186</sup> This means that about 50 to 70 tonnes a year now passes into Europe through West Africa. Indeed, this proportion has increased rapidly; it amounted to only 5% of European imports in 2004.<sup>187</sup> In 2009, however, a new UNODC report pointed to a decline to about 20 tonnes, valued at about \$1 billion.<sup>188</sup> By contrast, over half of cocaine entering Europe enters through the Caribbean.<sup>189</sup>

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<sup>181</sup> Interview with Direccao de Estrangeiros e Fronteiras, Praia, March 2009

<sup>182</sup> See the Judicial police website for recent arrests of drug mules

<sup>183</sup> Interview with Judicial Police, Praia, March 2009

<sup>184</sup> Interview with officials of Procuradoria Geral, Praia, March 2009

<sup>185</sup> UNODC report, *Drug trafficking as a security threat in West Africa*, November 2008

<sup>186</sup> International Narcotics Control Board, Annual Report 2008

<sup>187</sup> World cocaine production is estimated by the INCB at about 1,000 tonnes a year. International Narcotics Control Board, Annual Report 2008

<sup>188</sup> UNODC, *Transnational Trafficking and the Rule of Law in West Africa: A threat assessment*, July 2009

<sup>189</sup> Janes Intelligence Review, Volume 21, Number 4, April 2009, Secret Weapon

21. Signs of the influx of drug money are most overt in Guinea-Bissau, where foreign exchange reserves have risen from just \$33 million in 2003 to \$174 million in 2008, a period during which there have been very low inflows of foreign direct investment (FDI) and donor aid.<sup>190</sup> The Gambia saw a spike in the value of the dalasi in 2007 which did not match capital inflows; drugs money was probably behind the currency's rise<sup>191</sup> There are also reports of increased purchases of luxury cars, widescreen televisions and other indications of conspicuous consumption in Bissau, and the local and international press has levied numerous accusations of high-level corruption against the armed forces, police and judicial authorities.<sup>192</sup> In part, the visibility of drugs money in countries such as Guinea-Bissau owes much to the small size of their economies, and similar sums may pass through states with much larger economies, such as Côte d'Ivoire, Ghana, Nigeria, and Senegal, without raising suspicion of trafficking. In Nigeria's economy, owing to its size and diversity, money derived from drugs is especially hard to monitor.

22. Smuggling groups, from South America or elsewhere, bring money into West Africa for the purpose of facilitating smuggling activities. The bulk of the funds do not enter for the purpose of laundering itself. Gangs require local support in order to facilitate trafficking, and in each jurisdiction a range of collaborators aid the transit of the drugs, paid either in cash or at times in cocaine. Anecdotal evidence throughout the region suggests that loose knit groups of Nigerian criminals are amongst the facilitators, operating in Côte d'Ivoire, Ghana and other states, including Nigeria itself. Discussions with police sources in Côte d'Ivoire suggested that the Nigerians are the most identified actors,<sup>193</sup> although local criminals also play a key role in the drugs trade

23. Notwithstanding their relatively small size, these facilitation funds have insidious consequences in the region since they corrode the integrity of crucial services. The most obvious targets for bribery by drugs traffickers are police, customs and drug agency officials, for whom the money provides an incentive to ignore a shipment; as such, the bulk of corrupt payments target individuals in these gate-keeping agencies. This corruption may take place on a low level, with junior customs officials at borders receiving small bribes in exchange for waving through a cargo.<sup>194</sup> The scale of the funds available to drugs traffickers means, however, that drugs-linked corruption has worked its way further into the administrative system. In at least one major economy in the region, senior members of the anti-drug services have resigned in the wake of well-founded accusations of accepting money in order to permit the import of drugs. Anti-drug enforcement services have also routinely suffered the disappearance of impounded drugs held for evidential purposes; documented cases of this have occurred in Nigeria, Ghana, and Guinea-Bissau, although the problem is by no means unique to these states. In Benin, for instance,

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<sup>190</sup> UNODC report, *Drug trafficking as a security threat in West Africa*, November 2008

<sup>191</sup> UNODC report, *Drug trafficking as a security threat in West Africa*, November 2008

<sup>192</sup> Christian Science Monitor, 3 March 2009, Guinea-Bissau's assassinations: Is Colombia's drugs trade behind them?

<sup>193</sup> Interview with drug police officials, Abidjan, November 2008

<sup>194</sup> Interview with western diplomats, Accra, January 2009

sources indicated that a significant proportion of the 2.5 tonnes of cocaine seized in Ouidah in 2007 disappeared into the black market.<sup>195</sup>

24. Use of these bribes varies depending on the socio-economic status of the recipient, but in general much of this money is used by the recipients to improve their lifestyle. A low-level official will make use of the funds to better his quality of life, perhaps by paying for education for his children, finding better accommodation or simply in a myriad of small transactions aimed at supplementing his daily income. In Benin, for instance, many people were keen to invest in real estate speculation, even if only in a limited capacity.<sup>196</sup> In other cases money may also support legitimate, charitable causes; in Senegal, additional income may be recycled as donations to the Muslim Brotherhoods.<sup>197</sup> This activity may amount – on a strict interpretation of the laws – to money laundering based on a predicate of corruption, but in reality conforms more closely to informal economic activity than with the classic complex structures aimed at cleansing large sums of money of their illicit origins. Indeed, many people in West Africa would not recognise such activity as criminal, given the limited appreciation of laundering and tolerance of corruption in the region.

25. In relation to more intensive laundering activity, three West African states in particular – Ghana, Nigeria and Senegal – have increasingly become locations used for laundering itself, even as facilitation funds have entered the economy. These countries are the three largest economies in West Africa, other than Côte d'Ivoire, which has lost some appeal for launderers owing to political instability.<sup>198</sup> Their size and sophistication means these states offer more to launderers in the way of financial and ancillary services, such as legal or accounting advice. In relation to the Francophone countries, this appeal is partly because of the stability of the CFA currency, which the French Treasury guarantees as fully convertible into the euro and so of corresponding value to businessmen and money launderers alike. Ghana's appeal for launderers rests on its relative political stability.

26. The medium scale launderers may spend their funds on more prestigious signs of wealth, or conspicuous consumption – by building better quality housing or buying some consumer goods. Ghana's Free Zones have presented a particular problem on this front; the untaxed import of cars presented a challenge for the Free Zone authorities, which introduced a special number plate ensuring that the cars could not be resold into the Ghanaian market.<sup>199</sup> However, this policy has not resolved the problem and corruption money linked to drugs is still recycled into high-end automobiles.

27. Perhaps the biggest problem is at the top of the pyramid. Generally, large quantities of funds move out of the jurisdictions when they fall into the hands of more important political operators, aided by groups such as the diaspora communities in certain states. The key intermediaries in this area of operations are large scale cash smugglers, banks, businesses and big

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<sup>195</sup> Other cases include the MV Benjamin case in Ghana. Interviews with diplomats in Abidjan, Accra, and Dakar

<sup>196</sup> Interview with CENTIF, Cotonou, March 2009

<sup>197</sup> Interview with legal source, Dakar, March 2009

<sup>198</sup> Interview with western diplomats tasked with assessing the economy, Abidjan, November 2008

<sup>199</sup> Interview with free zone officials, Accra, March 2009

traders engaged in the international system. Currently, most of the money laundering infrastructure is linked to other forms of corruption – such as the pilfering of oil funds in Nigeria – but drugs also provide a key means for large scale corruption. This phenomenon presents a significant obstacle to effectively tackling the drugs problem and money laundering activity associated with drugs, since the political will to tackle drugs is to some extent weak.

28. In this context, Senegal's real estate market has become particularly attractive for launderers of funds from Guinea-Bissau. Dakar has experienced a construction boom over the last decade and in excess of 2,000 buildings of over three floors or more have been or are being constructed. Indeed, about 2,500 construction projects start each year in Dakar. A few of these buildings change hands several times even before completion. The average cost of the construction of each building is about \$200,000, and so the annual financial requirement for all construction in Senegal amounts to about \$500 million. Local finance accounts for only a small fraction of this building: about \$20 million according to a survey of local financial institutions, including CBAO, BHS, BICIS, Société Générale and other institutions. Informal transfers are believed to constitute the bulk of the funding gap. The value of remittances into Senegal are estimated at about \$1.6 billion, of which 70% is estimated to go to families in forms of maintenance and perhaps 30% is left over for other uses.<sup>200</sup> This 30% amounts to about \$500 million. Given the popularity of real estate for savings in Senegal, perhaps 60% or about \$300 million of this at least goes into the real estate market, leaving a funding gap of about \$200 million.

29. Much of the remaining \$200 million must then come from the informal and illegal sector, although how much of this laundered money is linked to the drugs trade is not clear. Tentative inquiries suggest that the main source of laundering in the real estate market actually derives from funds leaving the European Union, not least from Eastern Europe, although the economic crisis in Eastern Europe has diminished the region's exports of capital.<sup>201</sup> As such, some funds laundered in Senegal may derive from crime perpetrated in Europe, attracted by Senegal's stability and its regulatory standards, which are lower than those of the EU.

30. Nonetheless, it is certain that Dakar's real estate sector has proven particularly attractive for drugs proceeds, particularly from Guinea-Bissau. A number of weaknesses, such as the possibility for notaries to facilitate payments in cash, and the relative weakness of the registry system make the sector vulnerable.<sup>202</sup> Indeed, professionals facilitating the purchase of real estate in Senegal – and, indeed, across the region – routinely fail to carry out effective due diligence on the origins of funds entering the market or on fake invoices explaining the purported source of the funds.<sup>203</sup> A stricter adherence to FATF Recommendation 16 would limit the risk in this context. This problem also owes much to the low level of money laundering awareness in this sector.

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<sup>200</sup> This calculation is based on an assessment of real estate in Dakar by a legal practitioner

<sup>201</sup> Meeting with western diplomats, Dakar, November 2008

<sup>202</sup> Interview with CENTIF, Dakar, November 2008

<sup>203</sup> Interview with Senegalese legal source, London, March 2009

31. Drug money entering the legitimate real estate market is by no means unique to Senegal. Ghana, for instance, faces similar challenges; incidences of money laundering in the country's real estate sector have increased, notwithstanding the relative weakness of the cedi against the CFA. The construction sector is a particular concern, with drugs money rumoured to fund the building of good quality houses on the outskirts of Accra. European security officials based in Ghana have stressed that 'cocaine houses'<sup>204</sup> have emerged in Ghana, particularly along the coast west of Accra in Kokrobite.

32. In Nigeria, according to senior governmental sources, land acquisition and construction of estate accommodation or retail shopping centres provide a means for drug criminals to launder their funds and integrate them into the formal economy.<sup>205</sup> These fixed assets are often used as collateral for loans from banks or other financial institutions, which accept that retail receipts or other income sources are legitimate. As such, this structure can provide a long term laundering system for drug criminals. In other cases, the ownership of real estate is registered in the names of relatives or extended family members who bear a different surname, so that ownership of the real asset is hard to trace.<sup>206</sup> The lack of centralised land registration in Nigeria makes this practice easier to carry off.<sup>207</sup>

33. Notwithstanding the importance of land as a vessel for laundering, the formal financial sector is also an area of concern. The banking system plays a key role in moving and laundering drugs money, facilitated by insufficient implementation of customer due diligence and other AML/CFT standards. Initially the involvement of launderers linked to drugs funds from Guinea Bissau prompted a number of suspicious activity reports by banks and investigations in Senegal. The situation was compounded by the two tier nature of the banking system in most West African countries. International subsidiary banks ordinarily comply with AML/CFT standards set by parent companies located in the US and EU, yet local branches have difficulties to quickly establish AML/CFT mechanisms due to the considerable resources required as well as sometimes sophisticated techniques to implement efficient internal AML/CFT systems which comply with international regulations;. Sources in customs in Côte d'Ivoire suggest that many of the banks are lax in applying their foreign exchange rules; and indeed that some banks even refuse to comply effectively with the rules.<sup>208</sup>

34. The porous nature of Ghana's borders also means that smuggling the proceeds of drugs into the country from Togo or Burkina Faso has been relatively easy; a proportion of these funds is placed in the formal banking system before being sent overseas.<sup>209</sup> A source in compliance gave an example of how the due diligence system failed in Ghana: a woman deposited a large sum of money into a prominent local bank, describing herself as a 'trader' for customer due diligence purposes; later investigations established that she was the girlfriend of a Colombian drug smuggler who had asked her to deposit the cash in order to avoid suspicion. The bank

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<sup>204</sup> Houses built principally as a means to launder money derived from cocaine.

<sup>205</sup> Interview with EFCC officials, Abuja, November 2008

<sup>206</sup> Interview with EFCC officials, Abuja, November 2008

<sup>207</sup> Interview with EFCC officials, Abuja, November 2008

<sup>208</sup> Interview with customs officials, Abidjan, November 2008

<sup>209</sup> Interview with Bank of Ghana officials, Accra, January 2008

made inadequate inquiries about the source of these funds beyond asking about her business, suggesting that the sector remains vulnerable to launderers.<sup>210</sup>

35. Accounts which do not generally appear suspect are especially vulnerable; in Nigeria, such accounts include those held by charities or those held by lawyers for client purposes, both of which have high turnover.<sup>211</sup> Indeed, a key vulnerability across the region is the lack of formal structures for customer identification in customer due diligence measures. Formal identification requirements – such as the use of identification documents, verified addresses and/or passports – are in some cases not standardised within countries let alone between them, and where such requirements have been standardised, they are only incompletely implemented. In this context, even those seeking to establish formal identification documents may struggle to do so.

36. The drugs trade may also provide a degree of financial support for terrorist or insurgent groups. Reports have emerged of al-Qa’ida in the Mahgreb or AQIM (also known as the Group of Salafist Preachers and Combatants) cutting deals with drugs smugglers who sought to transport cocaine and heroin across the Sahara desert.<sup>212</sup> These deals provide financial support for the group’s activities, which represent a real security threat in the region, and potentially facilitate terrorist activity in other locations, such as Morocco. It is important to stress that the sums involved in these circumstances are small, but that their impact is damaging.

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<sup>210</sup> Interview with compliance official, Accra, January 2008

<sup>211</sup> Interview with EFCC officials, Abuja, November 2008

<sup>212</sup> Amado Philip de Andres, Deputy Regional Representative for West and Central Africa, UNODC, *Organised crime, drugs trafficking, terrorism: the new Achilles heel of West Africa* from La Fundación para las Relaciones Internacionales y el Diálogo Exterior (FRIDE)

## Recommendations

In the context of drug trafficking, states in West Africa face two problems. The first problem is the transfer of drugs and the corruption associated with that activity, with the bulk of illicit funds comprising relatively small scale facilitation funds; as such, these recommendations will tackle the problem of drug smuggling itself. The second problem is the use of their economies for the laundering of drug money, which tends to involve larger sums, and so these recommendations will also target the laundering aspect of drugs issues.

### *Tackling drugs and drugs money*

- 41) All jurisdictions should ensure that their anti-drugs laws are in line with the requirements of the relevant conventions, such as the Convention on Psychotropic Substances, and the Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Drugs trafficking must be a serious offence in line with FATF Recommendation 1.
- 42) Enforcement measures against drugs must be stepped up. The financial intelligence units (FIUs) should establish an adequately resourced unit focused on the analysis and collation of information on drugs related offences, while law enforcement agencies should dedicate greater resources to anti-drugs units and work more closely with the FIUs and other intelligence collection bodies.
- 43) Local anti-corruption agencies must pay greater heed to the risk of drugs-related corruption, especially amongst key gateway agencies such as customs and border security forces. Internal anti-corruption and other self-policing mechanisms must also prioritise the risk of corruption linked to drugs trafficking, and must establish investigative measures that take the relevant elements of risk associated with drugs into account.
- 44) States should identify vulnerabilities and then target them for improvement to prevent money laundering and corruption. VIP lounges in airports and at border crossings, for instance, should be subject to far greater transparency so as to prevent their abuse for the purposes of drugs trafficking. Customs services must carry out controls in the VIP lounges without exception. In addition, local authorities must dedicate resources to surveillance of all airstrips, so as to prevent their abuse by drugs traffickers. The information gathered should be centralised and exchanged between states as necessary.
- 45) The criminal justice authorities in the region must strengthen their anti-drugs capabilities in close association with the US Drug Enforcement Agency, the UK's Serious Organised Crime Agency (SOCA), the French National Police and other international agencies. GIABA should foster close ties with the Maritime Analysis and Operations Centre (MAOC) as part of this initiative by bringing together the relevant intelligence and law enforcement bodies. GIABA is well placed to bring together law enforcement networks

by two key methods: first, by arranging conferences and workshops at which law enforcement agents can share expertise; and second, by acting as a co-ordinating body for information exchange and transnational co-operation, in line with FATF Recommendation 40.

- 46) All staff working in airports must be screened by the authorities to check for drugs-related or other risks, in order to ensure compliance with FATF Recommendation 30. Such measures will include but not be limited to the scrutiny of: pilots, airline crews, airport staff including baggage handlers, shop staff, cleaners and licensed couriers.
- 47) Prosecuting authorities should establish plans to make more effective use of seizure provisions in relation to drug trafficking. Mechanisms to prevent the disappearance of seized drugs are crucial.
- 48) Education campaigns that train local officials on the nature and risk of corruption related to drugs must be expanded. These campaigns should target those officials most vulnerable and emphasise the deleterious impact of drug smuggling on West African societies. Other awareness campaigns, implemented through local community groups, churches, mosques and other venues, should broaden the understanding of the harmful nature of drugs and complement efforts aimed at officials. These campaigns, in hand with those aimed at corruption, should highlight the corrosive nature of drugs trafficking, in terms of both the social and security consequences.

#### *Laundering of drug funds*

- 49) Real estate is a key concern in relation to the laundering of funds connected to drug trafficking. Stricter registration measures for land purchases are necessary to limit the amount of informal and illicit funds entering the market. These should include more effective registration and titling of land. Screening of land registry personnel is also necessary to ensure high standards of probity in line with FATF Recommendation 30.
- 50) Professionals facilitating land transfers should be subject to strict regulatory obligations that require them to acquire information about their customers in accordance with FATF Recommendation 12. Such legal obligations are in place in most states in the region but are not effectively enforced. As such, efforts to strengthen anti-money laundering activity in land should include more effective enforcement of regulations on notaries and other professionals facilitating land purchases. Criminal sanctions aimed at disciplining these professionals must be enforced and strengthened. Furthermore, all professionals dealing with land must be subject both to strict and closely enforced rules within their professional bodies; the loss of the right to practice is an important tool with which to punish abuses.
- 51) There must be greater regional co-operation concerning intelligence and due diligence on customers making land purchases. Three groups of possible intermediaries for such co-

operation might be through national real estate associations, national police forces, and national economic crime investigatory bodies. GIABA may be well positioned to co-ordinate this co-operation. Since some illicit money from West Africa enters property sectors elsewhere in the world, such co-operative measures should extend beyond West Africa. Mutual Legal Assistance Treaties might be a means to pursue such ends in line with FATF Recommendation 36.

- 52) Banks and other financial services institutions must go further in customer due diligence efforts. This should include establishing higher levels of customer due diligence for those individuals – such as drug enforcement officers and customs officials – who may be high risk in terms of corruption from drug money. Local staff should receive training that will equip them to make appropriate risk-based decisions, such as whether to conduct simplified or enhanced due diligence on customers in line with the commercial realities of the banking industry. Co-ordination, both domestically and regionally, between compliance officers, most particularly between financial institutions, would foster the adoption of best practice and raise standards of compliance with AML regulations. The establishment of a Compliance Officer Forum with regular meetings, either through ECOWAS, or via GIABA, would be a positive step in this direction.
- 53) Large international banks with experience of managing internal AML/CFT systems should be brought into co-operation with local banks, as part of an effort to establish uniform AML/CFT standards even in those jurisdictions with a two-tier banking system. This initiative might use as a model the Wolfsberg Group, which is a group of large banks seeking to establish an effective and uniform approach to AML/CFT regulations.

# 5

## PRIVATE SECTOR FRAUD

1. Various forms of private sector fraud are significant sources of illicit proceeds in West Africa and underpin money laundering activity. Such activities generally involve some form of deception that enables a theft; indeed, in some jurisdictions the offences of deception and fraud are interchangeable. This report takes a wide approach to private sector fraud, to incorporate a range of offences, including deception, embezzlement, white collar crime such as insider trading, counterfeiting and other comparable offences.

2. The most notorious form of private sector fraud is advance fee fraud, which is also known internationally as ‘419 fraud’ after the relevant section of the Nigerian penal code. Other forms of fraud are frequent too, and range from sophisticated stock market frauds to counterfeiting of currency. These crimes are a major source of laundered money; funds that in fact present a particular threat to the formal financial sector. Indeed, sources throughout the region have noted that both the considerable individual sums commanded and the close proximity of fraudulent operations to the formal financial sector, can be highly disruptive.<sup>213</sup>

3. Advance fee fraud generally involves a confidence trick in which fraudsters offer financial remunerations in return for the advancement of fees to a fictitious individual or institution. Criminals solicit victims in both the region and internationally through the postal system, by telephone or electronically via email and fax. The fraudster will normally initiate the scam by targeting various telephone numbers, email or postal addresses with bulk communication. The communication will make certain claims, which may include: the assertion that a huge sum of money lies in a secret account facing seizure by government; reference to a donation to a non-existent charity foundation; reference to a large sum of money from inheritance or next of kin; a large contract that he or his associates have just been paid by the government; money purportedly won from lottery; or access to high-value commodities, such as gold from Ghana. The fraudster will then ask the target to engage in a related transaction. This involves the target’s advancement of a certain amount of money or certain details to the fraudster in order for the target to benefit from the business relationship initially set out by the fraudster. The fraudster may attempt to gain the target’s trust by supplying fake documents and signatures, such as presidential letterheads, accounts documents (for example, in relation to Nigeria, of the Nigeria National Petroleum Corporation or the central bank), fake passports, or customs certificates.<sup>214</sup> In cases of commodity-based advanced fee fraud, the target may even be sent a small amount of fake commodity, to add supposed authenticity. Sources in Ghana, for instance, noted that the forgery of gold certificates – and indeed gold itself – for the purposes of fraud was

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<sup>213</sup> For instance: meeting with source in the Brigade Economique et Financière (BEF) in Benin, March 2009; in addition to meetings in Côte d’Ivoire with a diplomatic source and with a source in the Ivorian economic police (ministry of the interior), November 2008.

<sup>214</sup> Meeting with official in the oil and gas sector in Nigeria, December 2008.

apparent.<sup>215</sup> Lastly, the victim will then be asked to provide an advance payment – varying in value but that some analysts have valued at an average of \$10,000<sup>216</sup> – and/or personal details, especially those of their bank accounts, from which the fraudster will then transfer money. The fraudster then severs contact with the victim, who never receives the promised assets.

4. Such operations are based worldwide, but many have emanated from Nigeria, or from Nigerian expatriate communities in the rest of West Africa as well as in the US, UK and Hong Kong.<sup>217</sup> The tightening of financial regulations and law enforcement in Nigeria has, however, pushed some Nigerian fraudsters into the relatively relaxed neighbouring jurisdictions in West Africa: sources in Benin and Ghana both noted the spread of Nigerian fraudsters to their respective countries.<sup>218</sup> A source in the Ivorian Interior Ministry also asserted that approximately 80% of those arrested in Côte d'Ivoire on advance fee fraud charges are Nigerians.<sup>219</sup> It is, however, a common misconception that it is solely Nigerian gangs who carry out advance fee fraud. Indeed, many non-Nigerian African fraudsters who have been apprehended in the past either carried a Nigerian passport or falsely claimed to be Nigerian.<sup>220</sup> The practise is expanding: a source in a Ghanaian government body, for instance, noted that the activity was spreading amongst Ghanaians and other nationalities in the region.<sup>221</sup> Indeed, among the jurisdictions studied – in addition to Nigeria, which was ranked third – Ghana was ranked in the top ten (at seventh) of the most prolific source countries for internet fraud.<sup>222</sup>

5. Fraudsters across West Africa transfer funds from their targets in a variety of ways. Such transfers often entail the use of money transfer services such as Money Gram and Western Union, or by classic transfers through the formal banking systems. As a result of improving CDD and adherence to STR reporting, in accordance particularly with FATF Recommendations 5 and 13, and knowing that the possibility of being traced or caught in Lagos and Abuja is higher than other regions, Nigerian fraudsters are now asking targets to send money into sub-urban and rural branches of major banks in Nigeria. Oyo and Ogun states are especial targets owing to their proximity to Lagos, as are Kogi, Niger, Kaduna and Plateau States, which are closer to Abuja. The rapid growth of the telecom sector in West Africa through broadband services and mobile telephones has also made it possible for many fraudsters to access bank accounts and other financial services from their homes or obscure locations.<sup>223</sup>

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<sup>215</sup> Meetings in Ghana with a source in the Serious Fraud Office and an Interpol source, February 2009.

<sup>216</sup> *New York Times*, 24 March 1996, Smothers, R., 'U.S. Gets a Break in Curbing Nigeria Business Fraud Schemes',. However, the size of 419 crimes varies widely.

<sup>217</sup> Meeting with a banking source in Nigeria, December 2008.

<sup>218</sup> Meeting with the Serious Fraud Office in Ghana, February 2009; and meetings with a leading civil society organisation and the Beninese CENTIF, Cotonou, February 2009

<sup>219</sup> Meeting with a source in the Ivorian economic police, Côte d'Ivoire, November 2008

<sup>220</sup> Asserted by a source from the Nigerian community in the UK. Some Cameroonians and Ghanaians caught in 419 related fraud have claimed Nigerian nationality. This is likely to be in order to conceal their true identity upon apprehension, which helps to protect their record in their true country of origin.

<sup>221</sup> Meeting with sources in the Serious Fraud Office in Ghana, February 2009.

<sup>222</sup> 2008 Internet Crime Complaint Centre, Internet Crime Complaint Centre, March 2009

<sup>223</sup> Meetings in Nigeria with police and security service officials, December 2009

6. In addition to advance fee related fraud, a variety of other forms of private sector fraud are prevalent throughout the region. Sources from the financial sector, the public sector and civil society in Nigeria emphasised that a large number of different forms of fraud are very common in Nigeria.<sup>224</sup> Sources in Benin asserted that a significant amount of illicit money is derived from fraud within the country: a government source noted that large fraud cases constituted a primary predicate crime for money laundering, and highlighted the 66 convictions for large scale fraud in 2004, for instance.<sup>225</sup> In Côte d'Ivoire, a diplomatic source highlighted fraud as a particular area of concern, and a source in the economic police unit underlined that bank and cyber fraud are the fastest growing economic crimes.<sup>226</sup> Indeed, sources across the region variously asserted that fraud in the financial sector constitutes a significant predicate crime.<sup>227</sup> As such, assessment of advance fee fraud often eclipses analysis of other fraud.

7. The most prominent other varieties of private sector fraud in the region include insurance sector fraud, ATM-related identity fraud and share fraud. A source in the Nigerian insurance sector highlighted the role of insurance salesmen in fraud concerning the sale of deceptive insurance policy, the making of fraudulent death claims, and the exaggeration of insurance proceeds. Life insurance is an example of a particular area in which fraud is perpetrated. On the death of a client, the insurance agent is often one of the first people to be told, and there have been cases in which the agent has diverted the death proceeds to a private account.<sup>228</sup> Insurance agents in Nigeria are sometimes complicit with customers in fraudulent activities: in undervaluing goods for insurance in order to obtain a cheaper insurance rate, for instance, or by-passing customer due diligence requirements.<sup>229</sup>

8. A large proportion of fraud perpetrated across the region concerns forms of identity theft in connection with bank accounts, ATM cards and money transfer systems. Certain media commentators have noted that ATM card-related fraud has risen to worrying levels in Ghana, for example, although an Interpol source noted that it has more recently subsided.<sup>230</sup> In Nigeria it is common and the central bank has warned that hundreds of millions of naira are lost annually. In 2006, for instance, fraudsters obtained the account details – including pin numbers – of a large number of Interswitch ATM card users by setting up a fake Interswitch website and then sending out emails and text messages to clients telling them to register their card details as Interswitch

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<sup>224</sup> Meetings in Nigeria with sources from the Nigerian financial sector (a number of bank employees and a member of the insurance industry), public sector (including law enforcement officials) and civil society, December 2008.

<sup>225</sup> Meeting with source in the Brigade Economique et Financière (BEF) in Benin, March 2009.

<sup>226</sup> Meeting with diplomatic source and meeting with source in the Ivorian economic police, Ministry of the Interior. Both meetings in Côte d'Ivoire, November 2008.

<sup>227</sup> In addition to the already mentioned sources in Côte d'Ivoire, Benin, and Nigeria regarding 419 fraud: meeting with sources in the Serious Fraud Office in Ghana, February 2009, and meeting in Senegal with the Club of French Investors in Senegal, November/December 2008.

<sup>228</sup> Meeting with leading insurance company in Nigeria, December 2008.

<sup>229</sup> Meeting with leading insurance company in Nigeria, December 2008.

<sup>230</sup> *Business Day*, 22 September 2008, Olawuni, T., 'Senate to Pass Law on ATM Fraud', for instance; and meeting in Ghana with Interpol representative to Ghana, February 2008. The Interpol source did not give any further detail on the assertion that ATM-related fraud has recently decreased in Ghana.

was updating its network.<sup>231</sup> Such frauds may be of concern to Ghana, which recently introduced an e-switch payment system for government employees.

9. Securities linked fraud is also common. A source in Nigeria's Economic and Financial Crime Commission (EFCC), for example, has highlighted cases where share ownership certificates and other related share documents were falsified and/or stolen by individuals registered as stock brokers.<sup>232</sup> In one instance, an individual was defrauded of shares worth 100 million naira (\$680,000). Stock brokers also sometimes trade with their clients' money without permission. Profit made from trading with their clients shares is either deposited in private accounts or used to acquire new shares in their names. This situation is a reflection of weak AML standards as applied to stockbrokers, linked to perennial concerns in relation to brokers such as churning.

10. The offshore banking sector is an area subject to a number of fraud (and indeed money laundering-related) threats, both potential and actual. While Ghana has an embryonic offshore sector, Cape Verde's is more developed. Indeed, the level of fraud evident in the latter has risen as the country has attracted an increasing amount of investment and financial inflows. Evidence has grown of fraudulent transfers through Cape Verdean offshore subsidiaries in order to avoid taxes or protect foreign banks' balance sheets. Indeed, the issue has become somewhat politically charged with the scandal involving the Portuguese bank, BPN, which used its Cape Verdean offshore subsidiary – Banco Insular de Cabo Verde (BICV) – to move funds illegally to Brazil. The scandal emerged in late 2008 when BPN underwent an emergency nationalisation by the Portuguese state after revealing losses of more than €700 million. An investigation by the Banco de Portugal uncovered more than €320 million of losses in BICV that had not appeared on the bank's balance sheet. The investigation also revealed that both banks were owned by a private company, Sociedade Lusa de Negócios (SLN), which had already been at the centre of a political scandal involving murky property deals. According to reports in the Portuguese press, BPN used the BICV as a 'virtual branch' for its riskiest credit operations, and in 2004-07 secretly transferred over €300 million to Brazilian accounts owned by SLN.<sup>233</sup>

11. Figures indicating the value of fraud in West Africa vary widely. It is clear that in Nigeria, private sector fraud – both advance fee-related forms and other forms – constitutes a significant source of funds. In 2008, for instance, internet fraud reported to the Internet Crime Complaint Centre (IC3)<sup>234</sup> amounted to \$264.6 million, and for those cases in which a location was reported, Nigeria alone accounted for 7.5%.<sup>235</sup> Assuming that among the cases with unreported locations, Nigeria accounted for a similar proportion to those with reported locations, one may estimate that the value of internet fraud in Nigeria reported to the IC3 in 2008 was \$19.8 million (7.5% of \$264.6 million). In fact, in 2008, the value of reported private sector

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<sup>231</sup> Daily Trust, 10 August 2008, Abdallah, N. M., 'How Banks, Interswitch Battle ATM Fraud',

<sup>232</sup> Meeting with source from the Economic and Financial Crime Commission in Nigeria, December 2008

<sup>233</sup> Visao News, 16 February 2009, Cape Verde terminates bank's licence over financial scandal

<sup>234</sup> 2008 Internet Crime Complaint Centre, Internet Crime Complaint Centre, March 2009. It must be noted that the IC3 receives complaints from across the world, but the vast majority of these – 92.93% in 2008 – are from the US.

<sup>235</sup> *This Day*, 6 April 2009, Akosile, A., Internet Fraud Value Rises 11 Percent in 2008 Over 2007 – Study

fraud in Nigeria was 62.7 billion naira (\$428.4 million).<sup>236</sup> Nigeria accounts for about 70% of the economic activity of the seven jurisdictions. On the assumption that fraud in Nigeria occurs at a similar level relative to economic activity in the other jurisdictions under scrutiny – a rate at the top-end of what is probable – a rough estimation can be arrived at, within the obvious limitations of the above assumption, for the annual value of private sector fraud across the jurisdictions, including Nigeria, of about \$612 million.

12. Much of the money derived from fraud – in Nigeria and in the wider region – may be used for the purchase of cash-based goods, such as cars and property. Additionally, money made from internet fraud is sometimes reinvested in businesses. One particular pattern in the region is for cyber-fraudsters to establish an internet café. Such criminals already have expertise in information technology, and the ownership of an internet café(s) aids the perpetration of further internet fraud, as well as being a means to launder money.<sup>237</sup> Many fraudsters launder their money in a variety of other business enterprises, such as: small shops; cab and/or motorbike taxi businesses; building materials businesses; and telecoms related ventures, such as the sale of mobile phone recharge cards.<sup>238</sup>

13. Money derived from private sector fraud in West Africa is also laundered through the formal sector. Fraudsters are often fairly sophisticated in their understanding of the formal financial sector and its regulatory environment. Further, the nature of this crime is such that a large proportion of the money originates in the formal financial sector. The proceeds of insurance fraud, for instance, or share-related fraud, are obtained from funds that are within the formal sector. It is easier, therefore, to hide the proceeds of such fraud in the formal sector than it is with funds connected to other predicate crimes that derive from outside the formal financial sector. A particular vulnerability, though, which further attracts these fraudsters to the formal sector is the malleability of bank employees. Employees may be complicit in the laundering of funds as well as the fraud itself, facilitated by the weak AML compliance systems within financial institutions.<sup>239</sup>

#### *Currency counterfeiting*

14. Evidence suggests that there is a moderate level of currency counterfeiting in West Africa. That central banks and governments across the region have, at various times in the past, expressed concern over certain denominations of note in circulation, is indicative of the problem. Counterfeiting in the region has the capacity to generate very large quantities of illicit funds, and in its most extreme forms, to de-stabilise and weaken local currency. Significant quantities of both fake dollars and local currencies are in circulation, as well as a smaller quantity of forged euros. In Nigeria, for instance, the total value of counterfeit notes seized by the authorities

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<sup>236</sup> Meeting with Economic and Financial Crimes Commission, Nigeria.

<sup>237</sup> Meeting with an entrepreneur in Nigeria, December 2008

<sup>238</sup> Meeting with an entrepreneur in Nigeria, December 2008

<sup>239</sup> Meeting with a source in banking compliance in Ghana, February 2009; meeting in Ghana with a source in the central bank, February 2009; meeting with a source in a leading bank in Nigeria, December 2008

between June 2008 and June 2009 was \$1.3 billion, principally in US dollars (\$795.5 million), but also in sterling, euros, Canadian dollars and naira.<sup>240</sup>

15. There is evidence of a significant amount of low-to medium-scale currency counterfeiting operations across the region, generally involving below the equivalent of \$2000-\$3000. These operations tend to be fairly static and do not generally involve more than one currency. The methodology involves printing forged money to leak into the informal economy. In Nigeria, for instance, a source has asserted that fake foreign currencies are printed and sold in the commercial hubs of Lagos<sup>241</sup> and Victoria Island, as well as at the maritime trade centres of the Apapa and Tin Can Island ports. The state government of Lagos is, however, making efforts to curb the activities of the counterfeiters.<sup>242</sup> Gangs have been apprehended in various countries: in Ghana, for instance, a gang of forgers were apprehended in July 2007 carrying 890 counterfeit new Ghanaian cedis (\$630), having attempted to purchase a significant amount of onions with the notes.<sup>243</sup> Despite cases such as these in Ghana, however, a source in the Bank of Ghana emphasised that the country's primary problem with regard to counterfeit currency was with fake dollar notes.<sup>244</sup> This activity accords with the popularity of the US dollar in the region.

16. Large-scale counterfeiting also occurs in the region. The CFA is at risk from forgery, because of the currency's guaranteed full convertibility to the euro: indeed, evidence suggests that counterfeiting of currency is a major predicate crime in both Benin and Côte d'Ivoire. A government source in Benin outlined a case in November 2008 in which two Beninois and one Nigerian were caught with over \$900,000 in what was asserted to be notes forged using highly sophisticated technology.<sup>245</sup> Another case also took place in which the Beninese gendarmerie, in conjunction with their Togolese counterparts, apprehended two men – one Togolese purchaser and one Beninese counterfeiter – in Togo trying to transfer CFA 1.9 million (approximately \$4,000) of counterfeit notes into the legitimate market. They were also in possession of \$32,500 in cash.<sup>246</sup>

17. Authorities are often aware that fake notes are circulating in the system, and attempt to make currency re-issuances in order to filter out forged currency and old notes that are easily counterfeited. These measures are taken throughout the CFA zone, and in other West African jurisdictions. New notes and coins with added security features were issued for the CFA zone in 2004, for instance, and Ghana's currency has had almost 15 different issuances between 1965 and the present, including the most recent re-denomination in 2007, with further security features

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<sup>240</sup> Meeting with Economic and Financial Crimes Commission, Nigeria.

<sup>241</sup> Oluyole on Lagos Island has, for instance, an informal market that specialises in counterfeiting and trading of fake foreign currency notes, among other forgery activities (which include the counterfeiting of documents used for financial transactions, foreign visa application, and foreign passports). This has partially developed because of its proximity to many of the major banks, financial institutions and embassies in Lagos. Based on onsite inspection by Aegis staff.

<sup>242</sup> Based on onsite inspection by Aegis staff

<sup>243</sup> Daily Graphic, 28 July 2007, Fake New Ghana Cedi Gang Busted

<sup>244</sup> Meeting with the Bank of Ghana, Accra, February 2009

<sup>245</sup> Meeting with a source from the Brigade Economique et Financière (BEF) in Benin, March 2009.

<sup>246</sup> Xinhua News Agency, 6 March 2008, Togo : Deux faussaires arrêtés avec 1,9 million Cfa en faux billets et des coupures de 100 dollars US.

added to the notes. Despite these measures, given the scale of the examples given, and the free flow of capital in the region, the threat from currency forgery as a predicate crime for money laundering is significant.

18. In cases of counterfeiting little distinction is apparent between the method of laundering and the predicate crime itself. The act of leaking a worthless, illegitimate asset – the forged note(s) – into circulation in exchange for a legitimate asset, is the process by which gangs both create funds and legitimise them. A variety of different means to insert forged notes into the economy exist in the region. Small- and medium-scale gangs are likely to use the proceeds of currency counterfeiting for moderate cash-based purchases in the informal sector. As with other funds of this volume, the bottom of the property sector is also at risk. Eventually, legitimate assets derived from currency counterfeiting may enter the low-value end of the formal financial sector. This may be through local or community banks, or even through the various different forms of microfinance institution that are present throughout the region.

19. Indeed, a particular vulnerability concerning illicit funds – from other predicate crimes as well as currency counterfeiting – entering this end of the financial system is the poor supervision of microfinance institutions and small-scale lending and deposit-taking entities. The PARMEC law, issued by the financial regulator, the Central Bank of West African States (BCEAO), regulates francophone West Africa's microfinance sector. While the PARMEC law's implementation is supervised by each country's ministry of finance, enforcement would be improved for this growing and disparate sector if governed in each country by a dedicated and independent regulatory body for microfinance. In Nigeria, Ghana, Cape Verde and Gambia, the formal microfinance sector is supervised and regulated by the respective central banks, not by any devoted and separate regulatory body. Moreover, in all the countries studied there is a proliferation of semi-formal and informal forms of microfinance entity such as non-governmental organisations (NGOs), savings collectors and some credit unions and collectives. These are often regulated by various different official bodies, and in some cases only on a voluntary basis; adequate regulation and supervision, especially regarding AML/CFT measures, would require a dedicated regulatory body for these entities. This is especially because the supervision of microfinance entities is made particularly difficult as, in virtue of the nature of their business, many of them are based in rural locations, making on-site visits by regulatory authorities more difficult.

20. Forged notes from operations of all scales may be exchanged for legitimate assets through trade and other business operations. In Nigeria, a major vulnerability is the lack of due diligence regarding applications for a right to operate in the country's export processing zones. Forged notes may also be sold to black market currency dealers. These dealers may be complicit, and purchase the notes at a discount. They may also, on the other hand, be unwitting: although some of the larger currency dealers have fairly sophisticated means of detecting counterfeit currency, many do not and standards of screening are generally lower among these dealers than in the banking sector. A final possibility is the entrance of funds into the formal sector through the complicity of members of a monetary authority.

21. Reports have also emerged of high-level counterfeiting operations involving associates of senior politicians. In one case, a prominent individual was bringing counterfeit local currency into the West African jurisdiction from South America and depositing it with local banks, which transferred the value electronically to a third country in the Middle East. The values in this instance were moderately substantive but not enormous. Such activity is difficult to prevent and raises concerns about the connivance of government officials.

## Recommendations

- 54) A key means to improve efforts to tackle private sector fraud might be the establishment of a national fraud strategic authority or similar co-ordinating body for tackling fraud. Such a body might have a number of functions, including suggesting legislative amendments, co-ordinating anti-fraud efforts by law enforcement bodies, developing means to handle witnesses and run trials related to complex fraud, and raising public awareness of the costs and risk of fraud.
- 55) The jurisdictions' financial intelligence units (FIUs) should each have a unit dedicated to analysing private sector fraud in its many forms, including but not limited to deception, embezzlement, insider trading and market abuse. Such a unit can establish typologies of fraud and can circulate them to law enforcement officials for use in investigations, or to law-makers to aid the closure of loopholes that facilitate fraud.
- 56) Intelligence services and law enforcement officials in all West African countries must co-ordinate their campaigns to deal with advance fee fraud. Nigeria has made significant progress in shoring up its protection, both in terms of legislation and law enforcement, but this has also to an extent displaced the crime to neighbouring jurisdictions. To help stem the spread of advance fee fraud throughout the region, other countries such as Benin, Côte d'Ivoire, Gambia, Ghana and Senegal should work with Nigerian experts to establish preventive regimes. Without such measures, the investment climate in West Africa is likely to suffer.
- 57) The formal financial sector provides both the source and the means of transfer for large sums of money derived from fraud. As such, all regulatory authorities must augment pressure on banks to increase customer due diligence measures in accordance with FATF Recommendation 5 in all their branches, including giving equal attention to those located in remote areas as well as those in capitals and larger cities. Junior staff in particular should be encouraged to monitor for and report any suspicious activity.
- 58) The insurance sector is vulnerable to fraud and money laundering. As such, regulatory authorities should ensure that insurance companies raise their standards of prudential oversight, customer due diligence (CDD), suspicious transaction reporting and other AML standards in accordance with FATF Recommendations. Insurance regulators should ensure adherence to high standards and enforcement must be a priority. Companies that fail to fulfil reasonable standards should come under appropriate sanction. Such measures present a particular challenge for the UEMOA jurisdictions owing to the variety of and distance between markets regulated; as such, intensive co-ordination between national authorities is necessary to enhance supervision.
- 59) Compliance with customer due diligence (CDD) requirements by banks in line with FATF Recommendation 5, inter alia, relies on an effective system of addresses. Some countries in the region, such as Ghana, do not have such a system, so it is imperative that

governments work to formulate an address system or establish reliable alternative means of identification. Banks must also take additional measures to ensure compliance with CDD measures – for instance by mandating personal visits to the homes of loan applicants or those opening accounts or compiling and sharing lists of individuals who have abused the system. Such requirements – for on-site visits, for instance – must be enforced where necessary.

- 60) Measures to enhance company and share registration are required. These might include conducting due diligence on company staff, ensuring that records are fully up to date, and prosecuting those who fail to update records in compliance with the regulations. Company registration departments must be aware of and in full compliance with their obligations for co-operation with the relevant authorities in line with FATF Recommendation 25. FIUs must have quick and easy access to such information, as should banks, due to the time-sensitivity of their decision whether or not to permit or report transactions.
- 61) Government should ensure that stock brokers are licensed and subject to stringent regulation. The relevant authorities should ensure that such standards are enforced in concert with improvements in share registration processes. Furthermore, stock broking bodies must adhere to the highest standards and ensure effective internal policing so that stock brokers face loss of licence or other stringent sanctions in the event of abuse.
- 62) In terms of fraud, a number of professionals including lawyers and accountants are key gatekeepers. Most jurisdictions have laws in line with FATF Recommendations 12 and 16, but all jurisdictions must enforce the rules against DNFBPs in line with FATF Recommendation 24, since the lack of actual involvement of DNFBPs can dilute the efficiency of the AML/CFT mechanism. Therefore, designated non-financial businesses and professionals (DNFBPs) must be compelled to put in place structures, practices and education programmes that will prevent fraud. It is essential that such businesses do not see fraud just as ‘cost of business’.

### *Counterfeiting*

Preventing counterfeiting has four key aspects: first, banknotes must contain effective security elements; second, law enforcement must deter infringements through strict enforcement of legislative measures; third, education campaigns must alert the population to the risk and nature of forged notes; and finally, regulatory control of vulnerable sectors must limit access into the economy for forged notes. Forged currency presents a serious threat to the integrity of currencies and the stability of economies in the region, and AML/CFT measures are key in all of these areas.

- 63) Jurisdictions must take appropriate measures to prevent and repress counterfeiting. Improving security features within banknotes is a key aspect; in this context, the CFA countries might work more closely with the Banque de France, while other central banks

might expand their internal expertise or draw on external consultants. Discussions with banks and other institutions that may be at threat from forged notes would improve understanding of weaknesses. Government efforts to foster the use of the banking sector and reduce reliance on cash are also of much importance in the context of reducing risk from currency counterfeiting, since the preponderance of cash transactions facilitates counterfeiting. Also, it is important that monetary authorities should promote modern and safe payment means.

- 64) Law enforcement agencies and supervisory bodies must enhance their deterrence measures targeted at counterfeiters. These might include more stringent policing of foreign exchange bureaux and other weaknesses in the economy. The FIUs should do the same with the relevant declaring entities which do not have AML/CFT control structures. Law enforcement agencies should also increase their expertise in detection of counterfeit notes. This may be achieved by efforts to establish training programmes – which may also involve regional cooperation – and by increasing resources and collaboration with external consultants. Efforts to reduce corruption will strengthen such efforts, and should improve prosecution rates
- 65) Governments must initiate awareness programmes to educate the public about quick techniques to identify counterfeit notes, and the risk of associated laundering, with a view to enabling illiterate persons to discern counterfeit notes. GIABA might be well placed to co-ordinate such efforts and to link counterfeiting with the broader efforts to raise awareness of money laundering.
- 66) Closer controls on foreign exchange operators and other vulnerable sectors are necessary to prevent forgers from introducing false banknotes to the market. As such, close adherence to the FATF recommendations 5, on customer due diligence; 8, on the risk of new forms of laundering; and 10, on record keeping, are key in this context. Compliance with reporting requirements, as per FATF Recommendation 13, are also key. Of greatest importance, though, is effective enforcement.

# 6

## OTHER CRIMES

1. A range of other crimes contribute to illicit funds which form the basis of money laundering. These crimes include various forms of human trafficking, oil bunkering and smuggling, and other crimes perpetrated by organised criminals.

### *Human trafficking and smuggling*

2. Organised crime surrounding the illegal movement of people is a significant predicate crime in relation to money laundering in West Africa. West Africa is subject to both human smuggling and human trafficking. These crimes are defined as distinct by the international community through the UN. Human smuggling concerns the facilitation of willing illegal immigration; it does not necessarily involve coercion, abuse or exploitation, and the state whose border regulations are being contravened is the victim rather than the migrant. Human trafficking, on the other hand, concerns the movement of people – who are unwilling – for the purpose of their exploitation and abuse. Illicit money that is laundered in West Africa originates from both of these criminal activities. With this distinction in mind, this chapter first analyses the illegal movement of people into and out of the region: West Africa has, in the last decade, become a significant transit point for migratory flows from Africa – and to a limited extent, from other parts of the world – into Europe. These activities can constitute both human smuggling – as criminal gangs facilitate a willing illegal migrant’s international passage – and human trafficking, as illegal migrants can often be unwillingly and purposefully exploited at some point in their journey. The chapter then analyses the illegal trafficking of people for the purposes of exploitation within the region; both from area to area within a particular country and from country to country within the region. Both human trafficking and smuggling constitute the source of a large amount of illicit funds that are laundered in the West African region.

### *Human trafficking and smuggling from Africa to Europe*

3. West Africa is strategically located at a key intersection of trade, migration and smuggling routes between the Americas, Southern Africa and Asia on the one hand, and Europe and Northern America on the other. The region is, therefore, pivotal for numerous formal and informal networks moving goods and, indeed, people for the purposes of migration. The UN has estimated that about 300,000 individuals illegally attempt to enter Europe from Africa annually, and roughly 100,000 of these are apprehended.<sup>247</sup> The flow of people changes according to a

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<sup>247</sup> UNODC, *Organised Crime and Irregular Migration from Africa to Europe*, July 2006

range of circumstances, which may often be external, such as regional economic conditions, conflict and famine.<sup>248</sup>

4. West Africa is currently an important link in two main illegal migratory routes from Africa into Europe: first, across the Sahara over land; and second, by sea via the Canary Islands.<sup>249</sup> The bulk of migrants flowing through West Africa on the way to Western Europe come primarily through Niger, Senegal, Mali and Cameroon. The trans-Saharan migration route into North Africa and Western Europe, running from Niger and Mali towards Algeria and Morocco, remains a significant path used by human traffickers in order to get illegal migrants into Europe. Nigeria forms an important part of the route into Niger from Cameroon and southern Chad,<sup>250</sup> as well as from points further west. Indeed, in 2008 there were 500 cases of human trafficking reported in Nigeria,<sup>251</sup> and it is likely that a large number of these cases concerned this route. There are also routes from Senegal through Mauritania and across Western Sahara into Morocco. It has been estimated that about 100,000 sub-Saharan Africans use the trans-Saharan route every year.<sup>252</sup>

5. While a large number of migrants and criminals gangs involved in human trafficking and smuggling still use the trans-Saharan route, the Mediterranean crossing is becoming increasingly difficult for traffickers due to increased border control efforts in that region, and new routes are developing rapidly. The route via West Africa to the Canary Islands, which, as part of Spain, forms the EU's southernmost territory in the Atlantic, is one that has become particularly developed.<sup>253</sup> Effectively offering a backdoor into the EU, the Canaries have become the focus of people trafficking and smuggling networks which have expanded their operations along the West African coast. Many migrants depart from Senegalese coastal cities, as well as from departure points through Guinea-Bissau and the Gambia up to Mauritania. One of the largest is at the desert port of Nouadibhou, on the Mauritanian border with Morocco, where on average as many as 10,000 migrants are believed to be waiting for transport to the Canaries.

6. The route has attracted migrants not just from West Africa but also from Asia, with increasing numbers of Indians, Pakistanis and Chinese flying into West Africa in order to travel to Europe.<sup>254</sup> Indeed, the number of illegal migrants arriving in the Canaries has risen sharply, from just 5,000 in 2005 to over 30,000 in 2006.<sup>255</sup> Cape Verde is increasingly being used as a staging point on the way to the Canaries, leading to rising numbers of illegal migrants arriving on Cape Verdean shores. So far the numbers are small, but the government has been forced to step up surveillance and interception operations in tandem with the EU's Frontex operation.<sup>256</sup>

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<sup>248</sup> Interview with Portugese Africa analyst, London, March 2009. Additionally: Bonn International Centre for Conversion, Migration and Displacement in sub-Saharan Africa: The Security-Migration Nexus II, May 2009.

<sup>249</sup> UNODC, *Organised Crime and Irregular Migration from Africa to Europe*, July 2006.

<sup>250</sup> The northern half of Chad, though, shares a border with Niger itself.

<sup>251</sup> National Agency for the Prohibition of Traffic in Persons and Other Related Matters, Nigeria

<sup>252</sup> Interview with Portugese Africa analyst, London, March 2009

<sup>253</sup> UNODC, *Organised Crime and Irregular Migration from Africa to Europe*, July 2006

<sup>254</sup> UNODC, *Organised Crime and Irregular Migration from Africa to Europe*, July 2006

<sup>255</sup> Interview with Portugese Africa analyst, London, March 2009

<sup>256</sup> Interview with Portugese Africa analyst, London, March 2009. Frontex is the European Union agency responsible for external border security.

Most migrants arriving in Cape Verde are of two types: first, those tricked into thinking they have arrived in the Canaries; and second, those who plan to earn their way to Europe and use Cape Verde as a staging post. The numbers of people trafficked to Cape Verde has fallen in the last year, however.<sup>257</sup>

7. On both the trans-Saharan route and the route to the Canaries it is thought that approximately 80% of all migrants' journeys are facilitated in some way by organised, criminal gangs in return for payment.<sup>258</sup> A growing number of localised gangs offer the facilitation of shorter, more localised journeys operating along the West African coast ferrying migrants to the Canaries and over the Sahara. These operations have in the past been perceived as low threat, family-run operations, but informal networks facilitate the spread of larger and more sophisticated transnational operations. These larger gangs, operating trans-nationally but often outsourcing various legs of the journey to local groups, offer migrants end-to-end transportation. Commentators have accredited a West African – and most prevalently, Nigerian – nationality to the gangs who exercise control over these networks,<sup>259</sup> although sources throughout the region were unclear on this issue. These groups make use of their substantial diaspora communities in Europe, and may even sometimes be controlled from there.<sup>260</sup> Additionally, the presence of other transnational human trafficking gangs in West Africa, such as those from the Indian sub-continent, is indicated by the increasing flow of Asians, such as Pakistanis and Bangladeshis, through the region.

8. Fees vary greatly depending on the individual arrangement and the specific journey, but the funds derived from these operations can be substantial. The end-to-end fees for a long journey – which are often ultimately controlled by just one group – have been known to reach high values. Prices from South Asia via Africa to Europe can extend to between \$10,000 and \$20,000 in some cases; and prices for both the overland route and the sea route from West Africa can range from \$400 to over \$4,000.<sup>261</sup> Based on figures from the UN, the approximate average price per person for the sea route to the Canaries is just under \$1,000 and \$3,225 per person for the trans-Saharan route.<sup>262</sup> Together with the mentioned estimates that 30,000 illegal immigrants arrived in the Canaries in 2006 and 100,000 Africans use the trans-Saharan route annually, and the assumption that 80% of all migrants use the services of organised criminal gangs, one may arrive at a crude estimate that the trafficking of persons through or from West Africa<sup>263</sup> into Europe generates some \$281 million annually.<sup>264</sup>

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<sup>257</sup> Interview with officials at Direccao do Estrangeiros e Fronteiras, Praia, March 2009

<sup>258</sup> Joint ICMPD – Europol MTM Meeting: 'Migrations Flows and Trends in the Mediterranean – Threat Assessments and Risks Analysis', 25 – 29 April 2006, Beirut, Lebanon, quoted in UNODC, *Organised Crime and Irregular Migration from Africa to Europe*, July 2006.

<sup>259</sup> UNODC, *Organised Crime and Irregular Migration from Africa to Europe*, July 2006

<sup>260</sup> Carling, J., 'Migration, Human Smuggling and Trafficking from Nigeria to Europe', International Organisation for Migration, Research Series, Vol.23, 2006.

<sup>261</sup> UNODC, *Organised Crime and Irregular Migration from Africa to Europe*, July 2006

<sup>262</sup> Ibid

<sup>263</sup> It must be noted that this figure is concerned with the whole West African region, as defined by the United Nations, rather than merely the seven West African jurisdictions under discussion

<sup>264</sup> There are, of course, significant difficulties with such calculations, and this number must be taken as a crude estimate only. Indeed, the figure is likely to be conservative for a number of reasons. First, the figures used do not

9. A product of the fact that migrants use criminal gangs to facilitate their movement is that, while most migrants move, at least initially, willingly and for economic reasons – and thus the crime illicit funds derive from is human smuggling, at least initially – their association with criminals and vulnerable position often leaves them open to trafficking through abuse, coercion and exploitation. This plight can range from forced labour on plantations to prostitution. Groups can often set out to mislead a victim with the intention of diverting them into coerced labour. They can also force the victim into labour as a form of debt peonage for non-payment of fees commanded for the victim’s journey, either during or at the end of the voyage.<sup>265</sup>

10. Indeed, human trafficking groups maintain close links with those gangs that work in the sex industry. The problem is particularly pronounced in Nigeria. On some estimates, between 25,000 and 30,000 Nigerian prostitutes have entered Europe in the last two decades – a large number through Italy.<sup>266</sup> Nigeria’s Edo state is believed to be a primary source area for women and girls trafficked into prostitution.<sup>267</sup> The US Department of State asserts that cities in the UK are increasingly the ultimate destinations of these persons.<sup>268</sup> There is also a perception that women are trafficked into the region for the purposes of prostitution: a source in Côte d’Ivoire, for instance, emphasised that there is a view widespread among the local population that Chinese girls are trafficked into the country for prostitution on an approximate three-month rotation.

11. The structure through which payments are made to human traffickers and smugglers has ramifications for the routes and methods by which the larger, transnational gangs are likely to move funds. As money is commandeered from individuals (either from them directly or in return for their coerced labour or exploitation) – or indeed their family members – at various steps along their journey, the gangs must move funds across their operations.

12. Such transfers are necessary for gangs to facilitate their own payment, as well as to sustain and extend their influence and networks of local agents at various stages of their operations. Certain groups control operations – or at least have links with operations – end to end, from Asia to Africa to Europe, and may move large sums of money around these routes. In West Africa such money usually flows to the various crucial staging posts in West Africa, such as Senegal, Niger, Mali, and to a lesser extent, Nigeria.

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take account of the substantial end-to-end prices for individuals trafficked from Asia, via West Africa, to Europe. Second, other estimates of the number of individuals trafficked in West Africa point to higher volumes (for instance, an estimation of between 200,000 and 800,000 individuals made by Ghana’s minister of women and children’s affairs). Third, a large number of individuals fall short of Europe, having already made some payment, whether partially or fully, and are not included in the estimates of migrant numbers used. Fourth, these figures account only for money obtained from payment for a journey, and do not include the substantial funds derived from the forced labour that is closely connected to human trafficking from West Africa into Europe. Furthermore, it is not clear what proportion of funds remains in West Africa and what proportion does not.

<sup>265</sup> International Organisation for Migration, Research Series: *Migration, Human Smuggling and Trafficking from Nigeria to Europe*: Vol.23, 2006.

<sup>266</sup> International Organisation for Migration, Research Series: *Migration, Human Smuggling and Trafficking from Nigeria to Europe*: Vol.23, 2006.

<sup>267</sup> US Department of State, *Trafficking In Persons Report, 2008*, June 2008.

<sup>268</sup> US Department of State, *Trafficking In Persons Report, 2008*, June 2008. .

13. The transnational nature of this crime, in addition to the routes used, bears some resemblance to the trafficking of drugs through the region and the money derived from human trafficking and smuggling is likely to be moved using similar methods to funds derived from drugs smuggling. Cash smuggling is one major method of moving funds, facilitated by the numerous vulnerabilities as regards cross-border cash-flows in West Africa, since migrants usually pay in cash for transit. Another prominent method is likely to be the use of networks of informal value transfer systems, as well as money transfer businesses. It is likely that only a relatively small proportion of the money derived from human trafficking and smuggling is moved using the formal financial sector, as this exposes the money to increased – although still incomplete – scrutiny compared to moving it through the informal sector.

14. Sources in some countries also noted that, compared to the ease with which cash can be moved across the region's borders, international transfers are relatively cumbersome.<sup>269</sup> However, the regular transfers of funds linked to forms of debt peonage may best be transferred using money service businesses or even the formal banking system, owing to the regular nature of the payments.

15. Once moved to West Africa, a large amount of this illicit money is likely to enter the region's economy. A sector at particular risk from these funds is the property sector, taking advantage of the cash-based nature and incomplete oversight of much of this business.<sup>270</sup> Front businesses also play a role in the laundering methods of these groups: weak due diligence on business investments and poor business audit standards in a number of cases in the region ease this process.<sup>271</sup> These areas are at threat from lower-level funds derived from the more small-scale and localised operations associated with illegal migration, as well as by the larger and more sophisticated transnational networks. In addition, the lowest-level funds are most likely to enter the informal economy through cash-based purchases of goods ranging from basic, non-luxury commodities to autos, desirable consumer durables, or jewellery.

#### *Human trafficking within the region*

16. West Africa has long experienced high levels of migration within the region. This migration is generally economic, and flows on a seasonal basis, often to the cocoa and cotton plantations, mines or oilfields. Every year between 1960 and 1990 around one million West Africans changed their country of residence within the region, and migration flows are believed to have grown further in recent decades.<sup>272</sup> The matter regarding illicit funds and migration

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<sup>269</sup> Meetings source in the Ghanaian real estate sector, February 2009, and sources in law enforcement in Côte d'Ivoire, November 2008.

<sup>270</sup> The patterns associated with the laundering of funds by these transnational criminal groups in the region's property sector are likely to be similar to those used by international drugs smuggling rings.

<sup>271</sup> Meeting with the Nigerian Export Processing Zones Authority (NEPZA) in Nigeria, December 2008; meeting with a number of civil society organisations in Ghana, February 2009; and NEPAD, 'Country Review Report: Republic of Benin', Africa Peer Review Mechanism (APRM), January 2008.

<sup>272</sup> Organisation for Economic Cooperation and Development (OECD), *West Africa Long Term Perspective Study (WALTPS)*. 1998

within the region is complicated by the region's regulation of cross-border labour flows: although the free right to entry, residence and establishment for ECOWAS nationals within the ECOWAS region was supposed to be progressively implemented for most cases within 15 years of ECOWAS' 1979 Protocol on the Free Movement of Persons and the Right of Residence and Establishment, implementation among jurisdictions has been uneven and incomplete.<sup>273</sup> This fact, in addition to individuals failing to follow due process regarding, for example, the correct documentation and length of stay, has led to a degree of irregular migration within the region. The context of this phenomenon is historic, since the borders were drawn arbitrarily in the colonial era, and a sense of borderlessness persists amongst local people – especially those inhabiting borders. As such uncontrolled movement across the borders is barely considered criminal in many ECOWAS states. Of greater concern is when such movement or labour is coerced and is thus categorised as human trafficking.

17. The question of forced labour in West Africa is complex. Sources throughout the region emphasised that the label of human trafficking that implies forced labour and servitude is too readily and simplistically attached by some commentators to social dynamics in West Africa that are, in reality, far more complex. Community norms play a huge role in this context; large families are built mainly on labour, and community chiefs are often accorded free labour by able men in the community, but the imposition of labour is frowned upon. As such, the practice may contain some of the elements that satisfy the international definition of human trafficking but to some degree the individual *mens rea* – or criminal intention – is lacking. It is indeed likely that many instances have been misunderstood by external commentators. In reality, incidences form a broad and complex spectrum from free and legal movement to illegal movement and coercion. Some families willingly send their children to a more prosperous relative elsewhere in the country or wider region if they cannot afford their maintenance.<sup>274</sup> This is often on the understanding that the child will provide some services to that family for a period of time in return for the receipt of training and/or some money. Another practice misunderstood as human trafficking by some external commentators is the informal trade apprenticeship common with people from parts of Nigeria, whereby teenagers and young adults are sent to learn trades such as upholstery, auto mechanics and store keeping: such a practise can often be beneficial and is widely practised (although it raises concerns about children preferring apprenticeships to schooling). Some criminal groups, though, coerce women and girls into prostitution, and both children and adults are forced into labour in mines or plantations.

18. Despite the emphasis of the inapplicability of a blanket definition of human trafficking, however, sources from most countries acknowledged that criminal gangs make profits throughout the region from the movement and coercion of people into various forms of labour.<sup>275</sup> The trafficking of children into forced labour is a phenomenon that occurs throughout the region: the International Labour Organisation, for instance, has in the past estimated that 200,000 to

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<sup>273</sup> Badiane, C., *Allocution: Regional Workshop on Migration Management in West Africa*, from International Labour Organisation, presented February 6-8 2007, Dakar, Senegal.

<sup>274</sup> Meetings with sources across government and civil society in Senegal, Nigeria, Ghana, Benin and Côte d'Ivoire, November 2008 to March 2009.

<sup>275</sup> Interview with Economic Police, Abidjan, November 2009

300,000 children are trafficked into forced labour in West and Central Africa annually.<sup>276</sup> Côte d'Ivoire is one example that has been highlighted. The country is a particular hub for the movement of people within the region, partially owing to its successful export economy. From the 1960s to the late 1990s, Côte d'Ivoire sat at the centre of migration flows, relying on cheap West African labour for its cocoa and coffee plantations. An estimated three to four million ethnically Burkinabé people, some of whom hold Burkina Faso documents, work in the cocoa and coffee sector in Côte d'Ivoire,<sup>277</sup> and some sources estimate that as many as half of them return to neighbouring Burkina Faso each year in a circular migratory system. While a substantial volume of these labour flows is likely to be free, willing and regular, sources nevertheless indicate that groups are making at least moderate financial profits from the trafficking of both children and adults into coerced labour on cocoa and coffee plantations.<sup>278</sup> UNICEF has estimated that the number of forced child labourers working on plantations in Côte d'Ivoire is between 10,000 and 15,000, and that individual prices paid for these children are approximately \$340 each.<sup>279</sup>

19. It is most likely that all jurisdictions in the region suffer to an extent from this crime, perhaps with the exception of Cape Verde. In Ghana, for example, sources have suggested that children face coercion into labour in the fishing industry.<sup>280</sup> The US Department of State has also highlighted Ghana's cocoa plantations as a sector of concern, and placed the country on its human trafficking watch-list.<sup>281</sup> In Senegal, a particular problem surrounds children sent to gain education in theology. Children, known as *talibes*, are sent to live with a *marabout*, an Islamic theology teacher, in order to gain free religious education. In return the children must often work to earn their keep, and in the worst cases they are sent to beg full time, providing an often substantial income for the *marabout*.<sup>282</sup> Coerced prostitution is also a rising problem across the region.<sup>283</sup> While much of this concerns the trafficking of women and girls out of the region – Nigeria being a source country (see above) – the movement of people for this purpose within the region is also a source of illicit funds.<sup>284</sup>

20. The gangs that partake in people trafficking for the purposes of coerced labour within the region tend to be fairly small, localised and specialised to the particular circumstances in which they are working. There is limited evidence for any highly complex or sophisticated networks that operate solely within the region. The funds derived from the trafficking are likely only to be relatively moderate, and closely linked to regional movements of remittances. This does not discount the likelihood, though, that substantial individual sums deriving from such activities

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<sup>276</sup> Fitzgibbon, K., 'Modern-Day Slavery? *The Scope of Trafficking in Persons in Africa* in African Security Review, vol.12, no.1.

<sup>277</sup> Associated Press, 20 January 2001, Many flee to Ghana from Ivory Coast Attacks.

<sup>278</sup> For instance: meetings with a diplomatic source, Côte d'Ivoire, November 2008, and US Department of State, *Trafficking In Persons Report, 2008*, June 2008.

<sup>279</sup> Fitzgibbon, K., 'Modern-Day Slavery? *The Scope of Trafficking in Persons in Africa* in African Security Review, vol.12, no.1.

<sup>280</sup> Meetings in Ghana with sources in prominent civil society organisations, February 2009.

<sup>281</sup> US Department of State, *Trafficking In Persons Report, 2008*, June 2008.

<sup>282</sup> Meeting in Senegal with a source in the UNODC officials, November/December 2008.

<sup>283</sup> Meeting in Ghana with World Bank officials, February 2009.

<sup>284</sup> Meeting in Ghana with World Bank officials, February 2009. .

may be laundered in the region. When moved, cash is likely to be smuggled across borders or transferred using informal value transfer networks, similarly to other low- to moderate-level illicit funds in the region. The vast majority of the money is likely to enter the informal economy and to be used merely to improve quality of life through purchases of high value goods or small-scale property. A small proportion of the funds may also be used to corrupt border and law enforcement officials to facilitate further criminal activities.

### *Oil theft and smuggling*

21. Nigeria has one of the world's largest proven oil reserves at over 35 billion barrels, and is the fifth largest supplier of the US's oil imports.<sup>285</sup> Oil and gas constitutes over 80% of Nigeria's budgetary revenues and over a third of its gross domestic product.<sup>286</sup> There is, however, a significant problem regarding the theft of oil – known as oil bunkering – and the related militant activity in the Niger Delta region. Indeed, oil bunkering and militant activity – which includes both attacks on oil installations and oil theft – have contributed to a significant decline in Nigeria's oil production; indeed Angola overtook Nigeria as Africa's leading oil producer in 2008.<sup>287</sup> This theft of oil also has significant linkages with instability in the Niger Delta, and the assets generated are used in the smuggling of small arms and corruption. Indeed, illegal bunkering activity is the source of a substantial volume of the illicit funds flowing into, out of and around Nigeria.

22. Crude oil is stolen through a variety of methods. A particularly popular method used by bunkerers is to blow up a section of pipeline, and then install a tap into the line to siphon off oil. Oil can also be siphoned when it is transported from land docks to container ships. The stolen oil is then packaged up in various ways, and in some rare cases refined locally. At the low end of the scale, refined oil is transported in a wide variety of relatively small containers and moved throughout Nigeria and over the border to its neighbours. Sources have highlighted, in particular, that oil is smuggled from Nigeria to Benin, making use of the highly porous frontier near Porto Novo, the administration of which is complicated by familial ties and ethnic similarities that straddle the border.<sup>288</sup> Nigerian sources have noted one particular pattern of transportation to Benin: in the Nigerian border towns of Badagry and Idiroko, oil is sold by bunkerers to independent marketers who then redistribute it into jerry cans and other containers and smuggle it, often at night, from the Badagry lagoon to Cotonou and Port Novo.<sup>289</sup>

23. Much of the stolen crude oil is, though, siphoned into smaller barges which then empty their cargo into larger tankers. With the help of forged certification documents, this oil is then

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<sup>285</sup> US Department of State, *Background Note: Nigeria*, April 2009.

<sup>286</sup> Reuters, 10 March 2009, 'Nigeria approves expansionary budget for 2009'; and US Department of State, *Background Note: Nigeria*, April 2009.

<sup>287</sup> According to the Organisation of Petroleum Exporting Countries (OPEC), in April 2008, for instance, Nigeria's production rate reached only three quarters of its estimated capacity, whereas Angola's production rate reached almost 100% of its estimated production capacity. Maidment, P., *Angola Leapfrogs Nigeria as Africa's Largest Oil Producer* in *Forbes*, 15 May 2008.

<sup>288</sup> An Aegis source, in addition to a meeting in Benin with a diplomatic source, March 2009.

<sup>289</sup> Based on visit to border and discussions with law enforcement officials in Abuja, Nigeria, November 2008

taken onto the international market<sup>290</sup> or sold in neighbouring West African countries. When sold on the international market, there is evidence that a wide range of nationalities may be involved: 13 Filipinos, for instance, were sentenced in February 2009 in connection with oil bunkering in Nigeria.<sup>291</sup> Within the region, Benin is a particular destination country for tankers carrying large amounts of stolen oil, as well as, to a lesser extent, Côte d'Ivoire and Ghana.<sup>292</sup>

24. Oil bunkering gangs are highly sophisticated and efficient. They are well armed, which is a necessity for their operations within the insecure parts of the Delta region, and have links with several of the militant groups that are active in the area.<sup>293</sup> Indeed, in some parts of the Delta region, the lines between criminal and political militant activity are especially blurred. The Delta region has an abundance of militias, the most vocal and possibly the largest being the Movement for the Emancipation of the Niger Delta (MEND). MEND is perhaps the most high-profile militant group operating in the region at present. MEND is also a useful example of the differences between international and national groups, and between those which raise funds in a broadly legal fashion compared with those which use criminal activity to raise funds. The organisation began as a political movement (mainly composed of the Ijaw tribe) that called for the secession of the Niger Delta from the Federal Republic of Nigeria. In 2006 it adopted a more militant stance after the government of Nigeria and international oil companies were seen by MEND to have failed to address social and environmental issues in the Delta. In the same year, MEND sent a warning to all oil companies to cease operating in the Delta or risk severe armed attacks on their operations and personnel.<sup>294</sup> The militia has acted on this threat and it is alleged that attacks by MEND account for more than 70% of violent actions in the Delta, which has led to a marked reduction in Nigeria's crude oil production output.<sup>295</sup> There are several other smaller militant groups operating in the Delta as well, who may be better categorised as criminal gangs, motivated more by profit, such as the Niger Delta People's Volunteer Force, the Ijaw Youth Council and the Egbesu boys.<sup>296</sup>

25. Bunkerers are able to siphon off a huge volume of oil. The Niger Delta Presidential Technical Committee estimates losses to total approximately 700,000 barrels per day, although most estimates place stolen oil at between 100,000 and 200,000 barrels per day.<sup>297</sup> The funds that are derived from oil bunkering also depend on the oil price, but are substantial: estimates vary widely, but the illegal trade is thought to cost Nigeria between \$5 and \$14 billion per year. In fact, working on an average estimate of a theft worth 700,000 barrels per day, and using an oil

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<sup>290</sup> BBC News, 27 July 2008, 'Blood oil' dripping from Nigeria.

<sup>291</sup> Vanguard, 21 February 2009, Oil theft: 13 Filipinos, 65 years imprisonment.

<sup>292</sup> Meetings in Nigeria with sources from two different Nigerian government bodies, December 2008.

<sup>293</sup> BBC News, 27 July 2008, 'Blood oil dripping from Nigeria'

<sup>294</sup> BBC News, 19 April 2006, Militants reject Niger Delta help

<sup>295</sup> Maidment, P., *Angola Leapfrogs Nigeria as Africa's Largest Oil Producer* in Forbes, 15 May 2008. As at 15 March 2009, Nigeria's production output was 1.6 million barrels per day (bpd), down from over 2.2 million bpd in 2006.

<sup>296</sup> Interview with Niger Delta analyst in London

<sup>297</sup> Daily Independent, 10 April 2009, Country lost N3.4 trillion in 2008, says Mitee report. This is the figure used by the Niger Delta Presidential Technical Committee for the average daily loss in the first nine months of 2008. Second figure from UNODC, *Transnational Trafficking and the Rule of Law in West Africa*, July 2009.

price of \$50 per barrel,<sup>298</sup> it may be crudely estimated that oil bunkering in Nigeria is currently likely to be worth approximately \$12.8 billion annually.<sup>299</sup> On a more modest estimate put forward by the UNODC, 150,000 barrels per day at a very conservative estimate of \$20 a barrel would bring in \$1.09 billion a year for criminals.<sup>300</sup> The range of figures is wide, but either way the sums generated for laundering are vast, and despite MEND's limited involvement in bunkering, the group is believed to have access to at least 10-15% of this total (around \$1.2 billion to \$1.92 billion on the first estimate, or about \$100 million on the second).<sup>301</sup>

26. Funds derived from the smaller-scale smuggling of uncertified oil – which, it is probable, remains within Nigeria and its neighbours – are likely to be moved across borders using a variety of means, such as the smuggling of cash and the use of cash couriers. A pattern likely to be emerging is the purchase, using funds derived from oil smuggling, of high-value electronic goods in Benin, which are then smuggled to Nigeria and sold.<sup>302</sup> Once moved, funds are likely to enter the informal economy through the cash-based purchase of a wide range of goods, from foodstuffs and clothes to autos and property. It is also likely, though, that a proportion of these funds is re-invested in oil theft and smuggling operations in order to sustain and extend the business through, for instance, the bribery of law enforcement and customs officials, or the employment of a larger workforce.<sup>303</sup> As such, some of the money merges with the broader informal economy.

27. As regards larger-scale smuggling operations, a large proportion of money received from the sale of illicit oil on the international market is likely to find its way back to Nigeria. This cash may return either on the boats that transported the oil in the first place, or via informal value transfer systems. It would also be logical to suggest that the money may be moved and laundered through trade-based money laundering: the under- and over-invoicing of goods on the same returning ships – or on ships owned by the same entities – that carried the oil in the first place. Another particular pattern that has been noted by a number of sources is the emergence of other forms of contraband as currency in connection to oil smuggling. A public sector source in Nigeria noted, for instance, that tankers carrying illicit oil from Nigeria to Benin have been apprehended returning to Nigeria with a cargo of small arms as payment.<sup>304</sup> The local and global media allege that such a pattern is prevalent, and exists in order to fuel further insecurity, allowing militias greater access to the region's oil and further political leverage.<sup>305</sup>

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<sup>298</sup> Reuters, 25 March 2009, Poll: Oil to average nearly \$50 per barrel in 2009

<sup>299</sup> To give an idea of the volume of funds that are likely to have been derived from oil bunkering when oil prices were higher, the same calculations using an oil price of \$120 per barrel gives an estimation of \$30.4 billion derived annually from oil bunkering in Nigeria

<sup>300</sup> Second figures from UNODC, *Transnational Trafficking and the Rule of Law in West Africa*, July 2009

<sup>301</sup> Interview with Niger Delta analyst in London

<sup>302</sup> Based on visit to border and discussions with law enforcement officials in Abuja, November 2008

<sup>303</sup> Based on visit to border and discussions with law enforcement officials in Abuja, November 2008; sources also noted that the hawala network is not a principal means of monetary movement as regards the Benin-Nigeria border

<sup>304</sup> Meeting in Nigeria with source in a Nigerian law enforcement agency, December 2008.

<sup>305</sup> For instance: Abayomi, F, Atilade, D, Matsumangbe, M, Onwurah, U and Okpewho, L 2005, *Report of small arms and light weapons (SALW) survey in Delta State*. In O Ibeanu and F K Mohammed (eds), *Oiling violence: the proliferation of small arms and light weapons in the Niger Delta*. Lagos: Frankard Publishers; and Hazen, J., and Horner, J., *Small Arms, Armed Violence, and Insecurity in Nigeria: The Niger Delta in Perspective*, Small Arms Survey: An Occasional Paper, December 2007.

28. Large-scale oil bunkering also has links to corruption; funds flow to certain members of the Nigerian political and military establishment. Local and international commentators have contended the involvement of a number of retired and current military and police personnel, as well as local government officials, high-level public servants and even politicians.<sup>306</sup> A Human Rights Watch report, for instance, outlines the political sponsorship of a large number of Nigerian gangs and militias, and notes that some of these groups are heavily involved in oil bunkering.<sup>307</sup> In fact, the recently appointed Major-General of the Nigerian Joint Task Force, Sarkin Yaki Bello, has stated his intent to tackle the retired military generals involved in oil bunkering, reflecting the strength of perceptions regarding their involvement.<sup>308</sup>

29. Although there is little concrete evidence available, these allegations have been corroborated by a Nigerian public sector source who stated his belief that a number of politically exposed persons (PEPs) are heavily involved in oil smuggling.<sup>309</sup> Certainly successful apprehensions of smugglers and illegal oil tankers and barges have been relatively limited, despite the presence of Nigerian security agencies in the region. In addition, sources in Benin have also asserted that some Beninese members of parliament are complicit in the smuggling of oil from Nigeria to Benin.<sup>310</sup> Furthermore, it has been asserted that some members of the Nigerian political establishment at the state and local government level have ensured, on payment, that assets seized in connection with the cross border trade in stolen oil are quickly released.<sup>311</sup> In this context, close adherence to FATF Recommendation 6, especially with regard to those PEPs exposed to the oil industry, would reap dividends for law enforcement agencies. Ex-oil company employees are also alleged to play a role, as their expertise may be necessary to siphon the oil.<sup>312</sup>

30. This evidence suggests that a certain amount of the proceeds of oil theft and smuggling flows back to members of the political and military establishments in Nigeria and Benin. These funds are likely to be laundered in similar ways to other funds derived from high-level corruption and to have a dual purpose: the personal enrichment, as well as the fertilisation of corrupt networks in order to extend the power of the smuggling syndicates.

#### *Other organised crime*

31. West Africa suffers to varying degrees from other crime types perpetrated by organised groups. These include household burglary, mugging, carjacking, banditry and kidnapping. Gangs may carry out all of these crimes using weapons such as small arms or knives. The

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<sup>306</sup> Onuoha, F., *Oil pipeline sabotage in Nigeria: Dimensions, actors and implications for national security*, African Security Review, vol.17, no.3; and Sunday Sun, 'Generals behind bunkering', 10 June 2007.

<sup>307</sup> Human Rights Watch, *Criminal Politics: Violence, "Godfathers" and Corruption in Nigeria*, Vol.19, No.16(A), October 2007.

<sup>308</sup> This Day, 31 March 2009, Bunkering: JTF to go after retired generals.

<sup>309</sup> Meeting in Nigeria with public sector source, December 2008.

<sup>310</sup> Meeting in Benin with diplomatic source, March 2009.

<sup>311</sup> Meeting in Nigeria with public sector source, December 2008.

<sup>312</sup> BBC News, 'Blood oil' dripping from Nigeria, 27 July 2008.

frequency of these activities varies greatly between jurisdictions and areas within them. In most areas, although not all, they constitute only a modest source of illicit funds.

32. These crimes often thrive in areas with high political instability, where law enforcement is less effective – or in some cases, absent. Small arms are common in these areas, both at the time of conflict and after security has improved, and they facilitate armed theft and kidnapping. An example of such an area is northern and western Côte d’Ivoire. High-levels of political instability since 2002 have meant that at points since then parts of the area have been partially beyond the reach of the state and the rule of law. The Ivorian government is gradually extending its control north and west, and a slow process of reintegration continues.<sup>313</sup>

33. This lawlessness has, however, led to high levels of crime. Kidnappings in the north have squeezed funds from victims and their families. The use of roadblocks to extort funds from travellers has been common, though now declining, and has had a severe impact on the country’s economic development.<sup>314</sup> The UN has also raised concerns about soldiers that become disillusioned with the disarmament process resorting to crime.<sup>315</sup> An illustration of this occurred in December 2007, when 120 disgruntled members of the Forces Nouvelles in Bouake hijacked private vehicles and attacked stores in protests at the non-payment of their disarmament allowances.<sup>316</sup> Home invasions and car-jacking (particularly of expensive vehicles) are both relatively common throughout the country, and the perpetrators are often armed.<sup>317</sup> Notwithstanding these concerns, sources were quick to stress that people in Côte d’Ivoire suffered from a ‘psychose securitaire’ and that violent crime in the country was commonly exaggerated.<sup>318</sup>

34. Nigeria’s Delta region has also suffered from elevated levels of insecurity since the early 1990s. It is estimated that over a hundred militia groups, of varying degrees of organisation, politicisation and criminality, are currently operational in the area. These groups raise funds through criminal means such as arms and oil smuggling, but also through a variety of other modes of criminality, such as the kidnapping of foreign oil-workers. Ransom demands can be significant; indeed, according to sources in the Nigerian police force, ransoms average about \$200,000 per head.<sup>319</sup> Nigeria also suffers from a fairly high level of robbery, carjacking and kidnapping in many parts of the country, although most particularly in the Delta region. In 2007 and 2008 an average of three armed robbery attacks on banks in Nigeria occurred each day.<sup>320</sup>

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<sup>313</sup> United Nations Security Council, 2 January 2008, *Fifteenth progress report of the Secretary General on the United Nations Operation in Côte d’Ivoire*. Further, a source in the UN in Côte d’Ivoire argued that the country suffers from a perception of insecurity as much as the level of insecurity itself.

<sup>314</sup> United Nations Security Council, 30 June 2008, *Report of the Secretary General on the United Nations Office for West Africa*

<sup>315</sup> United Nations Security Council, 30 June 2008, *Report of the Secretary General on the United Nations Office for West Africa*

<sup>316</sup> United Nations Security Council, 2 January 2008, *Fifteenth progress report of the Secretary General on the United Nations Operation in Côte d’Ivoire* and interview with diplomats, Abidjan, November 2009.

<sup>317</sup> Meeting in Côte d’Ivoire with source in UNPOL, November 2008.

<sup>318</sup> Interview with UN, Abidjan, November 2008

<sup>319</sup> This Day, 4 January 2009, Kidnappers pocket 15 bn

<sup>320</sup> Meeting in Nigeria with source in the banking sector, December 2008

The amount of money stolen in bank robberies is often not revealed by banks in Nigeria since banks do not want the public to know how much they have lost for fear of reputational harm.

35. In Benin and Senegal, the level of organised household burglary, mugging, carjacking, banditry and kidnapping is moderate. Armed robberies are usually committed with knives or machetes, but on occasion with handguns. Assault weapons are sometimes used during carjackings or organized robberies of businesses and bullet proof vehicles. Remote stretches of Benin's highways are the most common areas for car-jackings late at night, and car-jacking gangs and highway bandits are known to construct barricades or roadblocks with fallen trees. Both Ghana and to a greater extent Cape Verde display fairly low levels of robbery and kidnapping, although such crimes do occur.

36. In the Casamance region of Senegal, crime levels fluctuate in relation to the levels of violence between the Senegalese military and separatist rebels. Groups such as the Mouvement des Forces Démocratiques de la Casamance (MFDC) raise funds from activities such as cannabis production.<sup>321</sup> These funds are, however, generally small-scale and used on a local basis (for example to purchase small arms and for day-to-day operating expenses). There is little need for extended laundering. Their activities are as a result harder to trace within the formal economy than those of international groups, who take advantage of these structures to launder funds. A potential area of risk lies in the support of sections of the Guinea-Bissau army for the MFDC. There is a risk that elements of the MFDC could become involved in cocaine trafficking as a result, leading to increased laundering of funds.<sup>322</sup>

37. Another violent group is MEND, which generally raises funds through oil bunkering (the tapping of pipelines to steal oil which is then sold on to locals or transported to overseas markets).<sup>323</sup> However, the payment of protection money by oil companies to militant groups is another key source of funds.<sup>324</sup> MEND has denied that it demands ransom payments to release the hostages it takes, but it is clear that some groups in the Delta raise funds in this fashion. The Nigerian police believe that ransom pay-outs between 2006 and 2008 raised over \$100 million, and that individual ransoms are generally over \$200,000.<sup>325</sup> Some funds raised stay in Nigeria and are likely to be laundered through the property sector and the cash-based purchase of luxury goods,<sup>326</sup> but much of the money raised is used for militant operations. Militants possess an extensive and sophisticated range of weaponry, which is sourced often from the Great Lakes region and purchased from Nigerian arms dealers.<sup>327</sup> There is considerable anxiety in Nigeria and the international community that MEND's operations may have evolved into outright criminality (such as kidnapping purely for profit), with profit eclipsing political goals. This development will have implications for the manner in which the funds MEND and others raise are laundered and used. Sources have suggested that a potential risk lies in the ability this

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<sup>321</sup> Agence France Presse, 23 May 2008, Senegal's Casamance struggles back from 20 years of conflict

<sup>322</sup> Interview with Portuguese Africa analyst, London, March 2008

<sup>323</sup> International Crisis Group, *The Swamps of Insurgency; Nigeria's Delta Unrest*, 3 August 2006

<sup>324</sup> Interview with Niger Delta analyst in London

<sup>325</sup> *This Day*, 4 January 2009, Kidnappers pocket N15bn

<sup>326</sup> Interviews with security officials in Nigeria, December 2008

<sup>327</sup> Interviews with security officials in Nigeria, December 2008

development has to corrupt local political power structures.<sup>328</sup> In 2009, the President of Nigeria declared an amnesty for the militants who are ready to unconditionally lay down their arms. This has achieved some success as many militant groups have surrendered their weapons. The types of weapons recovered are a clear testimony of the possible illegal sources of funds that were used to purchase them and the associated laundering that took place.

38. The funds derived in the region from such activities can reach moderately substantial levels. Where necessary, funds may be moved using cash couriers, smuggling and informal value transfer systems.

39. In Côte d'Ivoire, as concerns the proceeds of looting, theft and banditry, one particular area of vulnerability may be the financial sector that is slowly re-establishing itself in the north. Banks in the area were essentially closed until the March 2007 peace agreement. As a result, informal financial services became prevalent in the northern economy. These providers include informal cash couriers, money transfer companies operating on a trust basis akin to *hawala*, and, increasingly, goods transportation companies, who charge about 10% for their services.<sup>329</sup> Such networks are likely to be susceptible to criminals wishing to launder and move dirty money, although the slow re-establishment of formal financial structures may diminish this risk slightly.<sup>330</sup>

40. The proceeds deriving from these forms of crime in the region are likely to be used to pay for day-to-day necessities or purchase luxury goods or auto spare parts; to enter the informal or property sectors; or entered into front businesses.<sup>331</sup> Regarding the latter method, sources in Ghanaian civil society organisations have anecdotally highlighted the use of apparel stores as front businesses.<sup>332</sup> In Nigeria, while a certain proportion of funds derived from the criminal activities of militias are used for the personal enrichment and lifestyle enhancement of the perpetrators – including through the recreational purchase of drugs (mainly cannabis and cocaine) and alcohol – it is also possible that a certain amount of the funds related to the militias' criminal activities may have reached some politicians and some unscrupulous law enforcement/security officials.

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<sup>328</sup> Interviews with security officials in Nigeria, December 2008

<sup>329</sup> US Department of State, *International Narcotics Control Strategy Report 2008*

<sup>330</sup> Meeting in Côte d'Ivoire with two public sector officials closely involved in combating economic crime, November 2008.

<sup>331</sup> Asserted by sources across the region at all levels of society.

<sup>332</sup> Meetings with sources from two prominent civil society organisations in Ghana, February 2009.

## **Recommendations**

- 67) The co-ordination of efforts to tackle financial crime must be combined with initiatives aimed at non-financial offences. All states should consider establishing a national criminal intelligence service or similar mechanism that collects information on all crimes and provides intelligence to officers in all law enforcement agencies, as well as containing an operational support unit, research capabilities, and a unit dedicated to developing policy at a strategic level. Most countries in the region have high level intelligence agencies which focus on broader national security issues; a separate stand alone unit focused on criminal activities in addition to agencies concerned with national security, might function as an early warning system for rising criminal threats and supplement capacity. Such a mechanism should work closely with the financial intelligence unit, so as to create a multi-disciplinary approach to combating crime and ensure a strategic focus on issues such as drugs smuggling. These units might draw out key typologies of offences – including the financial dimensions – and then draw up effective policies to disrupt such criminal activity.
- 68) Much organised crime operates on an international level. As such, international co-operation regarding intelligence on and the apprehension of organised criminals must be maintained and increased. Where possible such intelligence should be given a legal and institutional framework in line with FATF Recommendations 36 to 39. Such efforts will rely on a web of Mutual Legal Assistance Treaties within and beyond the region. Lines of communication at operational level between relevant countries at the appropriate levels of public office must be clear and well established in line with FATF Recommendation 40.

### *Human trafficking*

- 69) All states must ensure that human trafficking is included as a predicate offence for the purposes of money laundering prosecutions. Such definitions should take account of local sensibilities but must also be broad enough to comply with international standards.
- 70) Governments should establish national strategies or action plans for tackling human trafficking. These plans might contain three key components: efforts to prevent trafficking; enforcement measures against infringements; and enhanced international co-operation given the transnational nature of this offence. Once established, these plans should be subject to strict processes of assessment to determine their success.
- 71) The collection of information on human trafficking and the laundering of funds linked to such trafficking is essential. Governments should mandate their law enforcement agencies to collect intelligence and send it for centralised analysis. The financial intelligence units must also assess the nature of payments in relation to human trafficking

and pass such information onto a centralised database. Once this assessment process has been completed, identifying means of prevention will become easier.

- 72) Law enforcement agencies and other regulatory organs in each state, particularly those focusing on border control such as immigration and customs agencies, should establish teams focusing on human trafficking and collaborate with FIUs on the issue. Disruption of the financial flows related to the practice is a key means to prevent this offence, and so money laundering regulations are of the utmost importance. Key areas to consider for disruption efforts will include cash couriers and the banking sector; effective customer due diligence and suspicious transaction reporting among accountable institutions and entities are also particularly important in this context.
- 73) Mechanisms to facilitate co-operation across borders in and beyond the region are essential to combat human trafficking. Mutual Legal Assistance Treaties and other similar accords will be of great benefit in this context, as will agreements on repatriation and extradition. Furthermore, the full implementation of the ECOWAS Declaration against Human Trafficking adopted in 2001 will strengthen police co-operation in the region and go a long way to aiding the fight against human trafficking; this would complement regional anti-money laundering efforts.

#### *Oil bunkering*

- 74) Financial and regulatory authorities must enforce high AML/CFT standards in relation to trade finance documents. Efforts to tackle the problem might include working with banks to establish a series of red flags in relation to oil bunkering; some indicators might include geographical location, nature and actual size of cargo, and suspicious documentation. Customs units may require regular training in spotting forged bills of lading, documentary credits or other such documents, and should increase inspection of documents. Close co-operation between law enforcement agencies and the financial sector is necessary to curtail risk linked to trade financing.
- 75) Efforts to root out corruption linked to oil bunkering are crucial. The sums of money are huge and so anti-corruption organisations in the affected states should prioritise this area. The Nigerian Economic and Financial Crimes Commission (EFCC) initiatives should target those individuals most exposed to oil money, including senior politicians in regional or central government structures, employees of state oil companies and local security services.
- 76) International co-operation will be crucial to terminate oil bunkering. Nigeria should work with other states to identify the destination ports for stolen oil and then should expand diplomatic efforts to encourage those states to improve their AML/CFT regime so as to prevent laundering of funds derived from bunkering. An associated element might be the pursuit of a certification process for oil exports, since the provenance of oil resources is relatively easy to identify using chemical testing.

77) Countries, in the region and beyond, should increase customs and naval activity off the coast of West Africa with respect to sea-borne smuggling of oil. Regional and international co-operation in this respect should be increased, with an eye to establishing patrols aimed at curtailing the traffic in illegal oil in the Bight of Benin. More generally, increased security at all ports in the region but particularly those in the Niger Delta is a priority in these circumstances.

## FINANCING OF TERRORISM

1. This chapter will address three key issues related to the financing of terrorism (FT) in West Africa:<sup>333</sup> how terrorist groups raise funds; how this money is laundered and directed for use in terrorism; and the destinations of the funds raised. The FATF provides a description of terrorist financing whereby ‘terrorist financing includes the financing of terrorist acts, and of terrorist and terrorist organisations’. This extends to anyone who wilfully provides funds either directly or indirectly to be used for specific terrorist acts or by individuals or groups.<sup>334</sup> The broad nature of this definition does of course raise a number of issues related to the definition of ‘terrorism’ itself, whereby some define certain groups as ‘terrorists’ but others do not. The difficulty in assessing terrorist financing by national groups was highlighted in Côte d’Ivoire, for instance, since combating the financing of terrorism (CFT) regulations did not apply to armed groups in the northern part of the country, because they were rebels.<sup>335</sup>

2. A second major difficulty is that much financing of terrorism operates in an opposite fashion to classic money laundering: the money used to finance terrorism is often raised legitimately – through front businesses or charitable donations – and only at a later stage is the money put to criminal use in acts of terrorism. As such, this report takes a twin track approach, looking both at the raising of funds from legitimate sources that may support some terrorist actions, and at criminal activities that raise funds for terrorist acts. The second of these issues closely resembles money laundering activity.

3. Analysing fund flows related to the financing of terrorism is inherently complicated for a number of other reasons, which have been taken into account in compiling this report. These include the following points:

- Terrorist cells require only limited funds to carry out attacks, typically amounting to thousands rather than millions (as in the drugs trade) of US dollars. The small size of funds means they are hard to track.<sup>336</sup>

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<sup>333</sup> While the FATF 40 +9 recommendations concern the funding of terrorist groups, this chapter will discuss the funding of both terrorists and militant groups. This is because there are a number of militant groups throughout the region that are not designated terrorist groups but that engage in insurgent and/or criminal activities which cause severe social, political and economic harm. These groups raise and launder funds throughout the region, and are therefore included in the chapter.

<sup>334</sup> See ‘Interpretative Note to Special Recommendation II: *Criminalising the financing of terrorism and associated money laundering*’ (FATF 2004)

<sup>335</sup> Interview with regulatory authorities in Côte d’Ivoire, November 2008

<sup>336</sup> The 11 September 2001 attacks in the US are estimated to have cost \$400,000 to \$500,000; the 2003 Madrid train bombings \$10,000; and the 2005 London 7 July bombings £8,000 to carry out; National Commission on Terrorist

- The intertwining of criminal and terrorist activity complicates analysis. Funds raised or laundered by individuals linked to terrorist organisations may be ‘purely’ criminal; they may be intended solely for personal enrichment, rather than the funding of terrorism. It is also possible that criminal activity, such as drug trafficking, may conceal the financing of terrorism.
- Information related to terrorist activities is by its very nature sensitive, and much specific information is not available in the public domain. This presents a difficulty regarding assessment of the true size and scope of terrorist financing networks.

4. Across the region, sources asserted that there is evidence for fund raising potentially linked to the Lebanese political group, Hezbollah, and to a lesser extent to Amal,<sup>337</sup> both of which are deemed terrorist organisations in the US and a number of other countries.<sup>338</sup> These groups are embedded within the growing Shi’a community in West Africa, and may engage in a variety of fund-raising activities which straddle the continuum between legitimate charitable donations, criminality, and the financing of terrorism. Financing the activities of groups such as Hezbollah from within West Africa’s Shi’a community generally comes through charitable donations, though.

5. Côte d’Ivoire in particular was highlighted as a country where a known Hezbollah cell is operating, taking advantage of a certain community’s<sup>339</sup> involvement in the diamond trade and the cocoa industry.<sup>340</sup> Concerns arose that the Kimberley Certification Process could be subverted, enabling the use of diamonds for the financing of terrorism.<sup>341</sup> Terrorists can either profit from the trade in diamonds themselves, or can use them in lieu of cash to move funds. In regional terms, the involvement of a certain community in a variety of economic sectors across West Africa, ranging from the import of basic foodstuffs to the export of diamonds, facilitates the raising and laundering of funds on behalf of terrorist groups who operate in this community. Moreover, intelligence sources indicate that Hezbollah is aware of the profits of a large number of enterprises in Côte d’Ivoire, which indicates the level of its financial involvement in the region. In addition, and importantly, donors of religious taxes paid by members of this community may not be aware of the ultimate purpose of the funds: they may believe that they are funding non-violent aspects of Hezbollah’s activities, or other charitable ends.<sup>342</sup>

6. This threat is largest in but is not unique to Côte d’Ivoire. In Ghana also, security sources noted some links between a foreign community and Hezbollah; this was also highlighted, along

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Attacks upon the United States 2004, *The 9/11 Commission Report*, 2004 and Financial Action Task Force, *Terrorist financing*, 2008

<sup>337</sup> A Shi’a Lebanese political party with an armed wing

<sup>338</sup> Interviews with security officials and diplomatic sources across the region, November 2008 to March 2009

<sup>339</sup> The largest in West Africa and estimated to number over 130,000 people (CIA – *The World Factbook* 2009).

<sup>340</sup> Interviews with security officials in Côte d’Ivoire, November 2008

<sup>341</sup> Interviews with diplomatic sources and security officials in Côte d’Ivoire, November 2008

<sup>342</sup> Interviews with commercial sources in the Lebanese community and security officials in Côte d’Ivoire, November 2008

with the presence of Amal, in Senegal.<sup>343</sup> In Benin, this community's members often pay 'taxes' of around 10% of their earnings from their commercial activities – whether licit or illicit – to Hezbollah.<sup>344</sup> Although less widespread, it is likely that these patterns of donations or 'taxes' are replicated elsewhere.

7. Establishing the scale of funds transferred from West Africa to the Middle East in general and Hezbollah in particular is extremely difficult. However, some attempt can be made with the limited evidence available to establish a rough estimate of the scale of the problem. In December 2003, three Hezbollah couriers reportedly carrying \$2 million in contributions from a foreign community in West Africa died when a chartered Boeing 727 bound for Beirut crashed on take-off from Cotonou, Benin.<sup>345</sup> Some observers claimed in 2003 that the organisation raises 'hundreds of thousands' of dollars every year in Africa.<sup>346</sup> The strong economic position of certain communities in West Africa suggests that such a level of donations could be relatively easily maintained, but the lack of precise economic statistics and the inability to separate charitable donations from the financing of terrorism means that it is very difficult to make a credible estimate.

8. The funds raised are – if not spent in the region to support local activities, such as sustaining the networks themselves – transferred to countries in the Middle East. These groups use hawala networks which benefit from family connections, for instance between Lebanon and West Africa, to move funds.<sup>347</sup> Hand carriage of cash by couriers is also used to move funds to Lebanon (some cash – unrelated to Hezbollah – is also moved to Europe via this route).<sup>348</sup>

9. Evidence has also emerged from a variety of sources that Salafi Jihadi groups are operating in West African states.<sup>349</sup> Such groups appear to use the countries in the region predominantly as logistics and support areas, rather than as areas to target.<sup>350</sup> The over-lap between indigenous groups and al-Qa'ida (as in Mali and Mauritania) complicates analysis; simple banditry and kidnapping for personal gain can become confused with actions carried out for terrorist purposes and politically-related killings. However, according to sources in Senegal,

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<sup>343</sup> Interviews with security officials and diplomatic sources in Ghana and Senegal, November-December 2008 and February 2009

<sup>344</sup> Interview with diplomatic source in Benin, February 2009

<sup>345</sup> Dr Matthew Levitt, *Hezbollah: Financing Terror Through Criminal Enterprise, Testimony to the Committee on Homeland Security and Government Affairs* (25 May 2005)

<sup>346</sup> *Hezbollah: Profile of the Lebanese Shiite Terrorist Organization of Global Reach Sponsored by Iran and Supported by Syria*, Intelligence and Terrorism Information Center at the Center for Special Studies (June 2003) [http://www.terrorism-info.org.il/malam\\_multimedia/English/eng\\_n/html/hezbollah.htm#D](http://www.terrorism-info.org.il/malam_multimedia/English/eng_n/html/hezbollah.htm#D)

<sup>347</sup> Interview with diplomatic sources in Senegal, November-December 2008

<sup>348</sup> Interview with security officials in Ghana, February 2009

<sup>349</sup> Interviews with security officials and diplomatic sources in Benin, Côte d'Ivoire, Ghana, Nigeria, Senegal, November 2008 – March 2009

<sup>350</sup> Interviews with diplomatic sources in Senegal, November-December 2008. Concerns have of course been raised that there are numerous potential targets in West Africa, not least because of the sizeable European and Israeli presence in the region and the relatively large number of 'soft targets'. Usama bin Laden has called in the past for attacks to take place in Nigeria, and sought to encourage ethno-sectarian violence there.

al'Qa'ida in the Mahgreb (AQIM) has established a limited network to support operations in Senegal.<sup>351</sup>

10. While Ghanaian authorities have identified individuals with al-Qa'ida links, no official representatives said that they had identified any cells.<sup>352</sup> Direct evidence of fund-raising and laundering is, however, difficult to establish in these cases: suggestions have, though, emerged of AQIM's involvement in the drug trade and relatively long-standing rumours of al-Qa'ida involvement in diamond smuggling continue to circulate.<sup>353</sup>

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<sup>351</sup> Interviews with security officials and diplomatic sources in Senegal, November-December 2008

<sup>352</sup> Interviews with security officials in Ghana, February 2009

<sup>353</sup> Amado Philip de Andres, Deputy Regional Representative for West and Central Africa, UNODC, Organised crime, drugs trafficking, terrorism: the new Achilles heel of West Africa from La Fundación para las Relaciones Internacionales y el Diálogo Exterior

## Recommendations

Criminality, legitimate business and terrorism intersect closely, and much of the financing of terrorism is derived from legitimate activity, which only becomes unlawful when connected to a terrorist or terrorist organisation. As such, these recommendations will touch on legitimate activity that funds terrorism, even where an offence occurs outside the relevant jurisdiction. Addressing criminal activity that provides funds for terrorists is an easier task, and is in line with general anti-money laundering efforts.

- 78) Counter financing of terrorism (CFT) legislation should be effective in all jurisdictions in compliance with FATF Special Recommendation II. Although many countries have successfully enacted CFT legislations, some are still in the process of passing and enforcing the necessary legislation. The predicate offence of terrorism financing must include acts of terrorism that occur outside the relevant jurisdiction. CFT legislation should also be applied – where appropriate – to indigenous terrorist organisations. Efforts should not be focused solely on the activities of international groups that use both formal financial structures and informal networks.
- 79) Effective reporting regimes are key to preventing terrorist financing. States should ensure that their mechanisms comply fully with FATF Special Recommendation IV on the reporting of transactions linked to terrorism. The FIUs must also collect and analyse information on terrorist financing. Anti-money laundering initiatives in general will also benefit CFT efforts – in relation to cash transfers, for example. AML/CFT officials also require training in the differences between money laundering and terrorist financing, and they should take full account of these specific traits in their work.
- 80) Ensuring that the charity sector complies with CFT regulations is of high importance, in accordance with FATF Special Recommendation VIII. Regulations should be exhaustive and well enforced, notwithstanding the difficulties of separating legitimate funds from those determined for terrorist ends. The principally targeted organizations would include charities collecting money from Middle Eastern communities in the region.
- 81) Intelligence structures must be strengthened to identify, infiltrate, and disrupt terrorist cells or individuals, prevent them from raising funds in the region. The jurisdictions' respective FIUs will play a crucial role in this arena, and must contain units dedicated to countering the financing of terrorism. Governments should more closely monitor fund flows into the region from areas of concern, including the Middle East, North Africa and South America, with analysis of the transaction structures identified by intelligence as issues of concern. Comparison of data on a regional level would also strengthen understanding of the phenomenon. Ensuring compliance in the financial sector is essential in this regard.
- 82) Local governments must make allowance for the displacement of terrorist financing across borders. Governments must establish mechanisms to enable information sharing both across individual countries' law enforcement agencies and across the region to deal

with terrorist financing. Initiatives managed through GIABA would be a means to secure co-operation on a regional basis; this effort may be twofold, first through conferences bringing local operators together, and second by establishing a framework through which law enforcement agencies in the region can exchange information on the financing of terrorism. ECOWAS and the African Union are other potential hosts for such initiatives.

- 83) Legislators and law enforcement officials must be educated as to the threat that the financing of terrorism poses to their own states and societies. The officials must fully understand both the international fund raising efforts carried out by terrorists that are legitimate in that jurisdiction (but which may contribute to terrorist acts perpetrated elsewhere), as well as the more traditional criminal techniques some terrorist groups use to raise funds. Given that the use of charity organizations and NGOs constitutes one of the means through which terrorist organizations finance their activities, it is imperative for the States to periodically monitor the accounts and financial statements of these groups by ordering to receive them at the end of each year.
- 84) The links between the drugs trade and terrorist financing must be monitored and addressed. This could in part be achieved by building formal and informal links with other intelligence and law enforcement bodies to improve the tracking of South American criminals and terrorists. Efforts would also be aided by the disruption of related fund flows, both within and outside the region. Some areas are of particular concern, such as South America and the Middle East; the US and other parties can play a key role as intermediaries in this process, as can GIABA by bringing GAFISUD or MENAFATF representatives into closer contact with West African officials.

# 8

## CONCLUSIONS

1. The scale of money laundering in West Africa is extensive. This report has sought to determine the risks and vulnerabilities in terms of money laundering and has looked in detail at the predicate offences underpinning money laundering activity.
2. Money laundering has a severely corrosive effect on the efficacy of any polity, especially those which have limited capacity, and so this report seeks to put forward useful recommendations for policy makers.
3. In terms of quantification, this report estimates the annual flows of illicit money in the seven jurisdictions in West Africa to amount to about \$73 billion. The funds laundered come from a range of different sources, the most significant of which is tax evasion, amounting to \$43 billion. However, tax evasion presents some conceptual difficulties for money laundering analysts. Such behaviour amounts to a predicate offence for the purposes of money laundering, and so should face prosecution as a crime. Furthermore, expanding government tax take would go far to improve their capacity in the region. Such an approach, though, presents peculiar difficulties in West Africa, since many businesses and entities in the region carry out legitimate activities but do not pay tax; in this context, strict enforcement of money laundering regulations might damage retail and other activity in the economy.
4. The next most significant source of laundered funds is corruption, which provides about \$20 billion of illicit funds. Corruption is both a threat and vulnerability in terms of money laundering; graft has invidious consequences both as a source of illicit funds and as a means to facilitate money laundering and the commission of other criminal activities. Consequently, corruption is perhaps the most important predicate crime for states to address, since curtailing corruption has a dual benefit.
5. Oil bunkering follows as a source of funds, bringing into the black economy about \$7 billion in criminal proceeds; these funds are a particular drain for Nigeria, which has lost its position as Africa's pre-eminent oil producer owing to bunkering and as such should be a priority for the Nigerian government.
6. Drugs money in West Africa may amount to as much as \$2 billion, although it is not clear how much of the street value passes through West Africa; this issue is closely interlinked with corruption and amounts to a severe threat for the smaller states, such as the Gambia, and a major problem for bigger states like Ghana and Senegal. These latter countries might usefully prioritise drugs issues. It is estimated that private sector fraud is worth \$612 million annually, while human trafficking and other crimes pour about \$280 million into the black economy. Both of these crimes are rife throughout the region. Regarding the latter, Côte d'Ivoire's cocoa sector

is one of key concern, as is the recent increase in illegal migrants hoping to enter Europe from West Africa via the Canary Islands. It is essential to emphasise that these figures are estimates made in areas of analysis that are opaque, and regarding a region in which collection of statistics is not strong. Nevertheless, such figures can act as useful guidelines for policy makers.

7. This report has also addressed issues relating to the rule of law, security and stability, and looked at specific issues relating to regional integration. This list of suggested changes amounts to a wish-list of measures which taken together should curtail money laundering activity in the region. However, not all will be within reach of all jurisdictions in the region, and so the governments need to prioritise those which will most improve administrative capacity; these might be those aimed at increasing government revenue capture and reducing corruption. Indeed, action in these areas is imperative.

8. The project has highlighted three issues to consider further. First, the report concludes that the size of the informal economy is a major vulnerability in terms of preventing money laundering and the financing of terrorism. In this context, examining how best to expand regulatory control of the informal economy would be of great value in understanding how to tackle laundering.

9. Second, a related concern is tax evasion in West Africa. This report explores both tax evasion linked to the scale of operations within the informal economy and that carried out by entities, such as major multinational corporations, in the formal economy. The money lost has a significant negative impact on state capacity. Given the scale of the problem, a study dedicated solely to tax evasion and money laundering, and in particular to how to enhance governments' tax receipts, would be of the greatest value.

10. The third and final area requiring consideration is that of corruption. Corruption plays a dual role in terms of money laundering in West Africa, first by contributing to illicit flows and second by eroding the effectiveness of institutions preventing laundering. In this context, further study of the nexus between money laundering and corruption in West Africa would be valuable in forming a fuller judgment of the exact nature of the threat that West Africa's governments must address.

11. Ultimately, West Africa, like all regions, must enact high standards aimed at preventing money laundering and terrorist financing, through enforcement, training and education; without such measures, the region may face a loss of influence in the international community and access to international trade and investment even as it gains a reputation for criminal activity.