

THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED

BY NIGERIA

ARTICLE 6 UNCAC

PREVENTIVE ANTI-CORRUPTION BODY OR BODIES

NIGERIA (FIFTH MEETING)

ARTICLE 6- PREVENTIVE ANTI-CORRUPTION BODY OR BODIES

In Nigeria, the measures to prevent corruption are anchored in specific institutions and their enabling laws as well as in several administrative measures embedded in the mandate of other institutions which are not core anti-corruption agencies. The major anticorruption institutions with prevention mandates include the Independent Corrupt Practices and Other Related Offences Commission (ICPC), The Economic and Financial Crimes Commission-(EFCC), the Code of Conduct Bureau (CCB), the Bureau of Public Procurement (BPP), the Nigerian Extractive Industries Transparency Initiative (NEITI), The Public Complaints Commission, The Office of the Auditor-General of the Federation, and the Technical Unit on Governance and Anti-Corruption Reforms (TUGAR).

This report will capture the specific mandates and activities of some of these agencies under the following specific headings:

1. The Independent Corrupt Practices and Other Related Offences Commission ICPC.

Mandate and Responsibility: The ICPC was set up by the Corrupt Practices and Other Related Offences Act 2000 as a specialized agency to combat corruption. ICPC has three main statutory mandates: Enforcement, Prevention and Education.

Section 6 of the Act encapsulates the statutory mandates of the Commission in relation to prevention as follows:

[b] To examine the practices, system and procedures of public bodies and where, in the opinion of the Commission, such practices, systems or procedures aid or facilitate fraud or corruption, to direct and supervise a review of them ;

[c] To instruct, advise and assist any officer, agency or parastatals on ways by which fraud or corruption may be eliminated or minimized by such officer, agency or parastatals;

[d] To advise heads of public bodies of any change in practices, systems or procedures compatible with the effective discharge of duties of the public bodies as the Commission thinks fit to reduce the likelihood or incidence of bribery, corruption, and related offences;

[e] To educate the public on and against bribery, corruption and related offences; and

[f] To enlist and foster public support in combating

corruption

Institutional Structure and Preventive activities:

The Commission has nine departments and six units - including departments of Education, Public Enlightenment and Planning, Research and Review. It has 805 staff and is funded through annual Federal budgetary allocation. The Commission trains its staff every year and has established a training academy.

Activities:

- i. The Commission in collaboration with the National Educational and Research Development Council [NERDC] commenced the National Values Curriculum [NVC] initiative aimed at infusing national ethics and values in the nation's educational system. The curriculum was fused into selected five thematic school subjects in basic one to nine and 12 subjects in post basic education and tertiary level i.e. colleges of education. Work is in progress to extend NVC to the Polytechnics and Universities.

- ii. The Commission in 2003 inaugurated 300 anti-corruption clubs in secondary schools nation-wide and Anti-corruption vanguards in the tertiary institutions.
- iii. The Commission established the National Anti-Corruption Volunteer Corps, [NAVC] which has registered about 12, 000 members. The Commission's collaboration with the civil societies culminated in the formation of National Anti- Corruption Coalition [NACC] which has registered 350 civil societies.
- iv. The Commission has also carried out systems study and review in 25 government institutions. Further with the support of the UNDP and in collaboration with other agencies the Commission has trained and certified 69 Corruption Risk Assessors and carried out pilot assessment in the Port Sector in Nigeria.
- v. The Commission has carried out massive sensitization programmes on the radios and television by way of jingles and documentaries and has also carried out Town Hall Meetings to sensitize grass root population about corruption. Sensitization is also carried out through posters, newsletters and popular theatre (drama).
- vi. The Commission has created a platform called 'Governors' forum' where Governors as guest lecturers share their experiences on how they instil transparency and probity in governance, and prevent corruption.

Independence of the Commission

The Act safeguards the independence of the Commission and enables it to carry out its functions effectively, protecting it from any undue influence. Section 3 [10] of the Act provides that the Chairman and members of the Commission shall not be subject to any authority in the discharge of their functions except as provided by the Act. The Act also guarantees the security of tenure for the Chairman and members of the Commission. The Chairman is appointed for five years by the President upon confirmation by the Senate. The members are also appointed for four years by the President subject to the approval of the Senate. The Chairman and the members can only be removed by the President with the support of 2/3 majority of the Senate.

Impact of Work: The Commission has not carried out a nation- wide public perception survey of its performance. However, in 2007 a survey on the perception of the Commission was carried out amongst the 91 workshop participants from six local

government councils from five States. Majority of the participants felt that the enforcement efforts of the Commission were adequate but more efforts should be directed to prevention, particularly awareness raising and education. Majority also commended the establishment of Anti-Corruption and Transparency Units (ACTUs) in the MDAs and recommended that if properly utilized, it can substantially reduce corruption in the public sector.

Outreach and nexus to other public institutions implementing anticorruption policies: In 2003, the Commission established Anti- Corruption and Transparency and Monitoring Units [ACTUs] to serve as focal point of the Commission in Ministries, Department and Agencies [MDAs]. ACTUs are to perform all the duties of the Commission except prosecution. It shall report to the Commission and send copies of its report to the Minister or Permanent Secretary. However where the Minister or Permanent Secretary is involved, report is made directly to the Commission. In 2001 and 2003, the Head of Service of the Federation issued circulars to all the MDAs to establish ACTUs and ensure its successful implementation. The MDAs are also to provide funds for the operations of the unit. The Commission's Chairman pursuant to section 7 [1] and 70 of the Act made a standing order for the operations and the code of conduct for the members of the unit. So far ACTUs have been set up in 384 MDAs. The Commission also appoints desk officers to monitor and liaise with the ACTUs. However the initiative is faced with some challenges. These include hostility toward members of the unit by their parent body. Sometimes, ACTUs members suffer harassment, malicious transfers, suspension and even dismissal. The Commission always looks into such cases whenever they arise. In addition, presently, ACTU is only present in the Federal MDAs. To make its operation holistic there is need to replicate it in all the MDAs in the States.

Citizens reporting, Complaint and redress: The Commission receives petitions or complaints from the public by hand, post, e- mail, hotlines, toll free lines, web-site.. **The Economic and Financial Crimes Commission- (EFCC).** The EFCC is set up under the Economic and Financial Crimes (Establishment) Act and has the primary mandate to investigate financial crimes. However, section 6(e) of the Act enjoins the EFCC to '*adopt measures to eradicate the commission of economic and financial crimes*' while section 6(f) of the Act provides as follows: "*the adoption of measures which include coordinated preventive and regulatory actions---*." Further section 6(p) of the Act provides '*Carrying out and sustaining rigorous public and enlightenment campaign against economic and financial crimes within and outside Nigeria*'.

Mandate and Responsibility: The₅ EFCC has the mandate to investigate,

eradicate and prevent economic and financial crimes and related offences.

Institutional Structure and Preventive activities: The EFCC carries out several of its preventive activities through the Enlightenment and Reorientation unit under the Public Affairs department. The department is specifically charged to develop and drive the preventive anti-corruption policies of the Commission. Further the EFCC carries out prevention activities with the private sector, in particular the financial sector in respect of activities to prevent money laundering.

Independence: The EFCC accesses annual budget from the Federal Government and executes its mandate independently and reports to both the Executive and the National Assembly. The Chairman and Board of the EFCC are appointed by the President with the ratification of the Senate but may be removed by the President without recourse to the Senate for "*inability to discharge the functions of office, (whether arising from infirmity of mind or body or any other cause), or for misconduct or if the President is satisfied that it is not in the interest of the Commission or the interest of the public that the member should continue in office.*"

Outreach and nexus to other public institutions implementing anti-corruption policies: On the platforms of its Public-Private Sector Initiative Programme (PPSIP), the E&R unit has carried out numerous anti-corruption sensitization campaigns in Ministries, Departments and Agencies. Among the MDAs visited by the Commission include: the Ministry of Transport, the Nigeria Customs Service (NCS), the National Airspace Management Agency (NAMA) the National Directorate of Employment (NDE), the West African Examinations Council (WAEC), the National Examinations Council (NECO), the Nigeria Liquefied Natural Gas (NLNG). At the sensitization campaign sessions, the Commission urges the MDAs to set up in-house anti-corruption units, where they do not already have an Anti-Corruption Unit (ACTU) established by the
ICPC.

Citizens reporting, Complaint and redress: The EFCC receives petitions or complaints from the public by hand, post, e- mail, hotlines, toll free lines, and via the web- site.

3. The Bureau of Public Procurement is established by the Public Procurement Act 2007.

Mandate and Responsibility: The Bureau has the mandate to harmonize existing government policies and practices on public procurement and ensuring probity, accountability and transparency in the procurement process. The Bureau's mandate as stated in Part II Section Five (5 (a) to (s)) of the Public Procurement Act 2007 are as follows:

- (a) Formulate the general policies and guidelines relating to public sector procurement for the approval of the Council;
- (b) Publicize and explain the provisions of this Act;
- (c) Subject to thresholds as may be set by the Council, certify Federal procurement prior to the award of contract;
- (d) Supervise the implementation of establishment procurement policies;
- (e) Monitor the prices of tendered items and keep a national database of standard prices;
- (f) Publish the details of major contracts in the procurement journal;
- (g) Publish paper and electronic editions of the procurement journal and maintain an archival system for the procurement journal;
- (h) Maintain a national database of the particulars and classification and categorization of federal contractors and service providers;
- (i) Collate and maintain in an archival system, all federal procurement plans and information;
- (j) Undertake procurement research and surveys;
- (k) Organize training and development programmes for procurement professionals;
- (l) Periodically review the socio-economic effect of the policies on procurement and advise the Council accordingly;
- (m) Prepare and update standard bidding and contract documents;
- (n) Prevent fraudulent and unfair procurement and where necessary apply administrative sanctions;
- (o) review the procurement and award of contract procedures of every entity to which this Act applies;
- (p) Perform procurement audits and submits such report to the National Assembly bi-annually;

Introduce, develop, update and maintain related database and technology;

- (q) Establish a single internet⁸ portal that shall, subject to section 16 (21)

- to this
Act serve as a primary and definite source of all information on government procurement containing and displaying all public sector procurement information at all times; and
- (f) Co-ordinate relevant training programs to build institutional capacity;

Institutional Structure and Preventive activities:

i) Legal, Regulatory and Institutional Strengthening

The BPP developed a procurement manual and implementing regulations; as well as National Standard Bidding Documents (NSBDs) for the procurement of goods, works and consulting services. The NSBDs were revised and strengthened in 2011; following which the World Bank issued a statement to the Federal Ministry of Finance, indicating that it had no objection to the use of the NSBDs under World Bank-financed projects in Nigeria for National Competitive Bidding (NCB). The NSBDs are now available on the BPP web portal. However, there is need to enforce the use of the NSBDs by all MDAs.

As a result of the current regulatory framework, public procurement policies and practices have shown some improvements. The BPP now publishes large federal government contract awards in the media twice a year. They are also posted on its website. Adoption of the Public Procurement Law has resulted in an increased demand for accountability by the public especially by the CSOs. BPP continues to disseminate all public procurement documents to stakeholders through the National Orientation Agency and the BPP Website.

The BPP continues to engage with, and encourage State Governments to adopt and implement the Act, as only state government projects which receive up to 35 per cent funding from the Federation account are subject to the Public Procurement Act, 2007. Fourteen State Governments have so far passed into law their own versions of the PP Act.

ii) Procurement Training and Capacity Building in the Federal Public Service

The activities in this sub-component include the professionalization of the procurement function in the federal public service and continuous capacity-building to enable effective implementation of the procurement law. It also includes the strengthening of the procurement training capacity of identified local training institutions through "training of trainer programs" and strengthening the capacity of existing procurement professional bodies.

Public service capacity to effectively and efficiently manage public expenditure has been significantly strengthened with the creation of a *Procurement Professional Cadre* in the federal public service. The Cadre has been recognized and gazetted by the Federal Civil Service Commission in collaboration with the Head of Service. The BPP has finalized a comprehensive strategy for procurement capacity-building for this procurement professional cadre and continues to provide specific procurement training for this cadre of staff. However, not much has been done in the area of strengthening of the procurement training capacity of identified local training institutions and strengthening the capacity of existing procurement professional bodies. The BPP is also in the process of recruiting a consultancy firm to design and develop the qualifications, structure, curriculum and assessment methods for use by the local training institutions to engage in public procurement training.

iii) Procurement Awareness and Capacity Building of Non-Government Actors

This sub-component focuses on strengthening the understanding of non-government actors on the role of procurement monitoring in the fight against corruption, building their capacity to demand for good procurement behaviour from public officials and putting in place mechanisms for tracking, observing and assessing stakeholder compliance to the implementation of the public procurement process and regulations in Nigeria.

Impact of Work: Results of public perception surveys regarding the effectiveness and performance of the anti-corruption body or bodies: the Bureau in recognition of the need for a survey on the public perception of her activities, commissioned the Nigeria Institute of Social Economic Research (**NISER**) to carry out a research on the Social and Economic Effects of Public Procurement Policies in Nigeria. Further, the Bureau's **annual report** addresses the Key conclusions and recommendations from reports prepared by anti- corruption bodies and institutions. (copy attached).

Outreach and nexus to other public institutions implementing anti-corruption policies: As stated above the Bureau has established a professional cadre within the Federal Civil Service and is building the capacity of this cadre to ensure transparent, effective and efficient public procurement.

Citizens reporting, Complaint and redress: Key structures to deal effectively with grievances and complaints from citizens include:

- Compliance, Certification and monitoring Department
- Legal unit
- Feedback Section on the BPP's website.
- E-mail: infoabpp.gov.ng
- Phone calls: 096252377-9

- Official Letters

4. The Code of Conduct Bureau (CCB)

The CCB was set up pursuant to the Part 1 of the Third Schedule of the 1999 Constitution and the Code of Conduct Bureau and Tribunal Act Cap 15 LFN. The aim and objective of the CCB "*shal be to establish and maintain a high standard of morality in the conduct of government business and to ensure that the actions and behaviour of public officers conform to the highest standards of public morality and accountability*".

Mandate and Responsibility: The CCB has the following functions: a) receive assets declaration by public officers, b) examine the assets for compliance with the Act and any

other law, c) receive complaints about non-compliance, d) prevent conflict of interest by public officers in carrying out their duties including making regulations for receiving gifts, e) prevent bribery and abuse of powers by public officers. A key function of the CCB is to prevent and sanction illicit enrichment through the asset declaration and verification regimen. Further , Assets declaration serves as a veritable instrument in the prosecution of cases by other anti-corruption agencies

Institutional Structure and Preventive activities: The Code of Conduct Bureau operates Board-Management-staff structure. The Board which is made up of chairman and eight (8) full-time members is charged with full policy making and oversight functions while the Secretary interfaces between the Board and Management. The Bureau currently comprises of eight Departments, namely:

- i. Federal Political Office Department
- ii. Federal Public Service Department
- iii. State & Local Governments Department
- iv. Human Resources Management Department
- v. Finance & Accounts Department
- vi. Intelligence, Investigation & Monitoring Department
- vii. Education and Advocacy Services Department
- viii. Legal Department.

The Bureau has offices in Thirty-six (36) States and FCT. The activities of the Bureau at the Local Government Areas are co-ordinated by respective state offices.

The Investigation Department is an operational arm of the Bureau made up of three (3) Units namely:

- (i) Intelligence Unit;
- (ii) Monitoring Unit; and
- (iii) Investigation Unit.

Thus, the investigative process put in place to ensure this Constitutional responsibility include:

- > Administration of Assets Declaration by Public Officers.
- > Conference and field Verification of Assets declared.
- > Tracing of Assets of public officers identified to be funded from proceeds of corruption.
- > The Petition Screening Committee, a body made up of the Board, Management, specialist operatives in various fields of investigation with powers to evaluate petitions and invite public officers for interrogation on alleged breach of the code of conduct for public officers.
- > Intelligence gathering such as:
 - (i) Institutional intelligence gathering focused on the patterns and behaviours of public officers.
 - (ii) Systemic intelligence gathering which deals with identification of leakages in the operations of Agencies that could be exploited by corrupt public officials.
 - (iii) Individual intelligence gathering dealing with breach of the Code of Conduct for public officers for instance the Bureau has evolved a method of placing public officers involved in high public donations and affluent life styles above their income under watch.

Independence: The CCB is provided for in the Constitution and therefore enjoys independence in its operations and activities. The Chairman and Board of the CCB enjoy security of tenure enshrined in the Constitution. They are appointed by the President with the confirmation of the Senate and can only be removed from office with the confirmation of a 2/3 majority of the Senate.

Outreach and nexus to other public institutions implementing anti-corruption policies: Declaration of assets is mandatory for all public officers. Failure to do so is prosecuted at the Code of Conduct Tribunal—a special court to try offences under the Code of Conduct and Tribunal Act. .CCB activities include overt and covert visits by

operatives to MDA's to monitor the Conduct of Government Business to ensure they comply with Code of Conduct for public officers. Please see Annex 1 for description of Public Officers as provided in the Constitution.

5. **The Nigerian Extractive Industries Transparency Initiative - NEITI** is the Nigerian subset of the global EITI and works to ensure transparency and accountability in revenue receipts and expenditure from the extractive sector. NEITI carries out its functions through a physical, process and financial audit of the extractive sector.
6. **The Office of the Auditor-General for the federation** is provided for in the Constitution and has the mandate to audit all public accounts of the Federation. He submits his reports to the National Assembly and enjoys security of tenure provided for in the Constitution.
7. **The Public Complaints Commission** created by the Public Complaints Commission Act is the ombudsman and addresses issues of administrative injustice. The Commission reports to the National Assembly and has offices in the thirty- six states of the federation.
8. **Technical Unit on Governance and Anti-Corruption Reforms —TUGAR:** TUGAR was set up to respond to the critical need for a dedicated institution to monitor anticorruption and Governance initiatives, evaluate both the structures and their outputs for impact, access public feedback, and generate empirical data which will feed into the policy framework, and enable reforms.

It ensures data -policy nexus using results derived from monitoring and evaluation tools such as research, surveys and studies. TUGAR activities also facilitates coordinated data and synergy within the government anti-corruption initiatives on one hand and initiatives driven by the private sector and other non-state actors such as Civil Society Organizations, on the other hand.

TUGAR is the Secretariat of the Inter-Agency Task Team [IATT] comprising the core anti-corruption agencies as well as institutions with transparency and accountability mandates. TUGAR carries out its mandates through research and surveys. Research activities carried out by TUGAR include

- i. A scoping Survey and mapping of anti-corruption initiatives and activities in Nigeria (Who is Doing What?)
- ii. A Gap and Compliance Analysis of anti-corruption initiatives in Nigeria (Using UNCAC, The¹² African Union Convention for Preventing

and Combating Corruption and the ECOWAS Protocol against Corruption as benchmarks).

- iii. A Gap Analysis of the Public Finance Management System at the Federal level and States (Using UNCAC, The African Union Convention for Preventing and Combating Corruption and the ECOWAS Protocol against Corruption as benchmarks)
- iv. Corruption Risk assessment of the Port Sector in Nigeria (In collaboration with BPP and ICPC).

CHALLENGES AND ACTIONS REQUIRED TO IMPROVE PREVENTIVE

MEASURES Coordination:

The Coordination challenges between the anti-corruption agencies are being addressed through the mechanism of the Inter-Agency Task Team (IATT) and regular meetings between the heads of agencies. However the challenge of coordination of policies with other government agencies remains. Some of the issues include resistance to reforms and under funding of the internal anti -corruption and transparency units (ACTUs) as well as hostility towards, and victimization of ACTU members within the public agencies.

Communication challenges with regard to raising awareness of the existence, functions and aims of preventive anti-corruption bodies amongst the public:

Public awareness activities require a lot of funding and limited resources impact on the scope and intensity of the programs.

Implementation challenges with regard to the mandate of preventive bodies due to the interference of other branches of government:

Institutional resistance, political interference at MDAs, ignorance and unwillingness of officials to comply with the provisions of the law are some of the challenges faced in executing preventive mandates.

Financial challenges with respect to maintaining sufficient and consistent funding for preventive anti-corruption bodies:

Inadequate financial resources are recurring complaint among all the relevant agencies. The ACAs are canvassing that funding of anti-corruption work should be based on first

line charge on the Consolidated Revenue of the Federation. This will serve to reduce the dependence on the Executive arm for funding the ACAs.

TECHNICAL ASSISTANCE NEEDS

Identified technical assistance needs include capacity building both in terms of human resources and technical and operational equipment as well as monies to carry out specific activities.