



UNODC

United Nations Office on Drugs and Crime

Country Review Report of Nigeria

Review by Côte d'Ivoire and Myanmar
of the implementation by Nigeria
of articles 5-14 and 51-59

of the United Nations Convention against Corruption
for the review cycle 2016-2021

I. Introduction

1. The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention to, inter alia, promote and review the implementation of the Convention.
2. In accordance with article 63, paragraph 7, of the Convention, the Conference established at its third session, held in Doha from 9 to 13 November 2009, the Mechanism for the Review of Implementation of the Convention. The Mechanism was established also pursuant to article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.
3. The Review Mechanism is an intergovernmental process whose overall goal is to assist States parties in implementing the Convention.
4. The review process is based on the terms of reference of the Review Mechanism.

II. Process

5. The following review of the implementation by Nigeria of the Convention is based on the completed response to the comprehensive self-assessment checklist received from Nigeria, and any supplementary information provided in accordance with paragraph 27 of the terms of reference of the Review Mechanism and the outcome of the constructive dialogue between the governmental experts from Côte d'Ivoire and Myanmar, by means of telephone conferences and e-mail exchanges.
6. A country visit, agreed to by Nigeria, was conducted from 9 to 11 May 2017 with the participation of the following experts from Nigeria, Côte d'Ivoire and Myanmar:

Nigeria:

Mr Moddibo Hamman Tukur, Economic and Financial Crimes Commission (EFCC)

Ms. Lilian Ekeanyanwu, Director, Technical Unit on Governance and Anti-Corruption reforms (TUGAR)

Côte d'Ivoire:

Ms. Francine AKA ANGHUI, Council Member, High Authority for Good Governance

Ms. Esther VONAN, Judge, Technical Advisor of the Minister of Justice, Ministry of Justice and Human Rights

Myanmar:

Mr. Kyaw Win Thein, Pol. Colonel, Head of Anti-Financial Crime Division, Joint Secretary of the Anti-Money Laundering Central Board,

Ms. Thi Da Oo, Director General, Attorney General's Office

Secretariat:

Ms. Jennifer Sarvary-Bradford, Crime Prevention and Criminal Justice Officer, UNODC

Ms. Louise Portas, Crime Prevention and Criminal Justice Officer, UNODC

III. Executive summary

1. Introduction: overview of the legal and institutional framework of Nigeria in the context of implementation of the United Nations Convention against Corruption

Nigeria signed the United Nations Convention against Corruption on 9 December 2003 and ratified it on 14 December 2004. Nigeria deposited its instrument of ratification with the Secretary-General of the United Nations on 14 December 2004.

Nigeria was reviewed for the first time in the fourth year of the first cycle in 2014 ([CAC/COSP/IRG/I/4/1/Add.2](#)).

According to Section 12(3) of the Constitution, Acts of the National Assembly passed in the implementation of treaties rank equally with other Acts and form an integral part of domestic law. The National Assembly has passed several laws which add up to substantial domestication of the provisions of the Convention against Corruption.

The main legislations in relation to preventive anti-corruption measure and asset recovery include: the Corrupt Practices and Other Related Offences Act 2000 (ICPC Act); the Economic and Financial Crimes (Establishment) Act 2004 (EFCC Act); the Money Laundering (Prohibition) Act 2011 (as amended) (MLPA); the Code of Conduct Bureau and Tribunal Act 1991 (CCBTA); the Electoral Act 2010 (as amended) (EA); the Public Procurement Act 2007 (PPA); and the Freedom of Information Act 2011 (FOIA).

Dedicated authorities to prevent corruption 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), and the Nigerian Financial Intelligence Unit (NFIU).

Nigeria is a member of numerous regional, interregional and international bodies and initiatives, such as the African Union Convention against Corruption, the Economic Community of West African States (ECOWAS) Protocol against Corruption, the New Partnership for African Development (NEPAD) Policy on Transparency and Accountability, the Intergovernmental Action Group against Money Laundering in West Africa (GIABA), and the Network of National Anti-Corruption Institutions for West Africa (NACIWA). In addition, the NFIU is a member of the Egmont Group.

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

At the time of the country visit, Nigeria's National Anti-Corruption Strategy (NACS)¹ and a coordinated national Ethics and Integrity Policy were yet to be approved. Nigeria joined the Open Government Partnership (OGP) in 2016, and the National Action Plan (NAP, January 2017–June 2019) was adopted subsequently.

ICPC has developed documents on preventing corruption in various sectors and institutions. ICPC and EFCC both have anti-corruption academies that deliver lecture

¹ NACS was approved by the Federal Executive Council on 5 July 2017.

trainings including to the staff of the various anti-corruption agencies and to public officials. Nigeria created a dedicated unit to carry out anti-corruption studies including risk assessments: the Technical Unit on Governance and Anti-Corruption Reforms (TUGAR), which publishes analytical reports on gaps and the compliance of Nigerian anti-corruption initiatives vis-à-vis regional and global anti-corruption instruments.

These organs as well as others, such as BPP and the Nigerian Extractive Industries Transparency Initiative (NEITI), conduct sectoral evaluations and oversight activities.

Nigeria has established an array of anti-corruption bodies, including ICPC for investigating corruption, overseeing public bodies and educating the public (ICPC Act, section 6); EFCC for conducting investigations, enforcing laws, and carrying out awareness-raising campaigns against economic and financial crimes (EFCC Act, section 5); and CCB for administering the Code of Conduct for public officers including receiving and examining asset declarations (CCBTA, section 3). Furthermore, NEITI is mandated to develop a framework for transparency and accountability for the extractive industry (NEITI Act 2007, section 3). TUGAR serves as a one-stop shop for data, information, policy and diagnostic reports from conducting studies and corruption risk assessments (by Presidential Fiat of 27 July 2006). The Nigerian anti-corruption system is complex with a large number of actors and institutions with a considerable risk of functional overlap.

Nigerian law provides functional independence to the anti-corruption bodies. For instance, ICPC Act provides that ICPC is not subject to the direction or control of any other person or authority (section 3 (14)). The Chairmen or members of ICPC are appointed by the President upon confirmation by the Senate, and they can be removed by the President acting on an address supported by a two-thirds majority of the Senate (ICPC Act, section 3 (6) and (8)). Moreover, the different organs assess their own budget and propose it to the National Assembly.

Nigeria was reminded of its obligation to inform the Secretary-General of the name and address of its preventive anti-corruption authority or authorities in line with article 6 of the Convention.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

Nigeria has established the Federal Civil Service Commission (FCSC) with a mandate to recruit, dismiss and exercise disciplinary control over civil servants. Vacancies are published on the FCSC public website.

The Salaries and Wages Commission (SWC) determines remuneration and pay scales for public officials but does not take into account the corruption risk of respective positions. While members of the specific bodies, such as ICPC and EFCC, are appointed for a limited period of time only (ICPC Act, section 3(7) and EFCC Act, section 3(1), there is generally no rotation of posts foreseen.

In line with the OGP NAP, Nigeria also committed to ensure full implementation of the Open Contracting Data Standards in the public sector.

ACAN was specifically created to provide ethics and compliance trainings to civil servants. Anti-corruption bodies, including ICPC, individual ministries, departments and agencies also provide training to some officials. In addition, the government-owned training institutions, such as the Public Service Training School, conduct trainings and capacity-building for civil servants in general. However, while initial training is part of the Public Service Training School programme, continuous training is neither mandatory nor systematic.

The Constitution's Fifth schedule contains the Code of Conduct for Public Officers. Section 56(1) states that conviction of an offence involving dishonesty or fraud or having been found guilty of a contravention of the Code of Conduct are criteria for vacation of office and disqualification for election to public office.

Nigeria has established the Independent National Electoral Commission (INEC) (Constitution, section 153(1)(f)), which has the possibility to limit the amount of contributions from private persons to political parties (EA, section 90) but had not done so at the time of the country visit. However, a political party shall not accept any contribution exceeding 100,000 Nigerian naira unless it can identify the source of money (EA, section 93(3)). Political parties are not entitled to own or accept any funds or other assets outside of Nigeria (Constitution, section 225(3) and EA, section 88(1)(a)). Public funding of political parties was not permitted at the time of the country visit.

Nigeria has adopted a Code of Conduct for Public Officers, which is integrated into the Constitution (fifth schedule, Part I). Other dedicated codes of conduct include the Code of Conduct for Procurement Officers, the Code of Conduct for Judicial Officers and the Code of Conduct for Federal Prosecutors. All codes are legally binding, and identify the organ established to sanction their infringements. The Code of Conduct for Public Officers also prohibits conflict of interests (section 1), the definition of which is only available in PPA section 57(12). CCBTA provides limitations for retired public officers from holding certain functions (sections 8 and 9).

ICPC Act section 23 obliges public officers to report any offer, promise of giving or solicitation of an undue advantage. ICPC has established the Anti-corruption and Transparency Units (ATCUs) within Ministries, Departments and Agencies (MDAs) to facilitate reporting and improve standards within MDAs. Nigeria has also adopted a whistle-blowing policy which outlines measures to protect the identity of whistle-blowers but has yet to be codified. The Public Interest Disclosure and Witness Protection Bill would criminalize acts of reprisal (section 43). At the time of the country visit the bill on the Whistleblower Protection Act had not yet been adopted.

Certain categories of public officers listed in Part II of the Constitution's fifth schedule are required to submit an asset declaration to the CCB immediately after taking office, every four years thereafter, and at the expiration of the term of office. (Constitution, fifth schedule, part I, section 11). The declaration should contain all property, assets and liabilities of the public officer, the spouse and unmarried children under 18. However, the declaration does not cover potential conflicts of interest and is not made public.

Judges are appointed by the President or State Governors as appropriate upon recommendation of the National Judicial Council (Constitution, section 153 and third schedule, part I) from practitioners with a minimum of 10 years at the bar. There is a specialized institute, the National Judicial Institute (NJI) whose mandate is to provide training on diverse issues for judges. These issues include ethics and judicial integrity. However, the judges do not receive any specific training on the risks of corruption they are exposed to, except from ICPC and EFCC which occasionally provide trainings.

The prosecution service does not form part of the judiciary. Federal Prosecutors have a stand-alone Code of Conduct and are also subject to Ethics for Legal Practitioners as well as the Code of Conduct for public officers. As each anti-corruption organ retains its own prosecution service, specific codes of conduct of each institution also exist.

Public procurement and management of public finances (art. 9)

Public procurement in Nigeria is regulated by PPA which establishes and entrusts the BPP to monitor and supervise the correct implementation of the rules as well as determine whether a procuring entity has violated the PPA (sections 5–6). Nigeria applies a decentralized procurement system (PPA, section 15), but at the time of the country visit, an e-procurement portal was being piloted in order to centralize all public procurement advertisements.

Open competitive bidding is the default procedure (PPA, section 24) and invitations must be advertised publicly (PPA section 25). The threshold for open competitive bidding is 2.5 million Nigerian naira (approximately \$6,800) according to guidelines issued by BPP and in line with the PPA. In order to use a special and restricted method

of procurement, the procuring entity must also receive the authorization of BPP or, at least, a certificate of “No Objection” (PPA, section 39). PPA provides tender rules as well as general criteria for bidders (sections 23 to 27).

Per PPA section 54, an unsuccessful bidder can seek administrative review in front of the procuring entity but without a suspensive effect. This can be appealed to the BPP which can prohibit a procuring or disposing entity from taking further actions (PPA, section 54(4)(b)(i)). A subsequent judicial review on appeal can be performed by the Federal High Court.

PPA section 57 outlines where a conflict of interest exists (para. 12) and obliges all public procurement officials to declare to the authority any actual or potential interest (para. 10).

With regard to the public finances, MDAs are called on a yearly basis to make proposals for their own budget which are collated by the Budget Office. Based on this, the National Assembly discusses the National budget in public hearings, where civil society participates. The Fiscal Responsibility Act 2007 (FRA) provides that the National Budget follow the previously approved Medium Term Expenditure Framework (MTEF) which is established in consultation with non-governmental organizations. The Government policy provides the creation of the Government Integrated Financial Management Information System (GIFMIS) and the Implementation of the Treasure Single Account (TSA) to monitor the financial activities of MDAs from a single platform. Nigeria has also committed to the plan to ensure more effective citizen’s participation across the entire budget cycle.

Nigeria applies electronic financial record-keeping. All archives are kept within the Ministry of Finance. In addition, MDAs must keep hard copies of all financial documents for seven years (Financial Regulations 2009).

Public reporting; participation of society (arts. 10 and 13)

The Freedom of Information Act (FOIA) provides the right to access information (section 1(1)), without showing any specific interest (section 1(2)). FOIA also outlines the detailed grounds for denial (sections 11–12, 14–17, 19).

While asset declarations are not made public, at the time of the country visit, a bill for access to public officers’ asset declaration foresaw that possibility for a citizen with a well-founded suspicion of breach of the Code of Conduct.

The Service Compact Initiative (SERVICOM) has established desks within each MDA to facilitate the access to information as well as service delivery. However, SERVICOM is not established by law and the staff manning the desks are employed by each respective MDA. Most public institutions, including ICPC, EFCC, NEITI, TUGAR and NFIU, publish their reports online, albeit not always in a timely manner.

Nigeria has successfully engaged civil society, including through their representation in the Boards of several public institutions and joined the OGP in 2016. ICPC works closely with civil society in its public education efforts (ICPC Act, section 6(e)). ICPC has on its register 357 civil society organizations (CSOs) constituting the National Anti-Corruption Coalition (NACC). EFCC and CSOs have signed several memorandums of understanding.

Each anti-corruption agency has created various public channels of communication including hotlines and websites.

Private sector (art. 12)

The Corporate Affairs Commission (CAC), was established pursuant to the Companies and Allied Matters Act (CAMA) and has issued regulations on compliance and reporting standards for private sector entities. The Convention on Business Integrity (CBi) was formally launched in 1997. Most private companies have since signed the CBi and committed to respect the standards of integrity. Nigeria is also a member of the

Extractive Industries Transparency Initiative (NEITI). In response, extractive industry private sector entities have established internal compliance departments.

At the time of the country visit, Nigeria had introduced the notion of conflict of financial interest in the draft National Ethics and Integrity Policy. Conflict of interest is also captured in the Code of Conduct for Public Officers. While judges are prohibited from practicing law on exiting office (Constitution section 292(2)) and other institutions foresee a cooling-off period before assuming a post in the private sector, Nigeria's legislation remains largely unclear about a cooling-off period after retirement.

The Financial Reporting Council (FRCN), established by the Financial Reporting Council Act 2011, is responsible for elaborating accounting, auditing, and reporting standards for the private and public sectors.² CAMA also obliges private companies to submit their accounts to the Federal Inland Revenue Service (FIRS). The establishment of off-the-books accounts is clearly identified as prohibited (section 11 MLPA) as well as the use of false documents and the intentional destruction of bookkeeping documents (section 15 of the ICPC Act). However, inadequately identified transactions or objects and recording of non-existent expenditure, are not expressly prohibited when carried out in order to commit an offence of the Convention.

Tax deductibility of expenses that constitute bribes is not explicitly disallowed under the list contained in Section 27 of the Companies Income Tax Act.

Measures to prevent money-laundering (art. 14)

The NFIU was previously established through Sect 1(2)(c) of the Economic and Financial Crimes Commission (EFCC) Act. The Nigeria Financial Intelligence Unit Act 2018 which establishes the NFIU as an independent entity has been enacted. Nigeria has established a domestic regulatory and supervisory regime for a wide range of financial institutions (FIs) and designated non-financial institutions (DNFIs) (MLPA, sects. 3–5). The DNFIs are defined in a non-exhaustive list in Section 25 of the MLPA.

Further, the Special Control Unit against Money-Laundering (SCUML) was established to analyse and disseminate information relating to designated non-financial businesses and professionals (DNFBPs). SCUML works in close cooperation with the EFCC and the NFIU, but reports to the Federal Ministry of Industry, Trade and Investment. All suspicious transaction reports (STRs) are to be filed with the NFIU which is required to analyse the STRs; DNFIs are to report currency transaction reports to SCUML; and DNFIs are to report cash transactions exceeding \$1,000 to SCUML.

Nigeria adopts a risk-based approach, and MLPA requires FIs and DNFIs to conduct customer and beneficial owner identification (sect. 3), keep records of customers and transactions for at least five years (sect. 7) and report STRs to NFIU. At the time of the country visit, Nigeria was contemplating establishing a beneficial ownership registry.

NFIU is a member of the Egmont Group and has signed about 40 memorandums of understanding with local and international agencies to exchange and disseminate intelligence information as appropriate. In addition, the Inter-Ministerial Committee, which includes anti-money-laundering stakeholders, is in place at the national level for cooperation and information exchange among Nigerian ministries, departments and agencies.

FIs and DNFIs are obliged to include and keep accurate originator information for wire transfers based on CDD and apply enhanced scrutiny (MLPA, sects. 2, 3 and 7).

² An Audit Law which will further strengthen the audits processes especially further strengthening the supreme audit institution, has been passed into law and is currently awaiting presidential assent.

Nigeria requires all individuals travelling in and out of Nigeria with cash or negotiable instruments above USD10,000 to declare to the Nigerian Customs Service (MLPA, sect. 2(3)).

In order to prevent money-laundering, the relevant institutions have issued regulations, including the Central Bank of Nigeria (CBN) AML Regulation 2013, the Securities and Exchange Commission (SEC) Regulations, National Insurance Commission (NAICOM) Regulations 4, and the Corporate Affairs Commission Regulations 2012.

At the time of the country visit, the Money Laundering (Prevention and Prohibition) Bill 2017 (AML Bill) foresaw the enhancement of Nigeria's anti-money-laundering measures, such as CDD, record-keeping and the definition of beneficial owners.

2.2. Successes and good practices

- Nigeria created a unit dedicated to anti-corruption studies and assessments (TUGAR) (art. 5, para. 3)
- The ICPC has established the Anti-corruption and Transparency Units (ACTUs) within MDAs in order to facilitate reporting and improve standards (art. 8, para. 4)
- Civil society participates in the adoption of the national budget within the National Assembly and is also consulted for the adoption of the MTEF (art. 9, para. 2, and art. 13, para. 1)
- Any person who requests access to information need not demonstrate any specific interest (art. 10 (a))

2.3. Challenges in implementation

It is recommended that Nigeria:

- Endeavour to adopt the NACS³ as well as the Coordinated National Ethics and Integrity Policy and continue its coordination efforts through energizing the inter-agency meetings at policy and operational levels (art. 5, para. 1)
- Endeavour to ensure clarification and complementarity of functions among anti-corruption bodies in order to avoid duplication and facilitate reporting by citizens (art. 6, para. 1, and art. 13, para. 2)
- Ensure that all anti-corruption bodies be granted the necessary independence to enable them to carry out their functions effectively and free from undue influence (art. 6, para. 2)
- Endeavour to implement OGP NAP and all the commitments taken (art. 7, paras. 1 and 4; art. 9, para. 2; and art. 10 (c))
- Endeavour to enhance specific training for civil servants, in particular for public positions considered vulnerable to corruption, and rotation of such individuals (art. 7, paras. 1 (b) and (d))
- Consider establishing a limit of private contributions to political parties (art. 7, para. 3)
- Endeavour to adopt a definition of conflicts of interest outside the public procurement area and to establish a clear cooling-off period after public officials' retirement (art. 7, para. 4, and art. 12, para. 2 (e))
- Endeavour to clarify the application scope of each specific code in order to avoid duplication, in particular regarding sanctions (art. 8, paras. 2 and 6)

³ The NACS was approved by the Federal Executive Council on 5 July 2017.

- Consider adopting the bill of the Whistleblower Protection Act, as well as the Public Interest Disclosure and Witness Protection Bill (art. 8, para. 4)
- Endeavour to extend the applicability of asset declaration to all public officials, as well as the declaration of interest from which a conflict of interest may result (art. 8, para. 5)
- Endeavour to make the declarations available to the public (art. 8, para. 5, and art. 10 (a))
- Consider implementing the e-procurement portal and make it fully operational (art. 9, para. 1)
- Give a suspensive effect to the first step of public procurement administrative review (art. 9, para. 1 (d))
- Take appropriate measures, with sanctions as needed, to ensure timely reporting on revenue and expenditure to the parliament (art. 9, para. 2)
- Consider clarifying and collating the reasons for denial in the FOIA (art. 10 (a))
- In view of ensuring the independence and viability of the SERVICOM Initiative, Nigeria may wish to consider regulating and simplifying such administrative procedures in order to facilitate public access to the information held by the competent decision-making authorities (art. 10 (b))
- Enhance the provision of specialized training for the judiciary on the risks of corruption to which the profession is exposed on a more systematic basis (art. 11 (a))
- Consider adopting the National Ethics and Integrity Policy (art. 12, paras. 1 and 2)
- Review and consider harmonizing cooling-off periods for public officials wishing to assume posts in the private sector (art. 12, para. 2(e))
- Prohibit all elements as described under article 12, paragraph 3, of the Convention when they are carried out to commit an offence established in accordance with the Convention (art. 12, para. 3)
- Ensure that expenses that constitute bribes are specifically disallowed as tax deductions (art. 12, para. 4)
- Proceed with the establishment of a beneficial ownership register and that consideration be given housing it within one of the many already existing institutions (art. 14, para. 1(a), and art. 52, para. 1)
- Ensure that the lists of DFNI and DNFBPs are updated regularly or consider including a catch-all clause in order to ensure that the list remains relevant (art. 14, para. 1(a))

2.4. Technical assistance needs identified to improve implementation of the Convention

- Capacity-building (arts. 5, 6, 7, 9, 10, 11 and 13):
 - For the anti-corruption academies (training risk assessors, conducting risk assessments) (art. 5)
 - Policy advisories in policy analysis (art. 5)
 - Training and mentoring (art. 5)
 - To the anti-corruption bodies (art. 6)
 - Of agencies on data storage and retrieval (art. 7)
- Institution-building (arts. 5, 6, 7, 8, 9, 10, 11 and 13)

- Capacity-building for the institutions in developing and deploying strategic action plans, internal code of ethics and business processes (art. 5)
- Capacity-building in data management, i.e. storage, interpretation and deployment (art. 5)
- Relevant skills enhancement trainings in accordance with job description (art. 5)
- Building capacity of agencies on data storage and retrieval (art. 7)
- Policymaking (arts. 5, 6, 8, 9, 10, 11, 12 and 13)
 - Capacity-building and mentoring in policy analysis and policy advisories (art. 5)
- Good practice examples in deploying multisectoral anti-corruption strategies at different levels of government (art. 5)
- Legislative assistance (arts. 6, 7, 8, 9, 12 and 13):
 - To amend the EFCC Act to ensure independence and security of the Chairman and the Board (art. 6)
 - To provide financial autonomy to anti-corruption agencies (art. 6)
- Research/data gathering and analysis (arts. 5, 7, 9, 10, 11 and 13)
 - Training and mentoring on research skills, methodology, data storage, data retrieval and data analysis (art. 5)
- Facilitation of international cooperation with other countries (art. 5)
 - Good practice examples in international cooperation (art. 5)

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Nigeria has received and successfully responded to requests related to asset recovery and return. The Mutual Legal Assistance Act (MLA Act) and its guidelines have been established to facilitate international cooperation including asset recovery. The Central Authority Unit within the Federal Ministry of Justice facilitates speedy international cooperation and mutual legal assistance.

At the time of the country visit, an amendment to the MLA Act (Mutual Assistance in Criminal Matters Bill 2017, MLA Bill) was pending at the National Assembly to expand its coverage of States parties beyond the Commonwealth. The MLA Bill would also address a number of current discrepancies and bring Nigeria's asset recovery legislation largely in line with the Convention regarding enhanced due diligence (EDD), the enforcement of foreign orders, the rights of bona fide third parties etc.

Nigeria shares information with other countries through the Egmont group, as well as the International Criminal Police Organization (INTERPOL) I-24/7.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Section 3 of the MLPA requires FIs and DNFI to conduct detailed customer and beneficial owner identification when establishing a business relationship or carrying out transactions. In addition to the CBN Act and the Bank and Other Financial Institutions Act (BOFIA), Nigeria has the Know Your Customer (KYC) Directive and the Money

Laundering Examination Procedure/Methodology Guidance Note, which are mandatory for banks, non-bank financial institutions and DNFBPs.

The CBN Regulations 2013 require obligated entities to conduct enhanced due diligence (EDD) and continued monitoring of the accounts of Politically Exposed Persons (PEPs) (section 3(7) MLPA and section 18(4) CBN-AML). The NFIU has also developed a regulatory oversight operational manual for enhanced scrutiny, as has the Central Bank of Nigeria. There is no distinction between domestic and foreign PEPs.

While there is no definition of high-value accounts, Regulation 83 of the CBN AML/CFT Regulations 2013, identifies trusts, nominees and fiduciary accounts as accounts that present a higher money-laundering risk than others and require financial institutions to conduct enhanced due diligence.

While the definition of a shell bank can be found in the MLPA, there is only a prohibition for FIs to enter into or continue correspondent banking relationships with foreign shell banks. The establishment of shell banks is prohibited in Nigeria (section 11(2)). The FI shall satisfy itself that the foreign country does not permit its accounts to be used by shell banks (e.g. MLPA, sect. 12).

The Code of Conduct for Public Officers provides for declaration of assets, (Constitution Schedule 5 sect. 11). Although all public servants who are elected and appointed are prohibited from maintaining foreign accounts (Code of Conduct Bureau and Tribunal Act, sect. 7), there is no requirement to declare interest or signature or other authority over foreign accounts.

The NFIU receives and analyses financial data consisting of currency transaction reports (CTRs) and suspicious transaction reports (STRs) and disseminates the information to domestic law enforcement authorities and other FIUs. In addition to NFIU, SCUML was established in 2005 to enhance anti-money-laundering measures for DNFBPs in Nigeria (reference above article 14).

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

All legal persons, including foreign States as well as their embassies and missions in Nigeria, have *locus standi* and can therefore initiate civil action and sue for compensation or damages in Nigeria. The Administration of Criminal Justice Act 2015 (ACJA) provides a court with the power to order the defendant or convict to pay compensation or expenses to the victims (sect. 319). As there is no disaggregation of victims, a State that has been harmed can also receive such payments but is also required to retain local counsel.

The Foreign Judgement (Reciprocal and Enforcement) Act outlines the procedure for the registration and enforcement of foreign confiscation orders obtained in other jurisdictions and is not limited to the Commonwealth (Part I). In order to register and enforce foreign confiscation orders, the procedure in the foreign country needs to be in accordance with Nigerian law and be recognized under treaty-based reciprocity.

Forfeiture of proceeds of crime is governed by the Advance Fee Fraud and Other Fraud Related Offences Act 2006 (sect. 17) and EFCC Act (sect. 24b). Nigeria has several legal provisions on non-conviction-based forfeiture (e.g. sect. 17 (6) of Advance Fee Fraud and Other related Offences Act, sect. 330 of ACJA).

EFCC Act provides for measures to identify, trace, freeze, confiscate and seize proceeds of crime as well as collaborate with other States (sects. 5(j) and 6, para. 1(d)). EFCC Act sections 5(k), 28 and 29; MLPA section 6, paragraph 5(b); and ICPC Act section 46 permit competent authorities to freeze or seize property upon a request from other States also on suspected involvement in any crime. In addition, section 44(2)(k) of the Nigerian Constitution provides for preservation of property for

confiscation on the basis of a foreign arrest or criminal charge. The management of recovered assets is also outlined in sections 153–157 ACJA.

The EFCC Act establishes the Commission's authority in general to deal with economic and financial crime matters with other countries (sect. 6 (k)), but without detailed procedures on how to handle foreign requests.

Dual criminality and legal review of all mutual legal assistance requests are required to make decisions or actions under paragraphs 1 and 2 of article 55 of the Convention. The Central Authority Unit has issued guidelines for the evaluation of mutual legal assistance requests.

Nigeria does not have a de minimis threshold. As a matter of practice, NFIU informs the requesting State prior to the lifting of provisional measures and provides it with an opportunity to provide reasons in favour of continuing the measure. MLPA does not have a provision in this regard. The rights of bona fide third parties are protected under several laws (e.g. EFCC Act, Advance Fee Fraud Act, Administration of Criminal Justice Act, ICPC Act). Nigeria provides cooperation based on reciprocity and does not require a treaty basis.

Return and disposal of assets (art. 57)

The final return and disposal of assets is outlined in ACJA section 321 and the compensation of bona fide third parties in section 319(1)b. On the disposition of confiscated property, Nigeria has concluded memorandums of understanding with several countries, such as France, Italy, Spain, Switzerland and Venezuela (Bolivarian Republic of) (EFCC sect. 6(k)).

At the time of the country visit, a guidance note for judges on the disposal of assets was being drafted.

3.2. Successes and good practices

- The initiative of some institutions to keep records for twice as long as required (10 years instead of 5) (art. 52)
- The number of asset recovery cases successfully initiated by Nigeria based on bilateral agreements and reciprocity pending the adoption of the MLA Bill
- Nigeria's willingness and readiness to share its experiences in various international forums, particularly in the area of asset recovery, is fully in line with article 51

3.3. Challenges in implementation

It is recommended that Nigeria:

- Proceed with the establishment of a beneficial ownership register and that consideration be given to housing it within one of the many already existing institutions (art. 14, para. 1(a), and art. 52, para. 1)
- Review and consider cross-referencing the various conflict-of-interest and asset declaration provisions between the MLPA and the BPP to ensure coherence (art. 52, para. 5)
- Widen the requirement to declare also interest in, signature or other authority over financial accounts held outside Nigeria (art. 52, para. 6)
- Redouble efforts to pass the Proceeds of Crime Act Bill⁴ into law (art. 53)
- Redouble efforts to pass the MLA Bill into law⁵ and ensure that its provisions remain in line with the requirements of the Convention, inter alia regarding:

⁴ The Proceeds of Crime Act was passed by Parliament and is awaiting Presidential Assent.

- Consulting the requesting State before lifting any provisional measures (art. 55, para. 8)
- Expanding mutual legal assistance to beyond the Commonwealth countries (art. 56)
- Finalizing and disseminating the mutual legal assistance Manual (art. 56)
- Limiting the deductible expenses to what is reasonable (art. 57, para. 4)

3.4. Technical assistance needs identified to improve implementation of the Convention

- i. *Legislative assistance:*
 - Whistle-blower and Witness Protection Bill
- ii. *Institution-building:*
 - *Implementation of POCA*
 - Support for each law enforcement agency to have an asset recovery/forfeiture and management unit
- iii. *Policymaking:*
 - Develop harmonized SOP for managing assets across all agencies
- iv. *Capacity-building:*
 - Specialized training
 - Database management
- v. Strategic plans
 - *Research/data-gathering and analysis:*
 - Central database
 - Agency specific database
- vi. Research
- vii. *Facilitation of international cooperation with other countries:*
 - Training in the area of mutual legal assistance, extradition, forfeiture, intelligence, etc.

⁵ The Mutual Legal Assistance Bill was passed by Parliament and is awaiting Presidential Assent.

IV. Implementation of the Convention

A. Ratification of the Convention

Nigeria signed the Convention on 9 December 2003 and ratified it on 24 October 2004. Nigeria deposited its instrument of ratification with the Secretary-General of the United Nations on 14 December 2004.

Section 12(1) of the Constitution of the Federal Republic of Nigeria 1999 states that:

No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.

Section 12(2) of the Constitution goes further to state that:

The National Assembly may make laws for the federation or any part hereof with respect to matters not included in the exclusive Legislative List for the purpose of implementing a treaty.

Section 12(3) of the Constitution states that:

A bill for an Act of the National Assembly passed pursuant to the provisions of subsection (2) of this section shall not be presented to the President for assent and shall not be enacted unless it is ratified by a majority of all the Houses of Assembly in the Federation.

Accordingly Acts of the National Assembly, duly passed in implementation of a treaty rank equally with other Acts of the National Assembly and form an integral part of Nigeria's domestic law.

The UNCAC is yet to be domesticated in Nigeria in accordance with the above provisions of the Constitution. However, several legislations complying with different provisions of the UNCAC have been enacted into law by both the National Assembly and State Houses of Assembly and implementation structures have been set up pursuant to such legislations.

B. Legal system of Nigeria

Nigeria operates a Presidential system of government with the President as both the Head of State and Head of Government within the context of a multi-party system. The country operates a federalism system of government with thirty-six federating units called States and a Federal Capital Territory.

At both the Federal and State levels, there are three distinct arms of government - the Executive, the Legislature and the Judiciary. The executive arm of government at the federal level consists of the President, the Vice president and other members of the Executive Council of the Federation while at the State level it is made up of the Governor, Deputy Governor and other members of the State Executive Council. The President, Vice President, the Governors and their deputies are elected for a four-year term renewable only once.

There is no limit to the number of times Federal and State Legislators can be re-elected. The Legislature is present both at the Federal and State levels. The Federal Legislature is bi-cameral and consists of the Senate and House of Representatives which make up the National Assembly. The State Legislatures have only one chamber.

The Judiciary is the third arm of government and carries out its functions through various established courts. The Supreme Court is the highest court of the land and directly below it is the Court of Appeal followed by the Federal and State High Courts. These are followed by Magistrate Courts after which you have the Sharia and Customary Courts.

The Constitution divides legislative functions into three - The Exclusive List reserved only for the National Assembly, the Concurrent list where both the National Assembly and State Legislatures can legislate on and the Residual list reserved only for State Houses of Assembly. Often issues related to Treaties and Conventions fall within the Concurrent list. In that situation, the National Assembly may only legislate on such issues with the ratification of a majority of the State Houses of Assembly.

Nigeria operates an accusatory criminal justice system. Criminal proceedings are mainly initiated at the magistrate and High courts and appeals can lie to the supreme court. However, there are elements of criminal proceedings which commence at sharia courts with appeals going to higher courts.

Relevant laws and policies

1. Corruption Risk Assessment (CRA) has been conducted in the Port Sector as a joint project by some anti-corruption agencies (BPP, ICPC and TUGAR). Similar assessments have also been conducted in selected sectors in the Ministries of Education, Health and Water Resources. The link to the Port sector CRA report is www.tugar.org.ng.

2. The Technical Unit on Governance and Anti-Corruption Reforms -TUGAR has also conducted the following studies:

- a. A Gap and Compliance Analysis of Anti-Corruption Initiatives in Nigeria with Regional and Global Anti- Corruption Instruments,
- b. A Mapping and Scoping Survey of Anti- Corruption and Governance Measures in Public Finance Management (PFM) (PHASES 1, 2, and 3).

The studies are uploaded on the TUGAR website www.tugar.org.ng

3. The ICPC has conducted Systems Review in the following sectors:

The link is - <https://icpc.gov.ng/downloads-beta/>

National Risk Assessment Report on Money Laundering and Terrorist Financing available at the following link: <https://www.nfiu.gov.ng/index.php/resources/ar/nrareport>.

Please provide the relevant information regarding the preparation of your responses

to the self-assessment checklist.

An interagency committee consisting of representatives of the various agencies was set up on the directive of the Honourable Attorney-General of the Federation and Minister of Justice. This committee met severally to provide information to the Secretariat as well as validate the information inputted into the checklist.

Please describe three practices that you consider to be good practices in the implementation of the chapters of the Convention that are under review.

1. Prevention

In 2012, a country -specific methodology for conducting corruption risk assessments was developed and adopted. A curriculum was also developed for training risk assessors. A hundred risk assessors drawn from several government agencies at both national and sub-national levels as well as CSOs were trained and 69 of them certified as risk assessors.

Drawing from this pool, government agencies are increasingly adopting the practice of conducting corruption risk assessments in various sectors to enable evidence-based policy making and implementation. So far, risk assessments have been conducted in the Port sector, Aviation sector, and selected institutions in Education, Health and Water Resources. The recommended integrity plans are being implemented in these sectors to remedy identified anomalies which engender corruption.

Development of integrity-based curriculum for basic studies (Basic 1-9) and general studies in Tertiary institutions by the ICPC in collaboration with the National Education Resource Centre (NERC). This curriculum has been deployed in schools.

Interfaith anti-corruption preaching manuals drafted by the EFCC in conjunction with religious groups have been adopted to bring the campaign against corruption into the every-day life of the people.

2. Inter-agency coordination

A critical challenge of the Nigerian Anti-corruption agenda is the location of anti-corruption mandates in operationally diverse institutions who in their day to day activities have minimal cause to relate to each other. This leads to overlap, duplication of efforts and lack of synergy. Upon identifying this problem, the government created an Inter-Agency Task Team (IATT). The IATT platform has enabled a significant level of coordination and joint activities including joint assessments and reviews as well as a coordinated response to treaty obligations. The IATT has different working groups some of which align with the chapters of the UNCAC. This facilitates synergy among the agencies at the operational level and ensures building relationships which enhances collaboration and information flow.

3. Asset recovery

Due to the focus on ensuring the recovery of Nigeria's looted assets both internally and in other jurisdictions, the Working Group on Asset Recovery is engaged in reviewing all laws and processes relating to Asset Recovery and making input into pending bills in order to ensure efficiency of the project. This platform is also active in proposing Resolutions and other interventions beneficial to this cause at the CoSP UNCAC and other international platforms. Further there is a Presidential Committee on Asset Recovery which issues policy guidance for recovery and management of proceeds of crime.

Please describe (cite and summarize) the measures/steps, if any, your country needs to take, together with the related time frame, to ensure full compliance with the chapters of the Convention that are under review, and specifically indicate to which articles of the Convention such measures would relate.

1. Prevention

A draft National Anti-Corruption Strategy has been prepared but is yet to be adopted. The aim of this holistic national Strategy is to prioritize issues and provide sequencing and direction within the anticorruption agenda, ensure synergy and coordination among the diverse actors, provide a handle for monitoring and evaluation and cascade the measures to the sub-national level. This will ensure full compliance with Article 5 of the Convention.

2. Asset recovery

The Proceeds of Crime Bill is currently before the National Assembly⁶. When passed into law it will enable Non-Conviction-Based Asset Forfeiture and also provide a harmonized framework for managing recovered assets.

3. A Mutual Legal Assistance Bill is currently before the National Assembly. When passed into Law it will amplify the framework for International Cooperation and Asset Recovery.

C. Implementation of selected articles

II. Preventive measures

Article 5. Preventive anti-corruption policies and practices

Paragraph 1 of article 5

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

Nigeria has a robust anti-corruption policy which is being implemented by several agencies with diverse mandates. However, the following challenges have been identified:

⁶ The Proceeds of Crime Act was passed by Parliament and is awaiting Presidential Assent.

Nigeria is yet to adopt a coordinated National anti-corruption Strategy⁷, as well as a coordinated national Ethics and Integrity Policy. As a result, monitoring and evaluation has been problematic. In addition, drilling down to the sub-national level has also not been systematic.

The existing measures are as follows:

Section 15(5) Constitution of the Federal Republic of Nigeria 1999
states:

The State shall abolish all corrupt practices and abuse of power.

Flowing from this the following laws, policies and institutions have been established:

1. The Code of Conduct Bureau, the establishment of which is enshrined in the Constitution and in accordance with the Code of Conduct Bureau and Tribunal Act 1991 (CCBTA);
2. Establishment of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) with its enabling law - Corrupt Practices and Other Related offences Act 2000.
3. Establishment of the Economic and Financial Crimes Commission (EFCC) with its enabling Law - the Economic and Financial Crimes (Establishment) Act 2004 (EFCC Act).
4. Establishment of the Technical Unit on Governance and Anti-Corruption Reforms (TUGAR) to provide data and inter-agency coordination.
5. Setting up of the Presidential Advisory Committee Against Corruption
6. Establishment of the Public Complaints Commission (PCC), the national ombudsman whose enabling law is the Public Complaints Act Cap 377 LFN.
7. The Nigerian Extractive Industries Transparency Initiative (NEITI), the subset of the global EITI.
8. The Bureau of Public Procurement (BPP) established under the Public Procurement Act 2007.
9. The Fiscal Responsibility Commission (FRC) set up under the Fiscal Responsibility Act 2007.

ON GOING ACTIVITIES

There is an on-going effort to adopt the holistic National Anti-Corruption Strategy as soon as possible.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. The Code of Conduct Bureau statistics on activities pursuant to its mandate from January 2011 to date are as follows:

⁷ NACS was approved by the Federal Executive Council on 5 July 2017.

**STATISTICS ON DECLARATION OF ASSETS AND ENFORCEMENT FROM
THE CODE OF CONDUCT BUREAU**

S/N	ACTIVITIES	2011	2012	2013
1	Nominal Rolls Received	363,398	256,886	2,921
2	Asset Forms Issued	258,223	230,298	305,752
3	Number of Asset Forms Returned	166,051	109,298	163,181
4	Acknowledged slips issued	-	-	114,276
5	Number of identified Defaulters	3,575	109,028	13,970
6	Number of Political officers verified	2,543	134,717	42
7	Number of MDAs visited	10	109	808
8	Number of petitions / complaints received	160	33	79
9	Number of petitions investigated	37	78	36
10	Cases closed for lack of merit	77	20	21
11	Number of cases pending	4	1	-
12	Number of cases forwarded to CCT for prosecution	9	16	-
13	Number of cases prosecuted	-	172	-
14	Convictions recorded	-	10	4
15	Cases pending at the Tribunal	-	4	
16	Cases referred to other agencies	-	-	10
17	Number of cases adjourn/pending	-	-	294
18	Number of cases forwarded to Legal department	-	-	5
19	Number of cases discharged and acquitted	-	-	5

**ICPC -PETITIONS, INVESTIGATIONS, PROSECUTION AND CONVICTIONS
(2014-2016)**

YEAR	NUMBER OF PETITIONS RECEIVED	NUMBER OF CASES INVESTIGATED	TOTAL NUMBER OF PROSECUTION	TOTAL NUMBER OF CONVICTIONS SECURED
2014	1016	380	60	12
2015	1518	607	60	7
2016	1569	830	70	11

<u>TOTAL</u>	4,103	1,817	190	30
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(b) Observations on the implementation of the article

The reviewing experts concluded on the partial implementation of the article under review.

By establishing the institutions cited, it appears that Nigeria was in the process of bringing its national law into conformity with Article 5 (1) of the Convention.

Nigeria adopted the National Action Plan (NAP, January 2017–June 2019), after having joined the Open Government Partnership (OGP) in 2016.

However, at the time of the country visit, Nigeria's National Anti-Corruption Strategy (NACS)⁸ and a coordinated national Ethics and Integrity Policy were yet to be approved.

Moreover, it is not clear how the various institutions and policies are coordinated and in what manner responsibilities are shared and synergies fostered.

It was therefore recommended that Nigeria endeavour to adopt the NACS⁹ as well as the Coordinated National Ethics and Integrity Policy and continue its coordination efforts through energizing the inter-agency meetings at policy and operational levels (art. 5, para. 1).

Paragraph 2 of article 5

2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

Nigeria's anti-corruption practices are developed and implemented by the following institutions:

1. The Independent Corrupt Practices and Other Related Offences Commission (ICPC) develops practices based on a tripod mechanism of Prevention, Sanctions and Education. The ICPC is established by the Corrupt Practices and Other related Offences Act 2000. It has a staff strength of 790 - and has a head office in Abuja the capital city; 6 zonal offices in the following areas: Lagos, Kaduna, Kogi, Enugu, Bauchi, Akwa Ibom; and nine state offices in the following states: Oyo, Osun, Edo, Rivers, Benue, Imo, Adamawa, Kano, Sokoto. The annual budget of the ICPC in the past three years are as follows:

⁸ NACS was approved by the Federal Executive Council on 5 July 2017.

⁹ The NACS was approved by the Federal Executive Council on 5 July 2017

<u>ANNUAL BUDGET FOR THE LAST 3 YEARS</u>		
YEAR	APPROPRIATION	ACTUAL
2014	4,675,887,517	4,363,306,300
2015	4,910,936,842	4,534,029,523
2016	5,829,669,929	4,860,536,628.62

2. The Code of Conduct Bureau (CCB) implements a Code of Conduct for Public Officers which include Asset Declaration and Verification; Conflict of Interest Rules; and regulations on gifts and benefits. CCB also prosecutes breach of the Code at the Code of Conduct Tribunal (CCT). The CCB has a staff strength of 936 and has a head office in Abuja and offices in all the 36 States of the Federation. The CCB annual budget for 2015 is as follows:

ITEMS	CAPITAL	PERSONNEL	OVERHEAD	<u>TOTAL</u>
2015 APPROPRIATION	387,500,000.00	1,651,875,476.00	283,891,868.00	2,323,267,344.00
RECEIPTS	193,750,000.00	1,454,699,182.16	219,280,035.00	1,867,729.16
EXPENDITURE	55,879,004.00	1,454,558,780.65	214,998,4590.95	1,725,436,244.00
BALANCE	137,870,996.00	140,401.51	4,281,575.05	142,292,972.56
PENDING	193,750,000	-	64,611,833.00	258,361,833.
PERFORMANCE	28.84%	99.99%	98.05%	-

3. The Economic and Financial Crimes Commission (EFCC) investigates and prosecutes economic and financial crimes and money laundering. The relevant data on the institution are as follows:

Staff Strength at November 2016	2,298
Head Office	Abuja
No of Zonal Offices	8 (Enugu, Gombe, Ibadan, Kaduna, Kano, Lagos, Maiduguri & Port Harcourt)

EFCC Annual Budgets

2014	TOTAL ALLOCATION	N12,245,369,170
2015	TOTAL ALLOCATION	N10,472,982,781.00
2016	TOTAL ALLOCATION	N18,887,531,636.00

4. Nigerian Extractive Industries Transparency Initiative (NEITI) ensures Transparency and Accountability in the payment and receipt of revenues from the Extractive Sector. NEITI publishes annual physical, financial and process audit of the extractive sector as well as other adjunct knowledge products and position papers.

5. The Technical Unit on Governance and Anti-Corruption Reforms (TUGAR) provides coordinated data generated through research and surveys, policy advisories and inter-agency coordination.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Some of the practices aimed at promoting transparency and accountability and prevent corruption are as follows:

1. The Government in 2016 issued a directive requiring all government accounts in commercial banks to be consolidated into a Treasury Single Account domiciled in the Central Bank of Nigeria. The aim is to consolidate all government monies for easier oversight. This will also serve to reduce borrowing by government departments from the same commercial banks who have huge deposits from government in their custody. With this practice, the accounts and financial practices of government departments are closely monitored as layers of approvals are necessary for spending.
2. E-payment system (CBN) which enables tracking of expenditure and reduces human interface.
3. Know Your Customer (KYC) + Anti-Money Laundering (AML) CFT Policy of the Central Bank of Nigeria (CBN), National Insurance Commission (NAICOM), Security and Exchange Commission (SEC), Nigerian Financial Intelligence Unit (NFIU)
4. Corruption risk assessments and system review studies are conducted across sectors.
5. Budget Office inspection of projects and remediation measures.
6. Fiscal Responsibility Commission reports of selected project monitoring.
7. Publication of budgetary allocations at national and sub-national levels.
8. Publication of approved contracts.
9. Introduction of GIFMIS - Government Integrated Financial Management Information System, IPPIS - Integrated Payroll and Personnel Information System aimed at ridding the system of "Ghost Workers" and eliminating fraud in the pay-roll system.
10. National Risk Assessment on Money Laundering and Terrorist Financing.

11. Mobilizing women in the fight against corruption through Women Against Corruption Initiative of the EFCC in collaboration with the Wife of the President.
12. Budget Efficiency Project has been introduced in 2016 and is aimed at enhancing integrity in the budgeting and budget implementation process.
13. Joint commemoration of the International anti-corruption day by ACAs on the platform of the IATT.

(b) Observations on the implementation of the article

The reviewing experts considered that Nigeria has complied with the provision under review.

Nigeria has established and promoted anti-corruption practices through the Independent Corrupt Practices and Other Related Offences Commission (ICPC), the Economic and Financial Crimes Commission (EFCC), the Technical Unit on Governance and Anti-Corruption Reforms (TUGAR), as well as the Code of Conduct Bureau.

ICPC and EFCC operate on a growing budget and both have anti-corruption academies that deliver lectures and trainings including to the staff of the various anti-corruption agencies and to public officials. ICPC has also developed documents on preventing corruption in various sectors and institutions.

TUGAR carries out anti-corruption studies including risk assessments and publishes analytical reports on gaps and the compliance of Nigerian anti-corruption initiatives vis-à-vis regional and global anti-corruption instruments.

Paragraph 3 of article 5

3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

1. TUGAR studies aimed at evaluating existing governance framework and provide advisories: Gap Analysis, Scoping of the Public Finance Management system and Corruption Risk Assessments published on www.tugar.org.ng.
2. Analysis, Work Shops and Seminars conducted by Government departments, anticorruption agencies, Academic Institutions and Think Tanks.
3. The National Risk Assessment of Money-Laundering and Terrorist Financing published in <https://www.nfiu.gov.ng/index.php/resources/ar/nrareport>.

4. The NEITI annual audit of the Extractive sector which is published in www.neiti.org.ng provides transparency in the sector. There is also a remediation process which redresses

identified vulnerabilities

5. Corruption Risk Assessments in the Port Sector, Education sector, Health Sector and Water Resources Sector, Aviation Sector. These assessments have adjunct integrity plans which address identified vulnerabilities. The Corruption Risk Assessment is being mainstreamed into all sectors of government. There is an ongoing Corruption Risk Assessment of the e-governance platforms to identify and redress vulnerabilities.

6. Systems Reviews based on assessments are also periodically conducted in various sectors

7. Procurement Audits are regularly conducted by the Bureau of Public Procurement (BPP) to evaluate procurement processes.

8. There are also on-going processes for the Review and Amendment of the enabling laws of some anticorruption agencies such as the Code of Conduct Bureau, the Nigerian Extractive Industries Transparency Initiative (NEITI) and the Public Complaints Commission (PCC).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

A corruption Risk Assessment was completed in the Port Sector in 2013 and an Integrity plan for remediation adopted. Elements of the Integrity Plan have been implemented and harmonized process documents (Standard Operating Procedures-SOPS and Anti-Corruption Policies) for the entire Port Sector were launched in June 2016. In addition, an IT -based complaint and redress mechanism called the Port Service Support portal (PSSP) was launched and activated. All these are aimed at increasing transparency and predictability in the Port process and reduce vulnerabilities to corruption.

(b) Observations on the implementation of the article

The reviewing experts considered that Nigeria has complied with the provision under review.

The Independent Corrupt Practices and Other Related Offences Commission (ICPC), the Economic and Financial Crimes Commission (EFCC), the Technical Unit on Governance and Anti-Corruption Reforms (TUGAR), as well as the Bureau of Public Procurement (BPP) and the Nigerian Extractive Industries Transparency Initiative (NEITI), conduct sectoral evaluations and oversight activities.

TUGAR is specifically dedicated to anti-corruption studies and assessments and the ministries, departments and agencies are encouraged to carry out their own internal assessments.

TUGAR's role is to serve as a one-stop shop for data, information, policy and diagnostic reports based on surveys and other research methods for monitoring and evaluating anti-corruption and governance initiatives across all sectors in the country. TUGAR's activities thereby foster synergy in the activities of the various agencies.

(c) Successes and good practices

Nigeria created a unit dedicated to anti-corruption studies and assessments (TUGAR).

Paragraph 4 of article 5

4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. Nigeria actively participates in the Anti-corruption Advisory Council of the African Union and has once chaired the Advisory Council.
2. Nigeria has signed on to ECOWAS initiatives to prevent Money Laundering such as GIABA.
3. Nigeria is an active implementer of the EITI process through the national sub-set NEITI. Nigeria in 2011 won the best EITI implementing country award.
4. Nigeria is a member of the New Partnership for African Development (NEPAD) policy on Transparency and Accountability. Activities of the Nigeria subset can be found on www.nepad.gov.ng.
5. Nigeria has adopted Bilateral tax Treaties with the following countries: Canada, Pakistan, Belgium, France, Romania, Netherlands, UK and Northern Ireland, China, South Africa, Philippines, Czech Republic, Slovak Republic and Italy.
6. Nigeria is a Member of the International Anti-Corruption Academy and chaired the 4th Assembly of States Parties in 2015.
7. The NFIU is a member of the EGMONT Group of the Financial Intelligence unit and shares information with the 151 FIUs worldwide.
8. Nigeria is in compliance with the FATF Standards and Recommendations and is currently pursuing membership of the Financial Action Task Force.
9. Nigeria is a Member of the 6 FIU Forum of the Sahel Region.
10. Nigeria is a Member of the Commonwealth and is particularly involved in commonwealth Secretariat activities on International Cooperation in Criminal Matters.
11. The Public Complaints Commission (PCC), the Nigerian Ombudsman, is a member of the African Ombudsman Institute.
13. Nigeria is also a Member of the National Anti-corruption Institute for West Africa (NACIWA).

Please provide examples of the implementation of those measures, including related

court or other cases, available statistics etc.

1. NEITI AUDITS in the oil and Gas sector and Solid Minerals sector 2012 & 2013 and 2014 are published on - www.neiti.org.ng
2. National risk Assessment on Money Laundering Prevention Measures has been conducted and is available at: <https://www.nfiu.gov.ng/index.php/resources/ar/nrareport>
3. Nigeria has also undergone Mutual Evaluation by GIABA. Nigeria's first mutual evaluation of the anti-money laundering (AML) and combating the financing² of terrorism (CFT) regime was conducted in 2007. The ME was based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing, 2001 of the Financial Action Task Force, and was prepared using the AML/CFT Methodology, 2004. Series of improvements have taken place since then both in International AML/CFT Standards and Nigeria's AML/CFT regime. Its Seventh Follow up Report Mutual Evaluation was filed in May 2015.
4. NEITI has been adjudged to have made "meaningful progress" in the implementation of the EITI.

(b) Observations on the implementation of the article

The reviewing experts considered that Nigeria has complied with the provision under review.

Nigeria participates in numerous international programmes aimed at the prevention of corruption, including the Anti-corruption Advisory Council of the African Union, ECOWAS initiatives including GIABA, and the EITI process.

(c) Technical assistance needs

- **Capacity-building:**
 - For the anti-corruption academies (training risk assessors, conducting risk assessments)
 - Policy advisories in policy analysis
 - Training and mentoring
- **Institution-building:**
 - Capacity-building for the institutions in developing and deploying strategic action plans, internal code of ethics and business processes
 - Capacity-building in data management, i.e. storage, interpretation and deployment
 - Relevant skills enhancement trainings in accordance with job description
- **Policymaking:**
 - Capacity-building and mentoring in policy analysis and policy advisories
- Good practice examples in deploying multisectoral anti-corruption strategies at different levels of government

- **Research/data gathering and analysis**
 - Training and mentoring on research skills, methodology, data storage, data retrieval and data analysis
- **Facilitation of international cooperation with other countries**
 - Good practice examples in international cooperation

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

1. The UNDP CPAP - public accountability project
2. The EU/ UNODC 10th EDF -Support to Anti-Corruption in Nigeria
3. The DFID (FOSTER 2 and J4A)
4. The World Bank - ERGP
5. The US Embassy

Article 6. Preventive anti-corruption body or bodies

Paragraph 1 of article 6

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

- (a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;*
- (b) Increasing and disseminating knowledge about the prevention of corruption.*

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Nigeria's Preventive anti-corruption bodies are established both by law and policy initiatives. These include Independent Corrupt Practices and other related Offences Commission (ICPC), Code of Conduct Bureau, The Nigerian Extractive Industries transparency Initiative (NEITI), the Economic and Financial Crimes Commission (EFCC). Other Agencies that are active in this area include the Technical unit on Governance and Anti-Corruption Reforms (TUGAR), the Bureau of Public Procurement, the Public Complaints Commission (PCC), the Fiscal Responsibility Commission, the Nigerian Financial Intelligence Unit (NFIU), the Special Control Unit Against Money-Laundering (SCUML) and the Federal Ministry of Justice.

LEGAL FRAMEWORK

1. Corrupt Practices and Other Related Offences Act 2000
2. Economic and Financial Crimes (Establishment) Act 2004
3. The Code of Conduct Bureau and Tribunal Act CAP 15 LFN
4. The Nigerian Extractive Industries Transparency Initiative Act 2007
5. The Public Procurement Act 2007
6. The Fiscal Responsibility Act 2007
7. Money Laundering Prohibition Act 2011 as Amended
8. Public Complaints Act Cap 377 LFN
9. Nigerian Financial Intelligence Unit (NFIU) Regulation 2015
10. Federal Ministry of Industry Trade and Investment Regulation 2013 for Designated Non-Financial Businesses and Professions (DNFBPs)
11. Banks and Other Financial Institutions Act (BOFIA) 1991

INSTITUTIONAL FRAMEWORK

The above legislations have enabled the creation of institutions that execute the mandates outlined in these laws. In addition, establishments have been set up to support and coordinate the activities of these institutions, build synergy and ensure data-policy nexus.

The Independent Corrupt Practices and Other Related Offences Commission (ICPC)

ICPC Act, Section 6

1. It shall be the duty of the Commission –
 - (a) where reasonable grounds exist for suspecting that any person has conspired to commit or has attempted to commit or has committed an offence under this Act or any other law prohibiting corruption, to receive and investigate any report of the conspiracy to commit, attempt to commit or the commission of such offence and, in appropriate cases, to prosecute the offenders;
 - (b) to examine the practices, systems 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 minimised by such officer, agency or parastatal;
 - (d) to advise heads of public bodies of any changes in practices, systems or procedures compatible with the effective discharge of the 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.

ICPC addresses corruption through the tripod mechanism of prevention, sanctions and enforcement, and public engagement.

It has established Anti-corruption and Transparency Units (ATCUs) in the MDAs and carries out systems analyses and reviews and corruption risk assessments. From 2002 to 2016, ICPC conducted such studies in eighty-one (81) MDAs at both federal and state levels.

The Commission has also facilitated the development of Ethics and Compliance Scorecards for peer review Assessment for MDAs.

The Commission has on its register 357 Civil Society Organisations constituting its National Anti-Corruption Coalition (NACC) for the purpose of mass mobilization of Nigerians against corruption as provided in Section 6 (e) & (f) of the ICPC Act.

ICPC conducted 53 public awareness activities in the period of 2013-2016.

The Economic and Financial Crimes Commission (EFCC) establishes and enforces systems to prevent Money laundering and the illicit flow of funds, and introduces measures to prevent cybercrimes.

EFCC Act, section 5

Part II

Function of the Commission, etc

5. (1) The Commission shall be responsible for

(a) the enforcement and the due administration of the provisions of this Act;

(b) the investigation of all financial crimes including advance fee fraud money laundering, counterfeiting, illegal charge transfers, futures market fraud, fraudulent encashment of negotiable instruments, computer credit card fraud, contract scam, etc;

(c) the co-ordination and enforcement of all economic and financial crimes laws and enforcement functions conferred on any other person or authority;

(d) the adoption of measures to identify, tract; freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes related offences or the properties the value of which corresponds to such proceeds;

(e) the adoption of measures to eradicate the commission of economic and financial crimes;

(f) the adoption of measures which includes co-ordinate preventive and regulatory actions, introduction and maintenance of investigative and control techniques on the prevention of economic and financial related times;

(g) the facilitation of rapid exchange of scientific and technical information and the conduct of joint operations geared towards the

eradication of economic and financial crimes;

- (h) the examination -and investigation of all reported cases of economic and financial crimes with a view to identifying individuals, corporate bodies or groups involved;
- (i) the determination of the extent of financial loss and such other losses by government, private individuals or organisations;
- (j) collaborating with government bodies both within and outside Nigeria carrying on functions wholly or in part analogous with those of the Commission concerning
- (i) the identification, determination of the whereabouts and activities of persons suspected of being involved in economic and financial crimes,
- (ii) the movement of proceeds or properties derived from the commission of economic and financial and other related crimes,
- (iii) the exchange of personnel or other experts,
- (iv) the establishment and maintenance of a system for monitoring international economic and financial crimes in order to identify suspicious transactions and persons involved,
- (v) maintaining data, statistics, records and reports on persons, organisations, proceeds, properties, documents or other items or assets involved in economic and financial crimes,
- (vi) undertaking research and similar works with a view to determining the manifestation, extent, magnitude and effects of economic and financial crimes and advising government on appropriate intervention measures for combating same;
- (k) taking charge of, supervising, controlling, co-ordinating all the responsibilities, functions and activities relating to the current investigation and prosecution of all offences connected with or relating to economic and financial crimes, in consultation with the Attorney-General of the Federation;
- (j) the co-ordination of all existing economic and financial crimes, investigating units in Nigeria;
- (m) maintaining J liaison with office of the Attorney-General of the Federation, the Nigerian Customs Service, the Immigration and Prison Service Board, the Central Bank of Nigeria, the Nigerian Deposit Insurance Corporation, the National Drug Law Enforcement Agency, all government security and law enforcement agencies and such other financial supervisory institutions in the eradication of economic and financial crimes;
- (n) carrying out and sustaining rigorous public and enlightenment campaign against economic and financial crimes within and outside Nigeria; and
- (o) carrying out such other activities as are necessary or expedient for the full discharge of all or any of the functions conferred on it under this Act.

The Bureau of Public Procurement (BPP) superintends Public Procurement by instating a stringent public procurement regimen.

BPP has also facilitated CSO coalitions on Public Procurement.

Please see www.bpp.gov.ng

The Code of Conduct Bureau (CCB) administers the Code of Conduct for Public Officers through the asset declaration and verification regimen as well as Conflict of Interest Rules.

CCBTA, Section 3

3. Functions of the Bureau

The functions of the Bureau shall be to-

- (a) receive assets declarations by public officers in accordance with the provisions of this Act;
- (b) examine the assets declarations and ensure that they comply with the requirements of this Act and of any law for the time being in force;
- (c) take and retain custody of such assets declarations; and
- (d) receive complaints about non-compliance with or breach of this Act and where the Bureau considers it necessary to do so, refer such complaints to the Code of Conduct Tribunal established by section 20 of this Act in accordance with the provisions of sections 20 to 25 of this Act.

Provided that where the person concerned makes a written admission of such breach or non-compliance, no reference to the Tribunal shall be necessary.

The Nigerian Extractive Industries Transparency Initiative (NEITI) conducts and publishes periodic financial, physical and process audits of revenue flows in the Extractive Sector.

Please see www.neiti.org.ng

NEITI Act 2007, section 3

3. For the purpose of realizing its objectives under this Act. The NEITI shall perform the following functions:

- (a) develop a framework for transparency and accountability in the reporting and disclosure by all extractive industry companies of revenue due to or paid to the Federal Government;
- (b) evaluate without prejudice to any relevant contractual obligations and sovereign obligations the practices of all extractive industry companies and government respectively regarding acquisition of acreages, budgeting, contracting, materials procurement and production cost profile in order to ensure due process, transparency and accountability.
- (c) ensure transparency and accountability in the management of the investment of the Federal Government in all extractive industry companies,
- (d) obtain, as may be deemed necessary, from any extractive industry company an accurate record of the cost of production and

volume of sale of oil, gas or other minerals extracted by the company at any period, provided that such information shall not be used in any manner prejudicial to the contractual obligation or proprietary interests of the extractive industry company,

(e) request from any company in the extractive industry, or from any relevant organ of the Federal State or Local Government, an accurate account of money paid by and received from the company at any period, as revenue accruing to the Federal Government from such company for that period; provided that such information shall not be used in a manner prejudicial to contractual obligations or proprietary interest of the extractive industry company or sovereign obligations of Government,

(f) monitor and ensure that all payments due to the Federal Government from all extractive industry companies, including taxes, royalties, dividends, bonuses, penalties, levies and such like are duly made;

(g) identify lapses and undertake measures that shall enhance the capacity of any relevant organ of the Federal State or Local Government having statutory responsibility to monitor revenue payments by all extractive industry companies to the Federal Government,

(h) disseminate by way of publication of records, report or otherwise any information concerning the revenues received by the Federal Government from all extractive industry companies as it may consider necessary;

(i) promote or undertake any other activity related to its functions and which in its opinion, is calculated to help achieve its overall objectives as enumerated in section 2 of this Act;

(j) ensure that all fiscal allocations and statutory disbursements due from the Federal Government to statutory recipients are duly made.

The Central Bank of Nigeria (CBN) ensures transparent and accountable financial policies including anti money laundering and risk management policies and regulations.

The Special Control Unit Against Money-Laundering (SCUML) is charged with the responsibility of monitoring and ensuring compliance with Anti-Money Laundering regulations by Designated Non-Financial Businesses and Professions (DNFBPs).

The Nigerian Financial Intelligence Unit (NFIU) regulates and monitors compliance with anti-money laundering policies by financial institutions.

The Public Complaints Commission (PCC) is the national ombudsman with a mandate to monitor and redress administrative injustice.

The Technical Unit on Governance and Anti-Corruption Reforms (TUGAR) provides

coordinated data such as Gap Analysis and advisories and ensures inter-agency coordination. Please see www.tugar.org.ng

The Presidential Advisory Committee Against Corruption (PACAC) provides policy coordination.

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria was partially in compliance with the provision under review.

Nigeria has established an array of anti-corruption bodies:

The Independent Corrupt Practices and Other Related Offences Commission is the body responsible for investigating corruption, overseeing public bodies and educating the public (ICPC Act, section 6).

The Economic and Financial Crimes Commission also conducts investigations, enforces laws, and carries out awareness-raising campaigns against economic and financial crimes (EFCC Act, section 5).

The Code of Conduct Bureau administers the Code of Conduct for public officers and receives and examines asset declarations (CCBTA, section 3).

The Nigerian Extractive Industries Transparency Initiative is mandated to develop a framework for transparency and accountability for the extractive industry (NEITI Act 2007, section 3).

The Technical Unit on Governance and Anti-Corruption Reforms serves as a one-stop shop for data, information, policy and diagnostic reports from conducting studies and corruption risk assessments (by Presidential Fiat of 27 July 2006).

The Nigerian anti-corruption system is therefore complex with a large number of actors and institutions with a considerable risk of functional overlap. The reviewing experts thus highlighted the importance that the institutions coordinate their activities and ensure a clear delimitation of competencies. At the time of the country visit, Nigeria indicated that 22 agencies were part of an Inter-agency Task team charged with ensuring such coordination.

It is therefore recommended that Nigeria endeavour to ensure clarification and complementarity of functions among anti-corruption bodies in order to avoid duplication and facilitate reporting by citizens.

Paragraph 2 of article 6

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

To ensure the independence of the anti-corruption bodies, Nigeria has taken the following measures:

The Code of Conduct Bureau:

The Code of Conduct Bureau is embedded in the Constitution as one of the agencies created under section 153.

The Chairman and Commissioners of the Code of Conduct Bureau have independence as provided in Section 157 which reads as follows:

(1) Subject to the provisions of subsection (3) of this section, a person holding any of the offices to which this section applies may only be removed from that office by the President acting on an address supported by two-thirds majority of the Senate praying that he be so removed for inability to discharge the functions of the office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

(2) This section applies to the offices of the Chairman and members of the Code of Conduct Bureau-----

Section 158 (1) reads as follows:

In exercising its power to make appointments or to exercise disciplinary control over persons, the Code of Conduct Bureau, the National Judicial Council, the Federal Civil Service Commission, the Federal Judicial Service Commission, the Revenue Mobilization and Fiscal Commission, the Federal Character Commission shall not be subject to the direction or control of any other authority or person.

Independent Corrupt Practices and Other Related Offences Commission (ICPC):

Section 3(10) of the Corrupt Practices and other Related Offences Act 2000 provides as follows:

The Chairman and members of the Commission shall hold office on such terms and conditions as may be specified in their instruments of appointment, and in the exercise of their functions, they shall not be subject to any other authority except as provided by the Act.

Section 3(6) provides:

The Chairman and members of the Commission who shall be persons of proven integrity shall be appointed by the President, upon confirmation by the Senate and shall not Begin to discharge the duties of their offices until they have Declared their assets and liabilities as prescribed in the Constitution of the Federal Republic

of Nigeria.

Section 3(8) provides:

Notwithstanding the provisions of section 3 (7) of this Act, the Chairman or any member of the Commission may at any time be removed from the office by the President acting on an address supported by two-thirds (2/3) majority of the Senate praying that he be removed for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

Section 3 (12) provides:

The Commission shall have power to appoint, dismiss and exercise; disciplinary control over its staff and for this purpose shall prescribe its own rules

Section 3(14) provides:

The Commission shall, in the discharge of its functions under this Act, not be subject to the direction and control of any other person or authority.

Office of Auditor General:

The Office of Auditor General also enjoys a constitutionally guaranteed security of tenure provided for in section 87(1) of the 1999 Constitution:

(1) A person holding the office of the Auditor General for the Federation shall be removed from office by the President acting on an address supported by two-thirds majority of the Senate praying that he be so removed for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

(2) The Auditor-General shall not be removed from office before such retiring age as may be prescribed by law, save in accordance with the provisions of this section.

Public Complaints Commission (PCC):

The Public Complaints Commission (PCC) has security of Tenure as provided by section 2 of the PCC Act which reads as follows:

(1) The Chief Commissioner and other Commissioners shall be appointed by the National Assembly and shall be persons of proven integrity and shall possess such other qualifications as the National Assembly may determine.

(2) Subject to subsection (3) of this section, a commissioner shall hold office for a term of three years in the first instance and shall be eligible for re-appointment for a second term of three years and shall vacate his Office at the expiration of a period of six years.

- (3) A Commissioner may at any time be removed from his office or appointment by the National Assembly.
- (4) There shall be paid to the Chief Commissioner and other Commissioners such salaries and allowances as the President may from time to time direct.
- (5) There shall also be paid to every Commissioner upon completion of his period of service a gratuity calculated in such manner as the President may direct.
- (6) The amounts payable under this section shall be charged upon and paid out of the Consolidated Revenue Fund of the Federation.
- (7) A Commissioner shall not while holding Office hold any other Office of emolument whether in the public service or elsewhere.

Further, in accordance with section 2(6) cited above the salaries of the commissioners of the PCC are on the first line charge of revenue. The PCC also has independence in accordance with Section 5(6) of the PCC Act which reads as follows:

In the exercise of the powers conferred upon a Commissioner by this section, the Commissioner shall not be subject to the direction or control of any other person or authority.

The anti-corruption and accountability institutions cited above as well as the Bureau of Public Procurement (BPP), and the Nigerian Extractive Industries Transparency Initiative (NEITI) all have budgetary allocation and specialized staff who are recruited on the basis of their competencies to carry out their functions. The agencies also carry out regular training and capacity building for their staff. The agencies also have annual budgets for the provision of regular trainings and capacity building for their staff.

The Economic and Financial Crimes Commission:

The Board and Management of the Economic and Financial Crimes Commission (EFCC) do not have security of tenure. There are on-going discussions to amend the EFCC Act to give it the necessary independence. There are currently Bills before the National Assembly to:

1. Amend the EFCC Act to provide for security of tenure for the Chairman
2. Amend the EFCC Act to properly define the relationship between EFCC and NFIU

List of MOUs signed with the ICPC:

1. MOU between ICPC and Funmilayo Quadri & Co in respect of publication and printing of the ICPC Law Reports (2013).
2. MOU between ICPC and Guild of Corporate Online Publishers for collaboration in respect of social media engagement, editorial collaboration and support in the fight against corruption (2015).

3. MOU between ICPC and Council for the Regulation of Engineering in Nigeria (COREN) in respect of fight against corruption and corrupt practices in the Engineering, Engineering Consultancy, and the process of award of contract for Engineering Services and Consultancy, as contained in the Engineers (Registration, Etc) Act, Cap E11, Laws of Federation of Nigeria, 2004) and any other Applicable Law against corrupt practices and other related offences (2014).
4. MOU between ICPC and Integrity Organization Ltd/Gte for collaboration in the fight against corruption in respect of provision of technical assistance in the areas of public engagement, corruption prevention, investigation and prosecution of corruption cases (2013).
5. MOU between ICPC and Funmilayo Quadri & Co in respect of publication and printing of the ICPC Law Reports (2013).
6. MOU between ICPC and Abosede Musari in respect of sponsorship of some media practitioners for training in Dubai, United Arab Emirates (2012).
7. MOU between ICPC and Yusuf Ali in respect of sponsorship of some media practitioners for training in Dubai, United Arab Emirates (2012).
8. MOU between ICPC and Friday Olorok in respect of sponsorship of some media practitioners for training in Dubai, United Arab Emirates (2012).
9. MOU between ICPC and Chuka Oditah in respect of sponsorship of some media practitioners for training in Dubai, United Arab Emirates (2012).
10. MOU between ICPC and Lydia Samson (Mrs) in respect of sponsorship of some media practitioners for training in Dubai, United Arab Emirates (2012).
11. MOU between ICPC and PTAD in respect of collaboration towards eliminating corruption (2016).
12. MOU between ICPC and NYSC. Collaboration to foster public support and the engagement of the youth in anti-corruption crusade (2016).
13. MOU between ICPC and NANS. Collaboration to engage Nigerian students in the fight against corruption (2016).
14. MOU between ICPC and FARMERS ONLINE MARKET NIG. LTD (FOM). Collaboration to fight corruption in the agricultural sector (2016).
15. MOU between ICPC and Federal Ministry of Aviation. Collaboration to fight corruption in the Nigerian Aviation Sector.
16. MOU between ICPC and Global Training Consulting (GTC). A collaboration to educate the general public against corruption (2013).
17. MOU between ICPC and Nigeria In Diaspora Organization (NIDO) (GERMANY) in respect of contributing their quota to the fight against corruption both at home and in the diaspora by partnering with the Commission (2016).

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provision under review.

Nigerian law provides functional independence to the anti-corruption bodies.

For instance, the ICPC Act provides that ICPC is not subject to the direction or control of any other person or authority (section 3 (14)).

The Chairmen or members of ICPC are appointed by the President upon confirmation by the Senate, and they can be removed by the President acting on an address supported by a two-thirds majority of the Senate (ICPC Act, section 3 (6) and (8)).

Moreover, the different organs assess their own budget and propose it to the National Assembly.

It is recommended that Nigeria ensure that all anti-corruption bodies be granted the necessary independence to enable them to carry out their functions effectively and free from undue influence.

Paragraph 3 of article 6

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria was reminded of its obligation to inform the Secretary-General of the name and address of its preventive anti-corruption authority or authorities in line Article 6 of the Convention.

(c) Technical assistance needs

- **Capacity-building**
 - To the anti-corruption bodies
- **Institution-building**
- **Policymaking**
- **Legislative assistance**
 - To amend the EFCC Act to ensure independence and security of the Chairman and the Board
 - To provide financial autonomy to anti-corruption agencies

Nigeria indicated that no such technical assistance was being provided.

Article 7. Public sector

Paragraph 1 of article 7

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:

(a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;

(b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;

(c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;

(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

Section 153 and Part 1 of the Third Schedule of the 1999 Constitution established the following institutions with the following mandates:

1. Federal and State Civil Service Commissions:

The Commission shall without prejudice to the powers vested in the President, the National Judicial Council, the Federal Judicial Service Commission, the National Population Commission and the Police Service Commission, have power

- a. to appoint persons to offices in the Federal civil service; and
- b. to dismiss and exercise disciplinary control over persons holding such offices

The Federal Civil Service Commission has the mandate to recruit persons to offices in the Federal Civil Service and to dismiss and exercise disciplinary control over persons holding such offices pursuant to some laid down guidelines. There are also State Civil Service Commissions and local Government Service Commissions.

2. Federal Character Commission

In giving effect to the provisions of section 14(3) and (4) of this Constitution, the Commission shall have the power to

- a. Work out an equitable formula subject to the approval of the National Assembly for the distribution of all cadres of posts in the public service of the Federation and of the States, the armed forces of the Federation, the Nigerian Police Force and other government security agencies, government owned companies and parastatals of the States;
- b. promote, monitor and enforce compliance with the principles of proportional sharing of all bureaucratic, economic, media and political posts at all levels of government;
- c. take such legal measures, including the prosecution of the head or staff of any Ministry or government body or agency which fails to comply with any federal character principle or formula prescribed or adopted by the Commission; and
- d. carry out such other functions as may be conferred upon it by an Act of the National Assembly

The Federal Character Commission is set up under the Federal Character Commission (Establishment) Act 1996. The Commission is one of the Integrity Institutions embedded in the Constitution. The Commission has an adequate structure and a full complement of staff which carry out its mandate of promoting equity and national unity by ensuring an equitable formula for the distribution of all cadres of posts in the Public Service as provided by the Constitution. The Commission has representation from each state of the federation in order to ensure equity and inclusiveness.

In addition, the following the following institutions have been established by statute to carry out the following functions:

1. Salaries, Incomes and Wages Commission set up under the National Salaries, Incomes and Wages Commission Act 1993. The key mandate of the Commission is to:

- (a) advise the Federal Government on national incomes policy;
- (b) recommend the proportions of income growth which should be utilised for general wage increase;
- (c) inform the Federal Government of current and incipient trends in wages and propose guidelines within which increase in wages should be confined;

This Commission has the mandate to determine the remuneration and pay scales for categories of public servants. Their mandate includes periodic review of pay scales and remuneration in line with economic realities.

2. Revenue Mobilisation and Fiscal Allocation Commission (RMFAC) is one of the Federal agencies set up under Section 153 of the Constitution. A Statute - The Revenue Mobilization and Fiscal Allocation Act 1989 provides the framework for the operation of

the Commission. The RMFAC determines the remuneration of political office holders, as specified in Section 6(1) (d):

- (d) determine the remuneration appropriate to the holders of the offices as specified in Parts A and B of the First Schedule to this Act;

Rotation of civil servants:

Article 3 (7) of the Corrupt Practices and other Related Offences Act 2000 provides:

- (7) The Chairman shall hold office for a period of five (5) years and may be reappointed for another five(5) years but shall not be eligible for reappointment thereafter; and the other members of the Commission shall hold office for a period of four (4) years and may be reappointed for another term of four (4) years but shall not be eligible for reappointment thereafter.

Article 3 (1) of the Economic and Financial Crimes Commission (Establishment) Act provides:

- (1) The Chairman and members of the Commission other than ex-officio members, shall hold office for a period of four years and may be re-appointed for a further term of four years and no more.

Training for civil servants:

1. There is a Public Service Training School which conducts trainings and capacity building for Public servants generally.
2. There are also other government -owned training institutions such as: Administrative Staff College of Nigeria (ASCON), National Institute for Policy and Strategic Studies-NIPSS, and Centre for Management Development (CMD).
3. Individual Ministries, Departments and Agencies also have allocation within their budgets for both local and international trainings for their staff in various areas.
4. The Anti-corruption Agencies have budgetary allocation for training and capacity for their staff in accordance with their Terms of reference and schedules on corruption related issues.
5. Two of the anti-corruption agencies -the EFCC and ICPC have also established training schools which focus on corruption related issues in accordance with their mandates. .The Bureau of public Procurement (BPP) has established the Public Procurement Research Institute.
6. The ICPC conducts periodic trainings for public servants on compliance issues.
7. The Bureau of Public Procurement periodically trains procurement Cadre public servants, directors and Permanent Secretaries on procurement related issues. The Bureau of Public Service Reforms (BPSR) which is the reform arm of the public service holds regular trainings for public servants on reform issues as well as general integrity within the service. There are both open trainings and tailor-made trainings

focused on particular issues. Other agencies also train staff of MDAs on leadership and strategy which include issues on Corruption Prevention. These include Defence Intelligence College, Institute for Security Studies and National Defence College.

(b) Observations on the implementation of the article

The reviewing experts considered that Nigeria had partially implemented the provision under review.

Nigeria has established the Federal Civil Service Commission (FCSC) with a mandate to recruit, dismiss and exercise disciplinary control over civil servants. Vacancies are published on the FCSC public website.

The Salaries and Wages Commission (SWC) determines remuneration and pay scales for public officials but does not take into account the corruption risk of respective positions. While members of the specific bodies, such as ICPC and EFCC, are appointed for a limited period of time only (ICPC Act, section 3(7) and EFCC Act, section 3(1), there is generally no rotation of posts foreseen.

In line with the OGP NAP, Nigeria also committed to ensure full implementation of the Open Contracting Data Standards in the public sector.

ACAN was specifically created to provide ethics and compliance trainings to civil servants. Anti-corruption bodies, including ICPC, individual ministries, departments and agencies also provide training to some officials. In addition, the government-owned training institutions, such as the Public Service Training School, conduct trainings and capacity-building for civil servants in general. However, while initial training is part of the Public Service Training School programme, continuous training is neither mandatory nor systematic.

Nigeria is therefore recommended to endeavour to enhance specific training for civil servants, in particular for public positions considered vulnerable to corruption, and rotation of such individuals.

It is moreover recommended that Nigeria endeavour to implement OGP NAP and all the commitments taken.

Paragraph 2 of article 7

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. Section 153 of the Constitution provides for an Independent National Electoral Commission (INEC). There is also a Constitutional provision on the regulation of Political Parties-sections in 221-229 of the 1999 Constitution:

D - Political Parties

221. No association, other than a political party, shall canvass for votes for any candidate at any election or contribute to the funds of any political party or to the election expenses of any candidate at an election.

222. No association by whatever name called shall function as a party, unless -

(a) the names and addresses of its national officers are registered with the Independent National Electoral Commission;

(b) the membership of the association is open to every citizen of Nigeria irrespective of his place of origin, circumstance of birth, sex, religion or ethnic grouping;

(c) a copy of its constitution is registered in the principal office of the Independent National Electoral Commission in such form as may be prescribed by the Independent National Electoral Commission;

(d) any alteration in its registered constitution is also registered in the principal office of the Independent National Electoral Commission within thirty days of the making of such alteration

(e) the name of the association, its symbol or logo does not contain any ethnic or religious connotation or give the appearance that the activities of the association are confined to a part only of the geographical area of Nigeria; and

(f) the headquarters of the association is situated in the Federal Capital Territory, Abuja.

2. The Electoral Act 2011 as amended provides for the structure and mandate of the Independent National Electoral Commission.

Requirements for Candidature as provided in the Constitution

1. Minimum educational level of West African School Certificate for members of the National and State Assemblies, the President, and the Governors.
2. Must not have been adjudged a lunatic or of unsound mind under any law in force.
3. Must not be under a death sentence or a sentence of imprisonment or fine imposed by a court of law for an offence involving dishonesty or fraud or any other offence imposed by any such court.
4. Must not within a period of ten years before the date of an election have committed an offence involving dishonesty or have been guilty of contravention of the Code of Conduct

for Public Officers.

5. Must not be an undischarged bankrupt.
6. Must not be employed in the Public Service of the federation thirty days before the election.
7. Must not be a member of a secret society.
8. Must not have been indicted for embezzlement or fraud by a Judicial Commission of Inquiry or an Administrative panel of Inquiry.
9. A candidate is disqualified where he has presented a forged certificate to the Independent National Electoral Commission (INEC).

There have been some allegations of certificate forgery and other malpractices against some politically exposed persons. The INEC usually investigates these cases with some ending in court.

Salisu Buhari Case

Mr. Salisu Buhari, an elected member of the House of Representatives was accused of forging a certificate from a Canadian University. He was tried and convicted for the offence and consequently lost his seat in the House of Representatives.

Please see link:

<http://news.bbc.co.uk/2/hi/africa/401123.stm>.

<http://nationalmirroronline.net/new/buharigate-how-disgraced-ex-speaker-was-tried-convicted/>

Bola Ahmed Tinubu

Mr Tinubu, a former governor of Lagos State of Nigeria was alleged to have forged a certificate from an American University. The matter went to court but the allegation was not proved.

<http://www.vanguardngr.com/2013/06/alleged-certificate-forgery-court-dismisses-suit-against-tinubu/>

James Ibori

James Ibori, a former governor of Delta State of Nigeria was alleged to have a criminal record at the time he was contesting for governorship. Some lawyers brought a legal action to stop him from contesting on that ground. His defence was that the James Ibori who was convicted of a criminal offence was a different person who happened to have the same name. The allegation was not proved and he went to ahead to become the governor of Delta State.

Gabriel Suswam

A case of certificate forgery against Gabriel Suswam former governor of Benue State was

also dismissed in court.

http://www.premiumtimesng.com/politics/93445-court_dismisses_certificate_forgery_suit_against_suswam.html

The Independent National Electoral Commission (INEC) has issued several guidelines based on the Constitution as well as the Electoral Act. Included in this, is the tracking guidelines for political party financing. Preceding the tracking forms is the Political Party Finance Manual which provides a guide to the audit of accounts as well as reporting forms. The Political Party Audit Report which details the audit outcome of the individual political parties is also publicly available on the INEC website. Another guide document is the Political Party Finance Handbook which is a comprehensive outlay on the oversighting of political parties in finances and other issues. All these guide documents including a Code of Conduct for Political parties can be found on the INEC website at http://www.inecnigeria.org/?page_id=18. In particular, there is a Political party Monitoring Committee with a unit which focuses on monitoring political party finances.

The legal basis on political Party financing can be found on page 19 of the Political Party Finance Handbook already cited. Please see http://www.inecnigeria.org/?page_id=18.

(b) Observations on the implementation of the article

The reviewing experts considered that Nigeria had implemented the provision under review.

Nigeria's Constitution prescribes criteria concerning candidature for public office, and Nigeria provided examples of cases demonstrating the implementation of such criteria.

Paragraph 3 of article 7

3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Nigeria established the Independent National Electoral Commission (INEC), as provided by section 153 (1) (f) of the Constitution:

153. (1) There shall be established for the Federation the following bodies, namely:

(a) Code of Conduct Bureau;

- (b) Council of State;
 - (c) Federal Character Commission;
 - (d) Federal Civil Service Commission;
 - (e) Federal Judicial Service Commission;
 - (f) Independent National Electoral Commission;
 - (g) National Defence Council;
 - (h) National Economic Council;
 - (i) National Judicial Council;
 - (j) National Population Commission;
 - (k) National Security Council;
 - (l) Nigeria Police Council;
 - (m) Police Service Commission; and
 - (n) Revenue Mobilisation Allocation and Fiscal Commission.
- (2) The composition and powers of each body established by subsection (1) of this section are as contained in Part 1 of the Third Schedule to this Constitution.

1. Section 225-226 of the 1999 Constitution:

225. (1) Every political party shall, at such times and in such manner as the independent National Electoral Commission and publish a statement of its assets and liabilities.
- (2) Every political party shall submit to the Independent National Electoral Commission a detailed annual statement and analysis of its sources of funds and other assets together with a similar statement of its expenditure in such form as the Commission may require.
- (3) No political party shall -
- (a) hold or possess any funds or other assets outside Nigeria; or
 - (b) be entitled to retain any funds or assets remitted or sent to it from outside Nigeria.
- (4) Any funds or other assets remitted or sent to a political party from outside Nigeria shall be paid over or transferred to the Commission within twenty-one days of its receipt with such information as the Commission may require.
- (5) The Commission shall have power to give directions to political parties regarding the books or records of financial transactions which they shall keep and, to examine all such books and records.
- (6) The powers conferred on the Commission under subsection (4) of this section may be exercised by it through any member of its

staff or any person who is an auditor by profession, and who is not a member of a political party.

226. (1) The Independent National Electoral commission, shall in every year prepare and submit to the National Assembly a report on the accounts and balance sheet of every political party.

(2) It shall be the duty of the commission, in preparing its report under this section, to carry out such investigations as will enable it to form an opinion as to whether proper books of accounts and proper records have been kept by any political party, and if the Commission is of the opinion that proper books of accounts have not been kept by a political party, the Commission shall so report.

(3) Every member of the Commission or its duly authorised agent shall -

(a) have a right of access at all times to the books and accounts and vouchers of all political parties; and

(b) be entitled to require from the officers of the political party such information and explanation which to the best of his knowledge and belief are necessary for the purposes of the investigation, the Commission shall state that fact in its report.

2. Section 90 - 93 of the Electoral Act 2010 (as amended in 2011) provides for regulation of election expenses and contribution and donations to political parties and candidates:

90. (1) The Commission shall have power to place limitation on the amount of money or other assets, which an individual or group of persons can contribute to a political party.

91 (1) Election expenses shall not exceed the sum stipulated in subsections (2)-(7) of this section.

(2) The maximum election expenses to be incurred by a candidate at a Presidential election shall be N1,000,000,000.00.

(3) The maximum election expenses to be incurred by a candidate at a Governorship election shall be N200,000,000.00.

(4) The maximum amount of election expenses to be incurred in respect of Senatorial seat by a candidate at an election to the National Assembly shall be N40,000,000.00 while the seat for House of Representatives shall be N20,000,000.00.

(5) In the case of State Assembly election, the maximum amount of election expenses to be incurred shall be N10,000,000.00.

(6) In the case of a Chairmanship election an Area Council, the maximum amount of election expresses to be incurred shall be ten million naira N10,000,000.00.

(7) In the case of Councillorship election an Area Council, the maximum amount of election expenses to be incurred shall be one

million naira N1,000,000.00.

(8) In determining the total expenditure incurred in relation to the candidature of any person at any election no account shall be taken of –

(a) any deposit made by the candidate on his nomination in compliance with the law;

(b) any expenditure incurred before the notification of the date fixed for the election with respect to services rendered or materials supplied before such notification; or

(c) political party expenses in respect of the candidate standing for a particular election.

(9) An individual or other entity shall not donate more than N1,000,000.00 to any candidate.

(10) A candidate who knowingly acts in contravention of this section commits an offence and on conviction is liable in the case of –

(a) Presidential election, to a maximum fine of N1,000,000.00 or imprisonment for a term of 12 months or both;

(b) a Governorship election to a fine of N800,000.00 or imprisonment for a term of 9 months or both;

(c) Senatorial election in the National Assembly election to a fine of N600,000.00 or imprisonment for a term of 6 months or both;

(d) House of Representatives election in the National Assembly election, to a fine of N500,000.00 or imprisonment for a term of 5 months or both;

(e) a State House of Assembly election to a fine of N300,000.00 or imprisonment for a term of 3 months or both; and

(g) Councillorship election, to a fine of N100,000.00 or imprisonment for a term of one month or both.

(11) An individual who knowingly acts in contravention of subsection (9) shall, on conviction, be liable to a maximum fine of N500,000.00 or imprisonment for a term of 9 months or both.

(12) An accountant who falsifies, conspires or aids a candidate to forge or falsify a document relating to his expenditure at an election or receipt or donation for the election or in any way aids or abets the breach of the provision of this section of this Act commits an offence and is liable on conviction for imprisonment for a term of 10 years.

92 (1) For the purposes of an election, “election expenses” means expenses incurred by a political party within the period from the date notice is given by the Commission to conduct an election up to and including, the polling day in respect of the particular election.

(2) Election expenses incurred by a political party for the management or the conduct of an election shall be determined by the Commission in consultation with the political parties.

(3) Election expenses of a political party shall be submitted to the Commission in a separate audited return within 6 months after an election and such return shall be signed by the political party's auditors and counter-signed by the Chairman of the party and be supported by a sworn affidavit by the signatories as to the correctness of its contents.

(4) A political party which contravenes subsection (3) of this section commits an offence and is liable on conviction to a maximum fine of N1,000,000.00 and in the case of failure to submit an accurate audited return within the stipulated period, the court may impose a maximum penalty of N200,000.00 per day on any party for the period after the return was due until it is submitted to the Commission.

(5) The return referred to in subsection (3) of this section shall show the amount of money expended by or on behalf of the party on election expenses, the items of expenditure and commercial value of goods and services received for election purposes.

(6) The political party shall cause the return submitted to the Commission pursuant to subsection (5) of this section to be published in at least 2 National Newspapers.

(7) A political party that incurs election expenses beyond the limit stipulated in this Act commits an offence and is liable on conviction to a maximum fine of N1,000,000.00 and forfeiture to the Commission of the amount by which the expenses exceed the limit set by the Commission.

(8) The Commission shall make available for public inspection during regular business hours at its Headquarters and State offices the audit returns of the political parties required by subsection (3) of this section which shall include the names, addresses, occupation, and amount contributed by each contributor to a party.

93 (1) A political party shall not accept or keep in its possession any anonymous monetary or other contribution, gift or property, from any source whatsoever.

(2) A political party shall keep an account and asset book into which shall be recorded –

(a) all monetary and other forms of contribution received by the party; and

(b) the name and address of any person or entity that contributes any money or assets which exceeds N1,000,000.00.

(3) A political party shall not accept any monetary or other contribution exceeding N1,00,000.00 unless it can identify the source of the money or other contribution to the Commission.

(4) A political party sponsoring the election of a candidate shall, within 3 months after the announcement of the results of the election, file a report of the contributions made by individuals and entities to the Commission.

Section 88 of the Electoral Act 2010 provides:

- (1) A political Party that –
 - (a) Holds or possesses any fund outside Nigeria in contravention of section 91 (3) (a) of this Act commits an offence and forfeits the funds or assets purchased with such funds to the Commission and on conviction is liable to a fine of not less than N500,000.00.
 - (b) Retains any fund or other asset remitted to it from outside Nigeria in contravention of section 91 (3)(b) of this Act commits an offence and forfeits the funds or assets to the Commission and on conviction is liable to a fine of not less than N500,000.00.

The Electoral Act thus grants INEC the power to limit the amount of money or other assets an individual or group can contribute to a political party. It also provides for monitoring of party finances, prescribes limits on election expenses and places obligation on political parties to submit reports on those issues.

In addition, section 38 of the companies and allied matters act (CAMA) precludes corporate entities from directly or indirectly making political donations and provided sanctions for breach. The INEC is required to prepare and submit to the national assembly a report on the account and balance sheet of every political party and is required to carry out investigations on the filed reports.

INEC has the powers to issue guidelines to the political parties on books and records of financial transactions and other provisions of the constitution and electoral act. The political parties are precluded from receiving or holding on to funding from outside the country. Pursuant to its powers, INEC has issued the following guidelines:

1. A Political Party Finance Manual 2005
2. A Political Party Financial Reporting Manual 2011

Both guidelines detail rules on financial disclosure and the appropriate forms for the necessary declarations as well as auditing guidelines.

Although laws exist for the effective implementation of the article, stakeholders have criticized the monitoring and enforcement of the regulations while also admitting that there has been an improvement since 2011.

1. For instance, in 2013, the Commission published “Guidelines and Regulations for Political Parties.”

There is a part of the guidelines which stipulated procedures for candidate financing. This section states among other things that all candidates shall notify INEC of all fund raising events at least seven days before such event; disclose to the Commission records of all contributions and other sources of funds for their campaign, as well as records of

expenditure in a prescribed format issued by the Commission and that all candidates shall submit detailed audited returns of their campaign expenses to the Commission within six months after an election.

2. INEC has also drafted seven Political Party Finance Tracking Forms:

PPFT 1 is meant to track Billboard Advertisement;

PPFT 2 is for monitoring of Electronic Media Advert;

PPFT 3 is for tracking Print Media Expenses;

PPFT 4 is for tracking expenditure at Campaigns and Political Rallies;

PPFT 5 is for Campaign coverage by electronic media;

PPFT 6A is a Political Party Disclosure Form (Summary on expenses) while

PPFT 6B is a Candidate Disclosure Form (Summary on expenses).

3. In 2014 INEC trained and deployed Campaign Finance Monitors in all the States of the Federation.

However, Stakeholders believe that the Electoral Commission could do much more as can be deduced from the extract below:

“A consideration of some aspects of monitoring the finances of political parties by the INEC will show some strides the body has made in the past to ascertain the state of finances of these parties. If we take the issue of auditing of political parties’ accounts for example, the INEC has attempted to audit the parties’ accounts and publish the reports in line with Section 89(4) of the Electoral Act 2010. In the 2011 audit report of political parties that was published (see http://www.inecnigeria.org/?page_id=18), the INEC indicted all the then existing 55 parties for their inability to properly keep their books of accounts as enshrined in Section 93(2) of the electoral act (Vanguard, February 20, 2013). The indictment demonstrated INECs willingness to keep the parties on their toes with regards to transparency and accountability in their finances. The electoral body went further to delist or deregister some of the political parties thus, reducing the number of parties to 28 in readiness for the 2015 elections. In order to provide a structure for monitoring political parties’ finances before the 2015 polls, the INEC further established a department to monitor the campaign expenses of parties (Daily Post, November 18, 2014). However, despite these bold steps that the INEC took, there are still overarching questions that the body should provide answers to.”

Extract from a Conference Paper by Moses T. Aluaigba, PhD

<http://www.inecnigeria.org/wpcontent/uploads/2015/07/Conference-Paper-Moses-Aluigba.pdf>

(b) Observations on the implementation of the article

The reviewing experts considered that Nigeria had partially implemented the provision under review.

Nigeria established the Independent National Electoral Commission (INEC) (Constitution, section 153(1)(f)), which has the possibility to limit the amount of contributions from private persons to political parties (EA, section 90) but had not done so at the time of the country visit.

However, a political party shall not accept any contribution exceeding 100,000 Nigerian naira unless it can identify the source of money (EA, section 93(3)). Political parties are not entitled to own or accept any funds or other assets outside of Nigeria (Constitution, section 225(3) and EA, section 88(1)(a)). Public funding of political parties was not permitted at the time of the country visit.

It is recommended that Nigeria consider establishing a limit of private contributions to political parties.

Paragraph 4 of article 7

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. The Code of Conduct Bureau and Tribunal Act CAP 15 LFN (Section 1) which reads:

A public officer shall not put himself in position where his personal interest conflicts with his duties and responsibilities.

2. Section 57 of the Public Procurement Act 2007:

- (1) The Bureau shall, with the approval of the Council stipulate a Code of Conduct for all public officers, suppliers, contractors and service providers with regards to their standards of conduct acceptable in matters involving the procurement and disposal of public assets.

The Public Procurement Act PPA provides for a code for all parties engaged with Public Procurement including non-state actors. The Bureau of Public Procurement has issued codes of conduct for procurement officers and procurement monitors the aim of which is to promote integrity and prevent conflict of interest among other things.

The Public Procurement Act also provides a definition for the notion of conflict of interest:

Section 57 (12) A conflict of interest exists where a person
- possesses an interest outside his official duties that materially encroaches on the time or attention which should otherwise be devoted to affairs of government;

- possesses a direct or indirect interest in or relationship with a bidder, supplier, contractor or service provider that is inherently unethical or that may be implied or constructed to be, or make possible personal gain due to the person's ability to influence dealings;
- entertains relationships which are unethical, rendering his attitude partial toward the outsider for personal reasons or otherwise inhibit the impartiality of the person's business judgments ;
- places by acts or omissions the procuring entity he represents or the Government in an equivocal, embarrassing or ethically questionable position;
- entertains relationships compromising the reputation or integrity of the procuring entity he represents or the Government;
- receives benefits by taking personal advantage of an opportunity that properly belongs to the procuring entity he represents or the Government;
- creates a source of personal revenue or advantage by using public property which comes into his hands either in course of his work or otherwise ; and
- discloses confidential information being either the property of his procuring entity, the Government or to a supplier, contractor or service provider to unauthorized persons

The Code of Conduct Bureau and Tribunal Act provides limitations for retired public officers from holding certain functions:

8. A public officer shall not after his retirement from public service and while receiving pension from public funds, accept more than one remunerative position as chairman, director or employee of a company owned or controlled by any Government or public funds in addition to his pension and the emolument of such remunerative position.
9. (1) Retired public officers who have held offices to which this section applies are prohibited from service or employment in foreign companies or foreign enterprises.
(2) This section applies to the office of President, Vice President, Chief Justice of Nigeria, Governor and Deputy Governor of a State.
3. The various professions established by Acts of Parliament also have codes of professional conduct applicable to all its members including public servants.
4. The public service rules include copious provisions on ethical conduct including avoidance of conflict of interest in the discharge of public functions.
5. The Anti-Corruption and Transparency Unit (ACTU) standing order requires ACTUs within Ministries Departments and Agencies (MDAs) to develop codes of conduct for each MDA which must among other things prescribe a Declaration of Interest in all

official issues. The ACTUs which are established and oversighted by the ICPC are located in all MDAS as self-accounting units which monitor integrity and work to prevent corruption.

Transparency Measures

1. The Freedom of Information Act 2011 imposes obligations on government entities to keep records and make same available either proactively or on request to members of the public. The honourable attorney-general of the federation and minister of justice has issued guidelines to ensure compliance with the FOI act by government departments and agencies.
2. Nigeria has signed up to the open government initiative and has adopted an action plan for implementation.
3. Nigeria has also committed to establishing a publicly available beneficial ownership register and has developed a roadmap to that effect.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. The Code of Conduct for Procurement Officers can be found at www.bpp.gov.ng
2. The Public Service Rules in Section 030402 defines Serious Acts of Misconduct to include “Nepotism or any other form of preferential treatment; and Divided Loyalty”. These are elements of Conflict of interest.
3. The Code of Conduct for Public Officers. Data from Code of Conduct Bureau on enforcement actions is included earlier.
4. Guidelines on the implementation of the Freedom of Information Act issued by the office of the Attorney-General of the Federation and Minister of Justice in 2013
5. Beneficial Ownership Roadmap developed by NEITI can be accessed at this link http://neiti.org.ng/sites/default/files/pdf_uploads/NEITI-BOR-281216.pdf
6. The NEITI Open Data Policy can be found on http://www.neiti.org.ng/sites/default/files/pdf_uploads/NEITI-ODP-221216.pdf
7. The Open Government Action Plan

(b) Observations on the implementation of the article

The reviewing experts considered that Nigeria had partially implemented the provision under review.

Nigeria has established a legal and institutional framework to promote transparency and prevent conflicts of interest, which are prohibited by the Code of Conduct for Public Officers (section 1). The Code of Conduct Bureau and Tribunal Act provides limitations for retired public officers from holding certain functions (sections 8 and 9).

However, the reviewing experts noted that Nigeria lacked a general definition for the notion of conflict of interest, the only definition being that found in the Public Procurement Act (section 57(12).)

It is therefore recommended that Nigeria endeavour to adopt a definition of conflicts of

interest outside the public procurement area and to establish a clear cooling-off period after public officials' retirement.

Moreover, as recommended for paragraph 1 of the present article, it is recommended that Nigeria *endeavour to implement OGP NAP and all the commitments taken.*

(d) Challenges, where applicable

1. Unpacking the conflict of interest rules and making them sector and agency specific according to mandate and activities
2. More stringent compliance with the FOI guidelines on implementation and reporting issues by the FMOJ

(e) Technical assistance needs

- **Capacity-building**
 - Of agencies on data storage and retrieval
- **Institution-building**
 - Building capacity of agencies on data storage and retrieval
- **Legislative assistance**
 - **Research/data gathering and analysis**

Nigeria indicated that technical assistance was being provided by the UK government's Department for International Development's Justice for all (J4A) Programme, UNODC and the EU 10th European Development Fund.

Article 8. Codes of conduct for public officials

Paragraph 1 of article 8

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

The following framework consisting of legislative and administrative measures have been

established to promote integrity, ensure ethical conduct and fight corruption among public officers.

1. The Code Of Conduct For Public Officers which can be accessed at this link http://www.ccb.gov.ng/index.php?option=com_content&view=article&id=50&Itemid=64.

The Code of Conduct has 14 paragraphs dealing with issues including Conflict of interest, Rules on Gifts, Maintaining Foreign accounts, declaration of assets and the prohibition of employment in foreign companies for certain categories of officers upon retirement. The Code of Conduct is embedded in the Constitution in Part 1 of the Fifth Schedule 1999 Constitution:

Fifth Schedule

Part I

Code of Conduct for Public Officers

General

1. A public officer shall not put himself in a position where his personal interest conflicts with his duties and responsibilities.

2. Without prejudice to the generality of the foregoing paragraph, a public officer shall not

(a) receive or be paid the emoluments of any public office at the same time as he receives or is paid the emoluments of any other public office; or

3. The President, Vice -President, Governor, Deputy Governor, Ministers of the Government of the Federation and Commissioners of the Governments of the States, members of the National Assembly and of the Houses of Assembly of the States, and such other public officers or persons as the National Assembly may by law prescribe shall not maintain or operate a bank account in any country outside Nigeria.

4. (1) A public officer shall not, after his retirement from public service and while receiving pension from public funds, accept more than one remuneration position as chairman, director or employee of -

(a) a company owned or controlled by the government; or

(b) any public authority.

(2) a retired public servant shall not receive any other remuneration from public funds in addition to his pension and the emolument of such one remunerative position.

5. (1) Retired public officers who have held offices to which this paragraph applies are prohibited from service or employment in foreign companies or foreign enterprises.

(2) This paragraph applies to the offices of President, Vice-President, Chief Justice of Nigeria, Governor and Deputy governor

of a State.

6. (1) A public officer shall not ask for or accept property or benefits of any kind for himself or any other person on account of anything done or omitted to be done by him in the discharge of his duties.

(2) for the purposes of sub-paragraph (1) of this paragraph, the receipt by a public officer of any gifts or benefits from commercial firms, business enterprises or persons who have contracts with the government shall be presumed to have been received in contravention of the said sub-paragraph unless the contrary is proved.

(3) A public officer shall only accept personal gifts or benefits from relatives or personal friends to such extent and on such occasions as are recognised by custom:

Provided that any gift or donation to a public officer on any public or ceremonial occasion shall be treated as a gift to the appropriate institution represented by the public officer, and accordingly, the mere acceptance or receipt of any such gift shall not be treated as a contravention of this provision.

7. The President or Vice-President, Governor or Deputy Governor, Minister of the Government of the Federation or Commissioner of the Government of a State, or any other public officer who holds the office of a Permanent Secretary or head of any public corporation, university, or other parastatal organisation shall not accept -

(a) a loan, except from government or its agencies, a bank, building society, mortgage institution or other financial institution recognised by law; and

(b) any benefit of whatever nature from any company, contractor, or businessman, or the nominee or agent of such person:

Provided that the head of a public corporation or of a university or other parastatal organisation may, subject to the rules and regulations of the body, accept a loan from such body.

8. No persons shall offer a public officer any property, gift or benefit of any kind as an inducement or bribe for the granting of any favour or the discharge in his favour of the public officer's duties.

9. A public officer shall not do or direct to be done, in abuse of his office, any arbitrary act prejudicial to the rights of any other person knowing that such act is unlawful or contrary to any government policy.

10. A public officer shall not be a member of, belong to, or take part in any society the membership of which is incompatible with the functions or dignity of his office.

11. (1) Subject to the provisions of this Constitution, every public officer shall within three months after the coming into force of this Code of Conduct or immediately after taking office and thereafter -

(a) at the end of every four years; and

(b) at the end of his term of office, submit to the Code of Conduct Bureau a written declaration of all his properties, assets, and liabilities and those of his unmarried children under the age of eighteen years.

(2) Any statement in such declaration that is found to be false by any authority or person authorised in that behalf to verify it shall be deemed to be a breach of this Code.

(3) Any property or assets acquired by a public officer after any declaration required under this Constitution and which is not fairly attributable to income, gift, or loan approved by this Code shall be deemed to have been acquired in breach of this Code unless the contrary is proved.

12. Any allegation that a public officer has committed a breach of or has not complied with the provisions of this Code shall be made to the Code of Conduct Bureau.

13. A public officer who does any act prohibited by this Code through a nominee, trustee, or other agent shall be deemed ipso facto to have committed a breach of this Code,

14. In its application to public officers -

(a) Members of legislative houses shall be exempt from the provisions of paragraph 4 of this Code; and

(b) the National Assembly may by law exempt any cadre of public officers from the provisions of paragraphs 4 and 11 of this Code if it appears to it that their position in the public service is below the rank which it considers appropriate for the application of those provisions.

Code of Conduct Tribunal

18. (1) Where the Code of Conduct Tribunal finds a public officer guilty of contravention of any of the provisions of this Code it shall impose upon that officer any of the punishments specified under sub-paragraph (2) of this paragraph and such other punishment as may be prescribed by the National Assembly.

(2) The punishment which the Code of Conduct Tribunal may impose shall include any of the following -

(a) vacation of office or seat in any legislative house, as the case may be;

(b) disqualification from membership of a legislative house and from the holding of any public office for a period not

exceeding ten years; and

(c) seizure and forfeiture to the State of any property acquired in abuse or corruption of office.

(3) The sanctions mentioned in sub-paragraph (2) hereof shall be without prejudice to the penalties that may be imposed by any law where the conduct is also a criminal offence.

(4) Where the Code of Conduct Tribunal gives a decision as to whether or not a person is guilty of a contravention of any of the provisions of this Code, an appeal shall lie as of right from such decision or from any punishment imposed on such person to the Court of Appeal at the instance of any party to the proceedings.

(5) Any right of appeal to the Court of Appeal from the decisions of the Code of Conduct Tribunal conferred by sub-paragraph (4) hereof shall be exercised in accordance with the provisions of an Act of the National Assembly and rules of court for the time being in force regulating the powers, practice and procedure of the Court of Appeal.

(6) Nothing in this paragraph shall prejudice the prosecution of a public officer punished under this paragraph or preclude such officer from being prosecuted or punished for an offence in a court of law.

(7) The provisions of this Constitution relating to prerogative of mercy shall not apply to any punishment imposed in accordance with the provisions of this paragraph.

2. The Code of Conduct Bureau and Tribunal Act Cap 15LFN and the establishment of the Code of Conduct Bureau and Tribunal: The Code of Conduct Bureau enforces the Code and prosecutes infractions at the Code of Conduct Tribunal.
3. All Public servants and elected officials declare their assets upon assumption of office, periodically while in office and upon leaving office. The Code of Conduct Bureau verifies the declared assets.
4. Public service rules 2006 (Articles 030301, 030401 and 030402)
5. Financial regulations
6. Code of Conduct for judicial officers
7. Professional ethics rules for professional bodies such as the Nigerian Bar Association, medical and dental practitioners, accountants, etc.
8. Conflict of interest rules for procurement officers under the public procurement Act 2007
9. Anti-Corruption and Transparency Unit (ACTU) Standing Order developed by the ICPC
10. Regular Training Programmes for public officials some of which are focused on integrity and good governance

(b) Observations on the implementation of the article

The reviewing experts considered that Nigeria has implemented the provision under review.

Nigeria has established a legislative and administrative framework promoting integrity, honesty and responsibility among its public officials, including enforcement of the Code of Conduct by the Code of Conduct Bureau and Tribunal, the existence of professional ethics and conflict of interest rules, and regular training programmes.

Paragraph 2 and 3 of article 8

2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.

3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. The Code of Conduct for public officers is in substantial compliance with international best practices.

Constitution extract:

Public Officers for the purposes of the Code of conduct

1. The President of the Federation.
2. The Vice-President of the Federation.
3. The President and Deputy President of the Senate Speakers and Deputy Speaker of the House of Representatives and Speakers and Deputy Speakers of Houses of Assembly of States, and all members and staff of legislative houses.
4. Governors and Deputy Governors of States.
5. Chief Justice of Nigeria, Justices of the Supreme Court, President and Justices of the Court of Appeal, all other judicial officers and all staff of courts of law.
6. Attorney-General of the Federation and Attorney-General of each State.
7. Ministers of the Government of the Federation and

Commissioners of the Governments of the States.

8. Chief of Defence Staff, Chief of Army Staff, Chief of Naval Staff, Chief of Air Staff and all members of the armed forces of the Federation.

9. Inspector-General of Police, Deputy Inspector-General of Police and all members of the Nigeria Police Force and other government security agencies established by law.

10. Secretary to the Government of the Federation, Head of the Civil service, Permanent Secretaries, Directors-Generals and all other persons in the civil service of the Federation or of the State.

11. Ambassadors, High Commissioners and other officers of Nigeria Missions abroad.

12. Chairman, members and staff of the Code of Conduct Bureau and Code of Conduct Tribunal.

13. Chairman, members and staff of local government councils.

14. Chairman and members of the Boards or other governing bodies and staff of statutory corporations and of companies in which the Federal or State Governments or local governments councils.

15. All staff of universities, colleges and institutions owned and financed by the Federal or State Governments or local government councils.

16. Chairman, members and staff of permanent commissions or councils appointed on full time basis.

2. The Code of Conduct for procurement officers as contained in the Public Procurement Act 2007 is in compliance with the UNCITRAL standards.

3. The code of conduct for judicial officers is in compliance with the Bangalore principles of judicial conduct.

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provisions under review.

Nigeria has adopted a Code of Conduct for Public Officers, which is integrated into the Constitution (fifth schedule, Part I).

Other dedicated codes of conduct include the Code of Conduct for Procurement Officers, the Code of Conduct for Judicial Officers and the Code of Conduct for Federal Prosecutors.

All codes are legally binding, and identify the organ established to sanction their infringements.

However, as procurement officers, judicial officers and federal prosecutors are also public

servants, they fall within the scope of both their specific codes and the general Code of Conduct for Public Officers. Nigeria explained that these codes are complementary and that sanctions would be imposed according to the rule that has been violated. The reviewing experts nonetheless noted the need for clarity in the scope of application of such disciplinary measures.

It is therefore recommended that Nigeria endeavour to clarify the application scope of each specific code in order to avoid duplication, in particular regarding sanctions.

Paragraph 4 of article 8

4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

1. Section 7(3) and (4) of the Public Complaints Commission Act Cap 377 LFN provides as follows:

(3) In every case where a Commissioner discovers that a crime may have been committed by any person, he shall report his findings to the appropriate authority or recommend that that person be prosecuted.

(4) In every case where a Commissioner is of the opinion that the conduct of any person is such that disciplinary action against such a person be taken, he shall make a report in that regard to the appropriate authority which shall take such further actions as may be necessary in the circumstances.

2. Section 23 of the ICPC Act makes it an offence to fail to report bribery offences as follows:

1) Any Public officer to whom any gratification is given, promised, or offered, in contravention of any provision of this Act shall report such gift, promise or offer together with the name, if known, of the person who gave, promised or offered such gratification to him to the nearest officer of the Commission or Police Officer.

2) Any person from whom any gratification has been solicited or obtained, or from whom an attempt has been made to obtain such gratification, in contravention of any provision of this Act, shall, at the earliest opportunity thereafter, report such soliciting or obtaining, or attempt to obtain the gratification together with the name, if known, or a true and full description of the person who

solicited, or obtained, or attempted to obtain the gratification from him, to the nearest officer or officer of the Commission or a Police Officer.

3) Any person who fails, without reasonable excuse, to comply with subsections (1) and (2) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand naira or to imprisonment for a term not exceeding two years or to both fine and imprisonment.

3. The ICPC has established Anti-corruption and Transparency Units (ACTUS) within Ministries, Departments and Agencies (MDAs). The ACTUS are charged with facilitating corruption reporting and improving standards within the MDAs.

4. The ICPC has also developed a policy on Whistle-Blowers and Witnesses in order to encourage corruption reporting.

5. The Federal Inland Revenue Service (FIRS) which has the mandate of Tax Administration has also developed a Whistle-Blower Policy to encourage corruption reporting.

6. Section 39(1) EFCC ACT also provides for the protection of informants as follows:

Officers of the Commission cannot be compelled to disclose the source of information or identity of their informants except by the order of the court

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. 426 MDAs have established ACTUS whose key mandate is to facilitate corruption reporting. ICPC developed and is implementing a Standing Order on the ACTUs.
2. The ACTUS make periodic reports to the ICPC and are also regularly monitored by the ICPC
3. The ICPC has developed a Whistle-Blower policy to encourage reporting.
4. The ICPC has the following toll-free hotlines to facilitate reporting--(ii) Toll-free lines: MTN: 0803-123-0280, 0803-123-0281, 0803-123-0282, GLO: 0705-699-0190, 0705-699-0191 and a web-based reporting facility.
5. The ICPC received 44 calls on the toll-free hotline in 2016.
6. The Federal Inland Revenue Service (FIRS) also has a Whistle-Blower Policy
7. The EFCC has hotlines and web-based reporting facility.

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provision under review.

ICPC Act section 23 obliges public officers to report any offer, promise of giving or solicitation of an undue advantage.

ICPC has established the Anti-corruption and Transparency Units (ATCUs) within Ministries, Departments and Agencies (MDAs) to facilitate reporting and improve

standards within MDAs.

Nigeria has also adopted a whistle-blowing policy which outlines measures to protect the identity of whistle-blowers but has yet to be codified. Nigeria explained that it established the incentive for whistle-blowers to receive a percentage of the assets recovered as a result of their disclosures.

The Public Interest Disclosure and Witness Protection Bill would criminalize acts of reprisal (section 43). At the time of the country visit the bill on the Whistleblower Protection Act had not yet been adopted.

It is therefore recommended that Nigeria consider adopting the bill of the Whistleblower Protection Act, as well as the Public Interest Disclosure and Witness Protection Bill.

(c) Successes and good practices

The ICPC established the Anti-corruption and Transparency Units (ACTUs) within MDAs in order to facilitate reporting and improve standards.

Paragraph 5 of article 8

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

All public officers (both elected and appointed) are required to declare their assets and liabilities according to section 11 of Part 1 of the Fifth Schedule, 1999 Constitution:

11. (1) Subject to the provisions of this Constitution, every public officer shall within three months after the coming into force of this Code of Conduct or immediately after taking office and thereafter -
- (a) at the end of every four years; and
 - (b) at the end of his term of office, submit to the Code of Conduct Bureau a written declaration of all his properties, assets, and liabilities and those of his unmarried children under the age of eighteen years.
- (2) Any statement in such declaration that is found to be false by any authority or person authorised in that behalf to verify it shall be deemed to be a breach of this Code.
- (3) Any property or assets acquired by a public officer after any declaration required under this Constitution and which is not fairly attributable to income, gift, or loan approved by this Code shall be deemed to have been acquired in breach of this Code unless the

contrary is proved.

Part II of the Constitution's fifth schedule lists the categories of public officers required to submit a declaration:

Part II

Public Officers for the purposes of the Code of conduct

1. The President of the Federation.
2. The Vice-President of the Federation.
3. The President and Deputy President of the Senate Speakers and Deputy Speaker of the House of Representatives and Speakers and Deputy Speakers of Houses of Assembly of States, and all members and staff of legislative houses.
4. Governors and Deputy Governors of States.
5. Chief Justice of Nigeria, Justices of the Supreme Court, President and Justices of the Court of Appeal, all other judicial officers and all staff of courts of law.
6. Attorney-General of the Federation and Attorney-General of each State.
7. Ministers of the Government of the Federation and Commissioners of the Governments of the States.
8. Chief of Defence Staff, Chief of Army Staff, Chief of Naval Staff, Chief of Air Staff and all members of the armed forces of the Federation.
9. Inspector-General of Police, Deputy Inspector-General of Police and all members of the Nigeria Police Force and other government security agencies established by law.
10. Secretary to the Government of the Federation, Head of the Civil service, Permanent Secretaries, Directors-Generals and all other persons in the civil service of the Federation or of the State.
11. Ambassadors, High Commissioners and other officers of Nigeria Missions abroad.
12. Chairman, members and staff of the Code of Conduct Bureau and Code of Conduct Tribunal.
13. Chairman, members and staff of local government councils.
14. Chairman and members of the Boards or other governing bodies and staff of statutory corporations and of companies in which the Federal or State Governments or local governments councils.
15. All staff of universities, colleges and institutions owned and financed by the Federal or State Governments or local government councils.
16. Chairman, members and staff of permanent commissions or councils appointed on full time basis.

Section 57 of the Public Procurement Act (PPA) provides:

(10) Any person engaged in the public procurement and disposal of assets who has assumed, or is about to assume, a financial or other business outside business relationship that might involve a conflict of interest, must immediately declare to the authorities any actual or potential interest.

(11) Such a declaration shall be given such consideration at the relevant level as is necessary so that, where it is seen that remedial action is taken, a conflict of interest is present.

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provision under review.

Certain categories of public officers listed in Part II of the Constitution's fifth schedule are required to submit an asset declaration to the CCB immediately after taking office, every four years thereafter, and at the expiration of the term of office. (Constitution, fifth schedule, part I, section 11). The declaration should contain all property, assets and liabilities of the public officer, the spouse and unmarried children under 18.

However, the declaration does not cover potential conflicts of interest and is not made public.

It is therefore recommended that Nigeria endeavour to extend the applicability of asset declaration as well as the declaration of interest from which a conflict of interest may result to all public officials.

Moreover, it is recommended that Nigeria endeavour to make the declarations available to the public.

Paragraph 6 of article 8

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. Section 16 of the Code of Conduct Bureau and Tribunal Act provides that reports for breach of the Code shall be made to the Code of Conduct Bureau:

16. Any complaint that a public officer has committed a breach of or has not complied with the provisions of this Act shall be made to the Bureau.

The Act also grants the Bureau the power to investigate such reports and where appropriate charge such infractions at the Code of Conduct Tribunal.

Section 20 of the Act establishes the Code Conduct Tribunal which is a dedicated court to try offences under the Act:

20. Establishment of Code of Conduct Tribunal

- (1) There is hereby established a tribunal to be known as the Code of Conduct Tribunal (in this Act referred to as "the Tribunal").
- (2) The Tribunal shall consist of a chairman and two other members.
- (3) The chairman shall be a person who has held or is qualified to hold office as a Judge of a superior court of record in Nigeria and shall receive such remuneration as may be prescribed by law.
- (4) The chairman and other members of the Tribunal shall be appointed by the President on the recommendation of the National Judicial Council.
- (5) The National Assembly may by law confer on the Tribunal such additional powers as may appear to it to be necessary to enable the Tribunal to discharge more effectively the functions conferred on it under this Act.

The tribunal has the power to impose sanctions for infractions of the Code and other offences under the Act. The sanctions the Tribunal can impose include vacation of elective or nominated office, disqualification from holding Public Office and seizure and forfeiture of any property acquired by corruption or abuse of public office:

23. Powers of the Tribunal to impose punishment

- (1) Where the Tribunal finds a public officer guilty of contravening any of the provisions of this Act, it shall impose upon that officer any of the punishments specified under subsection (2) of this section.
- (2) The punishment which the Tribunal may impose shall include any of the following-
 - (a) vacation of office or any elective or nominated office, as the case may be;
 - (b) disqualification from holding any public office (whether elective or not) for a period not exceeding ten years; and
 - (c) seizure and forfeiture to the State of any property acquired in abuse or corruption of office.
- (3) The punishments mentioned in subsection (2) of this section shall be without prejudice to the penalties that may be imposed by any law where the breach of conduct is also a criminal offence under the Criminal Code or any other enactment or law.
- (4) Where the Tribunal gives a decision as to whether or not a person is guilty of a contravention of any of the provisions of this

Act, an appeal shall lie as of right from such decision or from any punishment imposed on such person to the Court of Appeal at the instance of any party to the proceedings.

(5) Any right of appeal to the Court of Appeal from the decision of the Tribunal conferred by subsection (4) of this section shall be exercised in accordance with the provisions of the rules of court for the time being in force regulating the powers, practice and procedure of the Court of Appeal.

(6) Nothing in this section shall prejudice the prosecution of a public officer punished under this section, or preclude such officer from being prosecuted or punished for an offence in a court of law.

(7) The provisions of the Constitution of the Federal Republic of Nigeria 1999, relating to prerogative of mercy, shall not apply to any punishment imposed in accordance with the provisions of this section.

2. The Public Service Rules also has provisions in section 3 and 4 titled Misconduct and Serious Misconduct encompassing Articles 030301-030412, which provide for disciplinary processes including criminal trials for misconduct.

The Public Service Rules can be accessed via the following link:

<http://www.ohcsf.gov.ng/index.php/public-service-rules>.

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provision under review.

Nigeria has established disciplinary measures for public officials who violate the different codes of conduct. Breaches to the Code of Conduct for Public Officers are sanctioned by the Code of Conduct Tribunal according to section 23 of the Code of Conduct Bureau and Tribunal Act.

However, in view of the existence of specific codes of conduct for procurement officers, judicial officers and federal prosecutors, the reviewing experts highlighted the importance of establishing a delimitation of scope of each code for cases in which a public official commits a violation of both the general and specific code.

As indicated to paragraph 2 of the present article, Nigeria is therefore recommended to endeavour to clarify the application scope of each specific code in order to avoid duplication, in particular regarding sanction.

(d) Challenges, where applicable

1. There is a need to institute a process for allowing public access to the asset declaration by public officers - there is already a proposed bill on public access to asset declaration.
2. There is a need to make specific regulations/guidelines on gifts and thresholds

(e) Technical assistance needs

- **Institution-building**
- **Policymaking**
- **Legislative assistance**

Nigeria indicated that the following technical assistance was being provided:

UNODC is providing technical assistance to the Code of Conduct Bureau under the EU 10th EDF.

The UK Department for International Development is also providing technical assistance in capacity building for asset verification.

Article 9. Public procurement and management of public finances

Paragraph 1 of article 9

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

(a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

(b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;

(c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

(d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

(e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1.The Public Procurement Act 2007 provides:

3.—(1) There is established an agency to be known as the Bureau of Public Procurement in this Act referred to as “the Bureau”.

(2) The Bureau:

- (a) shall be a body corporate with perpetual succession and a common seal;
- (b) may sue and be sued in its corporate name; and
- (c) may acquire, hold or dispose of any property, movable or immovable for the purpose of carrying out any of its functions under this Act.

4. The objectives of the Bureau are:

- (a) the harmonization of existing government policies and practices on public procurement and ensuring probity, accountability and transparency in the procurement process;
- (b) the establishment of pricing standards and benchmarks;
- (c) ensuring the application of fair, competitive, transparent, value-for-money standards and practices for the procurement and disposal of public assets and services; and
- (d) the attainment of transparency, competitiveness, cost effectiveness and professionalism in the public sector procurement system.

5. The Bureau shall:

- (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 established 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 socioeconomic 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 submit such report to the National Assembly bi-annually;

(q) introduce, develop, update and maintain related database and technology;

(r) establish a single internet portal that shall, subject to Section 16 (21) to this Act serve as a primary and definitive source of all information on government procurement containing and displaying all public sector procurement information at all times; and

(s) co-ordinate relevant training programs to build institutional capacity

6.—(1) The Bureau shall have the power to:

(a) enforce the monetary and prior review thresholds set by the Council for the application of the provisions of this Act by the procuring entities;

(b) subject to the paragraph (a) of this sub-section, issue certificate of “No Objection” for Contract Award within the prior review threshold for all procurements within the purview of this Act;

(c) from time to time stipulate to all procuring entities, the procedures and documentation pre-requisite for the issuance of Certificate of ‘No Objection’ under this Act;

(d) where a reason exist:

(i) cause to be inspected or reviewed any procurement transaction to ensure compliance with the provisions of this Act,

(ii) review and determine whether any procuring entity has violated any provision of this Act;

(e) debar any supplier, contractor or service provider that contravenes any provision of this Act and regulations made

pursuant to this Act;

(f) maintain a national database of federal contractors and service providers and to the exclusion of all procuring entities prescribe classifications and categorizations for the companies on the register;

(g) maintain a list of firms and persons that have been debarred from participating in public procurement activity and publish them in the procurement journal;

(h) call for such information, documents, records and reports in respect of any aspect of any procurement proceeding where a breach, wrongdoing, default, mismanagement and or collusion has been alleged, reported or proved against a procuring entity or service provider;

(i) recommend to the Council, where there are persistent or serious breaches of this Act or regulations or guidelines made under this Act for:

(i) the suspension of officers concerned with the procurement or disposal proceeding in issue;

(ii) the replacement of the head or any of the members of the procuring or disposal unit of any entity or the Chairperson of the Tenders Board as the case may be;

(iii) the discipline of the Accounting Officer of any procuring entity;

(iv) the temporary transfer of the procuring and disposal function of a procuring and disposing entity to a third party procurement agency or consultant; or

(v) any other sanction that the Bureau may consider appropriate;

(j) call for the production of books of accounts, plans, documents, and examine persons or parties in connection with any procurement proceeding;

(k) act upon complaints in accordance with the procedures set out in this Act;

(l) nullify the whole or any part of any procurement proceeding or award which is in contravention of this Act;

(m) do such other things as are necessary for the efficient performance of its functions under this Act.

(2) The Bureau shall serve as the Secretariat for the Council.

(3) The Bureau shall, subject to the approval of the Council, have power to:

(a) enter into contract or partnership with any company, firm or person which in its opinion will facilitate the discharge of its functions;

(b) request for and obtain from any procurement entity information

including reports, memoranda and audited accounts, and other information relevant to its functions under this Act; and

(c) liaise with relevant bodies or institutions national and international for effective performance of its functions under this Act.

Section 15 lays out Nigeria's decentralised procurement system:

15. (1) The provisions of this Act shall apply to all procurement of goods, works, and services carried out by:

(a) the Federal Government of Nigeria and all procurement entities;

(b) all entities outside the foregoing description which derive at least 35% of the funds appropriated or proposed to be appropriated for any type of procurement described in this Act from the Federation share of Consolidated Revenue Fund.

(2) The provisions of this Act shall not apply to the procurement of special goods; works and services involving national defense or national security unless the President's express approval has been first sought and obtained.

Sections 23 to 27 provide tender rules as well as general criteria for bidders:

23.—(1) Where a procuring entity has made a decision with respect to the minimum qualifications of suppliers, contractors or service providers by requesting interested persons to submit applications, to pre-qualify, it shall set out precise criteria upon which it seeks to give consideration to the applications and in reaching a decision as to which supplier, contractor or service provider qualifies, shall apply only the criteria set out in the prequalification documents and no more.

(2) Procuring entities shall supply a set of prequalification documents to each supplier, contractor or consultant that request them, and the price that a procuring entity may charge for the prequalification documents shall reflect only the cost of printing and provision to suppliers or contractors and consultants.

(3) The prequalification document shall include:

(a) instructions to prepare and submit prequalification application;

(b) a summary of the main terms and conditions required for the procurement contract to be entered into as a result of the procurement proceedings;

(c) any documentary evidence or other information that must be

submitted by suppliers, contractors or consultants to demonstrate their qualifications;

(d) the manner and place for the submission of applications to pre-qualify and the deadline for the submission. expressed as a specific date and time which allows sufficient time for suppliers, contractors or consultants to prepare and submit their applications, taking into account the reasonable need of the procuring entity; and

(e) any other requirement that may be established by the procuring entity in conformity with this Act and procurement regulations relating to the preparation and submission of applications to pre-qualify and to the prequalification proceedings.

(4) The procurement entity shall respond to any request by a supplier, contractor or consultant for clarification of the prequalification documents if the request is made at least ten days before the deadline for the submission of applications to pre-qualify.

(5) The response by the procuring entity shall be given within a reasonable and in any event within a period of at most seven working days so as to enable the supplier, contractor or consultant to make a timely submission of its application to pre-qualify.

(6) The response to any request that might reasonably be expected to be of interest to other supplier, contractor or consultant shall, without identifying the source of the request, be communicated to other suppliers or contractors or consultants provided with the prequalification documents by the procuring entity.

(7) A procuring entity shall promptly notify each supplier, contractor or consultant which submitted an application to pre-qualify of whether or not it has been pre-qualified and shall make available to any member of the general public upon request, the names of the suppliers, contractors or consultants who have been pre-qualified.

(8) Suppliers, contractors or consultants who have been pre-qualified may participate further in the procurement proceedings.

(9) The procuring entity shall upon request communicate to suppliers, contractors or consultants who have not been pre-qualified, the grounds for disqualification.

(10) The procuring entity may require a supplier, contractor or service provider who has been pre-qualified to demonstrate its qualifications again in accordance with the same criteria used to pre-qualify the supplier, contractor or consultant.

(11) The procuring entity shall promptly notify each supplier, contractor or service provider requested to demonstrate its qualifications again whether or not the supplier, contractor or consultant has done so to the satisfaction of the procuring entity.

(12) The procuring entity shall disqualify any supplier, contractor

or service provider who fails to demonstrate its qualification again if requested to do so.

24. (1) Except as provided by this Act, all procurements of goods and works by all procuring entities shall be conducted by open competitive bidding.

(2) Any reference to open competitive bidding in this Act means the process by which a procuring entity based on previously defined criteria, effects public procurements by offering to every interested bidder, equal simultaneous information and opportunity to offer the goods and works needed.

(3) The winning bid shall be that which is the lowest evaluated responsive bid which has been responsive to the bid with regards to work specification and standard.

25.—(1) Invitations to bid may be either by way of National Competitive Bidding or International Competitive Bidding and the Bureau shall from time to time set the monetary thresholds for which procurements shall fall under either system.

(2) Every invitation to an open competitive bid shall:

(i) in the case of goods and works under International Competitive Bidding, the invitation for bids shall be advertised in at least two national newspapers and one relevant internationally recognised publication, any official websites of the procuring entity and the Bureau as well as the procurement journal not less than six weeks before the deadline for submission of the bids for the goods and works,

(ii) in the case of goods and works valued under National Competitive Bidding, the invitation for bids shall be advertised on the notice board of the procuring entity, any official web sites of the procuring entity, at least two national newspapers, and in the procurement journal not less than six weeks before the deadline for submission of the bids for the goods and works.

26.—(1) Subject to the monetary and prior review thresholds as may from time to time be set by the Bureau all procurements valued in excess of the sums prescribed by the Bureau shall require a bid security in an amount not more than 2% of the bid price by way of a bank guarantee issued by a reputable bank acceptable to the procuring entity.

(2) The Bureau shall from time to time specify the principal terms and conditions of the required bid security in the tender documents.

(3) When the procuring entity requires suppliers or contractors

submitting tenders to provide a bid security the requirement shall apply to each supplier or contractor.

27.—(1) All bids in response to an invitation to open competitive bidding shall be submitted in writing and in addition to any other format stipulated in the tender documents, signed by an official authorized to bind the bidder to a contract and placed in a sealed envelop.

(2) All submitted bids shall be deposited in a secured tamper-proof bid-box.

(3) All bids submitted shall be in English language.

(4) The procuring entity shall issue a receipt showing the date and time the bid was delivered.

(5) Any bid received after the deadline for the submission of bids shall not be opened and must be returned to the supplier or contractor which submitted it.

(6) No communication shall take place between procuring entities and any supplier or contractor after the publication of a bid solicitation other than as provided in this Act.

Section 39 institutes special and restricted methods of procurement:

39. (1) Notwithstanding the provisions of this Act, the Bureau may issue Certificate of No Objection' upon conditions hereinafter prescribed.

(2) A procuring entity shall engage in procurement by two-stage tendering:

(a) where it is not feasible for the procuring entity to formulate detailed specifications for the goods or works or, in the case of services, to identify their characteristics and where it seeks tenders, proposals or offers on various means of meeting its needs in order to obtain the most satisfactory solution to its procurement needs;

(b) where the character of the goods or works are subject to rapid technological advances; where the procuring entity seeks to enter into a contract for research, experiment, study or development, except where the contract includes the production of goods in sufficient quantities to establish their commercial viability or to recover research and development costs, where the procuring entity applies this Act to procurement concerned with national security and determines that the selected method is the most appropriate method of procurement; or

(c) where the tender proceedings have been utilized but were not successful or the tenders were rejected by the procuring entity

under an open competitive bid procedure and the procuring entity considers that engaging in new tendering proceedings will not result in a procurement contract.

(3) The provisions of this Act as regards the process for open competitive bidding shall apply to two-stage tendering proceedings except to the extent that those provisions vary this Section.

(4) The invitation documents:

(a) shall call upon suppliers or contractors to submit, in the first stage of two stage tendering proceedings, initial tenders which contain their proposals without a tender price; and

(b) may solicit proposals that relate to technical, quality or other characteristics of the goods, works or services as well as contractual terms and conditions of supply and may stipulate the professional competence and technical qualifications of the suppliers or contractors.

(5) The procuring entity may, in the first stage, engage in negotiations with any supplier or contractor whose tender has not been rejected under an open competitive bidding procedure with respect to any aspect of its tender.

(6) In the second stage of the two tender proceedings the procuring entity:

a) shall invite suppliers or contractors whose tenders have not been rejected to submit final tenders with prices on a single set of specifications;

(b) may, in formulating the specifications, delete or modify any aspect of the technical or quality characteristics of the goods, works or services to be procured together with any criterion originally set out in these documents, evaluate and compare tenders and ascertain the successful tender;

(c) may add new characteristics or criteria that conform with this Act;

(d) shall communicate to suppliers or contractors in the invitation to submit firm tenders, any deletion, modification or addition; and

(e) may permit a supplier or contractor who does not wish to submit a final tender to withdraw from the tendering proceedings.

(7) The final tenders shall be evaluated and compared in order to ascertain the successful tender as defined in an open competitive bid.

Section 54 provides for the possibility of administrative review:

54.—(1) A bidder may seek administrative review for any omission or breach by a procuring or disposing entity under the

provisions of this Act, or any regulations or guidelines made under this Act or the provisions of bidding documents.

(2) A complaint by a bidder against a procuring or disposing entity shall first be submitted in writing to the accounting officer who shall:

(a) within fifteen working days from the date the bidder first became aware of the circumstances giving rise to the complaint or should have become aware of the circumstances, whichever is earlier;

(b) on reviewing a complaint, the accounting officer shall make a decision in writing within 15 working days indicating the corrective measures to be taken if any, including the suspension of the proceedings where he deems it necessary and giving reasons for his decision ; or

(c) where the accounting officer does not make a decision within the period specified in sub-Section (2)(b).

(3) The bidder is not satisfied with the decision of the accounting officer, the bidder may make a complaint to the Bureau within 10 working days from the date of communication of the decision of the accounting officer.

(4) Upon receipt of a complaint, the Bureau shall promptly:

(a) give notice of the complaint to the respective procuring or disposing entity and suspend any further action by the procuring or disposing entity until the Bureau has settled the matter;

(b) unless it dismisses the complaint:

(i) prohibit a procuring or disposing entity from taking any further action;

(ii) nullify in whole or in part an unlawful act or decision made by the procuring or disposing entity;

(iii) declare the rules or principles that govern the subject matter of the complaint; and

(iv) revise an improper decision by the procuring or disposing entity or substitute its own decision for such a decision.

(5) Before taking any decision on a complaint, the Bureau shall notify all interested bidders of the complaint and may take into account representations from the bidders and from the respective procuring or disposing entity.

(6) The Bureau shall make its decision within twenty-one working days after receiving the complaint, stating the reasons for its decisions and remedies granted, if any.

(7) Where the Bureau fails to render its decision within the stipulated time, or the bidder is not satisfied with decision of the Bureau, the bidder may appeal to the Federal High Court within 30 days after the receipt of the decision of the Bureau, or expiration of

the time stipulated for the Bureau to deliver a decision.

Section 57 establishes the standards of conduct expected of all persons involved with public procurement:

57.— (1) The Bureau shall, with the approval of the Council, stipulate a Code of Conduct for all public officers, suppliers, contractors and service providers with regards to their standards of conduct acceptable in matters involving the procurement and disposal of public assets.

(2) The conduct of all persons involved with public procurement, whether as official of the Bureau, a procuring entity, supplier, contractor or service provider shall at all times be governed by principles of honesty, accountability, transparency, fairness and equity.

(3) All officers of the Bureau, members of Tenders Boards and other persons that may come to act regarding the conduct of public procurements shall subscribe to an oath as approved by Council.

(4) All persons in whose hands public funds may be entrusted for whatever purpose should bear in mind that its utilization should be judicious.

(5) Where a transaction involves the disposal of assets, principles of honesty, accountability, transparency, fairness and equity shall continue to apply to the same extent as where it involves procurement.

(6) These principles shall apply at all times, particularly when:

(a) making requisition for or planning of procurements;

(b) preparing solicitation documents;

(c) receiving offers in response to any form of solicitation towards a procurement or disposal;

(d) evaluating and comparing offers confidentially and in complete neutrality;

(e) protecting the interest of all parties without fear or favor ; and

(f) obviating all situations likely to render an officer vulnerable to embarrassment or undue influence.

(7) All public officers shall handle public procurement and disposal of assets by:

(a) ensuring adequate time for preparing offers;

(b) complying with this Act and all derivative regulations; and

(c) receiving strict confidentiality until completion of a contract.

(8) All public officers involved in public procurement and disposal of assets shall maintain the highest standards of ethics in their relationships with persons real or corporate who seek government

commerce whether as a bidder, supplier, contractor or service provider by developing transparent, honest and professional relationships with such persons.

(9) Every public officer involved directly or indirectly in matters of public procurement and disposal of assets shall:

(a) divest himself of any interest or relationships which are actually or potentially inimical or detrimental to the best interest of government and the underlining principles of this Act; and

(b) not engage or participate in any commercial transaction involving the federal government, its ministries, extra-ministerial departments, corporations where his capacity as public officer is likely to confer any unfair advantage - pecuniary or otherwise on him or any person directly related to him.

(10) Any person engaged in the public procurement and disposal of assets who has assumed or is about to assume, a financial or other business outside business relationship that might involve a conflict of interest, must immediately declare to the authorities any actual or potential interest.

(11) Such a declaration shall be given such consideration at the relevant level as is necessary so that, where it is seen that remedial action is taken, a conflict of interest is present.

(12) A conflict of interest exists where a person:

(a) possesses an interest outside his official duties that materially encroaches on the time or attention which should otherwise be devoted to affairs of government;

(b) possesses a direct or indirect interest in or relationship with a bidder, supplier, contractor or service provider that is inherently unethical or that may be implied or constructed to be, or make possible personal gain due to the person's ability to influence dealings;

(c) entertains relationships which are unethical, rendering his attitude partial toward the outsider for personal reasons or otherwise inhibit the impartiality of the person's business judgments;

(d) places by acts or omissions the procuring entity he represents or the Government in an equivocal, embarrassing or ethically questionable position;

(e) entertains relationships compromising the reputation or integrity of the procuring entity he represents or the Government;

(f) receives benefits by taking personal advantage of an opportunity that properly belongs to the procuring entity he represents or the Government;

(g) creates a source of personal revenue or advantage by using public property which comes into his hands either in course of his

work or otherwise; and

(h) discloses confidential information being either the property of his procuring entity, the Government or to a supplier, contractor or service provider to unauthorized persons.

(13) A person involved in the disposal of assets, shall not either by a third party or by himself be interested in any manner in buying directly or indirectly these assets and shall not have or obtain any type of advantage or revenue from the disposal for a period of three years after the disposal.

2. The Fiscal Responsibility Act 2007 also has provisions such as the Medium Term Expenditure Framework (MTEF) to enhance budget and procurement efficiency and predictability.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The Federal Ministry of Water Resources had wrongfully awarded the contract for the construction of an extension for the headquarters of the federal ministry of water resources to Messers CGC Ltd. Messers Cupero Nig. Ltd. Petitioned the Bureau stating that as the lowest evaluated responsive bidder with a bid price of N149,938,6345.00, they should have won that contract rather the Ministry awarded to CGC Ltd at the higher price of N 376,240,546.00. Despite interventions by the Bureau (reviewing the bid documents and directing the Ministry to re-award to Ms Cupero whose rates the Bureau found as reasonable and capable of delivering the job) Ms CGC Ltd executed the contract having executed an agreement with the Ministry who willfully refused to comply with BPP directives. The petitioner proceeded to court and was awarded damages as the court upheld his prayer and ordered that further payment for the contract be restrained and paid to the petitioner.

<u>BPP CUMULATIVE SAVINGS OVER THE LAST SEVEN (7) YEARS</u>		
	Cumulative Savings over a period of five (5) years	
FY	2009	46,519,071,920.66
FY	2010	216,690,945,419.56
FY	2011	77,652,163,638.16
FY	2012	124,113,726,231.90
FY	2013	95,797,074,616.54
FY	2014	127,368,920,809.31
TOTAL AMOUNT		688,141,902,636.13

SAVED		
FY	2015	44,466,047,546.62
GRAND TOTAL AMOUNT SAVED		732,607,950,182.75

<u>Petitions Treated Between January to December, 2015 (CCM Department)</u>		
<u>Primary data as obtained</u>		
	January-December, 2015	
Petition Status	Total Number	Percentage %
Closed	295	79.95
On-going	74	25.08
Total of petitions	369	100

	<u>January - December, 2015</u>	
Description	No.	%
Advertisement	20	5.42
Bid Exclusion	1	0.27
Bid Submission	1	0.27
Bid Opening	6	1.63
Contract Award	186	50.41
Financial Evaluation	55	14.91
Post Award/ Implementation	17	4.61
Post Qualification	1	0.27
Prequalification	82	22.22
	369	100

<u>Analysis of the 295 Closed Petitions</u>		
Status	Number	%
In Favour of Petitioner	69	23.31
In Favour of Proc. Entity (P.E)	46	15.54
In Favour of Third Party	12	4.05
Debrief	104	35.14
Dismissed	47	15.88
Re-Procure	18	6.08
<u>Total</u>	295	100

1. Cancellation of the process for the award of over 230 Federal contracts found to have fallen short of Due Process Guidelines and carrying out of fresh procurement process
2. Issuing of Due Process Guidelines
3. Reinstatement of the award of 306 contracts which were wrongfully passed over
4. Developing the following process documents pursuant to the Public Procurement Act 2007
 - a. Procurement Procedure Manual
 - b. Code of Conduct for Public Officers under the Complaint Procedure under the Public Procurement Act (copies of these process documents can be accessed from www.bpp.gov.ng)

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provision under review.

Public procurement in Nigeria is regulated by the Public Procurement Act (PPA) which establishes and entrusts the Bureau of Public Procurement (BPP) to monitor and supervise the correct implementation of the rules as well as determine whether a procuring entity has violated the PPA (sections 5–6).

Open competitive bidding is the default procedure (PPA, section 24) and invitations must be advertised publicly (PPA section 25). The threshold for open competitive bidding is 2.5 million Nigerian naira (approximately \$6,800) according to guidelines issued by BPP and in line with the PPA. In order to use a special and restricted method of procurement, the procuring entity must also receive the authorization of BPP or, at least, a certificate of “No Objection” (PPA, section 39). PPA provides tender rules as well as general criteria for bidders (sections 23 to 27).

PPA section 57 outlines where a conflict of interest exists (para. 12) and obliges all public procurement officials to declare to the authority any actual or potential interest (para. 10).

Nigeria applies a decentralized procurement system (PPA, section 15), but at the time of the country visit, an e-procurement portal was being piloted in order to centralize all public procurement advertisements.

Per PPA section 54, an unsuccessful bidder can seek administrative review in front of the procuring entity but without a suspensive effect. This can be appealed to the BPP which can prohibit a procuring or disposing entity from taking further actions (PPA, section 54(4)(b)(i)). A subsequent judicial review on appeal can be performed by the Federal High Court.

It is therefore recommended that Nigeria consider implementing the e-procurement portal and make it fully operational.

Moreover, it is recommended that Nigeria give a suspensive effect to the first step of public procurement administrative review.

Paragraph 2 of article 9

2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

- (a) Procedures for the adoption of the national budget;*
- (b) Timely reporting on revenue and expenditure;*
- (c) A system of accounting and auditing standards and related oversight;*
- (d) Effective and efficient systems of risk management and internal control; and*
- (e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.*

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

The adoption of the national budget is regulated by The Constitution (sections 80-82) which prescribes the following procedure:

1. Payment of all revenue received by the Federal Government into the Federation Account or the Consolidated revenue Fund.
2. Call Circulars to all Ministries, Departments and Agencies to make budget estimates.
3. Defence of the estimates at the Budget Office followed by approval of the Executive Council of the Federation.
4. Submission of the Appropriation Bill to the National Assembly with details of projected expenditure.
5. Debate and hearing on the Appropriation Bill; passage and assent of Bill into Law.
6. Disbursement of funds and implementation of the budget

The process commences with call circulars which requires government ministries, departments and agencies to make proposals tied to annual work plans. These are collated by the Budget Office and forms the basis for the proposals in the Appropriation Bill. The President presents the annual fiscal budget proposal i.e. the Appropriation Bill before the National Assembly for consideration and approval. The Executive arm of the government cannot spend money not appropriated by the Legislature except as otherwise provided by the Constitution. The exception involves certain protected expenditures that accrue as first line charges on the Consolidated Revenue Fund. Examples of such expenditures include the salaries of the President, the Vice President, Supreme Court Justices etc. In addition to the Constitutional provisions, the Fiscal responsibility Act 2007 (FRA) requires that all federal budgets be in accordance with a prior approved Medium Term Expenditure Framework (MTEF) which is prepared through a consultative process. Following the enactment of the FRA, there is now an established practice of MTEF consultations

organized by the Federal Ministry of Finance with the private sector, professional associations civil society and other stakeholders.

After submission, the Appropriation Bill goes through extensive debate and hearing before it is passed into Law.

TIMELY REPORTING ON REVENUE AND EXPENDITURE

The legal framework in respect of reporting on revenue and expenditure include the Constitution, The Finance (Control and Management) Act, The Financial Regulations 2009 and the Fiscal Responsibility Act 2007. The Constitution creates the office of the Auditor-General and grants it independence and security of tenure (s. 86). Section 85 of the Constitution charges the Auditor-General to audit the public accounts of the Federation. The Auditor-General is required to submit the audited account to the National Assembly within 90 days of receipt of financial statements from the Accountant-General of the Federation. He has the powers to access all books, records, returns and documents relating to those accounts. The Accountant-General runs the federal treasury, keeps relevant accounting books and prepares financial statements. Extant regulations require the Accountant-General to prepare financial accounts and submit to the Auditor-General for Audit within six months of the end of the year. The Financial Regulations make detailed provisions on rules and procedures on all financial processes, transactions and procedures. The Fiscal Responsibility Act provides that annual audited reports shall be published not later than 7 months from the end of the financial year. Also the Office of the Accountant-General of the Federation publishes public accounts records on its website. It also publishes and disseminates hard copies.

ACCOUNTING AND AUDITING STANDARDS

The National Accounting Standards Board (NASB), a government regulatory body, issues commercial accounting standards for the Country. The standard for the public sector called "Public Auditing Standard" was issued in 1997 by the Conference of Auditors -General of the Federation and States. This regulation has been superseded by the Financial Reporting Council Act 2011. The Act establishes the Financial Reporting Council which has the mandate to among other things, develop and publish accounting and financial reporting standards to be observed in the preparation of financial statements of public entities in Nigeria; and for related matters.

EFFECTIVE AND EFFICIENT SYSTEMS OF RISK MANAGEMENT AND INTERNAL CONTROLS

The Financial Regulations (FR) 2009 is the main regulatory document on internal controls. It is a compendium of internal control procedures applicable in government ministries, departments and agencies. The provisions cover revenue and expenditure, controls and procedure , book keeping and accounts, handling of accounts and documents and audit and reporting. The FR requires the Accountant-General to post "suitably competent accountants" to head the internal control units of ministries, departments and agencies. The internal auditor reports directly to the head of the particular agency and prepares monthly reports based on reviews of accounts, records and procedures and submits same to the head of the agency as well as the office of the Accountant-General. The FRA requires these reports to be made public.

2. The Fiscal Responsibility Commission established pursuant to the Fiscal Responsibility Act 2007 has the mandate to report on revenue and expenditure also plays a role in monitoring and control of the process of revenue and expenditure management and reporting. The Commission has powers to ensure the preparation and implementation of a Medium Term Expenditure Framework (MTEF) from which the annual budget will be derived. It also has the power to make prescriptions on: budget Planning of Corporations; and Execution and Achievement of Targets. The functions of the Commission include ensuring corrective action in revenue and expenditure reporting as well as budget formulation and implementation.

The functions of the Commission as stated in Section 3 of the Act is as follows:

3.

(1) The Commission shall:

- a. Monitor and enforce the provisions of this Act and by so doing, promote the economic objectives contained in section 16 of the Constitution;
- b. Disseminate such standard practices including international good practice that will result in greater efficiency in the allocation and management of public expenditure, revenue collection, debt control and transparency in fiscal matters;
- c. Undertake fiscal and financial studies, analysis and diagnosis and disseminate the result to the general public;
- d. Make rules for carrying out its functions under the Act; and
- e. Perform any other function consistent with the promotion of the objectives of this Act.

4. The Federal Inland Revenue Services Act 2007 also provides guidelines and procedures for reporting of revenue and expenditure.

The Fiscal Responsibility Act (FRA) in section 50 of Part XI provides for transparency and accountability and making budget implementation reports public and inter alia provides as follows:

Publication of a summarised report on budget execution

The Federal Government through its budget within 30 days after the end of each quarter, publish a summarised report on budget execution in such form as may be prescribed by the Fiscal Responsibility Commission and not later than 6 months after the end of the financial year, a consolidated budget execution report showing implementation against physical and financial performance targets shall be published by the Minister of Finance for submission to the National Assembly and disseminate to the public.

Section 51 empowers citizens to enforce the provisions of the Act as follows:

A person shall have legal capacity to enforce the provisions of this act by obtaining prerogative orders or other remedies at the federal

high court without having to show any special or particular interest.

The Auditor-General has the power to issue audit queries for infractions. Where there is unsatisfactory response to the queries, he transmits his observations to the Public Accounts Committees of the Houses of Assembly who may refer the issues to Law Enforcement Agencies as appropriate.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. Consultative procedures for the adoption of the budget is prescribed under the Fiscal Responsibility Act and is carried out by the Budget Office and Federal Ministry of Finance prior to submission of the budget.
2. Debates on the Appropriation Bill in the National Assembly are open to members of the public.
3. The Appropriation Act for each year is gazetted and disseminated after it has been passed into law.
4. Information on sectoral allocations are generally posted on the website of the Federal Ministry of Finance. Please see www.fmf.gov.ng
5. Budget Performance Reports are issued by the Federal Ministry of Finance
6. Monthly allocations to States and Local Governments are published at www.fmf.gov.ng
7. Circulars and directives on the treasury single account (TSA) can be accessed on <http://oagf.gov.ng/treasury-single-account/>

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provision under review.

MDAs are called on a yearly basis to make proposals for their own budget which are collated by the Budget Office. Based on this, the National Assembly discusses the National budget in public hearings, where civil society participates.

The Fiscal Responsibility Act 2007 (FRA) provides that the National Budget follow the previously approved Medium Term Expenditure Framework (MTEF) which is established in consultation with non-governmental organizations.

The Government policy provides the creation of the Government Integrated Financial Management Information System (GIFMIS) and the Implementation of the Treasury Single Account (TSA) to monitor the financial activities of MDAs from a single platform. Nigeria has also committed to the plan to ensure more effective citizen's participation across the entire budget cycle.

However, the reviewing experts noted the absence of provisions or measures to ensure timely reporting on revenue and expenditure to the parliament.

Nigeria is therefore recommended to take appropriate measures, with sanctions as needed,

to ensure timely reporting on revenue and expenditure to the parliament (art. 9, para. 2)

Moreover, as indicated for article 7 paragraphs 1 and 4, it is recommended that Nigeria endeavour to implement OGP NAP and all the commitments taken. (art. 7, paras. 1 and 4; art. 9, para. 2; and art. 10 (c))

(c) Successes and good practices

Civil society participates in the adoption of the national budget within the National Assembly and is also consulted for the adoption of the MTEF.

Paragraph 3 of article 9

3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

The administrative framework for preserving the integrity of accounting books records and financial statements etc. are contained in the following legislations and policy documents:

1. Sections 85-87 of the constitution set up the office of the auditor-general with powers to audit the public accounts of the federation:

85. (1) There shall be an Auditor-General for the Federation who shall be appointed in accordance with the provisions of section 86 of this Constitution.

(2) The public accounts of the Federation and of all offices and courts of the Federation shall be audited and reported on to the Auditor-General who shall submit his reports to the National Assembly; and for that purpose, the Auditor-General or any person authorised by him in that behalf shall have access to all the books, records, returns and other documents relating to those accounts.

(3) Nothing in subsection (2) of this section shall be construed as authorising the Auditor-General to audit the accounts of or appoint auditors for government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by an Act of the National Assembly, but the Auditor-General shall

-

(a) provide such bodies with -

(i) a list of auditors qualified to be appointed by them as external auditors and from which the bodies shall appoint their external

auditors, and

(ii) guidelines on the level of fees to be paid to external auditors; and

(b) comment on their annual accounts and auditor's reports thereon.

(4) The Auditor-General shall have power to conduct checks of all government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by an Act of the National Assembly.

(5) The Auditor-General shall, within ninety days of receipt of the Accountant-General's financial statement, submit his reports under this section to each House of the National Assembly and each House shall cause the reports to be considered by a committee of the House of the National Assembly responsible for public accounts.

(6) In the exercise of his functions under this Constitution, the Auditor-General shall not be subject to the direction or control of any other authority or person.

86. (1) The Auditor-General for the Federation shall be appointed by the President on the recommendation of the Federal Civil Service Commission subject to confirmation by the Senate.

(2) The power to appoint persons to act in the office of the Auditor-General shall vest in the President.

(3) Except with the sanction of a resolution of the Senate, no person shall act in the office of the Auditor-General for a period exceeding six months.

87. (1) A person holding the office of the Auditor-General for the Federation shall be removed from office by the President acting on an address supported by two-thirds majority of the Senate praying that he be so removed for inability to discharge the functions of his-office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

(2) The Auditor-General shall not be removed from office before such retiring age as may be prescribed by law, save in accordance with the provisions of this section.

2. Finance (control and management) act 1958
3. Financial regulations 2009
4. The central bank of Nigeria act 2007
5. Penal/criminal codes

Section 58 of the Public Procurement Act (PPA) provides for sanctions for violations of the Act:

58.—(1) Any natural person not being a public officer who contravenes any provision of this Act commits an offence and is liable on conviction to a term of imprisonment not less than 5 calendar years but not exceeding 10 calendar years without an option of fine.

(2) Any offence in contravention of this Act shall be tried by the Federal High Court.

(3) Prosecution of offences under this Act shall be instituted in the name of the Federal Republic of Nigeria by the Attorney-General of the Federation or such other officer of the Federal Ministry of Justice as he may authorize so to do, and in addition, without prejudice to the Constitution of the Federal Republic of Nigeria 1999, he may :

(a) after consultation with the Attorney-General of any state of the federation, authorize the Attorney-General or any other officer of the Ministry of Justice of that state ; or

(b) if the relevant authority so requests, authorize any legal practitioner in Nigeria to undertake such prosecution directly or assist therein.

(4) The following shall also constitute offences under this Act :

(a) entering or attempting to enter into a collusive agreement, whether enforceable or not, with a supplier, contractor or consultant where the prices quoted in their respective tenders, proposals or quotations are or would be higher than would have been the case had there not been collusion between the persons concerned ;

(b) conducting or attempting to conduct procurement fraud by means of fraudulent and corrupt acts, unlawful influence, undue interest, favor, agreement, bribery or corruption ;

(c) directly, indirectly or attempting to influence in any manner the procurement process to obtain an unfair advantage in the award of a procurement contract ;

(d) splitting of tenders to enable the evasion of monetary thresholds set ;

(e) bid-rigging ;

(f) altering any procurement document with intent to influence the outcome of a tender proceeding ;

(g) uttering or using fake documents or encouraging their use ; and

(h) willful refusal to allow the Bureau or its officers to have access to any procurement records.

(5) Any person who while carrying out his duties as an officer of the Bureau, or any procuring entity who contravenes any provision of this Act commits an offence and is liable on conviction to a cumulative punishment of :

(a) a term of imprisonment of not less than 5 calendar years without any option of fine ; and

(b) summary dismissal from government services.

(6) Any legal person that contravenes any provision of this Act commits an offence and is liable on conviction to a cumulative penalty of :

(a) debarment from all public procurements for a period not less than 5 calendar years ; and

(b) a fine equivalent to 25% of the value of the procurement in issue.

(7) Where any legal person shall be convicted pursuant to subsection (4) of this Section, every director of the company as listed on its records at the Corporate Affairs Commission shall be guilty of an offence and is liable on conviction to a term of imprisonment not less than 3 calendar years but not exceeding 5 calendar years without an option of fine.

(8) An alternation pursuant to subsection 4(f) shall include :

(a) insertion of documents such as bid security or tax clearance certificate which were not submitted at bid opening ; and

(b) request for clarification in a manner not permitted under this Act.

(9) Collusion shall be presumed from a set of acts from which it can be assumed that there was an understanding, implicit, formal or informal, overt or covert under which each person involved reasonably expected that the other would adopt a particular course of action which would interfere with the faithful and proper application of the provisions of this Act.

(10) Bid-rigging pursuant to subsection 4(e) means an agreement between persons whereby :

(a) offers submitted have been pre-arranged between them ; or

(b) their conduct has had the effect of directly or indirectly restricting free and open competition, distorting the competitiveness of the procurement process and leading to an escalation or increase in costs or loss of value to the national treasury.

(11) For the purposes of the presumption under Section 51 (7) of this Section, consideration shall be given to a suspect's ability to control the procurement proceedings or to control a solicitation or the conditions of the contract in question, whether total or partial.

(12) For the purposes of Section 59 (5) of this Section, it shall be sufficient to prove that a reasonable business person should have known that his action would result in his company or firm having an undue advantage over other bidders to the detriment of the national treasury.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. The Auditor-General's report is laid annually before The National Assembly.
2. The Ministries, Departments and Agencies indicted by the report are made to face the Public Accounts Committee of the National Assembly to answer questions and provide clarifications.
3. The Public Accounts Committee of the National Assembly holds hearings on the Auditor General's Report
4. The Nigeria Extractive Industries Transparency Initiative (NEITI) the subset of the global EITI has conducted a Fiscal Allocation and Statutory Disbursement Audit (FASD) 2012 which tracked disbursements to certain statutory bodies and interrogated both their receipt and expenditure of designated statutory allocations. The report provided information otherwise unavailable information to the public. The FASD report is available on the NEITI website www.neiti.org.ng

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has implemented the provision under review.

Nigeria applies electronic financial record-keeping and the office of the auditor-general is entrusted with powers to audit the public accounts (Sections 85-87 of the constitution).

All archives are kept within the Ministry of Finance. In addition, MDAs must keep hard copies of all financial documents for seven years (Financial Regulations 2009).

(d) Challenges, where applicable

There is need to review the Finance (Control And Management) Act 1958 to incorporate new systems in Public Finance Management and harmonize with more recent legislations such as the Public Procurement Act and the Fiscal Responsibility Act.

(e) Technical assistance needs

- **Capacity-building**
- **Institution-building**
- **Policymaking**
- **Legislative assistance**
- **Research/data gathering and analysis**

Nigeria indicated that technical assistance was being provided by the following institutions:

1. UNODC and the 10th EU European Development Fund

2. World Bank

Article 10. Public reporting

Subparagraph (a) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. The Freedom of Information Act was enacted in 2011 and gives citizens the right to request for information in the custody of the government on diverse issues.

The Preamble of the Act states as follows:

an act to make public records and information more freely available, provide for public access to public records and information, protect public records and information to the extent consistent with the public interest and the protection of personal privacy, protect serving officers from adverse consequences for disclosing certain kinds of official information without authorization and establish procedures for the achievement of those purposes and: for related matters.

The Act provides in Section 1(1) for access to information as a right and Section 1(2) states that an applicant need not demonstrate any special interest in the information being applied for:

1. (1) Notwithstanding anything contained in any other Act, law or regulation, the right of any person to access or request information, whether or not contained in any written form, which is in the custody or possession of any public official, agency or institution howsoever described, is established.

(2) An applicant under this Act needs not demonstrate any specific

interest in the information being applied for.

(3) Any person entitled to the right to information under this Act, shall have the right to institute proceedings in the Court to compel any public institution to comply with the provisions of this Act.

The grounds for denial are provided in sections 11- 12, 14 – 17 and 19 of the Act:

11. (1) A public institution may deny an application for any information the disclosure of which may be injurious to the conduct of international Affairs and the defence of the Federal Republic of Nigeria

(2) Notwithstanding subsection (1), an application for information shall not be denied where the public interest in disclosing the information outweighs whatever injury that disclosure would cause.

12. (1) A public institution may deny an application for any information which contains-

(a) Records compiled by any public institution for administrative enforcement proceedings and by any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public institution, but only to the extent that disclosure would-

(i) interfere with pending or actual and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency,

(ii) interfere with pending administrative enforcement proceedings conducted by any public institution,

(iii) deprive a person of a fair trial or an impartial hearing,

(iv) unavoidably disclose the identity of a confidential source,

(v) constitute an invasion of personal privacy under Section 15 of this Act, except, where the interest of the public would be better served by having such record being made available, this exemption to disclosure shall not apply, and

(vi) obstruct an ongoing criminal investigation

(b) information the disclosure of which could reasonably be expected to be injurious to the security of penal institutions.

(2) Notwithstanding anything contained in this section, an application for information shall not be denied where the public interest in disclosing the information outweighs whatever injury that disclosure would cause.

(3) A public institution may deny an application for information that could reasonably be expected to facilitate the commission of an offence.

(4) For the purposes of section (1) (a), "enforcement proceeding" means an investigation that –

(a) pertains to the administration or enforcement of any Act, law or regulation;

(b) is authorized by or pursuant to any Act, law or regulation.

...

14. (1) Subject to subsection (2), a public institution must deny an application for information that contains personal information and information exempted under this subsection includes –

(a) files and personal information maintained with respect to clients, patients, residents, students, or other individuals receiving social, medical, educational, vocation, financial, supervisory or custodial care or services directly or indirectly from public institutions;

(b) personnel files and personal information maintained with respect to employees, appointees or elected officials of any public institution or applicants for such positions;

(c) files and personal information maintained with respect to any applicant, registrant or licensee by any government or public institution cooperating with or engaged in professional or occupational registration, licensure or discipline;

(d) information required of any tax payer in connection with the assessment or collection of any tax unless disclosure is otherwise requested by the statute; and

(e) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies on the commission of any crime.

(2) A public institution shall disclose any information that contains personal information if -

(a) the individual to whom it relates consents to the disclosure; or

(b) the information is publicly available

(3) Where disclosure of any information referred to in this section would be in the public interest, and if the public interest in the disclosure of such information clearly outweighs the protection of the privacy of the individual to whom such information relates, the public institution to whom request for disclosure is made shall disclose such information subject to Section 14 (2) of this Act.

15. (1) A public institution shall deny an application for information that contains-

(a) trade secrets and commercial or financial information obtained

from a person or business where such trade secrets or information are proprietary, privileged or confidential, or where disclosure of such trade secrets or information may cause harm to the interests of the third party provided that nothing contained in this subsection shall be construed as preventing a person or business from consenting to disclosure;

(b) information the disclosure of which could reasonably be expected to interfere with the contractual or other negotiations of a third party; and

(c) proposal and bids for any contract, grants, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person.

(2) A public institution shall, notwithstanding subsection (1), deny disclosure of a part of a record if that part contains the result or product of environmental testing carried out by or on behalf of a public institution.

(3) Where the public institution discloses information, or a part thereof, that contains the results of a product or environmental testing, the institution shall at the same time as the information or part thereof is disclosed provide the applicant with a written explanation of the methods used in conducting the test.

(4) A public institution shall disclose any information described in subsection (1) of this section if that disclosure would be in the public interest as it relates to public health, public safety or protection of the environment and, if the public interest in the disclosure clearly outweighs in importance any financial loss or gain to, or prejudice to the competitive position of or interference with contractual or other negotiation of a third party.

16. A public institution may deny an application for information that is subject to the following privileges –

(a) legal practitioner-client privilege

(b) health workers- client privilege;

(c) journalism confidently privilege;

(d) any other professional privileges confidently by an Act

17. A public institution may deny an application for information which contains course or research materials prepared by faculty members.

...

19. (1) A public institution may deny an application for information that contains information pertaining to –

(a) test questions, scoring keys and other examination data used to

administer an academic examination or determine the qualifications of an application for a license or employment;

(b) architects' and engineers' plans for buildings not constructed in whole or in part with public funds and for buildings constructed with public funds, to the extent that disclosure would compromise security; and

(c) library circulation and other records identifying library users with specific materials:

(2) Notwithstanding anything contained in this section, an application for information shall not be denied where the public interest in disclosing the information outweighs whatever injury that disclosure would cause.

An Access to Information unit has been set up in the Ministry of Justice to ensure full implementation of the Act.

Citizens make use of the Act to request information from various government departments and take proactive steps including going to court in cases of denial or delay.

Most Ministries, Departments and Agencies (MDAs) publish Annual Reports and Information Hand Books on their structures, operations and activities. Most MDAs have websites where they regularly post information for the benefit of the Public.

They are required to make periodic reports to the National Assembly on their activities. The National Assembly in the execution of its oversight functions also regularly invites accounting officers of MDAs to respond to issues and make clarifications. Ministers provide annual briefings (Ministerial Briefings) on the activities of their MDAs.

Availability of information

Information on the organization and decision-making processes of public institutions are available through the following processes:

1. Websites of the Organizations
2. Information handbooks and other public enlightenment materials of the organizations
3. Periodic media briefings
4. Public interactive forums
5. Freedom of Information Requests

2. Several sections of the Public Procurement Act 2007 (Sections 16, 23, 24, 25 and 38) facilitate transparency and public access to information.

3. The Fiscal Responsibility Act 2007 (Section 48) reads

Fiscal Transparency

1) The Federal Government shall ensure that its fiscal and financial affairs are conducted in a transparent manner and accordingly

ensure full and timely disclosure and wide publication of all transactions and decisions involving public revenues and expenditures and their implications for its finances.

2) The National Assembly shall ensure transparency during the preparation and discussion of the Medium Term Expenditure Framework, Annual Budget and the Appropriation Bill.

4. The over-arching principle of the EITI process and the provisions of the Nigerian Extractive Industries Transparency Initiative Act 2007 also facilitate transparency and public access to information with the production and dissemination of the NEITI audit of the extractive sector.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. Appointment of representatives of Civil Society organizations into the highest decision-making bodies i.e. Boards of the following institutions:

- Nigerian Extractive Industries Transparency Initiative (NEITI)
- The Bureau of Public Procurement (BPP)
- The Fiscal Responsibility Commission (FRC)

The enabling laws of the above institutions provide for civil society representation in the Boards of these agencies as follows:

- NEITI Act 2007--Section 6(2)(ii)
- Public Procurement Act 2007--Section 2(f)(v)
- Fiscal Responsibility Act 2007--Section 5(1)(b)(ii)

The presence of civil society representative on the board of NEITI and FRC since inception has ensured that civil society has a voice in the decision-making process and also unrestricted access to information in the sector.

The ICPC has the following platforms and policies for public access to information and public engagement:

Internet and New Social Media Platforms

- (i) Website address of the Commission: www.icpc.gov.ng
- (ii) Number of hits in the past year: 192,998 and 2,118,024 as total number of visits over the years.
- (ii) E-mail address of the Commission and number of mails received in the last one year: info@icpc.gov.ng <mailto:info@icpc.gov.ng>, 5944 Mails.
- (iv) Social Network: Facebook: ICPC Nigeria (47,204 likes); Twitter: ICPC Nigeria @icpc_pe (2,141 followers); Instagram: ICPC Nigeria (371 followers); YouTube: ICPC Nigeria; ICPC Mobile App: Wahala Dey (Android, BBM, Microsoft and IOS platforms);
- (v) Toll-free lines: MTN: 0803-123-0280, 0803-123-0281, 0803-123-0282, GLO: 0705-6990190, 0705-699-0191 and 44 calls received in the last one year.
- (vi) Newsletters of the Commission: ICPC News, ACTU Newsletter, Coalition Digest, NAVC Newsletter (www.icpc.gov.ng/downloads <http://www.icpc.gov.ng/downloads>)
- (vii) A Frequently Asked Questions (FAQ) booklet giving information to members of the

public on the dimensions of the activities of the Commission

2. Policy of ICPC on Public Interface/Communication Strategy - The Commission reaches out to the public by issuing out news releases on its activities through conventional media as well as new media. All activities of the Commission are disclosed to the general public with the exception of Investigation activities and identity of petitioners by the Chairman or the spokesperson from time to time, and as the need arises.

3. Commission Communication Strategy - The communication strategy of the Commission is all encompassing. It runs a Television programme weekly on NTA Network Service, participates in radio programmes and places jingles on radio stations across the country, holds interactive sessions with the media as well as engages the general public through its new media platforms.

4. Engagement with CSOs - The Commission has on its register 357 Civil Society Organisations constituting its National Anti-Corruption Coalition (NACC) for the purpose of mass mobilization of Nigerians on and against corruption as provided in Section 6 (e) & (f) of the ICPC Act.

4. The EFCC has a number of hotlines available to the public for reporting and seeking information as follows: +234-9-9044751-3, +2348093322644, 234-9093131991. They can also be reached by e mail at info@efccnigeria.org while the website is <https://efccnigeria.org/efcc/>

6. Freedom of Information (FOI) Act - The Implementation Scorecard for the FOI is provided below.

S/N	PUBLIC INSTITUTIONS	2011	2012	2013	2014	2015	REPORT FOR 4 FISCAL YRS	REPORT FOR 3 FISCAL YRS	REPORT FOR 2 FISCAL YRS	REPORT FOR 1 FISCAL YR
1	FEDERAL MIN. OF JUSTICE	YES	YES	YES	YES	YES	YES	-	-	-
2	NAT. PLANNING COMMISSION	YES	YES	YES	YES	NO	YES	-	-	-
3	FED. MIN. OF WORKS	YES	NO	NO	YES	YES	-	YES	-	-
4	MIN. OF COMM. & TECHNOLOGY	YES	NO	NO	NO	NO	-	-	-	YES
5	FED. MIN. OF INFORMATION	YES	NO	NO	NO	NO	-	-	-	YES
6	NIGERIAN LAW REFORM COM.	YES	NO	YES	YES	NO	-	YES	-	-
7	FEDERAL MIN. OF POWER	YES	NO	NO	YES	YES	-	YES	-	-
8	OSGF	YES	NO	NO	NO	NO	-	-	-	YES
9	LEGAL AID COUNCIL OF NIG.	YES	NO	YES	NO	YES	-	YES	-	-
10	NPHCDA	YES	NO	NO	YES	YES	-	YES	-	-
11	NIGERIAN PRESS COUNCIL	YES	YES	YES	YES	YES	YES	-	-	-
12	FED. ROADS MAINTANANCE AGENCY	YES	NO	YES	NO	NO	-	-	YES	-
13	NIGERIAN COPY RIGHT COMM.	YES	NO	YES	NO	NO	-	-	YES	-
14	FED. MIN. OF ENVIRONMENT	YES	NO	NO	YES	NO	-	-	YES	-
15	MIN. OF POLICE AFFAIRS	YES	NO	NO	NO	NO	-	-	-	YES
16	MIN. OF MINES AND STEEL	YES	NO	YES	YES	NO	-	YES	-	-
17	NATIONAL YOUTH SERVICE CORPS	NO	YES	YES	YES	YES	YES	-	-	-
18	NATIONAL CENTRE OF WOMEN DEV.	NO	YES	YES	NO	NO	NO	-	YES	-
19	NATIONAL ORIENTATION AGENCY	NO	YES	NO	NO	NO	-	-	-	YES
20	FED. CAPITAL TERRITORY ADM.	NO	YES	YES	NO	NO	-	-	YES	-

21	NATIONAL SPORTS COM.	NO	YES	YES	NO	NO	-	-	YES	-
22	NATIONAL PENSION COMM.	NO	YES	YES	YES	YES	YES	-	-	-
22	FED. ROAD SAFTY COMM.	NO	YES	YES	YES	YES	YES			
23	ACCOUNTANT GENERAL	NO	YES	NO	YES	YES	-	YES	-	-
24	NIG. INST. OF SOCIAL & ECONOMIC RESEARCH	NO	YES	NO	YES	NO	-	-	YES	-
25	NAPTIP	NO	YES	YES	YES	YES	YES	-	-	-
26	FED. MIN. OF LAND, HOUSING & URBAN DEV.	NO	YES	NO	YES	NO	-	-	YES	-
27	FED. MIN. OF TOURISM	NO	YES	NO	YES	NO	-	-	YES	-
28	MANPOWER DEV.CENTRE (OHSF)	NO	YES	NO	NO	NO	-	-	-	YES
29	NDLEA	NO	YES	NO	NO	NO	-	-	-	YES
30	FED. MIN. OF HEALTH	NO	YES	NO	NO	NO	-	-	-	YES
31	NIGERIAN FOOTBALL FEDERATION	NO	YES	YES	NO	NO	-	-	YES	-
32	LAGOS UNI. TEACHING HOSPITAL	NO	YES	NO	NO	NO	-	-	-	YES
33	NIGERIA ELECTRICITY REGULATORY COMMISSION	NO	YES	YES	YES	NO	-	YES	-	-
34	NEWS AGENCY OF NIGERIA	NO	YES	NO	NO	NO	-	-	-	YES
35	FED. MIN. OF YOUTH DEV.	NO	YES	YES	YES	NO	-	YES	-	-
36	FED. MEDICAL CENTRE, GUSAU	NO	YES	NO	NO	NO	-	-	-	YES
37	INEC	NO	YES	NO	YES	NO	-	-	YES	-
38	NATIONAL JUDIAL COUNCIL	NO	YES	NO	YES	NO	-	-	YES	-
39	OFFICE OF THE HEAD OF SERVICE OF THE FEDERATION	NO	YES	NO	NO	NO	-	-	-	YES
40	INSTITUTE OF TRANSPORT TECHNOLOGY	NO	YES	NO	NO	NO	-	-	-	YES

41	NATIONAL AUTOMOTIVE COUNCIL	NO	YES	YES	YES	YES	YES	-	-	-
42	CENTRAL BANK OF NIGERIA	NO	YES	YES	YES	YES	YES	-	-	-
43	FED. MINISTRY OF AVIATION	NO	YES	NO	NO	NO	-	-	-	YES
44	POLICE SERVICE COMMISSION	NO	NO	YES	NO	NO	-	-	-	YES
45	FED. MIN. OF INDUSTRY,, TADE AND INVESTMENT	NO	NO	YES	NO	NO	-	-	-	YES
46	NIGERIAN COMMUNICATION COMMISSION	NO	NO	YES	YES	YES	-	YES	-	-
47	ABUJA GEOGRAPHIC INFO. SYSTEM	NO	NO	YES	NO	NO	-	-	-	YES
48	FED. AIRPORT AUTHORITY OF NIGERIA	NO	NO	YES	YES	YES	-	YES	-	-
49	NIGERIA SECURITY AND CIVIL DEFENCE CORPS	NO	NO	YES	YES	YES	-	YES	-	-
50	FED. COLLEGE OF EDUCATION (TECHNICAL) GOMBE	NO	NO	YES	YES	NO	-	-	YES	-
51	NATIONAL POPULATION COMMISSION	NO	NO	YES	YES	NO	-	-	YES	-
52	COURT OF APEAL	NO	NO	YES	NO	YES	-	-	YES	-
53	MINISTRY OF INTERIOR	NO	NO	YES	NO	NO	-	-	-	YES
54	JAMB	NO	NO	YES	YES	NO	-	-	YES	-
55	INFRASTRUCTURE CONCESSION REGULATION COMM.	NO	NO	YES	YES	NO	-	-	YES	-
56	NIGERIAN COPY RIGHT COMM.	NO	NO	YES	YES	NO	-	-	YES	-
57	NIGERIAN AIRSPACE MANAGEMENT COMM.	NO	NO	YES	YES	YES	-	YES	-	-
58	NATIONAL HUMAN RIGHT COMMISSION	NO	NO	YES	NO	NO	-	-	-	YES
59	CORPORATE AFFAIRS COMM.	NO	NO	YES	YES	YES	-	YES	-	-
60	USMAN DANFODIO UNI. TEACHING HOSP.	NO	NO	YES	NO	NO	-	-	-	YES

61	FED. MIN. OF WATER RESOURCES	NO	NO	YES	YES	NO	-	-	YES	-
62	NATIONAL POWER TRAINING INST OF NIG.	NO	NO	YES	YES	NO	-	-	YES	-
63	FEDERAL COLL. OF EDUCATION (TECHNICAL) BICHI,KANO STATE	NO	NO	YES	YES	NO	-	-	YES	-
64	FEDERAL MIN. OF WOMEN AFFAIRS AND SOCIAL DEV.	NO	NO	YES	YES	NO	-	-	YES	-
65	NATIONAL BOUNDARY COMM.	NO	NO	YES	YES	NO	-	-	YES	-
66	ALVAN IKOKU COLL. OF EDUC. OWERRI	NO	NO	YES	NO	YES	-	-	YES	-
67	OFFICE OF THE NATIONAL SECURITY ADVISER	NO	NO	YES	NO	NO	-	-	-	YES
68	REVENUE MOBILIZATION AND FISCAL COMM	NO	NO	YES	NO	NO	-	-	-	YES
69	FEDERAL MIN. OF FINANCE	NO	NO	YES	YES	NO	-	-	YES	-
70	FED. MIN. OF TRANSPORT	NO	NO	YES	YES	NO	-	-	YES	-
71	NATIONAL BUREAU OF STATISTICS	NO	NO	YES	NO	NO	-	-	-	YES
72	MIN. OF FOREIGN AFFARS	NO	NO	YES	NO	NO	-	-	-	YES
73	NATIONAL FILM & VIDEO CENSORS BOARD	NO	NO	YES	NO	NO	-	-	-	YES
74	DEBT MANAGEMENT OFFICE	NO	NO	NO	YES	YES	-	-	YES	-
75	FED. UNI. DUTSIN-MA	NO	NO	NO	YES	YES	-	-	YES	-
76	NIGERIA INST. OF ADVANCE LEGAL STUDIES	NO	NO	NO	YES	YES	-	-	YES	-
77	FED. UNI. OF TECHNOLOGY MINNA	NO	NO	NO	YES	YES	-	-	YES	-
78	FED. UNI. OF TECHNOLOGY AKURE	NO	NO	NO	YES	NO	-	-	-	YES
79	NIGERIA INVESTMENT PROMOTION COUNCIL	NO	NO	NO	YES	NO	-	-	-	YES
80	CENTRE FOR MANAGEMENT RESOURCES	NO	NO	NO	YES	YES	-	-	YES	-
81	UNIVERSITY OF JOS	NO	NO	NO	YES	YES	-	-	YES	-

82	NIGERIA DEPOSIT INSURANCE COMPANY	NO	NO	NO	YES	YES	-	-	YES	-
83	ECONOMIC AND FINANCIAL CRIMES COMM.	NO	NO	NO	YES	YES	-	-	YES	-
84	NIGERIA COPY RIGHT COMM	NO	NO	YES	YES	NO	-	-	YES	-
85	NATIONAL TEACHERS INST.	NO	NO	NO	YES	YES	-	-	YES	-
86	NATIONAL BROADCASTING COMMISSION	NO	NO	NO	YES	NO	-	-	-	YES
87	NATIONAL COUNCIL FOR ART AND CULTURE	NO	NO	NO	YES	YES	-	-	YES	-
88	FED MINISTRY OF FINANCE	NO	NO	NO	YES	NO	-	-	-	YES
89	MINISTRY OF DEFENCE	NO	NO	NO	YES	NO	-	-	-	YES
90	BUDGET OFFICE OF THE FED.	NO	NO	NO	YES	YES	-	-	YES	-
91	FED. INLAND REVENUE	NO	NO	NO	YES	NO	-	-	-	NO
92	FED. RADIO CORPORATION OF NIGERIA	NO	NO	NO	YES	NO	-	-	-	YES
93	NATIONAL SALARIES, INCOME & WAGES COMM.	NO	NO	NO	YES	NO	-	-	-	YES
94	UNI OF BENIN TEACHING HOSP	NO	NO	NO	YES	NO	-	-	-	YES
95	FEDERAL CHARACTER COMMISSION	NO	NO	NO	YES	NO	-	-	-	YES

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provision under review.

The Freedom of Information Act (FOIA) provides the right to access information (section 1(1)), without showing any specific interest (section 1(2)). FOIA also outlines the detailed grounds for denial (sections 11–12, 14–17, 19).

While asset declarations are not made public, at the time of the country visit, a bill for access to public officers' asset declaration foresaw that possibility for a citizen with a well-founded suspicion of breach of the Code of Conduct.

As indicated for Article 8 (5), it is therefore recommended that Nigeria endeavour to make the declarations available to the public.

Moreover, it is recommended that Nigeria consider clarifying and collating the reasons for denial in the FOIA.

(c) Successes and good practices

Any person who requests access to information need not demonstrate any specific interest.

Subparagraph (b) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. The Regular Ministerial and other Briefings on official decisions and activities.
2. The Minister of Information briefs the media after each weekly meeting of the Executive Council of the Federation.
3. Citizens observe deliberations of the National Assembly.
4. Proactive dissemination of publications and information handbooks of the various MDAs.
5. Regular interactive forums, seminars and workshops of the various MDAs.
6. Constituency offices established by legislators in their various constituencies to enhance interaction with citizens.
7. Some MDAs and State Governments have established hotlines to enhance citizen access.
8. Good Governance Tour of the country carried out by the Minister of Information.

9. Presidential Media Chat
10. Involvement of CSOs on Boards and Advisory Councils of some of the MDAs.
11. Good governance platform
12. Newsletters, websites, information handbooks and annual reports of the various agencies
13. Petition Boxes
14. Newly adopted whistle blower policy, adopted by the EXCOF in December 2016

15. There is a special agency of government - The Service Compact unit (SERVICOM) whose mandate is to facilitate service delivery and serve as an interface with the public in all Ministries Departments and Agencies (MDAs). This agency has established desks in all MDAs to monitor compliance with the tenets of the Service Compact and enhance public access to government officials and services.

Further, agencies have communication strategies for engagement with the public.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

ICPC PUBLIC INTERFACE PLATFORMS

Internet and New Social Media Platforms

- (i) Website of the Commission: www.icpc.gov.ng <<http://www.icpc.gov.ng>>
- (ii) Number of hits in the last one year: 192,998 and 2,118,024 as total number of visits over the years.
- (ii) E-mail address of the Commission and number of mails received in the last one year: info@icpc.gov.ng <<mailto:info@icpc.gov.ng>>, 5944 Mails.
- (iii) Social Network: Facebook: ICPC Nigeria (47,204 likes); Twitter: ICPC Nigeria @icpc_pe (2,141 followers); Instagram: ICPC Nigeria (371 followers); YouTube: ICPC Nigeria; ICPC Mobile App: Wahala Dey (Android, BBM, Microsoft and IOS platforms);
- (v) Toll-free lines: MTN: 0803-123-0280, 0803-123-0281, 0803-123-0282, GLO: 0705-6990190, 0705-699-0191 and 44 calls received in the last one year.
- (vi) Newsletters of the Commission: ICPC News, ACTU Newsletter, Coalition Digest, NAVC Newsletter (www.icpc.gov.ng/downloads <http://www.icpc.gov.ng/downloads>)
- (vii) A Frequently Asked Questions (FAQ) booklet giving information to members of the public on the dimensions of the activities of the Commission

EFCC

- i. Website <https://efccnigeria.org/efcc/>
- ii. Television program -The Eagle which airs on public and private TV platforms

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provision under review.

The Service Compact Initiative (SERVICOM) has established desks within each MDA to facilitate the access to

information as well as service delivery. However, SERVICOM is not established by law and the staff manning the desks are employed by each respective MDA.

In view of ensuring the independence and viability of the SERVICOM Initiative, Nigeria may wish to consider regulating and simplifying such administrative procedures in order to facilitate public access to the information held by the competent decision-making authorities.

Subparagraph (c) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. The NEITI Audit Reports of the Extractive Sector published from 1999-2004, 2005, 2006, 2007 2008, 2009, 2010, 2011, 2012, 2013 are all available on www.neiti.org.ng

The NEITI Audits have led to a remediation process within the oil and gas sector. The following gaps were discovered through the audit process:

- The need for real time interface between the relevant agencies
 - The need for metering to determine actual volumes
 - Capacity gaps within the MDAs
2. TUGAR Scoping Surveys published on the TUGAR website www.tugar.org.ng. The TUGAR Surveys and Gap Analysis largely contributed to the commencement of the Corruption risk Assessment project to identify vulnerabilities within the system.
 3. Corruption Risk Assessment carried out in the Port Sector and in selected sectors in the three Ministries of Education, Health and Water Resources. (Port sector risk assessment report published on www.tugar.org.ng)
 4. Integrity Plans pursuant to the Risk Assessments currently being implemented in the Port sector and soon to commence in the other study sectors.
 5. A Committee was set up with relevant MDAs to implement the proposed Justice Sector Reforms and address challenges. The activities of the Justice Sector Reform have also led to the enactment of the Administration of Criminal Justice Act and the ongoing implementation processes.
 6. From 2002 to 2016, ICPC has conducted systems study and reviews in eighty-one (81) ministries, departments and agencies (MDAs) at both federal and state levels.

7. The ICPC has also conducted Ethics and Compliance Assessment of MDAs and is currently conducting risk assessment of the E-Governance payment platforms such as the IPPIS, GIFMIS.
8. The ICPC has also conducted an Integrated Budget Monitoring and procurement supervision in the MDAs.
9. The Bureau of Public Procurement also regularly conducts Procurement Audits.
10. The National Risk Assessment Secretariat has also conducted a risk assessment on Money Laundering.

ON-GOING ACTIVITIES

A State of Corruption Study is currently on-going by the National Bureau of Statistics in partnership with the ACAs, with support from the UNODC and the EU.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. Integrity Plan in the Port sector currently under implementation. The following measures have been adopted
 - a. Harmonized Standard Operating Procedure (SOP) adopted for the Port Sector and launched.
 - b. An IT-Based complaint and redress system, termed the Port Service Support Portal (PSSP) set up and launched. The two products can be accessed on www.pssp.ng

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provision under review.

Most public institutions, including ICPC, EFCC, NEITI, TUGAR and NFIU, publish their reports online, albeit not always in a timely manner.

As indicated for Article 7 (1) and (4), and article 9 (2), it is recommended that Nigeria endeavour to implement OGP NAP and all the commitments taken.

(c) Challenges, where applicable

In order to (fully) implement the provision under review, Government departments would need to accomplish the following:

1. Proactive dissemination of the available reports within the next year.
2. Implementing the recommended remedial issues disclosed by assessments and audits within the next two years.
3. Extending the assessments to cover more government departments within the next three years.

(d) Technical assistance needs

Capacity-building

- **Institution-building**
- **Policymaking**
- **Research/data gathering and analysis**

Nigeria indicated that technical assistance was being provided by the UNDP and UNODC/EU in building capacities to conduct Corruption Risks and other forms of Assessments as well as dissemination and awareness raising.

Article 11. Measures relating to the judiciary and prosecution services

Paragraph 1 of article 11

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. Section 153 of the Constitution in Part 1 of the Third Schedule creates the National Judicial Council to superintend over the appointments of Judicial officers and exercise disciplinary control:

153. (1) There shall be established for the Federation the following bodies, namely:

- (a) Code of Conduct Bureau;
- (b) Council of State;
- (c) Federal Character Commission;
- (d) Federal Civil Service Commission;
- (e) Federal Judicial Service Commission;
- (f) Independent National Electoral Commission;
- (g) National Defence Council;
- (h) National Economic Council;
- (i) National Judicial Council;
- (j) National Population Commission;
- (k) National Security Council;
- (l) Nigeria Police Council;
- (m) Police Service Commission; and
- (n) Revenue Mobilisation Allocation and Fiscal Commission.

(2) The composition and powers of each body established by subsection (1) of this section

are as contained in Part 1 of the Third Schedule to this Constitution.

....

I - National Judicial Council

20. The National Judicial Council shall comprise the following members -

- (a) the Chief Justice of Nigeria who shall be the Chairman
- (b) the next most senior Justice of the Supreme Court who shall be the Deputy Chairman;
- (c) the President of the Court of Appeal;
- (d) five retired Justices selected by the Chief Justice of Nigeria from the Supreme Court or Court of Appeal;
- (e) the Chief Judge of the Federal High Court;
- (f) five Chief Judges of States to be appointed by the Chief Justice of Nigeria from among the Chief Judges of the States and of the High Court of the Federal Capital Territory, Abuja in rotation to serve for two years;
- (g) one Grand Kadi to be appointed by the Chief Justice of Nigeria from among Grand Kadis of the Sharia Courts of Appeal to serve in rotation for two years;
- (h) one President of the Customary Court of Appeal to be appointed by the Chief Justice of Nigeria from among the Presidents of the Customary Courts of Appeal to serve in rotation for two years;
- (i) five members of the Nigerian Bar Association who have been qualified to practice for a period of not less than fifteen years, at least one of whom shall be a Senior Advocate of Nigeria, appointed by the Chief Justice of Nigeria on the recommendation of the National Executive Committee of the Nigerian Bar Association to serve for two years and subject to re-appointment.

Provided that the five members shall sit in the Council only for the purposes of considering the names of persons for appointment to the superior courts of record; and

- (j) two persons not being legal practitioners, who in the opinion of the Chief Justice of Nigeria, are of unquestionable integrity.

21. The National Judicial Council shall have power to -

- (a) recommend to the President from among the list of persons submitted to it by -
 - (i) the Federal Judicial Service Commission, persons for appointment to the offices of the Chief Justice of Nigeria, the Justices of the Supreme Court, the President and Justices of the Court of Appeal, the Chief Judge and Judges of the Federal High Court, and
 - (ii) the Judicial Service Committee of the Federal Capital Territory, Abuja, persons for appointment to the offices of the Chief Judge and Judges of the High Court of the Federal Capital Territory, Abuja, the Grand Kadi and Kadis of the Sharia Court of Appeal of the Federal Capital Territory, Abuja and the President and Judges of the Customary Court of Appeal of the Federal Capital Territory, Abuja;
- (b) recommend to the President the removal from office of the judicial officers specified

in sub-paragraph (a) of this paragraph and to exercise disciplinary control over such officers;

(c) recommend to the Governors from among the list of persons submitted to it by the State Judicial Service Commissions persons for appointments to the offices of the Chief Judges of the States and Judges of the High Courts of the States, the Grand Kadis and Kadis of the Sharia Courts of Appeal of the States and the Presidents and Judges of the Customary Courts of Appeal of the States;

(d) recommend to the Governors the removal from the office of the judicial officers in sub-paragraph (c) of this paragraph, and to exercise disciplinary control over such officers.

(e) collect, control and disburse all moneys, capital and recurrent, for the judiciary;

(f) advise the President and Governors or any matter pertaining to the judiciary as may be referred to the Council by the President or the Governors;

(g) appoint, dismiss and exercise disciplinary control over members and staff of the Council;

(h) control and disburse all monies, capital and recurrent; for the services of the Council; and

(i) deal with all other matters relating to broad issues of policy and administration.

22. The Secretary of the Council shall be appointed by the National Judicial Council on the recommendation of the Federal Judicial Service Commission and shall be a legal practitioner.

2. In order to further strengthen integrity, the Nigerian Judiciary has adopted a Code of Conduct for Judicial Officers modelled on the Bangalore Principles of Judicial Conduct.

3. The NJC has established guidelines and procedural rules for the appointment of judicial officers for all superior courts of record which can be accessed at the following link:

<http://www.njcgov.org/Press/Judicialofficersappointment>

4. In order to enhance the efficiency of trial of corruption cases, some ACAs have provisions in their laws for designation of Judges to try corruption cases. This is aimed at ensuring prioritization as well as encourage specialization and enhanced knowledge of corruption trial issues:

Section 19 of the Economic and Financial Crimes (Establishment) Act reads as follows:

(1) The Federal High Court or High Court of a state of the Federal Capital Territory has jurisdiction to try offenders under this Act.

(2) The Court shall have power, notwithstanding anything to the contrary in any other enactment,

(a) to impose the penalties provided for in this Act.

(b) To ensure that all matters brought before the court by the Commission against any person, body or authority shall be conducted with dispatch and given accelerated hearing

(c) To adopt all legal measures necessary to avoid unnecessary delays and abuse in the conduct of matters brought by the Commission before it or against any person, body or authority.

(3) The Chief Judge of the Federal High Court or a High Court of a State or the High

Court of The Federal Capital Territory Abuja, as the case may be shall by order under his hand, designate a court or judge he shall deem appropriate to hear and determine all cases under this act or other related offences under this Act.

(4) A court or judge so designated shall give such matters priority over other matter pending before it.

(5) In any trial for an offence under this act, the fact that an accused person is in possession of pecuniary resources or property for which he cannot satisfactorily account and which is disproportionate to his known sources of income, of that he had at or about the time of the alleged offence obtained an accreditation to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and taken into consideration by the Court as corroborating the testimony of any witness in the trial.

Section 61(3) of the Corrupt Practices and Other Related Offences Act 2000 reads as follows:

(1) Every prosecution for an offence under this Act or any other law prohibiting bribery, corruption and other related offences shall be deemed to be done with the consent of the Attorney-General.

(2) Without prejudice to any other laws prohibiting bribery, Corruption, fraud or any other related offences by Public Officers or other persons, a public officer or any other person may be prosecuted by the appropriate authority for an offence of bribery, corruption, fraud or any other related offences committed by such public officer or other person contrary to any laws in force before or after the coming into effect of this Act and nothing in this Act shall be construed to derogate from or undermine the right or authority of any person or authority to prosecute offenders under any other laws.

(3) The Chief Judge of a State or the Federal Capital Territory, Abuja shall, by order under his hand, designate a court or judge or such number of courts or judges as he shall deem appropriate to hear and determine all cases of bribery, Corruption, fraud or other related offences arising under this Act or any other laws prohibiting fraud, bribery or Corruption; a court or judge so designated shall not, while being so designated, hear or determine any other cases provided that all cases of fraud, bribery, or corruption pending in any court before the coming into effect of this Act shall continue to be heard and determined by that court.

5. Some sections of the Nigerian Judiciary have also adopted Sentencing Guidelines to ensure standardization and improve the predictability in judgements.

6. There exists also an agency of government - The National Judicial Institute which has the responsibility of continuous education for judicial officers.

7. In addition, the Public Complaints Commission (the Ombudsman) has the power to investigate the administrative processes of courts. Section 5(3)(e) of the Public Complaints Act Cap 377 LFN reads as follows

e) A Commissioner shall be competent to investigate administrative procedures of any court of law in Nigeria.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. The National Judicial Council (NJC) has severally recommended dismissal and other forms of disciplinary action against judicial officers. Some examples are as follows:

- On the 25th of February 2013, The President, on the recommendation of the NJC, dismissed a Judge of the Federal High Court -Justice Charles Archibong for misconduct.
- In March 2013, the NJC suspended a judge of the Federal Capital Territory, Justice Mohammed Talba pending investigation for alleged misconduct.
- On the 24th of March 2013, the NJC commenced a two-day sitting on appointment and promotion of Judicial officers. Also on the agenda are petitions and disciplinary issues against twenty three Judges.
- -Compulsory retirement of Justice Naaron for judicial misconduct -2013
- In 2001, a judicial panel of enquiry was set up to investigate allegations of corruption in the Judiciary. (Justice Kayode Eso panel) Based on their report, 30 out of 47 Judges indicted by the report were sacked.
- Between 2009 and 2014 70 Judges were relieved of their appointment on the recommendation of the NJC for acts of misconduct.
- Between 2015 -2016 9 Judges have been sacked on the recommendation of the NJC for various acts of misconduct.

2. The NJC has developed a National Judicial Policy to articulate and define its mandate. The policy can be accessed at:

<http://www.njcgov.org/Press/NationalJudicialCouncil?name=nationaljudicialpolicy.pdf>

as well as Judicial Discipline Regulations which can be accessed at:

<http://www.njcgov.org/Press/NationalJudicialCouncil?name=judicialdiscipline.pdf>

3. There are recent instances of efforts to investigate and sanction erring judicial officers in accordance with the law. On the 7th of October 2016, the Department of State Security (DSS) executed search warrants and arrested some judges including Justices of the Supreme Court, on allegations of bribery. Some of the cases have been charged to court and the affected judicial officers have stepped down from their offices pending the conclusion of the investigations and trials. Some newspaper headlines on the issue are provided below:

- <http://www.vanguardngr.com/2016/10/dss-arrest-judges/>
- <http://www.premiumtimesng.com/news/top-news/214130-officialnigeria-supreme-court-judges-accused-corruption-step.html>
- <http://www.nigerianmonitor.com/list-of-judges-arrested-by-dss-overallegations-of-corruption/>
- < <http://www.thisdaylive.com/index.php/2016/10/08/apprehensionover-arrest-of-supreme-court-justices/>

Further the reaction of the NJC on the arrest of the judicial officers is outlined in Press Releases in the links below:

- <http://www.njcgov.org/Press/NationalJudicialCouncil?name=reactiontonba.pdf>
- <http://www.njov.org/Press/NationalJudicialCouncil?name=adveritorial.pdf>

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provision under review.

Judges are appointed by the President or State Governors as appropriate upon recommendation of the National Judicial Council (Constitution, section 153 and third schedule, part I) from practitioners with a minimum of 10 years at the bar. There is a specialized institute, the National Judicial Institute (NJI) whose mandate is to provide training on diverse issues for judges. These issues include ethics and judicial integrity. However, the judges do not receive any specific training on the risks of corruption they are exposed to, except from ICPC and EFCC which occasionally provide trainings.

It was therefore recommended that Nigeria enhance the provision of specialized training for the judiciary on the risks of corruption to which the profession is exposed on a more systematic basis (art. 11 (a)).

Paragraph 2 of article 11

2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

The Prosecution service does not form part of the Judiciary. However, some steps have been taken to promote integrity within the Prosecutorial service as follows:

1. There is a Code of Conduct for Federal Prosecutors coordinated by the Federal Ministry of Justice. The Code can be accessed at the Ministry's website as follows:

<http://www.justice.gov.ng/index.php/78-featured/105-code-of-conduct>

2. Some prosecution agencies have adopted Codes of Conduct for their prosecutors and Prosecution Manuals (EFCC and ICPC).

3. All Prosecutors are Members of the Legal Profession guided by the Code of Ethics for Legal Practitioners.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

ICPC Has developed a draft Code for its prosecutors.

The EFCC has also developed a draft Code of Conduct for its Prosecutors.

There is a Code of Conduct and Prosecutorial Guidelines for Prosecutors in the Federation.

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has implemented the provision under review.

The prosecution service does not form part of the judiciary. Federal Prosecutors have a stand-alone Code of Conduct and are also subject to Ethics for Legal Practitioners as well as the Code of Conduct for public officers. As each anti-corruption organ retains its own prosecution service, specific codes of conduct of each institution also exist.

(d) Challenges, where applicable

Popularization of the code of conduct for Prosecutors

(e) Technical assistance needs

Capacity-building

- **Institution-building**

- **Policymaking**
- **Research/data gathering and analysis**

Nigeria indicated that UNODC, DFID and the US Embassy were providing support to the Justice sector as well as the law enforcement Agencies.

Article 12. Private sector

Paragraphs 1 and 2 of article 12

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.

2. Measures to achieve these ends may include, inter alia:

(a) Promoting cooperation between law enforcement agencies and relevant private entities;

(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;

(c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;

(d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;

(e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;

(f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end:

1. The newly established Financial Reporting Council established under the Financial reporting Council Act 2011 has issued a Statement of Recommended Practice. The Act sets up the Financial Reporting Council (FRCN) which has the sole responsibility for making accounting, auditing, and reporting standards for the private and public sectors.

2. The Conference of Accountants General of the Federation has strongly endorsed the adoption of the International Public Sector Accounting Standards (IPSAS). The applicable standard is the International Financial Reporting Standard (IFRS) using the General Accounting Principles (GAP). The Nigerian Financial Reporting Council (FRC) monitors and enforces compliance with these standards.

3. Pursuant to this the Office of the Accountant General of the Federation (OAGF) conducted a Gap Analysis of current practices in Public Sector accounting and IPSAS and produced a remediation road map.
4. The Bureau of Public Procurement has adopted and is implementing the Code of Conduct for Public Officers involved in Procurement which includes rules on Conflict of Interest. The Public Procurement Act 2007 has provisions to regulate standards on Public Procurement which applies to both public and private sector. The Act provides for a Code of Conduct for Public Procurement (PART XI Section which is applicable to “All public officers, suppliers, contractors, and service providers with regards to their standards of conduct acceptable in matters involving the procurement and disposal of public assets.” Moreover, Section 58 of the Act provides for offences and sanctions against persons inclusive of the private sector.
5. The Corporate Affairs Commission (CAC) established pursuant to the Companies and Allied Matters Act (CAMA) has regulations to ensure compliance with reporting standards in private companies. Only Companies who have complied with requirements to file Annual Returns can have transactions on their records at the CAC such as filing of resolutions and filing other transactions.
6. There is also the Companies Regulations 2012 made pursuant to CAMA.
7. The CAC has also facilitated KYC Policy made pursuant to CAMA.
8. Securities and Exchange Commission (SEC) has the power to ensure that all Capital Market Operators comply with the laid down rules by the Investment and Securities Act.
9. SEC-also has a KYC Policy.
10. The Central Bank of Nigeria (CBN) also enforces a KYC policy.
11. Nigerian Financial Intelligence Unit (NFIU) and Special Control Unit Against Money-Laundering (SCUML) ensure the implementation of the KYC Policy.
12. The Economic and Financial Crimes (Establishment) Act 2004 has provisions to enforce standards within the private sector and imposes sanctions for violations.
13. The Money Laundering (Prohibition) Act 2011 also has provisions applicable to the Private Sector.
14. The different professional bodies have Codes of Ethics applicable to their members in the public and private sectors. Examples are bodies such as the Nigerian Bar Association and The Medical and Dental Council of Nigeria.
15. The Companies and Allied matters Act 1990 provides a statutory framework for the regulation of the operations of private companies.

The following Legislations have provisions to regulate activities in the Private sector as it relates to Transparency and Accountability and preventing corruption.

1. Banks and other Financial Institutions Act (BOFIA) 1991 which has provisions to monitor illicit enrichment as it relates to staff of Banking Institutions.
2. Investments and Securities Act 2007
3. Bank Employees (Declaration of Assets) Act 1986
4. Nigerian Investment Promotion Council Act 1995

The following frameworks address specific issues as follows:

A. Transparency in the identity of legal and natural persons

1. Companies and Allied Matters Act 1990 (CAMA)

2. Companies regulation 2012 pursuant to CAMA
3. Money Laundering (Prohibition) Act 2011
4. Investment and Securities act 2007
5. CBN KYC policy
6. The Corporate Affairs Commission as a condition for incorporation of companies requires the disclosure of the natural and juristic persons behind the company.
7. Code of Corporate Governance of the Securities and Exchange Commission (SEC), Code of Corporate Governance for Banks and other Financial Institutions
8. Federal Ministry of Industry Trade and Investment Regulations 2013 applicable to Designated Non-financial businesses.

B. Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;

The Companies and Allied Matters Act 1990 requires entities to obtain licences to operate as funds Managers (Capital Market Operators)

The enabling laws of government regulatory agencies such as the Nigerian communications commission (NCC), the directorate of petroleum resources (DPR), the National Universities Commission (NUC) and the Consumers Protection Council (CPC) all provide guidelines and conditional ties for operating licences. The terms for the operating licences include ethical standards and sanctions for noncompliance.

C. Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure.

1. The Code of Conduct for Public Officers in Article 5 prohibits post service employment in foreign firms for the President, Vice President, Governors, Deputy Governors and the Chief Justice of Nigeria.
2. Section 292(2) of the 1999 Constitution prohibits judicial officers from acting or appearing as legal practitioners upon ceasing to be judicial officers, for any reason whatsoever:

(2) Any person who has held office as a judicial officer shall not on ceasing to be a judicial officer for any reason whatsoever thereafter appear or act as a legal practitioner before any court of law or tribunal in Nigeria.

D. Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

1. Companies and Allied Matters Act 1990
2. The Corporate Affairs Commission (CAC) requires all registered companies to file annual returns to which audited accounts must be attached and bi-annual statement of affairs by banks, insurance companies and other financial institutions
3. The annual returns and audited accounts must be prepared by certified accountants.

4. The Securities and Exchange Commission (SEC) in addition requires publicly quoted companies to file audited reports.
5. The Central Bank of Nigeria monitors and enforces accounting and audit regulations for Banks.
6. Maintenance of Books and Records and Auditing Standards
7. An example of the cooling-off period is contained in Section 36 (2) of the Electric Power Sector Reform Act of 2005, which provides for a cooling-off period of two years after ceasing to be a Commissioner in the agency:

(2) A person who holds the office of Commissioner, and for a period of two years after he ceases to be a Commissioner for any reason whatsoever, shall not acquire, hold or maintain, directly or indirectly, any interest, office, employment or consultancy arrangements, either for remuneration or otherwise, connected with the generation, transmission, system operation, distribution or trading of electricity in Nigeria or any activity connected with any such service or system and if such person acquires any such interest involuntarily or by way of succession or testamentary disposition, he shall divest himself from such interest within a period of three months of such interest being acquired.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Implementation Examples

1. There is an ongoing investigation and prosecution of oil subsidy scam suspects.
2. Procedures for issuance of licenses to companies supplying products is under review.
3. There has been revocation of licences of some banks and the prosecution of principal officers for unethical conduct.
4. There are also examples of some Companies wound up for corruption related cases.
5. Non-Accredited courses scraped and institutions that did not meet the requirements shut down by the National Universities Commission (NUC).
6. Prosecution and sealing up of offices of illegal fund managers by the Securities and exchange Commission (SEC).
7. The Central Bank of Nigeria monitors and enforces accounting and audit regulations for banks.
8. The Economic and Financial Crimes (Establishment) Act 2004. In the investigation and Financial Crimes which may include fraud and related audit offences, the EFCC and the Nigerian Police co-operate with relevant private entities such as Banks and other Financial institutions.
9. The Special Control Unit Against Money-Laundering (SCUML) has facilitated the setting up of the National Advisory Council on DNFI which is a body made up of Government Agencies and private sector entities such as Companies, professional bodies like the Bar Association and Estate Values as well as Civil Society Organizations.

The following guidelines have also been issued by regulatory agencies to enhance transparency and accountability in the Private Sector.

1. The CBN anti-money laundering guidelines
2. Insurance Industry Policy Guidelines (IIPG) of 2004 issued by NAICOM.

3. Code of Corporate Governance for Banks in Nigeria issued by the Central Bank of Nigeria (CBN) in 2006
4. Code of Conduct on Public Procurement which extends to private sector entities
5. Voluntary codes such as the Convention on Business Integrity and Global Compact
6. SCUML Regulatory Guideline for DNFBPs
7. SCUML Wider Customers Due Diligence (CDD) for Casino Operators
8. The Nigerian Extractive Industries Transparency Initiative has in collaboration with corporate entities in the Extractive Sector established a Companies Forum which deliberates on issues of common interest in the Extractive Sector and facilitates compliance with the EITI principles.

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provisions under review.

The Corporate Affairs Commission (CAC), was established pursuant to the Companies and Allied Matters Act (CAMA) and has issued regulations on compliance and reporting standards for private sector entities. The Convention on Business Integrity (CBI) was formally launched in 1997. Most private companies have since signed the CBI and committed to respect the standards of integrity. Nigeria is also a member of the Extractive Industries Transparency Initiative (NEITI). In response, extractive industry private sector entities have established internal compliance departments.

At the time of the country visit, Nigeria had introduced the notion of conflict of financial interest in the draft National Ethics and Integrity Policy. Conflict of interest is also captured in the Code of Conduct for Public Officers. While judges are prohibited from practicing law on exiting office (Constitution section 292(2)) and other institutions foresee a cooling-off period before assuming a post in the private sector, Nigeria's legislation remains largely unclear about a cooling-off period after retirement.

It is therefore recommended that Nigeria review and consider harmonizing cooling-off periods for public officials wishing to assume posts in the private sector.

Moreover, it is recommended that Nigeria consider adopting the National Ethics and Integrity Policy.

As indicated for Article 7 (4), it is recommended that Nigeria endeavour to adopt a definition of conflicts of interest outside the public procurement area and to establish a clear cooling-off period after public officials' retirement.

Paragraph 3 of article 12

3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

- (a) The establishment of off-the-books accounts;*
- (b) The making of off-the-books or inadequately identified transactions;*
- (c) The recording of non-existent expenditure;*
- (d) The entry of liabilities with incorrect identification of their objects;*
- (e) The use of false documents;*
- (f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.*

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

The following is prohibited:

1. Establishment of off-the-books accounts
2. The making of off-the-books or inadequately identified transactions.

This is by virtue of the following legal provisions:

1. The Companies And Allied Matters Act 1990
2. The Federal Inland Revenue Services Act 2007
3. The Money Laundering (Prohibition) Act 2011

Section 11 of the Money Laundering (Prohibition) Act 2011 reads:

- (1) The opening or maintaining of numbered or anonymous accounts by any person, Financial Institution or corporate body is prohibited.
- (2) A person shall not establish or operate a shell bank in Nigeria.
- (3) A financial institution shall:
 - (a) not enter into or continue correspondent banking relationships with shell banks ; and
 - (b) satisfy itself that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.
- (4) Any person, Financial Institution or corporate body that contravenes the provisions of subsections (1), (2) and (3) of this section, commits an offence and is liable on conviction to:
 - (a) in the case of an individual, a term of imprisonment of not less than 2 years but not more than 5 years ; or
 - (b) in the case of a financial institution or corporate body, a fine of not less than N10,000,000 but not more than N50,000,000, in addition to:
 - (i) the prosecution of the principal officers of the corporate body, and
 - (ii) the winding up and prohibition of its constitution or incorporation under any form or guise.

Section 15 of the ICPC Act provides:

15. Any person who, with intent to defraud or conceal a crime or frustrate the Commission in its investigation of any suspected crime of corruption under this Act or under any other law:
 - (a) destroys, alters, mutilates, or falsifies, any book, documents, valuable security, account, computer system, diskette, computer printout or other electronic device which

belongs to or is in the possession of his employer, or has been received by him on account of his employment, or any entry in any such book, document, accounts or electronic device, or is privy to any such act; or

(b) makes, or is privy to making any false entry in any such book, document, account or electronic record; or

(c) omits, or is privy to omitting, any materials particular from any such book, document, account or electronic record; is guilty of a felony, and shall on conviction be liable to seven (7) years imprisonment.

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provision under review.

The Financial Reporting Council (FRCN), established by the Financial Reporting Council Act 2011, is responsible for elaborating accounting, auditing, and reporting standards for the private and public sectors.

CAMA also obliges private companies to submit their accounts to the Federal Inland Revenue Service (FIRS). The establishment of off-the-books accounts is clearly identified as prohibited (section 11 MLPA) as well as the use of false documents and the intentional destruction of bookkeeping documents (section 15 of the ICPC Act).

However, inadequately identified transactions or objects and recording of non-existent expenditure, are not expressly prohibited when carried out in order to commit an offence of the Convention.

It is therefore recommended that Nigeria prohibit all elements as described under article 12, paragraph 3, of the Convention when they are carried out to commit an offence established in accordance with the Convention.

Paragraph 4 of article 12

4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Companies Income Tax Act

Tax deductibility of expenses that constitute bribes are disallowed by virtue of the policies of the Federal Inland Revenue Services drawn from sections 24 and 27 of the Companies Income Tax Act:

Section 24. Deductions allowed.

Save where the provisions of subsection (2) or (3) of section 14 or 16 of this Act apply, for the purpose of ascertaining the profits or loss of any company of any period from any source chargeable with tax under this Act, there shall be deduction all expenses for that period by that company wholly, exclusive, necessarily and reasonable incurred in the production of those profits including, but without otherwise expanding or limiting the generality of the foregoing-

(a) any sum payable by way of interest on any money borrowed and employed as capital in acquiring the profits;

(b) rent for that period, and premiums the liability for which was incurred during that period, in respect of land or building occupied for the purposes of acquiring accommodation occupied by employees of the company, to a maximum of 100 % of the basic salary of employees

(c) in the case of any property-holding company-

(i) expenses attributable to the maintenance of the property,

(ii) directors' remuneration, which shall not exceed N10,000 per annum in respect of each director, and the number of directors to be so remunerated shall in no case exceed three;

(d) any outlay or expenses incurred during the year in respect of

(i) salary, wages, or other remuneration paid to the senior staff and executives

(ii) cost to the company of any benefit or allowance provided for the senior staff and executives which shall not exceed the limit of the amount prescribed by the collective agreement between the company and the employees and approved by the Federal Ministry of Employment Labor and Productivity and the productivity prices, and income board as the case may be. Provided that in respect of residential accommodation the amount of deduction allowed shall be the lesser of the amount of the annual basic salary of the employee to whom the building or flat, as the case may be, is allocated as residential accommodation and the amount specified under paragraph (b) (i) or (b) (ii) of this subsection.

(e) any expenses incurred for repair of premises, plant, machinery or fixtures employed in acquiring the profits, or for the renewals, repair or alteration of any implement, utensil or article so employed;

(f) bad debts incurred in the course of a trade or business proved to have become bad during the period for which the profits are being ascertained, and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Board to have become bad during the said period notwithstanding that such bad or doubtful debts were due and payable before the commencement of the said period. Provided that

(i) where in any period a deduction under this paragraph is to be made as respects any particular debt, and a deduction has in any period been allowed either under the Companies Income Tax Act 1961 or this Act in respect of the same debt, the appropriate reduction shall be made in the deduction to be made for the period question,

(ii) all sums recovered during the said period on account of amounts previously written off or allowed either under the Companies Tax Act 1961 or this Act in respect of bad or doubtful debts shall for the purposes of this Act be deemed to be profits of the trade or business of that period,

(iii) it is proved to the satisfaction of the Board that the debts in respect of which a deduction is claimed either were included as a receipt of the trade or business in the profits of the year within which they were incurred, or were advances not falling within the provisions of the trade or

business in the profits of the year within which they were incurred, provision or were advances, not falling within the Provisions of paragraph (a) of section 23 of this Act made in the course of normal trading or business operations;

(g) any contribution to a pension, provident or other retirement benefits fund, society or scheme approved by the Joint Tax Board under the powers conferred upon it by paragraph (g) of section 85 of the Personal Income Tax Act, subject to the provisions of the fourth schedule to this Act and to any conditions imposed by the Board; and any contribution other than a penalty made under the provisions of any enactment establishing a national provident fund or other retirement benefits scheme for employees throughout Nigeria;

(h) in the case of the Nigeria Railway Corporation such deductions as are allowed under the provisions of the Authorized Deductions Nigerian Railway Corporation Rules, which Rules shall continue in force for all purposes of this Act;

(i) in the case of profits from a trade or business, any expense or part thereof

(i) the liability for which was incurred during that period wholly, exclusively, necessarily and reasonably for the purposes of such trade or business and which is not specifically referable to any other period or periods, or

(ii) the liability for which was incurred during any previous period wholly, exclusively, necessarily and reasonably for the purpose of such trade or business and which is specifically referable to the period of which the profits are being ascertained;

(iii) the expenses proved to the satisfaction of the board to have been incurred by the company on research and development for the period including the amount of the levy paid by it to the National Science Technology Fund.

(j) such other deduction as may be prescribed by the Minister by any rule.

...

Section 27. Deductions not allowed.

Notwithstanding any other provision of this Act, no deduction shall be allowed for the purpose of ascertaining the profits of any company in respect of-

(a) capital repaid or withdrawn and an expenditure of a capital nature;

(b) any sum recoverable under an insurance or contract of indemnity;

(c) taxes on income or profits levied in Nigeria or elsewhere, other than tax levied outside Nigeria on profits which are also chargeable to tax in Nigeria where relief for the double taxation of those profits may not be given under any other provision of this Act;

(d) any payment to a savings, widows and orphans, pension, provident or other retirement benefit fund, society or scheme except as permitted by paragraph (e) of section 24 of this Act;

(e) the depreciation of any asset;

(f) any sum reserved out of profits, except as permitted by paragraph (d) of section 24 or 25 of this Act or as may be estimated to the satisfaction of the Board, pending the determination of the amount, to represent the amount of any expense deductible under the provisions of that section the liability for which the income is being ascertained;

(g) any expense of any description incurred within or outside Nigeria for the purpose of earning management fee unless prior approval of a agreement giving rise to such management fee has been obtained from the Minister;

- (h) any expense whatever incurred within or outside Nigeria as management fee under any agreement entered into after the commencement of this section except to the extent as the Minister may allow;
- (i) any expense of description incurred outside Nigeria for and on behalf of any company except of a nature and to the extent as the Board may consider allowable.

The ICPC Act as well as other legislation unequivocally criminalize bribery and other corruption offences. It is therefore not possible to claim tax deductibility for acts that are prohibited under the law. Sections 8-10 of the ICPC Act reads as follows:

Offences and Penalties:

(1) Any person who corruptly

(a) ask for, receives or obtains any property or benefit of any kind for himself or for any other person; or

(b) agree or attempts to receive or obtain any property or

(c) benefit of any kind for himself or for any other person, on account of

(i) anything already done or omitted to be done, or for any favour or disfavour already shown to any person by himself in the discharge of his official duties or in relation to any matter connected with the functions, affairs or business of a Government department, or corporate body or other organisation or institution in which he is serving as an official; or

(ii) anything to be afterwards done or omitted to be done or favour or disfavour to be afterwards shown to any person, by himself in the discharge of his official duties or in relation to any such matter as aforesaid, is guilty of an offence of Official corruption and is liable to imprisonment for seven (7) years.

(2) If in any proceedings for an offence under this section it is proved that any property or benefit of any kind, or any promise thereof, was received by a public officer, or by some other person at the instance of a public officer from a person

(a) holding or seeking to obtain a contract, license, permit, employment or anything whatsoever from a Government department, public body or other organisation or institution in which that public officer is serving as such;

(b) concerned, or likely to be concerned, in any proceeding or business transacted, pending or likely to be transacted before or by that public officer or a government department, public body or other organisation or institution in which that public officer is serving as such; and

(c) acting on behalf of or related to such a person; the property, benefit or promise shall, unless the contrary is proved, be presumed to have been received corruptly on account of such a past or future act, omission, favour or disfavour as is mentioned in subsection (1)(a) or (b).

(3) In any proceedings for an offence to which subsection (1)(b) is relevant, it shall not be a defence to show that the accused

(a) did not subsequently do, make or show the act, omission, favour or disfavour in question; or

(b) never intend to do, make or show the act, omission, favour or disfavour.

(4) Without prejudice to subsection (3), where a Police Officer or other public officer whose duties include the prosecution, detection or punishment of offenders is charged with an offence under this section arising from

- (a) the arrest, detention or prosecution of any person for an alleged offence; or
- (b) an omission to arrest, detain or prosecute any person for an alleged offence; or
- (c) the investigation of an alleged offence, it shall not be necessary to prove that the accused believed that the offence mentioned in paragraph (a) (b) or (c), or any other offence had been committed.

9.

(1) Any person who corruptly

(a) gives, confers or procures any property or benefit of any kind to, on or for a public officer or to, on or for any other person; or

(b) promises or offers to give, confers, procure or attempt to procure any property or benefit of any kind to, on or for a public officer or any other person, on account of any such act, omission, favour or disfavour or to be done or shown by the public officer is guilty of an offence of official corruption and shall on conviction be liable to imprisonment for seven (7) years.

(2) If in any proceedings for an offence under this section it is proved that any Property or benefit of any kind, or any promise thereof, was given to a public officer or some other person at the instance of a public officer, by a person

(a) holding or seeking to obtain a contract, licence, permit, employment or anything whatsoever from a Government department, public body or other organisation or institution in which that public officer is serving as such, or

(b) concerned or likely to be concerned in any proceeding or business transacted, pending or likely to be transacted before or by that public officer or a government department, public body or other organisation or institution in which that public officer is serving as such, or

(c) acting on behalf of or relative to such a person, the property, benefit or promise shall, unless the contrary is proved, be deemed to have been given corruptly on account of such a past or future act, omission, favour or disfavour as is mentioned in section 9(1) and (2).

10. Any person who

(a) ask for, receives or obtains property or benefits of any kind for himself or any other person; or agrees or attempts to receive or obtain any property or benefit of any kind for himself or any other person; on account of:

(i) anything already done or omitted to be done, or any favour or disfavour already shown to any person, by a public officer in the discharge of his official duties or in relation to any matter connected with the functions, affairs or business of a Government department, public body or other organisation or institution in which the public officer is serving as such; or

(ii) anything to be afterwards done or omitted, or any favour or disfavour to be afterwards shown to any person, by a public officer in the discharge of his official duties or in relation to any such matter as aforesaid, is guilty of an offence of official corruption and shall on conviction be liable to imprisonment for seven (7) years.

Section 24 of the Federal Inland Revenue Services Act provides for allowable deductions on reasonable expenses but does not expressly prohibit off-the-book accounts:

The Accountant-General of the Federation shall have power to deduct at source, from the budgetary allocation, un-remitted taxes due from any ministry or government agency and shall not later than 30 days thereafter transfer such deductions to the Service.

Reasonable expenses cannot include those expenses that are already prohibited under such laws such as the ICPC ACT and the EFCC ACT among others.

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provision under review.

Tax deductibility of expenses that constitute bribes is not explicitly disallowed under the list contained in Section 27 of the Companies Income Tax Act.

Nigeria is therefore recommended to ensure that expenses that constitute bribes are specifically disallowed as tax deductions.

(d) Challenges, where applicable

There is a need to expressly state within the National Tax Policy Document that expenses related to bribery and other corruption offences are not tax deductible. In practice, such expenses will not be allowed as tax deductible expenses.

(e) Technical assistance needs

Policymaking

▪ **Legislative assistance**

Nigeria indicated that the following agencies provide support to the Federal Inland Revenue Services (FIRS):

- i. United States Office of Technical Assistance.
- ii. United States Treasury
- iii. United Nations Office on Drugs and Crimes.

Article 13. Participation of society

Paragraph 1 of article 13

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;*
- (b) Ensuring that the public has effective access to information*
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;*
- (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:*
 - (i) For respect of the rights or reputations of others;*
 - (ii) For the protection of national security or ordre public or of public health or morals.*

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

1. The Nigerian Extractive Industries Transparency Initiative Act 2007, the Public Procurement Act 2007 and the Fiscal Responsibility Act 2007 all provide for the appointment of representatives of Civil Society Organizations into the Boards and Governing bodies of these agencies to ensure participation of society in these critical transparency institutions.

ICPC Act, section 6 (e) and (f) provides:

- 6. It shall be the duty of the Commission -
 - (e) to educate the public on and against bribery, corruption and related offences; and
 - (f) to enlist and foster public support in combating corruption.

2. Several anti-corruption agencies work with CSO coalitions in executing their mandates.

3. A national Whistle-blower Reward Policy was adopted in December 2016.

4. Integrity Curriculum developed for Basic Education grades 1-9 and General Studies for Tertiary Institutions by ICPC in collaboration with the National Education Research Council.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. A representative of CSOs active in the extractive sector has always been a member of the National

Stakeholders Working Group of NEITI since the agency was established and enjoys the same rights as other members of the Board.

2. A representative of Civil Society is also on the Board of the Fiscal Responsibility Commission.
3. Several anti-corruption Agencies the ICPC, the EFCC, Bureau of Public Procurement and NEITI all have CSO coalitions which work with them by inputting into their processes and assisting in public enlightenment.
 - The ICPC -National Anti-Corruption Coalition (NACC, NAVC)
 - The EFCC -Anti-Corruption Revolution (ANCOR)
4. The ICPC and EFCC both have Integrity programs in secondary and tertiary institutions targeted at the youth.
5. The EFCC has a program targeted at religious Leaders.
6. Access to Information to the general public has been improved with the enactment of the Freedom of Information Law.
7. The National Judicial Council (NJC) which regulates the appointment and discipline of judicial officers has representation from the Nigerian Bar Association (NBA)
8. The Corporate Affairs Commission (CAC) has representation from NBA on the Board
9. The National Advisory Council established by SCUML has representation from professional bodies and CSOs
10. The regular Public Hearings at the National Assembly on diverse issues takes inputs from all segments of the society and ensures inclusive participation at such hearings.
11. Media forums - interactive sessions with the public by the ACAs, regular townhall meetings and village square meetings

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has implemented the provision under review.

Nigeria has successfully engaged civil society, including through their representation in the Boards of several public institutions and joined the OGP in 2016. ICPC works closely with civil society in its public education efforts (ICPC Act, section 6(e)). ICPC has on its register 357 civil society organizations (CSOs) constituting the National Anti-Corruption Coalition (NACC). EFCC and CSOs have signed several memorandums of understanding.

(c) Successes and good practices

Civil society participates in the adoption of the national budget within the National Assembly and is also consulted for the adoption of the MTEF.

Paragraph 2 of article 13

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

1. The main anti-corruption agencies (ACAs) are set up by either by the Constitution or other legislations, with appropriate structures and are therefore well known to the public.
2. The anti-corruption agencies have published information handbooks and other publications which are widely disseminated to the public.
3. The ACAs regularly carry out enlightenment programs to publicize their activities and also have websites which are regularly updated.

Section 64(1) of the Corrupt Practices and Other related offences Act 2000 and Section 39(1) of the Economic and Financial Crimes (Establishment) Act 2004 and Section 8(1) of the Public Complaints Commission Act provides for some level of protection for informants.

4. The ACAs have hotlines and email addresses and media programs
5. The Code of Conduct Bureau (CCB) has drop off boxes where complaints can be made

The websites of the relevant agencies are as follows:

Bureau of Public Procurement (BPP), WWW.BPP.GOV.NG

Code of Conduct Bureau www.ccb.gov.ng

Economic and Financial Crimes Commission (EFCC) www.efccnigeria.org

Independent Corrupt Practices and Other Related Offences Commission (ICPC) www.icpc.gov.ng

Nigerian Extractive Industries Transparency Initiative (NEITI) www.neiti.org.ng

Technical Unit on Governance and Anti-Corruption Reforms (TUGAR) www.tugar.org.ng

The relevant anti-corruption bodies in Nigeria include the Independent Corrupt Practices and other Related Offences Commission (ICPC), the Code of Conduct Bureau (CCB) and the Economic and Financial Crimes Commission (EFCC). These anti-corruption bodies receive and investigate petitions (including anonymous petitions) from the public.

Section 39 of the EFCC Establishment Act 2004 provides for protection of informants and penalties for providing false information. Section 6 (p) of the EFCC Establishment Act, 2004 states that the EFCC shall be responsible for carrying out and sustaining rigorous public enlightenment campaign against economic and financial crimes within and outside Nigeria;

Section 6 (f) of the Corrupt Practices and other related Offences Act, 2000 states that it shall be the duty of the ICPC to enlist and foster public support in combating corruption.

Additionally, Section 27(1) of the Corrupt Practices and other related Offences Act, 2000 states that every report relating to the Commission of an offence under this Act may be made orally or in writing to an officer of the Commission, and if made orally shall be reduced into writing and read over to the person making the report; and every such report, shall be signed or thumb-printed by the person making it; and where the person making the report is an illiterate the officer obtaining the report shall endorse that fact on the report together with a statement to the effect that it was read over and interpreted to the maker.

To protect the reporting party, Section 27 (4) of the Corrupt Practices and other related Offences Act, 2000 stipulates that a report made under subsection (1) of this section shall not be disclosed by any person to any person other than officers of the Commission or the Attorney-General until the accused person has been arrested

or charged to court for an offence under this Act or any other written law arising from such report.

Section 3(d) of the Code of Conduct Bureau and Tribunal Act states that the function of the Bureau shall be to receive complaints about non-compliance with or breach of this Act

Section 16 of the Code of Conduct Bureau and Tribunal Act states that any complaint that a public officer has committed a breach of or has not complied with the provisions of this Act shall be made to the Bureau.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The ICPC has the following policies and policies for engagement with the public:

1. Commission Communication Strategy

The communication strategy of the Commission is all encompassing, It runs a Television programme weekly on NTA Network Service, participates in radio programmes and places jingles on radio stations across the country, holds interactive sessions with the media as well as engages the general public through its new media platforms.

2. Engagement with CSOs

The Commission has on its register 357 Civil Society Organisations constituting its National Anti- Corruption Coalition (NACC) for the purpose of mass mobilization of Nigerians on and against corruption as provided in Section 6 (e) & (f)

3. Policy of ICPC on Public Interface/Communication Strategy

The Commission reaches out to the public by issuing out news releases on its activities through conventional media as well as new media. All activities of the Commission are disclosed to the general public with the exception of Investigation activities and identity of petitioners by the Chairman or the spokesperson from time to time, and as the need arises.

4. Internet and New Social Media Platforms

(i) Website address of the Commission: www.icpc.gov.ng <http://www.icpc.gov.ng>

(ii) Number of hits in the last one year: 192,998 and 2,118,024 as total number of visits over the years.

(iii) E-mail address of the Commission and number of mails received in the last one year:

info@icpc.gov.ng <mailto:info@icpc.gov.ng>, 5944 Mails.

(iv) Social Network: Facebook: ICPC Nigeria (47,204 likes); Twitter: ICPC Nigeria

@icpc_pe (2,141 followers); Instagram: ICPC Nigeria (371 followers); YouTube: ICPC

Nigeria; ICPC Mobile App: Wahala Dey (Android, BBM, Microsoft and IOS platforms);

(v) Toll-free lines: MTN: 0803-123-0280, 0803-123-0281, 0803-123-0282, GLO: 0705-699-0190, 0705-699-0191 and 44 calls received in the last one year.

(vi) Newsletters of the Commission: ICPC News, ACTU Newsletter, Coalition Digest, NAVC Newsletter (www.icpc.gov.ng/downloads <http://www.icpc.gov.ng/downloads>)

(vii) A Frequently Asked Questions (FAQ) booklet giving information to members of the public on the dimensions of the activities of the Commission.

NEITI, in addition to the CSO representative on its board, has a CSO coalition with whom it has signed an MOU.

The BPP has a 138 member CSO coalition which works with it in the areas of procurement monitoring and awareness raising.

CCB statistics on their various interactive platforms:

	Visitors to the CCB website	Hits	Followers on Facebook and Twitter
2014	1000	-	
2015	5,286	90,779	1,898

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provision under review.

Each anti-corruption agency has created various public channels of communication including hotlines and websites. However, in view of the Nigerian anti-corruption system's complexity with its large number of actors, the reviewing experts noted a potential difficulty for the public to determine to which institution it may address particular concerns or complaints.

As indicated for Article 6 (1), it is therefore recommended that Nigeria endeavour to ensure clarification and complementarity of functions among anti-corruption bodies in order to avoid duplication and facilitate reporting by citizens.

(d) Challenges, where applicable

Enactment of the Whistle-Blower and Witness Protection Law which is under consideration at the National Assembly, within the next year.

(e) Technical assistance needs

- **Capacity-building**
- **Institution-building**
- **Policymaking**
- **Legislative assistance**
- **Research/data gathering and analysis**

Nigeria indicated that the following institutions were providing technical assistance:

1. UNDP
2. UNODC/EU 10TH EDF
3. DFID/J4A
4. The World Bank

Article 14. Measures to prevent money-laundering

Subparagraph 1 (a) of article 14

1. Each State Party shall:

(a) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Sections 1 to 5 Money Laundering (Prohibition) Act 2011 as amended in 2012 read as follows:

PART I- PROHIBITION OF MONEY LAUNDERING

1.

No person or body corporate shall, except in a transaction through a Financial Institution, make or accept cash payment of a sum exceeding

- (a) N5,000,000.00 or its equivalent, in the case of an individual; or
- (b) N10,000,000.00 or its equivalent in the case of a body corporate.

2.

(1) A transfer to or from a foreign country of funds or securities by a person or body corporate including a Money Service Business of a sum exceeding US\$10,000 or its equivalent shall be reported to the Central Bank of Nigeria, Securities and Exchange Commission or the Commission in writing within 7 days from the date of the transaction.

(2) A report made under subsection (1) of this section shall indicate the nature and amount of the transfer, the names and addresses of the sender and the receiver of the funds or securities.

(3) Transportation of cash or negotiable instruments in excess of US\$10,000 or its equivalent by individuals in or out of the country shall be declared to the Nigerian Customs Service.

(4) The Nigeria Customs Service shall report any declaration made pursuant to subsection (3) of this section to the Central Bank and the Commission.

(5) Any person who falsely declares or fails to make a declaration to the Nigerian Customs Service pursuant to Section 12 of the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act, Cap. F34, LFN, 2004 is guilty of an offence and shall be liable on conviction to forfeit the undeclared funds or negotiable instrument or to imprisonment of not less than 2 years or to both.

3.

(1) A Financial Institution and a Designated Non-Financial Institution shall

(a) identify a customer, whether permanent or occasional, a natural or legal person and any other form of legal arrangements, using identification documents as may be prescribed in any relevant regulation;

(b) verify the identity of that customer using reliable, independent source documents data or information; and

(c) identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the Financial Institution or the Designated Non-Financial Institution is satisfied that it knows who the beneficial owner is.

(2) Financial Institutions and Designated Non-Financial Institutions shall undertake customer due diligence measures when:

(a) establishing business relationships;

(b) carrying out occasional transactions above the applicable designated threshold prescribed by relevant regulations, including transactions carried out in a single operation or in several operations that appear to be linked;

(c) carrying out occasional transactions that are wire transfers;

(d) there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds; or

(e) the Financial Institution or Designated Non-Financial Institution has doubts about the veracity or adequacy of previously obtained customer identification data.

(3) Financial Institutions or Designated Non-Financial Institutions shall

(a) conduct on-going due diligent on a business relationship;

(b) scrutinise transactions undertaken during the course of the relationship to ensure that the transactions are consistent with the institution's knowledge of the customer, their business and risk profile and where necessary, the source of funds; and

(c) ensure that documents, data or information collected under the customer due diligence process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships.

(4) Financial Institutions and Designated Non-Financial Institutions shall take enhanced measures to manage and mitigate the risks and

(a) where higher risks are identified, take enhanced measures to manage and mitigate the risks;

(b) where lower risks are identified, take simplified measures to manage and mitigate the risks, provided that simplified customer due diligent measures are not permitted whenever there is suspicion of money laundering or terrorist financing;

(c) in the case of cross-border correspondent banking and other similar relationships and in addition to carrying out customer due diligence measures

(i) gather sufficient information about a correspondent institution;

(ii) assess the correspondent institution's anti-money laundering and combating the

financing of terrorism controls;

(iii) document respective responsibilities of each institution in this regard; and

(iv) obtain management approval before establishing new correspondent relationships.

(5) A casual customer shall comply with the provisions of subsection (2) of this section for any number or manner of transactions including wire transfer involving a sum exceeding US\$1,000 or its equivalent if the total amount is known at the commencement of the transaction or as soon as it is known to exceed the sum of US\$1,000 or its equivalent.

(6) Where a Financial Institution or Designated Non-Financial Institution suspects or has reasonable grounds to suspect that the amount involved in a transaction is the proceeds of a crime or an illegal act it shall require identification of the customer notwithstanding that the amount involved in the transaction is less than US\$1,000 or its equivalent.

(7) Where the customer is politically exposed persons, the Financial Institution or Designated Non-Financial Institution shall in addition to the requirements of subsection (1) and (2) of this section

(a) put in place appropriate risk management systems; and

(b) obtain senior management approval before establishing and during any business relationship with the politically exposed persons.

4.

(1) A casino shall

(a) verify the identity of any of its customers carrying out financial transactions by requiring its customer to present a valid original document bearing his name and address;

(b) record all transactions under this section in chronological order including

(i) the nature and amount involved in each transaction; and

(ii) each customer's surname, forenames, and address, in a register forwarded to the Ministry for that purpose.

(2) A register kept under subsection (1) (b) of this section shall be preserved for at least 5 years after the last transaction recorded in the register.

5.

(1) A Designated Non-Financial Institution whose business involves cash transaction shall:

(a) in the case of

(i) a new business, before commencement of the business;

(ii) existing business, within 3 months from the commencement of this Act, submit to the Ministry a declaration of its activities;

(b) prior to any transaction involving a sum exceeding US\$1,000 or its equivalent, identify the customer by requiring him to fill a standard data form and present his international passport, driving license, national identity card or such other document bearing his photograph as may be prescribed by the Ministry;

(c) record all transactions under this section in chronological order, indicating each customer's surname, forenames and address in a register numbered and forwarded to the

Ministry.

(2) The Ministry shall forward the information received pursuant to subsection (1) of this section to the Commission within 7 days of its receipt.

(3) A register kept under subsection (1) of this Section shall be preserved for at least 5 years after the last transaction recorded in the register.

(4) The Minister may make regulations for guiding the operations of Designated Non-Financial Institutions under this section.

(5) Notwithstanding the provisions of subsection (2) of this section, the Commission shall have powers to demand and receive reports directly from Designated Non-Financial Institutions.

(6) A Designated Non-Financial Institution that fails to comply with the requirements of customer identification and the submission of returns on such transaction as specified in this Act within 7 days from the date of the transaction commits an offence and is liable to

(a) a fine of N250,000 for each day during which the offence continues; and

(b) suspension, revocation or withdrawal of license by the appropriate licensing authority as the circumstances may demand

EFCC Act further provides in Section 7 (1) as follows:

The Commission has power to:

(a) cause investigations to be conducted as to whether any person, corporate body or organization has committed any offence under this Act or other law relating to economic and financial crimes

(b) cause investigations to be conducted into the properties of any person if it appears to the commission that the person's lifestyle and extent of the properties are not justified by his source of income;

Section 24 Independent Corrupt Practices and Other Related Offences Act 2000 provides:

Any person who, whether within or outside Nigeria, whether directly or indirectly, whether on behalf of himself or on behalf of any other person, enters into, or causes to be entered into, any dealing in relation to any property, or otherwise uses or causes to be used, or holds, receives, or conceals any property or any part thereof which was the subject-matter of an offence under sections 10, 11, 13, 14, 15, 16) 17, 18, 19, and 20 shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding five (5) years.

Section 44 (1) and (2) of the Act further provides

(1) Notwithstanding any written law or rule of law to the contrary, the Chairman of the Commission, if he has reasonable grounds to believe, arising from investigation carried out by an officer of the Commission, that any offence under this Act has been committed, may by written notice -

(a) require any person suspected of having committed such offence to furnish a statement in writing, on oath or affirmation and

(i) identify every property, whether movable or immovable, whether within or outside Nigeria, belonging to him or in his possession, or in which he has any interest, whether legal or equitable, and specifying the date on which each of the properties so identified was acquired and the manner in which it

was acquired, whether by way of any dealing, bequest, devise, inheritance, or any other manner;

(ii) identify every property sent out of Nigeria by him during such period as may be specified in the notice;

(iii) set out the estimated value and location of each of the properties identified under sub-paragraphs (i) and (ii), and if any of such properties cannot be located, the reason therefore;

(iv) state in respect of each of the properties identified under sub-paragraphs (i) and (ii) whether the property is held by him or by any other person on his behalf or whether it has diminished in value since its acquisition by him or and whether it has been commingled with other property which cannot be separated or divided without difficulty;

(v) set out all other information relating to his properties, business, travel or other activities as may be specified in the notice; and

(vi) set out all his sources of income, including earnings and gifts or other assets for such period; and

(b) require any relative or associate of the person referred to in sub-section (1) (a), or any other person whom the Chairman of the Commission has reasonable grounds to believe is able to assist in the investigation, to furnish a statement in writing on oath or affirmation and;

(i) identify every property, whether movable or immovable, whether within or outside Nigeria, belonging to him or in his possession, or in which such person has any interest, whether legal or equitable, and specifying the date on which each of the properties identified was acquired and the manner in which it was acquired, whether by way of any dealing, bequest, devise, inheritance, or any other manner;

(ii) identify every property sent out of Nigeria by him during such period as may be specified in the notice;

(iii) set out the estimated value and location of each of the properties identified under sub-paragraphs (i) and (ii) and if any of such properties cannot be located, the reason therefore;

(iv) state in respect of each of the properties identified under sub-paragraphs (i) and (ii) whether the property is held by him or by any other person on his behalf or whether it has been transferred, sold, or kept with any person or whether it has diminished in value since its acquisition by him or whether it has been commingled with other property which cannot be separated or divided without difficulty;

(v) set out all other information relating to each of the properties identified under sub-paragraphs (i) and (ii), and the business, travel or other activities of such person; and

(vi) set out all the sources of income, earnings, gifts or other assets for such period; and

(c) require any officer of any bank or financial institution, or any person who is in any manner or to any extent responsible for the management and control of

the affairs of any bank or any financial institution to furnish copies of any or all accounts, documents and records relating to any person to whom a notice may be issued under paragraphs (a) or (b).

(2) Where the Chairman of the Commission has reasonable grounds to believe that any Public Officer who has been served with the written notice referred to in sub-section (1) owns, possesses, controls or holds any interest in any property which is excessive, having regard to his present or past emoluments and all other relevant circumstances, the Chairman may by written direction require him to furnish a statement on oath or affirmation explaining how he was able to own, possess, control or hold such excess and if he fails to explain satisfactorily such excess, he shall be presumed to have used his office to corruptly enrich or gratify himself and charged accordingly.

The Financial Intelligence Unit (NFIU) is set up under Section 1(1)(c) of the Economic and Financial Crimes (Establishment) Act which reads:

The Commission is the designated Financial Intelligence Unit (FIU) in Nigeria, which is charged with the responsibility of coordinating the various institutions involved in the fight against money-laundering and enforcement of all laws dealing with economic and financial crimes in Nigeria.

In addition, there is the Special Control Unit Against Money Laundering (SCUML) which regulates and monitors Designated Non-Financial Businesses (DNFBs). The Central Bank of Nigeria monitors and regulates the Financial sector and issues regulatory guidelines.

Overview of anti-money laundering supervision within the designated non-financial institutions (DNFIs) in Nigeria

The Special Control Unit against Money Laundering (SCUML) was established in 2005 as part of Nigerian Government's determination to combat the scourge of Laundering and Financing of Terrorism within the DNFIs in Nigeria. The Unit is charged under the authority of the Honourable Minister of Trade and Industry in charge of Commerce, with the responsibility to regulate, monitor and supervise Designated Non-Financial Institutions (DNFIs).¹⁰

The Money Laundering (Prohibition) Act, 2011 (as amended) identified DNFIs as; dealers in Jewellery, cars and luxury goods, chartered accountants, audit firms, tax consultants, clearing and settlement companies, legal practitioners, hotels, casinos, supermarkets. Subsequently, additional sectors have been added such as, Non-Profit organizations, construction companies, large scale farmers, etc.

Legal and Policy Framework

1. The Enactment of Money Laundering (Prohibition) Act, 2011 (As amended) – which domesticated the Financial Action Task Force (FATF) 40 Recommendations.
2. Gazette of SCUML Regulation for DNFIs, 2013 – a guide for DNFIs in complying with instant Anti-Money Laundering Laws
3. Central Bank of Nigeria Circular No. FPR/CIR/GEN/Vol.1/028 – mandating DNFIs to register with SCUML for AML regulation purposes.

Institutional Framework

¹⁰ Under the Money Laundering (Prohibition) Act 2011 (as amended), Designated Non-Financial Businesses and Professions (DNFBPs) are referred to as Designated Non-Financial Institutions (DNFIs)

1. Establishment of the Special Control Unit Against Money Laundering (SCUML) with the mandate to regulate, monitor and supervise the activities DNFBPs on Anti-Money Laundering (AML) regime in Nigeria.
2. Establishment of National Advisory Council on DNFBPs to foster public private partnership (PPP) in the fight against money laundering. Membership of the Council includes: the Nigerian Bar Association (NBA), the Institute of Chartered Accountants of Nigeria (ICAN), the Chartered Institute of Taxation of Nigeria (CITN), the Nigerian Institutions of Estate Surveyor and Valuers (NIESV), the Association of Casino Owners of Nigeria (ACON) and other professional s bodies and business associations.

Role of SCUML within the Nigerian AML And Anti-Corruption Framework

Without prejudice to FATF forty recommendations, which emphasized that countries should provide for adequate and effective supervision of non-financial businesses, the peculiarities of Nigerian economy, such as considerable exposure to cash transactions and massive proliferation of the informal sector, necessitated the inclusion of the DNFI sector in the AML/CFT regime. It is in this respect that SCUML, through actualization of its mandates facilitates the following;

1. Awareness of AML/CFT issues in Nigeria;
2. Timely reporting on currency, cash and suspicious transaction by DNFBs;
3. Robust transaction database to support criminal investigation;
4. Enforcement of the Provision of the Provisions of Money laundering (Prohibition) Act 2011, as amended;
5. AML/CFT policy design and implementation

In essence, SCUML serves as AML/CFT prevention machinery, by ensuring a balanced and comprehensive supervision of the DNFI sector in Nigeria.

Strategies, Initiatives and Success

In its approach to prevention of Money Laundering within the DNFBPs in Nigeria, SCUML has developed a multi-dimensional strategic focus which includes; Sensitization, Public enlightenment/Training, Engagement with Self-Regulatory Organizations (SROs) and Collaboration with LEAs and other relevant Government agencies.

Sensitization, Public Enlightenment and Training

The novelty of Anti-Money Laundering supervision within the Non-Financial sector in Nigeria necessitates an extensive and carefully targeted awareness creation and public enlightenment programme. To achieve this, SCUML has continuously developed and conducted sensitization seminars at sector, state and regional levels. Sensitization and training exercises have been conducted for the designated non – financial sectors such as the Non-Profit Organizations, Hotel and Casino, Real Estate, Car Dealership and Professionals. At regional levels, SCUML has been holding sensitization seminars in all the six geo-political zones of Nigeria. In a similar vein SCUML has also posted advertisement in newspapers, television and on social media through the Economic and Financial Crimes Commission (EFCC). SCUML offices are located in all the six geo-political zones and sensitization sessions are held every month of the year for newly registered DNFBs.

Engagement with Self-Regulatory Organization (SROs) and Business Associations

To achieve a balanced and comprehensive supervision of the DNFI sector, SCUML has been engaging and collaborating with relevant Self-Regulatory Organizations (SROs) such as the Nigerian Bar Association, Institute of Chartered Accountants of Nigeria, Association of National Accountants of Nigeria, Chartered Institute of Taxation of Nigeria, Hotel Owners Association of Nigeria, NGO networks and coalitions etc., The engagement with SROs has been mainly focused on training and compliance education. SCUML in the recent past has helped to develop the DNFI Advisory Council which comprise of representatives of the relevant professional bodies in Nigeria. SCUML also looks forward to engaging the SROs in respect of compliance and enforcement in the relevant sectors.

Engagement and Collaboration with Relevant Government Agencies

To achieve its mandate within the overall Anti-Money Laundering and Anti-Corruption agenda of Nigeria, SCUML has been collaborating with relevant government agencies such as the Economic and Financial Crimes Commission (EFCC), Central Bank of Nigeria (CBN), Federal Inland Revenue Service (FIRS), and Code of Conduct Bureau etc. A particular success story of this collaboration is the CBN circular to all commercial banks mandating DNFI to register with SCUML as precondition for opening bank account and part of Customer Due Diligence. SCUML is currently negotiating signing of memorandum of understanding (MOUs) with several other government agencies, which will cover information sharing, sensitization and public enlightenment, compliance and enforcement .

Designation/classification of additional businesses and professions as DNFBPs

For purpose of AML regulations, the designation of a DNFI is guided by National/Industry AML Risk Assessment Reports revealing that such businesses and professions are vulnerable to money laundering risks. Consequent upon the conduct of the risk and vulnerability assessment of Nigerian non-financial sector and reliable AML/CFT typology studies, additional sectors have been added such as, Non-Profit organizations, construction companies, entities engaged in large scale and mechanized farming.

Maintenance of a database on DNFI's Profile and their financial transactions

SCUML maintains a database of DNFI's Profile and reportable transactions. This database has helped to provide technical and operational support to criminal investigations and serves as a viable input into developing strategic policy options in the prevention of money laundering.

Customer/client Identification and Due Diligence

SCUML compliance enforcement strategy has placed emphasis on proper and adequate internal policies and procedures for conducting customer identification and due diligence. As a measure to prevent money laundering, DNFI's are mandated to obtain and verify the identity of clients, including where necessary, information on their business, profession and source of funds and wealth.

Conduct AML supervision on risk based approach

This includes on-site and off-site inspection/examination of DNFI's to ascertain level of AML compliance. Most importantly, where gaps are identified from onsite or offsite inspection, measures are taken to remedy the gaps and such remedies are used to guide policy development before the gaps becomes a systemic issue.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Pursuant to powers given under their laws, the relevant institutions have issued and are enforcing regulations aimed at preventing Money Laundering as follows:

1. Central Bank of Nigeria (CBN) AML Regulation 2013
2. Securities and Exchange Commission (SEC) Regulations
3. National Insurance Commission (NAICOM) Regulations
4. Corporate Affairs Commission Regulations 2012
5. The NFIU Regulation of 2015 which defines the autonomy of the NFIU as it relates to the EFCC
6. Sec Regulation of AML/CFT 2013
7. NAICOM AML Regulation of 2013
8. Nigeria signed on to the EITI process and enacted the NEITI Act 2007. The EITI requirements currently include working to ensure disclosure of Beneficial Ownership information. NEITI is working to comply with these requirements using a phased approach which include developing a roadmap for full implementation by 2020 although implementation is to begin in January 2017. The beneficial ownership roadmap is available on the NEITI website.

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has partially implemented the provisions under review.

Nigeria has established a domestic regulatory and supervisory regime for a wide range of financial institutions (FIs) and designated non-financial institutions (DNFIs) (MLPA, sects. 3–5). The DNFIs are defined in a non-exhaustive list in Section 25 of the MLPA.

Further, the Special Control Unit against Money-Laundering (SCUML) was established to analyse and disseminate information relating to designated non-financial businesses and professionals (DNFBPs). SCUML works in close cooperation with the EFCC and the NFIU, but reports to the Federal Ministry of Industry, Trade and Investment. All suspicious transaction reports (STRs) are to be filed with the NFIU which is required to analyse the STRs; DNFIs are to report currency transaction reports to SCUML; and DNFIs are to report cash transactions exceeding \$1,000 to SCUML.

Nigeria adopts a risk-based approach, and MLPA requires FIs and DNFIs to conduct customer and beneficial owner identification (sect. 3), keep records of customers and transactions for at least five years (sect. 7) and report STRs to NFIU. At the time of the country visit, Nigeria was contemplating establishing a beneficial ownership registry.

In order to prevent money-laundering, the relevant institutions have issued regulations, including the Central Bank of Nigeria (CBN) AML Regulation 2013, the Securities and Exchange Commission (SEC) Regulations, National Insurance Commission (NAICOM) Regulations 4, and the Corporate Affairs Commission Regulations 2012.

At the time of the country visit, the Money Laundering (Prevention and Prohibition) Bill 2017 (AML Bill) foresaw the enhancement of Nigeria's anti-money-laundering measures, such as CDD, record-keeping and the definition of beneficial owners.

It is recommended that Nigeria proceed with the establishment of a beneficial ownership register and that consideration be given housing it within one of the many already existing institutions.

It is recommended that Nigeria ensure that the lists of DFNIs and DNFBPs are updated regularly or consider including a catch-all clause in order to ensure that the list remains relevant.

Subparagraph 1 (b) of article 14

1. Each State Party shall: ...

(b) Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Section 1 (2)(c) of the Economic and Financial Commission (Establishment) Act 2004 which reads as follows:

The commission is the designated financial intelligence unit (FIU) in Nigeria, which is charged with the responsibility of coordinating the various institutions involved in the fight against money laundering and enforcement of all laws dealing with economic and financial crimes in Nigeria.

In addition, there is a bill, Nigerian Financial Intelligence Centre Bill, which is before the National Assembly to ensure the autonomy of the Financial Intelligence Unit.

The Nigerian Financial Intelligence Unit (NFIU) located within the EFCC is fully functional with a full complement of qualified staff.

NFIU exchanges information both locally and internationally, is a member of the EGMONT group and has signed MOUs with about 34 countries.

Further there is a Special Control Unit Against Money Laundering (SCUML), which has the mandate of analysing and disseminating where appropriate, information relating to Designated Non-Financial Businesses and Professions (DNFBPs).

There is also an Inter-Ministerial Committee made up of all Anti-Money Laundering Stakeholders for the Implementation of Recommendation 2 of the FATF.

An Authorised Officers Forum has also been established to ensure collaboration and sharing of information.

In February 2014, the Bank Verification Number (BVN) policy was initiated by the Central Bank of Nigeria in collaboration with the Bankers Committee. The BVN policy developed a centralised system primarily to enhance the effectiveness of KYC principles and promote safe and reliable payment system. One of the outcomes of the policy was the provision of a unique identification number (BVN) to every account holder in the deposit money banks of Nigeria. The individual with a BVN has information on bio data, address, biometrics, identification document, etc captured in a centralised database. This database is accessible to banks and to law enforcement

agencies. The unique identification number (BVN) is linked to every other account owned by a specific individual domiciled in every deposit money bank in Nigeria.

Currently, the BVN policy is being extended to other financial institutions and there are transactions, such as wire transfers and money or value transfer service which cannot be conducted without provision of the BVN.

This policy has played an important role in addressing to some extent, beneficial ownership of accounts owned by legal persons.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. Establishment of the NFIU
2. Establishment of the Special Control Unit against Money-Laundering to cover DNFPBs
3. Amendment of the Money-Laundering (Prohibition) Act to strengthen the processes
4. Adoption of a national anti-money laundering /counter terrorism (AML/CFT implementation strategy)
5. Membership of the Egmont Group
6. Setting up of the presidential committee on FATF to conduct a national AML/CFT risk assessment and completing the NRA
7. NFIU has signed up to 40 MOUs with local and international agencies and disseminates intelligence information as appropriate, to Law Enforcement Agencies.
8. Inter-Ministerial Committee made up of all Anti-Money Laundering Stakeholders Implementation of Recommendation 2 of the FATF.
9. Authorised Officers Forum for sharing of information and collaboration

Statistical Reports (STR, CTR, ETC) are contained in the NFIU Activity Report.

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has implemented the provisions under review.

The NFIU was previously established through Sect 1(2)(c) of the Economic and Financial Crimes Commission (EFCC) Act. The Nigeria Financial Intelligence Unit Act 2018 which establishes the NFIU as an independent entity has been enacted.

NFIU is a member of the Egmont Group and has signed about 40 memorandums of understanding with local and international agencies to exchange and disseminate intelligence information as appropriate. In addition, the Inter-Ministerial Committee, which includes anti-money-laundering stakeholders, is in place at the national level for cooperation and information exchange among Nigerian ministries, departments and agencies.

Paragraph 2 of article 14

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. Section 2 (3) and (5) of the Money Laundering (Prohibition) Act 2011 as amended have elaborated provisions on the issue (please see earlier excerpt).
2. The Central Bank of Nigeria (CBN) Anti-Money Laundering Regulations 2013 provides compliance guidelines for financial institutions under the regulatory purview of the CBN on AML and Terrorist Financing issues.

Section 12 of the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act, Cap F.34, LFN, 2004 and Section 2 of the Money Laundering (Prohibition) Act, 2011 (as amended) cover measures to detect and monitor movement of cash and negotiable instruments across the borders of Nigeria.

Nigeria has a currency declaration regime in place at the exit/entry borders of the country. The Nigeria Customs Service (NCS) is the agency empowered by law to implement currency declaration at the ports of exit/entry. Nigeria operates both a declaration and disclosure system of currency declaration to check the movement of cash and negotiable instruments through its borders. Every traveller leaving or entering Nigeria with USD10,000 cash (or in negotiable instruments) or its equivalent and above is bound by law to declare such using the Currency Declaration form. The NCS officials could also conduct profiling of travellers and request for a disclosure by any selected traveller.

Where an individual makes a false declaration or is found with an undeclared sum of USD10,000 cash (or in negotiable instruments) or its equivalent and above, the individual commits an offence. Penalty for this offence is forfeiture of 100% of the total cash or negotiable instruments or a prison term of not less than 2 years or both.

Reports collated by the NCS on declaration made by travellers are uploaded on a secure database which is accessed by the Nigerian Financial Intelligence Unit (NFIU).

The NCS Commands which are located at remote land borders collate the reports on currency declaration and send hard/ soft copy reports to the NFIU on a monthly basis.

The Central Bank of Nigeria in collaboration with the NFIU supervise cash evacuation and the CBN is solely responsible for approving evacuation of cash from the country, after the requesting bank must have met all pre-conditions.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. The Nigerian Customs Service (NCS) requires all persons travelling in and out of Nigeria to declare all cash and other negotiable instruments in their possession above the sum of \$10,000 in a Currency Declaration

Form (CDF).

2. A Presidential Task Force on bulk cash cross border movement made up of operatives from EFCC, Department of State Security and Nigeria Custom Service has been established to monitor cross border cash movement and enforce compliance with regulations. For information and statistics on regional and international cooperation on money laundering issues, see pages 18-27 of the NFIU ACTIVITY REPORT 2015.
3. Between October 2015 and November 2016, the Task Force recovered about USD 10 million, in forfeited funds from breach of the regulations. In addition, several cases of violation of the regulations are currently being prosecuted in court. FRN vs. Rowland Ojukwu and 1 Or (February 2016).

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has implemented the provisions under review.

Nigeria requires all individuals travelling in and out of Nigeria with cash or negotiable instruments above \$10,000 to declare to the Nigerian Customs Service (MLPA, sect. 2(3)).

Paragraph 3 of article 14

3. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:

- (a) To include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;*
- (b) To maintain such information throughout the payment chain; and*
- (c) To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.*

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. Section 2 and 3 Money Laundering (Prohibition) Act 2011 as Amended (see subparagraph 1 (a) of the present article under review)
2. Central Bank Circular on AML Regulations 2013
3. CBN Circular to All Deposit Money Banks (DMBS) on Position of Chief Compliance Officers (CCOs)
4. CBN 3 Tier KYC Policy
5. NFIU Reporting Guidelines to reporting entities

The Central Bank of Nigeria has a regulatory framework on electronic funds transfer and mobile money services in Nigeria, as follows:

Regulatory Framework for Mobile Payments Services in Nigeria

Regulation on Instant (Inter-bank) Electronic Funds Transfer Services

The framework includes KYC requirements, daily transaction amount limits and duties of reporting suspicious transactions to the NFIU.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. All financial institutions in Nigeria have requested all new and old account holders to comply with KYC and CDD requirements and have ensured compliance.
2. All banks have notices on KYC and AML requirements displayed in their operational premises.
3. Financial institutions file returns to CBN to ensure compliance. Bank Examiners from CBN monitor compliance and file Examination Reports
4. All records of transactions are maintained for a minimum of 5 years after completion of the transaction or such longer period as required.
5. Section 7(5) MLPA 2011 as amended, and Regulation 29 of CBN AML Regulation 2013.

Statistical data on STR and CTR can be found at pages 13-15 of the NFIU activity report 2015.

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has implemented this provision of the Convention.

FIs and DNFI are obliged to include and keep accurate originator information for wire transfers based on CDD and apply enhanced scrutiny (MLPA, sects. 2, 3 and 7).

Paragraph 4 of article 14

4. In establishing a domestic regulatory regime and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Nigeria uses the following regional and interregional initiatives:

- FATF 40 recommendations
- Egmont group
- GIABA

Nigeria also makes use of AU and ECOWAS Protocols.

Nigeria went through an assessment on Regulatory Frameworks by FATF through GIABA in 2013 which checked on effectiveness and institutional frameworks.

Nigeria has done a Mutual Evaluation in 2007, and it was reported in 2008. There have been follow-up reports to

address deficiencies. One of such is the assessment of Nigeria in 2013 on Regulatory Frameworks by FATF and GIABA which checked technical compliance.

Nigeria incorporates the findings of various international and regional assessments into national reform by actions of the highest AML/CFT policy making body – the Inter-Ministerial Committee on AML/CFT (IMC) which is driven by three line ministries – the Ministry of Justice, Ministry of Finance and Ministry of Interior. The IMC triggers the development of policies, relevant bills, etc which address deficiencies in the AML/CFT regime in the country.

Furthermore, H.E. the President demonstrates high level political commitment by setting up special committees with terms of reference to address priority issues emanating from the regional and international assessments on Nigeria. These committees usually have representation from every relevant law enforcement agency, administrative and regulatory authorities, etc which have a role to play in addressing the identified deficiencies. The goal is usually to drive national reforms that may involve developing and implementing a national strategy of the country on corruption, anti-money laundering and counter terrorism financing, etc.

The NFIU also plays a key role in advocacy and coordination of agencies responsible for taking steps to address deficiencies in Nigeria's AML/CFT regime. For instance, in 2016, Nigeria conducted her first National Risk Assessment (NRA) on Money Laundering and Terrorist Financing in line with Recommendation 1 of the FATF Recommendations. The NRA Forum involved 30 stakeholder agencies from the public and private sector and the NFIU served as the driver of the NRA Secretariat. Beyond the NRA report produced after a 10-month long risk assessment exercise, the NFIU also coordinated the development of the Nigeria AML/CFT National Strategy 2018-2020. This strategy will be subject to annual review by the Inter-Ministerial Committee on AML/CFT to monitor the progress made by responsible agencies on actions they are expected to take in addressing AML/CFT deficiencies in Nigeria.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. Due to improved compliance profile, Nigeria was delisted from the FATF non-compliant countries list in 2013.
2. Nigeria has been admitted to membership of Egmont group since 2007.
3. NFIU has MOUS with about 40 countries. See pages 18-27 of the NFIU activity report of 2015 for details of MOUS and cooperation with other jurisdictions.

<https://www.nfiu.gov.ng/images/Downloads/downloads/activityreport2015.pdf>

4. The NFIU has recorded improved information exchange which has helped investigations and prosecutions.
5. Nigeria is always in attendance at GIABA, Egmont group, UN and FATF plenary where the mutual evaluation reviews are conducted.

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has implemented this provision of the Convention.

Nigeria participates in regional and interregional initiatives including FATF, Egmont Group, GIABA, as well as the protocols of African Union and ECOWAS.

Paragraph 5 of article 14

5. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

1. Active participation in the ECOWAS initiative against money laundering (GIABA), which Nigeria chaired for 6 years.
2. Participation in the global initiative against money laundering (FATF).
3. Attending trainings for law enforcement agencies.
4. Nigeria is a member of West African Monetary Institute (WAMI), whose Director-General is a staff of the CBN.
5. Nigeria hosts the stakeholder forum which includes regulators, LEAs and supervisors. CBN also serves as the secretariat for inter-agency forum and stakeholder forum.
6. Nigeria has also entered into several international tax treaties as listed above.
7. Nigeria collaborates with the Interpol on issues relating to money laundering.
8. Nigeria attends meetings of Common Wealth Secretariat on International Cooperation in Criminal Matters.
9. Nigeria is a member of the West African Monetary Authority (WAMA).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

1. Interpol held a regional conference on money laundering in the West African sub region in 2013.
2. EFCC academy has been designated as the regional bureau for Interpol global program on anti-corruption, financial crime and asset recovery, covering West and Central Africa.
3. West African Police Chief's Forum (West African sub-region) meets annually in Nigeria.

The NFIU, as at December 2018, has signed a total of 37 MOUs (international) with 36 FIUs and 1 group of FIUs across the globe. The FIUs include:

AMLO Thailand

CENTIF Senegal

CAYFIN Cayman Islands

SCFM Ukraine

MOT Curacao

FIC South Africa

FIIES Zimbabwe

FSFM Russia (under review for a new MOU)

FIU Bahamas

ONPCSB Romania

FIA Bermuda

AMLSCU United Arab Emirates

AMLC Philippines

MLPD Macedonia

CENTIF Cote d'Ivoire

FIU India

FinCEN United States of America

UPWBNM Malaysia

JAFIC Japan

FIU St Marten

OPCML Moldova

FIU Barbados

CENTIF Burkina Faso

FIC Ghana

CENTIF Mali

CENTIF Niger

CENTIF Togo

CENTIF Cape Verde

FIU Sierra Leone

FIU Chad

UIAF Colombia

FIU Angola

FIC, Republic of Namibia

State Financial Intelligence Service Kyrgyz Republic

BFIU Bangladesh

Financial Analysis Unit Republic of Panama

FIUs of the Sahel comprising of Cameroun, Niger, Chad and Mali.

At a domestic level, the NFIU has signed a total of 6 MOUs with 6 organizations including the Federal Inland Revenue Service (FIRS), Code of Conduct Bureau (CCB), Central Securities Clearing System (CSCS), Nigerian Institute of Advanced Legal Studies (NIALS), the Central Bank of Nigeria (CBN) and the Administrative Staff College of Nigeria (ASCON). Two other MOUs with the Interpol and the National Identity Management Commission (NIMC) are underway.

Section 4 (1)(d) further states that the NFIU may:

“disseminate, spontaneously or upon request, information and results of its analysis to relevant competent authorities and with financial intelligence units in other countries with or without a memorandum of understanding.”

In line with Section 4(1)(d) above, the NFIU has consistently engaged in information sharing with domestic stakeholders and international counterparts. The total intelligence (proactive and reactive) disseminated to domestic stakeholders in 2016 is 541 and in 2017, 357 intelligence reports were disseminated.

Furthermore, in 2016, the NFIU disseminated 66 intelligence in response to requests from international counterpart FIUs and in 2017, 44 intelligence reports were disseminated.

(b) Observations on the implementation of the article

It was concluded that Nigeria has implemented this provision of the Convention.

V. Asset recovery

Article 51. General provision

Article 51

1. The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. There is Mutual Legal Assistance Act which facilitates international cooperation.
2. Pursuant to the MLA Act, guidelines have been developed and is on the website of the Federal Ministry of Justice (FMOJ) www.justice.gov.ng, as well as the UNODC website to ensure its availability to other State parties.
3. The setting up of the Central Authority within the Federal Ministry of Justice has also enabled speedy international cooperation and Mutual Legal assistance. The Central Authority Unit (CAU) can be reached by e-mail at cau@justice.gov.ng. The CAU has developed several process documents to facilitate international cooperation (including Requirements for mutual legal assistance, guidelines for requests for MLA in criminal matters, and Guidelines for requests for extradition of a fugitive suspect/criminal).
4. An amendment to the MLA Act is currently pending at the National Assembly. The amendment seeks to make the Act generally applicable to State parties beyond the Common Wealth.
5. The process of developing an MLA Protocol is on-going. The Central Authority is working with a mentor for that purpose.

In addition, the following excerpts from legislations provide the legal framework for seizure and return of stolen assets beyond Nigeria.

Section 6 of the EFCC Act provides as follows:

The Commission shall be responsible for -

- (a) the enforcement and the due administration of the provisions of this Act;
- (b) the investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfers, futures market fraud, fraudulent encashment of negotiable instruments, computer credit card fraud, contract scam, etc.;
- (c) the co-ordination and enforcement of all economic and financial crimes laws and enforcement functions conferred on any other person or authority;
- (d) the adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes related offences or the properties the value of which corresponds to such proceeds;
- (e) the adoption of measures to eradicate the commission of economic and financial crimes;
- (f) the adoption of measures which includes coordinated preventive and regulatory actions, introduction and maintenance of investigative and control techniques on the prevention of economic and financial related crimes;
- (g) the facilitation of rapid exchange of scientific and technical information and the conduct of joint operations geared towards the eradication of economic and financial crimes;
- (h) the examination and investigation of all reported cases of economic and financial crimes with a view to identifying individuals, corporate bodies or groups involved;
- (i) the determination of the extent of financial loss and such other losses by government, private individuals or organizations;
- (j) collaborating with government bodies both within and outside Nigeria carrying on functions wholly or in part analogous with those of the Commission concerning -
 - (i) the identification, determination, of the whereabouts and activities of persons suspected of being involved in economic and financial crimes,
 - (ii) the movement of proceeds or properties derived from the commission of economic and financial and other related crimes;
 - (iii) the exchange of personnel or other experts,
 - (iv) the establishment and maintenance of a system for monitoring international economic and financial crimes in order to identify suspicious transactions and persons involved,
 - (v) maintaining data, statistics, records and reports on person, organizations, proceeds, properties, documents or other items or assets involved in economic and financial crimes;
 - (vi) undertaking research and similar works with a view to determining the manifestation, extent, magnitude, and effects of economic and financial crimes and advising government on appropriate intervention measures for combating same.
- (k) dealing with matters connected with the extradition, deportation and mutual legal or other assistance between Nigeria and any other country involving Economic and Financial Crimes;
- (l) The collection of all reports relating suspicious financial transactions, analyse and disseminate to all relevant Government agencies;

- (m) taking charge of, supervising, controlling, coordinating all the responsibilities, functions and activities relating to the current investigation and prosecution of all offenses connected with or relating to economic and financial crimes;
- (n) the coordination of all existing economic and financial crimes, investigating units in Nigeria;
- (o) maintaining a liaison with office of the Attorney-General of the Federation, the Nigerian Customs Service, the Immigration and Prison Service Board, the Central Bank of Nigeria, the Nigeria Deposit Insurance Corporation, the National Drug Law Enforcement Agency, all government security and law enforcement agencies and such other financial supervisory institutions in the eradication of economic and financial crimes;
- (p) carrying out and sustaining rigorous public and enlightenment campaign against economic and financial crimes within and outside Nigeria and;
- (q) carrying out such other activities as are necessary or expedient for the full discharge of the functions conferred on it under this Act.

This enables the exchange of information with other agencies and other jurisdictions.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Nigeria has returned the following assets to other State Parties as follows:

FRN vs. :

1. Emmanuel Nwude ((2016) 5NWLR (Pt.1506) 471)
2. Amaka Martina Anajemba
3. Nzeribe Edeh Okoli
4. Finbaz Nig. Ltd.
5. Emrus Nig. Ltd.
6. Ocean Oil Marketing Nig. Ltd
7. African Shelter Bureau Nig. Ltd

This is a case of Fraud reported against one Emmanuel Nwude & 7 others for defrauding/bankrupting a Brazilian bank, Banco Noroeste S.A of the sum \$110 million USD between 1995 and 1998 through Mr. Nelson Sakaguchi, a Director in the bank. It was discovered that Mr. Nwude impersonated Paul Ogwuma, the then Governor of Central Bank of Nigeria and successfully convinced the Victim to "invest" in a new airport at Abuja. This was the third largest crime in banking history as it eventually led to the collapse of the bank. When the case was reported to the Commission, investigation generated overwhelming evidence against the suspects, and they were charged to Lagos State High Court with 86 count charges bordering on Advance Fee Fraud and 15 counts on Bribery. The accused pleaded not guilty but later changed their plea after the testimony of six out of forty three witnesses. Judgment was given against them, they were convicted and the confiscated properties were forfeited, to be auctioned for restitution. The victim was paid the sum of \$110 million USD as restitution from the proceeds of the auction through the Brazilian government.

2. FRN Vs. Weluche Umeh

This is a case of Fraud and Obtaining Money under False Pretense reported by one David Song Ruigong, a Chinese National, against Weluche Umeh, a Nigerian. The Complainant, who wrote from China, alleged that he supplied car parts valued at about \$349,000 to the suspect but he took delivery of the parts and refused to pay

him. The suspect claimed that the alleged car parts were substandard hence he could not sell/pay the Complainant. Investigation revealed that the suspect did take delivery of the car parts and that he sold them but failed to pay the Complainant for the supply. As a result of the evidence generated in the course of investigation, the sum of \$80,000.00 was recovered from the suspect. For the restitution, the Complainant visited Nigeria and part of the said money was released to him. Part of the money was also restituted to him through the Central Bank of Nigeria after due approval.

3. ID/86C/2008 -FRN v Lawal Adewale Nurudeen (a.k.a. Benson Lawson, Dr Saheed Bakare and Greg O. Dickson):

Accused person, then a 27 year old university student herein, went on the internet and under different guises, assumed the identity of a Caucasian male, Nigerian medical doctor, and one Greg o. Dickson, and through this false identity obtained a total sum of about 47,816 USD from an Australian woman, Ros Sumner. Acting on a petition from the computer crime investigation unit, fraud and corporate crime investigation group, state crime operations command, Queensland police service, EFCC arrested the culprit, recovered proceeds of the crime in cash and real property and successfully prosecuted him before Obadina, J. High Court of Lagos who sentenced to 3 years imprisonment. The court ordered restitution of the recovered proceeds which were remitted to the victim through the Australian High commission.

4. ID/50C/2007 -FRN v Stanley Arinze Atuegwu:

The EFCC whilst investigating a case of internet recruitment scam involving the sum of 78,000USD reported by a Sri Lankan National, P. S. Upali Karanaratna on 7/3/2006 made a controlled delivery vide Western Union money transfer through one of the banks and the accused was arrested with the help of the Bank when he came to collect the money. During investigation, EFCC recovered about 35,900USD which was handed over to the complainant and the case is presently at the final stage in court.

Below is also the MLA and Extradition status report from the Central Authority Unit.



CENTRAL AUTHORITY UNIT

Office of the Hon. Attorney-General of the Federation and Minister of Justice

Plot 71, Shehu Shagari Way, Maitama District, Abuja-FCT

MLA/EXTRADITION REQUESTS, STATISTIC FOR THE YEAR 2015-2016 INCOMING TO AND OUTGOING FROM NIGERIA

Source: *The Central Authority Unit (CAU) in the Office of the Hon. Attorney-General of the Federation and Minister of Justice, Federal Republic of Nigeria.*

*The CAU receives more Extradition requests from Countries with this Mark.

-Total Number of Incoming Requests: 636

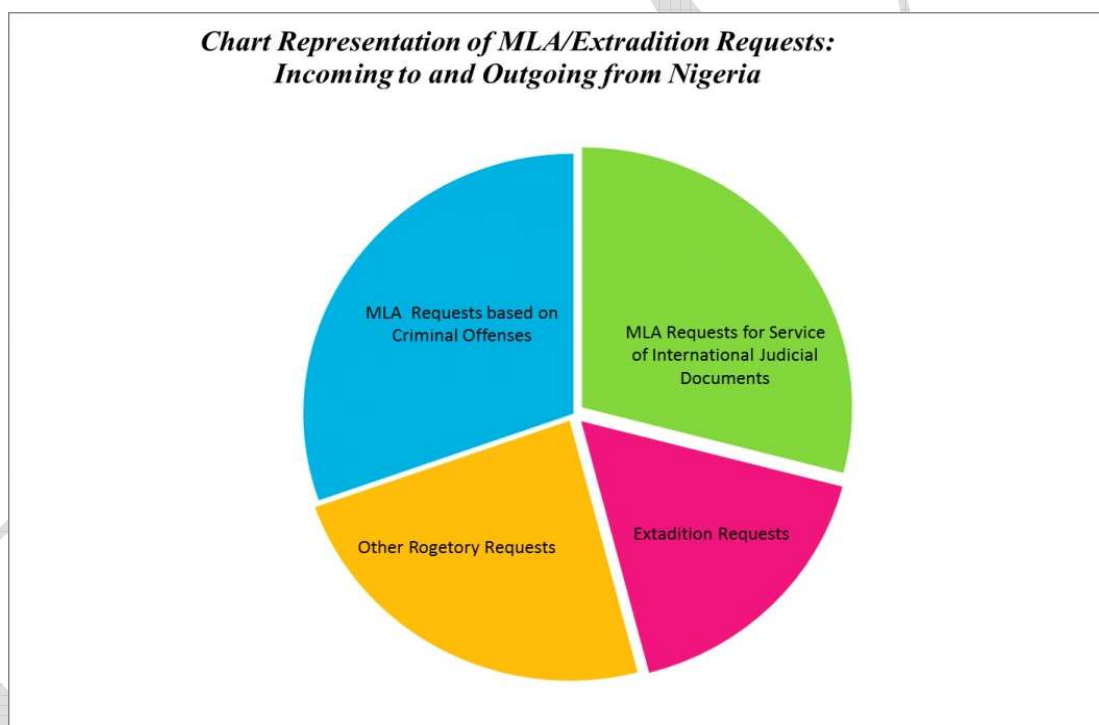
-Total Number of Outgoing Requests: 311

-Total Number of Incoming Requests Forwarded to the Competent Authorities for Execution: 503

-Total Number of Completed Incoming Requests: 390

S/No	COUNTRIES	No. OF INCOMING REQUESTS TO NIGERIA	No. OF OUTGOING REQUESTS FROM NIGERIA	INCOMING: FORWARDED TO COMPETENT AUTHORITIES FOR EXECUTION	INCOMING: EXECUTED/ COMPLETED
	UNITED KINGDOM *	37	13	32	21
	TURKEY	11	6	9	7
	POLAND	7	NIL	6	5
	ITALY	12	2	10	4
	SWITZERLAND	9	21	7	4
	PORTUGAL	8	4	7	3
	SWEDEN	5	2	4	2
	INDIA	19	8	13	7
	TUNISIA	10	3	7	5
	ARGENTINA	5	3	3	3
	EGYPT	17	14	12	14
	VIETNAM	9	NIL	6	7
	ZAMBIA	15	5	13	11
	SLOVAKIA	6	NIL	4	4
	ARMENIA	4	“	4	2
	BELGIUM	24	6	21	14
	SPAIN	27	7	20	18
	NETHERLANDS*	18	11	15	13
	JAPAN	25	28	21	21
	LATVIA	6	NIL	5	NIL
	USA*	57	31	49	32
	RUSSIA	11	4	9	7
	ALBANIA	3	NIL	1	NIL
	FRANCE	18	6	11	9
	GREECE	9	1	5	3
	ROMANIA	6	1	4	2
	THAILAND	21	17	18	11
	BRAZIL	10	4	8	3
	LITHUANIA	5	NIL	3	2
	ETHIOPIA	3	3	3	2
	CHINA	47	8	35	39
	GERMANY	16	7	12	11
	BULGARIA	8	5	5	5
	SERBIA	7	2	4	3

	AUSTRIA	18	7	16	12
	MEXICO	4	1	3	2
	GUINEA	17	5	15	7
	KOREA	21	7	18	7
	ANDORRA	2	NIL	NIL	NIL
	DENMARK	7	4	6	4
	DUBAI, UAE	31	35	27	39
	TOGO	7	9	6	5
	GHANA	28	16	22	19
	TOTAL	636	311	503	390



(b) Observations on the implementation of the article

Nigeria has received and successfully responded to requests related to asset recovery and return. The Mutual Legal Assistance Act (MLA Act) and its guidelines have been established to facilitate international cooperation including asset recovery. The Central Authority Unit within the Federal Ministry of Justice facilitates speedy international cooperation and mutual legal assistance.

At the time of the country visit, an amendment to the MLA Act (Mutual Assistance in Criminal Matters Bill 2017, MLA Bill) was pending at the National Assembly to expand its coverage of States parties beyond the Commonwealth. The MLA Bill would also address a number of current discrepancies and bring Nigeria's asset recovery legislation largely in line with the Convention regarding enhanced due diligence (EDD), the enforcement of foreign orders, the rights of bona fide third parties etc.

(c) Successes and good practices

- The number of asset recovery cases successfully initiated by Nigeria based on bilateral agreements and reciprocity pending the adoption of the MLA Bill.
- Nigeria's willingness and readiness to share its experiences in various international forums, particularly in the area of asset recovery, is fully in line with article 51.

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

1. The Mutual Legal Assistance Bill pending before the National Assembly when passed will make the law applicable to State Parties beyond the Common Wealth. This will enhance international cooperation.
2. The absence of a non-conviction-based forfeiture framework is an impediment to speedy recovery of assets. A bill is before the national Assembly and is expected to be passed into Law in the next one year.
3. There is need for special accounts to be created for seized funds especially in cases of Bulk Cash Forfeitures. This will make the funds easily accessible in view of the government policy on Treasury Single Account (TSA).

(d) Technical assistance needs

- i. Legislative assistance:
 - Whistle-blower and Witness Protection Bill
- ii. Institution-building:
 - Implementation of POCA
 - Support for each law enforcement agency to have an asset recovery/forfeiture and management unit
- iii. Policymaking:
 - Develop harmonized SOP for managing assets across all agencies
- iv. Capacity-building:
 - Specialized training
 - Database management
- v. Strategic plans
 - Research/data-gathering and analysis:
 - Central database
 - Agency specific database
- vi. Research
- vii. Facilitation of international cooperation with other countries:
 - Training in the area of mutual legal assistance, extradition, forfeiture, intelligence, etc.

Nigeria indicated that the following institutions were providing technical assistance related to this provision:

1. UNODC/EU10th EDF
2. DfID
3. ERG -Economic Reforms and Governance Project of the World Bank
4. US Embassy INL - International Narcotics and Law Enforcement Fund
5. German Embassy
6. Swiss Embassy
7. Australia Aid

Article 52. Prevention and detection of transfers of proceeds of crime

Paragraph 1 of article 52

1. Without prejudice to article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. Sections 1&2 of the Money Laundering Prohibition Act 2011 (MLPA) as amended prohibit cash transactions above N5,000,000.00 for individuals and N10,000,000.00 for corporate bodies and require report to the Central Bank of Nigeria (CBN) and SEC by Banks and other Financial institutions, of every transfer of funds or securities of a sum exceeding \$10,000.00 or equivalent.

2. Section 3 of the MLPA requires detailed customer and beneficial owner identification in financial transactions. It further criminalizes failure to comply with these requirements by individuals and corporate entities, with penalties ranging from fines, imprisonment to winding up and revocation of banking licenses. Section 3 requires all financial institutions to verify its customer's identity before opening an account or entering into fiduciary transactions, including renting safe deposit box or establishing any business relationship with the person. Further to the provisions of other laws such as the Central Bank of Nigeria Act, and Bank and Other Financial Institutions Act (BOFIA), institutions such as the Nigeria Deposit Insurance Corporation (NDIC), in collaboration with the EFCC and the Nigerian Financial Intelligence Unit (NFIU), has adopted the Know Your Customer (KYC) Directive and Money Laundering Examination Procedure/Methodology Guidance Note. These policy documents check the maintenance of anonymous accounts particularly accounts with foreign transaction activity. These regulations apply to Banks and non-bank financial institutions as well Designated Non-Financial Businesses and Professions (DNFBPs). The KYC Guidance Regulations requires Banks, in opening accounts, to

demand from clients, production of original copies of specified identity documents including permanent address and evidence of residence such as utility bills. In respect of corporate entities, assignees are required to produce Power of Attorney requiring them to act on behalf of the corporate body.

3. By Section 13 of the MLPA, relevant agencies may by order of court place certain Bank accounts under surveillance upon suspicion of crimes.

4. Further section 11 of the Code of Conduct for Public Officers requires all officials including Politically Exposed persons at all levels to declare their assets upon assumption of office, periodically while in office and the end of office.

11. Declaration of Assets

Subject to the provisions of this Constitution, every public officer shall within three months after the coming into force of this Code of Conduct or immediately after taking office and thereafter:

(a) at the end of every four years; and

(b) at the end of the term of office; submit to the Code of Conduct Bureau a written declaration of all his properties, assets and liabilities and those of his unmarried children under the age of 18 years.

Any statement in such declaration that is found to be false by any authority or person authorized in that behalf to verify it shall be deemed to be a breach of this Code. Any property or assets acquired by a public officer after any declaration required under this Constitution and which is not fairly attributable to income, gift or loan approved by this Code shall be deemed to have been acquired in breach of this Code unless the contrary is proved.

4. The Code of Conduct for Public Officers in Section 3 prohibits Public Officers from maintaining foreign accounts.

Section 3. Prohibition of Foreign Accounts

The President, Vice President, Governor, Deputy Governor, Ministers of the Government of the Federation and Commissioners of the Governments of the States, members of the National Assembly and the Houses of Assembly of the States, and such other public officers or persons as the National Assembly may by law prescribe shall not maintain or operate a bank account in any country outside Nigeria.

5. DNFPBs are required to submit cash-based transaction reports on sums of \$1000 and above or its equivalent.

6. The government recently introduced the Bank Verification Number (BVN) which links all accounts by an individual or corporate entity in order to prevent anonymous accounts. Accounts without BVN can no longer be accessed after the given deadline.

- All financial institutions are implementing customer due diligence guidelines i.e. KYC and KYCB.
- Designated non -financial institutions (DNFIS) are also implementing the guidelines and filing currency transactions reports (CTRS) and suspicious transaction reports (STRS)
- Regular trainings are conducted for financial institutions by NFIU and the special control unit against money-laundering (SCUML).
- NFIU, and CBN engage in risk based spot and routine checks on FIS and DNFIS.

7. The CBN has issued a guideline to ensure compliance of the DNFIS with the reporting requirements by requiring their compulsory registration with SCUML.

8. A presidential committee on FATF was set up to conduct a risk assessment on money laundering and terrorist financing. The risk assessment report has been released.

The following sanctions are applicable for noncompliance:

1. Term of imprisonment ranging from 2-10 years under the Money Laundering Act 2011
2. Fines ranging from two hundred and fifty thousand naira to fifty million naira plus imprisonment
3. Personal liability of directors of corporate entities.
4. Winding up and forfeiture of assets for corporate bodies
5. Withdrawal of operating licences.

Section 3 of the Money Laundering (Prohibition) Act, 2011 (as amended) covers customer due diligence measures to be carried out by financial institutions and designated non-financial institutions (also referred to as DNFBPs) on all their customers. Specifically, Section 3 (7) of the ML(P)A, 2011 (as amended) states:

Where the customer is a politically exposed person, the financial institutions and designated non-financial institutions shall in addition to the requirements of subsections (1) and (2) of this section-

Put in place risk management systems, and

Obtain senior management approval before establishing and during any business relationship with the politically exposed person

Section 25 of the ML(P)A, 2011 (as amended) provides the definition of a politically exposed person (PEP).

Guidelines on the measures applicable to PEPs are outlined in the Central Bank of Nigeria (CBN) AML/CFT Regulations, 2013. The CBN AML/CFT Regulations, 2013 is an enforceable instrument drawn from the Money Laundering (Prohibition) Act, 2011 (as amended), the Terrorism Prevention Act, 2011 and the Terrorism (Prevention) (Amendment) Act, 2013.

It applies to all financial institutions (FIs) under the supervisory purview of the CBN including deposit money banks, merchant banks, discount houses, bureaux de change, finance companies, microfinance banks, development finance institutions, primary mortgage institutions, and international money transfer operators.

Customer due diligence (CDD) measures are comprehensively covered in Regulations 13-28. Regulation 16 of the CBN AML/CFT Regulations 2013 provides guidelines for enhanced scrutiny and due diligence for PEPs and other categories of customers and activities.

Furthermore, Regulation 18 covers a description of individuals that may be classified as PEPs. The regulation requires FIs to apply a risk-based approach in establishing relationship with PEPs and obtain management's approval before commencing relationship with a PEP, conduct enhanced and on-going monitoring of the relationship and file monthly returns to the CBN and the NFIU on all transactions with PEPs. Also, the FI is required to take steps to determine the source of wealth, source of funds of customers and beneficial owners identified as PEPs.

For capital market operators, the Securities and Exchange Commission (Capital market operators AML/CFT) Regulations, 2013 also covers customer due diligence measures (Regulations 9-20) and enhanced due diligence measures for higher risk customers and PEPs (Regulation 16)

In the same vein, the National Insurance Commission AML/CFT Regulations, 2013 requires insurance institutions, their agents and insurance brokers to apply CDD measures on all customers (Regulations 6-16) and conduct enhanced scrutiny for PEPs (Regulation 9).

Similarly, the Federal Ministry of Industry, Trade and Investment (Designation of Non-Financial Institutions and other Related Matters) Regulations, 2013 requires designated non-financial institutions to apply CDD measures to customers whose transaction is up to USD1,000 cash or its equivalent. Also CDD is applicable to customers (individuals) who make payments for goods or services worth N5,000,000 (Five million naira only) and above and N10,000,000 (Ten million naira only) and above for body corporate. These transactions are captured as currency transaction reports (CTRs) and filed to the Special Control Unit against Money Laundering (SCUML) domiciled in the Federal Ministry of Industry, Trade and Investment. Enhanced due diligence is to be applied to customers who are PEPs (Regulation 15). However, suspicious transactions are reported solely to the NFIU.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

1. Banks and other financial institutions are actively implementing the know your customer (KYC) and know your customers business (KYCB) measures.
2. The NFIU uses the KYC and KYCB guidelines effectively in their work, and this has led to investigation and prosecution of high-profile cases leading to convictions.
3. The central bank of Nigeria (CBN) has also sanctioned some banks for violation of the guidelines.
4. Prosecution of Banks and bankers for failing to ensure due diligence:

COURT CASE

FHC/UY/33C/2014 - FRN v Sunday Ekpe, Dennis James, and EcoBank Plc.

EFCC received a complaint of fraudulent sale of shares valued at N60m and lodgement of the proceeds in EcoBank account 0273002548. Investigation revealed that 1st and 2nd accused, staff of EcoBank failed to exercise due diligence in opening the account. Following investigation, EFCC arraigned both the bank and their staff of failure to exercise due diligence in opening account no 0273002548 contrary to section 7(3)(b) of the AFF Act, 2006.

5. All financial institutions are implementing Customer Due Diligence guidelines. i.e. KYC and KYCB.
6. Designated Non-financial Businesses and Professions (DNFBPS) are also implementing the guidelines and filing currency transactions reports (CTRS) and Suspicious Transaction Reports (STRS)
7. Regular trainings are conducted for financial institutions by NFIU and the special control unit against money-laundering (SCUML).
8. NFIU and CBN engage in risk-based spot and routine checks on FIS and DNFIS.
9. The CBN has issued guidelines to ensure compliance of the DNFIS with the reporting requirements by requiring their compulsory registration with SCUML.
10. A presidential committee on FATF was set up to conduct a risk assessment on money laundering and terrorist financing. The risk assessment report has been finalized.

The following sanctions are applicable for noncompliance:

1. Term of imprisonment ranging from 2-10 years under the money laundering act 2011.
2. Fines ranging from two hundred and fifty thousand naira to fifty million naira plus terms of imprisonment.

3. Personal liability of directors of corporate entities.
4. Winding up and forfeiture of assets for corporate bodies.
5. Withdrawal of operating licences.

The following operational guidelines issues by the central bank and other relevant institutions

- 1 Central bank of Nigeria (Anti-Money Laundering and Combating the Financing of Terrorism in Banks and Other Financial Institutions in Nigeria) Regulations 2013
- 2 Securities and Exchange Commission (Capital Market Operators Anti-money Laundering and combating the Financing of Terrorism) Regulations, 2013
- 3 Nigeria Insurance Commission (Anti-Money laundering and Countering the Financing of Terrorism) Regulations 2013
- 4 CBN Circular to Deposit Money Banks on Chief Compliance officers
- 5 CBN Three Tier KYC Policy
- 6 NFIU Reporting Guidelines to Entities
- 7 Special Control Unit against Money Laundering (SCUML) Regulations
- 8 SCUML Operational Guidelines for Casinos

(b) Observations on the implementation of the article

Section 3 of the MLPA requires FIs and DNFI to conduct detailed customer and beneficial owner identification when establishing a business relationship or carrying out transactions. In addition to the CBN Act and the Bank and Other Financial Institutions Act (BOFIA), Nigeria has the Know Your Customer (KYC) Directive and the Money Laundering Examination Procedure/Methodology Guidance Note, which are mandatory for banks, non-bank financial institutions and DNFBPs.

The CBN Regulations 2013 require obligated entities to conduct enhanced due diligence (EDD) and continued monitoring of the accounts of Politically Exposed Persons (PEPs) (section 3(7) MLPA and section 18(4) CBN-AML). The NFIU has also developed a regulatory oversight operational manual for enhanced scrutiny, as has the Central Bank of Nigeria. There is no distinction between domestic and foreign PEPs.

While there is no definition of high-value accounts, Regulation 83 of the CBN AML/CFT Regulations 2013, identifies trusts, nominees and fiduciary accounts as accounts that present a higher money-laundering risk than others and require financial institutions to conduct enhanced due diligence.

It is recommended that Nigeria proceed with the establishment of a beneficial ownership register and that consideration be given to housing it within one of the many already existing institutions.

Subparagraph 2 (a) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

(a) Issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and record-keeping measures to take concerning such accounts; and

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. Central Bank of Nigeria (Anti-Money Laundering and Combating the Financing of Terrorism in banks and other financial institutions in Nigeria) regulations 2013 requires Enhanced Due Diligence on the accounts of Politically Exposed Persons (PEPs).
2. The NFIU has also developed a regulatory oversight operational manual.
3. Financial institutions and DNFBPS in Nigeria actively implement the CDD measures as developed by CBN and SCUML.
4. The NFIU uses the go AML solution for scrutiny and investigation of suspicious accounts.
5. The NFIU also maintains a watch list on domestic accounts.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

FRN Vs Patience Jonathan

FRN Vs Deziani Alison Madueke

(b) Observations on the implementation of the article

The reviewing experts concluded that Nigeria has implemented the provision under review.

The CBN Regulations 2013 require obligated entities to conduct enhanced due diligence (EDD) and continued monitoring of the accounts of Politically Exposed Persons (PEPs) (section 3(7) MLPA and section 18(4) CBN-AML). The NFIU has also developed a regulatory oversight operational manual for enhanced scrutiny, as has the Central Bank of Nigeria.

Regulation 83 of the CBN AML/CFT Regulations 2013, identifies trusts, nominees and fiduciary accounts as accounts that present a higher money-laundering risk than others and require financial institutions to conduct enhanced due diligence.

Subparagraph 2 (b) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

...

(b) Where appropriate, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Section 6 and 13 of the Money Laundering (Prohibition) Act 2011 as amended:

Section 6:

(1) Where a transaction

(a) involves a frequency which is unjustifiable or unreasonable;

(b) is surrounded by conditions of unusual or unjustified complexity;

(c) appears to have no economic justification or lawful objective; or

(d) in the opinion of the Financial Institution or Designated Non-Financial Institution involves terrorist financing or is inconsistent with the known transaction pattern of the account or business relationship, that transaction shall be deemed to be suspicious and the Financial Institution involved in such transaction shall seek information from the customer as to the origin and destination of the fund, the aim of the transaction and the identity of the beneficiary.

(2) A Financial Institution or Designated Non-Financial Institution shall immediately

(a) draw up a written report containing all relevant information on the matters mentioned in subsection (1) of this section together with the identity of the principal and, where applicable, of the beneficiary or beneficiaries;

(b) take appropriate action to prevent the laundering of the proceeds of a crime or an illegal act; and

(c) report any suspicious transaction and actions taken to the Economic and Financial Crimes Commission.

(3) The provisions of subsections (1) and (2) of this section shall apply whether the transaction is completed or not.

(4) The Economic and Financial Crimes Commission shall acknowledge receipt of any disclosure, report or information received under this section and may demand such additional information as it may deem necessary.

(5)

- (a) The acknowledgement of receipt shall be sent to the Financial Institution or Designated Non-Financial Institution within the time allowed for the transaction to be undertaken and it may be accompanied by a notice deferring the transaction for a period not exceeding 72 hours.
- (b) Notwithstanding the provisions of paragraph (a) of this subsection, the Chairman of the Economic and Financial Crimes Commission or his authorised representative shall place a Stop Order not exceeding 72 hours, on any account or transaction if it is discovered in the course of their duties that such account or transaction is suspected to be involved in any crime.
- (6) If the acknowledgment of receipt is not accompanied by a stop notice, or where the stop notice has expired and the order specified in subsection (7) of this section to block the transaction has not reached the Financial Institution or Designated Non-Financial Institution, it may carry out the transaction.
- (7) Where it is not possible to ascertain the origin of the funds within the period of stoppage of the transaction, the Federal High Court may, at the request of the commission, or other persons or authority duly authorized in that behalf, order that the funds, accounts or securities referred to in the report be blocked.
- (8) An order made by the Federal High Court under this subsection (7) of this section shall be enforced forthwith.
- (9) A Financial Institution or Designated Non-Financial Institution which fails to comply with the provisions of subsections (1) and (2) of this section commits an offence and liable on conviction to a fine of N1,000,000 for each day during which the offence continues.
- (10) The directors, officers and employees of Financial Institutions and Designated Non-Financial Institutions who carry out their duties under this Act in good faith shall not be liable to any civil or criminal liability, or have any criminal or civil proceedings brought against them by their customers.

Section 13:

- (1) The Commission, Agency, Central Bank of Nigeria or other regulatory authorities pursuant to an order of the Federal High Court obtained upon an ex-parte application supported by a sworn declaration made by the Chairman of the Commission or an authorized officer of the Central Bank of Nigeria or other regulatory authorities justifying the request, may in order to identify and locate proceeds, properties, objects or other things related to the commission of an offence under this Act, the Economic and Financial Crimes Commission (Establishment) Act or any other law
- (a) place any bank account or any other account comparable to a bank account under surveillance;
- (b) obtain access to any suspected computer system;
- (c) obtain communication of any authentic instrument or private contract, together with all bank, financial and commercial records, when the account, the telephone line or computer system is used by any person suspected of taking part in a transaction involving the proceeds of a financial or other crime.
- (2) The Agency may exercise the powers conferred under subsection (1) of this section where it relates to identifying or locating properties, objects or proceeds

of narcotic drugs or psychotropic substances.

(3) In exercising the power conferred under subsection (2) of this section, the Agency shall promptly make a report to the Commission.

(4) Banking secrecy or preservation of customer confidentiality shall not be invoked as a ground for objecting to the measures set out in subsection (1) and (2) of this section or for refusing to be a witness to facts likely to constitute an offence under this Act, the Economic and Financial Crimes Commission (Establishment), etc.) Act or any other law.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The following are summary of court cases where financial institutions were requested to apply Enhanced Due Diligence.

ID/50C/2007 -FRN v Stanley Arinze Atuegwu: The EFCC whilst investigating a case of internet recruitment scam involving the sum of 78,000 USD reported by a Sri Lankan National, P. S. Upali Karanaratna on 7/3/2006 made a controlled delivery vide Western Union money transfer through one of the banks and the accused was arrested with the help of the bank when he came to collect the money. During investigation, EFCC recovered about 35,900USD which was handed over to the complainant and the case is presently at the final stage in court.

FRN Vs. JIDE OMOKERE: In this case, investigation revealed he had 33 accounts in various banks of the Federation. These accounts were linked based on the information from various mandate files hence they were subsequently flagged, thereby securing the funds in account. This enabled the Commission to obtain an Interim Order of Forfeiture of the funds.

FRN Vs. SPOG Petrochemical: Post No Debit (PND) status was also placed on the account which led to the recovery of over a Billion Naira.

(b) Observations on the implementation of the article

It was concluded that Nigeria has implemented this provision of the Convention.

Paragraph 3 of article 52

3. In the context of paragraph 2 (a) of this article, each State Party shall implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving the persons mentioned in paragraph 1 of this article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Section 7 Money Laundering (Prohibition) Act 2011 as amended provides as follows:

A financial institution or designated non-financial institution shall preserve and keep at the disposal of the authorities specified in section 3 of this Act

- a. the record of a customer's identification for a period of at least five years after the closure of the accounts or the severance of relations with the customer
- b. the record and other related information of a transaction carried out by a customer and the report provided for in section 6 of this Act shall be preserved, for a period of at least 5 years after carrying out the transaction or making of the report as the case may be.

Section 8 of the MLPA reads:

The records referred to in section 7 of this Act shall be communicated on demand to the Central Bank of Nigeria or the National Drug Law Enforcement Agency (in this Act referred to as the “Agency”) and such other regulatory authorities or judicial persons as the Commission may specify, from time to time, by order published in the gazette.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

NFIU and SCUML carry out periodic compliance inspections/examination on financial institutions and DNFPBS

(b) Observations on the implementation of the article

MLPA requires FIs and DNFI to keep records of customers and transactions for at least five years (sect. 7).

It was concluded that Nigeria has implemented this provision of the Convention.

(c) Successes and good practices

The initiative of some institutions to keep records for twice as long as required (10 years instead of 5).

Paragraph 4 of article 52

4. With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

It is an offence in Nigeria to open or operate a bank or financial institution without a license. Opening or operation of a banking institution is governed by the Bank and Other Financial Institutions Act (CAP 25 LFN 1990) and the Central Bank of Nigeria Act 2007. Other legislations whose provisions are relevant include the Money Laundering (Prohibition) Act 2011 (As Amended).

The Bank and Other Financial Institutions Act provides as follows:

2.

(1) No person shall carry on any banking business in Nigeria except it is a company duly incorporated in Nigeria and holds a valid banking licence issued under this Act.

(2) Any person who transacts banking business without a valid licence under this Act is guilty of an offence and liable on conviction to a term of imprisonment not exceeding 10 years or a fine exceeding N500,000 or to both such imprisonment and fine.

3.

(1) Any person desiring to undertake banking business in Nigeria shall apply in writing to the Governor for the grant of a licence and shall accompany the application with the following-

- (a) feasibility report of the proposed bank;
- (b) a draft copy of the memorandum and articles of association of the proposed bank;
- (c) a list of the shareholders, directors and principal officers of the proposed bank and their particulars;
- (d) the prescribed application fee; and
- (e) such other information, documents and reports as the Bank may, from time to time, specify.

(2) After the applicant has provided all such information, documents and report as the Bank may require under subsection (1) of this section, the shareholders of the proposed bank shall deposit with the Bank a sum equal to the minimum paid-up share capital that may be applicable under section 9 of this Decree.

(3) Upon the payment of the sum referred to in subsection (2) of this section, the Governor may issue a licence with or without conditions or refuse to issue a licence and the Governor need not give any reasons for the refusal.

(4) Where an application for a licence is granted, the Bank shall give written notice of that fact to the applicant and the licence fee shall be paid.

4.

The Bank may invest any amount deposited with it pursuant to section 3(2) of this Act in treasury bills or such other securities until such a time as the Governor

shall decide whether or not to grant a licence, and where the licence is not granted the Bank shall repay the sum deposited to the applicant, together with the investment income after deducting administrative expenses and tax on the income.

5.

(1) Except as provided in section 9(2) of this Act, the Governor may vary or revoke any condition subject to which a licence was granted or may impose fresh or additional conditions to the grant of a licence.

(2) Where the grant of a licence is subject to conditions, the bank shall comply with those conditions to the satisfaction of the Bank within such period as the Bank may deem appropriate in the circumstances.

(3) Any bank which fails to comply with any of the conditions of its licence is guilty of an offence under this section and shall be liable on conviction to a fine not exceeding N1,000 for each day during which the condition is not complied with.

(4) Where the Governor proposes to vary, revoke or impose fresh or additional conditions on a licence, he shall, before exercising such power, give notice of his intention to the bank concerned and give the bank an opportunity to make a representation to him thereon.

(5) Any bank which fails to comply with any fresh or additional condition imposed in relation to its licence is guilty of an offence and liable on conviction to a fine of N100,000 and where the offence continues, to an additional fine of N1,000 for each day during which the offence continues.

6.

No bank may open or close any branch office anywhere within or outside Nigeria except with the prior consenting writing of the Bank.

7.

Except with the prior consent of the Governor, no bank shall enter into an agreement or arrangement-

- (a) which results in a change in the control of the bank;
- (b) for the sale, disposal or transfer howsoever of the whole or any part of the business of the bank;
- (c) for the amalgamation or merger of the bank with any other person;
- (d) for the reconstruction of the bank;
- (e) to employ a management agent or to transfer its business to any such agent.

8.

(1) Except with the approval of the Bank, no foreign bank shall operate a representative office in Nigeria.

(2) Any person who contravenes subsection (1) of this section or section 7 of this Decree is guilty of an offence and liable on conviction to a fine of N100,000 and in the case of a continuing offence to an additional fine of N10,000 for each day during which the offence continues.

The Central Bank of Nigeria Act provides as follows:

42.

(1) The Bank shall wherever necessary seek the co-operation of and co-operate with other banks in Nigeria to -

- (a) promote and maintain adequate and reasonable financial service for the public;
- (b) ensure high standards of conduct and management throughout the banking system; and
- (c) further such policies not inconsistent with this Act as shall in the opinion of the Bank be in the national interest.

43.

(1) There is hereby established for the purpose of co-ordination the supervision of financial institutions, a Financial Services Regulation Coordinating Committee (in this Act referred to as “the Committee”).

(2) The Committee shall consist of -

- a) the Governor of the Bank who shall be the Chairman;
- b) the Managing Director, Nigeria Deposit Insurance Corporation;
- c) the Director-General, Securities and Exchange Commission;
- d) the Commissioner for Insurance;
- e) the Registrar-General, Corporate Affairs Commission; and
- f) a representative of the Federal Ministry of Finance not below the rank of a Director.

44. Objectives of the Committee

The objectives of the Committee shall be to

- a) co-ordinate the supervision of financial institutions especially conglomerates
- b) cause reduction of arbitrage opportunities usually created by differing regulation and supervision standards amongst supervisory authorities in the economy
- c) deliberate on problems experienced by any members in its relationship with any financial institution;
- d) eliminate any information gap encountered by any regulatory agency in its relationship with any group of financial institutions;
- e) articulate the strategies for the promotion of safe, sound and efficient practices by financial intermediaries; and
- f) deliberated on such other is

51. POWER TO MAKE REGULATIONS

The Board shall have power to make and alter rules and regulations for the good order and management of the Bank.

The provisions of these legislations in MLPA ACT ensure compliance with this article.

SECTION 11 OF THE MLPA reads

11.

(1) The opening or maintaining of numbered or anonymous accounts by any person, Financial Institution or corporate body is prohibited.

(2) A person shall not establish or operate a shell bank in Nigeria.

(3) A financial institution shall:

(a) not enter into or continue correspondent banking relationships with shell banks; and

(b) satisfy itself that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.

(4) Any person, Financial Institution or corporate body that contravenes the provisions of subsections (1), (2) and (3) of this section, commits an offence and is liable on conviction to:

(a) in the case of an individual, a term of imprisonment of not less than 2 years but not more than 5 years; or

(b) in the case of a financial institution or corporate body, a fine of not less than N10,000,000 but not more than N50,000,000, in addition to:

(i) the prosecution of the principal officers of the corporate body, and

(ii) the winding up and prohibition of its constitution or incorporation under any form or guise

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The CBN, using its powers under the Central Bank of Nigeria Act as well as the Bank and Other Financial Institutions Act (BOFIA) has issued several guidelines to ensure an efficient banking system and to ensure the prevention of money laundering and terrorist financing. The regulations include the Central Bank of Nigeria Anti-money Laundering and Combatting the Financing of Terrorism in Banks and other Financial Institutions in Nigeria Regulations 2013. The Regulation reads inter alia as below.

Section 35 – Prohibition of Numbered or Anonymous Accounts, Accounts in Fictitious Names and Shell Banks

(1) A financial institution shall not keep anonymous accounts or accounts in fictitious names.

(2) A financial institution shall not establish correspondent relationships with high risk foreign banks, including shell banks with no physical presence in any country or with correspondent banks that permit their accounts to be used by such banks.

(3) Shell banks are prohibited from operating in Nigeria as provided in Money Laundering (Prohibition) Act, 2011 (as amended).

- (4) A financial institution shall –
- a. Not enter into or continue respondent or correspondent banking relationships with shell banks; and
 - b. Satisfy itself that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks
- (5) A financial institution, corporate body or any individual that contravenes the provisions of this regulation shall on conviction be liable to a fine of not less than N 10,000,000 and in addition to the –
- a. Prosecution of the principal officers of the corporate body; and
 - b. Winding up and prohibition of its re-constitution or incorporation under any form or guise.
- (6) A financial institution shall take all necessary measures to satisfy itself that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.

Another CBN Guideline provide that Correspondent Banks for Nigerian Banks must be AML/CFT Compliant. Banking business is strictly regulated and cannot exist without physical business and in compliance with strict guidelines.

COURT CASES

1. FHC/ASB/29C/2011 - FRN v Mustard Seed Micro investment Ltd & 2 Ors (Company fined N4M, ordered to be wound up and assets gathered by EFCC in conjunction with court appointed liquidator for distribution to depositors, and 2nd & 3rd accused who are directors of the company sentenced to 10yrs imprisonment for carrying on illegal banking institution.)
2. FHC/KD/36C/2012 - FRN v Moses Samanja Audu & Anor. (1st accused sentenced to 5yrs, 2nd accused company ordered to be wound up and all accounts in various banks confiscated to FGN for restitution of depositors).

(b) Observations on the implementation of the article

While the definition of a shell bank can be found in the MLPA, there is only a prohibition for FIs to enter into or continue correspondent banking relationships with foreign shell banks. The establishment of shell banks is prohibited in Nigeria (section 11(2)). The FI shall satisfy itself that the foreign country does not permit its accounts to be used by shell banks (e.g. MLPA, sect. 12).

It was concluded that Nigeria has implemented this provision of the Convention.

Paragraph 5 of article 52

5. Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

The Code of Conduct for Public Officers among other things provides for declaration of assets which include financial disclosures. Section 11 of the Code provide as follows:

11

(1) Subject to the provisions of this Constitution, every public officer shall within three months after the coming into force of this Code of Conduct or immediately after taking office and thereafter at the

a. end of every four years

b. at the end of his term of office Submit to the Code of Conduct Bureau a written declaration of all his properties, assets, and liabilities and those of his unmarried children under the age of eighteen years.

Public Officers for the purposes of the Code of Conduct as defined in the Constitution include politically exposed persons such as the President, Vice President, Governors and Deputy Governors of States as well as members of the Judiciary and Legislators. The declared assets are verified by the Code of Conduct Bureau and infractions are charged before the Code of Conduct Tribunal. The Central Authority Unit is yet to receive a request to share such information but if made, nothing prevents the authorities from providing the information.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

1. All public servants elected and appointed public officers) declare their assets on assumption of office, every four years thereafter, and on leaving office.

2. In addition to persons employed in the public service these include all elected officials including the president, vice president, governors of states, deputy governors, members of the federal and state houses of assembly and members of local government councils.

STATISTICS ON DECLARATION OF ASSETS AND ENFORCEMENT
FROM THE CODE OF CONDUCT BUREAU

S/ N	ACTIVITIES	2011	2012	2013
1	Nominal Rolls Received	363,398	256,886	2,921
2	Asset Forms Issued	258,223	230,298	305,752
3	Number of Asset Forms Returned	166,051	109,298	163,181
4	Acknowledged slips issued			114,276
5	Number of identified Defaulters	3,575	109,028	13,970
6	Number of Political officers verified	2,543	134,717	42
7	Number of MDAs visited	10	109	808

a	8	Number of petitions / complaints received	160	33	79	<u>How the Ministry of Justice handled series of</u>
	9	Number of petitions investigated	37	78	36	
	10	Cases closed for lack of merit	77	20	21	
	11	Number of cases pending	4	1		
	12	Number of cases forwarded to CCT for prosecution	9	16		
	13	Number of cases prosecuted		172	-	
	14	Convictions recorded		10	4	
	15	Cases pending at the Tribunal		4		
	16	Cases referred to other agencies			10	
	17	Number of cases adjourn/pending			294	
	18	Number of cases forwarded to Legal department			11	
	19	Number of cases discharged and acquitted			5	

simultaneous Mutual Legal Assistance requests on the same matter from the USA, Switzerland and UK

It is a cardinal and integral part of every understanding and agreement that contains a ‘Confidentiality Clause’ for the parties to respect such a clause by abiding by it and not disclosing any part of information to any other but the party to whom such agreement and understanding is entered with. As such, when the three requests were received, bearing in mind that all of them did not come at the same time and the three countries did not collaborate with each other before making the requests to Nigeria, separate responses were drafted even though the three requests were asking for similar information. The Central Authority Unit (CAU) coordinated and evaluated the contents of all the requests and on the directive of the Hon. Attorney-General of the Federation and Minister of Justice (HAGF), the requests were forwarded to the executing authority, the Economic and Financial Crimes Commission (EFCC) for investigation and information gathering. On completion of their actions, the EFCC forwarded their findings to the HAGF for evaluation and onward transmission to the requesting countries, not at the same time but as they receive the contents of the requests from the CAU. The findings of EFCC also contained different methods of investigation depending on the mode of extracting the information as required in the letters of requests, for the purposes of admissibility in court in the three different jurisdictions.

It was for these reasons that the CAU did not stimulate any joint operation in respect of sharing information with the three requesting countries and decided that since the three jurisdictions acted separately in forwarding their request, and perhaps without consulting with each other, it would amount to a breach of the Confidentiality Clause to share any information with other jurisdictions as they relate to the same matter. Although it would have been easier to introduce that synergy, but it is believed that all of them have different approach to dealing with cases as they relate to their different laws and regulatory systems.

However, as part of the UNCAC requirement, which is not binding but a guide to cooperation for the purpose of curbing corruption and other financial crimes, sharing information in a simultaneous MLA requests on the same matter is relevant to speed up operations and prosecution of cases. Nigeria, as a party to the UNCAC Convention is willing to cooperate in such circumstance if they arise with the consent of parties concerned. Until such arrangement is established, the CAU will respect the confidentiality clause as they relate to bilateral understandings with different jurisdictions. Based on the explanation above, the CAU simply evaluated the findings of the EFCC as they relate to individual requests and according to the manner in which

the EFCC collected the information and transmitted same individually to the different jurisdictions separately.

(b) Observations on the implementation of the article

The Code of Conduct for Public Officers provides for declaration of assets (Constitution Schedule 5 sect. 11).

It is recommended that Nigeria review and consider cross-referencing the various conflict-of-interest and asset declaration provisions between the MLPA and the BPP to ensure coherence.

Paragraph 6 of article 52

6. Each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Section 7 of the Code of Conduct Bureau and Tribunal Act provides as follows:

Any public officer specified in the second schedule to this Act or any other persons as the president may from time to time, by order prescribe, shall not maintain or operate a bank account in any country outside Nigeria.

The effect of this provision is that all public servants, elected and appointed, are prohibited from maintaining foreign accounts.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

There are two notable cases where persons subject to the code of conduct for public officers have been charged to court for breaching section 7 of the code which prohibits maintenance of foreign accounts. In the case *FRN v Orji Uzo Kalu*, CCT/NC/ABJ/03/3/05, the defendant who was a serving governor was charged with maintaining a foreign account while in office.

In the case of *FRN v Bola Tinubu* (FRN vs Bola Ahmed Tinubu CCT/ABJ/01/11), the defendant was also a serving governor and was accused of maintaining a foreign account. There have been no convictions in both cases.

(b) Observations on the implementation of the article

Although all public servants who are elected and appointed are prohibited from maintaining foreign accounts (Code of Conduct Bureau and Tribunal Act, sect. 7), there is no requirement to declare interest or signature or other authority over foreign accounts.

It is recommended that Nigeria widen the requirement to declare also interest in, signature or other authority over financial accounts held outside Nigeria.

Article 53. Measures for direct recovery of property

Subparagraph (a) of article 53

Each State Party shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

The Nigerian Law is not discriminatory as it relates to litigants that can come before its courts. All legal persons who have locus standi in the issues under litigation are entitled to ventilate their grievances in appropriate courts. The courts in Nigeria recognize countries and other nations as legal persons, and entertain suits relating to nations or their embassies and missions in Nigeria. Nigerian courts have held that in pure commercial transactions foreign government missions will not enjoy diplomatic immunity and this by inference means they can sue and be sued in Nigeria.

By section 113-117(a) of the Criminal Code Act, a Magistrate Court has power, when an enquiry or trial in any criminal case is concluded, to make such an order as it thinks fit for the disposal by destruction, confiscation, or delivery to any person appearing to be entitled to the possession thereof, of any moveable property or documents produced before the court or which is in its custody or regarding which an offence appears to have been committed or which has been used for the commission of any offence. Section 20 and 21 of the EFCC Act provides for forfeiture of illicit assets of convicted persons to the Federal Government.

Section 22 of the EFCC Act provides as follows:

Where it is established that any convicted person has assets or properties in a foreign country, acquired as a result of such economic or financial crime, such assets or properties, subject to any treaty or arrangement with such foreign country, shall be forfeited to the Federal Government.

The combined effect of Sections 20-22 of the EFCC Act and sections 113-117 of the Criminal Code Act enables the initiation of civil proceedings to actualize the rights of another State Party.

In addition, the Administration of Criminal Justice Act 2015 in section 314 provides as follows:

- (1) Notwithstanding the limit of its civil or criminal jurisdiction, a court has power, in delivering its judgement, to award to a victim commensurate compensation by the defendant or any other person or State.
- (2) The Court in considering the award of compensation to the victim may call for additional evidence to enable it determine the quantum of compensation to award in subsection (1) of this section.

This is without prejudice to the fact that where the actions constituting the crime in question constitutes a Tort

under Nigerian Law, the victim so injured can sue and recover damages in Tort. In addition the Mutual Legal Assistance Act facilitates international cooperation in this and other related issues.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

PROCEDURE FOR RESTITUTION (FROM THE EFCC)

When judgment is given on a case where funds were recovered for a foreign national or organization, for restitution to be made, the following steps are taken:

1. Legal Dept. forwards a copy of the judgment to the team that investigated the case.
2. The team writes to the Executive Chairman seeking for approval to initiate the restitution process.
3. EC's approval goes to DDOPS.
4. DDOPS conveys same to Director, Finance and Account to initiate the process.
5. If the petition came through an Embassy, DFA would contact the Embassy through the team on how the remittance would be done, channel to be used, and if it came directly from the Victim, they would be contacted.
6. The funds are remitted through an account provided by the Embassy which is usually either the account of the Victim or that of the Embassy.
7. After the remittance, DFA forwards the evidence of remittance to DDOPS. DDOPS in turn forwards the evidence of restitution to the team for filing.

NWUDE and the Brazilian bank case - This is a case in which Nigerian Courts have taken cognizance of the interest of victims and ordered restitution of \$242,000.

(b) Observations on the implementation of the article

All legal persons, including foreign States as well as their embassies and missions in Nigeria, have *locus standi* and can therefore initiate civil action and sue for compensation or damages in Nigeria.

It was concluded that Nigeria has implemented this provision of the Convention.

Subparagraph (b) of article 53

Each State Party shall, in accordance with its domestic law: ...

(b) Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Part 32 Sections 319 - 320 of the Administration of Criminal Justice Act 2015 which has provisions on costs, compensation, damages and restitution:

PART 32 - COSTS, COMPENSATION, DAMAGES AND RESTITUTION

319. (1) A court may, within the proceedings or while passing judgment, order the defendant or convict to pay a sum of money:

- (a) as compensation to any person injured by the offence, irrespective of any other fine or other punishment that may be imposed or that is imposed on the defendant or convict, where substantial compensation is in the opinion of the court recoverable by civil suit;
- (b) in compensating a bona fide purchaser for value without notice of the defect of the title in any property in respect of which the offence was committed and has been compelled to give it up; and
- (c) in defraying expenses incurred on medical treatment of a victim injured by the convict in connection with the offence.

(2) Where the fine referred to in subsection (1) of this section is imposed in a case which is subject to appeal, no payment additional to the fine shall be made before the period allowed for presenting the appeal has elapsed or, where an appeal is presented, before the decision on the appeal.

(3) Order for cost or compensation may be made under this section irrespective of the fact that no fine has been imposed on the defendant in the judgment. Power of court to order payment of expenses or compensation.

320. (1) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the court shall take into consideration any sum paid or recovered as compensation under this section.

(2) The pendency of criminal proceedings shall not be a bar to a civil action in respect of the same subject matter.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

1. NWUDE and Brazilian bank case already cited above.
2. ID/86C/2008 - FRN v Lawal Adewale Nurudeen (a.k.a. Benson Lawson, Dr Saheed Bakare and Greg O. Dickson)
3. ID/50C/2007 - FRN v Stanley Arinze Atuegwu

(b) Observations on the implementation of the article

The Administration of Criminal Justice Act 2015 (ACJA) provides a court with the power to order the defendant or convict to pay compensation or expenses to the victims (sect. 319). As there is no disaggregation of victims, a State that has been harmed can also receive such payments but is also required to retain local counsel.

It was concluded that Nigeria has implemented this provision of the Convention.

Subparagraph (c) of article 53

Each State Party shall, in accordance with its domestic law: ...

(c) Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Section 11 the Advance Fee Fraud and Other Fraud Related Offences Act 2006 provides as follows:

11.

(1) In addition to any other penalty prescribed under this Act, the High Court shall order a person convicted of an offence under this Act to make restitution to the victim of the false pretence or fraud by directing that person

(a) where the property involved is money, to pay to the victim an amount equivalent to the loss sustained by the victim; in any other case

(i) to return the property to the victim or to a person designated by him; or

(ii) to pay an amount equal to the value of the property, where the return of the property is impossible or impracticable.

(2) An order of restitution may be enforced by the victim or by the prosecutor on behalf of the victim in the same manner as a judgment in a civil action.

The Administration of Criminal Justice Act 2015 in Section 321 also provides for restitution and compensation:

321. A court after conviction may adjourn proceedings to consider and determine sentence appropriate for each convict:

(a) in addition to or in lieu of any other penalty authorised by law, order the convict to make restitution or pay compensation to any victim of the crime for which the offender was convicted, or to the victim's estate; or

(b) order for the restitution or compensation for the loss or destruction of the Victim's property and in so doing the court may direct the convict:

(i) to return the property to the owner or to a person designated by the owner,

(ii) where the return of the property is impossible or impracticable, to pay an

amount equal to the value of the property, or

(iii) where the property to be returned is inadequate or insufficient, to pay an amount equal to the property calculated on the basis of what is fair and just.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The following are examples of cases in which the above provision has been applied:

1. In the Brazilian bank case, the interest of the Brazilian owners was duly acknowledged, and they were made beneficiaries of the confiscated assets to the tune of \$242,000,00.
2. Id/50c/2007 - FRM v Stanley Arinze Atuegwu
3. ID/86C/2008 - FRN v Lawal Adewale Nurudeen (a.k.a. Benson Lawson, Dr Saheed Bakare and Greg O. Dickson)

(b) Observations on the implementation of the article

It is recommended that Nigeria redouble efforts to pass the Proceeds of Crime Bill into law.

Article 54. Mechanisms for recovery of property through international cooperation in confiscation

Subparagraph 1 (a) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Sections 20 - 22 EFCC ACT 2004 provide as follows

- (1) A person convicted of an offence under this Act shall forfeit to the Federal Government
 - (a) all the assets and properties which may or are the subject of an interim order of the Court after an attachment by the Commission as specified in section 26 of this Act;
 - (b) any asset or property confiscated, or derived from any proceeds, the person obtained directly or indirectly, as a result of such offences not already disclosed in the Assets Declaration Form specified in Form A of the Schedule to this Act

or not falling under paragraph (a) of this subsection;

(c) any of the person's property or instrumentalities used in any manner to commit or to facilitate the commission of such offence not already disclosed in the Declaration of Assets Form or not falling under paragraph (a) of this subsection.

(2) The Court in imposing a sentence on any person under this section, shall order, in addition to any other sentence imposed pursuant to Section 11 of this Act, that the person forfeit to the Federal Government all properties described in subsection (1) of this section.

(3) In this section, "proceeds" means any property derived or obtained, directly, through the commission of an offence under this Act.

For the avoidance of doubt and without any further assurance than this Act, all the properties of a person convicted of an offence under this Act and shown to be derived or acquired from such illegal act and already the subject of an interim order shall be forfeited to the Federal Government.

(1) Where it is established that any convicted person has assets or properties in a foreign country, acquired as a result of such criminal activity, such assets or properties, subject to any treaty or arrangement with such foreign country, shall be forfeited to the Federal Government.

(2) The Commission shall, through the office of the Attorney-General of the Federation, ensure that the forfeited assets or properties are efficiently transferred and vested in the Federal Government.

Section 17, Advance Fee Fraud and Other Fraud Related Offences Act No. 14 of 2006 reads as follows

17.

(1) Where any property has come into the possession of any officer of the Commission as unclaimed property or any unclaimed property is found by any officer of the Commission to be in the possession of any other person, body corporate or financial institution or any property in the possession of any person, body corporate or financial institution is reasonably suspected to be proceeds of some unlawful activity under this Act, the Money Laundering Act of 2004, the Economic and Financial Crimes Commission Act of 2004 or any other law enforceable under the Economic and Financial Crime Commission Act of 2004, the High Court shall upon application made by the Commission, its officers, or any other person authorized by it and upon being reasonably satisfied that such property is an unclaimed property or proceeds of unlawful activity under the Acts stated in this subsection make an order that the property or the proceeds from the sale of such property be forfeited to the Federal Government of Nigeria.

(2) Notwithstanding the provision of subsection (1) of this section the High Court shall not make an order of forfeiture of the property or the proceeds from the sale of such property to the Federal Government of Nigeria until such notice or publication as the High Court may direct has been given or made for any person, corporate or financial institution in whose possession the property is found or who may have interest in the property or claim ownership of the property to show cause why the property should not be forfeited to the Federal Government of

Nigeria.

(3) Application under subsection (1) above shall first be made by a motion ex parte for interim forfeiture order of the property concerned and the giving of the requisite notice or publication as required in subsection (2) of this section.

(4) At the expiration of 14 days or such other period as the High Court may reasonably stipulate from the date of the giving of the notice or making of the publication stated in subsection (2) and (3) of this section, an application shall be made by a motion on notice for the final forfeiture of the property concerned to the Federal Government of Nigeria.

(5) In this section:

"financial institution" shall have the same meaning as in section 7 of this Act.

"property" includes assets whether moveable or immovable, money, monetary instruments, negotiable instruments, securities, shares, insurance policies, and any investments.

(6) An order of forfeiture under this section shall not be based on a conviction for an offence under this Act or any other law.

Sections 46 and 47 ICPC Act provide as follows

46.

Where the Chairman of the Commission is satisfied that any property is the subject-matter of an offence under this Act or was used in the commission of the offence, and such property is held or deposited outside Nigeria, he may make an application by way of an affidavit to a Judge of the High Court for an order prohibiting the person by whom the property is held or with whom it is deposited from dealing with the property.

47.

Forfeiture of property upon prosecution for an offence.

(1) In any prosecution for an offence under this Act, the court shall make an order for the forfeiture of any property which is proved to be the subject-matter of the offence or to have been used in the commission of the offence where

(a) the offence is proved against the accused; or

(b) the offence is not proved against the accused but the court is satisfied;

(i) that the accused is not the true and lawful owner of such property; and

(ii) that no other person is entitled to the property as a purchaser in good faith for valuable consideration.

(2) Where the offence is proved against the accused or the property referred to in subsection (1) has been disposed of, or cannot be traced, the court shall order the accused to pay as a penalty a sum which is equivalent to the amount of the gratification or is, in the opinion of the court, the value of the gratification received by the accused, and any such penalty shall be recoverable as a fine.

The combined effect of these provisions is that such properties vest in the Government of Nigeria, and other State Parties who have interests in the properties can make requests using the channels for Mutual Legal Assistance which will be given subject to bi-lateral or multi-lateral treaties as appropriate.

In addition, the Foreign Judgement (Reciprocal and Enforcement) Act permits the registration and enforcement of judgements obtained in other jurisdictions. Also, Federal High Court and State High Court Rules also provide for registration of foreign judgements and enforcement.

The Sheriff and Civil Process Act also provides for enforcement of judgements including foreign judgements.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The following are examples of bilateral and multi-lateral treaties signed by Nigeria to facilitate implementation MLA:

- i. Treaty with the USA
- ii. Treaty with Switzerland
- iii. Commonwealth Mutual Legal Assistance Act on criminal matters
- iv. ECOWAS protocol on Criminal Matters

Statistics on MLA and Extradition from Central Authority Unit is already attached.

(b) Observations on the implementation of the article

The Foreign Judgement (Reciprocal and Enforcement) Act outlines the procedure for the registration and enforcement of foreign confiscation orders obtained in other jurisdictions and is not limited to the Commonwealth (Part I). In order to register and enforce foreign confiscation orders, the procedure in the foreign country needs to be in accordance with Nigerian law and be recognized under treaty-based reciprocity.

It was concluded that Nigeria has implemented this provision of the Convention.

Subparagraph 1 (b) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Section 17 of the Advance Fee Fraud and Other Fraud Related Offences Act 2006 reads:

17.

(1) Where any property has come into the possession of any officer of the Commission as unclaimed property or any unclaimed property is found by any officer of the Commission to be in the possession of any other person, body corporate or financial institution or any property in the possession of any person, body corporate or financial institution is reasonably suspected to be proceeds of some unlawful activity under this Act, the Money Laundering Act of 2004, the Economic and Financial Crimes Commission Act of 2004 or any other law enforceable under the Economic and Financial Crime Commission Act of 2004, the High Court shall upon application made by the Commission, its officers, or any other person authorized by it and upon being reasonably satisfied that such property is an unclaimed property or proceeds of unlawful activity under the Acts stated in this subsection make an order that the property or the proceeds from the sale of such property be forfeited to the Federal Government of Nigeria.

(2) Notwithstanding the provision of subsection (1) of this section the High Court shall not make an order of forfeiture of the property or the proceeds from the sale of such property to the Federal Government of Nigeria until such notice or publication as the High Court may direct has been given or made for any person, corporate or financial institution in whose possession the property is found or who may have interest in the property or claim ownership of the property to show cause why the property should not be forfeited to the Federal Government of Nigeria.

(3) Application under subsection (1) above shall first be made by a motion ex parte for interim forfeiture order of the property concerned and the giving of the requisite notice or publication as required in subsection (2) of this section.

(4) At the expiration of 14 days or such other period as the High Court may reasonably stipulate from the date of the giving of the notice or making of the publication stated in subsection (2) and (3) of this section, an application shall be made by a motion on notice for the final forfeiture of the property concerned to the Federal Government of Nigeria.

(5) In this section:

"financial institution" shall have the same meaning as in section 7 of this Act.

"property" includes assets whether moveable or immovable, money, monetary instruments, negotiable instruments, securities, shares, insurance policies, and any investments.

(6) An order of forfeiture under this section shall not be based on a conviction for an offence under this Act or any other law."

Section 17, Money Laundering Prohibition Act 2011 as amended reads:

17. Any person who –

(a) conceals, removes from jurisdiction, transfers to nominees or otherwise retains the proceeds of a crime or an illegal act on behalf of another person knowing or

suspecting that other person to be engaged in a criminal conduct or has benefited from a criminal conduct or conspiracy, aiding, etc.; or

(b) knowing that any property either in whole or in part directly or indirectly represents another person's proceeds of a criminal conduct, acquires or uses that property or possession of it, commits an offence under this Act and is liable on conviction to imprisonment for a term not less than 5 years or to a fine equivalent to 5 times the value of the proceeds of the criminal conduct or both such imprisonment and fine.

Section 24(B) EFCC (ESTABLISHMENT) Act 2004 Reads:

24: Any property -

(a) Whether real or personal, which represents the gross receipts a person obtains directly as a result of the violation of this Act or which is traceable to such gross receipts;

(b) Within Nigeria which represents the proceeds of an offence under the laws of a foreign country within whose jurisdiction such offense of activity would be punishable by imprisonment for a term exceeding one year and which would be punishable by imprisonment under this Act if such act or activity had occurred within Nigeria, is subject to forfeiture to the Federal Government and no other property rights shall exist on

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

FRN Vs Sam Ibekwe

FRN Vs NWUDE and others

FRN Vs Adedeji Alumele (also known as Ade Bendel)

(b) Observations on the implementation of the article

Forfeiture of proceeds of crime is governed by the Advance Fee Fraud and Other Fraud Related Offences Act 2006 (sect. 17) and EFCC Act (sect. 24b).

It was concluded that Nigeria has implemented this provision of the Convention.

Subparagraph 1 (c) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

There are some provisions in legislations which will enable non-conviction based forfeiture in appropriate cases. Examples are as follows:

1. Section 17(1) Advance Fee Fraud and Other Related Offences Act 2006:

Where any property has come into the possession of any officer of the Commission as unclaimed property or any unclaimed property is found by any officer of the Commission to be in the possession of any other person, body corporate or financial institution or any property in the possession of any person, body corporate or financial institution is reasonably suspected to be proceeds of some unlawful activity under this Act, the Money Laundering Act of 2004, the Economic and Financial Crimes Commission Act of 2004 or any other law enforceable under the Economic and Financial Crime Commission Act of 2004, the High Court shall upon application made by the Commission, its officers, or any other person authorized by it and upon being reasonably satisfied that such property is an unclaimed property or proceeds of unlawful activity under the Acts stated in this subsection make an order that the property or the proceeds from the sale of such property be forfeited to the Federal Government of Nigeria.

2. Section 329 - 330 ACJA (Administration of Criminal Justice Act) 2015.

329. In this Part, “property” in the case of property regarding which an offence appears to have been committed, includes not only the property as has been originally in the possession or under the control of a party, but also any property into or for which that same has been converted or exchanged and anything acquired by the conversion or exchange, whether immediately or otherwise.

330. Where any property regarding which an offence appears to have been committed or which appears to have been used for the commission of an offence is produced before a court during an inquiry or a trial, the court:

(a) may make such order as it thinks fit for the proper custody of that property pending the conclusion of the proceedings or trial; and

(b) where the property is subject to speedy decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of, and the proceeds dealt with as the court may direct.

3. Civil procedure rules which provide for Mareva injunctions.

4. The proceeds of crime bill which is before the national assembly will provide a comprehensive framework.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

- The James Ibori 15m bribe case.
- Arms - Dasuki Gate case.

(b) Observations on the implementation of the article

Nigeria has several legal provisions on non-conviction-based forfeiture (e.g. sect. 17 (6) of Advance Fee Fraud and Other related Offences Act, sect. 330 of ACJA).

It was concluded that Nigeria has implemented this provision of the Convention.

Subparagraph 2 (a) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article;

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

1. Sections of the EFCC Act, especially sections 6(d), and 6(j), provide for measures to identify, trace, freeze, confiscate and seize proceeds of crime as well as collaborate with bodies both within and outside Nigeria in carrying out these functions. The sections read as follows:

The Commission shall be responsible for -

(a) the enforcement and the due administration of the provisions of this Act;

(b) the investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfers, futures market fraud, fraudulent encashment of negotiable instruments, computer credit card fraud, contract scam, etc.;

- (c) the co-ordination and enforcement of all economic and financial crimes laws and enforcement functions conferred on any other person or authority;
- (d) the adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes related offences or the properties the value of which corresponds to such proceeds;
- (e) the adoption of measures to eradicate the commission of economic and financial crimes;
- (f) the adoption of measures which includes coordinated preventive and regulatory actions, introduction and maintenance of investigative and control techniques on the prevention of economic and financial related crimes;
- (g) the facilitation of rapid exchange of scientific and technical information and the conduct of joint operations geared towards the eradication of economic and financial crimes;
- (h) the examination and investigation of all reported cases of economic and financial crimes with a view to identifying individuals, corporate bodies or groups involved;
- (i) the determination of the extent of financial loss and such other losses by government, private individuals or organizations;
- (j) collaborating with government bodies both within and outside Nigeria carrying on functions wholly or in part analogous with those of the Commission concerning -
 - (i) the identification, determination, of the whereabouts and activities of persons suspected of being involved in economic and financial crimes,
 - (ii) the movement of proceeds or properties derived from the commission of economic and financial and other related crimes;
 - (iii) the exchange of personnel or other experts,
 - (iv) the establishment and maintenance of a system for monitoring international economic and financial crimes in order to identify suspicious transactions and persons involved,
 - (v) maintaining data, statistics, records and reports on person, organizations, proceeds, properties, documents or other items or assets involved in economic and financial crimes;
 - (vi) undertaking research and similar works with a view to determining the manifestation, extent, magnitude, and effects of economic and financial crimes and advising government on appropriate intervention measures for combating same
- (k) dealing with matters connected with the extradition, deportation and mutual legal or other assistance between Nigeria and any other country involving Economic and Financial Crimes;
- (l) The collection of all reports relating suspicious financial transactions, analyse and disseminate to all relevant Government agencies;
- (m) taking charge of, supervising, controlling, coordinating all the responsibilities, functions and activities relating to the current investigation and

prosecution of all offenses connected with or relating to economic and financial crimes;

(n) the coordination of all existing economic and financial crimes, investigating units in Nigeria;

(o) maintaining a liaison with office of the Attorney-General of the Federation, the Nigerian Customs Service, the Immigration and Prison Service Board, the Central Bank of Nigeria, the Nigeria Deposit Insurance Corporation, the National Drug Law Enforcement Agency, all government security and law enforcement agencies and such other financial supervisory institutions in the eradication of economic and financial crimes;

(p) carrying out and sustaining rigorous public and enlightenment campaign against economic and financial crimes within and outside Nigeria and;

(q) carrying out such other activities as are necessary or expedient for the full discharge of all or any of the functions conferred on it under this Act.

2. Further sections 25, 26, 28 of EFCC Act 2004 also have provisions on forfeiture of assets which are proceeds of crime and read as follows:

25. Without prejudice to the provision of any other law permitting the forfeiture of property, the following shall also be subject to forfeiture under this Act and no proprietary right shall exist in them -

(a) all means of conveyance, including aircraft, vehicles, or vessels which are used or are intended for use to transport or in any manner, to facilitate the transportation, sale, receipt, possession or concealment of economic or financial crime except that-

(i) No means of conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this section unless it shall appear that the owner or other person in the charge of such means of conveyance was a consenting party or privy to a violation of this Act;

(ii) No means of conveyance shall be forfeited under this section by reason of any act established by the owner thereof to have been committed by any person other than such owner while such means of conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of Nigeria or any part thereof, and

(iii) No means of conveyance shall be forfeited under this section to the extent of an interest of an owner, by reason of any act established by that owner to have been committed without the knowledge, consent or wilful connivance of that owner;

(b) all books, records, research and data used or intended to be used in violation of any provision of this Act;

(c) all monies, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for any illegal act or in violation of this Act or all proceeds traceable to such an exchange, and all monies, negotiable instruments and securities used or intended to be used to facilitate any violation of this Act;

(d) all real property, including any right, title and interest (including any leasehold interest) in the whole or any piece or parcel of land and any improvements or appurtenances which is used or intended to be used, in any manner or part to commit, or facilitate the commission of an offence under this Act.

26. (1) Any property subject to forfeiture under this Act may be seized by the Commission in the following circumstances -

- (a) the seizure incidental to an arrest or search; or
 - (b) in the case of property liable to forfeiture upon process issued by the Court following an application made by the Commission in accordance with the prescribed rules.
- (2) Whenever property is seized under any of the provisions of this Act, the Commission may -
- (a) place the property under seal; or
 - (b) remove the property to a place designed by the Commission.
- (3) Properties taken or detained under this section shall be deemed to be in the custody of the Commission, subject only to an order of a Court.

Part V - Forfeiture of assets of persons arrested for offences under this Act:

27 (1) Where a person is arrested for committing an offence under this Act, such person shall make a full disclosure of all his assets and properties by completing the Declaration of assets form as specified in form A of the Schedule to this Act.

The completed Declaration of Assets Form shall be investigated by the Commission.

- (3) Any Person who -
- (a) knowingly fails to make full disclosure of his assets and liabilities; or
 - (b) knowingly makes a declaration that is false; or
 - (c) fails, neglects or refuses to make a declaration or furnishes any information required, in the Declaration of Assets Form; commits an offence under this Act and is liable on conviction to imprisonment for a term of five years.
- (4) Subject to the provisions of section 24 of this Act, whenever the assets and properties of any person arrested under this Act are attached, the General and Assets Investigation Unit shall apply to the Court for an interim forfeiture order under the provision of this Act.
- (5) The Chairman of the Commission shall have powers to make changes or modifications to the Declaration of Assets Form specified in Form A of the Schedule to this Act as may become necessary in order to give effect to the provisions of this Act

Where a person is arrested for an offence under this Act, the Commission shall immediately trace and attach all the

assets and properties of the person acquired as a result of such economic and financial crime and shall thereafter cause to be obtained an interim attachment order from the Court.

In addition, Section 45 of ICPC act 2000 reads:

45.

(1) Where the Chairman of the Commission is satisfied on information given to him by an officer of the Commission that any movable property, including any monetary instrument or any accretion thereto which is the subject-matter of any investigation under this Act or evidence in relation to the Commission of such offence is the possession, custody or control of a bank or financial institution, he may, notwithstanding any other written law or rule of law to the contrary by order direct the bank or financial institution not to part with, deal in, or otherwise dispose of such property or any part thereof until the order is revoked or varied.

(2) No bank, agent or employee of a bank shall on account of such compliance, be liable to any prosecution or to any civil proceeding or claim by any person under or by virtue of any law, contract, agreement, or arrangement, or otherwise.

(3) Any person who fails to comply with an order of the Chairman of the Commission under sub-section (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two times the amount which was paid out in contravention of the Chairman's order or fifty thousand naira, whichever is the higher, and to imprisonment for a term not exceeding two (2) years.

(4) The subject-matter of an offence under this Act or evidence of the commission of such offence shall be liable to seizure and the seizure shall be effected -

(a) by the issuance of a Notice of Seizure signed by the Chairman of the Commission or any other person authorised by him setting out there in the particulars of the immovable property which is to be seized in so far as such particulars are within his knowledge, and prohibiting all dealings in such immovable property; and

(b) by publishing a copy of such Notice in two newspapers circulating in Nigeria which shall be in the English Language; and

(c) by serving a copy of such Notice on the officer of the Ministry of Lands of the Area in which the immovable property is situate.

(5) The Officer responsible for land matter referred to in subsection (4) (c) shall immediately upon being served with a Notice of Seizure under subsection (1) endorse the terms of the notice of seizure on the document of title in respect of the immovable property in the Register at his Office.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

AGF Vs Kingsley Edegbe.

(b) Observations on the implementation of the article

EFCC Act provides for measures to identify, trace, freeze, confiscate and seize proceeds of crime as well as collaborate with other States (sects. 5(j) and 6, para. 1(d)). EFCC Act sections 5(k), 28 and 29; MLPA section 6, paragraph 5(b); and ICPC Act section 46 permit competent authorities to freeze or seize property upon a request from other States also on suspected involvement in any crime.

It was concluded that Nigeria has implemented this provision of the Convention.

Subparagraph 2 (b) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. Sections 28 and 29 EFCC (establishment) Act 2004:

28. Where a person is arrested for an offence under this Act, the Commission shall immediately trace and attach all the assets and properties of the person acquired as a result of such economic or financial crime and shall thereafter cause to be obtained an interim attachment order from the Court.

29. Where –

(a) the assets or properties of any person arrested for an offence under this Act has been seized: or

(b) any assets or property has been seized by the Commission under this Act, the Commission shall cause an ex-parte application to be made to the Court for an interim order forfeiting the property concerned to the Federal Government and the Court shall, if satisfied that there is prima facie evidence that the property concerned is liable to forfeiture, make an interim order forfeiting the property to the Federal Government.

2. Section 46 ICPC Act 2000:

46. Where the Chairman of the Commission is satisfied that any property is the subject matter of an offence under this Act, or was used in the commission of the

offence, and such property is held or deposited outside Nigeria, he may make an application by way of an affidavit to a judge of the High Court for an order prohibiting the person by whom the property is held or with whom it is deposited from dealing with the property.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

FRN vs James O. Ibori

Exchange of information with state parties (law enforcement) in other jurisdictions:

1. Nigeria instituted a Civil Recovery proceeding in the UK (i.e. FRN issued a claim in the Chancery Division of the High Court of Justice of England and Wales against DSP Alamiesigha & 60tr).
2. When it was identified that DSP Alamiesigha had undisclosed assets in the USA, the Commission contacted the USA Dept. of Justice, who subsequently met with Staff of the Commission and availed us of the accused's assets domiciled in the USA. They requested that the judgment against the accused be amended to include assets in the USA and provide information about the source of the funds in the said bank account to facilitate the forfeiture. Thanks to the exchange of information through emails and phone calls between US DOJ/DHS and the Commission, DOJ went ahead to seize and forfeit the bank accounts and property belonging to DSP.

(b) Observations on the implementation of the article

EFCC Act provides for measures to identify, trace, freeze, confiscate and seize proceeds of crime as well as collaborate with other States (sects. 5(j) and 6, para. 1(d)). EFCC Act sections 5(k), 28 and 29; MLPA section 6, paragraph 5(b); and ICPC Act section 46 permit competent authorities to freeze or seize property upon a request from other States also on suspected involvement in any crime.

It was concluded that Nigeria has implemented this provision of the Convention.

Subparagraph 2 (c) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Sections 26, 28 and 29 of the Establishment Act 2004 (cited above).

Section 44 (2) (k) of the Constitution of the Federal Republic of Nigeria (CFRN) 1999 which reads:

44.

(1) No moveable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in a part of Nigeria except in the manner and for the purposes prescribed by a law that, among other things –

(a) requires the prompt payment of compensation therefore and

(b) gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a court of law or tribunal or body having jurisdiction in that part of Nigeria.

(2) Nothing in subsection (1) of this section shall be construed as affecting any general law.

(k) relating to the temporary taking of possession of property for the purpose of any examination, investigation or enquiry;

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

FRN vs

- Nwude Deziani case
- Jide Omokore case
- Roy Roderick case

Brief on request for mutual legal assistance in the investigation of Mr. Roderick Chisholm Roy:

The above subject is in respect of a request of Legal Mutual Assistance by the United Kingdom's Revenue & Prosecution Service in an investigation of one Mr. Roy Roderick which was forwarded to the Commission from the office of the Attorney General of the Federation via a letter dated 15th April, 2009.

The request for assistance was necessitated as a result of a Restrain Order issued by the High Court of Justice in London against Mr. Roderick Chisholm Roy which prohibits him from disposing of, dealing with or diminishing the value of his realizable property worldwide so that the property can be utilized for the purpose of paying a confiscation order that may be made in the proceeding going on against Mr. Roy Roderick in the United Kingdom who is alleged to have defrauded the British Government to the tune of 1, 546, 088. 01GBP. Mr Roy Roderick disclosed that he has a bank account in Citizens bank, Awka in Anambra state and an interest in a property at Ishiagu, Anambra State, Nigeria by way of a charge against a guarantee. Based on the forgoing the British Government sought assistance to trace and freeze any and all money, property and bank accounts held, whether legally or beneficially by Roderick Chisholm Roy.

Investigation revealed the existence of a piece of land located in Awka, Anambra state registered in favour of Chinwe Roy, the wife of Roy Roderick. A caveat was placed on the land by the Commission. However, a claim by a third party regarding the sale of the land in 2008 by Chinwe Roy is being investigated.

Also a response received by from United Bank for Africa Plc. Ebute Meta branch, Lagos State which provided the information requested on the account in the name of Aderemo Adeniji with account number 111000504 as requested by the letter of request for MLA. The said account is a pound sterling account with a balance of GBP 305.94 as at 18th December 2006.

The findings on the investigation carried out with all supporting documents was forwarded to the Office of the Attorney General of the Federation on 2nd August, 2010 for onward transmission to the United Kingdom.

(b) Observations on the implementation of the article

Section 44(2)(k) of the Nigerian Constitution provides for preservation of property for confiscation on the basis of a foreign arrest or criminal charge. The management of recovered assets is also outlined in sections 153–157 ACJA.

It was concluded that Nigeria has implemented this provision of the Convention.

Article 55. International cooperation for purposes of confiscation

Paragraph 1 of article 55

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, situated in the territory of the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. Sections 6(d), (g), (j) and (k) of the Economic and Financial Crimes (Establishment) Act 2004 reads:

The Commission shall be responsible for -

(d) the adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes related offences or the properties the value of which corresponds to such proceeds

(g) the facilitation of rapid exchange of scientific and technical information and the conduct of joint operations geared towards the eradication of economic and financial crimes;

(j) collaborating with government bodies both within and outside Nigeria carrying on functions wholly or in part analogous with those of the Commission

concerning -

- (i) the identification, determination of the whereabouts and activities of persons suspected of being involved in economic and financial crimes,
- (ii) the movement of proceeds or properties derived from the commission of economic and financial and other related crimes,
- (iii) the exchange of personnel or other experts,
- (iy) the establishment and maintenance of a system for monitoring international economic and financial crimes in order to identify suspicious transactions and persons involved,
- (v) maintaining data, statistics, records and reports on persons, organisations, proceeds, properties, documents or other items or assets involved in economic and financial crimes,
- (vi) undertaking research and similar works with a view to determining the manifestation, extent, magnitude and effects of economic and financial crimes and advising government on appropriate intervention measures for combating same;
- (k) dealing with matters connected with extradition, deportation and mutual legal or other assistance between Nigeria and any other country involving economic and financial crimes;

2. Sections 44 and 45 ICPC Act:

Chairman's powers to obtain information.

44.-(1) Notwithstanding any written law or rule of law to the contrary, the Chairman of the Commission, if he has reasonable grounds to believe, arising from investigation carried out by an officer of the Commission, that any offence under this Act has been committed, may by written notice-

- (a) Require any person suspected of having committed such offence to furnish a statement in writing, on oath or affirmation and
 - (i) identify every property, whether movable or immovable, whether within or outside Nigeria, belonging to him or in his possession, or in which he has any interest, whether legal or equitable and specifying the date on which each of the properties so identified was acquired and the manner in which it was acquired, whether by way of any dealing, bequest, device, inheritance, or any other manner;
 - (ii) Identify every property sent out of Nigeria by him during such period as may be specified in the notice;
 - (iii) set out the estimated value and location of each of the properties identified under sub paragraphs (i) and (ii), and if any of such properties cannot be located, the reason therefore;
 - (iv) state in respect of each of the properties identified under sub-paragraphs (i) and (ii) whether the property is held by him or by any other person on his behalf or whether it has diminished in value since its acquisition by him or and whether

it has been co-mingled with other property which cannot be separated or divided without difficulty;

(v) set out all other information relating to his properties, business, travel or other activities as may be specified in the notice; and

(vi) Set out all his sources of income including earnings and gift or other assets for such period; and (3) Require any relative or associate of the person referred to in sub-section (1) (a), or any other person whom the Chairman of the commission has reasonable grounds to believe is able to assist in the investigation to furnish a statement in writing on oath or affirmation and:

(i) identify every property either movable or immovable, whether within or outside Nigeria, belonging to him or in his possession, or in which such person has any interest, whether legal or equitable, and specifying the date on which each of the properties identified was acquire and the manner in which it was acquired, whether by way of any dealing, bequest, device, inheritance, or any other manner;

(ii) Identify every property sent out of Nigeria by him during such periods as may be specified in the notice;

(iii) set out the estimated value and location of each of the properties identified under subparagraphs (i) and (ii) and if any such properties cannot be located, the reason therefore;

(iv) state in respect of each of the properties identified under sub-paragraphs (i) and (ii) whether the property is held by him or by any other person on his behalf or whether it has been transferred, sold or kept with any person or whether it has diminished in value since its acquisition by him or whether it has been co-mingled with other property which cannot be separated or divided without difficulty; (v) set out all other information relating to each of the properties identified under subparagraphs (i) and (ii), and the business, travel or other activities of such person; and

(vi) Set out all the sources of income, earnings, gifts or other assets for such period; and

(e) Require any officer of any bank or financial institution, or any person who is in any manner or to any extent responsible for the management and control of the affairs of any bank or any financial institution to furnish copies of any or all accounts documents and records relating to any person to whom a notice may be issued under paragraphs (a) or (b).

(2) Where the chairman of the commission has reasonable grounds to believe that any public officer who has been served with the written notice referred to in sub-section (1) owns, possesses, controls or holds any interest in any property which is excessive, having regard to his present or past emoluments and all other relevant circumstances, the Chairman may by written direction require him to furnish a statement on oath or affirmation explaining how he was able to own possess, control or hold such excess and if he fails to explain satisfactorily such excess, he shall be presumed to have used his office to corruptly enrich or gratify himself and charged accordingly.

(3) Every person to whom a notice or direction is sent by the Chairman under this section shall state the truth and disclose all information which is within his knowledge, or which is available to him, or which is capable of being obtained by

him.

(4) where any person discloses any information or produces any accounts, documents or records, in response to a notice under sub-section (1), such person, his agent or employee, or any other person acting on his behalf or under his direction, shall not, by reason only of such disclosure or production, be liable to prosecution for any offence or civil claim under or by virtue of any law, contract, agreement or arrangement, or otherwise. PROVIDED THAT sub-section (4) shall not bar, prevent or prohibit the institution of any prosecution for any offence provided by this section or for giving false evidence in relation to any statement on oath or affirmation furnished to the chairman of the commission pursuant to this section; or as provided for in section 27 (1) of this Act.

Seizure of Movable property in bank.

45.-(1) where the chairman of the commission is satisfied on information given to him by an officer of the Commission that any movable property, including any monetary instrument or any accretion thereto which is the subject-matter of any investigation under this Act or evidence in relation to the Commission of such offence is in the possession, custody or control of a bank or financial institution, he may, notwithstanding any other written law or rule of law to the contrary by order direct the bank or financial institution not to part with, deal in, or otherwise dispose of such property or any part thereof until the order is revoked or varied.

(2) No bank, agent or employee of a bank shall on account of such compliance, be liable to any prosecution or to any civil proceedings or claim by any person under or by virtue of any law, contract, agreement, or arrangement, or otherwise.

(3) Any person who fails to comply with an order of the Chairman of the Commission under sub-section (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two times the amount which was paid out in contravention of the Chairman's order or fifty thousand naira, whichever is the higher, and to imprisonment for a term not exceeding two (2) years.

(4) The subject-matter of an offence under this Act or evidence of the commission of such offence shall be liable to seizure and the seizure shall be affected-

(a) by the issuance of a notice of seizure signed by the chairman of the Commission or any other person authorized by him setting out there in the particulars of the immovable property which is to be seized in so far as such particulars are within his knowledge, and prohibiting all dealings in such immovable property; and

(b) By publishing a copy of such notice in two newspapers circulating in Nigeria which shall be in the English Language; and

(c) By serving a copy of such Notice on the officer of the Ministry of Lands of the Area in which the immovable property is situate.

(5) The officer responsible for land matter referred to sub-section (4)(c) shall immediately upon being served with a Notice of Seizure under sub-section (1) endorse the terms of the notice of seizure on the document of title in respect of the immovable property in the Register at his office.

3. Section 31(b) NDLEA (National Drug Law Enforcement Agency Act):

Any property within Nigeria which represents the proceeds of an offence under the laws of a foreign country involving the manufacture, importation, sale, distribution, illicit traffic, abuse or misuse of any narcotic drug or psychotropic substance within whose jurisdiction such offence or activity would be punishable by imprisonment for a term exceeding one year and which would be punishable by imprisonment under this Act if such act or activity had occurred within Nigeria.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

FHC/ABJ/CS/607/11, FRN Vs Dr. Shuaibu Sani & 32 others (value of asset - over 40,000,000 USD, not an international case).

FRN Vs Obinna Okwabasa Nwokolo & 2 Ors SUIT No. FHC/L/CS/44/14 (the case is ongoing)

Jide Adelakun Case

An example of a case where assets have been traced, value of such assets, not an international case. Engr. Victor Nnamdi Igboanugo - N63.3million

(b) Observations on the implementation of the article

The EFCC Act establishes the Commission's authority in general to deal with economic and financial crime matters with other countries (sect. 6 (k)), but without detailed procedures on how to handle foreign requests.

Dual criminality and legal review of all mutual legal assistance requests are required to make decisions or actions under paragraphs 1 and 2 of article 55 of the Convention. The Central Authority Unit has issued guidelines for the evaluation of mutual legal assistance requests.

It was concluded that Nigeria has implemented this provision of the Convention.

Paragraph 2 of article 55

2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Section 6(d) (g) and (j) of the EFCC Act 2004:

The Commission shall be responsible for:

...

(d) the adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crime related offences or the properties the value of which corresponds to such proceeds;

...

(g) the facilitation of rapid exchange of scientific and technical information and the conduct of joint operations geared towards the eradication of economic and financial crimes;

...

(j) collaborating with government bodies both within and outside Nigeria carrying out functions wholly or in part analogous with those of the Commission concerning –

(i) the identification, determination of the whereabouts and activities of persons suspected of being involved in economic and financial crimes,

(ii) the movement of proceeds or properties derived from the commission of economic and financial and other related crimes,

(iii) the exchange of personnel or other experts,

(iv) the establishment and maintenance of a system for monitoring international economic and financial crimes in order to identify suspicious transactions and persons involved,

(v) maintaining data, statistics, records and reports on persons, organisations, proceeds, properties, documents or other items or assets involved in economic and financial crimes,

(vi) undertaking research and similar works with a view to determining the manifestation, extent, magnitude and effects of economic and financial crimes and advising government on appropriate intervention measures for combating same;

Section 3(1)(b) of the NDLEA Act (provided under Paragraph 1 of the present article)

Sections 44 and 45 of the ICPC Act (provided under Article 54 (2) c)

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

- FRN V Emmanuel Nwude & ORS
- FRN Vs Jesse Omoko

(b) Observations on the implementation of the article

EFCC Act provides for measures to identify, trace, freeze, confiscate and seize proceeds of crime as well as collaborate with other States (sects. 5(j) and 6, para. 1(d)). EFCC Act sections 5(k), 28 and 29; MLPA section 6,

paragraph 5(b); and ICPC Act section 46 permit competent authorities to freeze or seize property upon a request from other States also on suspected involvement in any crime.

Dual criminality and legal review of all mutual legal assistance requests are required to make decisions or actions under paragraphs 1 and 2 of article 55 of the Convention. The Central Authority Unit has issued guidelines for the evaluation of mutual legal assistance requests.

It was concluded that Nigeria has implemented this provision of the Convention.

Paragraph 3 of article 55

3. The provisions of article 46 of this Convention are applicable, mutatis mutandis, to this article. In addition to the information specified in article 46, paragraph 15, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location and, where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested and, where available, a legally admissible copy of an order on which the request is based.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. Mutual assistance in criminal matters within the commonwealth
2. MLA bill before the NASS
3. Establishment of the Central Authority within the federal ministry of justice
4. MLA guidelines¹¹
5. Section 6(k) of the EFCC Act 2004 reads as follows:

The commission shall be responsible for dealing with matters connected with extradition, deportation and mutual legal or other assistance between Nigeria and any other country involving economic and financial crimes.

¹¹ Evolution post Country Visit: The work that is ongoing on the MLA Manual has stopped because the new MLA Bill 2017 has just been passed by the Senate and will soon undergo the same process in the House of Representatives. It is on this basis that the Central Authority Unit and UNODC had to halt the process of producing the MLA Manual, so that the adoption of the new MLA Law will allow for the development of a comprehensive manual that can stand the test of time.

(b) Observations on the implementation of the article

At the time of the country visit, Nigeria had the Mutual Assistance in Criminal Matters Bill (MLA Bill) pending at the National Assembly, part III-IV of which would address the issue of this provision. The Manual for Mutual Legal Assistance was also underway.

It is recommended that Nigeria redouble efforts to pass the MLA Bill into law and ensure that its provisions remain in line with the requirements of the Convention.

Paragraph 4 of article 55

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral agreement or arrangement to which it may be bound in relation to the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

(b) Observations on the implementation of the article

Dual criminality and legal review of all mutual legal assistance requests are required to make decisions or actions under paragraphs 1 and 2 of article 55 of the Convention. The Central Authority Unit has issued guidelines for the evaluation of mutual legal assistance requests.

It is recommended that Nigeria redouble efforts to pass the MLA Bill into law and ensure that its provisions remain in line with the requirements of the Convention.

Paragraph 5 of article 55

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

The relevant information was forwarded in the course of the last review.

(b) Observations on the implementation of the article

Nigeria has provided copies of relevant legislation to the secretariat.

Paragraph 6 of article 55

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

Nigeria has had situations where it has used UNCAC as a basis but for non-coercive cases.

(b) Observations on the implementation of the article

Nigeria provides cooperation based on reciprocity and does not require a treaty basis.

It was concluded that Nigeria has implemented this provision of the Convention.

Paragraph 7 of article 55

7. Cooperation under this article may also be refused or provisional measures lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of a de minimis value.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

When the request is not in accordance with the Constitution, the Central Authority Unit may refuse the request for cooperation (when it is not in the interest of the country).

(b) Observations on the implementation of the article

When the request is not in accordance with the Constitution, the Central Authority Unit may refuse the request for cooperation (when it is not in the interest of the country). Nigeria does not have a de minimis threshold.

It was concluded that Nigeria has implemented this provision of the Convention.

Paragraph 8 of article 55

8. Before lifting any provisional measure taken pursuant to this article, the requested State Party shall, wherever possible, give the requesting State Party an opportunity to present its reasons in favour of continuing the measure.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review.

(b) Observations on the implementation of the article

As a matter of practice, NFIU informs the requesting State prior to the lifting of provisional measures and provides it with an opportunity to provide reasons in favour of continuing the measure. MLPA does not have a provision in this regard.

It is recommended that Nigeria redouble efforts to pass the MLA Bill into law and ensure that its provisions remain in line with the requirements of the Convention, inter alia regarding consulting the requesting State before lifting any provisional measures.

Paragraph 9 of article 55

9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

The country's legislation provides for the protection of the interests of bona fide third parties as follows:

- Sections 25(a) and 26 (3) of the EFCC Act

25. Without prejudice to the provision of any other law permitting the forfeiture of property, the following shall also be subject to forfeiture under this Act and no proprietary right shall exist in them -

(a) all means of conveyance, including aircraft, vehicles, or vessels which are used or are intended for use to transport or in any manner, to facilitate the transportation, sale, receipt, possession or concealment of economic or financial crime except that-

(i) No means of conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this section

unless it shall appear that the owner or other person in the charge of such means of conveyance was a consenting party or privy to a violation of this Act;

(ii) No means of conveyance shall be forfeited under this section by reason of any act established by the owner thereof to have been committed by any person other than such owner while such means of conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of Nigeria or any part thereof, and

(iii) No means of conveyance shall be forfeited under this section to the extent of an interest of an owner, by reason of any act established by that owner to have been committed without the knowledge, consent or wilful connivance of that owner;

...

26. (1) Any property subject to forfeiture under this Act may be seized by the Commission in the following circumstances -

(a) the seizure incidental to an arrest or search; or

(b) in the case of property liable to forfeiture upon process issued by the Court following an application made by the Commission in accordance with the prescribed rules.

(2) Whenever property is seized under any of the provisions of this Act, the Commission may -

(a) place the property under seal; or

(b) remove the property to a place designed by the Commission.

(3) Properties taken or detained under this section shall be deemed to be in the custody of the Commission, subject only to an order of a Court.

- Section 17 (1) (2) Advance Fee Fraud Act 2006

17. (1) Where any property has come into the possession of any officer of the Commission as unclaimed property or any unclaimed property is found by any officer of the Commission to be in the possession of any other person, body corporate or financial institution or any property in the possession of any person, body corporate or financial institution is reasonably suspected to be proceeds of some unlawful activity under this Act, the Money Laundering Act of 2004, the Economic and Financial Crimes Commission Act of 2004 or any other law enforceable under the Economic and Financial Crime Commission Act of 2004, the High Court shall upon application made by the Commission, its officers, or any other person authorized by it and upon being reasonably satisfied that such property is an unclaimed property or proceeds of unlawful activity under the Acts stated in this subsection make an order that the property or the proceeds from the sale of such property be forfeited to the Federal Government of Nigeria.

(2) Notwithstanding the provision of subsection (1) of this section the High Court

shall not make an order of forfeiture of the property or the proceeds from the sale of such property to the Federal Government of Nigeria until such notice or publication as the High Court may direct has been given or made for any person, corporate or financial institution in whose possession the property is found or who may have interest in the property or claim ownership of the property to show cause why the property should not be forfeited to the Federal Government of Nigeria.

- Section 332 (1) and (2) Administration of Criminal Justice Act 2015

332. (1) Where the court orders the forfeiture or confiscation of any property but does not make an order for its destruction or for its delivery to any person, the court may direct that the property shall be kept or sold and that the property, if sold, the proceeds of the sale be held as it directs until some person establishes to the court's satisfaction, a right to the property.

(2) Where no person establishes a right within six months from the date of forfeiture or confiscation of the property, the proceeds of the sale shall be paid into the Consolidated Revenue Fund of the Federation, Consolidated Revenue Fund of the State or any other appropriate account, as the case may be.

- Section 47(1)(b) of the ICPC Act 2000

47. Forfeiture of property upon prosecution for an offence.

(1) In any prosecution for an offence under this Act, the court shall make an order for the forfeiture of any property which is proved to be the subject-matter of the offence or to have been used in the commission of the offence where

(a) the offence is proved against the accused; or

(b) the offence is not proved against the accused but the court is satisfied;

(i) that the accused is not the true and lawful owner of such property; and

(ii) that no other person is entitled to the property as a purchaser in good faith for valuable consideration.

- Sections 32 (c) and 33 (3) NDLEA Act

32. Further provisions as to forfeiture of property

Without prejudice to the provisions of any other law permitting the forfeiture of property, the following shall also be subject to forfeiture under this Act and no proprietary right shall exist in them-

(a) all narcotic drugs or psychotropic substances which have been manufactured, distributed, dispensed or acquired in any manner in violation of this Act;

(b) all raw materials, products and equipment of any kind which are used, or

intended for use, in manufacturing, compounding, processing, delivering, importing or exporting any narcotic drug or psychotropic substance;

(c) all instrumentalities of conveyance, including aircraft, vehicles, or vessels which are used or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession or concealment of substances described in paragraph (a) or (b) of this section, except that-

(i) no means of conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this section unless it shall appear that the owner or other person in charge of such means of conveyance was a consenting party or privy to a violation of this Act;

(ii) no means of conveyance shall be forfeited under this section by reason of any act established by the owner thereof to have been committed by any person other than such owner while such means of conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of Nigeria or any part thereof; and

(iii) no means of conveyance shall be forfeited under this section to the extent of an interest of an owner, by reason of any act established by that owner to have been committed without the knowledge, consent or wilful connivance of that owner;

(d) all books, records and research, including formulae, microfilms, tapes and data used or intended to be used in violation of any provision of this Act;

(e) all monies, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for any narcotic drug or psychotropic substance in violation of this Act or all proceeds traceable to such an exchange, and all monies, negotiable instruments and securities used or intended to be used to facilitate any violation of this Act; if) all real property, including any right, title and interest (including any leasehold interest) in the whole or any piece or parcel of land and any improvements or appurtenances which is used or intended to be used, in any manner or part to commit, or facilitate the commission of, an offence under this Act.

33. Seizure of property

(1) Any property subject to forfeiture under this Act may be seized by the Agency in the following circumstances-

(a) if the seizure is incidental to an arrest or search;

(b) in the case of property liable to forfeiture upon process issued by the Federal High Court following an application made by the Agency in accordance with the prescribed rules. (2) Whenever property is seized under any of the provisions of this Act, the Agency may- (a) place the property under seal; or (b) remove the property to a place designated by the Agency.

(3) Property taken or detained under this section shall be deemed to be in the custody of the Agency, subject only to orders of the Federal High Court.

- Also see Mutual Assistance in Criminal Matters Bill, MLA treaty 1931, ICPC Act.

(b) Observations on the implementation of the article

The rights of bona fide third parties are protected under several laws (e.g. EFCC Act, Advance Fee Fraud Act, Administration of Criminal Justice Act, ICPC Act).

It was concluded that Nigeria has implemented this provision of the Convention.

Article 56. Special cooperation

Article 56

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

The Nigerian Financial Intelligence Unit (NFIU) has signed on to the Egmont group.

Terrorism Prevention (Amendment) Act 2013 - Every country is mandated to share intelligence on terrorism. MOUS with law enforcement agencies worldwide such as scorpions of South Africa, US postal authority, Interpol, German police, Australian federal police, RCMP Canada etc.

Section 6 (g) and (j) of the EFCC Establishment Act 2004

6: The Commission shall be responsible for –

...

(g) the facilitation of rapid exchange of scientific and technical information and the conduct of joint operations geared towards the eradication of economic and financial crimes;

...

(j) collaborating with government bodies both within and outside Nigeria carrying on functions wholly or in part analogous with those of the Commission concerning –

(i) the identification, determination, of the whereabouts and activities of persons suspected of being involved in economic and financial crimes,

(ii) the movement of proceeds or properties derived from the commission of economic and financial and other related crimes;

(iii) the exchange of personnel or other experts,

- (iv) the establishment and maintenance of a system for monitoring international economic and financial crimes in order to identify suspicious transactions and persons involved,
- (v) maintaining data, statistics, records and reports on person, organizations, proceeds, properties, documents or other items or assets involved in economic and financial crimes; (vi) undertaking research and similar works with a view to determining the manifestation, extent, magnitude, and effects of economic and financial crimes and advising government on appropriate intervention measures for combating same.

Section 3 (l) (m) (o) and (p) NDLEA Act

Functions of the Agency

- (l) establishing, maintaining and securing communication to facilitate the rapid exchange of information concerning offences and improving international cooperation in the suppression of illicit traffic in narcotic drugs and psychotropic substance by road, sea and air;
- (m) reinforcing and supplementing the measures provided in the Convention on Narcotic Drugs 1961, as amended by the 1972 Protocol, the 1971 Convention on Psychotropic Substances and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1989 as adopted by the Nigerian domestic law, in order to counter the magnitude and extent of illicit traffic in narcotic drugs and psychotropic substances and its grave consequences;
- (o) strengthening and enhancing effective legal means for international cooperation in criminal matters for suppressing the international activities of illicit traffic in narcotic drugs and psychotropic substances;
- (p) collaborating with government bodies both within and outside Nigeria carrying on functions wholly or in part analogous to those of the Agency concerning, amongst others-
 - (i) the identities, whereabouts and activities of persons suspected of being involved in offences mentioned in this Act;
 - (ii) the movement of proceeds or property derived from the commission of such offences;
 - (iii) the movement of narcotic drugs and psychotropic substances specified in the Second Schedule to this Act, and instrumentalities used or intended for use in the commission of such offences;
 - (iv) the exchange of personnel and other experts;
 - (v) the establishment and maintenance of a system for monitoring international dealings in narcotic drugs and psychotropic substances in order to identify suspicious transactions and persons engaged in them;

(b) Observations on the implementation of the article

Nigeria shares information with other countries through the Egmont group, as well as the International Criminal Police Organization (INTERPOL) I-24/7.

It is recommended that Nigeria redouble efforts to pass the MLA Bill into law and ensure that its provisions remain in line with the requirements of the Convention, inter alia regarding:

- Expanding mutual legal assistance to beyond the Commonwealth countries.
- Finalizing and disseminating the mutual legal assistance Manual.

Article 57. Return and disposal of assets

Paragraph 1 of article 57

1. Property confiscated by a State Party pursuant to article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. Section 17, Advance Fee Fraud Act 2006

17. (1) Where any property has come into the possession of any officer of the Commission as unclaimed property or any unclaimed property is found by any officer of the Commission to be in the possession of any other person, body corporate or financial institution or any property in the possession of any person, body corporate or financial institution is reasonably suspected to be proceeds of some unlawful activity under this Act, the Money Laundering Act of 2004, the Economic and Financial Crimes Commission Act of 2004 or any other law enforceable under the Economic and Financial Crime Commission Act of 2004, the High Court shall upon application made by the Commission, its officers, or any other person authorized by it and upon being reasonably satisfied that such property is an unclaimed property or proceeds of unlawful activity under the Acts stated in this subsection make an order that the property or the proceeds from the sale of such property be forfeited to the Federal Government of Nigeria.

(2) Notwithstanding the provision of subsection (1) of this section the High Court shall not make an order of forfeiture of the property or the proceeds from the sale of such property to the Federal Government of Nigeria until such notice or publication as the High Court may direct has been given or made for any person, corporate or financial institution in whose possession the property is found or who may have interest in the property or claim ownership of the property to show cause why the property should not be forfeited to the Federal Government of Nigeria.

2. ACJA section 321

321. A court after conviction may adjourn proceedings to consider and determine sentence appropriate for each convict:

(a) in addition to or in lieu of any other penalty authorised by law, order the convict to make restitution or pay compensation to any victim of the crime for which the offender was convicted, or to the victim's estate; or

(b) order for the restitution or compensation for the loss or destruction of the Victim's property and in so doing the court may direct the convict:

(i) to return the property to the owner or to a person designated by the owner,

(ii) where the return of the property is impossible or impracticable, to pay an amount equal to the value of the property, or

(iii) where the property to be returned is inadequate or insufficient, to pay an amount equal to the property calculated on the basis of what is fair and just.

3. Economic and Financial Crimes (Establishment) Act 2004 (refer to Sections in article 55)
4. Draft POCA bill before the NASS
5. Section 68 of the Mutual Assistance in Criminal Matters Bill 2017

68. Disposal or release of property

(1) Subject to this Act, the laws of Nigeria shall apply to the determination of –

(a) disposal of property confiscated or obtained as a result of the enforcement of a fine, and

(b) the circumstances for the release of property which is the subject of a restraint or confiscation order under this Act.

(2) Subject to section 67 of this Act, the proceeds of crime obtained through a court order under section 59 (4) of this Act or the equivalent of those proceeds may be –

(a) return to Nigeria

(b) returned to the legitimate owner; or

(c) shared with the foreign State concerned in accordance with the proportion that Nigeria, in consultation with the foreign State, considers appropriate in the circumstances.

(3) Where the Attorney-General approves the request of a foreign State to return confiscated property to that foreign State, the Attorney-General shall-

(a) take the necessary measures to enable any appropriate authority to return the property to the foreign State;

(b) where necessary, waive any requirement that is likely to impede the return of confiscated property which is the source of embezzled public funds or laundered embezzled public funds;

(c) where necessary, waive any requirement that is likely to prevent the return of confiscated property if the foreign State:

(i) establishes prior ownership of the confiscated property, or

(ii) recognizes that damage to the foreign State is likely to occur if the property is not returned to the foreign State.

(4) The Attorney-General shall, in considering a request for the return of property to a foreign State, take into account the need to –

(a) return the property to its legitimate owner, and

(b) compensate victims of the crime.

(5) The Attorney-General may deduct expenses incurred in investigations, prosecution or judicial proceedings that led to the return or disposition of confiscated property.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

- EFCC Nwude Brazilian case
- FRN vs Lawal Adewale Nurudeen (aka Benson Lawson)

(b) Observations on the implementation of the article

The final return and disposal of assets is outlined in ACJA section 321 and the compensation of bona fide third parties in section 319(1)b. On the disposition of confiscated property, Nigeria has concluded memorandums of understanding with several countries, such as France, Italy, Spain, Switzerland and Venezuela (Bolivarian Republic of) (EFCC sect. 6(k)). At the time of the country visit, a guidance note for judges on the disposal of assets was being drafted.

In addition, the Mutual Assistance in Criminal Matters Bill 2017 has provisions on disposal or return of property (e.g. section 68).

Paragraph 2 of article 57

2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Section 17 of the Advance Fee Fraud Act 2006 (see paragraph 1 of the present article)

Refer to Section 6 (g), (j) and (k) of the EFCC act

6: The Commission shall be responsible for –

...

(g) the facilitation of rapid exchange of scientific and technical information and the conduct of joint operations geared towards the eradication of economic and financial crimes;

...

(j) collaborating with government bodies both within and outside Nigeria carrying on functions wholly or in part analogous with those of the Commission concerning –

(i) the identification, determination, of the whereabouts and activities of persons suspected of being involved in economic and financial crimes,

(ii) the movement of proceeds or properties derived from the commission of economic and financial and other related crimes;

(iii) the exchange of personnel or other experts,

(iv) the establishment and maintenance of a system for monitoring international economic and financial crimes in order to identify suspicious transactions and persons involved,

(v) maintaining data, statistics, records and reports on person, organizations, proceeds, properties, documents or other items or assets involved in economic and financial crimes; (vi) undertaking research and similar works with a view to determining the manifestation, extent, magnitude, and effects of economic and financial crimes and advising government on appropriate intervention measures for combating same.

(k) dealing with matters connected with the extradition, deportation and mutual legal or other assistance between Nigeria and any other country involving Economic and Financial Crimes;

ACJA Section 319

319. (1) A court may, within the proceedings or while passing judgment, order the defendant or convict to pay a sum of money:

(a) as compensation to any person injured by the offence, irrespective of any other fine or other punishment that may be imposed or that is imposed on the defendant or convict, where substantial compensation is in the opinion of the court recoverable by civil suit;

(b) in compensating a bona fide purchaser for value without notice of the defect of the title in any property in respect of which the offence was committed and has been compelled to give it up; and

(c) in defraying expenses incurred on medical treatment of a victim injured by the convict in connection with the offence.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Federal Republic of Nigeria .v. Emmanuel Nwude and ORS

(b) Observations on the implementation of the article

The final return and disposal of assets is outlined in ACJA section 321 and the compensation of bona fide third parties in section 319(1)b.

In addition, the Mutual Assistance in Criminal Matters Bill 2017 has provisions on disposal or release of property (e.g. section 68).

Subparagraph 3 (a) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

(a) In the case of embezzlement of public funds or of laundering of embezzled public funds as referred to in articles 17 and 23 of this Convention, when confiscation was executed in accordance with article 55 and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party;

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Advance Fee Fraud Act 2006

MLA guidelines

EFCC Act

MOUS with other law enforcement agencies in other jurisdictions which enables return within competent authorities but on bond prior to final judgement

Nigeria as a matter of practice returns upon final judgement.

Moreover, Section 68(3)(b) of the Mutual Assistance in Criminal Matters Bill 2017 provides the following:

(3) Where the Attorney-General approves the request of a foreign State to return confiscated property to that foreign State, the Attorney-General shall-

(a) take the necessary measures to enable any appropriate authority to return the property to the foreign State;

(b) where necessary, waive any requirement that is likely to impede the return of confiscated property which is the source of embezzled public funds or laundered embezzled public funds; ...

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Federal Republic of Nigeria .v. Emmanuel Nwude and ORS

FRN vs Fred Ajudua

(b) Observations on the implementation of the article

The Mutual Assistance in Criminal Matters Bill 2017 has a relevant provision (section 68(3)(b)).

Subparagraph 3 (b) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

...

(b) In the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with article 55 of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property;

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Advance Fee Fraud Act 2006

Administration of Criminal Justice Act 2015

Registration of Foreign Judgement Enforcement Act

An analysis will be included on the return on bond

MOUs between competent authorities

Moreover, Section 68(3)(c) of the Mutual Assistance in Criminal Matters Bill 2017 provides the following:

(3) Where the Attorney-General approves the request of a foreign State to return confiscated property to that foreign State, the Attorney-General shall-

...

(c) where necessary, waive any requirement that is likely to prevent the return of confiscated property if the foreign State:

(i) establishes prior ownership of the confiscated property, or

(ii) recognizes that damage to the foreign State is likely to occur if the property is not returned to the foreign State.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Federal Republic of Nigeria .v. Emmanuel Nwude and ORS

(b) Observations on the implementation of the article

The Mutual Assistance in Criminal Matters Bill 2017 has a relevant provision (section 68(3)(c)).

Subparagraph 3 (c) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

...

(c) In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Section 11 (1) Advance Fee Fraud Act 2006

11. (1) In addition to any other penalty prescribed under this Act, the High Court shall order a person convicted of an offence under this Act to make restitution to the victim of the false pretence or fraud by directing that person-

(a) where the property involved is money, to pay to the victim an amount equivalent to the loss sustained by the victim;

in any other case -

(i) to return the property to the victim or to a person designated by him; or

(ii) to pay an amount equal to the value of the property, where the return of the property is impossible or impracticable.

- (2) An order of restitution may be enforced by the victim or by the prosecutor on behalf of the victim in the same manner as a judgment in a civil action.

Section 319 (1) Administration of Criminal Justice Act 2015

319. (1) A court may, within the proceedings or while passing judgment, order the defendant or convict to pay a sum of money:

- (a) as compensation to any person injured by the offence, irrespective of any other fine or other punishment that may be imposed or that is imposed on the defendant or convict, where substantial compensation is in the opinion of the court recoverable by civil suit;
- (b) in compensating a bona fide purchaser for value without notice of the defect of the title in any property in respect of which the offence was committed and has been compelled to give it up; and
- (c) in defraying expenses incurred on medical treatment of a victim injured by the convict in connection with the offence.

Moreover, Section 68(4) of the Mutual Assistance in Criminal Matters Bill 2017 provides the following:

- (4) The Attorney-General shall, in considering a request for the return of property to a foreign State, take into account the need to –
 - (a) return the property to its legitimate owner, and
 - (b) compensate victims of the crime.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Federal Government of Nigeria v. Nwude and Ors (the Brazilian case) involving \$246,000,000 (two hundred and forty six million dollars) where the EFCC prosecuted and confiscated the assets of the perpetrators of advance fee fraud which was then returned to the prior legitimate owners.

FGN vs Lawal Adewale Nurudeen

(b) Observations on the implementation of the article

Section 319(1) of the Administration of Criminal Justice Act provides for the power of court to order payment of expenses or compensation. In addition, the Mutual Assistance in Criminal Matters Bill 2017 has a relevant provision (section 68(4)).

Paragraph 4 of article 57

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had partially implemented the provision under review and provided the following information to this end.

Administration of Criminal Justice Act

Section 43 EFCC Act

The Attorney General of the Federation may make rules or regulations with respect to the exercise of any of the duties, functions or powers of the Commission under this Act

ICPC Act

POCA bill

Moreover, Section 68(5) of the Mutual Assistance in Criminal Matters Bill 2017 provides the following:

(5) The Attorney-General may deduct expenses incurred in investigations, prosecution or judicial proceedings that led to the return or disposition of confiscated property.

(b) Observations on the implementation of the article

The Mutual Assistance in Criminal Matters Bill 2017 has a relevant provision (section 68(5)).

It is recommended that Nigeria redouble efforts to pass the MLA Bill into law and ensure that its provisions remain in line with the requirements of the Convention, inter alia regarding: limiting the deductible expenses to what is reasonable.

Paragraph 5 of article 57

5. Where appropriate, States Parties may also give special consideration to concluding agreements or arrangements, on a case-by-case basis, for the final disposal of confiscated property.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Nigeria has concluded agreements with other countries, such as Venezuela, France, Spain, Italy and Switzerland.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Please see above.

(b) Observations on the implementation of the article

Nigeria has concluded agreements with other countries, such as Venezuela, France, Spain, Italy and Switzerland. It was concluded that Nigeria has implemented this provision of the Convention.

Article 58. Financial intelligence unit

Article 58

States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with this Convention and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

Sections 1(2)(c) and 6(1) of the Economic and Financial Crimes (Establishment) Act 2004

The commission---

Is the designated Financial Intelligence Unit (FIU) in Nigeria, which is charged with the responsibility of coordinating the various institutions involved in the fight against money laundering and enforcement of all laws dealing with economic and financial crimes in Nigeria

Nigerian Financial Intelligence Unit (NFIU)

In line with Articles 14 & 58 of the UNCAC and Recommendation 29 of the FATF Recommendations, the NFIU is the central national agency responsible for receiving (and, as permitted, requesting), analyzing and disseminating to competent authorities, disclosures (suspicious transaction reports and currency transaction reports) of financial information, with a view to combating money laundering and terrorism financing. The NFIU largely draws its powers from the Money Laundering (Prohibition) Act 2011 as amended in 2012 and the Economic & Financial Crimes Commission (EFCC) Establishment Act 2004. The core mandate of the NFIU is to serve as the “national centre for the receipt and analysis of: (a) suspicious transaction reports; and (b) other information relevant to money laundering, associated predicate offences and terrorist financing, and for the dissemination of the results of the analysis to relevant stakeholder agencies”.

Special Control Unit against Money Laundering (SCUML)

SCUML is a specialised unit of the Federal Ministry Industry, Trade and Investment. SCUML has the mandate to monitor, supervise and regulate the activities of all Designated Non-Financial Institutions (DNFIs) in Nigeria in consonance with the country's Anti-Money Laundering and Combating the Financing of Terrorism (AML/ CFT) regime. Its mandate is statutory and the relevant provisions of the laws guiding it in performing its duties are listed in the Money Laundering (Prohibition) Act 2011 (as amended); the Federal Ministry of Industry Trade & Investment AML/CFT Regulations for DNFIs; and the Terrorism (Prevention) Act as amended. SCUML ensures effective supervision of DNFIs in registration, inspection on a risk based-approach, ensuring rendition of statutory reports (cash-based transaction reports, currency transaction reports, and suspicious transaction reports), training and manpower development. SCUML is also empowered under the law to classify additional businesses as DNFIs as it deems fit for purpose of regulation under the country's AML/CFT regime.

Cooperation between the NFIU & SCUML

The NFIU & SCUML are mandated by law to cooperate to promote the fight against ML and TF. Section 1 (2) c of the EFCC Act 2004, gives the NFIU the responsibility of coordinating the various institutions involved in the fight against money laundering in Nigeria. The NFIU cooperates with SCUML in the following ways:

A Memorandum of Understanding (MoU) was signed between the two (2) units to partner effectively in the supervision of DNFIs.

The law requires that all STRs from DNFIs are reported to the NFIU; SCUML and the NFIU organize periodic sensitization workshops for DNFIs to remind them of their STR reporting obligation to the NFIU.

The NFIU and SCUML cooperate to embark on joint trainings and workshops to sensitize DNFIs on their AML/CFT reporting obligations and compliance under the AML/CFT regime.

They both cooperate in the area of typology studies where data/statistics from both institutions would be required to enhance the studies.

SCUML cooperates with the NFIU by providing the NFIU with relevant information and statistics for country activity reports, mutual evaluation reports, follow up reports, surveys and questionnaires.

Both units cooperate in the exchange of intelligence on ML/TF.

The NFIU conducts specialised trainings on AML/CFT capacity enhancement for staff of SCUML.

The NFIU may collaborate with SCUML to deliver mentorship programmes for mentee FIUs.

Reporting Lines

NFIU

The Director NFIU (DNFIU) is the Chief Accounting Officer of the unit. The DNFIU handles all operational matters of the unit, and reports directly to the board of the EFCC.

SCUML

SCUML has a dual reporting obligation. Administratively, SCUML reports to the Honourable Minister of the Federal Ministry of Industry, Trade and Investment, through the Permanent Secretary as SCUML is legally domiciled in the ministry.

Operationally, SCUML also reports to the Executive Chairman of the EFCC through the Secretary of the EFCC.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The Nigeria Financial Intelligence Unit (NFIU) receives and analyses financial data consisting of currency transaction reports (CTRs) and Suspicious Transaction Reports (STRs) and disseminates the information to domestic law enforcement authorities and also shares the information with other FIUs.

(b) Observations on the implementation of the article

The NFIU was previously established through Sect 1(2)(c) of the Economic and Financial Crimes Commission (EFCC) Act. The Nigeria Financial Intelligence Unit Act 2018 which establishes the NFIU as an independent entity has been enacted.

The NFIU receives and analyses financial data consisting of currency transaction reports (CTRs) and suspicious transaction reports (STRs) and disseminates the information to domestic law enforcement authorities and other FIUs.

In addition to NFIU, the Special Control Unit against Money-Laundering (SCUML) was established in 2005 to enhance anti-money-laundering measures for DNFBPs in Nigeria.

It was concluded that Nigeria has implemented this provision of the Convention.

Article 59. Bilateral and multilateral agreements and arrangements

Article 59

States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this chapter of the Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Nigeria indicated that it had implemented the provision under review and provided the following information to this end.

1. Treaty with the United States of America
2. Treaty with Switzerland
3. Commonwealth mutual legal assistance act on criminal matters
4. Egmont group information exchange
5. Other MOUs
6. Bilateral treaty with UK on transfer of sentenced persons
7. Bilateral treaty with South Africa on MLA and extradition
8. Bilateral treaty with UAE on MLA, extradition and transfer of sentenced persons

(b) Observations on the implementation of the article

It was concluded that Nigeria has implemented this provision of the Convention.