ILLICIT TRANSFERS AND TAX REFORMS IN NIGERIA: Mapping of the Literature and Synthesis of the Evidence

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Author: Christiana Okojie, PhD

Editor: Martin Atela, PhD.

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Partnership for African Social & Governance Research (PASGR)

6th Floor, I & M Building

2nd Ngong Avenue, Upper Hill

P.O. Box 76418-00508 Nairobi, Kenya

Email: research@pasgr.org

Tel: +254 (0)20 2985000; +254 (0) 729 111031 or +254 (0) 731 000 065

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Acronyms

AETI	Automatic Exchange of Tax Information
APC	All Progressives Congress
ASM	Artisanal and Small-Scale Mining
AR	Asset Recovery
AU	African Union
BEPS	Base Erosion and Profits Shifting
CBN	Central Bank of Nigeria
CED	Customs and Excise Duty
CET	Customs and Excise Tariff
CIT	Company Income Tax
CITA	Company Income Tax Act
DPR	Department of Petroleum Resources
DSDP	Direct Sales Direct Purchase
DTA	Double Taxation Agreement
ECA	Economic Commission for Africa
ECOWAS	Economic Commission for West African States
EDT	Education Tax
EFCC	Economic and Financial Crimes Commission
EITI	Extractive Industries Transparency Initiative
EXCO	Executive Council
FBIR	Federal Board of Inland Revenue
FIRS	Federal Inland Revenue Service
FRSC	Federal Road Safety Corps
GDP	Gross Domestic Product
GFI	Global Financial Integrity
ICPC	Independent Corruption Practices Commission
ICT	Information and Communications Technology
IFFs	Illicit Financial Flows
IGR	Internally Generated Revenue
IOC	International Oil Company
ITOs	Integrated Tax Offices
JOA	Joint Operating Agreement
JTB	Joint Tax Board
JV	Joint Venture
LDCs	Less Developed Countries
LNG	Liquefied Natural Gas

LSM	Large Scale Mining
MDAs	Ministries, Departments and Agencies
MNE	Multi National Enterprise
MSME	Micro Small and Medium Enterprises
NEITI	Nigeria Extractive Industries Transparency Initiative
NGO	Non- Governmental Organization
NIPC	Nigerian Investment Promotion Commission
NITDA	National Information Technology Development Agency
NITDEF	National Information Technology Development Fund
NNPC	Nigerian National Petroleum Corporation
NPDC	Nigerian Petroleum Development Company
NTP	National Tax Policy
OFC	Offshore Financial Centre
OPA	Offshore Processing Agreement
OECD	Organization for Economic Cooperation and Development
PACAC	Presidential Advisory Committee Against Corruption
PASGR	Partnership for African Governance Social Research
PAYE	Pay As You Earn
PEP	Politically Exposed Person
PITA	Personal Income Tax Act
PMS	Premium Motor Spirit
POS	Point of Sale
PPT	Petroleum Profits Tax
PPTA	Petroleum Profits Tax Act
PWC	Price Waterhouse Coopers
SDGs	Sustainable Development Goals
SIRB	State Internal Revenue Board
SSA	Sub-Saharan Africa
TIN	Taxpayers' Identification Number
TSA	Treasury Single Account
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNODC	United Nations Office on Drugs and Crime
US	United States
VAIDS	Voluntary Assets and Income Declaration Scheme
VAT	Value Added Tax

Executive Summary

Available evidence for the period 1970 to 2008 shows that Nigeria is a major source country for illicit financial transfers out of Africa. The Global Financial Integrity Report (2010) was the first to draw global attention to the volume of Illicit Financial Flows out of Nigeria. According to the report which covered the period from 1980 – 2009, Africa was a net creditor to the world, net resource transfers of between $597 billion – $1.4 trillion left Africa over this period. Illicit Financial Flows were the main driver of net resource transfers out of Africa. In terms of volume, Nigeria, Egypt and South Africa led the regional outflows. Studies by Ndikumana and Boyce (2008, 2010, 2014) analysing capital flows in and out of African countries show that African countries have experienced massive outflows of capital towards Western financial centres. These outflows were higher than the continent's foreign liabilities making Sub-Saharan Africa a "net creditor" to the rest of the world (Ndikumana and Boyce, 2008). According to Ndikumana (2017), as of 2010, the continent was a net creditor to the world to the tune of US$1.4 trillion (Ndikumana, et al, 2015). These studies by the Global Financial Integrity and Ndikumana and Boyce (2008) also show that Nigeria was the top source of capital flight through illicit financial flows from Africa. These findings were reiterated in the 2015 report of the African Union's High-Level Panel on Illicit Financial Flows from Africa.

The Partnership for African Governance and Social Research (PAGSR) is commissioning a round of case studies of four African countries – Egypt, Kenya, Nigeria, and South Africa – to map and synthesize available literature/information on illicit transfers and tax reforms as well as identify key stakeholders for policy discussions. Thus, the objective of this study was to map the literature, policies and stakeholders on illicit transfers and tax reforms in Nigeria.

The Report by the High-Level Panel (HLP) on Illicit Financial Flows from Africa showed that Nigeria accounted for 30.5% of illicit financial outflows from Africa. Nigeria lost $217.7 billion to illicit financial flows during the period 1970-2008. While Ndikumana and Boyce (2008) analysed data for Sub-Saharan African countries only (40 countries), Kar and Cartwright-Smith (2014) examined all African countries. Despite the differences in sample and data issues, fifteen of the top twenty countries with cumulative illicit outflows were identified in both studies. Both studies also showed that Nigeria was at the top of the list with the highest cumulative illicit outflows for the period 1970-2004. However, more recent figures from the Global Financial Integrity for the period 2004-2013 showed that Nigeria surpassed South Africa as the country with the largest average illicit financial outflows in Africa during the ten-year period covered (Kar and Spanjers, 2015). In an analysis of Illicit Financial Flows from Developing Countries for the years 2004-2013, data showed that Nigeria ranks tenth among the top source countries for illicit transfers.

Studies of IFFs have shown that oil-exporting countries like Nigeria are vulnerable to illicit financial transfers. Oil and gas related products account for about 92% of Nigeria's total merchandise exports. Findings from an UNCTAD (2016) study of trade misinvoicing of primary commodities showed that export misinvoicing is a major channel of capital transfers out of Nigeria. Imports under-invoicing suggests under-valuation of imports or smuggling of oil into the country.

TAX 0%

The Report by the High-Level Panel (HLP) on Illicit Financial Flows from Africa showed that Nigeria accounted for 30.5% of illicit financial outflows from Africa. Nigeria lost $217.7 billion to illicit financial flows during the period 1970-2008.

This implies that some illicit activities are going on such as smuggling or diversion of oil exports leading to huge losses in revenue. The drivers/enablers are: poor governance, weak regulatory structures, tax incentives, and existence of financial secrecy jurisdictions and tax havens outside Nigeria. Corruption in the extractive industry is manifested in bribes paid by operating companies, embezzlement of funds, undeclared corporate revenues from illegal resource exploitation, and inflated costs by operating companies. Different reports of the Nigeria Extractive Sector Transparency Initiative (NEITI) show that all these practices take place in Nigeria's extractive sector. Earlier reports on trade misinvoicing of Nigeria's oil exports and imports suggest that many illicit activities are taking place in the extractive sector. There is also widespread corruption in Nigeria's public and private sectors and in the activities of international oil companies operating in Nigeria. Regarding taxation, studies show that indiscriminate granting of tax waivers has cost Nigeria billions of dollars in tax revenue annually.

On the other hand tax reforms that have taken place in the tax system since 2004. These cut across organizational restructuring, enactment of the National Tax Policy, funding, legislation, taxpayer education, dispute resolution mechanism, taxpayer registration, human capacity building, automation of key processes and refund mechanism. The reforms saw publication of Nigeria's First National Tax Policy in 2012, updated in 2017. Several critical tax laws have been amended to remove ambiguities. The objective has been to raise the tax/GDP ratio which is currently about 6% and to generate revenue to meet Nigeria's development challenges and block revenue leakages from tax evasion and tax avoidance. Nigeria has also keyed into some global arrangements such as the Automatic Exchange of Tax Information programme which will partly address illicit capital flows moved to tax havens as a result of corruption.

Most of the literature reviewed in this report has been written outside Africa. The report highlighted the need to build capacity of African researchers to analyse illicit capital flows in and out of their countries.

.....export misinvoicing is a major channel of capital transfers out of Nigeria.

1.0 Introduction

This study of Illicit Financial Transfers from Nigeria was commissioned by the Partnership for African Governance and Social Research (PASGR) as part of a round of case studies of four African countries namely Nigeria, Egypt, Kenya and South Africa. The objective is to map and synthesize available literature/information on illicit transfers and tax reforms as well as to identify key stakeholders for policy discussions in these countries. The mapping is essentially a desk review of available literature and the objective of the Nigeria country study was to map the literature, policies and stakeholders on illicit transfers and tax reforms in Nigeria. Literature sources included published and unpublished materials, grey literature, government reports and others. This first report synthesises the literature on illicit financial transfers and tax reforms in Nigeria.

Illicit financial flows and capital flight are sometimes used interchangeably. Capital flight is not a new problem, it was identified as far back as the 17th century (Deppler and Williamson, 1987, cited in Ndikumana, 2017). Generally, capital flight refers to flows of financial resources from one country to another to avoid country-specific risks such as inflation, political upheaval, and exchange rate volatility (Onyele and Nwokocha, 2016). Some authors are of the view that capital flight can be legal or illegal. Legal capital flight is when capital flees to safety and may return to the country of origin when things improve. Baker (1999) divided capital flight into legal and illegal capital flight. Legal capital flight referred to movement of capital out of a country which involved the proper transfer of profits out of a country which is documented in the books of the entity from which it is transferred. The illegal component is aimed at evading tax, it is transferred illegally from the country from which it originates, and it disappears externally (Baker, 1999). The motivation for the two differs, legal capital flight flees to safety and may return, while illegal capital flight flees to secrecy (Baker, 1999, cited in Adetiloye, 2012). Illegal capital flight connotes money from activities such as money laundering, tax evasion, drug trafficking, human trafficking and other illegal activities.

According to Ndikumana (2017), capital flight is a sub-set of the broader phenomenon of illicit financial flows which also includes money laundering, payments for smuggled goods, and other flows that either originated from illegal activities, were transferred abroad illegally, or are concealed once they reach foreign countries (Ndikumana, 2017). Illicit financial flows are now receiving global attention. Focus of this report is on illicit financial flows out of Nigeria.

This study reviewed available literature relating to illicit financial flows in and out of Nigeria. They were mainly from studies by external bodies (ECA/African Union, Global Financial Integrity, the World Bank, UNDP, UNCTAD). There are also reports of various conferences/seminars held within and outside Nigeria by different bodies on the subject matter – tax reforms and illicit financial flows. A few publications by academics were also available on the internet. While the study is essentially a desk review, preliminary review of the literature showed that some of the research on related topics and activities of government were not available on the internet. It was therefore considered necessary to visit a sample of Nigerian Universities to locate Masters and Ph.D theses/dissertations on the subject and conduct visits to some key government agencies concerned with illicit financial transfers to find out the state of awareness and current activities by relevant agencies to address the challenges of illicit transfers and tax reforms in the country.

1.1 Background

The Global Financial Integrity Report (2010) was the first to draw attention to the volume of Illicit Financial Flows out of Nigeria. According to the report which covered the period from 1980 – 2009, Africa was a net creditor to the world, net resource transfers of between \$597 billion – \$1.4 trillion left Africa over this period. Illicit Financial Flows was the main driver of net resource transfers out of Africa.

In terms of volume, Nigeria, Egypt and South Africa led the regional outflows. Studies by Ndikumana and Boyce (2008, 2010, 2014) analysing capital flows in and out of African countries showed that African countries have experienced massive outflows of capital towards Western financial centres. These outflows were higher than the continent's foreign liabilities making Sub-Saharan Africa a "net creditor" to the rest of the world (Ndikumana and Boyce, 2008). According to Ndikumana (2017), as of 2010, the continent was a net creditor to the world to the tune of US$1.4 trillion (Ndikumana, et al, 2015). These studies by the Global Financial Integrity and Ndikumana and Boyce (2008) also showed that Nigeria was the top source of capital flight through illicit financial flows from Africa. These findings were reiterated in the African Union's High-Level Panel on Illicit Financial Flows from Africa and Economic Commission for Africa (ECA) report released in 2015.

Price Waterhouse Coopers, 2017

....NIGERIA REGISTERING 30.5% OF TOTAL ILLICIT FINANCIAL FLOWS BETWEEN 1970 AND 2008 FROM AFRICA.

AFRICA LOSES OVER US$ 50 BILLION ANNUALLY TO ILLICIT FINANCIAL FLOWS, ABOUT US$ 850 BILLION BETWEEN 1970 AND 2008 AND OVER ONE TRILLION US DOLLARS OVER THE LAST 50 YEARS.

The High-Level Panel (HLP) on Illicit Financial Flows from Africa was established in February 2012 (African Union and United Nations Economic Commission for Africa (AU/UNECA, 2016). The HLP Report (AU/ECA, 2015) examined various activities of governments and multinational companies which divert billions of dollars from low-income African countries annually.

The Report of the High-Level Panel on Illicit Financial Flows concluded that Africa loses over US$ 50 billion annually to illicit financial flows, about US$850 billion between 1970 and 2008 and over one trillion US dollars over the last 50 years. The illicit flows were facilitated by tax havens located in advanced countries. The oil-exporting countries accounted for the largest share of illicit financial flows with Nigeria registering 30.5% of total illicit financial flows between 1970 and 2008. The Report also showed that the illicit financial flows from Africa exceeded the official development assistance to the continent.The Report of the High-Level Panel chaired by Thabo Mbeki, former President of South Africa, was presented to and endorsed by the AU Heads of Government. A major outcome of the Report was that it helped to create awareness of these issues amongst national, regional and global policy actors and development partners. The Report and its recommendations were a focal point for discussions and Outcome adopted at the July 2015 Third International Conference on Financing for Development held at Addis Ababa which called for a redoubling of efforts to tackle illicit financial flows (Institute for Austrian and International Tax Law/African Tax Institute, 2015). They were also integrated into the Sustainable Development Goals (SDGs) adopted at the United Nations Sustainable Development Summit held on September 25, 2015 (AU/ECA, 2016). Since 2015, a number of workshops/ conferences have been held as part of activities to implement the Recommendations of the Report. Nigeria which was identified as the top source of illicit financial flows out of Africa by the High-Level Panel's Report and earlier studies by the Global Financial Integrity, has also been engaged in efforts to address the large illicit outflows out of Nigeria as well as how to achieve asset recovery of some of the billions taken out of the country. The High-Level Panel's Report showed that Africa loses much of the illicit financial flows through tax evasion and trade and service mispricing by multinational companies. At present, Nigeria's tax/GDP ratio is only6% of GDP (Price Waterhouse Coopers, 2017). It is therefore important for Nigeria to improve tax administration not only to stem illicit financial flows but also to improve tax revenues for development. Tax reforms are needed to improve the way taxes are collected and managed, to widen the tax base and reach all groups to maximize tax revenue as well as stem illicit financial flows.It is important for Nigeria to pay attention to illicit financial flows and tax reforms because of the magnitude of illicit financial flows out of Nigeria, a significant proportion of which is due to tax evasion as a result of trade mispricing by multinationals, especially by oil companies in the extractive sector in Nigeria. For effective policy-making, there is a need to map and synthesize available information on illicit transfers and tax reforms in Nigeria.

2.0 Illicit Financial Flows: Concepts and Components

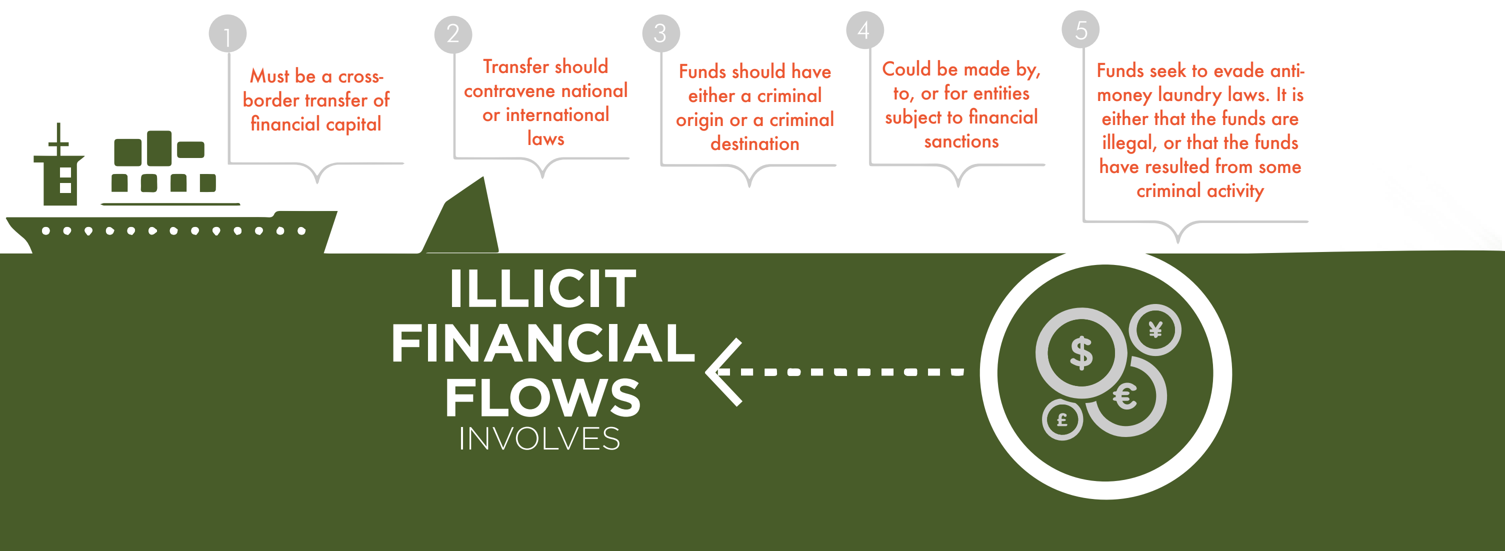
2.1. Definitions of Illicit Financial Flows

Generally, while economists and international organizations have analyzed and discussed capital flight for decades, interest in illicit financial flows is more recent. The term illicit financial flow is seen by some as being vague and imprecise and the content controversial. The term is characterised by lack of terminological clarity which sometimes limits emergence of effective policy options (ECA, 2013; Ritter, 2015). Chowla and Falcao (2016) also stated that there is yet no firm agreement on conceptual and definitional issues related to the term illicit financial flows. Thus, definitions of illicit financial flows have evolved over the years depending on the focus of the agency defining it. A few definitions are considered here.

Illicit financial flow is that portion of illicit finance that crosses borders or is transferred out of a country as not all illicit finance leaves a country. Thus, policies to address domestic illicit finance will differ from policies to address illicit financial flows. Given globalization and the ease of transferring money across borders (electronic transfers), illicit financial flows have continued to grow rapidly.

Different international agencies such as the UN (2016, 2016a), OECD (2013, 2015) and the World Bank (2016) have also defined illicit financial flows. The AU/ECA High Level Panel's Report (2015) adopted the definition suggested by the Global Financial Integrity and defined illicit financial flows as "money illegally earned, transferred or used". However, the AU/ECA HLP Report (2015, p.23) broadened its definition and described illicit financial flows as comprising of activities "that while not strictly illegal in all cases, go against established rules and norms, including legal obligations to pay tax". It thus covers not only actions that are illegal, but also includes those which are not explicitly forbidden by laws but are unacceptable in the light of unwritten rules, the spirit of the law, or their purpose. This definition covers all flows whether legal or illegal (Institute for Austrian and International Tax/African Tax Institute/UNODC, 2016).

Overall, the literature suggests that the most popular definition of illicit financial flows is the definition by the Global Financial Integrity which defines illicit financial flows as "cross-border transfers of funds that are illegally earned, transferred or utilized". Somewhere at its origin, movement or use, the money was gained or retained through illegal means and hence it is considered illicit.



The assumption of this definition is that the transfers take place through unregistered channels because their background or purpose is illegal (Majdanska, 2015). Many of the definitions of illicit financial flows centre around the legality or illegality associated with the flows. Thus, illicit financial flows or transfers involve the following features: there must be a cross-border transfer of financial capital; the transfer should contravene national or international laws; the funds should have either a criminal origin or a criminal destination; it could be made by, to, or for entities subject to financial sanctions, and the funds seek to evade anti-money laundry laws. It is either that the funds are illegal, or that the funds have resulted from some criminal activity.

2.2. Components of Illicit Financial Outflows

The definitions of illicit financial flows/transfers generally involved the following practices – money laundering, bribery, and tax evasion. The main components of illicit financial transfers are (ECA, 2013; AU/ECA/2015):

- **Corruption** – the proceeds of bribery and embezzlement of national wealth or abuse of entrusted power by government officials.
- **Criminal activities**– the proceeds of criminal activities such as drug trading, human trafficking, racketeering, counterfeiting, contraband, and terrorist financing.
- **Commercial activities** - proceeds of activities intended to hide wealth, avoid taxes, and dodge customs duties and levies. They include the proceeds of tax evasion and laundered commercial activities such as: abusive transfer pricing, trade mispricing, misinvoicing of services and intangibles, and unequal contracts.

According to Baker (2005), laundered commercial money through multinational companies constitutes the largest component of IFFs (about 60%), followed by proceeds from criminal activities (about 35%). Proceeds of corruption account for only about 3-5% of IFFs. However, the components of illicit financial flows are not mutually exclusive. Some criminal activities of multinational companies are facilitated by corruption by government officials (bribery). Also, the proportions could vary between countries. Thus, corruption may account for higher proportions in some African countries where large sums are embezzled by government officials and transferred abroad.

It should be noted that there is still a lot of debate around the components of illicit financial flows. Which commercial activities should be included? For example, tax can be avoided through legal ways.

However, money that has a clear connection with illegality should be included, for example, corruption, illegal exploitation of natural resources, smuggling and trafficking, money laundering, tax evasion and fraud in international trade should be included (World Bank, 2016a).

Source: allAfrica.com

According to the HLP Report (AU/ECA, 2015), reasons for engaging in illicit financial transfers through commercial activities include:

- Holding wealth;
- Evading or aggressively avoiding tax; and
- Dodging customs duties and domestic levies.

Some of these activities are described as "base erosion and profit shifting". IFFs out of Africa take place through abusive transfer pricing, trade mispricing, misinvoicing of services and intangibles and using unequal contracts, all for purposes of tax evasion, aggressive tax avoidance and illegal export of foreign exchange (AU/ECA, 2015, p.24).

Proceeds from commercial tax evasion can be sub-divided into Transfer Pricing and Trade Mispricing. Transfer Pricing denies a country of tax revenues. It occurs when two related companies located in different countries trade with each other, usually a parent company and a subsidiary company. The trade often involves the parent company manipulating the prices of goods so that the subsidiary company repatriates excessive profits to the parent company and avoids tax in the subsidiary's country (Mevel, Ofa and Karingi, 2013).

That is, transactions are not at 'Arms Length'. The Arms Length principle stipulates that commercial and financial transactions between related companies should be valued as if they have been carried out between unrelated companies. That is, prices charged should reflect their true economic values (Ritter, 2015).

Trade Mispricing also called trade misinvoicing or the misinvoicing of international trade transactions can also lead to commercial tax evasion. It is a means for moving capital out of a country without any records. It can be sub-divided into Export Under-invoicing and Import Over-Invoicing.

It is the falsification of the price, quality, and quantity of traded goods (AU/ECA, 2015).

It involves exporters under-stating their revenues and importers overstating their expenditures while their trading partners are instructed to deposit the balance in foreign accounts (Ritter, 2015). Empirical literature has established that trade mispricing accounts for a substantial share of illicit transfers from developing countries (UNCTAD/Ndikumana, 2016). The HLP Report focussed on Trade Mispricing as a major conduit for illegal transfers out of African countries. Companies have various motives for engaging in trade mispricing, they include financial motives, circumventing exchange and customs controls, and minimizing administrative burdens (AU/ECA, 2015, p.27; UNCTAD/Ndikumana, 2016).

IFFs out of Africa take place through abusive transfer pricing, trade mispricing, misinvoicing of services and intangibles and using unequal contracts, all for purposes of tax evasion, aggressive tax avoidance and illegal export of foreign exchange

AU/ECA, 2015, p.24

3.0 Illicit Financial Transfers from Nigeria

3.1. Magnitude of Illicit Financial Transfers from Nigeria

There are difficulties in estimating IFFs due to their hidden nature because they are illicit. There are also data challenges. The AU/ECA (2015) study examined gross outflows with focus on trade mispricing. However, most studies show that tax-related components – tax evasion and avoidance – in addition to transfer mispricing make up the bulk of illicit transfers out of developing countries (Ritter, 2015). Available evidence for the period 1970 to 2008 shows that Nigeria is a major source country for illicit financial transfers out of Africa. Tables 1 and 2 below show data from three studies revealing that up until 2008, Nigeria was the top source country for illicit flows out of Africa.

Table 1: Top 10 African Countries by Cumulative Illicit Financial Flows, 1970 – 2008

Country	Cumulative IFFs US$ Billions	Share in Africa's Total IFFs (%)
Nigeria	217.7	30.5
Egypt	105.2	14.7
South Africa	81.8	11.4
Morocco	33.9	4.7
Angola	29.5	4.1
Algeria	26.1	3.7
Cote d'Ivoire	21.6	3.0
Sudan	16.6	2.3
Ethiopia	16.5	2.3
Congo Republic of	16.2	2.3

Source: AU/ECA, 2015

The Report of the High Level Panel (HLP) on Illicit Flows from Africa showed that Nigeria was the source of illicit financial flows out of Africa between 1970 and 2008. Nigeria accounted for 30.5% of illicit financial outflows from Africa. The Report showed that Nigeria lost $217.7 billion to illicit financial flows during the period 1970-2008. Nigeria's ranking as the top source of illicit transfers out of Africa was corroborated by two other studies. In an analysis of capital flight from Sub-Saharan African countries for the years 1970-2004, Ndikumana and Boyce (2008, 2010) showed that Nigeria was the highest source of capital flight from Sub-Sahara Africa. Similarly, Global Financial Integrity's analysis of Illicit Financial Flows from Africa also for the period 1970-2004 ranked Nigeria as the top source country for illicit financial flows as shown in Table 2.

Table 2: Top 20 African Countries, Cumulative Illicit Flows, 1970-2004, (Millions USD)

Ndikumana and Boyce, 2008		Kar and Cartwright-Smith, 2014	
Country	**Illicit Flows**	**Country**	**Illicit Flows**
Nigeria	165,697	Nigeria	69,543
Angola	42,179	Egypt	70,498
Cote D'Ivoire	34,350	Algeria	25,678
Congo Dem Rep	19,573	Morocco	24,985
Cameroon	18,379	South Africa	24,880
South Africa	18,266	Cote D'Ivoire	16,102
Ethiopia	17,032	Congo Republic of	14,132
Zimbabwe	16,152	Sudan	12,832
Congo Republic of	14,951	Angola	12,659
Mozambique	10,678	Tunisia	11,748
Zambia	9,770	Cameroon	11,452
Sudan	9,219	Ethiopia	10,876
Gabon	8,581	Gabon	8,176
Ghana	8,504	Zimbabwe	6,822
Madagascar	7,431	Tanzania	6,561
Tanzania	5,185	Zambia	5,860
Uganda	4,982	Madagascar	5,3455
Sierra Leone	4,608	Kenya	5,139
Rwanda	3,367	Mozambique	4,945
Burkina Faso	3,077	Ghana	4,536

Source: Kar and Cartwrigh-Smith, 2014

While Ndikumana and Boyce (2008) analysed data for Sub-Saharan African countries only (40 countries), Kar and Cartwright-Smith (2014) examined all African countries. Despite the differences in sample and data issues, fifteen of the top twenty top countries with cumulative illicit outflows were identified in both studies. Both studies also showed that Nigeria was at the top of the list with the highest cumulative illicit outflows for the period 1970-2004.

However, more recent figures from the Global Financial Integrity for the period 2004-2013 showed that Nigeria surpassed South Africa as the country with the largest average illicit financial outflows in Africa during the ten-year period covered (Kar and Spanjers, 2015). In an analysis of Illicit Financial Flows from Developing Countries for the years 2004-2013, data showed that Nigeria ranks tenth among the top source countries for illicit transfers (Kar and Spanjers, 2015). Table 3 shows the ten highest source developing countries for illicit financial flows for the period 2004-2013. The ten countries accounting for 67.3% of global illicit financial outflows were identified in the study.

Table 3: Ten Highest Source Countries for Illicit Financial Flows: 2004-2013 (Millions of nominal USD)

Rank	Country	Cumulative	Average
1	China Mainland	1,392,776	139,228
2	Russian Federation	1,049,772	104,977
3	Mexico	528,439	52,844
4	India	510,286	51,029
5	Malaysia	418,542	41,854
6	Brazil	226,667	22,667
7	South Africa	209,219	20,922
8	Thailand	191,768	19,177
9	Indonesia	180,710	18,071
10	Nigeria	178,040	17,804
Total of Top ten		4,885,718	488,572
Top Ten as Percentage of Total		67.3%	
Developing World Total		7,847,921	784,792

Source: Kar and Spanjers, 2015

As shown in Tables 2 and 3, all available analysis of illicit financial flows from Africa show that Nigeria is a major source country for illicit financial flows from Africa and from all developing counties. This has implications for domestic resource mobilization and development in Nigeria. Table 4 shows distribution of illicit transfers from Nigeria between 2004 and 2014.

Table 4: Illicit Financial Flows from Nigeria: 2004 -2013 (Millions USD)

Years	IFFs	Trade Misinvoicing Outflows	Illicit Hot Money
2004	1,680	1,680	0
2005	17,867	523	17,345
2006	19,660	2,008	17,151
2007	19,335	4,936	14,399
2008	24,192	3,410	20,783
2009	26,377	0	26,377
2010	19,376	4,231	15,144
2011	18,321	13,056	5,265
2012	4,998	0	4,998
2013	26,735	0	26,735
Cumulative	178,040	29,844	148,197
Average	17,804	2,984	14,820

Source: Kar and Spanjers, 2015

The table shows that on average, Nigeria lost about US$ 17.8 billion annually over the 10 years between 2004 and 2013.

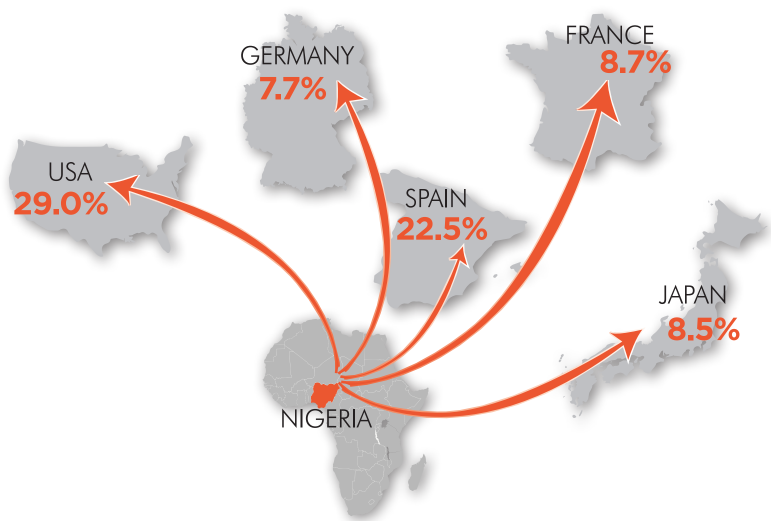
3.2. Destination Countries for Illicit Financial Flows from Nigeria

Studies of IFFs have shown that oil-exporting countries like Nigeria are vulnerable to illicit financial transfers. Oil and gas related products account for about 92% of Nigeria's total merchandise exports. UNCTAD/ Ndikumana, (2016) estimated shares of Nigeria's top exports going to main destination countries.

The top export products for Nigeria are petroleum oils, oil from bitumen materials and crude while the top second export is natural gas. The AU/ECA Report (2015) identified the top five destinations for Nigerian petroleum according to their share of illicit financial flows from Nigeria. They are: United States (29.0%), Spain (22.5%), France (8.7%), Japan (8.5%), and Germany (7.7%). The five countries contributed 76.4% of total illicit financial flows from Nigeria from 1970-2008. The strong concentration of exports in a few products and destinations exposes resource-rich countries to trade mispricing. Fuel exporters accounted for nearly half of illicit financial flows between 1970 and 2008. The illicit flows were driven by oil price increases during this period.

The literature suggests that trade misinvoicing varies between products depending on their characteristics. Thus, high value, low weight products such as gold and diamonds can be easily smuggled. Also, goods such as artisanal mining which are produced through largely informal means are also more vulnerable to trade mispricing (UNCTAD/Ndikumana, 2016). The extractive sector is particularly prone to illicit financial transfers for various reasons. (Billon, 2011; UNCTAD/Ndikumana, 2016). These include concentration in terms of geographical location and exploitation. The sector also contributes a large share of government revenue and therefore tends to be controlled from the Presidents' office. Furthermore, the state officials in charge of managing the sector tend to serve the personal interests of their political patron. Government officials in charge have a lot of discretionary power which promotes rent-seeking behaviour, they tend to serve their own vested and other political interests. Since competition tends to be limited (a few large companies), there are fewer checks and balances in the sector. The multinational companies in the sector tend to wield a lot of financial and market power, this allows them to exert pressure on host governments and circumvent regulations. Many of these oil companies have branches in several countries that facilitate export through inter-company trade and profit-shifting through transfer pricing.

Top five destinations for Nigerian petroleum according to their share of illicit financial flows (1970-2008).



3.3. Illicit Financial Flows from Nigeria's Extractive Sector

3.3.1. Nigeria's Extractive Sector

Nigeria's extractive sector consists of: the oil and gas industry and the solid minerals industry. Since its inception, the Nigerian Extractive Industries Transparency Initiative (NEITI) has produced reports on the extractive sector in Nigeria.

Oil and gas industry: OPEC data show that Nigeria is second to Libya in proven reserves of crude oil and has the largest gas reserves in Africa.

It has the 9th largest proven reserves of crude oil and natural gas in the world (NEITI, 2016). As at 1st January 2016, Nigeria had oil reserves of 37,062.06 million barrels and natural gas reserves of 192.065 Standard Cubic Feet (scf) (97.208 scf of associated gas and 94.857 scf of non-associated gas). The oil and gas sector accounted for about 89.29% of the country's total exports in 2015.

The oil and gas sector is a major contributor to the economy. The contribution to GDP declined from 12.86% in 2013 to 10.80% in 2014 to 6.4% in 2014. The decline was due to a decline in the price of crude oil from a peak of $114.17 per barrel in June 2014 to $53.1 per barrel in December 2015. Table 5 shows the contribution of oil to government revenue and exports between 2010 and 2015.

Table 5: Contribution of Oil to Government Revenue and Exports: 2010 – 2015 (%)

Year	Contribution to Revenue (%)	Contribution to Exports (%)
2010	73.88	94.08
2011	79.87	94.00
2012	75.33	94.19
2013	69.77	92.99
2014	67.47	92.54
2015	55.41	92.63

Source: CBN Statistical Bulletin, cited in BUDGIT, 2017

3.3.2. Illicit Financial Flows through Trade Mispricing in Nigeria's Extractive Sector

UNCTAD commissioned a study of trade misinvoicing of primary commodities in five countries – Chile, Cote D'Ivoire, Nigeria, South Africa and Zambia. The study which was carried out by Ndikumana and published by UNCTAD (2016) demonstrated how primary producing countries lose capital through trade misinvoicing by their buyers. This section describes the Nigerian experience. In the study, since there was no Comtrade database for the years 2004 and 2006 for Nigeria, the study was divided into two sub-periods – 1996-2003 and 2006-2014.

Oil Exports: In sum, findings showed that:

- Trade with five of seventeen major trading partners exhibit export under-invoicing.
- Trade with the remaining twelve trading partners showed export over-invoicing.
- The largest amount of trade under-invoicing was with the United States amounting to US$69.7 billion, followed by Germany (US$23.9 billion).
- Trade with Italy and Netherlands showed high levels of over-invoicing with a total of US$26.1 billion and USD20.5 billion respectively.
- Excluding Italy and the Netherlands, the total of export under-invoicing with Nigeria's major trading partners amounted to US$51.9 billion over the period 1999 to 2014.
- A substantial amount of oil exports to Switzerland was not recorded in Nigeria or that the exported quantities of values were highly undervalued.

Oil Imports: While Nigeria is a major oil producer and exporter, Nigeria imports refined petroleum because of the poor performance of its refineries.

Thus, Nigeria also experiences capital outflows through oil imports misinvoicing by trading partners. Table 9 shows import misinvoicing by trading partners. The results show that:

- There is systematic and substantial import under-invoicing in Nigeria. Cumulative import under-invoicing amounted to US$46.5 billion between 1996-2014.
- Under-importing was higher during the 2006-2014 period. While cumulative amount of unrecorded imports was US$3.4 billion between 1996-2003, it was US$42.2 billion between 2006-2014.
- Trade with Netherlands showed large import under-invoicing amounting to USD24 billion, most of which occurred between 2006 and 2014 (US$23.7 billion).

Table 6 summarizes the findings for oil export and oil import misinvoicing by Nigeria's leading trading partners.

The results for Netherland stand out. It appears that the bulk of oil exported to Netherland by Nigeria is not recorded in Netherlands, while the bulk of oil exported by the Netherlands to Nigeria is not recorded in Nigeria. This requires more scrutiny.

Trade with five of seventeen major trading partners exhibit export under-invoicing. Trade with the remaining twelve trading partners showed export over-invoicing. The largest amount of trade under-invoicing was with the United States amounting to US$69.7 billion.

..the bulk of oil exported to Netherland by Nigeria is not recorded in Netherlands, while the bulk of oil exported by the Netherlands to Nigeria is not recorded in Nigeria. This requires more scrutiny.

Table 6: Net Oil Export and Import Misinvoicing: 1996-2014 (Mills Constant 2014 USD)

Trading Partner	1996-2003	2006-2014	Total 1996-2014
Brazil	-899.8	-6507.9	-7407.7
Canada	-1356.2	-7026.8	-8383
China	-98.5	-4518.1	-4616.6
Cote D'Ivoire	-1105.9	-6421.4	-7527.3
France	-2770.0	-14789.1	-17559.1
Germany	3363	20741.3	24104.3
Ghana	-584.8	-5332.6	-5749.4
India	-10332.0	1258.9	-9073.1
Italy	-5293.1	-20409.9	-25703.1
Netherlands	-2879.0	-41793.4	-44672.4
Portugal	361.8	-1503.9	-1142.0
Rep of Korea	-197.2	-2595.5	-2792.7
South Africa	-654.3	-3961.7	-4516.0
Spain	459.3	871.8	1331.1
Switzerland	2987.6	4276.2	7263.9
United Kingdom	290.0	70.4	360.4
United States	51201.7	15600.6	66802.2
Total	32524.7	=71957.2	-39432.5
Excluding Netherlands	35403.7	-30263.7	5239.9

Source: UNCTAD/Ndikumana, 2016:

Overall, the UNCTAD/Ndikumana (2016) study shows that export misinvoicing is a major channel of capital transfers out of Nigeria. Imports under-invoicing suggests under-valuation of imports or smuggling of oil into the country. Oil leaving Nigeria is not recorded at its officially recorded destination, for example Netherlands (UNCTAD/Ndikumana, 2016). This implies that some illicit activities are going on such as smuggling or diversion of oil exports leading to huge losses in revenue. There is need for improved statistics on volumes and values on Nigeria's oil imports and exports. Other aspects of illicit financial flows from Nigeria's oil sector are oil bunkering and oil theft (Ayodele and Bamidele, 2017).

3.3.3. Drivers/Enablers of Illicit Financial Transfers from Nigeria

Who and what are the drivers/enablers of illicit capital transfers out of Nigeria? The AU/ECA Report identified the following enablers and drivers of illicit financial flows out of Africa, most of which are relevant in Nigeria. These are: poor governance, weak regulatory structures, tax incentives, the existence of financial secrecy jurisdictions and tax havens and beneficial ownership.

1. Poor Governance

Poor governance includes corruption and weak regulatory systems. The Transparency International's Corruption Perception Index 2016 which assesses corruption in the public-sector ranks Nigeria as 136th out of 176 countries with a score of 28 out of 100. The ranking has however slipped down in 2017 where Nigeria was ranked 148th position with a score of 27, showing that corruption is still very widespread in Nigeria and manifests in different ways (Transparency International, 2018). Jose Ugaz, Chair of Transparency International highlighted the need to address issues of corruption urgent in a 2017 Report where he stated:

> *'In too many countries, people are deprived of the most basic needs and go to bed hungry every night because of corruption, while the powerful and corrupt enjoy lavish lifestyles with impunity.'*

Corruption facilitates illicit financial flows out of Nigeria. These outflows are made possible by the existence of tax havens, secrecy jurisdictions, disguised corporations, anonymous trusts and fake foundations in developed countries (Ayodele and Bamidele, 2017; Otusaunya and Lauwo, 2012). These offshore financial centres (OFCs) with their high level of bank secrecy attract and shelter illicit funds from developing countries (Otusanya, 2012). The Nigerian Extractive Industry Transparency Initiative (NEITI) Audit Reports on Nigeria's extractive industry have highlighted some of the opaque practices in the extractive industry which facilitate illicit financial flows in the form of tax evasion and avoidance by multinationals operating in the oil and gas sector.

Corruption in the oil and gas industry: Corruption in the extractive industry is manifested in bribes paid by operating companies, embezzlement of funds, undeclared corporate revenues from illegal resource exploitation, inflated costs by operating companies. Different NEITI reports (20016a, 2016b) show that all these practices take place in Nigeria's extractive sector. Earlier sections on trade misinvoicing of Nigeria's oil exports and imports suggest that many illicit activities are taking place in Nigeria's extractive sector.

Corruption in the Public Sector: Reports of stealing and embezzlement of public funds in different Ministries, Departments and Agencies (MDAs) are reported almost daily in Nigerian newspapers. Corruption increased in leaps and bounds because of oil revenues. This is not surprising as studies have shown that corruption, weak governance and rent-seeking, and plunder, are problems intrinsic to countries that own natural resources such as oil and minerals (Salai-Martin and Subramanian, 2003). Some authors claim that oil and corruption go together. Andes and di Tella (1999) quoting the Economist wrote:

> *'Oil and corruption go together. Nigeria's oil accounts for about 80% of government revenue, the official price of crude increased 17 fold in eight years from about $2 per barrel in 1973-74 to $34 by the end of 1983. Nigeria went on construction and importing spree. Parties and party officials grew rich'*

According to Sala-I-Martin and Subramanian (2003) in a 35-year period between 1965 and 2000, Nigeria had earned a cumulative US$350 billion at 1995 prices, but the standard of living did not improve at all. This can be explained by embezzlement of revenues which have been carted away to banks and safe havens in the advanced countries. The Obasanjo administration created some institutions to address corruption and financial crimes – the Economic and Financial Crimes Commission (EFCC) and the (Independent Corrupt Practices Commission (ICPC. In 2008, a report of a team of eminent persons from the African Union in Nigeria on a month-long visit stated, 'Corruption is still endemic in Nigeria despite the activities of the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices commission (ICPC)'. (see African Union Report 2008, cited in Bakre, n.d).

Corruption facilitates illicit financial flows out of Nigeria. These outflows are made possible by the existence of tax havens, secrecy jurisdictions, disguised corporations, anonymous trusts and fake foundations in developed countries.

The Buhari administration made fighting corruption one of its three cardinal mandates. According to President Buhari, *"if Nigeria does not kill corruption, corruption will kill Nigeria"*. Although corruption has reduced slightly, it is still very widespread.

The economic and political elites in addition to the expensive mansions and properties they have acquired in Lagos, Abuja, country homes, have siphoned billions of dollars of looted funds overseas, part of the stolen funds has been used to buy luxury items such as private jets, yachts, mansions, cars and other luxuries abroad. The Panama Reports listed some Nigerians who had offshore accounts (Ogbu, 2016).

Corruption by Multinational Oil Companies: Many of the multinational companies operating in Nigeria appear to have cashed in on the corruption spree to circumvent regulations and controls and to evade/avoid taxes. There are several reports over the years of the activities of oil multinationals, especially Shell Petroleum Company and Chevron A few examples are mentioned.

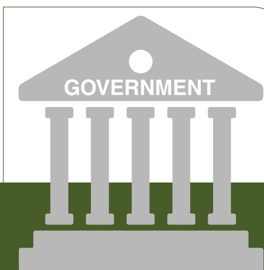
Bribery: Multinationals such as Shell Company have engaged in bribery of officials of the Nigeria National Petroleum Company (NNPC). The WikiLeaks (2010) revealed some of the nefarious activities of oil companies. Public officials have been bribed to secure favourable deals. An ongoing case around bribery by oil companies is the Malabu Oil deal. It is alleged that senior government officials including former Ministers of oil and Attorney General and others shared a bribe of US$1.1 billion for the sale of one of Nigeria's richest oil fields to Shell and Agip-Eni Oil Companies. The money was used to bribe politicians and others who helped them to secure the lucrative oil field at a discounted value and a huge loss in revenue to the Nigerian government (Sahara Reporters, 2014). This shows the power and influence wielded by multinational oil companies like Shell.

2. Tax Evasion/Avoidance/Payment of Royalties/compensation

The Federal and State Governments have had running battles with Shell and Chevron in particular over payment of taxes, and royalties. Multinational oil companies have bribed officials of the Federal Inland Revenue Service in order to pay less tax (Bakre, n.d)

A prime example of this is the Halliburton bribery scandal where a network of secret banks and offshore tax havens was used to siphon US$182 million in bribes to Nigerian officials for a project worth US$6 billion in engineering and construction works.

The Halliburton scandal dates back to 1994 when the Nigerian government launched the plan to build the Bonny Island Liquefied Gas Project. Part of the cash was moved to Nigeria and destined for the ruling party via the NNPC. One of the lawyers was jailed in the USA in 2012, although the Nigerians involved are yet to be prosecuted for money laundering and financial fraud (The Indian Express, 2015).



"The Federal and State Governments have had running battles with Shell and Chevron in particular over payment of taxes, and royalties."

Several cases of tax avoidance have been reported but more recently, the House of Representatives has begun the probe of US$21 billion oil loss and huge debts owed indigenous companies by International Oil Companies (IOCs). The ad hoc Committee is to probe the loss of money to undeclared crude oil by oil companies. It is to investigate the operations of the deep off-shore and Inland Basin Production Sharing Contracts Act (PSC) as it concerns the NNPC and IOCs to determine the reasons for the loss of US$21 billion, find out why appropriate steps were not taken at the right time to remedy the situation and recover the revenue (Vanguard, 2018).

Recently, the Federal Government accused oil companies of not paying stipulated gas flaring penalties leading to loss of revenues in billions of dollars to the government. The Minister of Finance, Mrs Adeosun, said that oil companies are taking advantage of the wording of the legal framework which defined the penalty as a charge which is tax deductible. As a result, the oil companies flare the gas, pay the charge, and get tax relief for the charge. There is need to amend the law, the Minister said, and replace the word 'charge' with 'penalty'. Just one word has lost Nigeria billions of dollars (Ejoh, 2018). It has also made it difficult for Nigeria to achieve its objective of ending gas flaring which contributes to environmental degradation apart from the waste. The Group Managing Director of the NNPC corroborating this has stated that Nigeria loses N868 million daily to gas flaring with about 700 million standard cubic feet (scf) of gas being flared per day (Vanguard, 2018).

capital allowance, research and development, tax-free dividends, tax treaties, reliefs and allowances, and capital allowances. The objective of tax incentives is to attract, retain or increase investment in specific sectors of the economy to promote economic growth. It is expected that revenue sacrifice through tax incentives will eventually be compensated for by an increase in tax capacity of the favoured tax base as a result of increased tax compliance or capital formation thereby encouraging growth of the tax base (Oriakhi and Osemwengie, 2013).

However, it is reported that Nigeria lost billions of dollars due to indiscriminate granting of waivers to undeserving companies between 2010 and 2014, mainly on the recommendation of the Nigerian Investment Promotion Commission (NIPC). According to a NEITI report, Nigeria lost \$1.17 billion between 2009 and 2014, and \$1.56 billion between 2014 and 2016. It was reported that while oil companies were to be taxed 65% under the Petroleum Profits Tax Act, fraudulent officials of the NIPC listed these companies under the Industrial Development (Tax Relief) Act thereby qualifying them for Pioneer Status.

In some cases, according to reports, tax holidays were granted to companies whose products did not meet the requirements of the list of products or industries listed in the Schedule to the Act. In some cases, pioneer certificates were backdated which meant the federal government had to refund taxes already paid to government (Onwuemeyi, 2018).

3. Tax Waivers and Revenue Loss

Studies have shown that Nigeria loses a lot of revenue from tax waivers every year.

In a study by Oriakhi and Osemwengie (2013) they showed that tax incentives resulted in loss of revenue to the country. Tax incentives have operated under the following sub-heads in Nigeria (Oriakhi and Osemwengie, 2013; CBN, 2013): Tax holidays, investment allowance, rural investment allowance, tax free interest, deductible

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NEITI (2015) in its 2015 Oil and Gas Report also highlighted abuse of tax waivers, eight of the oil companies were granted tax holidays for five straight years instead of exemptions for three years in the first instance and an additional two years. In its 2014 Oil and Gas Report, NEITI argues that by granting Pioneer Status to oil companies, Nigeria was waiving about US$2.1 billion or N1.1 trillion in tax revenue (NEITI, 2014). Granting waivers to oil and gas companies is undermining optimal collection of revenue due from Petroleum Profits Tax (PPT). Similarly, granting of import waivers to companies also led to loss of revenues by the Customs Service (Ogah, 2016). The Customs Service was unable to meet its revenue target because of the numerous import duty waivers granted to companies and MDAs in different sectors. (Ogah, 2016).

4. Existence of Financial Secrecy Jurisdictions and Tax Havens

The existence of secret financial jurisdictions and tax havens which make it easy for stolen funds and assets to be repatriated abroad has facilitated illicit transfers out of the country. Studies have shown that the elite in many developing countries, including Politically Exposed Persons (PEPs) in Nigeria have placed assets in offshore financial centres (Otusanya, 2012; Otusanya and Lauwo, 2012). The proceeds of embezzlement, fraud, and theft have also been laundered either as money or as foods. OFCs facilitate the transmission of illicit funds through the banking system. PEPs in Nigeria are known to have engaged in money laundering, purchasing private jets, luxury mansions and cars, yachts, and other luxury goods, and hiding them in the United States, United Kingdom, Switzerland, United Arab Emirates, South Africa, and other countries. In the Panama Papers which leaked over 11.1 million files of an offshore company, a number of wealthy Nigerians including businessmen, politicians, retired military personnel were listed as owning and hiding their wealth, some of it obtained through corruption, in offshore accounts (Ogbu, 2016).

5. Beneficial ownership

A NEITI report also showed that some of the oil companies operate shell companies. Section 2.5 of the Extractive Industries Transparency Initiative (EITI) Standard 2016 recommends that countries should maintain a register of the beneficial owners of corporate entities that bid for or operate or invest in extractive industries which should be available to the public. EITI defines a beneficial ownership as follows: *"A beneficial owner in respect of a company means the natural persons(s) who directly or indirectly ultimately owns or controls the corporate entity"*. NEITI has published a Road Map for beneficial ownership, outlining Nigeria's strategy towards beneficial ownership. It demands public disclosure of the real owners of oil and gas and mining companies operating in Nigeria. In the 2015 Oil and Gas Report, NEITI tried to obtain the beneficial owners of oil and gas and mining companies operating in Nigeria, it was unable to obtain names of natural owners from publicly listed companies and wholly owned subsidiaries.

3.4. Impacts of Illicit Transfers on Nigeria's Development

3.4.1. Impacts of Illicit Financial Flows on Nigeria

Since oil was discovered in 1956, Nigeria has earned hundreds of billions of dollars as oil revenue. Despite these huge revenues, the pace of socio-economic developments has been rather slow and has excluded majority of citizens. As the evidence has shown, a large portion of these revenues have been lost to illicit financial transfers out of Nigeria. Between 1970 and 2008, over US$200 billion was lost to Nigeria. Since then, billions more have been lost to corruption, tax waivers and as export and imports mispricing by Nigeria's major oil trading partners.

A lot of the money lost to public and private corruption has found its way out of the country with the connivance of bank officials to tax havens and to money laundering. The Federal Inland Revenue Service (FIRS) revealed recently that there were 29 Nigerians and Nigerian businesses who registered their private jets in South Africa to hide their loot and to avoid paying tax in Nigeria thereby defrauding the Nigerian government of tax revenue (Vanguard editorial, November 3, 2017). The literature suggests that illicit financial flows have negative effects on development (Nkurunziza, 2012; ECA, 2013; Council for International Development, 2014). What have been the impacts of illicit financial flows on Nigeria's development?

i. **Reduction in tax revenue:** The different channels through which illicit flows are moved out of Nigeria have led to huge losses of revenue by government – export revenue, tax revenue (company income tax, personal income tax, customs duties), etc. inadequate resources contributed to Nigeria going into economic recession in 2016 from which she exited in 2017.

ii. **Impact on service delivery:** High volumes of illicit flows have reduced revenue available to provide the basic needs of majority of Nigerians. Many Nigerians still lack access to public services such as health facilities, potable water, housing, and sanitation facilities, good transportation and electricity.

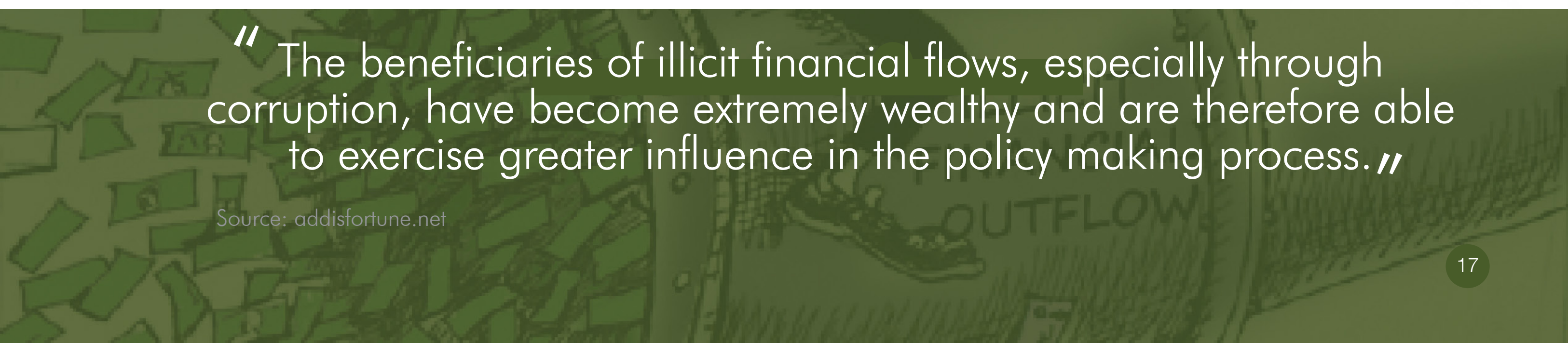
iii. **Growing inequality:** Corruption especially among the political and business elites, has worsened inequality in Nigeria. The poorest 20% control only 4% of the nations' wealth, while the richest live in opulence at home in Nigeria and in affluence in countries where their stolen loot is hidden.

iv. **Co-option of political power and influence by beneficiaries of corruption:** The beneficiaries of illicit financial flows, especially through corruption, have become extremely wealthy and are therefore able to exercise greater influence in the policy making process.

They control political and economic power which makes it difficult for the government to implement certain policies, for example, policies to eradicate or reduce corruption.

v. **Impact on governance:** Illicit financial flows helped to weaken (through bribery and theft of public resources), regulatory and other institutions (such as banks, financial intelligence units, legal systems). In 2016, a number of judges were arrested for bribery (Vanguard, 2016). Many Nigerians believe that they are mainly responsible for frustrating prosecution of cases of corruption by the Economic and Financial Crimes Commission (EFCC) against highly paced persons in the country.

vi. **Slow industrial growth:** Illicit financial flows have reduced foreign exchange needed to promote industrial development in Nigeria. Many factories have closed all over the country because of lack of foreign exchange to import plant and equipment. This has contributed to the high youth unemployment in Nigeria.



"The beneficiaries of illicit financial flows, especially through corruption, have become extremely wealthy and are therefore able to exercise greater influence in the policy making process."

Source: addisfortune.net

Overall illicit financial flows helped to: drain Nigeria's external reserves (it fell to about US$20 billion in 2015/16), reduce tax collection, worsen poverty and inflation, and widen income gaps. In his speech at the Conference on Promoting International Cooperation in Combatting Illicit financial Flows held in Abuja in June 2017, Prof Sagay citing a press release by the Federal Government in relation to some identified stolen public funds, said:

> *"One third of the stolen funds could have provided 635.18 kilometres of roads, 36 ultra-modern hospitals per state, 183 schools, educated 3,974 children from primary to tertiary level at 25.24 million per child and built 20,042 units of 2-bedroom houses" (Sagay, 2017).*

3.4.2. Addressing the Challenge of Illicit Transfers from Nigeria

The High Level Panel made several recommendations for addressing the complex issue of illicit capital flows out of Africa.

It emphasized that commercial activities are the largest contributor to illicit capital flows out of Africa followed by organized crime, then public sector activities.

The Panel's recommendation addressed the three main sources of illicit financial flows out of Africa. The Panel added that since most of the illicit flows are trade based, recommendations for improving capacity and accountability to address trade related illicit flows should be prioritised. Since then, the ECA has convened a number of follow-up workshops, progress reports have been submitted. Countries, including Nigeria, have keyed into implementing the recommendations of the High-Level Panel. Nigeria has hosted several conferences addressing illicit financial flows and asset recovery as well as taxation.

It co-sponsored two Resolutions at the 71st UN General Assembly to refocus attention to the menace of illicit capital flows and the need to strengthen mechanisms for Asset Recovery (Onyeama, 2017). It has set up agencies to address corruption. It has also keyed into the Automatic Exchange of Tax information programme. Some limited success has been achieved with the recovery of most of the funds looted by late President Abacha from different countries. The HLP Recommendations and Nigeria's policy and programme response to them will be presented in the policy section of this report.

"One third of the stolen funds could have provided 635.18 kilometres of roads, 36 ultra-modern hospitals per state, 183 schools, educated 3,974 children from primary to tertiary level at 25.24 million per child and built 20,042 units of 2-bedroom houses."

Source: UNICEF Nigeria

4.0 Tax Reforms in Nigeria

4.1. The Tax System in Nigeria

4.1.1 History of Taxation in Nigeria

The National Tax Policy (Federal Ministry of Finance, 2017) defines a tax as "any compulsory payment to government imposed by law without direct benefit or return of value or a service whether it is called a tax or not". A tax is also defined as "a monetary charge imposed by the government on persons, entities, transactions and properties to yield revenue" (Dike, 2014). Tax can also be defined as "a compulsory exaction from a taxpayer paid in cash or in kind to the government to provide for the public services of common interest without particular regard to the particular benefit received by the taxpayer (Dike, 2014). Taxation is therefore an instrument for national development. It is a major source of government revenue, it can also be used to stimulate growth.

According to the 2012 National Tax Policy, a tax is not a voluntary payment or a donation, it is an enforced and compulsory contribution, exacted pursuant to legislative authority. It is any contribution imposed by government, whether under the name of duty, custom excise, levy or other names (Federal Ministry of Finance, 2012).

The history of modern taxation in Nigeria can be traced to reforms initiated in the first decade of the 20th Century in Northern Nigeria by Sir Frederick Lugard. He issued the Stamp Duties Proclamation No 8 in 1903 and followed this with the Native Revenue Proclamation No 2 in 1906. The 1906 Proclamation systematized all taxes existing in northern Nigeria, it defined taxable rates, procedures for assessment and collection and penalties for default. This made northern Nigeria the launchpad for direct taxation in Nigeria. Following the amalgamation of the northern and southern protectorates in 1914, the Colonial Government reissued the Native Revenue Proclamation as the Native Revenue Ordinance No 1 of 1917. The application of the Ordinance was extended to the Western and Eastern territories in 1918 and 1927 respectively to enable the levying of income tax in these territories (FIRS, 2012). Since then, there have been several efforts aimed at modernizing, expanding and reforming the processes in Nigeria's tax system over the years.

4.1.2 Features of Nigeria's Tax System

The structure of taxation in Nigeria as stipulated by the Nigerian Constitution (Federal Republic of Nigeria, 1999) reflects the three-tier system of Government at the Federal, State and Local Government levels. Each tier of government has been granted powers and responsibilities with respect to the imposition and collection of taxes. The tax system of a country comprises the Tax Policy, Tax Legislation (tax laws) and the Tax Administration.

A tax policy is the basis for tax laws while tax administration refers to the implementation of tax laws. Thus appropriate tax policies and tax legislations implemented by an effective administration are essential if taxation is to make meaningful impact on national development. According to the National Tax Policy (2017), tax policies, laws and administration, that is, the tax system shall promote the attainment of the following:

a. The ability of all taxable persons to declare their income honestly to appropriate and lawful agencies and pay their tax promptly,

b. The Residence rights of Nigerians, free mobility of people, goods and services throughout the Federation,

c. Promoting fiscal responsibility and accountability that reflects the principle of fiscal federalism,

d. Ensuring that the rights of all taxable persons are recognised and protected,

e. Eradicating corrupt practices and abuse of authority in the tax system,

f. Ensuring that the resources of the nation promote national prosperity and a self-reliant economy,

g. Securing maximum welfare, justice and equity,

h. Ensuring that the resources of the nation are harnessed and distributed to serve the common good,

i. Promoting and protecting Nigeria's national interest,

j. Promoting African integration, international co-operation and eliminating discrimination, and

k. Respecting international law and treaty obligations.

4.1.3 Nigeria's National Tax Policy

In 2002, a Study Group headed by Professor Dotun Phillips was inaugurated to review Nigeria's tax system. Its terms of reference included (Yusuf, 2008):

- Review all aspects of the Nigerian Tax System and recommend improvements therein,
- Review the entire tax administration and recommend improvements in the structure for the whole country, and
- Consider measures to bring international developments in tax administration to bear in Nigeria

In 2004, a Working Group was inaugurated to review the Report of the Study Group.

The Working Group agreed with the Study Group's recommendation for a National Tax Policy. It also recommended the creation of an autonomous National Customs and Revenue Authority. The Working Group also reviewed and commented on the Study Group's proposed modifications to existing tax laws. These included strengthening Tax Administration, reform and passage of new tax bills. Various Tax bills were presented to the National Assembly.

In July 2005, a Presidential Committee was inaugurated to implement the recommendations of the Study and Working Groups on the development of a National Tax Policy (FIRS, 2012a). In 2010, a Draft National Policy was developed and submitted to the Federal Executive Council which adopted it on 20 January 2010. It was eventually launched by President Goodluck Jonathan in April 2012 (Federal Ministry of Finance, 2012). A National Tax Policy sets out broad parameters for taxation and ancillary matters relating to taxation. It sets out the principles governing tax administration and revenue collection.

In August 2016, the Federal Minister of Finance, Mrs Kemi Adeosun, inaugurated a Committee to review the 2012 National Tax Policy to make it conform with global best practices as well as align it with the nation's socio-economic realities. She explained that the aim of entrenching an improved Tax Policy was to effectively harness the much-needed resources required for the nation's sustained economic growth. The Committee was to recommend a list of tax laws and regulations that needed to be reviewed or amended. The Committee was also to expand the treaty network of Nigeria to include the nation's major trading partners and review the existing Double Taxation Agreement (DTA).

The goal is to grow revenues and improve tax collection as the administration was committed to diversifying the sources of government revenue away from oil which contributes 87% of government revenue but only accounts for 13% of GDP. The non-oil sector should make its own contribution to revenue. An effective tax system is key to this objective and such a system must be underpinned by an effective and appropriate tax policy.

She said that history was made with the introduction of the National Tax Policy in 2012, but it needed review as a tax policy cannot be static in a rapidly changing commercial environment with new business models, tax avoidance and evasion strategies among other activities (Ndubuisi, 2016).

The new Tax Policy became effective on 1st February 2017. The objectives of the National Tax Policy are to (Federal Ministry of Finance, 2017):

- Guide the operation and review of the tax system,
- Provide the basis for future tax legislation and administration,
- Serve as a point of reference for all stakeholders on taxation, provide benchmark on which stakeholders shall be held accountable, and
- Provide clarity on the roles and responsibilities of Stakeholders in the tax system.

4.1.4 Tax Legislation

Tax laws provide legal backing to implementation of taxes, it states clearly the applicable rate, and states what constitutes an offence and appropriate sanctions. In Nigeria, taxes are imposed on the following bases:

a. On Individuals: These include:

- **Personal income tax** – imposed on income of all Nigerian citizens or residents who derive income in Nigeria and outside Nigeria.
- **Development levy** – a flat charge imposed on every taxable person typically within a state.

b. On companies (Corporate Entities). These include:

- **Companies Income Tax (30%)** - imposed on the profits of all corporate entities registered in Nigeria or derived income in Nigeria other than those engaged in petroleum operations.
- **Petroleum Profits Tax (between 50%** – 85%) – imposed on profits of all corporate entities registered in Nigeria or who derive income from oil and gas operations in Nigeria.
- **Education Tax (2%)** – imposed on all corporate entities registered in Nigeria.
- **Technology Development Levy** – imposed on selected corporate entities (telecommunication companies, internet service providers, pension managers, banks, insurance companies and other financial institutions within a specific turnover range) in Nigeria to support nationwide development of technology infrastructure and capacity.

c. On Transactions. These include:

- **Value Added Tax (VAT)** - imposed on the net sales value of non-exempt qualifying goods and services within Nigeria.
- **Capital Gains Tax** – imposed on capital gains derived from sale or disposal of chargeable assets.
- **Stamp Duties** – imposed on instruments executed by individuals and corporate entities in Nigeria.
- **Excise Duty** – imposed on the manufacture of goods within the Government territory collected by the Nigerian Customs Service.
- **Import Duty** – imposed on the import of goods into the Government territory collected by the Nigerian Customs Service.
- **Export Duty** – imposed on the export of goods outside the Government territory collected by the Nigerian Customs Service.

d. On Assets: These include taxes such as Property Tax, and other such assets imposed on land or landed property.

The different tax laws provide various reliefs and exemptions on some incomes and activities.

There are about 39 taxes, levies and fees collectible in Nigeria, 8 by the Federal (Federal Inland Revenue Service) 11 by the States Inland Revenue Service and 20 by the local Governments (JTB, 2013, cited by Nweze, 2013). The list of taxes to be collected by the three tiers of government have been approved by government and published by the Joint Tax Board published as *Taxes and Levies (Approved List for Collection) Decree No 21of 1998 (Federal Republic of Nigeria, 1998).*

4.1.5 Tax Administration in Nigeria

The administration of tax in Nigeria is vested in various tax authorities. In Nigeria, the tax authorities are:

i. The Federal Inland Revenue Service,

ii. The State Internal Revenue Service, and

iii. The Local Government Revenue Committee.

The Federal Inland Revenue Service and the State Internal Revenue Board are responsible for the administration of tax laws at federal and state levels. They are also to advise government on all tax related matters. They are to ensure that tax administration at all levels of government is carried out in a transparent manner and in accordance with statutory provisions in order to protect the integrity of the tax system (Federal Ministry of Finance, 2012).

Tax authorities are also expected to advise the legislature and provide assistance with respect to new tax legislation or amendment of existing tax laws. In general, tax authorities are to ensure that they discharge their functions in an efficient and effective manner. They are to ensure that core tax functions (such as assessment and collection of taxes) are carried out by career tax administrators, and not by ad-hoc consultants or agents (Federal Ministry of Finance, 2012).

However, at the apex of the Tax Authorities are the following bodies - the Joint Tax Board and the Federal Board of Inland Revenue.

4.1.6 Challenges of the Nigerian Tax System

The National Tax Policy (Federal Ministry of Finance, 2017) listed some of the challenges faced by the Nigerian Tax System. They include:

- Lack of robust framework for the taxation of the informal sector and high net worth individuals, thus limiting the revenue base and creating inequity;
- Fragmented data base of taxpayers and weak structure for exchange of information by and with tax authorities, resulting in revenue leakages;
- Inordinate drive by all tiers of government to grow internally generated revenue which has led to the arbitrary exercise of regulatory powers for revenue purposes;
- Lack of clarity on taxation powers of each level of government and encroachment on the powers of one level of government by another;
- Insufficient information available to taxpayers on tax compliance requirements thus creating uncertainty and non-compliance;
- Poor accountability for tax revenue;
- Insufficient capacity which has led to the delegation of powers of revenue officials to third parties, thereby creating complications to the tax system;
- Use of aggressive and unorthodox methods for tax collection;
- Failure by tax authorities to honour refund obligations to taxpayers;
- The non-regular review of tax legislation, which has led to obsolete laws, that do not reflect current economic realities; and
- Lack of strict adherence to tax policy direction and procedural guidelines for the operation of the various tax authorities.

4.2. Taxation and Development in Nigeria

The Addis Ababa Accord emphasized the importance of domestic resource mobilization for financing development. In the Declaration at the end of the Conference on Financing Development held in Addis Ababa (2015), it was stated, "Domestic resource mobilization and effective use is the crux of our common pursuit of sustainable development and achieving the SDGs". It added that domestic public resources are a more stable and sustainable source of revenue, they also strengthen a legitimate relationship between citizens and the state and foster good governance.

Therefore, partners should step up and support existing development cooperation to boost tax collection, reduce illicit financial flows, and strengthen policies that support inclusive development.

Thus, tax policies should emphasize growing revenue and reducing avenues for illicit flows such as tax evasion and tax avoidance.

The Nigerian National Tax Policy recognizes the important role of taxation in national development. The 2017 Tax Policy emphasized the role of taxation in promoting development (Federal Ministry of Finance, 2017). The Tax Policy is to provide a framework for a tax system that will ensure reliable and adequate revenue for government and promote economic development. Taxation should also be used to promote diversification of the economy. Efforts should be made to attract investment in all sectors of the economy, with focus on promoting specific sectors as may be identified by government in the interests of the country. The tax system should also begin to focus more on indirect taxes which are easier to collect or to evade. Tax rates should also be progressive to promote equality (Federal Ministry of Finance, 2017).

In drafting the National Tax Policies (2012 and 2017), it was expected that the tax laws derived from them will promote investment and economic growth. Were these expectations met over the years? Table 7 below shows tax revenues from various taxable sources between 2000 and 2015.

> "...domestic public resources are a more stable and sustainable source of revenue, they also strengthen a legitimate relationship between citizens and the state and foster good governance."

Table 7: Sources of Tax Revenue to Federal Government (Billions USD)

Year	PPT	CIT	VAT	EDT	CONS	NITDEF	CED	TOTAL
2000	334.5	53.3	58	8.3	1.2	0	99.2	554.5
2001	407.1	69.4	91.7	16.2	2.2	0	121.76	708.36
2002	224.4	89.1	108.6	10.1	1.7	0	145.48	579.38
2003	438	114.8	136.4	9.7	4.2	0	176.1	879.2
2004	878.6	130.8	163.3	17.1	5	0	221.98	1416.78
2005	1,352.20	170.2	192.7	21.8	4.9	0	198.79	1940.59
2006	1,349.50	246.7	232.7	28.4	5.9	0	209.49	2072.69
2007	1,132.00	332.4	312.6	59.6	10.3	0	221.41	2068.31
2008	2,060.90	420.6	401.7	59.5	27	2.5	285.57	3257.77
2009	939.4	600.6	481.4	139.5	29.9	6.8	321.81	2519.41
2010	1,480.40	666.1	564.9	89.2	32.9	5.9	365.56	3204.96
2011	3,070.60	715.4	659.2	130.7	43.9	8.7	399.51	5028.01
2012	3,201.30	846.6	710.6	188.4	51.6	9.1	587.04	5594.64
2013	2,666.40	998.4	802.7	279.4	48.9	9.9	767.02	5572.72
2014	2,453.90	1,204.80	803	189.6	53.3	9.9	802.97	5517.47
2015	441.7075	235	268.5	97.93	22.5	1.3	498.23	1565.168

Source: FIRS Planning, Reporting and Statistics Department

NOTE:

PPT - Petroleum Profits Tax

VAT - Value Added Tax

CONS - Consolidated Pool Account (PIT and POL)

NITDEF - National Information Technology Development Fund

CIT - Company Income Tax

EDT - Education Tax

CED - Custom Excise Duties

Table 7 shows that the Petroleum Profits Tax was the major contributor to tax revenue in Nigeria except for 2015. The decline in 2015 may be partly due to increased militancy in the oil-producing areas which led to decline in production during the period. Revenue generated by taxation has proved insufficient to fund annual budgets. Table 8 shows tax revenue to GDP ratios for the years 2000 – 2015.

Table 8: Tax Revenue to GDP Ratio: 2000 – 2015

Year	RGDP (N Billions)	Tax Revenue (NBillions)	Percentage (%)
2000	23,688.28	455.3	2.0
2001	25,267.54	586.6	2.32
2002	28,957.71	433.9	1.50
2003	31,709.45	703.1	2.22
2004	35,020.55	1,194.80	3.41
2005	37,474.95	1,741.80	4.65
2006	39,995.50	1,866.20	4.67
2007	42,922.41	1,846.90	4.30
2008	46,012.52	2,972.20	6.46
2009	49,856.10	2,197.60	4.41
2010	54,612.26	2,839.30	5.20
2011	57,511.04	4,628.50	8.05
2012	59,929.89	5,007.70	8.36
2013	63,218.72	4,805.60	7.60
2014	67,152.79	4,714.60	7.02
2015	69,023.93	3,741.80	5.42

Source: National Bureau of Statistics (NBS)

Table 8 shows that Tax Revenue as a percentage of GDP has been consistently low in Nigeria, the highest was about 8% for the years 2011 and 2012. The Tax Justice Network (2012) emphasized that tax revenue is the most important, most beneficial, and most sustainable source of finance for development for a country. In Nigeria, the contribution of tax revenue has not been encouraging, the government has resorted to both domestic and external borrowing to compensate the deficit in revenue, thereby accumulating both domestic and external debt. Central Bank of Nigeria (CBN) figures show that Nigeria's External Debt amounted to US$11.4 billion as at December 2016 while Domestic Debt was N11.06 trillion. Debt servicing in 2017 was N1.66 trillion, while debt service as a percentage of revenue was 33.66%. This implies that more concerted efforts are needed to increase tax revenue in Nigeria (BUDGiT, 2017). This has been realised in Nigeria, and over the years, several tax reforms have been implemented to improve the efficiency and effectiveness of the tax system in Nigeria.

4.3. Evolution of Tax Reforms in Nigeria

In general, tax reforms are embarked upon in order to correct deficiencies in the tax system and make it more efficient and effective. The ultimate aim is to increase revenue generation to meet government's financial requirements. Tax reforms can lead to a new tax, amendment of an existing tax (new rates, or a new legal clause). Objectives of tax reforms in Nigeria have included the following (Somorin, 2010): expand the tax base, discourage capital flight, promote voluntary tax compliance, eliminate multiple taxation, ensure zero tolerance for corruption in tax agencies, reduce the cost of doing business, attract foreign investment, curb tax evasion and tax avoidance, and ensure convenience of taxation.

The history of tax reforms in Nigeria can be divided into two periods: the Pre-2002 tax reforms and the Post 2004 Tax reforms.

4.3.1 Pre-2002 Tax Reforms

In 1943, the Nigerian Inland Revenue Department, precursor to the Federal Inland Revenue Service, was carved out of the Inland Revenue Department of West Africa. This was renamed the Federal Board of Inland Revenue under the Income Tax Ordinance, No. 39 (1958). The Companies and Income Tax Act No 22 (1961) established the Federal Board of Inland Revenue (FBIR).

1978 Tax Reform - Task Force on Tax Administration

The ten-man Task Force headed by Alhaji Shehu Musa was inaugurated on April 20th, 1978 (Somorin, 2010; Ikeja Business Club, 2013). It was to:

- Examine the sources of tax revenue and the structure of tax administration in Nigeria,
- Assess the effectiveness in the management of existing taxes both at the Federal and state levels, and
- Suggest ways and means of making the administration of the tax system more effective and efficient.

The outcomes of their report included:

- Introduction of the withholding tax regime,
- Imposition of 10% special levy on banks' excess profits,
- Imposition of 2.5% turnover tax on building and construction companies,
- Promulgation of Decree No 29 of 1979, popularly known as CITA 79. After amendments, it is now known as CITA 2007 LFN 2004. The CITA 1979 made several amendments to the Companies Income Tax Act (1961) and.
- Introduction of Tax clearance Certificate as a collection tool.

1991 Study Group on Nigerian Tax System and Administration

Professor Emmanuel Edozien headed the 1991 Study Group. The Study Group was to review the entire tax system and administration. The Study Group recommended:

- The establishment of (Federal Inland Revenue Service (FIRS) as the operational arm of the Federal Board of Inland Revenue (FBIR).
- The setting up of revenue services at the other tiers of government – state and local government.

Outcomes of the 1991 Study Group's recommendations included:

- The establishment of the Federal Inland Revenue Service at Federal level, State Internal Revenue Service at the state level, and Local Government Revenue Committee at the local government level.
- Changes to personal allowances, Children allowance and wife allowance.
- Tax Clearance Certificates to be issued within two weeks of application or reasons given for denial.

A 1992 Study Group headed by Sylvester Ugoh recommended a policy shift from direct taxation to indirect/consumption (Ikeja Business Club, 2013).

Following this, the Value Added Tax (VAT) was introduced in January 1994. In 1993, the Finance (Miscellaneous Taxation Provisions) Act No 3 and Decree No 104 established the Federal Inland Revenue Service (FIRS) as the operational arm of the FBIR and reviewed the functions of the Joint Tax Board (JTB).

4.3.2 Post 2002 Tax Reforms

2002 Study Group and 2004 Working Group on Review of Nigerian Tax System

The government set up a Study Group headed by Professor Dotun Phillips in August 2002 to review the tax system. The 11-item terms of reference included:

- Review all aspects of the Nigerian Tax System and recommend improvements therein,
- Review all tax legislations in Nigeria and recommend amendments where necessary; and
- Review all assessments and collection procedures, including payment procedures, objection and appeal procedures, etc.

The Report made several recommendations to overhaul and reform the tax system. The report of the 2002 Study Group was reviewed by a Working Group which was inaugurated in January 2004 by Finance Minister Dr Okonjo-Iweala and headed by Mr Seyi Bickersteth. The Working Group was to evaluate the recommendations of the Study Group. It agreed with many of the recommendations of the Study Group. They recommended the following (FIRS, 2012a):

- Tax should be regarded as a citizen's obligation to the Nigerian state for which he expects in return good governance, the provision of security, clean water and other social amenities,
- Tax should be collected only by career tax administrators, who are civil servants, not by adhoc consultants or agents,
- Tax efforts and focus should be shifted from direct taxation to indirect taxation,
- The number of taxes should be smaller in number, broad-based and yield high revenue,
- The machinery of tax administration should be configured to be efficient and cost-effective,
- All the three tiers of government should be free to set up their own administrative machineries for taxes under their jurisdiction, subject to national minimum standards,
- The various tiers of government must avoid the hitherto common internal double taxation by the Federal, State and Local Governments; and
- To achieve the goal of reducing the tax burden on Nigerians, the National Tax Policy should be geared towards a low tax regime.

The tax reforms were to be grouped into: (Ikeja Business Club, 2013):

a. **Short Term:** Within 6 months of submission of the Working Group's Report,

b. **Medium Term:** Within 2 years of submission of the Working Group's Report; and

c. **Long Term:** Within 5 years of submission of the Working Group's Report.

The Working Group submitted its report in March 2004. Both the Study Group and Working Group addressed macro and micro issues in tax policy and administration. The macro issues included the drafting of a National Tax Policy, Taxation and Federalism, Tax Incentives, and Tax Administration. The two groups agreed on the objective of the reforms, which was to diversify the revenue base of the government beyond oil.

In 2007, financial and administrative autonomy was granted to the FIRS through the passage of the Federal Inland Revenue Service (Establishment) Act 2007. This milestone in the history of taxation and tax administration in Nigeria was a result of the recommendations of the Study Group (headed by Professor Dotun Phillips) and Working Group (headed by Mr Bickesteth) on Nigeria's Tax System (FIRS, 2012, 2012a). Implementation of the harmonized report of the two groups commenced in 2004.

The reforms that have taken place in the tax system since 2004 cut across organizational restructuring, enactment of a National Tax Policy, funding, legislation, taxpayer education, dispute resolution mechanism, taxpayer registration, human capacity building, automation of key processes and refund mechanism. (FIRS, 2012a).

Stakeholders' Meeting

In August 2005, the 1st National Tax Retreat of stakeholders tagged "Tax Reforms and Democracy" was convened. The report of the two groups was subject of discussion at the retreat. The stakeholders included tax consultants, the IMF Mission on Tax Administration, the Federal Ministry of Finance, the Economic Management Team, and the management of the Federal Inland Revenue Service. The stakeholders agreed that the following were needed for an efficient tax system:

- Efficient and effective tax administration
- Stimulation of the non-oil sector of the economy
- Resolution of contentious issues in tax administration
- Redistribution of wealth and a more equitable tax system
- Capacity-building for administrators and taxpayers
- Centralisation of revenue agency and computerisation
- Development of a tax policy for Nigeria

The views of the Stakeholders meeting were incorporated into a tax reform document. By august 2004, the Federal Inland Revenue Service had developed a roadmap for the implementation of the reforms which was presented at the Federal Executive Council meeting. The Council identified three broad critical strategies to implement the harmonised tax reform agenda. They are (FIRS, 2012):

- Autonomy for the Federal Inland Revenue Service,
- Increased funding for the Service, and
- Amendment to the various tax laws.

Since 2004, several reforms have been implemented or are ongoing, they cover organisational reforms, development of the National Tax Policy (already discussed), enactment of tax laws, modernisation activities, taxpayer concerns (voluntary compliance/ convenience), etc (FIRS, 2012, 2012a). Some of them are briefly discussed and the others listed.

Organisational reforms

Various organisational reforms of FIRS were adopted to improve its efficiency and effectiveness. To implement the reforms, a structure that facilitates improved work flow was required. It was felt that the old structure which encouraged inefficiency, indiscipline and fraud was inadequate for the new challenges. The FIRS was therefore reorganised to promote efficiency and effectiveness. New departments were established, or old ones collapsed to take care of changes identified.

The National Tax Policy: A Committee was set up to prepare a National Tax Policy document. It was presented to and adopted by the Federal Executive Council in January 2010.

Judicial processes – Enactment/Amendment of Tax Laws: Various tax bills were prepared and sent to the National Assembly and passed into law in 2007 and 2011 respectively.

Modernisation: Other changes which took place as part of the Reform Agenda between 2004 and 2011 are (FIRS, 2012, 2012a):

- Improved funding of FIRS
- Modernisation of the Service/Re-engineering and Automation of key processes, including automation of tax collection to ensure that funds collected are not delayed or diverted.

- Taxpayers Identification Number (TIN)Programme: The TIN programme which commenced in 2008, uniquely identies and registers taxpayers nationwide.

  One of the objectives is to have reliable and centralized information about all taxpayers thereby facilitating information sharing
- Improved staff welfare and performance management: Reforms also included provisions for improving working conditions and welfare such as capacity building for staff. It also included the setting of financial and non-financial targets
- Taxpayer concerns – taxpayer education to improve voluntary compliance, dispute resolution, tax refund system

4.3.3 Post 2011 Reforms

Since the 2012 FIRS publications, reforms have been ongoing, although challenges and criticisms of the Nigerian Tax System still remain. There is continuous call for reform of the Nigerian tax system to meet present realities for the diversification of sources of government revenue away from oil.

Some of the ongoing reforms since 2011 include the following:

- In 2012, the first National Tax Policy was published and launched.
- In August 2016, the Minister of Finance inaugurated a National Tax Policy Review Committee to review and update the 2012 National Tax Policy. The Committee was also to recommend a workable Implementation Strategy. The revised National Policy was submitted in September 2016.
- The updated National Tax Policy was published in February 2017. It set out the responsibilities of taxpayers, provisions for tax administration and implementation of the Policy.

The Tax Policy Review Committee recommended the introduction of a Tax Amnesty Programme; and the establishment of Taxation Committees at National and State Assemblies; establishment of an administrative framework for tax amnesty and whistle blowing.

These were necessary to improve the tax base and revenue generation. Both the tax amnesty and whistle blowing have led to the introduction of the Whistle Blowing Policy (by the Federal Ministry of Finance) and the Voluntary Assets and Income Declaration Scheme (VAIDS) which was launched on July 1, 2017.

VAIDS is to provide taxpayers with undisclosed income and assets, the opportunity to regularize their tax status.

"The Taxpayers Identification Number (TIN) programme which commenced in 2008, uniquely identifies and registers taxpayers nationwide ... thereby facilitating information sharing."

The Voluntary Assets and Income Declaration Scheme (VAIDS) which was launched on July 1, 2017 provides taxpayers with undisclosed income and assetts, the opportunity to regularize their tax status. The amnesty period was to end on March 31, 2018 but has been extended by three months.

The amnesty period was to end on March 31, 2018 but has been extended by three months.

(Both initiatives will be described in the Policy Report).

The National Tax Policy Implementation Committee (NTPIC) was inaugurated on April 2nd, 2017. It identified seven major areas which can create the highest impact on the economy where tax reforms are necessary. The proposed changes to the tax laws are to help to increase and diversify government revenue, simplify tax payment and doing business; and promote micro, small and medium enterprises (MSEs). This will also remove obsolete, ambiguous, and contradictory provisions in the laws. Amendment bills have been proposed for the first five (a – e). The seven major areas are: Company Income Act (CIT); Value Added Tax (VAT); Customs and Excise Tariff (CET); Personal Income Tax (PIT); Industrial Development Income Tax Relief; Pension Contributions; and Tertiary Education Trust Fund.

The Tax Policy Implementation Committee also proposed two Executive Orders on Value Added Tax Act (Modification) Order, and Review of Goods Liable to Excise Duties and Applicable Rate Order. Nigeria has keyed into the Automatic Exchange of Tax Information (AETI) protocol. The Minister of Finance stated that the Federal government has commenced the exchange of information and data on overseas assets and foreign accounts held by Nigerians abroad.

The information will be used to support the VAIDS.Some of the tax reforms address sources of illicit financial flows and will be highlighted in the Policy Report. Tax administrators at the West African and African levels, including Nigerian participants, have also convened conferences to address how to deal with tax-related sources of illicit financial flows out of Africa. Nigeria has hosted three such conferences.

Source: stuttgartcitizen.com

5.0 Gaps in the Literature and Implications

5.1 Gaps in the Literature

The review of literature on illicit financial transfers and tax reforms in Nigeria has revealed the flowing:

- Most of the easily available published analytical works done on illicit financial flows/capital flight from Africa, including Nigeria, have been done by the Global Financial Integrity Group. The High-Level Panel, and by Ndikumana and Boyce. Academic and research institutions in Nigeria are yet to design and implement research on this issue. We could only access one study of illicit financial flows from the extractive sector, it was merely a review of literature and not an analytical study, no statistical analysis was carried out. There was no quantitative analysis of illicit capital transfers out of Nigeria by an academic in a University or research institution or by others working in financial institutions, including the Central Bank which has a Research Department. Some work has been done on capital flight, but this has not been from the perspective of investigating illicit capital flows out of the country. The studies of capital flight did not distinguish the illicit dimensions of capital flight out of Nigeria from the legal recorded capital flight. No Nigerian scholar has tried to interrogate the findings from the Global Financial Integrity or High-Level Panel Report on illicit transfers out of Nigeria since the different reports were released.
- Most of the research on the role of taxation has been to analyse the impact of taxation, using various taxes, on economic growth in Nigeria. A few dissertations have analysed Nigeria's tax system, while there was one study of tax evasion by multinationals. A lot of the work has come from Departments of Accounting. Some economists have studied the impacts of tax incentives/waivers on tax revenue and implications for economic growth.
- Most of the available reports on Tax Reforms in Nigeria have been written by current or former staff of the Inland/Internal Revenue Service at both the Federal and State levels. The reports reviewed were obtained through personal contacts with staff of the Revenue Authorities.

5.2 Implications for Future Research

Focus here is on research implications as policy matters will be discussed in Policy Report. The main implications for future research are:

- Academics and researchers in Nigerian Universities and research institutions should begin to conduct research on illicit capital transfers out of Nigeria, the drivers/enablers, etc. While basic information has been made available in earlier studies, Nigerian researchers should conduct research if only to keep track of the trends in the volume of illicit transfers. Is the situation improving or getting worse? What avenues for illicit transfers need to be blocked to make it more difficult to move funds secretly out of Nigeria?
- There should be more funding of research in Nigeria, especially funding of research on critical policy issues such as illicit transfers, given the magnitude of the problem for Nigeria. The Central Bank or Ministry of Finance can link up with research institutions/ universities and fund such studies. It is important to analyse trends in and enablers/ drivers of illicit transfers out of Nigeria. There is need for capacity building of researchers to carry out such analysis in their countries.

This can be a mandate for the African Economic Research Consortium or NGOs such as the PASGR and Trust Africa to take up. African researchers should be trained to carry out analytical studies of illicit transfers and the enablers of such transfers from their countries.

- There should be better documentation of speeches, laws, organizational changes and activities in our MDAs, including revenue authorities. Such documents should be uploaded as publications on their websites for easy access by the public.

The documents, especially where they have already been read/presented in public, should be freely available to interested persons. They should not be regarded as secret/confidential documents. Many of the MDAs' websites had little information on their activities. Some MDAs required written applications to be submitted before accessing any information from the MDA. There is a Freedom of Information Act in Nigeria which was passed into law in 2011.

5.3 Concluding Remarks

The Report of the High-Level Panel on Illicit Financial Flows drew attention to the magnitude of the problem for African countries, and especially for Nigeria. Since then, the challenge of illicit financial flows from developing countries has received greater global attention. According to the African Union Report on Illicit Financial Flows, oil-exporting countries account for the largest share of illicit financial flows from Africa. Nigeria lost $217.7 billion to illicit financial flows between 1970 and 2008, representing 30.5% of illicit flows out of Africa. The Global Financial Integrity Group ranks Nigeria as the tenth highest source country of illicit financial transfers in the world. The literature synthesized in this report also relied on the High-Level Panel and Global Financial Integrity Reports as well as the UNCTAD/Ndikumana Reports for evidence on the magnitude of illicit financial transfers from Nigeria. Recent analysis by the Global Financial Integrity showed that Nigeria is now second to South Africa among African countries with respect to the volume of illicit transfers. However, the volume of illicit transfers from Nigeria is large enough to be regarded as a very important policy issue which needs to be addressed.

The literature presented evidence that all the enablers/drivers of illicit transfers identified in the High-Level Panel Report are also the drivers of illicit capital transfers from Nigeria. Much of the illicit transfers take place through tax malpractices especially by multinational enterprises. Corruption both in the private and public sectors is also another enabler of illicit transfers from Nigeria. Trade misinvoicing especially by Nigeria's oil trading partners is another very important enabler of illicit capital transfer from Nigeria as an oil-exporting and importing country. Excessive tax exemptions/incentives were also an enabler of capital outflows. Tax reforms are required to block some of these avenues as well as to improve revenue generation. Nigeria has engaged in tax reforms over the years, especially at the federal level to improve the Tax Revenue to GDP ratio in the face of declining revenue from oil exports and the need for diversification of revenue sources. As a result of dwindling allocations to States from the Federation Account, some States have also engaged in tax reforms to raise their internally generated revenue.

It is suggested that there should be better documentation of government activities. Capacity of researchers should be built so that they can analyse trends in illicit transfers from their countries as well as the enablers/drivers of these transfers.

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Partnership for African Social & Governance Research (PASGR)

6th Floor, I & M Building

2nd Ngong Avenue, Upper Hill

P.O. Box 76418-00508 Nairobi, Kenya

Email: research@pasgr.org

Tel: +254 (0)20 2985000; +254 (0) 729 111031 or +254 (0) 731 000 065

www.pasgr.org