

# The Role of Institutional Framework in Entrenching Effective Anti-Money Laundering/Combating Terrorist Financing in West Africa: Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) in Perspective

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## Abstract

The question of the effectiveness of the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) regimes of countries in West Africa in tackling crime, specifically Money Laundering (ML) and Terrorist Financing (TF), is one of the most crucial aspects of any discourse around these issues. Presently, most discourses have primarily focused on describing the phenomena of money laundering, terrorist financing, and the structure of individual regimes to combat them. The aim of this paper is to expand the discourse further by assessing those regimes holistically, starting with examining the concepts of ML and TF and the efforts of the West African sub-region to counter these crimes. In particular, the paper focuses on the contributions of the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) towards establishing an effective AML/CFT regime in the west African sub-region. The paper X-rays intermediate AML/CFT measures that GIABA has helped States—within the precincts of its mandate to adopt and implement; and the methodologies it adopts in working with States to achieve an effective AML/CFT regimes. The paper makes overarching recommendations towards strengthening the AML/CFT efforts in West Africa concerning several identified challenges militating against the overall success of these efforts. The methodology adopted in this research is the desk top or secondary research, as it relied on already existing data. Using the content analysis approach, existing data is collated and summarised for effectiveness

of the research.

## Keywords

Anti-Money Laundering, Money Laundering, Combating Terrorist Financing, Financial Institutions

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## 1. Introduction

Historically, money laundering (ML) evolved from the ancient tradition of concealing wealth (Shehu, 2012), especially hiding money or assets from the state—either from blatant confiscation or taxation—and indeed, from both. Sometimes, the money or support is hidden from those seeking to enforce judgments in civil cases or to follow the money that results from other crimes. ML is interwoven with the history of trade and banking. No one is sure when money laundering first began. It is, however, believed that it has been going on for several thousands of years. In “Lords of the Rim”, Sterling Seagrave explains how some 2000 years before Christ, merchants in China, would hide their wealth from rulers who would simply take it off them and banish them. In addition to hiding it, they would move and invest it in businesses in remote provinces or even outside the Country. In this way, the offshore industry was born and, depending on perspective—so was tax evasion as well as the principles of money laundering—to hide, move and invest wealth to which someone else has a claim (Seagrave, 1995).

Over the next four millennia, the principles of money laundering have not changed, but the mechanisms have changed. Parallel Banking is one of the most durable techniques or more precise suites of techniques. Over thousands of years, people have used money laundering techniques to move money resulting from crime—but also often to hide and move it out of reach of governments—including oppressive regimes and despotic leaders. Many minorities in countries down the ages and worldwide have taken steps to preserve wealth from rulers, both unelected and elected, who have targeted them simply because of their beliefs or colour. This is prevalent even today.

One thing that stood out in ML activities in terms of background is the fact that, years ago, money and value were separated, and value became represented by assets, often assets with no intrinsic worth but increasingly by recognisable and convertible assets. So, gold coins were—literally—worth their weight in gold, and it was immaterial what country issued them—the only thing that mattered was the quality and quantity of the gold. Once gold is melted down, it does not lose its value, only its shape. It can be re-fashioned, and having arrived in one place as one thing, it can leave there as something else, and that need not even be the same amount of gold. Gold remains one of the primary non-currency means of holding money, including laundered money. Diamonds are a particular favourite too. There have been instances of “holy men” carrying laundered funds by concealed diamonds into California.

With the passage of time and developments in trade and commerce, through advancements in technology, organised criminality, including money laundering (ML) and terrorist financing (TF), assumes a sophisticated dimension in terms of techniques adopted by perpetrators (Abubakar Abdul, 2015). These criminals adopt very sophisticated and dogged strategies that seem to defy efforts adopted by the international community to stem the tide (Brady, 2007). With the help of the internet and technology, money has been laundered freely, and terrorists financed in a way that simply put the entire world in turmoil, which calls for an equally complex and tenacious response from the international community. This is so because these threats have extensive international dimensions with a significant impact on nations' socio-economic and political well-being. According to the United Nations, these threats are becoming increasingly transnational, and the ripple effect resonates in several countries irrespective of the source or locus of the threat.

In response to these threats, there have been cross-cutting partnerships in law, policy and administration by the international community that have been replicated at regional, sub-regional and national levels. Consequently, international bodies, including Financial Action Task Force (FATF), have taken it upon themselves to put in place instruments to foster a cohesive, coordinated and integrated AML/CFT regime across the globe. FATF advises States to come together and adopt FATF-style regional institutions to establish effective AML/CFT regimes within the regions. It is, therefore, in compliance with the international obligation that the countries in the Economic Community of West African States decided to establish the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) to establish and enhance the AML/CFT regime in the sub-region (GIABA, 2010).

This paper explores the subject matter of money laundering and terrorism financing about effective countermeasures; addresses, among other things, the nature of money laundering and its predicate offences; examines the nexus between anti-money laundering efforts and counter-terrorism financing initiatives in West Africa; critically analyses the role of GIABA in ensuring effective AML/CFT policies and regimes in West Africa. The paper also identifies the challenges faced by GIABA in combating ML and TF in the West African sub-region and proffer recommendations to make the body more efficacious in achieving its mandate of AML/CFT fight.

## **2. Conceptualising Money Laundering and Terrorist Financing**

### **2.1. Definition of Money Laundering**

Money laundering is generically used to describe the extensive process by which the criminal origin of money is disguised. It is also viewed as a concept that obscures "the illicit origins of money derived from crime". W.C. Gilmore defines the term as "the conversion of illicit cash to another asset, the concealment of

the true source of ownership of the illegally acquired proceeds, and creation of the perception of the legitimacy of source and ownership” (Gilmore, 2016). The use of the word “money” makes the term appear misleading and imprecise since money may not necessarily be involved in the crime—it can be any type of property that directly or indirectly represents the proceeds of crime (FATF, 2010). The proceeds of crime may not have generated money but instead developed some other form of value. It may even be a value already stored in the financial system, such as bank deposits or superannuation funds, stolen and then moved within the system. It must be emphasised that if a value—cash, land, shares, even air time stored on a mobile phone card, is derived from proceeds of criminal activity, it comes within the scope of what is meant by money laundering as described by FATF. Even if only part of the value concerned derives from crime, this is so. The preceding definitions show that ML cannot occur without being preceded by a predicate crime which gives rise to the illegally obtained funds.

Money laundering is an overarching process and can occur countless times and in diverse ways. ML usually occurs progressively through three main stages known as *placement, layering, and integration*, according to the United Nations Office on Drugs and Crime (UNODC) (UNODC, 2016). At the stage of “placement”, perpetrators simply introduce the funds into the financial system. The stage of “layering” is often regarded as the fundamental stage where criminal proceeds are “laundered” and the ownership and source concealed. The third stage—“integration” is the final stage where criminals re-introduce the “laundered” money into the economy to make money look genuine, according to the US Department of Treasury.

There are two critical points to note at this juncture. First, although a definition of money laundering as a process involving these key stages may seem simplistic, they often overlap, and there is no requirement for the proceeds of crime to be “placed”. These steps are not always followed or even present. A fraudster will often take the victim’s money from within the financial system and has no need to worry about the placement step; by contrast, a drug dealer runs a cash business, and placement is a critical ML step. Secondly, although criminal money may be successfully laundered without the assistance of the financial sector, vast sums of criminally derived money are laundered through financial institutions annually, according to the US Treasury Department (US Department of Treasury, 2015). This portrays the financial industry as being vulnerable to abuse by money launderers due principally to the nature of its products and services—managing, controlling, and possessing clients’ money.

Generally, two elements characterise the offence of ML: (1) the necessary act of laundering itself, i.e., the provision of financial services; and (2) the requisite degree of knowledge or suspicion—subjective or objective, of the funds or the conduct of a client. About 1), the act of laundering is committed when a person is engaged in an arrangement (i.e. by providing a service or product) involving

the proceeds of crime. These arrangements include a wide variety of business relationships, e.g. banking, fiduciary and investment management; and on 2), the requisite degree of knowledge or suspicion will depend upon the specific offence but will usually be present where the person providing the arrangement, service or product knows, suspects or has reasonable grounds to suspect that the property involved in the collection represents the proceeds of crime. In some cases, the offence may also be committed where a person knows or suspects that the person, they are dealing with is engaged in or has benefited from criminal conduct.

## 2.2. Money Laundering and Its Predicate Offences

Understanding what constitutes a predicate offence to ML requires remembering what ML is—both in general terms and as both international and national laws define it. Predicate offences may be international, and they include crimes such as trafficking of arms, humans and drugs, which most countries have recognised as harmful to national and world security. Predicate crimes may also be internal. When predicate crimes are committed internally, they constitute states' specific problems, such as tax evasion, the harms of which do not affect other states. Specificities of these crimes are dependent upon internal policy considerations of individual states. As a rule, predicate crimes are usually defined in relation to whether the degree of severity of a particular crime is sufficient to predicate a money laundering offence. Effectively, conducts that predicate ML differ according to jurisdictions.

Predicate offence is defined by the [United Nations Convention against Transnational Organized Crime \(UNCTOC\), 2000](#) as “any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in article 6” of the Convention (article 2(b), UNCTOC). The World Bank also defines it as “the underlying crime that generates the money to be laundered” ([World Bank, 2016](#)). Laundering the proceeds of the predicate constitutes the distinct offence of ML and makes it a material element of the money laundering offence ([Daley, 2000](#)). For example, authorities cannot punish an individual for laundering the proceeds of arms smuggling if arm smuggling is not defined as a predicate offence. This simply means that the applicability of AML laws depends upon the predicate offences.

It is essential to state that some crimes consist of an individual act that does not involve any intent to make money, for example, murder and sexual assault. These crimes, except when committed in relation to funds generation, need not be included as predicate offences due to the absence of potential to generate money to be laundered. In that regard, some would suggest that predicate offences whose nature is consistent with the intent of the AML are those that possess the following features: 1) the crime is organised, 2) the crime nets high profits, 3) *modus operandi* of criminals involved is sophisticated and cannot be quickly suppressed; and 4) the crime harms the state's economic security ([Edwards and Levi, 2008](#)).

It should, however, be noted that the UNCTOC did not define organised crime but defined “organised criminal group” as the commission of an organised

crime. Article 2(a) (c) UNCTOC defines an organised criminal group as “a structured group of three or more persons, existing for some time and acting in concert to commit one or more serious crimes or offences established by this Convention, to obtain, directly or indirectly, a financial or other material benefits”; and “structured group” as a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

Originally, predicate offences included only those related to narcotics because the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances requires state parties to enact domestic laws to combat laundering the proceeds of drug trafficking under its article 3(1) (b). Later, the international community acknowledged that other crimes such as arms and human trafficking could also harm national security and thus provided a platform that allows the scope of predicates to be expanded. For example, article 6 of UNCTOC gives State Parties the leverage to net in a wide array of predicate offences. State Parties to UNCTOC have extended the scope of predicate crimes under their domestic laws. This explains the disparity in predicate offences among States. Be that as it may, serious crimes (article 2(b) UNCTOC)—conducts rated by FATF as top sources of tainted money to be laundered, i.e. people smuggling, human trafficking, corruption, fraud and organised crime, tax evasion, arms trafficking, counterfeiting and piracy of products; and sexual exploitation, amongst others constitute predicate offences to ML in almost all jurisdictions. This accentuates the need for AML risk assessment, which would usually score the quantum of threat, vulnerability and impact of predicate crimes (Aluko and Bagheri, 2012).

### 2.3. Terrorist Financing

Terrorist financing involves the solicitation, collection or provision of funds with the intention that they may be used to support terrorist acts or organisations. Funds may stem from both legal and illicit sources. The International Convention for the Suppression of Financing of Terrorism stipulates that the offence of terrorism is deemed to have been committed if a person:

...by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in whole or in part, to carry out: (1) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annexe; or (2) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population or to compel a government or an international organisation to do or to abstain from doing any act (article 2(1) International Convention for the Suppression of Terrorist Financing, 1999).

Analysis of this definition would reveal that the main terrorist financiers, beyond concealing the source of funds, also target the concealment of the nature of the financed activity. The source of funding for terrorist operations and the ease with which terrorist groups access funds in the West African sub-region remain significant concerns for the regional governments. Tracing and cutting off funding sources for these groups are particularly difficult due to the nature of the overall economies of the region. Note that West African countries are mainly informal and cash-based economies. Situations of political instability, ethnic and communal violence, pervasive corruption, widespread poverty, gross unemployment, and underemployment all combine to pose severe challenges and threats to CFT efforts.

Very crucially, terrorist groups and their sponsors usually derive funds from activities which may be legitimate or illegitimate. These funds are then moved through formal and informal means to fund their operations. Identifying sources of terrorist financing in West Africa, GIABA highlighted arms smuggling, ransoms from kidnapping, hostage-taking, cigarette smuggling, the illicit drug trade, and oil theft and smuggling as some of the primary sources of terrorist financing in the sub-region (GIABA, 2021). This is in addition to funds derived from membership dues and donations from sympathisers locally and internationally, as is the case with Boko Haram (Global Witness, 2007). In 2011, UNDOC expressed the view that:

External terrorist groups such as al-Qaeda are strongly suspected of having forged mutually beneficial links with West African crime networks, particularly in Nigeria, paying syndicates to facilitate everything from document forgery to trafficking in people, weapons, diamonds and drugs (UNODC, 2011).

Analysts have also suggested that al-Qaeda's interest in West Africa has both terrorist and economic dimensions. The Global Witness observed that Al-Qaeda had been involved in the rough diamond trade since the 1990s. In furtherance of this conversation, Andrés Amado Philip observed that the illicit diamond trade has always been a critical aspect of al-Qaeda operations because of its many benefits: 1) it constitutes a source of funds for al Qaeda cells, 2) it helps al-Qaeda to launder the profits of criminal activity, and 3) enables al-Qaeda to convert cash into a commodity that holds its value and is easily transportable. More importantly, coalitions and collaborations among Al Qaeda, AQIM, and West African terrorist groups, and the alleged provision of support by certain West African politicians and public officials to terrorists in the sub-region, underscore the gravity of the problem of Terrorist Financing and necessitate regional action to counter the menace of money laundering and terrorist financing.

To be able to put in place appropriate and effective measures to counter terrorist financing, the level of threat must first be understood, and then scope must be given to the risks; this means that the approach to confronting the problem must be risk-based, the essence of which is to enable institutions and

governments to effectively allocate resources to AML/CFT regimes. It means that States must be able to assess the risks they face to adopt the valuable tool to respond to actual threats adequately. Illicit trade in firearms generates vast sums of money—directly and indirectly, estimated at \$53 million. This trade also inflicts immeasurable human costs across the globe.

#### **2.4. Imperatives for Anti-Money Laundering and Combating Terrorism Financing Efforts in West Africa**

Like elsewhere, a typical money-laundering operation in West Africa takes the form of routing and re-routing criminal money through particular banking and financial systems—international, regional, or national—by using false and often legitimate documents until the process leads to the integration of the money into the economy. Note that criminal money can be used to finance other illegal activities. For example, in Côte d'Ivoire, where an estimated 40 percent of the world's cocoa is produced, government and rebel forces were reported to have partially funded their weapons purchases with money from the sale of stolen cocoa. About 300,000 tones, representing 20 - 25 percent of Côte d'Ivoire total cocoa production, were reportedly smuggled illegally. A 2007 report by Global Witness notes that rebel groups received more than 15 billion CFA (more than USD30 million) a year from illegal cocoa trade, beginning in 2004. Money also accrued to rebel groups from illegal exporting other natural resources, including cotton, wood, cashew nuts, and diamonds. Similar incidental reports are replicated in Liberia and Sierra Leone regarding financing rebels from illegal mining of diamonds and smuggling of diamonds.

Usually, criminal money is laundered in various ways—investments in real estate and precious commodities through banks outside West Africa. For instance, international arms dealers who supplied arms to warring factions during the civil wars in Liberia, Cote d'Ivoire and Sierra Leone reportedly laundered their illicit funds through international banks since most of them reside outside West Africa. In contrast, proceeds from illegal deals in arms have allegedly been used to purchase property in Senegal, deposited into local and international banks, or simply kept in the homes of arms dealers.

Generally, West Africa is host to several armed and terrorist groups whose operations are increasingly complex and sophisticated. In Nigeria, for example, several militant groups operating in the Niger Delta, secessionists' agitation groups operating in the southeast, with Boko Haram operating in the north-eastern part of the country have, over the years, caused massive and wanton destruction of lives and property, including the destruction of crude oil installations. In Mali and the northern part of Niger, the Tuareg insurgents continue to cause damage. In contrast, the *Mouvement des Forces Democratiques de la Casamance* (MFDC) continues its terrorist activities in the Casamance region of Senegal. Additionally, extensive research suggests that al-Qaeda has a presence in Mali and Mauritania; and Al-Qaeda in the Islamic Maghreb (AQIM) has networks in Mali and Senegal, while the Hezbollah has an extensive fundraising network in West Af-



rica. Aided by the high rate of criminality—monumental corruption, oil theft, increased arms trafficking, human trafficking, frauds, cybercrime, drug trafficking, and many other forms of crime, financing terrorist activities is more accessible. For example, 18 tons of cocaine worth approximately \$1.25 billion was allegedly smuggled through West Africa in 2010; and \$500 million of drug money remained in West Africa or was laundered in 2012. As a result, terrorist groups can acquire sophisticated weapons that inflict maximum pain and destruction on their target—hard or soft. This is manifested in the number and lethal nature of terrorist attacks in some West African countries, resulting in enormous human casualties and wanton destruction of property. Hence, it becomes imperative for the West African sub-regional governments to establish, among other initiatives, a sub-regional institution that will act as the arrowhead in AML/CFT efforts.

## 2.5. Summary

In summarising the issues addressed in this section of the paper, the point to reiterate is that although the historical origin of ML remains indeterminable, its negative impact on the development and stability of countries remains a sore point (Aluko and Bagheri, 2012). With increase in the percentage of predicate crimes, such as corruption, human trafficking, etc committed, tackling ML continues to pose serious challenges to economies across the world, including those in the West African sub-region. Combating ML in recent years became even more difficult as terrorism and its financing became dominant. As the international community prioritised the fight against these vices, the West African sub-region made its own effort not through the establishment of national AML/CFT regime, as well as international and regional/sub-regional cooperation. In that regard, GIABA was created as an institutional framework with the mandate to support west African States in establishing and implementing their AML/CFT legal and administrative, etc. regimes.

## 3. The Role of GIABA in Establishing Effective Anti-Money Laundering and Combating Terrorist Financing in West Africa

As already noted above, it is pertinent to restate that no single country tackle organised crime with trans-border dimensions alone. As a result, groups and countries have always advocated cooperation—bilateral or multilateral among States. About money laundering and terrorism, the West African sub-regional governments, as part of an effort to fulfil their obligation under the international legal instruments that they signed and or ratified and as part of their commitment to meet the terms of the social contract with their citizens to ensure peace and security in the region, decided to adopt AML/CFT measures—legal, institutional and policy, geared towards eradicating or reducing the level of threats posed by the activities under review. One of such measures is establishing the

GIABA to ensure an effective AML/CFT regime in every country within the sub-region.

### **3.1. Establishment of GIABA**

On 9/12/99, the ECOWAS Authority of Heads of State and Government agreed to establish GIABA, eventually found under the GIABA Statutes adopted by A/DEC.6/12/00. The reviewed GIABA Statutes were given effect in 2005 by Decision A/DEC.3/01/05 that amended Articles 8(ii), 9(ii) and 9(iii) of the Statutes of GIABA. At its fifty-second session on 17 July 2004, the Council of Ministers of ECOWAS signed a Declaration in which they undertook to fulfil all the conditions that will facilitate the recognition of GIABA as a FATF-Style Regional Body (FSRB). Furthermore, the GIABA Statutes were revised in January 2006 to reflect the increasing link between money laundering and the financing of terrorism worldwide generally and in West Africa expressly.

GIABA was established as a specialised institution of ECOWAS responsible for the objectives of: 1) protecting the national economies and the financial and banking systems of signatory States against the proceeds of crime and combating the financing of terrorism; 2) improving measures and intensifying efforts to combat the proceeds from crime, and 3) strengthening cooperation amongst its members.

The creation of GIABA is a significant response and contribution of ECOWAS in the fight against money laundering and terrorist financing. Its establishment is a tacit recognition of: 1) the paramount importance of framing and addressing the challenge of money laundering within the broader context of improving governance and combating corruption and fraud in the private, financial and public sectors; the fact that 2) money laundering and terrorist financing are precarious problems bedevilling the region; 3) economies and financial systems of countries need to be protected from laundered money and proceeds from terrorist activities; and 4) West Africa needs to address these issues and find comprehensive and integrated solutions to them.

### **3.2. Mandate of GIABA**

The Statutes that established GIABA mandates the institution to, among other things, ensure the adoption of standards against money laundering and the financing of terrorism by acceptable international standards; facilitate the adoption and implementation by the Member States of measures against money laundering and terrorist financing; provide a regional forum for the discussion of matters of regional interest; organise self-evaluation and mutual evaluation to determine the efficacy of measures adopted; and coordinate and provide support to member states to establish and implement AML/CFT regimes, including the establishment and maintenance of Financial Intelligence Units (FIUs).

GIABA Mutual Evaluation and Self-Evaluation remain veritable tools in helping the institution assess the effectiveness or otherwise of individual countries'

AML/CFT regimes and their level of technical compliance with FATF Recommendations. The assessment is done on a recommendation-by-recommendation basis in reaction to the relevant legal and institutional framework of a particular country and the powers and procedures of competent authorities. This, according to Vladimir, represents the “building blocks of AML/CTF system” (Vladimir, 2013). GIABA, by its mandate of assessing effectiveness, focuses most on determining how well countries achieve their objectives of effective AML/CTF to make judgments on various components of the AML/CTF regime interact and whether or not things are working well and the reasons why. Usually, GIABA’s assessment of countries focuses on high risks areas, with reports providing the basis for addressing the issues that are considered to be of utmost concern to them. Technical compliance and effectiveness are entwined, making it imperative for reports to present a holistic view of the AML/CTF regime and provide a comprehensive picture of the country’s situation.

#### 4. GIABA Strategic Operations and Outcomes in West Africa

GIABA plays a critical role in West Africa by assisting the Member States in implementing acceptable international measures to deny criminals access to proceeds generated through criminal acts. However, it should be stressed that GIABA was more vibrant in the sub-region between 2007 and 2013 than it is presently. This is decipherable from the organisation’s 2013 report compared to its 2019 report. During this period, a series of capacity building initiatives were undertaken by GIABA in the various states that were geared towards entrenching effective AML/CFT regimes.

Premising on the notion of ‘following the money and making organised crime unprofitable, GIABA focuses on deliverables and methodologies for achieving determinable results known commonly as Strategic Plan—often based on very crucial and determined goals or pillars. For example, GIABA Strategic Plan for 2011-2015 was based on seven goals, namely; institutional development, compliance monitoring, research and typologies, technical assistance, partnership, regional and international cooperation; and cross-cutting issues that border on regional and national coordination, monitoring, and evaluation as well as long term funding plan. A Strategic Plan for 2016-2020 that hinges on the same pillars were adopted in 2015 to serve as a policy direction for the institution for the period under review.

Based on its strategic plan to achieve its mandate, GIABA works too, among other things, assist States in enacting, upgrading and or harmonise AML legislation in West Africa; help establishes, strengthen and resource FIUs; assist States in developing strategies, structures and AML/CTF mechanisms; undertake awareness-raising and training, and provide equipment such as scanners to detect cross border currency movements. It is important to note that GIABA has been relentless in working towards establishing a robust and formidable AML/CFT regime in West Africa within its strategic mandate. For example, the insti-

tution has partnered with FATF in research into TF typologies in West Africa. In addition to carrying out mutual evaluations, self-assessments and monitoring of States, GIABA has been organising workshops in different Member States between 2012 and 2015 to sensitise the public on their role in the fight against Terrorist Financing and Money Laundering.

Through these workshops, Civil Society Organisations (CSOs) were sensitised to the threats posed by money laundering and terrorist financing. In Nigeria and the West African Sub-Region, Civil Society Organisations have pressured governments to achieve accountability, transparency, participatory governance, the rule of law and quality service delivery. Also, governments with success stories in the fight against corruption have explored the role of Civil Society Organisations, especially in raising awareness, policy formulation/feedback, implementation, and monitoring. In the area of Technical Assistance (TA), GIABA has been able to provide TA to many member states (MS), including mentoring Guinea Bissau to strengthen its AML/CFT regime even when the Country could not fully absorb the full range of GIABA's technical assistance, installation of the AML/CFT analytical software for the FIU and provision of a scanner at the Bissau airport.

Furthermore, a workshop on terrorist financing in West Africa typologies was organised to review the experts' reports and analyse the case studies gathered during the joint FATF/GIABA Expert Meeting on Money Laundering and Terrorist Financing Typologies organised in Dakar, Senegal, from 26 to 28 November 2012. The workshop discussed, among others, the methods and techniques employed by terrorists in collecting, transferring, and utilising funds concerning specific cases.

As already noted, GIABA has continued to strive toward achieving an effective AML/CFT regime. Through its work in the region, some countries have improved their AML/CFT systems while others have succeeded. For example, Benin has developed a relatively strong AML/CFT regime with the support of GIABA. It has taken many steps to address the deficiencies identified in its AML/CFT system. In the area of technical assistance, GIABA offered the national training on the Risk-Based Approach (RBA) for the country's AML/CFT compliance officers, installation of analytical software in the FIU, organisation of capacity development programs with the support of the World Bank and Internal Security Department of the French Embassy in Benin and raising the awareness of compliance and risk officers of financial institutions on the revised FATF Recommendations.

Additionally, through GIABA work in Burkina Faso, the country was admitted into the Egmont Group of FIUs in 2013 due to measures taken by the Country to address the gaps identified in its AML/CFT regime. In collaboration with GIABA, Burkina Faso FIU organised a national sensitisation workshop for Designated Non-Financial Businesses and Professions (DNFBPs) on the fight against ML/TF from 30 to 31 July 2013 (GIABA, 2013).

Further successes of GIABA are highlighted below in the affected States.

With its AML/CFT Law 2005, with the support of GIABA, Cote d'Ivoire got its FIU admitted into the Egmont Group in 2010. GIABA has supported the Country by strengthening the capacity of its FIU and the installation of AML/CFT analytical software and hardware.

The Drug Control Act 2003 and Revised Regulations 2005, respectively, complement The Gambia's AML/CFT laws of 2003 and 2002, and its FIU has been receiving Technical Assistance from GIABA.

Ghana continues to make significant progress in improving its AML/CFT regime of 2008, which is being complimented and strengthened by:

- 1) The Foreign Exchange Act 2006
- 2) The Anti-Terrorism Act 2008 (Act 764)
- 3) AML Regulations 2008 & 2011
- 4) The Mutual & Legal Assistance Act 2010 (Act 807)
- 5) The Organised Crime Act 2010.

In the area of Technical Assistance, GIABA facilitated Ghana's engagement with the FATF Regional Review Group and the on-site visit to Ghana from 14 to 18 January 2013. GIABA supported the country in reviewing and adopting executive guidelines for implementing UNSCRs 1267, 1373, 1718, 1737, successor resolutions, and any other relevant solutions. Accordingly, Ghana has established an operational and functional FIU and adopted and implemented adequate procedures to identify and freeze terrorists' assets; hence Ghana was taken off the FATF ICRG process (FATF monitoring process).

Guinea's AML/CFT regime was also strengthened through GIABA's close engagement with the Country's authorities. GIABA also delivered some technical assistance to Guinea. In May 2013, GIABA completed the installation of a currency scanner at the Conakry International Airport and trained 12 customs officials to use the scanner to help Guinea's FIU track and control cross-border movement of cash that may involve ML/TF.

Liberia made and continues to progress in addressing the strategic deficiencies in its AML/CFT system. This led to the enactment of the Financial Intelligence Unit Act, Fraud Act, Anti-Money Laundering and Terrorist Financing Act, Provisional Remedies for Proceeds of Crime Act, Mutual Legal Assistance in Criminal Matters Act, and Distribution of UN List of Terrorists and Terrorist Groups Act in April 2013. About TA, GIABA has helped Liberia develop and implement an action plan by holding a national awareness and sensitisation workshop on AML/CFT laws for stakeholders in Monrovia in July 2013. GIABA also installed a currency scanner at the International Airport in Monrovia and conducted a user training workshop for 14 customs and security officials in May 2013.

In the case of Mali, commendable efforts have been made toward strengthening the country's AML/CFT regime beginning with the establishment of the AML/CFT Act 2010. GIABA provided technical assistance to the country by supporting Mali's participation in a regional workshop on National ML/TF Risk Assessment for GIABA member States. GIABA also completed the installation

of the AML/CFT analytical software for the country's FIU and supported a national workshop on the fight against terrorism held in Bamako, Mali.

Niger has been making steady progress in strengthening its AML/CFT regime to counter those threats with the assistance of GIABA. GIABA assisted the Country in 2013 in training for its FIU, enforcement agencies, judiciary, regulatory or supervisory bodies, and financial institutions, awareness-raising for members of the legislature, civil society, the media and relevant stakeholders on international cooperation.

Nigeria's significant improvements made in its fight against ML/TF include the enactment of the Money Laundering (Prohibition) (Amendment) Act 2012 and the Terrorism (Prevention) (Amendment) Act 2013. In addition, Nigeria issued the Terrorism Prevention (Freezing of International Terrorist Funds and Other Related Measures) Regulations 2011. Furthermore, GIABA provided technical assistance to Nigeria in several areas, including strengthening the capacity of the EFCC, provision of a financial grant to improve its operations, support through the FATF review process and the consequent exit from the process. Another GIABA supports that Nigeria benefited from are as follows:

- 1) Commonwealth National Workshop for Prosecutors and Investigators on Money Laundering, Terrorism and its Financing and Recovery of Proceeds of Crime, Abuja, 15-18 January 2013;
- 2) SCUML/GIABA AML/CFT Training for DNFBBPs towards effective implementation of AML/CFT Regime in Nigeria, 11 February 2013;
- 3) 7<sup>th</sup> Distinguished Lecture/Symposium of the University of Calabar Graduate School, Calabar, 18 April 2013; and
- 4) Regional Training for Financial and Regulatory Institutions on the Revised FATF Recommendations, Lagos, 28-29 August 2013.

GIABA also assisted Sao Tome and Principe in establishing a functioning AML/CFT regime; and continues to provide mentoring and training to enhance the country's capacity to implement the required AML/CFT measures, technical assistance and support to the FIU in the areas of training, ICT equipment, typologies, and research.

Senegal demonstrated a solid commitment to combat financial crimes with initiatives such as enacting the AML/CFT Act 2009 and establishing its FIU. To ensure the sustainability of efforts against financial crimes in the country, GIABA provided the following support to Senegal in 2013: a National Workshop on the Risk-Based Approach to AML/CFT for Compliance Officers, held in Dakar on 22-24 May 2013, and its officials participated at the Regional Workshop on National AML/CFT Risk Assessment for GIABA member States, held in Saly in August 2013.

Like other countries in the sub-region, GIABA interventions in Sierra Leone have helped increase the country's capacity to combat financial crimes effectively. Following a demonstration of the country's commitment to combat financial crimes with the enactment of the AML/CFT Act 2012 and its FIU, GIABA embarked on a series of capacity training workshops for law enforce-

ment agencies on detecting and investigating money laundering and financial crimes. Between May and November 2013, GIABA engaged Sierra Leone in developing an Action Plan to comprehensively address the strategic deficiencies in its AML/CFT regime. The country also benefited from a GIABA regional training for financial and regulatory institutions on the revised FATF Recommendations, held in Lagos, Nigeria, in August 2013. This is in addition to GIABA's Open House Forum for Youths on AML/CFT in Freetown, Sierra Leone, on 25 July 2013.

In Togo, GIABA provided and continues to provide technical assistance in training, provision of ICT equipment and logistics, research, capacity building and the installation of the AML/CFT analytical software for the FIU. The country's effort to strengthen its AML/CFT began in 2007 with the enactment of the anti-ML Act.

Incredibly, GIABA was able to help countries in West Africa implement three major strategic plans from 2007 to 2015, with deliverable outcomes. Some of the products are:

- 1) All member states have AML/CFT legislative and regulatory laws that comply with the 40 FATF recommendations in varying degrees.
- 2) The sixteen (16) GIABA member States have Financial Intelligence Units (FIUs) operational in their domain but cooperate with others.
- 3) Enhanced capacity of every state to effectively combat financial crimes.

Apart from the technical assistance offered to member States to build their capacities in AML/CFT strategies, GIABA also targeted other strategic partners within the ECOWAS sub-region with sensitisation workshops and training to make them partners with them member States in the fight against the menace of ML and TF. For instance, recognising the critical roles of journalists on the information chain on ML/TF, GIABA organised a three-day Regional Training Workshop for journalists on investigating Economic and Financial Crimes, including ML, on 21-23 February 2020, Accra, Ghana. The workshop aimed to forge solid cooperation with the media to effectively disseminate information on AML/CFT and encourage the press to hone the culture of investigation on ML/TF practices.

Also, on 6-7 December 2021, GIABA held a regional awareness-raising workshop on AML/CFT for CSOs in ECOWAS member States in Lome, Togo. The objective was to, among other things, sensitise CSOs on the consequences of ML/TF in the region, build their capacity on AML/CFT, and mobilise them for advocacy for effective implementation of AML/CFT mechanisms at national and regional levels.

Furthermore, worried about the threat of cybercrime to the economies of the Member States and the inability of certain member states to curb the menace, which threatens the security, stability and efficiency of governments, critical infrastructure etc. in the region, GIABA organised a regional typologies workshop on ML/TF linked to cybercrime in member States on 20-22 September 2021 in

Abidjan, Cote d'Ivoire. The workshop aimed at enhancing knowledge and understanding of the risks, trends, methods and techniques of laundering of proceeds of cybercrime in West Africa.

In 2019 alone, GIABA facilitated the training of over 1000 stakeholders in different areas of AML/CFT, mostly in member States (GIABA, 2019). Also, due to the various training and technical assistance given to member States by GIABA, more member States in that year reported high numbers of Suspicious Transaction Reports (STRs), including successful investigations and prosecutions and more assets were seized by member States. GIABA has developed more expertise in member States such that now, the organisation draws from the expertise pool in the delivery of its activities.

## 5. Challenges

Despite the many successes GIABA has achieved in building capacity in member States to combat the problem of ML/TF in the ECOWAS sub-region, the body is confronted with many challenges.

A major challenge confronting GIABA includes inadequate funding. It is incontrovertible that for GIABA to continue to support member states in their AML/CFT effort, it needs funds. However, the organisation lacks the requisite funds to provide the kind of support that Member States need to engender a more robust AML/CFT regime.

Furthermore, while Member States agree that there is need to effectively combat ML/TF in the sub-regional, they seemingly lack the requisite political will to commit to GIABA ideals.

Other specific challenges confronting GIABA includes the fact that Member States lack the capacity and expertise to handle complex and long-term ML/TF cases. In particular, there is limited specialisation in ML investigations, arising from poor intelligence gathering. As a result, they find it difficult to separate ML investigation from predicate offences investigation.

One of the ways to combat ML/TF is to regulate and limit cash transactions. Unfortunately, Member States represent cash dominated economies, where most economic transactions are done with cash. This is notwithstanding those policies that seek to entrench cashless economies have been put in place by some of them. This is also linked to the existential problem of poor culture of poor compliance with minimum AML/CFF standards.

A combination of these factors and many others, including insufficient and or poor data management systems, low capacity of countries to absorb technical assistance; and consequences of globalisation, among others, impedes GIABA's AML/CFT efforts in West Africa.

## 6. Recommendations

Arising from the preceding discussion, the following recommendations are made to make GIABA more efficacious in curbing ML and TF in West Africa:



- There is the need for GIABA to frequently organise capacity building activities and more sensitisation and specialised training for civil society organisations at national and regional levels to broaden stakeholders' understanding of AML/CFT regimes.
- It is also essential for GIABA to incorporate more effective strategies for tackling its challenges into its future strategic action plans. These challenges difficulties relating to the tracing, freezing and confiscation of property, incomes and assets that are proceeds of crime
- GIABA should intensify its partnership with CSOs since Civil Society Organisations have been able to compel accountability, transparency, the rule of law, quality service delivery and adoption of participatory governance on the part of governments within the West African sub-region.
- Forum for sharing information, developing common approaches to issues, and promoting desirable policies and standards—all of which are critical in the fight against money laundering and the financing of terrorism should be encouraged by GIABA and its member States.

## 7. Conclusion

The profits of most crimes are generated as cash, which is risky for criminals. Difficult to hide, money increases the probability of exposure, theft by rival criminals and seizure by law enforcement. When money enters the legitimate economy, it is particularly vulnerable to identification and law enforcement intervention. As a result, criminals move to prevent some cash from attracting suspicion. For example, they may move it abroad, use it to buy other assets, or try to introduce it into the legitimate economy through businesses with high cash turnover. As an integral part of trans-national organised crime, it is estimated that some 70 percent of illicit profits are likely to have been laundered through the financial system (UNODC, <http://www.unodc.org>). Yet less than 1 per cent of those laundered proceeds are intercepted and confiscated.

The question that must always be asked is—what is AML about, and what is CFT about? Is it about stopping dirty money flows, or is it little more than an administrative box-ticking exercise? Professionals, stakeholders, and reporting entities at the frontline would undoubtedly like to do more in terms of regional AML/CFT efforts. This is so because, as everyone knows, ML and TF have assumed the character of trans-nationalism and pose a severe threat to the international community at large. This simply means that no one country can successfully counter them on its own, no matter how technologically advanced and wealthy the country might be. Therefore, there have been calls for regions and sub-regions to adopt effective measures to counter these threats. In response to these calls, GIABA was established and mandated to coordinate AML/CFT efforts in West Africa.

This paper has examined the role of GIABA concerning its mandate of ensuring that West African States adopt effective AML/CFT measures that are not

only coordinated but also integrated and proactive. This examination brought to the fore that amidst several challenges identified, GIABA has succeeded in establishing formidable strategies to combat the scourge of ML/TF in the sub-region. Accordingly, general and specific recommendations have been made for West African sub-regional governments and all reporting entities on overcoming the challenges faced by GIABA; and, consequently, achieving a more robust AML/CFT regime in West Africa.

### Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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