

The Fight against Money Laundering and Terrorist Financing in West Africa

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ABSTRACT

West Africa offers a multitude of opportunities for financial criminals and terrorist groups. This explains the extent of the problem of money laundering and terrorist financing in the region. However, there are very few convictions for these two types of crime. Terrorist activity previously concentrated in Mali and Nigeria is spreading to neighboring countries.

Keywords: Money Laundering, Terrorist Financing, West Africa

La lucha contra el lavado de dinero y el financiamiento del terrorismo en África occidental

RESUMEN

África occidental ofrece una multitud de oportunidades para delincuentes financieros y grupos terroristas. Esto explica la magnitud del problema del lavado de dinero y el financiamiento del terrorismo en la región. Sin embargo, hay muy pocas condenas por estos dos tipos de delitos. La actividad terrorista previamente concentrada en Mali y Nigeria se está extendiendo a los países vecinos.

Palabras clave: Lavado de dinero, Financiamiento del terrorismo, África occidental

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打击西非洗钱行为和恐怖主义融资

摘要

西非为金融犯罪分子和恐怖主义集团提供了诸多机遇。这解释了该区域洗钱行为和恐怖主义融资的问题程度。然而，该地区几乎没有法律将这两类犯罪行为进行定罪。之前集中在马里和尼日利亚的恐怖主义活动正向邻国扩散。

关键词：洗钱，恐怖主义融资，西非

Background

1. Recent decades have seen the increasing internationalization of the fight against criminal financing, particularly anti-money laundering and counter financing of terrorism (AML/CFT) initiatives. Around the world, processes and procedures for tackling these crimes have been aligned based on the international standards set by the recommendations of the Financial Action Task Force (FATF).

- Legislatively, states have been required to adopt laws that criminalize money laundering and terrorist financing.
- Institutionally, states have been required to create financial intelligence units (FIUs). Measures now supported include a national assessment of money laundering and terrorist financing (ML/TF) risks, the development of a national AML/CFT strategy, peer assessment of countries, capacity building among AML/CFT actors, national coordination, and international cooperation.

These requirements necessitate effective tracking of countries' efforts to implement standards. This has led to the creation of FATF-like regional bodies worldwide.

2. The Inter-Governmental Action Group against Money Laundering in West Africa (Groupe Intergouvernemental d'Action contre le Blanchiment d'Argent, GIA-BA) was set up by the Economic Community of West African States (ECOWAS) on December 10, 2000. Its specific mandate was to protect West African economies against the harmful effects of money laundering and terrorist financing. In June 2006, this specialized branch of ECOWAS became a FATF-Style Regional Body (FSRB), and in June 2010 became an associate member of the FATF. Thanks to its work, the fifteen member countries of ECOWAS have established laws against

money laundering, terrorism, and its financing. Each of these countries' legal and institutional AML/CFT framework was also the subject of an initial peer review (mutual evaluation) cycle, the reports from which have been published and adopted. In particular, given states' limited ability to cope with the multiple challenges posed by AML/CFT, GIABA also carries out technical assistance missions, including capacity building programs, developing national strategies, supporting the conduct of national risk assessments, and advocacy and outreach to both public and private political actors. Its aim is to make the region's AML/CFT system conform to the requirements of international standards.

3. Despite GIABA's efforts, the money laundering and terrorist financing situation in West Africa gives cause for concern. Recent figures and reports indicate a dramatic rise in a number of money laundering predicate offenses, including drug trafficking and corruption. Nonetheless, there are still very few convictions for money laundering. Terrorism is also increasing in the region, and appears to use specific funding methods, similar to those used to fund organized criminal groups.

General Trends and Vulnerabilities

4. When combined, the countries of West Africa within ECOWAS account for one fifth of the surface of Africa, a total of 6,140,000 km², with a population of 320,347,000 people, half of them in Nigeria. This population is largely spiritual and religious. The main religions practiced are Islam (mostly Sunni), Christianity, and animism.

5. West Africa is a very economically dynamic region, and its growth prospects are very positive. It is nonetheless poor, having been ranked low on the development indices of numerous United Nations Development Program Development (UNDP) reports. It has a low literacy rate and a low rate of bank use (less than 10 percent for the entire region). This explains the size of the informal sector, which significantly rivals that of the formal economy. Cash transactions are commonplace. However, the fight against money laundering and terrorist financing is based on rules that essentially apply only to the formal sector. It relies on the traceability of financial flows, particularly through the banking sector. This explains the poor results that AML/CFT initiatives have had in West Africa. After the first round of peer review by ECOWAS member countries, GIABA conducted a strategic review of the various evaluation reports in order to identify the main shortcomings and to draw lessons to improve the next cycle. It emerged that countries in the region demonstrated very limited technical compliance with the criteria for evaluating the FATF's recommendations, both legally and institutionally.

These countries' performances (less than 1.7 percent) are even less impressive if we look at compliance with the sixteen key and essential FATF recom-

mendations, considered to be the cornerstone of a functional AML/CFT system.² National systems have proved to be particularly weak when it comes to terrorist financing issues, with ratings ranging from non-compliant to partially compliant with the standards for the whole of West Africa. Very few figures were given about investigations, prosecutions, and convictions, or about the regulation and supervision of reporting entities. This demonstrates the inefficiency and ineffectiveness of the fight against money laundering and terrorist financing in the region.

6. The porosity of the land borders within West Africa contributes greatly to the region's vulnerability to ML/TF. This is exacerbated by the principle of free movement of goods and people established through agreements made by ECOWAS and the West African Economic and Monetary Union (Union Économique et Monétaire Ouest-Africaine, UEMOA). As several reports on the region show, this provides opportunities to financial criminals and terrorist groups, which they heavily exploit. Furthermore, a 240 square kilometer section of the Sahel belt in the northern region of Mali, which borders Algeria, Mauritania, and Niger, is not controlled by state authorities. This is the area where all smuggling and contraband trafficking takes place, and where pro-independence rebels, organized crime, and terrorist groups coexist in relative harmony.

7. Surveys of West African countries identify several factors that hinder AML/CFT projects. Ninety-eight percent of those surveyed cite "inadequate monitoring" by reporting entities as the main factor slowing down AML/CFT efforts. This seems plausible, and the same weakness has been highlighted during peer review and subsequent follow-up reports. Countries also cite "poor law enforcement capacity," "weak rule of law," and "low political commitment" as obstacles to AML/CFT efforts.

Main Money Laundering Predicate Offenses

8. The many weaknesses inherent in the socio-cultural and economic environment of West Africa exacerbate the growth of organized crime in the region. The size of the informal sector, the low rate of bank use, the overuse of book money in financial transactions, corruption, and limited law enforcement all provide a favorable criminogenic environment for ML/TF.

9. The analysis of GIABA's reports, and of statistics produced by investigations and prosecutions provided by member states, show that "fraud or tax evasion" and "corruption" are the main predicate offenses underlying money laundering

2 In the FATF's former evaluation methodology, sixteen of its forty-nine recommendations were considered essential for a functional, effective AML/CFT system: six principal recommendations (R.1, R.5, R.10, R.13, RS II, and RS IV) and ten key recommendations (R.3, R.4, R.23, R.26, R.35, R.36, R.40, RS I, RS III, and RS V).

in West Africa. These are followed by "smuggling," "theft," "people trafficking," and "counterfeiting" in an equal number of reported cases. "Drug trafficking" and "piracy" come third. Other offenses include counterfeiting, arms trafficking, embezzlement, and illegal mining.

10. The statistics countries provide on the main money laundering predicate offenses have remained practically unchanged over the last five years. This underlines the difficulty of producing statistics for the region, and especially the lack of cooperation between organizations in charge of AML/CFT issues nationally. The reported level of ML/TF fell substantially below that generally perceived.

Trends and Data on Money Laundering and Terrorist Financing

11. The FATF recommendations require AML/CFT actors to make Suspicious Transaction Reports (STRs) and Cash Transportation Declarations (CTDs) to Financial Intelligence Units (FIUs), so that the latter can process and analyze this financial information before submitting their report to the judicial authority, which in turn can initiate AML/CFT prosecutions if required.

12. Statistics for West Africa show that only English-speaking countries follow reporting requirements for cash transactions. It should be noted that submitting CTDs is not a legal requirement for people in many West African countries—in this case, in the eight UEMOA member countries who consider the whole area to be shared. CTDs are made only at the Union's entry and exit points. This is a clear weakness in AML/CFT systems in view of the FATF's requirements.

13. FIUs in West Africa received 4,997 STRs in 2017. Of the 4,997 STRs received, only 1,342 (26.85 percent) were related to money laundering, while twenty-seven were related to other economic and financial crimes. There has been a sharp decline in money laundering cases when compared with data from the previous three years, where an average of 60 percent of cases related directly to money laundering. Nigeria has received the largest number of STRs: 3,554, or 71 percent of all STRs received in 2017, of which only seventy-seven were related to ML. This is followed by Ghana, with 599 STRs, of which 468 were related to ML; Côte d'Ivoire, with 218 STRs all related to ML; and Togo, with 163 STRs, of which 154 were directly related to ML.

14. Of the 4,997 STRs received, 3,761 were processed. Of these, only 210 (5.58 percent) were sent to the judicial authorities. The countries make no effort to explain this gap. It should also be noted that there have been seventy-six AML/CFT investigations, fifty prosecutions, and only fourteen convictions. This highlights how limited the results of AML/CFT initiatives in West Africa remain.

Money Laundering Methods and Techniques

15. Figures provided by West African countries over the last five years have consistently highlighted the same methods of money laundering. First among these is the "physical transportation of cash." This makes sense, given the porosity of West African borders, the informal, cash-based economy, the limited capacities of investigative authorities, and the absence of CTD obligations within UEMOA. The "Designated Non-Financial Business or Profession (DNFBP)" sector appears to be the second most popular money laundering method in West Africa.

This is explained by poor regulation in the sector, which gives some of its activities—real estate, casinos and gambling, and travel agencies—a semi-informal character. The sector is also very poorly monitored, and actors within it are not sufficiently trained in or aware of the challenges of AML/CFT. It appears that very few STRs are received by FIUs from DNFBPs. In some countries in the region, it remains a challenge to find lawyers to work with the FIU and AML/CFT investigation authorities. Across West Africa, this sector is very vulnerable to ML.

Third, financial criminals use the banking sector and microfinancing to invest their dirty money. This highlights the inadequacies of monitoring measures put in place by financial institutions, and particularly the lack of regulation and sanctions by supervisory authorities.

Overview of Terrorist Financing in West Africa

Major Terrorist Groups

16. Terrorist groups are heavily present in West Africa, having now spread to initially unaffected territories. The seven main terrorist groups operating in the region are active in Mali, Niger, and Nigeria. These are Al-Qaeda in the Islamic Maghreb (AQIM), Ansar Dine, Boko Haram, Ansaru, the Macina Liberation Front, al-Mourabitoun, and the Movement for Oneness and Jihad in West Africa (MOJWA). A number of other countries are also affected by terrorism: Guinea Bissau, Burkina Faso, Côte d'Ivoire, and Senegal. Burkina Faso has experienced several terrorist attacks, with the most deadly, claimed by AQIM, taking place in Ouagadougou on January 15, 2016, leaving thirty dead and 150 wounded.

We should also recall the attack on the seaside resort of Grand Bassam, in Côte d'Ivoire, in March 2016, which left twenty-two dead and several wounded. It has emerged that AQIM uses Guinea-Bissau as a training camp for its new recruits before sending them to conflict zones as reinforcements. In Senegal, a network is in place for recruiting young combatants, and for financing their trips to so-called "jihad" areas in West Africa and the Middle East.

Alliances Between Terrorist Groups

17. In 2016, a leadership crisis caused a split within Boko Haram. This led to the emergence of Ansaru, and to Boko Haram's alliance with ISIS, which renamed it the Islamic State in West Africa. There have also been reports of alliances between Boko Haram and Al-Shabaab (which operates in the Horn of Africa and East Africa) to train its fighters.

18. In 2016, some reports claimed AQIM had recruited former members of the Libyan branch of Ansar al-Sharia. There has been no information in 2017 to confirm this. Signs of tension between groups with links to AQIM and those associated with ISIS have been noted.

19. In the north of Mali, close links have developed between Ansar Dine and Tuareg separatist groups. These groups control the transit, smuggling, and trafficking zones of the Sahel, and are likely to have formed partnerships with criminal organizations. It should be recalled that Ansar Dine and AQIM fought the National Movement for the Liberation of Azawad (Mouvement National de Libération de l'Azawad, MNLA) together, and it appears that AQIM's activities in the northern territories has long been controlled by Ansar Dine.

In May 2016, a new coalition of four terrorist groups (AQIM, Ansar Dine, al-Mourabitoun, and the Macina Liberation Front) was created in Mali. Named "Jama'at Nasr al-Islam wal Muslimin" (Group to Support Islam and Muslims), it is led by Iyad Ag Ghaly, the leader of Ansar Dine, and claims allegiance to al-Qaeda.

Anti-Terrorist Strategies

20. Nationally and regionally, responses to this challenging situation have involved the adoption of a number of strategic documents and security policies. Within this context and on a regional level, GIABA participated in a joint typologies exercise with the FATF and the Task Force on Money Laundering in Central Africa (Groupe d'Action Contre le Blanchiment d'Argent en Afrique Centrale, GABAC) in order to update its typologies report on terrorist financing, first published in 2013. This new typologies exercise provided information about the financing methods and techniques used by terrorist groups in West and Central Africa. This should facilitate appropriate, effective government policy decisions, as well as the work of criminal investigators and prosecutors in the fight against terrorism.

21. At the national level, governments have increased prevention and awareness-raising activities, and have urged their countries to implement the whole range of counter-terrorism strategies used by the United Nations, ECOWAS, and the African Union. More financial and material resources are gradually being made available to national security forces. Collaboration between state services has been strengthened. Legislative texts and decrees that provide a better frame-

work for combating terrorism have been introduced, giving it a strong legal and institutional basis.

22. Below are a number of specific anti-terrorist military operations in the region:

- The Multinational Joint Task Force (Force Multinationale Mixte) around the Lake Chad basin (Cameroon, Chad, Niger, and Nigeria, and Benin) has limited the frequency of Boko Haram attacks.
- Special operations by the Nigerian army in Borno State have reclaimed territory occupied by Boko Haram.
- Military operations in northern Mali—conducted, since 2013, by Mali's national army and French and ECOWAS forces—have dismantled most of AQIM's positions. AQIM-affiliated groups have subsequently adopted a new strategy in the south of the country that focuses on suicide bombings in hotels and restaurants, in order to maintain media interest in AQIM's activities.
- The strategies and military operations of the Nigerien, Burkinabé, and Ivorian armies have decreased the number of terrorist attacks in these countries.

23. The main effect of these operations has been to reduce the main terrorist groups' scope of action, pushing their attacks toward the countries' land borders—particularly toward Niger and Nigeria, where Boko Haram has created whole communities of victims over the last three years. In Burkina Faso and Mali, on the other hand, attacks have become very unpredictable, occurring across the country.

Sources of Terrorist Financing

24. Typologies reports on terrorist financing in West Africa show that terrorist groups use several confirmed sources of financing. These include:

25. Extortion: Terrorist groups force local people to pay taxes and fees for protection and security (against the terror the groups themselves have imposed). They also profit from illicit activities, including migrant smuggling and drug trafficking. This highlights the link between terrorist groups and organized crime, particularly in the Sahel, where they coexist.

26. Theft and looting: Several typologies and testimonies have shown that Boko Haram engages in theft and looting to finance itself, and to acquire the goods it needs to survive. Such acts include attacks on boats, police stations, military barracks, the looting of small villages and farms, and attacks of villages on market days to obtain cash and food. Reliable, consistent sources report that Boko Haram have begun commercializing the theft of livestock in Cameroon, Chad, Niger, and Nigeria.

27. Donations: It has also been shown that terrorist activities are financed through donations from local sympathizers or members of terrorist groups, as well as from foreign sympathizers through NGOs and perhaps through capital or securities transfer services.

28. Abuse of non-profit organizations (NPOs): Several cases have shown that NPOs are used by sympathizers to provide terrorist groups with financial resources. This is explained by the good will NPOs enjoy in West Africa because of the social role they play in helping the poor. The way that these organizations operate can be opaque, and it has proven difficult to regulate them throughout West Africa. Their regulation and monitoring is neither effective nor efficient.

29. Use of local/commercial companies: Sources of funding for Ansaru and Boko Haram include investment in transport companies, and sales of dried fish and kola nuts, all of which are profitable activities in Nigeria.

30. Abductions for ransoms: An Egyptian press office has claimed that "A total of €183 million in ransoms has been paid for the release of eighty Western tourists in the Sahel-Sahara region in recent years, making hostage-taking one of the main sources of funding for groups in Algeria, Mali, Mauritania, Nigeria, and Niger." No evidence exists to back up these allegations, but it is estimated that the high circulation of currencies (euros and US dollars) in West Africa is a result of these ransom payments.

31. In addition, typologies reports suspect that terrorist groups use other sources of financing, including drug trafficking, arms trafficking, goods smuggling, migrant smuggling, people trafficking, piracy, fraud connected with new means of payment, and cybercrime. This is certainly plausible, given the opportunism terrorist groups have shown in adapting to the economic and social situation in West Africa.

Conclusion

32. West Africa offers a multitude of opportunities for financial criminals and terrorist groups. This explains the extent of the problem of money laundering and terrorist financing in the region. However, there are very few convictions for these two types of crime. Terrorist activity previously concentrated in Mali and Nigeria is spreading to neighboring countries, leading to increasing and more sophisticated attacks, the destabilization of governments, loss of control of certain geographical areas, loss of public confidence in the state, widespread corruption, arms trafficking, population displacement, and more.

33. The most effective response is for authorities to develop shared, coordinated approaches to combating money laundering and terrorist financing in the region.

Given the largely informal nature of its economies, the authorities may seek more robust basic information and intelligence methods, including the involvement of civil society and communities in border areas or near to conflict zones, enabling them to contribute to efforts to combat terrorist financing.