INTER-GOVERNMENTAL ACTION GROUP AGAINST MONEY LAUNDERING IN WEST AFRICA

TYPOLOGIES REPORT





MONEY LAUNDERING RESULTING FROM THE COUNTERFEITING OF PHARMACEUTICALS IN WEST AFRICA

JULY 2017

Anti-Money Laundering and Counter Terrorist Financing

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Acronyms and Abbreviations

AIPRT:	Agreement on Intellectual Property Rights and Trade
GAHP:	Global Alliance of Health Professionals
CIOPF:	International Conference of Association of Pharmacists
CNLC:	National Committee on The Fight Against Counterfeiting
COTRAMED:	Inter-ministerial Committee on the Fight Against Drug Counterfeiting
CPC:	Consumer Protection Council
CSO:	Civil Society Organization
DFID:	Department For International Development
DPSD:	Police Directorate for Narcotics and Drugs
ECOWAS:	Economic Community of West African States
EFCC:	Economic and Financial Crimes Commission
DNFBPs:	Designated Non-Financial Businesses and Professions
FGN	Federal Government of Nigeria
IMIF:	International Medical Industries Federation
IFP:	International Pharmaceutical Federation
FIU:	Financial Intelligence Unit
GIABA:	Intergovernmental Action Group Against Money Laundering in West Africa
ICPO-Interpol:	International Criminal Police Organization
IMPACT:	International Medical Products Anti-Counterfeiting Taskforce
NAFDAC:	National Agency for Food and Drug Administration Control
NCB:	Interpol National Central Bureau
NCS:	Nigerian Customs Service
NDLEA:	National Drug Law Enforcement Agency
NPF:	Nigerian Police Force
OECD:	Organization for Economic Cooperation and Development
OICS:	Internationale Organization for Narcotic Control
ANP:	Association of Nigerian Pharmacists
PEP:	Politically Exposed Persons
PPNE:	Unregistered Pharmaceuticals
PSI:	Pharmaceutical Security Institute
QAMSA:	Quality of Anti-malaria Products in Sub-Saharan Africa
SON:	Standardization Organization of Nigeria
TFP:	Technical and Financial Partners
UNOCI:	United Nations Operation in Côte d'Ivoire
UNODC:	United Nations Office on Drugs and Crime
USD:	United States Dollars
WAHO:	West African Health Organization
WHO:	World Health Organization

Executive Summary

1. This study was aimed at understanding the nature and magnitude of the money-laundering phenomenon resulting from the counterfeiting of pharmaceuticals in West Africa. The methodology employed involved the selection of four countries (Côte d'Ivoire, Nigeria, Senegal and Togo) for the purpose of in-depth country level study, while the remaining countries responded to a questionnaire. From the country reports and the responses provided by the member States to the questionnaire and the case studies provided by law enforcement authorities, the linkage between Money Laundering (ML) and counterfeiting of pharmaceuticals was analysed.

2. The terms drugs, pharmaceuticals and medicinal preparations are generally used interchangeably in referring to medical products for prophylactic, diagnostic or therapeutic use. This is the meaning retained in this report.

3. Trafficking in counterfeit pharmaceuticals has developed dramatically in recent years, in spite of the rigorous regulation governing the pharmaceutical sector in all countries. One of the main causes of this boom, especially in West Africa, is indisputably the colossal profits reaped by traffickers and other stakeholders involved in the importation, storage, distribution and sale network. This financial windfall enables the criminal networks to organize, finance and diversify their activities by investing in other illicit activities that generate proceeds and probably to corrupt law enforcement personnel, especially at the borders, in order to guarantee them impunity. To consolidate on this impunity and to appear to be respectable stakeholders, the criminals, try to invest their illicit proceeds in established legal businesses.

4. The placement, layering and integration of the proceeds generated from the trafficking of counterfeit pharmaceuticals, through financial arrangements that are sometimes extremely simple, constitute enormous risk, which is likely to weaken the AML/CFT regimes within West African countries. It is based on this that it became necessary to conduct a typologies study with a view to understanding the techniques and methods used in laundering the proceeds derived from counterfeit pharmaceuticals. The aim is to know its magnitude, its manifestations and specificities in the region, and proffer practical recommendations to enable stakeholders to take effective counter measures.

5. The review and analysis of available literature indicate that the trafficking of counterfeit pharmaceuticals is a global phenomenon. The Asian countries, China and India in particular, are the main locations for the manufacture of counterfeit pharmaceuticals. The export of the counterfeit products generates extremely high profits for the importers as well as for all those involved in the distribution chain. The African market appears to be a preferential consumer of these products. In fact, the African market absorbs a considerable portion of the global production, thereby exposing the local population to serious health risks.

6. In West Africa, Lagos, Cotonou, Lome, Accra-Tema and Conakry ports are the reference entry points of counterfeit pharmaceuticals. Due to the porosity of the borders, the counterfeit products are easily routed to other countries in the region. Furthermore, the falsification of the packaging of the drugs makes the detection of counterfeit products by the national competent authorities difficult. The corruption of the regulatory and law enforcement personnel, their lack of training or specialization, the inadequate resources available for prevention and law enforcement, the size of the informal sector, the rate of illiteracy and difficulty in accessing conventional medical care, are all vulnerabilities that undermine efforts at combating the counterfeiting of pharmaceuticals. Thousands, if not millions, of people are

involved in the trafficking of counterfeit pharmaceuticals and have used it to develop a parallel economy as a source of illicit revenue. This dirty Money is regularly laundered within the region through various informal activities that provide infinite possibilities.

7. The cases examined also illustrated that illicit proceeds generated from the trafficking of counterfeit pharmaceuticals are also laundered through the traditional channels of the formal economy. It is often observed that revenue generated through the trade of counterfeit pharmaceuticals are cut off from their origin, especially through alternative funds transfer, with a view to reinvest the funds into legal businesses.

8. Furthermore, legal and institutional measures for combating trafficking in counterfeit products are not dissuasive enough to curb this illicit business, which has adverse repercussions on the public health of the local populace, and for the integrity of the economic and financial systems in the West African region.

9. The key findings of the study are:

a. Trafficking in counterfeit pharmaceuticals is widespread in West Africa and is done in three ways – imports from outside of the region, especially from China and India; re-distribution within the region, using easy target countries as warehouses; local manufacture/repackaging/export and re-export to countries outside the region;

b. There is no serious political commitment from high level political authorities to counter the trafficking of counterfeit pharmaceuticals;

c. The legal frameworks of most of the countries is weak, thereby creating a vulnerability for exploitation by criminals;

d. The majority of personnel involved in countering the trafficking of counterfeit pharmaceuticals do not have adequate knowledge and skills to work effectively;

e. The informal economy and its cash-based nature is a key vulnerability in the trafficking of counterfeit pharmaceuticals;

f. Corruption is very high among officials dealing with the problem, which creates impunity for the criminals;

g. The networks and associations of those involved in the trafficking of counterfeit pharmaceuticals is similar or even more organised than that of those involved in legal activity;

h. Both licenced and unlicensed practitioners in the pharmaceutical industry are involved in illegal activity;

i. Large sums of money is generated and laundered through the trafficking of counterfeit pharmaceuticals as shown by a number of case studies. Unfortunately, no estimates could be provided or reported in this study. This is largely because competent authorities are not looking at the money or asset in their investigations of the relevant predicate crime.

10. Based on the findings of the study, a number of short, medium and long-term recommendations were made. Among them is the need for effective collaboration and cooperation both at national and international levels. Law enforcement and regulatory officials involved in countering counterfeit pharmaceuticals need to be adequately trained. Some

financial monitoring measures such as enhanced due diligence and continuous monitoring of financial activities need to be put in place for the sector. Countries also need to reorganise how the sector is managed in terms of tracking, tracing and encoding legitimate products. Above all, the legal environment must be enhanced to deter criminals.

11. GIABA hopes that this report will be found useful by the countries on whose behalf the research was conducted. It is also hoped that other stakeholders will find this report valuable and will use it to engage countries in the region in order to give their own support to them in the huge task of countering the trafficking of counterfeit pharmaceuticals.

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Section 1: Introduction

General Background

1. Money Laundering is a global phenomenon, which stems from various sources of illicit funds. Criminals engaged in illegal activities where they raise substantial amount of funds will always seek ways and means of cleaning up the dirty money for their benefit and to escape from the law. Several studies concur on the linkage between the trafficking of counterfeit pharmaceuticals and money laundering. Indeed, statistics from the World Health Organization (WHO) shows that counterfeit drugs account, on average, for 10% of the global pharmaceutical market and affects all countries. Asian countries, particularly China and India, are the major location for the manufacture of counterfeit drugs.

2. On the financial front, the trafficking of counterfeit drugs has apparently been one of the most lucrative criminal businesses for the past fifteen years. According to WHO, the sale of counterfeit drugs reached 75 billion US Dollars in 2010, representing 90% increase since 2005. Profits from this trafficking reached 200 billion US Dollars in 2014. Some studies estimate that proceeds from the trafficking in counterfeit pharmaceuticals are higher than those of illicit trafficking in narcotics. As a matter of fact, according to specialist estimates, 1,000 US Dollars invested in counterfeit pharmaceuticals would yield up to 500,000 US Dollars to criminal organizations.

3. Africa has been identified as the main hub of the trade in counterfeit pharmaceuticals. In West Africa, the sale of counterfeit drugs reached almost 3 billion US Dollars in 2010, while the value of importations of pharmaceuticals in the region rose to 1.5 billion US Dollars. The United Nations Office on Drug and Crime (UNODC) estimates that at least 10% of imported drugs circulating in West Africa are fraudulent or counterfeited (sometimes with a prevalence rate of 30 to 35% in some countries). That would be equal to at least 150 million US Dollars of fraudulent or counterfeit drugs of the West African annual imports in recent years.

4. The benefits of this illicit trade gives the criminal groups, especially those involved in other criminal activities, not only additional revenue but also more funds for investment in other serious offences and in controlling local authorities. The overall proceeds could also help increase the production, import and trafficking of smuggled goods, which could subsequently be included in the formal supply channel with a view to making their incomes appear legitimate.

5. This criminal activity, which generates colossal amounts of money, is perpetrated at the detriment of consumers, pharmaceutical industries, governments and other global authorities that are concerned about the health repercussions. It also threatens the integrity of the economic and financial systems of the countries concerned, in that the dirty Money is injected into the formal financial system for laundering.

Objectives

6. The overall objective of the study was to understand the phenomena of counterfeit pharmaceuticals in West Africa and how the illicit proceeds generated are laundered.
7. Specifically, the study was aimed at achieving the following :

- Understand the magnitude and manifestations of trafficking in counterfeit pharmaceuticals in West Africa;
- Review the legal and institutional mechanisms for combating the phenomenon of counterfeit pharmaceuticals in West Africa;
- Examine the adequacy of the measures put in place for preventing and countering the trafficking of counterfeit pharmaceuticals and related money laundering;
- Analysing, through the practical cases provided by the countries, the techniques and methods used in laundering proceeds derived from counterfeited pharmaceuticals;
- Recommend measures/actions for improving the fight against Money Laundering resulting from the trafficking of counterfeit pharmaceuticals.

Methodology and Scope

8. All the ECOWAS countries and Sao-Tomé & Principe were included in the study. However, four countries, namely, Côte d'Ivoire, Nigeria, Senegal, and Togo, were sampled for the conduct of an in-depth research. The four countries were selected largely based on the size of their pharmaceutical industry and trade and to represent high (Nigeria), middle (Cote d'Ivoire, Senegal) and low (Togo) economy in the region.

9. This report was prepared based on the reports of the four sampled countries and other information collected from other member States or authorities concerned with the problem of trafficking of counterfeit pharmaceuticals and money laundering in West Africa. For most of the countries, the offices concerned are as follows:

a. Ministry of Health;
b. Customs Directorate,
c. National Gendarmerie;
d. National Police;
e. National Drugs and Narcotic Board/Directorate;
f. National Order of Pharmacists;
g. National Food and Drug Board;
h. Anti-smuggling Inter-ministerial Committee;
i. National Central Bureau (NCB) Interpol,
j. Financial Intelligence Unit (FIU).

10. As previously indicated, the research covered the 15 ECOWAS Member States as well as Sao-Tomé & Principe, which received survey questionnaire designed to assess the following elements:

- The legal and institutional mechanism applicable to the fight against counterfeit pharmaceuticals,
- Categories of pharmaceuticals concerned by counterfeiting and trafficking,
- Statistics of surveys, legal proceedings and trials relating to the trafficking of counterfeit pharmaceuticals and their association with Money Laundering,
- Management of confiscated funds/assets,
- Profiles of counterfeiters and/or traffickers, and
- Cases of Money Laundering Typologies linked to the Counterfeiting of Pharmaceuticals.

11. The research work was extensive in the four (4) sample countries listed above, where local investigations provided a comprehensive overview of illicit activities, leading to the identification of the stakeholders, especially the importers, transporters, retailers, their organizations and accomplices, the various networks, distribution channels, the methods used for importing and selling the products.

12. Furthermore, a meeting of Experts organized by the GIABA Risk, Trends and Methods Group, discussed the initial conclusions of this typologies exercise and provided guidelines for its finalization.

Concept and Definition

The countries covered by this survey used the WHO conventional definition of pharmaceuticals as being targets for counterfeiting. Generally, counterfeit pharmaceuticals are often "fake medications" or "fake drugs". They also include other fake medical products, which are not necessarily drugs, for example, syringes, thermometers, sterilized gauze, bandages, etc. The terms, medicine, medication, pharmaceuticals and medicinal preparations are interchangeably use when referring to medical products for prophylactic, diagnostic or therapeutic use.

Challenges and Limitations

13. Access to information in such a sensitive area was the major challenge. In fact, obtaining the requisite approvals for gathering available information from the various agencies concerned led to considerable delays for the country researchers in the conduct of the research in the sampled countries. Notwithstanding the approvals granted, some agencies were reluctant to provide quality information. Consequently, although all the sixteen GIABA member States provided responses to the questionnaire, information provided was not always complete or consistent and virtually had no case study of counterfeiting of pharmaceuticals linked to money laundering. The record keeping system and statistical data systems were extremely rudimentary in most of the countries. Lack of or weak national coordination among the competent authorities also had an impact on the availability of information.

14. Furthermore, some of the respondents did not want to provide any information for fear of being targeted by their countries' law enforcement authorities especially personnel that might be involved in one way or the other in the trafficking of counterfeit pharmaceuticals and/or in laundering of the proceeds. Some of them actually requested for financial compensation for their responses. On the ground, the traders involved in counterfeit were well aware of the illegal nature of their activities and did not want to take any chance by providing any information. Some of the stakeholders interviewed were however hostile as they thought that the researchers were gathering information for the national police.

15. Notwithstanding the challenges, which is inherent in a sensitive research topic such as money laundering and counterfeit pharmaceuticals, relevant information was obtained for the attainment of the objective of this study.

Section 2: Situation Analysis

Magnitude of the Phenomenon

16. The descriptions and definitions referred to above seek to underscore that the counterfeiting of pharmaceuticals is carried out deliberately and fraudulently. According to the WHO, up to 1% of the drugs available in developed countries is likely fake. This rate increases to 10% in various developing countries and in some African, Asian and Latin American regions, the fake pharmaceuticals may constitute up to 30% of the market. WHO estimates that 5% of all antibiotics sold worldwide are fake. The World Customs Organization (WCO), on its part, estimates that trafficking in fake drugs rose by 300 % between 2007 and 2009, reaching a turnover estimated at between 45 and 75 billion US dollars.

17. The Sub-Sahara African drugs market accounts for a mere 2% of the global market and was estimated at 1.5 billion US dollars in 2010. Nonetheless, it is a high-growth market characterized by the demographic and economic growth of the region. The counterfeiting phenomenon is flourishing so much in this part of the world, since African countries are mainly the transit and destination countries of fake drugs.

18. Seizures made during joint operations conducted by the WCO and Interpol with sizeable volumes and values, constitute a sufficient demonstration of the magnitude of the counterfeiting of drugs on this continent: Operation Biyela conducted in April 2013, within 10 days targeted 23 African ports and products worth 550 million CFA Francs were seized; operation Biyela 2 also conducted within 10 days involving 14 African customs departments seizing 113 million US dollars' worth of products, including for the first time, counterfeit drugs for veterinary use. These operations also revealed the crucial roles of the Lagos, Cotonou, Lome and Conakry seaports.

Categories and Types of Counterfeit Pharmaceuticals in West Africa

19. The study reveals that the dynamic is similar in all West African countries. Currently, counterfeit pharmaceuticals seized in West Africa concern all therapeutic classes (analgesics/painkillers, anti-inflammatories, anti-diabetics, antibiotics, anti-hypertensive, sexual problems, food supplements etc.) and in various forms (pills/tablets, capsules, injections, ointments and creams, eye drops and eyewashes, etc.)

20. In Côte d'Ivoire, trade in counterfeit pharmaceuticals is rising steadily and generates considerable revenue for members of the trafficking networks. The boom in this activity is attributable to the low earning power of vulnerable people and inefficacy of the law enforcement measures. Although the existence of organized criminal groups is not proven in the trafficking of counterfeit pharmaceuticals sector, it has been observed on the ground, that wholesalers and retailers are very well organized and sufficiently informed on the various actions of the law enforcement agencies. The distribution and sales networks of the "ROXY" market from the Adjamé community in Abidjan up to the interior of the country seems to be perfectly organized. Incidentally, some police operations carried out in this very area in 2012 and 2013 resulted in an exchange of gunshots, with the officers suffering gunshot wounds.

21. In 2014, Operation "Porc-épic" which mobilized ICPO- Interpol and all the law enforcement stakeholders, namely: the police; gendarmerie; customs officers and their partners; the army; UNOCI; the Ministry of Health and the Associations of Pharmacists and

other professional in the pharmaceutical sector, led to the seizure of 176,650 tonnes of drugs, which were sold in the street, estimated at 10 billion CFA Francs. The therapeutic class of pharmaceuticals seized during the operation is extremely varied and concerns many pathologies.

22. In the case of the Senegalese market of counterfeit drugs, it affects 26% of the Senegalese population according to the US Agency for International Development (USAID), with an estimated turnover of about 5.7 to 7.8 billion CFA Francs. Customs seizures from 2013 to 2015 amounted to about 530 million CFA Francs (those of 2012 were not recorded by the customs department).

23. In the Saint-Louis region, 50% of the seizures in the area were made at Diama, Louga and Kébémer. The counterfeit drugs came from the town of Rosso in Mauritania. They were sent to Touba through Ferlo, a vast wooded savannah with an extremely low demographic density comprising rare nomadic villages, often with the collusion of drug traffickers, which makes the surveillance of the Mbarkédji-Mbeuleukhé-Warak-Ndoyéne-Touba axis.

24. In the Kaolack-Diourbel region, 71.6% of the seizure of the area were made in Toubacouta, Diourbel, Kaffrine and Pont SB Mbacké. The counterfeit drugs originated from The Gambia (notably, the "Pictine" market) and are transported by sea and river on the islands of Saloum and the Fatick region, then transported to Touba by trucks with false bottoms modified for that purpose. The Thiaroye and Yarakh beaches are sometimes used to avoid customs. It is worth pointing out that since the removal of the Saboya and Keur Moussa posts, the traffickers are increasingly using the Kompentoum axis exiting through Mbacké (where the brigade has been removed) on the way to Touba.

25. In the Tamba-Koumpentoum-Guénéto region, 83% of the seizures in the area were made in Tamba, Koumpentoum and in Guénéto. The counterfeit drugs come from Guinea, hidden in trucks that are transporting various goods.



26. With regard to the Nigerian market, it appears there is a counterfeit equivalent for almost every conventional product. The Nigerian market is flooded with goods/counterfeit goods in general. Counterfeit pharmaceuticals are not an exception to the rule. Between 1985 and 2000, empirical observations in Nigeria revealed that there were more counterfeit drugs than original drugs in circulation.

27. In 2012, in a decisive dynamic to rid the country of fake drugs, the National Agency for Drug Administration and Control (NAFDAC) destroyed fake drugs in the amount of 600 million Naira (i.e. 3 million US dollar) in one State alone, Kano State (Nigeria has 36 States and the Federal Capital Territory). Included in the counterfeit medications, were hundreds of cartons of counterfeit Chloroquine, banned Analgin injections and 14 million Tramoldine tablets. In March 2016, NAFDAC publicly destroyed counterfeit and unhealthy products valued at over 1 billion Naira (i.e., 5 million US dollars) in Ogun State alone. Large seizures of fake drugs were also made in other key markets in Lagos State and in Onitsha (Anambra State).

28. In Togo, in 2015 the value of official import (excluding drugs from donor-funded programmes) rose to about 40 billion CFA Francs, for a population estimated at 7.5 million inhabitants; 180 pharmacies including 158 in Lomé. Localities in the hinterland have no pharmacies. Four (4) private accredited wholesalers and a State importer, import and provide drugs. The drugs were locally produced by a Chinese factory established in the Free Zone and a small local unit provide barely 3% of estimated consumption.

29. The national authorities regularly carry out several fake drugs seizure operations. In October 2011, under Operation Cobra, Interpol and the Togolese Security Forces succeeded in seizing seven tonnes of counterfeit pharmaceuticals within a week. In May 2014, under Operation Porc-Epic, Interpol and the Togolese Security Forces, with the support of local and international partners, seized 9.12 tonnes of fake drugs in 3 days. Among them were all the therapeutic classes: antibiotics, analgesics-antipyretics, aphrodisiacs, and anti-diabetics and anti HBP drugs. In September 2015, under an operation of the General Directorate of the National Police (a routine operation upon information) led to the seizure of 22 tonnes of fake drugs in semi-trailer trucks coming from Nigeria. Only a part of the cargo was meant for local consumption. Following Police investigations, most of the cargo in transit in Togo is for onward transportation to other countries such as Gabon, Burkina Faso and Côte d'Ivoire.

Counterfeit-exporting Countries

30. Trafficking in Counterfeit pharmaceuticals is a globalized phenomenon. According to a WCO survey, in 2011, there are 106 producer countries from all the continents, including Brazil, Argentina, Indonesia, Russia, Ukraine, Egypt or the Philippines, and 146 destination countries. However, according to a recent research, Asia, China and India in particular, are the principal manufacturers of counterfeit drugs (50% to 70%, according to estimates).

31. These countries have capitalized on the liberalization of the production of generics to develop their own pharmaceutical sector, which has become a real colossus in those economies. The laxity of some authorities in controlling best practices, coupled with corruption at all levels, has facilitated the development of a parallel and illegal production of fake drugs. The quality of counterfeit products vary considerably depending on the laboratory, which vary among small artisanal units and large pharmaceutical factories.

32. The study was unable to demonstrate whether African countries actually took part in the production of fake drugs. There are a few suspicions but there is no tangible evidence to corroborate those suspicions.

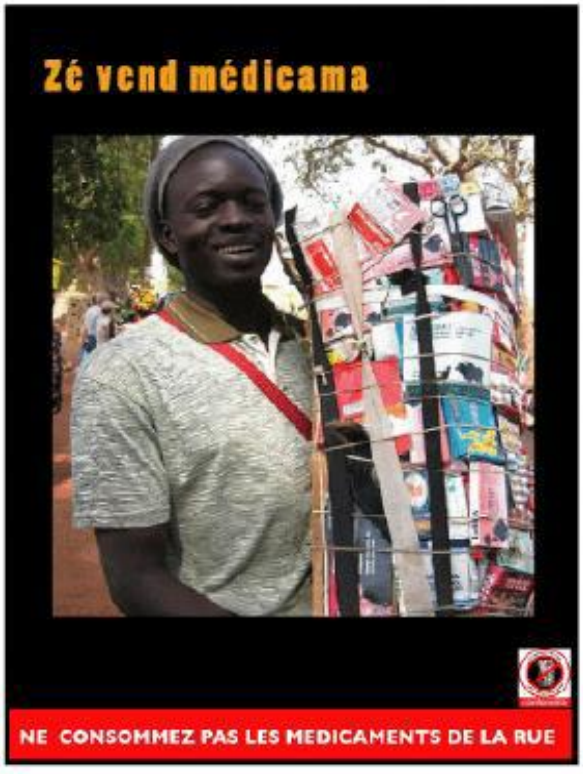
Profiles of those involved and modus operandi

33. Illicit trade in fake drugs attracts all kinds of opportunists from all directions, from top officials of pharmaceutical industries to managers of small family businesses. These include various networks where "white-collar criminals" are found, Asian industrial wholesalers, international businesspersons, corrupt customs and police officials and pharmaceutical wholesalers, distributors and retailers. It appears that some West Africans residing in Asia and Asians established in West Africa largely aid and abet the trafficking.

34. According to regulations, drugs can only be sold through authorized channels and registered premises; however, in developing economies, open informal markets tend to be the norm. This situation enables counterfeiters to penetrate the market, since the distribution is more decentralized and largely unregulated, thereby creating opportunities for marketing counterfeit drugs.

35. Trafficking of fake drugs has always existed in West Africa. It used to be known as market stalls held by illiterate women, who barely know how to read or write, and operating in the informal sector, or through roaming hawkers carrying a tray on their heads or in shoulder bags. These days, the phenomenon has become a real business with imports in containers or in trucks hidden under more or less licit goods, stored in back rooms of shops and houses. The activity mainly remains in the hands of female traders operating in large markets as in the case of Côte d'Ivoire (90%). They are nationals from countries neighbouring Côte d'Ivoire (Mali, Burkina Faso, and Guinea) who have created formidable distribution and sales networks.





36. In The Gambia, counterfeit drugs are sold in the streets by unlicensed persons, but on a lower scale. There are specific areas where these unlicensed sellers operate (some operate in full view in areas such as ports, selling products such as counterfeit analgesics and antibiotics).

For products such as Viagra/Sildenafil, the street vendors do not operate openly (they can be seen on the streets, but operate discreetly).

37. In Guinea, trafficking in fake drugs involves both Guinean nationals and Asians (Chinese and Indians). Legal entities are sometimes used in marketing counterfeit products. They are often front companies involved in general trade (SAVORITE PHARMACEUTICALS, situated at Bellevue and PRINCE PHARMA at Camayenne in Conakry).

38. In Liberia, a large part of the illicit trade in counterfeit drugs is carried out by cross-border traders taking into account of the fact that Liberia's borders are enveloped by forest areas, with many illegal points of entry used by the traffickers to avoid customs and quality control.

39. In Nigeria, for instance, often there are parallel sales and distribution markets for each regulated product. The parallel markets are often referred to as "black markets", which create an environment conducive to counterfeits. There is no doubt that counterfeit drugs that have been traditionally largely sold in the black markets are gradually appearing in legitimate distribution systems, on the shelves of registered pharmacies and sellers of brand drugs, which are finally sold to unsuspecting consumers.

40. In Togo, distribution is undertaken in local markets through a network of roving traders or grocery shops with hidden shelves of drugs. For some years now, trafficking in fake drugs targeted the general health concern or interest of the population (case of anti-malaria drugs, particularly COARTEM for the initial treatment of malaria, drugs for sexual malfunction and Tramadol, which is a favourite for taxi drivers). A number of businesspersons are involved in this more targeted trafficking, and even new networks are emerging. The criminal networks seem to reach out beyond the borders. Foreign traffickers, especially Chinese, have begun showing interest in this large-scale trafficking.

41. In all of the other countries surveyed, the profiles of the persons involved in the trafficking chain are the traders, pharmacists, and State officials.

42. For the consumers, it is worth noting that easy access to drugs through informal markets is the principal justification for their recourse to « roadside drugs ». That is also linked not only to their purchasing power, but also to the low level of literacy, hence their ignorance of the serious repercussions on their state of health. In all cases, however, the fake drugs market with regard to the customer can generally be described as "wise-penny and foolish-pound" where consumers buy the drugs in question cheaply with the false assumption that they are buying safe drugs and end up paying a higher price with their health.

Illicit Proceeds Generated through Counterfeiting of Pharmaceuticals

43. Organizations or persons, who engage in illicit trafficking of counterfeit drugs, are primarily determined to derive financial benefits from this criminal activity. These revenues would be increasingly substantial. In Africa, very few cases have been documented (except in the cases of highly organised criminal networks as exist in North Africa, especially in Egypt).

44. The responses from the questionnaires, did not give a good and reliable indication of the proceeds generated by the traffickers of counterfeit pharmaceuticals. Generally, the

regulatory and law enforcement agencies responsible for combating counterfeiting of pharmaceutical limit themselves to the predicate offence and do not investigate the money laundering aspect.

45. Nonetheless, according to the Côte d'Ivoire Ministry of Health, the country loses 30 billion CFA Francs (about 50 million Euro) through the counterfeiting of drugs because the trafficking occurs outside of State control. The same applies to Nigeria where the monetary values attributed to the public destruction of counterfeit drugs amount to billions of Naira, which gives an idea of the amount of funds the criminals would have obtained if the counterfeited drugs had not been seized. In Senegal, the speed with which the traffickers, known by the law enforcement agencies and the Senegalese population, enrich themselves and the perfection in their camouflage techniques indicate that proceeds from the trafficking are laundered in the informal sector within which they are operating. However, it is extremely difficult to establish a direct linkage between the trafficking of fake drugs and Money Laundering in the country.

46. In Togo, the "anti-counterfeit drug" operations have not conducted investigations to the level of finding and seizing the proceeds of the crime. However, the same dissimulation practices do exist, which are actually only smoke screens for the successful laundering of the proceeds of crime. Another argument in favour of the substantial gains derived from illicit trafficking is that all the persons interviewed said they contracted loans from financial institutions (most often micro-finance) to import the pharmaceuticals; loans contracted by mortgaging precious property such as houses. It has also been reported that some importers of building materials invest in the counterfeiting of drugs. Considering the established level of profitability of this trade between China (or Asia in general) and Togo, it is obvious that proceeds from drug trafficking are indeed attractive.

47. The size of seizures and their corresponding values in the region raises the question of the amount of counterfeits that the state authorities were not able to seize and destroy relative to what has been seized, especially considering all the vulnerabilities of the State and its organs. Generally, with regard to trade of illicit commodities such as narcotics, it is estimated that authorities seize less than 40% of what is illegally produced. Considering that counterfeit pharmaceuticals, especially fake drugs, are more widely distributed and are difficult to detect by authorities, it can be estimated that the counterfeit pharmaceuticals that is seized should hover between 10% and 30% at the maximum. In this case, the risk of counterfeiting of pharmaceuticals can be described as relatively lower than other illicit commodities, while the return is also relatively higher in comparison to the risk. In other words, it will take longer and a more sustained efforts to deal with counterfeiting of pharmaceuticals due to the nature of the business.

Counterfeiting of Pharmaceuticals and Involvement of Organized Criminal Groups

48. Owing to the financial advantage, trafficking in counterfeit drugs attracts criminal organizations that invest in it and control the production, distribution or sales channels. However, according to some experts, it is more reasonable to talk of "criminal networks" rather than structured organizations. These are diverse networks made of "white-collar criminals", pharmaceutical industry wholesalers, international businesspersons, distributors and retailers, Bankers, professional intermediaries and corrupt State officials. Considering the substantial revenue derived from the illicit trade, one can easily understand the attraction in the face of

minimal risks. Corruption and patronage constitute formidable weapons in the hands of these criminals, who are well organised and have established various international networks.

49. Although the existence of organized criminal groups have not been proven in the trafficking of counterfeit drugs in Côte d'Ivoire, it has been observed on the ground that wholesalers and retailers are well organized and sufficiently informed on the various activities of the law enforcement agencies. The distribution and sales networks, at the "ROXY" market, from the Adjamé community to the towns in the provinces seem to be perfectly organized. Similarly, some of the police operations in this very area, ended in exchanges of fire with some of the officers sustaining gunshot wounds in 2012 and 2013. Indeed, retailers who derive considerable profits from the illicit trade serve the main cities in the country, the markets, the villages and the most remote communities.

50. In Nigeria, criminal groups comprise financiers/sponsors, manufacturers/producers, of counterfeit pharmaceuticals, distributors and retailers. Some organized criminal groups are often involved in marketing counterfeited pharmaceuticals in the form of investment or money laundering. Financial gain is the motivation underlying the involvement of organized criminal groups in counterfeiting. Linkages among the criminal groups could be manifested in one of the following four scenarios:

a. Proceeds obtained from the counterfeiting of pharmaceuticals is laundered in a legitimate activity with a view to conceal the initial crime.

b. Proceeds from illegal sources (i.e., other organized crimes) are laundered in the counterfeiting of pharmaceuticals to create a front for a legitimate pharmaceutical product, which, in fact, is not legitimate.

c. Proceeds obtained from the counterfeiting of pharmaceuticals are re-invested in the counterfeiting business with a view to sustaining and extending the activity.

d. Proceeds obtained from the counterfeiting of pharmaceuticals are re-invested in other criminal activities (i.e., other organized crime), for instance, drug trafficking or other counterfeit products.

51. In Senegal, networks of counterfeit drugs are mostly located in Touba, the holy land of the Mouride brotherhood, where millions of disciples converge in multitude to celebrate religious festivals. The State's inadequate intervention in monitoring the activities conducted within this holy land leads to an abundant and diverse trafficking in markets referred to as "Marché Darou Marnane", "Marché Darou Khoudouss", "Marché Fraude" and "Marché Ocass". These markets in the heart of the religious city of Touba, such as "free zones" act as wholesalers and retailers in the form of:

a. Illegal drug depots, which are twice the number of legally authorized pharmacies. These illegal depots have a sign post and "pigeon hole".

b. The Keur Serigne bi market (Maison du Marabout), also situated, in the heart of Dakar. It is a centre, which hosts trafficking in illegal drugs as well as a Koranic school. The brokers publicly sell drugs to passers-by. Traders mainly belonging to the Mouride religious brotherhood, which is held in high esteem in the informal sector of Dakar and has considerable economic impact, use Keur Serigne bi.

c. The Thiaroye market situated in the outskirts of Dakar.

52. These illegal depots in Touba and these markets in the capital and outskirts of Dakar constitute the distribution channels of fake drugs in Senegal, controlled for several years by the major traffickers established in Touba and well known by the law enforcement agencies (customs, gendarmerie, economic control and the pharmaceutical community of Diourbel and Kaolack). Some sources indicate that the traffickers have become rich and have begun importing counterfeit drugs from China, which they ship to The Gambia, store them in the "Pictine" market and transport them by sea and river to the banks of Sine-Saloum by conveyors who are also well known. From there, they are transported by road to Touba using their own trucks with double bottoms, two of which have been seized already by the Senegalese Central Customs Department.

53. The key issue is the apparent lack of commensurate efforts by the State to intervene and enforce the law. The argument about the State's inadequate capacity is not tenable since it has already demonstrated that it has the required resources needed for law enforcement on other serious crimes and sometimes even in this area.

54. Furthermore, it is worth noting that there is a violence component as demonstrated by the "Checkmans". These are armed individuals providing rear protection to the usual convoys of 5 to 7 cars that cross Ferlo on their way to Touba, transporting the counterfeit drugs coming from Mauritania. Heavily armed, they shoot at customs officers to facilitate their passage to their destination; the assassination incident of the cashier during the burglary at the pharmacy "Actuel" at point E, which happened in 2009, is also another illustration. This crime led the pharmacist and authorities to close down "Keur Seurigne bi". The following year, only two pharmacies were robbed and no drug was taken away.

55. It has become clear that these are very well structured groups with warehouses and first-class logistics, which have enabled them, over the years, to prosper in their criminal activities in collaboration with other criminals across the border and sometimes through violence. The structure, which has no obvious hierarchy among the criminals, is very much akin to the concept of criminal networks described by the American sociologist Ronald S. Burt thus: "these networks function by adjusting themselves to market conditions and exploiting available opportunities". He refers to them as "economic extremists, seeking gains by all means".

56. In Togo, the investigations conducted following the various seizures often stop after the seizure and destruction of the *corpus delicti* of the crime, and subsequently the arrest of the persons found on the premises. There is difficulty in tracing the networks. There are various and diverse obstacles facing law enforcement. The criminal Investigation officers, customs and gendarmerie, often raise the issue of inadequacy of the laws, lack of training and specialization of the officials as well as the lack of understanding of the threat. It is also apparently difficult to identify the real sponsors. Indeed, only the people at the front end of the chain are arrested (transporters, shop sales employees, intermediaries). The real beneficial owners of the illicit products never show up in the event of seizure. Sometimes the real owners try to protect themselves through massive bribery and compromise of state officials.

57. In the opinion of the magistrates and judges interviewed, the cases are often poorly investigated by police officers (CID), which makes it impossible to trace the criminal networks. Among other things, they deplore the fact that the seizures and hasty arrest on the storage premises or the interception of goods during the conveyance prompts the real criminals to go into hiding and for the network to dissolve. They also raise the issue of culture and practice:

even in cases of drug trafficking, investigations stop at "the couriers", and the investigation does not often deal with those sponsoring or managing the networks.

Mapping of the links between trafficking in Counterfeit of pharmaceuticals and money laundering

Activity	Level 1	Level 2	Level 3	Level 4
1. Foreign Manufacture	• Sources of products • Authorisations • Financial arrangements and orders	• Purchase and shipments • Destination inspection and certification	• Distribution network/chain	• Sales
2. Local Manufacture	• Registration and Licence • Inspection and approval of facility • Sources and quality APIs (active Pharmaceutical Ingredients)	• Authorities actions • Genuity of sources of APIs, quality control and approvals	• Monitoring of formulation and manufacture (standard/quality)	• Markets – types, nature and size • Determining legal and illegal sources and Production • Determining criminal use and ownership
	• Sources and quality Precursors and other essential inputs	• Genuity of sources of precursors and other essential inputs, quality control and approvals	• Monitoring of use/dispensing	
	• People	• Training and adequacy • Management • Ownership and ownership structure	• Qualifications/skills • Number • Placement • Practice	
	• Legal, regulatory and supervisory framework	• Regimes • Institutions • Practices	• Adequacy of laws/regulations • Capacity and resources • Integrity • Management and Autonomy	
	• Physical manufacturing environment and conditions	• Types and range of production/products	• Output management (products)	
3. Distribution management	• Market - availability,	• Distribution network/ chain • People	• Prescription • Dispensing • Sale/purchase	• Users

	accessibility and demand	• Movement and Transfer – dealer and retailer • Storage – dealer and retailer •	• Manufacturer delivery • Dealer transport • Retailer transporter • Third party transporter (on behalf of any of the above)	
4. Transactions and money flows	• Manufacture level	• Expenditure	• Facility setup/management • Production inputs • Personnel • Logistics/other spends	• Determining legal and illegal financial flows
		• Income	• Investment inflows • Sales • Profits/dividends	• Determining legal and illegal financial flows
	• Distribution level	• Major hubs • Major Dealers • Local dealers • Retailers • Retailer recycling	• Sales – individual user, governments, corporations, foundations, programs/civil society organisations, philanthropist	• Determining legal and illegal distribution channels • Determining legal and illegal financial flows • Determining illegal Financial and other services
	• User level	• Prescription • Non-prescription • Operational/health care needs	• Purchases at official outlets • Purchase at unofficial/illegal outlets	• Determining legal and illegal purchase

Section 3: Best Practices in the Fight against Counterfeiting of Pharmaceuticals

Measures Taken by the World Health Organization

58. In grappling with the threat posed by the phenomenon of counterfeit drugs, several countries have adopted various legal and institutional mechanisms to engage in the fight at international and national levels. Several public and private organizations have made efforts to contain the scourge. This is a major concern for WHO, which has adopted three (03) strategies to deal with the problem. It has been providing tools, standards and criteria, which serve as guidelines at international level with a view to contributing to the safety, efficacy and good quality of drugs circulating on the global market. It also provides support to member States to help them strengthen their capacity at national level with regard to regulations. Lastly, it has put in place activities at global level to combat the counterfeiting of drugs.

59. In 2006, the WHO set up a working group known as IMPACT (International Medical Products Anti-Counterfeiting Taskforce), with the aim of coordinating international activities for combating counterfeit medical products. It comprises 193 WHO members serving as volunteers and also includes international organizations (such as Interpol), inspection services, national drug authorities, customs organizations and the police, Non-Governmental Organizations and manufacturing representative associations, wholesalers, health professionals and patients (FIP, International Alliance Of Patients' organization).

The MEDICRIME Convention

60. Adopted on 8th December 2010 by the Committee of Ministers of the European Council for the Convention on Counterfeiting of Medical Products and similar crimes constituting a threat to public health, the MEDICRIME Convention is a major instrument in combating drug counterfeiting. At the high-level Conference held from 26 to 28 October 2011 on the theme « Combating the Spread of Counterfeit Medical Products», the MEDICRIME Convention was open for signature by the member States and non-member States of the Council of Europe. The Convention aims at protecting public health by criminalizing and sanctioning all acts linked to the counterfeiting of pharmaceuticals. The MEDICRIME convention has provided to States and private stakeholders with a legal instrument in criminal law that criminalizes counterfeiting as well as the manufacture and distribution of medical products put on the market without authorisation or violating safety standards. MEDICRIME is considered the maiden international legal instrument that considers drug counterfeiting as a crime, punishable by law. It is worth noting, however, that Guinea is the only country in West Africa that has ratified the Medicrime Convention, which it did on 24th September 2014.

61. A host of other instruments do exist for combating the counterfeiting of pharmaceuticals at international level, such as those provided by the Federation of International Pharmacists (FIP), the International Conference of the Associations of Pharmacists (CIOPF), the Global Alliance of Health Professionals (AMPS), and the Montreux Declaration, which actively participates in the fight against drug counterfeiting.

Best Practices at Community Level

62. At community level, it should be underscored that there is an Annex to Decision N° 09/2010/CM/UEMOA relating to the best practices of distribution and importation of

pharmaceuticals for human use in the UEMOA member States. It should also be emphasized that in 2013, after a regional Conference on the fight against pharmaceutical crimes held in Addis Ababa from 10 to 12 December, an Addis Ababa Declaration was adopted by all participating countries, which is an important benchmark for the fight against counterfeiting in Africa.

63. Since it is possible to launder considerable profit generated from the trafficking of fake drugs, it is crucial to note the existence of the Intergovernmental Action Group against Money Laundering in West Africa (GIABA) under the positive measures taken at community level. Indeed, the Heads of State and Government of the Economic Community of West African States set up GIABA with the key mandate to protect the economic and financial integrity of the countries against the scourges of Money Laundering and Terrorist Financing.

At National Level

64. All GIABA Member States have legal mechanisms for combating the trafficking of fake drugs. The study further reveals that most of the Acts regulating trafficking of fake drugs were amended between 2001 and 2014 to take into account new developments.

65. Indeed, pharmaceuticals are regulated with legal and administrative sanctions provided in the event of any violation of the law or administrative regulations. The production, distribution, delivery as well as the retail sale of the products are highly regulated and it is difficult, if not impossible, to succeed in the trading in counterfeit pharmaceuticals without the involvement of other persons who are consciously and deliberately involved in the perpetration of the crime. Considering the danger drug counterfeiting poses on the population, the sanctions provided by the laws appear weak and non-dissuasive.

66. It is important to stress that, so far no country has passed any law for the transposition of the Medicrime Convention, which is known as the first international legal instrument that condemns drug counterfeiting as a crime and provides comprehensive legal remedies for it.

67. Furthermore, each country has a law that criminalizes money laundering. It is worth recalling that counterfeiting is a predicate crime for money laundering under the FATF Recommendations. The paradox however, remains despite the prosecutions and judgements passed against the trafficking of fake drugs in some countries of the region, no conviction for Money Laundering has been secured so far.

68. At institutional level, there are several organs that directly or indirectly combat trafficking of counterfeit drugs, particularly the Narcotics and Drugs Police, Anti-Counterfeit Committees, Customs, national gendarmerie, economic and financial Police, the Association of Pharmacists, Consumer Associations, and Financial Intelligence Units.

Section 4: Typologies and Case Studies

69. This section presents the case studies mainly collected from Côte d'Ivoire, Nigeria and Togo. The studies have been previously discussed among experts from GIABA member States, and validated as being typical cases known in the West African region. They lend credence to a general statement that the proceeds generated from the counterfeiting of pharmaceuticals could be laundered in several ways. The criminal may invest in a legal activity after concealing the origin of his/her illicit proceeds. He/she may also integrate them into the financial system through direct investment in a legitimate activity. This legitimate activity may then serve as collateral to obtain financial loans in order to recapitalize his/her illegal activity of selling counterfeit drugs. Proceeds from the sale of counterfeit drugs are also used in corrupting public officials. The case studies also highlight the vulnerabilities of the legal and institutional mechanisms as well as the socio-cultural practices in the West African region

Typology 1: Laundering of Proceeds Derived from the Sale of Counterfeit Pharmaceuticals in Business Activities.

70. This typology illustrates how proceeds generated from the trafficking of counterfeit pharmaceuticals are cut off from their illicit origins through the system of funds transfer before they are invested in legitimate economic activities. There is no doubt that due to lack of regulation the informal sector provides investment opportunities for criminals by remaining anonymous to manipulate or disguise the proceeds derived from their illicit trade in counterfeit drugs.

Case No. 1: Money Laundering through fronts business and co-mingling

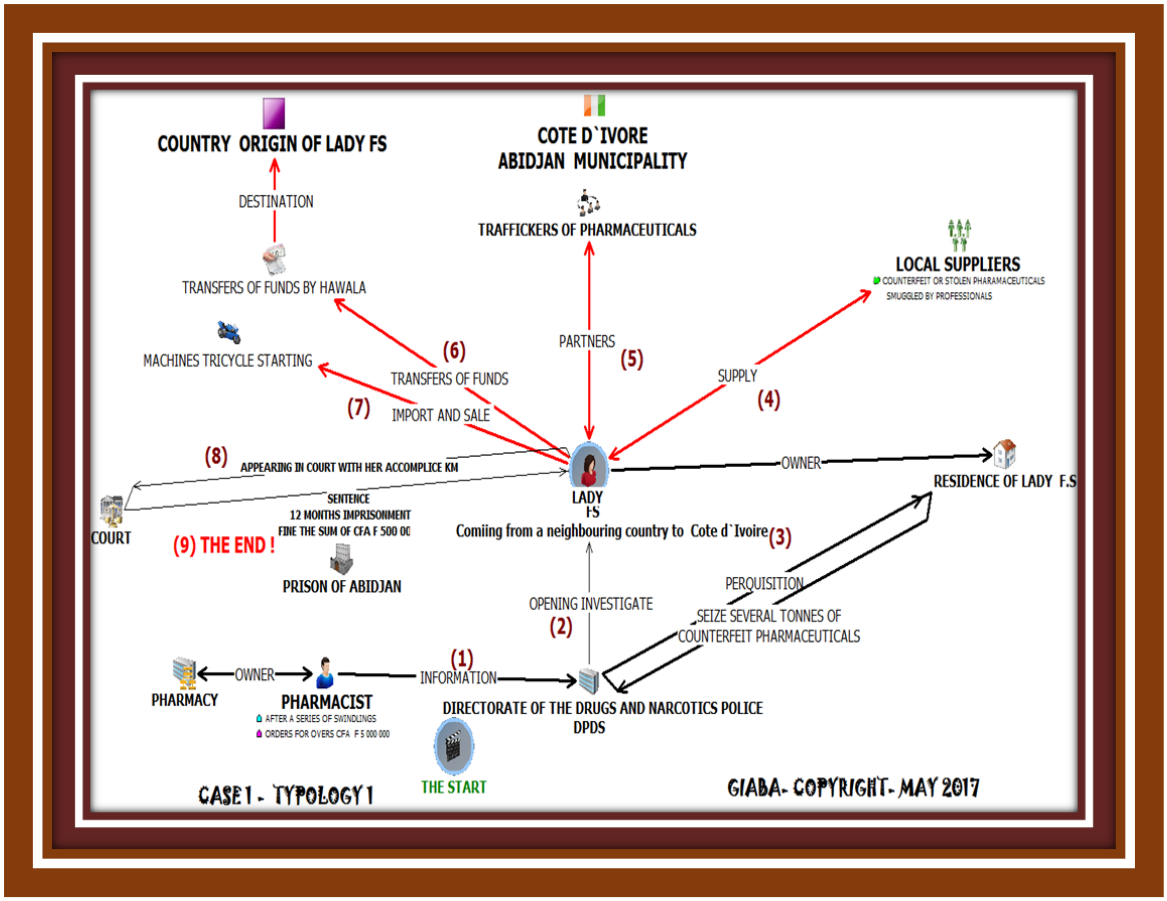
In September 2014, after a series of swindling relating to orders of over five million CFA Francs (5,000,000 FCFA) of registered pharmaceuticals, with pharmacies as victims, an owner of a pharmacy informed the Directorate of Drugs and Narcotics Police, who embarked on investigation. The initial investigation led to the seizure of not only the totality of the product delivered, but also the seizure of several tonnes of counterfeit pharmaceuticals at the residence of Lady F. S, in an Abidjan commune.

On her arrest, Lady F.S revealed to the investigators that she had been conducting this activity for over fifteen (15) years. Coming from a neighbouring country to Côte d'Ivoire, she declared that she got her supplies from traffickers who supplied her with counterfeit pharmaceuticals as well as from « local suppliers», i.e., registered pharmaceutical products, smuggled or stolen by professionals in the sector.

Summoned to provide information on her bank account with a view to taking measures to seize her illicit properties, Lady F.S declared that she had none but the funds generated by her activity were transferred to her country of origin through an alternative fund transfer system such as the Hawala type. She subsequently used the funds to finance her activities of importing and selling tricycles and motor cycles. She refused to reveal the identity of her suppliers.

Appearing in Court with her accomplice K.M, they were sentenced to twelve months imprisonment and fined the sum of 500,000 CFA Francs.

Source: Côte d'Ivoire



Indicators of Laundering:

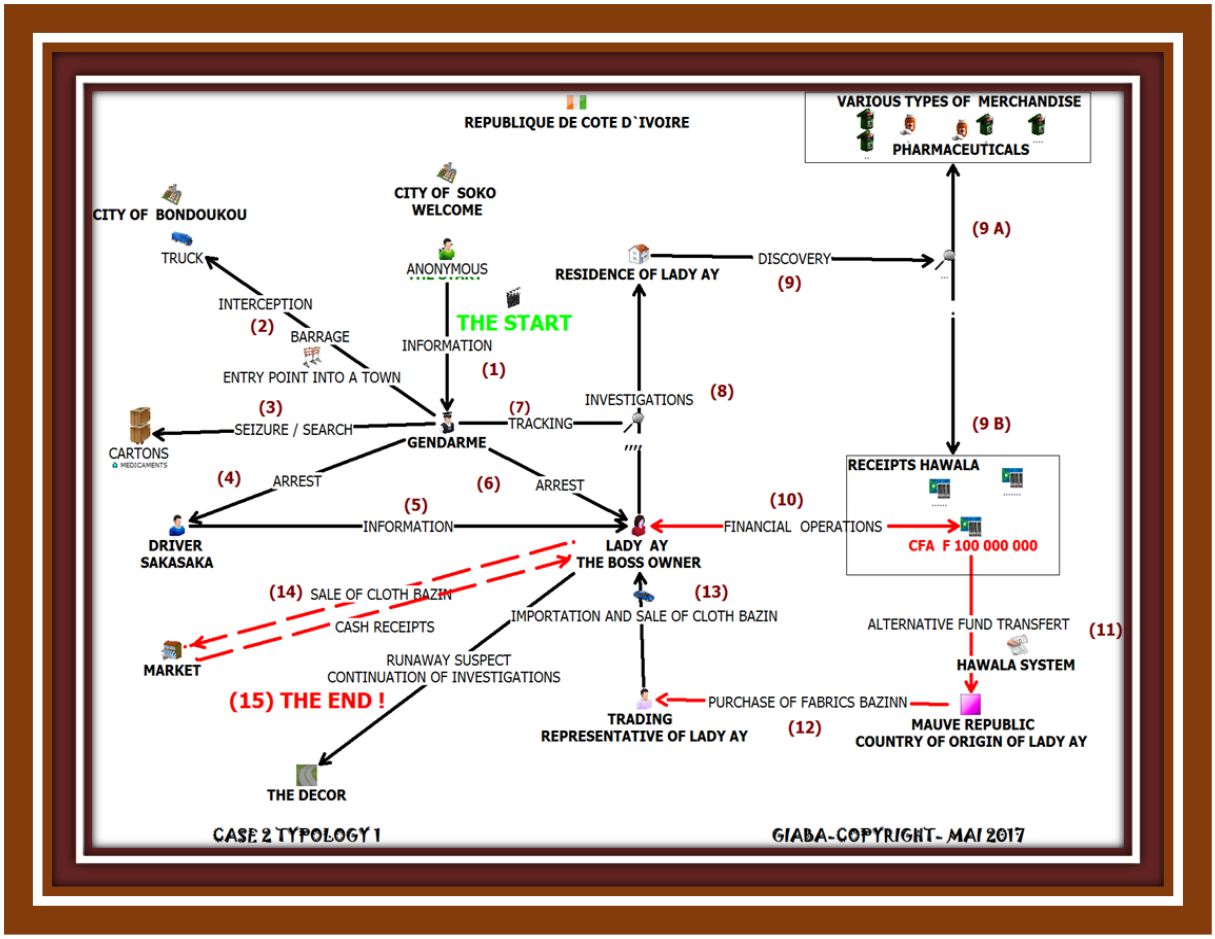
- *Proceeds from an illicit activity: sale of stolen counterfeited pharmaceuticals;*
- *Transfer of illicit funds to the country of origin through an informal fund transfer system;*
- *Importation and sale of merchandise purchased with illicit funds;*
- *Incorporating funds generated through an illicit activity into the legitimate economy.*

Case No. 2: Money Laundering through illicit transfers and investment abroad

In May 2016, on receipt of anonymous information, the local gendarmerie seized a truck transporting 40 tonnes of counterfeit pharmaceuticals at the entry point into a town in the provinces. The information provided by the arrested driver led to the discovery of the owner of the unregistered, counterfeited drugs, and hidden in various types of merchandise. At the house of Lady A.Y (the owner), the investigators discovered several hand-written receipts attesting to the payment of over a hundred million CFA Francs (100,000,000 FCFA) in several discounts covering the period 2013 to 2016. Questioned on her deposits, a family member informed the investigators that she was sending it to their country of origin through deposits with an informal transfer company established in the headquarter town of the district. The transferred funds, would enable her obtain her money in her country to finance the importation and sale of cloth commonly known as "BAZINS", a close source of Lady Y.A who was on the run revealed.

The investigation was still underway as at the time this report was published.

Source: Côte d'Ivoire



Indicators of money laundering:

- *Sale of unregistered and counterfeit pharmaceuticals;*
- *Proceeds from an illicit activity: sale of counterfeit pharmaceuticals;*
- *Transfer of illicit funds in the country of origin by means of an informal system of funds transfer: HAWALA system;*
- *Importation and sale of merchandise purchased with illicit funds;*
- *Incorporating funds generated through the legitimate economy with funds generated through an illicit activity.*

Typology 2: Laundering proceeds from the Sale of Counterfeit Drugs through a Credit and Savings Institution

71. Proceeds derived from an illicit activity may serve as a guarantee in credit and savings institution to obtain financing for the same illicit activity. Generally, to justify the origin of funds that could legitimize the grant of a bank loan, an investment is first made in the creation of a commercial activity in the informal sector with illicit funds. Subsequently, this activity serves as a guarantee in the credit establishment for obtaining a bank loan. Funds generated by the activity of the sale of counterfeit drugs are thus laundered by depositing cash in the account opened for that purpose with a view to applying for a loan or paying for one.

Case No. 3: Money Laundering through fronts business and loan repayment

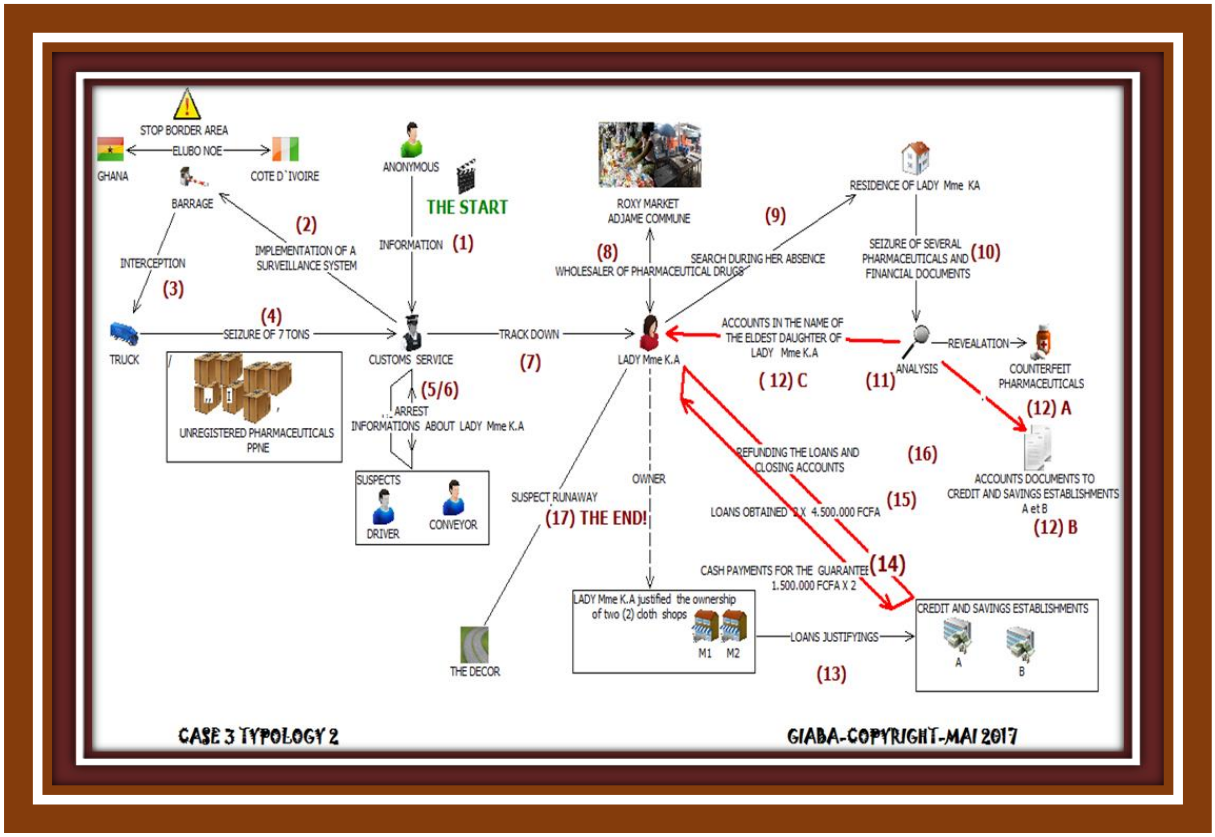
In June 2013, based on anonymous information, investigators from the customs service responsible for the fight against counterfeiting intercepted a truck carrying seven (07) tonnes of unregistered pharmaceuticals (PPNE) from Ghana's border area. Information provided by the conveyor and the truck driver enabled the investigators to track down Lady K.A known in the district as being a wholesaler of pharmaceutical drugs situated in the Adjamé commune, in the "ROXY" market. However, a search in her house during her absence led to the seizure of several financial documents and pharmaceuticals. An analysis of the drugs revealed that the drugs were counterfeit. The analysis showed that two (02) accounts in two (02) credit and savings establishments are in the name of her eldest daughter into which the funds were deposited.

When interrogated, a representative of the credit institution revealed to the investigators that the funds in the amount of one million five hundred thousand CFA Francs (1,500,000 FCFA) were deposited in each of the two (02) accounts opened and serving as guarantee for Lady K.A to obtain loans by justifying the ownership of two (02) cloth shops previously opened. She had no difficulty in refunding the loans each amounting to four million, five hundred thousand CFA Francs (4,500,000 FCFA). Thereafter, she closed the accounts and withdrew the guarantee amount.

Since Lady K.A could not be arrested, the case was referred to the Court.

These transactions enabled Lady K.A to place not only funds derived from the sale of counterfeit drugs into the formal financial system, but also to obtain funds from this financial institution to finance illicit activities of selling counterfeit drugs.

Source: Côte d'Ivoire



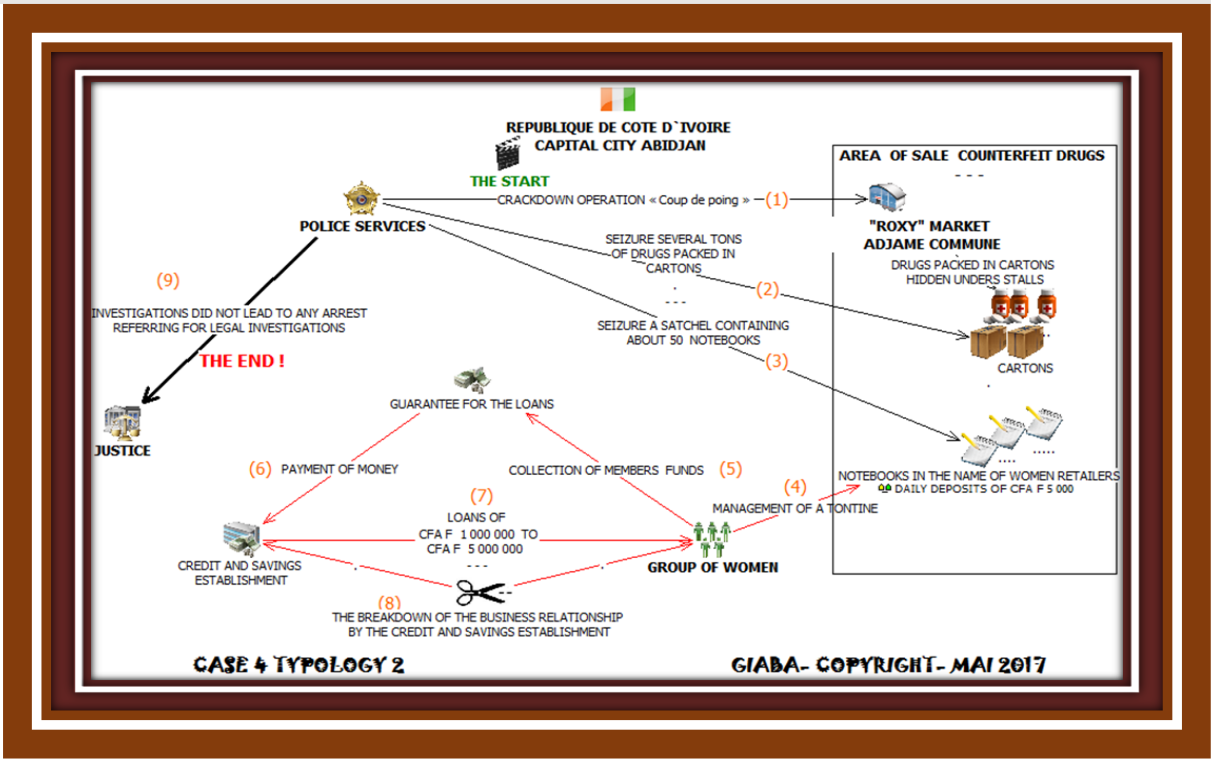
Indicators of money laundering:

- *Proceeds from an illegitimate activity;*
- *Establishment of cloth shops to cover illicit activity;*
- *Integration of illicit funds into the financial system through hard currency payments;*
- *Use of false name in opening bank accounts;*
- *Guarantee provided from illicit funds to obtain a bank loan;*
- *Comingling of proceeds from illegitimate activities with those generated through a legitimate activity;*
- *Financing illicit and legitimate activities with funds of illicit origin.*

Case No. 4: Money Laundering through saving association guarantee loans to finance small businesses

In the course of 2015, after a crackdown operation "Coup de poing" conducted by the police in the "ROXY" market located at the Adjamé commune, which is particularly reputed for the sale of counterfeit drugs, investigators seized several tonnes of drugs packed in cartons, hidden under stalls. During the search, they seized a bag containing about fifty notebooks belonging to women retailers. The notebooks contained daily deposits of five thousand CFA francs (5,000 FCFA). Questioned on the use of the notebooks, some retailers revealed that they use the documents to record contributions among their members. The funds thus collected were then given to some of them in an established order to constitute guarantee in a credit and savings institution that grants loans for recapitalizing their activities. When the institution was contacted, it acknowledged that the names appearing on the notebook had been granted loans between one to five million CFA Francs (1,000,000 to 5,000,000 FCFA) as justification for guarantee and legitimate activity of the clothing shop, cosmetic products, wigs, sewing accessories, clothes, etc. police investigations did not lead to any arrest and the case was referred for legal authorities for further investigations. Further to the police action, the credit and savings institution severed its business relationship with the persons concerned.

Source: Côte d'Ivoire



Indicators of possible money laundering:

- *Collection of funds generated from illicit activity;*
- *Establishment of commercial activities in the informal sector;*
- *Constitution of a guarantee on an account through successive cash deposits;*
- *Seeking a loan from a financial system after constituting funds of illicit origin.*

Case No. 5: Money Laundering through company vehicles, purchase of valuable assets, assets financing/loan and reinvestment into criminal activities

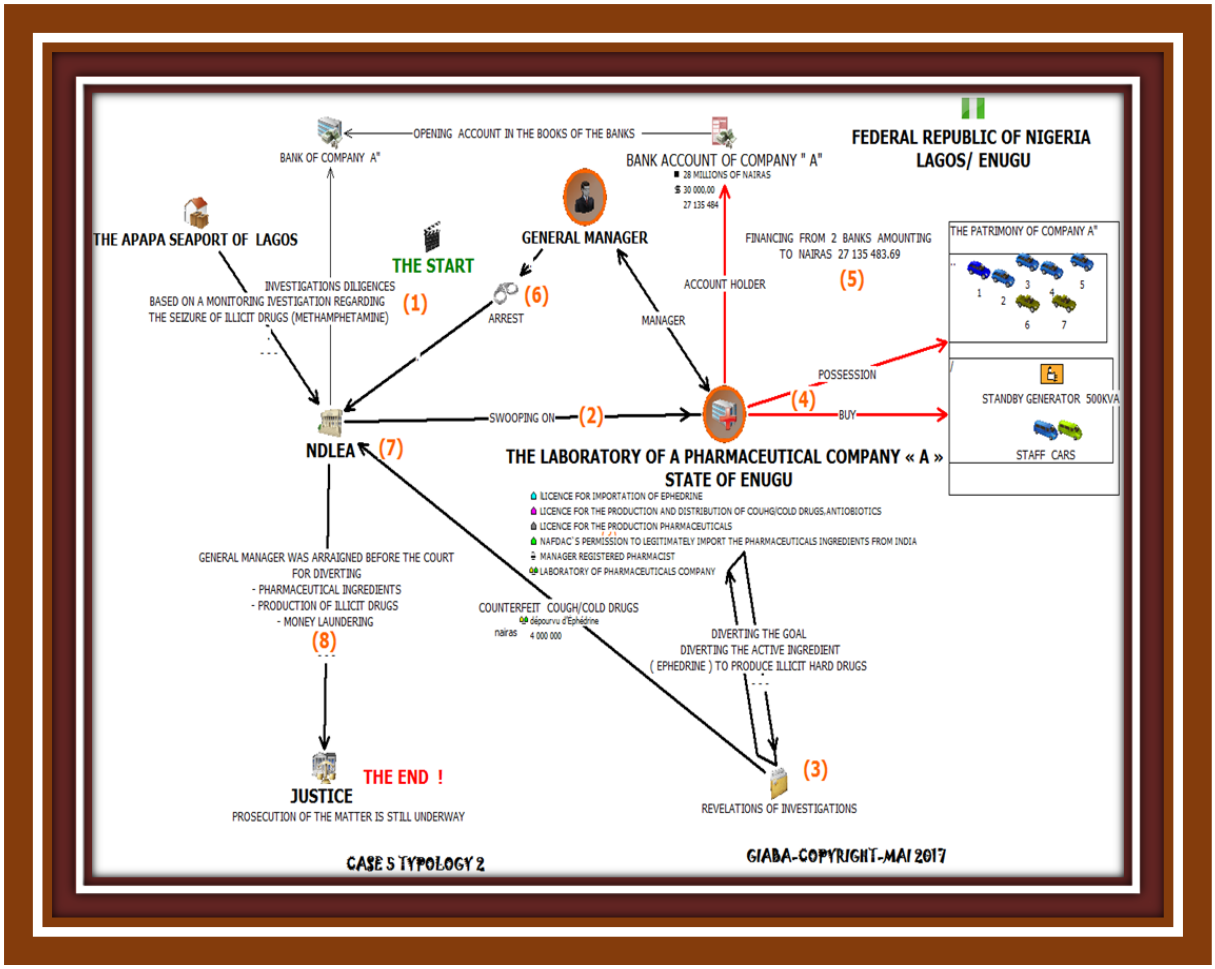
In 2016, NDLEA (Nigeria) officers, based on a monitoring investigation regarding the seizure of illicit drugs (methamphetamine) at the Apapa seaport of Lagos, swooped on the laboratory of a pharmaceutical company (referred to as Company "A"), situated at Enugu, in Enugu State. It is a registered pharmaceutical company with a licence for the production and distribution of cough/cold drugs, antibiotics and a few other pharmaceuticals. The company also has a licence for the importation of Ephedrine, a controlled pharmaceutical raw material, used in the production of cough/cold drugs. The company belongs to a registered pharmacist.
To enable it procure Ephedrine, (one of the essential active ingredients for the manufacture of cough/cold drugs), the company obtained NAFDAC's permission to enable it legitimately import the pharmaceutical ingredient from India.

The NDLEA investigations revealed that rather than manufacture authentic cough/cold tablets, the company « A » diverted the active ingredient (Ephedrine) meant for the manufacture of cough/cold drugs to produce illicit/hard drugs. Seizure of the illicit/hard drugs produced locally (methamphetamine) which were transported outside the country through the Lagos seaport eventually led to the discovery of the company's primary activities.

The investigations also revealed that in order to abide by regulatory demands of NAFDAC to provide evidence of the legitimate use of Ephedrine for the production of cough/cold tablets, the company rather produced counterfeit cough/cold drugs which did not contain Ephedrine (active ingredient) by replacing the original products. The records revealed that it also distributed fake cough/cold tablets in 2015 to the tune of over 4 million Naira. It was also noted that other pharmaceuticals produced by the company were counterfeit, since they did not contain any active ingredients.

A financial investigation on the company revealed that funds to the tune of twenty-eight (28) million Naira and fifteen thousand US Dollars were deposited in the account of the company from the counterfeiting and illicit production of hard drugs. The company also obtained asset and loan financing from two banks amounting to 27,135,483.69 Naira used to purchase five (5) company vehicles and one (1) 500KVA standby generator for the operational use of the company. Two (2) other company vehicles and two (2) staff vehicles were also procured with illicit funds.

The Director General of the company was arrested by NDLEA and arraigned before the court for diverting pharmaceutical ingredients, production of illicit drugs and Money Laundering. The accused was prosecuted under the laws of NDLEA (conviction under NDLEA law may lead to more severe sanctions, up to life imprisonment when found guilty). Prosecution of the case was still ongoing as at the time of publication of this report.
(Source: NDLEA, Nigeria)



***Indicators of Money Laundering**:*

- *Use of a registered legitimate company as a front for criminal activities;*
- *Use of company accounts;*
- *Obtaining bank loans through the use of illicit products;*
- *Payment for imported Ephedrine through international transfers or licit banking channels;*
- *Reinvestment of illicit proceeds derived from counterfeiting in criminal activities (drug trafficking) and vice versa;*
- *Purchase of valuable assets (in total nine vehicles and a 500KVA generator).*

Typology 3: Laundering of proceeds derived from the sale of counterfeit drugs through corrupt public officers, who re-invest funds obtained from a legitimate economic activity

72. This Typology reveals that part of the benefits derived from the sale of counterfeit drugs is used to bribe public officers who reinvest the illicit funds into the legitimate economy. It is rare for public officers working with enforcement agencies involved in countering counterfeiting of drugs to own considerable landed property, create vast agricultural plantations, or live a lifestyle not commensurate with their legitimate income.

Case No. 6: Money Laundering through public officials and other legitimate investments

In November 2015, the agency against corruption and associated crimes was contacted through an anonymous report whereby a public official was said to have developed an estate comprising a hotel and houses. According to the reports, this officer was working with a body responsible for the countering of counterfeiting of pharmaceuticals. Over three years, this state official in question was enriching himself through bribes and was able build a hotel complex.

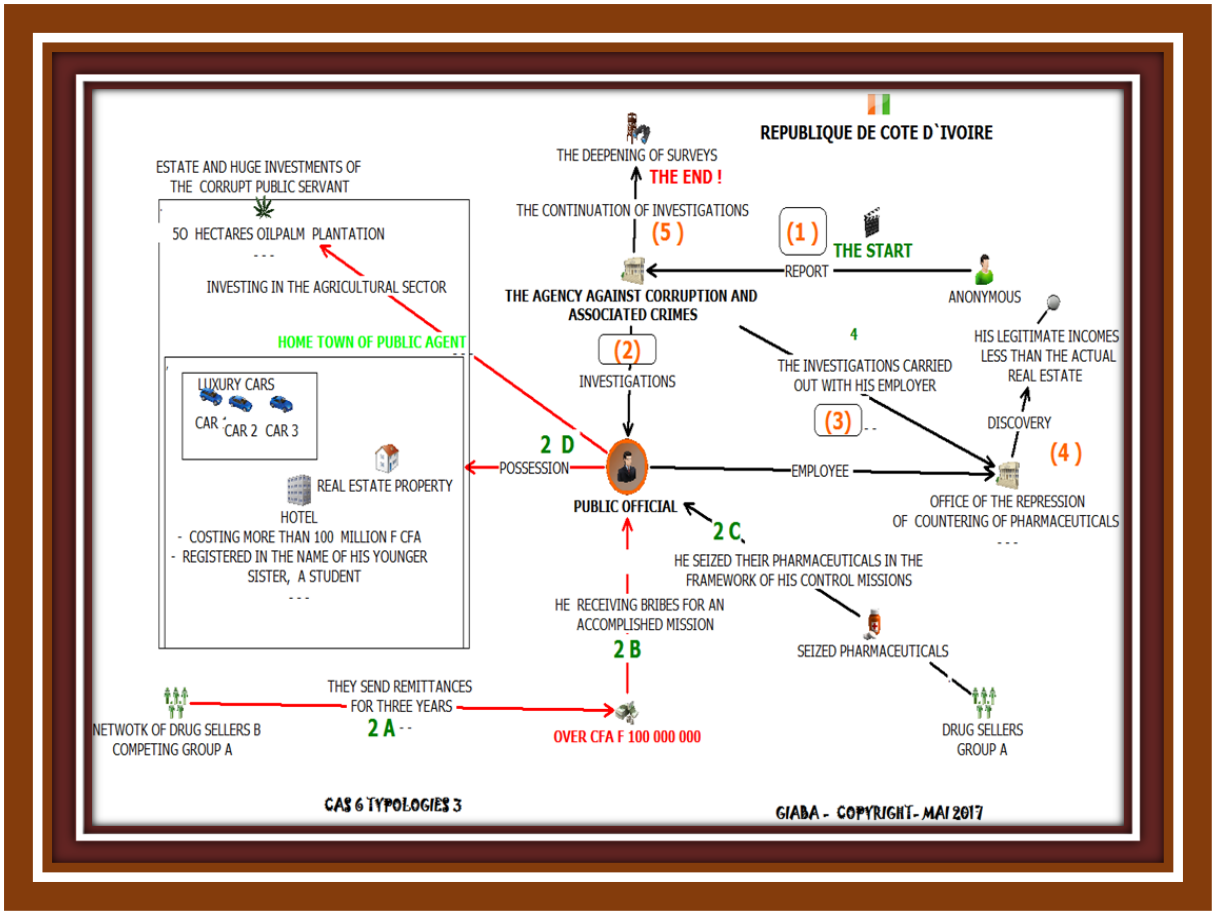
In revealing these facts, the whistle-blowers expected the officer would be tried and convicted for illicit enrichment, for what they considered as a «betrayal» of his duty.

The initial investigations confirmed the allegations on the estate property, the investment in the agricultural sector and the possession of three (03) luxury cars. Indeed, the public officer had constructed a forty-room luxury hotel valued at over hundred million CFA Francs (100,000,000 FCFA) in his home town, in the name of his younger sister, a student, and owned a fifty hectare oil palm plantation, which had already started yielding fruits.

When approached, the department to which the officer belonged produced an annual statement of his legitimate incomes (salary, bonuses and other benefits) which proved to be far below the properties acquired in the past three years.

This ongoing investigation reveals that the official, through legitimate businesses, can launder illicit funds derived from the counterfeiting of pharmaceuticals and used in bribing public officials.

Source: Côte d'Ivoire



Indicators of Money Laundering:

- *Funds derived from illicit activities of counterfeit pharmaceuticals;*
- *Illicit benefits used in corrupting public officers,*
- *Constitution of illicit funds derived from corruption,*
- *Investment in estate property and the agricultural sector with proceeds from corruption, also derived from the sale of counterfeit pharmaceuticals,*
- *Integration into the legitimate economy of funds derived from the sale of counterfeit pharmaceuticals.*

Case No. 7: Money Laundering through public officials and real estate

In 2012, while serving as the officer in charge of the store for the seizure of counterfeit products, a public official working in the law enforcement department was entrusted with several tonnes of counterfeit pharmaceuticals, seized by his colleagues of the Rapid Intervention Brigade.

One month later, the official decided to destroy the products publically. However, at the time of loading the products from the store where they were supposed to be stored, the officer entrusted with this task discovered that the products had disappeared.

On interrogation, the stores official himself was surprised, but said that a few days before, the seized goods had been released, after payment of the duties, and that the officers handling this matter had mistaken them for clothing bales.

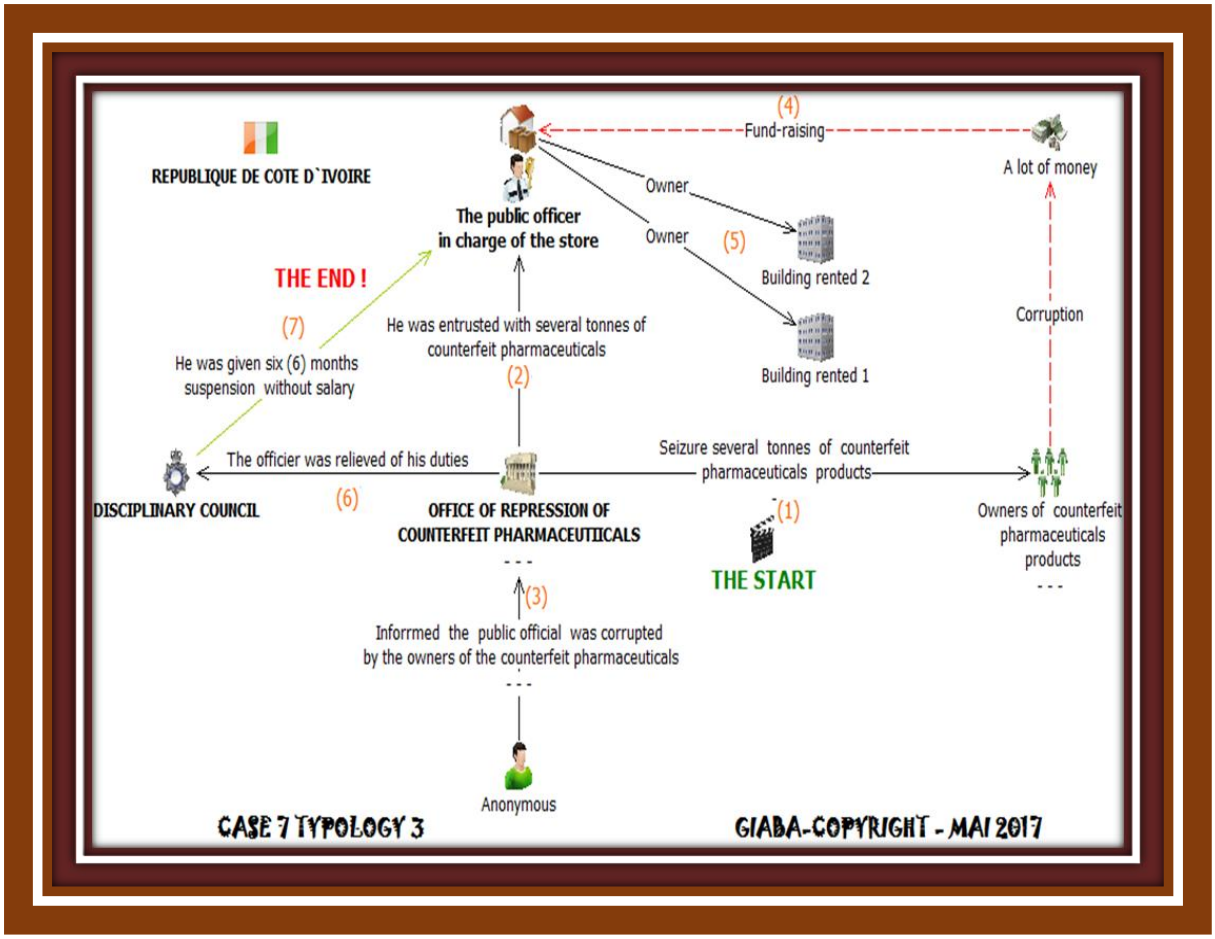
The officer's supervisor was informed a few days earlier by an anonymous source, that the latter was bribed by the owners of the counterfeit pharmaceuticals. In addition, the same source revealed that the officer has been collecting bribes in the past and had enriched himself with the proceeds of the corruption to construct two (02) residential buildings that had been let out.

Before his supervisor, the officer did not deny that the landed property belongs to him, but he denied the corruption allegation.

The officer was relieved of his duties.

Brought before the Disciplinary Council, he was given six (6) months suspension without salary.

Source: Côte d'Ivoire



Indicators of money laundering:

- *Funds from illicit activities of counterfeiting of pharmaceuticals;*
- *Illicit funds used in corrupting public officials,*
- *Constitution of funds derived from corruption,*
- *Investment in estate property with funds derived from corruption, which in turn were derived from the sale of counterfeit pharmaceuticals,*
- *Integration into the legitimate economy of funds derived from the sale of counterfeit pharmaceuticals.*

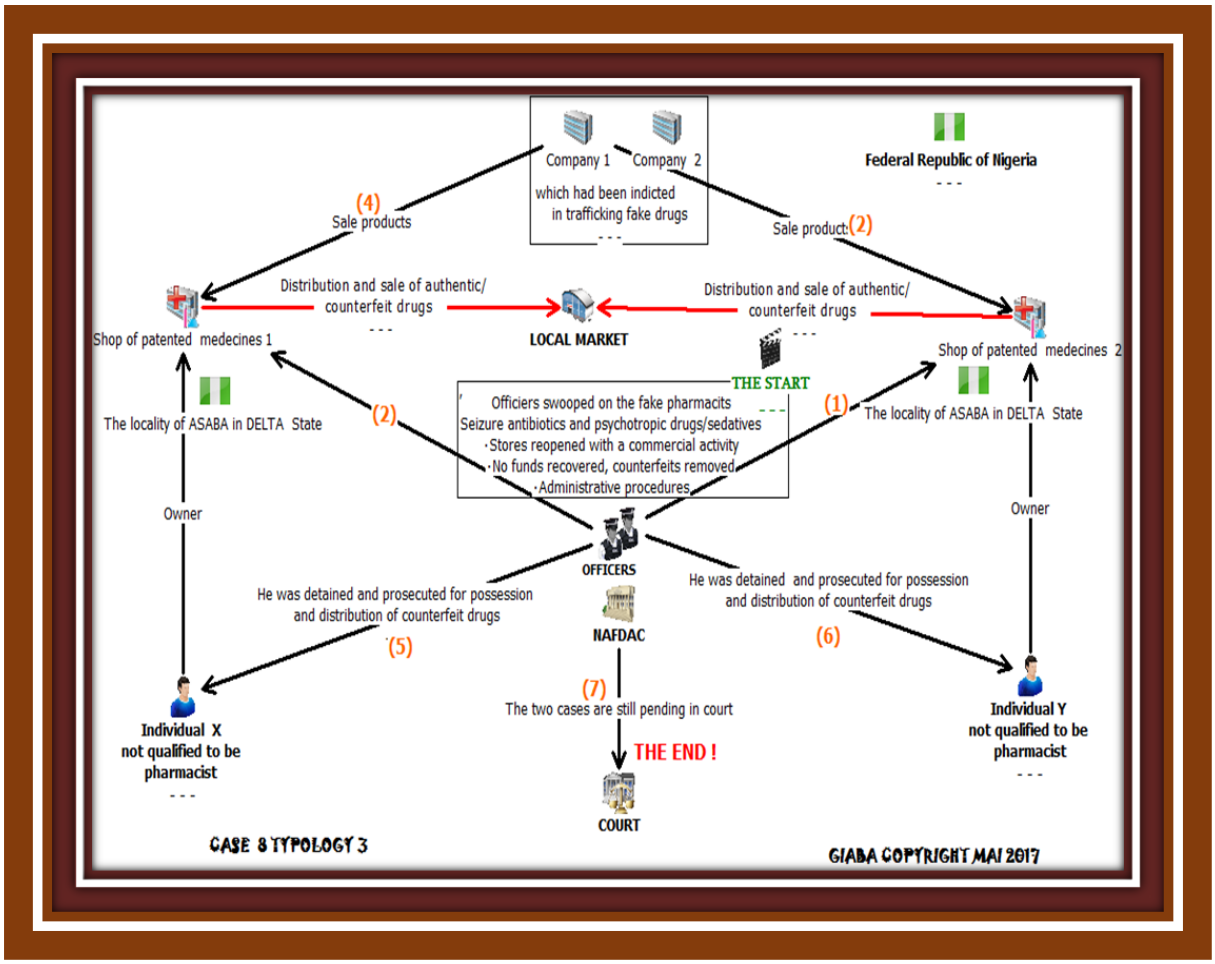
Case No. 8: Money Laundering through Business Investment

In 2015, at Asaba, in Delta State, two individuals not qualified to be pharmacists managed shops of patented medicines (1 shop each), which were also fraudulently presented as being pharmacies. These companies were distributing and selling authentic as well as counterfeit pharmaceuticals. NAFDAC officers, on their own initiative swooped on the fake pharmacists and retrieved counterfeit pharmaceuticals, which were mainly antibiotics and psychotropic drugs/sedatives. Some of the counterfeited products were produced by two companies, which had been indicted in trafficking fake drugs.

The counterfeit products were seized by NAFDAC and the retail shop was sealed. After administrative procedures, the seal was removed by NAFDAC and the shops re-opened to continue their business activity (distribution and sale of authentic drugs). No funds were found or seized, but the shops were re-opened because the companies had authentic products for sale and that the counterfeit products involved in the crime had been withdrawn and seized.

The owners of the shops were detained and prosecuted for possession and distribution of counterfeit drugs. The two cases are still pending in court.

(Source: NAFDAC, Nigeria)



Indicators of Money Laundering:

- *Business investment through a combination of income derived from authentic as well as counterfeit pharmaceuticals at the same time.*

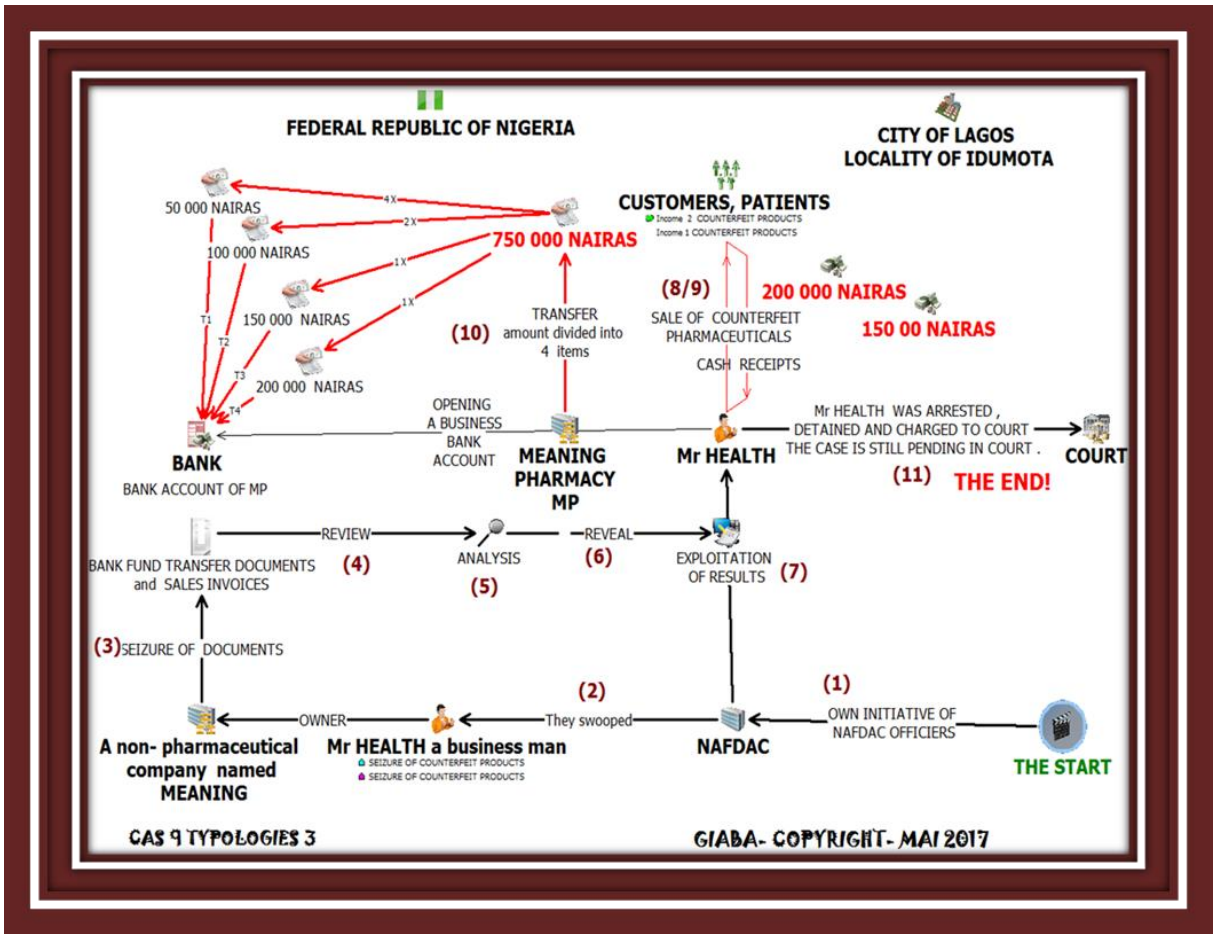
Case No 9: Money Laundering through the use of Company Vehicles and Smurfing

In 2015, a non-pharmaceutical company located at Idumota, Lagos, was trading in counterfeit pharmaceuticals and counterfeit pharmaceutical ingredients used in the production of counterfeit drugs. The company was owned by a businessman. NAFDAC officials on their own initiative swooped on the company and seized the counterfeit products.

Bank fund transfer documents as well as some invoices were also retrieved. The fund transfer documents revealed that the company held a company bank account. The two sales receipts retrieved showed that payment for some counterfeit products had been made in cash up to the amount of 200,000 to 150,000 Naira each. Similarly, within 3 months, a total amount of 750,000 Naira was transferred by the company in small amounts (from 50,000 to 200,000 Naira) into different accounts. Besides the invoices and bank transfer documents retrieved, no other financial investigation has been initiated.

The owner of the company was detained and charged to court for selling and distributing fake drugs. The case is still pending in Court.

(Source: NAFDAC)



Indicators of Money Laundering:

- *Use of a registered company as a front to run an illicit business;*
- *Use of company bank accounts to transfer/launder funds;*
- *(Smurfing): several transactions (transfers) involving income derived from counterfeit drugs made to avoid detection and to attain the threshold required for the obligations of declaration within the financial institutions.*

Cases showing the difficulties being encountered by Competent Authorities in establishing the linkage between the Counterfeiting of Pharmaceuticals and Money Laundering

73. This group of cases shows concrete examples where the investigating authorities and the criminal prosecution do not make any linkage between the trafficking of fake drugs and Money Laundering. The disclosures that led to the investigations were based on suspicion of illicit enrichment. During the interviews conducted as part of this study, the investigating authorities were apparently surprised that the crime of Money Laundering could be established in relation to these cases. The reality is that even in areas where general investigation is well established such as drug trafficking, the offence of Money Laundering is seldom investigated in many of the countries.

Case No 10: Illicit Importation and Distribution of Counterfeit Pharmaceuticals

This is a case of counterfeit anti-parasitic drugs, especially COARTEM of the NOVARTIS laboratories and VERMOX of the JASSEN CILAG laboratory. These products were imported from China and distributed in Togo and Ghana.

The case began with the reception of a message from the Interpol 124/7 network, message N° CID. IP 10/V.31/3171/F/CF announcing to the Togolese Police Authorities, the arrival of an intervention mission of 11 September 2015, regarding the trafficking of drugs from Togo to Ghana.

The mission was undertaken following the taking of a series of measures (information from the supervisor, to the Attorney General of the Republic, open investigations). The Ghanaian police arrived in Lome accompanied by the Ghanaian suspect, an accomplice of the Togolese trafficker. At the venue of the planned meeting with his friend, the security forces discretely followed the two suspects to the house of the Togolese for the delivery of the goods, where they were arrested and sent to the Criminal Investigation Department. After interrogations, the police ended up seizing:

- 15 cartons containing 400 tubes of Neomycin ointment, which the suspects presented as a Chinese, massage balm;

- 17,064 strips of Coartem tablets, equivalent to 1,531 boxes;

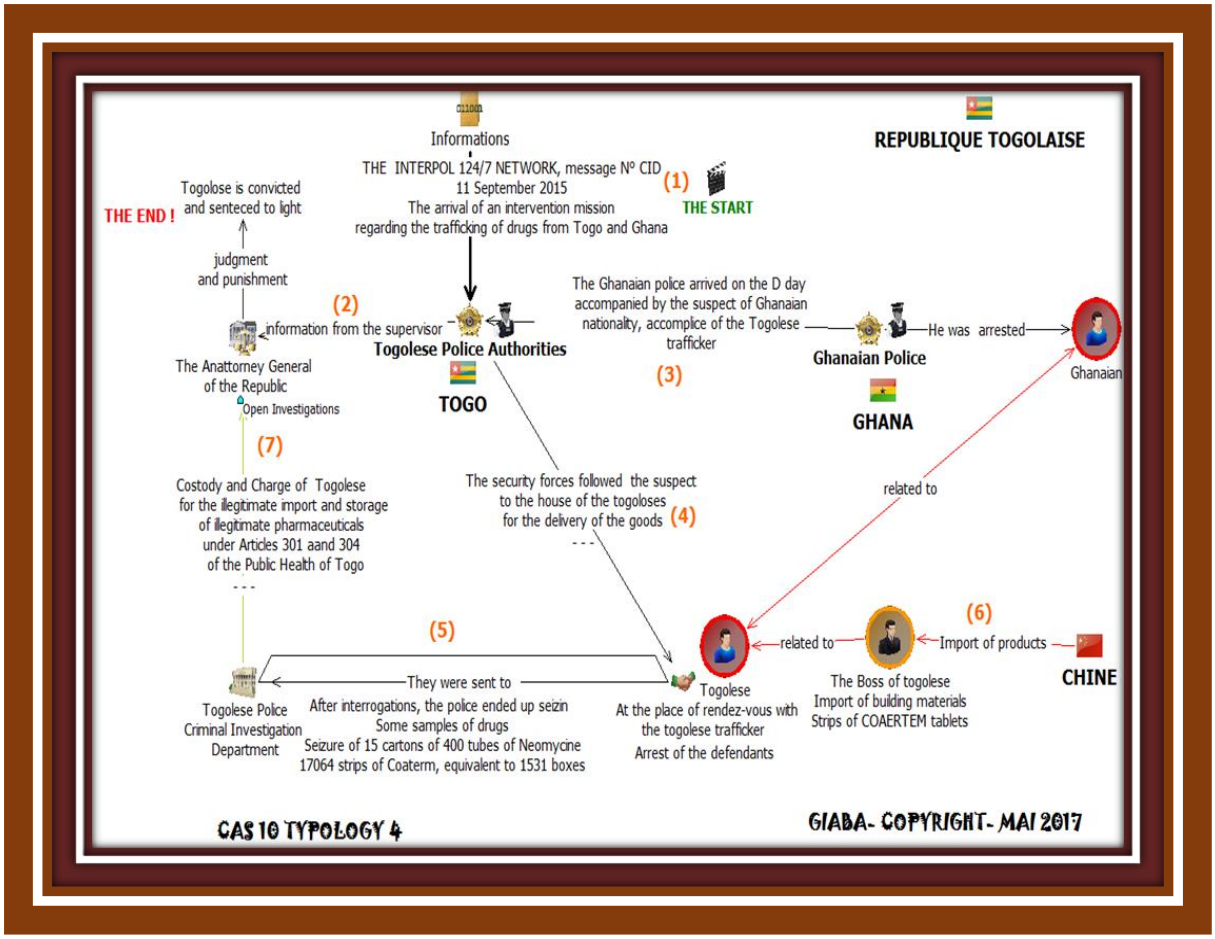
- Some samples of drugs, such as DUO-COTEXIN.

The Togolese suspect said he was unaware of the regulation governing the trade in drugs and that he was only seeking his livelihood. During his interrogation, he also said that his Togolese accomplice (or boss) who is engaged in trade between Togo and China, import other types of merchandise, especially building materials. He said it was only recently that he began importing drugs (...).

Mr. X was then indicted for the illegitimate import and storage of illicit pharmaceuticals under Articles 301 and 304 of the Public Health Code of Togo. After being held in custody, he was put before the Attorney General's department for further investigations. The CID, in the interim, requested that the Director of Pharmacies analyse the seized products (...).

The Prosecutor of the Lome High Court indicted the suspect and instructed the preparation of the file for the presentation to the Court. In April 2016, he was found guilty of the illegitimate practice of pharmacy and fined, in compliance with the legitimate provisions in force. He was freed. The products seized are to be destroyed. According to the Criminal Investigation Officer, the accused even came back to ask him to return the ointments which he considered not offensive, since they are Chinese massage balms. The request was not granted.

Source: Togo



A few Lessons and Observations:

- *This matter clearly reveals the lack of training on the tracking of fake drugs. Notwithstanding the willingness to react, many stakeholders are not adequately trained in this matter. Constitution of infringement on trademark could be evoked as brand-name drugs (VERMOX and COARTEM) have been copied. Counterfeiting was established in this case, but unfortunately, the provisions of the criminal code were not in keeping with international standards (the Medicrime Convention, for instance,).*
- *The samples of the other products found are suspicious and indicate the existence of a counterfeiting network in China, capable of manufacturing everything. The flattened boxes of Coartem, as well as the blisters are so "well reproduced", which indicates impeccable professionalism. Such boxes, so well done, are likely to infiltrate the legitimate market if care is not taken.*
- *The seizures are evaluated at ten million CFA Francs (10,593,000 FCFA), with serious health risks for the consumers of these fake drugs who believe they are receiving treatment.*

Case No 11: Seizure of 1,396 KG of illicit pharmaceuticals from China at the Lome Airport

On 13 November 2012, an officer of the Central Office for the Repression of Illicit Trafficking of Drugs and Money Laundering (OCRTIDB) received an anonymous telephone call, indicating that a group of persons living in Lome pretending to trade in cosmetic products were involved in high-risk international trafficking of drugs, concealed in the packaging of the said cosmetics, adding that a large quantity of the products was due to arrive within minutes by air freight.

Investigations were initiated and a team mounted, dispatched to the Gnassingbé Eyadema International Airport where, in the evening, a suspect parcel was intercepted. Mr X, a Togolese national, who arrived to retrieve the said parcel was apprehended by the officers of the OCRTIDB and taken to their Office along with the suspect parcel for an in-depth search. This operation, done in the very presence of Mr X did not reveal any drugs but rather pharmaceuticals of Chinese origin, especially aphrodisiacs, totalling 19.7 kg.

Questioned on the regularity of this importation, Mr. X said he was not aware that trade in such products needed a particular license. The investigators, nonetheless, held Mr X on charges of illicit trafficking of drugs, punishable under the Togolese Health Code, and later the investigators deliberately set him free. Meanwhile, the suspect parcel was seized. This strategy led to successive and large quantities of seizures two days later. Indeed, on 15, 17 and 18 November 2012, numerous parcels from China, consisting of pharmaceuticals similar to what was discovered in the earlier parcel which had been intercepted two days earlier, arrived by freight in Lome. In total, 1 396 kg of illicit pharmaceuticals mainly, aphrodisiacs products were seized and destroyed in June 2013 among the drugs destroyed, were psychotropic drugs and other illicit products.

Investigations revealed that the products belonged to not only Mr X but also Lady Y, also of Togolese nationality who is his associate and major shareholder of the illicit trafficking. This was not the first order of pharmaceuticals by airfreight by the above-mentioned persons but had never been intercepted by Customs and other security services. However, one cannot conclude whether it is a case of organized corruption or in reality, this was rather a case of ignorance of the legislation on the importation and sale of drugs by the latter. Indeed, in the case of the operation, the OCRTIDB officers were strongly criticized by the other security services operating at the airport.

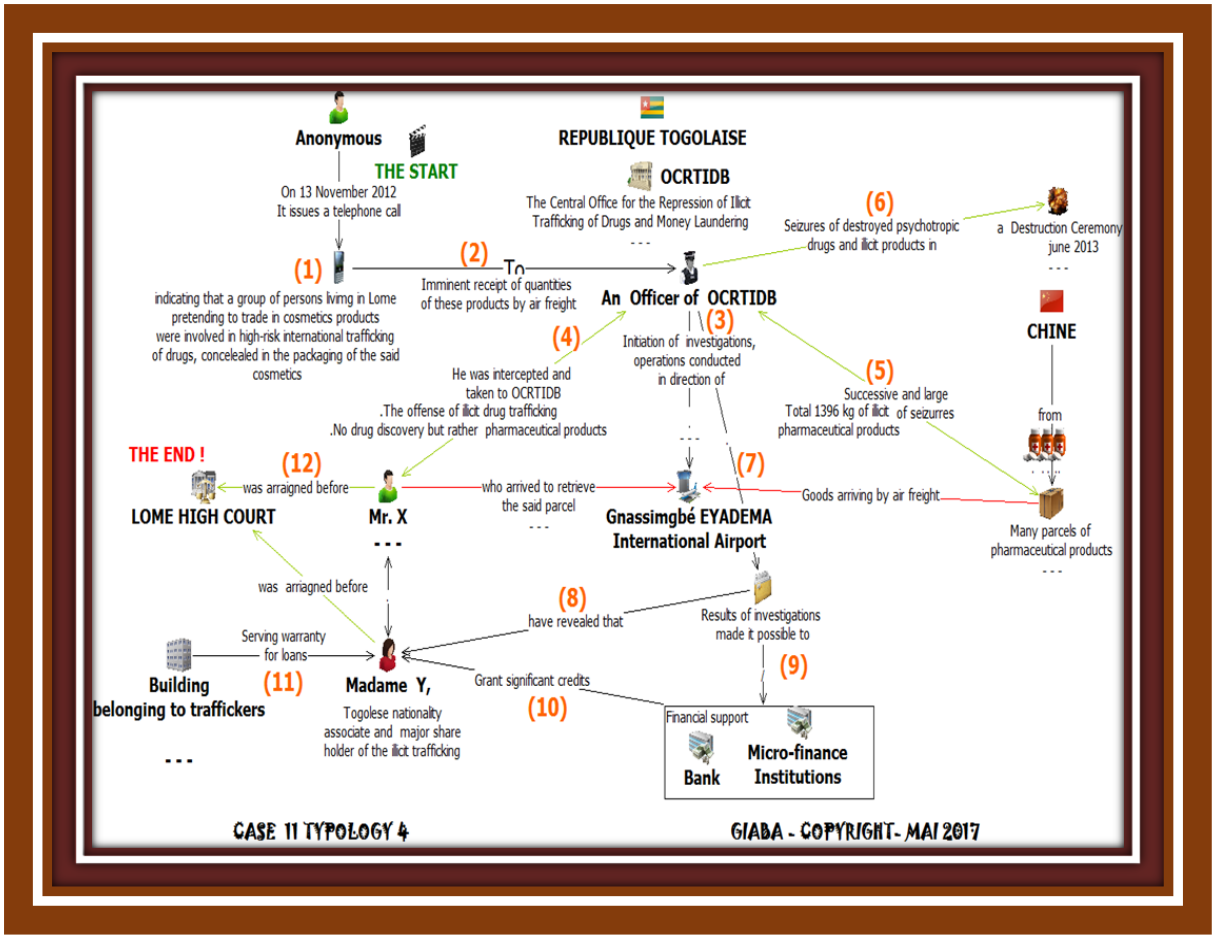
It is worth emphasizing that this operation was the outcome of training workshops attended by the OCRTIDB officials as part of the fight against offences related to pharmaceuticals as well as their collaboration with the Ministry of Health especially the Directorate of Pharmacies, Laboratories and Technical Equipment (DPLET) as well as the Togolese Association of Pharmacists.

The investigation led to the discovery that the people involved in this form of activity were not only unaware that the importation of pharmaceuticals was subject to prior authorization by DPLET, but also did not know that the drugs type was an area reserved for pharmacists alone. Similarly, the investigation led to the discovery that the perpetrators of the trafficking enjoyed the support of the banks and micro-finance institutions, which granted them huge loans guaranteed with constructed or unconstructed buildings. In case of lack of funds resulting in the seizure of the drugs, financial institutions will simply sell the buildings to recover the loans. It was therefore due to the fear of liquidation of the buildings that are being used as collateral, which an attempt was made to bribe the OCRTIDB officials in order to retrieve the products.

Quite fortunately, the OCRTIDB officials refused to release the products until they were destroyed. Similarly, Mr X and Lady Y were arraigned before the Lome High Court.

The legal outcome of the matter is not known.

Source: Togo



A few lessons and observations:

- *In this case, the informant felt he was giving information to the authorities about a drug trafficking network, according to the comments made on the matter, the lifestyle of the people in question had changed in record time. One of the people involved had even made a remarkable investment in landed estate. Visibly this is a serious and recurrent illegal activity for two shipments to be made within 72 hours.*

- *Unfortunately, judicial investigation did not make it possible to unmask all the stakeholders of this trafficking: To whom do they sell? Is a part of the merchandise re-exported? How the proceeds are derived reinvested? Who are the upstream relays? Nonetheless it was demonstrated that the persons involved run other commercial activities such as cosmetic products and cloths, hence the possibility of defacto laundering.*

Section 5: Indicators and Red Flags

74. Some indicators and red flags were identified from the analysis of the case studies. The indicators and red flags vary in relation to the situations presented. The indicators represent factual circumstances that may or may not indicate the possible occurrence of Money Laundering of proceeds derived from the trafficking in counterfeit pharmaceuticals. The red flags represent alerts that provide stronger conviction that cases of Money Laundering have been perpetrated and call upon stakeholders in the fight against Money Laundering to be more vigilant.

75. The indicators observed are as follows:

- Proceeds derived from an illicit activity: the sale of counterfeit pharmaceuticals, diverted or stolen;
- Transfer of funds generated from the sale of counterfeit pharmaceuticals in the country of origin through an informal funds transfer system;
- Importation and sale of merchandise bought with funds derived from trafficking of counterfeit products;
- Integration of funds derived from trade in counterfeit drugs into the legitimate economy;
- Opening of shops for the sale of textiles (clothing) to cover up illicit trade in counterfeit pharmaceuticals (front businesses);
- Injection of funds generated from trade in counterfeit pharmaceuticals into the financial system through the deposit of small cash amounts;
- Use of nick-names to open bank accounts with a view to deposit funds generated through the sale of non-registered or counterfeit pharmaceuticals;
- Guarantee provided with funds derived from the sale of counterfeit pharmaceuticals to secure bank loans;
- Comingling of proceeds from the sale of counterfeit pharmaceuticals with those generated through a legitimate activity, which itself was initially created with illicit funds;
- Financing trade in counterfeit drugs and legitimate activities from funds of illicit origin;
- Injecting into the legitimate economy funds generated through the sale of counterfeit drugs by creating various businesses in the informal sector;
- Collection of funds generated through the sale of counterfeit drugs;
- Applying for a loan from the financial system after constituting a fund generated through the sale of counterfeit drugs.

76. The red flags are:

- The members of a network of traffickers in counterfeit drugs organize to contribute funds to finance their activities in order to provide legitimate cover ale;
- Generally the members of the network do not maintain bank accounts in commercial banks and when they do, they will use a third party;
- Members of the network resort to credit and savings institutions to fund their businesses;
- Active criminal groups in the importation of counterfeit drugs corrupt officers at the borders with bribes;
- Traffickers substitute products seized and kept in the stores of the law enforcement services with the complicity of the guards;
- Funds from corruption derived from the trafficking of counterfeit drugs are reinvested in landed property, the hotel industry and the agricultural sector.

Section 6: General Findings and Conclusion

General Findings

77. This study has revealed that trade in counterfeit pharmaceuticals is widespread in West Africa. The nature of the organisation and networks formed by the criminals involved in the counterfeit pharmaceuticals - import, supply, distribution and sales – puts them in direct competition with those involved in legitimate trade. The fact that some of those involved in legitimate trade area also involved in trafficking of counterfeit pharmaceuticals further complicate the problem. Unfortunately, the victims of this illicit activity are the masses who, for want of sensitization and education on the risks associated with counterfeit pharmaceuticals, especially fake and substandard drugs are at the mercy of criminal networks who provide these products of death. The counterfeiting of drugs is a silent pandemic in West Africa.

78. Furthermore, although the legitimate and institutional system has been strengthened over the past years in most West African countries, it still does not comply with international standards. Indeed, Guinea is the only country to have ratified the Medicrime Convention, and yet does not have a law that domesticates its provisions. The stakeholders involved are in urgent need of material and financial resources to adequately respond to this growing threat. There is no doubt that more is needed in the area of sensitization, education, supervision and enforcement. Investigation and criminal prosecution authorities lack the material and financial resources. Similarly, there is inadequate training and expertise to comprehensively investigate the channels of importation, transportation, distribution and sale of counterfeit drugs and, above all, follow and confiscate the assets.

79. It is also worth noting that the collaboration among the various stakeholders involved in countering counterfeiting of pharmaceuticals is still low and does not allow for an effective coordinated implementation of the strategies of prevention and enforcement. At international level, cooperation is still not sufficient to take due cognizance of the countries of origin of the persons involved.

80. Furthermore, the most alarming observation is lack of political will. The intentions of the political leaders are not always followed up with sustainable actions to support the structures involved in the fight, which they themselves have contributed in creating.

81. The fundamental problem that impedes a real fight against the counterfeiting of drugs resides in the preponderance of corruption within the supervisory, control and enforcement agencies.

Conclusion

82. The determination and ingenuity of trafficking networks involve in the importation, distribution and sale of counterfeit pharmaceuticals is a big threat to the health, economic stability and security of West African countries. This is more so when the numerous vulnerabilities of the region are taken into account, particularly the informal economy and the opportunities it creates for criminal economy. The study has enhanced the understanding that counterfeiting is an activity that is on the rise in West Africa, generates considerable proceeds, and attracts criminal networks in the quest for easy gains. The phenomenon is not showing any sign of waning. The main victims are the masses, whose health is in danger on daily basis, through the consumption of these products. It therefore poses a real public health problem.

83. Furthermore, lack of financial investigations conducted in relation to the crime of counterfeiting of pharmaceuticals is no proof or indicator that the criminal activity cannot be linked to Money Laundering. It is important to identify the flow of funds in counterfeit pharmaceutical outfits and networks. The identification of the way funds are introduced into the financial system is relevant for the identification of Money Laundering associated with it. The lack of due consideration of the Money Laundering in investigating counterfeiting cases constitutes a setback in the global effort to contain this huge social problem.

Section 7: Recommendations

84. Synergy and effective collaboration among the various stakeholders involved in countering the problem of counterfeiting of pharmaceuticals is required and necessary for success. Investigations on counterfeiting of pharmaceuticals must not be exclusively confined to the predicate offence alone; Money Laundering investigations must be conducted with a view to identifying the illegitimate funds or other assets and ensure that the criminals are prosecuted on both charges in order to bring them to justice and confiscate their assets and funds.

85. The following specific recommendations are made:

Short-term measures

a. Countries in the region should establish and/or fully operationalize their National Coordinating Committee against Counterfeiting. In doing so, countries should also consider the following :

   - **The composition of the committee should be inclusive:** representatives of investigation and criminal prosecution authorities, health professionals, consumers and bodies fighting against Money Laundering;
   - **The function of the committee should include:** mobilising public authorities to take the requisite measures for the fight against trafficking in fake drugs; organization of information and sensitization campaigns for the general populace; specialized training for the relevant stakeholders in the fight against the trafficking of fake drugs; for the detection of fake drugs, the requisite investigative techniques and red flag indicators and typologies in money laundering should be adequately utilised; the publication of periodic reports and the situation of the country (the magnitude of the trafficking and its linkage with money laundering, vulnerabilities and threats, tools for the fight, the results achieved, recommendations, etc.; participation in relevant international fora to gain new knowledge and understanding of the phenomenon and draw from best practices.

b. Countries, especially their FIUs, should monitor closely the informal transfer of funds in the pharmaceutical sector;

c. Countries should consider the adoption of Enhanced Customer Due Diligence and Know Your Customer measures by financial institutions on all persons and companies involved in the import/export, sale and distribution of pharmaceuticals;

d. Countries should setup interagency teams and provide them with requisite training on the detection, general and financial investigation and prosecution of cases of counterfeit pharmaceuticals;

e. Countries should consider the establishment of a specialised unit in the lead agency investigating counterfeit pharmaceuticals. The specialised unit will be responsible for the coordination and enforcement of all counterfeiting pharmaceutical related issues;

f. Countries, with the support of concerned regional and international organisations, should regularly organise and conduct local, cross border and international joint operations to track and trace counterfeit pharmaceuticals and arrest those behind the trade;

g. GIABA should intensify efforts to ensure that all countries fully apply the requirements of the FATF Recommendations with regard to counterfeiting of pharmaceutical products, especially with regard to investigation and prosecution;

h. A decision or declaration should be taken at the level of the ECOWAS council of ministers to recognised the work of the regional body that deal with counterfeiting pharmaceuticals and ensure this is endorse at the national level.

Medium-term measures

i. Countries should strengthen their legal mechanisms by clearly criminalizing the counterfeiting and trafficking of pharmaceuticals in general, ensure the provision of adequate sanctions, especially, by ratifying the International MEDICRIME Convention;

j. Adopt rigorous measures to fight corruption by public officers involved in combating counterfeiting and trafficking in counterfeit pharmaceuticals, including the establishment of mobile enforcement and integrity Units;

k. Countries should establish a platform for information exchange among the stakeholders involved in the fight against the counterfeiting of pharmaceuticals and money laundering at regional level.

Long-term measures

l. Countries should consider and adopt modern tracking, tracing and codification systems for the import, export, distribution and sale of pharmaceutical;

m. Countries should design efficient database IT system at national level to incorporate all the useful information and statistics relating to the investigations, prosecutions and convictions linked to counterfeiting of pharmaceuticals.

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Appendix:

Analysis of Responses to Investigations Questionnaire

1) Legislation

a) Does your country have a Law against counterfeiting of pharmaceuticals?

1	Burkina Faso	Yes
2	Benin	Yes
3	Cabo Verde	Yes
4	Côte d'Ivoire	Yes
5	Ghana	Yes
6	Gambia	Yes
7	Guinea	Yes
8	Guinea-Bissau	Yes
9	Liberia	Yes
10	Mali	Yes
11	Niger	Yes
12	Nigeria	Yes
13	Senegal	Yes
14	Sierra-Leone	Yes
15	Sao-Tome & Principe	Yes
16	Togo	Yes

b) Has the Law been amended? If yes, when??

1	Burkina Faso	No
2	Benin	No
3	Cabo Verde	Yes, 2006
4	Côte d'Ivoire	No
5	Ghana	No
6	Gambia	Yes 2014
7	Guinea	No
8	Guinea-Bissau	Yes, 2014
9	Liberia	No
10	Mali	No
11	Niger	No
12	Nigeria	No
13	Senegal	No
14	Sierra-Leone	Yes , 2001
15	Sao-Tome & Principe	No
16	Togo	No

c) Is counterfeiting designated as a predicate offence to Money Laundering?

1	Burkina Faso	Yes
2	Benin	Yes
3	Cabo Verde	Yes
4	Côte d'Ivoire	Yes
5	Ghana	Yes
6	Gambia	Yes
7	Guinea	Yes
8	Guinea-Bissau	Yes
9	Liberia	Yes
10	Mali	Yes
11	Niger	Yes
12	Nigeria	Yes
13	Senegal	Yes
14	Sierra-Leone	Yes
15	Sao-Tome & Principe	Yes
16	Togo	Yes

d) Does the Anti-money Laundering Law in your country require any prior conviction for counterfeiting of pharmaceuticals before the culprit can be prosecuted for Money Laundering?

1	Burkina Faso	No
2	Benin	No
3	Cabo Verde	No
4	Côte d'Ivoire	No
5	Ghana	No
6	Gambia	No
7	Guinea	No
8	Guinea-Bissau	No
9	Liberia	No
10	Mali	Yes
11	Niger	Yes
12	Nigeria	No
13	Senegal	No
14	Sierra-Leone	No
15	Sao-Tome & Principe	No
16	Togo	No

2) Categories / Types of Products

What are the categories/types of counterfeit products targeted by your existing law?

Benin	• **Al types of drugs**
Burkina Faso	• All types of pharmaceutical products
Cabo Verde	• Drugs or medicinal substances
Cote D'Ivoire	• Analgesics- Anti-inflammatory, Food complement- Anti-hypertension- Anti-cough – Solution, Anti-malaria (withdrawn from the counters ex. chloroquine, ammoniac) - Anti tuberculosis (free), Anti-anemia- Anti-bleeding- Anti-ulcer, Antibiotic- De-worming, Erectile dysfunction (aphrodisiac)- Dysmenorrhea (painful menses), Oral and injectable contraceptives – Water for injectable preparation, Psychotropic - Precursor (alcoholic)- Medical materiel (Caesarian kits, Labour kits, rapid-test, pregnancy-malaria-diabetes)
Gambia	• All types of drugs
Ghana	• Xioke Pills, Coartem, Vermox, Tres-Orix Forte
Guinea	• Antibiotics, Analgesics, Anti-inflammatory, De-wormer, Anti-malaria, Aphrodisiacs and Food complements. NB • It should be noted that the Guinean drug market is flooded with fake drugs in the form of syrup, particularly NIVAQUINE, TERPONE, FLUDITEC and FLAVOQUINE.
Guinea-Bissau	• All types of drugs
Liberia	• All types of drugs
Mali	• All types of drugs
Niger	• Various types of pharmaceuticals
Nigeria	• All types of drugs
Sierra Leone	• All types of drugs
Senegal	• All types of drugs

3) **Investigations, Prosecutions and Convictions**

a) Has there been any prosecution for counterfeiting of pharmaceuticals in your country?

1	Burkina Faso	No
2	Benin	No
3	Cabo Verde	No
4	Côte d'Ivoire	Yes
5	Ghana	Yes
6	Gambia	No
7	Guinea	Yes
8	Guinea-Bissau	Non
9	Liberia	Yes
10	Mali	Yes
11	Niger	Yes
12	Nigeria	Yes
13	Senegal	No
14	Sierra-Leone	Yes
15	Sao-Tome & Principe	No
16	Togo	No

b) Have there been any convictions for counterfeiting of pharmaceutical?

1	Burkina Faso	No
2	Benin	No
3	Cabo Verde	No
4	Côte d'Ivoire	Yes
5	Ghana	Non
6	Gambia	No
7	Guinea	Yes
8	Guinea-Bissau	No
9	Liberia	No
10	Mali	Yes
11	Niger	Yes
12	Nigeria	Yes
13	Senegal	No
14	Sierra-Leone	No
15	Sao-Tome & Principe	No
16	Togo	No

c) Statistics of convictions for counterfeiting of pharmaceuticals

1	Burkina Faso	No
2	Benin	No
3	Cabo Verde	No
4	Côte d'Ivoire	Yes
5	Ghana	Yes
6	Gambia	No
7	Guinea	Yes
8	Guinea-Bissau	No
9	Liberia	No
10	Mali	Yes
11	Niger	Yes
12	Nigeria	Yes
13	Senegal	No
14	Sierra-Leone	No
15	Sao-Tome & Principe	No
16	Togo	No

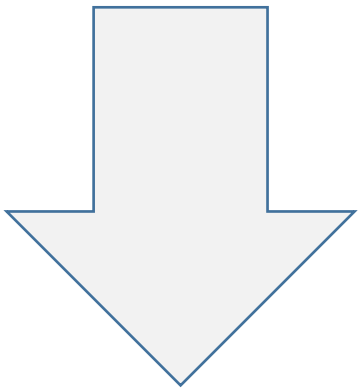
d) Have there been any prosecutions for Money Laundering associated with counterfeiting of pharmaceuticals in your country?

1	Burkina Faso	No
2	Benin	No
3	Cabo Verde	No
4	Côte d'Ivoire	No
5	Ghana	No
6	Gambia	No
7	Guinea	No
8	Guinea-Bissau	No
9	Liberia	No
10	Mali	No
11	Niger	No
12	Nigeria	No
13	Senegal	No
14	Sierra-Leone	No
15	Sao-Tome & Principe	No
16	Togo	No

e) What were the sources of information prior to approval to open investigations for ML?

1	Burkina Faso	Not applicable
2	Benin	Not applicable
3	Cabo Verde	Not applicable
4	Côte d'Ivoire	Not indicated
5	Ghana	Not applicable
6	Gambia	Not applicable
7	Guinea	Not applicable
8	Guinea-Bissau	Not applicable
9	Liberia	Investigation and criminal prosecution authorities
10	Mali	Unexpected inspection
11	Niger	Not applicable
12	Nigeria	Nil
13	Senegal	Not applicable
14	Sierra-Leone	Not applicable
15	Sao-Tome &	Not applicable

f) How many ML cases associated with counterfeiting of pharmaceuticals have been investigated internationally?



None !

4) Legal and Institutional framework

a) What are the regulatory/law enforcement institutions/organizations dealing with counterfeiting of pharmaceuticals in your country?

1	Burkina Faso	Pharmacy, Drug and Laboratory Department DGPML/Ministry of Health), Police, Customs, Gendarmerie, Judiciary, National Anti-fraud Authority, Trade and Anti-fraud Department
2	Benin	Non applicable
3	Cabo Verde	Pharmaceuticals Regulation and Food Supervision Agency (ARFA); Pharmacy Department, Court of Justice
4	Côte d'Ivoire	Police Department of Narcotics and Drugs, Sub-department against Counterfeiting, Narcotics and Drugs (Customs Investigations Department), Police Economic and Finance Department, Inter-ministerial Committee against Counterfeiting of Medicines, (COTRAMED)
5	Ghana	Pharmacists' Association, National Food and Medical Control Agency
6	Gambia	Ministry of Health and social Welfare, Medicines Control Agency, Pharmacy Council (Customs section), The Gambia's Revenue Authority (Customs section), Police, The Gambia's Immigration Office, Ministry of Justice.
7	Guinea	National Pharmacy Department; National Organized Crime Control Department, Pharmacists' Association.
8	Guinea-Bissau	Ministry of Health, General Health Inspectorate and Judical Bodies.
9	Liberia	Liberia Medical and Sanitary Products Regulatory Authority, Pharmacists' Association (Ministry of Health), Inspection Division (Ministry of Trade), Anti-drug Agency (Narcotics and Psychotropic Substances).
10	Mali	Pharmacy and Medical Department, Health Inspectorate (regulation), others: Customs, Gendarmerie, Police (Law Enforcement)
11	Niger	Customs, Ministry of Public Health
12	Nigeria	National Agency for Food and Drug Administration and Control (NAFDAC)
13	Senegal	Customs, Police, Ministry of Health
14	Sierra-Leone	Pharmacists' Association, Transnational Organized Crime Unit (TOCU) and the Sierra Leone Police (SLP).
15	Sao-Tome & Principe	Health Care Department at the Ministry of Health (Regulatory Authority); (Court of Justice, Law Enforcement Authority).
16	Togo	Pharmacy, Laboratory and Technical Equipment Department (DPLET) of the Ministry of Health, Criminal Justice (Prosecution), National Police, National Gendarmerie, Central Office for the /repression of Illicit Drug Trafficking and Money Laundering, Financial Intelligence Unit, Ministry of Trade.

b) What do you consider as weaknesses in the laws governing activities associated with counterfeiting of pharmaceuticals?

1	Burkina Faso	Lack of specific legislation on counterfeit pharmaceuticals ; weak sanctions
2	Benin	No indication
3	Cabo Verde	Pharmaceuticals Regulation and Food Supervision Agency (ARFA) ; Pharmacy Department, Court of Justice
4	Côte d'Ivoire	Criminal sanctions are not dissuasive enough (12 to 18 months imprisonment and CFAF 5 000 000 to 10 000 000 fine - Art 73, Law 2015-533)
5	Ghana	Pharmacists' Association, National Food and Medical Control Agency
6	Gambia	Criminal sanctions were not dissuasive enough in the old 1984 Law repealed (maximum fine of 5,000 Dalasi (GMD) or three (3) years imprisonment).The new laws provide for more stringent sanctions and fill the gaps by taking on board technological developments and developments in the field of medicine.
7	Guinea	Inadequate regulation of pharmacy operations
8	Guinea-Bissau	No strict law enforcement
9	Liberia	Inadequate detailed or outlined criminal sanctions
10	Mali	No indication
11	Niger	Offenders are not prosecuted for money laundering
12	Nigeria	No indication
13	Senegal	No legal timeline for detention in case of arrest emanating from a presumed offence associated with counterfeiting.
14	Sierra-Leone	Fines and sentences are not proportionate and dissuasive in relation to the crime.
15	Sao-Tome & Principe	The Decree regulating the pharmaceuticals sector in Sao Tomé-and-Principe does not regulate issues of counterfeiting of pharmaceuticals: The Health Care Department is currently drafting a new Decree to incorporate all uncovered international issues, taking into account the precarious nature of laws in this area.
16	Togo	The relevant penalties provided for are insignificant and not dissuasive enough (the new Penal Code will improve the situation).

c) Are there regulations and directives to monitor compliance with existing laws?

1	**Burkina Faso**	**Yes**
2	**Benin**	**No**
3	**Cabo Verde**	**No**
4	**Côte d'Ivoire**	**Yes**
5	**Ghana**	**No**
6	**Gambia**	**Yes**
7	**Guinea**	**Yes**
8	**Guinea-Bissau**	**No**
9	**Liberia**	**No**
10	**Mali**	**No**
11	**Niger**	**Yes**
12	**Nigeria**	**Yes**
13	**Senegal**	**No**
14	**Sierra-Leone**	**Yes**
15	**Sao-Tome & Principe**	**No**
16	**Togo**	**No**

d) Which are the structures/institutions/agencies responsible for the prosecution of cases of counterfeiting of pharmaceuticals in your country?

1	Benin	Unspecified
2	Burkina Faso	Police, Customs, Gendarmerie, Judiciary, National Anti-fraud Authority, Trade and Anti-fraud Department
3	Cabo Verde	Prosecutor
4	Cote d'Ivoire	Police Department of Narcotics and Drugs, Sub-department against Counterfeiting, Narcotics and Drugs (Customs Investigations Department), Police Economic and Finance Department, Inter-ministerial Committee against Drug Counterfeiting (COTRAMED). These structures initiate prosecutions for the competent authorities.
5	Ghana	National Food and Drug Control Agency
6	Gambia	Ministry of Justice
7	Guinea	The prosecuting authority for counterfeiting of pharmaceuticals is the Prosecution office of the State Prosecutor.
8	Guinea-Bissau	Prosecutors
9	Liberia	Ministry of Justice
10	Mali	The Judiciary
11	Niger	Police, Judiciary
12	Nigeria	National Food and Drug Control Agency (NAFDAC)
13	Senegal	Customs Brigade Office and Specialized Units : UMCC (Mixed Container Control Unit), CAAT: (Airport Anti-traffic Unit), BSDA (Senegalese Copyright Office), BNLPC: (National Brigade against Piracy and Counterfeiting)
14	Sierra-Leone	Office of the DPP and the Sierra Leone Police
15	Sao-Tomé & Principe	Jurisdiction under Art. 26 of the CPC (Criminal Procedure Code)
16	Togo	Pharmacy, Laboratory and Technical Equipment Department (DPLET) of the Ministry of Health, Criminal Justice (Prosecution), National Police, National Gendarmerie, Central Office for the /repression of Illicit Drug Trafficking and Money Laundering, Financial Intelligence Unit, Ministry of Trade.

e) What are the structures/institutions/agencies responsible for the prosecution of cases of Money Laundering of proceeds derived from fake medicines?

1	Benin	Unspecified
2	Burkina Faso	FIU, Police, Customs, Gendarmerie, Judiciary, Central Office National Interpol
3	Cabo Verde	Prosecutor
4	Cote d'Ivoire	Police Department of Narcotics and Drugs, Sub-department against Counterfeiting, Narcotics and Drugs (Customs Investigations Department), Police Economic and Finance Department, Inter-ministerial Committee against Drug Counterfeiting (COTRAMED). These structures initiate prosecutions for the competent authorities.
5	Ghana	National Food and Drug Control Agency
6	Gambia	Ministry of Justice
7	Guinea	State Prosecutor and FIU
8	Guinea-Bissau	Prosecutors
9	Liberia	Ministry of Justice
10	Mali	Prosecution, FIU
11	Niger	Police, Judiciary
12	Nigeria	Economic and Financial Crimes Commission (EFCC)
13	Senegal	BICS, BSDA and BNLPC
14	Sierra-Leone	Office of the DPP and the Sierra Leone Police
15	Sao-Tomé & Principe	Jurisdiction Under Art. 26 of the CPC (Criminal Procedure Code)
16	Togo	Pharmacy, Laboratory and Technical Equipment Department (DPLET) of the Ministry of Health, Criminal Justice (Prosecution), National Police, National Gendarmerie, Central Office for the /repression of Illicit Drug Trafficking and Money Laundering, Financial Intelligence Unit, Ministry of Trade.

5) Confiscated Funds and Assets

Provide information on how funds/assets are managed in your country

1	Benin	Unspecified
2	Burkina Faso	Unspecified
3	Cabo Verde	Unspecified
4	Cote d'Ivoire	Under n°2014-220 of 16th April 2014 determining the functions, organization and operations of the body responsible for the recovery and management of illicit assets. A body has been established to manage seized or confiscated funds. It is attached to the High Authority for Good Governance, the national body responsible to fight against corruption and similar offences.
5	Ghana	Unspecified
6	Gambia	Unspecified
7	Guinea	Unspecified
8	Guinea-Bissau	No case of confiscation so far. However, if that happens whereas the confiscation law provides for it under Art. 45 of the AML law, like in all cases of conviction, the court would order confiscation by the State Treasury of all funds and assets related to the crime.
9	Liberia	Unspecified
10	Mali	Unspecified
11	Niger	Unspecified
12	Nigeria	The confiscated funds are paid into the Federation's accounts. Confiscated assets are sold by public auction and the proceeds paid into the Federation's accounts.
13	Senegal	Unspecified
14	Sierra-Leone	Office of the DPP and the Sierra Leone Police
15	Sao-Tome & Principe	Confiscated assets are forfeited to the State in accordance with the law on the prevention and fight against ML/TF and the Criminal Code in the submission of plea 32 (L # 8/2013) 294 (L-No 6/2012), but there is no record in respect of counterfeit products.
16	Togo	To date, there is no regulation outlining the rules and criteria for the management of confiscated funds/assets in Togo. When confiscated, such funds are supposed to be paid into the State Treasury.

6) Profiles of Counterfeiters

Provide general information on the categories of persons or organizations mostly involved in the counterfeiting of pharmaceuticals in your country

1	Benin	Unspecified
2	Burkina Faso	Unspecified
3	Cabo Verde	Unspecified
4	Cote d'Ivoire	90% of women who can hardly read and write or illiterate Most of these women are nationals of neighbouring countries to Côte d'Ivoire.
5	Ghana	Unspecified
6	Gambia	Counterfeit medicines are sold in the streets of The Gambia by unlicensed dealers but at a very small scale. There are specific areas where these unlicensed traders operate (some operate openly in areas such as the wharf park selling products such as counterfeit analgesics and antibiotics). For products such as counterfeit Viagra/sildenafil, street traders do not operate openly (they could be seen in the streets but operate secretly).
7	Guinea	Individuals : Guinean citizens and Asian nationals (Chinese and Indians) ; Corporate entities: Shell companies engaged in general business (SAVORITE PHARMACEUTICALS, located at Bellevue and PRINCE PHARMA at Camayenne
8	Guinea-Bissau	Unspecified
9	Liberia	It is suspected that most of the illicit trade in counterfeit drugs is done by cross-border traders, considering that the Liberian borders are forested areas and that there are many illegal routes taken by the traffickers in order to dodge customs duties and serious checking.
10	Mali	Retail traders and some pharmacy employees
11	Niger	Traders, Pharmacists and State officials
12	Nigeria	Traders, Industrialists and businessmen
13	Senegal	Unspecified
14	Sierra-Leone	There are two broad categories of persons and entities involved in counterfeiting: the licensed importers and illegal importers.
15	Sao-Tome & Principe	No records.
16	Togo	Retail traders and businessmen. It should however be noted that pharmaceutical crime is mainly characterized by the importation and sale of drugs in total disregard of any legal prescription. It would be difficult to provide information objectively with no risk of erring, on the categories of persons or entities involved in the counterfeiting of pharmaceuticals nationwide.