INTER-GOVERNMENTAL ACTION GROUP AGAINST
MONEY LAUNDERING IN WEST AFRICA

GIABA REPORT

Tax Fraud and Money Laundering in West Africa – *A Human and Economic Development Perspective*

MAY 2012



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Executive Summary

1. The purpose of this study is to enhance understanding of the relationship between tax fraud and money laundering and its corresponding impact on human and economic development in West Africa. The ultimate goal for GIABA is to use the findings of this study to determine the methods, techniques and trends in tax evasion and money laundering in the region so as to enable Member States incorporate such emerging issues into their respective AML/CFT frameworks.

2. Ten (10) ECOWAS Member States namely, Benin, Burkina Faso, Gambia, Ghana, Guinea Bissau, Mali, Nigeria, Senegal, Sierra Leone and Togo, were sampled for the study. The research team comprised of a principal researcher, research coordinator and research associates from each of the sampled Member States. Following a comprehensive literature review, the team conducted a 4-month fieldwork by way of administering general questionnaires to generate empirical data. Additionally, structured interviews were conducted with senior tax officials and tax professionals.

3. While the research team encountered difficulties such as lack of reliable data due to poor documentation/archiving on both tax crimes and money laundering, the analysis of primary data addressed the key questions of the study. Research associates wrote country reports, which were presented and discussed at a validation workshop in Saly, Senegal, on 19-20 September 2011. The findings of the study provide evidence of not only widespread tax fraud is prevalent in all ten Member States, but also similar vulnerabilities and challenges in combating money laundering. Responses to the questionnaires further indicate that mismanagement and misuse of tax revenues is the primary reason for low or non-payment of taxes individuals, businesses and organizations in the region.

4. The research team recommended, among others, that:

- GIABA should work with other stakeholders to strengthen the capacity of national regulators and supervisors including FIUs and anti-corruption agencies for efficient detection of tax crimes and associated money laundering;
- GIABA should develop partnership with networks of civil society organizations in the region to address the gaps in information management, particularly the collection, storing, sharing and dissemination and awareness of information on taxation generally in West Africa;
- Tax administrations should be modernized throughout the region to increase transparency and accountability.

Acknowledgement

The study was led by a consultant, Col. Olanipekun Majoyeogbe (rtd), with expertise in tax crimes and was supported by a team of country level researchers coordinated by Ms. Zeyna Kane. GIABA is appreciative of the primary work done on the report by this team. Many national institutions contributed to the study. Their contributions are highly appreciated.

GIABA National Correspondents in GIABA member States provided support to the researchers to facilitate the field work , and this helped to ease the difficulties of the researchers. Sincere appreciation to the various sources that provided materials for the study and support to the researchers, whether directly or directly.

Finally, the Secretariat also acknowledge the contributions of various individuals and organizations to the processes that led to the completion of this report and its publication, including experts who discussed the report during the plenary meetings and the GIABA Ministerial Committee that approved the report for publication.

GIABA Secretariat
Dakar, Senegal

Chapter 1: Introduction

Background

1. This study, commissioned by the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), aims to shed more light on tax fraud in West Africa and investigate its links money laundering in West Africa, with a particular focus their impact on human and economic development in the sub-region. [1]The study, which involves 10 ECOWAS Member States, further aims. Understanding the relationship between tax fraud and money laundering on one hand, and their human and economic development on the other, is critical to efforts aimed at accelerating regional integration, economic growth, sustainable development, safety, human security and political stability in the region. The issues of taxation and tax fraud are particularly important, considering the sub-optimal utilization of available public revenues and resources, even in the context of acute resource demand in the region. Although taxation is the primary avenue of raising funds for social and economic development, it remains considerably weak and murky with little or no transparency and accountability.

2. A threat assessment of money laundering and terrorist financing in West Africa conducted by GIABA in 2010 revealed a prevalence of tax crimes throughout the region. The noted that an estimated USD73 billion of illicit money is generated and laundered in seven jurisdictions namely, Benin, Cape Verde, Côte d'Ivoire, the Gambia, Ghana, Nigeria and Senegal.

3. The illicit money is generated from a range of different sources, with tax evasion, tax crimes, and corruption being the prominent ones.[2] Furthermore, the study explores the links between tax evasion in the informal economy and tax evasion in the formal economy.

4. Another study by GIABA on the nexus between corruption and money laundering in West Africa was published in 2010. The key findings of the study were:

a. Corruption is an endemic and institutionalized phenomenon in West Africa, with the following being the primary means of perpetration:
    i. Embezzlement, misappropriation, or other diversions of public property/funds by government officials;
    ii. Bribery of government officials;
    iii. Inflation of contracts and over-invoicing for public works and procurement;
    iv. Abuse/misuse of office for personal gains;
    v. Trading in "influence" to get things done or not done; and
    vi. Illegal transfer or taking of money abroad.

[1] GIABA is a specialized institution of ECOWAS and a Financial Action Task Force (FATF) Style Regional Body (FSRB) in West Africa. It has the dual role of promoting implementation of international standards against money laundering and terrorist financing in West Africa, and promoting regional integration in West Africa through capacity building of ECOWAS member states for effective and coordinated action against money laundering and terrorist financing.

[2] See GIABA (2010). Criminals received USD43 billion and USD20 from tax evasion and tax crimes and corruption respectively.

5. The enormity of tax fraud and its damaging effects on the capacity of West African states to promote human and economic development necessitates a detailed study to explore the linkage money laundering.

Methodology

6. The study was conducted in 2011 by a research team comprising of a lead researcher, as associate researcher, and a field Researcher in each of the 10 sampled GIABA Member States, namely, Benin, Burkina Faso, The Gambia, Ghana, Guinea Bissau, Mali, Nigeria, Senegal, Sierra Leone, and Togo. Following a comprehensive review of primary and secondary literature, fieldwork was conducted within a period of four months. Empirical data for analysis were generated through the use of country level and general population questionnaires (See Appendix I and Appendix II). Aside from these questionnaires, research teams conducted structured interviews with senior and professional tax administrators to generate further data.

Limitations

7. The dearth of data on tax fraud and money laundering in West African countries makes it difficult to draw theoretical inspiration and background knowledge from previous observations on the phenomenon. For instance, due to the lack of secondary or tertiary literature, it was therefore difficult to obtain reliable information on the history of taxation and tax fraud in the region which would have further enriched understanding of the background to the study.

8. Despite the above limitations, primary data generated from all the relevant sources were analyzed and synthesized to address the key questions of the study.

9. The report is divided into four chapters. *Chapter One* provides the historical background of the taxation in West Africa, an overview of international instruments against tax fraud and money laundering.. It further elaborates the justification and discusses the research methodology. *Chapter 2* gives the political, institutional, and socio-economic context of West Africa. Chapter 3 provides an analysis of the nature and dynamics of tax crimes in West Africa. It evaluates West African taxation systems with special focus on legal and institutional framework for tax administration in the region, tax fraud and money laundering vulnerabilities facing GIABA Member States, and the nature, pattern, and the extent of tax fraud and associated money laundering. *Chapter 4* analyzes the impact of tax fraud and money laundering on human and economic development and regional economic integration. *Chapter 5* focuses on responses against tax crimes in West Africa while *Chapter 6* summarizes findings of the study and provides policy recommendations for addressing tax fraud and money laundering in West Africa.

Justification for the Study

10. This study aims to shed more light on the nature and dynamics of tax fraud in West Africa including its links money laundering, with a particular focus their impact on human and economic development in the region. [3] Specifically, the study does not aim to put the countries

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studied in a negative light but to generate more knowledge about the relationship between tax fraud and money laundering, highlight the existing governance and socio-economic challenges that provide an enabling environment for these crimes to flourish, and draw attention to the corrosive, albeit not immediately obvious, effects on development.

11. Understanding the relationship between tax fraud and money laundering and their effects on human and economic development in West Africa is critical to efforts aimed at promoting sustainable development, long term peace and security, and economic integration in the region. The issue of tax fraud is particularly important, not least because of the receipt of extremely low tax revenues by West African governments from their constituents and the consistent misuse of them by corrupt state officials, even in the context of high demand for social services and development projects.

promoting regional integration in West Africa through capacity building of ECOWAS member states for effective and coordinated action against money laundering and terrorist financing.

Chapter 2:

The Nature and Dynamics of Tax Crimes in West Africa

Political, Institutional, and Socio-economic Context of West Africa

12. Over the past two decades, West Africa has been a notorious center of intensely violent conflicts and chronic political and socio-economic instability. The extent of violence and instability in the sub-region is reflected by the numerous military coups d'etat, civil wars, insurgencies, and election-related clashes in most West African states (UNODC 2010: 1).[4] This is has inflicted immense human and physical destruction, thereby precipitating what has been characterized as 'the coming anarchy' (Robert Kaplan 1994). Accordingly, West Africa is characterized by state fragility, with many states lacking the capacity to either deliver basic social services to their citizens or claim complete and effective control of their territories, and embroiled by deep corruption (McGuire 2010). The region is also plagued by deep and widespread poverty and underdevelopment, with the United Nations Development Program (UNDP) 13 of 15 West African countries as experiencing 'low human development' (UNDP 2009). The extent of poverty and underdevelopment is partly illustrated by a combined GDP of less than USD300 billion.[5] Although West Africa's population of 300 million is six times more than that of South Africa, the latter's GDP is greater than the former's.[6] The sub-region's economic woes looks more acute if the GDP of its powerhouse and most populous country, Nigeria, is isolated. With a population of more than 150 million, Nigeria accounts for an estimated 66 % of West Africa's total output. The rest of the 14 countries share less than 34 % of the regional output.

Table: ECOWAS member States GDP 2007 - 2011 (In US dollars)

SN	Country	2007	2008	2009	2010	2011
1.	Benin	5,546,177,809	6,682,744,914	6,585,116,882	6,558,349,890	7,294,865,847
2.	Burkina Faso	6,755,806,772	8,350,621,916	8,348,161,530	8,825,364,008	10,187,211,704
3.	Cape Verde	1,331,208,452	1,561,727,129	1,600,829,246	1,659,053,271	1,901,136,230
4.	Cote d'Ivoire	19,795,696,265	23,414,005,259	23,041,767,439	22,920,506,112	24,074,625,536
5.	Gambia, The	833,005,025	1,036,950,252	983,436,620	1,050,158,837	1,109,306,596
6.	Ghana	24,632,480,407	28,526,922,399	25,978,537,279	32,174,576,820	39,199,656,051
7.	Guinea	4,209,331,037	3,778,181,818	4,164,722,264	4,735,882,580	5,131,221,608
8.	Guinea-Bissau	690,721,456	846,854,479	834,691,372	835,390,893	973,427,457
9.	Liberia	739,000,000	850,700,000	879,300,000	987,900,000	1,161,000,000
10.	Mali	7,146,284,975	8,738,080,883	8,964,687,644	9,422,377,319	10,589,925,352
11.	Niger	4,290,510,300	5,369,911,346	5,254,406,103	5,410,507,420	6,016,960,988

[4] Despite on-going, albeit uneven political, economic and social progress in the sub-region, it was experienced ten coups d'etat, or attempted coups, three civil wars, and the assassination of a president since 2000.

[5] Precisely, the sub-region's GDP in 2010 was USD295, 599,454,708, which amounts to two-thirds of Suadi Arabia's USD434, 666,133,333.

[6] With a population of 51 million, South Africa's GDP was USD 363,703,902,727

12.	Nigeria	165,920,866,365	207,117,912,034	168,567,538,022	196,837,602,740	235,922,915,395
13.	Senegal	11,319,748,340	13,386,346,544	12,769,040,890	12,855,297,513	14,291,456,855
14.	Sierra Leone	1,663,712,059	1,954,828,246	1,856,392,962	1,909,761,902	2,242,960,927
15.	Togo	2,523,461,504	3,163,383,040	3,156,082,168	3,176,118,222	3,594,513,925

Data source: World Bank (http://data.worldbank.org/indicator/NY.GDP.MKTP.CD)

Chart: ECOWAS member States GDP 2007 - 2011 – (Excluding Nigeria) (In US Dollars)

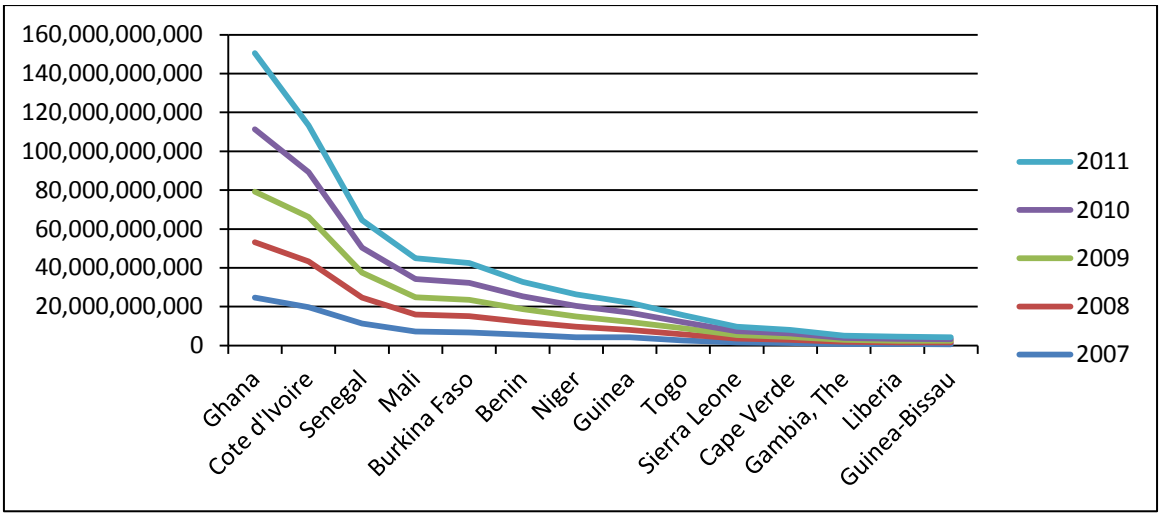
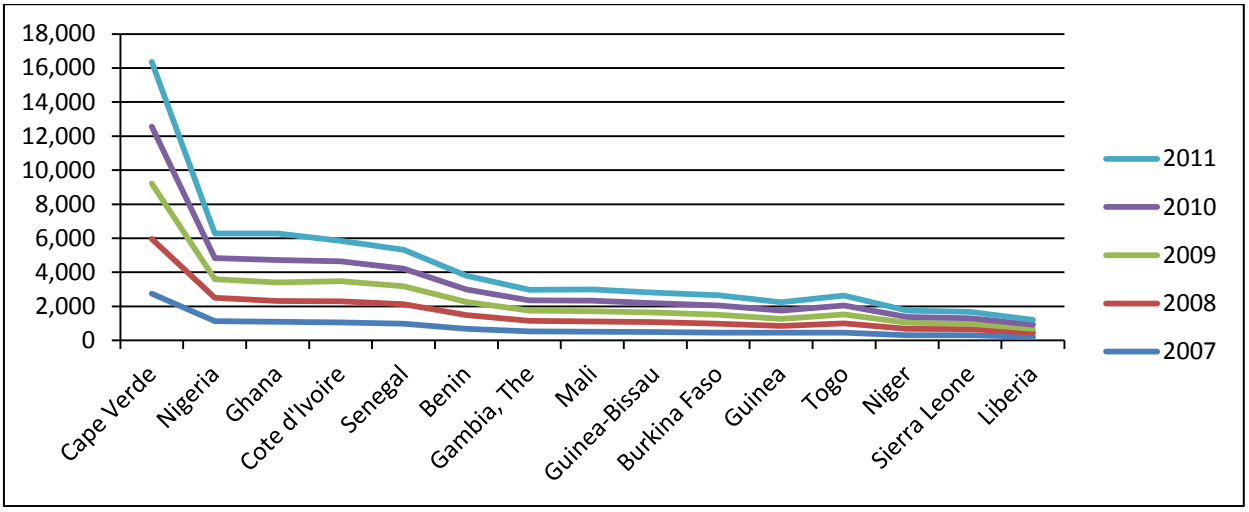


Table: ECOWAS member States GDP per Capita 2007 - 2011 (in US Dollars)

SN	**Country**	2007	2008	2009	2010	2011
1.	Cape Verde	2,756	3,204	3,256	3,345	3,798
2.	Nigeria	1,129	1,375	1,091	1,242	1,452
3.	Ghana	1,085	1,226	1,090	1,319	1,570
4.	Cote d'Ivoire	1,062	1,233	1,191	1,161	1,195
5.	Senegal	986	1,136	1,055	1,034	1,119
6.	Benin	684	800	766	741	802
7.	Gambia, The	523	634	585	608	625
8.	Mali	510	604	601	613	669
9.	Guinea-Bissau	485	583	562	551	629
10.	Burkina Faso	449	538	522	536	600
11.	Guinea	449	395	427	474	502
12.	Togo	446	548	535	527	584
13.	Niger	308	372	351	349	374
14.	Sierra Leone	304	348	323	325	374
15.	Liberia	213	233	229	247	281

Data source: World Bank (http://data.worldbank.org/indicator/NY.GDP.PCAP.CD)

Chart: ECOWAS member States GDP per Capita 2007 - 2011



13. Although the number and intensity of violent conflict in West Africa have receded considerably, and GDP growth rates have been growing steadily, albeit declines in 2008 owing to the global economic recession, West African states are not likely to achieve their core objectives human and economic development..Indeed, the 2010 UNDP Human Development Report, like previous reports, posts very low HDIs in West African countries, with some having the lowest life expectancy levels in the world. The abysmal indicators has resulted in a widespread view, particularly within the international development community, that West African, like other Sub-Saharan African countries, are unlikely to meet the Millennium Development Goals (MGDs) by 2015. National, regional and international policymakers face the challenge of closing the huge deficits in the core areas of health, education, infrastructure, and HIV/AIDS.

14. The table below shows the 2010 HDI ranking of West African countries.

Table 1: 2010 HDI Rankings of ECOWAS member

Country	HDI rank	Category	Human Development Index (HDI) value	Life expectancy at birth (years)	Mean years of schooling (years)	Expected years of schooling (years)	Gross national Income (GNI) per capita (PPP2008$)	GNI per capita rank minus HDI rank	Non Income HDI value
			2010	2010	2010	2010[b]	2010	2010	2010
Cape Verde	118	Medium	0.534	71.9	3.5b,o	11.2	3,306	–4	0.573
Ghana	130	Low	0.467	57.1	7.1	9.7	1,385	14	0.556
Benin	134	Low	0.435	62.3	3.5	9.2	1,499	8	0.491
Togo	139	Low	0.428	63.3	5.3	9.6	844	22	0.557
Nigeria	142	Low	0.423	48.4	5.0b,q	8.9	2,156	–12	0.436
Senegal	144	Low	0.411	56.2	3.5	7.5	1,816	–7	0.433
Côte d'Ivoire	149	Low	0.397	58.4	3.3	6.3	1,625	–10	0.420

Gambia	151	Low	0.390	56.6	2.8	8.6	1,358	–5	0.426
Guinea	156	Low	0.340	58.9	1.6b,t	8.6	953	0	0.380
Sierra Leone	158	Low	0.317	48.2	2.9	7.2	809	4	0.360
Mali	160	Low	0.309	49.2	1.4	8.0	1,171	–7	0.312
Burkina Faso	161	Low	0.305	53.7	1.3b,q	5.8	1,215	–12	0.303
Liberia	162	Low	0.300	59.1	3.9	11.0	320	5	0.509
Guinea Bissau	164	Low	0.289	48.6	2.3b,q	9.1	538	1	0.362
Niger	167	Low	0.261	52.5	1.4	4.3	675	–3	0.285

b- Refers to an earlier year than that specified;
q- Based on data from United Nations Children's Fund Multiple Indicator Cluster Surveys.
o- Based on data on years of schooling of adults from household surveys in the World Bank's International Income Distribution Database.
t- Based on data from Measure DHS Demographic and Health Surveys

15. West Africa suffers from structural macro-economic distortions, high unemployment and underemployment – particularly among the youth, low industrial output, low capital investment, rampant corruption, and among others. With its low performance on the MDGs, the sub-region faces increasing donor fatigue, especially in the context of the recent global economic and financial crises and the corresponding economic uncertainties in donor countries. As such, West African countries are under intense pressure to seek alternative sources of revenues to finance critical social services and invest in critical infrastructure required for sustained economic and social transformation.

16. The establishment of ECOWAS in 1975 reflected broad recognition among West Africa's political leadership of the urgent need to actualize the goal of economic and social transformation. Although its original mandate was to facilitate regional economic integration as mean of broad-based development and prosperity, ECOWAS has taken on other mandates namely, maintaining and promoting regional peace and security, and more recently, facilitating and supporting the fight against money laundering and terrorism financing. Even so, economic integration, through the synergy of pulling regional resources together, is still considered as critical to accelerated growth. Even more important is the need to translate such growth into social progress for populations within the community remains a huge challenge. Yet the challenge is not only how to raise GDP growth rates in the sub-region to the level that is sufficient to propel and sustain social transformation, but also how to harness and expand national tax bases to domestically mobilize the requisite funds. This is particularly important as low gross domestic savings and declining capital inflows from abroad have severely constrained the ability of West African states to provide the public funding and investments necessary to increase GDP growth rates across the region. (UNECA 2011: 4).

Chapter 3:

The Nature and Dynamics of Tax Crimes in West Africa

The Scope of Tax Crimes in West Africa

17. Tax fraud has been observed to have both domestic and international components. The domestic dimension takes the form of tax evasion, which occurs due to a large domestic shadow economy, while the international dimension involves profit shifting by corporations and offshore holdings of financial assets by private individuals (Fuest and Riedel 2009: 1).[7] Although the lack of comprehensive economic data in developing countries makes obtaining reliable estimates on the volume of tax fraud-related financial losses difficult, such losses are quite significant. Specifically, an estimated USD 385 billion is lost to tax evasion annually, with domestic evasion accounting for USD285 billion, USD 50 billion from international profit shifting by corporations and US$ 50 billion from offshore holdings of financial assets (Cobham 2005). Financial proceeds from tax fraud committed in developing countries are mostly laundered through banking and financial systems in developed countries, thereby depriving the former needed funds for development. The massive flow of illicit money from the developing world to the developed world further exacerbates global inequality and undermines human and economic development efforts, particularly in poor countries. Therefore, the fight against offshore tax evasion, money laundering and terrorism financing should be a priority of not only Western and wealthy countries, but also West African countries.

An Overview of Taxation Systems in West Africa

18. The study provides evidence that taxation principles in West African countries studied are based on legacies bequeathed to them by their colonial masters. As such, there are major differences in Anglophone and Francophone traditions of tax jurisprudence. Francophone countries, namely, Benin, Burkina Faso, Guinea Bissau,[8] Mali, Senegal and Togo, have a uniform law for the control and collection of taxes and duties referred to as the General Tax Code (CGI) within the framework of the West African Economic and Monetary Union (WAEMU). Nonetheless, there are a number of country-specific legislations relating to the collection and administration of tax, all of which are consistent with the CGI In different countries within WAEMU, services are provided by the General Tax Directorate within the Finance Ministry, except the collection of direct taxes, which is entrusted to the public treasury.

19. The Anglophone countries covered, namely, Gambia and Nigeria, have a common law tradition identical to that of Britain, their former colonial master. While the Gambia yet to review its largely outdated tax laws, Nigeria reviewed its 1958 tax legislation in 2004, with further amendments in 2007. Nigeria has an elaborate array of legislations on tax as can be seen below:

- Companies Income Tax Act, Cap. C21, LFN 2004 (imposes tax on the incomes of companies other than corporation soles and companies engaged in petroleum operations [upstream operations])

[7] The international dimension of tax fraud is not the same as the phenomenon of illicit capital flight

[8] Although Guinea Bissau is a former colony of Portugal and has a Lusophone tradition, it acceded the membership of WAEMU in 1997

- Petroleum Profits Tax Act, Cap. P13, LFN 2004 (imposes tax on the profits of companies engaged in petroleum operations0
- Personal Income Tax Act, Cap. P8, LFN 2004 (imposes tax on incomes of individuals and corporation soles)
- Value Added Tax Act, Cap.V1, LFN 2004 (imposes tax on the supply of goods and services [except those specifically exempted] made by incorporated companies and other business organizations)
- Capital Gains Act Cap. C1, LFN 2004 (imposes tax on capital gains arising from the disposal of chargeable assets)
- Stamp Duties Act, Cap. S8, LFN 2004 (Charges duties on specific instruments listed in the Act), and
- The FIRS Establishment Act, 2007

20. Benin's tax system is governed by the provisions of the 1964 Law No. 64-35, which codifies tax registration, duty stamp, land registration and mortgage income from shares, and the 1966 Law No. 2 on the direct and indirect taxes code.[9] Benin has two types of taxes, which were inherited from the colonial period and are common to other Francophone countries. This includes a 35-% tax rate on industrial and commercial profits. To be sure, the rate was cut to 25 % in 2009 and has been applied progressively since 2011. Under the current system, companies are taxed 30 %, 25 % for industrial companies and sole proprietorships, 45 % for oil companies, and 12.5 % for artisans. The rate on non-commercial profits levied on the income of professional is 25 %. The system also imposes a general income tax (IGR) on the net annual income of individuals, excluding their wages.

21. Like other countries of the WAEMU zone, Benin's has an 18-% VAT rate as well as rates of 10 % on financial activities, 5-20 % on insurance contracts, 5 % on gambling, etc. These rates, along with other taxes stipulated by law, are enforced by the tax department. It should, however, be noted that taxation in Benin based on the tax and customs administration is along the lines of those inherited from the French system

22. Mali's tax legislation, known as the General Tax Code, is based on the 1970 Law No. 06/CMLN. In December 2006, it amended by the tax code by passing law No. 06-067 or the General Tax Cod and Law No. 06-068 or the Tax Procedure Book (TPB).

23. The Malian tax system provides for direct taxes such as a 35-% tax rate on industrial and commercial profits, as well as 0-42-% rate on wages and salaries depending on the level of salary. The system also generates contributions from Small and Medium Enterprises (SMEs) by applying taxes to specific operators whose turnover, excluding VAT, is less than or equal to 30 million CFA. This tax ranges from 14,700 to 1.2 million CFA

24. Aside from VAT, indirect taxes include a 15-% rate on financial activities, special tax on certain products (ISCP) which is equivalent to excise duties and that is categorical or 3 % for mineral products, a 5-% rate on products and equipment for agriculture, 10 % on soft drinks and vehicles, 20 % on the cola and tobacco, and 50 % on salt and alcoholic beverages.

[9] http://www.economiebenin.org/index.php?option=com_docman&task=doc_view&gid=265&tmpl=component&format=raw&Itemid=70

25. The General Directorate of Taxes, along with the treasury and other administrative services, are main institutions responsible for the implementation of Mali's tax legislation. The Malian government has instituted a computer system interconnected with the financial authorities, mainly the treasury with a database developed by ORACLE, with its (ASYCUDA + +) software for customs and the General Directorate of Tax with its Integrated Management System of Taxes (SIGTAS) , inquires in real time on the clearances and liquidations made. According to the country's response, there has been a reduction in tax fraud

26. The 1962 Customs Code and the 1965 Act No. 6-65/AN were Burkina Faso's first two tax legislations. Both legislations have been amended five times between 1970 and 2010. The Burkinabe tax system provides for both direct and indirect taxes. Direct taxes take the form of taxes on industrial and commercial profits at a rate of 27.50 %, progressive personal income tax, ranging from 2 % to 30 %, and other categories of taxes and duties common to all UEMOA countries.

27. The informal sector is also taxed through the Informal Sector's Contribution (ISC) scheme, although the revenues generated are far less than what could be generated from the sector. Mali's tax laws are enforced by both the General Directorate of Tax and the General Directorate of Customs. The level of budget revenue collection during 2007, 2008 and 2009 shows the implementation rate of 81.85 %, 85 % and 82 % respectively Even so, in-country survey by the research team revealed a progressive increase in tax fraud in Mali, albeit considerable difficulty in quantifying the phenomenon.

28. In the Gambia, the Customs and Excise Department and the Income Tax Department to form the Gambian Revenue Authority (GRA) in 2006 as part of efforts to increase and streamline domestic tax collection. Hence, the GRA serves as the primary institutional framework for tax administration in the country.

29. Ghana embarked on a series of tax reforms in 2009, with its parliament passing the Ghana Revenue Authority Act (Act 791). The Act replaced the Internal Revenue Service (IRS), Customs, Excise and Preventive Service (CEPS) and the Value Added Tax Service (VATS) with the Ghana Revenue Authority (GRA), giving it the mandate of administering taxes and custom duties. Among the GRA's core responsibilities are modernizing domestic tax and customs operations through review of processes and procedures, integrating and modernizing the IRS and the VATS into domestic tax operations on functional lines, and integrating and modernizing the departments under the Support Services Division

30. Among the UEMOA sample countries, Guinea Bissau has the oldest tax system, dating back to 1944. In particular, taxation related to customs duties and the management of territorial borders dates back to 1940s, while those related to income dates back to 1983. An overhaul of the in 1995 led to introduction of a 25-% tax rate on industrial and commercial profits, an adjustable rate of 1-12 % on income and among others. Importantly, Guinea-Bissau's 15-% VAT rate is the lowest among UEMOA countries.

31. Responses to the questionnaire provided evidence of tax evasion in Guinea Bissau. Statistics provided by respondents revealed that more than 68 individuals and 92 corporations

were prosecuted between 2006 and 2009.[10] However, there was no information on the number of convictions and sentences achieved.

32. Nigeria is the only West African country with a federal administrative structure. Specifically, it operates under a decentralized three-tier system of governance comprising of the Federal (national) government, state governments and local governments. Accordingly, tax collection and administration is decentralized, with each tier of government deriving its tax powers from the Constitution. The Federal Inland Revenue Service (FIRS) and State Boards of Inland Revenue (SBIRs) are responsible for Regulating/enforcing the tax laws.

33. The tax code of Senegal is based on the 1976 tax law No. 76-93. The code has been amended several times between including 1987 2006Among the country's direct taxes is a 25-% business profits tax, and a 25-% rate on non-commercial profits including incomes of professionals. Following a political decision, the business tax rate was reduced. It is important to note, however, that Senegal's 20-% tax rate on property income is among the highest in the UEMOA zone

34. Responses to the questionnaire provide evidence that Senegal has experienced considerable tax fraud. This is confirmed by the number of tax adjustments and fines levied by custom officials such as the payment of 400 billion CFA by Nestle Company in fines. Despite the prevalence of tax fraud, however, responses did not provide data on convictions and sanctions.

35. Sierra Leone took a major step in 2002 to strengthen its tax administration by enacting legislation which laid the foundation for the establishment of the National Revenue Authority (NRA) The NRA is a semi-autonomous body responsible for carrying out tax policy implementation, particularly the administration and collection of tax revenue for the central government. The NRA, which became operational in 2003 and operates as a semi-autonomous agency, is a combination of customs, income tax and non-tax revenue administration. Reforms also included increase in the salaries of NRA staff and improvement in their general working conditions improved

36. The first tax legislation of Togo was enacted in 1965, with several amendments between 1983 and 201. Among Togo's direct taxes are a progressive rate between 27 and 30 % on corporate profits, a rate of up to 40 % on personal income, and a 2-7 % rate on wages. Indirect taxes include an 18-% VAT rate, fees and consumption taxes, levies on gambling products, entertain taxes on automated devised games, shows, auditions, and among others. [11:]

37. Articles 219 through 224 of Togo's General Tax Code provides for the collection of direct taxes and other taxes related to income, business, property – including buildings and undeveloped land, poorly built property, garbage collection, manufacturing and trade in beverages are collected as a wholly or partly for the benefit of local authorities.

[10] Guinea-Bissau is among the few countries that provides statistics on the prosecution of tax fraud cases.
[11] http://www.dgitogo.tg

38. Finally, for budget purposes, Togolese tax laws provide for the imposition of specific direct taxes such as minimum individual tax, payroll tax, special tax on car purchases by companies, and taxes on profits accrued by commercial transport businesses.

39. Financial authorities under the supervision of the Togolese Ministry of Finance, particularly the General Directorate of Taxes and Customs, are generally responsible for overseeing and enforcing the tax laws. The analysis from the questionnaire shows that tax fraud is a real concern in Togo as it has increased dramatically over the past five years. Responses revealed that there was an estimated 55 billion CFA in unpaid taxes in 2010. This amounts to about 50 % of revenues received by the Togolese government. An audit investigation [carried out by?] revealed three cases of tax fraud due to under-declaration. The perpetrators were fined 1 billion CFA, 4 billion CFA and 12 billion CFA respectively.

40. A tax system is made up of persons, public and private agencies and, institutions responsible for tax administration and enforcement, as well the various processes in tax legislation, tax administration and enforcement, allocation, distribution and expenditure of tax revenue, and among others. The history of taxation in West African countries, particularly tax and customs systems, is common to other African countries. Although taxation in pre-colonial Africa, post-colonial African tax systems are strongly influenced by the legacy of European colonialism

41. Taxation West Africa is generally based on the principle of legality, with legislative arms of government having the authority to impose or modify existing tax codes. The legal framework is complemented by a common practice of administrative regulation, especially as tax laws and regulations are elaborated by administrative guidelines, instructions and circulars to inform and educate taxpayers. Multilateral instruments such as conventions, protocols, and international financial standards serve an important function of helping to harmonize domestic tax systems in the WAEMU zone

42. Similarly, investment codes also contain a number of tax rules applicable to investments which are important fiscal measures put in place to encourage development. While this set of rules is not necessarily defined by a single legislative or regulatory framework, its major characteristic is the tendency to reduce the tax burden of foreign investment or to exempt them from taxation. The objective is to facilitate the inflow of foreign investors.

43. Despite these broad commonalities, specific national particularities are retained. Burkina Faso, for instance, has initiated in the policy of economic liberalization since the introduction of the Structural Adjustment Program (SAP) in 1991. Included in the SAP are a number of programs designed by the Burkinabe government to improve both the economic and financial sectors. In fact, the government has expressed its commitment to improving the management of public finance and increasing its tax and customs revenues. Senegal's has tax system provides for a separation of its tax and customs administrations. Furthermore, Gambia's government depends heavily on taxes revenues from international trade, with an estimated two-thirds of its domestic revenue derived from taxes imposed on imported goods from Europe and the principal export

crop, groundnut.[12] Despite the reforms introduced to increase domestic tax revenue it still falls short of counterbalancing the dependency on import taxes.

44. Generally, West African tax systems provide for individual, business, and other taxes. Individual taxes take the form of personal income taxes, property taxes, and Value Added Taxes (VAT); business taxes take the form of corporate taxes, payroll taxes, and royalties; other taxes include capital gains taxes, inheritance taxes, and registration fees and duties.

45. Nonetheless, there are also taxes that are country-specific. For instance, considering its heavy dependence on oil revenues, Nigeria has a Petroleum Profit Tax (PIT) on the profit of companies in the upstream sector of its vast industry It has other taxes such as the Education Tax, paid by companies registered in Nigeria, the Information Technology Development Levy, paid by companies and enterprises with annual turnover of N100 million and above. The analysis of the regional data collected gives a comparative view of the types of taxes in the various countries as well as the applicable rates shown in graphs 1-4 below.

Explanatory Frameworks for Tax Fraud in West Africa

46. Tanzi (2000) notes the following challenges developing countries face in attempting to establish efficient tax systems.

a. Most workers in developing countries are employed in agriculture or in small and informal enterprises, and are paid regular fixed wages mostly in cash and "off the books." As their earnings fluctuate, mainly because of price fluctuations, the base for taxing them is difficult to calculate. Nor do workers in these countries typically spend their earnings in large stores that keep accurate records of sales and inventories. As a result, the possibility of raising revenue through income and consumer taxes and achieving high tax levels is extremely low.

b. The payment of low salaries to tax officials and the lack of requisite resources to train officials and computerize tax services makes creates considerable is difficulty in efforts particularly when taxpayers have limited ability to keep accounts. Accordingly, governments in developing countries shy away from establishing rational, modern, and efficient tax systems.

c. The scale of informal sectors of economies in many developing countries and the financial limitations facing their governments means that statistical and tax offices face considerable difficulty in generating reliable statistics. This lack of statistics prevents policymakers from assessing the potential impact of major changes to the tax system. Thus governments are often compelled to enact marginal changes in their tax systems, although major structural changes may produce better results.. This perpetuates inefficient tax structures.

d. Income inequities are prevalent in developing countries, with a small segment of their populations receiving the majority of income generated. Uneven income distribution and the corresponding inequalities allows those at the top of the income ladder, who wield

[12] Perfect, David. 2008. History Compass: Politics and Society in The Gambia Since Independence.

considerable economic and political power, to prevent fiscal reforms that would increase their tax burdens, although it may increase revenues. This explains in part why many developing countries have not fully exploited personal income and property taxes and why their tax systems rarely achieve satisfactory progressivity.

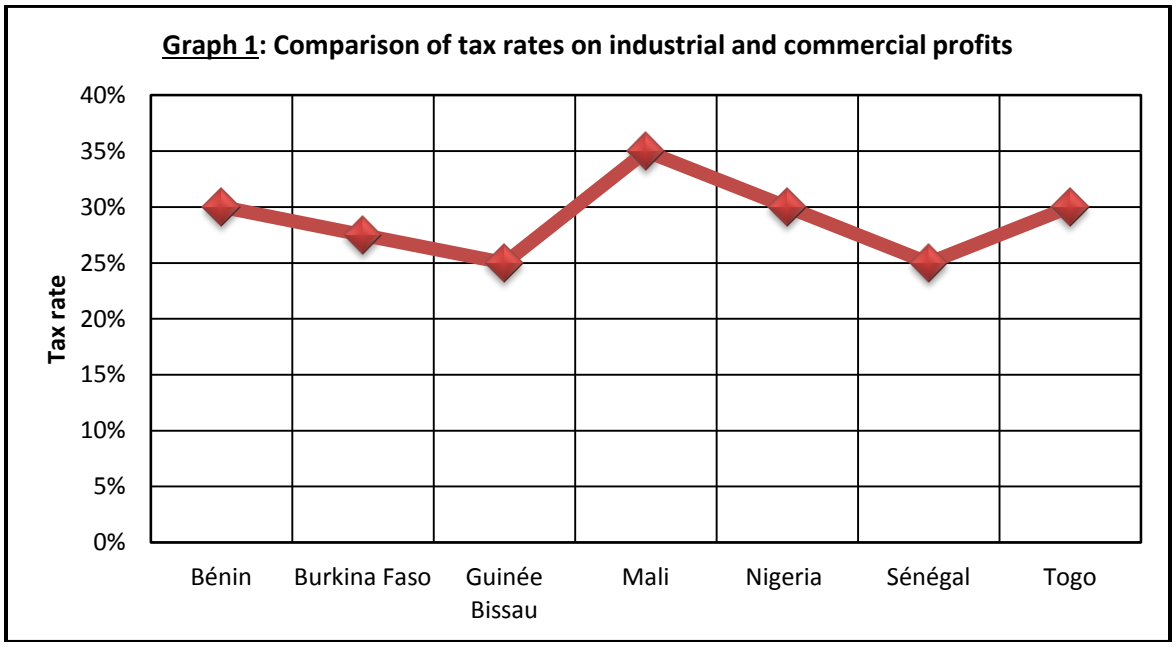
47. Corrupt officials and their criminal collaborators are compelled to launder the proceeds they accrue from tax fraud and related financial crimes avoid suspicion and detection. Tax fraud and related financial crimes are particularly linked to money laundering as criminals behind them seek to move their proceeds to jurisdictions where their concealment would be guaranteed (Hampton 1996). Such illicit capital flight severely undercuts efforts to attain the necessary threshold of public spending and development financing. The relationship between tax fraud, money laundering and development can therefore assume multiple dimensions, particularly in a region of vast diversity as West Africa

Analysis of Survey Data

A. Country Level Questionnaire:

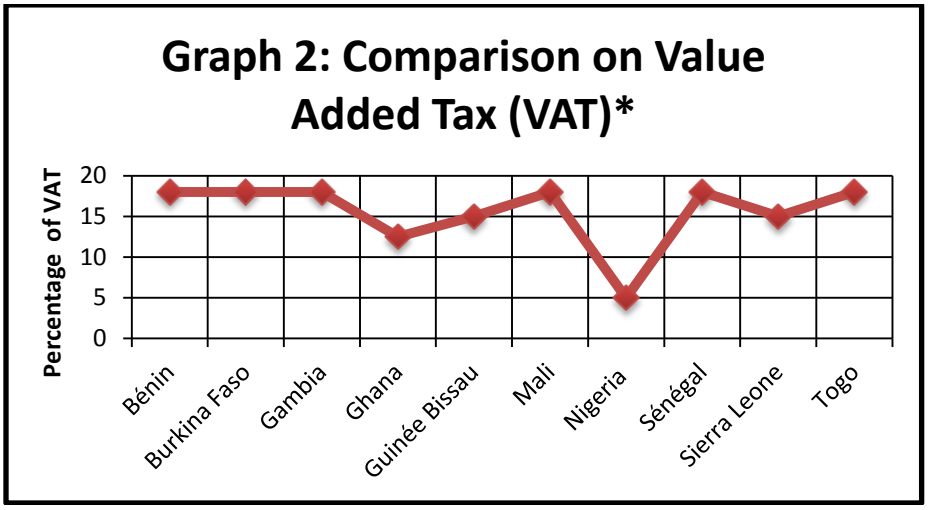
48. The analysis of the tax systems of countries shows differences concerning both the types of taxes collected and the rates. For instance, like Nigeria, Gambia has instituted an education fee payable by companies as part of efforts to mobilize domestic resources to support the efforts of the Gambian state in the education sector. This does not exist in French-speaking countries sampled. Nigeria, a major oil producer, has introduced a tax on the profits of oil companies at rates varying between 65.5% and 85%, which provide very high rents.

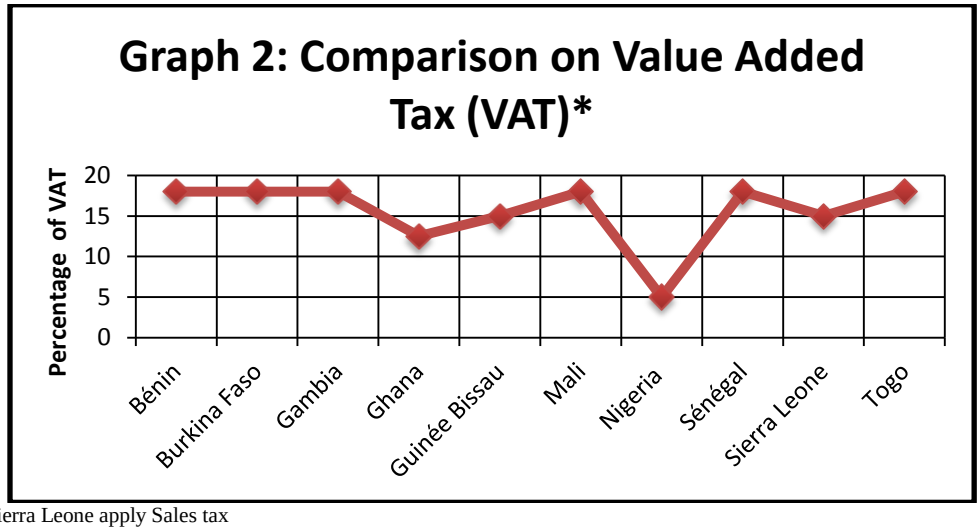
49. Information gathered points to the existence of a wide variety of taxes in Francophone West African countries in direct contrast with the Anglophone counterparts. In particular, nearly half of the respondents (48.7%) in Francophone countries believe that there is a multiplicity of taxes to be paid. The tax rate on industrial and commercial profits ranges between 25 - 35 % in sampled countries (see Figure 1). Nonetheless, a review of tax rates reveals that Mali's 35% direct tax rate is has the highest in the region, followed by Benin, Nigeria and Togo with rates of 30%. Senegal and Guinea-Bissau's 25 % rate is the lowest rate in the region. This tax is one of the most important direct taxes and is collected at the government level in all countries in the sample.



50. , The VAT is the most common form of indirect tax in all sampled countries. Graph 2 shows a convergence of harmonization of VAT rates across the UEMOA zone at 18%, albeit exceptional 5 % and 15 % rate in Nigeria and Guinea-Bissau respectively. Nigeria has the lowest VAT rate (5%) among the sampled countries.

51. Significantly, Nigeria's exceptionally low VAT rate and relatively large economy – accounting for about 60 % of the regional GDP – has the potential to induce VAT fraud in that criminals and unscrupulous individuals in countries with higher VAT rates may import premium goods into Nigeria later smuggled into their respective countries. Although Nigeria may not offer a profitable market to premium goods coming from higher VAT zones, its low VAT rate and its potential role in VAT fraud holds significant developmental implications for higher VAT zones in that it could deprive them of much needed funds for development. Moreover, VAT fraud has the potential of becoming a large illegal enterprise that generates vast amounts of illicit proceeds.

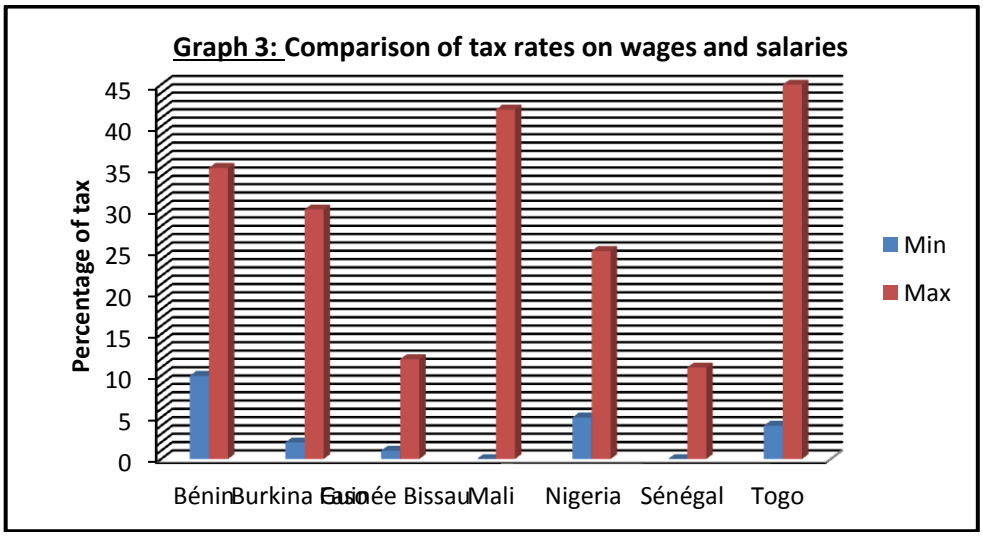




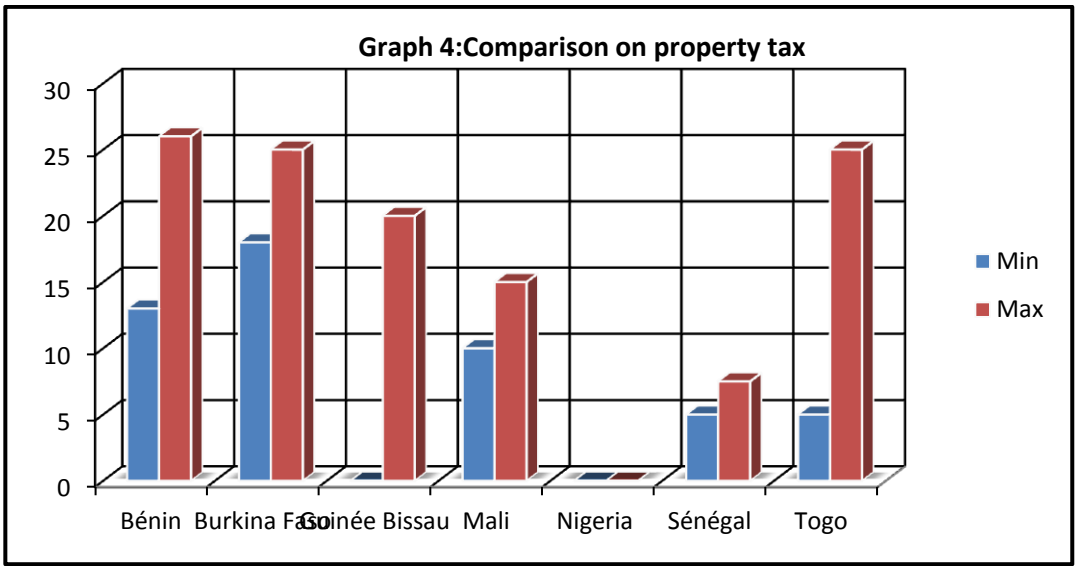
*Gambia and Sierra Leone apply Sales tax

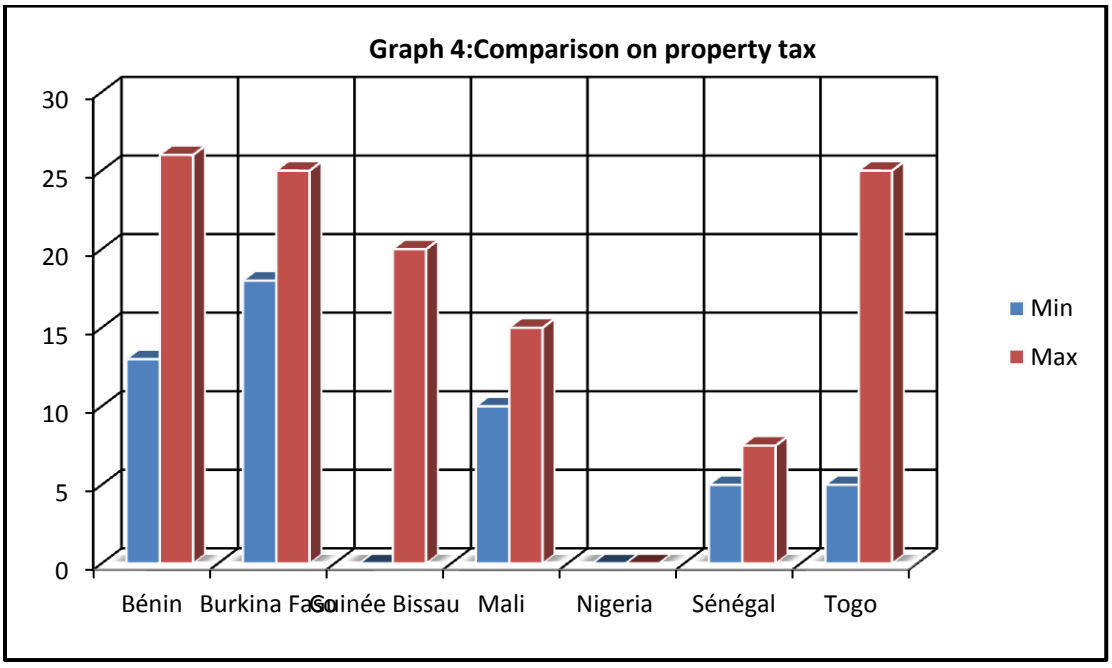
52. The tax applied to salaries and wages is called "Income Tax of Natural Persons-PIT" in the French-speaking countries involved in the study. For all countries in the sample, this type of tax is collected by the employer at source and is paid to the competent authorities of the government. In all the countries, it is applied as a progressive tax that has a minimum and a maximum as shown in Graph 3.

53. Togo and Mali have the highest upper bounds of the interval, with rates of 45 % and 42 % respectively. Guinea-Bissau, other the other hand, applies the lowest rate on personal income, with a maximum of less than 15 %.



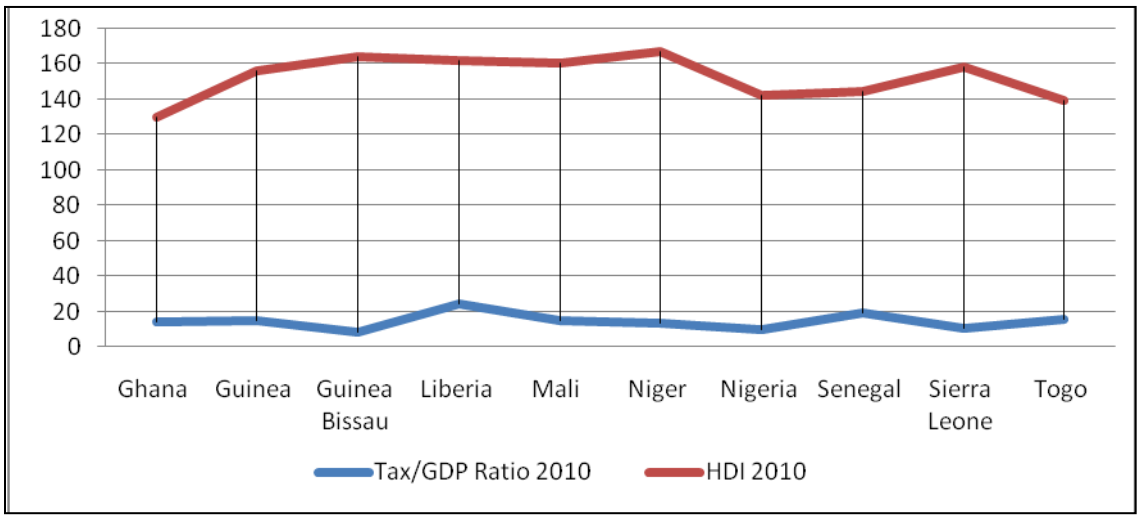
54. Like wages and salaries tax, the income tax on land is also practiced on a progressive basis. The intervals range from (Senegal's 2.5 % to Guinea-Bissau and Togo's 2- %. Benin's rate of 26 % is the region's highest, followed by Burkina Faso and Togo's 25 %. The minimum rate applied to is 5 % in Senegal and Togo (see Graph 4).





55. Graph 5 aims to determine the relationship between tax revenues as a ratio of GDP and the HDI of West African countries. Theoretically, there is no relationship between the two variables. However, a higher the tax to GDP ratio corresponds with the higher the HDI ranking, vice versa. This is confirmed in the case of all sampled countries, as showed on the graph.

Graph 5: Tax: GDP ratio against HDI (2010 data)



B. General Population Questionnaire

Country Respondents to General Population Questionnaire

56. The table below shows the number of respondents whose completed questionnaires were analyzed for each of the countries studied.

Table 2: Respondents by Country

Country	No.	% of Total
Benin	98	7.24%
Burkina Faso	100	7.39%
Gambia	34	2.51%
Guinea Bissau	371	27.42%
Ghana	96	7.10%
Mali	98	7.24%
Nigeria	102	7.54%
Senegal	73	5.40%
Sierra Leone	279	20.62%
Togo	102	7.54%
Total	**1353**	**100.00%**

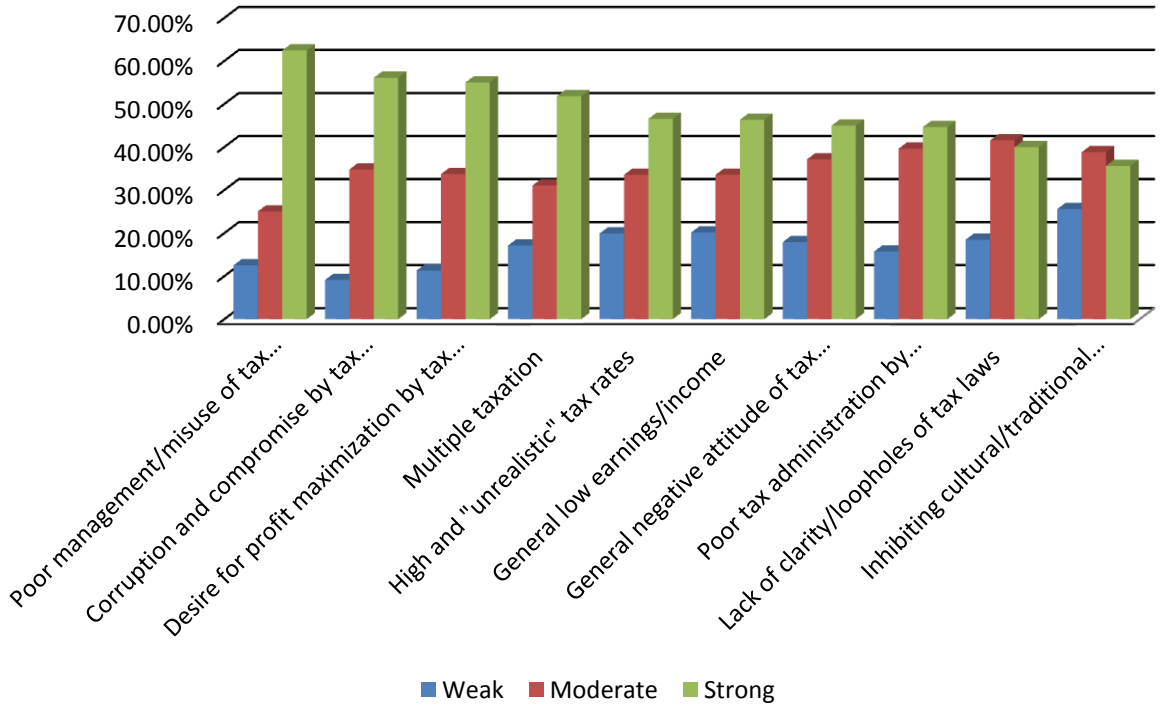
57. Information gathered shows nearly two-thirds of respondents across West Africa attribute low or non-payment of taxes by individuals, businesses, and organizations to poor management and misuse of tax revenues by West Africa governments. Furthermore, more than half of respondents complained of deep-seated public corruption – often involving tax officials – in their respective countries, thereby compromising efficient and effective tax administration and enforcement and reducing the amount of revenues accrued to state treasuries. The lack of clarity,

the existence of loopholes in tax laws, laws and inhibiting cultural and traditional practices were also cited by respondents as detrimental to the payment of taxes in the region

Table 3: Opinion of respondents at the regional level on the willingness of People/Businesses/Organizations to Pay Tax

SN	Item	Weak	Moderate	Strong
1.	Poor management/misuse of tax revenue by government	12.51%	25.04%	62.45%
2.	Corruption and compromise by tax officials	9.11%	34.79%	56.10%
3.	Desire for profit maximization by tax payers	11.30%	33.71%	54.99%
4.	Multiple taxation	17.13%	31.06%	51.81%
5.	High and "unrealistic" tax rates	19.91%	33.55%	46.54%
6.	General low earnings/income	20.14%	33.54%	46.33%
7.	General negative attitude of tax payers to taxation	17.89%	37.15%	44.96%
8.	Poor tax administration by government, including weak regulations and enforcement	15.73%	39.62%	44.65%
9.	Lack of clarity/loopholes of tax laws	18.48%	41.54%	39.98%
10.	Inhibiting cultural/traditional practices that discourage tax payment	25.58%	38.80%	35.63%

Graph 6: Opinion of respondents at the Regional Level on the Willingness of People/Businesses/Organizations to Pay Tax



Opinion of Respondents by Item by Country:

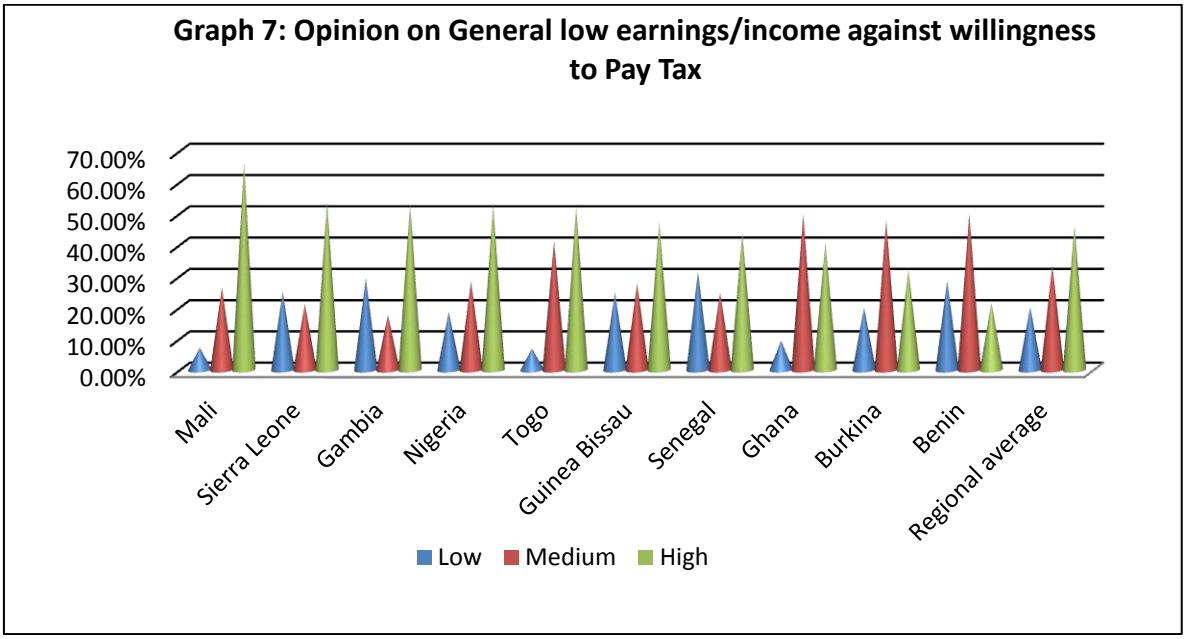
58. The tables and graphs below show the opinion of respondents on each of the ten (10) questionnaire items by country.

Item 1: Generally Low Earnings/Income

59. According to the information gathered, 66.3 % of respondents from Mali and more than 53.7 % from Sierra Leone attribute low or non-payment of taxes to generally low earnings of individuals, businesses, and organizations. Only 21.4 % of respondents from Benin and 32 % of those from Burkina Faso agreed.

Table 4: Opinion of respondents on General Low Earnings/Income

Country	Weak	Moderate	Strong
Mali	7.14%	26.53%	66.33%
Sierra Leone	25.09%	21.15%	53.76%
Gambia	29.41%	17.65%	52.94%
Nigeria	18.63%	28.43%	52.94%
Togo	6.86%	41.18%	51.96%
Guinea Bissau	24.80%	27.76%	47.44%
Senegal	31.51%	24.66%	43.84%
Ghana	9.38%	50.00%	40.63%
Burkina Faso	20.00%	48.00%	32.00%
Benin	28.57%	50.00%	21.43%
Regional average	**20.14%**	**33.54%**	**46.33%**



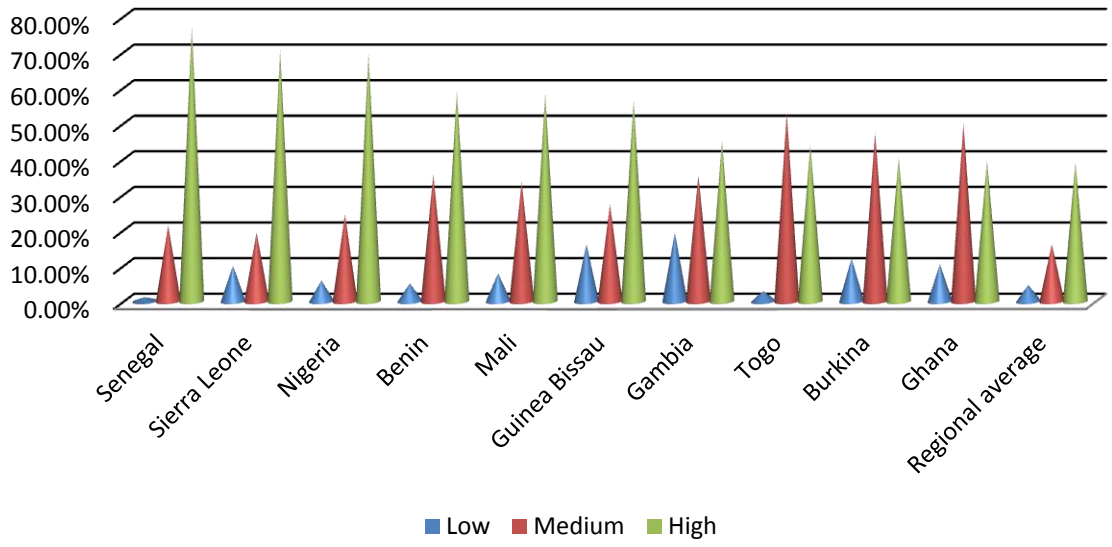
Item 2: Corruption and Compromise by Tax Officials

60. 77.3% of respondents from Senegal, 70.6 % from Sierra Leone, and 69.61 % from Nigeria attribute the low or non-payment of taxes by individuals, businesses, and organizations to **corruption and compromise by tax officials**. About 40% of Ghanaian and Burkinabe respondents have a less favorable opinion on this item. This may reflect infrequent cases of corruption and compromise by Ghanaian and Burkinabe tax officials based on the experience of the respondents.

Table 5: Opinion of respondents on Corruption and Compromise by Tax Officials

Country	Weak	Moderate	Strong
Senegal	1.19%	21.43%	77.38%
Sierra Leone	10.04%	19.35%	70.61%
Nigeria	5.88%	24.51%	69.61%
Benin	5.10%	35.71%	59.18%
Mali	7.92%	33.66%	58.42%
Guinea Bissau	16.12%	27.32%	56.56%
Gambia	19.35%	35.48%	45.16%
Togo	2.94%	52.94%	44.12%
Burkina Faso	12.12%	47.47%	40.40%
Ghana	10.42%	50.00%	39.58%
Regional average	**9.11%**	**34.79%**	**56.10%**

Graph 8: Opinion on Corruption and Compromise by Tax Officials as Against willingness to Pay Tax



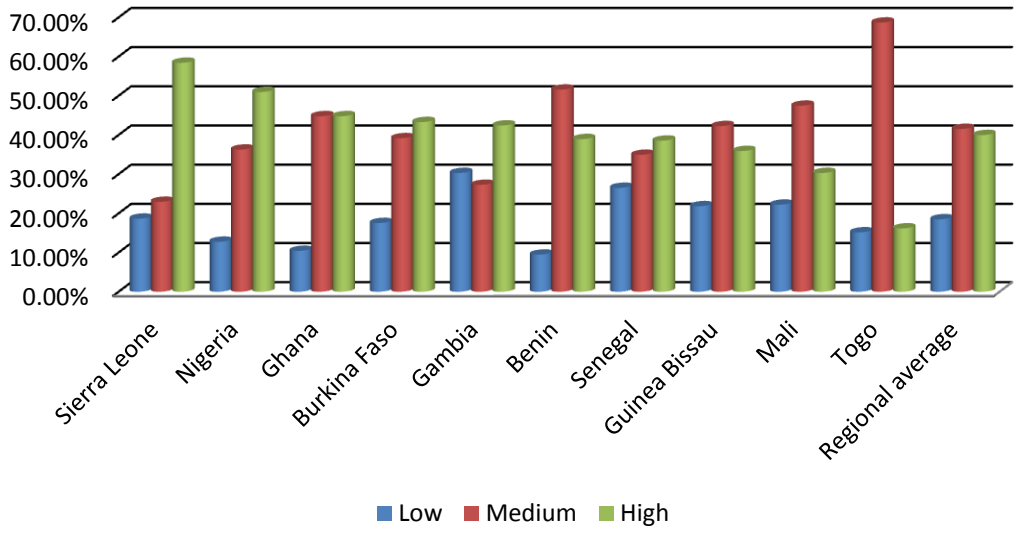
Item 3: Lack of Clarity/Loopholes of Tax Laws

61. 58.42% of respondents from Sierra Leone, and 50.9 % Nigeria believe **lack of clarity/loopholes of tax laws** negatively affects the payment of taxes by individuals, businesses, and organizations. Only 16.1 % from respondents from Togo and agreed, although 68.6 % had a moderate opinion.

Table 6: Opinion of Respondents on Lack of Clarity/Loopholes of Tax Laws

Country	Weak	Moderate	Strong
Sierra Leone	18.64%	22.94%	58.42%
Nigeria	12.75%	36.27%	50.98%
Ghana	10.42%	44.79%	44.79%
Burkina	17.53%	39.18%	43.30%
Gambia	30.30%	27.27%	42.42%
Benin	9.47%	51.58%	38.95%
Senegal	26.51%	34.94%	38.55%
Guinea Bissau	21.82%	42.27%	35.91%
Mali	22.22%	47.47%	30.30%
Togo	15.15%	68.69%	16.16%
Regional average	**18.48%**	**41.54%**	**39.98%**

Graph 9: Opinion on Lack of Clarity/Loopholes of Tax Laws as Against willingness to Pay Tax



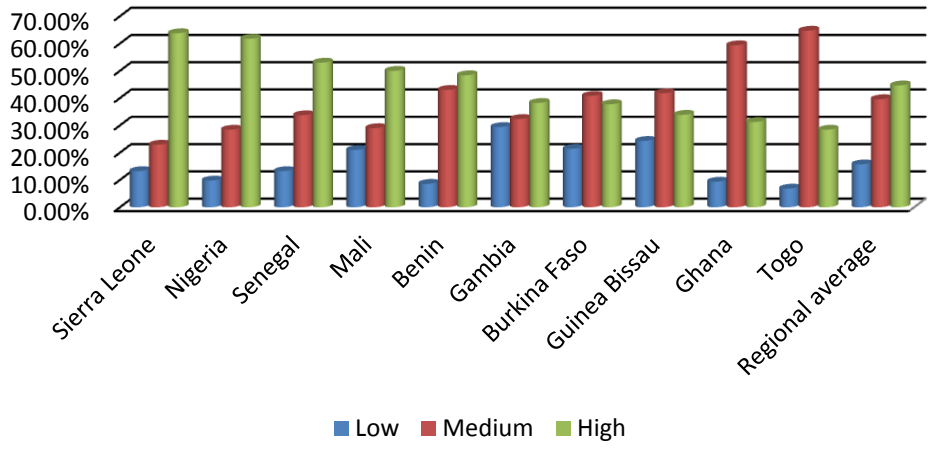
Item 4: Poor Tax Administration by Government, including Weak Regulations and Enforcement

62. 63.80% of respondents from Sierra Leone and 61.7 % from Nigeria believe poor **tax administration by government, including weak regulations and enforcement** negatively affects the payment of taxes by individuals, businesses, and organizations, compared with lesser percentages from the other eight countries. For instance, 28.4 % of Togolese respondents and 31.2 % of Ghanaian respondents agreed with their Sierra Leonean and Nigerian counterparts.

Table 7: Opinion of Respondents on Poor Tax Administration by Government, including Weak Regulations and Enforcement

Country	Weak	Moderate	Strong
Sierra Leone	13.26%	22.94%	63.80%
Nigeria	9.80%	28.43%	61.76%
Senegal	13.25%	33.73%	53.01%
Mali	21.00%	29.00%	50.00%
Benin	8.60%	43.01%	48.39%
Gambia	29.41%	32.35%	38.24%
Burkina	21.43%	40.82%	37.76%
Guinea Bissau	24.32%	41.80%	33.88%
Ghana	9.38%	59.38%	31.25%
Togo	6.86%	64.71%	28.43%
Regional average	**15.73%**	**39.62%**	**44.65%**

Graph 10: Opinion on Poor Tax Administration by Government, including Weak Regulations and Enforcement as Against willingness to Pay Tax



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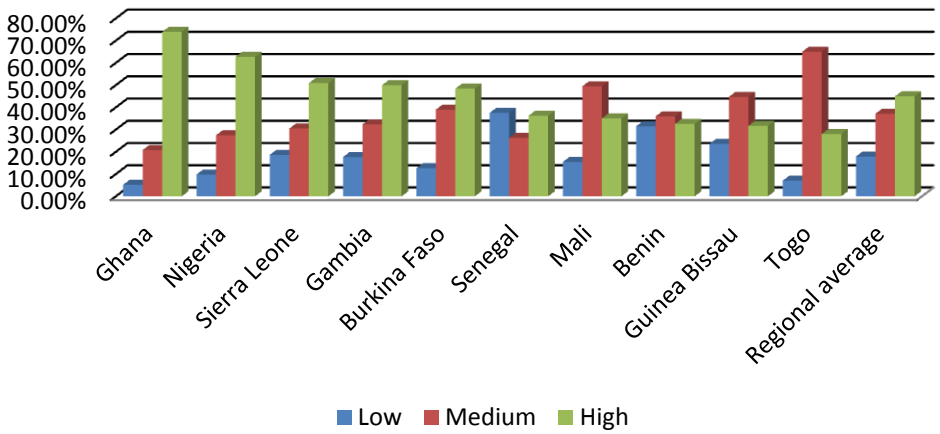
Item 5: General Negative Attitude of Tax Payers to Taxation

63. 73.9 % respondents from Ghana and 62.7 % from Nigeria believe the **generally negative attitude of tax payers toward taxation** negatively affects their payment of taxes to the treasuries of their respective countries, compared to lesser percentages the other eight countries. For instance, 28 % of Togolese respondents and 31.7 % of Guinea-Bissau respondents agreed with their Ghanaian and Nigerian counterparts.

Table 8: Opinion of Respondents on General Negative Attitude of Tax Payers to Taxation

Country	Weak	Moderate	Strong
Ghana	5.21%	20.83%	73.96%
Nigeria	9.80%	27.45%	62.75%
Sierra Leone	18.64%	30.47%	50.90%
Gambia	17.65%	32.35%	50.00%
Burkina	12.63%	38.95%	48.42%
Senegal	37.50%	26.25%	36.25%
Mali	15.46%	49.48%	35.05%
Benin	31.46%	35.96%	32.58%
Guinea Bissau	23.58%	44.72%	31.71%
Togo	7.00%	65.00%	28.00%
Regional average	**17.89%**	**37.15%**	**44.96%**

Graph 11: Opinion on General Negative Attitude of Tax Payers to Taxation as against willingness to Pay Tax



Item 6: Desire for Profit Maximization by Tax Payers

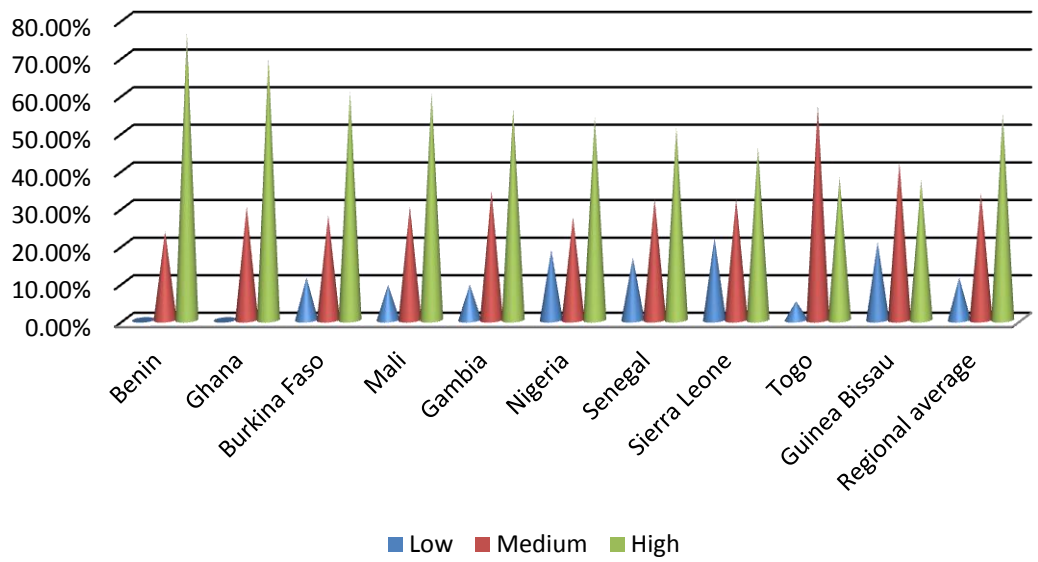
64. 76.3 % of respondents from Beninios and 69.7 % Ghana believe **desire for profit maximization by tax payers negatively** affects their willingness to pay taxes, compared with

lesser %ages from the other eight countries. For instance, only 37.3 % and 38 % of respondents from Guinea Bissau and Togo respectively agreed with their Beninios and Ghanaian counterparts.

Table 9: Opinion of Respondents on Desire for Profit Maximization by Tax Payers

Country	Weak	Moderate	Strong
Benin	0.00%	23.66%	76.34%
Ghana	0.00%	30.21%	69.79%
Burkina	11.34%	27.84%	60.82%
Mali	9.38%	30.21%	60.42%
Gambia	9.38%	34.38%	56.25%
Nigeria	18.63%	27.45%	53.92%
Senegal	16.67%	32.14%	51.19%
Sierra Leone	21.86%	32.26%	45.88%
Togo	5.00%	57.00%	38.00%
Guinea Bissau	20.71%	41.96%	37.33%
Regional average	**11.30%**	**33.71%**	**54.99%**

Graph 12: Opinion on Desire for Profit Maximization by Tax Payers as Against willingness to Pay Tax

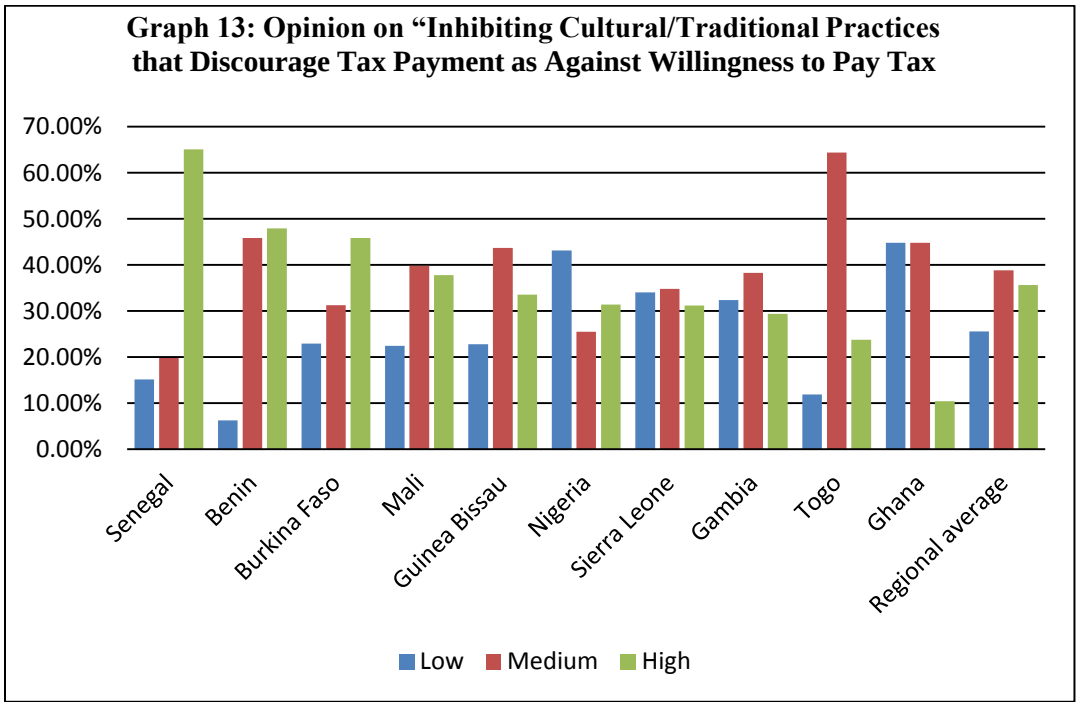


Item 7: Inhibiting Cultural/Traditional Practices that Discourage Tax Payment

65. 65.1 % of respondents from Senegal believe the willingness of individuals, businesses, and organizations to pay taxes is **inhibited by cultural and traditional practices that discourage tax payment** compared with much lesser percentage of respondents from the other nine countries. For instance, only 10.4 % of Ghanaian respondents agreed with their Senegalese counterparts.

Table 10: Opinion of Respondents on Inhibiting Cultural/Traditional Practices that Discourage Tax Payment

Country	Weak	Moderate	Strong
Senegal	15.12%	19.77%	65.12%
Benin	6.25%	45.83%	47.92%
Burkina	22.92%	31.25%	45.83%
Mali	22.45%	39.80%	37.76%
Guinea Bissau	22.80%	43.68%	33.52%
Nigeria	43.14%	25.49%	31.37%
Sierra Leone	34.05%	34.77%	31.18%
Gambia	32.35%	38.24%	29.41%
Togo	11.88%	64.36%	23.76%
Ghana	44.79%	44.79%	10.42%
Regional average	**25.58%**	**38.80%**	**35.63%**

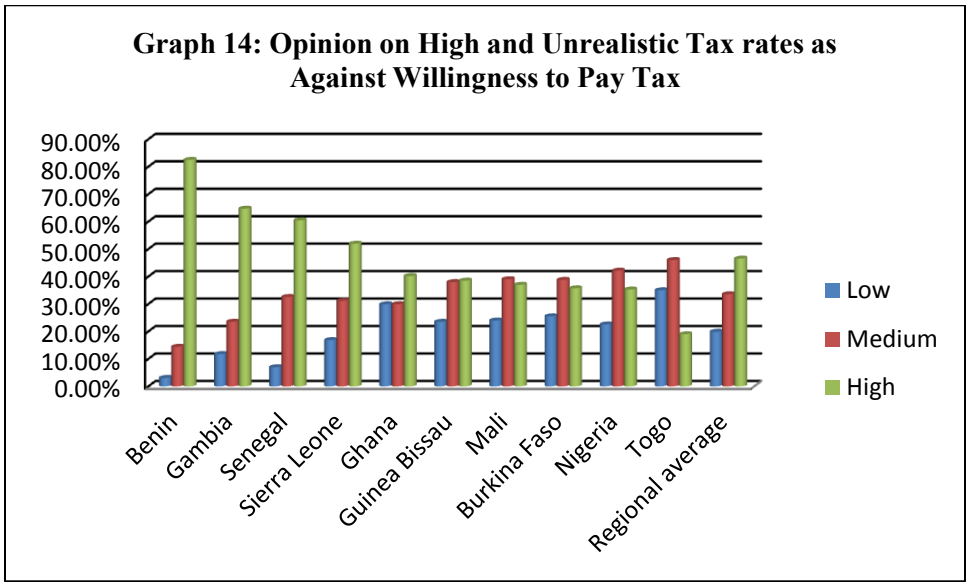


Item 8: High and Unrealistic Tax Rates

66. 82.4 % of respondents from Benin believe the willingness of individuals, businesses, and organizations to pay tax is negatively affected by high and "unrealistic" tax rates, compared with lesser percentages of respondents from the other nine countries. For instance, only 6.9 % and 19 % of respondents Senegal and Togo respectively agreed with their Beninios counterparts.

Table 11: Opinion of Respondents on High and Unrealistic Tax Rates

Country	Weak	Moderate	Strong
Benin	3.09%	14.43%	82.47%
Gambia	11.76%	23.53%	64.71%
Senegal	6.98%	32.56%	60.47%
Sierra Leone	16.85%	31.18%	51.97%
Ghana	29.90%	29.90%	40.21%
Guinea Bissau	23.50%	37.98%	38.52%
Mali	24.00%	39.00%	37.00%
Burkina	25.51%	38.78%	35.71%
Nigeria	22.55%	42.16%	35.29%
Togo	35.00%	46.00%	19.00%
Regional average	**19.91%**	**33.55%**	**46.54%**

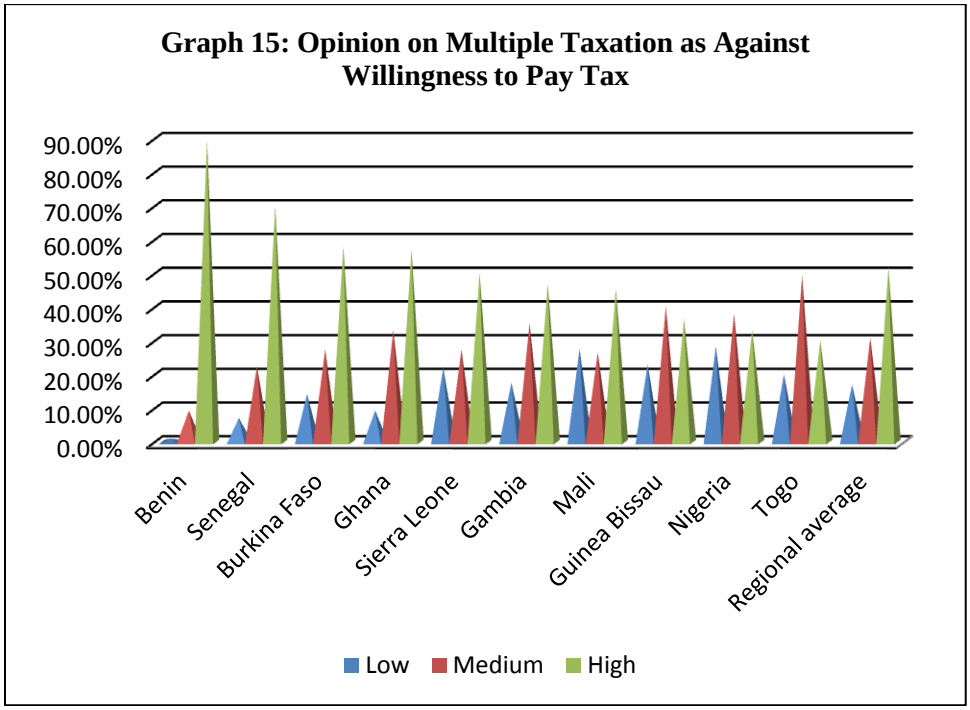


Item 9: Multiple Taxation

67. Nearly 90 % and 70 % respectively of respondents Benin and Senegal respectively believe the willingness of individuals, businesses, and organizations to pay taxes is negatively affected by multiple taxations, compared with lesser percentages of respondents from the other eight countries. Nonetheless, 58.1 % of respondents from Burkina Faso and 57.2% Ghana agreed with their Beninios and Senegalese counterparts, while between 30-36 % of respondents from Togo, Nigeria, and Guinea-Bissau do.

Table 12: Opinion of Respondents on Multiple Taxation

Country	Weak	Moderate	Strong
Benin	1.04%	9.38%	89.58%
Senegal	7.14%	22.62%	70.24%
Burkina	14.29%	27.55%	58.16%
Ghana	9.38%	33.33%	57.29%
Sierra Leone	22.22%	27.60%	50.18%
Gambia	17.65%	35.29%	47.06%
Mali	27.72%	26.73%	45.54%
Guinea Bissau	23.20%	40.33%	36.46%
Nigeria	28.43%	38.24%	33.33%
Togo	20.20%	49.49%	30.30%
Regional average	**17.13%**	**31.06%**	**51.81%**



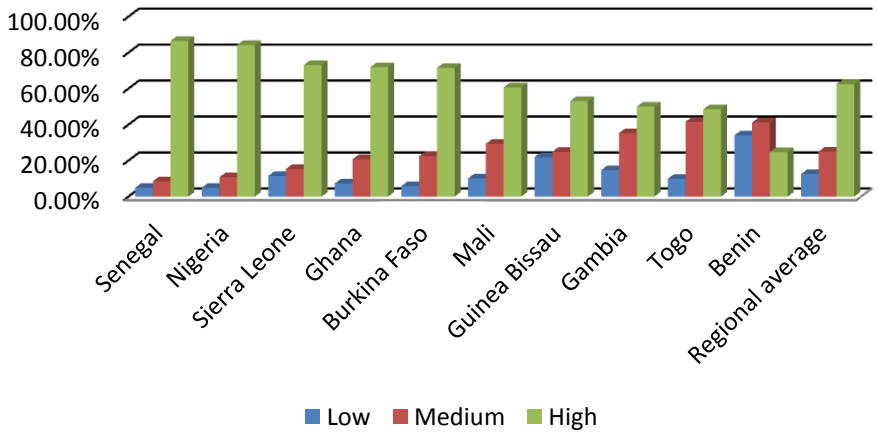
Item 10: Poor Management/Misuse of Tax Revenue by Government

68. 86.5% of respondents from Senegal, 84.3% from Nigeria, 73.12% from Sierra Leone, 71.8 % from Ghana, 71.5 % Burkina Faso, 60.6% from Mali, 53.1% from Guinea-Bissau and 50% the Gambia believe that the willingness of individuals, businesses, and organizations to pay taxes is negatively affected by **poor management and misuse of tax revenue by government**. On the contrary, only 24.7 % of respondents from Benin agreed.

Table 13: Opinion of Respondents on Item 10: Poor Management/Misuse of Tax Revenue by Government

Country	Weak	Moderate	Strong
Senegal	4.88%	8.54%	86.59%
Nigeria	4.90%	10.78%	84.31%
Sierra Leone	11.47%	15.41%	73.12%
Ghana	7.29%	20.83%	71.88%
Burkina	5.88%	22.55%	71.57%
Mali	10.10%	29.29%	60.61%
Guinea Bissau	21.95%	24.93%	53.12%
Gambia	14.71%	35.29%	50.00%
Togo	9.90%	41.58%	48.51%
Benin	34.02%	41.24%	24.74%
Regional average	**12.51%**	**25.04%**	**62.45%**

Graph 16: Opinion on on Poor Management/Misuse of Tax Revenue by Government against willingness to Pay Tax



Matrix on Strong and Weak Opinion for Each Questionnaire Item

69. Accordingly, the matrix below shows common, albeit some different, perceptions with regard to the causes of low payment of taxes within the UEMOA zone. There is a general lack of information in all countries on tax related fraud. Analysis of the questionnaire administered reveals a majority of respondents attribute low tax payments by individuals, businesses, and organizations to the mismanagement and misuse of tax revenues by state officials.

Table 14: Matrix Showing the Country with the Strongest and Weakest Opinion on Each Questionnaire Item

SN	Item	Benin	Burkina Faso	Gambia	Ghana	Guinea Bissau	Mali	Nigeria	Senegal	Sierra Leone	Togo
1.	Poor management/misuse of tax revenue by government	24.74%							86.59%		
2.	Corruption and compromise by tax officials				39.58%				77.38%		
3.	Desire for profit maximization by tax payers	76.34%				37.33%					
4.	Multiple taxation	89.58%									30.30%
5.	High and "unrealistic" tax rates	82.47%									19.00%
6.	General low earnings/income						66.33%				
7.	General negative attitude of tax payers to taxation				73.96%						28.00%
8.	Poor tax administration by government, including weak regulations and enforcement									63.80%	28.43%
9.	Lack of clarity/loopholes of tax laws									58.42%	16.16%
10.	Inhibiting cultural/traditional practices that discourage tax payment				10.42%				65.12%		

Vulnerabilities of West African Countries to Tax Fraud and Related Money laundering

70. Findings of the study reveal several factors as explanatory frameworks for tax fraud in UEMOA zone. The most prominent among these factors across all the countries is poor governance, particularly the prevalence of corruption by officials in charge of the treasury. The attribution of low payment of taxes in the UEMOA zone to poor management and misuse of tax revenues by the majority of respondents reflects the extent of tax-related state corruption in the countries studied. Thus, tax-related state corruption has a negative impact on the taxpayers' morale and willingness to comply with tax regulations.

71. The repossession of properties by banks, and non-recovery of tax arrears on properties particularly in cases of death or relocation of an owner and a resultant failure to identify the next owner, also results in revenue loses.

72. Revenue loses can also be attributed to high unemployment and a general lack of understanding of tax fraud issues. For instance, high unemployment in Mali has provided an enabling environment for criminals to easily target and use poor and unemployed job-seekers in

their tax fraud operations. In particular, tax fraud takes the form of big businessmen and their criminal collaborators creating bogus companies and obtaining licenses and tax identification numbers in the name of inexperienced and jobless graduates, who are not aware of the fiscal and legal consequences.

73. The proper configuration of Financial Intelligence Units in West African countries is pivotal to tackling crimes such as money laundering, not least because of the emergence of tax havens on the African continent. Such havens, if not properly regulated, could potentially reduce transparency in financial transactions, deepen corruption, and further destabilize of already fragile financial systems in West Africa.

74. Furthermore, the nature and structure of West African economies poses an enduring vulnerability to tax fraud in the region, not least because of the majority of economic and financial transactions are cash-based and conducted informally. With vast informal sectors and large parts of their populations living on proceeds from subsistence agriculture, West African governments lack the capacity to fully exploit their respective tax bases, particularly because production is hardly recorded. As such, taxation can only be fully implemented in a rather small formal sector, which employs a paltry 10 % of the region's labor force. For instance, Gambia's agricultural sector currently employs 75 % of its population, and accounted for an estimated 30 % of its GDP in 2004, thereby severely constraining the ability of the Gambian state to increase its domestic tax mobilization.[13] Considering that informal sectors contribute smaller %ages to GDPs across West Africa, they are largely unmonitored and unregulated, thereby making it vulnerable to tax fraud and money laundering activities More importantly, the pre-dominance of cash transactions, widespread black market foreign currency exchange markets, and the lack of political will to promote financial inclusion compounds the problem of unregulated financial transactions and further deepens West Africa's vulnerability to tax fraud and related crimes.

75. The existence of several loopholes in tax regulations in West Africa also enables tax evasion. . Partly underpinning these loopholes is the lack of capacity on the part of tax authorities truly to determine taxable corporate profits and the amount of taxes to be paid. The study provides evidence of difficulty encountered by tax departments in most of the countries in gathering accurate data on tax payers for proper assessment, collection and enforcement of taxes. Beyond the challenge of weak – and often non-existent – internal capacity are issues such as lack of proper identification, poor street naming and numbering within municipality, which are beyond the control of tax departments and authorities. Gambian tax collectors, for example, face the challenge of locating both residence and business tax payers on a daily basis.

76. Furthermore, officials interviewed for the purpose of this study complained that tax legislation and enforcement frameworks across West Africa do not comprehensively address the issue of tax fraud, albeit on-going review efforts. With countries struggling to even enforce existing laws, there is considerable concern that new laws would be confined to paper. This is reflects a chronic condition of poor governance and state fragility in the West African sub-region.

[13] Republic of The Gambia. 2007-2011. Round Table Conference The Gambia Priority Employment Programme GamJobs [online]. Available at: < http://www.gm.undp.org/rtable/gamjobs_summary.pdf> [Accessed 16 February 2011] page 3

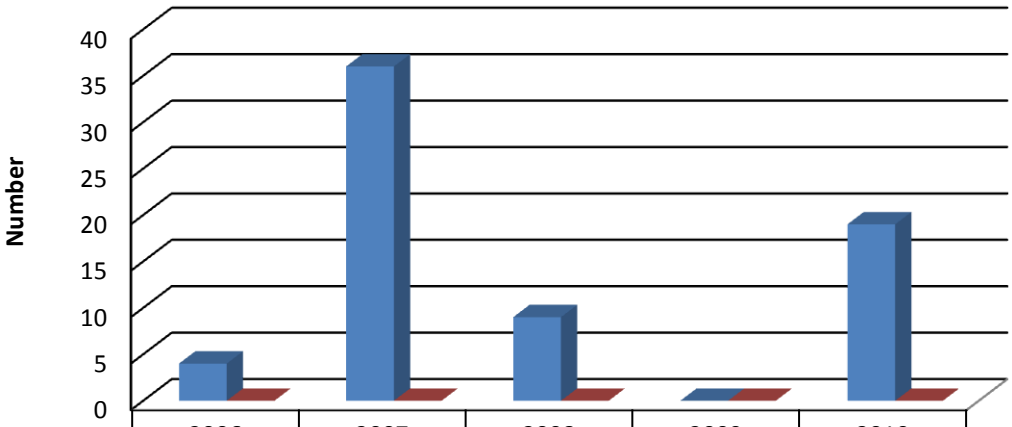
Nature, Patterns and Location of Tax Frauds in West Africa and Categories of Perpetrators

77. Tax fraud and evasion is prevalent in developing countries in West Africa and greater Sub-Saharan Africa, particularly in countries with profoundly weak tax administrative capacities. . The extent the phenomenon developing countries in general and African – or West African – countries in particular is such that it has a corrosive effect on tax collection and the accumulation of public funds and undermines equitable redistribution of resources.

78. Tax fraud takes the forms of material concealment and concealment of accounts. The former is a process by which the taxpayer deliberately hides the physical elements that normally serve as the basis for determining the amount of tax due. The latter involves the manipulation of accounting statements, with taxpayers failing, either voluntarily or involuntarily, to declare income earned in the tax period. This reduces the quantum of taxes to be paid.

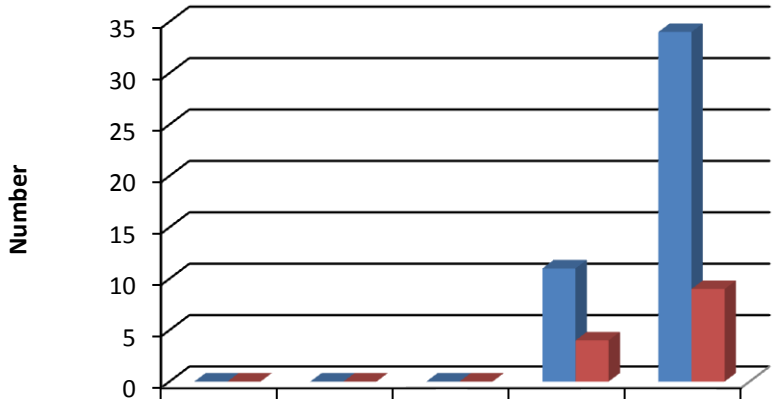
79. Responses from the questionnaire revealed cases of tax fraud in all the countries studied. As shown by the Figure 5A below, there were 68 cases of tax fraud in Guinea-Bissau between 2006 and 2010. However, there were no sentences within the period. Figure 5B shows there were 13 convictions out of 45 cases in Nigeria between2009 and 2010.

Figure 5A: Guinée Bissau-Cases of tax fraud by individuals



	2006	2007	2008	2009	2010
Prosecution	4	36	9	0	19
Conviction	0	0	0	0	0

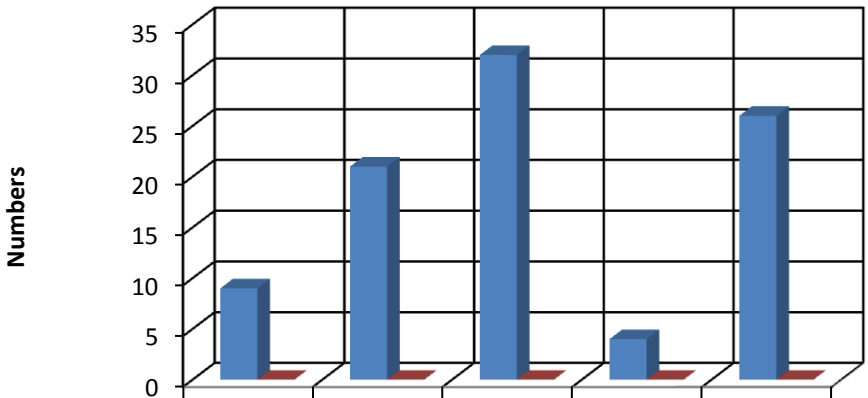
Graph 5B: Nigeria - Cases of tax fraud by individuals



	2006	2007	2008	2009	2010
Prosecution	0	0	0	11	34
Conviction	0	0	0	4	9

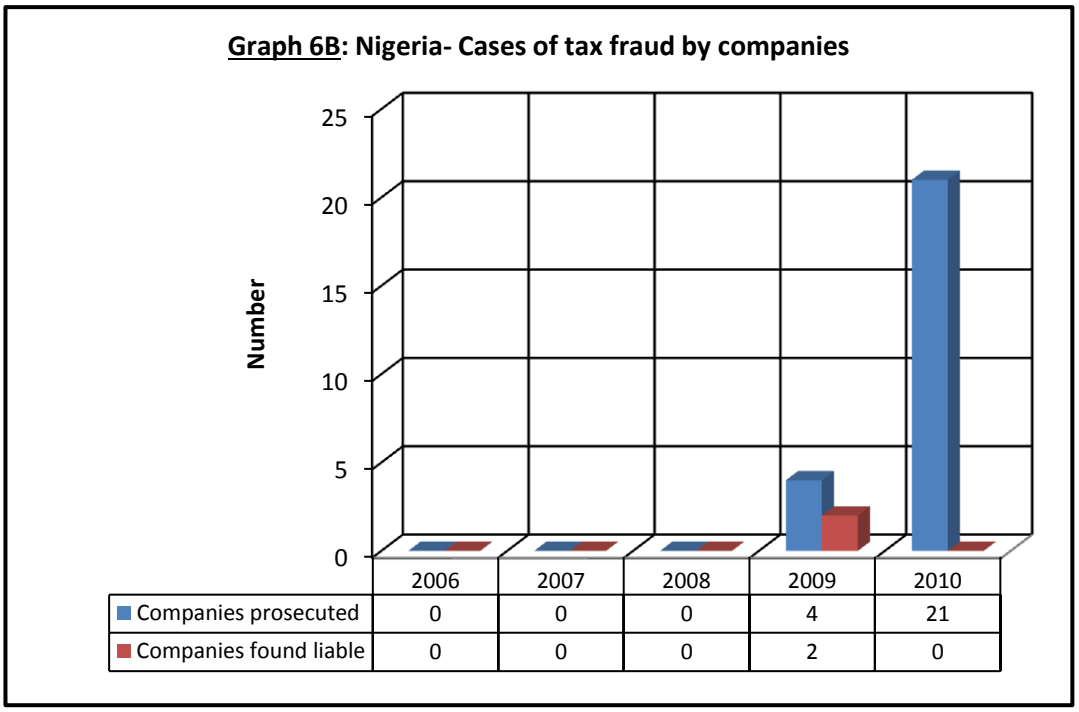
80. According to Figure 6A, there were ninety-two (92) prosecutions in Guinea-Bissau, albeit without a single, by conviction (see Figure 6A).

Graph 6A: Guinée-Bissau- Cases of tax fraud by companies



	2006	2007	2008	2009	2010
Companies prosecuted	9	21	32	4	26
Companies found liable	0	0	0	0	0

81. Figure 6B shows although Nigeria recorded twenty-five (25) cases of tax fraud by companies between 2009 and 2010, only two (2) of such companies were found liable and fined accordingly.



82. The table below shows cases of under-declaration of goods by companies at Sierra Leone's main port in Freetown. The companies accepted liability after which they paid fines to the government of Sierra Leone. Additionally, the government sent two cases to court, one relating to false declaration of export – approximately 20 containers of timber instead of the scrap metals – and the other related to importation of cooking Maggie cubes and declaration of them as cooking salt.

Table 15: Tax Fraud Related Cases, 2008- May 2011

S/N	Name of Enterprise	Amount Retrieved in Millions of Leones
1	Fawaz and Sons	24.5
2	Ahmed Mackie	4.18
3	Salman Motors	2.16
4	AMA Tajco	757.39
5	Super Sound Co	446
6	Astra Marine Agency	914.62
7	Food Land Co	45.4
8	Freetown Direct	15.8
9	Zain SL	4.6
10	RT Authority	1,100.00
11	Elite Petroleum Co	329.9
12	Samco Ltd	790.3
13	Ibrahim Bazzy	647.5
	Total	**5,082.35**

Source: Anti-Corruption Commission (ACC) Report; various issues

83. The study reveals commonalities in tax fraud across countries in West Africa, ranging from non-compliance with tax laws to failure and refusal to prosecute and punish tax offenders particularly in the area of investment incentives. Also common in the region is the abuse of political office and failure or refusal on the part of state officials to effectively and efficiently carry out their fiscal responsibilities. There are particularly prevalent in Nigeria, The Gambia and Guinea-Bissau. Indeed, not only have Guinea-Bissau politicians been found to have used their offices to loot tax resources, but also officials of the Guinea-Bissau state colluded with dishonest commercial agents in maximizing their profits by way of evading taxes.

84. Findings of the study reveal that dishonest corporate officials, particularly those in corporations with large tax liabilities, mainly commit tax fraud by using two sets of books. While large and medium scale industrial and commercial entities have been to have committed tax fraud, commercial, specialized and even community banks are particularly guilty of it. The huge sums denied governments through this practice is passed off as legitimate profits and successfully laundered.

85. Related to the above is the use of two sets of books is deliberate falsification of figures and records by corporate officials of their companies' books. This differs from the use of two sets of books in that while former takes the form of creating false records and books, the latter involves falsification of certain aspects of the books. Deliberate manipulation of taxable profits is a classic form tax fraud, which allows corporations – and individuals in many cases – to accrue and subsequently launder immense proceeds. Nonetheless, the results of both methods are the same because they depress the true amount of taxes to be paid, although proceeds accrued from using two sets books are normally higher.

86. Many corporate entities and individuals also make false deductions by claiming to have made expenses such as donations to charitable causes, sponsorship of sporting activities, and among others, which are not taxable in certain jurisdictions. Provisions allowing such expenses allow dishonest individuals, businesses, and organizations to evade taxes. Related to the practice is over reporting of amount of deductions.

87. Corporate often entities conceal or transfer their assets, particularly profits, out of the jurisdictions in which they operate so as to avoid paying taxes on them. This leaves significantly less taxable assets, thereby enabling corporations to keep and launder enormous amounts of untaxed assets.

88. The recording of personal expenses as business expenses by dishonest corporate officials is another way of significantly reducing tax liabilities and evading taxes. Reduction in tax liabilities enables corporations to keep – and eventually launder – more of their profits.

89. Significantly, tax officials often share tax revenues paid to them between themselves and dishonest taxpayers and encourage tax evasion by colluding with the latter. In one particularly instance, a tax official was found to have denied government due taxes by encouraging potential tax payers to withhold a third of the taxes due to be paid, pay a third to government and give him the one third that is left as his own share of the "business". The considerable popularity with tax payers until his arrest in a sting operation.

90. The use of consultants and professionals such as accountants and lawyers by banks, commercial enterprises, and real estate owners to commit tax fraud is a widespread phenomenon. These professionals are tasked with the responsibility of, not necessarily to ensuring compliance with tax laws, but ensuring the minimum possible payment quantum of taxes. In doing, they often collude with corrupt tax officials to evade taxes. If the consultant is retained at a particular rate, he earns his monthly agreed sum and the colluding tax official pockets a %age of the due tax which ought to have gone to government and the principal launders the balance of the unpaid tax as legitimate profit.

91. Alternatively, corporations often hire either serving or former tax officials to handle their tax matters. The hiring of serving tax officials are not only makes the commission of tax fraud easier as, the number of persons involved is fewer, but also and the proceeds accrued are higher. The proceeds are either shared amongst persons involved in the crime or laundered. Some of the consultants hired by corporations to handle their tax matters are former high ranking tax officials who are usually well known and respected by those still in service. Indeed, corporations often engage the services of some former tax officials who were dismissed.

92. Gambian tax collectors have been accused for overcharging for licenses and pocketing the excess or just diverting tax revenues to their personal accounts. Despite continuous denials from the country's tax department which claims it has dispatched supervisors to conduct spot checks on tax collectors, these accusations and complaints of rampant corruption are made on a daily basis. Punishment for those caught in this kind of fraud varies depending on the amount that has been stolen. In some cases individuals involved have had their appointments terminated. In less severe cases, culprits are reprimanded while the records of their violations are maintained and submitted to their superiors.

93. As evidenced by a recent case, real estate developers and other members of the Gambian economic elite attempt to interfere with the administration of tax policies. Specifically, following an assessment of a property, the owner requested that the assessment be lowered.

94. Criminal gangs often forge sensitive tax documents such as, Tax Clearance Certificates (TCC) to help tax payers avoid paying taxes. Indeed, significant number of printing presses in many Nigerian cities, which produce fake tax documents, are owned and run by criminal gangs. A large number of taxpayers and their agents patronize the impressively efficient and cheap services offered by these printing presses in their bid to evade payment of taxes. For instance, when one particular criminal was arrested with significant amount of fake and forged tax documents, subsequent investigation revealed he merely responded to calls by dishonest taxpayers who demanded his services. Despite attempts by the Nigerian government to eliminate these criminal presses through law enforcement raids, many of them have survived by way of changing their locations and modus operandi. Furthermore, officials at Nigerian ministries, departments, and agencies have consistently ignored government directives that require tax documents presented for business transactions to be verified, not least because they often have personal interests in the businesses for which the documents are presented. The disregard of government directives continues, even as 90% of documents presented for verification are subsequently discovered to be fake or forged. The high number of fake or forged TCCs,

indicating non-payment of taxes, means the Nigerian states loses enormous amounts of tax revenue.

95. Furthermore, building and maintaining close business relationships with high-ranking tax officials is another mechanism through which tax fraud can be committed. Such relationship allows dishonest individuals, businesses, and organizations who pay little or no taxes to escape sanctions when confronted by a junior tax official. In such cases, calls are normally made to a particular high-ranking tax official, who orders the junior official to retreat.

96. To cover up tax fraud, companies, particularly those who owe large sums in taxes, often pay large bribes to auditors who are mandated to sift through their records and verify compliance with tax laws. In most cases, however, the amount of bribe paid to the officials is far less than the total amount of tax due. This option is particularly popular among companies.

97. Criminals often collude with tax and bank officials in opening bank accounts in the name of tax authorities. Vast amounts of tax revenues are then lodged in these accounts and shared eventually shared among officials and their criminal collaborators at agreed parentages. The Nigerian state has lost millions of Naira through this mechanism. In almost all such cases, discovered losses were easily recovered because the banks, unwilling to get bad publicity paid back the sums lost.

98. West African states also lose large amounts of tax revenues through non-remittance, especially of VAT, to tax authorities. Indeed, a number of Nigerian enterprises in the Federal Capital, Abuja, and in other major cities do not remit routine taxes such as Pay As You Earn (PAYE) of their employees, although Nigerian tax stipulates stiff penalties for non-remittance. By not remitting such taxes, companies accrue and launder millions of Naira as legitimate profits. This has sustained a number of business enterprises which ordinarily should have collapsed.

99. Many companies often help individuals defraud governments of legitimate taxes by manipulating the payment of salaries to their staff. Companies compensate employees for their extremely low salaries with huge allowances which are allowed by law are not taxable. The taxes that are paid to government are therefore very low compared to what the employees ordinarily ought to pay, thus successfully avoiding taxation.

100. In 2009, Nigeria prosecuted 11 individual tax fraud cases, achieving 4 convictions. It also prosecuted 4 cases against companies and achieved 2 convictions. It also reported 21 prosecutions against companies in 2010. In the previous year, there was prosecution of 34 cases related to tax evasion, diversion of government revenues, and failure to file tax returns against individuals, resulting in 9 convictions.

101. By Nigerian law, Limited Liability Companies (LLCs) are required to pay taxes that small scale businesses registered as "enterprises" are not required to pay. Expectedly, LLCs, particularly big businesses with large profits and turnovers, avoid taxation by registering as "enterprises". Likewise, multinational corporations with operations in West Africa also engage in the practice with impunity. In 2005, for instance, Chevron Nigeria Limited was indicted in a USD10 billion fraud case. Four years later, two foreigners, an Indian and a Danish, both employees of Emperion West African Limited, were charged to court along with their employer

by Nigeria's Federal Inland Revenue Service for their involvement in 1.6 billion Naira tax scam Specifically, they were accused of helping Emperion West Africa avoid remittance of tax deductions to the FIRS between the period of 2003 and 2008. They were also accused of refusing to remit nearly USD1 million to the FIRS, an amount representing 10 % of the total sum they allegedly transferred to their parent companies abroad.

102. Transfer pricing has been identified as the common technique used by corporations. Although there are no reliable data on the proceeds accrued, they are suspected to be considerable. These proceeds are either laundered or ploughed back into the economy.

103. Abnormal pricing in international trade as a means of tax evasion, especially in the form of over-invoicing of import transaction to conceal certain prices and expenditures, is a particular area of concern. Over-invoicing of imports could also justify high domestic prices, while under-invoicing enables companies to either avoid paying the right amount of import duties at below market prices. Proceeds accrued from non-payment of taxes on imports are laundered, thereby leading to capital flight out of jurisdictions.

104. Under-invoicing of export transactions is often used to evade income taxes or avoid or reduce export surcharges. The proceeds accrued are then laundered or transferred out of jurisdictions. Inflated export prices increase the amount of export subsidies and conceal illegal commission hidden within the inflated prices. The proceeds accrued are then laundered or transferred out of jurisdictions.

Chapter 4:

The Impact of Tax Fraud on Human and Economic Development in West Africa

105. Taxation plays a central role in the efforts by states to approximate the goals of human and economic development. (Curtis 1989; Di John 2006). Indeed, the Organization for Economic Cooperation and Development (OECD) notes that taxation not only provides governments with the much needed funds to invest in development, but more importantly, it enables governments of poor and aid-recipient countries to reduce their dependence on aid mainly by way of giving them the fiscal flexibility to promote growth and undertake projects without external interference (OECD 2010: 1). Beyond serving as a means reducing aid dependence, the report also highlights the centrality of taxation to the emergence of more effective and accountable states as it stimulates the process of negotiation and bargaining between states and society (Ibid). In a similar vein, Fakile (2010) notes the role of taxation in changing and redefining political and economic relationships in a given society, as it can be used by governments to, among others, redistribute income and reduce inequality through progressive tax rates, influence market prices to better reflect social benefits and costs, and strengthen political representation of certain segments of society.

106. Significantly, Levi (1988) observes that the history of the evolution of the state itself is the history of the state revenue production. Even more significant is the argument that the origin of representative government is intimately bound with the evolution of taxation, as there is a strong connection between how governments are financed and how they govern their citizenry (Fakile 2010). Braugtigam et al (2008) and Toye (2000) develop this view further by contending that level of taxation determines a state's capacity to meet the distributional demands of its citizens. Failure to raise sufficient revenue through, therefore, constrains that the state's ability to pursue its developmental goals (Braugtigam et al 2008).

107. Accordingly, the weak provision – and often non-provision – of social services and inadequate investments in public infrastructure in many developing countries, underpinned largely by their inability to raise revenue through taxation, slows down economic growth and undermines efforts to improve the living standards of the vast poor majority.

108. An exhaustive body of literature has established a general pattern of weak taxation in developing countries, as compared with developing countries. According to the World Bank and the OECD, the average tax revenue to GDP ratio was approximately 15% in developing countries 2005, and 12% in the poorest of these countries, as compared to 35% in developed countries. (OECD 2005, World Development Indicators Database 2005). Estimates by the African Economic Outlook show that the average tax revenue to GDP ratio in West Africa has stagnated around 17% over the past decade, with no sign of changing in the future. Underlying such low ratio are number of factors, among tax fraud has become the most notorious.

109. Rampant tax fraud hampers social service delivery and discourages well-meaning potential tax payers from meeting their fiscal obligations for fear of funding the life style of a few corrupt officials and criminals. This is evidenced by the non-collection of more than 50 % of

potential tax revenues in developing countries due to tax fraud and related corruption (Richupan (1984), Bird (1990), Alm et al (1991), (1992) and Krugman et al (1992)). Even when fully harnessed, tax revenues [in West Africa?] are not likely to be accounted for and not used for public spending Tanzi (1997, 1998, 1999 & 2000). Analysis by Tanzi provides considerable evidence the effects of increased tax revenues on GDP growth tends to be very low where corruption is rife. Corruption in this case takes the form of deliberate diversion of tax revenues by officials for their private use, thereby leading to a gap between tax collection and tax received by the treasury.

110. The countries in this study face huge development challenges, particularly in the areas of education, healthcare and infrastructure. Addressing these challenges require considerable amount of financial resources, the majority of which should, under ideal circumstances, should come from tax revenues.

111. Ruling elites and highly influential companies including multinational corporations have considerable power to evade payment of tax. Tax policies aimed at facilitating economic growth and development such as tax exemptions to attract foreign investors while well-intentioned, may be counter-productive if poorly designed and implemented. Tax exemptions in particular could lead to loopholes and weaknesses that could be exploited by dishonest individual investors and corporations. . In this regard, the policy of low taxation of foreign corporations and the resultant capital flight are siphoning much needed funds for development in West Africa.

112. Large criminal proceeds could enable criminals to gain considerable control of banking and financial systems, overtake entire economies, buy political influence, and eventually overtake West African state institutions, thereby seriously undermining good governance, the rule of law and stability in the region.

113. Tax fraud and related money laundering not only distort West African economies and undermine regional integration and development. In particular, it deprives governments of the necessary resources to provide basic infrastructure and services to their citizenries, thereby perpetuating their dependence on external development assistance and exacerbating already abysmal living conditions, deepens socio-economic inequalities by way of skewing resources towards criminals and dishonest individuals and organizations, and creates apathy among citizens.

114. The tax fraud and money laundering also have negative effects on important sectors, particularly the financial, real and external sectors.

The financial Sector

115. The laundering of proceeds accrued from tax fraud poses serious reputation risks to banking and financial systems in West Africa as it could potentially result in the refusal of external investors and banks and financial institutions to conduct business with their West African counterparts. Given that criminals often collaborate with corrupt banking and financing officials, it could potentially result in individual and institutional customers being defrauded with

impunity. This is particularly damaging as customer trust is fundamental to the growth of banking financial institutions in particular and banking and financial systems in general.

The Real Sector

116. Tax fraud and the resultant money laundering also have damaging effects on the real economic as well as the economic development of West Africa. It diverts resources to less-productive activities by allowing criminals to transform productive enterprises into sterile investments that facilitate money laundering. It also undermines development by way of facilitating and perpetuating corruption.

The External Trade and Finance Sector

117. Money laundering unabated can have a negative impact on countries' economies through trade and international capital flows; just as customers' confidence in domestic financial institutions is critical to our economic development, the confidence that foreign investors and financial institutions have in our countries' financial institution is critical because such confidence plays a great role in investment and capital flows decisions.

118. Tax fraud and money laundering that goes undetected or unpunished creates a mind set of legal impunity, a psychological contempt for laws and practices. Persons who successfully engage in the crime as obstacles to growth or socio-cultural dominance through rapid accumulation of wealth and the consequent social and political influence.

119. Hard earned money accumulates over a period of time, is spent circumspectly and mostly on carefully considered priorities. Whereas, income from tax fraud and money laundering, in many cases from illegal activities are easy money. As a result, it is often spent recklessly and more likely for purposes of social recognition, misplaced ego satisfaction, pleasure and entertainment.

120. Naturally, the level of tax fraud, money laundering and related criminal activities in any country tarnishes the image of relevant authorities, the citizens and the country at large, especially in the eyes of people who do not fully understand the dynamics of the underground economy.

121. Tax fraud and money laundering can also be associated with the significant distortions to our countries' imports and exports. Economic development and the welfare of the citizen are severely hindered when necessary imported commodities are purchased at over invoice prices-resulting to inflation, high cost of living, loss of tax revenue etc. Where the prices of domestic goods exported from this region are below market prices, it may result to sub-optimal revenue flows to the region, making our domestic industries unable to favorably compete hence ousted from the market etc.

Chapter 5:

Responses against Tax Fraud and Related Crimes in West Africa

122. The urgency of radically improving the tax effort has increasingly become a central issue of policy discourse at the highest level of decision-making in African countries over the last few years. The establishment of the Africa Tax Forum (ATAF) in Kampala, Uganda in November 2009, with the mandate of facilitating effective mobilization of domestic resources and helping to deepen transparent and accountable governance in African – including West African – states is a strong indication of this policy direction. The mandate is carved within four broad objectives of ATAF, namely, to become the central platform for African tax administrators [to do what? Share experience, lessons learn?], articulate African tax priorities, develop and share best practices in the region, and build capacity in African tax policy and administration.[14]

123. Ironically, effective mobilization of domestic resources may not necessarily lead to an increase in GDP growth rates, particularly as they are bound to be easily undermined by tax fraud and related financial crimes. High levels of tax fraud and related crimes will constrained the ability of states to fully exploit their potential tax bases for optimal revenue generation. In particular, the desire to protect the private financial interests of corrupt tax officials, powerful political elites and certain tax payers may undermine the taxation efforts. Indeed existing literature provides abundant evidence of a close link between tax revenue collection and corruption (Galtung (1995), Li (1997), Toye and Moore (1998), Tanzi (2000), and Fjeldstad and Tungodden (2003). Endemic public corruption across West Africa, as evidenced by the consistently poor Corruption Perception Index ranking of nearly all West African countries, means rigorous domestic taxation efforts may not translate into improved livelihood for citizens.[15] In 2010, for instance, CPI scores in the region were between 2.0 and 3.0 out of 10 (Transparency International 2010).

124. At the Pan-African Conference on Taxation and Development in Nairobi, Kenya on 25-26 March 2010, participants articulated the problem of taxation in Sub-Saharan Africa and how to address it. Participants declared that:

a. Domestic and international obstacles to effective taxation constitute a threat to political progress, sustainable economic development and to poverty eradication on the African continent;

b. Effective and equitable taxation is critical not only to the independence of African countries, but also to the strengthening of channels of political representation and government accountability.

c. Reforms in the areas of domestic taxation, revenues from natural resource extraction and international taxation are necessary.

125. Participants also recommended the following reforms :

[14] See OECD Issue Paper on Domestic Resource Mobilization for Development…
[15] For instance the 2010 CPI scored West African countries – with the exception of Cape Verde – below 5 out of 10 points.

a. African governments should commit to full accountability and transparency on tax revenues and tax expenditures ;

b. African governments should remove tax exemptions for multinational corporations and wealthy individuals and elites ;

c. African revenue authorities should simplify their respective tax codes and reduce the compliance burden, particularly for small businesses ;

d. Fiscal research institutes should investigate two important issues: the feasibility of introducing and implementing a land value taxes as a source of revenue to finance public and local infrastructure in Africa, and the benefits of Export Processing Zones to African countries.

e. There should be collaboration with civil society organizations on tax education and compliance.

f. There is the need to sustain to ongoing research and advocacy with regard to the impacts of tax policy on men, women and vulnerable groups.

g. Tax competition in the extractive industry should be tackled by way of increasing transparency in the industry, coordinating and harmonizing of fiscal regimes, and exchange information among officials and institutions.

h. Considering that developing countries financial lose from international tax evasion exceeds the quantum of development assistance they receive, donors should adopt coherent policies against tax dodging at the national and international levels.

i. African governments should introduce legislations in their respective countries to make tax evasion a predicate offense under existing anti-money laundering provisions.

j. Donor countries should help build the capacity of, and provide technical assistance to, African tax administrators monitoring large taxpayers, in particular, transfer pricing issues. [16]

126. The serious threats that tax fraud poses to development efforts as well as its real and potential risks for money laundering are increasingly being recognized globally. Many regional organizations, multilateral institutions as well as non-profit organizations have developed a number of initiatives to deal with the phenomenon of tax fraud and its relationship with money laundering, some of which are discussed below.

Related FATF Recommendations and Current International Concerns

127. The FATF is the global standard-setting body in the fight against money laundering. Countries are required to adopt its 40+9 recommendations and criminalize, at the minimum, the 20 designated categories of offences.[17] Although the recommendations do not explicitly mention

[16] The Nairobi Declaration on Taxation and Development (Pan-African Conference on Taxation and Development held in Nairobi, 25-26 March 2010).

[17] participation in an organized criminal group and racketeering; terrorism, including terrorist financing; trafficking in human beings and migrant smuggling; sexual exploitation, including sexual exploitation of children; illicit trafficking in narcotic drugs and psychotropic substances; illicit arms trafficking; illicit trafficking in stolen and other goods; corruption and bribery; fraud; counterfeiting currency; counterfeiting and piracy of

tax fraud, many of countries have laws against tax fraud and other tax crimes Nonetheless, it is often associated with corruption, bribery, forgery, and smuggling – all of which have been designated as categories of predicated offence, and many countries have not yet identified tax fraud as a predicate offence of money laundering.

128. Analysis of responses to the 2008 and 2009 Strategic Surveillance Surveys indicates that many FATF delegations consider tax and excise as one of the three major sources of criminal proceeds. This conclusion particularly came from several European delegations. To be sure, a number of typology studies conducted by FAFT-styled regional groups in Eastern Europe and the Asia-Pacific that preceded the Strategic Surveillance Initiative provided evidence of the immense illicit money generated by tax and excise evasion (FATF typologies reports 1995-1996, 1996-1997 and 1998-1999). Other typology reports by the OECD Committee on Fiscal Affairs on tax fraud and money laundering related to the real estate sector, and tax evasion and the abuse of charities and NPOs for money laundering confirmed links between money laundering, tax offences and the specific risks presented by these sectors.

129. A large number of cases of money laundering and some terrorist financing cases involve tax havens. Tax havens offer an enabling environment through which criminals move and conceal funds accrued from a variety of predicate offences, including those related to taxes (FATF Typologies report 1997-1998, 1999-2000, 2000-2001, 2002-2003, 2004-2005). Additionally, non-profit organizations (NPOs) and charities are often used to launder criminal money or finance terrorism (OECD (2009), FATF (2003-2004). Despite the expansion of regional and international anti-money laundering (AML) regimes over the years, tax havens and offshore financial centers (OFCs) that offer bank secrecy and high-level confidentiality trusts to individuals and corporations have equally increased. These havens and OFCs act as conduits and shelters of illicit capital, facilitate money laundering, transfer pricing and tax evasion, and among others.

130. Although there is a lack of comprehensive and reliable data on tax fraud and money laundering in West Africa, it is reasonable to conclude that can be that the predicate organized criminal activities that are associated with tax fraud and money laundering in Eastern Europe and the APG region are present in the sub-region. In particular, such crimes include the illicit trade in commodities, timber, gold and diamonds (Wnnenburg 2005).

131. While there are deep concerns that the above scenarios of tax fraud and money laundering are beginning to play out in West Africa with potentially grave implications for economic and human development as well as regional integration, analysis and policy response must be situated in the context of solid empirical evidence so as to be relevant and effective. Real cases of tax fraud and money laundering must be thoroughly and properly analyzed in order to reveal their extent, trends and the common techniques used criminals behind them. Of particular importance is the need to adequately understand the relationship between tax fraud and money laundering cases in West Africa and the sub-region economic and human development performance. As the ECOWAS institution responsible for dealing with the challenge of money laundering and its

products; environmental crime; murder, grievous bodily injury; kidnapping, illegal restraint and hostage-taking; robbery or theft; smuggling; extortion; forgery; piracy; and insider trading and market manipulation

predicate offences, as well as the Financial Action Task Force Style Regional Body (FSRB) in West Africa, GIABA undertook this research project as a bold attempt to achieve these goals.

Chapter 6:

Findings and Conclusions, and Recommendations

132. This chapter provides a summary of findings and conclusions of the study. These findings serve as the basis for the subsequent policy recommendations.

Findings and Conclusions

- West African tax laws and systems are rooted colonial legacies bequeathed to the region mainly by Britain and France. Despite having been reviewed and modified to reflect contemporary realities, these laws and systems contain a number of loopholes that enables individuals, businesses, and organizations to commit tax fraud.
- The pervasive lack of institutional and administrative capacities to enforce existing tax legislations in West Africa makes the fight against tax fraud and money laundering extremely difficult. This is evidenced by extremely low rates of investigation, prosecution and conviction in the numerous tax fraud cases in the region.
- Tax evasion and money laundering in West Africa are closely linked as proceeds generated from the former feed into the process of the latter.
- Tax fraud and money laundering produce the same effects and consequences in all countries of West Africa. In addition to the deterioration of moral values, the two phenomena adversely affect the development policies and objectives set by West African countries.
- The political economy of West Africa, characterized by cash-based economies and large informal sectors, makes the region highly vulnerable to tax fraud. Likewise, poor governance, underpinned by chronic public corruption and institutional fragility, widespread tax illiteracy, porosity of borders and weak border controls, provides a fertile ground for tax fraud.
- There are commonalities in the form of tax fraud across West Africa, ranging from deliberate violation of tax laws with impunity to outright collusion between tax officials and criminals. The most prevalent forms of tax fraud are document counterfeiting, tax evasion, diversion of tax collected by tax officials, over-invoicing, and manipulation of account books.
- The widespread lack of understanding of tax fraud and related issues, as evidenced by responses to the questionnaires administered during the course of the study, should be of special concern.

133. Tax fraud and money laundering have extremely devastating effects on human and economic development of West African societies. High levels of tax fraud, money laundering and related criminal activities in a particular country tarnishes the image of relevant authorities, as well as that of its the citizens especially in the eyes of people who do not fully understand the dynamics of the underground economy.

134. Central to the fight against tax fraud and money laundering are policies aimed at alleviated high levels of poverty, underdevelopment, and socio-economic inequalities. . However, since existing tax systems directly and indirectly enables the skewing of resources to certain segments of West African societies, particularly the political and economic elites, and perpetuates inequalities, policymakers are likely to encounter considerable difficulties in their effort to change them. (CATA, 2007).

135. West African governments must have a long term view of governance, which involves making difficult and often unpopular political and policy decisions. To be sure, citizens, civil society groups, and democratic forces within West African countries have a responsibility to demand transparent and accountable governance from their leaders.

136. Considering that effective taxation is an issue of great importance not only national, but also on regional and international levels, increased cooperation of tax issues including the exchange of information among tax authorities is critical to the fight against tax fraud and money laundering. The exchange of information, however, is hampered by political, technical and administrative obstacles.

137. Building the capacities of tax and law enforcement institutions to analyze details of international trade flows and detect suspicious transaction is critical.

138. Appropriate utilization of tax revenues by government authorities at all levels and transparent, fair and equitable punishment for tax crimes is central to winning the confidence of the citizens to be willing to pay taxes.

Recommendations

139. The following recommendations are offered on the basis of the findings and conclusions above:

- The fight against tax evasion and tax crimes should start with changing attitudes in the society to conform to the notion of compliance among business people, traders and tax officials. There is therefore the need for information generation, dissemination and massive awareness creation on the benefits of taxation generally and the harm being caused to society through tax crimes. One more efficient way to achieve this is through partnership with networks of civil society organizations both at national and regional levels.
- Tax authorities should give special attention to tax fraud and money laundering committed or facilitated by professionals. In cases where tax fraud involves wider

criminal offences beyond tax fraud, authorities should promptly disclose information on such offences to their counterparts in other law enforcement institutions. Specifically, they should work with other law enforcement officials in investigating and prosecuting both tax fraud and related offences. Also, tax administrations need to have robust internal controls to ensure that they are not being used as a means to launder money.

- The legal frameworks of tax administration in the region need to be updated in order to close up the loopholes that are being exploited to deny governments legitimate tax revenues.
- Tax administrations need to be modernized across the region to enhance transparency and accountability of tax administration.
- Countries should consider establishing comprehensive tax payers' databases to provide for monitoring and compliance with tax laws.
- Tax departments should establish an anti-money laundering Unit, with sufficient personnel and training. GIABA should facilitate this process and continuously offer capacity building to the units to ensure their effectiveness.
- Programs for continuous training of all tax officials on money laundering related to tax crimes should be put in place. In this context, GIABA should work to build the capacity of national regulatory and supervisory agencies (including FIUs and anti-corruption agencies) for effective detection of tax fraud and associated money laundering.
- Countries should put in place a coordination mechanism among relevant departments – tax, treasury, audits, FIUs, Police, etc – for the purpose of monitoring and investigating, in an effective manner, money laundering related to tax crimes.
- Countries should consider establishing a unified and simplified tax system as part of measures to make it easy for citizens to pay their taxes.
- Tax administrators should be paid decent wages to discourage the temptation to divert tax revenues and to enhance their morale and professionalism. Equally, the law should provide for a stiffer punishment for compromise by tax officials.
- Countries in the region need to ensure that tax crimes are predicate offences for money laundering under their laws.
- There is the need for closer collaboration between tax administrators and money laundering investigators to ensure that those who commit tax fraud are investigated for money laundering.
- At the ECOWAS level, a peer review mechanism on tax administration may be established to help member States to adopt good practices that will assist them raise tax revenues and punish tax crimes more effectively.
- The Heads of West Africa Tax Administrators Forum (WATAF) should become very active in the region and become affiliated with ECOWAS for the purpose of promoting good tax administration in the region. GIABA should also work with the forum to enhance its knowledge base on money laundering.

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