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COUNTRY GOVERNANCE PROFILE

REGIONAL DEPARTMENT WEST A (ORWA)
GOVERNANCE, ECONOMIC AND
FINANCIAL MANAGEMENT DEPARTMENT (OSGE)

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LIST OF ACRONYMS AND ABBREVIATIONS

ADR	Alternative Dispute Resolution
AFDB	African Development Bank
AG	Attorney General
APRM	African Peer Review Mechanism
BPE	Bureau of Public Enterprise
CAC	Corporate Affairs Commission
CAMA	Companies and Allied Matters Act
CBN	Central Bank of Nigeria
CBOs	Community Based Organizations
CEDAW	Convention on the Eliminations of all Forms of Discrimination Against Women
CIDA	Canadian International Development Agency
CSOs	Civil Society Organizations
DFID	Department for International Development (UK)
DPO	Due Process Organization
EFCC	Economic and Financial Crimes Commission
EI	Extractive Industries
EITI	Extractive Industries Transparency Index
EU	European Union
EVR	Electronic Voters Register
FCT	Federal Capital Territory of Abuja
FGN	Federal Government of Nigeria
FMF	Federal Ministry of Finance
FRB	Fiscal Responsibility Bill
FRL	Fiscal Responsibility Law
ICAN	Institute of Chartered Accountants of Nigeria
ICAO	International Civil Aviation Organization
ICPC	Independent Corrupt Practices and other Related Offences Commission
ICT	Information Communication Technology
IMF	International Monetary Fund
INEC	Independent Electoral Commission
IPCR	Institute for Peace and Conflict Resolutions
LEEDS	Local Economic Empowerment Development
LMPC	Lagos Multi-Door Courthouse
LAC	Legal Aid Commission
LRC	Law Reform Commission
MDGs	Millennium Development Goals
MEND	Movement for the Emancipation of the Nigeria Delta
MTEF	Medium Term Expenditure Framework
MTSS	Medium Term Sectoral Strategies
NASB	National Accounting Standards Board
NASS	National Assembly
NCP	National Council on Privatization
NEEDS	National Economic Empowerment and Development Strategy
NEITI	Nigeria Extractive Industries Transparency Initiative
NEPA	Nigeria Electric Power Authority
NEPAD	New Partnership for Africa’s Development

NGOs	Non-Governmental Organizations
NHRC	Nigerian Human Rights Commission
NIALS	Nigerian Institute for Advance Legal Studies
NIPC	National Investment Promotion Council
NITEL	Nigerian Telecommunications Limited
NJI	Nigerian Judicial Institute
NSWG	National Stakeholders Working Group
PCC	Public Complaints Commission
PHCN	Power Holding Company of Nigeria
PLC	Public Listed Companies
PRB	Procurement Reform Bill
PRL	Procurement Reform Law
SEC	Securities and Exchange Commission
SEEDS	State Economic Empowerment Development Strategy
SME	Small & Medium Enterprises
TI	Transparency International
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development

This Country Governance Profile (CGP) for Nigeria was originally prepared by Mr. Byran Tarr, Public Finance Management Expert (consultant) and Mrs. Oby Nwankwo, Legal Expert (consultant) in November 2006. It was financed by the AfDB's NORAD Trust Fund. The document was revised following the Nigeria national elections in 2007 and updated in 2008 by Mr. David Abdulai, Economist (consultant). It was finalized by OSGE and NGFO and discussed with the government in February 2009. The CGP was endorsed by the Nigerian government in April 2009.

EXECUTIVE SUMMARY

1. Despite Nigeria's oil wealth, poverty is still widespread, though it is improving due to a combination of poverty reduction programs and reforms undertaken by the current administration. Corruption and the implementation of inappropriate policies by successive military regimes since 1966 have largely contributed to poverty. These military regimes also weakened the judiciary, trampled on the human rights of their people with impunity.

2. The advent of a civilian regime in 1999 brought about a change in policy direction with a current administration determined to put systems in place to encourage an open and plural society and improve the country's image abroad. The challenges remain formidable. However, several areas of success are noteworthy, such as Nigeria being the first African country to exit the Paris Club and the London Club, the publication by Nigeria Extractive Industries Transparency Initiative (NEITI) of the financial, physical, and process audits of the oil sector, and the liberalization of the telecommunications market, making the Nigerian mobile telecom industry the fastest growing in Africa.

3. This Country Governance Profile (CGP) was carried out and structured in accordance with the five elements of good governance emphasized in the Bank Group's Policy on Good Governance, namely: Accountability, Transparency, Stakeholder Participation, Legal and Judicial Systems, and Combating Corruption and Money Laundering.

4. **Accountability and Transparency:** Under the former administration (1999-2007), a number of public reform measures were introduced and public sector management at the federal level has improved significantly, as has some aspects of governance. The most significant improvements include the adoption of the National Economic Empowerment and Development Strategy (NEEDS), the Fiscal Responsibility Law (FRL) tariff reform, bank consolidation, an ambitious privatization/concessioning program, and the fight against corruption. Procurement reforms have been put into place to tackled impediments to competition. The Procurement Reform Law (PRL) has now been passed by the NASS.

5. **Legal and Judicial Systems:** In Nigeria four distinct systems of law are applicable – the Received English Common law, Nigerian Legislation, Customary law/Sharia law, and Case law. Challenges facing the Nigerian judicial system, particularly at the state level, include infrastructural deficiencies, lack of access to justice for the poor, archaic recording and filing systems, backlog of cases, delays in the dispensation of justice and congestion of prisons. Several laws in Nigeria are in need of reform, either because they are outdated or because they do not comply with the international human rights norms that Nigeria has submitted itself to. The Law Reform Commission (LRC) was set up as the institution responsible for harmonizing national legislation and undertaking the progressive development and reform of substantive and procedural laws applicable in Nigeria. Lack of capacity is, however, impeding its progress.
Lack of financial autonomy has also contributed to the lack of independence of the judiciary. Inadequate facilities and processes to produce suspects in court, delay in the completion of investigations, lack of stationeries to prepare cases all contribute to delays in the prosecution of cases in court. The current government has appropriated N78 billion in its 2008 budget to the National Judicial Council to help it start addressing some of these problems.

6. **Combating Corruption and Money Laundering:** One of the major challenges that have faced Nigeria over the years is the issue of corruption and its debilitating ancillaries—bribery, graft, advanced fee fraud, and nepotism. Corruption has become so entrenched that it has stunted growth in all sectors and has been one of the major challenges to development in the country. Numerous observers agree that corruption is one of the major causes of poverty in Nigeria and Transparency International's (TI) 2008 Corruption Perception Index ranks Nigeria 121st among 180 countries around the world.

In an effort to curb corruption, the former administration enacted the Independent Corrupt Practices and other Related Offences Act (ICPC) 2000, the Economic and Financial Crimes Commission (EFCC) Act (2004), and the Money Laundering Acts (1995 & 2004). The laws empower the EFCC and the ICPC to prevent, investigate, prosecute, and penalize economic and financial crimes as well as fight terrorism. The current administration of President Yar'Adua was elected on a platform of zero tolerance on corruption and it has widely continued the anti-corruption efforts. For instance, the Public Procurement Act was one of the first executive functions performed by President Yar'dua's administration on assumption of office. E-payments (since January 2009) and e-procurement (since 2008) have also been introduced by the current administration to improve transparency in public procurement. Further, the Federal Government has given unfettered freedom to the judiciary to perform its functions on the basis of the Rule of Law.

7. **Possible Areas for Bank Intervention**: The task of improving governance in Nigeria is a huge one in a vast country and the resources required considerable. The African Development Bank (Bank) in collaboration with other donor partners cannot do it alone. Efforts and the requisite resources to be devoted to this task must also come from Nigeria. It should, however, be noted that other major players in the field of governance, like the World Bank, United States Agency for International Development (USAID), Department for International Development (DFID), and the European Union (EU), are already providing assistance to the Nigerian government. The Bank should supplement such efforts by focusing on state and local governments who command substantial resources—46 percent of national revenues—but lack the capacity to manage theses resources and to formulate and implement policy. For instance the UNDP, World Bank and DFID have recently set up a partnership to support fiscal federalism in Nigeria. Current efforts aim at helping States to draft their Fiscal Responsibility Act and Public Procurement Act. Another key challenge will be to help States fill the huge gaps in capacities for the implementation of these pieces of legislation. The ADB has joined this partnership. Jointly with these partners, the main instruments to be used would include common platform dialogue, Economic and Sector Work and Institutional Support aimed at strengthening the capacities of a number of States in the area of public finance.

1. INTRODUCTION

1.1 A first governance profile was prepared in 2002 before the Bank's guidelines were established and during the first tenure of the former administration (of President Obasanjo). The Bank undertook a governance profile mission in Nigeria in December 2006. This report is an update, taking into account recent developments. Indeed, a new administration is in place in Nigeria since May 2007 and in May 2008 the Bank has re-focused its governance and strategic directions for 2008-2012 to assist African countries build capable and responsive states by strengthening their transparency, accountability in the management of public resources at the country, sector and regional levels. The Bank also participated in February 2008 in the Nigeria country review of the NEPAD African Peer Review Mechanism (APRM). This governance profile is thus prepared with background research from Nigeria's socio-economic and political history. Numerous key studies such as APRM report on Nigeria, UNECA's African Governance Report, Nigeria APRM Country Self-Assessment Report, UNECA's Governance for a Progressing Africa, to mention just a few. The report highlights key governance issues, bottlenecks and main challenges requiring urgent actions. Reference is also made to the legacy of the military era in Nigeria, as they were in power for 30 out of the 46 years of the country's independence.

1.2 The first military intervention in the country occurred in 1966. The discovery of oil in a way contributed to successive military regimes perpetuating their rule, almost destroying the economy and institutions of the country, because of inconsistent and poor policies. The Nigerian judiciary was weakened in the process, human rights were trampled upon and worst of all, corruption became endemic in the socio-economic fabric of the country. For example, TI's 2008 Corruption Perception Index ranks Nigeria 121st among 180 countries around the world along with Nepal, Sao Tome, Togo and Vietnam.[1] Nigeria scored 2.7 points out of a possible 10 up from 1.9 in 2005. In regional terms, Nigeria is perceived more corrupt than 22 of the 47 African states covered by the TI survey. Thus even though Nigeria is the world's twelfth largest producer of crude oil, about 52 percent of the population lives on less than US$1 a day and the country is unlikely to achieve its Millennium Development Goals (MDGs). [2] This situation can largely be explained by weaknesses in the country's governance system.

1.3 Addressing the issue of poverty in Nigeria will therefore require the establishment of good governance. The advent of a civilian regime since 1999 has brought about a change in policy direction and the transformation of the Nigerian economy. Nigerians are beginning to be more positive about the future. The government's governance agenda is elaborated on in chapter 4 of its NEEDS strategy and also in the president's 7-Point Agenda[3]. The main thrust of the strategy is to create a more efficient and responsive public sector, an enabling environment for the private sector, to improve security and the administration of justice, to tackle corruption, and to promote transparency and accountability.

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[1] The 2008 Corruption Perception Index is a composite index that draws on multiple expert opinion surveys that poll perceptions of public sector corruption in 180 countries around the world, the greatest scope of any CPI to date. It scores countries on a scale from zero to ten, with zero indicating high levels of perceived corruption and ten indicating low levels of perceived corruption.

[2] Human Development Report 2007/2008.

[3] In August 2007 after a few months in office, President Musa Umaru Yar'Adua unveiled a so called 7- point agenda underlining his policy priorities. The agenda includes: 1.Energy, 2.Food Security, 3.Wealth Creation, 4.Land Reforms, 5.Security, 6.Transport, 7.Education

1.4 Some progress has been made in these efforts to improve governance and reduce corruption (see Box 1). Mention should be made of the efforts of the former administration to put systems in place to tackle corruption and establish good governance in the country, which have resulted in several notable successes particularly in the areas of public finance management at the federal level. The establishment of the EFCC and the ICPC to fight corruption are cases in point. However, numerous challenges remain, particularly at the State level. Reform efforts made at the federal level will need to be urgently entrenched at the state level. The current administration, as spelled out in the Seven-Point Agenda of the President, has expressed a strong commitment to fight corruption, broaden and deepen the political and economic reforms. The Bank and the other major development partners of Nigeria are also committed to support the country in the improvement of its governance system, in order to create an enabling environment for the private sector and accelerate progress towards the attainment of MDGs by 2015.

Box 1. Governance Reforms

The Nigerian government is making good progress in its efforts to improve governance and reduce corruption, but huge challenges remain. The NEEDS identifies improvements in governance as one of the main pillars of the authorities' economic reform strategy. Key elements of the anti-corruption program include:

- The **Economic and Financial Crimes Commission** (EFCC), established in 2002, enforces laws relating to banking, money laundering, advance-fee fraud (also known as "419" fraud) and other laws relating to economic and financial crimes. It actively investigates high-level officials suspected of corruption, has arrested several key "419" operators, and has recovered substantial assets. In December 2005, for the first time, a sitting state governor was impeached on corruption charges.
- In 2004, the **Nigerian Financial Intelligence Unit**, an autonomous intelligence agency that analyzes financial transactions to detect money-laundering activities, was established within the EFCC.
- The work of the **Budget Monitoring and Price Intelligence Unit** has reduced abuses in awarding government contracts. Firms participating in a recent World Bank enterprise survey reported a significant decline in bribery in procurement between 2002 and 2005.
- A **Procurement Reform Law** that establishes a Public Procurement Bureau to oversee all public procurement has been passed by both houses of Parliament and was enacted in June 2008. The government's efforts to strengthen public financial management are also components of its anti-corruption strategy.
- A **Fiscal Responsibility Law** that formalizes a fiscal rule, a budget process around a medium-term fiscal framework and fiscal transparency and reporting standards has been approved by both houses of parliament and was signed by the President in November 2007. The Law covers all levels of government.
- Nigeria's approach to the EITI has been centered on broad based stakeholder participation. The authorities have made significant progress in advancing their commitment to the **Nigeria Extractive Industries Transparency Initiative (NEITI)**. The final result of the 1999-2004 audit of the oil and gas sector was submitted to the President-in-Council in December 2006 and has been shared with the public. The post-audit remedial measures were approved by the cabinet and are currently being put in place. The Nigeria EITI bill, which will provide a legal basis for collecting and publishing oil revenue data, was signed into law in May 2007 and has been approved by both houses of Parliament. It is presently awaiting harmonization.

2. ACCOUNTABILITY

The Global Integrity Index for 2008 places Nigeria for Government Accountability[4] with a score of 62 (weak rating). On Oversight and Regulation Nigeria has a score of 69 (weak) and on Administration and Civil Service[56] Nigeria has a rating of 59, which places the country in a very weak category.

2.1 Financial Accountability

Financial accountability has been rather problematic during military rule. The current administration made efforts to bring some modicum of accountability to this sector. Some of these accountability measures include the introduction of a Cash Management Committee which monitors and reconciles monthly expenditure, also the enhancing of the public procurement process, introducing a public procurement law, e-procurement and e-payments are cases in point.

2.1.1 **Public Sector Management:** Since 2003, a number of reform measures were introduced, to aid in the management of the public sector at the federal level. It resulted in significant improvements in this sector as well as all aspects of governance at the federal level (Table 1). Some of the most significant improvements in public sector management in the country include the adoption of the NEEDS, tariff reform, introducing the Cash Management Committee, bank consolidation, an ambitious privatization/concessioning program, and the fight against corruption. Significant improvements in financial governance have also led to Nigeria's successful negotiated exit of the Paris and London Clubs of creditors. In a related case, Nigeria has also made significant payments to its London Club creditors.

Table 1. Public Financial Management Reforms as of February 2009

Measure	Status	Comment
Fiscal Responsibility Law	Passed by both houses of Parliament. Signed into law by the President in Nov. 2007	Covers all levels of government. Formalizes a fiscal rule, a budget process around a medium-term fiscal framework, and fiscal transparency and reporting standards. The Finance Minister has established a working group to prepare implementation. Regarding the legislative process, an outreach plan has been scheduled. There is still however very weak capacity at state level to effectively decentralize and implement regulations of fiscal responsibility bill.
Procurement Reform Law	Passed by both houses of Parliament. Enacted into law in June 2008	Establishes a Public Procurement Bureau to oversee all public procurement. Institutionalizes open and competitive procurement procedures currently successfully applied by the Federal Government.

[4] The Index looks at administration and civil service regulations whistle blowing measures, regulatory processes around procurement, and privatization.
[5] This category looks at oversight mechanisms such as a national ombudsman, supreme audit institution, taxes, and customs, financial sector regulation, and business licensing.
[6] This category looks at anti-corruption laws, the country's anti-corruption agency, rule of law, and access to justice (including law enforcement).

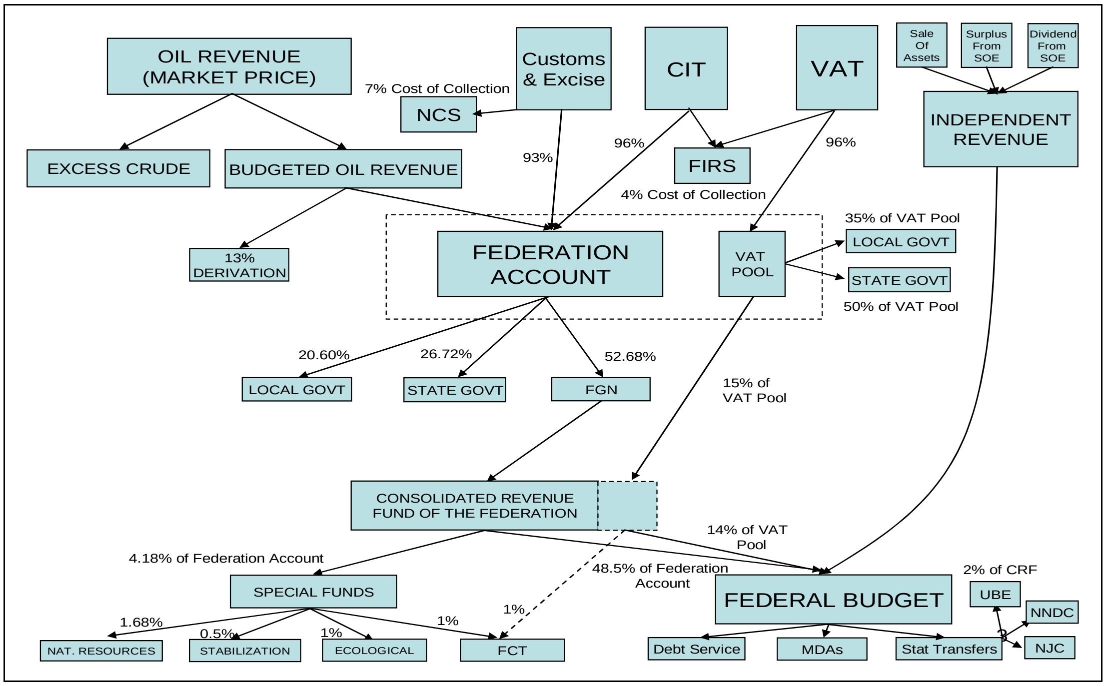
Nigerian Extractive Industries Transparency Initiative Bill	Signed into law by the President in May 2007. Passed by both houses of Parliament and presently awaiting harmonization.	Formalizes the NEITI, which will ensure transparency and accountability in the revenue receipts of the government from the extractive industries.
Auditor-General's Bill	Still to be presented to the House of Representatives.	Fills a gap in the existing legal framework. Strengthens the capacity and independence of Nigeria's supreme audit institution.
Budget reporting	Report on the implementation of the 2004 budget was published in November 2006.	A Transaction Recording and Reporting System is now operational in all federal line ministries and pay offices. The backlog of audited financial reports is being reduced.
Medium-Term Sectoral Strategies (MTSS)	Key line ministries prepared medium-term sectoral strategies for the 2007/2008 budget linked to the NEEDS and MDGs.	The MTSS will be extended to other line ministries, to cover at least 75 percent of total Federal Government outlays during the preparation of the 2007 federal budget. This has been continued in 2008.
Virtual Poverty Fund	All debt relief financed MDG spending expenditure is specifically identified in the budget. The chart of accounts has been modified accordingly to allow for expenditure tracking.	Quarterly reports on MDG-related spending funded by the debt relief are produced and publicized. The monitoring and evaluation framework is being finalized. Debt relief savings for 2008 totaling N110 billion has been redirect to MDG related initiatives.
Public investment reviews	To be undertaken annually. Training on-going.	Budget office and line ministries staff are to be trained on cost-benefit analysis of large public investment projects.
Civil service reform	Full disengagement of over 30,000 employees, payment of severance benefits and training almost completed. New salary structure introduced to motivate retained servants and attract good quality staff.	Significant provision in the budget for this action, in addition to financial and technical support from donors. The emphasis is on capacity building to consolidate overall reform process.
Public Expenditure and Financial Accountability (PEFA) assessment by the World Bank	Assessment is being undertaken in the Federal Government and four state governments.	This will help to identify binding constraints within existing PFM systems and to design and prioritize future reforms, particularly at the state government level.

2.1.2 **Revenue Collection Mechanisms**: The major sources of revenue to the Nigerian government are:

(i) Crude oil sales,
(ii) Crude oil taxes,
(iii) VAT,
(iv) Company income taxes,
(v) Customs and excise duties.

The oil sector is a major financier of the Federal Government of Nigeria's budget. The sector accounts for over 30 percent of the GDP of the country. Revenue from the various sources makes up the Federation Account. The monitoring of revenue collection in Nigeria has been enhanced with the coming into power of democratically elected governments. Yet much needs to be done in this aspect. Hopefully, the introduction of the Fiscal Responsibility Bill will contribute to this effort.

Figure 1. Revenue Sources



Source: Federal Ministry of Finance

2.1.3 In recent years, Nigeria has strengthened the management of its oil resources which is the major source of wealth and accounts for 20 percent of the country's GDP and 65 percent of government revenues. Implementation of the oil price fiscal rule, which limits the use of oil revenue and its participation in the EITI have been critical to improving macroeconomic stability and oil revenue management.[7] Oil revenues are split into two categories: budgeted oil revenue based on pre-determined prices benchmark and the Excess Crude Oil Account. The Excess Crude Oil Account is an arrangement, in which proceeds from the sale of crude oil above a benchmark price is kept in a separate Federal Government account, as proposed by the Executive and approved by the NASS. However, there is a debate raging in Nigeria concerning the constitutionality of the Account. There is the view that all public funds belong in the Federation Account and that the creation of all other accounts are to be proscribed. Government functionaries retort that the framework was approved by the NASS and that those voicing opposition to its existence merely want access to the funds to squander them.[8] It is hoped that the passing of the FRB will go a long way to contribute to the prudent use of funds in the excess crude oil account for the benefit of the citizens. With the support of donors, several States have recently taken encouraging steps to draft and pass fiscal responsibility and public procurement bills, consistent with the ones adopted in 2007. Building capacities of States for effective implementation will be a long-lasting challenge.

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[7] Nigeria: Third Review Under the Policy Support Instrument—Staff Report, July 2007, IMF Country Report No. 07/263.

[8] The Executive Branch has on several occasions withdrawn money from the Excess Crude Oil Account without prior approval by the Assembly. The FMF has made two basic arguments. One, that the creation of the Account was approved by the Assembly. Two, that in the case of funds withdrawn during the Paris Club negotiations, authorization was sought after the event, for the "window of opportunity" given by untrusting creditors could not have allowed the normal process.

2.1.4 **Public Sector Budgeting:** The return to civilian rule in 1999 brought about an introduction of a number of far reaching improvements in public financial management and the budgeting process. Since 2004, the budget process is started with a Fiscal Strategy Paper, which lays out the broad direction as well as priorities of the budget. This is discussed with the Executive arm of the government, thereafter the Legislature. This is then shared with stakeholder groups. When the budget is crafted and before it is passed, the public is given the opportunity to understand the past, current and projected fiscal activities of the government. This is an effort to enhance accountability. The government also puts together a basic publication to serve as a guide to the budget for the citizenry. For example, the 2007 budget was passed by NASS and signed into law in December 2006. This was the first time that it happened before the actual beginning of the fiscal year. The trend continued, with the 2009 budget passed into law in December 2008. The preparation of Medium Term Sector Strategies (MTSS) by 18 key ministries, departments, and agencies that represent about 75 percent of federal funds spending in the 2007 budget was completed. The MTSS detail fully initiatives, their cost and expenditure plans, and set out performance measures including outputs and outcomes. MTSS preparation is only by select units within divisions of ministries, departments, and agencies. Improvements have been made in the budget process in Nigeria such as increasing the levels of transparency in its preparation and widespread consultations including consultations with civil society. This process, however, could be enhanced by strengthening the institutional capacity of the responsible authorities.

2.1.5 President Yar'Adua's administration has embarked on a wide range of public financial management reforms that will bring about important changes in the budget process. For example, to improve quality of spending, all spending funded from oil savings are to be integrated into fiscal strategies and public financial management practices are to be strengthened. The FRL which was passed by the NASS in February 2007 is to secure even greater accountability, transparency, and prudence in the management of the nation's resources. The implementation of the bill will see the budget process enhanced.

2.1.6 **Administration and Civil Service Reform:** The overall objective of civil service reform in Nigeria is to increase its efficiency and improve public service delivery. Reform thus far is said to have saved the Federal Government N100 billion in salaries.[9] DFID has assisted Nigeria to create a payroll database resulting in a better control of payroll spending, and the number of ghost workers has been reduced. The reduction of payroll frauds has in turn reduced pension cost by an estimated two-thirds. DFID is also helping selected ministries in Nigeria, such as the Ministry of Finance, Office of the Presidency, Ministry of the Federal Capital Territory, Ministry of Information and the National Planning Commission to support public sector reform and the restructuring of the civil service. The World Bank has also provided a facility to support the civil service under the Economic Reform and Governance Project. Other aspects of Nigerian government's civil service reforms include the monetization of certain benefits of civil servants, such as housing and transportation. It has also outsourced non-core activities to private sector service providers. The government has also reformed public sector pensions by making them contributory.

2.1.7 **Public Sector Auditing:** The 1999 Constitution provides for an Office of the Auditor General for the Federation. The office is an independent entity whose existence, powers, duties, and responsibilities are specified in the constitution. The Public Accounts of the Federation and of all Offices and Courts of the Federation should be audited and reported on by the Auditor General (AG). The AG is required to report the findings to the Public

[9] *This Day*, November 10, 2006, p. 1.

Accounts Committees of both houses of the NASS within 90 days of receipt of the Accountant General's report that is the matter of the audit. The AG or any person authorized by him has access to all the books, records, returns, and other documents relating to those accounts. The main function of the Public Accounts Committee is to review whether public money was spent for approved purposes and with due regard to efficiency. Strengthening the functions of this office by the current administration will contribute immensely to the governance efforts of the country. The status of the latest (2008) audit report of the Federal Government is on schedule to being submitted to the National Assembly by June 2009. Finally, even though Auditor-Generals in Nigeria at the Federal and State levels have a reasonable degree of independence, it could be greatly enhanced if at the Federal level, their budgets were not decided directly by the MOF but by the parliament. The Auditor-General should also be allowed to promote and dismiss their staff. At the local and State level, they have limited independence but this is perhaps acceptable as their role is limited to undertaking pre-audit checks on expenditure. However the Public Accounts Committees of state assemblies need some improvements to support the work of the state Auditor-Generals.

2.2 Corporate Governance and Administrative Accountability

2.2.1 **Corporate Governance**: Good corporate governance is indispensable to growth and sustainability of corporations in any economy. Nigeria is no exception. The FGN and its development partners agree that the private sector is the most important engine of growth. Thus, improving corporate governance in Nigeria ought to be a primary policy objective, as it can contribute to private sector growth and the alleviation of poverty in the country.[10] Nigeria's decision to improve corporate governance reflects the extensive damage to public opinion associated with the massive failure of banks due to mismanagement and corruption. The sector has since been consolidated and reformed to address its lack of governance.

2.2.2 A number of independent organizations have been mandated to pursue the improvement of better corporate governance in Nigeria. In the public sector, the most important one is the Corporate Affairs Commission (CAC). The CAC works collaboratively with the Securities and Exchange Commission (SEC), whose chair and chief executive officer are appointed by the President of the Federation. The CAC, in addition to the SEC, works with the Insurance Commission, and has a close working relationship with the Institute of Chartered Accountants of Nigeria (ICAN). Since the promotion of good corporate governance focuses on improving the effectiveness of rules governing Publicly Listed Companies (PLC), the CAC's corporate governance responsibilities begin with the registration of entities. Except for accounting firms, all major business enterprises are listed on the stock exchange, and their relevant activities are said to be properly and effectively monitored by the responsible regulator. Corporate registration is centralized at the CAC head office in Abuja but other functions are carried out at offices outside Abuja. The World Bank has a project with the CAC to improve the infrastructure and the registration mechanism. Also, UNCTAD is working with the CAC to improve its effectiveness. One important area that the CAC's effectiveness needs to be enhanced is its regulation of Part B companies. These are SMEs. In fact the apparent failure to protect investments in these SMEs is a weakness of the CAC that must be looked at.

2.2.3 The SEC on the other hand is a private, self-financing institution, but under its charter, the President of Nigeria appoints the Chair of its Board and its Chief Executive

[10] Nigeria defines the relative poverty line as expenditures of less than 2/3 of the average per capita household expenditures.

Officer. There is said to be little political interference in its activities and decisions. The SEC bans and has banned persons who have committed fraud from ever again becoming directors of publicly listed companies. CAC, not SEC, has primary responsibilities for corporate governance. SEC more forcefully and effectively regulates PLCs which are the pillars of the private sector. All companies in oil, finance (banking and insurance) are listed on the Nigeria Stock Exchange and come under the SEC's purview as it pertains to governance. The SEC launched its corporate governance unit in 2003.

2.2.4 It must be noted that the Nigerian Code of Corporate Governance is voluntary. The Code also suffers from slow internalization which impedes the effective establishment of a good corporate governance regime in the country. The SEC is currently writing rules to make the code enforceable. Alternatively, these codes would have been more effective if they carry legal sanctions. Furthermore, an effective regulatory framework is needed in Nigeria to enhance the role of regulatory agencies like the SEC in the effective enforcement of corporate governance in their respective sectors. Enforcement is also weak, because the Code of Best Practices is voluntary. It should be mentioned that an Investment and Security Tribunal has recently been established to sanitise operations of the capital market as well as play a dispute resolution role.

2.2.5 **Legislative Scrutiny of Public Sector Financial Management**: The capacity for legislative scrutiny of the budget, and of exercising appropriate oversight, seems very limited. First, the NASS did not have a Budget Office until recently; the Assembly or its Public Accounts Committees do not have a dedicated, competent source of analysis. Second, reactions to budget presentation are politicized. The most cogent example is the fate of the FRB—the Bill was before the NASS for two years before it was approved. But most important of all, the current legislature is populated with new faces as most former legislators lost their seats in the April 2007 elections. It is worthy of mention that with the successful transition of power to the current administration, a Budget Office was established under NASS alongside a Civil Service Commission to address issues pertaining to staff under NASS.

2.3 The Private Sector

2.3.1 The dominance of the oil sector over the past thirty years has led to the relative neglect of other productive sectors of the economy. In an effort to stimulate non-oil growth, is acknowledged that the private sector has an important role to play in the fight against poverty, and in raising the standard of living of the majority of the population of Nigeria. The Federal Government has thus included in its home-grown development strategy, NEEDS, the promotion of private enterprises through improvement of infrastructure and promotion of a conducive business environment. To achieve these goals, it is equally important to form partnerships between the public and private sectors. This allows for private sector capital as well as practices and efficiencies to be introduced to the public sector. It also promotes competitive markets and facilitates innovation.

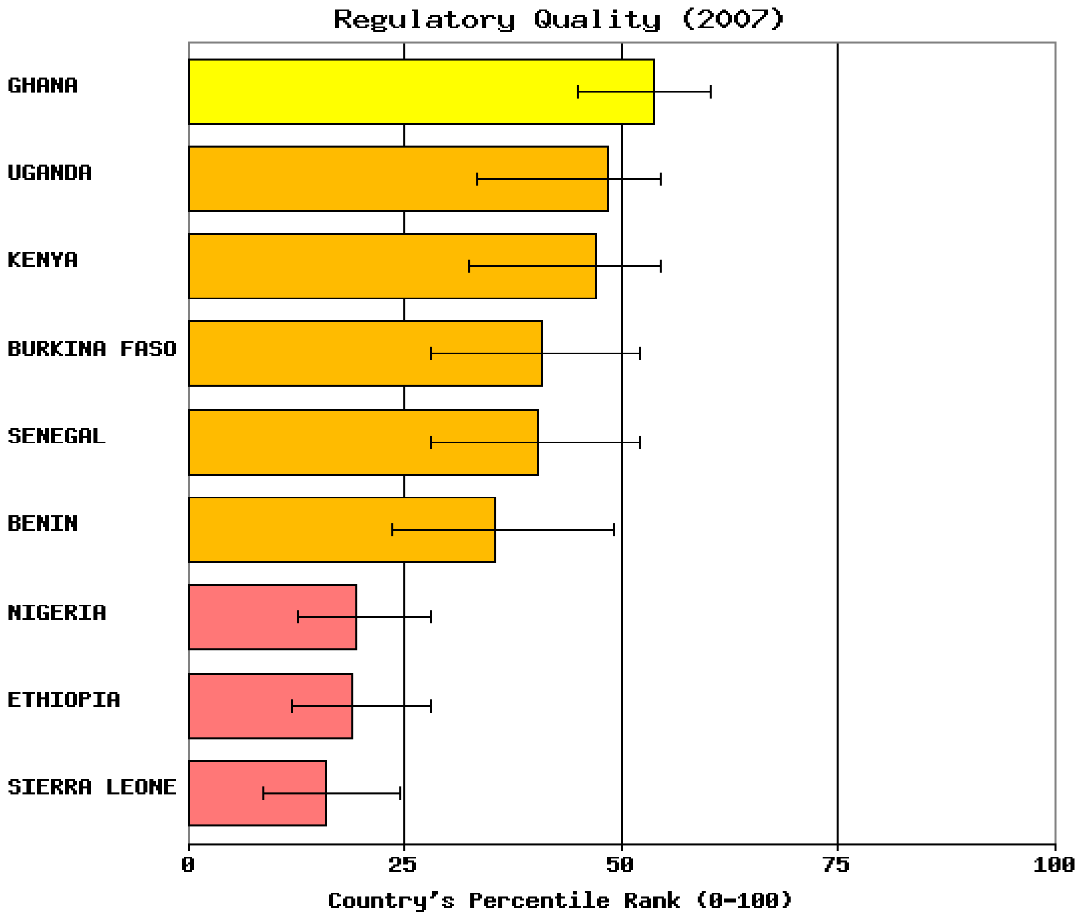
2.3.2 The fundamental problems facing the private sector in Nigeria are poor infrastructure, especially in power and telecommunications, lack of adequate qualified personal and property security, poor governance, and corruption. For example, some firms had to generate their own electric power at high cost. The ongoing challenges in the private sector in Nigeria are due to low electricity generation, poor transmission and distribution leading to frequency and persistent outages. The sector was restructured since 2004 into the Public Holding Company of Nigeria (PHCN). Some of the suggested solutions to the power challenges in Nigeria are demand-sided as well as supply-sided management. The government is now encouraging IPPS to enter the power sector through various mechanisms, including the establishment of the Nigerian Electricity Regulatory Commission (NERC) and the Infrastructure Concession Regulatory Commission (ICRC). Sound environmental policies should be part of this effort. In the telecommunications sector, NITEL, which had a monopoly on fixed line services for over 40 years, could only provide 400,000 lines to serve a population of 140 million. The deregulation of the sector has seen an astronomical increase and access of Nigerians to telecommunication services. The licensing of four mobile operators has seen an increase in mobile subscribers from a mere 35,000 in 1999, to 3.1 million in 2003 and over 16 million in 2005. The privatization of NITEL by the former administration has been reversed by the current administration due to some alleged irregularities in the process.

2.3.3 High interest rates, the short term nature of loans, and heavy collateral requirements exacerbated by land-titling problems or absence of equity capital made it difficult for many firms to access credit. The banks are unwilling to lend to the Small and Medium Enterprises (SME) sector because of high perceived risks. Hence, the high costs and limited availability of credit is a major factor in raising the cost of doing business and lowering the competitiveness of the Nigerian private sector. Long term finance is very rare and only the most credit worthy have access to it. Corruption which is another negative factor has a direct impact on the private sector in that it makes participation in corrupt practices one of the most lucrative forms of business.

2.3.4 Other factors that impede private sector growth in Nigeria include the legal and judicial systems. They have been severely run down due to years of neglect. The impact on dispute resolution, protection of property rights, and enforcement of contracts in the country cannot be emphasized enough. The tax system is also complex, poorly administered, and thus widely evaded. The procedures of establishing a business in the country are lengthy and complex. Customs and import/export procedures are subject to widespread evasion. Weak governance and policy formulation at the state and local levels create a complex web of overlapping taxes and regulations. In figure 2 below, Nigeria ranks lower than seven of nine comparator countries in terms of regulatory quality.[11] It should be noted that since 2008, the current administration has introduced some measures to address these systemic issues, such as the introduction of tax and customs reforms and some institutional reforms at the Federal Inland Revenue.

[11] Regulatory Quality: the ability of the government to formulate and implement sound policies and regulations that promotes private sector development.

Figure 2. Regulatory Quality



Source: The World Bank: Kaufmann D., A. Kraay, and M. Mastruzzi 2008: Governance Matters VII: Governance Indicators for 1996-2007

2.3.5 **Private Sector Accounting:** Accounting and auditing in the private sector in Nigeria still has a long way to go to comply with international standards. Nigerian business organizations tend to rely on their internal auditors to audit their firms which are prone to corrupt practices. Even the use of external auditors still is not free of corrupt practices. The National Accounting Standard's Board (NASB) which is to ensure compliance lacks capacity. It is therefore unable to monitor and enforce compliance with accounting standards. It is thus imperative that the NASB is helped to build the capacity and requisite infrastructure to monitor and enforce compliance of accounting standards.

A Draft Code of Best Practices on Corporate Governance in Nigeria, which the Committee on Corporate Governance of Public Companies submitted, sought to enhance corporate discipline, transparency, and accountability. Part A focused on the board and its functions and Part B enumerated the roles and responsibilities by type of shareholders. Part C outlined the responsibilities of the Audit Committee, as an internal unit in the corporation and in terms of its relationship with the corporation's independent, external auditors. Unfortunately, this code is voluntary. It needs to be codified with legal consequences to bring about auditing and accounting in the private sector in Nigeria.

2.3.6 **Private Sector Reforms:** The former administration started the process of structural reforms as well as the requisite measures to encourage private sector growth. It was observed that in order to improve the business environment, promote private investment, and create jobs especially in the non-oil sector in the country, a new philosophy and approach was required. One of such is the NEEDS strategy of which one of its pillars is the promotion of private enterprise through an improved business environment. In this regard, efforts are under way to provide the necessary infrastructure for the private sector to thrive, such as the establishment of the Infrastructure Concession Commission (ICRC) in 2008. Government spending on physical infrastructure such as energy and transport has more than doubled since 2004; ports have been concessioned and the railway system is being refurbished.[12] Challenges however remain, especially in terms of governance in the power sector. Evidence of this came in the report submitted by the House of Representatives committee on Power and Steel, submitted to the House Leadership in July 2008 investigating the alleged US$ 16 billion spending in the power sector during 1999-2007 without commensurate results. Weak energy infrastructure is a major impediment to sustained economic growth in Nigeria, with an estimated 57% of the population without access to electricity. Governance and institutional capacity, including M&E and contract awarding, will need to be strengthened alongside huge investments, to support the growth of the non-oil sector. In the current administration 2008 budget N94.36 billion is being spent on the transport sector, whiles N139.78 billion is earmarked for the energy sector. This indicates the commitment of the current administration to encouraging the public sector to work with the private sector to enhance the infrastructure of the country. The Bank together with the World Bank and DFID to this effect has established a strategic partnership for the elaboration of the Investment Climate Assessment, (ICA) launched in January 2008. The ICA report has been finalized. It aims at improving country dialogue and strategies in the support of the private sector.

2.3.7 The Federal Government passed the Privatization and Commercialization Act in 1999 to provide far reaching and market oriented reforms to achieve efficiency gains of private participation. In July 1999, it adopted a three-phased privatization program for the period 1999-2004. Phase 1 involved divestiture of FGN’s shares in banks, cement companies, and oil marketing firms listed on the Nigerian Stock Exchange. Phase 2 calls for full divestiture of FGN ownership in hotels, vehicle assembly plants, and other industrial, agricultural, and service sector enterprises operating in competitive markets, and Phase 3 involves partial divestiture of FGN shares in non-competitive, but potentially competitive, sectors such as NITEL, PHCN, Virgin Nigeria Airline and the oil refineries. Since 2007, the current administration has also continued with this privatization process, but there remains a need to develop Public Private Partnership (PPPs) that will contribute significantly to helping fill the gap in infrastructure. The Federal Government has already started working to establish a new regulatory framework for PPPs, aimed at stepping up more domestic and foreign investor participation in infrastructure, particularly in the power, hydrocarbon and transport sectors.

[12] Nigeria: Poverty Reduction Strategy paper—Progress Report—Joint Staff Advisory Note, August 2007, IMF Country Report No. 07/271.

3. TRANSPARENCY

The enactment of the Freedom of Information Bill in November 2006 into law is a significant move toward the goal of enhancing transparency in Nigerian governance. It will allow for the first time, government information to be available to the public. Significant progress has been made so far with the increasing transparency of the government budget and accounts, particularly related to oil revenue, but an extensive reform agenda remains.

3.1 Public Access to Budget Information

The Center on Budget and Policy Priorities recently ranked 59 countries on the basis of the openness of their budget process—openness of their budget books to citizens. According to the Center, Nigeria is one of the ten countries falling in the group that "provides scant or no information to citizens". The Open Budget Index also ranks Nigeria in the lower fifth percentile of countries surveyed. Of the few African countries covered by the survey, Botswana, Ghana, and Mauritius did better than Nigeria.[13] There is little disclosure of budget information prior to the Executive's submission of the budget to the NASS. However, the budget framework and the budget itself, after it has become law, are published on the FMF's website. Interested stakeholders are also known to have requested and received hard copies of the budget. Recently, the Federal Government has introduced widespread consultations, including civil society, of the budget prior to being submitted to NASS, though there is still room for expansion of the consultative process.

3.1.1 The Federal Government has taken due cognizance of the weaknesses of the current fiscal practices and has made far reaching proposals for change which were recently approved by the two houses of Parliament. The regime under the FRB seeks to achieve the following:

- Sound and prudent principles of public expenditure management;
- Better coordination among the federal, state, and local governments;
- Transparency and accountability;
- Value for money;
- Clear rules for timely financial reporting;
- Publication of audited accounts for all tiers and arms of government within six months of year end;
- Publication of consolidated accounts for all tiers of government in the mass media within nine months of year end;
- Publication of quarterly budget implementation reports;
- Publication of summarized annual budget execution report;
- Promotion of public hearings during budget discussions; and
- Wide publication of fiscal affairs of government.

3.1.2 In order to ensure value for money, all three tiers of government are requested to develop sector strategies, expenditure tracking mechanisms, and monitoring and reporting systems. Outstanding bottlenecks include institutional and human resource capacity.

[13] http://www.openbudgetindex.org/. This is the first index to rate countries on how open their budget books are to their citizens.

3.2 Public Sector Expenditure Monitoring and Review

Previously, the government, civil service, or even donors do not monitor expenditure.*[14] *With the MTSS adopted in principle, but not yet implemented—the Federal Budget Office said it has no future years' budget estimates—expenditure review is yet to begin. Compared with revenues, there is very little disclosure of expenditure. It is hoped that when all these measures are in place, public sector expenditure in the country will be effectively monitored and easily reviewed.

3.2.1 The reform measures outlined in the FRB will address issues of expenditure monitoring and review. To strengthen management of public accounts, the current government is computerizing the Budget Office and the Office of the Accountant General, with a view of connecting their operations with those of the Budget Monitoring and Price Intelligence Unit and the CBN. A Chart of Accounts has been developed by the Office of the Accountant general and is now in full operation and a tagging and tracking mechanism has been established in the Ministry of Finance to monitor and evaluate spending of debt relief savings in MDG related sectors. There will be an accounting platform in the Ministry of Finance that uses a chart of accounts with special codes to track expenditures. As part of this reform effort, the current administration earmarked N22.5 million in its 2008 budget to support and improve public sector reforms.

3.3 Oil Sector Governance

The oil sector in Nigeria is the largest foreign exchange earner for the country (95 percent). Oil also accounts for 20 percent of the country's GDP and 65 percent of government revenues. Successive Nigerian governments at federal, state, and local levels have systematically mismanaged the country's huge oil reserves. In a climate of weak transparency and accountability, financial resource management was ineffective, leading to unsustainable increases in external debt during the 1990s. Budgetary allocations were not aligned with development priorities of the country. Furthermore, weak enforcement of environmental laws and property rights has also contributed to environmental degradation and social conflict as evidence in the Niger Delta. The pervasive mismanagement of oil revenues have brought about the current debate and outcry on the use of the excess crude oil account which is still ongoing.

3.3.1 **Nigeria Extractive Industries Transparency Initiative (NEITI):** In 2003, the former administration made an impressive start in implementing the Extractive Industries Transparency Initiative (EITI), setting an example for the rest of Africa. A Nigerian subset of the EITI was launched in 2004—the NEITI—building on existing government transparency efforts aimed at following due process and achieving transparency in payments by extractive industries (EI) companies to the government and government linked entities. A National Stakeholders Working Group (NSWG) was established to implement the NEITI, encompassing individuals from civil society, media, government, national and multi-national companies, private sector, the NASS, and the States' (Regional) Houses of Assembly. The work of the NSWG is coordinated by the NEITI Secretariat. The NSWG consists of five separate teams: a technical, legislative, focal, civil society, and media team. The legislative team set the agenda and strategy for the legislative backbone of the NEITI, the NEITI Bill. The civil society team is in charge of implementing the communication strategy and for

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[14] World Bank, (October 26, 2006) Nigeria: A Fiscal Agenda for Change: Public Expenditure Management and Financial Accountability Review. Draft. Report No. 36496-NG.

community outreach, building ownership among a wider group of stakeholders, in particular through road shows.

3.3.2 The first comprehensive and independent financial, physical, and process audits of the Nigerian oil and gas sectors, covering the period 1999-2004, were finalized in April 2006 and are now available on the NEITI web site.[15] The physical audit provides a reconciled volume figure, which gives a complete picture of the amount of oil/gas that has been produced, lifted, lost, refined, and exported in the period. The financial audit provides a reconciled picture of who has paid for the oil/gas, to whom, and how much. The process audit provides a critical examination of crucial EI processes such as levels and justifications of capital expenditure proposals; checks and balances in importation of products; and comparative analysis, benchmarking, and recommendations for improvement. The audit findings and recommendations are being communicated to the Nigerian population through newspapers, television, radio, and billboard adds. Furthermore, regional information centres will be opened and town hall meetings and road shows held to reach areas with low literacy rates.

3.3.3 The NEITI Bill was signed into law in May 2007. It has passed the two houses of Parliament and is presently awaiting harmonization. The bill will ensure independent annual audits in subsequent years beyond the present administration. Furthermore, the post-audit remedial measures for the identified systemic weaknesses were approved by the Cabinet and are currently implemented by the NEITI Secretariat on behalf of the NSWG. These measures include designing standard reporting templates for the relevant agencies and oil companies and creating a system to improve the metering infrastructure upstream. Financial and physical audits of the accounts and verification of process improvement commitments have been undertaken. The procurement process for the 2006 audits, including a value-for-money audit, commenced in April 2007 and tenders have been called for. Quarterly reports have been produced for the 2007 oil sector accounts. The scope of the audit should be expanded to cover downstream production as well as petrochemicals. The first audits of the mining and gas sectors are expected in 2008/09.

3.3.4 A number of political and economic factors could undermine the effective implementation of the NEITI in the near future. These factors include: (i) uncertainty about the final approval of the NEITI Act; (ii) a lack of legislation governing the use of the Excess Crude Oil Account funds; (iii) a lack of transparency and accountability at state and local government levels; and (iv) inadequate funding to implement audit recommendations, including production metering and funding of the NEITI Secretariat.

3.4 Procurement

Collusion and other corrupt practices keep qualified participants and bidders from the procurement process. However, with the establishment of a Due Process Organization as well as the Bureau of Public Enterprise, improvement has been noticed in the procurement process significantly. The DPO vets procurement contracts and their cost determinants, whiles the BPE is responsible for privatization and concessioning. As a result of the post 2003 reforms, appropriate tendering mechanisms for contracts above a specified threshold size have been instituted and procurement regulations that are transparent have been adopted. The PRB has now been passed into law by both houses of Parliament. It calls for

[15] Nigeria is implementing a more comprehensive initiative than what is called for by EITI a so called EITI plus. In addition to the financial audit of oil sector accounts this includes a physical and process audit as well.

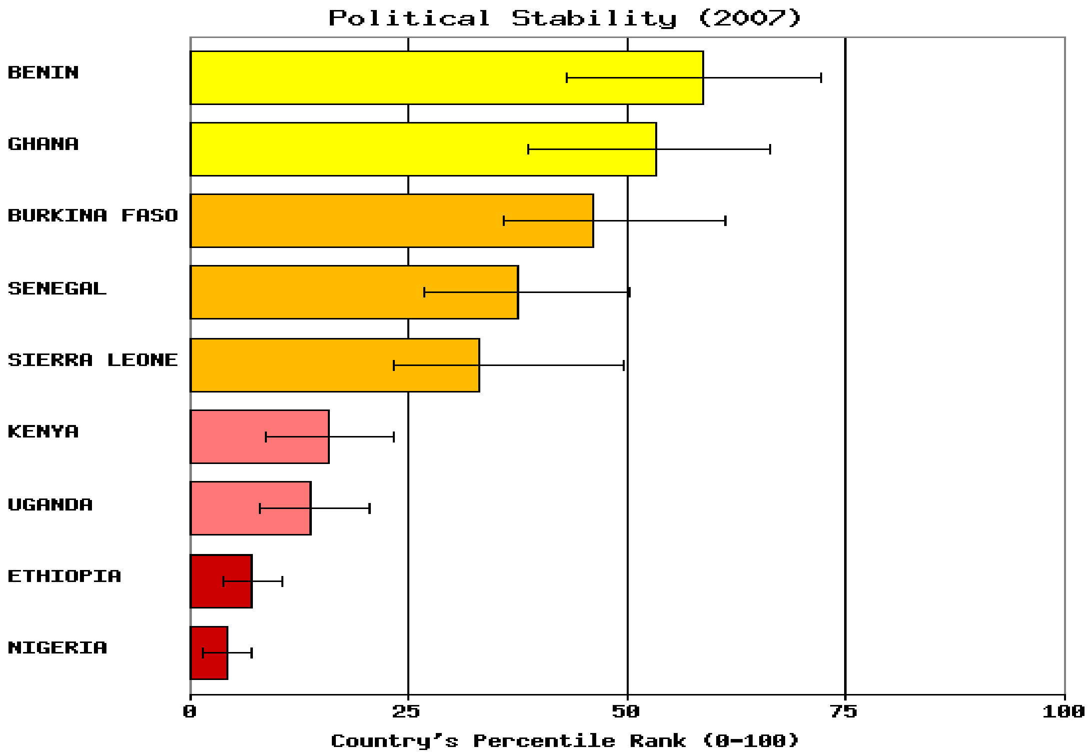
the establishment of a public procurement agency, and outlines the direction and thrust; underlying principles; methods of tendering, bidding, and selection of contractors; and dispute resolution mechanisms. The bill focuses on the search for economy and efficiency in the utilization of public funds, enhancement of probity, accountability, and transparency in the procurement process. It also promotes competition among providers of goods, works, and services. The bill also seeks to provide fair and equitable treatment of all potential contractors and suppliers, as well as promote integrity, fairness, and public confidence in the procurement process.

4. PARTICIPATION

Popular participation is a *sin-qua-non* to transparency and good governance in a fledging democracy like Nigeria. Unfortunately, popular participation in Nigeria has been poor. This is because of its long history of military dictatorship. The military ruled by fiat and decree with little or no consultation with the people. Dissenting voices like that of the renowned Ken Saro Wiwa and many others were killed or exiled. Violence and intimidation was also used during the era of military rule to force compliance. In a cross country comparison of perceptions about political stability and absence of violence for a selected number of countries in West Africa, Nigeria is the lowest ranked country (see Figure 4 below)—an indication that political instability and domestic violence are seen as a major threat to the country's democracy.[16] This is borne out by events before and after the recent general elections. Recent efforts by the former administration with the establishment of the National Political Reform Conference in 2005 to enrich Nigeria's political process and entrench democratic principles and practices in the Nigerian political space are laudable. Furthermore, strengthening the provision of human, economic and social rights in the 1999 constitution are steps in the right direction to enhance popular participation in Nigeria's fledging democracy. The current administration has also demonstrated significant commitment to deepening political reforms.

[16] **Political Stability and Absence of Violence**: perceptions of the likelihood that the government will be destabilized or overthrown by unconstitutional or violent means, including domestic violence and terrorism.

Figure 3. Political Stability



Source: The World Bank Source: Kaufmann D., A. Kraay, and M. Mastruzzi 2008: Governance Matters VII: Governance Indicators for 1996-2007

4.1 Electoral Process

Elections have become a crucial index of national development and democracy. The conduct of free, fair, and credible elections goes a long way to show how seriously a country takes its processes of democracy. The April 2007 elections were marred by allegations of electoral fraud and violence. The opposition parties and some international observers did not think that the process was free and fair. The current administration has set in motion the reform process for electoral reform.

4.1.1 The body responsible for organizing elections in Nigeria is the Independent Electoral Commission (INEC). INEC, which was created in 1998 to, organized all transitional elections including that which ushered in the 4th Republic on May 29, 1999. The Electoral Act, which was passed in 2006, sought to consolidate the various legislations governing the electoral process, strengthen INEC to achieve more independence, and correct the shortcomings observed in previous electoral legislations. In order to boost public confidence, the INEC is now using information and communication technology (ICT) to eliminate problems of impersonation, multiple registrations and voting, or swapping of results and other electoral malpractices. The Direct Data Capture technology, which INEC believes will make it possible to eliminate multiple registrations and reduce the prospect of impersonation, is currently being used for the registration of voters. Much remains to be done to improve the electoral process in Nigeria such as various forms of electoral fraud. Also better preparation on the part of the Independent National Electoral Commission cannot be emphasized enough. The ability of authorities to curb violence that surrounded the elections and massive irregularities like those that characterized the April 2007 elections will be steps in the right direction to reform the electoral process and system in Nigeria.

4.2 Gender Issues

Nigeria adopted a National Policy in 2000 to promote the contribution of women to development. It, however, became apparent following an assessment carried out after six years of implementation that there was need for a new overarching strategy for the promotion of gender equality which takes both women and men as partners in development, and more importantly, that which challenges the structure which continues to produce gender based inequalities in order to promote sustainable growth and development both at micro and macro levels.

4.2.1 Consequently, a National Gender Policy was adopted in 2006 as an instrument through which both men and women can contribute to sustainable national development. The National Gender Policy is aligned with relevant international and national instruments such as Beijing Platform for Action, New Partnership for African Development (NEPAD), AU Solemn Declaration for Gender Equality, African Protocol on People's Rights and the Rights of Women, the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW), International Conference on Population Development Plan of Action, NEEDs, MDGs and a wide range of sector strategies. The new National Gender Policy recognizes the need for effective gender equality policy initiatives and the transformation of institutions which continue to perpetuate gender inequality/poverty in order to promote sustainable development and democratic governance in the country.

4.2.2 According to the 2006 census figures, women constitute about 49.6 percent of the total population of Nigeria, yet they hold less than 5 percent of political or elective positions. A gender analysis of appointments in the Nigerian judiciary shows that women form only about 25 percent. Ministerial appointments still fall short of the internationally required 30 percent minimum female representation. The limited participation of Nigerian women in the political sphere is due to socio-cultural factors amongst others. Most women also face extensive discrimination in all spheres of Nigerian life.

4.2.3 To achieve gender equality, it is necessary to eliminate all discriminatory practices against women and promote the entrenchment of affirmative action measures in the constitution to achieve the 30 percent minimum target for women as recommended by the Beijing Platform for Action, the MDGs, and Nigeria National Policy on Women. There is also a need to support capacity building and empowerment of women and adopt massive awareness measures among women and men on the benefits of opening up political spaces; and to establish institutional structures and opportunities to ensure the equal participation of women with men at all levels of decision-making.

4.3 Decentralization at Sub-National Levels

At independence in 1960, Nigeria was a federation of three autonomous and powerful regions, Northern, Western, and Eastern. In 1963 the Midwestern State was created, increasing the number of regions to four. A republican constitution and federal system of government with a three tier structure made up of federal state and local government was adopted in the same year. In 1967 the regions were abrogated and 12 states were created. The number of states increased to 19 in 1976, 21 in 1987, and 36 in 1991. There were 449 local government areas in 1990, which have now risen to 774. The 1999 constitution devolves to the state and local governments the primary responsibility of providing education, health, and other basic services and mandates the Federal Government to allocate approximately one third of federal revenues to these entities. The sub-national governments thus now have control over substantial resources but lack the capacity to manage the resources effectively.

4.3.1 The process of decentralization has not worked well at the local government level. Through a benchmarking exercise[17] the Federal Government is trying to get states to adopt policies that are in line with NEEDS. To strengthen inter-government policy coordination, all 36 states have now developed their own programs called State Economic Empowerment Development Strategy (SEEDS) and at the local government level development strategies are being developed called Local Economic Empowerment Development Strategy (LEEDS). Through the SEEDS, the government is trying to engage the states, with a view to deepening reforms at the level of sub-national governments, particularly in the areas of public expenditure management, debt management, tax reforms, and privatization. However, there is great disparity between the various local government entities in terms of resource endowment and financial and human resources. This needs to be addressed.

5. LEGAL AND JUDICIAL SYSTEM

In Nigeria, four distinct systems of law are applicable—the Received English Common law, which is derived from its colonial past with Britain, Nigerian Legislation, i.e. statutes enacted by Nigerian Legislature, Customary law/Sharia law, and Judicial Precedents or Case law. Arguably, a major challenge in the area of the legal framework is the conflicting values espoused by those laws. Different regions in the country are governed concurrently by different conflicting laws; however everybody in Nigeria (legal or natural) is subject to the Federal Constitution. Since each region adopts a particular system of law, very often the Supreme Court takes over the role of an arbitrator of last resort. Challenges facing the Nigerian judicial system particularly at the state level include infrastructural deficiencies, lack of access to justice for the poor, archaic recording and filing systems, backlog of cases, delays in the dispensation of justice, to mention a few. To address these, the NEEDS, recognized that any threat to the administration of justice is a threat to justice in the society. Furthermore it states that the essence of democracy is to strive to provide access to justice for all, protect the rights of the citizenry, and make the system of justice work smoothly and efficiently. It is hoped that the appropriation of N78 billion to the National Judiciary by the

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[17] SEEDS benchmarking is a key component of the current reform process, it is designed to measure performance of implementation at the sub-national level of a coherent development strategy. The following criteria and applied weights are as follows: policy (20) budget and fiscal management (40) service delivery (20), communication and transparency (20). SEEDS benchmarking which was conducted for the first time in 2005 provided an overview of the status of governance in the states. Generally the results indicated that the capacity of governance systems in the states is weak when assessed against selected international best practices used as benchmarks.

2008 budget will see some of the resources used to address the challenges of this important branch of government.

5.1 The Executive, the Legislature, and the Judiciary

Nigeria is a federal republic and runs the presidential system of government. In the Nigerian Presidential system the executive arm of government, implements legislation instituted by the bicameral NASS and processes declared by the Judiciary. The running of the government is the function of the Federal Executive Council which includes the President, Vice-President, Ministers, Special Assistants, Special Advisers, and other relevant government functionaries with supervisory roles over areas of government.

5.1.1 The Legislative powers of the FGN are vested in the bicameral NASS which consists of a Senate (i.e. an Upper House) of 109 members and a House of Representatives of 360 members elected on four-year terms. The two houses work in collaboration with the Executive arm in budgetary appropriation, the enactment of laws etc. The judiciary is the arm of government responsible for the interpretation of laws, resolution of disputes between arms of government and between citizens or among citizens, application of sanctions and punishments to law breakers, hearing and determination of election petitions, and engaging in judicial reviews to determine the constitutionality of legislation and executive decisions and formulation of case laws that are cited as precedent.

5.2 Independence of the Judiciary and its reform

Inadequate funding for the courts is one of the greatest problems confronting the independence of the judiciary in Nigeria. To enhance the independence of the judiciary and secure its autonomy as the third arm of government, the National Judicial Council was established under the 1999 constitution. Its creation was criticized on the ground that it is incompatible with a federal system in which greater autonomy is being devolved to the lower federating units. Its composition and powers have also attracted strong reservation from some quarters. What it implies is that the states do not have individual authority to appoint their own judges without approval from Abuja. The rationale is to introduce inter alia a uniform system of appointment to the higher bench throughout the country. To this end, the Council has introduced guidelines and criteria aimed at ensuring transparency and openness in the appointment process.

5.2.1 The amendment of the 1999 Constitution to provide for the National Judicial Council to make the recurrent and capital expenditures of both the federal and state judicial officers and the salaries and allowances of all judges of lower courts and personnel be charged to the Federation Account is one of the ways of addressing challenges faced by the judiciary. Furthermore, Alternative Dispute Resolution (ADR) mechanisms such as Mediation, Arbitration, and Early Neutral Evaluation have been put in place to reduce the workload of Nigeria's conventional courts, decongest the court dockets and limit excessive cost and undue delay in accessing justice. In addition, the Multi-Door Courthouse system is being tried out in Lagos and Abuja. It offers the judge a chance to encourage litigants to use the best "door" available that suit their purposes. The Lagos Multi-Door Courthouse (LMDC) also referred to as the first court-connected ADR Centre in Africa housed within the High Court premises aims "to provide enhanced, timely, cost-effective, and user-friendly alternatives to litigation in resolving disputes". Instead of the traditional "mono-door" of litigation leading to the courtroom, the LMDC has three other alternative and supplementary doors or options by which disputants can resolve their disputes, namely: Early Neutral Evaluation, Mediation, and Arbitration.

5.2.2 Reforms of the judicial system that have been supported by development agencies include the Rule of Law Assistance Program 2000 to 2004 by USAID; the Judicial Integrity and Capacity Building Program; the Report of the Judicial Assessment and Action Plans developed under the Judicial Integrity Programs at the federal and state levels, aimed at addressing incidents of corruption through a comprehensive approach of the United Nations Office on Drugs and Crime (UNODC); case management and court administration training for judges and court staff through the USAID and UNODC programs respectively; and electronic court recorders already installed in federal courts and some selected states. Some of the projects are exploring the establishment of the fast track court system.

5.3 Law Reform

The LRC set up by the Nigerian Law Reform Act, is the institution responsible for harmonizing national legislation and undertaking the progressive development and reform of substantive and procedural laws applicable in Nigeria by way of codification, elimination of anomalous or obsolete laws, and general simplification of the law.

5.4 Human Rights

The 1999 constitution safeguards the fundamental human rights of all Nigerians. For a people who have suffered so long under military dictatorship, there is a yearning for their legal system to protect these rights and provide justice which they were denied under military rule. It is thus imperative that the trust in the legal system be restored and bodies like the National Human Rights Commission (NHRC) and Legal Aid Council (LAC) play their respective roles in ensuring that the populace will have access to justice.

6. COMBATING CORRUPTION

Corruption and its ancillaries – bribery, graft, fraud and nepotism has severely impacted Nigeria's growth and development efforts. Corruption has become so deep-rooted in the social fabric of country that it had stunted growth in all sectors and has been one of the primary reasons behind the country's high incidence of poverty. TI ranks Nigeria among the five most corrupt nations in the world. Corruption undermines economic growth, jeopardizes financial stability, and undermines confidence in government institutions. It also leads to criminality that has corrosive effects on governance and the rule of law. Federal and state governments are reported to have lost about US$380 billion since the country became independent in 1960 due to corruption. Combating it should be on the top of the current administration's agenda if Nigeria is to progress.

6.1 Legal Framework and Institutional Bodies

The proliferation of economic and financial crimes like Advance Fee Fraud (419), Money Laundering, etc. has had severe negative consequences for Nigeria. These including decreased foreign direct investments in the country and tainting of Nigeria's national image. The menace of these crimes, the recognition of the magnitude and gravity of the situation, and lack of effectiveness of the existing institutions to fight corruption prior to 1999 led the former administration to enact the ICPC (2000), the EFCC (Establishment) Act (2004); the Money Laundering Act (1995); and the Money Laundering (Prohibition) Act 2004. These Acts make comprehensive provisions to prohibit the laundering of the proceeds of a crime an illegal act, provide appropriate penalties and expands the interpretation of financial institutions, and provide scope of supervision of regulatory authorities on money laundering activities, among others. The establishment of these institutions has contributed significantly in combating those activities. Yet more still needs to be done. There is a need for the current government to reassess and retool their methods to help them fight the ever changing forms of these crimes.

6.2 Measures in place to combat Corrupt Practices

The EFCC Act mandates the EFCC to combat financial and economic crimes accompanied by high-level support from the Presidency, the Legislature, and key security and law enforcement agencies in Nigeria. The Commission is empowered to prevent, investigate, prosecute, and penalize economic and financial crimes and is charged with the responsibility of enforcing the provisions of other laws and regulations relating to economic and financial crimes as well as being the key government agency responsible for fighting terrorism. The EFCC and ICPC have since their inception been able to bring corrupt public officers to justice. The government's campaign against corruption is also enhanced by the setting up of the Due Process Office.

6.2.1 Shortcomings in the efforts at curbing graft include weak laws, e.g., the ICPC law does not offer protection to whistle blowers and gives no room for anonymous petitions; making it unattractive and unsafe for people to file complaints against corrupt public officers, most of them vengeful and powerful. The EFCC on its part has enormous powers to act on intelligence but appears to have abused its privileges. There have been allegations by opposition parties that the EFCC had being used by the former administration to discredit members of the opposition and that the EFCC does not follow Due Process. The current administration has pledged to continue the fight against corruption where the former administration left off. It has pledged to do so by undertaking the following actions:

(i) Enhance existing laws and create new ones to fight corruption
(ii) Put into place effective institutional measures to curb corruption
(iii) Put into place the requisite administrative measures to fight corruption

Code of Conduct and Ethics

The Code of Conduct Bureau came into existence as result of the Code of Conduct Bureau and tribunal Act of 1990. Its aim is to ensure that public officers abide by all rules and regulations in the discharge of their duties by upholding the virtues of honesty, transparency and accountability. The mandate of the Bureau complements the national goals of government in its search for transparency and accountability and the entrenchment of ethical principles in public office. Thus the conduct and behavior of

public officers cannot be divorced from quality service delivery. The bottom line is to enhance service delivery and to increase public trust and enhance the credibility of government. The Act delineates the boundary for the behavior of public officers, provides a direction for official decision-making, and draws a line between public and private interests. This places a responsibility on the public officers as managers of the trust, as well as the public to insist on accountability and transparency. The Act focuses on discipline, moderation, contentment, and professionalism among other principles of public office. It also serves as a check on extravagance and vulgar display of ill-gotten wealth.

7. GOVERNANCE REFORM AGENDA OF THE NEW ADMINISTRATION

7.1 The April 2007 elections in Nigeria which were characterised by massive irregularities saw the handing over of power from one elected government to another since. Although President Umaru Musa Yar'Adua's election in April 2007 was challenged in court, in late February of 2008 the Presidential Elections Tribunal threw out the case challenging the presidential results. Since coming to power, the current administration has demonstrated strong commitment to a reform agenda that should bring about sustained economic, social and political progress.

7.2 President Umaru Musa Yar'Adua started to review some of some of the economic decisions taken by the former administration and in some cases he has reversed or strengthened them. For example, he has ordered a comprehensive review of the sale of the Nigerian Telecommunications Service (NITEL). The sale of NITEL has since being rescinded. What is interesting is his Seven-Point Agenda targeting specific sectors of the economy.[18] The President has added to his Seven-Point Agenda two special interest issues. These are (i) the Niger Delta issue and (ii) the issue of disadvantaged groups. What all this points to is that he is putting good governance as a top priority of his administration. It is too early to tell about the outcomes of the implementation of his Seven-Point Agenda and his rule, but so far, things look promising for this administration.

8. Action Plan

8.1 Nigeria faces several daunting challenges in its efforts to improve governance in a nation of 140 million people that has seen its institutions deteriorate due to decades of military dictatorships. Some of the outstanding governance issues include: the lack of implementation of the Fiscal Responsibility Bill in the states, the need for rules for withdrawing funds from the Excess Crude Oil Account, the ability of the legislature to scrutinize the Federal budget, as well as a legal and judiciary system that is run-down and the challenges of Nigeria's four distinct systems of law. Others include the lack of transparency and accountability at the state and local government levels, inadequate funding to implement the NEITI audit, mismanagement and misapplication of funds at the local government levels, and above all, the embedded nature of corruption in the country and its institutions.

8.2 The former administration made important strides in improving governance of the country by introducing a series of reforms. The economic reforms outlined in NEEDS had depended on the approval of several key pieces of legislation including the FRB, the PRB, and the NEITI Bill, the Tax Reform Bill and several others (see Appendix 1). The

[18] These entail, Power and Energy, Food Security, Wealth Creation, Transport, Land Reforms, Security and Education.

establishment of the EFCC as well as the ICPC as well as the subjection of the country to the APRM are some of the examples. Laudable as these efforts may be, more still needs to be done by the Federal Government to be able to improve governance in the country. Furthermore, the implementation and monitoring of these reforms will require building capacity at the federal, state, and local government levels. Successful implementation of the FRB and the PRB will ensure accountability and transparency in public finance management and enhance the delivery of public services.

8.3 The role of multilateral and bilateral donors to support government's efforts remains important for Nigeria. The World Bank for example has 123 projects in the country, that range from local government and environmental management projects, to its partnership with DFID to help Nigeria in its NEEDS programme. In partnership with other development partners including DFID, USAID, UNDP, the EU and the AfDB, it is also working at the state level in Nigeria to help in the implementation of the SEEDS. DFID is supporting the implementation of the NEITI programme in Nigeria as well as strengthening the privatisation process in Nigeria, assisting in the introduction of the BPE to international standard systems. Donor harmonisation and coordination is essential for smooth and effective aid delivery and implementation of development programs in the country.

8.4 The Bank can play an important leadership through its interventions in Nigeria. Using as a premise the lessons learnt from its cross sectoral programs and projects, and its strengthened field presence through its field office. It has also played a key role in regional initiatives and interventions such as the APRM, with its strategic partners UNDP and the ECA. More can be done with regards to addressing the challenges at state and local government levels where accountability and oversight mechanisms need to be enforced and capacity built for these entities to function in a more responsible and transparent manner. Furthermore, the Bank should focus its efforts to strengthen the links between NEEDS and SEEDS in order to improve intergovernmental coordination and service delivery. The provision of a grant of UA 4 million in 2002 for institutional support to the Ministry of Finance, the legislature, the judiciary, and the national planning commission is an example of how this was has been supported. Such efforts should be extended to build capacity to improve public financial management at the state level in line with the FRB.

8.5 The Bank could also provide assistance to support NEITI through institutional capacity building, e.g., by supporting implementation of the remedial measures outlined by the audits as well as capacity building in the related government agencies. Other measures could support implementing the NEITI in all EI sectors, including gas and solid mineral and further engaging civil society and community groups to ensure accountability. The Bank's dealing with the private sector should move beyond extending Lines of Credit to financial institutions in Nigeria. Its private sector department should consider aggressively exploiting the enormous potential of the private sector in Nigeria.

8.6 The following are the main constraints that have been identified in this profile that the Bank should position itself to tackle thorough its interventions in Nigeria; The need for more Economic and sector diagnostic work in key priority sectors; Lack of capacity for effective public financial management planning especially in areas such as revenue management, internal and external audit, and budget planning and preparation; Insufficient institutional capacity in key ministries also poses a serious challenge to the successful implementation of poverty reduction programs; Lack of capacity at the state level to implement reforms driven by decentralisation; Weak infrastructure especially in the rural areas that affects all sector interventions and the delivery of essential goods and services; Delayed drafting and passing of important legislation by parliament; Lastly, effective donor coordination and harmonisation of activities. It is important to note that commitment and ownership from the Nigerian government of the reforms underway is a prerequisite for sustained progress in the country and support to good governance efforts.

8.7 Table 2 below summarises proposed areas of intervention that the Bank could support. The instruments identified, respond to the needs and particular bottlenecks experienced at both the state and the federal level. Although these have been categorized separately, in some cases a mix of instruments would be needed address the various constraints that include weaknesses in capacity, slow adoption of legislations or lack of diagnostic and analytical work and lack of government commitment.

Table 2: Proposed Bank Action Plan

Instrument/ Level of intervention	**Activity/program/project**
Institutional Support Project *State and Federal level*	(i) Internal/external Auditing (ii) Procurement capacity (iii) Support to the NEITI office (iv) Budget implementation, monitoring, and reporting
Economic Sector Work *State and Federal level*	(i) Fiscal decentralisation study* (ii) Improving revenue management (iii) Implementing APRM National Programs of Action for Nigeria (iv) Strengthening links between the NEEDS and SEEDS
Policy Dialogue *Federal level*	(i) Sector strategies (ii) Preparation of Medium Term Strategic Plans (SEEDS) (iii) Monitoring of national poverty reduction strategy (iv) Budget formulation and execution

* This study has been programmed for 2009

Appendix 1: Nigeria Governance Policy Matrix

Accountability and Transparency	**Policy Measure**	**Status**	**Expected Outcome**
	Fiscal Responsibility Law	Approved by the National Assembly	Secure greater accountability, transparency, and prudence in the management of the nation's resources
	Tax Reform Bill	Approved by the National Assembly	The reforms aim at improving revenue collection and tax services delivery, broadening the tax base and addressing distortions
	Procurement Reform Law	Approved by the National Assembly	Calls for establishment of a public procurement agency, and outlines the direction and thrust; underlying principles; methods of tendering, bidding, and selection of contractors; and dispute resolution mechanisms. The law focuses on the search for economy and efficiency in the utilization of public funds, enhancement of probity, accountability, and transparency in the procurement process; and promotes competition among providers of goods, works, and services.
	Nigerian Financial Intelligence Unit	Established in 2004	Analyzes financial transactions to detect money-laundering activities, enforces laws relating to banking, money laundering, advance-fee fraud (also known as "419" fraud) and other laws relating to economic and financial crimes. It actively investigates high-level officials suspected of corruption, has arrested several key "419" operators, and has recovered substantial assets. In December 2005, for the first time, a sitting state governor was impeached on corruption charges.

	NEITI Bill	Approved by the NASS in November 2006 but awaiting assent by the President	Formalizes the Nigerian EITI, which will ensure Transparency and accountability in the revenue receipts of the government from the extractive industries
	Auditor General's Bill	Yet to be presented to the House of Representatives	Fills a gap in the existing legal framework. Strengthens the capacity and independence of Nigeria's supreme audit institution
	Public Investment Reviews	On-going	Budget office and line ministries staff are to be trained on cost-benefit analysis of large public investment projects
	Freedom of Information	Approved by the House of Representatives in 2004 and by the Senate in 2006	Provide the public with access to public information
	Economic and Financial Crimes Commission	Established in 2002	Enforces laws relating to banking, money laundering, advance-fee fraud (also known as "419" fraud) and other laws relating to economic and financial crimes. It actively investigates high-level officials suspected of corruption, has arrested several key "419" operators, and has recovered substantial assets. In December 2005, for the first time, a sitting state governor was impeached on corruption charges.
Participation	1.The Electoral Act	Approved in 2006	The Act, seeks to consolidate the various legislations governing the electoral process, strengthen INEC to achieve more independence, and correct the shortcomings observed in previous electoral Legislations Broad areas of reform in the new Act include limiting the

			period within which candidates may be changed by political parties, conferring additional functions such as the conduct of civic and voter education to INEC, and making elaborate provisions on campaign finance to reduce the corruptive influence of money on the electoral process and also to make it a level playing field for all comers.
	Creation of the Institute for Peace and Conflict Resolution	Established in 2000	The role of the institute is to service and advise the government and to conduct research pertaining to conflicts and make recommendations to government
	Capacity building and technical assistance targeting the negative practices associated with traditional and religious institutions, and building social support systems for those women who want to participate in the political process, as well as practical training on how to succeed	On-going exercise	Greater participation of women in the political process
	Benchmarking Exercise	On-going exercise	A key component of the current reform process, it is designed to measure performance of implementation at the sub-national level of a coherent development strategy
Legal and Judicial Framework	Encourage the provision of greater state and private funded legal assistance to the poor, (ii) review the rules and procedures of	On-going	Ensure access to Justice

	Nigeria's civil courts to reduce the cost of litigation, and broaden access to justice; (iii) reduce delays so that cases can be decided speedily; (iv) ensure that litigants have an equal opportunity regardless of their resources to assert; or defend their legal rights and make the legal system understandable to those who use it		
Combating Corruption and Money Laundering	Enactment of the ICPC (2000), the EFCC (Establishment) Act (2004), repeals the EFCC (Establishment) Act of 2002; the Money Laundering Act (1995); and the Money Laundering (Prohibition) Act 2004,	On-going	Combat financial and economic crimes