



**USAID**  
FROM THE AMERICAN PEOPLE



**BIZCLIR**

Business  
Climate  
Legal &  
Institutional  
Reform

# AgCLIR: NIGERIA

Commercial Legal and Institutional Reform  
Diagnostic of Nigeria's Agriculture Sector





# AgCLIR: NIGERIA

Commercial Legal and Institutional Reform  
Diagnostic of Nigeria's Agriculture Sector

## AGENDA FOR ACTION

May 2009



### DISCLAIMER

The views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

Cover photos (from left to right) by: Elizabeth Shackelford, Amanda Grandfield, Havard Saebo, Edd Westmacott, Peeter Viisimaa, John Gyovai



# CONTENTS

<b>INTRODUCTION</b> .....	<b>3</b>
Nigeria's Challenge: Rebuilding the Agribusiness Sector .....	3
Summary of Diagnostic Findings .....	4
Cross-cutting Themes .....	9
The AgCLR Recommendations: Top Priorities .....	12
The AgCLR Diagnostic and Indicators .....	14
<b>STARTING AN AGRIBUSINESS</b> .....	<b>17</b>
<b>Introduction</b> .....	<b>17</b>
<b>On-farm Productivity</b> .....	<b>18</b>
Legal Framework .....	18
Implementing Institutions .....	22
Supporting Institutions .....	25
Social Dynamics .....	26
Recommendations .....	27
<b>Product Organization, Transformation, and Management</b> .....	<b>28</b>
Legal Framework .....	28
Implementing Institutions .....	29
Supporting Institutions .....	31
Social Dynamics .....	34
Recommendations .....	35
<b>Consumer Food Delivery</b> .....	<b>36</b>
Legal Framework .....	36
Implementing Institutions .....	37
Supporting Institutions .....	37
Social Dynamics .....	38
Recommendations .....	38
<b>TRADING ACROSS BORDERS</b> .....	<b>40</b>
Legal Framework .....	42
Implementing Institutions .....	48
Supporting Institutions .....	62
Social Dynamics .....	66
Recommendations .....	67
<b>GETTING CREDIT</b> .....	<b>70</b>
Legal Framework .....	72
Implementing Institutions .....	79
Supporting Institutions .....	81
Social Dynamics .....	83
Recommendations .....	83
<b>APPENDIXES</b> .....	<b>85</b>
Appendix I: Agricultural Development Initiatives	
Implemented by Past Governments .....	85
Appendix II: Agriculture Sector Constraints Identified	
by Government of Nigeria .....	87
Appendix III: Draft National Food Security Programme's Thrust .....	89
Appendix IV: Compilation of Recommendations .....	91





## INTRODUCTION

This report addresses the conditions of and opportunities for the agribusiness sector in Nigeria. Through examination of the relevant laws, institutions, and social dynamics, it aims to inform assistance decisions by the United States Agency for International Development (USAID) and other donors in agribusiness legal and institutional reforms, as well as to provide guidance about agribusiness and trade for government officials, private sector representatives, and others. Specific recommendations are included in each chapter and compiled in full in the appendix to this report. A list of priority recommendations is also set forth at the end of this introduction.

NIGERIA'S RANKING IN THE WORLD BANK DOING BUSINESS CATEGORIES			
	2009	2008	Change
<i>Doing Business Overall (181 economies surveyed)</i>	118	114	-4
Starting a Business	91	86	-5
Dealing with Construction Permits	151	161	+10
Employing Workers	27	28	+1
Registering Property	176	176	0
Getting Credit	84	79	-5
Protecting Investors	53	49	-4
Paying Taxes	120	121	+1
Trading Across Borders	144	143	-1
Enforcing Contracts	90	89	-1
Closing a Business	91	92	+1

### NIGERIA'S CHALLENGE: REBUILDING THE AGRIBUSINESS SECTOR

For the past 15 years, Nigeria's business community has focused on developing sectors other than agriculture, including oil and gas, telecommunications, and financial services. The agricultural sector has not received consistent or adequate government or private sector attention. As a result, agriculture has not developed as rapidly as other sectors of Nigeria's economy. Indeed, the state of agribusiness in Nigeria has regressed significantly from a time when the country was a

significant exporter of food products. Today "agribusiness" is largely informal and happens mostly on a smallholder level with 90% of production occurring on farms with less than 2 hectares of cropping,<sup>1</sup> and the country imports the vast majority of agricultural products that its population consumes.

Agriculture employs approximately 65% of all Nigerian workers, but contributes only about 40% of GDP. Like many countries in Sub-Saharan Africa, Nigeria has two distinct agricultural sectors. One sector consists of the millions of small farmers who live at or just above subsistence level, producing food and other products for consumption or small-scale local trade. The other sector consists of larger enterprises producing for major internal markets and export. However, Nigeria is unusual in that it is a net importer not just of food, but of agricultural products generally. Nigeria's exports are dominated by its energy products, oil and gas. Only two agricultural products, cocoa and rubber, account for as much as 3% of total exports.

Nigeria's agricultural sector has been both neglected and subsidized, often at the same time. While agriculture has huge social importance, most government policy makers have not seen it as a potential engine of growth or a means to increase national wealth. The government has repeatedly addressed the need for

<sup>1</sup> Federal Ministry of Agriculture and Water Resources, Draft National Food Security Programme, May 2008, 7.

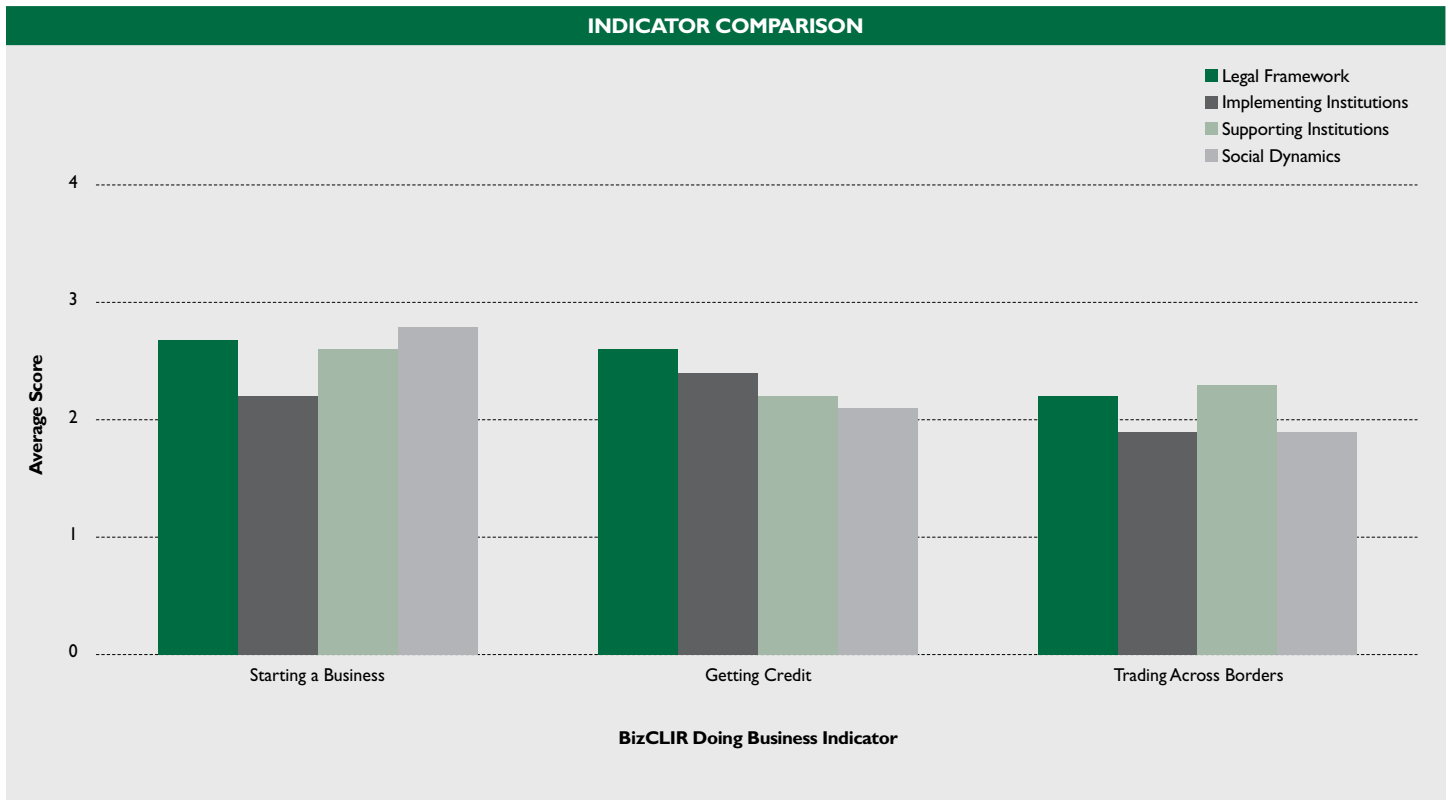
agricultural development—for instance, food security and agriculture are prominently highlighted in President Yar’Adua’s Seven Point Plan—but as a practical matter, it has not yet been treated as a high priority. A patchwork of policies, developed piecemeal over years, has left the sector subject to a wide variety of contradictory approaches and perverse economic incentives, and vulnerable to various forms of rent-seeking and self-dealing behaviors. The private sector, too, tends to neglect the agricultural sector. Credit and investment flow toward the energy, construction, and services sectors, leaving agriculture capital-starved.

## SUMMARY OF DIAGNOSTIC FINDINGS

The findings of the subject-matter areas examined in this diagnostic report are summarized below. The Indicator Score Comparison and Indicator Score graphs reflect the team’s findings and demonstrate relative strengths and weaknesses across areas and frameworks. The scores are graduated: e.g., a score of 1 indicates a strong negative appraisal, a score of 3 is neutral (having

some positive and some negative aspects), and a score of 5 indicates a strong positive. The assessors score a series of key indicators in each subject area based on information gathered from reports, meetings and interviews, and consultation among colleagues, and the scores below represent the average scores for each area.

As shown by the graphs below, indicator scores across all three major areas examined in this diagnostic are weak. The scores for Starting an Agribusiness generally fared better than those in other areas, particularly with regard to social dynamics, but they remain low overall. This reflects the general impression of the team that the agricultural sector is beginning to move up in priority for both the public and private sectors, and that the abundant opportunities are being recognized, although the sector is far from reaching its potential. Trading Across Borders came in with the lowest overall score, indicating that this area, which currently receives no active donor support, is in strong need of reform. However, it should be noted that parts of the federal government are

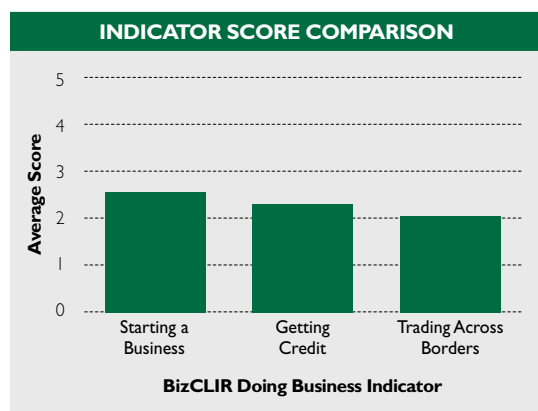




already well aware of this, as both the Ministry of Finance and the House of Representatives are conducting inquiries into customs reforms.

While the social dynamics score for Starting a Business is relatively high, the scores for social dynamics in the other two areas are very low. At the root of these low scores is the widespread perception across multiple sectors that the political will to effectively reform these areas is lacking. The optimism found in some pockets of the agribusiness community appears to be absent from the trade and financial sectors. Implementing institutions are also quite weak, suggesting that a focus on capacity building and reform of key institutions will continue to be important. Legal framework scores are on the higher side, but without effective implementing institutions, the relative soundness of laws and policies is largely inconsequential. This is a significant constraint to enhancing the agribusiness sector.

Beyond these trends, the general findings are as follows:



### STARTING AN AGRIBUSINESS

Entrepreneurs aiming to start a productive agribusiness in Nigeria today face a number of daunting challenges that impose heavy costs on all businesses. Infrastructure is poor, the cost of capital is high, access to market information is limited and hard to obtain, accessing implementing institutions is difficult, and competition is tainted by political favoritism. They must also contend with serious challenges unique to the

agriculture sector, such as increasing productivity and efficiency limited by ineffective and restrictive government policies, and limited access to key inputs such as seeds and fertilizer. Moreover, the legal framework is in flux: laws on key inputs are out of date and largely inapplicable, and the policy environment is marked with frequent priority changes and poor implementation. There has been little support for agricultural sector needs and priorities within the broader commercial community (both public and private).

This report addresses Starting an Agribusiness in three parts:

- On-farm productivity (including all necessary inputs and on-farm harvest and post-harvest functions),
- Product organization, transformation, and management (including commodity trading, spot markets, storage, packing, and processing, livestock feeding), and
- Consumer food delivery (including wholesale distribution, brand development, retail, food service, institutional feeding programs, etc.)

While all agricultural development must be market driven to lead to significant transformation of agriculture sector income, on-farm productivity is a crucial step to subsector and product competitiveness. Nigeria's productivity consistently ranks below its competitors (e.g., Brazil and China, as well as India, for some staple crops). On-farm agricultural productivity is a function of appropriate and efficient seeds, high quality soil fertility management tools (fertilizers, soil tests, crop rotations), available and affordable capital, access to skilled and unskilled labor, and mechanization and cropping technology. In Nigeria, two of the largest constraints are in input quality and access. When a value chain analysis points to the need to improve on-farm productivity, reform in access to affordable and reliable inputs should be a priority. The experience of other developing countries suggests that easier access to credit, along with better seeds, fertilizer, water, and machinery would dramatically improve on-farm productivity for all scales of production.

The core of agriculture sector development is agro-enterprises, which supply inputs and purchase, process and market production. To do this effectively requires links to suppliers, sources of finance and output markets. Not only are all currently insufficient given present production, but the scale of opportunities presented by potential production and domestic, regional, and international markets would require significant investment in agro-enterprises across the chain. Any grades and standards used by market players are largely informal and, given the lack of transparency, not widely known or understood by producers or those interested in entering the market. A critical element is the link of private firms to farmers. Farmers require finance, currently a serious constraint, in order to dramatically improve competitiveness and expand production by purchasing inputs and hiring labor. Agro-enterprises can play a dual role of purchasing farmer production and acting as the credit facilitator for financial institutions and farmers. The current USAID model has been successful in facilitating these linkages and should focus on replication and expansion.

A productive environment for agribusinesses requires effective facilitation of the entire food sector value chain. Food system efficiency as well as agricultural productivity must be fundamental public policy goals if Nigeria is to feed its growing urban populations. Investment must be principally private-sector led, with the public sector aiding through supporting infrastructure and business-friendly policies. To date, government attempts to improve food security have focused on increasing productivity at the farm level and building public sector grain and staple crop storage facilities. Such initiatives are important, but a longer term and more sustainable strategy is to encourage increased private sector investment in staple crop value chains, including storage, processing, and trading. The government's frequent statist policies make it difficult for private firms to consistently and predictably provide inputs.

Today, the middle of the value chain in Nigeria consists primarily of small and medium size enterprises (SMEs), including tanneries, flour millers, rice millers, and grain cleaners/exporters. Some of these businesses show entrepreneurial vigor, but the subsector overall is undercapitalized. These businesses also face constraints in a wide array of factors: infrastructure, skilled personnel, market access, and access to affordable capital. These SMEs are not well configured to support real, viable growth in agriculture. Many of these constraints are a result of a poor and unpredictable policy environment affecting the private sector at large, and this policy environment discourages increased investment across agricultural value chains. Policies relating to trade, property, and inputs are complicated, uncertain, and poorly implemented, and in some cases subject to varying regulations at the local, state, and federal levels. Nigeria's World Bank *Doing Business* ranking of 118 (with rankings of 176 for Registering Property, and 144 for Trading Across Borders) reflect these challenges. Indeed, investment in processing has remained limited in several sectors in large part as a result of this environment, leading to a significant missing link between farm and market.

An additional major value chain challenge, however, is that the end of the domestic value chain is missing—organized consumer delivery mechanisms (i.e., supermarkets, distribution warehouses, perishable packers, branded consumer goods). In terms of unprocessed foods, this is particularly true for perishables and higher value commodities, more so than basic grains and tubers. As a large, populous country, Nigeria has an immense internal market for consumption of agricultural products, but this potential is not being well developed. Without an efficient and developed market end of the agricultural chain, the middle will remain underdeveloped as well, and increased efficiency and productivity in the supply end (basic production) will be of limited use.

Large urban populations are not sufficient to develop a dynamic supermarket and food service industry. Liberalization of retail foreign direct investment has played a critical role in other economies. The Nigerian government has not established a clear legal and regulatory framework guiding the establishment, operation, classification, and control of the supermarket and food service industries. The private sector considers this a major factor limiting the sector's growth.

Nigeria also has vast potential for increasing its exports of agricultural products. However, Nigeria's ability to compete in international markets will continue to be hampered by poor transportation and energy infrastructure, the high cost of capital to the sector, a difficult regulatory environment, and lack of political support.

Accordingly, improving the environment for agribusiness will require not only the more traditional focus on improving on-farm productivity, but also on improving the business environment (laws, policies, and regulations) that affect every stage of the value chain, especially agroprocessing and the targeting of a more robust consumer-focused market environment.

## **TRADING ACROSS BORDERS**

Cross-border trade in Nigeria faces multiple challenges, from poor infrastructure—notably poor roads and inefficient, expensive and congested port facilities—to lack of access to credit. The National Customs Service (NCS) has historically been perceived to be corrupt. Many within both the government and the trade community believe that the NCS has not implemented required reforms and believe that broad based Government of Nigeria (GON) commitment and NCS leadership is required to improve trade facilitation. Certainly, NCS has been hesitant in the past to employ several modern practices. However, recent changes in leadership suggest a move towards reform and may open the door for significant improvements.

Few if any attempts have been made to upgrade to the use of risk management and formal threat assessments as valid concepts of customs control. The general state of the customs clearance sector is poor, with many operators in need of improved professional and ethical standards. Agency fees for exporters are very high, and agency levies do not relate directly to services rendered, as required under World Trade Organization (WTO) agreements signed by the GON. These costs, when added to the high cost of doing business generally, can be prohibitive for the small or medium sized trader. This contributes to a very high level of regulatory circumvention, which in turn results in Nigerian agricultural exports being rejected in foreign markets for reasons such as filth, poor packaging, or mislabeling.

Pervasive smuggling, often with the cooperation of the border agencies, creates a burden for trade, makes generation of reliable statistics difficult, and is a major impediment to streamlining border procedures. For some goods, particularly food staples such as maize, rice, beans and cattle, informal trade exceeds formal trade. Of major consequence is the lack of quality controls for informally traded food and medicinal goods. Adulterated and potentially lethal products can easily reach the general public. Vested interests both within and outside the government that benefit from the current system have hindered adoption of simple and clear rules to promote competition and minimize opportunities for illicit trade and reduce officer discretion.

There are a bright spots, however. President Yar'Adua has established a Presidential Task Force on Nigerian Customs Reform (NCS), with a mandate to develop and oversee implementation of an action plan for structural transformation of the NCS. In addition, the National Assembly has called a public hearing on "The State of the Nigerian Customs Service and the Poor Performance of its Statutory Duties and Functions," which should occur in early 2009.

The stated objective is to identify the underlying problems of the agency and develop solutions for more effective performance based on international best practices. If these efforts are taken seriously, they could remove roadblocks to reform, stimulate private sector investments, and lead to lower food prices.

Progress toward the often repeated and well publicized governmental goal of a 48 hour clearance time, a feat that neighboring Ghana has already achieved, is a key element in the national Vision 2020. Achievements and failures in moving toward this defined objective are often reported by the press and other media, creating some pressure for success.

### GETTING CREDIT

Nigeria's agricultural sector is starved for credit. Most farmers never obtain credit beyond occasional advances on their harvests, which are granted by local businesses. Even larger businesses struggle to attract credit from the banking system, which does not view agriculture as an attractive investment. The government has made intermittent attempts to address this problem, but with little lasting effect.

One challenge to farmers gaining access to credit is the difficulty of providing collateral, such as land title. The legal framework for land ownership in Nigeria is weak. Land laws are complex, complicating access to collateral. Mortgages are handicapped by weak property rights and also by a requirement of government approval for land transfers. Secured transactions suffer from an inadequate and decentralized registration system. There is no finance leasing law, nor any law for bonded warehouses or the use of warehouse receipts for financing. There is a small credit information industry, but progress in this area is awaiting the registration of credit information providers by the Central Bank.

On the positive side, financial sector consolidation in 2005 resulted in much stronger and more stable commercial banks than before. Unfortunately, the other participants in the credit

process continue to suffer from a lack of capacity and financial sophistication. On the supply side, despite efforts to restructure the microfinance industry, most microfinance banks still suffer from a lack of capacity and funds. Meanwhile, on the demand side, many loan applicants remain financially illiterate and lack acceptable collateral. Further, financial institutions that contribute to the efficiency of advanced economies, such as the insurance industry and pension sector, are small or missing in Nigeria and leave its financial sector without depth.

Historically, the government has been slow to take up the type of extensive regulatory reforms recommended by this report and other experts. But the climate for reform in Nigeria, at least in the financial services sector, may be improving. Nigeria has been identified as an "N-11 country." In this regard, the same experts that correctly identified the significance of the BRIC (referring to Brazil, Russia, India, and China) economies see significant development potential for Nigeria. Further, the Nigerian government has developed its own comprehensive long-term plan for the development of its financial sector. The Financial Systems Strategy 2020 (FSS 2020) seeks to build on the success of recent banking sector reforms and position Nigeria as a financial powerhouse by year 2020. That said, FSS 2020 alone will not provide much relief to the agricultural sector without a clear and coordinated effort from the GON.

#### AgCLIR DIAGNOSTIC TEAM

**Elizabeth Shackelford**

Booz Allen Hamilton      Team Lead

**Charity Hanif**

Independent Consultant      Starting an Agribusiness

**Joanne Cornelison**

Independent Consultant      Trading Across Borders

**Jamie Bowman**

Independent Consultant      Getting Credit

**Holly Wheeler**

Booz Allen Hamilton      Assessment Coordinator

## CROSS-CUTTING THEMES

Certain issues and dynamics are so prevalent across this analysis that they warrant special mention. These can be thought of as cross-cutting themes or topical “layers” spreading across all areas of review. In this diagnostic, the themes include the following:

### 1. POOR INFRASTRUCTURE INCREASES ALL BUSINESS COSTS

While this diagnostic does not address the issue of infrastructure in detail, it would be remiss to not mention the major role that poor infrastructure plays in inhibiting Nigeria’s agricultural competitiveness. Poor infrastructure is bad for all sectors, but it is particularly problematic for agriculture, which requires regular and timely inputs (water, fertilizer, seeds, etc.), and which relies heavily on bulk transport. Timeliness of delivery is also important because of the perishable nature of the products. Access to regular and affordable sources of power is imperative for competitive processing and production, and thus key for improving the middle of the agribusiness value chain. The electricity that is provided is harmful to the growth of agroprocesses because of wildly fluctuating power levels and the long periods in which electricity is not available. The high cost of transport and electricity is a major impediment to making Nigeria’s agriculture competitive, not only for export but for the internal market as well. Not so long ago, Nigeria had accessible and affordable electricity, better roads, and a functioning railway system. Evidence of that period, when agribusiness was thriving and Nigeria was a significant exporter, dots the northern countryside in the form of abandoned commercial farms. Until the country’s infrastructure problem is adequately addressed, Nigerian agribusinesses will be hard pressed to effectively compete in the market as they did before.

### 2. LACK OF COORDINATION AMONG GOVERNMENT AGENCIES AND LEVELS OF GOVERNMENT WEAKENS AGRIBUSINESS DEVELOPMENT

Some of Nigeria’s agricultural laws and policies are reasonably sound, but even these policies are rendered largely ineffective because of weak implementation and a lack of coordination across agencies. Laws and policies outline responsibilities of different bodies and levels of government. However, in practice there is little clarity regarding which bodies have responsibility and authority over which activities. Better coordination and cooperation of government agencies involved in agricultural matters would allow for streamlined implementation of laws and policies and would reduce the inconsistency among the activities of different agencies.

The lack of coordination is both a cause of poor implementation and a result of it. For example, although the 1992 National Agricultural Seeds Decree called for the establishment of a National Agricultural Seeds Council to regulate the seeds industry, this Council was not established until 2007. In the intervening years, other government bodies took up various seed issues, and this has led to confusion regarding seed oversight and regulation today. The unclear structure governing various agricultural issues makes it difficult for those within both the public and private sector to determine who is in charge of which issues and where to seek clarity and resolution. This is true at the federal level as well as in the relationships between federal, state, and local agencies. Confusion continues to be an impediment to agriculture sector growth.

Lack of coordination is not only a problem among institutions directly regulating the agricultural industry. For an agricultural sector to fully develop, the sector must be a national priority enjoying deep collaboration from not only within the agricultural sector, but throughout the entire federal government, including the ministries of finance, commerce and industry, energy, and transportation as well. Nigeria, of course, is not unique in experiencing agricultural sector development challenges arising from differing priorities among the relevant ministries. However, the agricultural sector requires interest,

prioritization, and collaboration from the federal government as a whole in order to successfully overcome its constraints.

### **3. ACCESS TO INFORMATION IS LIMITED AND UNEVEN, AND AVAILABLE INFORMATION IS UNRELIABLE**

To be competitive, a healthy agribusiness sector requires accurate, up-to-date, and accessible information on business and trade processes and procedures, laws and policies, standards, authorities, and the market. Yet determining which Nigerian authority is responsible for which activity is not easy. As this team learned firsthand, government bodies are not always certain where to direct inquiries, and it can take several inquiries before finding the right authority. Access to laws is also limited. In some cases, even the agency responsible for enforcing a law was not able to provide access to relevant materials or to direct the assessors to where such laws could be found. Web resources, likewise, are thin in this regard. This can be a challenge for agribusinesses trying to navigate processes and procedures, obtain licenses, purchase quality inputs, and get trade assistance, among other activities necessary to operate successfully.

In cases where information is not fully and publicly accessible, private sector players with influence and connections to the government have a competitive advantage. They are often able to access information that others cannot. As a result, such informed agribusinesses can save time and money in navigating procedures relating to activities such as accessing inputs and importing materials.

The Investment Promotion Commission is a central source of information and can be an invaluable resource for investors in every sector. While its capacity is still limited, the Commission is growing, and many agencies can already be accessed through its One-Stop Investment Center. The Commission could be a major resource for improving information access—for example, many

investment promotion agencies provide easy access (often online) to relevant commercial laws and other information outlining relevant procedures and processes. While the Commission has eight zonal offices throughout the country, their reach is limited. The information they provide remains largely inaccessible in rural areas, which is a concern for agribusinesses in particular.

Lack of access to market information is another challenge for the agricultural sector in Nigeria. Accurate and up-to-date market information is necessary in a robust agribusiness sector because it enables growers and processors to link effectively. It will be important if increased productivity is to result in an increased flow of products to consumer markets. This link between growers and processors is currently almost absent across Nigeria's agricultural sector. In addition, improved access to market information is necessary to attract increased investment in the sector because investors rely on that information to judge and maximize opportunities.

### **4. UNPREDICTABLE AND UNRELIABLE POLICIES AND POLICY IMPLEMENTATION AT ALL LEVELS DAMAGE INVESTOR CONFIDENCE**

Many stakeholders in the agricultural sector lack confidence in the government's reliability, capacity, and commitment to reform. A history of drastic policy change with each new government—not only at the federal level, but at the state and local levels as well—has left domestic and international investors wary. Private sector representatives reported examples of unexpected policy changes, particularly with regard to incentive structures for investment, at every level of government. Some of these changes include incentive packages for individual investors. For example, a state government would promise financial assistance and installation of roads and boreholes on a property, but these promises would remain unfulfilled, leaving the investor with unplanned and, in some cases, prohibitive costs. However, broader policy changes were reported as well, such as the abrupt abandonment of export incentives or

protective import duties, or arbitrary changes in duty exemptions on agricultural equipment.

While policy changes, even regarding some of the policies mentioned above, are not necessarily bad, the lack of predictability in the current policy structure is problematic, as is the lack of transparency in the process. Investors need predictability to reduce risk and allow for cost-benefit analysis. If an investor has relied on a policy or incentive structure that is unexpectedly removed, that investor may no longer be competitive. An unpredictable environment not only harms current investors, but also inhibits new investment. Increasing transparency and predictability in the policy structure is imperative to restore investor confidence. Applying policies and laws uniformly and engaging in public-private dialogue, particularly regarding upcoming policy changes, are both important in this regard. Many policies in Nigeria are developed with little or no stakeholder input, particularly in the trade facilitation area. There is often no attempt to gain grassroots support or involvement in policy development or implementation.

## **5. OPPORTUNITIES FOR IMPROVING COMPETITIVENESS OF NIGERIAN AGRICULTURAL SECTOR ARE ABUNDANT**

The good news is that Nigeria's agribusiness sector holds great opportunity. Yields for almost all Nigerian crops are well below potential. With

modest improvements in inputs, which would result from improvements to policies relating to the inputs market, it should be possible to trigger very large increases in productivity. Nigeria's wide range of climates and soil types allow a very wide variety of crops and agricultural products to be produced. The agribusiness sector, from smallholders to larger agribusiness investors, does not take advantage of this, producing only a handful of staples in bulk. Meanwhile, Nigeria's large internal market could easily absorb such increases once the intermediate value chain of agroprocessors has been established. With a more reliable supply of lower cost agricultural products, agroprocessors would be significantly more competitive. Furthermore, this would spark opportunity for import substitution, and subsequent cost reductions, in a country where most goods available today are high-cost imports.

The recent rapid growth of consumer spending, along with changing patterns of consumption—i.e., the rise of supermarkets—offer vast new possibilities for increasing productivity and competitiveness. Export opportunities are also abundant. With more efficient and streamlined trade facilitation, and effective use of export incentives, Nigeria could readily compete in other markets. Much must be done to capture the widespread agribusiness opportunity in Nigeria, but this is realizable, and the history of agribusiness and trade in Nigeria bears this truth.



## THE AgCLIR RECOMMENDATIONS: TOP PRIORITIES

This report contains numerous recommendations that suggest—in terms ranging from the very broad to the highly specific—a variety of approaches to improving the business environment for Nigeria’s agricultural sector. Although each of the report’s recommendations contributes to an overall vision for improving the sector, the following can be considered the **top** priorities:

### ALL SUBJECT-MATTER AREAS

1. Promote prioritization of agriculture in coordination with national policies on transportation, energy, trade, and finance.
2. Support improvements in the federal government’s collection, management, and dissemination of agricultural, trade, and financial statistics. Assist government in conducting a thorough assessment of current statistical capabilities and needs.
3. Educate agribusiness sector on existing services and programs available to assist businesses, such as the Nigeria Investment Promotion Commission, and enhance ability of these services to address needs of agribusiness specifically.

### STARTING AN AGRIBUSINESS

1. Provide capacity building and support to the National Agricultural Seeds Council.
2. Support and encourage research institutions in developing mechanisms for releasing productive seed varieties to the private sector—through licensing or selling research genetics—to enable more efficient and broader access to improved seed varieties.
3. Establish an agribusiness incubator program, possibly linked with a business plan competition, in order to increase the number of viable businesses in the middle of the value chain and the quality of business execution. Linkages of a program of this sort with financial institutions should also improve capital available to viable businesses.
4. Educate private sector on existing services and programs available to assist businesses, such as the Investment Promotion Agency.
5. Promote prioritization of the retail sector by federal, state, and local governments in order to ensure an available and organized market to accommodate increased productivity and investment.
6. Organize a Food Retail Investors Forum, inviting major investors and potential investors (including international supermarket chains and franchise food service) in addition to domestic enterprises. The Forum should result in concrete recommendations to the Federal and State Governments on steps to improve the attractiveness of the Nigerian market for retail development and investment.



## TRADING ACROSS BORDERS

1. Review draft of Nigeria Customs Service Act when it moves to the National Assembly and provide recommendations on revising the legislation to comply with the principles of the Revised Kyoto Convention. This review would prepare NCS for drafting implementing regulations as well as educate and guide the National Assembly and stakeholders in the review process by helping them understand what international standards require.
2. Develop risk management/post audit methodology as core component of customs processing with initial focus on agribusiness sector facilitation. Develop a risk management office within the NCS to improve identification of high and low risk shipments, using data analysis to build profiles. This would be best accomplished if initially placed within the Research and Planning Department where the level of commitment to reform and understanding appear highest.
3. Increase coordination and cooperation among border agencies, and upgrade equipment to expedite import/export processing. Initiatives would include establishment of a one-stop shop for border agencies at major locations where stakeholders could conduct all agency clearance functions, including filing of customs declarations. On-site test kits for the border agencies that can be used to initially screen goods would be valuable in reducing delays in shipment releases.
4. Invest in on-going training efforts of NCS directed at improving professional and ethical standards within the customs clearance agent/freight forwarder sector. This would include not only training materials, but train-the-trainer courses and funding to continue efforts just initiated. A good working model that could be adapted for Nigeria is in place in the East African Community (EAC).

## GETTING CREDIT

1. Encourage the federal government and CBN to stop sponsoring selective initiatives and assume a holistic approach to addressing the poor lending environment in Nigeria. This would include increased support to on-going reforms in the areas of credit bureaus, secured transactions, and land registries, and attention to various supporting institutions.
2. Assist in the development of a modern warehouse receipt system. In addition to the drafting of a modern law and operational procedures, facilitating private sector construction and repair of warehouses should also be considered, as well as the provision of technical assistance on warehouse management.

## THE AgCLIR DIAGNOSTIC AND INDICATORS

This AgCLIR report is grounded in the comprehensive BizCLIR methodology, established through USAID's Economic Growth Office, and has been used in over 30 countries since 1998. In 2007, incorporating lessons learned from its first-generation legal, institutional, and trade diagnostic tool, USAID developed an updated and redesigned set of indicators through the Business Climate Legal and Institutional Reform (BizCLIR) project.<sup>2</sup> The BizCLIR indicators now substantially align with the structure of the World Bank's enormously influential *Doing Business* framework.<sup>3</sup> AgCLIR takes this same tested approach and applies it specifically to the agribusiness sector. AgCLIR was first piloted in Ghana in 2008, and the Nigeria AgCLIR diagnostic looks at a subset of these ten agribusiness areas.

Since 2002, *Doing Business* has assisted countries in targeting where their regulatory environments may favor or interfere with economic growth. For each of the topics it examines, the World Bank considers a few key factors that indicate whether and how the environment for doing business is working, measured by such means as the number of procedures involved in achieving a goal, the number of days it takes, and the costs of the procedures in relation to per-capita income. The World Bank now gathers data from 181 economies and ranks each economy, thereby demonstrating how their respective regulatory environments compare throughout the world.

USAID's BizCLIR indicators take each subject covered by *Doing Business* and delve deeper into their respective legal frameworks, implementing and supporting institutions, and social dynamics to better understand *why* a country is where it is and how it can be improved. In short, BizCLIR regards the *Doing Business* findings as "the tip of the iceberg" and aims to assist countries in improving their *Doing Business* rankings and business environment as a whole by addressing the *entire*

iceberg. The BizCLIR indicators consider each subject from a variety of perspectives, illuminating, for example, how certain business processes apply to rural communities, micro-enterprises, and small and medium-sized enterprises (SMEs). The BizCLIR indicators further examine aspects of a subject-matter area that do not necessarily impact a country's ranking, but have considerable bearing on the business environment. The BizCLIR approach was chosen in light of recent demand for better understanding of the issues highlighted in the *Doing Business* initiative and the need to help donors and countries understand, with greater particularity, how to reform.

This diagnostic took place from November 17 to December 5, 2008, when a consulting team traveled to Nigeria to study the country's agricultural sector and trade environment. At USAID's request, the diagnostic team focused primarily on agribusiness, trade, and access to credit. The diagnostic culminated in a roundtable presentation and discussion on December 5, 2008, which was attended by government officials, private sector representatives, and donors. At the roundtable, team members introduced their preliminary observations, which were followed by small group discussion and feedback. This input helped shape the final conclusions of this report.

Each chapter of this report is structured the same way. Following a brief introduction, each has four substantive sections, and concludes with recommendations.

### LEGAL FRAMEWORK

The chapters first examine a country's laws and regulations that serve as the structural basis for its ability to achieve and sustain market-based development. They discuss the following questions: How accessible is the law, not only to elite, well-informed groups, but also to less-sophisticated actors, rural constituencies, and foreign investors? How clear are the laws? How closely do existing laws reflect emerging global standards? How well do they respond to commercial realities that end-users face? What inconsistencies or gaps are present in the legal framework?

2 Detailed information about BizCLIR can be found at [www.bizclir.com](http://www.bizclir.com).

3 See generally World Bank, *Doing Business 2008 (2007)*, and accompanying literature at [www.DoingBusiness.org](http://www.DoingBusiness.org). The BizCLIR indicators also cover infrastructure and agriculture.

## IMPLEMENTING INSTITUTIONS

Next, the chapters examine those institutions that hold primary responsibility for implementation and enforcement of the legal framework. These institutions include government ministries, authorities, and registries, and, in certain cases, private institutions such as banks and credit bureaus. Again, the BizCLIR approach seeks to uncover how these implementing institutions function not only within the capital city, but also in rural communities and among less-empowered constituencies.

## SUPPORTING INSTITUTIONS

The chapters then look closely at those organizations, individuals, or activities without which the legal framework or policy agenda in a country cannot be fully developed, implemented, or enforced. Examples include lawyers, accountants, business support organizations, professional associations, universities, and the media. Questions and analyses examine relative awareness of law and practice on the part of each institution, and the specific ways in which these institutions increase public and professional awareness, work to improve the business environment, and otherwise serve their constituencies.

## SOCIAL DYNAMICS

Finally, the chapters discuss key social issues, particularly issues of awareness, social capacity, and will to reform. Roadblocks to reform, in particular, are considered, including those entities that may be undermining change. The BizCLIR approach seeks to identify significant opportunities for bolstering the business environment—such as supporting champions of reform or regional initiatives—as well as matters of access to opportunity and formal institutions. Social dynamics also concern such matters as gender, health issues, and educational levels, which may have a significant bearing on how the business environment truly functions on the ground. Indeed, a full understanding of legal and institutional issues cannot be achieved without a nuanced consideration of a country's social dynamics.

## RECOMMENDATIONS

Following this four-part analysis, each chapter sets forth recommendations. These recommendations are drawn from the key findings in each chapter and reflect current reform capacities, opportunities, and the will to reform. Some of the suggestions within the respective sets of recommendations may overlap—that is, some may be consolidated into a single reform initiative—and all turn on the priorities and preferences enunciated by the country's government itself. The recommendations in this report are intended to serve, among other functions, as a threshold list for donor coordination of immediate initiatives and preparation of scopes of work.

## THE INDICATORS

In addition to the qualitative outcome of the report, the diagnostic process also results in a quantitative outcome of scored indicators. With respect to each area of inquiry, this diagnostic uses a process of reviewing and scoring **key indicators** to develop a thorough analysis. Once as much relevant information as possible is gathered—from written sources, meetings and interviews, and consultation among colleagues—each of the key indicators is scored, based on the assessor's best estimate of the issue at hand. To help an assessor determine a score, between 3 and 20 **supporting questions** accompany each key indicator. These questions themselves are not scored, but are intended to guide the assessor toward a consistent, fact-based judgment from which the key indicator score is then derived.

### THE SCORE AWARDED KEY INDICATORS ALIGNS WITH THE FOLLOWING CONCLUSIONS:

- 1 = strong negative
- 2 = moderate negative
- 3 = neutral (or having some negative and some positive qualities)
- 4 = moderate positive
- 5 = strong positive

The scores are not intended to serve as a stand-alone, number-based pronouncement of

the state of affairs in the country. Rather, they should be read in conjunction with this report as a means of understanding the relative status of certain key indicators of a healthy legal and institutional environment for business and trade, and identifying priorities for reform. These indicators allow donors, the government, and other stakeholders to understand where priorities should be placed, not only among subject matter areas, but also among the four frameworks assessed under this diagnostic.



## STARTING AN AGRIBUSINESS

While *Doing Business* bases its evaluation of the ease of starting a business on the steps involved in registering a domestically-owned, limited liability company in a major urban center, the issues involved in the successful launch of a new agricultural enterprise can be more complex. Issues affecting a new agribusiness range from the immediate to the long-term and impact the ability of an enterprise to not merely join the formal sector, but in fact launch a sustainable concern.

STARTING A BUSINESS	
<i>Doing Business</i> Ranking 2009	91
<i>Doing Business</i> Ranking 2008	86
Procedures (number)	8
Time (days)	31
Cost (% of income per capita)	90.1
Minimum capital (% of income per capita)	0.0

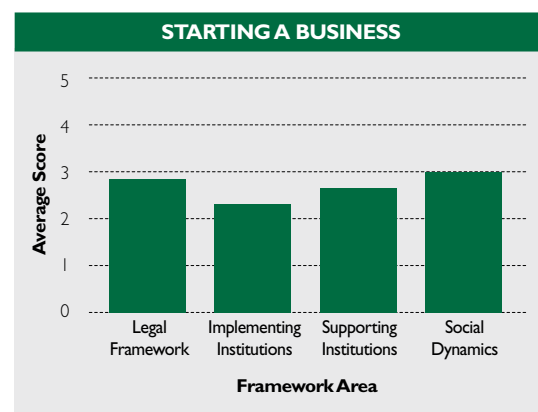
In agriculture production, an operator must consider the underlying availability of land, labor, capital, and productive technology. Favorable and cost competitive access to these production factors is necessary, but not sufficient. Additional requirements for a successful agricultural enterprise include supporting infrastructure, organized and accessible markets, dynamic entrepreneurs and skilled management, and investment. Agribusiness is largely characterized by high volume and low margins. Scalable ventures require long-term vision and investment combined with excellent strategy execution for success.

The issues affecting the sustainability of a new agribusiness are organized in this chapter into three primary areas:

- On-farm productivity
- Product organization, transformation, and management
- Consumer markets

In Nigeria, agribusinesses face challenges in each of these areas, despite having had a robust agribusiness sector in the past.

*“Up to the mid-1960s, the country’s share of world agricultural exports was more than 1*



percent. Nigeria had a leading position for several of its export crops, supplying more than half of all traded palm kernel, more than a third of all groundnuts, and more than a fifth of all palm oil. However, agricultural exports collapsed as the economy shifted towards petroleum exploitation, and by the mid-1980s Nigeria’s world market share for agricultural products had dwindled to less than 0.1 percent. None of the country’s export crops, with the exception of cocoa, commands any significant world market share today.

The poor performance of Nigerian export agriculture was to a considerable extent the result of changes in incentives that farmers were facing. Public neglect of agricultural infrastructure, erratic changes in agricultural policies, and distortions in the exchange rate regime combined to create an economic environment that hampered agricultural producers, while at the same time burdening consumers with high food prices. More than half of all Nigerians continue to live on less than one US Dollar per day (FOS 2005), and the poverty

*incidence exceeds 60 percent in rural areas, where people overwhelmingly depend on agricultural activities for their livelihood. Hence, getting agricultural incentives right is of utmost importance not only for fostering economic development and growth, but also to directly fight poverty.”*

Distortions to Agricultural Incentives in Nigeria, Peter Walkenhorst, World Bank, December 2007.

The four BizCLIR components (legal framework, implementing institutions, supporting institutions, and social dynamics) are addressed separately in each of the subsections below, and recommendations are specified for each as well.

## ON-FARM PRODUCTIVITY

### LEGAL FRAMEWORK

An entrepreneur aiming to start a productive agribusiness in Nigeria today faces the challenge of a legal framework in flux. Laws on key inputs are out of date and largely inapplicable, and the policy environment applicable to agricultural productivity is marked with frequent priority changes and poor implementation.<sup>4</sup> In order to develop a modern legal framework that is conducive to a robust agribusiness sector in Nigeria, relevant policies must be streamlined for consistency. They must prioritize elements that provide for private sector growth and reduce interference with market forces. The policies must also be effectively implemented through updated laws.

Since the 1970s, policies relating to agriculture in Nigeria have focused on promoting increased production by reducing agricultural production costs.<sup>5</sup> This has been a theme in overall agricultural policy as well as policies directed at specific inputs, such as seeds and fertilizer.<sup>6</sup> While there has been a move towards increased liberalization and agricultural incentives since the nation’s structural adjustment program launched in 1986,<sup>7</sup> public sector interference in the inputs market remains excessive and continues to

### KEY LAWS AND POLICIES

- New Agricultural Policy Thrust (2001)
- National Agricultural Seeds Decree (1992)
- National Fertilizer Policy (2006)
- National Food Security Programme (Draft 2008)
- Fertilizer (Control) Decree (1992)
- Immigration Act (1963)
- International Development Coordination Decree (1988)
- Import Bans and tariffs

hinder development of robust private sector players. Due to poor implementation of subsidies and government control, fertilizer and seed businesses remain hindered thus limiting the availability of affordable and high quality inputs. The 2001 Agricultural Policy enhanced the focus on building a conducive environment for the private sector, but due to inconsistent policy implementation over the following period, only now is Nigeria seeing some new private sector investment in inputs.

In 2005, the International Institute of Tropical Agriculture (IITA), in collaboration with the University of Ibadan and funded by USAID, reviewed past Nigerian agricultural policies and provided an assessment of the new agricultural policies of that time (which included the 2001 Agricultural Policy still in place today.) The study’s overall objective was to identify key opportunities for increasing agricultural investment within the country and identify strategies and priority areas for intervention by various stakeholders.

The IITA study highlights with some optimism the 2001 Agriculture Policy as evidence of the work of the Nigerian Federal Ministry of Agriculture and Water Resources (FMAWR). The policy outlined a functional and relevant means of recognizing the potential of the sector to contribute to economic growth in a meaningful way. (At the time of the study, the FMAWR was the Federal Ministry of Agriculture and Rural Development.)

The policy document also lists “certain fundamental weaknesses which impede policy and

4 This section focuses on Nigeria’s agricultural policy overall and specifically on two key inputs, seeds and fertilizer, which were cited by public and private sector representatives to be major constraints for agribusiness competitiveness in Nigeria. Access to finance and land, two other vital inputs for a productive agribusiness sector, are addressed further in this report’s chapter on Getting Credit.

5 Nigeria’s agricultural policy framework has evolved significantly since the colonial period. The IITA report *Agriculture in Nigeria: Identifying Opportunities for Increased Commercialization and Investment* (2005), referenced in this section, includes a detailed review of agricultural policy in Nigeria (pp. 38-71). The report can be found at <http://www.iita.org/cms/articlefiles/92-Agric%20in%20Nigeria%20report.pdf>. (Hereafter IITA 2005).

6 Appendix 1 contains an overview of Agricultural Development Initiatives Implemented by Past Governments. This overview is from the Draft Food Security Programme, FMAWR, 2008.

7 The structural adjustment program was designed to restructure Nigeria’s economy as a result of the realization that the state-led approach to development since 1970 had failed. IITA 2005 at 47.

program effectiveness.”<sup>8</sup> By listing and prioritizing the key issues, the policy attempts to increase the potential for positively affecting the development of the agricultural sector.

The initiatives noted above, in general, outline strong objectives and lay out comprehensive (at times, a bit too comprehensive) strategies that correctly recognize and emphasize key constraints. However, the AgCLR assessment found that the same challenges continue to hinder success. Overall constraints to effective policy are, broadly speaking:<sup>9</sup>

- Rate of policy turnover (instability of prioritization and focus)
- Lack of grassroots support or involvement in policy development (or grassroots mobilization for implementation or impact)
- Uneven and poor implementation
- Duplication of effort and lack of coordination between agencies as well as levels of government.

## FERTILIZER

Fertilizer access has historically been a serious problem for Nigeria’s agribusiness sector, and fertilizer policy remains a challenging issue today. In 1975, the federal government first instituted a policy of centralizing fertilizer procurement and distribution. Although inputs were already being subsidized by some regional governments, this was the beginning of the centralization of inputs subsidy for food crops. The federal subsidy of fertilizer was as high as 75% by 1979, but has gradually been reduced. During the structural adjustment period, the federal government reportedly withdrew from procurement and distribution of fertilizer and other inputs, but today it continues to subsidize 25% of fertilizer costs and closely controls distribution. Meanwhile, both state and local governments provide additional subsidies of various levels. The level of government control, both in application of the subsidy and in the manner it is executed, has created serious impediments to the development of healthy private sector players in the provision of fertilizer.

Today, the law governing the fertilizer sector is the Fertilizer (Control) Decree (1992) which provides punishment to anyone who deals in or distributes fertilizer without appropriate permission in a place not designated for fertilizer sale or distribution. Prior to this law, the National Fertilizer Board Act (1977) was the primary governing legislation in this area. It established the body responsible for purchasing and distributing fertilizer at subsidized prices. Throughout these periods, Nigeria’s national fertilizer pricing policy has involved a heavy subsidy as well as an administratively fixed fertilizer price for the entire country. Although the legal provisions aim to provide greater access to fertilizer for low-income smallholder farmers, the manner in which the provisions are implemented has in fact resulted in poor and untimely access, and it has hindered the ability of the private sector to meet demand.

The National Fertilizer Policy of 2006 was the country’s first uniform written policy on the subject. The primary objective of the policy is to “facilitate farmers’ timely access to adequate quantity and quality of fertilizers at competitive but affordable prices.”<sup>10</sup> However, such access remains a major problem for the country’s farmers.

The 2006 policy addresses a variety of ways to meet its primary objective and a number of guiding principles. While the door is left open for potentially heavy government involvement, the policy does specifically address what to date has been a fundamental weakness in the fertilizer sector—the uncompetitive private sector fertilizer market resulting from excessive government interference. Several references are made to facilitating a competitive private sector, and the policy specifically states that fertilizer prices should be determined by market forces.<sup>11</sup> Indeed, there is some evidence that the move towards greater private sector engagement is making some headway. As discussed further below under Implementing Institutions, a fertilizer subsidy voucher program has been piloted in some states, bringing the private sector providers closer to the consumers. Such developments

8 New Agricultural Policy Thrust, Federal Ministry of Agriculture and Rural Development, 2001.

9 Appendix II contains the complete lists of constraints outlined in both the 2001 Agriculture Policy and the Draft National Food Security Program. These lists provide a good overview of the underlying issues.

10 National Fertilizer Policy for Nigeria (2006), §4.

11 Id. at §6.2(e).





resulting in agricultural yields that are uncompetitive even with most imports.

The National Seed Service was created in 1972 to produce improved seeds for certain crops which would be provided at a 50% subsidized rate, but an overarching seed authority was not provided for until 1992 with the passage of the National Agricultural Seeds Decree. This remains the current law applicable to seeds. Although this Decree provided for the establishment of a National Agricultural Seeds Council to be responsible for the overall policy and monitoring of seed development and the seed industry in Nigeria, no such Council existed in Nigeria until December 2007. Accordingly, regulation of seeds and the seed industry remains in its infancy.

in implementation are promising, and the policy opens the door for a move in this direction. However, it does retain for the government certain domains that should be private-sector driven, such as research and development, which under the provisions of the policy remain “the primary responsibility of Government.”<sup>12</sup>

### SEEDS

Nigeria has failed to develop a healthy seed industry. Consequently, Nigeria’s farmers cannot access high quality seed varieties in most crops,

The current Seeds Decree purports to establish an extensive but reasonable regulatory system for the seed industry, although the law itself leaves much of the practical detail to be developed in subsequent regulations. The Seeds Council, according to the Decree, would be responsible for supervising committees also called for by the Decree, including the Crop Variety Registration and Release Committee, the Seeds Standards Committee, and the Seed Industry and Skill Development Committee, as well as the National Seed Service Unit. The Seeds

#### THE 2001 AGRICULTURAL POLICY INCLUDES THE FOLLOWING BROAD OBJECTIVES:

- Attainment of self-sufficiency in basic food commodities with particular reference to those which consume considerable shares of Nigeria’s foreign exchange and for which the country has comparative advantage in local production;
- Increase in production of agricultural raw materials to meet the growth of an expanding industrial sector;
- Increase in production and processing of exportable commodities with a view to increasing their foreign exchange earning capacity;
- Modernization of agricultural production, processing, storage and distribution through the infusion of improved technologies and;
- Creation of more agricultural and rural employment opportunities to increase the income of farmers and rural dwellers and to productively absorb an increasing labor force in the nation;
- Establishment of appropriate institutions and creation of administrative organs to facilitate the integrated development and realization of the country’s agricultural potentials.

<sup>12</sup> Id. at §6.4.



**COMPARATIVE CROP YIELDS 2006 (HECTOGRAM/HECTARE)**

	Cereals, Total +	Coarse Grain, Total +	Groundnuts, with shell	Maize	Pulses, Total +	Roots and Tubers, Total +	Sorghum	Soybeans
France	67,880	68,581	—	85,856	39,762	399,056	55,159	27,173
United States of America	64,021	85,517	32,210	93,596	17,201	420,244	35,285	29,038
China	53,038	50,163	31,193	53,784	16,442	177,037	43,637	17,033
Brazil	32,105	32,490	22,560	33,823	8,525	144,941	22,222	23,796
South Africa	31,396	32,724	15,242	34,121	10,530	268,993	25,841	17,624
Canada	30,463	37,214	—	84,737	18,084	321,820	—	28,850
India	24,532	11,899	8,700	19,067	6,026	185,539	8,802	10,627
Nigeria	15,065	15,119	17,198	18,181	6,821	104,267	13,500	9,603
Ghana	13,344	12,711	10,833	14,993	833	105,921	9,843	—

Crop Yields. FAOSTAT—[www.faostat.fao.org](http://www.faostat.fao.org)

Council and its Committees were given responsibility for registering persons and organizations researching crop varieties development and for seed certification. The Decree describes the process of obtaining seed certification through the National Seed Service Unit, and it also provides for recognition of seed certification agencies of foreign countries—a provision that could potentially be used to fast-track the entry of improved seed genetics into Nigeria. The Decree also provides for the appointment of seed inspectors as part of the quality control mechanism for seed regulation, as well as penalties and criminal liability for offenses. The National Agricultural Seeds Council is discussed further in the Implementing Institutions section below.

In 1994, National Seed Rules and Regulations were passed which were unavailable for review at the time of this assessment. While these Rules and Regulations detail certification and other regulatory processes, they are reportedly out of date and set to be replaced following passage of a new Seeds Decree. Revision of a Draft Seeds Decree is currently underway at the National Agricultural Seeds Council, and is expected to be finalized in early 2009. The IFDC provided the first draft in an attempt to develop a new Seeds Law that is consistent with the ECOWAS Regional Seed Harmonization Policy. According to the Seeds Council, the new law

should promote greater autonomy in the seed sector and increase public-private partnerships. It will also create a council chaired by the private sector as part of a move towards increasing the role of the private sector in seed policy development and regulation. Today, most seed production and distribution is conducted by the public sector, and the Seeds Council is pushing policies that move these activities into the private sector and increase commercialization of these processes. The Seeds Council is also hoping to address intellectual property rights relating to seeds which are not addressed under current law, but this has not yet been adequately addressed in the Draft Law and is not expected to be covered sufficiently by draft IP laws under consideration.

**LABOR**

Most small, medium, and large agribusinesses rely on informal employment agreements and casual labor. While some long-term staff of medium and large agribusinesses do reportedly work under employment contracts, employers and employees in this sector have little awareness of the provisions of Nigeria’s labor law and policy. Accordingly, labor policy does not appear to have a major impact on agribusiness today.

No concerns were raised during this assessment of restrictions imposed by labor policy or by inadequate protection of agricultural workers. Due to

the lack of awareness of and access to labor law provisions, employees in agriculture are unsophisticated and make few demands. While labor unions are active in the country, they show little interest in the agribusiness sector, as they are mainly focused on sectors with large-scale investment such as oil, gas and financial services. Accordingly, agricultural employers function largely without interference in labor issues. Issues of agribusiness management are discussed further below.

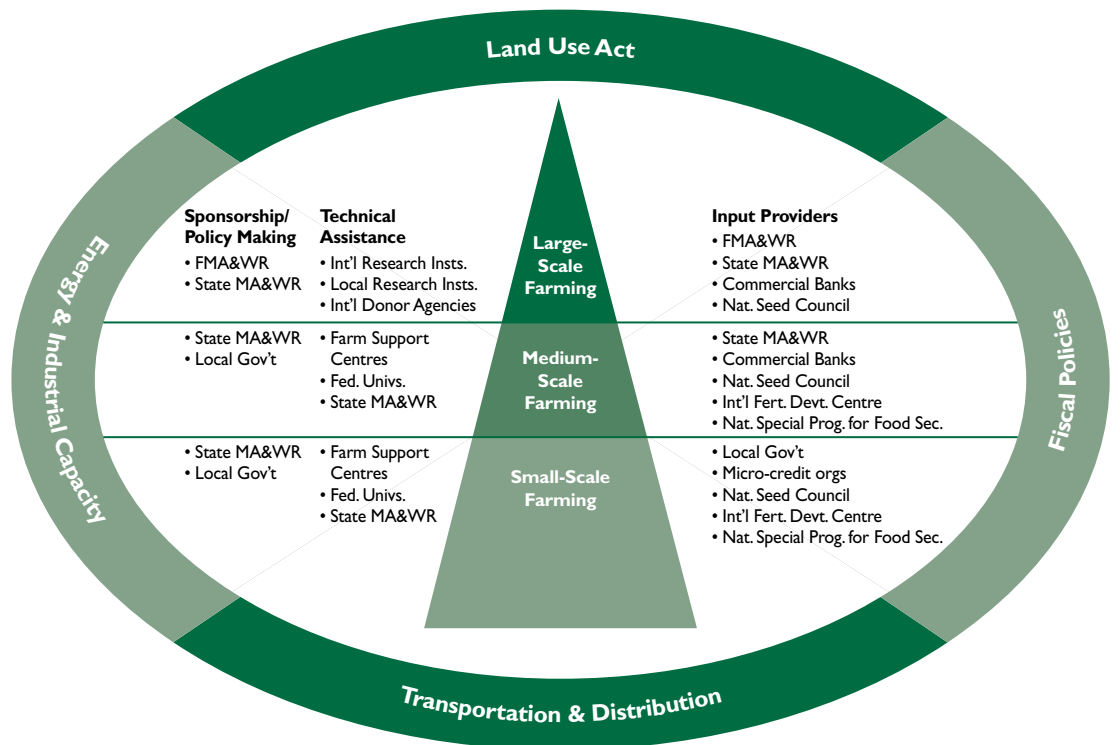
### LAND

Acquisition of land does not appear to be a major constraint to agribusiness investment. Farmers (of all levels) reportedly do not feel insecure regarding their land rights (regardless of whether they have customary or statutory titles). Statutory titles appear to be recognized by banks as collateral—although most banks do not want to lend in the agricultural sector. Furthermore, acquiring statutory title of one’s land requires significant time and persistence (depending on the state in which one is located). This said, the South has greater land pressure, thus southern small-holders have a more difficult time growing

their farming operations than their counterparts in the central and northern states. Property issues are discussed further in this report’s chapter on Getting Credit.

## IMPLEMENTING INSTITUTIONS

The federal government, state governments, and local governments all play roles in the agricultural sector. The lack of clarity of the roles between agencies and for each level of government continues to be an impediment to policies, program implementations, and overall performance. As an example of coordination and competition between government levels, reportedly, a pest outbreak in a single location, will result in the appearance of federal, state, and local government players to spray in response. Another example would be the use of federally gazetted grazing ground. These grounds might be given to local farmers for cropping by various local governments, however such transfers diminish the grazing land available to herders. The most significant breakdowns in these respects are the lack of coordination and communication between the



federal and state governments, although there are differences across the agribusiness sector as well as states. The 2001 Agricultural Policy prioritizes coordination between the tiers of government and outlines responsibilities. The roles of some of the key institutions are described below.

The Draft National Food Security Programme provides the following graphic that highlights some of the various implementing and supporting institutions and corresponding drivers that can be initiated to expand Nigeria's agricultural production. Coordination rather than competition must be the underlying mode of work between the various actors.

## FEDERAL MINISTRY OF AGRICULTURE AND WATER RESOURCES

The Federal Ministry of Agriculture and Water Resources (FMAWR) is the primary federal body responsible for policy formulation and the development of the sector. FMAWR's stated goal is to promote the development of agriculture, rural development, and management of related natural resources in an environmentally-friendly manner to achieve sustainable food security and production of agricultural raw materials to meet the needs of Nigeria's expanding industrial sector and export market, with the effect of enhancing farm income and reducing poverty. FMAWR oversees the following agencies and parastatals:

- The Nigerian Agricultural Cooperative and Rural Development Bank (NACRDB)
- The Nigerian Agricultural Insurance Corporation (NAIC)
- The Agricultural and Rural Management Training Institute (ARMTI), Ilorin in Kwara State
- The National Centre for Agricultural Mechanization (NCAM), Ilorin
- 15 agricultural research institutes
- 13 federal colleges of agriculture.

## FERTILIZER

As noted above, poor and untimely access to adequate quantities of fertilizer remains a major concern for the country's farmers. Under the current

system, Nigerian state governments estimate the quantity of fertilizer to be subsidized within their domains. The Federal Department of Fertilizer makes large purchases to cover the combined state requirements. These purchases by the federal government occur with Nigerian fertilizer importers and at global prices. The federal government then arranges for the delivery of the fertilizer to each responsible state. The states purchase the fertilizer from the federal government at a discount of 25% (the federal subsidy). Each state then assumes responsibility for the fertilizer, and many states choose to offer additional subsidies. To date, state governments have not utilized private sector development focused distribution schemes, such as vouchers, in selling the fertilizer into their local markets. States retain physical ownership of the fertilizer until the point of sale, and they must sell the fertilizer at their pre-determined subsidized price. This has created an environment where diversion of fertilizer from producers, significant delays in market delivery, and even adulteration are common.

Work by donors, NGOs, the private sector, and champions within the FMAWR (both within the Department of Fertilizer and the Food Reserve Agency) is moving towards an input support program, starting with fertilizer, that can support the development of a more robust private sector, including small scale agro-dealers. Some states are piloting the use of fertilizer subsidy vouchers, and significant interest exists in its expansion nationally. Nigeria's challenge in fertilizer, as in many other areas, is the significant effort required to move implementing institutions from the status quo, particularly in instances where influential individuals benefit from the current inefficiencies. (This is also apparently true in relation to railroad revitalization and the formidable trucking lobby.)

## SEEDS

As discussed above, the National Agricultural Seeds Council was provided for under the 1992 National Agricultural Seeds Decree but was not actually established until December 2007. Because a vacuum existed for so long

in the area of seed regulation and promotion, other institutions—such as the Food Reserve Agency (given the importance of improved seeds on increasing staple crop production)—picked up some aspects of seed research and regulation in recent years. Today, the Seeds Council is struggling to establish itself as the national authority on seeds. Indeed, this is a good example of overlapping and unclear authorities discussed above. During the work of the assessment team, the assessors received many differing answers when asking both public and private sector players which agency had authority over seed regulation.

Still in an early development stage, the Seeds Council has limited capacity and a daunting to-do list. At the top of that list is the creation of a new development plan because the prior development plan (Strategies for the National Seed Sub-Sector Development Plan of 1992) elapsed in 2002. The Council is working on a new Draft Seeds Law (mentioned above). In addition to its responsibility for seed policy and law, the Council is also responsible for certification of seeds, registration and regulation of seed companies and dealers, and education on the availability and advantages of improved genetic materials.

With a history of extremely low seed purchasing rates, poor regulation of the seed industry leading to poor products, and seeds being given away or subsidized by the government, it is not surprising that a robust seed sector is lacking in Nigeria. While the Seeds Council will have an uphill battle in revitalizing this industry, it is staffed with engaged and dynamic individuals, giving it the potential to be a real agent for reform. The staff seems well aware of the importance of the private sector in making improved seed genetics available and affordable to the agricultural community in Nigeria, and how necessary this is to improving the country's agribusiness competitiveness. The Council also has a broader understanding of the relevant stakeholders, including industrial companies

(e.g., oil industry, biscuits, textiles, millers) that would also benefit immensely from an improved seed sector. The Council today is focused on increasing private sector participation in order to create a private sector driven industry. Although it has not progressed very far yet in its brief existence—indeed, no seed companies have been fully approved yet—the Council is pointed in the right direction. In order to achieve its goals in promoting the development of a modern and flourishing seed sector, this organization will need support to enhance its capacity and ability to fulfill its mandate.

### **STATE AND LOCAL GOVERNMENTS**

State governments are responsible for providing technical assistance to farmers and developing agribusiness production within their states. State Commissioners of Agriculture are political appointees that are supported by Agricultural Development Programs (ADPs) staffed largely by career professionals. Local governments have significant oversight and ultimate responsibility regarding land use within their area of governance, per the Land Use Act. ADPs provide technical assistance and extension services to producers. Often ADPs will collaborate with relevant donor programs to enhance their impact. Funding is often not sufficient to meet objectives (for example, an ADP Director of Aquaculture had attended various trainings and seminars, but had no funding to travel within his own state to disseminate his knowledge to producers.) Some state governments also manage agricultural universities in addition to the federal colleges of agricultural located within their States.

While the federal government is responsible for overall policy direction, the state governments have a significant amount of involvement in policy prioritization and implementation. This accounts for the varied experience that producers and agribusinesses have from state to state, as some state governments are more engaged in reforming the agribusiness sector than others. Accordingly, when deciding on locations

for agribusiness development projects, donors should carefully consider the state and local governments that will be involved in order to maximize chances for success.

## SUPPORTING INSTITUTIONS

### PRODUCERS

Many producer organizations exist in Nigeria, but their effectiveness and transparency are not uniformly agreed upon. A producer organization may be organized as a cooperative, a company, or a non-profit organization. The FMAWR has prioritized the revitalization of cooperatives, specifically, through its Department of Cooperatives. But as stated in the Getting Credit chapter of this report, cooperatives are commonly created as a means of securing technical assistance, goods or services, or funding from Government or NGOs, and as such, their membership often does not share mutual goals or values.

In theory, cooperatives and producer organizations are businesses that are owned and controlled by the farmers who use their services. *Supply cooperatives* provide their members with inputs for agriculture production, including seeds, fertilizers, fuel, and machinery services (this may include a credit component, or the cooperative may be structured as a credit cooperative). *Marketing cooperatives* are established by farmers to undertake transformation, packaging,

distribution, and marketing of farm products (both crops and livestock).

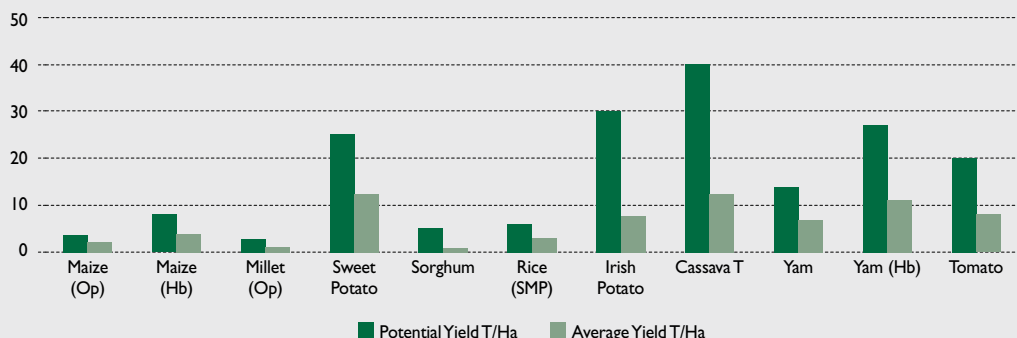
Farmers are active in organizations that provide tangible benefits, and the more sustainable organizations tend to be producer organizations focused on securing outgrower contracts or some other marketing service. The private sector product organization, transformation, and management enterprises may assist producers in organizing as a means of increasing the efficiency of origination arrangements with many smallholder farmers. The USAID-funded MARKETS project facilitates this type of market-driven producer organization. MARKETS identifies key large supply chain players that have the capacity to absorb large quantities of producer products and a willingness to partner with organized small holder farmers. MARKETS assists with producer organization and technical assistance to the various stakeholders in the productive relationships.

Nigeria also has an overarching producer organization, the All Farmers of Association of Nigeria (AFAN). AFAN has State Chapters and, in some states, commodity-specific subgroups. AFAN has an advocacy role and assists medium and large agribusiness enterprises in linking with their members.

### AGRO-DEALERS

Agro-dealers are the primary private sector contacts for smallholder farmers to purchase seeds, fertilizers, and other farm inputs critical

FIGURE 1: CROP YIELD IN NIGERIA VERSUS POTENTIAL YIELD



Source: FMA&WR Analysis 2008

for increasing productivity and incomes. There are an estimated 10,000 agro-dealers in Nigeria, but only about 500 have been trained in modern business practices.<sup>13</sup> Most agro-dealers are very small, informal businesses that reach farmers in remote rural areas. Agro-dealer development suffers under the heavy public sector involvement in the input markets.

Two donor programs are currently working to strengthen and train agro-dealers. The Alliance for a Green Revolution in Africa (AGRA) and the International Centre for Soil Fertility (IFDC) recently launched a US\$3.5 million credit facility that will benefit approximately 1,400 agro-dealers. They will also train agro-dealers in safe handling and the efficient and environmentally sound use of farm inputs. The program aims to equip agro-dealers with the means and incentives to supply small farmers with critical farm inputs and related technology. The USAID-funded West Africa Seed Alliance (WASA) is working to establish a sustainable commercial seed industry across West Africa, including Nigeria. WASA is a public-private sector alliance that also plans to provide training and capacity building at the agro-dealer level (in addition to WASA's broader industry development mandates).

## MARKETS

Domestic, regional, and international markets regularly deal in the agricultural commodities produced by Nigeria. The largest grain market in West Africa is located in Darwanu, in Kano. The market was recently expanded to include additional warehouses. State of the art grain cleaning services and many international trading companies are also located within the market, in addition to the many large local traders who manage warehouse space. Traders and international companies have their own networks for obtaining up-to-date commodity market information. But producers and potential new agribusiness entrants are inhibited by the lack of publicly accessible information about market conditions and market opportunities—nationally, regionally, and internationally. In developed economies and global trade,

Globally, agricultural commodity markets are one of the few examples approaching the theoretical definition of a “perfect” market. A **perfect market** has a large number of buyers and sellers. The quantity of goods bought by any individual buyer or seller is so small relative to the total quantity traded that individual trades leave the market unaffected. The commodity traded is homogeneous, meeting market established standards and grades. All buyers and sellers have complete information on the prices being asked and offered in other parts of the market. Market information is open and accessible. And there are no barriers to enter or exit the market.

agricultural commodity markets are one of the few examples approaching the theoretical definition of a “perfect” market. Recent initiatives such as the USAID-funded MISTOWA ([www.mistowa.org](http://www.mistowa.org), [www.wa-agritrade.net](http://www.wa-agritrade.net)) project and the Tradenet ([www.tradenet.biz](http://www.tradenet.biz)) system are promising first steps in filling this information void, but there is still an acute shortage of accurate and timely market information available to the average farmer. The MISTOWA program provided important information infrastructure, some of which the nascent Abuja Commodity Exchange is attempting to leverage.

## SOCIAL DYNAMICS

According to Nigeria's National Bureau of Statistics, agriculture contributed 42% to GDP in 2007 and employs about two-thirds of the total labor force.<sup>14</sup> In terms of overall GDP, population size, and the natural resource base available to agriculture (FMAWR estimates significant yield potential in many crops as shown in the below table), Nigeria does not and should not look to other Sub-Saharan African countries for its peers. India, Brazil, China, and Mexico have all contributed to global agricultural trade in recent years, and benchmarking should occur against countries such as these. As stated previously in the introduction, Nigerian production largely (approximately 90%) continues to come from smallholder

<sup>13</sup> AGRA Press Release October 7th, 2008, available at: <http://www.agra-alliance.org/content/news/detail/868>.

<sup>14</sup> Draft National Food Security Programme, Federal Ministry of Agriculture and Water Resources, 2008.



cropping models of less than 2 hectares. That said, Nigerian farmers of all scales show a strong acceptance of technology, particularly relating to fertilizers and agrochemicals.

Improving access to key inputs should thus result in significant effective application and utilization. However, introduction of high quality seeds may be an exception to this rule, and additional work to promote utilization may be required. Of the seed stock being used in Nigeria, only between 3% and 8% is purchased. Farmers either save seed from their previous year's grain harvest (genetics can be decades old) or the state extension service may distribute seeds. Investment in fertilizer and other technologies including irrigation can only be effective with improved seed genetics. Seed companies currently have little to no oversight, and seed that is in the market is of unregulated and inconsistent quality. As stated above, many international, national, and university research institutions working within Nigeria do house improved seed genetics today, and where agribusinesses and specific projects currently facilitate access to improved seeds, farmers quickly accept them. (Of course all production improvements must be market driven. As an example, farmers quickly invested to dramatically increase cassava production as a result of the relatively recent Presidential Initiative on Cassava. But the lack of corresponding investment in processing capacity left producers of all sizes without markets and in many cases with debt. Farmers are always slower to adopt and invest in technology after such an experience.)

Nigerian small farmers are *not* reluctant to invest, to sign (or honor) delivery contracts, or to assume the risks inherent in adopting new varieties or technologies. Processing agribusinesses must depend on reliable volumes and qualities for their own viability. In Africa, this often means establishing commercial production oneself. But the need for this in Nigeria is driven more by the cost of organizing small farmers, the cost of production on a small scale (including transport), and the cost of technical assistance required

to reach consistent quality. For staple crops, Nigerian processing business growth can come from outgrower models, even when the business launch requires one's own production base.

Nigeria has some large commercial farms, but the broader Nigerian business community sees farming as either subsistence agriculture or status-seeking hobby farming by politicians and military leaders. The largest farms were often started by wealthy and politically active individuals, but even these farms struggle today from a lack of focused attention by owners and very limited access to growth capital. Many of these farms also struggle with access to inputs (even when they can afford them) and useful technical assistance. Most of these larger farms are producing below their capacity or potential.

## RECOMMENDATIONS

- Support development and passage of a comprehensive and modern National Seed Policy in line with international best practices and the ECOWAS Seed Harmonization Law, and revision of current Draft Seed Decree to comply with regional and international standards.
- Provide capacity building and support to the National Agricultural Seeds Council.
- Hold an international seed investors conference to gather private sector input and feedback on a Draft National Seed Policy and the Draft Seeds Decree.
- Support research institutions in developing commercialization mechanisms for productive seed varieties.
- Support fertilizer policy reform activities currently underway and promote the continuation of liberalization of fertilizer policy by the government and donor community.
- Organize private sector advocacy to push regulatory and targeted private sector-friendly fertilizer subsidy mechanisms.
- Provide education of and exposure for Nigerian agro-dealers to more developed international input markets and technical practices (ex. production facilities).



## PRODUCT ORGANIZATION, TRANSFORMATION, AND MANAGEMENT

Just as farmers and producers will adapt to market demand and produce what they are able to sell, investment in product organization, transformation, and management will occur where the market opportunities exist. Such investment must be principally private-sector led, with the public sector aiding through supporting infrastructure (not the actual productive infrastructure) and business-friendly policies. In Nigeria, attempts to improve food security often focus on increasing productivity at the farm level and building public sector grain and staple crop storage facilities. Public food reserves can be an important emergency preparedness strategy, but a longer term and more sustainable strategy is needed to incentivize increased private sector investment in staple crop value chains, which would include storage, processing, and trading. A country whose staple crop value chains are globally competitive will have robust private sector investment at all points. (Transport costs in inefficient systems can represent a significant percentage of total product value. This is an example of where supporting infrastructure plays a critical role in competitiveness

and private sector agribusiness investment.) Increased domestic production may end up in the global market because of improved competitiveness, but these same stocks can be diverted in the event of an emergency, and the underlying sector will more quickly rebound from any emergency situation.

## LEGAL FRAMEWORK

There is a growing appreciation within the federal government, particularly within the Presidency and the Ministry of Agriculture, that agriculture must be a national priority. Indeed, food security and agriculture are prominently highlighted in President Yar'Adua's Seven Point Plan. This reflects a realization that the only way to develop a robust agribusiness sector is to prioritize agriculture across the government, not only within the Ministry of Agriculture. To enhance agribusiness in Nigeria, integrating an understanding of agricultural issues into the broader commercial legal framework is required.<sup>15</sup>

## INFRASTRUCTURE

One example of a need for greater integration of the legal framework is infrastructure policy. Poor rural infrastructure, including energy and transportation systems, is one of the main causes of Nigeria's weak global competitiveness in agribusiness. Current energy policy, for example, is encouraging the development of independent power plants, but to date most plans continue to focus on the more populated southern belt of the country where there is access to natural gas and dense consumer populations, rather than on the northern agricultural regions. (Individual states are moving forward with their own energy strategies, however). The Minister of Agriculture held energy related meetings in the U.S. during his summer 2008 visit, revealing an interest in addressing this key issue.

## INTELLECTUAL PROPERTY

Another example is intellectual property (IP) law. Sound IP provisions relating to seed and plant genetics are vital to attract investment in the seed sector, which could lead to better

<sup>15</sup> Appendix III has an overview of the Draft National Food Security Programme's Overall Policy Thrust. It indicates a significant step forward in FMAWR policy formation by identifying linkages within the broader Nigerian Legal Framework that must be enhanced for agricultural sector success.



access to improved genetic material for farmers. The current legal framework for IP in Nigeria does not specifically address protection for seed and plant genetics. Representatives from the Patent and Trademark Office who were consulted in this diagnostic were not aware of any IP registrations covering such materials. While a new Draft Intellectual Property Law is currently under consideration, this law is not expected to address seed and plant genetics.<sup>16</sup> The Draft Seeds Decree does not currently address seed and plant IP, but drafters hope to include provisions in the final version considered. A strong IP framework is critical for significant commercial investments.

### SKILLED LABOR

Many larger agribusinesses rely upon expatriate managers because they either are not able to identify experienced individuals within Nigeria or qualified individuals are not interested in considering the agribusiness sector, particularly if it means living outside Lagos. While Nigeria does produce excellent managers, recruiting such individuals to the farm can be a serious challenge. This issue is discussed further in Social Dynamics below.

The agribusinesses interviewed did not experience any significant constraints in obtaining the appropriate work permits for their expatriate workers. The permits necessary for foreign skilled labor are covered under the Immigration Act of 1963. This Act has been modified by various guidelines and circulars emanating from Federal Ministry of Internal Affairs. Apart from this regime, there also exist a body of laws and decrees that govern foreign investments. The relevant authority that normally grants all such permits is the Ministry of Internal Affairs. It must be noted, however, that after the International Development Coordination Decree of 1988, all companies incorporated thereafter obtain their necessary immigration requirements from the International Development Co-ordination Committee (IDCC).<sup>17</sup>

### KEY IMPLEMENTING INSTITUTIONS

- Federal Ministry of Agriculture and Water Resources (FMAWR)
- Federal Department of Fertilizer
- National Agricultural Seeds Council
- Food Reserve Agency
- Ministry of Agriculture
- Ministry of Finance
- Ministry of Commerce
- National Agency for Food and Drug Administration and Control (NAFDAC)
- Nigerian Investment Promotion Commission (NIPC)
- Nigerian Customs Service

## IMPLEMENTING INSTITUTIONS

### FEDERAL

President Yar'Adua has prioritized agriculture on a national scale, and that will require moving toward an integrated approach across ministries and agencies. However, much remains to be done in terms of inter-agency collaboration. While the Ministry of Agriculture holds substantial expertise, other areas of government must be relied upon to fill the public sector role in agricultural development. The public sector must provide supporting infrastructure and business-friendly policies to incentivize investment in agribusiness along the value chain. The Ministries of Finance and Commerce play vital roles in implementing agribusiness-friendly policies, and institutions relating to infrastructure (e.g., Ministries of Transportation and Energy) are critical to the sector's development and competitiveness. The National Agency for Food and Drug Administration and Control (NAFDAC) plays an important role in standards and consumer safety. Among the challenges to face by these ministries are agribusiness grades and standards, food and consumer safety, transport sector investment and efficiency, affordable and accessible capital, regular and productive public-private dialogue, and reliable data and statistics.

<sup>16</sup> The author was not able to obtain a copy of the Draft Intellectual Property Law to review.

<sup>17</sup> Bureau for Business Information, Guide to Nigerian Immigration Law, <http://www.bbinigeria.com/pdfs/gtnil.pdf>.

## INFORMATION

Public policy and private investment require reliable data and statistics for informed planning and execution as well as monitoring and evaluation. The FMAWR has a department tasked with compiling statistics as well as the National Bureau of Statistics to rely on.<sup>18</sup> The perception in the private sector is that very little agricultural data is available and that the data that is accessible is unreliable. Information as it relates to both policy development and impact assessment is also referred to by the FMAWR itself (through its policy documents.) It is unclear at this time where the real (as opposed to perceived) challenges are in terms of information, data, and statistics. Support for a multi-agency and ministry assessment could assist in identifying pivotal gaps that could be addressed by short-term and medium-term strategies.

## NIGERIAN INVESTMENT PROMOTION COMMISSION

Existing government entities, such as the Nigerian Investment Promotion Commission (NIPC), could be used to ease the efforts of potential investors in agribusiness. The NIPC provides information on investment incentives, opportunities, and processes to all potential investors in Nigeria. It has a One-Stop Investment Center, launched in 2006, to provide in one location all information and services that an investor needs to get started. Currently, 13 agencies have representation at the Center, including the Corporate Affairs Commission, Nigeria Customs Service, the Ministry of the Federal Capital Territory (land issues), and the Central Bank. Development of the One-Stop Investment Center is ongoing, and new services are still being added, but the Center appears well on its way to providing a single location where all questions can be answered and processes completed.<sup>19</sup>

While the Center provides a central source of information on investment and is establishing representation in offices in each of Nigeria's six zones, the focus of this resource remains primarily on the more traditional large investors in a handful

of sectors, such as oil and gas and telecommunications. Additionally, the rural nature of agribusiness makes it less easy for relevant stakeholders to access these resources even on the zonal level. Agriculture is one of the sectors highlighted on NIPC's website, but the agribusiness community is not highly engaged with the organization, and the available information on agriculture is limited. Educating the agribusiness sector, particularly smaller and medium sized agribusiness, on available resources such as NIPC should be prioritized. At the same time, educating institutions such as NIPC on the issues that agribusinesses face and how such institutions might assist them is also key. Such institutions could be a good place to integrate a focus on agribusiness into the country's larger investment promotion concerns. To begin this process, FMAWR should be one of the agencies with representation at the One-Stop Investment Center.

## STATES

As with on-farm productivity, state governments can play a consequential role in promoting and supporting agribusiness investments in agro-processing, product organization, transformation, and management within their borders. Often agribusiness value chains (particularly staple crops) require a scale that crosses state borders, and states find themselves competing to attract investments. Various states have prioritized commercial agriculture and agribusiness investment with their Commissioners of Commerce and offer packages of incentives that vary by state. Potential investors must visit each state to assess the opportunities and incentives, and weigh them in light of the underlying market opportunities. At the same time, the private sector has reported varying degrees of ongoing support from state governments. In some cases, incentives once agreed upon have been changed or withdrawn after a private sector player has launched an investment. This type of legacy can be a hindrance to fostering additional investment because current investors share their concerns and difficulties with potential investors.

Some publicly-owned agribusiness companies still exist at the state level. Bauchi, as an example,

<sup>18</sup> <http://www.nigerianstat.gov.ng/index.php>.

<sup>19</sup> More information can be found on NIPC's website at <http://www.nipc.gov.ng>.

has a number of state-owned enterprises, including some in the agricultural sector. In 2008, the World Bank performed a sub-national *Doing Business* assessment of 10 Nigerian States and the Federal Capital Area. Bauchi ranked a relatively high 3rd among the states assessed, and yet the private sector there is almost nonexistent. Most states express intentions to privatize these businesses or create joint ventures with private sector. However, many of the state investment incentive documents (and some private sector companies that were interviewed) recommend some government equity stake in new agribusinesses (or agribusiness expansions) as a way of ensuring capital and policy stability.

### COMPLEXITY VERSUS CLARITY

Various ministries and agencies must collaborate to support increased private sector investment in the sector. Agribusinesses themselves find it difficult, if not impossible, to find their way through the complexity of these ministry and agency activities and interactions. More understanding and collaboration between ministries and agencies could assist the implementing institutions in moving agribusinesses through their relevant counterparts. Agencies charged with assisting entrepreneurs throughout the business process can be equally or more important in creating an environment in which up-and-coming entrepreneurs can succeed if they provide the right tools, information, and assistance. Institutions responsible for ensuring that competition is open and fair and that public sector companies do not dominate the business environment are also necessary. One issue common to each of the institutions discussed above is that they are not yet providing enough information to the public with regard to either the services they offer or the areas in which they are involved.

## SUPPORTING INSTITUTIONS

### PRIVATE SECTOR

The Nigerian agribusiness private sector is reportedly “getting by.” Entrepreneurs and

agribusiness managers are by most accounts dynamic, open-minded, and enthusiastic, but are not pushing for or expecting any government support. They prefer to fly under the radar and work within what they perceive to be the inevitably difficult environment. A handful of individuals have cultivated de facto monopolies in some products through opaque means. The private sector sees the success of a few well-connected enterprises as further reason to not spend resources on dialogue with the government or on attempts to push for change. The exception to this rule is among the few large export-focused commodity businesses. The Export Incentive Program, discussed in this report’s chapter on Trading Across Borders, has assisted in activating these businesses because of the potential financial benefit in formalizing and engaging with the government. This challenge is explored more under Social Dynamics below.

### TRADE ASSOCIATIONS

The trade associations in agriculture that are concentrated in specific commodities were largely created through government initiatives during the Obasanjo Administration and had some organized contact previously with the federal government. Some bigger players believe that efforts to change are useless. They contend that, because often only a couple of larger businesses exist in any one product group, carrying either the expense or the visibility that may come from pushing dialogue would be counterproductive. Thus, many of these organizations lack the influence they could have. They have no independent mandate from members and have not been demand driven. Even with a change in the administration, they have not uniformly had platforms for dialogue, their principal reason for formation.

Agribusiness is also limited in representation because only the largest enterprises have offices in Lagos. Lagos is clearly the commercial capital of Nigeria. The majority of financial institutions, business consulting services, and business advocacy groups are headquartered in Lagos. While

USAID/Colombia launched the Colombia Agribusiness Partnership Program (CAPP) to address the constraints on the access and affordability of growth capital for medium and large agribusinesses. The specific objective of the program was to help agribusiness entrepreneurs develop and implement projects that would provide an alternative, licit source of family income and provide significant employment in geographic areas susceptible to illicit agricultural production.

Colombia, like Nigeria, has a developed financial service sector, and an entrepreneurial and business culture that prefers to focus on sectors other than agriculture. In order to support expanded agricultural sector development, CAPP provides:

- 1) pre-implementation technical assistance and training needed to produce commercially viable business plans,
- 2) linkages with other sources of development and implementation support,
- 3) technical assistance and training to support project implementation, and
- 4) “up-front” financial assistance to facilitate project implementation.

An important underlying principle of CAPP is that it functions as a catalyst to help customers develop and implement projects sustainably—financially, environmentally, socially, and managerially. CAPP is not a direct participant in projects or the main source of support for projects. CAPP helps private sector customers develop and sustainably implement their own projects.

the largest potential domestic market is concentrated in Lagos State, the costs associated with holding and staffing an office in Lagos are simply too high for medium size agribusinesses. By not having a regular presence in Lagos, businesses are inhibited in accessing advocacy, networking, and business development services. For example, the Lagos Chamber of Commerce and Industry is the premier chamber of commerce in Nigeria.

The Lagos Chamber of Commerce and Industry, which was established in 1888 and incorporated in 1950 as a non-profit organization, is limited by Guarantee under the Companies Act of 1948. The primary objective of the Chamber is to promote, support, or oppose legislative or other measures affecting trade, industry, commerce and agriculture as well as represent the opinion of the business community. The approximately 1,500 members control about 80% of the industrial wealth in the Lagos area, which itself accounts for over 60% of economic activities in Nigeria. However, a key membership requirement is that a

company seeking or retaining chamber membership must have a registered office in Lagos or its environs.

The Chamber’s Business Service Unit (BSU)—formally known as the Business Education, Services & Training Unit—was set up in 1996 with the aid of the German Agency for Technical Cooperation (GTZ) with the sole aim of promoting and developing small and medium enterprises (SMEs) in Nigeria through the provision of business development services intended to make them competitive both locally and internationally. Again, this service is principally accessible to those located in Lagos.

One organization that does have a national presence that includes a part of the agricultural value chain is the Manufacturer’s Association of Nigeria (MAN). MAN is an industrial association serving and representing nearly 2,000 companies in private and public sectors in manufacturing, construction and service sectors of the national economy. MAN has twelve branches nationwide and was established in 1971.

## BUSINESS DEVELOPMENT SERVICES (BDS)

The availability of services designed to assist agribusinesses in developing strategies, building capacity, and raising the capital they need to prosper in the agriculture arena is quite limited. To some extent, well-informed entrepreneurs who have a regular presence in Lagos—and, to a lesser extent, those in Abuja—can identify knowledgeable business consultants who can help them secure sources of capital and become established in such a way that minimizes risk for investors. In general, Nigeria has a wealth of sophisticated BDS companies and professionals. They are not, however, widely available or accessible beyond Lagos. Opportunities in agriculture that should or must locate in rural areas do not typically have the benefit of sophisticated BDS.

One example of a Lagos-based BDS company is the Bureau for Business Information (BBI). BBI is a private business and economic information provider in Nigeria. They describe themselves as managing a dependable database of Nigerian businesses, legislation, monetary and fiscal policies, investment incentives, tariffs and other regulations to guide investors. Located in Lagos, they reportedly serve various sectors, including banks, oil companies, consulting firms, legal firms, ICT firms, and agricultural sector investors. But the ability for investors in central or northern Nigeria to know of the existence of companies like BBI or to access them (much less to afford them, when their usual markets include the financial services, oil and gas investors, and ICT firms) is very slim.

While the World Bank is currently supporting BDS activities in Nigeria, there is a need for more BDS in the country, particularly with regard to agribusiness activities in the north.

## BANKS

Generally speaking in Nigeria, the range and volume of attractive investment opportunities number well in excess of the investors interested and capital available. Under such conditions, competition exists for each investment dollar or Naira.

## KEY SUPPORTING INSTITUTIONS

- Department of Cooperatives
- Supply Cooperatives
- Market Cooperatives
- MARKETS Project
- All Farmers of Association of Nigeria
- West Africa Seed Alliance (WASA)
- Trade Associations
- Lagos Chamber of Commerce and Industry
- Business Service Unit (BSU) of the Chamber of Commerce
- Manufacturer's Association of Nigeria
- Business Development Services Companies
- Banks
- Universities
- Real Estate and Land Development Companies

Agriculture projects are usually on the losing end of such competition. This can be attributed to several perceptions among potential investors: higher risk, lower return, or simply the view that agribusiness is not a serious investment option on par with oil and gas, financial services, construction, telecommunications, or other components of the service or industrial sectors. Growth capital, of course, is imperative to expanding the agricultural value chain, a topic that will be explored more thoroughly in the Getting Credit chapter of this report. However, growth capital is imperative to expand the agricultural value chains. Latin America (see box) can provide some examples of successful interventions to increase medium and large agribusiness investment.

## EDUCATION

Universities can and should play a significant role in promoting business development by offering courses that provide the skills necessary to succeed in the private sector. This includes business education as well as technical education providing industry-specific skills. Many private sector representatives indicated that the classical agricultural education dominating the education system in Nigeria is not conducive to agribusiness development (of any size) and that graduates of business-related programs have neither the interest nor the practical knowledge necessary

to engage in agribusiness. Improving training targeted toward agribusiness management and providing training in modern agricultural practices are important for creating a sustainable and vibrant agribusiness sector in Nigeria.

## SOCIAL DYNAMICS

### ENTREPRENEURSHIP AND OPPORTUNITY

While small-scale entrepreneurs are plentiful in Nigeria, they often follow that path out of necessity rather than choice, and subsistence-level businesses do little for economic growth and job creation. There also appears to be a cultural preference for trading and activities with quick financial turnover. These factors not only affect the availability of quality entrepreneurs looking to invest in true long-term, value-added agribusinesses, they also affect access to capital.<sup>20</sup> Potential entrepreneurs also lack the know-how necessary to start and run a successful business.

The good news is that there are more entrepreneurs and skilled managers in Nigeria today than there were even five years ago. Perhaps entrepreneurs have learned to factor in the hassle and cost of unreliable government policies, and are now able to expand in spite of them. One example is the effect of the recent rise of global commodity prices on increasing competitiveness of Nigerian production.

Also, Nigeria's own consumer population continues to grow. Vijay Mahajan discusses the rising and important "Africa Two" market—the future middle class—in his recent book, *Africa Rising*. He estimates Africa Two as being between 35% and 50% of any particular country's market. The implication: Nigeria doesn't have to wait to reach the large consumer base required for investment dependent upon economies of scale. It already has a significant middle class that continues to grow. One sees it most prominently across Lagos, but it exists in many of Nigeria's larger urban centers. Using Mahajan's market size estimates, Lagos' middle class market alone holds

between 4.9 million and 7 million consumers. This is another example of Nigeria's opportunities expanding in spite of constraints.

Nigeria benefits from the many dynamic and enthusiastic individuals already working in the sector. That said, the majority of agricultural graduates from Nigerian universities either enter the government or the financial services sector. This is due to a number of factors, including a lack of focus within the universities on agriculture as a profitable business, an unwillingness by many educated individuals to live in remote rural areas that lack even basic services, and a sector that continues to have fewer skilled jobs and growth-oriented companies available compared to other sectors.

### FORMALITY

Much of the agribusiness in Nigeria, even medium and large-scale agribusiness, continues to function in the informal sector. This may become yet another challenge as the sector grows and becomes more formal. The heavy costs and bureaucracy that agriculture and agribusiness now largely avoid may weigh down some growth as the sector incurs costs such as labor unions, environmental assessments, or additional licensing requirements.

### COMPETITION AND COMPETITIVENESS

As mentioned before, agribusinesses face a very uneven competitive landscape. Agribusinesses must contend with limited infrastructure, the high cost of capital, inadequate market information, a competitive environment skewed against those not politically connected, and little understanding, in both the public and private sectors, of agricultural sector needs and priorities. Improving competitiveness of this sector will require greater attention and concern not only of the public sector, but of private sector institutions as well. For example, MAN has a strong political lobby and has successfully supported some policies aimed at protecting the development of domestic manufacturing. Such a voice,

<sup>20</sup> The Getting Credit Chapter takes a closer look at the social dynamics of capital.



“Supermarkets’ impact on suppliers is biggest and earliest for food-processing and food-manufacturing enterprises, given that some 80 percent of what supermarkets sell consists of processed, staple, or semi-processed products. But by affecting processors, supermarkets indirectly affect farmers, because processors tend to pass on the demands placed on them by their retail clients.”

*The Supermarket Revolution in Developing Countries, Thomas Reardon and Ashok Gulati, IFPRI Policy Brief No. 2, June 2008.*

that represents the full value chain of a sector, can effectively present some policy proposals in the interest of complete sector growth and expanded investment.<sup>21</sup> Directing such an institution toward the policy challenges of the agricultural sector could be rewarding.

Smart and dedicated public servants are working as champions for sector development, and there is a small, vibrant private sector that is frustrated but open.

## RECOMMENDATIONS

- Work with one or more agricultural or business universities in Nigeria to develop a modern agribusiness program that can train entrepreneurs, middle managers, and financial services professionals with an understanding of the agriculture sector. Such a program could provide internship opportunities with mid- and large-scale agribusinesses and could partner with foreign agribusiness university programs.
- Establish an agribusiness incubator program, possibly linked with a business plan competition, in order to increase the number of viable businesses in the middle of the value chain and the quality of business execution. Linkages of a program of this sort with financial institutions should also improve capital available to viable businesses.
- Educate agribusinesses on existing services and programs available to assist businesses, such as the NIPC.
- Advise the NIPC on how to better serve and target the agribusiness sector.
- Facilitate organization of mid- and large-scale private sector players in agribusiness for improved advocacy and information sharing. This might be done through creation of a new private sector network or organization, or support to an existing chamber of commerce.
- Support private sector investment in rail and any changes in policies or laws necessary to facilitate such investment.
- Promote prioritization of agriculture with respect to national policies on transportation, energy, trade, and finance.
- Support improvements in the federal government’s collection, management, and dissemination of agricultural statistics. Assist the government in conducting a thorough assessment of current statistical capabilities and needs.
- Prioritize the creation of a sustainable market and trade information system. Existing sources of information should

### THREE WAVES OF SUPERMARKET DIFFUSION<sup>22</sup>

Period	Countries/regions	Growth in supermarkets’ average share in retail sales
First wave started in early 1990s	Much of South America, East Asia (outside China), and South Africa	From about 10% around 1990 to about 50–60% by the mid-2000s
Second wave started in mid- to late 1990s	Mexico, Central America, and much of Southeast Asia	From 5–10% in 1990 to 30–50% by the mid-2000s
Third wave started in late 1990s and early 2000s	China, India, and Vietnam	Reached about 2–20% by mid-2000s; supermarket sales growing at 30–50% a year

<sup>21</sup> An example might be the import protections that inhibit retail development in favor of protecting uncompetitive domestic manufacturing and limited domestic consumer selection.

<sup>22</sup> Reardon and Gulati 2008.

be capitalized upon, and a goal should be providing market information cheaply and broadly. Consider the creation of a public-private partnership to incorporate information from international market research firms on supply and demand trends.

## CONSUMER FOOD DELIVERY

Agriculture development professionals have reached a point where they generally agree that sector development requires a market driven approach. While this realization has linked on-farm productivity work directly with viable processing and trading concerns, there have been few efforts that extend this to include consumer delivery modalities. Supermarkets (a term a generic term for retail outlets ranging from chain stores to supermarkets, hypermarkets, convenience and neighborhood stores) in developing regions create a market that fuels growth of agribusiness sales and investment.

With its large population and large number of dense urban centers (more than 10 cities with populations in excess of 1 million), Nigeria is already experiencing both increased demand for a more varied diet and premium pricing for convenience. This will continue to challenge the logistics of the country's food supply. Supermarkets and prepared food establishments (restaurants, fast food, etc.) integrate food markets. This is particularly important in creating rural employment because domestic and regional market formalization and organization will incentivize investment in labor intensive products and services along the agricultural chain. Many peer countries and regions have already progressed in their development of food retailing, and Nigeria can take many lessons from their experience.

In the June 2008 IFPRI Policy brief, Thomas Reardon and Ashok Gulati discuss some critical factors and specific legal framework realities in peer countries that have experienced retail expansion.

*“Although urbanization and increased incomes have been important in the rise of supermarkets, other factors also played important roles. A crucial factor was the liberalization of retail foreign direct investment (FDI), which sparked an avalanche of FDI (and competitive or at times anticipatory domestic investments) through the 1990s and into the 2000s. Intense competition, consolidation, and multinationalization in the supermarket sector have also accelerated the spread of supermarket chains seeking to improve their competitive positioning. In addition, domestic policies have often included tax incentives for supermarkets and hygiene and location regulations for wetmarkets. Finally, the modernization of supermarkets’ procurement systems has reduced costs and made supermarkets more competitive with traditional retailers.”*

## LEGAL FRAMEWORK

As noted above, large urban populations are not sufficient to develop a dynamic supermarket and food service industry. Liberalization of retail foreign direct investment is one factor that has played a critical role in other economies. Central America first experienced anticipatory domestic investment in retail establishments. International investors then entered through acquisition rather than greenfield operations. Import restrictions disproportionately affect foreign chain investment in retail establishments. The GON has not established a clear legal and regulatory framework to guide the establishment, operation, classification, and control of the supermarket and food service industries. The private sector considers this a major constraint to growth.

Until very recently, Nigeria's trade policies were highly restrictive; a wide range of processed and packaged food items were banned for import. This limited the ability of retail establishments to deliver consistent and good quality food service to customers. When an economy has experienced protected and informal domestic markets, the number and quality of domestically produced items may inhibit the ability of a formal retail establishment to stock its shelves. Independently



owned and operated stores may not be fully formalized. For example, they may stock illegal items that an international or fully formalized domestic chain would not be in a position to compete with. Other food services may also resort to illegally obtained food items because they are not able to obtain what they require in the local market. While these have all been problems in Nigeria, some change has come in recent years. In September 2008, Nigeria significantly reduced the number of items prohibited for import and reduced the duty on others.<sup>23</sup>

Food system efficiency as well as agricultural productivity must be fundamental public policy goals if Nigeria is to feed its growing urban populations. Public and private investment in domestic food system infrastructure and more liberal food trade policies will be essential to ensuring that efficient food systems. Such systems must both meet food demand and, over time, build a system of markets that can effectively absorb and deliver increased agricultural production in Nigeria.

## IMPLEMENTING INSTITUTIONS

The Ministry of Agriculture clearly has an oversight role with regard to consumer food safety and the import and export of food items. As such, it can affect the competitiveness of domestic producers and processors to fill the retail establishments' baskets of goods. But retail establishments, including not only supermarkets but also food service businesses, require a specific, consistent quantity and quality of products. As a result, trade bodies (including both policy developers and policy implementers, such as Customs) have a considerable impact on retail development.

To date, both federal and state governments have prioritized processing, manufacturing, and industrial projects by providing incentives and investment support. No prioritization for retail and food service has occurred. State governments can support retail establishments and consumer delivery by assisting chain investors in identifying and procuring appropriate business sites within their borders.

As discussed above in the Legal Framework section, changes in trade policy and the domestic food system infrastructure will be necessary to allow growth of a robust consumer market system in Nigeria, and implementation of such policies will be critical to creating an environment conducive to a robust consumer market system.

## SUPPORTING INSTITUTIONS

Nigeria's food service sector, consisting of restaurants, hotels, and institutional contracts, was valued at US\$3 billion in 2007. The sector is expected to continue to grow at 30% per annum and reach \$5 billion in the next three years. The largest and fastest growing segment is quick service restaurants. Growth in the sector is driven by modest economic growth, urbanization, more women working outside the home, and changing demographics in favor of young people with a penchant for western-style convenience foods. The sector is expected to continue to grow as convenience-focused consumer delivery modalities become increasingly important in the Nigerian way of life. In the same vein, import demand for food ingredients by the operators is trending upwards.<sup>24</sup>

Even with all of the challenges posed by Nigeria's economy, the private sector believes that the consumer food delivery market is too large and well concentrated to be ignored. Nigeria has also seen entry of its first international fast food franchise, Nando's. A Nigerian food conglomerate with its own home-grown franchise operations has brought in the South African chain. This is an experience that other multinational fast food firms should watch.

Real estate and land development companies are also focusing significant resources on commercial center development around the largest urban areas in Nigeria, especially Lagos. Some of these developers are seriously courting international management and financial expertise to assist in various projects.

<sup>23</sup> Nigeria HRI Food Service Sector Report, GAIN Report, Foreign Ag Service, December 2008. More information on import prohibitions and duties is available in this report's chapter on Trading Across Borders.

<sup>24</sup> Nigeria HRI Food Service Sector Report, GAIN Report, Foreign Ag Service, December 2008.

Shoprite, a South African supermarket chain, is the first international retail brand to have established a presence in Lagos. Shoprite has said it wants a broader footprint that would allow backward investments in horticultural produce organization, packing, and management. The Supermarket Association of Lagos represents largely independent homegrown operations; a few members may have multiple locations, but most are single establishments. Some agribusinesses are working in production and are hoping to target the growth of the Nigerian food service and retail sector. These are mostly based in Plateau State where vegetable production is concentrated and includes frozen food processing, and greenhouse production, packing, and logistics.

## SOCIAL DYNAMICS

Nigeria is unique in Africa. More than 48% of the population is urban, (68,000,000+ urban dwellers)<sup>25</sup>—and more than 10 cities have populations 1 million or more. Nigeria represents about 20% of the total population of sub-Saharan Africa and about 47% of West Africa's population. The population is unevenly distributed, however. A large percentage of the total number live within several hundred kilometers of the coast, but the population is also dense along the northern river basin areas such as Kano and Sokoto. As a result Nigeria, unlike most other African countries, has a dense consumer population that can be a great asset to an improved agribusiness environment if the delivery end of the value chain is properly managed and improved. There is an increasing demand for convenience and more consumer options. Such demand can be harnessed to increase pressure for improvements to the business environment that will ease the entry of supermarket chains and introduce the accompanying efficiencies.

“Modern retail can also create jobs. Some of this new employment is a swap with traditional sector employment. Depending on the formats used by modern retailers, however, the expansion of the consumer market

facilitated by modern retail plus small-format innovations, such as the “pushcart chains” pioneered by ITC and Acme in India, can expand employment. How well the government and the private sector raise the skills of workers in the distribution sector and enable the transition will determine whether the transition has poverty-creating or poverty-alleviating effects. In India's medium-size supermarkets, for example, the employment ratio (workers per square meter) is similar to that of traditional retail. Employment in the modern sector is better paid, with better conditions, but it also requires more skills and education than employment in the informal retail sector.”<sup>26</sup>

Some challenges must be recognized. Small farmers, informal markets, and many processors are often not equipped to meet the demands of increasing competition and the requirements of a modernizing retail sector. Current fast food chains in Lagos rely upon imported processed vegetable items because the reliability and quality, compared to domestic items, are worth the high cost. This is true even though import bans and duties remain seriously restrictive. Until a robust consumer retail market is established, beyond the first few chains and outlets, the middle of the chain does not have the scale to meet nascent demand, much less capital to expand. An integrated development program will support development at the consumer end of the chain while providing support for the expansion of the product organization, transformation, and management.

## RECOMMENDATIONS

- Organize a Food Retail Investors Forum, inviting major investors and potential investors (including international supermarket chains and franchise food service) in addition to domestic enterprises. The Forum should result in concrete recommendations to the federal and state governments to improve the attractiveness of the Nigerian market for retail development and investment.

25 UN Human Development Report 2007/2008.

26 Reardon and Gulati 2008.

- Promote prioritization of retail sector by federal, state, and local governments in order to ensure an available and organized market to accommodate increased productivity and investment. Import liberalization is key to attracting international and/or chain retail investments.
- Provide the same prioritization to retail investors in the acquisition of property as is currently provided to industrial investors at the federal, state, and local level.
- Establish a “Buy Nigeria” seal of quality campaign to improve consumer confidence, encourage private sector brand development, and develop domestic markets.



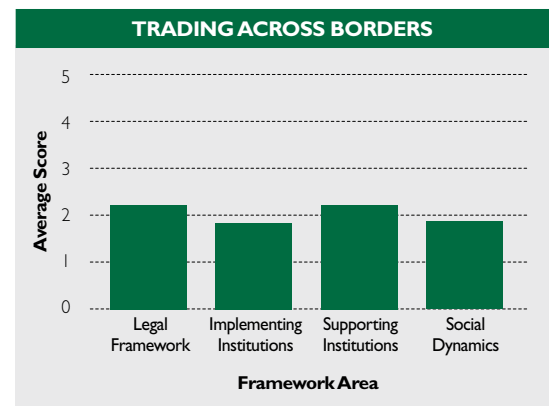
## TRADING ACROSS BORDERS

Trade facilitation is the process of simplifying and harmonizing a country's international trade procedures in line with current best practices and globally accepted standards. Such practices benefit all users although they can be most beneficial for agribusiness, which often deals in perishable products that need expedited clearances. When such practices are in place the importer and exporter can reliably predict shipment and delivery times and even more importantly keep border processing costs competitive. Such simple and transparent practices are particularly necessary for the successful integration of the small and medium sized agribusiness companies (SMEs) into the international arena. When trade facilitation practices are implemented, the number of players and commodities expand, competitive pricing factors are in play, and the consumer's purchasing power increases. Reforms also generally improve tax revenues as loopholes for evasion are decreased due to the increased effectiveness of controls based on modern practices such as intelligence based risk analysis.

TRADING ACROSS BORDERS	
<i>Doing Business</i> Ranking 2009	144
<i>Doing Business</i> Ranking 2008	143
Documents for export (number)	10
Time for export (days)	25
Cost to export (\$ per container)	1,179
Documents for import (number)	9
Time for import (days)	32
Cost to import (\$ per container)	1,306

Trade facilitation requires a national strategy that incorporates all aspects of the trade chain but has Customs modernization as a key pillar. Action items must be prioritized taking into account the agency's ability to absorb change and limited resources for implementation. Strong sustained political will at the highest level, sufficient technical assistance and a high degree of partnership with the private sector are vital for success.

Currently in Nigeria, the international trading process is inefficient and costly. Procedures are complex, regulations lack consistent application and fees remain high, particularly for imports. Nigeria is not adhering to WTO rules in areas



such as valuation and import/export restrictions. Nontransparent valuation with continued use of arbitrary reference price lists and multiple changes in policy and procedures are obstacles to the realization of trade facilitation goals.

Although import tariffs have been reduced, levies are still among the highest in the region. The cost of compliance represents a substantial burden on the trade community. The overall import/export procedures must be simplified, redundancies eliminated, and overlapping border agency responsibilities streamlined to achieve significant trade facilitation improvements.

Two of the greatest obstacles to reducing trade costs are the lack of integrity involving Customs and other border agency personnel, the trade community, and clearance agents, and noncompliance with the law. Strong vested interests oppose changes in the current environment, which is characterized by extensive officer discretion, non-transparent practices, and high physical inspection rates that impede implementation of modern practices. Bribe solicitation is common. Many traders resort to undervaluation and smuggling to avoid high tariffs and to offset high costs caused by delays and fees. The ease with which trade formalities can be compromised is well recognized. That said, recent changes in leadership at Customs bring hope that tolerance of such activities is decreasing and that effective reform in this area may now be possible.

A key pillar in a trade facilitation strategy is reform of the customs service, the predominant border agency that controls goods arriving and departing the country. The Nigerian Customs Service (NCS) initiated such a strategy in 2004, and recorded some progress in procedural improvements and limited use of modern IT processing. However, overall implementation of the modernization program has been irregular with little reduction in costs or delays. Key elements such as quantifiable benchmarks and accountability are not incorporated. Underutilization of the capabilities of the United Nations Committee on Trade and Development's (UNCTAD) ASYCUDA++ modern IT customs processing system of the NCS is prevalent, although the agency is making more concerted efforts to address these deficiencies. The system, when well managed and accompanied by process redesign, can accommodate all the required functions of modern border processing.

In many respects Customs has forfeited the responsibilities of a traditional customs service to private service providers that operate under contract with the government to "advise" the agency as to value, duty rates, and level of inspection on international shipments. Customs generally relies

on these determinations which, when analyzed, do not further trade facilitation. The high level of cargo examination, currently at about 80%, has not changed. This fact indicates that quality risk management principles, a core of modern customs processing, are not being applied.

In an effort to address these issues and expedite progress, the government recently declared as a priority goal that clearance times at the ports be reduced to 48 hours from the prevailing rate of 30+ days. A ministerial committee consisting of representatives of all the public agencies that regulate international cargo and concerned private stakeholder groups has been formed to develop an action plan on how this is to be accomplished and to report on progress. Privatization of the ports, redesign of the Customs Processing Centers and full utilization of the IT customs management system are all components of the project. Limited progress has been achieved. The largest container terminal in the country is currently averaging 28 days for full clearance and departure of containers.

Privatization of port terminal operations in 2006, a key element of improved trade facilitation, has met with mixed success in meeting its objective to lower costs by 30% through infrastructure improvements. High port costs continue to impede trade. Costs are also driven up by cumbersome arrival and departure procedures and the general state of congestion which delays movements. Generally private port operators have not made the investment in infrastructure needed to improve efficiency. This is due to inadequate funds on the part of some of the smaller Nigerian companies. Larger international firms, meanwhile, lack of confidence in whether contract terms will be honored by future administrations.

Estimates are that charges related to port handling are 50% higher in Nigerian ports than in neighboring ports (in particular, Cotonou, Benin). As a result, a significant volume of Nigerian import and export cargo is shipped through this location. Estimates are that the bulk of this trade

enters Nigeria informally because of the lack of adequate transit controls, cooperation, and sharing of intelligence between the two countries.

The World Bank's 2009 Doing Business report shows very little improvement from 2007 to date in Nigeria's international position in Trading Across Borders. During this period the country moved from a ranking of 143 to 144 out of 180, with costs increasing by \$100 to \$300 per container while the days of clearance showed some slight reductions—4 days of reduction for imports (from 46 to 42), and 1 day of reduction for exports, (from 26 to 25).

To address these problems, public-private partnership needs to be strengthened and adopted as a policy throughout all organizational levels of public agencies. Currently the public border institutions do not actively engage the private sector in policy or procedural initiatives. This undermines transparency and effective implementation. This was demonstrated by the problems the NCS initially encountered with the transition to direct trader input. The private sector must be viewed as a full partner in trade reform. Cargo clearance operation involves multiple stakeholders: Customs, port officials, clearance agents, and the trader himself. To create an effective trade facilitation environment that reduces transaction time and costs, all parties must be involved in the design and implementation of reform initiatives.

## LEGAL FRAMEWORK

### TRADE POLICY

Trade policy is an important factor in improved trade facilitation. Policies should be consistent, clear, and tailored to encourage value added processing and the building of a wider and deeper agribusiness export sector. Also, such policies should facilitate the import of basic food products and critical foreign inputs into the agribusiness processing sector on which Nigeria relies so heavily to meet its domestic demands. The end result is the creation of a balance between import flows and increased capacity of domestic stakeholders.

### KEY LAWS AND POLICIES

- WTO Trade Agreements
- ECOWAS Common External Tariff (CET)
- Economic Partnership Agreements (EPA)
- Generalized System of Preferences (GSP)
- Trade Liberalization Scheme (ETLS)
- Export Incentives and Miscellaneous Act (1992)
- Nigerian Export Processing Zone Act (NEPZA) (1992)
- Customs and Excise Management Act (1959)
- Nigerian Customs Service Act (DRAFT)
- Pre-Shipment Inspection of Exports Act (1996)

Nigeria's trade policy has been characterized by damaging import bans and reference prices in lieu of the internationally accepted valuation methodology. However, the country is moving slowly toward a more liberal trade regime. There is now in place a 35% duty on certain goods that used to be prohibited. Removed items will remain off the list for 5 years in accordance with WTO rules. Tariffs have been reduced. No quantitative restrictions or quotas apply to imports.

Current import prohibitions on agricultural products include poultry, pork, beef, eggs, cassava, refined vegetable oils with some exceptions, spaghetti, noodles, cocoa butter and its other forms, and fruit juice in retail packs. Products on the August 2008 list were reduced from 46 to 27 items in total. However packaging material in the form of corrugated paper, boxes and cartons still remain on the list, even through a general complaint among exporters is the lack of adequate quality packaging materials in readying their goods for shipment. Agricultural related export prohibitions are limited to maize, raw hides, and skins.

Some of the trade policy initiatives that are helping to grow the agribusiness sector are the duty exemption for imported agricultural processing machinery and equipment parts, which occurred in March 2006, and the newly reduced levies on imported rice. The government removed the tariff and all levies on rice in May, 2008 to relieve food shortages and when these were re-imposed

in November, 2008, the duty was reduced to 10% from 50% and the special levy reduced to 20% from 50%. The levy has been in place for many years and is to be dedicated to expand domestic rice production and processing. It is questionable whether these funds have been used as intended. Such a substantial influx of government money targeted for rice production has not been noticeable, and there are no transparent accounting trails to trace usage.

High tariffs have been a continuing policy of the federal government. In 2004 the average ECOWAS tariff was at 13% while Nigeria was at 29.1%, more than twice the average. The rationale for this rested on two pillars: revenue generation, and protection of domestic industries and producers. Recently tariff bans have been reduced with the highest now at 35% in lieu of 50%. However, rates continue to be among the highest in the region.

High tariffs are not recognized internationally as an effective means of promoting domestic industries. Few countries (India, Iran) employ such policies as they tend to promote inefficient practices due to lack of competition. Such taxes are considered regressive in that the domestic consumer pays more for a product on the market when these policies are in place. The low level of production capacity in Nigeria pushes the manufacturing sector to strongly pressure the government to impose barriers on imports of products manufactured by more efficient foreign firms. Findings indicate that high rates have only furthered smuggling efforts throughout the porous borders of the country.

The practice of using bans and high tariffs as a mean of protecting Nigerian business is well entrenched. There is question as to whether the political will is in place to mount an attack to overcome resistance, even through the results of such policies appear to have little impact on domestic growth. Findings indicate that high rates have only further smuggling efforts throughout the porous borders of the country.

The concept of free trade as a beneficial trade policy is not well acknowledged or accepted in Nigeria. The Tariff Review Board has difficulties in fully comprehending the complexities of tariff manipulation and the economic impact of high tariffs on the country. Special interest groups continue to strongly influence trade policy with the loudest and most persistent voice often determining the outcome. Although it appears that the Ministry of Finance has a good understanding of the benefits of trade liberalization, its efforts in that direction have been limited because of the pressure of special interest groups.

Inconsistency of trade policy, particularly because of changes in government, creates an unpredictable environment for importers and exporters and discourages long term investment. Interruptions in programs dealing with export incentives are impediments to a more dynamic export expansion. Continual changes and interruptions in policy application send the wrong signal to investors that Nigeria provides a transparent, predictable environment for business. Even when efforts are made to give the trade community advance notice of changes, such efforts are inadequate.

One of the biggest challenges in policy development is the lack of quality statistics needed for impact assessments. The large volume of both informal and illegal trade, which some estimate at more than 50% of Nigeria's total trade volume, is not captured statistically. As a result, policy decisions often do not have the desired impact. Limited human capacity within the Ministry of Trade is a problem as well. Low salary levels are insufficient to attract candidates with the needed skills in international trade and finance.

Previously, shipments subject to special duty exemptions outside the scope of the tariff were significant. The process was non-transparent so that duty free treatment could be granted by any high ranking official in an arbitrary and capricious manner. According to Customs officials and the government, this practice has been eliminated.



Currently, exempted items must be designated by specific legislation or by protocol decrees. This action has greatly reduced the number of exempt items and increased predictability and transparency in the import process. The trade community was influential in eliminating the indiscriminate and prevalent use of exemptions which it felt slowed economic growth due to the uneven playing field it provided for importers. Such practices also invited corruption. Oversight is needed to ensure this policy is enforced.

### ECOWAS

One of the major components of Nigeria's trade policy is the continued development of ECOWAS, the Economic Community of West African States, which was established in 1975 among 16 regional countries. The aim was to promote cooperation and integration within the West African sub-region through removal of duties and taxes, establishment of a Common External Tariff (CET), creation of a customs and monetary union and harmonization of economic and financial policies. To date, achievements have been limited with implementation targets routinely extended.

ECOWAS's objective of a customs union where goods move freely without documentation and taxes is at a preliminary stage of development. A critical first step is the adoption of a CET which was slated for implementation on January 1, 2008. It was to consist of four tariff bands ranging from 0% to 20% in line with those adopted by UEMOA, the West African Economic and Monetary Union, which covers the eight francophone countries in the region.

The deadline for implementation was not met but progress continues to finalize the CET. General acceptance is now in place for expansion of the four bands to five to give added tariff protection to domestic products still needing protection. Negotiations are underway to determine the products on such a list. USAID funded an assessment of how various levels of duty attached to the fifth band would impact regional trade. Currently it appears that such products will carry a rate of 35%.

The failure of ECOWAS to finalize its CET has blocked its ability to conclude a formal trade agreement with the European Union, a major trading partner of Nigeria and the most important trade partner of West Africa. Its previous agreement expired on January 1, 2008. It is critical that this trading relationship be well established through a formal trade agreement which is of mutual benefit. Previous agreements by the EU which did not require reciprocity on the part of the West African countries are being replaced with Economic Partnership Agreements (EPA) negotiated between regional trading blocs rather than as bilateral country agreements. These are structured as free trade agreements and are to provide mutually beneficial market access to both entities in full conformity with WTO requirements. The transition time to final tariff elimination or reduction is 12 years.

Although several of the ECOWAS non-LDC's (Lesser Developed Countries) like Ghana and Ivory Coast did conclude interim agreements with the EU prior to the January 1, 2008 expiration, Nigeria did not. As a result, Nigeria now trades with the EU under the Generalized System of Preferences (GSP). This has placed certain Nigerian exporters of products such as shrimp, textiles and processed cocoa products at a disadvantage when entering the EU market. As an example, processed cocoa products now require more extensive documentation and incur duties ranging from 4.1% to 7.1% when entering the EU while the same products from Ghana enter duty free.

One of the strongest opponents of an ECOWAS free trade agreement that will require reductions or eliminations of tariffs on a comprehensive group of products is the Manufacturers Association of Nigeria (MAN). This sector believes the country lacks sufficient manufacturing infrastructure to open its markets and compete with European products.

Although the CET is unresolved regionally, Nigeria issued its 2008–2012 Tariff that includes five tariff bands. The first four are in line with the

proposed ECOWAS CET with the fifth at 35%. Significant tariff reductions were most notable on primary raw materials from 10% to 5% and on the fifth category, from 50% to 35%.

ECOWAS has established a Trade Liberalization Scheme (ETLS) for the duty free treatment of goods that qualify as a product of the region under its rules of origin. Nigeria has removed barriers to trade in unprocessed goods but not on industrial products under this program. To qualify, a producer must register both his company and product with the ECOWAS authorities. A list of approved items is distributed to each country and used by the national customs administrations for duty determinations. Qualifying shipments must adhere to the routine customs documentation process and be accompanied by a certificate of origin. Currently there are only about 1000 companies and 2000 items registered, representing only about 10% of the total regional trade. Most registrations have been completed by either Nigerian or Ghanaian firms.

The current administrative procedures for qualifying for ETLS are cumbersome and costly. Limited dissemination of information on the procedure, unwillingness of some countries to respect these determinations, and inadequate training of border officers regarding the process hinder free movement of regional goods. Documentation required at the time of goods crossing the border must be simplified and not require use of a customs clearance agent. ECOWAS has limited capacity and authority to monitor and address these issues although increased professionalism among its staff is evident.

To address the lack of available information, the West African Trade Hub will oversee the preparation of an ETLS Guidebook. This will be augmented with training for regional traders, clearance agents, and freight forwarders. Customs land border officers that currently hinder free regional trade as a result of their lack of knowledge of ETLS requirements must also be included in these awareness initiatives.



The European Commission is strongly encouraging efforts to harmonize customs processes within ECOWAS. Two of its projects are critical to moving regional integration forward and devising solutions to the informal/illegal trade among neighboring countries. One aims to harmonize the guarantee system for regional transit which could be a tool in tracking cargo offloaded in Benin which enters Nigeria unofficially. The second is a study to determine the pathway to integration of the customs operating systems within West Africa, using the model now operating in the East Africa Community (EAC). System integration will allow for the comparison of import/export data between countries to better monitor cross border trade and eliminate redundant border processing, a major trade facilitation measure. Whether the political support exists for such open data exchange between ECOWAS members is questionable.

### EXPORT INCENTIVES

In the past, the GON has adopted a variety of incentive schemes to promote exports. These are outlined in the Export Incentives and Miscellaneous Act of 1992. Most are now inactive. Currently the principal incentive is the Export Expansion Grants (EEG) program. This

program initially provided rebates of up to 40% of the export value to the trader. Due to the high volume of fraudulent claims, the EEG was suspended for a short time while undergoing review but has been reinstated with refunds now granted on a sliding scale based on many factors (company, number of employees, value added), from a maximum of 30% to a minimum of 7.5%.

Generally export incentives have not been as effective as anticipated for several reasons. Although it is well understood that incentive policies must be revisited and revised periodically, abrupt withdrawals of benefits creates uncertainty and leads to lack of investor confidence in the market. The fact that fraud is still an issue indicates that the layers of controls the government has imposed on exports—including dual 100% inspections by both the service company and Customs, and extensive documentation requirements—have not effectively addressed the issue, despite the burden and costs these have placed on the legitimate exporter. Additionally, information on the programs is not well distributed or understood by the export community, qualifying procedures are burdensome, and processing of refunds inefficient. Large reputable companies, such as the largest 20-50 that account for a significant percentage of the relevant export total, should be identified, and a program should be developed to give them more expedited, facilitated processing.

Another trade policy initiative to encourage development of exports and added value processing involves the use of Export Processing Zones/Free Trade Zones. The Nigerian Export Processing Zone Act (NEPZA) was adopted in 1992 as a means to encourage export production and attract foreign investment. Many incentives to attract investment were offered:

- Multiple tax exemptions from federal, state and local bodies, including capital gains, income VAT, and customs duties on inputs
- Expedited customs processing on entrance and exit

- No restrictions on the number of expatriate employees or staff, and on-site processing of immigration documentation
- Remittance of profits and dividends earned.

Such concessions are in line with international best practices and are possible because zones operate by law outside the customs territory of the country. Only 25% of the production was permitted to be entered for domestic consumption.

For many reasons, principally poor infrastructure, Nigeria's zone enterprises have not competed successfully in the international market. Initially, only two to three zones with limited activity were operational. In 2002, a policy change allowed 100% of articles produced in the zones to be sold in the domestic market. This resulted in an increase in activity to the present 23 zones, the majority of which are still under development. As of April 2007 about 50 non-oil related enterprises were operating within zones, most of which were Nigerian firms.

Inputs are predominately locally sourced (up to 70%) with foreign sourced materials used only when unavailable on the local market. However, current zone production is almost exclusively entered for domestic consumption. As of a ruling in August, 2008, goods listed as prohibited can be entered into Nigeria from the zone if they meet the 35% value addition requirement. Zone operators, a mix of private and public entities, must be licensed by Nigeria Export Zone Processing Authority (NEPZA).

The only current export enterprise in a zone is a farm producing melons and mangoes, the production of which is exclusively for export. This is a prototype scheme to determine the feasibility of such a zone enterprise and plans call for expanding the enterprise to include production, processing and marketing within the zone framework. The potential benefits for using zones for full supply chain operations should be explored because of the potential tax and other incentives that incur. Imported inputs move quickly to

destination without complicated paperwork or payment of duties and taxes.

Import processing for inputs is facilitative with release immediate upon arrival. Customs must escort the shipment to the zone. Regular import procedures are required when the final product is entered into domestic commerce but such processing is performed by the Customs officer within the zone. One of the steps that should be undertaken to improve attractiveness of zones is improved coordination among the public regulatory agencies. One-stop shops should be established where the final importer of the goods could secure all required approvals and NEPZA would have clear authority to resolve disputes.

The incentives provided to zone enterprises have not been able to encourage significant expansion. Inadequate infrastructure, especially a lack of a reliable source of electricity, has hindered growth efforts. One zone that has provided its own power supply has done so at significant costs which are passed on to the tenants. The concept of zone operation and oversight is not well understood by either the NCS or by producers who could benefit from locating there. Better marketing of the concept to all current and potential stakeholders and training of a designated Customs office in efficient zone oversight should be undertaken.

The 1992 NEPZA Law no longer accommodates the type of trade zone operations currently employed in Nigeria. The Law was adopted for investment in export production. However, within the zones, this is no longer the case. The Law prohibits the current practice of entering more than 25% of production into the domestic market. Although a revision was undertaken in 2005 which included the necessary revisions and a streamlining of zone process, no steps have been taken for passage. Much of this slow progress is attributable to the general lack of understanding of zone operations and how they can be used as an effective development tool.

## WTO

Nigeria became a member of the WTO in 1995 and accepted the WTO basis of valuation in June 2003. However, this valuation basis is not incorporated into the legal framework. The WTO Agreement on Customs Valuation (ACV) which calls for greatest possible use of transaction value, the price paid or payable for imported goods, provides the rules for this method of valuation. The importer must be aware of the circumstances surrounding the transaction and how the declared value was determined. Under the agreement, it is envisioned that if Customs does not accept the importer's value, consultation between the parties will occur. When this is in place both legally and practically, stability, predictability and transparency for the trade sector result.

To date, Nigeria has not been in compliance with its obligations under this agreement. Much of the valuation determinations are made by independent service providers whose opinions, although advisory, are generally accepted as the final value of goods and are based on data systems of reference prices and past shipments.

## CUSTOMS

The current Customs law is the Customs and Excise Management Act of 1959 (CEMA) which has undergone few amendments since its inception. CEMA establishes the authority of Customs to administer and enforce Customs laws, designating it as the premier border official responsible for controlling and seizing goods, as well as conducting investigations and preparing cases for prosecution.

The vast majority of CEMA's provisions are obsolete and do not support modern processes. No allowance is made for Custom's use of risk management, audit-based controls, and IT technology such as acceptance of electronic documents or signatures and advanced filing. Selective verification is not allowed and the level of fines and penalties is too low to serve as a deterrent. (As an example, overage of cargo carries a fine of \$5.)

A new law, the Nigerian Customs Service Act, has been drafted by a committee of NCS officers, chaired by a representative of the Ministry of Justice. The draft, which was not available for review, is currently at the Nigerian Attorney General's office for final preparation before presentation to the National Assembly. Although Customs anticipates that the legislation will be passed in the first quarter of 2009, given the lack of private stakeholder input into the draft and the presence of several contentious provisions, this timeframe will probably slip.

The WCO Revised Kyoto Convention should be used as the legal framework for a modern customs operation. This international convention is considered the blueprint for trade facilitation as it mandates simple, efficient procedures, harmonization of documentation, employment of risk management, and optimal use of IT. The more than 600 legal provisions in the convention outline basic principles for all Customs practices and provide the foundation for the promulgation of implementing regulations once the legal framework has been set in place. In view of the current competitiveness of the international market place, traders are demanding that transparent, predictable, and prompt customs procedures in line with these international principles be embedded in national legislation. This gives them the confidence that legal recourse to address improper practices will be available to them.

Although NCS officials indicate there has been some oversight of Nigeria's framework process by the WCO, a quality review by a Kyoto expert before passage would be beneficial. This would ensure that the law will allow the NCS to transform itself into a modern service that can employ internationally accepted practices to both control and facilitate trade. Such a review would also assist the National Assembly in its review process and provide stakeholder confidence that the legislative provisions were in line with international practices. Such an endorsement might also serve to limit political influence in the process.

This review would also provide Customs with the foundation for the drafting of its implementing

regulations and ensure that fees are in proportion to services rendered and that penalties are sufficient to insure compliance but not unjustly severe. Such reviews have proved beneficial in other countries by helping to ensure that the legal framework of a Customs operation permits use of modern, efficient approaches, especially in cases where authorities face an increasing workload with either static or decreasing resources.

The Pre-Shipment Inspection of Exports Act of 1996 stipulates that all exports from Nigerian must be inspected. This law prevents the adoption of selective examination based on risk analysis, a critical and necessary tool of trade facilitation.

## IMPLEMENTING INSTITUTIONS

The critical element of a trade facilitation agenda is Customs modernization. The vast majority of administrative procedures and regulations regarding cross border trade are developed and implemented by this institution. A reform agenda must include simplification of processes in line with international standards and be supported by a legal framework that incorporates the principles of the Revised Kyoto Convention. Optimal IT technology must be applied and the effort must be supported by a quality human resource management program. The success of these efforts creates a stable, predictable and transparent environment which encourages investment, economic growth, and therefore poverty reduction.

### KEY IMPLEMENTING INSTITUTIONS

- Nigerian Customs Service (NCS)
- World Customs Organization (WCO)
- World Trade Organization (WTO)
- Economic Community Of West African States (ECOWAS)
- Nigerian Export Promotion Council (NEPC)
- Standards Organization of Nigeria (SON)
- National Agency for Food and Drug Administration and Control (NAFDAC)
- Nigeria Agricultural Quarantine Service (NAQS)

## MODERNIZATION AND REFORM EFFORTS

In March, 2004 the NCS started its reform and modernization program to reinvent itself as an agency responsive to the demands of a modern trade environment. The core elements were improved IT infrastructure and building of human capacity. In addition, officials recognized that a change in attitude was needed: a mindset focused on revenue generation and enforcement would need to incorporate trade facilitation as well. This strategy was developed with assistance from the World Customs Organization (WCO).

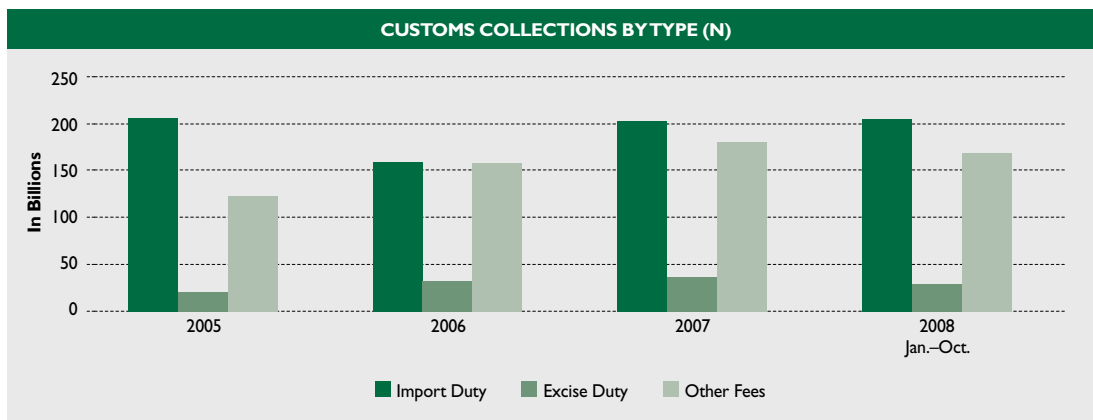
The 2004 strategy has recently been updated with technical assistance from the WCO but little has changed from the older version except the timeframes for implementation. Unless the strategy is managed properly and accountability is enforced through the use of measurable milestones, it will not serve as a driver of reform. This can best be accomplished through establishment of a project management team with sufficient authority to coordinate activities, prioritize tasks, and overcome obstacles. Lack of technical capacity and professionalism, including a general lack of a service mentality within much of the NCS, also undermine reform initiatives. Currently there are no known donor projects ongoing at the NCS related to modernization of the organization.

The new Comptroller General appointed in mid-2008 continued the trade facilitation agenda with his own eight-point plan. Key to this plan was a commitment to reduce Customs clearance times

to 48 hours, assisted in great part with full implementation of the ASYCUDA ++, a modern IT customs processing system. (The time would be measured from the presentation to Customs of the Single Goods Declaration (SGD) to the final release after payment.)

As a result of these efforts, revised procedures at the largest customs processing center, Apapa, have reduced processing times from 9 to 12 days in 2007 to about 7. Training programs aimed at increasing officer knowledge of proper system application have increased and traders acknowledge some shift in attitude within the NCS toward trade facilitation and cooperation. However, resistance to change within the NCS still impedes more rapid and sustained progress.

Despite these efforts, many within the government and the trade community believe that the NCS has not implemented required reforms and question its ability and commitment to improving trade facilitation. There is a widespread perception that a high level of corruption permeates the agency, although recent changes in the leadership of NCS suggest that reform is becoming a real priority and possibility. The Minister of Finance recently ordered development of a road map for modernization of customs operation, apparently resulting from dissatisfaction with the progress of related efforts within the agency. This is being conducted by a knowledgeable consultant who has previous experience in customs reform projects in sub-Saharan Africa. In September 2008, the House of Representatives,



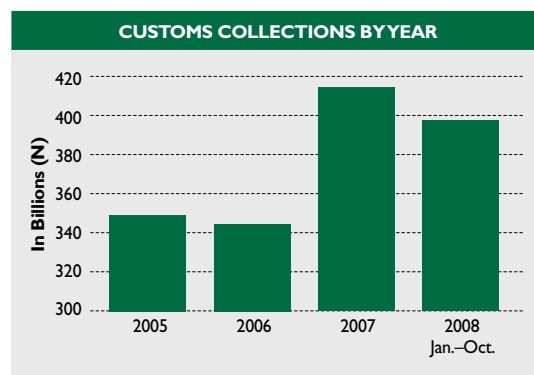


Committee on Customs and Excise requested a public hearing on the state of the NCS and its “Poor Performance of its Statutory Duties and Functions.” Future donor-related initiatives should probably be delayed pending the outcome of the Ministry of Finance study and the findings of the National Assembly hearing.

Functionally, managers at the highest levels in Customs are too involved in daily decision making so that insufficient time is allotted for proper oversight of their respective field functions, such as detecting irregularities and implementing improved processes. Most of the managers’ time is spent in meetings with stakeholders regarding problem resolution.

### CUSTOMS DUTIES AND FEES

Although Nigeria’s tariffs generally exceed those of other neighboring countries, they represent only about 50% of the total fees collected. Extras include a 7% port levy, a 1% Customs Import Inspection Scheme tax, a 5% VAT, a .5% fee assessed on all imports outside the ECOWAS, and a variety of other fees directly related to the product itself. Revenue targets for each major NCS point of entry are established and if exceeded, yearly bonuses of about \$1,300 to \$1,800 are paid to all staff members.



Under current law the NCS receives 7% of the total duty and excise tax it collects as its operating budget. This covers little more than staff salaries. Expenses related to IT acquisition and its related technical assistance and the work of the service providers is covered through assessment of designated import/export fees which

add directly to transaction costs. The newly drafted customs legislation recommends the current allotment be increased to 10% of collections. However, this proposal is not likely to be approved.

### ORGANIZATION/HUMAN RESOURCES

The NCS is a paramilitary service in which all officers carry firearms. Personnel practices are established by national civil service guidelines governing enforcement agencies. Current staff is at about 10,800 and no recruitment has occurred since 1992. This hiring freeze has impaired customs’ ability to adapt to the demands of current trade realities. Employees are generally not familiar with IT processes, lack an understanding or acceptance of the use of risk management principles as a foundation of their work practices, and do not comprehend the impact of their actions on the economic prosperity of the country. Although resistance to change is inherent in all institutions, those whose workforce has remained static for long periods of time present even more challenges.

Recruitment is now on-going for an additional 5,000 officers, most to be used to increase controls along the porous borders, although expertise in accounting and IT is targeted. Political influence impacts hiring and promotion. The higher level management positions (19) are political appointments, although those selections come from within the service.

With only two training facilities, at Kano and Lagos, the NCS may face challenges in conducting its planned six-month training program for new recruits. Unless the orientation is well planned and the large influx of new entrants is properly trained, this action could negatively impact operations and trade movements.

Working conditions within the NCS are generally poor, especially for those posted outside the 14 major points of entry. Starting salaries range from \$130 for administrative positions to \$250 per month for university degree applicants. With reasonable advancement, an officer’s salary



potential might reach \$1,300 to \$1,800 monthly. Inadequate compensation coupled with the lack of an incentive and/or promotion program that rewards initiative and substantive contributions creates an environment where employees are easily compromised.

The National Customs Board, which oversees the NCS, is attempting to establish salaries for staff outside the parameters dictated by the civil service authority. Countries in East Africa have been successful in doing this, but only as part of total reorganizations of the governmental institutions involved in revenue collections. As the NCS is a paramilitary organization, such a concept would probably not be workable in Nigeria.

Effective human resource management is critical to successful reform. Currently the NCS lacks a sufficient cadre of capable officers. Training efforts, although increasing, have not been sufficient to address this issue. A substantial training budget has been requested for 2009, but before any training is scheduled, a needs assessment and plan should be formulated to ensure that the correct training is directed at the proper officers. Beyond training materials, train-the-trainer courses for instructors and improved oversight and accountability also would improve the quality of ongoing efforts.

## **INTEGRITY**

The level of integrity within the Customs Service is directly related to trade facilitation. When integrity standards are high, the importer/exporter has a predictable environment and cost structure which directly affects a decision to do business in a country. Corrupt practices result in porous borders which can impact national security, health, and revenue.

Although the trade community and public have generally had a poor opinion of the integrity of NCS, there is recognition that this situation has improved slightly in recent history, and further improvement is possible. Rent-seeking practices within NCS cover a wide range, from small payments to expedite clearance; to more

substantial sums for reconciling discrepancies in documentation or physical inspection; to full-fledged involvement in fraudulent schemes to clear prohibited or high tariff cargo through informal channels. Many opportunities are available to the unscrupulous trader to avoid formal processes and payment. High duties and fees and cumbersome paperwork also contribute to such behavior.

Pervasive smuggling, mostly with the cooperation of some within the border agencies, creates a burden for trade, makes generation of reliable statistics difficult, and is a major impediment to streamlining border procedures. Vested interests both within and outside customs who benefit from the current system hinder adoption of simple and clear rules that minimize opportunities and reduce officer discretion.

No easy answers are available to address such behavior when it is endemic and culturally acceptable. However, international guidelines and initiatives can be used as a foundation for a comprehensive anti-corruption program. These include: predictable and timely enforcement actions targeting significant violators, both givers and receivers of bribes; selection and support of quality leadership in key management positions; and assignment of investigations to an independent commission which has the highest level of governmental support.

The NCS does not have a comprehensive strategy to address the issue and its current policies have not produced the needed results. The ability of ASYCUDA++ to identify transactions that fall outside established norms as part of an internal control program is not in place. Present opportunities for corrupt behavior must be identified and then realistic approaches to address them adopted. Outcomes must be measurable and should include customer surveys. Partnership with other public institutions as well as the private sector is a required element. The issue of adequate staff compensation must also be addressed. Without this, the normal social contract that exists between employee and

employer—rewarding good work with commensurate recognition and compensation—is lacking.

### IT APPLICATIONS

The use of a modern IT system is an essential element of customs reform strategy. Used properly, its applications simplify, consolidate and standardize procedures in accordance with international best practices and create a transparent and predictable trade environment. However, an automated operational system is only a tool and cannot be a substitute for effective underlying procedures.

ASYCUDA ++, the UNCTAD Automated System for Customs Data Entry and Control, is being implemented under a seven-year plan (2005-2012). A contract for technical experts to assist with program implementation and communication links runs for this same period. Previously Nigeria used a different and limited functional module of this same system, ASYCUDA 2.7 version. The Nigerian government funds the heavy financial cost of this project through a Comprehensive Inspection Supervision Scheme (CISS) fee of 1% of the FOB value levied on imports. Currently about 85% of import transactions are captured in the ASYCUDA ++. No exports are processed through the system, although the capability exists.

Nigeria is experiencing almost all the problems countries can encounter in implementing an advanced customs automated systems. Progress to date has been uneven and efforts often lack sustainability. Planning and management oversight for ASYCUDA implementation were inadequate to meet the complex operating environment of Nigeria. The required review and simplification of the import/export process prior to introduction of IT systems was not performed. Many of the modules that can facilitate trade and provide improved enforcement capabilities are not being utilized. Others are impeded by the lack of reorganization of staff to accommodate the new working environment and a workforce unfamiliar and uncomfortable with new technologies.

System-generated workload and shipment details are not reliable, input is inconsistent, and repeated communications breakdowns due to the poor condition of the national IT infrastructure have hampered implementation. Efforts are underway to establish an independent communications network to improve reliability. On-line monitoring systems need to be redesigned and workload reports distributed to managers to increase oversight effectiveness.

Another factor limiting full utilization of the system is the lack of modern business practices within the private stakeholder community, principally the customs clearance agents who are responsible for the preparation of customs documents and clearances. When the system was introduced, neither the NCS staff nor the stakeholders were adequately prepared to meet the more disciplined IT processing demands.

The problems to date are recognized by senior management which is making some attempts to address them. New technical experts have been employed to sort through the problems and implement improvements. Training efforts of staff, management, and stakeholders are increasing. A pilot is planned for the Abuja International Airport which, if successful, will incorporate the inspection and release actions of the other public border agencies into the system.

In addition, a migration to data input by the trader (DTI) rather than by NCS staff has been established at Apapa port. A privately operated IT service bureau which keys the data into the system for the importer/exporter at a charge of \$22 per declaration now handles about 80% to 90% of the data recovery at the port. The remainder is input directly by the trader or his agent, which is the optimal method of recording these transactions.

One issue that arises from the establishment of this service bureau is the lack of private stakeholder involvement in the process. The operator was selected by NCS without any discussion or consultation with the users of the system, the importers and clearance agents. These services

usually function most effectively and at lower costs when associations of the users determine how and where the data input functions will be performed. Under these conditions, the units are more responsive to the needs of their clients.

A move toward full electronic payment has also been initiated which should expedite releases that cannot occur without proof of payment. Currently at the Apapa port, banks are linked to ASYCUDA for transmission of payment confirmation. However, the system is limited to one payment per transaction which means that accounting for instances where additional collections are required is manual and difficult to process.

### RISK MANAGEMENT AND AUDITING

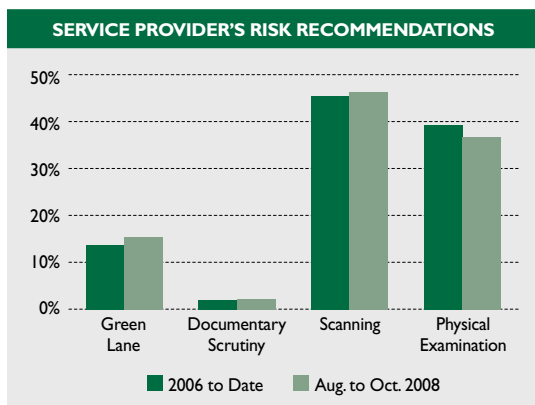
Risk management is recognized as the best approach for customs to balance facilitation of legitimate cargo with its need to interdict improper transactions. Initial screening is performed on all shipments, preferably using pre-arrival data, and only those with identified risk factors are reviewed in depth and examined. A quality operation includes intelligence gathering and analysis as well as cooperation and sharing of information between national Customs authorities and between border agencies.

With the advent of ASYCUDA ++, a national committee composed of representatives of all agencies that controlled imports/exports was formed to identify risk levels of various commodities. About 70% of all cargo was deemed as needing examination. The committee was then disbanded and no office was established within

the NCS to monitor or update the system based on findings. The criteria and the resulting high level of physical inspections have remained static for three years presenting a real obstacle to improved trade facilitation. A ready indicator of an ineffective targeting system is the low rate of significant findings (most deal with minor cargo overages) when so much cargo is undergoing inspection. Preliminary efforts now appear to be underway to staff a risk management office within the NCS and to secure limited technical assistance to develop additional capacity, although its organizational placement has not been resolved.

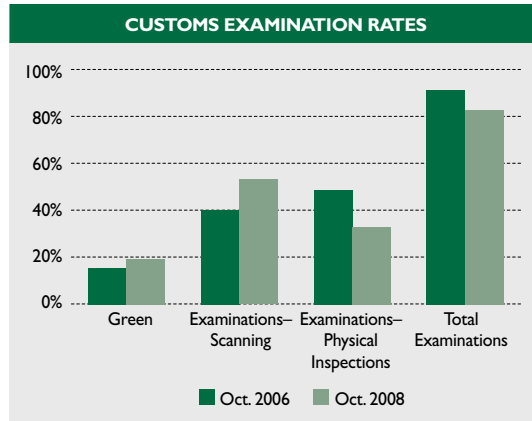
Contracted service providers are responsible for the operation of a computerized risk management system (CRMS) and, as part of their reporting, make a recommendation to customs as to the appropriate level of review. Customs routinely accepts these findings even though they complain about the high percentage of repetitive examinations on cargo that has a long record of compliance. The NCS is reluctant to change the service provider's recommendations because they feel they lack sufficient authority or fear retribution for such actions.

A comparison of these company's risk determinations from 2006 with determinations from the last three months shows no change in level of review percentages. Physical inspections and scanning rates remain high. These results cast doubts as to the commitment of these companies to improved trade facilitation which could jeopardize their job security.



Currently the system designates four levels of customs review although practically there are five—*green* for immediate release upon presentation of the documents, *yellow* for document review only, *blue* for importers designated for “fast track” clearance and subsequent post audit review, *red* for examination. Within the latter there are two designation, light red for cargo that should only be passed through the scanner and deep red requiring 100% inspection.

A random selection of 6,578 customs declaration filed in 2008 revealed that 80% underwent physical examination, 19% scanning, 1% green and only five documents processed under fast track.



Audit is an integral part of any risk-management program. It ensures that all proper payments have been made after release and is conducted in lieu of verification of data at the point of entry or exit. Once a business has successfully completed the process, Customs moves the client to simplified procedures such as periodic entry or release without examination, contributing significantly to trade facilitation.

This concept is not currently used by NCS although a post-audit division was created about three years ago. This department has three field offices throughout the country, staffed with a total of 87 officials, with the largest component (58) in Lagos. Customs has seven years in which to close the file and the importer is required to maintain his records for this same period, which exceeds normal standards. The offices lack reliable connectivity to ASYCUDA, which hampers access to data needed for quality selection of candidates for review.

The principal activity is the selective review of completed customs declarations through reconciliation of the importer's records with the Single Goods Declaration (SGD). Reviews performed by this unit are initiated after clearance and are performed on a transaction by transaction basis. Such reviews do not include a full review of the importer's accounting systems or previous

performance. The post-audit program is currently designed to insure proper payments have been made, but the findings have no impact on future processing for the company.

Department management is aware of its limitations and that the concept of post audit for improved trade facilitation is not currently embedded within the organization. Implementation of such an approach is hindered by the lack of professional auditing expertise and IT knowledge to manipulate data within the unit and by the low level of modern business practices existing within the trade community. Stakeholder education of the concept to include expedited processing schemes will be required before post audit as a modern customs process can be implemented.

### OPERATIONAL PROCEDURES—IMPORTS

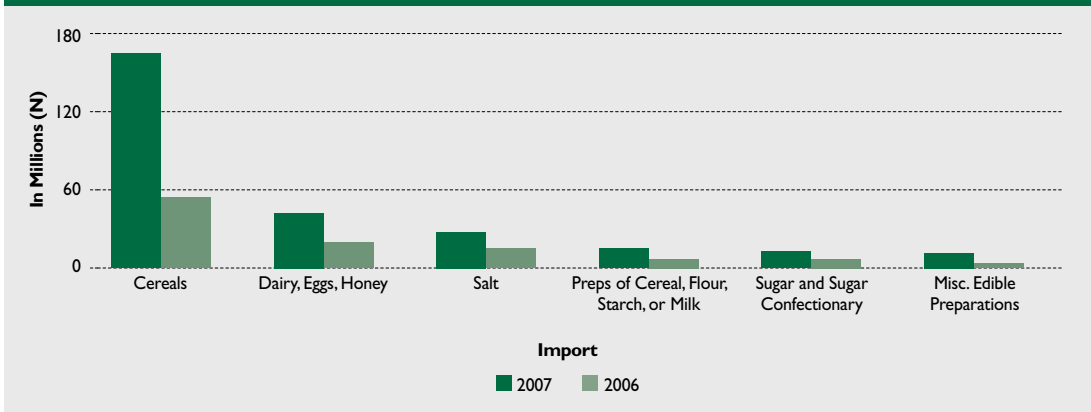
The import clearance process is lengthy and complex, consisting of three distinct sequential reviews, all by different parties. The same documentation is hand carried by the importer or his agent to each of the entities, none of whom are collocated. The existing process needs to be reviewed and simplified to meet the Kyoto Convention requirements for facilitation.

The first step is review and approval by a certified bank regardless whether or not the transaction involves foreign exchange. Payment of duties and other levies must later be processed through this same institution for a service fee of 0.25%.

The documents are then submitted to the service provider assigned to the import location. These are private companies under contract to the GON until 2011 to review the documents and make advisory classification, value, and level of examination determinations which are recorded on a Risk Assessment Report (RAR). Although these are required to be completed within five days from presentation for sea arrivals and two days for land and air arrivals, issuance of timely RARs remains an issue.

Following issuance, the Single Goods Declaration (SGD) can be presented to Customs for review and clearance. Importers are required to file

### IMPORTS OF AGRICULTURAL PRODUCTS, BY CATEGORY

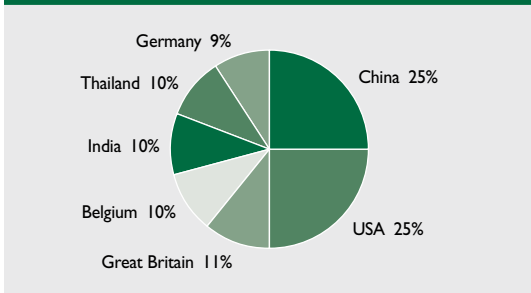


and calculate the duty based on the determinations noted on the RAR. The result is that private companies external to the NCS are determining value, classification, origin and level of examination— core functions of a customs service. Generally Customs initiates changes to the service provider’s conclusion only when overages or other discrepancies are noted in its physical examination function.

appeal process within the contract makes problem resolution ambiguous. Most disputes are forwarded to the NCS for resolution. These can take weeks to resolve in which case the importer can either file in accordance with the RAR or incur terminal storage charges.

Several reports of misconduct on the part of the service provider staff were noted, most notably the practice of informal payments to avoid increases in the value stated on the RAR. Sources indicated the average for such bribes was up \$600 per shipment. Although this problem has been reported to the proper authorities, no corrective action has been taken to date.

### MAJOR ORIGIN OF IMPORT COUNTRIES (VALUE, N)



The use of private sector service providers to perform these functions, called Destination Inspection, was established in 2006 when Nigeria eliminated its pre-shipment inspection program. However, the same companies continue to provide these services, with scanning services now added and with performance of tasks conducted at point of import into Nigeria rather than through inspection and review in the country of export.

These contracted companies generally are impediments to trade facilitation, cause duplicate reviews of documents, and are not motivated to expedite processing because of the impact it would have on their workload. The level of capacity building offered by the service provider to the NCS is low although such training is part of the company’s contractual obligations.

The trade community has noted that the service providers often make arbitrary decisions to increase the value of the goods without any justification noted on the RAR. The lack of a defined

Scanning operations are also provided by the three service companies at 16 locations which include all major air, land, and sea border posts. All scanners are currently mobile rather than fixed units, the latter of which can accommodate a higher number of scans per hour and usually incur fewer breakdowns. Fixed units are on order and should be in place at Apapa and Tin Can Island in 2009, an upgrade which should improve both reliability and speed of service. About 50 to 100 scans

are performed daily by two mobile scanners at Apapa, with about 10% of scans selected for physical examination due to apparent discrepancies.

The Customs Processing Center at Apapa has instituted a five-step import process to facilitate trade and move closer to the 48 hour release objective. More than 2,500 import customs declaration were filed at this location in September 2008. If a shipment is one of the 20% to 30% that do not require scanning or physical examination, goods can be released by customs within 24 hours if the importer pays his duties promptly. Cargo that is either scanned or physically inspected takes an additional 4 to 6 days for clearance. Several days are required for the terminal operator to move the container to the scanning or inspection site. This movement cannot occur until all port and shipping charges have been paid.

Approximately 450 to 500 shipments are physically examined each week at Apapa by the custom staff of about 60 officers. Examination sites at the port are not conducive to an effective inspection process. Facilities consist of uncovered open yards or platforms onto which the cargo is offloaded. As no forklifts are available, unloading is done manually. These factors significantly increase the time and quality of the inspections, especially when inclement weather stops the

process or threatens to damage the cargo. The customs inspectors have no portable inspection tools for such activities as opening boxes or checking container density for false compartments, and can conduct only visual reviews. A representative of the importer, usually the customs clearance agent, must by law be present during the examination.

In general, discrepancies are not substantial and deal mainly with overages. Findings reports, although generally captured in ASYCUDA, do not provide sufficient details to serve as an important tool for building a quality risk management system. Reports to the assessors are that many discrepancies involving more significant violations such as false invoicing are resolved informally through the payment of bribes at the site of the inspection.

The only expedited customs clearance program in place is "Fast Track" open to pre-approved manufacturers, although the program lacks a firm legal foundation. Presently about 60 importers operate under Fast Track which permits them to move cargo directly to their premises where inspections and declaration filing occur. The program merely moves the import process to a later time frame rather than simplifying the review and inspection process as intended in a modern trade facilitation initiative. Currently no agribusinesses participate in this scheme, but it is open

MAJOR POINTS OF EXPORT	2007 FOB IN USD	2006 FOB IN USD	% INCREASE
Apapa Port, Lagos	\$ 513,677,041	\$446,435,700	15%
Tin Can Island, Lagos	\$ 493,837,122	\$284,896,273	73%
Murtala Muhammad Airport, Lagos	\$ 65,987,510	\$ 61,957,791	7%
Malam Aminu Kano International Airport, Kano	\$ 57,764,366	\$ 43,674,170	32%
Onne Port	\$ 56,937,532	\$ 10,270,203	454%
Brawal Terminal, Appa	\$ 38,425,765	\$ 28,950,184	33%
Seme Border, Lagos	\$ 30,839,620	\$ 24,314,757	27%
Tin Can Island (PTML), Lagos	\$ 30,831,952	nil	—
Calabar Port, Calabar	\$ 27,761,327	\$ 6,473,682	329%
Jibiya Border (Katsina)	\$ 18,426,684	\$ 12,965,637	42%
Others	\$ 64,334,279	\$ 37,366,977	72%
<b>TOTAL</b>	<b>\$1,398,823,198</b>	<b>\$957,305,374</b>	<b>46%</b>



EXPORTS FROM NIGERIA	VALUE (N), 2006
Agricultural Produce	\$ 50,498.86
Minerals	\$ 11,355.56
Semi-Manufactured	\$ 50,632.45
Manufactured	\$ 14,829.03
Other Exports	\$ 6,278.96
<b>TOTAL</b>	<b>\$133,594.86</b>

AGRICULTURAL EXPORTS FROM NIGERIA	VALUE (N), 2006
Cocoa Bean	\$18,569.69
Rubber	\$ 7,214.12
Fish/Shrimp	\$ 9,218.05
Cotton	\$ 4,542.23
Others	\$10,954.78
<b>TOTAL</b>	<b>\$50,498.87</b>

to them and could be used to expedite the port clearance of imported raw materials or production machinery.

### OPERATIONAL PROCEDURES—EXPORTS

In Nigeria, 14 major locations serve export cargo with the principal gateways in the box below.

Approximately 13,000 Nigerian companies registered as exporters with the Nigerian Export Promotion Council (NEPC) in 2007, which is a requirement to export. The cost of registration is \$45 with a yearly revalidation for \$25. About 2,000 firms export on a regular basis in sustainable quantities.

Exporting is a high cost, unpredictable business in Nigeria. Potential exporters lack adequate information on export processes and quality analysis and data on how and where to market their goods abroad. Poor transport infrastructure is exacerbated by frequent highway stops by multiple governmental agencies along internal transit routes. Port operations are inefficient, and documentation requirements including registration and inspections by the border agencies is time consuming, cumbersome, and not well-coordinated. Such obstacles make production for the domestic market more attractive and impede the growth of the export sector. To date, government incentives to offset these difficulties have not been effective in making exporting an attractive enterprise. Additionally, the efforts of the Nigerian Trade Procedures Committee chaired by the NEPC have not resulted in a streamlining of the process, a necessary step to encourage increased exports.

The exporter must first open an account with an approved bank, which then issues the exporter a Nigerian Export Proceeds Form (NXP). A 100% inspection is then performed by a service provider contracted by the NOG to reduce instances of undervaluation to avoid repatriation of export proceeds, to insure the goods meet international standards, and to determine that the exporter has met requirements. The company then issues a Clean Certificate of Inspection (CCI) which must be filed with the export declaration. A 0.5% Nigerian Export Supervision Scheme (NESS) fee paid on each non-oil export funds the program.

This service does not eliminate or reduce the regulatory and inspection actions of the public border agencies, but rather adds another layer of cost and processing on the existing system. All export shipments are still examined by Customs as required by law and if subject to other agency requirements are inspected and documented accordingly.

Despite all of these control measures, rejection of Nigerian exports at destination is still occurring. Although exports have been shipped through the country's major ports, most arrive without proper certifications by the Nigerian border authorities. A cost-benefit analysis should be conducted to determine if the added expenses and delays incurred through the use of a service provider are warranted by the results.

Some measures have been implemented to expedite export processing and reduce costs. An initiative to conduct public agency examinations at premises and coordinate them among relevant



agencies was made in 2007. On perishable items, the declaration can be filed after export to prevent delays that could damage quality.

### **VALUATION**

The system of customs valuation should be transparent and conform to WTO principles that are applied uniformly and consistently so the importer can predict the duties the consignment will incur. Duty rates in Nigeria are based on a percentage of the CIF value of the goods. Without this knowledge the shipper cannot ensure the competitiveness of his products.

The valuation department within Customs is to insure that such a system is in place and therefore is a critical component of a modern customs operation. The unit should maintain information systems and databases to detect cases of under-invoicing, have trained specialists to establish valuation policy, monitor the actions of port offices, and provide training to field officers who serve as the first line of review. All of these actions guarantee that the internationally accepted WTO import valuation principles are known and adhered to by both the stakeholders and the customs officials.

The valuation department within the NCS is not functioning at this capacity nor are the practices within the NCS in conformity with the requirements of the WTO Valuation Agreement. About 300 officers are in the department, most of which are assigned to the field. Their principal function is to be present at each physical examination and assist the examining officer in a final determination of additional duties if discrepancies are noted. No routine review is done of the value declared on the customs declaration to ensure that the value ascertained by the service provider on the Risk Assessment Report is in conformity with WTO guidelines.

Limited training of officers has been conducted under the guidance of the WCO but in practice current valuation practices are arbitrary and in large part performed by the service provider.

Service providers use world market prices, internet research, and in-house data bases to determine value, and no review is performed to determine if their methods and findings are in keeping with WTO principles.

The primary function of the headquarters office of the valuation department is to review appeals from the trade as to actions taken at the field level. Approximately 200 files are received each week and reviews are reported to be completed within a five to seven day period, although no tracking system is in place to accurately determine this figure.

Undervaluation is a major issue facing the country. The existing high tariff rates and general high cost of doing business provide incentives to undervalue and result in a less compliant trade community. Nigeria has used outside service bureaus in an attempt to address this issue but the results are mixed. Too much reliance has been placed on the data on the RAR, hindering the development of a knowledgeable customs valuation department. Such a department could supply the tools by which the examining officer in the field could make a valid determination of the correctness of the value stated on the declaration. Just as significant is the arbitrary nature of the current valuation system which does not conform to any international standard, has no predictability for the trader, and is difficult to appeal since no one set of rules applies.

### **INFORMAL/ILLEGAL TRADE**

Smuggling and informal cross-border trade are prevalent in Nigeria, the largest market in West Africa. In some goods, particularly food staples such as maize, rice, beans, and cattle, this trade exceeds the formal trade. Of major consequence is the lack of quality controls on informally traded food and medicinal goods. Adulterated and potentially lethal products can easily reach the general public.

Although most of the informal trade is conducted by small and medium size enterprises

and by individuals in small quantities, commercial shipments are also involved and rising. The informal sector is large, well organized, and highly sophisticated. Although such trade does provide enhanced food security and assists in poverty reduction in the short term, if unchecked it can have negative impacts on longer range plans for economic growth by impeding legitimate trade.

The government needs to assess the economic impact of this informal regional cross-border trade so policies to address the problem can be developed. At a minimum such a study, similar to one conducted in Uganda, should cover the major land border crossing areas. The ultimate goal should be to bring informal traders into the formal sector by providing incentives. Measures to reduce transaction costs should include the use of simplified procedures for low-value shipments, elimination of mandatory use of customs clearance agents, and reductions of fees.

In addition, due to the high costs and delays encountered at Lagos ports, many Nigerian traders use the port of Cotonou, Benin to load and offload their goods. Estimates are that the majority of these goods, up to two-thirds, enter Nigeria informally. In addition, Benin entities are also importing essential food products such as rice and palm oil from outside ECOWAS, repacking and re-labeling them as goods produced there and then importing them into Nigeria free of duty under the regional trade agreement. The bilateral agreement between Nigeria and Benin, which requires the latter to escort Nigeria-bound goods to the border, is not functional. Although both countries are part of ECOWAS, it has little capacity or authority to address these abuses. All of these actions, if unimpeded, undermine revenue collections and are unfair to legitimate business.

Transit movements should be regulated by the procedures codified in Article V of the General Agreement on Tariffs and Trade (GATT) and Annex E, Section I of the revised Kyoto Convention. These are based on the UN Customs Convention on the International Transport



of Goods under cover of TIR (Transport International Routier). This is the benchmark for an effective regional transit framework, one that effectively secures and tracks goods from their point of origin to their destination.

Low compliance levels among formal traders remains an outstanding issue. Contributing factors include the high cost of importing, estimated to be a minimum of 50% higher than neighboring countries, and burdensome procedures and delays associated with Nigeria's import/export procedures. Payments to public officials to avoid formal procedures or resolve irregularities is an accepted practice and often results in significant savings to the trader. Penalties are too low, and the system is too easily compromised to warrant a change in behavior.

The enforcement, investigations, and inspections department of the NCS is faced with many challenges and currently is not effectively addressing the smuggling/informal trade for many reasons. Approximately 2,060 officers within the NCS are assigned to these activities with most posted to field offices. Although NCS estimates that it is intercepting about 50% of informal and illicit trade, the fact that illegal goods are readily available in the marketplace indicates that this is probably an overestimate.

No formal strategic plan currently identifies or addresses ways to combat higher risk areas. The process of assessing threats and allocating

resources to more critical areas is conducted principally through meetings between field staff and headquarters. Reports and record keeping are manual, making it difficult to quantify results or use past actions as a resource for assessing threats. (The office is in the process of manually reviewing each action file since 2004 to fulfill a request from the National Assembly regarding enforcement results.) Little if any attempts have been made to migrate to the use of risk management and formal threat assessments as a valid concept of Customs control. Capacity building in investigative techniques and report writing, controlled delivery, undercover operations, and intelligence collection and analysis are all needed to improve performance. Unless these issues are addressed, enforcement actions will continue to be limited in their effectiveness.

### RELATIONSHIP WITH TRADE

Since the trade community is the primary beneficiary of improved trade facilitation, soliciting its input into the redesign will be fundamental to success. Developing an environment of mutual trust with stakeholders is considered essential to crafting a quality reform program. This has yet to be achieved in Nigeria, for policy development or implementation. The current lack of inclusion of the private sector, in particular clearance agents, has resulted in a struggle for that sector to absorb changes and realize the full benefits now available to those clients with automated processes. Ways can and should be devised to accomplish this inclusion. One recent example: the ongoing forum to relieve congestion at Lagos port involving Customs, shipping lines, agents and terminal operators.

### OTHER BORDER AGENCIES

Although Customs is the major public agency regulating import/export processing, other agencies are present at the border to enforce mandates regarding quality standards and other technical requirements. To achieve a trade facilitative environment, these institutions must coordinate their actions, share data to avoid document redundancies, and perform joint inspections. Risk

analysis must be incorporated into their processes and resources shared to achieve maximum efficiencies.

The three other major border agencies in Nigeria with staff at the borders that regulate imported and exported goods are as follows:

- **Standards Organization of Nigeria (SON)**—This body is the sole statutory body for standardizing and regulating the quality of products in Nigeria. It has established standards for a wide range of products that include processed food items which are set in consultation with the National Agency for Food and Drug Administration and Control (NAFDAC). SON officials are at the border posts conducting inspections on imports. Since no testing equipment is available on site, all products are forwarded to the laboratory for analysis. Provisional release allows goods to be moved to the importer's premises where they must be held pending approval. Approval can be a lengthy process and many importers, due to credit deadlines and poor cash flow, dispose of their goods prior to the final determination by SON. Current penalties for non-compliance are too low to prevent premature disposal.

Exported products are not required to meet SON standards. It is not unusual for these unregulated shipments to be rejected at arrival at foreign destination, an action which when repetitive creates a perception that Nigerian goods are of poor quality and not desirable.

Smuggling of substandard goods into Nigeria is prevalent as witnessed by their availability in the marketplace, despite more recent efforts by SON to increase its enforcement posture. Unscrupulous clearance agents intentionally avoid SON inspections. Low levels of staffing coupled with a lack of vehicles results in inadequate coverage of even the more porous border

areas, and information as to standards is not readily available to the public. Technical equipment must be upgraded so that all SON laboratories can be accredited, and staff training is needed to increase knowledge of international standards and how to apply them to Nigeria.

- **National Agency for Food and Drug Administration and Control (NAFDAC)**—This agency regulates the import/export of food, drugs, drug products, and bottled water. Items must be registered with NAFDAC and comply with its labeling requirements to be imported. Imports must also be accompanied by certificates of analysis from manufacturers and appropriate national authorities that have been authenticated by the Nigerian embassy in the country of origin. All import shipments are sampled at the point of entry and forwarded to agency laboratories for analysis. Export certificates for these same types of products are also required by NAFDAC and are issued only if the manufacturer's testing and processing programs employ competent practices to ensure quality.

Although the actions of some officers of the agency are arbitrary and result in shipment delays, the trade community consistently ranks this office as the most responsive, professional, and ethical of the border agencies. NAFDAC border personnel should be provided with on-site analysis kits. Preliminary testing at the borders could substantially reduce the number of shipments held pending laboratory analysis and clearance.

- **Nigeria Agricultural Quarantine Service (NAQS)**—This agency, under the Federal Ministry of Agriculture and Natural Resources, was recently created to consolidate the three previous inspection services that regulated plants, animals, and fishery products. Officers will

maintain their designated specialties and be represented at border locations where appropriate. There is a perception that this agency is highly corrupt and unprofessional. Consolidation efforts might improve funding for training to upgrade technical expertise. Inadequate quarantine facilities are available at the border crossings.

The agency regulates the importation of plants, seeds, oil, fertilizers, animals, and fishery products. Imports must be accompanied by proper inspection certificates and are fully inspected at importation with samples taken for laboratory analysis. Fresh plants and plant products also require certification issued by national authorities in exporting countries. Exports of plants and plant parts, animals, and fish products must undergo a physical examination by the NAQS to ensure they are free of pests and diseases. If cleared, the agency issues the required sanitary phytosanitary certificates.

Repetitive documentation requirements, overlapping of functions, and the multiplicity of the agencies involved in regulating international trade are major issues prohibiting improved trade facilitation. Risk assessments used in line with international conventions are not being used to determine the number and extent of inspections. Common problems among the agencies include limited human capacity (although NAFDAC receives more donor support in training initiatives), lack of sophisticated diagnostic equipment to reach proper accreditation levels in laboratories, and inadequate inspectional tools to make preliminary determinations at the border sites. With no established authority to resolve disputes, an attitude more of turf protection than cooperation is apparent among the agencies. As a result, issues which primarily impact trade facilitation are left to linger.

The cumulative cost of these agency fees, when added to the high cost of doing business generally in Nigeria, can be prohibitive for the small or

medium sized trader. Levies should relate directly to service rendered as required by the WTO. The high level of regulatory circumvention results in Nigerian agricultural exports being rejected in foreign markets for reasons such as filth, poor packaging, or mislabeling. Assessed fees are not dedicated to agency operations but instead flow into the general treasury. In many countries, dedicated fees are used to provide adequate funding to regulatory agencies critical to ensuring the safety of the general public.

To address high fee costs, in November, 2008 the government announced a 30% reduction in service charges that importers pay to regulatory agencies and ordered a reduction in the number of agencies operating at the ports from 15 to 5—Customs, Immigration, NAFDAC, Standards Organization of Nigeria and the Agricultural Quarantine Inspection. To date the announcement has not been implemented (which is the same fate similar previous directives have experienced). The Nigerian Port Authority (NPA) as the landlord and custodian of the ports has the proper authority to ensure the intent of the directive is followed.

Coordinated control of shipments is lacking although joint inspections among the agencies is an ongoing practice. This issue is being addressed through the pilot ASYCUDA project to be initiated at the Abuja international airport. It is anticipated that this will provide the model for the interconnectivity of regulatory agencies within the NCS IT framework.

## SUPPORTING INSTITUTIONS

In addition to the public agencies that control the border, other institutions, activities, and individuals are necessary to the conduct of international trade. Importers and exporters rely on the professional delivery of these entities' services to facilitate the movement and processing of their goods. The costs associated with this sector, meanwhile, directly impact trade transaction costs.

## PRIVATE SECTOR AND PRIVATE SECTOR INSTITUTIONS

The private sector plays an important role in influencing trade policies that affect the costs and ease of trading across borders. One of the strongest voices on behalf of private enterprise is that of Nigerian manufacturers. This group is also the largest consumers of agricultural products in the country. The sector believes that trade policy is not friendly to manufacturing and that the two-year life span of products on the import prohibition list is insufficient to attract major and long term investment in manufacturing/processing facilities for agribusiness.

The manufacturing sector in Nigeria is shrinking as indicated by the significant drop in membership (from 4,500 to 2,500) in the largest organization representing the sector, the Manufacturing Association of Nigeria (MAN). This is a strong indication that one of the key objectives of trade policy, to increase added value in Nigeria, has not been realized. Only about 5% of the sector is engaged in exporting although a larger portion depends on imports for its inputs and manufacturing equipment. Other factors inhibiting expansion of the sector are poor infrastructure, inadequate linkages between producers and manufacturers to maintain steady flows of inputs, and high transport costs due to the lack of rail service. The cost of road transport between Kano to Lagos ranges from \$2,200 to \$2,600 per load, a cost which is almost prohibitive to competitive pricing of exports.

### KEY SUPPORTING INSTITUTIONS

- Private Sector
- Manufacturing Association of Nigeria (MAN)
- Lagos Chamber of Commerce and Industry (LCCI)
- National Association of Nigerian Customs Clearance Agents (ANLCA)
- Port Operators

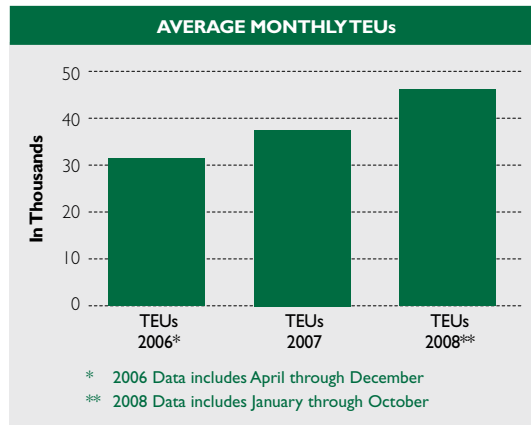
Another private institution active in trade policy advocacy is the Lagos Chamber of Commerce and Industry (LCCI), the largest chamber

organization in Nigeria. Its 1,500 membership firms are about 60 to 65% SMEs with only about 15% involved in international trade. Although membership is low in comparison to the number of registered businesses in Lagos (50,000), the majority of the major players belong to the chamber. The organization is very active as an advocate for its members before the trade-related ministries but needs increased capacity and IT support to improve services such as market analysis, trade-related research, and training in modern business practices for its members.

### CUSTOMS CLEARANCE AGENTS

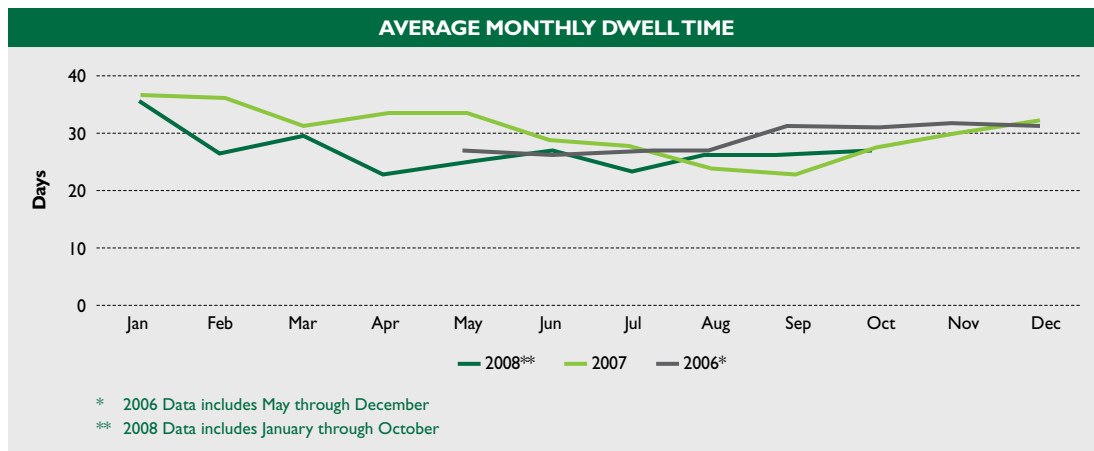
Customs clearance agents are the essential link between customs and the importer/exporters. They should be knowledgeable of tariff and valuation principles, and customs procedures and policies. They should also be able to facilitate the clearance of goods on behalf of their clients. When this sector is efficient in rendering a high quality of service, transaction costs and delays are minimized.

Currently about 2,500 customs clearance agents/freight forwarding companies are registered with the NCS and therefore allowed to operate in Nigeria. Customs initially approves applications based on reviews of submitted business records and where necessary conducts an interview to determine qualifications. No examination or special educational requirements are provided for by law. Yearly re-registration for a fee of about \$1,900 is required.



Before approval is granted, Customs ensures your record is free of misconduct and that all taxes and fines have been paid. This registration allows the entity to perform both customs clearance and freight forwarding duties. All traders must use a customs clearance agent to clear their import and export transactions.

The general state of the sector is poor, with many operators employing insufficient professional and ethical standards. The vast majority of agents operate as individuals and do not have a well established place of business or employ modern business practices. Estimates are that only 10% to 20% could be considered knowledgeable professionals. Some are complicit in promulgating a low level of trade compliance through the filing of fraudulent documentation. In practice, most such actions are resolved through the assessment of additional duties and a small penalty limited by an outdated law to around \$5.





Customs uses its authority to suspend and revoke licenses to regulate the industry. However, usually such actions are taken because an agent has failed to pay assessed fines or duties. Estimates are that about eight to ten licenses are revoked yearly and only after a formal investigation because of the potential for a judicial proceeding if the revocation is contested. Suspensions are more common—roughly 50 per year. However, most of these are rescinded once the outstanding obligation has been paid.

A minimal use of internationally accepted operating procedures, including a lack of IT applications, impedes the ability of agents to partner with the NCS in the development and use of ASYCUDA++. Eventually their inability to transmit or receive data from customs or the other border control agencies will force them to consolidate or terminate operations.

The sector needs to be overhauled, consolidated, and professionalized. The NCS is now attempting to address this issue by conducting training classes of two to three weeks each at three regional sites for all agents. Although a final decision has not been made, it is anticipated that successful completion of the course will be a requirement for continued operation. The increased competition from the entrance of more international players should also raise quality standards and improve the use of modern business practices within the sector.

Several associations represent this sector with the National Association of Nigerian Customs Clearance Agents (ANLCA), established in 1954, serving as the umbrella organization. ANLCA represents about 90% of all active agents and fully supports the NCS training efforts and the resulting higher standards for their members. However, this sector has to undertake its own program of reform and cannot rely solely on the training of NCS to increase ethical and professional behavior within its ranks.

## **PORTS**

The ports are not efficient, impose high costs on traders, and continue to be unable to deal

with congestion. In 2006, Nigeria implemented a port concession program that allowed private operators to manage port terminals. Limited improvements in some operations have occurred. Previously the ports had been publicly administered through the Nigeria Port Authority and were in poor condition, expensive, and inadequate to meet Nigerian shipping needs. The concession program was intended to reduce costs by 30% through increased efficiencies and lower port tariffs.

The major ports in Nigeria are in the Lagos area. Among them, Apapa port is the largest, handling around 50% of all international maritime trade. Operations there have been turned over to four private companies, with AP Moller Terminal Apapa Ltd. managing the largest, Apapa Container Terminal (ACT), under a 25 year lease. Five shipping lines with a total of about 30 to 35 vessels arrive per month at the terminal berths. Routes are to Europe and to the Middle East.

Container traffic at ACT has doubled since privatization in mid-2006, from 265,000 TEU's (20 ft. container equivalency) to an expected 560,000 TEU's in 2008.

AP Moeller to date has invested \$90M in improved port infrastructure, including container handling equipment and an IT terminal operation system in line with global standards. This allows traders to track container movements either in house or at facilities provided by the operator.

Although container dwell times did decrease by a few days they are still not within acceptable ranges.

Utilization rates are at 98% while the optimum for efficient operations is about 65%.

On-going renovation of 33 hectares of leased space at ACT will increase capacity to 1.6 TEUs. When completed, ACT is expected to be the largest container facility in Southern Africa and the third largest on the continent.

Many of the concessionaires have not fulfilled their contractual obligations and need to expedite improvements. Several problems have



prevented attainment of their stated objectives. Among the port players, a contentious environment permeated with an attitude of distrust and power grabbing creates problems. This stems, in part, from the failure to incorporate into the lease agreement accommodations for the public regulatory agencies. Further, these agencies had no input into the port concession process. Since no institutionalized regulatory body exists for oversight or mediation of disputes at the ports, decision-making is left to the powerful and resolutions lack buy-in and sustainability.

Although some tariffs have been reduced, overall costs have not been decreased due in part to the introduction of progressive storage charges and increased container deposits. A container left for the average 28 days now incurs a charge of \$350 instead of the previous \$120. Shipping companies now require deposits of \$1,300 for a 20 ft. container and \$2,175 for a 40 ft. container to be made before port departure. The usual fees for these deposits are approximately \$85 to \$160. Deposits are used as a mechanism by the shipping lines who own the containers to ensure their return, and the high cost is related to the loss of multiple containers in the past. Shipping companies routinely carry insurance to cover losses or damage to containers as well. Any damage to the container causes a reduction in the refund. The refund process is not timely, taking a minimum of 30 days and a maximum of four to five months to secure and most refunds are not for the full deposit.

Storage charges continue to mount for the importer due in part to the inefficiency of the port operations, all of which lead to congestion problems. Inefficient billing practices among some of the terminal operators delay production of invoices by several days. Containers cannot leave the port until these are paid. Although daily storage fees (\$100 for a 40 ft. container and \$50 for a 20 ft. container) are low in comparison to the region, the accumulated fees due to delays, in addition to the use of an incremental method of assessment, are significant.



Port congestion also results in lack of adequate storage space for empty containers. Trucks trying to return empties to the port for reloading often have to wait 2 to 3 days to get access and drop the load. Transport companies routinely bill for three days when hauling these containers even though the distance from the port might be minimal.

The accumulation of empties is an unresolved issue. Shipping lines are eager to offload and load full containers for which they are being paid. However, they have much less interest in loading empties to reestablish them in the supply chain unless the empties are readily available for loading so as not to delay departure. There is no money in empties. While a ship might offload 3,500 TEU (20 ft. container equivalent), the empties loaded might be 500. Lack of storage facilities at or near the port has resulted in the continued accumulation of empties which unless resolved will continue to compound congestion and result in further delays in refunds of deposits to the trade community, most of which can make the deposit only by securing a load. The result of all these impediments to expedited port processing is usually high import/export transactions costs.

To make its goal of 48-hour cargo release a reality, the government has established an inter-ministerial task force that includes private stakeholders to review changes and rates at the ports and impediments to streamlining operations. A comprehensive review of all port procedures with the objective of simplification using maximum IT processes for integration and accountability is needed.

### **INLAND CONTAINER DEPOTS**

Inland Container Depots (ICD) are locations where imported cargo can be delivered for customs clearance and export cargo can be loaded into containers and cleared for export. These sites, often called dry ports, have been used effectively in many countries to reduce port congestion. Currently ICDs are concentrated in the Lagos area with a few scattered inland. About 70% of the cargo arriving at Apapa is transferred to these facilities which reduces dwell time at the port by 50% (from 28 days to 14 days), although the target for the latter is 7. Efforts by the Nigerian Shipper Council to expand the use of such stations have not been fully successful, primarily due to lack of customs support.

Corruption throughout the port handling and clearance processes still hinders reliable and predictable service. Unofficial payments to terminal operator employees to move containers for examination/release are reported to be routine and average \$40 to \$200 per request. Commitment for change is offset by powerful vested interests in maintaining the status quo.

### **SOCIAL DYNAMICS**

The environment for improved trade facilitation in Nigeria is in a state of flux. The NCS, the agency that should be leading trade facilitation efforts, appears to lack the commitment to reform as demonstrated by its hesitancy to employ modern practices which its IT system could easily accommodate. However, other government bodies may recognize this failure and be prepared to address it. These reform-minded institutions have some understanding that the development of

international trade and adoption of international standards to facilitate and control it are critical to reduction of poverty and economic growth.

One noteworthy initiative is President Yar'Adua's Presidential Task Force on Nigerian Customs Reform (NCS), with a mandate to develop and oversee implementation of an action plan for structural transformation of the NCS. The National Assembly has also called for a public hearing on "The State of the Nigerian Customs Service and the Poor Performance of its Statutory Duties and Functions," scheduled for early 2009. The objective is to identify the underlying problems of the agency and develop solutions for more effective performance based on international best practices. Such practices are well-known and documented and being used by neighboring countries. If this effort is undertaken with a seriousness of purpose, the hearing could remove roadblocks to reform.

Another potential agent of change is the Ministry of Finance, which also recognizes the reluctance of the NCS to adopt modern streamlined processes that incorporate risk management and post audit capabilities. The ministry's commission of an independent assessment of NCS is recognition of the failure of the agency to implement significant trade facilitation reforms and to adequately address reduction of corrupt practices.

Progress toward the well-publicized governmental goal of a 48 hour clearance times, a feat that neighboring Ghana has already achieved, is a key element in the national Vision 2020, the target of which is to make Nigeria one of the 20 top economies in the world by that date. Achievements and failures in moving toward this defined objective are often reported by the press and other media, creating some pressure for success. Obtainment of this goal becomes even more critical with the advancement of the ECOWAS customs union and free trade area. Under that regime, investors can easily supply the Nigerian market from any location within the union. Operators will look to locate in ECOWAS countries providing the high-

est level of trade facilitation and the lowest level of corrupt trade practices.

The other key pillar to establishment of a transparent, predictable, and simple trade process is the reduction or elimination of corrupt trade practices. A competent legal framework for addressing the issue appears to be in place and there has been some progress in lowering instances of illegal behavior. Both the Independent Corrupt Practices Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC) have made arrests and initiated prosecution of high ranking government officials. However, few convictions have resulted. There is a serious question as to whether the high-level commitment necessary to tackle such behavior exists. As a result, very little action to deal with corruption within the public border agencies has occurred or can be anticipated in the near future.

## RECOMMENDATIONS

- Review in depth the draft of the Nigeria Customs Service Act when it moves to the National Assembly to insure compliance with the principles of the Revised Kyoto Convention. In light of the long life span of Nigerian laws, it is critical that the legal framework for customs operations permit modern processes, transparency, and simplification. This review would prepare NCS for drafting implementing regulations as well as educate and guide the National Assembly and stakeholders in the review process by helping them understand what international standards require. Such a review could help finalize a bill that has the potential to serve as a model law for ECOWAS integration.
- Develop risk management/post audit methodology as a core component of customs processing. Develop a risk management office within the NCS to improve identification of high and low risk shipments, using data analysis to build profiles. This would be best accomplished if initially placed within the Research and Planning Department where the level of commitment to reform and understanding appear highest. The current high degree of examination (70%) does not produce significant findings, and no office is analyzing the inspection results.
- A post-audit division is in place but lacks the capacity and policy for a quality audit program. If a commitment to institutionalize this approach is made, assistance to invigorate the effort should be considered. The program must include the reward of expedited processing beyond the limited fast track clearance initiative. Repeat importers with reliable transactions must be identified, subjected to a preliminary review of their record keeping systems, and then designated for immediate release upon document presentation with only a system-generated periodic selection for examination. This would reduce physical inspection and scanning, limit officer discretion, and eliminate opportunities for the personal contact between customs and the trade community that occurs at point of examination.
- Improve and streamline export incentive programs and export processing. Provide technical expertise to ongoing efforts with NEPC to facilitate export processing. Explore export incentives used in other countries to effectively promote exports. Develop a program whereby higher-volume reputable companies that account for a much larger percentage of the export total are given expedited, facilitative processing. Significantly reduce export inspections by NCS. Incorporate export processing within ASYCUDA to expedite clearance and provide for pre-filing and release.
- Invest in ongoing training efforts of NCS directed at improving professional and ethical standards within the customs clearance agent/freight forwarder sector. This would include not only training materials, but train-the-trainer courses and funding to continue efforts just initiated. A good working model that could be adapted for Nigeria

is in place in the East African Community (EAC). That effort resulted from joint cooperation between regional customs authorities and their clearing agent associations through funding by USAID. Within a few years, successful completion will be required as the EAC standard for accreditation of the sector. Participation in this effort now could be used as leverage to promote this same requirement in Nigeria. Ultimately this same program could be used within ECOWAS as development of the Customs Union proceeds. The newly formed Nigerian Council of Regulation of Freight Forwarders would be a good private sector partner for the effort. The initiative would include review of the NCS practice of assessment of small penalty fees when discrepancies are discovered during examination. Many such irregularities are intentional fraud and should be subject to more harsh actions including suspension and revocation of licenses. Taking such actions could serve as a deterrent to trader non-compliance.

- Conduct assessment of informal trade along major corridors. The more porous areas can be identified and targeted. The resulting quantification of such flows would improved trade statistics that can be used in policy planning, increase the ability to subject such shipments to critical quality controls, and help to develop initiatives to bring more of the sector into the formal arena. Progress in these areas would increase the competitive position of formal traders.
- Establish an internal compliance unit/program management unit within the NCS. Use the capabilities of ASYCUDA++ to reconcile manifest and entry data and to chart anomalies to detect suspicious transactions. Task the unit with investigation of such transactions as well as the development and implementation of an internal control program to oversee that programs are properly implemented, irregularities are

resolved and officers guilty of misconduct are disciplined.

- Revitalize and expand the use of inland container depots. Customs resistance to this effort must be overcome and with an influx of new recruits. Objective, reasonable criteria applied in a transparent manner must be established for approvals and decisions, which would be subject to review by the Ministry of Finance.
- Increase coordination and cooperation among border agencies and upgrade equipment to expedite import/export processing. Initiatives would include establishment of a one-stop shop for border agencies at major locations where stakeholders could conduct all agency clearance functions, including filing of customs declarations. Efforts should encourage expansion of the inter-agency integration within ASYCUDA about to be tested at the Abuja international airport. On-site test kits for the border agencies that can be used to initially screen goods would be valuable in reducing delays in shipment releases.
- Simplify the ECOWAS Trade Liberalization Scheme to promote regional trade and the benefits of regional integration. Documentation at the time of goods crossing the border must be allowed to proceed under a simplified procedure that does not require use of a customs clearance agent or filing of extensive documentation. The West African Trade Hub, which will oversee the preparation of a TLS Guidebook, should use this opportunity to advance recommendations for simplification and incorporate customs border officials in its training efforts.
- Promote foreign trade zone opportunities for the expansion of agribusiness and provide the NCS with training in zone operations and oversight. The results of the prototype scheme should be analyzed to determine its potential applicability to production, processing, and marketing within the zone framework. The benefits of using zones for full supply chain operations

should be explored because of the potential tax and other incentives. Improved coordination among the public regulatory agencies will be required. One stop shops should be established where a client can secure all required approvals. Clear authority should be given to the NEPZA to resolve disputes. Better marketing of the zone concept and training of a designated Customs office in efficient zone oversight should be undertaken.

- Assist in the development and implementation of a training program for NCS to upgrade professionalism, introduce and

gain acceptance of risk management principles, and expand understanding of the potential for IT processing to improve operations. Efforts should include a training needs assessment, securing of outside training material within the region or within Sub-Saharan Africa, identification of trainers and providing them with train-the-trainer courses, and establishing a program that incorporates measurable milestones for accountability. Management training on the use of automated reports to oversee operations and field performance must be included.



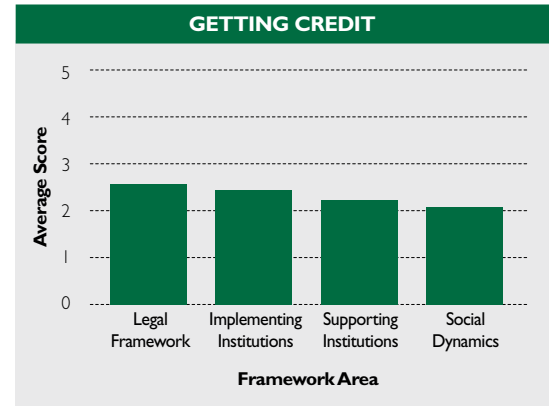
## GETTING CREDIT

Despite the huge wealth generated by the oil sector, agriculture remains the backbone of the Nigerian economy.<sup>27</sup> It is responsible for employing about 60% of the country's labor force and generating one-third of the nation's Gross Domestic Product (GDP).<sup>28</sup> Strong performance in the agricultural and rural sectors is thus critical to achieving the country's development goals. In recognition of the importance of the sector, every economic initiative launched by the Nigerian government in recent years has spoken of the need to increase the availability of affordable credit to these sectors. However, the net effect of these initiatives has been modest.

GETTING CREDIT	
Doing Business Ranking 2009	84
Doing Business Ranking 2008	79
Strength of Legal Rights Index (0–10)	8
Depth of Credit Information Index (0–6)	0
Private Registry Coverage (% of adults)	0.1
Private Bureau Coverage (% of adults)	0.0

Reasonably priced credit with appropriate durations can positively affect every level of the agricultural sector. Small and medium sized farmers benefit through the use of credit to purchase inputs such as seed and fertilizer, finance harvesting activities, and obtain vital extension and informational services. Credit helps to improve the income of medium and large farmers by alleviating the need to sell crops immediately after the harvest at low prices. Similarly, credit can facilitate the expansion of all types of agribusinesses by providing the funds necessary to purchase and process farm produce.<sup>29</sup>

Despite the federal government's long-term acknowledgement that credit is critical to achieving the nation's development goals, little has been done to improve Nigeria's lending environment. Instead, the government has sponsored select initiatives which have had limited success. As a consequence, Nigeria's agricultural sector is starved for credit.<sup>30</sup> As indicated in the chart below, credit to the Nigerian private sector trails well behind



that of other developing economies. As a percentage of GDP, credit in Nigeria is less than 20%. This figure compares poorly with South Africa, which reports almost 80%, and even Ghana, which reports almost 50% more than Nigeria.

Further evidence of Nigeria's dearth of credit can be drawn from a recent financial service industry survey conducted by the "Enhancing Financial Innovation & Access" (EFInA) project, conceived and funded by the Ford Foundation and DFID. Based on the well-known FinScopeSurvey Methodology,<sup>31</sup> the EFInA survey reveals that only 18% of the adult population maintains an informal credit facility at a shop/kiosk, while a mere 7% report having a loan from an established institution.

This chapter provides an overview of the current status of lending, with an emphasis on credit to

27 World Bank, Project Appraisal Document. Third National FADAMA Development (FADAMA III) Project. June 10, 2008.

28 Crops contribute about 27% of GDP, livestock another 3.3% and forestry and fisheries another 1.5%.

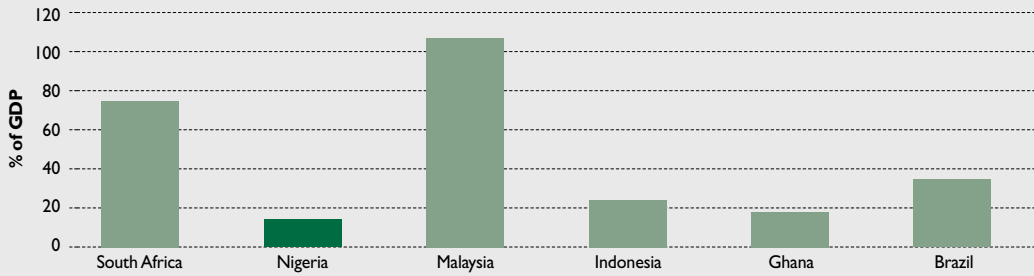
29 World Bank, Report no. 346180NG. *Getting Agriculture Going in Nigeria: Framework for a National Growth Strategy*. March 27, 2006, page 5.

30 Ruhl, Onno, World Bank Country Director. Keynote Speech, "Credit Awareness Conference," Abuja, Nigeria. November 2008.

31 It is a nationally representative study of consumers' perceptions on financial services and issues, which creates insights to how consumers source their income and manage their financial lives.



## DOMESTIC CREDIT TO THE PRIVATE SECTOR



the Nigerian agricultural sector. Three key areas, if properly addressed by the government, would create a much improved credit environment and in turn, increase the amount of credit to the agricultural and rural sectors. These areas are: government credit initiatives; Nigeria's out-dated legal framework; and the limited capacity of the participants on both the supply and demand side of the credit process.

As noted previously, in addressing the lack of agricultural credit, the government has followed a tradition of sponsoring select initiatives rather than addressing the poor lending environment as a whole. Not only has this piecemeal approach met with limited success, it has played a major role in discouraging the development of a strong financial services industry in the rural areas.

A second factor negatively affecting credit in Nigeria is the out-of-date, poorly functioning legal framework. The framework fails to mitigate the risks of lending by inadequately protecting the parties. In its most recent *Doing Business* report (2009), the World Bank ranked Nigeria 84 out of 181 countries in the area of Getting Credit. In light of Nigeria's complex land laws, unlinked and poorly functioning state land registries, antiquated secured transactions regime, lack of a modern leasing law and nascent credit information industry, the World Bank's ranking may be deceptively high. (Certainly it does not reflect the difficulty of getting credit in the agricultural sector.) The government needs to aggressively pursue substantial legal reforms if it expects to establish a vibrant credit industry

The commercial banks that emerged from the consolidation of 2005 have established themselves as a strong financial force in the Nigerian economy. Unfortunately, the other participants in the credit process continue to suffer from a lack of capacity and financial sophistication. On the supply side, despite efforts to restructure the microfinance industry, most such banks suffer from a lack of capacity and funds. On the demand side, there are complaints that loan applicants in the agribusiness are financially illiterate and lack acceptable collateral, exacerbating the underlying risks of the sector. Further, supporting institutions, such as the insurance industry and pension sector, do not provide depth and efficiency to the financial sector as a whole.

Historically, the government has been slow to take up the type of extensive regulatory reforms recommended by this report. But the climate for reform in Nigeria, at least in the financial services sector, may be improving. For one thing, Nigeria has been identified as a so-called "N-11 country." In this regard, the same experts that correctly identified the significance of the BRIC economies see significant development potential for Nigeria. Further, the government has developed its own comprehensive long-term plan for the development of its financial sector. The Financial Systems Strategy 2020 ("FSS 2020") seeks to build on the success of the recent banking sector reforms and position Nigeria as a financial powerhouse by year 2020.<sup>32</sup> In order to achieve the goals Nigeria has established in the FSS 2020, the government is well advised to address the issues raised in this report and to pursue an aggressive reform program.

<sup>32</sup> The draft FSS 2020 was presented at an international conference in June 2007 and approved in September 2007, where all key Government agencies and responsible Parliamentary Committees were represented.



## LEGAL FRAMEWORK

### BANKING LAWS AND POLICY

Financial institutions operating in Nigeria are subject to licensing and regulation by the Central Bank of Nigeria (CBN) and the provisions of the Central Bank of Nigeria Decree No. 24 (1991), as amended (CBN Act), the Banks and Other Financial Institutions Act, 1991 (BOFIA), as well as other bank related legislation.

In 2005, the CBN orchestrated a consolidation of the commercial banking industry which is viewed as a general success. Briefly, the consolidation resulted in a sharp decrease in the number of banks (89 to 25), higher capital requirements, a decrease in the percent of non-performing loans, and an unprecedented sector expansion. According to some experts, if current trends continue, by the end of 2009, Nigeria's banking system will be the second largest in Sub-Saharan Africa in relation to GDP.<sup>33</sup> While there are complaints that commercial banks neglect the agricultural and rural sectors, collectively they are still the largest provider of rural credit by volume. Since the consolidation (2005-2007), there has been an 82% increase in bank lending to the agricultural sector. This is an encouraging trend. However, loan averages tend to be large, which suggests that most agricultural loans are going to agribusinesses and large operations.

In addressing the lack of agricultural credit, the government has followed a tradition of sponsoring select initiatives rather than addressing the poor lending environment as a whole. CBN, as primary regulatory of the financial service industry, has played an active role in implementing the government's initiatives. For example, a supervisory circular issued in 2006,<sup>34</sup> sought to encourage a "re-doubling" of lending to the agriculture sector through a tax waiver granted by the President. As part of the proposal, the CBN agreed to subsidize the pegged 14% interest rate for agricultural loans up to 6%. This initiative was intended to enable the government to achieve its 10% target growth rate for the economy for

fiscal year 2006. This tax scheme is just one of many initiatives sponsored by the government in an effort to improve lending to the agricultural and rural sectors. Other initiatives have included: the creation of specialized financial institutions,<sup>35</sup> mandatory agricultural lending targets,<sup>36</sup> compulsory rural branch openings,<sup>37</sup> on-lending and guarantee schemes,<sup>38</sup> interest rate caps, and, as previously noted, credit subsidies.<sup>39</sup>

But as one commentator noted; "[f]our decades of government's intervention in Nigerian rural development have not yielded desirable results."<sup>40</sup> While these efforts have been touted as necessary to support high risk sectors such as agriculture, they appear to be politically-motivated schemes designed to curry the support of rural voters. The government's piecemeal approach has met with limited, and in most cases unsustainable, success. Such schemes have fostered poor lending practices and have led to confusion in the industry. (As recently as February 2008, the CBN had to "formally confirm to banks" that there were no interest rate ceilings in place.<sup>41</sup>) In some cases legitimate lenders have been crowded out, as they are unwilling to compete with submarket loans and credits which are effectively "give-aways."

The government's agricultural credit initiatives, as well as those that target MSMEs, mortgages, and other groups, tend to skew the market and lending incentives. As a result, getting an accurate reading of the status of lending in Nigeria and/or the effectiveness of applicable laws is difficult. Representatives from several banks have stated that the existing laws, as implemented by the CBN, tend to discourage any real risk-taking. For example, every loan over 10 million naira (approximately US\$86,000) is required to be secured by real property. In light of the current status of lands and registries, this serves as a major impediment to accessing credit. As a result, the recent increases in lending have disproportionately favored established businesses that have adequate collateral. Even microloans are much more likely to go to salaried government employees than to small farmers.

33 Ruhl, Onno, World Bank Country Director. Keynote Speech, "Credit Awareness Conference", Abuja, Nigeria. November 28, 2008.

34 09-61636403, 09-61636418 March 2, 2006. BSD/05/2006 CBN, CIRCULAR TO ALL BANKS, "WAIVER OF TAX ON INTEREST EARNINGS FROM AGRICULTURAL LENDING BY BANKS."

35 The Nigerian Agricultural Insurance Corporation (NAIC).

36 The designation of the agricultural sector as a "preferred sector" such that the Central Bank of Nigeria stipulated minimum percentages of commercial and merchant bank loans that should go to the agricultural sector.

37 The Rural Banking Scheme (1977) under which designated commercial banks were required to open specified numbers of rural branches in different parts of the country and with at least 40 per cent of the total deposit in these rural banks lent to borrowers within those rural areas.

38 The Agricultural Credit Guarantee Scheme Fund (ACGSF), launched in 1977 was designed to reduce the risk borne by commercial banks in extending credit to farmers. Under this scheme, the CBN guaranteed up to about 75 per cent of the value of the principal and interest on loans granted to farmers by any commercial bank up to some stipulated maximum amounts for individuals and corporate bodies.

39 The Agricultural Credit Support Scheme (ACSS, also known as the '50 Billion Fund').

40 World Bank, Nigeria Rural Sector Strategy Study, Main Report June 28, 2001.

41 09-61636418, February 25, 2008, BSD/DIR/GEN/CIR/V.1/001 CIRCULAR TO ALL BANKS, RE: MODERATION OF INTEREST RATES.

To address the current situation, the government should revisit its tradition of piecemeal credit initiatives and adopt a well-considered holistic approach to improving the lending environment in Nigeria. As discussed below, this would include increased support to on-going reforms in the areas of credit bureaus, secured transactions, and land registries. Further, it should continue to support the development of the insurance and pension industries to provide additional depth to the financial services industry. Any future interventions should be specifically targeted, of limited duration, and to the extent possible, use the existing financial services industry as a vehicle for delivery. Further, the laws and regulations governing the banking industry should be reviewed with an eye towards improving the balance between the need for prudential regulation and the risks of lending.

## **MICROFINANCE POLICY**

MFBs are subject to the provisions of the BOFIA, and the Microfinance Policy, Regulatory and Supervisory Framework for Nigeria (Microfinance Policy) issued in 2005.

The MFBs are the successors in interest to the community bank system that was established by a federal government decree in 1990. Pursuant to the Microfinance Policy, the CBN gave all community banks 24 months to convert to MFBs, meet new capital requirements and comply with a number of additional provisions. These measures were designed to strengthen the microfinance industry and increase the access to financial services of those previously unserved.

The minimum paid up capital for the MFBs to operate in a Local Government Area was increased from NGN5 million to NGN20 million, while capital requirements for those licensed to operate statewide was increased to NGN1.0 billion. Further, the Policy required that the state governments devote up to 1% of their annual budgets to microfinance efforts, and the CBN created the Microfinance Fund (MFF) to partner with state governments to channel credit to the microenterprise sector.

Unfortunately, the CBN's efforts in the microfinance industry have not met with the same success as in the commercial banking industry. Although 700 institutions converted, the microfinance industry manages only about 0.5% of all financial services assets outside of the central bank. Several donor funded projects, both past and present, have identified the need to improve capacity in the MFBs. But their large number, poor capitalization, early stage of development, and lack of financial sophistication raises questions concerning their viability as an industry.

Despite these weaknesses, several experts are of the view that, with the proper legal structure and support, the MFBs can play a critical role in delivering credit to the agricultural and rural sectors. Several new institutions have been licensed by the CBN and are already expanding. Unfortunately, these institutions have yet to move into rural areas.

To help promote the MFBs as players in agricultural credit, Microfinance Policy should be revised to meet the changing needs of Nigeria. Again, as with the commercial banks, it is strongly recommended that the government abandon piecemeal interventions as a means of supporting microfinance lending. Such actions only skew the market and discourage legitimate lenders. The continuation of geographical restrictions should be reconsidered as they only serve to inhibit the ability of MFBs to properly serve their clientele. The current capitalization requirement of NGN20 million is not sufficient to sustain a deposit-taking function and should be increased. Further, every effort should be made to encourage a new "consolidation" in the microfinance sector. Specifically, stand alone institutions should be educated on the value of economies of scale and encouraged, where practical, to join greater branch structures. Finally, as a means to enable MFBs to increase their percentage of agricultural lending, they need a better understanding of the risks involved. In this regard, specialized modules and training should be developed to support agricultural lending.

## DEPOSIT MOBILIZATION

An institution's cost of funds has a significant impact on both the availability and affordability of credit. As deposits are typically much less expensive than funds obtained from commercial sources, a successful mobilization effort could greatly improve the economics of lending in Nigeria.

As a means to increase industry confidence and to mobilize deposits, Nigeria introduced a deposit insurance scheme in 2006. As a result, all deposit taking institutions, including commercial banks and MFBs, became subject to the provisions of the Nigerian Deposit Insurance Corporation Act (Deposit Act), and the oversight of the Nigerian Deposit Insurance Corporation (NDIC). In January 2008, the NDIC moved to a "risk-based" premium which has resulted in significant decreases in premiums. Further, the NDIC now requires MFBs to pay premiums equal to half of 1 percent,<sup>42</sup> which is slightly higher than the premiums paid by commercial banks.

### KEY LAWS AND POLICIES

- Central Bank of Nigeria Decree No. 24 (1991)
- Banks and Other Financial Institutions Act (1991)
- Microfinance Policy, Regulatory and Supervisory Framework for Nigeria (2005)
- Nigerian Deposit Insurance Corporation Act (2006)
- Guidelines for the Licensing, Operations and Regulation of Credit Bureaus in Nigeria (2008)
- Land Use Decree (1978)
- Companies and Allied Matters Decree No. 1 (1991)
- Hire-Purchase Act (1965)
- Decree No. 20 (1977)

The deposit insurance scheme has not yet mobilized deposits in Nigeria's rural areas. As reflected in the EFinA Survey, 67% of Nigeria's adult population saves to some extent. But of the 67% that reported saving, only 34% save with a financial institution. There is reportedly renewed focus on the need to mobilize deposits, and the World Bank's MSME project is sponsoring a

workshop to consider new ways to increase saving in financial institutions.

But there are concerns regarding deposit raising activities in Nigeria. Since the end of compulsory agricultural lending, commercial banks have greatly reduced their credit activities in rural areas. They continue, however, to mobilize large amounts of deposits. The majority of the deposits accepted from agricultural and rural areas are lent out in the urban areas where lending is perceived to be less risky. To attract long term deposits which provide a stable lending base, commercial banks are willing to offer interest rates as high as 17%, which places MFBs, which are competing for the same deposits, at a huge financial disadvantage. At the same time, MFBs are following a practice of "on-lending" the deposits collected from poorer clients in both urban and rural areas to banks or investing them in treasury bills to secure returns on investment that are less risky than lending.

In light of the critical need to promote credit in rural areas, the enactment of a Nigerian Community Reinvestment Act (CRA Act), which would require that institutions lend a certain portion of their deposits in the community where collected, is needed. A CRA Act would give Nigerian financial institutions the flexibility to use cheap deposits as a basis of profitable lending, and at the same time, give them the additional "push" needed to increase lending activities in the agricultural and rural areas.

## CREDIT INFORMATION INDUSTRY

One of the key indicators in the "Getting Credit" section of the World Bank's *Doing Business* report is the "Credit Information Index." This index measures the rules that affect the scope, access and quality of credit information in a particular country. The risks involved in lending can be significantly mitigated if the credit provider has information on the applicant's past experience in managing debt. Nigeria's "credit information index for 2009, was 0 out of a possible 10. This poor ranking is due to Nigeria's inadequate credit information system.

<sup>42</sup> Deposit accounts are insured up to 100,000 naira, or about US\$862.

Currently, the only credit information service operating in Nigeria is the public credit bureau known as the Credit Risk Management Systems (CRMS). The CRMS was established by the CBN under the provisions of CBN Act No. 24 of 1991 [Sections 28 and 52] as amended. It was designed for use as a supervisory tool, and as such, focuses on the monitoring of large loans, the default of which could weaken the financial service industry. The CRMS captures both positive and negative information on all loans with a minimum balance of NGN1 million. All banks are required to submit data, and those that refuse are subject to monetary penalties. The CRMS is limited in scope and it was never expanded to include the MFBs. (This was contemplated by the Microfinance Policy, but never enacted.) Further, the CRMS suffers from administrative problems, which diminish its usefulness in protecting lenders.

In response to the demand for an improved credit information industry, in October 2008, the CBN issued Guidelines for the Licensing, Operations and Regulation of Credit Bureaus in Nigeria (“Credit Bureau Guidelines”). For the past several years, a number of credit bureau companies have been organizing and collecting data, but the CBN has only recently started accepting applications for credit bureau licenses. The first licenses are expected to be issued in the first quarter of 2009. Pursuant to the Guidelines, access to credit bureau information is restricted to lending entities and individuals, and used only for a “permissible purpose” such as obtaining a credit score or information about existing loan facilities, or opening a new account. With the assistance of the World Bank’s MSME Project, the CBN is in the process of drafting a legal framework for the private credit bureau industry. The framework is expected to address a variety of issues including credit reporting, data protection, consumer protection, fair credit granting, and personal and corporate privacy.

The establishment of private credit bureaus is expected to have a major positive impact on the availability of credit in Nigeria, starting in

the urban areas and then the rural communities. However, two inquiries are required on each loan application. This may prove to be a serious financial burden on smaller institutions that cater to less wealthy clients. This and similar issues should be examined in connection with the drafting of the final regulations.

### **NATIONAL I.D. SYSTEM**

Lenders operating in Nigeria have also suffered from the lack of a national identification system. Historically, lenders have had no real means for confirming the identity of loan applicants. Some lenders will accept identification such as passports and drivers licenses, but these forms of identification have problems that discourage lending. A new national identification system is currently in development, but it is not functional and has not been tested in a lending context. Some bureaus have announced that they will be offering biometrics as a means to identify borrowers. As part of the development of the credit bureau legal framework, the CBN should develop standards for the collection and use of biometrics.

### **MORTGAGES ON IMMOVABLE PROPERTY**

Most conventional lenders prefer immovable property (land and buildings) as collateral. But the advantages of taking immovable property as collateral are significantly diminished in jurisdictions where land rights are unclear or are subject to unreliable registration systems or poor enforcement mechanisms. Unfortunately the land system in Nigeria suffers, to various degrees, from all of these defects.

The main law governing land in Nigeria is the Land Use Decree enacted in 1978. Experts on the Land Use Decree fall into two schools of thought. The first school believes that the Land Use Decree is sound, and that any deficiencies are due to poor or inconsistent implementation. The other school believes the Land Use Decree is fatally flawed, and that it should be scrapped in favor of a more modern approach. Both schools agree, however, that the federal government



must focus on land issues and take real action to help facilitate its use as collateral for credit. Nigeria is unusual, however, in that the Land Use Decree was made a part of the Nigerian Constitution. As a consequence, the only means of amending the existing land law is through a constitutional amendment. Nigeria is in the process of a constitutional review, and it is strongly recommended that support be given to help the experts weigh the benefits of removing the decree from the Constitution.

In the context of using land as collateral, the most controversial provision of the Land Use Decree is the requirement that approval of the transfer, as evidenced by a Certificate of Occupancy (CoO), be obtained from the government. The process for obtaining a CoO depends on the type of property involved and its location. At the risk of over-simplification, land in Nigeria falls into one of three categories: federal land, which includes the property in FCT and other federal property located in the States, which is the responsibility of a federal ministry; non-federal “urban” land, which is the responsibility of the Governor, and non-federal “customary” land, which is the responsibility of local councils. At the federal level, delays in issuing a CoO can be due to a wide range of both political and non-political reasons. At the State level approval times depend on the particular Governor and the processes followed. As noted by the World Bank’s *Doing Business in Nigeria 2008—Subnational Report*, the time required for approval significantly improved in those States

where the process has been delegated by the Governor. The customary land tenure system is fraught with problems; it has been characterized by some as “inconsistent, illogical and obscure” and customary titles are often seen dubious or tainted by corruption. Using non-federal land as collateral is significantly more difficult and, in some cases, impossible.

Land property rights are weak. Probably the biggest disincentive in Nigeria to taking land as collateral at the state level is that much of the land has not been formally surveyed or recorded. As a general rule, lenders will not accept unsurveyed or unrecorded land as collateral due to the uncertainty of boundaries and ownership rights, as well as the possible existence of unrecorded liens.

The process for using federal property as security for credit has improved greatly over the past several years, due in large part to a project commenced by the prior administration. The Federal Land Information System (FELIS) Project, subject to the oversight of the Federal Ministry of Housing and Urban Development, was designed to reform national land administration through the modernization and computerization of its operations.

## SECURED TRANSACTIONS

In a country such as Nigeria, where the process for using land as collateral is complicated and expensive, a modern secured transactions regime using movable property can play a particularly important role in improving the availability of credit. As demonstrated in other jurisdictions, a modern secured transactions system can provide the additional security necessary to encourage credit providers to expand their activities to include a much wider range of borrowers. In the agricultural sector and rural areas, this system could translate into a wide variety of attractive credit products and reach all levels of the sector.

In Nigeria, the law governing secured transactions on moveable property is set forth in the Companies and Allied Matters Decree No. 1 of 1990, and implemented by the Corporate Affairs



Commission (CAC). A key indicator in the *Doing Business Report* is the “Legal Rights Index,” which measures the degree to which collateral and bankruptcy laws protect the rights of borrower and lenders. Nigeria’s Legal Rights Index rated an 8 out of 10. Despite this relatively high score, the use of secured transactions in Nigeria is extremely limited.

The process for registering a secured transaction, or “charge” as it is called in Nigeria, is time-consuming and not particularly effective. A manual filing must be made on a statutory form with an instrument creating or evidencing the security attached. If the filing is not made within 90 days after execution, a court order extending the time needs to be secured. The registration fee is based on the value of the transaction, a practice that encourages dishonest reporting.<sup>43</sup> In an effort to protect the system from corruption, the CAC requires that all filings be made by a licensed attorney (in Abuja, a practice that results in additional expenses). As a practical matter, filings are typically made “only when there is a problem” which makes the filing less than useful to lenders. Further, the law is problematic; many of its provisions are unclear or obsolete, and may be used to defeat the interests of the lender.

Banks and businesses in Nigeria cite several reasons for their reluctance to rely on moveable property as collateral: the inadequacy of the relevant laws; the lack of a reliable source of information as to existing charges; and the inefficient and unpredictable enforcement by the Nigerian court of security interests in personal property.<sup>44</sup> Until recently, the ease of foreclosure made stock certificates a favorite form of collateral for bank loans. This was accomplished by having the issuer register the mortgagee (creditor) as owner of the shares. This practice was recently suspended due to the recent decline in the stock market. It does, however, demonstrate a willingness to use moveable property as collateral when the system for securitization is effective. Reportedly, the World Bank’s MSME project is in the process of reforming the secured

transaction system in Nigeria. The proposed reform will include a modern law and registry.

As a separate but related matter, the enforcement aspect of a secured transactions regime could be improved through the enactment of an Electronic Evidence Act, which would allow electronically filed documents to be presented in court.

## WAREHOUSE RECEIPTS SYSTEM

A warehouse receipts system is a subset of secured transactions specifically tailored to the agricultural sector. As discussed below, a warehouse receipt system can help farmers to better manage their cash flow and financial needs by giving them flexibility in the use and disposition of their crops and products. Under a warehouse receipts system, farmers and other agricultural producers store grain and commodities in bonded warehouses, and receive a certificate reflecting the quality and ownership of their goods. This certificate may, in turn, be used as collateral for credit.

The development of a warehouse receipt system in Nigeria has been identified as a high priority by the Commodities Exchange Board. The Board is seeking donor assistance to develop a modern legal framework and operating procedures. It is our understanding that informal warehouse receipt systems are being used in limited situations, and at least one bank is examining the possibility of developing new agricultural products based on the warehouse receipts concept.

The Board is currently rehabilitating storage facilities that have been “corrupted” by fertilizer storage or which have otherwise fallen into disrepair. However, the Board is a relatively new agency, and needs substantial capacity-building and support to develop an effective warehouse receipts system.

## LEASING

Leasing is a convenient alternative to traditional lending, particularly in jurisdictions such as Nigeria that suffer from poor property rights and enforcement mechanisms. The use of modern

<sup>43</sup> Corporate Affairs Commission, *Notes for Customer Guidance*.

<sup>44</sup> Cumin and Baranes, *A Modern Secured Financing System Involving Personal Property Collateral for the Federal Republic of Nigeria (2004)*. International Finance Corporation.

asset-based leasing may prove to be another option for extending credit in Nigeria, especially for businesses and individuals who have limited credit history or assets to use as collateral.

Nigeria lacks a formal leasing law; most transactions are conducted under the Hire-Purchase Act, 1965, and the common law rules of contract of personal property. Despite this, a vigorous Nigerian leasing industry continues to develop. Banks dominate the small amount of so-called “big ticket” leasing activity, which mostly deals with the energy and extraction sectors. A few specialist leasing companies are in operation, but generally deal with small transactions. The agricultural sector only attracts a small amount of leasing activity—about US\$51 million, or about 2.5% out of a total of around \$2 billion of estimated activity in 2007. Most of these leases seem to be for vehicles and machinery. Operational leases are used more often than financial leases.

The leasing industry in Nigeria would prosper with the enactment of a modern law. The enactment of a modern secured transactions system, as previously recommended, would also serve to support the development of the leasing industry with the establishment of a modern registry.

### **GUARANTEES**

The federal government has both sponsored and partnered with a number of guarantee programs with varying degrees of success. These programs, designed to encourage lending by limiting risk through the guarantee of the payment of a percentage of the default amount, are typically designed to target specific sectors or types of borrowers such as the agriculture sector and MSMEs.

The CBN is quick to offer the Agricultural Credit Guarantee Scheme Fund (ACGSF) as an example of a successful guarantee scheme. The ACGSF was organized pursuant to Decree No. 20 of 1977, as means of addressing the reluctance of banks to lend to the agricultural sector. Shares of the ACGSF are jointly owned by federal government (60%) and the CBN (40%). The ACGSF

guarantees credit facilities extended to farmers by banks up to 75% of the amount in default, net of any security realized. Guidelines stipulate the eligible enterprises for which guarantees may be issued under the scheme. There is also an interest draw-back piece which gives farmers a rebate of 40% of interest paid if the loan is paid back on time and in full. While ACGSF has enjoyed some success over its 30-year tenure, in comparison to the needs of the agricultural sector the fund is very small and has made very little impact.

As a separate but related issue, one possible way to increase capital in the microfinance sector is to offer a guarantee to those banks that are interesting in “on-lending” to MFBs. Banks saw the benefit of the arrangement, but noted that with the current interest rate on long-term deposits hovering around 18–20%, any “on-lending” would be cost prohibitive.

### **TECHNOLOGY**

The development of rural financial systems is hampered by the high cost of delivering financial services to small, widely dispersed customers. Such overhead costs are a particular challenge for MFBs that need to monitor customers in order to ensure repayment. Lenders at all levels expressed an interest in new technology as a means to overcome the expense and inconvenience of servicing the rural areas.

Nigeria is in a good position to take advantage of the numerous technological advances being made in the use of cell phones and other forms of IT equipment to facilitate payments and access to funds. There have been several successful experiments demonstrating that bank clients can use their mobile phones to operate bank accounts even for very small balance accounts. This new technology holds promise for low-end banking, because it allows for branchless banking and very low transaction costs. It is our understanding that the CBN supports these innovations and has drafted a set of mobile payments guidelines. At this writing the guidelines have yet to be released for comment.



## IMPLEMENTING INSTITUTIONS

The capacity of both the supply and demand sides of the Nigerian credit process is uneven. This section focuses on the four types of credit providers that serve rural areas in Nigeria: commercial banks; MFBs; the Nigerian Agricultural, Cooperative and Rural Development Bank (NACRDB); and microfinance institutions. The commercial banking industry emerged from the consolidation of 2005, as a strong financial force in the Nigerian economy. Unfortunately, the remaining credit participants continue to suffer from a lack of capacity, capital, and financial sophistication.

### COMMERCIAL BANKS

The Nigerian financial services industry is dominated by the 25 commercial banks that emerged from the 2005 consolidation mandated by the CBN. These so-called “universal banks” hold 91% of the financial assets outside of the CBN.

Prior to the consolidation, there were a total of 89 banks operating in Nigeria. In general the industry suffered from low capacity and capital, as lax licensing standards allowed the establishment of banks with insufficient resources. The post-consolidation banking sector is viewed as being relatively robust, as most banks are now well capitalized, liquid, and profitable. The figures reported for year end 2007 indicated a rapid rise in lending, especially in the consumer area. Nigerian banks offer “institutional” banking, which targets large corporations, “commercial” banking, which services MSMEs and “retail” banking which offers consumer loans and mortgages. Businesses and individuals that use bank services complain that all aspects of banking (money deposits and lending) involve high expenses. The loan process can be extremely burdensome due to the substantial due diligence that must be performed in light of the lack of a national identification system and credit bureau. As noted previously, commercial banks must operate under stringent compulsory provisions for bad debts and interest ceiling regimes, so they have little

incentive to expose themselves to high levels of risk associated with agricultural finance.

The increase in activity and competition fueled by the post-consolidation capital infusion increased assets while raising new challenges for the commercial banks. Key risks include concentrated client bases, a deterioration of assets quality, and potential risks from a decline in oil prices, a concern for all Nigerian banks.<sup>45</sup> Margin pressures are a concern due to increased competition to attract deposits and creditworthy customers. In fact, earlier this year the CBN reissued a circular on “De-marketing” guidance,<sup>46</sup> which admonished the “de-marketing of other banks through disparaging comments and the use of negative text messages.”

### MICROFINANCE BANKS (MFBs)

Currently, there are over 700 MFBs responsible for assets that account for less than 0.5% of total commercial banks assets. As noted previously, the MFBs large numbers, poor capitalization and lack of sophistication raise questions concerning the industry’s viability. There are, however, experts that believe that MFBs are the best vehicle for getting credit to the agricultural and rural sectors. While the MFBs are in need of significant structural and regulatory assistance, it is possible that they could emerge as strong players in the agricultural and rural sectors. Our recommendations for improving the sector are set forth above, in the discussion of the Microfinance Policy.

#### KEY IMPLEMENTING INSTITUTIONS

- Commercial Banks
- Microfinance Banks (MFBs)
- The Nigerian Agricultural, Cooperative and Rural Development Bank (NACRDB)
- Microfinance Institutions (MFIs)
- Bank Regulators
- Financial Services Regulation Coordinating Committee (FSRCC)
- Central Bank of Nigeria (CBN)
- Nigerian Deposit Insurance Corporation (NDIC)

<sup>45</sup> JP Morgan African Equity Research Report. May 18, 2008

<sup>46</sup> “De-marketing of Banks by other Banks” 09 61636403 BSD/Dir/Cir/07/ Vol.2/016.

## **THE NIGERIAN AGRICULTURAL, COOPERATIVE AND RURAL DEVELOPMENT BANK (NACRDB)**

The NACRDB is jointly owned by the federal government and the CBN, and is the result of a forced combination of three separate government agricultural initiatives. The NACRDB operates under a difficult set of mandates. It is required to lend to a range of on- and off-farm income generating activities. Seventy percent of its loan portfolio must be lent at single digit interest rates, through loans of N250,000 or less. The single-digit interest rate policies have not permitted cost recovery, which has undermined the NACRDB's effectiveness. The combination of low repayment rates and inadequate capitalization places the long-term viability of the institution in doubt.

Despite a lackluster financial performance the NACRDB has enjoyed some success in rural finance. It has lent approximately US\$70 million at subsidized rates to the agricultural sector. By volume this equals a third of the commercial bank lending to the same sector, but loan sizes are significantly smaller.

The government has asked the World Bank for assistance in restructuring the NACRDB into a viable institution. The institution has a good branch network and targets smaller rural actors than the commercial banks. There is continued concern, however, that the submarket interest rates send the wrong message to borrowers who view it as “free credit.”

## **MICROFINANCE INSTITUTIONS**

Nongovernmental organization MFIs in Nigeria account for a relatively small portion of financial sector assets (below 0.5 percent) but they serve about a third of a million clients. While they are very important for low-income groups, their overall impact remains small. Each institution has an average of 42,000 borrowers. These MFIs are prohibited from mobilizing deposits, but are still able to request mandatory savings as loan collateral. More recently, however, microfinance institutions have turned away from farmers because of loan recovery problems.

## **BANK REGULATORS**

Financial market regulation in Nigeria is “institution-based.” As such, each sector has a primary regulator which is primarily responsible for implementation of a sector law. With the acceptance of “universal banking” in 2001, banks in Nigeria were permitted to engage in financial service activities which cut across both money and capital markets as well as the insurance business. As a result, the role of these various key regulators significantly increased due to the expanded activities of commercial banks.

To address this regulatory overlap, the Financial Services Regulation Coordinating Committee (FSRCC) was formed to coordinate and harmonize regulatory and supervisory activities with respect to commercial banks. The FSRCC is chaired by the CBN Governor, and membership is made up of the so-called “apex regulators” and other stakeholders including the Securities and Exchange Commission (SEC), the National Insurance Commission (NICOM), the Corporate Affairs Commission (CAC), and the Federal Ministry of Finance. In order to enhance the effectiveness of the FSRCC, the NDIC, the Nigerian Stock Exchange, and National Board for Community Banks were included as observers.

The FSRCC seeks to coordinate supervision of financial institutions in the hope of reducing arbitrage opportunities created by differing regulations and supervision standards among agencies. It deliberates on problems experienced by any FSRCC member and a financial institution to eliminate information gaps encountered by regulatory agencies in their relationships with financial institutions. It is also working on a proposed framework for Consolidated Supervision of Banks in Nigeria,<sup>47</sup> and examining the processes of supervising banking groups and their cross-border establishments.

## **CENTRAL BANK OF NIGERIA**

The CBN is responsible for licensing all financial institutions in Nigeria, except securities and insurance companies. It operates under the provision of the Central Bank of Nigeria Decree

47 09-61636403, 09-61636418, BSD/DIR/CIR/07/V.1/11, Circular To All Banks: The Draft Framework for the Consolidated Supervision of Banks in Nigeria.

No. 24 (1991), as amended (CBN Act), which was re-enacted in 2007 with amendments that granted the CBN more independence and operational autonomy. The supervisory responsibilities of the CBN are divided between the Banking Supervision Department (BSD), which regulates the 25 commercial banks and discount houses,<sup>48</sup> and the Other Financial Institutions Department (OFID), which is responsible for MFBs, finance companies, bureaux de change, primary mortgage institutions, and development finance institutions.

The BSD is highly regarded by the institutions it regulates. However, critics claim that a “chummy” relationship exists between the BSD and the officers of commercial banks, which in turn affects the aggressiveness of the CBN’s compliance efforts. The CBN is also criticized for being overly-bureaucratic, as it frequently takes months, and sometime years, to embrace new initiatives. The BSD is overseeing the implementation of the more sophisticated risk-based provisions of Basel II, and appears to have a full appreciation of the supervisory challenges it faces in light of the phenomenal growth in the commercial banking sector. There are concerns that it will be unable to keep up with the expansion if asset quality begins to fall.

As noted previously, the OFID has responsibility for all the MFBs and a variety of other financial institutions. If there is any chance that the MFBs will serve as “players” in the agricultural and rural areas, it is imperative that OFID’s supervisory capacity be strengthened. OFID has an overwhelming challenge. At the commencement of 2008, there were over 700 institutions licensed as MFBs, and OFID had limited off-site capacity to supervise these institutions. While the MFBs’ collective assets are small compared to the commercial bank sector, failures, bad governance, and unsound business practices of the MFBs carry significant reputational risk for the developing microfinance bank sector. OFID is in the process of developing the reporting requirements for the MFBs, and there is a

proposal to provide the CBN with a consultant to ensure full understanding of the international finance reporting standards and how they apply in Nigeria.<sup>49</sup>

A clear supervision mechanism needs to be established for the MFBs, including effective reporting and offsite supervision systems. One idea is to move the MFBs supervisory responsibilities out of OFID into a new division completely dedicated to the MFB sector. Another idea is to create an “apex organization” in OFID, which would provide a form of self-regulation. It is our understanding that the World Bank’s MSME project is currently offering to assist the CBN in the development of supervisor options for the MFBs.

## **NIGERIAN DEPOSIT INSURANCE CORPORATION (NDIC)**

The NDIC was established pursuant to the 2006 Nigerian Deposit Insurance Corporation Act to insure the deposit liabilities of banks and MFBs. There are criticisms that the NDIC duplicates the supervisory efforts of the CBN. The NDIC insists that there is no duplication as banks are allocated to either the NDIC or the CBN for examination on an annual basis to avoid duplicative efforts. According to one report, supervisory capacity is highly limited. The NDIC reports 43 examiners for 24 commercial banks but only 33 for approximately 700 Microfinance Banks. The NDIC has received court approval to oversee the liquidation of those banks that do not meet the new capital requirement established by the CBN.

## **SUPPORTING INSTITUTIONS**

### **COOPERATIVES**

A recent survey conducted by the DFID sponsored “Security, Justice and Growth Programme” revealed that cooperative societies made up a total of 61% of all the business membership organizations in Nigeria.<sup>50</sup> These figures, however, are deceiving in that only a small percentage of

<sup>48</sup> Discount houses act as intermediaries for Treasury Bill sale by the CBN and provide short-term finance to major companies by issuing commercial paper.

<sup>49</sup> MSME Project, TOR for Consultancy to CBN on Microfinance Results Reporting. (undated).

<sup>50</sup> Security, Justice and Growth Programme “An Investigation into the Range of Key Private Sector Organizations and Their Capacity to Intervene in Policy Formulation Process in Nigeria.” (2008)

these institutions actually function for the benefit of their members. In this regard, they are cooperative in name only.

Cooperatives are commonly created as a means of securing funding from the government. As such, their membership typically doesn't share mutual goals or shared values. As a result, when a cooperative is stressed by financial concerns, it tends to break apart rather than pull together. Further, capacity and management skills tend to be weak, especially in the agricultural cooperatives, and cooperatives are typically run by farmers with little training or management experience.

#### KEY SUPPORTING INSTITUTIONS

- Cooperatives
- State Land Registries
- Capital and Bond Markets
- Insurance Companies

If properly organized and managed, cooperatives could improve the small-scale lending environment in Nigeria, especially in the agricultural sector. Cooperatives could provide more security to banks and MFBs and thereby increase both lending and loan recovery. A handful of banks have been revising the cooperative structure and have found associations made up of 10–25 members tend to have better loan recovery rates. It is important to identify a market for outputs before extending credit.

In light of these results, there is a new movement on the part of the Ministry of Agriculture—Cooperative Division to rejuvenate the existing 600 cooperatives currently registered in Nigeria. Unfortunately, the existing legal framework for cooperative societies is obsolete and overly restrictive. As such, a better approach may be to draft a modern cooperative law and allow the cooperatives to reform under less stringent, more workable guidelines.

#### STATE LAND REGISTRIES

Lenders that accept non-federal land as collateral are confronted with the difficulties and

uncertainties of the state land registries. A detailed analyses of the problems with these registries is provided in the World Bank's *Doing Business in Nigeria 2008—Subnational Report*. In Abuja and the 10 Nigerian states that were the focus of this study, registering property takes on average 12 procedures, lasts nearly 4 months, and costs about 15 percent of property value.

The DFID-sponsored "Security, Growth and Justice Programme" is providing support to Nigerian land reform programs. The programme has taken on reform of six state registries, which leaves the remaining state registries without assistance. While there is some improvement in the reforming states, there are no linkages between registries or uniform systems of implementing the Land Use Decree.

#### CAPITAL AND BOND MARKETS

Many Nigerian banks have listed their shares on the Nigerian stock market. While this has helped raise capital, it has not resulted in more lending for agriculture. The bulk of new investment has gone towards real estate development and mortgages.

Some agro-businesses have been able to go directly to the market to raise funds. For instance, Honeywell Flour Mills plc recently announced that it had concluded an arrangement to source the sum of NGN18.65 billion from the Nigerian capital market. The International Finance Corporation is currently working to improve the status of the Nigerian bond market to improve long-term funding for mortgages. As a practical matter, however, investors are generally unaware of the bond market.

#### INSURANCE

The newer higher capital requirements in the insurance industry did not result in a rejuvenating consolidation as it did in the banking industry. In November 2007, a list of 49 insurance firms that complied with the newly enforced minimum-capital requirements was released by NIACOM. As of November 2007, the total capital of insurers, post-consolidation, was N300bn. The NIC projects that by end-2008 the total



capital available to insurers will be about N500bn. Reportedly, the lending rates of insurance companies and banks are comparable. However, the amount of loans and advances to the corporate sector is inconsequential. Aside from a small number of leading names, the industry is predominantly made up of marginal players.

## SOCIAL DYNAMICS

### POLITICAL WILL TO REFORM

As noted throughout this chapter, the government continues to sponsor select initiatives as way to facilitate credit to the agricultural and rural sectors. This has not been very effective in the past. If the government is committed to meeting the goals set forth in the FSS 2020, it must develop and follow an aggressive, coordinated reform platform.

As a separate but related matter, responsibilities for agriculture and rural development in Nigeria are shared by the federal government, the states, and local government councils. Unfortunately, development efforts lack both horizontal integration and linkages, which results in duplication, poor use of resources, and missed opportunities. Before the rural and agricultural financial sectors can prosper, a coordination of strategies, policies, and institutional arrangements for effective utilization of resources is needed.

### WOMEN AND CREDIT

Women have very limited access to credit. While Nigeria has many female small entrepreneurs, women are underrepresented in the civil service and other forms of “steady” employment. Married women do not usually have property in their name and so cannot provide collateral. While a few MFIs make a deliberate attempt to reach women customers, most do not.

## RECOMMENDATIONS

- Encourage the federal government and CBN to stop sponsoring select initiatives and assume a holistic approach to addressing the poor lending environment in Nigeria. This would include increased



support to on-going reforms in the areas of credit bureaus, secured transactions, and land registries, and attention to various supporting institutions.

- Review and revise banking law to provide a better balance between the need for prudential regulation and the need to let banks take on the risk of lending.
- Review and revise microfinance policy to facilitate a more efficient and effective microfinance industry. To assist in the expansion of lending to the agricultural and rural sector, prepare agricultural training modules that explain the benefits and risks involved in this type of lending.
- Deposits can serve as inexpensive funds for long-term lending. Currently, a large percentage of “savers” do not use formal institutions. Support efforts to mobilize deposits in the agricultural and rural areas.
- As a means of encourage lending to the agricultural and rural sectors, enact a Nigerian Community Reinvestment Act which would require that a certain percentage of deposits be lent in the area where the deposits are collected.
- Support on-going reforms in the credit information industry to ensure the establishment of a modern industry.

- Nigeria is unusual in that the Land Use Decree was made a part of the Constitution, and can only be amended through a constitutional amendment. Support should be provided to foster discussion on removing the Land Use Decree from the Constitution.
- The current Land Use Decree raises a multitude of issues that Nigerian may not be prepared to resolve. A national conference on the current status of the Land Use Decree and its implementation should be sponsored. The conference should include experts and experiences from other countries. The conference should serve as a prelude to a new National Land Use Policy.
- Only six state land registries are receiving support to improve their efficiency and operations. Support should be provided to the registries in all states. State registries should be modernized, linked, and subject to uniform standards and operating procedures.
- The federal government should place a high priority on the development of a secured transaction regime on movable property, complete with a modern law and electronic registry, by supporting reforms currently underway.
- Assist in the development of a modern warehouse receipt system. In addition to the drafting of a modern law and operational procedures, funding for the construction or repair of additional warehouse space should also be considered, as well as the provision of technical assistance on warehouse management.
- Promote development and enactment of a modern leasing law. This effort could include targeted training to banks and leasing companies.
- Support OFID. Consider moving microfinance bank supervisory responsibilities to a separate department.
- Support the development of a modern cooperatives law which would encourage the establishment of societies by members with similar needs and goals. If properly organized, these institutions could serve to mitigate some of the risks of lending to the agricultural sector.



## APPENDIX I:

# AGRICULTURAL DEVELOPMENT INITIATIVES IMPLEMENTED BY PAST GOVERNMENTS

S/No.	Projects/Program	Description	Weaknesses
1.	<b>Cooperatives (1935 to Date)</b>	The Nigerian Cooperatives Ordinance was promulgated in 1935 to regulate Cooperative activities in the country. In 1974 a law was enacted which established the Department of Cooperatives in 1974.	Policy inconsistency and administrative dislocations of the Federal Department in charge of Cooperatives.
2.	<b>Commodity Boards (1947 to 1986)</b>	Commodity Marketing Boards started during the colonial era with the establishment of first generation marketing boards as follows: Cocoa Marketing Board in 1947, Palm Produce, Groundnut and Cotton Marketing Boards in 1949. The second generation established in 1954 were the regional marketing boards. They served as buyers of last resort, at fixed prices and held strategic or buffer stock.	Inability to pay farmers the subsisting market price then. Scrapped in 1986 under Structural Adjustment Programme.
3.	<b>Agricultural Research Institutes (1964 to Date)</b>	Four research institutes namely: Cocoa, Oil Palm, Rubber and Trypanosomiasis were established by Nigerian Research Institute Act in 1964. In 1975 the Agricultural Research Institutes were established to conduct research in various crop, livestock and fisheries.	Instability of the Research Institutes as a result of constant movement of the agricultural research institutes from one Ministry to another. There was also a major problem with funding of these institutes.
4.	<b>National Accelerated Food Production Project (NAFPP) (1970s)</b>	Objectives were to increase the yields of seed varieties and enhanced fertilizers use and promoted extension and credit services as well as adaptive research and staff training. A number of national crop centres were established at different locations e.g. Ibadan for rice and maize; Zaria for sorghum, millet and wheat; and Umudike for Cassava.	Started very well but the wheat programme was affected by a basic withdrawal of political support and lifting of the ban on wheat import.
5.	<b>Nigerian Agricultural Cooperative Bank (NACB) (1973 to Date)</b>	The main specialised institution for agricultural credit delivery in the country.	Directed to provide subsidized credit at single digit interest rate without the corresponding subsidy provided by the government. Needs to be reformed for greater efficiency and effectiveness in resource mobilization and credit delivery.
6.	<b>Agricultural Development Projects (ADPs) (1975 to Date)</b>	World Bank funded at inception. ADP revolution started in 1974 with the establishment of Gombe, Funtua and Gusau ADPs. They were set up to provide extension services, technical input support and rural infrastructure services. Though they were set up to perform a temporary role in providing advisory services, the ADPs have literally assumed a permanent status. They are now recognized as the major agricultural development institutions in the state.	The decline in oil prices that started in 1982 had a substantial fiscal effect in Nigeria and led to shortages of counterpart funds for these projects. The emphasis on modern technology in the ADPs led their agricultural research and extension services to focus on relatively high input technology for sole cropping systems. These systems were not used by the majority of smallholders who used mixed/relay cropping systems as a rational strategy to reduce risks. <b>Extension Methods:</b> The change from the training and demonstration system to the T&V system was slow resulting in top down rather than responsive recommendations to farmers.



S/No.	Projects/Program	Description	Weaknesses
7.	<b>River Basin Development Authorities (RBDAs) (1977 to Date)</b>	The major instrument of the water resources and irrigation policy was the establishment of 11 RBDAs in 1977 to develop and take advantage of available water bodies in the country for agriculture, fishing and other purposes.	1) The failure of the RBDAs was due to unnecessary political interference and managerial problems resulting from socioeconomic cleavages which permeated the nations socio-political, economic and cultural institutions. 2) Lack of qualified manpower to provide effective leadership at the departmental levels.
8.	<b>Operation Feed the Nation (1976 to 1979)</b>	This was a mass mobilization and mass awareness program created in 1976 through 1979 in reaction to the first real food crises in the country.	The lack of continuity and shift in approach by successive governments were the reasons for the failure of the poverty alleviation programmes.
9.	<b>Green Revolution (1979 to 1983)</b>	The program focused on food production, input supply and subsidy, special commodity development, review of agricultural credit guarantee scheme and increased resource allocations to RBDAs.	The lack of continuity and shift in approach by successive governments were the reasons for the failure of the poverty alleviation programmes.
10.	<b>Directorate of Foods and Roads and Rural Infrastructure (DFFRI) (1986 to 1993)</b>	DFFRI was established in late 1986 to accelerate the rate of infrastructure development in the rural areas. It was originally designed as supra-ministerial body for channelling the proceeds of the liberalized foreign exchange market for rural development.	The lack of funds and commitment limited the extent of infrastructural provisions in the rural areas. The government rural infrastructural programmes were embarked upon without effective programme of action and appropriate institutional arrangements for their execution.
11.	<b>National Agricultural Land Development Authority (NALDA) (1991 to 1999)</b>	The objectives of the Authority include providing strategic public support for land development, promoting and supporting optimum utilization of Nigeria's rural land resources, providing gainful employment opportunities for rural people as well as raising incomes and improving general living standards in rural areas.	The NALDA approach increased rather than reduce the direct public provision of goods and services which could be provided by the private sector instead. Many of NALDA's services were duplications, albeit on a more intensive basis of services provided by the ADPs.
12.	<b>Presidential Initiatives on Cocoa, Cassava, Rice, Livestock, Fisheries, Vegetables (1999 to 2007)</b>	These were initiated by the last administration in an effort to improve Nigeria's food production in line with vision 2020. The strategy is to attract the attention of the highest level of political authority for special intervention in the commodity sector.	Weaknesses were poor funding and lack of institutional arrangements for implementation.



## APPENDIX II:

# AGRICULTURE SECTOR CONSTRAINTS IDENTIFIED BY GOVERNMENT OF NIGERIA

### THE 2001 AGRICULTURAL POLICY OUTLINES IMPLEMENTATION FAILURES RESULTING FROM:

- Poor translation and articulation of policy prescriptions into implementable programs
- Poor targeting of programs and projects
- Poor budgeting
- Inadequate attention to monitoring, evaluation and impact assessment parameters in project designs
- Lack of involvement of beneficiaries in program design, monitoring and evaluation, and implementation arising from the under-rating of knowledge, ability, capability and sensitivity of the small scale farmers
- Neglect of gender considerations in program implementation
- Poor managerial capability
- Lag between project costs and budgetary provision resulting in sub-optimal allocation
- Untimely release of usually inadequate funds
- Inadequate attention to project gestation period
- Use of political/social considerations rather than technical/economic viability criteria in program choice and location
- Contract syndrome in determining project to be executed rather than the identified need of would-be beneficiaries, leading to the procurement of non-priority goods and provision of unusable or unpatronized facilities
- Abandonment of projects mid-stream for political reasons
- Downturn in the national economy affecting availability of financial resources for funding promotion activities of government, such as support to extension services, subsidy on inputs (especially fertilizer, land development and agricultural machinery) and operation of buyer-of-last-resort mechanism
- Absence of genuine and sustained investment of private commercial producers in agricultural production
- Increase in production largely through expansion of land under cultivation rather than increase in productivity of land using improved technology

#### 2008 DRAFT FOOD SECURITY PROGRAM LISTED AG SECTOR CONSTRAINTS:

- Inconsistent agricultural policies
- Dearth of reliable planning statistics
- Aging and unorganized farmers
- Poor uptake of research results
- Decayed and inadequate infrastructure for research
- Seed stock with poor yield potential
- Rain-fed production, low irrigated land area (only 220,000 Ha as against 3.1m Ha)
- Subsistence level production (90%)
- Agricultural land ownership—no collateral value, uncertain soil fertility
- Fertilizer & agricultural chemicals—supply problem, poor quality
- Low mechanization, inappropriate technology
- Extension—poorly resourced, low staff morale
- Poor credit—access and management
- Poor rural infrastructure (power, roads, water supply)
- Livestock & fishery—poor quality feed, diseases
- Livestock—grazing reserves—gazetted but undeveloped
- Fishery—piracy, poor exploitation of tuna stock
- Weak private sector linkage
- Storage and preservation—poorly developed
- Processing—very weak and largely traditional
- Marketing structure—weak and inefficient



## APPENDIX III:

# DRAFT NATIONAL FOOD SECURITY PROGRAMME'S THRUST

**Vision:** To ensure sustainable Access, Availability, and Affordability of quality food to all Nigerians and to be a significant net providers of food to the global community.

**Objectives:** Short term objective for significantly improving Nigeria's agriculture productivity. Medium term objective of expanded large scale production and improved storage/processing capacity as well as required market infrastructure to activate food stability.

Farmer Category	Sponsorship/ Policy Making	Technical Assistance	Input Providers	Specific Strategies	Generic Strategies
Small-scale Farming	Local Gov't	<ul style="list-style-type: none"> <li>• Agric. Consultancy</li> <li>• Fed. Univs.</li> <li>• Local Gov't MA&amp;WR</li> <li>• Int'l Research Institutes/NGOs/ Donor Agencies e.g. FAO, IITA etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Local Gov't</li> <li>• Micro-credit orgs</li> <li>• Nat. Seed Council</li> <li>• Int'l Fert. Devt. Centre</li> <li>• Nat. Special Prog. for Food Sec.</li> <li>• NGOs/Donor Agencies e.g. FAO, IITA etc.</li> </ul>	<p>Objectives:</p> <ul style="list-style-type: none"> <li>• Additional 10m small-scale farmers (2 ha of farmland each)</li> <li>• 1 tractor/500–1,000 farmers</li> </ul> <p>Actions:</p> <ul style="list-style-type: none"> <li>• Aggressive recruitment of farmers</li> <li>• Seed funding scheme</li> <li>• Expanded quality extension services</li> <li>• Farm Support Centres/farmers' cooperatives</li> <li>• Mechanization Program</li> </ul>	<p>Objectives:</p> <ul style="list-style-type: none"> <li>• 74 hectares of cultivated farmland</li> <li>• 3.14 million hectares of irrigated land</li> <li>• 10 tonnes/hectare of agricultural products</li> <li>• 10% of household income spent on food</li> <li>• Increase in food storage capacity by 500 metric tonnes by 2008 year-end</li> <li>• Improve local processing capacity for local and international consumption</li> </ul> <p>Actions:</p> <ul style="list-style-type: none"> <li>• Viable market infrastructure to drive links between producers and processors/traders</li> <li>• Exploit biofuel/carbon credit potential</li> </ul>
Medium-scale Farming	State MA&WR Local Gov't	<ul style="list-style-type: none"> <li>• Agric. Consultancy</li> <li>• Fed. Univs.</li> <li>• State MA&amp;WR</li> <li>• NGOs/Donor Agencies e.g. FAO, IITA etc.</li> </ul>	<ul style="list-style-type: none"> <li>• State MA&amp;WR</li> <li>• Commercial Banks</li> <li>• Nat. Seed Council</li> <li>• Int'l Fert. Devt. Centre</li> <li>• Nat. Special Prog. for Food Sec.</li> <li>• NGOs/Donor Agencies e.g. FAO, IITA etc.</li> </ul>	<p>Objectives:</p> <ul style="list-style-type: none"> <li>• Empower small-scale farmers to medium-scale farming</li> </ul> <p>Actions:</p> <ul style="list-style-type: none"> <li>• Seed funding scheme</li> <li>• Expanded quality extension services</li> <li>• Farm Support Centres/farmers' cooperatives</li> <li>• Mechanization Program</li> </ul>	<p>Actions:</p> <ul style="list-style-type: none"> <li>• Focus on product/crop of comparative advantage</li> <li>• Revitalized, private sector-driven fertilization program</li> <li>• Enhanced Irrigation Program</li> </ul>
Large-scale Farming	FMA&WR State FMA&WR	<ul style="list-style-type: none"> <li>• Fed. Univs.</li> <li>• State MA&amp;WR</li> <li>• NGOs/Donor Agencies e.g. FAO, IITA etc.</li> </ul>	<ul style="list-style-type: none"> <li>• FMA&amp;WR</li> <li>• State MA&amp;WR</li> <li>• Commercial Banks</li> <li>• Nat. Seed Council</li> <li>• NGOs/Donor Agencies e.g. FAO, IITA etc.</li> </ul>	<p>Objectives:</p> <ul style="list-style-type: none"> <li>• Promote/facilitate the influx of large-scale farmers in Nigeria</li> </ul> <p>Actions:</p> <ul style="list-style-type: none"> <li>• Fed. Gov't/State Gov't/commercial banks' special migration program</li> <li>• Equity participation framework for private sector involvement</li> </ul>	<ul style="list-style-type: none"> <li>• Build 2 strategic food storage facilities per geopolitical zone (private sector-driven)</li> <li>• Institute warehouse receipt system</li> <li>• Build processing parks in each 36 states and the FCT (private sector-led)</li> <li>• Revitalize Commodity Exchange</li> <li>• Establish guaranteed minimum pricing/Commodity Boards/ Marketing Commission</li> <li>• Cultivate non-food crops (jatropha) and utilize crop by-product for bio-fuel/Accrue and sell carbon credit</li> </ul>
<b>Linkages:</b>	<ul style="list-style-type: none"> <li>• The Land Use Act</li> <li>• Other Fiscal Policies</li> <li>• Energy and Industrial Capacity</li> </ul>		<ul style="list-style-type: none"> <li>• Microfinance</li> <li>• Education</li> <li>• Rural Access &amp; Road Network</li> </ul>		<ul style="list-style-type: none"> <li>• Enabling Market Policies</li> </ul>



## APPENDIX IV:

# COMPILATION OF RECOMMENDATIONS

### STARTING AN AGRIBUSINESS

#### On-farm Productivity

1. Support development and passage of a comprehensive and modern National Seed Policy in line with international best practices and the ECOWAS Seed Harmonization Law, and revision of current Draft Seed Decree to comply with regional and international standards.
2. Provide capacity building and support to the National Agricultural Seeds Council.
3. Hold an international seed investors conference to gather private sector input and feedback on a Draft National Seed Policy and the Draft Seeds Decree.
4. Support research institutions in developing commercialization mechanisms for productive seed varieties.
5. Support fertilizer policy reform activities currently underway and promote the continuation of liberalization of fertilizer policy by the government and donor community.
6. Organize private sector advocacy to push regulatory and targeted private sector-friendly fertilizer subsidy mechanisms.
7. Provide education of and exposure for Nigerian agro-dealers to more developed international input markets and technical practices (ex. production facilities).

#### Product Organization, Transformation, and Management

8. Work with one or more agricultural or business universities in Nigeria to develop a modern agribusiness program that can train entrepreneurs, middle managers, and financial services professionals with an understanding of the agriculture sector. Such a program could provide internship opportunities with mid- and large-scale agribusinesses and could partner with foreign agribusiness university programs.
9. Establish an agribusiness incubator program, possibly linked with a business plan competition, in order to increase the number of viable businesses in the middle of the value chain and the quality of business execution. Linkages of a program of this sort with financial institutions should also improve capital available to viable businesses.
10. Educate agribusinesses on existing services and programs available to assist businesses, such as the NIPC.
11. Advise the NIPC on how to better serve and target the agribusiness sector.
12. Facilitate organization of mid- and large-scale private sector players in agribusiness for improved advocacy and information sharing. This might be done through creation of a new private sector network or organization, or support to an existing chamber of commerce.
13. Support private sector investment in rail and any changes in policies or laws necessary to facilitate such investment.

14. Promote prioritization of agriculture with respect to national policies on transportation, energy, trade, and finance.
15. Support improvements in the federal government's collection, management, and dissemination of agricultural statistics. Assist the government in conducting a thorough assessment of current statistical capabilities and needs.
16. Prioritize the creation of a sustainable market and trade information system. Existing sources of information should be capitalized upon, and a goal should be providing market information cheaply and broadly. Consider the creation of a public-private partnership to incorporate information from international market research firms on supply and demand trends.

### Consumer Food Delivery

17. Organize a Food Retail Investors Forum, inviting major investors and potential investors (including international supermarket chains and franchise food service) in addition to domestic enterprises. The Forum should result in concrete recommendations to the federal and state governments to improve the attractiveness of the Nigerian market for retail development and investment.
18. Promote prioritization of retail sector by federal, state, and local governments in order to ensure an available and organized market to accommodate increased productivity and investment. Import liberalization is key to attracting international and/or chain retail investments.
19. Provide the same prioritization to retail investors in the acquisition of property as is currently provided to industrial investors at the federal, state, and local level.
20. Establish a "Buy Nigeria" seal of quality campaign to improve consumer confidence, encourage private sector brand development, and develop domestic markets.

### TRADING ACROSS BORDERS

1. Review in depth the draft of the Nigeria Customs Service Act when it moves to the National Assembly to insure compliance with the principles of the Revised Kyoto Convention. In light of the long life span of Nigerian laws, it is critical that the legal framework for customs operations permit modern processes, transparency, and simplification. This review would prepare NCS for drafting implementing regulations as well as educate and guide the National Assembly and stakeholders in the review process by helping them understand what international standards require. Such a review could help finalize a bill that has the potential to serve as a model law for ECOWAS integration.
2. Develop risk management/post audit methodology as a core component of customs processing. Develop a risk management office within the NCS to improve identification of high and low risk shipments, using data analysis to build profiles. This would be best accomplished if initially placed within the Research and Planning Department where the level of commitment to reform and understanding appear highest. The current high degree of examination (70%) does not produce significant findings, and no office is analyzing the inspection results.
3. A post-audit division is in place but lacks the capacity and policy for a quality audit program. If a commitment to institutionalize this approach is made, assistance to invigorate the effort should be considered. The program must include the reward of expedited processing beyond the limited fast track clearance initiative. Repeat importers with reliable transactions must be identified, subjected to a preliminary review of their record keeping systems, and then designated for immediate release upon document presentation with only a system-generated periodic selection for examination. This would reduce physical inspection and scanning, limit officer discretion, and eliminate opportunities for the personal contact between customs and the trade community that occurs at point of examination.
4. Improve and streamline export incentive programs and export processing. Provide technical expertise to ongoing efforts with NEPC to facilitate export processing. Explore export incentives used in other countries to effectively promote exports. Develop a program whereby higher-volume reputable companies that account for a much larger percentage of the export total are given expedited, facilitative processing. Significantly reduce export inspections by NCS. Incorporate export processing within ASYCUDA to expedite clearance and provide for pre-filing and release.



5. Invest in ongoing training efforts of NCS directed at improving professional and ethical standards within the customs clearance agent/freight forwarder sector. This would include not only training materials, but train-the-trainer courses and funding to continue efforts just initiated. A good working model that could be adapted for Nigeria is in place in the East African Community (EAC). That effort resulted from joint cooperation between regional customs authorities and their clearing agent associations through funding by USAID. Within a few years, successful completion will be required as the EAC standard for accreditation of the sector. Participation in this effort now could be used as leverage to promote this same requirement in Nigeria. Ultimately this same program could be used within ECOWAS as development of the Customs Union proceeds. The newly formed Nigerian Council of Regulation of Freight Forwarders would be a good private sector partner for the effort. The initiative would include review of the NCS practice of assessment of small penalty fees when discrepancies are discovered during examination. Many such irregularities are intentional fraud and should be subject to more harsh actions including suspension and revocation of licenses. Taking such actions could serve as a deterrent to trader non-compliance.
6. Conduct assessment of informal trade along major corridors. The more porous areas can be identified and targeted. The resulting quantification of such flows would improve trade statistics that can be used in policy planning, increase the ability to subject such shipments to critical quality controls, and help to develop initiatives to bring more of the sector into the formal arena. Progress in these areas would increase the competitive position of formal traders.
7. Establish an internal compliance unit/program management unit within the NCS. Use the capabilities of ASYCUDA++ to reconcile manifest and entry data and to chart anomalies to detect suspicious transactions. Task the unit with investigation of such transactions as well as the development and implementation of an internal control program to oversee that programs are properly implemented, irregularities are resolved and officers guilty of misconduct are disciplined.
8. Revitalize and expand the use of inland container depots. Customs resistance to this effort must be overcome and with an influx of new recruits. Objective, reasonable criteria applied in a transparent manner must be established for approvals and decisions, which would be subject to review by the Ministry of Finance.
9. Increase coordination and cooperation among border agencies and upgrade equipment to expedite import/export processing. Initiatives would include establishment of a one-stop shop for border agencies at major locations where stakeholders could conduct all agency clearance functions, including filing of customs declarations. Efforts should encourage expansion of the inter-agency integration within ASYCUDA about to be tested at the Abuja international airport. On-site test kits for the border agencies that can be used to initially screen goods would be valuable in reducing delays in shipment releases.
10. Simplify the ECOWAS Trade Liberalization Scheme to promote regional trade and the benefits of regional integration. Documentation at the time of goods crossing the border must be allowed to proceed under a simplified procedure that does not require use of a customs clearance agent or filing of extensive documentation. The West African Trade Hub, which will oversee the preparation of a TLS Guidebook, should use this opportunity to advance recommendations for simplification and incorporate customs border officials in its training efforts.
11. Promote foreign trade zone opportunities for the expansion of agribusiness and provide the NCS with training in zone operations and oversight. The results of the prototype scheme should be analyzed to determine its potential applicability to production, processing, and marketing within the zone framework. The benefits of using zones for full supply chain operations should be explored because of the potential tax and other incentives. Improved coordination among the public regulatory agencies will be required. One stop shops should be established where a client can secure all required approvals. Clear authority should be given to the NEPZA to resolve disputes. Better marketing of the zone concept and training of a designated Customs office in efficient zone oversight should be undertaken.
12. Assist in the development and implementation of a training program for NCS to upgrade professionalism, introduce and gain acceptance of risk management principles, and expand understanding of the potential for IT processing to improve operations. Efforts should include a training needs assessment, securing of outside training material within the region or within Sub-Saharan Africa, identification of trainers and providing them with train-the-trainer courses, and establishing a program that incorporates measurable milestones for accountability. Management training on the use of automated reports to oversee operations and field performance must be included.

## GETTING CREDIT

1. Encourage the federal government and CBN to stop sponsoring select initiatives and assume a holistic approach to addressing the poor lending environment in Nigeria. This would include increased support to on-going reforms in the areas of credit bureaus, secured transactions, and land registries, and attention to various supporting institutions.
2. Review and revise banking law to provide a better balance between the need for prudential regulation and the need to let banks take on the risk of lending.
3. Review and revise microfinance policy to facilitate a more efficient and effective microfinance industry. To assist in the expansion of lending to the agricultural and rural sector, prepare agricultural training modules that explain the benefits and risks involved in this type of lending.
4. Deposits can serve as inexpensive funds for long-term lending. Currently, a large percentage of “savers” do not use formal institutions. Support efforts to mobilize deposits in the agricultural and rural areas.
5. As a means of encourage lending to the agricultural and rural sectors, enact a Nigerian Community Reinvestment Act which would require that a certain percentage of deposits be lent in the area where the deposits are collected.
6. Support on-going reforms in the credit information industry to ensure the establishment of a modern industry.
7. Nigeria is unusual in that the Land Use Decree was made a part of the Constitution, and can only be amended through a constitutional amendment. Support should be provided to foster discussion on removing the Land Use Decree from the Constitution.
8. The current Land Use Decree raises a multitude of issues that Nigerian may not be prepared to resolve. A national conference on the current status of the Land Use Decree and its implementation should be sponsored. The conference should include experts and experiences from other countries. The conference should serve as a prelude to a new National Land Use Policy.
9. Only six state land registries are receiving support to improve their efficiency and operations. Support should be provided to the registries in all states. State registries should be modernized, linked, and subject to uniform standards and operating procedures.
10. The federal government should place a high priority on the development of a secured transaction regime on movable property, complete with a modern law and electronic registry, by supporting reforms currently underway.
11. Assist in the development of a modern warehouse receipt system. In addition to the drafting of a modern law and operational procedures, funding for the construction or repair of additional warehouse space should also be considered, as well as the provision of technical assistance on warehouse management.
12. Promote development and enactment of a modern leasing law. This effort could include targeted training to banks and leasing companies.
13. Support OFID. Consider moving microfinance bank supervisory responsibilities to a separate department.
14. Support the development of a modern cooperatives law which would encourage the establishment of societies by members with similar needs and goals. If properly organized, these institutions could serve to mitigate some of the risks of lending to the agricultural sector.



Nicholas Klissas  
USAID/EGAT  
202.712.0115  
nklissas@usaid.gov

Wade Channell  
USAID/EGAT  
202.712.1909  
wchannell@usaid.gov

Anastasia Liu  
USAID/EGAT  
202.712.5837  
aliu@usaid.gov

Russell Brott  
Booz Allen Hamilton  
703.377.7719  
brott\_russell@bah.com





Business  
Development  
Centre



AGCLIR: NIGERIA

MAY 2009