



SECRETARIAT ANALYSIS

TENTH FOLLOW UP REPORT OF SIERRA LEONE

GIABA 21st Technical Commission/Plenary Meeting

May 5 – 9, 2014

**Hotel Gaweye
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I. INTRODUCTION

1. The relevant dates for the Mutual Evaluation Report and subsequent follow-up reports of the Republic of Sierra Leone are as follows:

- Date of adoption of Mutual Evaluation Report: June 2007
- Date of first follow-up report: May 2008
- Date of second follow-up report: May 2009
- Date of third follow-up report: May 2010
- Date of fourth follow-up report: November 2010
- Date of fifth follow-up report: November 2011
- Date of sixth follow-up report: May 2012
- Date of seventh follow-up report: November 2012
- Date of eighth follow-up report: May 2013.
- Date of ninth follow-up report: November 2013

2. The tenth follow-up report of Sierra Leone was submitted to the Secretariat on 27 February 2014, for presentation at the May 2014 Plenary. This paper contains descriptions and analysis of actions taken by Sierra Leone between November 2013 and February 2014, as indicated in the tenth follow up report submitted by the country.

II. SUMMARY OF PROGRESS MADE BY SIERRA LEONE

3. The Mutual Evaluation Report (MER) of Sierra Leone was adopted in June 2007. Sierra Leone was rated partially compliant (PC) on 9 Recommendations and non-compliant (NC) on 36 Recommendations. As a result of the deficiencies identified in the country's AML/CFT regime, the Plenary in line with GIABA ME process and procedure¹ placed Sierra Leone on the expedited regular follow-up process which required the country to submit yearly follow up reports on actions taken by the country to remedy identified shortcomings in its AML/CFT regime.

Core² Recommendations rated NC or PC
R.1 (PC), R.5 (NC), R. 10 (PC), R.13 (NC), SR IV(NC)
Key³ Recommendations rated NC or PC
R. 3 (PC) , R. 26 (NC), R. 35 (PC), R. 36 (NC), R. 40(NC), SR I (NC), SR III (NC), SR V (NC)
Other Recommendations rated PC
R.2, R.9, R.20, R.25, R.33, R.37
Other Recommendations Rated NC
R.6, R.7, R.8, R.11, R.12, R.14, R.15, R.16, R.17, R.18, R.19, R.21, R.22, R.24, R.27, R. 28, R.30, R. 31, R.32, R.34, R.36,R.39, SR VI, SR VII, SR VIII, SR IX.

4. In May 2010, after the submission of its third follow up report, Sierra Leone was placed on the enhanced follow up process. At that time, the Plenary concluded that the country had

¹ Paragraph 47 of GIABA Mutual Evaluation Process and Procedures.

² The core Recommendations as defined in the FATF procedures are R.1, SR II, R.5, R.10, R.13 and SR IV.

³ The key Recommendations are R.3, R.4, R.23, R.26, R.35, R.36, R.40, SR I, SR III and SR V.

not taken satisfactory steps to remedy the deficiencies identified in its AML/CFT system. A member State placed on the enhanced follow up process is required to submit a follow up report at every GIABA Plenary.

5. At the time Sierra Leone submitted its fifth follow-up report in November 2011, the Plenary observed that the country was yet to take concrete steps to deal with the identified deficiencies in its AML/CFT system. The Plenary directed the Secretariat to publish a public statement on Sierra Leone's non-compliance with the FATF Recommendations on the GIABA website. In its sixth follow up report the country indicated that it had enacted the AML/CFT Act, 2012. Thus, the Plenary elected to remove the Public Statement issued on Sierra Leone while retaining the country on the enhanced follow-up process.

6. The seventh follow up report revealed only limited progress with regard to implementing the AML/CFT Act. Thus, the Plenary directed the Secretariat to (i) write a letter to the highest political authority in Sierra Leone to draw their attention to the need for the country to urgently address the deficiencies in its AML/CFT system; and (ii) undertake a High-level mission to Sierra Leone to engage the political authorities.

7. At the time Sierra Leone submitted its eighth follow up report in May 2013, the Plenary noted the persistence of certain key deficiencies in the country's AML/CFT system. Consequently, the Plenary directed Sierra Leone to urgently engage the GIABA Secretariat for guidance and assistance to undertake the development of (i) mechanisms to implement UNSCRs 1267 and 1373 and their successor resolutions (ii) an effective supervisory framework for relevant reporting entities and (iii) adequate resourcing of the FIU to facilitate its effective functioning. The outcome of the country's engagement with the Secretariat was reported to the Plenary in November, 2013.

8. The ninth follow up report of Sierra Leone was also considered in November, 2013. The Plenary observed that Sierra Leone had made progress in certain respects and encouraged the country to increase the pace of implementation particularly as regards ensuring that the FIU is fully operational; enacting regulations related to UNSCR 1267 and 1373; implementing Sierra Leone's AML/CFT Strategic Action Plan; ensuring that the country ratifies the Palermo Convention and ensuring effective functioning of the Inter-Ministerial Committee (IMC) as well as coordination among competent authorities.

III. SUMMARY OF THE FINDINGS OF THE TENTH FOLLOW-UP REPORT

9. The tenth follow up report of Sierra Leone describes actions taken by the country since the submission of its ninth follow-up report to the November, 2013 Plenary. The following key actions were taken by Sierra Leone:

- Measures to improve the resourcing and functioning of the Financial Intelligence Unit.
- National sensitisation campaign on Anti-Money Laundering and Combating the Financing of Terrorism was intensified.
- The FIU conducted preliminary discussions with key Designated Non-Financial Business and Professions (DNFBPs).
- Finalisation of draft Consolidated Bank Examination Manual.
- Completion of installation of the AML/CFT Analytical software component of the financial crime and compliance management system.

- Strengthening of Sierra Leone's national Anti-Corruption campaign resulting in the recovery of assets.
- Endorsement of the National Counter Terrorism Strategy by the National Security Council.
- Development of a migration policy by Immigration Services within the framework of the ECOWAS Protocol to provide a framework which will confer powers of arrest, detention, investigation and prosecution on immigration officers.

IV. ANALYSIS OF COMPLIANCE WITH THE CORE RECOMMENDATIONS

Recommendation 1 (PC)

10. On Recommendation 1, the tenth follow up report of Sierra Leone indicates that the country is yet to secure a money laundering conviction. It therefore remains difficult to establish the effectiveness of the law criminalising money laundering, a criterion under Recommendation 2. Sierra Leone reported in the ninth follow up report that the TOCU held discussions with the office of the Attorney General and Director of Public Prosecution and urged prosecutors to consider money laundering charges in appropriate cases. Sierra Leone has noted in the tenth follow up report that prosecutors are currently considering whether money laundering charges could be brought in any of the cases for prosecution. The status of implementation of Recommendation 1 thus, remains unchanged.

11. ***Issues for Plenary:*** The Sierra Leone should be directed to improve the capacity of its prosecutors and judiciary to facilitate convictions of ML/TF cases as the lack of ML convictions will, undoubtedly, be a key issue of effectiveness in the next round of mutual evaluations of all member States.

Special Recommendation II (NC)

12. With regard to SR.II, the offence of terrorist financing under section 16(1) of the AML/CFT Act does not cover funds or support given to an individual terrorist or organization where the funds are in no way linked to a terrorist act, in line with the Interpretative Notes to SR.II. The ninth follow-up report indicated that the FIU's Head of Legal Affairs will engage with the Attorney-General's office and Foreign Affairs department in order to address this shortcoming. Sierra Leone did not report any progress on SR.II.

Recommendations 5 (NC)

13. In July 2013, the FIU, in consultation with the Bank of Sierra Leone, issued the Revised Guidelines on prevention of money laundering and terrorist financing for financial institutions. However, it is not clear whether implementation of the Revised Guidelines for Financial Institutions has commenced. Specifically, there may be a need to conduct sensitization programmes in respect of the new guidelines for financial institutions. Also, it must be noted, that any effective implementation of Recommendation 5 with regards to foreign exchange dealers will require their registration in order to facilitate monitoring of the sector. Sierra Leone has noted in the tenth follow up report that the country commenced consultations aimed at bringing foreign exchange dealers under some form of registration and monitoring.

Recommendations 10 (PC)

14. The two deficiencies noted in relation to Recommendation 10, are that customer identification records were quite basic and there was an ineffective implementation of record keeping requirements by foreign exchange dealers. The Central Bank of Sierra Leone has continued to verify record keeping requirements during on-site examinations. Specifically, in the period under review, the six (6) on-site examinations of financial institutions conducted by the Central Bank indicated that compliance with recording keeping obligations has improved, especially in respect of Commercial Banks.

V. DETAILED ANALYSIS OF COMPLIANCE WITH THE KEY RECOMMENDATIONS

Recommendation 3 (PC)

15. With regard to Recommendation 3, Sierra Leone has established the necessary legal framework for an effective confiscation regime. The country reported that the Anti-Corruption Commission investigated a total of 253 cases during the period under review. Prosecutions were initiated in Forty-four (44) of these cases. Five (5) cases were concluded, two of which (2) resulted in convictions. The total assets recovered from corruption and allied offences amounted to US \$ 203,707.13.

Recommendation 23 (LC)

16. As regards Recommendation 23 which pertains to implementing effective supervision within the relevant sectors, the tenth follow up report states that the Consolidated Bank Examination Manual will be employed by the third quarter of 2014, following a training of the Banking Supervision Department staff members. The Secretariat reviewed the draft Consolidated Bank Examination Manual and provided its initial comments to Sierra Leone. Specifically, the Secretariat noted that there was a need to: (i) maintain a common structure and approach throughout document (ii) review the document for consistency and clarity including ensuring appropriate definition of terms; and (iii) liaise with the Central Bank of Sierra Leone to finalize the document and re-present it to the Secretariat for further review. As regards other sectors, the FIU has commenced discussions with the insurance sector on the implementation of AML/CFT obligations within that sector. Sierra Leone also reports that the FIU intends to build the capacity of the Institute of Chartered Accountants of Sierra Leone (ICASL) and the General Legal Council to supervise and examine these sectors.

Recommendation 26 (NC)

17. Sierra Leone reports that the approved budget for funding the operations of the FIU will allow the Unit to recruit ten more staff members. The country indicated in the ninth follow up report that newly recruited staff will require training. Sierra Leone has not indicated whether any training has been given to staff members recruited in October 2013. The country should provide the Secretariat with details of its full staff complement to enable the Secretariat determine the adequacy of resourcing for its operations and the nature of training for the staff.

18. During the period under review, the FIU received a total of 41,016 currency transactions reports from all the thirteen (13) commercial banks and six (6) suspicious transactions reports (STRs) from four (4) reporting entities. The number of STRs filed appears to be low compared to the size of Sierra Leone's banking sector. Two (2) international requests were also received and processed. The tenth follow-up report notes that the FIU is now resourced to function as an autonomous unit and is working towards admission into the Egmont

Group in order to facilitate and enhance international relations with other FIUs. Sierra Leone also reports that the hardware and software components of the Financial Crime and Compliance Management System (AML/CFT Analytical Software) procured by GIABA has been fully deployed and is currently being utilized for data storage and analysis of financial disclosures from reporting entities. The FIU has drawn up a proposal with cost estimates on ways to maximize the benefits of using the system. In addition, the Sierra Leone FIU has commenced a nation-wide sensitisation programme on implementation of AML/CFT measures in the country. A national AML/CFT stakeholder Forum was held in Freetown on 20 February, 2014 with the support of the World Bank and GIABA.

Recommendation 35 (NC)

19. Sierra Leone has reported some progress with respect to Recommendation 35. Specifically, the FIU initiated the process for the ratification of the Palermo Convention. A Cabinet paper was prepared with the concurrence of the Attorney General and Minister of Justice. Sierra Leone has stated that, should the paper be approved by Cabinet, the Minister of Finance and Economic Development will seek its ratification in Parliament. The country has not indicated any specific time frame in this regard.

Recommendation 36 (NC)

20. On Recommendation 36, Sierra Leone notes that no Mutual Legal Assistance request was made or received.

Recommendation 40 (NC)

21. On Recommendation 40, the tenth follow up report states that the Sierra Leone FIU has signed two Memoranda of understanding with the FIUs of Togo and Cote d'Ivoire. Also, as noted above, the FIU received and processed two (2) international requests.

Special Recommendation I and III (NC)

22. The deficiencies identified in the MER in respect of SRI and III relate to the lack of mechanisms and procedures to implement UNSCRs 1267 and 1373. As indicated in the ninth follow up report, Regulations for the implementation of UNSCR 1267 and 1373 have been placed before Parliament for endorsement. The tenth follow up report states that the Regulations are still before the Parliament. Thus, no progress has been made in respect of SRI and III and the timeframe within which Parliament will endorse the Regulation is not indicated.

VI. REVIEW OF PROGRESS MADE WITH REGARDS TO OTHER RECOMMENDATIONS

Recommendation 6

23. The tenth follow up report notes that the Compliance and Prevention Division of the FIU has commenced on-site AML/CFT examinations of commercial banks. Two (2) commercial banks have been examined and obligations to put in place enhanced measures for PEPs were assessed. Sierra Leone did not give details of the banks' level of compliance with Recommendation 6. However, given the fact that the FIU is just developing, it may be more

appropriate for the FIU to coordinate its on-site examination of banks with the Central Bank of Sierra Leone.

Recommendation 16

24. The FIU has begun discussions with the supervising authority for the legal profession, the General Legal Council. A meeting was held on 6th February 2014 between the FIU and the Bar Association of Sierra Leone to explore ways of cooperating in the fight against ML/TF.

Recommendation 17

25. As regards Recommendation 17, Sierra Leone notes that the FIU is in the process of developing a schedule of administrative sanctions for violation of the preventive measures.

Recommendation 24

26. As noted above, the FIU has entered into preliminary discussions with the General Legal Council and Bar Association with the view to ensuring that legal professionals are subject to effective supervision for compliance with AML/CFT requirements.

Recommendations 27 and 28

27. On Recommendation 28, the MER noted that there was no evidence to demonstrate the effective implementation and use of investigative powers of the AML Act. The ninth follow up report maintained that the Sierra Leone Police (SLP), the lead national investigative law enforcement agency, has the capacity and expertise to handle all types of criminal investigations and that two money laundering investigations were being conducted. It would appear that charges brought after the investigations of these two cases were in relation to the predicate offences. The tenth follow up report states that six (6) cases with money laundering implications are being investigated by TOCU. Sierra Leone is yet to demonstrate conclusively that there is effective implementation and application of the investigative powers granted under the AML/CFT Act 2012. Successful prosecutions of these money laundering cases will firmly demonstrate that effective implementation of Recommendations 27 and 28 is underway.

Recommendation 31

28. As regards Recommendation 31, the follow-up report noted that a new National AML/CFT Strategy Framework will be drawn up and implemented after the National Risk Assessment is conducted. Sierra Leone ought to continue implementing its current Strategic Action Plan pending the time in which the country will draw up a new strategy based on the Revised Recommendations. The tenth follow up report also noted that the key agencies are now working with the Office of National Security to implement the country's counter terrorism strategy. The FIU is in liaison with the Transnational Organised Crime Unit Board, which comprises key stakeholders, to foster the exchange of information in the fight against organised crime including terrorist financing. The FIU has also drafted an MOU which it intends to enter with the Anti-Corruption Commission to prompt cooperation between the two entities. Sierra Leone has not reported on the activities of the Inter-Ministerial Committee.

Special Recommendation IX

29. With regard to SR IX, Sierra Leone Immigration Services are in the process of developing a policy which will amongst other things, provide a framework for enhancing the powers of the immigration services including granting the Immigration Services complementary powers of arrest, detention, investigation and prosecution in line with the requirements of SR IX.

30. Sierra Leone did not report any progress on R 24, 31, 32, 34, 37, 38 and SRVI respectively.

CONCLUSION

31. Sierra Leone is taking steps that are aimed at strengthening the country's AML/CFT regime. The country has continued to enhance the capacity of its FIU and has initiated the process to ratify the Palermo Convention. In addition, Sierra Leone has developed a consolidated examination manual and the FIU has commenced on-site examinations. The country has continued to adopt measures to strengthen international cooperation as well as cooperation among key AML/CFT stakeholders domestically. Sierra Leone adopted a counter-terrorism strategy which when implemented will have a definite impact on the country's AML/CFT regime. Nevertheless, the steps taken by Sierra Leone are yet to significantly impact on compliance with SRI, SRIII and R36 which are key FATF Recommendations. Sierra Leone should put in place mechanisms for implementing UNSCRs 1267 and 1373 and ensure the ratification of the Palermo Convention without delay. In addition, Sierra Leone ought to ensure that all reporting entities including designated non-financial businesses and professions (DNFBPs) and non-bank financial institutions comply with AML/CFT obligations and are monitored for this purpose. In view of the deficiencies remaining in the country's AML/CFT regime, the Secretariat recommends that Sierra Leone should be retained on the enhanced follow up process and the country should provide the Secretariat with its eleventh follow up report in November 2014.

**GIABA Secretariat
March 2014**