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**An Empirical Investigation of Transfer Pricing Regulations for Nigeria with  
a Particular Emphasis on the Petroleum Sector**

**Kalli Zannah**

**A Thesis submitted in partial fulfilment of the requirements of Robert  
Gordon University for the Degree of Doctor of Philosophy**

**Aberdeen Business School  
The Robert Gordon University  
Aberdeen, United Kingdom**

**June 2015**

## **Dedication**

This work is dedicated to my beloved parents:

Late Alhaji Zannah Arjinoma Saleh and Hajja Arkoya Zannah Arjinoma

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## **List of Abbreviations**

ABS	Aberdeen Business School
APMAP	Advance Pricing and Mutual Agreement Procedures
AF	Accounting Firms
APA	Advance Pricing Agreement
ATAF	African Tax Authority Forum
C+	Cost plus Method
CBN	Central Bank of Nigeria
CITA	Company Income Tax Act
CPM	Comparable Profit Method
CSO	Civil Society Organizations
CUP	Comparable Uncontrolled Price
CUP	Comparable Uncontrolled Price
CUT	Comparable Uncontrolled Transaction
DTA	Double Tax Agreement
E&P	Exploration and Production
EU	European Union
FIRS	Federal Inland Revenue Services
GAAP	Generally Accepted Accounting Principles
GAAR	General Anti Avoidance Rules
HIL	Higher Institute of learning
HMRC	Her Majesty's Revenue and Customs
IMF	International Monetary Fund
IOC	International Oil Company
IRS	Inland Revenue Service
JV	Joint Venture
MAP	Mutual Agreement Procedure
MEMAP	Manual on Effective Mutual Agreement Procedures
MNC	Multinational Companies
MOC	Multinational Oil Companies

MOF	Ministry of Finance
NEITI	Nigeria Extractive Industry Transparency Initiative
NIE	New Institutional Economics
NIS	New Institutional Sociology
NNPC	Nigerian National Oil Corporation
OAG	Office of the Auditor General
OECD	Organisation for Economic Cooperation and Development
OIE	Old Institutional Economics
OPEC	Organisation of the Petroleum Exporting Countries
PPT	Petroleum Profit Tax
PPTA	Petroleum Profit Tax Act
PS	Profit Split
PSC	Production Sharing Contract
PwC	PricewaterhouseCoopers
RGU	Robert Gordon University
RP	Resale Pricing
SPSS	Statistical Package for the Social Sciences
TJN	Tax Justice Network
TNMM	Transaction Net Margin Method
UK	United Kingdom
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
US	United States

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## Abstract

This research critically investigates the adoption and implementation of transfer pricing regulations in Nigeria with a particular emphasis on the petroleum sector. It opportunely chose Nigeria as a case study of transfer pricing issues in developing countries as Nigeria was devising and implementing its own transfer pricing regulation. In early 2012, Nigeria issued draft transfer pricing regulations for consultation with a view to publishing them at the end of the same year. In order to gauge the reaction of the stakeholders in Nigeria to the adoption and implementation of transfer pricing regulations and other related issues, a questionnaire was designed and administered to 140 respondents from eight different stakeholders groups including Nigerian tax authority, multinational companies in the petroleum sector and other organisations involved in tax matters. The questionnaire elicited their views on the (i) form of adoption of transfer pricing regulations; (ii) motive behind the adoption of the regulations; (iii) administrative resource capacity of the Nigerian tax authority; (iv) barriers that might hinder successful implementation of the regulations; and (v) needs for guidance and support. Institutional theory and resource-based view were employed as a theoretical lens through which to guide the study and to provide a platform against which to analyse the responses to the questionnaire and the interviews. The analysis of the responses to the questionnaire was thus undertaken subsequent to the adoption of the transfer pricing system which enabled informed reflection and critical analysis to be carried out on the results of the analysis. In addition, interviews with 16 experts were conducted subsequent to the issue and preliminary analysis of the responses to the questionnaire in order to gauge their reaction to the views being expressed by the respondents. This enabled a reflective analysis to be undertaken when assessing the information content emerging from the responses. The findings of the study indicate that the OECD transfer pricing framework, which is the transfer pricing system of choice amongst the developed countries, is not the most preferred framework for the regulation of transfer pricing in Nigeria. It also reveals that whilst the Nigerian tax authority has the administrative capacity to develop a transfer pricing team and other necessary platforms for the adoption and implementation of transfer pricing regulations, the lack of sufficient transfer pricing experts, political will and inadequate comparable information are the major potential barriers that might hinder the successful implementation of transfer pricing regulations in Nigeria. These findings should enable policy makers and other stakeholders in Nigeria to review their transfer pricing policies and find a way to overcome the identified potential barriers. This thesis is the first of its kind to empirically investigate the transfer pricing regulations in Nigeria with a particular emphasis on the petroleum sector. It also further establishes the use of institutional theory and resource-based view framework in transfer pricing studies and especially, by extending its application to the adoption and implementation of transfer pricing regulations with a particular emphasis on the petroleum sector.

**Keywords:** Transfer Pricing Regulations, Tax Authority, Petroleum Sector, Institutional Theory, Nigerian Tax Administration, Adoption and Implementation

# CHAPTER ONE

## Introduction

### 1.1 Preamble

Transfer pricing practices are a major issue of concern to both tax authorities and multinational companies (MNCs) across the world (KPMG 2012; Ernst and Young 2013 and Lowell 2001). Indeed, these practices continue to be the main source of controversy between national tax authorities and MNCs (Ernst and Young 2013). Controversy may also arise between the host's and home countries' tax authorities because cross-border transactions involve multiple jurisdictions<sup>1</sup> (Ernst and Young 2013; Eden 1998). Moreover, it has been estimated that about 60% of the transactions in the world take place between related entities of MNCs located in different jurisdictions (Nyren 2011; Choe and Hyde 2007; UNCTAD 2004). The central issue arising from such transactions is how to determine the "prices" at which these transactions are carried out within the subsidiaries of a corporate enterprise (Borkowski 2010). Literature suggests that determination of these prices has direct effects on the tax revenues of both the host and home countries and at the same time also affects the corporate (after tax) profits of MNCs (UNCTAD 1999, Borkowski 2010).

According to Eden (1998), there are three major reasons why transfer pricing practices have become the most important issue in the area of international taxation. First, various companies spread their operations to different countries to utilise the opportunities created by the global markets while corporate income tax remains nationally based. Second, governments of various countries hold the view that globalisation creates more opportunities for MNCs to engage in transfer mispricing and reduce their tax liabilities than in the past, and therefore, need strict regulation. Third, the increased desire of tax authorities, coupled with tight environment to safeguard and improve their tax base also encourages tighter regulation of MNCs (Ernst and Young 2013; Sikka 2010; Eden 2001). The operations of MNCs in Nigeria, particularly in the petroleum sector are growing and the tax authority has the desire to protect the tax base of the country.

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<sup>1</sup> Double taxation arises where the tax authorities of both jurisdictions claim to regulate (or adjust) the price at which the same transaction was conducted.



Moreover, Nigeria was in the process of adopting and implementing transfer pricing regulations and had issued a draft for consultation.

Nigeria has the largest oil reserves (37.2 billion barrels) in Africa and is also the 6<sup>th</sup> largest oil exporter in the world, therefore, playing a vital role in the global economy (EIA 2012). Despite the global recession, Nigeria's economy responded with averaged annual economy growth of 7.6% between 2003 and 2010. Furthermore, various investors increasingly see Nigeria as a destination for opportunity and growth (World Bank 2014). Presently, there are various related entities in the form of branches, subsidiaries, affiliates or divisions of MNCs that are operating in Nigeria, particularly in the petroleum sector. These affiliates of the MNCs dominate over 90% of exploration and production (E&P) activities within Nigeria's petroleum sector (NNPC 2012). Almost all MNCs have an arrangement with their related entities to charge for intra-firm transactions such as services, royalties, technical and management fees. In this study, the attention is on the petroleum sector because the main focus of transfer pricing regulations is on foreign (cross-border) transactions of related entities and the greater part of Nigeria's foreign earnings comes from the sector. For example, in 2008 the petroleum sector contributed about 83% of government revenue and over 95% of foreign (earnings) direct investment (Ihua et al. 2009; CBN, 2008).

It has been acknowledged that the lack of transfer pricing regulations may provide opportunities for MNCs to engage in transfer mispricing that may affect the tax revenue of the countries involved. The Nigerian tax authority, the Federal Inland Revenue Service (FIRS) was aware of transfer pricing issues and considers transfer pricing as a major issue of concern but had only a general anti-avoidance rule (GAAR). GAAR has been in existence for several years. Particularly, Section 13 (2) (d) of the Companies Income Tax Act 2004 (as amended) 2007 empowers Nigeria's tax authority, the FIRS to adjust any transactions between related entities that they presume to be fictitious or artificial and may reduce the taxable income in Nigeria (Onyeukwu 2007). It has been argued that such a provision is restrictive and insufficient to control MNCs and their affiliates in Nigeria (Adoga 2009). Generally, GAAR has been considered as unsuitable to regulate the current global trend of transfer pricing practices. Arguably, there was no specific transfer pricing regulation in Nigeria to address the transfer pricing issues.

The most common approach adopted by many countries to address the transfer pricing issues is to establish sophisticated transfer pricing regulations (KPMG 2012; Borkowski 2010; Eden 2001). These regulations are mainly established based on the concept of the arm's length principle<sup>2</sup> (OECD 1995). This principle is regarded as an international norm for transfer pricing regulations which can be applied through explicit domestic laws that govern transfer pricing for tax purposes (Eden 1998). Currently, over 60 countries<sup>3</sup> around the world have adopted transfer pricing regulations (KPMG 2012, Borkowski 2010). Most of these countries are developed, such as the UK, US and Canada. Despite the claims that many developing countries are losing millions of dollars due to transfer mispricing not many African countries have established specific transfer pricing regulations to curtail such practice (Ashley, 2011). For instance, out of the 54 African countries only Ghana, South Africa, Kenya and Tanzania have adopted specific transfer pricing regulations (Ashley, 2011). However, some African countries are about to adopt transfer pricing regulations in their various jurisdictions (Ashely 2011; Ernst and Young 2011).

In recent years, the United Nations (UN), the Organisation for Economic Cooperation and Development (OECD) and the European Union (EU) as well as governments of various African countries have paid more attention to the establishment of transfer pricing regulations in African countries (PwC 2011b). In this regard, Nigeria's tax authority, the FIRS, embarked on drafting transfer pricing regulations based on the OECD guidelines in 2011 (Tribune 2011). However, there has been mounting debate about the most appropriate transfer pricing regulations for developing nations (PwC 2011b). It has been argued that transfer pricing regulations established by developed countries based on their own interest, priority and circumstances may not be suitable for developing nations like Nigeria (TJN 2011). In view of the above, this study examines the appropriateness of the proposed transfer pricing regulations for Nigeria. Moreover,

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<sup>2</sup> The arm's length principle requires that all transactions between related parties of an MNC must be priced as if they are dealing with unrelated parties

<sup>3</sup> Countries that have adopted transfer pricing regulations include: Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Croatia, Czech Republic, Denmark, Ecuador, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, India, Indonesia, Israel, Italy, Japan, Kazakhstan, Kenya, Latvia, Lithuania, Malaysia, Mexico, Montenegro, Netherlands, New Zealand, Norway, Peru, Philippines, Poland, Portugal, Romania, Russia, Serbia, Singapore, Slovenia, South Africa, South Korea, Spain, Sri Lanka, Sweden, Taiwan, Thailand, Turkey, UK, Ukraine, Uruguay, USA, Venezuela and Vietnam

the UN (2011) stressed that it is very important to examine the guidelines or regulations from the standpoint of how they may practically work in developing countries like Nigeria, by taking into consideration the expertise, information, analytical and skills gaps that may exist between the tax authorities and the MNCs. The UN also released a draft of a transfer pricing manual for developing countries, though it is based on the OECD guidelines, the UN transfer pricing manual considered the interests of developing countries (UN 2012).

Over the past three decades various studies have been conducted and published on the topic of transfer pricing (for example, see Sikka and Wilmot 2010; Borkowski 2010; Feinberg and Keane 2009; Carpenter and Feroz 2001; Martinson, et al. 1999; Eden 1998; Oyelere and Emmanuel 1998; Cravens 1997; Borkowski 1997; 1996; 1992; and Rugman and Eden 1985). Generally, most studies relating to transfer pricing were conducted in developed countries and the very few that have been conducted in developing countries were mainly focused on emerging countries and hence, empirical research on transfer pricing in African countries is limited. It has also been noted that the price circumstances of each country varies; hence, each country implements different transfer pricing regulations that suit its needs, circumstances and priorities (PwC 2011a; Raimondos-Moller and Scarf, 2002). This study therefore, has been designed to fill this gap in the literature.

## **1.2 Aim and objectives of the study**

The aim of this study is to review the adoption and implementation of transfer pricing regulations in Nigeria with a particular emphasis on the petroleum sector, and to analyse whether Nigeria has an informed resource pool to ensure successful implementation of the regulations that minimise the abuse of transfer pricing in the petroleum sector. To achieve this aim, the following objectives have been set out:

- To identify and analyse the form of adoption of transfer pricing regulations in Nigeria
- To identify and analyse the motive for the adoption of transfer pricing regulations in Nigeria.
- To identify and analyse the tax administration's resources capacity to implement transfer pricing regulations in Nigeria particularly in the petroleum sector

- To identify and analyse the barriers that may hinder the implementation of transfer pricing regulations in Nigeria particularly in the petroleum sector
- To identify and analyse the guidance and support needs of the tax authority with respect to adoption and implementation of transfer pricing regulations in Nigeria.

### **1.3 Research questions**

What are the factors that enable successful adoption and implementation of transfer pricing regulations in Nigeria, particularly in the petroleum sector?

- What form of adoption of transfer pricing regulations should Nigeria consider
- What motivates the adoption of transfer pricing regulations in Nigeria particularly in the petroleum sector?
- Does Nigeria's tax administration have the capacity to develop and implement transfer pricing regulations in the country especially in the petroleum sector?
- What are the potential barriers that might hinder the implementation of transfer pricing regulations in Nigeria, particularly in the petroleum sector?
- Does Nigeria's tax administration need guidance and support in its adoption and implementation of transfer pricing regulations in the country?

### **1.4 Theoretical framework**

This research employed institutional theory and resource-based view as a theoretical lens to guide the study. Scott (2005) states that the concept of institutional theory considers the procedures by which elements of structure such as rules, norms, routines and schemas are instituted to become authoritative guidelines for social behaviour. Scott (2005) added that it is also used to investigate how these elements are established, adopted, diffused and adapted over a period of time; and how they fall into decline and neglect. According to North (1990), institutions form the rules of the game in a society. Institutions are "humanly devised constraints that shape human interaction" (p. 3). An institution is described as a system of norms, beliefs, rules and organisation that collectively make a social regularity of behaviour. A regularity of social behaviour is attained, when the institutions provide motivations that make digression from the set behaviour less attractive (Sammeck 2012). Eden et al. (2001) state that institutionalism, in such a design, requires some basic institutional principles to guide these rational

actors to operate effectively. In economics for instance, these actors could be organisations or individuals, operating in market-like environments. In the context of this study, therefore, transfer pricing regulations should provide guidance or control the transfer pricing practice of MNCs (actors) that operate in the Nigerian petroleum sector and the country at large.

In the field of accounting the three major strands of institutional theory are: old institutional economics (OIE), new institutional economics (NIE) and new institutional sociological (NIS) (Hoque 1996). Although, there are various lines of thought with respect to institutional theory the common term is that society is made of interested purposive and often rational actors (Meyer 2010; 2000). Furthermore, the unifying term among the strands of institutional theory is that ‘institution matters’ but they diverge in defining the term institution (Hoque 1996). Scott 2004 states that the contemporary institutional theory has been widely given attention and used by various scholars across the social sciences to examine micro interpersonal interaction to macro international framework (see for instance, Alshaibi 2008; Carpenter and Feroz 1992, 2001; Brignall and Modell 2000; DiMaggio 1988; Eden et al 2001; 1995; Lin and Sheu 2012). A review of the extant literature in the field of accounting indicates that public sector researchers have apparently paid more attention to institutional theory than others. It has generally been employed as a theoretical framework to understand public sector transformation (Hoque 1996). In view of the above, this theory is suitable to use as a theoretical lens to investigate the adoption and implementation of appropriate transfer pricing regulations for Nigeria with a particular focus on the petroleum sector (see chapter 5).

### **1.5 Research method employed for the study**

In order to achieve the objectives of the study and also to address the research question, a thorough review of the applicable research methods was conducted. Mixed-methods seem to be more suitable and were therefore employed as the approach to conducting this research (see Chapter 5.4). Transfer pricing issues are economically sensitive and research participants such as respondents to a questionnaire may be reluctant to become involved, therefore, the use of both questionnaire and interview methods help in gathering adequate information needed for this study. A questionnaire survey was conducted by designing five (5) point Likert Scale questions and administered to

various stakeholders (experts) in Nigeria (see chapter 5.4.1.6). The questionnaire was followed up with interviews with a selection of stakeholders to gather expert views on the way each stakeholder group had responded. This enables a better reflection to take place on the outcome of the analysis to the questionnaires

## **1.6 Contribution of the study**

The value of this study is its contribution to literature. First, this study is the first to empirically investigate the transfer pricing regulations for Nigeria with a particular focus on the petroleum sector using institutional theory and resource-based view as a framework. Second, extant literature suggests that most studies on transfer pricing were focusing on developed countries. Little attention was paid to the developing countries, particularly African countries like Nigeria. For example, what currently exist are some discussions and reports on transfer pricing issues in Nigeria (PwC 2013; Akhidime 2011; Udoayang et al 2009; Onyeukwu 2007). There have been calls from the literature for studies to empirically evaluate the transfer pricing issues in developing countries and such a study is yet to be conducted in Nigeria. Hence, this study attempts to answer such a call. Third, it attempts to provide empirical evidence about the appropriate transfer pricing regulations for Nigeria particularly for the petroleum sector. It also empirically highlights the barriers that may face the implementation of transfer pricing regulations in the country and hence, it provides constructive review of the issues that were raised in the previous literature. Fourth, the study may have imperative economic consequences for Nigeria's tax authority and the country at large, considering the significance of tax revenue from the petroleum sector.

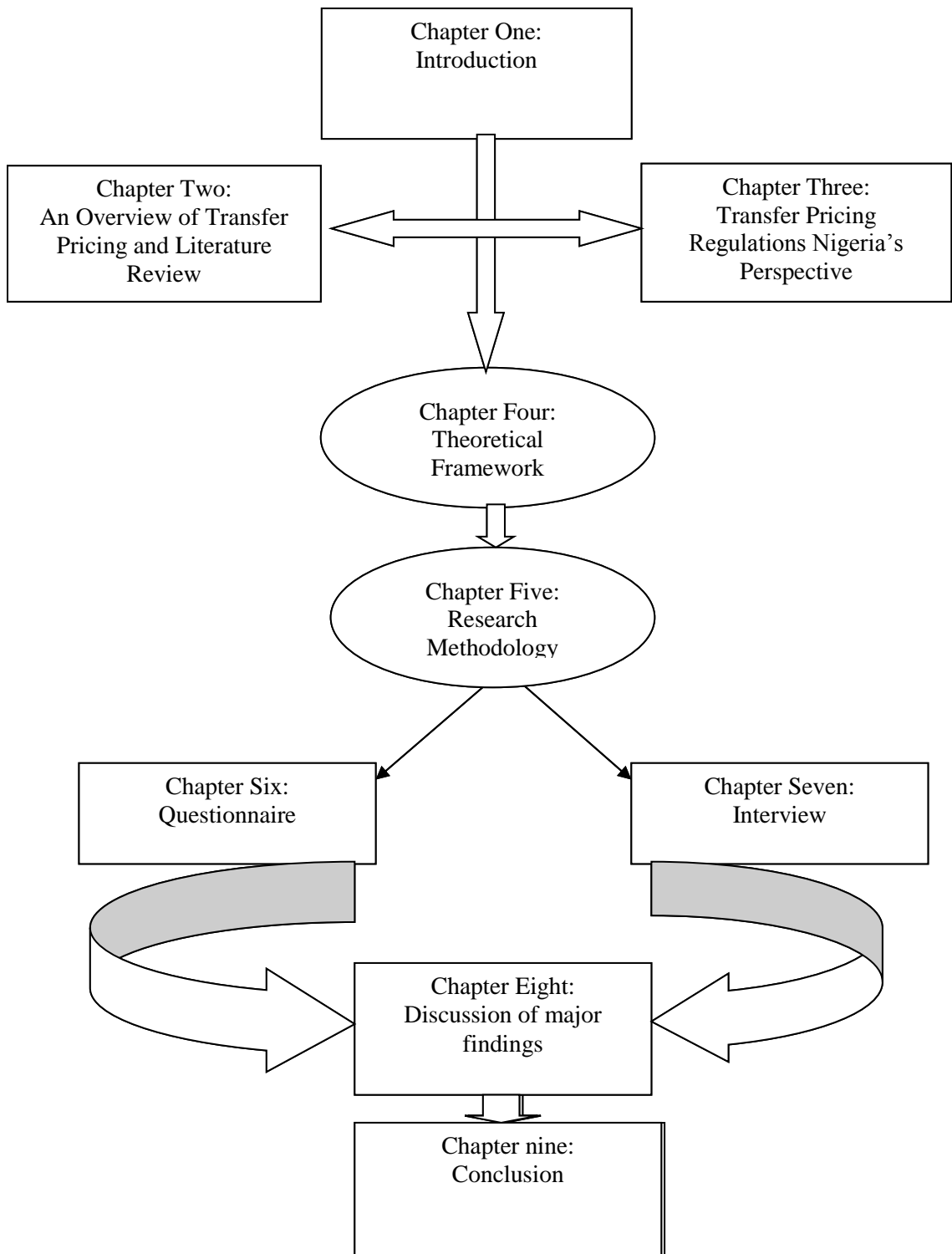
## **1.7 Structure of the Thesis**

As indicated in figure 1.1 below the thesis is divided into eight different chapters. Chapter two gives a general overview of transfer pricing and literature review. This includes a definition of transfer pricing, transfer pricing issues particularly in the oil and gas sector, and transfer pricing regulations as well as challenges facing the implementation transfer pricing regulations. Chapter three presents the background of Nigeria, particularly, the petroleum sector, the importance of the sector, the rationale for the transfer pricing regulations and the latter from a Nigerian perspective. Chapter four provides a theoretical framework used in this study. The discussion in the chapter

concentrates on the rationale for employing the institutional theory as a theoretical lens for assessing the adoption and implementation of transfer pricing regulations in Nigeria, the applicability of the theory to the study and different alternative theories are also discussed.

Chapter five discusses the methodology and methods adopted in this study. These include philosophical assumptions, development of research questions, rationale for the research methods employed, data collection techniques such as questionnaire survey and interview, and method of data analysis. Chapter six presents and analyses the data collected through the questionnaire survey. Chapter seven analyses the data collected through the interviews conducted with (some stakeholders) transfer pricing experts in Nigeria. Chapter eight discusses the major findings of the study. Chapter nine concludes the thesis. The chapter highlights the main findings that have emerged from the research; contributions to knowledge, the limitations of the study and finally makes recommendation for further study.

**Figure 1.1 Structure of the Thesis**



Source: Author generated



## CHAPTER TWO

### An overview of transfer pricing and literature review

#### 2.1 Introduction

This chapter reviews the literature on the transfer pricing practices of multinational companies including those in the petroleum sector and transfer pricing regulations. The chapter starts with the definition of transfer pricing. It discusses the transfer pricing practices of MNCs especially those in the petroleum sector and consequences of such practice. In addition, the chapter discusses the government reaction to the transfer pricing practice, transfer pricing regulations and the barriers that may face the implementation of transfer pricing regulations as well as the approaches to overcome the challenges.

#### 2.2 Transfer pricing defined

There are various definitions of the term “transfer pricing”, however, the most commonly used in the literature are as follows:

Transfer pricing is defined as a strategy for pricing tangible and intangible goods or services transferred between parent and subsidiaries or between affiliates to minimise tax, maximise profits, evaluate managerial performance and or maintain goal congruence (Borkowski 1997). Similarly, Siciliano (2002) defined transfer price as the internal price charged by business enterprises when selling goods and services to another sub-entity or company within the same enterprise. Furthermore, Eden (1998, P.4) states that:

*“price of any non-arm’s length transaction involving transfers of goods, intangibles or services between wholly or partly owned affiliates (parent, branch or subsidiary) of a multinational enterprise is called a transfer price”.*

Choe and Hyde (2004) state that, transfer prices used by firms operating within a (country) single tax jurisdiction mainly serve the purpose of tracking internal transactions and allocating costs to different goods or services, partly based on which incentives are provided to divisional managers. Hence, in this situation there is no tax consideration. On the other hand, where the transfer of goods or services between

affiliates of a company involves multiple jurisdictions (two or more countries), it takes added dimensions; there may be tax differentials to be considered by the companies when determining a price for each good or service exchanged between their subsidiaries (Deloitte, 2012; Carter, et al., 1998). If this price is artificially increased or lowered by the companies, it may lead to shifting taxable income from one jurisdiction to another. MNCs tend to use non-arm's length valuation in cross-border transactions to allocate taxable profits to other jurisdictions, most often to minimise tax (OECD 2011a).

The transfer pricing strategy assigns price to transaction between the parent MNC and its affiliates while adhering to the complex transfer pricing regulations administered by each country's tax authority (Borkowski 2010). Once transaction take place between related entities<sup>4</sup> within an enterprise, as far as the tax authorities are concerned a buyer - seller relationship has been established and the price has to be based on the arm's length principle (Borkowski 1997). Transactions within related entities are not exposed to market forces; they are unlike the transactions between independent entities (OECD 2010). These transactions may be between two or more entities of the same group within a country or involving two countries (Borkowski, 1997). The enterprises that operate within a nation (single jurisdiction) are known as national companies (NCs) while those that operate in at least two or more nations (multiple jurisdictions) are known as multinational companies (MNCs).

### **2.3 Transfer pricing practices of multinational companies**

Once an enterprise invests in a foreign country in the form of foreign direct investment by establishing a subsidiary, affiliate or division across the border, its operation takes a new phase. Having embarked on such foreign direct investment the enterprise has become a multinational company (Schon and Konrad 2012). Most often, scholars interchangeably use the terms Multinational Companies (MNC) and Multinational Enterprises (MNE). MNC is defined as an enterprise that manages and controls establishments located in two or more countries (Caves 1996). Similarly, Eden (1998) defined the MNE as: *“two or more firms, located in different countries, but under common control, with a common pool of resources and common goals”*.

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<sup>4</sup> Related entity could be a division, affiliate, subsidiary, branch or other organisational entity located in the host country or countries, each with its own tax administration and its own transfer pricing rules (Borkowski 2008).

The affiliates of a MNC located in the home and host countries will be linked by the exchange of goods and services (Schon and Konrad 2012). The transfer prices for these transactions may deviate from the market prices for reasons of financial policy, marketing or to minimise tax (Vogelaar 2001). The famous characteristic of an MNC is its ability to decide with some discretion the values at which goods and services are transferred between its affiliates are recorded (Hanson, 1975). Transfer pricing practices of MNCs become a major issue because the number of businesses around the world has increased massively from 37,000 MNCs with 175,000 international affiliates in the early nineties to a total of 64,000 MNCs with 870,000 international affiliates in 2003 (Durr and Gox, 2011). According to Baker (2005, p. 30): “*Transfer pricing is virtually used by every multinational corporation to shift profits at will around the globe.*”

The tax authorities of both countries will require the computation of taxable income for taxation purposes (Schon and Konrad 2012). The MNC needs to calculate how much income is generated in each of the countries involved (Eden 1998). Sakakibara and Yamasaki (2008 p. 278) states that “the determinants of subsidiary profits differ across host regions, suggesting that economic and institutional factors specific to host regions influence significantly the profit performance of overseas subsidiaries. Some effects are common across markets”. Moreover, taxation is considered as one of the major factors that influence the decision of MNCs (Abdallah 1989). The scope and the strength of transfer pricing issue vary from one industry to another. Though, other higher risk industries (like the pharmaceutical industry) exist, the chance of manipulation is also high in the industries (like petroleum sector) that deal with sophisticated technology and specialised goods and services where it is difficult to determine their arm’s length price.

### **2.3.1 Transfer pricing practices: petroleum sector perspective**

*Multinational oil and gas companies must think globally and act locally in order to comply with complex tax laws* (Captain 2008, p.1).

Globally the demand for petroleum products has gradually increased over the decade and is expected to grow in the near future, due to the increasing affluence of emerging countries and population growth, at the same time the fear of disruption from the volatile supply bases in parts of Africa and the Middle East has also increased (Bazilian 2013). To meet the increasing demand for oil and gas around the world, players in the

industry are intensifying their activities in a wide range of new frontier countries (Captain 2008). The above scenarios coupled with the high price of oil, have made the oil companies gradually commence drilling in low-income countries. Most of these countries are in Africa (Bazilian et al. 2013). Furthermore, changes in the situation make players in the oil and gas industry to look for non-conventional energy reserves in new jurisdictions. Regulatory and economic uncertainties and risks related to the exploration and production in the upstream highlight the increasing trends in the sector. Furthermore, the increase in emerging markets provides the oil and gas sector both opportunities and challenges, including the emerging regulations and intensifying competition (TPA 2014).

The global petroleum sector is unique for transfer pricing purposes. The market structure in which the sector operates is an oligopoly; this is a market where the highest percentage of the market share is being dominated and controlled by a few MNCs (ITR 2014). The location of oil production is exclusively determined by geology and geography; whether the location is on sea or land, the activities of exploration and production are complex (Nakhle 2004; Oladunjoye et al. 2012). Despite the complexities of the business, the issues of tax in the oil and gas industry are even more challenging to navigate. This is due to the fact that oil and gas MNCs are obliged to extend their supply chains to various jurisdictions and exchange large amount of commodities worth billions of dollars, engineering services, equipment and intellectual properties among their related entities (Oladunjoye et al. 2012).

Since most countries, particularly the developing nations do not have the resources to immediately invest in the development of the oil and gas sector, they attract the MNCs to invest in the sector. Oil and gas exploration plays a major role as a source of exports earnings in most developing countries where oil and gas companies operate (Sunley et al. 2002). Perhaps mining, oil and gas represent the single most important untapped source for financial development in many developing countries, particularly, in Africa. Aid given to sub-Saharan Africa stood at 36 billion dollars per annum as at 2008. In contrast, economic (natural resource) rents reached about 240 billion dollars during the same period (Golfthau 2013). The most vital benefit for a nation from the development of petroleum industry seems to be its fiscal role in generating tax and other revenue for the country (Sunley et al 2002). Therefore, it is very important to design a fiscal regime

that secures maximum revenue to the government and at the same time provides adequate incentive to invest in the petroleum sector (Goldsworthy and Zakharova 2010). For the country as the resource-owner to collect the proper share of the economic rent generated by the MNCs from the exploration of oil and gas, the fiscal regime, must be properly designed (Sunley et al. 2002). An appropriately designed fiscal regime enables governments to reduce the risk of non-compliance, corruption and use of loopholes (Goldthau 2013).

One of these loopholes is considered to be transfer pricing and MNCs tend to take advantage of these loopholes to manipulate the transfer price to shift income, thus, avoiding or evading tax (Sikka 2010). For instance, the sale of a petroleum product from one affiliate to another at a value below the fair market price may lead to minimising the revenue the MNC reports in the jurisdiction and hence reduces the tax or royalty payments it owes the country. Likewise, by exchanging goods or services with a related affiliates at an inflated price, an enterprise can increase its reported costs, thus, increase deductions and reduce tax obligations (Goldthau 2013). The latter scenario tends to be the most commonly used in the petroleum industry. It has been pointed out that the value chain in the petroleum sector is very complex because its activities (operations) involve a substantial amount of entities (TPA 2014). Furthermore, the process in the oil and gas value chain mostly involves exploration, production, refining, marketing and distribution; these usually take place in different countries (Captain 2008).

MNCs in the oil and gas sector exchange high amounts of tangible products (such as gas, oil, tools, chemicals and so on), loans, engineering services and technology on inter-firm basis. Transfer pricing issues arise at each step in the oil and gas supply chain, particularly for the vertically integrated “Super Major” exploration and production firms. In the US over 40% of the cross-border transactions in the oil and gas industry take place between the related entities of an enterprise. For example, out of the oil and gas products and equipment worth \$423 billion imported to the United States in 2011, about 41% representing \$175 billion were transactions between related entities, while in 2002 only 24% of the transactions were between related entities. This signifies the increasing importance of inter-firm transactions in the oil and gas sector (Oladunloye et al. 2012). In most cases, the corporate tax rate for oil and gas companies

tends to be higher than the normal rate for other companies. The way of generating revenue from MNCs in the oil and gas industry is mainly composed of tax and royalty payments. (1) the corporate income tax which is applicable to all firms; (2) a royalty to secure minimum payment and (3) a resources rent tax to capture a larger share of the profits of the most profitable projects (Sunley et al. 2002).

However, some countries provide incentives for extraction and project development by permitting quick recovery of exploration costs and also allowing accelerated recovery of development costs, for instance, over five years (Sunley et al. 2002). Nevertheless, the characteristics of the oil and gas sector indicate the potential level of complexity of establishing a transfer price, and hence, the level of opportunity for mispricing under certain circumstances in order to minimise the overall tax for the MNCs. (Alhassan 2012). Indeed, most MNCs in the oil and gas sector use sophisticated inter-firm and cross-border services in their upstream strategy, which makes the determination of actual market price for services and intangibles complex (Captain 2008).

*“Chase was the oil companies’ preferred bank and it had asked Hudson to study the petroleum industry’s impact on the U.S. balance of payments to provide ammunition that would help the oil companies claim they were “good for America” and help them lobby for special government perks. One of his tasks on this project was to find out where the oil companies made their profits. At the producing end? At the refineries? In the gas stations? David Rockefeller, Chase’s president, arranged for Hudson to meet Jack Bennett, Treasurer of Standard Oil of New Jersey, now part of the ExxonMobil empire. Bennett gave him his answer. “The profits are made right here in my office,” the oilman said. “Wherever I decide” (Shaxson 2012, p.124).*

Their discussion was about transfer pricing; Bennett revealed to Hudson specifically how vertically integrated MNCs shift their profits around the world at will in order to make more profits, apparently without breaking the law (Shaxson 2012). Globally, most oil companies are vertically integrated in such a way that their activities, ranging from upstream, midstream to downstream in this capital-intensive sector require minimisation of costs and optimisation of process (TPA 2014; Alalade 2004; Rugman and Eden 1985).

The upstream sector involves exploration and production of oil and gas products; finding economically viable sources of hydrocarbons and extracting them to the surface. This is one of the main operations performed by the firms that operate in the oil and gas industry (Oladunjoye et al. 2012). The midstream sector involves the gathering, storage, transportation of crude oil and the gathering, storage and transmission of natural gas as the major activities. Crude oil and other related commodities are transported globally through various means; on land by trucks, on the water by tankers or through pipelines. Natural gas is transported through pipelines from the producers to the transmission firms and then to the distributors (Oladunjoye et al. 2012). The downstream sector involves refining and marketing of crude oil, natural gas and refined commodities. This includes, refining crude oil into numerous products such as jet fuel, diesel and gasoline. When the products are refined they are supplied to the wholesale distributors, who sell to retailers and industry users (Oladunjoye et al 2012).

In terms of the structure of the organisation there is a difference between the organisation and management structure of the two sectors; each portrays its operational peculiarities. However, both the upstream and the downstream usually have a single board of directors that would be reported to by the chief operating officers of both sectors. Furthermore, some of the functions such as planning, finance, corporate affairs and legal affairs are managed (controlled) at the corporate level from the headquarters (Alalade 2004). The oil companies and the governments are the major decision makers in the upstream sector of the oil and gas industry. However, their individual interest is that of competing rather than being complementary. Therefore, it is challenging for the government to design a tax system that meets these two divergent interests. Nevertheless, the governments when designing a tax regime should consider their fair share of revenue and at the same time provide the incentive that encourages investment in the country (Nakhle 2004).

Market prices for transactions involving petroleum products such as oil, natural gas and other energy sources are readily observable but in the transitional process in the production and distribution stages, the transfer price between subsidiaries of a MNC is not easily measured (White 2011). Transfer pricing affects the oil and gas sector in two different aspects. First, most developing nations where oil and gas firms currently have operations are still trying to develop their tax policies and transfer pricing, making it

hard to cope with changes. Most countries usually do not have a network of tax treaties especially with the United States, which may lead to double taxation in the case of audit and following adjustment (Captain 2008). Countries are progressively making multilateral initiatives relating to cross-border enforcement, with a particular focus on under reported profit. While many governments that used to pay more attention to attracting FDI through favourable tax policies are now aggressively pursuing tax from the companies that they attracted, tax administrations are continuously the concern of foreign based enterprises that report losses or marginal profits (Captain 2008).

Jenkins and Wright (1975) investigated the allocation of the profitability of foreign subsidiaries of US oil firms in 1966 and 1970; the finding suggested that the subsidiaries are relatively more profitable if they are based in lower tax rate jurisdictions. They also revealed that on average, U.S companies avoid two-thirds of the taxes that they would have paid to the oil consuming nations at that time. Bernard and Wiener 1990 examined the behaviour of U.S oil firms by comparing oil transaction prices to spot market prices of comparable petroleum products. Their findings suggest that there is no evidence of transfer prices scientifically deviating from the spot market prices in the direction implied by tax avoiding behaviour. Sunley et al. (2002) outlined the following approaches used in the oil and gas industry to avoid tax. A transfer pricing strategy that could have effect on the revenue in the oil and gas industry is:

- The creative use by companies of price hedging instruments involving related entities transactions, which makes it difficult to assess whether the mechanisms are used for transfer pricing purposes or to reduce risk. Furthermore, the most common strategies used to maximise expenditure deductions are:
- Deduction for headquarters costs, or consultancy charges paid to related entities, and claiming too much in management fees.
- If the petroleum profit tax rate is higher than the standard tax rate, it may encourage the MNCs to create a domestic shell company that will on-lend financing capital from related entities to the oil and gas firm giving rise to deduction of interest at a higher rate than charged on the interest earning in the shell company.
- The provision for capital goods and equipment in leasing arrangement at above market cost charged by a related entity lessor.



The prevention of transfer pricing abuse requires appropriate transfer pricing regulations (Rahman et al. 2011; Sunley et al. 2002; Eden 1998). In addition to the specific tax regulations addressing the oil and gas sector, various oil and gas exporting nations are adopting transfer pricing documentation rules. These countries include Kazakhstan, Canada, Brazil, Mexico, Russia, Venezuela and Norway among others. In order to protect the tax base, governments may place a cap on the use of debt financing to restrict earning stripping via the payment of interest in other countries. The next section provides the objectives of transfer pricing as it is important to know why MNCs engage in transfer pricing practice.

### **2.3.2 Why MNCs engage in transfer pricing practice**

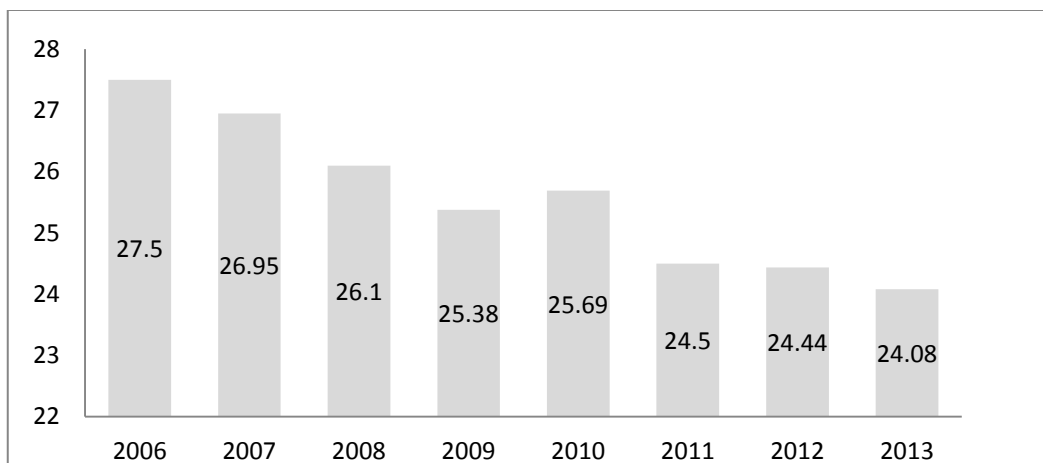
Since the main goal of every enterprise is to maximise its shareholders' wealth, transfer pricing could increase the MNCs' after tax profits on a global basis, transfer pricing is an esteemed practice for the MNCs because it increases its shareholders return (Eden 2009). Some MNCs usually use transfer pricing to achieve their various objectives such as internal management oriented objective and taxation-related objectives by designing transfer pricing strategies (Cravens, 1997). Transfer pricing strategies can contribute to the accomplishment of corporate goals (Abu-Serdaneh 2004). The objectives are usually described as domestic transfer pricing objectives and international transfer pricing objectives (Borkowski 1992). The determination of an internal transfer price is complex because it usually needs to meet different objectives, in some cases divergent objectives (Abu-Serdaneh 2004). However, the determination of an international (tax-related) transfer price is more complex than the internal transfer price because it has to comply with additional tax and tariff regulations (Tang 1982; Borkowski 1992). Many authors highlight the significance of tax considerations in the selection of transfer price. Clausing (2003) asserts that there is a strong relationship between the tax rates of a particular country and transactions among the entities of a company.

### **2.3.3 Transfer pricing and differences in tax rates among countries**

Generally, every country establishes its national tax system; therefore, the tax rates of the countries around the world significantly vary. This tax rate differential in various countries leads to income shifting and transfer pricing manipulation (Swenson 2001; Eden et al. 2001). MNCs may be encouraged by the national tax rate differential to shift

their income from a high tax rate jurisdiction to a low tax rate jurisdiction in order to minimise their tax liability (Eden 2009). The major concern is that the tax revenue depends on the tax base which also depends on the tax rate of the country. Although the tax authorities have control over tax rates but the tax base is endogenous and may change as a result of a change in the tax rate (Bartelsman and Beetsma 2000). It has been claimed that an increase in corporate tax rate may discourage MNCs from investing because it reduces return on capital. On the other hand, reduction in the corporate tax rate does not just increases the overall economic activities but also attracts business activities away from other jurisdictions (Bartelsman and Beetsma 2000). This result in competition between jurisdictions, sometimes the broader objective is beyond transfer pricing as location or re-location of business activities from one country to another brings the advantage of economic growth and job creation (Biswas 2001). This leads to continued reduction in corporate tax rates globally.

**Figure 2.1: Global average tax rates between 2006 and 2013**



Source: (KPMG 2014)

The average global corporate tax rates have continued to reduce over the past eight years as shown in the above figure 2.1. According to the global tax rates survey conducted by KPMG the average corporate tax rate around the world has dropped from 27.5% in 2006 to 24.08% in 2013 as shown in the above figure. Though the national tax differential permits the likelihood of tax arbitrage, shifting profits and other financial activities to low tax rate from high tax rate jurisdictions, it also compels high tax rate countries to reduce their tax rates and/or strengthen their monitoring and enforcement strategies in order to prevent losing mobile companies and job opportunities (Eden and

Kurdle 2005). Tax rate differentials could encourage an MNC to engage in tax avoidance plans (Chan and Lo 2006; Slemrod and Yitzhaki 2002). In addition, the use of tax avoidance strategies may also be encouraged if affiliates of an MNC are residents of tax haven<sup>5</sup> countries (Slemrod and Yitzhaki 2002). MNCs used to shift their income to low tax rate jurisdictions. (Borkowski 2012 p.34) stated that “*Any cross-border transfer involves a shift of income from one jurisdiction to the other, thereby affecting the tax revenues of both countries.*”

#### **2.3.4 Transfer mispricing and its consequences on tax revenue**

Transfer mispricing also known as transfer pricing abuse or transfer pricing manipulation can be in the form of tax avoidance, tax evasion, or fraud. In a situation where the pricing is within the law to save tax then it is said to be tax avoidance and it is legal but where the transactions involved abusive or artificial manipulation of price is said to be tax evasion or fraud and it is illegal (Eden 2009). The literature revealed that transfer pricing may be used to avoid double taxation but its abuse cannot be ruled out (Sikka and Willmott 2010). Transfer pricing amount to abusive tax avoidance when affiliates artificially increase or decrease the monetary value of the goods and services in order to shift income and/or expenses among their affiliates for tax avoidance purposes (Osei 2010). Furthermore, transfer pricing also facilitates capital flight and enable MNCs to shift income, most often from host countries to tax heavens (high tax to low tax jurisdiction) (Christian Aid 2010). This is sometimes by financing structures of affiliates with loans extended from related foreign entities in the form of debt instead of equity. Another way of income shifting concerns the price at which goods and services are exchanged within the firm in their international transactions (Bartelsman and Beetsma, 2001). Transfer pricing manipulations typically occur in almost all kinds of transactions and these can be categorised into different types such as: contracts, intangibles, trade, management services or cost sharing (Rahman et al. 2011).

The fear of most tax officials is that they may lose tax revenue because businesses are increasingly spreading worldwide and MNCs may artificially manipulate the transfer

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<sup>5</sup> Tax Haven countries usually impose less tax or are tax free; in addition, they also have rules and administrative policies which restrict the exchange of information with other countries' tax authorities and do not have transparency in tax and financial arrangements (OECD 2006).

Tax havens also encourage tax avoidance by allowing the relocation of taxable profits to low tax rate countries and by also decreasing the amount of national tax paid on foreign incomes (Desai et al. 2006).

prices to achieve their aim at the expense of a government (Anandarajan et al. 2007). Over the past decades MNCs have been accused of their ability to manipulate transfer pricing transactions between their subsidiaries within a company having negatively affected the tax revenue and economic development of their host countries (Plasschaert and Dunning, 1994). For instance, *Russian oil priced for sale internally at \$10 a metric ton was sold to an exporter's foreign subsidiary at \$10 a metric ton and re sold to foreign buyer at the market price of \$120 a metric ton with the profit booked and retained at external companies* (Baker, 2005, p. 152).

One of the largest private energy firms operates in Russia, Yukos and its subsidiaries have been alleged to have decreased the government revenue in the year 2000 by RUR210 billion, subsequently, Russia sued Yukos to pay the government \$28 billion in taxes and penalties, maintaining that a Yukos production subsidiary sold crude oil to a shell subsidiary (affiliated to Yukos located in a tax haven) at below market prices and shell resold the crude oil to domestic and foreign firms at market prices (Sikka and Willmott, 2010).

In a study, Global Financial Integrity (GFI) estimates that developing countries lost about \$8.44 trillion over the decade ending 2009 as a result of illicit financial outflows and 54% of this figure was attributed to transfer pricing abuse (Kar and Freitas 2011). Hollingshead (2010) revealed that in 2006 the amount of tax revenue losses around the world as a result of MNCs transfer mispricing was in the range of \$125 billion and \$135 billion. This represents almost doubling that of 2002 which was in the range of \$64 billion and \$68 billion (Hollingshead 2010). Christian Aid (2011) estimated that developing countries are losing about \$160 billion per annum as result of MNCs tax dodging and further stated that this is just in two forms of tax dodging; abusive transfer pricing and false invoicing. Moreover, various reports have indicated that among the developing countries, Nigeria is the highest loser of tax revenue as a result of transfer mispricing (see chapter 3).

Despite the global financial crisis, the illicit financial outflows from Africa increased by 10.2% (from 22.3% to 32.5%) over the decade. Noticeably, Africa outpaced the rest of the world with an increased rate of 32.5% while other regions like Europe and Asia had 9.7% and 7.7% respectively (Kar and Freitas, 2011). This increase might be due to the inability of African countries to effectively monitor and enforce regulations on cross-

border transactions (Hollingshead 2011). Slemrod and Yitzhaki (2002) alleged that MNCs use some inter related and globally oriented tax planning mechanism to reduce their global corporate taxes. Hassett and Newmark (2008) revealed that one of the major instruments used by MNCs to shift income is tax- motivated transfer pricing, further explaining that this instrument is the practice of MNCs of arranging intra-firm transactions in such a way that most profits are made in low-tax jurisdictions. (Taylor 2012). Recent media reports highlight this perception and mostly allege that transfer opportunity is the major reason for the less tax paid by big companies in certain countries.

#### **2.4 Governments' reaction to the transfer practices of MNCs**

Governments of many countries led by the United States have reacted to these transfer pricing behaviours (practices) of MNCs by establishing sophisticated transfer pricing regulations. In order to prevent the MNCs from transfer mispricing, many tax authorities have and are increasingly focusing on regulative, legislative and enforcement aspects of transfer pricing practices (Li 2006). The reaction of the governments to the behaviour of MNCs has contributed to the tax reforms that enable the measurement of the impact of taxation (Hines 1996). However, what MNCs see as a legitimate form of transfer price arrangement could be seen by the governments as illegitimate manipulation and evasive (Eden 1998). The government's ground for regulation policy is usually that a decrease in transfer price will increase the subsidiary's gross profits, hence, increasing government revenues. Unfortunately, however, this not the end of the story as the parent companies remain free to determine (and hence manipulate) the market price of the subsidiary's products (Katrak 1984).

Eden (1998) argued that national tax authorities are of the opinion that regulation for transfer pricing practices are essential for two purposes: to prevent double taxation<sup>6</sup> and to protect their tax base by lessening the opportunities for tax avoidance (Eden 1998). However, institutional theory argues that some actors (countries) adopt certain structures (regulations) to either gain legitimacy while others to improve performance and protect their resource (Scott 2004; 2014; Hoque 1996). Some institutional theorists further argued that some actors adopt certain regulations to gain legitimacy even if they

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<sup>6</sup> Double taxation arises where transfer pricing laws vary between tax jurisdictions.

lack the capacity to maintain (implement) the structures (Scott 2004; Carpenter and Feroz 2001; Peter 1999). The governments of many countries have been induced by the transfer pricing abuse of MNCs to establish specific mechanisms (rules and regulations) to curtail the loss of revenue (Rahman et al. 2011; Plasschaert and Dunning, 1994). Similarly, Eden (1998) added that, the rationale for these rules and regulations was not transfer pricing per se rather fear of transfer mispricing. Therefore, it is imperative to distinguish between the transfer pricing and transfer mispricing (Eden 1998).

Transfer pricing is legitimate, normal and in fact, necessary practice. MNCs assign prices to intra-firm trade for various entirely legal and rational internal purposes, even where the prices are not needed for internal purposes, national governments need it for tax a purpose, which is used to calculate how much tax revenue, is owed by the MNCs (Eden 1998). It can be expected that MNC transfer pricing strategies would be highly subjected to stricter assessment by tax authorities (Li 2006), as many tax authorities around the world have strengthened their efforts to audit transfer pricing practices by MNCs (Li 2006). However, most countries implemented similar but different transfer pricing regulations (Raimondos-Moller and Scarf, 2002), for instance, each member of the 27 EU countries adopted transfer pricing regulations based on the OECD guidelines but regardless of their internal markets adopting a different set of regulations for documenting transfer pricing (Pleron and Tranman, 2009).

## **2.5 Transfer pricing regulations**

The development of transfer pricing regulations can be traced back to the early 1920s. The first period was from the 1920s to mid-1960s, and the second period commenced in 1986 with the US transfer pricing regulations, the third period commenced with the enactment commensurate with the income standard set by the U.S Congress in 1986. The “baby has been birthed” in the U.S; a new set of transfer pricing rules developed over ten years (1986-1996), is now in place. However, the new phase of transfer regulations began in 1994 when the U.S tax authority, the IRS established detailed and sophisticated transfer pricing regulations. In the US, transfer pricing became a major political debate towards the end of 1980s, US politicians being concerned about the potential effects of transfer pricing on tax and therefore, focused on foreign MNCs’ transfer pricing policies. Subsequently, the outcome of the debate resulted in establishing a revised and strengthened transfer pricing regulations in 1994 (Cool, et al.

2008; Hamaekers 2001). The OECD responded to this development by publishing revised transfer pricing guidelines in 1995. The OECD, the US and other organisations play a vital role in shaping the transfer pricing regulations around the globe.

### **2.5.1 International transfer pricing regulations**

Over the decades various institutions such as the United Nations (UN), the Organisation for Economic Co-operation and Development (OECD), the European Union, (EU), the International Monetary Fund (IMF), World Bank, and African Tax Administration Forum (ATAF) have made tremendous efforts in shaping transfer pricing practices around the world. In particular, the OECD has done a significant work by publishing a detailed guideline framework to enable tax authorities and MNCs to determine transfer prices between related entities (Oyedele et al. 2013). Subsequently, the UN has also released a guideline on transfer pricing known as a practical manual on transfer pricing for developing countries which is also in line with the OECD arm's length principle (UN 2011). Generally, the OECD, the UN and the US are dedicated and totally in support of the arm's length principle; their transfer pricing regulatory frameworks were drawn from the same arm's length concepts but they differ in various important areas such as: the preference of methods, the profit based methods that are acceptable, the extent of documentation requirement, where the burden of proof lies and the types and strictness of penalties. These differences are mainly between the OECD Guidelines and the US Regulations.

The OECD is characterised by flexible application, preference of particular methods; the selection of methods used to be based on hierarchy as in the 1995 OECD Guideline but recently changed in the 2010 OECD Guidelines to “the most appropriate method” though still traditional transactional methods are preferred to transaction profit methods, avoidance of double taxation, moderate documentation requirements, burden of proof usually lying with the tax authorities, the OECD specific penalty to be applied at a certain threshold does not exist; it suggests that each country set its penalty. The OECD Guidelines use the transaction net margin method (TNMM) instead of the comparable profit method (CPM). On the other hand, the US regulation is characterised by strict application, no preference for any method instead using “the best method” rule though the IRS can challenge the MNCs choice, extensive documentation requirement, burden of proof lies with the taxpayer and apply penalties for understatement of income,

without differentiating whether the error is in good faith or deliberate manipulation. Notwithstanding, generally, transfer pricing regulations are mainly based on the concept of the arm's length principle (for more details see appendix 7).

The application of the arm's length principle is usually done by comparing the 'conditions' of controlled transaction with those of uncontrolled transactions (OECD 2010). The arm's length principle is used by national tax authorities to monitor the price of intra-firm trade as it affects the allocation of income and expenses of MNCs within their jurisdictions (Eden et al. 2001). Many countries have established and many more are establishing specific transfer pricing regulations. The rules and regulations have not only become more clear and detailed but also the tax administrations of many countries have expanded their administrative resources and included strict enforcement measures in their tax regimes (Cool et al. 2008). It has been argued that imbalance in transfer pricing expertise and the capacity of the tax authorities of developed and developing countries could induce taxpayers to apportion a greater part of their profits to developed nations to prevent the risk of disputes related to transfer pricing with politically powerful tax administrators and stringent regulations (McNair et al. 2010).

#### **2.5.1.1 Arm's length principle**

The arm's length standard is the fundamental norm behind the transfer pricing regulations. This concept of the arm's length principle can be found in the Article 9 of both the OECD Transfer pricing Guidelines for Multinational Enterprises and Tax Administrations (known as the OECD Guidelines 1995). The OECD guidelines define the arm's length standard. The standard requires that:

*“where conditions are made or imposed between two enterprises in their commercial or financial relations which differs from those which would be made between independent enterprises, then any profit which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly” (OECD 1995).*

The OECD report noted that the arm's length standard is the “international transfer pricing standard that OECD members have agreed and should be used for tax purposes by MNE groups and tax administrators” (OECD 1994, P. 160). Furthermore, the report also argued that the standard is sound in theory and generally produces appropriated



income allocations that reflect the economic realities of a taxpayer's specific facts and circumstances (Eden 1998).

### **2.5.1.2 Transfer pricing methods**

Over the decades, different methods have been suggested; these are to some extent based on measures of resale value, costs or profitability (Schon and Konrad 2012). The following five methods have been developed and generally categorized into two groups: the traditional transaction methods include: the comparable uncontrolled price method (CUP), resale price method (RPM) and the cost plus method (C+); the transactional profit methods comprise of the transactional net margin method (TNMM) and the Profit split method. Each of the methods is discussed below.

*The comparable uncontrolled price (CUP)* method holds that the arm's length price can be determined by comparing the price charged in a controlled transaction to the price at which an uncontrolled transaction is charged, that is if their relevant economic characteristics are comparable, then an uncontrolled price will serve as a benchmark (OECD 1995). This method is appropriate where similar products exist and such unrelated transactions can be obtained. However, even where such transactions exist, if there are material differences, which cannot be adjusted, then this method is neither applicable nor appropriate. Both OECD and US guidelines use this method, the difference is that under OECD it is applicable to tangibles, intangibles and services while under the US regulations it is only applicable to tangibles, and they use the comparable uncontrolled transaction (CUT) method for intangibles.

*Resale Price (RP)* this method measures the arm's length price by comparing the gross profit obtained when an enterprise resells property to a related party at the gross profit obtained by similar parties in an uncontrolled transaction. The arm's length price is determined by subtracting the resale price margin from the resale price and adjusting the other costs related to the purchase of the item. Comparable profitability can be determined based on the initial purchase price ratio of comparable property and their resale price to an unrelated entity. The difference between the US and OECD is that US regulations contemplate applying this method for tangible goods while OECD guidelines contemplate applying it for both tangibles and intangibles.

**Cost plus (CP)** this method measures the arm's length price by comparing the gross profit mark-up obtained in comparable uncontrolled transactions to the price at which a controlled transaction is carried out. The arm's length price is determined by adding an appropriate cost mark-up to the cost; an appropriate mark-up can be selected based on the functions performed and the market conditions then compare it with those of similar unrelated entities. For this method to be applicable, adequate product-market and functional comparability are essential (Akram 2002). The difference between the OECD and the US is that OECD guidelines consider applying it to transaction of services while the US regulations only apply it for transactions of tangible goods.

**Profit split (PS)** this method is used in a situation where profit is obtained in an integrated operation, to determine the arm's length price, the division of the profit should be made based on the contribution to the project by each related party. The division of the integrated profit should be based on an economically valid source that gives a fairly accurate split of the profit that would have been expected and replicated in an independent transaction.

**Transaction net margin method (TNMM)** this measures the arm's length profit by comparing the net profit margin of a transaction to that of an uncontrolled transaction (relative to a specific base such as sale, cost or assets). Similar to the cost plus, it is applied to uncontrolled and controlled transactions of the tested party but the application should be based on margins of comparable transactions of an unrelated firm. The application of the transaction net margin method should be done in the same way as the resale price method. US regulations use comparable profit method (CPM) instead of the TNMM. The CPM determines the transfer price by using "profit measure (such as the return on assets or operating income to sales) to determine a return that would equal that realized by a comparable independent enterprise" (Borkwoski 2003, p.30). The application of the above methods to ascertain an arm's length transfer price may seem to be simple to achieve (Anandarajan, et al. 2007) but despite its international acceptance, sometimes to practically achieve the arm's length price is a great challenge especially in a situation where there is no comparable market (Sikka and Willmott, 2010).

Borkwoski (1996) in her study sent questionnaires to 185 UN member countries, 47 countries that responded indicated that transfer pricing issues are of real and growing

concern to the tax authorities of both developed and developing nations. The study states that the existence of tax havens and tax differentials across the world encourage transfer pricing abuse. She added that there is a need to establish a standardised global transfer pricing system to address transfer pricing issues. Mitchell (2004) argues that tax harmonisation is absolutely unpleasant because “taxpayers are unable to benefit from better tax policy in other nations and governments are insulated from market discipline”. The study conducted by Baistrocchi (2005) describes the main challenge of developing countries in implementing transfer pricing regulations as lack of administrative experience.

A study conducted by PricewaterhouseCoopers (PwC) for the European Commission, on developing countries, particularly focused on Kenya, Honduras, Ghana and Vietnam (PwC 2011a). The study developed a generally applicable framework of pre-conditions to be considered prior to embarking on transfer pricing reform in developing countries, which include economics and political pre-conditions, legal pre-conditions and tax administration pre-conditions (PwC 2011a). To identify the stage of each country based on the aforementioned pre-conditions, in the study the countries are categorised into three: countries with no transfer pricing rules, countries in the process of drafting and implementing transfer pricing regulations and countries having transfer pricing regulations (PwC 2011a).

The study illustrated the necessary approach needed to address the challenges of adoption and implementation of transfer pricing regulations in developing countries particularly Honduras, Vietnam, Kenya and Ghana. The finding of the study shows that the major challenges of developing countries such as Kenya, Ghana and Honduras are weak administrative capacity and legislative framework. However, the level of challenge and the approach to mitigate them varies for each country. It further categorically stated that there is a need to directly assess each developing country’s specific needs, priorities and circumstances to ensure an effective outcome (PwC 2011a).

### **2.5.2 Significance of implementing transfer pricing regulations**

The significance of implementation of transfer pricing regulations cannot be overemphasized (Rahman et al. 2011; Borkowski 1996). Rahman et al. (2011) stated

that implementation of appropriate transfer pricing regulations prevents artificial manipulation of transfer pricing and income shifting in various ways: First, transfer pricing regulations facilitate scrutiny of transactions between related entities in the form of audit to uncover artificial transfer pricing. Second, transfer pricing audit detects irregularities in intra-firm transactions and recovers any tax revenue lost as a result of transfer mispricing. Third, once deliberate transfer mispricing aimed at tax evasion is detected, the entity will be penalized. Fourth, implementation of such regulations discourages MNCs that engage in such practice from continuing and also serves as a deterrent to other entities (Rahman et al. 2011).

### **2.5.3 Purpose of transfer pricing regulations**

The main purpose of transfer pricing regulations is to provide legal and administrative mechanisms to the tax administration in order to protect the tax base of the country from erosion as a result of transfer mispricing (Borkowski 1997). In this era of the globalised economy, it will be very difficult for national tax authorities to practically control the price at which particular goods and services are exchanged. However, national tax authorities can minimise the adverse consequences of transfer mispricing by structuring institutional capacity that can enable the achievement of two basic purposes: (1) establishment of an administrative and regulatory environment that discourages transfer mispricing and (2) minimisation of loss of tax revenue and capital flight (Rahman et al. 2011).

### **2.5.4 Adoption of transfer pricing regulations**

In order to prevent transfer mispricing by MNCs many national tax authorities are increasingly focusing on regulative, legislative and enforcement aspects of transfer pricing practices (Li 2006). Over the past two decades more than 60 countries have adopted and implemented specific transfer pricing regimes including a few African countries such as Kenya, South Africa and Tanzania (KPMG 2012; Ashley 2011). The adoption of a transfer pricing regime consists of two major elements: The drafting of transfer pricing rules and the administration of rules. These two elements are intertwined; rules are drafted by taking into consideration the structure and environment of the administration, while the administrative formation is established by taking into consideration the purpose and the scope of the rules (UN 2011; Rahman et al. 2011).

## **2.6 Challenges of adopting and implementing transfer pricing regulations**

Both developed and developing countries face challenges in implementing transfer pricing regulations but these challenges are more acute for developing countries (OECD 2012). The major challenge facing most tax authorities especially in developing countries is inadequate capacity to adopt, implement and monitor the transfer pricing strategies employed by MNCs that operate in their respective countries (McNair et al. 2010). Both tax authorities and taxpayers are supposed to be properly guided by transfer pricing legislation in determining transfer prices between related entities, but in most developing countries such legislation does not exist (OECD 2011a). The legislation enables national tax authorities to compel taxpayers to provide adequate information regarding their intra-firm transactions. Information is vital in dealing with transfer pricing but unavailability of resources and required technology to collect and process such information pose another challenge (OECD 2011). Moreover, the MNCs have adequate resources and technology to carry out complex procedures at the global level. While on the other hand, the tax authorities in Africa are technically ill-equipped or lack the capacity to gather and evaluate information to identify manipulations (McNair et al. 2008). It is important to note that without an adequate administrative capacity and institutional set up the mere existence of legislation does not ensure compliance (Rahman et al. 2011).

The tax administrators in developing countries find it difficult to detect transfer pricing manipulation by MNCs (McNair et al. 2010). Thus, compelling MNCs to adhere to the arm-length standard remains a great challenge to the developing countries. Determination of the arm's length standard mostly depends on comparative pricing. In practice, identifying comparable transactions to determine an arm's length price is not an easy task (Dean et al. 2008). Furthermore, to obtain comparable transactions tends to be very difficult in developing countries like Nigeria given that most often there are fewer organised players in any particular sector (PwC 2011b). In addition, lack of documentation requirements or the inability to enforce existing documentation requirements tends to be a major challenge to collect essential taxpayers' information with respect to transfer pricing (UN 2011).

### **2.6.1 Approach to mitigate the challenges**

Each country's circumstances vary, therefore, to mitigate the above challenges, the first step is to assess the needs (ascertain the type of international transaction, range of transactions, number of taxpayers engage in cross border transactions) and the circumstances (the level of human resources and institutional capacity, legislative capacity) of the specific country (OECD 2011). The next step is to align the legislative and administrative capacities to the tactical needs and circumstances of the specific country in line with international best practice (OECD 2011). The country's current legislation should be examined and specific transfer pricing legislation can be drafted or improved based on international best practice. Examining the legislation of the experienced countries that have already established specific transfer pricing regulations could also help. Administrative capacity (human resources and institutional) is necessary to make progress in implementing transfer pricing regulations. Channel the existing resources in appropriate directions (area of priority) (McNair 2010; OECD 2011). International organisations are offering financial and other support to developing countries to improve their tax administration, in order to achieve effective, transparent equitable transfer pricing regulations. The international organisations and donors should continue to support developing countries to improve their tax administrative capacity by providing the necessary capacity building efforts (OECD 2011).

Information asymmetry is another challenge for the developing countries that need to be addressed. To mitigate these broader concerns it is necessary to have government's political will, in addition, incentive should also be provided to the tax administration, judicial and political system to support the tax administration reform. Most importantly, the government should discourage corruption at all levels (McNair et al. 2010; OECD 2011).

The recent agitation by some developing countries and non-governmental organisations (NGOs) such as the Tax Justice Network (TJN) and Christian Aid on information asymmetry induced the relevant international organisations like the EU, OECD and UN to make efforts to address it via international taxation policies to facilitate increase in transparency (McNair et al. 2010). They are calling on international organisations to support country-by-country reporting to enable the developing countries to have the required information related to their country (TJN 2012). The developing countries

should gradually develop their own database on a regional or country basis. Regional organisations like ATAF are making efforts to address some of the challenges facing African countries with respect to taxation.

It has been argued that both US transfer pricing regulations and OECD guideline frameworks were designed by developed nations in the context of their own transfer pricing legislation, circumstances, capabilities and priorities, thus, it serves their own interests. In this regard, it has been argued that both OECD guidelines and the US transfer pricing regulatory framework may not suit the interests of developing countries like Nigeria and therefore, cannot be robotically considered to be practical for developing countries like Nigeria (UN 2012). The adoption of transfer pricing regulations is a very important step forward for the country especially for the tax authority (FIRS), however, the lack of administrative capacity relating to gaps in training, skills and infrastructure coupled with the sophistication of the corporate tax functions of MNCs ahead of the Nigerian tax authority (FIRS) is likely to be a barrier for some time (Oyedele et al. 2013).

The FIRS subsequently issued a draft on transfer pricing regulations, the major issue of concern is being how appropriate is the form of regulations for Nigeria, taking into consideration Nigeria's circumstances, priority and the capacity. Rahman, et al. (2011) state that adoption of transfer pricing regulations involves two major functions. First, the formulation of transfer pricing regulations and second, the administration of the transfer pricing regulations. The authors further argued that these two functions are intertwined: the regulations are designed to take into consideration the form and the scenery of the tax administration, while the administrative structure is framed based on the purpose and the scope of the regulations. OECD (2011) states that tax authorities should note that even the developed countries have built their transfer pricing regimes over time.

## **2.7 Conclusion**

This chapter reviewed the relevant literature relating to transfer pricing practices especially in the petroleum sector and its regulations. In view of the above, it is apparent that most transfer pricing studies (mainly from the corporate perspective) focused on developed countries such the US, UK and other European countries. Studies relating to

transfer pricing regulations in African countries such as Nigeria tend to be rare. The absence of empirical studies on transfer pricing regulations in Nigeria coupled with the limited bases of theoretical judgment necessitates this study. The review highlighted the strategies, objective and factors that motivate the MNCs to engage in transfer mispricing and also the consequences of such practices on the tax base of the countries where they operate. The review indicates that transfer pricing is a major issue that affects the tax revenues of the countries involved. This is considered as the rationale for the setting up of transfer pricing regulations in various jurisdictions. As a result, many countries (especially developed countries) have established transfer pricing regulations to protect their tax base. Most of these regulations are based on the OECD guidelines, which is similar to the US transfer pricing regulations. It has been argued that both the OECD guidelines and US transfer pricing regulations were based on the interests of the Western world and thus, may not be appropriate for developing countries like Nigeria. Moreover, it has been observed that the implementation of transfer pricing regulations based on such a framework tend to be more difficult for developing countries like Nigeria. The literature suggests that the appropriateness of transfer pricing regulations depends on the circumstances, capacity and priority of the country. Based on the above review the following themes were identified for this study: the form of transfer regulations, the motive of adoption of the regulations, the administrative capacity of the tax authority, the need for guidance and support and the barriers that may hinder the implementation of transfer pricing regulations in Nigeria. The next chapter gives an overview of transfer pricing and its regulations in Nigeria with particular focus on the petroleum sector.



## **CHAPTER THREE**

### **Transfer pricing in Nigeria: An overview of the regulations**

#### **3.1 Introduction**

The chapter provides the background of Nigeria's petroleum sector, transfer pricing regulations and other related issues such as factors that motivate the adoption of transfer regulations. It also reviews the administrative capacity of the tax authority and the barriers that may face the implementation of the transfer pricing regulations in the Nigeria with a particular focus on the petroleum sector.

#### **3.2 Nigeria's petroleum sector**

It is very important to note that there are no specific transfer pricing regulations for the petroleum sector because the transfer pricing regulations state that "any transactions" (irrespective of sector) between related entities should be priced at arm's length. However, the nature of transactions in the petroleum sector is unique and more complex than the other conventional sectors operating within the Nigerian economy.

Nigeria is the largest economy in Africa, with a population of over 155 million people and abundant natural resources such as petroleum, agriculture and hydrocarbons (CIA Report, 2011; NBS 2014). Furthermore, Nigeria is not just the largest oil producer in Africa but also the seventh largest oil exporter among the Organisation of Petroleum Exporting Countries (OPEC) member countries (Okpanachi, 2011). Prior to discovery of oil, the Nigerian economy basically relied on agriculture but when oil was discovered in 1956, the structure changed (Atsegbua 1999). Consequently, petroleum has become the dominant sector of the economy since the late 1970s (Atsegbua, 1999). Nigeria's oil reserves are estimated to be over 37 billion barrels, and the petroleum industry is mainly dominated by foreign oil companies and the federal government of Nigeria (Idemudia and Ite, 2006).

At the early stage of oil exploration in Nigeria, to the time oil in commercial quantities was discovered in 1956, the operation in the petroleum sector was solely based on concession agreements with international oil companies (IOCs) (Gidado 1999). However, since the early 1970s, the operations of the oil and gas sector in Nigeria are

mainly based on joint venture contracts with the IOCs. There are six major IOCs that operate in Nigeria and are listed in their country of origin. These companies include: Shell Petroleum Development Company of Nigeria (SPDC) affiliate of Shell (British/Dutch), Chevron Nigeria Limited (CNL) an affiliate of Chevron (America), Mobil Producing Nigeria Unlimited (MPNU) an affiliate of Exxon-Mobil (America), Nigeria Agip Oil Company (NAOC) an affiliate of Agip (Italian), Total Petroleum Nigeria Limited (TPNL) an affiliate of Total, and Texaco merged with Chevron. Nigerian National Oil Corporation (NNPC) represents the Federal Government of Nigeria in the joint venture contracts. Currently, joint venture agreements between NNPC and with six major IOCs produce over 90 percent of the crude oil in Nigeria (NIPC 2014).

In addition to the JVCs, another form of operation is production sharing contracts (PSCs). According to the NNPC (2005) the major reason why the government has paid more attention to the PSCs in recent years is that “the PSC is today the toast of the Nigerian petroleum industry, it is an agreement born in response to the funding problems faced by the old JV arrangements as well as the desire of government to open up the sector for more foreign participation”. Nigeria’s petroleum industry is one of the major drivers of the gross domestic product (GDP) growth and an imperative source of national revenue to the government (Sunley et al. 2002). The government owns and controls all the mineral resources in the country (Arogundade 2001). However, the operation and investment projects in the petroleum sector are dominated by MNCs along with the Nigerian government. In particular, the activities of the upstream sector are mainly carried out by the six major international oil companies (IOC) mentioned above through their affiliates. Most activities in the upstream sector are based either production sharing contracts or joint venture agreements between the Nigerian government and the multinational oil companies listed above (Sunley et al. 2002).

Since most countries, particularly developing countries, do not have the resources to immediately invest in the development of the oil and gas sector, they attract the MNCs to invest in the sector (Sunley et al. 2002). The interest of the MNCs is to have a return on investment while that of governments is to get resource rent (Osadare 200). However, MNCs may take advantage of any loopholes in the country they operate to maximise their overall earnings from foreign transactions and minimise the additional

tax revenue payable to the government (Lax, 1983, Borkowski 1996). This affects the economic growth and development of the countries involved. The issue of economic growth and development has been a vital issue in Nigeria's petroleum sector (Okpanachi, 2011). Because the government has to generate tax revenue to provide social and economy infrastructures such as basic education, power supply, good roads, potable water, health services, other public utilities and preservation of law and order in the country. Nigeria generates most of its income from the petroleum industry through sale of crude oil, collection of royalties, petroleum profit tax and other taxes from the companies (Ihua et al. 2009).

### **3.3 Nigeria's national tax rate**

As discussed in the previous chapter, there is a relationship between transfer pricing and taxation. It has been argued that the tax policy of a country influences the transfer pricing strategies of MNCs. As a result many countries embarked on tax reform. Generally, tax reforms around the world have made many countries reduce their corporate tax rates (Swenson 2001). The global trend is to decrease the corporate tax rate to enable a country to be competitive in terms of attracting investment. The global corporate tax regimes range from 12.5% to 35%, for example 12.5% in Ireland, 19% in Canada, 28% in the UK and 35% in the Philippines and the U.S. The global average corporate tax rate has reduced to 24.08% in 2013 from 7.5% (Rahman et al. 2011). While Nigeria's corporate tax rate remains 30% over the same period as highlighted in Table 3.1 which is higher than the global average tax rate, it is even higher than the African average tax rate of 28.7% and hence, Nigeria's tax rate is relatively high. Currently, under the Nigerian fiscal regime, companies are taxed at the rate of 30% per annum as provided by the Companies Income Tax Act 1990.

**Table 3.1: Global and some selected countries corporate tax rates between 2006 and 2014**

Country	Year	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>Nigeria</b>		<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>
South Africa		36.89	36.89	34.55	34.55	34.55	34.55	34.55	28	28
United Kingdom		30	30	30	28	28	26	24	23	21
United States		40	40	40	40	40	40	40	40	40
Africa Average		30.82	30.56	28.65	28.75	28.38	28.55	29.02	28.57	
OECD Average		27.67	27	25.99	26.64	25.7	25.4	25.15	25.32	
<b>Global Average</b>		<b>27.5</b>	<b>26.95</b>	<b>26.1</b>	<b>25.38</b>	<b>25.69</b>	<b>24.5</b>	<b>24.4</b>	<b>24.08</b>	

Source: (KPMG 2014)

In most cases the income tax rate for oil and gas companies tends to be higher than the normal rate for other companies. However, some countries provide incentives for some particular sectors or even particular activities to stimulate or retain investment in the industry; for example, providing incentives for extraction and project development by permitting quick recovery of exploration costs and also allowing accelerated recovery of development costs for instance over five years (Sunley et al. 2002). Income tax in the Nigerian oil and gas sector which is known as petroleum profit tax is substantially higher than the normal national corporate tax rate.

### **3.4 Petroleum profit tax**

Companies that engage in petroleum operations in Nigeria are subject to Petroleum Profit Tax (PPT). Petroleum Profit Tax (PPT) means tax pursuant to the Petroleum Profit Tax Act CAP 354 Laws of the Federation of Nigeria 1990 as amended. The petroleum Profit Tax rate is 85%, however, in some cases the rate varies depending on the level and type of the operations. For example, new investors are to be taxed at the rate of 67.75% for the first five years. Oil companies that engage in executing a production sharing contract are to be taxed at the rate of 50%. In addition, there are various incentives in the petroleum sector that encourage investors. The primary legislation concerning the taxation of companies carrying on the oil and gas operations in Nigeria is the Petroleum Profit Tax Act (PPTA) 1990 as amended (Onyeukwu 2008). The petroleum operations are defined as “the winning or obtaining and transportation of chargeable oil in Nigeria by, or on behalf of, a company for its own account. Petroleum

operations include any drilling, mining, extracting or other such operations or process (not including refining at a refinery) in the course of a business carried on by a company, including all operations incidental thereto and any sale of, or disposal of, chargeable oil by, or on behalf of, the company” (Ernest & Young 2012, p.284).

#### **3.4.1 Importance of petroleum taxation**

Domestic taxation of petroleum products is an important source of revenue in most countries (Gupta and Mahler 1995). Petroleum products may be taxed purely to raise revenue. In most countries, particularly developing countries like Nigeria, this is likely to be the key justification (Gupta and Mahler 1995). The petroleum sector which involves extraction of oil and gas plays a vital role as a source of export earnings and provides employment in most developing countries where oil and gas companies operate (Sunley et al. 2002). But the most imperative benefit for a nation from the development of the petroleum industry is more likely to be the role that it plays in generating tax and other revenue for the nation. On the other hand, multinational companies are trying to maximise their overall earnings from foreign transactions and minimise the additional cost burden placed on them by Government (Lax, 1983). The scope and strength of the transfer pricing issue varies from one industry to another. Though, other higher risk industries (like the pharmaceutical industry) exist, the chance of manipulation is also very high in the industries (like the petroleum sector) that deal with sophisticated technology and specialised goods and services because of difficulties in determining the arm’s length price. The petroleum industry is unique and quite different from other industries or other types of economic activities. Some features that distinguish it from others include, the inherent risk involved, size of investment, location, time scale, cost of failure, non-renewable nature of the resources and high level of employment (Arodundade 2001). Christian Aid reports link the transfer pricing issue with poverty, the threat to economy growth, cash outflow and social injustice.

#### **3.5 Transfer pricing issues in the petroleum sector**

As a result of wider the globalization of economy and the increasing importance of intentional transactions, MNCs believe that the management of transfer pricing strategies is a major tax issues that confronting them (Elliot, 1999). On the other hand, tax authorities in most countries around the globe currently consider transfer pricing

scrutiny as a major enforcement priority (Deloitte, 2010). Nigeria is no exception in that respect. All the MNCs that engage in the operations of exploration and production in the Nigerian petroleum sector are affiliates of large major companies. These companies include Shell, Mobil, Elf, Agip, Texaco and Chevron; each of these companies has various subsidiaries, branches, affiliates or related entities located in different countries around the world.

Mostly the process in the oil and gas value chain involves exploration, production, refining, marketing and distribution; these usually take place in different countries (Captain 2008). MNCs in the oil and gas sector exchange a high amount of tangible products (such as gas, oil, tools, chemicals and so on), loans, engineering services and technology on an inter-firm basis. The transfer pricing issue arises at each step in the oil and gas supply chain, particularly for the vertically integrated “Super Major” exploration and production firms. When receiving and supplying affiliates are located in different jurisdictions with different corporate tax rates, and the tax rates in one jurisdiction are far less than the one in other jurisdiction, it will be in the interest of the MNCs to allocate most profits to the affiliate located in the low tax jurisdiction (Drury 2004). Transfer pricing abuse may be a particular problem for developing countries like Nigeria, as MNCs may take advantage of it to avoid exchange rate control and repatriate income in a tax free manner (Drury 2004).

### **3.6 Evidence of tax loss and capital flight in Nigeria**

Generally, as very few research studies have investigated transfer pricing directly, there is minimal evidence about the actual level of transfer pricing abuse. Because most studies depend on publicly available data, limitations of data compelled researchers to rely on indirect evidence of income shifting (Swenson 2001). In addition, Bernard and Geneste-Paplante (1996) stated that despite the number of studies in the literature the circumstances in which MNCs in the oil and gas sector used transfer pricing to reduce their tax obligations, the empirical evidence to support these assertions are inadequate, because of the nature of privacy of information relating to intra-firm transactions in the petroleum sector. However, various international studies have indicated that Nigeria loses a substantial amount of tax revenue and capital every year as a result of transfer mispricing. This is mainly due to the loopholes in the regulations and a lack of expertise in the authority of the country. According to Christian Aid’s report on false profit, most

often transfer pricing is abused by MNCs as shown in the trade data; affiliates in certain countries have emerged to significantly reduce the price at which goods or services are transferred to their related entities in order to minimise their tax burden (Christian Aid, 2009). Research conducted by Global Financial Integrity (GFI) indicated that Nigeria’s tax revenue loss is due transfer mispricing between 2002 and 2006 standing at an average of \$1.020 billion (Hollingshead 2010).

**Table 3.2: Top 10 countries (low-income) with lost tax revenue due to transfer mispricing in trade with EU and US between 2005 and 2007 (millions £)**

<b>Rank</b>	<b>Country</b>	<b>Year 2005</b>	<b>Year 2006</b>	<b>Year 2007</b>	<b>3 Year- Total</b>
1	<b>Nigeria</b>	<b>179</b>	<b>101</b>	<b>222</b>	<b>502</b>
2	Pakistan	124	86	95	305
3	Vietnam	67	79	105	251
4	Bangladesh	36	42	108	186
5	Ivory Coast	36	36	87	159
6	Ghana	12	30	32	74
7	Cambodia	8	11	12	31
8	Kenya	11	12	9	32
9	Chad	5	11	14	30
10	Senegal	10	9	9	28
<b>Total</b>	<b>for the top 10</b>	<b>488</b>	<b>417</b>	<b>693</b>	<b>1598</b>
<b>Total</b>	<b>for all low-income countries</b>	<b>544</b>	<b>478</b>	<b>775</b>	<b>1797</b>

Source: (Christian Aid 2009).

Similarly, Table 3.2 above shows that Nigeria followed by Pakistan, Vietnam and Bangladesh were among the highest top 10 losers of tax revenue and capital flow between 2005 and 2007 in trade with US and EU as a result of transfer mispricing (Christian Aid 2009). As highlighted above, Nigeria is the first and highest loser with a total of £502 million from 2005 to 2007 among the top 10 developing countries that account for tax erosion and capital flow due to transfer pricing manipulation; which is consistent with the outcome of GFI research. Goods mostly affected by this mispricing range from agricultural goods, oil and minerals, pharmaceutical products and electronic parts (Christian Aid 2009). Christian Aid further categorically stated that: “*In Nigeria, £502m was lost from its burgeoning mineral fuel and oil industry. The country is an*

exporter of these products, which means that this sum was lost through the artificial lowering of the final sale price in order to minimise the tax liability in Nigeria” (Christian Aid, 2009 p. 5).

The following illustration by Pak shows how overvaluation may take place in the petroleum industries: For example, “a crude oil exporter in Nigeria may declare \$90m for an export transaction to the U.S. when the fair market value is \$100m, perhaps to move capital/ wealth out of Nigeria and/or to reduce royalty payment. The corresponding U.S. importer may declare \$120m for the same transaction, perhaps to reduce taxable income in the U.S. or to move money out of the U.S. In this case, the exporting country, Nigeria, has a \$10m undervalued export while the partner country, U.S., has \$20m overvalued import” (Pak 2012, p. 9).

**Table 3.3: The top ten (10) oil exporting nations in over-valuation for the U.S. and E.U. collectively between 2000 and 2010 (million \$)**

Rank	1	2	3	4	5	6	7	8	9	10
Country	Nigeria	Canada	Mexico	Saudi Arabia	Norway	Algeria	Venezuela	Libya	Russia	Angola
Amount	8328	7232	4957	4326	3890	3676	3569	3394	2579	2118

Source: (Pak 2012, p. 38)

Table 3.3 above shows that regarding overvaluation of oil exports, Nigeria was also ranked as first among the top 10 countries; where the overvalued amount from Nigeria to the E.U. and U.S. together for the period between 2000 and 2010 stood at \$8.3 billion (Pak 2012). From the analysis Pak gives an example of overvalued U.S. import of crude oil from Nigeria “the U.S. imported 341,931 barrels at \$46.00per barrel in April 2003 from Nigeria. Relative to the upper bound price of \$21.54 for the corresponding crude oil at the time, this import is overvalued by an amount \$8.36 million” (Pak 2012, p. 18).

Extant literature reveals the kind of MNCs that are more likely to engage in transfer pricing manipulations. According to Conover and Nichols (2000) their investigation of the effect of firm size on the use of transfer pricing to shift income revealed that larger firms are more likely to use transfer pricing strategy to shift income. Similarly, Jacob (1996) found that MNCs with the highest level of intra-firm transactions had maximum incentive and most opportunity to use transfer pricing to shift income to their affiliates



in other jurisdictions. Existence of different tax jurisdictions coupled with various rules and regulations on tax matters make the determination of this income a main concern of management. The most important is the desire of the tax authority to collect their share in the form of tax from the income generated by the entity of an MNC located in their jurisdiction. Hence, government considers that the unit of an MNC is an independent entity for tax purposes to determine the income of the unit. For a government to receive its fair share of the economic rent generated from the exploration of oil and gas, it is essential to appropriately design its fiscal regime (Sunley et al. 2002). An appropriate fiscal regime for every country depends on various factors such as economic priorities, level of political risk, natural endowments and administrative capacity of the country.

### **3.7 Transfer pricing regulations in Nigeria**

To prevent transfer pricing abuse and likely loss of tax revenue in Nigeria, general anti-avoidance rules (GAAR) has been in existence for several years. In particular, Section 13 (2) (d) of the Companies Income Tax Act 2004 (as amended) 2007 empowers the Nigeria's tax authority, the Federal Inland Revenue Service (FIRS), to adjust any transactions between related entities that they presume to be fictitious or artificial and may reduce the taxable income in Nigeria (Onyeukwu 2007). Mactony Dick, a Federal Inland Revenue Service (FIRS) official lamented that transfer pricing rules in Nigeria are still at their infancy stage and Nigerian income tax law only contains a small number of related provisions such as the Petroleum Profit Tax Act 2004 that contains the only definition of related entities (Tribune 2009).

It has been argued that these provisions are usually applied under normal audit procedures and there was no specific documentation requirement or guidelines even in the petroleum sector that is considered the most scrutinised industry in the country (WTS 2010). The above provisions indicate that transfer pricing determination in Nigeria was an exercise of subjective judgment and based on the opinions of the tax authorities (Onyeukwu 2007). Furthermore, it has been revealed that this kind of ambiguous and unclear regulation would not be enough to curtail the current global transfer pricing issues. This form of anti-avoidance i.e. general anti avoidance rules can be found almost in every country even in Africa can be found in more than 30 countries (KPMG 2011). These rules are not effective from a practical point of view, because there was no framework or guidance for the enforcement of GAAR. The lack of

guidance has led to inconsistent application of the principles of the main legislation, as a result some MNCs perceived the FIRS as dysfunctional (PwC 2013). Therefore, there is a need for establishing and enforcing prudent transfer pricing policies to cope with the current trend of transfer pricing issues around the globe (Christian Aid 2011; Christian Aid 2008).

In today's globalised economy in which businesses spread to many countries including Nigeria, international taxation such as a specific transfer pricing policy plays a very important role as an environmental factor in planning and making strategies by MNCs in various industries including the petroleum sector. Moreover, any uncertainty of planning may adversely affect the investment decision by the MNCs (Onyeukwu 2007). Hence, appropriate implementation of effective transfer pricing policy is vital for both taxpayers and the tax authorities because it provides clarity to the taxpayers on how to treat transfer pricing objectively, avoid double taxation and increase the Government revenue (Akhidime 2011). This leads to an increase in compliance by the tax authorities; over the years the Nigerian tax authority (FIRS) commenced a process of drafting a specific transfer pricing guidelines based on the OECD Transfer Pricing Guideline for Multinational Enterprises and Tax Administrations (OECD Guidelines) and Commentary regarding the establishment of Transfer Pricing Manual for Developing Countries (UN Manual) which was published in October 2012.

The first draft of the transfer pricing regulations was released in May 2012 for commentary, precisely on 7 of May 2012, the tax authority in Nigeria, Federal Inland Revenue Service (FIRS) which is the agency responsible for the administration and enforcement of tax regulations invited stakeholders to a consultation session to obtain their comments and contributions on the transfer pricing regulation draft. Subsequently, in September 2012 the rules were finally released as Income Tax (Transfer Pricing) Regulations No 1, 2012 (The Regulations). The Transfer pricing regulations were established to provide guidance on the application of the GAAR and the regulations give effect to the following provisions: Section 22 of the Companies Income Tax Act (CITA) 2004 (as amended) 2007, Section 17 of the Personal Income Tax Act 2004 and Section 15 of the Petroleum Profit Tax Act 2004 (as amended) (Obayemi 2013). The Regulations followed the concept of the arm's length principle.

The Nigerian New Transfer Pricing Regulations are based on the arm's length principle, which is consistent with the global trend, as almost all the transfer pricing regimes around the world are based on the arm's length principle. Under this principle, all the transactions between related enterprises must be determined at arm's length (as if they were not related). Regulation 4 (1) and (2) state that:

*“(1) Where a connected taxable person has entered into transaction or a series of transactions to which these Regulations apply, the person shall ensure that taxable profit resulting from the transaction or transactions is in a manner that consistent with the arm's length principle.*

*(2) Where connected taxable person fails to comply with the provisions of this regulation, the Service shall make adjustments where necessary if it considers that the conditions imposed by the connected persons in controlled transactions are not in accordance or consistent with the – arm's length.”*

### **3.7.1 The scope of the regulations**

The regulations are applicable to the following categories of transactions between “*Connected Taxable Persons*” (CTPs): Sale and Purchase of goods and services; Sale, Purchase or lease of tangible assets; Transfer, Purchase, Licenses or use of intangible assets; Provision of service; Lending or Borrowing of Money; Manufacturing arrangement; and any other transaction which may affect profit or loss. The regulations are applicable to both domestic and cross-border transactions between connected entities. Thus, the Regulation covers all transactions taking place between connected taxable persons.

### **3.7.2 Connected taxable persons**

According to Part III (10) of the Regulation, the definition of Connected Taxable Persons (CTPs) includes individuals, persons, affiliates, subsidiaries, permanent establishment by headquarters, joint venture, partnerships, trust or association engaged directly or indirectly in the control, management, or capital of the other entity or the same entity or entities directly or indirectly participating in the control, management, or capital of both firms (collectively considered as connected taxable persons) and includes persons refers to in: Section 15 (2) of the PPTA; Section 13(2) (d) 18(2) (b) and 22(2) (b) of the 1990; Section 17(3) (b) Of the 1993 PITA; Article 9 of the OECD Model Tax Convection and Associated enterprise' of the OECD Guidelines.

### **3.7.3 Transfer pricing methods for determining arm's length price**

Under the regulations taxpayers are allowed to apply any of the following methods to set a price for transactions between related parties at arm's length. These methods are the same as those prescribed in the UN Manual and OECD Guidelines.

- Comparable Uncontrolled Price (CUP)
- Resale Price Method (RPM)
- Cost Plus
- Transactional Net Margin Method or
- Profit Split Method
- Any other method not listed but which can give rise to a result consistent with an uncontrolled transaction and none of the other methods can be used. Thus, FIRS permits taxpayers to use a method not listed in the regulations, as long as the taxpayer will prove that none of the methods outlined in the regulations is suitable and that the method chosen is based on the arm's length principle.

Under the regulations there is no priority of method. The transactions between related entities must be separately analysed to determine the most appropriate method, taking into account the nature of the transactions, type of transaction, related entity and the function performed by that entity and other relevant factors.

### **3.7.4 Documentation requirement**

The Regulation requires all taxable entities to prepare and maintain documentation that illustrates that arm's length rules are adhered to in their intra-firm transactions. This should be done prior to the due date of filing the tax returns; however, the submission of the transfer pricing document will be upon request by the FIRS. The Regulations do not provide a specific class of information with respect to the transfer pricing documentation, however, it is expected that the recommendations in the UN manual and OECD Guidelines will be acceptable, since the Regulation made reference to the guidelines.

### **3.7.5 Advance pricing agreement**

Related entities can request the tax authority (FIRS) to enter into an advance pricing agreement (APA). APA is an agreement between the taxpayer and the FIRS in which

the methods and the way in which certain future intra-firm transactions are going to be priced (based on the arm's length principle) for a specific period of time.

### **3.7.6 Transfer pricing penalties**

Penalties may compel the MNCs to comply with transfer pricing regulations. The draft of the Nigerian regulation did not stipulate any new penalty rule for the transfer pricing regime, instead relying on the provision of the existing applicable tax law mentioned in the previous sections. Regulation 13 of the Regulations states that:

*“Any taxable person who contravenes any provisions of these Regulations shall be liable to a penalty as prescribed in the relevant provision of the applicable law”*

The FIRS set up a Decision Review Panel (DRP) in order to resolve any controversy or dispute that arises from the application of the provisions of the regulation. The decision of the DRP is final and conclusive, however, where the connected taxable person is not satisfied with the decision of the DRP on any adjustment or transfer pricing issue may resort to a court of competent jurisdiction.

### **3.7.7 Tax treaty/corresponding adjustment**

The FIRS define a treaty as *“a formal, written agreement between sovereign states or between states and international organisations”* (FIRS 2014). The type of tax treaty within the purview of the FIRS is the Avoidance of Double Taxation Agreement. Despite this double tax treaties are rapidly growing around the world; UNCTAD reported that there would be 2,255 DTTs in 2003 around the globe (UNCTAD 2003). Nigeria still has tax treaties with only 10 countries, which is minimal compared to countries like the U.K. that have a DTA with more than 100 countries as mentioned in chapter three. Developing countries like China have them with 21 countries, India with 20 countries and South Africa with 17 countries (Neumayer 2007). Having a comprehensive tax treaty network is an important element to be considered when designing and implementing a transfer pricing regulation, in order to minimise potential double taxation and encourage FDI.

### **3.8 Reference to the UN Manual and OECD Guidelines**

Nigeria's proposed transfer pricing regulations were based on Article 9 of the OECD Guidelines. Subsequently, Nigeria considered both the OECD Guidelines and the UN Manual in its regulations. The Regulations in Part IV (11) state that:

*“Subject to the provisions of regulation 12<sup>7</sup> of these Regulations, this regulation shall be applied in a manner consistent with:*

*(a) the arm's length principle in Article 9 of the UN and OECD Model Tax Conventions on Income and Capital for the time been in force; and*

*(b) the OECD Transfer Pricing Guidelines for Multi-national Enterprises and Tax Administrations approved by the Council of the OECD approved for publication on 22 July, 2010 (otherwise referred to as ‘Annex I to C (2010)99’) as may be supplemented and updated from time to time”.*

### **3.9 Safe Harbour**

Regulation 15 of the regulations states that a taxpayer may be exempted from documentation requirements where the prices of the transactions between related entities are determined in accordance with Nigeria's statutory provisions or where the prices are approved by other established regulatory bodies<sup>8</sup> under Nigerian law. The regulation also stated that the prices must be at arm's length for FIRS to be satisfied.

### **3.10. Agency to administer transfer pricing regulations in Nigeria**

Normally when adopting transfer pricing regulations, the main thing that comes to mind is which agency will administer the transfer pricing activities and what will be the institutional structure of the agency? Since transfer pricing issues lead to loss of revenue

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<sup>7</sup>Regulation 12 states that where any contradiction arises between the provisions of any applicable rules, regulations, laws, the OECD guideline UN TP manual referred to in regulation (11) of these regulations the provision of the relevant tax laws shall prevail. Secondly, where contradictions arise with other regulatory authorities approvals, the provision of this regulation shall prevail.

<sup>8</sup> Such regulatory bodies include: Central Bank of Nigeria (CBN), Nigerian Custom Service (NCS) and National Office for Technology Acquisition and Promotion (NOTAP)

and the main aim of every country in this context is to recover the lost revenue and protect their tax base, generally most countries around the world assign the responsibility of administering transfer pricing regulations to revenue agencies of their countries respectively (Rahman et al. 2011). For example, the agency responsible for the administration of transfer pricing work in the UK is HM Revenue Customs (HMRC), in the US it is Inland Revenue Services (IRS) and in South Africa South Africa Revenue Services (SARS). Similarly, in Nigeria Federal Inland Revenue Services (FIRS) is the agency responsible for the administration of petroleum taxation. In fact, in Nigeria FIRS is the institution primarily vested with the statutory responsibility of the assessment, collection and enforcement various taxes such as corporate income tax and petroleum profit tax. Hence, FIRS is the revenue agency of the country with statutory responsibility for implementing policies concerning tax matters including transfer pricing regulations.

It has been acknowledged in many reports and studies that the activity of transfer pricing is very complicated and requires specialised experts with multidimensional skills to perform it. Traditionally, many countries administer their transfer pricing activities through conventional organisational arrangements, this is prior to 1990s. However, over the past two decades most administrations around the globe have undergone reforms and established a separate institutional arrangement for transfer pricing activities. For example, the United Kingdom has a body with a board, secretariat, and some panels and units to deal with the issues of transfer pricing. This institutional arrangement is under the HMRC. Likewise, in the US the IRS has a transfer pricing department headed by a director, while in South Africa, the tax authority SARS has also established a transfer pricing unit to perform transfer pricing functions. Therefore, transfer pricing requires a separate institutional arrangement to perform effectively.

Generally, Nigeria's tax authority (FIRS) has witnessed a series of reforms over the past 10 years. It gained independence to make and implement decisions (autonomy), some of the legislation was amended, improving staff salaries and welfare, employing a number of staff and training many of them in various perspectives. In view of the above, it will be expected or assumed that the authority may have the capacity to adopt and implement transfer pricing regulations. However, as discussed earlier the literature

indicates that developing countries lack the capacity (both human and material resources) to establish effective transfer pricing regulations.

### **3.10.1 Expertise and Resources**

Successful adoption and implementation of transfer pricing regulations require the creation of a specialised international taxation unit equipped with sufficient personnel including experts in the field of cross-border financial matters. Transfer pricing activities require experts with diverse skills and substantial amount of resources. This will be required to effectively address not only transfer mispricing but also other cross-border financial misconduct (Rahman et al. 2011). Literature suggests that currently, most developing countries like Nigeria lack such expertise and resources.

### **3.10.2 Information**

Generally, almost all the measures to address transfer pricing issues rely on information and such information hardly exists in Nigeria, even if it exists the availability of such information would be a major issue. Having comparable information is one of the most important features of having a successful transfer pricing regime. Addressing transfer pricing issues involves investigation of pre-transactions and post-transactions; information on both functions is needed in such an exercise. Under transfer pricing regulations, tax authorities obtain data from various sources and subsequently process, analyse and interpret it in order to monitor and track the transfer pricing practice of the MNCs (Rahman et al. 2011). The determination of an arm's length price requires information regarding comparable transactions. Lack of access to such information could be a barrier to most developing countries including Nigeria.

### **3.10.3 Establishment of a database**

Both the tax authorities and MNCs require economic and financial data for transfer pricing audits and compliance respectively. Transfer pricing issues most often involve cross-border transactions, thus, transfer pricing activities require national, regional and international data relating to the transactions. As mentioned in chapter two, there are various companies that have established a commercial database to provide a regional and international data service (Rahman et al. 2011). Many countries have subscribed to such transfer pricing databases to get adequate information relating to the transfer



pricing issue at hand. In addition, some countries, mostly developed countries such as the U.S. have set up their domestic database. Obtaining domestic data is very difficult for a developing country like Nigeria. In fact, data on domestic corporate activities, particularly relating to activities in the petroleum sector is very scarce. Domestic data services companies hardly exist, and even if a few exist, their database is not efficient. Some developing countries like South Africa have subscribed to the European database while trying to establish a national database. Nigeria can also subscribe to the international database and make an effort to create a domestic database, as well as collaborating with other African countries to establish a regional database. In adopting and implanting transfer pricing regulations the tax authority should include some policy that supports and encourages a data service to develop a domestic database.

#### **3.10.4 Educating the taxpayers on transfer pricing**

Educating the taxpayer is very important because successful implementation of transfer pricing regulations depends on proper understanding on the part of the taxpayers. Therefore, the tax authority should ensure that it embarks on a campaign to educate the taxpayers, make them understand the provisions of the rules and the regulations, explain to them their rights, responsibilities and obligations, in addition, regularly provide them any updates on changes in legislation and be aware of transfer pricing (Rahman et al. 2011).

#### **3.10.5 Exchange of information related to transfer pricing**

Application of the arm's length principle solely relies on the information relating comparable transactions. These transactions usually involved cross-border entities. An investigation of transfer pricing issues such transfer mispricing requires adequate information within and outside the country, therefore, the tax authority needs to collaborate with other cross-border tax authorities in order to exchange information with them.

#### **3.10.6 Need for assistance in adopting and implementing transfer pricing regulations in Nigeria**

The adoption and implementation of transfer pricing requires a commitment of a significant amount of resources (Rahman et al. 2011). Most developed countries are allocating a substantial amount of resources for more aggressive audits and legal

actions. It has been noted that the best approach is to get the legislative measures and administrative efforts tailored to the tactical needs and resources of each nation. Application of the arm's length principle can be expensive and complex, however, tax authorities should note that most OECD member countries commenced their transfer pricing regulations and practices modestly and built steadily over time (many years). Moreover, they are still in the process of improving them (Silberztein 2010). The U.S. tax authority added 2000 extra employees between 2009 and 2010 in order to strengthen its transfer pricing scrutiny (Sikka and Willmott 2010). While most developing countries lack the adequate resources to successfully implement transfer pricing regulations, their capacity to thoroughly examine the transfer pricing and other related issues are undermined.

Securing and managing funds from a revenue budgetary allocation for a new project like transfer pricing regulations may involve some bureaucratic procedures (Rahman et al. 2011). However, there are various agencies comprising organisations and countries that have a special interest in funding or providing guidance for developing countries to implement governance related projects, particularly revenue mobilisation (OECD 2010, UN 2012). These donor agencies do not just provide funding but also help in training the transfer pricing officials, technical expertise and assessing performance. Nigeria like other developing countries may seek assistance from such donor agencies where necessary. However, it has been revealed that each country's needs and priorities vary (PwC 2011a). Therefore, it is necessary to assess the needs and priorities of Nigeria regarding the assistance; whether it is financial, technical, training or performance assessment that it is needed most.

### **3.11 Conclusion**

Generally, the chapter discussed Nigeria's petroleum sector, its importance and contribution to the revenue of the country. The national tax rate and the consequences of transfer pricing were also reviewed. The chapter also discussed transfer pricing regulations from the Nigerian perspective and provided the summary of proposed transfer pricing regulations in Nigeria. The chapter reviewed the tax administration capacity of the agency responsible to administer transfer pricing regulations in Nigeria. Issues relating to the capacity of Nigeria's tax administration and the challenges that

may face the adoption and implementation of transfer pricing regulations were also reviewed.

Some of the issues discovered from the review are that there is a potential loss of tax revenue as a result of transfer mispricing in Nigeria's petroleum sector, and therefore, it is imperative to regulate the transfer pricing practices of the MNCs operating in the petroleum sector and the country at large. The primary aim of the Nigeria's tax authority is to prevent the loss of tax revenue arising from transfer mispricing by adopting transfer pricing regulations. The review revealed that Nigeria had GAAR prior to the issuance of a draft on transfer pricing regulations based on the OECD guidelines in 2012. This indicated that Nigeria was a late adopter; whereas countries like South Africa have adopted their transfer pricing regulations since 1995. Institutional theorists argued that late adopters tend to adopt regulations to gain legitimacy instead of improving performance and protecting resources. The review also revealed that the Nigerian tax authority (FIRS) has witnessed various reforms over the past ten years. However, the capacity gap in transfer pricing expertise, training, facilities and resources considering the complex nature of the transfer pricing regulations remain a major concern.

## **CHAPTER FOUR**

### **Theoretical framework**

#### **4.1 Introduction**

This chapter discusses the framework that is used as a theoretical lens in this research. The chapter gives a brief overview of theoretical framework, discusses the different strands of institutional theory, the rationale for adopting the theory, the applicability of the institutional theory to transfer pricing and to this study in particular. It also mentions other alternative theories that might be applicable to this study.

#### **4.2 Overview of theoretical framework**

The adoption of a relevant theoretical framework in a study of this nature is necessary to provide a better understanding of the situation under study (AlQuarni 2004; Anfara and Mertz 2006). Theoretical frameworks are usually drawn from various fields of study (discipline) in the social sciences such as economics, political science, psychology, sociology and biology among others (Anfara and Mertz 2006). There are various theoretical frameworks to consider in a research; although, the choice of a particular framework depends on the aim and purposes of the study (Ornek 2008). As this study focuses on the adoption and implementation of transfer pricing regulations in Nigeria, institutional theory is considered an appropriate theoretical lens in research as it “emphasises the formal and legal aspect of government structures<sup>9</sup>” (Kraft and Furlong 2013, p. 81). Transfer pricing regulations are also government structures that would shape the interaction (transfer pricing practices) between the related entities of an MNC; for example, between the subsidiaries of MNCs that operate in the Nigerian petroleum industry and their affiliates in other countries.

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<sup>9</sup> Government structures refer to those arrangements by which field level power and authority are exercising involving, variously, formal and informal, public and private auspices, regulative and normative mechanisms (Delbridge and Edward 2007, p. )

### **4.3 Institutional theory**

Institutional theory can be traced back to the formative period of social science, enlisting and integrating the innovative insights of prominent scholars such as Charles Horton Cooley and Mead, Karl Marx and Max Weber, Thorstein Veblen and John Commons (Scott 2005). Most studies, conducted in the late nineteen (19<sup>th</sup>) and early twentieth (20<sup>th</sup>) century were submerged under the onslaught of behavioralism in political science, neoclassical theory in economics and positivism in sociology, but has experienced a significant renaissance in recent years (Alshaibi 2008, Scott 2005). Scapens and Varoutsas (2010) stated that in recent years, institutional theory has had a significant influence on various fields of studies within social sciences, including sociology, public administration, economics, political science, organizational theory and also accounting. “Institutional theory has become a popular choice for accounting studies that seek to understand why and how accounting become what it is or is not” (Hoque 1996 p.).

Scott (2004) states that the contemporary institutional theory has been widely given attention and used by various scholars across the social sciences to examine micro-interpersonal interaction and macro-international framework (for instance: Alshaibi 2008; Carpenter and Feroz 1992, 2001; Brignall and Modell 2000; DiMaggio 1988; Eden et al 2001; Lin and Sheu 2012,). A review of the previous studies in the field of accounting indicates that public sector researchers have apparently paid more attention to institutional theory than others. It has generally been employed as a theoretical framework to understand public sector transformation (Hoque 1996). According to Scott (2005) the concept of institutional theory considers the procedures by which elements of structure such as rules, norms, routines and schemas are instituted to become authoritative guidelines for social behaviour. Scott added that it is used to investigate how these elements are established, adopted, diffused and adapted over a period of time; and how they fall into decline and neglect. However, there are various and divergent strands beneath the institutional theory.

#### **4.3.1 Strands of institutional theory**

Existing literature in the field of accounting reveals that there are three major strands of institutional theory that have had a major impact on accounting research particularly on

management accounting studies (Burns and Scapens 2000); namely: Old Institutional Theory (OIT), New Institutional Theory (NIT) and New Institutional Sociology (NIS). These three strands of institutional theory “have different origins and intellectual roots, however, they share a concern for institutions and institutional change” (Burn and Scapens 2000, p. 4). In other words; they all agreed that institution matters; but they differ in defining the term institution; to a greater extent this difference in the definition of institution distinguishes the different strands of the theory.

#### **4.3.1.1 Old institutional economics**

Old institutional economics (OIE) can be traced back to the seminal works of Thorstein Veblen (for example Veblen 1898), Wesley Mitchell, Clarence Ayres and John R. Commons (Hoque 1996; Hodgson 1989; Scott 2004). Within this strand (OIE) there were significant variations in the views of the institutionalists, but they commonly criticized the unrealistic assumptions of neoclassical economic models and the failure of the conventional economists to study change (Scapens and Varoutsas 2010, p.4). As mentioned earlier, there is no universally accepted definition of an ‘institution’ even within the OIE strand (and other strands of institutional theory) but the most commonly used definition of institution under this strand is: “settled habits of thought common to the generality of man” (Veblen 1919, p.230); in other words “a way of thought or action of some prevalence and permanence, which is embedded in the habits of a group or customs of a people” (Hamilton 1932, p. 84). This definition considers the socio-cultural feature of institution and stresses the significance of habitual behaviour (Scapens and Varoutsas 2010). Institution can be considered as “an imposing form of social coherence upon human activity, through the production and reproduction of settled habits of thought and action. However, institutions themselves evolve through a process of routinisation of human activity” (Burns and Scapens 2000, p. 6) Furthermore, OIE considers why/how particular structures or behaviours emerge, sustain and/or change over time instead of simply what structures exist at a particular time (Hoque 1996).

#### **4.3.1.2 New institutional economics**

New institutional economics (NIE) can be traced back to the post war periods and subsequently gained the focus of economists from 1960s onwards (Hoque 1996). The

recognition of the significance of institutions under NIE contradict with that of OIE, where the assumptions of bounded rationality of neoclassical economics were rejected under the OIE, the NIE has considered adapting them to bring institutions into mainstream economic analysis (Scapens and Varoutsas 2010; Scapens 1994). Under NIE there are a number of institutional variants as well as various studies that have been carried out in areas such as common law, property rights, organisations as well as the public choice process and the institutional variants (theories developed), include: transaction cost theory, agency theory, game theory (Scapens and Varoutsas 2010; DiMaggio and Powell 1991).

North (1990, P.3) stated that Institutions “are the rules of the game in a society or more formally, are the humanly devised constraints that shape human interaction.” Institutions impose limitations on individuals through formal written rules and informal unwritten codes of conduct stipulating what individuals are supposed to partake in and the things that are prohibited under certain circumstances (Araujo 1999). North (1994) stated that institutions are made of formal rules, informal constraints (norms of behaviour) and the enforcement elements of both. Institutions provide the opportunity set in an economy which determines the kind of purposive activity embodied in the organisations (firms, political parties, or regulatory agencies) that will come into existence. Individuals attempt to maximise their behaviour over stable and consistent preference ordering, but they do so, NIEs argue that in the face of cognitive limits, incomplete information, difficulties in monitoring and enforcement of the agreements. Institutions arise and persist, when they confer benefit than the transaction cost (that is the cost of execution, negotiation and enforcement) incurred in creating and sustaining them (DiMaggio and Powell 1991).

#### **4.3.1.3 New institutional sociology**

A starting point for most New Institutional Sociology (NIS) informed studies is an assumption that intra-organisational structures and procedures, including accounting, are largely shaped by external factors rather than cost-minimising objectives. Thus organisations operating in a similar environmental setting are assumed to be subject to comparable demands towards what is generally deemed as being appropriate behaviour, including its choice and design of internal structures and procedures (Hoque 1996 p. 186). NIS argued that most “institutional forms and procedures used by modern

organisations were not adopted simply because they were most efficient for the tasks at hand, in line with some transcendent rationality. Instead they argued that many of these forms and procedures should be seen as culturally specific practice, akin to myths and ceremonies devising formal means-ends efficiency, but as a result of the kind of processes associated with the transmission of cultural practice more generally” (Hall and Taylor 1996, p. 14). Organisations are shaped by phenomena in their environments and affected by institutions established in much wider environments. Individuals and organisations are affected by societal institutions while national states by world society (Meyer and Rowan 1977; Meyer 2008).

Generally, some scholars categorised the above strands as old institutional theory and new institutional theory. The term strand does not mean there is no variation within a particular strand rather the differences among the major strands are more significant. Even in the ‘new’ institutionalism there have been as many lines of thought as in the ‘old’ institutionalism, but all the variants have had one key element in common. In one way or the other they all believe the idea that society is made up of interested and purposive and often rational actors (Meyer 2008).

### **4.3.2 Variants of new institutional theory**

Under the new (neo) institutionalism the most common variants are historical institutionalism, rational choice institutionalism and sociological institutionalism. Each of these variants (strands) maintains a particular position (Liecht and Jenkins 2010).

#### **4.3.2.1 Historical institutionalism**

Historical institutionalism which is sometimes related to the old institutional economics emphasizes formal structures of government (Peter 2000). Under this approach institutions are defined as “the formal and informal procedures, routines, norms and conventions embedded in the organisational structure of the polity or political economy” (Hall and Taylor 1996, p. 6). Historical institutionalism also emphasises the “path dependence analysis” particularly for macro level outcome. Historical institutionalists focus on how institutions produce such paths, i.e. how they structure a state’s response to new challenges. Early scholars focused on the impact of existing ‘state capacities’ and ‘policy legacies’ on subsequent policy choices. Others emphasize the manner in which previous lines of policy form subsequent policy by encouraging



societal forces to arrange along some lines instead of others, to diffuse specific identities (Hall and Taylor 1996, p. 9). Although the idea of “path dependency” is a key explanatory principle for historical institutionalists, they also have an interest in the idea that facilitate to shape and maintain the directions of policy (Peter 2000; Hall 1986). The underlying logic of historical institutionalism is that “the policy and structural choice made at the inception of the institution will have a persistent influence over its behaviour for the remainder of its existence” (Peter 2000, p. 3). This approach is more suitable for explaining the persistence of policy but is less suitable for explaining change in (structure) policy (Peter 2000).

#### **4.3.2.2 Rational choice institutionalism**

Rational choice institutionalists in political science drew useful analytical instruments from the new institutional economics which give more emphasis to the importance of rent seeking, property rights, and transaction costs to the operations and developments of institution (Hall and Taylor 1996). It emphasizes the analysis of how rules of particular organisation affect the behaviour of actors and why they arise (Hall and Taylor 1996). Rational choice institutionalists assume that policy makers pay attention to problems first and then subsequently develop policies to solve them (Sabatier 2007). The fundamental assumptions of the rational choice institutional theorists are about individual behaviour. Individuals are considered to behave in a rational and strategic manner to maximise their utility with the aim of achieving particular interests and preferences; (Lynggaard 2006). Most countries around the world view the behaviour of the MNCs from this perspective and believe that it is necessary to monitor or control such behaviour. From the rational choice institutional theorists perspective institutions are sets of rules and incentives that set up the conditions for bounded rationality and the actors behave in response to those basic elements of institutional structures (Peter 2000; Lynggaard 2006).

It has been argued that development of a specific form of organisation can be elucidated as a result of an attempt to reduce the transaction costs of carrying out the same operation without such an institution (Williamson et al. 1996). The concepts of rational choice institutionalism have been employed to give an account of the rise and fall of international regimes, the sort of responsibilities that nations delegate to international organisations, and the form of such organisations (Hall and Taylor 1996). Rational

choice institutionalists also suggest that the behaviour of actors is not driven by impersonal historical forces rather by strategic calculus and the calculus will be extremely shaped by the expectation of the actors of how others are also likely to behave (Hall and Taylor 1996).

#### **4.3.2.3 Sociological institutionalism**

Sociological institutionalism pays attention to culture and the ideation causes of structures or arrangements and draws primarily on institutionalism in the study of organisations. The focal point of these variants is mainly on the macro determinants of political actions and activities that take place at the micro (lower) level analysis (Liecht and Jenkins 2010). The sociological approach usually emphasizes myths, isomorphism and legitimacy (Scott 2008, Meyer and Rowan 1977). Suchman (1995) defines legitimacy as “a generalised perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions” (p. 574). Meyer and Rowan (1977) argued that actor structures, policies, forms, replicate institutional prescriptions and model in the wider environment have a tendency to become isomorphic with them (Meyer and Rowan 1977). They also added that “institutionalized products, services, techniques, policies, and programs function as powerful myths, and many organizations adopt them ceremonially. But conformity to institutionalized rules often conflicts sharply with efficiency criteria and, conversely, to coordinate and control activity in order to promote efficiency undermines an organization's ceremonial conformity and sacrifices its support and legitimacy” (Meyer and Rowan 1977, p. 340-341). They added that “such institutions are myths which make formal organizations both easier to create and more necessary... and because the building blocks are considered proper, adequate, rational, and necessary, organizations must incorporate them to avoid illegitimacy” (p. 345).

The success and survival of an organisation are promoted by institutional isomorphism; when externally legitimated formal structures are incorporated by organisations, it will increase the commitments of both the participants and the constituents (Meyer and Rowan 1977). DiMaggio and Powell (2012, p.70) state that “organizations tend to model themselves after similar organizations in their field that they perceive to be more legitimate or successful.” DiMaggio and Powell propose that the process of institutional isomorphism can be of three types: Coercive, Mimetic and Normative. Coercive

isomorphism which occur when an organisation is subject to pressure from other organisations on which it depends (e.g. government)-requirements imposed by law. Mimetic isomorphism which refers to the adoption of practices used by organisations perceived to be successful. It is a response to organisational uncertainty in identifying the best course of action. Normative isomorphism which occurs when as the result of shared values and ideas about appropriate behaviours, often diffused through professional networks and formal education (DiMaggio and Powell 2012; Reginato 2010; DiMaggio and Powell 1983).

### **4.3.3 Critics of institutional theory**

Even among the institutional theorists, different strands tend to criticize one another as discussed in the previous sections. However, generally, the major challenge or criticism of institutional theory is that it is too broad and the three schools of thought are not just distant from each other but sometimes even contradictory (Hall and Taylor 1996). In response to the critics some institutional theorists made an effort to integrate the different strands of institutional theory.

### **4.3.4 Integration of the various lines of thought**

Immergut (1998) stated that there is a common theoretical core to these strands and thus, proposes the potential for the fruitful integration of elements of sociological institutionalism, rational choice theory and historical institutionalism. However, at the same time he urged the historical institutional theorists to reclaim analytical and normative space for the issue of power and justice. Peter (2000) outlines some of the arguments that unify the various strands of institutional theory and the most important one is that "structures—however, defined--do matter". In other words, institutions matter. The simplest of these structures are the formal structures of government; defined as parliamentary or presidential. The version of historical institutionalism is slightly complex, but a common sense concept of a formal structure that persists over time. It also emphasises the influence of ideas on structures and tends to talk of institutions in ideational terms (p. 4). March and Olsen (1989) stress that institutions appear to be both a formalized organisational mechanism and values that those structures have and how they integrate to new members. On the other hand, for rational choice institutionalists, institutions are made up of incentives and/or constraints on behaviour. Individuals being

rational are presumed to react to those factors in the structure of an institution. However, it was further stated that despite all these unifying terms, there are some problems such as a multiple understanding of what the term institution is and about aspects that shape behaviours within an institution.

Peter (1999) also states that the confronting approaches to new institutionalism should be complementary rather than give a competitive explanation for political phenomena (p. 2). Kato argued that “the three groups are confused with each other” signifying the main variation “on the questions of relationship between political institution and individual rational behaviour”. Kato advocates a midway position, that of bounded rationality, which considers institutions as “possible environments in which the rational behaviour of individual actors is promoted” (1996, p.554-555). Araujo (1999) also asserts that in employing the new institutionalism approach for studying public organisations, it is essential to incorporate interaction between the individual and the group, and be acquainted with how their choices are constrained by the collective choices and the institutions. Goodin (1996) added that the variants of the new institutionalism are complementary despite their disparities (p. 2).

Furthermore, Knight (1994) states that the concept of institution comprises two key characteristics: a set of rules that will organise social interaction among actors in a certain way, and a shared knowledge of these rules by members (p.53-54 cited in Araujo 1999). This general description points to a common feature of institutions. Institutional arrangements establish a framework in which social interactions take place according to the established rules, routines and norms that are embedded in the culture (Araujo 1999). A country’s institutional environment is the set of economic, political, social and legal conventions that create the foundation basis for production and exchange (Sobel 2002; Trevino 2008). Institutions are considered as “multifaceted, durable social structures, made up of symbolic elements, social activities and material resources” that limits the scope for human activity by establishing legal, cultural and moral boundaries (Scott 2001, p. 49). The sanctioning power of rules and regulations, the stabilising influence of dominant social beliefs and norms and the social construction of shared frameworks of meaning, offer the means to explain social conformity and field-level cohesion.

Scott (2004) adopted an approach that constructs an “encompassing” framework that integrates related but divergent concepts and arguments and places them within a broader theoretical model. Scott identified various aspects along which contemporary theorists diverge as they consider the relation of institutions to organisations (Scott 2014). He identified three major analytical elements that comprise institution and each of these elements is significant.

**Table 4.1: Three pillars of institutions**

<b>Basis of compliance</b>	Regulative Expedience	Normative Social obligation	Cultural-Cognitive Taken-for-grantedness shared understanding
<b>Basis of order</b>	Regulative	Binding expectation	Constitutive schema
<b>Mechanisms</b>	Coercive	Normative	Mimetic
<b>Logic</b>	Instrumentality	Appropriateness	Orthodoxy
<b>Indicators</b>	Rules, Laws, Sanctions	Certification, Accreditation	Common beliefs, shared logics of actions, Isomorphism
<b>Effect</b>	Fear of guilt/ Innocence	Shame and Honour	Certainty/ Confusion
<b>Basis for legitimisation</b>	Legally sanctioned	Morally governed	Comprehensively recognise culturally supported

Source: (Scott 2014, p.60)

Scott (2014) argued that though sometimes one or other element dominates, mostly, especially in a robust institutional framework, the three elements work in combination. But each element works through unique mechanisms and sets in motion dissimilar processes (Scott 2014). Institutions comprise “*cultural-cognitive, normative and regulative elements that, together with associated activities and resources, provide stability and meaning to social life*” (Scott 2001, p. 48).

Due to the widespread emphasis on top-down models, it was assumed that institution arguments were mainly of use to elucidate increased conformity to a particular model or rule. Increasing isomorphism was considered to be the key indicator that indicates that institutional processes were at work (Scott 2001). Thus early research and theory focused more on the diffusion of the existing institutional model (e.g. Tolbert and Zucker 1983). Such focus failed to consider vital aspects in the institutionalization

process which has, essentially, a commencement, middle and end (Scott 2004, Tolbert and Zucker 1996). Scott 2004 stated that although all institutions are made up of various combinations of pillars, they differ among themselves and sometimes about which pillar is dominant. Different institutional theorists also attempt to favour one or other type of element. Thus, early sociologists stressed normative elements (Selznick 1949; Hughes 1984); but recent organisational sociologists and anthropologists stress cultural-cognitive elements (Douglas 1986; Zucker 1977; Scott 2001 and DiMaggio and Powell 1991); while most rational choice theorists and economists favoured regulative pillars (North 1990; Scholz 1986).

“Institutions constrain and regularise behaviour. Scholars more specially associated with the regulatory pillar are distinguished by the prominence they give to explicit regulative processes—rules-setting, monitoring and sanctioning activities. In this conception, regulatory processes involve the capacity to establish rules, inspect others’ conformity to them, and, as necessary, manipulate sanctions—rewards or punishments—in an attempt to influence future behaviour. The sanctioning process may operate through diffuse, informal mechanisms, involving folkways such as shaming, or shunning activities, they may be highly formalised and assigned to specialised actors such as the police or courts” (Scott 2014, p. 60).

Under the normative pillar; institutional theorists suggest that institution primarily rests on the normative pillar. The normative pillar focuses on normative rules that set up a prescriptive, evaluative and obligatory aspect to social life. Such a system comprises both norms and values (Scott 2014) 65. The cultural-cognitive pillar: some scholars, particularly sociologists and anthropologists, emphasize the centrality of the cultural-cognitive elements of institutions. Scott (2014, p. 66) states that “in the cognitive paradigm what a creature does is, in large part, a function of the creature’s internal representation of its environment”. Furthermore, Meyer and Rowan stress the level to which wider cultural frames and belief systems are adopted or imposed on an organisation or individual actors. Rational choice theorists and economists are more likely to focus on the regulative perspective of institutions. Economic historians emphasize the macro levels; investigate the functions and origin of trans-national regimes; national rules as well as enforcement measures established to regulate the economic behaviour of individuals and firms (Scott 2014).

#### **4.3.5 Application of institutional theory to transfer pricing**

Carpenter Feroz (1992) used institutional theory to investigate the decision of the New York State government to adopt generally accepted accounting principles GAAP in preparing external financial reports. The study argued that the decision to adopt was strongly due to the government's intention to legitimize its financial management practices but was also driven by the interplay of relations and intra-organisational politics. Subsequently, in another study Carpenter and Feroz (2001) used institutional theory to explain how the institutional pressures exerted on four US state governments influenced the decisions of these governments to adopt or resist the use of generally accepted accounting practices (GAAP) for external financial reporting. The study revealed that resource dependency was the major factor that influenced the decision of the relevant state governments to accept GAAP. On the other hand, the lack of socialization of the accounting officials in the accounting profession to encourage adoption of GAAP was argued to be the major driver that influenced the decision to resist GAAP.

Similarly, Eden et al (2001) used the logic of embeddedness, institutional theory and transactional interdependence to develop a theory to examine the socio-historical evolution of transfer pricing in North America over the twentieth century. The study focused on three elements of cross-border diffusion: timing (who follows and when?), motivation (why follow?) and form (is diffusion perfect or imperfect?). They suggest that pressures for and against diffusion in North America are political, economic and institutional forces. Ter Bogt and Van Helden (2000) investigated the gaps between actual accounting change and formally designed accounting system change in an organisation of the Dutch government. The Government decision for re-designing the accounting system was not largely influenced by major financial related concerns. They revealed that the internal pressure for change was moderate. Ter Bogt and Van Helden argued that a gap exists between the formally designed accounting change and the actual change that took place, especially as the management demonstrated a lack of commitment to achieve the formal objectives.

Araujo (1999) used institutional theory in examining reform and institutional persistence in the Portuguese central administration, employing a mixed methods approach; using questionnaire survey, interview and secondary documents. Peter (2000

p.12) states that the “research required to measure institutions within the normative framework could be conducted with questionnaires, through more in-depth interviews, or by using organisational artifacts (training manuals, internal communications etc.). It is, however, more than possible to assess the existence of an institutional culture and typify it. Typifying that culture may involve examining the management content and/ or at the policy aspects, especially for public sector institutions responsible for making and implementing particular types of policy. Both of these dimensions help to understand how the institution functions and how it relates to its external environment.”

#### **4.3.6 Application of institutional theory to transfer pricing regulations**

The institutional theory is one of the various theories that can be applied to the study of transfer pricing regulations. This section discusses the reasons why this study employed institution theory as a theoretical framework to serve as a lens to understand the adoption of transfer pricing regulations. The framework is based on institutional theory that incorporates various strategies designed to enhance the efficacy of institutions, drawing not just on the regulative institutional pillar (rules, regulations, agreements and their enforcement through arbitration, mediation or litigation), but also normative (for example, social exchange processes and socially shared expectations of appropriate behaviour) and cognitive (for example scripts, interest, creating identities) institutional pillars (Henisz and Levitt 2011, Scott 2014).

First, even the definitions of the terms institutional theory and transfer pricing regime provided below indicate the relevance of the theory as a lens to study the adoption of transfer pricing regulations. According to Scott (2005), the concept of institutional theory considers the procedures by which elements of structure such as rules, norms, routines and schemas are instituted to become authoritative guidelines for social behaviour. Eden (1998) suggests that the (international) transfer pricing regime has its own norm (arm’s length standard), principle (international equity and neutrality), rules (variety of methods for determining intra-firm transactions), and procedures (competent authorities, appeal, dispute resolution mechanism such as APA and arbitration). Institutions such as the OECD, the United Nations and the United States Treasury have tremendously influenced the development of the regime. Scott added that institutional theory is used to investigate how these elements are established, adopted, diffused and adapted over a period of time; and how they fall into decline and neglect. Thus,



application of institutional theory to investigate the appropriateness of the adoption of transfer pricing regulations in Nigeria with a focus on petroleum sector will give us a better understanding of the scenario.

In addition, institutional theorists, particularly rational choice institutionalists, use a characteristic set of behavioural assumptions. Generally they suggest that particular actors have a predetermined set of tastes or preferences (most often conforming to specific conditions), behave absolutely instrumentally in order to maximise the achievement of these preferences, and do so in a very strategic way that presumes extensive calculation (Hall 1996, p. 12). Furthermore, Williamson (1985) stated that individuals and firms act opportunistically. As thoroughly discussed in the previous chapters, the majority of operations or activities in the Nigerian petroleum sector are being conducted by affiliates of MNCs and it has been alleged that MNCs tend to take advantage of the non-existence or weak regulatory institutions to maximise their corporate profit in order to increase shareholder wealth as reiterated by agency theory. Institutional theory asserts that individuals and firms are rational actors; hence, MNCs can go to any extent to accomplish this objective—perhaps even if that include socially *irresponsible* behaviours (ways) if they are sure that they can be able to get away with it. In fact, most of the research based on institutional theory in the field of economics such as the study of transaction cost analysis (e.g. Williamson 1985; North 1990) and economic regulation (e.g. Posner 1973; Stigler 1996; 1971; Densetz 1968) is based on the above assumptions. (Campbell 2007).

Various studies have indicated that MNCs do engage in transfer pricing manipulation to shift their income to other jurisdictions; usually to low tax rate jurisdictions (tax havens) in order to minimise their tax burden; thus maximising their corporate profits. MNCs that operate in the Nigerian petroleum industry are no exception. Moreover, it has been alleged that Nigeria loses millions of pounds as a result of such practice. The most important point from the perspective of institutional theorists is the behaviour of actors; irrespective of whether individuals or collectives could not be attributed to the motives or characteristics but to the circumstances in which they act (Scott 2014; Schneiberg and Clemens 2006). Institutional theory emphasizes analysis of how rules of particular organisation affect the behaviour of actors and why they arise (Hall and Taylor 1996).

The second aspect is arguably even more significant, yet did not receive considerable attention; the designing of transfer pricing regulations. Transfer pricing regulations govern transactions between related entities to ensure that profits are not re-allocated opportunistically. Government agencies such as Nigeria's tax authorities (FIRS) are trying to regulate and collect the fair share of revenue accruing to government in order to improve the welfare of the citizens. Successful regulation of such actors' (MNCs') behaviour can be achieved through institutionalization (Scott 2005). Institutional rules were essential to define the boundary within which individuals and firms could pursue their goals (Scott 2014). "Institutions are arrangements of rules and incentives, and the members of the institutions behave in response to those basic components of institutional structure. Structures are composed of incentives and/or constraints on behaviour. Being rational animals, individuals are assumed to respond to those factors in the structure of the institution" (Peter 2000, p.5).

Some institutional theorists emphasise that institution is a system of norms, beliefs, rules and organisation that collectively make a social regularity of behaviour. A regularity of social behaviour is attained, when the institution provides motivations that make digression from the set behaviour less attractive (Sammeck 2012). Rules, norms and meaning arise in interaction, and they are preserved and modified by human behaviour (Ventresca 2006 cited in Scott 2014). Eden et al. (2001) state that institutionalism, in such design, requires some basic institutional principles to guide these rational actors to operate effectively. The arm's length principle is the prevailing norm for transfer pricing regime globally. The arm's length principle is a key and common element of the U.S. transfer pricing framework, the OECD guideline framework as well as the UN transfer pricing manual for developing countries in designing a fiscal tax policy. However, they differ in the application of the arm's length principle. Most countries around the world adopted their transfer pricing regulations based on these regulatory frameworks.

The adoption of standards and practices established in one country by another country is called cross-border diffusion (Eden et al. 2001). Moreover, transfer pricing regimes adopted by most countries are diffused across the borders with other nations or organisations. However, diffusion of these principles is often constrained by political, economic, cultural and socio-historical forces (Eden et al. 2001). Principles, rules and

structures instituted into a particular environment (directly or strategically) induce organisational practices (Ruef and Scott 1998). For instance, for an enterprise to determine transfer prices, it has to abide by the rules, laws and regulations of the particular environment in which it operates. Nowadays, a single organisation perhaps operates at the same time in various institutional environments, as do the MNCs (Goshal 1997). And without leaving home, organisations are confronted by beliefs and practices of “foreign” actors. Both international professional bodies and non-governmental organisations contend for influence and attention in every possible arena (Scott 2004; Djelic and Quack 2003).

DiMaggio and Powell (1991) suggest that institutional frameworks are not expected to be adopted wholly into a system that is substantially different from the one in which it originated. However, modern organisations and nation-states seem to be eager to make themselves actors, thus adopting often wholesale, international standards (Meyer 2008). Nation states endorse global norms which they lack the capacity to conform to locally. Institution theory suggests that nation forms, structures, policies, emulate institutional prescriptions and models in the wider environment Meyer 2008). Therefore, taking into consideration the capacity of the Nigerian tax administration, what form of transfer pricing regulations would be appropriate for the country? One feature of institutional change is the formation of institutions, and not all institutions are as fully formed as others (Peter 2000). “Modern organisation structures are a product not only of coordinative demands imposed by complex technologies but also of rationalised norms legitimizing adoption of appropriate structural models” (Scott 2005, p. 14). Institutions exhibit stability and meaning making properties because of the processes set in motion by regulative, normative and cultural-cognitive elements. These elements are the central blocks of institutional structures, providing the elastic fibres that guide behaviour and resist change (Scott 2014, p.57).

Thirdly, diffusion of rules and structures is often seen as either replication or response effects (Li and Ferriera 2008; Eden 2001). Tax authorities in many countries have adopted and implemented transfer pricing rules to control the transfer pricing behaviour of MNCs to safeguard their respective tax base (Gox and Schiller 2007). In a growing and globalised society, individuals and groups in almost all places appear to be eager to become actors; this usually takes primacy over other objectives, and can generate

assertion of actor identity far from any real actor capability (Meyer 2008). Institutional theorists assert that in order to gain legitimacy, organisations adopt organisational form and procedures from other organisations operating in a similar set up for example, organisational fields (DiMaggio and Powell 1983), similar environments (Scott 1992) or social sectors (Scott and Meyer 1994). Similarly, institutional theory asserts that “organizations are driven to incorporate the practices and procedures defined by prevailing rationalized concepts of organizational work and institutionalized in society; organizations that do so increase their legitimacy and their survival prospects, independent of the immediate efficacy of the acquired practices and procedures” (Meyer and Rowan 1977 p. 340). Furthermore, DiMaggio and Powell (1983) explain that the process of adoption can create pressure that makes organisations become more similar to other organisations within their institutional environment (isomorphism) without essentially making them more efficient (p. 147). What motivates the adoption of transfer pricing regulations in Nigeria?

Fourthly, indeed, it is not just the establishment of regulations that matters but also the capacity of the nation (tax authority) to monitor the actor’s (MNC) behaviour (transfer pricing practice) and enforce these regulations accordingly. It should not be presumed that nations will do this effectively (Campbell 2007). It has been argued that the organisation’s (tax authority’s) identity and its capacity to partake and to understand the arena rely on its past learning process and its institutional autonomy. Thus, the process of change is shaped and constrained by internal dynamics (Araujo 1999). Meyer and Rowan (1977) stressed that organisational success in part depends on environmental processes and on the capacity of a certain organizational leadership to form these processes. In part, it also depends on the ability of given organizations to conform to, and become legitimated by, environmental institutions (Meyer and Rowan 1977).

Huntington (2006) states that the assessment of the circumstances of an organisation for institutionalization requires the following criteria: autonomy, adaptability, coherence and complexity. According to Peters (2000), autonomy considers the capacity of an institution to take and implement its own decisions. Adaptability considers the capability of an institution to adapt to changes in the environment. Coherence considers the institution’s capacity to organise its existing tasks and establish a process to undertake a particular activity in a timely and appropriate way. Complexity considers

the capacity of the institution to establish internal structures to achieve its objective and adapt to the environment. Consideration of these criteria enables the change to become an element of the structure of the institution (Gallant and Drinan 2006). What is the capacity of Nigeria's tax administration to adopt and implement transfer pricing regulations in Nigeria with a particular focus on the petroleum sector?

Fifth, although symbolic systems—rules, norms and cultural-cognitive –beliefs are central ingredients of institutions; the concepts must also encompass associated behaviour and material resources. Therefore, we must attend to the activities that produce, reproduce and change them and the resources that sustain them (Scott 2014). The enforcement of desired changes will require substantial resources. Swell (1992, p.13) outlines the significance of including resources (both human and material) in any formation of social structures in order to consider asymmetries of power. For rules and norms to be effective, they must be supported with sanctioning power, and schemas or cultural beliefs to be viable, must relate to and usually be embodied in resources. On the other hand, “those having power in the form of surplus resources ask for authorisation and legitimatisation for its use. Schemas that are not empowered by resources would in the end be neglected and forgotten, just as resources without cultural beliefs or schemas to channel their utilization would eventually be misused and decay (Scott 2014). Most treatments of institutions emphasize their capacity to control and constrain behaviour. Institutions impose restrictions by defining legal, moral, and cultural boundaries.

#### **4.4 Resource-Based View**

A resource-based view can be traced back to early research. Retrospectively, element of the resource-based view can be found in studies of Coase 1937, Stigler 1961 and Williamson 1975 where emphasis was put on the importance of resources and its implications for firm performance (Tokuda 2005). Resource-based view became one of the important theories of strategic management in the mid-80s (Barney 1986; Wenerfelt 1984; Rumelt 1984). Moreover, the attention of researchers to firm's resources has increased over the years (Tokuda 2005; Barney et al. 2001; Wright et al. 2001; Peng 2001; Lockett and Thompson 2001; Srivastava et al. 2001). Researchers have identified a number of attributes of firm that enable it to conceive of and implement value-creating strategies (Barney 1991). This perspective views firm as consisting of various resources (Yang and Konrad 2011).

These various resources can be categorised into three: human capital resources, physical capital resources and organisation capital resources (Barney 2011; Yang and Konrad 2011; Barney 1991). Human capital resources include training, experience, judgment, intelligence, relationships and insight of individual managers and workers in a firm. Organisation capital resources include firm's formal reporting structures, its formal and informal planning, controlling, and coordinating system, as well as informal relations among groups within a firm and between a firm and those in its environment. Physical capital resources include technology used in a firm, a firm's plant and equipment, its geographic location and its access to raw materials (Tokuda 2005). It is very important to put in place an administration that can absorb and apply these resources (Barney 1991). The selection and accumulation of these resources by a firm are characterised as economically rational within the constraints of limited information, cognitive biases and casual ambiguity (Oliver 1997; Ginsberg 1994; Peteraf 1993). According to this perspective, it is the identification and utilisation of resources that are valuable, rare, inimitable and non-substitutable lead to enduring firm variation, hence, achieve sustainable competitive advantage (Yang and Konrad, 2011; Oliver 1997; Barney 1991).

The resources-based view proposes that the resources owned by firm are the major determinants of its performance, and these may help in sustaining competitive advantage (Tokuda 2005; Wernerfelt 1984). Barney (1991) stated that the concept of resources include all assets, capabilities, organisational processes, firm attributes, information, knowledge etc. controlled by a firm that enable the firm to conceive of and implement strategies that improve its efficiency and effectiveness (Tokuda 2005, p.129; Barney 1991, p. 101; Daft 1983). Independently, these resources categories do not form a great strategic value in themselves, but an effectively and efficiently deployed team of resources can constitute a strategic value for the firm, resulting in improvement concerning its performance (Sayerhoff 2014; Newbert 2007). Capability refers to ability of a firm to perform some activity or task, resulting from coordinated utilisation of its resources (Tokuda 2005, Grant 1991; Sauerhoff 2014). Resources are valuable when they enable firm to enhance its efficiency and effectiveness. The circumstance under which resources are valuable depends on the context. The value of some resources depends on certain circumstances such as strategy and external environment (Armstrong and Shimizu 2007; Priem and Butler 2001).

A number of important articles provided insight into how phenomena such as organisational culture (Barney 1986), causal ambiguity (Lippman and Rumelt 1982) and resources in general (Wernerfelt 1984) could contribute to success of a firm (Barney et.al 2011). Despite the number of academic articles that have been published based on the resource-based view, it has also attracted some critics. For example, Priem and Butler (2001) argue that “although research-based view began with a dynamic approach....much of the subsequent literature has been static in concept” (Priem and Butler 2001, p.33). They further argue that the Barney’s interpretation of resource-based view “the process through which particular resources provide competitive advantage remain in a black box” (Priem and Butler 2001, p.33).

The main proposition of resource-based theory is that for a firm to achieve a state of sustainable competitive advantage it must obtain and control valuable, rare, inimitable and non-substitutable resources and capabilities coupled with have administration in place that can absorb and apply these resources (Barney 1991; Kraajenbrink et al 2009). This proposition is shared by many researchers using various approaches; dynamic capabilities (Helfat and Peteraf 2003; Teece et al. 1997), knowledge-based view (Grant 1996) and the core competence (Hamel and Prahalad 1994). One of the approaches of resource-based view that emerged over the years is the dynamic resources-based view. The dynamic resource-based view integrated the key concept of dynamic capabilities that resource and capabilities are persistently adapted, integrated, and/or reconfigured into other resources and capabilities (Eisenhardt and Marti 2000; Armstrong and Shimizu 2007).

In view of the above, it is evident that mere adoption of transfer pricing regulations will not yield any positive results unless an informed resource pool is put in place. In order to improve performance, hence, protect financial resources; Nigeria must have an adequate team of resources and capabilities as well as an effective tax administrative system to implement its strategies such as transfer pricing regulations. Emphasis was given to the relationship between resources and strategic implementation (Armstrong and Shimizu 2007). This implied success of implementing transfer pricing regulations depends on its informed resource pool and effective utilisation of this set of resources. The resource-based view asserts that the resources owned by (country) firm are the major determinants of its performance, and these may help in sustaining (economic rent) competitive advantage (Toduda 2005; Wernerfelt 1984). Therefore, it is very

important to identify whether Nigerian tax administration has informed resources to implement transfer pricing regulations in Nigeria particularly in the petroleum sector.

In summary, while institutional theory focuses on organisational homogeneity, the resource-based view pays more attention to performance heterogeneity among firms (Yang and Konrad 2011). It also focuses on the attributes of resources and strategic factors from which they are acquired to explain firm heterogeneity and sustainable competitive advantage (Oliver 1997). Darnall (2003, p.5) states that “while institutional theory focuses on the direct impact of institutional rules, pressures and sanctions on organisational structure, the resource-based view of the firm emphasises how firms develop their internal organisational capabilities in the face of institutional constraints.” The above discussion provides the necessary underpinning for each of the five objectives outlined in the section 1.2. Consideration was given to elements of change management literature (Anderson and Anderson 2010; Todnem 2005; Innes 1990) but the main thrust of the thesis was to analyse elements of adoption of transfer pricing regime in Nigeria and not the “change process per se” and consequently it was deemed acceptable to proceed based on the above analysis with using institutional theory and resource-based view as the theoretical underpinning to the research.

Generally, literature suggests that developing countries like Nigeria lack these resources (both human and material). However, there are various organisations and developed countries known as donor bodies that provide some guidance and support to developing countries to adopt and implement transfer pricing regulations in their jurisdictions. PwC (2011a) stresses that the extent of guidance and support needed by each country varies depending on the circumstances and priority of the country. There are other theories such as agency theory, contingency theory and accountability theory that can be applied to this kind of study. According to contingency theory there is no single appropriate accounting system that equally applies to all organisations in all situations and circumstances (Otley 1980) rather an optimal system is contingent upon various internal and external (environment) constraints (Otley 1980; Borkowski 1997). In other words, there is no single best system or way that is applicable to all situations. Detailed discussion of these alternative theories is beyond the scope of this study. Nevertheless, as discussed in the previous section, institutional theory and resource-based view are



chosen because they help in assessment of transfer pricing regulations for Nigeria with a particular focus on the petroleum sector.

Methodological issues underlie the institutional theory. As it has developed, institutional theory, particularly sociological institutional theory, is tied to none of these philosophical perspectives. Methodologically, it has commonly been pursued with quite standard (often quantitative) procedures. Its ties to any normative perspective on modern society are weak (Meyer 2008). Although, sociological institutionalism focuses on causal structures rooted in culture and interpretation there is no particular tendency to reject the operation of various perspectives (theories and variables) in the analysis of the modern system (Meyer 2008). “Institutional theory has largely failed to retain methodologies that are consistent with their need to attend to meaning systems, symbols, myth and the process by which organisations interpret their institutional environments. Quantitative researchers employed survey methodologies to uncover shared attitudes and common values (e.g. Hofstede 1984).

*“Methodologically, if we are to take seriously the ideation aspects of institutions, we need to move, however slightly, away from strictly positivist research and incorporate interpretivist methods that pay serious attention to the subjective ways in which actors experience institutions”* (Suddaby 2010, p. 16).

Scott (2014) states that neoinstitutional economists stress the importance of setting up appropriate governance structures and devise incentives and controls suited to the condition. However, when the regulations are institutionalised, the sanctioning and rewarding take place within a frame of rules. Power is legitimated and stabilised by developing rules. Some scholars focus on the full scope of forces supporting persistence: regulative, normative and cultural-cognitive... All these institutional pillars emerge to be at work.

#### **4.5 Conclusion**

This chapter discussed the concept of institutional theory and resource-based view. It reviewed the various strands of the institutional theory, and demonstrated the applicability of the institutional theory and resource-based view to this study to serve as a theoretical lens in investigating the adoption and implementation of transfer pricing regulations in Nigeria particularly in the petroleum sector. It revealed that institutional theory considers the procedures by which structures such as rules, norms, schemas and

routines become authoritative guidelines for social behaviour. The theory asserts that institutions constrain or empower actor's behaviour, therefore, making them operate in line with the rules. In this context, transfer pricing regulations constrain the behaviour of MNCs to operate according to the rules. Some of the relevant assertions of institutional theorists include: First, institutional theorists assert that nation forms, structures, policies, emulate institutional prescriptions and models in the wider environment (Meyer 2008). Nation states endorse global norms but they lack the capacity to conform to these locally. Second, it is not just the establishment of regulations that matters but also the capacity of the nation (tax authority) to monitor the actor's (MNC) behaviour (transfer pricing practice) and enforce these regulations accordingly (Campbell 2007). Third, institutional theorists assert that some nation states adopt regulations to gain legitimacy while others to improve performance and protect resources; they further argued that early adopters tend to adopt regulations to improve performance and protect resources while late adopters tend to adopt regulations to gain legitimacy. While the resource-based view asserts that the resources owned by (country) firm are the major determinants of its performance, and these may help in sustaining (economic rent) competitive advantage. Swell (1992) outlined the significance of including resources (both human and material) in any formation of social structures in order to consider asymmetries of power. Finally, alternative theories, specifically contingency theory and organisational theory were discussed. The chapter concluded that institutional theory and resource-based view provides a clear lens for this research.

## **CHAPTER FIVE**

### **Research methodology**

#### **5.1 Introduction**

This chapter focuses on the research methodology and related strategies employed in this study. It reviews the various methodological frameworks in the existing literature in order to describe the methodological assumptions that influenced the selection of the methods employed for the study. According to Hussey and Hussey (1997), research methodology does not just refer to the method of data collection rather it comprises the overall research process which includes: theoretical development, data collection and analysis of the data collected. In view of the above, this chapter describes the research methodology and philosophical assumption, research design, methods of data collection and analysis techniques adopted for the study. Furthermore, the discussion of the questionnaire construction and administering process, approach used for sample selection, the response rate and other related techniques used in this research are also considered in the chapter.

#### **5.2 Research Methodology and Philosophical assumptions**

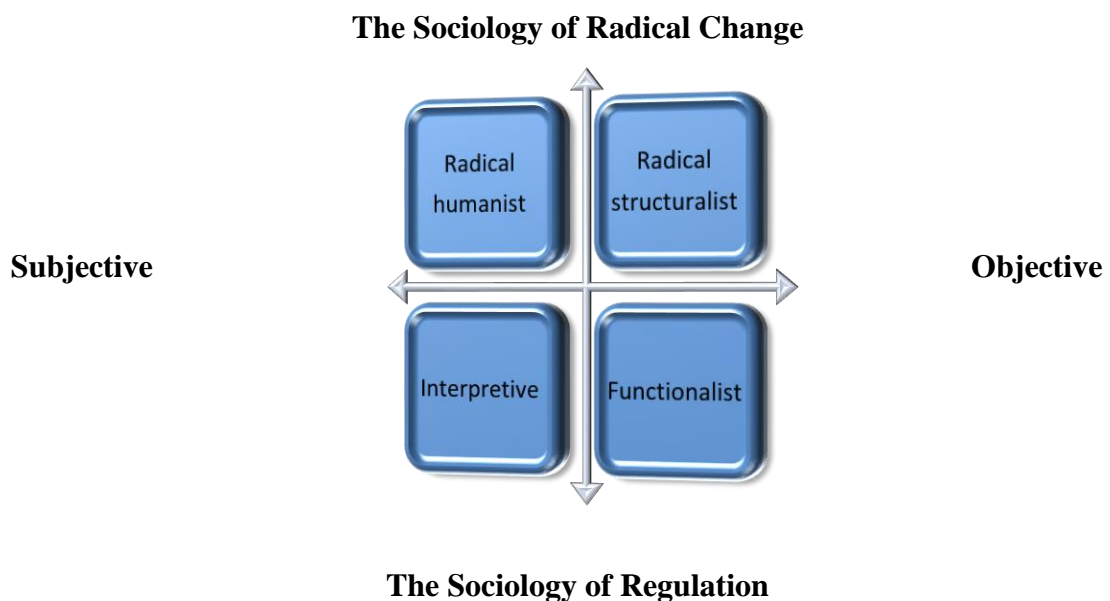
The choice of a particular research methodology in a study is mostly based on certain of the researcher's assumptions (Ryan et al. 2002). These assumptions usually are about the existence of nature (ontology), the philosophical assumptions about the nature of knowledge construction (epistemology) and assumptions about human nature (Lawal 2008). Thus, ontology, epistemology and human nature are regarded as notions of paradigm (Hesse-Biber 2010). These notions of paradigm are not free from ambiguity (Harrits, 2011). Paradigm can be defined as "assumptions made about the nature of social reality and the way in which we can come to know this reality" (Blaikie 2010 p.9). Similarly, according to Harmon (1971 p.3), paradigm is "the basic way of perceiving, thinking, valuing and doing associated with a particular vision of reality". Tashakkori and Teddlie (2003 p.139) defined paradigm as "a conceptual model of person's worldview, complete with the assumptions that are associated with that view".

Klenke (2008) suggests that it is impossible to carry out rigorous research study without understanding its philosophical assumptions. In quantitative and qualitative research

study, the researcher's assumption regarding ontology, epistemology and human nature are essential in designing the research process and needs transparency (Klenke 2008, Lawan 2008). Creswell (2003) stated that research can be drawn from two major paradigms; these paradigms are interpretive and positivist. Furthermore, in the extant literature these paradigms are also described in other terms. For instance, the interpretive paradigm can be described as phenomenological, subjective, qualitative, post positivist or anti positivist. The positivist paradigm can be described as quantitative, scientific, objectivist, empirical, traditional or experimental (Hussey and Hussey 1997). There are various models that have been established to define paradigm in the context of social science and organisational theory. Nevertheless, one of the most popular and accepted models in the field of sociology and management is the Burrell and Morgan 1979 model (Lowe et al. 2012; Lowe 2001).

Burrell and Morgan (1979) developed a model and outlined four paradigms in the model that accommodate all views within the social sciences.

**Figure 5.1 Burrell and Morgan Sociological (matrix) paradigms**

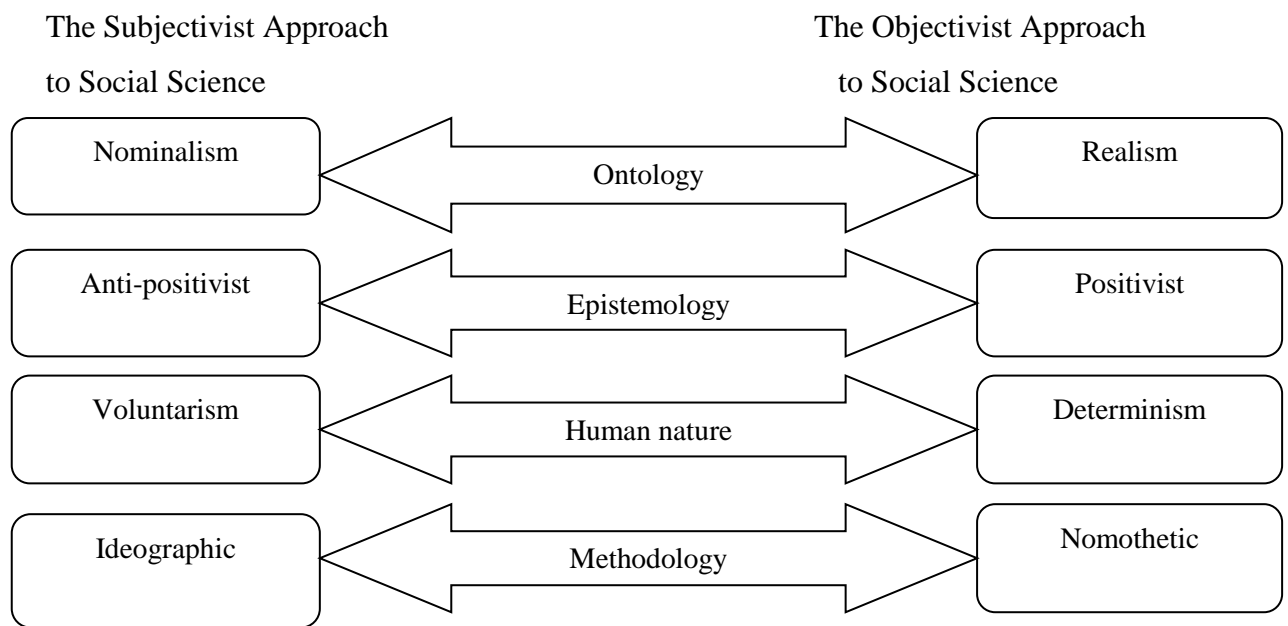


Source: (Burrell and Morgan 1979)

These four paradigms; interpretive, functionalist, radical structural and radical humanist are based on relationship between the subjective-objective and regulation-radical change dimensions. As presented in figure 5.1 the regulation-radical change dimension is represented by the vertical axis while the subjective-objective dimension is

represented by the horizontal axis. The interpretive, functionalist, radical humanist and radical structuralist are mutually exclusive; each defines fundamentally different perspectives for the analysis of social phenomena (Burrell and Morgan 1979), subjective-objective dimension relates to certain assumptions made by the researcher. The assumptions include: ontology, epistemology, human nature and methodology. Each of these assumptions could be either subjective or objective.

**Figure 5.2 Subjective-Objective Approach to Social Science**



Source: (Burrell and Morgan 1979)

According to Burrell and Morgan (1979) subjective or objective perspectives relate to the four assumptions as presented in the above figure 5.2. The ontological assumption concerns the nature of the reality of the phenomenon to be studied. Epistemology concerns how knowledge is constructed or formed. Human nature concerns the relationships of individuals and the environment in which they live in. Methodology relates to how to investigate knowledge about the world we live in. A study with an objective view of the social world, with a realist ontological assumption, positivist epistemology, deterministic human nature and nomothetic methodology that concerned for regulation tends to be a functionalist paradigm.

On the other hand, the interpretive paradigm tends to be subjective in its approach, concern for sociological regulation with nominalist ontology, anti-positivist epistemology, voluntarism in its individual behaviour and ideographic methodology (Burrell and Morgan 1979; Lawal 2008). Despite the acceptance and popularity obtained by the Burrell and Morgan (1979) model, it has been criticized by various scholars due to its failure to consider other dimensions (Chua 1986; Lawal 2008).

Some scholars argued that qualitative and quantitative paradigms are not compatible while many have rejected the notion of incompatibility and even the paradigm wars<sup>10</sup> (Guba 1990; Newman and Hitchcock 2011). However, many authors argued that qualitative and quantitative methods are compatible (Terrell 2012, Harrits 2011). Mixed methods research is often positioned within the context of paradigm wars (Harrits 2011). Others argued that the paradigm wars are not external only but also the internal reality of mixed methods research, since various paradigms are considered in the process of justification and application of mixed methods research (Harrits 2011). Also, it has been noted that adoption of the qualitative methodology does not rule out the use of quantitative approach while quantitative methodologies such as positivism do not rule out the use of qualitative methods (Hesse-Biber, 2010).

Although, in practice, the perceived dichotomies between qualitative and quantitative techniques in terms of the deductive-objective-generalizing approach and the inductive-subjective-contextual approach still exist; notwithstanding, some researchers decide to combine these two methodologies (Evans, et al. 2011). Newman and Hitchcock (2011) advocate that researchers should allow their research questions to dictate the methodology to be used, in view of the purpose, instead of designing questions based on techniques that have a tendency to align with diverse sub-paradigms. This paradigm is known as the pragmatism approach.

The pragmatism approach authors argued that the main factor that determines the research philosophy to be used is the research question, further adding that it is possible to work within both the interpretivist (qualitative) and positivist (quantitative) approaches. Pragmatism is an attractive and well developed philosophy for combining different perspectives and approaches (Johnson et al. 2007). Most of the mixed methods

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<sup>10</sup> Paradigm wars concern the debate on (question) whether or not quantitative and qualitative methods could be combined?

authors have suggested that pragmatism is the most helpful philosophy to support mixed methods studies (Johnson et al 2007). The application of the mixed methods approach is practical, integrates various perspectives to enable the collection of data and its interpretation (Saunders et al. 2009). Some scholars believe that:

*“Analyzing the data of a case study under a positivist lens and comparing it to an analysis of the same data under an interpretative lens would be a ground breaking study. Similarly, collecting data from several organisations, coding them using these different lenses and analyzing them using statistical tools would also make for an excellent study. Of course, these studies would require the intimate collaboration of researchers across fields; but the effort is worth the potential outcomes” (Davila and Oyon 2008, p. 890).*

The Mixed-Method approach has emerged from the paradigm wars between quantitative and qualitative research methods to become a widely used form of inquiry. This approach can provide a researcher with various design choices which involve a range of concurrent and sequential strategies, depending on the selections made across various dimensions (Terrell 2012). There are gains from embracing a dialogue and combining the various perspectives, as both the qualitative and quantitative approaches can complement each other (Davila and Oyon 2008 and Fielding and Fielding 1986).

Therefore, this study employed the pragmatism philosophical approach which is always in support of the mixed methods research approach. This approach is necessitated by the nature of the study and the research question. It enables in-depth and better investigation of the development and implementation of appropriate transfer pricing regulations in Nigeria.

### **5.3 Research design and methodology**

Research can be simply defined as a process of collecting, analysing and interpreting information (data) in order to increase our understanding of the phenomenon about which we are interested or concerned (Leedy and Ormrod, 2005, p. 2). Generally, research involves asking and attempting to answer questions (such as what, when, where, who and how) regarding a particular phenomenon. The ‘how’ is about the research method which usually involves interview, questionnaire, observation, experiment or any other method (Francis and Hester 1990). The ‘hows’ begins with the manner in which the researcher gets an idea followed by ethics, research design, data

management and concludes with the way in which one writes about the research findings (Francis and Hester 1990). Furthermore, literature suggests that traditionally researchers use either the quantitative or qualitative research method in their studies. However, later the use of the mixed research method commenced and presently it gradually became a popular method in research studies. Generally, researchers can employ any of these research methods: quantitative, qualitative, or the mixed Methods Approach.

### **5.3.1 Research methods**

Quantitative study is where the data collected is in numerical form and the analysis is based on this data. In addition, the data is mainly collected through databases and surveys. Moreover, such study most often uses analytical tools such as descriptive and inferential statistics<sup>11</sup> to analyse the data. On the other hand, qualitative study is where the data is largely in textual form and analysed through qualitative techniques. Some of these techniques of data collection and analysis include focus groups, interviews, observation, content analysis, case studies and grounded theory (Molina-Azorin 2012; Merriam 1998). Qualitative research is subjective, it concerns on the details of a phenomenon and the reality behind the details, while quantitative research is objective, well structured, and commonly uses quantitative techniques (Collis and Hussey 2003). Between these two approaches is the mixed method, a product of the pragmatist approach, which combines the quantitative and qualitative approaches within different stages of the research process.

There are various definitions of mixed methods. Mixed methods is described as an approach that combines quantitative and qualitative research in terms of data collection, data analysis, viewpoints and inferences in a single study (Molina-Azorin 2012; Evans et al. 2011; Tashakkori and Teddie 2010). Similarly, mixed methods can be defined as a study where the researcher integrates or combines qualitative and quantitative research approaches into a single study (Flick 2008; Johnson and Onwuegbuzie 2004; Sandelowski 2000). Creswell defined this approach as

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<sup>11</sup> Descriptive statistics is a technique used to describe data obtained while inferential statistics are not used to just describe data rather it is a process of using the sample data obtained to draw conclusions about the population.



*“A Mixed methods study involves the collection or analysis of both quantitative and/or qualitative data in a single study in which the data are collected concurrently or sequentially, are given a priority, and involve the integration of the data at one or more stages in the process of research”* (Creswell et al. 2003, p. 212).

Another definition of mixed methods is given as follows:

*“Mixed methods research is the type of research in which a researcher or team of researchers combines elements of qualitative and quantitative research approaches (e.g., use of qualitative and quantitative viewpoints, data collection, analysis, inference techniques) for the broad purposes of breadth and depth of understanding and corroboration. A mixed methods study would involve mixing within a single study; a mixed method program would involve mixing within a program of research and mixing might occur across a closely related set of studies”* (Johnson et al. 2007, p.123).

The main purpose of mixed methods is that the integration of qualitative and quantitative methods may provide a better understanding of complex phenomena and research problems than provided by using either method alone (Molina-Azorin 2010). In addition, mixed methods research integrates the strength of both approaches and reduces the weaknesses related to a singular approach (Molina-Azorin 2012). The value and advantages of mixed methods research have been made in various fields of studies such as health science, sociology, education (Molina-Azorin 2012). In recent years the popularity of mixed methods research has increased (Harrits 2011). The use of mixed methods has been advocated in the management and organisational fields (Molina-Azorin 2012; Bazely 2008; Currall and Towler 2003).

*“The use of multiple methods may provide a way of not just accomplishing the objective of generalisability and preventing interview bias but also improving the meaningfulness of the measures to the survey respondents”* (Abernethy et al. 1999).

Mixed methods research consists of various set off practices for mixing quantitative and qualitative approaches. The major three ways of mixing the two different methods are: (1) first, the researchers conduct exploratory, qualitative aspects, which inform the researchers to design the second quantitative aspect with the aim of generalising the results to the population of the study; (2) the researcher first administers a large-scale questionnaire survey, then follows up with interviews to find out more details and enrich the findings of the study or (3) the researcher concurrently conducts both

approaches, analysing and interpreting the data together (Starr 2012, Creswell 2006). Similarly, Creswell (2003, p.218); Flick (2008); Terrell (2012, p.260) outlined the following types of mixed methods approach that depend on four factors as presented in Table 5.1 below:

**Table 5.1 Types of Mixed Methods Approach that Depend on Four Factors**

<b>Theoretical perspective</b>	<b>Priority of strategy</b>	<b>Implementation</b>	<b>Integration is at:</b>
Explicit-based firmly on a theory	Qualitative	Quantitative first	Data collection
Implicit-based indirectly on a theory	Quantitative	Qualitative first	Data analysis
	Equal	No sequence	Data interpretation
			Some combination

Source: (Terrell 2012)

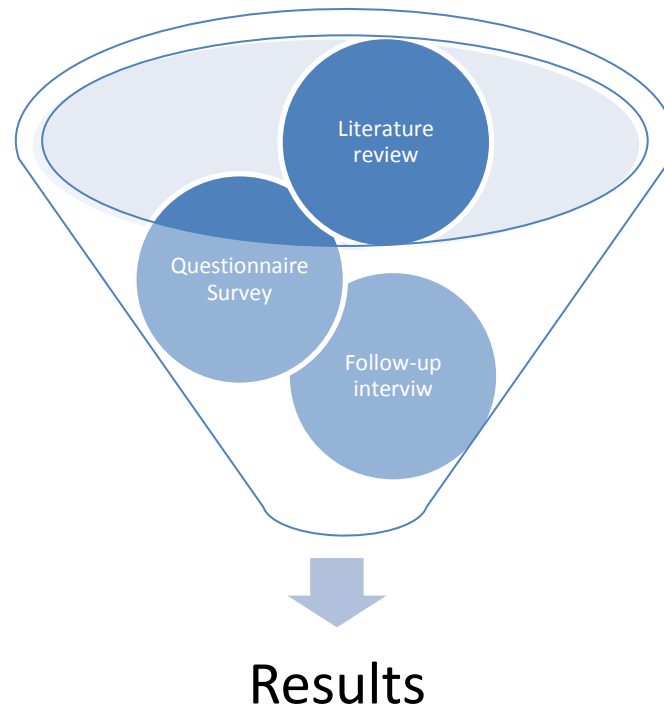
In view of the above, this study is based indirectly on an institutional theory. First, the data collection and analysis of the quantitative phase through a questionnaire survey was conducted, and then followed by data collection and analysis of the qualitative phase in the form of a follow-up interview. Priority was given to both phases. The integration of data was done during the interpretation. The focal point is to elucidate the result of quantitative study by looking at certain outcomes in more detail or facilitate in order to elucidate unexpected outcomes (For instance, a follow-up interview will be carried out to have a better understanding of the results derived from the questionnaire survey). Although, there are various techniques for data collection (Polkinghorne 2005), this study employed questionnaire and interview approaches.

### **5.3.2 Relationship between questionnaire and interview**

Researchers employed various research methods in their studies. Research method is simply defined as a procedure of collecting and analysing data by using different techniques or approaches (Smith et al. 2003). In view of the above, considering the literature reviewed and the research questions, a mixed methods research approach was considered to be apt for data collection in this study. Therefore, both questionnaire-

survey and interview methods were employed in the study. The research study commenced with the review of relevant literature as discussed in the previous chapters and also had some preliminary discussion with the stakeholders before designing the questionnaire.

**Figure 5.3** Mixed methods approach of the study



Source: Author generated

As shown in Figure 5.3 the questionnaire was designed based on the relevant literature reviewed. The result of the questionnaire survey is presented in chapter 6 of this study. Finally, after the transfer pricing regulation was introduced in Nigeria by the tax administration, a follow-up interview was conducted to strengthen the findings of the study. This interview was based on the outcome of the questionnaire. The results of the interview conducted with the respondents are presented in Chapter 7 of this study. Application of mixed methods, the questionnaire and interviews enabled the study to conduct an in-depth and robust research. More details and discussions of the mixed methods are presented in previous sections of this chapter.

During the follow-up interview, the respondents were presented with the results of the questionnaire, and they expressed satisfaction with the findings. In addition, they further

elaborated on some of the key points. Generally, the findings of the interview are consistent with the results of the questionnaire of this study (see Chapter 6 and 7 for more details). On a final note, the follow-up interview served its purpose. More details and discussions of the mixed methods are presented in previous sections of this chapter.

#### **5.4 Methods of data collection**

Data collection technique is a method used to gather empirical data in a research study. There are various techniques of data collection: interviews, observations, questionnaires, case study, and focus group technique (Johnson and Turner 2003). Researchers are allowed to utilise all the available instruments of data collection instead of being restricted to the certain types of data collection typically associated with the quantitative or qualitative approach (Creswell 2006). Literature suggests that interview and questionnaire are the most common approaches to empirical research in the field of management accounting and reflect a particular view of empirical study (Shields, 1998; Abernethy et al.1999). Each of these approaches has its strengths and weaknesses and the researcher needs to carefully consider and trade-off when designing the study (Abernethy et al.1999). Creswell (2006) stated that researchers can collect data using a quantitative tool by administering a questionnaire survey and then follow up with (qualitative instrument) an interview with a few people who took part in the survey to have more detail about their questionnaire responses. This study utilised two methods of data collection; first, questionnaire survey techniques followed by interview to obtain the relevant data for the study. The main essence of combining these methods is to supplement the limitations of one approach when adopting the other approach

##### **5.4.1 Questionnaire survey**

The questionnaire survey approach is the most frequently used method in collecting primary data by researchers (Aaker et al 2001, Groves et al. 2009). *Survey is a 'systematic' method of gathering information from (a sample of) entities for the purpose of constructive quantitative descriptors of the attributes of the larger population of which the entities are members. The word systematic is deliberate and meaningfully distinguishes surveys from other way of gathering information. The phrase 'sample' appears in the definition because sometimes surveys attempt to measure everyone in population and sometimes just a sample"* (Groves et al 2013, p. 2). A questionnaire is a

set of questions designed and administered to participants<sup>12</sup> in order to record their answers. Similarly, Brace (2008) described a questionnaire as a medium through which the researcher and the participant (subject) communicate; in the questionnaire the researcher articulates the questions that need to be answered and the respondent (subject) answers the questions in the questionnaire which would be returned to the researcher. The primary purpose is to gather information about the participants' views concerning the subject matter of the study.

The use of a questionnaire technique is very important because it provides a large amount of data at less cost, low pressure for respondents, standardized questions, honest responses, and unbiased responses compared to other techniques, also providing time for the respondent to answer the questions (Thomas and Slater 2009). However, it also has the following setbacks: it may take time to respond, low response rate, inflexibility, misunderstanding cannot be corrected, may not provide detailed information, no check on incomplete responses and the researcher is not involved to clarify question (Thomas and Slater 2009). Nevertheless, Creswell (2006) suggests that data can be collected using a quantitative survey technique and follow up with interviews with a few respondents who participated in the study to find out more details about their responses. Hence, the problem of obtaining detailed information might be addressed by using the qualitative approach to obtain in depth qualitative information through interviews. In addition, by giving careful attention to the design and layout of the questionnaires, the risk of errors in interpreting questions, recording and coding responses will be minimised (McColl et al. 2001).

#### **5.4.1.1 Questionnaire design**

Questionnaire design process is very important and requires careful attention to ensure that an adequate response rate is received. This study adhered to the following guidelines advocated by Dillham, (1978), Hussey and Hussey (1998) when designing the questionnaire:

- Clearly explain the purpose of the questionnaire
- Choose simple words

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<sup>12</sup> Participants are certain people selected as a sample to represent the population of the study or the entire population considered for the survey.

- Avoid objectionable questions
- Be clear and simple
- Avoid bias
- Avoid negative question
- Ask one and a specific question at a time
- Avoid ambiguity
- The question should not be lengthy

This set of guidelines was followed to achieve successful questionnaire design. The questionnaire was carefully designed not just to increase the response rate but also to ensure the validity and reliability of the data obtained. Furthermore, it is very important for researchers to select a particular question format when designing a questionnaire. The most commonly use formats have open-ended and closed-ended questions. Dillman (1972) suggested that even the closed-ended could be divided in three: partially closed-ended, closed-ended with unordered response options and closed-ended with order option. This study employed the closed-ended with ordered response options format; Likert Scale of 1 to 5 was used, where 1 represents strongly agreed and 5 represents strongly disagreed. The questionnaire was categorized into five different sections (see attached appendix C; the questionnaire draft). The formation of the questionnaire was based on the extant literature, research question, objectives of the study and the theoretical framework adopted. In addition, the OECD transfer pricing guideline was also considered.

#### **5.4.1.1.1 Justification for questionnaire questions**

The questionnaire designed for this thesis consists of introductory part and five main sections. The introductory pages consist of title of the survey, a letter from my supervisory team, the researcher's introduction letter in which the respondents were assured that their responses and identity would be treated as confidential.

Furthermore, the five sections of the questionnaire followed the introductory parts. The first section was designed to seek general information from the participants regarding their place of work and occupation. The second section was designed to assess the views of respondent on the form of transfer pricing regulations that should be adopted in Nigeria. The third was designed to assess the capacity of the Nigerian tax administration to adopt and implement transfer pricing regulations in the country. The

fourth examined the barriers that may hinder the adoption and implementation of transfer pricing in Nigeria. The last section which is the fifth focused the need to seek for guidance and support from other experienced countries and relevant international organisations. Finally, the last part was designed to ask the respondents to indicate their interest by providing their mobile number/or email address if they want to have a copy of summary of findings and also willing to be contacted in the future if the need arises.

All the questionnaire questions were asked based on the research question(s) in view of the literature reviewed in order to achieve the aim and objectives of this study. The main research question: *What are the factors that enable successful adoption and implementation of transfer pricing regulations in Nigeria, particularly in the petroleum sector?* The following presents each of the objectives with its corresponding sub-research question:

- 1) To examine the form of adoption of transfer pricing regulations

*What form of adoption of transfer pricing regulations should Nigeria consider*

- 2) To identify the motive for the adoption of transfer pricing regulations in Nigeria

*What motivates the adoption of transfer pricing regulations in Nigeria particularly in the petroleum sector?*

To examine the tax administration's capacity to implement transfer pricing regulations in Nigeria particularly in the petroleum sector

*Does Nigeria's tax administration have the capacity to develop and implement transfer pricing regulations in the country especially in the petroleum sector?*

- 3) To identify the barriers that may hinder the implementation of transfer pricing regulations in Nigeria particularly in the petroleum sector

*What are the potential barriers that might hinder the implementation of transfer pricing regulations in Nigeria, particularly in the petroleum sector?*

- 4) To identify the guidance and support needs of the tax authority with respect to adoption and implementation of transfer pricing regulations in Nigeria.

*Does Nigeria's tax administration need guidance and support in its adoption and implementation of transfer pricing regulations in the country?*

Subsequently, the questionnaires were personally administered to the participants. However, prior to this; a pilot study was conducted to test the level of understandability of the question. The questionnaire was amended accordingly and finally administered to

the respondents. Contact was established with influential staff in the various institutions to facilitate and obtain a quick and large response. The data collected will be stored in a computer for proper management of data using SPSS to analyse it.

#### **5.4.1.2 Population of the Study**

The concept of population is very important in a research, because population defines the set of entities from which the samples of study are usually drawn. It also enables the definition of the limits of generalising the findings of the study (Eisenhardt 1989). The population of this study consists of management and staff (with transfer pricing expertise) of the following entities in Nigeria: Federal Inland Revenue Services (FIRS), Federal Ministry of Finance (FMOF), Nigeria Extractive Industry Transparency Initiative (NEITI), Civil Society Organizations (CSO), Office of the Auditor General (OAG), Multinational companies (MNC), Accounting Firms (AF) and Higher Institute of learning. These entities were considered to be the stakeholders that form the population of this thesis for the following reasons.

The Federal Ministry of Finance (FMOF), Federal Inland Revenue Services (FIRS), became part of the population because of their status as policy, tax and financial administrators in the country. For instance, FIRS assesses, collects and accounts for different taxes such as petroleum taxes, value added tax and corporate taxes in Nigeria. Moreover, FIRS is the tax authority of the country that is responsible for adopting and implementing transfer pricing regulations in the country. Based on the information obtained from the informant in the FIRS; the total number of staff that have expertise in transfer pricing were not more than twenty in the organization at the time of administering the questionnaires. Therefore, on average twenty respondents from FIRS were considered to be part of the population. Similarly thirty five respondents were identified in FMOF to be part of the population.

NEITI is also part of the population because it is very much involved in transparency issues in the country particularly in the oil and gas industry. For instance, to ensure transparency, NEITI audits all the revenues (tax) generated by the federal government from MNC in the oil and gas industry and publishes the outcome. Therefore, with the help of informants, twenty auditors and accountants were identified as potential respondents. AGO is included in the population because of its vested responsibility of



auditing the accounts of all the parastatals, boards, ministries and agencies including the tax authority in the country. Therefore, with the help of the informant in the organization forty auditors and accountants were identified as potential respondents and included in the population. Audit firms and Civil Society organizations with interest in tax issues advance the cause of social justice in tax matters. In these two institutions, twenty and fifteen potential respondents were identified respectively to be part of the population.

Higher Institute of learning are included because lecturers in some of the institutions in the country have knowledge of taxation (transfer pricing) and accounting in general. In HIL eight lecturers in each of the four Universities identified were considered part of the population in this study. MNCs (business representatives) are included in this study because they play a major role in the country particularly in the oil and gas industry. For instance, MNC in the oil and gas industry account for over 85% of petroleum taxes in Nigeria. In addition, almost every MNC engages in transfer pricing practice. Therefore, even the regulation was aimed at controlling their related parties' transactions. Therefore, thirty eight potential respondents comprising accountants, auditors and lawyers were identified as forming the population. A total of two hundred and two (202) potential respondents formed the population of this study.

#### **5.4.1.3 Sample and sampling technique**

Research questions and objectives usually dictate the sample structure as to whom or what is to be included (Yang et al. 2006). A sample is a subset representing the population (D'Souza et al 2010). One of the major categories of sampling strategies is purposeful sampling (Marshal 1996; Malterud 2001). Purposeful sampling is a technique where the researcher selects a sample from the population based on his/her judgment that those respondents meet certain criteria (Fogelman 2002). For instance, they are experts or more knowledgeable of a particular situation. The major aim of sampling in research is not to generate a representative sample, rather to reflect diversity and to produce adequate potential for comparison (Barbour 2013; 2008). Nevertheless, representation is also a very important element in studies such as questionnaire survey research.

Therefore, this study uses purposeful sampling technique to select appropriate participants in each of the above entities that formed the population. A sample of 20 respondents was selected from each of the following: FIRS, AGO, FMOF, MNCs and NIETI. A sample of 15 respondents was selected from AF, 12 respondents from HIL and 13 respondents from CSO respectively from the population. A total sample of 140 respondents was identified from the total population of 202 potential respondents. The choice of purposeful sampling technique is appropriate because of the secret and complex nature of the transfer pricing issues. It will also enable the use of certain informants that have been identified in some of the above entities to select appropriate respondents to answer the questionnaire. In addition, purposeful sampling is one of the most frequent techniques in sampling (Coviello and Jones 2004). It enables the researcher to vigorously choose the most productive sample to deal with the research question (Marshall 1996). The use of informants is paramount in such a kind of study because they will help in investigating certain aspects of behaviour relevant to the research (May and Pope 1995). The informants helped the researcher in identifying experts in their respective organizations.

#### **5.4.1.4 Pre-testing and pilot study**

Pre-testing the questionnaire is a very important stage in questionnaire design. This is to ensure that the questions are simple to understand, specific and capable of obtaining the required response from the respondents (Saunders 2003). Views and recommendations at this stage may help to improve the quality of the questionnaire. After the first draft of the questionnaire was completed, the questionnaire designed was pre-tested and re-designed in different stages to achieve a successful design. In this study, pre-testing the questionnaire was conducted in three stages based on the following process. The draft questionnaire was distributed to a group of six PhD students at Robert Gordon University (RGU) specifically in Aberdeen Business School to review it. All these students are at the final stage of their studies; therefore, they had already completed the survey stage. The research interest of four of these PhD students are in the field of accounting while the remaining two have their research interest is in the field of business. After the receipt of their comments and suggestions with respect to the wording, structure and the length of the questionnaire, it was revised to effect the correction.

Secondly, the questionnaire was presented to a group of four academic staff in Aberdeen Business School, Robert Gordon University. This group comprises experts in various research areas, as they were involved in research studies and the supervision of postgraduate and PhD students. The group comments on the wording, presentation and general layout of the questionnaire. The feedback obtained from this group was useful and resulted in re-designing the questionnaire. Nearly all the above comments were reflected in the subsequent version of the questionnaire. In addition, throughout the above process various meetings were held with my supervisory team to discuss the questionnaire, various versions of the draft questionnaire were discussed and reviewed with them prior to the pilot and final version of the questionnaire. Thirdly, for the main pilot study, the final draft of the questionnaire was distributed to three respondents in each of the eight stakeholder groups<sup>13</sup>; a total of twenty four respondents were identified for the pilot study with the help of informants in the various entities that form the groups. The selection of respondents was made purposefully based on their in house expertise in transfer pricing. These respondents were auditors, accountants, tax officials, lawyers or lecturers.

During the pilot test, thirteen responses were obtained from various respondents; none of these suggested any comments except one complaint respondent who did not understand the format. After two weeks reminder phone calls were made to get more responses but only two additional replies were obtained, the rest failed to respond. Nevertheless, generally, it indicates that the questionnaire was understandable, simple and clear. In addition, the response rate of fifteen out of twenty four was impressive and sufficient. In view of the above, finally the questionnaire was thoroughly revisited with my supervisory team and the final version of the questionnaire was produced.

#### **5.4.1.5 Covering and introductory letter**

The introductory letter not only introduces the survey but also motivates the respondents to participate in the study. The questionnaire introductory letter from my supervisor which was written on official letter headed paper of Robert Gordon University was appealing (see appendix 1a). The letter introduced the survey and plainly highlights the importance of the study; it emphasized the importance of

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<sup>13</sup> The stakeholder group comprised FIRS, FMOF, NEITI, AGO, NGO, HIL, AF and MNC

respondents to participate in the study. In addition, it also provided information about the supervisor. Similarly, the covering letter was also written on the official headed letter of the Robert Gordon University (see appendix 1b). The first paragraph provided information about the topic, the main of the study and its importance. The aim of these points was establish in the minds' of the participants that the study was vital and to motivate them to read and complete the following pages The second paragraph emphasized the following points:(1) The objective of this study can only be achieved with the help and co-operation respondents, (2) the questionnaire is not lengthy, kindly spare 10 -15 minutes to complete the enclosed questionnaire, (3) The instructions on how to complete the questionnaire and (4) the participants would get a summary of findings upon completion of the study, if they wish to have a copy. These points are aimed at encouraging and motivating the respondent to partake in the survey.

The third paragraph clearly outlined to the respondents that their participation is voluntary. In addition, they were assured that their confidentiality is absolutely guaranteed and would not be disclosed under any circumstance. The aim of these points is to overcome the fear held by many participants that their details and answers might be used for other purposes apart from the research study. Due to the secrecy of transfer pricing issues their personal details such as name, age and rank were not even included in this questionnaire in order to encourage them to complete it freely. The fourth paragraph provided the details of the researcher and the willingness to receive any enquiry.

#### **5.4.1.6 Administering the questionnaire**

As stated earlier, there are various ways of administering a questionnaire in a research study such as postal questionnaire, email questionnaire and personally administered questionnaire. In this study, apart from fourteen questionnaires emailed to some respondents from Accounting Firms (AF) and Federal Inland Revenue Services (FIRS), all the remaining questionnaires were personally administered to the respondents. The questionnaire package contained the following three items: introductory letter from my supervisor, covering letter and the questionnaire pages. These respondents were

identified with the help of informants<sup>14</sup> in the various institutions. Most of these institutions were located in Abuja; the Federal Capital Territory of Nigeria; however, some of the respondents with transfer pricing expertise of FIRS and AF that deal with oil and gas sector were in Lagos.

The questionnaire package was administered at the end September 2012. After four weeks about fifty five questionnaires were returned. In order to increase the response rate several phone calls and emails were made to remind the respondents to complete the questionnaire. As result twenty six questionnaires were obtained from the respondents. Hence, a total number of eighty one (81) questionnaires was returned out one of hundred and forty (140) administered, representing a 58% response rate.

#### **5.4.1.7 Method of Data Analysis**

The next phase in the process of this research is the analysis and interpretation of the data collected. At this point apt techniques were selected for analysing the survey data. The selection of methods and techniques of data analysis depends on whether the data collected are qualitative or quantitative (Collin and Hussey 2003; Lawal 2008). Data analysis is a common concept which is readily used in almost every language. Everyone can understand it-however, its interpretation varies depending on the context. Therefore, institutive terms like data analysis have to be defined first (Hoppner 1999). Data analysis is always conducted to answer a particular question and that question implicitly determines the form of the answer. Commonly, data analysis comprises of three activities: (1) condensation/ data reduction, (2) display of data i.e. organising information to enable conclusions and (3) drawing conclusions and verification (Mile and Huberman 1994). These three activities are interrelated both during and after data collection. The analysis of the questionnaire survey can be achieved by applying statistical techniques.

Statistics refers to set of methods and techniques used in quantitative data analysis. Its texts usually draw a distinction between descriptive statistics and exploratory data analysis, used to display data or provide summary of data and inferential statistics or confirmatory data analysis (Lawal 2008; Collin and Hussey 2003). Furthermore, the main techniques of confirmatory data analysis are categorised into two; parametric and

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<sup>14</sup> Informants are colleagues and those who work in the various institutions that helped in identifying the experts (respondents) and getting access to them in their respective institutions.

non-parametric techniques. Parametric techniques are applied to compare statistics with the parameters of sample, and can only be used if the data are normally distributed and on a nominal scale. Alternatively, where the data are not-normally distributed and on an ordinal scale, non-parametric techniques can be used to make the analysis (Lawal 2008; Geisser and Johnson 2006).

**Table 5.2 The major statistical tests for analysis**

<b>Parametric test</b>	<b>Non-parametric test</b>	<b>Aim of the test</b>
t test for independent samples	Mann-Whitney U test; Wilcoxon rank-sum test	Compare to independent sample
Paired t test	Wilcoxon matched pairs sign-rank test	Examines a set of differences
One way analysis of variance (F-test)	Kruskal-Wallis analysis of variance by ranks	Compare three or more group

Source: (Dallal 2001)

Table 5.2 shows that t test for independent samples and Mann-Whitney tests are two type of test used for comparing the means of two independent groups under parametric and non-parametric tests respectively. Generally, parametric techniques are considered to be more powerful; however, they do have more strict conditions or assumptions to be met, such as data must be on a nominal scale and normally distributed. The parametric techniques cannot be applied in this study for the following reasons. First, the common situation in social science studies that the required strict assumptions pertinent to the use of parametric techniques about data are not easily met in general; moreover, the data collected in this study are not normally distributed. Secondly, it is considered very difficult to meet the assumptions of parametric techniques such as t test, if data are collected on an ordinal scale like in this study. The data collected for this study failed to meet the conditions or assumptions of parametric techniques such as t test for independent samples.

For these reasons, alternative techniques were considered in this study, hence non-parametric techniques were adopted, and in particular Mann-Whitney tests were employed for the statistical analysis of the survey data obtained. Literature suggests that Mann-Whitney tests are the most powerful techniques for the analysis of data collected

on ordinal scale such as the 5 point Likert scale and not-normally distributed as is the case with this study (Erceg-Hurn and Mirosevich 2008; Lawal 2008).

Data analysis at times appears to be challenging but it is a fundamental element in research (Ornek 2008). However, computer software can be used to summarize and describe data (Weiers 2010). Quantitative data obtained through the questionnaire survey were analysed with the help of a computer program; the data were coded and then analysed using a SPSS software program. The major advantage of using packages such as SPSS is that it enables the researcher to score and analyse the quantitative data rapidly and in various ways (Bryman and Cramer 2005). Descriptive analysis was conducted to obtain the frequencies, mean and median. These enabled the analysis of the demographic information of the participants and also the analyse the perception of respondents in relation to the variables because the participants were from different groups and to explore the difference in their responses, Mann-Whitney tests were used to determine whether statistically significant differences in responses existed. In addition, where there was significant difference among the categories (groups) cross tabulation was conducted to ascertain the patterns of the differences.

#### **5.4.2 Interview**

Interview is by far one of the most popular and important instruments of data collection (Bluhm et al. 2011). Interview offers an exceptional avenue to explore the opinions of others, at least in understanding an avenue into their social world; the way in which the interview is conducted is very important if this understanding is the purpose (Irvine and Gaffikin 2006). Turner (2010) stated that an interview provides detailed information pertaining to respondents' experiences and opinions of a particular subject. A researcher with experience knows that interviews are "interventions", affecting people, and that a "good" interview "lays open thought, feelings, knowledge and experience not only to the interviewer but also to the interviewee" (Patton 2002, p.353).

Most often, an interview is combined with other methods of data collection in order to give the researchers a well-formed set of information for analysis (Turner 2010). Generally, the benefits of combining different approaches of data collection, particularly mixed with an interview include: to discuss and address specific questions in detail, make clarifications of some of the questionnaire questions that need to be

clarified and seek other information to improve the finding of the study. Therefore, in addition to the questionnaires administered, an interview approach was also utilised in order to find out more details and also make the investigation more thorough; particularly, some of the questionnaire questions require in-depth investigation to achieve satisfactory answers. In most cases, interview can be categorised into three forms; namely, unstructured, structured and semi-structured form. According to Starr (2012, p.241):

*“In-depth interview refers to extended discussions with research subject. These may be ‘structured’, ‘semi-structured’, or ‘unstructured’, referring to the extent to which the conversation follows a pre-determined sequence of questions”*

An unstructured interview is where the interviewers do not use any predetermined questions in the interview, in order to learn more about the subject area without unnecessarily interrupting the respondents. The questions mainly emerge from the interactions (in the moment episodes) and the responses of the interviewee. Turner (2010) called this approach informal conversational interview. Some researchers considered this form of interview as helpful because it is not structured, therefore, permitting greater flexibility in the nature of the conversation. However, many scholars argued that this form of interview is neither stable nor reliable because of the nature of unpredictability in the interview questions, which makes it very difficult to code the data (Turner, 2010, Creswell 2009). Similarly, Collins and Hussey (2003) stated that this kind interview can only be carried out by experienced researchers to obtain richer information without deviating from the subject area.

A structured interview is where the interviewer uses predetermined questions to seek the necessary information from the interviewee. This form of interview is based on well-structured (in terms of wording) questions; the content and array of the questions are prepared in advance. In some literature this type of interview is referred to as standard open-ended interview (Turner 2010). This open-endedness permits the respondents to provide as much in-depth information and they wish and it also permits the interviewer to ask more questions in the form of follow-up (Turner 2010). This form of interview enables the researcher to always ask the respondents the same questions throughout the interviews but the questions are worded in the form of open-ended so that it allows the participants to explain as much as they desire. Although, this approach



guides the interview with open-endedness it lacks the flexibility of unstructured and semi-structured forms of interview.

A semi-structured interview is where the interviews are neither completely structured nor unstructured; it combines the elements of both approaches. This approach is more structured than the unstructured interview, though it still has a little flexibility. The manner in which the questions are potentially worded depends on the person who conducts the interview (Turner 2010). The strength of a semi-structured interview is that it enables the researcher to ensure that the same broad area of information is obtained from each participant. This gives more focus than the unstructured interview, but still permits some level of freedom and flexibility in obtaining information from the participant. The interviewer guides the discussion in this kind of interview approach, but flexibility gets more priority (Turner 2010). This approach gives the researchers an avenue to raise some questions not considered initially and seek for answers from the respondents.

This study employed the semi-structured form of interview to ascertain the views of respondents with respect to the appropriate form of transfer pricing regulations in Nigeria, examine the challenges that may face the tax authority in implementing the transfer pricing regulations. It also helps to collect richer qualitative data to enable a better understanding of circumstances (Johnson, et al. 2007). For instance, Lillis (1999) carried out a series of interviews (semi structured) in her research study; in order to gather richer qualitative information that would supplement the quantitative data she collected.

The choice of this technique is suitable since semi-structured interviews are a particularly useful way of collecting data in a situation where the researcher is keen to conduct in-depth investigation of a particular phenomenon (Abernethy et al. 1999). In addition, it helps to clarify questions during the interview in a situation where the respondents did not understand the questions properly. However, questions will be simplified to make it understandable to the respondents by carefully following the interview protocols.

#### **5.4.2.1 Sample selection method**

Qualitative study, like quantitative study, also considers how to collect a sample of the study; the uniformity of responses is obtained from the sample and the sample size of the study (Newman 2011). However, the sample sizes are usually smaller than in quantitative research, because data collection and analysis under qualitative study are mostly resource-intensive and the sample tends to be selected ‘purposively’ instead of randomly drawn from a population or sample frame (Starr 2012). Purposive sampling which is also referred to as judgmental sampling by some authors is a sampling technique where the sample is constructed based on the researcher’s judgment that the selected participants meet certain criteria (Fogelman 2002). Purposive sampling consists of a wide range of practices referring to the selection of the sample in such a way that it facilitates the accomplishment of the research objectives; for instance, the sample may be selected to make sure that essential elements of variation in the sample frame are also included in the sample (Starr 2012).

These essential elements or certain criteria mentioned above focused on the experience, knowledge and expertise of the potential participants in the subject area of the study. This approach gives the researcher an opportunity to select the most productive sample to answer the questions (Marhsal 1996). David and Sutton (2004) suggested that sample size can be estimated based on the researchers’ experience and the available resources in terms of cost and time. Generally in most cases (particularly in qualitative research), random sampling is neither essential nor preferable (Eisenhardt 1989) rather it is to identify particular sets of people that possess certain features or live in conditions relevant to the complex nature of the issue being studied which is fundamental.

The sample for this interview was selected from the sample drawn for the questionnaire. This approach is known as interlaced sampling. “Interlaced sampling means that cases or groups for the application of the second method are selected from the sample drawn for the first method” (Flick 2008, p.112). For instance, some cases are selected from a sample for a questionnaire survey to make up a sample for interviews.

##### **5.4.2.1.1 Sample selection**

In view of the above, sixteen participants were selected from the various stakeholder groups to serve as a sample of the study. The selection was mainly made based on the

respondents' expertise and knowledge of the issue of transfer pricing in Nigeria and their ability to make a significant contribution to the study. Some of these respondents were revealed to the researcher through their meaningful contribution to the questionnaire survey. In addition, the expertise, interest and willingness demonstrated by some of them led to their being contacted for more clarification which also encouraged the researcher. Furthermore, some of the participants also recommended other key experts to be included in the interview. Through this process, the researcher was able to gain access to many respondents that were willing to participate in the interview more easily.

The stakeholder groups that the sample was drawn from consist of: the Federal Inland Revenue Services (FIRS), the Federal Ministry of Finance (FMOF), the Nigeria Extractive Industry Transparency Initiative (NEITI), Civil Society Organizations (CSO), Office of the Auditor General (OAG), Multinational companies (MNC), Accounting Firms (AF) and Higher Institute of learning. An explanation of these groups has been given above in the section. Two experts from each group were included in the sample and subsequently interviewed.

#### **5.4.2.2 Interviews with Participants**

All the above selected participants were interviewed and the interview was commenced after the analysis of the questionnaire survey. A total of sixteen respondents (see Table 5.3) were interviewed; twelve of these respondents were interviewed by the phone, three were interviewed via the internet while the remaining one was interviewed face to face.

**Table 5.3 Number of Interviewees**

<b>Groups</b>	<b>Number of participants</b>
FIRS	2
FMOF	2
NEITI	2
CSO	2
OAG	2
MNC	2
AF	2
HIL	2
<b>Total</b>	<b>16</b>

Source: Author generated

### **5.4.2.3 The design and procedure of the interview**

The issues of interviewing style i.e. how an interview will be conducted is not just a technical, but rather also theoretical, depending on the researchers' understanding of the kind of qualitative investigation and its intentions and purposes. Once the researcher has determined the type of the interview based on the theoretical approach, then the technical parts should also be considered. These take a large amount of the researcher's energy and time. For instance, developing questions, selecting whom to be interviewed, determining the sample size, establishing contact, arranging an appointment, listening, taking note, deciding whether to tape or not, establishing rapport with the interviewee, understanding body language, transcribing, and learning to address the unpredicted are all key issues to be considered by the interviewer (Irvine and Gaffikin 2006, Fontana and Frey 1994; Douglas 1986).

Preferably, the researcher seeks the consent of respondents to tape all interviews and afterwards transcribe them. This maintains the complete information content of the interviews and also facilitates the computerized classification and analysis of the data. On the other hand, the researcher can just make notes during the interview and elaborate on them immediately after the interviews, this may be satisfactory if the interview is short, the number of interviews to be conducted is not too large and does not involve multiple interviewers (Starr 2012). However, at times the respondents may not be willing to be taped; therefore, it becomes necessary for the researcher to take notes. In either of the approaches, the most important and ideal practice is to maintain the thorough and uniform content of the interview that can be used to analyse systematically (Starr 2012).

The purpose of the study must be explained to the participants, to avoid any misperception that the researcher is acting as a management spy or the study will be used for other purposes. The researchers must be acquainted with the background of each participant and has to address the subject relevant to that person. The researcher should avoid the use of jargon; instead using the "language" of the interviewee to communicate. The researcher must have the ability and sensitivity to turn the conversation away from obviously irrelevant subject areas, keeping focus on the topic area of the study. At the same time, fascinating paths should be further probed with more questions. The researchers should not take up positions in any way; avoid

expressing his/her own views during the interviews, if not, the interview may become (politicised) biased (Vaivio 2008). An in-depth interview is frequently the primary, but not only, source of data. A comprehensive qualitative research may complement the interview with other sources of data (Vaivio 2008). Triangulation between diverse empirical sources is required to improve the reliability of the data (Vaivio 2008).

Based on the findings of the questionnaire survey, the researcher made a summary of the topics to be considered in the interview. A semi-structured interview schedule was designed and sent to the participants before the interview was commenced. This enables the respondents to prepare and familiarise themselves with the question in order to provide detailed information during the interview. Basically, the questions emerged from the findings of the questionnaire and recent developments from the literature. Most interview appointments were arranged through email while some of the appointments were made via phone. At the commencement of the interview, the researcher made the respondents understand the purpose of the study, the significance of their contribution to the study and assured them that their privacy is a priority and confidentiality is guaranteed. Subsequently, the consent of the interviewees was sought to tape the conversation, some interviewees agreed while few of them declined. The researcher made note throughout the interview to ensure that important points were not missed. The researcher made an effort to follow the sequence of the interview schedule; but the interviews were mainly led by the flow of the conversation. Sometimes the researcher seeks more explanation and also ensures that the focus of discussion does not deviate from the subject area.

#### **5.4.2.4 Method of analyzing the qualitative data**

In analyzing the data obtained from the interviews, this study followed certain procedures of interview analysis. These procedures include organizing and interpreting the data in order to obtain a meaning in respect to the research questions. Some authors suggested that the term “analysis” seems to be inapt in relation to qualitative data, but whatever the extent of complexity in the process of analysis, there should be some analysis to be conducted, even if it is in the manner information is recorded, stored and sorted (Irvine and Gaffikin 2006). Furthermore, Tesch (1990, p.4) stated that collection, organisation and interpretation of data constitute analysis; within the qualitative research, there are various principles and procedures for analysis of data. However, all

the qualitative researchers commonly believed that analysis is a process of making sense of data. Similarly, Irvine and Gaffikin (2006, p.13) "*The organisation, selection, interpretation and presentation of data are used to build a theoretical rendition of reality*".

Furthermore, this study used one of the most frequently used methods of data analysis; content analysis in analyzing the data obtained. Hsieh and Shannon (2005) stated that content analysis is one of the most commonly used techniques in qualitative research. "*Content analysis classifies textual material, reducing it to more relevant, manageable bits of data; it is a research method that uses set of procedures to make valid inference<sup>15</sup> from text*" (Weber 1990, p.5). In addition, Elo and Kyngas (2008) stated that content analysis is a technique that can be used with either quantitative or qualitative data and in a deductive or inductive way.

Interview analysis can be done manually or with the aid of computer software. There are varieties of software that can facilitate the process of data analysis; ranging from databases and word processors to a qualitative analysis program (Irvine and Gaffikin 2006). A computer aided software method of data analysis helps in managing the data accordingly. According to Welsh (2002) the use of Nvivo tools enable the researcher to interrogate the data at a certain level, hence, advancing the thoroughness of the analysis process by validating or not validating some of the researcher's impressions of the data. However, since the data obtained in this study is not that large and the researcher wants to feel the data, it is not necessary to use any data analysis software program. First the data was displayed, then the researcher reflected on the data and the codes are derived from the previous research findings, subsequently, reducing the data and generated themes, finally interpreting and concluding the analysis. Moreover, Mile and Huberman (1994) stated that where the interviewer has more than 500 pages of data they can afford transcribers and program such as ATLAS ti, QSR N5 (NUD8IST 5.0), Nvivo, Winmax or Hyper research then can use a computerised approach. On the other hand, where the

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<sup>15</sup> The inferences are about the message, the message senders or the target audience. The rules guiding this inferential procedure differ with the substantive and theoretical interest of the researcher (Robert and Weber 1990).

researcher has less than 500 pages of transcripts or field notes wants to feel close to the data and also cannot afford to have all the interviews transcribed<sup>16</sup> then a manual approach can be used (McLaughlin 2013).

### **5.4.3 Validity and reliability**

Mixed methods research is essentially neither less nor more valid than particular methods of research. As with any approach, validity stems from the thoroughness, effectiveness and appropriateness with which those approaches are utilised and the concern given to the considerate weighing of the data than from the application of specific established rules or compliance to laid down tradition (Turner 2010). There are rules set for controlling validity in standard qualitative and quantitative research methods. The same rules should be applied when two methods are mixed (Turner 2010).

Validity is the degree to which a test measures what it sets out to measure. The three important points with respect to validity are: the population for whom the test is intended, the purpose of the test and the form of the test. Validity could be in the form of: face validity, content validity, criterion validity or construct validity.

Face validity involves a brief assessment of the test by an inexpert reviewer. Content validity is an organized subjective assessment of how appropriate the item seems to a set of reviewers who have some knowledge of the subject matter. Who might be included as reviewers, how would you incorporate these assessments of validity (face and content) into your survey instrument design process? Criterion is the extent to which an instrument measures against a predictor or another instrument. Construct validity measures how meaningful the scale or mechanism is when it is put into practice. It is the most vital and difficult measure of validity.

### **5.4.4 Ethical issues**

Ethics are increasingly becoming more relevant in the perspective of research. As all the time qualitative research (either in one way or the other) deals with human beings, it has to be regularly reviewed by an institutional reviewer to ensure the quality of the research (Flick 2008). As in any type of research that deals with human beings, it has

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<sup>16</sup> 1 hr tape interview requires about 4 hours to transcribe

become necessary to make certain principles ethical standards in qualitative research (Flick 2008). Turner (2010) outlined the following ethical concerns that must be considered when conducting interviews:

- The researcher should ensure that the participation of the participants must be voluntary
- The researcher must make sure that the respondents understand the purpose and process of the research.
- The researcher must inform the respondents that they have the right to obtain a copy of the summary of findings (report).
- The researcher should explain to the respondents the potential advantage of the research and also respect their privacy.
- The researcher must maintain anonymity during the data analysis and keep the data secured for a reasonable time.
- The researchers avoid bias towards particular groups during the writing.
- The detailed content of the study should be carefully explained within the actual write up in order to give the reader the avenue to judge the ethical quality of the research.

In this study, all these ethical issues were carefully considered throughout the interview process.

## **5.5 Conclusion**

This chapter thoroughly explored and presented the methodology employed for this study. The chapter began with an explanation of the research methodology and the philosophical assumptions, research design and methods of data collection employed in the research. The philosophical justification for the adoption of this method is the pragmatism approach. The mixed methods research approach was adopted, where both quantitative and qualitative methods were used. As discussed in the previous chapters, most transfer pricing studies used the questionnaire method. Very few transfer pricing studies have employed interview method. In this study both the most commonly used techniques the questionnaire survey and interview were used to collect the relevant data. The questionnaire was carefully designed in line with the guidelines discussed in the chapter. A pilot study was conducted to improve the quality of the questionnaire and subsequently administered to the respondents. In addition, the sample for each approach, the application and method of data analysis have been thoroughly discussed



and presented. Furthermore, Mann-Whitney tests were performed to determine the differences between the respondent groups. A cross-tabulation test was also conducted to assess the pattern of the differences. The next chapter presents the analysis of the data collected through the questionnaire survey.

## CHAPTER SIX

### Questionnaire survey findings

#### 6.1 Introduction

This chapter presents and analyses the data collected through the questionnaire survey. Section 6.2 presents the total responses received from the respondents, followed by section 6.3 which discuss the demographic characteristics of respondents. Section 6.4 presents the analysis of the main findings of the study, and, section 6.5 concludes the chapter.

#### 6.2 Questionnaire-based survey response rate

According to Baruch and Holtom (2008), the average response rate for studies that used data obtained from individuals was about 53% while from organisations it was about 36%. Again, the response rate varies from one field to another and it depends on certain factors, such as the quality of the questionnaire and approach used in administering it. In this study, for example, 88 responses were received out of 140 questionnaire distributed. Thus, a 63% response rate was recorded. However, 7 of the returned questionnaires, representing 5% of the total questionnaires distributed were found to be incomplete and not usable, hence excluded from the analysis. An example of an excluded questionnaire was where a respondent ticked multiple boxes on a single variable instead of one box which makes it impossible to determine the actual option chosen by the respondent.

**Table 6.1: Questionnaires distributed and returned**

Groups of respondents		distributed	Returned	Excluded	Usable
1	Federal Inland Revenue Services	20	15	1	14
2	Ministry of Finance	20	12	0	12
3	Office of the Auditor General	20	16	2	14
4	Nigeria Extractive Industries Transparency Initiative	20	13	2	11
5	Higher Institute of learning	12	4	0	4
6	Civil Society Organisations	13	9	2	7
7	Multinational Companies	20	12	0	12
8	Accounting Firms	15	7	0	7
<b>Total</b>		<b>140</b>	<b>88</b>	<b>7</b>	<b>81</b>
		<b>100%</b>	<b>63%</b>	<b>5%</b>	<b>58%</b>

Source: Author Generated

As shown in Table 6.1 above, the remaining 81 representing 58% of the questionnaires distributed were found usable and thus were utilised in the study. A total of 81 (58%) usable questionnaires received from the respondents is commensurate with other transfer pricing studies (for example: Salem, 1986, Al-Eryani 1987, Craves 1992 and Li 2006). Verification of data coding and data entry was conducted to ensure the integrity of the data. All the usable questionnaires returned were thoroughly cross-checked against the data entered into the SPSS software program. In the process only a few errors were identified and subsequently corrected. Thus, the data obtained was carefully analysed to determine whether missing values exist.

### 6.3 Missing value analysis

Missing value analysis provides a means of overcoming potential problems caused by incomplete data. The responses obtained were carefully analysed to ascertain missing values (if any). Subsequently, the result indicated that there were missing values in 17 of the 81 cases. The missing value pattern shows that the lowest missing value is 1 and the highest is 9 as shown in Table 6.2 below:

**Table 6.2: Missing value pattern**

S/N	Case	Variable	Missing value
1	2	Sec3Q1a – 1h	8
2	5	Sec3Q1g	1
3	9	Sec2Q5e	1
4	13	Sec4Q1j	1
5	16	Sec3Q1e	1
6	17	Sec4Q1b – 1j	9
7	21	Sec2Q2c , 5d, Sec4Q2a – 2c	5
8	22	Sec3Q1e	1
9	25	Sec5Q1j	1
10	27	Sec3Q1h	1
11	32	Sec2Qb, 3b, 4a, 62d	4
12	33	Sec5Q1a	1
13	65	Sec2Q3d	1
14	74	Sec4Q2a – 2c	3
15	75	Sec2Q1b, 1c	2
16	77	Sec2Q1b, Sec4Q2a - 2c	4
17	80	Sec2Q2a	1
			45

The total missing values of 45 as shown in the above Table constitute less than 1% of the overall responses recorded<sup>17</sup>. Consequently, Little’s MCAR<sup>18</sup> test was carried out to establish the randomness of the missing values. The result disclosed a chi square = 987.706 (DF = 932) and the significant value is 0.100 which is greater than the p-value of 0.05; this signified that there is no identifiable pattern existing in the missing data, therefore, the data in this study is indeed MCAR. The appropriate approach to handling MCAR missing data is to complete the missing data with the mean. Mean estimation technique was used to obtain the mean and complete the missing data accordingly.

#### 6.4 Demographic characteristics of respondents

The demographic characteristics considered in the survey include the place of work and occupation of the respondents. As mentioned earlier, due to confidentiality and secret nature of transfer pricing certain demographic characteristics such as name, rank, qualification and duration of service were not part of the questionnaire. Presumably, their inclusion as part of the questionnaire might have impeded genuine responses to the questionnaire. The frequencies of the respondents with respect to place of work and occupation are presented in Table 6.3 below:

**Table 6.3: Demographic characteristics: Frequency of respondents**

<b>Place of work</b>	<b>Frequency</b>	<b>Percentage</b>
Federal Inland Revenue Services	14	17.3
Ministry of Finance	12	14.8
Office of the Auditor General	14	17.3
Nigeria Extractive Industries Transparency Initiative	11	13.7
Higher Institute of learning	4	4.9
Civil Society Organisations (with interest in tax matters)	7	8.6
Multinational Companies	12	14.8
Accounting Firms	7	8.6
<b>Total</b>	<b>81</b>	<b>100%</b>

Source: Author generated

The respondents work in eight organisations considered as the stakeholders that have a key interest in this research. These stakeholder groups are: (i) Federal Inland Revenue

<sup>17</sup> The total number of cases was 81 and the variables used were 61, therefore, the overall responses recorded would be (81 x 61) 4941, out of these 45 were missing (left unanswered) by the respondents representing 0.91% (45/4941 x100).

<sup>18</sup> MCAR means missing completely at random

Services (FIRS), (ii) Ministry of Finance (MOF), (iii) Nigeria Extractive Industry Transparency Initiative (NEITI), (iv) Civil Society Organizations (CSO), (v) Office of the Auditor General (OAG), (vi) Multinational companies (MNC), (vii) Accounting Firms (AF) and (viii) Higher Institute of learning (HIL). The FIRS being the tax authority of the country is considered the primary stakeholder in this research. FIRS is one of the stakeholders that recorded the highest frequency percentage of 17.3% representing 14 (out of the 20) management and staff of the organisation (with expertise in transfer pricing) that responded. In this study FIRS and the other stakeholders provided the relevant information needed for this study. Other respondent groups were included because the number of transfer pricing experts in the organisation were not more than 20 at the time of administering the questionnaires, therefore, could not be sufficient and secondly, to cross-check their views with other relevant stakeholders.

### **6.5 Presentation and analysis of the major findings of the study**

This section presents and analyses the major findings of this study. The analysis would help achieve the aim of this research exercise. As indicated in Section 1.2, this study seeks to contribute to the debate on the proposed adoption of transfer pricing regulations in Nigeria, by providing constructive analysis of the appropriate transfer pricing regulations for Nigeria with a particular focus

The section first presents descriptive statistics (frequency distribution) of the responses received in order to establish the common views of respondents in relation to the 61 variables employed in this study. In addition, Mann-Whitney tests were run at 5% (0.05) p value (level of significance) to ascertain the differences that exist (if any) between the groups of respondents. Furthermore, cross-tabulation tests were utilised in analysing the differences that exist between the groups. The views of respondents to the statements relating to the transfer pricing regulations were sought to address the five sub-research questions. Each of the statements has a total of 81 responses. The views were based on a five point Likert scale of (1= strongly agree, 2 = agree, 3 = neutral, 4 = disagree and 5 = strongly disagree). Furthermore, the results report and illustrate the mean response and median response; where (1 and 2) represent level of agreement, (3) neutral and (4 and 5) represent level of disagreement. Subsequently, each of the following sections analyses and presents the findings based on the objective of the study.

### 6.5.1 Form of adoption of transfer pricing regulations

Most transfer pricing regulations adopted by various countries are either based on the OECD transfer pricing framework (Deloitte, 2012) or the US transfer pricing regulatory framework<sup>19</sup> (Osei, 2010). However, it has been argued that these two frameworks were established based on the interests of the Western world (TJN, 2010). Subsequently, the United Nations released a transfer pricing manual which is mainly based on the OECD guidelines but it better reflects the interests of the developing countries (UN 2011). Moreover, adoption of any transfer pricing regulations depends on the circumstance, priority and capacity of the country (PwC 2011a). It is in this context, therefore, that the study sought the views of respondents regarding the form of transfer pricing regulations that Nigeria should adopt, particularly in the petroleum sector and thus providing answer to a part of the study's research question.

#### 6.5.1.1 Perception regarding framework for transfer pricing regulations.

The views of respondents were sought on their preference regarding the appropriate transfer pricing framework for Nigeria, given its circumstances and development. The respondents were asked to express the extent of their preference for the adoption of transfer pricing regulations based on (a) OECD Guidelines framework, (b) UN transfer pricing framework and (c) US transfer pricing regulations framework. Table 6.4 presents the results of the descriptive statistics tests:

**Table 6.4: Descriptive statistics relating to adoption and implementation of appropriate framework for transfer pricing regulations in Nigeria**

Statements	Mean	Median	SA	A	N	D	SD	TR
a) The Organisation for Economic Co-operative and Development (OECD) framework	1.95	2.00	34 (42)	25 (30.9)	16 (19.8)	4 (4.9)	2 (2.5)	81 (100)
b) The United Nations (UN) transfer pricing framework	2.07	2.00	19 (23.5)	42 (51.9)	15 (18.5)	5 (6.2)		81 (100)
c) The United States (US) regulatory framework for transfer pricing	2.69	3.00	10 (12.3)	29 (35.8)	23 (28.4)	14 (17.3)	5 (6.2)	81 (100)

**Note:** SA= Strongly Agree, A=Agree, N=Neutral, D= Disagree, SD=Strongly Disagree, TR= Total Responses. The figures in brackets represent percentages.

<sup>19</sup> Many countries have adopted the OECD framework; some countries have adopted the OECD transfer pricing framework without modification while others modified it to suit the needs and situations of their respective countries (KPMG 2012)

Table 6.4 shows that 42% and 30.9% of respondents strongly agreed and agreed respectively with the statement that Nigeria should adopt its transfer pricing regulations based on the OECD framework for transfer pricing regulations while 7.4% disagreed and the remaining 19.8% held a neutral position. Mann-Whitney tests were conducted to determine whether differences exist between the groups.

**Table 6.5: Mann-Whitney test results relating to adoption and implementation of international best practice framework for transfer pricing regulations**

<b>Mann-Whitney tests</b>					
The Organisation for Economic Co-operative and Development (OECD) framework for transfer pricing					
<b>Groups</b>	<b>F<sub>1</sub></b>	<b>M<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>M<sub>2</sub></b>
<b>N<sub>1</sub></b>	.003	.043	.001	.000	.025
<b>C<sub>1</sub></b>					.029
The United Nations (UN) transfer pricing framework					
<b>Groups</b>			<b>M<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>M<sub>2</sub></b>
<b>A<sub>1</sub></b>			.045	.012	.027
The United States (US) regulatory framework for transfer pricing					
<b>Groups</b>			<b>O<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>N<sub>1</sub></b>
<b>F<sub>1</sub></b>			.028	.034	
<b>M<sub>1</sub></b>			.003	.008	.011
<b>M<sub>2</sub></b>			.038	.044	

**Note:** 1) F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies.  $P \leq .05$  is used for this test, therefore, the table shows only the results with a p-value of less than or equal to 0.05.

From Table 6.5 above, it is evident that differences exist between NIETI and five other groups of respondents, namely; FIRS, MOF, OAG, CSO and MNC. In order to ascertain the patterns of the response, a cross-tabulation test was performed and the result revealed that 63.6% of respondents from NIETI held a neutral view concerning the issue. While respondents from FIRS, MOF, OAG, CSO and MNC agreed with 85.8%, 66.7%, 85.7%, 100% and 75% respectively. The reservation expressed by the majority of respondents from NEITI as an agency with the responsibility of ensuring transparency in the extractive industry of the country could be attributed to the assertion in the literature that the OECD framework was established based on the interests of developed countries, particularly OECD member countries (TJN 2010, UN 2011). The position held by the five groups might be due to the argument that OECD framework is the most internationally accepted transfer pricing framework (PwC, 2011a; Eden 2008). This is in line with the Eden et al. (2001) statement that once a standard is effectively

diffused by many countries and become institutionalised at the global level, the power of the institutionalisation in safeguarding and maintaining the standard should be strong. They further argued that the institutionalisation of the standard at the global level raises the possibility of homogeneous cross-border diffusion. Moreover, over 60 countries around the world have established their transfer pricing regulations based on the OECD transfer pricing framework (Ernst and Young 2012).

Out of these five groups that agreed, FIRS the tax authority of the country with a responsibility for making policies on tax matters and MNCs the organisations that will be regulated by the policies will, arguably, be in a better position to know the appropriateness of the OECD framework for Nigeria. Despite the respondent groups have different views on the adoption of the OCED transfer pricing framework; generally, they scored the OECD framework with a mean of 1.95 and median of 2.00 which signified agreement. This implies that most respondents were in support of the OECD framework for transfer pricing regulations.

Regarding the UN transfer pricing framework, 40 and 19 of respondents agreed and strongly agreed respectively. This implied that 75.4% of all respondents were of the view that Nigeria should consider the UN transfer pricing framework in establishing its transfer pricing regulations. However, 18.5% of respondents held a neutral view while the remaining 6.2% disagreed with this assertion. Hence, the overall responses scored a mean of 2.06 and median of 2.0 which signifies that they are in favour of the assertion. In order to determine whether there were any significant differences among the respondent groups, a Mann-Whitney test was conducted. The results indicate that differences do exist in their views.

Table 6.5 shows that differences exist between AF and three other groups, namely; MOF, OAG and NIETI. Further, cross-tabulation tests conducted revealed that the differences that exist between AF and the three groups were related to the strength of agreement. 57.1% of respondents from AF strongly agreed that Nigeria should adopt and implement the UN transfer pricing framework, the respondents from MOF, OAG and NIETI agreed with 58.3%, 71.4% and 45.5% respectively. On the other hand, where 16.7%, 7.1% and 27.3% of respondents from MOF, OAG and NIETI strongly agreed respectively with the assertion, 42.9% of respondents from AF agreed. Furthermore, their overall mean and the median scored 2.07 and 2.00 respectively, which signified



that on average, the respondents were in agreement. The unanimous agreement by the respondents from AF could be attributed to their diverse knowledge and expertise in transfer pricing and carrying out audit work on behalf of MNCs, therefore, they might be in a better position to know the best transfer pricing framework for the country. This suggests that the majority of respondents were of the view that the UN transfer pricing framework would be appropriate for Nigeria.

With respect to the US transfer pricing framework, Table 6.4 above indicates that 12.3% and 35.8% of respondents strongly agreed and agreed respectively representing 39 of overall respondents from all the groups supporting the adoption of transfer pricing regulations based on the US transfer pricing regulatory framework. On the other hand, 19 respondents (representing 17.3% and 6.2% disagreed and strongly disagreed) with the statement. While the 23 respondents representing 28.4% of all respondents held a neutral position. Although, the overall mean score of 2.69 is slightly less than 3 but it is aligning toward a neutral position and a median score 3.00 indicated that on average, the respondents held a neutral position about the statement. A further test was conducted to determine whether differences exist between the respondents groups.

Mann-Whitney test results in Table 6.5 revealed that three set of differences exist among the stakeholder groups: there were differences between FIRS and two other groups, namely; OAG and CSO. Second, differences were between MNC and three groups namely, OAG, CSO and NIETI. The third is between MOF and two groups, OAG and CSO. Furthermore, cross-tabulation tests were conducted and the results indicated that 37.5% of respondents from FIRS disagreed while 37.5% held a neutral position on the view that Nigeria should adopt the US transfer pricing regulatory framework. On the other hand, the respondents from OAG and CSO were in agreement with 78.5% and 85.7% respectively.

Similarly, 63.7% of respondents (45.5% agreed and 18.2% strongly agreed) from NEITI were also in agreement. In contrast, 33.3% and 16.7% of respondents from MNC disagreed and strongly disagreed with the assertion respectively. The disagreement by the MNC with their diverse transfer pricing expertise and experience in many countries around the globe might be attributed to the assertion that the US transfer pricing regulation is very complex and the most stringent transfer pricing regulation in the world (Eden 1998, Lohse 2012). The US transfer pricing framework was established

based on the US interests and the circumstances of the country. This could be the reason why more than one third of respondents from FIRS, the agency with the responsibility for adopting and implementing transfer pricing regulations in the country also disagreed and 33.3% of respondents from the agency also remained neutral about adoption of the US transfer pricing regulatory framework.

In summary, 51.9% and 23.5% of respondents agreed and strongly agreed with the UN framework while 30.9% and 42% of respondents agreed and strongly agreed with the OECD framework respectively. While 35.8% and 12.3% of respondents agreed and strongly agreed with the US framework respectively. In cumulative terms, the majority of respondents preferred the UN transfer pricing framework followed by the OECD guidelines framework with 75.4%, 72.9% respectively. On the other hand, only 48.1% respondents preferred the US regulatory framework. The perception of the majority of respondents could be attributed to the assertion that the UN Model aligned the interests of developing countries (TJN 2010; UN 2011). Despite the OECD transfer pricing framework being considered as a globally accepted model (Onyeukwu 2007), the respondents favoured the UN model. The Indian minister of finance repudiated the assertion that OECD is a global standard and was quoted, *“It is inconceivable as to how a standard developed by the Governments of only 34 countries can be accepted by Governments of other countries as ‘standard’ of sharing of revenue on international transactions between source and resident country, particularly when it only takes care of the interest of developed countries and has seriously restricted the taxing powers of source country”* (TJN 2012, p. 1).

#### **6.5.1.2 Perceptions regarding features of transfer pricing framework**

Some countries adopted the OCED transfer pricing framework unchanged while others adopted their transfer pricing regulations based on the OCED framework with some changes (Alecú 2010). The views of respondents were sought on whether some features of transfer pricing frameworks could be adopted to suit Nigeria’s circumstances and development as against just adopting a framework.

Table 6.6 presents the descriptive statistics of the opinion of all respondents groups on the features of the transfer pricing framework of the OECD, UN and US respectively.

**Table 6.6: Descriptive statistics regarding the statement that: Nigeria should choose some features from any of the of the following transfer pricing frameworks**

Statements	Mean	Median	SA	A	N	D	SD	TR
a) The Organisation for Economic Co-operative and Development (OECD) framework	1.75	2.00	36 (44.4)	33 (40.7)	8 (9.9)	4 (4.9)		81 (100)
b) The United Nations (UN) transfer pricing framework	2.01	2.00	24 (29.6)	38 (46.9)	13 (16.0)	6 (7.4)		81 (100)
c) The United States (US) regulatory framework for transfer pricing	2.42	2.00	16 (19.8)	32 (39.5)	22 (27.2)	5 (6.2)	6 (7.4)	81 (100)

**Note:** SA= Strongly Agree, A=Agree, N=Neutral, D= Disagree, SD=Strongly Disagree, TR= Total Responses. All the figures in brackets represent percentages.

Table 6.6 shows that out of 81 respondents (33 agreed and 36 strongly agreed) that Nigeria should consider the features of the OECD framework in establishing its transfer pricing regulations. 8 respondents held a neutral view and 4 respondents disagreed with the statement. Likewise, a mean score of 1.75 and median score of 2.00 indicates a high level of agreement. However, further investigation revealed that differences exist between the respondents groups.

**Table 6.7 Mann-Whitney test results of the features of transfer pricing regulations framework**

Features of the Organisation for Economic Co-operative and Development (OECD) framework for transfer pricing				
Groups	M <sub>1</sub>	N <sub>1</sub>	M <sub>2</sub>	A <sub>1</sub>
F <sub>1</sub>	.039	.006		
O <sub>1</sub>	.029	.002		
H <sub>1</sub>	.020	.001	.036	.037
C	.034	.002		
Features of the United Nations (UN) transfer pricing framework				
<b>Nil</b>				
Features The United States (US) regulatory framework for transfer pricing				
<b>Nil</b>				

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub>= Ministry of Finance (MOF), O<sub>1</sub>= Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub>= Higher Institute of learning (HIL), C<sub>1</sub>= Civil Society Organisations (CSO), M<sub>2</sub>= Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). P ≤ .05 is used for this test, therefore, the table shows only the results with a p-value of less than or equal to 0.05.

Table 6.7 revealed that the first set of differences was between MOF and four groups, namely; FIRS, OAG, HIL and CSO. The differences relate to the strength of agreement. Where 41.7% of respondents from MOF agreed that Nigeria should adopt some features from the OCED transfer pricing framework, 71.4%, 57.1%, 100% and 71.4% of respondents from FIRS, OAG, HIL and CSO strongly agreed with the statement respectively. The second set of differences was between NIETI and the same four groups, namely, FIRS, OAG, HIL and CSO. The respondents from NIETI shared the same views of agreement with 90.0%. The differences relate to the strength of agreement; where NIETI just agreed, the four groups mentioned strongly agreed. The third set of differences was between HIL and two groups, namely MNC and AF. All respondents from HIL agreed with the view, 75% and 71.5% of respondents from MNC and AF also agreed respectively. Despite the differences in strength of agreement between the groups the majority of the groups strongly agreed with the statement. Critical assessment of the mean which is 1.75 is aligned towards strong agreement. This high level of agreement by the respondents from all the groups could be because the OECD transfer pricing framework is the most acceptable transfer pricing guideline in the world and also arguably considered as an international transfer pricing standard (Eden 1998, ).

Regarding the features of the UN transfer pricing framework, Table 6.6 shows that 76.5% of respondents agreed with assertion that Nigeria should take into consideration the features of the UN transfer pricing framework. 7.4% of respondents disagreed and the remaining 16% held a neutral position. Further investigation disclosed no significant differences exist between the respondents groups. The mean and median of 2.01 and 2.0 signified that on average, all the respondents shared the same views of agreement. An investigation was carried out to ascertain whether the pair groups shared different views about the statement. The result revealed that no difference exist between the groups with respect to this assertion. More than two thirds of respondents from all the groups shared the same views that Nigeria should consider the features of the UN transfer pricing framework. This could be because the UN transfer pricing manual took into consideration the interests of developing countries (UN 2010).

Regarding whether Nigeria should consider the features of the US transfer pricing regulatory framework in establishing transfer pricing regulations only 59.3% of

respondents agreed while 13.6% of respondents disagreed. The remaining 27.2% of respondents held a neutral position. Despite the considerable number of respondents who disagreed or remained indifferent about the statement, the Mann-Whitney tests conducted indicate that there was no significant difference between the respondent groups about the statement. The overall respondents scored a median of 2.00 and a mean of 2.42; this indicates that the respondents were aligned towards a neutral position. Nevertheless, on average the respondents were in agreement that Nigeria should consider some features from the US transfer pricing regulatory framework.

Generally, the respondents were of the opinion that Nigeria should choose the best elements of transfer pricing regulations from any of the three frameworks. However, the majority of respondents were of the view that Nigeria should consider adopting some features of the OECD guidelines first before considering the UN transfer pricing manual, and that some feature of the UN transfer pricing manual should be considered before the US framework. The reason for such opinion could be attributed to the fact that the OECD transfer pricing framework is the most widely used around the world and also considered as the internationally accepted standard.

### **6.5.1.3 Perceptions regarding the transfer pricing methods**

Transfer pricing methods are very important in transfer pricing regulations because they are used to determine the arm's length prices (Pendse 2012, OECD 2010; Rahman et al. 2011). The tax authorities are expected to provide some transfer pricing methods from which the MNCs choose to determine their transfer prices in line with the arm's length principle (Bernard and Weiner 1990). Some countries such as Russia use only three of the transfer pricing methods while other countries such as the UK, France and South Africa use all the five transfer pricing methods outlined in the OECD guidelines (Deloitte 2010). Therefore, the views of respondents were sought to determine their preference regarding the transfer pricing methods that Nigeria should consider. These methods are; CUP, RPM, C+, PS and TNMM/CPM.

**Table 6.8: Descriptive statistics regarding the statement on considering the following transfer pricing methods in Nigeria’s transfer pricing regulations**

Statements	Mean	Median	SA	A	N	D	SD	TR
a) Comparable uncontrolled price method	2.07	2.00	30 (37.0)	24 (29.6)	21 (25.1)	3 (3.7)	3 (3.7)	81 (100)
b) Resale price method	2.33	2.00	15 (18.5)	33 (40.7)	25 (30.0)	7 (8.6)	1 (1.2)	81 (100)
c) Cost plus method	2.23	2.00	15 (18.5)	35 (43.2)	28 (34.6)	3 (3.7)		81 (100)
d) Profit split method	2.51	2.00	7 (8.6)	37 (45.7)	27 (30.0)	9 (11.1)	1 (1.2)	81 (100)
e) Transactional net margin method	2.36	2.00	12 (14.8)	33 (40.7)	32 (39.5)	3 (3.7)	1 (1.2)	81 (100)
Descriptive statistics regarding the statement: should the application of the transfer pricing methods be based on:								
a) Priority approach: based on hierarchy; CUP, RPM, CPM, PSM and TNMM	2.33	2.00	20 (24.7)	34 (42.0)	9 (11.1)	16 (19.8)	2 (2.5)	81 (100)
b) ‘Best method’ approach: Any of methods that provides best result.	1.67	2.00	41 (50.6)	30 (37.0)	7 (8.6)	2 (2.5)	1 (1.2)	81 (100)

**Note:** SA= Strongly Agree, A=Agree, N=Neutral, D= Disagree, SD=Strongly Disagree, TR= Total Responses. All the figures in brackets represent percentages.

Table 6.8 presents that 66.6% of total respondents (37.0% strongly agreed and 29.6 agreed) were in agreement with the statement that Nigeria should include the comparable uncontrolled price method (CUP) in its transfer pricing regulations while 7.4% of respondents disagreed. 25.1% of respondents held a neutral position. Further investigation uncovered that differences exist between the respondent groups.

**Table 6.9: Mann-Whitney test results for the method of transfer pricing to be used in Nigeria**

Mann-Whitney tests					
Comparable uncontrolled price method					
<b>Groups</b>	<b>F<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>N<sub>1</sub></b>	
<b>M<sub>2</sub></b>	.026	.014	.021	.003	
<b>M<sub>1</sub></b>				.047	
Resale price method					
<b>Groups</b>			<b>H<sub>1</sub></b>	<b>M<sub>2</sub></b>	
<b>N<sub>1</sub></b>			.027	.046	
Cost plus method					
Nil					
Profit split method					
<b>Groups</b>	<b>C<sub>1</sub></b>	<b>H<sub>1</sub></b>	<b>M<sub>2</sub></b>	<b>A<sub>1</sub></b>	
<b>O<sub>1</sub></b>	.025				
<b>N<sub>1</sub></b>	.001	.018	.005	.008	
Transactional net margin method					
<b>Groups</b>	<b>F<sub>1</sub></b>	<b>M<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>M<sub>2</sub></b>
<b>N<sub>1</sub></b>	.003	.013	.007	.000	.002
<b>A<sub>1</sub></b>	.008	.023	.014	.001	.003
<b>C<sub>1</sub></b>			.016		

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub>= Ministry of Finance (MOF), O<sub>1</sub>= Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub>= Higher Institute of learning (HIL), C<sub>1</sub>= Civil Society Organisations (CSO), M<sub>2</sub>= Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). P ≤ .05 is used for this test, therefore, the table shows only the results with a p-value of less than or equal to 0.05.

As shown in the above Table 6.9, the respondents from MNC differed with four groups, namely; FIRS, OAG, CSO and NIETI on whether Nigeria should include the CUP method as the transfer pricing method in its transfer pricing regulations. The respondents from MNC held a neutral position with 50% while respondents from FIRS, OAG, CSO and NIETI agreed with 71.4%, 78.6%, 85.8% and 90.9% respectively. The agreement position held by FIRS being the agency with the responsibility of making policies related to tax matters such as transfer pricing regulations and the three other groups could be attributed to the statement that the CUP method is the most reliable method and is most preferred by the OECD guidelines (OECD 1995). In addition, respondents from MOF also differed from those of NIETI; where 41.7% of respondents from MOF were undecided, 90.9% of respondents from NIETI agreed with the views. The neutral position held by MNC and MOF could be due to unwillingness to share views because MNC not only has various subsidiaries across the world but also has diverse expertise in transfer pricing issues. Hence, a mean of 2.07 and a median 2.00 score of the total respondents indicated that, on average, the majority of respondents

from all the groups were in agreement that Nigeria should include the CUP method as a transfer pricing method in its transfer pricing regulations.

In terms of the resale price method (RP), it can be seen from Table 6.8 that 59.2% (40.07 and 18.3% agreed and strongly agreed respectively) of total respondents from all the groups favoured that Nigeria should include resale price method as a transfer pricing method in its transfer pricing regulations. On the other hand, 30% of respondents were in a neutral position while the remaining 9.8% of respondents disagreed with the assertion. Further, assessment revealed that the respondents scored a mean of 2.33 and a median of 2.00. This signified that the respondents were in agreement about the statement. Mann- Whitney tests were performed and revealed that differences exist among the respondent groups. The respondents from NIETI differed with those of HIL and MNC as shown in Table 6.9. The cross-tabulation conducted disclosed that 81.8% of respondents from NEITI agreed with the statement while the remaining 18.2% were neutral. 50% of respondents from MNC agreed and 33.3% were neutral. On the other hand, 50% of respondents from HIL disagreed while 25% held a neutral view.

The agreement position of the NEITI and MNC could be more appropriate than the disagreement position held by the respondents from HIL. Although, HIL as academics with a review and oversight function, teach and conduct research on transfer pricing and its methods, MNC practically applies the re-sale price method in various countries around the world and NEITI with a keen interest in transparency in the revenue accruing to government from MNC could have better understanding of the appropriateness of considering re sale pricing method as a transfer pricing method in Nigeria. In summary, respondents from all the groups were of the view that Nigeria should consider the re-sale price method as a transfer pricing method in its transfer pricing regulations.

With respect to the cost plus method, it is evident from the result presented in Table 6.8 that most respondents, 61.7% (43.2% agreed and 18.3 strongly agreed) believed that Nigeria should consider the cost plus method as its transfer pricing method. Only 3.7% of overall respondents disagreed with the assertion while the remaining 34.6% of respondents remained neutral. Furthermore, in the same table, the respondents scored a mean and median of 2.23 and 2.00. This indicated that the respondents were in agreement. Mann-Whitney tests were conducted to determine whether significant



differences exist between the respondent groups about consideration of the cost plus method as a transfer pricing method in Nigeria. The result presented in Table 6.9 revealed that all the groups shared almost the same opinion of this assertion. Hence, no differences exist between the groups. This suggests that the respondents from all the groups have agreed that Nigeria should consider the cost plus method as a transfer pricing method.

Table 6.8 presented that 54.3% of respondents from all groups were in agreement (45.7% agreed and 8.6% strongly agreed) that Nigeria should include the profit split method as its transfer pricing method. While 30.6% of respondents held a neutral opinion and the remaining 12.3% of respondent were in disagreement with the assertion. In addition, the respondents from all the groups had a median of 2.00 and the mean of 2.51. Therefore, the respondents were on average in agreement, however, the mean indicates that the respondents' position is aligned towards a neutral position, since statistically the mean score was approximately 3. Further investigation was carried out to ascertain whether the views of respondent groups significantly differed about the adoption of the profit split method as a transfer pricing method in Nigeria.

The outcome from the Table 6.9 revealed that NIETI differed with four groups, namely; CSO, HIL, MNC and AF. In addition, OAG also differed with CSO. A cross-tabulation result revealed that 72.7% of respondents from NEITI were undecided about the statement while 18.2% disagreed. In contrast, 75%, 100%, 75% and 71.4% of respondents from CSO, HIL, MNC and AF were in agreement that Nigeria should consider the profit split method in its transfer pricing regulations. The high level of agreement held by the four groups in respect to considering the profit split method as a transfer pricing method in Nigeria could be appropriate. The high level of reservation made by the respondents from NEITI might be attributed to an unwillingness to share their views about the statement. Therefore, the majority of respondents believe that it is appropriate for Nigeria to consider the profit split method in its transfer pricing regulations.

The descriptive statistics result presented in Table 6.8 revealed that 55.5% of total respondents agreed (40.07 and 14.8 agreed and strongly agreed respectively) that the transactional net margin method should be considered as a method of transfer pricing in Nigerian transfer pricing regulations. On the other hand, 4.9% of respondents disagreed

while 39.5% of respondents held a neutral position. Subsequently, the median score was 2.00 and the mean score was 2.36, which signified that the respondents were in agreement. Mann-Whitney tests were carried out to determine whether differences exist between the groups of respondents. The result in Table 6.9 disclosed that NIETI differed with five groups, these include; FIRS, MOF, OAG, CSO and MNC. Similarly, AF also shared different views with FIRS, MOF, OAG, CSO and MNC. CSO differed with OAG.

Furthermore, cross-tabulation analysis revealed that 64.3%, 66.7%, 57.1%, 100% and 75% of respondents from FIRS, MOF, OAG, CSO and MNC agreed that Nigeria should include TNMM as a transfer pricing method in the country. On the other hand, 72.7% and 100% of respondents from NEITI and AF respectively held a neutral position. The neutral position held by the majority of respondents from NEITI and AF could be due to an unwillingness to express their opinions about the statement. Therefore, the views of the FIRS, MNC and the three other groups might be more appropriate, hence, it is appropriate for Nigeria to adopt TNMM as a method of transfer pricing regulations.

On a general note, based on the above analysis, the respondents believe that Nigeria should consider all the above five transfer pricing methods in its transfer pricing regulations. However, the comparable uncontrolled price method is most preferred by the respondents followed by the cost plus method, resale price method, transactional net margin method and profit split. This coincided with the fact that comparable uncontrolled price methods are the most favourite transfer pricing method of the OECD guidelines and most countries that have adopted transfer pricing regulations around the world. The major challenge should be the implementation of the method because successful application of CUP requires comparable information, which currently might not be obtainable in Nigeria due to the lack of a transfer pricing database and scarcity of information coupled with fewer organised players in the petroleum sector and the country at large.

#### **6.5.1.4 Perception of approach to application of transfer pricing methods.**

##### **6.5.1.4.1 Priority approach**

An analysis of the general trend of the responses about the priority approach of application of transfer pricing methods in Table 6.8% revealed that, 42.0% of

respondents agreed and 24.7% strongly agreed that Nigeria should consider the priority (Hierarchy) approach in the application of transfer pricing methods. In contrast, 19.8% disagreed and 2.5% strongly disagreed with the assertion while 11.1% held a neutral position in that respect. On the same table, the median and mean scores were 2.00 and 2.33 respectively. On average, the respondents were in agreement with the statement. Furthermore, the Mann-Whitney tests revealed that differences exist between the groups of respondents.

Table 6.9 shows that disparity exists between CSO and four groups, namely: MOF, OAG, NIETI and MNC. AF also differed with OAG. A cross-tabulation result divulged that 100% of respondents from CSO agreed with the statement, similarly, 72.7% of respondents from NEITI also agreed. Some respondent groups have mixed views. 50% of respondents from MOF agreed, while 33.3% were indifferent. On the other hand, 50% of respondents from OAG and MNC agreed, while 50% and 33.3% respectively disagreed with the assertion.

#### **6.5.1.4.2 Best method approach**

Regarding the best method approach Table 6.8 above shows that 37.0% of respondents agreed and 50.6% strongly agreed that Nigeria should use the best method approach in the application of transfer pricing methods. Only 3 (3.7%) respondents disagreed and the remaining 7 representing 8.6% held a neutral position. An analysis of Mann-Whitney tests was conducted to ascertain whether the groups contrasted significantly in their opinions. The result unveiled that there were no significant differences between the groups in their opinions relating to application of the transfer pricing methods approach. The median of 2.00 and the mean of 1.67 indicated that the respondents strongly agreed that the best method approach should be used in the application of transfer pricing methods.

In summary, although the respondents agreed to both approaches, the strength of agreement indicates that the best method approach should be more suitable for Nigeria. This is consistent with the US application of transfer pricing method approach and the current global trend; many countries (such as South Africa) that were using a priority approach have changed to the appropriate method approach (KPMG 2012). Even the

OECD guidelines that emphasised the use of the hierarchy approach have recently changed to the appropriate method approach (OECD 2012).

#### **6.5.1.5 Perception of specific features of transfer pricing regulations**

In this section, the views of respondents were sought on consideration of certain features or elements of transfer pricing regulations in Nigeria. Many countries are gradually adopting various elements of transfer pricing regulations, for instance OECD (2013 P. 4) states that:

*“Since first introduced by the United States in 1994, transfer pricing documentation requirements have spread around the world. While individual country approaches to documentation vary significantly, the number of countries requiring preparation of transfer pricing documentation increases every year. The proliferation of transfer pricing documentation requirements, combined with a dramatic increase in the volume and complexity of international intra-group trade and the heightened scrutiny of transfer pricing issues by tax authorities, makes transfer pricing documentation one of the top tax compliance priorities on the agendas of both tax authorities and businesses... Transfer pricing documentation rules are, and will continue to be, elements of local law enacted in individual countries” (OECD 201, p.4)*

Thus, the opinions of respondents were sought on the suitability of each of the following variables (elements) for Nigeria.

**Table 6.10 Descriptive statistics relating to features of transfer pricing regulations**

Statements	Mean	Median	SA	A	N	D	SD	TR
a) Advance pricing agreement (APA) i.e. to fix a price in advance for a specific transaction for a specific period of time in order to avoid dispute	1.89	2.00	26 (32.5)	43 (53.1)	9 (11.1)	1 (1.2)	2 (2.5)	81 (100)
b) Transfer pricing documentation requirement for multinational companies to maintain and provide transfer pricing transactions records	1.67	2.00	40 (49.4)	32 (39.5)	6 (7.4)	2 (2.5)	1 (1.2)	81 (100)
c) Penalties for non-compliance with the transfer pricing guidelines	1.73	2.00	39 (48.1)	28 (34.6)	12 (14.8)	1 (1.2)	2 (2.5)	81 (100)
d) Exchange of information related to transfer pricing among countries	1.73	2.00	33 (40.7)	37 (45.7)	11 (13.6)			81 (100)
e) Subscription to transfer pricing databases	2.07	2.00	24 (29.6)	34 (42.0)	17 (21)	5 (6.2)	1 (1.2)	81 (100)
f) Establishment of a national transfer pricing database	1.86	2.00	27 (33.3)	41 (50.6)	11 (13.6)	1 (1.2)	1 (1.2)	81 (100)
g) Collaboration with other countries to establish regional transfer pricing databases	1.93	2.00	26 (32.1)	39 (48.1)	13 (16)	2 (2.5)	1 (1.2)	81 (100)
h) Provision of clear guidelines on transfer pricing regulations	1.63	1.00	49 (60.5)	18 (22.2)	11 (13.6)	1 (1.2)	2 (2.5)	81 (100)

**Note:** SA= Strongly Agree, A=Agree, N=Neutral, D= Disagree, SD=Strongly Disagree, TR= Total Responses. All the figures in brackets represent percentages.

#### 6.5.1.5.1 Advance pricing agreement

Table 6.10, shows that 53.1% of total respondents agreed and 32.5% strongly agreed that it is appropriate for Nigeria to consider the advance pricing agreement (APA) in its transfer pricing regulations. In opposition, 3.7% of respondents were in disagreement while 11.1% of respondents were indifferent. The Man-Whitney test was conducted to find out if differences exist between the pair groups. The result revealed that there was no significant difference between the groups of respondents. The table also presented that the mean and the median of the overall respondents were 1.89 and 2.00 respectively; this indicated that the respondents were highly in favour of consideration of APA in the country's transfer pricing regulations (Borkwoski 2000). The unanimous agreement of the groups about APA could be attributed to the fact that it is a proactive

measure that prevents dispute between the tax authority and the MNCs. Moreover, as earlier mentioned, some of the transfer pricing methods may currently not be applicable due to lack information, therefore, advance pricing agreement is considered to be a very good avenue that can be utilised by MNCs and the tax authority.

#### **6.5.1.5.2 Transfer pricing documentation requirement**

In terms of consideration of transfer pricing documentation requirement, the majority of respondents from all the groups were in agreement, with 39.6% agreed and 49.4% strongly agreed as shown in Table 6.10. Only 3.7% of respondents disagreed with the assertion and 7.4% were undecided. Considering the Likert scale arrangement used in the study, the mean score of 1.89 and the median score of 2.00 presented on the same table above indicated that the majority of respondents were aligned towards strong agreement. Furthermore, Mann-Whitney tests were run to ascertain whether differences exist between groups.

**Table 6.11: Mann-Whitney tests results relating to specific features of transfer pricing regulations**

<b>Mann-Whitney tests</b>				
Advance pricing agreement (APA) i.e. to fix a price in advance for a specific transaction for a specific period of time in order to avoid dispute				
<b>NIL</b>				
Transfer pricing documentation requirement for multinational companies to maintain and provide transfer pricing transactions records				
<b>Groups</b>	<b>F<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>A<sub>1</sub></b>	
<b>M<sub>2</sub></b>	.029	.013	.045	
<b>O<sub>1</sub></b>		.032	.094	
Penalties for non-compliance with the transfer pricing guidelines				
<b>Groups</b>				<b>O<sub>1</sub></b>
<b>F<sub>1</sub></b>				.046
Exchange of information related to transfer pricing among countries				
<b>Groups</b>	<b>O<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>H<sub>1</sub></b>	<b>M<sub>2</sub></b>
<b>F<sub>1</sub></b>	.039	.025		
<b>A<sub>1</sub></b>	.012	.002	.046	.030
Subscription to transfer pricing databases				
<b>Groups</b>			<b>F<sub>1</sub></b>	<b>O<sub>1</sub></b>
<b>N<sub>1</sub></b>			.047	.024
Establishment of a national transfer pricing database				
<b>Groups</b>		<b>O<sub>1</sub></b>	<b>N<sub>1</sub></b>	<b>A<sub>1</sub></b>
<b>F<sub>1</sub></b>		.009	.027	.043
Collaboration with other countries to establish regional transfer pricing databases				
<b>Groups</b>		<b>O<sub>1</sub></b>	<b>N<sub>1</sub></b>	<b>C<sub>1</sub></b>
<b>A<sub>1</sub></b>		.044	.027	.037
Provision of clear guidelines on transfer pricing regulations				
<b>Groups</b>			<b>O<sub>1</sub></b>	<b>N<sub>1</sub></b>
<b>F<sub>1</sub></b>			.036	.007

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). P ≤ .05 is used for this test, therefore, the table shows only the results with a p-value of less than or equal to 0.05.

The results of the Mann-Whitney tests as shown in Table 6.11 indicate that significant differences exist between MNC and three groups, namely: FIRS, CSO and AF, regarding the consideration of documentation requirement. In addition, OAG also contrasted with CSO and AF. Further cross-tabulation analysis indicated that the respondents from all groups shared almost the same views about the statement. However, the differences unveiled by the tests relate to the strength of agreement. Where the respondents from MNC recorded 25% strongly agree and 58.3% agree, the respondents from FIRS recorded 64.3% and 35.7%, CSO 85.7% and 14.3%, AF 71.4% and 28.6% strongly agree and agree respectively. Hence, all the three groups FIRS, CSO and AF were 100% in agreement with the statement; likewise, 83.3% of respondents from the MNC were also in agreement. The respondents from the OAG recorded 35.7% strongly agree and 42.9% agree, as a result they differed with CSO and AF in strength of agreement.

The high level of agreement recorded by the respondents might be due to the importance of documentation requirement in achieving a successful transfer pricing regime. It is based on this documentation requirement that MNCs provide the information about transactions between related parties to the tax authorities for assessment. Generally, the majority of respondents from all groups strongly agreed that Nigeria should adopt the transfer pricing documentation requirement in its transfer pricing regulations. This could be attributed to the global trend regarding documentation requirement; the UN (2013) revealed that in 2003 only 12 countries adopted the documentation requirement rule but now about 59 countries have adopted it.

#### **6.5.1.5.3 Penalties for non-compliance**

Table 6.10 above illustrated that 28 (34.6%) of respondents from all the groups agreed and 39 (48.1%) strongly agreed that Nigeria should consider penalties for non-compliance in its transfer pricing regulations 12 (14.8%) of respondents were indifferent while only 3 (3.7%) disagreed with the statement. In addition, the mean and median of respondents from all groups as shown in Table 6.10 scored 1.73 and 2.00 respectively; this signified that respondents were highly in agreement with the statement. Despite the fact that most respondents agreed, a few respondents expressed uncertainty with this assertion. Therefore, it was vital to ascertain the way in which the respondents from each group expressed their position in respect of this statement.



Table 6.11 indicates that the Mann-Whitney test results revealed that significant differences exist only between two groups: FIRS and OAG. Consequently, the cross-tabulation analysis disclosed that the respondents from both the FIRS and the OAG shared the same view of agreement with 92.9% and 71.5% respectively. The difference between the groups (FIRS and OAF) was a result of the strength of agreement. Where 64.3% and 28.6% of respondents from FIRS ticked strongly agree and agree respectively, the respondents from the OAG ticked 28.6% and 42.9% strongly agree and agree accordingly. The strong agreement recorded by FIRS, as the agency with the responsibility for introducing and implementing the penalties for non-compliance with the regulations could be appropriate. Because they are in a better position to know that the penalties will make the MNCs comply with the transfer pricing regulations. Another possible reason might be fear of losing foreign direct investment in the country. However, largely the respondents from all the groups agreed that Nigeria should adopt and implement penalties for non-compliance with the transfer pricing guidelines.

#### **6.5.1.5.4 Exchange of information**

This question was concerning an exchange of information related to transfer pricing among countries. The views of respondents were sought on whether Nigeria should exchange information related to transfer pricing with other countries in the form of a treaty in its transfer pricing regime. The descriptive statistics in table 6.10 unveiled that 70 out of 81 respondents agreed that Nigeria should exchange information related to TP with other countries while the remaining 11 respondents were undecided about the statement. These numbers represent 86.4% and 13.6 of overall respondents from all the groups. The analysis of the mean and median value of 1.73 and 2.00 showed that the respondent groups shared similar opinions on the statement. However, an investigation was conducted to determine whether significant differences exist among the groups.

Mann-Whitney tests were carried out and revealed that differences exist between some groups. Table 6.11 above disclosed that respondents from AF differed with the respondents from OAG, CSO, HIL and MNC. The respondents from FIRS also differed from that of OAG and CSO. Although, most respondents from all the groups shared similar views, a significant proportion of respondents from OAG and HIL had reservations. A cross-tabulation analysis revealed that 42.9% and 25% of respondents from OAG and HIL remained undecided while the remaining 57.1% and 75%

respondents were in agreement with that. Similarly, 100% of respondents each from AF, FIRS and CSO and 83.3% of respondents from MNC were also in agreement with the statement.

However, the patterns indicated that AF differed with the three groups in strength of agreement; where respondents from AF recorded 85.7% strongly agree, the respondents from CSO, HIL and MNC recorded 100%, 50% and 50% agree respectively. The reservation made by some respondents from HIL and OAG could be due to an unwillingness to share their views about the statement. Therefore, the high level of agreement of FIRS, AF, CSO and MNC is appropriate. Because FIRS as the agency that will carry out the transfer pricing audit, AF as an organisation with expertise in audit, and MNC with diverse experience of transfer pricing are aware that exchange of information between countries tremendously improves the success of the transfer pricing regulations.

Generally, the majority of respondents from all the groups believed that Nigeria should consider this feature of collaboration with others in its transfer pricing regulations. This is in line with the finding of Rowan which revealed from the institutional theory perspective that the existence of a high level of cooperation and consensus among the institutional environment enables the diffusion of new structures to be stable and long lasting. On the other hand, where the institutional environment is controversial and unclear, adoption of new structures tend to be tentative and not fast.

#### **6.5.1.5.5 Subscription to transfer pricing database**

Subscription to a transfer pricing database is another important feature because transfer pricing audit cannot be successful without adequate information (PwC 2010). Since some transfer pricing methods are based on comparable transactions, subscribing to transfer pricing databases enable the tax authority to get access to relevant information. It can be seen from Table 6.10 that 71.5% of total respondents from all the groups agreed that it is appropriate for Nigeria to subscribe to transfer pricing databases. On the other hand, 21% of respondents held a neutral position in this regard while the remaining 7.4% disagreed with the statement. Furthermore, Mann-Whitney tests were performed to establish whether the pair groups significantly differed about the subscription to transfer pricing databases.

The result presented in Table 6.11 disclosed that NIETI differed with FIRS and OAG. In addition, cross-tabulation analysis was conducted to assess the pattern of the differences. The respondents from most groups including 85.8% from FIRS and 92.9% from OAG were in agreement with the statement except that 63.6% of respondents from NIETI were in a neutral position. The neutral position held by the majority of respondents from NEITI might be unwillingness to express their views about this feature. The views of the FIRS and OAG in respect of subscription to database are appropriate since there is no national transfer pricing database and they might be aware of the challenges of not having access to databases. Further investigation revealed that the overall median and the mean score were 2.00 and 2.07 respectively which implied that the respondents were generally in agreement that Nigeria should subscribe to transfer pricing databases.

#### **6.5.1.5.6 Establishment of national database**

In term of the establishment of a national database, Table 6.10 shows that 83.9% of respondents from all the groups were in agreement with the establishment of a national transfer pricing database in Nigeria. On the other hand, 13.6% of respondents held a neutral position while 2.4% of respondents were in disagreement with the assertion. The mean value of 1.86 and median value of 2.00 associated with the statement indicated that on average, the respondents were in agreement. An investigation was made to determine whether the groups shared the same views about the statement.

Table 6.11 shows the Mann-Whitney test results and it revealed that only FIRS differed with OAG, NEITI and AF. In addition, cross-tabulation analysis disclosed that the respondent from FIRS were 100% in agreement, similarly the respondent from OAG, NEITI and AF were also in agreement with 78.6%, 81.8% and 85.7% respectively. However, 21.4%, 18.2% and 14.3% of respondents were undecided about the statement. Nevertheless, the difference shown by the test was as a result of the strength of agreement. Where the respondents from FIRS recorded 57.1% strongly agree, the respondents from OAG, NEITI and AF recorded 64.3%, 63.6% and 71.4% agree respectively. Although, few respondents from some groups had reservation about the establishment of national transfer pricing database, generally, the majority of respondents from all the groups were in agreement. The 100% agreement by the respondents from FIRS, being the authority with the responsibility for adopting and

implementing transfer pricing regulations in Nigeria indicated the importance of establishing the transfer pricing database in the country

#### **6.5.1.5.7 Establishment of regional transfer pricing databases.**

Table 6.10 shows that 65 (80.2%) out of the 81 respondents from all the groups agreed that Nigeria should collaborate with other countries to establish regional transfer pricing databases. Only 3 (3.7%) of respondents disagreed while 13 (16%) of respondents remained indifferent to the statement. Further investigation was conducted to ascertain whether differences exist between the groups. Mann-Whitney tests were carried out and it was unveiled that differences exist between AF and three groups, namely; OAG, NEITI, CSO and MNC.

To find the pattern of the differences, cross-tabulation analysis was conducted and the result revealed that the differences related to the strength of agreement. Where 71.4% of respondents from AF recorded strongly agree (SA) and 28.6% agree (A), the respondents from OAG, NEITI and CSO recorded 28.6%, 18.2% and 14.3% strongly agree (SA) and 42.9%, 72.7% and 85.7% recorded agree (A) about the statement. In addition, the respondent from OAG recorded 28.6 neutral (N). Nevertheless, further analysis divulged that the median of 2.00 and the mean value of 1.93 signified that on average the respondents from all the groups were in agreement that Nigeria should collaborate with other countries to establish regional transfer pricing databases in the region. The majority of respondents believed that since there was no transfer pricing database in Africa, African countries should establish a regional transfer pricing database to improve their transfer pricing regulations. ATAF is making a tremendous effort toward subscribing to a commercial database for the collective use of its members and the possibility of ATAF member countries developing their own database in due course (UN 2012).

#### **6.5.1.5.8 Clear guidelines on transfer pricing regulations**

From Table 6.10, 82.7% of total respondents from all the groups were in agreement that Nigeria should make a provision for clear guidelines on transfer pricing regulations. On the hand, 13.6% of respondents held a neutral position while 3.7% of respondents disagreed with the statement. The same table showed that the mean and median of

respondents were 1.63 and 2.00 respectively. This indicated that the respondents were generally in agreement with the statement. However, further investigation revealed that differences exist between the groups. Table 6.11 shows the Mann-Whitney test results which revealed that FIRS differed with OAG and NEITI. Where the 85.7% of respondents from FIRS ticked strongly agree, the respondents from NEITI ticked 63.6% agree (A) and the respondents from OAG ticked 42.9% neutral (N). Despite the reservation made by some respondents from OAG, generally, most respondents from all groups were in agreement with the statement. Moreover, 100%, 91.9% and 50% of total respondents from FIRS, NEITI and OAG were in agreement with the assertion. The reservation made by the respondents from OAG could be reluctant to share their views about the provision of clear guidelines for taxpayers.

In summary, based on the above discussion it is evident that the respondents expressed their satisfaction regarding the appropriate form of transfer pricing regulations in Nigeria. Although, the respondents expressed different views, generally, almost five statements relating to the appropriate form of transfer pricing regulations were agreed to by the respondents. A majority of the stakeholders believe that it is appropriate for Nigeria to consider almost all the above features or the form of transfer pricing regulatory regulations.

**Table 6.12 Summary of the significant differences between the respondents groups in relation to form of transfer pricing regulations.**

<b>Groups</b>	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>	<b>TOTAL</b>
<b>F1</b>	n/a	2	1	2	4	2	0	5	<b>16</b>
<b>M1</b>	2	n/a	0	2	2	2	1	5	<b>14</b>
<b>M2</b>	1	0	n/a	4	2	5	1	5	<b>18</b>
<b>C1</b>	2	2	4	n/a	3	3	0	4	<b>18</b>
<b>O1</b>	4	2	2	3	n/a	5	0	4	<b>20</b>
<b>A1</b>	2	2	5	3	5	n/a	3	1	<b>21</b>
<b>H1</b>	0	1	1	0	0	3	n/a	3	<b>8</b>
<b>N1</b>	5	5	5	4	4	1	3	n/a	<b>27</b>

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). P ≤ .05 is used for this test, therefore, the table shows only the results with a p-value of less than or equal to 0.05.

Table 6.12 presents the total number of significant differences recorded between each of the respondent groups with the other groups. It can be seen from the table above that NEITI differed 27 times with the other groups in perceptions relating to the form of transfer pricing regulatory regulations; similarly, AF and OAG also differed with other groups 21 and 20 times respectively. Identification of the significant differences between the groups is a very important aspect of this research; moreover, it is a material contribution of the study. Identifying the significant difference may help in understanding the dysfunctional relationship between the groups, hence, enlighten the stakeholder groups to come to common terms in order to ensure successful transfer pricing regulations in the Nigerian petroleum sector and the country at large. Generally, the findings reveal that most respondents preferred the UN transfer pricing framework followed by the OECD guidelines framework; all the five transfer pricing methods as outlined in the UN and OECD frameworks and some features of transfer pricing regulations such as documentation requirements, advance pricing agreement, penalties, collaboration with other tax authorities and establishment of database are also favoured by most respondents; hence, are considered appropriate for Nigeria to adopt and implement.

### **6.5.2 Perceptions of factors that might motivate the adoption of transfer pricing regulations in Nigeria.**

This section aimed at determining the major factors that motivate the adoption and implementation of transfer pricing regulations in Nigeria. Although it is clearly stated in the OECD guidelines and other transfer pricing frameworks that the purpose of the adoption and implementation of transfer pricing regulations is to safeguard the tax base of the respective countries and to avoid double taxation (OECD 1995), there are other factors that play a vital role in this regard. Institutional theory assumes that a primary determinant of organisational structure is the pressure exerted by external and internal constituencies on the organisation to conform to a set of expectations to gain legitimacy and/ or secure access to vital resources and long-term survival (Brignall and Modell 2000). Motivation for cross-border adoption of standards can either be replication or reaction effects<sup>20</sup> (Eden et al. 2001, p. 4-5).

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<sup>20</sup> Replication effect is where an organisation replicates another organisation's standard and practices to gain legitimacy or enhance performance while reaction effects are primarily defensive where an organisation directly or mechanically adopts the standard and practice in order to safeguard its resources or ensure survival.

**Table 6.13: Descriptive statistics relating to factors that might influence the adoption and implementation of international best practice transfer pricing regulations in Nigeria**

Statements	Mean	Median	SA	A	N	D	SD	TR
a) Lack of existing transfer pricing regulations within Nigeria to deal with the global trend of transfer pricing issues	2.06	2.00	21 (25.9)	41 (50.6)	13 (16.0)	5 (6.2)	1 (1.2)	81 (100)
b) The scale of cross-border transactions that need to be monitored in the country	1.96	2.00	22 (27)	43 (53.1)	13 (16)	3 (3.7)		81 (100)
c) The need to safeguard the tax base of the country	1.78	2.00	33 (40.7)	38 (46.9)	6 (7.4)	3 (3.7)	1 (1.2)	81 (100)
d) The need to prevent double taxation	1.86	2.00	33 (40.7)	31 (38.1)	14 (17.3)	1 (1.2)	2 (2.5)	81 (100)
e) The need to gain (tax) institutional legitimacy	2.05	2.00	19 (23.5)	44 (54.3)	15 (18.5)	1 (1.2)	2 (2.5)	81 (100)
f) The need to improve the performance of the tax institution in the country	1.75	2.00	29 (35.8)	44 (54.3)	7 (8.6)	1 (1.2)		81 (100)
g) Fear of losing foreign direct investment in the country	2.37	2.00	16 (19.8)	34 (42.0)	16 (19.8)	15 (18.5)		81 (100)
h) Reaction to the global environment as most countries around the globe are adopting transfer pricing regulations	2.31	2.00	18 (22.2)	28 (34.6)	29 (35.8)	4 (4.9)	2 (2.5)	81 (100)

**Note:** SA= Strongly Agree, A=Agree, N=Neutral, D= Disagree, SD=Strongly Disagree, TR= Total Responses. All the figures in brackets represent percentages.

#### **6.5.2.1 Lack of existing transfer pricing regulations within Nigeria to deal with global trend of transfer pricing issues**

Table 6.13 shows that 76.8% of respondents from all groups agreed that one of the motives that might influence the adoption of transfer pricing regulations was the lack of existing transfer pricing regulations within Nigeria to deal with the global trend of transfer pricing issues. 7.4% of respondents disagreed with the statement while 16% of respondents remained neutral. However, Mann-Whitney tests revealed that the groups shared different opinions about the statement.

**Table 6.14: Mann-Whitney test results for the factors that might influence the adoption and implementation of international best practice transfer pricing regulations in Nigeria**

<b>Mann-Whitney tests</b>						
Lack of existing transfer pricing regulations within Nigeria to deal with the global trend of transfer pricing issues						
<b>Groups</b>		<b>F<sub>1</sub></b>	<b>H<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>M<sub>2</sub></b>	
<b>M<sub>1</sub></b>		.036	.032			
<b>N<sub>1</sub></b>		.013	.007	.013	.037	
<b>C<sub>1</sub></b>			.015			
The scale of cross-border transactions that need to be monitored in the country						
<b>NIL</b>						
The need to safeguard the tax base of the country						
<b>Groups</b>				<b>O<sub>1</sub></b>	<b>M<sub>2</sub></b>	
<b>C<sub>1</sub></b>				.007	.005	
<b>A<sub>1</sub></b>				0.27	.019	
The need to prevent double taxation						
<b>Groups</b>	<b>F<sub>1</sub></b>	<b>M<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>N<sub>1</sub></b>	<b>A<sub>1</sub></b>	<b>H<sub>1</sub></b>
<b>C<sub>1</sub></b>	.001	.015	.002	.010	.003	.050
<b>M<sub>2</sub></b>	.003		.011		.017	
<b>N<sub>1</sub></b>	.032					
The need to gain (tax) institutional legitimacy						
<b>Groups</b>		<b>M<sub>1</sub></b>	<b>N<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>M<sub>2</sub></b>	<b>A<sub>1</sub></b>
<b>F<sub>1</sub></b>		.003	.003	.015	.044	.015
<b>O<sub>1</sub></b>		.034	.033			
The need to improve the performance of the tax institution in the country						
<b>Groups</b>				<b>N<sub>1</sub></b>	<b>H<sub>1</sub></b>	<b>A<sub>1</sub></b>
<b>C<sub>1</sub></b>				.041	.049	.023
Fear of losing foreign direct investment in the country						
<b>Nil</b>						
Reaction to the global environment as most countries around the globe are adopting transfer pricing regulations						
<b>Groups</b>		<b>F<sub>1</sub></b>	<b>M<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>N<sub>1</sub></b>	<b>A<sub>1</sub></b>
<b>C<sub>1</sub></b>		.008	.044	.044	.004	.003
<b>M<sub>2</sub></b>				.041	.011	.029
<b>H<sub>1</sub></b>					.029	.038
<b>N<sub>1</sub></b>			.041			

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). P ≤ .05 is used for this test, therefore, the table shows only the results with a p-value of less than or equal to 0.05.



Table 6.14 disclosed that NEITI differed with four groups, namely; FIRS, HIL, OAG and MNC. MOF differed with FIRS and HIL while CSO differed with HIL. Further analysis of the cross-tabulation result unveiled the trend of the differences. Respondents from NEITI and MOF had mixed views; 54.5% and 50% of respondents from NEITI and MOF respectively agreed with the statement while 45.5% and 25% respectively held a neutral position and 25% of MOF disagreed. While 85.7%, 100%, 83.4% and 92.8% of respondents from FIRS, HIL, MNC and OAG respectively believe that lack of an existing transfer pricing regulation within Nigeria to deal with global transfer pricing issues could be a factor that influences Nigeria to adopt transfer pricing regulations. The difference between CSO and HIL is related to the strength of agreement; where all the respondents from HIL agreed and 85.7% of respondents from CSO also agreed with the statement.

The mixed views of NEITI and MOF could be attributed to the fact that Nigeria had an anti-avoidance provision as stated in the Section 13(2) (d) Companies Income Tax Act (CITA) cap 21 LFN 2004 which empowers the tax authority (Federal Inland Revenue Service) to adjust any transactions between related entities that are presumed to be fictitious or artificial (PwC 2012, Onyeukwu 2007). However, this was just anti-avoidance, not sufficient to overcome the current global transfer pricing issues, therefore, Nigeria did not have specific transfer pricing regulations (Onyeukwu, 2007, KPMG, 2012) until October 2012. Nevertheless, despite some groups have mixed views, generally, the group responses are consistent with them believing that the lack of existing specific transfer pricing regulations within the country was an influential factor in adopting transfer pricing regulations. This is supported by the mean of 2.06 and the median of 2.00 which implied that on average, the respondents were in agreement with the statement.

#### **6.5.2.2 Scale of cross-border transactions**

It can be seen from Table 6.13 that 80.1% of respondents from all groups believed that the scale of cross-border transactions could be a motivational factor for Nigeria to adopt the transfer pricing regulations. 16% of respondents were neutral and the remaining 3.7% of respondents disagreed. Further investigation revealed the mean and median of 1.96 and 2.00 respectively; this signified that the respondents were generally in agreement with the statement. Nevertheless, Mann-Whitney tests were conducted to

ascertain whether differences exist between the groups of respondents. The result shown in Table 6.14 revealed that there was no significant difference between the groups.

This shows that respondents in all the groups shared the view of agreement with the statement that the scale of cross-border transactions could influence Nigeria to adopt transfer pricing regulations. This is consistent with the literature which suggests that the current procedures adopted by many countries to avoid double taxation and allocate a tax base between jurisdictions is not just cumbersome but also comes under mounting pressure as the volume and scope of cross-border transactions expands quickly (Asher and Rajan, 1999, KPMG 2012). Similarly, according to UNDTAC (2010), about two-thirds of the global trade was cross-border transaction; mostly between related parties which involved transfer pricing issues (Borkowski 2010). For instance, in Nigeria particularly the activities of the oil and gas industry is mainly dominated by subsidiaries of MNCs and they contribute over 70% of the country's revenue (The Sun 2012). Therefore, a procedure regarding cross-border transactions between related parties is a major issue that faces both the tax authorities and the MNCs in the global tax policy arena (Deloitte, 2012; Onyeukwu 2007). Hence, it could be argued that scale of cross-border transaction could be a major influential factor in the adoption and implementation of transfer pricing regulations in Nigeria.

#### **6.5.2.3 Desire to safeguard the tax base of the country**

Table 6.13 presented that 71 (87.6%) of respondents from all the groups agreed that the desire to safeguard the tax base of the country was a factor that influences Nigeria to adopt transfer pricing regulations. In contrast, 4 (4.9%) of respondents disagreed while 6 (7.4%) of respondents held a neutral position. Based on the scale of measurement employed in this study, the mean of 1.78 and the median of 2.00 indicate that on average, the respondents agreed that the need to protect the tax base of the country is a major influential factor. Moreover, a critical assessment of the mean value which is lower than the median shows that it is moving toward the strongly agree position. A further test was carried out to establish whether differences exist between the pairs of groups. The results of Mann-Whitney tests as shown in table 6.14 revealed that CSO and AF differed with OAG and MNC.

The cross-tabulation analysis disclosed that 100% of respondents from CSO and AF were in agreement with the statement. Likewise, 85.7% and 83.4% of respondents from OAG and MNC were also in agreement with the assertion. Therefore, the differences were related to the level of agreement. The strong agreement recorded by all the groups indicated that to safeguard the tax base of the country is a factor that influences Nigeria to adopt transfer pricing regulations and also a confirmation that Nigeria is concerned about protecting its tax base. This is consistent with the position of the OECD and other transfer pricing regulations frameworks with respect to the purpose of adopting and implementing transfer pricing regulations. The enhanced desire of countries tax authorities to protect and improve their revenue base also promotes the adoption of strict regulations (Eden et al. 2001). Oyedele stated that the implementation of transfer regulations enable Nigeria to protect its tax base (Vangurad 2012). Based on the above analysis it can be argued that the desire to safeguard the country's tax base could be the main influential factor that motivates the adoption and implementation of transfer pricing regulations in Nigeria.

#### **6.5.2.4 Prevention of double taxation**

Prevention of double of taxation is a very important aspect of transfer pricing regulations as dispute may arise between tax authorities and taxpayers in the course of the application of transfer pricing methods; an adjustment of transfer price by one country could lead to double taxation as the other country might not accept the adjustment (Lohse et.al 2010). Therefore, transfer pricing guidelines provide some approaches to prevent double taxation. From Table 6.13, 78.8% of respondents from all groups agreed that the need to prevent double taxation is also a factor that motivates the country to adopt transfer pricing regulations. 3.7% of respondents disagreed and the remaining 17.3% of respondents were undecided about the statement. The mean and the median of 1.86 and 2.00 respectively indicated that on average the respondents were in agreement.

Mann-Whitney tests were carried out to ascertain whether the groups shared the same views. Table 6.14 revealed that the groups had different views about the statement. CSO differed with six groups, namely; FIRS, MOF, OAG, NEITI, AF and HIL. In addition, NEITI differed with FIRS, at the same time MNC also differed with FIRS, OAG and AF. A cross-tabulation analysis was conducted to find the trend of the differences. All

the respondents from CSO agreed with the need to prevent double taxation being a factor that influences Nigeria to adopt and implement transfer pricing regulations. Similarly, 57.2%, 91.7%, 71.4%, 81.9%, 75% and 71.5% of respondents from FIRS, MOF, OAG, NEITI, HIL and AF were also in agreement with the assertion. Therefore, all the differences that exist between the groups were related to the strength of agreement.

The position of the respondents in agreeing with the statement could be attributed to the fact that it is clearly outlined in the OECD guidelines and other transfer pricing frameworks that avoidance of double taxation is one of the purposes of adopting transfer pricing regulations by various countries. Secondly, double taxation could lead to disputes between two tax jurisdictions or between taxpayer and tax authority and also discourage the taxpayers. Where one jurisdiction makes an adjustment to the transfer price of a MNC and the other jurisdiction could not make an equivalent adjustment to the particular price, then double taxation occur. Hence, double taxation affects the efficiency and competitiveness of the export of goods, thus, could be an obstacle to productive activities and optimal allocation of capital investments; therefore, it is believed that avoidance of double taxation is fundamental economic policy to ensure economic development (Radu 2012). In order to prevent both under taxation of MNC income and double taxation, various tax authorities have established sophisticated transfer pricing rules and procedures as part of their corporate tax systems (Eden et al 2001; Ernst and Young 2012). Generally, in view of the above, it can be argued that avoidance of double taxation could be a fundamental factor that might influence the adoption and implementation of transfer pricing regulations in Nigeria.

#### **6.5.2.5 Desire to gain institutional legitimacy**

In terms of institutional legitimacy Eden et al. (2001) revealed that government bodies are open systems involved in interaction with one another, which subject them to each other's influence, and also encourages them to seek status and legitimacy in the eyes of others (organisations). According to institutional theory, organisations adopt a variety of practices and beliefs and become isomorphic with their institutional environment in order to gain legitimacy, enhance access to resources and survival (DiMaggio and Powel 1993; Eden et al. 2001). Eden et al. (2001) also revealed that late adopters of standards are usually primarily motivated by legitimisation reasons while early adopters

are motivated by performance concern. Therefore, respondent views were sought on the legitimacy factor; it can be seen from table 6.13 that 67.8% of respondents agreed that desire to gain (tax) institutional legitimacy could be a factor that influences the adoption and implementation of transfer pricing regulations in Nigeria. In contrast, 3.7% of respondents that disagreed with the statement and 18.5% of respondents were indifferent to the assertion.

Despite some respondents remaining indifferent, the median and mean scored 2.00 and 2.05 respectively, which signified that on average, the respondents were in agreement with the statement. Further investigation was carried out to determine whether differences exist between the pairs of groups. The result revealed that significant differences exist among the groups. Table 6.14 presented that FIRS diverged with MOF, NEITI, CSO, MNC and AF. OAG also differed with MOF and NEITI. A cross-tabulation result disclosed that 50% of respondents from FIRS agreed while 42.9% were undecided. On the other hand, 91.7%, 91%, 100%, 83.3% and 100% of respondents from MOF, NEITI, CSO, MNC and AF agreed with the statement. 57.2% of respondents from OAG agreed with the assertion while 35.7% of respondents were indifferent. Most respondents responded as if they believed that the need to gain legitimacy was an influential factor the reservations made by FIRS and OAG might be attributed to the affirmation that the major purpose of the adoption of transfer pricing regulations in the country is to safeguard the tax base of the country as outlined in the proposed transfer pricing regulations in Nigeria and almost all the transfer pricing regulation frameworks around the world.

In view of the above, the position of the respondents that desire to gain legitimacy could be an influential factor that motivates the adoption of transfer pricing regulations in Nigeria might be appropriate. This is because the Nigerian tax authority interacts with other tax authorities and organisations around the globe, which could subject the tax authority to seek legitimacy. Secondly, Nigeria is a late adopter despite being the second largest economy in Africa it did not adopt transfer pricing regulations until 2012, whereas some African countries are considered as early adopters; for instance, South Africa adopted transfer pricing regulations in 1995. Therefore, it can be argued that the desire to seek legitimacy could also be a factor.

#### **6.5.2.6 Desire to improve performance**

Table 6.13 presented that 90.1% of respondents believe that desire to improve the performance of the tax institution in the country is a factor that influences the adoption and implementation of transfer pricing regulations in Nigeria. Only 1.2% of respondents disagreed and 8.6% of respondents held a neutral position. A mean score of 1.75 and a median score of 2.00 signified that the majority of respondents were in agreement about the statement. In addition, Mann-Whitney tests were conducted to establish whether differences exist between the groups of respondents. The result in Table 6.14 revealed that CSO differed with NEITI, HIL and AF. Furthermore, cross-tabulation results revealed that where 100% of respondents from CSO agreed with the statement, respondents from NEITI, HIL and AF were also in 100% agreement with the statement. Therefore, the differences that exist were related to the strength of agreement.

#### **6.5.2.7 Fear of losing foreign direct investment**

Table 6.13 shows that 61.8% of respondents were in agreement that fear of losing foreign direct investment in the country is also a factor that influences the adoption and implementation of transfer pricing regulations. On the other hand, 18.5% of respondents disagreed with the statement while 19.8% of respondents remained undecided. Analysis of the Mann-Whitney tests revealed that no significant differences exist between the pairs of the groups. The median value of 2.00 and mean value of 2.36 signified that the respondents were in agreement about the statement. Lack of specific transfer pricing regulations worries the MNCs as there is no clear guideline to be followed, hence discouraging them from investing in the country. The majority of respondents believe that fear of losing foreign direct investment could be a factor that influences Nigeria to adopt transfer pricing regulations in the country.

#### **6.5.2.8 Reaction to the global environment**

From the Table 6.13, 46 (56.8%) of all respondents from the groups were in agreement that reaction to the global environment is a factor that influences Nigeria to adopt to transfer pricing regulations. In contrast, 6 (7.4%) respondents disagreed while 29 (35.8%) of respondents were indifferent. However, on average, the mean of 2.31 and the median of 2.00 indicated that the respondents were in agreement. Further tests

revealed a number of differences between the groups. Table 6.14, presented the Mann-Whitney test results and disclosed seven differences between the groups. CSO differed with FIRS, MOF, OAG, NEITI and AF. Likewise, MNC differed with OAG, NEITI and AF. These groups shared divergent views. Almost all the respondents from CSO held a neutral position while 64.3%, 58.3%, 71.5% and 72.7% of respondents from FIRS, MOF, OAG, NEITI and AF respectively agreed with the assertion. On the other hand, 41.6% of respondents from MNC agreed while 25% held a neutral position and 33.4% disagreed with the statement.

**Table 6.15 Summary of the significant differences amongst the groups in relation to the factors that might influence the adoption and implementation of transfer pricing regulations in Nigeria**

<b>Groups</b>	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>	<b>TOTAL</b>
<b>F1</b>	n/a	2	2	3	0	1	0	4	<b>12</b>
<b>M1</b>	2	n/a	0	2	1	0	1	1	<b>7</b>
<b>M2</b>	2	0	n/a	1	4	4	0	3	<b>14</b>
<b>C1</b>	3	2	1	n/a	3	3	3	3	<b>18</b>
<b>O1</b>	0	1	4	3	n/a	1	0	1	<b>10</b>
<b>A1</b>	1	0	4	3	1	n/a	1	0	<b>10</b>
<b>H1</b>	0	1	0	3	0	1	n/a	2	<b>7</b>
<b>N1</b>	4	1	3	3	1	0	2	n/a	<b>14</b>

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). P ≤ .05 is used for this test, therefore, the table shows only the results with a p-value of less than or equal to 0.05.

Table 6.15 reveals the total number of instances that each of the respondent groups significantly differed with the other groups in perceptions relating to the factors that might influence the adoption and implementation of transfer pricing regulations in the Nigerian petroleum sector and the country at large. The CSO differed 18 times with other groups while NEITI and MNC differed 14 times each with other groups. The essence of identifying the significant differences among the stakeholder groups is that it enables potential dysfunctional elements of relationships between the stakeholder groups to be identified. This may then enable steps to be taken to better harmonise the views of stakeholders and thereby increase the success of adopting and implementing

transfer pricing regulations in the petroleum sector and the country at large. The overall findings indicate that there are various factors which might influence the adoption and implementation of the transfer pricing regulations in Nigeria, but the prominent ones are to safeguard the tax base of the country and the need to gain legitimacy.

### **6.5.3 Perceptions regarding resource capacity of the Nigerian tax administration**

The aim of this section is to investigate and report on the perceptions of respondents concerning the capacity of the Nigerian tax administration to adopt and implement transfer pricing regulations in the country. Transfer pricing manipulation adversely affects both developed and developing nations; nevertheless, under the present arms-length standard MNCs tend to take advantage of developing countries because of their lack of sophisticated tax administrations (UN 2012; Borkwoski 1997). Whilst resource-based view asserts that performance of an agency (firm) depends on its resources and capabilities (Barney 2001; Tokuda 2010).

*“Too often, too many changes are initiated at once and quickly exceed institutional capacity. In situations where the tax administration is severely dysfunctional, there may be no alternative but to commence many radical changes simultaneously, providing there is adequate funding and expertise lined up to implement”* (UN 2000, p. 10)

According to McLure (2006), even where transfer pricing regulation exists, a developing country could lack the administrative capacity such as specifically trained experts to deal with transfer pricing issues while in contrast, MNCs have teams of experts at their disposal and might employ trained tax professionals. Furthermore, literature suggests that the hiring of experts, training of staff in such specialised areas and retaining them in an administration seems to be a great challenge for all countries particularly for developing countries (Borkwoski 1996; UN 2010; Ernst and Young 201). Besides, the experts usually move to other lucrative organisations (OECD 2012). Hence, a country should not just employ and train experts but also improve staff welfare and provide incentives to retain them. In view of the above, opinion of respondents were sought. Therefore, the section reports the views of respondents on the capacity of the Nigerian tax administration with respect to: staff training, employment of experts, coordination of transfer pricing team, improvement of staff welfare, improvement of governance in tax matters, deployment of financial resources, autonomy, adaptability,



complexity and coherence. Administrative capability in these areas is fundamental because it enables the tax institution to deal with various challenges, hence, achieving successful adoption and implementation of transfer pricing regulations. Table 6.14 below presents the results of the descriptive statistics.

**Table 6.16: Descriptive statistics relating to the capacity of the Nigerian tax administration**

Statements	Mean	Median	SA	A	N	D	SD	TR
a) Train an adequate number of staff in transfer pricing and its regulations	2.15	2.00	27 (33.3)	31 (38.3)	12 (14.8)	6 (7.4)	5 (6.2)	81 (100)
b) Employ transfer pricing experts	1.90	2.00	28 (34.6)	40 (49.4)	8 (9.9)	3 (3.7)	2 (2.5)	81 (100)
c) Successfully coordinate the transfer pricing team (if any)	2.47	2.00	14 (17.3)	35 (43.2)	17 (21)	10 (12.3)	5 (6.2)	81 (100)
d) Improve staff welfare so as to retain transfer pricing experts	2.37	2.00	10 (12.3)	44 (54.3)	17 (21)	7 (8.6)	3 (3.7)	81 (100)
e) Improve governance in tax matters	1.93	2.00	27 (33.3)	39 (48.1)	11 (13.6)	2 (2.5)	2 (2.5)	81 (100)
f) Deploy adequate financial resources for effective implementation of transfer pricing regulations	2.16	2.00	23 (28.4)	36 (44.4)	12 (14.8)	6 (7.4)	4 (4.9)	81 (100)
g) Independently make and implement its own decisions	2.64	2.00	10 (12.3)	32 (39.3)	22 (27.2)	11 (13.6)	6 (7.4)	81 (100)
h) Adapt to changes in the environment	2.32	2.00	13 (16.0)	40 (49.4)	17 (21.0)	11 (13.6)		81 (100)
i) Establish internal mechanisms to achieve its objectives and cope with the environmental complexities	2.21	2.00	12 (14.8)	43 (53.1)	23 (28.4)	3 (3.7)		81 (100)
j) Maintain coherence in carrying out its tasks	2.16	2.00	15 (18.5)	43 (53.1)	18 (22.2)	5 (6.2)		81 (100)

**Note:** SA= Strongly Agree, A=Agree, N=Neutral, D= Disagree, SD=Strongly Disagree, TR= Total Responses. All the figures in brackets represent percentages.

### 6.5.3.1 Capacity to train an adequate number of staff

Table 6.16 shows that 58 (71.6%) of respondents from all the groups agreed that the Nigerian tax authority has the capacity to train an adequate number of staff in transfer pricing and its regulations. On the other hand, 11 (13.6%) of respondents disagreed while 12 (14.8%) were neutral. The respondents shared divergent views about the

capacity of the tax authority to train an adequate number of staff on transfer pricing and its regulations in the country. Therefore, Mann-Whitney tests were conducted to ascertain the differences between the groups.

**Table 6.17: Mann-Whitney test results for capacity of the Nigerian tax administration**

Train an adequate number of staff in transfer pricing and its regulations						
Groups	N <sub>1</sub>	M <sub>1</sub>	O <sub>1</sub>	A <sub>1</sub>		
F <sub>1</sub>	.012					
M <sub>2</sub>	.009	.034	.031	.027		
Employ transfer pricing experts						
Nil						
Successfully coordinate the transfer pricing team						
Groups	M <sub>1</sub>	O <sub>1</sub>	N <sub>1</sub>	A <sub>1</sub>	H <sub>1</sub>	
F <sub>1</sub>	.003	.024	.037	.000		
C <sub>1</sub>	.030			.001		
M <sub>2</sub>				.001		
A <sub>1</sub>		.001	.009		.045	
Improve staff welfare so as to retain transfer pricing experts						
Groups	M <sub>1</sub>	O <sub>1</sub>	N <sub>1</sub>	M <sub>2</sub>	A <sub>1</sub>	
F <sub>1</sub>	.010	.021	.002	.033	.003	
O <sub>1</sub>			.025		.023	
C <sub>1</sub>			.025		.024	
Improve governance in tax matters						
Groups	F <sub>1</sub>	M <sub>1</sub>	O <sub>1</sub>	N <sub>1</sub>	H <sub>1</sub>	A <sub>1</sub>
C <sub>1</sub>	.007	.005	.016	.044	.036	.010
M <sub>2</sub>		.038				
Deploy adequate financial resources for effective implementation of transfer pricing regulations						
Groups	F <sub>1</sub>	O <sub>1</sub>	N <sub>1</sub>	H <sub>1</sub>	C <sub>1</sub>	
M <sub>1</sub>	.035					
M <sub>2</sub>	.033					
A <sub>1</sub>	.001	.002	.001	.035	.003	
Independently make and implement its own decisions						
Groups	N <sub>1</sub>	H <sub>1</sub>	C <sub>1</sub>	A <sub>1</sub>		
F <sub>1</sub>	.021	.019				
O <sub>1</sub>	.043	.038	.023			
C <sub>1</sub>	.017	.004		.045		
Adapt to changes in the environment						
Groups	F <sub>1</sub>	O <sub>1</sub>	C <sub>1</sub>	M <sub>2</sub>		
N <sub>1</sub>	.001	.002	.006	.044		
A <sub>1</sub>	.027					
Establish internal mechanisms to achieve its objectives and cope with the environmental complexities						
Groups	O <sub>1</sub>	N <sub>1</sub>	A <sub>1</sub>			
F <sub>1</sub>	.037	.002	.010			
M <sub>1</sub>		.044				
C <sub>1</sub>		.032				
Maintain coherence in carrying out its tasks						
Groups	H <sub>1</sub>			A <sub>1</sub>		
F <sub>1</sub>	.011			.029		
C <sub>1</sub>	.017			.030		

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). P ≤ .05 is used for this test, therefore, the table shows only the results with a p-value of less than or equal to 0.05.

The Mann-Whitney table 6.16 above shows that differences exist between FIRS and NEITI. MNC also differed with four groups; NEITI, MOF, OAG and AF. 83.3% of respondents from MNC agreed that the Nigerian tax administration has the capacity to train an adequate number of staff in transfer pricing and its regulations in the country. Similarly, 66.7%, of respondents from MOF and 71.4%, each from OAG and AF agreed with the statement. In addition, 85.7% and 83.3% of respondents from FIRS and MNC agreed that the Nigerian tax administration has the capacity to train an adequate number of staff in transfer pricing and its regulations in the country. On the other hand, 36.4% of respondents from NEITI disagreed while 27.3% were neutral, only the remaining 36.4% agreed with the statement. NEITI is an institution with the responsibility of ensuring transparency in the extractive industry. It promotes transparency by annually carrying out an audit in the industry and publishing the reports. Although, the activities of transfer pricing regulations also involve audit, NEITI might know little about the capacity of the Nigerian tax administration to train an adequate number of staff in transfer pricing and its regulations. However, FIRS being the government agency with the responsibility of adopting and implementing policies related to revenue such as transfer pricing regulations in the country is in a better position to know about the need for staff training.

This is in line with the statement made by former Chairman of FIRS, Omoigui-Okauru, that she was determined to reorganise the institutional structure and internal control mechanism, training and persuading the staff to change their attitude (The Sun 2012). Subsequently, the FIRS in 2007 established a learning and development department to provide 'qualitative, functional and professional training and improve the skills and capacity' of officials to enable them to accomplish the vision and mission of the organisation (FIRS 2012). In addition, the MNC with their branches in many countries, have experience of other countries, therefore, they might also be in a better position to know whether the tax administration has the capacity to train staff in transfer pricing and its regulations in the country. Generally, the mean of 2.15 and median of 2.00 indicated that on average, they believed that the tax administration has the capacity to train an adequate number of staff on transfer pricing and its regulations in the country.

### **6.5.3.2 Employment of transfer pricing experts**

Table 6.16 presented that 84% of respondents from all the groups were in agreement that the Nigerian tax administrative institution has the capacity to employ transfer pricing experts in the country. In contrast, 6.2% disagreed while 9.9% were indifferent to the statement. With a mean value of 1.90 and median value of 2.00, this signified that on average, the respondents were in agreement that the Nigerian tax institution has the capacity to employ transfer pricing experts. However, Mann-Whitney tests were conducted to establish whether differences exist between the groups. Table 6.17 disclosed that no significant differences exist between the groups; this indicated that the respondents from all the groups shared the same views about the statement.

### **6.5.3.3 Capacity to coordinate the transfer pricing team**

Regarding the capacity of the Nigerian tax administrative institution to successfully coordinate the transfer pricing team in the country, out of the total of 81 respondents 59 representing 60.5% agreed, 15 representing 18.5% disagreed and 17 representing 21% were neutral. Given these different views about the statement, further investigation was carried out to ascertain whether differences exist between the groups. Mann-Whitney tests indicated that FIRS differed with four groups, namely; MOF, OAG, NEITI and AF. The first set of differences is where all the respondents from FIRS believed that the tax administrative institution has the capacity to coordinate the transfer pricing team, 33.3%, 35.7% and 36.4% of respondents from MOF, OAG and NEITI held a neutral position about this assertion while 85.7% of respondents from AF disagreed with the statement.

Secondly, 41.6% of respondents from MOF agreed, 25% disagreed and the remaining 33.3% were undecided; the diverse positions of this group differed with the respondents from CSO and AF in that 100% agreed and 85.7% disagreed respectively. Thirdly, 85.7% of respondents from AF disagreed while 35.7% 36.4% and 50% respondents from OAG, NEITI and HIL held a neutral position respectively. Nevertheless, the mean and median score of 2.47 and 2.00 respectively indicated that on average, the respondents were in agreement, however, since the mean is 2.47 the respondents were aligned towards a neutral position. Notwithstanding the strong agreement by the FIRS, an agency with the responsibility for coordinating the transfer team was not surprising

as from 2004 to date the agency has undergone comprehensive reforms that comprise tax policy, legislation and administration (Okoroanyanwu 2012). In an effort to achieve effective coordination the FIRS established various departments such as the regional coordination department, modernisation department, research and development department among others (FIRS 2012).

#### **6.5.3.4 Capacity to improve staff welfare**

It can be seen from Table 6.16 that 54% of respondents agreed that the Nigerian tax administrative institution has the capacity to improve staff welfare so as to retain transfer pricing experts in the agency. Contrary to this position, 12.3% of respondents disagreed while 21% were neutral. With a mean score of 2.37 and median score of 2.00, the respondents were in agreement about the statement with some reservations. Nevertheless, Mann-Whitney tests were conducted to determine the differences between the groups of respondents. The result in table 6.17 revealed that FIRS differed with five groups; MOF, OAG, NEITI, MNC and AF. 92.8% of respondents from FIRS agreed, similarly, 66.7%, 78.6% and 66.6% of respondents from MOF, OAG and MNC also agreed while respondents from NEITI and AF were indifferent with 54.5% and 57.1% respectively.

In addition, 78.6% and 85.7% of respondents from OAG and CSO agreed while 54.5% and 57.1% of respondents from NEITI and AF held a neutral position about the statement. The reservation expressed by NEITI and AF might be due to an unwillingness to share an opinion. The agreement by FIRS and other stakeholder groups is consistent with the report that the agency recognised that the employees needed motivation (financial) to carry out their task effectively. It has been noted that despite the staff collecting billions of naira as revenue they are poorly remunerated, therefore, the agency (FIRS) pulled out of the mainstream civil service to obtain its autonomy in order to build the institution and develop its human resources (Okoroanyanwu 2012, The Sun 2012).

#### **6.5.3.5 Capacity to improve governance in tax matters**

Table 6.16 showed that 81.4% of respondents were in agreement that the Nigerian tax administrative institution has the capacity to improve governance in tax matters. Only

5% of respondents disagreed with the statement while the remaining 13.6% were undecided. The scores of 1.93 and 2.00 of mean and median respectively indicated that, on average, the respondents were in agreement that the Nigerian tax administrative institution has the capacity to improve governance in tax matters. Further investigations revealed that differences exist between the groups.

Mann-Whitney Table 6.17 shows that CSO differs with FIRS, MOF, OAG, NEITI, HIL and AF. The first of the differences were related to the extent of agreement. 100% of respondents from CSO agreed, 85.7%, 58.4, 78.6%, 90.9% 50% and 85.7% of respondents from FIRS, MOF, OAG, NEITI, HIL and AF also agreed that the Nigerian tax institution has the capacity to improve governance in tax matters. Secondly, 91.7% of respondents from MNC agreed, similarly 58.4% of respondents from MOF also agreed.

#### **6.5.3.6 Capacity to deploy adequate financial resources**

In terms of the capacity to deploy adequate financial resources for effective implementation of transfer pricing regulations, Table 6.16 presents that 72.8% of all respondents were in agreement while 14.8% were undecided and the remaining 12.3% disagreed. With a median of 2.00 and mean of 2.16, on average, the respondents were in agreement that the Nigerian tax administrative institution has the capacity to deploy adequate financial resources for effective implementation of transfer pricing regulations. Mann-Whitney test results in Table 6.17 revealed that AF differed with FIRS, OAG, NEITI, HIL and CSO. 71.4% of respondents from AF disagreed that the tax institution has the capacity to deploy adequate financial resource for effective implementation of transfer pricing regulations in the country. This position differed with 92.0, 71.4%, 90.0%, 50% and 100% of respondents from FIRS, OAG, NEITI, HIL and CSO agreeing with the statement. Secondly, 66.7% of respondents from MOF and MNC agreed, which differed from 92.9% of respondents from FIRS who also agreed. Hence, the difference was related to the strength of agreement.

#### **6.5.3.7 Capacity to make decisions independently**

In recent years, revenue agencies gaining autonomy have become attractive as this is considered to be a way of improving and sustaining tax revenue (UN 2000). Autonomy

gives agencies the resources management, especially to recruit openly and transparently for precise positions and skills, outside the civil service regulations (UN 2000). From Table 6.16, 51.6% of respondents agreed that the Nigerian tax administrative institution has the capacity to independently make and implement its own decisions while 21% disagreed with the statement and the remaining 27.2% held a neutral position in that respect. The median of 2.00 and mean of 2.64 implied that, on average the respondents held a neutral position about the Nigerian tax administrative institution having the capacity to independently make and implement its own decisions. Notwithstanding, Mann-Whitney test results revealed that FIRS differed with NEITI and HIL. 74.3% of respondents from FIRS agreed that the Nigerian tax administrative institution has the capacity to independently make and implement its own decisions. This position is contrary to the 54.6% and 50% of respondents from NIETI and HIL who disagreed with the statement.

Secondly, OAG differed with NEITI, HIL and CSO. 50% of respondents from OAG were undecided while 42.8% agreed with the assertion. On the other hand, 54.6% and 50% of respondents from NIETI and HIL disagreed with statement while all the respondents from CSO agreed. Thirdly, CSO also differed with NEITI, HIL and AF. 100% of respondents from CSO agreed, 57.1% of respondents from AF also agreed about the statement while the respondents from NEITI and HIL opposed the statement with 54.6% and 50% respectively. The disagreement position maintained by NEITI and HIL might not be valid, because the Nigerian tax authority (FIRS) obtained its autonomy and was freed from the mainstream civil service structure (Okoroayanwu 2012). FIRS (Establishment) Act 2007 gave the FIRS autonomous power to carry out its responsibilities (FIRS 2012).

#### **6.5.3.8 Capacity to adapt to changes**

From Table 6.16, 65.4% of respondents from all the groups were of the view that the Nigerian tax administrative institution has the capacity to adapt to changes in the environment while 13.6% disagreed and 21% held a neutral position. Despite these diverse views, the mean of 2.32 implied that, on average, the respondents were in agreement with the statement. However, Mann-Whitney test results in Table 6.17 disclosed that NEITI differed with FIRS, HIL, CSO and AF. These groups shared diverse views; 54.5% of respondents from NEITI were neutral, 18.2% agreed and

27.3% disagreed that the Nigerian tax administrative institution has the capacity to adapt to changes in the environment. On the other hand, 85.8%, 50% and 85.7% of respondents from FIRS, HIL and CSO agreed accordingly in this respect while 25% of HIL, 42.9% of AF, and 14.3% of FIRS and CSO held a neutral position. Secondly, AF also differed with FIRS. 85.8% and 14.3% of respondents from FIRS held agreed and neutral positions, similarly 42.9% of respondents from AF also agreed while 14.3% disagreed and the remaining 42.9% held a neutral position.

#### **6.5.3.9 Capacity to cope with environmental complexity**

From Table 6.16, 55 (67.9) out of the total of 81 respondents agreed that the Nigerian tax administration has the capacity to establish internal mechanism to achieve its objectives and cope with environmental complexities while only 3 (3.7) disagreed and 23 (28.4%) were neutral. The mean of 2.21 and median of 2.00 signified that on average, the respondents were in agreement with the statement. However, further investigation revealed that differences exist between the groups. Table 6.17 revealed that FIRS differed from three groups, namely; OAG, NEITI and AF. 92.8% of respondents from FIRS agreed that Nigerian tax administrative institution has the capacity to establish internal mechanisms to achieve its objectives and cope with environmental complexities. On the other hand, 71.4%, 36.4% and 42.9% of respondents from OAG, NEITI and AF also agreed about the statement while 63.6% of NEITI, 28.6% of OAG and AF held a neutral position on this assertion. Secondly, MOF and CSO also differed with NEITI. About 75% and 86% of respondents from MOF and CSO agreed with the statement while 63% of respondents from NEITI were undecided.

#### **6.5.3.10 Capacity to maintain coherence**

As presented in Table 6.16, 61.6% of respondents perceived that the Nigerian tax administration has the capacity to maintain coherence in carrying out its tasks. On the other hand, 22.2% of respondents were undecided while 6.2% disagreed with the assertion. On average, the respondents were in agreement, since the mean and median scores were 2.16 and 2.00 respectively. Nevertheless, Mann-Whitney tests were performed to ascertain the differences between the groups. Table 6.17 shows that the views of respondents from FIRS and CSO differed from those of HIL and AF. Almost all the respondents from FIRS and CSO agreed that the Nigerian tax administrative



institution has the capacity to maintain coherence in carrying out its tasks. Only 25% and 57.1% of respondents from HIL and AF agreed while 50% and 14.3% were neutral and the remaining 25% and 28.6% disagreed with the statement respectively.

**Table 6.18 Descriptive statistics in respect of ability of the tax institution**

Statements	Mean	Median	SA	A	N	D	SD	TR
a) Transfer pricing assessment	2.05	2.00	17 (21)	49 (60.5)	9 (11.1)	6 (7.4)		81 (100)
b) Benchmarking studies to establish its own transfer pricing database	2.06	2.00	18 (22.2)	45 (55.6)	15 (18.5)	1 (1.2)	2 (2.5)	81 (100)
c) Campaigns to educate taxpayers such as multinational companies on the introduction of the transfer pricing regulations	1.84	2.00	33 (40.7)	34 (42.0)	10 (12.3)	2 (2.5)	2 (2.5)	81 (100)

**Note:** SA= Strongly Agree, A=Agree, N=Neutral, D= Disagree, SD=Strongly Disagree, TR= Total Responses. All the figures in brackets represent percentages.

#### 6.5.3.11 Ability to undertake a transfer pricing assessment

From Table 6.18, 81.5% of respondents were of the view that the Nigerian tax administrative institution has the ability to undertake a transfer pricing assessment while 7.4% disagreed and the remaining 11.1% were neutral. With a mean of 2.05 and a median of 2.00, on average, the respondents were in agreement with the assertion. However, further investigation was carried out to ascertain whether differences exist between the groups. The Mann-Whitney test results revealed that differences exist between the groups. Table 6.19 below disclosed that FIRS differed with AF and OAG. 92.8% of respondents agreed that the Nigerian tax administrative institution has the capacity to undertake a transfer pricing assessment, similarly 92.9% of respondents from OAG also agree with the assertion while only 42.9% of respondents from AF agreed, 42.9% were neutral and 14.3% disagreed.

**Table 6.19 Mann-Whitney test results for the ability of the tax institution**

Mann-Whitney tests				
Transfer pricing assessment				
<b>Groups</b>		<b>A<sub>1</sub></b>	<b>O<sub>1</sub></b>	
<b>F<sub>1</sub></b>		.037		48
<b>C<sub>1</sub></b>				.043
Benchmarking studies to establish its own transfer pricing database				
<b>Groups</b>	<b>F<sub>1</sub></b>	<b>M<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>A<sub>1</sub></b>
<b>N<sub>1</sub></b>	.038	.012	.013	.020
<b>H<sub>1</sub></b>	.029	.018	.012	.036
Campaigns to educate taxpayers such as multinational companies on the introduction of the transfer pricing regulations				
<b>Groups</b>		<b>A<sub>1</sub></b>	<b>M<sub>1</sub></b>	<b>N<sub>1</sub></b>
<b>F<sub>1</sub></b>		.007	.033	.050
<b>H<sub>1</sub></b>		.048		

F1 = Federal Inland Revenue Services (FIRS), M1= Ministry of Finance (MOF), O1 = Office of the Auditor General (OAG), N1 = Nigeria Extractive Industries Transparency Initiative (NEITI), H1= Higher Institute of learning (HIL), C1 = Civil Society Organisations (CSO), M2 = Multinational Companies (MNC), A1 = Accounting Firms (AF).  $P \leq .05$  is used for this test, therefore, the table shows only the results with a p-value of less than or equal to 0.05.

#### **6.5.3.12 Ability to undertake benchmarking studies**

Table 6.18 presents that, 63 (87.8%) of respondents from all the groups agreed that the Nigerian tax administration has the ability to undertake benchmarking studies in order to establish its own transfer pricing database. On the other hand, only 3 (3.7%) of respondents disagreed while the remaining 15 (18.5%) held a neutral position. On average, the respondents were in agreement; this was indicated by the mean of 2.04 and the median of 2.00 respectively. Nonetheless, Mann-Whitney tests were conducted and the results revealed that the respondents did not share the same view about the statement. As shown in Table 6.19, NEITI and HIL differed with four groups, namely; FIRS, MOF, OAG and AF. All the respondents from NEITI and HIL agreed that the Nigerian tax administrative institution has the capacity to undertake benchmarking studies in order to establish its own transfer pricing database. 78.6%, 68.4%, 78.4% and 42.9% of respondents from FIRS, MOF, OAG and AF respectively also agreed with the assertion. The differences might be due to the 21.4%, 25%, 21.4% and 57.1% of respondents from FIRS, MOF, OAG and AF respectively held a neutral position on this assertion.

#### **6.5.3.13 Ability to undertake campaigns to educate taxpayers**

From Table 6.18, 82.7% of respondents were in agreement that the Nigerian tax administration has the capacity to undertake campaigns to educate taxpayers such as the

multinational companies on the introduction of transfer pricing regulations. In contrast, only 5% of respondents disagreed while 12.3% were indifferent. The mean and median scores of 1.84 and 2.00 implied that, on average, the respondents were in agreement with the statement. Further investigation revealed a number of differences between the groups. Mann-Whitney test results presented in Table 6.19 show that FIRS differed with AF, MOF and NEITI. Secondly, HIL also differed with AF. 92.8% of respondent from FIRS agreed that the Nigerian tax administration has the capacity to undertake campaigns to educate taxpayers such as the multinational companies on the introduction of the transfer pricing regulations. Likewise, 91.7%, 90.9% and 71.4% of respondents from MOF, NEITI and AF respectively also agreed with the statement. The differences were related to the extent of agreement. 100% of respondents from HIL agreed with the assertion while 71.4% of respondents from AF agreed, 14.3% were neutral and the remaining 14.3% disagreed with the statement.

In summary, the respondents appear to believe that the Nigerian tax authority has the administrative capacity to develop a transfer pricing team and all the necessary measures to adopt and implement transfer pricing regulations in Nigeria, particularly in petroleum sector. The analysis revealed that the tax administration has the capacity to independently make and implement decisions, adapt to change, maintain coherence and coordinate the transfer pricing activities. In addition, the respondents have the view that the tax administration has the capacity to take measures such as: to train sufficient number of staff; employ transfer pricing experts and improve their welfare to achieve successful transfer pricing regulations in the country.

**Table 6.20 Summary of the significant differences between the pairs of groups in relation to the capacity of the Nigerian tax administration**

<b>Groups</b>	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>	<b>TOTAL</b>
<b>F1</b>	<b>n/a</b>	3	2	1	3	6	2	6	<b>23</b>
<b>M1</b>	3	<b>n/a</b>	2	2	0	0	0	1	<b>8</b>
<b>M2</b>	2	2	<b>n/a</b>	0	1	2	0	2	<b>9</b>
<b>C1</b>	1	2	0	<b>n/a</b>	2	6	3	5	<b>19</b>
<b>O1</b>	3	0	1	2	<b>n/a</b>	3	1	3	<b>13</b>
<b>A1</b>	6	0	2	6	3	<b>n/a</b>	2	2	<b>21</b>
<b>H1</b>	2	0	0	3	1	2	<b>n/a</b>		<b>8</b>
<b>N1</b>	6	1	2	5	3	2		<b>n/a</b>	<b>19</b>

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF).

Table 6.20 shows that FIRS differed 23 times with the other groups in opinion regarding the capacity of the Nigerian tax administration to adopt and implement transfer pricing regulations. On the same issue, AF differed 21 times with the other groups while NEITI and CSO also differed 19 times each with the other groups. The overall finding indicates that the Nigerian tax administration has the resource capacity to develop a transfer pricing team and other measures to adopt and implement transfer pricing regulations in the country. This is very important for the Nigerian tax administration because resource-based view asserts that success of improving performance of firm depends on its resource and capability (Barney 2001).

#### **6.5.4 Barriers that might hinder adoption and implementation of transfer pricing regulations in Nigeria.**

This section sought the respondents' views about the barriers that face the tax administration to adopt and implement transfer pricing regulations in Nigeria based on international best practice.

**Table 6.21: Descriptive statistics relating to barriers to the adoption and implementation of transfer pricing regulations**

Statements	Mean	Median	SA	A	N	D	SD	TR
a) Lack of adequate technical expertise	2.06	2.00	25 (30.9)	39 (48.1)	8 (9.9)	5 (6.2)	4 (4.9)	81 (100)
b) Inadequate information technology facilities to enhance transfer pricing regulations	2.10	2.00	25 (30.9)	36 (44.4)	9 (11.1)	9 (11.1)	2 (2.5)	81 (100)
c) Lack of access to transfer pricing databases	2.11	2.00	27 (33.3)	31 (38.3)	13 (16.0)	7 (8.6)	3 (3.7)	81 (100)
d) Inadequate information necessary to determine arm's length transfer prices	2.19	2.00	25 (30.9)	29 (35.8)	16 (19.8)	9 (11.1)	2 (2.5)	81 (100)
e) Lack of knowledge of transfer pricing issues	2.35	2.00	19 (23.5)	34 (42.0)	14 (17.3)	9 (11.1)	5 (6.2)	81 (100)
f) Lack of adequate administrative capacity to adopt and implement transfer pricing regulations	2.37	2.00	17 (21.0)	38 (46.9)	11 (13.6)	9 (11.1)	6 (7.4)	81 (100)
g) Lack of political will from the government	2.06	2.00	28 (34.6)	28 (34.6)	18 (22.2)	6 (7.4)	1 (1.2)	81 (100)
h) Government interference on implementation of certain transfer pricing rules	2.14	2.00	24 (29.6)	35 (43.2)	10 (12.3)	11 (13.6)	1 (1.2)	81 (100)
i) Lack of an effective judicial system to deal with tax cases	2.30	2.00	21 (25.9)	31 (38.5)	15 (18.5)	12 (14.8)	2 (2.5)	81 (100)
j) Lack of a comprehensive tax treaty network	2.27	2.00	22 (27.2)	29 (35.8)	17 (21.0)	12 (14.8)	1 (1.2)	81 (100)

**Note:** SA= Strongly Agree, A=Agree, N=Neutral, D= Disagree, SD=Strongly Disagree, TR= Total Responses. All the figures in brackets represent percentages.

#### **6.5.4.1 Lack of adequate technical expertise**

From Table 6.21, 79% of respondents were in agreement that the Nigerian tax administrative institution faces a lack of adequate technical expertise to implement transfer pricing regulations while 11.1% disagreed and the remaining 9.9% were neutral. With a mean of 2.06 and a median of 2.00, the respondents were on average in agreement with the statement. The respondents from all the groups shared the same views about the statement except NEITI which differed from CSO. 90.9% of respondents from NEITI believed that the Nigerian tax administrative institution faces a lack of adequate technical expertise to implement transfer pricing regulations. In this vein, 71.4% of respondents from CSO also agreed with the statement while 28.6% were undecided. However, despite some respondents from CSO having reservations about the statement, the difference was related to the strength of agreement.

**Table 6.22 Mann-Whitney test results for the barriers to the adoption and implementation of transfer pricing regulations in Nigeria**

Mann-Whitney tests							
Lack of adequate technical expertise							
<b>Groups</b>							<b>C<sub>1</sub></b>
N <sub>1</sub>							.026
Inadequate information technology facilities to enhance transfer pricing regulations							
<b>Groups</b>					<b>O<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>M<sub>2</sub></b>
N <sub>1</sub>					.035	.023	.038
Lack of access to transfer pricing databases							
<b>Groups</b>	<b>F<sub>1</sub></b>	<b>M<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>H<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>M<sub>2</sub></b>	<b>A<sub>1</sub></b>
N <sub>1</sub>	.039	.037	.002	.023	.001	.001	.005
Inadequate information necessary to determine arm's length transfer prices							
<b>Groups</b>				<b>M<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>H<sub>1</sub></b>
A <sub>1</sub>				.028	.003	.003	.022
N <sub>1</sub>					.010	.004	
Lack of knowledge of transfer pricing issues							
<b>Groups</b>						<b>F<sub>1</sub></b>	<b>O<sub>1</sub></b>
N <sub>1</sub>						.011	.014
Lack of adequate administrative capacity to adopt and implement transfer pricing regulations							
<b>Groups</b>							<b>F<sub>1</sub></b>
N <sub>1</sub>							.007
Lack of political will from the government							
<b>Groups</b>				<b>M<sub>1</sub></b>	<b>N<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>A<sub>1</sub></b>
F <sub>1</sub>				.020	.000	.004	.019
O <sub>1</sub>				.038	.001	.009	.037
Government interference in implementation of certain transfer pricing rules							
<b>Groups</b>			<b>F<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>M<sub>2</sub></b>	<b>A<sub>1</sub></b>
M <sub>1</sub>			.040				
N <sub>1</sub>			.007	.010	.006	.034	.006
Lack of an effective judicial system to deal with tax cases							
<b>Groups</b>					<b>F<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>C<sub>1</sub></b>
N <sub>1</sub>					.002	.017	.037
A <sub>1</sub>					.009	.044	
Lack of a comprehensive tax treaty network							
<b>Groups</b>			<b>F<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>A<sub>1</sub></b>	<b>H<sub>1</sub></b>	<b>M<sub>2</sub></b>
N <sub>1</sub>			.026		.037		
C <sub>1</sub>			.003	.028	.005	.048	.004
M <sub>2</sub>					.017		

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). P ≤ .05 is used for this test, therefore, the table shows only the results with a p-value of less than or equal to 0.05.

#### **6.5.4.2 Lack of adequate information technology**

Table 6.21 presents that, 61 (75.7%) out of 81 respondents were of the view that inadequate information technology facilities to enhance transfer pricing regulations were a barrier to the implementation of transfer pricing regulations in Nigeria. In opposition, 13.6% of respondents disagreed while 11.1% held a neutral position in that

respect. The mean and median of 2.10 and 2.00 respectively signified that, on average, the respondents were in agreement with the assertion. An investigation to find whether the respondent groups shared the same views revealed that NEITI differed with three groups, namely; OAG, CSO and MNC. Almost all the respondents from NEITI were of the view that inadequate information technology facilities to enhance transfer pricing regulations was barrier to the implementation of transfer pricing regulations in Nigeria. Similarly, 66.7% of respondents from MNC and 71.4% of respondents from OAG and COS were of the same view. Therefore, the differences were related to the extent of agreement. The literature revealed that successful collection and evaluation of information on MNCs may need a large, expensive and sophisticated unit which most developing countries could not afford (Lall 1979).

#### **6.5.4.3 Lack of access to transfer pricing database**

Table 6.21 showed that, 71.6% of respondents from all groups agreed that lack of access to a transfer pricing database is a barrier to the adoption and implementation of transfer pricing regulations in Nigeria while 12.3% disagreed and 16% were undecided. With a mean score of 2.11 and a median score of 2.00, on average, the respondents were in agreement with this assertion. However, the Mann-Whitney tests conducted revealed that NEITI differed with all the remaining groups, namely; FIRS, MOF, OAG, HIL, CSO, MNC and AF. The differences were related to the strength of agreement; all the respondents from NEITI agreed that lack of access to a transfer pricing database is a barrier to the adoption and implementation of transfer pricing regulations in Nigeria. Similarly, the majority of respondents from FIRS, MOF, OAG, CSO and AF were of the same view while only half the respondents from HIL agreed and the remaining half remained undecided about the statement. On the other hand, the respondents from MNC held diverse views about the statement; 41.7% agreed, 25% were neutral and the remaining 33.3% disagreed with this position.

#### **6.5.4.4 Lack of adequate comparable information**

From Table 6.21, in terms of inadequate information necessary to determine arm's length transfer prices as a barrier to the adoption and implementation of transfer pricing regulations in Nigeria, 66.7% of respondents from all the groups were in agreement while 19.8% disagreed and 13.6% were neutral about the statement. The mean value of

2.19 and median value of 2.00 implied that, on average, the respondents were in agreement with the assertion. Further investigation was carried out to ascertain the differences between the groups. The Mann-Whitney test result presented in Table 6.22 revealed that differences exist between AF and four groups, namely; MOF, OAG, CSO and HIL. Secondly, NEITI differed with OAG and CSO. A cross-tabulation analysis revealed that all respondents from AF believed that there was inadequate information necessary to determine arm's length transfer prices as a barrier to the adoption and implementation of transfer pricing regulations in Nigeria. In the same vein, the majority of respondents; about 58.3% of MOF, 64.2% of OAG, 75% of HIL shared the same view with NEITI. On the other hand, a majority of respondents (57.1%) from MNC held a neutral position while only 28.6% agreed and 14.3% disagreed with the statement. However, generally most respondents were of the views that inadequate information necessary to assess transfer prices is a major barrier to the successful implementation of transfer pricing regulations.

#### **6.5.4.5 Lack of knowledge of transfer pricing**

From Table 6.21 65.5% of respondents perceived that lack of knowledge of transfer pricing issues could be a barrier to the adoption and implementation of transfer pricing regulation in the country. On the other hand, 17.3% of respondents were in disagreement with the statement while the remaining 17.3% were neutral. The mean and median scores of 2.35 and 2.00 respectively indicated that, on average, the respondents were in agreement with the statement. As shown in Table 6.22, the Mann-Whitney tests revealed that apart from NEITI which differed with FIRS and OAG, the groups shared almost similar views. Further cross-tabulation analysis disclosed that over 90% of respondents from NEITI were of the view that the lack of knowledge of transfer pricing issues could be a barrier to the adoption and implementation of transfer pricing regulations in the country. The respondents from FIRS and OAG shared diverse views. 42.9% and 57.1% of respondents from FIRS and OAG, agreed with the assertion, 14.3% and 28.6% were neutral and the remaining 42.8 and 14.3% disagreed with the statement respectively.



#### **6.5.4.6 Inadequate administrative capacity**

The descriptive statistics results presented in Table 6.21 revealed that 67.9% of respondents were of the view that the lack of adequate administrative capacity act as a barrier to adopting and implementing transfer pricing regulations in the country. Despite 18.5% of respondents being dissatisfied with this assertion and the remaining 13.6 being neutral, the table also revealed a mean value of 2.37 and median value of 2.00. This justified the position of most respondents who agreed with the statement. However, further investigation was conducted to find whether differences exist between the pairs of groups. The Mann-Whitney tests in Table 6.22 revealed that only the FIRS differed with NEITI. A cross-tabulation analysis disclosed that 90.9% of respondents from NEITI agreed that lack of adequate administrative capacity acts as a barrier to the adoption and implementation of transfer pricing regulations in the country while only 42.8% of respondents from FIRS agreed. In contrast, 42.9% of respondents from FIRS were in disagreement in this respect and 14.3% were neutral. The dissatisfaction and neutral positions held by the FIRS was expected because being the agency with the responsibility for adopting and implementing transfer pricing in the country it might not accept that it lacks the administrative capacity.

#### **6.5.4.7 Lack of government political will**

From Table 6.21, more than 69% of respondents believed that lack of a political will from the government would hinder the adoption and implementation of transfer pricing regulations in the country while 8.6% disagreed and 22.2% of respondents reserved their opinion about this statement. Nevertheless, a mean score of 2.06 and median score of 2.00 supported the position of the majority of respondents. However, further investigation revealed that the groups did not share the same opinion in this respect. Table 6.22 shows that FIRS and OAG differed with four groups, namely; MOF, NEITI, CSO and AF. A cross-tabulation analysis identified the roots of the discrepancies. The cross-tabulation result shows that a majority (over 75%) of respondents from MOF, NEITI, CSO and AF believed that a lack of political will from the government would hinder the adoption and implementation of transfer pricing regulations in the country. Only 50% of respondents from FIRS and OAG agreed with the statement while 28.6% were neutral and 14.3% and 21.4% respectively disagreed with the assertion.

#### **6.5.4.8 Government interference**

Table 6.21 indicates that 72.8% of respondents perceived that government interference with the implementation of some transfer pricing rules or guidelines would be a major drawback to the effective implementation of transfer pricing regulations in the country. In contrast, 14.8% of respondents opposed this positions held by the majority while 12.3% of respondents failed to take a position in this respect. Mann-Whitney tests were performed to determine the groups' position and the result as presented in Table 6.22 revealed that differences exist between the groups; NEITI differed with FIRS, OAG, CSO, MNC and AF. Further investigation revealed that all the respondents from NEITI agreed that government interference in the implementation of some transfer pricing rules or guidelines would be a major drawback to the effective implementation of transfer pricing regulations in the country. Similarly, over 80% of respondents from CSO and AF also agreed with this assertion. Even the FIRS and OAG agreed with 50% and 57% respectively, however, 28.5% and 21.4% disagreed and the remaining 21.4% of respondents from both groups held a neutral position about the statement. Over 90% of respondents from MOF agreed with the statement while only 50% of respondents from FIRS agreed. Notwithstanding, the mean and median of 2.14 and 2.00 respectively indicated that on average, the respondents were in agreement with the statement.

#### **6.5.4.9 Lack of effective judiciary system**

As shown in Table 6.21, 64.4% of respondents considered the lack of an effective judiciary system to deal with tax cases would be a challenge to implementing transfer pricing regulations in Nigeria. On the other hand, 17.3% of respondents were against this consideration while 18.5% of respondents remained silent. An investigation was carried out to ascertain the level of differences between the groups. Mann-Whitney test results presented in Table 6.22 show that there were significant differences among the groups; NEITI differed with FIRS, OAG and CSO. AF differed with FIRS and OAG. A cross-tabulation investigation divulged that about 90% of respondents from NEITI were of the perception that the lack of comprehensive tax treaty network in the country would be a barrier that the tax authority may face in implementing transfer pricing regulations. Likewise, 86% of respondent from CSO shared the same view as NEITI. Only 50% and 42.8% of respondents from FIRS and OAG agreed with this position while 28.6% disagreed and 21.4% and 28.6% respectively held a neutral position.

Nevertheless, the mean score of 2.30 and median score of 2.00 implied that, on average, the respondents were in agreement that the lack of a comprehensive tax treaty network in the country would be a barrier that the tax authority may face in implementing transfer pricing regulations.

#### **6.5.4.10 Lack of comprehensive tax treaty network**

The descriptive statistics results in Tables 6.21 indicated that about two thirds of the entire respondents were of the view that the lack of a comprehensive tax treaty network in the country would be a barrier that the tax authority may face in implementing transfer pricing regulations, whereas 16% opposed the view and 21% held a neutral position. The results of Mann-Whitney tests in Table 6.22 show that there were significant differences among the groups; NEITI differed with FIRS and AF. CSO differed with FIRS, OAG, AF, HIL and MNC. MNC differed with AF. The result of cross-tabulation revealed that about 86% of respondents from CSO believed that the lack of a comprehensive tax treaty network in the country would be a barrier that the tax authority may face in implementing transfer pricing regulations. In this vein, about 83% of respondents from MNC also agreed with the statement. Only 42.8%, 57.2% and 50% of respondents from FIRS, OAG and HIL respectively agreed with the assertion while 28.5%, 21.4% and 50% disagreed respectively. In contrast, a majority (57.1%) of respondents from AF were neutral about the statement while 14.3% disagreed and only 28.6% agreed with the assertion. However, despite these diverse views, with a mean of 2.27 and median of 2.00, it can be argued that respondents were in agreement with the statement.

In summary, the outcome of the analysis reveals that there are various challenges that may face the implementation of transfer pricing regulations in Nigeria. The stakeholders were of the view that a lack of adequate transfer pricing experts, lack of comparable information and lack of political will are some the major barriers that may hinder the success of transfer pricing regulations in Nigeria.. This position was further confirmed by the interview respondents (see chapter 8).

**Table 6.23: Summary of the significant differences amongst the groups in relation to the barriers to the adoption and implementation of transfer pricing regulations in Nigeria**

<b>Groups</b>	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>	<b>TOTAL</b>
<b>F1</b>	n/a	2	0	2	0	3	0	7	<b>14</b>
<b>M1</b>	2	n/a	0	0	1	1	0	1	<b>5</b>
<b>M2</b>	0	0	n/a	1	0	1	0	3	<b>5</b>
<b>C1</b>	2	0	1	n/a	2	2	0	6	<b>13</b>
<b>O1</b>	0	1	0	2	n/a	3	0	7	<b>13</b>
<b>A1</b>	3	1	1	2	3	n/a	1	3	<b>14</b>
<b>H1</b>	0	0	0	0	0	1	n/a	1	<b>2</b>
<b>N1</b>	7	1	3	6	7	3	1	n/a	<b>28</b>

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub>= Ministry of Finance (MOF), O<sub>1</sub>= Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub>= Higher Institute of learning (HIL), C<sub>1</sub>= Civil Society Organisations (CSO), M<sub>2</sub>= Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF).

Table 6.23 presents the summary of the number of significant differences that exist between the groups with respect to the barriers that might face the adoption and implementation of transfer pricing regulations in the Nigerian petroleum sector and the country at large. NEITI differed 28 times with the other groups. In the same vein, FIRS and AF each differed 14 times with the other groups. Identifying the significant differences between the stakeholder groups may enable the discovery of an ill pattern of relationships between the groups. Subsequently, a way may be suggested to harmonise relationships in order to provide a common approach to mitigate the barriers that face the adoption and implementation of transfer pricing regulations in the country.

### **6.5.5 Guidance and support for adoption and implementation of transfer pricing regulations in Nigeria.**

This section reports the views of respondents regarding guidance on the adoption and implementation of transfer pricing regulations with respect to the utilisation of financial resource, deployment of technical expertise, training and skill development and drafting of transfer pricing regulations. Various international organisations are actively working on the provision of guidance in the field of transfer pricing, and some have focused on

the needs of developing countries (PwC 2011a). Therefore, the aim was to determine to what extent Nigeria needs such guidance.

**Table 6.24: Descriptive statistics relating to guidance for adoption and implementation of transfer pricing regulations in Nigeria**

Statements	Mean	Median	SA	A	N	D	SD	TR
a) Utilisation of financial resources	2.19	2.00	23 (28.4)	31 (38.3)	18 (22.2)	7 (8.6)	2 (2.5)	81 (100)
b) Deployment of technical expertise	1.83	2.00	30 (37.0)	39 (48.1)	9 (11.1)	2 (2.5)	1 (1.2)	81 (100)
c) Training and skill development	1.73	2.00	34 (42.0)	38 (46.9)	6 (7.4)	3 (3.7)		81 (100)
d) Performance assessment	1.85	2.00	29 (35.8)	38 (46.9)	11 (13.6)	3 (3.7)		81 (100)
e) Drafting of transfer pricing regulations	2.07	2.00	22 (27.2)	40 (49.4)	12 (14.8)	5 (6.2)	2 (2.5)	81 (100)

Note: SA= Strongly Agree, A=Agree, N=Neutral, D= Disagree, SD=Strongly Disagree, TR= Total Responses. All the figures in brackets represent percentages.

#### **6.5.5.1 Guidance on effective utilisation of financial resource toward implementation of transfer pricing regulations**

Table 6.24 shows that over 60% of respondents were of the opinion that Nigeria needs guidance on the effective utilisation of financial resources regarding the implementation of transfer pricing regulations in the country, with a mean of 2.19 and median of 2.00. On the other hand, 11.1% of respondents disagreed with the statement while 22.2% neither agreed nor disagreed with this assertion. Further investigation revealed that differences exist among the groups as shown in Table 6.25 below.

**Table 6.25: Mann-Whitney test results relating to the guidance for adoption and implementation of transfer pricing regulations in Nigeria**

Mann-Whitney tests						
Utilisation of financial resources						
<b>Groups</b>	<b>F<sub>1</sub></b>	<b>M<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>M<sub>2</sub></b>	<b>A<sub>1</sub></b>
<b>N<sub>1</sub></b>	.001	.011	.001	.002	.001	.015
<b>H<sub>1</sub></b>				.043		
Deployment of technical expertise						
<b>Groups</b>		<b>F<sub>1</sub></b>	<b>M<sub>1</sub></b>	<b>N<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>A<sub>1</sub></b>
<b>H<sub>1</sub></b>		.037	.031	.015	.048	.048
<b>O<sub>1</sub></b>				.045		
Training and skill development						
<b>Groups</b>		<b>F<sub>1</sub></b>	<b>M<sub>1</sub></b>	<b>N<sub>1</sub></b>	<b>H<sub>1</sub></b>	<b>C<sub>1</sub></b>
<b>O<sub>1</sub></b>		.003	.001	.001	.004	.033
<b>A<sub>1</sub></b>				.046	.009	
<b>C<sub>1</sub></b>					.029	
Performance assessment						
<b>Groups</b>				<b>F<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>C<sub>1</sub></b>
<b>N<sub>1</sub></b>				.011	.010	.031
<b>A<sub>1</sub></b>				.037	.032	
Drafting of transfer pricing regulations						
<b>Groups</b>	<b>F<sub>1</sub></b>	<b>M<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>H<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>M<sub>2</sub></b>
<b>N<sub>1</sub></b>	.002	.015	.001	.010	.014	.046

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). P ≤ .05 is used for this test, therefore, the table shows only the results with a p-value of less than or equal to 0.05.

From Table 6.24 it can be seen that NEITI differed with six groups, namely; FIRS, MOF, OAG, CSO, MNC and AF. Secondly, HIL differed with CSO. 100% of respondents from NEITI and HIL believed that Nigeria needs guidance for the utilisation of financial resources allocated for implementation of transfer pricing regulations in the country, similarly, 64.3%, 58.3, 78.6% and 57.2% of FIRS, MOF, OAG, and AF respectively also agreed with the statement. 71.4% of CSO and 33.3% of MNC were neutral in this respect. On average, the respondents were of the view that Nigeria significantly needs guidance on how best to utilise the finance allocated to the implementation of transfer pricing regulations. This could be attributed to the statement that channeling funds to appropriate areas of tax administration helps the effective implementation of transfer pricing regulations. The UN disclosed that its sub-committee on capacity building used 15000€ donated by Deutsche Gesellschaft Internationale

Zusammernarbeit GmbH to establish a transfer pricing unit in the Nigerian tax institution (FIRS) and provide training for 40 staff (Wordpress 2012).

#### **6.5.5.2 Guidance on deployment of technical expertise**

In terms of the deployment of technical expertise, the majority of respondents (85.1%) shared the same opinion that Nigeria needs guidance on how to appropriately deploy technical expertise. Only 3.7% disagreed and the remaining 11.1% neither agreed nor disagreed with the statement. On average, with a mean of 1.83 and median of 2.00 respectively, the respondents were in agreement. HIL differed FIRS, MOF, NEITI, CSO AF. The cross-tabulation conducted shows that only 50% of respondents from HIL agreed that Nigeria needs guidance on how to appropriately deploy technical expertise while 25% held a neutral position and 25% disagreed with the assertion. On the other hand, almost all the respondents from FIRS, NEITI, CSO and AF were in agreement with the statement. In addition, the difference between OAG and NEITI was related to the strength of agreement.

#### **6.5.5.3 Guidance on training and skill development**

From Table 6.24, 88.9% of respondents from all the groups were in agreement that Nigeria needs guidance on training and skill development, with a mean of 1.73, which justified the agreement. Only 3.7% of respondents disagreed and 7.4% were undecided about the statement. Mann-Whitney test results in Table 6.25 revealed that differences exist between the groups. OAG differed with FIRS, MOF, NEITI, HIL and CSO. Further investigation revealed that almost all the respondents from FIRS, MOF, NEITI, HIL and CSO agreed that Nigeria needs guidance on training and skill development. On the other hand, 35.7% of respondents from OAG held a neutral position while 7.1% disagreed and 57.1% agreed with the assertion. Secondly, AF differed with NEITI and HIL in the extent of agreement, nevertheless, all the respondents from the groups agreed with the statement. Thirdly, in the same vein, all the respondents from CSO and HIL were also in agreement with the assertion, yet, they differed in the strength of agreement.

#### **6.5.5.4 Guidance on performance assessment**

In terms of guidance on performance assessment, 67 of 81 respondents agreed that Nigeria needs guidance on the performance assessment of the transfer pricing team, with a mean of 1.85 and median of 2.00 respectively, while only 3 respondents disagreed and 11 held a neutral position. Number differences were recorded; NEITI differed with FIRS, OAG and CSO. The result of the cross-tabulation revealed that over 90% of respondents from NEITI were of the view that Nigeria needs guidance on the performance assessment of the transfer pricing team. Similarly, over two thirds of respondents from FIRS, OAG and CSO were also in agreement with the assertion. The differences that exist among the groups related to the extent of agreement. Secondly, AF differed with FIRS and OAG. All the respondents from AF agreed with the statement, in the same vein, two thirds of respondents from FIRS and OAG also agreed with the assertion while the remaining held a neutral position.

#### **6.5.5.5 Guidance on drafting transfer pricing regulations**

As shown in Table 6.24 above, 76.6% of respondents perceived that Nigeria needs guidance from the countries that have experience in drafting transfer pricing regulations while 8.7% disagreed and 14.8 held a neutral position. The mean value of 2.07 and median value of 2.00 signified that the respondents were in agreement with the statement. Further investigation revealed that NEITI differed with six groups, namely; FIRS, MOF, OAG, HIL, CSO and MNC. All the respondents from NEITI agreed that Nigeria needs guidance from the countries that have experience in drafting transfer pricing regulations. Likewise, 57.2%, 75%, 71.4%, 75% 95% and 78% of respondents from FIRS, MOF, OAG, HIL, CSO and MNC respectively were also in agreement with the statement. Hence, the differences were related to the extent of agreement. In line with this, the Chairman of FIRS stated that a lot of effort has been made to position the transfer pricing regulations in the country and tremendous assistance has been received from the United Nations and professional bodies such as the Association of National Accountants of Nigeria (ANAN), the Institute for Chartered Accountants of Nigeria (ICAN) and PricewaterhouseCoopers among others (Okeke 2013).



### 6.5.5.6 Support on adoption and implementation of transfer pricing regulations

Generally, there are various ways in which tax authorities in less developed countries can be supported in effectively adopting and implementing transfer pricing in their respective countries. This includes training, performance assessment, knowledge and experience sharing, among others. However, the amount of support needed by each country varies (PwC 2011a).

**Table 6.26: Descriptive statistics relating to the support for adoption and implementation of transfer pricing regulations in Nigeria**

Statements	Mean	Median	SA	A	N	D	SD	TR
a) Financial support	2.12	2.00	24 (29.6)	36 (44.4)	11 (13.6)	7 (8.6)	3 (3.7)	81 (100)
b) Technical support	1.70	2.00	37 (45.7)	33 (40.7)	9 (11.1)	2 (2.5)		81 (100)
c) Training and skill development support	1.59	1.00	41 (50.6)	32 (39.5)	8 (9.9)			81 (100)
d) Performance assessment support	1.90	2.00	31 (38.3)	33 (40.7)	13 (16.0)	2 (2.5)	2 (2.5)	81 (100)

**Note:** SA= Strongly Agree, A=Agree, N=Neutral, D= Disagree, SD=Strongly Disagree, TR= Total Responses. All the figures in brackets represent percentages.

### 6.5.5.6 Financial support

The descriptive statistics in Table 6.26 demonstrated that 74% of respondents agreed that Nigeria needs financial support from donor countries or organisations to implement transfer pricing regulations in the country while 12.3% disagreed and 13.6 were neutral, with a mean of 2.12 and median of 2.00. Mann-Whitney test results in Table 6.27 below unveiled that significant differences exist between the groups.

**Table 6.27: Mann-Whitney test results relating to the support for adoption and implementation of transfer pricing regulations in Nigeria**

Mann-Whitney tests					
Financial support					
<b>Groups</b>	<b>M<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>M<sub>2</sub></b>	<b>A<sub>1</sub></b>	
<b>N<sub>1</sub></b>	.026	.002	.001	.032	
<b>C<sub>1</sub></b>		.018	.007		
Technical support					
<b>Groups</b>	<b>M<sub>1</sub></b>	<b>N<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>M<sub>2</sub></b>	<b>A<sub>1</sub></b>
<b>O<sub>1</sub></b>	.003	.003	.002	.014	.049
<b>C<sub>1</sub></b>				.032	.037
Training and skill development support					
<b>Groups</b>	<b>F<sub>1</sub></b>	<b>C<sub>1</sub></b>	<b>N<sub>1</sub></b>	<b>H<sub>1</sub></b>	<b>A<sub>1</sub></b>
<b>O<sub>1</sub></b>	.003	.001	.002	.028	.027
<b>M<sub>2</sub></b>	.029	.003	.018		
<b>M<sub>1</sub></b>		.015			
Performance assessment support					
<b>Groups</b>			<b>F<sub>1</sub></b>	<b>O<sub>1</sub></b>	<b>M<sub>2</sub></b>
<b>H<sub>1</sub></b>			.028		
<b>C<sub>1</sub></b>			.011	.022	.028

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). P ≤ .05 is used for this test, therefore, the table shows only the results with a p-value of less than or equal to 0.05.

Table 6.26 below revealed that NEITI differed from MOF, OAG, MNC and AF. A cross-tabulation analysis was conducted and the result revealed that all the respondents from NEITI agreed that Nigeria needs financial support from donor countries or organisations to implement transfer pricing regulations in the country. Similarly, 66.7%, 71.4%, 58.3% and 85.7% of respondents from MOF, OAG, MNC and AF respectively were in agreement with the assertion. The differences were related to the strength of agreement. Secondly, CSO also differed with OAG and MNC in the extent of agreement. 95.7% of respondents from CSO agreed with the statement, likewise, 71.4% and 85.7% of respondents from OAG and MNC were also in agreement.

#### **6.5.5.7 Technical support**

From Table 6.26, 86.4% of respondents were of the view that in addition to the guidance, Nigeria also needs technical support from donor countries or organisations to implement transfer pricing regulations in the country. With a mean of 1.70 and median of 2.00, 2.5% of respondents disagreed and 11.1% held a neutral position. Further Mann-Whitney test results revealed number of cases. OAG differed with MOF, NEITI, CSO, MNC and AF. An investigation shows that all the respondents from MOF, NEITI,

CSO, MNC and AF agreed that in addition to guidance, Nigeria needs technical support from donor countries or organisations to implement transfer pricing regulations in the country. Only 50% of respondents from OAG agreed with the statement while 42.8% were neutral and the remaining 7.1% disagreed with the assertion. Secondly, all the respondents from CSO and MNC agreed with the statement. The difference that exists between the two groups was related to the strength of agreement.

#### **6.5.5.8 Training and skill development support**

The majority of respondents (90.1%) perceived that apart from guidance, Nigeria needs training and skill development support from donors to implement transfer pricing regulations while none of the respondents disagreed with this assertion. However, 9.9% of respondents neither agreed nor disagreed with the statement. This strong agreement was justified by the mean of 1.59 and median of 1.0. Nevertheless, the Mann-Whitney test results revealed a number of differences between the groups. Table 6.27 revealed that OAG differed with FIRS, CSO, NEITI, HIL and AF. From the cross-tabulation analysis it can be seen that all the respondents from FIRS, CSO, NEITI, HIL and AF agreed that in addition to guidance, Nigeria needs training and skill development support from donors to implement transfer pricing regulations. Despite the fact that 71.4% of respondents from OAG agreed with the statement, the remaining 28.6% held a neutral position on this assertion.

Secondly, MNC differed from FIRS, CSO, and NEITI. 83.3% of respondents from MNC agreed with the statement and the remaining 16.7% were neutral. All the respondents from FIRS, CSO, and NEITI were in agreement with the statement. The difference might be as a result of the neutral position held by some respondents from MNC. Thirdly, MOF differed with CSO. All the respondents from CSO agreed with the assertion while 16.7% of respondents from MOF have some reservations about the statement and 83.4% were in agreement.

#### **6.5.5.9 Performance assessment support**

In terms of performance assessment support, more than two-thirds of respondents were of the opinion that in addition to guidance, Nigeria needs support from donor nations or organisations to carry out the assessment of transfer pricing regulations. Despite 4

respondents disagreeing and 13 being neutral about the statement, the mean value of 1.90 and median value of 2.00 indicated that, on average, the respondents were in agreement. An investigation to establish whether the groups shared the same view revealed that differences exist. Table 6.27 indicates that HIL differed with FIRS in the extent of agreement. All the respondents from HIL agreed with the statement, likewise over 95% of respondents from FIRS also agreed with the assertion. Secondly, CSO differed with FIRS, OAG and MNC. Further analysis of the cross-tabulation Table revealed that all the respondents from CSO were of the view that in addition to the guidance, Nigeria needs support from donor nations or organisations to carry out the assessment of transfer pricing regulations. In this vein, 95.7%, 71.4% and 53.3% of respondents from FIRS, OAG and MNC also agreed with the statement while 7.1% 25% and 28.6% respectively held a neutral position about the statement.

**Table 6.28 Summary of the significant differences between the groups in relation to need for guidance and support from for adoption and implementation of transfer pricing regulations in Nigeria**

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>	
<b>F1</b>	<b>n/a</b>	0	1	1	2	1	2	3	<b>10</b>
<b>M1</b>	0	<b>n/a</b>	0	1	2	0	1	3	<b>7</b>
<b>M2</b>	1	0	<b>n/a</b>	4	1	0	0	4	<b>10</b>
<b>C1</b>	1	1	4	<b>n/a</b>	5	1	3	3	<b>18</b>
<b>O1</b>	2	1	1	5	<b>n/a</b>	3	2	8	<b>20</b>
<b>A1</b>	1	0	0	1	2	<b>n/a</b>	2	3	<b>9</b>
<b>H1</b>	2	1	0	3	2	2	<b>n/a</b>	2	<b>12</b>
<b>N1</b>	3	4	3	3	8	3	2	<b>n/a</b>	<b>26</b>

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF)

Table 6.28 records the total number of differences existing between the groups in relation to the need for guidance and support in adopting and implementing transfer

pricing regulations in Nigeria. Again NEITI significantly differed 26 times with the other groups followed by OAG which differed 20 times with the other groups. Generally, findings indicate that Nigeria needs guidance and support from donor organisations and experienced countries in order to adopt and implement transfer pricing regulations successfully.

## **6.6 Conclusion**

This chapter presented the analysis and interpretation of the data collected on the perception of respondents through a questionnaire survey. The main purpose of this chapter was to assess the views of respondents in Nigeria on the draft transfer pricing regulations and its appropriateness for Nigeria, particularly for the petroleum sector with the aim of providing some recommendations for improvement. Although there were discrepancies among the groups of respondents regarding the form of regulations, motive of adoption, tax administrative capacity and the barriers that might hinder the implementation of the regulations, the overall outcome of the analysis reveals that forms of proposed transfer pricing regulations that were subsequently adopted by Nigeria was appropriate. However, a majority of respondents gave more preferences to the UN transfer pricing framework, closely followed by the OECD transfer pricing framework. The US transfer pricing framework was least preferred. The stakeholders agreed that Nigeria should consider all the five transfer pricing methods (CUP, RPM, C+, PSM and TNMM) outlined in the OECD guidelines and the UN transfer pricing manual and the application of the methods should be based on the most appropriate approach. In addition, features such as documentation requirements, advance pricing agreement, penalties, tax treaties, establishment of transfer pricing database are considered to be appropriate for Nigeria to consider. No doubt, these features are very important in order to achieve a successful implementation of transfer pricing regulations but without a commensurate capacity to apply the features, it would become a major issue. Moreover, even developed countries like the UK, US and Canada developed their transfer pricing regulations over a long period of time. The respondents were of the view that there are various factors that motivate Nigeria to adopt transfer pricing regulations. The main motives for the adoption of the regulations are to protect resources and at the same to gain legitimacy. In addition, the findings revealed that the Nigeria tax administration has the capacity to adopt and implement transfer pricing regulations in Nigeria,

particularly in the petroleum sector. However, they concur that there are various challenges such as insufficient experts and a lack of comparable information among others that may hinder the implementation of transfer pricing regulations. Furthermore, respondents were of the view that Nigeria needs guidance and support in terms of the training of experts, performance assessment and utilisation of financial resources from donor bodies to address some of the challenges. The table below presents the overall number of significant differences identified amongst the respondent groups.

**Table 6.29: Overall number of significant differences recorded between the pairs of groups**

<b>Groups</b>	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>	<b>TOTAL</b>
<b>F1</b>	<b>n/a</b>	9	6	9	9	13	4	25	<b>75</b>
<b>M1</b>	9	<b>n/a</b>	2	7	6	3	3	11	<b>41</b>
<b>M2</b>	6	2	<b>n/a</b>	10	8	12	1	15	<b>46</b>
<b>C1</b>	9	7	10	<b>n/a</b>	15	15	9	21	<b>86</b>
<b>O1</b>	9	6	8	15	<b>n/a</b>	15	3	23	<b>76</b>
<b>A1</b>	13	3	12	15	15	<b>n/a</b>	9	9	<b>56</b>
<b>H1</b>	4	3	1	9	3	9	<b>n/a</b>	8	<b>37</b>
<b>N1</b>	25	11	15	21	23	9	8	<b>n/a</b>	<b>114</b>

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF)

Table 6.29 shows the total number of times a pair of groups significantly differed with other groups. Identifying the significant differences in perception between the pairs of groups may help in determining the dysfunctional features of the relationships between the groups, which may provide the policy makers with an avenue to improve the form and implementation of transfer pricing regulations in Nigeria. Among the groups NEITI significantly differed (114 times) with other groups. This could be attributed to the fact that NEITI is the agency responsible for carrying out audit in the petroleum sector to ensure transparency in the industry while transfer pricing regulations have to do with the audit of transactions to ensure adherence to the arm's length principle. Therefore,

NEITI may have a better understanding of the appropriate regulations for the industry and the challenges that may impede the implementation of the regulations that has to do with audit. Secondly, the main of aim of NEITI is ensuring transparency in the extractive industry; therefore, the respondents in the agency may not compromise in expressing their views on the issues related to the regulation of the industry. Nevertheless, the overall findings of the study indicate that the form of transfer pricing regulations is appropriate and the Nigerian tax administration has the capacity to implement transfer pricing regulations particularly in the petroleum sector. Both legitimacy and resource related concerns were considered the main factors that motivated the adoption of the transfer pricing regulations in Nigeria. Institutional theory suggests that some organizations adopt practices (regulations) to gain legitimacy while others to improve performance and protect resources. The study further highlighted that the lack of comparable information, insufficient transfer experts, lack of a transfer pricing database and lack of transfer pricing experience were among the challenges that may affect the implementation of the regulations in the country. Prior to completion of this analysis Nigeria had adopted the proposed transfer pricing regulations. Therefore, based on this development and findings of the study, further follow-up interviews were conducted to enable a better reflection on the analysis.

## **CHAPTER SEVEN**

### **Analysis of interview findings**

#### **7.1 Introduction**

This chapter presents the findings from the analysis of the interviews conducted with sixteen experts from the stakeholder groups. A series of interviews was held with carefully selected individuals (experts) who should be in a position to comment in a meaningful way on possible explanations for the findings emerging from the analysis of the perception questionnaires. These experts were selected for the interview based on a judgmental approach. This approach considers those that have experience, skills and knowledge of transfer pricing as well as being willing to participate in the interview survey. Subsequently they were interviewed for the purpose of this study. Following this section, section 7.2 presents the main findings from the analysis of the interview and section 7.3 concludes the chapters.

#### **7.2 Analyses of the interview**

The interview inquires about the form of adoption, factors that could motivate the adoption of transfer pricing regulations, tax administration capacity and the barriers that could face the tax administration in implementing transfer pricing regulations in Nigeria, particularly in the petroleum sector.

The interview is divided into the following five categories:

1. Form of adoption of transfer pricing regulations
2. Factors that motivate the adoption of transfer pricing regulations
3. The resource capacity of the Nigerian tax administration
4. Barriers facing the tax authority to implement transfer pricing regulations
5. Need for guidance and support from experienced countries and organisations

In view of the above, the following five main questions (one in each of the section) were presented in the following sections:



### **7.2.1 Form of adoption of transfer pricing regulations**

Eden (1998) outlined that the international transfer pricing regime has its own norm (arm's length standard), principle (international equity and neutrality), rules (variety of methods for determining intra-firm transactions), and procedures (competent authorities, appeal, dispute resolution mechanism and arbitration). Institutions such as the OECD, the United Nations and the United States Treasury are the major players shaping the development of transfer pricing regulations around the world (UN 2010; Borkowski 1997), and their approaches serve as frameworks for many countries (Osie 2010). Literature suggests that the OECD, the United States (US), the United Nations and the European Union (EU) among others consider the arm's length standard as an appropriate benchmark for pricing intra-group transactions (Morse 2013). Although most countries adopt the arm's length principle (mainly guided by the OECD guidelines) but the precise approach to transfer pricing regulations varies among countries (HMRC 2013). It has been alleged that some of these frameworks such as OECD guidelines and US regulations were established based on the interests of the Western world (developed countries), and therefore, may not be suitable for developing countries like Nigeria.

Recently Nigeria adopted transfer pricing regulations based on the OECD guidelines and the UN transfer pricing manual. It is interesting that my questionnaire analysis indicated that most stakeholders believe that Nigerian transfer pricing regulations should be based on the UN transfer pricing manual, though, the participants did not reject the OECD transfer pricing guidelines framework. In other words, they gave more preference to the UN transfer pricing framework closely followed by the OECD transfer pricing guidelines framework. In order to assess the appropriate form of transfer pricing regulations for Nigeria, the following questions were asked: Why do you think stakeholders have said that Nigeria should adopt transfer pricing regulations based in the UN transfer manual? Do you agree with them? Do you have any other comments to make on the form of the adoption of transfer pricing regulations in Nigeria?

The outcome of the interviews shows that the experts have different views on the appropriate form of the transfer pricing regulations for Nigeria. Some respondents agreed with the positions of the questionnaire survey respondents that it should be based on the UN transfer pricing manual while others disagreed with this view. Most

importantly, the respondents shed more light on the issues. The following are the opinions of the interview respondents.

One of the respondents was quoted as saying that *“Stakeholders believe that the UN transfer pricing manual is more broad based and fair, taken into consideration the possible peculiarity of different nations around the globe particularly the developing nations. I therefore agree with the stakeholders view on choosing the UN TP manual”* (IR06).

Concurring with the view, respondent (IR04) also stated that: *“The UN guideline is more comprehensive and relevant for developing countries than the OECD guideline. I strongly agree with the views expressed by your respondents in this regard. I think Nigeria’s drive towards the adoption and implementation of its chosen transfer pricing regulations is appropriate”*

Another respondent added that *“The stakeholders seem to be more informed about the UN model than OECD”* (IR01).

Similarly, respondent IR8 added that: *“Even though OECD is most acceptable over the world, UN TPF will be more appropriate for Nigeria because of its focus on developing economies”*.

However, a few respondents argued that Nigeria’s transfer pricing regulations should be based on the OECD transfer pricing guidelines framework. One of the respondents asserts that *“Nigeria should adopt the OECD framework and adjust it to suit our needs”* (IR09).

In the same vein, this respondent stated that *“OECD TPG should be the starting point; the UN manual when it is in place would be also relevant for developing countries”* (IR07).

On the other hand, respondent (IR11) argued that: *“the transfer pricing policy and framework would differ slightly because of the norms, social and economy differences; we should not copy in verbatim what exist in European countries”*.

Respondent (IR15) added that: *“None of the above is perfect; the country should borrow the best part of each. In any case OECD appears to be the clear leader”*.

Another respondent also said that: *“All the above points are imperative for an efficient TP system. Above all, appropriate local approach to TP must be developed in order to accommodate environmental, economic and political disparities” (IR13)*.

Most respondents acknowledged the significance of both the UN and the OECD transfer pricing frameworks; nevertheless, the participants emphasized the importance of considering the needs and circumstances of the country when adopting transfer pricing regulations. Hence, the following respondents are of the view that combination of the UN transfer pricing manual and the OECD transfer pricing guidelines would be the best approach.

Respondent (IR02) argued that: *“Unless a survey has been conducted, it is difficult to conclude that Stakeholders believe that the Nigerian TP Regulations should have been based exclusively on the UN model. However, stakeholders could think that UN transfer pricing model is more appropriate for Nigeria because Nigeria as a developing Nation is a member of the UN and their model was developed to suit the need of developing Countries. Notwithstanding, I do not agree with the view because Nigeria has attracted lots of investment from the OECD member countries; adopting a TP Regulations that is based solely on the UN model may erode investors’ confidence and jeopardise majority of such investments in Nigeria. The TP regulations adopted by Nigeria borrowed from both the OECD and the UN. This makes the Regulations to be fair and distinctive; and it is tailored to the local environment.*

Another respondent (IR03) from the FIRS stated that: *“I don’t agree with them. If you take a look at the Arm’s Length Principle in Nigerian Transfer Pricing Regulations it is based on the Article 9 of the OECD & UN Model. However, all over the world the OECD guideline is considered as the most reliable documents as far as transfer pricing is concerned and Nigeria being a third world nation cannot act to the contrary”*.

In the same vein, this respondent added that: *“It should be based on the combination of the two OECD and UN. Not conversant with US framework” (R 10)*.

Summary: Some respondents argued that the UN transfer pricing manual is broader than the OECD guidelines. This is not so as the OECD transfer pricing guidelines framework is the most comprehensive set of recommendations on how to apply the arm's length standard as outlined in the Article of the OECD Model (Baistrocchi 2006). However, as the participants said the UN transfer pricing manual is the most relevant to developing countries such as Nigeria, this is justifiable because the development of the UN transfer pricing manual is based on the interests of developing countries. Some of the interview respondents were of the opinion that Nigeria's transfer pricing regulations should be based on the UN transfer pricing manual while very few argued that it should be based on the OECD framework. Nevertheless, the majority of respondents asserted that Nigeria's transfer pricing regulations should be based on a combination of the UN transfer pricing manual and OECD transfer pricing guidelines framework, while, none of the interviewees accepted the US transfer pricing regulatory framework. The respondents further explained that despite the importance of the UN transfer pricing manual for developing countries like Nigeria, some respondents were concerned that going against the globally accepted approach may affect the regulations and the economy at large. The interviewees added that a combination of the two approaches would make the regulations fair and distinctive. This is consistent with the recent adoption of transfer pricing regulations by Nigeria, which is based on both the UN transfer pricing manual and the OECD transfer pricing guidelines framework.

### **7.2.2 Factors that motivate the adoption of transfer pricing regulations in Nigeria**

Many institutional theories consider that local actors (be it individuals, organisations or nations) are affected by institutions established in wider environments. For instance, individuals and organisations are affected by societal institutions, whereas nations are affected by a global community. For example, most countries adopt their regulations based on the OECD transfer pricing guidelines framework which is considered by the global community as the internationally accepted standard. Both the OECD and the countries that adopted the regulations categorically stated that the aim of the regulations is to safeguard national tax base and prevent double taxation. However, in practice, there are various factors that may influence the countries to adopt particular regulations. Moreover, according to institutional theory some actors (nations) adopt regulations in

order to gain legitimacy while others to improve performance and protect resources (Scott 2004; Carpenter and Feroz 2001).

From the questionnaire findings the perceptions of the stakeholders indicate that there are multiple factors (such as the desire to gain legitimacy, to improve performance and concerns about resources) that could influence Nigeria to adopt transfer pricing regulations. Do you share this opinion? If not, what do you think most persuaded Nigeria to adopt transfer pricing regulations?

Most interview respondents believed that there are multiple factors that motivated the adoption of transfer pricing regulations in Nigeria. The result indicated that both the desire to gain legitimacy and the desire to improve performance and protect the country's resources are instrumental in the adoption of transfer pricing regulations. This is consistent with the views of the questionnaire respondents.

In responding to the interview question one of the respondents said that *"Yes, I share the opinion of stakeholders about the multiplicity of factors that would make Nigeria to adopt transfer pricing regulations"* (IR06).

This respondent stated: *"I share in this opinion. However, the need to protect the Nigerian tax base and ensure that Nigeria collects her fair share of taxes from multinational enterprises informed the adoption of a transfer pricing regime"* (IR02).

Similarly, respondents (IR03) said: *"I share this opinion partially. But to my understanding, the ultimate motive for the adoption of transfer pricing regulation in Nigeria is to enable Nigeria to tax the activities of all multinational companies doing businesses in Nigeria directly or indirectly. It is a known fact that over the years a lot of intercompany transactions between the Multinational Companies and their subsidiaries were conducted free of tax because of lack of transfer pricing regulations"*.

Another respondent was quoted as saying: *"I strongly share the view that factors such as the ones you have mentioned have significant influence on Nigeria's choice of adopting."*

Summary: Although, some respondents categorically highlighted the protection of the country's tax base (resources concern) as the ultimate motive for the adoption of

transfer pricing regulations in Nigeria, generally, almost all the interviewees believed that there are multiple influential factors that motivate the adoption. One of the participants mentioned that lack of specific transfer pricing regulations which gave the MNCs opportunity to avoid tax was one of the influential factors. Furthermore, the respondents unanimously believed that both the need to protect resources of the country and the desire to gain legitimacy are the most influential factors that motivated Nigeria to adopt transfer pricing regulations. The literature suggests that successful adoption/implementation of transfer pricing regulations is intertwined with the administrative capacity of the country.

### **7.2.3 The resource capacity of Nigerian tax administration**

Transfer pricing manipulation adversely affects both developed and developing countries, nevertheless, under the present arms-length standard; MNCs tend to take advantage of developing countries because of their less sophisticated tax administrations (UN 2012 and Borkowski 1997). Furthermore, “Different tax administrations require different types of administrative arrangements when it comes to implementing their government’s transfer pricing policies. The level of development/capability in the tax administration should be a key factor to consider when formulating policies, which is not always the case” (UN 2013, p. 2 – 3)

Given the findings of the questionnaire analysis, the stakeholders are of the view that the Nigerian tax administration has the capacity to employ, train, improve the welfare of staff (transfer pricing experts) and successfully coordinate the transfer pricing team to implement transfer pricing regulations in the country. Is the Nigerian Tax Administration really equipped to successfully implement a transfer pricing system in Nigeria? What are the problems with respect to the challenge that it faces?

The interview respondent (IR01) asserted that: *“With the resources available to the Tax Administration they are equipped. The problem with the capacity is just needs training and retraining of their staff”*.

*“There is still a knowledge gap in the aspect of transfer pricing”* (IR12)

Another respondent also added that: *“To my knowledge the Nigerian tax administration has the capacity to implement the transfer pricing regulations to the later. However,*

*transfer pricing is a recent development in Nigeria and Africa in general, there is the challenge of transfer pricing experts within the service even though a number of staff had attended different trainings on transfer pricing and there is need for training and retraining of FIRS staff so as to compete favourably with the outside world” (IR03).*

Similarly, respondent (IR06) said that: *“In my view, the Nigerian Tax Administration has the potentiality of implementing an effective transfer pricing regulations. However, more has to be done in the area of capacity building and regulatory requirements i.e. engaging more tax professionals and overhauling relevant transfer pricing laws in line with global best practice”.*

*“Nigeria has all it takes to successfully implement the transfers pricing regulations it has adopted. However, there is the need to have on board a committed team who have the country at heart for the implementation to be successful” (IR04).*

Most responses of the interviewees indicated that the Nigerian tax administration (FIRS) has the capacity to successfully develop and implement transfer pricing regulations. However, most respondents further explained that in order to achieve successful implementation, training and re-training of staff should be a high priority. One the participants mentioned that relevant laws should be continuously amended to conform to global best practice. The development and effective implementation of transfer pricing regulations is a gradual process.

In line with the above, respondent (IR02) stated that: *“Nigeria Transfer Pricing Regulations came into being on 2<sup>nd</sup> August 2012 and based on the provisions of the extant laws, taxpayers are expected to commence the filing of TP tax returns from February 2014. The Nigerian tax administration has been building capacity to enable her implement the Regulations efficiently. As we speak talks are on-going to secure technical assistance from development partners and other tax administration that have gone far in the implementation of their TP regime” (IR02).*

*“Although, there exists strong tax administrative reforms in Nigeria, there is a need for deeping the efforts made so far. Besides the FIRS is dedicated to building capacity ahead of its implementation of TPR. This is being done with ATAF and other bodies” (R13).*

*“Nigeria needs to move in tandem with international practice & provide clarity in policy and implementation” (IR09).*

Summary: It is clear that almost all the respondents were of the opinion that the Nigerian tax administration has the capacity to develop and implement the newly adopted transfer pricing regulations. The positions of the respondents are justifiable as the Nigerian tax administration (FIRS) has been undergoing a series of reforms for a decade and has significantly improved in terms of employment, motivation and information technology among others. For instance, over the past few years the Nigerian tax authority, FIRS has employed more than 5000 new people and substantially increased staff salaries as well as providing more incentive to motivate its staff. Nevertheless, since the transfer pricing regulations are new to the system and need specialists to implement them, the interviewees expressed that insufficient transfer pricing experts would be a major challenge. Therefore, the participants suggest that more needs to be done in the area of capacity building (concerning transfer pricing) by training and re-training staff. In addition, there is a need to constitute a committed transfer pricing team to ensure successful implementation of the transfer pricing regulations. The respondents also revealed that the tax administration is receiving assistance from ATAF and other experienced tax administrations to improve its capacity. Although, currently the tax administration is determined to build capacity in the area of transfer pricing to ensure effective implementation of transfer pricing regulations, it faces some barriers that need to be overcome to achieve this objective.

#### **7.2.4 Barriers facing the tax authority to implement transfer pricing regulations in Nigeria**

*“Transfer pricing resources are expensive and scarce for tax administrations in developing and developed countries but this may be a more significant issue in developing countries” (OECD 2012 p. 69).* The African Tax Administration Forum (ATAF) noted that many of its member countries lack transfer pricing skills and experience and considers it necessary to build those skills as soon as possible (OECD 2012).

From the analysis of the responses obtained from the questionnaires it appears that stakeholders believe that there are various challenges (such as lack of sufficient transfer



pricing experts, database, effective judicial system and comprehensive network treaty) that could affect the implementation of transfer pricing regulations in Nigeria. What are the barriers that must be overcome to ensure successful implementation and how can they be overcome?

In answering the above questions, the interviewees provided meaningful and important responses in detail. One of the respondents believed that many barriers exist but highlighted the major ones as insufficient transfer pricing experts and lack of a database. In addition, the respondent suggests that: *“They can overcome by training and re-training of staff, as well as deployment of a database”* (IR01).

Another respondent also said that: *“insufficient transfer pricing specialists is a barrier that must be trounced. Stakeholders buy-in and cooperation are also very desirable; cooperation of taxpayers must be sought and obtained in order to make a success of the TP regime in Nigeria. It is also important that the Judiciary is carried along to facilitate an understanding of the issues and to facilitate a quick resolution of conflicts whenever they arise on TP matters”* (IR02).

This respondent added that: *“Lack of technical expertise – it is expected that the use of assistance from OECD using tax inspectors across borders will mitigate against this”* (IR07)

*“Training and re training of tax personnel would go a long way to mitigate most of these barriers”* (IR10).

As earlier mentioned, in the previous section these respondents were also of the opinion that insufficient transfer pricing specialists and lack of a transfer pricing database are barriers that must be overcome to ensure successful implementation of transfer pricing regulations. One of the participants mentioned that seeking the co-operation of taxpayers and the training of judges in the field of transfer pricing will also help. The interviewees suggest that continuous training of personnel and subscription to a database would go a long way to overcome the barriers. On the other hand, some respondents emphasized that the lack of a political will would be a major barrier to the development and implementation of transfer pricing regulations particularly in the Nigerian petroleum sector.

*Respondent (IR09) stated that “Political will and capacity building should be the watchword”*

*Another respondent added that: “There should be improvement in the basic infrastructures looking at the fact that transfer pricing would require a lot of documentation. Government on its own part should have the political will power to fast track issues relating to tax at all times and there should be tax experts in the judicial system as most of the tax cases lost in the courts of law can be attributed to lack of tax knowledge by the judges” (IR03).*

*This respondent is of the view that: “Tax revenue is not considered or given the appropriate attention. The sole reliance on oil revenue & lack of political foresight are the barriers of the tax system generally” (IR09).*

*Administrative capacity to narrow the knowledge gap existing currently as well as political will that could lead to a reduced government influence towards achieving reforms in the country (IR12).*

*Similarly, respondent (IR06) expressed: “As a democratic Nation, the greatest barrier to the successful implementation of Transfer Pricing Regulations in Nigeria is the lack of political will from the Nations politicians. Once, the Nigerian government is fully convinced of the benefits of effective transfer pricing regulations and provides the political will to peruse it vigorously, other impediments can be successfully taken care of” (IR06).*

The interviewees suggest that government should have the political will and pay more attention to issues related to tax revenue while the tax administration should embark on transfer pricing awareness and improve the basic infrastructures to achieve successful implementation of the regulations.

Furthermore, respondent (IR10) outlined that there should be *“Continuous training and capacity building:*

- Investment in ICT*
- Development of database*
- Taxpayer education”.*

*“Appropriate education and information dissemination network to create an adequate awareness of the above principle within the Nigerian financial operating/public system, thereby, pushing an appropriate understanding to support and enhance the process acceptance and growth” (IR15)*

*“First, the tax laws in Nigeria especially the (CITA) company income tax Act, and the value added tax Act which are connected because of multinational companies and the transfer of international services need to be upgraded to meet modern needs, the archaism in the laws will not meet with the modern yearning, more so the international” (IR11)*

*“Nigeria as a tax country would ensure stronger taxing compliance of the taxable companies multinational and national” (IR11).*

*“There should be specialised court for tax issue to deal with double taxation and tax evasion” (R13).*

*“Governance requires collective efforts which is lacking in the current system being operated in Nigeria” (IR16). Respondent (IR08) added that “Lack of accountability and honesty amongst tax officials” also hinders the development and implementation of the transfer pricing regulations.*

*Having “a special unit at the Nigeria’s Federal Inland Revenue Services (FIRS) that will be responsible for all transfer pricing issues may help in overcoming the challenges” (IR04).*

Summary: Commonly, almost all the interviewees believed that there are various challenges such as the insufficient transfer pricing experts, lack of a database, political will and transfer pricing knowledge. Some interviewees mentioned that lack of honesty and accountability, lack of co-operation and technical expertise are some of the barriers. Furthermore, the interview respondents provided possible ways to overcome the barriers. In order to tackle these challenges the respondents suggest that training and re-training of staff, subscription to a database, awareness campaign, training of judges and independent assessment of transfer pricing development and implementation process. In addition, Nigerian tax authority, FIRS should influence the government to have the political will to pay more attention to the development and implementation of transfer

pricing regulations. Generally, most of the interview respondents shared similar views with the questionnaire respondents, with more clarification and interpretation. In order to overcome these challenges, the tax administration may need some guidance and support from other experienced nations and relevant organisations such as the UN, ATAF, and OECD. It is important to note that each country's need vary depending on the circumstances and priorities of the (tax administration) country.

### **7.2.5 Need to seek support and guidance from experienced countries and organisations**

Recently, G20 leaders were quoted as having said: “We strongly support developing countries mobilisation of domestic resources and their effective management as the main driver for development. This includes technical assistance and capacity building for designing and efficient managing of tax administrations and revenue systems and greater transparency, particularly in mineral and natural resource investment... We welcome initiatives to assist developing countries, on a demand led basis, in the drafting and implementation of their transfer pricing legislation” (OECD 2012, p.68)

Respondents generally seem to believe that the Nigerian tax administration has the capacity to employ, train, improve staff welfare and successfully coordinate a transfer pricing team to implement transfer pricing regulations in Nigeria. Nevertheless, the same stakeholders believe that the Nigerian tax administration needs guidance and support (in terms of finance, technical, performance assessment and training of transfer pricing experts) from donor bodies (organisations and countries) to improve its capacity. Why do they need this guidance and from whom should they get it?

One of the respondents asserts: “*The guidance is necessary because TP is a new terrain in the administration of taxation in Nigeria. Furthermore Nigeria needs to have TP specialists through training and re-training of their employees and this can only be achieved through guidance*” (IR02).

This respondent added that: “*Organisations like the OECD, the UN, ATAF, the World Bank and IMF could be of great assistance to Nigeria by providing technical and financial assistance to aid the country in the implementation of TP regime. Revenue administrations that have advanced in the implementation of TP (such as Kenya, South*

*Africa, Norway, UK, and etc) could also provide assistance to Nigeria in this regards” (IR02).*

Another respondent stated: *“It is a known fact that even the developed nations works in partnership with transfer pricing experts from the OECD and Nigeria which is just coming on board cannot function effectively and efficiently without the support of the OECD transfer pricing experts and Nations that have implemented their transfer pricing regulations long ago” (IR03)..*

*Respondent (IR04) said: “Nigeria is adopting and not formulating its own transfer pricing regulations. Therefore, there is the need to seek for guidance from international bodies including the UN and OECD for smooth implementation of the transfer pricing system adopted” (IR04).*

In the same vein this respondent believes: *“Nigerian Tax administration will need some guidance on Transfer Pricing (T.P) because there are Countries and regional groupings that have effective TP regulations for years and therefore have practical experience in T.P. Likewise, some international agencies and organisations have the technical knowledge of the detailed workings of T.P” (IR06).*

It appears that some respondents believed that support should not be financial but rather human capacity development, technical and performance assessment support. Respondent (IR13) stated: *“The orientation of Nigerians should move towards capacity development and TAS not financial support, because so far, financial supports only create dependence”.*

*“Nigeria Tax Administration does not require any donor assistance to finance the implementation of transfer pricing or any other reforms they intend to” (IR01).*

*“After the technical support the assessment should be done by another body to give unbiased report” (IR11)*

Summary: The comments of the respondents show that most of the interviewees are of the opinion that Nigeria needs guidance and support from institutions such the OECD, UN, IMF, EU, ATAF and World Bank as well as from experienced countries. The respondents further explained that Nigeria adopted transfer pricing regulations recently

and therefore, needs assistance, since there are many nations and institutions that have experience and knowledge of transfer pricing regulations and how they work.

#### **7.4 Conclusion**

This chapter presented and analyzed the findings of the interviews conducted with the relevant stakeholders. The respondents were asked five main questions based on the findings of the questionnaires and the transfer pricing regulations adopted in Nigeria. These questions required further clarification because the proposed transfer pricing regulations were adopted in Nigeria prior to the completion of the questionnaires survey analysis coupled with some of the survey outcomes which also needed more in-depth information to enhance the findings. Although there was disagreement amongst the interviewees regarding the appropriateness of a transfer pricing framework for Nigeria, the outcome of the interviews revealed that a majority of respondents were of the view that a combination of the UN and OECD transfer pricing frameworks is the most appropriate approach for Nigeria.

However, the findings from the questionnaire in the previous chapter indicated that the most respondents believed that UN transfer pricing manual was the most appropriate closely followed by the OECD transfer pricing framework while the US transfer pricing regulatory framework was considered the least appropriate for Nigeria. The findings of the interview in some way reaffirmed and interpreted the position of the questionnaire results, where the questionnaire participants suggested that the Nigerian transfer pricing regulations should be based on the UN transfer pricing manual but did not reject the OECD transfer regulatory framework, meaning not exclusively based on the UN model. This position was reaffirmed and clarified by the interview results that the transfer pricing regulations should be based on a combination of the two frameworks. Therefore, the outcomes of the interview and the questionnaire were not contradictory but rather complementary.

Nevertheless, few participants believed that there is no need to combine two frameworks; rather the regulation should be based on the OECD framework in line with the global trend. The interviewees further explained that using the UN and OECD transfer pricing frameworks may lead to conflict, where an issue is interpreted in a different way by the two frameworks. Similarly literature suggests that: *“In addition to*

*references to the OECD Guidelines, the regulations also suggest that the United Nation Practical Manual on Transfer Pricing for Developing Countries will be used as a guide. This has the potential of creating issues in the event of a conflict between interpretations contained in the UN manual and the OECD Guidelines” (PwC 2013, P. 1919).*

With respect to the factors that could influence the adoption of transfer pricing regulations in Nigeria, the interview respondents unanimously believed that there are various factors which might have motivated Nigeria to adopt transfer pricing regulations. These factors include a desire to gain legitimacy, a need to protect tax revenue leakages, a desire to increase performance, reaction to the global trend, the level of cross-border transactions, lack of existing specific transfer pricing regulations and a need to avoid double taxation. Reassuringly these factors are consistent with the views expressed by the respondents to the questionnaire. However, the interviewees emphasised that the need to protect the tax base of the country is the major factor that influenced the adoption of transfer pricing regulations. Indeed, the regulations categorically stated that their purpose is to safeguard the tax base of the country and prevent double taxation. Institutional theorists suggest that some organisations adopt structures (regulations) to gain legitimacy while others to improve performance and protect resource (Scott 2014; Carpenter and Feroz 2001). However, in this study the outcomes of the questionnaire and the interview argued that both the resources related concern and the desire to gain legitimacy were key influential factors that motivated the adoption of transfer pricing regulations in Nigeria. Institutional theory further states that some organisations adopt structures (regulations) to gain legitimacy even if they lack the capacity maintain them (Meyer 2008).

Therefore, the study further assessed the capacity of the Nigerian tax administration. In response to the capacity of the tax administration, most interviewees were of the view that the Nigerian tax administration has the capacity to effectively adopt and implement the transfer pricing regulations. This finding was consistent with the responses to the questionnaire where a majority of respondents held a similar view. However, the interview participants further elucidated that lack of sufficient transfer pricing experts in the Nigerian tax administration could be a challenge, therefore, training and retraining

of staff is required to achieve the successful implementation of the transfer pricing regulations in the petroleum sector and the country at large.

In my view retaining the capacity of the tax authority to effectively oversee the transfer pricing system is the major barrier that has to be overcome. As stated above the theory suggests that initially demonstrating capacity and retaining/enhancing it are different issues. Achieving the first does not ensure success with the second. This point has been emphasised in the interviews and is a major finding of the study. Finding ways to overcome this barrier will be a feature of my future research.

With respect to the barriers that may face the tax administration in implementing transfer pricing regulations, the interview respondents were of the opinion that there are number of barriers that could affect their development and implementation. This result strengthens the position of the questionnaire respondents in the previous chapter. However, the interviewees stressed that lack of political will, insufficient experts, lack of database and lack of knowledge of transfer pricing are the major challenges. Nevertheless, the respondents were optimistic that these challenges can be overcome and they suggest that the Nigerian tax authority should vigorously engage in a transfer pricing campaign, training and retraining of staff, subscribing to database and draw the attention of the government to the importance of the regulations.

In summary, the strongly held perception among the stakeholders is that Nigerian tax administration has the capacity to employ, train and improve staff welfare and successfully coordinate a transfer pricing team to implement transfer pricing regulations in Nigeria. However, the same stakeholders also believe that the Nigerian tax administration needs guidance and support (in terms of technical, performance assessment and training of transfer pricing experts) from donor bodies (organisations and experienced countries) to improve its capacity, hence achieving the successful adoption and implementation of transfer pricing regulations particularly in the petroleum sector.



## **CHAPTER EIGHT**

### **Discussion of findings**

#### **8.1 Introduction**

This chapter discusses the combined results of the two research methods (questionnaire and interview) which were used to investigate the adoption and implementation of transfer pricing regulations in Nigeria with particular emphasis on the petroleum sector. The results from the questionnaire and interview methods were presented in chapter 6 and 7 respectively. The chapter presents the summary of the major findings of this study and categorised them into five sections: the first section examines the form of transfer pricing regulations to be adopted in Nigeria, the second assesses the motive for adoption of transfer pricing regulations in Nigeria, the third assesses the tax administration's resource capacity to implement transfer pricing regulations in Nigeria particularly in the petroleum sector, the fourth identifies the barriers that may hinder the implementation of transfer pricing regulations in Nigeria and the fifth assesses the need for seeking guidance and support from experienced countries and relevant organisations.

#### **8.2 Discussion of the major findings**

The study had the aim of examining the adoption and implementation of transfer pricing regulations in Nigeria with a particular emphasis on the petroleum sector; that is identifying whether Nigeria has the informed resource pool to ensure that transfer pricing abuse in the petroleum sector is minimized. In order to achieve the aim five objectives were set out as presented in section 1.2. The aim and objectives of this study have been achieved by addressing the relevant research questions of the study.

What are the factors that enable successful adoption and implementation of transfer pricing regulations in Nigeria, particularly in the petroleum sector?

This main research question has five parts as follows:

- What of form of transfer pricing regulations should Nigeria adopt?
- What motivates the adoption of transfer pricing regulations in Nigeria particularly in the petroleum sector?
- Does Nigeria's tax administration have the capacity to develop and implement transfer pricing regulations in the country especially in the petroleum sector?

- What are the potential barriers that might hinder the implementation of transfer pricing regulations in Nigeria, particularly in the petroleum sector?
- Does Nigeria's tax administration need guidance and support in its adoption and implementation of transfer pricing regulations in the country?

### **8.2.1 Summary of answer to the first part of the research questions regarding the form of adoption of transfer pricing regulations**

The literature review reveals that different countries adopt different forms of transfer pricing regulations. Some countries have adopted the OECD transfer pricing (regime) regulations guidelines wholly while others partially modified the guidelines to suit their country's circumstances and priorities (Alecú 2010; Pleron and Tanman 2009).

DiMaggio and Powell (1991) suggest that institutional frameworks are not expected to be adopted wholly into a system that is substantially different from the one in which it originated. However, modern organisations and nation-states seem to be eager to make themselves actors, thus adopting often wholesale, international standards (Meyer 2008). Nation states endorse global norms which they lack the capacity to conform to locally. Institutional theorists suggest that nation forms, structures, policies, emulate institutional prescriptions and models in the wider environment (Meyer 2008).

Eden (1998) suggests that the (international) transfer pricing regime has its own norm (arm's length standard), principle (international equity and neutrality), rules (variety of methods for determining intra-firm transactions), and procedures (competent authorities, appeal, documentation requirement, dispute resolution mechanism such as APA and arbitration). Some countries have adopted the regulations but did not adopt certain feature such as APA, documentation requirement and penalty. Rahman, et al. (2011) state that adoption of transfer pricing regulations involves two major functions. First, the formulation of transfer pricing regulations and second, the administration of the transfer pricing regulations. The appropriate form of regulations for Nigeria depends on country's (Nigeria's) circumstances, priority and the capacity. OECD (2011) states that tax authorities should note that even the developed countries have built their transfer pricing regimes over time.

The main findings of the study indicates that the Nigerian tax administration should consider all the five methods of transfer pricing regulations outlined by the OECD guideline and the UN manual, documentation requirement, advance pricing agreement,

penalty, subscription to databases, exchange of information with other countries among others. A majority of the respondents were of view that the transfer pricing regulations for Nigeria should be based on both UN transfer pricing and OECD guidelines. Questionnaire results indicate that UN transfer pricing manual slightly more favoured by the respondents than the OECD guidelines. Similarly, the interview results indicate that some of the interviewees were of the opinion that the transfer pricing regulations should be based on both UN and OECD framework, however, emphasise the appropriateness of the UN transfer pricing manual to developing countries like Nigeria. Respondent IR8 stated that:

*“Even though OECD is most acceptable over the world, UN TPF will be more appropriate for Nigeria because of its focus on developing economies”.*

While some of the interviewees were of the opinion that Nigeria should not deviate from the global norm, where most of the transfer pricing around the world were based the OECD transfer pricing guidelines. Interviewee (IR03) from the FIRS stated that: *If you take a look at the Arm’s Length Principle in Nigerian Transfer Pricing Regulations it is based on the Article 9 of the OECD & UN Model. However, all over the world the OECD guideline is considered as the most reliable documents as far as transfer pricing is concerned and Nigeria being a third world nation cannot act to the contrary”.*

Coincidentally, the transfer pricing regulations introduced by Nigeria after the questionnaire survey was based on both UN and OECD transfer pricing frameworks as well as considered almost all the features suggested by the stakeholders as presented in the previous chapters. However, some scholar argued that this may lead to conflicts where there is a difference between the UN and OECD approaches on a particular issue.

### **8.2.2 Motive for adoption of transfer pricing regulations in Nigeria**

According to literature there are various motives that influence an organisation or country to adopt (structures) regulations (see Chapter 3 and 5 for more details). Some of these include: lack of existing regulations, need to safeguard the resources of country, need to gain legitimacy, need to improve performance and reaction to global environment. Most importantly, institutional theorists assert that some nation states adopt regulations to gain legitimacy whilst others do so to improve performance and

protect resources; moreover, some countries adopt regulations to gain legitimacy even if they lack the capacity to maintain it (Scot 2004, DiMaggio and Powell 1983). They further argued that early adopters tend to adopt regulations to improve performance and protect resources while late adopters tend to adopt regulations to gain legitimacy (Scott 2004; Carpenter and Feroz 2001). Considering the fact that Nigeria was lately adopting the transfer pricing regulations, the stakeholders' opinions were sought on factors that might motivate the adoption of transfer pricing regulations in Nigeria. The respondents were asked what they think most persuaded Nigeria to adopt transfer pricing regulations.

The findings of the questionnaire survey revealed that there are various factors that motivate the adoption of transfer pricing regulations in Nigeria. However, generally both needs to gain legitimacy and improve performance & protect resources are the main motives for adoption of transfer pricing regulations in Nigeria. The results of the interview were also in support of this position; however, some of the interviewees gave more emphasis to the need to protect resources. For instance interviewee IR03 said:

*“I share this opinion partially. But to my understanding, the ultimate motive for the adoption of transfer pricing regulation in Nigeria is to enable Nigeria to tax the activities of all multinational companies doing businesses in Nigeria directly or indirectly. It is a known fact that over the years a lot of intercompany transactions between the Multinational Companies and their subsidiaries were conducted free of tax because of lack of transfer pricing regulations”.*

Generally, most respondents were of the opinion that there are various factors that might motivate the adoption of the regulations in the country. However, some interviewees were of the view that the need to improve performance and protect resource is the main motive, which is not consistent with the assertion by institutional theorists that late adopters tend to adopt to gain legitimacy (Carpenter and Feroz 2001). This contradiction is not surprising because literature suggests that Nigeria is the highest loser among the top 10 countries with lost tax revenue due to transfer mispricing in trade with EU and US between 2005 to 2007 (see section 3.6 for more details). Therefore, need to protect resource might be a major factor that influenced the adoption of transfer pricing regulations in Nigeria.

### **8.2.3 Tax administration's resources capacity to implement transfer pricing regulations in Nigeria particularly in the petroleum sector**

“Different tax administrations require different types of administrative arrangements when it comes to implementing their government's transfer pricing policies. The level of development/capability in the tax administration should be a key factor to consider when formulating policies, which is not always the case” (UN 2013, p.2 – 3). Literature shows that the MNCs have adequate resources and technology to carry out complex procedures at the global level. While on the other hand, the tax authorities in Africa are technically ill-equipped or lack the capacity to gather and evaluate information to identify manipulations (McNair et al. 2008).

According resource-based view resources comprises of resource and capability (Barney 2011). The resource-based view proposes that the resources owned by firm are the major determinants of its performance, and these may help in sustaining competitive advantage (Tokuda 2005; Wernerfelt 1984). Barney (1991) stated that the concept of resources include all assets, capabilities, organisational processes, firm attributes, information, knowledge etc. controlled by a firm that enable the firm to conceive of and implement strategies that improve its efficiency and effectiveness (Tokuda 2005, p.129; Barney 1991, p. 101; Daft 1983). Capability refers to ability of a firm to perform some activity or task, resulting from coordinated utilisation of its resources (Tokuda 2005, Grant 1991; Sauerhoff 2014). Resources are valuable when they enable firm to enhance its efficiency and effectiveness. The circumstance under which resources are valuable depends on the context. The value of some resources depends on certain circumstances such as strategy and external environment (Armstrong and Shimizu 2007; Priem and Butler 2001).

The findings of the questionnaire survey revealed that the Nigerian tax administration has the capacity to independently make and implement decisions, adapt to change, maintain coherence and coordinate the transfer pricing activities. In addition, the respondents have the view that the tax administration has the capacity to take measures such as: to train sufficient number of staff; employ transfer pricing experts and improve their welfare to ensure success of transfer pricing regulations in the country. The findings of the interview also supported views expressed by the questionnaire respondents. The interview respondent (IR01) stated that:

*“With the resources available to the Tax Administration they are equipped. The problem with the capacity is just needs training and retraining of their staff”.*

Another interviewee (IR03) also stated that

*“To my knowledge the Nigerian tax administration has the capacity to implement the transfer pricing regulations to the later. However, transfer pricing is a recent development in Nigeria and Africa in general, there is the challenge of transfer pricing experts within the service even though a number of staff had attended different trainings on transfer pricing and there is need for training and retraining of FIRS staff so as to compete favourably with the outside world”*

This is very important because resource-based view asserts that resources are valuable when they enable firm to enhance its efficiency and effectiveness (Barney 1991). Generally, the findings reveal that the Nigerian tax administration has the resources and capacity to develop a transfer pricing team and the necessary measures to adopt and implement transfer pricing regulations in Nigeria, particularly in petroleum sector (see details in chapter 6 and 7). However, some of the interviewees raised some concern about certain challenges that might face the success of the implementing transfer pricing regulations in the country.

#### **8.2.4 Barriers that might hinder the implementation of transfer pricing regulations in Nigeria**

The adoption of transfer pricing regulations is a very important step forward for the country especially for the tax authority (FIRS), however, the lack of administrative capacity relating to gaps in training, skills and infrastructure coupled with the sophistication of the corporate tax functions of MNCs ahead of the Nigerian tax authority (FIRS) is likely to be a barrier for some time (Oyedele et al. 2013). Literature suggests that the hiring of experts, training of staff in such specialised areas and retaining them in an administration seems to be a great challenge for all countries particularly for developing countries (Borkowski 1996; UN 2010; Ernst and Young 201).

The findings of the questionnaire reveal that there are various major challenges that may face the tax administration in implementing the transfer pricing regulations and some of these main barriers include inadequate information, lack of transfer pricing experts, databases and political will. The follow-up interviews conducted also substantiated these claims. One of the interviewees stated that:

*“Insufficient transfer pricing specialists is a barrier that must be trounced”*

Another respondent also stated that *“Political will and capacity building should be the watchword”*

Most of the interviewees emphasised the lack of political will and transfer pricing experts as major barriers of implementing transfer pricing in Nigeria. Generally, these findings are consistent with literature and the most important aspect is that this study assessed the extent of the challenges and identified the major (barriers) areas of concern. The most significant barriers include: lack political will, insufficient transfer pricing experts and comparable information as presented in previous chapters (see Chapter 6 and 7 for more details). Identification of these areas enables the tax administration (FIRS) to focus on how to overcome them to ensure successful implementation of transfer pricing regulations in Nigeria, particularly, in the petroleum sector. For instance, lack of experts can be overcome by employing transfer pricing specialists and at the same time sending some of their existing staff to experienced countries like the United Kingdom on secondment to train them on transfer pricing.

#### **8.2.5 Need for seeking guidance and support from experienced countries and organisations.**

Administrative capacity (human resources and institutional) is necessary to make progress in implementing transfer pricing regulations. Generally, literature suggests that developing countries like Nigeria lack these resources (both human and material). However, there are various organisations and experienced (developed) countries known as donor bodies that provide some guidance and support to developing countries to adopt and implement transfer pricing regulations in their jurisdictions. OECD (2011) emphasises that the international organisations and donors should continue to support developing countries to improve their tax administrative capacity by providing the

necessary capacity building efforts. PwC (2011a) stresses that the extent of guidance and support needed by each country varies depending on the circumstances and priority of the country. Some countries' priority may be guidance on how best to channel the existing resources to appropriate directions (area of priority) and training of experts (McNair 2010; OECD 2011).

The combined integrated findings of the questionnaire survey and the interviews reveal that the Nigerian tax administration needs guidance and support from the relevant institutions and experienced nations in terms of finance, technical, performance assessment and training of transfer pricing experts to ensure successful implementation of transfer pricing regulations in Nigeria. One of the interviewees (IR02) stated that:

*“The guidance is necessary because TP is a new terrain in the administration of taxation in Nigeria. Furthermore Nigeria needs to have TP specialists through training and re-training of their employees and this can only be achieved through guidance”*

Interviewee (IR13) also stated: *“The orientation of Nigerians should move towards capacity development and TAS not financial support, because so far, financial supports only create dependence”*. Similarly, Interviewee (IR01) added that *“Nigeria Tax Administration does not require any donor assistance to finance the implementation of transfer pricing or any other reforms they intend to”*.

This study discovered that financial support is not a major priority in the Nigerian context whereas training of employees on transfer pricing, technical and performance assessment are the most important areas of priority that Nigeria should seek for guidance and support from the relevant donor bodies such the UN, OECD, ATAF and EU as well as experienced countries like the United Kingdom.

### **8.3 Conclusion**

This chapter discusses the combined results of the questionnaire and the interviews presented in chapter 6 and 7. It explores the adoption and implementation of transfer pricing regulations in Nigeria and the perceptions of the stakeholders regarding the factors that could contribute to the successful implementation of the regulations in Nigeria. The chapter also discussed the factors that may act as barriers to the implementation of transfer pricing regulations in Nigeria.



The results of this study indicate that the needs to gain legitimacy and to improve performance and protect resource are the main motive for adoption of transfer pricing regulations in Nigeria. The findings of the study support the adoption of transfer pricing regulations based on the UN transfer pricing manual and OECD transfer pricing guidelines.

The findings of the study indicate that the Nigerian tax administration has the capacity to develop and implement transfer pricing regulations in the country; however, the stakeholders were of the opinion that there are some barriers that might hinder the implementation of the regulations in Nigeria. The major barriers include inadequate information, lack of transfer pricing experts, databases and political will. A majority of the interviewees emphasised the lack of political will and insufficient transfer pricing experts as the major challenges. The findings of the study suggest that training and retraining of staff, hiring transfer pricing experts and seeking cooperation from the government may overcome these challenges. Moreover, the stakeholders were of the opinion that Nigeria should seek guidance and support from donor bodies such as OECD, UN, EU and ATAF and experienced countries like the United Kingdom. Generally, the results of the questionnaire and the interviews were consistent and addressed the research questions to achieve the aim and objectives of the study.

## **CHAPTER NINE**

### **Summary conclusion and recommendations**

#### **9.1 Summary**

This chapter reflects on the analysis and the findings presented above. In doing so, it also reflects on the appropriateness of the research methodology and methods used in the research. Further, it suggests action that should be taken by the Nigerian authorities in light of the findings. Finally, it suggests further research that is required to be undertaken. The dissertation sought the views of respondents on the issues relating to the adoption and implementation of transfer pricing regulations in Nigeria with a particular focus on the petroleum sector. The thesis used institutional theory as a theoretical lens through which to guide the study and to provide a platform against which to analyse the responses to the questionnaire and interview. The research was timely as it coincided with the time when Nigeria was in the process of adopting its transfer pricing regulations.

Methodologically, this study first commenced with a critical review of literature and other relevant documents on the transfer pricing issues. Including review of transfer regulations around the world and that of Nigeria (see Chapter 2 and 3). Second, a questionnaire was designed and subsequently administered to the relevant stakeholders (see Chapter 6 and 7). Third, the study also conducted follow-up interviews with the key stakeholders (see Chapter 6 and 8). Subsequently, critical analysis was carried out based on the data collected. The findings of the analysis help provide some recommendations that may be beneficial for the Nigerian tax authority and other stakeholders in Nigeria.

#### **9.2 Contribution of the study**

This study has contributed to knowledge in various aspects. First, this study is the first to empirically investigate the adoption and implementation of transfer pricing regulations in Nigeria with a particular emphasis on the petroleum sector. None of these aspects has been empirically explored in this context prior to this study and they are very important due to their potential for enhancing adoption and implementation of transfer pricing regulations in other countries with similar characteristics in Nigeria.

Indeed this research can be extended by conducting similar empirical research in other countries which are envisaging adopting a transfer pricing regime. In addition, they may also help researchers and other stakeholders who might be interested in this kind of research.

The study has contributed to knowledge by identifying and documenting the factors that contribute to the success of adoption and implementation of transfer pricing regulations in Nigeria. Literature revealed that what currently exist are mere discussions on transfer pricing regulations based on secondary data. This study has investigated and documented various factors that contribute to success of adoption and implementation of transfer pricing regulations in Nigeria. It also serves as reference material for future researchers.

In the course of the study, key stakeholders were identified and their views were sought regarding these important factors such as the form of transfer pricing regulations, motive behind the adoption, resource capacity of the Nigerian tax administration, and barriers that might hinder the implementation of the transfer pricing regulations. Both questionnaire survey and interview were used to obtain and document first-hand information regarding the factors from various stakeholders. This study is in a position to authoritatively comment on the concerns raised in the previous reports and studies conducted (UN 2010; PwC 2011; Onyeukwu 2007).

### **9.2.1 Identification of major barriers**

This study has contributed to knowledge by identifying the major barriers that might hinder the implementation of transfer pricing regulations in Nigeria. Prior to this study, no empirical evidence existed regarding these barriers that might hinder the implementation of transfer pricing regulations in Nigeria. However, there are other empirical studies in some developing countries but in the Nigerian context this is the pioneer empirical study. The major barriers identified in the study include: Lack of transfer pricing experts, comparable information and political will among others. Nevertheless, the interviewees provided some suggestions such as training and retraining of staff, employment of experts and subscription international databases as ways of overcoming the challenges. Indeed, the identification of these barriers is a noble contribution to knowledge because it serves as a starting point for future researchers to

thoroughly explore the way of mitigating these barriers. In addition, it also enables the Nigerian tax administration to focus and overcome them in order to ensure smooth implementation of the regulations in the country.

### **9.2.2 Theoretical contributions**

In the process of conducting this research various theoretical frameworks from the extant literature were reviewed. Consequently, institutional theory was considered as an appropriate theoretical lens through which to guide the study. Furthermore, resource-based view was incorporated to provide theoretical underpinning to all objectives outlined in the study. Other scholars have used institutional theory and resource-based view as a framework to undertake their studies (for example: Yang and Konrad 2011; Darnall 2003; Oliver 1997) but none of these studies or prior studies had extended them to investigate transfer pricing regulations in the Nigerian context. Therefore, this study theoretically contributed to knowledge by the extending the application of institutional theory and the resource-based view to empirically examine transfer pricing regulations in Nigeria with a particular focus on the petroleum sector.

### **9.2.3 Methodological contribution**

This study has contributed to knowledge through its methodological contribution. After conducting a thorough literature review and reviewing range of possible methodologies, this study employed a mixed methods approach where both questionnaire survey and interview were used to collect primary data. Although the methodological contribution is not novel it has extended its use to the transfer pricing literature in conjunction with institutional and resource-based view theoretical framework.

### **9.2.4 Identification of significant difference in perceptions between stakeholder groups**

Another contribution of this study is that it has identified the level of significant differences in perceptions among the stakeholders on the issues relating to forms of adoption, motive of adoption, resource capacity of tax administration and potential barriers that might face the tax administration in implementing transfer pricing regulations. These differences are potentially important as they may enable the relevant authority to enlighten the stakeholders about the way their views differ from those of

other stakeholders and that way help to harmonise their views in order to ensure successful adoption and implementation of the transfer pricing regulations in Nigeria.

In addition, the differences identified may also help to pinpoint the deficiencies of a particular group (for example, the respondents from the Nigerian tax authority may not necessarily reveal all their deficiencies but respondents from other groups may highlight the deficiencies of the Nigerian tax authority). Indeed, this contribution may be of economic importance to the Nigerian tax authority.

Finally, as this thesis is the first of its kind not just in Nigeria but Africa, to empirically investigate the adoption and implementation of transfer pricing regulations with a focus on petroleum sector, its results are likely to be of interest to developing countries particularly, other African countries with mineral resources.

### **9.3 Recommendations**

In the previous chapters the importance of the petroleum sector to the development of the Nigeria's economy has been highlighted. The revenue from the petroleum sector is the mainstay of Nigeria's economy; in fact, literature revealed that over 95% of Nigeria's foreign earnings come from the petroleum sector and the transfer pricing behaviours (practices) of MNCs significantly affects the tax base of the country (see chapter 3). The findings of this thesis may have a significant economic consequence for Nigeria as it focuses on measures that may enable the Nigerian tax authority to successfully protect the tax base of the petroleum sector and the country at large. Literature suggests that developing countries, particularly Nigeria lose a substantial amount of revenue as result of transfer mispricing (see Chapter 2 and 3). Therefore, successful adoption and implementation of an appropriate transfer pricing regulation is important for Nigeria in order to prevent erosion of its tax base.

Literature suggests that the success of the adoption and implementation of transfer pricing regulations is in part dependent on the capacity of the tax administration to employ, train and retain experts in the field of transfer pricing (see Chapter 3 and 4). The findings of this thesis reveal that the Nigerian tax administration has the capacity to employ, train and maintain experts but currently transfer pricing experts are insufficient in the tax administration. Therefore, this study recommends that the employment,

training and re-training of transfer pricing experts should be a focal task of the tax authority to ensure effective implementation of transfer pricing regulations in the petroleum sector and the country at large.

It has been emphasized in many reports and studies as well as in the previous chapters of this study that almost all the transfer pricing regulations around the world are based on the arm's length principle, and there are five acceptable transfer pricing methods for determining the arm's length price. Application of these methods, particularly the CUP, RP and C+ methods are solely based on comparable information. The finding of this study revealed that the stakeholders were concerned about the inadequacy of comparable information within the petroleum sector and the country at large. The stakeholders also reveal that lack of a database in the country could be a major setback. Although there are few major players within the petroleum sector and the country in general; this study recommends that the country should subscribe to an international transfer pricing database for the mean time in order to obtain access to information and swiftly establish a national transfer pricing database; furthermore, also collaborate with other African countries to have a regional transfer pricing database.

The findings of this study revealed that there is a need for guidance and support from donor bodies such as organisations and experienced countries. Therefore, this recommends that the tax authority should seek for guidance in terms of the utilisation of resources and training of experts. These enable the tax administration to channel the resources to appropriate ways that yield useful benefits. Also seeks guidance on primary area of concentration when training the experts. Furthermore, it is also recommended to seek support in terms of training of experts by sending some staff on secondment arrangements to experienced countries like the UK to properly train them. In addition, technical and information technology support such as transfer pricing system software will help the country to achieve successful implementation of the transfer pricing regulations.

The findings of the thesis revealed that the stakeholders were of the view that one of the features of transfer pricing regulations, the advance pricing agreement was considered by Nigeria as appropriate. However, the successful implementation of this approach requires competent authorities (experts) and a comprehensive tax treaty network. The previous chapters have revealed that Nigeria's tax treaty network was not

comprehensive; currently, Nigeria has a tax treaty with only nine countries. Therefore, Nigeria should expand its tax treaty network and employ more experts in the field of transfer pricing. This is very important because since it has been acknowledged that application of some of the transfer pricing methods would be very difficult to achieve in Nigeria due to lack of comparable and other factors. Hence, proactive measures such as the advance pricing agreement and mutual agreement procedure play an important role in reducing disputes between the tax authority and MNCs as well as between the tax authorities themselves.

#### **9.4 Recommendations for future research**

The investigation undertaken in this study sought the views of the stakeholders on issues relating to the adoption and implementation of transfer pricing regulations in Nigeria with a particular focus on petroleum sector. The findings drawn from the investigation adequately addressed the questions set up in the thesis. However, the study recommends further research into certain areas, more especially on transfer pricing regulatory compliance as mentioned by (IR11) one of the interviewees. This might strengthen the development of transfer pricing regulations in Nigeria.

Institutional theory, the theoretical framework used as a theoretical lens in this study emphasises that the establishment or adoption of formal and informal structures (regulations) constrain actors' (MNCs) behaviour such as transfer mispricing. The success or outcome of these regulations is determined by the level of compliance to the regulations. Therefore, investigating the compliance to the transfer pricing regulations in Nigeria will be very important. Other areas of consideration for future research is the possible way to overcome the barrier that might hinder the implementation of transfer pricing regulations, it is evident that the findings of this study revealed that there are various factors that might hinder the implementation of transfer pricing regulations in the petroleum sector and the country at large. Therefore, it is recommended that further research should be carried out to investigate the possible means that will overcome these challenges.

Furthermore, as emphasise by some of the interviewees (IR01 and IR10) on the issue of database, the study also recommends that further research should be undertaken to ascertain the feasibility of establishing a national and regional database, which requires

the collaboration of African countries. This will help in addressing the issue of the lack of comparable information which is a key to achieve successful implementation of transfer pricing regulations.

### **9.5 Limitation of the study**

It is generally believed that virtually every research study encounters some constraints either in one way or the other and this study is no exception. One of the limitations of this thesis relates to the methods employed to collect the data, questionnaire and interview methods. These methods have inherent limitations; in terms of questionnaires, there might be a non-response bias, misinterpretation of the questions, respondent's pretense to be an expert, lack of clarification and dishonest responses. In terms of interview, there might be bias due to the interviewer's influences, fewer respondents and dishonest responses. Nevertheless, all necessary measures have been taken to reduce the effect of these limitations on this study (see Chapter 6). Moreover, a combination of questionnaire and interview methods itself supplements some of these limitations. Hence, arguably the benefits of adopting these methods outweigh their shortcomings.

Another limitation of the study is that a universal questionnaire was administered to all the stakeholder groups, some groups might be more informed than others on different segments of the questionnaire. However, this limitation was minimised by ensuring that the questionnaires were administered to the appropriate experts only. Furthermore, adoption of a theoretical framework based on institutional theory and resource-based view for this study might also be a limitation as it might not incorporate all aspects of the study. It has been discussed in the previous chapters that there are other theories that can be applied to the study and might come up different findings.

The study focused on petroleum sector which is the most important sector in the Nigeria; hence, the study has recommended other areas for future research. In addition, the delay in responses by the respondents to the questionnaire administered as well as their leaving some of the questions unanswered, by error or deliberately affects the quality of the analysis. However, in order to address the delay in response, frequent phone calls were made to remind the respondents and this helped significantly. While for the unanswered questions which were considered as missing values, missing value



analysis was conducted using the MCAR test and subsequently filled the missing values with a mean (see Chapter 7). Lastly, most of the times, the interviewees were busy hardly give enough time to interview them. Even if they had the time, yet because they were busy one may not get reliable and in-depth answers from them. In order to overcome this limitation, the researcher took time to arrange a convenient time (some during the weekend) to conduct the interview.

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## Appendix 1

### Appendix 1a: Introduction Letter from Supervisor



**ROBERT GORDON  
UNIVERSITY • ABERDEEN**

**August, 2012**

.....

Dear Sir/Madam,

#### **Introduction to Kalli Zannah**

My name is Professor Alex Russell. I am Head of the Department of Management at Robert Gordon University and a professor of petroleum accounting. I very much hope that you can assist with a research project that my excellent research student, Kallie Zannah, is undertaking. We are aware of your expertise in the research areas under investigation and your input will be invaluable to us.

Please find attached a letter to you from Mr Zannah.

Yours sincerely

A handwritten signature in black ink that reads 'Alex Russell'.

Alex Russell  
Professor of Petroleum Accounting  
Head of Department of Management  
Aberdeen Business School  
Chair of the Oil Industry Finance Association

## Appendix 1b: Covering Letter



**ROBERT GORDON  
UNIVERSITY•ABERDEEN**

August, 2012

Dear Sir/Madam,

I am currently a research student at Robert Gordon University, Aberdeen, United Kingdom, undertaking a study related to transfer pricing issues. The major aim of the research is to investigate if Nigeria should adopt and implement transfer pricing regulations based on international best practice.

The objective of this study can only be achieved with the help and co-operation of experts such as yourself. Therefore, I am writing to request your help to kindly spare 10 -15 minutes to complete the enclosed questionnaire. The instructions on how to complete the questionnaire can be found on the questionnaire page. If you participate in the survey, it would be my pleasure to send you a copy of a summary of findings upon completion of the study, if you wish to have a copy.

I would like to assure you that, your participation is voluntary and, with respect to your responses to the questionnaire, strict confidentiality is guaranteed. Your personal details or employer's details will not be disclosed under any circumstances. All the information provided will be kept in a secured location and will be used for the purpose of this study only.

If there is any query with respect to the questionnaire or instruction, please do not hesitate to contact me on: Mobile: +44 (0) 7515151031 or by E-mail: k.zannah@rgu.ac.uk or arjinoma2000@yahoo.com

Thank you for your valuable time and assistance.

Yours sincerely,

Kalli Zannah

**Appendix 1c:  
QUESTIONNAIRE  
Section One**

**Background Information**

**1) Place of Work:**

1) Federal Inland Revenue Services	
2) Nigeria Extractive Industries Transparency Initiative	
3) Higher Institute of learning	
4) Civil Society Organisations (with interest in tax matters)	
5) Multinational Companies	
6) Accounting Firms	

**2) Occupation:**

1) Tax Official	
2) Auditor	
3) Accountant	
4) Lecturer	
5) Lawyer	
If your occupation is not listed above, please indicate below...	

**Section Two**

**Adoption and implementation of framework for transfer pricing regulations in Nigeria.**

1) Please tick the appropriate boxes below to indicate the strength of your agreement that Nigeria should adopt and implement transfer pricing regulations based on:

<b>1 = strongly agree; 2 = agree; 3 = neutral; 4 = disagree; 5 = strongly disagree</b>					
<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
a) The Organisation for Economic Co-operative and Development (OECD) framework for transfer pricing					
b) The United Nations (UN) transfer pricing framework					
c) The United States (US) regulatory framework for transfer pricing					
If you have comments on the above, please specify them below .....					

2) Please tick the appropriate boxes below to indicate the strength of your agreement that Nigeria should choose some features from:

<b>1 = strongly agree; 2 = agree; 3 = neutral; 4 = disagree; 5 = strongly disagree</b>					
<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
a) The Organisation for Economic Co-operative and Development (OECD) framework for transfer pricing					
b) The United Nations (UN) transfer pricing framework					
c) The United States (US) regulatory framework for transfer pricing					
If you have comments on the above, please specify them below .....					



3) Please tick the appropriate boxes below to indicate the strength of your agreement that Nigeria should consider using the following transfer pricing methods in its transfer pricing regulations:

<b>1 = strongly agree; 2 = agree; 3 = neutral; 4 = disagree; 5 = strongly disagree</b>					
<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
a) Comparable uncontrolled price method					
b) Resale price method					
c) Cost plus method					
d) Profit split method					
e) Transactional net margin method					
If you have comments on the above, please specify them below .....					

4) Consideration of the transfer pricing literature reveals various features of transfer pricing regulations, some of which are referred to below. Please tick the appropriate boxes below to indicate the strength of your agreement that Nigeria should consider each of the following features when adopting and implementing transfer pricing regulations:

<b>1 = strongly agree; 2 = agree; 3 = neutral; 4 = disagree; 5 = strongly disagree</b>					
<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
a) Advance pricing agreement (APA) i.e. to fix a price in advance for a specific transaction for a specific period of time in order to avoid dispute					
b) Transfer pricing documentation requirement for multinational companies to maintain and provide transfer pricing transactions records					
c) Penalties for non-compliance with the transfer pricing guidelines					
d) Exchange of information related to transfer pricing among countries					
e) Subscription to transfer pricing databases					
f) Establishment of a national transfer pricing database					
g) Collaboration with other countries to establish regional transfer pricing databases					
h) Provision of clear guidelines on transfer pricing regulations					

### Section Three

#### Factors that might influence the adoption and implementation of transfer pricing regulations in Nigeria

1) Please tick the appropriate boxes below to indicate the strength of your agreement that the following factors might influence the adoption and implementation of transfer pricing regulations in Nigeria:

<b>1 = strongly agree; 2 = agree; 3 = neutral; 4 = disagree; 5 = strongly disagree</b>					
<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
a) Lack of existing transfer pricing regulations within Nigeria to deal with the global trend of transfer pricing issues					
b) The scale of cross-border transactions that need to be monitored in the country					
c) The need to safeguard the tax base of the country					
d) The need to prevent double taxation					
e) The need to gain (tax) institutional legitimacy					
f) The need to improve the performance of the tax institution in the country					
g) Fear of losing foreign direct investment in the country					
h) Reaction to the global environment as most countries around the globe are adopting transfer pricing regulations					

If there are other factors not mentioned above, please could you specify them below.....

**Section Four**

**Tax Administrative Capacity**

1) The implementation of transfer pricing regulations requires a sound administrative system. Please tick the appropriate boxes below to indicate the strength of your agreement that the Nigerian tax administrative institution has the capacity to:

<b>1 = strongly agree; 2 = agree; 3 = neutral; 4 = disagree; 5 = strongly disagree</b>					
<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
a) Train an adequate number of staff on transfer pricing and its regulations					
b) Employ transfer pricing experts					
c) Successfully coordinate the transfer pricing team (if any)					
d) Improve the staff welfare so as to retain transfer pricing experts					
e) Improve governance in tax matters					
f) Deploy adequate financial resource for effective implementation of transfer pricing regulations					
g) Independently make and implement their own decision					
h) Adapt to changes in the environment					
i) Establish internal mechanism to achieve its objectives and cope with the environmental complexities					
j) Maintain coherence in carrying out its tasks					
If you have comments on the above, please specify them below.....					

2) Please tick the appropriate boxes below to indicate the strength of your agreement that the Nigerian tax administrative institutions would be able to undertake:

<b>1 = strongly agree; 2 = agree; 3 = neutral; 4 = disagree; 5 = strongly disagree</b>					
<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
a) Transfer pricing assessment					
b) Benchmarking studies to establish its own transfer pricing database					
c) Campaigns to educate taxpayers such as multinational companies on the introduction of the transfer pricing regulations					

## Section Five

### Barriers to the adoption and implementation of transfer pricing regulations in Nigeria

1) Most developing countries face barriers with respect to adoption and implementation of transfer pricing regulations. Please tick the appropriate boxes below to indicate the strength of your agreement that Nigeria would face the following barriers in the adoption and implementation of transfer regulations in the country:

<b>1 = strongly agree; 2 = agree; 3 = neutral; 4 = disagree; 5 = strongly disagree</b>					
<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
a) Lack of adequate technical expertise					
b) Inadequate information technology facilities to enhance transfer pricing regulations					
c) Lack of access to transfer pricing databases					
d) Inadequate information necessary to determine arm's length transfer prices					
e) Lack of knowledge of transfer pricing issues					
f) Lack of adequate administrative capacity to adopt and implement transfer pricing regulations					
g) Lack of political will from the government					
h) Government interference on implementation of certain transfer pricing rules					
i) Lack of an effective judicial system to deal with tax cases					
j) Lack of a comprehensive tax treaty network					
If there are other barriers that Nigeria may face, please could you specify them below.....					

- 1) If you have any approach to mitigate any of the above barriers please could you specify them below .....

## Section Six

### Guidance and support for adoption and implementation of framework for transfer pricing regulations in Nigeria

- 1) Please tick the appropriate boxes below to indicate the strength of your agreement that Nigeria needs guidance from international bodies to implement transfer pricing regulations with respect to the factors mentioned in the following statements.

2)

<b>1 = strongly agree; 2 = agree; 3 = neutral; 4 = disagree; 5 = strongly disagree</b>					
<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
a) Utilisation of financial resources					
b) Deployment of technical expertise					
c) Training and skill development					
d) Performance assessment					
e) Drafting of transfer pricing regulations					

2) Please tick the appropriate boxes below to indicate the strength of your agreement that Nigeria needs support (in addition to guidance) from international bodies to implement transfer pricing regulations with respect to the factors mentioned in the following statements.

<b>1= strongly agree; 2 = agree; 3 = neutral; 4 = disagree; 5 = strongly disagree</b>					
<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
a) Financial support					
b) Technical support					
c) Training and skill development support					
d) Performance assessment support					
<b>If you have any comments on the above, please specify them below.....</b>					

**THE END OF QUESTIONS**

Please tick the box if you wish to have a copy of the summary of findings of this research [ ]

## **Appendix 2**

### **Follow-up Interview Questions: Appropriate form of adoption of transfer pricing regulations**

Recently Nigeria adopted its transfer pricing regulations based on the OECD guidelines and the UN transfer pricing manual. It is interesting that my questionnaire analysis indicated that most stakeholders believe that Nigerian transfer pricing regulation should be based on the UN transfer pricing manual. Why do you think stakeholders have said this? Do you agree with them? Have you any other comments to make on the form of adoption of transfer pricing regulations in Nigeria?

#### **Motivation for adoption and implementation of transfer pricing regulations**

From the questionnaire findings the perceptions of the stakeholders indicate that there are multiple factors (such as the desire to gain legitimacy, the desire to improve performance and concerns about resources) that could motivate Nigeria to adopt transfer pricing regulations. Do you share this opinion? If no, what do you think most persuaded Nigeria to adopt transfer pricing regulations?

#### **Tax administrative capacity**

Given the findings from the questionnaire analysis, the stakeholders are of the view that the Nigerian tax administration has the capacity to employ, train, improve the welfare of staff (transfer pricing experts) and successfully coordinate the transfer pricing team to implement transfer pricing regulations in the country. Is the Nigerian Tax Administration really equipped to successfully implement a transfer pricing system in Nigeria? What are the problems with respect to capacity that it faces?

#### **Barriers facing the tax authority to adopt and implement transfer pricing regulations**

From the analysis of the responses obtained from the questionnaires it appears that stakeholders believe that there are various challenges (such as lack of sufficient transfer pricing experts, database, effective judicial system and comprehensive network treaty) that could affect the implementation of transfer pricing regulations in Nigeria. What are the barriers that must be overcome to ensure successful implementation and how can they be overcome?

#### **Need for seeking guidance and support from donor bodies**

Respondents generally seem to believe that the Nigerian tax administration has the capacity to employ, train, improve staff welfare and successfully coordinate a transfer pricing team to implement transfer pricing regulations in the country. Nevertheless, the same stakeholders believe that the Nigerian tax administration needs guidance and support (in terms of finance, technical, performance assessment and training of transfer pricing experts) from donor bodies (organisations and countries) to improve its capacity. Why do they need this guidance and from whom should they get it?

### Appendix 3

#### Appendix 3a: Mann-Whitney results relating to appropriate framework for transfer pricing regulations

The Organisation for Economic Co-operative and Development (OECD) framework for transfer pricing

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	.003
<b>M1</b>	*	n/a	*	*	*	*	*	.043
<b>M2</b>	*	*	n/a	.029	*	*	*	.025
<b>C1</b>	*	*	.029	n/a	*	*	*	.000
<b>O1</b>	*	*	*	*	n/a	*	*	.001
<b>A1</b>	*	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.003	.043	.025	.000	.001	*	*	n/a

The United Nations (UN) transfer pricing framework

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	*
<b>M1</b>	*	n/a	*	*	*	.045	*	*
<b>M2</b>	*	*	n/a	*	*	.027	*	*
<b>C1</b>	*	*	*	n/a	*	*	*	*
<b>O1</b>	*	*	*	*	n/a	.012	*	*
<b>A1</b>	*	.045	.027	*	.012	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	*	*	*	*	*	*	*	n/a

The United States (US) regulatory framework for transfer pricing

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	.034	.028	*	*	*
<b>M1</b>	*	n/a	*	.008	.003	*	*	.011

<b>M2</b>	*	*	n/a	.044	.038	*	*	*
<b>C1</b>	.034	.008	.044	n/a	*	*	*	*
<b>O1</b>	.028	.003	.038	*	n/a	*	*	*
<b>A1</b>	*	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	*	.011	*	*	*	*	*	n/a

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). The symbol \* represents non-probability.

### Appendix 3b: Mann-Whitney test results for the features of transfer pricing regulations framework

Features of the Organisation for Economic Co-operative and Development (OECD) framework for transfer pricing

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	.039	*	*	*	*	*	.006
<b>M1</b>	.039	n/a	*	.034	.029	*	.020	*
<b>M2</b>	*	*	n/a	*	*	*	.036	*
<b>C1</b>	*	.034	*	n/a	*	*	*	.002
<b>O1</b>	*	.029	*	*	n/a	*	*	.002
<b>A1</b>	*	*	*	*	*	n/a	.037	*
<b>H1</b>	*	.020	.036	*	*	.037	n/a	.001
<b>N1</b>	.006	*	*	.002	.002	*	.001	n/a

Features of the United Nations (UN) transfer pricing framework

Nil

Features The United States (US) regulatory framework for transfer pricing

Nil

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). The symbol \* represents non-probability

**Appendix 3c: Mann-Whitney test results for the method of transfer pricing to be used in Nigeria**

Comparable Uncontrolled Price Method

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	.026	*	*	*	*	*
<b>M1</b>	*	n/a	*	*	*	*	*	.047
<b>M2</b>	.026	*	n/a	.021	.014	*	*	.003
<b>C1</b>	*	*	.021	n/a	*	*	*	*
<b>O1</b>	*	*	.014	*	n/a	*	*	*
<b>A1</b>	*	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	*	.047	.003	*	*	*	*	n/a

Resale Price Method

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	*
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	.046
<b>C1</b>	*	*	*	n/a	*	*	*	*
<b>O1</b>	*	*	*	*	n/a	*	*	*
<b>A1</b>	*	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	.027
<b>N1</b>	*	*	.046	*	*	*	.027	n/a

Profit Split Method

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	*
<b>M1</b>	*	n/a	*	*	*	*	*	.005
<b>M2</b>	*	*	n/a	*	*	*	*	.008
<b>C1</b>	*	*	*	n/a	.025	*	*	.001
<b>O1</b>	*	*	*	.025	n/a	*	*	*
<b>A1</b>	*	*	*	*	*	n/a	*	*



<b>H1</b>	*	*	*	*	*	*	n/a	.018
<b>N1</b>	*	.005	.008	.001	*	*	.018	n/a
Transactional Net Margin Method								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	.008	*	.003
<b>M1</b>	*	n/a	*	*	*	.023	*	.013
<b>M2</b>	*	*	n/a	*	*	.003	*	.002
<b>C1</b>	*	*	*	n/a	.016	.001	*	.000
<b>O1</b>	*	*	*	.016	n/a	.014	*	.007
<b>A1</b>	.008	.023	.003	.001	.014	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.003	.013	.002	.000	.007	*	*	n/a

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). The symbol \* represents non-probability

#### Appendix 3d: Mann-Whitney test results relating to specific features of transfer pricing regulations

Transfer pricing documentation requirement for multinational companies to maintain and provide transfer pricing transactions records

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	.029	*	*	*	*	*
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	.029	*	n/a	.013	*	.045	*	*
<b>C1</b>	*	*	.013	n/a	.032	*	*	*
<b>O1</b>	*	*	*	.032	n/a	.094	*	*
<b>A1</b>	*	*	.045	*	.094	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
	*	*	*	*	*			

<b>N1</b>						*	*	n/a
	Penalties for non-compliance with the transfer pricing guidelines							
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	.046	*	*	*
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	*	*	*
<b>O1</b>	.046	*	*	*	n/a	*	*	*
<b>A1</b>	*	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	*	*	*	*	*	*	*	n/a
	Exchange of information related to transfer pricing among countries							
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	.025	.039	*	*	*
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	.030	*	*
<b>C1</b>	.025	*	*	n/a	*	.002	*	*
<b>O1</b>	.039	*	*	*	n/a	.012	*	*
<b>A1</b>	*	*	.030	.002	.012	n/a	.046	*
<b>H1</b>	*	*	*	*	*	.046	n/a	*
<b>N1</b>	*	*	*	*	*	*	*	n/a
	Subscription to transfer pricing databases							
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	.047
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*

<b>C1</b>	*	*	*	n/a	*	*	*	*
<b>O1</b>	*	*	*	*	n/a	*	*	.024
<b>A1</b>	*	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.047	*	*	*	.024	*	*	n/a
Establishment of a national transfer pricing database								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	.009	.043	*	.027
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	*	*	*
<b>O1</b>	.009	*	*	*	n/a	*	*	*
<b>A1</b>	.043	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.027	*	*	*	*	*	*	n/a
Collaboration with other countries to establish regional transfer pricing databases								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	*
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	.014	*	*
<b>C1</b>	*	*	*	n/a	*	.037	*	*
<b>O1</b>	*	*	*	*	n/a	.044	*	*
<b>A1</b>	*	*	.014	.037	.044	n/a	*	.027
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	*	*	*	*	*	.027	*	n/a
Provision of clear guidelines on transfer pricing regulations								

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	.036	*	*	.007
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	*	*	*
<b>O1</b>	.036	*	*	*	n/a	*	*	*
<b>A1</b>	*	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.007	*	*	*	*	*	*	n/a

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). The symbol \* represents non-probability

#### Appendix 4

##### Appendix 4: Mann-Whitney test results for the factors that might motivate the adoption and implementation of transfer pricing regulations in Nigeria

Lack of existing transfer pricing regulations within Nigeria to deal with the global trend of transfer pricing issues

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	.036	*	*	*	*	*	.013
<b>M1</b>	.036	n/a	*	*	*	*	.032	*
<b>M2</b>	*	*	n/a	*	*	*	*	.037
<b>C1</b>	*	*	*	n/a	*	*	.015	*
<b>O1</b>	*	*	*	*	n/a	*	*	.013
<b>A1</b>	*	*	*	*	*	n/a	*	*
<b>H1</b>	*	.032	*	.015	*	*	n/a	.007
<b>N1</b>	.013	*	.037	*	.013	*	.007	n/a

The scale of cross-border transactions that need to be monitored in the country

Nil

The need to safeguard the tax base of the country

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	*
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	.005	*	.019	*	*
<b>C1</b>	*	*	.005	n/a	.007	*	*	*
<b>O1</b>	*	*	*	.007	n/a	.027	*	*
<b>A1</b>	*	*	.019	*	.019	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	*	*	*	*	*	*	*	n/a

The need to prevent double taxation

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	.003	.001	*	*	*	.032
<b>M1</b>	*	n/a	*	.015	*	*	*	*
<b>M2</b>	.003	*	n/a	*	.011	.017	*	*
<b>C1</b>	.001	.015	*	n/a	.002	.003	.050	.010
<b>O1</b>	*	*	.011	.002	n/a	*	*	*
<b>A1</b>	*	*	.017	.003	*	n/a	*	*
<b>H1</b>	*	*	*	.050	*	*	n/a	*
<b>N1</b>	.032	*	*	.010	*	*	*	n/a

The need to gain (tax) institutional legitimacy

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	.003	.044	.015	*	.015	*	.003
<b>M1</b>	.003	n/a	*	*	.034	*	*	*
<b>M2</b>	.044	*	n/a	*	.033	*	*	*

<b>C1</b>	.015	*	*	n/a	*	*	*	*
<b>O1</b>	*	.034	.033	*	n/a	*	*	*
<b>A1</b>	.015	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.003	*	*	*	*	*	*	n/a

The need to improve the performance of the tax institution in the country

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	*
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	.023	.049	.041
<b>O1</b>	*	*	*	*	n/a	*	*	*
<b>A1</b>	*	*	*	.023	*	n/a	*	*
<b>H1</b>	*	*	*	.049	*	*	n/a	*
<b>N1</b>	*	*	*	.041	*	*	*	n/a

Fear of losing foreign direct investment in the country

**Nil**

Reaction to the global environment as most countries around the globe are adopting transfer pricing regulations

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	.008	*	*	*	*
<b>M1</b>	*	n/a	*	.044	*	*	*	.041
<b>M2</b>	*	*	n/a	*	.041	.029	*	.011
<b>C1</b>	.008	.044	*	n/a	.044	.003	*	.004
<b>O1</b>	*	*	.041	.044	n/a	*	*	*
<b>A1</b>	*	*	.029	.003	*	n/a	.038	*

<b>H1</b>	*	*	*	*	*	.038	n/a	.029
<b>N1</b>								
	*	.041	.011	.004	*	*	.029	n/a

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). The symbol \* represents non-probability

## Appendix 5

### Appendix 5a: Mann-Whitney test results for capacity of the Nigerian tax administrative institution

Train an adequate number of staff on transfer pricing and its regulations

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	.012
<b>M1</b>	*	n/a	.034	*	*	*	*	*
<b>M2</b>	*	.034	n/a	*	.031	.027	*	.009
<b>C1</b>	*	*	*	n/a	*	*	*	*
<b>O1</b>	*	*	.031	*	n/a	*	*	*
<b>A1</b>	*	*	.027	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.012	*	.009	*	*	*	*	n/a

Employ transfer pricing experts

Nil

Successfully coordinate the transfer pricing team

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	.003	*	*	.024	.000	*	.037
<b>M1</b>	.003	n/a	*	.030	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	.001	*	*
<b>C1</b>	*	.030	*	n/a	*	.001	*	*
<b>O1</b>	.014	*	*	*	n/a	.001	*	*

<b>A1</b>	.000	*	.001	.001	.001	n/a	.045	.009
<b>H1</b>	*	*	*	*	*	.045	n/a	*
<b>N1</b>	.037	*	*	*	*	.009	*	n/a
Improve the staff welfare so as to retain transfer pricing experts								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	.010	.033	*	.021	.003	*	.002
<b>M1</b>	.010	n/a	*	*	*	*	*	*
<b>M2</b>	.033	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	.024	*	.025
<b>O1</b>	.021	*	*	*	n/a	.025	*	.023
<b>A1</b>	.003	*	*	.024	.025	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.002	*	*	.025	.023	*	*	n/a
Improve governance in tax matters								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	.007	*	*	*	*
<b>M1</b>	*	n/a	.038	.005	*	*	*	*
<b>M2</b>	*	.038	n/a	*	*	*	*	*
<b>C1</b>	.007	.005	*	n/a	.016	.010	.036	.044
<b>O1</b>	*	*	*	.016	n/a	*	*	*
<b>A1</b>	*	*	*	.010	*	n/a	*	*
<b>H1</b>	*	*	*	.036	*	*	n/a	*
<b>N1</b>	*	*	*	.044	*	*	*	n/a
Deploy adequate financial resource for effective implementation of transfer pricing regulations								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	.035	.033	*	*	.001	*	*



<b>M1</b>	.035	n/a	*	*	*	*	*	*
<b>M2</b>	.033	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	.003	*	*
<b>O1</b>	*	*	*	*	n/a	.002	*	*
<b>A1</b>	.001	*	*	.003	.002	n/a	.035	.001
<b>H1</b>	*	*	*	*	*	.035	n/a	*
<b>N1</b>	*	*	*	*	*	.001	*	n/a
Independently make and implement its own decision								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	.019	.021
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	.023	.045	.004	.017
<b>O1</b>	*	*	*	.023	n/a	*	.038	.043
<b>A1</b>	*	*	*	.045	*	n/a	*	*
<b>H1</b>	.019	*	*	.044	.038	*	n/a	*
<b>N1</b>	.021	*	*	.017	.043	*	*	n/a
Adapt to changes in the environment								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	.027	*	.001
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	.044
<b>C1</b>	*	*	*	n/a	*	*	*	.006
<b>O1</b>	*	*	*	*	n/a	*	*	.002
<b>A1</b>	.027	*	*	*	*	n/a	*	*

<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.001	*	.044	.006	.002	*	*	n/a
Establish internal mechanism to achieve its objectives and cope with the environmental complexities								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	.037	.010	*	.002
<b>M1</b>	*	n/a	*	*	*	*	*	.044
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	*	*	.032
<b>O1</b>	.037	*	*	*	n/a	*	*	*
<b>A1</b>	.010	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.002	.044	*	.032	*	*	*	n/a
Maintain coherence in carrying out its tasks								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	.029	.011	*
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	.030	.017	*
<b>O1</b>	*	*	*	*	n/a	*	*	*
<b>A1</b>	.029	*	*	.030	*	n/a	*	*
<b>H1</b>	.011	*	*	.017	*	*	n/a	*
<b>N1</b>	*	*	*	*	*	*	*	n/a

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). The symbol \* represents non-probability

#### Appendix 5b: Mann-Whitney test results for the ability of the tax institution

Transfer pricing assessment

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	.048	.037	*	*
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	.043	*	*	*
<b>O1</b>	.048	*	*	.043	n/a	*	*	*
<b>A1</b>	.037	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	*	*	*	*	*	*	*	n/a

Benchmarking studies to establish its own transfer pricing database

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	.029	.038
<b>M1</b>	*	n/a	*	*	*	*	.018	.012
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	*	*	*
<b>O1</b>	*	*	*	*	n/a	*	.012	.013
<b>A1</b>	*	*	*	*	*	n/a	.036	.020
<b>H1</b>	.029	.018	*	*	.012	.036	n/a	*
<b>N1</b>	.038	.012	*	*	.013	.020	*	n/a

Campaigns to educate taxpayers such as multinational companies on the introduction of the transfer pricing regulations

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	.033	*	*	*	.007	*	.050
<b>M1</b>	.033	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	*	*	*

<b>O1</b>	*	*	*	*	n/a	*	*	*
<b>A1</b>	.007	*	*	*	*	n/a	.048	*
<b>H1</b>	*	*	*	*	*	.048	n/a	*
<b>N1</b>	.050	*	*	*	*	*	*	n/a

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). The symbol \* represents non-probability

## Appendix 6

### Appendix 6: Mann-Whitney test results for the barriers to the adoption and implementation of transfer pricing regulations in Nigeria

#### Lack of adequate technical expertise

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	*
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	*	*	.026
<b>O1</b>	*	*	*	*	n/a	*	*	*
<b>A1</b>	*	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	*	*	*	.026	*	*	*	n/a

#### Inadequate information technology facilities to enhance transfer pricing regulations

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	*
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	.038
<b>C1</b>	*	*	*	n/a	*	*	*	.023

<b>O1</b>	*	*	*	*	n/a	*	*	.035
<b>A1</b>	*	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	*	*	.038	.023	.035	*	*	n/a
Lack of access to transfer pricing databases								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	.039
<b>M1</b>	*	n/a	*	*	*	*	*	.037
<b>M2</b>	*	*	n/a	*	*	*	*	.001
<b>C1</b>	*	*	*	n/a	*	*	*	.001
<b>O1</b>	*	*	*	*	n/a	*	*	.002
<b>A1</b>	*	*	*	*	*	n/a	*	.005
<b>H1</b>	*	*	*	*	*	*	n/a	.023
<b>N1</b>	.039	.037	.001	.001	.002	.005	.023	n/a
Inadequate information necessary to determine arm's length transfer prices								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	*
<b>M1</b>	*	n/a	*	*	*	.028	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	.003	*	.004
<b>O1</b>	*	*	*	*	n/a	.003	*	.010
<b>A1</b>	*	.028	*	.003	.003	n/a	.022	*
<b>H1</b>	*	*	*	*	*	.022	n/a	*
<b>N1</b>	*	*	*	.004	.010	*	*	n/a
Lack of knowledge of transfer pricing issues								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
					*	*	*	.011

<b>F1</b>	n/a	*	*	*				
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	*	*	*
<b>O1</b>	*	*	*	*	n/a	*	*	.014
<b>A1</b>	*	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.011	*	*	*	.014	*	*	n/a
Lack of adequate administrative capacity to adopt and implement transfer pricing regulations								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	.007
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	*	*	*
<b>O1</b>	*	*	*	*	n/a	*	*	*
<b>A1</b>	*	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.007	*	*	*	*	*	*	n/a
Lack of political will from the government								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	.020	*	.004	*	.019	*	.000
<b>M1</b>	.020	n/a	*	*	.038	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	.004	*	*	n/a	.009	*	*	*
<b>O1</b>	*	.038	*	.009	n/a	.037	*	.001
<b>A1</b>	.019	*	*	*	.037	n/a	*	*

<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.000	*	*	*	.001	*	*	n/a
Government interference on implementation of certain transfer pricing rules								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	.040	*	*	*	*	*	.007
<b>M1</b>	.040	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	.034
<b>C1</b>	*	*	*	n/a	*	*	*	.006
<b>O1</b>	*	*	*	*	n/a	*	*	.010
<b>A1</b>	*	*	*	*	*	n/a	*	.006
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.007	*	.034	.006	.010	.006	*	n/a
Lack of an effective judicial system to deal with tax cases								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	.009	*	.002
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	*	*	.037
<b>O1</b>	*	*	*	*	n/a	.044	*	.017
<b>A1</b>	.009	*	*	*	.044	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.007	*	*	.037	.017	*	*	n/a
Lack of a comprehensive tax treaty network								
	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	.003	*	.037	*	.026
<b>M1</b>	*	n/a	*	*	*	*	*	*

<b>M2</b>	*	*	n/a	.004	*	.017	*	*
<b>C1</b>	.003	*	.004	n/a	.028	.005	*	*
<b>O1</b>	*	*	*	.028	n/a	*	*	*
<b>A1</b>	.037	*	.017	.005	*	n/a	*	.037
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.026	*	*	*	*	.037	*	n/a

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). The symbol \* represents non-probability

## Appendix 7

### Appendix 7a: Mann-Whitney test results relating to the guidance for adoption and implementation of transfer pricing regulations in Nigeria

#### Utilisation of financial resources

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	.001
<b>M1</b>	*	n/a	*	*	*	*	*	.011
<b>M2</b>	*	*	n/a	*	*	*	*	.002
<b>C1</b>	*	*	*	n/a	*	*	.043	.002
<b>O1</b>	*	*	*	*	n/a	*	*	.001
<b>A1</b>	*	*	*	*	*	n/a	*	.015
<b>H1</b>	*	*	*	.043	*	*	n/a	*
<b>N1</b>	.001	.011	.002	.002	.001	.015	*	n/a

#### Deployment of technical expertise

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	.037	*
<b>M1</b>	*	n/a	*	*	*	*	.031	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	*	.048	*



<b>O1</b>	*	*	*	*	n/a	*	*	.045
<b>A1</b>	*	*	*	*	*	n/a	.048	*
<b>H1</b>	.037	.031	*	.048	*	.048	n/a	.015
<b>N1</b>	*	*	*	*	.045	*	.015	n/a

Training and skill development

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	.003	*	*	*
<b>M1</b>	*	n/a	*	*	.001	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	.033	*	.029	*
<b>O1</b>	.003	.001	*	.033	n/a	*	.004	.001
<b>A1</b>	*	*	*	*	*	n/a	.009	.046
<b>H1</b>	*	*	*	.029	.004	.009	n/a	*
<b>N1</b>	*	*	*	*	.001	.046	*	n/a

Performance assessment

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	.037	*	.011
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	*	*	*	*	*
<b>C1</b>	*	*	*	n/a	*	*	*	.031
<b>O1</b>	*	*	*	*	n/a	.032	*	.010
<b>A1</b>	.037	*	*	*	.032	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	.011	*	*	.031	.010	*	*	n/a

Drafting of transfer pricing regulations

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
					*	*	*	.002

<b>F1</b>	n/a	*	*	*				
<b>M1</b>	*	n/a	*	*	*	*	*	.015
<b>M2</b>	*	*	n/a	*	*	*	*	.046
<b>C1</b>	*	*	*	n/a	*	*	*	.014
<b>O1</b>	*	*	*	*	n/a	*	*	.001
<b>A1</b>	*	*	*	*	*	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	.010
<b>N1</b>	.002	.015	.046	.014	.001	*	.010	n/a

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL), C<sub>1</sub> = Civil Society Organisations (CSO), M<sub>2</sub> = Multinational Companies (MNC), A<sub>1</sub> = Accounting Firms (AF). The symbol \* represent the non-probability

#### **Appendix 7b: Mann-Whitney test results relating to the support for adoption and implementation of transfer pricing regulations in Nigeria**

##### Financial support

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	*
<b>M1</b>	*	n/a	*	*	*	*	*	.026
<b>M2</b>	*	*	n/a	.007	*	*	*	.001
<b>C1</b>	*	*	.007	n/a	.018	*	*	*
<b>O1</b>	*	*	*	.018	n/a	*	*	.002
<b>A1</b>	*	*	*	*	*	n/a	*	.032
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	*	.026	.001	*	.002	.032	*	n/a

##### Technical support

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	*	*	*	*	*
<b>M1</b>	*	n/a	*	*	.003	*	*	*
<b>M2</b>	*	*	n/a	.032	.014	*	*	*

<b>C1</b>	*	*	.032	n/a	.002	.037	*	*
<b>O1</b>	*	.003	.014	.002	n/a	.049	*	.003
<b>A1</b>	*	*	*	.037	.049	n/a	*	*
<b>H1</b>	*	*	*	*	*	*	n/a	*
<b>N1</b>	*	*	*	*	.003	*	*	n/a

Training and skill development support

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	.029	*	.003	*	*	*
<b>M1</b>	*	n/a	*	.015	*	*	*	*
<b>M2</b>	.029	*	n/a	.003	*	*	*	.018
<b>C1</b>	*	.015	.003	n/a	.001	*	*	*
<b>O1</b>	.003	*	*	.001	n/a	.027	.028	.002
<b>A1</b>	*	*	*	*	.027	n/a	*	*
<b>H1</b>	*	*	*	*	.028	*	n/a	*
<b>N1</b>	*	*	.018	*	.002	*	*	n/a

Performance assessment support

	<b>F1</b>	<b>M1</b>	<b>M2</b>	<b>C1</b>	<b>O1</b>	<b>A1</b>	<b>H1</b>	<b>N1</b>
<b>F1</b>	n/a	*	*	.011	*	*	.003	*
<b>M1</b>	*	n/a	*	*	*	*	*	*
<b>M2</b>	*	*	n/a	.028	*	*	*	*
<b>C1</b>	.011	*	.028	n/a	.022	*	*	*
<b>O1</b>	*	*	*	.022	n/a	*	*	*
<b>A1</b>	*	*	*	*	*	n/a	*	*
<b>H1</b>	.003	*	*	*	*	*	n/a	*
<b>N1</b>	*	*	*	*	*	*	*	n/a

F<sub>1</sub> = Federal Inland Revenue Services (FIRS), M<sub>1</sub> = Ministry of Finance (MOF), O<sub>1</sub> = Office of the Auditor General (OAG), N<sub>1</sub> = Nigeria Extractive Industries Transparency Initiative (NEITI), H<sub>1</sub> = Higher Institute of learning (HIL),

$C_1$  = Civil Society Organisations (CSO),  $M_2$  = Multinational Companies (MNC),  $A_1$  = Accounting Firms (AF). The symbol \* represents non-probability