NIGERIA

Questionnaire on the Implementation of the HTVI Approach

	QUESTION	RESPONSE
1	**Has your country adopted the hard-to-value intangibles (“HTVI”) approach as defined in Chapter VI of the TPG? If so, under what legal basis?**	No, the HTVI approach has not been adopted in domestic legislation in Nigeria.
2	**If your country applies the HTVI approach, what are the conditions for the application of the HTVI approach?**	This is not applicable since Nigeria has not adopted the HTVI approach.
3	**Are transactions falling within the scope of the HTVI approach subject to a transfer pricing analysis differing from the one established in Chapter I and VI, or to other compliance requirements specifically applicable to transfer prices (e.g. domestic anti-abuse rules)?**	No, transactions falling within the scope of HTVI approach will still be subject to transfer pricing analysis in Chapter I and VI of the OECD Transfer Pricing Guidelines. However, regulation 7(5) of the Nigerian Transfer Pricing Regulations limit the total amount deductible with respect to intangibles to *“5% of the earnings before interest, tax, depreciation, amortisation and that consideration, derived from the commercial activity conducted by the person in which the rights transferred are exploited”*.
4	**What is the statute of limitations applicable to transactions falling within the scope of the HTVI approach in your legislation? Does this statute of limitations differ from those applicable to other transactions?**	Since Nigeria has not adopted the HTVI approach, there is no separate statute of limitation applicable to transactions falling within the scope of the HTVI approach. The same statute of limitation is applicable to all tax issues in Nigeria, including issues relating to intangibles.
5	**Can taxpayers request a bilateral or multilateral advance pricing agreement (“APA”) for transactions falling within the scope of the HTVI approach under your legislation?**	This is not applicable since Nigeria has not adopted the HTVI approach.

	QUESTION	RESPONSE
6	**What measures exist or approaches have been adopted to avoid the use of hindsight (e.g. training of tax administrators, internal circulars/informative notes)?**	Although Nigeria has not adopted the HTVI approach, the Federal Inland Revenue Service in Nigeria has conducted several trainings for staff in this regard.
7	**Is it possible for your tax administration to make adjustments under the HTVI approach in open years for closed years?**	Since Nigeria has not adopted the HTVI approach, any adjustments would be based on the statute of limitation in Nigeria that is applicable to general tax issues.
8	**Does your domestic legislation or administrative practice allow the tax administration to make corresponding adjustments under the HTVI approach in open years for closed years?**	Since Nigeria has not adopted the HTVI approach, any adjustments that deals with transactions falling within the scope of HTVI approach would be based on the statute of limitation in Nigeria that is applicable to general tax issues.
9	**Is it possible for your tax administration to make several adjustments for one single HTVI transaction under the HTVI approach?**	Although Nigeria has not adopted the HTVI approach, however Nigeria may raise multiple adjustments on any transfer pricing case, depending on the circumstances of the case.

For further information, please see http://www.oecd.org/tax/transfer-pricing/transfer-pricing-country-profiles.htm