

**Central African Economic and Monetary Community:
Report on the Observance of Standards and Codes—
FATF Recommendations for Anti-Money Laundering and
Combating the Financing of Terrorism**

This Report on the Observance of Standards and Codes on the Central African Economic and Monetary Community (CEMAC) was prepared by a team composed of staffs of the World Bank using the 2004 AML/CFT Methodology. It is based on the information available at the time it was completed on June 29, 2006. The views expressed in this document are those of the staff team and do not necessarily reflect the views of the government of the CEMAC or the Executive Board of the IMF.

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CENTRAL AFRICAN ECONOMIC AND MONETARY COMMUNITY

COMMUNAUTE ECONOMIQUE ET MONETAIRE DE L'AFRIQUE CENTRALE (CEMAC)

**Report on the Observance of Standards and Codes
Financial Action Task Force Recommendations for Anti-Money Laundering and
Combating the Financing of Terrorism¹**

June 29, 2006

Introduction

1. This Report on the Observance of Standards and Codes for the FATF Forty Recommendations (2003) for Anti-Money Laundering and the nine Special Recommendations (2001 and 2004) for Combating the Financing of Terrorism was prepared by a team composed of staff of the World Bank, using the 2004 AML/CFT Methodology.
2. The Report provides a summary of the level of compliance at the CEMAC regional level with the FATF 40+9 Recommendations, and provides recommendations to improve compliance. The views expressed in this document are those of the assessment team and do not necessarily reflect the views of the CEMAC authorities or the Boards of the IMF or the World Bank.

Information and methodology used for the assessment

3. In preparing the detailed assessment, World Bank staff reviewed, at the regional level, the institutional framework, the laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter money laundering and the financing of terrorism through financial institutions and designated nonfinancial businesses and professions (DNFBPs), as well as examining the capacity, the implementation and the effectiveness of all these systems. This report contains a summary of the AML/CFT measures in effect in the CEMAC region at the time of the mission or enacted before May 15, 2006. This assessment was conducted in the context of the FSAP for the CEMAC region, and follows a similar focus on the regional framework.
4. **This assessment focuses on the regional AML-CFT framework, and its conformity with the international standard.** The analysis and recommendations below therefore deal primarily with the relevant mechanisms at the regional level. However, the assessment team also visited three countries of the CEMAC (Cameroon, Central African Republic, and Congo) in order to reach a view on the status and challenges of

¹ Prepared by a World Bank team led by Mr. Jean Pesme and comprising Ms. Isabelle Schoonwater and Ms. Marilyne Goncalves.

implementation of this regional framework. Two of these countries (Cameroon and Central African Republic) were chosen because they host regional organizations relevant to AML-CFT; the team also decided to visit Congo in order to enlarge the sample and to reach a more comprehensive view of the AML-CFT situation in the region, including given the specific challenges facing this country (oil, traffics). When warranted, and in particular when the findings from these visits were deemed of generic nature, and relevant for all the CEMAC countries, the assessment team incorporated them in its description, analysis and recommendations, but not in the ratings of compliance.

Main findings

5. **The 2003 CEMAC Regulation setting up a regional legal framework on Anti-Money Laundering and Combating the Financing of Terrorism (AML-CFT) constitutes a robust legal basis.** The implementing regulation issued by the regional banking supervisor, Commission Bancaire de l’Afrique Centrale (COBAC), is a significant step forward, but the framework remains largely ignored outside of the banking sector. More emphasis needs to be placed on the benefits of an effective AML/CFT framework, in terms of good governance, the fight against corruption and the trafficking of natural resources, so as to foster actions at the national level.

6. The unclear division of responsibilities between the regional agencies involved and the national authorities impede an effective implementation of the framework. While leadership from regional agencies (i.e., BEAC and COBAC) is critical for momentum, the effectiveness of the AML/CFT framework requires a stronger commitment from national authorities. National action needs to be undertaken to establish the national Financial Intelligence Units (FIU) and build up their operational capacities, as well as to guarantee their independence and ensure the secure and confidential treatment of the information made available to them. In addition, the predominance of cash-based transactions in the region makes it all the more essential for national authorities to foster the implementation of AML/CFT obligations for the nonfinancial sector. Adequate resources need to be allocated by the national authorities to all agencies involved in AML-CFT, with specific attention to law enforcement and the judiciary, in order to properly investigate and prosecute AML-CFT cases. Capacity building and training are also of the essence.

General

General situation of Money Laundering and Financing of Terrorism

7. **The authorities view the risk of money laundering in the region as a whole as high,** in particular the risk of money laundering tied to corruption, embezzlement of public funds, and fraud linked to oil production, in addition to criminal activities such as smuggling, counterfeiting, and trafficking (in precious stones, weapons, and narcotics). Although organized criminal activity differs from one CEMAC country to another, the very porous nature of borders not only among member states but within the region, and with a number of the neighboring states (Democratic Republic of Congo, Nigeria, Sudan, other Great Lakes region states) poses additional risk.

8. **The authorities have of course taken action to prevent terrorism** (largely from the standpoint of intelligence and police services). Although the authorities of two of the countries visited noted that some activities (including those involving fund-raising by a number of religious organizations) constitute a risk in terms of the financing of terrorism, they are of the view that to date, no clear or definitive information exists on the financing of terrorism in and from the zone.

9. **Little precise and quantitative information is available in the zone regarding the scope of criminal activity or corruption and embezzlement of public funds.** Both the Community and national authorities or private agents recognize the importance of these activities in the criminalization of economies. The size of the informal sector and the circulation of cash make it difficult, if not impossible, to distinguish clearly between the informal economy and financial flows tied to criminal activity, and to quantify this phenomenon. The conjunction of weak States and widespread corruption also hamper the effective implementation of mechanisms to combat money laundering and the financing of terrorism.

10. **Given the development agenda of CEMAC member states, the assessors consider that the mechanisms to combat money laundering and the financing of terrorism must also be fully embedded into the promotion of good governance and the fight against corruption.** In fact, the main offenses of corruption and embezzlement of public funds go to the very core of criminal activity in the sub-region and generate significant financial flows. Commitments have been made by the authorities of the zone to strengthen governance. Placing efforts to combat money laundering and the financing of terrorism in this context facilitates greater harmonization with the development priorities of the countries of the region, including the mobilization of human and budgetary resources, while strengthening their impact.

11. **The AML-CFT tools should be used to foster decisive and concrete action on good governance.** In this regard, the authorities of the zone should give priority to:

- Building awareness and disseminating information on the overall framework for combating money laundering and the financing of terrorism, by explaining the relevant new obligations to both the general public and the entities/persons involved.
- Identifying a national leader in each country to foster implementation of the regional legal framework, who will mobilize all public actors, implement essential coordination and cooperation among actors (including those at the regional level), define clear objectives, the phasing and the steps to be followed to achieve them, and submit periodically progress reports (including a statistical and quantitative component).

Overview of the Financial Sector and DNFBPs

General information

12. **The financial sector is still very small**, although sharp differences exist from one country to another and in practice, financial integration remains limited. The banking sector constitutes the lion's share of the region's financial sector. The insurance sector is in a fledgling phase, and the life insurance market in particular accounts for only a marginal portion of the zone's GDP. A regional stock exchange is on the verge of starting its operations. It will supplement the Douala stock exchange, on which so far only one transaction has been undertaken (public offering of securities by the Douala urban community). The stock exchange markets is therefore all but nonexistent.

13. **The informal sector accounts for a significant portion of the economic activity of the region, a characteristic common to the six-member countries.** Apart from the impact of this situation on the public finances of member countries, the size of the informal sector—coupled with low usage of banking services and a reluctant attitude toward the banking system in some countries—is reflected in the very high volume of paper money and a strong preference for cash in economic transactions. Although the regional central bank is making a noteworthy effort to encourage the use of bank money and to establish an efficient regional payments system (and thus foster use of debit/credit cards), paper money remains by far the preferred form of payment and savings in the zone.

14. **In addition, the countries of the zone have informal pooled savings systems, in particular *tontines*** [savings clubs], which are particularly prevalent in Cameroon. These mechanisms pose a dual challenge from the standpoint of combating money laundering. They exist in parallel with the formal financial system, sometimes to the detriment of the development of the latter, and potentially facilitate recycling of a portion of the proceeds derived from crime as their dealings with the formal financial sector are cash-based, even for legitimate transactions. They can also shield identification of the source of funds, lending a veil of legality to what are sometimes very significant resources. In addition, when they are structured as formal associations, *tontines* can establish business relationships with credit institutions, thereby making it difficult to ascertain the beneficial owner.

15. Given this situation, **an anti-money laundering approach that is specific to the region should be adopted, with emphasis being placed on the interfaces with the real economy** and thus on **the role of gatekeepers** (Designated Nonfinancial Businesses and Professions—DNFBPs) in preventing and detecting money laundering (in this regard, the real estate sector is a noteworthy example). In fact, in the short term, it is very unlikely that the proceeds of crime would be **placed** in the formal financial sector. Moreover, the gradual establishment of a money laundering mechanism could instead lead to increased “informalization,” thereby heightening the need for the simultaneous development of mechanisms that are suited to the informal sector.

Legal system and related institutional measures

16. **Initial work to establish a regional framework** to combat money laundering and the financing of terrorism **within CEMAC was started at the 2000** meeting of heads of state of the subregion. **CEMAC Regulation 01/03 of April 2003 underpins this**

framework. It criminalizes money laundering and the financing of terrorism, establishes the appropriate criminal sanctions, and lists the professions (financial institutions and DNFBPs) that fall under the mechanism for preventing and detecting money laundering and the financing of terrorism. It also defines the related preventive obligations (due diligence, obligation to establish internal policies and procedures, reporting of suspicious transactions), provides for the establishment by each member state of a financial intelligence unit (National Agency for Financial Investigation—ANIF), and outlines procedures for verifying and enforcing obligations by the said professions. Several provisions of the CEMAC regulation, particularly in the area of detection, provide for thresholds, which are to be established by the ministerial committee. To date, none has been established. It is important for them to be established in the very near future.

17. **CEMAC regulation 01/03 is of direct and immediate application in all the countries of the region, including its criminal component** (criminalization of money laundering and the financing of terrorism, establishment of the appropriate criminal sanctions). In fact, the Treaty establishing CEMAC, the additional Treaty on the institutional and legal system, and the two conventions on the Central African Economic Union (UEAC) and the Central African Monetary Union (UMAC), provide for the possibility to transfer monetary, economic, and financial sovereignty. It foresees in particular the adoption by the UMAC ministerial **committee** of regulations that directly have the force of law and do not require to be transposed into the national laws of each member state. The procedures set forth in the Treaty and UMAC Convention, covering situations where the regulations contain provisions that fall within the purview of other areas of competency, were followed during the preparation and adoption of CEMAC Regulation 01/03 (in particular, involvement of ministers of justice and the interior). Besides, the regulation was unanimously adopted. The assessors are on this basis satisfied that the CEMAC Regulation 01/03 is fully in force in the six countries, including its criminal component (and related criminal sanctions). The fact that some member states have opted to take the additional step of transposing the CEMAC regulation in their national laws, despite the direct applicability of this regulation, does not change this judgment. However, the risk that it be challenged in court, particularly on the issue of the direct and immediate application of the criminalization and of the related criminal sanctions, cannot be entirely ruled out. The authorities of the region—regional and national—should strengthen their legal argument to prepare for such a possibility.

18. **The criminal charge of money laundering covers all crimes and offenses.** However, a small number of primary offenses are not covered in national laws (among them, offenses involving financial markets). The definition of the financing of terrorism does not **provide** for attempts to commit this offense and legal persons cannot be sanctioned for financing terrorism.

19. **To date, only the Central African Banking Commission (COBAC) has enacted a regulation to implement the Community legislative framework**, applicable to the credit institutions that it supervises. It contains numerous provisions reflecting the 2003 FATF recommendations; while the Community regulation preceded their adoption.

20. **Overall, the two criminal charges of money laundering and of terrorism**

financing and the penalties associated therewith, as defined by CEMAC Regulation 01–03, are consistent with international standards (see para 19 below for the description of its weaknesses). However, in the case of criminal charge of the financing of terrorism, the definition in the CEMAC regulation introduces a reference to ratification and transposition by member states of the corresponding United Nations conventions. This leads to complication and ambiguity in the coordination between the Community and national levels, as all countries have not yet ratified and transposed this Convention. In this regard, a parallel regional regulation (UEAC 08/05 of May 24, 2004) makes the provision for the financing of terrorism both clearer and broader (without referring to international conventions), but also adds at the same time a potentially confusing element by introducing an additional judicial reference. In this context, it is essential that Community institutions and the competent authorities of member states enhance coordination on developments related to the legal mechanisms of the Community and member states, so as not to lose the benefit of a harmonized legal framework in the subregion.

21. **The framework for investigation and prosecution exists at the member state level**; the CEMAC regulation does not contain any provision in this regard. In the context of Interpol in particular, coordination does exist between the police services and **gendarmerie** in the zone (meeting of police chiefs)—although operational coordination still seems to be limited. Despite the fact that the regional customs code (CEMAC customs code) provides a common legal framework for the zone, implementation takes place at the national level exclusively. Judicial institutions are at the national level. Consequently, this evaluation cannot provide a full assessment of the zone in these areas.

22. However, based on the **information** gathered in the member states visited, it seems possible to draw the following cross-cutting conclusions:

- a. **No member state has a coordinated and structured criminal policy on money laundering and the financing of terrorism** or the main offenses that occur in the zone (among them, corruption, embezzlement of funds, and smuggling), even though the legal mechanism needed exists. In this regard, it seems critical that the political commitments undertaken be specifically reflected in the definition of a criminal policy. Such a policy should then be supported by the mobilization of resources and, in particular, of the appropriate expertise. Great attention should be paid, among other things, to linking the mechanisms for combating corruption and embezzlement of public funds and the mechanisms for combating money laundering, in order to capitalize on synergies and ensure that they are mutually reinforcing (see, for instance, the role of the reporting obligation to detect corruption and embezzlement);
- b. **Generally speaking, the investigative services** (police, *gendarmerie*, and customs) **have the necessary legal and investigative tools**. While training in the area of financial crimes is essential, some expertise already exists. However, better coordination at the national and regional levels is critical from the outset in order to use scarce resources more effectively (in particular, budgetary and human resources) and thus improve the results of the investigation and prosecution;

- c. **The judiciary also has expertise on which they can draw. This expertise should be strengthened in the economic and financial areas.** Once again, the challenge here is more effective use of this expertise, as well as of current resources (which are too scant). Consideration should be given, among other things, to the establishment of centers of expertise;
- d. **Overall, the resources allocated to the justice system and police remain scant.** This problem should be addressed in the more general context of budgetary constraints in the countries of the zone.

23. **The mechanisms for freezing, seizure, and confiscation under Community law are derived from national law.** The information compiled in the countries visited suggests that the legal framework of CEMAC member countries as a whole is appropriate. Moreover, the legal provisions of CEMAC Regulation 01/03 allow for the possibility of additional penalties in the area of confiscation.

24. **CEMAC Regulation 01/03 establishes a mechanism for the freezing of assets pursuant to UN Security Council Resolutions 1373 and 1267 (*et seq.*).** However, its wording is confusing. In some cases, it does not distinguish between the lists of persons and entities identified by the United Nations under Resolution 1267 *et seq.* (Sanctions Committee list) and those to be adopted by member states pursuant to Resolution 1373. The regulation should be redrafted, so that the processes and decisions applicable to each of the two obligations can be clearly identified in the Community regulation. The regulation provides for the direct **application** of lists pursuant to Resolution 1267, and also provides for the possibility of adoption by the UMAC Ministerial Committee of the lists of persons and entities subject to asset freezing. The CEMAC regulation allows the ministerial committee, or the Finance Minister of a member state in cases of emergency, to provide waivers, authorizations, and exemptions on humanitarian grounds²—any decision at the national level requires later endorsement at the Community level.

25. **The definition of the funds subject to freezing is in line with the requirements of the Security Council resolutions.**

26. **Member states, which do not have national mechanisms for the freezing of assets have not, in practical terms, implemented Resolution 1267.** Lists are not systematically circulated by national or Community authorities (in particular COBAC) and, in the absence of a national legal framework, the legal foundation established by the CEMAC regulation has not been used to clarify the obligation to freeze funds. It is therefore recommended that the regional authorities, using the CEMAC regulation as a reference, establish clear procedures for the circulation of all lists adopted by the United Nations pursuant to Resolution 1267.

27. **Furthermore, since member states do not have a national legal framework for freezing assets, they do not fulfill the requirements set forth in Resolution 1373.**

² The Community regulation explicitly states that in the case of the persons or entities listed by the United Nations, these waivers can be granted only when they are in conformity with the provisions stipulated by this institution.

They also do not have clear procedures for considering lists under Resolution 1373 which may be submitted by a third-party state. The mechanism established by the CEMAC regulation represents an important step forward. **However**, a decision can only be made after unanimity among member states has been reached. In order to handle a potential decision-making impasse within the Ministerial Committee, it is important for all states to have a national supplementary mechanism with respect to Resolution 1373 and to establish decision-making procedures regarding lists submitted by third party states.

28. **To date, three countries of the zone have formally put in place the National Agencies for Financial Investigation (the FIUs) established by the CEMAC regulation** (Cameroon, Central African Republic, and Gabon). Only the members of the **Cameroon** Agency have been appointed. This means that to date, only one ANIF is capable of performing its tasks. It is essential for all states in the zone to put their ANIFs in place as soon as possible, to appoint qualified individuals of recognized integrity to serve, and to provide their agencies with the resources necessary to perform their mission and exercise fully their institutional and operational independence.

29. **The CEMAC regulation, supplemented by the COBAC regulation in the case of credit institutions, establishes an obligation to report suspicious transactions.** This reporting obligation is overall in line with the international standard. As part of this obligation, reporting institutions acting in good faith are offered protection and are explicitly barred from informing a client when a report is made. Sanctions are **imposed** for failing to provide a report and for informing clients when reports are provided. Given that no ANIF is fully operational to date, it is not possible to assess the functioning of the mechanism for reporting suspicious transactions or the quality of the reports received.

30. **All the professionals concerned** who met with the mission asked tough questions and **expressed the need for greater assurances with respect to maintaining the confidentiality of suspicious transactions reports**, both within ANIF and when reports are later submitted to judicial services. Although this concern is common among reporting institutions, it is particularly pronounced in the zone. In fact, financial institutions (as well as the other professions involved) have observed major breaches of professional confidentiality. Given that a breach of confidentiality in the chain of suspicious transactions reports may jeopardize the cooperation of reporting institutions, or even result in harmful consequences for them, it is essential that:

- **The independence of the ANIFs be reaffirmed at the political level in each state**, and that the selection process of their members, the human and material resources made available to them, the procedures for secondment from their civil service departments (and for remuneration), and their respective missions specifically demonstrate and reaffirm their independence, as well as the perception of their independence by the other public authorities, the entities/persons involved, and the general public;
- **All ANIFs in the zone be equipped with the resources necessary to secure their premises and operations**, and ensure complete confidentiality of their data;

- **ANIFs adopt stringent codes of ethics for their staff, encompassing integrity and confidentiality obligations.** Stiff sanctions should apply in the event of breaches of these codes of ethics;
- **ANIFs draft rigorous procedures to protect information, in collaboration with covered institutions and public authorities.** All relevant parties should be aware of these procedures;
- **ANIFs strictly adhere to the requirements of Article 37 of CEMAC regulation, which stipulates that suspicious transaction reports themselves are not to be forwarded to the public prosecutor,** and that the identity of the reporting entity/individual must not be revealed to said public prosecutor.

31. **Overall, neither regional nor national authorities have, to date, introduced basic statistical tools (collection, analysis and dissemination) on major offenses or money laundering and the financing of terrorism,** in any area (prevention, detection, suppression, international cooperation). The annual reports of ANIF and GABAC (Central African Task Force against Money Laundering) can serve as a useful platform to initiate data collection, going beyond the mere reporting of suspicious transactions, where necessary. In the same vein, the selection by each member state of a “leader” at the country level should help establish a framework for this purpose, by ensuring that statistical tools are well used to monitor progress and effectiveness in implementing the regional regulation.

32. In parallel, **Supplementary Act No. 9/00/CEMAC–086/CCE 02 of December 14, 2000, established GABAC (Groupe d’Action contre le Blanchiment en Afrique Centrale), thereby making it a dedicated body of the Community.** GABAC expects to be recognized as the FATF-style regional body (FSRB) for the CEMAC region. The UMAC ministerial committee adopted CEMAC Regulation 02/02 on the organization and functioning of GABAC. The GABAC permanent secretariat is located in Bangui, on the premises of the CEMAC executive secretariat.

33. **The establishment of GABAC is an important step for the region,** as it provides a more functional approach to the introduction of the mechanism for combating money laundering and the financing of terrorism, facilitates and encourages information sharing, develops **region**-specific typologies, and finally, introduces mutual evaluations. To date, the GABAC permanent secretariat has focused primarily on its institutional setting, the mobilization of its budgetary resources, and on mobilizing member states to initiate actual implementation of the Community policy (in particular, by pressing them to establish national agencies for financial investigation). The respective roles of the chairman of GABAC, the plenary group, and the permanent secretariat should be precisely defined.

34. It is therefore important that GABAC, and in particular the permanent secretariat, operationalize its **core** objectives:

- **To establish a technical network of experts in the member states** to facilitate information sharing and have intermediaries at the operational level;
- **To immediately initiate typology exercises**; prepare the procedures and timetable for mutual evaluations, while launching (with support from external partners) training of future evaluators. In this regard, and in accordance with the **philosophy** of mutual evaluations and peer pressure, it is essential that country mutual evaluations focus only on the domestic features of the AML-CFT framework—and that specific mechanisms be identified to assess the regional framework (for instance by involving external partners). While the GABAC permanent secretariat must play an important role in the supervision of mutual evaluations, particularly in terms of quality and equity, it should not be solely responsible for preparing them; and
- **Finally, to make headway in gaining the recognition of international organizations, particularly FATF, GABAC should officially recognize the FATF 40 + 9 recommendations** as the international standard and include this recognition in its statutes, recognize the standard evaluation methodology, and immediately initiate the mutual evaluation process (cf. above).

Preventive Measures—Financial Institutions

35. **The CEMAC regulation outlines the due diligence requirements** (client identification—in the context of a business or an occasional relationship, enhanced diligence of certain **types** of transactions—defined restrictively though, data conservation, introduction of internal policies and procedures) for all financial institutions.

36. **The CEMAC regulation, which was finalized prior to 2003 revision of the 40 FATF recommendations, should be amended and updated to facilitate the introduction, at the regional level and for all covered financial professions, of enhanced due diligence obligations and preventive measures.** This appears to be **particularly** relevant to the enhanced monitoring measures for a number of categories of clients or certain types of transactions, and in particular the Politically Exposed Persons (PEPs). Moreover, as there was no specific and rigorous obligation for client identification before the enactment of these regulations, it is necessary for the supervisory bodies to quickly specify the deadline for updating existing client identification data and the risk procedures to be used.

37. **In April 2005, COBAC enacted a regulation for credit institutions.** It largely replicates provisions of the CEMAC regulation, but also include new requirements pertaining to the ongoing monitoring, the understanding of the object and nature of the business relationships, and the introduction of enhanced scrutiny, particularly for politically exposed persons.

38. **Neither of these two regulations introduces any obligation to identify beneficial owners.**

39. **The main requirements missing from the CEMAC regulation are as follows:**

- Procedures and timetable for identifying existing clients;
- Obligation to identify beneficial owners;
- Ongoing monitoring obligation during the business relationship and client “profiling”;
- Obligation to identify the originator of a money transfer;
- Notion of enhanced monitoring for high-risk categories, politically exposed persons, and for cross-border correspondent banking relationships transactions and other similar operations;
- Specific obligations for non face-to-face business relationships; and
- Reinforcement of obligations for business relationships where third parties or introducers are involved, with specific clarification of the associated structural due diligence.

40. **With the exception of the obligation to identify beneficial owners, the COBAC regulation contains provisions that are consistent with international standards**, and are suited to the context and risks in the zone with respect to many of the **mentioned** issues. To reinforce the sound linkage of the legal frameworks, the revision of the CEMAC regulation must closely mirror the current COBAC regulation. Both regulations should be strengthened in the following areas: identification of existing clients, identification of beneficial owners, and identification for electronic transfers.

41. **All national and regional public authorities responsible for overseeing and regulating financial institutions should adopt regulations or guidelines on the implementation of the AML-CFT obligations as soon as possible.** To date, only COBAC has done so. “Monetary authorities” of the member states (i.e., ministries of finance) must act at the national level to oversee the currency exchange operations in these areas. Similarly, the regional insurance supervisor (Conference Inter-Africaine des Marchés d’Assurance—CIMA) should adopt regulations reflecting the WAEMU and CEMAC respective AML-CFT obligations, as CIMA covers both regions. CIMA will have to collaborate closely with the national insurance administrations of member states, particularly to ensure the effective complementarity and consistency of provisions applicable to insurance companies with those for insurance intermediaries. Finally, the regional securities market supervisor (Commission de Surveillance du Marché Financier de l’Afrique Centrale—COSUMAF) should, in collaboration with the Financial Markets Council of Cameroon, enact an AML-CFT regulatory framework.

42. **The CEMAC regulation introduces a general obligation to implement internal AML-CFT policies and procedures, which only applies to financial**

institutions. The CEMAC regulation should be expanded to introduce a similar general obligation for nonfinancial businesses and professions, to be tailored to the specific conditions of these professions. Only COBAC, by referring to its internal control regulation for credit institutions, has specified and provided details **on** these obligations in its 2005 AML-CFT regulations, which contain the main relevant provisions. The other regulators in the financial sector should swiftly introduce similar AML-CFT provisions in their sectoral regulations.

43. **Moreover, BEAC (the regional central bank) should clarify the obligations of financial institutions with regard to electronic and fund transfers,** as well as the obligation to identify **the** originator regardless of the transfer amounts. As the monetary zone constitutes a single regional payments system, and since the intra-zone payment system policy being introduced creates the possibility, from a technical standpoint, of circulating the identification data on the originator, it is important that the requirements to be imposed on financial institutions reflect both the region's financial integration and limited legal integration, by meeting the objectives of Special Recommendation VII. It is particularly important to specify for both domestic (this will eventually mean regional) and cross-border transfers what information must accompany transfers and what steps receiving institutions should take when the originator information is clearly inaccurate or unavailable.

44. **The CEMAC regulation provides the financial supervisor with the responsibility to enforce compliance by financial institutions with their AML-CFT obligations.** To date, none of the regional or national financial supervisor has initiated any such controls.

45. **COBAC, COSUMAF, and CIMA have the authority to control financial institutions within their areas of competence.** They have shared authority with national authorities (ministry of finance) to license credit institutions, insurance companies, and insurance intermediaries, and their managers. They have access to all documents necessary to fulfill their mission. They also have the authority to impose appropriate and effective sanctions for any breaches observed.

46. **COBAC has made significant progress in its preparation to initiate both off-site and on-site supervision.** COBAC has prepared a questionnaire on the implementation of these regulations (ASTROLAB), which will soon be disseminated to credit institutions, and on-site audits to check compliance are to begin in September 2006 (within the framework of a thematic survey on both internal audits and combating money laundering). Furthermore, COBAC has initiated training activities for its off-site and on-site supervisors on AML-CFT. These actions must be strengthened and continued, by focusing them on the issues of supervising credit institutions on AML-CFT.

47. **Microfinance institutions have been included in COBAC's ambit,** which dedicated large resources in 2004 to ensure that all institutions complied with newly introduced licensing requirements. Microfinance institutions play an essential role in providing access to financial services in the zone, and it is critical that the objectives of prudential supervision (including AML-CFT) be measured against their potential impact

on access to financial services. Nevertheless, in view of the **importance** of cash in the zone, of savings schemes like *tontines* (which are sometimes structured as a microfinance institution) and of the size of the informal sector, a mobilization of prudential authorities and microfinance institutions to rigorously tailor the AML-CFT obligation to this sector is required. As the COBAC regulation is applicable, COBAC “microfinance” department should rapidly initiate actions to build awareness, mobilize, provide support, and where necessary, tailor the COBAC regulation to suit these institutions before integrating this component into its off-site and on-site supervision, by closely replicating the work done by COBAC for credit institutions.

48. Manual currency exchange operations in the CEMAC region are carried out in parallel by three categories of actors: a relatively limited, yet regulated, formal sector; unregulated economic agents who can nevertheless conduct foreign exchange transactions (hotels for example); and a very large informal sector. The risk associated with the latter is compounded by the highly porous nature of the borders in the region, especially as far as cash is concerned. The CEMAC regulation contains specific provisions on manual **currency** exchange operations which are aimed at complementing the existing regulatory framework, which falls within the purview of national authorities. Based on the information gathered in the countries visited and the regional regulatory framework, there is a need to:

- Strengthen foreign exchange control in the informal sector and initiate specific enforcement actions against manual currency exchange operations in this sector. Coordinated actions by public authorities (ministry of finance, customs, police, *gendarmerie*) could specifically be carried out against the most well-known informal manual money changers undertaking the largest transactions, to expressly demonstrate the authorities’ commitment;
- Enact specific AML-CFT implementing regulations for regulated money changers; and
- Reinforce authorities’ actions towards money changers, particularly in the area of supervision—without increasing though the “comparative advantages” of informal money changers, so as not to support the latter.

49. With regard to value and fund transfers, the formal sector is composed of providers that are essentially banks, particularly within the framework of their contractual agreements with Western Union and MoneyGram. There has been a significant increase in value and fund transfers in the region, which is a net exporter of capital, with the primary destinations being Europe, West Africa, China, and Dubai. The authorities have indicated that they have no information on the level of value transfers carried out by informal agents, for whom sanction mechanisms exist, particularly with regard to foreign exchange control and illicit banking practices. A specific analysis of this phenomenon is required, including to better identify, where necessary, the channels used to transfer value (including the physical movement of cash), and introduce specifically tailored mechanisms to divert these possible flows toward the formal sector.

50. **The introduction of AML-CFT requirements for value and fund transfers warrants clarification of the obligations of the various actors and of the actions to be undertaken by the public authorities** (particularly prudential authorities). Based on the information collected, agreements between credit institutions in the zone and Western Union (or its equivalent) include two different procedures for implementing AML-CFT, in a context where Western Union is not licensed as a **credit** institution. In a number of cases, credit institutions apply their internal procedures, which generally incorporate Western Union procedures, to these activities. In other cases, this activity is “isolated” from the internal procedures of the credit institution and only Western Union procedures are applied, whereas the regional authorities have not been in position to ascertain whether Western Union’s internal policies (particularly with regard to the detection of suspicious transactions) are in line with the regional AML-CFT framework and requirements.

51. **“Monetary” and prudential authorities should clarify the responsibilities of the various actors in the area of value and fund transfers**, in order to ensure the successful **implementation** of the AML-CFT framework, hold actors accountable, and undertake prudential control.

52. **All supervisors of financial institutions other than COBAC should, as soon as possible, mobilize the professionals and entities which they supervise on their AML-CFT obligations, initiate training of their agents, and introduce tailored tools for off-site and on-site supervision.** The implementation of AML /CFT requirements has been hampered by an insufficient involvement of supervisory authorities and by the insufficient awareness of the AML CFT requirements by some covered entities.

53. In addition, COBAC and the other supervisors will have to find over time the right balance between their **efforts** on dissemination, training and awareness-raising and their enforcement, control and sanctions responsibilities.

54. Overall, **supervisors in the financial sector already have limited resources to achieve their goals.** The additional responsibility for overseeing the implementation of AML-CFT requirements will require more work, with a noticeable peak in the early years of implementation. Additional staff and a targeted training program are therefore required.

Preventive Measures—Designated Nonfinancial Businesses and Professions

55. **Although the CEMAC regulation was drafted before the revision of the FATF recommendations, it includes the FATF designated nonfinancial businesses and professions (DNFBP) in the AML-CFT framework** (including lawyers). The regulation outlines their due diligence and STR obligations. Loopholes identified in the CEMAC regulation for nonbank financial professions also apply to the DNFBPs. Three main weaknesses must be noted: regulations do not include provisions dealing with beneficial owners; DNFBP are not required to have internal policies and procedures appropriate to their activities; and reporting requirements are not waived for lawyers when they come across information while discharging duties covered by professional

confidentiality (in the case of legal proceedings only). While, by and large, the CEMAC regulation appears to exclude these situations, some ambiguity persists and should be removed so that this situation cannot be used as a pretext for rejecting, on principle, the entire policy.

56. **Although the regulations are generally satisfactory, their implementation is still at best limited.** No awareness-building programs for these professions have been conducted. Their **supervisory** authorities or self-regulatory organizations have not implemented any actions to date, and both the professionals themselves and their self-regulatory authorities seem to be unfamiliar with the CEMAC regulation. Furthermore, on a more general basis and beyond AML-CFT, many of the regulatory policies of these professions have not been implemented, even when they are formally of good quality; this does not create an environment conducive to the efficient and effective implementation of CEMAC Regulation 01/03.

57. Moreover, information gathered by the mission during its visits to member states indicates that **the supervisory framework for casinos** (and other forms of gambling) **needs to be strengthened**, including for AML-CFT purposes, particularly to ensure that CEMAC provisions on casinos are successfully implemented.

58. **This situation is even more important given that**, as previously indicated, **the “gatekeepers” have an even more significant role to play in the zone** with regard to AML-CFT. Illicit financial flows appear to be regularly invested directly into the **real** economy, without passing through the financial sector. These schemes include the establishment of front companies, real estate investments, and trafficking in precious stones and metals. For these reasons, the mobilization of the supervisory authorities and self-regulatory organizations of these professions and the professionals themselves must be stepped up and accelerated as soon as possible, in order to initiate implementation in these sectors.

Legal Persons and Arrangements and Nonprofit Organizations

59. **All CEMAC member countries are also members of the Organisation pour l’Harmonisation du Droit des Affaires en Afrique (OHADA)**—the regional organization for **commercial** and business law, to which all CEMAC countries are party. **OHADA Uniform Acts on commercial law and the transparency of companies and other legal entities apply**, particularly the obligation to register with the commercial and personal property credit registers set up by member states. The mission was not in position to actually verify compliance with these obligations, although the financial institutions indicated that they check data provided by clients against these registers when establishing business relationships. The mission was also not in a position to verify whether information is regularly updated.

60. **Some countries in the zone, particularly Cameroon, appear to recognize common law mechanisms such as trusts and other similar legal arrangements.** Based on the information received, it appears that Cameroonian law contains no related obligations, particularly with regard to transparency for settlers and **beneficiaries**.

Furthermore, some companies (*sociétés civiles*), particularly real estate companies, are not subject to obligations that are equivalent to transparency and registration obligations as described above. It is necessary to introduce a basic transparency framework for these companies, especially in light of the existing risk of money laundering through the real estate sector.

61. **The legal framework for NGO and nonprofit organizations only falls within the purview of national authorities.** The information gathered by the mission indicates that the authorities are not sensitive to the risk of abuse of NGOs for FT purposes.

National and International Cooperation

62. **The limited progress made to date with regard to the establishment of ANIFs, and consequently, the absence of a trigger for the implementation of the AML-CFT framework, did not allow for an assessment of the quality of domestic cooperation in countries of the zone.** Nevertheless, the regional legislative framework does not establish a frame of reference for this purpose, and the lack of ongoing cooperation among the various AML-CFT actors appears to persist to this day.

63. **Coordination and cooperation at the domestic level are essential components of an effective AML-CFT system,** from strategy definition, general guidelines, and impact assessment of adopted measures, to information sharing among the agencies concerned.

64. **The designation of the aforementioned “leader” at the national level must be put back in this context.**

65. **The institutional features of the region make it even more important.** Indeed, because of the **regional** organizations involved in the mobilization of public authorities (regional and national) and of private actors, there must be sound linkage and cooperation at all these various levels. The “leader” may also, in this context and where necessary, act as an interface to foster greater understanding and improved efficiency and consistency.

66. **The CEMAC regulation establishes the procedures for mutual legal assistance and supplements existing bilateral agreements between member states and third states.** The establishment of the *Pacte de solidarité d’entraide et d’extradition entre les pays de la CEMAC* [Solidarity Pact for mutual assistance and extradition among CEMAC member countries] (signed and currently being ratified) is a noteworthy step forward. Overall, the CEMAC zone therefore has a satisfactory framework for international criminal cooperation.

67. **The CEMAC regulation does not contain any provisions on extradition; these issues are instead addressed at the national level,** while awaiting the entry into force of the Pact. Examples in Cameroon, Congo, and the Central African Republic indicate that states in the **zone** appear on a whole to have a satisfactory legal framework for extradition, except in the case of prosecuting nonextraditable nationals for offenses committed overseas.

68. **Administrative authorities (COBAC, CIMA, ANIFs) in particular have the latitude required to solicit international cooperation and to respond to requests.**

Other issues

69. **The extent of corruption and embezzlement in civil service and public authorities is a critical structural factor that may hamper the introduction of effective AML-CFT mechanisms, and, ultimately, the investigations and prosecutions of related predicate offenses.** Based on the qualitative data collected by the mission, this situation affects the whole zone and the main relevant actors, at various levels—it may therefore actually jeopardize the entire mechanism. It also opens the way to the possibility of abusing the framework (particularly in light of the confidential and sensitive information that it can generate).

70. In this context, **it is only by including all AML-CFT efforts in the more comprehensive framework of strengthening governance,** with objectives specific of the zone, that **these risks may be mitigated.** The utmost attention must be paid to the independence of the various actors concerned and to the perception of their independence, and assurances must be given that specific measures taken to implement the AML-CFT framework will not result in any misunderstandings, but will instead reinforce its legitimacy, particularly during the initial years of implementation.

Table 1. Main Recommendations for Strengthening the Mechanism to Combat Money Laundering and the Financing of Terrorism

FATF 40+9 Recommendations	Recommended Action (listed in order of priority)
1. Legal System and Related Institutional Measures	
Criminalization of Money Laundering (R.1, 2, and 32)	Enlarge the list of predicate offenses for money laundering to align it with the international standard. Set up a light coordination mechanism to ensure consistency and harmonization between the regional legal framework and national legislations.
Criminalization of Terrorist Financing (SR.II and R.32)	Criminalize the attempt of terrorism financing. Introduce the criminal responsibility of legal persons.
Confiscation, freezing and seizing of proceeds of crime (R.3 and 32)	
Freezing of funds used for terrorist financing (SR.III and R.32)	Amend the text of CEMAC Regulation 01-03 to clarify that it covers both UNSCR 1267 and 1373. Adopt clear mechanisms to disseminate lists of terrorist entities adopted under UNSCR 1267 or 1373.
The Financial Intelligence Unit and its functions (R.26, 30 and 32)	Ensure that FIUs are set up in all member states as soon as possible. Ensure the independence of the FIUs and the complete confidentiality of their databases.
Law enforcement, prosecution and other competent authorities (R.27, 28, 30, and 32)	Define a criminal policy for AML/CFT. Train prosecutors and investigators to AML/CFT.

Cross Border Declaration and Disclosure (SRIX)	Develop controls related to cross-border transactions.
2. Preventive Measures–Financial Institutions	
Risk of money laundering or terrorist financing	
Customer due diligence, including enhanced or reduced measures (R.5–8)	Define requirements to identify existing clients, beneficial owners, and the originator for electronic transfers. Implement and enforce the existing requirements as soon as possible. Define for the nonbank financial institutions requirements related to the enhanced monitoring for high-risk categories, politically exposed persons, and for cross-border correspondent banking relationships transactions and other similar operations. Enact specific AML/CFT implementing regulations for money changers.
Third parties and introduced business (R.9)	Define a due diligence requirement in the context of third parties and introduced business.
Financial institution secrecy or confidentiality (R.4)	Allow financial institutions to share information between themselves to comply with Recommendations 7 and 9 and Special Recommendation VII.
Record keeping and wire transfer rules (R.10 and SR.VII)	Define a requirement to identify occasional customers undertaking wire transfers.
Monitoring of transactions and relationships (R.11 and 21)	Define the threshold for large transactions. Enlarge for the nonbank financial institutions the scope of transactions subject to enhanced monitoring in the context of Recommendation 21.
Suspicious transaction reports and other reporting (R.13, 14, 19, 25, and SR.IV)	Enlarge the reporting obligations to attempted transactions. Enforce the reporting obligations. Define the threshold for the reporting of cash transactions.
Internal controls, compliance, audit and foreign branches (R.15 and 22)	Define internal controls requirement for nonbank financial institutions. Enforce the existing internal controls requirements for the banking sector.
Shell banks (R.18)	
The supervisory and oversight system–competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 25, and 32)	Fully implement and enforce the existing requirements in the banking sector. Increase the staffing of the financial sector supervisors. Significantly set up the mobilization of national authorities towards money changers, particularly in the informal sector. Define the threshold for due diligence by money changers.
Money value transfer services (SR.VI)	Clarify the responsibilities in terms of AML/CFT between credit institutions in the zone and Western Union (or its equivalent) Ensure full enforcement of related requirements by the banking sector supervisor
4. Preventive Measures—Nonfinancial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	Step up awareness raising efforts towards DNFBPs. See recommendations under R5, R6, 8–11, and 17 for the nonbank financial sector.

Suspicious transaction reporting (R.16)	See recommendations under Recommendation 13. Clarify the status of the carve out for privileged information for legal professions.
Regulation, supervision, monitoring, and sanctions (R.17, 24, and 25)	Engage the regulatory / self-regulatory bodies of DNFBPs on their roles in the supervision of the implementation of AML-CFT requirements.
Other designated non-financial businesses and professions (R.20)	Take further steps towards the development of secure means of payments.
5. Legal Persons and Arrangements and Nonprofit Organizations	
Legal Persons—Access to beneficial ownership and control information (R.33)	
Legal Arrangements—Access to beneficial ownership and control information (R.34)	
Nonprofit organizations (SR.VIII)	
6. National and International Cooperation	
National cooperation and coordination (R.31 and 32)	Create statistical tools to monitor the effectiveness and impact of the AML-CFT framework.
The Conventions and UN Special Resolutions (R.35 and SR.I)	
Mutual Legal Assistance (R.36, 37, 38, SR.V, and 32)	
Extradition (R. 39, 37, SR.V, and R.32)	
Other Forms of Cooperation (R. 40, SR.V, and R.32)	
7. Other Issues	
Other relevant AML/CFT measures or issues	

Response of authorities to the evaluation

The authorities endorsed overall the analysis and recommendations coming out of the ROSC. They currently plan to have the assessment discussed at an upcoming meeting of GABAC, which should allow for further discussions of the recommendations, their prioritization and sequencing, with both regional and national authorities.