



# Anti-money laundering and counter-terrosist financing measures **Republic of Gabon**

## Mutual Evaluation Report July 2023



Cameroon

Equatorial  
Guinea

Republic of Congo

Atlantic ocean

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## **LIST OF ACRONYMS AND ABBREVIATIONS**

**AML/CFT:** Anti-Money Laundering and Combating the Financing of Terrorism

**AML/CFT:** Anti-Money Laundering and Combating the Financing of Terrorism

**AML:** Anti-Money Laundering

**ANIF:** National Agency for Financial Investigation

**ANPI :** National Investment Promotion Agency

**ANPN:** National Agency for National Parks

**APEC:** Professional Association of Credit Institutions

**APEMFG:** Gabon National Association of Microfinance Institutions

**ARC:** Crime Repression Officer

**ASTROLAB:** Questionnaire on Assistance to Surveillance, Treatment and Organization of Anti-Money Laundering

**AUDCG:** Uniform Act Relating to General Commercial Law

**AUSCGIE:** Uniform Act Relating to Commercial Companies and Common Interest Groups

**BEAC:** Bank of Central African States

**BNI:** Bearer Negotiable Instruments

**BO:** Beneficial Owner

**BVMAC:** Central African Stock Exchange

**C:** Compliant

**CCP:** Code of Criminal Procedure

**CCS:** Libreville Special Criminal Court

**CDD:** Customer Due Diligence

**CEMAC REGULATION:** Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering and terrorist financing and proliferation in Central Africa

**CEMAC:** Central African Economic and Monetary Community

**CFAF:** Franc de la Coopération Financière en Afrique

**CFT:** Combating the Financing of Terrorism

**CIMA:** Inter-African Conference of Insurance Markets

**CNLCEI:** National Commission to Combat Unlawful Enrichment

**CNS:** National Security Council

**COBAC:** Central African Banking Commission

**COSUMAF:** Central African Financial Market Supervisory Commission

**CP:** Penal Code

**CRCA:** Regional Commission for Insurance Supervision

**DGCISM:** Directorate General of Counter-Intelligence and Military Security

**DGCPT:** Directorate General for Public Accounting and the Treasury

**DGD:** Directorate General of Customs

**DGDI:** Directorate General of Documentation and Immigration

**DGI:** Directorate General of Taxation

**DIF:** Directorate of Financial Establishments

**DN:** BEAC Nationale Directorate

**DNA:** National Insurance Directorate

**ECCAS:** Economic Community of Central African States

**EIG:** Economic Interest Group

**FATF:** Financial Action Task Force

**FEGASA:** Gabon Federation of Insurance Companies

**FI:** Financial Institution

**FIU:** Financial Intelligence Unit

**FP:** Financing of Proliferation

**FSRB:** FATF-Style Regional Body

**FSTSP:** Funds or Securities Transfer Service Provider

**GABAC:** Task Force on Anti-Money Laundering in Central Africa

**GDP:** Gross Domestic Product

**HC:** Highly Compliant

**ICPO-Interpol:** International Criminal Police Organization

**IMF:** International Monetary Fund

**INTERPOL-NCB:** Interpol National Central Bureau

**IO:** Immediate Outcome

**JPO:** Judicial Police Officer

**KYC:** Know Your Customer

**LC:** Limited Company

**LLC:** Limited Liability Company

**MER:** Ministry of Economy Revival

**MER:** Mutual Evaluation Report

**MFI:** Microfinance Institution

**MFSP:** Mobile Financial Service Provider

**MINJU:** Ministry of Justice, Keeper of the Seals, in charge of Human Rights and Gender Equality

**MINTERIEUR:** Ministry of Interior

**ML:** Money Laundering

**NBFI:** Non-Banking Financial Institution

**NC:** Non-Compliant

**NDFBP:** Non-Designated Financial Businesses and Professions

**NPO:** Non-Profit Organization

**NRA:** National Risk Assessment

**OECD:** Organization for Economic Cooperation and Development

**OHADA:** Organization for the Harmonization of Business Law in Africa

**ONEC:** Gabon National Order of Chartered Accountants

**ONG:** Non-Governmental Organization

**OPLLC:** One-Person Limited Liability Company.

**OUA:** OHADA Uniform Act

**PC:** Partially Compliant

**PEP:** Politically Exposed Person

**PMUG:** Pari Mutuel Urbain du Gabon

**R:** Recommendation

**SAS:** Simplified Joint Stock Company

**SASU:** One-Person Simplified Joint Stock Company

**SAU:** Single-member limited company

**SCI:** Real estate company

**SRB:** Self-Regulatory Body

**STR:** Suspicious Transaction Report(ing)

**TF:** Terrorist Financing

**TPPCR:** Trade and Personal Property Credit Register

**UMAC:** Central African Monetary Union

**UNDP:** United Nations Development Programme

**UNSC:** United Nations Security Council

**UNSCR:** United Nations Security Council Resolution

**USD:** United States dollars

**VA:** Virtual Assets

**VASP:** Virtual Asset Service Provider

**WAMU:** West African Monetary Union

**WCO:** World Customs Organization



## PREAMBLE

The Task Force on Anti-Money Laundering in Central Africa (GABAC) is a specialized institution of the Central African Economic and Monetary Community (CEMAC) and a FATF-style Regional Organization (FATF-RTO) that promotes norms, instruments and standards for combating money laundering, the financing of terrorism and the proliferation of weapons of mass destruction, as well as other threats, including related methods and trends, in order to ensure the integrity of the financial system of member and associated States.

The States under GABAC's jurisdiction have formally recognized the FATF standards as the benchmark for combating money laundering and the financing of terrorism and the proliferation of weapons of mass destruction.

GABAC was admitted as an FSRB in 2015. Its mission, among others, is to evaluate the anti-money laundering and combating the financing of terrorism (AML/CFT) systems of the States under its jurisdiction in order to assess, on the one hand, their compliance with international standards and, on the other hand, the effectiveness of the measures taken.

Having successfully conducted the first round of mutual evaluations of its Member States, GABAC began its second round with the evaluation of the system of the Democratic Republic of Congo (August 2018), and continued the implementation of the schedule of mutual evaluations of States under its jurisdiction with the evaluation of the AML/CFT system of Cameroon (March 2021), that of Congo (June 2021) and currently that of Gabon, whose on-site visit took place from 11 to 29 April 2022.

This Report, and any data and maps it may contain, are without prejudice to the status of any territory, the sovereignty over it, the delimitation of international boundaries and limits, and the name of any territory, city or area. It has been prepared on the basis of the 2013 FATF Methodology, updated in November 2020, and the GABAC Round 2 Mutual Evaluation Procedures Manual. It incorporates the new requirements introduced in the 2012 revision of the FATF Recommendations and contains provisions on technical compliance and effectiveness.

The Report was reviewed by Ms Jacqueline Arend, Adviser to the Luxembourg Financial Sector Commission, and Mr Franck Oehlert, Member of the Prudential Control and Resolution Authority (ACPR) of France, with the mentoring of the FATF Secretariat represented by Mr Anne Françoise Lefebvre.

The Evaluation Report was adopted by the GABAC Plenary Meeting on ..... at .....

## EXECUTIVE SUMMARY

1. This document provides a summary of the AML/CFT measures in place in Gabon at the time of the on-site visit, from 11 to 29 April 2022. It analyses the level of compliance with the 40 FATF Recommendations and the effectiveness of Gabon's AML/CFT framework, and sets out priority recommendations for strengthening the framework.

### A. KEY FINDINGS

- (a) Overall, Gabon has demonstrated a low level of understanding of ML and TF risks. The recently created Coordination Committee for National Anti-Money Laundering, Terrorist Financing and Proliferation Policies is not yet operational. The informal coordination approach adopted by ANIF through its network of correspondents in some public administrations is not productive in practice. Generally speaking, in the absence of the findings of the NRA, which is still in progress, the AML/CFT policies implemented do not appropriately reflect the extent of the country's risks.
- (b) Competent authorities do not make optimal use of the financial intelligence and other relevant information to which they have access in order to gather evidence and trace the proceeds of ML, related predicate offences and TF. Gabon's ANIF produces financial intelligence on the basis of the STRs it receives from some reporting entities, mainly banks. But their dissemination is limited to judicial authorities. Financial intelligence produced by other competent authorities, notably the Customs and Tax Administration, is not disseminated or used by them in the context of AML/CFT.
- (c) The budget allocated to Gabon's ANIF is not always fully released, making it difficult to meet the multiple needs of this FIU, which has enormous difficulties in accessing the internet and does not have a secure computer system, nor a sufficient number of analysts.
- (d) There is no well-defined national criminal policy, nor is there an overall strategy of the investigative and prosecuting authorities to prioritize ML investigations. The main predicate offences at risk are to some extent investigated and prosecuted. However, although linked to some of the identified threats, the use of parallel financial investigations is non-existent and the number of detected and prosecuted ML cases is insignificant (two non-final convictions), which contrasts with the scale of the country's risks. The evaluation team notes a lack of qualified human resources and logistical resources, a lack of AML training for actors in the criminal justice system.
- (e) As part of prosecution of ML predicate offences, the authorities proceed, to some extent, to the seizure and confiscation of proceeds and instrumentalities of crime. However, regarding ML/TF, Gabon does not prioritize the confiscation of the proceeds and instrumentalities of crime, including property of equivalent value. The competent authorities do not systematically integrate the asset investigation component relating to proceeds of crime into their activities, a shortcoming due in particular to a lack of training. There is no mechanism for securing, managing and sharing seized and confiscated assets.
- (f) Gabon is not directly confronted with terrorism, but has features of significant

vulnerabilities that expose it to a high level of TF risks. However, the country does not prioritize TF as part of its AML/CFT policy, in particular, the relevant authorities do not yet include TF as a priority in their operational activities. No investigations or prosecutions related to TF have been reported, which is not in line with the country's risk profile.

- (g)** Gabon has a community legal framework to implement the targeted financial sanctions of UN Security Council Resolutions 1267, 1373 et seq. However, Gabon has not adopted the necessary national measures to implement the TFSs and the provisions of the CEMAC Regulation. The country has not yet designated a competent authority responsible for implementing the TFSs, and the mechanism for the prompt dissemination of sanctions lists to reporting entities is also lacking. The country has not yet submitted a national list on the basis of UNSCR 1373, nor has it received a request from a third country pursuant to this Resolution. No freezing measures have been taken on the basis of the two Resolutions.
- (h)** The competent authorities in Gabon have not identified the sub-group of NPOs most vulnerable to TF misuse, and are not applying the risk-based approach. The country has not adopted a comprehensive and sustained training and outreach strategy for at-risk NPOs. NPO supervisors do not carry out regular and effective supervision.
- (i)** Gabon has not taken adequate measures to implement targeted financial sanctions on UNSCRs relating to countering proliferation financing.
- (j)** In general, banks understand their AML/CFT obligations and are implementing the required due diligence measures to varying degrees. Other non-bank financial institutions have an unsatisfactory level of implementation of AML/CFT due diligence. Overall, for all financial institutions, the effective application of a risk-based approach to AML/CFT is low. DNFBPs are not aware of their regulatory AML/CFT obligations. As a result, the level of implementation of due diligence for the detection and reporting of suspicious transactions is still very low. The VASP sector is not yet regulated. Generally, FIs and DNFBPs are confronted with the problem of identifying beneficial owners.
- (k)** In the financial sector, AML/CFT supervision is generally weak and sanctions are very inadequate and not very dissuasive, insofar as there is still preference for the pedagogical approach during controls, particularly by COBAC. Generally speaking, the means of control remain insufficient and risk analysis and monitoring tools still cover AML/CFT obligations only to a limited extent. At the level of DNFBPs, there is no specific authority designated to ensure AML/CFT supervision. Domestic instruments governing these professions do not really factor the priorities in this area. In both sectors (financial and DNFBPs), measures to detect and punish activities not approved by the authorities are lacking in important sub-sectors of Gabon's economy.
- (l)** Overall, there is a general transparency obligation for all commercial companies created in Gabon, due to the obligation to register with the TPPCR. This formality is a first step in the fight against the misuse of companies for money laundering and terrorist financing purposes, even though the risks have not yet been assessed. The

procedures for establishing NGOs, associations and other types of legal persons also allow access to basic information on the founders, officials or managers. However, compliance with this identification requirement remains a challenge in the absence of appropriate controls. However, the Penal Code provides for sanctions in the event of non-compliance with these obligations, both for the legal person and for its officials. Yet, no sanction has been pronounced this far.

**(m)** Gabon has an appropriate legal and institutional framework to solicit and respond to requests for international cooperation on mutual legal assistance and extradition on ML, TF and related predicate offences. However, the implementation of this framework is inactive and unsatisfactory. There are no clearly established procedures for the prioritization of cases and their timely processing.

**(n)** Most competent authorities have cooperation tools that could enable them to request and provide information from/to their foreign counterparts when needed. However, this cooperation is not yet effective.

## B. RISKS AND GENERAL SITUATION

**2.** Gabon faces proven risks of laundering, domestically and abroad, of the proceeds of offences committed on its territory. Gabon's low exposure to the risk of laundering of the proceeds of offences committed abroad is inherent in the deficiencies of its AML/CFT preventive and supervisory framework, as well as the poor border controls.

**3.** The main ML threats in Gabon are related to environmental crimes, due to the large financial flows generated by the illegal exploitation of forest resources and the trafficking of wildlife products from poaching. Other significant levels of the country's ML threats are integrity violations, in particular corruption in public administrations and private sector companies, including multinationals in the extractive sectors, agro-industrialists and building and construction companies, embezzlement of public funds, public procurement offences, tax evasion and various frauds. Due to its openness to the sea and porous borders, Gabon is also exposed to ML threats related to illicit trafficking, particularly narcotics (with a tendency to become a consumption area) and cross-border flows of illicit funds into and out of the country.

**4.** In the area of TF, although the country is not directly exposed to terrorism, due to the absence of formally identified terrorist groups on Gabonese territory, its level of exposure to TF risk is nevertheless high. This assessment of the level of TF threat in Gabon is the outcome of several significant vulnerability factors, such as its geographical proximity to countries where terrorist groups, such as Boko Haram, are active or which are experiencing armed security crises on their territory, as well as the presence on its soil of large foreign communities involved in various illicit trafficking activities. This is compounded by the predominance of cash in transactions, the existence of informal payment channels and HAWALA-type fund transfers, the existence of a plethora of NPOs that are very vulnerable to TF, and the absence of an effective mechanism for controlling the physical cross-border

transport of cash, in addition to the porous borders. Similarly, the country lacks mechanisms for the timely implementation of TFSs related to terrorism and terrorist financing.

### **C. OVERALL LEVEL OF EFFECTIVENESS AND TECHNICAL COMPLIANCE**

**5.** Gabon's AML/CFT system has made progress since the previous evaluation, with the effective operationalization of the activities of its FIU, the strengthening of the institutional framework to combat corruption through the creation of a Ministry for the Promotion of Good Governance and the Fight against Corruption, and the creation of the National Commission for the Fight against Illegal Enrichment and Corruption. However, the overall level of effectiveness of the AML/CFT system is still low in many respects and substantial improvements are required, in particular to strengthen the operability of the FIU (whose resources are limited), adopt and implement a national AML/CFT policy (with effective national co-ordination) based on the country's actual risk profile, strengthen supervision and implementation of preventive measures (especially for DNFBPs), adopt mechanisms and ensure the implementation of terrorism and proliferation-related TFSs.

**6.** Regarding technical compliance, Gabon has a legal framework that has been significantly improved since its first-round evaluation to comply with international AML/CFT standards, including the FATF Recommendations. Since 2016, the country has applied the new CEMAC AML/CFT Regulations and, in 2020, it adopted a new penal code and a new code of criminal procedure which established specialized units within Libreville courts responsible for prosecuting and trying ML and TF offences and almost all predicate ML offences. Nevertheless, there are still significant gaps in certain areas, in particular the obligations relating to risk assessment and the application of a risk-based approach, the TFS obligations relating to terrorism, TF and PF, the transparency obligations of legal entities and legal arrangements, the regime applicable to NPOs at risk of TF, the production of statistics and the establishment of guidelines, and the regulation of DNFBPs.

#### ***Risk assessment, coordination and policy setting (Chapter 2 –IO.1; R.1, R.2, R.33)***

**7.** Gabon demonstrated a moderate understanding of the ML and TF risks. The NRA process had not been completed at the time of the on-site visit. Thus, ML/TF risks have not yet been identified and assessed at national level, let alone at sector level.

**8.** Cooperation and coordination at national level is not effective. The Committee for the Coordination of National Anti-Money Laundering, Terrorist Financing and Proliferation Policies set up for this purpose is not yet operational, which slows down the exchange of information and makes it more difficult to take coordinated actions globally. Nevertheless, some competent authorities maintain bilateral cooperation, to some extent. Such is the case of ANIF with the CNLCEI and of ANIF with some government services involved in AML/CFT within which it has correspondents or focal points.

***Financial intelligence, money laundering investigations, prosecutions and confiscation (Chapter 3 –IO.6-8; R.3, R.4, R.29-32)***

*Use of financial intelligence*

**9.** In general, Gabonese investigative and prosecution authorities have access to the financial intelligence disseminated by ANIF and required for AML/CFT. The financial intelligence received from ANIF is limited but of good quality. However, it is not used to its full potential by investigative and prosecution authorities, who do not have proven expertise in handling AML/CFT files.

**10.** The Gabonese Customs collect information on the physical cross-border transport of cash and negotiable bearer instruments (NBIs). They have data on seizures of narcotics, rare and protected species, counterfeit medicines, etc. None of this data is exchanged with other countries. None of this data is exchanged with other competent authorities, let alone used in anti-money laundering or combating the financing of terrorism. The Customs do not transmit to ANIF reports on the physical cross-border transport of cash and other bearer negotiable instruments.

*ML investigations and prosecutions*

**11.** Gabon has established competent investigative and law enforcement structures to combat ML. However, there is no well-defined criminal policy at national level, nor an overall strategy for prosecution authorities to prioritize ML investigations.

**12.** Investigative and prosecution authorities have neither the necessary AML training nor the resources to properly investigate and prosecute ML cases. They do not systematically use special investigative techniques (infiltration, controlled delivery, wiretapping, electronic surveillance). Nor do they systematically conduct parallel investigations into the ML when investigating a predicate offence.

**13.** Two convictions for money laundering (not yet final) were produced with sentences below the minimum prescribed by the CEMAC Regulation of 11 April 2016. As a result, these sentences are not effective, proportionate and even less dissuasive. Furthermore, alternative criminal justice measures are not implemented in the repression of ML.

*Confiscations*

**14.** Gabon does not prioritize the confiscation of proceeds and instrumentalities of crime in relation to ML/TF. Seizures and confiscations to a lesser extent are carried out as part of the prosecution of the ML predicate offences. In the absence of a dedicated authority or mechanism, seized and confiscated assets are neither secured nor properly managed.

***Terrorist financing and proliferation financing (Chapter 4 –IO.9-11; R.5-8)***

*TF investigations and prosecutions*



**15.** Gabon does not prioritize CTF in its AML/CFT policy, despite the significant vulnerabilities that expose it to a high risk of TF. From an operational perspective, the authorities have not yet integrated CTF as one of the priorities of their activities. Nevertheless, some factors have led the authorities to take preventive measures by setting up a national security intelligence co-ordination framework capable of handling TF intelligence (CNS).

**16.** Investigative and judicial authorities are not sufficiently trained and equipped to conduct effective investigations into TF. They are confronted with a lack of appropriate and specialized material and logistical resources and training. The country did not provide any statistical data on TF cases.

*Preventing terrorists from collecting, moving and using funds*

**17.** The Gabonese authorities have not adopted the necessary national measures to implement the TFSs and the provisions of the CEMAC Regulation. The country has not yet designated a competent authority and no notification decision has been taken. Therefore, no terrorist has been subject to an asset freeze in the country. There is still no mechanism for prompt dissemination of sanctions lists to reporting entities.

**18.** Regarding the risk of NPOs being used for TF purposes, Gabon has not identified the subgroup of NPOs most vulnerable to TF misuse. There is a lack of awareness in the sector and most NPOs are unaware of their due diligence obligations and the risks to which they may be exposed, owing to their nature or activities. NPO supervisors do not carry out regular and effective controls.

*Targeted financial sanctions for PF*

**19.** Gabon has not taken appropriate measures to implement targeted financial sanctions on proliferation financing relating to the UNSCRs. The country has not yet taken measures to identify the funds or other assets of designated individuals and entities under proliferation-related TFSs, or to freeze their assets. Nor has the country designated an authority to freeze assets. No outreach activities have been carried out for FIs and DNFBCs to inform them of the prohibition on doing business with countries, companies and individuals covered by the UN Resolutions against the proliferation of weapons of mass destruction.

*Preventive measures (Chapter 5 – IO; R.9-23)*

**20.** Gabon's body of law contains appropriate provisions that require FIs and DNFBCs to implement suitable measures to manage and mitigate the ML/TF risks to which they are exposed.

**21.** In general, banks have a good understanding of their AML/CFT obligations and, to this end, they put in place internal procedures for knowing their customers and monitoring the relationship. They classify their customers according to risk. However, this classification of customers is not based on formal risk assessments conducted within these institutions, but rather on empirical knowledge or regulatory provisions on some categories of customers or

transactions. As such, the enhanced due diligence measures implemented do not allow for effective mitigation of the ML/TF risks to which these professionals are actually exposed. Banks maintain satisfactory relations with ANIF and are subject to COBAC controls regarding compliance with AML/CFT regulatory measures. However, the number of STRs transmitted by banks remains low given the profile of their customers and the criminogenic environment of Gabon.

**22.** For other financial non-banking institutions in general, they have limited understanding of their AML/CFT obligations. Customer management based on a risk-based approach is not yet effective at these institutions. As a result, risk mitigation measures are mostly insufficient and inadequate.

**23.** As regards DNFBPs, the vast majority are not informed or aware of the ML/TF risks to which their activities expose them, due to the absence of internal assessments of their ML/TF risks or of a national assessment of ML/TF risks. Only the local subsidiaries of international groups of accounting firms have internal mechanisms for assessing operational risks in general, including ML/TF risks. But even the latter category does not have a good grasp of its obligations to detect and report suspicious transactions.

**24.** For all these professions, the identification of beneficial owners, the accessibility of reliable sources of information and the non-availability of national identity cards are major challenges in the implementation and effectiveness of the preventive measures to be implemented.

**25.** Lastly, although the reporting of suspicious transactions to ANIF is a regulatory obligation, its implementation by the various professional categories is still very limited.

***Supervision (Chapter 6 –IO.3; R.26-28, R.34-35)***

**26.** All FIs have designated AML/CFT supervisors. This is not the case for the DNFBPs sector where there is no specific AML/CFT supervisor. VAS and VASPs are not regulated.

**27. Concerning the financial sector,** COBAC has a limited understanding of the AML/CFT risks to which the major financial sectors such as banking institutions, MFIs and manual foreign exchange are exposed. The reporting tools and the continuous understanding of risks set up by COBAC do not cover all AML/CFT obligations to which reporting entities are subject, and only address in a limited manner the 5 (five) areas of analysis which are: KYC, management of occasional customers, monitoring obligations, reporting obligations, organizational compliance and internal control. These COBAC AML/CFT reporting tools are essentially based on the 2005 Regulation, which is now outdated with regard to FATF standards and regulatory developments at the level of CEMAC, which have placed under the responsibility of the COBAC, the supervision of mobile phone payment service providers or payment services whose activities are of medium significance in Gabon. Furthermore, the sanctions imposed under COBAC's supervision are very inadequate and weak because it still prefers the pedagogic approach.

**28.** As for the other FI supervisors, in particular CIMA, DNA, National Monetary Authority, they do not really factor AML/CFT issues in their missions, hence the poor supervision of AML/CFT risks in moderate significance sectors like insurance.

**29.** Lastly, the supervisory resources of FIs' supervisors are generally limited, likewise the actions to promote best practices.

**30. The DNFBPs** sector as a whole has not been subject to AML/CFT monitoring due to the absence of a specific designated authority.

***Transparency of legal persons and beneficial ownership (Chapter 7 –IO.5; R.24-25)***

**31.** The creation of legal persons in Gabon is subject to a general obligation of transparency contained in the OHADA Uniform Acts. Other types of legal persons, including associations, are governed by Law No. 035/62 of 10 December 1962 on associations, which lays down the procedures for their establishment. The establishment of foreign companies (subsidiaries or branches) does not follow a specific procedure different from that of local companies.

**32.** However, Gabon has not demonstrated any efforts on the transparency of the BOs of legal persons and arrangements. There is no specific mechanism for the collection and availability of information on BOs. The approval procedures as described by the competent authorities do not pay particular attention to the beneficial owners or the sources of financing.

**33.** Gabon has not demonstrated a good level of understanding of the ML/TF risks associated with legal persons. The NRA process underway at the time of the on-site visit will, in some respects, help to improve this understanding.

***International cooperation (Chapter 8 –IO.2; R.36-40)***

**34.** Gabon has a legal framework that is able to respond effectively to requests for mutual legal assistance and extradition. However, during the on-site visit, no data was provided by the Central Authority to show that the country has requested or granted international cooperation on mutual legal assistance and extradition for ML or TF offences. Nevertheless, two cases of extradition requests were registered in relation to predicate offences. In addition, the mechanisms for prioritization of cases and dissemination of mutual legal assistance requests were not formally described. There is no centralized filing and case management system within the central authority, making it impossible to have information on collection and request processing time.

**35.** Some competent authorities like the National Police through the Interpol NCB, Customs through the WCO and the Tax Administration through the OECD may exchange information with their foreign counterparts and seek support for their investigations. However, they have not been able to demonstrate that they exchange information in an appropriate and timely manner.

## D. PRIORITY MEASURES

Based on these general conclusions, the priority actions recommended to the Gabonese authorities are as follows:

- (a) Accelerate and complete the ongoing NRA by equipping the dedicated committee with the necessary logistical resources and mobilizing all stakeholders. The findings of the NRA should then be widely disseminated to all stakeholders, in order to achieve a consistent and continuous understanding of the country's ML/TF threats, vulnerabilities and risks. The NRA should also be regularly updated at defined intervals;
- (b) Make the National AML/CFT Policy Coordination Committee operational;
- (c) Provide ANIF with a sufficient number of Analysts and appropriate IT resources to increase its STR processing capacity and ensure greater confidentiality in the processing and exchange of financial intelligence and other information;
- (d) Take the necessary legislative and regulatory measures to correct all the shortcomings identified in Recommendations 10, 12, 14, 16, 19, 20, 22 and 23;
- (e) Build the capacity of criminal investigation and prosecution authorities by providing them with the necessary human, financial and logistical resources and by training them in AML/CFT financial investigation techniques, intelligence gathering and use, reliance on international cooperation, including the identification of proceeds of crime for the purpose of confiscation, in order to increase the effective use of law enforcement measures contained in Community and national AML/CFT legislation;
- (f) Designate an authority to implement the TFSs relating to TF and PF and establish a mechanism for the timely dissemination of UNSC sanctions lists to reporting entities;
- (g) Conduct appropriate training and awareness-raising activities to ensure that FIs and all DNFBPs effectively implement their AML/CFT legal obligations. Such actions should, as a priority, target some particularly exposed professions, notably real estate agents, notaries, dealers in precious metals and stones and lawyers, inviting them to effectively implement AML/CFT due diligence, with regard to customer identification, identification of principals and beneficial owners, knowledge of the origin of the funds and valuables that are the subject of the transaction;
- (h) Compel reporting entities to effectively implement mechanisms and procedures that promote the systematic submission of suspicious transaction reports and their transmission to ANIF. Such actions should primarily target banks, MFIs and entities in the mining and real estate sectors, which are classified as high risk;
- (i) Adopt the necessary regulatory provisions to enable all reporting entities identify beneficial owners as prescribed by FATF. Such provisions should be accompanied by guidelines to facilitate the understanding by all stakeholders of the requirements for the identification of the BO at all levels of transactions;
- (j) Develop a legislative and regulatory framework for the activities of VASPs, in

accordance with FATF Recommendation 15;

- (k)** Clearly designate the competent authorities for the AML/CFT supervision of DNFBPs, and allocate substantial resources to licensing authorities to strengthen BO and source of funds checks;
- (l)** Strengthen controls of compliance with regulations through, inter alia, the organization of joint missions (supervisory authority/police), including unannounced raids, in order to detect and effectively combat the informal exercise of regulated financial activities, in particular manual foreign exchange, money transfer, real estate and the sector of dealers in precious stones and metals;
- (m)** Encourage supervisors and regulators in all sectors most at risk of AML/CFT to apply effective, proportionate and dissuasive sanctions against those who fail to meet their AML/CFT obligations;
- (n)** Build the capacity of FI supervisors by equipping them with the necessary tools to apply a risk-based approach while increasing training on the regulation, supervision and mitigation of AML/CFT risks relating to payment services and innovative financial activities or technology finance;
- (o)** Establish a mechanism for identifying and collecting information on the beneficial owners of legal persons when they are created and when their articles of association are amended, and ensure that they are regularly updated by giving the competent authority responsible for keeping the information the necessary powers of control and sanctions;
- (p)** Conduct an assessment of the NPO sector to identify the categories of NPOs most vulnerable to TF abuse by virtue of their activities or nature. Adopt a risk-based approach to address the identified risks;
- (q)** Make greater use of international mutual legal assistance and other forms of international cooperation in the prosecution of transnational ML, predicate offences and TF;
- (r)** Establish mechanisms with the competent authorities to follow up on requests received and/or sent to ensure that they are processed in a timely and effective manner;
- (s)** Develop statistical data collection mechanisms and maintain comprehensive, consolidated and up-to-date statistics on all matters relating to investigations, prosecutions, convictions (including frozen, seized or confiscated assets) as well as cooperation (data on mutual legal assistance and extradition, basic information exchange and beneficial owners of legal persons and any other forms of international cooperation concerning competent authorities granted and/or received by the country).

## E. EFFECTIVENESS AND TECHNICAL COMPLIANCE RATINGS

**Table 1: Level of effectiveness<sup>1</sup>**

RI 1	RI 2	RI 3	RI 4	RI 5	RI 6	RI 7	RI 8	RI 9	RI 10	RI 11
<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>

**Table 2: Technical compliance level<sup>2</sup>**

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
<b>NC</b>	<b>PC</b>	<b>LC</b>	<b>PC</b>	<b>LC</b>	<b>NC</b>	<b>NC</b>	<b>NC</b>	<b>LC</b>	<b>PC</b>
R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
<b>LC</b>	<b>PC</b>	<b>LC</b>	<b>PC</b>	<b>NC</b>	<b>PC</b>	<b>LC</b>	<b>LC</b>	<b>PC</b>	<b>PC</b>
R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
<b>C</b>	<b>PC</b>	<b>PC</b>	<b>NC</b>	<b>NC</b>	<b>PC</b>	<b>LC</b>	<b>NC</b>	<b>PC</b>	<b>C</b>
R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
<b>C</b>	<b>PC</b>	<b>NC</b>	<b>NC</b>	<b>PC</b>	<b>LC</b>	<b>LC</b>	<b>PC</b>	<b>LC</b>	<b>LC</b>

<sup>1</sup> The ratings for the level of effectiveness are "high, significant, moderate or low".

<sup>2</sup> Technical compliance ratings are C - compliant, LC - largely compliant, PC - partially compliant, NC - non-compliant or NA - not applicable.



# MUTUAL EVALUATION REPORT OF GABON

## **Foreword**

This report summarizes the AML/CFT measures in force in Gabon at the time of the on-site visit (11 to 29 April 2022). It analyses the level of compliance with the 40 FATF Recommendations and the effectiveness of Gabon's AML/CFT system, and makes recommendations for strengthening the system.

Based on the 2012 Financial Action Task Force Recommendations, this evaluation was prepared using the 2013 Methodology (updated in November 2020). It was conducted on the basis of information provided by Gabon and information obtained by the evaluation team during the on-site visit.

The evaluation was conducted by a team of evaluators composed of:

### **Legal expert:**

Mr Haman Bouba (Cameroon);

### **Financial experts:**

Mr Minlend Nouma Didier Maurice (Cameroon);

Mr Essebe Njone Martin Serge (Cameroon);

### **Operational experts:**

Mr Mawa Wa Nzambi Kanda Paulin Tim (DRC);

Ms Mahamat Adjid Mariam (Chad);

### **Prosecution authorities' experts:**

Mr Moudilou Jean Gervais (Congo);

Mr Nzie Pierrot Narcisse (Cameroon).

The team was supported by the GABAC Permanent Secretariat represented by:

Mr Tounda Ouamba Frank Régis, Director of Legal Affairs and Litigation;

Ms Rodriguez Mecheba Agripina, Head of the Accounting and Assets Division;

Mr Nyemeck Fils Guy Thierry, Cooperation and Litigation Service Head.

Gabon was subject to a Mutual Evaluation by GABAC, as part of the first round of mutual evaluations, from 27 February to 13 March 2012. The Gabon MER adopted in 2013 was published by GABAC and is available at the following address: [www.spgabac.org](http://www.spgabac.org)

This first Mutual Evaluation concluded that Gabon was:

- Largely Compliant (LC) for 5 (five) Recommendations relating to Money Laundering;
- Partially Compliant (PC) for 22 (twenty-two) Recommendations, 20 (twenty) of which relate to Money Laundering and 2 (two) to Terrorist Financing;
- Non-Compliant (NC) for 22 (twenty-two) Recommendations, 15 (fifteen) of which relate to Money Laundering and 7 (seven) to Terrorist Financing;
- Not applicable (NA) for 1 (one) Recommendation relating to Money Laundering.

After the adoption of its MER in 2013 and submission of its first monitoring and evaluation report in September 2015, Gabon was placed under the accelerated monitoring regime. Thus, throughout the first cycle, the country was under the accelerated monitoring regime. To this end, Gabon submitted its second monitoring report in March 2016, its third monitoring report in September 2016, the fourth monitoring report in September 2017, the fifth monitoring report in April 2018, the sixth monitoring report in September 2018, the seventh monitoring report in March 2019, and the eighth report in September 2019.

Gabon was removed from the monitoring process in October 2020 to prepare for the assessment under the second cycle of its AML/CFT system. The country was urged to adopt a Contingency Plan to address remaining deficiencies and was asked to submit a progress report in March 2021, outlining the measures taken to address the deficiencies identified in its AML/CFT system under the first-round evaluation.

## 1. ML/TF RISKS AND CONTEXT

1. Gabon is located at the western tip of Central Africa with a surface area of 267 667 km<sup>2</sup>. Opening onto the Atlantic Ocean to the west, the country shares land borders with Cameroon to the north, Equatorial Guinea to the northeast and Congo to the east and south. Gabon's population (1.95 million) is relatively young and growing rapidly.

2. With a gross domestic product (GDP) of about USD 16 billion, the country has one of the highest per capita GDPs in sub-Saharan Africa, at about USD 8500,<sup>3</sup> placing Gabon in the middle-income category, a performance largely attributable to the availability of natural resources.

3. On the economic front, although the first signs of diversification appeared since the implementation of the Emerging Gabon Strategic Plan (ESGP) in 2010, Gabon's economy remains dependent on oil and mining resources (manganese, gold, niobium and iron ore), accounting for 46% of GDP. Agriculture, a strategic sector for poverty reduction, remains marginal (5.2% of GDP) due to inappropriate policies and, above all, to the non-optimal use of the financial resources allocated to this sector. The weight of the non-mining manufacturing sector (5.3% of GDP in 2020) is in an ascending phase following the diversification policy, the first concrete results of which are perceptible. Services are expanding strongly, driven by telecommunications and the financial and transport sectors, and account for 43.5% of GDP.

4. Despite these considerable assets, the country faces several challenges, including: diversification of production sources to reduce dependence on oil, job creation for a young and rapidly growing population, and sharing of national wealth to improve living conditions for all and generally reduce poverty, which is stagnating at around 40% of the population.

5. According to the High Level Experts' Report on Illicit Financial Flows (IFFs)<sup>4</sup> and the Global Atlas on Illicit Flows,<sup>5</sup> the natural resource extraction/exploitation sectors (oil, manganese, gold,<sup>6</sup> niobium and iron ore) are particularly susceptible to the creation of IFFs through means such as falsified transfer prices, secret clauses in (often poorly negotiated) contracts, overly generous tax incentives and under-invoicing of the quantities produced or exported, and sometimes of the quality of some exported natural resources (to circumvent existing regulations). Of the above-mentioned mining products, only gold is of interest to traders in precious stones and metals. These include artisanal miners, purchasing offices and other informal gold miners.

6. Gabon is a forest country. Its land territory is covered by 23 million hectares of tropical rainforest, equivalent to 85% of its surface area. This forest is part of the Congo Basin Forest continuum, which is the second "green lung" of the planet, after the Amazon. Gabon's forest is one of the best preserved in the world, with an average annual deforestation rate of 0.004%,

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<sup>3</sup> Provisional mapping and risk assessment report on illicit financial flows in Gabon as of October 2021.

<sup>4</sup> Available at: <https://repository.uneca.org/handle/10855/22692>

<sup>5</sup> [globalinitiative.net/wp-content/uploads/2018/09/Atlas-Illicit-Flows-FR-WEB.pdf](https://globalinitiative.net/wp-content/uploads/2018/09/Atlas-Illicit-Flows-FR-WEB.pdf)

<sup>6</sup> Economic data for 2018 shows 4 tonnes of gold exported illegally, while the country officially exports 2 tonnes of gold per year.

i.e. a cumulative forest loss rate of 0.04% over the last ten years. This natural heritage is particularly highlighted under the country's proactive biodiversity preservation policy.

**7.** However, there are practices in Gabon that fuel national and international trafficking that are fully illegal. Gabon's forests are exposed to a multitude of risks of fraudulent exploitation: logging without a permit, cutting timber outside the limits of the forest permit, harvesting products other than those provided for in the logging permit, failure to respect production, processing and export quotas, etc.

**8.** Politically, Gabon has been independent since 17 August 1960. The current Constitution, adopted on 26 March 1991, has been amended several times. The last amendment was made by Law No. 046/2020 of 11 January 2021. Gabon has a hybrid system that combines the characteristics of a presidential and a parliamentary system. It is a system essentially made up of three powers with balancing mechanisms: legislative, executive and judicial. The President of the Republic is elected by universal suffrage for a period of seven years. He appoints the Prime Minister, the cabinet and three of the members of the Constitutional Court. The Parliament is bicameral, comprising a National Assembly and a Senate.

**9.** The National Assembly is made up of 143 seats, whose members have a five-year mandate and are elected by a two-round majority vote. The Senate is composed of 67 (sixty-seven) members elected for a period of 6 (six) years, 15 (fifteen) of whom are appointed by the President of the Republic and 52 (fifty-two) elected indirectly by the municipal councils and departmental assemblies.

**10.** The Gabonese judicial system consists of two orders of jurisdiction: civil and administrative, and is based on the principle of dual jurisdiction. Alongside these two orders is the Constitutional Court, which is the supreme court in constitutional matters. Thus, it judges the constitutionality of laws and the regularity of elections and guarantees fundamental human rights and public freedoms.

**11.** The Gabonese Republic is a member of several regional and international organizations, including the Economic Community of Central African States (ECCAS), the Central African Economic and Monetary Community (CEMAC), the Organization for the Harmonisation of Business Law in Africa (OHADA), the Inter-African Conference on Insurance Markets (CIMA), the African Union, the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, and the Organization of Petroleum Exporting Countries (OPEC).

**12.** Lastly, Gabon's AML/CFT system is mainly based on a legal framework established in accordance with the provisions of the revised CEMAC Treaty and GABAC Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering and terrorist financing and proliferation in Central Africa. Under the above-mentioned instruments, the AML/CFT mechanism is driven at community level to be directly applicable or transposable into the national/internal AML/CFT legal framework of each CEMAC Member State depending on whether it is a Regulation or a Directive. This legal framework incorporates some international AML/CFT standards and norms, in particular the FATF Recommendations and the United Nations Security Council Resolutions, as well as the international conventions to which the country has acceded.

## **1.1. ML/TF risks and scoping of higher risk issues**

### **1.1.1. Overview of ML/TF risks**

**13.** This section of the Report summarizes the evaluation team's assessment of ML/TF risks in the Gabonese Republic. In the absence of a finalized NRA, this understanding is based on information provided by Gabon, open-source information and discussions with relevant authorities and the private sector during the country visit. The review of ML/TF risks in Gabon took into account the findings of the monitoring and evaluation reports of the first cycle for 2019, 2020 and 2021 and the reports of the typology studies conducted by GABAC, as well as the sector ML/TF risk studies (where available).

**14.** The Gabonese Republic is exposed to a range of ML risks, both domestically and abroad, from the proceeds of offences committed on its territory. Gabon's vulnerabilities, including the weakness of its customs border control and supervision of FIs and DNFBPs, also facilitate the laundering of proceeds of crime committed abroad.

**15.** Transparency International's 2021 Corruption Perceptions Index data indicates that Gabon ranks 124<sup>th</sup> out of 180 jurisdictions with a score of 31/100. This makes Gabon one of the most corruption-prone countries in sub-Saharan Africa. These scores highlight the level of exposure of the public sector to corruption. Private sector companies, including multinationals in the extractive sector, agribusiness and building and construction, are not spared. Corruption, embezzlement, tax evasion and various frauds are considered among the offences generating huge illicit profits that increase the country's exposure to money laundering. Gabon's exposure to ML also stems from the financial volume generated by the commission of environmental crimes relating to the illegal exploitation of forest resources and trafficking in wildlife products from poaching, as well as crimes and misdemeanours in public procurement. Gabon's openness to the sea and weak border controls also increase its exposure to illicit trafficking, particularly of drugs (with a tendency to become a consumption area) and cross-border flows of illicit funds in and out of the country.

**16.** With regard to TF, although the country is not directly exposed to terrorism, due to the absence of formally identified terrorist groups on Gabonese territory, its level of exposure to the risk of TF is nevertheless high. This assessment of the level of TF threat in Gabon is the outcome of several significant vulnerability factors, such as its proximity to Cameroon (which is experiencing the presence of the terrorist group Boko Haram and an armed security crisis on its territory), and the presence on its soil of large foreign communities, some of which originate from countries where terrorist groups are active, and which are involved in various illicit trafficking activities. In addition, there is the predominance of cash in transactions, the existence of informal payment channels and HAWALA-type fund transfers, the existence of a plethora of NPOs that are very vulnerable to TF, and the absence of an effective mechanism for controlling the physical cross-border transport of cash, in addition to the porous borders. Similarly, the country lacks mechanisms for the timely implementation of TFSs relating to terrorism and terrorist financing.

### 1.1.2. Country's risk assessment and scoping of higher risk issues

17. Gabon has not yet conducted a national ML/TF risk assessment. However, at the time of the site visit, the evaluators noted that the country was in the process of conducting an NRA (started in May 2021) with the support of the World Bank. A committee responsible for coordinating this exercise had been set up, but its functioning was affected by difficulties relating to the availability of financial and logistical resources and the unavailability of some members. The groups formed had not yet completed their sector reports.

18. Despite the absence of NRAs, the Gabonese authorities acknowledge some dominant risks that are the subject of strategic analyses and studies integrated into sector policies. Such is the case of corruption, with the creation of a dedicated department and a National Commission for the Fight against Corruption and Illicit Enrichment (CNLCEI). To this end, the country adopted an anti-corruption and anti-money laundering strategy paper (DSLCCBC) in 2013 and improved its ranking in the CPI.<sup>7</sup> This is also the case of illicit trafficking in timber, mining and oil products, which has led to the establishment of national policies and the creation of the National Agency for National Parks (ANPN) to address the economic and security issues posed by this trafficking. This is also the case with the establishment of a defence and security task force to strengthen security on Gabon's linear coastline in the face of the threat of maritime piracy. However, apart from CNLCEI, these entities do not address ML-related issues.

19. Furthermore, on the basis of previous monitoring reports, typology studies and other information produced by the country, the team was able to note some vulnerabilities that increase Gabon's exposure to ML/TF. These include the difficulties encountered by reporting entities in identifying and understanding ML/TF risks due to the absence of risk mapping; Gabon's porous borders coupled with the weak border controls on the physical transport of cash and other BNIs, which facilitates the work of cash couriers; the low level of implementation of recommendations to mitigate the high risks of misuse of NPOs for TF purposes identified by the related typology study conducted by GABAC; the reluctance of reporting entities to file STRs, which reduces the sources of financial intelligence in the country; the difficulties encountered by the competent authorities in the repression of AML/CFT coupled with their lack of relevant expertise; the near non-implementation by DNFBPs of preventive measures; the fragmented and partial consideration of the AML/CFT component in the supervision of reporting entities; difficulties in the operability of the coordination framework as well as the mechanisms for collecting information on the BOs of legal persons.

20. The evaluation team identified the following topics that received particular attention during the on-site visit and whose analyses are reflected in the report:

- ***Identification and understanding of ML/TF risks by the country and authorities and implementation of mitigation measures:*** In the absence of an

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<sup>7</sup> The country moved from 129<sup>th</sup> to 124<sup>th</sup> place from 2020 to 2021 <https://lalibreville.com/corruption-le-gabon-fait-un-bond-spectaculaire-de-5-places-et-figure-parmi-les-pays-a-progresser-le-plus-dans-le-classement-2021-de-transparency-international/>



NRA, the team examined the processes and procedures implemented by the country and the relevant authorities to identify and understand the existing AML/CFT risks in Gabon. Similarly, the team focused on the actual impact of the mitigation measures applied on the country's overall AML/CFT system. In particular, the evaluators looked at the ML risks relating to corruption, embezzlement of public funds and environmental crimes,<sup>8</sup> including TF risks and understanding of the mechanisms or channels used by criminals to launder the proceeds of their activities;

- ***Cash couriers:*** Due to the preponderance of cash in financial transactions, as well as the significantly informal economy, weak border controls and the smuggling of funds to other countries, attention was focused on understanding and managing the cross-border risks of ML/TF. The evaluators reviewed the country's efforts to control the cross-border movement of cash and BNIs and to prevent the illicit physical cross-border transportation of cash and other bearer payment instruments through cash couriers and other actors. Similarly, with porous national borders and the typology of financial crimes in neighbouring countries, there was focus on factoring the outcome of border controls in ML/TF investigations;
- ***The NPO sector:*** Due to the level of vulnerability of NPOs revealed by the GABAC typology study, attention was focused on Gabon's identification and census of the category of NPOs vulnerable to ML/TF abuse. The understanding and mitigation of risks by the authorities, in particular sensitisation, implementation and effectiveness of controls on the activities of vulnerable NPOs were closely scrutinized;
- ***Understanding AML/CFT risks and implementation of AML/CFT obligations by Financial Institutions:*** In the absence of a NRA, attention was paid to the risk identification and management mechanisms implemented to determine the risk map. The evaluators analysed the implementation of due diligence, in particular those relating to PEPs and the identification of BOs. Similarly, the internal control measures and their effectiveness, as well as the outcome of AML/CFT controls carried out by their respective supervisors were closely scrutinize;
- ***The AML/CFT financial intelligence framework:*** The evaluators focused on the sources and availability of financial intelligence and financial data for investigation in the country as well as the competent authorities' perception of the quality of information revealed in the STRs and other sources for operational and strategic analyses. Attention was given to the resources of the competent authorities (human, financial and material, including IT tools)

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<sup>8</sup> Types of predicate offences listed in the STRs (ANIF-Gabon 2021 Annual Activity Report; P.5) and in the Provisional Mapping and Risk Assessment Report on Illicit Financial Flows in Gabon, October 2021.

available to perform their duties and efforts of the authorities, including supervisors and reporting entities (feedback and others) to improve the production and quality of financial intelligence;

- ***Repression of the ML/TF and predicate offences and confiscation of the proceeds of crime***, discussions with JPOs, prosecutors and judges, competent authorities specialized in particular in combating corruption, on efforts to prosecute recurrent predicate offences in the country (embezzlement of public funds, fraud, corruption, breach of trust, poaching, illegal felling of forest species, drug trafficking, human trafficking, smuggling and counterfeiting of pharmaceuticals, counterfeiting of currency). Obstacles of any kind arising from the management of ML and the implementation of confiscations (including confiscation of property of equivalent value and confiscation without prior conviction) in connection with these basic offences. Implementation of parallel financial investigations into cases of predicate offences under investigation and prosecution;
- ***The DNFBP sector (real estate, casinos and gambling)***, in particular, the extent to which stakeholders in the casino sector, lawyers, notaries and real estate agents understand and implement AML/CFT obligations. Consideration of the risk management systems in place and the extent of supervision by supervisory and self-regulatory authorities, as well as the effectiveness of sanctions for non-compliance with AML/CFT obligations;
- ***Risk-based supervision of financial institutions***: The extent to which COBAC and supervisors of other financial institutions identify, assess and understand the AML/CFT risks in their respective sectors of activity, including the preponderance of targeted AML/CFT controls and the supervisors' practice of the risk-based approach in supervising those sectors (MFIs, mobile phone financial service providers and their agents) that are experiencing relatively gradual growth – *Wire transfer institutions (EMIs)*: Supervisors' procedures for reconciling, in practice, financial inclusion through the development of new payment means (use of electronic money payment services) and AML/CFT requirements. - *Money or value transfer*: procedures for the commencement of operations of international money transfer companies operating in the country and monitoring of the implementation of their AML/CFT obligations throughout their operation. - *Foreign exchange bureaus and manual money changers*: how the Supervisors, on the one hand, ensure that manual money exchange activities are carried out exclusively by licensed agents, including sub-delegated institutions, that the latter comply with AML/CFT procedures, that the controls carried out and their regularity are of high quality and, on the other hand, proceed to identify the manual money changers who operate informally or illegally and therefore illegally and what measures are taken

against them, i.e., to what extent controls are directed towards the illegal practice of money exchange;

- **Transparency of the beneficial owners (BOs) of legal persons:** The system in place for registration, record-keeping and updating of basic information on legal persons, in particular the nature and quality of the information collected and recorded in the registers in relation to the establishment of legal persons and the extent of the points of registration, including the mechanisms for timely access to such information.
- **National coordination and cooperation:** The country has recently established a formal framework for national AML/CFT policy coordination, but the evaluation team has little information on its effectiveness. There is no data on the results or progress of this committee. Thus, attention was focused on the operationality of the AML/CFT policy coordination committee and other mechanisms used by Gabon to share information, define and manage actions at the national level, including the lines of collaboration between the various AML/CFT stakeholders.

## 1.2. Items of specific importance (*materiality*)

**21.** Gabon's economy is marked by an abundance of natural resources. The country is the fourth largest oil producer in sub-Saharan Africa (2020) and the fourth largest producer of manganese in the world (2020). It is one of the continent's leading producers of tropical timber and ranks first in the World Bank's sub-Saharan Africa GDP per capita with \$7006 (CFAF 3.931 million/capita) in 2021. However, the country's economy is highly dependent on imports of food and capital goods and has high input costs due to inadequate infrastructure (transport and electricity). Similarly, the economy is heavily dependent on the oil sector.

**22.** In the same vein, Gabon's GDP is estimated at USD 15 32 billion in 2020.<sup>9</sup> Thanks to its oil sector, which accounts for 60% of budgetary revenue, the country contributes 12% of regional GDP<sup>10</sup> and is therefore the third largest economy in Central Africa. This GDP is made up of revenues from the oil industry, the mining industry, the timber industry, agriculture, livestock farming, fishing and the services sector.

**23.** The oil sector contributes 38.5% to GDP and 80% to exports. Oil sector production stood at 10.9 million tonnes in 2019, or about 220 000 barrels per day. Most of the production is exported, i.e. 10.5 million tonnes in 2019. Asia remains the main destination for oil produced in Gabon (90%), followed by Europe (10%). Gabon's main customers for crude oil, timber, manganese and uranium are China 36.4%, the United States 10%, Ireland 8.5%, the Netherlands 6.3% and South Korea 5.1%. In terms of imports of machinery and equipment, food products, chemicals and construction materials, the main suppliers are France 23.6%, Belgium 19.6% and China 15.2%.

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<sup>9</sup> According to World Bank data: <https://data.worldbank.org/country/gabon?view=chart> consulted on 25 April 2022.

<sup>10</sup> <https://www.afdb.org/fr/documents/document/regional-economic-outlook-2019-central-africa-108622> consulted on 25 April 2022.

**24.** On the financial front,<sup>11</sup> the rate of bank penetration is around 30%, which is high compared with African standards (10% on average). According to data received from the country, the informal sector is estimated at 40% of GDP. The financial inclusion rate is higher than the average for sub-Saharan Africa (42.6%), but lower than that of upper middle-income countries, which results in a predominance of cash transactions.

**25.** As at 31 December 2021, the Gabonese banking system had 7 (seven) banks in operation, including one systemically medium significant bank in CEMAC<sup>12</sup> and a financial holding company. Three banks with majority national capital dominate the market and concentrate more than 75% of jobs (with an estimated wage bill of 43 billion CFA francs). In 2021, they accounted for nearly 80% of the market's loans. The other four banks are subsidiaries of large international financial groups with a preponderance of foreign capital. The total balance sheet of this sector was estimated at around CFAF 3 266.9 billion in 2021. The total assets of the banks amount to CFAF 2 835.6 billion and the Net Banking Product (NBP) was CFAF 218.8 billion in 2020. In terms of coverage, the Gabonese banking network was believed to have nearly 90 bank branches and nearly 150 automated teller machines (ATMs) by 31 December 2021. In addition to banks, the country has 20 microfinance institutions, including 7 of first category and 13 of second category, which provide good geographical coverage in the country with branches and other decentralized offices.

**26.** In Gabon, the FI sector is key to the country's economy. In this respect, it is worth noting that banking institutions including financial holding companies, microfinance institutions, foreign exchange bureaus and money transfer companies constitute the core of the FI sector. They contribute significantly to the country's GDP, as indicated by the above figures and improve the level of financial inclusion. It is also worth noting that the financial sector generates the most impact in terms of AML/CFT prevention, and any deficiencies identified could have a considerable impact on the overall effectiveness of the country's AML/CFT system. COBAC is the supervisor for these entities in the implementation of preventive measures.

### **1.3. Structural elements**

**27.** Overall, since the first round, Gabon has had the structural elements necessary to set up an effective AML/CFT prevention and repression system. The country's AML/CFT system is essentially based on a Community legal framework supplemented by an internal legal and institutional framework.

**28.** Institutionally, Gabon is a stable country with institutions and an administration that is accountable through well-defined mechanisms and procedures. Its judicial system is independent, although its human and budgetary resources are limited.

**29.** Since the CEMAC Heads of State declaration on AML/CFT of 14 December 2000, Gabon has benefited from a high-level political commitment to address AML/CFT issues. The creation of the AML/CFT policy coordination committee and the establishment of a ministry

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<sup>11</sup> Scorecard of the Gabonese economy 2020.

<sup>12</sup> See the list of systemically significant credit institutions in CEMAC for the period from 1 July 2019 to 30 June 2020 available at: [http://www.sgcobac.org/jcms/mbm\\_7105/fr/liste-des-etablissements-de-credit-d-importance-systemique-dans-la-cemac-pour-l-annee-2019](http://www.sgcobac.org/jcms/mbm_7105/fr/liste-des-etablissements-de-credit-d-importance-systemique-dans-la-cemac-pour-l-annee-2019)

in charge of promoting good governance and combating corruption, as well as the creation of the National Commission to Combat Illicit Enrichment, are part of this drive.

#### **1.4. Other contextual factors**

**30.** Gabon has a basic legal and institutional framework for AML/CFT. In this light, Gabon has initiated numerous reforms since its first-round evaluation.

**31.** In terms of governance, the government acknowledges the need to strengthen transparency in the oil and mining resources sector (manganese and gold), with a view to encouraging investors, increasing budget revenues and ensuring rational and sustainable exploitation of resources for development. The other major challenge is that of transparency in the flow of payments in the extractive industries to optimize the benefits of mining. As a reminder, Gabon joined the Extractive Industries Transparency Initiative (EITI) in 2007. To this end, Gabon was required to provide reports that include disclosure of taxes paid by companies and other payments made, and the collection of payments by the State. In 2013, Gabon was excluded from EITI for failing to meet 7 (seven) of the 22 requirements of the EITI standard. Since then, the country no longer has visibility over illicit activities in the extractive industries.

**32.** The government is committed to making the country more attractive to foreign investors in order to improve its business climate. However, despite these efforts, Gabon is ranked 169/190 in the World Bank's Doing Business 2020 report<sup>13</sup> with a score of 45/100. The country also scores low with regard to protection of minority investors, obtaining construction permits, transferring property, payment of taxes and contract execution.

**33.** Gabon, like several countries in the sub-region, is committed to a financial inclusion policy to combat poverty and increase its rate of bank penetration by making basic financial and banking services accessible to all citizens. This policy has been implemented by the Ministry of Economy and Recovery for years via a dedicated strategy. In Gabon, digital financial services (DFS) and financial technology are the mainstay of financial inclusion.

##### **1.4.1. AML/CFT strategy**

**34.** At the time of the on-site visit, the country had not yet adopted a formal AML/CFT strategy following a comprehensive AML/CFT risk assessment. However, since the Solemn Declaration of the CEMAC Conference of Heads of State in 2000 and the adoption of the CEMAC Regulation establishing a regime for the prevention, detection and repression of ML/TF, the country has set up the institutional framework for the implementation of AML/CFT measures. The recent creation of the national AML/CFT policy coordination committee is part of this drive.

**35.** A sector-specific anti-corruption strategy was developed and led to the adoption of the Anti-Corruption and Money Laundering Strategy Paper and the creation in 2003 of an independent administrative authority, the National Commission for the Fight against Illicit

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<sup>13</sup> <https://archive.doingbusiness.org/fr/data/exploreeconomies/gabon> consulted on 27 March 2022.

Enrichment (CNLCEI), to deal with corruption and mitigate the related ML risks. In the same vein, to address the economic and security issues posed by cases of illicit trafficking in timber, mining and petroleum products, Gabon created the National Agency for National Parks (ANPN).

#### **1.4.2. Legal and institutional framework**

**36.** The main administrations, agencies, bodies and authorities responsible for the development, supervision, control and implementation of AML/CFT policies in Gabon are:

**37. The Ministry of Economy and Recovery:** It is mainly in charge of AML/CFT at national level as the supervisory authority of ANIF. This Ministry is responsible for preparing and executing regulations in the areas of customs, currency, credit, public finance and insurance. It plays a preventive role in combating financial crime. It is responsible for the overall implementation of the appropriate legal and institutional framework to ensure the supervision and control of AML/CFT reporting entities in its area of competence. It is also responsible for approving credit institutions on the recommendation of the Central African Banking Commission (COBAC);

**38. The Ministry of Justice, Keeper of the Seals, in charge of Human Rights and Gender Equality:** It is responsible for the organization and functioning of the judicial system as well as the administration of justice in criminal matters and the implementation of mutual assistance and judicial cooperation. It is responsible for the administrative supervision of magistrates. Money laundering and terrorist financing cases are the responsibility of the specialized chambers of the courts of first instance and appeal courts sitting in Libreville.

**39. The Ministry of the Interior:** It intervenes in the prevention and detection of offences. It supervises the Directorate General of the Police, which is responsible for the security of people and property. This mission is essentially carried out by Judicial Police Agents and Officers who, as auxiliaries to the judiciary, carry out investigations under the direction of the public prosecutor's office and examining magistrates, including those relating to the ML and TF. The Ministry of the Interior also supervises the Central Anti-Drug Office (OCLAD), an entity comprising gendarmes and police officers responsible for coordinating the fight against drug trafficking. Similarly, the Ministry is the supervisor of casinos and gambling establishments, associations, NGOs, NPOs, political parties and foundations. However, it should be noted that this last mission is carried out jointly with the Higher Gaming Commission and the Ministry of Economy and Recovery under the Council of Ministers. To this end, the Higher Gaming Commission ensures the control of casinos and games of chance.

**40. The Ministry of Foreign Affairs:** It deals with communications on mutual legal assistance and extradition. The Ministry also ensures the implementation of targeted financial sanctions relating to the financing of terrorism and proliferation and collects international information on NPOs operating on Gabonese territory. In addition, this Authority prepares instruments of ratification of international treaties and agreements and their preservation.

**41. The Ministry of National Defence:** Its mission is to ensure the implementation of legislative and regulatory instruments under its competence. It supervises the Gendarmerie, which includes a General Directorate of Research and an Investigations Directorate responsible for combating serious economic and environmental crime. It also deals with ML and TF.

**42. ANIF:** In accordance with Decree No. 000739 PR/MEFBP of 22 September 2005, ANIF is Gabon's Financial Intelligence Unit. It is the key player in anti-money laundering and combating the financing of terrorism at national level. The unit became operational on 1 June 2006 with the appointment of its members.

**43. The National Commission for the Fight against Illicit Enrichment (CNLCEI),** created by Law No. 0003/2003 of 7 May 2003, is responsible for centralizing the information needed to prevent illicit enrichment practices, detecting illicit enrichment practices and taking precautionary measures, punishing illicit enrichment and illicit enrichment practices; collecting and keeping the declarations of wealth of public officials; initiating and promoting mechanisms within institutions and public or semi-public bodies aimed at preventing, detecting and punishing illicit enrichment, periodically evaluating the impact of strategies and the performance achieved, carrying out any useful investigation into illicit enrichment or conflicts of interest. It is also responsible for implementing government anti-corruption measures.

**44. The Central African Banking Commission of (COBAC):** It has four main powers over the credit institutions it supervises, namely administrative, regulatory, supervisory and sanctioning powers. COBAC has various competences and powers in terms of regulation and organization of the banking activity. In the performance of its duties, it is responsible for monitoring the compliance of the AML/CFT systems of its reporting entities (banks, microfinance institutions, financial holding companies, payment institutions).

**45. The Bank of Central African States (BEAC):** It is responsible for the conduct of UMAC's exchange rate policy. In this respect, it ensures, in conjunction with the Ministry of Economy and Recovery, that economic agents, particularly foreign exchange bureaus, comply with the exchange regulations applicable in Gabon. As part of its surveillance mission, BEAC verifies the compliance of foreign transactions and operations with foreign exchange regulations. To this end, it carries out, with the assistance of COBAC and the Ministry of Economy and Recovery, documentary and on-site checks to ensure that authorized intermediaries and other economic agents comply with all provisions relating to foreign exchange regulations, including those on AML/CFT. It notes infringements of these regulations and imposes administrative sanctions on offending economic agents. Its AML/CFT supervision is in principle focused on foreign exchange bureaus only.

**46. The Inter-African Conference on Insurance Markets (CIMA):** This is an inter-regional body, whose mission is to work for the sound and harmonious development of the insurance industry by ensuring the financial stability of economies and the protection of

policyholders and beneficiaries. It has a supervisory body, the Regional Insurance Supervisory Commission (CRCA) which, together with the National Insurance Directorate (DNA), supervises and controls the insurance market. During their inspections, CRCA and DNA can verify compliance with AML/CFT requirements on the basis of the new CIMA AML/CFT Regulation of 2021.

**47. The Central African Financial Market Supervisory Commission (COSUMAF):** It is a community body, in accordance with the legal provisions governing the regional financial market. In its capacity as supervisory, regulatory and control authority for the financial market, it has three main missions: the protection of savings invested in securities and other financial instruments issued under a public offering, the information of investors and the proper functioning of the financial market. It has exclusive jurisdiction in this area and carries out desk audits of entities subject to its jurisdiction. However, checks on AML/CFT requirements are not systematic.

#### **1.4.3. Financial institutions, DNFBPs and virtual asset service providers (VASPs)**

**48.** This section provides general information on the size and composition of Gabon's FI and DNFBP sectors. The volume of these sectors in the country's economy and the risks affecting them vary from one sector to another.

**49.** As at 31 December 2021, the Gabonese banking system had 7 (seven) banks in operation, all of which were African-owned. With regard to electronic money, only three credit institutions operating in Gabon are authorized to issue and manage electronic money.<sup>14</sup> Nevertheless, electronic money via mobile money is managed by mobile phone companies.

**50.** In addition to banks, Gabon also has two financial institutions operating in the financial sector. Their main activities are leasing operations, car loans, leasing, equipment loans, investment loans and long-term rental. Similarly, the country has only one stock exchange company operating on the CEMAC financial market.

**51.** As of 31 December 2021, the microfinance sector had 20 licensed institutions, 7 of which were category 1 and 13 category 2.<sup>15</sup> In terms of national coverage, these institutions have deployed a total of 88 branches and outlets throughout the country. However, activities remain mainly concentrated in Libreville, Port-Gentil, Franceville and Oyem. In terms of jobs, the sector has about 709 employees. Similarly, more than 250 000 users (customers) use the services of MFIs. The target group for MFIs is mainly salaried individuals or those with a regular permanent income, in particular SMEs, traders and craftsmen, pensioners and students on scholarships.

**52.** The equity capital of MFIs is close to CFAF 15 billion following the fact that several MFIs exceeded the minimum share capital required by regulation, which was set at CFAF 300 million. In fact, the deposits collected, mainly sight deposits, amounted to CFAF 67.1 billion. The sector's net financial product (NFP), which is essentially fed by interest on loans and commissions on transfers, reached CFAF 13.8 billion in 2020.

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<sup>14</sup> See <https://www.beac.int/wp-content/uploads/2021/10/Services-de-paiement-par-la-monnaie-%C3%A9lectronique-dans-la-CEMAC-EN-2020.pdf>

<sup>15</sup> According to data from Gabon's Microfinance Unit.



**53.** The financial sector also includes money transfer companies using cash couriers, most of which operate without the approval of the banking supervisory and control authority. Thus, they use the licences of local banking institutions to conduct their activities. Nevertheless, they sign agreements with these banking institutions to carry out these activities. The evaluation team was able to count at least 13 of them during the on-site visit, but no data on the amounts transferred abroad, nor the amounts of annual transactions were made available to the team to assess the weight of the sector.

**54.** With regard to FIs, it should be noted that BEAC is also subject to AML/CFT. In fact, as part of its activities, BEAC carries out and monitors international financial transactions of financial institutions and the Treasury of Member States. To this end, it has an internal procedure relating to preventive measures on anti-money laundering and combating the financing of terrorism and proliferation established by a decision of its Governor, and referred to as the "framework procedure". Nevertheless, it should be noted that this entity has some understanding of the ML/TFF risks in the sub-region. Thus, BEAC has developed a mapping matrix of ML/TF risks relating to its products and services. The matrix was disseminated to the BEAC's National Directorates, including Gabon, for implementation.

**55.** The insurance sector has 10 (ten) insurance companies, including 6 (six) for the non-life branch and 4 (four) for the life branch, as well as 1 (one) reinsurance company. However, at end 2019, one insurance company had its licence withdrawn by the regulatory authorities for non-compliance with commitments made to policyholders, insured persons, beneficiaries of insurance policers, the State and other creditors.

**56.** Thus, in 2021, the sector recorded a consolidated turnover of CFAF 83.7 billion.<sup>16</sup> The main categories of the non-life branch are car, general civil liability and fire. The volume of premiums collected reached CFAF 81.83 billion. The consolidated turnover of the life branch reached CFAF 22.3 billion in 2020. Total commissions paid to intermediaries amounted to CFAF 10.68 billion. Similarly, in the non-life branch, commissions reached CFAF 9.78 billion in 2020. On the other hand, in life insurance, intermediaries collected CFAF 905 million. Lastly, the total investments of the sector stood at CFAF 134.19 billion in 2020.

**57.** With regard to payment services using mobile money, 2 (two) mobile phone operators are present on the market. Mobile operators provide payment services under the banner of "payment institutions" which take the form of subsidiaries of telecommunications companies to split financial services from telecommunications services. Thus, these operators have accounts with primary banks called "payment accounts" to issue and manage mobile money.

**58.** The mobile money sector is booming in Gabon. As a result, the number of active electronic wallets is estimated at 1,785,314 subscribers with more than 35,000 resellers and nearly 700 approved distributors.<sup>17</sup> Customer cash deposits at the points of sale reached 871 billion CFA francs, corresponding to 430,000 transactions. Payments by value are increasing strongly each year, reaching 353 billion CFA francs in 2020. However, despite the enormous sums generated by this sector, no study has highlighted the ML/TF risks associated with the use of these channels in Gabon.

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<sup>16</sup> <http://www.economie.gouv.ga/view.twg?dir=2351>

<sup>17</sup> MoovAfrica/Gabon Télécom, Airtel Gabon.

**59.** The overall turnover of the sector is estimated at 28.4 billion CFA francs. While the turnover of international transfer operations reached 2,724 billion CFA francs in 2020. Overall, mobile money transactions exceeded 2,000 billion CFA francs.

**60.** With regard to manual foreign exchange activities, in addition to the banks and MFIs that carry out foreign exchange operations in addition to their usual operations, there are two licensed foreign exchange bureaus specializing in manual foreign exchange, making a total of 9 establishments that can carry out foreign exchange operations. However, no data on the amounts exchanged with customers, on the sector's turnover, or on the balance sheets of the sector's actors was provided to the evaluation team to make an assessment of the relative significance of the sector. Similarly, it should be noted that foreign exchange bureaus in Gabon face fierce competition from clandestine actors (often individuals), mainly at Libreville airport and within the West African community residing in Gabon, who escape the requirement of authorization before carrying out their manual exchange activities and from the controls of the authorities. The team considers this to be a significant ML/TF risk factor, especially as they do not respect the daily limit of 5 million CFA francs per customer. Moreover, there is no evidence of the legal origin of the funds invested by these actors in their manual exchange activities. The country's authorities estimate that there are about 250 entities and individuals operating in the clandestine manual exchange business in Gabon.

**61.** The Gabonese DNFBPs sector is relatively small. It is made up of 142 lawyers, including 32 pupil lawyers registered with the Bar Association, 42 independent chartered accountants practising in firms and 14 chartered accountants practising in companies, all registered with the Bar Association, and 15 notaries. According to the data provided by the country, the real estate sector has nearly 30 real estate agents and firms, more than 50 brokers and hundreds of family and community real estate companies (SCI).

**62. Lawyers:** Most lawyers registered with the Bar Association are not aware of the existence of a legal framework governing AML/CFT. In the exercise of their functions, lawyers intervene in the incorporation of companies, assist customers in real estate transactions, manage customer accounts, based on the provisions of Law No. 013/2014 of 7 January 2015. Preventive measures are implemented at the level of the profession through the identification of customers by means of identity documents for natural persons and articles of association for legal persons.

**63. Notaries:** In Gabon, notaries are competent for the transfer of companies and private property as well as their registration, the drafting of contracts, the authentication of deeds and the incorporation of companies, in accordance with Law No. 8/73 of 20 December 1973. They do not generally take part in negotiations between the buyer and the seller, especially with regard to the financial aspects of the transaction. Their intervention in these cases is limited to the formalization of agreements, which exposes them to the risk of misuse for ML purposes. Generally, they are informed by the parties of the transaction value and are thus limited to accessing information on the source of funds. Despite the prohibition in Article 17 of the CEMAC Regulation to effect cash payments in real estate transactions, notaries are sometimes not fully aware of the real amounts of the transactions, which are apparently and most often undervalued, just as the origin of the funds is usually unknown. Nevertheless, according to the data provided by the country, the team notes that the figure for 2020 is more than 1.3 billion in notarial activities.

**64. Chartered Accountants** are grouped within the National Order of Chartered Accountants, established by Law No. 022/2017 of 26 January 2018. Subsidiaries of international groups use external service providers to assess their operational risks, including ML/TF risks. This sector had an annual turnover of more than 9 billion for 2020. The services generally offered to customers by accountants fall into two categories: assistance and advisory services and control services. The former aim to assist the customer in the organization, production and use of its financial and accounting information. Control services enable the accountant to verify that the customer's systems for organizing, producing and using financial and accounting information are effective and efficient. Control services may be provided as part of a legal assignment, in which case they are referred to as statutory auditing, or as part of a contractual assignment, in which case they are referred to as contractual auditing.

**65. Real estate agents and promoters:** This professional category is governed by Law No. 006/2017 of 9 August 2017 regulating the real estate agent profession in the Gabonese Republic. An analysis of Gabon's economy shows that the real estate sector is one of the most exposed to ML risks. It is characterized by a high rate of cash use and the absence of a compliance function at the level of real estate intermediaries (agencies and promoters), no monitoring of customer transactions and no suspicious activity reports. The sector is dominated by informal sector players, who are beyond the control of any authority, and account for more than 70% of the overall turnover. At end 2020, the sector had an estimated annual turnover of 9 billion CFA francs.

**66. Casinos and other games of chance:** The gaming sector is regulated by Law No. 024/2004 of 29 April 2005, Decree No. 0084/PR/MI of 30 March 2021 to lay down the duties, organization and functioning of the Higher Commission for Games of Chance, and Decree No. 0085/PR/MI of 30 March 2021 to lay down the terms and conditions for operating and controlling games of entertainment, money and chance. This sector is still very embryonic in Gabon, with only one licensed casino, a few gaming halls, and the *Pari Mutuel Urbain du Gabon*, totalling an estimated turnover of 0.3% of GDP in 2020, i.e. 26 billion CFA francs at end 2020. In addition, there are nearly 20 online casinos. The use of cash is almost exclusive in the sector, particularly in the payment of bets and winnings. The controls carried out by supervisors (the Gaming Police) do not cover AML/CFT. Consequently, professionals in this sector could easily be used for ML purposes by their customers and owners.

**67. Traders in precious metals and stones:** The precious metals and stones sector comprises 8 (eight) operators based in Libreville and operating inside the country. The sector is made up of researchers, miners and traders. Indeed, the sector currently accounts for more than 6% of GDP, 6.4% of the country's exports and employs more than 2000 people. Many mining exploration and exploitation licences have been granted but the sector's revenues are often not declared. As a result, revenues from the sector are channelled informally and at best hoarded. The overall turnover of the profession in 2020 was 710,114,000,000 CFA francs. Data from this sector, when available, are often combined with data from the extractive industries, particularly hydrocarbons.

**Table 1.1. Financial institutions**

Types of FIs	No. of entities	Key turnover (figure, total balance sheet in 2020 and 2021)	Licensing/registration authority	Supervision and sanction authority
Banks	7	3,266.9 billion CFA francs	COBAC	COBAC
Microfinance institutions	20	1,193.4 billion CFA francs	COBAC	COBAC
Other licensed players in the regional financial market	-		- COSUMAF	COSUMAF
Insurance	10	83.7 billion CFA francs	CRCA	CRCA and DNA
Foreign exchange bureaus	9		- Ministry of Economy and Recovery - BEAC	Ministry of Economy and Recovery – BEAC
Stock exchange companies	1	6,072 billion CFA francs	COSUMAF	COSUMAF
Leasing financial institutions	2	30.8 billion CFA francs	COBAC	COBAC
Cash and valuables transfer companies by cash couriers	2		- COBAC	Ministry of Economy and Recovery
Mobile financial service provider (MFSP)	2	28.4 billion CFA francs	BEAC-GIMAC	BEAC-GIMAC

**Table 1.2. Designated non-financial businesses and professions**

Types of DNFBPs	No. of entities	Key figures (in 2021 except as otherwise stated)	Licensing/registration and supervision authorities	Sanction authority
Real estate companies	21		Ministry of Housing and Town Planning	Ministry of Housing and Town Planning
Real estate agents	30	9,592 billion CFA francs		
Real estate brokers	50			
Notaries	15	1.3 billion CFA francs	Ministry of Justice, Keeper of the Seals, in charge of Human Rights and Gender Equality	Ministry of Justice, Keeper of the Seals, in charge of Human Rights and Gender Equality
Lawyers	142		- National Bar of Gabon	National Bar of Gabon
Chartered accountants	56	9.7 billion CFA francs	Order of Chartered Accountants - Ministry of Economy and Recovery	Gabon Order of Chartered Accountants (ONEC-Gabon)
Dealers in precious stones and metals	8	710,114 billion CFA francs	Ministry of mines	Ministry of mines
Casinos/ gaming establishments	4	26 billion CFA francs	Ministry of the Interior	Ministry of the Interior
Online casinos	23		- Other countries	Other countries
Trust and fiduciary services providers	0	0	-	-

**68.** According to information obtained by the mission from the Gabonese authorities, there are no virtual asset service providers under Gabonese law and no VASPs operating from Gabon have been identified. Similarly, there is no legal framework governing the operation and supervision of VAs and VASPs. Gabon has not undertaken a thorough assessment of the

size of a potential VASP sector in the economy or the extent of the use of virtual assets across all sectors in the country, nor the money laundering and terrorist financing risks and vulnerabilities associated with VAs and VASPs that may operate in Gabon. However, there is no information to ensure that there are no VASPs offering their services to Gabonese residents or citizens, or that no banks or other FIs are offering VAs or linking their customers to platforms or other providers.

**69.** The evaluators ranked the sectors according to their relative significance, taking into account their respective materiality and exposure to ML/TF risks. This approach applies to the report as a whole, but in particular to IO 4 and IO 3.

### **Highly rated weighting**

**70. *The banking sector*** is of great significance because of its key role in the financial sector and its systemic importance in the country's economy. Banks alone have a permanent capital stock estimated at 502 billion CFA francs and customer deposits estimated at 2,353.9 billion CFA francs. As at 31 December 2021, loans distributed reached 1,854.2 billion CFA francs. This sub-sector has the most ramification with the other sectors. Banking activity contributes considerably to the country's employment. Similarly, due to the high rate of bank penetration compared with other countries in the sub-region, more than 400,000 accounts have been opened in local banks, which does not exclude high-risk customers. While it is acknowledged that no risk assessment has led to the identification of risks inherent to the banking sector, it is reasonable to consider that the banking activity deserves increased attention due to the significant financial flows that pass through it daily.

**71. *The microfinance sector*** is the sector closest to households, given the products offered. However, with the recent sanctions imposed by the supervisor on MFIs for non-compliance with AML/CFT due diligence and preventive measures, it appears that AML/CFT risks are considerable. In short, this sector is considered very significant given its size, transnational nature and exposure to a number of identified risk services. MFIs are heavily involved in financing SMEs. More than 70% of their portfolio consists of SMEs and very small enterprises. Indeed, the net financial product of the sector reached 13.8 billion CFA francs in 2020. A closer look reveals that the sector's clientele is made up of the most vulnerable segments of society, including low-income earners, craftsmen, students on scholarships, pensioners and small businesses. The sector's clientele is constantly growing, with nearly 286,560 users of MFIs to date.

**72. *The real estate sector, in particular real estate agents***, is relatively significant because of the boom in the real estate sector and the impact that real estate transactions could have on the assets available at banking institutions, MFIs and insurance companies. Although there are only 8 (eight) licensed real estate agencies, a large number of real estate agents operate informally. Although the sector's turnover does not reach ten billion CFA francs, it should be noted that it is a sector in perpetual evolution.

**73. *The mining sector, including traders in precious stones and metals***, is significant given its weight in the country's economy. Indeed, the sector currently accounts for more than 6% of

GDP, 6.4% of the country's exports and employs 2000 people. Numerous mining exploration and exploitation licences have been granted but the sector's revenues are often not declared. As a result, revenues from these sectors are channelled informally and at best hoarded. In this regard, Gabon has abundant gold reserves, the optimal exploitation of which would drain colossal sums into the country's financial system. The significance of this sector is average in the sense that the State exercises some control over the major exploration and export companies, but those operating in the informal sector escape control.

**74. *The manual foreign exchange sector*** is dominated by credit institutions engaged in foreign exchange activities. To date, only 9 (nine) specialized foreign exchange bureaus are licensed in Gabon. However, in terms of ML/TF risk, there are manual foreign exchange actors operating informally and without prior authorization from the country's monetary authorities.<sup>18</sup> This is clearly visible at airports and other entry points to the country. In addition, there are members of foreign communities in Gabon who carry out manual exchange activities without prior authorization. Similarly, these actors do not respect the daily thresholds per customer, which is 5,000,000 CFA francs. Accordingly, Gabonese authorities have, in the recent past, carried out an operation to dismantle these parallel networks. In Gabon, informal money changers control most of the turnover in this sector, which is at high risk of being used for ML/TF purposes. The informal sector also controls the supply of foreign currency to the market and dries up the regularly registered offices.

#### **Average weighting**

**75. *The insurance sector*** is classified in this category because of the flow of capital that crosses over due to the involvement of a multitude of players. In this sector, even though the life insurance segment accounts for a tiny portion of the market share, there are a variety of players operating in the market, including about thirty insurance brokers, a hundred agents, about fifty technical experts and general agents. The sector's wage bill is estimated at more than 7 billion CFA francs. Moreover, the insurance supervisor does not have an AML/CFT procedures manual. Similarly, the NRA's preliminary analyses revealed vulnerabilities in this sector, including difficulties in identifying the beneficial owner in the event of the termination of insurance policies.

**76. *The sector of money transfers by financial messengers*** is listed here because of the significant financial flows in and out via these transfer companies, carried out by Gabonese residents abroad but also by foreigners resident in Gabon. Nevertheless, the actors in this sector are not systemically significant. Another reason is that these institutions are not approved by the financial market supervisor (COBAC). As a result, the companies are not monitored for AML/CFT implementation. To date, several studies have concluded that the sector is highly risky.<sup>19</sup> No doubt, the country has limited transfer operations via these companies, but nothing has been adopted to prevent customers from splitting up operations to send large amounts in instalments. Similarly, it should be noted that massive remittances are symptomatic of an environment characterized by corruption, a circumstance that hinders economic performance by reducing private investment, negatively affecting the quantity and

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<sup>18</sup> Natural persons mainly without fixed offices/locations.

<sup>19</sup> In particular, the typology study on the risks of money laundering and terrorist financing inherent in manual currency exchange and fund transfers in Central Africa, conducted by GABAC in 2018 and available on GABAC's official website.

quality of public infrastructure, decreasing tax revenues and lowering human capital accumulation.

**77. *The mobile money sector*** is included in this category because of its novelty, dynamism and continued growth. In the first-round assessment the mission did not give significant attention and weight to this area, as it was embryonic and presented less risk of ML/TF. Today, the sector plays a key role in the country's financial inclusion policy. The penetration of mobile money use has been particularly strong in Gabon (more than 48% of the population over the age of 15 had an account in 2020). Thus, despite the small number of providers of these services, the sector occupies a prominent place in the country's economy. With an increasing number of active accounts (nearly 2,500,000 accounts in December 2021), the mobile money sector posted an estimated turnover of 8.9 billion CFA francs in 2021.

**78.** The operators of these services use a platform set up by a community body to process operations. Thus, GIMAC has developed a GIMACPAY ecosystem that handles card transactions, mobile money and money transfers in the CEMAC area. It offers interbank and interoperable services to national treasuries, banks, microfinance institutions, payment institutions, money transfer companies and service aggregators (Fintech). As a result, the volume of deposits at sales points in December 2021 reached 292.7 billion CFA francs and withdrawals reached 226.8 billion CFA francs. Transfers reached 131.9 billion CFA francs. Payments via these services reached 50.9 billion CFA francs for the same period.

**79.** Thus, many economic operators have begun to accept payments by mobile money. This is a clear indication of the interconnectedness of the MFSP sector with other sectors of economic activity. While it is acknowledged that no risk assessment has been conducted in this area, problems relating to customer identification, record keeping, identification of BOs and reasons for transactions can be seen as risk factors.

**80. *The casino and gambling sector*** is of average significance because of the considerable ML/TF risks and the deficient control system in place. Also, it is a sector that does not make automatic declarations or STRs. They are not equipped to verify the identity of customers and their beneficial owners in a timely manner. Although the sector's turnover estimated at more than 26 billion only concerns the physical casinos established in the country, it is obvious that the turnover of online casinos is higher than this, as there are more than 20 online casinos in Gabon. However, there is no indication that these casinos are established in Gabon. The supply of online games is particularly large. This is largely facilitated by the level of internet coverage in Gabon, as the country currently has 3 million subscriptions for 2 million inhabitants.

**81.** It is true that there are AML/CFT measures concerning casinos in Gabon, but the country does not prohibit online casinos, which allows gambling on any platform. Online casinos available to Gabonese players are not located in Gabon. Generally, the control and supervision of these casinos is the responsibility of the French (ARJEL), Maltese or Dutch authorities.

**82.** In this environment, it is quite possible to make a foreign exchange before depositing money in your player account. Most of the time, the accounts operate in Euro or US dollars.

These currencies are accepted for both deposits and withdrawals. No AML/CFT preventive measures are implemented. To make a deposit, it is enough to use the means of payment which are often offered: bank card, prepaid card, bank transfer or electronic wallet.

**83. *The notaries' sector*** is of average significance because of its role in the real estate sector, which is of great significance, especially the finalization of real estate transactions. In fact, although their activity is liberal, these legal professionals are subject to the AML/CFT when they prepare or carry out transactions for a customer as part of the following activities: purchase or sale of real estate, management of the customer's capital, securities or other assets, management of bank, savings or securities accounts, organization of contributions for the creation, operation or management of companies, creation, operation or management of legal persons or entities and purchase and sale of commercial entities. Thus, almost all real estate transactions in Gabon are conducted before notaries, but AML/CFT concerns are not always taken into account by these actors. The Ministry of Justice, Keeper of the Seals, in charge of Human Rights and Gender Equality, has a mission to administer the profession, discipline it and constantly monitor its members' compliance with ethical rules. This authority's controls do not systematically extend to AML/CFT when required.

**84. *Lawyers*** are of average significance in the sense that these professions, although not systemically significant in the country's economy, interact with the major players. For example, lawyers are involved in the incorporation of companies, assist customers in real estate transactions, and manage customer accounts. In practice, these actors find it difficult to question their clients about the origin of funds by virtue of the rules of their profession. Similarly, the SRB that supervises their activities does not always consider the AML/CFT aspect.

**85. *Chartered accountants*** also play an important role in the country's AML/CFT system i, as they certify most of the accounting requirements for companies subject to AML/CFT. This endorses the truthfulness of the accounts without the possibility of downstream disaggregation of the funds/lines concerned by possible ML cases. In practice, chartered accountants provide assistance and advice and audit services. Very often, they are faced with the challenge of identifying beneficial owners. Despite the requirements of the CEMAC Regulation, professional secrecy is often invoked to subtly dismiss the implementation of preventive measures.

#### **Low weighting**

**86. *The financial market*** is not well developed in Gabon. Rather, it is dominated by other countries in the sub-region. As a result, the contribution of this sector to the country's GDP is not sufficient to have a significant impact on the country's financial system. Indeed, at the time of the site visit, Gabon had only one licensed stock exchange company specializing in market capitalization worth 6,072 billion CFA francs, including 97.26% in bonds, and one Financial Investment Adviser.

**87. *The sector of specialized financial institutions*** does not carry much weight because of its small customer base and the limited number of companies operating in the sector. Indeed, although sector's turnover exceeds 30 billion CFA francs, the ML/TF risks in this area are



low. Similarly, the sector's assets are less likely to be involved in ML/TF activities. The mechanisms used in this sector mean that interconnection with the country's financial system is not considerable.

#### **1.4.4. Preventive measures**

**88.** Since the first-round evaluation in 2013, Gabon has improved its legal framework governing the preventive measures of reporting entities. CEMAC Regulation No. 01/16 of 11 April 2016 corrects many of the deficiencies identified in the previous round. The Regulation takes into account most of the requirements of the 40 FATF Recommendations. However, given the latest updates, an amendment of the instrument seems necessary. Indeed, it is a Community Regulation directly applicable and mandatory in all its elements to CEMAC Member States. In addition to setting out the AML/CFT framework in the community, the instrument also sets out the preventive measures to be implemented by FIs and DNFBPs, though it does not contain any provisions on VASPs.

**89.** Moreover, this community framework is supplemented by other instruments specific to certain actors. These include, for example, the CIMA Regulation (Regulation No. 001 of 2 March 2021 replacing Regulation No. 0004 defining the procedures applicable by insurance undertakings in CIMA Member States under anti-against money laundering and combating the financing of terrorism and the proliferation of weapons of mass destruction) and the COBAC Regulation (COBAC-R-2005/01 relating to the due diligence of reporting institutions in terms of AML/CFT), which contain more detailed AML/CFT provisions applicable to their reporting entities.

#### **1.4.5. Legal persons and arrangements**

##### *Legal persons*

**90.** As a party to the Treaty of the Organization for the Harmonization of Business Law in Africa (OHADA), which institutes the Uniform Acts, Gabon subjects commercial legal persons to the provisions of the Uniform Act on Commercial Companies and Economic Interest Groups (ASCGGIE) and the Uniform Act on General Commercial Law (AUDCG). Other non-trading legal persons that can be created are governed by separate instruments of the country depending on whether they are NPOs, NGOs, associations, political parties, foundations or civil real estate companies.

**91.** Under the provisions of the above-mentioned Uniform Acts, several types of companies can be created in Gabon. These include the limited company (LC), the simplified joint stock company (SAS), the limited partnership (SCS), the limited liability company (LLC), cooperative companies, the general partnership (SNC) and the economic interest group (EIG). All these companies must be registered in the Trade and Personal Property Credit Register (TPPCR) established by the said Uniform Acts. TPPCR receives information on the company, its activities, its partners/shareholders and its share capital. The registries of commercial courts keep the register and mention all information relating to the life and dissolution of companies. TPPCR provides basic information on the formation of commercial companies, but this is kept manually in a physical location.

**92.** In addition, the Uniform Acts provide for a number of sanctions for non-compliance with some obligations under the Uniform Acts. Thus, each OHADA Member State should adopt an internal law to punish non-compliance with these obligations. In Gabon, failure to comply with the obligations set out in the OHADA Uniform Acts is punishable under the Penal Code in Manual Five, Part I on good economic governance (Sections 348 to 379).

**93.** Associations, NGOs and NPOs are governed by Law No. 35/62 of 10 December 1962 on associations and Law No. 039/2018 of 28 December 2018 establishing the regime of patronage and sponsorship in the Gabonese Republic. NGOs and NPOs are perceived as associations, since they must register following the procedure specific to associations. It is assumed that NGOs and NPOs represent a type of association, specifically oriented towards development, emergency and mutual social assistance issues. However, foreign associations can be established in Gabon only with the prior authorization of the President of the Republic. In any case, associations, NGOs and NPOs are registered at the Ministry of the Interior.

**94.** Political parties are governed by Law No. 24/96 of 6 June 1996 on political parties and its implementing Decree No. 1008-PR-MI of 27 August 1998. Foundations are governed by Law No. 002/2000 of 18 August 2000 to ratify Ordinance No. 2/99/PR of 30 July 1999 to lay down the regime of foundations. Political parties are created by declaration to the Ministry of the Interior by producing a file. This file contains basic information on the legal entity, including the identity of the officials, the types of activities, etc.

**95.** For associations, NGOs, NPOs, political parties and foundations, the Ministry of the Interior, which supervises and oversees them, keeps lists of approved legal persons. However, updating the information contained in the registers remains one of the major challenges to transparency in this area. Similarly, no AML/CFT compliance checks are carried out on these entities.

**96.** Lastly, the evaluation mission noted that no risk assessment of the misuse of legal persons for ML/TF purposes has been conducted in accordance with the relevant FATF Recommendations.

### *Legal arrangements*

**97.** In accordance with the Community provisions in force, notably the CEMAC Regulation, providers of legal arrangement services are subject to AML/CFT obligations. This applies in particular to members of the independent legal professions who can potentially provide such services (lawyers and notaries). Gabon has not ratified The Hague Convention of 1 July 1985 and does not have legislation specifically applicable to trusts and their recognition. However, the Gabonese legal system does not prohibit trusts set up abroad from operating or being administered on its territory. Similarly, members of some independent legal professions such as notaries can manage assets on behalf of a trust established abroad, without any obstacle. In practice, no lawyers or notaries indicated that they provide these services and the competent

authorities did not provide information on the legal regime applicable to trusts and legal arrangements in Gabon.

**98.** Furthermore, at the time of the on-site visit, no information was provided to the evaluation team regarding the existence of trusts or other similar legal arrangements as defined by the FATF Recommendations.

#### 1.4.6. Supervisory arrangements

**Table 1.3. Supervision of Financial Institutions**

Types of FIs	Licensing/registration authority	Supervision and sanction authority
Banks	COBAC	COBAC
Microfinance institutions	COBAC	COBAC
Other licensed players in the regional financial market	COSUMAF	COSUMAF
Insurance	CRCA	CRCA and DNA
Foreign exchange bureaus	Ministry of Economy and Recovery - BEAC	Ministry of Economy and Recovery – BEAC- COBAC
Stock exchange companies	COSUMAF	COSUMAF
Leasing financial institutions	COBAC	COBAC
Cash and valuables transfer companies by financial courier	COBAC	Ministry of Economy and Recovery
Mobile financial service provider (MFSP)	BEAC-GIMAC-COBAC	BEAC-GIMAC-COBAC

### *Financial Institutions*

**99.** Gabon belongs to the CEMAC sub-region where the supervision of credit and microfinance institutions is the responsibility of the Central African Banking Commission (COBAC), a supranational body. As such, COBAC is the authority in charge of the control and supervision of these financial institutions. It has the most extensive administrative, regulatory, supervision and sanctioning powers over its reporting entities. COBAC carries out on-site and off-site supervision of banks and non-bank financial institutions to ensure compliance with the relevant prudential obligations, particularly AML/CFT measures.

**100.** For financial market FIs, COSUMAF is the supervisory, regulatory and control authority for the Central African financial market. As such, it has the most extensive powers to ensure the protection of savings invested in securities, the information of investors and the proper functioning of the regional financial market (RFM). COSUMAF has various powers, including regulatory, supervisory and sanctioning powers over authorized market participants. In this regard, COSUMAF is responsible for ensuring the regulatory compliance of transactions carried out on the securities market and for monitoring market participants.

COSUMAF may also impose disciplinary and/or financial sanctions without prejudice to judicial sanctions in the event of non-compliance with AML/CFT provisions.

**101.** For the insurance sector, due to Gabon's membership of the CIMA zone, supervision is carried out on a regional scale. Thus, CIMA, an inter-regional body, is the supervisory, control and regulatory authority for insurance and reinsurance players through the Regional Insurance Control Commission (CRCA). CIMA carries out its missions in conjunction with the National Directorate of Insurance, which is under the Ministry of the Economy and Recovery. In Gabon, the CRCA and DNA ensure reporting entities' compliance with the insurance AML/CFT regulations.

**102.** The Ministry of Economy and Recovery, through the Directorate of Financial Institutions, supervises the activities of foreign exchange bureaus and MVTs. Thus, it carries out documentary and on-site controls and is supported in this respect by BEAC which, for its part, monitors foreign exchange in its books. Similarly, the Ministry can impose proportionate and dissuasive disciplinary and financial sanctions, on the proposal of BEAC.

**103.** The control and supervision of the activities of Mobile Financial Service Providers (MFSPs) is the responsibility of the community authorities, notably GIMAC and BEAC. In practice, supervision is carried out in conjunction with the national authorities, particularly the Ministry of Economy and Recovery. GIMAC is a platform for linking MFSPs in the CEMAC zone and for interoperability, while BEAC ensures that operations via these channels are carried out in accordance with the standards by ensuring that transaction thresholds are respected and that banks are able to respect the partnerships entered into.

**104.** The activities of the financial services of the Post Office are controlled and supervised by the Electronic and Postal Communications Regulation Authority (ARCEP), which carries out periodic audits. However, the AML/CFT component is not systematically included in these audits and controls.

**Table 1.4. Supervision and control of designated non-financial businesses and professions**

Types of DNFBPs	Licensing/registration and supervision authorities	Sanction authority
Real estate agents / companies	Ministry of Housing and Town Planning	Ministry of Housing and Town Planning
Notaries	Ministry of Justice, Keeper of the Seals, in charge of Human Rights and Gender Equality	Ministry of Justice, Keeper of the Seals, in charge of Human Rights and Gender Equality
Lawyers	Gabon National Bar Council	Gabon National Bar Council
Chartered accountants	Order of Chartered Accountants – Ministry of Economy and Recovery	Gabon Order of Chartered Accountants (ONEC-Gabon)
Real estate agents Real estate brokers	Ministry of Housing	Ministry of Housing
Dealers in precious stones and metals	Ministry of Mines	Ministry of Mines
Casinos/ gambling establishments	Ministry of the Interior	Ministry of the Interior
Online casinos	Other countries	Other countries
Trust and fiduciary services providers	Nil	Nil

## ***DNFBPs***

**105.** In Gabon, there is no central authority designated to supervise and monitor the implementation of AML/CFT requirements by DNFBPs. However, self-regulatory bodies and specific corporations monitor compliance by members of their professions. This monitoring does not concern AML/CFT standards. Examples are the Bar Association for lawyers, the Council of the Order of Chartered Accountants, the Notaries Chamber or associations and groups of some professions (dealers in precious stones and metals, etc.).

**106.** The supervision of casinos and other games of chance is the responsibility of the Ministry of the Interior. However, the Ministry of the Interior's supervision does not cover the activities of online casinos which are the responsibility of other counterpart supervisors. The Ministry of the Interior does not maintain cooperative relations with these foreign supervisors.

**107.** Since Law No. 006/2017 of 9 August 2017 regulating the profession of real estate agent in Gabon, promulgated by Decree No. 00236/PR of 9 August 2017, it is the Ministry of Housing that ensures the control of respect for standards by the actors of the sector. Thus, to ensure compliance with the rules in force, the legislator has provided for criminal and administrative sanctions ranging from a warning to the definitive withdrawal of the authorization, pronounced by the commission for the issue of licences to practice.

## ***VASP***

**108.** Due to a lack of regulation of VASP activities in Gabon, there is no designated authority to ensure supervision, control and monitoring of the activities of virtual asset service providers, particularly cryptocurrency. Similarly, no VASP has been licensed in the country.

**109.** Nevertheless, a consultation framework on crypto-assets and Fintechs has been set up by COSUMAF with to prepare regulations for the activities of virtual asset service providers and Fintechs. This framework includes COSUMAF, BEAC, GABAC and COBAC. To this end, the regulation should take into account preventive AML/CFT measures, foreign exchange rules and general stock market principles. To date, the consultation framework has held several meetings.

### **1.4.7. International Cooperation**

**110.** Gabon has suitable mechanisms, including an extensive network of multilateral treaties, to provide and request the widest possible mutual legal assistance and extradition in relation to ML/TF. Thus, the country has signed judicial cooperation agreements with CEMAC member States but also with the States of the West African zone.

**111.** Most foreign cooperation activities in Gabon are carried out through the Ministry of Foreign Affairs, via the specific mechanisms provided for in various agreements. Thus, the Ministry is the central authority for the exchange of mutual legal assistance or extradition requests with foreign counterparts. In this regard, it has all the necessary tools and mechanisms and cooperates actively with its foreign counterparts.

**112.** Requests for mutual legal assistance and extradition are handled by the Ministry of Justice, Keeper of the Seals, in charge of Human Rights and Gender Equality, which is the only authority empowered to give effect to such requests.

**113.** Gabon is exposed to a range of ML/TF risks relating to offences with foreign elements. These include, for example, the uncontrolled exploitation of the country's oil resources, tax evasion, misappropriation of public funds followed by their concealment in tax havens or offshore accounts. To prosecute and convict the perpetrators of these predicate offences, which drain enormous illicit financial flows into the country's financial system, much effort remains to be made.

## 2. NATIONAL AML/CFT POLICIES AND COORDINATION

### 2.1. Key findings and recommendations

#### *Key findings*

- (a) Gabon has not completed its national ML/TF risk assessment process initiated in May 2021. The delay is accentuated by difficulties relating, among other things, to the unavailability of logistical resources and of some members of the groups formed. The real ML and TF risks that Gabon faces have not yet been identified at national level, let alone at the sector level.
- (b) The overall level of understanding of ML risks is low, and is not uniform among the authorities and in the sectors of activity under consideration. Among the competent authorities, ANIF has demonstrated a good understanding of ML risks in Gabon. This understanding is average among investigative and prosecution authorities. With regard to control and supervision authorities, COBAC has a limited understanding of ML risks in the sectors under its supervision. This understanding is weak for CIMA and COSUMAF in their respective sectors of intervention.
- (c) Overall, the authorities have a poor understanding of the TF risks to which Gabon is exposed, despite the existence of several significant vulnerabilities.
- (d) Notwithstanding the absence of the NRA findings, some of the ongoing risks in Gabon have been the subject of strategic analyses and studies integrated into sector analyses. The sector risk assessments integrate some ML/TF risks to which the country is exposed, notably those inherent to corruption and illicit trafficking in timber, mining and oil products. Some players in the financial sector, particularly subsidiaries of international groups, also have risk maps sent to them and regularly updated by the group's headquarters, but which do not always take into account the reality of risks in the Gabonese context.
- (e) Gabon has created a Committee for the Coordination of National Policies to Combat Money Laundering, Terrorist Financing and Proliferation. The purpose of this body is to coordinate AML/CFT activities at national level. However, it was not yet operational at the time of the on-site visit. AML/CFT actions are coordinated informally by ANIF and its network of correspondents in some government services, and through partnerships between some AML/CFT actors. This informal approach is not productive in practice.
- (f) Gabon has not provided complete, consolidated and updated statistics on issues relating to investigations, prosecutions, convictions as well as freezing, seizure or confiscation measures, which could affect the finesse and depth of the ongoing NRA analyses, especially with regard to identification of the country's real threats and vulnerabilities.

## ***Recommendations***

### **Gabonese authorities should:**

1. Accelerate and complete the NRA process in order to identify as comprehensively as possible and have a good understanding of the country's ML/TF threats, vulnerabilities and risks. To this end, the country should provide the NRA Committee with the necessary logistical resources and mobilize all relevant actors to finalize the assessment as soon as possible and disseminate the report to the competent authorities and reporting entities;
2. Make the AML/CFT Policy Coordination Committee operational, by appointing its members and allocating the necessary resources for its functioning, in order to have a platform for coordination, information exchange and effective evaluation for the consistent implementation of national AML/CFT policies by all actors;
3. Continue to define and implement appropriate measures to mitigate the informality of the economy by promoting financial inclusion;
4. Improve information sharing channels and facilitate the implementation of joint actions or measures between competent authorities, including regulatory, supervisory and control authorities, promoting, where appropriate, the conclusion of agreements between them;
5. Develop statistical data collection mechanisms and maintain comprehensive, consolidated and up-to-date statistics on all matters relating to investigations, prosecutions, convictions and freezing, seizure or confiscation measures to enable the authorities, under the ongoing and future NRA, to have reliable quantitative data to identify and assess real threats and to improve their understanding of the risks.

**114.** The Immediate Outcome relevant to this chapter is IO 1. The Recommendations relevant to the assessment of effectiveness in this section are R1, 2, 33 and 34 and some items of R15.

### **2.2. Immediate Outcome 1 (Risk, policy and coordination)**

#### **2.2.1. Country's understanding of ML/TF risks**

**115.** Since 2021, Gabon began its national risk assessment with the support of the World Bank, which made available its methodological tool and dedicated experts. The NRA is coordinated by ANIF and involves the participation and contributions of the main actors and sectors of the AML/CFT system in Gabon. Despite the delays inherent in the unavailability of logistical means and some actors to participate in the assessment, finalization of the report and its sharing are an opportunity for the country to identify its real and global AML/CFT risks and to improve and standardize the understanding of the risks among the different actors and sectors involved in AML/CFT.

**116.** Gabon has demonstrated an overall low level of understanding of the ML and TF risks it faces. However, this understanding is not uniform across the various authorities and sectors of activity under consideration. The evaluation team based its evaluation in particular on interviews with several authorities and actors in the country's AML/CFT system, including ANIF, investigative and prosecutorial authorities (police, judges, prosecutors), some



government services (Customs, Taxes, Water resources and Forestry), members of the NRA Committee, representatives of supervisory bodies (COBAC, CIMA, COSUMAF), and representatives of the reporting professions.

**117.** Among the relevant authorities, ANIF as a whole has demonstrated a good understanding of ML and TF risks in Gabon. This level of understanding results from, and is maintained through, the operational analyses, albeit limited, produced by ANIF based on the typology of threats and vulnerabilities identified in the STRs, its periodic activity reports and the typology study reports conducted by GABAC. Investigative and prosecuting authorities have shown an average understanding of AML/CFT risks, which is mainly based on their own analyses and the few analyses or reports of targeted studies on some AML threats that ANIF receives and shares with all AML/CFT stakeholders.

**118.** With regard to supervisors, COBAC has little understanding of the ML/TF risks in the sectors of activity it supervises. It only mentions them in a subsidiary manner in its periodic reports. The regulatory framework on which it relies to deploy AML/CFT due diligence tools is outdated and does not reflect all the current standards in this area, nor does it take into account the specificities of some sectors, notably foreign exchange bureaus and payment services. For the other control and supervisory authorities, namely CIMA and COSUMAF, understanding of the AML risks to which their respective sectors are exposed is very poor.

**119.** However, there are difficulties that slow down finalization of the NRA and that are likely to affect the inclusive nature of the process. Indeed, the thematic groups set up do not have the logistical and financial resources needed to hold meetings properly and the mobilization of all members is not always effective. Similarly, the lack of available quantitative data (STRs, investigations, prosecutions, freezes, seizures, confiscations) and the absence of qualitative data on the strategic studies and analyses of the FIU and other competent authorities and even of reporting entities, are significant shortcomings that could possibly impact the nature of the actual and concrete threats and vulnerabilities to be identified.

### **2.2.2. National policies to address identified ML/TF risks**

**120.** As the NRA process is still ongoing, Gabonese authorities do not apply the risk-based approach to AML/CFT.

**121.** Gabon has sector action plans that focus on some specific ongoing risks, notably those relating to corruption and illicit trafficking in the forestry and mining sectors. Thus, Gabon has adopted national action plans containing targeted measures dedicated to the above-mentioned specific risks and which include some AML/CFT aspects. Such is the case of the adoption, since December 2012, of the Anti-Corruption and Anti-Money Laundering Strategy Paper (DSLCCBC) which led to the creation of the National Commission for the Fight against Corruption and Illicit Enrichment (CNLCEI). Gabon has also adopted the National Forestry and Mining Governance Policy and created the National Agency for National Parks (ANPN) to address the economic and security issues posed by illicit trafficking in the forestry and mining sectors. However, these measures, which can be considered as progress in AML/CFT, have not been updated. Moreover, they are limited to preventive aspects and do not take into account the repressive dimension of ML.

**122.** Gabon also participates in regional AML/CFT initiatives. In this light, the country has implemented some of the legislative measures recommended in the report of the study on AML/CFT risks inherent in manual foreign exchange and remittances in Central Africa, conducted by GABAC in 2018, including the introduction of a system to centralize foreign currency acquired by exchange bureaus from banks. Henceforth, foreign exchange bureaus can no longer buy currencies directly from the Central Bank, but from commercial banks. Similarly, the conditions of access to the profession of manual money changer have been reinforced by the transformation of the guarantee into capital with the mandatory opinion of COBAC. However, the significant clandestine foreign exchange activity remains worrying.

**123.** The authorities have adopted incentives for financial inclusion in order to strengthen the population's access to financial services and avoid opening the door to the underground economy. For example, financial institutions, in partnership or not with mobile phone operators, have introduced innovative payment instruments over the last decade. Since their introduction, these instruments have developed significantly in terms of the number of instruments issued and the volume of transactions carried out (see Chapter 1). This favours financial inclusion and improves the rate of bank penetration over the years.

**124.** Gabon was evaluated in 2012 by GABAC. Following the evaluation, Gabon took some legislative measures to strengthen its AML/CFT system, in particular, the adoption of a new criminal code to factor the criminalization of ML and the category of predicate offences. The country also adopted a new code of criminal procedure that established specialized courts with national competence, for the repression of ML, TF and related predicate offences (Specialized Criminal Court of the Libreville Court of Judicial Appeal, Specialized Criminal Unit of the Libreville Court of First Instance). The reform made it possible to have the first judicial procedures for ML.

**125.** With regard to terrorist financing risk, in 1999 Gabon created the National Security Council (CNS), whose mission is to periodically summarize relevant information on security threats inside and outside the country, including terrorism and its financing, in particular through the monitoring of the financial flows of expatriates involved in natural resource exploitation activities.

### **2.2.3. Exemptions, enhanced and simplified measures**

**126.** No derogation to the vigilance measures in the high and low risk scenarios has been determined by the Gabonese authorities, as the national risk assessment process has not been completed.

### **2.2.4. Objectives and activities of competent authorities**

**127.** As the NRA has not yet been completed, the policies, strategies and operational activities of the relevant authorities have not been reviewed to adapt them to the risks. However, prior to the launch of the NRA process, Gabon undertook sector initiatives to address ML/TF risks in the country (see Section 2.2.2).

### **2.2.5. National coordination and cooperation**

**128.** Gabon has a committee in charge of coordinating national AML/CFT policies, which was set up in September 2021. However, this formal framework is not yet operational due to the lack of human, material and financial resources required for its functioning.

**129.** While waiting for the operationalization of the committee with national competence, ANIF is trying to deploy a coordination and cooperation mechanism to combat ML/TF through its network of correspondents in several government services. These correspondents, appointed within the competent ministries, are responsible for facilitating collaboration between ANIF and their respective services as part of AML. However, until the end of the on-site visit, this approach had not produced any concrete results, as no procedure had been initiated in this regard. ANIF has also signed a partnership agreement with the National Commission for the Fight against Corruption and Illicit Enrichment (CNLCEI) to pool efforts in the fight against the predicate offence of corruption and the laundering of the proceeds of offences against public wealth. Until the date of the on-site visit, the partnership had also remained unsuccessful in terms of procedures or concrete actions undertaken.

**130.** With regard to security threats, specifically terrorism and its financing, it should be noted that there is coordination at the level of the National Security Council, which brings together representatives of several security services (Police, Justice, Diplomacy, Interior, Defence, etc.) and which generally coordinates reflection and action on serious security issues/threats. At the time of the on-site visit, cooperation on TF between the various entities that make the NSC was limited because of the compartmentalization of the government services and the withholding of information by these services, which behave as competitors. This approach does not yet produce the same results as a specially dedicated body, whose action would be coordinated at national level, such as an AML/CFT national policy coordination committee.

**131.** ANIF maintains relations with several national AML/CFT stakeholders, but it does not have any particular relations with COBAC, CIMA or COSUMAF which are supranational bodies. This makes it difficult to develop AML/CFT policies and procedures, including guidelines for FIs. Furthermore, there are no formal mechanisms for cooperation between competent authorities and reporting professionals.

### **2.2.6. Private sector awareness of risks**

**132.** Gabon's conduct of the NRA brings together most of the private sector AML/CFT stakeholders and allows for their respective contributions. Almost all of them stated that they are involved in the ongoing NRA, despite the unavailability of some representatives. This involvement in the NRA is a starting point for shared knowledge of the country's ML/TF risks with private sector AML/CFT stakeholders. However, at the time of the on-site visit, the NRA had not been completed and the risks had not yet been definitively identified at national level for the proper sensitization of all participating actors.

**133.** ANIF conducts awareness-raising and training activities on AML/CFT issues to enable all stakeholders to become aware of the ML/TF risks to which their sectors are exposed. It regularly organizes meetings with the banking sector and ensures the dissemination of its periodic reports as well as the findings of studies on AML/CFT issues conducted by GABAC, among others, to private sector stakeholders, who also participate in seminars and awareness-

raising workshops organized by GABAC. They are informed about the risks identified, the relevant recommendations and any measures taken by the authorities to mitigate or manage such risks. However, these activities are more oriented towards financial sector actors, as other reporting entities, notably DNFBPs, are not sufficiently informed about ML/TF risks.

***Overall Conclusion on IO 1***

**134.** Gabon has started its NRA, but the findings of this exercise are not yet available. Pending finalization of the NRA, Gabon demonstrated a low level of understanding of ML/TF risks. This level of understanding is diverse among the competent authorities with a very low level for DNFBPs supervisors or self-regulatory bodies. The country does not have policies and does not implement national AML/CFT activities in line with the identified risks. Also, the authorities have not yet adopted the overall ML/TF risk-based approach in their decision-making procedures, apart from addressing a few specific risks with no significant outcome. National cooperation and coordination bodies still need to be made operational and actions need to be developed and improved between the competent authorities. Fundamental improvements need to be adopted and implemented to raise the level of understanding of risks, ensure a uniform understanding of such risks and ensure that they are properly handled.

***Gabon is rated as having a low effectiveness level for IO 1.***

### 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

#### 3.1. Key findings and recommendations

##### *Key findings*

##### **Immediate Outcome 6**

- (a) Investigative and prosecuting authorities have some access, through ANIF transmissions and requisitions to the financial sector, to financial intelligence that could enable them seize assets and identify the perpetrators of ML offences with a view to their conviction. However, due to a lack of resources and expertise, they do not make optimal use of the data made available to them. Financial intelligence produced by other competent authorities, notably Customs and Tax Administration, is not disseminated or used by them in investigations into ML/TF.
- (b) To analyse STR, Gabon's ANIF uses its right of communication with reporting, government services and foreign FIUs, to obtain additional information and enrich its investigations. With the exception of judicial authorities, ANIF does not disseminate financial intelligence obtained to other competent authorities, in particular Customs and Tax Administration, in the investigations and prosecutions of ML/TF and predicate offences. No STR or dissemination in relation to TF has been transmitted.
- (c) The main source of financial intelligence produced by Gabon's ANIF is the STRs it receives from some reporting entities, particularly banks. DNFBBs do not produce STRs, which has a negative impact on the abundance and quality of financial intelligence that should be made available to the competent authorities.
- (d) ANIF, on the one hand, has accumulated a significant backlog in the processing of STRs due to delays in responding to requests for information and, on the other hand, has disseminated a low rate of reports based on STRs to judicial authorities and generally to the competent authorities.
- (e) Gabon's ANIF has not yet carried out a strategic analysis, although this is provided for in the CEMAC Regulation and ANIF's Internal Regulations.
- (f) The ANIF budget voted is not always fully released. The budget does not meet the multiple needs of this FIU which has enormous difficulties in accessing the internet and in taking care of its staff.
- (g) Cooperation and exchange of information between ANIF and other national competent authorities is not good, and its collaboration with supervisory authorities, notably COBAC, seems very limited.
- (h) The submission of STRs, the dissemination and exchange of information at national level

is done by physical transmission of confidential envelopes to the recipient. This mode of transmission is not a totally secure and protected information channel.

#### **Immediate Outcome 7**

- (a) Gabon pursues a policy of combating financial crime in general, without being specific in practice to combating ML/TF. It has established investigative and law enforcement entities capable of identifying and investigating ML cases. However, there is no well-defined criminal policy at national level, nor is there an overall strategy by prosecution authorities to prioritize ML investigations.
- (b) Gabon has investigative and prosecution authorities with the competence to identify ML cases through reports submitted by ANIF, but also through other sources, notably through parallel financial investigations during proceedings on predicate offences generating large amounts of profits likely to be laundered. However, in practice, the number of ANIF reports and detected ML cases is low. There is no use of parallel financial investigations.
- (c) The main predicate offences at risk are, to some extent, investigated and prosecuted. However, although related to some of the identified threats, the number of detected and prosecuted ML cases is insignificant; this contrasts with the magnitude of the country's risks.
- (d) Investigative and prosecution authorities have an appropriate legal and technical framework to identify and investigate ML cases. However, the lack of general AML/CFT expertise is a significant handicap in the effective conduct of investigations.
- (e) The sentences handed down to those convicted in the two ML cases listed in the country are below the minimum prescribed by the CEMAC Regulation of 11 April 2016. As a result, the sanctions applied are not effective, proportionate and even less dissuasive.
- (f) The authorities do not implement other alternative criminal justice measures for the repression of ML.

#### **Immediate Outcome 8**

- (a) The country does not prioritize the confiscation of proceeds and instrumentalities of crime, including property of equivalent value, in relation to ML/TF. The competent authorities do not systematically integrate the asset investigation aspect of proceeds of crime into their activities due, in particular, to a lack of training. However, some seizures are made for money laundering predicate offences by investigative units.
- (b) In the implementation of seizure and confiscation procedures, magistrates encounter major difficulties in locating movable assets due to the lack of a suitable addressing system in the country, particularly in large urban centres.
- (c) There is no mechanism for securing, managing and sharing seized and confiscated property.
- (d) There are shortcomings in the system for controlling cross-border currency movements. The same applies to the management of undeclared currency and other bearer negotiable instruments seized by the customs services.
- (e) No data are available on seizures and confiscations of proceeds of predicate offences committed abroad and proceeds transferred to other countries, nor on the cash and BNIs reporting system.

## ***Recommendations***

### **Immediate Outcome 6**

#### **Gabonese authorities should:**

- 1.** Increase awareness among reporting entities, in order to improve the reporting capacity of reporting entities who already report and to encourage reporting by reporting entities who do not yet report, in particular DNFBPs, with a view to increasing the volume of STRs, improving their quality and diversifying the sources of financial intelligence from FIs and DNFBPs. In this regard, ANIF will need to intensify feedback;
- 2.** Sensitize reporting entities, competent authorities and other relevant national partners to communicate information to ANIF in a timely manner as part of its investigations, in order to reduce the backlog in the processing of STRs and encourage analysts to intensify their analyses and hence increase the rate of dissemination of reports based on STRs to the competent authorities;
- 3.** Build the capacity of investigative and prosecution authorities on the exploitation and use of financial intelligence in ML and TF proceedings and, in the medium term, have them specialized in the field;
- 4.** Secure the full and unconditional release of the budget allocated to ANIF, increase and stabilize the budget, to ensure better staff management and enable ANIF to acquire a secure building and IT equipment. Also, ANIF should be provided with a sufficient number of Financial Analysts to increase its capacity to process STRs;
- 5.** Strengthen ANIF's strategic analysis in order to produce reports or studies on the techniques and trends of economic and financial crime in Gabon, according to the required periodicity;
- 6.** Improve access to ANIF information, particularly through direct access to databases of other government services in order to facilitate STR analysis;
- 7.** Strengthen the security and confidentiality of information exchanges between competent authorities and for the submission of STRs by using, for example, dedicated and secure IT communication tools or platforms;
- 8.** Strengthen cooperation and information exchange between ANIF and other competent authorities, including AML/CFT supervisors, with a view to broadening the scope of information, increasing the production and improving the use of financial intelligence;
- 9.** Raise awareness among the customs administration on compliance with its AML/CFT obligations and in particular on the transmission to ANIF of reports on the physical cross-border transportation of cash and bearer negotiable instruments, and among the tax administration on the exchange with other competent authorities of information in its possession under AML/CFT.

### **Immediate Outcome 7**

#### **Gabon should:**

1. Define a criminal policy that emphasises prioritization of repression of types of ML activities and the predicate offences in line with the country's risk profile and scope;
2. Improve the human, material and financial resources of the prosecution authorities, so that they have sufficient means to process financial intelligence and facilitate convictions for ML;
3. Build the capacity of investigative authorities on financial analysis and investigation techniques adapted to the detection of different types of ML, identification and tracking of proceeds of crime;
4. Encourage investigative and prosecution authorities to systematically use parallel investigations of ML, when seized for predicate offences;
5. Prescribe magistrates in charge of prosecuting and sentencing for ML to request and pronounce the sanctions contained in the CEMAC Regulation, which is the supranational standard, to the detriment of those relatively flexible in the Gabonese penal code;
6. Require competent authorities' implementation of alternative measures of justice when a conviction for ML is not possible.

### **Immediate Outcome 8**

#### **Gabonese authorities should:**

1. Make the confiscation of the proceeds and instrumentalities of crime and property of equivalent value a priority of the competent authorities in the investigation and prosecution of ML and related predicate offences;
2. Establish a mechanism for securing and managing property and assets seized, frozen or confiscated by the competent authorities in the investigation and prosecution of ML and related predicate offences;
3. Build the capacity of all competent authorities in a position to intervene in freezing, seizure or confiscation procedures, notably by providing targeted training and disseminating the CEMAC Regulations to them;
4. Develop mechanisms for keeping statistics, in general and particularly on data relating to mutual legal assistance and requests for international cooperation for seizure or confiscation of proceeds generated by the ML predicate offences;
5. Promote competent authorities' use of international cooperation tools and mechanisms (CEN for Customs, Interpol and OCLAD for Police) for procedures on seizure or confiscation of proceeds of crime with an international element.

**135.** The relevant Immediate Outcomes examined and evaluated in this chapter are: IO 6, IO 7 and IO 8. The relevant Recommendations for the assessment of technical compliance under this chapter are: R3, R4, R29, R30, R31 and R32: R3, R4, R29, R30, R31 and R32.



## **3.2. Immediate Outcome 6 (Financial Intelligence)**

### **3.2.1. Use of financial intelligence and other information**

**136.** The competent authorities, including ANIF, Customs, tax authorities and investigative and prosecution authorities, have some access to the financial intelligence and other relevant information needed to perform their AML/CFT duties. In practice, however, they do not make sufficient use of the financial information at their disposal or do not exchange it sufficiently.

**137.** Gabon's FIU (ANIF) has access to financial information through the exercise of the right of disclosure granted it by the CEMAC Regulation. This right of disclosure is exercised in relation to the reporting professions and government services, public establishments, local authorities and private sector entities or any other person entrusted with a public service mission. ANIF also has access to financial information through the cooperation mechanism with its foreign counterparts.

**138.** The primary source of financial information used by ANIF in Gabon to generate financial intelligence is the suspicious transaction reports (STRs) submitted by reporting entities. This financial intelligence establishes facts relating to financial crime, clandestine financial circuits, money laundering and terrorist financing. In accordance with the right of communication conferred on it by the CEMAC Regulation, ANIF may supplement this information by obtaining and using additional information from the reporting entities as well as from other public or private sources of information to further its analysis. However, in practice, ANIF's collaboration with most reporting entities, in particular DNFBPs, is not very effective. Exchange of information between ANIF and the monitoring and supervisory authorities is also almost non-existent.

**139.** ANIF accesses and receives information from public authorities. However, it does not have direct access to the databases of the various government services despite the existence of a network of institutional correspondents. This situation prevents faster processing of files. ANIF obtains this information, if necessary, through requests for information that it sends to these services, in particular the police, customs, tax authorities, judicial authorities and any other service. It should be noted that Gabon's ANIF does not have adequate software to facilitate analyses. This is due to the financial difficulties experienced by this FIU for the acquisition and maintenance of such software.

**140.** Gabon's ANIF is a member of the Egmont Group, which allows it access to information held by its counterparts, members of this important information exchange forum, to handle international cases. ANIF stated, without providing illustrative cases, that the information received under this cooperation allows it to enrich the suspicious transaction reports analysed as well as its database, but also to trigger alerts with regard to money laundering and terrorist financing threats.

**141.** The Customs collect information on the physical cross-border transport of cash and negotiable bearer instruments (NBIs). It has data on seizures of narcotics, rare and protected species, counterfeit medicines etc. However, it does not make effective use of this information in ML/TF investigations. This relevant information is neither passed on to the investigative and prosecuting authorities nor exchanged with ANIF.

**142.** Gabonese customs receive data relating to customs fraud from the Regional Intelligence Liaison Office for Africa and the Great Lakes (BRLR/AC), in the form of information, intelligence and alerts. Through this platform and its intelligence service, Gabon has an important database necessary for the collection and confidential and secure dissemination of information on seizures of currency, drugs, tobacco, intellectual property rights, etc., carried out on a global scale by customs officers and agents of other anti-fraud networks (Interpol UNODC). In addition, the various operations organized by the World Customs Organization (WCO) enable the Gabonese customs administration to make all kinds of seizures (psychotropic substances, protected wildlife species, counterfeit products).<sup>20</sup> However, not all of this financial intelligence is used by Gabonese Customs or exchanged with other competent authorities for ML/TF investigations.

**143.** The tax authorities have not yet identified a case of tax fraud. At the time of the visit, it stated that it had not exchanged information with ANIF. However, it formally exchanges information with the Police and Customs on the basis of cooperation agreements signed with the latter.

**144.** The investigative authorities and in particular the judicial investigation police have access to financial intelligence through the dissemination of such information by ANIF. In addition to ANIF, these authorities obtain the information necessary to perform their duties through the collaboration that exists between them, notwithstanding the administrative bottlenecks. They can also obtain information from banks and other financial institutions that is useful for the performance of their duties. In practice, and due to a lack of the authorities' ML/TF expertise and training, financial intelligence or other information obtained by them is not used effectively to investigate ML/TF cases.

**145.** Prosecuting authorities receive ANIF reports on the analysis of information contained in STRs. They stated that the information was of good quality, but that due to a lack of expertise and training on ML/TF aspects, they do not use the information adequately. Thus, from 2016 to 2021, 11 (eleven) reports on money laundering were disseminated to the Public Prosecutor and no report on terrorist financing was disseminated. The mission noted that in addition to the 11 (eleven) reports transmitted to the Public Prosecutor, 8 (eight) others, dating from years prior to 2016, were transmitted to the Public Prosecutor. On the basis of exchanges with the Public Prosecutor, ANIF noted 4 (four) reports that were under judicial investigation; for one of the reports, it was specified that an investigation had been opened against the protagonists, "charged with criminal enterprise, money laundering and complicity in money laundering". Nevertheless, the mission was informed of two convictions for ML in two cases that are not yet final, as they have been appealed at the Appeal Court.

**146.** Apart from ANIF, the prosecution authorities also obtain financial and other information from government services and private entities through judicial requisitions. Where necessary, additional information is made available to them by the various investigative services. All this information is useful in establishing proof of existence of the offences being prosecuted and locating the assets to be seized or confiscated. The mutual legal assistance mechanism also

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<sup>20</sup> WCO Secretariat Activity Report for West Africa, December 2020.

allows Gabonese judicial authorities to collect financial intelligence and other information though, in practice, they do not generally use such information.

**3.2.2. Reports received and requested by the competent authorities**

**147.** ANIF receives STRS from reporting entities, which it analyses and whose results it transmits to judicial authorities where there is suspicion of ML/TF. ANIF had neither received any STRs, nor disseminated any report relating to TF at the date of the visit. STRs are submitted to ANIF through a model instituted by Order No. 046.21/MER/ANIF of 2 August 2021 of the Minister of Economy and Recovery. The evaluation team noted exchanges between ANIF and the Public Prosecutor on the reports submitted. Apart from these exchanges, the Gabonese FIU provided feedback to some reporting entities on the facts of embezzlement, proceeds of tax fraud, forgery and use of forged documents, attempted fraud and money laundering, classification of the alert pending new elements. However, the feedback was considered weak by some players met during the on-site visit.

**Table 3.1: Sector-based origin of the STRs submitted to ANIF by reporting entities over the period (2016-2021)**

Entities/Years	2016	2017	2018	2019	2020	2021	Total
Banks	21	20	10	17	19	67	154
MFIs	14	7	4	1	0	2	28
Others	0	7	3	0	10	0	10
<b>Total</b>	<b>35</b>	<b>34</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>69</b>	<b>192</b>

Source: ANIF Gabon

**148.** The above table shows a low rate of suspicious transaction reports made during the period under analysis, except for the year 2021, where there was a significant improvement following the sensitizations that ANIF carried out among reporting entities.

**149.** Suspicious transaction reports are transmitted to ANIF physically by filling in a report form. This physical procedure for transmitting STRs only ensures a certain level of confidentiality. The computer system is not secure. However, the mission did not note any leakage of information and strongly recommends the implementation of a secure system for the transmission of information between reporting entities and ANIF on the one hand, and between ANIF and the competent authorities on the other hand.

**150.** As shown in Table 3.1 above, between 2016 and 2021, ANIF received a total of 192 STRs and noted a predominance of STRs from the financial sector, in particular banks (80%, i.e. 154 STRs), microfinance institutions (15%, i.e. 28 STRs) and "other reporting entities" (5%, i.e. 10 SARs). The "other reporting entities" include the insurance sector, government services, a judicial administrator and the Public Prosecutor. It therefore appears that despite their high risk status, the other reporting entities in the financial sector such as the foreign exchange sector, and above all DNFBBs as a whole, have not yet transmitted STRs to ANIF, either because they are unaware of their ALM/CFT obligations, or because they are unaware of ANIF's existence. In the light of the evaluation team's findings, there is a real need to raise awareness on AML/CFT, on the existence and powers of ANIF and, more specifically, on the obligations of reporting entities who do not yet collaborate in this area.

**151.** ANIF also receives a significant number of automatic reports, i.e. a total of 1,012,705 cash transactions of an amount equal to or greater than 5 (five) million CFA francs over the period from 2018 to 2020. These reports are recorded in its database. The information contained in these automatic reports can be consulted by analysts when studying various files.

**152.** The STRs received are analysed by ANIF and a statement of decisions on the said analyses (putting the file on hold, due to insufficient elements, additional investigation, transmission to the Public Prosecutor) is thus drawn up by the Final Review Commission and endorsed by the Head of the Agency or, in his absence, by the Member Magistrate or his delegate. This commission is composed of ANIF's Director General, two members including one in charge of legal affairs and the one in charge of police investigations as well as the analyst in charge of the file. The members are appointed by decree by the Council of Ministers on the proposal of the minister in charge of finance, after the opinion of the minister to whom they report. It decides on the validation of the investigations and therefore on the outcome of the file (transmission or not to the prosecutor). The Final Review Commission may meet at least once a week. In urgent matters and if there is sufficient evidence, the case is immediately referred to the Public Prosecutor without the prior opinion of the Final Review Commission. The Final Review Commission decides at a meeting on the validity of the investigations and thus on the outcome of the STR for possible transmission to the Public Prosecutor. There is no time limit for the processing of a file; it all depends on the case at hand. This processing time also depends on the reactivity of national and international partners to the requests for information sent to them by ANIF, in the exercise of the right of communication and international cooperation. For the country, the average processing time cannot be assessed due to the fact that the responses to the exercise of the right of communication are not always made in real time in relation to the deadlines mentioned for the investigations undertaken. This can take a year or a month, depending on the nature of the offence. This situation has a direct impact on the ability of the authorities to obtain financial intelligence.

**153.** ANIF received 192 STRs between 2016 and 2021, as stated above. Of this total number, 69 STRs were received in 2021, 64 of which are being processed. This backlog is justified by the rather long delays in responding to requests for information, and several reminders have been made. Analysts are trained and Gabon's ANIF has 5 (five), a number that seems intuitively sufficient to process the average number of STRs received during the period under consideration. However, of the 5 (five) analysts, two are at the end of their careers, which may reduce the number of analysts to 3 (three) and increase the workload in the event of an increase in the volume of STRs, as is the case in 2021; hence the need to recruit other analysts and provide ANIF with adequate working premises. Interviews with ANIF officials reveal that the current narrow premises does not allow for an increase in the number of analysts and all other staff.<sup>21</sup>

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<sup>21</sup> ANIF staff is made up of designated officials, employees recruited from the private sector, correspondents and ANIF experts. The operational pool comprises 1 (one) Head of the Agency, 3 (three) Members, 5 (five) Analysts and 1 (one) IT service.

**154.** Gabonese Customs receive currency declarations during the physical cross-border transport of cash and bearer negotiable instruments at the borders. However, no reports are transmitted to ANIF. This makes it difficult to exchange relevant information between the competent authorities.

### 3.2.3. Match between FIU analysis and operational needs of competent authorities

**155.** The analyses produced by the FIU are not in line with the operational needs of the competent authorities. Moreover, the latter do not have adequate and sufficient skills and resources to analyse needs and use them effectively in the repression chain (investigation, prosecution and trial).

**156.** The analysis of information transmitted to Gabon's ANIF between 2016 and 2021 resulted in 20 (twenty) STRs closed, 6 (six) transmitted exclusively to the Public Prosecutor and 155 (one hundred and fifty-five) being analysed, as shown in the table below:

**Table 3.2: Number of files closed, transmitted and under analysis over the period (2016-2021)**

Table 4: Number of files closed, transmitted and under analysis over the period (2016-2021)

Years	STRs received	Files closed	Files transmitted to the Prosecutor	STRs requiring prosecution investigation	Files under analysis
2016	35	12	2	7	14
2017	34	2	1	4	27
2018	17	0	2	0	15
2019	18	1	1	0	16
2020	19	0	0	0	19
2021	69	5	0	0	64
<b>TOTAL</b>	<b>192</b>	<b>20</b>	<b>6</b>	<b>11</b>	<b>155</b>
In terms of %	100%	10%	3%	6%	81%

Source: ANIF Gabon

**157.** By way of illustration, in 2019, ANIF received 18 STRs relating to money laundering. It forwarded 1 (one) file to the Prosecutor (i.e. a rate of 5.6%), 1 (one) file was closed (i.e. a rate of 5.6%) and 16 (sixteen) files remained under analysis (i.e. a rate of 88.8%). As can be seen from the table, over the period from 2016 to 2021, the stock of cases being processed amounts to 155 (one hundred and fifty-five).

**158.** The above table shows a low rate of transmission of files to the Public Prosecutor, ascribable to the quality of the STR, which does not contain relevant information, or ANIF concluding that the suspicions are not characterized or proven. From 2020 to 2021, no file relating to ML indicators was transmitted to the Public Prosecutor.

**159.** The mission found that ANIF does not disseminate financial intelligence to other competent authorities, in particular the customs and tax authorities. It receives insufficient feedback on the files transmitted to the judicial authorities.

**160.** Gabon's ANIF has not yet carried out a strategic analysis, although this is provided for in the CEMAC Regulation and in ANIF's Internal Regulations.

**161.** The low quality and quantity of ANIF's operational and strategic analysis transmissions are largely attributable to ANIF's limited resources and in particular the impossibility of disbursing the budget voted by Parliament. The budget does not meet ANIF's multiple needs, particularly with regard to the need for adequate staffing, secure computerization of the FIU, dematerialization of the transmission of suspicious transaction reports.

**Table 3.3: Execution of the budgets made available to ANIF Gabon (2018-2022 financial year) in CFAF**

Table 5: Execution of the budgets made available to ANIF Gabon (2018-2022 financial year) in CFAF

Years	Budgeted	Effectively made available	Execution rate	Amount disbursed
2018	609.769.600	91.465.440	15%	518.304.160
2019	500.000.000	500.000.000	100%	
2020	450.045.624	450.000.000	99,98%	45.624
2021	450.045.624	200.000.000	44,43%	250.045.624
2022	450.045.624	166.516.880,88	37%	283.528.743,12

Source: ANIF Gabon

**162.** The above table shows a drop in ANIF's budget from 609,769,600 in 2018 to 450,045,624 in 2022. In 2019, the budget was fully released, i.e. fully implemented. At the time of the visit, the mission was informed of a late release, i.e. at the end of the financial year, after much insistence. The implementation rate remained positive in 2020 and decreased in 2021 and 2022. It is up to the Ministry of Economy and Recovery, the administrative supervisor, to get involved in the procedure for disbursing funds allocated to ANIF for regular execution.

**163.** Gabon's ANIF enjoys financial autonomy and the reason for the decrease in its budget is linked to the authorities' lack of understanding of ANIF's real needs.

**3.2.4. Cooperation and exchange of financial information and financial intelligence**

**164.** There is poor exchange of information between ANIF and the supervisors, professional orders and national representative bodies. The cooperation was supposed to be through ANIF correspondents in Gabon's government services. These correspondents are designated within the Police, Customs, Gendarmerie and Justice or any other public service whose assistance is deemed necessary in AML/CFT. However, the functioning of this arrangement is unsatisfactory.

**165.** In practice, cooperation between Gabon's ANIF and the competent authorities is weak with regard to the exchange of financial intelligence and other information. The quality of cooperation is good with investigative and prosecuting authorities but limited with the FI supervisory authorities.

**166.** Regarding cooperation between ANIF and prosecuting authorities, the latter receive reports from ANIF on the analysis of information contained in the STRs (see Para 87 supra).

**167.** ANIF has signed a partnership agreement at national level with the National Commission for the Fight against Corruption and Illicit Enrichment (CNLCEI), though the collaboration is still embryonic. At the time of the visit, the evaluation team was not aware of any exchange of information between the two entities.

**168.** The tax administration formally exchanges information with the police and customs on the basis of cooperation agreements signed with the latter.

**169.** The competent authorities interviewed stated that they have little cooperation with ANIF. Its position also does not allow it to collect information abroad through its network of foreign counterparts.

**170.** ANIF received no request from the competent authorities during the period under analysis.

**171.** ANIF and COBAC cooperate through a very limited exchange of information. The country has not demonstrated occasional information exchange and collaboration between ANIF and the supervisors of other reporting entities.

**172.** For DNFBBPs, the mission noted the virtual absence of competent authorities designated to ensure AML/CFT supervision. Discussions with the administrative or self-regulatory authorities revealed that DNFBBPs are not informed of AML/CFT obligations. Discussions held with the Bar Association, the Chamber of Notaries and the Order of Chartered Accountants, among others, revealed that cooperation between ANIF and the DNFBBP sector is still embryonic for some and does not exist for others.

**173.** STRs may not be disclosed, just like the identity of their authors. The members of ANIF and its correspondents take an oath before the Court of First Instance of Libreville upon their appointment and before taking up their duties. The exchange of information, whether under a formal cooperation agreement or without an agreement, is done under this condition of confidentiality. However, it should be noted that at national level, ANIF does not yet have a secure computer system for communicating information (see Par. 150).

#### ***Overall Conclusion on IO 6***

**174.** Gabon's ANIF collects, processes and disseminates good quality financial intelligence to the investigative and prosecuting authorities, based on the STRs it receives mainly from banks. However, the financial intelligence is not used adequately and systematically by these authorities in AML/CFT. The other reporting entities provide very few STRs and this obligation is not fulfilled by DNFBBPs, even though some of them have been identified as high-risk sectors. The customs administration does not transmit to NAFI declarations relating to the physical cross-border transport of cash and BNIs.

**175.** The analyses produced by ANIF are not in line with the operational needs of the investigative and prosecution authorities and their use is not effective. To a lesser extent, these authorities use financial intelligence with difficulty due to a lack of proven expertise in investigating ML. Few ML investigations are initiated by investigative authorities.

**176.** There is poor information exchange between NAFI and the competent authorities, appreciable with investigative and prosecution authorities, limited with FI supervisory and oversight authorities and non-existent with the supervisors and SRBs of DNFBBPs. The manual transmission of financial information and intelligence does not ensure optimal protection or security or confidentiality of financial information

***Gabon is rated as having a low level of effectiveness for IO 6.***

### 3.3. Immediate Outcome 7 (ML investigations and prosecutions)

#### 3.3.1. ML identification and investigations

**177.** Gabon has a legal and institutional system for identifying and investigating ML cases. Gabonese investigative and prosecution authorities can identify ML activities either through information transmitted by ANIF, or in the course of investigations into the predicate offences, or on the basis of information transmitted by various government services (notably Customs and Water Resources and Forestry) or anonymous denunciations to the State Judicial Agency. Investigations are carried out by the Judicial Police with general or special jurisdiction, or by the General Directorate for Counter-Interference and Military Security (DGCISM). However, the activities of these investigative services are generally limited to the investigation of ML predicate offences.

**178.** The activities of investigation services are carried out under the supervision of the competent public prosecutor or investigating judge. These judicial authorities have discretionary power in choosing the investigative service(s) in charge. They are guided by an individualized approach to cases, within the general framework set by the organic instruments governing the competence of the different services. No criminal policy has been formalized specifically for ML, that would make it possible to clearly define the priority of investigations for ML activities.

**179.** Available statistics show that between 2019 and 2022, the specialized unit of the Public Prosecutor's Office at the Court of First Instance of Libreville, which has jurisdiction to deal with the ML predicate offences listed in Article 198 of Organic Law No. 008/2019 of 5 July 2019 to lay down the organization, composition, competence and functioning of judicial courts, received a total of 28 reports of investigations initiated by the police for ML and complicity in ML, for which it initiated proceedings.

**180.** In practice, the Police and other relevant services (Customs, Taxation, Customs and Water Resources and Forestry employees) who investigate predicate offences generating large amounts of profits likely to be laundered or who, in the performance of their core missions may identify ML cases, do not systematically open ML investigations, either due to a lack of proven expertise to carry out ML investigations and sufficient human resources, or due to a lack of general expertise in AML/CFT.

#### Parallel investigations

**181.** The detection of ML through parallel financial investigations is not a common practice in Gabon. The activities of investigative officers are limited to ML predicate offences. ML was only rarely targeted in proceedings related to the predicate offences prosecuted.

**Table 3.4: Number of cases investigated and referred for ML/TF and predicate offences**

Table 6: Number of cases investigated and referred for ML/TF and predicate offences

No.	Offences	2021	2022 (Jan-March)
1	Money laundering	00	00
2	Criminal enterprise	1,008	157
3	Terrorism including financing	00	00



4	Human trafficking	22	00
5	Smuggling of migrants	55	83
6	Sexual abuse	37	01
7	Drug trafficking	527	11
8	Stolen goods traffic/concealment	405	28
9	Corruption	01	00
10	Fraud	2,269	102
11	Counterfeiting	10	00
12	Counterfeiting and product piracy	02	00
13	Involuntary manslaughter	58	13
14	Kidnapping, sequestration, hostage taking	32	03
15	Theft	1964	902
16	Extortion	51	02
17	Forgery (except forged passport)	62	00
18	Breach of trust	2137	166
19	Scamming	885	329
20	Misappropriation of funds	47	06
<b>Total</b>		<b>9,570</b>	<b>1,803</b>

Source: *Criminal Investigation Police Headquarters*

**182.** The above data reveals that predicate offences generating significant financial flows were prosecuted. However, they did not give rise to prosecutions for ML, which would have made it possible to trace the destination of the diverted funds and deprive the criminals of the proceeds of crime.

**183.** Interviews with investigative authorities (Police, Customs, General Directorate of Taxes, Water Resources and Forestry) reveal that the practice of parallel financial investigations is indeed non-existent. The National Police (Economic and Financial Investigation Unit and even OCLAD) stated that they do not conduct parallel financial investigations. The customs administration stated that customs investigations do not always lead to ML cases. The tax administration explained that in the absence of specialized financial investigation officers, equipped to identify potential cases of ML and subsequent investigations, tax auditors only focus on the tax aspect of the adjustment and have no reflexes on ML issues.

**184.** In terms of training, although judicial police officers and magistrates receive training on financial crime in general, albeit not on a regular basis, it should be noted that the training does not cover investigation techniques relating to ML. These various AML stakeholders note the complexity of ML investigations, the limited and sometimes inadequate means of investigation, which make it difficult to detect the investment of funds, their conversion and recycling. Effectively tracking a money laundering system is therefore difficult, especially since investigations and prosecutions for predicate offences such as corruption and embezzlement of public funds do not systematically give rise to investigations for ML.

### **3.3.2. Consistency of ML investigations and prosecutions with country threats and risk profile**

**185.** The authorities investigate and prosecute, to some extent, the main predicate risk offences identified in Gabon. However, although related to some of the identified threats, the number of detected and prosecuted ML cases is insignificant, which is at variance with the magnitude of the country's risks.

**186.** Gabon's exposure to ML risks results from a range of predicate offences that generate significant financial flows (see Chapter 1). The financial crime statistics presented in the table below on the summary of the various recurrent offences in Gabon show that investigations and prosecutions concern, to some extent, the predicate offences that constitute the main ML threats in Gabon, notably embezzlement of public funds with 162 cases. However, it should be noted that the prosecution of corruption cases, although listed as one of the risks identified in the country, is rare (two cases of prosecution were recorded between 2017 and 2021). Similarly, there is a lack of statistical data on investigations and prosecutions in other high-risk areas, such as environmental crime.

**Table 3.5: Summary of the various recurrent offences**

Table 7: Summary of the various recurrent offences

Offences		2017	2018	2019	2020	2021
<b>Breach of trust</b>	No. of cases	663	751	1,043	1,775	1,140
	Amount at stake	255,776,182	19,100,094,924	715,707,183	218,292,625	364,577,531
<b>Scamming</b>	No. of cases	607	597	828	975	885
	Amount at stake	1,125,983,100	1,479,118,650	625,954,150	571,348,000	483,188,148
<b>Theft</b>	No. of cases	39	187	102	96	1,964
	Amount at stake	6,695,000	11,880,000	12,090,000	13,380,600	61,179,500
<b>Forgery and use of forged documents</b>	No. of cases	60	52	90	104	68
	Amount at stake	488,219,147	124,862,154	2,913,980	2,100,000	129,455,800
<b>Counterfeit money</b>	No. of cases	00	00	01	01	07
	Amount at stake	00	00	580,000	1,600,000	7,245,000
<b>Misappropriation of funds</b>	No. of cases	36	38	14	27	47
	Amount at stake	274,166	627,528,742	1,310,054,603	911,102,369	77,805,072
<b>Corruption</b>	No. of cases	01	00	00	00	01
	Amount at stake	71,700,000	00	00	00	39,670,000
<b>Total</b>	No. of cases	<b>1,406</b>	<b>1,625</b>	<b>2,078</b>	<b>2,978</b>	<b>4,112</b>
	Amount at stake	<b>1,948,647,595</b>	<b>21,343,484,470</b>	<b>2,866,770,916</b>	<b>1,719,823,594</b>	<b>1,163,121,051</b>

**187.** With regard to ML-specific investigations and prosecutions, the ongoing use of data from the summary table of money laundering offences and predicate offences in the specialized investigation offices Nos. 1, 2 and 3 of the Court of First Instance of Libreville show that between 2019 and 2022, out of a total of 262 cases registered, 22 were for ML and 2 for complicity in ML. The data provided by the Public Prosecutor's Office at the Court of Appeal of Libreville showed that between June 2020 and March 2022, twenty-one (21) cases

were registered before the Criminal Court, including 3 (three) for embezzlement of public funds, misappropriation and money laundering. The Indictment Chamber of the Court of Appeal registered 20 (twenty) cases, 10 (ten) of which were for embezzlement of public funds, misappropriation and money laundering. Lastly, it should be noted that 15 (fifteen) cases are pending before the competent courts, including 6 (six) for embezzlement, misappropriation of public funds and money laundering. As these cases are still ongoing, additional information could not be collected, particularly on the predicate offences that were definitively established. Nevertheless, they provide some insight into the category of predicate offences being prosecuted in the country.

**188.** Overall, Gabon recorded two successful investigations and prosecutions of ML, though the convictions are not yet final. The two cases demonstrated Gabon's ability to investigate and prosecute, to some extent, ML cases relating to breaches of probity, including embezzlement of public funds, which is one of the major risks facing the country. It is noted, however, that investigations into at-risk offences are not backed by parallel financial investigations. The authorities do not systematically use them, although this would have increased the number of investigations and prosecutions of the at-risk predicate offences. Similarly, the lack of resources, expertise and specialization of the authorities in financial investigation is a challenge to the effective conduct of investigations and prosecutions.

#### Box 3.1: ML conviction decision: Case of *MP and the State Judicial Agency v. K.Y*

In the case of *MP and the State Judicial Agency v. K.Y.*, in 2018, following an anonymous tip-off of numerous financial malpractices committed by public officials, including Mr B. L. A., a complaint was filed by the State Judicial Agency. Amongst the suspects, K. Y. was arrested by investigators of the General Directorate of Counter-Interference and Military Security (DGCISM) on the grounds that he had unduly received paid bonuses, which allowed him to have a large fortune, including a house located in the municipality of Akanda, a 1,500 m<sup>2</sup> plot in Malibe, two plots in Essassa of 1,000 and 1,400 m<sup>2</sup> and a last one located in Amissa of 454m<sup>2</sup>, a Toyota CHR car, a Nissan Murano Partinium, a Hyundai CVVL and a Hyundai GT20.

During the subsequent investigation, K. Y. claimed that the said bonuses were given to him by B. L. A, who was prosecuted for the crime of embezzlement of public funds. He refuted the facts of having helped or assisted the accused in carrying out the acts of which he was accused.

At the end of the judicial investigation opened against K. Y. for complicity in embezzlement of public funds, criminal enterprise, money laundering and bribery, he was referred by the Examining Magistrate on 10 February 2022, before the Specialized Criminal Court for bribery and money laundering.

On 15 April 2022, the Court of First Instance of Libreville, sitting in a specialized hearing, found K.Y. guilty of the offence of money laundering and sentenced him to 24 (twenty-four) months imprisonment, payment of a fine of 5,000,000 CFA francs and payment of the costs of the proceedings and the sum of 30,000,000 CFA francs to the Gabonese State as damages. The court also ordered the confiscation of the movable and immovable property of K.Y. listed above.

This case has been appealed.

### Box 3.2: ML conviction decision: Case of *MP and the State Judicial Agency v. M. C*

Following a tip-off concerning possible misappropriation of public funds, a complaint was filed by the State Judicial Agency. Amongst those suspected, Mr C was arrested by investigators of the General Directorate of Counter-Interference and Military Security (DGCISM) on the grounds that he had unduly received bonuses, which allowed him to have a huge fortune consisting of a dark red PAJERO DID, a white TOYOTA Fortuner offered by his superior B. L. A., a black PAJERO DID, an unfinished house in Malibe II in the north of Libreville built for him by B. L. A, a house located behind stade de l'Amitié Akanda acquired by him.

During the subsequent investigation, Mr C. claimed that the said premiums were given to him by B. L. A, who was prosecuted for misappropriation of public funds. He refuted the facts of having helped or assisted B. L. A in perpetrating the acts of which he is accused.

At the end of the judicial investigation opened against Mr C. for complicity in embezzlement of public funds, criminal enterprise, money laundering and misappropriation of funds, he was referred by the Examining Magistrate on 31 December 2021, to the Specialized Criminal Court for misappropriation of funds and money laundering.

On 1 April 2022, the Court of First Instance of Libreville, sitting in a specialized hearing, found him guilty of the offence of money laundering and sentenced him to 30 (thirty) months imprisonment, a fine of 20,000,000 CFA francs and payment of costs. It ordered the confiscation of his movable and immovable property mentioned above for the benefit of the Treasury.

This case has been appealed

### 3.3.3. Types of ML cases pursued (prosecuted)

**189.** The competent judicial authorities have pursued and obtained two convictions for ML, not yet final, in two cases initially initiated for embezzlement of public funds, misappropriation and money laundering. The type of ML found in these two cases is third party laundering. Indeed, according to the grounds of the judgements concerned, the material facts were achieved by a simple use of illicit proceeds from the misappropriation of public funds, the perpetrator of which was not prosecuted and the link of complicity with the convicted person not established. The two typologies are presented in the boxes above.

### 3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions applied for ML

**190.** In the two decisions mentioned above, the Court pronounced respective sentences of 24 (twenty-four) months imprisonment and a fine of 5,000,000 CFA francs and 30 (thirty) months imprisonment and a fine of 20,000,000 CFA francs, plus confiscation of the movable and immovable property of those found guilty.

**191.** These penalties, which are lower than the legal minimum provided for by the CEMAC Regulation of 11 April 2016 (5 to 10 years' imprisonment and a fine of 5 to 10 times the value of the laundered assets or funds for natural persons), are neither effective nor proportionate and even less dissuasive. It should be noted that the Gabonese judge can resort to the Penal Code (Section 381) which punishes ML committed by natural persons, with a prison sentence of up to ten years and a fine of up to five times the amount of the laundered sums. These penalties are more lenient than those of the CEMAC Regulation in that the Gabonese legislator did not indicate the minimum prison sentence, but set the maximum at 10 years. Similarly, it reduced the maximum fine to five times the amount of money laundered instead of ten times. This double standard in the implementation of instruments may impact the

effectiveness of the sanctions regime in the context of a region-wide harmonization of AML/CFT systems.

### **3.3.5. Use of alternative measures**

**192.** The authorities stated that the Customs, Tax, Water Resources and Forestry Administration or other competent administrative services carry out confiscations, but the procedures relating to the confiscations are not systematically transmitted to judicial authorities to assess the existence of ML facts. Consequently, the measures cannot be considered as alternatives to conviction for ML because of the lack of link with ML in their implementation.

**193.** Furthermore, the mission was not informed by the Gabonese authorities that confiscation can be implemented when a conviction for ML is not possible. Seizures made in the context of investigations are essentially provisional and their outcome depends on the decision of a competent court. Confiscation is therefore an accessory penalty. Gabon has not demonstrated the implementation of alternative criminal justice measures that, like non-conviction-based confiscation, would allow for confiscation even if a conviction for ML could not be obtained.

#### ***Overall Conclusion on IO 7***

**194.** Gabon has an appropriate legal and institutional system to identify and investigate ML cases. Investigative and prosecuting authorities have more or less the capacity to identify cases of ML through investigations of predicate offences and through information provided by ANIF and the various government services (notably Customs and Water Resources and Forestry) or through anonymous tipping-off. However, their activities are globally focused on predicate offences and to some extent on those mainly at risk of ML, without systematically opening parallel financial investigations of ML. The ML cases prosecuted are partly consistent with the country's risk profile, but the sanctions imposed are neither effective nor proportionate, let alone dissuasive. The country does not implement alternative criminal justice measures. The evaluation team notes a lack of human resources with proven experience in investigating and prosecuting ML offences, a lack of logistical resources, and a lack of training for stakeholders in the criminal justice system in the field of AML.

***Gabon is rated as having a low level of effectiveness for IO 7***

### **3.4. Immediate Outcome 8 (Confiscation)**

#### **3.4.1. Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective**

**195.** The laws and regulations in force and applicable in Gabon for the repression of crimes and offences provide the competent authorities with an appropriate legal basis to develop and promote policies aimed at the deprivation of the proceeds of ML and other related predicate offences. These instruments provide the necessary powers to the competent authorities to identify and trace the assets of criminals. However, despite the existing legal framework, Gabon has not demonstrated a sufficient commitment of the authorities to prioritize asset confiscation in their activities, although some milestones have been achieved.

**196.** The gendarmerie and police investigative authorities acting in the context of flagrante delicto or preliminary proceedings generally focus on the perpetrators of offences, without the objective of systematically identifying and tracing the proceeds of crime for seizure and confiscation. These authorities do not systematically include the asset investigation aspect of proceeds of crime in their activities, due in particular to a lack of training in parallel financial investigations. Nevertheless, seizures and administrative confiscations are somehow systematic in specific procedures relating to environmental crime, carried out by water resources and forestry officers, as well as on narcotics during customs controls. Unfortunately, the scope of these actions is limited and the ML component has not yet been explored.

**197.** The National Commission for the Fight against Illicit Enrichment (CNLCEI), which is responsible for implementing the policy of preventing and combating corruption, does not include seizure and confiscation as a priority objective in the recovery of criminal assets, prevention and detection of transfers of the proceeds of crime.

**198.** In court proceedings, seizures and to some extent confiscations are ordered. However, this practice is not systematic for all offences that generate profits for criminals. Furthermore, it is difficult to locate property seized for confiscation, especially buildings, due to the lack of a suitable addressing system in the capital.

**199.** In general, seizure and confiscation by the competent authorities are not organized, sustained or reinforced by circulars, instructions or directives to promote a patrimonial approach to criminal sanctions as a priority objective, with a view to making offences unprofitable and reducing the number of predicate offences and money laundering. Gabon has not demonstrated training and awareness-raising initiatives, including best practices towards competent authorities to develop their expertise and reflexes on seizure and confiscation modalities and procedures.

**3.4.2. Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad**

**200.** Competent authorities, notably the judicial investigative services (police and gendarmerie) and services with special jurisdiction (water resources and forestry and customs) practice to a lesser extent the seizure of the instrumentalities and proceeds of the predicate offences committed in the country. However, the overall outcome of these actions cannot be objectively assessed due to the lack of comprehensive statistics in this area. The statistics provided by Gabon are limited and do not allow for a detailed breakdown of seizures for all predicate offences committed in the country. Only a few statistics on seizures related to drug trafficking and illegal exploitation of forest resources were provided.

**Table 3.6: Seizure of drugs by the Police**

Table 8: Seizure of drugs by the Police

Cases handled/Years	2020	2021	2022 (Q1)
Established procedures	547	648	115
Warrant of	635	643	133

committal			
<b>Seizures</b>			
Cannabis	<b>203.51 kg</b> (33,082.45 CFA F)	<b>1,994.65 kg</b> (135,434 600 CFA F)	<b>2,267.5 kg</b> (38,603,800 CFA F)
Cocaine (g)	<b>2,142 g</b> (72,773,500 CFAF)	<b>293.5 g</b> (4,465,000 CFA F)	<b>39.5 g</b> (1,700,000 CFAF)
Heroin (g)	<b>397 g</b> (2,230,500 CFAF)	<b>4 781 g</b> (2,467,000 CFAF)	<b>98.5 g</b> (605,000 CFAF)
<b>Number of procedures</b>	<b>28</b>	<b>40</b>	<b>9</b>
Other drugs in tablets (Tramadol Dizapam and fake pharmaceutical products)	15,234 tablets (30,064,500 CFAF)	15,234 tablets (1,407,100 CFAF)	769 tablets (883,000 CFAF)
<b>Number of procedures</b>	<b>19</b>	<b>31</b>	<b>06</b>
Importation of narcotic drugs	00	7	2
Possession of narcotic drugs	535	369	80
Sale of narcotic drugs	244	216	93

Source: OCLAD

**201.** Gabonese investigative authorities have demonstrated a capacity to cooperate at national level in conducting joint investigations. Some coordinated actions have led to administrative seizures, followed by the confiscation of a large quantity of logs destined for illegal export in the case of the “KEVAZINGO scandal”.

**Table 3.7: Seizures following the joint operation by the National Police, Gendarmerie, Water Resources and Forestry and Customs, known as "KEVAZINGO Gate" case in 2019**

**Table 9: Seizures following the joint operation by the National Police, Gendarmerie, Water resources and Forestry and Customs, known as "KEVAZINGO Gate" in 2019**

Seizures	Quantities	Estimated value
Kevazingo (protected timber species)	1,190 m <sup>3</sup> dissimulated in 29 twenty-foot containers	
Kevazingo (protected species)	4,010 m <sup>3</sup> in loose form at the LBV port	11,585,300 Euros

**202.** In addition to this case, 16 (sixteen) other operations of no lesser importance were carried out in 2021, notably by mixed teams composed of officers from the Judicial Police,

the Gendarmerie's Research Department, and water resources and forestry officers, with the assistance and logistical support of the NGO Conservation Justice. These operations led to the arrest of 39 people involved in the trafficking of fully protected wildlife species, notably elephant tusks, pangolin scales, panther skins and teeth. These "trophies" were seized and then confiscated following legal proceedings.

**Table 3.8: Outcome of joint operations by Water Resources and Forestry and Public Force in 2021**

<b>Investigations</b>	104
<b>Traffickers identified</b>	341
<b>Traffickers arrested</b>	39
<b>Seizures</b>	43 ivory tusks (100.5 kg); 2 kg of pangolin scales; 7 panther skins and 32 panther teeth; two 12-gauge rifles

Source: *NGO Conservation and Justice*

**203.** Property or proceeds from a predicate offence committed abroad can be identified, traced and confiscated on the basis of sub-regional and international cooperation agreements. However, the country has not implemented this framework to result in confiscations in relation to these types of offences. As such, there is no data on cases of repatriation. Similarly, Gabon has neither issued nor received any such request.

**204.** Despite the Gabonese Customs' connection to the CEMAC anti-fraud network (BRLR-AC) and the World Customs Organization (WCO) CEN network at international level, no data on the implementation of these cooperation tools was provided to the evaluation team to gauge the effectiveness of the confiscation of proceeds of crime committed abroad and those transferred to other countries. Nevertheless, in 2021, Customs made some seizures at the borders. It did not indicate the country of destination, let alone whether it used other authorities to make these seizures. The table below details the types of drugs, the numbers of seizures and the quantities involved.

**Table 3.9: Drug seizures at borders by Gabonese Customs in 2021**

**Table 10: Drug seizures at borders by Gabonese Customs in 2021**

<b>Types of drugs</b>	<b>Number of seizures</b>	<b>Quantities</b>	<b>Actors</b>
Cocaine	1	1.2 kg	Tourism Service
Cannabis	4	9.94 kg	Maritime Brigade
Psychotrope	1	60 vials	Maritime Brigade

Source: *Directorate General of Customs*

**205.** According to the CEMAC Regulation, ANIF can resort to precautionary measures, notably preventive freeze through its right to object the execution of a transaction or operation that has been the subject of a suspicious transaction report, even before investigations are carried out to elucidate the suspicion. In case of proven suspicion, the freeze can be transformed into a seizure for the purpose of confiscation. However, Gabon's



ANIF has not demonstrated use of its right to object in the processing of STRs that it received.

**206.** As regards criminal confiscation, at the time of the on-site visit, the judicial authorities had issued two conviction decisions for ML in which movable and immovable property was ordered to be confiscated. However, these authorities indicated that due to the lack of adequate addressing of the capital, the enforcement of confiscation orders is hampered by the difficulty of locating the properties in question.

**207.** With regard to the management of confiscated assets, Gabon has not demonstrated the existence of an authority or mechanism dedicated to the preservation and management of frozen, seized or confiscated assets or other funds.

#### **3.4.3. Confiscation of falsely or undeclared cross-border transaction of currency/BNIs**

**208.** Article 15 of the CEMAC Regulation of 16 April 2016 provides a framework for the obligation to declare cross-border physical transport of cash and BNIs. Due to the free movement of people and goods within CEMAC countries, the movement of currency remains a recurring issue, given the risks of ML/TF, but especially due to the States' porous land borders. Gabon does not have a mechanism for coordinating the actions of border authorities to set up an operational system for declaring cross-border movements, particularly for travellers to countries outside CEMAC.

**209.** Persons entering and leaving Gabon, coming from or going to a non-CEMAC Member State, are authorized to carry up to 5 (five) million CFA francs. Above this threshold, a declaration is required. In practice and generally, travellers do not make these declarations spontaneously. Even in cases where declarations are made, they often seem plausible. This attitude obviously makes it difficult for customs officers to enforce regulations.

**210.** There are no statistics on cross-border movements of cash and bearer negotiable instruments, that are misreported or not reported.

#### **3.4.4. Consistency of confiscation results with ML/FT risks and national AML/CFT policies and priorities**

**211.** As Gabon's NRA is still underway, the evaluation team was not able to objectively assess the consistency between the outcome of confiscations and AML/CFT policies and priorities. Nevertheless, within the limits of the available statistics, Gabon has demonstrated a systematization of seizures and confiscations in cases of investigations for trafficking in narcotics, drugs or psychotropic substances, wildlife products and flora. The country also recorded two criminal confiscations for ML.

**212.** The seizures and confiscations made are partly in line with the country's risk profile. However, their scope appears limited in relation to the cases investigated by the specialized courts in connection with the predicate offences in the field of wildlife crime and misappropriation of public property.

***Overall Conclusion on IO 8***

**213.** Although Gabon has a legal and regulatory arsenal for confiscating proceeds of crime and property of equivalent value, it has not demonstrated a sufficient commitment by the relevant authorities to prioritize asset confiscation in their activities. Nevertheless, there were a few cases of seizures and confiscations, whether administrative or judicial, in relation to the predicate offences committed in the country. No data is available on seizures and confiscations of proceeds of predicate offences committed abroad and proceeds transferred to other countries, nor on the cash and BNIs reporting system. The seizures and confiscations made are to some extent in line with the country's risks. Fundamental improvements are required.

***Gabon is rated as having a low level of effectiveness for IR 8.***

## 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

### 4.1. Key findings and recommendations

#### *Key findings*

##### **Immediate Outcome 9**

- (a) Gabon does not face terrorism directly, but has a significant vulnerability matrix that exposes it to a high level of TF risk. No investigations or prosecutions related to TF have been reported, which is not in line with the country's risk profile.
- (b) Investigative and judicial authorities are not sufficiently trained and equipped to effectively investigate TF. They are confronted with a lack of adequate and specialized material, logistical and training resources.
- (c) Special courts have been set up for the repression of TF. However, other courts that also deal with offences that may constitute sources of TF do not undertake parallel investigations for TF in these cases.
- (d) The country has not recorded any convictions for FT. Similarly, Gabon has not demonstrated the implementation of alternative criminal justice measures such as the freezing of terrorist assets to combat TF. This makes it impossible to assess whether the sanctions are effective, proportionate and dissuasive.
- (e) Gabonese legislation does not specifically criminalize the financing of travel by foreign terrorist fighters. Similarly, the notion of "funds" is defined in a restrictive sense that does not take into account "other property".
- (f) Gabon has a National Security Council (CNS) that serves as a national security intelligence coordination framework capable of handling intelligence on terrorism and its financing. Unfortunately, the CNS has not demonstrated concrete results in terms of CFT. Similarly, ANIF, which is responsible for centralizing and analysing financial information, is not part of this coordination.

##### **Immediate Outcome 10**

- (a) Gabon has a community legal framework to implement the targeted financial sanctions of UN Security Council Resolutions 1267, 1373 et seq. However, Gabon has not adopted the necessary national measures to implement the TSFs and the provisions of the CEMAC Regulation. The country has not yet designated a competent authority to implement the TSFs and there is still no mechanism for the prompt dissemination of sanctions lists to reporting entities.
- (b) Gabon has not yet submitted a national list on the basis of UNSCR 1373, nor has it received a request from a third country pursuant to this Resolution. No freezing measures have been taken on the basis of this Resolution.
- (c) The competent authorities of Gabon have not identified the sub-group of NPOs most vulnerable to misuse for TF, and do not apply the risk-based approach. The country has not adopted a comprehensive and sustained training and awareness-raising strategy for at-risk NPOs. As a result, most NPOs are unaware of their due diligence obligations and the

risks they might be exposed to due to their nature or activities. NPO supervisors do not carry out regular and effective checks. The special due diligence requirements for NPOs imposed by the CEMAC Regulation are not respected.

- (d) There is no coordination framework to promote better collaboration between all stakeholders in the creation, life, control and investigation of the NPO sector.
- (e) Actions taken by the Gabonese authorities in the implementation of the TFSs relating to terrorist financing do not correspond to the country's risk profile.

### **Immediate Outcome 11**

- (a) Gabon has not taken appropriate measures to implement targeted financial sanctions on proliferation finance related UNSCRs.
- (b) Gabon has not yet taken measures to identify the funds or other assets of designated individuals and entities under the proliferation-related TFSs, or to freeze their assets. Nor has the country designated an authority to freeze assets.
- (c) Gabon has not taken steps to popularize its anti-PF obligations or to disseminate lists of persons and entities whose assets are to be frozen under proliferation-related TFSs.
- (d) Financial institutions affiliated with major international groups have a satisfactory knowledge and understanding of their PF-related TFSs obligations, while these are limited for other FIs and virtually non-existent for DNFBPs.
- (e) There has been no outreach to FIs and DNFBPs to inform them of the prohibition on doing business with countries, companies and individuals covered by the UN Resolutions against the proliferation of weapons of mass destruction.
- (f) There is no designated authority to ensure compliance by FIs, DNFBPs and VASPs with their obligations in relation to proliferation-related TFSs.

### **Recommendations**

#### **Immediate Outcome 9**

##### **Gabonese authorities should:**

1. Ensure, on the basis of the ongoing NRA, that the competent authorities have a good understanding of the risks of TF in the specific context of Gabon;
2. Build the capacities of the competent investigative and prosecuting authorities in the area of CFT to effectively understand cases of TF, in particular by (i) training all relevant stakeholders (FIUs, investigators, prosecutors and judges) and sufficient support in the intelligence, investigation and prosecution of TF; (ii) allocating sufficient human and material resources; (iii) providing tools to identify TF activities;
3. Ensure that investigative and prosecuting authorities consider opening parallel investigations for TF when dealing with offences that may constitute sources of TF;
4. Specifically criminalize the financing of travel by foreign terrorist fighters, and review the definition of "funds" in the broad sense of including non-financial assets;
5. Develop and implement collaboration between national CFT stakeholders (reporting entities, intelligence, police, prosecution) and intensify cooperation and exchange of information on TF with foreign countries.

## **Immediate Outcome 10**

### **Gabon should:**

1. Define mechanisms for the timely implementation of Security Council Resolutions, including mechanisms for disseminating sanction decisions to reporting entities;
2. Establish mechanisms for identifying targets for designation and proposing designations to the Security Council;
3. Conduct an assessment of the NPO sector to identify the categories of NPOs most vulnerable to TF abuse by virtue of their activities or nature. Adopt a risk-based approach to address the risks identified;
4. Build the capacity of the NPO supervisor through AML/CFT training of staff to enable it carry out targeted controls and supervision of NPOs to mitigate the risk of their misuse to finance terrorism;
5. Adopt a training and awareness-raising strategy for NPOs on their obligations and the TF risks to which they are exposed and apply, as appropriate, dissuasive and proportionate sanctions to NPOs that do not comply with their obligations in terms of transparency and the fight against TF;
6. Establish a coordination and information sharing framework to promote better collaboration between all stakeholders in the creation, life and supervision of the NPO sector, including investigative bodies;
7. Implement seizure, freezing and confiscation mechanisms to deprive terrorists, terrorist organizations and terrorist financiers of assets and instrumentalities linked to TF.

## **Immediate Outcome 11**

### **Gabonese authorities should:**

1. Establish a legal and institutional framework for the implementation of targeted financial sanctions on UNSCRs relating to anti-proliferation financing, including a mechanism for disseminating the sanctions to reporting entities;
2. Designate the competent authorities responsible for monitoring and implementing targeted financial sanctions (TFS) relating to weapons of mass destruction proliferation financing;
3. Organize training and awareness-raising programs on PF-related TFSs for reporting entities and apply dissuasive and proportionate sanctions for non-compliance with PF-related TFSs;
4. Communicate to all persons and entities, including FIs, DNFBPs and VASPs, all obligations to implement the TFSs under the UNSCRs relating to PF.

**214.** The Immediate Outcomes relevant to this chapter are IO 9, 10 and 11. The Recommendations relevant to the assessment of effectiveness in this section are R.5-8.

## **4.2. Immediate Outcome 9 (TF investigations and prosecutions)**

### **4.2.1. Prosecution/conviction of types of TF activity consistent with the country's risk profile**

**215.** Gabon is not directly affected by terrorism, as no terrorist group has been formally identified on its territory. However, as it borders Cameroon, which is suffering from terrorist attacks by the Boko Haram group and a security crisis resulting from the activism of armed gangs, and as it is home to large foreign communities from countries where terrorist activities are taking place and which are involved in various illicit trafficking activities, Gabon is exposed to a high level of TF threat, which calls for preventive measures to be taken as soon as possible.

**216.** Other vulnerabilities increase Gabon's exposure to TF risks, including the predominance of cash in transactions, the existence of informal payment channels and HAWALA-type remittances, the existence of NPOs vulnerable to TF, and the absence of an effective mechanism to control the physical cross-border transport of cash, in addition to porous borders. The evaluation mission found that despite this real TF threat, Gabon does not make CFT one of the major priorities of its AML/CFT policy. The TF risks faced by Gabon are moderately understood by all the competent authorities, who do not systematically integrate them into the priorities of their operational activities.

**217.** Several sources of terrorist financing in Central Africa were identified and listed in the report of the typology study<sup>22</sup> conducted by GABAC, the findings of which would assist the investigative work of the competent authorities to some extent. These include participatory financing from abroad, donations and fundraising through NPOs, and criminal activities such as the illicit exploitation of natural resources, drug trafficking, corruption and others. Informal transfers such as HAWALA, foreign exchange bureaus, some financial institutions and NPOs have been identified as possible channels for the channelling of funds and goods used for TF. However, until the end of the on-site visit, no investigation or prosecution procedures relating to TF were reported. This lack of TF investigations and prosecutions is not in line with the country's risk profile.

**218.** Furthermore, the failure of Gabonese legislation to specifically criminalize the financing of travel by foreign terrorist fighters is a weakness in the fight against TF, given the threat posed by the presence and mobility of terrorist groups active in neighbouring countries, which can make incursions across borders. This threat is accentuated by the vulnerability of porous borders. Similarly, Gabon's legislation is restrictive in that it does not allow for the repression of TF by other assets as recommended by FATF Recommendation 5.

### **4.2.2. TF case identification and investigation**

**219.** National investigative authorities are empowered to conduct investigations relating to TF. The law provides that investigations are conducted under the supervision of the Public

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<sup>22</sup> <https://gabac.org/wp-content/uploads/2022/03/6-plaquette-GABAC-anglais-OK-VF.pdf>

Prosecutor at the Special Criminal Court, a court with special jurisdiction to try cases concerning serious crime, including terrorism and its financing. Investigative authorities have a suitable legal framework to successfully conduct TF proceedings. In this respect, they can rely on financial intelligence from the Financial Intelligence Unit (ANIF) and information from other security intelligence agencies (CNS). Investigators may also use the parallel financial investigation technique and special investigative techniques provided for in the CEMAC Regulation such as surveillance, tailing and interception of communications.

**220.** In practice, no TF cases have been identified and no investigations or prosecutions of TF have been conducted in Gabon. This may be attributed to several endogenous factors, including the lack of systematic opening of parallel investigations on TF, whereas investigative services deal with a large number of offences likely to constitute sources of TF; the lack of quality human resources, trained in TF identification and investigative techniques; the opacity of financial circuits; the absence of a specialized investigative service, equipped and dedicated to the investigation of TF cases; the non-transmission of cross-border cash declarations and other BNIs to ANIF, even though they can be a real source of identification of TF facts; the non-existence of financial intelligence linked to TF.

**221.** The Republic of Gabon has a national intelligence coordination framework for terrorism, under the authority of the National Security Council (CNS), established in 1999. This body summarizes intelligence relevant to the nation's internal and external security and provides forward intelligence guidance. It is also able to process TF intelligence, even if this mission is not expressly part of its remit. However, ANIF, which is responsible for centralizing and analysing financial information, is not part of this coordination. Nevertheless, ANIF collaborates with some entities that are members of the CNS, with which it exchanges information on a reciprocal basis.

#### **4.2.3. TF investigation integrated with – and supportive of – national strategies**

**222.** The CNS, which is the high-level intelligence coordination framework for terrorism, has not defined a formal counterterrorism strategy. Discussions with operational authorities did not establish that Gabon has adopted action plans and counter-terrorism strategies that integrate TF investigations.

#### **4.2.4. Effectiveness, proportionality and dissuasiveness of sanctions applied**

**223.** Up the end of the on-site visit, the courts had not pronounced any sanctions for TF-related cases. However, Gabon's laws provide for penalties for natural persons guilty of TF offences (*imprisonment of 10 to 20 years and a fine equal to at least five times the value of the goods or funds involved in the TF operations*). As for legal persons, they are punished by a fine equal to five times those incurred by natural persons (Articles 121 and 127 of the CEMAC Regulation). Sections 75-7 et seq. of the Penal Code provide for criminal penalties of up to life imprisonment for natural persons.

**224.** In the absence of any conviction for terrorism or TF in Gabon, the effectiveness, proportionality and dissuasiveness of these penalties cannot be assessed.

#### **4.2.5. Alternative measures used where TF conviction is not possible**

**225.** The alternative measures envisaged in the Gabon's Penal Code and the CEMAC Regulation when a conviction cannot be obtained include administrative seizures, confiscation of travel documents, expulsions and entry bans, freezing of assets, confiscation without prior conviction, transfer of proceedings and transmission of evidence or information to foreign authorities. Gabonese authorities confirmed that the implementation of these alternative measures is theoretically possible, but it could not be demonstrated due to the lack of prosecution of TF.

#### ***Overall Conclusion on IO 9***

**226.** Gabonese investigative and prosecuting authorities have not conducted any investigation for TF, and have therefore not obtained any conviction in this matter. This casts doubt as to the capacity of these authorities to investigate and prosecute TF actions. The authorities have a moderate understanding of the TF risks faced by Gabon and do not coordinate their actions at national level in relation to TF, which is a notable impediment to the identification and detection of potential TF cases. In any case, the detection of TF cases remains a major challenge due to the predominance of cash in Gabon's economy, the insufficient resources of investigative and prosecution authorities, the lack of systematic opening of parallel TF investigations in the processing of cases of offences that could constitute sources of TF, and the non-existence of a specialized investigative service, equipped and dedicated to TF investigation.

***Gabon is rated as having a low level of effectiveness for IO 9.***

### **4.3. Immediate Outcome 10 (TF preventive measures and financial sanctions)**

#### **4.3.1. Implementation of targeted financial sanctions for TF without delay**

**227.** The directly applicable CEMAC Regulation is the legal framework on which Gabon relies to implement the targeted financial sanctions of UN Security Council Resolutions 1267, 1373 et seq. However, the implementation of these measures is subject to notification of a decision by the competent authority, which is lacking, and no measures are taken to allow for the immediate implementation of the sanctions. There is also no mechanism for the prompt dissemination of sanctions lists to reporting entities.

**228.** In practice, the Ministry of Foreign Affairs receives lists of new or modified designations, which are transmitted as ordinary mail by the Gabonese representation at the United Nations. According to the Ministry of Foreign Affairs officials interviewed, specific mechanisms have not yet been laid down.

**229.** Gabon has not yet submitted a national list on the basis of UNSCR 1373, nor has it received a request from a third country under this Resolution.

#### **4.3.2. Targeted approach, outreach and oversight of at-risk non-profit organizations**

**230.** A 2016 GABAC report (*Typology Exercise on ML/TF risks inherent in NPO activities*) on NPOs recognizes the risk of misuse of NPOs for terrorist financing in Central Africa.



However, Gabon has not conducted a comprehensive study of the NPO sector to identify possible links between NPOs and terrorist groups, their actual sources of funding, and the sub-group of most vulnerable NPOs. The country does not apply a risk-based approach.

**231.** In Gabon, NPOs are made up of associations, NGOs and foundations. Foreign and religious associations are subject to authorization by the President of the Republic, while other associations are subject to declaration and fall under the authority of the Ministry of the Interior. There are also several undeclared associations, the number of which was not stated to the evaluation mission.

**232.** The supervision of NPOs is the responsibility of the Ministry of the Interior. It has the power to inspect and supervise compliance with TF obligations by NPOs and to impose sanctions in case of non-compliance. However, the staff of this Ministry is not sufficiently experienced in AML/CFT issues to carry out appropriate controls. Inspections, to the extent that they are carried out, are limited to general checks on all NPOs. The particular due diligence requirements for NPOs imposed by the CEMAC Regulation (Art. 46), including the keeping of fundraising registers, are not respected. The Ministry of the Interior has imposed a sanction on some NPOs, although not for acts relating to TF.

**233.** Very few NPOs comply with the legal obligation to file annual activity reports to allow monitoring of the transparency of their activities. Most NPOs are unaware of their due diligence obligations in combating TF and are not able to identify the real source of funds made available to them by donors to finance their activities. The country has not adopted a comprehensive and sustained training and awareness-raising strategy for at-risk NPOs. Nevertheless, participation in NRA activities has enabled those involved to gain a comprehensive understanding of the risks associated with the sector.

**234.** There is no formal co-ordination framework bringing together all authorities involved in the creation, life and supervision of the NPO sector, including investigative bodies. Such coordination can facilitate cooperation and information gathering in the event of an investigation into NPOs involved in TF.

#### **4.3.3. Deprivation of TF assets and instrumentalities**

**235.** Gabon does not have an administrative freezing mechanism and no measures to freeze funds or assets under UN Security Council Resolutions have been implemented.

#### **4.3.4. Consistency of measures with overall TF risk profile**

**236.** Pending the finalization of the NRA which will determine the overall TF risk profile in Gabon, the level of TF threat in Gabon appears high. However, Gabon has not taken any action to deprive terrorists, terrorist organizations, or terrorist financiers of their resources or means of financing, either through the TFSs or through measures applied to NPOs that are not targeted according to risk. No identification of at-risk NPOs has been carried out and no awareness-raising on TF risks has been conducted in the sector. The measures taken by the country are not consistent with its risk profile.

### **Overall Conclusion on IO 10**

**237.** Gabon has not adopted a mechanism to implement TFSs. The country has not conducted a comprehensive study of the NPO sector to identify the sub-groups most vulnerable to exploitation for TF purposes. There is no monitoring or a risk-based approach to these NPOs, despite the real risk of their misuse for TF. Measures are not sufficiently taken to prevent terrorists from enjoying their assets, while terrorist groups are present and active in a neighbouring country and criminal activities identified as potential sources of TF take place on Gabonese territory. The measures taken by the country are not consistent with its TF risk profile.

*Gabon is rated as having a low level of effectiveness for IR 10.*

#### **4.4. Immediate Outcome 11 (PF financial sanctions)**

##### **4.4.1 Implementation of targeted financial sanctions related to proliferation financing without delay**

**238.** Gabon has not adopted a legal framework and a mechanism for disseminating lists and other obligations to be implemented with respect to persons and entities whose assets are to be frozen in relation to the suppression of WMD proliferation financing, nor has it designated the competent authorities responsible for monitoring and implementing targeted financial sanctions (TFS) related to WMD proliferation financing.

##### **4.4.2 Identification of assets and funds held by designated persons/entities and prohibitions**

**239.** In practice, there is no mechanism for identifying the funds or other assets of individuals and entities designated by UNSC targeted sanctions. Indeed, no steps have yet been taken in this direction. Nevertheless, financial institutions affiliated with major international financial groups have commercial screening software that can give immediate effect to UNSC targeted financial sanctions on proliferation financing. Unfortunately, these financial institutions have not demonstrated any practices of measures taken with respect to persons and entities targeted by the PF-TFSs, as no assets linked to these persons and entities have been listed or identified in Gabon.

##### **4.2.3 DNFBPs and VASPs understanding of and compliance with obligations**

**240.** FIs generally have an awareness and understanding of the TFS obligations relating to the PF. This awareness is most evident among FIs that are subsidiaries of large international financial groups which, to some extent, comply with the obligations through the screening tools available to them. In contrast, other FIs have a limited understanding of their PF-TFS obligations and their implementation has not been demonstrated. In the case of DNFBPs, there is no awareness of these obligations and the measures to cover them are not integrated into their arrangements. DNFBPs have very limited understanding of the issue, as several of them expressed the lack of information on these lists. The VASP sector is not regulated in Gabon and there is not yet an approved VASP operating in the country.

#### **4.2.4 Competent authorities ensuring and monitoring compliance**

**241.** The supervisory and control authorities of financial institutions, namely COBAC, the Ministry of Finance, BEAC, CIMA and COSUMAF, do not pay particular attention to the implementation of obligations relating to targeted financial sanctions linked to PF. SRBs limit themselves to checks on compliance with the rules of the profession and, to some extent, with AML/CFT requirements, without paying attention to compliance with the obligations relating to PF-TFS of which they have no knowledge. The evaluation team found an overall lack of awareness of AML/CFT requirements in general and of CPF requirements in particular among DNFBPs. The lack of control and supervision of this category of reporting entities represents a real vulnerability.

**242.** There is no designated entity in charge of monitoring the implementation of PF-TFS in Gabon, which suggests a shortcoming in the fight against PF.

#### ***Overall Conclusion on IO 11***

**243.** Gabon has not adopted a legal and institutional framework for the implementation, without delay, of TFSs relating to suppression of the financing of WMD proliferation with respect to individuals and entities whose assets are to be frozen under UN resolutions. No clear mechanism for identifying funds or other assets belonging to individuals and entities designated by the UNSC targeted sanctions has been put in place. Similarly, the country has not designated the competent authorities responsible for monitoring compliance with PF-TFS obligations by reporting entities. The existing supervisors do not include the CPF in their on-site and off-site inspections.

**244.** With the exception of FIs belonging to large international financial groups, other reporting entities do not understand their obligations with respect to the CPF. Similarly, none of the reporting entities implement the CPF obligations.

***Gabon is rated as having a low level of effectiveness for IO 11.***

## 5. PREVENTIVE MEASURES

### 5.1. Key findings and recommendations

#### *Key findings*

- (a) Generally speaking, Gabonese banks have a moderate understanding of the ML/TF risks to which they are exposed; internal ML/TF risk assessments are not carried out in a formal, objective and satisfactory manner. As a result, the enhanced due diligence measures instituted do not allow for effective mitigation of the ML/TF risks to which these professionals are effectively exposed. Banks are well aware of their AML/CFT obligations and, to this end, have implemented internal procedures for identifying customers and monitoring relationship. However, the number of suspicious transaction reports filed by these institutions is still far below the level of ML/TF risk to which this sector is exposed in Gabon.
- (b) MFIs have a fairly average control of the ML/TF risks to which they are exposed, and do not implement the appropriate risk mitigation measures inherent in their sector of activity. The level of implementation of due diligence and suspicious transaction reporting by these financial institutions is still low.
- (c) Manual foreign exchange bureaus have a poor understanding of the ML/TF risks inherent in their sector of activity and the level of implementation of AML/CFT regulatory due diligence is almost nil. Moreover, the manual foreign exchange sector in general is plagued by the activities of unlicensed operators who run a very large informal sector.
- (d) As for mobile phone financial service providers, they do not have a good knowledge of the ML/TF risks inherent in the new products they market, and do not satisfactorily implement the required AML/CFT regulatory diligence. The insurance industry still has limited control over the ML/TF risks associated with its activities. The implementation of AML/CFT regulatory due diligence is still weak in this category of reporting entity. For other financial institutions, including money transmitters, financial market participants and specialized financial institutions, they have a very limited understanding of the ML/TF risks faced by their respective sectors and their regulatory obligations in this regard. Consequently, the level of implementation of due diligence measures is very low and not in line with the risks inherent in their operations.
- (e) DNFBPs have overall a very low understanding of the ML/TF risks inherent in their activities and most of them have a limited understanding of their AML/CFT obligations.
- (f) With regard to the real estate sector in particular and dealers and operators of precious metals and stones, they have no understanding of the high ML/TF risks associated with their activities, and do not implement any AML/CFT regulatory vigilance measures.
- (g) Overall, implementation of enhanced due diligence measures by reporting entities is still very incomplete. This shortcoming concerns all the services or products, transactions, customers and areas at risk requiring enhanced vigilance. Just as, apart from banks and

insurance companies, the effectiveness of internal control systems is still very weak.

- (h) As far as VASPs are concerned, there are still no regulations governing the activities of this sector.
- (i) The identification of beneficial owners, the accessibility of reliable sources of information and the non-availability of national identity cards are major challenges in the implementation and effectiveness of preventive measures to be implemented in all categories of reporting professions.
- (j) Lastly, the lack of appropriate AML/CFT training and awareness-raising of the various national stakeholders on their AML/CFT obligations remains a major vulnerability for the effectiveness of Gabon's system.

### ***Recommendations***

#### **Gabonese authorities are called upon to:**

1. Encourage all reporting entities, with priority given to those classified as high risk (banks, MFIs, real estate sector, mining sector), to conduct regular internal assessments of the risks inherent in their activities and to take appropriate measures to mitigate the risks identified. Such measures should be continuously monitored by the departments in charge of internal control and audit;
2. Conduct appropriate training and awareness-raising activities to enable all reporting entities (FIs and DNFBPs) to understand and implement their AML/CFT legal obligations, starting with the most exposed professional categories (banks, MFIs, real estate, mining sector). Such awareness-raising sessions should also be aimed at the ownership and implementation of the regulatory requirements for the establishment of operational procedures for the identification of customers and principals, the identification of beneficial owners, and the detection of suspicious transactions, together with sector guidelines. Particular attention should be paid to training on the effective implementation of enhanced due diligence measures for PEPs, as laid down by FATF;
3. Encourage reporting entities to systematically submit a STR to ANIF whenever there is a suspicion of ML or TF through guidelines, training and awareness raising. All these actions should primarily target banks, MFIs and entities in the mining and real estate sectors, which are classified as high risk;
4. Encourage reporting entities to set up independent and effective compliance and internal control services to monitor the effective and satisfactory implementation of AML/CFT due diligence within the institution, especially those in the financial sector;
5. Issue guidelines to facilitate the understanding and implementation by all reporting entities of the requirements relating to identification of the BO at all levels of transactions;
6. Take appropriate measures to ensure reporting entities' effective implementation of the targeted financial sanctions under the relevant UN Resolutions, in particular with

regard to the freezing of assets "without delay";

7. Define a legislative and regulatory framework for the activities of VASPs;
8. Take the necessary legislative and regulatory measures to correct all the shortcomings identified in Recommendations 10, 12, 14, 15, 16, 19, 20, 22 and 23, as appropriate, by requesting the competent CEMAC bodies to review the instruments in force.

**245.** The relevant Immediate Outcome for this chapter is IO 4. The Recommendations relevant to the assessment of effectiveness in this section are R.9 to R.23 and some elements of Recommendations 1, 6 and 29.

#### **5.2. Immediate Outcome 4 (Preventive measures)**

**246.** The evaluators weighted the implementation of preventive measures high for commercial banks, microfinance institutions, manual foreign exchange players, the real estate sector, and the mining sector; moderate for the insurance sector, money transfer companies, mobile phone financial service providers and other mobile money issuers, notaries, lawyers, accountants, casinos, and other gambling sector players; and low for the financial market sector, specialized financial institutions, and VASPs.

**247.** Evaluation of the effectiveness of preventive measures is based on the various information and quantitative data collected from reporting entities, national authorities, supervisory and regulatory bodies, ANIF, and open sources, on the one hand, and thanks to the various interviews conducted with the various players involved in the public and private sectors, on the other. The evaluators also took into account any corrective measures implemented by the reporting professions to remedy the shortcomings identified during the last mutual evaluation of Gabon's AML/CFT system.

##### **5.2.1. Understanding of ML/TF risks and AML/CFT obligations by FIs, DNFBPs and VASPs**

###### **Financial institutions**

**248.** The instruments governing AML/CFT in Gabon provide for and regulate the obligations of the various players concerned to assess ML/TF risks. The various interviews revealed that implementation of these regulatory requirements to assess, understand and manage risks is still insufficient at the level of financial institutions.

**249. Banks:** Only the subsidiary banks of international groups, which accounted for approximately 35% of the sector's total assets in December 2021, have a moderate understanding of the money laundering and terrorist financing risks to which they are exposed. This understanding stems from the risk assessments that they carry out internally on the basis of the methodologies and procedures implemented at the level of their groups. They therefore have maps of the risks inherent in their activities and their environment. The other

banks (local and subsidiaries of regional groups) have not carried out formal risk assessments of their activities, operations, customers or products. As a result, their understanding of ML/TF risks remains poor. They have risk maps that are not the outcome of internal assessments, but are generally derived from the various standard risk classifications contained in AML/CFT-related publications (CEMAC Regulations, FATF reports, GABAC typology reports, etc). All banks have a good understanding of their customer due diligence obligations and have written internal AML/CFT procedures. However, the level of implementation of these procedures is still average for some banks which do not have automated tools for filtering transactions and processing alerts; this reduces the effectiveness of the mechanisms for detecting and dealing with anomalies in relation to the volumes of customer portfolios.

**250. MFIs:** With regard to microfinance institutions, their understanding of ML/TF risks is rather moderate, despite the significant vulnerabilities of this sector in Gabon. Instead, these institutions proceed to a de facto categorization of their customers without any prior study. The risk management procedures in place do not lay down specific vigilance measures for so-called "high-risk" customers. There are no tools for filtering and profiling customer transactions, which implies manual processing of alerts reported by branch staff. Manual procedures reduce the effectiveness of the vigilance systems within these institutions, given the large volume of transactions to be processed.

**251. Foreign exchange bureaus:** At the level of manual foreign exchange bureaus, their level of understanding of ML/TF risks is very low, in the absence of risk assessment mechanisms and internal procedures for analysing transactions.

**252. Other FIs:** *Insurance sector participants* in general have an acceptable understanding of their AML/CFT obligations. However, the assessment, understanding and effective management of the risks inherent in their customers, products and distribution channels remain weak within these financial institutions. *Mobile financial service providers* offering mobile money distribution services have not conducted formal assessments of the ML/TF risks inherent in their products and customers. These professionals, who are not yet licensed as payment institutions, seem to leave this obligation to assess risks and define their management procedures to licensed issuers such as banks. However, no diligence in this regard is carried out at the level of their partner banks. As for *licensed money transfer companies, specialized financial institutions and financial market intermediaries*, they have not carried out any risk assessment and have little understanding of their regulatory obligations in this area. International money transfer companies that are not licensed in Gabon sign contracts with banks to carry out this activity. The regulations require banks to ensure that AML/CFT obligations are implemented. No risk assessment has been carried out by these transfer companies, or by banks, on the vulnerabilities and threats surrounding these services. The securities market is still in its infancy in Gabon; professionals in this sector have little understanding of the ML/TF risks inherent in their operations. Specialized financial institutions have no understanding of the BC/TF risks associated with their sectors.

**253. BEAC** has a satisfactory understanding of the ML/TF risks inherent in its operations. The Governor of BEAC published the Framework Procedure on preventive measures against money laundering and the financing of terrorism and proliferation by Decision No. 001/GR/2017 of 3 January 2017. A risk mapping matrix relating to BEAC's products and services through its National Directorates, including Gabon, has been drawn up, identifying the various services at risk and the relevant mitigation measures.

#### **DNFBPs**

**254.** Apart from the subsidiary firms of international accounting groups (which generally have their internal operational risk assessments carried out by external service providers), DNFBPs as a whole have not carried out any ML/TF risk assessment relating to their sectors, even though some of them present significant vulnerabilities to ML/TF in Gabon (real estate professionals, mining sector, notaries). As a result, most accounting firms, lawyers, and notaries have only limited control over the ML/TF risks associated with their activities. As for casinos, dealers in precious metals and stones, and real estate developers, they have no understanding of their AML/CFT obligations or of the related risks.

#### **VASPs**

**255.** Lastly, the virtual asset sector is unregulated in Gabon. Thus, no VASP is yet authorized in this country despite the beginning of penetration and circulation of these securities, albeit still timid.

### **5.2.2. Application of risk mitigation measures**

**256.** Due to the low and dispersed understanding of risks, the level of implementation of measures to mitigate them also varies across sectors, being higher at the level of financial institutions than at the level of DNFBPs.

#### **Financial institutions**

**257.** The non-finalization of the NRA at the time of the mission does not allow for a uniform level of understanding of ML/TF risks by all financial sector stakeholders. Banks, microfinance institutions, foreign exchange bureaus, insurance companies, MFSPs, money transfer companies, and other specialized financial institutions demonstrated widely varying levels of ongoing implementation of proportionate ML/TF risk mitigation measures. These measures include staff training, customer due diligence through assessment of the customer's risk profile at the outset of the relationship and regular updating of related data. The same applies to the obligation of vigilance and implementation of a customer profiling and transaction filtering system.

**258. Banking sector:** Gabonese banks have AML/CFT programs that include procedures for dealing with and mitigating identified risks through mechanisms whose relevance varies according to the stakeholders in the sector. Reinforcement of vigilance measures depends on the risk profile identified for the customer or the product. Profiling begins at the start of the relationship, during which scenarios for categorizing customers according to their level of risk are determined. However, the entry into a relationship for customers classified as high risk, even for PEPs, is not always validated by senior management in all banks. For some of them, the entries are validated at branch level and verifications made afterwards, after a



certain period. Thus, banks that do not yet have automated profiling and control tools carry out periodic reviews after accounts have been opened, to classify customers at their appropriate risk level and apply the corresponding vigilance measures. Such is the case, for example, for legal persons active in some sectors classified as high risk, such as mining, real estate, payment services, money transfer businesses, etc. On the whole, transactions above a certain amount are subject to automated screening, or manual and therefore not exhaustive for some banks, at the level of the compliance departments. All the banks have staff AML/CFT training and awareness programs; they transmit, albeit insufficiently, STRs to ANIF. COBAC's control missions revealed that banks' operational procedures have been partially updated but not exhaustively. There is room for improvement in the internal control and risk management systems inherent in international operations. Due diligence in relation to anti-money laundering and combating the financing of terrorism (AML/CFT) is insufficiently implemented. In addition, shortcomings were detected in the completeness of the customer files examined (see IO3).

**259. Microfinance institutions (MFIs):** In Gabon, category II MFIs<sup>23</sup> have compliance entities, which must carry out AML/CFT due diligence. These institutions carry out a de facto classification of customers according to risk, without any real internal assessment. Some offer money transfer services as a major activity, without any real control of the related risks. Smaller MFIs (category I and some category II) have a very mixed understanding of the ML/TF risks to which they are exposed; their action plans are much more focused on managing cash flow difficulties. This results in a lack of effective and proportionate measures in this sector to mitigate the high ML/TF risks.

**260. Manual foreign exchange bureaus:** Overall, foreign exchange bureaus have a very poor understanding of their AML/CFT obligations in Gabon, and do not have a risk management framework to mitigate the risks. No internal risk assessment has been conducted by these professionals, despite the significant ML/TF vulnerabilities to which this sector is exposed. Foreign exchange bureaus do not have dedicated AML/CFT staff. In terms of customer identification, they have customer registers in which the transactions they carry out are recorded. Customer identification is limited to the presentation of an identity document for residents and a passport for non-residents. In Gabon, licensed foreign exchange bureaus face unfair competition from a particularly aggressive informal sector, which controls most of the turnover in this sector, and whose risks of use for ML purposes are high. This informal sector also controls foreign currency supply to the market and stifles the regularly registered bureaus.

**261. Money transfer companies (MTCs):** Rapid money and value transfer services in Gabon are provided on the one hand by banks and MFIs, and on the other hand by financial messaging companies approved by the Minister in charge of Finance, for domestic coverage. International money transfer companies, not licensed in Gabon, offer their services on the basis of agreements signed with banks, which are then responsible for implementing AML/CFT due diligence obligations, including customer due diligence and STR. The entities providing these services (Western Union, Money Gram, RIA, Small World, etc.), which hold

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<sup>23</sup> The classification of MFIs is contained in Chapter 1.

the majority of the remittance market share, claim to provide banks with outsourced tools for profiling transactions, controlled from abroad, thus reducing the effectiveness of the Gabonese AML/CFT system. A number of banks provide training and awareness-raising on AML/CFT to operators providing these services. However, in reality, these local or foreign companies have no understanding of the ML/TF risks inherent in their activities, hence the absence of effective corrective measures. Some of them, which operate in partnership with banks, rely on the latter to implement ML/TF risk vigilance and mitigation measures. However, even the banks concerned have not conducted any relevant assessment to understand the risks inherent in these products and take appropriate mitigation measures.

**262. BEAC:** At the BEAC National Directorate for Gabon, the validation of a map of high-risk operations (fund transfers and foreign currency transactions) led to the definition and implementation of specific procedures to strengthen vigilance in the processing of these operations. The measures adopted appear to be sufficiently effective in mitigating the ML/TF risks inherent in these operations.

**263. Insurance companies:** Insurance companies have compliance departments, in accordance with the provisions of the CIMA Regulation. However, understanding of risks by the players in this sector is still limited. Apart from knowledge of basic due diligence obligations, none of the players in the insurance sector has conducted a formal assessment of the risks associated with its activity, its customers, its products, or its distribution channels. Furthermore, no company has automated and effective customer profiling tools that can generate alerts for atypical ML/TF transactions. The vigilance implemented here is much more focused on premium thresholds. As for intermediaries, their level of understanding of risks is still very low. This explains the lack of appropriate measures to mitigate the relevant risks.

**264. Mobile financial service providers:** Two distributors of mobile money products are operational in Gabon, not yet licensed as payment institutions, but operating as partners (distributors) of banks licensed as electronic money issuers. The platforms for managing mobile money transactions are secure; the use of their products requires customer identification. The platform makes it easy to trace transactions, as all accounts are linked to a specific mobile phone number and the information on these transactions (sender's mobile phone number, beneficiary's mobile phone number, amount and date) remains recorded. But the interoperability of transactions through the GIMAC platform highlights significant vulnerabilities arising from the inability of operators to have beneficiary identifiers outside their networks. However, understanding of the risks of ML/TF is very mixed among the players in this sector, who do not carry out relevant assessments in this area. This results in insufficient implementation of risk mitigation measures. In general, MFSPs seem to have delegated risk assessment and mitigation obligations to the issuers of the products they distribute.

**265. Securities sector:** Only one stock exchange company is active in Gabon and capital market operations are still in their infancy. No company with Gabonese capital is listed on the BVMAC. The stock exchange company operating in Gabon has a negligible market capitalization compared with the volume of operations in the financial sector. It has a mixed understanding of the ML/TF risks to which it is exposed, and has consequently not taken

adequate measures to contain them. Besides this brokerage firm, 11 (eleven) Primary Dealers (SVTs) are present in the Gabonese market. These are all banks licensed in the CEMAC zone, which have a moderate understanding of the AML/CFT due diligence inherent in their operations. Unfortunately, no significant measures have been taken at their level to mitigate the risks associated with their securities activities.

**Designated non-financial businesses and professions**

**266.** In Gabon, almost all DNFBPs have no understanding of the ML/TF risks inherent in their sectors of activity, apart from a few subsidiary firms of international accounting groups. They do not implement their AML/CFT obligations as reporting entities; most of them are not even aware of their AML/CFT reporting entity status. They have not assessed their ML/TF risks and have no procedures and programs in place to mitigate their risks.

**267. Real estate agents and developers:** This sector, dominated by informal players, is characterized by a high rate of cash use and the absence of a compliance function at the level of real estate intermediaries (agencies and developers), the lack of monitoring of customer transactions and suspicious activity reports. In addition, the lack of an internal awareness program and initial and ongoing training for the staff of real estate companies results in a low level of staff understanding of their AML/CFT obligations and responsibilities. Generally speaking, the due diligence required in terms of AML/CFT is ignored during operations carried out by these professionals. Identification of the origin of funds and the beneficial owners of property acquisitions are not part of the due diligence carried out by real estate agents, brokers and promoters during their operations.

**268. Metals and precious stones sector:** Given the structure of Gabon's economy, the metals and precious stones sector is particularly exposed to ML. Players in this sector (researchers, miners and traders) are not aware of their AML/CFT obligations. There are difficulties in keeping records, identifying beneficial owners with a pronounced use of intermediaries, the presence of unlicensed wild sites, the lack of control over production and distribution channels, the absence of an AML/CFT system and the high risk of tax evasion. No risk mitigation measures have been implemented by the sector's players and no specific AML/CFT awareness campaign has been conducted among mining operators and traders, nor by the various authorities concerned. The mining sector does not have a specific AML supervision and control mechanism.

**269. Lawyers:** Most lawyers are not aware of the existence of a legal framework governing AML/CFT, according to statements by professionals in this sector. Accordingly, they have a very limited understanding of their obligations in this area. They have not carried out any internal ML/TF risk assessment and the NRA process is incomplete. Implementation of preventive measures at the level of the profession is characterized by customer identification by means of identity documents for natural persons and articles of incorporation for legal persons. In accordance with the CEMAC Regulation, they are obliged to implement reinforced vigilance measures and to obtain information on the origin of funds as well as identify the beneficial owners. However, implementation of these measures is far from being effective within the profession. Gabonese actors in this sector have recognized the difficulty of questioning customers about the origin of funds in view of the rules of their profession and

the pressures to which they could be subjected. Lawyers are entitled to refuse to enter into a relationship with a customer if the documentation is incomplete or if the purpose of the transaction appears suspicious. However, the quest for profitability has rendered implementation of these measures very superficial.

**270. Notaries:** Generally speaking, notaries are not aware of their AML/CFT obligations. Customers are identified on presentation of an identity document or the constitutive documents for legal persons. In practice, however, they are faced with the problem of identifying the beneficial owner and accessing reliable sources of information on identity, in a context where the availability of the national identity card is a major challenge. For legal persons, this due diligence is carried out solely on the basis of information contained in the articles of association. Notaries are also faced with the challenge of record keeping and communication, as archiving is mainly manual. In the end, notaries do not implement proportionate measures to mitigate the risks to which they are exposed.

**271. Chartered accountants and public accountants:** Gabon's chartered accountants have a diverse understanding of the ML/TF risks inherent in their activities. Players that are subsidiaries of international groups use external service providers to assess their operational risks, including ML/TF risks, though the measures taken do not allow for effective management and mitigation of the risks identified. Local actors have a limited understanding of the ML/TF risks inherent in their activities. They have not carried out any internal assessment of ML/TF risks and therefore do not have an appropriate risk management framework. The bottom line is that chartered accountants and public accountants in general have not adopted effective and satisfactory measures to mitigate ML/TF risks in Gabon.

**272. Casinos and other games of chance:** Professionals in this sector have not conducted any assessment of their ML/TF risks and have not adopted any mitigation measures, although the risks are not significant. Managers have very limited understanding of their obligations in this area. Casino managers do not implement their customer due diligence obligations. Customers are neither identified nor registered. The use of cash is almost exclusive in the sector, particularly for the payment of bets and winnings. Controls carried out by supervisors (the Gaming Police) do not cover AML/CFT. Consequently, professionals in this sector could easily be used for money laundering purposes by their customers and owners.

### **5.2.3. Application of customer due diligence and record-keeping requirements**

#### **Financial institutions**

**273.** Banks, MFIs, insurance companies, stockbrokers and mobile phone financial service providers have compliance departments that deploy customer due diligence and monitoring by laying down and implementing internal policies and procedures. This is not the case for other financial institutions, notably insurance intermediaries, money transmitters and foreign exchange bureaus, which are not fully aware of their AML/CFT due diligence obligations.

**274. Banks:** All banks have internal policies and procedures that take into account Know Your Customer (KYC) requirements. Some have automated customer profiling and transaction screening systems, archiving, record keeping and reporting systems, while others

still perform these due diligence requirements manually, thus limiting their effectiveness. Account opening procedures provide for the required information on the customer, his activities, sources of income, partners, etc. However, it was noted that the level of implementation of CDD measures is higher in subsidiaries of foreign banking groups than in others, as the latter generally implement their more stringent group procedures. In general, all banks face difficulties in identifying the beneficial owner in the implementation of their obligations. Without providing evidence, banks state that entering into a relationship with customer is not possible without the required documents. Lastly, banks have not carried out appropriate analyses to identify customers and transactions that may be subject to simplified measures in the implementation of CDD measures.

**275. MFIs:** MFIs implement customer due diligence measures, particularly at the time of entering into a relationship. They carry out CDD procedures when accounts are opened, though the procedures to monitor the business relationship remain insufficient, especially in small institutions. In general, there are still shortcomings with regard to the identification of beneficial owners. Lastly, record keeping is unsatisfactory, as there are no formal archiving policies.

**276. Currency exchange bureaux:** The overall level of implementation of due diligence obligations by these professionals is still very low. In the face of very strong competition from the informal sector, customer identification obligations are not really implemented.

**277. Other FIs:** Insurance companies and mobile money service providers are implementing basic obligations in terms of KYC and monitoring the relationship, in accordance with the CEMAC, COBAC and CIMA regulations. They have procedures, sometimes unwritten, for identifying customers and keeping record. They verify information, particularly when carrying out operations on behalf of customers. But the rigour and objectivity of these procedures vary from one category of institution to another. Implementation of due diligence measures is made difficult by accessibility of information on the beneficial owner. For other FIs, notably specialized financial institutions and money transmission companies, the level of implementation of customer due diligence requirements is still very low.

**278.** In general, identification of the beneficial owner as laid down by FATF remains a major challenge in Gabon. Banks are aware of the obligation to terminate a business relationship or not to carry out a transaction under the business relationship, due to the impossibility of implementing the required due diligence measures, in particular for the determination of the identity of customers, though this determination does not always imply identification of beneficial owners. They take adequate measures and declare the termination of a business relationship due to the absence of the required information. However, on the whole, they have not reported any data on refusals or terminations of relationships that would allow the effectiveness and efficiency of this measure to be assessed. Despite the customer due diligence obligations mentioned in the CEMAC Regulation, it is not easy to access information on beneficial owners, due to the lack of appropriate mechanisms.

**279.** With regard to record-keeping, FIs generally comply with Article 38 of the CEMAC AML/CFT Regulation, which provides for an obligation to keep data for at least 10 years. These data are kept in physical and electronic form and are accessible upon request to all

competent authorities. They implement their obligations to keep records relating to the identification and knowledge of customers for 10 years after the end of the relationship or from the date of execution of a transaction. However, in most FIs, there is a problem with the effectiveness of the archiving policy, particularly in terms of centralizing information. In general, documents are kept at branch level in less-than-optimal conditions, which poses a problem of efficiency in terms of searching and providing documents upon request.

### **DNFBPs**

**280.** At the level of DNFBPs, apart from a few accounting firms belonging to international groups, most of them do not understand the ML/TF risks inherent in their activities and have not adopted vigilance measures relating to customer identification to know the beneficial owner, whether a natural or legal person, as required by the CEMAC Regulation. Although lawyers, notaries and accountants are making efforts to identify their customers, they do not have any specific identification procedures, especially for legal persons and PEPs, and are also faced with the challenge of accessing reliable sources of information. Notaries keep minutes for an unlimited period of time, while lawyers have no explicit obligation to keep records under their corporate law, but must keep records of their accounts for 10 years. However, DNFBPs do not adequately implement the customer due diligence measures required in the context of their AML/CFT activities, including customer and beneficial owner identification. For example, casino managers do not identify their customers and do not keep records of their transactions. Apart from accountants, notaries and lawyers, other professional categories do not comply with the record-keeping obligations.

#### **5.2.4. Application of enhanced due diligence measures**

**281.** Leading financial institutions, including banks and insurance companies, have adopted internal policies and laid down written procedures to implement enhanced due diligence. These policies and procedures are subject to evaluation in terms of objectivity and level of application by the supervisory bodies, notably COBAC and CRCA. Only a few subsidiary banks of international groups have been able to demonstrate the implementation of enhanced measures in a satisfactory manner according to the risks linked to the customer, the risks linked to the products and services, and also if it is a PEP. Other banks classify customers by risk without actually laying down specific due diligence measures for customers classified as high risk. Other FIs and DNFBPs have not taken any specific measures for customers classified as high risk according to their own mapping. Their implementation of due diligence measures for this category of high-risk customers remains weak, due to the absence of formal prior studies to objectively determine the vulnerabilities of the customers' transactions.

**282. Politically exposed persons (PEPs):** In general, banks state that they pay particular attention to relations with PEPs, though these statements do not always translate into concrete internal procedures in terms of enhanced due diligence measures. Subsidiary banks of groups use databases provided by their groups to detect politically exposed persons but, even after detection, this category of customers is not really subject to particular vigilance. Some of them have internal procedures whereby senior management approves their entry into a business relationship, while for most of them, checks are made after entry into the

relationship. In the absence of a list of domestic PEPs, some banks find it difficult to identify them in real time, or before entering into a relationship. And even if such lists were available, there would still be the problem of identifying the associates of PEPs (family members, etc.). For other FIs, PEPs are not subject to particular vigilance, despite their categorization as at-risk customers. For DNFBPs, no specific measures are implemented to detect PEPs and conduct enhanced monitoring of the relationship with a PEP. In general, no effective and regular updates are carried out by non-bank reporting entities to ensure that existing customers have become PEPs.

**283. Correspondent banking services:** In the course of their activities, banks usually establish correspondent relationships with other counterpart institutions. To this end, and in accordance with the CEMAC Regulation, they take enhanced due diligence measures as soon as they enter into a relationship. As such, they identify the corresponding banks by collecting information on the nature of their activities, and ensure that the corresponding banking institution applies anti-money laundering standards equivalent to those implemented by their institutions. Specific due diligence measures are implemented, including approval by a designated high authority. Banks periodically exchange compliance monitoring sheets with their correspondents. Under peer-to-peer relations, banks lay down criteria such as the level of compliance, the quality and extent of the network and the country of establishment, in accordance with FATF Recommendations and the requirements of Community regulations. However, the effectiveness of these mechanisms is mitigated by the lack of specific provisions on understanding the respective AML/CFT responsibilities of each institution, or the lack of measures obliging FIs to ensure that the correspondent is able to provide information relating to transit accounts, upon request from the correspondent bank.

**284. Targeted financial sanctions:** There is no designated authority or formal mechanism for compiling or disseminating lists of TFSs in Gabon. In general, there has been confusion in the implementation of TFSs by reporting entities, even at the level of some banks. In general, FIs (apart from foreign exchange bureaus and money transmission companies) state that they are aware of their obligations to implement financial sanctions targeting terrorist financing. However, only subsidiary banks of international groups were able to demonstrate moderately effective screening mechanisms for TFS-related transactions. Banks generally consult the lists of the United Nations Sanctions Committee (Resolutions 1267 et seq.), the European Union or OFAC (Resolution 1373); but these lists are not incorporated into the systems of all banks for automatic screening. Other FIs did not demonstrate any relevant operational mechanism.

**285.** Furthermore, reporting entities do not receive updated lists of persons and entities from the competent authorities under UN Resolution 1267. This results in limited and varied implementation of targeted financial sanctions by FIs, including the required asset freezing measures against designated persons and entities. Furthermore, the obligation to implement "without delay" under these conditions cannot be met.

**286.** Beyond their statements, it has been noted that insurance companies and intermediaries are not aware of the lists established under the relevant UN Resolutions. Although they are aware of the existence of the UN Sanctions Committee lists, MFIs and money transfer

companies do not have the filtering tools to implement the identification and freezing of asset of listed individuals and entities. Mobile phone financial service providers have appropriate profiling tools for implementing targeted financial sanctions.

**287. DNFBPs** in general are not aware of the UN sanctions lists or their regulatory obligations in this regard. They often rely on their banks to conduct checks on their customers. Lastly, Gabon does not have a national list of persons or entities designated under Resolution 1373.

**288. New technologies:** Financial institutions are developing and marketing a wide range of new products based on new technologies. The CEMAC Regulation requires all reporting entities to carry out a risk assessment prior to the launch of any new product using ICT. The FI managers interviewed stated that these products are subject to an internal risk assessment by the competent services, which pass on the findings to senior management and the board of directors for validation, before incorporating them into the supervisory system. However, on the whole, these reporting professions, FIs and DNFBPs, have not demonstrated effective and efficient implementation of enhanced due diligence measures with regard to these new technology-based products.

**289. Wire transfers:** Financial institutions, including banks, have adopted mechanisms to identify the originators and beneficiaries of wire transfers. They do this by screening the names of senders and recipients against lists of persons under sanctions and by considering high-risk jurisdictions. In addition, they check the correspondence between the type of message and the transfer to be executed and also verify the completeness of the information accompanying the transfer, i.e. that all mandatory fields are filled in. They also check that the content of the message matches the known profile of the customer and decide whether to accept or block the transaction. However, in some banks, these filtering procedures are not automated; they are carried out manually by staff. This implicitly reduces their effectiveness. In addition, the lack of a requirement to have risk-based procedures for the execution of these transactions, or of measures obliging the originator FI to transmit the required customer information on request, limits the effectiveness of existing due diligence for wire transfer.

**290. Higher risk countries identified by FATF:** Banks generally have lists of countries classified as high risk by FATF. According to the statements of the professionals interviewed, these lists are taken into account in the processing of international remittances. Generally speaking, no demonstration of specific enhanced due diligence measures for transactions with these FATF-identified countries was made, either at the level of FIs as a whole, including banks, or at the level of DNFBPs.

#### **5.2.5. Reporting obligations and tipping-off**

##### **Financial institutions**

**291. Banks:** Some banks have automated customer profiling and transaction filtering tools, which allow them to improve the detection and processing of alerts to fulfil their suspicious transaction reporting obligations. Others, however, process customer transactions manually.



In general, this obligation is not fulfilled satisfactorily by banks. The mechanisms for processing alerts (for those with automated profiling tools) or for manual detection of suspicious transactions do not guarantee exhaustive and effective handling of transaction flows. Furthermore, it was noted that the independence of compliance officers in the transmission of STRs is limited in most banks, with censorship mechanisms by Management; within these banking institutions, alerts are generated and processed, and STRs transmitted to Management, which takes the ultimate decision on whether or not to transmit them to ANIF. Banks are the main entities reporting suspicious transactions to ANIF, with 80% of the 192 STRs received between 2016 and 2021, i.e. an average of 26 per year. This is highly insufficient given Gabon's criminogenic context, the profile of banks' customers, the structure of the economy and the volume of the customer portfolio.

**292. MFIs:** Some MFIs, particularly those in the second category, also transmit STRs to a lesser extent, even though their number is far from reflecting the volume of transactions recorded. Between 2016 and 2021, MFIs transmitted 28 STRs to ANIF, i.e. 15% of the total volume of reports for the period. The main problem in this sector is the detection and manual processing of customer transactions. It should be noted that most MFIs are more focused on managing the profitability challenges and serious cash flow issues they face, while AML/CFT issues are not considered a priority.

**293. Foreign exchange bureaus:** There are no formal procedures for detecting suspicious transactions by this category of FIs. Likewise, the level of control over the obligations to report transactions to ANIF in case of suspicion is almost nil. No STRs have been sent to ANIF by these professionals.

**294. Other FIs: *E-money providers*** have automatic tools for detecting suspicious transactions, despite a lack of the necessary resources in terms of numbers to process the alerts generated. They are perfectly aware of their reporting obligations, despite a lack of awareness of the procedures for reporting suspicious transactions to ANIF. Exchanges with these officials reveals that it is the banks issuing electronic money that are responsible for reporting suspicious transactions; this is not in line with the relevant CEMAC Regulation. In fact, according to the CEMAC Regulation, e-money providers are reporting professions and are therefore directly subject to AML/CFT obligations, including the obligation to report suspicious transactions. Delegation of responsibilities in this area to technical partners is therefore a shortcoming in view of the standards in force. In the *insurance sector*, only one STR was transmitted by a company. This situation reflects a general lack of effective procedures to enable these professionals detect suspicious transactions at the level of companies and intermediaries. It also reflects the fact that the insurance sector in Gabon, which has a low penetration rate, is 78.5% controlled in terms of turnover by the non-life branch, whose local products have little exposure to ML/TF. Ultimately, players in this sector do not have a good understanding of their suspicious transaction detection and reporting obligations.

**295.** Regarding the confidentiality of STRs, provisions on this matter are contained in the CEMAC Regulation. At the level of banks and other FIs that submitted STRs, the related information is only accessible to the staff of the compliance services, Management and Internal Auditors and is only communicated to ANIF. At the level of ANIF, there are

procedures to ensure that STRs are handled confidentially. However, ANIF does not have a perfectly secure computer system to protect it from external intrusions.

### **DNFBPs**

**296.** At the level of DNFBPs, despite a context of generally high risks, the absence of STRs is justified by the low level of awareness and information of professionals in this sector on the ML/TF risks to which they are exposed, the absence of a compliance mechanism, the non-application of administrative and criminal sanctions in the event of non-compliance with AML/CFT obligations, and the absence of AML controls in the prerogatives of these professions' self-regulatory bodies and supervisors.

### **5.2.6. Internal controls and legal/regulatory requirements impeding implementation**

#### **Financial institutions**

**297.** Banks, insurance companies, MFSP and MFIs as well as brokerage firms have internal control and compliance services in accordance with the CEMAC Regulation. The main missions of these services are to ensure the existence and effectiveness of internal systems and to assess operational units' compliance with legislative and regulatory requirements as well as internal procedures, including AML/CFT requirements, when entering into relationships and in all operations they carry out with customers. To this end, these institutions appoint compliance officers responsible for monitoring the implementation of regulatory requirements, including for AML/CFT. In addition, they have an internal audit service that is supposed to carry out AML/CFT assignments and make recommendations from its assignments in a report submitted to senior management and the board of directors or equivalent decision-making body, which takes the necessary follow-up action. In practice, however, internal control services do not pay sufficient attention to AML/CFT arrangements in view of the exposure of these sectors to ML/TF risks. Whether at the level of most banks (apart from subsidiaries of international banking groups) or at the level of other FIs, the effectiveness of internal control units in improving AML/CFT compliance is still low. This weakness is justified by shortcomings in the profiling tools deployed, where they exist, in the various failures to identify customers, beneficial owners and PEPs, and in the failure to implement targeted financial sanctions in a satisfactory manner.

**298.** COBAC Regulation R-2016/04 of 8 March 2016 lays down the rules relating to internal control and compliance monitoring within credit institutions and financial holding companies. Pursuant to these provisions, all banks operating in Gabon have departments in charge of supervision and those in charge of compliance control.

**299.** At the level of MFIs, this requirement is contained in COBAC MFI Regulation R-2017/06 of 24 October 2017 on MFIs internal control. However, its implementation with regard to AML/CFT controls is still embryonic for almost all the players in this sector.

**300.** For the insurance sector, pursuant to Article 23 of the CIMA Regulation, all players in this sector have a compliance function within their organization. Some companies have appointed a compliance officer and set up an internal training program, the implementation of which is monitored by the company's audit body. However, the internal control services are, for the most part, not familiar with their companies' AML/CFT obligations. As a result,

this aspect is generally relegated to the background during audits. Also, their information systems do not allow for effective monitoring of customer transactions in relation to their profile, nor for appropriate controls when these transactions are unusual and complex. It should also be noted that politically exposed persons are not taken into account by their internal compliance systems.

**301.** For other FIs, compliance officers and those in charge of internal control are appointed. However, there are weaknesses in the definition and operationalization of compliance programs, particularly with regard to the AML/CFT component. These compliance units do not have sufficient skills and resources to perform their duties.

**302.** In general, financial institutions, their managers and employees are protected against any criminal or civil liability for breach of the rules on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, when they report suspicions to ANIF in good faith. Similarly, professional secrecy cannot be invoked by reporting professionals to refuse to provide information to the supervisory authorities and ANIF or to report suspicious transactions. Unfortunately, all these incentives do not translate into a systematic reporting of all transactions deemed suspicious by the reporting entities.

#### **DNFBPs**

**303.** With regard to DNFBPs, apart from chartered accountants, most of them do not have units specifically responsible for internal control to ensure implementation of their AML/CFT obligations, nor do they have dedicated AML/CFT officers to implement the obligations laid down in the instruments in force.

**304.** Ultimately, there are no legal or regulatory provisions in Gabon that impede the implementation of internal controls to ensure compliance with AML/CFT obligations.

#### ***Overall Conclusion on IO 4***

**305.** Banks' understanding of ML/TF risks is acceptable for subsidiaries of international banking groups, and still unsatisfactory for others. Banks implement customer due diligence measures and have internal control mechanisms, albeit of limited effectiveness with respect to AML/CFT. However, for some banks, risk assessment and due diligence procedures are still deficient. Regarding other financial institutions, the understanding of ML/TF risks is still very limited and compliance with preventive measures is not always effective, despite the high threats and vulnerabilities inherent in the operations of most of the sectors concerned. In this regard, there are no operational risk assessment mechanisms in insurance companies, microfinance institutions, money transfer companies, and money changers.

**306.** In general, there is also a problem with record-keeping in relation to customer transactions by most reporting entities, apart from some banks. This is a major setback in the reconstitution of transactions by the competent authorities in case of need. Similarly, the problem of identifying beneficial owners combined with the difficulties relating to access to secure identification documents are major challenges in the effective implementation of due diligence measures.

**307.** As regards DNFBPs, the vast majority of them have no understanding of the ML/TF risks to which they are exposed. As a result, they do not sufficiently implement AML/CFT

preventive measures and internal controls.

*Gabon is rated as having a low level of effectiveness for IO 4.*

## 6. SUPERVISION

### 6.1 Key findings and recommendations

#### *Key findings*

- (a) In Gabon, despite the three levels of verification of FIs' approval files, there are still shortcomings in terms of the resources needed to check BOs, the origin of funds and the guarantees that an internal AML/CFT system will be implemented when the business actually starts. These deficiencies are even more significant in the DNFBPs sectors in general.
- (b) Measures to detect and punish activities not approved by authorities are deficient. Indeed, the major financial sectors, notably the manual currency exchange and money transfer sectors, face fierce informal activity that controls a large part of the turnover in these sectors, with high risks of use for ML/TF purposes. The same applies for the DNFBPs sector, where a significant part of the real estate and mining activity is carried out informally.
- (c) COBAC has limited understanding of the ML/TF risks to which the banking, MFI, currency exchange and money transfer sectors, which constitute the bulk of Gabon's financial sector, are exposed. The tools adopted by COBAC to ensure continuous monitoring of AML/CFT due diligence by reporting entities are based mainly on a regulatory framework that no longer reflects all current standards in this area, notably the 2005 COBAC Regulation on reporting entities' due diligence. In the same vein, the extension of COBAC's missions to some very important (currency exchange) and moderately important (mobile payment services) sectors has not been accompanied by an increase in resources.
- (d) Significant efforts remain to be made by COBAC in the application of the risk-based approach, insofar as the reporting or analysis tools have not yet incorporated the particularities of innovative financial activities and the inherent risks. In addition, COBAC has not yet developed a mapping of ML/TF risks by sector of activity and by entity in Gabon that can be updated on an ongoing basis.
- (e) As regards CIMA and the National Directorate of Insurances (DNA), the risk-based approach is not yet effective. AML/CFT issues are only briefly taken into consideration during audits. This is a major weakness given that these authorities are responsible for the insurance sector, which is of moderate significance in Gabon.
- (f) COSUMAF has a very poor understanding of the ML/TF risks inherent in the operations of financial market participants and does not have specific procedures for monitoring compliance with AML/CFT standards.
- (g) With regard to DNFBPs, the mission noted the absence of competent authority(ies) designated to ensure AML/CFT supervision. The administrative authorities of some relatively significant sectors (real estate and mining) are not aware of their AML/CFT obligations. Overall, the understanding of ML/TF risks remains embryonic for all DNFBPs and administrative or licensing supervisors.
- (h) During inspections of financial banking institutions, COBAC imposes sanctions for breaches of AML/CFT obligations and publishes them to reinforce their dissuasiveness. However, the sanctions are not proportional and not sufficiently dissuasive, insofar as

COBAC prefers an educational approach. As for COSUMAF, CIMA and DNA, sanctions for breaches of AML/CFT obligations have not been imposed due to the absence of rigorous monitoring in this area.

- (i) COBAC and ANIF carry out a few awareness-raising activities for the various reporting entities concerning compliance with their AML/CFT obligations. These actions are generally weak and the impact in terms of improving the level of compliance of FIs and DNFBPs is not globally perceptible.
- (j) Regarding VAS and VASPs, these activities are not yet regulated in Gabon.

### ***Recommendations***

#### **Gabonese authorities are called upon to implement the following actions:**

1. Clearly designate the competent authorities for AML/CFT supervision of the most exposed DNFBPs;
2. Allocate substantial resources to the licensing authorities to strengthen controls on BOs and the origin of funds;
3. Strengthen regulation compliance monitoring through, inter alia, the organization of joint (supervisory authority/police) missions, including unannounced raids, to detect and effectively combat the informal exercise of regulated financial activities, in particular manual currency exchange, money transfer, real estate and dealers in precious stones and metals;
4. Build the capacity of services in charge of supervising FIs (COBAC, CRCA, COSUMAF) by equipping them with the necessary tools for the application of a risk-based approach while multiplying training on the regulation, supervision and mitigation of risks relating to payment services and innovative financial activities or technological finance;
5. Raise the awareness of the community supervisors (COBAC, BEAC, COSUMAF and CIMA) on the need to develop AML/CFT supervision strategies by prioritizing the activities or sectors most at risk;
6. Encourage the supervisory and control authorities of all the sectors most at risk of AML/CFT to apply effective, proportionate and dissuasive sanctions against those who do not comply with their AML/CFT obligations;
7. Produce and disseminate thematic information materials that explain AML/CFT obligations to reporting entities of the most vulnerable sectors (MFIs/real estate, mining companies, MFSPs);
8. Define and implement an AML/CFT supervisory mechanism for VAS and VASPs in accordance with FATF Recommendation 15.

**308.** The relevant Immediate Outcome for this chapter is Immediate Outcome 3. The Recommendations relevant to the evaluation of effectiveness in this section are: R 14, 15, 26 to 28, 34 and 35 and some elements of R 1 and 40.

**309.** Assessment of supervisory effectiveness is based on the various quantitative and qualitative information and data collected from national authorities, supervisory and regulatory bodies, reporting entities, ANIF and open sources, on the one hand, and through the various interviews conducted with the different public and private sector stakeholders, on the other. Weighting of the assessment took into account the following classification of Gabon's economy into sectors of very high significance, namely banks, microfinance institutions, real estate agents, traders in precious stones and metals and manual exchange; of moderate significance, consisting of insurance, money transfer operators by financial messenger, mobile financial service providers, casinos and gaming establishments, notaries, lawyers and chartered accountants; and of low significance, namely financial markets and specialized financial institutions (see Chapter 1).

## **6.2. Immediate Outcome 3 (Supervision)**

### **6.2.1 Licensing, registration and controls preventing criminals and associates from entering the market**

#### *Financial institutions*

**310.** In general, assessment of the diligence of the authorities to prevent criminals and their associates from gaining access to or control of financial institutions reveals shortcomings.

**311. At the time of access to the profession,** verifications are done at 3 (three) levels:

- **The first level** of verification is done by ANPI given that **FIs operating in Gabon must first be incorporated**, i.e. be registered with the TPPCR in accordance with the provisions of the AUDCG and AUSCGIE. However, ANPI remains limited in these verifications insofar as it does not have the means to identify BOs and check the origin of funds. Furthermore, statistics on refusals of company incorporation are not kept, although they should be shared with the other competent authorities to reinforce vigilance.
- **The second level of control is carried out** by the Ministry in charge of the economy and recovery, which has the Directorate of Financial Institutions (DIF) and the DNA.
- **The DIF** examines applications for the approval of credit institutions, MFIs, money transfer companies and MFSPs or payment institutions, and foreign exchange bureaus. After examination, DIF transmits the application files of foreign exchange bureaus to BEAC for approval and those of other banking institutions to COBAC (credit institutions, MFIs, money transfer companies, MFSPs or payment institutions).

Regarding the consideration of the files of credit institutions, MFIs and foreign exchange bureaus, DIF's checks are limited to verifying the validity and completeness of documents. No diligence is done to identify the BOs. The absence of the requested statistics on cases of rejections and the reasons therefor casts doubt on the effectiveness of the procedures.

**At the level of money transfer companies,** the 14 companies in operation were authorized on the basis of national instruments and without verifying the origin of the funds, the BOs or the guarantees on the implementation of an internal AML/CFT system. The 2018 Payment Services Regulations repealed the said national instruments while granting a period of 12 months from 1 January 2019 to align with the innovative provisions

including for AML/CFT. More than two years after the transitional period, it is clear that no transfer company has complied. The authorities have not taken any supervisory or coercive measures against these companies. All these shortcomings create a breeding ground for the development of informal or underground transfer activity with increased risks of ML/TF in the country.

➤ **The DNA** analyses applications for authorization in the insurance sector, particularly for insurance companies and insurance intermediaries. After consideration, the files of insurance companies are forwarded to CIMA, more precisely to CRCA, which is one of its bodies. The files of insurance intermediaries are not forwarded to CIMA because they fall **within its jurisdiction**.<sup>24</sup> However, in both cases, no particular diligence is carried out with regard to the origin of funds, the identification of foreign shareholders' BOs and the guarantees inherent in the implementation of an internal AML/CFT system. The DNA does not have the means to carry out character investigations. The insurance sector does not have a central database of known bankruptcies or persons at risk, which can be consulted during the licensing procedure.

- **The third level of control** is carried out by COBAC, CIMA and BEAC following transmission of the file by the Ministry of Economy and Recovery (Ministry in charge of Finance). COBAC examines the files of credit institutions, MFIs and payment institutions (MFSPs or mobile phone company), while CIMA examines those of insurance companies and BEAC deals with applications from foreign exchange bureaus. An exception is made with the files of financial institutions licensed by COSUMAF for which compliance checks are carried out by COSUMAF in its capacity as supervisory, regulatory and control authority of the regional financial market. No cases of withdrawal of approval or rejection of files for reasons relating to AML/CFT were reported before or during the on-site visit. This raises doubt about the effectiveness of the various verification measures.<sup>25</sup>

**312. During the life of financial institutions**, any change in the course of operations that significantly affects the legal situation of the reporting entity (change of shareholders, change of auditor, change of share capital, change of company name, sale of business, merger, demerger, sale of significant shareholdings, etc.) is subject to the prior authorization or approval of the regulatory authorities, which decide on the probity of the new managers following checks. In the same way, reporting entities are subject to permanent reporting mechanisms which allow the various regulators to have up-to-date information on the situation of the managers and directors of the institutions. In the insurance sector, the same due diligence is carried out in the event of share buybacks exceeding 10% during the life of the companies. Furthermore, it appears from the information gathered that on-site inspections, when organized, also verify compliance with these requirements. However, the means of monitoring beneficial owners, let alone changes in beneficial owners, remain limited.

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<sup>24</sup> Only insurance companies' files are transmitted to CIMA.

<sup>25</sup> Applications for authorization from financial market players are not subject to pre-study at national level by the monetary and insurance authorities. They are submitted directly to COSUMAF. Discussions with COSUMAF revealed that no control relating to the origin of funds and the BO is currently carried out during consideration of applications for authorization.



**313.** In addition, authorized foreign exchange bureaus face competition from clandestine actors, individuals, mainly at Libreville airport and within the West African community of Gabon, who escape the requirement of authorization prior to carrying out their manual exchange activities. This is a significant ML/TF risk factor, especially as they do not respect the daily ceiling of 5 million CFA francs per customer and the origin of the funds invested by them in manual exchange is questionable. Apart from the "high impact" operation carried out by the Ministry of Finance in 2015 in collaboration with law enforcement officers, no recent action has been taken to combat currency exchange and clandestine transfers, despite the significance of these activities.<sup>26</sup>

**314. Mobile phone companies,** distributors of electronic money under the former Regulation No. 01/11/ CEMAC/UMAC/CM of 18 September 2011 relating to the exercise of the activity of electronic money issuance, had a period of 12 months from 1 January 2019<sup>27</sup> to apply for approval as payment institution. More than 3 (three) years after this deadline set by the new community instrument governing payment services, only 1 (one) of the 3 (three) entities operating in Gabon has initiated the compliance procedure with a file under investigation at COBAC. The companies continue to operate without authorization and combine their legal personality with that of mobile telephone companies.

**315.** In addition, **international money and value transfer companies** have not established themselves as national legal entities and continue to operate in Gabon without authorization, on the basis of partnership contracts with local commercial banks, in disregard of the provisions of the 2018 Payment Services Regulations and the 2016 AML/CFT Regulations.

**316.** Lastly, the absence of regulations on the conditions of exercise of VAS and VASPs could encourage the development of informal activity with AML/CFT risks.

### ***Designated Non-Financial Businesses and Professions***

**317. Precious metals and stones companies:** Research and mining, possession, holding, transport, storage, processing, transformation and marketing of precious substances are subject to an authorization issued by order of the minister in charge of mines, for a renewable period of two years. The export of precious substances is subject to the issue of a certificate of origin by the government service in charge of mines. However, due diligence is limited to technical risks and environmental impact assessment. There is no effective collaboration with ANIF or ANPI to check the origin of the capital invested, the good repute of foreign promoters and the BOs of these companies during the issuance authorizations. The actions

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<sup>26</sup> The high impact operation had identified more than 250 entities operating in the currency exchange and transfer business without authorization. Measures were taken to help them comply with regulations. A file for repeat offenders was forwarded to judicial authorities for carrying out banking activities without a licence within the meaning of the 1990 convention on the harmonization of banking activities in the CEMAC zone. Since then, the recommendations of this operation have not been a priority for the various authorities. No recent measures against currency exchange and clandestine transfer activities have been recorded.

<sup>27</sup> Article 83 et seq. of the 2018 Regulation on payment services in CEMAC, which repealed Regulation No. 01/11/CEMAC/UMAC/CM of 18 September 2011 on the exercise of the activity of electronic money issuance.

and means required to detect actors operating illegally in the mining sector, mainly in the border areas of the country, are limited and insufficient.

**318. Casinos and gaming establishments:** Depending on the nature of the games, the Ministry of Interior issues licences or authorizations. Under this procedure, emphasis is placed on verifying the integrity of the promoters through character checks. However, no provision is made for verifying the origin of funds and the BOs of gaming establishments.

**319. Real estate:** The practice of real estate agent or broker is subject to the approval of the ministry in charge of housing, which verifies, among other things, the identification of promoters and their good character by requiring an extract from the judicial record. No control is carried out on the origin of funds and the BOs. The files are examined by a commission in which the profession is represented. The irregular holding of meetings of this commission delays the compliance process of some real estate agents whose approval files are pending. The amount of the deposit required in the licensing procedure is considered high by some brokers. All these vulnerabilities also lead to the development of informal activities, with risks of ML/TF, against which the authorities' measures and means of detection and fight remain very limited.

**320. Chartered Accountants:** To practise as a liberal professional, the chartered accountant must obtain an authorization in accordance with the CEMAC Regulation and be registered with the National Order of Chartered Accountants. The due diligence carried out by community and national authorities (ONEC) to control access to the profession concerns, among other things, good character and incompatibilities to guarantee the credibility of the profession. However, no cases of refusal, rejection or sanctions were reported before or during the on-site visit. This could cast doubt on the effectiveness of the verification procedures, especially as this is a fairly important sector of the Gabonese economy.

**321. Lawyers:** Access to the profession is based on a competitive examination organized by the Ministry of Justice in collaboration with the Bar Association. A criminal record is required as part of the application process to ensure the probity of pupils. The Bar Association also has a code of ethics and professional conduct and sanctions are imposed in the event of failure to comply with the rules of the code. These disciplinary measures aim to ensure the good moral standing of members. However, the impact of these disciplinary measures remains low as the Bar does not make AML/CFT a priority in its deployment plans.

**322. Notaries:** At end 2021, Gabon had 16 (sixteen) notary firms and 15 (fifteen) practising notaries. The Chamber of Notaries has a code of ethics that provides for probity measures in the profession. However, this association has no power to control probity in the profession, insofar as notary offices are created and attributed by the Ministry of Justice in a unilateral manner without any measure to control the integrity of future notaries. Notaries do not apply vigilance measures in their operations in Gabon, which constitutes a major vulnerability in view of their involvement in cash transactions, particularly for real estate operations.

### 6.2.2 Supervisors' understanding and identification of ML/TF risks

**323.** In general, Gabon's failure to complete the NRA is a shortcoming in the understanding of risks by supervisors, as is the lack of regulation of VAS and VASPs.

#### *Financial sector*

**324. COBAC:** Initially, in Gabon, the scope of COBAC's AML/CFT supervision was limited to credit institutions and MFIs. The adoption of the new community instruments from 2018 has broadened its scope of AML/CFT supervision to include payment institutions and foreign exchange bureaus.

**325.** During the on-site visit, COBAC had not yet developed an AML/CFT risk map by sector of activity and by entity in Gabon. It did not present or document a classification of entities by risk level, which could be updated with the emergence of new risks relating to the development of innovative financial activities. Nevertheless, COBAC has operational tools that allow it to have an overall continuous understanding of the ML/TF risks to which Gabon's financial sector is exposed, and to ensure that the said institutions, especially credit institutions, implement their AML/CFT due diligence in an appropriate manner.

**326.** In fact, as part of AML/CFT supervision, COBAC has developed a permanent control and self-assessment tool, which is a questionnaire called ASTROLAB<sup>28</sup> administered to reporting entities, notably banks and MFIs. The information provided or declared is, from the CERBER<sup>29</sup> and SESAME<sup>30</sup> reporting channel, transmitted to COBAC which analyses it to assess the adequacy and implementation of the AML/CFT system by these reporting entities. To further improve the understanding of ML/TF risks, COBAC has integrated into its documentary control system the "SYSCO" rating system for credit institutions, which allows the Permanent Control Department (DCP) of the COBAC Secretariat General to rate an institution according to its risk profile. On the basis of the findings of the ASTROLAB questionnaire and on-site inspections that include AML/CFT aspects, the rating includes an assessment of the quality of governance and internal control relating to the implementation of AML/CFT due diligence as provided for by the reference regulation.

**327.** In the same light, new reporting modalities have been laid down, in particular communication to the Secretariat General of COBAC, at least once a year, of the crisis simulation on the most significant risks, including AML/CFT risk. This new dimension of reporting on overall risk management has led to a higher level of understanding of ML/TF risk. However, it should be emphasised that this new reporting system was not yet effective for all CIs during the on-site visit. Technical constraints (internet coverage, power supply) and financial costs relating to operationalization impede the effectiveness of the reporting.

**328.** On the basis of these tools, COBAC presented several reports describing the ML/TF risk factors to which the financial sector (of CEMAC countries including Gabon) is exposed

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<sup>28</sup> Questionnaire on Assistance to Surveillance, Treatment and Organization Anti-Money Laundering abbreviated to "ASTROLAB", administered by COBAC since 2006.

<sup>29</sup> System for collection, exploitation and restitution to the banks of the regulated States. It is a dematerialized system, with interfaces between COBAC and reporting entities.

<sup>30</sup> Microfinance activities assessment and supervision system.

and took or envisaged mitigation measures. For example, it allowed COBAC to draw up a list of the main AML/CFT deficiencies observed in credit and microfinance institutions.

**329.** However, these reporting and continuous understanding tools do not cover all the AML/CFT obligations to which the reporting entities in the major sectors are subject, and only address the 5 (five) areas of analysis in a limited manner: know your customers, management of occasional customers, monitoring obligations, reporting obligations, organizational compliance and internal control. In addition, the findings and recommendations resulting from the use of the data are general and require a more detailed classification by country, sector of activity or type of product. Furthermore, COBAC's AML/CFT reporting system is essentially based on the 2005 Regulation, which is now outdated in the light of FATF standards and regulatory developments at CEMAC, which have entrusted COBAC with the supervision of foreign exchange bureaus and payment institutions, whose activity is growing exponentially in Gabon. Also, the allocation of new missions to COBAC has not been accompanied by a strengthening of the institution's staff, which dropped from 70 to 69 between 2020 and 2022. Failure to factor all national risk elements limits the level of understanding of ML/TF risks. Moreover, the assignment of new missions to COBAC was not immediately accompanied by a reorganization of control strategies and a strengthening of monitoring tools and techniques adapted to the specificities of these new activities. Thus, in a context of increasing costs, the reduction or stagnation of the institution's staff (from 70 to 69 between 2020 and 2022) without appropriate technical compensation measures can only limit the level of understanding of ML/TF risks.

**330. CIMA: CRCA** has not yet developed a risk map of the insurance and reinsurance companies operating in Gabon in general, and AML/CFT in particular. CIMA has not presented the evaluators with a desk and on-site analysis report presenting the main ML/TF risks observed or identified. Similarly, training in insurance schools does not include specific modules on AML/CFT, but on governance in general. Furthermore, the analysis of the annual AML/CFT reports submitted by insurance companies is not thorough and the audits only briefly address these aspects. All these shortcomings considerably limit CIMA's ability to have a good understanding of ML/TF risks in the insurance sector in Gabon.

**331. Ministry of Economy and Recovery:** Apart from participating in the ongoing NRA, the Ministry of Economy and Recovery has not demonstrated any tools developed or action taken to understand the ML/TF risks faced by Gabon's financial sector. Administrative controls of MFIs and foreign exchange bureaus are essentially limited to licensing checks. No AML/CFT controls of insurance intermediaries have been initiated by DNA.

Furthermore, the annual AML/CFT reports submitted to DNA are not of high quality, as most insurance companies have a limited understanding of their AML/CFT obligations. In addition, the reports received are poorly utilized by the supervisors who need capacity building in this area. DIF and DNA do not have sufficient resources to perform their duties and guarantee the operational independence of controllers. It is strongly suggested that a body of auditors be established with the necessary resources. In the insurance sector in particular, a clear

mechanism for the use of funds received from companies should be defined in order to allocate substantial resources to control activities. All these shortcomings limit the overall level of understanding of ML/TF risks by supervisors.

**332. COSUMAF:** In the absence of a real AML/CFT monitoring system, COSUMAF's assessment of ML/TF risks remains deficient. It has no specific procedure for monitoring compliance with AML/CFT standards. Documentary and on-site inspections are mainly dedicated to operational risks.

**333.** Moreover, since the merger of the CEMAC financial markets in June 2019, this sector of activity has promising prospects in Gabon. In this respect, COSUMAF is planning to increase the number and capacity of its AML/CFT supervisors. In conjunction with COBAC, GABAC and BEAC, it has also initiated actions to harmonize its organic instruments and lay down mechanisms for co-regulation of the activities of VAS and VASPs.

#### *DNFBPs sector*

**334.** No mechanism for ongoing understanding of AML/CFT risks has been identified in the DNFBPs sector due to the absence of a dedicated national supervisory authority(ies).

### **6.2.3 Risk-based supervision of compliance with AML/CFT requirements**

#### *Supervision of financial institutions*

**335. At the level of COBAC,** the list of institutions to be audited during a financial year is established on the basis of various criteria and information drawn from the ongoing monitoring of reporting institutions. The selection criteria used included the rating given by the SYSCO II tool,<sup>31</sup> information and assessments from CERBER and SESAME reporting, correspondence and interviews with reporting entities, annual reports on internal control, and the length of time since the previous audit, etc. In general, priority is given to reporting entities whose vulnerability was proven, to those that presented risks likely to deteriorate their financial situation in the short or medium term, or to those for which specific instructions were given by the Banking Commission.<sup>32</sup> The AML/CFT component is an integral part of the various risks and vulnerabilities mentioned above. However, significant efforts remain to be made by COBAC in the application of the risk-based approach, insofar as the reporting or analysis tools have not yet integrated the particularities of innovative financial activities and the inherent risks. That aside, COBAC has not yet developed a ML/TF risks map by sector of activity and by entity in Gabon, which can be updated on a permanent basis.

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<sup>31</sup> The SYSCO3 rating system, which dedicates a whole block of its criteria, is currently being implemented. Initially scheduled for 31 March 2022, the end date has been shifted to extend the testing period of the solution integrated in the SPECTRA platform.

<sup>32</sup> These determinants are made by the COBAC's on-the-spot and permanent control departments on the basis of the analysis of ASTROLAB reports and on-the-spot control reports, although these mechanisms still have many shortcomings, as mentioned in point 97.

**Table 6.1: Summary of the number of missions carried out by COBAC in relation to AML/CFT in Gabon between 2016 and September 2021, by type of mission and category of institution**

Tableau 11: Summary of the number of missions carried out by COBAC in relation to AML/CFT in Gabon between 2016 and September 2021, by type of mission and category of institution

Types of missions and categories of institutions	2016	2017	2018	2019	2020	2021	TOTAL
Targeted or thematic AML/CFT/internal management/external knowledge/compliance with foreign exchange regulations	0	5	4	9	2	7	27
Credit institutions (CIs)		4	4	9	2	7	26
Microfinance institutions (MFIs)		1					1
General check	1	0	0	0	1	1	3
Credit institutions (CIs)	-	-	-	-	-	1	1
Microfinance institutions (MFIs)	1	-	-	-	1	-	2
Number of missions in Gabon addressing AML/CFT	1	5	4	9	3	8	30

Source: COBAC/Our analyses

**336.** In Gabon, COBAC has not yet carried out thematic missions exclusively dedicated to AML/CFT. However, AML/CFT aspects are taken into account during general audits and thematic missions. Thus, between 2017 and 2021, COBAC carried out 27 thematic AML/CFT audits, including internal control, risk management, external assets and compliance with the new foreign exchange regulations of 2017. This choice is undoubtedly guided by the alerts generated by the document-based analysis system based on the SYSCO I analysis tool. However, SYSCO I, which was being migrated at the time of the on-site visit, has limitations in terms of applying the risk-based approach as defined by FATF. Consequently, the choice of thematic missions carried out by COBAC between 2019 and 2021 in Gabon is not based on an in-depth analysis of AML/CFT risks, but rather on the economic issues relating to the reconstitution of the country's foreign exchange reserves, which consequently include AML/CFT aspects.

**337.** At the level of the banking institutions with the highest weight in Gabon's financial sector, COBAC programs controls on the basis of an analysis of the data communicated from the permanent control self-assessment tools. These controls show, among other things, that the number of bank staff dedicated to the implementation of the new foreign exchange regulations appears insufficient. Furthermore, the staff members do not have appropriate training BEAC's new reporting system, which results in inadequate information being provided in the reports. Banks' operational procedures have been partially updated but are not exhaustive. The internal control and risk management systems inherent in international operations appear to be perfectible. Similarly, risk-based approach mechanisms have not yet

been adapted to the specificities of other ML/TF moderate and high-risk sectors, such as the foreign exchange and mobile payment sectors, whose activity has grown exceptionally in recent years.

**338.** In terms of intensity, it should be noted that out of a total of 218 supervisory missions carried out by COBAC in CEMAC countries between 2016 and 2021, 44, or 20%, were carried out in Gabon. Of these 44 missions, 30, or 68%, dealt with at least one AML/CFT issue. The missions were carried out at 10 CIs. In particular, the audits conducted in 2019 showed that AML/CFT due diligence is insufficiently implemented. In addition, the survey missions found that the commercial documentation was incomplete, resulting in serious KYC shortcomings in the files examined, including trade finance and sales of foreign currency to exchange bureaus. Inadequate controls in the microfinance sector could make this sector a gateway to ML/TF.

**339. In the case of CIMA,** the breakdown of auditors is not by country. CRCA has 16 supervisors for 190 companies and 7 reinsurers located in 14 Member States. Each company receives an average of one audit every four years and Gabon has 10 insurance companies. No thematic AML/CFT audits have been carried out on companies operating in Gabon. The general audits deal very vaguely and briefly with a few issues relating to the implementation of the internal compliance and AML/CFT system without verifying its operationality. Lastly, annual audit programmes are not drawn up on the basis of knowledge of AML/CFT risks, but on the basis of solvency indicators obtained from analysis of annual reports submitted by companies or at the request of the authorities.

**340. COSUMAF** has not yet integrated the AML/CFT risk-based approach into its supervision, although financial market activity is small in Gabon (one stock exchange company).

**341. At national level,** controls by the National Monetary Authority and DNA do not take into account AML/CFT aspects.

**342.** Lastly, the lack of regulation of VAS and VASPs results in the absence of a regulatory and supervisory authority for these activities.

### *Supervision of DNFBPs*

**343.** DNFBPs as a whole do not have designated authorities to supervise their AML/CFT obligations, which does not allow for risk-based supervision in this area.

#### **6.2.4 Remedial actions and effective, proportionate and dissuasive sanctions applied**

**344.** COBAC has already had to impose reprimands and injunctions for AML/CFT failures observed during its inspections in Gabon. These sanctions are materialized by decisions that are notified to various authorities and professional associations to enhance their pedagogical nature.

**345. Regarding reprimands, between 2016 and 2021, COBAC issued 8 reprimands following AML/CFT violations observed in institutions. In terms of their scope, the reprimands were issued against 2 directors-general, 2 deputy directors-general, 2 institutions and 2 chairpersons of boards of directors. They were reprimanded for failures in the obligation of vigilance on transactions as provided for by COBAC R- 2005/01 and the absence of reasons for the operations. The sanctions were materialized by 8 COBAC Decisions notified to the Management of the institution and to the Monetary Authority of the Gabonese Republic, with copy to the BEAC National Directorate of Gabon, the Federation of the Professional Association of Credit Institutions (FAPEC) and the Professional Association of Credit Institutions of Gabon (APEC Gabon). In terms of intensity, the sanctions represent 16% of the 50 reprimands for AML/CFT violations issued by COBAC for all CEMAC countries during the period under review. It should be noted, however, that these reprimands were all issued in 2018. No AML/CFT-related sanctions were issued in 2016, 2017, 2019, 2020 and 2021 against institutions in Gabon.**

**346. For injunctions,** the table above presents the typology of injunctions issued for AML/CFT violations against credit institutions in Gabon between 2016 and 2021. The main reasons for the injunction are: failure to identify the originator customers and the beneficiaries, as well as reasons for the transfers; failure to carry out compliance checks on funds received on behalf of customers as part of AML/CFT; absence of account opening files for some correspondents; and lack of a clear definition in procedures of the roles and due diligence to be performed in the monitoring of operations in connection with the AML/CFT system.

**Table 6.2: Typology of injunctions issued by COBAC against reporting institutions and their managers based in Gabon for at least one AML/CFT violation between 2016 and 2021**

Table 12: Typology of injunctions issued by COBAC against reporting institutions and their managers based in Gabon for at least one AML/CFT violation between 2016 and 2021

Type of injunction issued in relation to AML/CFT	2016	2017	2018	2019	2020	2021	TOTAL
With payment of penalty	-	-	-	5	-	-	5
Without payment of penalty	-	1	-	-	-	-	1
<b>Total sanctions relating to AML/CFT</b>		<b>1</b>		<b>5</b>			<b>6</b>

Source: COBAC/Our analyses

**347.** However, these sanctions are not proportional and not sufficiently dissuasive insofar as, out of 30 AML/CFT-related inspections carried out between 2016 and 2021, only the inspections of 2017 and 2019 resulted in the pronouncement of sanctions, i.e. less than 34% of the inspections, even though the related reports mention major shortcomings and vulnerabilities observed during inspections. This low rate of findings calls for building of auditors' capacity to handle AML/CFT issues. Furthermore, in view of the seriousness of the breaches described above, the sanctions appear to be lenient, no doubt because COBAC still prefers a pedagogic approach. Moreover, the scope of the sanctions is limited because they



were pronounced only against some credit institutions. No sanctions were pronounced in the MFI sector, which was nevertheless the subject of three AML/CFT-related inspections over the period 2016-2021. The other sectors were not controlled by COBAC for more than five years.

**348. Regarding the other financial sector supervisors (CIMA, COSUMAF, DNA, DIF),** no sanctions (injunctions, reprimands or fines) relating to AML/CFT imposed before or during the on-site visit were communicated to the evaluation mission.

**349.** As VAS and VASPs are not regulated or supervised, no sanctions were imposed.

**350. For all DNFBPs,** the mission noted a total absence of sanctions for non-compliance with AML/CFT obligations. This situation actually reflects the absence of designated competent authorities for the various categories<sup>33</sup> of DNFBPs.

### **6.2.5 Impact of supervisory actions on compliance**

**351.** Generally, the impact of the supervisors' actions on the level of compliance of FIs and DNFBPs is not measurable in the absence of accurate information and data from an impact assessment.

**352.** Nevertheless, the assessment found that banks and microfinance institutions are progressively improving their compliance levels, mainly due to the requirements linked to their openness to the outside world, notably the correspondent relationships for banks, and the strong interrelationships they establish with banks for MFIs. This improvement could also be attributed to COBAC's controls, though limited.

**353.** For other financial institutions and DNFBPs in general, the ineffective controls for some and the absence of supervision for others are not such as to create conditions that would make it possible to have any impact on the level of AML/CFT compliance of these various entities.

**354.** As VAS and VASPs are not regulated and supervised, there are no supervisory actions that could have an impact on compliance in relation to these activities.

### **6.2.6 Promoting a clear understanding of AML/CFT obligations and ML/TF risks by financial institutions, DNFBPs and VASPs**

**355. In the financial sector,** supervisors use a variety of means to promote, to some extent, players' good understanding of their AML/CFT obligations. In addition to the websites where regulatory instruments or documents to be submitted for approval could be found,

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<sup>33</sup> The 2021 Decree to lay down the organization and functioning of the Higher Gaming Commission does not expressly include AML/CFT control as part of its duties. Moreover, this body is not yet operational and has no real power of sanction.

awareness-raising activities are organized. COBAC organizes annual consultation meetings with the banking profession to present the findings of the ASTROLAB self-assessment and the colleges of supervisors of major financial groups with subsidiaries in Gabon. ANIF and GABAC are making commendable efforts to meet with the main AML/CFT stakeholders and involve them in the seminars and workshops organized on the subject. Professional associations (APEMG, APEC, FEGASA) do not make AML/CFT awareness-raising a priority.

**356.** Furthermore, Gabonese authorities have not issued guidelines for the various categories of reporting entities (including VASs or VASPs) to promote and ensure a good understanding of their AML/CFT obligations and the ML/TF risks to which their activities are exposed. Training activities in this area are also infrequent and need to be strengthened, as does the support of specialized bodies like GABAC.

**357. In the DNFBPs sector,** with the exception of ONEC, which produced a document to raise its members' awareness of their record-keeping obligation, the other SRBs and various administrative supervisory bodies have not taken any initiative to promote a proper understanding of AML/CFT obligations among their members or reporting entities.

#### ***Overall Conclusion on IO 3***

**358.** There are major shortcomings in the supervision of the major sectors in Gabon.

**359.** At the level of financial institutions, the frequency, scope and effectiveness of AML/CFT controls and sanctions are limited for banking institutions, MFIs and manual foreign exchange operators, which are very significant sectors, and extremely weak or even non-existent in moderate sectors such as insurance and payment services. Moreover, with the exception of COBAC, which has tools to allow a limited understanding of ML/TF risks in the monitoring of banking institutions and, to a lesser extent, MFIs, the understanding of risks in other significant sectors under its responsibility or that of other regulators remains embryonic. In addition, there is generally still a major need for improvement in the application of the risk-based approach and in raising awareness of AML/CFT issues.

**360.** DNFBPs are not subject to an AML/CFT regulatory authority, while significant sectors such as real estate agents and dealers in precious stones and metals, which play an important role in the development and creation of national wealth in Gabon, face fierce competition from informal activity that generates high ML/TF risks.

***Gabon is rated as having a low level of effectiveness for IO 3.***

## 7. LEGAL PERSONS AND ARRANGEMENTS

### 7.1. Key findings and recommendations

#### *Key findings*

- (a) There is a general identification obligation for all commercial companies established in Gabon through the requirement to register with TPPCR. This formality is a first step in combating the misuse of companies for money laundering and terrorist financing purposes. However, compliance with this identification obligation remains a challenge in the absence of appropriate controls. No information was provided on the registration requirement for SCIs.
- (b) Information on the establishment and/or modification of legal persons under OHADA is recorded and centralized at ANPI. However, the updates provided for in the event of changes in the situation of legal persons in accordance with the requirements of the Uniform Act are not always carried out, although penalties are provided for in the event of non-compliance. No sanctions have been imposed. To date, there is no national file. There are no clear mechanisms for identifying and collecting information on the beneficial owners of legal persons in Gabon.
- (c) The creation of NGOs, associations and other types of legal persons follows procedures that also allow access to basic information on founders, officials or managers. However, there is no evidence to assess the periodicity and scope of the controls carried out by supervisory institutions on their activities.
- (d) Gabon has not yet finalized its NRA. The competent authorities as a whole have demonstrated a very limited understanding of the ML/TF risks associated with companies and associations.
- (e) In relation to ML/TF investigations, the competent intelligence, control and/or prosecution authorities can access basic information on legal persons upon request to ANPI, to the extent that it is available. However, they are more likely to resort to information held by banking reporting entities or, to a lesser extent, by ANIF for purposes of speed and update.

#### *Recommendations*

##### **Gabonese authorities should:**

1. Conduct a specific study of the risks of misuse of legal persons and arrangements for ML/TF purposes with a view to proposing measures to mitigate these risks and disseminate the findings to all relevant authorities and private sector players to improve their understanding of the risks;
2. Establish a mechanism for identifying, collecting and keeping records on the identity of the beneficial owners of legal persons at the time of their establishment and amendment of their articles of association; ensure that the information is regularly updated and sanction any failure to comply with this obligation, as appropriate;
3. Enhance the knowledge and understanding of FIs and DNFBPs on the concept of BO to

ensure that these entities have accurate and up-to-date information useable by the competent authorities in the event of a requisition or request for information;

4. Ensure that legal persons systematically report any changes in their situation. They should also keep an up-to-date register of their shareholders, partners, members, representatives and beneficial owners for the purpose of verifying the accuracy of information on legal ownership and beneficial owners and make it available to the competent authorities in a timely manner;
5. Raise awareness among competent authorities, especially those involved in the incorporation of legal persons and arrangements, of the ML/TF risks to which they are exposed and build their capacity to obtain the fullest range of information in accordance with Recommendations 24 and 25;
6. Establish a consolidated computerization system for legal persons and NPOs, to ensure better preservation and speed in the exchange of information and strengthen controls over their activities;
7. Provide for and ensure the effective implementation of sanctions against legal persons for failure to comply with information and transparency obligations and produce the relevant statistics.

**361.** The Immediate Outcome relevant to this chapter is IO 5. The Recommendations relevant to the assessment of effectiveness in this section are R 24, R 25 and some elements of R1, 10, 37 and 40.<sup>34</sup>

## **7.2. Immediate Outcome 5 (legal persons and arrangements)**

### **7.2.1. Public availability of information on the creation and types of legal persons and arrangements**

**362.** Information on the types of legal persons existing in Gabon is available on OHADA's official website and on the ANPI website, that can be directly consulted by the public. However, the procedure for registering SCIs in Gabon has not been provided. In addition, there are no other forms of companies created under specific national laws.

**363.** ANPI has an official website where information on the forms of commercial companies created, as well as the conditions and procedures for their creation, are listed. This information is available free of charge to the public, who can either consult it directly online or send a request to ANPI.

**364.** There are other types of legal persons in Gabon, notably associations governed by Law No. 035/62 of 10 December 1962 on associations, which lays down the procedures for their creation. The creation of local associations is authorized by the Ministry of the Interior. Foreign associations operate exclusively with the authorization of the President of the Republic.

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<sup>34</sup> The availability of accurate and timely basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the conclusions may differ due to differences in methodologies, objectives and scope of the respective FATF and Global Forum standards.

**365.** The procedures for creating associations and NGOs are described in the above-mentioned Law No. 035/62 of 10 December 1962 and are accessible to all. The public can either consult the Official Gazette of the Republic or approach the competent authorities responsible for supervision of these legal persons to obtain this information.

**366.** Gabon has not ratified the Hague Convention of 1 July 1985 and does not have legislation specifically applicable to trusts and their recognition. However, the Gabonese legal system does not prohibit trusts established abroad from operating or being administered on its territory. Similarly, members of some independent legal professions, such as notaries, may manage assets on behalf of a trust established abroad without any obstacle. Following the same logic, assets located in Gabon can be managed by a trust established abroad. However, the competent authorities and other actors interviewed did not provide any information on the procedures for the creation and types of trusts and similar legal arrangements, nor on the conditions of access to such information.

#### **7.2.2. Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal persons**

**367.** The NRA process launched in Gabon is not complete. The embryonic information obtained by the evaluation team does not provide any information on the level of vulnerability and risk of misuse of commercial companies for ML/TF purposes. The same is true for the risk of misuse of NPOs for ML/TF purposes. It should also be noted that the World Bank tool used in the NRA only provides for assessment of the variable "availability of and access to information on beneficial owners" in some of its sections. As a result, the NRA in its current state does not offer an in-depth analysis of scenarios for the use of legal persons for ML/TF purposes.

**368.** There are no mechanisms in Gabon to prevent associations and NGOs from being used for criminal purposes. The approval procedures as described by the competent authorities do not pay particular attention to the beneficial owners or the sources of funding. The same applies to foreign associations and NGOs.

**369.** The authorities responsible for establishing and collecting information on companies have a very limited understanding of the risks to which these companies are exposed. They merely carry out the formalities of company formation without applying due diligence measures and have no power to identify the BO.

**370.** There is no express obligation to identify the real owners of legal persons beforehand. This does not allow Gabon to effectively ensure the transparency of legal persons and contributes to the very low awareness of the competent authorities of the vulnerabilities inherent in the use of legal persons for ML/TF purposes.

**371.** In general, competent authorities have a very limited understanding of the risks associated with the misuse of legal persons for ML/TF purposes. In the same vein, it should be noted that some actors such as financial audit firms (subsidiaries of large international groups) have the capacity and the tools to identify BOs. However, they are not systematically solicited by the competent authorities, who are more comfortable using the information held by banks and ANIF.

**372.** The prosecuting authorities specializing in counter-terrorism are aware of the vulnerabilities of the diversion of legal persons for TF purposes, although they have not carried out any assessment of the TF risks associated with the different forms of legal persons. These authorities stated their desire to continue to pay particular attention to the issue. However, to date, no sanction has been pronounced against a legal person in connection with the TF.

### **7.2.3. Mitigating measures to prevent the misuse of legal persons and arrangements**

**373.** All companies, regardless of their form, are subject to registration with TPPCR in accordance with the provisions of AUDCG and AUSCGIE applicable in Gabon. Implementation of this requirement is a first step in mechanisms to prevent the use of legal persons for criminal purposes. However, there are limits to the effectiveness of this registration system. Indeed, there are no effective registration control mechanisms. Nevertheless, the penalties provided for in the Penal Code (Sections 348 to 379) seem proportionate. However, the non-application of these sanctions does not make it possible to measure their dissuasiveness. Notaries are involved in the creation process, particularly with regard to the authentication of private deeds. However, this is not a full guarantee of the truthfulness of the information transmitted, especially as not all companies are concerned (excluding LLC).

**374.** Information on the creation of some legal persons, particularly commercial companies, is collected and registered at ANPI's One-Stop Shop in each province. The information is then centralized and stored at the national headquarters ANPI. The same applies to amendment procedures. However, information on companies created before the start of ANPI's activities is not really consolidated and accessible. Furthermore, there is no mechanism to ensure that major changes in companies are reported to TPPCR in a timely manner, even though this is an AUDCG requirement. Employees of the One-Stop Shop have no tool to verify the information provided during registration.

**375.** ANPI's One-Stop Shop only has information on the identity of promoters when business creation files are submitted. The current business creation formalities do not allow information on the beneficial owners to be obtained. Moreover, simplification of procedures for the creation of a certain category of legal persons (LLC) excludes the intervention of notaries. The checks carried out by employees of the One-Stop-Shop essentially concern the items in the file and the articles of association to be sure of the form and category of the legal person to be created. The intervention of notaries could have reinforced the reliability of the information collected. However, notaries do not have a good understanding of their AML/CFT obligations to ensure the quality of the information collected and the identity of BOs.

**376.** In the creation of companies, ANPI's One-Stop Shop checks the following items: the criminal record, the sworn statement, the promoter's identification form and the residence permit for foreign nationals. The One-Stop Shop may reject a company creation project where the file is incomplete, where the documents sent are illegible or where one of the essential conditions required by the UA is not met.

**377.** The administrative formalities required at the One-Stop Shop could have made it easier to ensure that the legal person cannot be used for ML/TF purposes. However, the authorities met did not demonstrate that other measures or mechanisms are in place and implemented to ensure the transparency of legal persons and legal arrangements, from their creation to their dissolution, in order to prevent their use for ML/FT purposes, such as: justification of the origin and use of funds, full identification of members and managers, the requirement to declare beneficial owners, character checks, and production of supporting documents.

**378.** The registry of the commercial court intervenes as a last resort. It simply checks whether the required documents were collected by the One-Stop Shop before registering the company in the computerized company register.

**379.** Production of a criminal record is a requirement for the creation of any legal person. The purpose of this document is to check that the applicant is not under any criminal sanctions or disqualification or ineligibility. Production of a criminal record is mandatory for the directors, promoters, managers and partners of the legal person to be created. This obligation does not apply to BOs. It should be pointed out that the said criminal record is not computerized, so that it is difficult to obtain up-to-date information on an individual quickly at the time the criminal record is drawn up. Furthermore, the mechanism for checking the criminal records of foreigners who wish to register or create a legal person in Gabon is almost non-existent.

**380.** The creation of foreign companies (subsidiaries or branches) does not follow a specific or separate procedure from that of local companies. No specific authorization is required at the time of incorporation. There are difficulties in the identification of the BOs of such companies due to the absence of an appropriate mechanism.

**381.** The tax administration has representatives at ANPI's One-Stop Shop and at its provincial branches. The representations carry out the registration of taxpayers when legal persons are created. Also, legal persons are required to report any changes, particularly those of the managers. The tax administration is limited to collecting basic information and is not interested in the issue of BO.

#### **7.2.4. Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons**

**382.** All basic information on the creation of legal persons is centralized and available at ANPI headquarters. Authorities that need information contained in the TPPCR send requests to the One-Stop-Shop, which holds the records of all TPPCRs in the country since the effective start of its activities. The access granted to the requesting authority allows it to consult all the information collected at the time of creation. By virtue of their powers, ANIF and the prosecuting authorities can easily access the information in a timely manner. The information may be available for companies created before ANPI's One-Stop Shop is effectively operational. Furthermore, the information available is sometimes incomplete and/or not up-to-date. There is also no appropriate mechanism to verify the accuracy of the information provided, just as no statistics were provided on the timeframe in which the information is made available to the authorities and/or ANIF.

**383.** Apart from the Customs services, the tax authorities have not signed any agreement to facilitate access to any information they may hold. Access to information, even for intelligence authorities, is subject to prior authorization. In the opinion of the authorities, the time taken to process these access authorizations can generally be long. No statistics were provided on processing times.

**384.** In practice, the competent authorities rarely use information from TPPCR in their AML/CFT activities. They are more comfortable using information from banking reporting entities or, to a lesser extent, from ANIF. According to these authorities, information from these sources is more appropriate and up-to-date than the basic information held TPPCR.

**385.** The competent authorities find it difficult to access information on beneficial owners, especially as there is no formal mechanism in Gabon for collecting, storing, updating and communicating such information. Subsidiaries of large financial audit and consulting firms have the capacity to identify BOs at the time of entering into a business relationship. However, these sources are very rarely solicited during investigations for ML/TF.

**386.** During ML/TF proceedings, investigative and prosecuting authorities may, upon request, obtain available and up-to-date basic information on legal persons from some FIs and from ANPI. ANIF has direct access to this information, upon request and in a timely manner, in the processing of STRs. Some players like financial audit firms (subsidiaries of large international groups) have the capacity and tools to identify BOs. However, they are not systematically solicited or involved in ML/TF matters.

**387.** International cooperation on the identification and exchange of information on legal persons and legal arrangements is generally weak, except for exchange of information on the transparency of legal persons for tax purposes, which is more developed and intense. However, no statistics were provided on the exchange of information on legal persons.

#### **7.2.5. Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements**

**388.** Trusts and similar legal arrangements are not formally recognized under Gabonese law. Nevertheless, there are no restrictions on foreign trusts operating in Gabon and/or on domestic professionals providing the same services to foreign trusts.

**389.** Liberal professionals as well as the competent authorities in the country stated that the use of trusts is almost non-existent. This approach is shared by some private sector players who mentioned a scarcity of trusts and similar legal arrangements in business relationships. In any case, there is no appropriate mechanism for competent authorities to obtain information on players involved in incorporating and operating trusts, due to the significant informal economic activities.

**390.** There is no data on the existence of local trusts and other legal arrangements or foreign trust service providers. Similarly, the latter are also not subject to any legal reporting obligations, if any.

**391.** The existing legal mechanisms for the identification of beneficial owners are insufficient to capture the beneficial ownership of legal arrangements and other similar arrangements. There is no evidence of the procedure for collecting such information. The



absence of data on the existence of local trusts and other legal arrangements or foreign trust service providers is an impediment to analysing the effectiveness of the measures in place and more broadly to noting the lack of measures taken to improve the transparency of legal arrangements.

#### **7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions**

**392.** Articles 348 to 379 of Gabon's Penal Code provide for sanctions for non-compliance with the rules on transparency of legal persons against the legal person itself and/or its officials. Other sanctions are also provided for by the same provisions where registration was obtained by fraud, where the company was irregularly incorporated, or where the obligation to register the shares was not observed.

**393.** The recurrent sanction for legal persons' failure to comply with the transparency obligations during incorporation is the rejection of the company's establishment project, if ANPI's One-Stop Shop considers that the information provided is not satisfactory or consistent.

**394.** In practice, there are no procedures to sanction legal persons who do not update information on major changes in the company or its managers. Indeed, the authorities in charge of the procedure for creating and keeping information on legal persons do not have sufficient powers to compel legal persons or their managers/partners to report new facts that lead to substantial changes within the company.

**395.** The competent authorities have not imposed any sanctions on legal persons and legal arrangements for non-compliance with the information obligations to which they are subject under the OHADA Uniform Acts. Judicial authorities have not transmitted any data on cases of deregistration of legal persons, and even less so for ML/TF-related reasons.

**396.** There is no evidence that effective, proportionate and dissuasive criminal and administrative sanctions are applied to existing legal persons in Gabon.

#### ***Overall Conclusion on IO 5***

**397.** The creation of commercial companies in Gabon is subject to general transparency obligations, including registration with the TPPCR to ensure that they are not abused for ML/TF purposes. As for NGOs and associations, the country has specific instruments that impose a certain administrative procedure on these entities. However, this approach does not fully meet the BOs transparency and identification obligations. Trusts established abroad can operate in Gabon and domestic professionals can provide the same services to foreign trusts. However, there is no mechanism to ensure transparency in this sector of activity.

**398.** Generally, there are no mechanisms in Gabon to identify the beneficial owners of legal persons and other legal arrangements.

**399.** Furthermore, the country has not carried out an assessment of the risks of misuse of legal persons for ML/TF purposes with a view to proposing mitigating measures. The same applies to NPOs.

**400.** The competent authorities do not often make use of the basic information in the TPPCR held by ANPI's One-Stop Shop in ML/TF cases. Therefore, there is no way to

ensure that this information is regularly updated and available in a timely manner.

**401.** No sanctions have been pronounced for non-compliance with transparency obligations by legal entities.

*Gabon is rated as having a low level of effectiveness for IO 5.*

## 8. INTERNATIONAL COOPERATION

### 8.1. Key findings and recommendations

#### *Key findings*

- (a) Gabon has a conventional legal and institutional framework for requesting and responding to requests for international cooperation in mutual legal assistance and extradition on ML, TF and predicate offences. However, the implementation of this framework is not active and satisfactory. Nevertheless, the groundwork has been set for informal cooperation between national competent authorities and their foreign counterparts. Procedures for prioritizing cases and their timely processing are not clearly established.
- (b) The country has a Central Authority in charge of mutual assistance and extradition in criminal matters, i.e. the Ministry in charge of Justice. However, there is no centralized filing and case management system, making it impossible to provide information on the nature and timeframe of case processing.
- (c) Complete information on the offences on which international cooperation is sought and granted, the outcome and the time taken for execution is not available, making impossible an objective assessment of the overall effectiveness of mutual assistance in Gabon and its consistency with the country's risk profile.
- (d) ANIF is a member of the Egmont Group and its cooperation with counterparts within the Group does not require the conclusion of prior agreements, although it has signed such agreements with some FIUs to facilitate exchanges. In practice, however, the use of international cooperation is marginal. Conversely, to a certain extent, ANIF received requests for information from its foreign counterparts. However, in the absence of precise information on the outcome of the processing of requests, it is not possible to assess the quality of the cooperation provided.
- (e) The Gabonese police regularly resort to international cooperation during their investigations, notably through the use of Interpol's cooperation tools and regional police-to-police handover agreements.
- (f) Gabonese Customs and Tax authorities send requests and respond to requests from their foreign counterparts through WCO and OECD tools respectively.
- (g) COBAC has cooperation agreements enabling it to exchange information on the supervision of reporting entities, including on AML/CFT aspects, with its foreign counterparts. It regularly organizes supervisory colleges for banking groups under its prudential supervision.
- (h) Overall, Gabon has several legal instruments allowing for information exchange on beneficial owners with foreign authorities. There are no restrictions on cooperation between the competent Gabonese authorities and their counterparts. However, the

shortcomings noted in IO 5 regarding the unavailability of BOs information, considerably slow down the exchange process.

### ***Recommendations***

#### **Gabon should:**

1. Systematize competent authorities' use of international mutual legal assistance and other forms of international cooperation to prosecute ML, TF and related predicate offences with foreign elements;
2. Build the capacity of investigative and prosecution authorities, specialized agencies (Customs, Tax, Wildlife and Forestry), control and supervisory authorities by providing the necessary resources and training, in order to equip them to make proactive use of international cooperation;
3. Establish mechanisms for all competent authorities in charge of AML/CFT issues to follow up on requests received and/or sent so that they are processed in a timely manner and according to procedures that provide guidance on the prioritization of cases;
4. Urge other relevant international cooperation authorities to establish a case management and archiving system to collect and maintain individual statistics on the nature of incoming and outgoing international cooperation requests, outcomes and processing times;
5. Encourage ANIF to intensify the use of international cooperation and spontaneous exchange of intelligence with its foreign counterparts by making greater use of the tools available within the Egmont Group;
6. Encourage investigative authorities to pursue and extend the use of police-to-police handover procedures with all CEMAC States and, beyond, with countries sharing the same fundamental principles, in order to simplify and facilitate the implementation of extradition measures while guaranteeing respect for the fundamental rights of wanted persons;
7. Encourage Customs, the tax administration and COBAC to continue and intensify the use of international cooperation by making greater use of the tools available within international bodies to which they are respectively affiliated, namely WCO, OECD and the Colleges of Supervisors;
8. Establish a centralized system for the collection, management and archiving of data on international cooperation. This system includes data on mutual legal assistance and extradition, basic information exchange, beneficial ownership of legal persons and all other forms of international cooperation concerning competent authorities granted and/or received by the country.

**402.** The relevant Immediate Outcome for this chapter is IO 2. This Outcome relates mainly to Recommendations R 36- 40 as well as elements of Recommendations 9, 24, 25 and 32.

#### **8.2. Immediate Outcome 2 (International Cooperation)**

**403.** Gabon's international cooperation to prosecute criminals and their assets in relation to ML, TF and predicate offences is not active, despite the country's adequate legal and

institutional framework. Comprehensive information and data to assess the effectiveness of cooperation are not satisfactorily available.

#### **8.2.1. Providing constructive and timely mutual legal assistance and extradition**

**404.** The international judicial cooperation in criminal matters (mutual legal assistance and extradition) that Gabon can provide is mainly based on international, regional, sub-regional and bilateral agreements, directly or indirectly related to AML, TF and related predicate offences, to which the country is party, as well as on the Criminal Procedure Code. In practice, requests for mutual assistance get to the country through the Ministry of Foreign Affairs. The requests received are then forwarded to the Ministry of Justice, which ensures their execution with the judicial authority. According to the established procedures, requests for mutual assistance are handled in complete confidentiality by officials subject to strict ethical rules and bound by professional secrecy. However, there are no clearly established procedures in Gabon for prioritizing the processing of mutual assistance requests, nor is there a mechanism for managing and monitoring the follow-up to international cooperation requests.

**405.** The lack of information and comprehensive data on the incoming flow of mutual assistance requests, the lack of information on the nature of the offences on which the requests are based and the timeframe within which they are executed, as well as the number of and reasons for refusals, do not allow for an overall assessment of the bulk and quality of the mutual assistance provided by Gabon, or the extent to which it is consistent with the country's risk profile.

#### **8.2.2 Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements**

**406.** The Ministry of Foreign Affairs is, as with the receipt of foreign requests, the channel for transmitting requests for mutual legal assistance requested by Gabon to foreign authorities. While such is the principle, no data or other information demonstrating the use of mutual legal assistance mechanisms to support the investigation and prosecution of ML/TF and predicate offences has been provided by the judicial authorities. Nevertheless, National Police authorities (Judicial Police Investigation Headquarters (Interpol)) provided information that Gabon has requested, to some extent, mutual legal assistance from competent foreign judicial authorities to prosecute domestic cases of ML and related predicate offences (aggravated theft, breach of trust, forgery and use of forged documents, poaching and trafficking in raw materials, embezzlement and scam) with transnational elements. This information reveals that between 5 May 2017 and 31 March 2022, fifteen (15) arrest warrants were issued by the judicial authorities and transmitted to Judicial Police authorities for dissemination. Two (2) of the warrants relate to ML offence and the others relate to predicate offences. At the time of the on-site visit, the execution of the arrest warrants showed the following results: nine (9) searches were in progress, two (2) arrests followed by extradition to Gabon, two (2) arrests followed by release for failure to transmit the extradition request in time, one (1) arrest was unsuccessful, as the person had taken refuge in his country of origin, and one (1) arrest was impossible because of death.

**407.** In a nutshell, Gabon's use of mutual legal assistance mechanisms to support the investigation and prosecution of ML/TF and predicate offences is not obvious. The country did not provide any completed cases attesting to the effective use of international mutual legal assistance mechanisms in relation to ML/TF and predicate offences.

### **8.2.3 Seeking other forms of international cooperation for AML/CFT purposes**

**408.** Gabon's ANIF is a member of the Egmont Group and has signed cooperation agreements with six (6) foreign Financial Intelligence Units. Thus, ANIF has access to information held by its counterparts to handle international cases. Information exchanges with the member units of the Egmont Group are done through Egmont Secure Web. ANIF affirmed, without providing any illustrative cases, that the information received under this cooperation allows it to enrich the suspicious transaction reports being analysed as well as its database, but also to trigger alerts regarding money laundering and terrorist financing threats.

**409.** During the on-site visit, the team noted that the police, Interpol NCB, customs and tax authorities and COBAC have cooperation tools that could enable them request information from their foreign counterparts, if necessary, to perform their respective duties. However, the evaluators were not provided with concrete cases in which cooperation was requested by these various entities or by the supervisors.

### **8.2.4. Providing other forms of international cooperation for AML/CFT purposes**

#### **ANIF**

**410.** According to ANIF's 2021 activity report, Gabon recorded seven (7) requests for information from foreign FIUs including Burkina Faso (1), Cameroon (1), Senegal (1), Syria (3) and the United States of America (1). It also recorded eight (8) information transmissions from four (4) foreign FIUs, namely Argentina, Bahamas, Luxembourg and Syria.

**411.** ANIF responded to almost all of them. It claimed that its responses were provided in a timely manner in accordance with the Egmont Group's standards. However, this statement needs to be taken with a pinch of salt given the lack of relevant illustrative data demonstrating ANIF's ability to develop informal links relevant to the conduct of its business.

#### **Customs**

**412.** Gabonese Customs maintains intra-customs cooperation to combat transnational organized crime on the basis of the agreements it has signed. As regards cooperation with the WCO, through connection to CEN (Customs Enforcement Network), they receive data on customs fraud from the BRLR/AC, in the form of information, intelligence and alerts that they use. Thus, through this platform and its intelligence service, Gabon has a significant database necessary for the collection and confidential and secure dissemination of information on seizures of currency, drugs, tobacco, intellectual property rights, etc., carried out on a global scale by customs officers and agents of other anti-fraud networks (Interpol UNODC). To this end, the Customs Intelligence Service made available to CEN COM, among other things, seizures relating to imports of prohibited medicines (30 products seized),

pesticides (153 seized), counterfeit products of some brands of soap and toothpaste, drugs (cocaine and cannabis).

### **Taxes**

**413.** Tax Administration combats tax fraud and evasion as a member of OECD, the Global Forum on Transparency and Exchange of Information for Tax Purposes, the OECD Inclusive Framework for Combating Foreign Profit Transfers, and the Tax Inspectors Without Borders Initiative for tax control. However, Gabon's tax authorities did not provide any information on whether or not there are requests from this administration to foreign services or vice versa. They stated that they formally exchange information with the Police and Customs on the basis of cooperation agreements signed with the latter, without however indicating either the international nature of this information or the area concerned. It should be noted, however, that the tax-related tasks of the Directorate General of Customs and Indirect Taxation concern control of the tax base and assessment of duties, taxes and other charges relating to goods import or export. In the absence of concrete cases of such cooperation, it remains theoretical and is considered non-existent.

### **National Police**

**414.** Gabonese Police, for their part, have been handing over suspects from police to police with their Cameroonian and Congolese counterparts. Between 10 January 2019 and 20 February 2022, the Gabonese police handed over six (6) suspects to Cameroon, two (2) suspects to Congo and two (2) others to the Democratic Republic of Congo. It received from the Congo the surrender of three (3) Gabonese suspects. The various suspects were prosecuted for aggravated theft and breach of trust, breach of trust, forgery and use of forged documents, embezzlement, rape of a minor and poaching and trafficking in raw materials. These offences fall under the category of ML predicate offences. However, although the perpetrators were arrested abroad and then transferred, no information is available on the follow-up of the investigations, nor on the outcome of the potentially laundered proceeds generated by these offences. This cooperation, which is directly linked to the country's risks, is proving to be effective only in terms of handing over suspects. This assertion is mixed judging from the 8 international arrest warrants currently being executed out of the 15 issued by Gabon between 5 May 2017 and 31 March 2022.

### **Water resources and forestry**

**415.** According to information gathered during the on-site visit and from analysis of the country's responses on effectiveness, the competent Gabonese authorities, at the level of the Ministry in charge of Water Resources and Forests, carry out permanent exchanges with their foreign counterparts within the Africa-Twix platform set up by CITES and IUCN within the COMIFAC area.

**416.** However, this cooperation is not always requested. Such is the case in the so-called "**Kevazingo scandal**" where, in 2019, a seizure of 5,200 m<sup>3</sup> of Kevazingo wood (1,190 m<sup>3</sup> in 29 20-foot containers and 4,010 m<sup>3</sup> in loose form, with an estimated value of 11,585,300 euros) was carried out by Customs officers in collaboration with those of the Water Resources

and Forestry Department. Initial investigations into the case led to the arrest of a Water Resources and Forestry official from the Port of Owendo, two Chinese nationals working for a timber company and a transit company. The case was referred to the Public Prosecutor's Office at the Court of First Instance in Libreville, and together with the judicial authorities, the Water Resources and Forestry officials sold the seized timber and the proceeds of the sale were transferred to the Treasury. However, involvement of the **CEN network** (Customs Enforcement Network) in customs cooperation could have enabled the entire chain of this illegal trafficking of protected forest species to be traced abroad. This would have made it possible to lay hands on all the perpetrators and, above all, to explore the ML aspect of this traffic by tracing the financial flows potentially generated.

## **COBAC**

**417.** COBAC has established frameworks for dialogue with the banking profession and colleges of supervisors of major financial groups operating in Gabon. In application of Principles 1216 and 1317 of the Basel Committee for Effective Banking Supervision, COBAC regularly organizes colleges of supervisors of banking groups under its prudential supervision. This aspect of international cooperation with host country supervisors has been effective since 2015.

### **8.2.5. International exchange of basic and beneficial ownership information of legal persons and arrangements**

**418.** Basic information on the types of legal entities created in Gabon is available on ANPI website and directly accessible to the public and to the competent authorities, which can exchange it with their foreign counterparts. Competent authorities find it difficult to access information on beneficial owners as there is no formal mechanism in Gabon to collect, keep, update and communicate such information (see IO 5), which limits the possibilities of information exchange between the national competent authorities and their foreign counterparts. In practice, Gabon has not demonstrated the use of assistance from foreign authorities to collect basic information on legal persons and BOs of legal persons in the context of proceedings. Similarly, no assistance or communication of related information has been provided by Gabonese authorities to their foreign counterparts.

### ***Overall Conclusion on IO 2***

**419.** Gabon has adopted a legal framework for mutual legal assistance and extradition. However, the use of mutual legal assistance in ML/TF and in predicate offences remains imperceptible. Two cases of extradition requests were registered.

**420.** Most of the competent authorities have cooperation tools at their disposal to allow them request and provide information from/to their foreign counterparts, as needed. This cooperation remains theoretical and is not materialized with the increase in practical cases that should enable the evaluation team to better appreciate it. The Kévazingo case is typical of a cooperation that needs to be perfected. However, the effectiveness of this cooperation is yet to be established.

**421.** There is no mechanism for collecting and processing statistics on international judicial

cooperation and information exchange by most competent authorities. The Ministries in charge of Foreign Affairs and Justice, which are supposed to be pioneers in this area, did not provide any relevant information to the evaluation team.

***Gabon is rated as having a low level of effectiveness for IO 2.***

## ANNEX ON TECHNICAL COMPLIANCE

### INTRODUCTION

This annex provides a detailed analysis of Gabon's level of compliance with the 40 FATF Recommendations. It does not describe the country or risk situation, but focuses on the analysis of the technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report (MER).

Where FATF obligations and national laws or regulations have remained unchanged, this report refers to the analysis carried out as part of the previous mutual evaluation conducted in 2012. The report can be consulted on the following website: [www.spagabac.org](http://www.spagabac.org)

Since the last mutual evaluation, Gabon's AML/CFT system has recorded significant legal and institutional improvements which have helped to correct the shortcomings identified, in particular with the adoption of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering and the financing of terrorism and proliferation in Central Africa, which incorporated the new obligations arising from the revised FATF Recommendations in 2012.

### **Recommendation 1: Assessing risks and applying a risk-based approach**

This Recommendation introduced new obligations that had not been assessed during Gabon's previous mutual evaluation.

#### **Country obligations and decisions**

##### *Risk assessment*

**Criterion 1.1:** Article 13 of the CEMAC Regulation provides that each State shall take appropriate measures to identify, assess, understand and mitigate the risks of ML/TF to which it is exposed. At the time of the on-site visit, Gabon's NRA was underway. Therefore, ML/TF risks are neither identified nor assessed by the country.

**Criterion 1.2:** Article 13(2) of the Community legal framework of 2016 requires each State to designate a competent authority to coordinate national risk assessment operations. To this end, Order No. 0270/PM/MER of 3 May 2021 created and organized the NRA Coordination Committee and designated ANIF as the competent authority responsible for coordinating risk assessment. However, some government services making up the NRA Coordination Committee have not yet designated their representative within the said committee, just as some designated representatives have never taken part in the Committee's work, whereas the Committee has carried out its activities up to adoption of the sector reports of the various constituent working groups.



**Criterion 1.3:** In accordance with the relevant provisions of the CEMAC Regulation, States are obliged to keep their national risk assessments up to date (Art. 13 para. 1). As Gabon has not completed its national risk assessment, no update is possible.

**Criterion 1.4:** Article 13(2) of the CEMAC Regulation provides that the findings of the risk assessment shall be communicated to all competent authorities and self-regulatory bodies, as well as to FIs and DNFBPs. Article 25 of Order No. 0270/PM/MER of 3 May 2021 on the creation, duties, organization and functioning of the NRA Coordination Committee extends this communication of NRA findings to some ministries, as well as to GABAC. However, as the NRA has not yet been finalized, no dissemination mechanism has been developed or implemented.

### *Risk mitigation measures*

**Criterion 1.5:** The last paragraph of Article 13 of the CEMAC Regulation provides that each Member State shall apply a risk-based approach to allocate its resources and implement measures to prevent or mitigate ML/TF risks. However, Gabon, whose NRA had not been completed at the time of the on-site visit, does not yet apply a risk-based approach to its actual or potential risks. Nevertheless, the methodology adopted for the ongoing NRA will allow Gabon to adopt an action plan based on its findings to mitigate identified risks.

**Criterion 1.6:** The country has not entered any reservations to the FATF Recommendations.

**Criterion 1.7:** In accordance with Articles 56 to 59 of the CEMAC Regulation, reporting FIs and DNFBPs are bound by a general obligation of enhanced due diligence, in particular in the context of cross-border banking correspondence or when the ML/TF risk presented by a customer, product or transaction is high. However, as the NRA is ongoing, the country has not yet identified higher risks and taken measures to address such risks to meet the requirements of points (a) and (b) of this criterion.

**Criterion 1.8:** Pursuant to Articles 52 to 55 of the CEMAC Regulation, Gabon may allow FIs and DNFBPs to reduce the intensity of due diligence measures in some circumstances (presumed low-risk customers, presumed low-risk products), provided that a low risk of ML/TF is demonstrated. However, it is not explicitly stated that the identified low risk is consistent with the country's assessment of ML/TF risks.

**Criterion 1.9:** Article 12(4) of the CEMAC Regulation requires supervisory authorities and self-regulatory bodies to ensure that financial institutions and designated non-financial businesses and professions implement mechanisms to identify, assess and understand ML/TF risks in their sector in accordance with FATF Recommendation 1. However, there is no designated authority to monitor DNFBPs' compliance with their AML/CFT obligations. Similarly, the SRBs do not have any supervisory powers in this area.

## **Obligations and decisions for financial institutions and designated non-financial businesses and professions**

### *Risk assessment*

**Criterion 1.10:** Pursuant to Article 14 of the CEMAC Regulation on risk assessment measures by reporting entities, FIs and DNFBPs are required to take appropriate measures to identify and assess the money laundering and terrorist financing and proliferation risks to which they are exposed, taking into account risk factors such as customers, countries or geographical areas, products, services, transactions or distribution channels (paragraph 1). These obligations also include the obligation to:

- (a) Document the risk assessments made (paragraph 2);
- (b) Have policies, procedures and controls in place to effectively mitigate and manage identified risks (paragraph 3);
- (c) Update the assessments performed (paragraph 2); and
- (d) Make these assessments available to supervisory, regulatory and oversight bodies, ANIFs and competent authorities (paragraph 2).

### *Risk mitigation measures*

**Criterion 1.11:** Under Article 14 of the CEMAC Regulation of 11 April 2016, Articles 6, 10, 12, 14 of the COBAC 2016 Regulation on internal control of credit institutions, Article 10 of the COBAC EMF R-2017 Regulation 01-17 on the conditions of exercise and control of microfinance institutions and Articles 2, 4, 5, 6, 7, 8 and 9 of the COBAC EMF R2017/06 Regulation on internal control in microfinance institutions, FIs and DNFBPs are required to:

- (a) Have policies, controls and procedures, approved by senior management, to manage and mitigate identified risks at Community, Member State and reporting entity levels;
- (b) Monitor the implementation of such controls and enhance them where necessary; and
- (c) Take enhanced measures to manage and mitigate higher risks, where identified.

**Criterion 1.12:** Pursuant to Articles 52 to 55 of the CEMAC Regulation, Gabon may allow FIs and DNFBPs to take simplified due diligence measures with respect to some customers and products when they perceive the risk of ML/TF to be low. On the other hand, once ML/TF is suspected, FIs and DNFBPs are required to implement or strengthen due diligence measures. However, the shortcoming noted in c.1.9 regarding the absence of a supervisory authority for DNFBPs affects compliance of this criterion.

### *Weighting and conclusion*

Gabon has not yet implemented the strategic measures to apply a risk-based approach. Its NRA process is not yet finalized. Therefore, actual or potential ML/TF risks have not yet been definitively identified. The country does not yet apply enhanced due diligence measures. The authorization of simplified vigilance measures, in low-risk situations, does not explicitly take into account their consistency with the findings of the NRA. Lastly, there is no designated authority to monitor DNFBPs' compliance with their AML/CFT obligations and the existing SRBs have no powers in this area.

***Gabon is rated non-compliant with Recommendation 1.***

## **Recommendation 2 – National cooperation and coordination**

As part of the assessment of its AML/CFT system for the first round, Gabon was rated partially compliant under Recommendation 2 (31 in Round 1) on national coordination. The reasons for this rating were the lack of effective national cooperation between ANIF and other AML/CFT stakeholders.

**Criterion 2.1:** Gabon does not have national AML/CFT policies that take into account identified and regularly updated ML/TF risks. The national risk assessment process currently underway will eventually result in the adoption of an action plan that will include the country's national policy to mitigate the identified risks.

**Criterion 2.2:** Article 13 of the CEMAC Regulation requires States to designate an authority to coordinate the national response to identified risks. By Decree No. 00231/PR/MER of 9 September 2021, Gabon set up a coordination committee for national AML/CFT and PF policies. However, at the time of the site visit, members of this committee had not yet been appointed.

**Criterion 2.3:** The implementation of the relevant provisions of the CEMAC Regulation allow the competent authorities responsible for policy development, ANIF, prosecution authorities, supervisory authorities and other relevant competent authorities to cooperate and coordinate their actions in developing and implementing AML/CFT policies and activities (Articles 66, 71 and 79). Coordination mechanisms for the development and implementation of national AML/CFT policies and cooperation are provided for by Decree No. 00231/PR/MER of 9 September 2021. The shortcoming noted in c.2.2 also affects compliance with this criterion.

**Criterion 2.4:** The coordination and cooperation mechanisms provided for by Decree No. 00231/PR/MER of 9 September 2021 extend to the fight against the financing of the proliferation of weapons of mass destruction. The shortcoming noted in c.2.2 and C.2.3 also affects compliance of this criterion.

**Criterion 2.5:** Gabon has not demonstrated cooperation or coordination among competent authorities to ensure compatibility of AML/CFT requirements with data protection and privacy measures and other similar provisions.

### ***Weighting and conclusion:***

Gabon has issued a decree establishing a national AML/CFT policy coordination committee. The decree provides mechanisms for better cooperation and coordination of actions between different competent authorities, at the policy-making and operational levels. However, the members of this committee have not been appointed to make it operational. There is no

cooperation or coordination among competent authorities to ensure compatibility of AML/CFT requirements with data protection and privacy measures and other similar provisions.

*Gabon is rated partially compliant with Recommendation 2.*

### **Recommendation 3 – Money laundering offence**

In the 2012 mutual evaluation, Gabon was rated partially compliant on the requirements of the Recommendation on the offence of money laundering (former R.1). The deficiencies identified were that terrorism, smuggling of migrants and stock exchange offences were not predicate money laundering offences. Similarly, there was no implementation of the CEMAC Regulation (of 2003) as no money laundering cases had been tried in Gabon since the adoption of the Regulation.

**Criterion 3.1:** Gabon has criminalized money laundering on the basis of Article 3(1) of the Vienna Convention and Article 6(1) of the Palermo Convention.

Article 8 of the CEMAC Regulation refers to the following acts as constituting ML when committed intentionally:

- (a) Conversion or transfer of property, by any person who knows that such property is derived from criminal activity or from an act of participation in criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in such activity to evade the legal consequences of his action;
- (b) Concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, by any person who knows that such property is derived from criminal activity or from an act of participation in criminal activity;
- (c) Acquisition, possession or use of property, knowing, at the time of receipt, that such property is derived from criminal activity or from an act of participation in criminal activity;
- (d) Participation in, association with, aiding, abetting or counselling the commission of any of the acts referred to in subparagraphs (a), (b) and (c).

**Criterion 3.2:** Gabon's Penal Code broadly covers the criminalization of money laundering predicate offences as listed in the designated category of offences. Smuggling of migrants, insider trading and market manipulation are included on this list.

**Criterion 3.3:** Gabon does not apply the threshold method, but prosecutes the laundering of proceeds from any criminal activity.

**Criterion 3.4:** The definition of property in Article 1(18) of the CEMAC Regulation of 11 April 2016 includes all kinds of assets, whether tangible or intangible, movable or immovable, fungible or not, and legal documents or instruments in any form, including

electronic or digital, evidencing title to or interest in such assets. This includes property that is directly or indirectly the proceeds of crime, regardless of its value.

**Criterion 3.5:** In accordance with Article 120 of the CEMAC Regulation, the provisions of this Part (repression) shall apply even where the perpetrator of the original offence is not prosecuted or convicted, or even where s/he fails to meet a condition for prosecution as a result of the offence.

**Criterion 3.6:** In accordance with the combined provisions of Articles 1(42) and 8(2) of the CEMAC Regulation, predicate money laundering offences extend to acts committed in another country where they constitute an offence and which would have constituted a predicate offence had they been committed in Gabon.

**Criterion 3.7:** Article 120 of the CEMAC Regulation provides, in fine, that the perpetrator of the original offence may also be prosecuted for the money laundering offence.

**Criterion 3.8:** The last paragraph of Article 8 of the CEMAC Regulation on the criminalization of money laundering provides that knowledge or intent, as elements of the above-mentioned activities, may be inferred from objective factual circumstances. Section 380 of Gabon's Penal Code (Law No. 006/2020 of 30 June 2020 amending Law No. 042/2018 of 5 July 2019) in fine provides that "knowledge of the origin of assets or the intention to commit money laundering may be established by any circumstance or means of objective facts".

**Criterion 3.9:** Natural persons guilty of money laundering are liable to custodial sentences of between five (5) and ten (10) years and fines of between five and ten times the value of the laundered assets. These penalties are doubled in the event of aggravating circumstances. Additional penalties may also be applied to deprive them of certain rights (Articles 114 to 119 of the CEMAC Regulation). The penalties are therefore proportionate and dissuasive.

**Criterion 3.10:** Article 126 of the CEMAC Regulation provides for the attribution of criminal liability and the application of criminal sanctions against legal persons for whom a money laundering offence has been committed, without prejudice to the conviction of their representatives or employees. Legal persons are punished by a fine of five times the amount incurred by natural persons (five to ten times the value of the property or funds involved in the money laundering operations, but not less than 10,000,000 CFA francs). These penalties are reinforced by optional (Articles 124 and 126) and mandatory (Article 130) additional penalties. All the penalties provided for are proportionate and dissuasive.

**Criterion 3.11:** Articles 114 and 115 of the CEMAC Regulation punish the attempt to, the agreement to, and the association for the purpose of money laundering. Aiding and abetting, advising and facilitating the commission of the offence are behaviours covered by the concept of complicity and punishable, under the general and special provisions of Gabon's Penal Code, by the same penalty as the offender (Articles 48, 49 and 380).

### ***Weighting and conclusion***

Gabon largely meets the requirements of criminalization of money laundering. However, Gabon's list of predicate money laundering offences is not exhaustive. The list does not

include smuggling of migrants, insider trading and market manipulation, which are therefore not predicate ML offences and pose only a low threat to the country.

***Gabon is rated largely compliant with Recommendation 3.***

#### **Recommendation 4 – Confiscation and provisional measures**

In the previous assessment in 2012, Gabon was rated largely compliant with regard to confiscation requirements and provisional measures, due to the impossibility of confiscating property of equivalent value to proceeds or instrumentalities of crime and the lack of implementation of the CEMAC Regulation.

Gabon has since improved its legal regime regarding confiscation with the adoption in 2016 of the new CEMAC Regulation which provides for the confiscation of goods of equivalent value (Articles 104, 130 and 131).

**Criterion 4.1:** In Gabon, the penalty of confiscation is incurred as of right for all offences punishable by a prison sentence of more than one year, which includes ML (Articles 18-3 et seq. and 387 of the Penal Code). This general framework is supplemented by the CEMAC Regulation and allows for the confiscation of property depending on whether it is held by accused persons in criminal proceedings or by third parties:

- (a) Laundered property (Article 105 of the CEMAC Regulation);
- (b) Proceeds of crime (income or other benefits derived from such proceeds) or instrumentalities used or intended to be used for the purpose of money laundering or predicate offences (Article 130 of the CEMAC Regulation, Sections 18-4 and 387 of the Penal Code);
- (c) Property constituting the proceeds of, used for, or intended to be used for the purpose of, or allocated to the financing of terrorism, terrorist acts or terrorist organizations (Article 131 of the CEMAC Regulation, Sections 18-4 and 387 of the Penal Code);
- (d) Property of corresponding value (Articles 130 and 131 of the CEMAC Regulation and Sections 18-4 and 387 of the Penal Code).

However, the confiscation of laundered property (a) provided for in Article 105 of the CEMAC Regulation is limited to persons, entities or terrorist organizations designated by the UNSC acting under Chapter VII of the Charter of the United Nations, by the Ministerial Committee or by CEMAC Member States under Resolution 1373. Similarly, the confiscation of property of equivalent value (d) in the case of ML is limited to property legitimately acquired by the convicted person with which the proceeds of the offence are intermingled, as well as to income and other benefits derived from such proceeds.

#### **Criterion 4.2:**

- (a) The general powers conferred on the investigative authorities by the Code of Criminal Procedure and the use of investigative techniques provided for in Article 98 of the

CEMAC Regulation allow for the identification, tracking and valuation of property subject to confiscation.

- (b) The general legal framework for investigations (Articles 51 et seq.) and the powers granted to the investigating magistrate (Articles 83 et seq.) provided for in Gabon's Code of Criminal Procedure and, more specifically for ML and TF offences, the CEMAC Regulation (Articles 104 and 105) allow for the implementation of precautionary measures, such as seizure or freezing, in order to impede any transaction, transfer or disposal of property subject to a confiscation measure. These measures are directly implemented without prior notification.
- (c) Under Gabonese law, criminal seizure has priority over civil enforcement measures. Funds and property that have been the subject of protective measures for confiscation are made unavailable. The judicial authority may order the sequestration of assets or the freezing of accounts to prevent their diversion. According to Article 104 of the CEMAC Regulation, the release of these measures can only be ordered by the competent judicial authority under conditions provided for by law. And the instrument prohibits carrying out or participating, knowingly and intentionally, in operations whose purpose or effect is to circumvent, directly or indirectly, the freezing orders pronounced.
- (d) Gabon's legal framework grants the competent authorities sufficient powers to take all appropriate investigative measures for confiscation purposes.

However, with regard to TF, no authority has been designated to implement administrative freezing measures and to prevent or reverse actions that undermine the country's ability to freeze terrorist funds.

**Criterion 4.3:** Articles 110, 112, and 131, last paragraph, of the CEMAC Regulation establish administrative and judicial appeal mechanisms that guarantee protection of the rights of bona fide third parties.

**Criterion 4.4:** The Treasury is the authority responsible for the management and disposal of frozen, seized or confiscated assets. Indeed, in accordance with Articles 130 and 131 of the CEMAC Regulation, confiscation following a conviction for money laundering and terrorist financing is ordered in favour of the Treasury. In general, and in accordance with Section 18-9 of Gabon's Penal Code, the confiscated property is, unless otherwise provided for its destruction or allocation, handed to the State. However, the mechanisms for the management of such property are not clearly defined.

#### ***Weighting and conclusion***

Gabon has a legal framework allowing the implementation of confiscation and guaranteeing the rights of bona fide third parties in the seizure and confiscation procedure. However, it does not have an authority to apply administrative freezing measures in relation to TF, nor does it have a clear mechanism for the management of frozen, seized or confiscated assets.

***Gabon is rated partially compliant with Recommendation 4.***

## **Recommendation 5: Terrorist financing offence**

Gabon was assessed in 2012 as not compliant with the obligations set out in the Recommendation on the criminalization of terrorist financing (former RSII). Gabon was criticized for not criminalizing the financing of a terrorist organization and the financing of a terrorist, for not making legal persons criminally liable for terrorist financing, and for not implementing the CEMAC Regulation.

To correct the shortcomings of the instruments, Gabon adopted the new CEMAC Regulation of 11 April 2016.

**Criterion 5.1:** The offence of terrorist financing is criminalized under Article 9 of Regulation No. 01/16/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering and terrorist financing and proliferation in Central Africa, in accordance with Article 2 of the United Nations International Convention for the Suppression of the Financing of Terrorism, to which Gabon has been a party since 10 March 2005. Article 9 of the Regulation criminalizes the commission of a terrorist act by a natural or legal person who, by any means whatsoever, directly or indirectly, unlawfully and deliberately, provides or collects funds with the intention that they should be used, or in the knowledge that they will be used in whole or in part, for the commission of terrorist acts. Gabon's Penal Code provides for the punishment of the same acts in Section 75-3, paragraphs 1 and 2. Article 1(2) of the Regulation defines a terrorist act in accordance with Article 2(a) and (b) of the TF Convention.

**Criterion 5.2:** Under Article 9 of the CEMAC Regulation of 11 April 2016 on the Prevention and Suppression of Money Laundering, Terrorist Financing and Proliferation, terrorist financing is established against any person who deliberately by any means, directly or indirectly, provides or collects funds with the unlawful intention that they be used in whole or in part:

- (a) for the purpose of committing one or more terrorist acts;
- (b) by a terrorist organization or by a terrorist, including support for a terrorist or a group of terrorists without any link to a specific terrorist act or acts.

However, the CEMAC Regulation does not take into account "other property".

**Criterion 5.2 a:** The legal framework in force in Gabon (Article 9 of the CEMAC Regulation of 11 April 2016) does not expressly criminalize financing of the travel of persons to a State other than their State of residence or nationality, with the aim of committing, organizing or preparing acts of terrorism, or in order to participate in or receive training in terrorism.

**Criterion 5.3:** Article 9 in fine of the CEMAC Regulation provides that the offence of TF is also constituted even where the funds provided or collected are of licit origin. The notion of "funds" according to Article 1(38) refers to all financial assets and economic benefits of any



kind, regardless of how they were acquired. However, this instrument does not expressly state that "other property" is to be taken into account.

**Criterion 5.4:** The TF offence is constituted under Gabonese law:

- (a) even where the funds were not used to commit or attempt to commit the planned terrorist acts (Article 9(2) of the CEMAC Regulation);
- (b) even where the funds are not linked to one or more specific terrorist acts (Article 9(1)(d) of the CEMAC Regulation).

The shortcoming identified in c.5.2 has a negative impact on this criterion.

**Criterion 5.5:** In accordance with the last paragraph of Article 9 of the CEMAC Regulation, the criminal intent required to establish the TF offence is inferred from objective factual circumstances.

**Criterion 5.6:** According to Article 121 of the CEMAC Regulation, natural persons guilty of a TF offence shall be punished by a term of imprisonment of between ten (10) and twenty (20) years and a fine equal to at least five times the value of the goods or funds in respect of which the TF operations were carried out. These penalties are doubled in the case of aggravating circumstances (Article 122) and reinforced by optional (Article 124) and mandatory (Articles 131 and 132) complementary penalties. Suspended sentences and amnesty measures are also excluded (Article 125).

These penalties applicable to natural persons guilty of TF, in the light of the general nomenclature of penalties provided for in the Penal Code for serious offences, are proportionate and dissuasive.

**Criterion 5.7:** The CEMAC Regulation provides for proportionate and dissuasive criminal sanctions against legal persons who commit terrorist financing. Article 127 provides that legal persons on whose behalf or for whose benefit a terrorist financing offence has been committed shall be punished by a fine equal to five times the fine incurred by natural persons, without prejudice to conviction of natural persons having committed these acts as perpetrators or accomplices. Legal persons may also be liable to one or more of the following penalties:

- (a) Exclusion from public contracts permanently or for a period of ten (10) years;
- (b) Confiscation of the property that was used or intended for use in the commission of the offence or of the property that is the product of the offence or of property of equivalent value;
- (c) Placement under judicial supervision;
- (d) Prohibition, permanently or for a period not exceeding ten (10) years, from exercising directly or indirectly one or more professional or social activities in the course of which the offence was committed;
- (e) Permanent closure, or for a period of up to ten (10) years, of the establishments or one of the establishments of the enterprise that served to commit the incriminated acts;
- (f) Dissolution, where they were created to commit the offences.

Also, without prejudice to criminal sanctions, the competent supervisory authority may act ex officio and impose administrative and disciplinary sanctions where the legal person is a reporting entity.

**Criterion 5.8:** Gabon's Penal Code punishes attempt and complicity with the same penalties as the offence itself.

- (a) Attempting to commit a TF offence (Article 9 of the CEMAC Regulation);
- (b) Participating as an accomplice in a TF offence or attempted offence (Article 9 of the CEMAC Regulation);
- (c) Committing, or instructing others to commit, an offence or attempted TF offence (Article 9 and 121 of the CEMAC Regulation), and
- (d) Contributing to the commission of one or more TF offences, or attempted TF offences, by a group of persons acting together (Article 9(c) and (d) of the CEMAC Regulation).

**Criterion 5.9:** Article 1 (Point 20) of the CEMAC Regulation, which determines the designated categories of predicate offences, lists terrorist financing as a predicate offence to money laundering.

**Criterion 5.10:** The second paragraph of Article 9 of the CEMAC Regulation states in substance that the TF offence is established and the sanction incurred even where the perpetrators of TF acts reside in a different territory than the perpetrators of terrorist acts.

#### ***Weighting and conclusion***

Gabon has met the main criteria on the Recommendation on the criminalization of terrorist financing. However, it is noted that the instrument does not take into account the gathering or provision of "other property". In addition, financing of travel of foreign terrorist fighters is not specifically criminalized.

***Gabon is rated as largely compliant with Recommendation 5.***

#### **Recommendation 6: Targeted financial sanctions for terrorism and terrorist financing**

Gabon was rated as non-compliant on this Recommendation (former RSIII) in its 2012 evaluation. The main shortcomings identified were: confusing regional arrangements for freezing funds under Resolution 1267; lack of national regulation for implementing the requirements of Resolutions 1267 and 1373; lack of mechanisms for managing lists submitted by third States under Resolution 1373; lack of confiscation of property of equivalent value; no legal framework at national level, supplementary to the Community mechanism, for the implementation of the obligations relating to Resolutions 1267 and 1373; no mechanisms (Community and/or national) for considering lists submitted by third States under Resolution 1373; failure to operationally implement obligations relating to Resolutions 1267 and 1373.

The adoption of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering, terrorist financing and proliferation in Central Africa (referred to as the CEMAC Regulation) contributed to the improvement of Gabon's legal framework on targeted financial sanctions.

#### ***Identifying and designating***

**Criterion 6.1:** With regard to the designations under the sanctions regimes contained in UN Security Council Resolutions 1267/1989 (Al Qaeda) and 1988, Gabon:

- (a) Has not identified a competent authority or court to propose the designation of persons or entities to the 1267/1989 Committee or proposed the designation of persons or entities to the 1988 Committee;
- (b) Does not have mechanisms in place to identify targets for designation, based on the criteria for designation set out in UN Security Council Resolutions (UNSCRs);
- (c) Should apply "reasonable grounds" or "reasonable basis" criteria of evidence when deciding whether to make a designation proposal (Article 105(3) of CEMAC Regulations). Gabon, however, does not have a designation mechanism for this purpose;
- (d) Failing (a) and (b), has not provided any information to demonstrate that the country follows the listing procedures and templates (in the case of UN sanctions regimes) adopted by the relevant committee (1267/1989 Committee or 1988 Committee); and
- (e) In the absence of (a) and (b), has not provided any evidence that the country has provided as much relevant information as possible on the proposed name; as detailed a statement of reasons as possible for the listing; and (in the case of proposed names to the 1267/1989 Committee) whether the country specifies that its status as a designating State can be made public.

**Criterion 6.2:** With respect to designations under UNSCR 1373, Gabon:

- (a) Has not established a competent authority or court with the responsibility to propose the designation of persons or entities that meet the specific criteria for designation as described in UNSCR 1373; at the country's own initiative or after considering and, where appropriate, giving effect to a request from another country;
- (b) Does not have a mechanism or mechanisms to identify the targets of designations, based on the criteria for designation set out in UNSCR 1373;
- (c) Failing (a) and (b), has not provided any information to assess that when receiving a request, the country has the capacity to promptly ensure, under applicable national (supra) principles, that the request is supported by reasonable grounds or a reasonable basis to suspect or believe that the person or entity proposed for designation meets the criteria for designation under UNSCR 1373;
- (d) Should apply "reasonable grounds" or "reasonable basis" evidentiary criteria when deciding whether to make a designation (Article 105(3) CEMAC Regulation). However, no authority has been designated for the implementation of the administrative freeze;
- (e) In the absence of (a) and (b), has not provided any information to assess that when another country is requested to give effect to actions taken under the freezing

mechanisms, Gabon provides all possible information for identification, as well as specific information to support the decision.

**Criterion 6.3:** Gabon has not designated competent authorities for the implementation of UNSCRs, nor has it defined the powers and procedures or legal mechanisms they should have to:

- (a) Collect or solicit information to identify persons and entities that meet the criteria for designation, on reasonable grounds, or for which there is a reasonable basis to suspect or believe that they meet such criteria; and
- b) Intervene *ex parte* against a person or entity that has been identified and whose designation (or proposed designation) is under consideration.

### *Freezing*

**Criterion 6.4:** Article 105(5) of the CEMAC Regulation require financial institutions and any person or entity holding funds subject to a freezing order to freeze them immediately upon notification of the order until otherwise decided by the United Nations Security Council or by another decision taken under the same procedure or by a competent judicial authority. However, the country does not have a designated competent authority for the implementation of targeted financial sanctions in order to assess the rapidity thereof.

**Criterion 6.5:** Gabon has not designated competent national authorities responsible for the implementation and enforcement of targeted financial sanctions. However, the CEMAC Regulation applicable in the country lays down the legal framework for implementation of the TFSs according to the following procedures and measures:

- (a) Article 105(5) of Regulation No. 01/16/CEMAC/UMAC/CM states that "The financial institutions and any other person or entity holding such funds shall freeze them immediately upon notification of such decision until otherwise decided by the United Nations Security Council", but these provisions do not expressly state that such measures must be taken without "prior notification";
- (b) Extension of the freeze to all financial assets and economic benefits of whatever kind, however acquired (Article 1(38) relating to terrorists, terrorist organizations or persons or organizations associated with them (Article 105(6)). However, property, funds and other resources of persons and entities acting on behalf or at the direction of designated persons are not targeted;
- (c) Prohibition on reporting entities from directly or indirectly making frozen funds available to or for the benefit of designated natural or legal persons, entities or bodies, from providing or continuing to provide services to or for the benefit of designated natural or legal persons, entities or bodies (Article 105(7)(1) and (2)). However, this prohibition is limited to reporting entities and does not cover all nationals or any other person or entity in the territory. Thus, the deprivation of funds is directly related to designated natural or legal persons, entities or bodies and does not extend to entities owned or controlled directly or indirectly by designated persons or entities; and to persons and entities acting on behalf of or at the direction of designated persons or

entities, without any licence, authorization or notification to the contrary, in accordance with the applicable UNSCR;

- (d) There is no specific mechanism for communicating designations to the financial sector and to DNFBPs and VASPs as soon as these measures occur, and for providing clear instructions, in particular to FIs and other persons and entities, including DNFBPs and VASPs, that may hold designated funds and other property, as to their obligations under the freezing mechanisms;
- (e) In accordance with Article 105(6) of the CEMAC Regulations, reporting financial institutions and other persons shall notify ANIF without delay of the existence of funds originating from money laundering or linked to terrorists, terrorist organizations or persons or organisations associated with them, in accordance with the decisions of the Ministerial Committee or the Ministers of Finance of the Member States relating to the list of persons, entities or bodies subject to the freezing of funds and other financial resources, in particular, the list drawn up by the United Nations Security Council, and updated. However, the obligation to report attempted transactions is not included in the Regulation;
- (f) The CEMAC Regulation prescribes an obligation to publish freezing orders to bring them to public attention (Article 106) and provides for procedures to challenge administrative measures to freeze funds, open to any natural or legal person who considers that the freezing order stems from an error or lacks legal basis (Article 112).

#### *Delisting, unfreezing and providing access to frozen funds and other assets*

**Criterion 6.6:** Gabon has not yet developed and implemented publicly available procedures for delisting and unfreezing funds and other assets of individuals and entities that do not or no longer meet the criteria for designation, in order to comply with sub-criteria (a), (c), (d), (e) and (g) of this criterion. Nevertheless:

- (a) There are provisions for powers and procedures or mechanisms to de-list and release funds or other assets of persons and entities, designated under UNSCR 1373, that no longer meet the criteria for designation. Article 112 of the CEMAC Regulation organizes procedures or mechanisms to allow any natural or legal person who no longer fulfils the conditions and whose funds and other financial resources have been frozen, to lodge an appeal against this decision within one month of publication of the decision in the Official Gazette or in a legal notices newspaper. The request shall be addressed to the competent authority, providing all objective elements likely to demonstrate the error;
- (b) For persons and entities whose funds have been inadvertently frozen, Article 112(1) of the CEMAC Regulation provides that any natural or legal person whose funds and other financial resources have been frozen, who considers that the freezing decision stems from an error or lacks a legal basis, may lodge an appeal against the decision within one month of its publication in the Official Gazette. The appeal shall be lodged with the authority which ordered the freezing or, if the appeal is based on the lack of a legal basis, with the territorially competent judge ruling on urgent matters.

However, the competent authority for administrative freezing has not been designated, which makes it difficult to implement these procedures.

**Criterion 6.7:** Article 108 of the CEMAC Regulation allows access to frozen funds and other assets deemed necessary to cover basic expenses, payment of some types of charges, fees and remuneration for services or extraordinary expenses. However, Gabon has not designated the competent authority in charge of authorizations.

#### ***Weighting and Conclusion***

Gabon's legislation, based primarily on the CEMAC Regulation, does not meet the basic criteria for implementing targeted financial sanctions relating to terrorist financing. The relevant authority has not been designated, nor have the mechanisms for implementing targeted financial sanctions been laid down.

***Gabon is rated non-compliant with Recommendation 6.***

#### **Recommendation 7: Targeted financial sanctions relating to proliferation**

This Recommendation is new. The obligations it contains were introduced as part of the review of the FATF Recommendations in 2012.

**Criterion 7.1:** Gabon does not have a normative framework to ensure implementation of targeted financial sanctions without delay in accordance with the UNSCRs adopted under Chapter VII of the UN Charter on the prevention, suppression and disruption of the proliferation of weapons of mass destruction and its financing.

**Criterion 7.2:** Gabon has not designated competent national authorities responsible for the implementation and enforcement of proliferation-related TFSs, nor defined the powers of such authorities to implement the procedures and standards set out in (a), (b), (c), (d), (e) and (f).

**Criterion 7.3:** Gabon has not adopted any measures to monitor and ensure compliance by FIs, DNFBPs and VASPs with applicable laws and enforcement measures implementing the obligations under Recommendation 7.

**Criterion 7.4:** Gabon has not yet developed and implemented publicly known procedures for submitting de-listing requests to the Security Council for designated individuals and entities that, in the country's view, do not or no longer meet the criteria for designation.

#### **Criterion 7.5:**

- (a) With regard to addition to the frozen account, Article 107 of the CEMAC Regulation provides that "Funds or other financial resources due under contracts, agreements or obligations concluded or arising prior to the entry into force of the procedures for freezing of funds shall be obtained from the frozen accounts. Any income earned on such funds, instrumentalities and resources and any accrued interest thereon shall be paid into such accounts"; and
- (b) There is no provision in respect of freezing measures taken pursuant to Resolution 1737 and followed by Resolution 2231, or taken pursuant to Resolution 2231, that

should not prevent a designated person or entity from making any payment due under a contract entered into prior to the listing of such person or entity, provided that: (i) the countries concerned have determined that the contract does not involve any of the prohibited items, materials, equipment, goods, technology, assistance, training, financial assistance, investments, brokering services and other services covered by Resolution 2231 or any subsequent resolution; (ii) the countries concerned have determined that the payment is not being received directly or indirectly by a person or entity liable to the measures in paragraph 6 of Annex B to Resolution 2231; (iii) the countries concerned have notified the Security Council in advance of their intention to make or receive the payments or to authorize the release of funds, other financial assets and economic resources for such purposes, as appropriate, ten working days before such authorization.

### ***Weighting and Conclusion***

Apart from the monitoring and oversight measures applicable to financial institutions to ensure compliance with laws and the binding measures applicable for the implementation of obligations relating to targeted proliferation-related financial sanctions, Gabon does not meet the requirements of the other criteria of Recommendation 7.

***Gabon is rated non-compliant with Recommendation 7.***

### **Recommendation 8: Non-profit organizations (NPOs)**

During the evaluation of Gabon's AML/CFT system in 2012, this Recommendation (former RSVIII) was rated non-compliant for the following shortcomings: inadequacy and non-compliance of the regulations with the criteria relating to RSVIII; non-existence of monitoring and control mechanisms for associations; lack of awareness of the risks of misuse for terrorist financing purposes; lack of cooperation at national level; lack of a specific mechanism for NPOs conducting financial transactions.

#### ***Taking a risk-based approach***

**Criterion 8.1:** Gabon has not adopted any measures to meet the requirements of sub-criteria (a), (b), (c) and (d).

#### ***Sustained outreach concerning terrorist financing issues***

##### **Criterion 8.2:**

- (a) The provisions of Articles 44 to 46 of the CEMAC Regulation which lay down the obligations of NPOs as well as control and monitoring measures aim to promote the accountability and integrity of NPOs so as to build public confidence in their management and operation. At national level, these provisions are reinforced by Law No. 035/62 of 10 December 1962 relating to associations, which confers on the Ministry of Interior the control of the activities of associations and NGOs.
- (b) Gabon has not conducted outreach and education campaigns to encourage and deepen knowledge within NPOs and the donor community on the potential vulnerabilities of NPOs to use for terrorist financing purposes and the risks of terrorist financing, and on the measures NPOs can take to protect themselves from such use.

- (c) Gabon has not carried out initiatives to work with NPOs to develop best practices to address TF risks and vulnerabilities, and thus protect them from use for TF purposes.
- (d) NPOs established in Gabon are required by law (Law No. 035/62 of 10 December 1962 on associations) and encouraged to carry out their operations through regulated financial circuits (Article 46(6) of the CEMAC Regulation).

### *Targeted risk-based supervision or monitoring of NPOs*

**Criterion 8.3:** Article 44 of the CEMAC Regulation states that any NPO that collects, receives, donates or transfers funds as part of its philanthropic activity is subject to appropriate supervision by its competent supervisory body. Law No. 035/62 of 10 December 1962 on associations gives the Ministry of Interior the power to control and monitor the activities of NPOs. However, this provision does not provide for risk-based control of NPOs that may be used for terrorist financing.

#### **Criterion 8.4 :**

- (a) The supervisory measures applied to NPOs in Gabon do not take into account the requirements of this Recommendation.
- (b) The range of administrative sanctions is wide and variable. Article 46(7) of the CEMAC Regulation states that the competent authority may order the temporary suspension or dissolution of NPOs that knowingly encourage, foment, organize or commit money laundering, terrorist financing or proliferation financing offences. Law No. 035/62 of 10 December 1962 on associations also provides for sanctions, including: refusal of approval, suspension, fines, and dissolution. The sanctions are applied without prejudice to legal proceedings and sanctions against NPOs or their managers and members.

### *Effective information gathering and investigation*

#### **Criterion 8.5 :**

- (a) The information held by any service in charge of NPOs may be consulted by ANIF, the judicial authority, judicial police officers in charge of a criminal investigation, upon request, or any authority responsible for supervising NPOs, in this case the Ministry of Interior (Article 46(3) of the CEMAC Regulation). However, there is no effective mechanism for cooperation and coordination of information exchange.
- (b) By virtue of the general powers they have in the conduct of investigations, investigative and prosecuting authorities in Gabon have the capacity to examine NPOs suspected of being used for TF purposes or by terrorist organisations or of actively supporting terrorist activities or organizations.
- (c) Criminal investigation and prosecution authorities may have direct access to information relating to the administration and management of any NPO, including financial information (Article 46(3) of the CEMAC Regulation; Article 46 et seq. of the Code of Criminal Procedure on the powers of investigative authorities).



- (d) The CEMAC Regulation has established an obligation for any competent authority to report to ANIF any donation to an NPO when the funds are likely to be related to a terrorist or TF enterprise (Article 46(5)). ANIF is therefore empowered to investigate when an NPO is suspected of being used for illegal purposes. Apart from this, there are no mechanisms for sharing this information quickly with the competent authorities.

### *Effective capacity to respond to international requests about an NPO of concern*

**Criterion 8.6:** Gabon has not designated or established a specific contact point and has not laid down appropriate procedures to respond to international requests for information regarding any NPO suspected of financing or otherwise supporting terrorism. To respond to requests from third countries, in this specific area, Gabon relies on the traditional mechanisms of international cooperation.

### *Weighting and conclusion*

Gabon has not identified the NPOs of concern that are susceptible to terrorist financing abuses or identified the nature of the threats to which NPOs are exposed. There are no risk-based supervision measures. NPOs are not made aware of their vulnerabilities to being abused for TF purposes and measures to protect themselves from such misuse. No initiatives have been undertaken to work with NPOs to develop best practices to address TF risks and vulnerabilities, and thus protect them from being misused for TF purposes. No effective cooperation and coordination mechanism is established among competent authorities for the exchange of information relating to NPOs. Appropriate procedures for responding to international requests for information on NPOs have not been adopted. Similarly, no contact point has been designated to respond to such requests.

*Gabon is rated non-compliant with Recommendation 8.*

### **Recommendation 9 – Financial institutions secrecy laws**

Gabon was rated as largely compliant with the obligations regarding professional secrecy laws (former R4) in the first assessment of its AML/CFT system in 2012. The main deficiency identified was the lack of provisions to ensure that professional secrecy does not impede the exchange of information between financial institutions, when required.

**Criterion 9.1:** Article 75(2) of the CEMAC Regulation establishes a broad right of communication in favour of ANIF, which provides that: "in no case may professional secrecy be invoked against requests from ANIF". The same Article 75 governs the exchange of information between ANIF and other competent authorities and government services at national level. Article 101 of the same Regulation adds that notwithstanding any legislative or regulatory provisions to the contrary, professional secrecy may not be invoked by reporting entities to refuse to provide information to the supervisory authorities and to ANIF or to make the declarations provided for by the Regulation. The same applies to information required in the context of an investigation into ML/TF offences, ordered by the judicial authority or

carried out under its supervision by the State employees responsible for detecting and punishing such offences.

Article 40 of the COBAC Regulation repeats the provisions of the CEMAC Regulation on the transmission of data to ANIF, judicial or investigative authorities and COBAC.

Regarding the sharing of information, Article 94 of the CEMAC Regulation specifies the terms and conditions for information sharing between the supervisory authorities and financial institutions belonging to the same group, in the implementation of AML/CFT due diligence. Lastly, the last paragraph of Article 96 of the above-mentioned CEMAC Regulation states that: "financial institutions shall communicate the appropriate minimum AML/CFT measures to their branches or subsidiaries located abroad".

As for supervisory authorities, Article 91(4) of the CEMAC Regulation requires them to cooperate and exchange information with other competent authorities and to assist in AML/CFT investigations, prosecutions or other proceedings.

However, there are no specific provisions governing information exchange between financial institutions that do not belong to the same group at national level, in the context of AML/CFT.

### ***Weighting and conclusion***

Although the laws in force in Gabon allow for the implementation of professional secrecy requirements for financial institutions, there is a lack of specific provisions obliging information exchange between financial institutions at national level as part of AML/CFT.

### ***Gabon is rated largely compliant with Recommendation 9.***

#### **Recommendation 10 – Customer due diligence (CDD)**

Gabon had been assessed as non-compliant (NC) with the recommendation on customer due diligence, which was R5 of the old methodology for the following reasons: absence of specific provisions prohibiting anonymous accounts or accounts opened under fictitious names; absence of obligations regarding the management of numbered accounts; absence of an obligation for all financial institutions to identify beneficial owners; absence of an obligation for non-bank financial institutions to identify categories of customers at risk; limited implementation by the banking sector and non-implementation by non-bank financial institutions of enhanced scrutiny measures; absence of an obligation regarding existing customers. .

**Criterion 10.1:** Article 6 of the CEMAC Regulation, which has the force of law in Gabon, establishes the list of financial institutions, covering all categories defined by FATF. It formally prohibits financial institutions, in accordance with Article 23(2), from keeping anonymous accounts or accounts under fictitious names. For the insurance sector, these provisions are supplemented by those of Article 13 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021, which prohibits insurance companies from underwriting contracts in fictitious names.

#### ***When Customer due diligence is required***

**Criterion 10.2 :** The due diligence of financial institutions with regard to customers is governed by the provisions of Chapter II of the CEMAC Regulation. Similar requirements are contained in Chapter III of COBAC Regulation R2005-1, Part III of Regulation No. 01/CIMA/PCMA/PCE/SG/2021, and Articles 227, 228 and 229 of the COSUMAF General Regulations.

These due diligence obligations are imposed on financial institutions when:

- (a) They establish business relationships: In accordance with Articles 21 and 29 of the CEMAC Regulation, they are required to identify their customer, and where applicable, the beneficial owner of the business relationship, by appropriate means and to verify the identification details on presentation of any supporting document. These same obligations are contained in Article 4 of COBAC Regulation R.2005-1, Article 13 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 and Article 227 of the COSUMAF General Regulations;
- (b) They carry out occasional operations: Articles 29(a) and 32 of the CEMAC Regulation prescribe the identification of occasional clients when they carry out: (i) an operation for an amount exceeding ten million (10,000,000) CFA francs for persons other than money changers; (ii) an amount equal to or greater than five million (5,000,000) CFA francs whether it is a single transaction or several transactions that appear to be linked for other FIs, including money changers (Article 32.2). Identification is also required even if the amount of the transaction is below the threshold in case of doubt as to the legality of the origin of the funds. Article ... (4) and (5) of COBAC Regulation R.2005-1 contains obligations regarding the identification of occasional customers, without setting thresholds;
- (c) They carry out occasional operations in the form of electronic transfers: Articles 29(b), 32(1) and 36(1) and (2) specify the due diligence requirements for occasional customers carrying out an electronic transfer within the meaning of Recommendation 16, at national or international level;
- (d) There is a suspicion of money laundering or terrorist financing: Articles 29 and 32 provide for identification obligations for occasional customers in the event of suspicions of money laundering or terrorist financing or doubts as to the lawful origin of the funds, even if the amount of the transaction is below the set threshold;
- (e) It doubts the veracity or relevance of the customer identification data previously obtained: This obligation for FIs is contained in Article 29 of the CEMAC Regulation.

#### *Due diligence measures required for all customers*

**Criterion 10.3:** The preconditions for entering into a business relationship are set out in Article 21 of the CEMAC Regulation, which obliges reporting entities to identify their customers and, where applicable, the beneficial owners of the business relationship, by appropriate means, by verifying the identification details on presentation of any documentary evidence. Article 29 of the same CEMAC Regulation supplements these provisions by

requiring financial institutions to identify their customers, even occasionally, and to ensure the identity and authority of persons acting on their behalf, by means of independent and authenticated documents, sources, data or information. Article 32 provides for these due diligence requirements exclusively for occasional customers. Lastly, Article 34 requires financial institutions to re-identify customers when the identity of their customers and the identification details previously obtained are no longer accurate or relevant.

Similar requirements are contained in Articles 4 and 5 of COBAC Regulation R-2005 of 1 April 2005, which take into account the obligation to identify a customer, whether occasional or permanent and whether a legal person or person, and to verify the identity using documents, data and information from reliable and independent sources.

In the insurance sector, the applicable measures are laid down in Article 13 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021.

However, not all of these standards specifically address the identification of a legal entity. As such, FIs are not required to identify customers who are or who act on behalf of legal entities.

**Criterion 10.4:** Article 29 of the CEMAC Regulation requires financial institutions to identify their customers and, where applicable, to ascertain the identity and authority of persons acting on their behalf, by means of independent and authenticated documents, sources, data or information. These obligations are set out in Articles 4 and 5 of COBAC Regulation R-2005 and in Article 13 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 for the insurance sector.

**Criterion 10.5:** Identification of the beneficial owner is only mandatory when the customer is not acting on his own behalf. The combined provisions of Articles 21 and 33 of the CEMAC Regulation require financial institutions, before entering into a business relationship with their customer or assisting him in the preparation or execution of a transaction, to identify their customer and the beneficial owner of the business relationship when the customer is not acting on his own behalf, by appropriate means and verify the identification items on presentation of any documentary evidence. They shall identify, under the same conditions, their occasional customers and the beneficial owner of the business relationship. Lastly, the financial institution shall make inquiries by any means as to the identity of the true originator if it is not certain that the customer is acting on his own account. However, there is no provision specifying the requirement of reliability of the source of the information obtained on the beneficial owner.

Article 1(16) of the CEMAC Regulation defines the beneficial owner as the natural person who ultimately owns or controls a customer and/or the natural or legal person on whose behalf a transaction is carried out. It also includes persons who ultimately exercise effective control over a legal person or a legal arrangement. This definition of beneficial owner is consistent with the definition in the FATF Methodology Glossary.

**Criterion 10.6:** Articles 22 and 31 of the CEMAC Regulation specify the obligations relating to understanding the purpose and nature of the proposed business relationship and obtaining related information. Article 22 provides that before entering into a business relationship with a customer, financial institutions shall collect and analyse the information, from among those

on the list drawn up for this purpose by a competent authority, necessary to know their customer and the purpose and nature of the business relationship. Article 31 obliges financial institutions to implement mechanisms to understand the intended nature of the business relationship, to understand the nature of the activity of legal persons and legal arrangements and their ownership and control structure. Article 13(8) of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 contains specific provisions applicable to insurance undertakings. However, there is no list of information drawn up by a competent authority that must be collected by financial institutions; this leads to a varied and sometimes non-compliant application of these requirements, in the absence of a single, mandatory standard.

**Criterion 10.7:** Articles 22 and 23 of the CEMAC Regulation contain provisions that require financial institutions to exercise constant vigilance with regard to the business relationship, including:

- i. Exercising permanent vigilance with regard to any business relationship and carefully examining the operations carried out to ensure that they are consistent with what they know about their customers, their business activities, their risk profile and, where applicable, the source of their funds (Article 23(1));
- ii. During the entire duration of the business relationship, collect, update and analyse such information, from a list drawn up for this purpose by a competent authority, as will enable them to maintain an appropriate knowledge of their customer. The collection and storage of this information must be carried out in accordance with the objectives of assessing the ML/TF risk and of monitoring it in a manner appropriate to that risk (Article 22(2)). However, the absence of a list drawn up by an authority constitutes a failure to comply with this criterion.

In the same vein, Articles 12 and 13 of COBAC Regulation R-2005/1 of 1 April 2005 provide that customer identification data must be periodically reviewed throughout the duration of a business relationship and that measures to preserve the confidentiality of customers and their transactions must not prevent them from being subject to the same rigorous scrutiny and monitoring as is customary. Articles 13(8) and 14 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 contain similar requirements, specific to the insurance sector.

#### *Specific CDD measures required for legal persons and legal arrangements*

**Criterion 10.8:** Article 31(3) of Regulation No. 01/CEMAC/UMAC/CM on the identification of a legal person provides that FIs shall implement mechanisms to understand the intended nature of the business relationship. They must understand the nature of the business of legal persons and legal arrangements and their ownership and control structure.

Articles 5 and 7 of COBAC Regulation R-2005 require financial institutions to understand the nature of the customer's business and its ownership and control structure, where customers are legal persons or arrangements.

**Criterion 10.9:** Article 31 of the CEMAC Regulation, partially taken up by Article 5(3) of COBAC Regulation R-2005/1 and Article 13(2) to (4) of the Regulation No.

01/CIMA/PCMA/PCE/SG/2021, obliges financial institutions to identify and verify the identity of the legal person customer through the following information:

- (a) The articles of association and any document establishing that it has been legally constituted and that it has a real existence at the time of identification, any deed or official register recording its name, its legal form;
- (b) The powers which govern and bind the legal person (articles of association), the powers of the persons acting on its behalf, the determination of the source of funds and the identification of their beneficiaries as well as the persons who control the funds;
- (c) The address of the registered office.

This obligation also applies to companies whose capital is made up of bearer shares or held by agents (Article 5(4) of COBAC Regulation R-2005/1).

However, there is no requirement to identify the address of one of the main centres of activity, if different from the address of the registered office, on the one hand, and a requirement to collect the names of the relevant persons occupying the management functions in the legal person and the legal arrangement, on the other hand. Similarly, the identification of a legal arrangement is not expressly indicated in the above-mentioned instruments. Therefore, FIs are not required to identify customers who are or act on behalf of legal arrangements.

**Criterion 10.10:** For legal persons customers:

- (a) Financial institutions are required to identify the beneficial owner of the business relationship and verify his or her identity upon presentation of any documentary evidence, in accordance with Article 21 of the CEMAC Regulation. Article 1(16) of the CEMAC Regulation defines the beneficial owner as the natural person who ultimately owns or controls a customer and/or the natural or legal person on whose behalf a transaction is carried out. This also includes persons who ultimately exercise effective control over a legal person or a legal arrangement;
- (b) There are no provisions requiring financial institutions, where there is doubt as to the identity of the beneficial owner or where no natural person exercises control through shareholding, to identify the natural persons, if any, who exercise control over the legal person or legal arrangement by other means;
- (c) There is no provision requiring financial institutions, where no natural person is identified after the implementation of the measures in (a) or (b) above, to identify the relevant natural person who holds the position of principal manager.

**Criterion 10.11:**

The body of law in force in Gabon does not require financial institutions, for customers that are legal arrangements, to identify the beneficial owners and to take reasonable steps to verify the identity of such persons by means of either of the following information:

- (a) For trusts - the identity of the settlor of the trust, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries and any other natural person who ultimately

exercises effective control over the trust (including through a chain of control/ownership);

- (b) For other types of legal arrangements - the identity of persons in equivalent or similar positions.

### *CDD for beneficiaries of life insurance policies*

**Criterion 10.12:** The specific obligations of insurance companies are dealt with in Article 42 of the CEMAC Regulation, which specifies the identification requirements only from the annual cumulative premium threshold of five million CFA francs or a single premium of ten million CFA francs, or under certain conditions for pension insurance. Apart from the general due diligence and beneficial owner identification measures contained in Articles 29, 30 and 31 of the CEMAC Regulation, there are no specific provisions for the beneficiaries of life insurance policies and other insurance-related investment products.

- (a) Article 13.1 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 specifies that insurance undertakings must, before entering into a contractual relationship or assisting their customer in the preparation or execution of a transaction, ascertain the identity of their contracting party, in particular: for beneficiaries who are natural persons, ascertain the identity of all contracting parties (full names, date and place of birth, nationality) regardless of the amounts paid. Article 13.4 of the CIMA Regulation states that when a transaction appears to be carried out on behalf of a third party, the insurance undertaking must inquire about the true identity of the third party. This provision does not apply to other categories of financial institutions;
- (b) There is no requirement for FIs to obtain information on the beneficiaries of life insurance policies, where these are beneficiaries designated by characteristics, by category or by other means, enabling them to establish their identity at the time of payment of benefits;
- (c) There are no binding provisions on the verification of the identity of beneficiaries of life insurance policies and other insurance-linked investment products at the time of payment of benefits by financial institutions.

**Criterion 10.13:** Article 14 of the CEMAC Regulation establishes a general obligation for reporting entities to take appropriate measures to identify and assess the ML/TF risks to which they are exposed, taking into account risk factors such as customers, countries or geographical areas, products, services, transactions or distribution channels. These measures must be proportionate to the nature and size of the reporting persons. However, there is no regulatory requirement for financial institutions to consider beneficiaries of life insurance policies as a relevant risk factor when determining whether enhanced due diligence measures are applicable. Furthermore, there are no obligations to identify and verify the identity of the beneficial owner of life insurance policies and other insurance-linked investment products at the time of payment of benefits.

### *Timing of verification*



**Criterion 10.14:** Articles 21, 22, 23, and 32 of the CEMAC Regulation, Articles 4(4) and 5 of COBAC Regulation R-2005, and Article 13 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 require financial institutions to verify the identity of the customer and the beneficial owner before or during the establishment of a business relationship, or the execution of operations in the case of occasional customers, or before entering into a contractual relationship or assisting their customer in the preparation or execution of a transaction.

**Criterion 10.15:** The laws in force in Gabon do not authorize the establishment of a business relationship before verification.

#### *Existing customers*

**Criterion 10.16:** Articles 23(1), 35, 43 and 44 of the CEMAC Regulation require financial institutions to apply due diligence measures to existing customers and to implement due diligence measures in respect of existing relationships in a timely manner, taking into account the existence of previous due diligence measures and their risk profile. These requirements are supplemented in Articles 7, 18 and 21 of COBAC Regulation R-2005/1 and in Article 14 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021.

#### *Risk-based approach*

**Criterion 10.17:** Articles 25, 43, 56 to 61, and 95 of the CEMAC Regulation require financial institutions to implement risk management systems and enhanced due diligence measures if the risks of money laundering and terrorist financing are higher. These provisions are included in Articles 7, 22 and 24 of COBAC Regulation R-2005/1 and in Article 4 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021.

**Criterion 10.18:** When financial institutions find that the risk of money laundering and terrorist financing appears to be low, they may reduce the intensity of due diligence measures in accordance with Article 52 of the CEMAC Regulation. In this case, they shall justify to their supervisory authority that the extent of the measures is appropriate to the risks.

#### *Failure to satisfactorily complete CDD*

**Criterion 10.19:** Where a financial institution cannot comply with due diligence requirements:

- (a) There is no formal provision requiring it not to open the account, not to establish the business relationship or not to carry out the transaction. Only Article 33 of the CEMAC Regulation requires financial institutions to close their business relationships if there is any doubt about the identity of the beneficial owner, while Article 14 of COBAC Regulation R.2005/1 recommends the closure of accounts on which identification problems arise that cannot be resolved during operation;
- (b) Article 83 of the CEMAC Regulation and Article 26 of COBAC Regulation R.2005/1 oblige it to report to ANIF any operation for which the identity of the principal or the beneficial owner or the settlor of a trust fund remains doubtful despite the due diligence carried out.

#### *Customer due diligence and tipping-off*



**Criterion 10.20:** There are no formal provisions allowing financial institutions, in cases where they suspect that a transaction relates to money laundering or terrorist financing, and believe that by carrying out their due diligence they would alert the customer, to choose not to carry out this due diligence procedure and instead submit a STR.

***Weighting and conclusion***

There are instruments in Gabon with relevant provisions on customer due diligence in light of the FATF requirements. Nevertheless, there are still major shortcomings in terms of the reliability of the source of information obtained by reporting entities on the beneficial owner. Furthermore, there are no provisions requiring financial institutions, in case of doubt as to the identity of the beneficial owner, to identify the natural persons, if any, who exercise control over the legal person or the legal arrangement by other means. Similarly, there are no particularly explicit provisions on the beneficiaries of life insurance policies and other insurance-related investment products, or on the obligation to draw up a list of information by the competent authorities for FIs. In addition, there are no regulatory provisions requiring financial institutions to consider beneficiaries of life insurance policies as a relevant risk factor when determining whether enhanced due diligence measures are applicable.

***Gabon is rated as partially compliant with Recommendation 10.***

**Recommendation 11 – Record keeping**

During the mutual evaluation of the first round in 2012, Gabon was rated as partially compliant with the requirements of this Recommendation (former R10 ) for lack of details on the nature and availability of the documents to be kept, lack of details on the type of information to be collected to enable the reconstruction of transactions (apart from some operations), lack of an explicit obligation for financial institutions to ensure that they are able to make the information and documents they keep available to the competent national authorities in a timely manner, lack of effectiveness, particularly for the non-bank financial sector, lack of specific implementation of the AML/CFT regime.

**Criterion 11.1:** Article 38 of the CEMAC Regulation obliges financial institutions to keep, for a period of ten (10) years from the closing of their accounts or the termination of their relations with their regular or occasional customers, the documents and records relating to their identity, without prejudice to provisions prescribing more stringent obligations. The same applies to the preservation of all documents and records relating to all operations, national and international, carried out by their customers and the confidential reports drawn up following the particular supervision of some operations, for ten (10) years after the operation.

**Criterion 11.2:** According to Articles 38 and 61 of the CEMAC Regulation, FIs are required to record and keep, for at least 10 years, the results of implementation of enhanced due diligence measures and the reports of the analyses carried out in the specific monitoring of some operations. However, there is no specific provision obliging FIs to keep the account books and business correspondence of their customers.

**Criterion 11.3:** Articles 39 of the CEMAC Regulation, 39 and 40 of COBAC Regulation R-2005 and 18 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 prescribe the keeping of sufficient records to enable the reconstruction of all transactions carried out by customers, and made available to the judicial authorities, State employees responsible for the detection and

repression of offences relating to money laundering, acting under a judicial procedure, supervisory authorities as well as to ANIF, upon their request.

**Criterion 11.4:** According to Article 39 of the CEMAC Regulation, FIs shall transmit documents to the competent national authorities and to ANIF. Article 75 of the CEMAC Regulation, which deals with ANIF's right of communication, specifies that the documents must be transmitted thereto by financial institutions "within the time limits that it shall determine". Lastly, Article 91(7) obliges supervisory authorities to communicate "without delay" to ANIF, any information relating to suspicious transactions or facts that could be linked to money laundering or terrorist financing.

### ***Weighting and conclusion***

The obligations relating to record-keeping are contained in the instruments governing AML/CFT in Gabon. However, none of these provisions expressly obliges financial institutions to keep their customers' account books and business correspondence.

***Gabon is rated as largely compliant with Recommendation 11.***

### **Recommendation 12 – Politically exposed persons (PEPs)**

At the end of the last evaluation of the Gabonese AML/CFT system, the recommendation dealing with politically exposed persons (former R6) was rated non-compliant (NC) for the following reasons: absence of any obligation for non-banking financial institutions to deal with politically exposed persons; absence of any obligation in this regard for insurance undertakings and manual currency exchange professionals; imperfect implementation of the system by financial institutions; and lack of effectiveness, particularly for non-banking financial institutions.

**Criterion 12.1:** Articles 25 and 60 of the CEMAC Regulation and Article 13(5) of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 provide a framework for the specific due diligence obligations of reporting entities with respect to PEPs in general, including foreign PEPs.

- (a) Article 25 of the CEMAC Regulation requires reporting entities to adopt appropriate risk management systems to determine whether a customer is a politically exposed person. Article 60 of the CEMAC Regulation, which deals with specific measures applicable to PEPs, states that financial institutions shall take specific measures when entering into business relationships or carrying out transactions with or on behalf of PEPs, which implicitly includes beneficial owners. However, the obligation to identify beneficial owners as PEPs is not clearly specified.
- (b) Article 25 of the CEMAC Regulation requires financial institutions to obtain the authorization of senior management before entering into or continuing a business relationship with a PEP customer.
- (c) Articles 25 and 60 of the CEMAC Regulations require financial institutions to take all reasonable measures to identify the origin of funds or assets of PEPs; however, neither of these articles refers to the beneficial owner with regard to the origin of funds or assets.

- (d) The above-mentioned articles require financial institutions to ensure reinforced and permanent monitoring of the business relationship.

**Criterion 12.2:**

- (a) Articles 25 and 60 of the CEMAC Regulation require financial institutions to adopt appropriate risk management systems to determine whether the customer or beneficial owner is a politically exposed person, including domestic PEPs;
- (b) With regard to PEPs, Article 60 of the CEMAC Regulation provides financial institutions to take specific measures when they enter into business relationships or carry out transactions with or on behalf of PEPs, i.e. natural persons who hold or have held a prominent public position, as defined in Article 1(55) of the CEMAC Regulation. The other categories concerned include, where applicable, duties performed at Community or international level. These specific measures referred to above include the obligation to:
1. Implement adequate and appropriate procedures, depending on the risk, to be able to determine whether the customer or a beneficial owner of the customer is a politically exposed person;
  2. Inform senior management prior to the payment of capital, conduct an enhanced review of the entire business relationship with the policyholder and consider making a suspicious transaction report, in the case of life insurance;
  3. Take any appropriate action, depending on the risk, to establish the origin of the assets and the source of the funds involved in the business relationship or transaction;
  4. Ensure enhanced ongoing monitoring of the business relationship.

This provision therefore obliges financial institutions to apply the measures set out in criterion 12.1 (b) to (d) when business relationships with such persons present a higher risk.

However, these provisions of the CEMAC Regulations do not contain an obligation to "obtain the authorization" of senior management for enhanced life insurance due diligence; they are merely an information requirement.

**Criterion 12.3:** Pursuant to the combined provisions of Articles 1(55), 25, and 60 of the CEMAC Regulation, financial institutions are required to extend the enhanced due diligence requirements applied to PEPs to their close relatives, including their spouses, any partner considered to be the equivalent of a spouse, descendants and their spouses or partners, ascendants, privileged collaterals, and persons known to be closely associated. Article 8 of COBAC Regulation R-2005 of 1 April 2005 provides for the same requirements prior to the admission of a PEP, including any of his relatives, to its counters.

However, the provisions on the origin of funds and assets do not cover cases where the beneficial owner is a person closely related to a PEP.

**Criterion 12.4:** According to Article 42 of the CEMAC Regulation, insurance companies, agents and brokers carrying out life insurance activities are required to identify their customers and verify their identity in accordance with Article 31 of the Regulation, whenever the amount of premiums payable in a year reaches a certain threshold, or premium payments are made according to certain procedures. However, no provision is made in this Regulation to determine whether the beneficiaries of the policy or, if applicable, the beneficial owner of the beneficiary of a life insurance policy are PEPs. Article 13.5 of Regulation No. 01/CIMA/PCMA/PCE/SG/2021 deals with specific due diligence applicable to PEPs, without specifically addressing life insurance policies.

### ***Weighting and conclusion***

The AML/CFT laws in force in Gabon contain some specific provisions on the management of relationships with PEPs, including specific procedures to be implemented in the contractualization and monitoring of the relationship with this category of customers. However, the instruments contain shortcomings with regard to: (i) due diligence on the framework of obligations on beneficial owners and close associates; (ii) the obligation to identify beneficial owners who are PEPs; (iii) the specific due diligence to determine whether the beneficiaries or the beneficial owner of a life insurance policy is/are PEPs; (iv) provisions on the beneficial owner with regard to the origin of the funds or assets.

***Gabon is rated as partially compliant with Recommendation 12.***

### **Recommendation 13 – Correspondent banking**

In its first mutual evaluation report in 2012, Gabon was rated as partially compliant with the recommendation on correspondent banking, as it was noted that there was no obligation for non-bank financial institutions to enter into correspondent banking relationships, no provisions specifying that entry into correspondent banking relationships be subject to senior management authorization, and no operational implementation by financial institutions

**Criterion 13.1:** In accordance with Article 41 of the CEMAC Regulation, FIs are required, with respect to cross-border correspondent banking relationships and other similar relationships, in addition to the normal customer due diligence measures, to

- (a) Identify and verify the identification of customer institutions with which they have correspondent banking relationships, collect information on the nature of the customer institution's activities, assess the reputation of the customer institution and the degree of supervision to which it is subject, based on publicly available information. However, this does not include whether the correspondent has been investigated or acted upon by a supervisory authority in relation to money laundering or terrorist financing;
- (b) Assess the controls implemented by the customer institution to combat money laundering and terrorist financing;
- (c) Obtain senior management approval before entering into a relationship with the correspondent bank;

- (d) There are no specific provisions for understanding the respective AML/CFT responsibilities of each institution.

Also, Article 11 of COBAC Regulation R-2005 of 1 April 2005, which deals with relations with correspondent banks, obliges any reporting institution to obtain sufficient information on the nature of the correspondent credit institutions, their money laundering prevention and detection procedures, the purpose of the account to be opened, the state of banking regulations and supervision in the country where these institutions are located.

**Criterion 13.2:** With regard to payable-through accounts:

- (a) Article 59(5) of the CEMAC Regulation provides that "where financial institutions receive services from correspondent banks directly used by independent third parties for the execution of transactions for their own account, they must ensure that the contracting credit institution has verified the identity of the customers having direct access to these correspondent accounts and has taken due diligence measures for these customers in accordance with those provided for in Articles 24 and 25 of these Regulations.
- (b) However, there is no requirement for financial institutions to ensure that the correspondent is able to provide relevant information relating to payable-through accounts, upon request from the correspondent bank.

**Criterion 13.3:** Under Article 58 of the CEMAC Regulation, financial institutions are prohibited from entering into or maintaining a correspondent banking relationship with a credit institution or a company engaged in equivalent activities incorporated in a State in which the institution has no effective physical presence to carry out management and control activities, if it is not attached to a regulated institution or group. Furthermore, financial institutions are required to take appropriate measures to ensure that they do not enter into or maintain correspondent banking relationships with a person who is himself in a correspondent banking relationship that allows a shell bank to use his accounts.

### ***Weighting and conclusion***

Community provisions, in particular the CEMAC Regulation and COBAC Regulation R-2005 of 1 April 2005, contain obligations for financial institutions with regard to correspondent banking relationships. However, there is no provision obliging financial institutions to ensure that the correspondent is able to provide relevant information relating to payable-through accounts on request from the correspondent bank.

***Gabon is rated as largely compliant with Recommendation 13.***

### **Recommendation 14 - Money or value transfer services (MVTs)**

The first mutual evaluation of Gabon's AML/CFT system was concluded with a Non-Compliant (NC) rating for the former Special Recommendation VI on requirements for money or value transfer services. The main grievances identified by the assessors were: the absence of a mechanism for the licensing of MVT services by the competent authorities; the total absence of appropriate regulations; the absence of monitoring of the activity of MVT services; the absence of a list of agents.

**Criterion 14.1:** In Gabon, no one may engage in the professional activity of transferring or transporting funds and valuables if he has not obtained the approval of the competent authority of the State in whose territory he is required to carry out his activity, within the meaning of Article 92(1) of the CEMAC Regulations. However, this paragraph refers the application of this provision to the "regulations in force". Order No. 0031/MDDEPIP of 24 June 2016 to lay down the conditions for the opening and operation of entities specifically involved in money transfers in the Gabonese Republic specifies the terms and conditions for approval of this category of financial institutions for internal operations. For already licensed financial institutions such as banks and MFIs, it is not necessary to obtain a separate licence to carry out money transfer services.

No similar provision covers providers of international operations.

**Criterion 14.2:** There are no legal provisions in Gabon requiring the country to take measures to identify persons or entities that provide money or value transfer services without being licensed or registered, in order to apply proportionate and dissuasive sanctions.

**Criterion 14.3:** MVTS providers are not supervised by a designated authority under the laws in force in Gabon.

**Criterion 14.4:** Article 92 of the CEMAC Regulation provides that no person may engage in the professional activity of transferring or transporting funds and valuables if he has not obtained the authorization of the competent authority of the State in whose territory he is to carry out his activity. The said authority shall determine by decree or any other appropriate legal act the operating conditions, in particular with regard to the regular inspection of money or value transfer services. Paragraph 3 states that the provisions of paragraph 1 above are also applicable to any natural or legal person operating as an agent in a CEMAC State. Similarly, paragraph 5 stipulates that providers of money and value transfer services are required to communicate the list of their agents to the competent authority of the country in which they operate. In Gabon, the competent authority in this regard is the Directorate of Financial Institutions.

**Criterion 14.5:** There are no legal provisions in force in Gabon that require money or value transfer service providers using agents to include them in their AML/CFT programs and to monitor the agents' compliance with these programs.

### ***Weighting and conclusion***

The CEMAC Regulation lays down a normative framework for the activity of money and value transfer service providers in Gabon and refers its implementation to domestic instruments. Order No. 0031/MDDEPIP of 24 June 2016 provides a framework for the organization and functioning of internal money transfer providers. However, no implementing provisions have been made for international transfers. Neither have any measures been taken to identify and sanction MVTSPs operating without authorization or registration, nor are MVTSPs that may use agents required to integrate them into their AML/CFT programs and monitor compliance. Lastly, MVTSPs in Gabon are not specifically monitored for compliance with AML/CFT requirements.

***Gabon is rated as partially compliant with Recommendation 14.***

### **Recommendation 15 – New technologies**

At the end of Gabon's previous evaluation, the former Recommendation 8 on new technologies and distance business relations was rated Partially Compliant (PC). The main shortcomings identified were the following: lack of clarity on the possibility or not of establishing long-distance business relationships, especially for resident customers, including in the banking sector and insufficient obligations regarding the establishment of long-distance business relationships or the execution of long-distance transactions.

### *New technologies*

**Criterion 15.1:** Article 13 of the CEMAC Regulation provides that the competent authority shall take appropriate measures to identify, assess, understand and mitigate the ML/TF risks to which the country is exposed. Article 40 of the CEMAC Regulation specifies that, with regard to the management of risks relating to new technologies, financial institutions must identify and assess ML/TF risks that may result from:

1. The development of new products and business practices, including new distribution mechanisms;
2. The use of new technologies or developing technologies in connection with new or pre-existing products.

However, no assessment of the ML/TF risks inherent in the use of new technologies has been conducted by financial institutions. Furthermore, these provisions are only aimed at financial institutions, not "the country".

### **Criterion 15.2:**

- (a) Article 40(2) of the CEMAC Regulation provides that risks relating to new technologies must be assessed prior to the launch of new products or new business practices or prior to the use of new technologies or in the development thereof.
- (b) Financial institutions must take appropriate measures to manage and mitigate risks relating to new technologies, within the meaning of the same paragraph of the aforementioned Article 40.

### *Virtual assets and virtual asset service providers*

### **Criterion 15.3:**

- (a) There are no standards that specifically address the requirements for Government identifying and assessing ML/TF risks arising from virtual asset activities and VASP operations. Gabon's NRA has not yet been completed and there is no sector assessment of ML/TF risks arising from activities relating to virtual assets and VASP operations.
- (b) Pursuant to Article 13(3) of the CEMAC Regulation, the State is required to apply a risk-based approach to allocate its resources and implement measures to prevent or mitigate ML/TF. However, this provision does not specifically address the risks inherent in virtual asset activities and the activities or operations of VASPs.
- (c) There is no specific provision for VASPs to take appropriate measures to identify, assess, manage and mitigate their ML/TF risks.

**Criterion 15.4:**

- (a) (i) There is no provision specifically requiring that VASPs be licensed or registered, where the VASP is a legal person, in the jurisdiction in which it was established, or (ii) where the VASP is a natural person, in the jurisdiction in which its place of business is located.
- (b) There is no obligation on the competent authorities to take any legal or regulatory measures necessary to prevent criminals or their associates from owning, or being the beneficial owner of, a significant or controlling interest in, or holding a directorship of, a VASP.

**Criterion 15.5:** There are no legal provisions obliging the country to take measures to identify and apply appropriate sanctions to natural or legal persons who carry out VASP activities without being licensed or registered as required.

**Criterion 15.6:**

- (a) There are no legal provisions specifically addressing the regulation and supervision of VASPs. There is no supervisory authority dedicated to the activities of VASPs.
- (b) There is no legal requirement in Gabon for supervisory authorities to have the necessary powers to control or monitor VASPs to ensure that they comply with their AML/CFT obligations, including the power to conduct inspections, to require the production of any relevant information, and to impose a range of disciplinary and financial sanctions, including the power to withdraw, limit, or suspend the VASP's licence or registration.

**Criterion 15.7:** There is no requirement for competent and supervisory authorities to establish guidelines and provide feedback to assist VASPs in implementing national AML/CFT measures and in particular to detect and report suspicious transactions.

**Criterion 15.8:**

- (a) The instruments in force in Gabon do not provide for proportionate and dissuasive criminal, civil or administrative sanctions to be applied to VASPs that do not comply with AML/CFT obligations.
- (b) There is no provision for the above sanctions to be applicable not only to VASPs, but also to members of the administrative body and senior management.

**Criterion 15.9:**

- (a) There is no specific provision addressing the threshold of occasional transactions above which VASPs are obliged to take due diligence measures.
- (b) There are no specific measures in Gabon that require the originator's VASP to obtain and maintain the required and accurate information on the originator and the required information on the beneficiary of the virtual asset transfer, to submit such information to the beneficiary's VASP or financial institution immediately and securely, and to make such information available to the appropriate authorities upon request.
- (c) Similarly, there is no specific legal requirement for the beneficiary's VASP to obtain and keep the required and accurate information from the originator and the required



and accurate information from the beneficiary of the virtual asset transfer, and to make such information available to the appropriate authorities upon request.

- (d) There are no specific provisions in relation to virtual assets for monitoring the availability of information. With regard to freezing measures and the prohibition of transactions with designated persons and entities, Article 105 of the CEMAC Regulation provides a framework for these requirements for all funds and property, including virtual assets.
- (e) There are no specific obligations for financial institutions when sending or receiving a transfer of virtual assets on behalf of a customer.

**Criterion 15.10:** Article 106 of the CEMAC Regulation provides that any decision to freeze or unfreeze funds must be made public. The same applies to the procedures to be followed for any natural or legal person included on the list of persons, entities or bodies covered by the decision. However, there are no specific provisions regarding the implementation mechanisms of targeted financial sanctions, applicable to VASPs.

**Criterion 15.11:** The legal framework on international cooperation allows Gabon to exchange information and intelligence on VASPs to the extent that it is available. However, there is no VASP supervisory authority, nor any specific standard for the CASP supervisory authority to exchange information with its foreign counterparts, regardless of their nature or status and differences in nomenclature or status of VASPs.

### ***Weighting and conclusion***

Although Gabon's legal framework contains some provisions on the identification and assessment of ML/TF risks inherent in the use of new technologies, there are no legislative or regulatory provisions governing transactions relating to virtual assets or carried out by virtual asset providers, nor is there an authority specifically responsible for the licensing and supervision of VASPs.

***Gabon is rated as non-compliant with Recommendation 15.***

### **Recommendation 16: Wire transfers**

Gabon was rated Non-Compliant (NC) with the former Special Recommendation VII on rules for wire transfers. The shortcomings identified were related to the lack of obligations on the circulation of information on the originator.

### ***Originator financial institutions***

#### **Criterion 16.1:**

- (a) Article 36 of the CEMAC Regulation requires financial institutions whose activities include wire transfers, whether domestic or cross-border, to obtain and verify, regardless of the amount:
  - i. The full name of the originator;
  - ii. The originator's account number, or where there is no account, a unique transaction reference number;
  - iii. The originator's address, or in the absence of an address, the originator's national identification number or place and date of birth;

- (b) Financial institutions are also required to obtain, for wire transfers:
- i. The name of the beneficiary of the transfer;
  - ii. The account number of the beneficiary of the transfer, or where there is no account, a unique transaction reference number.

**Criterion 16.2:** Article 36 of the CEMAC Regulation requires financial institutions whose activities include wire transfers to obtain and verify the full name, account number and address or, where no address is available, the national identification number or place and date of birth of the originator and beneficiary of the transfer including, as appropriate, the name of the financial institution of the originator of such transfers. Where there is no account number, a unique reference number should accompany the transaction. This provision applies to all transfers, i.e. both individual transfers and batch transfers by the same originator.

**Criterion 16.3:** The instruments in force in Gabon do not define a threshold approach. The measures provided for in Article 36 of the CEMAC Regulation apply to all wire transfers.

**Criterion 16.4:** The instruments in force in Gabon do not define a threshold approach.

**Criterion 16.5:** The provisions of Article 36 of the CEMAC Regulation apply to both domestic and cross-border transfers.

**Criterion 16.6:** There are no provisions in Gabon for cases where the information accompanying the domestic wire transfer can be made available to the beneficiary's financial institution and the relevant authorities by other means.

**Criterion 16.7:** Article 38 of the CEMAC Regulation provides for financial institutions to keep for a period of ten (10) years, from the closing of their accounts or the termination of their relations with their regular or occasional customers, the documents relating to their identity. They are also required to keep all documents relating to the operations they have carried out and the enhanced due diligence reports for a period of ten (10) years, after the execution of the transaction.

**Criterion 16.8-** In accordance with Article 37 of the CEMAC Regulation, in the event that financial institutions receive wire transfers that do not contain complete information on the originator, they shall take steps to obtain the missing information from the issuing institution or the beneficiary with a view to completing and verifying it; where they do not obtain such information, they shall refrain from executing the transaction.

#### *Intermediary financial institutions*

**Criterion 16.9:** The requirements contained in Articles 36 and 37 of the CEMAC Regulation are of general application to the financial institutions of the originator, the beneficiary or those acting as intermediaries. Indeed, it is stated that the information referred to in paragraph 1 of Article 36 must be included in the message or payment form accompanying the transfer. Where there is no account number, a unique reference number must accompany the transfer. However, the deficiencies noted in Recommendation 11 (criterion 11.2) above mitigate the completeness of the above provisions in relation to this criterion.

**Criterion 16.10-** Under Article 38 of the CEMAC Regulation, financial institutions are required to keep for a period of ten years, starting from the closing of their accounts or the

termination of their relations with their regular or occasional customers, the documents relating to their identity. They shall also keep all documents relating to the transactions they have carried out for ten (10) years after execution of the transaction. However, there is no express obligation on the intermediary financial institution to keep for at least five years the information received from the originator's financial institution or from the other intermediary financial institution in the event that technical restrictions prevent the required originator or beneficiary information accompanying a cross-border transfer from remaining attached during a corresponding domestic wire transfer.

**Criterion 16.11:** There are no specific standards requiring intermediary financial institutions to take reasonable steps, consistent with end-to-end processing, to identify cross-border wire transfers that are missing the required originator or beneficiary information. Article 37 of the CEMAC Regulation, which generally require financial institutions receiving wire transfers with incomplete sender information to take the necessary steps to obtain the missing information from the sending financial institution or the beneficiary to complete and verify the information, do not cover this criterion.

**Criterion 16.12:** Articles 14, 28, 37, and 95 of the CEMAC Regulation require financial institutions to have policies and controls in place to effectively mitigate and manage ML/TF risks. These policies, procedures and controls must be proportionate to the nature and size of the institution and the volume of its activities. However, there is no specific requirement for FIs to have risk-based policies and procedures in place to decide: (a) when to execute, reject or suspend wire transfers that do not contain the required originator or beneficiary information and (b) the appropriate follow-up actions to be taken.

#### ***Beneficiary financial institutions***

**Criterion 16.13:** There are no formal provisions obliging the financial institution to take reasonable steps, which may include ex post facto monitoring or real-time monitoring where possible, to detect cross-border wire transfers that lack the required originator or beneficial owner information. In general, Article 37 of the CEMAC Regulation, which obliges financial institutions that receive wire transfers that do not contain complete information on the originator to take steps to obtain the missing information from the issuing institution or the beneficiary in order to complete and verify it, does not fully meet this criterion.

**Criterion 16.14:** Under Article 36 of the CEMAC Regulation, the required information on the originator and beneficiary must be included in the message or payment form accompanying the transfer, regardless of the amount of the transfer, including in the case of a cross-border transfer for an amount of \$/£1,000 or more. In addition, the obligation to keep such information in accordance with Recommendation 11 is provided for in Article 38 of the CEMAC Regulation.

**Criterion 16.15:** There is no specific provision requiring financial institutions to have risk-based policies and procedures for deciding:

- (a) When to execute, reject or suspend wire transfers that do not contain the required originator or beneficiary information;
- (b) Appropriate follow-up actions. On this point, pursuant to Article 37 of the CEMAC Regulation, financial institutions receiving wire transfers with incomplete information on the sender are required to take the necessary measures to obtain and verify the

missing data from the issuing financial institution or the beneficiary and to refrain from executing the transaction in the event that they do not obtain the information. However, this is not specifically an obligation to have risk-based policies and procedures to this effect.

### *Money or value transfer service operators*

**Criterion 16.16:** Under Article 92 of the CEMAC Regulation, no one may engage in the professional activity of transferring or transporting funds and valuables without prior authorization from the competent authority of the State on whose territory he is required to carry out his activity. The said authority shall determine, by decree or any other appropriate legal act, the operating conditions, in particular as regards the regular inspection of money or value transfer services. These provisions are also applicable to any legal or natural person operating as an agent in a CEMAC State. Money and value transfer service providers are required to communicate the list of their agents to the competent authority of the country in which they operate. Moreover, these requirements are supplemented by Articles 62 and 63 of the CEMAC Regulation with regard to the use of third parties. However, Order No. 0031/MDDEPIP of 24 June 2016 only sets out the conditions for the opening and functioning of entities specifically involved in domestic money transfers, without dealing with international transfers and the use of intermediaries or agents.

### **Criterion 16.17:**

- (a) Article 63 of the CEMAC Regulation contains provisions on the implementation of due diligence obligations by third parties. Article 83(4) provides that reporting entities are required to report to ANIF any transaction for which the identity of the originator or the beneficial owner remains doubtful despite the due diligence carried out. These provisions also cover cases where the service provider controls both the placing of an order and the receipt of a transfer.
- (b) There is no standard for filing a suspicious transaction report in all countries concerned by the suspicious wire transfer. Article 83 of the CEMAC Regulation only provides that money or value transfer service providers shall file a suspicious transaction report and make available to the financial intelligence unit all information on the transaction.

### *Implementation of targeted financial sanctions*

**Criterion 16.18:** Under Article 105 of the CEMAC Regulation, the competent authority shall order, by written decision, the freezing of funds and the seizure for the purpose of confiscation of laundered assets, proceeds of money laundering, predicate offences and terrorist financing, of persons, entities or terrorist organizations designated by the United Nations Security Council acting under Chapter VII of the United Nations Charter. Furthermore, Article 38 of COBAC Regulation R-2005/01 obliges institutions subject to COBAC to freeze without delay funds and other property belonging to persons listed under UN Sanctions Committee Resolutions 1267 and 1373. However, there is no mechanism for disseminating the lists in Gabon and no authority has been designated to implement TFSs.

### *Weighting and conclusion*

The obligations inherent in Recommendation 16 are partially fulfilled by the instruments in force in Gabon. However, there are still major shortcomings that represent significant risks in the Gabonese context, including: (i) the absence of an obligation on the originator's financial institution to transmit, upon request, the information accompanying the transfer to the beneficiary's financial institution or to the prosecution authorities within three (3) working days of receiving the request from either the beneficiary's financial institution or the appropriate competent authorities; (ii) the absence of an express obligation on the intermediary financial institution to keep for at least five years the information received from the originator's financial institution or the other intermediary financial institution where certain technical restrictions prevent the required originator or beneficiary information accompanying a cross-border transfer from remaining attached to a corresponding domestic wire transfer; (iii) the lack of provisions requiring financial institutions to have risk-based policies and procedures for deciding when to execute, reject or suspend wire transfers that do not include the required originator or beneficiary information; or (iv) the lack of a standard for filing a suspicious transaction report in all countries involved in the wire transfer of concern.

***Gabon is rated as partially compliant with Recommendation 16.***

### **Recommendation 17: Reliance on third parties**

At the time of Gabon's mutual evaluation in 2012, the former Recommendation 9 on reliance on third parties by FIs was rated partially compliant for the following reasons: shortcomings in the provisions of Community instruments, particularly in terms of deadlines for the transmission of information, the ability of third parties to provide due diligence information on request, and a general lack of implementation and effectiveness in the banking and non-banking financial sector.

**Criterion 17.1:** In accordance with Article 62 of the CEMAC Regulation, FIs are authorized to use third parties to carry out due diligence, without prejudice to their ultimate responsibility for compliance with the said obligations. Article 12 of Regulation No. 001/CIMA/PCMA/PCE/2021 of 2 March 2021 also contains provisions relating to reliance on third parties by insurance companies.

- (a) According to Article 64 of the CEMAC Regulation, the third party that applies due diligence obligations shall make available to financial institutions, without delay, information relating to the identity of the customer, the beneficial owner, as well as information relating to the purpose and nature of the business relationship.
- (b) The third party is required to transmit, upon first request, copies of the documents identifying the customer and the beneficial owner, as well as any document relevant to this due diligence, in light of Article 64(2) of the CEMAC Regulation. The requirement to transmit the documents without delay is not expressly mentioned in this article.
- (c) Article 63 obliges financial institutions that use third-party recipients located in a third State to ensure that they are liable to equivalent AML/CFT obligations.

However, there is no express obligation for the financial institution to formally ensure that the third party is liable to AML/CFT regulation and supervision.

**Criterion 17.2:** Reporting persons are required, in light of Article 14 (1) of the CEMAC Regulation, to take appropriate measures to identify and assess the money laundering and terrorist financing and proliferation risks to which they are exposed, taking into account risk factors such as customers, countries or geographical areas, products, services, transactions or distribution channels. These measures, combined with the provisions of Article 63 of the CEMAC Regulation, imply an obligation to assess the risks associated with the country of establishment of third parties.

However, they do not explicitly provide that countries using third parties must take into account the information available at the country.

**Criterion 17.3:**

- (a) Financial institutions are required to apply measures at least equivalent to those provided for in Chapter 3 of Part II of the CEMAC Regulation relating to customer due diligence and account keeping, in their branches located abroad, in accordance with Article 96 of the CEMAC Regulation.
- (b) Financial institutions using a third party that is part of the same financial group are required, under Articles 63 and 96 of the CEMAC Regulation, to implement customer due diligence measures and record keeping and AML/CFT programs. However, there are no specific provisions regarding the requirement that these measures be monitored at group level by a competent authority.
- (c) To prevent ML/TF risks, Article 96 of the CEMAC Regulation obliges branches or subsidiaries established in a third country, other than Gabon, to apply the AML/CFT measures of the group if they are more stringent than those of the host country. However, there are no specific provisions specifying that any risk relating to a higher risk country is satisfactorily mitigated by the AML/CFT policies of the group, when the financial institution uses a third party that is part of the same financial group.

In essence, the above provisions require supervisory authorities to inform each other where the legislation of a third State does not permit the application of the measures, so that coordinated action can be taken to resolve the issue. Where the legislation of the third State does not permit application of the group's measures, FIs are required to take additional measures to effectively address AML/CFT risks and inform their home State supervisory authorities. Where the additional measures are not sufficient, the home State competent authorities should consider additional measures, which may even include requiring the cessation of the financial group's activities in the host State.

***Weighting and conclusion***

The regulatory provisions in Gabon allow financial institutions to use third parties in the implementation of due diligence requirements. They also contain due diligence requirements for financial institutions and their third parties in the implementation of due diligence requirements. However, FIs are not obliged to take steps to ensure that the third party transmits the documentation. Instead, the CEMAC Regulation places the obligation on the third party itself, which may apply if the third party is under the country's jurisdiction.

***Gabon is rated as largely compliant with Recommendation 17.***

## **Recommendation 18: Internal controls and foreign branches and subsidiaries**

The former Recommendation 15 on internal control and foreign branches and subsidiaries was rated as partially compliant in 2012. The following complaints were raised against Gabon's system: lack of a system applicable to all components of the financial sector; lack of effective implementation of internal control obligations in the area of anti-money laundering; and total absence of a system for the non-bank financial sector.

With regard to branches and subsidiaries, Gabon was rated as non-compliant with the former Recommendation 22, due to the following major shortcomings: fragmented obligation for the banking sector; lack of obligation to inform the banking or non-banking supervisor; non-effective application of due diligence relating to control of the operations of subsidiaries and branches abroad.

### **Criterion 18.1:**

- (a) Financial institutions are obliged, under Article 27 of the CEMAC Regulation, to develop and implement AML/CFT programs. Such programs include, in particular, the appointment of a compliance officer at the head office, each branch and each local agency or office. These provisions are also contained in Articles 54 and 55 of COBAC Regulation R-2016/04 of 8 March 2016 on internal control in credit institutions and financial holding companies. Article 8 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021 provides for the designation of officials responsible for the implementation of AML/CFT programs.
- (b) Article 10 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021 is the only regulation in Gabon that requires insurance companies to implement appropriate procedures when hiring employees to ensure that they are hired according to strict criteria.
- (c) Article 27(1)(3) of the CEMAC Regulation obliges financial institutions to implement AML/CFT programs that include a continuous employee training program. This provision is repeated in Article 46(3) of COBAC Regulation R-2005/01 and in Article 11 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021. Other categories of FIs are not covered by this requirement.
- (d) Article 14 of the CEMAC Regulation requires financial institutions to implement AML/CFT programs that include an independent audit function responsible for testing policies, procedures and controls. Articles 44 to 48 of COBAC Regulation R-2016/04 of 8 March 2016 on internal control in credit institutions and financial holding companies also contain provisions relating to the internal audit function within institutions subject to COBAC. Similarly, Articles 6, 10, 12, 54 and 55 of COBAC Regulation R-2016/04 of 8 March 2016 on internal control in credit institutions and financial holding companies, Articles 8, 31 and 32 of COBAC EMF Regulation R-2017/06 of 24 October 2017 on internal control in microfinance institutions and Articles 5 and 6 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021 of 2 March 2021 cover this requirement.

### **Criterion 18.2:**

- (a) The requirements under this criterion are covered by the CEMAC Regulation, which, in Article 94(1), requires financial institutions that are part of a group to implement group-wide policies and procedures, including data protection policies and policies and procedures relating to information sharing within the group for AML/CFT purposes. Article 96 provides that financial institutions shall apply measures at least equivalent to those in force in Gabon with respect to customer due diligence and record keeping in their subsidiaries located abroad.
- (b) Article 94 of the CEMAC Regulation provides for procedures relating to information sharing within the group. However, there are no specific requirements on the provision of information from branches and subsidiaries relating to customers, accounts and operations, when necessary for AML/CFT purposes, for compliance, audit and/or AML/CFT functions at group level, including data and analysis of transactions or activities that appear unusual or for risk management purposes.
- (c) Article 94(1) of the CEMAC Regulation provides that financial institutions are required to implement data protection measures; paragraph 3 provides that the supervisory authorities concerned shall inform each other of cases where the legislation of a third State does not allow for the application of appropriate minimum AML/CFT measures to their branches and subsidiaries located abroad. However, these provisions do not explicitly provide for satisfactory safeguards on confidentiality and use of the information exchanged.

**Criterion 18.3:** Article 94(2) of the CEMAC Regulation obliges financial institutions to ensure the implementation of AML/CFT measures consistent with those of the home country, where the minimum AML/CFT requirements of the host country are less stringent than those of the home country, to the extent that the laws and regulations of the host country so permit. Paragraph 3 states that if the host country does not allow for the proper implementation of AML/CFT measures consistent with those of the home country, financial groups should be obliged to implement appropriate additional measures to manage money laundering and terrorist financing risks and to inform the home country supervisory authorities.

Furthermore, Articles 6, 10, 12, 54 and 55 of COBAC Regulation R-2016/04 of 8 March 2016 on internal control in credit institutions and financial holding companies cover a good part of the requirements of this recommendation.

### ***Weighting and conclusion***

The instruments in force in Gabon contain relevant provisions on internal controls and foreign branches and subsidiaries. These instruments require financial institutions to adopt ML/TF prevention programs that factor the risks and the scale of the business activity. They also provide for information exchanges between supervisory authorities in cases where the legislation of a third country does not allow for the application of appropriate minimum AML/CFT measures to their branches and subsidiaries located abroad. However, these provisions are deficient in terms of confidentiality and the use of information exchanged.

***Gabon is rated as largely compliant with Recommendation 18.***

### **Recommendation 19 – Higher risk countries**



Gabon was rated non-compliant with the former Recommendation 21 on higher risk country in its first MER. This rating was based on the following shortcomings: very limited determination of the scope of business relationships and transactions; lack of additional counter-measures for countries not implementing or insufficiently implementing the FATF Recommendations; lack of measures to address concerns about deficiencies in the AML/CFT systems of countries other than those identified by FATF; due diligence measures relating to transactions with no apparent economic or lawful purpose not specifically applicable to transactions with legal and natural persons resident in countries not implementing or insufficiently implementing the FATF Recommendations.

**Criterion 19.1:** Article 14 of the CEMAC Regulation requires that reporting persons take appropriate measures to identify and assess the money laundering and terrorist financing and proliferation risks to which they are exposed, taking into account risk factors such as customers, countries or geographical areas, products, services, transactions or distribution channels. These measures should be proportionate to the nature and size of the reporting entities. However, there are no express obligations for FIs to apply enhanced due diligence measures proportionate to the risks, in their business relationships and transactions with natural and legal persons (and in particular financial institutions) from countries for which FATF so requests.

Article 24 of COBAC Regulation R-2005/01 provides for the same obligations of particular vigilance for any transaction originating from or destined to institutions that are located in countries that are not members of FATF or classified as non-cooperative with respect to AML/CFT. Article 19 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021 also provides that insurance undertakings and institutions are required to pay particular attention to transactions with countries and/or jurisdictions declared by FATF as non-cooperative.

**Criterion 19.2:** There are no specific legal provisions in Gabon requiring the application of risk-proportionate countermeasures:

- (a) when requested by FATF; and
- (b) regardless of any FATF request.

**Criterion 19.3:** Gabon does not have any provisions that explicitly require measures to be taken to ensure that financial institutions are aware of concerns about deficiencies in other countries' AML/CFT systems.

### ***Weighting and conclusion***

Consideration of the country factor in the identification and assessment of AML/CFT risks by financial institutions is provided for in the EMAC Regulation. However, there are no binding measures for the application of risk-proportionate countermeasures at the specific request of FATF or independently.

***Gabon is rated as partially compliant with Recommendation 19.***

### **Recommendation 20 – Reporting suspicious transactions**

At the end of its first evaluation, Gabon was rated Partially Compliant (PC) on the former Recommendation 13 (on ML suspicious transaction reports) and the former Special

Recommendation IV (on TF suspicious transaction reports). The shortcomings identified included the lack of an obligation to report attempted transactions and non-implementation of the system outside the banking sector.

**Criterion 20. 1:** Article 83 of the CEMAC Regulation, Articles 26 and 28 of COBAC Regulation R-2005/01, Article 21 of COSUMAF Regulation No. 001/CIMA/PCMA/PCE/SG/2021 and Articles 230 and 231 of the COSUMAF General Regulations require financial institutions to file suspicious transaction reports to ANIF when they know, suspect or have good reason to suspect that the transaction or attempted transaction in question may be related to money laundering or terrorist financing and proliferation. However, the requirement for immediate reporting of suspicious transactions to ANIF is not clearly stated.

**Criterion 20.2:** The provisions referred to in c.20.1 oblige FIs to report suspicious transactions. In accordance with Article 83(2) of the CEMAC Regulation, financial institutions are obliged to report to ANIF attempted operations that they know, suspect or have good reason to suspect are the result of customs or tax fraud when at least one criterion defined by the regulations in force is met. As worded, this obligation is restrictive and does not cover all attempted suspicious transactions relating to money laundering or terrorist and proliferation financing.

### ***Weighting and conclusion***

The instruments in force in Gabon contain provisions on the obligation of FIs to report suspicious transactions. But the immediacy of these reports is not clearly covered by the instruments. Similarly, the obligation to report attempted transactions is not satisfactorily regulated.

***Gabon is rated as partially compliant with Recommendation 20.***

### **Recommendation 21 - Tipping-off and confidentiality**

At the end of the previous evaluation in 2012, Gabon was rated as partially compliant with respect to the former Recommendation 14 relating to tipping-off and confidentiality. The country was criticized for: absence of measures in sector regulations protecting managers and employees from professional or disciplinary liability for breaches of confidentiality rules; absence of exceptions to the prohibition on informing third parties when exchanges are made between financial institutions belonging to the same group; and non-implementation of repressive measures in the event of disclosure of information to customers.

**Criterion 21.1:** Articles 88 and 89 of the CEMAC Regulation, Articles 30 and 31 of COBAC Regulation R-2005/01, and Article 21(3) of Regulation No. 001/CIMA/PCMA/PCE/SG/2021 guarantee that financial institutions, their managers and employees are protected against any criminal or civil liability for breach of any rule relating to disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, when they report their suspicions to ANIF in good faith, even if they did not know precisely what the predicate criminal activity was or if the illegal activity that was the subject of the suspicion did not actually occur.

**Criterion 21.2:** Pursuant to Article 87(2) of the CEMAC Regulation and Article 21.3 of Regulation No. 001/CIMA/PCMA/PCE/SG/2021, financial institutions, their managers and employees are prohibited from disclosing the fact that a suspicious transaction report or related information is communicated to ANIF. These provisions are not intended to prevent information sharing under Recommendation 18.

### ***Weighting and conclusion***

The CEMAC Regulation, the COBAC Regulation, and the CIMA Regulation contain satisfactory provisions on the confidentiality obligations of financial institutions.

***Gabon is rated as compliant with Recommendation 21.***

### **Recommendation 22 - DNFBPs: customer due diligence**

Gabon was rated as Non-Compliant (NC) with the recommendation on customer due diligence for DNFBPs (formerly R12) at the end of the first evaluation of its AML/CFT system. The main shortcoming identified was the lack of awareness and implementation of AML/CFT obligations by stakeholders.

**Criterion 22.1:** Articles 47 to 51 of the CEMAC Regulation define the specific due diligence to be carried out by DNFBPs in the context of AML/CFT.

- (a) According to Article 47 of the CEMAC Regulation, casinos must ensure the identity of players who purchase, bring in or exchange chips or plaques for an amount equal to or greater than 1,000,000 CFA francs, equivalent to approximately 1,500 euros, by means of an original valid official document, which should be photocopied. However, this is not equivalent to obtaining and verifying all the information required under R10.
- (b) Article 48 of the CEMAC Regulation, with reference to Articles 30 and 31 of the same instrument, requires real estate agents involved in transactions for their customers concerning the purchase or sale of real estate to implement the customer due diligence requirements listed in Recommendation 10.
- (c) Pursuant to Article 50 of the CEMAC Regulation, dealers in precious metals and stones are required to comply with customer identification obligations when they carry out a cash transaction equal to or greater than the threshold set by the Monetary Authority or, failing that, by the Ministerial Committee. However, there is no threshold set by these authorities to be applied by dealers in precious metals and stones; this in itself constitutes a vulnerability.
- (d) In accordance with Article 49 of the CEMAC Regulation, lawyers, notaries, other independent legal professionals and accountants must observe the customer due diligence requirements set out in Articles 21 to 25 of the same Regulation when preparing or carrying out transactions for their customers concerning the following activities: (i) purchase and sale of real estate; (ii) management of customer's money, securities or other assets; (iii) management of bank, savings or securities accounts; (iv) arranging contributions for the creation, operation or management of companies; and lastly, (v) creation, operation or administration of legal persons or arrangements, and

purchase and sale of business entities. However, the absence of a list drawn up by an authority for KYC as well as the purpose and nature of the business relationship as provided for by Article 22 of the CEMAC Regulation, limits compliance of this sub-criterion with the ongoing due diligence requirement of FATF Recommendation 10.

- (e) According to Article 51 of the CEMAC Regulation, customer due diligence obligations are imposed on trust service providers and companies when they prepare or carry out operations for a customer in connection with the following activities: acting as an agent for the formation of a legal person; acting (or arranging for another person to act) as an official or secretary-general of a company, as a partner of a partnership, or in a similar capacity for other types of legal persons; providing a registered office, business address or premises, administrative or postal address to a company, partnership or other legal person or arrangement; acting (or arranging for another person to act) as a trustee of an express trust or performing an equivalent function for another form of legal arrangement; acting (or arranging for another person to act) as a shareholder acting on behalf of another person.

The deficiency identified under R10 (c.10.3) for FIs applies similarly to DNFBBs.

**Criterion 22.2:** Article 47(3) of the CEMAC Regulation requires casinos and gaming establishments to keep records relating to accounts, customers and transactions for 10 years after the last transaction. The deficiency identified under R11 (c.11.2) for FIs applies in the same way to casinos and gaming establishments. There is no requirement for other categories of DNFBBs (real estate agents, dealers in precious stones and/or metals, lawyers, notaries, chartered accountants and other independent legal and accounting professionals, trust and corporate service providers) to keep records for at least five years.

**Criterion 22.3:** Article 25 of the CEMAC Regulation requires DNFBBs to comply with the obligations relating to politically exposed persons (PEPs) by setting up an appropriate risk management system to determine whether the customer is a PEP and, if so:

- To obtain senior management approval before entering into or continuing a business relationship;
- To take all reasonable steps to identify the origin of the funds or assets; and
- To ensure a reinforced and permanent monitoring of the business relationship.

However, application of the due diligence provided for above did not factor national PEPs and family members or any type of person closely associated with PEPs. In addition, this requirement does not cover the beneficiary of the life insurance policy and/or, where applicable, the beneficial owner of the beneficiary of the life insurance policy, if he is a PEP.

**Criterion 22.4:** There is no obligation on DNFBBs with respect to new technologies.

**Criterion 22.5:** There is no provision that sets out the obligations to rely on third parties for DNFBBs or to ensure that the third party is liable to AML/CFT regulation, control or supervision.

### ***Weighting and conclusion***

The CEMAC Regulation subjects the various categories of DNFBBs to a duty of customer due diligence. However, this due diligence is essentially limited to customer identification.

The related provisions do not explicitly factor the specific aspects of due diligence relating to the identification of the beneficial owner, knowledge of the origin of funds, record keeping, the monitoring of national PEPs, their family members and the beneficial owner of life insurance policies. In addition, DNFBPs are not subject to the due diligence relating to the use of new technologies and reliance on third parties in the exercise of their activities.

***Gabon is rated as partially compliant with Recommendation 22.***

### **Recommendation 23 - Designated non-financial businesses and professions: other measures**

Gabon was rated Not Compliant with the first evaluation with respect to other measures applicable by DNFBPs in relation to AML/CFT (formerly R16). The reasons for this rating are: lack of internal control and AML/CFT programs at the level of DNFBPs; lack of DNFBP understanding of AML/CFT due diligence and reluctance by some DNFBPs to file STRs to ANIF; lack of provisions for countermeasures against countries that do not or insufficiently implement the FATF Recommendations.

**Criterion 23.1:** Pursuant to Article 83 of the CEMAC Regulations, all reporting entities, including DNFBPs (as defined by FATF), are required to report to ANIF amounts recorded in their books or transactions involving amounts that they know, suspect or have good reason to suspect are the proceeds of criminal activity or are related to a money laundering or terrorist and proliferation financing offence. However, this provision does not incorporate the formal obligation to report attempted transactions; just as it does not settle the problem of the immediacy of the suspicion report to ANIF.

**Criterion 23.2:** Article 28(3) of the CEMAC Regulation provides that reporting entities other than financial institutions shall implement the AML/CFT procedures and internal control measures laid down by supervisory authorities. However, this obligation is conditional on the definition by the supervisory authorities of the AML/CFT procedures and internal control measures to be implemented. Unfortunately, there is no DNFBP AML/CFT supervisory authority in Gabon.

**Criterion 23.3:** There are no provisions requiring DNFBPs to meet the obligations for higher risk countries set out in Recommendation 19.

**Criterion 23.4:** Articles 87, 88 and 89 of the CEMAC Regulation require DNFBPs to comply with tipping-off and confidentiality obligations. Article 87(2) of the CEMAC Regulation provides that reporting entities are prohibited from informing the owner of the sums or the author of one of the transactions giving rise to a suspicious transaction report or third parties, other than supervisory authorities, professional bodies and national representative bodies, of the existence and content of a report submitted to ANIF and from giving information on the action taken on the said report. Articles 88 and 89 of the said Regulation protect any reporting entity who files a suspicion report in good faith.

### ***Weighting and conclusion***

The AML/CFT legal framework has established other preventive measures to which DNFBPs are liable. These include obligations to report suspicious transactions, confidentiality and non-

disclosure of information reported to ANIF, as well as the establishment of an internal compliance control system. However, there are no provisions requiring DNFBPs to meet the obligations for higher risk countries set out in FATF Recommendation 19. Also, the reporting obligation does not include attempted suspicious transaction and the immediacy of the report. Lastly, in the absence of a formally designated supervisory authority for monitoring AML/CFT issues in the DNFBP sector, the enactment and implementation of preventive measures remain limited in these different sectors.

***Gabon is rated as partially compliant with Recommendation 23.***

## **Recommendation 24 - Transparency and beneficial ownership of legal persons**

Gabon was rated as not compliant with the recommendation on transparency and beneficial ownership of legal persons on the grounds that the information provided to the TPPCR under the OHADA instruments does not make it possible to identify beneficial owners within the meaning of R33 (new R24), and the significant informal activity does not make it possible to obtain appropriate, relevant and up-to-date information on all economic operators.

### **Criterion 24.1:**

- (a) Pursuant to Articles 270 to 885 of the OHADA Uniform Act on the Rights of Commercial Companies and Economic Interest Groups (AUSCGIE), Gabon has adopted mechanisms that identify and describe the different types, forms and elementary characteristics of legal persons. It is indeed the establishment of a one-stop shop that brings together within itself all the services involved in business creation. The forms of legal persons that can be created in Gabon are: the limited company (LC), the limited liability company (LLC), the simplified joint-stock company (SAS), the general partnership (SNC), the limited partnership (SCS), the cooperative company, the economic interest grouping, the single-person companies (SARLU, SASU), as well as the real estate company (SCI). Other types of legal persons are created in Gabon (associations and NGOs) and are governed by Law No. 035/62 of 10 December 1962 on associations.
- (b) Procedures for setting up commercial companies and methods for obtaining and storing information are described in the Uniform Acts governing such companies. These procedures are usually done by private deed or notarial deeds and the information collected is recorded and updated in the TPPCR. Specific clarifications to LLCs were laid down by Law No. 13/2016 of 5 September 2016 on simplification of the creation of LLCs in the Gabonese Republic and Law No. 28/2018 to amend some provisions of the said law. In accordance with this Law, the intervention of the notary is no longer mandatory in the creation of a LLC. However, there is no obligation to collect and keep beneficial ownership information in the same form. The Uniform Acts are available on the official OHADA website ([www.ohada.com](http://www.ohada.com)) directly accessible to the public. Information on the forms of commercial companies created, as well as the conditions and procedures for their creation are listed on the ANPI website. They are freely available to the public who can either directly consult them online or send a request to ANPI. Information on the creation, characteristics, statutes

and regimes of associations and NGOs is provided for by Law No. 035/62 of 10 December 1962 on associations. The law is published in the Official Gazette accessible to the public. This information may also be obtained from the competent authorities which supervise these entities, in particular the services under the Ministry of the Interior.

**Criterion 24.2:** Gabon has not conducted an assessment to identify, understand and mitigate ML/TF risks associated with different classes of legal persons.

### *Basic information*

**Criterion 24.3:** The OHADA Uniform Act on General Commercial Law provides for the obligation to register with the TPPCR which requires information on: the company name, the legal form, the address of the head office, the main elements governing the functioning and the list of members of the board of directors. The same obligation is repeated in Article 97 of the AUSCGIE. This obligation covers the information required in this criterion. Articles 74(2) and 36(4) of that Act provide for information concerning companies to be made available to the public.

**Criterion 24.4:** There are no provisions requiring companies to keep information on the company name, legal form, address of the registered office, main elements governing the functioning and list of members of the board of directors, and to keep a register of shareholders or their members.

**Criterion 24.5:** Pursuant to section 52 of the AUDCG, corporations are required to update the information required by c.24.3 within one month of the changes. However, there are no mechanisms to guarantee the accuracy of this information. Also, the deficiency highlighted in c.24.4 affects the compliance of this criterion.

### *Beneficial ownership information*

**Criterion 24.6:** There is no provision to ensure that information on the beneficial owners of a company is obtained by that company and available at a designated location in the country, or can otherwise be identified in a timely manner by a competent authority.

**Criterion 24.7:** There are no obligations in the Uniform Act or in domestic instruments concerning the updating and accuracy of beneficial ownership information.

**Criterion 24.8:** There are no provisions in Gabon to ensure that companies cooperate to the fullest extent possible with the competent authorities to identify beneficial owners as described in Criterion 24.8.

**Criterion 24.9:** There is no legal provision to ensure that all the persons, authorities mentioned above, and the company itself (or its officials, liquidators or other persons involved in the dissolution of the company), should keep the mentioned information and documents for at least five years after the date on which the company is dissolved or ceases to exist, or for at least five years after the date on which the company ceases to be a customer of the professional intermediary or financial institution.

### *Other requirements*

**Criterion 24.10:** In accordance with Article 39 of the CEMAC Regulation, competent authorities, and in particular judicial and AML/CFT enforcement authorities, have all necessary powers of timely access to basic and beneficial ownership information held by the parties concerned. Such access powers can be exercised through requests addressed directly to the holders of the requested information (ANPI One-Stop-Shop, FIs, DNFBPs). However, the unavailability of information on the beneficial owner in Gabon limits the exercise of this power.

**Criterion 24.11:** In Gabon, Article 744-1 of the AUSCGIE require the dematerialization of bearer shares and states that all securities must be registered in the name of their owner.

**Criterion 24.12:** Gabon does not have legal persons able to issue shares registered in the name of nominees or to have directors acting on behalf of another person. In addition, it is not permitted to issue shares registered under nominees or for agents to be appointed to act on behalf of another person.

**Criterion 24.13:** Gabonese law does not provide for criminal sanctions against directors who do not disclose the identity of their principals or who do not present their mandate.

**Criterion 24.14:**

- (a) In accordance with Article 141.7 of CEMAC Regulation 01, foreign competent authorities may have access to basic information from company registers and the exchange of shareholder information (originals or certified copies of relevant records and documents, including bank statements, accounting documents and registers showing the functioning of a company or its business activities).
- (b) Gabon is also a signatory to agreements on cooperation in information exchange and mutual legal assistance.
- (c) There are no provisions prohibiting the country from exchanging information on shareholders. The difficulty arises as regards the availability and updating of said information.
- (d) There are no provisions preventing Gabon from using the investigative powers of their competent authorities in a timely manner and from obtaining beneficial ownership information on behalf of their foreign counterparts as long as they are available.

**Criterion 24.15:** There is no mechanism to monitor the quality of the assistance it receives from its counterparts regarding requests for basic information and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad.

### *Weighting and conclusion*

Although legal persons created in Gabon comply with the registration and transparency obligations contained in the Uniform Act, there is no formal mechanism to identify beneficial owners or to ensure that the information is up-to-date and available in a timely manner. Gabon does not justify any risk assessment measure as basis for the country to take the necessary measures to mitigate these risks. There are no mechanisms to ensure that the basic



information referred to in point 24.3 is accurate. There is no express obligation for companies to keep the information required for their registration as well as for the keeping of shareholder registers.

***Gabon is not compliant with Recommendation 24.***

### **Recommendation 25 - Transparency and beneficial owners of legal arrangements**

In its first mutual evaluation, Gabon obtained the NA rating for this recommendation (R34) because Gabonese law did not recognize common-law legal arrangements such as trusts and other similar property management legal entities. Adoption of the CEMAC Regulation fills certain gaps.

**Criterion 25.1:** Gabon has not ratified The Hague Convention of 1 July 1985 and does not have legislation governing trusts. However, Gabonese law does not prohibit trusts established abroad from operating in its territory or from being administered there. Likewise, members of some independent legal professions such as notaries and lawyers can manage property without hindrance on behalf of a trust established abroad. Following the same logic, assets located in Gabon can be managed by a trust established abroad.

(a) Not applicable.

(b) Not applicable.

(c) Pursuant to Articles 7 and 51 of the CEMAC Regulation, members of independent legal professions such as notaries and lawyers who administer property under the same conditions as trusts, are liable to the AML/CFT preventive measures prescribed by the CEMAC Regulation (customer due diligence obligations contained in Articles 21 to 25 of the said Regulation). In accordance with Article 22(2), they are required to identify and verify the identity of some players involved in the operation, and to keep the information collected up to date. No obligation to keep this information is required. No data on the existence of trusts and other local legal arrangements or service providers to trusts under foreign law are available. The same applies to their legal form.

**Criterion 25.2:** Articles 22(2) and 51 of the CEMAC Regulation require reporting entities, in particular professional trustees, to keep the information collected from their customers up to date and that such information be accurate and updated in a timely manner. However, no provision is made to ensure the accuracy of the basic information and the beneficial owners collected and kept by the trustee. Furthermore, Gabonese legislation does not provide any clarification on the concept of “timely manner”.

**Criterion 25.3:** There is no requirement for trustees to report their status to FIs and DNFBPs when establishing a business relationship or executing an occasional transaction in excess of an established threshold.

**Criterion 25.4:** There is no legislative provision or binding means preventing trustees from providing the competent authorities with any information on the trust or from providing FIs

and DNFBPs, on request, with information on the beneficial owners and assets of the trust held or managed in the course of the business relationship.

**Criterion 25.5:** The general powers conferred on prosecuting authorities by the Code of Criminal Procedure as well as the provisions of the CEMAC Regulation (Article 39), allow them timely access to basic information held by trustees and other parties, in particular information held by FIs and DNFBPs on:

- (a) the beneficial owners of the trusts;
- (b) the trustee's residence;
- (c) Any assets held or managed by the FI or DNFBP in connection with any trustee with whom they have a business relationship or for whom they execute an occasional transaction.

However, the deficiency identified in c.10.3 relating to the identification of BO by FIs and DNFBPs has a minor impact on the compliance of this criterion.

**Criterion 25.6:** On the basis of the cooperation framework (see R37 and R40) at its disposal, Gabon has the capacity to provide, in a timely manner, international cooperation concerning information on trusts and other legal arrangements, including information on BOs, to the extent that they are available. Such cooperation helps to meet the requirements of points (a), (b) and (c) of this criterion.

**Criterion 25.7:** In accordance with Article 113 of the CEMAC Regulation, regulated entities acting as professional trustees (lawyers, notaries, etc.) are legally liable for any breach of their obligations.

**Criterion 25.8:** Gabon has not provided the necessary elements for analysis of this criterion

### ***Weighting and conclusion***

The legislation in force in Gabon contains relevant provisions on the collection and transmission of information to the competent authorities. However, this obligation does not extend to information held by service providers of trusts other than members of some independent legal professions such as notaries and lawyers. Similarly, the absence of requirements for the collection, updating and preservation of beneficial ownership information does not allow beneficial owners to exercise these powers. The absence of proportionate and dissuasive penalties for non-compliance is also a flaw in the current system.

***Gabon is rated non-compliant with Recommendation 25.***

### **Recommendation 26 – Regulation and supervision of financial institutions**

In its first MER, Gabon was rated as non-compliant with the Recommendation on the Regulation and Supervision of Financial Institutions. It was criticized for lack of effective specific regulation for the insurance sector and financial markets, lack of proper registration and control procedures for money transfer and exchange service providers, lack of written and operational mechanisms to prevent criminals from controlling financial institutions and non-implementation of the system.

### **Criterion 26.1:**

Article 91 of the CEMAC Regulation stipulates that supervisory and supervisory authorities shall monitor compliance by financial institutions with the requirements for the prevention of money-laundering, terrorist financing and proliferation. Article 2(2) of COBAC Regulation R-2005/01 on AML/CFT due diligence in Central Africa empowers COBAC to exercise its control and disciplinary power over reporting entities (credit institutions, intermediaries in banking operations, microfinance institutions and foreign exchange bureaus), with a view to ensuring compliance with the provisions relating thereto.

Credit institutions are supervised by the Central African Banking Commission (COBAC) and the Bank of Central African States (BEAC), in accordance with Article 10 of the 1990 Convention establishing COBAC. Articles 32 and 38 of the 17 January 1992 Convention on the Harmonization of Banking Regulation in Central African States confer on COBAC the power to regulate and supervise reporting credit institutions.

Under Articles 4, 7, 8, 9 and 13 of Regulation No. 01/17/CEMAC/UMAC/COBAC of 27 September 2017 on the conditions for the exercise and control of microfinance activity, microfinance institutions are regulated and supervised by COBAC and by the Ministry in charge of finance. Supervisory authorities must ensure that operations and services authorized to microfinance institutions on a principal and ancillary basis are carried out in compliance with AML/CFT legal and regulatory provisions.

Article 2 of Regulation No. 06/03-CEMAC-UMAC of 12 November 2003 on the organization, functioning and supervision of the Central African Financial Market and Article 3 of the General Regulation of the Central African Financial Market Supervisory Commission (COSUMAF) confer on COSUMAF the supervision and control of financial market players in Gabon.

The Treaty establishing CIMA (Article 16) give the Regional Insurance Supervisory Commission (CRCA) jurisdiction over the regulation and supervision of Insurance and Reinsurance Companies. Supervision of insurance intermediaries is ensured at national level by the National Insurance Directorate, a directorate of the Ministry of Economy and Recovery of Gabon.

In accordance with Article 16 of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 on foreign exchange regulations in CEMAC, BEAC ensures, with the assistance of COBAC and the Ministry in charge of currency and credit, the control of compliance by manual money changers with all provisions relating to foreign exchange regulations.

COBAC supervises payment service providers by ensuring that they comply with the laws and regulations applicable to them, including AML/CFT regulations (Article 14 of Regulation No. 04/18/CEMAC/UMAC/COBAC of 21 December 2018 on payment services in CEMAC).

### ***Market entry***

**Criterion 26.2:** Financial institutions are required to be licensed (or authorized) before operating in Gabon.

The Convention on the Harmonization of Banking Regulations in Central African States specifies that bodies governed by domestic law or branches of institutions having their head office abroad must obtain an authorization from the monetary authority, given on the assent of

COBAC before carrying out any credit institution activity (Article 12). Similarly, the opening in Gabon of offices for information, liaison or representation of credit institutions based abroad is subject to the approval of the monetary authority, with the assent of COBAC (Article 13).

To carry out microfinance activity in Gabon, Article 47 of Regulation No. 01/17/CEMAC/UMAC/COBAC on conditions for the exercise and control of microfinance activity in CEMAC requires obtaining an approval issued by the monetary authority after obtaining COBAC's assent.

With regard to the financial market, Article 6 of the COSUMAF General Regulation of 15 January 2009 provides that "Market organizations, intermediaries, issuers and any other person or entity may not intervene on the Regional Financial Market without having first sought and obtained approval or authorization from COSUMAF to start their activities, provide their services or initiate their operations".

With regard to the insurance sector, Article 326 of the Insurance Code requires insurance companies, before starting their activities, to obtain an approval which is issued by the Ministry in charge of Finance.

The Ministry in charge of currency and credit issues the authorization for foreign exchange bureaus (Articles 19 and 82 of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 to regulate foreign exchange in CEMAC) after the assent of BEAC (Article 14 of the said Regulation).

Operating as a payment service provider in Gabon is subject to approval by the monetary authority, issued after the assent of COBAC (Article 23 of Regulation No. 04/18/CEMAC/UMAC/COBAC of 21 December 2018 on payment services in CEMAC).

Moreover, Article 92 of the CEMAC Regulation prohibits the exercise of activities of transfer or transport of funds and securities without prior approval by the competent authority of the State in whose territory this activity will be carried out. This requirement applies equally to any legal or natural person who operates in a CEMAC State as an agent of any provider of funds and securities transfer services. The conditions of approval/authorization as prescribed by these instruments do not allow the establishment or the continuation of the activities of the fictitious banks.

However, supranational and national arrangements do not include any specific requirement for prior approval or formal registration of large international transfer companies operating in Gabon. The latter thus offer services in partnership with banks, microfinance and payment institutions without forming a national legal entity.

**Criterion 26.3:** Article 91 of the CEMAC Regulation requires supervisory and control authorities to take the necessary steps to define the appropriate criteria for the direct or indirect possession, control or participation in the running, management or functioning of a financial institution.

The specific instruments relating to banks and financial institutions (Articles 27 and 43 of the Convention on the Harmonization of Banking Regulations in Central Africa, the relevant provisions of COBAC Regulation R-2016/01 on the terms and conditions for issuing authorizations to credit institutions, their directors and auditors, and lastly, Article 6 of

Regulation No. 02/15/CEMAC/UMAC/COBAC to amend and supplement some conditions relating to exercise of the banking profession in CEMAC, detail out the criteria to be fulfilled to be shareholders, directors or auditors of credit institutions. They require any applicant to produce a number of documents, including a criminal record less than 3 months old, issued by the competent authorities of the country of which he is a national and of the country of residence. In addition, individual shareholders are required to submit a notarized certificate of assets, an exhaustive list of holdings in other credit institutions or any other company. The shareholder who is a natural person or a legal person must also submit a sworn statement by which he states the origin of the funds to be invested and certifies that they do not come from illicit activities.

As regards microfinance institutions, Chapters 2 and 3 of Regulation COBAC EMF R-2017/05 to lay down the terms and conditions for the approval of microfinance institutions, their directors and auditors list all the elements of information to be provided to enable COBAC consider the application for approval. The information and intelligence collected enables COBAC to assess the quality and repute of shareholders, directors and officials. In addition, COBAC verifies that the leader applicant is not affected by any of the prohibitions provided for by the regulations in force.

For the financial market, Article 152 of the COSUMAF General Regulations provides that any person who has been the subject of a criminal conviction for a crime or misdemeanour or on whom the banking and financial system of the CEMAC zone bears doubtful debts may not be a director, official, shareholder or internal controller of a stock exchange company.

Article 329 of the Insurance Code prohibits anyone who has been convicted of an ordinary crime, theft, breach of trust, scamming or an offence punishable by the laws of the penalties of scamming, for embezzlement committed by a public trustee, for extortion of funds or securities, for issuing bounced cheques in bad faith, for damage to the credit of the State, for concealing things obtained through these offences, from any conviction for attempted or complicity in the above offences, or any conviction for at least one year's imprisonment, regardless of the nature of the offence committed, to found, direct, administer or manage companies subject to the control of the Regional Insurance Control Commission. Furthermore, Article 506 lays down the conditions which confer on applicants the ability to exercise the professions of general agent or insurance broker. Among these conditions, it is noted that any person who has been convicted of a felony or misdemeanour may not exercise the professions.

Regarding manual exchange, the provisions of Instruction No. 011/GR/2019 on the terms and conditions for carrying out manual exchange activity in CEMAC provide that any applicant manager or official must produce, among other things, an extract of a criminal record dated less than 3 months as well as a sworn statement by which he certifies not to be under any of the prohibitions or incompatibilities provided for by the regulations in force. Shareholders who are natural persons must produce a criminal record extract. Corporate shareholders are expected to produce the detailed list of all shareholders highlighting, for each of them, the number of shares held, the nominal value of the shares as well as the corresponding percentage of shareholding and the equivalence in voting rights. In addition, they are required to state all the ascending shareholders until the identification of the final natural persons shareholders.

For payment service providers using outsourcing or technical assistance from a technical partner, Article 62 of Regulation No. 04/18/CEMAC/UMAC/COBAC of 21 December 2018 on payment services in CEMAC specifies that, when the technical partner or its responsible managers fall under incompatibilities including a conviction for crime, attack on the security or credit of the State, attempt or complicity in these offences, theft, breach of trust, scamming, issuance of bounced cheque, violation of the exchange and transfer regulations, COBAC may oppose or order the suspension or termination of services.

Ultimately, with the exception of manual currency exchange, these requirements are not sufficiently explicit as regards information on the beneficial owners of significant holdings in or taking control of a financial institution. Apart from the shortcomings in beneficial ownership mentioned above, these instruments also make it possible to prevent criminals or their accomplices from owning, controlling or holding a management position in a financial institution.

### *Risk-based approach to control and oversight*

#### **Criterion 26.4:**

- (a) According to the relevant provisions of the instruments in force, financial institutions subject to the fundamental principles and falling under COBAC's supervision are subject to regulation and supervision in accordance with the fundamental principles, including application of consolidated supervision at group level for AML/CFT purposes. The same consolidated supervisory framework is provided for insurance undertakings. Conversely, there is no evidence of existence of a similar system for financial market participants.
- (b) Other financial institutions not subject to the fundamental principles are also subject to AML/CFT regulation and control or supervision in Gabon. Financial institutions that provide money or value transfer services or foreign exchange services are also subject to supervisory systems that ensure compliance with their domestic AML/CFT obligations.

**Criterion 26.5:** Articles 27 and 28 of the CEMAC Regulation refer to the possibility for supervisory authorities (a) to specify the ML/TF prevention programs of financial institutions, (b) to lay down procedures and internal control measures to be implemented by financial institutions and (c) to carry out on-the-spot checks to verify their proper application. However, no provision determines, on the basis of risk profiles, the frequency and extent of AML/CFT on-the-spot and documentary checks.

**Criterion 26.6:** There is no provision for ML/TF risk profiling of financial institutions or financial groups, and therefore no possibility of reviewing the assessment of the ML/TF risk profile of these same institutions and groups.

### *Weighting and conclusion*

With the exception of large international money transfer companies that use the authorization of formally approved credit institutions, access to the financial profession in Gabon is conditional on obtaining an authorization. There are also supervisory bodies for each category of financial institution. All of these measures are aimed at preventing criminals from

controlling financial institutions as well as the implementation of shadow banks. Nevertheless, the regulatory framework on the conditions for exercise of the banking profession is not very explicit in matters of due diligence with regard to information on the beneficial owners of significant holdings in a financial institution. Furthermore, provisions for implementing the risk-based approach as a basis for determining the frequency and extent of controls of financial institutions and subsidiaries of large groups are not provided for.

***Gabon is rated as partially compliant with Recommendation 26.***

### **Recommendation 27 – Powers of supervisors**

Gabon was rated partially compliant for this Recommendation relating to the powers of supervisory authorities (former R29). The country had been criticized for a doubt about the real sanctioning powers of DNA, and non-implementation of the mechanism.

**Criterion 27.1:** Article 91 of the CEMAC Regulation requires FI supervisors to monitor FIs' compliance with their AML/CFT obligations. The instruments specific to the other categories of FIs confer on their respective supervisory and control authorities the necessary powers in this area.

In accordance with Part II of the Annex to the Convention of 16 October 1990 to establish a Central African Banking Commission, and Article 2(2) of COBAC Regulation R-2005/01 of 1 April 2005 on the due diligence of institutions subject to AML/CFT, COBAC is empowered to monitor the compliance of credit institutions with their AML/CFT obligations. It carries out documentary and on-the-spot checks on banking and financial institutions.

COBAC carries out checks on documents and on the spot to ensure that microfinance institutions comply with the laws and regulations applicable to them, whether they are issued by the CEMAC Member States, by the UMAC Ministerial Committee, by the Monetary Authority, by BEAC or by COBAC itself (Articles 13 and 14 of Regulation No. 01/17/CEMAC/UMAC/COBAC of 27 September 2017 on conditions for exercising and controlling microfinance activity in CEMAC).

For the financial market, pursuant to Article 181 of the COSUMAF General Regulations, brokerage companies are subject to COSUMAF's on-the-spot and document checks. This control also applies to the staff and authorized representatives of stock exchange companies.

As regards the insurance sector, Article 16(a) confers on the Regional Insurance Control Commission the powers to carry out on-the-spot and documentary checks on insurance and reinsurance companies. In addition, the Ministry in charge of finance also carries out, through the Directorate of Insurance, on-the-spot checks of insurance sector players, including insurance intermediaries.

For manual exchange players, Article 6 of Instruction No. 011/GR/2019 of 10 June 2019 on the terms and conditions for carrying out manual exchange activity in CEMAC provides that BEAC, COBAC or the Ministry in charge of finance may carry out periodic checks to ensure that those licensed to carry out currency exchange comply with the provisions governing the exercise of manual exchange activity.

In accordance with Articles 14 and 15 of Regulation No. 04/18/CEMAC/UMAC/COBAC of 21 December 2018 on payment services in CEMAC, COBAC carries out on-the-spot checks

of payment service providers to ensure that they comply with the laws and regulations applicable to them.

**Criterion 27.2:** The last paragraph of Article 27 of the CEMAC Regulation empowers supervisory authorities to carry out inspections of financial institutions.

**Criterion 27.3:**

Under Article 101 of the CEMAC Regulation on the prevention and suppression of ML/TF, supervisory authorities are empowered to require the production of any relevant information to monitor financial institutions' compliance with their AML/CFT obligations.

COBAC is empowered, under Article 9 of the 1990 Convention establishing COBAC and Article 44 of COBAC Regulation R 2005-01 of 1 April 2005 on the due diligence of institutions subject to AML/CFT, to require credit institutions to produce all the documents and information it deems necessary for the proper performance of its duties.

Articles 9, 14, 52, 62, 68 of Regulation No. 01/17/CEMAC/UMAC/COBAC on the conditions of exercise and control of MFIs and Article 44 of COBAC Regulation R 2005-01, authorize COBAC to require the production of any relevant information to monitor the compliance of MFIs with their AML/CFT obligations.

For the financial market, Article 12 point (vi) of Regulation No. 06/03-CEMAC-UMAC on the organization, functioning and supervision of the financial market in Central Africa, and Article 328 of the COSUMAF General Regulation, authorize COSUMAF to require, as part of the permanent control it exercises over market participants, the production of all documents and information necessary to conduct its controls.

The Regional Insurance Control Commission may request from the entities subject to its control all information necessary to carry out its mission. In particular, it may request the disclosure of the auditors' reports and, in general, of any accounting documents for which it may, if necessary, request certification (Article 310 of the CIMA Code).

In accordance with Article 15 of Regulation No. 04/18/CEMAC/UMAC of 21 December 2018 on payment services in CEMAC, COBAC is entitled to ask payment service providers, their auditors, technical partners, distributors, sub-distributors and any other person or body whose assistance may be required, any information or evidence useful for the exercise of its control mission.

With regard to manual exchange players, foreign exchange bureaus are required to make available to the Ministry in charge of finance, BEAC and COBAC and, where applicable, any other person duly authorized under the laws and regulations, the information and documents necessary for the proper conduct of controls (Article 17 of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 on the regulation of foreign exchange in CEMAC, and Article 49 of Instruction No. 011/GR/2019 of 10 June 2019 on the terms and conditions for exercising manual foreign exchange activity in CEMAC).

However, the deficiency identified in c.27.1 impacts the compliance of this criterion.



#### **Criterion 27.4:**

In accordance with Article 113 of the CEMAC Regulation, where, as a result of either a serious lack of vigilance or a deficiency in the organization of its internal control procedures, a reporting entity failed to comply with its AML/CFT obligations, the supervisory authority with disciplinary powers may act ex officio under the conditions provided for by the specific laws and regulations in force. The specific instruments that organize the various supervisory authorities also give them powers to impose disciplinary and pecuniary sanctions, including the power to withdraw, limit or suspend the authorization of the financial institution.

Indeed, COBAC may initiate disciplinary proceedings on the basis of the instruments governing the profession (Article 60 of COBAC Regulation R-2005/01). In accordance with COBAC Regulation R-2019/03 of 23 September 2019 on the modalities of application and recovery of financial penalties, COBAC is authorized, in the event of non-compliance with regulations, to impose a range of disciplinary and financial penalties on credit, microfinance and payment institutions, as well as against their managers. On the basis of its power to impose sanctions, COBAC may revoke the authorization of a banking institution (COBAC Charter for the conduct of on-the-spot inspections, Annex to Decision COBAC D-2010/004 of 15 February 2010).

According to Article 312 of the CIMA Code, when the CRCA finds a violation of the regulations against a company under its control, it is authorized to impose a range of disciplinary sanctions, including warning, reprimand, limitation or prohibition of all or part of the operations, suspension or automatic resignation of the managers responsible, withdrawal of authorization, as well as fines.

Under the provisions of Part 8 of the General Regulation of COSUMAF on sanctions, it is authorized to impose financial penalties against financial market participants who have violated the regulations.

With regard to manual exchange, Article 153 of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 on foreign exchange regulations in CEMAC provides that BEAC and the Ministry in charge of currency and credit and COBAC establish infringements, and if necessary, impose administrative and pecuniary penalties in their respective fields of competence.

#### ***Weighting and conclusion***

Supervisory authorities have broad powers to ensure the supervision of reporting entities within their respective spheres of competence. They have the power of control on documents and on the spot with the possibility of requiring reporting entities to produce any information deemed relevant in most cases. They also have the power to impose a range of disciplinary and financial sanctions. However, the instruments on COSUMAF do not cover the control procedures required for AML/CFT.

***Gabon is rated as largely compliant with Recommendation 27.***

#### **Recommendation 28 – Regulation and supervision of DNFBPs**

In the first REM of Gabon, the country was found non-compliant with this Recommendation (former R24) on the regulation and supervision of DNFBPs due to the non-implementation of the AML/CFT control system by DNFBP regulatory authorities.

## *Casinos*

### **Criterion 28.1:**

- (a) In accordance with Article 14 of Decree No. 0085/PR/MI of 30 March 2021 to lay down conditions for the operating and control of games of entertainment, money and chance in the Gabonese Republic, the operation of casinos is subject an authorization issued by Decree adopted in Council of Ministers on a joint proposal of the Ministers in charge of the Interior and the Economy on the recommendation of the Higher Gaming Commission.
- (b) The constituent items of the application to be filed with the Higher Gaming Commission include the extract from the criminal record not more than 3 months "of the main officials of the Casino" to ensure their repute (Article 16 of Decree No. 0085/PR/MI of March 30, 2021). This includes managers and operators.
- (c) This sector is under the supervision of the Higher Games Commission established by Decree No. 0085/PR/MI of 30 March 2021. However, the tasks of the Commission do not cover AML/CFT control.

## *Designated non-financial businesses and professions other than casinos*

**Criterion 28.2:** No authority has yet been designated or a self-regulatory body responsible for the supervision and compliance of DNFBPs with their AML/CFT obligations. SRBs and professional associations are not responsible for the supervision and compliance of DNFBPs with their AML/CFT obligations.

**Criterion 28.3:** The general obligation of DNFBP controllers and supervisors to ensure that DNFBPs comply with their AML/CFT obligations is set out in Article 91 of the CEMAC Regulation. However, no authority is designated to ensure that DNFBPs comply with their AML/CFT obligations.

### **Criterion 28.4:**

- (a) Articles 91 and 93 of the CEMAC Regulation confer powers of conformity control on the competent authorities or SRBs of DNFBPs allowing them to perform their functions. However, no DNFBPs regulatory authority has been designated and the disciplinary or sanctioning powers of some SRBs such as ONEC are limited to cover all compliance requirements within the meaning of the FATF standards.
- (b) In accordance with Article 91(1) of the CEMAC Regulation, these authorities are obliged to take the necessary steps to define the appropriate criteria for the possession, control or direct or indirect participation in the running, management or operation of a DNFBP. However, no authority has been designated for this purpose.
- (c) Article 113 of the CEMAC Regulation of 16 April 2016 confers on supervisory authorities with disciplinary powers the possibility of imposing sanctions on reporting entities for non-compliance with AML/CFT obligations under the conditions provided for by the specific legislative and regulatory instruments in force. Although this general obligation is provided for, no authority is designated to monitor and sanction DNFBPs' non-compliance with their AML/CFT obligations.

## *Designated non-financial businesses and professions*

### **Criterion 28.5:**

- (a) Article 14 of the CEMAC Regulation imposes an obligation on reporting entities, including DNFBPs, to carry out an assessment of the ML/TF risks to which they are exposed. Such assessments are documented, updated and made available to control, regulatory and supervisory bodies and may serve as basis for defining supervisory criteria. However, there is no regulatory evidence to support that the frequency and extent of DNFBPs' AML/CFT controls is a function of their understanding of ML/TF risks and taking into account their characteristics, including diversity and number.
- (b) In addition, supervision of DNFBPs does not factor the profile of the ML/TF risk to which they are exposed, as well as the degree of discretion granted to them under the risk-based approach, when assessing the relevance of their internal controls, AML/CFT policies and procedures.

### ***Weighting and conclusion***

Apart from the general due diligence obligations set out in the Regulation of 11 April 2016, there is no mechanism for monitoring DNFBPs' AML/CFT obligations. Similarly, there are no provisions prescribing risk-based monitoring of DNFBPs.

***Gabon is rated as non-compliant with Recommendation 28.***

### **Recommendation 29 - Financial intelligence units (FIUs)**

Gabon was rated partially compliant (CP) with FATF requirements in the first evaluation in 2012. The main issues identified were: (i) incomplete and ineffective operationality of ANIF; (ii) limited powers of ANIF to have timely access to the necessary information and intelligence; (iii) imperfect protection of the confidentiality of the data on the STRs and requests for further information; (iv) lack of synergy with other AML/CFT players; (v) no sanction provided for in case of refusal or non-execution of a request for information from ANIF. However, since its evaluation, several legislative provisions have been adopted to strengthen Gabon's legal framework, including Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering and the financing of terrorism and proliferation in Central Africa, Regulation No. 001/Cima/PCMA/PCE/SG/2021 of 2 March 2021 on the fight against money laundering.

**Criterion 29.1:** Article 65 of the CEMAC Regulation establishes a Financial Intelligence Unit (FIU) referred to as "National Agency for Financial Investigation" (ANIF). Under Article 66 of the aforementioned Regulation, the mission of Gabon's ANIF is to receive, analyse and disseminate information on related predicate offences and the transmission of information, with a view to combating money laundering and the financing of terrorism and proliferation. It also receives such other useful information as it may require to fulfil its mission, in particular information communicated by oversight authorities and judicial police officers; Article 83(1) refers to the obligation of STRs by reporting entities. All these provisions are specified in Articles 7 and 8 of Decree No. 000739/PR/MEFBP of 22 September 2005 to lay down the organization, functioning and financing of the National Agency for Financial Investigation.

**Criterion 29.2:** Gabon's ANIF has the mission to receive STRs from reporting entities in accordance with the CEMAC Regulation on prevention and suppression of ML/TF and PF.

- (a) Under Article 83(1), the CEMAC Regulation requires reporting entities to report to ANIF, amounts recorded in their books or transactions involving amounts that they know, suspect or have good reason to suspect are the proceeds of criminal activity or are related to a money laundering or terrorist and proliferation financing offence.
- (b) ANIF Gabon also receives reports on cash transactions of an amount equal to or greater than five million (5,000,000) CFA francs, whether a single transaction or several transactions that appear to be linked (Article 18 of the CEMAC Regulation). Article 83(4) and (7) also requires reporting entities to report to ANIF Gabon any transaction for which the identity of the payer or beneficial owner or the settlor of a trust fund or any other instrument of management of an earmarking remains doubtful despite the due diligence carried out in accordance with their due vigilance, and the information relating to the transactions of transmission of funds carried out through cash payment or through electronic money.

**Criterion 29.3:**

- (a) According to Article 66(1)(3) of the CEMAC Regulation, ANIF Gabon may request the communication, by reporting entities as well as by any natural or legal person, of information held by them and likely to enrich the suspicion reports. These obligations are specified and reinforced by Article 7(2) and (3) of Decree No. 000739/PR/MEFBP of 22 September 2005.
- (b) Similarly, under the right of communication established in Article 75 of the CEMAC Regulation, ANIF Gabon is empowered to access the widest possible range of financial and administrative information collected from public and private administrations and information from criminal prosecution authorities necessary for the performance of its mission. The Article specifies that professional secrecy may not be invoked against ANIF, which receives, on the initiative of government services, local authorities, public establishments and any other person entrusted with a public service mission, all the information necessary for the accomplishment of its mission or obtains such information from them upon request, within the time limits it sets.

**Criterion 29.4:**

- (a) In accordance with Articles 66(1)(1) and 72 of the CEMAC Regulation, Gabon's ANIF conducts an operational analysis of the information it receives to establish suspicions of ML/TF. To this end, it is responsible, in particular, for collecting, analysing, enriching and using any information that may establish the origin or destination of the sums or the nature of the transactions that have been the subject of a suspicion report or a referral by the public prosecutor's office. It immediately processes and analyses the information collected and, if need be, requests further information from the originator of the report and from any public and/or oversight authority.
- (b) ANIF Gabon is authorized to carry out a strategic analysis in accordance with Article 66(1)(4) and (4) of the CEMAC Regulation. As such, it may carry out or have carried out periodic studies on trends in the techniques used for ML and TF purposes on the national territory.

**Criterion 29.5:** ANIF Gabon is able to disseminate, spontaneously and upon request, information and the findings of its analyses to the competent AML/CFT authorities. This power of dissemination is provided for under Article 71 of the CEMAC Regulation which provides that: ANIF shall be authorized to communicate information it holds to the Customs, Tax and Judicial Police Administration. It may also transmit to the tax administration, for possible use in the exercise of its missions, information on facts likely to fall within the scope of fraud or attempted tax fraud. Lastly, ANIF Gabon may transmit to the State services responsible for preparing and implementing a measure to freeze or prohibit the movement or transfer of funds, financial instruments and economic resources, information relating to the exercise of their mission.

The legislation does not contain any reference to the requirement to use dedicated, secure and protected channels. In practice, ANIF's dissemination to competent authorities takes place by mail under a sealed envelope stamped "Confidential" and, if necessary, deposited directly on the premises of the relevant services. These physical transmission channels provide only a certain level of security and protection.

**Criterion 29.6:**

- (a) Confidentiality measures are provided for in Article 70 of the CEMAC Regulation on prevention and suppression of ML/FTP. ANIF's rules of procedure of 22 May 2012 (Chapter III relating to the processing of suspicion reports) provide for the procedure for receipt and processing of suspicious transaction reports. However, ANIF does not have rules on the security and confidentiality of information.
- (b) Gabon's ANIF has not demonstrated the implementation of measures to ensure that staff members have the required access authorizations and understand their responsibilities with regard to the processing and dissemination of sensitive and confidential information. Members of ANIF Gabon and their correspondents take the oath before the Court of First Instance of Libreville upon their appointment and before assuming office. They are obliged to keep secret any information they become privy to in the course of their duties, even after they have ceased to hold office. It did not provide information on whether its staff members have the necessary security clearance levels.
- (c) According to Article 11 of the ANIF Code of Ethics, access to the premises of ANIF of Gabon is strictly regulated. This is not the case in practice. Furthermore, access to computer systems is not protected.

**Criterion 29.7:** Article 65 of the CEMAC Regulation on the creation of ANIF and Article 6 of Decree No. 000739 of 22 September 2005 establish the operational independence and autonomy of ANIF Gabon in that:

- (a) ANIF has financial autonomy and autonomous decision-making power on matters falling within its competence. It therefore has the capacity to perform its duties freely, in particular to decide independently to analyse, request and/or disseminate specific information;
- (b) Under Articles 79, 80 and 82 of the CEMAC Regulation, Gabon's ANIF has the capacity to exchange information with CEMAC FIUs and foreign counterpart FIUs as well as with competent authorities, including the capacity to conclude agreements;

(c) Pursuant to Article 65 of the CEMAC Regulation, ANIF is an administrative Financial Intelligence Unit (FIU), attached to the Ministry in charge of Economy and Recovery, but exercises powers distinct from those of the Ministry. It has financial autonomy and autonomous decision-making power on matters falling within its competence;

(d) ANIF's resources come from the State budget voted in Parliament. It is not fully released, thus jeopardizing the proper functioning of this Financial Intelligence Unit.

**Criterion 29.8:** Gabon's ANIF is a member of the Egmont Group.

### ***Weighting and conclusion***

ANIF performs the ordinary functions assigned to FIUs. However, there is also a lack of appropriate measures to secure and protect the dissemination of information to the competent authorities. This, in addition to the absence of a secure IT system and the partial availability of the budget limit its deployment.

***Gabon is rated as partially compliant with Recommendation 29.***

### **Recommendation 30 - Responsibilities of law enforcement and investigative authorities**

Gabon's 2012 MER revealed a lack of specialization of AML/CFT prosecuting and investigative authorities, the non-effective implementation of community provisions to delay arrests and seizures in order to identify persons of concern.

**Criterion 30.1:** In Gabon, several entities are responsible for conducting investigations into ML, related predicate offences and TF, namely the Judicial Investigation Police Headquarters (EMPIJ) within which is found the Directorate of Economic and Financial Affairs; the Central Anti-Drug Office, the Directorate General for Research of the Gendarmerie, Customs, Taxes, Water Resources and Forestry. Laws give the investigative authorities necessary powers to conduct their investigations.

**Criterion 30.2:** With the authorization of the prosecutor, the investigative authorities in Gabon may conduct parallel asset and financial investigations, during investigations into money laundering, ML and TF predicate offences (Articles 104 and 105 of the CEMAC Regulation and 437 to 440 of the Code of Criminal Procedure -CCP).

**Criterion 30.3:** On the basis of the Code of Criminal Procedure and the CEMAC Regulation (Article 104), the investigative and prosecution authorities in Gabon have the power to initiate and implement precautionary measures (seizure, freezing) and to take any measures to identify and trace property suspected of being the proceeds of an offence or likely to be confiscated.

**Criterion 30.4:** In Gabon, other agents with special skills may conduct financial investigations into predicate offences with powers under the traditional criminal investigation and prosecution authorities, notably officers of the Directorate General of Customs, Taxes as well as Water Resources and Forestry.

**Criterion 30.5:** In Gabon, the National Commission to Combat Illicit Enrichment (CNLCEI) is the competent authority to combat corruption. However, it does not have the power to investigate ML/TF offences resulting from or relating to corruption offences; nor does it have the power to identify, track, freeze and seize assets.

### *Weighting and conclusion*

All criteria are met.

***Gabon is rated as compliant with Recommendation 30.***

### **Recommendation 31 - Powers of law enforcement and investigative authorities**

Gabon's AML/CFT system was considered partially compliant in the 2012 evaluation (former R28). The evaluation revealed, in particular, the lack of specialization of AML/CFT prosecuting and investigative authorities.

**Criterion 31.1:** In Gabon, competent authorities have the necessary powers to access all documents and information required for criminal prosecution, during investigations into ML, associated predicate offences and TF. This includes applying coercive measures for:

- (a) Production of documents held by FIs, DNFBPs or other natural or legal persons (general power of requisition conferred by the CCP on investigators and magistrates (Article 39 of the CEMAC Regulation);
- (b) Searching of persons and premises (Articles 47 et seq. and 53 et seq. of the CCP);
- (c) Taking statements (Articles 55 et seq. of the CCP and 95 of the CEMAC Regulation);
- (d) Seizure and taking of evidence (Articles 52 et seq. of the CCP and 104 of the CEMAC Regulation).

**Criterion 31.2:** Pursuant to Articles 98 and 99 of the CEMAC Regulation, competent authorities in charge of investigations have at their disposal a wide range of investigative techniques adapted to investigations into ML, associated predicate offences and TF. These techniques include:

- (a) Undercover operations;
- (b) Tapping of communications;
- (c) Hacking computer systems; and
- (d) Monitored delivery.

#### **Criterion 31.3:**

- (a) The CEMAC Regulation requires reporting entities to communicate, upon request and without professional secrecy, documents and records on the performance of their identification obligation, to the judicial authorities, officers responsible for the detection and suppression of offences relating to ML, acting under a judicial procedure, to supervisory authorities as well as to ANIF (Articles 39, 75 and 101).
- (b) The legal investigative powers and techniques available to the competent authorities to locate or identify property as part of their investigations, do not require prior notification to the owner.

**Criterion 31.4:** Under their general requisitioning power, the competent authorities investigating the ML, associated predicate offences and TF may request all relevant information held by ANIF. Also, ANIF provides all relevant information to the Public Prosecutor when the latter informs ANIF of a referral by any person other than the reporting entities (Article 73 of the CEMAC Regulation).

### *Weighting and conclusion*

All criteria are met.

***Gabon is rated as compliant with Recommendation 31.***

### **Recommendation 32 - Cash couriers**

The country was rated in 2012 as non-compliant with the FATF standard on the organization cross-border transport of cash and BNIs (former Special Recommendation IX). The main reasons for this rating were: the absence of a system of declarations or communications relating to the cross-border transport of cash under the AML/CFT framework, the lack of communication of information on the physical transport of precious stones and metals from customs to their counterparts in countries of transit or destination, the lack of direct access to the WCO CEN network of decentralized customs services at borders, the non-ownership of the AML/CFT regime by customs officials and traders in precious stones and metals.

**Criteria 32.1:** Regulations No. 01/CEMAC/UMAC/CM of 11 April 2016 and (Articles 15, 130 and 131) and No. 02/18/CEMAC/UMAC/CM (Articles 76 to 80) allow Gabon to implement a declaration system for the cross-border transport (in and out) of cash and bearer negotiable instruments (BNIs). The Customs services must ensure the controls relating thereto. No reporting obligation is required for cross-border physical transport by courier or freight.

**Criterion 32.2:** According to Articles 76 to 80 of CEMAC Regulation No. 01/CEMAC/UMAC of 21 December 2018, travellers to CEMAC Member States and non-members are required to declare the currencies of which they are bearers, when the amount exceeds 5 million CFA francs, foreign currencies and CFA Francs combined. Gabon therefore has a system for reporting the transport of funds for an amount greater than or equal to five (5) million. The declaration must be made in writing at the border posts.

**Criterion 32.3:** Gabon applies the reporting system.

**Criterion 32.4:** In the event of discovery of a false declaration, communication of cash or in the absence of such a declaration or communication, the Gabonese authorities have the power to proceed to the identification of the carrier and to require additional information on the origin of the cash or instruments. They also have the power to verify whether the funds are not intended for ML/TF. For all such checks, the competent authorities have the option of blocking or withholding bearer funds and instruments for a period of 72 hours (Article 15 of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 and Article 78(3) of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 on foreign exchange regulations).

**Criterion 32.5:** Persons making false declarations or communications are liable to the criminal sanctions provided for in Articles 127, 130 and 131 of CEMAC Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 and 168 (4<sup>th</sup> bullet) of the Foreign Exchange Regulations. The sanction are: (1) exclusion from public procurement on a permanent basis for a period of ten (10) years or more; (2) confiscation of property that was used or intended to be used to commit the offence or property that is the proceeds of the offence or property of equivalent value; (3) placement under judicial supervision for a period of five (5) years or



more; (4) prohibition on a permanent basis or for a period of (10) years or more of directly or indirectly carrying out one or more professional or social activities in connection with which the offence was committed; (5) permanent closure or for a period of (10) years or more for directly or indirectly carrying out one or more professional or social activities in connection with which the offence was committed; (6) dissolution, where they were created for the acts in question; (7) compulsory confiscation of the proceeds of laundering after conviction; (8) compulsory confiscation of funds and other financial resources relating to terrorist financing by court decision, fine of 15% of the amount in excess of the authorized threshold, accompanied by confiscation of undeclared amounts and, where applicable, the tools used for their concealment without prejudice to the sanctions provided for by the AML/CFT regulations.

**Criterion 32.6:** The information collected under the reporting system is made available to the FIU through a mechanism allowing reporting on cases of concern as well as statistical communications (Article 79 of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016). The deficiency identified in c.32.1 is likely to have an impact on information sharing.

**Criterion 32.7:** In Gabon, the regulations relating to the obligations of R32 are implemented by the Customs services. As part of this mission, the customs services cooperate with and coordinate the immigration services (border police) and the Gendarmerie.

**Criterion 32.8:** Based on Articles 15 of the CEMAC Regulation and 168 of CEMAC Regulation No. 02/18/CEMAC/UMAC/CM on CEMAC foreign exchange regulations, Gabonese Customs may arrest or detain cash or BNIs for a reasonable period of time to enable them to establish whether evidence of ML/TF is likely to be found.

(a) In case of suspicion of ML/TF or predicate offences: The abovementioned Article 15 essentially provides that detention may not exceed 72 hours in case of need for additional information.

(b) In the event of false declaration or communication of false information (Article 168 of the Foreign Exchange Regulations, provides for the confiscation of cash or BNIs in this area.

**Criterion 32.9:** Gabon has not demonstrated record keeping in its reporting system relating to items (a), (b) and (c) to facilitate international cooperation, in accordance with Recommendations 36 to 40.

**Criterion 32.10:** Gabon has not demonstrated that it has taken strict precautions to ensure proper use of the information collected through its reporting system and not to limit in any way: (i) payments relating to trade in goods or services between countries; (ii) the free movement of capital.

**Criterion 32.11:** Persons engaged in cross-border physical transport of cash or BNIs related to ML/TF or predicate offences are liable to:

(a) Criminal sanctions provided for by the CEMAC Regulation for ML/TF perpetrators and Gabon's Penal Code for predicate offences. For administrative penalties, Article 168 of the foreign exchange regulations provides for a fine equal to 15% of the amount in excess of the authorized threshold, accompanied by confiscation of undeclared sums and, where applicable, the tools used for their concealment. The penalties provided for shall be effective, proportionate and dissuasive.

- (b) Measures for the confiscation of undeclared cash in the event of non-declaration or false declaration are provided for in Article 15 of the CEMAC Regulation.

***Weighting and conclusion***

With the adoption of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 and Regulation No. 02/18/CEMAC/UMAC/CM on CEMAC foreign exchange regulations of 21 December 2018, Gabon's compliance with the requirements of Recommendation 32 has improved. However, in a context marked by porous borders and weak customs controls, there are still moderate shortcomings in the system. The reporting/communication obligation is not required for physical cross-border transport by courier or freight. The collection and preservation of information on reports concerning amounts above the threshold, false declarations or suspicions for ML/TF for the purpose of facilitating international cooperation and assistance is not guaranteed. Strict precautions to ensure the proper use of the information collected through the reporting system have not been demonstrated.

***Gabon is rated as partially compliant with Recommendation 32.***

**Recommendation 33 – Statistics**

In its first-round evaluation, Gabon was rated partially compliant with the Recommendation on the production of AML/CFT statistics for an overall lack of statistical data on the treatment of AML/CFT issues.

**Criterion 33.1:**

- (a) ANIF has statistics on the STRs received by source and disseminated.
- (b) There are no statistics on money laundering and terrorist financing investigations, prosecutions and convictions relating to money laundering and terrorist financing.
- (c) The evaluated country has no statistics on frozen, seized or confiscated property.
- (d) There are no statistics on mutual legal assistance or other international requests for cooperation made and received.

***Weighting and conclusion***

Although ANIF has figures on the number of STRs received and disseminated, there are still major gaps in the keeping of statistics. Indeed, there are no statistical data on ML/TF investigations and prosecutions, nor data on seized, frozen or confiscated property. Similarly, there are no statistics on mutual legal assistance or other international requests for cooperation made and received.

***Gabon is rated as non-compliant with Recommendation 33.***

**Recommendation 34 – Guidance and feedback**

In its previous evaluation, Gabon was found to be non-compliant with the requirements of Recommendation 33 (former Recommendation 25) due to the absence of AML/CFT guidelines and the requirement for ANIF to report on the follow-up to the STRs received.

**Criterion 34.1:** No instructions, guidelines or recommendations have been issued to this effect although the provisions of the CEMAC Regulation require competent authorities, supervisory authorities and self-regulatory bodies to issue instructions, guidelines or

recommendations and to ensure feedback in order to help FIs and DNFBPs meet their obligations.

### ***Weighting and conclusion***

Notwithstanding the requirements of the CEMAC Regulation, there are no guidelines for FIs and DNFBPs to properly apply AML/CFT measures.

***Gabon is rated as non-compliant with Recommendation 34.***

### **Recommendation 35 – Sanctions**

Gabon's mutual evaluation of 2012 concluded that the country does not comply with the requirements of the Recommendation on Sanctions (former Recommendation 17). The deficiency noted was the absence of an effective AML/CFT compliance monitoring mechanism.

**Criterion 35.1:** Criminal, civil or administrative sanctions are provided for by the CEMAC Regulation (Articles 113, 114, 116 and 117) and supplemented by specific instruments.

With regard to COBAC, penalties range specifically for credit institutions, from warning to withdrawal of authorization, through prohibition to carry out certain transactions and suspension or automatic resignation of the responsible manager.

Payment service providers are liable to penalties ranging from periodic penalty payments accompanied by reorganization measures, to restructuring or disciplinary sanctions provided for in the Regulations applicable to them.

Foreign exchange bureaus are liable to the disciplinary power and the sanctions regime of BEAC which pronounces warning, reprimand, activity suspension, withdrawal of authorization or license (Article 179 of the Exchange Regulations).

For insurance companies, the Insurance Code provides for a range of penalties applicable to companies in the insurance sector (see c.27.4).

By Instruction No. 01-15 of 17 September 2015 on disciplinary and pecuniary sanctions, COSUMAF also provides for the same type of sanctions against financial market participants.

Regarding DNFBPs and administrative sanctions, a wide range of criminal sanctions exist for non-compliance with AML/CFT obligations (Articles 113 et seq. of the CEMAC Regulation). However, the absence of a DNFBPs AML/CFT supervisory and sanctions authority limits the applicability of the sanctions provided for.

**Criterion 35.2:** The range of sanctions provided for by the above provisions of the CEMAC Regulation extends to financial institutions and designated non-financial businesses and professions, but also to members of the administrative body and senior management. However, applicability is limited by the shortcomings in the control mechanism.

### ***Weighting and conclusion***

Gabon's AML/CFT legal regime provides for a range of administrative, disciplinary and criminal sanctions that are proportionate and dissuasive. These sanctions apply to natural and legal persons in the chain of reporting entities. However, shortcomings relating to proliferation offences not being taken into account in some instruments, vulnerabilities in the

DNFBP sector oversight framework and weaknesses in the enforcement mechanism for targeted financial sanctions have a significant impact on the applicability of the sanctions provided for.

***Gabon is rated as partially compliant with Recommendation 35.***

### **Recommendation 36 – International instruments**

In the 2012 mutual evaluation, Gabon was rated as partially compliant with the Recommendations on international instruments (R35 and SRI). It was accused of insufficient implementation of the Convention on the Financing of Terrorism (CFT) and non-compliance with the SRI for lack of cooperation in combating TF. Since that evaluation, Gabon had made improvements to the legal framework for the implementation of international instruments.

**Criterion 36.1:** Gabon is a party to the Conventions required by this criterion: - Vienna Convention: Gabon signed it on 20 December 1989 and ratified it on 10 July 2006; - Palermo Convention: Gabon acceded on 15 December 2004; - Merida Convention: signed by Gabon on 10 December 2003 and ratified on 1 October 2007; - International Convention for the Suppression of the Financing of Terrorism: signed by Gabon on 8 September 2000 and ratified on 10 March 2005.

**Criterion 36.2:** Through the specific legal provisions that led to the reforms of the Penal Code and the Code of Criminal Procedure in 2019-2020, Gabon implemented the Vienna Convention, the Palermo Convention, the Merida Convention and the Convention on the Financing of Terrorism.

With regard to the Vienna Convention, Part III of Book Six of the Penal Code, on the suppression of some forms of trafficking, deals with narcotic drugs. In addition, the Central Anti-Drug Office was established by Decree No. 1035 of 25 July 1991 and placed under the supervision of the National Police Force.

With regard to the Merida Convention, Gabon adopted and promulgated two laws on 7 May 2003. The first (Law No. 002/2003) establishes a regime for the detection and punishment of illicit enrichment. The second (Law No. 003/2003) lays down the establishment, organization and functioning of the National Commission to Combat Illicit Enrichment (CNLCEI), which implements the country's national anti-corruption strategy.

With regard to the International Convention for the Suppression of TF, Gabon relies on Community regulations through the CEMAC Regulation of 11 April 2016.

The Palermo Convention is implemented through the CEMAC Regulation, the Penal Code and the Code of Criminal Procedure. However, Articles 5 and 6 of the said Convention are not fully implemented; the list of predicate offences not including the smuggling of migrants as serious offences, the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the said Convention is not yet effective.

### ***Weighting and conclusion***

Gabon is a party to all relevant AML/CFT conventions required by R36. However, there are a few minor shortcomings in the implementation of Articles 5 and 6 of the Palermo Convention

due to the non-criminalization of smuggling of migrants, which limits the list of serious ML predicate offences.

*Gabon is rated as largely compliant with Recommendation 36.*

### **Recommendation 37 - Mutual legal assistance**

Gabon was rated in 2012 as Partially Compliant (PC) with R 36 for non-implementation and absence of provisions covering conflicts of jurisdiction; Largely Compliant (LC) with R 37 for insufficient implementation of instruments; Partially Compliant (PC) with SR V on the grounds that the mechanisms provided for in the CEMAC Regulation with regard to mutual legal assistance in money laundering are also applicable to offences related to terrorist financing and lack of implementation. It should be noted that the old Recommendations (R 36, 37 and SR V) related to the new Recommendation 37 on mutual legal assistance.

**Criterion 37.1:** Under Chapter III (Articles 141 to 158) of Part VI of the 2016 CEMAC Regulation on international cooperation, Gabon can rapidly provide third countries with the widest possible range of mutual legal assistance for investigations, prosecutions and related proceedings on money laundering, associated predicate offences and terrorist financing.

Mutual legal assistance may also be granted on the basis of multilateral conventions or agreements to which Gabon is a party, notably the General Convention on Cooperation in Judicial Matters, known as the 1961 Antananarivo Convention and the Agreement on Judicial Cooperation between CEMAC Member States of 28 January 2004, as well as on the basis of bilateral agreements signed with many countries.

In the absence of a convention or agreement, mutual legal assistance may be granted in accordance with the principle of reciprocity.

**Criterion 37.2:** The Minister of Justice is the central authority by which requests for mutual legal assistance are made. It receives requests for mutual legal assistance through diplomatic channels and forwards them to the competent authorities for execution. However, there are no procedures for prioritizing and expediting requests for mutual legal assistance. Similarly, there is a lack of a case management system to monitor the progress of cases.

**Criterion 37.3:** The main grounds for refusing mutual legal assistance in ML/TF matters are listed in Article 143 of the CEMAC Regulation (lack of quality of the requesting competent authority or improper transmission of the request; violation of public policy, sovereignty, security or fundamental principles of law in force in the requested State; prosecution or trial in the requested State; the measures sought are not applicable to the offence concerned; prescription of the offence under the law of the requested State; non-binding decision; foreign decision not guaranteeing the rights of defence; measures sought on discriminatory grounds; decision imposing the death penalty not provided for in the requested State). For requests for assistance concerning other predicate offences, the grounds for refusal are equivalent to international standards and provided for in the conventions and agreements signed with the requesting States. Not all of these grounds constitute unreasonable or unduly restrictive

conditions. In addition, the CEMAC Regulation provides for a possibility of judicial appeal against the refusal decision.

**Criterion 37.4:**

- (a) The grounds for refusing to execute a request for ML/TF mutual legal assistance, listed in Article 143 of the 2016 CEMAC Regulation, do not contain cases of refusal relating to an offence involving tax matters.
- (b) Similarly, Article 143(2) expressly provides that “professional secrecy may not be invoked to refuse to execute the request for mutual legal assistance”.

These provisions are equivalent to those contained in many bilateral and multilateral conventions and agreements signed by Gabon with regard to mutual legal assistance in respect of other predicate offences.

**Criterion 37.5:** Article 144 of the 2016 CEMAC Regulation requires the competent authority to maintain secrecy on the request for mutual legal assistance, its content and the documents produced as well as the fact of the mutual assistance. This provision also requires it, where it is not possible to carry out the said request without disclosing the secret, to inform the requesting State which will decide, in this case, whether it maintains the request.

With regard to mutual legal assistance relating to other predicate offences, bilateral and multilateral conventions or agreements with Gabon generally contain equivalent provisions on the principle of confidentiality of the request.

**Criterion 37.6:** Gabon's legislation on mutual legal assistance does not make the execution of requests based on non-coercive actions conditional on double criminality.

**Criterion 37.7:** The requirement of double criminality is met in Gabon when the material acts referred to in the request for mutual legal assistance constitute a criminal offence under Gabonese law. Gabon and the requesting country need not classify the offence or use the same terminology to designate it.

**Criterion 37.8:**

- (a) All powers and investigative techniques provided for in the Code of Criminal Procedure (Articles 47 et seq.), as well as those conferred by the CEMAC Regulation (Articles 141 et seq.) and developed under R31 may be used to execute a request for mutual legal assistance. This includes: the taking of testimonies or depositions, the delivery of judicial documents, searches and seizures, the examination of objects and places, the provision of information and evidence and the provision of banking, financial and commercial documents held by FIs or other legal or natural persons.
- (b) A range of other investigative techniques are provided for by the CEMAC Regulation (Articles 98 and 99) and may be used in connection with a request for mutual legal assistance.

***Weighting and conclusion***

The duly ratified international conventions, the bilateral and multilateral cooperation agreements, as well as the Code of Criminal Procedure are the instruments allowing Gabon to grant wide mutual legal assistance for investigations, prosecutions and related proceedings in

relation to ML, the associated predicate offences and TF. However, minor improvements are required to put in place procedures for prioritizing and expediting requests for mutual legal assistance, as well as a case management and tracking system.

***Gabon is rated as largely compliant with Recommendation 37.***

### **Recommendation 38 - Mutual Legal Assistance: Freezing and Confiscation**

The recent CEMAC Regulation introduced improvements in the area of mutual legal assistance in the area of freezing and confiscation, in particular by taking into account goods of equivalent value.

**Criterion 38.1:** In accordance with Articles 150, 151 and 152 of the CEMAC Regulation, Gabon has the power to take expeditious actions in response to requests from foreign countries to identify, freeze, seize and confiscate the values listed in sub-criteria (a), (b), (c), (d) and (e) of this criterion.

**Criterion 38.2:** The legislation in force in Gabon does not provide for confiscation without prior conviction. In such cases, Gabon cannot provide assistance in connection with requests for cooperation based on non-conviction-based confiscation procedures and associated interim measures, even in circumstances where the offender has died, fled, is absent or is unknown.

#### **Criterion 38.3:**

- (a) Gabon does not have agreements to coordinate seizure and confiscation actions with other countries.
- (b) In accordance with Article 154 of the CEMAC Regulation, Gabon enjoys the power of disposal over property confiscated on its territory at the request of foreign authorities, unless an agreement concluded with the requesting State decides otherwise. However, there is no clear mechanism for managing frozen, seized or confiscated assets.

**Criterion 38.4:** The community regulations applicable in Gabon provide that the State disposes of property confiscated on its territory, unless otherwise provided for in an agreement concluded with the requesting State. This opening made by Article 154 of the CEMAC Regulation gives Gabon the opportunity to enter into an agreement to share confiscated assets with other countries.

#### ***Weighting and conclusion***

Gabon can respond to requests from foreign countries to identify, freeze, seize and confiscate ML-related securities and agree with other countries to share confiscated assets. However, moderate improvements are needed to enable Gabon provide assistance in the context of a request based on procedures without prior conviction, to have the possibility to coordinate seizure actions with other countries and to have clear mechanisms for the management of frozen, seized or confiscated property on its territory.

***Gabon is rated as partially compliant with Recommendation 38.***

## **Recommendation 39 - Extradition**

In 2012, Gabon was rated partially compliant with R39 due to: (1) lack of a provision allowing the prosecution of Gabonese nationals under an extradition request; (2) apart from the convention with Mali and the convention of Antananarivo, the Gabonese system does not provide for extradition; and (3) lack of implementation.

Gabon was partially compliant with SR V for: (1) ordinary extradition mechanisms applicable to terrorist financing offences; and (2) failure to implement the mechanism.

To remedy those shortcomings, Gabon referred to international, regional and domestic instruments. Since the evaluation, adoption of the CEMAC Regulation of 11 April 2016 has made it possible to remedy the shortcomings.

**Criterion 39.1:** Gabon may, without undue delay, execute ML and TF extradition requests, in particular as:

- (a) According to the legislation in force in Gabon, ML and TF are extraditable offences (Articles 159 to 164 of the CEMAC Regulation);
- (b) The provisions of the Code of Criminal Procedure (Sections 631 to 635) describe the case management system and a clear procedure for the timely execution of extradition requests, from the receipt of the request until the extradition decision. However, the procedural deadlines are not sufficiently regulated to determine the priority given to the processing of cases;
- (c) Neither the provisions of the CEMAC Regulation of 11 April 2016 specific to money laundering and terrorist financing, nor the general provisions of the Gabonese Code of Criminal Procedure pose unreasonable or unduly restrictive conditions for the execution of extradition requests.

### **Criterion 39.2:**

- (a) Gabon does not extradite its citizens.
- (b) In the event of refusal of extradition on grounds of nationality, there is an obligation to refer the case to the competent domestic courts so that proceedings can be instituted against the person of concern for the offence for which the request was made (Article 164 of the CEMAC Regulations).

**Criterion 39.3:** The CEMAC Regulation (Article 159) makes respect for the principle of double criminality a requirement in matters of extradition and refers to the application of ordinary law rules.

**Criterion 39.4:** Gabon has simplified extradition procedures that include even cases of provisional arrest (Articles 160 and 162 of the CEMAC Regulation).

### ***Weighting and conclusion***

Gabon largely meets the criteria of R39. However, the procedures for prioritizing extradition cases are not clearly defined.

***Gabon is rated as largely compliant with Recommendation 39.***

## **Recommendation 40 - Other forms of international cooperation**



In 2012, Gabon was rated as partially compliant with R 40 for the following reasons: (1) non-implementation of international cooperation and (2) restrictions on the exchange of non-financial information. Partially Compliant with SR V for incomplete criminalization of terrorist financing and non-implementation.

### *General principles*

#### **Criterion 40.1:**

Competent Gabonese authorities can rapidly grant the widest possible international cooperation in ML, associated predicate offences and TF. The competent authorities concerned by this international cooperation include: the investigative and prosecuting authorities, ANIF, customs authorities, control authorities (Articles 82 and 133 to 163 of the CEMAC Regulation). Said cooperation takes place on request or spontaneously.

#### **Criterion 40.2:**

- (a) The competent authorities base their cooperation on diversified legal grounds. Overall, Gabon uses the provisions of the relevant international conventions and bilateral and multilateral agreements to which it is a party. In particular, police and judicial cooperation is based on the CEMAC Regulation, Law No. 043/2018 of 5 July 2019 on the Code of Criminal Procedure, CEMAC Agreements on judicial cooperation and extradition, the Interpol Legal Arrangements. Information exchange for ANIF is based on the CEMAC Regulation, the Cooperation Agreements concluded with foreign FIUs as well as in application of the principles of the Egmont Group. Customs authorities rely on the CEMAC Customs Code and WCO tools.
- (b) As part of judicial cooperation, the competent authorities are authorized to use all effective means and procedures offered by the laws and regulations in force.
- (c) Competent authorities have clear and secure circuits, mechanisms or channels to facilitate and enable the transmission and execution of requests. ANIF uses Egmont Secure Web and FIU.net. Police cooperation is carried out through the communication channels of Interpol (I-24/7) and AFRIPOL. These channels also allow the dissemination of judicial mandates. For its part, Customs is connected to the CEN Network.
- (d) Requests for police cooperation is processed by the NCB/Interpol and is subject to the rules of procedure established by the ICPO-Interpol, with priority given to reported emergencies.
- (e) For its part, ANIF has measures to ensure the processing of foreign applications without delay.
- (f) Customs process information through the CEN network without delay. These secure systems are checked several times a day with priority to reported emergencies.
- (g) The competent authorities have procedures to protect information received. An obligation of professional secrecy applies to all officials of the competent authorities subject to professional discretion. ANIF officials are subject to strict internal security and confidentiality rules.

**Criterion 40.3:** In principle, ANIF Gabon does not need a bilateral agreement to cooperate with other foreign FIUs. However, pursuant to the CEMAC Regulation and the Organic Decree establishing it, ANIF may negotiate and sign agreements with its foreign counterparts, if required by law in the third country as a conditionality for cooperation.

Regarding other competent authorities, Gabonese law (Article 108 of the Constitution) authorizes the competent Gabonese authorities to enter into agreements on mutual legal assistance.

**Criterion 40.4:** The obligation for requesting competent authorities to provide timely feedback to their foreign counterparts from whom they have received mutual assistance, as to the use and usefulness of the information obtained, is not expressly provided for in Gabonese legislation. However, there is nothing to prevent the requesting competent authorities from fulfilling this obligation. In the event of such a request, the competent Gabonese authorities have the capacity to provide such feedback. However, it is not clear that it is timely.

**Criterion 40.5:** In Gabon, the conditions for information exchange or mutual assistance between competent authorities are in accordance with international standards and are not unreasonable or unduly restrictive, in particular:

- (a) The tax-related nature of the subject of the request is not a reason for refusal of cooperation;
- (b) Professional secrecy or confidentiality imposed on FIs or DNFBBs is not an obstacle to information exchange or mutual assistance;
- (c) Ongoing investigation or a final decision on the facts of the request may justify the refusal to grant cooperation;
- (d) The nature or status (civil, administrative, judicial) of the requesting authority distinct from that of its foreign counterpart does not constitute sufficient grounds for refusing international cooperation between the requesting authority and its foreign counterpart. However, a request which does not emanate from a competent authority under the legislation of the requesting State or which is transmitted irregularly may be refused.

**Criterion 40.6:** With regard to the protection of information within the framework of police cooperation, there are provisions for possible restrictions on use (see Interpol Data Processing Regulation).

With regard to ANIF Gabon, the information communicated by an FIU may only be transmitted by ANIF Gabon to another authority with the prior authorization of the intelligence unit that provided the information. The principle of speciality is provided for in the instruments on the exchange of information on tax cooperation.

The provisions on professional secrecy are an addition, but are not the same as the condition for using the information for other purposes (see criterion 40.7).

**Criterion 40.7:** As a member of the Egmont Group and Interpol, Gabonese authorities cooperate in a secure manner on the various networks of these international institutions. The guarantee of confidentiality is affirmed in the Egmont Group Charter and in the Interpol Data Processing Regulations. It is also covered by Article 144 of the CEMAC Regulation. Moreover, Article 82 of the CEMAC Regulation conditions ANIF's exchanges of information with its foreign counterparts only if they are subject to confidentiality obligations.

**Criterion 40.8:** All competent Gabonese authorities may make requests on behalf of a foreign counterpart acting in the course of its missions (see also c.40.11 and c.40.15).

### *Exchange of information between FIUs*

**Criterion 40.9:** Article 80 of the CEMAC Regulation address the relationship between CEMAC member ANIFs and third country FIUs in cases of ML, associated predicate offences and TF. Such cooperation takes place irrespective of the legal nature of the counterpart FIU, regardless of its legal nature.

It should also be noted that Gabon is a member of the Egmont Group. To this end, the Gabonese FIU cooperates freely with the other FIU members in accordance with the principles set out in the Charter of the said Group.

**Criterion 40.10:** The obligation for ANIF to provide feedback to its foreign counterparts on the use of the information provided by them and the findings of the analysis conducted on the basis of the information is not expressly provided for in Gabonese legislation. Nevertheless, nothing prevents ANIF from fulfilling this obligation in the case of an application and, in practice, ANIF relies on the Egmont Group's principles regarding the use of the information provided and the conclusions of the analyses carried out. For other non-member FIUs, feedback is based on agreements and the principle of reciprocity.

**Criterion 40.11:** With reference to Articles 80(1) and 82 of the CEMAC Regulation, the Gabonese FIU has extensive power of exchange that may relate to:

- (a) all information it may consult or obtain directly or indirectly, particularly pursuant to Recommendation 29; and
- (b) any other information it may consult or obtain directly or indirectly, at national level, subject to the principle of reciprocity.

### *Exchange of information between financial sector supervisors*

**Criterion 40.12:** Article 91(2)(4) and 8 of the CEMAC Regulation as well as the provisions of Regulation No. 02/09/CEMAC/UMAC/COBAC of 28 September 2009 constitute the relevant legal bases for cooperation of financial sector supervisors with their foreign counterparts, in accordance with international standards applicable in matters of supervision, in particular in terms of the exchange of information relating to supervision for AML/CFT purposes or relevant in this regard.

**Criterion 40.13:** Article 91(2)(4) and (8) of the CEMAC Regulation offers financial sector supervisors the possibility of exchanging with their foreign counterparts the information to which they have access at national level, in particular information held by financial institutions, to the extent of their respective needs.

COBAC also has this possibility under Regulation No. 02/09/CEMAC/UMAC/COBAC of 28 September 2009. To this end, COBAC has signed cooperation agreements with some regulators. It has also joined regional and international groups as part of supervisors in charge

of cross-border supervision of banking groups. These agreements allow COBAC to exchange information with its foreign counterparts.

**Criterion 40.14:** For the purposes of combating ML/TF, the Gabonese financial sector supervisors may, in accordance with the regulations in force, cooperate and exchange information with other supervisory authorities of the CEMAC Member States or third States (Article 91(2), § 4 and 8 of CEMAC Regulation). This instrument opens up a wide possibility of exchanges on any type of information and makes it possible to cover, in particular:

- (a) regulatory information;
- (b) prudential information;
- (c) information relating to AML/CFT.

For the same purposes, COBAC is authorized to conclude cooperation and information exchange agreements with the supervisors of the financial systems of Member States and third countries (Regulation No. 02/09/CEMAC/UMAC/COBAC of 28 September 2009).

**Criterion 40.15:** In accordance with the regulations in force, each supervisory and control authority provides rapid and effective cooperation to bodies performing similar functions in other Member States or third countries, including through the exchange of information (Article 91(2.8)). COBAC is also empowered to conclude cooperation and information exchange agreements with supervisors of financial systems.

**Criterion 40.16:** Information exchange between supervisors of the domestic and foreign financial sector takes place on the basis of cooperation agreements. Therefore, as a matter of principle, such agreements make their dissemination or use for control or other purposes subject to the prior authorization of the authority which provided the information.

#### *Exchange of information between law enforcement authorities*

**Criterion 40.17:** Articles 145, 150 to 152 of the CEMAC Regulation allow Gabonese prosecuting authorities to exchange information they hold with foreign counterparts for the purpose of intelligence or investigation under AML/CFT or related predicate offences, including for the purpose of identifying and tracking proceeds and instrumentalities of crime.

Added to these provisions is the implementation of police cooperation mechanisms established by the ICPO-INTERPOL as well as by the Central African Police Chiefs Committee (CCPAC), Agreement on Cooperation in Criminal Police Matters among Central African States.

**Criterion 40.18:** In application of the CEMAC Regulation, Gabon's criminal prosecution authorities use their powers, including investigative techniques to conduct investigations and obtain information on behalf of their foreign counterparts, in particular to respond to requests for mutual assistance concerning investigative measures (Article 145), search and seizure (Art. 150), confiscation (Art. 151) and provisional measures to prepare for confiscation (Art. 152).

This cooperation, which is as broad as possible, is also based on the police cooperation mechanisms established by ICPO-INTERPOL, of which Gabon is a member, as well as on the provisions of the Criminal Police Cooperation Agreement between the States of Central Africa.

**Criterion 40.19:** Article 145(3) of the CEMAC Regulation provides for the possibility for Gabonese criminal prosecution authorities to set up/be part of joint investigation teams with foreign competent authorities, in order to conduct investigations in a cooperative manner as part of AML/CFT. This measure is also provided for in the police cooperation system established by ICPO-INTERPOL. At community level, criminal prosecution authorities also rely on the Agreement on Cooperation in Criminal Police Matters between Central African States.

*Exchange of information between non-counterparts*

**Criterion 40.20:** There is no express legal basis for indirect information exchange between national competent authorities and non-counterpart foreign competent authorities. There are also no restrictions to prevent this type of exchange. Competent authorities thus have the capacity to request and obtain information from other national authorities on behalf of their foreign counterparts. It is not clear, however, whether the requesting competent authority should always state precisely for what purpose and on whose behalf the request is made.

*Weighting and conclusion*

The legal arsenal in force in Gabon allows competent authorities to grant the widest possible international cooperation in the context of money laundering, related predicate offences and terrorist financing.

However, there are some shortcomings, including the fact that the Gabonese system has not provided for clear procedures for establishing priorities in a timely manner in the event of requests.

*Gabon is rated as largely compliant with Recommendation 40.*

# Technical Compliance Summary – Key deficiencies

## Annex Table 1. Compliance with FATF Recommendations

Table 13: Compliance with FATF Recommendations

Recommendation	Rating	Rating factor(s)
1. Assessing risks & applying a risk-based approach	NC	<ul style="list-style-type: none"> <li>▪ The NRA process has not yet been completed and the National AML/CFT and PF Policy Coordination Committee is not yet fully operational.</li> <li>▪ Actual or potential AML/CFT risks have not yet been definitively identified.</li> <li>▪ The order to lay down the creation, duties, organisation and functioning of the committee restricted the number of persons and institutions that can have access to the NRA report, thus excluding several important AML/CFT/FP actors.</li> <li>▪ Supervisors and SRBs have not yet adopted a risk-based approach.</li> </ul>
2. National cooperation and coordination	PC	<ul style="list-style-type: none"> <li>▪ The coordination committee is not yet effective, nor are the cooperation mechanisms.</li> </ul>
3. Money laundering offence	LC	<ul style="list-style-type: none"> <li>▪ Arms trafficking, fraud, smuggling, piracy, insider trading and market manipulation are not criminalized and therefore do not constitute ML predicate offences.</li> </ul>
4. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> <li>▪ Lack of mechanisms or entity to manage and, if necessary, dispose of frozen, seized or confiscated assets.</li> </ul>
5. Terrorist financing offence	LC	<ul style="list-style-type: none"> <li>▪ No criminalization of the collection or supply of "other goods", as well as the financing of travel of foreign terrorist fighters.</li> </ul>
6. Targeted financial sanctions relating to terrorism and terrorist financing	NC	<ul style="list-style-type: none"> <li>▪ Lack of an implementation mechanism for targeted financial sanctions relating to terrorist financing.</li> <li>▪ Lack of a responsible authority for designations to the Sanctions Committee under UNSCR 1267.</li> <li>▪ Lack of responsible authority for designations under UNSCR 1373.</li> </ul>
7. Targeted financial sanctions relating to proliferation	NC	<ul style="list-style-type: none"> <li>▪ Lack of a competent national authority to order measures or oversee the implementation of proliferation-related targeted financial sanctions obligations.</li> <li>▪ Lack of a normative framework to ensure the implementation of proliferation-related TFSs.</li> </ul>
8. Non-profit organizations	NC	<ul style="list-style-type: none"> <li>▪ Non-identification of the sub-group of NPOs that are likely to be abused for TF purposes.</li> <li>▪ Non-identification of threats to which the most vulnerable NPOs are exposed.</li> <li>▪ Lack of risk-based supervision and control measures.</li> <li>▪ Lack of a designated contact point and procedures</li> </ul>

		for responding to international requests for information regarding any NPO suspected of financing or supporting terrorism by any means.
<b>9.</b> Financial institutions secrecy laws	LC	<ul style="list-style-type: none"> <li>▪ Lack of specific provisions requiring the exchange of information between financial institutions at national level under AML/CFT.</li> </ul>
<b>10.</b> Customer due diligence	PC	<ul style="list-style-type: none"> <li>▪ Lack of obligations to identify the beneficial owner who controls or holds shares in a legal person, and the beneficiaries of life insurance.</li> </ul>
<b>11.</b> Record keeping	LC	<ul style="list-style-type: none"> <li>▪ Lack of binding provisions on time limits for disclosure of documents.</li> <li>▪ Lack of obligations on financial institutions to keep account books and business correspondence of their customers.</li> </ul>
<b>12.</b> Politically exposed persons	PC	<ul style="list-style-type: none"> <li>▪ Shortcomings in due diligence on supervising obligations on beneficial owners and related persons; the obligation to identify beneficial owners as PEPs is not clearly specified.</li> <li>▪ No provision specifically requiring financial institutions to take steps to determine whether the beneficiaries or the beneficial owner of a life insurance policy is/are PEPs.</li> <li>▪ No instrument on the beneficial owner on the origin of funds or asset.</li> </ul>
<b>13.</b> Banking correspondence	LC	<ul style="list-style-type: none"> <li>▪ There is no requirement for financial institutions to ensure that the correspondent is able to provide relevant information on payable-through accounts upon request from the correspondent bank.</li> </ul>
<b>14.</b> Money or value transfer services	PC	<ul style="list-style-type: none"> <li>▪ No measures have been taken to identify and sanction MVTSPs operating without a licence or registration; nor are MVTSPs that may use agents required to include them in their AML/CFT programs and monitor compliance;</li> <li>▪ Lastly, MVTSPs are not specifically monitored to ensure that they comply with AML/CFT requirements.</li> </ul>
<b>15.</b> New technologies	NC	<ul style="list-style-type: none"> <li>▪ There are no legislative or regulatory provisions governing transactions relating to virtual assets or carried out by virtual asset service providers, nor are there any authorities specifically responsible for the authorization and supervision of VASPs.</li> </ul>
<b>16.</b> Wire transfers	PC	<ul style="list-style-type: none"> <li>▪ Failure to require the originator's financial institution to forward the information accompanying the transfer to the beneficiary's financial institution or to the prosecution authorities upon request within three (3) working days of receiving the request from either the beneficiary's financial institution or the appropriate competent authorities.</li> <li>▪ Lack of an express obligation on the intermediary financial institution to keep for at least five years the information received from the originator's financial institution or the other intermediary financial institution where some technical restrictions prevent the required originator or</li> </ul>



		<p>beneficiary information accompanying a cross-border transfer from remaining attached to a corresponding domestic wire transfer;</p> <ul style="list-style-type: none"> <li>▪ Lack of provisions requiring financial institutions to have risk-based policies and procedures for deciding when to execute, reject or suspend wire transfers that do not include the required originator or beneficiary information; or</li> <li>▪ Lack of a standard for filing a suspicious transaction report in all countries affected by the suspicious wire transfer.</li> </ul>
<b>17. Reliance on third parties</b>	LC	<ul style="list-style-type: none"> <li>▪ Lack of obligation for FIs to ensure that the third party submits the documentation.</li> </ul>
<b>18. Internal controls and foreign branches and subsidiaries</b>	LC	<ul style="list-style-type: none"> <li>▪ No obligation of confidentiality and use of the information exchanged.</li> </ul>
<b>19. Higher risk countries</b>	PC	<ul style="list-style-type: none"> <li>▪ Lack of mechanisms to enforce binding measures to apply risk-proportionate countermeasures at the specific request of FATF or independently;</li> <li>▪ No provision explicitly covers the requirement to adopt measures to ensure that financial institutions are aware of concerns about deficiencies in other countries' AML/CFT systems;</li> <li>▪ No provision requiring FIs to apply enhanced due diligence measures, proportionate to the risks, in their business relationships and transactions with natural and legal persons (including financial institutions) from countries where FATF requests such measures.</li> </ul>
<b>20. Reporting of suspicious transactions</b>	PC	<ul style="list-style-type: none"> <li>▪ Lack of guidance on the obligation to report attempted suspicious transactions.</li> </ul>
<b>21. Tipping-off and confidentiality</b>	C	<ul style="list-style-type: none"> <li>▪ The country fulfils the requirements for this Recommendation.</li> </ul>
<b>22. Designated non-financial businesses and professions: customer due diligence</b>	PC	<ul style="list-style-type: none"> <li>▪ The record-keeping obligations are not covered by all the DNFBPs;</li> <li>▪ There is no express provision requiring DNFBPs to take reasonable steps to determine whether the beneficiaries or the beneficial owner of a life insurance policy is/are PEPs;</li> <li>▪ No obligation on DNFBPs to implement the due diligence requirements for new technologies set out in R15 and to comply with the third-party requirements set out in R17.</li> </ul>
<b>23. Designated non-financial businesses and professions: other measures</b>	PC	<ul style="list-style-type: none"> <li>▪ Lack of provisions obliging DNFBPs to comply with the higher risk country obligations set out in FATF Recommendation 19;</li> <li>▪ Lack of obligation to report attempted suspicious transactions and the immediacy of reporting;</li> <li>▪ Lack of a formally designated supervisor to monitor DNFBPs AML/CFT issues, preventive measures remain limited in their enactment and implementation in these different sectors.</li> </ul>
<b>24. Transparency and beneficial owners of legal persons</b>	PC	<ul style="list-style-type: none"> <li>▪ Lack of a formal mechanism for identifying and updating beneficial owners;</li> <li>▪ Lack of a mechanism to monitor the quality of</li> </ul>



		assistance received from other countries in response to requests for basic information and information on beneficial owners.
<b>25.</b> Transparency and beneficial owners of legal arrangements	NC	<ul style="list-style-type: none"> <li>▪ Gabon is not a signatory to The Hague Convention and does not have a legal instrument on trusts and their recognition;</li> <li>▪ Lack of requirements for the collection, updating and preservation of information on beneficial owners;</li> <li>▪ Lack of proportionate and dissuasive sanctions for non-compliance with the obligation to make available to the competent authorities.</li> </ul>
<b>26.</b> Regulation and supervision of financial institutions	PC	<ul style="list-style-type: none"> <li>▪ Nevertheless, the regulatory framework on the conditions of practice of the banking profession is not very explicit with regard to due diligence concerning information on beneficial owners of significant shareholdings in a financial institution;</li> <li>▪ Non-application of the risk-based approach by supervisors in conducting AML/CFT inspections of financial institutions and financial groups.</li> </ul>
<b>27.</b> Powers of supervisors	C	<ul style="list-style-type: none"> <li>▪ Supervisors have extended powers to control the reporting entities under their jurisdiction. They have the power to carry out documentary and on-the-spot checks, with the possibility of requiring reporting entities to produce any information deemed relevant in most cases. They also have the power to impose a range of disciplinary and financial sanction.</li> </ul>
<b>28.</b> Regulation and supervision of designated non-financial businesses and professions	NC	<ul style="list-style-type: none"> <li>▪ Lack of monitoring of DNFBPs AML/CFT obligations;</li> <li>▪ Lack of provisions for risk-based monitoring of DNFBPs.</li> </ul>
<b>29.</b> Financial Intelligence Units (FIUs)	PC	<ul style="list-style-type: none"> <li>▪ Lack of appropriate measures to secure and protect the dissemination of information to the competent authorities;</li> <li>▪ Lack of a secure IT system and its limited budget.</li> </ul>
<b>30.</b> Responsibilities of law enforcement and investigative authorities	PC	<ul style="list-style-type: none"> <li>▪ Parallel financial investigations can only be initiated with the authorization of the Public Prosecutor within the meaning of the law (Section 40 of the CCP);</li> <li>▪ Limitation of certain steps that JPO may have to take during his investigations. His autonomy is therefore reduced.</li> </ul>
<b>31.</b> Powers of law enforcement and investigative authorities	PC	<ul style="list-style-type: none"> <li>▪ Limitation of certain steps subject to the authorization of the Public Prosecutor.</li> </ul>
<b>32.</b> Cash couriers	PC	<ul style="list-style-type: none"> <li>▪ The declaration/communication system does not apply to travellers going to or from another CEMAC State;</li> <li>▪ Declaration/communication obligation is not required for physical cross-border transport by mail or freight;</li> <li>▪ Lack of coordination between institutional entities for the implementation of the requirements of this</li> </ul>

		<p>Recommendation;</p> <ul style="list-style-type: none"> <li>▪ Lack of a mechanism for collecting and storing information on declaration/communication of amounts above the threshold, false declaration/communication or suspicions of ML/TF for the purpose of facilitating international cooperation and assistance;</li> <li>▪ Lack of strict precautions to ensure the proper use of information collected through declaration/communication systems.</li> </ul>
<b>33. Statistics</b>	NC	<ul style="list-style-type: none"> <li>▪ Lack of data on investigations, prosecutions and convictions related to ML/TF;</li> <li>▪ Lack of statistics on requests for mutual legal assistance or other international requests for cooperation;</li> <li>▪ Lack of reliable and consolidated statistics on frozen, seized or confiscated assets.</li> </ul>
<b>34. Guidance and feedback</b>	NC	<ul style="list-style-type: none"> <li>▪ Lack of guidelines for FIs and DNFBPs to properly implement AML/CFT measures.</li> </ul>
<b>35. Sanctions</b>	PC	<ul style="list-style-type: none"> <li>▪ Lack of sanctions applicable to DNFBPs for non-compliance with the AML/CFT obligations of some instruments on proliferation-related offences;</li> <li>▪ Vulnerabilities in the monitoring of the DNFBP sector and shortcomings in the enforcement mechanism for targeted financial sanctions.</li> </ul>
<b>36. International instruments</b>	LC	<ul style="list-style-type: none"> <li>▪ Implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime is not yet effective. The smuggling of migrants is therefore not included as a felony.</li> </ul>
<b>37. Mutual legal assistance</b>	LC	<ul style="list-style-type: none"> <li>▪ The Gabonese legal corpus does not provide for clearly established procedures for the prioritization and timely execution of mutual legal assistance requests.</li> <li>▪ Mechanisms for the establishment and dissemination of mutual legal assistance requests have not been formally described.</li> </ul>
<b>38. Mutual legal assistance: freezing and confiscation</b>	PC	<ul style="list-style-type: none"> <li>▪ Lack of mechanisms to coordinate seizure and confiscation actions with other countries;</li> <li>▪ Lack of mechanisms to manage frozen, seized or confiscated assets.</li> </ul>
<b>39. Extradition</b>	C	<ul style="list-style-type: none"> <li>▪ The country fulfils the requirements for this Recommendation.</li> </ul>
<b>40. Other forms of international cooperation</b>	LC	<ul style="list-style-type: none"> <li>▪ Lack of clear procedures for the timely prioritization of requests;</li> <li>▪ Lack of clear procedures for making requests on behalf of a non-counterparts.</li> </ul>