Anti-money laundering and counter-terrorist financing measures

Democratic Republic of São Tomé and Príncipe

NOVEMBER 2024

Mutual Evaluation Report

The Inter-Governmental Action Group against Money Laundering (GIABA) is a specialized institution of ECOWAS and a FATF Style Regional Body that promotes policies to protect member States financial system against money laundering, terrorist financing and the financing of the proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter terrorist financing (CTF) standard.

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Executive Summary

1. This report summarises the anti-money laundering and counter-terrorist financing (AML/CFT) measures in place in the Democratic Republic of Sao Tome and Principe (hereafter referred to as STP) as at the date of the on-site visit (12–26 June 2023[1]). This report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system and provides recommendations on how the system could be strengthened.

Key Findings

a) STP has a low level of understanding of its ML and TF risks, and is in the process of finalising its first national money laundering and terrorist financing risk assessment (NRA) report. While the conclusions of the NRA reasonably reflect the main ML/TF risks in the country, significant shortcomings are noted, including the lack of analysis of some inherent contextual factors that may influence a country's risk profile, particularly the informal economy, and TF risks from non-profit organisations (NPOs). In addition, certain areas, such as legal persons and the real estate sector, which may be vulnerable to ML/TF risks, were not sufficiently covered by the NRA. The lack of granularity in the analyses carried out and the absence of assessments of relevant sectors in terms of preventing and combating MLTF prevent the country from having an adequate level of knowledge of MLTF risks, given their context and materiality. STP is yet to adopt national AML/CFT policies, allocate resources and implement activities to mitigate the risks identified. Coordination and cooperation at both policy and operational levels for AML/CFT purposes need to be improved significantly. STP does not have an operational cooperation mechanism for PF.

b) The FIU Act makes the Prosecutor General of the Republic (PGR) the sole recipient of financial intelligence generated by the FIU from the analysis of STRs filed by reporting entities (even though the AML/CFT Act broadened the scope of recipients of this information), thereby limiting the scope of competent authorities that can access and use the FIU's financial intelligence. Furthermore, the FIU's ability to generate financial intelligence is also impacted by the absence of feedback from the PGR to the FIU, limited scope of entities that file suspicious transaction reports (STRs), lack of reporting on declarations on cross-border movement of bearer negotiable instruments (BNIs) due to the lack of implementation of the declaration system; and the limited scope of institutions from which the FIU requests additional information to support its analysis. The FIU lacks adequate capacity to undertake operational and strategic analysis to support the operational needs of LEAs. The FIU is not conducting strategic analysis and is yet to develop strategic products to identify new and emerging trends and patterns to be used as a basis for operational actions by relevant agencies and contribute to broader AML/CFT initiatives in STP.

c) LEAs do not regularly conduct parallel financial investigations when investigating predicate offences such as corruption, embezzlement, tax fraud and drug trafficking and this is not consistent with the risk profile or high level of threats associated with the underlying offences that can generate significant illicit proceeds in the country. Investigative and prosecution authorities do not prioritise investigations of ML offences. In addition, there is no evidence that investigations focus on the different types of ML activities.

d) Although STP has a robust legal framework to deprive criminal proceeds, instrumentalities and property of equivalent value, the authorities have utilised the provisions of the laws to confiscate property related to highest risk predicate crime to a limited extent. The authorities do not take measures at the beginning of the investigation to locate assets subject to confiscation. STP does not have an effective system for managing the proceeds or instruments of crime, including assets of equivalent value that must be preserved to avoid depreciation.

e) Since the enactment of the AML/CFT Act (2013) and the CFT Act (2018), no TF-related STR, prosecution or conviction has been recorded, although STP considers its TF risk as "Medium-High". Therefore, this lack of action is inconsistent with the country's risk profile. LEAs demonstrated a low understanding of the risks and capacities and lack financial, human and technical resources to investigate TF. There is no effective mechanism to identify, prioritise and initiate TF investigation and prosecution, regardless of the country's TF risk profile. STP has no CFT or counter-terrorism strategy, and the 2018-2020 National AML/CFT strategy lacked actions targeted towards enhancing effective TF investigation and prosecution.

f) There are major shortcomings in the legal framework for freezing the assets of designated persons and entities without delay pursuant to UNSCRs 1267 and 1373 (see R.6), including the non-coverage of successor resolutions, the evidentiary standard of proof of "reasonable grounds" or "reasonable basis", freezing of funds or other assets. STP does not implement TF-TFS pursuant to UNSCR 1267 and UNSCR 1373 without delay and has not recorded any frozen assets of designated persons and entities. STP has not conducted a sectoral risk assessment of non-profit organisations (NPOs) vulnerable to TF abuse. Accordingly, competent authorities demonstrated a weaker understanding of the MLTF risks and vulnerabilities of NPOs. STP does not have legal and institutional frameworks to implement TFS related to the financing of the proliferation of weapons of mass destruction.

g) Understanding of ML/TF risks varies across the private sector. Commercial banks and insurance companies have a reasonable level of understanding of their AML/CFT obligations but are yet to carry out an assessment of their ML/TF risks. In contrast, the non-bank financial sector (such as foreign exchange dealers (forex dealers)), microfinance institutions (MFIs) have a low level of understanding of ML/TF risks and AML/CFT obligations. Most DNFBPs have a very limited and, in some cases, non-existent level of understanding and knowledge of ML and TF risks. Understanding of AML/CFT obligations and how they apply specifically to each DNFBP sector, including lawyers, accountants and auditors, is very limited or non-existent. The financial sector supervisor, the Central Bank of Sao Tome and Principe (BCSTP), has conducted AML/CFT inspection of only banks, which is inconsistent with the sector's risk profile and not based on identified risks. Supervisors and self-regulatory bodies (SRBs) of DNFBPs have a low level of understanding of the ML/TF risks in their sectors, and are still largely unaware of their AML/CFT supervisory role. AML/CFT supervision of non-bank financial institutions (NBFIs) and DNFBPs is yet to commence.

h) STP has not identified and assessed the vulnerabilities associated with the legal persons created in the country. There is a general lack of understanding of the concept of BO among competent authorities who often confuse BO with legal ownership. Accordingly, competent authorities demonstrated a very low understanding of the ML/TF risks associated with legal persons, and a weaker understanding of the TF risks and vulnerabilities of NPOs. The competent authorities lack an understanding of the control of foreign trusts operating in STP.

Reporting entities are obliged to collect and maintain beneficial ownership information (BO information) of legal persons before they establish a business relationship with them. While competent authorities rely on customer due diligence (CDD) information obtained by reporting entities to access BO information of customers that are legal persons, only banks belonging to international groups do collect BO information of their customers.

i) STP has a solid legal basis for providing and requesting the widest range of international co-operation on ML/TF and associated predicate offences, still the use of cooperation mechanisms to support investigations, including the response rate to incoming requestsis generally weak.

j) In general, competent authorities lack human, technical and financial resources and standard operating procedures and guidelines to assist them in planning, including prioritising actions, and performing their functions.

Risks and General Situation

2. STP is exposed to high ML risks (draft NRA report). The main proceeds generating ML predicate offences in STP are corruption and tax fraud. Trafficking in narcotic drugs (drug trafficking) and counterfeiting and piracy of products are the main external threats to STP. STP's ML risk also emanate from its location in the Gulf Guinea, a transit route for illicit goods or funds, as well as a lack of risk-based strategy to address risks. No document, including the draft NRA report provide estimates of STP's exposure to cross-border illicit financial flows, as well as the techniques used or the degree to which proceeds of foreign predicates are being laundered in STP.

3. There is predominant use of cash for transactions, including physical cross-border movement of cash, and most of the sectors are informal. Some sectors have been identified as significant in terms of their scale, role, or vulnerability. Overall, the financial sector has higher inherent ML/TF risks. Within the financial sector, banks account for a significant part of the total assets. Furthermore, banks offer a variety of products and transactions, and have a deeper connection with the international financial system than other FIs and the DNFBPs. Amongst the DNFBPs, accountants and auditors, real estate agents and lawyers are the most vulnerable to misuse for ML purposes.

4. STP has not recorded any incidence of terrorism, and no terrorist organisation is operating or present in the country. In addition, no part of the population is known to be sympathetic to terrorist causes. While these indicate that the threat of funds being used for terrorism in STP could be low, the presence of possible terrorism resulting from maritime piracy in the Gulf of Guinea, may also suggest that the country is susceptible to being used as a transit point for illicit funds and other resources to disrupt countries of West Africa and Central Africa. In addition, the preponderance of cash transactions, the lack of oversight of NPOs, and lack of capacity of relevant authorities to detect and deter potential terrorist/TF acts expose the country to TF threats.

Overall Level of Compliance and Effectiveness

5. Since its last mutual evaluation in 2013, STP has taken some steps to improve its AML/CFT regime. The country made notable improvements in its overall level of technical compliance with the FATF Recommendations. This has been demonstrated by the enactment and amendment of several key legislation, including the AML/CFT Act, 2013; CFT Act, 2018; financial sector AML/CFT Regulations and guidelines. However, major deficiencies remain in STP's technical compliance framework, including measures related to TF-related TFS (R.6), PF-related

TFS (R. 7); NPOs (R.8); new technologies – virtual assets (VA) and virtual assets service providers (VASPs) (R.15); Higher-risk countries (R.19); and cash couriers(R.32).

6. STP has achieved a low level of effectiveness in all the 11 Immediate Outcomes (IOs). Therefore, fundamental improvements are required in the areas of understanding of ML/TF risks and national co-ordination, confiscation, TF investigation and prosecution, investigation and prosecution of ML, particularly regarding the conduct of parallel financial investigations. Fundamental improvements are also needed to supervise and monitor banks and DNFBPs and implementation of preventive measures by these reporting entities. Targeted measures also need to be implemented to prevent the misuse of NPOs for TF purposes.

Assessment of risk, coordination and policy setting (Chapter 2; IO.1, R.1, 2, 33 & 34)

7. STP is in the process of completing its first NRA which covered the period 2017 – 2021.[1] The process was inclusive and involved public and private sector institutions coordinated by the FIU. Both qualitative and quantitative data, including information from STRs, data from prosecution and investigation authorities, information provided by supervisory authorities and some reporting entities, as well as the application of questionnaires and information obtained from interviews carried out and open sources were used in the NRA exercise.

8. While the conclusions in the draft NRA report appear generally reasonable as they reflect the main ML/TF risks facing STP, some shortcomings were noted which have an adverse impact on the overall understanding of risks in the country. For instance, the NRA did not assess the ML/TF risks associated with the different types of legal persons created in STP. While STP note some high-level vulnerabilities that could be exploited for TF, the authorities did not determine the extent to which such vulnerabilities are being exploited. Furthermore, potential TF risks associated with the informal economy/cash use in country were not covered. Also, the TF risks of NPOs, including the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of TF, abuse were not assessed. No sector-specific risk assessment has been conducted to increase the understanding of risks.

9. The level of risk understanding varies across the competent authorities. Overall, the authorities demonstrated a reasonable understanding of the ML risk while the understanding TF risk is low. Competent authorities such as the FIU, PJ and PGR demonstrated a good understanding of ML risks in STP. Competent authorities with CFT roles, PJ, PGR, FIU and Customs demonstrated a low understanding of TF-related risks. Understanding of TF risks among the supervisory authorities is low in the BCSTP, while understanding of TF risks among the DNFBP supervisors is non-existent.

10. At the time of the on-site visit, the NRA report had not yet been finalised, so the NRA has had little or no impact on the policies, strategies and operational activities of the competent authorities. Although STP had an AML/CFT Strategy -2018-2020 which aimed at dealing with the issues of preventing and combating ML/TF and predicate offences, and a Maritime Safety Strategy aimed at addressing maritime security issues, including transnational organised crime were risk-based, the strategies were not based on identified risks. Nevertheless, the 2018-2020 Strategy led to the creation of the Department of Investigation and Criminal Action (DIAP), an investigative body under the PGR in response to the challenge of corruption and financial crimes, especially those committed by public officials. However, efforts to create a Central Department for Investigation and Criminal Action (DCIAP) as a directing and coordinating body in the repression of organised crime, corruption and drug trafficking, among others, have not been successful due to the various constraints, including the lack of financial resources.

[1] Although the draft NRA report contains information on some actions taken in 2022.

11. The Multisectoral Commission serves as the mechanism that enables internal co-operation, co-ordination and exchange of information related to the development and implementation of AML/CFT policies and strategies. The Commission operates within the framework of the FIU and is chaired by the coordinator of the FIU. The effectiveness of the Multisectoral Committee set up by the FIU's internal regulations and operates within the FIU could not be ascertained given the unavailability of statistics on the frequency of meetings held, policy proposals prepared or coordinated, and exchanges of information between national authorities, among others. Co-operation between the various competent bodies and the regulatory and supervisory authorities with responsibilities in the ML/TF prevention system needs to be significantly improved. There are no formalised mechanisms for exchanging information (Memoranda of Understanding - MOUs - or Protocols) signed between the various entities that make up the system. There is no operational cooperation mechanism in relation to PF.

12. Given that the NRA report has not yet been finalised and disseminated, most private sector players were unaware of the NRA's findings and recommendations of the exercise.

Financial intelligence, ML investigations, prosecutions and confiscation (Chapter 3; IO.6, 7, 8; R.1, 3, 4, 29–32)

Use of Financial Intelligence (Immediate Outcome 6)

13. The FIU is the national central agency responsible for receiving, requesting, analysing and disseminating information on transactions suspected of generating proceeds of criminal origin and/or the use of funds intended for TF to the PGR, and upon request by other competent authorities, information to help in identifying potential cases of ML, associated predicate offences and TF. All the STRs filed to the FIA are generated by the banking sector. The STRs filed are generally considered by the FIU to be of good quality, but the volume is considered extremely low and has declined since 2020. DNFBPs and NBFIs (some of which are assessed as medium to high risks in the NRA), as well as Customs are not filing statutory reports (STRs and reports on cross border declarations of currency and BNI) to the FIU, which potentially deprives the FIU of the necessary transaction information to support in-depth intelligence analysis, and could ultimately impact adversely on the availability of financial intelligence to be used in investigations to develop evidence and trace criminal proceeds related to ML, associated predicate offences and TF.

14. The PGR has been the sole recipient of financial intelligence generated by the FIU from the analysis of STRs filed by reporting entities, thereby limiting the scope of competent authorities that could access and use the FIU's financial intelligence. LEAs do not regularly access or use financial intelligence and other relevant information from the FIU and other sources to develop evidence and trace criminal proceeds related to ML, associated predicate offences and TF, and to identify and trace proceeds related to criminal conduct. LEAs lack the capacity to effectively utilise intelligence from the FIU as they did not demonstrate the ability to use intelligence to support investigations of ML and predicate offence. The PGR has provided feedback to the FIU on the use of information provided by the FIU to a limited extent.

15. The human, technical and financial resources of the FIU is inadequate. The FIU has made use of its powers to access information from other relevant authorities and entities, including Customs, JP and GUE to support its operational analysis, which presents a gap that could impede its ability to conduct comprehensive analysis.

Immediate Outcome 7 (ML Investigation and Prosecution)

16. STP identifies ML through investigations of predicate offences, financial intelligence reports and complaints, as well as disseminations from their foreign counterparts. Also, information held by the FIU is not frequently used by

the investigation and prosecution authorities, customs and tax services. Therefore, the extent to which the FIU supports ongoing financial investigations.

17. By law, and in practice, only the PGR has investigated ML to a very limited extent. STP focuses on simple third-party and standalone cases. Prosecutions for predicate offences with potential for ML-related charges did not see the proactivity needed to trigger parallel financial investigation to identify the proceeds of the crime under investigation for seizure/restraint to ensure that assets do not dissipate. Similarly, there is little propensity to use some of the investigative techniques other than the traditional ones, except in relation to joint investigation teams and controlled deliveries.

18. Investigation and prosecution authorities do not have adequate financial, technical, logistical and human resources to identify and investigate ML effectively.

19. STP has very low rate of ML prosecutions, demonstrating that ML cases are not being pursued and prioritised proactively. STP recorded one conviction for ML during the reviewed period. STP did not demonstrate the use of alternative measures where it was not possible to obtain a conviction for ML.

20. Considering the number of convictions obtained for ML, it is not possible to determine the proportionality and effectiveness of sanctions imposed for ML in practice.

Immediate Outcome 8 (Confiscation)

21. STP has a robust confiscation legal framework but is yet to adopt a strategy or policy to establish confiscation as a high-level priority. They do not seek to identify criminal assets at an early stage during the investigation and did not demonstrate training to improve freezing, seizure and confiscation related to ML/FT and predicate offences.

22. STP has recovered criminal proceeds that have been transferred overseas, and has obtained one confiscation order. This is not fully consistent with the country's risk profile.

23. Confiscation of falsely declared or undeclared currency and BNI have not occurred in STP.

24. Overall, the limited number of criminal convictions severely impedes STP's ability to confiscate all types of criminal property.

Terrorist and proliferation financing (Chapter 4; IO.9, 10, 11; R. 1, 4, 5–8, 30, 31 & 39.)

Immediate Outcome 9 (TF investigation and prosecution)

25. Since the enactment of the TF Laws in 2013 and 2018, respectively, no TF-related STR, prosecution or conviction has been recorded. This lack of action is inconsistent with the country's risk profile.

26. The authorities responsible for TF investigations demonstrated a very low understanding of TF risks. STP does not have a national counterterrorism strategy nor an operational platform for LEAs to cooperate on intelligence and information sharing, which include terrorism/TF related issues.

27. In the absence of prosecution and or conviction for terrorism or TF, it is impossible to determine the effectiveness, proportionality, and dissuasiveness of implementation of the sanctions and any other measures to deter TF activities.

Immediate Outcome 10 (TF preventive measures and financial sanctions)

28. STP legal framework for implementing UNSCR 1267 and 1373 and successor resolutions has major shortcomings, and the country is not implementing TF-related TFS without delay. STP has no mechanism or authority in charge of identifying targets that meet the designation criteria both for UNSCR 1267 and 1373. In addition, the authorities, including the PGR, are yet to issue detailed guidelines or guidance, or sensitise reporting entities to facilitate implementation of TF-TFS obligations. Consequently, reporting entities, except commercial banks affiliated to foreign groups, failed to demonstrate that they access the UN Sanctions Lists and implement TFS related to TF. The communication mechanism of designation is not functional, and the effective date of designations made pursuant to UNSCR 1267 are not ascertainable (see IO4).

29. STP has not identified the subset of organisations that fall within the FATF's definition of NPOs, and has therefore not used all relevant sources of information to identify the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at of TF abuse. The authorities lack awareness of the vulnerabilities of NPOs to TF.

30. Although the FIU issued a flyer to NPOs to sensitise NPOs on their obligations, the flyer considered the NPOs as DNFBPs and directed them to implement AML/CFT obligations as required of DNFBPs, which is at variance with the requirements of the FATF Standards regarding NPOs. Consequently, STP is not implementing a targeted risk-based supervision or monitoring of NPOs.

31. In the absence of identification and assessment, STP is yet to review the adequacy of measures, including laws and regulations, issue appropriate guidance and conduct outreach to raise awareness about the potential misuse or abuse of NPOs for TF purposes, and undertake supervision or monitoring of NPOs.

Immediate Outcome 11 (PF financial sanctions)

32. STP has no legal framework to implement TFS concerning the UNSCRs relating to the combating PF. No competent authority is responsible for, or resources are made available to implement TFS-CFP. Although the AML/CFT Act requires competent authorities to collaborate regarding PF, this has not been leveraged to coordinate and adopt measures to implement the requirements.

33. The authorities have a low understanding of PF-TFS and have not undertaken any outreach or provided guidance to the regulated sectors. Understanding of PF-TFS derives from entities' (especially FIs affiliated to foreign groups) own learning and group policies. Consequently, banks demonstrated a reasonable understanding of PF-TFS, while understanding of PF-TFS among NBFIs and DNFBPs is non-existent.

Preventive measures (Chapter 5; IO.4; R.9–23)

34. Banks, forex dealers, payment institutions and MVTS have basic understanding of risks, while insurance and microfinance institutions (MFIs) and DNFBPs have a limited or low level of understanding, with casinos demonstrating an absence of understanding of risk ML/TF risks and knowledge of the NRA exercise. While the understanding of risks among FIs and DNFBPs emanate from their participation in the NRA process, there is no strategy in place to maintain this understanding over time. This is exacerbated by the absence of sector specific risk assessments to facilitate the implementation of risk-based mitigating measures. In addition, some DNFBPs, including lawyers, do not have an appropriate understanding of their AML/CFT obligations.

35. FIs have a reasonable knowledge of the need to apply enhanced measures to high-risk situations, including PEPs, but show some ignorance of the issues related to due diligence for customers classified as low risk, since on the one hand the NRA results did not take into account the identification of activities or areas that deserve less attention

by the entities subject to it, nor do the institutions have an internal "white list" that implies the application of simplified measures due to the high rate of financial exclusion rates in the country. DNFBPs are not aware of situations that require them to apply enhanced or simplified identification and due diligence measures. FIs did not demonstrate full compliance with TFS obligations, while DNFBPs are not aware of the obligations relating to TFS-FT, and therefore have not put procedures in place to identify the people designated by the United Nations Security Council Resolutions, as are the high-risk countries identified by the FATF.

36. Suspicious transaction reporting by banks appears low, and NBFIs and DNFBPs are yet to detect and file STRs.

Supervision (Chapter 6; IO.3; R.14, R.26–28, 34, 35)

37. Licensing, registration and fitness and propriety tests to prevent criminals from entering the financial, VASP and DNFBP sectors are broadly adequate for FIs, non-existent for some sectors (including VASPs) and insufficient for others. Although BCSTP has made some efforts to identify illegal forex dealers and MVTS, the effects of the measures applied to formalise and reduce the number of unlicensed MVTS could not be ascertained. There is no evidence of efforts to identify unlicensed agents and illegal activities in the DNFBP sector, especially regarding real estate agents and casinos.

38. BCSTP, the financial supervisor of the banking sector and other material FIs, has a low understanding of inherent ML risks and a very low understanding of TF risks. DNFBPs supervisors unaware of the ML/TF risks of entities under their supervision, although they participated in the NRA process. Supervisory authorities, including the BCSTP are yet to adopt supervisory tools and strategies for AML/CFT supervision. While the development of a risk-rating methodology for banks is at an early stage, there is still no inspection manual covering all FIs. DNFBP supervisors did not demonstrate efforts being made in this direction due to several factors, including the lack of awareness of their responsibilities under the AML/CFT Act.

39. BCSTP has imposed two financial sanctions on banks, which is considered to be limited in number, and there is no evidence of enforcement. Based on available information, the remedial action and sanctions imposed on banks by the BCSTP are yet to have an effect on compliance by banks. In the absence of supervision, no sanctions have been imposed on NBFIs and DNFBPs.

Transparency and beneficial ownership (Chapter 7; IO.5; R.24, 25)

40. Information on the types of legal persons that can be created in STP are publicly available at the office and website of the Guiché Unico de Empresa (GUE), (a one stop shop for the registration of companies) which operates under the Ministry of Justice (MOJ). The authorities rely on the GUE to obtain basic information on legal persons upon request. The authorities rely on CDD information obtained by reporting entities to access BO information of customers that are legal persons. However, only banks belonging to international groups do collect BO information of their customers that are legal persons (see IO.4). STP did not, however, demonstrate implementation of measures to ensure basic and BO information of legal persons are adequate, accurate and current.

41. The laws of STP do not recognise trusts. However, trusts created in foreign jurisdictions can operate in the country, and reporting entities are obliged to collect and maintain BO information on foreign trusts, basic information on legal arrangements is non-existent.

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

42. STP has a solid legal basis for providing and requesting the widest range of international co-operation on ML/TF and associated predicate offences. However, the country does not actively seek international co-operation, and has executed MLA requests to a limited extent. The PGR is the Central Authority is responsible for coordinating

international cooperation but has limited resources and no guidelines or case management system to assist with the process and prioritisation of MLA and extradition requests.

43. STP makes and receives a very small number of requests for international cooperation. The response rate for incoming requests is extremely low. Competent authorities, including the FIU, do not make effective use of formal or informal international cooperation to progress domestic investigations, including the exchange of BO information on legal persons registered in STP.

Priority Actions

a) STP should continue to improve its understanding of its ML and TF risks finalising its first national ML/TF risk assessment (NRA) report and conducting thematic assessments, and widely disseminate the results of the assessments to the widest range of stakeholders.

b) The Government should develop and adopt national AML/CFT policies, allocate adequate resources to the FIU and Multi-Sectoral committee to coordinate the implementation of activities to mitigate the risks identified. The Government should also operationalise and adequately resource the Committee established by Article 50 of the AML/CFT Act and adequately resource the Committee to lead AML/CFT reforms and improve coordination and cooperation at both policy and operational levels for AML/CFT purposes.

c) STP should review relevant legal frameworks to address the deficiencies identified in its legal framework regarding TF-related TFS to all successor United Nations Security Council Resolutions (UNSCRs) 1267 and 1373, including when the obligation to take action takes effect; the evidentiary standard of proof of "reasonable grounds" or "reasonable basis" for deciding on designations, ex parte action against a person or entity identified and whose proposed designation is under review, measures to freeze funds or other assets of designated persons, effective date of obligation to freeze, protection of bona fide third parties.

d) STP should ensure there are proactive and spontaneous disseminations by the FIU to other competent authorities such as the JP, including considering whether the FIU Act should be amended to explicitly allow this.

e) The Government should provide adequate technical, human, and financial resources to the FIU to strengthen its operational analysis and enable it to conduct strategic analysis to better support financial investigations by the PGR and LEAs. In addition, the FIU should access and make optimal use of all the available information in the databases of relevant public authorities to support its analysis.

f) STP should provide LEAs with adequate training to enable them to regularly conduct parallel financial investigations when investigating predicate offences such as corruption and drug trafficking consistent with the risk profile or high level of threats associated with the underlying offences that can generate significant illicit proceeds in the country. Investigative and prosecution authorities should adopt standard operating procedures (SOPs) to prioritise investigations of ML offences and ensure that investigations focus on the different types of ML activities, including against legal persons where appropriate.

g) STP should maintain detailed statistics on the amounts and nature of property seized, frozen or confiscated) including proceeds, instrumentalities and assets of corresponding value), and the amounts of assets returned to victims.

h) STP Customs should rigorously implement the declaration system for both inbound and outbound cross-border movements of currency and BNIs and pursue confiscation of falsely declared/undeclared currency and BNIs. It should make every effort to enhance coordination with other authorities at the airport and actively exchange information with the FIU and financial supervisors in addition to LEAs and international partners.

i) STP should assess its NPO sector to identify the subset of NPOs most vulnerable to TF abuse. Based on its understanding, STP should review the adequacy of laws, regulations and other measures in place which might help to mitigate those risks, without treating NPOs as DNFBPs. Additionally, STP should implement a risk-based monitoring framework for NPOs at risk of TF abuse, without disrupting the activities of legitimate NPOs.

j) Supervisors should take steps to deepen their understanding of the ML/TF risks within the institutions and sectors under their supervisory purview and implement a risk-based approach to AML/CFT supervision based on the ML/TF risks identified, and the internal controls set by reporting entities to mitigate risks. In doing so, the supervisors should also ensure that the risk profiles of reporting entities are reviewed periodically, especially where there are major events or developments in the management or operation of a reporting entity.

k) The FIU should collaborate with DNFBP supervisors to provide DNFBP with guidelines and feedback to enable them to apply AML/CFT measures, particularly in relation to supervisory expectation, risk identification, domestic typologies, red flags and TFS obligations, verification of identity of customers without the relevant identity documents, legal persons and identification of BO; sector-specific risk indicators in particular to improve STR reporting; guidance on the identification of domestic and foreign PEPs, including the need to identify family members and close associates. In addition, DNFBP supervisors should strengthen measures to prevent criminals and their associates from holding a management function in DNFBPs.

l) Cooperation between BCSTP, the FIU and DNFBP supervisors should be enhanced to ensure effective supervision and regulation of FIs and DNFBPs, including more information sharing on areas such as guidance for entities, collection of BO information of legal persons, number and quality of STRs filed by categories of FIs/DNFBPs, red flags, typologies, sector risk profiles.

m) STP should assess the ML/TF risks related to legal persons, and adopt appropriate mitigating measures, including the implementation of CDD by FIs/DNFBPs, for access to accurate and up-to-date BO information for all legal persons.

n) STP should improve of its responses to MLA requests and proactively seek international cooperation to support ML/TF investigations with a cross-border elements, including to trace and recover assets by amongst others enhancing the procedures for the distribution and monitoring of requests and training to strengthen the financial, human and technical capacities of relevant competent authorities (MOJ, FIU, LEAs). The FIU should also support international asset tracing by working on its membership of the Egmont Group and, pending this, use bilateral and multilateral co-operation to exchange information when international asset tracing is relevant to the case.

Effectiveness & Technical Compliance Ratings

Table 1. Effectiveness Ratings

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
LE	LE	LE	LE	LE	LE	LE	LE	LE	LE	LE

Note: Effectiveness ratings can be either a High- HE, Substantial- SE, Moderate- ME, or Low – LE, level of effectiveness.

Table 2. Technical Compliance Ratings

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

Note: Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – non compliant.

MUTUAL EVALUATION REPORT

Preface

This report summarises the AML/CFT measures in place as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system, and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from 12 to 26 June, 2023 as decided by the GIABA Ministerial Committee on 1st June, 2023.[2]

The evaluation was conducted by an assessment team (AT) consisting of:

1. Ms. Suzy Helena Figueiredo de Brito - Director of Supervision, Central Bank of Cabo Verde (Financial Sector Supervision);
2. Mr. Emil Meddy - Head, Internal Audit Financial Intelligence Centre, Ghana (Transparency of Legal Persons and Legal Arrangements/Support for Targeted Financial Sanctions (TFS) on Terrorisms and Terrorist Financing);
3. Mr. José Luis Rodrigues - Magistrate, Legal Service and International Cooperation, Financial Intelligence Unit (FIU), Guinea Bissau (International Cooperation/Confiscation)
4. Mr. Francisco Júlio Sanha, Director of the Criminal Investigation Unit, FIU, Guinea Bissau (ML Investigations, TFS on Proliferation);
5. Mr. Tiago João Santos E Sousa Lambin, Director, Institute of Public Markets, Real Estate and Construction (IMPIC), Portugal (Risk Assessment & National Coordination/Preventive Measures/DNFBP Supervision); and
6. Ms. Hauwa Abubakar Faruq, Head, Country Assessment and Standards Department, Nigerian Financial Intelligence Unit, Nigeria (TF Investigation & TF-TFS).

The AT was supported by the GIABA Secretariat:

1. Dr. Jeffrey Onyejefu Isima (Acting Director of Evaluation and Compliance);
2. Mr. Timothy Melaye (Information Manager, Lagos Information Centre).
3. Mrs. Gina Wood (Senior Legal Officer) (Team Lead);
4. Mr. Devante Alibo (Program Officer); and
5. Ms. Naponcia Gomes (Bilingual Office Manager).

[2] The actual visit took place from 22nd January, 2024 to 5th February, 2024. However, based on a decision of the GIABA Ministerial Committee, 26 June was set as the cut-off date for the on-site visit.

The report was reviewed by:

1. Mr. Ricardo Jacinto Pedro João (Head of the Analysis Department, FIU, Angola); and
2. The FATF Secretariat.

The Democratic Republic of Sao Tome and Principe (STP) previously underwent a GIABA Mutual Evaluation in 2013, conducted according to the 2004 FATF Methodology. The 2013 evaluation and 2014-2021 Follow-up Reports have been published and are available at https://www.giaba.org/publications/publication_3283.html

That Mutual Evaluation concluded that the country was Compliant (C) with zero Recommendations; Largely Compliant (LC) with three (03) Recommendations; Partially Compliant (PC) with twenty-two (22) Recommendations; Non-Compliant (NC) with twenty-four (24) Recommendations; and Not Applicable (N/A) on one (01) Recommendation. STP was rated Compliant or Largely Compliant with none of the 16 Core and Key Recommendations.

Following the adoption of the First Round Mutual Evaluation Report (MER), STP was placed under Expedited Regular Follow-Up process which required the country to submit annual progress reports to GIABA regarding the actions taken to address the recommendations of the MER. In accordance with the GIABA Mutual Evaluation Process and Procedures, STP exited the follow-up process in May 2021 to prepare for the second round mutual evaluation of its AML/CFT regime in 2022.

CHAPTER 1. ML/TF RISKS AND CONTEXT

1. The Democratic Republic of Sao Tome and Principe (STP) is an archipelago 350 km off the west coast of Africa in the Gulf of Guinea. The country shares maritime borders with Nigeria, Cameroun, Gabon, and Equatorial Guinea.[3]

2. STP is classified as a lower-middle-income country with a fragile economy highly vulnerable to exogenous shocks. It has significant untapped natural wealth, including pristine rainforests with a rich and unique biodiversity, which is favourable for nature-based tourism[4]. STP is composed of six districts and the Autonomous Region of Príncipe (Região Autónoma do Príncipe). The political and administrative capital city of São Tomé has 57,000 inhabitants (2023), while other important cities include Trindade (14,500 inhabitants), Santana (7,000 inhabitants), Neves (7,000 inhabitants), Santo Amaro (7,400 inhabitants) and the island of Príncipe.

3. STP covers a land area of about 1,000 km[5] and a coastline of 209 km[6]. The geographical location of the two main islands São Tomé and Príncipe, surrounded by an Exclusive Economic Zone that is 160 times the land surface, explains the country's geostrategic importance. STP has an estimated population of two hundred and nineteen thousand and seventy-eight (219,078)(2022)[7].The World Bank estimates the country's Gross Domestic Product (GDP) in 2022 at five hundred and forty-two million six hundred and eighty-six thousand and nine hundred and seventy-six United States dollars (US$542,686,976)[8].

4. STP is a member of the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA). The country is also a member the Economic Community of Central African States (ECCAS) which is made up of eleven member States[9]. ECCAS aims to promote cooperation and the strengthening of regional integration in Central Africa in all areas of political, security, economic, monetary, financial, social, cultural, scientific and technical activity to achieve collective self-reliance, to raise the standard of living of the people, to increase and maintain economic stability, to strengthen and preserve the close peaceful relations between its Member States and to contribute to the progress and development of the African continent. STP is also an observer of the Central African Economic and Monetary Community (CEMAC), a six-member[10] organisation which aims to promote peace and the harmonious development of its member states, in the framework of establishing an economic union and a monetary union. It is also a member of the African Union and the Community of Portuguese Language Countries (CPLP) and its economic confederation (CE).

5. STP practices separation of powers between the executive, legislative and judicial branches of government. The President is Head of State while the Prime Minister act as the Head of Government. The president is directly elected for up to two consecutive five-year terms, and the prime minister, who wields most day-to-day executive authority, is appointed by the president based on the results of legislative elections.

6. STP has a unicameral legislature in which members of the unicameral, 55-seat National Assembly, are elected by popular vote to four-year terms. The country has a mixed legal system of civil law based on the Portuguese model and customary law. The Constitution provides for an independent judiciary with the Constitutional Court and

[3] https://www.worldbank.org/en/country/saotome/overview
[4] https://www.worldbank.org/en/country/saotome/overview
[5] Common Country Analysis, São Tomé and Príncipe, United Nations, October 2022
[6] Common Country Analysis, São Tomé and Príncipe, United Nations, October 202
[7] Ibid
[8] https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=ST
[9] Angola, Burundi, Cameroon, Central African Republic, Congo, Gabon, Equatorial Guinea, Democratic Republic of Congo, Rwanda, São Tomé, Príncipe, and Chad
[10] Cameroon, Chad, the Central African Republic, Equatorial Guinea, Gabon and the Republic of Congo

the Supreme Court being the highest courts of the country. The Constitutional Court is responsible for administering justice in matters of a legal-constitutional nature (Art. 131, Constitution of STP) while the Supreme Court of Justice (the supreme judicial body of the Republic responsible for ensuring the harmony of jurisprudence. In addition, there are the Court of First Instance, the Regional Court, the District Courts and the Court of Auditors. The Constitution of STP prohibits the creation of courts exclusively dedicated to the trials of certain categories of crimes, except for military courts, which are responsible for judging essentially military crimes defined by law (Art. 131, Constitution of STP).

7. The Constitutional Court consists of five Justices, appointed by the National Assembly for a five-year term. The Supreme Court consists of five Justices usually appointed for a four-year term as follows: the Supreme Court of Justice (03), the President of the Republic, from among eligible magistrates or jurists (01) and a Judge elected by the National Assembly, from among the eligible lawyers).

1.1 ML/TF Risks and Scoping of Higher Risk Issues

8. STP has High ML risks emanating from corruption, tax fraud, trafficking in narcotic drugs (drug trafficking) sexual exploitation of minors, fraud, arms trafficking, environmental crimes and counterfeiting and piracy of products, and its location in the Gulf Guinea, a transit route for illicit goods or funds. Its ML vulnerability is "Medium High" due to numerous factors, including the lack of a national strategy based on national and sector risks assessments, and inadequate resources to implement government programmes, including AML/CFT measures of acceptable international standards, lack of supervision of reporting entities, the predominance of cash transactions and the informality of most sectors. Banks, money or value transfer service (MVTS) providers, forex dealers, gambling/casinos, real estate agents, and accountants and auditors are considered as posing higher ML risks. STP has neither recorded nor assessed the ML/TF risk of activities linked to VASPs.

9. STP has a medium high TF risk due to exposure to terrorist financing threats emanating from terrorist groups active in neighbouring countries that have been affected by terrorist attacks, the country's location in the Gulf of Guinea where piracy and kidnapping for ransom are rampant; inability of LEAs to detect and deter terrorist acts and TF; lack of a counterterrorism strategy.

10. Coordination mechanisms and activities to combat the financing of proliferation is non-existent.

11. Understanding of ML and TF risks is varied among the competent authorities, with the DNFBP supervisors being the least sensitised.

12. The AT's conclusions are based on materials and information provided by STP (including consideration of STP's draft National Risk Assessment (NRA) report), publicly available documents, and discussions with competent authorities and the private sector during the on-site visit.

1.1.1 Overview of ML/TF Risks

13. STP is in the process of completing its first NRA, and is finalising the drafting of the NRA report for adoption by the appropriate political authorities. According to its draft NRA report, STP is exposed to "Medium High" ML risk and "Medium - High" TF risk. STP has a small and fragile private sector, which is comprised mainly of informal and micro-enterprises and a small number of medium and large companies in the formal sector. It is neither a company formation centre nor an international or regional financial centre. However, due to its geographical position, political stability, and favourable development scope that provides an attractive environment for the placement and integration of illicit funds, STP is exposed to cross-border illicit flows (relating to crimes in other countries). The country is susceptible of being used as a transit point for illicit funds and other resources that can be used to disrupt countries of West Africa and Central Africa.

Overview of ML risks

14. The inherent ML threats for STP result from corruption and tax fraud identified by the draft NRA as the main proceeds generating ML predicate offences or activities which generated the highest illicit proceeds (Table 4, pg. 17, draft NRA). Trafficking in narcotics (drug trafficking) and counterfeiting and piracy of products are the main external threats in STP. STP's domestic vulnerability is "Medium High" which result from numerous factors, including the lack of a national strategy based on national and sector risks assessments, inadequate financial resources, continuous and specialised training for staff of the Financial Intelligence Unit (FIU) and law enforcement authorities to facilitate the effective performance of their functions, including properly completing investigations and obtaining evidence; poor quality and quantity of Suspicious Transaction Reports (STRs) filed to the FIU; lack of statistical data on criminal activities; preponderant use of cash in transactions, high informality of the economy; weak supervision of non-bank financial institutions; lack of supervision of Designated Non-Financial Businesses and Professions (DNFBPs) and limitations in the capacity and resources of supervisory authorities.

15. The sectors considered to be at higher risk of abuse for the purpose of ML include banks, money or value transfer service (MVTS) providers, forex dealers, microfinance institutions, gambling/casinos, real estate agents, and accountants and auditors.

16. Estimates regarding the overall value of criminal proceeds in STP, particularly in relation to the identified prevalent predicate offences, are non-existent. Analysis relating to the main methods, trends, and typologies used in laundering the proceeds of crime in the country as contained in the draft NRA report, is considered very limited.

Overview of TF risks

17. STP has not recorded any incidence of terrorism, and no terrorist organisation are operating or present in the country, no part of the population of the population is known to be sympathetic to terrorist causes. Therefore, the threat of funds being used for terrorism in STP could be low. Nonetheless, a notable organised crime threat in São Tomé and Príncipe continues to be the presence of possible terrorism resulting from maritime piracy in the Gulf of Guinea. Remote parts of STP can be used as platforms for attacks on ships in international waters[11]. The country is susceptible to be used as a transit point for illicit funds and other resources to disrupt countries of West Africa and Central Africa[12]. For instance, the Gulf of Guinea is an important shipping zone transporting oil and gas and other goods to and from central and southern Africa, Europe and Asia. In 2020, according to the International Maritime Bureau, the Gulf of Guinea saw 84 attacks on ships, with 135 seafarers kidnapped for ransom. The Gulf of Guinea experienced a nearly 50 % increase in kidnapping for ransom between 2018 and 2019 and around 10% increase between 2019 and 2020. The region now accounts for just over 95 % of all kidnappings for ransom at sea[13]. STP, Nigeria, Benin, Togo, Gabon, Equatorial Guinea, and Cameroon are identified as the highest-risk areas for piracy. These and other contextual factors expose the country to transnational organised crime, smuggling and trafficking (also linked to drugs coming from South America), and corruption. Consequently, considering the foregoing and the country's proximity to countries in the Gulf of Guinea which have suffered several terrorist attacks[14], the risk of STP being misused for TF purposes is assessed to be "Medium High" as the capacity to coordinate, investigate and designate terrorists or terrorist groups is weak.

Virtual assets service providers

18. Regarding (virtual assets service providers) VASPs, given that there is no record of activities in this area to date, the country has not yet carried out any risk assessment of activities linked to VASPs. There is no specific legal and regulatory framework for VASPs and for entities that intend to perform virtual assets activities. In addition, no

[11] 2003 Africa Organised Crime Index, Sao Tome and Principe
[12] Page 5, STP National AML/CFT Strategy, 2018-2020.
[13] https://www.gisreportsonline.com/r/piracy-gulf-guinea/
[14] https://www.gisreportsonline.com/r/piracy-gulf-guinea/

activity has been registered in STP. In addition, no competent authority has been designated to regulate and supervise VASPs in relation to AML/CFT compliance. Therefore, the country has not yet implemented any measures to identify whether there are any entities carrying out this activity in the country.

1.1.2 Country's Risk Assessment & Scoping of Higher Risk Issues

19. STP is completing its first NRA. The NRA is based on the World Bank's methodology and covers the period 2017-2021. Although the NRA report has not yet been adopted by the political authorities, a summary of the NRA's preliminary conclusions has been shared with some of the sectors. The draft NRA report recommends measures to be taken to address the risks identified by the NRA. STP is yet to develop and adopt a strategy and action plan to implement those measures to mitigate the risks.

20. The risk assessment is divided into three parts (collectively referred to as the NRA): (a) ML Risk Assessment of STP; (b) Assessment of Terrorist Financing Risks; and (c) ML/TF Risk of Financial Inclusion.

21. The NRA was developed through an approach involving the national authorities and institutions represented on the Technical Committee for National Risk Assessment (TCNRA)[15] and the Working Group comprising a wide range of public and private sector institutions as required by Decree-Law no. 04/2022 (published in Diário da República no. 5, I Series, of January 14). For the practical preparation of the NRA, the government also opted for the World Bank Group's technical manual, set up the FIU as the National Institution for the Coordination of the Assessment, and appointed the National Coordinator of the National Risk Assessment, a Secretariat, senior officials and a supervisor who is the Coordinator of the FIU (2023 NRA).

22. During the NRA process, the Working Groups collected and analysed statistical data, information, reports from open sources (internet and public news), as well as through questionnaires and interviews with previously identified groups. The NRA considered quantitative and qualitative information including: ML threats – based on ML predicates investigated and prosecuted; ML cases investigated, convictions obtained, statistics from the FIU (e.g. suspicious transaction reports (STRs), financial intelligence reports disseminated to the Public Prosecutor), property restrained; ML/TF vulnerabilities – adequacy and effectiveness of AML/CFT legal and institutional frameworks, effectiveness of supervision of reporting entities; availability and effectiveness of controls (e.g. effectiveness of supervision procedures and practices, availability and enforcement of administrative and criminal sanctions; effectiveness of monitoring and reporting suspicious transactions, availability and access to information on beneficial ownership of legal persons); views of the Working Groups; and feedback from stakeholders in the private sector.

23. Although the NRA was coordinated by the FIU and is a product of consultations between the public and private sectors, important sectors like lawyers and NPOs did not participate in the exercise[16].

24. Furthermore, the NRA did not sufficiently assess some important sectors. For instance, the NRA analysis does not adequately cover some inherent contextual factors that may influence the risk profile of a country, particularly the informal economy; it does not assess the TF risks emanating from NPOs; and there is insufficient analysis and understanding of STP's vulnerabilities within an international context. In addition, the NRA does not provide a full picture of the main methods, trends and typologies used to launder proceeds of crime in STP, which have an impact on LEAs' understanding. Moreover, specific analysis on the risk associated with legal persons and legal arrangements as well as the real estate sector is lacking. These shortcomings impact adversely on the country's overall understanding of ML/TF risks. Additionally, vulnerabilities were identified in relation to resourcing within the competent

[15] Membership of this Committee comprises representatives of the Ministry of Planning, Finance and the Blue Economy; Ministry of Justice, Public Administration and Human Rights; Ministry of Défense and Internal Administration; Ministry of Foreign Affairs, Cooperation and Communities; Ministry of Tourism, Culture and Trade; Attorney General; Governor of the Central Bank of São Tomé and Príncipe; Representative of the Regional Government - Príncipe; Coordinator of the Financial Information Unit; and Coordinator of the National Risk Assessment.
[16] page 25, Section 3.17.5., NRA Report.

authorities to analyse and investigate ML/TF offences, while the lack of AML/CFT oversight of some sectors, including non-bank FIs and DNFBPs was also identified as a key vulnerability. These factors also impact STP's ability to have a comprehensive understanding of its ML/TF risks at the country and sectoral levels.

25. The authorities demonstrated varied levels of understanding of ML and TF risks within the AML/CFT system. While some authorities (for example, the FIU, BCSTP and MOJ) demonstrated a basic understanding of the ML risk facing the country, their understanding of TF threats is limited. Their observation of high-profile vulnerabilities that can be exploited for TF does not translate into a determination of whether, or the extent to which such vulnerabilities are being exploited. Chapter 2 indicates areas where the AT considers that the ML/TF risks lack comprehensive analysis and may not be well understood.

26. STP is yet to finalise, adopt and disseminate the NRA to relevant stakeholders. Thus, STP has not yet used the results of its NRA to develop AML/CFT policies which are informed by the risks identified by the NRA to combat ML or TF. While STP had a National AML/CFT Strategy spanning 2018-2020, which addressed some of the main risks, this Strategy was not based on any risk assessment.

Scoping higher risk issues

27. Prior to the on-site visit, the AT identified several areas requiring increased focus in the evaluation based on an analysis of information mostly provided by the authorities in the framework of the follow-up process and by consultation of open sources[17].

28. **Understanding of ML/FT risks**: Since STP is in the process of conducting its first national ML/TF risk assessment, the AT sought to establish the authorities' understanding of the main ML and TF threats and vulnerabilities in the absence of the risk assessment, and which activities, sectors, type of FIs/DNFBPs present higher ML or TF risks. The AT also reviewed existing strategies or policies to determine how these might or might not reflect the authorities' understanding of risk; and explored the understanding of risks posed by assets and value in cross-border movement; illegal immigration and beneficial ownership of the companies (small business and big business).

29. **Cash-based economy and cross border transportation of currency**: Considering STP's large cash-based economy , the low level of financial inclusion, . The AT considered the authorities' level of understanding and focus on cash transactions (e.g. by unlicensed MVTS providers), the effectiveness of controls at the borders to detect and disrupt illicit flows; the appropriate application of exemptions, simplified/enhanced due diligence measures to encourage financial inclusion; as well as adequate implementation of the system for the declaration of cross-border transportation of currency and BNIs .

30. **Informal Sector:** With a large informal sector which accounts for about 28.7% of its Gross Domestic Product (GDP). the absence of financial information on the volume of transactions and capital movements, and the lack of resources to monitor the proliferation of informal exchange activities facilitate the flow of illicit proceeds outside the regulated financial systems. The AT sought to understand the level of informality of STP's economy and the measures the authorities, financial institutions (FIs) and designated non-financial businesses and profession (DNFBPs) take to mitigate risks, including efforts to identify unregistered/unlicensed FIs.

31. **Financial intelligence, investigation and prosecution of ML and confiscation**: Considering the low number of convictions for ML, the AT assessed the extent to which the FIU adequately supports the identification of potential high risk or complex cases (for example, corruption, drug trafficking, maritime piracy, armed robbery at sea,

[17] STP failed to submit its completed Technical Compliance Questionnaire, Effectiveness Narratives and any ML/TF risk assessment carried out by the country within the established deadlines. Therefore, when deciding which issues to prioritise, the evaluation team took into account the areas of highest and lowest risk of ML/TF in STP, based on the 2013 mutual evaluation report, the follow-up reports and supporting documents submitted by STP from 2014 to 2021, the 2018-2020 AML/CTF strategy and reliable open sources from international organisations.

fraud); access to and use of other financial intelligence by LEAs, including by the Public Ministry and the Criminal Investigation Police, in ML investigations, identification, tracing and confiscation of criminal proceeds; the conduct of parallel financial investigations alongside investigation of predicate offences and the level of coordination and cooperation between relevant authorities; resourcing of LEAs to investigate ML, including mechanisms to improve interagency co-operation and information sharing. Furthermore, considering the cross-border nature of some of the predicate crimes (for example, drug trafficking fraud, corruption and migrant smuggling), the AT also focused on the extent to which competent authorities are seeking appropriate assistance from their foreign counterparts in cross-border ML cases. The awareness and consciousness about of specific competent authorities on AML/CFT matters, mechanism being used, Human resources; budget to support resources and training for competent authorities was also be explored.

32. **Supervision of at risk FIs and DNFBPs** – The FUR provided limited information on the supervision of FIs and no information on the supervision of DNFBPs. Foreign-owned banks and insurance companies dominate the financial sector. Risk-based supervision of commercial banks and insurance companies was at the embryonic stage while Supervision of DNFBPs is non-existent. The AT focused on the extent to which banks, remittance service providers, casinos[18], lawyers and real estate agents are being supervised for AML/CFT compliance, including the remedial actions utilised by supervisory authorities, the application of effective, proportionate and dissuasive sanctions for non-compliance with AML/CFT requirements, as well as the impact of supervisory actions on compliance.

33. **Implementation of preventive measures by at risk FIs and DNFBP sectors** – As the sectors presenting higher ML risks, the AT assessed the extent to which banks, remittance service providers, casinos, lawyers and real estate agents understand their ML/TF risks, produce adequate risk profiles and use the same to monitor activities, and whether they report suspicious transactions promptly, measures implemented in obtaining BO information, record keeping, EDD; and targeted financial sanctions. The AT also assessed the risk-based allocation of resources; and effectiveness of collaboration between supervisory authorities and supervisory programmes.

34. **Misuse of Legal Persons and the availability of Beneficial Ownership Information**: Considering that the investment drive for STP's oil sector attracts non-residents to incorporate businesses, including banks, in the country, the AT assessed the opportunities for abusing legal entities for ML/TF purposes, the authorities' understanding of ML/TF risks, and the extent to which STP is successful in preventing the criminal misuse of corporate vehicles (including, for example, the regulation and supervision of legal entities for compliance with reporting requirements) and the ease with which competent authorities can access and share accurate and up-to-date beneficial ownership information, including through international co-operation and information-exchange.

35. **Terrorism and its financing:** Considering its proximity to countries that continue to experience terrorist attacks and have active terrorist organisations, and the lack of engagement with NPOs, the AT assessed the adequacy of STP's measures to investigate and disrupt TF commensurate with its risk profile, implementation of TFS related to terrorism and TF and the measures being taken to protect NPOs from TF abuse.

Scoping of lower risk issues

36. The insurance sector was identified as requiring reduced focus due to the lower risks they presented considering its main focus of general insurance and reinsurance activities such as non-life insurance (general) business and transactions involving low amounts.

[18] The AT originally slated casinos for reduced focus, but included this sector based on identification by the NRA and confirmation by the authorities of same as a higher risk sector.

1.2 Materiality

37. STP is a cash-based economy due to its highly unbanked population, low financial awareness, and inadequate payment infrastructure. The NFIS indicates that cash is predominant with 73% commercial transactions such as food, transport, water, electricity and communications taking place in cash (p.10, NFIS).

38. According to the National Statistics Institute, the informal economy contributes 39% of the country's GDP. However, in the absence of any studies on the formalization of the economy in São Tomé and Príncipe, the STP believes that the level of formalisation of its economy is lower (section 13.19. Level of formalization of the economy, draft NRA).

39. The financial sector in STP, classified by the draft NRA report as having a high ML risk, is dominated by commercial banks, which account for approximately 98% of financial sector assets. Currently, there are four banks providing financial services, and three of the four banks are foreign owned. Two small banks (with 15 percent of banking system assets) were placed in liquidation in 2016 and 2018. One of the small banks lost its license for non-compliance with BCSTP directives and not for insolvency[19]. Another Bank with assets about 1 percent of GDP was placed under BCSTP administration in November 2020 due to repeated failure to comply with, among others, liquidity and capital requirements. The BCSTP revoked the licence for this bank in January 2022 due to liquidity constraints and referred the bank to the courts for bankruptcy procedures[20]. STP's largest bank, is mainly owned by the STP government, underwent restructuring in 2018. The shares of the bank is distributed between the Government of STP (48%), Banco Angolano de Investimentos (27%) and Caixa Geral de Depósitos (25%). The underdeveloped nature of the country's financial sector continues to affect the development of the private sector through the limited access to credit[21].

40. There are some other FIs represented by insurance companies (2), and non-banking credit institutions (2), bureau of exchange (1). The insurance sector altogether represents 2,79% of the financial assets in the country and the authorities consider the ML/FT risk of this sector as "Medium".

41. The DNFBP sector is represented by one casino, 224 registered lawyers and registrars; 221 accountants and auditors; an unknown number of real estate agents, dealers in precious metals and stones (DPMS). From the materiality standpoint, amongst DNFBPs, lawyers are key actors in terms of transaction turnovers. The risk related to their activities is also higher, especially in relation to real estate transactions which are a significant component in ML schemes in STP.

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[19] https://euc-word-edit.officeapps.live.com/we/wordeditorframe.aspx?ui=en-US&rs=en-US&wopisrc=https%3A%2F%2Fgiabagroupe.sharepoint.com%2Fsites%2FFATFEIP-GIABA%2Fsaotome%2526principe%2F_vti_bin%2Fwopi.ashx%2Ffiles%2Fe2b2da419d2a4b12b2b2be410b48b8b1&wdpid=f806593&wdenableroaming=1&mscc=1&hid=0A1930A1-A067-8000-F968-8B137F1FE998.0&uih=sharepointcom&wdlcid=en-US&jsapi=1&jsapiver=v2&corrid=c6c68ca7-85d1-3962-38a0-466663423447&usid=c6c68ca7-85d1-3962-38a0-466663423447&newsession=1&sftc=1&uihit=docaspx&muv=1&cac=1&sams=1&mtf=1&sfp=1&sdp=1&hch=1&hwfh=1&dchat=1&sc={"pmo"%3A"https%3A%2F%2Fgiabagroupe.sharepoint.com"%2C"pmshare"%3Atrue}&ctp=LeastProtected&rct=Normal&wdorigin=Other&instantedit=1&wopicomplete=1&wdredirectionreason=Unified_SingleFlush#_ftnref1 Page 14, IMF Country Report No. 21/51, Second Review under the Extended Credit Facility, Request for Waiver for Non-observance of Performance Criterion, Request for Modification of Performance Criteria, and Financing Assurances Review, 2021.

[20] Page 16, IMF Country Report No. 22/306, Fifth Review Under the Extended Credit Facility Arrangement, Request for Waiver of Non-observance of Performance Criterion and Financing Assurances Review, September 2022.

[21] https://euc-word-edit.officeapps.live.com/we/wordeditorframe.aspx?ui=en-US&rs=en-US&wopisrc=https%3A%2F%2Fgiabagroupe.sharepoint.com%2Fsites%2FFATFEIP-GIABA%2Fsaotome%2526principe%2F_vti_bin%2Fwopi.ashx%2Ffiles%2Fe2b2da419d2a4b12b2b2be410b48b8b1&wdpid=f806593&wdenableroaming=1&mscc=1&hid=0A1930A1-A067-8000-F968-8B137F1FE998.0&uih=sharepointcom&wdlcid=en-US&jsapi=1&jsapiver=v2&corrid=c6c68ca7-85d1-3962-38a0-466663423447&usid=c6c68ca7-85d1-3962-38a0-466663423447&newsession=1&sftc=1&uihit=docaspx&muv=1&cac=1&sams=1&mtf=1&sfp=1&sdp=1&hch=1&hwfh=1&dchat=1&sc={"pmo"%3A"https%3A%2F%2Fgiabagroupe.sharepoint.com"%2C"pmshare"%3Atrue}&ctp=LeastProtected&rct=Normal&wdorigin=Other&instantedit=1&wopicomplete=1&wdredirectionreason=Unified_SingleFlush AfDB, 2018 African Economic Outlook Country Note, 6.

42. There are no private notaries in STP as all notaries are public servants (see section 1.4.2).

43. There are no trust service providers in STP the country's legislation does not provide the creation of legal arrangements, but in theory foreign trusts can operate in STP. Although no such have been identified in STP during the NRA analysis, the AML/CFT Act sets forth CDD requirements on trusts.

44. Generally, the risk profiles of reporting entities emanate from, in the case of banks - low number of supervision by the BCSTP, insufficient supervisory frameworks, inefficiency in identification infrastructure, lack of application of sanctions and deficiencies in general prevention and AML/CFT controls. The lack of compliance with AML/CFT requirements, insufficient supervisory frameworks, informal market and lack of supervision were cited as vulnerabilities for the remaining sectors.

45. STP' s five major export trading partners, as well as their contribution to the country' s GDP in 2022, were: The Netherlands (1.6), Belgium (0.6), Portugal (0.4), Cameroun and Angola (0.1), while its five major import trading partners and share in the GDP in the same year were Portugal (12.1), Angola (4.8), Togo (5.2), Italy (1.9) and China (1.1). The country mainly exports cocoa beans (54%) and palm oil (32%)(BCSTP 2022). At the same time, STP imports basic consumer goods, especially food, and fossil fuel. Table 1.1 provides the breakdown of the trading activities of STP and its major trading partners in 2022.

Table 1.1: Main Trading Partners and Percentage of GDP

SN	Country	Trade value (million)		Share (%)	GDP
		Exports			
1	The Netherlands	8 439,65			1,6
2	Belgium	3 030,63			0,6
3	Portugal	1 913,35			0,4
4	Cameroon	748,36			0,1
5	Angola	606,18			0,1
		Imports			
1	Portugal	66 249,31			12,1
2	Angola	26 247,97			4,8
3	Togo	28 227,23			5,2
4	Italy	10 551,72			1,9
5	China	6 148,13			1,1

Source STP

1.3 Structural Elements

46. STP gained independence from Portugal in 1975, and has since 1990 embarked on a multiparty democracy under a semi-presidential system. The country is hailed as an example of democratic freedom in Africa with free and fair elections which have witnessed frequent peaceful transitions of power.

47. Since the 2013 MER, STP has undertaken legal reforms towards technical compliance by introducing new legislation and enacting several amendments to its AML/CFT regulatory and legislative framework, and is in the process of completing its first NRA, which demonstrate political commitment to address the ML/TF risks and vulnerabilities in the country. On a technical level, while there have been positive results, there is a lack of implementation of effective actions beyond legislative changes across sectors and competent authorities.

48. The constitution and law provide for an independent judiciary, and the government generally respected judicial independence and impartiality. Judges were appointed directly by the National Assembly, leaving them potentially vulnerable to ruling party influence. Authorities generally respect and enforce court orders[22].

49. STP is ranked the 67th least corrupt nation out of 180 countries, according to the 2023 Corruption Perceptions Index reported by Transparency International. STP scored 45, with a change of zero (0) since 2021.

50. STP considers corruption as a high risk in light of the global report on corruption index in the judicial system and in public and private institutions. Although the Penal Code of STP provide criminal penalties for official corruption, the authorities generally did not implement the law effectively. The authorities investigated corruption allegations against several former high-ranking officials, although none were tried. At the end of 2022, the attorney general was investigating approximately ten (10) criminal cases involving public corruption. Officials sometimes engage in corrupt practices with impunity. Among the cases under investigation, the Court of Audit in May found several instances of financial irregularities related to the nation's fight against COVID-19 and requested that the Ministry of Health transfer Nine Hundred and Seventy-Nine Thousand new dobra (Db 979,000) ($42,000) to a separate account under independent state oversight in the light of the global report on corruption index in the judicial system and in public and private institutions.

51. STP ranks in the bottom quintile on nearly all the World Bank's Governance Indicators (for example, the rule of law, control of corruption, regulatory quality, governmental effectiveness, and political stability (see Table 1.2 below). STP invests minimal resources into its core enforcement, security and intelligence agencies, which have demonstrated a lack of capacity to be effective, but which also suffer from some of the problems affecting governance more broadly. Generally, STP government agencies face systemic resource and capacity restraints, as demonstrated by lack of mechanisms and standard operating procedures for much of their work.

Table 1.2: World Bank, World Governance Indicators - STP

Indicator	Governance Score (2.5 to +2.5)[23]		Percentile ranking 2018 (0-100)[24]	
	2018	2022	2018	2022
Opinion and Accountability	0.23	0.25	64.15	66.04
Political Stability and Absence of Violence/Terrorism	0.23	0.25	64.15	66.04
Government effectiveness	0.20	0.24	21.43	20.28
Regulatory Quality	0.20	0.21	15.24	19.81
Rule of law	0.17	0.17	24.76	27.83
Control of the Corruption Index	0.18	0.21	59.52	62.74

1.4 Background and Other Contextual Factors

52. STP geographical vulnerable position in the Gulf of Guinea provides opportunity for criminals to exploit the country's weak operations to transit illicit funds and drugs. The NRA identified corruption as a predicate offence, yet grand corruption within the political elites has neither been fully investigated to a final conclusion. The country recently suffered its third major coup attempt[25]. The absence of maximum contribution limits for campaign spending and the difficulty in controlling foreign contributions mean that individual campaign donations can potentially go undocumented[26].

[22] 2022 United States Department of Justice Country Reports on Human Rights Practices: Sao Tome and Principe.
[23] Estimated performance in terms of governance (ranges from approximately -2.5 (weak) to 2.5 (strong))
[24] Percentile rank among all countries (ranges from 0 (lowest) to 100 (highest) rank).
[25] The previous ones took place in 1995 and 2003
[26] Page 3, Preliminary Statement, EU Election Observation Mission, São Tomé and Príncipe legislative, local and regional elections, 25 September 2022.

53. Also, authorities in STP have detected drug traffickers from Brazil and Nigeria using the country as a transit point for heroin and cocaine that is destined for Europe and other countries in the Gulf of Guinea. It is estimated that about 80% of the cocaine entering the country is destined for other markets while 20% circulates within the national territory. Corruption and the institutional weaknesses of agents that counteract drug trafficking have an impact on the lack of monitoring of drug trafficking modalities that criminal organizations from neighbouring countries use. The lack of technical capacity of law enforcement authorities to detect or intercept drug flows suggest that the real scale of the trade may be underestimated[27].

54. Although STP has not been the victim of any terrorist attacks, the number of well-known terrorist organisations operating in neighbouring jurisdictions, such as Cameroon and Nigeria, which have suffered terrorist attacks in the last decade, makes the country vulnerable to FT. Consequently, the draft NRA rates the TF risk of the country as "medium high" due to its geographical proximity to these countries exposed to this phenomenon.

55. STP has a large cash-based economy, with a large informal sector that accounts for around 28.7 percent of its Gross Domestic Product (GDP)[28]. The calculated financial inclusion rate is around 0.24, which corresponds to the lowest level of financial inclusion[29]. The absence of financial information on the volume of transactions and capital movements and the lack of resources to control the proliferation of informal exchange activities facilitate the flow of illicit income outside regulated financial systems. These factors hamper the authorities' efforts to detect illicit financial activities or trace the proceeds of crime.

56. More than a decade after the first MoU, the regulatory and supervisory regime in the country remains weak. Supervisory practices in the banking sector are yet to s begin to be applied in the other sectors without delay.

1.4.1 AML/CFT strategy

57. STP is yet to develop and adopt a national AML/CFT Strategy as the underlying NRA to inform the development of the strategy is still in draft and yet to be adopted by the national authorities.

58. Based on the NRA recommendations when the report is adopted, STP intends to focus its AML/CFT priority actions on the main issues, as identified by the NRA, and will include (a) National ML/TF threats (periodic supervision and auditing of tax determination and collection procedures, as well as improving the assessment of tax returns; strengthening the capacity of the Public Prosecutor's Office and the Attorney General's Office in terms of digital investigation, new ways of hiding and analysing narcotic substances and detecting criminal traces using sniffer dogs; Create a specialised laboratory for suspected narcotic products and a safe for the temporary storage of seized products and drugs; (b) National vulnerabilities (Develop a national strategy that mirrors the NRA's action plan; allocate sufficient financial resources to the FIU and other law enforcement authorities; Strengthen enforcement of the provisions of Act 1/2012); (c) National vulnerabilities (Draw up a national strategy that mirrors the NRA's action plan; allocate sufficient financial resources to the FIU and other law enforcement authorities; Strengthen enforcement of the provisions of Act 1/2012); Strengthen the implementation of the provisions of AML/CFT Act (Prevention Law and AML/CFT) concerning the administrative and financial autonomy of the FIU; finalise the platform for receiving the STR and raise awareness among the entities subject to it of its effective sending; provide the FIU with effective means to join the Egmont Group in order to make cooperation more efficient; align AML/CFT Act (Prevention Law and AML/CFT) with the provisions of AML/CFT Act (Prevention Law and AML/CFT); align AML/CFT Act (Prevention and AML/CFT Act) and Act 3/2018 (Law on Combating Terrorism and its Financing) with international standards, in line with the FATF's 2012 Recommendations).

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[27] https://ocindex.net/2023/country/sao_tome_and_principe

[28] Alliance for Financial Inclusion Geographic-Futures-São-Tomé-e-Príncipe https://futures.issafrica.org/geographic/countries/sao-tome-and-principe/ https://futures.issafrica.org/geographic/countries/sao-tome-and-principe/

[29] According to Guidance Note No. 18 of the Alliance for Financial Inclusion, of April 2016

59. STP had a three-year AML/CFT Strategy (2018-2020). The objectives of the Strategy, which sought to align with the GIABA Secretariat's Western Africa regional initiatives, namely the 2016-2020 Strategic Plan, hinged on mobilisation coordination (pillar 1); understanding prevention (pillar 2); intelligence detection (pillar 3) and investigation repression (pillar 4) with elements of Legislative Modernisation, Financial Inclusion, Training and International Cooperation (AML/CFT Strategy, 2018-2020). The implementation of the strategy resulted in the adoption of the Maritime Strategy and the creation of a Central Department for Criminal Investigation at the Ministry of Justice, as a coordinating and directing body for organised crime and corruption.

60. Although the 2018-2020 Strategy reflected some of the proposed actions to be taken as identified in the 2023 draft NRA, there is no base document highlighting the major known or suspected threats and vulnerabilities that existed based on primary methods and payment mechanisms used, the key sectors which have been exploited, and the primary reasons why those committing the ML/TF crime are not apprehended and deprived of their assets. The document was based on "the accumulated experience of efforts already made to implement AML/CFT measures in public and private sectors, the demands of the mutual evaluation and subsequent GIABA follow-up reports, the changes in the overall AML/CFT policy, following the review of the FATF Standards and Methodologies in 2012 and 2013, respectively.

61. Preparatory work for the Strategy involved a situational analysis, the legislative framework, and the institutional environment analysis which enabled the authorities to assess the set of internal and external factors that can affect the implementation of ALM/CFT system in STP, stronger and aligned with the international standards, and helped to define the relevant options to inform the strategy. It was also informed by a SWOT analysis (Strengths, Weaknesses, Opportunities, and Threats) which allowed the country to assess the set of internal and external factors that positively or negatively limit the implementation of a stronger AML/CFT regime harmonised with international standard AML/CFT system in STP and define the relevant options of the Strategy.

62. Also, specific issues of the financing of proliferation of weapons of mass destruction (WMD), timelines and budget estimates for the implementation of each activity, as well assignment of responsibilities among stakeholder institutions were not addressed in the National Strategy. The absence of this base document is confirmed by the draft NRA's assertion that the exercise is the country's first assessment of its ML/TF risks. In the absence of a national AML/CFT policy coordination mechanism, the Multisectoral Commission of the FIU was entrusted with the responsibility for oversight of implementation. The FIU was also entrusted with the responsibility for monitoring the implementation of activities, submitting reports and information on progress in its implementation and proposing any corrective measures.

63. In 2018, STP, by law, approved a Maritime Security Strategy (MSS) and a Maritime Authority System (SAM). The MSS, which incorporate threats to maritime safety, recognizes the occurrence of illicit transnational activities, such as illegal fishing, unreported and unregulated fishing, drug and human trafficking, acts of piracy and environmental degradation developed in the Exclusive Economic Zone of STP as a threat to peace and expectations of sustained development of the country. The MSS aims to achieve and strengthen maritime governance, through an integral and global interagency approach to create the conditions that allow the establishment of a safe maritime environment, to deter threats and transnational criminal activities, including piracy and robbery at sea conducted in the waters under its jurisdiction, to guarantee the economic and sustainable development of the country. The MSS is coordinated by SAM. However, the MSS does not address specific issues of the financing of terrorism and WMD, and does not provide specific budget estimates for its implementation.

64. STP has a National Financial Inclusion Strategy (NFIS) spanning 2021-2025. The NFIS was developed by the BCSTP, with the support of the Alliance for Financial Inclusion (AFI) and Insight2Impact (i2i), based on "a demand-side and supply-side survey" conducted at the end of 2017 to determine the levels of financial inclusion and literacy in STP, the results of which elucidate the extent and typology of the deficiencies and constraints that determine

financial exclusion. The survey concluded that 76% of the Sao Tomean population above 18 years old is excluded from the financial system. Therefore, the Financial Inclusion Rate calculated was around 0.24, which corresponded to the lowest level of financial inclusion. The major goal of the NFIS is to have 70% of the adult Sao Tomean population included in the formal financial sector by 2025. In this context, the NFIS covers four main areas, namely (i) Digital Financial Services, (ii) Inclusive Green Finance, (iii) Women's Financial Inclusion and (iv) Consumer Empowerment and Financial Literacy. These areas were primarily defined based on the identified weaknesses in financial inclusion, especially the situation of women, the low level of financial literacy, the inadequacy of financial products and services for the majority of the population, and the high degree of informality of the economy.

65. STP has a National Financial Inclusion Strategy (NFIS) spanning 2021-2025. The NFIS was developed by the BCSTP, with the support of the Alliance for Financial Inclusion (AFI) and Insight2Impact (i2i), based on "a demand-side and supply-side survey" conducted at the end of 2017 to determine the levels of financial inclusion and literacy in STP, the results of which elucidate the extent and typology of the deficiencies and constraints that determine financial exclusion. The survey concluded that 76% of the Sao Tomean population above 18 years old is excluded from the financial system. Therefore, the Financial Inclusion Rate calculated was around 0.24, which corresponded to the lowest level of financial inclusion. The major goal of the NFIS is to have 70% of the adult Sao Tomean population included in the formal financial sector by 2025. In this context, the NFIS covers four main areas, namely (i) Digital Financial Services (to promote the use of FinTech and Regtech to achieve levels of conducting at least 50% of financial transactions through a technology solution); (ii) Inclusive Green Finance (for Inclusive green Finance); (iii) Women's Financial Inclusion (to raise the financial inclusion index for women from 0.18 to 0.50); and (iv) Consumer Empowerment and Financial Literacy (to ensure that all San Tomeans have financial literacy levels high enough to make better use of services available. These areas were primarily defined based on the identified weaknesses in financial inclusion, especially the situation of women, the low level of financial literacy, the inadequacy of financial products and services for the majority of the population, and the high degree of informality of the economy. The NFIS does not address how to effectively apply AML/CFT mechanisms to the proposed financial inclusion products and services.

1.4.2 Legal & institutional framework

66. The main legal framework for AML/CFT measures is set out in Law No. 8/2013, which criminalises ML/TF and provides the requirements for preventative measures in STP. The AML/CFT Act is supplemented by Law No. 03/2018, which establishes measures of a preventive and repressive nature against terrorism and its financing. The AML/CFT Ac also incorporates the provisions relating to United Nations Security Council Resolutions 1267 (1999), 1373 (2001).

67. The main authorities and frameworks in the fight against ML/TF are:

(a) The Multisectoral Commission created by Decree of the Minister of Finance, is the structure that must define and determine the coordination of policies. The competent national authorities must cooperate and, when necessary, coordinate within this Committee, at the operational level, for the development and implementation of strategies and activities, based on identified risks, aimed at preventing and combating ML/TF/PF (Article 50).

(b) Policy-making authorities: The public authorities involved in AML/CFT include the Ministry of Justice, Public Administration and Human Rights, the Ministry of Finance and Planning, and the Ministry of Defence and Internal Order.

(c) The Ministry of Justice, including the central authorities for international cooperation, "Registrar and Notary Service": Responsible for adequate functioning of the justice administration system, legal transit security, litigiousness prevention and non-jurisdictional conflict resolution. It is also responsible for the development, revision and enactment of AML/CFT Acts, development of law-decrees and

decrees, and their submission to the National Assembly or to the Government for approval. The Ministry is responsible for negotiating and signing international agreements, protocols and conventions, and coordinates policy. It also directs, guides and coordinates marital and nationality status, civil identification, land registration, commercial registration, mobile assets registration and notary services. The Ministry promotes cooperation with government organs and non-governmental institutions for the improved execution of their respective tasks. It also collaborates, within the context of its responsibilities, with São Tomean or foreign public and private entities. It is the link between the Criminal Investigation Police and the Public Ministry in terms of AML/CFT measures.

(d) The Courts are responsible for repressing crimes, restoring democratic order and defending citizens' rights.

(e) The Commercial Registry (Guiché Único) is responsible for registering legal persons, amending articles of association and the liquidation of legal persons.

(f) The Directorate of Registries and Notaries is responsible for directing, guiding and coordinating the services of civil status and nationality registry, civil identification, land, commercial and movable property registries and notaries.

(g) The Financial Information Unit (FIU) is the entity responsible for the receipt, analysis and dissemination of reports on suspicious transactions on ML/TF.

(h) The Judicial Police (JP) is the criminal investigation body in the country. Its ML/TF investigation function is delegated to the Public Prosecutor's Office.

(i) Tax Directorate: Responsible for collecting taxes for the State and monitoring economic activity to prevent and combat tax evasion and fraud

(j) The Central Bank of São Tomé and Príncipe (BCSTP) licences, regulates and supervises financial institutions.

(k) The Department of Tourism licences and supervises gambling establishments and casinos

(l) STP Bar Association defends the rule of law, individual rights, freedoms and guarantees and collaborates in the administration of justice; awards the professional title of lawyer and trainee lawyer and regulates the exercise of the profession; ensures the social function, dignity and prestige of the profession, promotes respect for ethical principles, harmony and solidarity among its members; defends the interests, rights, prerogatives and immunities of its members; contributes to the development of legal culture and the improvement of legal writing, and to be heard on draft laws of interest to the legal profession and to legal representation in general.

(m) Order of Chartered Accountants and Auditors (OTOCA) grants the professional title of certified accountant and issue the respective professional card; upholds the dignity and prestige of the profession of certified accountant, to ensure that ethical and deontological principles are respected and to defend the interests, rights and prerogatives of its members; recognising the professional qualifications of the certified accountant profession; promotes and contributes to the professional development and training of its members; defines technical rules and regulations for professional performance, taking into account the rules issued by the Accounting Standardization Commission and other bodies with competence in the matter; represents certified accountants before any public or private entities.

(n) Customs Directorate control imports and exports and carry out other actions within the scope of its legal competence

(o) Ministry of Defence and Internal Order (State Information Service) is responsible for the preparation and execution of national defence policy within the scope of its powers conferred by the National Defence Law, as well as ensuring and supervising the administration of the Armed Forces and the other services, bodies and entities incorporated into it. It also ensures the formulation, coordination, implementation and evaluation of internal security, border control, protection and assistance and security policies.

68. STP does not have an institutional framework for combating PF.

1.4.3 Financial sector, DNFBPs and VASPs

69. STP has a small financial sector dominated by foreign-owned banks (and insurance companies (two)). The banking sector consists of four banks with fifteen branches throughout the country. Together, the banks have an estimated 5.021.558. 349,77 USD constituting 97,29% of the total assets for the sector. In addition, there are six non-bank financial institutions (NBFIs), including two insurance companies. The insurance companies have two branches, with an asset base of 139.949.217,17 and accounts for 2,79%. However, quantitative information regarding the relevance of banking and non-banking FIs in the STP economy is not available. Furthermore, STP's estimates of the banking and insurance sectors provided in Table 1.3 exceed 100%. Consequently, it is not possible to rely on the figures as a true reflection of the asset-base of FIs in STP.

70. All FATF-designated DNFBPs, except capital market operators, are present in STP and are subject to AML/CFT requirements. There are no virtual asset service providers (VASPs) in the country. The DNFBP sector is also small in size with a significant impact on AML/CFT mitigation due to the high risks and threats occasioned by the lack of supervision for AML/CFT compliance. This assessment is guided by the relative importance of each sector in the context of STP. The analysis and classification of sectors informs the report's conclusions and is particularly relevant for analysing IO.3 and IO.4. Table 1.3. below provides an overview of FIs and DNFBPs in STP.

Table 1.3. Overview of Financial Institutions in STP

TYPE OF INSTITUTION		NUMBER		BRANCH NETWORK	ASSET BASE	% OF TOTAL ASSETS IN THE SECTOR
Fundamental Principals of Fis		Subtotal	Total			%
Banks	National Banks	1	4	10	5.021.558.349,77	97,29%
	Foreign Banks / Subsidiaries of Foreign Banks	3		5	..	..
Titles	Brokers, Dealers, Portfolio Managers	..	..	..	..	..
Insurance	Life Insurance	..	2	..	..	..
	Non-Life	1		..	..	..
	Composite (Life and Non-Life)	1		2	139.949.217,17	2,79%
	Reinsurance	..		..	..	..
	Credit Insurance	..		..	..	..

Microfinance Banks	..	..	..	..	..
Rural and Community Banks	..	..	..	..	..
Financing organisations	0	0	0	0	0
Credit unions	0	0	0	0	0
Savings and Loans Companies	2	2	2	..	..
Forex dealers	0	0	0	0	..
MVTS	0	0	0	0	..
Finance and Leasing Companies	1	1	1	1	..
Mobile Money Operators	1	1	..	..	..
Foreign exchange bureaus	..	..	..	..	..
Payment Solution Providers	..	..	..	..	..
Third Party Payment Processors	..	..	..	..	..
Payment Terminal Service Providers	..	..	..	..	..
TOTAL	10				
		DNFBPs			
Casinos	1	1	..	..	..
Legal professionals (clerks, lawyers)	220	220	..	..	..
Auditors/Accountants/Tax Auditors	221	221	..	..	..
Trust and Company Service Providers	0	..	..	..	..
Real Estate agents	..	..	..	..	..
DPMS	..	..	..		

Source: STP

71. Given their materiality and level of ML/TF risks, the Assessors ranked the sectors based on their relative importance in the context of STP. The Assessors used these rankings to inform their conclusions throughout this report, weighting positive and negative implementation issues more heavily for important sectors than for less important sectors. This approach applies throughout the report but is most evident in Chapter 5 on IO.4 and Chapter 6 on IO.3:

(a) The banking sector is weighted as being the most important in STP based on its materiality and risks. The banking sector comprises mostly foreign banks from Cameroon and Nigeria which have active terrorist organisations operating in their territories. It has four (04) banks comprising one (01) national commercial and three foreign banks/subsidiaries of foreign banks. Together, banks in STP have an asset base of 5.021.558. 349,77 (USD 108 million) constituting 97.29 per cent (%) of industry assets. The draft NRA identified the banking sector as having a high ML risk .

(b) Lawyers: STP estimates that there are 220 registered lawyers in STP. STP considers lawyers as "Medium-High" due to the lack of supervision for AML/CFT compliance. It notes the lawyers' resistance to being subjected to AML/CFT requirements, the lack of STRs to the FIU, absence of compliance and audit functions, their customer-base, including PEPs, as basis for the conclusions. Lawyers in STP play transversal roles in several sectors, such as real estate business and the absence of AML/CFT control measures in the sector, lack of compliance with AML/CFT requirements and two instances of complicity of lawyers in unlawful activities having been noted demonstrate serious vulnerabilities in the sector.

(c) Foreign exchange bureaus and payment institutions are also weighted heavily, considering the informality of the economy and the possibility of the illegal exercise of these activities

(d) MVTS, microfinance, accountants/auditors, casinos, and real estate agents were weighted as a medium level of importance due to the lack of implementation of AML/CFT measures, absence of supervision for AML/CFT compliance, in addition to the informal nature of the country's economy.

72. VASPs, insurance companies, and DPMS are weighted as being of less importance given their low importance not only for the financial sector but also for the economy, and in some cases their absence in the country. There are no trust service providers and private notaries in STP.

1.4.4 Preventive measures

73. The general framework for preventative measures for all reporting entities is set out in the AML/CFT and CFT Acts of 2013 and 2018. These laws apply to the FIs activities required by the FATF Standards, except capital market operators and VASPs, and most of the DNFBP activities except trust service providers (TSPs). In addition to the Acts, individual supervisors/SRBs are required to issue regulations for their sectors, which has been done for only the financial sector. STP has legal provisions in place to apply enhanced or simplified due diligence measures where higher or lower risk situations are identified. STP has not exempted any activity, FI or DNFBP from applying any of the FATF Recommendations.

1.4.5 Legal persons and arrangements

74. STP is not a company incorporation centre, but since 2011, STP has strived to improve investment opportunities, including creating a "one-stop shop" (Guichet Único) to help encourage new investments by making it easier and cheaper to import and export goods, reducing the time required to start a new business and improving STP's tax and customs clearance administration. Currently, a business can be registered within one to five days.

75. STP has two types of legal persons - public and private legal persons. Private legal persons are regulated by the Commercial Code which identifies General Partnership, Anonymous Society, Limited Partnership, Sole Proprietorship by Quotas and Private Limited Companies as the four types of companies that can be incorporated in STP.

76. In general terms, the creation of a company involves: verification of whether the proposed company name is available; execution before a notary public of the company's deed of incorporation, including the company's memorandum and articles of association; deposit of required initial share capital at a bank, with evidence of deposit; publication of the company's memorandum and articles of association in the Official Gazette (Diário da República); registration of the company at the commercial registry office; request for authorisation to conduct commercial activities; request for a corporate tax identification number; statement of commencement of business to be filed with the tax directorate; and registration of employees at the social security office. All foreign entities who wish to trade in STP must be incorporated in STP. The website of the Guiche Unico de Empresa (GUE), the Single Window provides information on the creation and registration of companies in STP.

77. STP collects and records basic ownership information through the GUE and the Notary and Registry Office, an agency under the MOJ, which oversees the GUE. The Notary and Registry Office is the main agency responsible for the creation of legal entities in STP. All legal persons, particularly companies limited by shares; anonymous (companies limited by guarantee); partnerships; sole proprietorship; and branches, must register with the GUE to operate in STP. The registration process requires the filing of the Articles of Association, the name, the composition of the share capital (identification of the shareholders/partners with the respective percentage of the shareholding), the legal form, the address of the registered office, and to whom the management is assigned. The Articles of

Association of legal persons are published in an Official Gazette which is available to the public, including competent authorities.

78. Legal persons that establish business relationships with FIs and DNFBPs are obliged to disclose beneficial ownership information to the FIs and DNFBPs. This requirement technically exempts most legal persons from disclosing BO information. While updated basic information may be available in the Notary and Registry Office, this may not be up-to-date. The information held by the Registry is accessible to all competent authorities. However, this does not include beneficial information due to absence of a legal requirement to obtain and maintain the same. Basic and BO information held by reporting entities is available to competent authorities upon request.

79. The types of legal persons created in São Tomé, the number registered and description are provided in Table 1.4.

Table 1.4 - Overview of legal persons and legal Arrangements in STP

Type	Number registered	Description
Limited liability company (Sociedade por quotas)	120	This type of legal person must have a minimum of two members (individuals or companies). This form is most commonly used for incorporating small or medium-sized enterprises. There is no minimum capital requirement to incorporate this kind of company, although the notary public may refuse to execute the deed of incorporation if the members' share capital is deemed insufficient for the planned business activity. As a rule, USD 1,000 is sufficient to incorporate this type of company.
Quoted Companies (Sociedade anónima)	24	This company must have a minimum of ten members (individuals or companies). Such companies may be public stock corporations (where share capital is offered for public subscription) or private stock corporations (where share capital is privately held). Also, there is no minimum capital requirement, but current practice is to incorporate the company with a minimum of USD 5,000 represented in share capital.
Single member private limited company (Sociedade unipessoal)		A single member private limited company is basically a limited liability company, which can be established by one sole member, (individual or legal entity) who will hold the entire share capital.
Trade Names (covers the "partnership" registration)	15	X
Number of legal persons registered from January to June 2023	153	X
Number of companies struck off the register	X	X

Source: FIU

80. Trusts and similar legal arrangements are neither explicitly prohibited nor recognised by the laws of STP. The AML/CFT Act obliges REs to apply relevant preventive measures to trusts and similar legal arrangements with or to whom they have business relationships or provide services. The business relationships or services include the creation, exploitation, provision of registered office, business address, administrative facilities or postal address for legal arrangements. The AML/CFT Act also defines "trusts" and "legal arrangements" to mean "express trusts or similar unincorporated collective interests and trust companies."

1.4.6 Supervisory arrangements

81. Article 4 of the AML/CFT Act defines "supervisory and supervisory authorities" to mean the authorities responsible for ensuring compliance by FIs and DNFBPs in the rules designed to prevent and combat ML/TF. BCSTP is the AML/CFT financial supervisor for FIs in STP (Art. 24(1), AML/CFT Act). Several authorities have been

designated as supervisors for DNFBPs in line with their areas of regulation. The authorities are: The Inspectorate General of Games (casinos); t; the Directorate for Regulation and Control of Economic Activities (Real Estate Agents and Dealers of high value goods, as well as other DNFBPs that are not subject to the supervision of an authority referred to in Article 24(2) of the AML/CFT Act; the Directorate-General for Registries and Notaries (Notaries and Registrars); Association of Statutory Auditors (Statutory Auditors); the Chamber of Chartered Accountants (Chartered Accountants); the Bar Association (Lawyers); the Chamber of Solicitors (Solicitors). The authorities are empowered by Article 24 of the AML/CFT Act to apply sanctions to FIs and DNFBPs for non-compliance with AML/CFT requirements.

Table 1.5: Supervisory Provisions - FIs and DNFBPs

Supervisor/SRB	Entities	Legislation
	Supervisory Provisions - FI	
BCSTP	Banks, Microfinance Banks, Rural and Community Banks, Investment companies and other finance companies; Credit Cooperatives, Mortgage Financing Companies, Savings and Loan Companies, Exchange Houses, Off-shore banks, DTS/Fund Transfer Companies, Finance and Leasing Companies, Pension Fund Management Companies, Payment Service Providers	Article 24(1), AML/CFT Act
	Securities (financial brokerage firms, dealers and portfolio managers)	
BCSTP	Insurance (life and non-life)	Article 24, AML/CFT Act
Supervisory Arrangements - DNFBPs		
Bar Association	Legal professionals (notaries, registrars, lawyers)	Article 24(f), AML/CFT Act
Chamber of Solicitor	Solicitors	Article 24(g), AML/CFT Act
Chamber of Chartered Accountants	Accountants	Article 24, AML/CFT Act
Order of Statutory Auditors	Statutory Auditors	
Single window service	Trust and Company Service Providers	
Directorate for the Control of Economic Activities	Developers/Real Estate Agents and Dealers in High-value goods, and other DNFBPs that are not subject to an authority's supervision.	Article 24(2)(b), AML/CFT Act
Inspectorate General of Games	Casinos	Article 24(2)(a), AML/CFT Act
Directorate for the Control of Economic Activities	DPMS	Article 24(2)(b), AML/CFT Act

1.4.7 International cooperation

82. STP's location on the Gulf of Guinea, proximity to some West African countries that are most affected by terrorism and the lack of implementation of cross-border declaration of currency and BNI create favourable conditions for criminals to transport goods and currencies across its borders. This contributes to the country's ML risk arising from drug trafficking, counterfeiting and piracy of products, illegal cross-border transportation of goods and currencies. International co-operation is considered particularly important because sophisticated ML schemes often involve other

countries. AML partners are mainly Portugal and, to a lesser extent, Switzerland, Germany and Mozambique. There has been no co-operation on terrorism and TF.

83. The Ministry of Justice and Human Rights is responsible for mutual legal assistance and requests from the public prosecutors of the different countries. There are some provisions to facilitate informal co-operation, notably between the judicial police, the FIU, customs and the BCSTP.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1. Key Findings and Recommended Actions

Key findings

a) STP has analysed its ML/TF risks through a national ML/TF risk assessment. However, the report had not yet been finalised at the time of the onsite visit. The conclusions of the draft NRA report made available to the assessors reasonably reflect the main ML/TF risks. The NRA's draft report identified the crimes of corruption, drug trafficking, tax fraud, sexual exploitation of minors, fraud, arms trafficking, environmental crimes and counterfeiting and piracy of products as the predicate offences generating the most proceeds in the country, while banks, forex dealers, microfinance, lawyers, accountants and remittance service providers, casinos and real estate were assessed as the sectors most exposed to the risk of ML. However, considerable shortcomings were noted in the comprehensiveness of the assessment in some areas, the availability of statistics and the scope of the exercise. STP did not conduct any sectoral ML/TF risk assessment.

b) STP has not assessed the ML/TF risk legal persons. Considering that non-residents can incorporate businesses in STP, the lack of this risk assessment is considered a major issue.

c) Overall, STP has demonstrated a low understanding of its ML/TF risks, although this understanding varies between competent authorities/public sector. The FIU and BCSTP have a still embryonic but more developed understanding of the risks of ML/TF, while other competent authorities and ROs have demonstrated a very limited to non-existent understanding of the risks.

d) STP had a National Anti-Money Laundering Strategy (2018-2020) which has not been updated. The country also has a Maritime Security Strategy which is expected to expire in 2030. However, both strategies were not drawn up based on an AML/CFT risk assessment and their implementation had minimal impact on the effectiveness of the AML/CFT system of STP. The country has not finalised its NRA report and so has not yet addressed the identified ML/TF risks through policies and activities.

e) The objectives and activities of the competent authorities are generally determined by their own priorities and not based on any risk analysis and AML/CFT/FP strategies and policies. Furthermore, allocation of resources is not based on identified ML/TF risks.

f) Since the NRA is not completed, the results has not been used to revise the legal framework to permit exemption of some the FATF Recommendations, application of enhanced measures for higher risk scenarios, or simplified measures for lower risk scenarios.

g) Most of private sector entities, especially NBFIs and DNFBPs, are not aware of the draft NRA report's findings, since the process is not concluded.

h) STP does not have an authority or coordination or other mechanisms responsible for national AML/CFT policies.

i) National co-operation between the LEAs, the FIU and supervisory authorities is at a nascent stage.

Recommended Actions

a) STP should finalise the draft NRA report and develop a mechanism to disseminate the findings of the NRA to all stakeholders and conduct outreach and awareness-raising on the findings of the NRA, particularly for supervisors of higher risk sectors, as well as higher risk sectors, to ensure that the supervisors and the reporting entities have a basic understanding of their AML/CFT obligations and associated risks.

b) STP should further improve the understanding of ML/TF risks by: (i) broadening the depth of future risk assessments of certain areas that have not been sufficiently assessed in the current Draft NRA report, such as the vulnerabilities of the informal/cash-based economy, as well as carry out the assessment of the risk posed by legal persons, VASPs and other sectors that may be vulnerable to ML/TF risks, including the real estate sector, which have not been assessed or sufficiently assessed in the Draft NRA report, (ii) conducting an adequate analysis on the TF risk assessment, including comprehensively assessing and understanding the TF vulnerabilities of NPOs, (iii) deepening analyses on financial inclusion/exclusion, (iv) comprehensively highlighting the main methods, trends and typologies used to launder crime products in STP. In addition, the understanding of the risk should be kept up to date.

c) STP should develop and implement a national AML/CFT policy and strategy, as well as the corresponding action plan, based on the results of the NRA. These national AML/CFT policies and strategies should: (i) include all stakeholders in the AML/CFT prevention and combating system; (ii) define clear priority actions, timelines and responsible institutions, together with linking prevention, detection and suppression actions; (iii) provide for a training and awareness-raising programme for stakeholders in order to increase the level of understanding of AML/CFT risks; and provide for a monitoring mechanism to ensure that progress is regularly monitored.

d) STP should develop mechanisms to collect and maintain comprehensive information and statistical data on investigations, prosecutions, convictions associated with AML/CFT, and the assets seized and confiscated in order to implement supervisory measures regarding entities, for international cooperation and any other factors that would allow the authorities to assess the effectiveness of AML/CFT measures and allocate resources appropriately.

e) STP should significantly improve coordination between competent authorities and regulatory and supervisory to better address and mitigate the identified ML/TF risks and integrate CPF in these coordination efforts. In particular, STP must create, as established in Article 50 of the AML/CFT Act, the coordination mechanism responsible for national policies to prevent and combat ML/TF and provide the coordination mechanism with powers to coordinate CPF policies and activities, as well as adequate resources to discharge its duties optimally.

f) The country should develop a robust CFT strategy, and consider the possible creation of a specialised investigation unit to combat terrorism and its financing and the development of standard operating procedures for FT investigations.

g) Competent authorities and SRBs should ensure that their objectives and activities are consistent with the national AML/CFT policies and the ML/TF risks identified.

84. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant for the assessment of effectiveness under this section are R.1, 2, 33 and 34, and elements of R.15.

2.2. Immediate Outcome 1 (Risk, Policy and Coordination)

85. STP has a low level of understanding of its ML/TF risks. The AT based its conclusions on its review of key documents, including the draft NRA report, as well as the discussions held with representatives of the competent authorities, such as the MF, MJDH, Public Prosecutor's Office, Judicial Police, FIU, supervisory authorities (BCSTP, Directorate for the Regulation of Economic Activities, Order of Chartered Accountants and Auditors - OTOCA, Bar Association, Gaming Inspection, etc.) and certain reporting entities (banks, forex dealers, insurance companies, remittance service providers, accountants, lawyers, casinos, estate agents, etc.).

86. The country's understanding of ML/TF risks emanates mainly from the ongoing NRA, since the country has not carried out any thematic or sectoral risk assessments that could help to further improve its understanding of risks. STP is yet to conclude and disseminate the results of the exercise to facilitate understanding of the risks faced by the country. In addition, some important areas or components of the private sector that were not sufficiently assessed or not covered in the risk assessment (see analysis below) have a negative impact on the general understanding of risk in the country.

2.2.1. Country's understanding of its ML/TF risks

87. São Tomé and Príncipe's National ML/TF Risk Assessment (NRA) for the period 2017 - 2021, was carried out by the national institutions using the National Risk Assessment tool for Money Laundering and Terrorist Financing developed and made available by the World Bank and based on the FATF Guidance on ML Risk Assessment. The NRA is the country's first exercise to identify and understand the ML/TF risks to which it is exposed.

88. The evaluation process was assisted by a team of consultants from the World Bank, specifically in making the tool available, providing guidance on its technical aspects and working methodologies, as well as monitoring the practical use of the tool in the exercise. For the practical development of the NRA, the FIU was the national institution responsible for coordinating the evaluation.

Methodology for assessing the ML/TF risks

89. Decree Act 4/2022 of 14 January established the Technical Committee for the NRA. The Committee comprised representatives of the Ministries of Planning, Finance and the Blue Economy; Justice, Public Administration and Human Rights; Defence and Internal Administration; Foreign Affairs, Cooperation and Communities; Tourism, Culture and Trade; the Attorney General of the Republic; the Governor of the BCSTP; the representative of the Regional Government of Principe; the Coordinator of the FIU and the National Risk Assessment Coordinator. STP also established a Working Group comprising representatives from various public, private and civil society institutions that have a direct and indirect role to play in preventing and combating ML/TF. The list of those representatives can be found on article 5 n.º 2 of the Decree-Law 04/2022 and section 7.1 of the draft NRA report.

90. The main idea behind this model was based on identifying the threat of ML/TF risks in the country, identifying the vulnerabilities it presents, entering here a ratio between sectoral vulnerabilities and national capacities to deal with them, resulting in a demonstration of the country's level of risk. It is assumed that the risk ratio would vary from the result established between the "national threat" and the "national vulnerabilities".

91. The NRA analysed the threats and vulnerabilities to ML/TF in the key sectors and concluded that the overall risk of ML is high and that of TF is medium-high.

92. In assessing its ML/TF risks, STP used both qualitative and quantitative data, with qualitative data being used to a greater extent given the limited data. The country used information from Suspicious Transaction Reports (STR), data from investigative authorities and the Public Prosecutor's Office, information provided by supervisory authorities and some reporting entities, as well as the application of questionnaires and information obtained from interviews carried out and open sources covering the period 2017 to 2021.

93. The NRA's draft report identified corruption, drug trafficking, tax fraud, sexual exploitation of minors, fraud, arms trafficking, environmental crimes, counterfeiting and piracy of products as the main ML predicate offences in the country. NRA highlighted some of the factors that increase the country's exposure to the risk of ML, including the predominant use of cash in transactions; the lack of sufficient financial, human and technical resources, and the capacity of existing resources in the FIU and law enforcement authorities; the poor quality and quantity of STRs filed to the FIU; the lack of statistical data on criminal typologies; the low effectiveness of the BCSTP's supervision of financial institutions (FIs) the non-existent supervision of DNFBPs and the weak application of preventive measures by FIs and DNFBPs. The main factors identified in relation to TF risks were STP's geostrategic position, which places the country in a vulnerable situation, given the frequent maritime piracy in the region and the low level of national maritime control, despite the existence of a national maritime security strategy. The low effectiveness of the BCSTP's supervision of FIs, the non-existent supervision of DNFBPs and NPOs, and the weak application of preventive measures by FIs, NPOs and DNFBPs are also relevant factors.

94. The predominant use of cash offers opportunities to conceal the origin of money. However, STP did not analyse the effect of the informal economy/cash use on the ML/TF environment. Although some measures are being taken to increase financial inclusion, there is no analysis of the impact this has had on reducing the use of cash in legitimate activities, let alone illicit ones.

95. Furthermore, the NRA, for the reasons already mentioned, does not present a complete picture of the main methods, trends and typologies used to launder the proceeds of crime in STP, which hinders the understanding of the threat actors and beneficiaries, concealment of proceeds of crime in the supply chain and ML methods within and outside the country, as well as links with organised criminal groups .

96. Although the NRA identified some TF vulnerabilities, namely the geographical location of the country, the high use of cash and the lack of control in physical cross-border transportation of currency and BNI, it did not contain any substantive analysis of how the vulnerabilities could be exploited. STP did not explore typologies for the different predicate offences, as well as interactions of the identified threats with the identified vulnerabilities. Furthermore, the TF risk assessment lacks granularity and a solid analysis of trends, and does not highlight the analysis of financial sources, products and services that could be used in TF. Rather, the assessment focus on the mere realisation of the dangers that STP's geostrategic position may pose, which does not help the country to understand this type of risk.

97. The assessment of NPOs did not consider the characteristics and types of NPOs that, by virtue of their activities or characteristics, are likely to be at risk of being misused for TF (see also IO 10). Similarly, potential TF risk associated with poor control of circulation of cash throughout the country has not been adequately covered. Financial instruments such as virtual currencies, as well as the use of fictitious corporate structures, can also pose a certain level of risk, which has not yet been explored.

98. More importantly, there is a lack of specific analysis of the risk associated with legal persons and legal entities. Given the concerns about corruption in the country, there is the potential for the misuse of legal persons and legal entities, and therefore the lack of analysis in the NRA in this area represents a relevant gap. These gaps prevent the country from understanding how these elements contribute to overall ML/TF risks in STP.

Understanding of ML/TF risks

99. Among the main public stakeholders in AML/CFT and some reporting entities, mainly commercial banks, there is some shared understanding of the ML/TF threats and vulnerabilities facing the country. However, some of the authorities, especially the FIU and the BCSTP, demonstrated a moderate understanding of the country's ML/TF risk as described below.

ML risk understanding

100. The level of understanding of ML risks varies between the competent authorities. The FIU and some LEAs, especially the PJ and the PGR, have generally demonstrated some understanding of the ML risks in STP. For the PJ and the Attorney General's Office this understanding of the risks derives essentially from their involvement in drawing up the NRA and not from their operational activities. Among the supervisory authorities, the BCSTP has a deeper understanding of the risks compared to the other supervisory authorities. The BCSTP has a better understanding of the risks in the banking sector compared to the other sectors of the financial system, and has demonstrated an appropriate level of knowledge of the conclusions of the draft NRA report. This is largely based on the results of its supervisory activities and its participation in the NRA process. The risks relating to other FIs, on the other hand, are less well understood, given the absence of effective BCSTP supervision of these sectors. DNFBP supervisors demonstrated a low (almost negligible) level of understanding of ML risks in their supervised sectors and a very limited understanding of the findings of the Draft NRA report relating to their sector, although some of them participated in the drafting of the report (see Chapter 1).

101. With regard to the insurance sector, microfinance institutions and DPMS, given their low materiality in the context of STP and the level of perceived risk, the low level of understanding of their supervisors is not considered a significant gap and was therefore given little consideration by the AT - This can largely be attributed to the non-completion and dissemination of NRA report to the relevant stakeholders. Apart from the NRA, supervisors have not carried out any sectoral risk assessment to better understand the specific risks of the sectors and entities they supervise and how the sectoral understanding of risks relates to the country's overall risk context.

102. In general, competent authorities demonstrated a limited understanding of the methods used to launder the proceeds of crime in STP. The draft NRA report contains limited analysis in this regard. Although the authorities are aware of the vulnerabilities associated with cash transactions and are taking steps to reduce them and improve access to the formal financial system, and promoting mobile money services, among other things, considering the shortcomings in the system for cross-border declaration of currency and BNI, and in the regime for reporting cash transactions by reporting entities, especially non-bank financial institutions (NBFIs) and DNFBPs, the nature of STP's cash-based economy affects the availability of information or data, which impacts on the authorities' ability to comprehensively identify and understand ML/TF risks.

TF risk understanding

103. Regarding TF, the main national authorities for combating TF have a low level of understanding of TF risks. The low understanding of TF risks emanates from the lack of cases of terrorism in the country and the lack of knowledge of financial transactions suspected of being connected to TF. The AT believes that the geographical location of STP in the Gulf of Guinea, relatively close to the intervention zones of the countries on the African coast of

the Gulf of Guinea that have suffered several terrorist attacks by the Boko Haram group, should contribute to increasing the level of understanding of the TF risk in the country. However, the lack of capacity to research into the types of TF and training for the relevant authorities hinders this understanding.

104. Supervisors' understanding of TF risks is less developed, which has a negative impact on the implementation of relevant preventive measures by the reporting entities (see IO.3).

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

105. The NRA report had not yet been finalised at the time of the on-site visit, so the NRA has had little or no impact on the policies, strategies and operational activities of the competent authorities. However, it is important to note that prior to the conduct of the NRA, the country had taken some measures aimed at dealing with the issues of preventing and combating ML/TF and predicate offences, namely the adoption of the National Strategy for Preventing and Combating MLTF for the years 2018 to 2020 and the Maritime Safety Strategy. None of these strategies were risk-based, but were the result of compilations of mutual evaluation analyses and studies conducted by international organisations. DCIAP was also created in response to the challenge of corruption and financial crimes, within the Public Prosecutor's Office, to investigate mainly corruption of public officials, related crimes and financial crimes. However, the number of ML cases investigated and prosecuted by DCIAP and, indeed, by other Law Enforcement Agencies (LAAs) remains very limited (see IO.7).

106. This implies that STP has not sufficiently prioritised investigations and prosecutions against the ML/TF in line with the country's main risks. The ineffectiveness of these services can be linked to the existence of a number of important challenges, including a lack of resources, training and adequate working tools. Similarly, the country does not have an Asset Recovery Office and an Asset Administration Office.

107. STP still needs to do more to resolve the outstanding issues in the plan, and would require additional human, technical and financial resources to facilitate the implementation of the outstanding actions.

108. STP has neither adopted nor applied any national counter-terrorism strategy.

109. On the ground, the country has carried out a national risk assessment, the draft report of which has not yet been adopted. As a result, STP has not yet developed national AML/CFT policies based on the results of the NRA.

2.2.3. Exemptions, enhanced and simplified measures

110. AML/CFT Act and Act 3/2018 (the AML Law and the Combating FT Law, respectively), the latter of which applies the provisions of AML/CFT Act subsidiarily to CFT, provide for the application of enhanced and simplified customer due diligence measures for all reporting entities. In general, reporting entities are obliged to apply enhanced measures for higher risk situations and are only authorised to apply simplified measures for lower risk situations. In particular, the CFT Act (Arts. 11 and 12) allows reporting entities to take simplified measures when they have identified a low risk of ML and TF and the application of EDD measures by reporting entities) when higher risks are identified. There are no exemptions from the FATF Recommendations under the AML/CFT Act.

111. In view of the above, some FIs, especially commercial banks, have begun to carry out risk assessments to categorise the risk level of their customers, transactions and delivery channels. These risk classifications could form the basis for the application of simplified and enhanced due diligence measures, which has not yet happened. The remaining FIs have not carried out any risk assessment. The DNFBPs have not carried out an institutional ML/TF risk assessment to inform the proportionality of mitigation measures. In other words, the level of understanding of ML/TF risks and the application of AML/CFT, particularly in relation to proportionate CDD measures, has not yet been developed by obliged entities in either the financial or non-financial sector.

112. The NRA identified two potential financial inclusion products (Basic or Simplified Bank Account" and "Basic Electronic Money Account) which the regulatory BCSTP could design and introduce in the country and recommended the creation of these products to cover the populations with very low incomes and no access to the financial system, and with low ML/TF risks. This identification and recommendation address the Government's priority strategic objectives to ensure that all adults Sao Tomeans have access to a range of affordable and appropriate financial products and services, promote the use of financial services using new digital technologies, ensure adequate and affordable financial products and services that promote the empowerment of Sao Tomeans and in particular women, among others, as set out in Part III of the NFIS. STP has also identified DPMS as being at low risk of ML/TF, for which exemption or simplification measures should be in place. However, the NRA has not yet generated any impact, since the assessment report has not yet been adopted and its findings have not been disseminated to the reporting entities so that they can incorporate its findings into in their AML/CFT compliance programmes.

2.2.4. Objectives and activities of competent authorities

113. In the absence of a national AML/CFT Strategy and policies informed by ML/TF risks, the competent authorities, including the FIU, are yet to align their objectives and activities with the ML/TF risks identified by the NRA. Nevertheless, it is noted that STP has taken some measures, including the enactment of the CFT Act of 2018, to, among other things, criminalise the financing of individuals terrorist and terrorist organisations for any purpose. However, to date, no TF cases have been investigated and prosecuted. In general, the activities of the authorities are focused on securing the maritime and air borders and protect the resources of the country.

114. Although the BCSTP demonstrated some understanding of the ML/TF risks of its supervised entities, its risk-based approach to AML/CFT supervision needs fundamental improvement. The supervisory tools and structures of other supervisors are not informed by AML/CFT policies or any consideration of risks. Overall, supervisors do not have supervisory tools that provide them with comprehensive, timely and consistent data on the nature and amount of risk inherent at the level of each institution in the sectors under their supervisory purview.

2.2.5. National coordination and cooperation

115. Although the AML/CFT Act provides for the creation of a coordination commission at the highest level, responsible for approving national policies and strategies and coordinating AML/CFT issues, it has not yet been properly established. STP neither indicated when it plans to establish this mechanism nor shared any information regarding its mandate. It is extremely important that STP moves forward with setting up the Interministerial Commission to ensure political alignment between the various initiatives and projects related to the system for combating ML/TF.

116. Regarding operational co-operation, the Multisectoral Committee (MSC) set up by the institution's internal regulations operates within the FIU. Although the FIU's internal regulations requires the MSC to meet twice each month, the information provided show that the MSC met quarterly. It was not possible to verify the effectiveness of the meetings given the unavailability of statistics on (i) the number of meetings held; (ii) policy proposals prepared or coordinated by the MSC; (iii) exchange of information between national authorities; (iv) annual plan of the MSC's activities; (v) annual reports of the MSC; (vi) convening notices, minutes and memoranda of the meetings and attendance lists of the MSC.

117. Operational co-operation between the various competent bodies and the regulatory and supervisory authorities with responsibilities in the ML/TF prevention system needs to be significantly improved. There are no formalised mechanisms for exchanging information (Memoranda of Understanding - MOUs - or Protocols) signed between the various entities that make up the system. Due to the country's size and intrinsic vulnerabilities, there is still a fairly high level of informality which, to a certain extent, hinders the creation of solid and structured bases for

strengthening key institutions in the process of combating ML/TF. Given the nature and demands placed on the financial sector, the BCSTP has a greater level of knowledge of ML/TF risks and could therefore establish partnerships with the other regulatory and supervisory units in order to share experiences and serve as a knowledge base in this area. It would therefore be appropriate to sign co-operation protocols between the BCSTP and the regulators of the DNFBPs. Similarly, co-operation between law enforcement authorities should be strengthened.

2.2.6. Private sector's awareness of risks

118. STP is drafting the report of the NRA for adoption by the political authorities before dissemination to stakeholders, including the private sector.

119. No measures have therefore been taken to publicise the results of the NRA, even though some of the supervisory bodies, notably the BCSTP, demonstrated awareness of the NRA's conclusions.

120. Due to the lack of dissemination of the NRA results, most private sector players are unaware of the NRA's findings and recommendations, given that they did not participate directly in the exercise.

Overall Conclusion on IO.1

121. STP has not yet finalised its NRA to identify, assess and understand its ML/TF risks. The draft assessment lacks in-depth analysis in certain areas, including the analysis of some inherent contextual factors that may influence a country's risk profile, particularly the informal economy and TF risks from NPOs. Also, certain areas, such as legal persons and the real estate sector, which may be vulnerable to ML/TF risks, were not sufficiently covered by the NRA. The lack of granularity in the analyses carried out and the absence of assessments of relevant sectors in terms of preventing and combating ML/TF prevent the country from having an adequate level of knowledge of MLTF risks, given their context and materiality.

122. Although no sectoral risk assessment was carried out, the AT believes that the authorities and reporting entities can leverage the results of the ongoing NRA to develop a common understanding of ML/TF risks, develop the application of a risk-based approach to mitigating risks and review risks as emerging risks arise. The level of understanding of risk in the public sector is low, and among reporting entities, other than the banking sector, the level of understanding of their ML/TF risk is extremely low to nil.

123. STP has not yet developed a national AML/CFT policy and strategy based on the risks identified (as the NRA report has not yet been finalised) and therefore the objectives and activities of the competent authorities are not yet aligned with the risks identified. Although a national strategy to combat CFT has been drawn up, it is not guided by any risk assessment and its implementation has not yet begun. STP has co-operation and co-ordination mechanisms at political and operational level. However, at the political level, the national coordination committee exists but is not operational. Similarly, there is no coordination mechanism for combating PF. Co-operation/co-ordination mechanisms for sharing information at the operational level are generally inoperative.

124. The level of awareness of ML/TF risk among private sector players is generally very low, but somewhat more developed, albeit at an embryonic level in commercial banks, and very low to nil in NBFIs and DNFBPs. Most of the reporting entities, especially the NBFIs and DNFBPs, were not aware of the findings of the Draft NRA report, as the report has not yet been finalised and disseminated.

125. Overall, STP requires fundamental improvements to understand ML/TF risks and coordinate actions domestically to combat ML/TF/PF.

126. **STP is rated as having a Low level of effectiveness for IO.1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6

a) LEAs do not regularly access or use financial intelligence and other relevant information from the FIU and other sources to develop evidence and trace criminal proceeds related to ML, associated predicate offences and TF, and to identify and trace proceeds related to criminal conduct.

b) The MoJ is the sole recipient of financial intelligence generated by the FIU from the analysis of STRs filed by reporting entities (even though the AML/CFT Law broadened the scope of recipients of this information), thereby limiting the scope of competent authorities that can access and use the FIU's financial intelligence. The MoJ demonstrated limited use of financial intelligence in initiating investigation of ML and associated predicate offences. The lack of diversity of STRs and customs declarations limits the FIU's scope of intelligence generation.

c) The FIU which is a major source of financial and other information to LEAs, relies heavily on STRs and suffers from the lack of filing of STRs by REs, including higher risk entities. In addition, the FIU does not systematically receive information on declarations made on cross-border movement of currency and BNI filed to the Customs authorities.

d) The FIU lacks adequate capacity to undertake operational The FIU lacks financial autonomy as its dedicated budget is managed by the Directorate of the Ministry of Planning and Finance and always requires approval from the Ministry for the release of funds to implement its planned activities. analysis to support the operational needs of LEAs. Similarly, the FIU has not conducted any strategic analysis and is yet to develop strategic products to identify new and emerging trends and patterns to be used as a basis for operational actions by relevant agencies and contribute to broader AML/CFT initiatives in STP

e) The MoJ lack the capacity to effectively utilise intelligence from the FIU as they did not demonstrate the ability to use financial intelligence to support investigations of ML/TF. There is limited feedback provided to the FIU on the use of information provided by the FIU.

f) Cooperation and exchange of information/financial intelligence between the FIU and other competent authorities to support operational needs is very low.

Immediate Outcome 7

a) The competent authorities responsible for investigating and prosecuting ML neither have adequate powers to conduct financial investigation, nor do they have financial and technical resources to deal with ML cases.

b) LEAs do not regularly conduct parallel financial investigations when investigating predicate offences such as corruption and drug trafficking and this is not consistent with the risk profile or

high level of threats associated with the underlying offences that can generate significant illicit proceeds in the country. Investigative and prosecution authorities do not prioritise investigations of ML offences. In addition, there is no evidence that investigations focus on the different types of ML activities.

c) The country has created a specialised section within DIAP to investigate economic and financial crimes, including ML. However, its effectiveness remains a concern, as there are few investigations and prosecutions into ML, and convictions are almost non-existent.

d) The sanctions applied in the few convictions per ML obtained are not effective, proportionate and dissuasive. STP has applied other criminal justice measures when it is not possible, for justifiable reasons, to obtain a conviction for ML after investigation, to a limited extent.

e) Although the Criminal Investigation Organisation Act provides for the use of special investigative techniques, such as wiretapping, controlled deliveries and the use of undercover agents to carry out ML investigations, their effective use was not demonstrated in this evaluation. There are no electronic databases to facilitate timely coordination and collaboration the authorities responsible for investigating and prosecuting ML cases.

f) STP does not maintain comprehensive statistics on ML, including detailed and disaggregated statistics on the types of predicate offences, and the types of ML investigated or prosecuted.

Immediate Outcome 8

a) STP has an adequate legal basis for the confiscation of proceeds of crime, both on conviction and (to a limited extent) without conviction, income (including income or other benefits derived from such income) or instrumentalities used or intended to be used for ML or predicate offences; property that is derived from, or used, or intended or attributed for use in the financing of terrorism, terrorist acts or terrorist organisations; or property of equivalent value.

b) The competent authorities in STP have not demonstrated that they consider the seizure and confiscation of assets to be a priority. The data obtained on confiscations implemented does not demonstrate any agreed importance to the institute of confiscation in the São Toméan criminal justice system. The authorities do not take measures at the beginning of the investigation to localise assets subject to confiscation. STP does not have an effective system for managing the proceeds or instruments of crime, including assets of equivalent value that must be preserved to avoid depreciation.

c) Although LEAs have broad confiscation powers, the lack of capacity and resources hinder the authorities' ability to track, identify and apply the necessary measures, to implement large numbers or to seize and confiscate large sums, including proceeds and instrumentalities of crime and property of corresponding value. Moreover, STP does not keep adequate statistics on the confiscation of proceeds of crime, including assets returned to victims. This makes it impossible to determine the extent to which STP has deprived criminals of the proceeds of their crime and made crime unprofitable and reduced both the ML and the underlying offences.

d) STP has not conducted significant asset recovery efforts, nor has it indicated requests to share the proceeds of crime transferred abroad on its own initiative.

e) Despite the legal or formal enshrinement of the regime, STP has not implemented an operational system for the compulsory declaration of cash and BNI when the value is equal to or exceeds STD

250 000 (EUR 10 000)due to a lack of technical and human resources. There is no confiscation of falsely or undeclared Currency/BNI.

f) The few cases of confiscations that have taken place are not aligned with the main revenue-generating predicate offences identified in the NRA.

Recommended Actions

Immediate Outcome 6

a) STP should ensure there are proactive and spontaneous disseminations by the FIU to other competent authorities such as the JP, and consider whether the FIU Act should be amended to explicitly allow for this.
b) STP should provide adequate resources (financial, human and technical) to the FIU to enable it to execute its mandate optimally. This should include the training of staff of the FIU on operational, tactical and strategic analysis and the provision of an analytical tools to enhance its analytical function.

c) LEAs should prioritise and significantly increase the use of financial intelligence through proactively making requests for information to the FIU and seeking financial information from other sources for purposes of initiating and supporting investigation of ML associated predicate offences and TF consistent with the country's risk profile. LEAs should also be trained on the use of financial intelligence to support their operational activities.

d) The FIU should put in place appropriate measures to improve the filing of STRs by all reporting entities in accordance with the country's risk profile. This should include sensitization and capacity building, the issuance of guidance notes, provision of feedback and application of effective, proportionate and dissuasive sanctions for non-compliance with reporting requirements.

e) STP should ensure that the staff of the FIU are trained on how to conduct strategic analysis to enable them to conduct strategic analysis and develop strategic products to support the operational needs of LEAs and to enhance the reporting of STRs by all reporting entities.

Immediate Outcome 7

a) Investigating and prosecuting authorities should prioritise financial and parallel financial investigations when dealing with predicate offences, in order to effectively investigate and prosecute ML cases. In this regard, investigating authorities should be sensitised to use financial information proactively in their investigations.

b) Align the investigation and prosecution of the ML with the main threats and risks identified in the draft NRA and ensure that the investigating and prosecuting authorities pursue the different types of ML cases consistent with the ML threats facing the country.

c) Apply effective, proportionate and dissuasive sanctions in case of conviction or alternative measures where ML conviction was not possible.

d) Strengthen the capacity of the authorities responsible for investigating and prosecuting ML cases and provide them with resources to facilitate the effective performance of their tasks, providing them with specific training, joint training actions between LEAs and prosecutors with a view to greater specialisation in the field of financial and parallel investigations, using special investigative techniques.

e) Implement measures to strengthen operational co-operation and co-ordination between LEAs in the investigation of the ML.

Immediate Outcome 8 (Confiscation)

a) STP should confiscate the proceeds, instrumentalities of crime and assets of equivalent value as a logical consequence of the fact that crime does not pay. STP must therefore include in its asset recovery strategy the most urgent possible adoption of seizure and freezing as provisional measures to ensure that, at the end of the process, the assets are confiscated. Confiscation in this way should be pursued even in relation to assets of equivalent value as a policy objective for predicate and ML/TF offences, including the return of assets to victims.

b) STP should organise statistics and improve the collection of data on the proceeds of crime, instruments and properties of equivalent value during investigations and prosecutions.

c) STP should always consider the possibility of recovering assets in cases where proceeds have been transferred abroad. To this end, STP should set up an appropriate operational system to repatriate, share and return proceeds and instrumentalities of crime, as well as property of equivalent value, related to underlying crimes, committed at home or abroad, and proceeds of crime transferred to other countries. STP should create a mechanism that, outside of the investigative procedure for the underlying crime, is responsible for parallel asset and financial investigations, as well as for the administration of assets.

d) STP should integrate sub-regional and international asset recovery networks as a way of enhancing international co-operation with relevant counterparts in asset tracing. The FIU should also support international asset tracing by working on its membership of the Egmont Group and, pending this, use bilateral and multilateral co-operation to exchange information when international asset tracing is relevant to the case.

e) There is a need to increase resources and strengthen the capacity of the LEAs through continuous training sessions to improve the number and initiative to adopt provisional measures from the start of the investigation, including at the borders, improve seizures and sanctions for undeclared currency and BNI in an effective and dissuasive manner.

127. The relevant Immediate Outcomes considered and assessed in this chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.1, R. 3, R.4 and R.29-32 and elements of R.2, 8, 9, 15, 30, 31, 34, 37, 38, 39 and 40.

3.2. Immediate Outcome 6 (Financial Intelligence ML/TF)

128. Competent authorities have access to a wide range of sources of financial intelligence but make limited use of it to support investigation into ML and predicate offences . The FIU is the primary source of financial intelligence, and it is empowered to produce and share financial intelligence reports spontaneously or upon request with the PGR and other competent authorities. The FIU is required to disseminate, spontaneously, the results of its analysis to the PGR and extend support to other competent authorities when requested (Art. 4(b)(c), FIU Act). Accordingly, based on the FIU law, financial intelligence which is an outcome of the analysis of an STR must be strictly disseminated to only the PGR and when it comes to other competent authorities, only upon request. This mandate has been enhanced by permitting the FIU to disseminate financial intelligence to the PGR and other competent authorities spontaneously and upon request (Art. 29 of AML/CFT Law 8/2013). In practice, the PGR has been the sole recipient of the FIU's disseminations and this can be attributed to the varied provisions in the FIU and the AML/CFT Act. Overall, the dissemination of intelligence by the FIU is not aligned with the country's risk profile, and there is a need for a fundamental improvement in terms of provision of financial intelligence and analysis to address ML and higher risk predicate offences (e.g., corruption, drug trafficking, tax fraud, sexual exploitation of children, counterfeiting and piracy of products). The FIU's work is significantly hampered by lack of resources, lack of diversity of entities that file STRs, currency declarations not routinely made available to them except upon request and lack of appropriate feedback. There is no evidence that the PGR and LEAs generate financial intelligence or obtain relevant information from the FIU to support their work.

129. The conclusions are based on the data and information provided in relation to the investigation and prosecution of ML, predicate offences, confiscation of criminal proceeds and TF investigations, as well as discussions with the MoJ, FIU and LEAs.

3.2.1. Use of financial intelligence and other information

130. The FIU receives STRs from reporting entities which it analyses and disseminates actionable intelligence generated from the analysis to the Ministry of Justice. However, currency declaration reports on undeclared and falsely declared currency and BNI, which is an important potential source of intelligence and information for purposes of initiating or advancing ML/TF investigations, are not routinely made available to the FIU except upon request.

131. Additionally, the FIU has access to information within the different government departments or authorities for use in generating financial intelligence and other information to identify potential proceeds of crime and TF for investigations. Some of the information sources include the GUE (for basic information on legal persons), tax authorities (tax information on individuals and legal persons), customs (import and export data), public prosecutor and JP, migration and border services and banks (information on CDD and bank statements of customers). In addition to a link with customs to allow access to information, the FIU relies on its powers under the AML/CFT Act to request and receive all relevant information from any public or private entity, particularly supervisors and criminal investigation agencies, to support its analysis. However, no data was provided regarding the number information requests made and received by the FIU and the quality of the information received over the reporting period as the FIU has no systems or mechanisms to maintain such statistics. While no evidence was adduced to ascertain the timeframe within which these agencies respond to the FIU's requests, no sanctions have been imposed for failure to provide the information requested by the FIU.

132. LEAs have access to a broad range of sources of financial intelligence and other information but have made little use of them to develop evidence and trace criminal proceeds related to ML and associated predicate offences and during investigations and prosecutions. The PGR and JP (the only bodies with the mandate to investigate ML/TF) have powers to access financial intelligence and other relevant information held by reporting entities and public institutions. However, in practice, they use financial intelligence from the FIU and other sources in their investigations

to a limited extent. The PGR indicated it initiated two ML investigations from information sourced from the FIU during the period under review. No evidence or further information was provided to enable the AT to determine the nature and type of ML investigation so initiated No financial intelligence has been generated, sought or used for TF investigations. This is not in line with STP's risk profile noting that the draft NRA rated the TF risk of the country as "Medium-High". The limited use of financial intelligence by the authorities can be attributed to the lack of capacity of authorities on the use of financial intelligence to facilitate their operations.

133. Overall, the PGR and the JP (the only bodies mandated to investigate criminal offences, including ML/TF) do not proactively seek or request financial intelligence from the FIU and other sources to support their operational activities. While PGR uses financial intelligence products from the FIU and other sources to a limited extent to support investigations, develop evidence and trace criminal proceeds related to ML and its associated predicate offences, this is not the case for the JP who has not received any financial intelligence from the FIU (Table 3.1 refers) and has also not demonstrated the use of financial intelligence from other sources to support their operational activities.

134. As regards TF, the authorities are yet to initiate related investigations, either based on financial intelligence or other information. This is inconsistent with STP's risk profile as a country located closely to countries affected by terrorism.

3.2.2. STRs received and requested by competent authorities

135. The FIU is the central agency with the mandate to receive, request, analyse STRs and disseminate financial intelligence to competent authorities. REs are required to immediately file STRs to the FIU in respect of any transaction, including any attempted transaction, regardless of its amount, where they suspect or have reasonable grounds to suspect that such transaction involves proceeds of criminal activities, or funds or property intended for terrorist financing.

136. In practice, STRs are submitted to the FIU via secure electronic mail (e-mail) and manually (in hard copies), with the manual submission being the most preferred means due to assurance of confidentiality. REs that file STRs believe that the e-mails could be compromised, hence a preference to file physical copies of the reports. However, these are just perceptions as there has been no confirmed case unauthorised disclosure. The European Union is assisting STP to develop a platform (named FIU 360) to facilitate information sharing between the FIU and REs. Once this platform becomes active, all information exchanges will be channelled through this platform.

137. Only commercial banks have filed STRs to the FIU even though the draft NRA rated most of the sectors as medium to medium high risk. The number of STRs filed by the banking sector over the review period is not commensurate with its share of the total assets (more that 90% of the total assets of STP's economy) and the diversity of its products and services. No TF related STR was filled by REs during the period under review. The FIU provided some feedback to FIs that filed STRs on the quality and usefulness of the STRs received but it is not clear how robust and systematic the feedback mechanisms is.

138. As part of initiatives to improve the understanding and compliance with reporting obligations of REs, the BCSTP (FIs supervisor) in 2015 issued a set of ML/TF red flags (contained in NAP 11/2015) to FIs to facilitate the identification and reporting of STRs. DNFBP supervisors are yet to issue similar guidance to the entities under their supervision. The FIU carried out some sensitisation and awareness sessions with some REs (FIs and DNFBPs) to build their capacity to assist them to identify and file STRs or improve their understanding of their reporting obligations. Indeed, during the onsite, except for the banks, reporting entities demonstrated a lack of capacity to identify and file STRs.

139. Table 3.1 below demonstrates that since January 2018, the FIU has received 46 STRs, and all the STRs were filed by commercial banks.

Table 3.1: Number of STR Received & Intelligence Reports Disseminated

Year	2018	2019	2020	2021	2022	2023(26 June)	Total
STRs Received	10	26[30]	4	3	2	1	46
No. of IRs disseminated to the Public Prosecutors Office	0	4	4	0	0	0	8
No. of STRs under review	3	15	11	0	1	2	

140. Regarding the number of STRs filed, there was an increase of more than 150% (26) in 2019 as compared to the number filed in 2018 (10). The significant increase in the filing of STRs resulted from the efforts of the BCSTP and the FIU, including supervision, meeting with focal persons of FIs, and sensitisation of commercial banks and some DNFBPs on the requirements on STRs, though DNFBPs did not file STRs during the reviewed period. Indeed, seven of the 26 STRs received by the FIU in 2019 were filed by the BCSTP in November following the inspection of two banks during the year. These STRs involved transactions conducted by PEPs between 29 September 2018 and 30 July, 2019.

141. Since 2020, there has been a significant decline in the filing of STRs, where the FIU has recorded 10 STRs covering almost four years. In 2020, the FIU received four (4) STRs, representing approximately 15% of the total number of STRs (26) received in 2019. The reduction in the number of STRs is attributed to Covid 19, lack of awareness and understanding of the reporting entities of their AML/CFT obligations, lack of training inhibiting their capacity to identify suspicious transactions, lack of an AML/CFT guidance, the absence of or inadequate supervision and monitoring of the sectors and the lack of application of sanctions for non-compliance with reporting requirement.

142. The low number of STRs filed by commercial banks and the non-fling of same by other reporting entities, some of which are considered medium to high risk in the draft NRA could be attributed to limited understanding of their ML/TF risk and obligations (except for the commercial banks), the absence of a risk based supervisory oversight of the sectors, and in some cases, lack of willingness on the part of reporting entities to implement their AML/CFT obligations

143. Considering the materiality of the banking sector and the size of the other sectors, the low STR filing by commercial banks is considered consistent within the context of STP as significant percentage of the Sao Tomean population (76%) above 18 years old is excluded from the financial system. Nevertheless, the low number of STRs limits the availability of useful information at the disposal of the FIU to support in-depth analysis and this may have adverse implications on the ability of the FIU to perform its core functions to effectively meet its domestic and international obligations. Ultimately, this can have an adverse impact on the entire AML/CFT chain as it reduces law enforcement opportunities to identify and investigate ML, associated predicate offences, and TF in STP.

144. In general, the STRs contain relevant information such as details of the persons involved, the transaction amount, account numbers and description of the suspicion, etc which form the basis of the FIU's analysis and intelligence generation to support LEAs' operations. The FIU considers the STRs filed by banks to be generally of good quality and are used to support its operational analytical function. STRs found to be without substance are archived. The FIU asserted that in 2019, seven (7) of the STRs filed were found to be without substance and were therefore archived.

[30] Seven of these STRs were filed by the BCSTP based on its obligation to submit to the FIU all unfiled STRs it comes across during inspections of FIs.

145. The FIU has powers to request and receive information during the performance of its analytical function from reporting entities irrespective of whether they filed an STR or not. The FIU indicated, without providing any supporting evidence, that it requests for additional information from some reporting entities in order to enhance analysis of STRs and other information received, and has received positive responses from these reporting entities.

146. Supervisory authorities are obliged to quickly communicate any transaction or fact that may be related to ML/TF once identified in the exercise of their supervisory function. No information was however provided on whether the supervisory authorities, except the BCSTP, made such communications to the FIU.

147. The FIU also has the mandate to receive copies of declarations of currency and BNIs. However, in practice, the Customs Authority does not make the declaration of currency and BNIs, which are important potential sources of intelligence and information for initiating or supporting ML/TF investigations, available to the FIU. This is mainly because the declaration requirements are not effectively implemented at the various points of entry/exit due to technical, material and resource constraints of the Customs Authority. While the FIU asserted that it sometimes requests for copies of the declaration on individuals during analysis of STRs, the FIU did not provide any evidence to corroborate the assertion.

3.2.3. Operational needs supported by FIU analysis and dissemination

148. The FIU's analysis and dissemination support the operational needs of the competent authorities on the investigation, prosecution and confiscation of criminal proceeds of ML to a very limited extent. While the FIU has powers to disseminate financial intelligence to the Attorney General's Office or any other body (Art 29 of AML Law), the FIU establishment law require the FIU to transmit the results of its analysis of STRs solely to the PGR and upon request support other competent authorities with data and technical expert (Art. 4(b) and (c)of FIU Act). Accordingly, the PGR has been the sole recipient of the FIU's disseminations emanating from STRs. Therefore, the scope of competent authorities that access and use financial intelligence produced by the FIU is very limited. The FIU is yet to develop strategic products regarding the main ML/TF threats identified in STP to facilitate the operational activities of LEAs assist and/or facilitate the filling of STRs by the REs. Additionally, there is no evidence of the FIU supporting the operations of supervisory bodies.

149. The FIU was established by law in 2009 and operates under the supervision of the Ministry of Finance and Planning. The FIU is an administrative type with perpetual succession except for the tenure of office of the persons in charge of the affairs of the FIU (the Coordinator and Deputy Coordinator) which is for four years (Article 2, FIU Law). The Board consists of the Ministry of Planning and Finance, the BCSTP, the MOJ and Parliamentary Affairs, Criminal Investigation Police, the Ministry of Commerce, Trade and Investment Directorate, and Directorate of Games Inspection. The FIU national centre for the receipt and analysis of suspicious transactions and other reports and dissemination of financial intelligence and other information to the competent authorities responsible for the prevention or prosecution of predicate offences and ML/TF (Art. 3, FIU Decree). It can also provide and receives information from entities outside STP concerning the crimes of ML/TF in accordance with international agreements or any other international law instrument.

150. The FIU lacks adequate resources (financial, human and technical) to effectively execute its mandate. The analytical function of the FIU is handled by three staff (one dedicated analyst, the Deputy CEO (who also serves as an analyst) and one IT staff with an added responsibility). The lack of adequate staff dedicated to the analysis department coupled with the lack of training remains a challenge to the FIU in effectively delivering its mandate. Additionally, should all reporting entities file STRs in line with the risk profile of the country (given that not all REs is filling STRs), the number of staff dedicated to the Analysis Unit would be insufficient. The FIU uses the standard version of Microsoft excel tool to process and analyse STRs and other information it receives. Thus, its analytical function could be further enhanced if it had an advanced analytical tool to facilitate effective mining of relevant information to support analysis and dissemination of intelligence to LEAs.

151. The FIU does not have a Standard Operating Procedure which sets out the procedures for receipt, analysis and dissemination of intelligence. However, upon receipt of an STR, the Coordinator of the FIU minutes it to an Analyst who checks for quality (accuracy and completeness) before analysing the STR. STRs are prioritised only based on the amount involved without consideration to the complexity of cases and the nature of the suspected predicate offence (e.g. – drug trafficking, corruption or other high risk predicate offences). When analysing the STRs, the analyst reviews all data available to the FIU and seeks additional information from reporting entities and other relevant institutions in their bid to disseminate value added intelligence. No evidence was however produced to substantiate how this is done in practice and for how long it takes the FIU to receive the response to their request for information. Once the FIU establishes that the element of suspicion is sufficient (prima facie case), it disseminates the intelligence to the PGR.

152. The FIU is funded via the national budget; however, its dedicated budget is managed by the Directorate of the Ministry of Finance and Planning. Accordingly, the FIU periodically submits its planned activities for approval by the Ministry of Finance before funds are released. This arrangement constrains the FIU from deploying the resources needed for the performance of its functions, on an individual or routine basis. Additionally, the FIU is underfunded and barely receives approval to implement its planned activities. Furthermore, the FIU does not have the power to recruit its own staff.

153. Despite its lack of resources, the FIU has produced some financial intelligence that enabled the PGR to initiate or support investigations and trace proceeds of crime as provided in Table 3.1 above.

154. The PGR under the MOJ is the sole body with the mandate to investigate ML/TF and all predicate offences. During the period under review, the FIU disseminated eight (08) intelligence reports to the PGR (four each in 2019 and 2020). These disseminations resulted in the investigation and prosecution of one (1) ML case in 2019, but no conviction was obtained. Intelligence reports received which upon analysis do not result in investigations are archived to support future analysis and investigations.

155. Although the PGR indicated that it receives quality and useful financial intelligence from the FIU to support its operations, the PGR also affirmed that it does not regularly provide feedback on the use of the FIU's financial intelligence which tends to impede the FIU's effort to evaluate and improve the quality of the financial intelligence it disseminates.

156. Even though the PGR indicated it does request for financial intelligence from the FIU during investigations, the AT was not provided with evidence of the request and how the information obtained was used.

157. The FIU is not conducting strategic analysis and has not developed any strategic analysis product since its establishment. This is attributable mainly to the lack of adequate staff dedicated to the analysis department, lack of training on strategic and tactical analysis resulting in low capacity of its staff in this regard.

158. Overall, the inadequate resources of the FIU; inadequate analysts coupled with low capacity to conduct strategic analysis; the low number and the lack of diversity of STRs filed by the reporting entities; and the absence of customs declaration reports contribute to the challenges faced by the FIU in effectively supporting the operational needs of LEAs.

3.2.4. Cooperation and exchange of information/financial intelligence

159. Competent authorities, including the FIU, cooperate and exchange information/financial intelligence to a limited extent. This is primarily based on the statistics on the dissemination of financial intelligence and information (upon request and spontaneously). There is no legal impediment to the exchange of information between authorities,

however, to further enhance such exchanges, the FIU singed an MoU with the Customs Office to facilitate cooperation and information exchange.

160. On the international front, the FIU exchanges information with similar bodies through bilateral and multilateral arrangements. For instance, the FIU has signed MOUs with eleven (11) foreign counterparts, out of which six (6) are GIABA members States. Authorities did not provide data on the number of intelligence reports shared with, requested from, and requested by foreign counterparts over the period (refer to Section 4.2.1 above). The FIU is not a member of the Egmont Group of FIUs and is yet to engage the Egmont Group towards attaining membership.

161. The measures put in place to safeguard and protect information being exchanged or used, either with domestic competent authorities or with foreign counterparts is inadequate. Staff of the FIU are bound by provisions in the Code of Conduct for state institutions on confidential use of information. The FIU also relies on a private information technology service provider for their functional activities with the server located in the premises of the private service provider outside the jurisdiction. While this does not guarantee the security and confidentiality of information exchanges between the FIU and other counterparts, there has not been any reported cases of information/intelligence leakages attributed to the FIU nor its system.

162. Regarding physical security, the FIU is situated in the same building with several other government agencies with no system to restrict access to the office except the presence of a police officer stationed at the entrance of the office during working hours. Important documents like case files are kept in a cabinet located in the coordinators office with access granted strictly under the authority of the coordinator. This mechanism is however not sufficient to guarantee the safety and confidentiality of information. The FIU raised the lack of adequate resources as the major setback in securing appropriate security systems to safeguard the safety and confidentiality of its staff and information.

Overall conclusion on IO.6

163. In general, LEAs do not regularly access or use financial intelligence and other relevant information to develop evidence and trace criminal proceeds related to ML, associated predicate offences and TF, and to identify and trace proceeds related to criminal conduct. The FIU's intelligence has been used by LEAs to support investigations of ML/TF cases to a limited extent and none to support TF investigations.

164. Reporting institutions are not filling STRs commensurate with the risk profile of the country, thus hampering the range of information sources available to the FIU to produce financial intelligence. The FIU does not systematically provide feedback to REs on the quality and usefulness of STRs filled. Additionally, the FIU does not systematically receive information on cross-border movement of currency and BNI which is an important potential source of intelligence and information for purposes of initiating or supporting investigations related to ML, associated predicate offences and TF. The inadequate resources (financial, human and technical) have negatively impacted the operational and strategic analytical functions of the FIU.

165. The PGR does not regularly provide feedback on the use of financial intelligence which tends to impede the FIU's effort to assess and evaluate the quality of financial intelligence disseminated to LEAs. Cooperation and exchange of information/financial intelligence at domestic and international level is very low among competent authorities.

166. STP requires fundamental improvements to enable the competent authorities to appropriately use a wide variety of financial intelligence and other relevant information to investigate ML, associated predicate offences and TF, and identify and trace the assets.

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

3.3. Immediate Outcome 7 (ML investigation and prosecution)

168. With the entry into force of the latest amendments to its AML/CFT Act, STP's system for combating ML has become robust from a technical point of view and provides a solid basis for prosecuting ML offences, although there are still some shortcomings that need to be addressed. A broad definition of criminal offences and proceeds of crime, extensive investigative powers and dissuasive sanctions are important elements for an effective investigation, prosecution, conviction and sanctions to mitigate ML risks.

3.3.1. ML identification and investigation

169. STP has a legal framework that supports the identification and investigation of a significant number of predicate offences and ML. However, considerable shortcomings were found in the identification and investigation of ML and the country did not adequately demonstrate whether ML cases are identified and investigated from the preliminary stage of the investigation of predicate offences, nor whether they are considering ML cases as a priority.

170. In STP, the Public Prosecutor's Office is the holder of the criminal action and has the legitimacy to promote the investigation of the offence of ML. It has the power to open preparatory enquiries and lead the investigation into the offence of ML. In its search for evidence, the Public Prosecutor's Office is assisted by the criminal police bodies (OPCs) and may, if it wishes, delegate to the criminal police bodies the power to carry out preparatory enquiries. Among the LEAs, the JP is the only body that has been granted reserved powers by law to investigate ML.

171. The ML cases investigate by the PGR resulted from investigations of predicate offences, financial intelligence reports and complaints, as well as disseminations from their foreign counterparts. However, the assessors noted that the competent authorities have not been carrying out parallel financial investigations. Also, despite the efforts made, there are no coherent statistics that could allow a proper analysis with a view to assessing the effectiveness of the system.

172. STP is exposed to ML risks of varying degrees. According to the draft NRA report, STP is exposed to a high risk of ML, which derives from the combination of the high level of threat identified and the medium-high level of vulnerability.

173. The draft NRA noted that corruption, drug trafficking, tax fraud, sexual exploitation of minors, fraud, arms trafficking, environmental crimes, counterfeiting and piracy of products are the main threats facing the country. However, in general terms, the NRA reveals that the main internal ML threats come from corruption and tax fraud, which are the most common offences and generate the most money that can be laundered. As for the ML external threat, this is related to the crime of drug trafficking, counterfeiting and piracy of products.

174. Overall, the NRA associates the vulnerabilities identified mainly with insufficient resources to deal with threats, limited operational and investigative capacity due to the lack of specialised training in investigating economic and financial crimes, especially ML, legal and regulatory shortcomings, as well as STP's geostrategic position, which places the country in a situation of great vulnerability due to the high level of violent crime that occurs in the Gulf of Guinea.

175. ML investigations remain extremely low. Prosecutions for predicate offences that had the potential for ML-related charges did not see the proactivity needed to trigger parallel financial investigations to identify the proceeds of the crime under investigation for seizure/restraint to ensure that assets do not dissipate (see Table 3.2). Of all the predicate offences and ML investigated in the period under review, only one ML conviction was achieved (see Box.

3.1). Therefore, the country has not demonstrated that the different components of its system (investigation, prosecution, conviction and sanctions) are working effectively and coherently to mitigate the risks of ML.

176. The investigation and prosecution authorities, customs, tax services and FIUs have indirect access to financial information and other relevant information available from FIs, DNFBPs and the public administration, largely in the context of the enquiries they carry out. In some cases, providing the information requested for the purposes of investigating offences and also asset investigations can be time-consuming due to the lack of electronic databases and insufficient financial and human resources, which make access to this information difficult. Also, information held by the FIU is not frequently used by the investigation and prosecution authorities, customs and tax services.

177. In the specific context of investigation of the ML offence, and despite the continuous improvement of regulations observed across the country and the institutional interaction resulting from the procedural relationship between the PGR and PJ, there is little propensity to use some of the special investigative techniques other than the traditional ones, except for joint investigation teams and controlled deliveries.

Box 3.1 - The "Ndrangheta" Tres Case

In 2014, three Italians opened five bank accounts (in EUR, US dollar, and Dobra currencies) at two commercial banks in STP. The foreigner deposited two million, two hundred and sixty-seven thousand, thirty-three euros and ninety-eight cents (EUR. 2,267,033.98) in the account and fled the country. The STP authorities froze the accounts on suspicion of ML. Investigation revealed that a close family member of one of the Italians was under investigation in another Portuguese-speaking country where several assets, including buildings belonging to the individual, had been seized on suspicion of ML offences.

The PGR obtained information from the Italian authorities, including the Prosecutor and the Police Inspector, who provided the São Toméan Public Prosecutor's Office with evidence that confirmed that the suspects were direct relatives of an individual wanted by the Italian justice system for involvement in the "Ndrangheta" organised crime networks, whose main criminal activity was drug trafficking. In addition, the suspects were under investigation by the Italian justice system for ML offences.

The suspects did not return to STP. In 2019, STP tried and convicted the suspects of ML in absentia.

178. At an operational level and outside of the institutional interaction resulting from the procedural relationship between the PGR and PJ, there are some coordination mechanisms for sharing information and coordinating efforts. For example, the Multisectoral Commission set up at the level of the FIU is used to help gather information in the context of ML investigations. Also, among the criminal police agencies there is a coordination system that ensures information sharing and co-operation between agencies. However, there is no specific mechanism for coordination and cooperation on AML.

179. The Judiciary Police has an Economic Crimes Repression Squad, which is responsible for investigating ML, with four investigators, and the São Tomé Public Prosecutor's Office has a Department of Investigation and Criminal Action (DIAP), which is an organisational structure of the Public Prosecutor's Office, responsible for directing criminal investigations and prosecuting crimes that occur in the respective territorial area. The DIAP has three specialised sections, the first of which, with three magistrates, is responsible for investigating violent, complex and organised crime, including economic and financial crimes, such as ML. Both the Judicial Police investigators and the public prosecutors assigned to the first section responsible for processing ML cases have not yet benefited from any specific training in investigating the crime of ML and therefore have no specialisation in the field of investigating and prosecuting ML, having only generic knowledge in this area.

180. Investigation and prosecution authorities reported that in 2016, as part of the Project to Support the Consolidation of the Rule of Law in Portuguese-speaking African Countries (PALOP) and East Timor, funded by the European Union through the Camões Institute, the country has benefited from a training of trainers programme run by the Centre for Judicial Studies of Portugal and the Higher Institute of Judicial Police and Criminal Sciences of Portugal to provide training in the areas of drug trafficking, corruption and ML and with knowledge of the legal, administrative and procedural instruments in force in Portuguese-speaking countries. The training took place over 20 days in Lisbon and the following benefited from the training programme: 2 magistrates, 2 prosecutors, 2 investigators from the PJ and 1 technician from the FIU. After the training programme, and as part of the restitution/dissemination programme in the country, a training session was held with the participation of the players in the penal chain.

181. The lack of sufficient technical training for criminal police agencies and prosecutors in investigating and combating financial crimes, has a significant impact on the quality of the few investigations and prosecutions that are carried out.

3.3.2. Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies

182. STP faces a high risk of ML, which derives from the combination of a high level of threat and a medium-high level of vulnerability. As the draft NRA, as well as interviews with the São Toméan authorities reveal, the crimes that pose the greatest threat in the country are corruption, drug trafficking, sexual exploitation of minors, arms trafficking, environmental crimes, tax fraud, fraud, counterfeiting and product piracy. However, looking at the available data and information, it is easy to see that, during the period in question, that the country carried out few ML investigations that triggered criminal proceedings, which is totally insignificant in the context of high ML risks identified by NRA.

183. Although STP is located in a geostrategic position that places the country in a situation of great vulnerability due to the high level of organised crime that occurs in the Gulf of Guinea, there is no data to show that the national authorities are cracking down on organised crime in line with the risks identified.

184. With a view to strengthening the country's capacity to tackle crime, the 2018-2020 Strategy, not only stressed the importance of allocating adequate material resources and qualified human resources to the Judicial Police, but also highlighted the need to create a Central Department for Investigation and Criminal Action (DCIAP) as a directing and coordinating body in the repression of organised crime, corruption and drug trafficking, among others. However, the various constraints that have arisen have not allowed the Strategy's main options and guidelines to be effectively implemented, which is why DCIAP has not yet been created.

185. The authorities do not prioritise national criminal policies to combat ML. There is no instruction to guide public prosecutors and LEAs in investigating ML cases. As a result, there is no political impetus for criminal policy in this area. Prosecutors determine the priority to be given to each case for investigation.

186. The lack of criminal policy guidance aimed at identifying and prioritising criminal justice can jeopardise the effectiveness of criminal investigations and prosecutions and their consistency with the country's risk profile.

187. However, the disparity in statistical data provided by the country does not enable the AT to determine the number of investigations and prosecutions for predicate offences have been carried out, nor to ascertain which ML cases have been investigated, charged and prosecuted. Nonetheless, it is important to note that two important convictions for ML in the court of first instance and one indictment were obtained, although the AT is not aware of the outcome of these cases due to the lack of information being made available by the competent authority.

188. Considering the above, and the almost non-existent comprehensive statistics on relevant criminal cases, it is difficult to objectively assess the consistency of ML investigations and prosecutions with threats and risk profiles.

The trends identified on the basis of some of the information provided are not in themselves sufficient to assess this consistency, since the judicial statistics that should corroborate these trends have not been provided either because they do not exist or because they have not been organised by the authorities responsible for producing them. Even so, having analysed the data and information that the assessors have had access to, it is clear that the investigations, charges and convictions carried out and obtained by the country, as well as other measures taken, are not consistent with the ML risk profile identified by the country.

Box 3.2 - Banco Ecuador Case

Following the declaration of bankruptcy and liquidation of a commercial bank, an inspection conducted by the BCSTP in 2015 revealed several irregularities perpetrated by two Directors (D1 & D2) of the liquidated bank.

The irregularities included: non-compliance with internal rules on credit; collusion and concealment of source of funds for the cost of constructing the bank's headquarters (€ 2,015,241); sale of the said building valued at three million and eight hundred thousand euros (€ 3,800.00) to the bank; undervaluation of the cost of the building at (one hundred thousand euros) to €100,000 and representation of same to tax authorities leading to financial loss (billions of dobras) to the public treasury.

Investigations conducted by the PGR also revealed that through a third party (Ms. Diminga Buzio), D1 and D2 purchased real estate in their personal names and that of a company for an estimated amount of two million four hundred and forty-five thousand euros (€2,445,000).

D1 and D2 were prosecuted and convicted in 2019 for aggravated breach of trust, tax fraud, fraud, theft and insolvency due to negligence.

Diminga was prosecuted and convicted in 2018 for ML and sentenced to five years imprisonment. Several immovable properties in her possession were also confiscated to the State.

The matter is on appeal.

This case demonstrates the authorities' focus on third party ML and predicate offences.

Source: PGR

Table 3.2. Statistical data on ML & predicate offences investigations & prosecutions (2018 to June 2023)

Year	Type of crime	Number of cases investigated	Number of accused cases	Number of cases judged	Number of cases acquitted	Number of Convictions	Quantity of products confiscated	Nature of confiscated goods
2018	Passing counterfeit currency	1	1	1	0	..	..	..
2018	Illegal gambling	1	1	1	0	..	..	..
2018	Drug trafficking	7	7	6	1	..	..	..
2018	ML	1	1		1	-	-	-
2018	Corruption	1	1	-	-	-	-	-
2019	Drug trafficking	2	2	2	0	..	..	..
2019	Embezzlement	2	2	2	0	..	..	..
2019	ML	1	1	1	0	1	2,267,033.98 Euros	Money

Year	Type of crime	Number of cases investigated	Number of accused cases	Number of cases judged	Number of cases acquitted	Number of Convictions	Quantity of products confiscated	Nature of confiscated goods
2019	Tax fraud, abuse of trust, bankruptcy due to negligence and infidelity	1	1	1	0	1	Information not available (..)	..
2019	Corruption	1	1	..	0	..	..	..
2019	Harmful administration	1	1	..	..	..	..	..
2019	Economic participation in business	1	1	1	0	..	..	..
2020	Drug trafficking	1	1	1	0	..	..	..
2020	Tax evasion	1	1	..	..	..	..	..
2020	Smuggling	1	1	-	..	..	.	-
2021	Drug trafficking	1	1	1	0	..	..	..
2021	Embezzlement	3	3	0	0	..	..	..
2022	Drug trafficking	2	2	2	0	..	..	..

Source: Public Prosecutor's Office and Criminal Investigation Court of the 1st Instance

3.3.3. Types of ML Cases Pursued

189. As noted above, there have been two ML investigations in the last five years which have led to prosecutions. The ML investigation and prosecution undertaken related to standalone/foreign predicate (case Box 3.1) and third-party laundering (see Box 3.2).

190. There have been no investigation and prosecution of ML cases through legal persons or professional money launderers. STP sought and obtained assistance as part of ML investigation noted in the "Ndrangheta Tres Case" (Box 3.1). The limited number of ML cases investigated and prosecuted do not enable a determination of the types of ML cases pursued by STP. The investigation or prosecution of predicate offences is more notable and convictions for ML offences rarely occur.

191. The LEAs and the PGR have investigated some predicate offences without focusing on the ML component that could facilitate a large-scale investigation into the proceeds of crime. The cases presented by the prosecutors contain charges related to predicate offences and a very limited number of ML charges. As a result, the number of completed ML investigations is insignificant compared to investigations into predicate offences.

192. There is a considerable difference between the number of investigations related to the predicate offences and the number of investigations into the ML. The authorities do not prioritise ML investigations due to the absence of policies that could guide such investigations and the lack of expertise in the field of ML investigations. The number of parallel ML investigations is not consistent with the number of predicate offences that could generate significant illicit funds.

3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions

193. STP had two cases most relevant to conviction for ML. It is therefore difficult to comprehensively assess whether the sanctions applied in ML cases are effective, proportionate and dissuasive. In one of these reported ML

cases, the only accused was sentenced to five years' imprisonment. An ancillary sanction was also imposed, consisting of the forfeiture in favour of the state of the defendant's movable and immovable property. Under the terms of the AML/CFT Act (AML/CFT Act), the penalties for natural persons applicable in the event of a conviction for AML range from three (03) to twelve (12) years in prison, depending on the typical action committed. In the case of legal persons, the fine is at least half the amount equivalent to the total sum of the instruments or proceeds of the crime. Given the scarcity of statistical data, the assessors were unable to determine the effectiveness, proportionality and dissuasiveness of the sanctions provided for by the CFT Act based on two convictions achieved.

194. However, the São Toméan authorities recognise that the prison sentences handed down in the cases in which there were convictions did not prove to be a deterrent and consider that, in compensation, severe accessory penalties were imposed, resulting in the confiscation of property and valuables.

3.3.5. Use of alternative measures

195. STP has not applied any alternative measure when it was not possible to obtain a conviction for ML. However, the authorities referred to a case which, although it took place in Angola, the São Toméan authorities tried out the relevant national mechanism by providing MLA to the Angolan judicial authorities in locating assets in STP for the purposes of confiscation without conviction as an alternative measure.

196. Not only did the São Toméan authorities fail to demonstrate the legal basis for their claim, but they have also failed to demonstrate that they apply other criminal justice measures as an alternative when it is not possible, for justifiable reasons, to secure a ML conviction and there is no evidence that the country can utilise forfeiture proceedings based on non-conviction.

Overall conclusion on IO.7

197. In general, STP is endeavouring to increase the investigation, prosecution and conviction of the ML. This has been demonstrated at least by the establishment, in the DIAP, of a section responsible for investigating economic and financial crimes, including the ML. The criminal investigation in STP focuses mainly on the predicate offences, while the processes of investigation, prosecution and trial of the ML are not yet properly systematised and articulated between the different competent authorities. Parallel financial investigations have yet to be carried out. Inadequate human and financial resources, and a lack of specialisation and training in ML investigation, hinder the effective investigation of ML/TF cases in the country. Statistical data on ML cases investigated, the types of predicate offences involved, as well as other relevant indicators, are not sufficiently organised, detailed and accurate. The limited number of ML convictions and the scarcity of concrete cases make it difficult to determine whether sanctions are effective, proportionate and dissuasive. The country has not applied other criminal justice measures where it is not possible, for justifiable reasons, to obtain a ML conviction after investigation.

198. In view of the above, STP needs fundamental improvements to demonstrate that the different components of its system (investigation, prosecution, conviction and sanctions) are working effectively and coherently to mitigate the risks of ML and that the prospect of detection, conviction and punishment deters potential criminals from committing offences that generate proceeds and ML.

199. **STP is rated as having a Low Level of effectiveness for IO.7.**

3.4. Immediate Outcome 8 (Confiscation)

200. STP is achieving the confiscation of the proceeds and instrumentalities of crime to a limited extent. The use of provisional measures is not adequately demonstrated and there is no policy priority placed upon confiscation, as limited use of the provisions of the AML/CFT Act is seen. Results regarding the confiscation of assets linked to foreign predicate offences is limited, but STP pursues the proceeds of crime moved abroad through requests for restraint, confiscation, and repatriation to a limited extent. The confiscation of falsely or non-declared currency is non-existent. Efforts to recover assets linked to public corruption, which is one of STP's major risk areas and highest generators of criminal proceeds is not demonstrated. In addition, the consistency of STP's confiscation achievements in other areas has not been demonstrated and does not align with STP's risks, especially for, drug trafficking, tax fraud and fraud. There is a deficit of comprehensive data and statistics on confiscation outcomes and as well as a lack of concluded cases.

201. The AT's conclusions are based on information provided by the authorities (including statistics), as well as interviews with the Ministry of Justice and the LEAs.

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

202. The Department of Criminal Investigation and Action (DIAP) in the PGR's Office is responsible for investigations related to confiscations of proceeds and instrumentalities of crime. As investigating authorities, the DIAP and the PJ (by delegation) have the power to take provisional measures during the investigation and the gathering of evidence. The FIU can also help in the process of locating, identifying and analysing suspects' assets and funds. When there is suspicion of ML or predicate proceeds-generating offences, the FIU can suspend transactions for a period of up to two days and can also request the PGR or PJ to freeze assets.

203. STP does not, however, pursue the confiscation of proceeds, instrumentalities or assets associated with crime, including assets of equivalent value, as a national priority. The fight against economic and financial crime is carried out through criminal investigations and prosecutions in accordance with the procedures set out in the Criminal Procedure Code (CPC) and in compliance with the parameters of the AML/CFT Act. There is, however, no Criminal Policy Instrument for Combating ML in STP in which confiscation is established among its main objectives to ensure that no benefit is obtained from the proceeds of crime. Furthermore, STP has no specific policy objectives (i.e. setting targets or imposing internal reporting) on asset recovery.

204. DIAP has a unit, with three magistrates, responsible for investigating Economic and Financial Crimes and Violent Crime. Despite these duties and competences, there is a lack of Guidelines on Criminal Proceedings in Economic Offences regarding the Seizure and Confiscation of the Public Prosecutor's Office, namely, an institutional-level Instruction for the identification and recovery of assets and describing the requirements for LEAs to freeze and seize assets during an investigation into underlying crimes, as well as ML/TF.

205. Confiscation continues to apply as an accessory penalty following conviction (see c.4.1). The AT believes that this provision, coupled with the absence of guidelines or instructions on criminal policy aimed at adopting provisional measures (freezing and seizure), from the outset, may impede STP's ability to make crime unprofitable and reduce both predicate offences and ML/TF and could be the reason for the low number of confiscation orders made.

206. Competent authorities did not demonstrate training to improve freezing, seizure and confiscation related to ML/FT and predicate offences.

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

207. LEAs in STP have demonstrated that they have seized and confiscated funds and property from suspects and defendants for ML on two occasions (see analysis of IO.7, 3.3.1 and 3.3.2, paragraph 6, in fine). The value of the property confiscated is low and not representative of the variety of measures in place to facilitate the confiscation of proceeds and instrumentalities of crime. These figures reflect the weak focus of STP's LEAs on identifying, seizing and confiscating assets linked to various predicate offences. In addition, for this low number of cases, the STP authorities did not provide detailed descriptions to distinguish the proceeds of crime, instrumentalities or property of equivalent value from the confiscated amounts.

208. STP made one request to a foreign jurisdiction to recover the proceeds of crime transferred abroad, albeit at the instance of the foreign authority (INTERPOL Gambia) (see Case Box 3.3 below).

Box 3.3 - The Gambia-STP Bank Transfers Case

Between the year 2013 and 2014, a married couple based in The Gambia received approx. US$ 310, 639.00 transferred into their joint account by one Rui Alexandria Ribeiro Mendonca (RARM), based in STP. The account was opened to venture into the hotel industry and Real Estate but had withdrawn D2, 000, 000 (Two Million Dalasis) for a pilgrimage to Mecca. It was concluded that the sender, Rui Alexandria Ribeiro Mendonca had no links with the Gambia and the transaction was the first transfer the bank had received from Sao Tome and Principe.[31] Based on an STR filed to the FIU of The Gambia and a report made by the FIU to INTERPOL Gambia concerning the amount, INTERPOL Gambia contacted INTERPOL of STP (ISTP) to ascertain the source of the funds. ISTP confirmed that the funds were transferred by RARM from Sao Tome and Principe, who, at the time of the transfer, was the administrator of Ecuador Bank in Sao Tome which was under the supervision of BCSTP. ISTP also indicated that RARM defrauded the Ecuador Bank and was being prosecuted in STP for misappropriation of third-party funds deposited at the Ecuador Bank and ML. Subsequently, ISTP requested The Gambia to repatriate the funds to STP.

On 28 October, 2020, the MoJ applied for a confiscation order. The Court granted on 15 February, 2021 in addition to a payment of interest accrued on the funds over six years and repatriation of the funds to STP. Based on an asset-sharing agreement, MoJ of The Gambia repatriated 50% of the funds to STP in 2022.

209. STP does not have a specific asset management system. The fund earmarked for confiscation is managed either by the Magistrate in charge of the case at DIAP, within the PGR's Office, or by the traditional mechanisms described in the CPC, namely by appointing a trustee.

210. There are provisions and operational mechanisms for the management and disposal of seized or confiscated funds according to type, in order to maintain their value. The mechanism adopted by STP to manage and, if necessary, dispose of frozen, seized or confiscated assets is expressed in the provisions of the AML/TF Law, Article 32, and their destination is determined (see Rec. 4.4).

211. The data on confiscation suggests that the amounts confiscated are not pursued in a systematic way. As such, it is not possible to point to a specific set of policy objectives that would illustrate action plans or targets that would be in line with a broader policy of asset recovery - particularly for ML/TF crimes.

212. Since 2018, the Courts have issued two confiscation orders involving approximately Two Million Two Hundred and Eighty Seven Thousand and Thirty Four Euro (€2,287, 033.98) which represents a low number of confiscation orders (based on convictions) for the various income-generating crimes described in IO.7 out of the total number of

convictions for the higher risk predicate offences. The low number of confiscation orders demonstrate the absence of the country's high-level policy establishing the need for LEAs to prioritise confiscation at the operational level.

213. Overall, STP did not demonstrate that it effectively seizes and confiscates a range of assets consistent with its risk profile. The small number of cases presented indicates that the value of STP's overall confiscations and recoveries is low. Even so, the figures do not clearly indicate the types of proceeds of crime, instrumentalities and assets of equivalent value confiscated and recovered.

214. Although the AML/CFT Act provides for the protection of bona fide third parties, there is no information on actions taken to address some of the most significant impact of crimes to compensate victims. For instance, given that The Gambia repatriated part of the customers' funds transferred to the country, no information was provided regarding victim compensation.

3.4.3. Confiscation of falsely or undeclared cross-border transaction of currency/BNI

215. The legal framework envisaged in STP to monitor the cross-border movement of currency and BNI has not played an important role in the country's AML/CFT system, since the operational side of its implementation is lacking in the entry and exit of people, currency and precious metals or stones into STP.

Customs controls

216. STP has a legal regime regulating the cross-border movement of currency and BNI where persons entering or leaving STP is obliged to make a written declaration of currency, BNI, electronic money, or precious metals or precious stones, whenever an amount equal to or above Two Hundred and Forty-Five Thousand dobras(STD 245,000) (approx. EUR 10,000)) is transported.

217. The STP authorities have demonstrated a general awareness of the risks of currency smuggling and have the necessary powers to seize undeclared or falsely declared currency. Passengers and people carrying goods into STP are also obliged, on the same basis, to declare precious metals and stones (expressly enshrined in a declaration system).

218. 217. Border agencies, including Customs, Immigration, Police, Sea Port Authorities are required to coordinate and collaborate at the points of entry and exit and share information on passenger profiles and suspicious movement of goods, including currency and BNI. Customs is also required to share ML/TF related declarations with the FIU.

219. Despite the legal Framework, STP did not demonstrate effective implementation of the declaration regime, due to the absence of standard operating procedures that indicate the time or manner of boarding travelers entering or leaving STP, with an amount equal to or greater than STD 245 000.00 (approx. EUR 10,000) and the circumstances in which all or part of the foreign currency or BNIs not declared or falsely declared may be seized and the deadlines for the holding of the fund, the authorities have not been applying this provision. Furthermore, this is exercabated by lack of financial, technical and human resources, as well as the necessary training on risk profiling for cash couriers. Consequently, there have been no administrative or other sanctions imposed for false declaration or failure to declare.

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

220. The predicate offences that pose the greatest threats in STP are crimes related to corruption, drug trafficking, tax fraud, sexual exploitation of children, fraud, counterfeiting and piracy of products. However, in general terms, the NRA reveals that the main inherent ML threats come from corruption and tax fraud, which are the most common

offences and generate the most proceeds that can be laundered. However, the two predicate offences for which STP has confiscated and seized funds is linked to abuse of trust and is not in line with the risks. The NRA identified the offences of corruption, drug trafficking, tax fraud, sexual exploitation of minors, fraud, arms trafficking, environmental crimes and counterfeiting and piracy of products as posing a high-level threat. The other case, the third, is related to third-party ML where third parties opened bank accounts in a jurisdiction other than the one where the predicate offence was committed.

221. There have been no cases of confiscation related to FT, which is inconsistent with the country's risk profile, seen both from the perspective of belonging to the Gulf of Guinea region, where although there have been no attacks by terrorists in STP, this region has suffered several attacks carried out by terrorist groups, and from the perspective of the extremely weak capacity to coordinate, investigate and designate the terrorist list or terrorist group, which could have an impact on the risk of the crime of terrorism and its financing, according to NRA. In other words, the NRA concluded that the risk of TF is medium- high, derived from the identification of medium-high levels of threats and medium levels of vulnerability to TF.

222. Given the relatively few cases and the low number of confiscation orders, the results of confiscation cannot be judged to be consistent with ML/TF risk or with the supposed national policies and priorities of AML/CFT in STP.

Overall conclusion on IO.8

223. The consistency of STP's confiscation of proceeds and instrumentalities of crime, as well as assets of equivalent value, has been demonstrated to a limited extent and does not align with its risks, including in the areas of corruption, drug trafficking, fraud, and tax and financial fraud. STP does not pursue confiscation of criminal proceeds, instrumentalities and property of equivalent value as a policy objective.

224. The system for declaration of cross-border movement of currency and BNI has not been implemented due to competent authorities' general lack of skills and resources to identify, trace, freeze and confiscate proceeds. As a result, no currency or BNIs have been confiscated.

225. Fundamental improvements are needed to ultimately make crime unprofitable and reduce both predicate offences and ML.

226. **STP is rated as having a Low level of effectiveness for IO. 8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

4.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 9

a) The PGR and the JP are responsible for the investigation and prosecution of TF. Since the enactment of the TF Acts in 2013 and 2018, no TF-related STR, prosecution or conviction has been recorded. This lack of action is inconsistent with the country's risk profile.

b) Competent authorities, including the PGR, FIU and JP, have a very low understanding of the TF offence and risks. They also lack training, capacity and resources to identify, investigate and prosecute TF cases. In addition, there has been no TF-related financial intelligence generated by the FIU or other competent authorities to trigger any TF investigation.

c) Although competent authorities recognise that STP's proximity to countries in the Gulf of Guinea, which have suffered several terrorist attacks makes the country vulnerable to terrorism and its financing, they do not deem it important to implement CFT measures because of the absence of terrorism within the country. Consequently, no effort has been made by competent authorities to seek appropriate assistance from their foreign counterparts to detect potential cross-border TF cases.

d) There is no effective mechanism to identify, prioritise and initiate TF investigation and prosecution, regardless of the country's TF risk profile. This is attributable to the lack of financial intelligence related to TF and the expertise to conduct financial investigations.

e) STP has no CFT or counter-terrorism strategy, and the 2018-2020 National AML/CFT strategy lacked actions that are targeted towards enhancing effective TF investigation and prosecution.

f) In the absence of TF convictions, it is impossible to determine the extent to which sanctions or measures have been applied against natural and legal persons convicted of TF offences are effective, proportionate and dissuasive.

g) No alternative measures have been utilised to disrupt TF activities given the lack of opportunity presented by the absence of investigation and prosecution of TF offences.

Immediate Outcome 10

a) STP does not implement TF-TFS pursuant to UNSCR 1267 and UNSCR 1373 without delay. The obligation to freeze terrorist funds and other assets only arise after publication of the Sanctions List and periodic updates in the Official Gazette. However, STP has not published any such UN designations on the Official Gazette, nor disseminated the list to reporting entities as no mechanism has been put in place to do so. The country has not identified a competent authority or a court with responsibility for proposing persons or entities to the relevant UNSC Committee for designation.

b) Some commercial banks affiliated with foreign groups have a good understanding of TFS obligations, and primarily deploy individual screening tools to determine whether a potential or existing customer is a designated person or entity. Other FIs and DNFBPs demonstrated a low level of understanding of these obligations.

c) STP has not identified the subset of organisations falling within the FATF definition of NPOs and has thus not identified the vulnerability and nature of threats posed by terrorist entities to these NPOs. At present, NPOs are considered as a category of DNFBPs, which is not in line with FATF requirements. No risk-based or targeted approach to supervising NPOs at risk of TF has been implemented by the MOJ, which is responsible for oversight of the NPO sector.

d) STP is yet to deprive any terrorists, terrorist organisations, or financiers of assets and instrumentalities related to TF activity. No assets have either been identified or frozen pursuant to TFS or other processes during the period under review, which is inconsistent with the country's Medium High-risk profile. LEAs have a low level of capacity to trace, seize, and confiscate assets suspected to be linked to terrorists, terrorist organisations, or terrorist financiers through either criminal, civil, or administrative processes.

Immediate Outcome 11 (Financial penalties related to PF)

a) The country has neither a legal and institutional framework nor a mechanism for the effective implementation of proliferation-related TFS.

b) There is no properly defined mechanism for transmitting lists of designated persons to the reporting entities. STP does not implement TFS related to PF without delay.

c) The limited understanding of TFS as well as the lack of supervision by the BCSTP have an impact on the effective monitoring of PF-related TFS. Supervision of NBFIs and DNFBPs in this area is non-existent. No sanctions have been imposed in relation to TFS in the context of PF.

d) No assets of persons linked to UNSCRs relevant to the DCNR or Iran have been identified in STP and therefore no assets or funds linked to the PF have been frozen in the country.

e) Commercial banks, especially those belonging to international groups, have shown a reasonable understanding of their TFS obligations in relation to PF, and some have taken steps to fulfil their obligations in this regard. Non-bank FIs and DNFBPs showed little understanding and did not implement TFS on PF. No guidance was given to reporting institutions on the procedures for implementing TFS.

f) The authorities responsible for import and export control have limited knowledge and understanding of FP and the associated risks. Furthermore, collaboration between relevant services on FP issues is practically non-existent.

g) The authorities did not provide specific training or awareness-raising on the QP for subject organisations in order to strengthen their understanding of the implementation of QP-related SEMs and improve compliance.

Recommended Actions

Immediate Outcome 9 (FT Investigations and Prosecutions)

STP should:

a) Enhance the understanding of its TF risks amongst competent authorities and put in place effective measures to enhance the identification, investigation and prosecution of TF cases in line with the country's risk profile;

b) Enhance the technical, human and financial capacities of the PGR, JP and FIU, by providing them with adequate resources and specialised training on TF detection, investigation and prosecution;

c) Adopt a policy to require that financial investigations are carried out in every terrorism investigation and that TF investigations are pursued proactively;

d) Adopt a CFT strategy or update the National AML/CFT strategy to provide targeted actions towards enhancing effective identification, investigation, disruption and prosecution of TF activities;

e) Implement mechanisms for information exchange and, intelligence sharing between the PGR and JP and their counterparts in neighbouring countries affected by terrorism to enhance their capacity to detect, investigate and prosecute TF cases, as well as trace any potential links to actors or networks within or outside STP.

Immediate Outcome 10

STP should:

a) Implement TFS pursuant to UNSCRs 1267 and UNSCR 1373 without delay, by addressing the technical deficiencies in the legal framework (including identifying a competent authority or a court with responsibility for proposing persons or entities to the relevant UNSC Committee for designation) as a matter of priority and developing a comprehensive mechanism to ensure effective implementation.

b) Introduce effective communication mechanisms to ensure that all persons and reporting entities in particular, are promptly notified of new designations and updates.

c) Take a more proactive approach to TFS through the establishment of a standing committee or working group to improve national coordination to identify potential targets for designations.

d) Provide training to authorities and reporting entities based on updated Sanctions Guidelines. The training should detail the specific obligations outlined in the various pieces of legislation and other enforceable means that comprise the TFS framework.

e) Identify which subset of organisations fall within the FATF definition of NPO, and use all relevant sources of information, in order to identify the features and types of NPOs which by virtue of their activities or characteristics are likely to be at risk of TF abuse.

f) Based on the findings of the NPO risk Assessment, STP should develop a targeted risk-based framework to monitor NPOs at risk to TF abuse, while ensuring that the authorities do not unduly hinder legitimate civil society and their important humanitarian services in the country.

g) Provide adequate resources (financial, human and technical) to the MOJ to enable the authority to effectively perform its oversight responsibilities, including risk-based supervision and targeted outreach to NPOs at risk of TF abuse.

Immediate Outcome 11 (TFS related to PF)

a) STP must establish an appropriate legal, regulatory and institutional framework to ensure the effective implementation of TFS relating to PF.

b) Adopt efficient mechanisms to publicise the sanctions list and designate an authority to coordinate the dissemination of the list of designated persons and entities, create an official website to publish the sanctions lists and any updates in real time, and promptly send updates to all reporting entities to facilitate the freezing of funds and other assets of persons and entities involved in proliferation financing without delay.

c) Strengthen the institutional framework of supervisory authorities to enable them to include the implementation of PF-TFS in their supervisory activities and to apply proportionate and dissuasive sanctions for non-compliance with the implementation of SFE for PF. Supervisors should monitor and ensure that reporting entities are complying with the obligations related to the implementation of SFE for PF.

d) The FIU and MOJ should carry out awareness-raising and training activities for competent authorities and reporting entities, in particular NBFIs and DNFBPs, in order to deepen their understanding of their obligations to implement TFS under the FP.

e) Reporting entities should conduct regular ongoing monitoring of customers, as appropriate, to proactively identify sanctionable assets and provide adequate training to staff to ensure the proper and efficient identification of persons, entities and assets subject to TFS, as well as the processes to be followed when such persons, entities and assets are identified.

f) Competent authorities should provide guidance on the TFS relating to the PF to the reporting entities.

227. The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The Recommendations relevant for the assessment of effectiveness under this section are R. 1, 4, 5–8, 30, 31 and 39, and elements of R.2, 14, 15, 16, 32, 37, 38 and 40.

4.2. Immediate Outcome 9 (TF investigation and prosecution)

228. STP's legal framework to fight terrorism and TF is largely in line with Article 2 of the International Convention for the Suppression of the Financing of Terrorism (see R.5).

229. STP has not recorded any terrorist activity, and there are no known terrorists or terrorist groups operating within the country. The draft NRA report rated the overall TF risk of STP as "medium-high" This conclusion is due to the country's proximity to countries with active terrorist groups (such as Boko Haram and ISWAP), and its location

within the Gulf of Guinea. Notwithstanding this, competent authorities have demonstrated a very low understanding of the TF risks in the country and have made little or no efforts towards detecting potential TF cases.

230. The PGR and the JP are responsible for the investigation and prosecution of TF. However, these authorities lack the requisite capacity and resources to perform these functions. This impedes the country's efforts to mitigate its TF risks.

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

231. STP has had no TF prosecutions or convictions since the enactment of its TF laws in 2013 and 2018. The authorities ascribe this lack of action to the absence of terrorist attacks in the country. This perception is unjustified as TF need not necessarily be linked to the commission of terrorist acts.

232. The draft NRA report recognises the vulnerability that could be exploited for TF as the country's proximity to neighbouring countries with active terrorist groups and its location within the Gulf of Guinea. The terrorist actors most likely to benefit from this exploitation are Boko Haram and ISWAP (an Islamic State-affiliated offshoot) operating in Nigeria and not identified as terrorist groups in STP. STP assesses its TF risk to be medium- high. The country's TF risk understanding is discussed fully in IO.1.

233. The authorities consider STP's TF risks as stemming primarily from the country's proximity to countries in the Gulf of Guinea, which have suffered several terrorist attacks by Boko Haram, and weak capacity to coordinate, investigate, and designate terrorists or terrorist groups in practice. Despite the observation of these high-profile vulnerabilities that can be exploited for the TF, the authorities could not determine whether, or to what extent, such vulnerabilities are being exploited.

234. Furthermore, the PGR and the JP responsible for the prosecution of TF offences lack adequate human and financial resources to execute their mandates. There are three prosecutors assisted by two (2) technical staff within the PGR for the investigation of all criminal offences, including TF. On the other hand, the JP has a total of five (5) officers also responsible for the investigation of all criminal offences, including TF in the country. These officers are yet to be trained on TF investigations and prosecutions. The authorities share the AT's concerns regarding the insufficiency of staff and are taking measures to recruit additional staff.

235. Despite the medium-high TF risk rating in the draft NRA, the authorities do not consider it important to prioritise the implementation of CFT measures, including the investigation and prosecution of these activities, due to the absence of any known terrorist activity or terrorist group in the country.

236. Considering STPs TF risks, the general lack of understanding and resources of the authorities responsible for combatting TF, and in the absence of any TF investigation and prosecution, the AT concluded that the lack of TF prosecution and conviction is not consistent with the country's risk profile.

4.2.2. TF identification and investigation

237. The PGR and JP are responsible for the investigation of all crimes including terrorism and TF offences in STP.

238. The authorities alluded to a potential TF case identified by the JP and referred to the PGR for investigation. However, upon review, the PGR concluded that the case was related to piracy, without any link to TF. STP did not provide AT with additional information in support of this case. Apart from the above incident, STP has not pursued any activity with the view to investigating a TF case.

239. Overall, the authorities did not demonstrate the requisite skills and expertise, including the ability to rely on any expertise in conducting financial investigations to detect and investigate TF cases. They demonstrated a very low understanding of how the various TF activities could manifest. Additionally, the PGR and JP are focused on general criminal offences and do not prioritise TF investigations.

240. While TF investigations could be initiated on the basis of intelligence generated from analysis of STRs, the FIU which largely relies on STRs from reporting entities has not received any TF-related STR. Even though financial institutions, including the high-risk sectors, have been provided with some TF red flags and indicators to facilitate their identification and reporting of suspicious transactions, they demonstrated a very low level of understanding of their reporting obligations (see IO.4).

241. The FIU is yet to generate TF-related financial intelligence and disseminate to LEAs to trigger a TF investigation. For instance, while the FIU is empowered by law to access/receive information on suspicious cross-border transportation of currency and BNIs, access to or receipt of such information is yet to take place. This lack of action is partly attributable to the weak/lack of implementation of STP's system for cross-border declaration of currency and BNIs (see IO.8). Consequently, the FIU is yet to generate and disseminate a TF-related financial intelligence based on cross-border declaration of currency and BNI.

242. STP considers the high level of poverty, low levels of education, low cross-border control and the emergence of different religious beliefs as factors that may render its population vulnerable to terrorism and TF through radicalisation (sec.1.4.8, draft NRA Report). Nevertheless, the authorities have not demonstrated any measures or efforts made to enable them identify TF cases.

243. STP's risk and context should propel the competent authorities to utilise effective intelligence-gathering and information-sharing mechanisms with its neighbouring countries that have experienced terrorist attacks to identify potential TF cases. However, there is no evidence that STP sought assistance from, entered into agreements, arrangements or programmes with its neighbouring countries to improve its capability to detect and investigate TF. While the draft NRA indicates that STP receives an average of six (06) to seven (07) international cooperation requests from foreign competent authorities on TF matters annually, the authorities did not provide any information to corroborate the finding of the NRA, including any follow-up given to these requests. It is also noted that none of the requests formed the basis for investigation of TF by the authorities. STP did not assign any reasons regarding why no TF investigations were initiated. This confirms the low level of importance accorded to TF matters by the authorities.

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

244. STP does not have a national counter-terrorism strategy. In 2018, STP enacted a Maritime Safety Strategy Act with the aim to combat transnational organised crime. However, the extent to which the strategy aligns with the investigation of TF is not clear. In addition, the 2018-2020 National AML/CFT Strategy 0 does not contain any targeted action(s) geared towards countering terrorism or TF. Against this background, and in the absence of an investigation of a TF case, it is not possible to determine the extent to which the investigation of TF is integrated with, and used to support, national counter-terrorism strategies and investigations.

4.2.4. Effectiveness, proportionality and dissuasiveness of sanctions

245. STP's TF Laws provide adequate sanctions against natural and legal persons convicted of TF (see c. 5.6 &5.7). However, without any TF conviction, it is impossible to determine if the criminal sanctions applied are proportionate and dissuasive.

4.2.5. Alternative measures used where TF conviction is not possible (e.g. disruption)

246. STP has measures in place to seize, freeze and confiscate terrorist assets and instrumentalities if there are reasonable grounds to believe that the assets and instrumentalities are related to the commission of a TF offence. However, the country is yet to identify, investigate or prosecute any TF case. It is, therefore, impossible to determine the extent to which the country utilises alternative criminal, regulatory or other measures to disrupt TF activities where it is not practicable to secure a TF conviction.

Overall conclusions on IO.9

247. STP has a very low understanding of its TF risks and the various ways in which TF can manifest. The country is yet to identify, investigate, prosecute, obtain a conviction, apply sanctions in relation to a TF case; or apply alternative criminal, regulatory or other measures to disrupt TF activities where it is not practicable to secure a TF conviction. Additionally, STP lacks the capacity and resources to effectively mitigate its TF risks. STP requires fundamental improvements to successfully investigate activities, prosecute offenders and apply effective, proportionate and dissuasive sanction to those convicted.

248. **STP is rated as having a low level of effectiveness for I.O.9**

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

249. Implementation of TFS related to TF against persons and entities designated by the United Nations Security Council and under STP's applicable regime, including the understanding of TF risks and appropriate measures to mitigate those risks, as well as measures to prevent the raising of funds through NPOs or other methods which are at greater risk of being misused by terrorist was demonstrated to a limited extent. STP has gaps in its legal framework to implement TF-related TFS.

250. The AT's conclusion is based on a review of the legal framework in place, and discussions with the relevant authorities (MOJ, the FIU, BCSTP, DNFBPs supervisors) and reporting entities.

4.3.1. Implementation of targeted financial sanctions for TF without delay

251. There are major shortcomings in STP's framework for TFS related to TF with STP not implementing TF-TFS without delay (see Rec 6, especially 6.4).

Implementation of UNSCR 1267

252. The PGR is the competent authority responsible for ensuring the implementation of TFS related to TF including the proposal of persons or entities to the 1267/1989 and 1988 Committees for designation. STP is yet to propose any target to the relevant UN Sanctions Committee for designation. This is inconsistent with the risk profile of STP, considering the country's proximity to countries affected by terrorist attacks.

253. The CFT Act requires publication of the List of designated persons and its subsequent periodic updates in an Official Gazette before it can take effect (See Rec 6.4). While this procedure does not guarantee implementation of TFS without delay, STP is yet to publish the UN Sanctions List in the Official Gazette and disseminate the same to reporting entities for action. The country lacks clear procedures for communicating the UN Sanctions Lists to all natural and legal persons, including, reporting entities, resident in the country for action.

254. The mechanism for communicating the Sanctions Lists to reporting entities established by law is via e-mail, fax, post, in person, or by telephone and in the latter case must be subsequently confirmed in writing. This is expected to be done as soon as possible. Notwithstanding these avenues, STP did not communicate any UN designations to the financial sector, DNFBPs and other natural and legal persons within the country during the review period. The lack of communication of the Sanctions Lists impedes public awareness of the restrictions in place and implementation of the required actions. The authorities, including the PGR, are yet to issue detailed guidelines or guidance, or sensitise reporting entities to facilitate implementation of TF-TFS obligations. Consequently, reporting entities, except commercial banks affiliated to foreign groups, failed to demonstrate that they in fact access the Lists and implement TFS related to TF.

255. Commercial banks affiliated to international groups independently check the UN Sanctions Lists with company tools for screening transactions, verify the existence of accounts related to designees in their databases as part of their group wide policies. Other FIs and DNFBPs, tend to have lower and very limited or no knowledge on the subject, and do not apply these measures due to the lack of supervisory action (see IO 3 and IO 4).

256. Overall, considering that STP can publish its laws in the official Gazette and did not identify challenges to its ability to communicate through the other mechanisms identified by the CFT Act, the AT attributed this lack of action to the level of attention paid to terrorism and related TF by the authorities.

Implementation of UNSCR 1373

257. STP does not have a clear and comprehensive process for implementing TFS pursuant to UNSCR 1373 (and its successor resolutions) without delay. The country has neither proposed persons or entities for designation by a third country nor drawn up a national list based on UNSCR 1373. STP's legal framework does not empower the country to make such requests. There are no clear procedures in place for making domestic designations, and no coordination and cooperation mechanisms exist to enable authorities identify targets for designation. Moreover, the authorities demonstrated a lack of understanding of these obligations.

258. STP has not received any foreign requests to include a targeted person on its national list. Consequently, no measures have been taken to examine and, if appropriate, give effect to actions initiated under the freezing mechanisms of other countries. Notwithstanding the lack of request, the gaps in STP's compliance with R.6 will hinder the country's efforts to decide on designation requests from third countries.

4.3.2. Targeted approach, outreach and oversight of at-risk non-profit organisations

259. The legal framework for establishing and operating NPOs in STP is governed by Law No 8/2012. Only NPOs with effective and relevant activity that have been in existence for at least two years and have a minimum number of ten members must apply to the DRN for registration (Article 9(2), Law No 8/2012). To register as an NPO, the applicant must submit its constitution and planned activities, including the source of funds, to the MOJ through the DRN. The law empowers the Ministry of Justice with an oversight responsibility; however, this is not being carried out in practice as the structures to execute that responsibility has not been established. The Ministry could not provide statistics on the number of NPOs registered and operating in the country.

260. FONG is a voluntary association with membership of about 97 NPOs. It serves as an umbrella body which operates as an informal forum of NPOs through which the interest of its members is pursued. FONG's activities are mostly domestic and external fundings are mostly received from the European Union and Portugal. FONG has not carried out any targeted outreach or awareness raising programme for the NPO sector.

261. STP has not assessed the TF risks of NPOs and has not identified the sub-set of NPOs at risk of TF abuse. The country has also not identified the features and characteristics of NPOs that makes them vulnerable to TF abuse. STP is not implementing a targeted risk-based supervision or monitoring of NPOs.

262. The STP authorities, including the FIU and PGR, are not aware of the TF vulnerabilities of the sector and have not engaged and/or conducted targeted outreach to sensitize the sector on their TF risks. Although the FIU issued a flyer to NPOs to sensitise NPOs on their obligations, the flyer considered the NPOs as DNFBPs and directed them to implement AML/CFT obligations as required of DNFBPs. This action is at variance with the requirements of the FATF Standards regarding NPOs. Accordingly, no comprehensive guidance has been issued to enhance the application of mitigating measures. Generally, NPOs have a poor understanding of their TF risks, thus increasing their vulnerability to TF abuse.

263. STP has a very low effective investigative, information gathering and international cooperation mechanisms on NPOs. Since no CFT supervisory activity was carried out by the Ministry of Justice, no sanction has been imposed for any form of violation. Overall, STP has not applied any focused and proportionate measures to prevent NPOs from being abused for TF.

4.3.3. Deprivation of TF assets and instrumentalities

264. STP's legal framework allows for the confiscation of assets and instrumentalities of terrorists, terrorist organisations, and terrorist financiers. However, STP has not identified and frozen any assets or instrumentalities related to TF activities which is inconsistent with the country's Medium-High TF risk profile.

265. Law enforcement authorities have a low level of capacity and resources to trace, seize and confiscate assets suspected to be linked to terrorists, terrorist organisations, or terrorist financiers through criminal, civil or administrative processes. Additionally, STP does not have measures to identify assets directly or indirectly owned or controlled by UN or domestically designated persons and entities, including in relation to those covered by successor resolutions, which could impede efforts to deprive property of an extended range of designated persons and entities.

266. As discussed under IO.9, STP has not investigated and prosecuted any TF case. The country has no conviction of TF activity and has not applied any alternative measures. As such, there have not been any TF-related confiscations in STP.

4.3.4. Consistency of measures with overall TF risk profile

267. STP's measures on TFS and NPOs are inconsistent with the TF risk profile of the country. Though the draft NRA rates the overall TF risk in STP as Medium- High, the country is not implementing TFS pursuant to UNSCRs 1267 and 1373 (and their successor resolutions) without delay. There is a lack of supervision and guidance by the relevant authorities. The poor understanding of the NPO sector regarding their CFT obligations, the lack of training and sensitisation, the lack of a regulatory oversight of the sector, the absence of a sectorial risk assessment to identify the type of NPOs most vulnerable to TF and the application of targeted and proportionate measures on NPOs using a risk-based approach constitute a major deficiency in the country's CFT regime. Additionally, STP has not taken measures to ensure the deprivation of assets and instrumentalities related to TF activities.

Overall conclusions on IO.10

268. STP does not implement TFS TF without delay as designations must be published in a public Gazette to take effect. Only banks affiliated to international groups have some mechanisms to screen transactions against the various Sanctions Lists. Other FIs and DNFBPs have very limited or no knowledge of their TFS TF obligations and therefore do not apply these measures.

269. The country has not assessed the vulnerabilities of the NPOs sector in order to identify the categories of the sector exposed to TF risks and determine the nature and scope of action to mitigate the risks. The PGR, which has oversight responsibility has not undertaken any action towards implementing a targeted risk-based supervision or monitoring of NPOs vulnerable to TF abuse.

270. Additionally, STP did not demonstrate its ability to deprive terrorists, terrorist financiers and terrorist organisations of assets and instrumentalities related to TF activities. Overall, the steps taken are not consistent with STP's risk profile as a country located near countries which have suffered several terrorist attacks.

271. Fundamental improvements are needed to ensure that terrorists, terrorist organisations and terrorist support networks are identified and deprived of the resources and means to finance or support terrorist activities and organisations, including the proper implementation of TFS against persons and entities designated by the UN Security council and under applicable regional or STP's sanctions regimes.

272. Fundamental improvements are also needed regarding STP's understanding of TF risks and the appropriate measures the country needs to take to mitigate those risks, including measures that prevent the raising and moving of funds through entities or methods which are at greatest risk of being misused by terrorist, and ultimately reduce TF flows which would prevent terrorist acts.

273. **STP is rated as having a Low level of effectiveness for IO.10.**

4.4. Immediate Outcome 11 (PF financial sanctions)

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

274. STP does not have a legal or regulatory framework for the implementation of specific proliferation-related financial sanctions.

275. The country's authorities have stated that STP has no commercial or diplomatic relations with Iran or North Korea and therefore there are no North Korean or Iranian embassies in STP and vice versa.

276. STP does not produce dual-use goods and the import and export control authorities have stated that they have no trade relations with North Korea and Iran. However, open-source information indicates that over the past six years, the export of North Korea to STP had decreased at an annualised rate of 23% from three hundred and ninety-four thousand United States dollars (US$ 394,000) to eighty-two thousand US dollars (US$82,000), mainly electric motor parts.

277. Corollary to the absence of a legal framework for the implementation of PF-TFS, reporting entities do not have a legal basis for freezing specific funds. STP has not taken any steps to publicise the UN Sanctions List of designated persons and entities to reporting entities, either through the Official Gazette or the website of a competent authority, nor designated an authority for coordinating the dissemination of the List.

278. Although some banks (especially large banks belonging to international groups) have some IT tools for monitoring/screening sanctions that allow them to assess customers, in contrast to other FIs and DNFBPs that do not have any tools for this purpose, in practice the banks have never implemented their PF-TFS obligations.

279. There are no guidance documents to help competent authorities and Reporting entities understand the obligation to implement TFS in relation to proliferation financing. As no guidance has been provided in relation to PF-related TFS, the level of awareness of combating PF in the various sectors (except for some banks) is generally very

low and therefore, in general, the implementation of PF-TFS, in accordance with resolutions 1718 and 2231, is not being implemented.

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

280. The authorities and reporting entities in STP did not report identifying funds or other assets belonging to designated persons or entities or those acting on their behalf or preventing the execution of any PF-related TFS. However, large banks belonging to international groups are generally aware of the need to have measures in place to freeze any assets without delay as part of the implementation of TFS relating to the PF, but since they do not have a legal basis to freeze specific funds, they have not made efforts to identify any funds or other assets belonging to designated persons and entities for freezing in accordance with the relevant UNSC resolutions on the PF.

281. Coordination among competent authorities concerning PF is non-existent, even though the AML/CFT Act provides for such arrangement. STP attributes this lack of activity to the absence of PF-related activity or sanctioned shipments.

4.4.3. FIs, DNFBPs and VASPs' understanding of and compliance with obligations

282. Banks belonging to international groups demonstrated a reasonable understanding of PF-TFS and have some mechanisms and tools that could enable them to implement this obligation. The other reporting entities demonstrated little understanding and awareness of PF-related TFS and have not taken any steps to implement PF-TFS measures. Indeed, some reporting entities consider PF as a new and rather complex area and recognise the need to strengthen their knowledge and understanding in this area.

4.4.4. Competent authorities ensuring and monitoring compliance

283. STP is yet to adopt a legal framework to implement PF-related TFS, including designating supervisory authorities with the responsibility to monitor the implementation of PF-TFS by reporting entities. As a result, PF-related TFS is not part of the authorities' supervisory agenda, and no monitoring of reporting entities for compliance with PF-TFS has occurred.

284. In the absence of any monitoring activity implemented, the AT could not determine how well the relevant competent authorities monitor and ensure compliance by FIs and DNFBPs with their obligations regarding PF-TFS. VASPs do not exist in STP.

285. Although the AML/CFT Act require competent authorities to cooperate, and when necessary, coordinate within the Multi-sectoral Committee, at the operational and policy level for the development and implementation of strategies and activities, based on identified risks, aimed at preventing PF, this provision has not been explored, including in relation to the monitoring of entities for compliance with PF requirements.

286. STP lacks human, technical and technological resources and adequately trained officials across the relevant AML/CFT supervisory authorities, including BCSTP, to conduct monitoring for compliance with PF-TFS obligations. The draft NRA report rated the BCSTP's supervisory procedures and practices as low, and its compliance organisation as Medium Low.

287. To achieve an appreciable level of implementation of PF-related TFS, STP needs to put in place the necessary legal and institutional frameworks, and ensure that supervisors instruct FIs and DNFBPs to include scenarios related to persons suspected of involvement in PF for the purpose of transaction monitoring; sensitise reporting entities on the PF-TFS obligations; require reporting entities to have processes, procedures and internal controls, and training to implement the provisions of the TFS legislation; and adopt procedures to monitor and asset freeze orders from UN designations

Overall conclusion on IO.11

288. STP is not implementing PF-related TFS, due to the lack of legal framework for the effective implementation of TFS on proliferation financing. Obligations related to proliferation financing appear to be a new and rather complex area for the entities, as well as for the supervisory authorities, so the understanding of these requirements is very limited in some entities and non-existent among others.

289. Some reporting entities (especially banks belonging to international groups), on their own initiative, have implemented internal technological mechanisms to enable the screening of sanctions lists with the aim of identifying designated persons. However, assessors could not determine the adequacy and effectiveness of measures taken by the banks.

290. Fundamental improvements are needed to ensure that persons and entities designated pursuant to the UNSCRs on proliferation of WMD are identified, deprived of resources, and prevented from raising, moving, and using funds or other assets for the financing of proliferation.

291. Fundamental improvements are also needed to ensure that TFS are fully and properly implemented without delay, monitored for compliance and there is adequate cooperation and coordination between relevant competent authorities to prevent sanctions from being evaded, and to develop and implement policies and activities to combat PF.

292. **STP achieved a Low level of effectiveness for Immediate Outcome 11.**

CHAPTER 5. PREVENTIVE MEASURES

5.1. Key Findings and Recommended Actions

Key Findings

a) The legal and regulatory framework for preventive measures has some gaps, as it does not yet reflect all the requirements of R. 10 to 23 , which can impede the level of effectiveness of the system.

b) Banks demonstrated a low level of understanding of their AML/CFT obligations, and they have not yet carried out an assessment of their ML/TF risks, which is an essential tool for understanding these risks and defining appropriate policies and procedures for mitigating the risk factors to which they are exposed.

c) In general, banks understand their CDD and record-keeping obligations, and have appointed compliance officers to ensure compliance with AML/CFT requirements.

d) Most DNFBPs have a very low and, in some cases, non-existent level of understanding and knowledge of ML and TF risks. Understanding of AML/CFT obligations and how they apply specifically to each sector for DNFBPs, including lawyers, accountants and auditors, is very limited or non-existent. DNFBPs, including casinos, lawyers and accountants, do not apply or apply very limited identification and due diligence and record-keeping measures. Therefore, DNFBPs are not applying any risk mitigation measures.

e) Although FIs show reasonable knowledge of the need to apply enhanced measures to high-risk customers, namely PEPs, they demonstrated some lack of awareness of the issues related to due diligence for customers classified as low risk, since on the one hand the NRA results did not take into account the identification of activities or areas that deserve less attention by the entities subject to it, nor do the institutions have an internal "white list" that implies the application of simplified measures due to the high rates of financial exclusion in STP.

f) DNFBPs are not aware of situations that require them to apply enhanced or simplified identification and due diligence measures.

g) While FIs recognise the need to apply TFS, they did not demonstrate full compliance with TFS obligations. DNFBPs are not aware of the obligations relating to TF-TFS, and therefore have no procedures in place to identify persons and entities designated under the relevant UNSCRs, as well as the high-risk countries identified by the FATF. Of the FIs, only the banks have submitted STRs. The DNFBP sector has not submitted any STR, as they are not aware of their reporting obligations or risk indicators.

h) The supervisors of the FIs and DNFBPs did not promote any action or communication to alert obliged entities to be aware of and take into account high-risk countries/jurisdictions in their internal processes.

Recommended Actions

STP should:

a. Review its AML/CFT Act to introduce the legal measures needed to overcome the gaps identified in relation to Recommendation 10-23 and consider the need to issue regulations to the obliged sectors to instruct the entities on how to apply such measures.

b. Improve understanding of ML/TF risks, with a particular focus on high and medium risk sectors (banks, forex dealers, MVTS, mobile money service providers, lawyers, accountants and auditors, and casinos), by ensuring that sectoral supervisors and the FIU conduct sectoral ML/TF risk assessments that go beyond the generalities of the NRA, as well as regular ad hoc briefings on new and emerging risks.

c. Improve understanding of AML/CFT obligations, including those laid down in the AML/CFT Acts, and their application, ensuring that sectoral supervisors and the FIU provide sector-specific guidance and carry out training/awareness-raising activities, such as seminars, guidance, training, etc., especially on the risk classification of customers and on the risk-based approach, with a particular focus on high and moderate risk sectors.

d. Strengthen the application of CDD/SDD/EDD measures by providing guidance and carrying out specific inspections on: i) the verification of the identity of customers, foreign customers and legal persons; ii) the identification of beneficial owners of legal persons beyond the holding of shares and the verification of their identity, notably by clarifying that national registers cannot be the sole source of information for verifying information on beneficial owners; iii) the correct implementation of simplified measures for financial inclusion, given the high rate of financial exclusion in the country; and iv) the identification of national and foreign PEPs, including drawing attention to the need to identify family members and close associates and raising awareness of the limitation of commercial databases in some context.

e. Promote DNFBPs' and enhance FI's ability to identify and understand risk indicators to enable them to detect and report suspicious transactions by providing on-going training for DNFBPs on ML/TF risks and why, when and how to submit STRs.

f. Provide guidance and specific training to ensure that the TFS obligations related to the TF contained in the UNSCRs are well understood by all FIs/DNFBPs and that they have procedures in place to ensure the identification, freezing and prompt reporting of funds associated with designated persons/entities and that funds are not made available directly or indirectly to any designated person/entity.

g. Reinforce thematic inspections and face-to-face monitoring to ensure that the duties/obligations are being implemented by FIs and DNFBPs.

h. Supervisors should promote and require FIs to have automatic transaction filtering and customer screening tools, including verification/association with high-risk countries.

i. Ensure that obliged entities are provided with adequate and sufficient training on all obligations in accordance with the AML/CFT Acts. The training must cover all units of the organisation's structure, from top management to sales staff and others.

293. The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23, and elements of R.1, 6, 15 and 29.

5.2. Immediate Outcome 4 (Preventive Measures)

294. Since 2013, STP has had a legal framework (legal and regulatory) with the main requirements for preventing and combating ML/TF, the main legal instruments being AML/CFT Act - AML/CFT Act and Act 3/2018 - Law on Terrorism and its Financing. However, there are some gaps, especially with regard to some of the requirements of FATF recommendations 10 to 23, which could have a negative impact on the effectiveness of the AML/CFT system. In addition, structural issues in the country, such as the high level of informality in the economy, the high intensity of cash transactions - especially in higher risk sectors such as real estate - to the detriment of electronic means of payment due to the low level of financial inclusion, constitute challenges and vulnerabilities that criminals can exploit.

295. On the basis of materiality and risk in the context of STP, the assessors considered the application of the preventive measures more strongly for the banking sector, forex dealers, MVTS and lawyers; moderately for real estate agents, casinos, MFIs and accountants and auditors; and less strongly for all other FIs (insurance sector), notaries and DPMS, given their low materiality and the level of perceived risk. DPMS, the securities sector and VASPs are not covered by the following analysis. DPMS did not meet with the AT. STP considers the ML/TF risk of DPMS as "Low" due to the absence of a market for the production and sale of precious metals and stones. However, STP does not represent an attractive market to be exploited for trading in these items associated with ML/TF offences, it also highlights the lack of knowledge of AML/CFT and supervision of the sector due to various factors, including the vulnerability of poor coordination with other institutions and cash transactions in the sector (see section 3.1.7.7, draft NRA Report). Consequently, no information on their level of compliance with preventive measures was shared with the AT. No VASP has been licensed in STP. In addition, no virtual assets activities have been recorded in the country, nor risk assessment of activities linked to virtual assets has been conducted by STP. Regarding the securities sector, there is no capital market in STP.

296. The weighting was based on the relative importance, risks and level of supervision in the sectors (for more details, see Chapter 1).

297. The AT based its conclusions on information and statistics on regulations, policies, procedures, and other data made available, narratives and meetings with representatives of the private sector (employees of commercial banks, insurance companies, microfinance institutions, payment and electronic money institutions, forex dealers, casinos, real estate agents), self-regulatory bodies for the independent professions - lawyers, accountants and auditors - represented by OTOCA and OA.

5.2.1. Understanding of ML/TF risks and AML/CFT obligations

Financial institutions

298. Understanding of ML/TF risks and AML/CFT obligations varies among the various sectors (banking and non-banking). Commercial banks have a higher level of understanding of risk in terms of ML than NBFIs.

299. **Banks** - Among the four banks that make up the national banking sector, the level of knowledge is not uniform. The banks were part of the working groups that conducted the analyses and produced the conclusions of the NRA.

300. Although all the banks are part of/connected to international financial groups, the majority did not provide information showing that they are subject to the group's rules and that they have been subject to risk assessments and controls by their parent companies to prevent and combat ML/TF. Only one bank has shown that it has an internal risk classification of its customers. In addition, knowledge of TF risks is more limited when compared to ML risks. The AT believes that the preventive measures, especially internal controls could be strengthened considering that the majority of the banks are affiliated to international banks and have foreign shareholders.

301. **Forex dealers and MVTS** are involved in buying and selling foreign currencies, transferring funds and issuing and redeeming electronic money - have shown that they have some knowledge of the risks and their obligations in terms of AML/CFT. Their knowledge of the risks comes not only from their activity, but also from their participation in the NRA process and where they had the opportunity to answer the questionnaire applied to the sector. However, given their recent entry into the financial market and their lack of experience in the sector, the payment and electronic money institution are yet to conduct internal risk assessment that would allow them to deepen their knowledge of the ML/TF risks to which their products and services are exposed, and they are unaware of the content and final results of the NRA exercise. They have not carried out any internal risk assessment that would allow them to increase their level of understanding of ML/TF risks.

302. **Microfinance Institutions (MFIs)** – MFIs have a low level of understanding of ML/TF risks. MFIs did not participate in the NRA process, which would have been an opportunity to increase their level of knowledge of the subject and the risks to which they are exposed. MFIs demonstrated a lack of awareness and implementation of their AML/CFT obligations, including the application of CDD/EDD/SDD measures, classification of customer risks, record keeping measures and the filing of STRs. Furthermore, MFIs lack compliance functions and have not submitted any STR to the FIU. The sector has not benefitted from the communications/guidelines from the BCSTP on ML/TF matters. They have not yet received the UN Sanctions List and related guidance on TF-TFS to enable them to implement the required measures.

303. **Insurance companies-** Insurance companies demonstrated a low level of understanding of risks demonstrated. Insurers have not assessed the ML/TF risks of their customers and products. Within the scope of CDD, the insurers provide their customers with a form to complete when subscribing to their products. In carrying out their insurance business, the two entities asserted that they use insurance intermediaries to attract customers, but there is no evidence of compliance procedures and programmes that include intermediaries. No enhanced or simplified due diligence measures are applied depending on the level of risk.

304. Regarding the general understanding of AML/CFT obligations, knowledge is not all-encompassing, and not all FIs demonstrated an overall understanding and full implementation of the main obligations, especially regarding CDD, examination duties and the identification of the beneficial owner. On due diligence for customers classified as low risk, the FIs demonstrated some lack of knowledge, since the NRA results did not consider the identification of activities or areas that deserve less attention by the entities subject to it and that leads to the application of simplified measures considering the high rates of financial exclusion in STP. Also, the lack of AML/CFT supervision of NBFIs have contributed to a lack of understanding of the obligations on the part of the supervised entities.

Designated non-financial businesses and professions

305. **Lawyers** - have a general understanding of the ML/TF risk environment, albeit insufficient, but have not recognised the scale of the risks they face or understood their fundamental role as gatekeepers. The sector is not aware of the NRA results. Their understanding of the risks and their obligations is largely insufficient, given the type

of activity they carry out, particularly regarding high-risk sectors such as the creation and management of legal persons, the sale/purchase of property and their activities with foreign customers.

306. **Casinos** - the exclusive gaming operator in STP - demonstrated a very superficial to non-existent understanding of its ML/TF risks and is not aware of the NRA results. The casino considers its commercial activity to be of low risk in terms of ML/TF due to the low volume of business it carries out but has not demonstrated that it is aware of its vulnerabilities.

307. **Notaries -** have a limited level of understanding of ML/TF risks and AML/CFT obligations, and no knowledge of the results of the NRA. Notaries in STP are civil servants, and there are no plans to extend to private individuals to undertake notary activities.

308. **Accountants** have a low understanding of ML/TF risks in relation to their services and their AML/CFT obligations.

5.2.2. Application of risk mitigating measures

309. The application of risk mitigation measures varies significantly between FIs and DNFBPs, depending on their understanding of the risks and their resources. As far as the more weighted sectors are concerned, although banks have demonstrated a reasonable understanding of ML/TF risks, not all have yet categorised their customers based on risk, which leads to shortcomings in terms of the design of mitigation measures associated with each risk level.

310. MVTS and forex dealers do not yet have any formalised methodologies and techniques for classifying customer risks, so risk mitigation measures are applied in a fairly intuitive and limited way. The mitigation measures adopted by lawyers are practically non-existent and do not focus on ML/TF risks and are not applied based on ML/TF considerations, but rather target other types of risk, such as reputational risks. For moderately weighted sectors, real estate agents, accountants/auditors and casinos do not apply any risk-based measures. Less weighted sectors have no AML/CFT policies and do not apply risk-based mitigation measures, except for a few MFIs that have some limited policies in place. When it comes to mitigating FT risks, DNFBPs do not use any sanctions screening tool and do not know the indicators of TF risks to inform the application of mitigation measures.

Financial institutions

311. The application of mitigation/mitigation measures are inconsistent with the risks identified in assessment processes, namely the NRA sectoral assessments - if any - and internal assessments carried out by institutions (financial and non-financial). Although the AML/CFT Act does not contain an explicit risk assessment obligation for reporting entities, the AT believes that this requirement is implicit in Article 11 of the AML/CFT Act, which requires FIs to apply enhanced risk-based CDD measures, which include processes for identifying, assessing, monitoring, managing and mitigating ML/TF risks. These measures must be drawn up and applied based on the risks identified in order to have the desired effect of mitigating/reducing the risk of FIs being used for ML/TF.

312. STP is yet to adopt and communicate the results of the NRA to all stakeholders to form the basis for implementation of mitigation measures for ML/TF. Furthermore, the FIs do not have guidelines (guidance, trends and typologies) that helps them to deepen their understanding and act on the risks. Only one commercial bank risk profiled its customers. Generally, banks lack a global assessment (such as the duty to know their employees) of all ML/TF risk factors. Furthermore, FIs have not assessed their ML/TF risks as BCSTP has not issued guidelines to assist FIs to comply with the requirement and subsequent supervision by the BCSTP. BCSTP intends to issue guidelines after it has finalised its analysis of the internal control systems of FIs.

313. The AT was able to see that all the banks have a unit responsible for compliance. However, in some cases, given the nature of their functions, which require handling a large amount of data and the sensitivity of the subject, they mention a lack of human resources, insufficient training in the subject, as well as a lack of instruments and working tools to improve the operational efficiency of their activities.

314. The BCSTP has carried out on-site inspections and identified situations that require the introduction of measures to remedy deficiencies in the examination duty.

Designated non-financial businesses and professions

315. DNFBPs do not apply any mitigating measures and, those interviewed did not understand the relevance of such measures to their businesses.

5.2.3. Application of CDD and record-keeping requirements

Financial institutions

316. The AML/CFT Act requires FIs to identify and verify the client and the beneficial owner. In addition, the BCSTP, using the Law and NAP 10/2015 of 13 April - Standard on the identification and classification of customers of FIs - "Know your Customer", verifies, through on-site inspections, whether this duty/obligation is being fulfilled.

317. **Banks** - Based on the inspections carried out at commercial banks, the BCSTP has verified that customer surveillance measures are in place. However, the results of some on-site inspections have shown that the information in some customer files is out of date, even though Article 10(9) of AML/CFT Act stipulates that FIs must keep the information, documents and data collected as part of customer due diligence up to date. In these cases, banks claim that, given the low level of financial literacy of their customers, they are uncooperative, creating difficulties in the process. In order to be more successful in this process, they force customers to subscribe to a product or service. There is the same difficulty in obtaining information about the beneficial owner. Partial non-compliance with the duty to identify and verify the identity of customers and beneficial owners has been grounds for the BCSTP to initiate administrative offence proceedings. In this regard, it was found that the banks have not implemented the necessary controls, for example document expiry alerts, periodic customer consultation programmes, to ensure that the documents, data or information collected are up to date.

318. Some banks have reported refusals to establish business relationships because they were not provided with information on beneficial owners. The lack of a registry for beneficial owners and the failure to update this information could have an adverse impact on the process of determining the risk profile of customers and consequently on the adoption of measures proportionate to the risk, such as defining criteria for onboarding customers. Also, in the process of verifying identity, in the case of foreign customers, some banks, in their "Know Your Customer" (CDD/KYC) process, use comprehensive due diligence tools/programmes to identify the data of their customers and related parties.

319. In relation to verification, banks do not regularly use independent and secure sources of information at the national level to certify identification documents such as identity cards.

320. **NBFIs** - such as microfinance institutions and insurance companies - do not use independent and reliable sources of information to verify the identity of their customers.

321. With regard to record-keeping obligation - Payments and foreign exchange institutions are authorised by the National Data Protection Commission to collect their customers' information during the CDD process. They certify the information, store the customer data in the computerised support system used, but do not keep any copies of the

documents presented to them. Furthermore, there is no guarantee that they comply with the legal time limits for storing information and transactions, since they have shown some ignorance of the legal time limits for storing them.

Designated non-financial businesses and professions

322. The application of CDD measures is very limited amongst DNFBPs, with lawyers basing their conduct on ethical and reputational criteria, linked to compliance with the rules set out in their professional statutes. The same is true for accountants. The application of CDD measures among other DNFBPs is practically non-existent.

5.2.4. Application of EDD measures

323. Amongst FIs, banks demonstrated a reasonable understanding of the timing for the application of EDD measures, but require more guidance to implement these requirements effectively, particularly in more complex situations. FIs, including banks, do not mitigate known risks adequately, including in relation to PEPs, new technologies, high-risk jurisdictions, correspondent banking, wire transfers and TFS, given that the risk-based approach is not yet well established. The application of EDD by DNFBPs is non-existent due to poor understanding of ML/TF risks and AML/CFT obligation and the inadequacy or lack of appropriate mitigation measures and monitoring systems.

Financial institutions

a) Politically Exposed Persons

Financial institutions

324. The collection of information in order to determine whether a customer or beneficial owner is in fact a PEP – foreign, domestic or international organisation - is not consistent for all FIs. Banks implement EDD measures related to PEPs, albeit with some difficulties. The BCSTP has issued guidelines on PEPs to banks (NAP 10/2015) to assist the banks to implement EDD measures for PEPs. In addition, some banks have internal manuals that also contain the rules on the PEP authorisation process and the monitoring of transactions carried out by customers who fall within this category. On the other hand, NBFIs did not demonstrate effective application of EDD measures for PEPs.

325. Although banks have a form for collecting information on PEPs, customers are reluctant to complete the form and provide all the required information in a timely manner. This means that the banks do not have an up-to-date list of PEPs, as can be seen in some of the situations identified in the inspections conducted by the BCSTP. Furthermore, STP believes that "once a PEP, always a PEP", as there is no set period after which, once they no longer meet the requirements to be classified as a PEP, the FIs can proceed to deselect them. The AT does not consider this a shortcoming, due to the level of (informal) influence that the individual could exercise, the seniority of the position that the individual held as a PEP or the link between the individual's previous and current function. However, STP has no measures in place to ensure that the handling of a customer who is no longer entrusted with a prominent public function is based on an assessment of risk. There are no guarantees that senior management approvals are granted prior to all business relationships with PEPs as required by Article 12(2)(a) of the AML/CFT Act. This indicates a lack of robust risk-mitigation framework which is in line with the shortcomings identified in R.12. In general, with regard to PEPs, there is a need to strengthen banks' compliance with requirements for EDD measures. In the case of foreign PEPs, although a commercial bank reported that is uses a software that allows it to search and identify foreign PEPs, the bank failed to demonstrate its implementation of EDD measures in its business relationship with foreign PEPs.

326. Although FIs, particularly banks, demonstrated awareness of the risks linked to PEPs, their family members and close associates, it is not clear that the mitigation measures are proportionate to the risks, given that the risk-based approach is not yet well established.

DNFBPs

327. DNFBPs do not have risk management systems in place to determine whether a customer or the beneficial owner is a PEP, or related or connected to a foreign PEP, and, if so, take additional measures beyond performing normal CDD (as defined in R.10) to determine if and when they are doing business with them. Although the accounting firms demonstrated awareness of the concept and legal text related to PEPs, they have not applied EDD measures to these categories of customers. The other DNFBPs (lawyers, casinos, notaries and real estate entities) demonstrated a lack of awareness of the requirements relating to PEPs. DNFBPs do not pay attention to the issue of PEP, as they believe that given the size and population of the country, "everyone knows "who's who", hence no ML/TF risk exist. It is a misconception to assume that the DNFBP's knowledge of a PEP should allow the relationship to be treated as a normal other than a high risk one. For instance, a foreign head of government remains a high-risk PEP, no matter what the staff of the DNFBP (i.e. account or client managers, senior executive staff) may know about this individual, or the product provided, and need to give greater weighting or emphasis in applying EDD measures in specific situations.

b) Correspondent banking

328. STP's legal framework meets all the requirements of R.13 concerning the management of correspondent banking relationship. However, banks in STP do not provide correspondent banking services, including intra-group correspondent banking services. Considering that STP bank would be respondent banks in order to be connected to the international system, its framework is adequate in providing such services.

c) New technologies

329. FIs are required to identify and assess ML/TF risks that may result from the development of new products and new commercial practices, namely new distribution channels, the use of new technologies or technologies at the development phase related to new products or pre-existing products. However, there are no records of procedures or reports of compliance officer intervention in assessing risks related to new products, especially those linked to new technologies and/or distribution channels.

330. In practice new technologies in the country is still in its infancy. However, payment and e-money institutions are taking steps in this area by presenting products that use more digital distribution channels.

331. Regarding VASPs, they are not yet regulated and STP has not taken any actions to identify VASPs operating in its jurisdiction.

332. The use of new technologies is less common among DNFBPs, and the lack of regulation and technological capacity on the part of supervisory bodies allows these technologies to be used without any kind of control.

d) Wire transfer rules

333. Banks appear to understand and implement wire transfer rules and have policies and procedures for conducting the activity. The rules include dealing with requests with incomplete originator and beneficiary information, the need to observe the threshold set by BCSTP, and maintenance of originator and the beneficiary information. However, there are major shortcomings in the implementation of R.16, particularly in relation to the threshold which is set exceptionally high ($10,000) and does not comply with the FATF Standards. In addition, no cases were reported in which this information had to be sent to the competent authorities.

334. There is no evidence that BCSTP have inspected banks for compliance with wire transfer rules. Furthermore, as mentioned above, in the case of MVTS, since they have not yet been inspected by the BCSTP there is no guarantee that this information is being properly obtained and maintained.

e) Targeted financial sanctions relating to TF

335. Commercial banks have a fair knowledge of TF-related TFS. Some banks indicated that they use the UNSC and the US Treasury Department's Office of Foreign Assets Control (OFAC) Sanctions Lists in screening and filtering their customers. The remaining FIs did not demonstrate knowledge of the specific sanctions lists or their practical application.

336. DNFBPs do not have measures in place to implement TF-related TFS, and are not implementing the requirements. The entities are not aware of the specifics of the UN's TFS obligations and how to stay informed about new designations. They also lack awareness of other sanctions regimes such as the OFAC and the European Union Sanctions Lists.

f) Higher-risk countries identified by the FATF

337. There is no evidence that banks have tools that issue alerts about customers and/or transactions from higher-risk countries identified by the FATF. There are no records of STRs involving higher-risk countries. Furthermore, in the inspections carried out by the BCSTP, it does not appear that this is a matter that is analysed.

338. DNFBPs demonstrated a very limited understanding of the requirements related to higher risk countries and did not provide evidence of their practical application. However, in general, DNFBPs are not specifically aware of the FATF's public identification procedures for higher-risk countries ("Jurisdictions under Increased Monitoring" and "High-Risk Jurisdictions subject to a Call for Action") and did not mention any enhanced measures applied on the basis of country risk.

5.2.5. Reporting obligations and tipping off

339. Whenever there is reasonable grounds to suspect that a transaction or attempted transaction involves funds from a criminal activity or is related to TF, reporting entities must submit a report immediately to the FIU (art. 21 of AML/CFT Act). There are no preconditions to the filing of STRs. To implement these obligations, BCSTP guideline, NAP 11/2015 to FIs to enable them to detect and report suspicious transactions. The guideline provides a list of indicators (red flags) that should trigger suspicious transaction reporting. However, the list is not based on risks identified, and not all FIs demonstrated awareness of the guidelines, and its use. As a result, only commercial banks are filing STRs. On the other hand, NBFIs and DNFBPs are not filing STRs and are ill-equipped to detect suspicious transactions. They also lack awareness of their reporting obligations or sector-specific risk indicators.

Financial institutions

340. Banks have inadequate suspicious transactions detection tools. Their computer systems for monitoring transactions, detecting suspicious transactions and issuing alerts indicators for high-risk transactions are either inoperative or deficient. Banks implement transaction filtering systems in order to identify suspicious transactions which, after due analysis, are filed to the FIU. During the reviewed period, only banks submitted STRs to the FIU (see Table 5.1). One of the STRs filed related to a potential ML linked to international transfers. Banks implement transaction filtering systems in order to identify suspicious transactions which, after due analysis, are filed to the FIU. More positive filings were observed for 2018 and 2019, while less positive filings were observed from 2020. The reasons for the patterns in the filing of STRs are set out in section 3.2.2 (I.O.6). However, banks have inadequate suspicious transactions detection tools. Their computer systems for monitoring transactions, detecting suspicious transactions and issuing alerts indicators for high-risk transactions are either inoperative or deficient. During inspection

of two commercial banks in 2019, BCSTP found that the banks failed to file STRs on seven transactions conducted by PEPs. The funds involved in these transactions amounted to One Million Sixty-Seven Thousand Seven Hundred and Eighty-Seven Euro **(€1,067,787.00**)(approximately **1,188,916.22 US Dollars))**. Considering the risk profile of STP, the non-filing of STRs related to PEPs demonstrate a lack of willingness on the part of banks to address corruption-related ML/TF risks. Forex dealers attributed their non-compliance with reporting obligations to the absence of attempted fraud. The reporting of cash transactions is not a requirement in STP.

Table 5.1. Number of STRs filed to the FIU

Reporting entities	2018	2019	2020	2021	2022	2023	Total
Banks	10	19	4	3	1	2	39

341. Banks lack feedback from the FIU on the utility of the STRs submitted to the FIU, including the timeliness and completeness of the reports. Although the FIU indicates that STRs filed by banks are of good quality, systematic feedback from the FIU, through feedback and analysis of specific cases, as well as by issuing guidelines, trends and other warning signs, is essential for improving the STR process, as well as for designing risk mitigation measures/controls. There is no record of TF-related STR filed to the FIU.

342. Banks are aware of the of their obligation to avoid tipping-off customers when they file STRs, and as noted in IO.6, there has been no confirmed unauthorised disclosure of report being file dor filed. However, all AML/CFT stakeholders need to be made more aware of the importance of maintaining secrecy in these cases. This awareness could involve increasing sensitisation and training on the subject, including best practices and examples of how not to disclose/tip off the client in such situations.

Designated non-financial businesses and professions

343. The DNFBP sector did not file STRs to the FIU during the review period. The majority of DNFBPs indicated that their understanding of the reporting obligation was relatively new, and they have not yet conducted suspicious transactions based on their understanding of what constitutes a suspicion. For some sectors, such as lawyers and notaries, professionals are unclear about how the obligation to report applies to their activity. For accountants and casinos, it is unclear whether reporting STR is part of their policies, however, they indicated that they would file a STR if they had suspicions. The majority of professionals would not refuse or cease business relations with their customers when there is suspicion of ML/TF, considering it not their responsibility to identify criminal offences and the risks they could face if they did so. They are not aware of the need to file a STR, nor of the indicators that could motivate such a report, which deprives the FIU of valuable information. In addition to limited resources and poor or non-existent AML/CFT controls, DNFBPs appear to lack understanding and guidance on how reporting obligations apply to their sector and the specific risk indicators to be considered.

5.2.6. Internal controls and legal/regulatory requirements impending implementation

Financial institutions

344. The extent of application of internal controls varies across different institutions within the financial sector. FIs have policies, procedures and controls in place to ensure good ML/TF risk management. However, BCSTP has, through its inspections in 2019 (one bank) and 2022 (two banks), identified failures linked to AML/CFT controls of the banks. The most significant challenges found related to CDD, record keeping, independence of compliance officers, transaction monitoring systems, training and detection and filing of STRs. NBFIs, especially MVTS, forex dealers and microfinance institutions do not have adequate internal controls in place.

345. FIs interviewed, including banks, are not sufficiency resourced in terms of staff and funding to manage AML/CFT compliance programmes. Although banks indicated following the three lines of defence model (business area, risk and compliance, and internal audit) and have close interaction with the first line (business area) which facilitates the prevention and detection of ML/TF, inspection reports demonstrate a lack of coordination in the internal control systems of the commercial banks inspected. Also, while the NRA suggests that compliance officers appointed by the banks are considered independent and adequately trained, there is no evidence that compliance officers of banks, monitor their controls on an ongoing basis, and that audit functions review the adequacy of and compliance with AML/CFT controls. NBFIs, especially forex dealers, do not have adequate internal controls in place.

346. Given the nature of the FIs' activities, all staff recruitments of the FIs need to comply with the required screening and background checks to ensure best standards of ethics and conduct. However, FIs in STP did not provide any evidence of implementing adequate screening procedures during the onboarding of new staff, nor the required ongoing measures to monitor the integrity of staff, either by internal audit, or by external entities (e.g. the group) and/or the BCSTP. The BCSTP has identified cases where screening procedures have not been adequately implemented. Five cases of fraud involving bank staff occurred in one of the commercial banks between 2019 and 2021, which led to the sanction and dismissal of the offending staff following disciplinary proceedings. Given the absence of a database for recording such losses, the bank could not properly quantify the total amount lost in relation to the fraud.

347. The frequency and quality of AML/CFT training vary among FIs, and need significant improvement. In some cases, the training provided did not cover all of the commercial banks' structural units or senior management. Others substitute training actions with the dissemination of information (for example, on awareness of operational risks) via email. Overall, ongoing training to ensure that employees are kept informed and updated on the various of AML/CFT matters, including emerging ML/TF risks, trends and methods is very negligible. NBFIs are yet to receive training on AML/CFT matters.

348. There are no legal or regulatory requirements which impede the implementation of internal controls and procedures to ensure compliance with AML/CFT requirements, including the sharing of information between group entities. However, while banks demonstrated that these controls are being applied, the same was not evident among NBFIs interviewed, except one NBFI that has a compliance unit, demonstrated lack of awareness of these requirements.

Designated non-financial activities and professions

349. Apart from a few law and accounting firms, DNFBPs do not have internal control measures. The procedures and some types of control mechanisms adopted by lawyers and accountants are designed to identify breaches of the respective code of professional conduct and are not designed to address AML/CFT matters. The other sectors do not have internal control functions in place.

Overall conclusions on IO.4

350. STP implements AML/CFT preventive measures in a manner that is incommensurate with its risks, including with regards to the country's highest risk FIs and DNFBPs.

351. Understanding of ML/TF risks and the implementation of AML/CFT preventive measures are generally basic in the banking sector-weighted as the most important sector – and needs significant improvement across the requirements. Weaknesses were observed in relation to customer risk profiling, application of CDD and EDD measures, suspicious transaction reporting and internal controls.

352. Bureaux de change, e-money service providers, lawyers (weighted heavily), the casino sector, accountants, auditors and estate agents (weighted medium) and insurance companies (weighted low) have a low understanding of ML/TF risks and AML/CFT obligations. Amongst these sectors, lack of effective implementation was observed across the full range of AML/CFT requirements.

353. Taking the foregoing into account, the AT believes that IO.4 is achieved to a negligible extent, and fundamental improvements are needed.

354. **STP is rated as having a Low level of effectiveness in relation to IO. 4**

CHAPTER 6. SUPERVISION

6.1. Key Findings and Recommended Actions

Key Findings

a) The BCSTP is the supervisor of the financial sector. The BCSTP conducts adequate pre-licensing fit and proper tests to prevent criminals and their associates from holding, or being the beneficial owner of a significant or controlling interest or holding management functions in FIs. However, BCSTP needs to improve its oversight of FIs in relation to the ongoing monitoring of BOs, use of independent sources of information to confirm data, and information exchange with counterparts.

b) STP has not developed a legal and regulatory framework for VASPs and entities wishing to carry out activities related to virtual assets, and no entity has yet been designated as supervisor.

c) Licensing/registration controls by DNFBP supervisory authorities are non-existent in some sectors and insufficient in others, such as casinos and the property sector.

d) The BCSTP has made some efforts to identify unlicensed activities in the highest risk sectors, such as forex dealers and MVTS. However, the effects of the measures applied to formalise and reduce the number of these unlicensed entities could not be ascertained. There is no evidence of efforts to identify unlicensed agents and illegal activities in the DNFBP sector, especially regarding real estate agents and casinos due to the impact that the absence of such measures has on these two sectors, considering their weight.

e) The BCSTP has a reasonable knowledge of the risks of the banking sector and a limited knowledge of the risks of the NBFIs under its supervision. DNFBP sector supervisors have a low knowledge of ML/TF risks, as well as of the scope and depth of the measures needed to address the different risks in the sectors. Their lack of understanding of the risks is partly due to the absence of sector-specific risk assessments to better understand ML/TF risks.

f) The BCSTP has carried out inspections of commercial banks to verify compliance with AML/CFT requirements. These inspections are not yet risk-based, and have occurred sporadically. The BCSTP is developing an AML/CFT risk-based supervision methodology for banks, which is at an early stage. There is still no methodology covering all banking and non-banking sectors.

g) AML/CFT supervision of DNFBPs is yet to commence. The supervisory authorities do not have a strategy, tools or a manual for supervising the entities under their remit. Supervisors are still largely unaware of their AML/CFT supervisory roles. There is a lack of coordination and resources to enable effective supervision. DNFBP supervisors have not been allocated any resources to conduct AML/CFT inspections and develop their skills.

h) The BCSTP has imposed sanctions (administrative fines) on banks for non-compliance with AML/CFT requirements, to a limited extent. No sanction has been imposed on NBFIs and DNFBPs for non-compliance with AML/CFT requirements because they are not supervised for AML/CFT compliance purposes.

Recommended Actions

STP must:

a) Carrying out continuous and/or periodic monitoring of the BOs of legal persons holding shares in FIs and not just at the time of licensing and transfer of shares, checking the possibility of signing protocols or operational memoranda for the exchange of information with similar entities and implementing independent instruments for consulting and confirming certain data and information on applicants for licenses to operate FIs.

b) Establish market entry controls for each sector of DNFBPs in order to prevent criminals or their associates from holding significant or controlling stakes or being beneficiaries of a DNFBP. Develop coordinated efforts to detect unauthorised activities in higher risk sectors, such as real estate agents and gaming houses.

c) Provide the BCSTP's supervision department with the human resources, instruments and working tools to complete the project to implement risk-based supervision and the assessment of FIs, prioritising commercial banks.

d) Clarify and communicate to all stakeholders the AML/CFT supervisory role of the sectoral supervisors of DNFBPs and ensure that they adopt strategies and measures to enable them to fulfil their supervisory role effectively.

e) Ensure that DNFBP supervisors, in particular those responsible for the supervision of lawyers, casinos and gaming establishments and real estate agents, understand the risks in the sectors under their supervision, develop their supervisory skills, draw up guidelines and effectively develop and implement a supervisory strategy and work plan for their sectors, while ensuring the allocation of adequate resources to supervisory activities.

f) Supervisors of DNFBPs should, as a matter of priority, adopt strategies and guidelines to facilitate the application of preventive measures and ensure adequate supervision of DNFBPs on a risk-sensitive basis. In addition, licensing bodies, other than those for lawyers and accountants and auditors, are encouraged to maintain close co-operation and exchange basic information, such as the number of licensed entities in each sector.

g) Establish clear coordination mechanisms between the supervisory and authorisation authorities responsible for the same sectors, in order to, inter alia, allow for the drawing up of common sectoral risk assessments, the sharing of information on sectoral risks and the compliance of each DNFBP in order to substantiate supervisory efforts, the drawing up of a supervisory work plan for the coherent and effective coordination of on-site and off-site inspections and training, as well as the coordination of the application of sanctions.

355. The relevant Immediate Outcome considered and assessed in this chapter is IO.3[31]. The Recommendations relevant for the assessment of effectiveness under this section are R.14, 15, 26-28, 34, 35 and elements of R.1 and 40.

6.2. Immediate Outcome 3 (Supervision)

356. The provision of financial services in STP is subject to licensing requirements, with the BCSTP being the competent authority for granting, suspending and revoking licences. The BCSTP is also the AML/CFT supervisory authority for all the FIs in STP.

357. There is no legal and regulatory framework for VASPs and for entities wishing to carry out activities related to virtual assets, and no activity has been registered in the country. In addition, a competent authority has not yet been designated to regulate and supervise the fulfillment of preventive obligations against ML/TF, so the country has not yet implemented any measures to identify whether there are any entities carrying out this activity in the country.

358. With regard to DNFBPs, STP adopts a decentralised model with multiple bodies supervising the AML/CFT system. These supervisory bodies include: (i) the General Gaming Inspectorate; (ii) the Department for the Regulation and Control of Economic Activities; (iii) the General Directorate for Registries and Notaries; and (iv) the self-regulatory authorities (*Ordem dos Técnicos Oficiais de Contas e Auditores and the Ordem dos Advogados*).

359. The AT weighted the effectiveness assessment requirements heavily for (i) the banking sector, due to its importance, weight, materiality and relevance to the national and international financial system, its contribution to the national economy and the country in general, and (ii) lawyers, due to the lack of supervision and the transversal role they play in various sectors, such as real estate. Forex dealers and MVTS are also heavily weighted, given the informality of the economy and the possibility and verification of the illegal exercise of these activities. The weighting was considered moderate for MFIs, casinos, real estate agents and accountants/auditors. With regard to insurance companies, notaries and DPMS, the aspects assessed had a low weighting, given their low importance not only for the financial sector but also for the economy, and in some cases their non-existence. The weighting was based on the relative importance, risks and level of supervision of the sectors (for more details, see Chapter 1).

360. The conclusions of IO.3. are supported by available data and statistical information, case studies, narratives and meetings with regulators and supervisors, representatives of subject/obligated entities, guides and regulations issued by the competent authorities, namely the BCSTP.

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

FIs and VASPs

361. The BCSTP has implemented a set of measures and controls considered satisfactory, although with room for improvement, to prevent criminals and their associates from entering the financial system. It has also identified MVTS and has implemented some measures aimed at addressing controlling the illicit activities.

362. In STP, all FIs, whether public, mixed or private companies, must obtain prior authorisation from BCSTP to carry out their activities. To do so, promoters must provide the BCSTP with all the information required by the legislation in force and in accordance with the guidelines available on the BCSTP website.

363. The BCSTP's FI Supervision Department (the DSF) is responsible for analysing, at a technical level, all applications to set up/license FIs. In addition to this function, the DSF is responsible for supervising all FIs, carrying out direct (on-site) and indirect (off-site) supervision and initiating administrative proceedings regarding the violation of relevant laws. Supervisory activities include the prudential aspect, as well as monitoring the AML/CFT Systems set up by FIs in accordance with the regulations in force. The DSF is also responsible for drawing up proposals for special reorganisation measures, analysing and conducting bank resolution and liquidation processes, as part of the prevention, management and resolution of banking crises.

364. The BCSTP publishes a list of the main institutions authorised and registered to operate in the country on its website https: www.BCSTP.st. However, the list is non-exhaustive and does not include microfinance institutions, forex dealers and MVTS. The absence of the full list of licensed FIs on the BCSTP's website is a knowledge gap regarding regulated and supervised financial service providers in the country and, thereby creates the opportunity for criminals to exploit uninformed persons, particularly the unserved and underserved groups, for ML/TF purposes.

365. The process for licensing FIs is mainly based on the BCSTP's Permanent Application Standard (NAP 29/2011 and NAP 3/2007), compliance with a set of rules and requirements, ranging from (i) information on the proposed shareholders, whether they are legal persons or natural/singular persons; (ii) data on legal persons holding 10 per cent or more of the share capital, (iii) the origin of the funds used to subscribe to the shares, and (iv) information on the members of the proposed governing bodies.

366. Where the shareholder of the applicant is a legal person, it is necessary to identify all the individuals who hold 10 per cent or more of its shares or who control the applicant.

367. To mitigate the risk of criminals entering the financial system, either as shareholders of FIs or as members of their governing bodies, BCSTP assesses the suitability of promoters and bidders to hold management positions (Board of Directors and supervisory bodies) (Fit and Proper Test). Accordingly, based on NAP 29/2011 and NAP 2/2007, the BCSTP requires: (i) a criminal record - showing that the applicant has not been subject to criminal sanctions, fines or any participation in financial fraud, (ii) that they have the appropriate qualifications to fulfil the role they are being proposed for; and (iii) documentation proving the origin of the funds used to acquire the shares. However, there is no formalised procedure for the BCSTP to check whether persons have been the subject of administrative proceedings in STP or in other jurisdictions. BCSTP has no administrative offence database on legal or natural persons that have been the subject of administrative offence proceedings. Furthermore, although the banks registered and licensed in STP are controlled by foreign entities and belong to international financial groups, there is no formalised practice or protocols or operational memoranda between BCSTP and foreign competent authorities responsible for the supervision of parent entities for exchanging information.

368. In the case of foreign promoters, all documents must be validated by an embassy and/or consulate of the country of origin. Regarding the origin of the funds, the BCSTP's analysis goes beyond the amounts deposited, for example in a bank account, requiring the necessary information on their origin.

369. The re-assessment of the suitability of the members of the management bodies is normally carried out every three years, when the mandate of the management bodies is renewed. Regarding the reassessment of the suitability of banks' shareholders when there are complex shareholder structures to identify the ultimate beneficial owner, there is no established timetable for this.

370. An affidavit is required when applying for authorisation to license financial activities and to carry out business functions. In cases where false, misleading or insufficient information is provided, the BCSTP has the prerogative to refuse the application or cancel the licence/authorisation. Although BCSTP mentioned some cases of refusal to register members of governing bodies due to lack of proven or inadequate experience, non-legalised documentation, incompetence and criminal records with convictions in the financial area (social security fraud), the Bank did not provide any information to support this assertion.

371. FIs who intend to operate in STP must first obtain a name authorisation from the Directorate of Registries and Notaries - Commercial and Automobile Registry Office. This declaration is attached to the file that is submitted to obtain the licence from the BCSTP. Incorporation at the registry only becomes effective once authorisation has been obtained from BCSTP, which analyses, among other things, the proposed statutes of the institution to be incorporated.

372. Regarding the identification of BO, STP considers that, as it is a small environment, people know each other and can use the one-stop shop to request information when the shareholders are legal persons, and the aim is to identify the BO. However, the AT did not identify formal procedures and practical evidence that this practice occurs in all situations, especially in the case of foreign corporate shareholders. Also, the updating of BO information is sporadic, and occurs only upon the transfer of shares from the national FI. In addition, there is no regular, periodic procedure for the process.

373. The authorities referred to six cases (banks and NBFIs) where the BCSTP declined applications for licence/authorisation to provide financial services, including offshore banking, with the absence of BO information being one of the grounds for the refusal. In addition, the draft NRA indicates that between 2019 and 2022[32], two applications for the incorporation and licensing of offshore banks were rejected for failure to comply with the essential requirements for obtaining a license, namely information on the beneficial owner and the origin of the funds that would be used to acquire the shares. However, the case study provided STP to support its assertion did not refer to the absence of BO information (see Box 6.1).

Box 6.1. Case: Cancellation of Provisional Licence for Offshore Banking Services

In March 2020, the Board of Directors of BCSTP, on the recommendation of the Directorate of Supervision of Financial Institutions, granted a provisional licence to the shareholders of SGTBS (a foreign bank), to provide offshore banking services, pending compliance with regulatory requirements on risk management processes regarding the administration of assets and liabilities including liquidity, interest rate and maturities; credit risk; operational risk; market risk; IT risk; and all other risks to which the bank will be exposed, when operating in the financial activities in the business plan (Art. 10(5) of NAP 29/2011) before transforming the provisional licence into a definitive one. The shareholders paid up the required share capital, but did not meet the requirements on risk, despite several extensions to the validity period of the provisional licence. Consequently, the BCSTP decided to cancel the provisional licence in July 2021 for failure to meet the requirements of Art. 10(5) of NAP 29/2011and refund the paid-up share capital to the account of origin.

No issues were raised concerning non-compliance with AML/CFT requirements (for example, failure to disclose source of funds or beneficial ownership information) because AML/CFT compliance is not a pre-requisite under NAP 29/2011. The case demonstrates the BCSTP's focus on prudential matters as opposed to AML/CFT compliance.

Source : BCSTP

374. Concerning MVTS, since they are financial activities, the persons (natural or legal) who provide these services must be duly licensed by the BCSTP, under penalty of being indicted for the illegal exercise of financial activities.

375. The BCSTP has identified unlicensed/unregistered MVTS and has implemented a series of measures, including meetings with forex dealers and payment service providers to clarify the licensing process so that they can formalise their activities. However, more serious measures have not been implemented, since the BCSTP is not authorised under Article 40(1) of the Organic Law - Law 8/92 - to verify and investigate any entity or place where there is reasonable suspicion of irregular practice of monetary, financial or foreign exchange activities, nor has it reported to the competent authorities - judicial and police - any irregular acts or facts it has become aware of that go beyond its competence to intervene. Furthermore, the STP did not provide information to enable the AT to determine the effects of the measures to clean up the illegal practice of financial activities - more specifically MVTS providers.

32 Noting that the NRA period 2017 to 2021, reference to 2022 seem to be out of scope.

376. The procedures implemented for granting licences, especially regarding market entry requirements, by obtaining information from shareholders and their associate demonstrate the existence of reasonable control to prevent not only the creation but also the continuation of shell banks.

DNFBPs

377. Regarding DNFBPs, licensing and registration procedures are not in place to prevent criminals and their accomplices from accessing professions/activities (lawyers and accountants), are not effectively enforced or are non-existent (casinos and estate agents). There are entry controls for notaries, but there is no knowledge of AML/CFT requirements. No measures have been implemented to detect unauthorised activities, especially regarding casinos and real estate activities. It should be noted that, apart from lawyers and accountants, who must be registered with their respective associations and are the ones who exercise disciplinary powers, in the remaining activities, namely real estate agents, casinos and games of chance, the licensing authorities are different from those with supervisory powers. Thus, regarding real estate activities, as well as other economic activities (sale of motor vehicles, etc.), licensing falls to the Directorate of Commerce, while supervisory powers - and also those contained in AML/CFT Act - are entrusted to the Directorate for Regulation and Control of Economic Activities - DRCAE. As for casinos, the licensing of entities that can operate casinos and gaming establishments falls to the Tourism Directorate and the inspection to the General Gaming Inspection. Except for casinos, where a single entity has a subsisting 30-year exclusive operating concession, the licensing and inspection authorities are not aware of the number of obliged entities in each sector.

378. There are no examples of licenses being refused or revoked on the grounds of fit and proper concerns in the non-financial sector during the period under evaluation.

379. **Lawyers -** All lawyers must be accepted as members of the Bar Association before practising in STP. The Bar Association requires members to maintain standards of professional ethics. The procedure for registering members requires information on academic qualifications and the presentation of applicants' criminal records. However, there is no evidence of the effectiveness of the controls applied to prevent criminals from becoming licensed members. Only 86 out of the 220 lawyers registered in STP are in private practice.

380. **Casinos** - Although current legislation requires checks to be carried out on the competence and suitability of candidates, associates, senior managers and shareholders who hold five per cent (5%) or more of shares, The Directorate-General for Tourism (DGT) only obtains minimal information on shareholders, directors and senior executives, and there are no checks on criminal records or the collection of information on foreigners. There is only one casino in STP, whose registration and operating agreement are not clear and straightforward. The casino does not obtain any information about customers, so the operator does not carry out any kind of KYC/CDD, nor do the supervisory authorities require it. Casinos are obliged by law to renew their licences every year, but no competence and suitability checks are carried out during the renewal of these licences.

381. **Real estate agents and TCSP** - These sectors are not subject to market entry controls and, for the most part, are not formally organised and regulated. They are only obliged to register with the Directorate-General for Trade (DGC), the licensing authority, but there are no market entry controls. The DGC has not able to detect the presence of TCSP in STP, but - as seen in Embraer case (see IO 5) - some legal professionals provide services to companies and/or legal arrangements

382. **Accountants and auditors -** OTOCA's licensing criteria are based mainly on academic qualifications and financial commitments. The process does not include controls to identify criminals or their associates. However, the professional code of ethics includes integrity requirements for all accountants, which involve analysing the existence of associates with sanctions for violating the rules governing the activity or any criminal convictions. No membership

has ever been revoked or refused on grounds of good repute or integrity. Two hundred and nine (209) members are registered with OTOCA, of which 149 are accountants and 60 are statutory auditors.

383. **Notaries** - Registrars and notaries are employees of the General Directorate of Registries and Notaries (DGRN). The DGRN is a State service under the Ministry of Justice, Public Administration and Human Rights, with administrative and financial autonomy. Its mission is to direct, guide and coordinate the services of civil registry offices, civil status, nationality, civil identification, land, commercial and movable property registries and notaries, under the terms of article 3 of Decree-Law 7/2017 - Organic Statute of Registry and Notary Staff. As civil servants, registrars and notaries remain under state control and are obliged to report any illegality they become aware of in the course of their duties.

Detection and prosecution of unlicensed activities

384. For the DNFBP, there is a lack of a coordinated system for detecting and sanctioning unauthorised activities. DNFBP supervisors did not demonstrate efforts to identify unauthorised activities. This lack of efforts is attributable to the lack of regulation of the entities DPMS and real estate agents) for AML/CFT purposes. For other DNFBP sectors, detecting unlicensed activities is not one of the priorities of the relevant supervisor or SRB. This is particularly the case for the IGJ, which has made no effort to detect unlicensed physical casinos, illegal online casinos and gambling houses, or the DRCAE for the real estate sector.

6.2.2 Supervisors' understanding and identification of ML/TF risks

385. Overall, supervisors' identification and understanding of ML/TF varies, with the BCSTP demonstrating a better understanding of the ML risks for banking sector, and a limited understanding regarding other higher risk NBFIs such as forex dealers, e-money institutions, payment systems institutions and MVTS, all of which are under its supervision. The risk understanding of the DNFBP supervisors is negligible, despite their participation in the NRA. In all cases, TF risk understanding needs fundamental improvements across all sectors. Both sets of supervisors are yet to undertake sectorial risk assessments to improve their understanding of risks.

Supervisors of FIs and VASPs

386. The BCSTP has some knowledge of the ML/TF risks in the banking sector, acquired through its participation in the NRA process, and spot-checks conducted on three of the four banks in the country during the review period. Notwithstanding the final classification of "high risk" (one bank), "medium-high" (two banks), and "medium" (one bank), the findings of the AML/CFT inspections have not resulted in updates to the risk classifications for the four banks, bearing in mind that one institution was inspected in 2018, which is outside the assessment period. In addition, the spot-checks do not appear to have a consistent conceptual basis. Furthermore, the inspections methodology neither resulted from an effective risk assessment nor supported by any manual or formal document setting out the grounds and rationale for the risk ratings for the banks.

387. This methodology is based on compliance with legal and regulatory requirements, whose risk levels were obtained through the results of direct inspection actions, as mentioned above, was applied until February 2022, the date from which the testing period began for the application of the "ML/TF risk classification methodology" (RCM), a new instrument for measuring banks' risk level.

388. This RCM is part of a wider project to implement a general risk-based supervisory methodology for the banking sector, which commenced in May 2018 with technical assistance from the International Monetary Fund (IMF). The aim is to develop a global risk assessment methodology for banks that includes all risk categories (financial and non-financial risk). The non-financial risk component includes the assessment of ML/TF risks.

389. The RCM is currently in its pilot (test) phase. As a result, the AT could not obtain the risk classification for each bank or the ML/TF risk matrix for the banking sector, results that allow for the proper planning of supervisory work, preventive action and effective risk-based supervision.

390. The full and effective implementation of the RCM will require (i) an increase in human resources and tools and instruments - for collecting, analysing and processing data; (ii) the completion and approval of the operational procedures manual describing the methodology and procedures of the commercial bank risk assessment system in terms of ML/TF; (iii) the assessment of all banks in order to obtain individual results for each institution, as well as an overall risk matrix for the banking sector, enabling the BCSTP to visualise all institutions and define the priorities for supervisory action according to the degree of risk; and (iv) consideration of extending the RCM to other sectors, to be verified at a later stage, so that risk matrices can be produced for each sector and for the financial sector as a whole.

391. Although foreign shareholders own the four banks in STP, and because the BCSTP has participated in some supervisory college meetings with regulators based in the jurisdiction of the parent company, it is not clear how the BCSTP's participation in these networks has contributed to the sharing of information and greater knowledge of the risk factors of the branches and subsidiaries of the same group.

392. BCSTP has a limited knowledge of the ML/TF risks of NBFIs, mainly acquired in the NRA process. Participation in the NRA process has, to a certain extent, allowed the BCSTP to acquire some knowledge of the ML/TF risks NBFIs, notably forex dealers, which was practically non-existent up to the time of the NRAs, since no sectoral assessments were carried out and there are no records of on-site or off-site inspections of these sectors.

393. BCSTP is yet to develop a specific plan containing risk-based supervisory action. Its supervisory actions are included in an overall plan for the Supervision Unit, which has various responsibilities.

394. To date, the BCSTP has not carried out any typology study that would allow it to deepen its knowledge of the ML/TF risks of the sectors under its supervisory responsibility, including the banking sector.

395. Regarding VASPs, given that there is no record of activities in this field to date, the country has not assessed the risk of activities linked to virtual assets and virtual assets service providers.

Supervisors of DNFBs

396. DNFBPs supervisors are unaware of the ML/TF risks of entities under their supervision. Although sectoral supervisors participated in the NRA process, they demonstrated a very low level of understanding demonstrated of ML/TF risks. The lack of a fundamental understanding of ML/TF risks in the sector is exacerbated by the non-adoption the NRA report, and therefore the lack of ownership of the results of the exercise by DNFBPs supervisors. Even so, the NRA is quite general when it comes to identifying specific sectoral risks. No sectoral assessments have been carried out to better understand the risks of each specific sector or institution. The various DNFBP supervisors have not demonstrated an effective understanding of ML/TF risks in their respective sectors.

397. More specifically, OA has a basic knowledge of the ML risks to which lawyers are exposed, which stems mainly from its participation in the NRA. The IGJ realises that the gambling sector, especially the casino, is exposed to ML/TF risks. However, it has not carried out any awareness programmes, either on its own or in conjunction with other actors such as the FIU, to improve its understanding of the risks.

398. There is only one licensed physical casino operating in STP. There is no online casino licensed in STP. The IGJ appears unaware of the ML/TF risk of online casinos, considering it not to be a pressing concern. The IGJ has not conducted a sector risk assessment, nor any inspection or awareness-raising activity with the only existing licensed casino or any other unlicensed entity. The IGJ recognises that the high level of informality in the sector, with the existence of unlicensed gaming houses and/or casino(ies), as well as the high use of cash in the economy, may increase the risks of ML/TF in the sector.

399. The DRCAE has not demonstrated knowledge of the risks of ML/TF in the sectors under its supervision, particularly regarding the exercise of real estate activities listed in the AML/CFT Act as covered entities and is unaware of the universe of covered entities.

400. Notaries in STP are civil servants, but even so, the entity that supervises the exercise of this function, the DGRN, has not demonstrated that it is aware of the ML/TF risks to which the notarial function may be subject.

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

FIs and VASPs

401. Given that the risk assessment methodology has not yet been finalised and that the banks have not yet been identified, assessed and classified under AML/CFT, the BCSTP has not yet carried out risk-based supervision of FIs (on-site or off-site). Given the small size of the banking sector (only four banks), once the necessary conditions are in place, it is expected that, in the medium term, it may be possible to carry out risk-based inspections, based on the results of risk assessments.

402. Since 2018, BCSTP has conducted four inspections on three of the four commercial banks in the country for AML/CFT purposes (one in December 2018; two in July 2019; and one in September 2022). One of the banks was inspected twice in less than one year (December 2018 and July 2019). The AML/CFT inspections carried out in 2019 covered aspects of CDD which involved the review of a list of accounts, namely cash accounts, domestic and foreign currency accounts, accounts of foreign bank correspondents and deposit accounts of some customers. The team analysed cash deposit transactions, foreign exchange transactions and money transfer transactions. It also verified the internal control system, particularly the assessment of the degree of compliance by the institution regarding CDD and suspicious transaction reporting. Furthermore, the inspection sought to review internal control systems, particularly the compliance function. The 2022 inspection was carried out using the draft Bank Rating Manual developed by the Financial Institutions Supervision Directorate on a pilot basis. The inspection concluded that the bank has an overall risk classification of 3 (Medium-High Risk), since significant gaps and weaknesses were identified in the areas of corporate governance, internal control and AML/CFT. Table 6.1 below illustrates supervisory activities, including findings, in the banking sector:

Table 6.1 On-site inspections of commercial banks (2018-2022)

Bank	No. Inspectors	Date of inspection[33]	Type	Focus of inspection	Number of clients files reviewed	Findings	Date of BCSTP feedback
Bank A	2	28/12/2018	Spot check	CDD	– Extracts from 20 customer accounts	– Failure to conduct CDD	07/01/2019
Bank B	2	07/08/2019	Spot check	Application of CDD measures	– The team analysed cash deposits, foreign	– Cash deposits by persons without business relationship	27/08/2019

[33] This covers the length and duration of the inspection.

				Internal system[34]	exchange transactions and money transfer transactions carried out between January and July 2019	with the customer (a company). – Non-examination of potential unusual transactions. – Failure to file suspicious transactions. – Lack up update of customer record – No ongoing monitoring of transactions – Failure to ascertain source of funds – No formalized procedures. – Lack of system for detecting suspicious transaction. – Regular AML/CFT training of front desk and compliance staff – Inadequate internal control system	
Bank A[35]	2	31/07/2019	Spot check	Application of CDD measures Suspicious transaction reporting Internal control[36]	– The team analysed cash deposits, foreign exchange transactions and money transfer transactions carried out between January and July 2019.	– Frequent transactions with (sale of foreign currency) unlicensed forex dealers. – Non-identification of beneficiaries of cross-border wire transfers. – Computer application monitoring higher risk transactions inoperative. – Lack of comprehensive AML/CFT procedures (unspecified). – Failure to examine and report potential suspicious transactions – Non-compliance with ongoing due diligence. – Lack of comprehensive internal controls (e.g. training of employees).	27/08/2019
Bank C	2	05/2022 - 09/2022	Scheduled on-site visit, using the draft Bank Rating Manual	– Governance – Risk management – Credit – Internal control system – Testing of Bank Rating Handbook	– 100 account opening forms in the computer system – 27 (physical) account opening files; – 36 statements of customer accounts, including PEPs	– Rated “medium-high” risk due to significant gaps and weaknesses identified in the areas of corporate governance, internal control and AML/CFT – Failure to complete the PEPs declaration. – movement of the junior savings account	30/12/2022

[34] Not part of the original focus.

[35] Inspected in 2018

[36] Not part of the original focus.

						through Internet Banking and Dobra 24 – lack of independence of the compliance officer – incomplete CDD forms. – Lack of up-to-date of customer information. – Failure to submit STRs involving PEPs (more than USD1,000,000.00 detected). – Lack of up-to-date PEP list.	

Source: From data provided by STP

403. The on-site inspections were not based on identified risks. Each inspection was conducted in one working day and aimed at verifying compliance with legal and regulatory requirements, particularly the adequacy of operational risk management by the inspected banks, as well as the existing control environment and fulfilment of AML/CFT obligations established by the AML/CFT Act and related regulations.

404. There are no operational manuals, inspection programmes or checklists to guide the inspection work, from planning to reporting and following up on conclusions and recommendations, which makes it difficult to determine the depth of the scope of supervisory actions.

405. No information was made available showing the existence of inspection programmes containing the risks and respective controls to be assessed. Analysing the summary of the conclusions of the on-site inspections revealed that the main deficiencies are related to non-compliance with CDD, EDD, internal controls and suspicious transactions reporting requirements.

406. The BCSTP reported that the follow-up actions were carried out remotely, i.e. off-site, given the insufficient human resources assigned to the Supervision Unit. No inspections were carried out on other FIs: forex dealers and payment institutions, microfinance institutions, insurance companies, etc.

407. The lack of a risk-based approach limited the frequency and intensity of on-site AML/CFT supervisory activities of BCSTP, especially in relation banks. It also demonstrates BCSTP's focus on prudential issues and procedural implementation of requirements than on mitigating ML/TF risks

DNFBPs

408. Supervisory authorities of DNFBPs have not defined supervisory strategies to prevent and combat ML/TF. The supervisory authorities have not carried out any sectoral risk assessments, nor have they carried out any examinations or inspections in this area. In addition to the NRA's work, the FIU has not carried out any other awareness-raising activities for NDFPA supervisors and has not promoted any awareness-raising, clarification or other activities with supervised entities.

409. For sectoral supervisors, their activities to monitor and supervise compliance with AML/CFT requirements are not clear, even though their duties are specified in the AML/CFT Act. In addition, most supervisors are not yet aware of their AML/CFT supervisory responsibilities and do not have the resources or expertise to carry out examinations and inspections. Although the AML/CFT Act empowers supervisors to determine the type and scope of measures to be adopted for each of the AML/CFT requirements set out in the relevant article of the law, taking into

account the risk of ML/TF and the volume of business activity. Although this measure could facilitate effective supervision of DNFBPs, the supervisors of DNFBPs have not yet implemented this provision. Supervisors of DNFBPs have not, adopted strategies and/or guidelines to facilitate the application of preventive measures and ensure adequate supervision of DNFBPs on a risk-sensitive basis. In addition, licensing bodies, other than those for lawyers and accountants and auditors, do not maintain close co-operation and do not exchange basic information, such as the number of licensed entities in each sector.

6.2.4 Remedial actions and effective, proportionate, and dissuasive sanctions

410. STP STP has adequate criminal, civil and administrative sanctions against natural and legal persons who fail to comply with AML/CFT requirements (see R.35). However, BCSTP did not demonstrate that its remedial actions and sanctions have a positive effect on AML/CFT compliance by banks. NBFIs and DNFBPs have not been supervised for AML/CFT compliance. Overall, a lack of actions by supervisors to identify and sanction cases of non-compliance undermines efforts to prevent ML/TF.

FIs and VASPs

411. Sequel to an on-site inspection, the BCSTP issues notices the concerned banks highlighting the breaches found during inspections. Significant breaches were found in relation to CDD, STR and other AML/CFT requirements. Consequently, warnings and recommendations for improvement were issued and two administrative offence proceedings have been opened, resulting in fines for two commercial banks (see Table 6.2 for elaboration of the infringement cases).

412. STP did not provide information on the reasons for the sanctions imposed. There is also no information regarding the enforcement of the fines levied against the erring banks. Furthermore, sanctions have not been applied to directors and senior management of banks for non-compliance with AML/CFT obligations.

413. For NBFIs, since no supervision has been undertaken yet, the effectiveness of supervisory actions could not be assessed.

Table 6.2 Number of administrative offence cases and fines imposed by the BCSTP under AML/CFT

Bank	Date of inspection [37]	Findings	Date of BCSTP feedback	– Remedial Action Recommended	Sanctions Imposed	Enforcement of Sanctions
Bank A	28/12/2018	– Failure to conduct CDD	07/01/2019	To scrupulously comply with existing legal frameworks on CDD.	None	..
Bank B	07/08/2019	– Cash deposits by persons without business relationship with the customer (a company). – Non-examination of potential unusual transactions.	27/08/2019	– Administrative offence procedure	DB.250.000,00 (aprox. € 10.000)	–

[37] This covers the length and duration of the inspection.

Bank	Date of inspection [37]	Findings	Date of BCSTP feedback	– Remedial Action Recommended	Sanctions Imposed	Enforcement of Sanctions
		– Failure to file suspicious transactions. – Lack up update of customer record – No ongoing monitoring of transactions – Failure to ascertain source of funds – No formalized procedures. – Lack of system for detecting suspicious transaction. – Regular AML/CFT training of front desk and compliance staff – Inadequate internal control system				
Bank A[38]	31/07/2019	– Frequent transactions with (sale of foreign currency) unlicensed forex dealers. – Non-identification of beneficiaries of cross-border wire transfers. – Computer application monitoring higher risk transactions inoperative. – Lack of comprehensive AML/CFT procedures (unspecified). – Failure to examine and report potential suspicious transactions	27/08/2019	– Administrative offence procedure	Db.1.000.000,00 (aprox. 40.000 euros) Advised to implement recommendations	–

[38] Inspected in 2018

Bank	Date of inspection [37]	Findings	Date of BCSTP feedback	– Remedial Action Recommended	Sanctions Imposed	Enforcement of Sanctions
		– Non-compliance with ongoing due diligence. – Lack of comprehensive internal controls (e.g. training of employees).				
Bank C	05/2022 - 09/2022	– Rated "medium-high" risk due to significant gaps and weaknesses identified in the areas of corporate governance, internal control and AML/CFT – Failure to complete the PEPs declaration. – movement of the junior savings account through Internet Banking and Dobra 24 – lack of independence of the compliance officer – incomplete CDD forms. – Lack of up-to-date of customer information. – Failure to submit STRs involving PEPs (more than USD1,000,000.00 detected). – Lack of up-to-date PEP list.	30/12/2022	Submit to the Department of Supervision, within 45 days, a schedule of for the implementation of the recommendations.		

DNFBPs

414. With regard to the imposition of sanctions on DNFBPs, the sector's supervisors have not imposed any sanctions for AML/CFT infringements due to the lack of inspections. As already mentioned, supervisors of DNFBPs need to familiarise themselves with the duties assigned to them by the AML/CFT Act and apply them effectively, including imposing sanctions in the event of breaches of AML/CFT requirements.

415. In the absence of supervision and related statistics on DNFBPs, it is impossible to determine the impact of corrective measures and sanctions on DNFBPs.

6.2.4. Impact of supervisory actions on compliance

FIs and VASPs

416. The assessment of the impact of supervisory actions was carried out only on banks, since there are no records of the measures implemented for non-banking FIs. On the other hand, the lack of a risk matrix and the impossibility of analysing the evolution of each institution and sector in particular is a shortcoming that makes it impossible to verify the impact of the actions carried out by the BCSTP.

417. The BCSTP does not maintain a database that aggregates all the corrective measures directed at FIs, the respective action plan and its degree of implementation. Also, BCSTP does not periodically draw up a report describing the measures imposed and their state of implementation. The absence of a database on measures taken and the law of periodic review of measure imposed hinder the Bank's ability to assess the degree of compliance with corrective measures and their impact on the AML/CFT system.

418. BCSTP does not have sufficient resources to conduct on-site supervision in order to assess the degree of implementation of the recommendations. Thus, it conducts off-site reviews to on-site visits. The BCSTP proved to have received a communication from a bank containing the state of implementation of the recommendations issued by the BCSTP during an on-site inspection (see Case Box 6.2). However, no statistical data has been made available to conclude the analysis carried out by the BCSTP and the actual implementation of the measures and their impact on the institution's compliance.

Box 6.2 – **Impact of AML/CFT Supervision of Banks**

Bank B (rated "High Risk") was inspected in December 2018 and July 2019. Both inspections (noting that 2018 is out of scope and used for illustration purposes) found serious infringements of AML/CFT requirements. Remedial actions were recommended to address the identified deficiencies. No information was provided to enable the AT to determine the positive impact of BCSTP's supervisory actions on Bank B's AML/CFT compliance.

Bank A (rated "Medium-High Risk") was inspected in August 2019. Its last inspection took place in 2017 (out of scope). Both inspections found serious infringements of AML/CFT requirements. Remedial actions were recommended to address the identified deficiencies. No information was provided to enable the AT to determine the positive impact of BCSTP's supervisory actions on Bank B's AML/CFT compliance.

Bank BT (rated "Medium-High Risk") was inspected on 13 April, 2022, BCSTP (six years after its last inspection in 2016). The inspection covered the period 2019-2021. The findings of the inspection, including the bank's global risk rating of "Medium-High", and a request to submit to the DSF, within 45 days from the date of the feedback, a schedule for the effective implementation of the recommendations with the aim of remedying these weaknesses, were provided to Bank BT on 30 December, 2022. In addition, Bank BT was requested to report monthly to BCSTP regarding the actions taken to address the deficiencies. The notice to Bank BT did not indicate the sanction to be imposed. In April 2023, Bank BT submitted an implementation plan containing 73 action items to the BCSTP proposing to address the identified deficiencies by December 2023. Considering the timing of the actions taken, and in the absence of information from STP regarding the monthly reporting by the bank, their impact on effectiveness could not be determined.

These cases demonstrate that BCSTP's does not promptly identify, remedy and sanction, where appropriate, violations of AML/CFT requirements or failings in ML/TF risk management. Consequently, the BCSTP's supervisory actions are yet to improve the level of AML/CFT compliance and discourage attempts by criminals to abuse banks in STP, all of whom are exposed to high ML/TF risks.

Source: Materials provided by BCSTP

419. The 2017 Follow-Up Report highlights the difficulties in terms of resources and technical assistance to implement actions to correct a series of strategic deficiencies that have already been identified, which has negatively influenced the expected progress in implementing many actions to correct/improve these deficiencies.

420. AT did not receive complete information that would allow it to assess the impact of supervision on the degree of compliance with FIs. Supervisory actions, whether through on-site or off-site inspections, are carried out taking into account the risk of each institution and the sector, monitoring the implementation phase of corrective measures and, in the event of non-compliance, adopting measures to ensure their full implementation by FIs.

DNFBPs

421. The sectoral supervisors of DNFBPs have not yet taken any supervisory measures over the entities under their supervision. This is due to a lack of awareness of their responsibilities under the AML/CFT Act and lack of resources.

6.2.6. Promoting a clear understanding of AML/CFT obligations and ML/TF risks

422. AML/CFT supervisors are required to establish guidelines and provide feedback to help reporting entities to apply the AML/CFT Act and to detect and report suspicious transactions. Only the BCSTP has issued regulations to FIs to promote the understanding of their AML/CFT obligations (see R.34.1). BCSTP has not undertaken awareness-raising, training and other initiatives that provide unique opportunities to discuss risks, trends and other information that may be useful in alerting FIs to improve their understanding of ML/TF risks.

423. The FIU and DNFBP supervisors are required to promote a clear understanding of AML/CFT obligations and ML/TF risks among DNFBPs, particularly once the technical work on the NRA is completed. As the NRA exercise is still in progress, no measures have been taken to achieve these objectives.

424. Overall, supervisors require a more in-depth understanding of ML/TF risks to support strengthening awareness raising for FIs and DNFBPs regarding ML/TF risks and AML/CFT obligations.

FIs and VASPs

425. The BCSTP has issued regulations, especially for banks, with the aim of guiding promoters wishing to enter the financial system, as well as incorporated FIs, in order to promote a better understanding of their responsibilities and obligations in terms of preventing ML/TF risks. However, the efforts made are still based on a compliance and less risk-orientated approach, since the regulations and guidelines were not the result of a risk analysis/assessment. Furthermore, BCSTP has not yet taken any action based on the preliminary findings of the NRA to trigger effective implementation of AML/CFT obligations, albeit, based on identified risks.

426. There is no evidence of training or capacity-building activities for FIs, nor is there any record of seminars, workshops or other initiatives to raise awareness of the risks and trends in preventing and combating ML/TF.

DNFBP sector supervisors

427. The sectoral supervisory authorities of DNFBPs, including the self-regulatory bodies (OA and OTOCA), have not yet made any efforts to inform their sectors about ML/TF risks or AML/CFT obligations.

Overall conclusion on IO.3

428. BCSTP is yet to establish risk-based supervision model for both banking and NBFIs. Its supervisory remit is broad and significant to materiality (as it covers all FIs, including forex dealers, payment systems and MVTS operating in STP). Although robust sanctioning legal framework is in place for AML/CFT infringements, BCSTP has implemented this system in a manner consistent with a low level of effectiveness in the financial sector. The Bank has made very limited use of sanctioning proceedings for banks (only twice). As a material sector for STP, with significant ML/TF risks the lack of concerted action in the banking sector – including a developed risk assessment and the consistent and prompt application of proportionate and dissuasive sanctions – is of serious concern. In addition, the lack of action concerning NBFIs, particularly higher risk forex dealers and MVTS exacerbate the risk in other sectors. STP's supervision of the DNFBP sector has remained stagnant since its last MER, as no supervisory action has taken place, including for higher risk entities. Fundamental deficiencies remain due to the lack of supervisory infrastructure across all the DNFBP sectors, stemming from the lack of awareness of supervisors regarding their powers in the AML/CFT Act, very low level of understanding of national and sectoral ML/TF risks, and a general lack of resources across the different sectors. Fundamental gaps remain at regulatory and implementation levels regarding VASPs (whilst acknowledging the absence of VASPs operating in STP). Overall, STP requires fundamental improvements to enable supervisors to appropriately supervise, monitor and regulate FIs and DNFBPs for compliance with AML/CFT requirements commensurate with their risks.

429. **STP is rated as having a Low level of effectiveness on IO. 3.**

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

7.1. Key Findings and Recommended Actions

Key Findings

a) Information on the creation of the different types, forms and basic features of legal persons that can be created in STP are publicly available at the office and website of the GUE.

b) STP has not identified and assessed the vulnerabilities associated with the legal persons created in the country. Accordingly, competent authorities demonstrated a very low understanding of the ML/TF risks associated with legal persons, and a weaker understanding of the ML/TF risks and vulnerabilities of NPOs. The competent authorities lack an understanding of the control of foreign trusts operating in STP.

c) Even though some measures put in place by STP including the registration of all companies and disclosure of basic information could enhance the transparency of legal persons, STP has not implemented adequate measures to mitigate the misuse of legal persons and arrangements for ML/TF purposes.

d) STP relies on the GUE to obtain basic information on legal persons upon request. Although REs are obliged to obtain and maintain BO information as part of their CDD, only banks belonging to international groups do collect BO information of their customers (see IO.4).

e) STP did not demonstrate implementation of measures to ensure that basic and BO information of legal persons are adequate, accurate and current.

f) STP recognise foreign trusts but does not permit its creation in the country. Additionally, while the AML/CFT Act obliges REs to collect BO information on trusts, there is no evidence that REs collect BO information trusts that could be provided to competent authorities upon request.

g) Although STP permits legal persons to issue bearer shares and use nominee directors and shareholders, there no measures to ensure that bearer shares and use nominee directors and shareholders are not misused for ML/TF.

h) STP has limited sanctions for non-compliance with the information requirements. In addition, the country is yet to apply sanctions to any legal or natural person, including REs for non-compliance with information requirements for legal persons and arrangements.

Recommended Actions

STP should:

a) Identify and assess the ML/TF risks associated with all types of legal persons created in the country. The assessment should reflect the associated ML/TF risks and the role of persons providing services to companies. The report should be published for the widest dissemination to promote greater awareness – among public and private sectors - of the threats of misuse of legal persons and arrangements. Based on the updated risk assessment, STP should implement commensurate measures to mitigate all risks identified.

b) Amend the Commercial Code to require all legal persons and legal arrangements to disclose and update BO information in line with identified ML/TF risks. Mechanisms should also be put in place to ensure the basic and BO information is adequate, accurate and current.

c) Through the MOJ, develop guidance and training for GUE, LEAs and the private sector to enhance understanding of what constitutes basic and BO information (i.e., the concept of control vs ownership), as well as nature, characteristics and any relevant ML/TF risks of legal persons and legal arrangements.

d) Put in place adequate measures to enhance the transparency of bearer shares and nominee shareholders and directors including ensuring that adequate, accurate and current information of BOs of such arrangements are kept.

e) Put in place an information sharing mechanisms to enhance timely and a rapid access to adequate, accurate and current basic and beneficial ownership information by competent authorities.

f) Amend the Commercial Code to provide for proportionate and dissuasive sanctions against breaches of basic information and beneficial ownership requirements.

g) Apply effective, proportionate and dissuasive sanctions against natural and legal persons who breach basic and beneficial ownership information requirements

430. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R.24-25, and elements of R.1, 10, 37 and 40.

7.2. Immediate Outcome 5 (Legal Persons and Arrangements)

431. STP's framework for obtaining basic and beneficial ownership information relies on a dual approach (basic information captured by GUE and basic and beneficial ownership information captured by REs) accessible to competent authorities and the public upon request. Basic information is available with GUE, the company registry which operates under the MOJ. This information is stored at the offices GUE and available to the public on request. The information includes the required business incorporation and registration documents for legal persons. Legal persons are not required to declare BO information to the GUE. Consequently, a request to GUE only allows for the identification of the legal owner of the legal person.

432. REs are required to obtain BO information on legal persons, which must be maintained for five years after a transaction or termination of a business relationship. This information is accessible to LEA's pursuant to a court order or during investigation. Information kept by REs information may be liable to the deficiencies identified in the analyses of IO's 3 and 4.

433. Beyond the provisions in the AML/CFT Act, information regarding the creation and access to information on legal arrangements in almost non-existent.

434. The AT based its findings on laws, statistics from the MOJ/GUE, interviews with GUE, the FIU, BCSTP FIs and DNFBPs.

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

435. The creation of the various types of legal persons in STP is governed by the Commercial Code of 1988, its amendments of Law No. 14/2009, the law on the Single Window for Creation of Companies (Decree Law No. 37/2009) and Decree-Law No. 43843 which regulates Private Limited Companies, as amended by Law 14/2009. The GUE, an agency under the MOJ, is in charge of the one stop shop.

436. STP has two types of legal persons - public and private legal persons. Private legal persons are regulated by the Commercial Code which identifies General Partnership, Anonymous Society, Limited Partnership, Sole Proprietorship by Quotas and Private Limited Companies as the types of companies that can be incorporated in STP (see Chapter 1 for detailed description of the types of legal persons in STP). All foreign entities who wish to trade in STP are also required to be incorporated in STP. TGUE maintains basic information of all types of companies.

437. Information on the creation and types of legal persons is publicly available in STP. Under the auspices of the MOJ, STP's framework for the identification, collection and maintenance of basic information relies on the GUE to a large extent. All legal persons, particularly companies limited by shares; anonymous (companies limited by guarantee); partnerships; sole proprietorship; and branches, must register with the GUE to operate in STP. The registration process requires the filing of the Articles of Association, the name, the composition of the share capital (identification of the shareholders/partners with the respective percentage of the shareholding), the legal form, the address of the registered office and to whom the management is assigned. The Articles of association of legal persons are published in an Official Gazette which is available to the public, including competent authorities. Accordingly, information on the types, forms and basic characteristics of legal persons in STP is publicly available at the offices of the GUE with some information on the types of documents required to register a company available on its website (http://www.gue-stp.net).

438. The process for recording basic information on legal persons are available in various pieces of legislation which are also available on the website of GUE. GUE's website also lists the documents to be provided when incorporating a company.

7.2.2. Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

439. STP has not identified, assessed and understood the vulnerabilities, and the extent to which legal persons created in the country are being misused for ML/TF. Competent authorities' understanding of ML/TF risks associated with legal persons is therefore generally very low. Additionally, the ML/TF risk associated to NPOs was not assessed. NPOs are considered legal persons as they are required to apply to the DRN for registration after it being in existence for at least two years and have a minimum number of ten members. The Notary and Registry Office, the main agencies responsible for the creation of legal entities in STP lack awareness of AML/CFT requirements. They believe that their responsibility is limited to the formation and dissolution of legal entities and do not perform any monitoring functions.

440. Even though, some cases investigated by the PGR involved the use of legal persons, competent authorities, including LEAs and the FIU, demonstrated a lack of understanding of how legal persons are misused for ML/TF as they tend to focus on the predicate offence as illustrated in the Ecuador Bank Case (Box 3.2) and the Embraer Case provided in table 7.1 below .

441. Overall, the authorities demonstrated a very low understanding of the risks associated with legal persons and there is no system for ensuring that the vulnerabilities of domestic and foreign legal persons are adequately identified, assessed and understood.

Box 7.1. - The Embraer Case

In 2009 the Attorney General of Mozambique investigated and prosecuted Embraer, a Brazilian aircraft manufacturer, for paying US$800,000 (EUR 741,000) in bribes to the managers of the National Airline of Mozambique (LAM) and an intermediary, also Mozambican, for the procurement of two aircrafts in 2009.

On April 22, 2009, Embraer had signed a "commercial representation agreement" with Xihevele. The stated purpose of this company was to promote the sale of aircraft to LAM, even though LAM had already signed the purchase agreement. Xihevele did not exist during the negotiations between LAM and Embraer. The suspects allegedly incorporated and registered a limited liability company (Xihevele Ida) in STP to receive the money from Embraer. Embraer paid the bribe, disguised as “sales commissions”, in two instalments of 400,000 United States dollars each to a Xihevele bank account which was subsequently transferred into the beneficiary account in country X. The amount was deposited into the STP bank account of a fictitious company created as part of the suspected corruption scheme, one of a number of illicit payments that Embraer allegedly made in several countries.

Three individuals were charged with ML, breach of trust, economic participation in business. In 2020, STP assisted the Attorney General of Mozambique by procuring witnesses statements to facilitate the investigation and prosecution of the case.

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

442. Authorities demonstrated a very low understanding of the ML/TF risks associated with legal persons and legal arrangements and could not demonstrate that they have taken mitigating measures to prevent the misuse of legal persons and arrangements for ML/TF purposes.

443. Notwithstanding the above, some measures put in place by STP could mitigate some level of risks. For instance, all legal persons must be registered with the GUE before they can operate in the country. The registration process involves the submission of various documents including articles of association and identification documents of the directors which are checked for accuracy and completeness. These measures are however not comprehensive as there are no mechanisms in place to obtain and maintain BO information on legal persons. Additionally, even though there is a requirement for legal persons to update their records within thirty days after any change, authorities did not demonstrate the implementation of the same to ensure the basic information is accurate and up-to-date.

444. Under action item 5 of Pillar 3 (Detection and Intelligence) of the 2018-2020 AML/CFT Strategy, STP planned to prevent legal persons and arrangements from being used for criminal purposes, in particular ML/TF, as well as to prevent the misuse of the NPO sector and to ensure that information concerning BOs of legal persons and arrangements is made available to the competent authorities without hindrance (see R. 1, 4, 6, 8, 24, and 25). However, the authorities did not demonstrate the implementation of this action item. Additionally, as indicated earlier,

regardless of the Embraer and Bank of Ecuador cases (Box 3.1), the authorities demonstrated a limited understanding of how legal persons can be misused for ML/TF purposes as evidenced by the lack of assessment of the ML/TF risks of legal persons and legal arrangements in the NRA.

445. Aside basic information disclosure at the point of registration and subsequent updates which, in practice, is not done promptly, companies are not required to disclose information on their BOs. Accordingly, the GUE does not obtain and maintain BO information on companies. Some FIs, especially banks belonging to international groups do collect BO information when on-boarding customers; however, this has remained a huge challenge due to the limited or absence of verification mechanisms.

446. In addition to the above, the GUE's website has set a deadline of six months for companies to register or be struck off (eliminated/extinct) from the system. This demonstrates the existence of non-complying legal persons in the system, with little or no regulation of their activities. No information was provided regarding the actions taken, and the number of companies affected.

Bearer Shares, Nominee Shares and Directors

447. STP permits the issuance and use of bearer shares and bearer share warrants. Also, the country allows legal persons to use nominee shareholders and directors. However, the authorities did not demonstrate the implementation of measures and controls to ensure that the risks associated with such arrangements are mitigated.

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

448. The general public and Competent Authorities can access basic information on all legal persons from the GUE. Competent authorities can also access basic information of legal persons from FIs as this information are available. Such request is made by way of a formal letter to which a written response is provided. No information was provided to demonstrate the timeliness of the access by competent authorities. The basic information is verified against the issuers of the identification documents used by the directors of the entities. Authorities indicated that during the onsite that legal persons are also required to update their basic information thirty days after any changes are made. This is to ensure that the basic information is accurate and up-to-date. However, authorities have not substantiated this claim either through a legal provision nor have they demonstrated the practical implementation of this measure to enable the AT ascertain how accurate and up-to-date the basic information are maintained.

449. The Commercial Code does not require legal persons to disclose information on their BOs. There is a general lack of understanding of the concept of BO among competent authorities who most often confuse the term "beneficial owner" with "legal owner". Accordingly, the GUE has no mechanism for identifying and collecting information on the BOs of legal persons.

450. Notwithstanding the above, banks that are subsidiaries of international financial groups are sometimes able to identify beneficial owners. There are, however, no mechanisms to verify the information and measures are not taken to ensure compliance with the requirements to update and ensure accuracy of BO information by REs. Such information as collected by these banks are accessible by Competent Authorities upon request.

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

451. Trusts and similar legal arrangements are not explicitly prohibited by the laws of STP. The AML/CFT Act classifies Trusts as a DNFBP and recognises TCSPs. The AML/CFT Act obliges REs to apply relevant preventive measures to trusts and similar legal arrangements with or to whom they have business relationships or provide services. The business relationships or services include the creation, exploitation, provision of registered office,

business address, administrative facilities or postal address for legal arrangements. The AML/CFT Act also defines "trusts" and "legal arrangements" to mean "express trusts or similar unincorporated collective interests and trust companies." Nevertheless, there is no information regarding how legal arrangements are created or operate in the country.

452. This notwithstanding, authorities did not demonstrate measures implemented to prevent the use of legal arrangements created outside the jurisdiction for purposes of ML/TF. This could be attributed to the authority's argument that legal arrangements are not recognised in the country.

453. Accordingly, competent authorities do not have access to adequate, accurate and current basic and BO information of legal arrangements created outside STP but possibly operating in the country.

7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions

454. The Commercial Code provides sanctions for various breaches of disclosure of basic information, but no sanctions are available on BO disclosure as it is not a legal requirement in STP. The authorities did not provide information on actions taken, including administrative and criminal sanctions to legal persons and natural persons, to ensure compliance with the transparency requirements of the Commercial Code including failure to update basic information. Assessors could therefore not determine the extent to which effective, proportionate and dissuasive sanctions are applied against persons who do not comply with information requirements.

Overall conclusion on IO.5

455. STP has not assessed the ML/TF risks associated with the different types of legal persons created in the country. Authorities demonstrated a very low understanding of the vulnerabilities of legal persons and could not demonstrate the application of mitigating measures. Basic information on the creation of the various types of legal persons is publicly available however, authorities could not demonstrate in practice measures put in place to keep the basic information accurate and up-to-date. Nevertheless, competent authorities can access this information upon request.

456. There is no legal requirement for companies to disclose their beneficial ownership information and only some banks belonging to international groups can collect BO information as part of their customer due diligence measures. There are limited or no mechanisms available to verify such information and no mechanisms in place to ensure the BO information is accurate and up-to-date. There are no measures to mitigate the risk associated with bearer shares and nominee shareholders and directors.

457. Overall, the implementation of adequate measures to enhance transparency and prevent legal persons from being misused for ML/TF purposes in STP is weak and limited by the country's poor risk understanding, lack of access to adequate accurate and up to date information and absence of an effective sanctioning framework.

458. **STP is rated as having a Low level of effectiveness for IO.5.**

CHAPTER 8. INTERNATIONAL COOPERATION

8.1. Key Findings and Recommended Actions

Key Findings

a) STP has a solid legal basis for providing and requesting the widest range of international co-operation on ML/TF and associated predicate offences. However, the country demonstrated difficulty in seeking and providing international co-operation to support domestic and foreign investigations.

b) STP responds to MLA requests received according to the intrinsic characteristics of each request and the complexity of some of these requests may give rise to a longer deadline. Nevertheless, the relevant competent authorities receive some positive feedback from counterparties.

c) STP sends formal requests for MLA for predicate offences and does so mostly by letters rogatory. However, STP does not maintain comprehensive statistics on requests made and received. There is no data showing the number nor the response rates. Some of the statistics lack information on the type of offence, assistance requested, and action taken. Not all requests are recorded.

d) No action has been taken in furtherance of the extradition request refused on the grounds of the dual nationality. This may challenge the authorities' ability to properly investigate and prosecute cases with transnational links. STP has made limited number of requests formal legal assistance on ML/TF cases and no request for extradition, which represents a major challenge for STP in its ability to prosecute and obtain successful ML/TF convictions (considering the country's risk profile).

e) The use of requests for other forms of international co-operation with foreign counterparts, for the exchange of financial and supervisory information, law enforcement or otherwise, is very low, mainly in relation to underlying crimes and rarely for ML/FT. The case of the refusal of the extradition request experienced by STP and the low number and frequency of requests sent has a negative impact domestically on the prosecution of ML, associated predicate offences and TF with cross-border elements.

f) Competent authorities such as the FIU and the PJ have engaged in other forms of international cooperation, especially in relation to ML, to a limited extent. The FIU is not a member of the Egmont Group, and has exchanged information with its foreign counterparts to a limited extent. In addition to the Interpol channel, the PJ exchanges information with foreign counterparts through informal channels. Regardless of the presence of FIs affiliated to foreign groups, BCSTP did not demonstrate cooperation with its foreign counterparts.

g) STP did not demonstrate the sharing of basic and BO information on legal persons registered or operating in the country due to the deficiencies identified in R.24.

Recommended Actions

a) STP should endeavour to improve its response rate to incoming requests, particularly with regard to MLA and extradition, through a risk-focused screening system for incoming MLA and extradition requests that incorporates prioritisation based on factors such as the value of the proceeds of crime, increased risk of ML/TF in STP as the requested country and, on the requesting country's side, factors such as past experiences with similar requests and legal and institutional characteristics of the requesting countries, including reciprocity.

b) STP should capitalise on the potential of the informal cooperation needed for TF cases to pursue investigations related to terrorism and its financing and ensure that STP sends formal MLA requests whenever it comes to evidence to be used in judicial proceedings.

c) STP should implement mechanisms or adopt guidelines to facilitate the international identification and the tracing of assets. STP should introduce continuous training for prosecutors, reinforcing their capacity and sensitising them to the need to make use of MLA requests, extradition and asset identification, freezing and confiscation to promote domestic prosecution of AML, associated underlying crimes and TF with transnational elements.

d) STP should increase the number of MLA and extradition agreements it has with countries, based on risk.

e) The competent authorities, in particular the PGR and the LEAs, should continue to develop links with a broader range foreign counterparts. In particular, the PGR should strengthen the way it establishes preliminary (informal) exchanges before sending formal requests, and familiarise itself with the MLA requirements of other jurisdictions. The FIU should actively pursue membership of the Egmont Group, but in the meantime, increase the number of bilateral MoUs with foreign jurisdictions to enhance the sharing of financial intelligence consistent with STP's risk profile.

f) Competent authorities in STP (except Public Prosecutor's Office) should endeavour to develop and strengthen relations with partner authorities to improve the fluidity of informal exchanges wherever possible.

459. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The Recommendations relevant for the assessment of effectiveness under this section are R.36-40 and elements of R.9, 15, 24, 25 and 32.

8.2. Immediate Outcome 2 (International Cooperation)

460. STP has the legal and institutional framework to provide and receive requests for mutual legal assistance (MLA) and extradition included in the various forms of international co-operation. STP can execute extradition requests related to ML/TF under the terms governed by the rules of the international treaties, conventions and agreements binding the São Toméan state and, in the absence or insufficiency thereof, by the provisions of the Law on International Cooperation in Criminal Matters (Act 6/2016) or, by subsidiary application of the provisions of the CPC (cf. art. 4, no. 1 and 2, Act 6/2016).

461. Corruption and tax fraud are identified by the draft NRA as the main proceeds generating ML predicate offences or activities which generated the highest illicit proceeds. Trafficking in narcotics (drug trafficking) and counterfeiting and piracy of products are the main external threats in STP). STP demonstrated very limited use and

provision of international cooperation. LEAs and the FIU made limited requests related to ML and supervisors did not seek cooperation in relation to AML/CFT. The AT based its conclusions on information provided by STP, as well as interviews with the authorities.

8.2.1. Providing constructive and timely MLA and extradition

462. The PGR is the central authority responsible for MLA and extradition. All requests for MLA and extradition are forwarded to the First Criminal Section, in the DIAP, where there is a Magistrate assigned to deal with the requests. There are three magistrates responsible for investigating economic and financial offences and violent crime. The Magistrate responsible for International Cooperation in Criminal Matters at DIAP, apart from the law, does not have any guidelines or documents establishing the general principles for international cooperation or how to receive, follow up, respond to and prioritise requests for MLA and extradition. In cases where the MLA requires the identification and, where appropriate, the freezing or seizure of assets, the Magistrate in charge can either request the collaboration of other public or private entities or delegate the power to the PJ or other LEAs for this purpose. Matters requiring the management and administration of proceeds of crime, instrumentalities of crime and other assets are handled by the person in charge, a dedicated criminal police body (OPC) or a trustee, as provided for in the CPC.

463. Under São Toméan law, requests for international co-operation are received and transmitted via the Central Authority, which is the Attorney General's Office. In this case, both for receipt and transmission, the Attorney General must always contact the Member of the Government in charge of Justice, in order to obtain a decision on the admissibility of the request and to act as the official channel for the transmission of the STP request, always following the diplomatic channel or channel in both directions. In this case, the Magistrate Responsible for International Cooperation in Criminal Matters does not directly receive requests for international cooperation. However, in cases of urgency, the foreign judicial authorities can communicate directly with the São Toméan judicial authorities.

464. Therefore, following the logic of formal cooperation, this means in practice that as soon as the magistrate in charge receives the request from the PGR, since there is no system for managing and prioritising cases, STP uses the criterion of urgency that can be observed in most criminal cases and in which what prevails is the procedural situation of the person targeted or requested. In other words, in criminal proceedings, preference is given to cases involving defendants who are arrested, detained or in custody. Thus, this criterion allows the Magistrate Responsible for International Cooperation to determine the urgency and importance of requests for MLA or extradition not on the basis of factors such as the value of the proceeds of crime, or the increased risk of ML/FT in STP as well as in the requested country and, on the requesting country's side, factors such as past experience with similar requests and legal and institutional characteristics (including reciprocity), but rather the degree or seriousness of the measures restricting the liberty of the person targeted.

465. Since 2019, STP has received 45 MLA requests and executed 11 representing 26.6% of the total number of requests received. The volume of incoming requests is low, with the highest number being in 2020 with thirteen (13) requests, and the predicate offences identified by the NRA as the highest proceeds generating offences (corruption, tax fraud, drug trafficking and counterfeiting and piracy of products) accounting for 11.1% of the requests received during the evaluation period. During the same period there were no requests relating to TF and only two relating to ML (4.4% of requests). Thirty-two requests are pending, while 12 have been executed by the authorities. However, reliability of the statistics is questionable since the draft NRA indicates that six MLA requests were received in relation to TF offence (see IO.10). Also, some cases referred to IO. 7, 8 and 5 ('Ndrangheta case with Italy and aeroplanes case with Brazil) are not recorded in the data provided on international cooperation.

466. The requests received related mainly to non-coercive measures (notification of indictment, judgment, conviction, video surveillance and GPS location; examination of witnesses trial date; notification of the judgment; notification of the indictment and application for the purpose of being charged; questioning of an accused person; notification to request no objection of the execution sentence. One request for location for detention was noted.

467. The nature, source and volume of STP's incoming requests is largely determined by its strong links to Portugal, and, to a limited extent, factors including identified risks. Notably, the data demonstrates that 42 out of the 45 incoming requests originated from Portugal, which is estimated to account for 93.3% of all incoming requests, while Mozambique and Germany made one request each (the ML-related case of Mozambique) accounting for the remaining 6.7 %.

468. Reasons for non-execution of requests include inability to locate defendants; lack of means by the PGR to conduct requested surveillance; death of defendant; inability to collect information related to bank accounts, request to open an adversarial investigation. One request was refused due to the absence of a vital document.

469. The statistics provided showed some gaps regarding the crime types and assistance required are observed. There is insufficient data to ascertain how the volume of requests derived from the key predicate offences compared to other specific crimes. However out of the key predicates, the instances of tax crime rank 4th and account for 6.6% of requests received.

470. Delays are also noted in the provision of MLA. The MOJ did not respond to the requests in a timely manner. The average period for responding to MLA range from two to 10.2 months.

471. Table 8.1 below presents information on the number of MLA requests received by the MOJ for the period 2019 to 2023.

Table 8.1: Incoming MLA and extradition requests (2019- June 2023)

MLA requests received	2019	2020	2021	2022	2023*	Total
ML-related	0	1*	1*	0	0	2
Corruption	1*	1*	0	0	0	2
Abuse of trust	0	1	2	1	2	6
Fraud	0	1	2	2	0	5
Forgery	0	2*	3	1	1	7
Sexual exploitation of children	1	0	0	0	0	1
Tax crimes	0	1	1	1	0	3
Illicit trafficking in narcotic drugs	0	0	0	0	0	0
Human trafficking	1	1	0	0	0	2
Migrant smuggling	0	0	0	0	0	0
Terrorism	0	0	0	0	0	0
TF	0	0	0	0	0	0
Others	2	5	2	2	6	17
Total	5	13	11	7	9	45
Pending	5	10	7	3	8	33
Refused	0	0	1	0	0	1
Granted	0	3	3	4	1	11
Average execution time (months)	N/A	3	3.1	10.3	2	N/A

Not standalone. Source: MOJ

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

472. STP has not prosecuted many of the country's ML and predicate offences that have a transnational element (e.g. cases of fraud, corruption, or smuggling where the proceeds are transferred to another jurisdiction).

473. Although LEAs recognise international cooperation as an integral part of the investigation process due to its potential to bring together transnational elements of crime, the STP authorities did not provide comprehensive statistics on MLA requests made to foreign counterparts from January 2018 to June 2023.

474. Table 8.1 indicates that the country does not seek assistance either for MLA or for the extradition of criminals who may have fled the country. Meanwhile, the magistrates' reports during the on-site visit show that there has been one case (supposedly outside the period under review) of an extradition request being refused to STP. The request was refused on the grounds that the person against whom extradition was requested was also a national of the requested country, which does not extradite its own citizens.

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

475. STP has little record of proactively using informal co-operation for AML/CFT purposes and for predicate offences. LEAs, such as the PJ and Customs, for example, are not actively using channels to exchange information through bilateral or multilateral channels with their counterparts. There are a few cases presented in which informal exchanges have taken place that can help organise and prepare formal MLA requests to be sent later by the Public Prosecutor's Office.

FIU

476. In most cases, the FIU is the main point of contact for exchanging information with foreign FIUs. The FIU is not a member of the Egmont Group and therefore does not enjoy the privilege of using the Egmont Secure Web (ESW) system to exchange information informally and spontaneously (including without delay) with other members due to lack of membership of the Group.

477. Regarding the use of other forms of international co-operation: the FIU has actively sought and provided other forms of international co-operation for AML/CFT purposes with foreign counterparts. The FIU seeks international co-operation on its own behalf and in its interest in connection with AML/CFT purposes or on behalf of LEAs and investigating authorities. The FIU has memoranda of understanding with all CPLP counterparts except Equatorial Guinea and, at sub-regional level, with countries such as Burkina Faso, Ghana, Liberia and Togo.

478. The FIU made a number of requests, including spontaneous disclosures to foreign counterparties during the period analysed in the report. The FIU made one request on behalf of an LEA or investigating authority.

LEAs

479. LEAs co-operate to some extent with their counterparts, using the bilateral and multilateral channels available to provide and request relevant information. The cases reported by STP suggest that STP prosecutors have conducted joint investigations with Portuguese counterparts in relation to underlying offences. However, there is no statistical data to indicate when this occurred and in relation to which criminal type or types.

480. Bilaterally, the PJ has signed memoranda of understanding with counterpart countries, including several important regional and international strategic partners. From a multilateral point of view, the PJ utilises available INTERPOL channels using the INTERPOL Global Police Communications System I-24/7.

481. However, the number of requests sent and received through this system is not available, so it is difficult to analyse the frequency and consistency of the use of informal networks to send and receive information between LEAs and counterparts.

Customs

482. The risk of cross-border smuggling is a major challenge for STP's AML/CFT regime. The Customs Service has not demonstrated that it requests and provides information to its regional and international counterparts through bilateral exchanges and, eventually, through channels facilitated by the World Customs Organisation (WCO) Customs Surveillance Network.

Supervisors

483. Supervisors do not use other forms of international co-operation: Although AML/CFT supervisors, like the BCSTP, may be members of relevant international bodies, supervisors have not demonstrated that they use other forms of international co-operation for AML/CFT purposes. There is no information, data or narratives demonstrating the exchange of information with counterparts or other organisations were made available (see IR. 3).

8.2.2. Providing other forms international cooperation for AML/CFT purposes

484. STP did not demonstrate that it has used its membership in key regional and international organisations, such as INTERPOL, GIABA and agency-to-agency cooperation to provide international cooperation to foreign counterparts and non-counterparts. Regarding BCST, the country has not demonstrated that there are formally instituted cooperation agreements that enable the exchange of information and other forms of cooperation with similar supervisory entities.

8.2.3. International exchange of basic and beneficial ownership information of legal persons and arrangements

485. STP is not actively exchanging basic and BO information on legal persons or legal agreements. In 2020, the CAU received two requests for incorporation documents of two companies as well as the complete identification of one of the companies, but these were not executed. Another request for information on a company was received in relation to insolvency proceedings. Although this request was executed, there is no specific information regarding its relevance to any criminal activity, and whether a request also involved BO information.

486. Guiché Único has not received any requests for international co-operation, but states that it could provide basic information on legal persons if necessary. The information that could be exchanged mainly refers to basic information available in the commercial register about commercial companies and/or their directors and partners. However, Guiché Único does not have the mandate, and it does not collect BO information. As such, this information is unlikely to be accurate or up-to-date.

Overall conclusions on IO.2

487. STP responds to incoming requests for MLA and extradition but does not use a prioritisation system to keep track of incoming requests. STP has demonstrated that it is responding to requests and meets most of these requests for international co-operation. However, there are problems in providing statistics on the data reported regarding requests for MLA and extradition sent and received. STP is not receiving international co-operation on ML and underlying crimes effectively, which represents a major challenge for the authorities' ability to address ML, FT and underlying crimes. STP does not request a wide range of formal international co-operation in relation to ML and underlying crimes. In the case of FT, LEAs do not pursue MLA in relation to such cases, claiming that there are no cases of terrorism and its financing.

488. The LEAs seem receptive when it comes to informal co-operation. The MP and PJ have some history of exchanges through various platforms, but requests are infrequent. The FIU has occasional exchanges with counterparties and manages to develop its analysis and share information with counterparties.

489. Exchanges of supervisory information do not appear to be adequate, and the relevant supervisors have not demonstrated that they have responded to requests received in a timely manner, nor have they provided information on the BE of legal persons and legal agreements registered in STP.

490. **STP is rated as having a Low level of effectiveness for IO. 2.**

TECHNICAL COMPLIANCE

This section provides detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerical order. It does not include descriptive text on the country situation or risks, and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2013. This report is available from www.giaba.org

Recommendation 1 – Assessing risks and applying a risk-based approach

This is a new recommendation and was not assessed in the 2013 Mutual Evaluation process.

Risk assessment

Criterion 1.1 – [Partly Met] Under Decree-Act 04/2022, national authorities are obliged to identify and assess the country's risks of ML/TF through the National ML/TF Risk Assessment process. Under this Decree-Law, working groups were set up for this purpose, with the participation of all sectors of the country with responsibilities in the field of preventing and combating ML/TF. This process has enabled STP to identify country's relevant threats and vulnerabilities.

The sectors with the highest and lowest ML/TF risks were identified, so that mechanisms could be allocated to mitigate or eliminate these risks. It also enabled FIs and DNFBPs to gather useful information that will serve as a basis for their own risk assessments. The threats and vulnerabilities affecting the AML/CFT system were also identified. However, the final report is in the final stages of being drawn up and still needs to be approved and action validated by the government.

Following the conclusion of this exercise, the country can ascertain the level of ML/TF risks to which the jurisdiction is exposed, in order to define the priorities and measures to be taken to mitigate these risks. It should be noted that prior to the ML/TF Risk Assessment process, the country had already identified some vulnerabilities and threats which culminated in the adoption, in May 2018, of the National Strategy to Prevent and Combat ML/TF. This strategy will be updated once the NRA process, which is still ongoing, has been finalised.

Criterion 1.2 – [Met] The coordination of the National Risk Assessment process was the responsibility of the Financial Information Unit (Article 4 of Decree No. 04/2022). STP has set up a working group to promote the drafting of the ML/TF NRA and to ensure that policymakers (e.g. the relevant members of the Government) are committed to the conclusions of the NRA and to implementing the necessary measures (Article 3.1, DL 04/2022). This working group has three levels: the Technical Committee, chaired by the Minister for "Planning, Finance and the Blue Economy" (political, strategic and decision-making level); the working group, chaired by the NRA National Coordinator and supervised by the FIU Coordinator. This level is made up of 6 teams (Article 3(2) and Article 4 DL 04/2022); The secretariat (carries out all the necessary administrative tasks). This structure aims to ensure the necessary coordination for drawing up, finalising and implementing the results of the NRA.

Criterion 1.3 [Not Met] There is no legal provision identifying how often a risk assessment should be completed and how and when the country's risk assessment should be updated..

Criterion 1.4 [Not Met] STP has not demonstrated established mechanisms to provide information on the results of the risk assessment(s) to all relevant competent authorities and to the SRBs, FIs and DNFBPs. STP has not yet finalised its NRA.

Risk mitigation

Criterion 1.5 [Not Met] STP has not yet finalised its NRA and adopted national policies on AML/CFT in accordance with the risks identified. Consequently, the country has not demonstrated the application of a risk-based approach to the allocation of resources and the implementation of measures to prevent or mitigate the identified risks.

Criterion 1.6 [N/A] STP has not exempted any activity, FIs or DNFBPs from applying any of the FATF Recommendations.

Criterion 1.7 [Mostly Met] Where the risk of ML/TF is considered high, FIs and DNFBPs are required to apply EDD measures tailored to the risks identified and assess whether certain transactions or other activities appear to be irregular or suspicious. The measures must include processes for identifying, assessing, monitoring, managing and mitigating ML/TF risks (Art. 11(1) and (2), AML/CFT Act). However, FIs and DNFBPs are not required to ensure that this information into their own risk assessments.

Criterion 1.8 [Met] When the risk of ML/TF is low, FIs and DNFBPs are required to apply simplified customer due diligence measures that are appropriate to the nature of the risk (Art. 3 and 11 AML/TF Act).

Criterion 1.9 [Not Met] Supervisors and SRBs do not ensure that FIs and DNFBPs are fulfilling their obligations under R.1.

Criterion 1.10 [Partly Met]

(a) [Not Met] There is no requirement for FIs and DNFBPs to document their ML/TF risk assessments and methodology. Senior management approval is required in certain situations, such as those related to PEPs - Article 12 of the CFT Act.

(b) [Met] FIs and DNFBPs are obliged to consider all relevant risk factors before determining the overall risk level and the appropriate type and size of mitigation measures to be applied (Article 11(1), AML/CFT Act and Article 3, NAP 07/2018).

(c) [Partly Met] The obligation to keep risk assessments up to date applies only to banks (article 3 of NAP 07/2018).

(d) [Not Met] STP legal framework does not require the establishment of adequate mechanisms to disseminate information to the competent authorities and the SRB on risk assessment.

Criterion 1.11- [Partly Met]

(a) [Partly Met] Chapter III of the CFT Act requires such measures in several articles (see Article 12). Article 3 of BCSTP NAP Regulation 07/2018 also requires the banking sector to develop, adopt and implement a customer acceptance policy, internal rules, programmes, policies, procedures and controls adopted by a management body, to effectively manage and mitigate ML/TF risks. Taking into account the documents provided, AT was unable to find a generic requirement for all obligated entities.

(b) [Met] TFI's and DNFBPs are obliged to monitor the implementation of the controls outlined in c. 1.11.a.

(c) [Met] FIs and DNFBPs are required to take enhanced measures to manage and mitigate high-risk areas (articles 11, CFT Act and 3, NAP no. 07/2018).

Criterion 1.12 - [Partly Met] Simplified measures are not applicable when there is a suspicion of MLTF/PF (art. 11(4), AML/CFT Act). Also, when the conclusions of the risk assessment are a low-risk subject, entities must apply simplified due diligence measures appropriate to the nature of that risk (Article 11(3), AML/CFT Act). The deficiencies outlined in criteria 1.9 to 1.11 have cascading effects on the rating for criterion 1.12.

Weighting and Conclusion

In general, STP's AML/CFT framework provides general requirements for identifying and assessing ML/TF risks and implementing mitigation controls on a risk-sensitive basis. However, the country is yet to complete its NRA. There are also gaps related to specific obligations for FIs and DNFBPs to carry out enhanced customer due diligence based on information provided by the authorities, the risk-based strategy by STP or its relevant public institutions, which will allow the allocation of resources towards the mitigation of higher ML/TF risks and risk-based compliance. **R.1 is rated PC.**

Recommendation 2 - National Cooperation and Coordination

In the last MER, STP was rated as a PC in R. 31 due to the lack of capacity and resources to ensure effective coordination and cooperation between the competent authorities.

Criterion 2.1 [Not Met] STP has not yet adopted national AML/CFT policies informed by the risks identified.

Criterion 2.2 [Met] Pursuant to article 50 of the AML/CFT Act, "The Multisectoral Commission, created by Order of the competent Government Member, is the structure that must define and determine the coordination of national policies on preventing and combating ML/TF, and cooperation between competent authorities for preventing and combating these crimes."

The Multisectoral Commission has the mandate to define and coordinate national policies on AML/CFT, as well as co-operation between national AML/CFT authorities (Article 50, CFT Act). The coordinator of the FIU chairs the Commission. The sectoral commission operates within the framework of the FIU (Articles 5 and 7, Decree-Law 25/2012 & the FIU's Internal Regulations). The FIU coordinator also appoints the focal points of the various institutions that are members of the commission are non-staff members of the FIU (Article 6/2, FIU).

Criterion 2.3 [Met] This co-operation and co-ordination is ensured through the FIU's Multisectoral Commission, which is made up of focal points from all the national players with responsibility in the field of preventing and combating ML/TF, whose meetings must be held at least twice a month, where plans, strategies and other relevant issues in the field of LML/TF in the country are discussed and defined. (Article 7 and Article 5(4), (7), (8) of Decree No. 25/2012, in conjunction with Articles 5 and 6 of FIU Decree "the legal statute creating the Financial Intelligence Unit").

The observations made in criterion 2.2 are equally valid in criterion 2.3. With the information provided, the evaluation team tends to consider that the sectoral commission serves as the mechanisms that enable internal co-operation, co-ordination and exchange of information related to the development and implementation of AML/CFT policies and strategies.

The Sectoral Commission is made up of high-level members made up of the BCSTP, the Ministers of Justice, Finance, Planning and Development, the Attorney General's Office, the Criminal Investigation Police, the Migration and Borders Police, the Tax Police, the National Police, the national airport and airline security company) and the National Civil Aviation Institute.

Criterion 2.4 [Not Met] There are no mechanisms to facilitate co-operation and co-ordination between competent authorities to combat the financing of the proliferation of weapons of mass destruction.

Criterion 2.5 [Not Met] There are no co-operation and co-ordination mechanisms to ensure the compatibility of AML/CFT requirements with data protection and privacy rules and other similar provisions.

Weighting and Conclusion

STP has set up a Multisectoral Commission for AML/CFT responsible for defining and coordinating national policies on AML/CFT, as well as co-operation between national AML/CFT authorities. There are no national AML/CFT policies in place yet. There are no co-operation mechanisms to ensure the compatibility of AML/CFT requirements with data protection and privacy rules and other similar provisions. In addition, there are no mechanisms to facilitate the coordination of the fight against the financing of the proliferation of weapons of mass destruction. **R. 2 is rated PC.**

Recommendation 3 - Money laundering offence

In the 1st round of ME, STP was rated for former R. 1 (Money laundering offence) as PC and for former R. 2 (Money laundering offence - mental element and corporate liability) LC, for the following reasons: counterfeiting and piracy of products, smuggling of migrants and insider trading and market manipulation were not criminalised; the competent authorities lacked the knowledge and ability to respond quickly to ML risks and threats; there was no enforcement of the provisions relating to this Recommendation, including Self-laundering; proof that property is the proceeds of crime without a prior conviction for an underlying offence applied only to instrumentalities intended for use in the commission of the ML offence; sanctions have not been applied to determine their effectiveness.

Criterion 3.1 [Met] STP's ML offence is consistent with the Vienna and Palermo Conventions. The offence of ML is defined as converting or transferring property, knowing, believing or suspecting that it is the proceeds of crime; concealing or disguising the true nature, origin, location, disposition, movement or ownership of property; acquiring, using or possessing property, knowing at the time of receipt that it is the proceeds of a serious criminal offence (AML/CFT Act, art. 5).

Criterion 3.2 [Met] STP includes as underlying offences any act which, provided that it generates proceeds, constitutes a serious criminal offence, this being understood to include, in addition to crimes for which the abstract penal framework is a prison sentence of 20 years, crimes described as related offences (pursuant to the Definitions of Article 4 of the AML/CFT Act), covering the twenty-one designated categories of underlying offences.

Criterion 3.3 [Met] STP has opted for a combined approach which includes a threshold criterion, in terms of which it establishes that the underlying offences are all offences that generates proceeds of criminal origin, including a list of underlying offences, any crime that generates proceeds (Art. 5(1)(b) and (5)(a) and (c) in c/c Art. 4, AML/CFT Act). STP's approach enables it to cover all the sub-criteria in 3.3.

Criterion 3.4 [Met] STP defines "proceeds" as any funds, economic advantage or property derived or obtained, directly or indirectly, from the commission of a serious criminal offence, including assets converted or transformed, in whole or in part, into other property, rights over such assets and/or the results of investments made with such assets, without however referring to the value (art. 4, AML/CFT Act).

Criterion 3.5 [Met] It is not necessary for a person to be convicted of a predicate offence in order to obtain a ML conviction or to establish that property represents the proceeds of crime (AML/CFT Act, Art. 5(4)).

Criterion 3.6 [Met] The underlying offences of the ML cover conduct that occurred in a foreign country, that constitutes an offence in that country and that would have constituted an underlying offence if it had occurred in STP (Art. 5(3) AML/CFT Act).

Criterion 3.7 [Partly Met] ML can be prosecuted as an offence independent of the underlying crime (Art. 5(3) of the AML/CFT Act). However, there is no evidence to suggest that the crime of ML is applicable to the person who committed the underlying offence.

Criterion 3.8 [Met] It is possible to deduce the intent and knowledge required for proof of the offence of ML from objective factual circumstances (Art. 5(2) AML/CFT Act).

Criterion 3.9 [Partly Met] Natural persons, when they appear to be representatives or bodies of a legal person or similar, acting on behalf of these legal persons and in the collective interest, are liable to a conviction for ML and are subject to a prison sentence under the provisions of articles 5 and 6 of the AML/CFT Act, increased by (1/3) one third in its minimum and maximum limits. Article 47 of the same law also states that "the members of the management bodies of legal persons, who are able to do so and do not oppose the commission of the offence, shall be individually and jointly liable for the payment of the fine and costs to which they are sentenced, even if they have been dissolved or entered into liquidation at the time of the conviction. The sanctions for ML are limited in scope as they apply to natural persons acting within the context of a legal person. Furthermore, it is unclear from the AML/CFT Act what is the maximum length of imprisonment that STP can impose for a ML conviction. Therefore, the sanctions applicable to natural persons convicted of ML are proportionate and dissuasive.

Criterion 3.10 [Met] Criminal liability and sanctions apply to legal persons. A legal person, on whose behalf or for whose benefit the offences of AML have been committed by a natural person, acting individually or as part of a legal person, may be held criminally liable for AML. Furthermore, without prejudice to the criminal liability of natural persons, the offences of ML/TF provided for in Articles 5 and 6, when committed by a legal person, shall be punishable by a fine of at least half the amount equivalent to the total sum of the instrumentalities or proceeds of the offence. Legal persons may also be subject to a permanent or temporary ban on carrying out, directly or indirectly, a certain commercial activity, placement under judicial control or permanent or temporary closure of their premises, or liquidation, and in any case the sentencing decision must be published in the Official Gazette and in a newspaper with the widest circulation (Article 7(1) of the AML/CFT Act).

Criterion 3.11 [Met] Ancillary offence of ML are provided for, including aiding and abetting, associating or conspiring to commit it, attempting to commit it, aiding and abetting it or facilitating or counselling its commission (Art. 5(1)(d) of the AML/CFT Act).

Weighting and Conclusion

STP has criminalised the offence of ML in accordance with the Vienna and Palermo Conventions. Although the country has also adopted a combined approach that allows it to extend the ML offence to the widest range of predicate offences, there are concerns regarding the scope and length of sanctions and the length of prison term to be levied against natural persons convicted for ML. Finally, ML the sanctions applicable to natural persons convicted of ML are not considered proportionate and dissuasive. In the context of STP, these deficiencies constitute moderate shortcomings. **R.3 is rated PC.**

Recommendation 4 - Confiscation and provisional measures

In its first MER, STP was rated PC on the former R. 3. STP did not have clear procedures for freezing assets subject to confiscation; and there had been no seizure, freezing or confiscation of the proceeds of crime or instruments used or intended for use in the commission of a crime.

Criterion 4.1 [Met] Without prejudice to the general regime of the Penal Code and the rights of bona fide third parties, in case of a conviction for ML, TF or any underlying offence, the court may order the confiscation of funds or property constituting:

a. **[Met]** Proceeds of crime, including funds or property mixed with such proceeds or obtained from or in exchange for such proceeds (Art. 31(a) AML/CFT Act);

b. **[Met]** Income and other benefits resulting from funds or assets provided for in the preceding paragraphs as well as object of the offence (Art. 31(b) & (c), AML/CFT Act);

c. **[Met]** STP can confiscate assets, funds or economic assets used or destined to be used by in acts of terrorism or financing of terrorist groups, associations or organisations, and the proceeds thereof (arts. 8(2), 38, CFT Act & Art. 31 (d) of AML/CFT Act).

d. **[Met]** Funds or property referred to in the preceding subparagraphs which have been transferred to another person, unless the third party proves that he acquired such property by paying a fair price or as consideration for services of a value equivalent to that of such property, or on other reasonable grounds, and that the third party was not aware of the illicit origin of such property

Criterion 4.2 [Met]

a) **[Met]** Identifying, tracing and evaluating assets liable to confiscation: Criminal police officers in charge of the investigation may, with the authorisation of the Public Prosecutor's Office or a judge, identify, trace and seize or freeze the proceeds of crime that may be subject to confiscation (Art. 30, AML/CFT Act).

b) **[Met]** The Public Prosecutor's Office or the judge may adopt provisional measures, such as freezing or seizure, to prevent any negotiation, transfer or disposal of assets subject to confiscation (Art. 30, AML/CFT Act).

c) **[Met]** The Public Prosecutor's Office may request, and the judge may take measures to prevent or avoid acts that jeopardise the country's ability to freeze, seize or recover assets subject to confiscation, without prejudice to the rights of bona fide third parties (AML/CFT Act, art. 30).

d) **[Met]** The magistrate in charge of the case may adopt the appropriate investigative measures, such as, among others, the means of obtaining evidence provided for in the CPC (articles 242 to 258 et seq.), i.e. examinations, searches and searches, seizures, telephone tapping, in addition to the measures that serve to prevent or avoid acts that jeopardise the country's ability to freeze, seize or recover assets subject to confiscation, provided for in the AML/CFT Act, article 30,

Criterion 4.3 [Met] Confiscation of proceeds and instrumentalities of crime, upon conviction of ML, associated predicate offences and TF, is without prejudice to the rights of bona fide third parties (Art. 31(1), AML/CFT Act). Third parties must prove the lawful acquisition of the property based on payment of a fair price or consideration for services equivalent in value to those goods, or based on well-founded reasons, and that the third party was not aware of the unlawful origin of the goods (Art. 31(e), AML/CFT Act).

Criterion 4.4 [Met] The mechanism adopted by STP to manage and, if necessary, dispose of frozen, seized or confiscated assets is expressed in the provisions of the AML/CFT Act, Article 32, and their destinations are determined as follows:

(a) 50 per cent to the Public Treasury (Article 32(2)(a) AML/CFT Act);

(b) 5% to actions, measures, means of combating and programmes for the prevention of illicit drug use and trafficking (art. 32, para. 1, a, AML/CFT Act);

(c) 10% to the Ministries of Health and Justice, with a view to implementing measures for the treatment and social reintegration of drug-addicted prisoners while they are serving their sentences (Article 32(1)(b) of the AML/CFT Act); and

(d) The remaining amounts must be distributed equally among the institutions involved in combating ML/TF (Article 32(2)(b) of the AML/CFT Act).

STP does not have a specific asset management system. The fund earmarked for confiscation is managed either by the Magistrate in charge of the case at DIAP, within the PGR's Office, or by the traditional mechanisms described in the CPC, namely by appointing a trustee. The same mechanisms are used in managing seized/frozen assets more generally. Instances where proceeds are restituted to victims are covered by the CPC.

Weighting and Conclusion

STP has measures in place to confiscate in place to freeze, seize, confiscate, manage and dispose of confiscated proceeds and instrumentalities of crime, and assets of corresponding value. **R. 4 is rated C.**

Recommendation 5 - Terrorist financing offence

The 2013 MER rated STP PC Special Recommendation II because the relevant staff and institutions lacked the capacity to implement the provisions of the CFT. In addition, the provisions on TF, including sanctions, were not implemented. These are effectiveness issues that have been assessed in the framework of IO.9.

Criterion 5.1[Met] - Sao Tome and Principe has largely criminalised TF on the basis of the International Convention for the Suppression of the Financing of Terrorism. STP criminalises the acts of providing, promoting, creating/establishing, collecting or holding funds with the intention of being used, or knowing that they may be used, in whole or in part, to carry out a terrorist act (art. 6(1)(a)). In addition to terrorist acts, the crime of TF covers activities that include the provision of funds to support individual terrorists (Art. 6(1)(b)) or a terrorist organisation (Art. 6(1)(c)), regardless of whether the funds are linked to a specific terrorist act, and even in situations where the funds are not delivered to whom they were intended (Art. 6(3)(d)). STP defines terrorist acts to include acts constituting a breach in one of the treaties annexed to the TF Convention and any other act intended to cause death or serious bodily injury to a civilian or any other person not taking direct part in hostilities in a situation of armed conflict, when the purpose of that act, by its nature or context, is to intimidate a population or coerce a government or an international organisation to take or refrain from taking any action (art. 4, AML/CFT Act).

Criterion 5.2 [Met] - TF offences in STP cover any person who voluntarily provides or collects funds or other assets by any means, directly or indirectly, with the unlawful intention that they will be used, or with knowledge that they may be used, in whole or in part to (a) carry out terrorist act(s); or (b) by a terrorist organisation or an individual terrorist (even in the absence of a connection to a terrorist organisation). specific terrorist act or acts). Article 6(1) AML/CFT Act No 8/2013. The crime of FT extends to the financing of any funds to support a terrorist act. This is applicable even in the absence of a link to specific terrorist act or acts Article 6(3d) of Law No 8/2018.

Criterion 5.2^{bis} [Partly Met] Nationals or foreigners who are on Sao Tome territory are prohibited from collecting or providing funds with the intention of financing the travel by natural persons to a third State other than their State of residence or nationality to perpetrate, plan, preparing or participating in terrorist acts or giving or receiving terrorist training (Art. 7(3),CFT Act). Reference to nationals or foreigners who are in the territory of STP limits the scope of application of this provision. Invariably, the CFT Act does not criminalise the provision and collection of funds to foreign nationals outside the jurisdiction to finance the travel by individuals to a third State other than their State of residence or nationality for the purpose of perpetrating, planning, preparing or participating in terrorist acts or giving or receiving terrorist training. This constitutes a moderate shortcoming given STP's TF risk profile.

Criterion 5.3 [Met] 'Funds' means "assets of any kind, whether tangible, movable or immovable, "whatever the manner in which they have been acquired" ... i.e. legal and illegal. The expression 'whatever form it was acquired' clearly covers goods of legitimate or illegitimate origin (Article 2(h), AML/CFT Act). Although STP's definition of funds does not expressly cover economic resources, there are express provisions to freeze, seize and confiscate economic resources used or intended to be used for terrorism or TF (Art. 38, CFT Act).

Criterion 5.4 [Met]

(a) **[Met]** A TF offence may occur regardless of whether the funds were used in a specific terrorist act or in an attempt (art. 6(3)(b), AML/CFT Act).

(b**) [Met]** STP does not require the funds to be linked to a specific terrorist act (AML/TF, art. 6, paragraph 3, d)).

Criterion 5.5[Met] The intent and knowledge necessary to prove the crime of FT can be inferred from the objective factual circumstances (Art 6(4), AML/CFT Act).

Criterion 5.6[Met] Penalties for natural persons convicted of TF are considered as proportionate and dissuasive. Any person who knowingly finances, plans or incites another person to commit a TF offence is liable to imprisonment of eight to fifteen years (Article 7(4), AML/CFT Act).

Criterion 5.7[Partly Met] Criminal penalties apply to legal persons who commit the TF offence (Arts. 7, AML/CFT Act & 36(1), CFT Act). A legal person convicted of a TF offence is liable to a fine of at least half of the amount equivalent to the total sum of the instruments or proceeds of the crime. The fine can be increased by one third (1/3) if the offence is committed by an organised criminal association, through the abuse of position or authority or influence or through a public utility association (art. 9, AML/CFT Act). In addition, the authorities may apply (a) a permanent or temporary prohibition from carrying out, directly or indirectly, a certain commercial activity; (b) placement under judicial supervision or the permanent or temporary closure of its premises, or liquidation. The conviction must be published in the Official Gazette, and in a newspaper with a larger circulation (Art. 7(2), CFT Act).

The conviction of a legal person does not preclude the punishment of a natural person for the same offence (Art 7(1) AML/CFT Act). Thus, representatives of legal or similar persons who commit TF crimes onbehalf of the legal persons are liable on conviction to a term of imprisonment of not less than three years or not more than fifteen years, and increased by one third in its minimum and maximum in aggravated circumstances (arts. 6(2) &7(2), AML/CFT Act). There is no option of a fine.

The range of three to fifteen years' imprisonment for TF committed by officers of a legal person is considered a sufficient range proportionate to crimes of more or less severity and the custodial penalties are dissuasive, particularly with possible enhancements if TF is linked to an act with grave consequences. However, considering that TF can involve small amounts which can be used in committing acts with severe consequences, the limitation of fines against legal persons to the funds used or intended to be used and the discretion to wind up a liable legal person are not considered a sufficient range proportionate to the crime of less or more severity. The combined effects of the two provisions render the sanctions less dissuasive, and more weight is placed on the severity of sanctions against legal persons.

Criterion 5.8 [Mostly Met]

(a) [Not Met] An attempt to commit the TF offence is not criminalised;

(b) [Met] It is a criminal offence to participate as an accomplice in TF or contribute to the commission of acts typical of TF (Art. 7(5) CFT Act).

(c) **[Met]** It is a criminal offence to organise or order someone to finance terrorism or contribute to the commission of acts typical of TF (Art 7(5) CFT Act).

(d) **[Mostly Met]** - It is a criminal offence to contribute to the commission of TF acts (Article 7(5), CFT Act). However, the deficiency identified under criterion 5.8a above on the non-criminalisation of an attempt to commit TF offence would have a cascading effect.

Criterion 5.9 [Met] TF is designated as a predicate offence of ML (Art. 5, AML/CFT Act). Given that TF is punishable by a minimum threshold of 8 years, it qualifies as a predicate offence of ML, as the law considers as such all offences with a minimum threshold of more than one year.

Criterion 5.10 [Mostly Met] The TF offence applies regardless of whether the person allegedly committed the crime(s) in the same country or in a country other than the one in which the terrorist organisation(s) is located, or the terrorist act(s) occurred/will occur (Art. 6(3c), AML/CFT Act). The TF offence does not apply regardless of where the terrorist is located.

Weighting and Conclusion

STP has criminalised TF on the basis of Article 2 of the TF Convention. Intent and knowledge necessary to prove the TF offence can be inferred from objective factual circumstances. However, an attempt to commit TF is not criminalised. Furthermore, the TF offence does not apply regardless of the location of the terrorist, and FTF is limited to nationals or foreigners located in STP. **R5 is rated LC.**

Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

The 2013 MER rated STP NC on the former SR III because the country did not criminalise the financing of an individual terrorist and did not have measures to freeze or seize terrorist funds or other assets.

Criterion 6.1 [Not Met] In relation to designations pursuant to United Nations Security Council 1267/1989 (Al Qaida) and 1988 sanctions regimes (Referred to below as "UN Sanctions Regimes").

(a) **[Not Met]** STP has not identified a competent authority or a court as having the responsibility for proposing persons or entities to the 1267/1989 Committee for designation; and for proposing persons or entities to the 1988 Committee for designation.
(b) **[Not Met]** STP does not have a mechanism(s) for identifying targets for designation, based on the designation criteria set out in the relevant United Nations Security Council resolutions (UNSCRs);
(c) **[Not Met]** STP does not have legal provisions obliging the country to apply an evidentiary standard of proof of "reasonable grounds" or "reasonable basis" when deciding whether or not to make a proposal for designation. Accordingly, it is not possible to determine whether such proposals for designations would not be conditional upon the existence of a criminal proceeding.
(d) **[Not Met]** STP has no legal provision obliging the country to follow the procedures and (in the case of United Nations sanctions regimes) standard forms for listing as adopted by the 1267/1989 Committee or the 1988 Committee in the submission of its designation proposals.
(e) **[Not Met]** STP does not have legal provisions obliging the country to provide as much relevant information as possible on the proposed name; a statement of case which contains as much detail as possible on the basis for the listing; and (in the case of proposing names to the 1267/1989 Committee), specify whether its status as a designating state may be made known.

STP does not extend the obligations under UNSCR 1267 to successor resolutions as the CFT Act does not include or refer to them. This constitutes a significant gap in STP's implementation of UNSCR 1267.

Criterion 6.2 [Partly Met] In relation to designations pursuant to UNSCR 1373, STP:

- **(a) [Met]** has designated the PGR/Public Ministry as the competent authority for designating persons or entities that meet the specific criteria for designation, as set forth in UNSCR 1373 as put forward on the country's own motion or, after examining and giving effect to, if appropriate, the request of another country (Arts. 20(a) and 31, CFT Act).
- **(b)** [**Met]** STP's mechanism for identifying targets for designations based on the designation criteria in UNSCR 1373 is set out in Article 23 of the CFT Act. Under this mechanism, the PGR is required to designate persons and entities based on information requests received from competent national authorities responsible for maintaining national and international peace and security and combating terrorism, the FIU, regulatory and supervisory authorities, competent authorities designated by foreign jurisdictions and the Sanctions Committees of the UN Security Council (Art. 22(1), CFT Act). The targets for designation must be (a) persons and entities who commit or attempt to commit any terrorist act, or who participate in it or facilitate the commission of such an act; (b) legal persons, groups or entities owned or under the control of one or more natural or legal persons, entities or bodies referred to in subparagraph (a); or (c) natural or legal persons, groups or entities acting on behalf of or under the instructions of one or more persons or legal entities, groups or entities referred to in subparagraphs (a) and (b); and (d) when required by an international act relating to the maintenance of peace and security, such as UNSCRs (Art. 23(1)(a), CFT Act).
- **(c) [Not Met]** has no measures/timelines in place, when receiving a request, to make a prompt determination of whether it is satisfied, according to applicable national principles that the request is supported by reasonable grounds, or a reasonable basis, to suspect or believe that the proposed designee meets the criteria for designation in UNSCR 1373.
- **(d) [Not Met]** has not set out an evidentiary standard of proof of "reasonable grounds" or "reasonable basis" for deciding whether to make a designation; and whether such (proposals for) designations would not be conditional upon the existence of a criminal proceeding.
- **(e) [Not Met]** does not empower an authority to request another country to give effect to the actions initiated under the freezing mechanisms, and provide as much identifying information, and specific information supporting the designation, as possible.

STP does not extend the obligations under UNSCR 1373 to successor resolutions as the CFT Act does not include or refer to them. This constitutes a significant gap in STP's implementation of UNSCR 1373.

Criterion 6.3 [Not Met] The competent authorities:

- **(a) [Not Met]** have implicit legal authorities for soliciting information to identify entities that meet the criteria for designation. Without prejudice to confidentiality and professional secrecy, natural persons are required to provide, upon request by the competent authority, any information that may support the designation decision (Art. 33(a), CFT Act). However, the authorities lack procedures or mechanisms for collecting or soliciting information. In addition, STP has not set the evidentiary standard of proof of reasonable grounds, or a reasonable basis to suspect or belief for deciding whether or not to make a designation which should form the basis for requesting for information.

- **(b) [Not Met]** do not have legal authorities and procedures or mechanisms to operate ex parte against a person or entity who has been identified and whose proposal for designation is being considered.

Criterion 6.4 [Not Met] STP does not implement TFS without delay.

In relation to designations under the UN Sanctions Regime, except that the UN Sanctions Lists must be published in the Official Gazette (Art. 30(2), CFT Act), which indicates an absence of a requirement for the authorities to take

legislative or other steps for the decision to take effect in the country (automatic transposition), no legal provision sets timelines within which this should occur. Notwithstanding the absence of a requirement for publication, STP did not provide information (for example, guidelines for compliance with freezing decision under UNSCR 1267) evidencing implementation without delay.

In relation to designations under UNSCR 1373, having decided on the designation of persons or entities, the PGR must update and publish the designation decision in the Official Gazette within two working days after the designation decision (Art.24(1), CFT Act). No provision sets the timelines within which the decision takes effect. Consequently, there is legal provision or precedent regarding what triggers the obligation for STP to take freezing action and prohibit the dealing in funds or other assets of persons and entities designated pursuant to UNSCR 1373. By calculation, the requirement to update the List within two working days is not consistent with the FATF's definition of "without delay".

Criterion 6.5 [Partly Met] STP has the following legal authorities and domestic authorities responsible for implementing and enforcing TFS:

(a) [Partly Met] FIs and DNFBPs must freeze funds of persons and entities designated under both UN and domestic sanctions regimes within a maximum period of twenty-four hours after receiving notification from the PP or Investigating Judge (Art. 19(6), AML Act). The obligation to freeze funds does not extend to all natural and legal persons in STP. The scope of application of the obligation to freeze is limited and inconsistent with the requirements of this sub-criterion.

(b) [Partly Met] The obligation to freeze extends to funds or other assets of designated persons (Art. 11(2), CFT Act). STP defines "funds" to mean "assets of any kind, tangible or intangible, movable or immovable, whatever the mode of acquisition, and legal documents or instruments in any form, including electronic or digital, evidencing ownership of, or interest in such assets, including bank credits, payment orders, shares, treasury bills, bonds, bills of exchange, letters of credit, without this listing being exhaustive (Art. 2(h), CFT Act). Although the list of what constitutes "funds" is not exhaustive, there is no evidence that in practice, the definition extends to economic resources (including oil and other natural resources) and any other assets which potentially may be used to obtain funds, goods or services. In addition, the obligation does not extend to funds or other property owned but not controlled, wholly or jointly, directly or indirectly, by the designated persons or entities; funds or other assets derived from funds and other assets belonging to designated persons or entities; as well as funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

(c) [Partly Met] Nationals, or any persons and entities within STP are prohibited from making any funds available to persons and entities designated under both the UN and national Sanctions regimes (Art. 19(8), CFT Act). The deficiencies under c.6.5(b) in relation to the scope of funds to be frozen apply to this sub-criterion.

(d) [Partly Met] The Official Gazette, digital portals of the Government and the BCSTP (all of which are accessible to the public) and notification by e-mail, fax, post, in person, or by telephone (to be subsequently confirmed in writing) constitute the mechanisms for communicating designation to the financial sector and the DNFBPs upon taking such action (Art. 19(1) and (5), CFT Act). Actions to be taken by FIs and other persons or entities, including DNFBPs, that may be holding targeted funds under the freezing mechanisms are enshrined in the CFT Act, which is a public document (seec.6.5(b). However, no guidance being provided on the actions to take and obligations related to the freezing mechanism because the system is not being implemented. As at the last day of the on-site visit (26/06/2023), no such action had taken place. Also, the CFT Act is not designed to facilitate

communication of designations to the financial sector and the DNFBPs immediately upon taking such action.

As noted in c.6.4, in relation to national designations, the post-designation action of updating the list within two working days does not facilitate communication to the financial sector and DNFBPs without delay. Also, while Article 30(2) of the CFT Act exempt the designation decisions made pursuant to the UNSCR 1267 from publication in the Official Gazette, the requirement under Article 19(1) to publish the same in the Gazette and disseminate to nationals, etc, creates confusion regarding the timing for communicating the relevant designation decisions. Furthermore, while notification by email, fax, mail, in person or by telephone is expected to occur in the shortest possible time, the term "shortest possible time" is not defined. In the absence of implementation of this requirement it is impossible to conclude that actions occur without delay.

(e) **[Not Met]** FIs and DNFBPs are not required to report to competent authorities any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSCRs, including attempted transactions.

(f) [**Not Met]** STP has not adopted measures which protect the rights of *bona fide* third parties acting in good faith when implementing the obligations under R. 6.

Criterion 6.6 [Partly Met] There are publicly known procedures to de-list and unfreeze the funds or other assets of persons and entities which do not, or no longer, meet the criteria for designation.

(a) [**Not Met**] STP has no procedures to submit de-listing requests to the relevant UN sanctions Committee in the case of persons and entities designated pursuant to the UN Sanctions Regimes, in the view of the country, do not or no longer meet the criteria for designation.

(b) **[Partly Met**] STP will remove designated persons and entities from the National List if the international act on which the designation decision was based ceases to be applicable (Art. 27(2), CFT Act). The competent authority must, on an annual and case-by-case bases, review the list of designees to determine whether the designees do not or no longer meet criteria designation (Art. 27(1) and (4), CFT Act). The reviews must consider proven identification error, significant change in facts, new evidence, death of the designated person, liquidation of the designated entity, the status of the international act on which the designation was based, as well as other factors as a result of which the designation criteria and conditions are no longer met (Art. 27(5), CFT Act). references to the "international act" are not consistent with the FATF Standards as this criterion deals with domestic designations.

(c) [**Mostly Met**] A designated person or entity can apply to the competent authority and request to be de-listed from the List. The competent authority must send the request to the review authority for recommendation to the competent authority within 10 days (Art. 25, CFT Act). While "Review Authority" is defined as "the competent judicial court to exercise the powers of decision on appeals assigned to it by this Act", the Act does not designate such court.

(d) **[Not Met]** with regard to designations pursuant to UNSCR 1988, there are no procedures to facilitate review by the 1988 Committee in accordance with any applicable guidelines or procedures adopted by the 1988 Committee, including those of the Focal Point mechanism established under UNSCR 1730.

(e) [**Not Met**] Regarding designations on the Al-Qaida Sanctions List, there are no procedures for informing designated persons and entities of the availability of the United Nations Office of the Ombudsperson, pursuant to UNSCRs 1904, 1989, and 2083 to accept de-listing petitions.

(f) **[Met]** Regarding procedures to unfreeze the funds or other assets of persons or entities with the same or similar name as designated persons or entities, who are inadvertently affected by a freezing mechanism, the name of the person or entity will be removed from the List by the competent authority based on recommendation of the review authority and establishment of proof of identification error (Art. 25(8), CFT Act)

(g) **[Partly Met]** The de-listing decision must be published in the Official Gazette (Art. 25(10), CFT Act). There are no timelines for communicating the de-listing decisions. Also, there are no procedures for unfreezing frozen assets.

Criterion 6.7 [Met] STP may grant specific exemptions in relation to frozen funds to ensure that basic needs of designated persons or entities are met. These include basic and necessary expenses for the payment of certain types of commissions, charges for services or for extraordinary ones (art. 28(1), CFT Act). The granting of the exemption requires verification of the status of the designation decision, where applicable, conditions of the international act relating to the maintenance of peace and security, the beneficiaries of the exemption, actions exempted and conditions of the exemption (art. 29, CFT Act). In relation to UN designations, the competent authority can approve such expenses in accordance with Resolution 1452 (2002) and after obtaining the consent of the Sanctions Committee established by Resolution 1267 (1999), of the United Nations (Art. 35, CFT Act).

Weighting and Conclusion

There are major shortcomings regarding STP's framework for implementing TFS related to TF and terrorism. The framework is not designed to enable implementation without delay. In addition, the legal framework does not cover successor resolutions; an evidentiary standard of proof of "reasonable grounds" or "reasonable basis" for deciding whether to make a designation; prompt determination of requests; acting ex parte against a person or entity that has been identified and whose proposed designation is under review; freezing the full range of funds or other resources; protecting the rights of bona fide third parties; application of the freezing requirements to all natural and legal persons in STP; filing de-listing requests in relation to UNSCR 1267; informing designated persons of their rights of review at the UN level, are key components of the R.6. **R.6 is rated NC.**

Recommendation 7 – Targeted financial sanctions related to proliferation

R.7 was added as a new requirement in the revised FATF Recommendations in 2012, so it did not exist in the first round of mutual evaluations.

Criterion 7.1[Not Met] STP does not have a legal framework or mechanism to implement targeted financial sanctions without delay to comply with CPF requirements.

Criterion 7.2 [Not Met] STP has not established the necessary legal authority and identified competent authorities responsible for implementing and enforcing TFS. In addition, the country has no measures, mechanisms or procedures in place:

(a) [Not Met] to freeze assets of designees.
(b) [Not Met] obliging the freezing of any type of assets listed in this sub-criterion.
(c) [Not Met] prohibiting all persons and entities from making funds available to designees, unless authorised.

(d) [Not Met] for communicating designations and providing guidance.

(e) [Not Met] requiring FIs and DNFBPs to report to actions taken and related matters to competent authorities.

(f) [Not Met] which protect the rights of bona fide third parties acting in good faith when implementing the obligations under R.7.

Criterion 7.3 [Not Met] There are no measures in place for monitoring and ensuring compliance, as well as sanctions for CPF-TFS compliance.

Criterion 7.4 [Not Met] STP has no publicly known procedures for dealing with submit de-listing requests.

Criterion 7.5 [Not Met] There are no measures regarding contracts, agreements or obligations that arose prior to the date on which accounts became subject to targeted financial sanctions.

Weighting and Conclusion

STP has no legal or regulatory mechanism for implementing PF-TFS. **R.7 is rated NC.**

Recommendation 8 – Non-profit organisations

STP was rated NC on SR VIII. The factors underlying this rating were the lack of an analysis of the non-profit sector and the identification of its vulnerabilities in relation to trafficking in human beings, as well as the lack of awareness or effective guidance on trafficking in human beings for the non-profit sector of human beings. Issues of effectiveness were also raised with regard to maintaining an up-to-date register of NGOs; the lack of supervision or monitoring of the non-profit association sector; the lack of effective cooperation or coordination at the national level between authorities that could possibly have information on non-profit associations; and the possibility for STP to exchange information with its foreign counterparts on certain non-profit associations suspected of being targeted for terrorist financing. Effectiveness issues are addressed in IO.10.

Criterion 8.1[Not Met]

a) **[Not Met]** STP has not identified the subset of organisations that fall within the FATF's definition of non-profit organisations, and therefore the characteristics and types of non-profit organisations that, by virtue of their activities or characteristics, are likely to be at risk of abuse of terrorist financing have not been identified.

b) **[Not Met]** STP has not identified the nature of the threats posed by terrorist entities to non-profit associations that are at risk, nor how terrorist actors abuse such non-profit associations.

c) **[Not Met]** STP has not reviewed the adequacy of the measures, including the laws and regulations relating to the subset of the non-profit organisation sector that may be abused for terrorist financing support in order to be able to take proportionate and effective actions to address the identified risks.

d) **[Not Met]** STP has not identified NPOs at risk to TF abuse. Therefore, there has been no periodic review of new information on the sector's potential vulnerabilities to terrorist activities to ensure the effective implementation of mitigating measures.

Criterion 8.2 [Not Met]

a) **[Partly Met]** STP has some clear policies to promote accountability, integrity and public confidence in the administration and management of non-profit organisations (Art. 34, Law on the Establishment and Operation of Non-Governmental Organisations (Law No. 8/2012). The measures include preparation of accounts in accordance with fundamental accounting principles, notifying authorities about changes to organisational statues, composition of governing boards and other substantial changes to the organisation, putting in place a supervisory board who would have the mandate to supervise activities carried out by the NGIP and issue an independent opinion on the management reports and accounts for the year and activity plan for the following year. These provisions are however only applicable to Non-Governmental Organisations of Public Interest (NGIPs).

b) **[Not Met]** STP has not carried out any outreach and educational programmes to raise and deepen awareness among NPOs and the donor community on the potential vulnerabilities of the sector to terrorist financing abuse and the measures that can be taken by NPOs to mitigate same.

c) **[Not Met]** STP has not worked with the NPO sector to develop and refine best practices to address terrorist financing risk and vulnerabilities to protect the sector from TF abuse.

d) **[Not Met]** There are no measures in place to encourage NPOs to conduct transactions via regulated financial channels, wherever feasible.

Criterion 8.3 [Not Met] STP has not taken steps to promote effective risk-based supervision or monitoring of NPOs at risk to TF abuse.

Criterion 8.4 [Not Met]

a) [**Not Met]** STP has not started monitoring NPOs for compliance with the requirements of R. 8, including the risk-based measures as required under c.8.3.

b) [**Not Met**] STP has a range of sanctions including civil and criminal liability, suspension of technical, material and financial support from public and cooperation bodies and the prohibition from applying for such support when NGIPs have been found to have engaged in irregularities or been mismanaged. Precautionary measures can also be taken regarding the assets of directors, employees or third parties acting on behalf of the NGIPs. The scope of application of the sanctions is limited and does not target NPOs at risk of TF abuse since such category of NPOs is yet to be identified.

Criterion 8.5 [Not Met]

a) **[Not Met]** There are no effective mechanisms for cooperation, coordination and information sharing between competent authorities or organisations holding relevant information on NPOs.

b) [**Not Met]** STP does not have the investigative skills and capabilities to examine NPOs suspected of being exploited or actively supporting terrorist activities or terrorist organisations.

c) [**Partly Met**] NGIPs are, among others, required to prepare annual activity reports, annual financial reports and notify the MOJ of changes to its statutes, governing boards, etc (Art. 34 of Law No. 8/2012). Accordingly, such information is available to LEAs and other competent authorities during their investigations. There is no corresponding arrangement for other NPOs.

d) **[Not Met**] STP lacks appropriate mechanisms to ensure that information is promptly shared with competent authorities, in order to take preventive or investigative action when there is suspicion or reasonable grounds to suspect that a particular NPO is involved in terrorist financing abuse and/or is a front for fundraising by a terrorist organisation; is being exploited as a conduit for terrorist financing, including for the purpose of escaping asset freezing measures, or other forms of terrorist support; or is concealing or obscuring the

clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of terrorists or terrorist organisations

Criterion 8.6 [Not Met] STP does not have procedures or points of contacts in place to respond to international requests for information regarding NPOs suspected of TF or involvement in other forms of terrorist support.

Weighting and Conclusion

STP has not identified the subset of NPOs meeting the FATF definition. Accordingly, STP has not identified the nature of threats posed by terrorist entities to the NPO sector. No risk-based supervision or monitoring of the sector has been conducted nor a sustained outreach concerning TF issues within the NPO Sector. **R 8 is rated NC.**

Recommendation 9 – Financial institution secrecy laws

In the 2013 MER, R.4 was rated as PC, essentially because confidentiality is considered a sensitive aspect in STP given the small size of the country and the subsequent difficulty of keeping some transactions/situations confidential. This issue was reflected in the lack of communication to the competent authorities. These are effectiveness issues and are analysed under IO. 4.

Criterion 9.1[Mostly Met] FIs are required to keep documents obtained in customer due diligence processes and those relating to transactions and ensure that they are promptly made available to the FIU and other competent authorities (Art. 20 (1), AML/CFT Act). In the same law, article 22 (4) exempts FIs, their directors, managers or employees from any criminal, civil, disciplinary or administrative liability for breaches of confidentiality rules imposed by contract or any legislative, regulatory or administrative provision, when they make statements or provide information in good faith to the FIU. In addition, Article 22 (5) establishes that professional secrecy or privilege may not be invoked as a reason for not complying with the obligations established in the AML/CFT Act when any information is requested, or any related document is required.

Also in this area, the Law on FIs - Act 9/92, in its article 39, which deals with the duty of secrecy and states that directors, officers, employees and external auditors of FIs have a duty to keep confidential any facts they become aware of in the course of their duties, excepts this obligation and establishes that such information can only be disclosed to the BCSTP or to other administrative or judicial authorities through a procedure established by law.

Article 18 of Act 3/2016 of 10 May, which aims to guarantee and protect the personal data of natural persons, requires professional secrecy from those responsible for processing personal data, as well as persons who, in the exercise of their functions, have knowledge of the personal data processed. The provision of this information must be mandatory under the terms of the law.

With regard to collaboration and information sharing between competent authorities at national and international level, under the terms of article 50 (2) of AML/CFT Act - AML/CFT Act, the competent national authorities must collaborate and cooperate at local level, as well as at international level with their counterparts in matters of combating ML/TF. Furthermore, specifically regarding TF, under the terms of Article 32 of the AML/CFT Act, natural and legal persons, whether public or private, must co-operate with the competent authority and the regulatory and supervisory authorities in the fight against this crime.

Regarding the sharing of information between FIs and within the scope of recommendation 13, art.13 (h) of AML/CFT Act - AML/CFT Act stipulates that FIs must ensure that they can provide adequate data on the identification of their customers, when requested to do so by the corresponding bank. Regarding R.16, more specifically for criterion 16.6. national bank transfers, no legal provision has been identified that obliges the ordering financial institution to make the information available within three working days of receiving the request from the beneficiary financial institution or

appropriate competent financial authorities and that law enforcement authorities may oblige the immediate production of this information. As such, there is no guarantee that the information will be made available in accordance with the requirements of this criterion.

On the requirements of R.17, article 17 of AML/CFT Act establishes that if FIs use the services of third parties to fulfil the requirements of CDD measures, the third party (financial institution or not) must make all the required information available upon request and without delay.

Weighting and Conclusion

The duty of secrecy is not an impediment to access to information by the supervisory authority - the BCSTP - and other administrative and judicial authorities. There are no impediments to the sharing of information between national authorities and between national authorities and their counterparts. However, there is no explicit provision in the law for the sharing of information between FIs in the context of domestic wire transfers. This deficiency is considered a minor shortcoming in the implementation of R.9. **R.9 is rated LC.**

Recommendation 10 – Customer due diligence

In the first MER, STP was rated NC on the former R. 5 due to the existence of substantial deficiencies identified in the legal and regulatory framework in force, some of which were remedied by the publication of AML/CFT Act, of 15 October. Among the main shortcomings were the lack of an obligation (i) to identify the beneficial owner; (ii) not to apply CDD to existing customers; (iii) requirements for applying simplified measures; (iv) applying simplified or reduced CDD measures for low-risk situations; etc.

Criterion 10.1 [Met] FIs are prohibited from opening and maintaining anonymous bank accounts or bank accounts with fictitious names (Art. 10 (1), AML/CFT Act).

Criterion 10.2 [Partly Met]

(a) [**Met]** The legal provision and the obligation to implement CDD measures, in the process of opening an account or at the beginning of a business relationship with a client, are mirrored in art. 10 (2) (a) of AML/CFT Act. In addition, in 2015 (two years after AML/CFT Act came into force) the BCSTP issued NAP 10/2015, of 13 April, dictating specific rules on CDD measures to be implemented by FIs. Among the requirements set out in the BCSTP Permanent Application Standard are the obligation for FIs to establish customer acceptance criteria; the definition of high-risk customers, and rules on procedures to be adopted for each type of customer.

(b) [**Met**] FIs are required to apply CDD measures when they carry out occasional transactions above DB 245,000.00 (Euro 10,000.00), regardless of whether it is a single transaction or several apparently related transactions (Article 10 (2) (b), AML/CFT Act).

(c) [**Not Met**] FIs are obliged to verify the identity of the client and the beneficiary when carrying out occasional transactions. However, the rule does not specifically mention wire transfers. Article 10 (2) (c), on the other hand, obliges FIs to seek to identify and verify the identity of their customers and the beneficial owner when making national or international transfers totalling 245,000 (10,000 Euro) or more (Article 10 (6), AML/CFT Act). This is above the limit set by R.16 (USD/EUR 1,000).

(d) **[Met]** FIs are obliged to fulfil the CDD requirements whenever there is a suspicion of ML/TF, regardless of any exemptions or thresholds referred to in the FATF recommendations (Art.10(2) (d), AML/CFT Act and Art. 11, NAP 10/2015).

(e) **[Met**] FIs are obliged to fulfil CDD requirements whenever they have doubts about the veracity or adequacy of previously obtained customer identification data (Art.10(2) (e), AML/CFT Act).

CDD measures required for all customers

Criterion 10.3 [Met] FIs are required to identify the client (whether permanent or occasional, whether natural or legal person or legal arrangements) and to verify the identity of that client using documents, data or information of independent, credible origin (identification data) (Arts. 10 (2) and (3), AML/CFT Act).

Criterion 10.4 [Met] FIs are obliged to verify that persons claiming to act on behalf of the customer are authorised to do so and identify and verify their identity (Article 10 (12), AML/CFT Act).

Criterion 10.5 [Partly Met] FIs are required to identify and verify the identity of the beneficial owners through reliable and independent documents, data or information, namely passport, driving licence, identity card, taxpayer card, voter card, incorporation or information license certificate or similar document specified under the regulations in accordance with the regulations in force (Art. 10 (2), AML/CFT Act). Banks are required to always verify information provided through original documents or reliable sources (Art.4(1)(b), NAP/10/2015). Although the relevant information or data to be obtained to identify the beneficial owner seem reasonable, the measures to be taken to verify identities from original document does not guarantee reliability such that an FI will be satisfied that it knows the beneficial owner. In addition, the provision in NAP/10/2015 applies to only banks.

Criterion 10.6 [Met] FIs are obliged, in accordance with art. 10 (2) (f) of the AML/CFT Act, to understand and, where appropriate, obtain information about the purpose and intended nature of the business relationship.

Criterion 10.7 [Met]

(a) **[Met**] FIs are obliged to carry out ongoing due diligence of the business relationship to including review of transactions conducted in the course of the relationship, to ensure that these transactions are consistent with the institution's knowledge of the customer, its business and risk profile, including, if necessary, the origin of the funds (Art. 10 (2) (g), AML/CFT Act and 4(2), NAP 10/2015).

(b) [**Partly Met**] FIs are required to ensure that documents, data and information collected through the CDD process are kept up to date and relevant for carrying out reviews of existing records, especially for classified in higher risk categories of customers (Art. 10 (9), AML/CFT Act). This provision does not explicitly require FIs to ensure the currency and accuracy of information by undertaking reviews of existing records.

Criterion 10.8 [Largely Met] With regard to customers who are legal persons or legal arrangements, in accordance with the provisions of Article 10(3) of the AML/CFT Act, FIs are obliged to adopt appropriate measures to enable them to understand the ownership and control structure and to know the beneficial owner of the customer (Art. 10(3), AML/CFT Act). This legal obligation is reinforced by the BCSTP regulation, NAP 10/2015, more specifically in its article 4(c) which requires banks to identify the owners or controllers, and the persons on whose behalf transactions are carried out.

With regard to the obligation to understand the nature of the customer's business, it was noted that although this requirement is not included in the AML/CFT Act, it was provided for in NAP 10/2015 issued by the BCSTP, specifically in article 3 (1) (c), where it is listed as one of the elements that must be taken into account when determining the customer's risk. However, we believe that this obligation should be included in the Law.

Criterion 10.9 [Mostly Met] FIs are obliged to identify and verify the identity of their customers and the beneficial owner:

a) **[Met]** for customers who are legal persons or legal arrangements, the FIs must implicitly identify them through the certificate of incorporation licence or similar document specified under the regulations in force (Art. 10(2), AML/CFT Act). The documents required will contain the name, legal form and proof of existence.

b) [**Met]** - the requirement in (a) above will enable FIs to obtain information on the powers that regulate and bind legal persons or legal arrangements, as well as the names of relevant persons who hold management positions in legal persons or legal arrangements.

c) [Not Met] There is no requirement in law for FIs to collect information on the address of the company's registered office/main place of business.

Criterion 10.10 [Partly Met]

a) [Met] FIs are required to take appropriate measures to determine who are the natural persons who ultimately own or have effective control over the legal person (Art. 10 (3) (b), AML/CFT Act).

b) [Not Met] Where there are doubts as to whether the person in control is actually the beneficial owner or if no natural person exercises control, for example in cases where control is exercised by other legal persons or the legal person's capital is dispersed, STP legal framework does not oblige FIs to use other means to identify the beneficial owner.

c) [Not Met] Where no natural person is identified under (a) or (b), FIs are not required to identify the relevant natural person who holds the position of senior managing official.

Criterion 10.11[Partly Met]

a) **[Partly Met]** FIs are required to take appropriate measures to identify the natural persons who own or have effective control over legal arrangements (Art. 10(3)(b), AML/CFT Act). However, the law does not include the obligation to identify the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries.

b) [Not Met] For other types of legal arrangements, FIs are not required to identify persons in equivalent or similar positions.

Criterion10.12 [Not Met]

a) [Not Met] Although insurance companies fall under Article (2) (d) of AML/CFT Act (ML/TF Law) as financial entities subject to and obliged to apply the preventive measures contained in AML/CFT Act (AML/CFT Act), no additional CDD measures specific to beneficiaries of life insurance contracts and other types of investment in insurance products have been identified in the legal and regulatory framework. The law does not require information to be collected on the specific name of the beneficiary, whether they are an individual, a legal person or entities without legal personality.

b) [Not Met] For a beneficiary that is designated by characteristics or by class or by other means, FIs are not required to obtain sufficient information to establish the identity of the beneficiary at the time of payout.

c) [Not Met] For both sub-criteria a) and b) above, there is no requirement for verification of the identity of the beneficiary to occur at the time of the payout.

Criterion 10.13. [Not met] The legal and regulatory framework submitted did not identify a legal obligation for FIs to apply CDD measures, in accordance with the requirements of this criterion, to the beneficiaries of life insurance contracts.

Criterion 10.14 [Partly Met] FIs are required to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers (art. 10(2), AML/CFT Act). Where FIs that cannot verify the identity of a customer, the FIs must refrain from opening the account or initiating the business relationship, conducting the transaction or terminating the business relationship (art. 10(4), AML/CFT Act). This provision is silent on the action that FIs can take in the case of a beneficial owner. This means that FIs may establish a business relationship and conduct transactions for occasional customers without verifying the identity of the beneficial owner in accordance with the elements listed in sub-criterion (a) to (c) of this criterion. This is considered a moderate shortcoming in the implementation of CDD requirements. The requirement to refrain from terminating the business relationship is contrary to the FATF Standards, which is relevant to c.10.19.

Criterion 10.15 [Not Met] FIs are not required to adopt risk management procedures concerning the conditions under which a customer may utilise the business relationship prior to verification. The gap concerning the verification of BO under c.10.14 has a cascading effect on this criterion.

Criterion 10.16 [Met] FIs are required to apply appropriate CDD measures to accounts and customers existing before the entry into force of the AML/CFT Act based on the conditions of materiality and risk (Article 10 (11), AML/CFT Act).

Criterion 10.17 [Met] FIs are obliged to carry out enhanced measures when the risks of ML/TF are high (Art. 11(2), AML/CFT Act).

Criterion 10.18 [Met] When the ML/TF risks are considered low, FIs are required to apply simplified due diligence measures that are appropriate to the nature of the risk. Simplified due diligence measures are not acceptable whenever there is suspicion of ML/TF, or specific higher risk scenario apply (Art. 11 (3), (4), AML/CFT Act). There is no explicit requirement that the low risk should be identified through an adequate analysis of risk by the country or the FI, and that the simplified measures should be commensurate with the risks.

Criterion 10.19 [Mostly Met] In the event that FIs are unable to fulfil the relevant CDD measures:

(a) **[Partly Met**] FIs must refrain from opening the account or initiating the business relationship, carrying out the transaction or terminating the business relationship (Art.2 (4), AML/CFT Act). The requirement for FIs to "refrain from opening the account [..] or terminating the business relationship" is contrary to the requirements of c.10.19(a).

(b) **[Met]** In the case of 10.19(a) above, FIs are obliged to consider submitting an STR in relation to the customer to the FIU (Art.2 (4), AML/CFT Act).

Criterion10.20 [Not Met] FIs are obliged to file STRs to the FIU whenever they suspect or have reasonable grounds to suspect that the operation involves proceeds from criminal activities (art. 21(1), AML/CFT Act). Furthermore, FIs are prohibited from informing a customer or third party that a declaration has been made or any related information has been or is going to be transmitted to the FIU, or that a ML/TF investigation is underway or has been concluded (art. 22(1), AML/CFT Act). However, the Law does not provide for the possibility of not proceeding with CDD measures if the FI believes that the process could tip off the customer.

Weighting and Conclusion

There is no requirement in the law for FIs to carry out CDD on occasional transactions that are wire transfers. Regarding customers who are legal persons or legal arrangements, FIs are not required to collect (i) information that allows it to understand the nature of the client's business, (ii) information on the powers that regulate and bind the legal persons or legal structure as well as the names of the relevant persons who hold management positions in the

legal persons or legal structure and (iii) information on the address of the company's registered office/main place of business. Furthermore, are precluded from opening the account or terminating the business relationship when they are unable to comply with relevant CDD measures. **R.10 is rated PC.**

Recommendation 11 – Record-keeping

The 2013 MER rated STP PC on the former R.10, due to the failure to provide evidence of effective implementation of the record-keeping requirements, the current R.11 is currently at the level of technical compliance, supported by the requirements of AML/CFT Act, of 15 October and assessed under the terms of Immediate Outcome 4.

Criterion11.1 [Met] FIs are required to maintain all records relating to accounts and commercial correspondence, transactions conducted or attempted, both domestic and international, for a period of at least five years following the transaction or attempted transaction (Art. 20 (1) (b), AML/CFT Act).

Criterion11.2 [Mostly Met] FIs are obliged to keep copies of all documents obtained through CDD measures, account files and business correspondence , for a period of at least five years after the end of the business relationship or after the date of the occasional transaction (Art. 20 (1) (a), AML/CFT Act). However, FIs are not obliged to maintain records of any analyses undertaken.

Criterion11.3 [Met] FIs are obliged to ensure that all records of transactions, both domestic and international, are sufficiently detailed to enable reconstruction of the individual transaction (Art. 20 (1)(a), AML/CFT Act). These records can be used as evidence for prosecution of criminal activity.

Criterion11.4 [Mostly Met] FIs are required to ensure that all records are promptly provided to the FIU and other competent national authorities (20(1) and (2); Article 10, NAP 10/2015). FIs are not required to make information available on appropriate authority. This gap can lead to breach of relevant data protection and privacy rules and other similar provisions.

Weighting and Conclusion

While STP largely complies with the FATF Standards on record keeping, minor shortcoming exist in relation to maintaining records on any analyses undertaken and making records available to competent authorities upon appropriate authority. **R.11 is rated LC.**

Recommendation 12 – Politically exposed persons

In the 2013 MER, the previous R.6 on these matters was rated NC, due to significant deficiencies linked to the fact that there were no requirements to determine whether a client is a PEP, nor the need to identify the source of wealth and funds of beneficiaries identified as PEPs. Furthermore, the legal framework did not expressly require that EDD be carried out on business relationships with PEPs.

The AML/CFT Act defines “PEP” to mean “Any person who performs or has been entrusted with a prominent public function in a foreign country; any person who is or has been an executive in a state-owned enterprise headquartered abroad; any person who is or has been an executive member of a political party based in a country or with a cell abroad; any person who performs or has been entrusted domestically with a public function holding a position of responsibility; any person who holds or has been mandated with a senior role by an international organisation; and any family member or close associate of the afore-mentioned persons”. A “public function or position of responsibility” is defined to mean “Head of State or Government, Deputies, members of Government, Advisors, Counsellors, General Managers, members of the Board of Directors or equivalent functions, magistrates or career military, an executive of a public or private company, or an executive member of a political party” (Art. 4, AML/CFT Act), which limits the scope of individuals that qualify as PEPs, and has a cascading effect on the rating for R.12.

Criterion 12.1 [Partly Met] In relation to foreign PEPs, in addition to the CDD measures required under R.10, FIs are required to:

(a) [**Partly Met**] establish adequate risk management systems to determine whether the customer or beneficial owner is a PEP (Article 12 (1)(a), AML/CFT Act & Art. 5(1)(a), NAP, 10/2015);

(b) [**Partly Met**] obtain management approval before establishing new relationships or continuing business relationships with PEPs (Art. 12(2) (a), AML/CFT Act & Art. 5(1)(c), NAP, 10/2015);

(c) **[Partly Met]** take reasonable measures to identify the source of wealth and source of funds of customers and beneficial owners identified as PEPs (Article 12(2)(b), AML/CFT Act & Art 5(1)(c), NAP 10/2015); and

(d) **[Partly Met]** conduct enhanced ongoing monitoring on that relationship (Art. 12 (2) (c), AML/CFT Act & & Art 5(1)(d), NAP 10/2015).

Criterion12.2 [Partly Met] In relation to domestic PEPs, in addition to performing the CDD measures in R.10, FIs are required to:

(a) [Partly Met] take reasonable measures to determine whether the customer or beneficial owner is a PEP (Art.12 (1), AML/CFT); and

(b) [Partly Met] in cases when there is higher risk business relationship with such a person, adopt the measures in 12.1(b) to (d) (Art. 12(3), AML/CFT Act).

There is no requirement to apply these measures to international organisations PEPs. This constitutes a moderate deficiency in the implementation of c.12.3, due its potential impact on risk mitigation measures.

Criterion 12.3 [Partly Met] The definition of PEPs includes any family member or close associate of national and foreign PEPs. Therefore, all the measures and diligence provided for in art. 11 and art. 12 of AML/CFT Act and criteria 12.1. and 12.2 of apply. The provision does not apply to international organisations PEPs.

Criterion 12.4 [Not Met] FIs are not required to apply the measures contained in this criterion in relation to life insurance policies.

Weighting and Conclusion

In addition to CDD measures under R.10, FIs are required to implement measures in relation to PEPs, including implementation of risk management systems, taking reasonable measures to determine whether a customer or beneficial owner is a PEP. However, STP's closed list and function-based nature of the AML/CFT Act is restrictive and limits the application of the required measures. Also, the requirements do not apply to international organisations PEPs and life insurance policies. In the context of STP, having a high risk of corruption, these deficiencies constitute moderate shortcomings. **R.12 is rated PC.**

Recommendation 13 – Correspondent banking

In the 2013 MER, the previous R.7 was rated as NC, given that the legal framework in force at the time did not contain specific requirements regarding the establishment and maintenance of correspondent banking relationships. These shortcomings were remedied with the approval and entry into force of the AML/CFT Act.

Criterion13.1 [Mostly Met] In cross-border correspondent banking relationships or other similar relationships:

(a) [Met] prior to the commencement, FIs have a duty to collect sufficient information about the requesting institution in order to understand the nature of its activities and to determine, from publicly available information, the institution's reputation and the quality of supervision, and to ascertain whether it has been subject to any investigation or regulatory measure involving ML/TF offences (Art. 13 (a), (b), (c), and (d) of the AML/CFT Act & Art. 6 of NAP 10/2015).

(b) [Met] FIs must assess the controls adopted by the institution requesting the correspondent relationship (Art. 13(e), AML/CFT Act & Art 6 of NAP 10/2015).

(c) **[Partly Met]** FIs are obliged to obtain the approval of their management before establishing new correspondence relationships (Art. 13 (f), AML/CFT Act & Art. 6 of NAP 10/2015). The provision does not refer to "senior management", which constitutes a moderate shortcoming to this sub-criterion.

(d) [Met] In cross-border correspondent banking or other similar relationships, FIs must clearly understand and document the responsibilities of each party (correspondent bank and responding bank) with regard to the fight against ML/TF (Art. 13 (g), AML/CFT Act & Article 6 of NAP 10/2015).

Criterion 13.2 [Met] According to Art. 13 (h) of AML/CFT Act, FIs are obliged to:

(a) [Met] Ensure that the client bank (requesting or responding bank) has applied continuous due diligence measures with regard to customers with access to correspondent bank accounts.

(b) [Met] Ensure that the responding bank is able and capable of providing the appropriate data on the identification of its customers.

Criterion 13.3 [Met] FIs must not, in accordance with the provisions of Article 14 (2) and (3) of the AML/CFT Act, establish or maintain business relationships with shell banks/sham banks registered in jurisdictions where they do not have a physical presence, and which do not belong to a regulated financial group subject to supervision on a consolidated basis. In addition, FIs must not establish or maintain business relationships with institutions or customers in countries that allow their accounts to be used by banks registered in jurisdictions where they do not have a physical presence, and which do not belong to a regulated financial group subject to supervision on a consolidated basis.

Weighting and Conclusion

The STP ML/TF legal framework contains the necessary premises so that, in the event of correspondent relationships - i.e. STP banks being banking correspondents of foreign banks - they collect all the necessary information about the responding bank, assess the controls, and clearly understand all the responsibilities of each party in the relationship established. However, there is no requirement to obtain senior management approval before establishing new correspondent relationships **R.13 is rated LC.**

Recommendation 14 – Money or value transfer services

In the 2013 MER, STP was rated PC on Special Recommendation VI. The main deficiencies were related to the absence of supervision of MVTS and verification of informal foreign exchange trade that is not being regulated.

With the approval of Decree-Act 16/2019, of 16 December, which establishes the "Legal Framework for Service Providers and Payment System Operators", a set of measures was established with the aim of addressing the deficiencies previously identified in terms of monitoring and supervising the activity of transferring funds and values. With regard to licensing and informal activity, these are analysed in Immediate Outcome 3.

Criterion 14.1 [Met] - The legal regime for licensing MVTS providers is established by Decree-Act 16/2019, of 16 December (Legal Framework for Service Providers and Payment System Operators – (RJSNP). In addition, the same law establishes the exclusivity regime for the provision of payment services, where, according to article 5, only FIs with headquarters in São Tomé and Príncipe, authorised to do so, payment institutions, FIs with headquarters abroad, the State and the BCSTP may provide such services. The BCSTP is responsible for granting authorisation to set up payment institutions and system operators and revoking it in the cases provided for by law (art 4, (RJSNP). In addition, art. 9 (2) of Decree-Act 16/2019 of 16 December establishes that the authorisation and incorporation of payment institutions depends on authorisation to be granted, on a case-by-case basis, by the BCSTP. Likewise, according to article 2 of Act 9/92, the operation of any financial institution depends on prior authorisation from the BCSTP. Natural persons can provide MVTS, according to Article 15 of Law n. º 17/2018, of September 7th.

Criterion 14.2 [Partly Met] With regard to the illegal exercise of MVTS, since this is a financial activity, under the terms of article 40 of the BCSTP's Organic Law, the Bank has the mandate to conduct enquiries at any entity or place where there is reasonable suspicion of the irregular practice of monetary, financial or foreign exchange activities and to report to the competent authorities any irregular acts or facts of which it becomes aware and which go beyond its competence to intervene. BCSTP has taken action, with a view to identifying natural or legal persons that carry out MVTS without a licence or registration. However, there is no legal provision for sanctions applicable in cases of the illegal exercise of MVTS activity. Consequently, no sanctions have been applied to the unlicensed MVTS.

Criterion 14.3 [Met] Institutions that provide money or value transfer services are categorised as reporting entities (Art. 2 (1) (g), AML/CFT Act). In addition, with the publication of the Legal Framework for Payment Systems, approved by Act 17/2018, of 7 September, more specifically article 17, it was established that banks, payment service providers and system operators must respect the requirements and comply with the relevant rules on preventing and combating ML/TF, as well as any rules issued by the BCSTP on these matters. This obligation extends to employees, agents, subsidiaries or entities to whom activities are outsourced. Also, according to article 33 of the RJSNP, payment institutions and system operators are obliged to fulfil the reporting duties laid down in the legislation on preventing and combating ML/TF. From the legislative perspective, MVTS are reporting entities under the AML/CFT Act and are subject to monitoring by the BCSTP for AML/CFT compliance.

Criterion 14.4 [Met] Banks and payment service providers may use agents, whether natural or legal persons, to provide their payment services to customers (Article 17(1), Decree-Law 16/2019). To this end, no agent may carry out any activities before they are enrolled and registered with the BCSTP, which must make known to the general public the list of agents authorised to provide such services (art. 15, RJSNP).

The BCSTP must analyse the information it receives on agents, in particular their name and address, a description of the internal control mechanisms for preventing and combating ML/TF, and the identity of the directors and persons responsible for managing the agent. The BCSTP can refuse to register the agent if it considers that the information submitted is not correct (art. 15(1) &(2), RJSNP).

Criterion 14.5 [Not Met] There is no legal provision requiring agents to be included in the AML/CFT programmes of MVTS.

Weighting and Conclusion

MVTS is subject to authorisation by the BCSTP and is exclusive to entities duly identified in the country's existing legal framework. However, there is no legal provision for sanctions applicable in cases of the illegal exercise of MVTS activity. Regarding the obligation for agents to be registered and enrolled by the BCSTP, these are duly provided for

in the law, and there is no express requirement for MVTS include these agents in their AML/CFT programme. **R.14 is rated PC.**

Recommendation 15 – New technologies

In the 2013 MER, STP was rated NC in the former R.8. The shortcomings identified include the absence of provisions in the AML/CFT Act requiring FIs to have policies in place or take measures to prevent the misuse of technological developments in ML or FT schemes. In addition, other provisions related to new technologies only apply to banks

Criterion 15.1 [Not Met] FIs are required to identify and assess the ML/TF risks that may arise in relation to the development of new products and new business practices, including new distribution mechanisms and the use of new or developing technologies for new or pre-existing products (Art. 16, AML/CFT Act). However, STP has not identified and assessed the ML/TF risks in relation to the elements outlined under this criterion either in the context of an NRA or at FI institutional levels.

Criterion 15.2 (a) &(b) [Not Met] FIs are not required to undertake risk assessment prior the launch of new products business practices, and the use of new or developing technologies, and take appropriate measures to manage and mitigate the risks.

Criterion 15.3 [Not met]

a) **[Not Met]** STP has neither identified nor assessed the ML/TF risks arising from virtual asset activities and VASP activities or operations.

b) **[Not Met]** STP has not implemented any risk-based approach to ensure the adoption of ML/TF management and mitigation measures commensurate with the risks identified.

c) **[Not met]** There are no requirements for VASPs to adopt adequate measures to identify, assess, manage and mitigate their ML/TF risks.

Criterion 15.4 [Not met]

(a) [Not met] There is no legal requirement for VASPS to be registered or licensed.

(b) [Not Met] The competent authorities have not taken any legal or regulatory measures to prevent criminals or their associates from holding, or being the beneficial owner of, a significant or controlling stake in, or exercising management functions in, a VASP.

Criterion 15.5 [Not Met]

STP has not taken any measures to identify natural or legal persons carrying out VASP activities without the necessary licence or registration. Therefore, no sanctions have been applied.

Criterion 15.6 [Not met]

a)**[Not met]** VASPs are not subject to regulation and risk-based supervision or control by a competent authority.

b)**[Not met]** STP has not appointed a supervisory authority to ensure that VASP fulfils its AML/CFT obligations.

Criterion 15.7 [Not met] Competent authorities and supervisors have not issued guidance or provided feedback to help VASPs implement national measures to combat ML/TF and, in particular, to detect and report suspicious transactions.

Criterion 15.8 [Not Met]

a) **[Not Met]** STP has not implemented a range of proportionate and dissuasive sanctions, whether criminal, civil or administrative, to deal with VASPs.

b) **[Not Met]** In view of c15.8(a) above, the directors and senior staff of the VASP are not subject to any sanctions.

Criterion 15.9 (a and b) [Not met] There is no provision requiring VASPs to fulfil the preventive due diligence measures set out in sections R.10 to R.21.

Criterion 15.10 [Not met] With regard to targeted financial sanctions, the reporting mechanisms, reporting obligations and monitoring referred to in points 6 and 7 do not apply to VASPs.

Criterion 15.11 [Partially Met] STP cooperates, to the extent possible, with foreign jurisdictions at international level for the purpose of exchanging information relating to ML/TF and all underlying offences (see analysis R.37 to R.40). The FIU is also empowered to share information with its foreign counterparts, which may include information on VAs and VASPs. However, there are no specific legal provisions for the exchange of information on VA and VASP between supervisory authorities and their foreign counterparts.

Weighting and Conclusion

Although STP has legal requirements for FIs to identify and assess ML/TF risks arising from the development of new products and new business practices, including new distribution channels and their utilisation, the authorities and FIs have not identified and assessed the ML/TF risks in relation to new technologies. In addition, the country has not identified or assessed ML/TF risks arising from activities related to virtual assets and VASPs. STP's AML/CFT legal framework does not also cover VA and VASP. No supervisor has been appointed for VASPs, VASPs are not obliged to implement TFS and there is no specific legal provision for the exchange of information on VAs and VASPs between supervisory authorities and their foreign counterparts. **R.15 is rated NC.**

Recommendation 16 – Wire transfers

In the 2013 MER, the requirements of this Recommendation were included in the previous Special Recommendation (SR) VII, which was rated NC. The deficiencies related in particular to the lack of (i) the obligation to include the sender's address or other customer information that would allow identification, namely customer identification, or the sender's date and place of birth in relation to the domestic one;(ii) rules indicating which procedures should be adopted in the case of electronic transfers without the originator's full information; and (iii) oversight to ensure compliance with the rules and regulations, including cross-border and domestic bank transfer requirements.

Criterion16.1[Not Met]

(a) **[Not Met]** FIs carrying out cross-border wire transfer activities, when carrying out operations exceeding the threshold of two hundred and forty-five thousand dobra (245,000.00) (approximately 10,000 USD/EUR), are to obtain and verify information on the originator (the full name, an account number or a unique reference or identification number that allows the transaction to be traced, the address, the national identity document

number if a national, or the identification number if a non-resident customer, the date and place of birth) in accordance with the recommendation. However, the threshold set is higher than that set by the FATF (USD/EUR 1000) (Art. 15 (1) (a) to (c), AML/CFT Act).

(b) **[Not Met]** FIs that carry out cross-border electronic transfer activities, when carrying out operations that exceed the threshold of DB 245,000 (USD/EUR 10,000) to obtain and verify information on the beneficiary (the name and account number used to process the operation or, in the absence of an account, a unique reference number that allows the operation to be traced) in accordance with the recommendation. However, the limit set is higher than that set by the FATF (USD/EUR 1000) (Art. 15 (1) (d), AML/CFT Act).

Criterion 16.2 [Not Met] Where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, there is no requirement for the batch file to contain required and accurate originator information, and full beneficiary information, that is fully traceable within the beneficiary country; and the FI is not required to include the originator's account number or unique transaction reference number.

Criterion16.3 [N/A] STP does not apply a *de minimis* threshold.

Criterion16.4 [N/A] STP does not apply a *de minimis* threshold.

Criterion16.5 [Not Met] For domestic transfers, FIs are required to obtain and verify information on the originator (the full name, an account number or a unique reference or identification number that allows the transaction to be traced, the address, the national identity document number if a national, or the identification number of a non-resident customer, the date and place of birth) as defined in criterion 16.1 (a). This obligation does not apply to all domestic wire transfers, thus limiting the scope of application. In addition, domestic wire transfers are subject to the same threshold as cross-border wire transfers which is higher than that set by the FATF (see c.16.2 above).

Criterion16.6 [N/A] STP has not defined by law the possibility that the information accompanying the electronic transfer, at national level, can be made available to the beneficiary FI and the competent authorities by other means.

Criterion16.7 [Met] FIs that initiate electronic transfers to keep all the information on the originator and beneficiary for at least five years after the end of the business relationship or after the date of the occasional transactions (Arts. 15 (9) and 20(1)(a) and (b), AML/CFT Act).

Criterion 16.8 [Met] An ordering FIs is not allowed to execute the wire transfer if it does not comply with the requirements specified above at criteria 16.1-16.7 (Art. 15(2), AML/CFT Act).

Criterion16.9 [Met] Intermediary FIs are obliged to keep the information on the originator and the beneficiary accompanies the cross-border electronic transfer (Art. 15 (4) (a), AML/CFT Act).

Criterion16.10 [Met] If there are technical limitations that prevent information on the originator or beneficiary from being transmitted with the transfer transaction, FIs are required to keep a record of all information received from the originator financial institution or other intermediary financial institution (Article 15(5), AML/CFT Act). In addition, FIs are obliged to keep records of information received in relation to wire transfers for at least 5 years (Art. 20(1)(b), AML/CFT Act).

Criterion16.11 [Met] Intermediary FIs are required, in accordance with Article 15(4)(b), to take reasonable steps to identify cross-border wire transfers that do not contain the information of the originator or beneficiary.

Criterion16.12 [Not Met] "FIs are not required to have risk-based policies and procedures for determining a) when to execute, reject or suspend a wire transfer lacking required originator or required beneficiary information; and (b) the appropriate follow-up action."

Criterion16.13 [Met] A beneficiary FI is required to take reasonable steps to identify cross-border wire transfers without originator or beneficiary information (Arts. 15 (7)(b), AML/CFT Act).

Criterion16.14 [Not Met] The deficiencies identified in 16.1, in particular the very high threshold exceeding USD/EUR 1,000 has a cascading effect on the implementation of this criterion.

Criterion16.15 [Not Met] FIs are required to have risk-based policies and procedures in place to determine who executes, refuses or suspends an electronic transfer for lack of originator or beneficiary information and when necessary to take the appropriate follow-up action (Art.15 (7) (c), AML/CFT Act).

Criterion16.16 [Mostly Met] MVTS are FIs within the context of STP and are subject licensing and AML/CFT requirements, and operate directly and through agents (Art 17, Payment Systems Act).(Art. 19(1), Payment Systems Act; and Art.2(1)(g), AML/CFT Act). There is no provision applying the requirements of R.16 to agents of MVTS providers.

Criterion16.17 [Partly Met] In the case of a MVTS provider that controls both the ordering and the beneficiary side of a wire transfer, the MVTS provider:

(a) [**Not Met**] is not required to take into account all the information on both the originator and the beneficiary's side to determine whether an STR has to be filed.

(b) [**Met**] Payment institutions and system operators are obliged to report any indications or suspicions of fraud or criminal behaviour to the BCSTP (Art. 33 (2), CFT Act) and also comply with the requirements and fulfil the relevant rules relating to ML/TF, which include, under Art. 21(1) of AML/CFT Act, the duty to report suspicious transactions (Art. 17, Payment Systems Act).

Implementation of Targeted Financial Sanctions

Criterion16.18 [Partly Met] FIs are under general obligation to take freezing action and comply with prohibitions from conducting transactions with customers, which may include designated persons and entities, as per their obligations set out in the relevant UNSCRs. Therefore, the deficiencies identified in relation to R.6 concerning and non-reference to successor resolutions (see c.6.1) and the scope of property to be frozen (see c.6.5(b) apply here.

Weighting and Conclusion

National legislation, specifically the AML/CFT Act, currently sets out requirements and obligations that must be met by FIs involved in the chain of domestic and cross-border wire transfers, including the relevant information required to accompany these transactions and in relation to those with incomplete relevant information, and the maintenance of information. However, the country's implementation of wire transfer rules is hindered it set threshold of 10,000,000 USD/EUR which is higher than that set by this Recommendation (1,000 USD/EUR). **R.16 is rated PC.**

Recommendation 17 – Reliance on third parties

In the 2013 MER, STP rated NC on the previous R. 9 because there was no law covering the requirements.

Criterion 17.1 [Met] FIs are authorised to use third party FIs and [DNFBPs] to carry out elements of CDD measures (identification and verification of the identity of the customer, the BO and understanding the nature of the customer's business). Ultimate responsibility for identification and verification measures remains with the FI that relying on the third party (art17(3), AML/CFT Act).

(a) [**Met]** FIs that use third parties to fulfil certain aspects of CDD measures or to attract business, they must obtain immediately all the required information (Art. 17(a), AML/CFT Act).

(b) **[Met]** Where FIs use third parties to comply with some aspects of CDD measures or to attract business, they must ensure that the third party can make available, upon request and without delay, copies of identification data and other relevant documentation on CDD requirements (Art. 17(b), AML/CFT Act).

(c) **[Met]** If FIs use third parties to fulfil some of the aspects of CDD measures or to attract business, they must ensure that the third party is subject to regulation, supervision and control, and that it adopts measures aimed at fulfilling the requirements of R. 10 and 11 (art.17(c), AML/CFT Act).

Criterion 17.2 [Not Met] FIs that rely on third parties to perform some elements of the CDD requirements set out in R.10 are not required to have regard to information available on the level of country risk when determining in which countries the third party can be based.

Criterion 17.3 [Not Met] For FIs that rely on a third- party entity that is part of the same financial group:

b. [Not Met] There are no requirements in STP's legal framework to ensure that the group applies customer due diligence and record-keeping requirements in accordance with recommendations 10 to 12, and AML/CFT programmes in accordance with recommendation 18;
c. [Met] FIs must ensure that the third party is subject to regulation and supervision or control, as well as that the third party has taken steps to fulfil the risk assessment requirements and implement appropriate internal policies and controls in accordance with the provisions of Articles 11 and 19 of AML/CFT Act (Article 17 (1) (c)).
d. [Not Met] If an FI in the same group ensures the implementation of some CDD measures, there is no legal provision for the STP regulatory and supervisory authority (the BCSTP) to consider that any higher country risk is adequately mitigated by the group's AML/CFT policies.

Weighting and Conclusion

FIs can use third parties to fulfil certain aspects of the CDD measures regarding customers or to attract business. However, there is no obligation to have regard to information available on the level of country risk when determining in which countries the third party can be based, as well as measures involving financial groups. **R. 17 is rated PC.**

Recommendation 18 – Internal controls and foreign branches and subsidiaries

In the 2013 MER, STP was rated NC on the former R. 15 and 22. The deficiencies included (i) the absence of a legal obligation to appoint an independent and adequately resourced compliance officer; (ii) no requirement for an audit function to verify compliance and test the effectiveness of the compliance programme; (iii) inadequate training programmes to ensure that employees are up-to-date on developments, methods and trends in terms of ML/TF; (iv) no obligation on FIs to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with the FATF recommendations; (iv) no obligation on FIs to inform the country's supervisor when a foreign branch or subsidiary is unable to observe adequate AML/CFT measures because it is prohibited by the country's laws.

Criterion18.1 [Partly Met] FIs are required to implement programmes to combat ML/TF, which include the following internal policies, procedures and controls:

(a) [Partly Met] designation of a person responsible at management level for implementing the requirements set out in the AML/CFT Act (Art. 19 (2), AML/CFT Act);

(b) [Partly Met] procedures in hiring of their employees, in order to ensure that this is carried out in accordance with the criteria required (Art. 19 (1) (a), AML/CFT Act);

(c) [Partly Met] continuous employee training programme to ensure that employees are kept informed about the various aspects of the legal and regulatory framework for combating ML/TF, new developments, techniques, methods and trends in activities linked to these crimes and requirements for CDD and suspicious transaction reporting (art. 19 (1) (b), AML/CFT Act).

(d) [Partly Met] independent internal control mechanism to verify compliance with policies, procedures, systems and internal controls and ensure that such measures are effective and consistent with the provisions in the AML/CFT Act (Art. (19) (1) (c), AML/CFT Act).

FIs are not required to implement internal control programmes having regard to the ML/TF risks and the size of the business. This is considered a moderate deficiency as it will impede the adoption of appropriate measures to mitigate ML/TF risks.

Criterion 18.2 [Mostly Met] FI's AML/CFT programmes must be applicable, as appropriate, to all domestic and foreign branches and subsidiaries in which they have a majority-owned companies (Art. 19(3), AML/CFT Act). These programmes must include:

(a) [Met] policies and procedures for sharing information for CDD purposes and the management of ML/TF (Art. (19) (3) and (4)).

(b) [Partly Met] compliance with audit of customer at a group level, and obtaining transactions information from branches and subsidiaries, if necessary to combat ML/TF (Art. 19(4)(b), AML/CFT Act). There were no specific provision requiring the sharing of information and analysis of transactions of transactions or activities which appear unusual, including STRs, underlying information of STRs, or the fact that an STR has been submitted, (if such analysis is done). There are no provisions for the group wide-programmes for audit functions of account, and for branches and subsidiaries to receive such information from group-level functions when relevant and appropriate to risk management.

(c) [Partly Met] adequate safeguard for the confidentiality of the information exchanged (Art. 19 (4) (c), AML/CFT Act). The provision is not tailored specifically for groups. There is no provision requiring safeguards on the use of information exchanged and the need to prevent tipping off.

Criterion 18.3 [Met] FIs are required to ensure that their foreign branches and subsidiaries in which they have a majority shareholding apply AML/CFT measures consistent with home country requirements, if the host country's minimum AML/CFT requirements are less stringent than those of the home country, to the extent permitted by host country laws and regulations.

If the host country does not allow the proper application of AML/CFT measures compatible with home country requirements, financial groups should apply appropriate additional measures to manage ML/TF risks and inform their home country supervisors.

Article (19) (5) and (6) obliges FIs within financial groups to apply the conditions laid down in AML/CFT Act - AML/CFT Act, whenever the requirements in the host country of subsidiaries and branches are less demanding. If it is not possible to apply these requirements, FIs must apply additional risk management measures and notify the national regulatory and supervisory authority - i.e. the BCSTP.

Weighting and Conclusion

The legal framework presents moderate deficiencies. These relate to the need for internal control programmes to have regard to the ML/TF risks and the size of the business; group wide-programmes for audit functions of account, and for branches and subsidiaries to receive such information from group-level functions when relevant and appropriate to risk management; group-wide measures on information sharing; and safeguards on the use of information exchanged and the need to prevent tipping off. **R.18 is rated PC.**

Recommendation 19 – Higher-risk countries

STP was rated NC on the former Recommendation 21 due the absence of obligation to (i) apply enhanced due diligence measures commensurate with the risks, for business relationships and transactions with natural and legal persons, and (ii) apply appropriate countermeasures in the case of a country that continues not to apply or poorly applies the FATF Recommendations.

Criterion 19.1 [Met] FIs must apply EDD measures in relation to business relationships and operations with natural and legal persons from high-risk countries, and the type of EDD applied must be effective and proportionate to the risks (Art. 10 (10), AML/CFT Act).

Criterion 19.2 [Not Met] FIs are not required to apply countermeasures proportionate to the risks (a) when called upon to do so by the FATF; and (b) independently of any call by the FATF.

Criterion 19.3 [Not Met] STP does not have measures in place to ensure that FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries.

Weighting and Conclusion

STP's measures for higher risk countries fall short of application of countermeasures proportionate to the risks, when called upon by the FATF to do so and independently, and measures for advising FIs of concerns about weaknesses in other countries' AML/CFT systems. **R.19 is rated NC.**

Recommendation 20 – Reporting of suspicious transaction

STP was rated NC on R.13 and SR IV. The deficiencies related to (i) the non-obligation to submit STR to the FIU; (ii) the lack of an express requirement to report attempted transactions; (iii) the obligation to report suspicious transactions relating to high-risk countries was based on a threshold; (iv) the range of major infrastructures, including individual terrorist financing, was not criminalised; (v) the quality of the STR submitted was poor; and (vi) the obligation to submit STR was not implemented.

Criterion 20.1 [Met] FIs must immediately make a suspicious transaction report to the FIU in relation to any transaction, whenever they suspect or have reasonable grounds to suspect that the transaction involves funds from a criminal activity or is related to FT (art. 21 of AML/CFT Act). Through NAP 11/2015, the BCSTP reinforces this obligation by issuing guidelines on the preparation and reporting of suspicious transactions.

Criterion 20.2 [Met] FIs shall report any suspicious transaction to the FIU for any transaction, including any attempted transaction, regardless of the amount of the transaction.

Weighting and Conclusion

All the criteria are met. **R. 20 is rated C.**

Recommendation 21 – Tipping-off and confidentiality

In the first MER, STP was rated LC with former R. 14 because STP did not have express provision for protecting FIs and their officers for breach of restriction on disclosure of information.

Criterion 21.1 [Mostly Met] FIs, their directors, officers or employees are exempted from criminal, civil, disciplinary or administrative liability for breaches of confidentiality rules, imposed by contract or any legislative, regulatory or administrative provision, when they make statements or provide information in good faith to the FIU (Art. 22 (4), AML/CFT Act). However, this protection is not comprehensive, as it does not extend to situations where those concerned do not know exactly what the underlying criminal activity was, and regardless of whether the illegal activity actually took place.

Criterion 21.2 [Met] The prohibition on alerting the client is laid down in Article 22 (1), AML/CFT Act, whereby FIs, their directors, managers and employees must not inform a client or third party that a declaration has been made under Article 21 or any related information has been or is to be transmitted to the Financial Intelligence Unit, or that an investigation into money laundering or terrorist financing is underway or has been concluded.

Weighting and Conclusion

Minor deficiencies remain. The protection granted to the institution and its employees is not comprehensive, as it is not extended to situations in which those concerned do not know exactly what the underlying criminal activity was, and regardless of whether the illegal activity actually took place. **R. 21 is rated LC.**

Recommendation 22 – DNFBPs: Customer due diligence

In the 2013 MER, STP was rated as NC on the former Rec.12. The authorities did not issue any regulation or guidance accordingly and DNFBPs did not fulfil their obligations under the law; the description of the shortcomings of the preventive regime for financial intermediaries applied almost entirely to DNFBPs (in particular, the limited range of CDD measures, monitoring and the duty to report suspicious transactions); lawyers did not submit RTS to the Bar Association.

Criterion 22.1 [Met] DNFBPs are obliged to fulfil the CDD requirements set out in R. 10 in the following situations:

(a) **[Met]** Casinos - Casinos, are DNFBPs in STP and are subject to AML/CFT requirements (Art. 3, AML/CFT Act), when they carry out transactions equal to or greater than STD 50,000,000.00 (€ 2,040.00) (Article 3(1)(a), AML/CFT Act).

(b) **[Met]** Real estate agents - whenever they carry out transactions for their customers relating to the purchase and sale of real estate (Art. 10, AML/CFT Act). Agents must fulfil the requirements of the CDD in relation to the buyers and sellers of the property.

(c) [Met] DPMS - whenever they carry out cash transactions totalling 245,000,000.00 DBS (approximately €10,000.00) or more.

(d) [Met] Accountants, accounting experts, auditors, lawyers and other independent legal professions, partners in law firms and professionals employed by law firms - when they carry out transactions for clients relating to the following services: purchase and sale of real estate; management of clients' funds, securities or other assets; management of bank, savings or securities accounts; organisation of contributions for the creation, operation or management of companies; creation, operation or management of legal persons or legal arrangements and purchase and sale of commercial entities (Arts. 3(2) & 10, AML/CFT Act).

(e) [Met] TCSP - when they provide any of the following services to third parties: act as agents in the formation of legal persons; Act or exercise the measures necessary for a third party to act as director or secretary of a company, associate of a partnership or holder of a similar position in relation to other legal persons; provide a registered office, a business address, premises or an administrative or postal address to a company or to any other legal person or entity without legal personality; Acting or exercising the measures necessary for a third party to act as administrator of an explicit trust fund or perform equivalent functions for other types of entities without legal personality; acting or taking the measures necessary for a third party to act as a shareholder on behalf of another person (Arts. 3(3) and 10, AML/CFT Act).

Criterion 22.2 [Mostly Met) DNFBPs in STP are obliged to comply with the same record keeping requirements as FIs under Art. 20 of the AML/CFT Act (see analysis of R.11). Therefore, the deficiencies in R.11 regarding any analysis undertaken and making records available to competent authorities on appropriate authority have cascading effects on the implementation of this criterion.

Criterion 22.3 [Partly Met] DNFBPs in STP are required to comply with the same PEPs requirements as FIs under the AML/CFT Act and are subject to the same deficiencies identified, in particular for limited scope of definition of PEPs, international organisations PEPs (see analysis of R.12).

Criterion 22.4 [Not Met] - DNFBPs in STP are required to comply with the same new technologies requirements as FIs under the AML/CFT Act. Therefore, the deficiencies identified in relation to these requirements have cascading effects on this criterion (see analysis of R.15).

Criterion 22.5 [Partly Met] DNFBPs in STP are required to comply with the same third-party reliance requirements as FIs under Art. 17 of the AML/CFT Act and are subject to the same deficiencies related to c.17.2 and 17.3 (see analysis of R.17).

Weighting and Conclusion

All relevant DNFBPs in STP are subject to the same requirements as FIs. Therefore, the shortcomings arising from implementation of R. 10, 11, 12 and 15. **R.22 is rated PC.**

Recommendation 23 – DNFBPs: Other measures

In its first MER round, STP was rated as NC with the requirements of the former Recommendation R16. The main technical deficiencies were as follows: the shortcomings identified in Recommendations 13-15 and 21 were also applicable to DNFBPs. The other deficiencies concerned efficiency issues that are assessed under IO.4.

Criterion 23.1 a), b) and c)- [Partly Met] - DNFBPs are subject to the same STR requirements as FIs in Article 21 of the AML/CFT Act (see R.20). However, the law does not set a time limit within which DNFBPs must report suspicious transactions to the FIU promptly.

Criterion 23.2 - [Met] – DNFBPs are required to comply with the same internal control requirements and group-wide measures established for FIs under Article 19.1 a-(c); 19.2 and 22 of the AML/CFT Act, and subject to the same shortcomings (see analysis of R.18).

Criterion 23.3 [Not Met] DNFBPs are required to comply with the same higher-risk countries requirements established under Article 10(10) of the AML/CFT Act, and subject to the shortcomings identified (see analysis of R.19).

Criterion 23.4 [Met] DNFBPs are required to comply with the same confidentiality requirements established for FIs under Art. 22 of the AML/Act (see analysis of R.21).

Weighting and Conclusion

There are minor deficiencies regarding the timelines for filing STRs. In addition, moderate deficiencies are noted in relation to targeted internal control measures and information related matters, while major deficiencies exist in relation to higher risk countries. **R. 23 is rated PC.**

Recommendation 24 – Transparency and beneficial ownership of legal persons

The 2013 MER rated STP PC at the former R.33 due to inadequate measures to ensure adequate, accurate and timely information on beneficial ownership; lack of beneficial ownership; lack of a mechanism to verify the identity of owners for AML/CFT purposes.

Criterion 24.1 [Partially Met] The different types, forms and basic characteristics of legal persons in STP are defined in Article 105 of the Commercial Code (1988) and in Decree-Law 43843 of 5 August 1961, which regulates Limited Liability Companies, as amended by Law 14/2009. General partnerships, public limited companies, limited partnerships, sole proprietorships and private limited companies are the legal entities that can be set up in the country. The law also provides mechanisms for obtaining and registering basic information on all legal persons. In addition, all legal persons must register with the GUE (Article, Decree No. 07/2010). Information on the procedure for setting up legal persons is available from the GUE and basic information on all companies is also available from the same office.

Criterion 24.2 [Not met] STP has not assessed the ML/TF risks associated with all legal persons created in the country.

Criterion 24.3 [Met] Registration is compulsory for all legal persons wishing to operate in STP. This registration must be made with the GUE (Art. 2, Decree no. 07/2010). The Articles of Association, the name, the composition of the share capital (identification of the shareholders/members with their respective percentage of participation), the legal form, the address of the registered office and who is responsible for management must be clearly and unequivocally stated (Arts. 113 and 114, Commercial Code). The statutes of legal persons are published in an official gazette, so the information is accessible to the public.

Criterion 24.4 [Met] Companies are obliged to keep the information set out in Criterion 24.3 at their registered office in STP, including a register of shareholders, number of shares held by each shareholder, categories of shares and information on voting rights (Arts. 113 and 114, Commercial Code).

Criterion 24.5[Partially Met] As a mechanism to ensure information obtained under Criterions 24.3 and 24.4 are accurate and updated on a timely basis. companies are required to fill in a form and provide two copies of their previous articles of association (if it is a total change) and the amended articles of association in digital format, a certificate of admissibility (if it is a change of name), two photocopies of the members' identity cards, a power of attorney with notarised signatures if there are representatives or certified photocopies, minutes or certified photocopies (and if they confer powers of representation, the signatures must be notarised). However, there are no clear legal provisions on deadlines for changes or updates to be made.

Criterion 24.6 [Not Met] The GUE (which is the company registry) maintains only basic information on all legal persons created in STP as the law does not grant it powers to maintain information on BO information. Accordingly, competent authorities cannot access BO information from the GUE. FIs and DNFBPs are required to identify, verify and maintain the identity of their customers and beneficial owners as part of CDD obligations (Article 10(2) of the AML/CFT Act). Although this information is accessible to the competent authorities on request, only banks belonging to international groups keep information on the identity of their customers and the verification process seems inadequate. Furthermore, legal persons are not obliged to open a bank account before carrying out their activity, so the disclosure of BO information on the basis of the AML/CFT Act will be limited only to companies that establish a

commercial or banking relationship with FIs and DNFBPs. In general, the legal framework on BO disclosure is limited to FIs and DNFBPs collecting same as part of their CDD obligations, and this obligation is not largely complied with. Accordingly measures to obtain and maintain accurate and up-to-date BO information on legal persons are inadequate.

Criterion 24.7 [Partly Met] FIs and DNFBPs are obliged to ensure that BO information is checked for accuracy and kept up to date (Article 10(2) and (9) of the AML/CFT Act (Law 8/2013)). However, this provision is limited to legal persons that maintain commercial relations with the reporting entities. Therefore, the obligation does not extend to a wider range of companies, since the Commercial Code does not lay down requirements for the disclosure of BO information.

Criterion 24.8 [Not met]

(c) [Not Met] Legal persons are not required to have one or more natural persons resident in São Tomé and Príncipe and authorised by the legal person to report to the competent authorities on the provision of all information, including the provision of assistance to the competent authorities. Considering that legal persons must keep the information required in point c.24.3 at their registered office (see point c.24.4), members of the administrative staff of legal persons may provide this information. However, in the absence of a specific obligation to provide information to the authorities, it is not guaranteed that a request will be fulfilled. Furthermore, the absence of a requirement for legal persons to obtain information on the BO has a negative impact on the conclusions of this criterion.

(d) [Not met] Businesses are not obliged to cooperate with competent authorities in providing accurate and up-to-date beneficial ownership information by authorising a DNFBP in STP to provide all background information and available information on beneficial owners, including the provision of assistance to competent authorities.

(e) [Not Met] STP did not provide evidence of comparable measures specifically identified by the country to ensure the co-operation of companies in determining BO.

Criterion 24.9 [Partially Met] FIs and DNFBPs are obliged to keep records on their customers' information and related documents for a period of at least five years from the time of termination of the business relationship (Article 20 of AML/CFT AML/CFT Act). The deficiencies identified in Criterion 24.6 has a cascading effect on this criterion.

Criterion 24.10 [Met] The MOJ and the PJ are responsible for investigating cases of ML, associated predicate offences and FT in STP and there are legal provisions that allow them timely access to the necessary documents and information (background information and information on beneficial owners, if available) held by FIs, DNFBPs and other natural and legal persons during investigations. (Article 245 of the CPC, Article 82 of the Code of Civil Procedure and Article 32 of Act 03/2018).

Criterion 24.11 [Not met] Although STP allows legal persons to issue bearer shares (Art. 114(7)(3), Commercial Code), the country does not have mechanisms to ensure that bearer shares are not misused for ML/TF.

Criterion 24.12 [Not met] Although STP allows the use of nominee shareholders and directors, there are no mechanisms to prevent the misuse of such arrangements for ML/TF purposes.

Criterion 24.13 [Partially Met] The Commercial Code provides sanctions for various breaches of disclosure of basic information, but no sanctions are available on BO disclosure as it is not a legal requirement in STP .

Criterion 24.14 [Partly Met] STP has a legal basis that should allow competent authorities to swiftly provide mutual legal assistance (Act 6/2016 on International Co-operation in Criminal Matters (LCIMP)). On the basis of this law,

competent authorities can provide the widest range of co-operation to foreign counterparties, including basic information held by the company registry and information on shareholders. However, such assistance regarding BO is limited, as only companies with commercial or banking relations with FIs and DNFBPs are obliged to disclose their BO (Article 1 of the AML/CFT Act).

Criterion 24.15 [Not met] STP does not have a mechanism to monitor the quality of assistance received from other countries in response to requests for background information and BOs or requests for assistance in localising BOs resident abroad.

Weighting and Conclusion

STP has mechanisms in place to identify and describe the different types, forms and basic characteristics of legal persons, including the process for creating legal persons, which is publicly available. However, STP is yet to assess the ML/TF risk of legal persons. FIs and DNFBPs are obliged, as part of their CDD obligations to maintain beneficial ownership information of their customers. However, legal persons are not obliged to open a bank account before carrying out their activity, so the maintenance of BO information via FIs and DNFBPs is limited to companies that establish a commercial or banking relationship with FIs and DNFBPs. Aside FIS and DNFBPs, no other person including the GUE is mandated to maintain BO information. Furthermore, basic and BO information is not kept accurate and up-to-date, and the competent authorities do not have timely access to this information. Although STP allows the issue of bearer shares and the use of nominee shareholders and directors, there are no mechanisms to ensure that such provisions are not abused or misused. Furthermore, there are no sanctions applicable to natural and legal persons who do not comply with the requirements. **R. 24 is rated PC.**

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

In 2013, STP was rated as Not Applicable under the former R. 34, since trusts were considered non-existent in the country. The legal framework in STP does not allow the creation of collective interest centres without legal personality (trusts). However, nothing prevents foreign trusts (created abroad) from carrying out their activity in STP or holding assets in that country or having a trustee for the foreign trust.

Criterion 25.1 [Met] Even though STP does not have a legal framework for the creation of trusts, FIs and DNFBPs are obligated to obtain and maintain adequate, accurate and up-to-date information on those who own or control the trust, including those who exercise effective control over the trust (Article 10 (3) of AML/CFT Law 8/2013).

Criteria 25.2 [Met] FIs and DNFBPs are required to keep, for a period of at least five years after the end of the business relationship or after the date of an occasional transaction, copies of all documents obtained through CDD measures, including documents proving the identity of customers and beneficial owners (Art. 20 (1) (a), AML/CFT Act).
Criterion 25.3 [Not Met] There are no measures in place to ensure that trustees disclose their status to FIs and DNFBPs when they establish a business relationship or enter into an occasional transaction above a prescribed threshold.

Criterion 25.4 [Met] There is no legal prohibition or enforceable means preventing trustees from providing information relating to trust funds to the competent authorities, or from providing FIs and DNFBPs, upon request, with information on the beneficial owners and assets of trust funds.

Criterion 25.5 [Met] LEAs have full powers to compel entities to provide any documentation or information required during investigations and prosecutions relating to underlying, ML/TF offences (Article 245 of the CPC, Article 82 of the Code of Civil Procedure and Article 32 of Act 03/2018 refer). In addition, Article 3 of the AML/CFT Act of 2013 (Act 8) categorises legal persons or entities without legal personality (i.e. institutions providing trust services) as DNFBP.

Consequently, they are expected to comply with all the preventive measures set out in Chapter III of the Law. Specifically, Article 10(9) requires all DNFBPs to make available to the Financial Intelligence Unit, supervisory authorities and other competent authorities all information, data and records obtained as part of the CDD process.

Criterion 25.6 [Partialy Met]

(f) STP rapidly provides international co-operation in relation to information (including beneficial ownership information) with foreign authorities in relation to Recommendation 37 and 40. Article 20 (1) of the AML/CFT Law requires FIs and DNFBPs to promptly make available to the FIU and other competent authorities all information obtained as part of their CDD obligations. However, the deficiencies identified under Recommendation 37 and 40 apply.

Criterion 25.7 [Not Met] There are no laws providing for criminal, civil or administrative sanctions against directors who are legally responsible or who fail to fulfil the duties relevant to R.25.

Criterion 25.8 [Not Met] There are no proportionate and dissuasive criminal, civil or administrative sanctions for failure to grant the competent authorities access to information relating to trust.

Weighting and Conclusion

Although STP's legal framework does not allow the creation of legal arrangements (trusts), the AML/CFT Law obligates FIs and DNFBPs to obtain and maintain BO information of all customers as part of their CDD obligations. In addition, nothing prevents foreign trusts (created abroad) from operating, holding assets or having a trustee for the foreign trust in STP. There are gaps in relation to measures for the prompt provision of international co-operation regarding information on trusts; criminal, civil or administrative sanctions for trustees who are legally liable or who fail to fulfil the duties relevant to the fulfilment of obligations under R.25; and proportionate and dissuasive criminal, civil or administrative sanctions for failure to grant competent authorities access to information relating to trust funds. R. 25 is rated PC.

Recommendation 26 – Regulation and supervision of financial institutions

In the 2013 MER, STP was rated NC on the former R. 23. The deficiencies related essentially to the lack of (i) risk assessment and adequate strategy for AML/CFT regulation and supervision of FIs operating in STP and (ii) consistency in the assessment of the competence and suitability of managers and employees.

Criterion 26.1 [Met] BCSTP as the competent authority responsible for the supervision of FIs for AML/CFT requirements (Article 2, AML/CFT Act).

The FIs listed in Article 2 include: Deposit and credit institutions; Investment companies and other financial companies; Pension fund management companies; Insurance companies; Credit securitisation companies; Venture capital companies; forex dealers and MVTS; offshore banks; Entities in charge of managing or marketing venture capital funds; Collective investment entities that market their units; Other companies and institutions engaged in financial activities. Branches, subsidiaries and agencies with their head offices abroad, as well as foreign financial branches, are also subject to AML/CFT requirements. Entities that provide public services are also covered by the AML/CFT Act, if they provide financial services.

Criterion 26.2 [Partly Met] All FIs, whether it is a state company, a mixed company or a private company, are subject to licensing by the BCSTP (Art. 2 of Law 9/92, Financial Institutions Law; art. 9, RJSPN; and art. 7, Forex Act). No bank may operate in STP if it does not have a physical presence in the country, if it is not licensed by the BCSTP and does not belong to a regulated financial group subject to supervision on a consolidated basis (Art. 14, AML/CFT Act). Therefore, STP will not approve the establishment, or continued operation, of shell banks.

Criterion 26.3 [Partly Met] Under the terms of Article 25 (2) (a) and (m) of AML/CFT Act, the supervisory and oversight authorities must ensure that FIs adopt the necessary measures to prevent the perpetrators of crimes or their accomplices from acquiring or being the effective beneficiaries of controlling stakes or significant shareholdings in FIs or holding management positions in them. Article 38 (e) of Law 08/92 - the Organic Law of the BCSTP - establishes as one of the BCSTP's functions the assessment of the suitability of holders of shareholdings representing more than 10 per cent of the share capital of FIs. In addition, NAP 2/2007, a rule in the public domain, published in Diário da República No. 1 of 19 January 2007, establishes that the BCSTP must assess the suitability of holders of shareholdings representing more than 10% of the share capital. However, this rule does not have the same binding power as a law and there is no legal provision as to whether percentages below this threshold can be analysed if the BCSTP so decides in its due diligence.

Through NAP 29/2011, the BCSTP lists some procedures and requirements for analysis in the process of Authorisation for FIs to Operate. However, these requirements should be included in a law, as there is no evidence that these rules are known to all promoters who want to open a FI. Likewise, the rules for assessing the suitability of shareholders or beneficial owners of FIs are unclear.

Article 14 of Law 9/92 establishes that FIs must take the form of a commercial public limited company. In addition, article 15 of Law 9/92 requires that the shares representing the share capital, with or without voting rights, must be registered.

With regard to the performance of management duties, Act 9/92 - the FIs Law - in its article 22 establishes the mandatory fulfilment of qualification, experience, personal conduct and reputation requirements on the part of persons elected or appointed to hold management positions in FIs. Furthermore, these people may not be appointed to the positions they have been proposed for without the prior and due approval of the BCSTP. Through NAP 2/2007, of 3 January, the BCSTP clarified the requirements to be met for members of the Board of Directors, management and supervisory bodies of FIs. This rule is in the public domain and was published in Diário da República No. 1 of 19 January 2007.

Criterion 26.4 [Met] BCSTP is responsible for the regulation and supervision of both core and non-core principles FIs, including for AML/CFT purposes, except for capital market operators as they do not exist in STP.

Criterion 26.5 [Not Met] STP legal framework does not provide for an obligation to determine the frequency and intensity of AML/CFT supervision (on-site and remote) of FIs or financial groups:

(a) **[Not Met]** BCSTP is the AML/CFT supervisor for FIs in STP and is responsible for ensuring compliance with the duties laid down in the legal and regulatory framework on the matter (art. 25, AML/CFT Act). However, BCSTP is not obliged to consider ML/TF risks and the policies, internal controls and procedures associated with the institution or group when determining the frequency and intensity of supervisory actions.
(b) **[Not Met]** There is no legal provision for taking the country's ML/TF risks into account when determining supervisory actions.
(c) [**Not Met]** The STP Law does not provide for an obligation to use the characteristics of FIs or groups, in particular the diversity and number of FIs and the degree of discretion granted under the risk-based approach, to determine the intensity and frequency of supervisory actions, whether direct or indirect.

Criterion 26.6 [Not Met] The legal requirements for compliance with this criterion have not been identified.

Weighting and Conclusion

BCSTP is the regulatory and supervisory authority for FIs in AML/CFT matters. These FIs must have a licence granted by the BCSTP to provide financial activities and services. However, there are some shortcomings related to the lack of an obligation to apply a risk-based approach to FIs; the lack of legal and regulatory requirements that oblige the supervisor to determine its field of action, namely the definition of its supervisory plan based on risk criteria. **R. 26 is rated as a PC.**

Recommendation 27 – Powers of supervisors

In the 2013 assessment, the country was rated NC in the previous Recommendation 29, essentially because (i) it was found that there was no monitoring of FIs to ensure compliance with the requirements to combat ML and FT; (ii) there were no inspections of FIs, including on-site inspections to ensure compliance; and (iii) there was no evidence of the use of available enforcement and sanctioning powers against FIs.

Criterion 27.1 [Met] According to Art. 25 (1) of AML/CFT Act, the BCSTP, as the supervisory and inspection authority for FIs, is responsible for supervising, inspecting and ensuring compliance with the requirements of the Law on preventing and combating ML/TF.

Criterion 27.2 [Met] According to Article 25 (2) (d) of AML/CFT Act, the BCSTP as the supervisory and inspection authority for FIs has the power to collect information and other data from FIs and carry out on-site inspections at group level, and may delegate these powers to other entities.

Under the terms of Article 8 (2) (f) of the Organic Law, Law 8/92 of 3 August, one of the BCSTP's functions and duties is to supervise and monitor the national financial system. In addition, Article 41 of the same law states that all FIs are subject to inspections determined by the BCSTP. In addition, in its inspections of FIs, the BCSTP may examine any documents held in the archives of the supervised institutions.

Criterion 27.3 [Met] The BCSTP as the supervisory authority for FIs shall order the production of any relevant information, obtain copies of documents in any format and remove documents from the premises of an FI (Art. 25 (2) (e) of AML/CFT Act).

Criterion 27.4 [Met] As the supervisory authority for FIs, the BCSTP must apply measures and sanctions for breaches of compliance with the obligations laid down in the Law on Prevention of ML/TF (art. 25 (2) (f) of AML/CFT Act). In addition, the Central Bank is responsible for imposing fines and ancillary sanctions for non-compliance by FIs with the duties laid down in the ML/TF regime (art. 46 (2) (a) of AML/CFT Act).

The ancillary sanctions range from disqualification from holding corporate office and from administration, direction and management of legal persons to publicising the final decision.

The BCSTP has the power to revoke the authorisations of FIs if it sees fit (article 38 (a), Organic Law of the BCSTP).

Weighting and Conclusion

In general, sanctions are provided for legal persons as well as natural persons. Furthermore, the BCSTP can withdraw, limit or suspend an FI's licence. **R. 27 is rated C.**

Recommendation 28 – Regulation and supervision of DNFBPs

The 2013 MER rated STP NC with the requirements of the old R. 24. The main technical deficiencies were the non-implementation of AML/CFT requirements in all DNFBPs. The new FATF recommendation reinforces the principle of supervision and controls through a risk-based approach.

Criterion 28.1 a)-c) [Met] Establishing, financing, operating, controlling or owning a casino or an organisation to operate the lucrative business of games of chance, lottery, roulette, bingo or lottery without legal authorisation is prohibited and punishable by imprisonment from one to five years (Art. 275 of the Penal Code). Representatives of legal persons or similar organisations acting on their behalf or in their collective interest are criminally liable and punishable by a fine of between DBS 10 million and DBS 100 million.

Casinos are subject to legal or regulatory measures, including registration requirements under STP company laws, which ensure that criminals or their associates are prevented from holding or being beneficial owners of a significant or controlling stake, exercising a management function or being operators of a casino (Gambling Law 1/2004, Penal Code, The AML/CFT Act and Company Law).

The General Gaming Inspectorate (IGJ) - of casinos and gambling operators - is empowered by the CFT Act to supervise compliance by casinos of AML/CFT requirements, investigate offences committed by entities in its sector in relation to the AML/CFT Act and to impose fines and other punishments on casinos for non-compliance with AML/CFT obligations.

Criterion 28.2 [Met] Article 24(2) of the AML/CFT Act lists the following institutions as regulatory authorities of DNFBPs for the purposes of monitoring the fulfilment of their AML/CFT obligations:

(a) GIG - casinos and gambling operators;
(b) The Directorate-General for Economic Activities - estate agents and auctioneers and other entities selling precious metals and stones, antiques, works of art, aeroplanes, boats or automobiles or other activities not listed in Article 24(2);
(c) The Directorate-General for Registry and Notary Services - notaries and registrars;
(d) Ordem dos Revisores Oficiais de Contas – chartered accountants;
(e) The Board of Statutory Auditors - statutory auditors;
(f) At the Bar Association, in the case of lawyers;
(g) At the Order of Solicitors, in relation to solicitors.

Criterion 28.3 [Partly Met] Although the monitoring authorities under Article 24(2) of the ML/TF Law are legally empowered to subject DNFBPs to their monitoring and supervisory activity, none of the DNFBPs have been subject to any monitoring mechanism to ensure compliance with the AML/CFT requirements. Given the existing legislation, there is also the need to supplementary regulatory instruments to enable effective supervision of DNFBPs by the designated authorities.

Criterion 28.4 - [Partly Met] The designated supervisory authorities (Article 24(2) , AML/CFT Act) are legally authorised to and have the necessary powers to carry out their duties, as provided for in Article 25 of the CFT Act, including the power to carry out on-site inspections and the obligation to produce the necessary documents and information. The lack of sectoral legislation and regulations adapted to DNFBPs that confer specific competences and powers in terms of preventing and combating ML/TF could cause constraints on the supervisory activity of these authorities, despite the legal authorisation provided for in Article 24.

(a) [Partly Met] Articles 24 and 25) of AML/CFT Act confer AML/CFT supervisory powers on the various DNFBP supervisory authorities to fulfil AML/CFT requirements, including the power to carry out on-site inspections and the obligation to produce the necessary documents and information. The lack of sectoral legislation and regulations adapted to DNFBPs that confer specific competences and powers in terms of preventing

and combating ML/TF could cause constraints on the supervisory activity of these authorities, despite the legal authorisation contained in Articles 24 and 25 of the AML/CFT Act.

(b) [Partly Met] Lawyers, accountants, real estate agents, DPMS regulators have legal requirements for applicants, which include criminal background screening and fit and proper tests, although BO requirements are not being met. No information was collected (except casinos) if, in addition to the AML/CFT Act, there are laws or regulations or other enforceable means in place for DNFBPs that establish fit and proper requirements.

(c) [Met] DNFBPs' supervisory authorities can institute the necessary procedures to apply disciplinary, monetary and other sanctions against DNFBPs, except lawyers, for violation of AML/CFT obligations (Art. 43, AML/CFT Act).

Criterion 28.5 [Partly Met] The AML/CFT Act requires supervisory authorities of DNFBPs to exercise their supervisory powers on a risk-sensitive basis (Article 11, AML/CFT). However, these provisions are not being implemented in practice by the designated authorities, since no monitoring was carried out, let alone on a risk-sensitive basis.

Criterion 28.5 (a) [Not Met] DNFBP supervisors are required to apply their supervisory actions in a sensitive manner**,** taking into account the prevailing risk situations, including the risk profiles of the entities (Article 25(2)(p), AML/CFT Act). However, DNFBPs have not been supervised for AML/CFT compliance. In addition, the supervisors did not demonstrate the existence of supervisory plans, tools (on-site and off-site) and practices (including ML/TF matrixes and consideration of any risk assessment) that may be relevant for the effectiveness of assessment of AML/CFT DNFBP supervision. Consequently, the AT could not conclude that DNFBP supervisors

(a) [Not Met] determine the frequency and intensity of AML/CFT supervision of DNFBPs on the basis on their understanding of ML/TF risks, taking into consideration the characteristics of the DNFBPs, in particular, their diversity and number; and

(b) [Not Met] take into account the ML/TF risk profile of those DNFBPs, and the degree of discretion allowed to them under the risk-based approach, when assessing the adequacy of the AML/CFT internal controls, policies and procedures of DNFBPs.

Weighting and Conclusion

Designated authorities are authorised to monitor DNFBPs' compliance with AML/CFT Acts and regulations. However, none carry out AML/CFT monitoring, let alone on a risk basis, or have sanctioned violation of AML/CFT compliance. Market entry controls for all DNFBPs are limited and most do not include measures to prevent criminals from being owners or beneficial owners. **R. 28 is rated PC.**

Recommendation 29 - Financial intelligence units

The first MER rated STP PC on these requirements. The main deficiencies related to the lack of an express requirement for reporting entities to submit STRs to the FIU; the lack of access, directly or indirectly and in a timely manner, to the administrative and judicial information necessary for the proper performance of its functions, lack of independence and operational autonomy to ensure that it is free from any undue influence; the lack of financial resources, the influence of the supervising minister, the uncertainty of the coordinator and deputy coordinator remaining in office and the failure to disseminate any reports to the competent authorities to facilitate investigations.

Criterion 29.1 [Met] The FIU of STP was created by government decree, Decree 60/2009 of 31 December. The FIU is the national central agency of STP, responsible for receiving, requesting, analysing and disseminating information on transactions suspected of generating proceeds of criminal origin and/or the use of funds intended for TF. Its function

is to centralise, analyse and make available to competent authorities, information regarding ML/TF (Art. 3, FIU Decree and Art. 26(1), AML/CFT Act). To carry out its functions, the FIU is required to, among other things:

(a) analyse the information received and report to the PGR the transactions related to the suspicion of ML/TF offences (Art.4(b), FIU Decree); and

(b) Support, when fundamentally requested, the criminal police bodies and judicial authorities as well as other entities with powers to prevent and suppress ML/TF through the provision of data and technical expert support (Art. 4(d), FIU Decree).

Criterion 29.2 [Met]

(a) [Met] The FIU is authorised to receive suspicious transaction reports filed by reporting entities (articles 21 and AML/CFT Art. 3, FIU Decree).

(b) [Met] The FIU is authorised to receive declarations on cash and BNIs submitted by Customs (Art. 23(2), AML/CFT Act).

Criterion 29.3 [Met]

(a) [Met] The FIU has the power to request additional information from any entity subject to the duty of communication or other entities for the fulfilment of its mission, as stated in article 27 of AML/CFT Act, of AML, in conjunction with article 6 of FIU Decree, of 31 December, which creates the FIU.

(b) [**Met]** The FIU has access to information held by the competent authorities, namely the police, judicial, supervisory and inspection authorities and any other public body (Art. 28, AML/CFT Act).

Criterion 29.4 [Met]

(a) [Met] The FIU is authorised to carry out operational analysis of information on operations suspected of generating proceeds of criminal origin or information relating to the crime of terrorist financing and to disseminate the results to the criminal police, judicial authorities and other entities with powers to prevent or suppress ML/TF (article 26 of AML/CFT Act, of the AML, in conjunction with article 3 of FIU Decree).

(b) [Met] The FIU is required to carry out periodic studies on the evolution of techniques and trends used for ML/TF (Article 3(c), Decree 25/2012, Internal Regulations of the FIU).

Criterion 29.5 [Mostly Met] The FIU can disseminate, spontaneously, the results of its analysis of STRs to the PGR (art.4(b), FIU Decree), and upon request, provide LEAs and judicial authorities with data (Art. 4(c), FIU Decree). These provisions are construed to mean that dissemination of the results of the FIU's analysis of STRs is limited to the PGR. This limits the scope of competent authorities that can access financial intelligence generated by the FIU. Also, both pieces of legislation do not explicitly specify that this information must be transmitted through dedicated, safe and secure channels. In practice, the FIU does not use dedicated, secure and protected channels for the dissemination.

Criterion 29.6 [Partly Met]

(a) [Partly Met] Officials and members appointed by the respective institutions are bound by confidentiality in order to protect the information obtained and kept by the FIU in the fulfilment of its mission, and that it should only be used for the purposes provided for by law (Art. 27, AML/CFT Act; Art 7 of FIU Decree; Art. 8, FIU Internal Regulations). Although the FIU has an IT service responsible for designing, loading, maintaining and

administering the Database Management System, there is no information available on an ICT security policy governing the security and confidentiality of information, including the level of access and responsibility of staff.

(b) [Not Met] There is no document ensuring that FIU staff have the necessary security clearance levels and understanding of their responsibilities in handling and disseminating sensitive and confidential information.

(c) [Met] FIU officials and employees are prohibited from receiving private visitors in the office. Furthermore, the FIU premises must be guarded by the Public Security Police during the day and night (Articles 10 & 11, FIU Internal Regulations).

Criterion 29.7 [Mostly Met]

(a) [Mostly Met] AML/CFT Act and Decree 25/2012 grant the FIU independence and autonomy in the fulfilment of its specific mission. The FIU receives a budget allocation from the Government of STP, which is administered by the Ministry of Finance and Planning. The Director of the FIU is responsible for the day-to-day management of the unit. The FIU does not have adequate financial, human and technical resources to guarantee its autonomy and independence and enable it to fulfil its mandate effectively.

(b) [Met] Article 50 of AML/CFT Act establishes the duty of the competent national authorities to co-operate and co-ordinate with each other at operational level and in the definition of policies, for the development and implementation of strategies and activities, based on the risks identified, aimed at preventing and combating money laundering and the financing of terrorism, and the financing of the proliferation of weapons of mass destruction. In addition, the same law authorises the FIU to share information, either spontaneously or upon request, with any foreign counterpart or other competent authorities, on preventing and combating money laundering, underlying crimes and terrorist financing, on a reciprocal basis or by mutual agreement within the framework of cooperation agreements, and may conclude agreements or memoranda of understanding.

(c) [Met] The FIU is an administrative service, which operates under the supervision of the Ministry of Finance, endowed with decision-making autonomy in matters of its technical-operational and financial competence. It has operational (Article 1 FIU Decree and Art 26(2), AML/CFT Act).

(d) [Met] The must have its own budget and is endowed with decision-making autonomy in matters of its technical-operational and financial competence (Art 26(2), AML/CFT Act).

Criterion 29.8 [Not Met] The FIU is not yet a member of the Egmont Group of FIUs and is yet to engage the Egmont Group towards attaining membership.

Weighting and Conclusion

STP most of the criteria of this Recommendation. However, there are minor deficiencies, regarding the use of dedicated, secure and protected channels for dissemination; security clearance levels and understanding of responsibilities in handling and disseminating sensitive information; and the lack of membership of the Egmont Group. **R. 29 is rated as LC.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

he first MER rated STP PC on these requirements due to the lack of resources, capacity and training to deal with issues related to ML/TF and fighting crime in general, the absence of investigation of ML/TF cases and the lack of review of methods, techniques and trends.

Criterion 30.1 [Met] The PGR is the holder of the criminal action and has the legitimacy to promote criminal proceedings, observing the legal precepts for this purpose (Art. 30, Constitution of STP and Criminal Procedure Act). The PGR can open preparatory enquiries and direct the investigation of criminal offences, including ML/TF. The PGR is assisted by the criminal police in this activity of searching for evidence in order to ascertain the material truth of the facts (Articles 26 and 262, CPP). STP has designated the First Section of the DIAP as a specialised unit to investigate criminal activities, including ML/TF in the Island of Sao Tome (Arts 1 and 18, Regulations of the Superior Council of the Public Ministry (PGR of Sao Tome Regulations). PGR in the Island of Principe has general powers to investigate criminal activities, including ML/TF.

Criterion 30.2 [Met] Although the PGR is the holder of the criminal action and, as such, is responsible for the preparatory investigation and for directing the criminal investigation, the PGR can delegate to the criminal police the competence to carry out the preparatory investigation. The special police force can also investigate, under the direction of the PGR, offences carrying a prison sentence of more than five years, and all the offences provided for in special legislation. It therefore has powers not only to investigate the underlying offences, but also to investigate ML/TF.

Criterion 30.3 [Met] The PGR and the Criminal Investigating Judge can order the seizure and freezing of assets related to the commission of any crime. The order can be delegated to the criminal police, who can identify, locate and seize the assets in question.

Criterion 30.4 [Met] Competent authorities other than LEAs have powers and carry out financial investigations into underlying offences. The Tax Services can pursue offences such as tax evasion and fraud, while the customs authorities can carry out investigations into customs offences.

Criterion 30.5 [Met] - The PGR, in its capacity as prosecutor, can open enquiries and order the investigation of any crime, including ML/TF arising from or related to corruption, with the support of criminal police bodies.

The PGR can order the seizure of goods, rights, valuables, funds and any other objects deposited in banks or other credit institutions, whenever it has well-founded reasons to suspect or believe that they constitute proceeds or benefits of crime or are intended for criminal activity. It is a procedural precautionary measure of a patrimonial nature that aims to guarantee, among other things, the preservation of evidence or possible confiscation.

Weighting and Conclusion

All criteria are met. **R. 30 is rated C**.

Recommendation 31 - Powers of law enforcement and investigative authorities

In its first MER, STP was rated NC on this Recommendation due to the lack of application of the powers of the authorities available for the purpose of investigating, regulating and supervising ML/TF.

Criterion 31.1 [Met] Competent authorities can search and seize all instrumentalities and other objects related to the commission of an offence or the gathering of information about that offence (Art. 245 et seq., CPC). These searches and seizures must be authorised or ordered by the judicial authorities and can be carried out by the police. In cases

of urgency or flagrante delicto, criminal police bodies can carry out searches and seizures without authorisation, but subject to subsequent validation by the judicial authorities.

Under the terms of article 82 of the CPP, the judicial authorities can request information and documents they need in the context of a case directly from any public or private entity.

Article 32 et seq. of Act 03/2018 enshrines the duty of co-operation and information on public and private entities, and determines that these entities must provide the competent authorities with information when they so request or order.

The subject of testimonial evidence is enshrined in the CPC in Articles 201 et seq. Under these provisions, testimonial evidence can be used in the context of investigations and enquiries into the commission of any crimes, including money laundering, terrorism and its financing, as well as in the trial phase of these crimes.

Criterion [Partly Met] The Public Prosecutor's Office and the Criminal Police Bodies have the power to carry out investigations into money laundering, underlying offences and terrorist financing and have the possibility to use the special investigation techniques provided for in the CPC and in Act 22/2017 (on the Organisation of Criminal Investigation), such as covert actions, controlled deliveries, joint operations and interception of communications and computer systems. However, the list of crimes provided for under article 14 of the same law, which, being under investigation, these techniques can be used, does not include TF, so it is not possible to apply them to TF investigations.

Criterion 31.3 [Met] Under the terms of article 82 of the CPP, the judicial authorities can request information and documents they need in the context of a case directly from any public or private entity and, consequently, they can ask financial banking institutions to identify, in a timely manner, natural or legal persons who hold or control accounts. There is nothing in the law to prevent timely information from being obtained in the context of investigations and prosecutions into AML, related offences and FT. Furthermore, there is no legal obligation for the judicial authorities to notify the owner before their assets are identified.

Criterion 31.4 [Met] There is a duty of collaboration and cooperation under the terms of article 6 of the CPP and under the terms of article 82 of the CPC, the judicial authorities may request information or documents they need to fulfil their missions from any public or private body. Furthermore, the FIU must transmit all relevant information within the framework of the AML/CFT (art. 29 of AML/CFT Act and Act 03/2018, respectively).

Weighting and Conclusion

There is no legal basis to use investigative techniques for TF. **R. 31 is rated LC.**

Recommendation 32 – Cash Couriers

In the first round of mutual evaluation, STP was rated NC these requirements due to the absence of a declaration system, the lack of adequate training for customs officials and the lack of means for effective control of cross-border movements of currency and BNI.

Criterion 32.1 [Met] STP has a written declaration system for incoming and outgoing cross-border transportation of currency or BNI or electronic money. The declaration system is required for all physical cross-border transportation by travellers and through mail, cargo, and by any other means (Art. 23(1), AML/CFT Act). The declaration system also applies to precious metals and precious stones.

Criterion 32.2 [Met] All travellers carrying currency, BNI or electronic money equal to or above STD 245,000.000.00 (two hundred and forty-five million Dobras)(approximately 10,000,000.00 Euro) are required to declare the currency,

BNI or electronic money to the customs authorities (Art. 23(1), AML/CFT Act). The declaration requirement also applies to persons carrying to precious metals and precious stones of STD 245,000,000.00 (Art. 23(6), AML/CFT, Act).

Criterion 32.3 [N/A] STP does not use a disclosure system.

Criterion 32.4 [Not Met] Customs authorities can request information from carriers on the origin destination, and intended use of currency or BNI ((Art. 23(3), AML/CFT Act). However, the request for information is not triggered by the discovery of false declaration.

Criterion 32.5 [Not Met] In the event of false declarations, the customs authorities are required to seize or detain all or part of the currency or BNI in question, (Art.23(4), AML/CFT Act). The Act does not provide for any criminal sanctions. In addition, there are no standard operating procedures indicating the circumstances under which all or part of the falsely declared currency or BNI can be seized and the timelines for holding the asset. The authorities have not implemented this provision. Therefore, it is impossible to conclude that sanctions are proportionate and dissuasive.

Criterion 32.6 [Met] Customs Authorities are required to make copies of all the information collected as part of the declaration process available to the FIU (Art. 23, AML/CFT Act, and Arts. 4 and 8, Decree 11/2014).

Criterion 32.7 [Not Met] Decree 11/2014 enshrines the duty of information that applies to agents of the National Police, the Tax Police and the Migration and Borders Service. These authorities must inform Customs of any suspicious behaviour or operations that indicate the possible departure of valuables without proper declaration. This provision facilitates greater interaction between these services operating within the airport and, in a way, also facilitates some coordination of actions aimed at improving control of cross-border cash movements. However, there is no specific mechanism for adequate coordination between the authorities concerned on issues related to the implementation of R.32.

Criterion 32.8 [Partly Met] In the event of false declarations or when there is suspicion of ML/TF, the customs authorities can seize or detain all or part of the currency or BNIs (Article 23(4), AML/CFT Act). However, the law does not establish any timeframe within which the investigation must be carried out to determine whether there is evidence of ML/TF.

Criterion 32.9 [Partly Met] Article 11 of Decree 11/2014 authorises international cooperation and assistance in cross-border cash control, allowing for the exchange of information at international level in situations where there are indications that the cash being transported is related to illicit activities. Consequently, the competent authorities in São Tomé and Príncipe can pass on all the information obtained through the declaration process to their foreign counterparts. However, this legal provision does not cover situations involving BNIs. Considering the sophistication of the financial system, the non-coverage of BNIs constitutes a minor deficiency in the implementation of R.32.

Criterion 32.10 [Partly Met] The appropriate use of information obtained through the declaration system is safeguarded by the relevant legislation in force in São Tomé and Príncipe, namely Decree No. 11/2014. However, there is no information available as to whether commercial payments or the free movement of capital are limited.

Criterion 32.11 [Partly Met] Persons who carry out cross-border transportation of cash or BNI that are related to ML/TF, or predicate offences are subject to criminal sanctions, including custodial sentences and confiscation of the assets in question (Art. 30 AML/CFT Act; and Art. 11, Act 03/2018).

Weighting and Conclusion

Request for further information on the origin of currency or BNI, and their intended use is not triggered by a false declaration. There are no criminal sanctions for false declarations, as well as specific mechanisms for coordinating

authorities in terms of controlling the cross-border movement of currency and BNI. Finally, STP lacks clear timelines for investigating currency and BNI seized as a result of false declarations or suspicion of ML/TF. These constitute moderate shortcomings in the implementation of **R.32. R. 32 is rated PC.**

Recommendation 33 – Statistics

Criterion 33.1[Partly Met]

a) [Met] STRs, received and disseminated -The FIU maintains statistics on STRs received and disseminations made to competent authorities.
b) [Partly Met] STP maintains statistical data on ML investigations prosecution and convictions. However, these are not kept in an accurate and systematic manner. Data on ML convictions are not up to date. There are no investigations, prosecutions and convictions for TF but the same method for maintaining statistics would apply. Overall, the statistics are not maintained in a sufficiently comprehensive manner.
c) [Not met] STP does not maintain statistics on property frozen, seized or confiscated by ML/TF and predicate offences in a coordinated and comprehensive manner.
d) [Partly Met] – MLA or other international requests for co-operation made and received – Statistics provided on outgoing and incoming requests on MLA and extradition are not maintained in a comprehensive manner to enable the country to monitor the effectiveness and efficiency of its AML/CFT regime. Information provided on MLA and extradition does not indicate the nature of all the offences and to which foreign authorities the MLA was provided or requested The FIU maintains records of its international requests both made and received. There are no mechanisms for maintaining information by other competent authorities (supervisors, LEAs etc) on requests made and received for other forms of international co-operation as no statistics were provided in this regard.

Weighting and Conclusion

STP maintains statistics on STRs received and disseminated. However, there are moderate deficiencies relating to statistics maintained on ML investigations, prosecution and convictions which are not kept in an accurate and systematic manner. Statistics on property frozen, seized or confiscated by ML/TF and predicate offences are also not maintained in a coordinated manner.

Additionally, information provided on MLA and extradition does not indicate the nature of the offences and to which foreign authorities the MLA was provided or requested. There are no mechanisms for maintaining information by competent authorities (including supervisors, LEAs etc) on requests made and received for other forms of international co-operation. R. 33 is rated PC.

Recommendation 34 – Guidance and feedback

Criterion 34.1 [Partly Met] - Supervisors are required to establish guidelines and provide responses to help the entities concerned to apply the AML/CFT Act and to detect and report suspicious transactions. BCSTP has issued the following regulations to FIs regarding the preventive AML/CFT duties laid down in Law 8/2013:

a. NAP 10/2015 "Standard on Customer Identification";
b. NAP 11/2015 " Suspicious Transactions Reporting";
c. NAP 12/2015 "Justification of the Origin of Funds";
d. NAP 007/2018 "ML/TF Risk Assessment and Management";
e. NAP 008/2018 "Risk Indicators and Suspicions of ML/TF";
f. NAP 009/2018 "Opening, Operating and Closing Bank Deposit Accounts".

DNFBP supervisors and SRBs have not issued guidelines to DNFBPs to assist the entities in applying national AML/CFT requirements, and in particular, in detecting and reporting suspicious transaction.

Regarding feedback, there is no evidence efforts made in that regard.

Weighting and Conclusion

The FIU and supervisors are mandated to provide guidance to FIs and DNFBPs in to promote understanding of ML/TF risks and national AML/CFT measures. However, the FIU, supervisors and SRBs have not established guidelines for DNFBPs. The authorities and SRBs do not provide feedback for FIs and DNFBPs which will assist the entities in applying AML/CFT measures. There is no evidence of feedback provided to reporting entities to facilitate compliance with AML/CFT measures. **R. 34 is rated PC.**

Recommendation 35 – Sanctions

Criterion 35.1[Mostly Met] See Articles 41, 42 of AML/CFT Act (AML/CFT Act), Article 42 of Law 9/92 "Law on Financial Institutions", Articles 5, 7, 15, 16 of Law 3/2018 "Law against Terrorism and its Financing".

STP has a range of sanctions that can be applied in cases of failure to comply with AML/CFT obligations relating to R.6 and R8 to 23 (AML/CFT Act articles 41-44). There are different levels of sanctions aggregated by sector and the seriousness of the offences committed (Law 8/2013). The fines apply to both natural and legal persons. In the case of FIs and notaries, if the agent is a legal person, the fines range from around 800.00 euros to 600,000.00 euros. In the case of financial intermediaries, if the agent is a natural person, the fines range from around 400.00 euros to 200,000.00 euros. On the other hand, for non-bank persons (except lawyers and solicitors), the range of fines if the agent is a legal person is approximately 800.00 euros - 200,000.00 euros, and if the agent is a natural person the range is approximately 400.00 euros - 80,000 euros. If a serious offence is committed by FIs and natural persons who are members of a legal person, the range of fines is approximately €4,000.00 - €2,000,000.00 or €2,000.00 - €800,000.00. If a serious offence is committed by a non-profit legal person, the fines are approximately €4,000.00 - €400,000.00 or €2,000.00 - €160,000.00. Additional sanctions range from a warning to a permanent ban from exercising the profession to which the offence corresponds or from holding corporate positions and supervisory functions in FIs and non-FIs (article 45 , AML/CFT Act). For lawyers, the fines range from €4,000.00 to €2,000,000.00. Additional sanctions range from a two-year suspension to a permanent ban on practising the profession (article 48 , AML/CFT Act). The seriousness of the offences committed will determine the specific sanction to be applied. The same applies to solicitors (article 49 , AML/CFT Act).

In relation to TF-TFS, violation of freezing requirement is punishable by imprisonment for a term of three to five years or a fine of up to three hundred days (Art. 15, CTF). In aggravated circumstances, the sanction can enhanced through publication of the conviction in the media at the expense of the convicted person, prohibition of exercise of some functions or activities from one to ten years, among others (Art. 17, CFT Act). These are considered proportionate.

There are no sanctions for non-compliance with R.8. this is considered a minor deficiency due to the coverage of the higher range of entities to whom R.35 applies.

Criterion 35.2 [Met] Fines for serious offences committed by FIs, whether natural or legal persons, range from around €4,000.00 - €2,000,000.00 or €2,000.00 - €800,000.00. Additional sanctions are also applicable (articles 42 and 47 of the CFT Act). Natural persons, except lawyers and solicitors, who are members of the bodies of reporting entities or who hold management, leadership or management positions therein, or who act on their behalf, legally or voluntarily, and also, in the event of breach of CDD requirements, their employees and other persons who provide them with permanent or occasional services are also liable.

Weighting and Conclusion

STP has a set of sanctions applicable to natural and legal persons who do not fulfil the AML/CFT requirements of Recommendations 6 and 8 to 23. The range of financial penalties appear to be proportionate and dissuasive in all cases, particularly when analysing the country's context and economy. **R. 35 is rated LC.**

Recommendation 36 – International instruments

In its first MER, STP was rated PC with the requirements of this Recommendation mainly because STP had not criminalised counterfeiting and piracy of products, migrant smuggling and insider trading and market manipulation, and also because the provisions of the Vienna Convention and Palermo Convention had not been fully implemented.

Criterion 36.1 [Met] STP is a party to the Vienna Convention, the Palermo Convention, the United Nations Convention against Corruption (the Merida Convention) and the Terrorist Financing Convention. STP signed and acceded to the Vienna Convention on 20 June 1996, the Palermo Convention on 12 April 2006, the Merida Convention on (.../...)[7] and the International Convention for the Suppression of the Financing of Terrorism (on 12 April 2006). The relevant provisions of the international instruments are implemented by the AML/CFT and the CFT Acts, and the Criminal Code.

Criterion 36.2 [Mostly Met] Since its last MER, STP has criminalised the counterfeiting and piracy of products, as well as market manipulation through Decree Law No. 23/2016, which addressed certain deficiencies identified in STP's first round MER. The Conventions are largely implemented. However, there is a minor shortcoming including the criminalisation of attempted TF impacting on the full implementation of the Vienna and Palermo Conventions, whereas some shortcomings flagged in Rec. 5 affect the full implementation of the TF Convention (see analysis of R.3 and 5).

Regarding the implementation of the Merida Convention, it is noted that Although STP was scheduled for a second cycle review in 2019, as of the time of the on-site visit, there was no information available regarding the review.33 STP received its first review under the Implementation Review Mechanism conducted within the Conference of the State Parties for UNCAC (cycle 2010-2015). In this regard, the Country Review Report of STP identified pending amendments to the Penal Code and implementation of the Government Programme to Fight Corruption, coupled with the implementation of the recommendations of the governmental experts as basis for a solid framework. Specific challenges were identified in relation to "active and passive bribery of national public officials, abuse of functions, attempt in and participation to the commission of money laundering offences, extending the range of criminal offences to be included as predicate offences, and the criminalisation of Illicit enrichment as a separate offence. While the Penal Code has been adopted, STP continues to have deficiencies regarding its implementation of the Merida Convention identified in R. 4.

Weighting and Conclusion

STP has ratified and generally implemented the provisions of the Vienna, Palermo, Merida and TF Conventions, although there are some minor shortcomings in the criminalisation of ML and TF, and minor shortcomings in R.12. R.36 is rated LC.

Recommendation 37 – Mutual legal assistance

In its first MER, STP was rated PC on the requirements. The shortcomings related to the lack of implementation of this recommendation; the limited scope of MLA treaties (limited to CPLP members); and the lack of capacity and resources to provide MLA.

Criterion 37.1 [Partly Met] STP has a legal basis that allows competent authorities to swiftly provide MLA (Act 6/2016 on International Co-operation in Criminal Matters (LCIMP)). On the basis of this Law, the competent authorities are

able to provide the widest range of co-operation to foreign counterparts in relation to Money Laundering, associated underlying crimes and investigations, prosecutions and proceedings related to Terrorist Financing. International co-operation consists of extradition, transmission of criminal proceedings, execution of criminal sentences, transfer of persons sentenced to custodial sentences and security measures, supervision of persons sentenced or conditionally released and mutual legal assistance in criminal matters (LCIMP, Art. 1, para. 1). MLA is provided by the Attorney General's Office, based on the principle of reciprocity, but the lack of reciprocity does not prevent a request for co-operation from being granted provided that such co-operation: a) is advisable due to the nature of the fact or the need to combat certain serious forms of crime; b) may contribute to improving the situation of the accused or to their social reintegration; c) serves to clarify facts imputed to a São Toméan citizen (LCIMP, art. 3). However, STP does not have measures in place that enable it to rapidly provide MLA in relation to ML, associated predicate offences and TF (see IO.2).

Criterion 37.2 [Partly Met] The Attorney General's Office is the central authority responsible for transmitting and executing the request for MLA (LCIMP, art. 22, no. 1). The request for co-operation made to STP is submitted by the designated Central Authority, the Attorney General's Office, to the member of the Government in charge of Justice with a view to a decision on its admissibility. And the request for co-operation made by a São Toméan authority is sent to the same member of the Government in charge of Justice by the Attorney General (Article 22, paragraphs 2 and 3). However, STP does not have processes or instruments that support clear procedures to ensure the timely prioritisation and execution of MLA requests, nor the establishment of a case management system to track the progress of requests.

Criterion 37.3 [Met] Although it is the rule that the request for co-operation from foreign counterparts is granted, the granting of MLA does include some general negative requirements, positive requirements and some limitations. The general negative requirements, which result in the refusal of co-operation, refer, among others, to cases that do not meet or do not respect the requirements of the international human rights instruments ratified or included in the legal system of the Democratic Republic of STP (LCIMP, art. 6, no. 1, a) to g), art. 7, no. 1, a) and b) and art. 8, nos. 1 and 2). Positive requirements, relating to the request for co-operation itself, include, for example, the indication of the authority from which it originates and the authority to which it is addressed, the object and reasons for the request, the legal classification of the facts motivating the procedure, the identification of the suspect, accused or convicted person, the identification of the person whose extradition or transfer is being requested and that of the witness or expert from whom statements are to be requested, the account of the facts, including the place and time of their commission, commensurate with the importance of the act of co-operation sought, the text of the legal provisions applicable in the State making the request, etc (LCIMP, art. 24). Art. 24). Limitations, in turn, include, for example, cases in which the execution of the request is likely to jeopardise the sovereignty, security, public order and other constitutionally defined interests of the Democratic Republic of STP (LCIMP, art. 2). The AT does not consider these requirements and limitations as unreasonable or unduly restrictive.

Criterion 37.4 [Met] Once the cases that lead to the request for cooperation being dismissed are known, in particular, under the terms of Article 6(1) of Law 6/2016, on the general negative requirements for international cooperation (leading to a refusal of the request for cooperation), Articles 7 and 8 (referring, respectively, to the refusal regarding the nature of the offence and the optional denial of international cooperation), and under the terms of the provisions of Article 10(1), on the admissibility and inadmissibility of the request for MLA. In addition, pursuant to Article 10(1) on the concurrence of cases of admissibility and inadmissibility of cooperation, the STP Attorney General's Office cannot reject the request for MLA solely (a) on the grounds that the offence involves tax matters, because such a refusal would not be supported by these provisions, nor is it feasible to consider the tax offence to be of minor importance, in accordance with Article 11. Not least because Article 273 of the São Tomé Penal Code punishes fraudulent behaviour of a fiscal nature with prison sentences ranging from 1 to 6 years and 2 to 8 years; or (b) for reasons of secrecy or confidentiality requirements of FIs or DNFBPs. In terms of AML/CFT and according to AML/CFT Act, article 22, paragraphs 4 and 5, "professional secrecy or privilege may not be invoked as a reason for not complying with the obligations set out in this Diploma when any information is requested or any related document is required (.../...), and

this legal provision may be considered complementary legislation, under the terms of article 12 of Act 6/2016 (LCIMP). See also Articles 32 and 33(1)(b) of Law 3/2018".

Criterion 37.5 [Mostly Met] "If requested to do so" means that the competent authorities must maintain the confidentiality of any request for co-operation and exchange of information with foreign counterpart authorities, consistent with the obligation of both parties regarding the request for assistance, its content and the documents that accompany it, as well as the granting of such assistance (LCIMP, Art. 147). The conditionality of this provision prejudices compliance with the criterion.

Criterion 37.6 [Met] Dual criminality is a condition for the provision of MLA in cases of cooperation for the surveillance of convicted or conditionally released persons who are habitually resident in STP. Article 125 of the LCIMP states that "The offence for which the request for cooperation is made shall be punishable by the law of the State making the request and by the law of the State to which the request is made". Furthermore, in this regard, Article 145 states that: "When the acts referred to in the MLA (in particular those referred to in Article 141) involve the use of coercive measures, they may only be carried out if the facts set out in the request also constitute an offence provided for in São Toméan law and are complied with in accordance with that law". However, there is an exception to the dual criminality requirement. This is in cases where, although the offence is not punishable in STP, the use of the coercive measure is intended to prove a cause of exclusion of guilt of the person against whom the proceedings have been initiated (LCIMP, art. 145, no. 2).

Criterion 37.7 [Mostly Met] Since dual criminality is required for the execution of MLAs, and provided that both countries criminalise the conduct underlying the offence, this requirement is deemed to be compliant, regardless of whether both countries classify the offence in the same category of crime or call the offence by the same terminology (LCIMP, Art. 125). The gap regarding the non-criminalisation of attempted TF has a cascading effect on the implementation of this criterion.

Criterion 37.8 [Met] (a)-(b) STP authorities can exercise all the powers and investigative techniques required under Recommendation 31, both for proceedings in the interest of the local jurisdiction and in response to MLA requests and in response to a direct request from foreign judicial authorities to domestic counterparts (LCIMP, Art. 150). The powers include the production, search and seizure of information, documents or evidence (including financial records) from FIs or other natural or legal persons, as well as the taking of witness statements; and a wide range of other investigative powers and techniques.

Weighting and Conclusion

There are shortcomings regarding the processes or instruments that support clear procedures to ensure the timely prioritisation and execution of MLA requests, the establishment of a case management system to track the progress of requests, the consent-based requirement for confidentiality, and the criminalisation of attempted TF. **R.37 is rated PC**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

In the first MER, STP was rated, in relation to the requirements of this Recommendation, as partially compliant. In STP there were no formal procedures in place to coordinate seizure and confiscation actions from countries other than CPLP member states, the establishment of an asset confiscation fund was considered but was yet to be realised and the provisions in place were not implemented.

Criterion 38.1 [Mostly Met] STP has the authority to take efficient measures in response to requests from foreign countries to identify, freeze, seize or confiscate assets pursuant to Article 31(1)(b) of the AML/CFT Act, including,

(a) [Met] laundered property (Article 31(1)(a), AML/CFT Act);

(b) [Met] proceeds ML, predicate offences, or TF (Article 31(1)(c));
(c) [Met] the instruments used or (Article 31(1)(d));
(d) [Mostly Met] instruments intended for use in ML, underlying offences (except attempted TF) or terrorist financing, or (Article 31(1)(d));
(e) [Met] property of corresponding value: (Article 31, AML/CFT Act).

Criterion 38.2 [Mostly Met] STP can provide assistance in relation to non-conviction-based confiscation proceedings and related provisional measures if the perpetrator is unknown or deceased (Art. 31(3), AML/CFT Act). The provision does not cover situations where the perpetrator has absconded.

Criterion 38.3 [Met] STP has (a) agreements to coordinate seizure and confiscation actions with all the CPLP countries; and (b) traditional mechanisms to administer and, where necessary, dispose of frozen, seized or confiscated assets, cf. Article 104(3) and (4) of the Penal Code, in conjunction with the regime established for the confiscation of funds or assets and the destination of confiscated assets in favour of the State, pursuant to Articles 31 and 32 of the AML/CFT Act).

Criterion 38.4 [Met] STP can share confiscated property with other countries (Art. 32(5), AML/CFT).

Weighting and Conclusion

Attempted TF is not criminalised. **R.38 is rated LC.**

Recommendation 39 – Extradition

In its first MER, STP was rated NC on extradition requirements. STP's deficiencies include the fact that STP has not criminalised the range of predicate offences for money laundering; STP does not have specific laws or extradition procedures to ensure timely response or submission of extradition requests; STP does not extradite its nationals and there is no obligation to submit a case without delay to the competent authorities for the purpose of prosecution for an offence set out in the request involving a national; there is no legal provision allowing cooperation for the trial of nationals; extradition treaties are limited to CPLP countries; there was no implementation of the provisions in force at the time regarding extradition. However, since 2016 STP has adopted Act 6/2016 on International Co-operation in Criminal Matters, covering extradition.

Criterion 39.1 - [Mostly Met]

(a) **[Met]** ML and FT are extraditable offences and STP may execute extradition requests related to ML/FT under the terms governed by the rules of the international treaties, conventions and agreements that bind the São Toméan state [article 5, 1, a) to d) of AML/CFT Act; article 7, 1, 3, 4 and 5 of Act 3/2018; and article 32, 1 and 2 of Act 6/2016]. In the absence or insufficiency thereof, by the provisions of Act 6/2016 or, by subsidiary application of the provisions of the CPC (Cfr. art. 4, no. 1 and 2, Act 6/2016).

(b) **[Not Met]** The Attorney General's Office is designated as the Central Authority, responsible for sending and receiving all extradition requests to and from competent foreign authorities (Act 6/2016, art. 22, 1). However, there is no clear case management and procedural system in place to guarantee the timely execution of extradition requests. There is no mechanism or instrument that clearly defines the procedures and deadlines for extradition requests, nor guidelines from the Attorney General on International Cooperation that determine that, in urgent cases, extradition requests should be prioritised and follow simplified measures, for example. The department in charge of extradition cases uses the general criteria observed in criminal proceedings, with preference being given to cases involving restrictions on liberty, for the execution and prioritisation of requests.

(c) [Met] STP does not impose unreasonable or excessively restrictive conditions on the execution of requests. STP may, however, refuse requests in certain circumstances, in particular where there are reasonable grounds for believing that cooperation is sought for the purpose of persecuting or punishing a person on account of race, religion, sex, nationality, language, political or ideological beliefs or membership of a particular social group, or where the fact giving rise to the request is the subject of pending proceedings, or where that fact must or may also be the subject of proceedings falling within the jurisdiction of a São Toméan judicial authority (Act 6/2016, art. 6(1)(b)).º 6/2016, art. 6, 1, al. b) and art. 8, 1).

Criterion 39.2 [Mostly Met] STP does not extradite its own nationals (Constitution of the Republic of STP, Art. 41, 1; and Act 6/2016, Art. 33, 1, al. b)). When extradition is denied on the grounds of nationality, criminal proceedings are initiated for the facts on which the request is based, and the requesting state is asked for the necessary information (Act 6/2016, art. 33, 2). However, there is no obligation to submit the case without delay to the authorities competent to prosecute the offence covered by the request.

Criterion 39.3 [Mostly Met] In STP, dual criminality is a condition of extradition (Act 6/2016, art. 32, 2). The requesting State does not have to place the offence in the same category of offence, nor does it have to call it by the same terminology as in STP. The dual criminality requirement is met if both countries criminalise the offence on which the request is based, on the sole condition that the conduct is punishable by a maximum penalty or measures involving deprivation of liberty of no less than one year. Attempted TF is not criminalised, therefore STP would not be able to agree to an extradition request based on this offence.

Criterion 39.4 [Met] STP has simplified extradition mechanisms. There is the possibility for foreign judicial authorities to communicate directly with the São Toméan judicial authorities, to request the adoption of a precautionary measure or to carry out an act that cannot be delayed (Art. 30, Law 6/2016). In cases of urgency, and as a prior act to a formal extradition request, the competent authorities may be asked to provisionally detain the person to be extradited (Art. 39, Law 6/2016). The process is further simplified if the person sought for extradition explicitly agrees to the extradition before the competent authority (Art. 41).

Weighting and Conclusion

Although STP has adequate measures in place to enable it to execute extradition requests in relation to the ML, predicate offences and TF, there is no clear management and procedural system in place to guarantee the timely execution of extradition requests, nor the obligation to submit the case without delay to the competent authorities to prosecute the offence covered by the request. Furthermore, attempted TF is not criminalised and therefore STP cannot execute an extradition request based on this offence. These shortcomings are considered moderate in the context of STP risk profile, given the absence of extradition requests being executed. **R.39 is PC.**

Recommendation 40 – Other forms of international cooperation

General Principles

Criterion 40.1 [Partly Met] The competent authorities in matters of prevention of terrorism and its financing are required to cooperate as much as possible with the authorities of other States in matters of exchange of information, investigations and judicial proceedings, extradition and mutual legal assistance, as well as in relation to precautionary or provisional measures, namely through the seizure or confiscation of assets or funds associated with terrorism or its financing (Art. 10(1), CFT Act). The cooperation must be provided in a swift, constructive and effective manner, and effective mechanisms for the exchange of information must be ensured (Art. 10(2), CFT Act). Furthermore, the exchange of information must be carried out spontaneously or at the request of the country that submits the request for information, and may be related to TF as well as in relation to the illicit acts from which the property was derived (Art. 10(1), CFT Act). Article 4 of the AML/CFT Act defines “competent authorities” to mean “all public authorities to

whom responsibilities have been assigned for preventing ML/TF, including the FIU, supervisory and inspection authorities, customs authorities, the PGR and Criminal Investigation Police.

The FIU is required to share information, either spontaneously or upon request, with any counterpart, in relation to ML, predicate offences and TF on reciprocal basis or by common agreement within the framework of cooperation agreements (Art. 52, AML/CFT Act & Art. 4(d), FIU Decree). The FIU is not obligated to provide cooperation rapidly in relation to ML.

Supervisors of FIs and DNFBPs are required to collaborate with their foreign counterparts in the prevention of ML, associated predicate offences and TF (Art. 51, AML/CFT Act). The AML/CFT Act does not set out the specific types of information that supervisors can be share with their foreign counterparts. In addition, the AML/CFT Act does not oblige supervisors to provide cooperation rapidly and spontaneously in relation to ML and associated predicate offences, except for TF which is covered by the CFT Act.

STP is also a member of the INTERPOL and the WCO, and has bilateral arrangements on the exchange of information on security matters. Co-operation agreements also exist in judicial and criminal investigations between STP and members of the CPLP.

In practice, the authorities are not rapidly providing the widest range of international cooperation in relation to ML and predicate offences (see IO.2).

Criterion 40.2 [Partly Met]

(d) [Mostly Met] the analysis in c.40.1 applies here;

(e) [Partly Met] Competent authorities are required to ensure that effective mechanisms exist to facilitate the exchange of information (Art. 10(2), CFT Act). Article 13 of the Organisation of Criminal Investigations Act empowers the Judicial Police, under the terms set out in its own Law, to ensure the functioning of the International Cooperation Unit (INTERPOL) to facilitate access to information made available by INTERPOL by all criminal police bodies within the scope of their respective competencies. The INTERPOL comprises permanent liaison officers of the Judiciary Police, the National Police, the Customs Tax Police and the Migration and Borders Service. STP did not demonstrate that it has effective mechanisms for cooperation. The authorities communicate with their counterparts via personal emails.

(f) [Not Met] The authorities do not have clear and secure gateways, mechanisms or channels that will facilitate and allow for the transmission and execution of requests;

(g) [Not Met] The authorities do not, in practice, have clear processes for the prioritisation and timely execution of requests; and

(h) [Not Met] The authorities lack clear processes for safeguarding the information received.

Criterion 40.3 [Partly Met] Although the FIU is authorised, by law ((Art. 52, AML/CFT Act), to negotiate and sign bilateral or multilateral agreements or arrangements to co-operate with counterparts and non-counterparts, the FIU is not obligated to negotiate and sign any agreement in a timely way. There is no evidence that the FIU negotiates and signs agreements in a timely way. In addition, remaining competent authorities are not required to negotiate and sign agreements, including doing so in a timely way.

Criterion 40.4 [Not Met] Competent authorities are not required to provide feedback, including in a timely manner, to competent authorities from which they have received assistance, on the use and usefulness of the information obtained.

Criterion 40.5 [Partly Met] The request for information cannot be refused or subject to any undue, disproportionate or restrictive condition (Art. 10, CFT Act). There is no corresponding provision in the AML/CFT Act.

(a) [Partly Met] Competent authorities cannot refuse a request for assistance on the grounds that the request involve fiscal matters (Art. 10(5), CFT Act). There is no corresponding provision in the AML/CFT Act

(b) [Partly Met] Cooperation can be refused when the relevant information is acquired in circumstances involving professional secrecy (Art. 10(6), CFT Act). "Professional secrecy" is not defined to clearly limit the refusal to information held in circumstances where legal professional privilege or legal professional secrecy applies.

(c) [Partly Met] There is no explicit requirement for competent authorities to refuse assistance on the ground of ongoing investigation unless it would impede that inquiry, investigation or proceedings

(d) [Partly Met] There is no explicit requirement for competent authorities to refuse assistance on the grounds that the nature or status of the requesting counterpart authority is different from that of its foreign counterpart.

Criterion 40.6 [Not Met] STP has not established controls and safeguards to ensure that information exchanged by competent authorities is used only for the purpose for, and by the authorities, for which the information was sought or provided, unless the requested competent authority has given prior authorisation.

Criterion 40.7 [Not Met] The AML/CFT and Acts do not oblige competent authorities to maintain appropriate confidentiality for any request for co-operation and the information exchanged, consistent with both parties' obligations concerning privacy and data protection. The competent authorities are not obliged to protect exchanged information in the same manner as they would protect similar information received from domestic sources, or refuse to provide information if the requesting competent authority cannot protect the information effectively.

Criterion 40.8 [Met] Competent authorities can conduct inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts, information that would be obtainable by them if such inquiries were being carried out domestically (Art. 10, CFT Act). There is no similar provision in relation to ML.

Exchange of Information between FIUs

Criterion 40.9 [Met] The FIU can share information with any counterpart in relation to ML, associated predicate offence and TF based on reciprocity or by common agreement within the framework of cooperation agreements (Art. 52, AML/CFT Act).

Criterion 40.10 [Not Met] The FIU is not obliged to provide information to its foreign counterparts on the use of the information provided, as well as on the outcome of the analysis carried out based on the information provided.

Criterion 40.11 [Partly Met] Although the FIU has powers under the AML/CFT, CFT and the FIU Acts to exchange information, these laws do not provide for the specific information which the FIU can exchange. Consequently, it is not clear if the FIU can exchange all information required to be accessible or obtainable directly or indirectly by the FIU, in particular under R.29, and any other information which the FIU has the power to obtain or access, directly or indirectly, at the domestic level. The lack of clarity can impede the FIU's ability to provide or receive international cooperation.

Exchange of information between financial supervisors

Criterion 40.12 [Mostly Met] BCSTP has the mandate to collaborate with its foreign counterparts in the prevention and fight against ML, associated predicate offences and TF (Art. 51, AML/CFT Act). There is no explicit requirement to collaborate with foreign counterparts regardless of their respective nature or status, consistent with the applicable international standards for supervision, and in particular with respect to the exchange of supervisory information related to or relevant for AML/CFT purposes. The absence of clarity regarding the nature or status of counterparts for collaboration, applicable standards and the permissible type of information to be shared may impede BCSTP's international cooperation efforts.

Criterion 40.13 [Partly Met] As noted in criterion 40.12 above, BCSTP does not have a clear mandate to exchange information domestically available to it, including information held by FIs, in a manner proportionate to its needs.

Criterion 40.14 [Partly met] BCSTP is not expressly mandated to exchange the following types of information when relevant for AML/CFT purposes, in particular with other supervisors that have a shared responsibility for financial institutions operating in the same group:

(a) [Partly Met] regulatory information, such as information on the domestic regulatory system, and general information on the financial sectors;

(b) [Partly Met] prudential information such as information on the FI's business activities, beneficial ownership, management, and fit and properness; and

(c) [Partly Met] AML/CFT information, such as internal AML/CFT procedures and policies of financial institutions, customer due diligence information, customer files, samples of accounts and transaction information.

Criterion 40.15 [Not Met] BCSTP is not mandated to conduct inquiries on behalf of foreign counterparts, and, as appropriate, to authorise or facilitate the ability of foreign counterparts to conduct inquiries themselves in STP, in order to facilitate effective group supervision.

Criterion 40.16 [Not Met] BCSTP is not required to ensure that it has the prior authorisation of the requested financial supervisor for any dissemination of information exchanged, or use of that information for supervisory and non-supervisory purposes, unless the requesting financial supervisor is under a legal obligation to disclose or report the information, including promptly informing the requested authority of this obligation.

Exchange of information between law enforcement authorities

Criterion 40.17 [Partly Met] LEAs involved in terrorism and TF prevention are empowered to cooperate as much as possible with the authorities of other States in matters of exchange of information, investigations and judicial proceedings, extradition and mutual legal assistance, as well as in relation to precautionary or provisional measures, namely through the seizure or confiscation of goods or funds associated with terrorism or TF (Art 10, CFT Act). The provision does not cover matters related to ML and predicate offences.

Criterion 40.18 [Not Met] When requested by foreign counterparts, LEAs in STP can act, direct and control criminal investigation operations carried out within the scope of controlled delivery, without prejudice to due collaboration with the competent foreign authorities (Art. 20, Organisation of Criminal Investigations Act). This provision is limited in scope, considering the range of international cooperation required to be provided.

Criterion 40.19 [Met] Under Article 22 of the Organisation Criminal Investigation Act, joint investigation teams may be created by the competent authorities of STP and another State, by mutual agreement, for a specific objective and for a limited period, to carry out criminal investigations in São Tomé and Príncipe or in the other State. The creation of joint criminal investigation teams depends on the authorisation of the Minister of Justice when this is not already regulated by the provisions of international agreements, treaties or conventions. The Director of the Judicial Police may authorise the creation of a joint investigation team when the operation concerns exclusively the criminal police authority or body. The joint investigation team acts in accordance with the legislation of the State where its intervention takes place, and the team members carry out their missions under the conditions stipulated in the agreement that creates the team.

Exchange of information between non-counterparts

Criterion 40.20 [Not met] Competent authorities are not permitted to exchange information indirectly with non-counterparts, including stating the purpose and on whose behalf the request is made.

Weighting and Conclusion

Moderate deficiencies remain. Competent authorities in STP are generally required to cooperate with their foreign counterparts including the exchange of information, investigations and judicial proceedings in relation to ML, TF and other financial crimes. However, the authorities lack specific processes/procedures to prioritise and execute foreign requests, as well as secure mechanisms or channels for transmission of such requests and execution. Financial supervisors lack the legal basis to conduct inquiries on behalf of foreign counterparts, and, as appropriate, to authorise or facilitate the ability of foreign counterparts to conduct inquiries themselves in STP, in order to facilitate effective group supervision, and obtain prior authorisation for any dissemination of information exchanged or use of that information for supervisory and non-supervisory purposes. Competent authorities are not required to ensure that the purpose and source of the request is recorded; and exchange information indirectly with non-counterparts. Competent authorities are also not required to provide feedback, including in a timely manner on assistance received. The requirements to not refuse, or place unreasonable or unduly restrictive conditions on the provision of exchange of information or assistance is limited to the CFT Act, and does not cover ML. In addition, attempted TF is not criminalised. **R. 40 is rated PC.**

Summary of Technical Compliance – Key Deficiencies

Annex Table 1. Compliance with FATF Recommendations

Recommendations	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	PC	• In general, STP's AML/CFT framework provides general requirements for identifying and assessing ML/TF risks and implementing mitigation controls on a risk-sensitive basis • the country has not yet finalised its national ML/TF risk assessment • There are gaps related to specific obligations for FIs and DNFBPs to carry out enhanced customer due diligence; • The country has not demonstrated the application of a risk-based approach to the allocation of resources and the implementation of measures to prevent or mitigate ML/TF risks • Supervisors and SRBs do not ensure that FIs and DNFBPs are fulfilling their obligations under Recommendation 1; • TP legal framework does not require the establishment of adequate mechanisms to disseminate information to the competent authorities and the SRB on risk assessment.
2. National cooperation and coordination	PC	• STP has not yet adopted national AML/CFT policies informed by the risks identified. • There are no mechanisms to facilitate co-operation and co-ordination between competent authorities to combat the financing of the proliferation of weapons of mass destruction. • There are no co-operation and co-ordination mechanisms to ensure the compatibility of AML/CFT requirements with data protection and privacy rules and other similar provisions.
3. Money laundering offences	PC	• The sanctions for ML are limited to natural persons acting within the context of a legal person. • The AML/CFT Act does not provide for the maximum length of imprisonment that STP can impose for a ML conviction. • The sanctions applicable to natural persons convicted of ML are not proportionate and dissuasive.
4. Confiscation and provisional measures	C	• All the criteria are met.
5. Terrorist financing offence	LC	• Attempt to commit TF is not criminalised. • The TF offence only applies to perpetrators within the jurisdiction of STP. • Criminalisation of the financing of FTF is limited to only nationals or foreigners in STP.
6. Targeted financial sanctions related to terrorism & TF	NC	• The framework is not designed to enable implementation without delay. • In addition, the legal framework does not cover: (i) successor resolutions; (j) an evidentiary standard of proof of "reasonable grounds" or "reasonable basis" for deciding whether to make a designation; prompt determination of requests; (k) acting ex parte against a person or entity that has been identified and whose proposed designation is under review; (l) freezing the full range of funds or other resources; protecting the rights of bona fide third parties; filing de-listing requests in relation to UNSCR 1267; (m) application of the freezing requirements to all natural and legal persons in STP; and (n) informing designated persons of their rights of review at the UN level. • De-listing from national list refers to international acts.
7. Targeted financial sanctions related to proliferation	NC	• No legal or regulatory mechanism for implementing PF-TFS.
8. Non-profit organisations	NC	• STP has not identified the subset of organisations that fall within the FATF's definition of NPOs. • STP has not identified NPOs at-risk of TF abuse and taken targeted measures to address those risks. • STP has not reviewed the adequacy of measures, including laws and regulations that relate to the high-risk subset of the NPO sector. • NPOs at risk to TF abuse are not subjected to specific risk-based supervision and monitoring measures.

Recommendations	Rating	Factor(s) underlying the rating
9. Financial institution secrecy laws	LC	• There is no explicit provision in the law for the sharing of information between FIs in the context of national transfers.
10. Customer due diligence	LC	• There is no requirement in the law for FIs to carry out CDD on occasional transactions that are wire transfers. • With regard to customers who are legal persons or legal arrangements, the law did not identify an obligation for the FI to collect (i) information that allows it to understand the nature of the client's business, (ii) information on the powers that regulate and bind the legal persons or legal structure as well as the names of the relevant persons who hold management positions in the legal persons or legal structure and (iii) information on the address of the company's registered office/main place of business. • FIs are not required to ensure the currency and accuracy of information by undertaking reviews of existing records.
11. Record keeping	LC	• There is no obligation to keep documents relating to any analyses undertaken.
12. Politically exposed persons	PC	• The closed list and function-based nature of the AML/CFT Act is restrictive • The requirements do not apply to international organisations PEPs and life insurance policies.
13. Correspondent banking	C	• There is no requirement to obtain approval of senior management before establishing new correspondent relationships.
14. Money or value transfer services	PC	• There is no legal provision for sanctions applicable in cases of the illegal exercise of money or value transfer services (MVTS).
15. New technologies	NC	• The authorities and FIs have not identified and assessed the ML/TF risks in relation to new technologies. • There is no requirement for FIs to carry out risk assessment before launching or using new products, practices and technologies. • STP has not identified or assessed ML/TF risks arising from activities related to VAs and VASPs
16. Wire transfers	PC	• No requirement for intermediary FI to keep record for at least 5 years.
17. Reliance on third parties	PC	• There is no obligation to assess the risk of the country where the third party is located.
18. Internal controls and foreign branches and subsidiaries	PC	• There are no requirements to implement internal control programmes having regard to the ML/TF risks and the size of the business. • There are no specific provision requiring the sharing of information and analysis of transactions of transactions or activities which appear unusual. • There are no provisions for the group wide-programmes for audit functions of account, and for branches and subsidiaries to receive such information from group-level functions when relevant and appropriate to risk management. • There is no provision requiring safeguards on the use of information exchanged and the need to prevent tipping off.
19. Higher-risk countries	NC	• STP is not applying countermeasures proportionate to the risks. • There are no measures for advising FIs of concerns about weaknesses in other countries' AML/CFT systems.
20. Reporting of suspicious transaction	C	• All the criteria are met.
21. Tipping-off and confidentiality	LC	• The protection granted to the institution and its employees is not extended to situations in which those concerned do not know exactly what the underlying criminal activity was, and regardless of whether the illegal activity actually took place.
22. DNFBPs: Customer due diligence	PC	• Lack of identification of ML/TF risks associated with new products, of new business practices, and of the use of developing technologies for new and pre-existing products
23. DNFBPs: Other measures	PC	• There is no time limit within which STRs must be reported by DNFBP's • There are no regulatory instruments to enable effective supervision of DNFBPs by the designated authorities. •
24. Transparency and beneficial ownership of legal persons	PC	• STP has not assessed the ML/TF risks associated with the various categories of legal persons. • No mechanism in place to ensure nominee shares and nominal directors are not misused.

Recommendations	Rating	Factor(s) underlying the rating
		• There are no sanctions applicable to natural and legal persons who do not comply with the requirements. • No mechanism in place to monitor the quality of assistance received from other countries in response to requests for basic and BO information.
25. Transparency and beneficial ownership of legal arrangements	PC	• No obligation for trustees of any express trust to obtain and maintain adequate, accurate and up-to-date BO information. • No obligation for trustees to disclose their status to FIs or DNFBPs when forming business relationship or undertaking occasional transactions above a threshold. • No proportionate and dissuasive criminal, civil or administrative sanctions for failure to grant the competent authorities access to information relating to trust.
26. Regulation and supervision of financial institutions	PC	• There is no obligation to apply the fundamental principles of banking supervision, namely the Basel fundamental principles; • No obligation to apply a risk-based approach to other FIs; • Lack of legal and regulatory requirements that oblige the supervisor to determine its field of action, namely the definition of its supervisory plan based on risk criteria
27. Powers of supervisors	LC	• STP has met all the requirements.
28. Regulation and supervision of DNFBPs	PC	• None of the DNFBP designated authorities has conducted any monitoring, including on a risk-sensitive basis. • Market entry controls are limited. • Market entry controls do not include measures to prevent criminals from being owners or beneficial owners.
29. Financial intelligence units	LC	• No dedicated, secure and protected channels for dissemination. • No security clearance levels and understanding of responsibilities in handling and disseminating sensitive information. • The FIU is not a member of the Egmont Group, and yet to apply for membership.
30. Responsibilities of law enforcement and investigative authorities	C	• All the criteria are Met.
31. Powers of law enforcement and investigative authorities	LC	• There is no legal basis to use investigative techniques for TF.
32. Cash couriers	NC	• The threshold set for declaration is higher than that set by the FATF. • A false declaration does not trigger a request for further information on the origin of currency or BNI, and their intended use of funds. • No criminal sanctions for false declarations. • No mechanisms for coordinating authorities in terms of controlling the cross-border movement of currency and BNI. • No clear timelines for investigating currency and BNI seized as a result of false declarations or suspicion of ML/TF.
33. Statistics	PC	• Statistics on ML investigations, prosecutions and convictions are not maintained in an accurate and systematic manner. • Statistics on property frozen, seized or confiscated by ML/TF and predicate offences are not maintained in a coordinated manner. • Information on MLA and extradition does not indicate the nature of the offences and to which foreign authorities the MLA was provided or requested. • No mechanisms for maintaining information by competent authorities (including supervisors, LEAs etc) on requests made and received for other forms of international co-operation.
34. Guidance and feedback	PC	• DNFBPs have not been issued with guidelines. • There is no evidence of feedback provided to reporting entities to facilitate compliance with AML/CFT measures
35. Sanctions	C	• STP has met all the requirements.
36. International instruments	LC	• Criminalisation of FTF is limited to persons in STP. • Ancillary offences for TF are nit criminalised.
37. Mutual legal assistance	PC	• STP does not have measures in place that enable it to rapidly provide MLA in relation to ML, associated predicate offences and TF • No case management system to track the progress of requests.

Recommendations	Rating	Factor(s) underlying the rating
		• Requirement to keep information confidential is based on request. •
38. Mutual legal assistance: freezing and confiscation	C	• All the criteria are met.
39. Extradition	LC	• No clear management and procedural system in place to guarantee the timely execution of extradition requests. • No obligation to submit the case without delay to the competent authorities to prosecute the offence covered by the request. • Attempted TF is not crminalised.
40. Other forms of international cooperation	PC	• Competent authorities lack specific processes/procedures to prioritise and execute foreign requests, as well as secure mechanisms or channels for transmission of such requests and execution. • No legal basis for financial supervisors to conduct inquiries on behalf of foreign counterparts, and, as appropriate, to authorise or facilitate the ability of foreign counterparts to conduct inquiries themselves in STP, in order to facilitate effective group supervision, and obtain prior authorisation for any dissemination of information exchanged or use of that information for supervisory and non-supervisory purposes. • No requirement for competent authorities to ensure that the purpose and source of the request is recorded. • No powers for competent authorities to exchange information indirectly with non-counterparts. • No requirement for competent authorities to provide feedback, including in a timely manner on assistance received. • Requirements to not refuse, or place unreasonable or unduly restrictive conditions on the provision of exchange of information or assistance is limited to the CFT Act, and does not cover ML. •

GLOSSARY OF ACRONYMS

Abbreviation	Extended Form
AfDB	African Development Bank
AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
BNI	Bearer Negotiable Instruments
CDD	Customer Due Diligence
DSF	Department of Banking Supervision
DNFBPS	Designated Non-Financial Businesses and Professions
FATF	Financial Action Task Force
FIS	Financial Institutions
GIABA	Inter-Governmental Action Group against Money Laundering in West Africa
IMF	International Monetary Fund
MVTS	Money or Value Transfer Services
KYC	Know your customer
LEAS	Law Enforcement Agencies
ML	Money Laundering
MLA	Mutual Legal Assistance
MMOS	Mobile Money Operators
MVTS	Money or Value Transfer Services
NGOS	Non-governmental organisations
NPOS	Non-Profit Organisations
NRA	National Risk Assessment
NBFI	Non-bank Financial Institutions
PEP	Politically Exposed Person
RBS	Risk-Based Supervision
RCM	ML/TF Risk Classification Methodology
RJSNP	Legal Framework for Service Providers and Payment System Operators
SOPS	Standardised Operating Procedures
STR	Suspicious Transactions Reports
SRB	Self-regulatory body
TCSPS	Trust and Company Service Providers
TF	Terrorist Financing
UNODC	United Nations Office on Drugs and Crime
UNSCRS	United Nations Security Council Resolutions

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