

**ECONOMIC AND MONETARY  
COMMUNITY OF CENTRAL AFRICA**

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**MONETARY UNION OF CENTRAL  
AFRICA**

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**MINISTERIAL COMMITTEE**  
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**REGULATION No. 01/03 – CEMAC –  
UMAC**

**RELATING TO THE PREVENTION AND  
SUPPRESSION OF MONEY LAUNDERING  
AND FINANCING OF TERRORISM IN  
CENTRAL AFRICA**

**THE MINISTERIAL COMMITTEE,**

Mindful of the Treaty establishing the Economic and Monetary Community of Central Africa (CEMAC) of 16 March 1994 and its Addendum dated 5 July 1996 on the institutional and legal systems of the Community;

Mindful of the Convention of 5 July 1996 governing the Economic Union of Central Africa (UEAC);

Mindful of the Convention of 5 July 1996 governing the Monetary Union of Central Africa (UMAC);

Mindful of the Solemn Declaration of the Conference of CEMAC Heads of State of 14 December 2000 on money laundering;

Mindful of Additional Act No. 9/00/CEMAC-086/CCE 02 of 14 December 2000 to set up the Action Group against Money Laundering in Central Africa (GABAC);

Mindful of Regulation No. 02/02/CEMAC/UMAC/CM of 14 April 2002 on the organization and functioning of GABAC;

Considering that on account of its transnational nature and the resulting serious threats to the economic and financial system, the phenomenon of money laundering and terrorist financing has given rise to an unprecedented mobilization of the international community for a collective and coherent combat strategy based especially on the adoption of modern and adapted legal and institutional control modalities, and the development of cooperation;

Considering the fact that with measures against money laundering and the financing of terrorism in most States, criminals are likely to move these

activities to States where the control measures remain inadequate or insufficient, taking advantage particularly of current globalization and advances in technology and communication;

Considering, therefore, the need to strengthen the fight against money laundering in CEMAC States by the adoption of a community instrument to fill the legislative gap in the prevention and suppression of money laundering underscored in particular within the framework of recommendations and conclusions of the Awareness Raising Seminar on the fight against money laundering in countries of the Economic and Monetary Community of Central Africa held in Yaounde from 7 to 9 November 2000, to which it is worth adding aspects relating to the prevention and suppression of terrorist financing;

Considering equally that the credibility and effectiveness of the fight against money laundering and terrorist financing in Central Africa require the introduction in Member States of a legal framework based on relevant international norms and standards, in particular those established by instruments such as the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances adopted in Vienna on 19 December 1988, the Convention of the Council of Europe on 8 November 1990 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, Regulation No. 91/ 308/CEE of 10 June 1991 for the prevention of the use of the financial system for money laundering adopted by the Council of the European Union, the Basel Statement of Principle on Prevention of Criminal Use of the Banking System for the Purpose of Laundering of money derived from crime prepared by the Committee on Banking Supervision, the International Convention for the Suppression of the Financing of Terrorism adopted by the UN General Assembly on 9 December 1999, the UN Convention against Transnational Organized Crime, adopted in New York on 15 November 2000, called the Palermo Convention and Resolutions No. 1373 and 1390 adopted by the United Nations Security Council, the 40 Recommendations of the Financial Action Task Force on Money Laundering, supplemented by eight new recommendations on the fight against the financing of terrorism adopted at the extraordinary plenary session of FATF held in Washington DC on 29 and 30 October 2001,

Mindful of the assent of the Board of Directors of the BEAC issued at its meeting of 20 November 2002

On the proposal of the Governor,

In its meeting of 28 March 2003

Hereby adopts the following Regulation:

## **PART I: DEFINITIONS AND SCOPE**

### **Article 1: Definition of Money Laundering**

For the purposes of this Regulation, money laundering shall refer to one or more of the following actions when committed intentionally:

a) The conversion or transfer of property, knowing that such property is the proceeds of a crime, within the meaning of the applicable rules in the Member State or of this Regulation, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the predicate offence to evade the legal consequences of his actions;

b) The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is proceeds of a crime or offence within the meaning of the applicable rules in the Member State or of this Regulation

c) The acquisition, possession or use of property, knowing, at the time of receipt, that such property was proceeds of a crime or offence within the meaning of the applicable rules in the Member State or of this Regulation;

d) Participation in, association or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

Knowledge, intent or purpose required as an element of the offence referred to above may be inferred from objective, factual circumstances.

In order to serve as grounds for prosecution for money laundering under this Regulation, the predicate offence committed in another Member State or a third State should constitute a criminal offence in the country where it was committed.

## **Article 2: Definition of financing of terrorism**

For the purpose of this Regulation, the financing of terrorism is for any person to by any means, directly or indirectly, unlawfully and wilfully, provide or collect funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

- a) An act which constitutes an offence of terrorism within the scope of and as defined by the relevant international treaties duly ratified by the Member State;
- b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

## **Article 3: Other definitions**

For the purposes of this Regulation, the following terms shall mean as follows:

1. Community or CEMAC: the Economic and Monetary Community of Central Africa;
2. Additional Act: Additional Act No. 9 / 00 / CEMAC-086/CCE 02 of 14 December 2000 establishing GABAC.
3. UEAC: The Economic Union of Central Africa;
4. UMAC: The Monetary Union of Central Africa;
5. Ministerial Committee: The Ministerial Committee of the Monetary Union of Central Africa;
6. Council: The Council of Ministers of the Economic Union of Central Africa;
7. GABAC: The Action Group against Money Laundering in Central Africa;
8. BEAC: Bank of Central African States;
9. COBAC: Central African Banking Commission.
10. Governor: Governor of the Bank of Central African States;
11. Sanctions Committee or Counter-Terrorism Committee: the United Nations Security Council Committee composed of all members of the said Council set

up by Resolution No. 1373 adopted on 28 September 2001 by the United Nations Security Council concerning counterterrorism, to monitor implementation of the very Resolution No. 1373;

12. Monetary Authority: The Minister in charge of Currency and Credit in the Member State;

13. Agency or NAFI: The National Agency for Financial Investigation established under Article 25 of this Regulation;

14. Member State means any State that is Party to the Treaty establishing the Economic and Monetary Community of Central Africa;

15. Third State: Any State that is not a member of the Economic and Monetary Community of Central Africa;

16. Proceeds of crime means any property or economic advantage derived directly or indirectly from a crime or offence;

17. Property: property of any description whether corporeal or incorporeal, movable or immovable, and legal documents or instruments evidencing title to, or interest in such property;

18. Instruments: any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence or criminal offences;

19. Criminal organization or organized criminal group: Structured group acting in concert with the aim of committing one or more serious crimes or offences or terrorist acts in order to obtain, directly or indirectly, a financial or other material benefit.

20. Confiscation: permanent deprivation of property by order of a court;

21. Predicate offence: any offence especially criminal committed even abroad as a result of which proceeds have been generated within the scope of this Regulation.

22. Terrorism: any of the following acts:

a) act which constitutes a crime under and as defined by the relevant international treaties ratified by the Member State;

b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to

intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act;

c) The attempt to commit an offence under paragraph (a) and (b);

d) Participation as an accomplice in an offence as set forth in paragraph (a), (b) and (c);

e) Organizing or directing others to commit an offence as set forth in paragraph (a), (b) and (c);

f) deliberately contributing to the commission of one or more offences as set forth in paragraphs (a), (b) and (c) by a group of persons acting with a common purpose to further the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraphs (a) and (b), or be made in the knowledge of the intention of the group to commit an offence as set forth in paragraphs (a) and (b);

23. Author: Any person involved in the offence as a principal in first degree, co-author or accomplice;

24. Credit institution: agencies that regularly perform banking operations as set forth in Article 4 of the Appendix to the Convention of 17 January 1992 on the harmonization of banking regulations in Central African States, as well as a branch as set forth under Article 16 of the Appendix to this Convention, a Credit institution having its head office in or outside CEMAC;

25. Funds: assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit;

26. Freezing of funds: means preventing any move, transfer, modification, use or handling of funds that would result in any change in their volume, amount, location, ownership, possession, nature, destination or any other change that would allow the use thereof, including portfolio management;

27. Seizure: temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

28. Controlled delivery: the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities, with a view to the investigation of an offence and the identification of persons involved in the commission of the offence

#### **Article 4: Purpose**

This Regulation lays down rules with the aim of preventing, detecting, checking or suppressing:

- The use of the financial system or other sectors of the economies of the CEMAC States for the purposes of money laundering;
- The financing of terrorist acts whether they are associated with money laundering or not.

#### **Article 5: Persons liable**

The provisions of Parts II, III and IV of this Regulation shall apply to any individual or legal person that, as part of practice, carries out, controls, or advises on transactions involving deposits, exchange, investments, conversions or all other capital movements, in particular:

- The Treasuries of Member States;
- BEAC;
- Financial institutions;
- Manual money changers;
- Managers, directors and owners of casinos and gaming establishments;
- Notaries public and other independent legal practitioners who provide counsel or assist clients or act for or on behalf of their clients for the purchase and sale of goods, undertakings or businesses, the manipulation of assets, securities or other assets, the opening of bank accounts, the constitution or management of companies, trusts or similar structures, or any other financial transactions;
- Real estate agents;
- Companies that transport and transfer funds;
- Travel agencies;

- Auditors, chartered accountants and external auditors, tax consultants;
- Dealers in valuable articles such as works of art, metals and precious stones, automobiles.

#### **Article 6: Financial institutions**

For the purpose of this article, financial institutions shall refer to credit institutions (banks and financial institutions), including branches as set forth under Article 16 of the Annex to the Convention of 17 January 1992 on the harmonization of Banking regulations in Central African states, a credit institution having its headquarters abroad; banking intermediaries, financial services of the Post Office, micro finance institutions, insurance companies and reinsurance brokers and reinsurance companies, stock exchanges and organizations playing the role of central depository or settlement bank, trading companies; trading intermediaries, and estate management companies; companies providing investment services, mutual funds and mutual funds management companies.

#### **Article 7: Specification of liable occupational categories**

The Ministerial Committee shall specify as necessary the definition of liable occupational categories as set forth under Article 5 above.

The application of all or part of the provisions of Parts II, III and IV of this Regulation may be extended by the Ministerial Committee or by provisions enacted by each Member State, to any occupation or category of business where it is noted that the profession or category of companies has been used for money laundering or financing of terrorism or is engaged in particular activities that could be used for such purposes.

#### **Article 8: Reporting to the State Counsel**

Persons other than those specifically covered under Article 5 above are required to report to the State counsel about operations to which they are privy and which relate to funds which they know are likely to be proceeds of a crime or offence or part of money laundering or terrorist financing.

The State Counsel shall inform thereabout the National Agency for Financial Investigation, which shall provide all relevant information.

Where such a report is made in good faith, these persons shall have the



advantage of the provisions of Articles 22 and 23 below. They shall be bound by the requirement of confidentiality of such statements and shall be liable for the criminal penalties relating thereto provided for in this Regulation.

## **PART II: PREVENTION AND DETECTION OF MONEY LAUNDERING.**

### **Article 9: Identification of customers**

Financial institutions and other persons liable under Article 5 above shall, prior to opening an account, to taking custody of securities, shares or bonds, to assigning a safety deposit box or establishing any other business relationship, ascertain the identity and address of their co-contracting party by requiring the presentation of a still valid original document including a photograph a copy of which is made.

They shall under the same conditions ascertain the identity and address of their occasional customers for every transaction involving an amount exceeding the amount set by the Ministerial Committee or the Member State.

Identification shall be required even if the transaction amount is below the threshold if the lawful origin of the capital is not certain. Identification should also be carried out in the event of repetition of separate transactions carried out within a limited period and for an individual amount less than the threshold provided for.

### **Article 10: Identification of the ultimate beneficial owner**

Financial institutions and other persons liable under Article 5 above shall ascertain the true identity of the customers in whose interest an account is opened or a transaction is conducted when it is apparent to them that the persons requesting to open the account or conduct the transaction may not be acting on their own account.

If the client is a lawyer, a public or private accountant, a private person with a delegation of public authority, or an agent acting as a financial intermediary, he shall not invoke professional secrecy to refuse disclosing the identity of the real operator.

## **Article 11: Method of identification**

Verification of the identity of an individual shall be conducted through the presentation of a still valid original document including a photograph a copy of which is made. Identification of a legal person shall be conducted through submission of the articles of incorporation and any document evidencing legal constitution and real existence at the time of identification. A copy thereof is made.

The officials, employees and representatives called upon to interact in the interest of others must, in addition to the abovementioned documents relating to justification of their identity and address, produce documents attesting to the delegation of authority granted them and proof of identity and address of the beneficial owners.

## **Article 12: Special Monitoring of certain operations**

Any substantial transaction involving sums of which the unit or total amount exceeds that set by the Ministerial Committee or by national provisions, which, without possibly being the subject of any report of suspicion pursuant to Article 18, is unusually complex and does not appear to have economic justification or lawful purpose, shall be scrutinized by the financial institution and other persons liable under Article 5, in order to obtain from the client information on the origin and destination of these funds as well as the purpose of the transaction, the identity and residence of the originator or beneficiary.

The financial institution or the person liable under Article 5 shall establish a confidential written report containing all information collected pursuant to the preceding paragraph which it shall keep in accordance with Article 13 of this Regulation.

Any payment in cash or bearer warrants of a sum whose unit or total amount exceeds the threshold set by the Ministerial Committee or by the regulations enacted by each Member State, shall give rise to a report on the purpose of the transaction, the origin and destination of cash or warrants and the identity of the parties, made to the National Agency for Financial Investigation established under Article 25 below.

Particular vigilance should be exercised with respect to wire transfers and more generally any type of transfer of funds regardless of the mode of reception or execution of the direction to pay, and to transactions from or to

financial institutions or establishments which are not subject to obligations at least equivalent to those contained in this Regulation with regard to customer due diligence and monitoring of transactions or which are located in countries that are not members of the Financial Action Task Force (FATF) or in countries identified as non-cooperative in matters that are the subject of this Regulation.

The special vigilance prescribed in the preceding paragraph seeks to establish the origin of the sums involved.

### **Article 13: Conversion of documents and records**

In the cases referred to in Article 12, the characteristics of the transaction and information concerning the identity and domicile of the persons concerned shall be reduced into writing and kept by the financial institution or the person liable under Article 5, who shall make available the documents and records related thereto to the administrative authorities referred to in Article 15 below and which shall be the sole addressees thereof.

Without prejudice to enactments laying down more stringent obligations, financial institutions shall keep records relating to the identity of habitual or casual customers or transactions conducted by the latter for at least five years with effect from the closure of accounts, discontinuation of relationship with the customer or conduct of the transaction.

### **Article 14: Internal organization of financial institutions**

Financial institutions shall develop programmes for the prevention of money laundering and terrorist financing. These programmes shall include:

- a. centralization of information on the identity of customers, originators, beneficiaries and owners of proxy, representatives, beneficial owners, and on suspicious transactions reported pursuant to this Regulation;
- b. The appointment of officials of the central management, of each branch and each agency or local service;
- c. The continuing training of public officials or employees;
- d. A system of internal control of implementation and effectiveness of measures adopted for the purposes of this Regulation.

## **Article 15: Communication of documents and records**

For the purposes of this Regulation, only the following may request for information and documents referred to in Articles 9 to 13 above:

- The National Agency for Financial Investigation, in order to reconstruct all transactions made by a natural or legal person and relating to a transaction that has been the subject of a report of suspicion or to inform, as provided for in this Regulation, the services of other States with similar jurisdiction;
- The judicial authority or officers responsible for the detection and punishment of offences related to money laundering acting within the framework of criminal proceedings;
- The supervisory authority of the profession

Under no circumstances shall persons with the obligation to transmit the abovementioned information and documents and any other person privy thereto communicate such information and documents to other natural or legal persons other than those listed in this article.

## **Article 16: Manual money changers**

Natural or legal persons other than credit institutions and BEAC whose usual occupation is to perform manual exchange, shall, before commencing operations, address a statement of activity to BEAC including proof of origin of the necessary funds.

Manual money changers shall be subjected to the obligations prescribed in Articles 9 to 13 above for their operations the amount of which exceeds the threshold set by the Ministerial Committee or by the regulations enacted by each Member State.

They shall keep a register of all transactions recording in chronological order the amount and nature of the transaction, the identity and address of the customer and the references of the official document presented. This register shall be numbered and initialled by the competent administrative authority and kept for at least five years after the last operation recorded.

## **Article 17: Casinos and gaming establishments**

Casinos and gaming establishments shall be required to submit, before commencing operations, an activity statement to the supervisory authority and NAFI including proof of origin of funds.

Casinos and gaming establishments shall be required to record and keep for at least five years the names and addresses of players exchanging or bringing in particular chips or tickets for an amount exceeding that set by the Ministerial Committee or by the regulations enacted by each Member State. They shall verify their identity by requiring the presentation of a still valid original document including a photograph a copy of which shall be made.

Casinos and gaming establishments shall be required to closely monitor certain transactions prescribed in Article 12 above.

They shall keep a register of all transactions recording in chronological order the amount and nature of the transaction, the identity and address of the customer and the references of the official document presented. This register shall be numbered and initialled by the competent administrative authority and kept for at least five years after the last operation recorded.

## **Article 18: Obligation to report suspicious transactions**

Financial institutions and other persons liable under Article 5 above shall be required, under the conditions laid down in this Regulation, to report to the National Agency for Financial Investigation:

- The amount or other goods in their keeping that can be linked to a crime or offence or to be considered as money laundering;
- Transactions involving money or goods that could be derived from a crime or offence or be considered as money laundering.

Financial bodies and other persons liable under Article 5 above shall equally report to the National Agency for Financial Investigation:

- Any transaction for which the identity of the originator or beneficiary remains doubtful in spite of the diligence applied in accordance with Articles 9 to 11 of this Regulation;
- Transactions carried out by financial institutions for themselves or on behalf of third parties with legal persons including their branches or establishments,

acting as or on behalf of trust funds or any other entity managing a trust estate for which the identity of the settlers or beneficiaries is not known.

The report may relate to transactions already carried out where it was impossible to stay their execution or where it was discovered after execution of the transactions that the sum may have been derived from drug trafficking or from a money laundering operation.

Any information likely to reinforce or undermine suspicion shall immediately be reported to the National Agency for Financial Investigation.

### **Article 19: Forms and notes**

Reports may be verbal or written.

Reports made over the telephone may be confirmed by facsimile or any other written means.

The report shall state the period of execution of the suspicious transaction or, where applicable, the reasons why the transaction had already been executed.

The report shall be sent to the National Agency for Financial Investigation.

### **Article 20: Acknowledgment of receipt**

Upon receiving the report, the National Agency for Financial Investigation shall immediately acknowledge receipt thereof.

The person making the report may request the National Agency for Financial Investigation not to acknowledge receipt thereof.

The person making the report may request the National Agency for Financial Investigation to refer the matter to the State Counsel. Where the National Agency for Financial Investigation refers the matter to the State Counsel, the statement of referral to court shall not feature in the case file.

### **Article 21: Absence of report**

Where, through lack of vigilance or a shortcoming in the organization of its internal audit procedures, a financial institution omitted to make the report provided for in Article 18 above, the authority vested with disciplinary power shall be empowered to institute proceedings on the basis of law and regulations in force or administrative regulations and inform the State Counsel of such action.

### **Article 22: Exemptions from liability**

For amounts or transactions that have been reported and for which the procedures prescribed by this Regulation have been followed, no prosecution can be brought against managers and officials of the financial body or any other person liable under Article 5 that acted in good faith.

No civil liability action may be brought, nor any professional sanction imposed for violation of banking or professional secrecy or in any other capacity against a financial body, its officials or employees that in good faith reported and carried out other procedures prescribed by this Regulation or blocked a transaction within the framework of this Regulation, notwithstanding that the investigations led neither to prosecution nor to conviction.

Where the transaction reported was executed in accordance with Article 18 paragraph 3 above save in case of fraudulent collusion with the owner of amount or the author of the transaction, the financial body or any other person liable under Article 5 shall be relieved of any responsibility, and no legal proceedings may be instituted against its officials or its employees for offences covered by this Regulation or by the non-contrary provisions in force on money laundering and terrorist financing.

### **Article 23: Scope of the exemption**

The provisions of the preceding article shall apply even if proof of the unlawfulness of the facts reported is not reversed or whether those facts have been the subject of case dismissal, discharge or acquittal.

## **Article 24: Scope of the obligations of persons liable**

The Ministerial Committee shall, as need arises, specify obligations incumbent upon the occupational categories liable under this Regulation.

## **Article 25: National Agency for Financial Investigation.**

A National Agency for Financial Investigation abbreviated NAFI is hereby set up in each Member State, tasked with receiving, processing and, if need be, forwarding to the competent judicial authorities reports required of financial institutions and persons liable under Article 5.

A decree shall lay down in each Member State, in accordance with this Regulation, the organization, functioning and funding of the National Agency for Financial Investigation.

The National Agency for Financial Investigation shall collect and process within the framework of implementation of this Regulation and instruments enacted for the implementation thereof, all information relevant to establishing the origin of sums of money or the nature of transactions mentioned in the suspicion report.

It shall also receive all other information relevant to its duties, in particular that provided by judicial authorities and the authorities monitoring liable persons.

The Agency shall in particular, in strict compliance with the instruments in force, constitute a database containing all information relevant to the purposes of this Regulation. This information shall be updated and organized in such a way as to optimize investigations making it possible to substantiate or lift suspicion.

NAFI shall prepare quarterly progress reports. This report shall list the laundering techniques observed throughout the country and shall contain the Agency's recommendations for boosting the fight against money laundering and terrorist financing. It shall also prepare a summary annual report. Such reports shall be forwarded to the Minister in charge of finance, Minister in charge of defence, Minister in charge of justice and the Permanent Secretary



of the task Force on Money Laundering in Central Africa (GABAC) and the Governor of BEAC.

NAFI shall perform any other assignment provided for by the Regulations or assigned it by the Ministerial Committee or the Monetary Authority, notably in matters of prevention of terrorism financing.

### **Article 26: Organisation**

The National Agency for Financial Investigation (NAFI) shall be a public body placed, in each Member State, under the Minister in charge of finance. It shall have financial autonomy and decision-making power on matters within the scope of its activities in compliance with the Regulation and measures taken for its implementation.

In each Member State, NAFI shall be the receiver of suspicion reports and shall centralize all information and documents forwarded to it in compliance with this Regulation.

### **Article 27: Composition**

The National Agency for Financial Investigation shall comprise four members:

- a civil servant from the Ministry in charge of finance;
- a judicial police officer specialized in financial matters, from the Ministry in charge of the interior, defence or security;
- an inspector of customs services from the Ministry in charge of finance;
- a legal or judicial officer specialized in financial matters from the Ministry in charge of justice.

The Director of the National Agency for Financial Investigation shall be one of the officials from the Ministry of finance. He shall represent NAFI before third parties and shall, under conditions laid down by this Regulation, be responsible for the implementation of the duties of NAFI.

## **Article 28: Correspondents**

In each Member State, NAFI shall resort to correspondents designated ex-officio from the following administrations and institutions: the Police, the Gendarmerie, the Customs Department and the Judiciary or any other public administration whose assistance shall be deemed necessary as part of measures to combat money laundering and terrorist financing by the decision of the competent Minister taken at the request of the Minister in charge of finance on the proposal of the Director of NAFI.

The correspondents shall collaborate with the National Agency for Financial Investigation in the performance of its duties in such manner as to ensure good cooperation between NAFI and the administrations under which they work.

## **Article 29: Internal Rules and Regulations**

Internal Rules and Regulations shall be adopted in each Member State by NAFI members. They shall lay down NAFI internal rules and regulations.

## **Article 30: Financial Resources**

The financial resources of the National Agency for Financial Investigation shall come from contributions from member States, as well as contributions from community institutions and development partners.

## **Article 31: Right to Communication and Confidentiality**

The National Agency for Financial Investigation may, at its request, require any public authority, persons liable under Article 5 or any natural person or corporate body, to transmit information and documents, on the basis of investigations it is carrying out following a suspicion report.

The National Agency for Financial Investigation shall be bound by professional secrecy.

NAFI members and correspondents shall take the oath, as soon as they are appointed and before assuming their duties, to perform their duties with loyalty and with strict respect for the Regulation and provisions enacted for its implementation.

NAFI members and correspondents shall be bound by professional secrecy for information they obtain in the performance of their duties or assignments, even after the cessation of such duties.

### **Article 32: Incompatibilities**

Civil servants or State employees, who have been seconded to NAFI as members, shall stop performing their duties for their administration of origin.

NAFI correspondents and staff may not concurrently carry out any activity likely to jeopardize the independence of their duties within NAFI. They may not perform their duties for any of the bodies referred to in Article 5 of the Regulation unless when they are so authorized by the Director of NAFI.

### **Article 33: Objection to the Execution of Transactions**

The National Agency for Financial Investigation may, before the expiry of the execution deadline mentioned by the person reporting, lodge an objection to the execution of the transaction. Such objection shall be served to the person reporting by facsimile or through any means with written trace by the Director of NAFI.

The objection shall stay execution of the transaction for a period not exceeding 48 hours. The execution of the transaction shall be postponed for this duration.

Where the acknowledgement of receipt by the National Agency for Financial Investigation does not contain an objection, or where, at the end of the deadline given by the objection, no decision of the competent court or, if the need arises, of the Examining Magistrate or the Legal Department, has reached the financial body or the person who made the report, the transaction may be executed.

The competent judge in urgent matters may, at the request of NAFI, extend by Order given at the bottom of the said request, the deadline mentioned in paragraph 2 of this article or order the provisional freezing of funds, accounts or securities targeted by the report for an additional period which shall not exceed eight days. The State Counsel at the competent court may submit a request for the same purpose. The Order which sustains the request shall be enforceable immediately before the service of notice to the person mentioned in the report.

### **Article 34: Reply to Suspicion Reports**

Immediately information gathered bring out facts that are likely to stem from drug trafficking, criminal organization activities, money laundering or any other offence provided for by this Regulation, NAFI shall inform the State Counsel of the competent court to whom it shall forward a report on the facts coupled with his opinion.

The report mentioned in the paragraph above shall include all useful documents, excluding the said suspicion reports. The identity of the author shall not feature in the report.

### **Article 35: Coordination and Regional Action**

GABAC shall be the receiver of the quarterly or annual reports of the National Agency for Financial Investigation as well as, at its request, statistical and non-personal information gathered by the Agencies.

It shall encourage cooperation between National Agencies for Financial Investigation and shall be responsible for coordinating their actions aimed at preventing money laundering and terrorist financing.

GABAC shall prepare every six months regional summary report of NAFI Reports which shall be forwarded to the Governor of BEAC and CEMAC Executive Secretary for the information of Member States and institutions of the Community.

## **PART III: PREVENTION AND DETECTION OF FINANCING OF TERRORISM**

### **Article 36: Report of Suspicious Transactions and Funds**

Financial bodies and other persons liable under Article 5 of this Regulation shall, where they have strong reasons to suspect that funds or movement of funds are linked, associated with or intended to be used for financing of terrorism, terrorist acts or terrorist organizations, quickly report, under the forms and following the procedures of making suspicion reports described in Articles 18 to 23 above, their suspicions to the National Agencies for Financial Investigation.

### **Article 37: Designated Persons, Entities or Organizations**

The Sanctions Committee shall establish, in conformity with the United Nations Resolutions on the Prevention and Suppression of the Financing of Terrorist Acts, a list of natural persons or corporate bodies and organizations that may be subject to restrictive measures as being terrorists or linked to terrorist organizations or that finance terrorism and terrorist organizations.

The Ministerial Committee shall establish a list of persons, entities or organizations whose funds have been frozen by financial bodies or the other persons liable under this Regulation, in conformity with the list of the Sanctions Committee and information gathered in the Member States.

The Chairman of the Ministerial Committee shall modify, as rapidly as possible, the list it has established in order, notably, to take into account changes on the Sanctions Committee list. It shall see to it that the names of natural persons or corporate bodies, entities and agencies on the list that it has established comprises enough precision to permit the effective identification of natural persons or corporate bodies, entities or specific agencies and thus facilitate the exculpation of persons, entities or agencies bearing identical or similar names.

### **Article 38: Report of Funds and Transactions of Designated Persons**

Financial bodies or other persons liable under Article 5 of this Regulation shall be required to report to the National Agency for Financial Investigation transactions, sums, assets or other property of persons featuring on the list established by the Sanctions Committee in accordance with the United Nations Resolutions on the Prevention and Suppression of the Financing of Terrorist Acts or that established by the Ministerial Committee.

Where these bodies and persons have made such a report, they shall be free from liability as defined in Articles 22 and 23 above.

The State Counsel shall inform, without delay, the National Agency for Financial Investigation of the reports that have been made directly to him.

### **Article 39: Special Scrutiny of Certain Funds and Transactions**

For the purposes of the report mentioned in the above article, the financial bodies and persons liable under Article 5 of this Regulation shall or indirectly for charity, cultural or social organizations.

They shall keep for five years a copy of any document relating to this special scrutiny and likely to buttress their suspicions. These documents shall, if the need arises, be enclosed to the suspicion report provided for in Article 36(1) above.

#### **Article 40: Follow-up to Suspicion Reports of the Financing of Terrorism Concerning Non-designated Persons**

Where the information gathered, after a report has been submitted, bring out facts likely to stem from the financing of terrorism, the National Agency for Financial Investigation shall inform without delay the Legal Department through a written report by enclosing a copy of the report and possibly the results of its own investigations.

The Legal Department may, upon being informed, order a provisional suspension measure which shall be notified to the person who made the report and the parties concerned by facsimile or by any other means with written trace. This measure shall prohibit, for 48 hours renewable once, the continuation of the execution of the suspected transaction or the funds of suspected persons or entities from being put at their disposal or used for their benefit.

The provisional suspension shall end when the deadline mentioned above expires, unless notice has been given to the financial body of an order confirming the provisional suspension given by the territorially competent judge in urgent matters at the request of the State Counsel or of a remand order before the competent criminal court.

The provisional suspension shall also end with the notification of an order of discharge of the suspension measure ordered by the territorially competent judge in urgent matters. This discharge order shall put an end to the provisional suspension measure taken by the State Counsel only in case of committal for trial by a criminal court.

#### **Article 41: Freezing of funds of designated persons or persons recognized as guilty of financing terrorism**

Funds belonging directly or not to persons recognized as guilty of financing terrorism or those featuring on the list established by the Sanctions Committee in accordance with the United Nations Resolutions on the

Prevention and Suppression of the Financing of Terrorist Acts or on that drawn up by the Ministerial Committee, shall be frozen.

#### **Article 42: Waivers, authorizations and exemptions for humanitarian reasons**

In order to protect the interests of the Community, which includes the interests of its nationals and residents, special authorizations to permit the unfreezing or mobilization of funds or provision of financial services may be granted by the Ministerial Committee, at the initiative of the Member State, Executive Secretary of CEMAC, the Governor or Secretary General of COBAC.

In case of urgency, the Minister of Finance of the Member State may grant the authorization mentioned above. He shall give account of it to the Ministerial Committee for validation.

Any request in view of obtaining the authorization mentioned in this article must be addressed to the Monetary Authority of the Member State or Executive Secretary of CEMAC when the request originates from a third-party country.

The waivers, authorizations and exemptions provided for in this article may be applied to freezing measures taken against persons featuring on the list established by the Sanctions Committee only in accordance with the provisions adopted for this purpose by the United Nations.

### **PART IV: COERCIVE MEASURES**

#### **Article 43: Seizures and other provisional measures**

Within the framework of detection and suppression of offences relating to money laundering and financing of terrorism, the competent judicial authority may, automatically or at the request of the Public Prosecution or a competent administration:

- seize the property that have a link with the offence being investigated on, as well as all elements that may help identify them;
- order, at the expense of the State, measures, including the freezing of capital and financial transactions on property, whatever their nature, likely to be seized.

The lifting of these measures may be ordered at any time at the request of the Public Prosecution or, following the opinion of the latter, at the request of the competent administration or owner.

#### **Article 44: Property of designated persons**

The property of designated persons featuring on the list drawn up by the Ministerial Committee referred to in the previous article or on the list established by the Sanctions Committee shall be presumed to have been used for financing terrorism, terrorist acts or terrorist organizations, or to constitute the proceed and may also be subject to seizure under conditions laid down in the previous article.

#### **Article 45: Sanctions ordered by monitoring authorities**

Where, through serious lack of vigilance or shortcoming in the organization of its internal audit procedures, a financial body or any other natural person or corporate body liable under Article 5 above did not comply with one of the obligations assigned to it by this Regulation, the monitoring authority vested with disciplinary power may act automatically and order disciplinary sanctions under conditions provided for by the instruments in force.

For the purposes of this Regulation, COBAC shall monitor and have disciplinary power over credit establishments, including branches of credit establishments that have their head office in a third-party State.

The Member State shall monitor the financial services of the Post Office and manual money changers.

### **PART V: CRIMINAL SANCTIONS**

#### **Article 46: Money laundering**

Shall be sentenced to 5 to 10 years imprisonment and a fine that could exceed five times the amount of money laundered but not lower than CFAF 10 000 000, any person who intentionally commits one or several acts enumerated in Article 1 above relating to the definition of money laundering.



The attempt at carrying out a laundering activity or complicity through assistance, advice or encouragement shall be punishable as complete offence.

Shall be punishable with the same sentence, participation in an association or understanding in view of carrying out money laundering activities.

Corporate bodies other than the State, on whose behalf or to the benefit of whom money laundering activities had been carried out by one of their organs or representatives, shall be sentenced to a fine of a rate equal to five times the specific fines for natural persons, without prejudice of convicting the latter as offenders or accomplices.

#### **Article 47: Aggravating circumstances**

The sentences provided for in the article above shall be doubled where:

1. money laundering is carried out in a routine manner or by using facilities that are used for performing a professional activity;
2. money laundering is carried out in an organized group;
3. circumstances provided for by the general system of aggravating circumstances of the criminal law applicable in the member State are established.

#### **Article 48: Sanctioning of other offences linked to laundering**

Shall receive the same sentences as money laundering offences the fact, for managers or workers in financial bodies or any person liable under Article 5 above, of informing the owner of sums or the author of one of the transactions mentioned in Articles 18 and 36 of this Regulation, of the existence of a report made to NAFI or giving information on the outcome that has been reserved for that person.

Shall be sentenced for money laundering offences any person who:

- disregards the rules relating to the confidentiality of information gathered under the provisions of this Regulation, prohibition of the disclosure or transmission of information outside cases provided for by

this Regulation or for purposes other than those stated in the Regulation;

- destroys, falsifies or takes out from registers or documents the keeping of which has been provided for by this Regulation;
- carries out or attempts at carrying out under a fake identity one of the transactions for which the checking of the identity or a special surveillance has been prescribed by this Regulation;
- having been aware, because of their profession, of an investigation for money laundering activities, knowingly informed by all means the person(s) mentioned in the investigation;
- forwards to judicial authorities or civil servants, who have the authority to observe current and subsequent offences, deeds or documents he knows are truncated or erroneous.

**Article 49: Fines applicable to managers or officials of manual money changing companies, casinos and gaming establishments**

Shall be sentenced to a fine of CFAF 50 000 to CFAF 10 000 000, managers and officials of manual money changing companies, casinos and games halls who shall not comply with the obligations and diligence required of them under this Regulation.

**Article 50: Outright or temporary prohibition**

Persons guilty of committing one or several of the offences mentioned in Articles 46 to 49 above may also be sentenced to an prohibition or to at least five years from performing the profession through which the offence was committed.

**Article 51: Original offence**

The provisions of this part shall be applicable even when the author of the original offence shall neither be prosecuted or convicted, or even when there is no condition for court action following such offence. The author of the original offence may also be prosecuted for money laundering offence.

## **Article 52: Financing of terrorism**

The financing of terrorism shall be sentenced to at least 10 years imprisonment and a fine that may exceed ten times the sums in question but not being below CFAF 10 000 000. The enforcement of these sentences shall not be necessary if the funds had not been effectively used to commit an offence referred to in paragraphs a) or b) of this Regulation.

## **Article 53: Complementary sanctions applicable on corporate bodies**

Corporate bodies convicted for offences provided for by this Regulation shall be subject to the following complementary sentences:

- a) outright prohibition or prohibition for at least five years from performing directly or indirectly certain professional activities;
- b) outright closure or closure for at least five years of their establishments that had been used to commit the offence;
- c) dissolution, where they had been set up to commit the offence complained of;
- d) dissemination of the decision through written media or through any other audio-visual media.

## **Article 54: Confiscation**

In the case of conviction for one of the offences stipulated above, the competent court may order the confiscation of:

- property subject of the offence, including the income and other benefits that had been received, unless their owner proves that he acquired them by effectively paying the fair price or exchanged services corresponding to their value or to any other legitimate security, and that he was unaware of their illicit origin;
- property belonging, directly or indirectly, to a person convicted for an act of money laundering or terrorist financing or to his next of kin (spouse, concubines, children, etc), unless the persons concerned establish the legitimate origin or the absence of any link between this property and the offence.

In case of an offence confirmed by the court, where the offender(s) cannot be convicted, the court may, nevertheless, order the confiscation of property on which the offence was established.

The decision ordering a confiscation shall name the property in question and provide details necessary for their identification and location.

The competent court may order the confiscation of property seized or frozen at the request of Public Prosecution stating:

- that these property constitute the proceeds of a crime or a offence as defined in this Regulation;
- that the authors of the acts having generated the proceeds cannot be prosecuted either because they are not known, or because there is a legal impossibility to the prosecution of the leader of these acts.

#### **Article 55: Vesting of confiscated property**

Confiscated resources or property shall be vested to the State which may assign them to a fund for combating organized crime, drug trafficking, money laundering or financing of terrorism. They shall entail, to the limit of their value, rights in rem lawfully constituted for the benefit of third parties.

In case of confiscation ordered by default, the confiscated property shall be vested to the State. However, if the court, deciding otherwise, releases the person under prosecution, he shall order the restitution in value by the State of the confiscated property, unless it has been established that such property are the proceeds of a crime or an offence.

### **PART VI: INTERNATIONAL COOPERATION**

#### **Article 56: NAFI's relations with foreign financial investigation services**

In compliance with the legislative provisions and international conventions applicable in the area of protection of privacy, the National Agency for Financial Investigation may forward to the authorities of other member States or third-party States performing similar duties, information that it possesses on transactions that appear to have a link with one of the offences outlined in this Regulation, subject to reciprocity and on condition that the foreign competent authorities are subject to the same obligations of professional secrecy.

This information cannot be communicated if a criminal procedure has already been initiated in the Member State requested concerning the same facts or if such communication is likely to prejudice the sovereignty, security, essential interest or law and order of the Member State.

National Agencies for Financial Investigation shall be represented in meetings of services responsible for processing financial information and in other international institutions devoted to combating money laundering and financing of terrorism.

#### **Article 57: Mutual judicial assistance**

The judicial authorities of States shall cooperate with those of other States for the purposes of providing mutual judicial assistance, exchange of information, investigation and proceedings, aimed at preventing and repressing offences outlined in this Regulation and in particular provisional measures and confiscation of instruments and proceeds from such offences.

The mutual assistance may, in particular, be in the form of: collection of evidences or depositions, the provision of assistance so as to put at the disposal of the judicial authorities of the requesting State persons detained or other persons for the purpose of getting evidence or assistance in conducting investigation, presenting judicial documents, searches and seizures, examination of objects and places, the provision of information and exhibits, presentation of originals or certified true copies of relevant files and documents including bank statements, accounting documents, records showing the functioning of companies or its commercial and financial activities.

#### **Article 58: Cases where mutual judicial assistance can be refused**

The request for mutual assistance may only be refused:

- a) if it does not emanate from a competent authority in accordance with the legislation of the requesting State, or if it was not transmitted legitimately;
- b) if granting the request is likely to be prejudicial to law and order, sovereignty, security or the fundamental principles of the law of the requested member State;

- c) if the facts on which it is based are subject to criminal prosecution or had already been subjected to a final decision in the territory of the requested member State;
- d) if the offence mentioned in the request is not provided for in this Regulation or the non-contrary provisions in force in the requested member State or if it does not have common characteristics with the offence provided for in this Regulation or the non-contrary provisions in force in the requested member State.

#### **Article 59: Request for investigation and trial measures**

Investigation and trial measures emanating from an authority of a member State or third-party State shall be executed in accordance with this Regulation and non-contrary provisions in force in the requested State.

A legal or judicial officer or civil servant delegated by the competent authority of a member State or third-party State from whom the request emanates may assist in executing the measures depending on whether they were drawn up by a legal or judicial officer or civil servant.

#### **Article 60: Request for provisional measures**

The court that has been seized of by a competent authority of a member State or third-party State for the purposes of prescribing provisional measures shall order such requested measures in accordance with this Regulation and non-contrary provisions in force in the requested State. The court may take any other appropriate measure in line with its effects on the requested measures provided for in this Regulation and non-contrary provisions in force.

The court to which a request has been submitted concerning the execution of provisional measures prescribed in another State may replace these measures with those provided for in this Regulation and non-contrary provisions in force having the same effects.

#### **Article 61: Request for confiscation**

With regard to a request for mutual judicial assistance to give a decision for confiscation, the court shall decide after being seized of by the

authority responsible for prosecution. The decision for confiscation must target specific property, which constitutes the proceeds or instrument of an offence, and found in the territory of the requested State.

The court to which a request has been submitted concerning the execution of a decision for confiscation prescribed in another member State or a third-party State shall be bound to confirm the facts on which the decision is based and it shall refuse to sustain the request only if one of the reasons stated in Article 58 above justifies such a refusal to execute.

#### **Article 62: Fate of confiscated property**

Any member State may dispose of property confiscated in its territory at the request of the authorities of another member State or a third-party State, unless otherwise concluded with the Government of the requesting State.

### **PART VII: MISCELLANEOUS PROVISIONS**

#### **Article 63: Nullity of some legal documents**

Shall be considered null and void any document signed inter vivos or because of death subject for payment or free of charge, the goal of which is to subtract property that have been seized, frozen or confiscated as provided for in this Regulation.

#### **Article 64: Confidentiality**

Information obtained by whatever means under this Regulation shall be used exclusively for the purposes stated in this Regulation. It shall be disclosed or transmitted only in cases or conditions laid down by this Regulation.

#### **Article 65: Special investigation techniques**

In order to obtain evidence for the original offence and evidence for offences provided for in this Regulation, the judicial authorities may notably, order, for a specified period:

- a) the placing under surveillance of bank accounts and related accounts;
- b) access to computer systems, networks and servers;

- c) the placing under surveillance or telephone tapping, photocopying machines or electronic transmission or communication means;
- d) the audio and video recording of events, gestures and conversations;
- e) the disclosure of authentic documents and under private seal, banking, financial and commercial documents.

The authorities may order the seizure of the above-mentioned documents.

With the sole aim of obtaining pieces of evidence on offences provided for in this Regulation, the competent judicial authority may also authorise the performance of acts which could be repressed in pursuance of this Regulation as transactions under cover or deliveries that are monitored. A detailed report shall be forwarded to him at the end of the transactions.

The transactions mentioned in this article shall be ordered only where there are strong indications to suspect that these accounts, telephone lines, computer systems and networks or documents are being used or are likely to be used by suspected persons to commit offences provided for in this Regulation.

The judicial authority may, by a reasoned decision, given at the request of the Legal Department performing the transactions outlined in this article, delay the freezing or seizure of money or any other property, until the conclusion of investigations and order, if that is necessary, special measures to safeguard them.

The transactions outlined in this article shall not lead to criminal, civil liability or any other liability of persons who carried them out.

#### **Article 66: Transparency in economic and financial dealings**

Public authorities shall lay down, in compliance with this Regulation, any internal provision that would help facilitate its implementation. They shall ensure that the rules and controls applicable to bodies and professions liable under Article 5 above which fall under national provisions guarantee transparency in economic and financial dealings.



**Article 67: Transfer of funds**

Any transfer, within CEMAC and between a CEMAC State and a third-party State, of funds, stocks or securities shall be made in compliance with the instruments in force and in particular the Regulation on exchange.

**Article 68: Liability of the State**

In case of prejudice emanating directly from reports, diligence and measures provided for in this Regulation, the State shall be liable for damages suffered under conditions provided in the instruments in force without any possibility of appeal.

**Article 69: Entry into force**

This Regulation shall come into force on the first day of the month following that of its publication in the Official Gazette of the Community.

Signed on 4 April 2003 in Yaounde

(Sgd) Mr Michel MEVA'A m'EBOUTOU,  
Minister of Finance and the Budget  
of the Republic of Cameroon,  
Current Chair of the Ministerial Committee