

REPUBLIC OF CAMEROON

PEACE - WORK- FATHERLAND

Decree No. 2005/187 of 31 May 2005: organization and functioning of the National Agency for Financial Investigation

THE PRESIDENT OF THE REPUBLIC,

Mindful of the Constitution;

Mindful of the 16 March 1994 Treaty to institute the Economic and Monetary Community of Central Africa and the 5 July 1996 addendum thereto relating to the Institutional and Legal System of the Community;

Mindful of the 5 July 1996 Convention governing the Central African Economic Union;

Mindful of the 5 July 1996 Convention governing the Central African Monetary Union;

Mindful of Regulation No. 01103-CEMAC-UMAC-CM of 4 April 2003 on the prevention and combating of money laundering and terrorist financing in Central Africa;

Mindful of Law No. 2003/4 of 21 April 2003 relating to bank secrecy;

Mindful of Decree No. 2004/320 of 8 December 2004 to organize the Government,

HEREBY DECREES AS FOLLOWS:

CHAPTER 1

GENERAL PROVISIONS

1. This decree lays down the organization and functioning of the National Agency for Financial Investigation abbreviated "NAFI" .

2. (1) NAFI shall be a public body overseeing financial intelligence. It shall have financial autonomy and decision-making power on matters within the scope of its activities.

(2) NAFI shall be under the Ministry in charge of finance.

3. The duties of NAFI shall be:

- to receive, process and, if need be, forward to the competent judicial authorities all information likely to help establish the origin of sums of

- money or the nature of the transactions mentioned in the suspicion report relating to the anti-money laundering and counter terrorism financing drive;
- to obtain from judicial authorities and authorities monitoring liable persons information relevant to its duties;
 - ta constitute a databank containing all useful information concerning the suspicion report provided for by the Regulation, transactions carried out as well as the persons who carried them out, directly or through a third party.

CHAPTER II **ORGANIZATION AND FUNCTIONING**

1 - ORGANIZATION

4. NAFI shall comprise 4 (four) members, including a director with the rank and prerogatives of director in the central administration and 3 (three) research officers with the rank and prerogatives of sub-director in the central administration.

5. (1) The research officers referred to in Article 4 above. shall comprise:

- a civil servant from the ministry in charge of finance, expert in customs issues or banking;
- a judicial police officer specialized in financial matters, from the Ministry in charge of defence or the Delegation General for National Security;
- a legal or judicial officer with experience in financial matters, from the Ministry in charge of justice.

(2) They shall perform all duties assigned them by the Director.

6. (1) In the execution of its duties, NAFI shall have support services.

(2) An instrument issued by the Minister in charge of finance shall lay down the organization of such services.

7. (1) The Director of NAFI shall be appointed by decree of the Prime Minister, on the proposal of the Minister in charge of finance, for a period of 3 (three) years, renewable once.

(2) The research officers referred to in Article 5 above shall be "appointed by decision of the Minister in charge of finance, on the proposal of their administration of origin.

(3) However, in the event of serious offence or duly established disability, NAFI members may be dismissed at any time.

II - FUNCTJONJNG

8. (1) The Director shall be responsible for the implementation of the duties of NAFI which he shall represent before third parties under conditions laid down by Regulation No. 01/03-CEMAC-UMAC-CM of 4 April 2003.

(2) In the event of absence or unavailability, he shall appoint one research officer to deputize for him.

9. (1) In order to ensure cooperation with certain administrations, NAFI shall resort to correspondents designated ex-officio from the following administrations and institutions: the Police, the Gendarmerie, the Directorate General for External Research, the Customs Department, the Judiciary, the Ministry in charge of commerce, the Ministry in charge of external relations or any other public administration whose assistance shall be deemed necessary as part of measures to combat money laundering and terrorist financing.

(2) The appointment of the said correspondents shall be established by decision of the competent authority.

(3) Civil servants and State employees transferred to NAFI shall stop performing their duties for their administration of origin.

(4) 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 duties for any of the bodies referred to in Article 12 below unless when they are so authorized by the Director of NAFI.

10. At the request of the Director of NAFI, the correspondents shall be appointed by order of the Minister in charge of finance, on the proposal of the administrations under which they work.

11. NAFI staff and correspondents shall receive a remuneration or monthly allowance whose amount shall be decided by the Minister in charge of finance.

12. (1) NAFI shall prepare quarterly progress reports listing the laundering techniques observed throughout the country and making recommendations for boosting the fight against money laundering and terrorist financing. It shall prepare a summary annual report.

(2) Such reports shall be forwarded to the Minister in charge of finance, the Minister in charge of defence, the Delegate General for National Security, the Minister in charge of justice, the Permanent Secretary of the Task Force on Money Laundering in Central Africa (GABAC) and the Governor of BEAC.

CHAPTER III
PERSONS LIABLE AND SUSPICION REPORTS

1 - PERSONS LIABLE

13. Within the meaning of this decree, a person liable shall be any individual or corporate body who, within the context of his occupation, realizes, monitors or advises on transactions involving deposits, exchange, investments, conversion or other capital flows, notably:

- the Treasury;
- the Bank of Central African States;
- financial bodies;
- manual money changers;
- managers, directors and owners of casinos and games halls;
- notaries public and other independent legal practitioners who provide counsel or assist clients or act 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;
- funds and transport transfer companies;
- travel agencies;
- auditors, chartered accountants and external auditors, tax consultants;
- dealers in valuable articles such as works of art, metals and precious stones, automobiles.

II - SUSPICION REPORT

14. For the financial bodies and other persons liable under Article 13 above, the suspicion report shall consist in reporting to NAFI:

- the amounts or other goods in their keeping that can be linked to a crime or offence or be considered as money laundering;
- transactions in amounts or goods that could be derived from a crime or offence or be considered as money laundering.

15. The financial bodies and other persons liable under Article 13 above shall equally report to NAFI:

- any transaction for which the identity of the originator or beneficiary remains doubtful in spite of the diligence applied in accordance with the Regulation;

- transactions carried out by financial bodies for themselves or on behalf of third parties with corporate bodies, including their branches or establishments, acting in the form of 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 .

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

17. (1) Reports may be verbal or written.

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

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

18. (1) Upon receiving the report, NAFI shall immediately acknowledge receipt thereof.

(2) The person making the report may ask NAFI not to acknowledge receipt thereof.

(3) Where NAFI refers the matter to the State Counsel, the general statement of referral to court shall not feature in the case file.

19. Where through lack of vigilance or a shortcoming in the organization of its internal audit procedures, a financial body omitted to make the report provided for in Article 14 above, the authority vested with disciplinary power shall be empowered to institute proceedings on the basis of the law and regulations in force and inform the State Counsel of such action.

20. Cases of exemption from liability shall be executed in accordance with the provisions of the Regulation.

21. NAFI shall analyse the suspicion reports received on the basis of any additional information that may establish the origin of amounts or the nature of the transactions reported collected especially from bodies and administrations involved in combating money laundering and terrorist financing.

Where the analysis of the suspicion report brings out facts that are likely to stem from drug trafficking, criminal organization activities, money laundering or any other offence provided for by the Regulation, NAFI 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 through any means with written trace by the Director of NAFI.

CHAPTER IV **FINANCIAL RESOURCES**

22. The financial resources of NAFI shall be made up of:

- allocations entered in the State budget;
- contributions from CEMAC institutions;
- contributions from development partners.

CHAPTER V **MISCELLANEOUS AND FINAL PROVISIONS**

23. (1) NAFI members, correspondents and experts shall be bound by professional secrecy for information they obtain: in the performance of their duties or assignments, even after the end of such duties. Such information may not be used for purposes other than those provided for by the Regulation.

(2) As soon as they are appointed and before assuming their duties, NAFI members and correspondents shall take the oath to perform their duties with loyalty and with strict respect for the Regulation and measures taken for its implementation, before the Centre Court of Appeal holding in official session.

24. (1) NAFI shall adopt its internal rules and regulations on the proposal of the Director.

(2) The internal rules and regulations referred to in Article 24. (1) above shall lay down NAFI's internal running rules.

25. This decree shall be registered, published according to procedure of urgency and inserted in the Official Gazette in English and French.

Yaounde, 31 May 2005

Paul Biya
President of the Republic