Anti-money laundering and counter-terrorist financing measures

Senegal

Mutual Evaluation Report

NOVEMBER 2018



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ACRONYMS AND ABBREVIATIONS

AGRASC	: Agency for the Management and Recovery of Seized and Confiscated Assets
AJE	: State Judicial Agent
ANSD	: National Agency for Statistics and Demography
ML	: Money Laundering
ML/TF	: Money Laundering and Terrorist Financing
BCEAO	: Central Bank of West African States
C	: Compliant
CARPA	: Legal Regulations for Lawyers
CB	: Bank Commission
CCRO	: Intelligence and Operations Coordination Centre
CDD	: Customer Due Diligence
CEN-COM	: Customs Enforcement Network
FIU	: Financial Intelligence Unit
CIMA	: Inter-African Conference of Insurance Markets
Palermo Convention	: United Nations Convention against Transnational Organized Crime (2000)
Vienna	: United Nations Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances (1988).
Convention on terrorism financing	: International Convention for the Suppression of Terrorism Financing (1999).
CNC-LBC/FT	National AML/CFT Coordinating Committee
CP	: Penal Code
CCP	: Code of Criminal Procedure
CRCA	: Regional Insurance Advisory Commission
CREPMF	: Regional Council of Public Savings and Capital markets
FIU	: Financial Intelligence Unit
DCA	: Insurance Supervision Directorate
DGID	: Tax and Housing Department
DMC	: Monetary and Credit Department
STR	: Suspicious Transaction Report
DRN	: General Delegation for National Intelligence
NRA	: National Risk Assessment
DNFPBs	: Designated Non-Financial Businesses and Professions
EUR	: Euro
CFA	: African Financial Communities
FICOB	: Centralized Bank Account Files
TF	: Terrorist Financing
FATF	: Financial Action Task Force
EIG	: Economic Interest Groupings
FIs	: Financial Institutions
NBI	: Negotiable Bearer Instrument
EITI	: Extractive Industries Transparency Initiative
KYC	: Know Your Customer
AML/CFT	: Anti-money laundering and countering the financing of terrorism
LC	: Largely Compliant
AML Act	: Uniform Anti-money Laundering Law No. 2004-09

CFT Act	: Counter Financing of Terrorism Law n ° 2009-16 of 2nd March, 2009
MOU	: Memorandum of Understanding
N/A	: Not Applicable
NC	: Non-Compliant
IN	: Interpretative Note
NPO	: Non-Profit Organization
UCITS	: Institution for Collective Investment in Transferable Securities
OFNAC	: National Office against Fraud and Corruption
OHADA	: Organization for the Harmonization of Business Law in Africa
WCO	: World Customs Organization
UN	: United Nations
CID	: Criminal Investigation Department
PC	: Partially Compliant
PEP	: Politically Exposed Person
MEQ	: Mutual Evaluation Questionnaire
R.	: Recommendation
R.09	: Regulation No. 09/2010/CM/UEMOA on external financial relations of UEMOA Member States
RCCM	: Registrar General'ss Department
UNSCR	: United Nations Security Council Resolution
MER	: Mutual Evaluation Report
MTA	: Money Transfer Agent
MVTS	: Money or Value Transfer Services
IO	: Immediate Outcome
PC	: Private Company
PLC	: Public Liability Company
LP	: Limited Partnership
DFS	: Decentralized Financial System
SICAV	: Variable Capital Investment Company
SNC	: Joint Venture
UMOA	: West African Monetary Union
UEMOA	: West African Economic and Monetary Union
USD	: United States Dollar

EXECUTIVE SUMMARY

1. This report provides a summary of the Anti-money Laundering and Counter Financing of Terrorism (AML/CFT) measures in place in Senegal at the time of the on-site visit conducted from 18th September to 4th October 2017. It analyzes the level of compliance with the FATF 40 Recommendations, the level of effectiveness of Senegal's AML/CFT regime, and proffers Recommendations on how to strengthen the regime.

A. GENERAL CONCLUSIONS

2. Senegal generally has a good understanding of ML/TF risks. This understanding was enhanced by the maiden National Risk Assessment (NRA) conducted in August 2017. The NRA process was coordinated by the CNC-LML/FT, which ensures coordination and national cooperation on AML/CFT issues. This Committee ensures that the draft AML/CFT strategy and policies are aligned to the identified ML/TF risks.

3. Senegal should domesticate Directive No. 02/2015/CM/UEMOA, on the fight against money laundering and terrorist financing in the Member States of the West African Economic and Monetary Union (UEMOA) and adapt its AML/CFT legal framework to the FATF Recommendations as revised in 2012.

4. Senegal's financial system is exposed to a high ML risk related to the integration of proceeds of crime committed both at home and abroad. The NRA noted that Senegal is highly vulnerable to ML risks due to the following reasons:

- The prevalent use of cash in financial transactions;
- The large size of the informal sector;
- The lack of a legal and organizational mechanism for obtaining beneficial ownership information on legal persons and legal arrangements; and
- The lack of a Supervisory Authority for Designated Non-Financial Businesses and Professions (DNFBPs).

5. The TF risk is also high because of the proximity of Senegal to countries where terrorism is widespread, the low supervision of Non-Profit Organizations (NPOs), as well as the inadequate technical, human and financial resources provided to effectively combat ML/TF.[1]

6. Senegal's AML/CFT framework was developed on the basis of the UEMOA Community directives and in accordance with international standards. However, this regime has not yet been updated in compliance with the revised FATF 2012 Recommendations. Key mechanisms such as the risk-based approach are yet to be implemented. Senegal has no official National AML/CFT Strategy Paper, even though the AML/CFT policies take account of the risks identified empirically or on a case by case basis.[2]

[1] NRA Report, page 14.

[2] Senegal noted in its National Risk Assessment report, the lack of an official action plan adopted by the political authorities for the implementation of the national AML/CFT policy and strategy. See NRA report, page 33.

7. Financial institutions seem to have a better understanding of their AML/CFT risks and obligations than DNFBPs. This level of understanding is higher in banking institutions than in the non-banking sub-sector. Financial institutions have variously conducted risk mapping exercises and developed action plans to mitigate risks. The application of customer due diligence measures is not satisfactory due to difficulties in collecting beneficial ownership information. The knowledge and understanding of the AML/CFT regime by DNFBPs need to be upgraded.

8. The number of Suspicious Transaction Reports (STRs) has been growing steadily for several years, due particularly to the numerous awareness-raising activities for reporting entities conducted by the FIU. Most of Suspicious Transaction Reports (STRs) come from the financial sector, particularly credit institutions, unlike the Designated Non-Financial Businesses and Professions (DNFBPs), whose STR rates are still low.

9. AML/CFT inspections in Senegal are generally conducted within the framework of a continuous process of supervision of financial institutions (FIs). However, these inspections need to be strengthened *(especially by stepping up the number of in-depth inspection missions)* and sanctions imposed. On the other hand, it is clear that AML/CFT inspection is almost non-existent within the DNFBPs. Self-regulatory organizations have not yet incorporated this dimension into their supervisory system. Due to the fact that most DNFBPs have no designated Regulatory or Supervisory Authority, this situation does not enable Senegal to exercise control over the implementation of AML/CFT obligations.

10. The Central Bank of West African States (BCEAO), the UMOA Banking Commission, the Regional Council of Public Savings and Capital Markets (CREPMF), the Inter-African Conference of Insurance Markets (CIMA) and the Ministry of Finance are empowered to regulate and supervise financial institutions in the area of AML/CFT. The level of understanding of AML/CFT obligations differs between these Authorities; higher for the banking institutions, but low in the non-banking ones. The various on-site, off-site and risk-based supervision are used to assess the level of compliance of accountable FIs. Available statistics reveal that the inspections are more frequently carried out in banking institutions than in non-banking entities.

11. The Senegalese Authorities are determined to continue to strengthen the fight against ML. Investigations are conducted, especially on the basis of the reports filed to the State Prosecutor's office by the FIU. According to some of the Judicial Authorities, some of these reports are considered as brief, which makes them difficult to be used, Furthermore, parallel financial investigations are not systematically conducted during the investigation of predicate offences to ML. However, based on the reports sent by the FIU, some convictions, particularly in cases involving predicate offences committed abroad, have been secured for certain cases of ML. Three (03) out of five (5) confiscation orders issued have been executed. In general, investigations, prosecutions and confiscations are partially consistent with the identified risks. There is the need to improve on the application of effective, proportionate and dissuasive sanctions.

12. With regard to TF, the Senegalese Authorities have reported ongoing investigations, but no convictions had been secured as at the time of the on-site visit.

13. Mutual legal assistance granted by Senegal is generally satisfactory; in particular, it involves the provision of intelligence and the gathering of evidence at the request of foreign

Authorities. However, this assistance may be slowed down, in certain cases, particularly due to considerations relating to the principle of reciprocity as well as to information deemed sensitive by the Senegalese authorities. The FIU maintains cooperation with its foreign counterparts which is on the rise, particularly through bilateral agreements and within the Egmont Group.

14. The UMOA Banking Commission and certain banking supervisory Authorities have signed memoranda of understanding on cooperation and exchange of supervisory intelligence on the cross-border transactions of foreign branches, representative offices and subsidiaries of banking institutions.

B. Risks and General Situation

15. The adoption of the first NRA Report adopted by Senegal in August 2017 represents substantial progress in the identification and better understanding of ML/TF risks by some stakeholders at the national level. However, the approach adopted in the assessment of sectoral risk is limited, in particular, the manual foreign exchange dealers, real estate and dealers in precious stones and metals in the national economy, were not taken account of in determining the overall level of ML/TF risk in the country.

16. Also, regarding the financing of terrorism, the Authorities have not sufficiently considered the risk of local fund-raising actions that may be used to finance terrorist activities.

C. Overall Level of Effectiveness and Technical Compliance

17. Senegal has made some progress since the Mutual Evaluation conducted in 2007. Legislative and regulatory reforms have been made, including the adoption of the Counter Financing of Terrorism Law n° 2009-16 of 2nd March, 2009.

18. From the technical compliance viewpoint, major deficiencies have been noted due to the non-domestication of Directive No. 02/2015/CM/UEMOA of 2nd July 2015, relating to the fight against money laundering and the financing of terrorism in the Member States of the West African Economic and Monetary Union (UEMOA) and the non-compliance of AML/CFT legislations in force with the new FATF Recommendations of 2012.

19. From the effectiveness viewpoint, however, there is progress in raising the awareness of reporting entities in the banking sector on the large size of their role in the prevention of ML/TF, the intelligence analyzed by the FIU which led to the submission of reports to the Prosecutor's office with convictions, and relatively dynamic international cooperation. The key achievements in these areas need to be strengthened, while more substantial improvements are needed in the prevention and supervision of all other reporting entities, including the DNFBPs.

C.1: *Risk Assessment, Coordination and Policy Definition (Chapter 2 - IO.1; R.1, R.2, R.33)*

20. Senegal completed its National Assessment of ML/TF Risks in August 2017. The NRA process was coordinated by the CNC-LML/FT. The process was inclusive. The findings are broadly reasonable in that they reflect the key risks facing the country. The level of understanding of ML/TF risks in Senegal is relatively satisfactory but varies from one sector

to another. Financial institutions appear to be more aware of their AML/CFT obligations than DNFBPs.

21. With regard to money laundering, the predicate offences that constitute the key threats, the high risk sectors and associated vulnerabilities have been identified in the NRA.

22. Senegal is vulnerable to TF because it shares borders with four (4) countries, some of which are confronted with the phenomenon of terrorism, the existence of fundamentalist movements and the proliferation of associations and faith-based NGOs and there is the possibility of recruitment of foreign terrorist fighters in the country. Following the NRA, Senegal has developed an implementation action plan to address identified risks. However, the NRA has not yet had any impact on the legislative and regulatory provisions relating to enhanced or simplified CDD measures applicable to financial institutions and DNFBPs due to the fact that the action plan has not been implemented, as the decision-making process of the NRA had not been completed at the time of the on-site visit. Similarly, dissemination of non-confidential results to all stakeholders was not yet done.

23. Senegal has established a national AML/CFT coordination and cooperation framework. This co-ordination is mainly carried out within the framework of the activities of the AML/CFT Co-ordination Committee created by Order No. 05547 issued by the Minister of Economy and Finance of 23rd June 2010 published in the Official Journal No. 6554 of 6th November 2010. However, all the stakeholders were not at the same level of information and Senegal, as at the time of the on-site visit, had no National AML/CFT Strategy paper.

C.2: Financial Intelligence, ML Investigations, Prosecutions and Confiscation (Chapter 3 - IO.6-8; R.3, R.4, R.29-32)

Financial Intelligence

24. The Senegalese legislative framework provides the competent Authorities with a wide range of opportunities to access financial intelligence and other relevant Intelligence in ML/TF investigations, both to demonstrate the commission of the offence by identifying the perpetrator and to trace and locate the relevant assets.

25. The FIU generates intelligence of good quality on ML and TF. It uses databases, maintains cooperation with all national Authorities and its foreign counterparts that can provide additional intelligence. The FIU also carries out vulnerability analyses of the accountable sectors, which it disseminates to all the Authorities and interested persons. The Judicial Authorities informed the Assessors that some of the FIU reports transmitted to them are considered as too brief and therefore difficult to use in conducting investigations and prosecutions.

- **Money Laundering Investigations and Prosecutions**

26. Senegal, compared to other UEMOA countries, has a long AML/CFT experience (since 2004[3]). However, the various discussions with most investigative and Prosecutorial Authorities reveal that these agencies have limited resources to deal with the complexity of the financial channels used by criminals. The investigative and Prosecutorial Authorities need to be

[3] Date of establishment of the Senegal-FIU

strengthened to achieve more significant results. The number of prosecutions for ML is low compared to the high rate of predicate offences committed in Senegal. This is also the case with regard to the number of proceedings transmitted to the prosecutor's office by the traditional and special investigation units and the FIU.

27. The number of convictions for ML is average compared to the number of intelligence reports transmitted by the FIU to Prosecutorial Authorities. However, these convictions are often not followed by confiscation measures, and even where the latter are ordered, they are not systematically implemented. Similarly, prison sentences are low or suspended, which does not allow for effective, proportionate and dissuasive sanctions on conviction of ML. The convictions concern both cases of self-laundering and cases of third party money laundering. The scope of AML actions is limited by the lack at the national level of a coordination strategy between the investigation services and the Presiding Magistrates in prosecuting cases.

28. Similarly, during the on-site visit, it was noted that parallel financial investigations are not routinely conducted as part of investigations into predicate offences of ML. The Senegalese Competent Authorities met noted the existence of some deficiencies and expressed their determination to reinforce the prosecution of ML as a priority, particularly through the use of dual prosecutions and parallel investigations in all investigations of predicate offences of ML.

- **Confiscation**

29. The statistics provided by the Senegalese Authorities show the existence of seizure and confiscation decisions for ML offences. Since the first mutual evaluation in 2007, there have been five (5) court decisions ordering seizures and confiscations for ML, three (03)[4] of which have been fully executed in favour of the State. In the other cases, it was found that the confiscated asset was dissipated or that the Authorities believed that it was intact at the time of the seizure whereas it had already been dissipated.

30. In either situation, these antecedents highlight the lack of expertise of the relevant Authorities in the enforcement of confiscation orders. No case of confiscation of asset of equivalent value has been reported.

31. The criminal authorities have stated that it is a matter of honour for them to confiscate, but the intelligence provided does not enable them to ascertain the definition of coherent objectives in that regard. Similarly, the implementation of proactive and parallel financial investigations for the purpose of clearly identifying assets that may be confiscated could not be demonstrated. With respect to the Customs Authorities, confiscations are regularly made on the products available and easily identifiable. They often use the customs transaction to settle disputes involving seizures of funds in cross-border cash and bearer negotiable instruments. This practice is a violation of the AML/CFT requirements and could reduce the possibilities of confiscation in the matter. It has not been established that confiscation of cross-border cash is implemented as a deterrent for the supply of false information at the border. The customs authorities consider that section 16 of the uniform law n° 2014-12 of February 28th,

[4] These are the following cases: Case 1: Transfer of bank assets to the Treasury (643,181,577 F.CFA/980 520 Euros) and transfer of two buildings on behalf of the State of Senegal with an overall value of approximately 500 million F.CFA/(762 242 Euros (TF10600/GDKR and TF 2841 / GDKR) the administration of which is entrusted to the State Built Heritage Management Agency; Case 2: Seizure, confiscation and transfer of 34,878,607 F.CFA/53 172 Euros) to the State Treasury; Case 3: Confiscation of the proceeds of the offence (Issuance by the bank of a cheque of CFAF 14,260,310 in favor of the State Treasury).

2014 on the dispute of the infringements with the regulation of the external financial relations of UEMOA Member States stipulates that the transaction regularly concluded and entirely executed extinguish any prosecution or other action based on the same facts. They state that money laundering offences, which are not concerned by the customs transaction, may still give rise to subsequent legal proceedings.

32. Moreover, the slow pace of the proceedings may also be inimical to the confiscation measures as indicated above[5].

33. The Senegalese Authorities still have no complete and centralized statistics on:

- Seizures and confiscation of assets in Senegal and/or abroad (assets sharing);
- Confiscation relating to false intelligence or false declarations at the border (with the exception of Dakar airport);
- Amounts returned to the victims.

34. The execution rate of confiscation orders is very low.

35. In view of the foregoing, the Senegalese Authorities have stated that they scrupulously respect the rights of third parties in proceedings that may result in confiscation in accordance with their positive law. It should however be noted that the tendency for the Senegalese Authorities to consider that the compensation awarded to the victim would compensate for confiscations (which, when they occur, are systematically issued in favour of the Senegalese State) is problematic.

36. In the light of the foregoing, it is clearly difficult to assess the implementation level achieved in terms of confiscation as a national AML/CFT priority in the country.

C.3: Terrorist Financing and Proliferation Financing (Chapter 4 – IOs. 9-11; R. 5-8)

37. In its NRA, Senegal has mapped out risks related to terrorism and its financing. As at the time of the on-site visit, there was still no national CFT strategy to mitigate TF risks. The country has a legal and institutional framework[6] which should enable it to implement targeted financial sanctions issued by the United Nations Security Council (UNSC); though this legal framework is incomplete. The limitations include lack of an operational mechanism for the full implementation of UNSC Resolutions 1267 and 1373 and successive Resolutions.

38. With regard to NPOs, Decree 2015-145 of 4th February 2015, setting the terms and conditions for NPOs' intervention, includes provisions that allows for the implementation of the reporting obligations provided for by the CFT Act 2009-16. The Monetary and Credit Department actually receives the NPO declarations and transmits the required intelligence to the FIU, but these measures do not cover Associations. Though compliant with this reporting obligation, the implementation of the AML/CFT regime in this sector is weak due to insufficient awareness and supervision. The representatives of NPOs met during the on-site visit informed the Assessors that they had not participated in any awareness-raising activity on AML/CFT issues that could assist them as reporting entities to effectively combat terrorist

[5] Possibility for confiscated assets to lose value or disappear.
[6] Decree No. of 24 June 2010, on the implementation of Article 30 of the Uniform CFT Act 2009-16 of 2nd March, 2009

financing. None of them had submitted any STR to the FIU since 2014, and no inspection has been conducted within the sector.

39. Despite the lack of a specific legal framework, the fight against the financing of proliferation is carried out in Senegal by several agencies within the National Commission in charge of the Coordination of the fight against the proliferation of nuclear, biological and chemical weapons (COMNAT-NML). As at the time of the on-site visit, targeted financial sanctions were not being applied by financial institutions in the fight against proliferation. The inspection conducted or ordered to be conducted by the Supervisory Authorities of Financial Intermediaries on the implementation of targeted financial sanctions relating to proliferation are limited. Awareness-raising activities for economic operators (industrialists, import/export traders and transporters) are few.

C4: Preventive Measures (Chapter 5 - IO.4; Rs. 9-23)

40. Financial institutions in Senegal are required by laws to implement all AML/CFT requirements. Banks, including foreign affiliates, have put in place institutional risk assessment frameworks even before the NRA. Banks and insurance companies' subsidiaries of international groups have demonstrated a sound understanding of their ML/TF risks and have taken measures to mitigate these risks. Against this backdrop, they have generally adopted a risk-based approach in the implementation of AML/CFT measures. However, the application of risk mitigation measures is stricter in banks that are subsidiaries of foreign banks. In other financial institutions, the level of understanding of ML/TF risks is generally low or non-existent, particularly with authorized foreign exchange dealers.

41. Banking institutions generally understand their customer identification obligations on the basis of the risk-based approach (application of enhanced and simplified due diligence measures) and comply with record keeping requirements. They have appointed FIU correspondents and Compliance Officers. However, in practice, the application of CDD measures is weaker in non-bank financial institutions and the STRs are lower or non-existent. At all levels, identifying beneficial owners is a major challenge for all FIs.

42. Most DNFBPs do not understand their AML/CFT obligations; the implementation of preventive measures remains weak and is a major concern. Due to their generally high level of risk identified in the NRA, the DNFBPs sector is one of the weakest links in the national AML/CFT system and this has a negative impact on the effectiveness of the implementation of preventive measures in the financial sector in particular, and in Senegal's AML/CFT regime, in general[31].

43. Financial institutions, particularly banks, have put in place control systems that comply with regulatory requirements. These systems are more robust in subsidiaries of foreign banks than in other financial institutions.

44. The training, information and awareness-raising actions of the regulatory Authorities, the FIU and financial institutions themselves have helped to increase the understanding of foreign FIs and DFS and improved their compliance with the AML/CFT requirements. However, the lack of a designated AML/CFT regulator for DNFBPs as well as the low level of understanding of other FIs limit the support that would have been required to facilitate compliance.

45. In general, the legal and regulatory framework for preventive measures remain partially compliant with significant non-compliant requirements.

46. Professional secrecy is not an impediment for the competent authorities in the performance of their duties[7].

C5: Supervision (Chapter 6 – IO. 3; R.26 – 28; R. 34-35)

47. Regulatory and Supervisory Authorities of FIs have the most extensive AML/CFT powers. Offsite and on-site AML/CFT inspection powers are exercised more in banks and DFS[8] than non-bank financial institutions, even though the number of on-site AML/CFT inspections are low in all cases. The application of risk-based approach to AML/CFT supervision remains weak with the supervisory authorities. Sanctions applied are limited in banking financial institutions and almost non-existent in non-bank financial institutions.

48. Senegal has not yet designated any AML/CFT regulatory and supervisory Authorities for DNFBPs. The self-regulatory Authorities of these entities do not have any AML/CFT powers.

C6: Transparency of Legal Persons and Legal Arrangements (Chapter 7 – IO.5; R. 24-25)

49. The Senegalese positive law does not recognize trusts as legal entity and does not allow their establishment in Senegal. Information on the establishment and types of legal persons is available, at the request of the public, from the Registry of the High Court of Dakar (RCCM), the Agency for the Promotion of Investments and Major Works (APIX), the National Agency of Statistics and Demography (ANSD), Notaries' Chambers as well as Lawyers and Accountants.

50. When establishing banks and insurance companies, the associates are required to justify the origin of the funds, otherwise they will not be granted the license[9], which is a guarantee of protection of the financial system in Senegal.

51. However, it is clear from the NRA that legal persons constitute a sector with a high risk of ML/TF as there is no legal and institutional mechanism in the country for identifying beneficial owners of transactions and the real owners of legal persons. In addition, the application of AML/CFT measures by legal persons and legal arrangements is not effective or adequate. The Notaries met during the on-site visit informed the Assessors of their difficulties or even their inability to carry out in-depth checks on the beneficial ownership of legal persons.

52. The OHADA Uniform Act imposes the registration of legal entities and the identification of associated natural persons or directors of these legal entities at the Office of the Registrar General (RCCM). From this perspective, the incorporation of legal persons is subject to certain strict conditions, but they do not provide with certainty the guarantees of access to identification data of beneficial owners, insofar as this requirement is not taken account of in the organization of the RCCM. There is no section on beneficial ownership provided for in this Act. In addition, although the production of criminal records is a

[7] See provisions of Articles 34 of the AML Act and 27 of the CFT Act
[8] Responding to the provisions of Article 44 of DFS Regulations
[9] See Banking Act

requirement when incorporating legal persons in order to prevent criminals from abusing legal persons for ML/TF purposes, in practice, this requirement does not achieve the desired effect for the following reasons: the criminal record does not reflect all the criminal sanctions applied to the person; it is not automatically updated due to insufficient or updated information. These inadequacies can undermine the credibility of the information contained in the RCCM.

53. From the foregoing, it is clear that the identification of the beneficial owners of legal persons and legal arrangements remains a major challenge for Senegalese institutions in their quest for transparency in the financial system.

C7: International Cooperation (Chapter 8 - IO.2; R. 36-40)

54. In the area of mutual legal assistance, Senegal has a legislative, conventional (by treaties to which it is a party) and acceptable administrative framework providing for various cooperation mechanisms ranging from diplomatic channels to direct formal and informal relations between judicial Authorities. It shows a satisfactory level of activity for incoming and outgoing requests. Senegal's responses to requests for mutual legal assistance seem broadly satisfactory and timely. However, Senegal stressed the extreme apathy and lack of cooperation on the part of some requested countries.

55. Nevertheless, it appears there are several cases with trans-national ramifications for which Senegal has not resorted to mutual legal assistance. The Senegalese Authorities also pointed out, and rightly so, that the non-compliance of some of their rules of procedure with sacrosanct international standards, the right to a fair trial particularly the presumption of innocence as well as the guarantee of the right to defence, seriously hampers the mutual legal assistance that several countries could provide[10].

56. Investigative Authorities cooperate with their foreign counterparts through several channels. The Police, Gendarmerie, Customs and Revenue Authorities exchange intelligence on predicate offences, money laundering and terrorist financing through Interpol, the Organization of African Gendarmeries, the World Customs Organization and OECD. Several bilateral and multilateral agreements have been concluded by these stakeholders. The exchange of intelligence between the Investigating Authorities and their foreign counterparts is at an encouraging level.

57. However, Senegal's strict application of the principle of reciprocity and certain considerations of sovereignty and security in some respects limit the effectiveness of these intelligence exchanges. The Senegalese Authorities indicated that they also suffer from excessive delays in cooperation with certain countries. To overcome these delays, some informal mechanisms have been developed. For example, in the fight against drug trafficking, Senegal participates in various platforms for the exchange of intelligence.

58. The FIU is a Member of the Egmont Group, which is a platform for the exchange of intelligence among Member FIUs. It has also signed about 30 cooperation agreements with a view to facilitating exchanges with foreign counterparts. The FIU sends numerous requests for intelligence to its foreign counterparts and uses the intelligence obtained to enrich its analyses of suspicious transaction reports. It also responds to information requests. In this regard, it can serve as a channel for requesting information from reporting entities and correspondents on

[10] The CREI case which makes no provision for appeal on rulings delivered

behalf of any foreign FIU. Similarly, the Senegalese investigative and prosecutorial Authorities cannot request the FIU to assist them in obtaining information from foreign counterparts.

D. Priority Actions

59. In the light of the above findings, the priority actions recommended for Senegal are as follows:

- The Senegalese Authorities should adopt a national AML/CFT strategy paper as well as the NRA report and disseminate the non-confidential findings to private sector stakeholders for them to take account of in developing their AML/CFT programmes;
- The AML/CFT Coordinating Committee should undertake more awareness-raising programs to ensure that AML/CFT stakeholders, including DNFBPs, have a thorough understanding of ML/TF issues;
- Senegal should domesticate UEMOA Directive No. 02/2015/CM/UEMOA, on the fight against money laundering and terrorist financing in Member States of the West African Economic and Monetary Union (UEMOA);
- Senegal should designate competent Authorities to monitor and supervise DNFBPs and establish appropriate sanctions for violation of AML/CFT obligations;
- The Monitoring and Supervisory Authorities should improve the level of on-site inspections of financial institutions on the specific AML/CFT aspect and apply appropriate sanctions for violation of AML/CFT requirements;
- Senegal should strengthen the capacity of judicial Authorities and AML/CFT investigators (parallel financial investigations and asset investigations) and ensure that magistrates and investigators from the specialized anti-terrorist pool are exclusively dedicated to AML/CFT related matters;
- Senegal should ensure that Customs and Revenue Authorities have the competence to conduct ML/TF investigations related to customs and tax offences and also ensure that national courts apply commensurate sanctions;
- Senegal should create a Registry of Beneficial Owners with a legal regime that takes account of the RCCM and improve on criminal record keeping in relation to AML/CFT requirements;
- Senegal should improve international cooperation, including response deadlines to foreign requests, through revising its relevant legal frameworks, providing additional resources and building the capacities pf the competent authorities, setting up a case management and monitoring mechanism,and boosting collaboration with the countries concerned.

E. Effectiveness and Technical Compliance Ratings

Level of Effectiveness

IO.1 - Risk, Policy and Coordination	**IO.2 -** International cooperation	**IO.3 –** Supervision	**IO.4 -** Preventive measures	**IO.5 -** Legal persons and legal arrangements	**IO.6** Financial Intelligence

Low	**Low**	**Low**	**Low**	**Low**	**Moderate**
IO.7 - Money Laundering Investigations and Prosecutions	**IO.8 -** Confiscation	**IO.9 - Terrorist Financing Investigations** and Prosecutions	**IO.10** Preventive Measures and Financial Sanctions for Terrorist Financing	**IO.11 -** Financial sanctions for proliferation financing	
Low	**Low**	**Low**	**Low**	**Low**	

Level of Technical Compliance (C = Compliant; LC = Largely Compliant; PC = Partially Compliant and NC = Non-compliant)

Recommandations	**R.1-**	**R.2**	**R.3**	**R.4**	**R.5**	**R.6**	**R.7**	**R.8**	**R.9**	**R.10**
Ratings	PC	LC	LC	PC	PC	NC	NC	PC	C	PC

Recommandations	**R.11**	**R.12**	**R.13**	**R.14**	**R.15**	**R.16**	**R.17**	**R.18**	**R.19**	**R.20**
Ratings	LC	NC	NC	LC	PC	PC	PC	PC	NC	C

Recommandations	**R.21**	**R.22**	**R.23**	**R.24**	**R.25**	**R.26**	**R.27**	**R.28**	**R.29**	**R.30**
Ratings	C	PC	PC	PC	NC	PC	C	NC	LC	LC

Recommandations	**R.31**	**R.32**	**R.33**	**R.34**	**R.35**	**R.36**	**R.37**	**R.38**	**R.39**	**R.40**
Ratings	PC	LC	PC	PC	PC	PC	C	PC	LC	LC

MUTUAL EVALUATION REPORT OF SENEGAL

Preamble

1. This report summarizes the AML/CFT measures in force in Senegal as at the time of the on-site visit. It analyzes the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the Senegalese AML/CFT regime, and proffers recommendations on how the system could be enhanced.

2. This evaluation is based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. The evaluation was based on information provided by Senegal and information obtained by the assessment team during its on-site visit to the country from 18th September to 4th October, 2017.

3. The evaluation was conducted by an Assessment Team comprising of:

- Mohamed Lamine CONTE, Director of Banking Supervision at the Central Bank of the Republic of Guinea (Financial Expert,);
- Ali IDI, Secretary General, Niger-FIU (Financial Expert);
- Jean Abossuwe ANADE, Chief Police Commissioner, Director of Financial Intelligence at the Togo-FIU (Law Enforcement/Operational Expert);
- Cyprien DABIRE, Magistrate, Head of the Department of Legal and Institutional Affairs at the Burkina Faso-FIU (Legal Expert);
- Fulgence Leba DIECKET, Magistrate, Head, First Cabinet, Ministry of Justice of the Republic of Côte d'Ivoire (Legal Expert).

4. The team was supported by the GIABA Secretariat represented by Dr. 'Buno NDUKA, Director of Projects and Programmes; Benoît Djaha KONAN, Law Enforcement Officer; Gina WOOD, Legal Officer; Karnon LOFIGUE, Programme Officer and Yacuba SESAY, Translator/Interpreter.

5. The report was reviewed by: Robert TONDE (Operational Expert), Technical Advisor to the Minister of Economy, Finance and Development of Burkina Faso; and Cyriaque Édouard DOSSA (Legal Expert), Magistrate, Ministry of Justice, Benin Republic.

6. Senegal underwent a GIABA Mutual Evaluation in 2007, conducted according to the 2004 Methodology. The 2008 MER and subsequent Follow-up Reports (2009 to 2016) have been published and are available at the following address: www.giaba.org.

7. That Mutual Evaluation concluded that Senegal was Compliant (C) on six (6) Recommendations; Largely Compliant (LC) on thirteen (13) Recommendations, Partially Compliant (PC) on sixteen (16) Recommendations, Non-Compliant (NC) on twelve (12) Recommendations and Not Applicable (NA) on two (02) Recommendations.

8. Senegal was rated "Compliant" or "Largely Compliant" on 7[11] of the 16 Core or Key Recommendations. Senegal was on the expedited regular follow-up process from 2010 to 2016. However, some deficiencies were identified with regard to preventive, legal framework measures, and national and international cooperation.

9. Most of these deficiencies were expected to be resolve by the domestication of Directive No. 02/2015/CM/UEMOA, on the fight against money laundering and terrorist financing in Member States of the West African Economic and Monetary Union (UEMOA).

[11] R.1, R.10, R.3, R.4, R.26, R.36, R.40

CHAPTER 1. MONEY LAUNDERING AND TERRORIST FINANCING RISKS AND CONTEXT

1. Senegal is located in the extreme west of Africa, between 12° and 16° 41 N latitude and 11° 21 and 17° 32 W longitude. Its capital is Dakar. It covers an area of 196,722 km². Demographically and according to the results of the 2013 General Population and Housing, Agriculture and Livestock Census (RGPHAE), Senegal has 13,508,715 inhabitants, a density of 69hbt/km². In addition to the Gambian enclave, Senegal shares borders in the North with Mauritania, in the East with Mali, in the South with Guinea-Bissau and Guinea.

2. Senegal's GDP stands at about US$ 14,765 billion (fourteen thousand seven hundred and sixty-five billion US dollars) according to World Bank estimates in 2016[12]. Senegal is the second largest economy in the UEMOA region. Senegal's economy is driven by mining, industrial construction and real estate, tourism, fishing and agriculture, which are the key sources of employment in rural areas. Senegal is a centralized State and a constitutional democracy characterized by the separation of powers. The Constitution of Senegal, adopted on 3rd March 1960, has been revised several times[13]. The Executive power is exercised by a President and Head of State elected through direct universal suffrage for a period of five (5) years renewable once. The President is assisted by a Government, comprising 33 Ministers including 7 women[14], headed by a Prime Minister. Legislative power is exercised by the Parliament whose Members are elected for a renewable five (5) year term. There are 165 Parliamentarians, 41% of whom are women, i.e. 64 women. Judicial power is exercised by the Constitutional Council, the Supreme Court, the Court of Auditors and the Courts and Tribunals.

3. In addition to the Central Government, the country comprises three (3) administrative levels consisting of regions, departments and communes. These strata operate on the principle of decentralization: the central administration gives up certain powers for the management of local affairs to the decentralized Authorities. Judicial administration is the responsibility of the central government and the Supreme Council of Magistrates.

4. The AML/CFT regime in Senegal is based on an original legal framework established in accordance with the provisions of the UMOA and UEMOA Treaties. Under these provisions, the AML/CFT regime is implemented at Community level and then transposed into the national/domestic AML/CFT legal framework by each UEMOA Member State, in line with procedures of the two founding Treaties. This legal framework systematically incorporates international norms and standards, including the FATF Recommendations and UN Security Council Resolutions, as well as the international conventions to which the country is a party, including its regional commitments within the framework of the ECOWAS and African Union.

5. Senegal is a Member of the West African Monetary Union (UMOA), the West African Economic and Monetary Union (UEMOA), the Economic Community of West African States (ECOWAS), the Inter-Governmental Action Group Against Money Laundering in West Africa (GIABA), the Organization for the Harmonization of Business Law in Africa (OHADA), the Inter-African Conference of the African Markets Insurance (CIMA), the Regional Council for

[12] *https://donnees.banquemondiale.org/pays/senegal (consulted on 11 November 2017).*

[13] The Senegalese Constitution has been revised 37 times from 1960 to 2012, according to a study by Professor Ismaila Modior Fall

[14] As at the time of the On-site Visit

Public Savings and Capital markets (CREPMF), the Franc Zone, the African Union (AU) and the United Nations (UN).

ML/TF Risks and Scoping of Higher Risk Issues

6. This part of the MER summarizes the risk assessment team's understanding of ML/TF in Senegal. It is based on documents provided by Senegal, including the National Risk Assessment (NRA) report, documents publicly available, as well as discussions with the Competent Authorities and the private sector during the on-site visit.

a) Overview of ML/TF Risks

7. Senegal is exposed to a range of ML and TF risks. The geographic location, the predominantly cash-based economy, the large size of the informal sector, and the porous land and sea borders are some of the country's ML/TF vulnerabilities. Senegal is also exposed to cross-border flows that can drain off illicit flows of funds and illicit trafficking of all kinds. Deficiencies in AML/CFT policies, strategy and legislation increase the country's vulnerability.

8. The ML threat is characterized by a range of predicate offences that attract attention because of their recurrence or the amount of profits generated. According to the NRA, the most common predicate offences are fraud, customs offences, scams, cybercrime, tax evasion, misappropriation of public funds, corruption and drug trafficking. The combination of these vulnerabilities and threats led to the conclusion that the ML risk is high in Senegal, which involves more or less huge ramifications depending on the sectors analyzed. The sectors most exposed to ML/TF risks are the real estate and other DNFBPs. The risks are not adequately managed because of the inadequate or lack of supervision and regulation of the sectors. The insurance sector and financial inclusion are considered as areas of low risk.

9. The TF risk is real according to the Senegalese Authorities. Senegal is being used as an outpost for both recruitment of terrorists and for financing of terrorism. Terrorist financing cases reported[15] relate to receipts of funds to finance recruitment and travel to areas of operation of terrorist fighters. Threats of TF are characterized by Senegal's proximity to countries where terrorism occasioned by religious extremism is prevalent. The lack of comprehensive legal framework, the weak controls at porous borders, the free movement of persons and goods in the sub-region constitute the key vulnerabilities of Senegal to terrorist financing risks.

b) Country Risk Assessment and Scoping of Higher Risk Issues

10. In its 2017 National ML/TF Risk Assessment, Senegal presents for the first time a consolidated and cross-country analysis of threats and vulnerabilities in the country, which facilitates a global and specific assessment of ML/TF risk. This exercise was conducted within the framework of the National Coordinating Committee against Money Laundering and Terrorist Financing (CNC-LBC/FT) established in 2010. The Committee is responsible for formulating policies for the improvement of the national AML/CFT regime. Under the NRA, the committee is responsible for monitoring the implementation of the action plan to mitigate ML/TF risks.

[15] A case in which 31 alleged Jihadists are being prosecuted for "acts of terrorism and terrorism financing"

11. The ML/TF risk assessment process was based on a broad and open approach. It was carried out by collecting data from various sources (Ministerial departments, Financial Intelligence Unit, private sector entities, etc.), collecting information using questionnaires, conducting interviews with public and private stakeholders, consulting public and open-source documents, including studies conducted in Senegal by regional and international bodies.

12. Data analyses was carried out by sectoral teams from all sectors directly or indirectly involved in AML/CFT. The composition of the sector teams reflected areas of focus of each sector.

13. The conclusions of the NRA are generally adequate, notwithstanding the reservations that may be made about the level of risk attributed to certain sectors. The approach adopted for the assessment of certain sectors is restrictive, given the large size of certain sectors in the national economy, including manual foreign exchange dealers, real estate agents and dealers in precious metals and precious stones. These major challenges were not considered in determining the risk level of the sectors concerned. With regard to the financing of terrorism, the Senegalese Authorities have not sufficiently considered the risk of local collection of funds likely to be used in financing terrorist activities.

14. The nature and level of risks for the AML/CFT sectors have been examined and measured and generally appear to reflect the reality of the inherent risks.

15. The Assessors have identified in the scoping note several issues requiring increased attention during the on-site. They reviewed the National Risk Assessment Report and noted available information particularly on the legal and institutional environment, and the country's ML/TF background, including areas of vulnerability, in general. The following issues were in the scoping note submitted to Senegal before the on-site visit and were extensively discussed with the AML/CFT stakeholders during the visit:

- **Economic Crimes and Offences:** offences that constitute the greatest AML/CFT threats, coordination of investigations and prosecutions related to these offences, level of confiscation following prosecution for such crimes and offences, and maintaining relevant statistics.
- **DNFBPs**: ML/TF risk level in the DNFBP sector, Supervision and Regulation of the Sector, Level of Understanding of ML/TF risks by sector stakeholders; implementation of the risk-based approach to AML/CFT compliance.
- **Supervisory Authorities of Financial Institutions:** monitor the level of compliance with the AML/CFT obligations by risk-based reporting entities (particularly money or value transfer services, authorized foreign exchange dealers, issuers of electronic money and capital markets), promoting a thorough understanding by financial institutions of their AML/CFT obligations and ML/TF risks, application of effective, proportionate and dissuasive sanctions.
- **Terrorist Financing:** Level of awareness of Non-profit Organizations (NPOs), Frequency of inspection and supervision of the NPO sector, and all preventive measures and sanctions; implementation of UNSC Resolutions on foreign terrorist fighters; understanding and mitigating ML/TF risks related to inbound and outbound cross-border transportation of cash and bearer negotiable instruments (BNIs).

- **Financial Intelligence and FIU: C**ooperation between the FIU and the supervisory/regulatory and judicial Authorities; appropriate use of financial intelligence and any other relevant intelligence by competent authorities.
- **Transparency of legal persons and beneficial ownership information:** procedure for the establishment of legal persons, access to information on beneficial owners of legal persons by competent authorities.
- **National Coordination and International Cooperation:** Identification, assessment, and **understanding** at national level of ML/TF risks; AML/CFT coordination policy and strategy; level of international cooperation and other forms of cooperation.

Elements of specific importance (Materiality)

16. The Senegalese economy is one of the five largest economies in the West African sub-region in terms of Gross Domestic Product (GDP) Senegal is a lower-middle-income country with an economy focused on the service sector (tourism and hotels, financial services and telecommunication), agriculture, fisheries, extractive industries and trade. Trade (imports and exports) is directed towards countries in Europe and Asia. These exchanges are marked at the sub-regional level by the circulation of local products and re-export. The extractive industry is characterized by phosphate mining and, to a lesser extent, gold. Gold mining is largely artisanal. The formal economy is held by a small number of companies: a study carried out by the National Agency for Statistics and Demography (ANSD) indicates that 240 companies create 95% of the value added of the formal sector and less than 100 represent 95% of tax revenues (including 30% for the telecoms sector)[16].

17. The Senegalese economy is characterized by a large informal sector. The informal sector's share of Senegal's GDP stood at 47.5% in 2014[17].

18. The financial sector is dominated by credit institutions while decentralized financial systems (DFS) have grown considerably over the past two decades. The banking sector is characterized by the presence of large international groups. The analysis of the banking sector presents a picture of under banking (about 1,391,205 of bank account holders despite the presence in 2015 of 24 banks[18]. In recent years, Senegal has witnessed a remarkable rise in electronic payment methods following the development of mobile telephones.

19. The use of cash as a means of payment is widespread in Senegal, involving all types of transactions and expenses: payment of bills, purchase of consumer assets such as vehicles, real estate, payment of debts, and alternative remittance systems ("Hawala") are widely used. Illegal manual foreign exchange activity is also conducted.

20. Senegal has a significant number of DNFBPs operating in several sectors identified by the NRA as vulnerable to ML/TF. These include legal and accounting professionals involved in the incorporation of legal persons, professionals in the real estate, dealers in gems and precious metals. Supervision of DNFBPs in Senegal is either weak or non-existent.

[16] NRA Report, page 50
[17] Idem
[18] Idem, page 61

21. The NPO sector represents a major challenge for Senegal in its fight against money laundering and more in the fight against the financing of terrorism. Many of these organizations operate as NPOs without prior approval. These NPOs carry out several social services and especially in the religious related issue which has facilitated in recent years the expansion of extremist movements that can be used as breeding grounds for the radicalization of youths. With the enactment of Decree N° 2015-145 of 4th February 2015 on the intervention modalities for NPOs, Senegal should thoroughly understand the financing chain of NPOs (origin and destination of the funds). Supervision of the sector is weak because of the inability of the supervisory authorities to cover all accountable institutions.

22. Senegal is in the ECOWAS region characterized by free movement of people, goods and services. The threshold for the declaration of physical cross-border transportation of cash and bearer negotiable instruments (BNIs), to competent authority in any UMOA Member State, at the point of entry or exit is Five million CFA francs (about 7600 euros)[19]. In view of its geographical location and its political stability, Senegal is a financial hub thereby leading to preponderance of physical cross-border transportation of cash.

23. Senegal is also known for its large diaspora population who regularly remit huge amounts of money to their families back home[20].

Structural Elements

24. Senegal has in place the required structural elements for the implementation of effective AML/CFT measures. Despite the Casamance region's demand for independence, there appears to be peaceful solution in recent years. Thus, Senegal enjoys strong political stability characterized by a transparent democratic system and a high level political commitment to AML/CFT issues. Senegal is one of the first GIABA Member States to commence implementation of international AML/CFT measures. Senegal has stable institutions based on principle of accountability and observes the rule of law.

Background and other contextual factors

25. Senegal is one of the countries cited as examples of good governance in the West African sub-region. In 2016, the country was ranked 10th out of 54 by Mo Ibrahim Index of African Governance. In the ranking of Transparency International Corruption Perception Index, Senegal is 67th out of 167 and is among the handful of countries that have been making constant progress since 2012[21].

26. Senegal has made the fight against corruption and the misappropriation of public funds a priority. It has reactivated the Court for the Repression of Illicit Enrichment (CREI), which has tried several cases involving Politically Exposed Persons (PEPs). The most critical one is K.W case that resulted in a prison sentence and some confiscations, the executions of which were ongoing at the time of the on-site visit. Several other cases are pending before the competent courts.

[19] Directive No.008-09-2017 setting the declaration threshold for the physical transportation of cash and bearer negotiable instruments;
[20] Senegal-FIU Study alternative money transfers;
[21] Emerging Senegal 2012-2017 the great leap, page 28;

27. The establishment of OFNAC[22] authorized to receive asset declarations from accountable persons[23] is another indication of the country's commitment to improving its governance.

28. In 2012, Senegal joined the Global Forum on Transparency and Exchange of Information for Tax Purposes. In February 2016 Senegal signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters of the OECD thus becoming the 11th African country as at the date of signature of the Convention.

29. On 1 July 2014, the UMOA Council of Ministers agreed, in principle, for the implementation of the US *"Foreign Account Tax Compliance Act (FATCA)"* within the Union. An MoU is expected to be submitted shortly to Member States, including Senegal, for signature. As at the time of the on-site visit, only banks affiliated to foreign groups indicated that they actually apply the said Act (FATCA).

a) AML/CFT Strategy

30. Up to the time of the visit, Senegal did not have an official AML/CFT strategy document. However, since 2002, Senegal's AML/CFT policy has been derived from the supranational policy of promoting economic and financial stability and protecting the integrity of the financial system of UEMOA Member countries. The main thrusts of this policy are prevention and repression through international cooperation.

31. The specific issue of terrorist financing is handled in the national anti-terrorism programme incorporated into the national security policy. At sub-regional level (UEMOA/ECOWAS), the issue of terrorism, including its financing, is provided for by supplementary Acts[24].

32. In order to fine tune its AML/CFT Strategy, Senegal has carried out a National Risk Assessment (NRA), the report of which includes an action plan that outlines the issues the country intends to tackle in order to mitigate the identified ML/TF risks. This three-year action plan (2017-2019) hinges around three axes: the comprehensiveness of the legal framework, the mechanism for implementing the freezing and confiscation measures, and the efficient framework for national AML/CFT cooperation and coordination. The implementation of this action plan had not commenced at the time of the on-site visit. The Senegalese Authorities indicated that they would start implementing it in November 2017.

b) Legal and Institutional Framework

33. At the UEMOA Community level, the legislative framework consists of:

- Regulation No.14/2002/CM/UEMOA relating to the freezing of funds and other financial resources in the fight against terrorism financing in Member States of the West African Economic and Monetary Union (UEMOA);

[22] Law No.2012-30 of 28 December 2012, on the establishment of OFNAC
[23] Article 2-Law No.2014-17 of 2nd April 2014 on asset declaration
[24] Additional Act No.04/2013/CCEG/UEMOA instituting the common UEMOA policy in the area of peace and security and Supplementary Act A/SA.3/02/13 of 23rd February 2013, on the adoption of the ECOWAS Counter Terrorism Strategy and Implementation Plan

- Directive No. 07/2002/CM/UEMOA on the fight against money laundering in Member States of the West African Economic and Monetary Union (UEMOA);
- Directive No. 04/2015/CM/UEMOA on the fight against the financing of terrorism in the Member States of the West African Economic and Monetary Union (UEMOA);

34. These Directives have been merged and replaced by Directive No. 02/2015/CM/UEMOA relating to the fight against money laundering and terrorist financing in Member States of the West African Economic and Monetary Union (UEMOA). As at the time of the on-site visit, Senegal had not domesticated the latter Directive, which should have been transposed into the domestic legal framework of each Member State within six months of its adoption by the UEMOA Council of Ministers on 2nd July 2015.

35. With regard to Senegal's legal framework against money laundering and terrorist financing, it includes the instruments for the transposition of the first two Directives referred to above, namely:

- AML Act No. 2004-09 of 6th February 2004, as an instrument for the transposition of Directive No. 07/2002/CM/UEMOA on the fight against money laundering in Member States of the West African Economic and Monetary Union (UEMOA);
- Uniform Law 2009-16 of 2nd March 2009, on Counter Financing of Terrorism (CFT), as an instrument for the transposition of Directive No. 04/2015/CM/UEMOA on the fight against the financing of the terrorism in Member States of the West African Economic and Monetary Union (UEMOA).

36. These two Laws have been merged and thoroughly reviewed to reflect the amendments made to the FATF Recommendations in 2012 by UEMOA Law known as the Uniform AML/CFT Act which had still not been domesticated by Senegal as at the time of the on-site visit.

37. It should be noted that since 2016, Senegal has amended its Penal Code and Criminal Procedure Code to take account of certain developments relating to AML/CFT issues, including the criminalization of terrorist acts; effective procedure for seizure and confiscation of assets; the establishment of an anti-terrorism unit at the High Court of Dakar and the extension of the 96-hour terrorism detention period, renewable twice, totalling 12 days[25].

38. With regard to the AML/CFT institutional framework, Senegal essentially has the following institutions:

- The Ministry of Economy, Finance and Planning has a Directorate for the Regulation and Supervision of Decentralized Financial Systems (DFS).
- The Ministry of Justice defines and conducts criminal policy and manages issues related to international judicial cooperation, including mutual legal assistance and extradition.
- The Ministry of the Interior and Public Security regulates NPOs and Casinos and coordinates the action of the National Police, which has expertise in ML/TF investigations and predicate offences to ML including terrorism and its financing.

[25] *Law n°23/2016 amending Law n°65-61 of 21 July 1965 establishing the Code of Criminal Procedure, Article 677.28*

- The National AML/CFT Coordinating Committee is an Inter-ministerial body where all AML/CFT stakeholders meet periodically to provide strategic direction to the AML/CFT policy. It is this Committee that drives the NRA process.
- The Financial Intelligence Unit of Senegal is an Administrative type. The FIU is operationally independent and autonomous, having the authority and capacity to carry out its functions. The FIU is responsible for collecting, analysing and disseminating financial intelligence on money laundering channels[26] and financing of terrorism to the appropriate competent authority.
- The BCEAO and the UMOA Banking Commission regulate and supervise credit institutions. CIMA and the National Insurance Authority are in charge of supervising the insurance sector. The monitoring of capital markets is carried out by CREPMF.
- The investigative and prosecutorial Authorities include the National Gendarmerie and the National Police with specialized units responsible for the fight against terrorism or certain predicate offences to ML, such as cybercrime; the Customs Department and the Revenue Authority, which have jurisdiction over tax, customs and foreign exchange offences (cross-border physical transportation of cash). Criminal proceedings are brought before the courts, the Courts of Appeal and the Supreme Court of Senegal. The Senegalese justice system comprises specialized jurisdictions including the Court for the Repression of Illicit Enrichment –CREI (1981), an anti-terrorist division (2016) at the Dakar High Court.

c) Financial Institutions and Designated Non-Financial Businesses and Professions

39. Senegal's financial sector consists of the following financial institutions:

- Credit institutions, including banks;
- Postal Financial Services;
- Public Deposit Fund or representative bodies;
- Insurance and Reinsurance Companies, Insurance and Reinsurance Brokers;
- Mutual institutions or savings and credit cooperatives, as well as autonomous or cooperative structures or organizations whose purpose is to collect savings and/or grant credit;
- The Regional Stock Exchange (BRVM);
- The Central Depository/Settlement Bank;
- Management and Intermediation Companies (SGI) ;
- Asset Management Companies (SGP);
- Collective Investment Institutions in Securities (UCITS);
- Fixed Capital Investment Firms;
- Authorized Foreign Exchange Dealers.

[26] Article 17 of CFT Act No.2004-09 of 6th February 2004

40. The banking sector is the largest, the best organized and the most structured sector among the financial institutions in Senegal. It represents 88.6% of the total balance sheet of the Senegalese financial sector. As at 31st December 2015, Senegal has twenty-four (24) banks including four (4) banks with national capital and twenty (20) banks subsidiaries or branches of foreign banks; all made up of a network of 388 branches.

41. Banks, including subsidiaries or branches of foreign banks, represent 83.3% of the total balance sheet of banks in Senegal. The foreign banks are dominated by banking groups from Morocco, France, Nigeria and Libya.

42. As at end of December 2015, Senegal had three (3) financial institutions, including two (2) leasing companies. They deal in the sale and financing of credit sales, leasing and factoring. These institutions maintain a network of eight (8) branches and have a cumulative balance sheet of CFA 157 million (equivalent of US$ 286 000 or €239 344 Euros).

43. In Senegal, agencies operating in the microfinance sector include mutual or cooperative savings and credit institutions, as well as autonomous or cooperative organizations whose purpose is to collect savings and/or grant credit.

44. Microfinance is experiencing considerable development with a fairly comprehensive network nationwide. The country has 387 microfinance institutions for a network of 626 branches and a total balance sheet of FCFA 428 million (equivalent to 652 484 euros) as at 31st December 2016. It provides specific services for the underserved in the informal sector, especially women.

45. The insurance sector includes insurance and reinsurance companies, insurance and reinsurance brokers. Senegal has thirty (30) insurance companies, including eleven (11) in Life Insurance and 19 in Non-life Insurance/other insurances, distributed in 09 groups, with a network of 66 insurance/reinsurance brokers. The insurance sector, dominated by foreign groups, has a turnover of CFAF 140 billion.

46. As at 31st December 2016, there were 450 registered foreign exchange bureaux and 18 money transfer companies in Senegal. The money or value transfer service sector is marked by a proliferation of unauthorized operators, but its size was not captured by the NRA.

47. According to the NRA, as sourced from the CREPMF, the Senegalese capital market currently has 36 operators, including 4 SGIs. These operators, mostly subsidiaries of banks and insurance companies, include: SGI, SG OPCVM, OCP and SICAV.

48. The DNFBP sector, comprising entities of various sizes, is diversified and distributed countrywide. It includes Casinos (4), a national lottery company, NGOs (20,239), legal professionals (469, including 363 lawyers), accounting professionals (403), car dealers (16), real estate agents and developers (500) and dealers in precious metals and stones (87).

49. The NRA identified the DNFBP (including the hotel sector, real estate, legal and accounting professions) as a moderately high risk sector.

50. The information provided by Senegal on the type, size and number of reporting institutions in Senegal is presented in the table below.

Table 1: Type, size and number of reporting entities in Senegal

Type of Institutions		Number		Number of agencies	Total balance sheet (in millions of XOF)
		S/Total	Total		
Core FI Principles					
Banks	Banks with national capital	4	**24**	**388**	**5390038**
	Banks / subsidiaries or branches of foreign banks	20			
Securities (Brokers, Dealers and Portfolio Managers)			**4**		
Insurance	Life insurance	10	**29**	**9**	**120.000**
	Non-life insurance/other insurance companies	19			
	Insurance and Reinsurance Brokers	61			
Other Financial Institutions					
Micro-finance Institutions			**387**	**626**	**428.000**
Financial institutions (including leasing: 2)			**3**	**8**	**146514**
Foreign exchange bureaus			**450**		
Rapid money transfer companies			**18**		
Pension and social security fund			**2**		
DNFPBs					
Casinos and gaming companies	Casinos		**4**		
	Lotteries and other games of chance		**1**		
NPOs	Associations		**18,985**		
	Political parties		**282**		
	Unions		**410**		
	NGOs		**562**		
Legal Professionals	Notaries		**51**		
	Court bailiffs		**55**		
	Lawyers (subject to AML/CFT obligations)		**363**		
Auditors/Accountants/Tax Advisors			**403**		
Car Dealers			**16**		
Real estate developers and agents			**500**		
Dealers in precious stones and metals			**87**		

d) Preventive Measures

51. The preventive AML/CFT measures applicable to reporting entities in Senegal are governed by AML Act No. 2004-09 of 6th February 2004and the Uniform CFT Act 2009-16 of 2nd March 2009. Directive No. 02/2015/CM/UEMOA on combating money laundering and terrorist financing in UEMOA Member States, adopted by the Council of Ministers on 2nd July 2015, has transposed the revised FATF 40 Recommendations of 2012. Each UEMOA Member

State was expected to domesticate it into its national AML/CFT Acts within six months of its adoption. However, as at the time of the on-site visit, Senegal was yet to domesticate the said Directive.

52. The legislations in force cover certain provisions relating to suspicious transaction reporting requirements, record keeping, the implementation of fixed-term contracts and the ML/TF risk assessment. The regulatory framework also sets out the obligations of reporting entities in implementing preventive measures. This implementation level is higher among FIs than in the DNFBP sector.

53. The legislative and regulatory framework has had a positive impact on the level of awareness, understanding and implementation of AML/CFT preventive measures, particularly in the financial sector. However, this framework has not yet been revised to take account of the outcomes of the NRA. The accomplishment of this task would enable the country to adopt a more flexible set of measures in order to allocate their resources more efficiently and apply preventive measures proportionate to the nature of the identified risks, with the aim of optimizing their efforts. Furthermore, there are still no designated Authorities for the regulation, supervision/monitoring of DNFBPs.

e) Legal Persons and Legal Arrangements

Legal Persons

54. As noted in the NRA, Senegal has a fairly good understanding of the vulnerabilities related to the misuse of legal persons for ML/TF purposes. This understanding is however limited because of the recent nature of this NRA.

55. Senegal is a signatory to the OHADA Treaty which establishes the Uniform Acts, which are directly enforceable in Member States. As a result, the company law consists mainly of the Uniform Act on Business Companies and Economic Interest Grouping (EIG) concurrently with the Civil and Business Obligations Code (COCC), as appropriate.

56. Under the provisions of the Uniform Act, several types of companies (see Table 2 below) can be created in Senegal, namely the public limited liability company (PLC), the simplified joint-stock company, sole proprietorship or joint venture, limited liability partnership, cooperative societies, Joint partnership company (SNC), simplified joint stock company, joint-stock company; though the latter, because of the wish of its founders, cannot not be registered with the Office of the Trade and Credit Registrar (RCCM), and therefore not accorded a legal personality. Registration in the RCCM is a *sine-qua-non* for the establishment of legal persons in both the OHADA law and Senegalese law. This form of Business Company poses a problem of transparency beyond other companies, even though they represent a low proportion of legal persons in Senegal (out of a total of 78 962 legal persons, only 21 companies representing .026 percent, participated). A distinction should be made between corporations and partnerships, and then joint partnerships.

Table 2: Types of Legal Persons in Senegal

Types of Legal Persons	*Number Registered*
Limited company (SA)	**4250**
Limited Partnership (SCS)	**4**

Limited Liability Company (LLC)	**27 368**
Sole Proprietor Liability Company (SURL)	**9 135**
Simplified Joint Stock Company (SAS)	**482**
Variable capital	
Civil society	**614**
Cooperative Society	
Joint Partnership Company (SNC)	**25**
Economic Interest Groupings (GIE)	**37062**
Circumstantial Companies	
Joint ventures.	**21**

57. In addition to these legal business entities provided for by the Uniform Act, there are Economic Interest Groupings (EIGs), which are intermediate groups between the company and the associations, designed to facilitate cooperation between companies and to enable them to provide certain common services (e.g. in market prospecting).

58. Business companies are required to file within two (2) weeks, from the date of signature of the Statutes, a copy of the Articles of Association at the Registry of the locally competent Court. An extract of such Articles is published in a legal newsletter. While the registration is done at the RCCM, it is also important to underscore the existence of cooperative societies as well as civil societies.

Legal Arrangements

59. Senegal has not ratified the Hague Convention on the Law Applicable to Trusts and its recognition, July 1st 1985. However, Article 5 of the 2004 AML Act, makes members of the independent legal profession accountable where they represent or assist customers outside any legal process, particularly in activities carried out by Trust Funds or similar structures. At the time of the on-site visit, the Assessors were not informed of the existence of any Trust or similar legal arrangements in line with the FATF definitions and requirements.

f) Supervisory Arrangements

60. In Senegal, the supervision of financial institutions for AML/CFT compliance is the responsibility of the Community and National Authorities listed below by type of institution. The authorities have sufficient powers to undertake both off-site and on-site inspections, and to ensure supervision to facilitate compliance with AML/CFT measures by the financial institutions. Applicable sanctions in the event of non-compliance are provided for in the AML/CFT Acts and supplemented by specific sectoral regulations.

Table 3: Licensing, Regulatory and Supervisory Authorities of FIs in Senegal

Type of financial institutions	License issuing authorities	Prudential supervisory authorities	AML/CFT Supervisory authorities
Banks and financial institutions	Directive : BCEAO and Banking Commission (CB-UMOA),which issues a compliance opinion Licensing Bill: Ministry of Finance	BCEAO CB-UMOA	CB-UMOA (support of BCEAO and DMC)
Securities (brokers, dealers and portfolio managers)	CREPMF	CREPMF	CREPMF
Insurance companies	Directive : Directorate of Insurance (DA) Licensing Bill: Ministry of Finance	CRCA, a CIMA unit DoA	CRCA, a unit of CIMA DoA
Other Financial Institutions			
Microfinance institutions	Directive Licensing Bill: Ministry of Finance	BCEAO CB-UMOA DRS-SFD	BCEAO CB-UMOA DRS-SFD
Foreign exchange bureaux	Directive: BCEAO Licensing Bill: Ministry of Finance Directive	BCEAO DMC	BCEAO DMC
Remittance companies	Activities included in the bank licensing application	BCEAO CB-UMOA	BCEAO CB-UMOA
Pension and Social Security Fund (not accountable to AML/CFT)	Established by law		
Postal Financial Services	Established by law		
Public Deposit Fund	Established by law		

Credit Institutions

61. Credit institutions are governed by both the Organization for the Harmonization of Business Law (OHADA) and the law on baking regulations[27]. These legislations particularly determine the rules relating to their establishment, functioning and dissolution.

[27] Law No.2008-26 of 28th July, 2008

62. The supervision of the activities of the Credit Institutions is the responsibility of the BCEAO, the UMOA Banking Commission and the Ministry of Finance.

63. The UMOA Banking Commission is responsible for ensuring the soundness and security of the UMOA banking system through, inter alia, the supervision of institutions subject to the resolution of bank crises. Chaired by the Governor of the BCEAO, the UMOA Banking Commission comprises two (2) decision-making bodies: a supervisory college and a resolution college. The supervision college consists of one representative, designated or appointed by each UMOA Member State, one representative of the State ensuring the convertibility of the common cash, and Members appointed by UMOA Council of Ministers on a proposal from of the Governor of the Central Bank. The UMOA Banking Commission has its rules of procedure and a code of ethics applicable to its Members, designed to regulate conflicts of interest.

Decentralized Financial Systems

64. The supervision of micro-finance institutions is jointly carried out by DFS Regulation and Supervision Department of the Ministry of Finance, the BCEAO and the UMOA Banking Commission. Micro-finance operations are governed by the uniform law regulating the Decentralized Financial Systems (DFS) and its enforcement Decree and the directives issued by the BCEAO. According to the provisions of Article 44 of the law on the regulation of DFS and the Directive N° 007-06-2010 of the Central Bank, *"the Central Bank and the Banking Commission shall, after informing the Minister, proceed with the inspection of any decentralized financial system, whose level of operations attain a threshold of Two (2) Billion CFAF IN outstanding deposits or credits after two consecutive financial years ".*

Insurance Sector

65. The regulation of insurance and reinsurance activities is carried out by a supranational organization called the Inter-African Conference of Insurance Markets (CIMA), established by a Treaty and through a Community Insurance Code, called the CIMA Code. Regarding the supervision of the insurance sector is by the Regional Insurance Supervision Commission (CRCA) and the Ministry of Finance (Insurance Supervision Department (national level).

Capital Market

66. There is a regional capital market for all UEMOA Member States with two divisions:

- A public division set up by the Regional Council for Public Savings and Capital markets (CREPMF), representing the general interest, responsible for guaranteeing the security and integrity of the market and ensuring stakeholders' protection;
- A private division established by the Regional Stock Exchange (BRVM) and the Central Depository/Bank Regulation (DC/BR) with a status of specialized financial institutions not subject to the Banking Act and benefiting exclusively from a public service concession throughout the UEMOA zone.

67. The Headquarters of divisions are based in Abidjan, but the BRVM has branches in each Member State of the Union. The BRVM and DC/BR constitute the private structures of the market and the other stakeholders are the Business Operators (Management and Intermediation Companies (SGI), the Asset Management Companies (SGP), the Stock

Investment Advisory (CIB), the Business Providers (AA) and the Brokers). The regulation and supervision of the capital market are the responsibility of the Regional Council for Public Savings and Capital markets (CREPMF), a supranational organization.

Authorized Foreign Exchange Dealers

68. Authorized foreign exchange dealers report to the BCEAO and the Ministry of Finance. Their activities are governed by Regulation No. R09 / 2010 / CM / UEMOA of 1st October 2010 on the external financial relations of the Member States of the Union.

Postal Services

69. The activities of the National "Post Office" Company are governed by law N° 95-24 of 29th August 1995 and its enforcement Decrees. It is not accountable to the Banking Act, except for the obligations to report to the BCEAO and the Banking Commission, and is authorized to collect funds from the public and provide the following products and services:

- Payment instruments and transfers of national and international funds, using any medium and technical process;
- Cheque accounts, booklets and other savings products.

70. The National "Post Office" Company, established in 2006 and a subsidiary of POSTEFINANCES, is subject to the supervision of the Court of Auditors (via the Public Enterprise Audit and Supervision Commission).

Public Deposit Fund

71. The Public Deposit Fund (CDC) whose activities are governed by law N° 2006-03 of 04-O1-2006, is a Public Institution with special status placed under the authority of the Minister of Finance. The mandate of the CDC is:

- To manage the deposits and keep the securities belonging to Organizations and Funds that are part and parcel of this arrangement or request for such services;
- To receive administrative and judicial records and guarantees;
- To manage the services relating to the funds entrusted to them.

72. The accounts of the CDC, at the end of every financial year, are audited by the Court of Auditors, which may also carry out inspection during the year through the Public Enterprise Accounts Audit Commission.

DNFBPs

73. There are still no designated authorities to supervise the implementation of AML/CFT requirements by DNFBPs.

g) International Cooperation

74. International cooperation is of high priority for Senegal because of its geographical location and its openness to the world. The large size of its economy in the region makes Senegal vulnerable to risks of money laundering and proceeds of predicate offences committed abroad. With regard to the financing of terrorism, international cooperation is equally important because Senegal is experiencing the phenomenon of foreign terrorist fighters and the prevalence of terrorism among its several neighbouring countries in the sub-region. However, the statistics available[28] show that Senegal does not make sufficient use of international cooperation. The cooperation actions that Senegal is required to implement are more frequently directed to Western countries such as France, at their request, than to the countries in the sub-region.

75. The Department of Criminal Cases and Pardons of the Ministry of Justice is the central authority in charge of processing requests for mutual legal assistance and extradition. The operational services responsible for executing these requests are the courts established throughout the country. International cooperation is also active within investigative offices through the NCB Interpol and the African Gendarmeries Organization. The FIU cooperates with its counterparts in UEMOA[29], ECOWAS[30] and the Egmont Group.

76. Investigative authorities cooperate with their foreign counterparts through several channels. The Police, the Gendarmerie, the Customs Administration and the Revenue Administration, exchange information on predicate offences of ML and the financing of terrorism with Interpol, the African Gendarmeries Organization, the World Customs Organization and the OECD, respectively.

[28] Requests sent by Senegal to other countries concern three (3) ML cases in 2014 and one (1) case in 2015
[29] Cooperation is fostered through the UEMOA FIU Network called "RECEN-UEMOA"
[30] Cooperation is fostered through the "Forum of FIUs of GIABA Member States"

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

Main Conclusions and Recommendations

Main Conclusions:

- Senegal completed its ML / FT National Risk Assessment in August 2017. The NRA process was coordinated by the CNC-LBC / FT, established by Finance Minister Decision No. 5547 of 23 June 2010, through an inclusive process. The conclusions are by and large reasonable in that they reflect the main ML / TF risks facing the country. The main predicate ML offenses and the main TF risk factors are identified, as well as risks related to the various sectors of declaring entities.
- The overall level of understanding of ML / FT risks in Senegal is satisfactory, though varying between the sectors. Financial institutions appear to be more aware of their AML / CFT obligations than DNFBPs.
- Senegal has institutions enabling it to define policies and strategies and implement anti-ML / TF activities so as to address the identified risks. Following the NRA, Senegal developed an implementation action plan to address such risks. The relatively short time between the end of the NRA and the start of the on-site visit did not allow the Assessors to take note of and appraise its implementation. In addition, the draft Uniform Law (resulting from Directive 02/2015), which was intended to implement a more effective AML / CFT policy, was not adopted at the time of the on-site visit.
- Senegal's NRA has not yet had any impact on the legal and regulatory provisions for enhanced or simplified CDD measures. The risk-based approach mechanism was not put in place in Senegal at the time when they were established. The draft law (resulting from Directive 02-2015) which was to introduce this approach was not adopted at the time of the on-site visit.
- The objectives and activities of the competent authorities are generally consistent with AML / CFT policy developments. However, the results of the NRA had not yet been taken into account at the time of the on-site visit. Furthermore, the self-regulatory bodies did not have the results of the NRA and could not take them into account in their objectives and activities.
- National AML / CFT cooperation and coordination is ensured within the National Coordinating Committee and other bodies such as the Intelligence and Operations Coordination Center. It was noted, however, that cooperation between CENTIF and the regulatory and supervisory authorities was limited.
- Financial institutions and DNFBP are often coached on ML / FT issues. However, it was noted that DNFBPs were not aware of their ML / FT risks. In addition, at the time of the on-site visit, the results of the NRA were not disclosed to private sector actors.

Recommended Actions

Senegal should:

- Develop and implement a plan to conduct capacity building programmes for stakeholders, including customs authorities, in order to improve their understanding of the ML/TF risks;

- Develop and implement policies to address identified risk in the DNFBP sector and ensure competent authorities adopt and implement national AML/CFT policies to address the vulnerabilities in sectors identified as high risk;
- Officially adopt the NRA report and its action plan (National AML/CFT Strategy) and undertake its implementation using a risk-based approach, for a more effective allocation of national resources;
- Identify a mechanism to coordinate the fight against proliferation financing, in accordance with R.4 and IO 1.5;
- Disseminate the findings in public-version of the NRA report to stakeholders, including reporting entities to facilitate implementation of recommendations in the document.
- Domesticate the Uniform AML/CFT Law based on Directive 02/2015 of the UEMOA Council of Ministers.

77. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant for the evaluation of effectiveness under this section are R. 1-2.

Immediate Outcome 1 (Risk, Policy and Coordination)

Country's Understanding of its ML/TF Risks

78. Senegal completed its first National ML/TF Risk Assessment in August 2017. The NRA process was inclusive, involving national AML/CFT private and public sector stakeholders, and identified the threats and vulnerabilities associated with domestic money laundering and terrorist financing. Senegal has produced an action plan for implementing the recommendations in the NRA. The NRA process was coordinated by the CNC-LML/FT. The NRA, conducted on the basis of the risk assessment tool developed and made available by the World Bank, covered the banking sector and other financial institutions and the DNFBP sector including NPOs. In addition to these areas, the assessment covered institutional vulnerabilities at national level. The findings of the NRA are broadly reasonable in that they reflect the key ML/TF risks facing the country. The level of understanding of ML/TF risks in Senegal is fairly good in the financial sector, but, some stakeholders, including lawyers, notaries, real estate sector, still do not fully understand their vulnerability to ML/TF.

79. Several stakeholders in the financial sector reported that they had conducted specific risk assessments and established risk mapping prior to conducting the NRA. Senegal has actually confirmed that almost all the banks and insurance companies (9 out of 10 companies) belonging to large groups have conducted risk assessment at institutional levels. Banks and insurance companies which are not part and parcel of these international groups have not yet conducted institutional risk assessment. Also, other financial institutions and DNFBPs have not conducted risk their assessments. However, in the banking and insurance sectors where institutional risk assessment has been conducted, the supervisory authorities have not conducted any sectoral assessment to facilitate review of the risk profile and take on board the outcomes of this review in their supervisory policy.

80. The NRA identified the most prevalent predicate offences of money laundering which are: fraud, drug trafficking, migrants smuggling, corruption, customs and tax offences.

81. High risk sectors are: money transfer; authorized foreign exchange; electronic money; the hotel sector; the real estate sector; the legal and accounting professions.

82. The ML vulnerabilities include: the lack of an AML/CFT strategy officially adopted by the government, the non-domestication of the UEMOA Directive 02-2015 on the fight against money laundering and financing of terrorism in the UEMOA Member States, the large size of the informal sector, the preponderance of cash in financial transactions, non-availability of a systemic information mechanism for beneficial ownership of legal persons and arrangements, incentives and facilities offered for the establishment of companies within a short period without strict requirements of the AML/CFT standards, the lack of supervisory Authorities for Designated Non-Financial Businesses and Professions (DNFBPs), the limited effectiveness of asset confiscation, marked by the lack of an authority responsible for the recovery and management of seized, frozen or confiscated assets, the limited number, at the very least, of administrative and criminal sanctions meted out for non-compliance with AML/CFT obligations.

83. In terms of coordination, although the CNC-LML/FT exists, the country had not yet developed, at the time of the on-site visit, any risk-based approach to ensure application of appropriate preventive and mitigation measures commensurate with the identified ML/TF risks and thus facilitate for an efficient allocation of resources.

84. Senegal is vulnerable to TF due to the prevalence of terrorism in two of its five (5)[31] neighbouring countries, some of which are confronted with terrorist phenomena, notably Mali and Mauritania.The existence of extremist religious movements and the uncontrolled proliferation of religious associations and NGOs could pose TF threat. The key vulnerabilities identified include the porosity of borders, the application of the principle of the free movement of persons and goods in the ECOWAS region, the lack of adequate equipment for monitoring migratory flows and detection of illicit trafficking in general and the free circulation of the CFA Franc within the UEMOA zone.

85. In assessing its ML/TF risks, Senegal used both a quantitative and a qualitative approach that provided a global view of the risks. The NRA was therefore carried out by collecting data from various sources (data from Ministerial departments, the Financial Intelligence Unit, private sector institutions, etc.); through questionnaires; interviews of public and private stakeholders by consulting public and open source documents, including studies conducted by regional and international organizations. Data analysis was carried out by sectoral teams from all sectors directly or indirectly involved in AML/CFT. The composition of the sectoral teams was done according to the areas of expertise covered by each sector.

86. The findings of this maiden NRA represent a breakthrough in the identification and shared understanding of ML/TF risks by most stakeholders at domestic level. However, the outcomes of the NRA remain limited because of the following challenges in the approach for the assessment[32]:

[31] Mauritania in the north, Mali in the east, Guinea and Guinea-Bissau in the south. The Gambia forms a semi-enclave in Senegal, penetrating over 300 km into the hinterlands. The Cabo Verdean islands are located 500 km off the Senegalese coast.

[32] See NRA Report

- The non-domestication of a uniform law on AML/CFT deriving from the Directive 02/2015 adopted on 2nd July 2015 by the UEMOA Council of Ministers, which should constitute the legal basis of the risk-based approach;
- The lack of a consistent policy or strategy for the collection, management and dissemination of statistical data;
- The reluctance to disclose certain intelligence considered as sensitive;
- The novelty and scope of the national risk assessment exercise.

87. These challenges led the working groups to resort to extrapolations or estimations in arriving at realistic conclusions.

National policies to address identified ML/TF risks

88. Senegal's NRA process ended in August 2017. The relatively short time between this date and the start of the on-site visit did not allow for an effective implementation of the findings of the NRA. Indeed, the adoption of a national policy to address identified ML/TF risks has not been effected. Similarly, the dissemination of the NRA report to all stakeholders, particularly the private sector, to help them develop a good understanding of ML/TF risks, has not been done.

89. A three-year action plan (2017-2019) with budget estimates is attached to the report and is scheduled to start in November 2017 (after the on –site visit) and the Assessors were unable to measure its impact. This plan should enable Senegal to revise the AML/CFT legal framework and set up an operational mechanism for the freezing, seizure, confiscation and management of illicit assets, and to develop an efficient framework for national cooperation and coordination on AML/CFT.

90. The assessment team noted that despite the lack of a formal national AML/CFT strategy, Senegal has a commendable approach in managing the implementation of AML/CFT decisions in order to address the risks to which the country is still exposed. This approach seems to reflect the political determination to fight against ML/TF in the country. Prior to the conduct of the NRA, Senegal has been reacting to most of the risks identified in the NRA as national priorities. It is against this backdrop that a number of institutions have been established for the implementation of its international commitments or its national security policy and anti-crime policy (OCRTIS- Anti-terrorist Pole, at the level of the Dakar Courthouse, Intelligence Community, etc…). The Senegalese Authorities confirmed that the country has been taking appropriate measures to address ML/TF risks by actively participating in all international and regional initiatives on the issue. With regards to the money laundering risk, the country in 2004, subjected itself to the first national risk assessment conducted by the World Bank. Based on the findings on the current state of affairs, the country has put in place appropriate measures for the prevention, detection and mitigation of the risks identified by the first mutual evaluation conducted by GIABA and FATF in 2007. Since then, the Senegalese authorities confim they have been taking appropriate measures such as promoting the banking culture in order to ensure the traceability of transactions, thereby mitigating ML/TF risks. After its first evaluation, the report of which was published in 2008, Senegal has passed several laws against terrorism and its financing. These include the Uniform AML/CFT Act No 2009-16 of 2nd March, 2009.

Senegal has also amended its Penal Code and Criminal Procedure Code in order to strengthen the fight against terrorism and its financing.[33]

91. In addition, the country has been taking other measures such as promoting the AML/CFT compliance culture in banks to facilitate the traceability of transactions, suspicious transactions reporting and consequently mitigate ML/TF risks in their transactions.

92. The above-mentioned efforts have been hampered by the delay in domesticating Directive No.02/2015/CM/UEMOA of 2nd July 2015 on the fight against money laundering and terrorist financing in UEMOA Member States which is expected to assist Senegal to comply with the revised FATF Recommendations of 2012. The Directive, designed to resolve most of the deficiencies identified, was supposed to have bene transposed into the domestic legislation on or before 31st December, 2015. However, as at the time of the on-site visit, Senegal was yet to domesticate the said Directive.

Exemptions, Enhanced and Simplified Measures

93. Senegal's NRA is yet to create any impact on the legal and regulatory provisions relating to enhanced or simplified CDD measures to be applied by financial institutions and DNFBPs because of the decision-making process was yet to be finalized and implementation of the action plan has not commenced as at the time of the on-site visit. The findings of the NRA are yet to be disseminated to the financial institutions and DNFBPs for incorporation into their AML/CFT compliance framework. It should however be underscored that the NRA report recommended the application of simplified due diligence measures to areas of low risk in order to promote financial inclusion.

94. Several financial institutions (mostly those affiliated to international groups) stated during the on-site visit that they had done a risk mapping that enabled them to take appropriate measures for every level of risk observed. However, this approach used by financial institutions has a limit, as the current AML/CFT legal framework in Senegal is yet to incorporate the risk-based approach. Directive No. 02/2015/CM/UEMOA on AML/CFT in UEMOA Member States, which should make the risk-based approach mandatory, is yet to be domesticated by Senegal as at the time of the on-site visit. There was no provision in the Senegalese AML/CFT Acts for the enforcement of simplified measures by the reporting entities. The risk mappings submitted and consulted by the Assessors revealed that the prudential risk is rather onboardedand not the specific ML/TF risk.

Operational objectives and activities of Competent Authorities

95. The NRA completed by Senegal in August 2017, just a few days prior to the on-site visit, had no impact on the policies, strategies and operational activities of the competent authorities. The self-regulatory bodies did not receive copies of the findings of the NRA. Thus, they could not incorporate them into their strategies or their operational activities. There was no inspection schedule that took on board the levels of risks identified through the NRA. Prior to the conduct of the NRA, Senegal has been taking steps to address ML/TF risks in its system. For instance, in response to the escalating illicit drug trafficking, Senegal established the OCRTIS within the national police. With regard to cybercrime, the country has established a specialized unit to handle such crime. Also, Law No.2012-30 of 28th December 2012 has

[33] As proposed in Immediate Outcome 9

established the National Office against Fraud and Corruption (OFNAC), an independent administrative authority responsible for the prevention and fight against fraud, corruption, corrupt practices and related offences, with a view to promoting integrity and probity in the management of public affairs. The Senegalese Authorities have reactivated the Court for the Repression of Illicit Enrichment (CREI) which has been prosecuting several cases in recent years. Furthermore, in response to the increasing risk of terrorism, its financing and recruitment of foreign terrorist fighters, Senegal established an anti-terrorist division at the Dakar High Court by amending the Criminal Procedure Code.

National Coordination and Cooperation

96. Senegal has an institutional framework for national policy making and coordination on AML/CFT issues. The Assessors were informed that coordination is taking place mainly within the activities of the AML/CFT Coordinating Committee.

97. Senegal has a national coordinating committee against money laundering and terrorist financing, established by Order No.5547 of 23rd June 2010 issued by the Minister of Finance. The Committee, which meets twice a year, is mandated to ensure the wide dissemination of information among the various AML/CFT stakeholders; to identify and implement measures to improve collaboration among national stakeholders; to make proposals for improving the national AML/CFT regime. The Chairman of the Committee is the Minister of Finance while the FIU serves as the secretariat. The other Members are: the Finance Inspectorate (IGF), the BCEAO, the FIU correspondents in the Ministerial departments, the Association of Professional Bankers and Financial Institutions of Senegal (APBEFS), the Federation of Insurance Companies of Senegal (FSSA) and the Autonomous Insurance Brokers Union (SACA). Any other persons involved in AML/CFT issues may be invited to these meetings.

98. However, some major deficiencies render the AML/CFT regime not very effective. These include the limited operationalization of the National AML/CFT Coordinating Committee, which does not have sufficient powers and responsibilities clearly outlined in any law or Decree, which naturally affects the consistency of its overall actions, on one hand, and the lack of any action plan officially adopted by the political authorities for the implementation of the national AML/CFT policy strategy, on the other[34].

99. The FIU, its institutional counterparts and the various stakeholders exchange information periodically and submit proposals to public authorities in order to strengthen the AML/CFT system. The national strategy drafted after the first mutual evaluation, though it had not been formally adopted, had brought together all the stakeholders during the various phases of its drafting. The NRA also brought together all the stakeholders leading to the development of an action plan that would be implemented in phases.

100. National co-operation for the exchange of information is particularly strong within the Intelligence Community. This framework provides for all intelligence services to meet weekly and exchange available security information, including those on counter-terrorism.

101. However, there are certain limitations in national cooperation, particularly with regard to the exchange of intelligence between the FIU and the regulatory and supervisory authorities.

[34] NRA Report, page 36

Sensitizing the private sector on risks

102. In Senegal, private sector stakeholders are generally sensitized and informed about AML/CFT issues. This awareness-raising exercise is carried out by FIU, which has a training centre (interactive training hall and documentary database specialized in AML/CFT accessible to all reporting entities). It also does this through the publication of its periodic activity reports (quarterly and annual). The FIU has also published results of its strategic analyses. These are studies of money laundering risks across the real estate sector and other topics related to AML/CFT issues. However, the on-site visit provided an opportunity for the Assessors to note that, apart from the banking institutions, the other reporting entities, particularly the DNFBPs, were not aware of their ML/TF risks before the commencement of the NRA.

103. Senegal's NRA process was conducted with the active participation of the private sector, including financial institutions and DNFBPs. This process has allowed them to put together their respective contributions and at the same time facilitate their understanding of the risks to which they are exposed. The process resulted in the development of a report and action plan shared by all stakeholders. However, this report was not published at the time of the on-site visit. The public-version of the NRA is yet to be disseminated to the private sector for inclusion in the development of their internal risk management programmes.

Conclusion and Rating on IO. 1

104. The overall understanding of ML/TF risks by Senegal is very satisfactory in the financial and non-financial sector. The implementation of risk mitigation measures was at an embryonic stage at the time of the on-site visit. The national risk assessment is an advanced stage of identifying and understanding these risks, although some limitations to the process have been identified, including the lack of a coherent policy or strategy for the collection, management and dissemination of statistical data and the reluctance to provide certain information considered sensitive. Furthermore, it was onserved that no sector had conducted its risk assessment, with the exception of branches of large foreign financial groups, particularly banks and insurance companies. Also, the action plan designed to mitigate the identified risks is yet to be implemented. Senegal has not yet adopted measures to control and reduce some of the identified risks, particularly in respect of reporting entities.

105. Basically, the key gap is the non-domestication of the Uniform AML/CFT Act, which is the instrument for transposing Directive No. 02/2015 adopted on 2nd July 2015 by the UEMOA Council of Ministers. This law is of considerable importance and should form the legal basis of the risk-based approach and make Senegal's AML/CFT regime compliant with the revised FATF 40 Recommendations of 2012. This law was expected to institute a legal framework that would enable all stakeholders assess their ML/TF risks and adopt a risk-based approach to mitigate the risks identified before and during the NRA. Thus, the fact that Senegal has not domesticated the law reduces any possibility for implementation by the relevant stakeholders.

106. **Senegal has a Low level of effectiveness on Immediate Outcome 1**.

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Main Conclusions and Recommendations

Main Conclusions

Immediate Outcome 6: Use of Financial Intelligence

- The CENTIF has the power to collect, analyze (operational and strategic analysis) and disseminate financial information to the Competent Authorities. It performs this function on the basis of STRs and information exchanged with foreign counterparts as well as additional information obtained from the reporting entities.
- Cooperation between the CENTIF and the judicial authority responsible for prosecution is good. Collaboration with Regulatory and Supervisory Authorities, especially the Banking Commission, seems very limited. Most DNFBPs do not send STRs to the CENTIF because of the absence of a regulatory authority, nor do they have in place internal AML / CFT mechanisms.
- The CENTIF does not have at national level a computer system for the communication of information like the international exchanges which are mainly done through Egmont Secure Web.
- CENTIF disseminates financial intelligence coming from the processing of STRs to the Judicial Authority. This intelligence transmitted to the prosecutor via a detailed report allows the judicial authorities to prosecute and convict persons indicted for ML and FT acts. However, the reports produced by the FIU were sometimes deemed to be very scant. In accordance with the AML and CFT laws in force at the time of the on-site visit, the CENTIF can not, at the national level, disseminate information contained in STRs to the investigating authorities. However, on the basis of the law establishing the OFNAC and intelligence services, as well as the decree establishing the intelligence community of which it is a member, the CENTIF exchanges operational financial information with all intelligence services.
- The financial intelligence obtained from the Declarations on cross-border physical transportation of cash and other bearer negotiable instruments is insufficient in view of the preponderance of cash movement at the borders.

Immediate Outcome 7: ML Investigations and Prosecutions

- In recent years, Senegal has recorded cases of money laundering with some resulting in final convictions.
- Money laundering offences are identified and prosecuted mainly on the basis of the reports sent to the Prosecutor by the FIU. Investigative authorities barely conduct parallel money laundering investigations during the investigations of predicate offences. The prevalence of predicate offences in relation to money laundering investigations and prosecutions is therefore low.
- Complex cases have been prosecuted by the CREI which is a specialized court for the suppression of illicit enrichment, but have not been coupled with any prosecution for money laundering.

- The data provided by the Senegalese authorities cannot be used to establish any level of coherence between the types of ML activities that are the subject of investigation and prosecution and the threats and risk profile of Senegal.
- The Senegalese courts have secured a number of money laundering convictions, but the sanctions meted out are neither dissuasive nor effective and proportionate (convictions often with suspended sentences or low prison terms and no detention).
- In response to the difficulty of obtaining convictions for ML, Senegal claims to use some alternative measures but the examples provided do not confirm this statement. Senegalese law does not include any alternative measures like non-conviction-based confiscation.

Immediate Outcome 8: Confiscation

- Seizures and confiscations seem to be a priority under Senegalese positive law. However, excluding this formal aspect of the seizure and confiscation of illicit assets, instrumentalities of crime and assets of corresponding value, these measures are rarely applied or when applied, are most of the time not conducted to full completion.
- The seizure measures that prepare for confiscation are not well implemented or followed, which means the Authorities responsible for the execution of confiscation orders cannot do so in the long term because the seized and confiscated assets have disappeared or been emptied of their contents during the proceedings. Enforcement of confiscation orders is handled by the State Judicial Agent, but it has been noted that the execution rate is very low.
- Analysis of some verdicts delivered as well as interviews with the Judicial Authorities show that the focus is more on the compensation of the victims of predicate offences than on confiscation.
- Customs Authorities reported that they often resort to arrangements for the settlement of disputes related to seizures of funds in connection with the illegal cross-border transportation of ccash and other bearer negotiable instruments. This practice might also limit the possibilities of opening investigations for ML/TF and hence, of confiscation.

Recommended Actions

IO 6: Financial Intelligence

- Collaboration and procedure for information exchange between the FIU and the Regulatory and Supervisory Authorities should be strengthened by legislative and regulatory provisions to encourage the exchange of financial intelligence for AML/CFT purposes;
- Senegal should review relevant AML/CFT legislations to allow the FIU to disseminate financial intelligence emanating from STRs to investigative and prosecutorial Authorities (Customs, Revenue and other Intelligence Agencies) other than the judicial authorities;
- The FIU should enhance access to databases, including direct automatic access to improve the turn-around time of its analysis in order to better service LEAs involved in the investigation of ML/TF cases.

- Investigative Authorities should be able to legally use the FIU to obtain national financial intelligence for AML/CFT investigations. Customs and Revenue Administrations, for example, should be allowed to use the financial intelligence they have for ML/TF investigation purposes.
- The Customs Administration should step up the collection of financial intelligence on physical cross-border transportation of cash and bearer negotiable instruments.

IO 7: ML Investigations and Prosecutions

- Senegal should domesticate the UEMOA Directive No. 02-2015 on AML/CFT with a view to increasing the powers of investigation and Prosecutorial Authorities through, inter alia, new special investigative techniques;
- Senegal should strengthen the capacity of the investigative and prosecutorial authorities to ensure their specialization in the identification of ML/TF activities and adequate handling of investigation and prosecution of ML and TF cases;
- Senegal should pay more attention to tax evasion as tax authorities have ignored this major predicate offence of ML;
- Senegal should also grant criminal investigation powers to the Customs and Revenue Authorities to enable them to systematically conduct parallel ML investigations when tax or customs offences are discovered and to oblige them to refer such cases to the State Prosecutor or systematically submit STRs to the FIU;
- Senegal should ensure that through legislation, all institutions, including the CREI, apply AML/CFT measures and that they have legislations that allow individuals accountable to the CREI, to benefit from the presumption of innocence, guarantee of the rights of defence and/or fair trial in line with international standards;
- Senegal should appropriately prioritize investigations and prosecutions targeting all types of offences and emphasize parallel financial investigations when dealing with predicate offences to ML. Senegal should develop effective databases and quality statistics on the number and nature of ML investigations, prosecutions and convictions, including the various types of money laundering offences being investigated and prosecuted.
- Senegal should explore the use of mutual legal assistance when investigating the detection and location of criminal assets.

Confiscation

- OFNAC should be empowered to take preemptive freezing and seizure measures in the event of any emergency during the proceedings conducted under its jurisdiction.
- The country should keep centralized, relevant and clear statistics on seizures and confiscated assets at national and foreign level, asset sharing, violations that triggered the introduction of the measures (ML and predicate offences), confiscation for false disclosures or false declaration at border points, as well as amounts returned to victims, in order to determine what adjustments need to be effected in the area of criminal policy.
- Senegal should use mutual legal assistance in tracing, identifying and locating criminal assets.

107. The relevant Immediate Outcomes for this chapter are IOs.6-8. The relevant Recommendations for the evaluation of effectiveness under this section are R.3, R.4 and R.29 -32.

Immediate Outcome 6 (Financial Intelligence)

Access to and Use of Financial Intelligence and other Information

108. The FIU actually has access to financial intelligence and a large quantum of other intelligence required for the analyses and drafting of its reports, based on contacts established with all State agencies, the disclosure mechanism with reporting entities and the international network established with foreign counterparts.

109. The primary source of information used by the FIU in generating financial intelligence is the suspicious transaction reports (STRs) submitted by the reporting entities. The FIU supplements this intelligence by obtaining and using additional information from reporting entities and thus is able to carry out its analytical functions. The FIU's collaboration with the reporting entities is effective. However, the procedure for information sharing between the FIU and the monitoring and supervision authorities is almost non-existent.

110. The CENTIF operates its own information system which incorporates all the intelligence already available to it as part of the processing of records since it became operational. It is a database that allows automated searches and links to previous files. Due to the large number of STRs received in physical media, data integration is done by entry. A sharp increase in STRs in physical media could cause delays in the reception and processing process because the time required for seizures may be longer. The CENTIF should, as a consequence, encourage declaring entities to submit electronic STRs for optimal use of its database. The CENTIF also consults certain open sources including the press and websites such as those of the APIX and the Registry of the High Court of Dakar which contain basic information on legal persons. Interpol's I.24/7 and World Check[35] are databases to which the CENTIF has direct access.

111. However, the FIU does not have direct access to the databases of the various public administrations. It obtains them, if necessary, through information requests that it sends to these administrations, particularly the Police, Gendarmerie, Customs, Revenue Authorities, Judicial Authorities and any other Department or national cooperation platform (Intelligence Community).

112. Despite the existence of a network of institutional correspondents, the FIU does not have direct access to government databases, thereby hindering a swifter processing of case files.

113. The FIU, as a Member of the Egmont Group, requests for information from foreign counterparts to obtain financial and other intelligence required to handle cases of international dimension.

114. The following table shows the number of requests the FIU has sent to its counterparts in this regard.

[35] Declaring entities essentially transmit STRs by sending back the form in sealed envelopes.

Table 4: Number of Requests the FIU Sent and Received

Year	IRs Sent out	IRs Received
2012	16	39
2013	28	42
2014	24	23
2015	39	16
2016	24	5
2017	25	15

115. The Customs Administration collects intelligence relating to cross-border physical transportation of cash and bearer negotiable instruments through the foreign cash declarations that travellers are required to make. The availability of this intelligence is limited insofar as the transportation of the CFA franc within the UEMOA zone is exempted from any declaration by its residents. Moreover, these declarations may not be strictly adhered to at all borders, including land, river and sea borders. The Customs Administration makes this intelligence available to the FIU or uses it in the imposition of fines for false declaration or failure to declare, but does not use it to conduct investigations on ML/TF. This deficiency is comprehensively mitigated by the fact that the Customs and Excise Department transmits all cases likely to constitute ML or TF to the FIU through STRs. Customs also receives reports on financial transactions related to assets for export and import, which intelligence, on request, is also made available to the FIU.

116. The Tax Administration has direct access to information on legal persons because it is a Member of the APIX. It also has data on the financial statements of companies because of the reports submitted to the Revenue Authorities. This intelligence, accessible by FIU at its request, is mainly used to combat tax evasion and tax fraud in tax adjustments and recoveries. However, the Tax and Land Registration Department (DGID) has acknowledged that it does not use this intelligence for ML/TF investigations. Generally, the criminal aspect of tax offences is not taken account of by the DGID.

117. The Customs Administration and the Tax Administration plan to set up a common database which will enable these administrations to cross-check through direct access to the said database.

118. Investigative Authorities, including the Police, Gendarmerie and OFNAC, have access to a variety of financial and other intelligence in the conduct of investigations of predicate offences of ML and terrorism, including its financing. Apart from the various Police databases and intelligence obtained from other administrations, the Investigative Authorities have the possibility to receive financial intelligence by sending requests to banks and other financial institutions. The extant AML/CFT legislation in Senegal as at the on-site does not allow the FIU to disseminate financial intelligence obtained from the STRs to the Investigative Authorities. However, the judicial authority receiving the financial intelligence derived from

processing of STRs may contact the investigative authoritiesas part of the investigations it is conducting on cases that are obligatorily subject to judicial investigation

119. In addition, Senegal has put in place a dynamic national cooperation system that facilitates effective exchange of financial intelligence. Senegal gave the example of the Intelligence Community, which is a mechanism that brings together all the actors of the intelligence world, including the CENTIF, around an institutional framework called the Operational Intelligence Coordination Framework (CCRO), which meets weekly. Through this mechanism, the investigating authorities receive useful financial information of a good quality from CENTIF, on the basis of which investigations for money laundering and especially for terrorism and financing of terrorism were opened and conducted in an effective and fruitful way.

120. In addition, Investigative Authorities essentially use financial intelligence to establish evidence of the commission of predicate offences. However, it should be noted that Investigative Authorities do not systematically use financial Intelligence and do not always conduct asset investigations, due to the difficulties associated with the availability of specialized financial analysts.

121. Furthermore, statistics on investigations of ML as a stand-alone offence, or as linked to one or more predicate offences were provided Senegal. By way of illustration, non exhaustive statistics of investigations on heritage in the context of managing several cases concerning the trafficking of stolen cars were presented by the Criminal Investigation Division of the Directorate of Judicial Police, as can be seen in the following table

TABLE 5: STATISTICS ON PARALLEL FINANCIAL INVESTIGATIONS[36] CONDUCTED BY THE CRIMINAL INVESTIGATIONS DIVISION

Number	Case against	P.V Number	Date of transmission	Number of persons referred to the prosecutor
01	L. W & M D	454/DIC/BAC	28/12/2015	**02**
02	M.K & MN	083/DIC/BAC	05/02/2016	**02**
03	DCh & D	145/DIC/BAC	11/03/2016	**01**
04	IT alias « Toubey », SB.; N, KT. M.T ;A.S et A.K	174/DIC/BAC	05/04/2016	**06**
05	D.M & A.D	244/DIC/BAG	11/04/2016	**02**
06	M.L	197/DIC/BAC	22/04/2016	**01**
07	M.LB	325/DIC/BAC	04/07/2016	**01**
08	B.M.F, alias « Boy Djinné », B.G G: CH &Y.F	334/DIC/BAC	11/07/2016	**04**
09	A.N	421/DIC/BEF	25/08/2016	**01**

[36] These are cases that have been clarified by the Criminal Investigation Division of the DPJ with respect to trafficking in stolen vehicles for which asset investigations were conducted in relation to the ML offence.

10	A. Az & M	236/DIC/BAC	07/04/2017	**01**
11	J.D.A.M	411/DIC/BAG	29/06/2016	**01**
12	A.C & EH.H.B.Y & D	513/DIC/GRI	11/08/2017	**02**

122. Criminal Prosecutorial Authorities receive reports from the FIU containing financial intelligence from analyses of STRs and use them to initiate the prosecution of ML cases. Thus, from 2005 to 2016, 165 reports were transmitted by the FIU to the competent State Prosecutors leading to 49 indictments for ML and predicate offences between 2014 and 2017, with 12 prosecutions resulting in 9 convictions.

123. Besides the intelligence from the FIU, Prosecutorial Authorities have access to a wide range of other sources of financial data, like financial institutions and certain administrations.. The financial data transmitted is used to establish evidence of the predicate offences and possibly for the location of assets to be seized or confiscated. The procedures forwarded by the Investigating Authorities also include financial intelligence that is used in opening proceedings. The Prosecutor requires additional investigation or the Presiding Magistrate sends court delegations to the Investigative Authorities requesting them to collect more intelligence on specific issues. Judicial Authorities can also collect financial intelligence abroad through mutual legal assistance.

124. However, the assessment team noted the low rate of mutual legal assistance and asset investigations. The meetings with the Chairman of the Court, the Presiding Magistrates and the State Prosecutor at the Dakar High Court (TGI-HC) revealed that available financial intelligence is not used systematically and optimally because the reports sent by the FIU to the State Prosecutor's Office were reportedly not detailed enough, or written in their usual minutes form. It should also be noted that the complexity of ML cases often requires the use of numerous investigative measures such as international commissions of inquiry, banking investigations, asset investigations or special investigation techniques (undercover transactions, interception of disclosures, access to computer systems and controlled delivery) that are not all provided for in the Senegalese law. This results in lengthy, costly investigations requiring both specialized Magistrates and investigators, always giving rise to the issue of insufficient resources for ML investigations. Apart from the convictions obtained on the basis of the FIU reports, it seems the judicial Authorities do not conduct parallel investigations on ML. It seems as if the available financial intelligence, apart from those provided by FIU, are not being adequately used to prosecute ML/TF.

Reports received and requested for by Competent Authorities

125. The FIU receives STRs submitted by reporting entities in accordance with the AML/CFT Acts in force in Senegal. Generally, the intelligence contained in these reports is useful and serves to trigger criminal prosecution. From 2005 to 2016, the FIU received a total of 1,103 STRs (see Table 3 below and Graph 1). The submission of STRs follows a secure procedure that guarantees confidentiality.

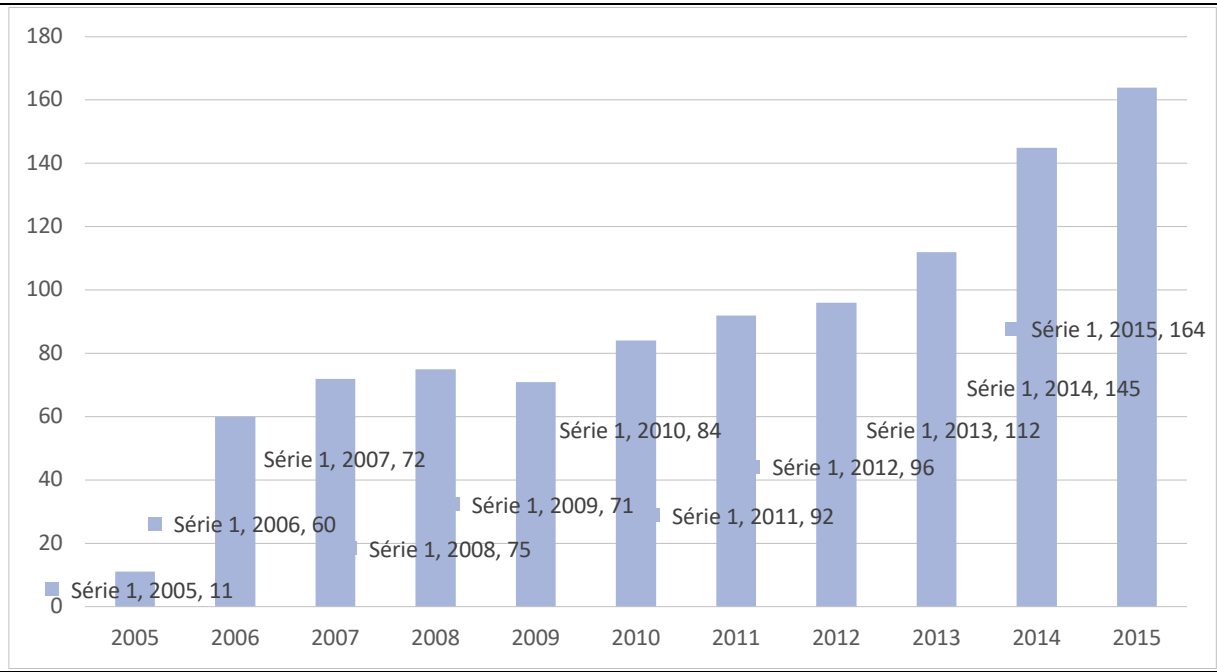
Table 6: STRs RECEIVED, ANALYZED AND DISSEMINATED BY THE FIU AND OUTCOMES OF DISSEMINATION [IO. 6]

STR		YEAR						
		2012	**2013**	**2014**	**2015**	**2016**	**2017 ***	**Total**
Total STRs received	ML	96	112	144	162	121	74	**709**
	TF	0	0	1	2	1	0	**3**
STRs analyzed		96	112	144	162	121	74	**709**
(National) Intelligence disseminated	Spontaneously	-	-	-	-	3	2	**7**
	On request	-	-	-	1	1	0	
Agency/Institution		**Breakdown of national dissemination**						
		2012	**2013**	**2014**	**2015**	**2016**	**2017 ***	**Total**
State Prosecutor		6	24	22	16	10	1	**79**
General Delegation to National Intelligence		-	-	0	0	1	0	**1**
National Anti-Fraud and Corruption Office		0	0	0	1	3	0	**4**
Monetary and Credit Department		0	0	0	0	0	1	**1**
BCEAO		0	0	0	0	0	1	**1**
		Outcomes of dissemination by the FIU						
		2012	**2013**	**2014**	**2015**	**2016**	**2017 ***	
Investigations triggered by intelligence from FIU								
Number of investigations targeting ML only		6	24	22	16	10	1	
Number of ML investigations in connection with other offences		0	0	0	0	0	0	
Number of TF investigations		0	0	0	0	0	0	
Total number of investigations triggered by intelligence from FIU		**6**	**24**	**22**	**16**	**10**	**1**	
Outcomes of investigations triggered by FIU intelligence								

Number of arrests made in FIU intelligence-led operations	0	0	0	0	0	0
Number of trials facilitated by FIU intelligence	5	3	4	1	1	1
Number of convictions facilitated by FIU intelligence	3	3	2	1	-	1
Value of confiscations facilitated by FIU intelligence	44576938	7225000	100,000,000			
Others						

*: January to June 2017

Graph 1: STRs Received[37] (2005 – 2016)



[37] FIU 2015 Annual Report page 26

126. STRs constitute the key basis for the detection of new cases of money laundering in Senegal as most of the prosecutions triggered or convictions secured for ML are associated with the reports produced from STRs analysed and disseminated by the FIU to the office of the Prosecutor. However, the effectiveness in filing the STRs needs to be improved, because of certain deficiencies the FIU is grappling with, particularly with regard to un-reported suspicious cases or cases reported late by reporting entities. The FIU does not receive reports on any cash transactions beyond a given threshold, as the legislation in force at the time of the on-site visit did not oblige reporting entities to do so. This deficiency has been resolved by the fact that reporting entities systematically prepare STRs each time a transaction involves a huge amount of money.

127. The Customs Administration receives foreign cash declarations when conducting inspection exercises on the cross-border physical transportation of cash and bearer negotiable instruments. The customs officials carry out checks on cross-border transportation of cash and could in this regard question persons crossing the borders based on the system of declaration. The capacity of the Customs Administration to gather financial information on the physical cross-border transportation of cash is clearly demonstrated by the fact that such declarations have nothing to do with bank notes issued by the BCEAO (CFA Francs) circulating within the UEMOA zone and that in practice, the declaration requirement is not always adhered to at all border check points.

Table 7: Cash Declarations to Customs Administration (2013 – 2017*)

Year	Total No. of Declarations	Value of Declarations
2013		
Entry points	334	5 754 400 CFA francs; 2 239 274 Euros; 1 962 892 US dollars; 16 550 pounds sterling;1 235 dirhams EAU; 4 300 Yuans
Exit points	656	2 359 660 francs CFA; 1 323 708 euros; 214 571 US dollars; 3 000 pounds sterling; 700 000 Guinean francs; 100 dirhams EAU ; 500 yuans
2014		
Entry points	381	652 000 CFA francs; 2 518 252 Euros; 6 476 462 US dollars; 10 940 pounds sterling ;3 785 295 dirhams EAU; 104 005 yuans; 18 000 Swiss francs; 668 ouguiyas; 8 740 HK dollars
Exit points	656	2 359 660 CFA francs; 1 323 708 euros; 214 571 US dollars; 3 000 pounds sterling; 700 000 Guinean francs; 100 dirhams EAU; 500 yuans
2014		
Entry points	255	64 261 000 CFA francs; 1 204 123 Euros; 2 228 986 US dollars; 141 500 pounds sterling; 6 730 dirhams EAU; 1 070 000 escudos CV; 14 000 Swiss francs
Exit points	34	368 800 CFA francs; 245 291 Euros; 342 105 US dollars; 1 550 pounds sterling; 500 Swiss francs
2016 & January to June 2017		
Entry points	-	-
Exit points	-	-

*2017 (July 31)

128. A review of the statistics provided shows a very limited rate of foreign cash declarations. For example, for the year 2015, the total number of declarations at the national

entry and exit points stood at 289 whereas for the same year, the number of passengers arriving in Senegal or leaving through the only airport in Dakar was 1,974,164[38] , according to figures provided by ASECNA. Senegal shares borders with Guinea, Gambia and Mauritania, which are not Members of the UEMOA. In principle, travellers from these three countries are subjected to the declaration obligation of all currencies transported at the entry and exit of Senegal. The statistics provided to the Assessors were meant to justify this practice. The Senegalese authorities attributed this situation to the fact that travellers from these countries prefer to use convertible international currencies because the Gambian, Guinean and Mauritanian currencies are not convertible. Besides, due to the predominance of cash transactions in the region, the rate of foreign currency declaration should normally be higher than the existing ones, especially when leaving Senegal which is considered as a host or transit country to other destinations.

129. It is therefore recommended that the Customs Administration should intensify its efforts, particularly by strengthening the manpower at the borders, in order to increase the volume of reports on the cross-border physical transportation of cash and bearer negotiable instruments and conduct more effective controls with a view to disclosing more financial intelligence or STRs to the FIU.

Adequacy of the FIU's analyses with the operational needs of the Competent Authorities

130. The operational analysis of STRs by the FIU is essentially based on the collection of intelligence obtained from accessible databases; additional requests from reporting entities; cooperation with other public administrations (police, gendarmerie, revenue, customs ...); requests to foreign counterparts and based on analysis following which the FIU may decide or not to send a report to the relevant State Prosecutor.

131. From 2005 to 2016, the FIU sent 165 reports out of the 1,103 STRs received, representing a submission rate of 14.96 %. For the same period, these reports enabled the prosecution authorities to pronounce 9 convictions, i.e. 5.5% of cases filed. The conviction rate (5.5%) seems low. The FIU could not provide information on the average processing time of one STR, nor on the number of STRs currently being processed.

132. The fact that there have been about ten convictions on the basis of the reports sent by the CENTIF testifies to the usefulness for the judicial authorities of the financial intelligence resulting from analysis carried out by this unit. However, some Magistrates believe that CENTIF reports do not always give them all the information they need for effective and efficient prosecution. They believe that these reports contain, sometimes, complex financial intelligence that does not allow them a good understanding of the file. The operational analysis of the CENTIF therefore does not sufficiently meet the operational needs of the judicial authorities. In fact, this situation could be explained in part by the lack of Magistrates specialized in the financial field or insufficient capacity building of the latter.

133. The FIU also conducts strategic analysis based on STRs and data directly accessible or collected on request. This strategic analysis is contained in periodic reports, including annual reports, which reveal the methods and trends observed in ML/TF and make

[38] https://www.lejecos.com/Trafic-aerien-1-974-164-passagers-registered-at the Leopold-Sedar-Senghor-airport in-2015_a7222.html

Recommendations for the improvement of the AML/CFT policy. The CENTIF quarterly reports are sent only to the Minister of Finance and the BCEAO while the annual activity reports are public and available on the website of the FIU[39].

134. Since 2009, the FIU has completed six (6) studies on: (i) Informal or alternative remittance systems (March 2009) ; (ii) Money laundering risks in real estate financing in Senegal (February 2013) ; (iii) Illicit Money laundering and terrorist financing risks in mobile payment services (September 2014) ; (iv) Money laundering and terrorist financing risks in Senegal in the area of electronic payments, including the Internet (September 2014); (v) Extractive industries and risks of money laundering and terrorist financing in Senegal (November 2015); (vi) Guidelines for monitoring and supervisory bodies of non-financial sector reporting entities (January 2016)[40]. The FIU's strategic analyses were utilized for the National Risk Assessment (NRA) but rely on a limited number of quantitative sources. The effectiveness of the FIU's analysis is limited due to the lack of dedicated staff. This is why, in the opinion of the FIU Authorities, the strengthening of the human resource base (quantity/quality) in this regard is necessary.

Cooperation and Information Exchange/Financial Intelligence and Confidentiality

135. The FIU's network of correspondents within the framework of its collaboration with certain Administrations, allows for fluidity in the disclosure of intelligence. Indeed, the FIU may request any administration to communicate intelligence concerning a casefile being processed, although the reverse is not provided for by the AML/CTF laws in force as at the time of the on-site visit. However, in practice, the Investigation and Prosecutorial Authorities may request the FIU to collect financial intelligence from certain reporting entities or from its counterparts in other countries. Similarly, the Intelligence Community, which is an operational framework for exchanges among the intelligence agencies, allows for better cooperation among these agencies, which includes the FIU. The Senegalese authorities have provided some statistics showing the exchanges between the FIU and the other services that make up this community.

Table 8 : Reports submitted to the FIU by the General Delegation for National Intelligence (DRN):

		Reference
1.		292/PR/DRN/TS
2.		300/PR/DRN/TS
3.		295/PR/DRN/TS
4.		302/PR/DRN/TS
5.		305/PR/DRN/TS
6.		321/PR/DRN/TS

[39] *www.centif.sn*

[40] This study was conducted as a prelude to the adoption of the new Uniform AML/CFT Act. It is yet to be published because this law has not yet been passed by Senegal

		Reference
7.		327/PR/DRN/TS
8.		328/PR/DRN/TS
9.		331/PR/DRN/TS
10.		336/PR/DRN/TS
11.		335/PR/DRN/TS
12.		343/PR/DRN/TS
13.		013/PR/DRN/TS
14.		072/PR/DRN/TS
15.		088/PR/DRN/TS
16.		024/PR/DRN/TS
17.		028/PR/DRN/TS
18.		366/PR/DRN/S
19.		001/PR/DRN/TS
20.		349/PR/DRN/TS

Table 9 : Information requests sent to the FIU by other stakeholders in the Intelligence Community:

Structure	Reference
National Gendarmerie Research Section	100/4/SR
DRN	395/PR/DRN/DGRE/S
DRN	459/PR/DRN/DGRE/S

Information requests sent by the FIU to other stakeholders in the Intelligence Community:

Year	Number
2016	12
2017	17

136. Furthermore, as part of the feedback process, the FIU sends feedback to the reporting entities who have submitted any STRs once its analysis has been finalized. Some reporting entities felt that this feedback was often late and was not sent for all STRs submitted.

137. With regards to feedback from the Judicial Authorities, the latter regularly inform the FIU of the follow-up actions on reports it has forwarded to them (the current stage of the proceedings, conviction or otherwise, sending a copy of the verdict). Such information is used

to supplement the statistics and enrich the strategic analyses of the FIU. In this regard, the Senegalese Authorities have provided statistics indicating that out of 165 reports transmitted, 49 indictments were issued, 12 trials initiated and 9 convictions secured. However, the data provided do not specify the number of cases in progress, the number of cases closed without further action and the number of acquittals issued.

138. Exchange of information and collaboration between the FIU and the monitoring/supervisory authorities of reporting entities is almost non-existent. Indeed, the observations made on the quality of the STRs, the late reporting or failure to submit STRs[41] do not seem to be communicated to the monitoring/supervisory Authorities of financial institutions. The FIU explained that all these facts were contained in its report to the State Prosecutor, but is not informed that the State Prosecutor may have communicated these to the supervisory Authorities. Also, there was no evidence that Supervisory Authorities, such as the BCEAO and the Banking Commission, communicate the findings of their AML/CFT inspections to the FIU or the Judiciary, where necessary.

139. In terms of confidentiality, a rigorous legislative and regulatory framework has been put in place, including the swearing-in of the Members of the FIU and its correspondents, the prohibition of the FIU from disclosing the name of the staff or reporting entity who prepared the STR, the principle of secrecy of the proceedings. The office security system put in place at the FIU also helps to maintain such confidentiality. The FIU is equipped with a secure information system used in analysing and keeping records of STRs and other information received in full confidentiality. This information system has codes and various levels of access designed to detect any intrusion or information leakage.

140. Exchange of information with counterpart FIUs is mainly done through the Egmont Secure Web. At the national level, transmission of intelligence is more proned to be physical (hand to hand).

Conclusion and Rating on IO. 6

141. Competent authorities receive and use financial intelligence efficiently to a large extent. The CENTIF collects, processes and disseminates financial information to all competent authorities. Its analysis is in line with the operational needs of the investigation and prosecution authorities. Financial intelligence is systematically used to establish evidence of the commission of predicate offenses. They are increasingly used for ML / FT investigations and prosecutions. However, the investigating authorities do not systematically use financial information and do not always conduct patrimonial and ML investigations, because of the difficulties associated with the availability of specialized financial analysis experts.

142. Moreover, on the basis of the law establishing OFNAC and that relating to the intelligence services, as well as the decree establishing the intelligence community of which it is a member, the CENTIF exchanges operational information with all the services having jurisdiction for intelligence, as indicated in Tables 5 and 6 of the paragraph 135.

143. **Senegal has a Moderate level of effectiveness for Immediate Outcome 6.**

[41] AML Act *n° 2004-09 of 6 February 2004, Article 40 : Penal sanctions of certain actions related to money laundering*

Immediate Outcome 7 (ML Investigations and Prosecutions)

Priority given to AML

144. The legislative framework reveals that the fight against ML is a priority for the Senegal. However, this commitment seems to be in contradistinction with the realities in Senegal due to the lack of specialized units or tested expertise of the investigation and Prosecutorial Authorities. In particular, Prosecutorial Authorities do not always accord the deserved level of importance to ML cases and rather concentrate more on prosecution of predicate offences of ML. The low level of parallel financial investigations[42] as against the large number of predicate offences is a glaring testimony of the situation, just like the small number of confiscations made.

145. The State Prosecutor at the Dakar High Court (TGI-HC) informed the assessment team that within the Prosecutor's Office there is an Economic and Financial Section in charge of the monitoring investigations and open proceedings for ML. This section, which consists of the State Prosecutor and some of his Substitutes, periodically (monthly) reviews all outstanding ML cases and decides on the procedure to be adopted. However, no indication has been given in respect of the regional courts, and therefore it appears that this approach applies only to the city of Dakar or at most the jurisdiction of the Court of Appeal in Dakar, according to the statement made by the General Prosecutor.

ML Identification and Investigation

146. The Senegalese Authorities affirm that money laundering cases are detected mainly from the STRs submitted to the FIU. The FIU analyzes the STRs and transmits the intelligence gathered from the analyses to the State Prosecutor as and when deemed necessary to initiate prosecution. Although this observation, to a certain extent, reflects the leadership of the FIU in the fight against ML in Senegal, it also unfortunately confirms the weak capacity of the conventional operational structures in this area.

147. The investigation agencies (Police, Gendarmerie, Customs), in accomplishing their core functions, also identify cases that may be related to money laundering activities. It is usually during the investigation of predicate offences that these investigative services identify instances of money laundering, even though this assumption is still exceptional when it should be the rule. Senegal cited the OCRTIS as an example of an agency which for 2016 to 2017 targeted ML in at least four (4) cases relating to drug trafficking.

148. The Prosecutorial Authorities stated that they have instructed the Criminal Investigations Department (CID) to increasingly target money laundering in the investigation of predicate offences. Where such a task was not accomplished at the CID, the Prosecutor's Office would do so on its own initiative or on directive by the Investigating Magistrate. The State Prosecutor would thus spontaneously and instantly require the opening of an investigation or even arraign the perpetrators for trial whenever there are sufficient grounds to presume that a money laundering offence has been committed. Within the framework of prosecutions initiated by the State Prosecutor, the latter may request for additional investigation from the CID or open an information window from which the Investigating Magistrate would issue

[42] A "parallel financial investigation" means a financial investigation conducted at the same time or as part of a criminal (traditional) investigation on a case of money laundering, predicate offence(s) or terrorist financing.

rogatory commissions to the CID requesting the CID to carry out extensive searches in order to gather evidence and unravel the suspect.

149. Senegal has conducted investigations for ML cases based on requests for mutual legal assistance from third countries. However, the Prosecutorial Authorities did not provide statistics on investigations for ML cases.

Table 10: Number of Prosecutions of ML Cases (2014-2016)[43]

	2014	2015	2016	2017
Based on FIU reports	22	10	16	6
Based on information obtained from Investigative Authorities	1	3	3	2
Based on requests for mutual legal assistance	-	-	-	-
Total	**23**	**13**	**19**	**8**

Parallel Investigations

150. Detecting the ML offence through parallel financial investigations is not a common practice in Senegal. The State Prosecutor affirmed he was promoting this practice within his office and with the CID, but the meeting with the Chief Justice of the High Court of Dakar (TGI-HC) has identified that in most of the prosecutions for predicate offences, the offence of ML is not targeted, which is confirmed by the statistics presented in the table above.

151. Discussions with the Investigative Authorities (Police, Gendarmerie, Customs and Revenue Authority) revealed that parallel investigations are extremely rare if not non-existent. The National Police, for example, cited the lack of skills and specialization in financial investigations to justify this situation. The Customs Administration does not conduct any money laundering investigations in respect of customs offences which are predicate offences of ML. Senegal attributes this situation to the fact that the customs administration is not empowered to conduct investigations on ML cases. In fact, it does not need this authorization once it has secured jurisdiction to investigate customs offences. The situation is similar to that of the tax department, where tax offences, which are predicate offences to ML are not brought forward for criminal prosecution, much less for parallel investigation.

152. The solution consists, beyond the sensitization and training of the said administrations, in either granting them criminal investigation powers with regard to the Revenue Authorities or obliging them to contact the State Prosecutor whenever there is a customs or tax offence that could lead to ML by facilitating or simplifying the conditions for this referral procedure, or encouraging them to submit reports to the FIU or in case of customs violation. Indeed, in Senegal the referral to the State Prosecutor by the customs or tax administration is only open to the highest Authorities of these administrations or their representatives. This restriction is not likely to facilitate the criminal prosecution of ML cases and therefore frustrate the fight against ML.

[43] The Senegalese Authorities explained that prosecutions based on the FIU's reports are cases of stand-alone ML offence whereas those based on information provided by the investigative authorities are ML cases linked to predicate offences.

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

153. Senegal's NRA report identified the following predicate offences as the major threats: fraud, drug trafficking, embezzlement of public funds, corruption and s violation of exchange regulations. The offences which motivated the submission of STRs to the FIU were also identified among the major threats to ML during the NRA exercise. They are presented in the Table 6 below.

Table 11: Breakdown of STRs by Predicate Offence

	2014	2015	2016	2017
Participation in an organized criminal group and racket	0	1	1	3
Terrorism, including its financing	0	0	1	2
Illicit trafficking in narcotics and/or psychotropic substances	5	0	1	1
Fraud	34	30	12	7
Theft and receiving stolen assets and other assets	0	0	2	1
Falsification	2	1	4	2
Cybercrime	1	11	7	1
Trickery	25	11	7	0
Human trafficking and migrants' smuggling	0	0	2	0
Smuggling (including tax, customs and excise duties evasion): violation of foreign exchange regulations	14	7	6	0
Corruption	2	7	6	0
Gold trafficking	2	1	3	0
Currency counterfeiting	0	1	0	0
Migrants' smuggling	2	0	0	0

154. The State Prosecutor at the Court of Appeal in Dakar stated that the objective is to deny the criminals of any benefit from their illicit profits by deterring them from engaging in further criminal activities. To achieve this, ML prosecution should focus on the most common predicate offences or those that generate significant profits. If properly implemented, this policy would effectively mitigate, if not stem, the major threats Senegal is grappling with in relation to ML.

155. The Senegalese Authorities state that there is some degree of consistency between the risk profile identified and the predicate offences that have been mostly investigated for ML. However, statistics provided by Senegal do not depict any objective assessment of the consistency between the investigations and prosecutions and the country's threats and risk profiles. The trends observed on the basis of the predicated offences suspected during STRs are not enough to assess this consistency. Judicial statistics which are supposed to corroborate such trends were not provided.

Types of ML Cases Prosecuted

156. Statistics from 2013 to 2017 submitted by Senegal mention twelve (12) cases tried in court and resulting in one conviction for ML, with fines amounting to FCFA 234 million (272 882 Euro) and confiscations amounting to FCFA 730 million (1 112 873 Euro)

157. Out of ten (10) cases relating to offences committed abroad prosecuted in Senegal, seven (7) of them resulted in convictions with prison terms ranging from 1 to 3 years, fines of FCFA 179 million was imposed and confiscations worth FCFA 44 million were secured.

158. The Judicial Authorities gave an example of a conviction from two types of ML: self-laundering and autonomous money laundering which led to a conviction with 3 years of imprisonment, a fine of CFAF 3,000,000 (4573 Euro), confiscation of 643 million CFAF (980 243 Euro), and seizure of assets.

159. Senegal did not provide evidence of conviction for third party money laundering or for complex cases involving many people, many countries and multiple transactions. For example, the K.W. case is a complex matter through which Senegal could have demonstrated that it takes account of the money laundering aspect in complex cases. However, for reasons specific to Senegalese law, the CREI could not continue to prosecute for ML (its material jurisdiction does not allow it to do so), leaving it up to the traditional courts to do so, which they could not do at the time of the on-site visit.

160. Combined predicate offences and money laundering are extremely rare if not non-existing, except for case files sent by the FIU to the prosecution. For example, in the K.W. case, Senegal missed the opportunity to anchor dual prosecutions in judicial practice.

161. It was noted during the on-the-visit that the CREI, which had knowledge of the above-mentioned case, did not add the charge of money laundering because it would have claimed a jurisdictional power which is exclusively related to certain offences limited by the law establishing the said Court. Such a vision is however regrettable in that with the developments in the law, ML and illicit enrichment have become related offences that could have been prosecuted together, through one and the same jurisdiction, the CREI, for greater effectiveness and fair administration of justice.

Effectiveness, proportionality and dissuasiveness of sanctions

162. Article 37 of the 2004 AML Act provides for prison terms ranging from 3 to 7 years for ML offences. This sanction can be doubled in the event of aggravating circumstances. Furthermore, it should be noted that where the crime or offence from which the assets or sums of money derived from the offence of money laundering is penalized with a prison sentence higher than the one being served pursuant to Article 37, money laundering shall be sanctioned with sentences prescribed for the original offence. It also contains sanctions against legal persons involved in these prohibited activities, which may include the ban to carry out the activities, or the closure of the organisation concerned. They also contain measures, including mandatory complementary sanctions, precisely confiscation, targeting assets and assets of persons involved in the ML activity. The courts are required to apply the various sanctions provided for, consistent with the country's general principles of criminal law. However, the application of extenuating circumstances in the sense that they are not explicitly excluded in this area as well as the stay of execution reduces effectiveness of these sentences. Senegal has not conducted any prosecution or secured conviction of any legal persons for ML. Senegal explains that, to date, no case involving an actor in this category has been identified. The statistics on ML investigations, prosecutions and convictions are in Table 7 below.

Table 12: Investigations, prosecutions and convictions for ML

	2014	2015	2016	2017 *	Total
Number of prosecutions for ML [44]	23	13	19	8	63
Number of indictments for ML[45]	22	16	10	1	49
Number of trials of ML	5	2	2	1	10
Number of convictions for ML[46]	3	2	0	1	6
Disqualification of ML offence[47]	2	0	2	0	4
Total	54	36	24	4	118

* January - June 2017

163. Senegal reported that in seven (7) cases that resulted in convictions, sentences ranged from one to three years imprisonment in addition to fines. It also disclosed a case of conviction where the sentence was three (3) years imprisonment, a fine of FCFA 3 million, confiscation of FCFA 643 million (643 million FCFA) (€980 243 Euros) and two (02) buildings. The cases reported by Senegal entirely concern natural persons. No example of conviction of legal person has been secured.

164. The assessment team noted the low level of convictions in relation to the number of prosecutions initiated (20%). This low level is attributable to the fact that the FIU's reports, which form the basis for the prosecutions, are deemed to be brief by the judicial authorities. The other possible reason is the low capacity to deal with such highly technical and often very complex cases. The assessment team noted that most of the prison sentences handed down were below the legal minimum. Furthermore, the interview with the Chief Justice of the Dakar High Court (TGI-HC) and his Registry revealed that most of the sentences were suspended (out of 6 cases, none had its prison sentence executed). With regard to assets sanctions (fines and confiscation), they are not always issued and even where they were, they were rarely executed. All these elements led to the conclusion that beyond the provisions of the AML Act 2004, sanctions are neither effective nor proportionate, or even dissuasive.

Implementation of Alternative Measures

165. Senegal affirms that judicial processing of a legal proceeding may result in disqualification or reclassification of the facts. These are techniques that can lead to a shift in the historical understanding of the facts and result in a conviction for an offence different from the one that was originally prosecuted. The judicial processing of the facts of ML records shows that the courts very rarely resort, in the various cases, to these techniques of requalification or disqualification. (Example of a case tried in 2012: Acquitted for criminal conspiracy, money laundering, forgery and falsification, sentenced to 2 years imprisonment and fined CFAF 100,000 (€152 Euro) for fraud. The Judicial Authority is therefore looking for alternative means to obtain the conviction of the person being prosecuted. However, the Assessors noted that conviction for a predicate offence is not an alternative measure

[44] Prosecution: Opening of a case file by the prosecution which is immediately submitted to a Presiding Magistrate (Article 29 of Law No. 2004-09 of 6 February 2004)

[45] Indictment: act by which an investigating judge formally implicates a person in the course of an investigation.

[46] Figures on this line of the Table indicate a low conviction rate as against the number of cases prosecuted (20%).

[47] Case commenced as ML but tried as predicate offence.

166. The Customs Administration also explained the use of sanctions and customs confiscation to settle disputes related to cross-border physical transportation of cash and bearer negotiable instruments, but no usable statistical data were provided to this effect. The practice of customs confiscation does not allow the files to be transmitted to the judicial authority which will be able to assess whether there is money laundering or not. This practice is therefore not an alternative measure. Senegal has no criminal justice measure that would allow, for example, confiscation even though a conviction for ML or any predicate offence (non-conviction-based confiscation) has not been obtained.

Conclusion

167. The Senegalese Authorities lay a certain degree of premium in investigation and prosecution. Several investigations and prosecutions were launched but prosecution for ML could not be associated with the known complex cases. Available statistics cannot be used to assess consistency with the predicate offences deemed to be high risk. Several investigations and prosecutions for ML were carried out covering some of the types of ML leading to about ten convictions. The cases cited made no mention of dismantling sophisticated ML networks. The sentences imposed do not appear, in many cases, to be sufficiently proportionate and dissuasive.

168. **Senegal has a Low level of effectiveness on Immediate Outcome 7.**

Immediate Outcome 8 (Confiscation)

Priority given to the confiscation of proceeds and instrumentalities of crime and assets of equivalent value

169. The Senegalese Authorities consider that confiscation of proceeds of crime, instrumentalities of crime and assets of equivalent value as one of the core objectives and priorities in the fight against ML/TF. In this regard, AML/CFT Magistrates regularly take part in training sessions organized by international institutions such as the UNODC, Interpol and other bodies. They are especially supported in this capacity building drive by GIABA and the FIU through national and sub-regional seminars and workshops. These training sessions are extended to all Magistrates without discrimination.

170. The current Senegalese legislation, though bound to improve, provides the judicial and customs Authorities with some mechanisms for the effective suppression of ML/TF and the predicate offences that generate illegal income, including the confiscation of the proceeds and instrumentalities of crime, as well as assets of equivalent value.

171. The Dakar Prosecution office has a section in charge of prosecution for money laundering issues. However, the Assessors were unable to ascertain whether the unit is a specialised one as indicated by the authorities, as they are involved in other areas of criminal justice. Senegal reaffirmed its commitment to the fight against ML and its predicate offences through confiscation of the proceeds and instrumentalities of crime. Also due to the low number of cases, the prosecuting authorities have not defined any policy exclusively dedicated to priority matters. The Assessors were informed that a decision had been taken to associate ML with prosecutions of all predicate offences. However, there was no indicator of any amount the Authorities could consider as a great loss.

172. Police Authorities have been sensitized to henceforth direct their investigations towards the proceeds of crime. The Prosecutorial Authorities have the power to order detailed financial investigations to ascertain the values that could be seized and confiscated. This approach goes beyond the proceeds and instrumentalities of crime and readily available assets of equivalent value. These investigations may concern both asset values seized in Senegal and those located abroad. They may relate to both the predicate offence and ML.

173. The initial training policy for Magistrates at the Judicial Training Centre (CFJ) focuses on basic training, supplemented by specific sessions on customs litigation, cybercrime, terrorism, money laundering, etc. Within the Police, the UNODC's anti-money laundering interactive training software is installed at the Police Academy as well as the FIU. It is regularly used by police officers. In addition, the dissertation subjects below were developed by trainee Police Commissioners at the end of their training cycle at the National Police Academy:

Table 13: Dissertation Topics- National Police Academy

Topic	Graduation Class	Year
Economic and financial crime: an experiment at the Economic and Financial Brigade of the Criminal Investigation Division (D.I.C)	32nd	2001-2002
The origin of financial crime: repression of money laundering in Senegal.	37th	2006-2007
Impact of the banking system on anti-money laundering.	39th	2012-2013
Combatting economic and financial crime in Senegal	40th	2013-2014
Money laundering and the judicial investigation process: determining the location of safe deposit boxes in banking institutions	41st	2014-2015
Issue of terrorism prevention in Senegal.	41st	
Administration of money laundering evidence	42nd	2015-2016
Anti-terrorism drive and the rule of law	43rd	2016-2017
Anti-money laundering and countering the financing of terrorism in Senegal	44th	2017-2018
UEMOA policy on financial crime: an example of money laundering and terrorist financing	44th	2017-2018
The legal and institutional framework for combating money laundering terrorism financing in Senegal	44th	2017-2018

174. Also, apart from capacity building, the Senegalese Authorities have indicated that they are facing challenges in ML/TF- related investigations and prosecutions. These difficulties result from insufficient human and technical resources to trace complex financial channels for seizure of the illicit or lawful assets of financial criminals; hence the limited number of asset investigations ordered both in Senegal and abroad, thus providing a constantly avowed concern by investigative and judicial Authorities. The confiscation measures implemented by the Senegalese Authorities are therefore not effective, proportionate and dissuasive.

175. The confiscation of proceeds and instrumentalities of crime as well as assets of equivalent value is a priority of the criminal policy to fight ML/TF in Senegal.

176. It is practically represented by the high value of assets seized, particularly in the case K.W., even in this case, ML has not been targeted and prosecuted.

177. Senegal did not inform the Assessors of the existence of any confiscation policy generally associated with criminal fines. The investigative Authorities and judicial Authorities agree that tracing the asset of criminals as well as instrumentalities of crime for confiscation constitutes an essential element for the effective fight of ML/TF, to ensure that criminals do not benefit from such assets.

178. In this regard, the National Police Headquarters (DGPN) argues that it is critical to systematically focus on the assets of those involved in the judicial investigations. This vision is also shared by the State Prosecutor's Office at the Court of Appeal in Dakar, which by circular, instructed all his officers henceforth to work in that same direction. With this perception, several cases resulted in confiscations including the SONATEL-Guinea, Mrs. Kalogo and Tierno Lamsy cases.

179. Officials of the CREI accord the same importance to the confiscation of assets during the proceedings implemented by this jurisdiction, even though their intervention framework has nothing to do with the ML/TF offence. They did not say, however, whether they could seize assets of equivalent value. They pointed out, however, that assets concealed through nick names are systematically searched for, seized and confiscated. The confiscation of assets of equivalent value is a practice generally shared by all the investigative and criminal Prosecutorial Authorities in Senegal.

180. In the K.W. case, several assets were confiscated both in Senegal and abroad. In this regard, the State Prosecutor claimed that the assets seized would be maintained until the final outcome of the proceedings and should any ruling be issued for release or acquittal in the meantime, he would systematically file in the appropriate appeals until the latter are exhausted. This demonstrates the degree of importance the Senegalese judicial Authorities attach to the effective implementation of confiscation measures to deprive criminals of their assets.

181. It would be recalled that the Chief Justice of the Dakar High Court also indicated his jurisdiction’s consent to issue confiscation orders once the appropriate preparatory measures had been well conducted.

182. As an illustration of the involvement of the criminal Prosecutorial Authorities in the execution of confiscation orders, they suggested the establishment of an Authority with more expertise that would be empowered to assist all the judicial Authorities (Presiding Magistrates, Prosecutor's Offices) in the conduct of AML/CFT-related court proceedings in order to step up the conviction rate and, consequently, the confiscation of criminals’ illicit assets.

Restraint prior to criminal proceedings

183. With regard to provisional measures, the FIU may, on the basis of serious, resolve and reliable intelligence in its possession, block the execution of any transaction, where a report is supposed to be submitted to the Prosecutor's Office and where there is a risk of dissipation of funds suspected of being of illicit origin.

Table 14: Financial Transactions Blocked by the FIU

S/N	Date	Amount in CFAF	Amount in Euros	Total Annual in CFA	Total annual in Euros
1	27 December 2013	1.311.914.000	1 999 991		
2	28 June 2013	113.389.881	172 861		
3	6 September 2013	5.011.468	7 640		
4	16 September 2013	14.548.376	22 179		
5	17 September 2013	98.393.550	149 999		
6	19 December 2013	53.843.376	82 083		
7	19 December 2013	28.774.250	43 866		
Year 2013				1.625.874.901	2 478 619
8	9 September 2014	7.317.396	11 155		
Year 2014				7 317 396	11 155
9	23 March 2015	1.398.425	2 132		
10	11 November 2015	15.253.961	23 254		
11	15 July 2015	16.700.000	25 459		
Year 2015				33.352.386	50 845
12	8 January 2016	35.724.269	54 461		
Year 2016				35.724.269	54 461
Total from 2013 to 2016				1 702 268 952	2 595 080

184. Senegal has no central authority responsible for the management of seized, frozen or confiscated assets. This role is carried out by several structures including the State Judicial Agent (AJE) in respect of the execution of the confiscation order. Senegal stated that the State Judicial Agent, the Department of Lands and the Public Deposit Fund play their respective roles in the seizure, confiscation procedure and management of confiscated assets. However, the Breakdown of this mandate among several organisations limits their effectiveness.

Seizures

185. Seizures are managed by the Public Deposit Fund (CDC). The reports by the FIU to the State Prosecutor at the Dakar High Court on ML cases indicated that about **CFAF 1,311,914,000 (€ 1 999 991 Euro)** was seized and transferred to the CDC as indicated in Table 8 below.

Table 15: Cash seizures (2012 – 2015)

Year	Number	Amount seized (equivalent value in CFAF)	Fines (equivalent value in CFAF)
2012	7	1,150,553,784	274.412.053 (418337 Euros)
2013	24	1,961,635,483	543.848.333 (829 088 Euros)

2014	41	1,763,130,625	601.265.715 (916 619 Euros)
2015	20	916,494,520	345.886.295(527 298 Euros)
Total	**92**	**5,791,814,412**	**1.765.412.396** (2 691 342 Euros

Confiscations

186. The management of confiscated assets is the responsibility of the State Judicial Agency. Senegal indicated that this institution under the authority of the Ministry of Finance recovered the sum of **CFAF 692,320,494 (1.055.431** (Euros) following the judicial confiscation orders issued in the case files referred by the FIU. Also confiscated were six hundred forty-three million one hundred and eighty-one thousand five hundred seventy-seven (643,181,577) CFA Francs/ (980. 520 Euros) and two (2) buildings built on areas of two hundred and ten (210) m2 and three hundred and ninety-eight (398) m2 respectively, valued at five hundred million (500,000,000) CFA Francs /(762 242 Euros).

187. The role of the AJE is to carry out all actions that should enable the seized assets to be incorporated into the State assets. The AJE did not provide any updated statistics but informed the Assessors that as at the date of the on-site visit, it had fully executed only one confiscation order and totally recovered asset confiscated out of a whole set of convictions in the proceedings initiated by the FIU.

188. Senegal stated that the fines for ML offences or proceeds of crime for 2012-2016 is about FCFA 1, 314,407,432. (2.003.792 Euros).. This does not include seized, frozen or confiscated assets.

189. This intelligence does not include customs transactions and the procedures followed by the CREI, as well as those known by the other judicial Authorities on their own. No confiscation by equivalent has been carried out by the Senegalese Authorities.

Effectiveness of seizures and confiscations

190. The relatively outdated and incomplete Senegalese legislative framework have not been used in its entirety. All available measures have not been implemented, for example seizure or confiscation of assets of equivalent value or repatriation to Senegal of assets confiscated abroad or repatriation to abroad of assets confiscated in Senegal or even the Breakdown of confiscated assets among several States that involved in the recovery.

191. However, the effectiveness of the Senegalese AML/CFT regime has also been assessed with regard to the identification of crimes committed abroad with laundered proceeds of crime in Senegal, for a total amount of FCFA 323,929,810 (493.826 Euros). This effectiveness would no doubt have been better appreciated if the Authorities specified whether it was an amount seized, confiscated and whether this asset, if confiscated, was done through international cooperation by indicating the mechanism used in this case, and whether finally there was any sharing agreement concluded among the States involved.

192. In addition to the aforementioned intelligence, some court rulings have been delivered with regard to the confiscation of fixed assets in Senegal, the sale of fixed assets belonging to

a fictitious name, particularly in the case of K.W. The CREI also reported that, as part of its procedures, it confiscated and sold five assets located in Senegal.

193. Three out of five confiscation orders have been executed: confiscation of a sum of six hundred and forty-three million one hundred and eighty-one thousand five hundred and seventy-seven (643,181,577) CFAF (980.520 Euros) and two (2) buildings erected on areas of two hundred and ten (210) square metres and three hundred and ninety to eight (398) square meters respectively, valued at five hundred million (500,000,000) CFA francs (762 242 Euros).

194. In spite of the small number of such jurisprudence in Senegal, such rulings have not been made available to the Assessors in order to carve out a typology.

195. Obviously, the experiences and examples provided by the Senegal do not sufficiently demonstrate effectiveness of confiscation procedures, especially in activities that are vulnerable to high ML risk in Senegal. In particular, data relating to prosecutions are those initiated by the FIU in conducting parallel investigations/prosecutions or dual predicate offence to ML. This is especially so because the repression of ML is not the FIU's prerogative.

196. Customs offences, cash smuggling and foreign exchange offences almost always result in transactions that do not take account of the AML/CFT aspect.

197. Regarding the offences of counterfeiting, drug trafficking, illegal fishing, timber trafficking, breach of trust and fraud, which are predicate offences to ML, the authorities affirm that the amounts mentioned in the NRA[48] are estimates of criminal gains the criminals would have realized had the operation been "successful". The Assessors noted the lack of information on the possible criminal prosecutions of these cases. They could not verify whether ML was retained as an offence in the prosecution of these cases. Regarding the CREI data as reported in the NRA, the Senegalese Authorities did not state whether they were seizures of cash, bank accounts or proceeds of seized or confiscated funds. In addition, evidences, and statistics provided by Senegal on seizure and confiscation are not adequate to ascertain the effectiveness of confiscation measures, and whether they are in line with ML/TF risk assessments.

Table 16 : Number and type of assets confiscated following convictions for ML

	2014	2015	2016	2017 *
Cash (US $)	-	-	-	-
Current Accounts / Securities Accounts	692,320,494 CFAF[49] (	-	-	-
Businesses and companies	-	-	-	-
Assets/Buildings confiscated				
Buildings/Houses[50)]	-a building at Yoff (TF 10600) -a building at Almadies (TF 2841)	-	-	-

[48] Senegal NRA Report, page 21

[49] *Equivalent to about 1 055 435 Euros*

[50] *One of the buildings has been assigned to a State structure to serve as office premises*

	2014	2015	2016	2017 *
Plots of undeveloped land and warehouses	-	-	-	-
Business buildings	-	-	-	-
Garages, stores and berths at harbors		-	-	-
Total number of assets	2	-	-	-
Confiscated vehicles and vessels				
Cars	-	-	-	-
Utility sports vehicles	-	-	-	-
Heavy Trucks	-	-	-	-
Motorcycles	-	-	-	-
Industrial vehicles, vans and tractors	-	-	-	-
Speed boats and personal vessels	-	-	-	-
Total number of vehicles and vessels	-	-	-	-
Others				
Weapons (rifles, shotguns, etc.)	-	-	-	-
Horses, etc.	-	-	-	-

* January - June 2016

198. No cases of reimbursement of funds to victims or sharing with overseas countries were provided to the Assessors. There is no official institution to provide technical assistance to Magistrates and investigators in their seizure and confiscation functions. Confiscation is a mandatory additional sentence in all cases of convictions for ML/TF. However, according to the Senegalese Authorities, it cannot be ordered without prior conviction.

199. Senegal did neither mentioned nor provide any statistics relating to prosecution of money laundering or predicate offences that did not lead to any conviction on grounds of criminal policy, length of proceedings (dispersal and alteration of evidence) or prescription. The only case for which they have expressed concern is a case in which the prosecuted Senegalese national had money stuck in the USA. Senegal indicated that this case was not related to ML but the sale of license to a telephone company. The mutual legal assistance request by Senegal was not successful as the USA requested for additional evidence that would confirm that the funds to be seized were derived from the predicate offence being prosecuted, which the Senegalese authorities could not follow through. The proceedings therefore remain suspended at the investigating office and thus cannot be closed pending the intelligence and documents required by the Presiding Magistrate, with the proceedings running the risk of being discontinued.

Table 17: Statistics on International Cooperation

	2014	2015	2016	2017 *
Mutual Legal Assistance				
ML-related requests received from other countries	-	-	-	-
* ML-related requests executed	-	-	-	-
Senegal's ML-related requests to other countries	3	1	0	0
* ML-related requests responded to	-	-	-	-
TF-related requests received from other countries	-	-	-	-

TF-related requests sent out by Senegal	-	-	-	-
Mutual Legal Assistance requests received for:				
Asset tracing (with a related request for freezing / confiscation)	-	-	-	-
Asset tracing (without a related request for freezing / confiscation)	-	-	-	-
Extradition requests				
ML-related requests received from other countries	-	-	-	-
* Requests executed	-	-	-	-
* Request refused	-	-	-	-
* Query pending	-	-	-	-
ML-related requests made by Senegal to other countries	-	-	-	-
* Requests executed	-	-	-	-
* Request refused	-	-	-	-
* Request pending	-	-	-	-
TF-related requests received from other countries	-	-	-	-
TF-related requests made by Senegal	-	-	-	-

* January - June 2017

200. The Senegalese Authorities have indicated that requests for mutual legal assistance for confiscation abroad are not always executed without the requested State giving reasons. (Case of K.W. with its protracted execution procedure)

Confiscation relating to cross-border transportation of cash and bearer negotiable instruments because of false declaration or non-declaration or false disclosure

201. With regard to cross-border transportation of cash and bearer negotiable instruments falsely declared/undeclared, or misrepresented, cash seizures are made annually by Customs officers at the borders. Customs officers have been sensitized to redouble their due diligence measures. Senegal has scanners at borders or airports for detecting undisclosed or undeclared currencies in travellers' luggages.

202. Seizures are also made in the case of violation of foreign exchange regulations. According to the Senegalese Authorities, over the period 2012-2016[51], the Senegalese Customs applied sanctions and collected an amount of CFAF 40 billion (60. 979.328 Euros) relating to customs offences.

203. The smuggling of foreign cash by inbound passengers through physical transportation of cash exceeding the CFAF 2,000,000 (two million CFAF) threshold has been subject to sanctions in favour of the State to the tune of one billion eight hundred and forty-five million CFA francs (CFAF 1,845,000,000) (2.812.672 Euros)..

204. During the on-site visit, Senegal reported cases of confiscation, including the sum of three hundred (300) million CFA Francs (€4 573 Euros), during an operation against the illicit physical cross-border transportation of cash, and also the case of a targeted company serving as a shell company for the financing of the Lebanese Hezbollah.

205. However, confiscation of cash and bearer negotiable instruments falsely declared/undeclared or misrepresented by the Authorities customs, are actually fines and not confiscation as defined by FATF. Indeed, confiscation occurs within the framework of legal or

[51] See NRA Report- **Table 1**: Predicate offences over the period 2012-2016

administrative proceedings which transfers ownership of funds and other assets to the State. In this case, the natural or legal person (s) who holds an interest in the said funds and other assets at the time of the confiscation shall, in principle, lose all rights in the funds and other assets confiscated or lost. Confiscation orders are usually linked to a criminal conviction or a court ruling that the confiscated asset is a violation of the law or intended to be used for such a violation.

206. However, the current practice seems to be the opening of legal proceedings whereas such funds may be intended for the financing of terrorism and even a meagre amount is enough to satisfy the carrier.

Table 18: Violation of Foreign Exchange Regulations (2014 – 2017*).

	2014	2015	2016	2017
Number of litigation cases	10	20	12	5
Customs value *(in billions of CFA francs*)	13.7 20 885 420 Euro	14 21 342 765 Euro	8.4 12 805 659 Euro	8.3 12 653 211 Euro
Sanctions *(in millions of CFA francs)*	700.5 1 067 900 Euro	807 1 230 258 Euro	637 971 096 Euro	250 381 121 Euro

Consistency of Confiscation results with ML/TF risks and National AML/CFT policies and priorities

207. There is a gap between the determination displayed by the Senegalese Authorities and the actual results, which are very low in terms of confiscation.

208. The NRA noted that financial crime generates significant financial flows. However, confiscations by Judicial and Customs authorities appear to be quite modest. They are therefore inconsistent with the country's AML/CFT policies and priorities.

209. From 2014 to 2015, out of five (5) convictions for ML executed in Senegal, only one resulted in the execution of the confiscation of a sum of six hundred and forty-three million one hundred and eighty-one thousand five hundred and seventy-seven (643,181,577) CFA francs (980 520 Euros and two (2) buildings erected on a surface area of two hundred and ten (210)square metres and three hundred and ninety-eight (398) square metres respectively, with an estimated value of five hundred million (500,000,000) CFA Francs (762 242 Euros).

210. The customs Authorities play their part in the confiscation policy but limit their intervention to the traditional customs role, particularly by imposing fines whereas in AML/CFT, funds seized do not constitute the body of the offence but the proceeds of the offence, leading to a shift in the paradigm. Incidentally, this practice which seems to be confusing fine and confiscation stresses on the understanding of the AML/CFT requirements, especially as the Authorities provide no information on the next step of the once this fine has been collected.

211. The Senegalese Authorities do not have any centralized, relevant and clear statistics on seizure and confiscation of assets in Senegal and abroad (asset sharing), the offences leading to the adoption of the measures (ML and predicate offences) confiscations relating to false reporting or false declarations at the border, as well as the amounts returned to the victims. It is difficult to assess the findings of research undertaken and accomplished in these areas.

212. At the end of the on-site visit, it has been noted that Senegal has no consistent approach to confiscation. The Senegalese Authorities discriminate unconsciously in terms of the confiscation of the proceeds of crime, the instrumentalities of crime or assets of equivalent value.

Confiscation of proceeds, instrumentalities and assets of equivalent value as a policy objective

213. Cases of confiscation are rare, nonetheless, in terms of cooperation, Senegal cited the case of K.W., in which the Senegalese judicial authorities made an international request for the seizure of various assets belonging to the latter, abroad, especially in France.

214. At the time of the on-site visit, France had not yet officially responded to Senegal's request because the enforcement procedures were still in progress. The delay in the execution of this request for mutual legal assistance sent to France could be linked to the fact that the ruling (illicit enrichment) for which execution has been requested is not enforceable according to the legislation in force in France and because Senegal's verdict issued by the CREI does not offer sufficient guarantees with regard to the rights of defence (no provision for appeal).

Conclusion

215. In conclusion, the non-domestication of the UEMOA Directive No. 02-2015 on AML/CFT limits the development of an intelligible strategy in the area of confiscation based on identified ML/TF risks. The competent authorities responsible for seizure and confiscation lack the adequate financial, human and technical resources to produce results to match the large number of predicate offences to ML. Also, traditional Investigative Authorities do not take account of the money laundering aspect in traditional crime investigations, thereby limiting opportunities offered by the AML/CFT confiscation laws. Furthermore, according to the judicial authorities, the FIU's reports disseminated to the State Prosecutor are not detailed to facilitate in-depth asset investigation and ultimately confiscations. In addition, tax and customs offences which should lead to several confiscations are not prosecuted and subjected to parallel financial investigations. The capacities of the various stakeholders involved in investigation, prosecution and adjudication of ML cases would need to be strengthened.

216. **Senegal has a Low level of effectiveness on Immediate Outcome 8.**

CHAPTER 4. TERRORIST FINANCING AND PROLIFERATION FINANCING

Key Findings and Recommendations

Key Findings
Immediate Outcome 9

The TF offence

- The fight against terrorism and its financing is a priority for Senegal. Given the sub-regional security environment characterized by the resurgence of terrorist acts and recent events in neighboring countries, the resources devoted to the fight against terrorism and TF have been enhanced.
- There are national coordination mechanisms that facilitate effective collaboration and sustained sharing of information among competent authorities.
- Counter-terrorism and terrorism financing units have been established within the National Police, the national Gendarmerie and the High Court of Dakar.
- Senegal has not criminalized the financing of an individual terrorist or terrorist group for any purpose, as well as foreign terrorist fighters.
- Although the NRA indicates there is a high probability of local collection of funds for terrorist financing, no such case has been reported or prosecuted in the country.
- Terrorist financing cases are detected through the analysis of suspicious transaction reports but no conviction had been secured based on such analyses as at the time of the on-site visit.
- Investigative and prosecutorial authorities take appropriate measures to integrate the financial aspects of terrorism-related investigations. However, the effectiveness of such measures could not be attested to as no prosecution had been successful. As at the time of the on-site visit, no terrorist financing conviction had been obtained, but some cases are still under investigation.
- Following the interviews during the on-site visit, it seemed that the application of the principle of reciprocity hampered cooperation in the fight against the financing of terrorism.

Immediate Outcome 10

Preventive Measures and Financial Sanctions for Terrorist Financing

- Senegal has legal and institutional frameworks designed to implement targeted sanctions pursuant to United Nations Security Council resolution 1267. However, there is no comprehensive mechanism for the implementation of Resolutions 1267 (1999), 1989 (2011), 2253 (2015) and 1373 (2001) without delay. The Senegalese authorities have restricted themselves to distributing the Sanctions List as received from the United Nations among the various administrations and stakeholders concerned in the private sector. Mechanisms for inclusion/delisting, release or exemption are not provided for. The List is

not distributed to the general public. Senegal reports a case of asset freezing in implementation of sanctions based on UNSCR 1267.

- NPOs in Senegal are required to report TF under the CFT Act. The supervisory authority for NPOs receives reports from NPOs and transmits the requisite intelligence to the FIU. These measures do not cover associations. In spite of the compliance with this reporting obligation, there is no effective implementation of AML/CFT measures in respect of NPOs due to weak supervision.
- There are two categories of NPOs: Non-Governmental Organizations (NGOs) and Associations. Only NGOs are supervised. The NAR carried out by Senegal, noted a proliferation of Islamic associations and NGOs that constitute a real risk factor in the financing of terrorism. However, it was not indicated whether this categorization was made on the basis of risk-based approach.
- Sensitization activities in the NPO sector is inadequate. Initiatives are taken through the activities of federations and apex institutions, but only partially fill the gaps in understanding and managing TF risks in the sector.
- The Authorities in charge of the NPO sector lack resources and have not taken any risk-based approach in regulating and supervising NPOs.
- The anti-terrorist units of the National Police informed Assessors that they had developed a monitoring strategy for faith-based NPOs, but the country did not demonstrate the effectiveness of the strategy because there have been no sanctions.

Immediate Outcome 11

Financial Sanctions for Proliferation Financing

- Senegal has no legal framework to implement targeted financial sanctions (TFS) relating to the financing of proliferation of weapons of mass destruction. However, Senegal is implementing TFS on proliferation financing using mechanisms for implementing UNSCRs1267 and 1373). The lists are distributed to administrations and reporting entities. The customs administration has also taken steps to identify the transactions involving countries, companies and individuals subject to UN sanctions related to proliferation.
- There are several entities in charge of the fight against proliferation of weapons of mass destruction.
- Financial institutions are not implementing TFS related to proliferation.
- No awareness-raising activity has been organized for other economic operators such as manufacturers and traders (import-export) as well as transporters to inform them of the prohibition of having business relationships with targeted countries, businesses and people.
- Supervisory authorities are not monitoring implementation of the sanctions by financial institutions.

Recommended Actions

The following recommendations are made:

Immediate Outcome 9

- Senegal should ensure that all investigative units involved in the counter-terrorism drive receive training on financial investigations are encouraged to retrace financial networks in their investigations:
- Senegal should ensure that prosecutors dealing with terrorism and terrorism financing cases receive training and adequate support in their investigations, in order to trigger prosecutions and quickly secure convictions in terrorism financing cases;
- Senegal should improve on the specialization of investigative and prosecutorial authorities in order to achieve better results.
- Senegal should criminalize the financing of an individual terrorist and terrorist organization for any purpose, as well as the financing of a terrorist fighter;
- The Senegalese authorities should consider using alternative measures in cases where it is not possible to obtain a conviction for TF.
- Senegal should handle TF cases in a timely manner in order to secure convictions with effective, proportionate and dissuasive sanctions.

Immediate Outcome 10

- Senegal should develop a mechanism for the implementation of freezing orders at national level and without delay, of listed individuals and entities in accordance with United Nations Security Council Resolutions 1267/1989/2253 and 1988;
- Senegal should develop a framework to identify targets to be designated under UNSCR 1373 and respond to any request from another country to incorporate the application of a standard of evidence based on reasonable grounds or reasonable evidence in the decision to designate or not;
- Senegal should conduct a comprehensive analysis of its NPO sector to identify the characteristics and types of NPOs that may be misused by terrorists and, on this basis, adopt AML/CFT measures following a risk-based approach.
- The Senegalese Authorities should define a robust framework for the supervision of activities of NPOs, including associations;
- The Senegalese authorities should provide substantial resources for the institutions responsible for the monitoring of NPOs and associations;
- The Senegalese authorities should, when monitoring NGOs and associations, ascertain the source and use of funds received by NPOs to determine possible abuses of NPOs;
- Senegal should intensify the awareness-raising and identification of stakeholders in this sector with regard to the financing risk identified in the NPO sector;
- The competent authorities should sensitize DNFBPs and other stakeholders in the private sector (import-export traders in particular) of their obligation with regards to TFS in order to dissuade them from trading with allpersons, entities and countries targeted by the UNSC sanctions;

Immediate Outcome 11

- Senegal should develop and implement a legal framework to implement, without delay, targeted financial sanctions related to the financing of proliferation of weapons of mass destruction. In the implementation of this legal framework, Senegal should identify and designate the competent authorities responsible for supervising and implementing targeted financial sanctions (TFS) related to the financing of proliferation of weapons of mass destruction;
- Senegal should communicate to all persons and entities, including financial institutions and DNFBPs, their obligations to implement TFS provided for by the UNSCRs under proliferation financing;
- Strengthen the capacities of all the stakeholders involved in the fight against proliferation financing, particularly reporting entities and institutions in charge of monitoring cross-border capital flows;

217. The Immediate Outcomes relevant to this chapter are IOs 9-11. The relevant Recommendations for the evaluation of effectiveness under this section are Rs.5-8

Immediate Outcome 9 (TF Investigation and Prosecution)

TF risk profile in Senegal

218. According to the NRA, Senegal shares borders with four (4) countries and is close to other countries of the sub-region, some of which are confronted with the phenomenon of terrorism and armed gangs who have pledged allegiance to Al Qaeda in the Islamic Maghreb (AQIM). This is the case of Mali. Other countries in the region are considered as incubators of radicals where young Senegalese scattered all over the jihad zones have secured a passage to join the Islamic State group in Libya and Boko Haram in Nigeria. Youth departures for jihad have been confirmed by families and widely reported by the national and continental press. The presence of representatives of groups claiming to be Salafists can be perceived as a factor of destabilization because they do not tolerate the Islamic brotherhood practiced by the majority of Senegalese. According to the NRA report of Senegal even in the lack of proven cases of terrorist financing through NGOs operating in Senegal, the risks identified in the various studies conducted in the sub-region show a high level of vulnerability.[52]

219. The NRA indicates that Senegal is vulnerable to TF arising from physical cross-border transportation of cash across the West African sub-region, an off-shoot of the free movement of persons and goods within the sub-region. The cash declaration requirement seems to be observed at the airport but not at land borders. Yet the vast majority of trade among the various countries in the sub-region, including between Senegal and the countries where the terrorist organizations are active, is done by road. It is likely that funds can be moved into these areas without much difficulty. The other aspect of the vulnerability lies in the fact that the UEMOA Community regulations permit the free circulation of the CFA Francs within the UEMOA Community zone. Thus, the Senegalese customs administration has no power to compel

[52] NRA Report, pages 14 and 15.

passengers to declare the amount of CFA Francs they are transporting. This situation impedes the effective detection and prevention of terrorist financing in the country.

220. As far as the Senegalese Authorities are concerned, the terrorist financing threat in Senegal is primarily in the form of external funds received through the formal financial (remittances) and informal (Hawala and cross-border transportation of cash) systems to fund the recruitment, radicalization and movement of Senegalese jihadists to terrorist fighting areas or areas under the influence of terrorist organizations.

221. Senegal does not seem to pay particular attention to the threat of local collection of funds for the financing of terrorist organizations. The vectors and manifestations of this threat, like the street boys (*Talibe)* phenomenon as well as the embezzlement of charity funds, have not been taken account of in the NRA. The fact that Senegalese nationals have found themselves fighting alongside terrorists means terrorist organizations have sympathizers in the Senegalese society who may eventually finance their activities. Indeed, the commitment to the fight is the ultimate proof of buying the ideals of terrorist organizations. Those who do not have the courage or possibility of attaining such level of commitment resort to making financial contributions.

Types of TF activities prosecuted and convictions; consistency with country risk profile

222. The Senegalese Authorities have prosecuted one case relating to the financing of foreign terrorist fighters. The authorities reported on several terrorism and terrorist financing cases, which confirms the key threat of terrorism identified in the NRA. In early March 2017, the authorities arrested eight (8) Senegalese nationals who allegedly joined terrorist groups including Boko Haram and the Islamic State in Libya in February 2016, and 2 Malians who more recently joined in March 2017 were also arrested in Dakar. All of these persons have been charged with the crimes of terrorist financing among other terrorism-related offences and are currently being prosecuted. The investigation of these case files was in progress at the time of the on-site visit. The prosecutions initiated partially correspond with the risk profile identified by Senegal, given the fact that an aspect of risk consisting of local collection is not taken account of. Furthermore, no conviction for terrorism financing has been obtained so far in Senegal.

223. The Senegalese Authorities have initiated investigations and prosecutions of terrorist financing since 2013. These investigations, conducted firstly by the police units of the special anti-terrorist pool, were subsequently subjected to some pending judicial intelligence at the Magistrate Court No.1 presided over by the Dean of Judges of the Dakar High Court, after passing through the anti-terrorist Special Prosecutor.

224. Although Senegalese law provides for the establishment of joint investigation units, in practice the procedures are entrusted to the Research Division of the Gendarmerie of Dakar or the Criminal Investigations Division of the National Police Headquarters, also based in Dakar. In addition to these two key units, where necessary, the Dakar Police Headquarters or National Police Department. By way of illustration, the officers at the National Police Department, following a report dated 21st January 2013, arrested Imam Babacar Dianko in Dakar. He is a Senegalese citizen accused by the Malian Authorities of being a recruiting agent for Hamad Mouhamed Al KHAYRY, the Emir of MUJAO (Movement for Unity and Jihad in West Africa).

225. The Dakar High Court has exclusive competence at the national level in matters relating to terrorism and its financing. Cases relating to terrorism are rare, which certainly explains the fact that the magistrates in this pool are not exclusively dedicated to terrorism issues. However, this practice for Magistrates and investigators of the specialized pool, means they can no longer be exclusively devoted to their functions due particularly to inadequate human resources, which in turn, undermines the performance and effectiveness of this special pool.

226. For instance, it should be noted that as at 30th January 2014, only one case file related to this subject was being investigated before the Dean of Judges. In this case, the procedure of judicial inquiry RP n ° 2582/2011, RI N° 32/2011 was opened since May 2011 against three persons S. A. M, Mr. G and EHMAG, a Somali national and two Senegalese citizens suspected of being Members of the terrorist group AL SHABAAB and charged with criminal conspiracy, terrorist financing and money laundering. At the time of the on-site visit, no terrorism or terrorist financing convictions were obtained, as all cases were still in the investigation phase. This situation is explained by the lack of speed in the handling of cases and the way in which the anti-terrorist pole works as its magistrates are not exclusively devoted to terrorism and FT.

Identification and Investigation of TF cases

227. Senegal has established specialized units alongside or within the traditional departments, including the Anti-Terrorism division at the Dakar Law Court. This division, which has national jurisdiction to handle cases related to terrorism and its financing, has a section for investigators on secondment, prosecuting magistrates and presiding magistrates. An order issued by the Minister of Justice has made this division operational by appointing the magistrates as Members of hat structure.

228. There are anti-terrorism units within the national Police and Gendarmerie. These units are responsible for investigating terrorism and its financing. The units are made up of the State Prosecutor and some of these alternates as well as several investigating chambers, who retain all their general designations. They continue to handle common law cases at the same time as they receive TF-related case files. Assessors noted that the composition of the anti-terrorism unit can be detrimental to its effectiveness. The fear is that TF records may be neglected in this situation.

229. Most of the specialized institutions do not have proven skills in financial investigation. Thus, the specialized units of the police and the gendarmerie are much more focused on the operational aspect of neutralizing the terrorists rather than tracing financial networks of terrorist. The difficulties encountered by investigative and prosecutorial authorities with respect to ML are the same as the TF ones in terms of understanding the financial circuits.

230. Terrorist financing cases prosecuted in Senegal were detected through STRs submitted to the FIU by reporting entities. Three STRs (1 in 2015 and 2 in 2016) received by the FIU resulted in a ranking. At the time of the on-site visit, only one STR received in 2017 was reported to the Prosecutor. These statistics show that reporting entities are not sufficiently aware of what to report. As a result, STRs on the financing of terrorism are not of good quality. The ability to detect terrorist financing by reporting entities is therefore weak. The investigation and prosecution services also detect informal transactions relating to the financing of terrorism. Similarly, detection is also done on the basis of intelligence gathered within the framework of national and international cooperation. The various cases detected are investigated and lead to determining the specific role played by those who finance terrorism.

231. The authorities informed Assessors about three cases relating to the financing of terrorism, including case number RI N° 32/2011 which commenced in May 2011 against three persons S. A M, Mr. G and EHMAG, a Somali national and two Senegalese citizens suspected of being Members of the AL SHABAAB terrorist group and charged with criminal conspiracy, terrorist financing and money laundering.

232. Senegal dismantled a terrorist network and discovered that the brain of the band had received a large sum of money from a Senegalese jihadist who was deployed in the conflict zone. The jihadist received this sum from an emir from a Gulf country and the network used the money to finance the travels of many young Senegalese to the Jihadist zones. Similarly, from financial transactions channelled through the HAWALA system, Senegal has had suspicions of terrorist financing by people who were in contact with perpetrators involved or cited in terrorist activities based in Mali.

233. Senegal provided data on detection of TF cases in the following table without stating the types of TF offences involved:

Table 19 – TF Detection

How is TF is detected	Number of Prosecutions initiated		
Year	2015	2016	2017
STRs	-	2	1
Investigative and Prosecutorial Authority	-	-	4
International Cooperation	-	-	-
Total	-	2	5

234. Similarly, Senegal reported it was using financial intelligence on financial transactions through the HAWALA system to detect suspicions of terrorist financing by persons who were in contact with stakeholders involved or cited in terrorist activities based in Mali.

235. As at the time of the on-site visit, nine (9) TF-related cases were under investigation. No conviction was secured and Senegal provided no explanation for that. Considering that TF issues should be high priority, this delay was apparently justified by the need to conduct investigations and prevailing organizational challenges within the anti-terrorist unit.

236. International cooperation is an essential aspect of TF detection. The Senegalese authorities often contact the relevant foreign counterparts to exchange intelligence, including spontaneous disclosure of intelligence. Indeed, if the persons involved in the suspicious transactions are domiciled abroad or have absconded, the disclosure of this intelligence can facilitate their arrest and prosecution. The exchanges also involve Senegalese who have joined the ranks of terrorist organizations in conflict zones. Senegal affirmed its unrestricted sharing of operational intelligence on terrorism and its financing with foreign competent authorities. However, the Authorities state that they have been experiencing some setbacks as a result of delays or lack of collaboration from some foreign counterparts. Following the interviews during the on-site visit, it appeared that the application of the principle of reciprocity constitutes a bottleneck to cooperation in the fight against terrorism financing.

237. At the national level, increased collaboration is taking place within the Intelligence Community, which holds weekly sessions (CCRO and CIRO) to share intelligence among all

counter-terrorism units. Investigative and prosecutorial authorities work alongside intelligence agencies to share intelligence so that intelligence is provided to the institution that will most likely to use it. The FIU is particularly involved in monitoring the increase in terrorist financing channels in the country. All financial intelligence relating to any case relating to terrorism is forwarded to the FIU for analysis and the results obtained are disseminated to the operational units for necessary action.

Integration of TF-related investigations into national counter-terrorism strategies and investigations

238. Senegal does not have a national strategy document on the fight against the financing of terrorism, but it appears from the various decisions taken by the authorities that the fight against the financing of terrorism is an important component of the fight against terrorism. Terrorism financing is instituted as an independent offence. The FIU is involved, as part of the intelligence community, in the management of terrorism-related cases to ensure that the financial aspects of these cases are not neglected. The agencies responsible for the fight against terrorism include, in their supervision and monitoring strategy of risk groups, the financing aspect of terrorism in order to deprive these groups of the capacity to act.

239. Investigations into terrorism financing are included in the open procedures on terrorism. Thus, in most cases pending before the Senegalese courts, the judges have indicted the accused persons with belonging to a terrorist group, apology for terrorism, participation in a terrorist group and financing of terrorism. In cases relating the travel of foreign terrorist fighters, investigators and prosecutors have always been interested in how these travels were funded and in the livelihoods of these combatants who are in the conflict zones. It is often the financial trail that leads to other members of the terrorist networks.

240. In the absence of any conviction for terrorism or TF, it is difficult to assess the level of integration of the TF component into terrorism investigations.

Effective, proportionate and dissuasive nature of sanctions applied for TF

241. The maximum sanction against natural persons who commit the offence TF is a prison term of not less than ten years and a fine of not less than five times the value of the assets or funds involved in the relevant terrorist financing operations, while the punishment for legal persons is a fine of five times those applied to natural persons. This law excludes the possibility of any suspended sentence.

242. Theoretically, such sentences are admittedly severe but because no conviction has been secured or terrorism or TF in Senegal, the effective, proportionate and dissuasive nature cannot be ascertained.

Implementation of alternative measures to disrupt TF where conviction is not possible

243. Terrorist financing investigations are integrated into national counter-terrorism strategies and investigations in two parts:

- At the judicial level: through the establishment of a specialized legal division in the area of terrorism, made up of CID officials, Presiding Magistrates and Prosecutors, in order to ensure more effectiveness in investigations of terrorism which often involve

TF investigations. Thus, in most of the cases pending before the Senegalese courts, the Judges have indicted the defendants on counts of belonging to a terrorist group, sympathizing with terrorism, participation in a terrorist venture and financing of terrorism

- At the operational level: the agencies responsible for the fight against terrorism include, in their supervision and monitoring strategy of risk groups, the financing aspect of terrorism in order to dispossess these groups of the capacity to act.

244. The effectiveness, proportionality and deterrence of sanctions or measures against convicted natural or legal persons are measured by the Uniform CFT Act 2009-16 particularly in Articles:

- Article 32 which provides that: "natural persons guilty of a terrorist financing offence shall be sentenced to a prison term of not less than 10 years and pay a fine of not less than five times the value of the assets or funds involved in the terrorist financing operations, whilst the attempt is punishable by the same sanctions";
- Article 38 which provides that: "legal persons shall be punished by a fine of a rate equal to five times that imposed by natural persons, without prejudice to the conviction of the latter, as perpetrator or accomplice of the same acts ... additional sanctions are provided for";
- Article 34 which provides for aggravating circumstances applicable in section 32.

245. Senegal maintains that other criminal and regulatory measures may be used where it is not possible to obtain a terrorist financing conviction in order to interrupt the activities of those terrorists

246. The Senegalese authorities argue that in cases where the targeted charge of terrorist financing being prosecuted or by any other indictment is not retained, it is often possible to convict defendants for other charges such as belonging to a terrorist group, sympathizing with terrorism or participating in a terrorist venture. But this assertion cannot be verified as Senegal gave no example of a case where these alternative measures were adopted.

247. They also argue that Article 30 of the CFT Act 2009-16 provides that the competent authority has the power, by administrative decision, to freeze funds and other financial resources of terrorists and all those who finance terrorism and terrorist organizations. This freezing occurs without delay and without prior notification to the persons, entities or bodies concerned. These are rather preventive measures that intervene upstream in a prospective trial. They are waived whenever there is evidence that the funds or their owners are not involved in any terrorist financing case.

248. Alternative measures that should be considered here are, for example, expulsion or removal from the national territory or even placement in a de-radicalization programme. These Senegalese authorities did not indicate whether alternative measures have been applied against persons accused of financing terrorism. The country indicated, with no further clarification, that the country has established a de-radicalization programme which is being steered by the prisons department.

Conclusion:

249. The Senegalese Authorities accord some degree of priority to the fight against the TF, but reported cases of prosecution do not correspond to the risk profile of the country. Specialized structures are being set up and some cases are currently being prosecuted but in the lack of any conviction, at the time of the on-site visit, it is impossible to confirm whether the investigations are productive or whether the sentences are effective, proportionate and dissuasive.

250. **Senegal has a Low level of effectiveness on Immediate Outcome 9.**

Immediate Outcome 10 (Preventive Measures and Financial Sanctions for Terrorist Financing)

Vulnerability related to NPOs' Supervision and Monitoring

251. Senegal has a legal and institutional framework which enables it to implement, without delay, the targeted sanctions pronounced by the United Nations Security Council (UNSC). However, this legal framework has some deficiencies. Indeed, there is no mechanism for the designation of terrorists as required by the UNSC Resolution 1373. In addition, the registration/delisting, release or waiver mechanisms are not foreseen. The list is not distributed to the general public

252. Despite the efforts made within the specific NGO framework, the monitoring of non-profit organizations (NPOs) needs to be strengthened. Until 2015, with the adoption of Decree 2015-145 of 4th February 2015 on NGO intervention modalities, which repeals and replaces Decree 2010-1490 of 10th November 2010, the supervision and monitoring of NGOs leaves so much to be desired. The new Decree establishes an enhanced legal framework for monitoring the activities of NPOs and confirming the origin of their funding. Indeed, the new Decree now provides for controls on the destination of the funds of these NGOs and sanctions in case of irregularities noted on this component.

253. Senegal reviewed the NGO sector in 2011. The review revealed a set of dysfunctions such as difficulties in the implementation of NGO programmes, including numerous deficiencies in the supervision, monitoring and inspection missions conducted by the relevant competent authorities; the low involvement of local authorities in the definition, implementation and evaluation of NGO programmes in their territories, and finally the implementation of the Uniform laws 2004-09 of 6th February 2004 and No. 2009-16 of 2nd March 2009 on the fight against money laundering and the fight against the financing of terrorism, respectively. This was to ensure a more effective monitoring of the origin of funds and accounts of NGOs.

254. Against this backdrop, the Department of Partnership with NGOs (Ministry of the Interior and Public Security) initiated a programme for the automation of NGO operations with a view to improving the monitoring and evaluation of investment programmes approved by Senegal and to ensure the judicious use of the collected resources.

255. The Directorate of Money and Credit (DMC) of the Ministry of the Economy, Finance and Planning had already conducted in July 2011 the inspection of eighty-one (81) NGOs located in 13 out of 14 regions of Senegal on the basis of Decree No. 6167 / MEFP / DMC of 24/05/2011 which empowers it to monitor the origin and destination of NGO resources.

Implementation of TF-related targeted financial sanctions without delay

256. In Senegal, Community Regulation No. 14/2002/CM/UEMOA of 19th September 2002, on administrative freezing in the WAEMU area, defines the mechanism for implementing United Nations resolutions 1267 and 1373. In addition, the competent authority (the Minister of Finance designated by Decree No. 005980 of 24 June 2010) may order, by administrative decision, the freezing of funds and other financial resources of terrorists, as well as all those who finance the terrorism and terrorist organizations. However, the regime is not complete due to the lack of an implementation mechanism (an advisory committee to monitor administrative freezing).

257. Financial institutions and other reporting entities are adopting measures with the operational border agencies for these Resolutions to be effectively observed. Some have filtering and profiling software for this purpose. According to the Senegalese authorities, managing the NPOs is a challenge as the supervisory authority is grappling with the lack of financial, material and human resources, as well as weak legislation;

Targeted approach, sensitization and supervision of risk non-profit organizations

258. The supervision conducted by the Supervisory Authorities is not done using a risk-based approach as NPOs have not been classified in relation to the risks they present. It is noted that such Supervisions are rare, or non-existent for associations, the number of which is growing every day.

259. The Monetary and Credit Directorate receives reports from NGOs and files the required intelligence to the FIU. But these measures only concern NGOs and do not cover associations.

260. There have been minimal sensitization programmes for the NPO sector. There are self-regulatory initiatives by NPOs through the activities of federations and apex institutions, but they do not address the issues of understanding and managing TF risks in the sector. Assessors noted that the NPOs' regulatory, supervisory and monitoring authorities lack resources. In the implementation of NPO controls and supervision, no targeted approach based on the risk have been taken. Police anti-terrorist units claim to have developed a monitoring strategy for faith-based NGOs, but the effectiveness of such a measure has not been demonstrated due to lack of the results of that supervision.

Confiscation of TF assets and instrumentalities

261. As to date, there is no confiscation of asset that has been or is being used to commit TF offence because as there was no prosecution at the time of the on-site visit. The confiscation of asset and other instruments of FT under Senegal's FT law can be pronounced during prosecution.

Consistency of measures with overall TF risk profile

262. Senegal's actions to date are not consistent with the overall terrorist financing risk profile identified in the country. Although Senegal has a legal framework for the implementation of United Nations Resolutions (1267 and 1373), the country is yet to designate domestic terrorists pursuant to Resolution 1373. Furthermore, the Authorities in charge of regulating the NPOs sector, have limited resources to monitor the activities of the entire sector.

It has also been noted that the activities of associations (thousands) are not subject to any supervision once accreditation has been granted.

263. **Senegal has a Low level of effectiveness on Immediate Outcome 10.**

Immediate Outcome 11 (Financial Sanctions for Proliferation Financing)

264. Senegal implements targeted financial sanctions for proliferation financing within the framework of implementing UNSCRs 1267 and 1373) by distributing sanction lists to departments and reporting entities. The customs administration has also taken steps to identify the transactions involving countries, companies and individuals subject to UN sanctions.

265. However, there are still no measures prescribed for the freezing of assets owned by individuals under the TFS.

Implementation of targeted financial sanctions related to the financing of proliferation without delay

266. Senegal does not have a mechanism for implementing targeted financial sanctions in accordance with resolutions 1718 and 1737 and their subsequent Resolutions. However, two committees are in charge of coordinating the fight against the proliferation of weapons of mass destruction (WMD), namely COMNAT-NBC-ALPC and the Agency for Radiation Protection and Nuclear Safety (ARSN), to take charge of the nuclear component and thus become the focal point of the IAEA. At the time of the on-site visit, no assets were frozen pursuant to these Resolutions.

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

267. There is no practical mechanism for identifying the funds or other assets of individuals and entities designated by targeted UNSC sanctions. For the moment, no measure has been taken in this direction against them. However, Senegal has established two national commissions to coordinate the fight against the proliferation of WMD (COMNAT-NML) and SALW (COMNAT-SALW); the Agency for Radiation Protection and Nuclear Safety (ARPNS), to take over the nuclear component and thus become the focal point of the IAEA.

268. The Criminal and Drug Investigations Office (BICS) at the Department of Customs Investigations is the focal point of the Ministry of the Economy, Finance and Planning within the National Inter-ministerial Committees against the proliferation of nuclear, biological and chemical weapons (COMNAT-NBC and ARSN) and SALW (COMNAT-ALPC). In this regard, it contributed to the development of the national action plan for the implementation of Reolution1540 of the UNSC.313.

269. It contributes to the implementation of other UNSC Resolutions, by disseminating the lists of designated terrorist individuals and organizations, monitoring the movements of persons, goods and means of transportation entering and leaving the territory, in close collaboration with the Police services at the borders and the National Central Bureau (BCN-Interpol) of Dakar, located within the Criminal Investigations Division of the National Police.

270. Furthermore, the customs carry out inspection on imports and exports of chemical products, and provides the necessary statistics for the development of annual reports by the

national authority (COMNAT-NBC) in line with the transfer regime of the Convention on the Prohibition of Chemical Weapons (CPCW).

271. The Customs Department has signed Memorandum of Understanding with the Authority for Radio Protection and Nuclear Security (ARSN), which is the focal point of the International Atomic Energy Agency (AIEA), to ensure better monitoring of transfers from radioactive sources.

272. Finally, the Customs Department has developed a directory of importers of dangerous, nuclear, radiological, biological and chemical materials (NRBC), in order to monitor them, with a view to preventing or reducing the risks of diverting such materials for illicit purposes such as the manufacture of improvised local explosives, terrorist attacks, among other things.

FIs and DNFBPs' understanding of and compliance with obligations

273. Financial institutions have a thorough understanding of their obligations in general and have adequate arrangements (regulatory framework and technical tools) for implementing targeted PF financial sanctions. The mechanism for receiving the Lists is functioning satisfactorily. Any revision made is automatically passed on to financial institutions through the Ministry of Foreign Affairs, the Ministry of Finance or the BCEAO.

274. With regard to DNFBPs, the understanding is mixed, as several DNFBPs expressed lack of awareness of these lists. There is no formal mechanism for forwarding the lists to DNFBPs. The FIU indicated that DNFBP were sensitized on the implementation of freezing measures related to these lists during the training sessions in which the DNFBPs participated.

Competent Authorities ensuring and monitoring compliance

275. Supervisory and monitoring authorities of financial institutions focus on the implementation of the obligations relating to targeted financial sanctions by verifying the existence of any intelligence system to match names of designated persons and entities on the lists, which is not the case with DNFBPs, where supervision deficiencies have been noted.

276. The Senegalese Authorities have also set up a national chemicals management commission within the premises of the Ministry of Environment which examines applications for authorization to import chemicals.

Overall conclusion on Immediate Outcome 11

277. Due to the lack of an APF legal framework and non-implementation of the TFS, **Senegal has a Low level of effectiveness on Immediate Outcome 11.**

CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommendations

Key Findings

- Financial institutions in Senegal are required by law, regulations and other enforceable means (OEMs) to implement all AML/CFT requirements. Banks and insurance companies, subsidiaries of Foreign Groups, have conducted their risk-assessment before the NRA, and have demonstrated a good understanding of their ML/TF risks and have taken measures to mitigate these risks. In this regard, they have generally adopted a risk-based approach in the implementation of AML/CFT measures. In the other financial institutions the level of understanding of ML/TF risks is generally low, or even non-existent for foreign exchange dealers.
- Financial institutions, including banks generally understand their obligations with respect customers due diligence measures (including enhanced and simplified CDD) and comply with the record keeping requirements. They have appointed FIU correspondents and AML compliance Officers. However, in practice, CDD procedures are weaker in nonbank financial institutions and STRs are lower or non-existent. Identifying beneficial owners is a major challenge for all FIs.
- The majority of DNFBPs do not understand the risks they face and their AML/CFT obligations, the implementation of preventive measures is weak and is a major concern. The weak implementation of AML/CFT measures in these sectors as well as in small FIs has a negative impact on the effectiveness of the preventive measures in particular and in Senegal's AML/CFT regime, in general due to the risk in those sectors.
- Banks and large DFS have put in place internal control systems that comply with regulatory requirements, unlike other financial institutions.
- Training, education and awareness-raising activities for regulatory Authorities, the FIU and the financial institutions have enhanced the understanding of subsidiaries of Foreign Groups and improved their level of compliance with AML/CFT requirements. The level of these actions is generally low and the lack of a designated AML/CFT regulator for DNFBPs limits the support that would have been provided to facilitate compliance within the sector.
- The legal and regulatory framework for preventive measures is partially compliant with important non-compliant requirements. Professional secrecy is not an impediment for competent Authorities in the performance of their duties[53].

Recommended Actions

The following Recommendations are hereby proffered:

- Senegal should ensure that the level of understanding of AML/CFT requirements is improved in other financial institutions, other than the banking sector, through enhanced training, education and awareness-raising activities. In particular, authorized foreign exchange dealers should receive more support, while vigorous measures should be taken against informal foreign exchange bureaus. As such, a directive specifying the role as self-regulators particularly in AML/CFT, of the respective professional associations should be enacted.

[53] See Articles 34 of AML Act and 27 of CFT Act

- Senegal should ensure that the understanding and compliance with AML/CFT requirements by DNFBPs and small size FIs are effective. The proposal made by the FIU to designate the regulatory and supervisory Authorities for DNFBPs in AML/CFT should be implemented very quickly, as stipulated in the action plan. These designated Authorities should receive technical assistance from the FIU. Also, sectoral directives should be issued in relation to these designated self-regulation Authorities in order to enhance understanding ML/TF risks in the sector. Particular emphasis should be placed on legal and accounting professionals, real estate agents and dealers in precious metals and stones, a sector in which the risk of ML/TF is high, according to the NRA.
- The application of CDD requirements should be strengthened in non-bank financial institutions[54] and DNFBPs. In accordance with the provisions of R10, financial institutions should be required to implement enhanced CDD measures tailored to their customer's risk profile, both in commencement of relationship and during the relationship. These measures should also include the identification of beneficial owners.
- Financial institutions, particularly non-bank institutions, should be equipped with internal control systems capable of conducting greater customer due diligence and, where appropriate, reporting suspicious transactions of high quality to the FIU. The sectoral Supervisory Authorities are urged to reinforce the specific AML/CFT inspections of respective reporting entities under their supervisory purview.

278. The relevant Immediate Outcome considered and assessed in this chapter is I.O. 4. The Recommendations relevant for the assessment of effectiveness under this section are R. 9-23.

Immediate Outcome 4 (Preventive Measures)

279. Senegal has AML/CFT legal framework that states the preventive measures that financial institutions and DNFBPs should implement. Depending on the sector, including financial institutions, this framework is supplemented by specific regulations. The DNFBP sector is the least regulated sector.

Understanding of ML/TF risks and AML/CFT obligations

280. Generally, the financial institutions subsidiaries of Foreign Groups have a good understanding of their AML/CFT obligations, unlike the FIs, including local banks, small-size DFS, MVST and foreign exchange dealers, who have a limited understanding. This good understanding of AML/CFT obligation is largely attributable to the dissemination of legislative and regulatory AML/CFT legislations, through awareness-raising and capacity building programmes organized by the regulatory Authorities, the FIU and the reporting entities themselves. Insurance Brokers, in particular, did not demonstrate any understanding of their reporting obligations. For them as intermediaries, this obligation falls on the insurance companies.

281. The DNFBPs have a diverse understanding of ML/TF risks. Casinos and dealers in gems and precious metals, including gold miners, have no understanding of the AML/CFT let alone the ML/TF risks they face. The Casinos met informed the Assessors that they were not aware of the existence of any suspicious transaction reporting form. Real estate developers and agents met during the on-site stated that they were not concerned with ML/TF, as all their

[54] Insurance companies, Capital market operators, MVTS, Authorized foreign exchange dealers

transactions are channelled through the banks and notaries. Accounting professionals are even involved in auditing the AML/CFT regime of some of their customers, but have a very limited understanding of their reporting obligations.

282. Most of the Financial Institutions and DNFBPs met stated that their participation in the NRA process has strengthened their understanding of AML/CFT obligations.

Application of risk mitigating measures

- **Banks and DFS**

283. The Assessors noted that the large banks and DFS met had conducted an institutional risk assessment in order to better understand the ML/TF risk to which they are exposed and implement risk-based mitigation measures in their systems, even before the NRA. The Assessors found the risk assessment frameworks of some banks to be of good quality, however, the frameworks could be reviewed to include the findings of NRA. The assessments are updated on a half-yearly basis for some banks and annually for others. However, the level of understanding of ML/TF risks and the application of mitigation measures or the risk-based approach is higher in the banks than in national banks. In particular, foreign banks implement the group-based AML/CFT programmes.

284. The BCEAO informed the Assessors that as part of its regulatory reforms, it is implementing a risk-based approach to supervision. This approach enables the supervisor to have a better understanding of the ML/TF risk profile of credit institutions.

- **Capital Market Operators**

285. In the **capital market sector,** the understanding by the operators of their ML/TF risks is very low. The SGI respondents demonstrated a good understanding of their AML/CFT obligations, but a low level of knowledge and understanding of the ML/TF risks related to their activities. Most of them have not conducted an institutional risk assessment and therefore do not understand the risks to which they are exposed. AML/CFT Directive No. 35 of 2008 in this sector has become inadequate in the light of the FATF Recommendations in this area. Under the provisions of Article 12 of this Directive, SGIs may receive cash from their customers to the tune of FCFA 50 million. These funds can be deposited directly at their institutions or into their bank accounts. No obligation of lawful knowledge of the funds is made. Also, no STR has ever been submitted by the capital market operators to the FIU. Consequently, in general, the implementation of AML/CFT measures in the sector is neither risk-based nor proportionate to the associated ML/TF risks. Some SGIs reported using Consultancy Firms to assist in the development of their risk assessment frameworks to facilitate risk assessment and the application of appropriate mitigating measures by them. Other operators believe that their sector is generally not vulnerable to ML/TF risks because the vast majority of transactions are made through banks that comply with AML/CFT requirements.

- **Insurance Companies**

286. The Insurance Companies informed that Assessors that two subsidiaries groups have put in place a risk assessment system to capture ML/TF risks they are facing. Also, the insurance sector has set up a working group to develop sectoral AML/CFT Risk Assessment Framework. The risks are assessed based on customers, products and geographical areas.

287. The Assessors noted that the insurance sector is facing a significant vulnerability especially due to the fact that an insured person can terminate the contract three (3) months after signing it. Also, some companies accept insurance premium encashment even before the contracts are signed. Although these practices are provided for in the CIMA Code, the fact remains that in the absence of enhanced due diligence measures, the breach of contract and reimbursement of premiums collected before the signing of the contract may be used for the introduction of dirty money in the financial circuit and negatively impact on CDD measures in the insurance sector. However, the CIMA Code requires the mandatory payment of all insurance premiums before the signing and entry into force of the relevant contract.

- **Money Transfer Services and Electronic Money Operators**

288. Money and Value Transfer Service Providers and Electronic Money Companies understand their AML/CFT requirements. However, the MVTS have service agreements with the Banks, which are responsible for implementing the customer identification, risk and suspicious transaction reporting requirements. MVTS are technical operators who make available to banks and DFS, their technical platforms, as the latter are the only ones empowered to carry out rapid transfer services and sign contracts with sub-agents, who are mandated to carry out this activity on their behalf and under their responsibility. The sub-agents are accountable to AML/CFT provisions. At the end of every year, the authorized intermediaries forward to the BCEAO, the Banking Commission and Minister of Finance, the list of agents as well as the template of the sub-agent contract to be signed with the latter. Any amendment to this contract agreement should be notified to the supervisory authorities. Some sub-agent money transfer operators are directly authorized by the BCEAO. The MVTS met could not indicate the ML/TF risks they face. However, the list of sanctions, high-risk countries and PEPs are included in some platforms. Also, they are aware of a number of incidents recorded especially among operators in sub-agents particularly associated with their negligence. MVTS do not report suspicious transactions, as this is the responsibility of the banks and DFS, but the platforms are configured to block suspicious transactions depending on the nature of the customer and especially the individual and cumulative weekly ceiling of FCFA 2 million.

289. The Electronic Money Companies operate as financial institutions directly accredited by the BCEAO. The companies are subsidiaries of the Mobile Operator Group, and they implement AML/CFT requirements. However, the application of these requirements is limited. The identification of the customers by the companies is based on the possession of a SIM card of their telephone operators for which the number is well identified. This phone number, to be valid, must be confirmed by the Ministry of the Interior. In addition to holding an identified mobile phone number, the mobile phone company conducts a second identification for the opening of an electronic wallet. For transactions, some companies consider two types of profiles, customers who do not have to keep their identity documents for financial inclusion purposes and customers who are required to keep identification documents. For the first profile, individual and cumulative daily transactions are limited to CFAF 100,000. In this profile, it is possible to create anonymous accounts for which transactions are limited to CFAF 30,000. For the second profile, individual and cumulative monthly transactions are limited to 10 million CFAF. Electronic Money Companies are required to have trust accounts among the accounts opened with balances which must at all times be equal to the value of the electronic currencies in circulation. The BCEAO conducts off-site and onsite inspections on these trust accounts. Weekly and monthly returns are sent to the BCEAO for this purpose. But, it is not easy to know whether these balances correspond to the electronic currencies in circulation.

- **Authorized Foreign Exchange Dealers**

290. Foreign Exchange dealers have neither a risk assessment framework nor internal procedures required to meet their risk assessment obligations. According to their experiences, some approved persons indicate using their flair to appreciate a customer or an operation.

291. Managed exchange professionals have a very limited understanding of their AML/CFT requirements. However, they took part in several training and awareness-raising activities organised by the FIU and the DMC. Also, they apply the identification obligations of their customers through the national identity card for Residents and the passport for non-residents. Any purchase or sale of foreign cash must be recorded in the registration form in 4 copies. 1 for the Customer, 1 for the CGD, 1 for the BCEAO and 1 for the Bureau. The copy for the Bureau is kept for a period of 10 years. The quantum of CFAF cash that can be purchased by the Bureau is unlimited; whilst cash sales are limited to CFAF 2 million for residents and FCFA 500,000 for non-residents. The origin of funds is never requested within these limits. The exchange offices informed the Assessors that if a Customer wants to acquire foreign cash for the equivalent of more than CFAF 2 million, they only make CFAF 2 million transactions and submit STRs to the FIU. However, no STR has been submitted so far. Finally, the bureaus met attributed this situation to the fact that money launderers operate only with informal bureaus, which would record huge amounts.

- **DNFPBs**

292. The understanding of ML/TF risks is limited and the implementation of AML/CFT regime is also weak in DNFBPs. However, some DNFBPs, accounting and finance professionals, have been sensitized or trained in the AML/CFT measures both by their respective Associations and by appropriate competent authorities, including the FIU.

293. The **lawyers** and **notaries** met by the Assessors revealed a limited understanding of AML/CFT. Some indicated to the Assessors that they had internal AML/CFT procedures manuals; this could not be verified by the Assessors.

294. With regard to **lawyers,** the practice of the legal profession requires every lawyer to open a sub-account called *"Lawyers' Financial Regulation Fund (CARPA)"*, with a local bank. Each lawyer has the obligation to register all his professional transactions in this account. However, the requirements for identifying ML/TF risks, targeted financial sanctions and PEPs are not known to lawyers. In Senegal, lawyers are involved in real estate transactions, manage accounts receivable, incorporate companies, act as trustees, administrators and manage the operations of companies. These activities present a high risk. However, the lawyers do not have a good knowledge of the ML/TF risks inherent in such services. The lawyers believe that their obligations are limited to the compliance of transactions with the Senegalese law and that they are not interested in the financial aspects.

295. The Notaries, on their part, have not been implementing specific AML/CFT requirements, nor appointed FIU correspondents. In incorporation of legal persons with capital base of CFAF 500, 000 to CFAF 1,000,000, notaries are the only competent entities. Information about beneficial ownership is not available. Assessors were informed by the notaries about large size of transactions not passing through them. This was corroborated by the State Prosecutor at the Dakar High Court.

296. The accounting professionals have no framework for the assessment of any ML/TF risk they may be facing as reporting entities.

297. The real estate agents and developers met by the Assessors have no knowledge of AML/CFT requirements and do not understand the ML/TF risks they are facing. In Senegal, there is no known entity that regulates this sector. The Real Estate Agent indicated that while their legal-related transactions are conducted through the Notaries, financial transactions are carried out through the banks, which are concerned with the AML/CFT requirements. The NRA has identified the real estate sector as high risk.

298. The National Lottery has set up an AML/CFT regime, but its implementation is very limited. The ML/TF risk identified in this sector is linked even to the regulation of the obligation to issue bearer tickets. The risk is that winners who do not want to identify themselves sell their tickets to potential launderers who could use the winnings cheques to recycle dirty money through the official channels. With the exception of awareness campaigns often conducted by LONASE and financial efforts to pay immediate winnings, LONASE has no means of identifying counterfeiters. This is why LONASE has not made any suspicious reports so far. However, LONASE has often been requested by the FIU to provide information on certain winners. A database of all winners has been well organized and well maintained.

299. The Casinos have very limited knowledge of their AML/CFT obligations. However, the customer identification registers are kept which are checked every night by a Police Commissioner representing the Ministry of Interior who prepares monthly returns submitted to the Ministry of Interior. The operators met said they perform their due diligence obligations by observing the behaviour of customers. The casinos met said they only encash cheques and pay only in cash. The vulnerability lies in the fact that it is impossible to identify all the customers who have spent, and therefore not be able to attach the receipts to an identified customer. This situation can be sources of money laundering by the Casinos owners themselves.

300. Dealers in precious stones and precious metals seem to have some understanding of AML/CFT through their participation in training activities and certain guidelines set by the FIU. However, the level of implementation of the requirements is very low. The sector is dominated by the artisanal gold mining sector, which has a significant ML/TF risk identified in the NRA.

Application of enhanced or simplified CDD and record keeping requirements

301. Generally, banking institutions have demonstrated their understanding of the CDD measures. For this purpose and in accordance with the provisions of AML/CFT Acts and other various sectoral regulations, they have established procedures and policies validated most often by the boards of directors or inspired by those of the Group for most foreign institutions. However, the degree of implementation or application of CDD measures is higher in foreign banks than in national ones and is very weak in the other FIs.

302. On the whole, the implementation of due diligence measures is more comprehensive and more effective in the banking sector. In addition, some foreign network banks have implemented a risk-based CDD approach by customer category and by product. Some of these foreign banks met indicated that their Group rules were sometimes more stringent than the national laws and regulations.

303. Indeed, some banks indicated to have, because of their application of enhanced CDD requirements, lost some customers going to other banks that do not apply the same requirements. In particular, some foreign banks, reported that in a bid to ensure compliance with their group AML/CFT requirements, they are facing some difficulties relating to obtaining information on recorded customers. These challenges being widespread, the banks met expressed the need for the Authorities to set up a structure charged with the responsibility to collect and provide information on beneficial ownership and PEPs. As part of the implementation of these risk-based due diligence measures, some banks reported that they did not establish business relationships and severed customer relationships. Finally, access to intelligence from the office of the Court Clerk and the APIX on legal persons has been one of the challenges mentioned by the financial institutions met. It should be noted that most of the customer losses mentioned by the institutions met have not been reported in any STR submitted to the FIU.

304. Insurance Companies have been implementing due diligence measures as stipulated by the provisions of the CIMA AML/CFT Regulation No. 04. Some of the companies the Assessors met have put in place additional, and enhanced measures. These include the requirement for enhanced due diligence with respect to any cash payment in excess of CFAF 1 million. Due diligence is also enhanced if the subscriber of the insurance contract is different from the beneficiary. Some insurance companies use Targeted Sanction lists and list of countries designated as high risk countries in implementing their AML/CFT obligations. Other companies also have conditions for the selection of customers and transactions to be financed from the very outset of the relationship, dictated by their Group depending on the nature of their portfolio. However, the companies did not present any statistics on refusal or cessation of relationship as a result of shell companies operated.

305. The level of implementation of due diligence measures in other financial institutions is low, particularly for small-scale ones or non-existent for foreign exchange bureaus and dealers in gems and precious metals (PMPS). The NRA identified Exchange Bureaus and PMPS as sectors vulnerable to ML/TF risks. Also, the DFS have serious difficulty in balancing their due diligence obligations with financial inclusion.

306. The banking FIs, including subsidiaries of foreign banks, have adopted risk mitigation measures that have been strengthened or simplified according to the nature of the risks through risk mapping and customer rating. This mapping is updated on a half-yearly basis for some banks and annually for others. These mitigation measures should henceforth incorporate those provided for in the NRA. Some banks have developed sophisticated tools for profiling customers and their operations. As part of enhanced measures, some banks implement daily threshold on cash payments not exceeding CFAF 32 million per payment or cumulative payment for certain categories of customers.

307. Large banks and DFIs have a good understanding of collecting beneficial ownership information. However, some of the foreign banks we met indicated that they had serious difficulties accessing this information, especially for people living abroad. Others highlighted the prevailing confusion in the Senegalese law in terms of the definition of beneficial ownership. Some lawyers and notaries interviewed by the assessment team are apparently unaware of the requirement to conduct a CDD or to obtain information on the beneficial owner of customers that are legal persons and when registering the companies on behalf of their customers. In addition, lawyers appear to be unaware of their obligations, even in cases where

they provide services that are subject to AML/CFT requirements with respect to customer due diligence.

308. In terms of record keeping, all FIs respect the legally prescribed 10-year period. These data are kept in paper form and in electronic format and are easily accessible at the request of the competent authorities. In addition, the review of some on-site inspection reports in banks does not mention any difficulty by the supervisors in accessing information. The same obtains for the FIU interviewed.

309. The **DNFPBs** met by the Assessors present significant deficiencies in respect of their due diligence obligations. With regard to record keeping, the requirements are variously understood by accounting and statistical professionals. The Notaries, for example, indicated that they are required to keep records for a period of 100 years, without specifying the nature of the records relating to ML/TF risks.

310. **The Lawyers** met by the Assessors indicated that they are bound by privilege and confidentiality principles and as such would resist any situation that would put their customers in difficulty. The lawyers noted that they have problems in submitting STRs on their customers and there is the need to draft or adapt regulatory legislations to meet their CDD requirements. The President of the Bar Association informed the Assessors that he had requested, as was the case in France that STRs prepared by Lawyers be forwarded to him for onward transmission to the FIU.

- **Capital Markets Operators**

311. The level of implementation of AML/CFT measures in the institutions of the capital market operators sector is very inadequate.

Application of CDD measures

312. Among the institutions met, only banks implement enhanced due diligence measures depending on the nature of the risks. Entry into relationship with high risk customers is generally validated by the compliance department, and for PEPs, they are subject to the approval of senior management.

Politically Exposed Persons

313. The banks met indicated that they understood their due diligence obligations towards PEPs. The entry into a relationship with this category of customers is validated by the Board of Directors (BD) and some banks monitor these customers and their daily transactions. Some banks have established internal lists that are regularly updated, which are supplemented by databases obtained from external service providers to which they subscribe. The degree of full implementation of PEP measures varies depending on whether the banks are foreign or domestic. Some banks have mentioned material constraints related to the identification of PEPs and especially their own. This represents a major challenge, especially as the requirements of the legal and regulatory framework relating to PEPs have not been deemed compliant and adequate.

Correspondent Banking

314. The banks we met generally indicated that they have put in place enhanced due diligence measures when entering into business relations with their financial institution customers using the correspondent banking services. However, no statistics on refusal or cessation of relationship were presented to the Assessors in order to assess the effectiveness of this measure. Also, the legal and regulatory framework requirements were found to be inconsistent with the FATF Recommendations.

Targeted Financial Sanctions

315. Financial institutions are implementing specific measures to comply with their obligations to implement targeted financial sanctions relating to terrorist financing, but progress is yet to be made. These lists are usually obtained from the United Nations and forwarded to these institutions via DMC. However, the Assessors noted a lack of coordination among national law enforcement Authorities in establishing a centralized national list. Generally, controls on the implementation of targeted financial sanctions obligations need to be strengthened to improve compliance in this area.

New Technologies

316. FIs have not demonstrated any implementation of enhanced due diligence requirements for new technologies.

Higher risk countries

317. The banks met presented the countries listed by FATF as those on their lists of high risk countries. However, there are no binding provisions in Senegal that require financial institutions to implement enhanced due diligence measures to business relationships linked to countries considered as risk countries by FATF.

Wire transfers

318. Significant deficiencies in the legal and regulatory framework were noted in assessing the requirements for wire transfers. These deficiencies are particularly related to the lack of legislations with obligations established for the implementation of FATF Recommendation 16, as well as the relevant UN Security Council Resolutions 1267 and 1373 and their successor Resolutions, the non-existence of reasonable measures to identify incomplete information of the sender and the beneficiary, the lack of a single transaction reference number allowing the traceability of the transaction, as the current measures do not require the beneficiaries' information to be included in bank transfers in line with the FATF R.16.

Reporting Obligations and Tip-off

319. The FIs have a good understanding of their suspicious transaction reporting obligation. However, the implementation of this requirement is more rigorous in banks than other FIs. The DNFBPs, on their part, have a limited understanding of their suspicious transaction reporting obligation.

320. The banks have automated tools for monitoring and reporting of suspicious transactions and other transactions in large and unusual cash. The degree of effectiveness of these requirements and the large size of STRs, Cash Transaction Reports (CTRs) and other reports

sent to the FIU vary from bank to bank (see Table 12 below). Following the Assessors' discussions with the banks we met, subsidiary banks of foreign groups have more effective and comprehensive monitoring measures than national banks and financial institutions.

321. On the whole and according to the statistics below transmitted to the Assessors, the STRs submitted to the FIU by FIs dropped from 130 in 2014 to 111 in 2016, representing a decrease of 14.6%, and to 104 as at 30th September, 2017. No cash transaction report was filed to the FIU[55].

Table 20 : STRs Submitted to the FIU (2014 – 2017)

	2014	2015	2016	2017[56]	Total	%
Banks and Financial Institutions						
• Foreign group banks	120	135	85	92		**85.5%**
• Domestic Banks	4	5	1	2		**2.4%**
• Financial Institutions	0	0	0	0		**0.0%**
Decentralized Financial Systems	5	4	4	1		**2.8%**
• Postal Financial Systems	1	15	9	6		**6.1%**
• Foreign Exchange Bureaus	0	0	0	0		**0.0%**
• Money and Value Transfer Services	0	0	12	1		**2.6%**
• Insurance Companies	0	0	0	0		**0.0%**
• Electronic Money Institutions	0	0	0	2		**0.4%**
• Capital Market Operators	0	0	0	0		**0.0%**
TOTAL	**130**	**160**	**111**	**104**		**100.0%**

322. Banks and financial institutions submitted more than 88% of the total STR submitted to the FIU. Also, the Postal Financial Systems submitted about 6.1% of the STR, even though there is no designated supervisory authority for its AML/CFT for the subsector. The MVTS submitted 12 STRs in 2016, and only 1 STR in the first half of 2017. The non-submission of STRs by several sectors is a major concern as the NRA classified the Money Transfer, Wire Money and Foreign Exchange sectors as medium risk sectors in terms of ML and TF.

323. The insurance companies encountered, although they have computerized warning and profiling measures for some and manuals for others, do not, however, perform any STR. They attribute this situation to the fact that their rules and procedures do not allow customers and transactions to be susceptible ML/TF activities.

324. Generally, the level of compliance of DNFBPs with reporting requirements is very low. Most DNFBPs have no monitoring and reporting mechanism (STRs, CTRs and other reports). From 2014 to 30th June 2017, only the Notaries submitted 10 STRs while the Accountants

[55] BCEAO Directive No.010-09-2017 establishes 15 million CFAF threshold, for declaration of cash transactions. However, because this Directive is recent, issued after the onsite visit, its effectiveness is yet to be demonstrated
[56] As at 30 September

submitted only 1 STR. Overall, the low level of reporting by DNFBPs is due to a low level of understanding of DNFBPs of their AML/CFT requirements. Due to the high risk of this sector, the lack of or very few STRs in this sector has negative consequences on the effectiveness of investigative and Prosecutorial Authorities as well as Senegal's overall national AML/CFT efforts.

325. Most FIs have designed warning systems either manually or electronically to trigger alerts that provide the basis for classifying a transaction as suspicious. The FIU informed the Assessors that some other banks have not been submitting STRs as required of them. The FIU also stated that the increase in banks' STRs is as a result of inspections carried out by the Banking Commission.

326. Measures are taken in particular by FIs to prevent information which has been subject to a STR from being disclosed.

Internal controls and legal/regulatory requirements impeding the implementation of AML/CFT measures

327. The AML/CFT Act as well as specific legislations require financial institutions to put in place internal controls and procedures. Banks and financial institutions are governed by Directive issued by the Banking Commission on the internal control system. Under this Directive, these institutions are required to implement adequate internal control policies and procedures tailored not only to their size and complexity but also to their risk profile, including ML/TF risks to which they are exposed. The FIs met by the Assessors indicated that they have internal control policies and procedures. These policies and procedures generally correspond to the provisions of the Directive issued, particularly for banks. Also, for banks affiliated to foreign groups, these procedures and policies include those of the Group with sometimes a line of business directly attached to the corresponding entity of the Group. Intelligence sharing in this area exists in the Group without hindrance. However, the UMOA Banking Commission informed the Assessors of the deficiencies contained in their inspection reports on the internal controls of certain banks. These deficiencies are mainly related to the weakness of their profiling tools, the requirements for the identification and profiling of customer risk and PEPs as well as the list of targeted financial sanctions published by the UN Security Council.

328. Generally, the level of implementation of internal controls by capital market operators and small insurance companies is inadequate for regulatory purposes. Supervision by CIMA and CREPMF of their respective sectors, do not specifically include the AML/CFT components, therefore, it is difficult to identify the inadequacies related to internal controls in these two sectors.

329. Generally, every FI including banks, appoints an AML/CFT Officer responsible for implementing and coordinating AML/CFT programmes and policies within the institution. The officer is the contact point between the Institution, the Competent Authorities and FIU. In addition, the officer is responsible for organising training and awareness programs for staff of the Institution. There is no such practice in capital market and insurance companies.

330. AML/CFT training programmes are conducted in most financial institutions. According to some banks affiliated to foreign groups, these programmes are regular and involve top management agents. The review of the BCEAO's annual reports to the Minister of Finance

reveals that these training programmes are actually taking place and that the frequency is higher in banks affiliated to foreign groups. The level and frequency of training are lower in other FIs.

331. Generally, DNFBPs do not have internal controls and policies. The legal and accounting professionals met with feel that the implementation of AML/CFT measures are not relevant as their sectors are not hardly affected by the threat of ML/TF. DNFBPs require more training to enhance their level of compliance with AML/CFT obligations.

Conclusion

332. Apart from banks and insurance companies that are subsidiaries of foreign groups as well as large DFIs, reporting entities do not generally understand their ML/TF risks and the AML/CFT obligations they face. Preventive measures are generally weak and suspicious transaction reports are also low, with the exception of the banking system.

333. DNFBPs, despite the level of risk in this sector, generally have significant deficiencies in their AML/CFT system.

334. **Senegal has a Low level of effectiveness on Immediate Outcome 4.**

CHAPTER 6. SUPERVISION

Main Conclusions and Recommendations Main Conclusions

- The regulatory measures designed to prevent criminals and their associates from participating in the ownership, controlling or managing financial institutions are generally robust. Appropriate Supervisions during both the incorporation and lifespan of financial institutions, their Directors and Managers, are carried out. However, no statistics on rejection, refusal or withdrawal of operating license or permit relating to AML/CFT was provided. In the DNFBP sector, procedures for issuance of licenses or permits are managed by the respective supervisory authorities and/or self-regulatory bodies (SRBs). But the AML/CFT component is generally not taken on board.

- The Authorities regulating the FIs have a good understanding of their obligations in terms of ML/TF supervision. Besides, the risk-based supervision in the banking sector is being implemented. However, the Supervisory authorities dot classify FIs based on their ML/TF risk profiles, and therefore do not know the ML/TF risks FIs are exposed to.
- There are no designated authorities for the supervision of DNFBPs for AML/CFT purposes.
- Tool have been developed by the AML/CFT Supervisor of the banking sector to facilitate the risk-based supervision of the sector. However, these tools still need to be refined and other elements on ML/TF risks need to be incorporated to enable bank supervisors carry out a thorough AML/CFT supervision using the so-called risk-based approach.
- CREPMF and CIMA have not yet put in place an appropriate methodology and monitoring tools to conduct risk-based AML/CFT supervision.
- Offsite inspection of the banking sector for AML/CFT is regular whilst onsite inspection is weak. Such inspection missions are insufficient in other financial institutions[57] and non-existent in DNFBPs.
- There is no established evidence of follow-up actions undertaken by the authorities to verify the implementation of action plans (following AML/CFT inspections) and the extent to which such infringements are rectified.
- Due to the lack of statistics, it is not possible to demonstrate the dissuasive and proportionate nature of the AML/CFT administrative and disciplinary sanctions provided for in the regulations. The legal and regulatory frameworks governing AML/CFT supervision have a wide range of administrative, pecuniary and criminal sanctions for violating AML/CFT requirements. However, these sanctions, with the exception of injunctions, are used very rarely used in practice.
- Inadequate human capacity and financial resources of supervisors remains a critical issue for the effective supervision of reporting entities.

Recommended Actions

[57] Including MVTS, foreign exchange bureaus and authorized foreign exchange dealers, electronic money companies

- Senegal should designate the Authorities responsible for monitoring the application of AML/CFT requirements in DNFBPs with sufficient supervisory powers and sanctions, starting with the high-risk DNFBPs identified in the NRA (real estate sector, approved manual exchange, dealers of stones and precious metals, etc.). Also, the role of the self-regulatory bodies should be strengthened. AML/CFT supervision of high-risk sectors of DNFBPs is expected to begin in the short term and as a priority.
- Regulatory authorities of financial institutions should establish a risk-based AML/CFT monitoring scheme, taking account of the outcomes of the NRA. In particular, for credit institutions, the UMOA Banking Commission should incorporate the new provisions of the Uniform Law into the rating system. Also, UMOA Financial Stability Committee should consider AML/CFT aspects in their analysis of the financial system as a whole. Like the BCEAO[58], CIMA and CREPMF should ensure effective implementation of the Uniform AML/CFT Act.
- Regulatory and supervisory authorities of FIs should implement risk-based ML/TF supervision and devise a classification of FIs based on their ML/FT profiles
- Financial sector supervisors/regulators should increase the frequency and coverage of on-site inspections on AML/CFT with focus on risk-based supervision
- CIMA and CREPMF should improve or develop a robust risk assessment methodology to identify, assess and understand the risks in their sectors
- The supervisory authorities should ensure that internal procedures for the identification, assessment and mitigation of risks, both in banks and other financial institutions, take account of the findings of the NRA.
- The regulatory and supervisory Authorities should develop guidelines on specific FI-related sanctions and apply dissuasive sanctions against institutions that do not comply with AML/CFT requirements in order to improve their overall compliance level.
- Senegal should strengthen the capacity of and adequately resource supervisory/regulatory authorities.

335. The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The recommendations relevant for the assessment of effectiveness under this section are R.26–28 & R.34–35.

Immediate Outcome 3 (Supervision)

336. AML/CFT supervision is carried out by:
- The BCEAO, the Banking Commission and the Ministry of Finance for banks, Micro financial institutions/ and Decentralized Financial System (DFS) etc;
- The CREPMF for capital market operators;
- CIMA and the Insurance Department of the Ministry of Finance for insurance companies.

[58] According to Directive No. 007-09-2017 on modalities for the enforcement of the Uniform Law

337. The Statutes of these Authorities and the Decrees establishing other institutions confer broad AML/CFT regulatory and supervisory powers on the institutions accountable to them. These powers are further reinforced by the AML/CFT legislation.

338. The BCEAO, the Banking Commission and the Ministry of Finance have a good understanding of their AML/CFT supervisory responsibility. The understanding of CREPMF and CIMA particularly in relation to the monitoring of risks, remains low.

339. A surveillance framework for AML/CFT supervision is well developed in the credit institution sector, when compared to other sectors. However, supervisors for the banking sector are still grappling with the challenges of financial constraints and weak human capacity which impact adversely on their abilities to deliver on their mandate. .

340. With respect to DNFBPs, there is no designated authority to regulate the sector for AML/CFT. The FIU informed the Assessors that proposals for the designation of competent Authorities with responsibility for AML/CFT supervision for the sector are being formalized. However, for prudential purposes, dealers in precious stones and metals are regulated and supervised by the Ministry of Mines and Geology, Notaries operate under the supervision of the General Prosecutor; real estate agents and developers are regulated by the Trade Department; while Casinos are regulated and supervised by the Directorate of Territorial Surveillance (DST) of the Ministry of the Interior. Overall, the lack of supervision of the sector for AML/CFT has a negative impact on the monitoring of implementation of AML/CFT measures by DNFBPs.

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

341. The Banking Act and Directive N° 017-04/2011 establishing the list of documents and information needed for the issuance of a license as a credit institution, clearly states the requirements for the licensing of credit institutions. Under these provisions, a set of documents and information on both the legal and natural person shareholders, directors and officers as well as the source of funds, are required. To have more control over certain groups of subsidiaries whose parent company is outside the UEMOA Zone, the Banking Commission may request the establishment of a parent company of these subsidiaries in a Member country of the Union in order to supervise these entities.

342. With regard to DFS, approval or authorization checks are almost similar to those applied to banks, with the existence and effective implementation of enhanced procedures with the dual Directive of approval application files. Thus, Law n°2008-047 of September 03, 2008 defines, particularly in Articles 7 and 8 the provisions applicable to their authorization and the BCEAO DirectiveN°005-06-2010 of June 14, 2010 defines the constitutive elements of the application for approval of decentralized financial systems in UMOA Member States subject to supervision by BCEAO, in accordance with the provisions of Article 44 of the aforementioned Law. The requirements for licensing or approval to carry out the activities of issuing electronic currencies are governed by Directive N° 008-05-2015 of 21st May 2015. For the Insurance sector, the CIMA Code and relevant enforcement instruments provide for the approval process for companies, managers and board directors.

343. For both credit institutions and insurance companies, the licensing process provides for specific efforts to have sufficient knowledge of natural and legal shareholders. For the banks,

shareholders having at least 5% of the voting rights or share capital are required to submit a certified declaration of their asset base for natural persons, the source of the funds used to subscribe to the capital of the future institution and licit nature of such funds under AML/CFT legislation, and a certified declaration by an authorized representative of each legal entity on the lawful origin of its funds. The same requirements are stipulated for insurance companies and capital market operators for their shareholders having at least 20% and 10% of the voting rights or share capital, respectively. Similarly, for the capital market operators, the CREPMF has provided in its licensing process, certain information to be provided by regional and foreign stock markets as well as other Members of the Financial Stability Committee concerning the other reporting entities.

344. For the approval of managers and administrative staff, in addition to the documents relating to the requirements of competence and good reputation, candidates are required to submit an oath of honour validated by the State Prosecutor. This validation, contrary to regulation and practice, is not usually accompanied by any investigation report. This situation stems from the fact that the investigation procedure takes so much time.

345. The foregoing effectively prevents criminals and their accomplices from holding financial institutions or becoming shareholders, managers or directors. The process is also verified throughout the life of the institution and its managers and directors.

346. Generally, there are some licensing and entry requirements for some operators in the DNFBP sector, though this is mainly for prudential purposes. With regards to **Legal and Accounting Professionals** (Lawyers, Notaries and Chartered Accountants) the entry into the profession is guided by the Community Regulations. In these procedures, the requirements relating to educational background, skills and reputation of the various professionals in this sector are taken account of.

347. The Notaries operate under the supervision of the Prosecutor General and under the self-regulation of the Chamber of Notaries.

348. Senegal did not present to the Assessors any case of refusal or withdrawal of license at FI level, with the exception of the BCCI; but stated that they had refused to issue licenses to certain managers and directors for non-compliance with the laid down requirements. For Insurance companies, two (2) cases of refusal of managers concerning some applicants who had, in the past, worked in certain liquidated companies, were reported. However, these cases are not related to ML/TF. The supervisory authorities of banks, DFSs and insurance companies have indicated that approval application files are only presented to the decision-making bodies when they comply with the relevant requirements and procedures. The same obtains for capital market operators, where most of them are FIs with licenses already issued by the respective authorities.

Supervisors' understanding and identification of ML/TF risks

349. The Authorities regulating the banking sector (BCEAO, Banking Commission, and Ministry of Finance) have good understanding of ML/TF risk in the sector, unlike the Authorities regulating the other financial institutions.

350. The internal control system set up by the Banking Commission through Circular COB No 003-2011/CB/C of 4th January 2011, defines a methodology for the analysis and monitoring

of all risks, including risks inherent in products, services, customers, Breakdown channels and geographic locations including ML/TF ones. This methodology includes a half-yearly report based on a questionnaire prepared for credit institutions and a report on their internal control system.

351. Similarly, the UMOA Banking Commission[59] has set up a UMOA Credit Rating System (SNEC-UMOA) which is a rating tool for financial institutions based on a set of ten (10) criteria, including seven (7) core and three (3) complementary. The core criteria include capital, corporate governance, information and reporting system, internal control, financial structure, risk management and financial performance. They are used to position credit institutions on a risk scale. The three (3) additional criteria relating to the environment, shareholding and development prospects are used to refine the first rating based on the so-called core criteria and to establish a segmentation of the levels of risk. The SNEC-UMOA includes a list of one hundred (100) sub-criteria for risk assessment, each broken down into ten (10) sub-criteria whose ratings are summarized through a simple arithmetic average.

352. Supervisors and regulators are also able to identify and understand institution-specific risks either through offsite inspections, on-site inspections and/or internal control reporting. This mechanism enables the regulatory authorities of the banking system ensure proper monitoring of the ML/TF risks. However, the Banking Commission does not classify institutions according to their risk profiles. In addition, the risk monitoring methodology should incorporate the provisions of the new Uniform AML/CFT Act. Finally, the Financial Stability Committee should incorporate the monitoring of consolidated ML/TF risks of the financial system into its supervisory framework.

353. The Authorities regulating the insurance market and capital market operators have not yet built a risk-based supervision in the monitoring mechanism of their various reporting entities. The offsite and onsite inspection methodologies incorporate more prudential risks than those related to ML/TF. However, since October 2012, the CREPMF has launched an automated surveillance software for the regional stock market. This software is intended to ensure the integrity of the market by detecting practices that can be associated with stock market crimes, to visualize and analyze the transactions carried out at the regional stock market (BRVM) and to guarantee greater transparency of the capital market and more effective protection of savers.

354. For the DNFBPs, since there is no supervisory and regulatory authority for AML/CFT, no institution, including self-regulatory bodies such as the Bar association has conducted any risk assessment to understand the risks in the sector. The NRA was an opportunity to identify the risks facing DNFBPs. However, the limited or non-coverage of some of the DNFBPs in the NRA limits the general understanding of risks in the sector.

Risk-based supervision of compliance with AML/CFT requirements

355. **The banking supervision Authorities plan to introduce into their regulatory reforms risk-based supervision** through offsite and onsite inspection. The AML/CFT offsite inspections are carried out through the periodic reports sent for this purpose by the reporting entities. Although the specific on-site AML/CFT inspections or controls are few, most prudential on-site inspections have AML/CFT components. Similarly, in accordance with the

[59] Source: BC/UMOA 2015 Annual Report

provisions of the Memoranda of Understanding among the Banking Supervisory Authorities, the Banking Commission carries out certain joint AML/CFT missions with other regulators.

356. Staff capacity building and availability of financial resources continue to be a major challenge for the Regulatory Authorities of the banking system. These impact adversely on their ability to effectively supervise reporting entities within their purview.

357. The examination of a general inspection report of a bank reviewed by the Assessors revealed that the inspection covers AML/CFT related issues including training and education activities, record keeping and reporting of suspicious transactions.

358. On the general consideration of the annual reports submitted, it was revealed that the banks are generally confronted with the challenges of non-compliance with the Directive N° 01-2007 of 2nd July 2007, particularly in its provisions relating to the resources of the unit or entity in charge of AML/CFT, appropriate software and account opening procedures. With regard to onsite inspections, the deficiencies noted particularly relate to the lack of formality in internal procedures, weak KYC/CDD culture, low level of monitoring of unusual transactions, the non-maintenance of PEP lists and those targeted by the freezing of funds, poor quality of STRs, and inadequate training and awareness-raising.

359. AML/CFT supervision by Insurance Supervisory Authorities and capital market operators are weak. Supervision at the level of these Authorities requires substantial improvement.

360. The following table provides comparative statistics of prudential and AML/CFT supervision by Financial Institutions Supervisory Authorities.

Table 21: Statistics on AML/CFT Inspections conducted by Supervisory Authorities of Reporting Entities.

Reporting Entities	2014	2015	2016	JUNE 2017
Financial Institutions				
Banks	1	3	2	0
Insurance Companies[60]	10	13	13	0
Market Operators	0	0	0	0
MFIs[61])	159	114	67	0
Foreign Exchange Bureaus	0	0	0	0

[60] These are general inspection missions that incorporate ML/TF components. There was no specific AML/CFT mission

[61] Microfinance Institutions

MVTS			1	
Total Financial Institutions	**170**	**130**	**83**	**0**
DNFBPs				
Casinos and other Lottery Companies	0	0	0	0
Real Estate Developers/ Agents	0	0	0	0
NPOs	0	0	0	0
Dealers in gems and precious metals	0	0	0	0
Car Dealers	0	0	0	0
Legal and Accounting Professionals	0	0	0	0
Total DNFBPs	**0**	**0**	**0**	**0**

361. Overall, between 2014 and 2017

- Only 5 Senegalese banks out of the 24 in operation received general inspection missions, inclusive of AML/CFT components;
- On annual average, 12 insurance companies, including 10 life insurance companies were visited, all on general aspects with AML/CFT component,
- None of the capital market operators, foreign exchange dealers, MVTS and DNFBPs was visited on the specific AML/CFT aspect.

362. The DNFBPs were not being inspected for AML/CFT as at the time of the onsite visit. In relation to prudential inspection, the General Prosecutor at the Dakar appeal Court undertook inspection mission on notaries where it noted the lack of skills. Assessors were informed, and confirmed by the Chamber of Notaries, that two (2) Notary Chambers had been investigated for ML because they were cited in STRs submitted by some FIs which attest to the vulnerability of these entities to ML. Similarly, the Bar Association also undertakes prudential supervision of its Members.

363. **The very low level of supervision of FIs and the lack of AML/CFT supervision for DNFBPs** are such that the Authorities cannot get reporting entities to comply with AML/CFT requirements.

Remedial actions and effective, proportionate, and dissuasive sanctions

364. The Laws and specific legislations empower the Supervisory Authorities to mete out sanctions on their reporting entities for any violation of the provisions of these Laws and specific legislations. A wide range of administrative, pecuniary and criminal sanctions is provided for in these specific Laws and legislations. But they are virtually not implemented for deficiencies related to AML/CFT requirements. The Authorities attribute this situation to the fact that injunctions imposed on reporting entities are generally followed by the implementation of Recommendations and action plans submitted by the reporting entities. With the exception of one cease and desist order issued by the Banking Commission against a bank in 2014, the Assessors could not obtain any statistics from the Authorities on the sanctions imposed, despite their request. However, the FIU has indicated that decisions of various kinds have been taken. Such decisions are however not related to AML/CFT, but show the dissuasive nature of the sanctions for violations of the prudential regulations.

- License withdrawal: 259DSF (from 2011 to 2017), 8 foreign exchange bureaus and 1 electronic currency institution;
- Disciplinary sanctions: 6 orders for the dismissal or withdrawal of 6 DFS Managers;
- Cease and desist: 216 notifications in 2016 concerning some DFS

Table 22: Prudential Sanctions

Nature of Prudential Sanction	Observations
Withdrawal of license	• 259 DFS (from 2011 to 2017), • 8 foreign exchange bureaus, • 1 electronic money institution;
Disciplinary sanctions	216 notifications in 2016 against DFS
Warnings	Figure not provided

365. Furthermore, following the inspection exercises conducted by the Supervisory Authorities (Banking Commissions, DRS-DFS, Insurance Department, CREPMF etc.), the authorities use remedial action directing the FIs to implement a plan of action to rectify the observed deficiencies. The implementation of the Recommendations is followed through the periodic analysis of the implementation of the action plans developed. However, there is no evidence provided of the follow-up actions being taken by the authorities to verify the implementation of the action plan and check the extent to which the breaches for non-compliance were being rectified.

366. No statistics on AML/CFT sanctions were provided to enable the Assessors determine their effectiveness, proportionality, and dissuasiveness.

Impact of supervisory actions on compliance

367. The Banking Supervisory Authorities informed the Assessors that the on-site inspections, regular meetings with professional associations and reporting entities, training, education and awareness-raising activities, cooperation and exchanges with the FIU and other law enforcement Authorities have had positive impacts on the reporting entities' level of compliance. They stated that the governing bodies and directors of institutions under their supervision are becoming increasingly aware of their respective responsibilities and central

role in the prevention of ML/TF due to the various education and awareness-raising organized by the Authorities and FIU.

368. With regard to the Insurance Authorities and capital market operators, because of the insignificant number or even lack of AML/CFT supervision, the actions on their reporting entities are very limited.

369. With regard to DNFBPs, since the Supervision Authorities are yet to be designated and no AML/CFT supervision has been undertaken, there can be no impact on their level of compliance.

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

370. The sectoral enforcement directives on AML/CFT and the internal control system issued by the regulatory Authorities of credit institutions, insurance companies and capital market operators have contributed, generally, to a good understanding by FIs subsidiaries of Foreign Groups (9 out of 10) of their AML/CFT obligations. These guidelines enabled these institutions develop their internal procedures. However, in the light of the developments in the FATF Standards and the new Uniform Law, these guidelines are expected to be amended accordingly.

371. The training, education and awareness-raising activities conducted by the regulatory Authorities and the FIU as well as the meetings and working sessions with reporting entities have also generally enabled FIs to increase their understanding of the AML/CFT requirements. In addition, the FIU's annual reports, periodical publications and website are also sources of information and awareness-raising for reporting entities. However, this understanding is stronger at the level FIs subsidiaries of Foreign Groups than in other FIs and DNFBPs. Some DNFBPs are not even aware of the existence of the STR Form developed by the FIU. The promotion of best practices on AML/CFT is not effective in professional bankers' associations, insurance companies, MFIs, due to lack of organization.

372. Feedback from the FIU is generally ineffective. Most of the financial institutions Assessors met complained about this deficiency. Given the fact that such feedbacks are also a means of promoting reporting entities' understanding of their AML/CFT obligations, the FIU should endeavour to resolve this deficiency promptly. The FIU should therefore step up its training and awareness-raising activities for DNFBPs and NPOs that have a low level of understanding of the AML/CFT requirements. The table of the training workshops and seminars reveals for instance that the last training sessions for chartered accountants, the real estate and high value products sectors, date as far back as 11/04/2012, 25/09/2014 and 28/06/06/2012 respectively.

373. The NRA report, once disseminated, should increase the understanding of reporting institutions of ML/TF risks. Going forward, efforts should be made to ensure wide dissemination of findings of the NRA and in promoting understanding of the risks identified.

Conclusions on Immediate Outcome 3

374. The Banking Commission has developed its own risk assessment methodologies which enable it to assess and understand the risk of institutions within the banking sector, other sector regulators are yet to do same, and thus have a poor understanding of the risks of the institutions

they supervise. In addition, no information is available on the classification of ML/FT risks of FIs by supervisory authorities

375. AML/CFT supervision is being carried out, especially in the banking and insurance sectors. However, the overall supervisory regime appears weak with the number of inspections remaining very low, and the depth and scope of coverage of the inspections in the financial sector is a major challenge. No AML/CFT inspection has been undertaken in the securities sector. In addition, given the moderate to high risk of the DNFBP sector, the lack of supervision of DNFBPs for AML/CFT remains a major concern and a weak link in the supervisory regime in Senegal.

376. While the regulators/supervisors may be requiring FIs to remediate observed deficiencies, sanctions are not or rarely applied and without statistics, their effectiveness, proportionality and dissuasiveness could not be ascertained.

377. Despite the high level of risk posed by the DNFBP sector, no AML/CFT supervisory authority for these sectors has been designated.

378. **Senegal has a Low level of effectiveness on Immediate Outcome 3.**

CHAPTER 7. LEGAL PERSONS AND LEGAL ARRANGEMENTS

Key Findings and Recommendations

Key Findings:

- Senegal's National Risk Assessment (NRA) has provided a certain level of intelligence on ML/TF risks associated with each type of legal persons that may be incorporated in Senegal.
- Legal entities in Senegal, like all legal entities in the OHADA region, comply with general transparency requirements stemming from the obligation to register with the RCCM and which constitutes a basic protection against their use for ML/TF purposes.
- The assessment provided no information on the risks linked to each type and categories of legal persons operating in the business sector in Senegal. This assessment, for instance, made no distinction between AML/CFT risks associated with business companies and those associated with civil corporations (real estate civil corporations, professional civil society and specific civil society). Also, the NRA did not take on board the various social forms particularly the SARL, SA, SCA, SCS, SAS, Cooperative Society and others, such as provided for by Senegal's legal framework. The Senegalese authorities did not provide the Assessors with any risk mapping associated with each category of legal persons.
- Legal persons (or their representatives) are subject to sanctions, both administrative and criminal, for violation of their AML/CFT obligations, but in practice these sanctions are not fully implemented. Besides, administrative sanctions are applied more than criminal sanctions.
- The RCCM contains the basic information on legal entities subject to registration with the RCCM, which by its vocation, is open and accessible to the public. But the maintenance and update of this register need to be improved. Basic information is also available and publicly accessible particularly in APIX, Gazettes and law magazines.
- Actual beneficial ownership information is available from the same sources through cross sourcing but not under this term because the laws of Senegal do not recognize this concept, unlike that of economic beneficial ownership
- Additional resources would help in identifying beneficial owners as and when necessary
- The FATF Recommendations on trusts and legal arrangements are for now partially applicable to Senegal;
- The lack of relevant data on the sanctioning policy applicable where the transparency requirements relating to legal persons are not met do not make for a clear visibility. It is therefore impossible to assess the proportionality, effectiveness and dissuasiveness of such measures.

Recommended Actions:

Senegal should:

- Domesticate Directive No. 02/2015/CM/UEMOA, on the fight against money laundering and terrorist financing in UEMOA Member States and apply its provisions relating to legal persons;
- Implement the action plan annexed to the NRA and develop a risk-based approach through a national and sectoral assessment, followed by identified risks while taking account of emerging risks related to legal persons;

- Assess the risks associated with all types of legal persons existing in the country (LLC, SA, SCA, SCS, civil society etc.) which will make for a more appropriate response.
- Establish a register specifically designed for the identification of beneficial owners of legal persons, legal arrangements and financial transactions;
- Enhance the update and provision of reliable information on legal persons, as well as basic information and information on beneficial ownership
- Make the intentional concealment of beneficial ownership information a mandatory basis for reporting entities to generate suspicious transaction report and refuse or terminate business relationship.
- Ensure that business registers and the criminal records are kept and that the information contained therein is accessible in a timely manner;
- Conduct a study on the risks related to off-shore legal entities or non-cooperative countries and the role of financial intermediaries (private banks) in relation to legal entities under the laws of Senegal;
- Maintain statistics on sanctions applied to legal persons, especially for violation of their AML/CFT obligations, as well as obligations on transparency of legal persons;
- Strengthen the human resource capacities of the reporting entities and the FIU with regard to the quality of the flow of STRs relating to legal persons.

379. The Immediate Outcome relevant for this chapter is IO. 5. The relevant Recommendations for the evaluation of effectiveness under this section are R. 24-25.

Immediate Outcome 5 (Legal persons and Legal arrangements)

Public accessibility of information on the creation and types of legal persons and arrangements

380. The general public has access to information on legal persons. Senegal has mechanisms designed to identify and describe the different types, forms and characteristics of legal entities that may be incorporated under Senegalese law, including foundations and associations. The OHADA Uniform Law lays down all the rules relating to the establishment and types of non-profit legal entities. Coupled with this legal basis are the obligations under Senegalese law for civil societies. These legal provisions governing legal persons and their types of legal persons are made known to the public through the official gazettes of OHADA and Senegal. The relevant legislations concerning associations and foundations are published in the official gazette Senegal.

381. This accessibility is ensured as soon as the various legal legislations have been published through the official channels provided for this purpose, especially so as in Senegalese law as well as the Romano-Germanic set of laws, ignorance of the law is no excuse once measures have been taken to make it public.

382. Information on the establishment and types of legal persons is also available and accessible to the public, through the Court Registry and Investment Promotion Agency. This information is also available at ANSD, etc.

383. The methods used in obtaining and maintaining basic information concerning legal persons include registration of the latter at the RCCM and its subsequent publication in the various official gazettes and law magazines.

384. Basic information is made accessible to the public mainly through legal notices and official gazettes. Verifications are carried out on the criminal records of associates and leaders through the provision of criminal records and consultation of the RCCM.

385. Firstly, the laws of Senegal, do not provisions on the concept of beneficial ownership but rather that of economic ownership. As a result, there is no mechanism for collecting and managing intelligence on beneficial ownership in the country even though it is available. Intelligence on beneficial ownership is even more difficult to verify when foreign natural or legal shareholders are involved. It goes without saying that the administrations responsible for the registration of legal persons or simply involved in their establishment do not take account of the requirements of the AML/CFT Acts, particularly with regard to the beneficial ownership of legal persons.

386. Senegalese competent authorities have the opportunity to obtain all basic information on legal persons and their beneficial owners, particularly available at the RCCM. The information may not be reliable because it is not regularly updated. Information on beneficial ownership is more difficult to obtain in the case of foreign legal persons. In any case, such information is not available under this term. In addition, delays are observed in the disclosure of such information. These delays will be resolved with the ongoing computerization at the RCCM.

387. Legal persons subject to the registration obligation may not claim legal personality if the formality is not completed. In this case, injunctions can be made. Anyone who has to comply with prescribed formalities for the registration of legal persons and who has refrained from doing so, or who completes the formality by fraud, is liable to sanctions provided for by the criminal law.

388. The criminal sanctions provided for in the OHADA Uniform Acts refer to the laws of the States Parties. Senegal did not provide any statistics regarding the application of both administrative and criminal sanctions.

389. **Senegalese law does not explicitly refer to any legal arrangement.** Senegal is not a party to the Hague Convention on the Law Applicable to Trusts and on their Recognition. In the strict sense of the law (*strictum jus*), Trust in the Anglo-Saxon tradition does not exist in Senegalese law. However, the Senegalese tax laws make reference to Trust Funds and designate them as reporting entities. Article 5 of the AML Act also requires legal professionals to comply with Caps II and III when establishing any relationship with trusts and similar structures under certain conditions.

390. In Senegalese law, the rules governing mandate contract do not allow a result similar to that of the Trust Fund, because the confusion of assets belonging to the executor and those of the proprietor is what characterizes the Trust whereas the technique of the contract of mandate leads to a distinction of assets, which is quite the opposite of the Trust. Its existence in the current Senegalese context would necessarily appear as a contract *sus-generis* and would therefore necessarily require the development of specific laws. However, this is not the case in the current state of affairs. Therefore, without being known and having a legal regime, it is not possible to find basic information on current beneficial owners in Senegal.

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

391. Many sources indicate that the Senegalese Authorities have identified legal entities as vulnerable to ML/TF. The Senegalese Parliament is interested in the involvement of legal persons, particularly associations, faith-based NPOs as ML/TF risk factors. It also specifically examines the involvement of NPOs in the context of TF, because of the sub-regional security climate characterized by the escalating Salafist movements.

392. The Senegalese authorities did not provide any statistics illustrating the cases of misuse and diversion of NPOs and faith-based associations for ML/TF purposes, even though the State Prosecutor tries to define a unit of doctrine in the criminal prosecution of natural and legal persons involved in ML/TF cases and monitoring of such sensitive entities. This is all the more so as they admit that "the lack of legal and institutional framework for the identification, management and preservation of information on beneficial ownership of legal persons, makes it a high risk sector[62]**".**

393. The foregoing analysis notwithstanding, the assessment and understanding of vulnerabilities seem to be limited and incomplete. The NRA of Senegal has identified the risks to which the corporate sector is exposed. However, this understanding remains fragmented and does not flow from a continuous and comprehensive assessment of the sector's risks, especially since the NRA is a new exercise in the country. Indeed, certain legal entities and legal arrangements such as Trusts and related structures were in fact excluded from this analysis.

394. Furthermore, the NRA did not identify the risks associated with each type of legal entity as it exists in Senegal. For example, the NRA has not identified the risk associated with a PLC compared to a Limited Liability Company, a Civil Society compared to a Business company, to ascertain which of the companies pose a higher ML/TF risk.

395. In spite of all these inadequacies, the NRA has identified real ML/TF risks as well as vulnerabilities related to the legal and institutional framework of legal entities. These include the lack of a legal and institutional framework to identify, maintain and manage information on the beneficial ownership of legal persons and transactions against the backdrop of weak banking supervision, proliferation of informal activities with their corresponding high cash circulation rate. The approach used was to identify the risks to which each segment of legal persons is exposed in order to identify the overall risk level. The Senegalese authorities have concluded that the risk of misuse of legal persons and legal arrangements for ML/TF purposes is moderate to high.

396. ML risks have been distinguished from those of TF. Regarding ML, the Senegalese authorities have identified various factors, including the limitations of the system of identifying customers of users of financial services and products because of the use of forged documents or fake telephone numbers, the high flow and diversity of transactions carried out by banks or partner institutions, particularly money transfer operators, the effectiveness of which remains a major challenge because of their electronic and instantaneous nature.

397. Regarding TF, the authorities mentioned that from their analyses, the NPO sector is the most exposed because of the existence of fundamentalist Salafist movements and the

[62] See NRA, p.14

proliferation of Islamic associations and NPOs operating in Senegal. They noted that even in the absence of proven cases of terrorist financing through NPOs operating in Senegal, the risks identified in the various studies conducted in the sub-region show a high level of risk in this sector. Added to this is the lack of a comprehensive, legal and institutional operational framework for the implementation of the United Nations targeted financial sanctions on PF.

398. The investigative and intelligence authorities, particularly those of the police, having taken full measure of these risks, therefore conduct *de facto* but continuous monitoring of the activities and operations of the legal entities identified to be at risk. They provided information that they undertook targeted actions in the NPO sector. The Senegalese authorities stated that they continue to pay particular attention to this issue, particularly depending on the activities of the NPOs. The arrest of eight Senegalese suspected of belonging to terrorist groups, including Boko Haram and the Islamic State in Libya in February 2016, and two Malians in March 2017 in Dakar, attest to the effectiveness of their CFT mechanism.

399. Nevertheless, the Senegalese Authorities are aware of the need to have a synoptic view of the level of exposure of all legal entities to ML/TF.

400. The determination of the authorities to have a general view of the level of exposure of all legal persons to ML/TF risks is clearly reflected in the conduct of the NRA. The authorities have identified inadequate human resources, lack of coordination among the agencies involved in the fight due particularly to the fact that the national AML/CFT Coordinating Committee has not been given sufficient powers and responsibilities, clearly stated in a law or a Decree. They further affirm their desire to establish a certain synergy and pool their competencies together in order to achieve greater effectiveness in the fight.

401. The Senegalese authorities are currently working very hard to domesticate the latest UEMOA directive on AML/CFT. The Senegalese authorities also informed the assessment team that work is ongoing for the computerization of the RCCM.

402. This initiative will contribute to the effective accessibility of legal intelligence, which is an undeniable pillar of legal security. It will enable all the players in the business world, regardless of their location, to have real-time intelligence on any natural and legal person registered in Senegal.

Implementation of mitigating measures to prevent the abuse of legal persons and legal arrangements

403. Legal persons are subject to general transparency obligations. The application of these measures is a form of basic protection. The Senegalese Authorities make the preservation of the integrity of legal persons a constant major concern. To this end, the authorities take several measures starting from the incorporation of the legal persons unto their dissolution. This includes the exclusion of banned persons in accordance with Articles 10 and 11 of the Uniform Act on the OHADA General Business Law. The same applies to the obligation of NPOs to justify the origin of their funds and the use of such funds.

404. In addition, the Senegalese authorities stated that they had conducted or motivated several awareness-raising activities for reporting entities, particularly financial institutions, notaries, lawyers and NPOs, to help them to not only understand, but also remind them of their AML/CFT obligations in their relations with certain legal persons (real estate sector, which is

handling huge sums of cash, money transfer, faith-based associations) or when dealing with complex arrangements. However, the level of understanding is not the same in all sectors of activity. Financial institutions are far ahead of other reporting entities. This then explains why the banks are producing higher volumes of STRs.

405. Some banks, insurance companies and DFS have mapped out the risks inherent in their sectors.

406. Firstly, the Uniform Act based on which most legal persons are incorporated imposes on the latter several measures, the most important of which are: the full identification of the Members and managers of legal persons as well as legal entities, in accordance with the provisions of Articles 44 et seq. of the Uniform Act. This identification includes the marital status and the identity of spouses.

407. Apart from this identification, a police clearance also needs to be provided. This document is intended to verify whether the applicant is not under the penal sanction or prohibited from practicing or disqualified. The registry administrator in charge of the management of the Dakar trade register confirmed the scrupulous observance of these requirements by his services.

408. Incomplete files are rejected where applicants are not requested to complete them.

409. In addition to these requirements, the establishment of certain specific legal entities such as banks and insurance companies requires partners or shareholders to justify the origin of funds to the supervisory bodies, including the Banking Commission, the Ministry of Economy and Finance and the organs of the Inter-African Insurance Markets Conference (CIMA), before obtaining approval

410. Furthermore, when opening a bank account that is essential for the establishment of the company or the deposit of funds in the accounts of a notary, these structures. subject to their AML/CFT obligations, may not only request for the origin of the funds but also the beneficial owners of the legal persons, failing to refuse the entry in relation or to break the relation without prejudice of the declaration of suspicious operation to the FIU which will be in charge to deepen the investigations and if necessary submit a report to the State Prosecutor for initiating judicial investigation that may result in convictions.

411. The FIU is also able at this stage to order the freezing of the intended financial transaction of the suspect for forty-eight hours. It will then be up to the Presiding Magistrate to determine whether it is necessary to take over and even enhance the freezing action with an appropriate pre-emptory measure.

412. The opacity of beneficial owners with regard to bearer shares is still an issue. In accordance with the OHADA Community Law on Commercial Companies and Economic Interest Groups, the transmission of bearer shares can be done by simple manual tradition so that the anonymity of the beneficial owner is *de facto* ensured. This anonymity is a gap in the ML/TF supervision mechanism which the Senegalese authorities will find difficult to rectify because it falls within the scope of the Community Business Law.

413. There is basic transparency for all not-for profit sector entities. With regard to associations, the Senegalese authorities informed the Assessors that in addition to the fact that

managers are required to produce police clearance, the Ministry of the Interior conducts some background checks to ensure that NPOs have no connection with radical terrorist groups or fundamentalists.

414. As part of their AML/CFT obligations, NPOs are required to declare their funds and produce evidence of their activities. Decree 2015-145 of 4th February 2015 on the modes of intervention of NPOs institutes an enhanced legal framework designed to monitor the activities and verify the origin of their funds, particularly the use of the funds, subject to sanctions in case of any irregularity noted in this regard.

415. Generally, the Senegalese authorities stated that it is incumbent upon the State authorities at the Ministry of Security to submit a systematic report to the FIU on any cash donation of an amount equal to or higher than one million CFA francs (1 524 Euros and any donation, regardless of the amount, to NPOs where such funds are likely to be associated with a terrorist activity or terrorist financing.

416. In practice, NPOs do not fully implement these obligations and many associations operate illegally; no more than the sanctions provided for.

417. Generally, the sanctions applicable to persons who violate AML/CFT obligations incumbent upon them as legal persons are also not implemented. One of the formalities for the establishment of legal persons is the publication, either in a legal journal or in the official Gazette. This formality should also allow people with compromising information about criminals who want to use legal persons to violate the integrity of the Senegalese financial system to expose them. Such information should also help the Senegalese criminal authorities to prevent criminals from abusing legal persons for ML/TF purposes.

Timely access to adequate, accurate and up-to-date information on beneficial ownership and all types of legal persons

418. The competent authorities have the means to request for information on legal persons established in the country.

419. In view of the fact that there is no legal and institutional mechanism in Senegal for identifying and managing the list of beneficial owners of legal persons and legal arrangements, access to this type of information requires the use of various sources and seems tedious, which is not the case for basic information. In practice, the reporting entities interviewed do not require the identification of the beneficial owner to enter into or maintain a relationship. Only basic information is required. The latter is available in any organization that collects data during the conduct of their activities or as part of their AML/CFT obligations.

420. Thus, basic information may be obtained particularly from the court registry, the RCCM of the jurisdiction of the head office or parent institution of each legal entity, as well the national archives located in Dakar, from notaries, lawyers, accountants and chartered accountants, financial institutions, ASND, APIX, institutions such as ministries, major service providers (water, electricity, mobile phone, etc.). Information on beneficial ownership may be obtained from the same sources as those providing basic information, except that in principle, information on beneficial ownership is only accessible to the Competent Authorities.

421. The basic information available on legal persons seems to be reliable and up-to-date. The Senegalese authorities stated that this information is reliable and available in a timely manner at the RCCM, which is the reference instrument and public access to this kind of information. However, the registry administrator in charge of the Trade Registry indicated during the on-site visit that the impressive performance of the RCCM was hampered by the difficulties related to internet connection, the quality and delay in encoding the data in the register and database and delay in the transmission of the amending data, among other things.

422. Competent authorities obtain reliable information on beneficial ownership, as and when available. This means that it is not information that can ordinarily be found at the RCCM except of course if the partner or shareholder happens to be the beneficial owner. However, the authorities recognize that this issue is a challenge. During the on-site visit, they admitted, however, that the difficulty arises or increases when dealing with a foreign company or where the beneficial owner is a foreign national or a complex entity chain. It should be noted that the RCCM does not include a heading relating to the identification of the beneficial ownership of legal persons and legal arrangements, as Assessors were rightly informed by the Registrar in charge of assets custody at the RCCM in Dakar.

423. All DNFBPs, particularly notaries and lawyers, argued that they did not bother with this requirement, and that where necessary, identification of beneficial owners of companies with an element of foreign nationality, the "K-bis" extract procedure is the appropriate option. These professionals, however, had reservations, given the sluggishness of this procedure, which is not in line with the speed required in business.

424. Because the Senegalese judicial and administrative authorities have not produced statistics on research cases of beneficial owners or basic information through the above-listed channels, their effectiveness cannot be assessed. They did not mention any illustration of the search for beneficial ownership of legal persons in the prosecution of any legal person apart from representatives or staff, more or less responsible for their own violation.

425. Senegal is well aware of the need to take vigorous measures to establish a database specifically dedicated to beneficial ownership. The AML/CFT Acts in force at the time of the on-site visit only require reporting entities to identify beneficiaries, but this notion does not necessarily comply with the requirements regarding beneficial ownership.

426. In any case, some Senegalese banks, more cautious, proactive or in application of the norms of their Western-based parent companies, informed the Assessors that the requirement to identify beneficial owners was not being harmoniously implemented by all the reporting entities since they were not legally obliged to do so. However, going forward, all reporting entities are to be required to identify beneficial owners even though there is no specific legal framework, as this contributes to transparency and the reluctance of customers to provide information on beneficial ownership should be perceived as an attempt to shroud the transaction in question and immediately raise suspicions. Therefore, the reporting entity should submit a report to the FIU. Only one bank brought such a hypothesis to the attention of the Assessors in which it refused or broke the business relationship but without going so far as to submit an STR to the FIU.

427. Unfortunately, while the bank was taking this action, its competitors were busy accepting the same customer, which was likely to send that bank out of business. This bank therefore rightly claimed that the others were engaged in an unfair competition.

428. In view of the information provided by the Senegalese authorities, it can be concluded that the application of administrative and criminal sanctions is limited.

Competent authorities' ability to obtain satisfactory, accurate and up-to-date beneficial ownership information on legal arrangements in a timely manner

429. Senegal has put in place a series of measures to enhance the transparency of legal persons operating in its socio-economic and financial landscape. These measures are essentially related to the collection of basic information and the identification of the beneficial owners and founders of the legal persons. The basic information relating to legal persons is made publicly available and accessible, particularly at the RCCM, although challenges with updating have been noted.

430. The great difficulty at this level concerns the civil societies that not registered with the RCCM. There is no public register allowing access to basic information of unregistered civil society organisations. Basic information can also be accessed from legal notices as well as the official gazette in which certain information is published.

431. Due to the fact that Senegal does not recognize trusts and other legal arrangements, the Senegalese legal system does not take account of all that is related to the identification of beneficial owners of such legal arrangements. In a nutshell, there is no register relating to legal arrangements, including their beneficial owners.

Effectiveness, proportionality and dissuasiveness of sanctions meted out

432. The spectrum of sanctions meted out for violation of obligations regarding information on legal persons appears to be sufficiently broad ranging from administrative to criminal and disciplinary sanctions.

433. The sanctions appear to be extremely dissuasive in that they affect the legal person and/or legal or factual managers as well as the employees. However, the sanction with regard to the legal person is out of proportion with that affecting a natural person. Failure to comply with the transparency rules on legal persons entails disciplinary, administrative and/or penal sanctions applicable to shareholders, directors and the legal person itself. Nevertheless, the effective application remains an issue.

Weighting and Conclusion:

434. Senegal has taken measures to strengthen the transparency obligations imposed on legal persons operating in the country.

435. However, there is no mechanism for systematic collection of beneficial ownership information. As a result, it is possible to access this information by crossing information obtained from several sources.

436. Furthermore, the business and real estate registry which is *par excellence* the mechanism for collection and access to information on business legal and natural persons is not always updated and therefore does not guarantee effective reliability.

437. The criminal records also suffer from these deficiencies.

438. **Senegal has a Low level of effectiveness on Immediate Outcome 5.**

CHAPTER 8. INTERNATIONAL COOPERATION

Main Conclusions and Recommendations

Main Conclusions

Mutual Legal Assistance

- Senegal has an acceptable legislative, conventional (by treaties to which it is part) and administrative framework but records an unsatisfactory level of activity for incoming and outgoing requests. Senegal's responses to requests for mutual legal assistance appear to be few. These responses do not appear to be timely because of the long processing time of up to several years. Senegal stressed the extreme slowness and total lack of cooperation from some of the requested countries.
- It appeared that there are several cases with international ramifications in which Senegal has not resorted to mutual legal assistance.
- The non-compliance with international standards of certain Senegalese procedural rules seriously hampers the mutual assistance that several countries could have granted to it. Investigative Authorities cooperate with their foreign counterparts through several formal channels. The authorities are also using informal channels such as information exchange platforms in the fight against drug trafficking. However, the strict application by Senegal of the principle of reciprocity and certain considerations of sovereignty and security in some respects limit the effectiveness of these information exchanges.
- The Senegalese authorities indicated that they also suffer from excessive delays in cooperation with certain countries. The majority of requests they send to their counterparts are not answered in a timely manner. Some of these requests remain unanswered.
- Senegal's FIU is a member of the Egmont Group and has signed some 30 cooperation agreements with a view to improving the flow of exchange with its foreign counterparts. The FIU sends numerous requests for information to its foreign counterparts and uses the information obtained to enrich its operational and strategic analyses in the context of the processing of suspicious transaction reports. It also responds to requests in a timely manner. In this context, it can serve as a relay for requesting information from reporting entities and correspondents on behalf of a foreign FIU.
- Supervisors of reporting entities have not provided any information on the cooperation they have with their foreign counterparts in the context of their missions. This form of cooperation does not seem to exist in Senegal.

Recommended Actions

- Senegal should improve international cooperation, including timelines for responding to foreign requests, by reviewing the relevant legal frameworks, providing additional resources and training for competent authorities, managing and monitoring casefiles and enhancing engagement with relevant countries.
- Senegal should take all measures to provide mutual legal assistance at the opportune time by reducing timelines for the processing of requests received.

- Senegal should seek international cooperation or make greater use of international mutual legal assistance in the prosecution of ML, predicate offences and TF which have transnational ramifications.
- The Supervisory and Monitoring Authorities should make use of and provide constructive international cooperation as part of their mandate.
- Investigative and prosecutorial Authorities should use the intelligence contained in mutual legal assistance requests received to initiate prosecutions whenever they reveal the commission of the offence.

439. The relevant Immediate Outcome for this chapter is IO.2. The relevant Recommendations for the evaluation of effectiveness under this section range from R. 36 to R.40.

Immediate Outcome 2 (International Cooperation)

440. International cooperation plays a particularly vital role within the AML/CFT framework in Senegal. Because of its geographical position in West Africa, Senegal is a popular destination and easily accessible from abroad. The country is a business and tourist hub, an attractive spot for various categories of people. Senegal is one of the two largest economies in the UEMOA zone. It is a transit country not only for people, assets and services but also for all kinds of illicit trafficking. The key predicate offences identified by the NRA are cross-border (drug trafficking, migrants, etc.). The terrorist threat is real at the borders of Senegal, many of whose neighbours are already affected. The handling of ML and TF casefiles, both judicially and by the FIU, is therefore highly dependent on the quality of international cooperation that the Senegalese Authorities can enjoy from their foreign counterparts.

441. Neighbouring countries are its key partners, but this does not overshadow the privileged relations maintained with European countries such as France. The Directorate for Criminal Affairs and Pardon at the Ministry of Justice in Senegal is the Central Authority responsible for managing mutual legal assistance (including extradition). Cooperation among the Investigative Authorities is active through the Interpol network and the Organization of African Gendarmeries. It should also be emphasized that the FIU plays a key role in the exchange of AML/CFT-related intelligence. Senegal relies on traditional and simplified mechanisms to request or grant international cooperation on AML/CFT. Beyond this, investigative and prosecutorial Authorities often rely on informal cooperation mechanisms contributing to the rapid-tracking court proceedings.

442. International cooperation in Senegal is governed by the international, regional and bilateral conventions to which the country is a party.

Providing Constructive Mutual Legal Assistance and Extradition without delay

Mutual Legal Assistance

443. Senegal received requests for mutual legal assistance from other countries and responded to a few of them. Statistics provided by the country indicate that from 2011 to June 2017, the Senegalese Authorities received a total of 80 requests for mutual legal assistance for

all offences and responded to only 9. Ten (10) of these requests relate to money laundering and two (2) to terrorism. None is specifically related to terrorism financing.

Table 23: Requests for Mutual Legal Assistance sent to Senegal

Year	2011	2012	2013	2014	2015	2016	2017
Total number of requests, all offences combined	09	08	08	22	10	19	03
ML-related requests	01	00	02	00	01	06	00
Terrorism-related requests	00	00	00	00		00	02

444. The Ministry of Justice is the Authority in charge of Mutual Legal Assistance. It has a directorate called the Directorate for Criminal Affairs and Pardon, which manages requests for mutual legal assistance and extradition addressed to the country. This Directorate receives requests and forwards them to the relevant competent authorities for execution. Requests for mutual legal assistance are executed by means of investigations and other acts usually carried out by the investigating and Prosecutorial Authorities during court proceedings. Investigations for the execution of requests for mutual legal assistance are marked with the seal of confidentiality. The persons targeted by the requests are not notified unless it requires hearings and cross-examinations. After execution, the responses are sent to the same department that conducts the requisite formalities for the responses to be sent to the requesting countries. Responses are transmitted through the diplomatic channel. The department comprises three magistrates and a support staff. During the on-site visit, it was noted that this department was understaffed and lacked adequate resources to cope with its tasks. The department has no data processing software and its record keeping system is obsolete. It further deplored the fact that it was not abreast with certain aspects of legal cooperation.

Examples of Mutual Legal Assistance executed by Senegal

Example N° 1: On 9th November 2011, the Senegalese Authorities received from France an international commission of inquiry concerning a case that was before the High Court at the Hague. The international commission of inquiry was dealing with a case of money laundering resulting from drug trafficking. This information request was executed and the results sent to France which did not make a negative comment.

Example N° 2: On 27th June 2013, the Lille High Court sent a commission to the Senegalese judicial authorities. This information request was received on 18th September, 2013. The request related to both the predicate offences (violation of trust, forgery and falsification) and the laundering of the proceeds. The French judicial authorities classified it as a very serious money laundering case. The request was executed and the results conveyed to the requesting Authorities.

Table No. 24: Statistics on Mutual Legal Assistance for Money Laundering

S/No.	Nature	Date contacted	Offences	Issuing Authority	Observations
01	International letter of request	09.11.2011	Money laundering from drug trafficking	TGI Havre 28.08.2011 *(France)*	Executed and transmitted
02	Official reports	22.07.2013	Laundering criminal activities (money laundering)	State Counsel's Office TGI Rouen 10.06.2013 *(France)*	On-going
03	Letters of request	18.09.2013	Abuse of trust, false, use of fake, aggravated money laundering	TGI of Lille 27.06.2013 *(France)*	Executed and transmitted
04	Letters of request	29.06.2015	Laundering, repeat unauthorized transport of narcotics, repeat unauthorized possession of narcotics, repeat unauthorized offering or transfer of narcotics and repeat unauthorized acquisition of narcotics.	TGI of Nancy, 21.05.2015 *(France)*	On-going
05	Letters of request	22.01.2016	Organized gang importation of narcotics, acquisition, possession, transport, supply and transfer of narcotics, criminal conspiracy for the purpose of drug trafficking (organized gang importation, acquisition, possession, transportation, offer and assignment), customs offence (importation possession, placing on the market of prohibited goods), possession of fourth category weapon and ammunition, laundering of proceeds of narcotics trafficking and organized gang importation of narcotics, organized money laundering, criminal conspiracy for the commission of drugs/narcotics trafficking and money laundering offences.	JIRS of TGI Paris, 21.12.2015 *(France)*	On-going

445. The information provided by Senegal does not clearly state whether the assistance sought includes requests for freezing, seizure, confiscation, reparation or repatriation of assets laundered. Senegal has not produced any figure on the value of assets repatriated or shared.

446. Requests for mutual legal assistance, where they include information on the commission of a predicate offence, money laundering or terrorism financing, should lead to legal prosecution. The same obtains where an investigation initiated in connection with the execution of the request for mutual legal assistance reveals the commission of an offence. However, it appears that the Senegalese Authorities do not use such intelligence to initiate prosecution.

447. According to the data provided, Senegal received on 22nd July 2013 from the French judicial Authorities, a formal report on money laundering activities. The processing of this case file is in progress.

Implementation timeline and refusal

448. The lack of management software and casefile monitoring, as well as the lack of staff in the Directorate of Criminal Affairs and Pardon necessarily impact on response timelines. The directorate in question has not outlined any rules to prioritize the processing of requests for assistance received.

449. Analysis of the statistical data shows that Senegal does not provide mutual legal assistance in a timely manner. Indeed, out of the 80 requests received since 2011, only 9 had responses sent to the requesting countries. Out of the ten relating to money laundering, 2 had responses sent to the Authorities of the requesting countries. Regarding the responses sent, Senegal does not indicate the time taken for processing. The general observation is that the quickest responses are obtained within three (3) months. Otherwise, it may take years. Over 70 general requests and 8 ML-related requests are currently being processed, according to data provided by the Senegalese Authorities.

450. The Directorate of Criminal Affairs and Pardon does not currently have detailed information on the number of refusals and the reasons that may have motivated them. With regard to the responses submitted, Senegal has not stated whether these are refusals, unsuccessful searches or positive responses that have contributed to obtaining convictions or confiscations in the requesting countries.

451. In view of what has been noted with regard to the time required for implementation, it is clear that the quality of mutual assistance granted by Senegal is limited. According to the comments made by the delegations from FATF Member States on their cooperation with Senegal, most of the delegations that responded stated that they did not send a request to Senegal. Those who submitted requests stated that the Senegalese authorities maintain a minimal level of co-operation with their foreign counterparts who send them requests. They referred to excessive delays in processing requests for mutual assistance. Some delegations mentioned delays that go beyond five years.

Extradition

452. Senegal receives, investigates and executes extradition requests in accordance with national and international laws. It should be noted that in extradition matters, Senegal provides

the widest possible range of cooperation because it does not base the request for extradition to the existence of any agreement with the requesting country.

Example of foreigners extradited from Senegal to their countries of origin

On 30th May 2017, the Senegalese authorities extradited two (2) Moroccan nationals because of their involvement in an association formed to prepare and carry out a terrorist attack as act of a coactive venture that would seriously affect public order, organized grouping as a terrorist organization, managing funds with the intention of using them to commit terrorist acts, supporting acts constituting terrorist offences, supporting terrorist organizations.

453. With regard to terrorism and its financing, Senegal has recorded seven (7) cases of location and surveillance of suspected terrorists passing through its territory. This surveillance was followed by one arrest made within the national territory. . This extradition measure was the result of requests duly made by other countries to the competent Senegalese Authorities. The said requests after investigation were found to be in accordance with the National Law (Law No. 71-77 of 28th December 1971 on Extradition) and the international agreements to which Senegal is a party, particularly the General Convention on Cooperation on Justice, signed on September 12, 1961 in Antananarivo by twelve (12) African States as well as the agreement of the ECOWAS Criminal Police of 2004, which facilitates the Police-to-Police handing over of criminals with no further substantial modalities.

Table 25: Number of requests for international search warrant, extradition and delegation of criminal prosecution addressed to Senegal from 2012 to 2017

	2012	2013	2014	2015	2016	2017
Extradition requests for all offences	-	-	-	-	-	03
Extradition Requests for ML	-	-	-	-	-	-
Extradition requests for terrorism	-	-	-	-	-	01
TF-related extradition requests	-	-	-	-	-	-
Search warrant requests (international arrest warrants executed by Senegal).	-	-	-	-	-	-
Delegations of prosecution (prosecution in Senegalese territory against persons who could not be extradited)	-	-	-	-	-	-
Prosecution Transfers	-	-	-	-	-	-

454. **The only formal limitation to extradition is that Senegal does not extradite its nationals**. The fact that dual criminality is a condition for extradition is also likely to hinder the cooperation that the country could grant even if these two requirements are not specific to Senegal but shared by almost all major democracies in the world. However, in such circumstances, a prosecution must be initiated at the national level. Senegal has not provided any information on the use of the simplified procedure for granting extradition. The country claims to have used the police-to-police handover mechanism but no statistics were provided to substantiate this claim.

Request for Mutual legal assistance and extradition in a timely and satisfactory manner with respect to ML, associated predicate offences and TF

455. Senegal declared that it does not request for mutual legal assistance from other countries within the framework of cases being examined by the National legal Authorities. However, statistics provided by the country show that the use of mutual legal assistance is very minimal. As it is shown in the following table, Senegal requested for mutual legal assistance only four (4) times with regard to ML. Senegal did not provide information on the status of response to the requests it made to other countries.

Table 26: Statistics on Requests for Mutual Legal Assistance

Mutual Legal Assistance	2013	2014	2015	2016	2017*
Requests for all offences	02	14	3	-	-
Requests sent by Senegal to other countries on ML	-	3	1	0	0
ML-related request that received a response		-	-	-	-
TF-related requests issued by Senegal		-	-	-	-
Mutual Legal Assistance issued for:					
Asset tracing (with a freezing/confiscation related request)		-	-	-	-
Asset tracing (with no freezing/confiscation-related request)		-	-	-	-

456. After consulting certain judicial decisions, the Assessors realized that there were cases with international ramifications and the handling of which recourse to mutual legal assistance was necessary, if not to prove the wrongful origin of the funds, at least to request the tracing of funds and their seizure or confiscation. However, the investigation and Prosecutorial Authorities of Senegal did not use this assistance. (This is the case of a matter in which a head of a telecom company was convicted in Senegal for ML relating to a breach of trust and embezzlement in the performance of his duties in a foreign country).

457. During the on-site visit, it was noted that CREI sent several requests for mutual legal assistance in the processing of files related to illicit enrichment. These requests related to the collection of evidence and the identification of the assets of those prosecuted for illicit enrichment. Following the convictions pronounced by the CREI, the Senegalese Authorities transmitted the conviction and confiscation orders to request the countries where the assets were located, for the purposes of seizure and repatriation.

458. The Senegalese Authorities stated that the failure or the excessively late nature of mutual assistance is an important factor which explains the impossibility of conducting numerous legal proceedings on ML/TF to a successful end, especially where the predicate offence was committed abroad, or to identify the predicate offence that generated the funds for the purpose of confiscation. The same difficulties have been reported with respect to the financing of terrorism, where the requested States sometimes give reasons of national security

to refuse to respond to the request. This situation means that many cases initiated at the national level may not lead to convictions. When a conviction is obtained, confiscation cannot be enforced with respect to assets located overseas. Although some examples have been given, the magnitude of this phenomenon could not be quantified by other objective data.

Box: Illustrative case of challenges encountered by Senegal within the framework of international judicial cooperation:

Following the convictions delivered in the K.W. case, the Senegalese Authorities sent a request for mutual legal assistance for the recovery and repatriation of the assets of K.W. and his co-accused identified in France. This request included a bank account and real estate. But in 2016, the French courts refused at first instance the exequatur (the procedure to render enforceable) the decision of confiscation pronounced by the CREI due to the fact, according to the Senegalese competent Authorities, that the offence of illicit enrichment is not recognized in French Law. The ruling has been appealed against and the final ruling is yet to be delivered.

Extradition:

459. According to the information provided to the Assessors, the Senegalese Authorities have so far made no request for extradition in connection with the prosecution of ML cases. With regard to the predicate offences for money laundering, the statistics provided show that Senegal made only one extradition request in 2016. This request was sent to the Moroccan Authorities on 23 December 2016. The case concerns fraud, breach of trust, forgery and the use of forgery. The extradition request was still pending at the time of the on-site visit.

460. Senegal stated that it requested the extradition of its nationals from other countries in cases related to terrorism and its financing, but the statistics provided do not corroborate this information.

Table 27: Statistics on Extradition Requests

Extradition Requests	2014	2015	2016	2017*
Extradition requests for all offences	-	-	01	-
ML-related requests issued by Senegal to other countries	-	-	-	-
TF-related requests issued by Senegal	-	-	-	-

461. Apart from extradition, Senegal has reported cases of expulsion of Senegalese from abroad to Senegal as a result of terrorism: In 2008, a Senegalese national was expelled from a European country of which he was also a national. Another was expelled from a country in the Sahel for terrorism as he was preparing to cross the border to join the stronghold of a terrorist group based in a neighbouring country. These deportation measures should be considered by Senegal as extradition so that people expelled to Senegal can be arraigned before court. The Senegalese Authorities did not specify whether these persons have been prosecuted before the Senegalese courts.

462. Senegal's AML/CFT legislation[63] provides in the framework of international cooperation that these national courts are competent to deal with ML and FT offences

[63] Article 46 of AML Act and Article 42 of CFT Act

committed by any legal or natural person, regardless of their nationality or the location of their headquarters, even outside the national territory, provided that the place of commission is located in one of the UEMOA Member States or outside UEMOA if there is an agreement to this effect between Senegal and the Third State. Senegal provided no information to confirm whether such proceedings have taken place or whether agreements have been signed to this effect.

463. Under the same legislation[64], it is possible through the transfer of prosecution mechanism that Senegal requests the judicial authority of a UEMOA Member State to perform the necessary acts against the alleged offender of an ML or TF offence where, for any reason whatsoever, the national prosecuting authority considers that the prosecution or continued prosecution which it has already commenced faces major obstacles. Senegal did not say whether such a transfer of prosecution has already taken place.

Seeking other forms of international cooperation for AML/CFT purposes

- **BCEAO, Banking Commission, CREPMF and CIMA**

464. Senegal's financial sector is marked by the presence of international groups. Thus, as part of the monitoring and supervision of financial institutions, supervisors should be able to seek the cooperation of their foreign counterparts for the collection of information. For instance, Senegal stated that the UMOA Banking Commission, under the Memoranda of Understanding for Cooperation and Exchange of Intelligence with other Jurisdictions, may request for Intelligence on institutions or persons who have worked in these jurisdictions. However, no statistical data supporting this cooperation have been provided.

- **FIU**

465. Senegal admits that international cooperation plays a key role in the processing of suspicious transaction reports both at the level of the FIU and the prosecution and Investigative Authorities. Second ECOWAS country and the first UEMOA country to join the Egmont Group, Senegal sponsored six (6) countries for admission to the group (2009): Cameroon (2010), Mali (2010), Burkina Faso (2012), Togo (2012), Niger (2013) and Kosovo (2016). At the bilateral level, beyond UEMOA where the exchanges are automatic between Member countries, the FIU has signed twenty-nine (29) administrative information exchange agreements with its foreign counterparts.

466. The FIU exchanged information with other Egmont Members through the Egmont Secure Web, thus guaranteeing the confidentiality of information exchanged. The FIU therefore uses its powers in terms of international cooperation in an appropriate manner, by sending requests for information to foreign counterparts when the analysis of an STR requires it. Beyond the treatment of the STR, the FIU can be requested by the criminal investigation and Prosecutorial Authorities in order to collect from its foreign counterparts, the information which they need under the framework of their mission. The Police or the State Prosecutor's Office can therefore go through the FIU to collect the information they need from abroad. The FIU asserts without producing any relevant data that it has indeed had to interact with non-Member FIUs of the Egmont Group and that the required confidentiality and security measures have been implemented within the context of such exchanges. Beyond this particular aspect, the statistics

[64] Article 47 of AML and Article 43 of CFT Acts

provided by Senegal show that the FIU relies on informal cooperation with an acceptable level of efficiency.

Table 28: Statistics on Information Requests issued by the FIU to its foreign counterparts

Extradition Requests	2014	2015	2016	2017*
Information requests received from abroad	23	16	17	-14
ML-related requests issued by Senegal to other countries	24	39	24	19
TF-related requests issued by Senegal	-	-	-	-1

467. Apart from these statistics, the FIU has not provided any example of successful international co-operation where the information provided by its counterparts has been used to detect a case of money laundering or terrorist financing.

Law Enforcement

468. The Investigative Authorities co-operate with their foreign counterparts through several channels. Police, the Gendarmerie, Customs and Tax Services exchange information on predicate offences, money laundering and terrorist financing through Interpol, the Organization of African Gendarmeries, the World Customs Organization, and OECD ... etc. Several bilateral and multilateral agreements have been concluded by these stakeholders.

469. International police cooperation is provided through Interpol. Through the secure network of this international organization, Senegal seeks financial information and other information relevant to ML prosecution, predicate offences and TF. This cooperation is accomplished at the operational level by the West Africa Police Chiefs Committee. within this cooperation framework, Senegal makes information requests, launches international search warrants and requests police handover to police of wanted persons in Senegalese territory in the context of criminal proceedings and who have been arrested abroad. Information is also requested within the framework of the Organization of African Gendarmeries. Senegal did not, however, provide statistics on requests sent through these channels.

470. Customs services cooperate with their foreign counterparts through several channels, including the World Customs Organization (WCO). They seek information for the purpose of processing customs offences that are ML predicate offences, but do not conduct ML/TF investigations, they do not seek information to this effect. No statistical data could be consulted on the information requested.

471. The Revenue authorities, within the framework of the OECD and bilateral and multilateral agreements signed, also seek information for tax purposes only. ML/TF aspects are therefore not addressed.

472. Senegal also stated that its prosecuting Authorities co-operate within the framework of WACAP without giving any information on the co-operation it may have solicited through this network.

Providing other forms of international cooperation for AML/CFT purposes

473. In the context of monitoring and supervision, Senegal did not provide information on the cooperation that its supervisory authorities have provided to their foreign counterparts.

474. Senegal's FIU receives a growing number of requests for information to which it responded in a timely manner and in accordance with some prioritization criteria which are indicated in an internal manual for analysts (e.g. TF cases are treated urgently). These responses are provided through the Egmont Group's secure website for counterparts which are Egmont Members. The FIU provides its foreign counterparts with all the information it can obtain from the databases at its disposal, from stakeholders, criminal investigation and Prosecutorial Authorities or various other administration departments. The information sent by the FIU to its foreign counterparts may be communicated to the Investigation and Prosecutorial Authorities (or other Competent Authorities, where necessary), after having obtained the prior agreement and without mentioning the source of the information for the purpose of safeguarding the confidentiality of the information. The FIU specifies that an acknowledgment of receipt containing the information held by the FIU is systematically sent to the applicant. The definitive answer, which requires information searches, can also be preceded by the transmission of partial information collected as investigations progress.

Table 29: Statistics on requests received by the FIU:

Year	Number of requests received	Number of responses provided	Average time used in processing request
2011	03	03	30 months
2012	05	05	14 months
2013	19	19	6 months
2014	18	18	3 months
2015	14	14	5 months
2016	5	4	5 months
January to June 2017	4	3	4 months

475. The Police, on its part, provided active cooperation through Interpol. The Senegalese Police claimed to grant the most adequate cooperation possible. The NCB sent responses to requests for information and made Police to Police handovers. However, no statistics were provided in this regard. The police also mentioned the conduct of investigations and joint operations without further details.

476. Customs and tax departments cooperate with their foreign counterparts through various channels such as the WCO and ATAF.

477. Senegal did not provide no information on possible spontaneous transmissions of reports on ML or TF facts of which it would have been aware to foreign authorities, , while several cases mentioned could have given rise to the use of such procedures. This is essentially true for the cases reported to the Assessors regarding the transfer of funds received from abroad for the purpose of financing terrorism.

478. It was noted during the on-site visit that considerations of reciprocity or sovereignty and national security could compel Senegal to refrain from providing information. According to the comments made by the delegations of the FATF Member States, their cooperation with Senegal

has been unsatisfactory. Most of the delegations that responded stated that they did not send any request to Senegal. Those who submitted requests stated that the Senegalese authorities maintained a low level of co-operation with their foreign counterparts sending them requests.

International exchange of basic and beneficial ownership information on legal persons and legal arrangements

479. The Competent Authorities have the power to search for and transmit information relating to legal entities or legal arrangements and similar entities. BCEAO maintains a central registry for all Bank Account holders. This register called FICOB can be consulted by all criminal investigation and Prosecutorial Authorities and by the FIU. The register of trade and transferable credit includes all the information related to the creation and the life of commercial legal entities. Information from these records may be sent to foreign counterparts at their request. The basic information provided may be from public sources, extracts from the commercial register, location and address of individuals, headquarters of companies ... etc. It should be noted, however, that the poor organizations of the archives, the lack of updating of the registers often lengthen the time required to treat requests or make it impossible to collect the information requested. Added to this is the fact that Senegal does not yet have a beneficial ownership register. No data relating to request for identification and information on beneficial ownership was provided by Senegal. Furthermore, as noted in the analysis under IO. 5, there is no legal and institutional mechanism for identifying and managing the list of beneficial owners of legal persons and legal arrangements in Senegal, and thus, access to this type of information requires the use of various sources and seems tedious. Collectively, these challenges could have a negative impact on the timeliness of assistance to be provided to other countries.

480. The Senegalese judicial Authorities (including CREI) solicited and obtained from their foreign counterparts information on the beneficial owners relating to legal persons.

Table 30*: Request for identification of beneficial ownership initiated by Senegal*

	Country contacted	Date contacted	Issuing Authority	Offence or reason
01	Bahamas	28/05/2014	CREI Investigation Commission	Illicit enrichment and complicity in illicit enrichment
02	France		CREI Special Prosecutor	Ill-gotten wealth
03	France		CREI Investigation Commission	Illicit enrichment and complicity in illicit enrichment, corruption, receiving stolen goods.

481. Statistics provided show that the requests were made under prosecution for predicate offences and not for ML/ TF. In addition, apart from CREI, the ordinary judicial Authorities do not use these requests. However, not all the information requests have been attended to, because of the non-compliance of some of the rules of the Senegalese legal system, in substance and form, with the international rules and conventions to which it is a party. These particularly include cases where the request has several binding and coercive enforcement measures such

as arrests, extradition, freezing, seizure, confiscation and repatriation of assets. This situation is also attributed to the non-cooperation of the requested countries.

Conclusion and rating of IO. 2

482. Senegal's responses to MLA requests have not been timely. The Senegal-FIU cooperates to an acceptable extent with its foreign counterparts**.** The Directorate for Criminal Affairs and Pardon which manages requests for MLA and extradition addressed to the country lacks adequate resources. The country makes little use of international cooperation to investigate and prosecute ML offences. The statistics provided testify to Senegal's minimal use of international cooperation, which is essential in the fight against ML/TF. Given the transnational nature of financial crimes, including ML/TF, this raises some serious concerns on the ability of Senegal to successfully investigate and prosecute complex ML cases involving transnational criminal organizations. There are certain Senegalese internal rules that do not conform to the requirements of international conventions, thus preventing certain requests for assistance sent by the Senegalese Authorities from being addressed by their foreign counterparts. With regard to exchanges of BO information, the challenges associated with timely access to these information can impact on Senegal's capacity to effectively provide assistance to other countries. AML/CFT statistics relating to international cooperation appear unavailable and were rarely provided to support information given by the authorities. There are fundamental gaps in the implementation of international cooperation on the fight against money laundering and terrorist financing.

483. **Senegal's level of effectiveness on Immediate Outcome 2 is Low.**

APPENDIX I. – TECHNICAL COMPLIANCE

This Appendix provides a detailed analysis of Senegal's level of compliance with the 40 FATF Recommendations. It does not describe the country's situation or risks, but focuses on the analysis of the technical criterion for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report (MER).

Where the FATF obligations and national Laws or regulations have remained unchanged, this report refers to the analysis conducted as part of the previous mutual evaluation in July and August 2007. The report is available at www.giaba.org

Recommendation 1 – Risk Assessment and Application of Risk-Based Approach

During the first Mutual Evaluation of Senegal, there was no requirement for National Risk Assessment (NRA) for Money Laundering and Terrorist Financing (ML / FT), in accordance with Recommendation 1.

Obligations and decisions concerning countries

Risk Assessment

Criterion 1.1 - [Partly Met] - Senegal's National Risk Assessment (NRA) process was completed in August 2017. The NRA report highlights the main ML/TF risk areas, namely: (i) money transfer; (ii) foreign exchange dealers; (iii) electronic money; (iv) the hotel sector; (v) the real estate sector; and (vi) the legal and accounting professions- *due to the lack of supervisory and monitoring bodies, on one hand; and the weak integration of the due diligence and suspicious transaction reporting requirements, on the other, the legal and accounting professions present some characteristics of risk;* (vii) the porosity of borders and terrorist financing risk. As at the time of writing this report, although the country had identified its ML/TF risks, their understanding and implementation of its action plan were yet to become a reality. Senegal has not yet decided to relax due diligence measures on AML/CFT, particularly with regard to financial inclusion.

Criterion 1.2 -[Met] - By decision taken by the National Coordinating Committee against Money Laundering and Terrorist Financing (AML/CFT) during a session held on 7th September 2016 in Dakar, the FIU was charged with the responsibility of coordinating the NRA exercise in Senegal.

Criterion 1.3- [Met] - To update its assessment, an action plan has been prepared by Senegal, which is expected to run for thirty (30) months (from September 2017 to December 2019). This plan comprises three (03) priority measures: (i) updating a comprehensive AML/CFT legal framework; (ii) establishing an operational mechanism for the freezing, seizure, confiscation and management of illicit assets; (iii) developing an efficient national AML/CFT cooperation and coordination framework. The plan has mechanisms for providing relevant information on their results to the relevant competent authorities, self-regulatory bodies, financial institutions and DNFBPs concerned. Ten (10) other second level measures and a monitoring and evaluation mechanism are also attached to the priority actions identified in the NRA.

Criterion 1.4- [Partly Met] - The NRA provides that the AML/CFT Committee will be responsible for ensuring the proper dissemination of information among AML/CFT stakeholders. The information is disseminated through workshops, publications on the website and transmission of copies in electronic and printed format to the Competent Authorities,

including the Supervisory Authorities of financial institutions and DNFBPs. However, there is limited information on the results of risk assessments provided to all Competent Authorities and self-regulatory organizations, financial institutions and DNFBPs due to the recent commencement of the NRA process.

Risk mitigating measures

Criterion 1.5 - [Partly Met] - Senegal has prepared a draft action plan for the implementation of the NRA Blueprint. Senegal has established a framework for the implementation of a risk-based approach by providing a budget of CFAF 580 000 000 (€ 884 146.34) as estimated resources required to implement preventive or mitigating ML/TF measures. The action plan and budget have not yet been formally approved by the Authorities.

Criterion 1.6 - [Met] -Senegal applies all FATF Recommendations which recommend that financial institutions or DNFBPs implement measures against AML/CFT. Senegal has not applied any exemption of the FATF Recommendations to its AML/CFT framework.

Criterion 1.7 a & b- [Not Met] -The draft National Risk Assessment Implementation Action Plan requires financial institutions and DNFBPs to take enhanced measures to manage and mitigate high risk situations. However, there is currently no legislation for implementing AML/CFT measures designed to address such risks, including: (a) requiring financial institutions and designated non-financial businesses and professions to take enhanced measures to manage and mitigate risks; or (b) requiring financial institutions and designated non-financial businesses and professions to ensure that this information is included in their risk assessments.

Criterion 1.8 - [Not Met] - there is still no legislations on the implementation of simplified measures for some FATF Recommendations requiring financial institutions or DNFBP to take certain measures when a lower risk has been identified and provided that this is consistent with Senegal's ML/TF risk assessment. Under the AML/CFT Act in force in Senegal, there are no binding measures for financial institutions and DNFBPs that require them to apply a risk-based approach. No Senegalese bank has yet been convicted by a court for failing to comply with AML/CFT obligations. This situation may be attributed to the lack of facts identified by the supervisory and monitoring authorities or brought to their attention and punishable by criminal sanctions.

Criterion 1.9 - [Not Met] -The supervisory and monitoring Authorities of the financial sector, particularly the BCEAO, the Banking Commission, the CREPMF and the Regional Insurance Advisory Commission (CRCA) have not yet taken any legislation demanding financial institutions to adopt a risk-based approach. Risk assessment and mitigation measures (risk-based approach) for financial institutions are not yet applicable to DNFBPs. No action has been taken for now to ensure that DNFBPs assess ML/TF risks, mitigate those identified, and develop policies to manage them.

Obligations and decisions of financial institutions and DNFBPs

Risk assessment

Criterion 1.10 - [Not Met] -No information was provided by Senegal to indicate that reporting entities should take steps to assess and document their ML/TF risk assessments. There is still no AML/CFT guidance from financial institutions regulating financial institutions, obliging financial institutions and DNFBPs to review, identify and record areas of potential risk of money laundering not covered by the guidelines, and submit quarterly reports to the supervisory authority and the FIU accordingly.

Risk mitigation

Criterion 1.11 - - [Not Met] - - There are still no AML/CFT guidelines requiring financial institutions and designated non-financial businesses and professions: (a) to have policies, controls and procedures in place, approved by senior management, allowing them to manage and mitigate identified risks (either by the country, financial institution or designated non-financial businesses and professions); (b) monitor the implementation of these controls and strengthen them where necessary; and (c) when higher risks are identified, to take stronger measures to manage and mitigate those risks.

Criterion 1.12 – - [Not Met] - Mitigation measures have not been provided for.

Weighting and conclusion

Senegal has conducted its first-ever NRA, which, at the time of writing this report, indicates the main risk areas namely, money transfer; authorized foreign exchange operators; electronic money; the hotel sector; the real estate sector; legal and numerical professions, as well as terrorist financing (FT) risks and those associated with financial inclusion products. Senegal has not yet assessed ML and FT risks or developed a framework for applying a risk-based approach to allocate resources to mitigate or prevent identified ML /TF risks.

Senegal is rated Partially Compliant on Recommendation 1

Recommendation 2 – National Cooperation and Coordination

Senegal's first mutual evaluation report indicated that the country was largely in compliance although there was no formal framework for cooperation bringing together all institutional stakeholders involved in AML/CFT and that information was not shared systematically. This deficiency has been resolved with the establishment of the AML/CFT Coordination Committee, following Order No. 05547 of 23/06/2010 of the Minister of the Economy and Finance. In addition, the National Governance Commission was established by Order No. 05520/MPBGRI/CAB of 27th March 2014. The representation of civil society and the private sector among the appointed Members of this Commission strengthens coordination of AML/CFT and predicate offences at national level.

Criterion 2.1 - [Not Met] - Senegal, through the Coordinating Committee, finalized a draft national AML/CFT strategy report, with a 2013-2017 action plan, which was not adopted.

Criterion 2.2 - [Partly Met] -The Coordinating Committee is responsible, inter alia, for identifying and implementing measures to improve collaboration between the various stakeholders involved in AML/CFT. It is also charged with making proposals on improvements to the AML/CFT system. However, in order to address all issues related to AML/CFT problem, the Committee should expand to other stakeholders, including prosecution and suppression Authorities.

Criterion 2.3 - [Met] - In accordance with its mandate, the Committee is empowered to make proposals at national level for the development and implementation of AML/CFT policies and activities.

Criterion 2.4 - [Met] -By Decree No. 2015-299 of 06 March 2015, an Intelligence and Operations Coordination Center (CCRO) has been set up within the General Delegation for National Intelligence (DRN) which has a data collection platform accessible by the FIU. The

missions of this Center include the fight against the financing of the proliferation of weapons of mass destruction. There is also Decree No. 2016-946 of July 08, 2016 establishing and setting the organizational rules of the Framework for Intervention and Coordination of Counter Terrorism Operations (CICO).

Weighting and conclusion

Senegal has met most of the Criteria defined in Recommendation 2.

Senegal is rated Largely Compliant on Recommendation 2.

Recommendation 3 – Money Laundering Offence

In 2007, Senegal was considered to be largely compliant with FATF Recommendation 1-1, which defined the money laundering offence. However, deficiencies were identified in relation to the direct or indirect nature of the place between the assets and the proceeds of crime, the lack of criminal sanctions for insider trading and market manipulation on the regional capital market and finally, the lack of any stern decision on this offence.

This first criterion of the Recommendation has been elevated to the status of an independent Recommendation (Recommendation 3) with eleven (11) Criteria. Since the last Mutual Evaluation Report (M.E.R), there have been developments in both the legal arsenal and the bodies involved in AML/CFT:

- CIMA Regulation No. 00004 of 4 October 2008 on combating money laundering and terrorist financing in the insurance sector.
- The CREPMF Directive N° 35/2008 of November 23, 2009 on the fight against money laundering for authorized stakeholders of the UMOA capital market.
- The adoption of the Uniform Law 2009-16 of 02 March 2009 on combating the financing of terrorism, which aims to complement and reinforce, in particular, anti-money laundering legislation (Article 2).
- Decree No. 2010-981 of 02 August 2010 implementing Articles 30 and following of the Uniform CFT Act No. 2009-16 of 2nd March.

Criterion 3.1 (Met): The criminalization of money laundering includes the material elements of the offence defined in the Vienna and Palermo Conventions.

Criterion 3.2 3.3 (Met). All crimes and offences of Senegalese Law may constitute predicate offences within the meaning of Article 1 of the Senegalese Uniform Law on Money Laundering. Senegal has therefore opted for the definition Method in relation to all offences. (Article 1 of AML Act). The offence of money laundering is in Senegal for the laundering of assets benefits arising from all the offences included in the FATF definition of designated categories of offences;

Criterion 3-4 (Met): The money laundering offence covers all assets (all types of assets, whether corporeal or incorporeal, movable or immovable, tangible or intangible, fungible, as well as legal acts or documents evidencing the ownership of such assets or rights relating thereto) and the assets indirectly representing the proceeds of the offence: the assets replacing them, “compound interest of money laundering” (Articles 1 and 2 of the Uniform AML Act).

Criterion 3-5 (Met). There is Money Laundering even if the perpetrator of the crimes has not been prosecuted or convicted (Article 1 Uniform Money Laundering Act)

Criterion 3-6- [Partly Met] - The predicate offences for money laundering also include acts committed in another State (Article 2 of the AML Act). However Senegalese law does not explicitly state that it is provided that the offences would have constituted a predicate offence had they been committed in Senegal. The criminal law being strictly interpreted, such an omission is a breach of crater 6 of R.3 and deserves to be filled by the Senegalese legislator to give free rein to the arbitrariness and inconsistency that would benefit offenders

Criterion 3-7 - [Partially-Met] - the Senegalese AML Act uniform law does not explicitly provide that money laundering should be applicable to persons committing the predicate offence themselves (self-laundering). While this is not contrary to the fundamental principles of its domestic law, interpretation of the said law, particularly in the areas providing for laundering through custody, use, concealment, disguise, conversion, transfer, manipulation etc. of any assets by anyone who knows that such assets are derived from a tortuous or criminal origin, should be punished as well as the perpetrator of the predicate offence, who has committed one of the above-mentioned material acts, for money laundering, insofar as the law does not exclude it. Indeed, we must not distinguish where the law does not distinguish but to avoid differences of interpretation, Senegal is strongly advised to explicitly include this in its legislation. This is a minor deficiency.

Criterion 3-8 **(**Partly Met). The intentional element derives from the actions of the perpetrator or his/her accomplices and therefore from objective factual circumstances. However, the Senegalese law does not explicitly state that the intentional element should be considered where the criminal "ought to have known" that the funds or assets are derived from an illicit activity.

Criterion 3-9 - [Met] -: Sanctions applicable to natural persons sentenced for money laundering are proportionate and dissuasive. In the string of sanctions applicable to crimes in Senegal, the sanctions provided for ML is higher on average (05 years) and is equivalent to other comparable financial offences (concealment, abuse of social assets, breach of trust, fraud). The ML offence is punishable by three (3) to (7) years in prison and a fine equal to three times the value of the assets or funds on which the money laundering transactions took place. Aggravating circumstances are also provided indexed including the seriousness of the predicate offence, the quality of the perpetrator and so on. Moreover, confiscation, which is a mandatory additional sanction (Art. 45 of AML Act) according to Senegalese law, concerns all or part of the convicted person's assets, which is likely to considerably reinforce the dissuasive nature of sanctions (see R.4) even though it is regrettable that the legislator did not exclude the deferment of the ML component.

Criterion 3-10- [Met] -: According to Article 42 of the **Uniform AML Law**, the legal entities other than the State, for or on behalf of which a money laundering offence provided for by the Uniform Law has been committed by any one of the bodies or representatives, shall be criminally liable for them. This criminal liability is without prejudice to the one incurred by natural persons as perpetrators or accomplices of the same acts where it results from the circumstances of the case that these identified natural persons have personally and intentionally contributed to the commission of the said offences.

On the other hand, where the offence is not committed on behalf of or for the benefit of the legal person, only the body or representative natural person who personally and intentionally

committed the said facts shall be held liable. Criminal liability being personal in Senegalese law.

The criminal liability of legal persons does not exclude the civil liability of such legal persons even if it is explicitly not provided for by the Senegalese uniform law. However, in Senegalese law, it is a general principle that the legal person can answer for the civil consequences of a conviction of the natural person, director, representative or agent of the legal person where the original offence, is related to the legal person. This constitutes a guarantee for the victim. The legal person is by nature more solvent than the natural person.

Administrative and disciplinary sanctions are available for non-compliance with the reporting requirements for suspicious transactions by all reporting entities (Article 35 of the Uniform AML Act.), which includes legal persons. These administrative and disciplinary measures are without prejudice to the criminal liability where acts constituting money laundering are established against those bodies.

This is also the case in Article 35 which provides that the supervisory authority with disciplinary power may act ex-officio under the conditions provided for in the specific laws and regulations in force, and then notify the FIU as well as the State Prosecutor. The referral of these two bodies of detection and operational prosecution respectively can have no other purpose than to consider applying the criminal sanctions in accordance with the appropriate procedures.

It follows from the foregoing analysis that criminal, administrative, disciplinary and civil sanctions can be combined.

It also excludes from the scope of certain criminal sanctions (placement under judicial supervision, prohibition definitively or for a period of five years (05) permanent closure or for a period of five years, dissolution, posting of the decision pronounced ..., the financial bodies under the control of a supervisory authority having disciplinary power in accordance with Article 42.al3 of the Uniform Law on Money Laundering.

These structures are legal persons. As a result, the wide range of criminal sanctions meted out on legal persons do not exclusively apply to them.

The range of sanctions applicable is broad and the available sanctions seem proportionate and sufficiently dissuasive. The applicable sanctions are: a fine equal to five times that imposed by natural persons (mandatory).

Other sanctions such as exclusion from public procurement on a permanent basis or for a maximum of five years; the confiscation of the instrument or product, the placing under judicial supervision for a maximum period of five years, the prohibition, definitively, or for a period not exceeding five years, of directly or indirectly carrying out one or more activities professional or social services in connection with which the offence was committed;

The definitive closure, or for a period not exceeding five years, of the establishments or one of the establishments of the enterprise used to commit the acts in question;

The law also provides for the recording of convictions against legal persons in a register kept in the court registry.

Criterion 3-11 (Met): The provisions under Article 38 punish conspiracy or participation in any association for the commission of an act constituting money laundering, the association to commit that fact, aiding and abetting, providing incentive or the advice to a natural or legal person, with a view to executing it or facilitating the execution of the same sanctions provided for in Article 37;

The attempt is also punishable. (Article 37 of AML Act)

Weighting and Conclusion

Criminalization of money laundering complies with the requirements of international standards and allows for adequate repression. However, minor improvements should be made in the formal criminalization of self-laundering, explicitly providing that a predicate offence committed abroad shallconstitute a predicate offence provided it occurs domestically and taking into account theobjective factual circumstances to factor in *"the person who knows or ought to have known"*.

Senegal is rated Largely Compliant on Recommendation 3.

Recommendation 4 – Confiscation and Provisional Measures

The Senegalese regime of freezing, seizure and confiscation was found to be largely in line with the 2004 evaluation. However, the question of the effectiveness of this measure remained unresolved. To remedy this, Senegal has amended its penal code and its code of criminal procedure with a view to effectively taking over seized or confiscated assets.

Criterion 4-1

- ***a-*** (Met): Article 41 of the Money Laundering Act provides for the confiscation of all or part of the assets of lawful origin of the convicted person and the confiscation of the assets or thing that has served or was intended for committing the offence or of the thing that is the product of it, with the exception of objects liable to restitution. The legal regime of this special confiscation makes it a mandatory additional sanction for all cases of conviction for ML or attempted ML, and optional to imprisonment and fine for other offences (certain acts related to ML) provided for in the AML. It applies to all crimes and offences including ML, TF (Article 36.41 of CFT Act) and terrorism.
- ***b-*** (Met) Article 45 of the above-mentioned law allows the confiscation of proceeds or instruments used or intended to be used for the purpose of money laundering or predicate offenses held by convicted defendants or by third parties in criminal proceedings.
- ***c-*** (Partially met) Articles 36 and 41 of the Senegalese Law on Combating the Financing of Terrorism provide for the confiscation of property constituting the proceeds of, or used for, or intended to be used for or used in the financing of terrorism, terrorist acts or terrorist organizations. However, there is no explicit provision criminalizing the financing of individual terrorists and terrorist organizations. In addition, Senegal has not criminalized the financing of foreign terrorist fighters.
- ***d-*** (Met) These legal provisions raised also provide for the confiscation of property of equivalent value.

Criterion 4-2 a- [Met] -: the Senegalese legal arsenal, particularly the AML/CFT Act, gives the prosecuting authorities (police, gendarmerie, customs administration, State Prosecutor, FIU,

authority of fight against bribery, Examining Magistrate) the power to identify, trace and estimate assets subject to forfeiture. (Article 33, 34 of the AML Act and other relevant provisions of the Code of Criminal Procedure and the Customs Code)

4-2-b - [Met] -: Various types of provisional measures to impede transactions on any assets subject to confiscation are available in Senegal. These provisions permit the seizure of objects, instruments and proceeds of crime, as well as proceeds derived directly from offences, substituted assets and securities, and the income derived from such invested proceeds. Several restraining, freezing and seizure measures (Article 33, 36 of AML, and 26, 28, 30 of CFT Acts) are generally at the disposal of the administrative authorities (including the FIU Article 28 of AML, 20 of CFT Act) or judicial authorities respectively, which aim at placing certain assets under Supervision with a view to carrying out a subsequent seizure or even confiscation. Confiscations are also provided for under international cooperation by Articles 63, 65, 66, 67 and 68 of the AML Act as well as 60 to 64 of the CFT Act.

4-2-c [Not Met]: Senegal has not made any reference to legislative or regulatory measures to cancel actions that compromise the country's ability to freeze, seize or recover assets subject to a confiscation measure.

4-2-d [Met]: Senegalese legislation allows the authorities to take all appropriate investigative measures to detect, identify the perpetrators of the offences covered by the AML/CFT legislation as well as the instrumentalities and proceeds of their crimes. This is reflected in sections 26 and following, 33, 34 and Cap V of the AML Act. The same obtains for Articles 16 and following, 26, 27, 28, 27 and 30 as well as relevant provisions on international cooperation (AML/CFT). In addition to traditional means, special investigative techniques are also used by the Senegalese authorities to conduct investigations.

Criterion 4-3 [Met] -: The rights of bona fide third parties are protected by law in the execution of foreign seizure and confiscation requests in the context of international cooperation. This protection is also ensured in internal procedures (Articles 45 and 63 of the AML Act and 41 and 60 of the CFT Act). However, Article 45 does not explicitly refer to 1/3 in its wording so that it does not seem sufficiently protective.

Criterion 4-4 (Met): The structures responsible for the management of frozen, seized or confiscated assets are the Public Deposit Fund and the Ministry of Economy and Finance (DGID, Treasury and AJE). The structures mentioned above do not provide coordination in the management of seized, frozen or confiscated assets.

Weighting and Conclusion

The right of *bona fide* third parties is guaranteed in the domestic seizure and confiscation procedures. Senegal has a mechanism for the management of seized and confiscated assets and even for their disposal where necessary.

Senegal is rated Partially Compliant on Recommendation 4

Recommendation 5 – Terrorist Financing Offence

In 2007, Senegal was judged partially compliant with Special Recommendation II (*which, as a result of the 2012 revision, became Recommendation 5*) because of the non-compliance of the then Senegalese Law with the International Convention for the Protection of Human Rights

suppression of the financing of terrorism. To remedy the inadequacies of its legislation identified in the 1st MER, Senegal adopted the Uniform Law n ° 2009-16 of 02 March 2009 on the fight against terrorist financing, which aims to complement and strengthen its AML regime. However, it is clear that Senegal has not yet domesticated Directive No. 02/2015/CM/UEMOA on combating money laundering and terrorist financing in the Member States of the West African Economic and Monetary Union (UEMOA).

Criterion 5-1- [Met] -The financing of terrorism has been raised to the level of an independent criminal offence under Law No. 2009-16 of 02 March 2009 which effectively implements the United Nations Convention of 09 December 1999 for the suppression terrorist financing and its nine (09) annexes as well as the main FATF Recommendations against the financing of terrorism (Article 2).

Criterion 5-2 (a) -[Met] - The intentional and material elements of the terrorist financing offence as defined in the 2009 Senegalese CFT Act are compliant with the United Nations Convention on the Repression of Terrorism Financing (Articles 4 and 5 CFT). The Senegalese Law endorses the relevant international instruments against terrorism and explicitly refers to them (Article 4 (1) of the Senegalese Uniform Law).

Criterion 5.2 (b) – (Not Met) - Senegal's CFT Act and that of 2016 amending Senegal's Penal Code do not explicitly criminalize the financing of an individual terrorist or a terrorist organization for any purpose.

Criterion 5-2 bis - [Not met] - Senegal has not criminalized the funding of travel for persons going to a State other than their State of residence or nationality for the purpose of committing, organizing or preparing, or participating in acts of terrorism, or providing or receiving training in terrorism (foreign terrorist fighters).

Criterion 5-3-[Met] - Terrorist financing offences apply to all assets in accordance with the definition of the International Convention for the Suppression of the Financing of Terrorism. Assets are defined as assets of any kind, whether tangible or intangible, movable or immovable, acquired by any means whatsoever, and legal documents or instruments, including in electronic or digital form, that attest to a right of ownership or interest on these assets, including bank credits, traveler's checks, bank checks, money orders, shares, securities, bonds, drafts and letters of credit.

Criterion 5-4 - [Met] - The terrorist financing offence is established even if the assets have not actually been used to commit the acts criminalized under section 4 of the CFT Act. The offence is also constituted even if the funds are not linked to any one or several specific terrorist acts.

Criterion 5-5- [Mostly Met] - Due to the principle of freedom of evidence, the Judge can base his/her conviction on all the elements regularly obtained and that the parties were able to discuss. It is therefore possible that the intentional element of the offence may be inferred from objective factual elements, although Senegalese Law does not explicitly state this, which constitutes a major gap that must be addressed to prevent criminals from exploiting it for their own benefit.

Criterion 5-6-[Met] -The sanctions provided for the offence of terrorist financing under sections 32, 33, 34, 35, 36 and 37 of the CFT Act and 279-1, 279-5 and 279-7 of the 2016 Law amending the Penal Code, which are dissuasive.

Criterion 5-7- [Met] -Article 38 of the CFT Act provides for the range of sanctions that apply to legal persons involved in terrorist financing operations. In addition to sanctions pronounced

by criminal Authorities, there are those pronounced by supervisory Authorities with disciplinary powers. The sanctions appear proportionate and dissuasive.

Criterion 5-8-[Met] -Section 5 of the CFT Act criminalizes association, conspiracy or complicity in the commission of a terrorist financing offence. As an autonomous offence, the offence of terrorist financing is subjected to the rules of the Penal Code which punish attempts (Article 32 of CFT Act). The acts of complicity set out in Article 2 of the Convention on the Financing of Terrorism are covered by Senegalese Law.

Criterion 5-9- [Met] -Terrorist financing offences are ML predicate offences in Senegalese Law (Article 6 of CFT Act)

Criterion 5-10- [Met] -The nationality of the person accused of terrorist financing is irrelevant to the application of the CFT as well as the origin of the asset or assets intended for financing the terrorist activity (Art.4 in fine and 42 of CFT Act).

Weighting and conclusion

Senegal's counter financing of terrorism regime is not fully compliant with international standards, including the Security council Resolutions, as they present some technical gaps, particularly the lack of explicit provisions criminalizing the financing of individual terrorists and terrorist organizations. Furthermore, Senegal has not criminalized the financing of foreign terrorist fighters.

Senegal is rated Partially Compliant on Recommendation 5.

Recommendation 6 –Targeted financial sanctions related to Terrorism and Terrorist Financing

Senegal had been rated partially compliant on this Recommendation (former SR.III) during its first evaluation in 2007. The main deficiency noted was the lack of a specific procedure for Senegal to designate persons under UNSCR 1373. The Uniform Law n ° 2009-16 of 2nd March 2009 on the fight against the financing of terrorism does not contain any provision relating to targeted financial sanctions. But Decree No. 005980 of 24 June 2010 on the implementation of Article 30 et seq. of Uniform Law No. 2009-16 on the CFT designates the Minister of Finance as the competent authority for the implementation of freezing measures.

Identification and designation

Criterion 6.1 a)- [Met] –In accordance with the provisions of Articles 30 and 31 of the CFT, the Minister in charge of Economy and Finance is designated to implement the UNSCR and is responsible for proposing persons or entities to the United Nations Designation Committee.

Criterion 6.1 b)- [Not Met] -No information was provided on the provision of one or more mechanisms for identifying designation targets, based on the designation criteria established in United Nations Security Council Resolutions (UNSCR).

Criterion 6.1 c) - [Not Met] -No information was provided on the application of the "reasonable grounds" or "reasonable basis" evidence Criterion when deciding whether or not to make a designation proposal. These designations should not be subjected to the existence of criminal proceedings.

Criterion 6.1 d)- [Met] - In accordance with Article 2 of Decree No. 005980 of 24th June 2010, on the implementation of Article 30 et seq. of the Uniform CFT Act No. 2009-16, the Minister

of Finance establishes a list of persons, entities or bodies concerned. The decision of the Minister is applicable as soon as it is published in the official gazette and in a legal newsletter.

Criterion 6.1 e) - [Not Met] -No information was provided on relevant information on the proposed name or an explanatory statement on the reasons for the registration;

Criterion 6.2 a)- [Met] -Pursuant to the provisions of Articles 30 and 31 of the CFT Act, the Minister of the Economy and Finance has been designated as the competent authority responsible for nominating persons or entities that meet the specific designation criterion as provided for in UNSCR 1373.

Criterion 6.2 b)- [Not Met] -No information was provided by Senegal indicating that the country has one or more mechanisms for identifying designation targets, based on the designation criteria as stipulated under UNSCR 1373.

Criterion 6.2 c)- [Not Met] -No information was provided by Senegal indicating that the country has the powers and appropriate procedures or mechanisms to collect or solicit as much information as possible from all relevant sources to identify, on the basis of reasonable grounds, the persons and entities that meet the criteria of the relevant Security Council Resolutions, and to identify persons and entities for which there is a reasonable basis for suspicion or to think that they meet these criteria.

Criterion 6.2 d) - [Not Met] -No information was provided by Senegal indicating the application of the "reasonable grounds" or "reasonable basis" evidence criterion when deciding whether or not to make an appointment. These proposed designations should not be subjected to the existence of any criminal proceedings.

Criterion 6.2 e)- [Not Met] -No information was provided by Senegal indicating that when another country is requested to give effect to actions under the freezing mechanisms, it should provide all possible information for identification, as well as specific information to support the decision.

Criterion 6.3 (a-b)- [Not Met] - Senegal is yet to develop a text specifying the powers of Competent Authorities and legal procedures or mechanisms in the implementation of UNSC Resolutions to gather or solicit information to identify persons and entities that meet the Criterion for designation, on the basis of reasonable grounds, or for which there is any reasonable basis to suspect or believe that they meet these criteria; and intervene *ex parte* against any person or entity that has been identified and whose designation (or proposed designation) has been considered.

Freezing

Criterion 6.4- [Not Met] - The competent authority (the Minister of Finance appointed by Decree No. 005980 of 24 June 2010) orders, by administrative decision, the freezing of funds and other financial resources of terrorists, as well as all those who finance terrorism and terrorist organizations. However, since the sanctions enforcement mechanism has not been established, the country cannot honor its commitments in this regard.

Criterion 6.5- [Not Met] -The competent authority (the Minister of Finance appointed by Decree No. 005980 of 24 June 2010) orders, by administrative decision, the freezing of funds and other financial resources of terrorists, as well as all those who finance terrorism and terrorist organizations: At the time of the on-site visit, the mechanisms are yet to be established in Senegal.

Criterion 6.5 a) - [Not Met] -No information was provided to specify time limits.

Criterion 6.5 b)- [Met] -Under Article 2 of Decree No. 005980 of 24 June 2010) the freezing obligation applies, in addition to funds and other financial resources belonging to terrorists, to the movement of funds in favor of such persons, including when the execution order was given prior to the date of the measure. It is binding on any person who co-owns the funds as well as any person with a joint account of which the perpetrator is the owner under any of the three forms of ownership.

Criterion 6.5 c) - [Mostly Met] - It is strictly forbidden for the persons referred to in Article 3 of Senegal's CFT Act, to directly or indirectly put the funds subject to the freezing procedure, at the disposal of natural or legal persons, entities or bodies designated by the decisions referred to in paragraphs 1 and 2 of the abovementioned Article or to use them for their benefit. The persons referred to in Article 3 of this Law are equally strictly prohibited from providing or continuing to provide services to natural or legal persons, entities or bodies designated by the decisions referred to in paragraphs 1 and 2 of the same Article, or to use them for their own benefit.

The CFT Act is limited with regard to the entities concerned by R. 6.5c, and then in relation to the assets and operations concerned;

Indeed, the recommendation is more extensive in particular, taking into account all the entities located on the national territory, it extends the prohibition of making available funds, other assets, economic resources or financial services and other related services directly or indirectly, fully or jointly for the benefit of the designated persons or entities, entities owned or controlled directly or indirectly by the designated persons or entities, and persons and entities acting on behalf of the designated persons or entities, which is not the case of Senegalese law (Article 3 and 30 of the CFT Act). Also, the CFT Act does not consider mitigations or derogations related to licenses, authorizations or notifications to the contrary.

Criterion 6.5 d)- [Not Met] -No information was provided by Senegal regarding the existence of mechanisms to communicate designations to the financial sector and designated non-financial businesses and professions as soon as these measures are taken, and provide clear Directives, in particular to financial institutions and other persons and entities, including designated non-financial businesses and professions, who may hold funds and other assets, as to their obligations under the freezing mechanisms.

Criterion 6.5 e)- [Not Met] -No information was provided by Senegal regarding the obligations of financial institutions and designated non-financial businesses and professions to report to the Competent Authorities all frozen assets and measures taken in accordance with the prohibitions of the relevant UNSCRs, including attempted transactions.

Criterion 6.5 f)- [Partly Met] -No information was provided by Senegal regarding measures taken to protect the rights of third parties in good faith in the implementation of the obligations under Recommendation 6. However, any decision of freezing or unblocking must be made known to the public, in particular by its publication in the official gazette and in a newsletter of legal announcements. The same applies to the procedures to be followed by any natural or legal person on the list of persons, entities or bodies concerned, to obtain the withdrawal of this registration and, where appropriate, the release of funds belonging to them.

De-listing, unfreezing of funds and access to frozen funds or other assets

Criterion 6.6- [Not Met] -Senegal has not yet developed and implemented publicly known procedures for the removal from lists and the unfreezing of funds and other assets of persons and entities that do not meet or no longer meet the designation criteria.

Criterion 6.6 (a) - [Met] -According to Article 31 of the CFT, any natural or legal person whose funds and other financial resources have been frozen pursuant to the provisions of Article 30 paragraph 1 of the Law, which considers that the freezing decision is the result of an error, may appeal against that decision within one month from the date of its publication in the Official Gazette. The appeal is lodged with the competent authority which ordered the freezing, indicating all the elements which can demonstrate the error. Any dispute over a decision to freeze funds and other financial resources made pursuant to a United Nations Security Council Resolution must comply with the appropriate procedure provided for in the Security Council Resolutions.

Criterion 6.6 (b)- [Not Met] -There are still no procedures or mechanisms for removal from lists and unfreezing of funds or other assets of persons and entities designated in accordance with UNSCR 1373, which no longer meet the criterion for designation.

Criterion 6.6 (c) - [Not Met] - With regard to designations in accordance with UNSCR 1373, there are as yet no procedures to allowing, upon request, to examine the appointment decisions by a court or any other independent competent authority;

Criterion 6.6 (d)- [Not Met] -As regards designations in accordance with UNSCR 1988, there are still no procedures to facilitate consideration by the 1988 Committee in accordance with any applicable guidelines or procedures adopted by the 1988 Committee, including those relating to the Focal Point mechanism established by UNSCR 1730;

Criterion 6.6 (e)- Criterion 6.6 (e) - [Not Met] – With regard to designations on the Al Qaeda sanctions list, there are still no procedures to inform appointed persons and entities that the Office of the United Nations Ombudsman may receive requests for withdrawal from such lists in accordance with Resolutions 1904, 1989 and 2083;

Criterion 6.6 (f) - [Met] -Any decision of freezing or unblocking must be made known to the public, in particular by its publication in the official gazette and in a newsletter of legal announcements. The same applies to the procedures to be followed by any natural or legal persons on the list of persons, entities or bodies concerned, to obtain the withdrawal of this registration and, if need be, the release of funds belonging to them.

Criterion 6.6 (g)- [Not Met] – There are still no mechanisms to communicate decisions of withdrawal from lists and unfreezing to the financial sector and designated non-financial businesses and professions as soon as these decisions are made, and provide Directives to financial institutions and other persons and entities, including designated non-financial businesses and professions, who may hold funds or other assets mentioned, as to their obligations with respect to de-listing and unfreezing measures.

Criterion 6.7- [Not Met] -No information was provided on the possibility of allowing access to frozen funds and other assets considered necessary to cover basic expenses, the payment of certain types of charges, expenses and fees for services or extraordinary expenses in accordance with the UNSCR 1452 procedures and any subsequent Resolution.

Weighting and conclusion

The country adopted a legislative framework in 2009 for the implementation of UN Security Council Resolutions. However, this framework does not take account of developments since the revisions to the FATF Recommendations in 2012.

Senegal is rated Non-Compliant on Recommendation 6.

Recommendation 7: Targeted Financial Sanctions Related to Proliferation

Criterion 7.1- Criterion 7.1- [Not Met] -No information was provided by Senegal on the implementation of targeted financial sanctions without delay in accordance with United Nations Security Council Resolutions adopted under Chapter VII of the United Nations Charter, relating to the prevention, suppression and cessation of the proliferation of weapons of mass destruction and their financing.

Criterion 7.2- [Not Met] -No information was provided by Senegal on the appointment of Competent National Authorities responsible for the implementation and application of targeted financial sanctions in accordance with the following criterion 7.2; b; c; d; e and f.

Criterion 7.3 [Not Met] -No information was provided by Senegal for the adoption of measures to monitor and ensure compliance by financial institutions and designated non-financial businesses and professions with applicable Laws and other legally enforceable means implementing obligations of Recommendation 7. Failure to comply with these Laws and other enforceable means should be subject to civil, administrative or criminal sanctions.

Criterion 7.4 (a-d) [Not Met] -No information was provided by Senegal on the development and implementation of publicly known procedures for submitting requests for withdrawal from lists to the Security Council in the case of persons and Designated Entities that, in the opinion of the country, do not meet or no longer meet the designation criteria.

Criterion 7.5 (a) [Not Met] -There are still no measures for the addition to frozen accounts of interest or other income due on such accounts or payments due under contracts, agreements or obligations arising before the date on which these accounts were subjected to the provisions of Resolution 1737.

Criterion 7.5 (b) [Not Met] - There is as yet no provision with regard to freezing measures taken pursuant to Resolution 1737 that should not prevent a designated person or entity from making any payment due in accordance with a contract concluded before the listing of such a person or entity.

Weighting and conclusion

Significant deficiencies were identified in the analysis of this Recommendation, due to the non-response to the Questionnaire on Technical Compliance by Senegal. No information was provided on the provisions relating to financing the proliferation of weapons of mass destruction (WMD). Senegal has not yet nominated the competent authority to order, by decision, the freezing, without delay, of assets, funds and other financial resources of persons or entities appointed by the United Nations Security Council, under Resolutions relating to the fight against financing the proliferation of weapons of mass destruction.

Senegal is rated Non-Compliant on Recommendation 7.

Recommendation 8 – Non-Profit Organizations (NPOs)

Special Recommendation VIII (current R.8) was rated non-compliant (NC) in Senegal's first MER for the following deficiencies: (1) There is no provision in the regulations for the prevention of the risk of misuse of Non-profit organizations for terrorist purposes; (2) the lack of concrete awareness-raising measures to prevent funds or other assets collected or transferred from being diverted to finance terrorism; (3) the inadequacy of the controls carried out on the NGOs does not make it possible to measure the effectiveness of the system. With the adoption of Uniform Law 2009-16 of 2 March 2009 on the fight against the financing of terrorism which aims to define the legal framework of the fight against the financing of terrorism in Senegal, by implementing the United Nations Convention of 9 December 1999 for the Suppression of the Financing of Terrorism and its nine (9) annexes, as well as the main International Recommendations against the Financing of Terrorism, Senegal has addressed the deficiencies noted in its legal framework governing NPOs However, the NRA report indicates that despite efforts made at the specific level of NGOs, the monitoring of non-profit organizations (NPOs) needs to be strengthened. In 2015, Senegal adopted Decree 2015-145 dated 04 February 2015 on NGO intervention modalities. This decree repeals and replaces Decree 2010-1490 of 10 November 2010 on the supervision and monitoring of NGOs. . The Decree establishes a strengthened legal framework for monitoring their activities and monitoring the origin of their funding. Indeed, the new Decree now provides for controls on the destination of the funds of these NGOs and sanctions in case of irregularities noted on this component.

Criterion 8.1 (a) [Partly met] - Senegal has adopted Uniform Law No. 2009-16 on CFT which provides in its Article 14 the obligation for any NPO wishing to raise funds, receive or order transfers of funds to be filed in a register set up by the competent authority. Senegal has a registry kept by the Ministry in charge of Security for this type of NPO. However, Senegal has not used relevant sources of information to identify the specificities and types of NPOs that, by reason of their activities or characteristics, are likely to be exploited for terrorist financing purposes.

Criterion 8.1 (b) [Not met] Decree No. 2015-145 of 4 February 2015 provides for a monitoring and evaluation system dedicated to the activities of NPOs. The reports produced as a result of this evaluation concern only the overall volume of resources used and the investments made. It is not intended to identify the nature of the threats posed by the terrorist entities to the NPOs that pose risks as well as the manner in which the actors of terrorism exploit NPOs.

Criterion 8.1 (c) [Largely met] There is a mechanism for reviewing measures for NPOs in general. It is within the framework of this review that Decree n ° 2015-145 of 04 February 2015, was issued. It enabled the Directorate for Partnership with NGOs (Ministry of Interior and Public Security) to initiate a computer based program for the NGOs docket, with a view to strengthening the monitoring and evaluation of investment programs approved by the State of Senegal and ensure sound use of resources collected.

Criterion 8.1 (d) - [Not met] The CFT Act and Decree No. 2015-145 of February 4, 2015 do not provide for periodic reassessment requirements of the NPO sector by reviewing new information regarding its potential vulnerabilities to terrorist operations, in order to ensure effective implementation of the measures.

Criterion 8.2 (a) [Met] -Decree No. 2015-145 of 04 February 2015 provides for the establishment of a Strategic Council for Government-NGO Partnership to ensure the

implementation of the government policy on partnership with NGOs. This Strategic Council is a consultation framework between ministerial departments, the Parliament, local authorities as well as the NGOs to ensure coherent implementation of NGO activities and interventions over the whole territory. It is also responsible for evaluating the government-NGO partnership and ensuring compliance with its underlying principles. In this respect, it works for the promotion of the responsibility and integrity of the sector in order to strengthen public support to NGO actions.

Criterion 8.2 (b) - [Largely met] - In the context of effective implementation of AML / CFT measures and awareness raising, guidelines for the supervisory and supervisory bodies of DNFBPs and NPOs were developed by Senegal. The sections devoted to NPOs provide for awareness campaigns on terrorist financing risks through NPOs.

Criterion 8.2 (c) - [Largely met] The composition of the Strategic Council for NGO Government Partnership provided for by Decree No. 2015 -145 of 04 February 2015, includes representatives of NGOs. The Strategic Council follows the application of Government-NGO partnership guideline, and proposes any measure to reinforce the monitoring and the evaluation of NPO activities. This Council has among other missions to give opinions on the interventions of the NGOs and on measures to strengthen the monitoring and evaluation of NGO activities. Senegal also has an AML/CFT coordination committee whose membership can be extended to any actor involved in AML / CFT. The supervisory authorities of NPOs and the NPOs participate in the meetings of the Committee as well as representatives of NPOs' organizations.

Criterion 8.2 (d) - - [Met] Article 14 (6) of the FT Law requires NPOs to deposit all monies awarded to them or as part of the transactions they may conduct in an open account in the books of an approved banking institution.

Criterion 8. 3 - [Not met] - Decree No. 2015-145 of 04 February 2015 sets out the intervention procedures for non-governmental organizations. Its provisions provide for a monitoring and evaluation system for NGO activities. Also Decree N ° 6167 / MEFP / DMC of 24/05/2011 empowers the Direcctorate of Currency and Credit to control the origin and destination of the resources of the NGOs. However, this mechanism does not provide for a risk-based control.

Criterion 8. 4 (a) - [Not met] There are no risk-based supervision requirements.

Criterion 8. 4 (b) - [Met] Decree No. 2015-145 of 4th February 2015, laying down intervention procedures for non-governmental organizations provides for (administrative) sanctions in case of irregularities found in the operation or financial management of the organization where the NGO’s activitiesare no longer in line with the aims and objectives defined by its Articles of Association, where serious irregularities are identified in the financing and origin of the NGO’s funds, in case of refusal to submit to control, etc. Article 49 of the Decree provides for sanctions including withdrawal of license.

Senegal's CFT Act also provides for administrative and criminal penalties for terrorist financing offenses. Chapter 1 of the CFT Law 2009-16 provides for a mechanism of sanctions and prosecutions including confiscation and freezing of assets, depending on the violations committed by the NPOs concerned.

Criterion 8.5 (a) - [Partly met] Ther are mechanisms for promoting the cooperation, coordination and exchange of relevant information on NPOs at the national level between authorities with relevant information on NPOs. This is particularly the case between the State Security, the Interior Ministry, the Ministry of Foreign Affairs and other State structures holding information on NPOs. The Anti-Terrorism Unit, which is in charge of monitoring faith-based NPOs, shares information with all actors in the intelligence community, including the FIU. These mechanisms, however, do not seem entirely satisfactory since they are somewhat informally organized.

Criterion 8.5 (b) - - [Largely met] The suspicious transaction reporting mechanism (see R. 20) can also help alert authorities and prosecute NPOs suspected of ML / FT, where appropriate. . These same authorities can use their investigative powers to access information on NPOs available from the financial and non-financial professions.

Criterion 8.5 (c) - [Met] - Criminal investigation and prosecution authorities are empowered to investigate and collect information on non-profit organizations. Ministerial Order No. 6167 of 24 May 2011 of the MEF / DMC authorizes the Directorate of Currency and Credit to take cognizance of any information and documents that it deems useful in the exercise of its functions vis-à-vis NGOs.

Criterion 8.5 (d) - [Largely met] Senegal's CFT Act provides in the provisions relating to special due diligence obligations in respect of NPOs that any donation to any NPO, regardless of the amount shall be declared to the FIU, by the competent authority, when the funds are likely to relate to a terrorist enterprise or financing of terrorism. In addition, any cash donation to any NPO of an amount equal to or greater than one million CFA francs (approximately $ 2,000 / € 1,524) shall be automatically declared to the FIU. The competent authority also opens a register for tracking donations to NPOs.

Criterion 8.6 - [Met]. The FIU exchanges information with foreign FIUs. The prosecuting authorities in the context of judicial cooperation are designated as contact points for the appropriate procedures to respond to international requests for information concerning any Senegalese NPO as well as those of foreign nationalities operating in Senegal suspected of terrorism financing or supporting it by any other means.

Weighting and conclusion

The system governing NPOs in Senegal includes a mechanism for supervision as well as cooperation. However, this system does not provide for risk-based supervision as provided for in the recommendation.

Senegal is rated Partially Compliant on Recommendation 8

Recommendation 9 – Laws on Professional Secrecy of Financial Institutions

Senegal was rated Compliant in its 1st MER on the Recommendation relating to the Laws on professional secrecy of financial institutions. However, the MER noted that despite the lack of due diligence on terrorism financing, no difficulty was reported to the Assessors in obtaining information. Since the adoption of its MER Senegal has promulgated the Uniform CFT Act 2009-16 of 2nd March 2009. Similarly, the Banking Regulatory Framework Act, the CIMA Code and the DFS Act and their enforcement regulations reinforce measures related to the

requirements of R.9.

Criterion 9.1 - [Met] – Banks and financial institutions operating like banks are subjected to professional secrecy under the provisions of Article 30 of the Law establishing the banking regulation, subject to the application of the sanctions provided for in Article 53. The same obtains for the provisions of Article 37 regulating Decentralized Financial Systems (DFS). Corporate and insurance companies are subject to the off-site and on-site inspections of the Supervision Commission in accordance with Article 17 of the CIMA Treaty, without, however, explicitly mentioning the obligation of professional secrecy. However, the professional secrecy cannot be invoked by the financial institutions to refuse to provide information to Supervisory Authorities, as well as to the FIU or to make declarations provided for by the Laws on ML and TF. The same is true in the context of an investigation into money laundering offences ordered by the investigating judge or carried out under his Supervision by State officials responsible for the detection and punishment of offences related to the money laundering offence. (Article 34 of AML Act and 27 of CFT Act). Similarly, Articles 53 and 54 of the Banking Act provide that professional secrecy is not enforceable against the Banking Commission, the Central Bank or judicial authority acting in criminal proceedings. In addition, the UMOA Banking Commission and some banking Supervisory Authorities have signed memoranda of understanding for the exchange of supervisory information on the cross-border transactions of agencies, representative offices and subsidiaries of banking structures obtained from their respective structures.

Weighting and conclusion

Laws and other enforceable means applicable to financial institutions do not appear to prevent the sharing of information in the context of the implementation of AML/CFT measures.

Senegal is rated Compliant with Recommendation 9

Recommendation 10 – Customer Due Diligence (CDD)

Senegal was rated Non-Compliant in its first MER on the Recommendation relating to CDD because of a number of deficiencies related particularly to the partial coverage of financial institutions to AML obligations, and the fact that the Senegalese Law does not contain any provisions for customer due diligence on terrorist financing and many other AML/CFT preventive measures. Steps have since been taken by Senegal to adopt and amend the relevant Laws and regulations to fill some of the identified gaps related to R.10, particularly the CFT Act 2009-16.

Criterion 10.1- [Mostly Met] - Article 7 of Law 2004-09 AML requires financial institutions to verify the identity and address of their customers before opening an account, to take charge of, including securities, values or vouchers, assign a safe or establish with them all other business relationships. However, the Banking Act and the DFS Act do not explicitly state the prohibition of keeping anonymous accounts or accounts under obviously fictitious names. The internal procedures of financial institutions provide for it.

Implementation of Customer Due Diligence

Criterion 10.2(a)- [Met] -The provisions of Article 7 referred to above require financial institutions to exercise due diligence with respect to their customers when establishing business relationships. The verification of the identity of the customer t natural or legal person customer and agent is done at the reception of the documents of evidence. These measures are implemented through the KYC internal programmes implemented by the compliance

departments.

Criterion 10.2(b)- [Mostly Met] -Customer due diligence obligations for occasional transactions are provided for, inter alia, by the provisions of section 8 of the AML Act with respect to cash amounts greater than or equal to CFAF 5 million (€7 622 Euros) or equivalent. The duty of care is valid for the transaction carried out at one time or in several separate transactions. However, the Act does not specify, whether there is any connection or not between these repeated transactions.

Criterion 10.2(c) - [Partly Met] - Due diligence requirements under Article 7 are not explicitly provided for in the case of occasional wire transfers.

However, in the case of non-face-to-face financial transactions, financial institutions carry out the identification of natural persons in accordance with the principles set out in the Annex to the AML Act.

Criterion 10.2(d) - [Met] - Due diligence measures are envisaged where there is suspicion of money laundering or terrorist financing, in accordance with the provisions of Article 4 of Directive No. 01/2007/RB of 2nd July2007 relating to AML within the financial organizations.

Criterion 10.2 (e)- [Met] - Due diligence measures are provided for where there is doubt as to the veracity or relevance of the previously obtained customer identification data, in accordance with the provisions of Article 4 of the Directive n ° 01/2007 / RB of July 02, 2007 relative to AML within the financial organizations.

Due diligence measures conducted for all customers

Criterion 10.3 - Criterion 10.3 - [Mostly Met] - Financial institutions are required to identify their natural or legal person customer by using documents, data or information, in accordance with the provisions of Article 7 of the AML Act. Thus, under this provision, the verification of the identity of a natural person is effected by the presentation of a national identity card or any original official document in lieu, valid, and containing a photograph, of which he is taken a copy. The verification of his professional and residential address is carried out by the presentation of any document likely to bear the proof of it. In the case of a natural person who is a merchant, the latter is required to provide, in addition, any document proving his registration in the Chamber of Commerce and Credit Registry. The identification of a legal person or a branch is effected by the production, on the one hand, of the original, or the certified copy or dispatch, of any act or extract from the Register of Commerce and of the Transferable Credit, certifying in particular its legal form, its registered office and, on the other hand, the powers of the persons acting on its behalf. However, this provision does not explicitly state whether the information collected is reliable or from independent sources. Similarly, the law does not provide for the identification of legal arrangements.

Criterion 10.4 - [Met] -The AML provisions require financial institutions to identify and audit the agents of their customers. Thus, in accordance with the provisions of AML Act Article 7 paragraph 4, financial institutions ensure, under the same conditions as those set out in paragraph 2, the true identity and address of the managers, employees and agents acting on behalf of others. The latter must, in turn, produce documents attesting, on the one hand, of the delegation of power or of the mandate which has been granted to them and, on the other hand, of the identity and address of the rightful economic beneficiary. Also, Article 8 of Regulation No. 0004 / CIMA / PCMA / PCE / SG / of October 4, 2008 defines the procedures applicable by insurance organizations in CIMA Member States under AML/CFT.

Criterion 10.5- [Partly Met] -Financial institutions are required to identify beneficial owners under the provisions of Article 9 of the AML. Thus, in the event that the customer does not act on his own behalf, the financial institution inquires by all means about the identity of the person on whose behalf he/she is acting. These means are not however explicitly indicated. Also, Article 8 of Regulation No. 0004 / CIMA / PCMA / PCE / SG / of October 4, 2008 defines the procedures applicable by insurance organizations in CIMA Member States under AML/CFT. However, in Senegal and according to the national risk assessment, there is currently no legal framework governing the collection and processing of actual beneficiary information. Directive No. 02/2015 provides a definition of the concept of "real beneficiary" and contains provisions on their assumption of responsibility but has not yet been transposed. No other text exists at the national level on this issue. However, information on beneficial owners can be obtained by cross-referencing available data from various public structures: the DGID, the ANSD, the Clerk of the Court's Office, etc.

Criterion 10.6- [Met] -The provisions under Section 7 of the AML Act relating to the identification of customers also relate to business relationships. Financial institutions are therefore obliged to understand and, if need be, obtain information on the purpose and intended nature of the business relationship.

Criterion 10.7- [Partly Met] - Financial institutions are required to be vigilant with respect to the business relationship as provided by section 7 of the AML Act. Similarly, Article 9.7 of the 2009-19 CFT Act prescribes the obligation to monitor customers throughout the duration of the business relationship. Also, the provisions of Article 4 of BCEAO Directive n°01/2007 / RB of July 2, 2007, relating to the fight against money laundering within financial institutions, allow the constant due diligence to be observed at all times with respect to the business relationship. However, no provision in the AML Act refers to the careful examination of the transactions carried out throughout the duration of this business relationship in order to ensure the consistency of these transactions with the customer, their commercial activities as well as their risk profile. The same applies to the updating of documents, data or information obtained, in particular for customers presenting higher risks.

Criterion 10.8- [Partly Met]-Subparagraph 3 of Article 7 of the AML Act provides that the identification of a legal person or a branch is effected by the production, on the one hand, of the original, or the shipment or copy certified, of any deed or extract from the Trade and Personal Assets Registry, certifying in particular its legal form, its registered office and, on the other hand, the powers of the relevant persons in management positions or acting on its behalf. However, there is no provision explicitly for the knowledge of financial institutions of the nature of the business of their legal entity customer nor the legal arrangements.

Criterion 10.9- [Partly Met] –Sub-paragraphs 3 and 4 of section 7 of the AML Act provide that the identification of a corporation or branch is effected by the production, on the one hand, of the original, or the certified copy or dispatch, of any deed or extract from the Trade Register and Transferable Credit, certifying in particular its name, legal form, its registered office and the powers of persons acting in its name. Likewise, financial institutions shall certify, under the same conditions as those set out in paragraph 2, the social address of the legal person. However, the laws do not provide for the identification and verification of the identity of a legal construction.

Criterion 10.10- [Not met] - Article 7 of the AML Act requires from financial institutions to identify and verify the identity of the legal entity customers. However, no provision in force covers: (a) the identity of the physical person (s) (if any) who ultimately hold(s) a controlling

interest in a legal person, (b) the application by other means of the identification of the physical person (s), if any, exercising control over the legal person or the legal arrangement, (c) the identification of the relevant natural person who holds the position of chief executive

Criterion 10.11 [Partially met] - Insurance companies are required to identify beneficial owners for customer who are legal arrangements. Indeed, Article 8.3 of the CIMA Regulation on foreign legal entities provides that: "Except in the case of group insurance, subscriptions made by legal persons from certain foreign countries are *a priori* suspect". For other FIs, there is no requirement in Senegal to identifify beneficial owners ofcustomers who are legal arrangements and to take reasonable measures to verify the identity of such persons.

Due diligence obligation for beneficiaries of life insurance contract

Criterion 10.12- [Partly Met] – The legislations of the AML Act do not have specific requirements on due diligence for life insurance beneficiaries. However, the provisions of Articles 8, 70, 240 and 241 of the CIMA Code, as well as Article 8 of Regulation No. 0004/CIMA of 4th October 2008 defines specific CDD requirements that appear to include life insurance beneficiaries, including natural and legal persons. The Regulations cover the identification of the customer at the time of preparation and completion of a transaction. Which apparently means that in all cases, verification of the identity of the beneficiary is carried out at the time of service delivery.

Criterion 10.13- [Partly Met] - There is no requirement for FIs to consider the beneficiary of a life insurance contract as a relevant risk factor for the determination of enhanced CDD measures, let alone to take reasonable measures to identify and verify identity of the beneficial owner of the beneficiary. However, in accordance with the provisions of Article 14 of Regulation No. 0004/CIMA of 4th October 2008, targetting, among others, customers, co-contractors or high or low risk beneficiaries, insurance companies are required to take reasonable (enhanced or simplified) CDD measures. The risk attached to life insurance products is considered as very high, especially in the case of life insurance with outflows in the form of units of account (UA).

Verification timing

Criterion 10.14- [Partly Met] -The provisions of Chapter II of the AML, the specific provisions of the CIMA Code, Directive No. 01/2007/RB and Regulation No. 004/CIMA as well as those of Regulation No. 15/2002/CM/UEMOA require financial institutions to verify the identity of customers and occasional customers before or at the time of establishing any business relationship or when making transactions. However, these provisions do not cover beneficial owners.

Criterion 10.15- [Mostly Met] - BCEAO Directives N° 01/2007/RB applicable to credit institutions and N° 35-2008 of the CREPMF, applicable to capital market operators provide, under Article 4 paragraph 3 respectively that "In order to protect ourselves effectively against reputational and counterpart risks, all financial organizations covered by this Directive shall define the types of customers they cannot accept, particularly in respect of the requirements in the above paragraphs, and avoid entering into any relationship, before having satisfactorily established their identity, address and type of transactions authorized with those customers. ». These provisions are not spelt out for other FIs.

Existing customers

Criterion 10.16 - [Met] -The extant law provides for the application of CDD measures to

existing customers based on the level of the risks they represent.

Risk-based approach

Criterion 10.17- [Not Met] -The current general AML Act does not provide for the adoption of enhanced due diligence measures where the ML/TF risks are higher.

Criterion 10.18- Criterion 10.18- [Not Met] -The current general AML Act does not provide for the authorization to apply simplified due diligence measures on lower risks.

Impossibility to meet CDD obligations

Criterion 10.19 (a) - [Partially met] - The provisions of Article 4 paragraph 3 of the BCEAO Directive N° 01/2007/RB and the same Article of the CREPMF Directive N° 35-2008 require credit institutions and financial market operators respectively to refuse to enter into business relationship in the event of difficulties to identify the counterpart. This provision does not exist for other FIs.

Criterion 10.19 (b) [Not met] Where the financial institution cannot comply with the due diligence requirements, there is no provision in force compelling them to consider filing STRs.

CDD and disclosure

Criterion 10.20- [Not met] -The current general AML provisions do not include the requirements relating to criterion 10.20.

Weighing and conclusion

There are gaps in the implementation of the requirements of Recommendation 10, particularly those relating to the risk-based approach. For CDD measures particularly related to the identification of beneficial ownership, simplified and enhanced CDD requirements based on the risk profile, the requirements applicable to beneficial ownership, legal arrangements, they are not applicable to all FIs.

Senegal is rated Partially Compliant on Recommendation 10

Recommendation 11 – Record keeping

In its first MER, Senegal was rated Largely Compliant with the requirements of Recommendation 11, due to the fact that the AML Act does not cover all financial institutions to be subjected to the FATF requirement, which is a period of two years for the keeping of information relating to the payment and collection of electronic cash units, is not compliant and that the provision of information relating to the payment and collection of electronic money was only possible for certain competent Authorities. Since the adoption of its MER in 2008, Senegal has promulgated the Uniform CFT Act 2009-16.

Criterion 11.1- [Met] - Article 11 of AML Act No. 004-2009 provides that, without prejudice to the provisions imposing more stringent obligations, financial institutions retain for a period of ten (10) years, starting from the closure of their accounts or the cessation of their relationship with their usual or occasional customers, identification cards and documents relating to their identity and transactions. Pursuant to this provision, Article 5 of the BCEAO Directive No. 01/2007/RB and Article 13 of Regulation No. 0004/CIMA respectively establish specific requirements for credit institutions and insurance companies. In addition, the provisions of

Article 7 of Directive No. 008-05-2015 governing the terms and conditions of the activities of electronic money issuers in the UMOA Member States require each issuing establishment to ensure the traceability of all transactions carried out over a period of ten years, starting from the date of their realization.

Criterion 11.2- [Mostly Met] - Section 10 of the Uniform CFT Act 2009-16 contains provisions that require financial institutions to maintain records where identification data, accounting records and business correspondence are kept for a period of ten years from the close of their relationship with both regular and occasional customers, without prejudice to the longer retention periods prescribed in other Laws and regulations. For transactions, supporting documents and records are also kept for a period of ten years. However, these provisions do not cover the preservation of the findings of every analysis carried out.

Criterion 11.3- [Partly Met] -In accordance with the provisions of AML Article 11, Financial Institutions must keep records and documents relating to the transactions that they have carried out for ten (10) years from the date of end of the financial year in which the transactions were carried out. In addition, under the provisions of Article 31 of Circular No. 03-2011/CB on internal controls, credit institutions are required to that all recorded transactions are audited. However, the AML Act itself does not explicitly provide that transaction records are sufficient to permit the reconstitution of individual transactions, neither do the specific legislations for all further financial directives.

Criterion 11.4- [Met] -Article 12 of the AML requires that documents be kept in a manner that satisfies any requests for information under a judicial warrant, to the supervisory Authorities, as well as to the FIU.

Weighting and conclusion

Senegal has met most of the requirements of Recommendation 11. However, some deficiencies remain regarding the record keeping requirements, the outcome of every analysis carried out and the adequacy of the records relating to the transactions to enable the reconstruction of individual transactions.

Senegal is rated Largely Compliant on Recommendation 11.

Recommendation 12 – Politically Exposed Persons (PEPs)

Senegal was rated Non-compliant in its first MER due to the fact that no text in force obliged financial institutions to pay particular attention to PEPs, to seek the authorization of senior management to enter into a relationship with any PEP, to identify the origin of the assets and funds of PEP customers or to conduct enhanced due diligence on their business relationships with PEPs. Since the adoption of the MER in 2008, Senegal has enacted the Uniform CFT Act No. 2009-16.

Criterion 12.1- [Not Met] - Article 13 of Law No. 2009-16 CFT Act stipulates that financial institutions must, in particular, apply, in accordance with their risk assessment, enhanced due diligence measures in connection with transactions or business relationships with PEPs residing in another Member State or in a third State, in particular, for the purpose of preventing or detecting terrorist financing operations. To this end, they shall take appropriate measures to establish the origin of the assets or funds. However, this provision does not explicitly provide for: (a) the establishment of risk management systems to determine whether the customer or actual beneficiary is a PEP; (b) obtaining the authorization of the Executive Management before establishing or continuing business relationships; (c) taking reasonable steps to establish the

origin of the assets and the origin of the funds of the customers and beneficial owners identified as PEPs; (d) the assurance of enhanced continuous supervision with respect to the business relationship.

Criterion 12.2- Criterion 12.2- [Not Met] -The extant AML Legislation in Senegal do not provide for enhanced due diligence measures for national PEPs or persons who perform important functions within or on behalf of an international organization.

Criterion 12.3- - Criterion 12.3- - [Not Met] - The current AML legislation does not require financial institutions to apply to family members of all types of PEPs and to persons closely associated with them, the relevant obligations of Criteria 12.1 and 12.2.

Criterion 12.4- [Not Met] - AML legislations and specific legislations in force do not require Insurance Companies to take reasonable steps to determine whether the beneficial owners of the contract and/or, where necessary, the effective beneficiaries of the contract are PEPs.

Weighting and conclusion

The AML requirements and specific laws do not contain due diligence measures for national and foreign PEPs, as well as international organizations.

Senegal is rated Non-Compliant on Recommendation 12

Recommendation 13 – Correspondent Banking

Senegal was rated as non-compliant in its first MER in relation to the Recommendation. Indeed, the MER noted that the exemption of identification of the actual beneficiary when the organization is located in a UEMOA country is not in compliance with the FATF rules, that the obligations towards the financial organizations established in countries outside the UEMOA zone are not demanding enough, the lack of an obligation to verify AML/CFT controls put in place by the customer financial institution, that no text provides for the need to obtain the senior management agreement before entering into correspondent banking relationships, or specifying the respective responsibilities of institutions in AML/CFT.

Since the adoption of its MER in 2008, Senegal has not mentioned in its MEQ any changes made to the relevant Laws and regulations in accordance with the requirements of Criteria 13.1, 13.2 and 13.3.

Criterion 13.1 [Not met]

Criterion 13.2 [Not met]

Criterion 13. 3 [Not met]

Weighting and conclusion

Senegal has not made any changes to Recommendation 13 since the first MER was adopted in 2008. Senegal is therefore enjoined to enact the new Uniform AML/CFT Act and adopt the relevant regulations as required by the Uniform Law.

Senegal is rated Non-Compliant on Recommendation 13

Recommendation 14 – - Money or Value Transfer Services

Senegal was rated Partially Compliant on the Recommendation regarding money or value

transfer services in the 1st MER, due to the existence of Hawala-type money transfer activities carried out without prior authorization by persons in the informal sector and out of Supervision. Since the adoption of the 1st MER in 2008, the development noted by Senegal in its MEQ concerns the BCEAO Directive No. 013-11-2015 of November 10, 2015 relating to the methods of conducting the rapid money transfer transactions.

Criterion 14.1- [Met] -The BCEAO Directive No. 013-11-2015 of November 10, 2015 on the terms and conditions of the activity of rapid money transfer puts the transfer of funds services under the responsibility of the banks and the DFS, which are subject to the specific licensing Laws and regulations, including the Banking Act and the DFS Act.

Criterion 14.2- [Partly Met] -In accordance with the provisions of Article 10 of the BCEAO Directive referred to above, persons providing money or securities transfer services without prior authorization are identified, and sanctions against these persons are provided for. However, the proportionate and dissuasive nature cannot be demonstrated, given the significant existence of these structures.

Criterion 14.3- [Partly Met]-Following the provisions of BCEAO Directive No. 13-11-2015, authorized intermediaries and decentralized financial systems sign a contract with each natural or legal person to whom they give a mandate to exercise, on their behalf and under their full responsibility, rapid money transfer transactions. Consequently, the AML/CFT requirements applicable to licensed intermediaries and DFS are also applicable to them.

Criteria 14.4 - [[Met] - In accordance with the provisions of Articles 3 and 7 of the BCEAO Directive No. 13-11-2015, money or value transfer services are required to maintain a list of their agents and communicate them to the Ministry of Economy and Finance, the BCEAO and the Banking Commission. They are under the responsibility of authorized intermediaries and DFS.

Criterion 14.5-[Met] - The sub-agents are included in the AML/CFT programs of the money or value transfer service providers to which they are answerable, whic monitor compliance by these agents with these programs, in accordance with the provisions of Article 5 of the BCEAO Directive No. 13-11-2015.

Weighting and conclusion

The Money or Value Transfer Services are under the direct responsibility of banks or DFS with which they sign a sub-agent contract. They are integrated into the AML/CFT programs of those bodies that monitor its application. In addition, the regulatory provisions provide for the identification of unauthorized or authorized funds transfer services and the application of sanctions. However, the proportionate and dissuasive nature of these sanctions cannot be demonstrated, given the significant existence of these structures

Senegal is rated Largely Compliant on Recommendation 14

Recommendation 15 – New Technologies

Senegal was rated Partially Compliant in its first MER with the recommendation on new technologies due to the fact that the AML Act did not contain any specific provisions on the misuse of new technologies; that the Law contained provisions specific to distance relations but not complying with FATF requirements; that Directive 01/2006 partially contained only due

diligence provisions and applying solely to certain parties involved in the issuance and composition of electronic money; that the Directive provides for transactions through internet or any other electronic means but this text only concerns a portion of the reporting entities. Since the adoption of its MER in 2008, Senegal has taken no legislations to resolve the deficiencies noted, as the MEQ presented makes no mention of the changes made since the last evaluation.

Criteria 15.1-[Partly Met] The provisions of Article 28 of Circular No. 003-2011/CB/C of 4th January 2011 on the organization of the internal control system of credit institutions of UMOA and Article 3 of the General Regulation on Capital Markets, includes the obligation for credit institutions and financial market operators to identify and assess the risks of money laundering or terrorist financing that may result from the development of new products and new business practices. Also, with regard to electronic money institutions, Annex V to Directive No. 008-05-2015 regulating the requirements and modalities for the exercise of the activities of electronic money issuance in the UMOA Member States provides for quarterly reporting requirements using a table on the analysis of the risks related to the new products. However, these provisions do not cover all other FIs. In addition, beyond the FIs, no text obliges the country to identify and assess ML / FT risks that may result from the development of new products and new business practices.

Criterion 15.2 - [Partly Met] Following the same provisions above, the FIs concerned are required to assess the risks before launching or using any product, practices and technologies, and to take appropriate measures to manage and mitigate such risks.

Weighting and conclusion

Requirements relating to Recommendation 15 apply to credit institutions, electronic money institutions and capital market operators but not to other FIs.

Senegal is rated Largely Compliant on Recommendation 15

Recommendation 16 – Electronic Transfers

Senegal was rated Non-compliant in the first Mutual Evaluation Report on the Recommendation relating to Wire Transfers, due to deficiencies associated with the lack of any provision requiring that transfers equal to be or higher than1,000 EUR give rise to obtaining and keeping complete information on the sender, the lack of the obligation to include complete information on the sender in cross-border transfers, or in domestic transfers (notion which extends to the entire franc zone), the lack of any provision regulating non-routine transactions and the prohibition of consignment processing where this may create a risk of money laundering or terrorist financing, the lack of any provision requiring intermediary financial institutions in the payment chain to keep all the necessary information on the senders with the corresponding transfer and, with no binding information provided on the senders regarding the transfers, no supervision by the competent Authorities or any sanction that can be applied. Since the adoption of its MER in 2008, no changes to the relevant Laws and regulations have been noted in Senegal's MEQ. However, the FIU informed the Assessors that cross-border transactions in all the banks located within the UEMOA zone are exclusively carried out via SWIFT. Furthermore, the use of payments systems established by the BCEAO (STAR-UEMOA for payments of huge amounts and SICA-UEMOA for mass payments) is mandatory for all banks located within the UEMOA zone. These payment systems have been developed with similar architectural and security features as the SWIFT.

Sender's financial institution

Criterion 16.1- [Met] -Article 12 of Law No. 009-16 CFT Act provides that any cross-border electronic transfer (i.e. including 1,000 USD/EUR and higher) must be accompanied by accurate information relating to the sender. This information includes the account number or, otherwise, a unique reference number that accompanies the transfer. Also, in UEMOA Member countries, cross-border financial transactions are carried out exclusively via SWIT. In addition, Membership to payment system by BCEAO (STAR-UEMOA for large payments and SICA-UEMOA for mass payments) is mandatory for banks located in UEMOA area. STAR-UEMOA and SICA-UEMOA systems are built with the same architecture and security features as the SWIFT. These systems include the obligations of financial institutions to collect the information required by the provisions of criteria 16.1 (a) and (b).

Criterion 16.2- [Met] - For cross-border transfers by instalment, the execution of several transfer orders does not differ from processing a single transaction.

Criterion 16.3- [Met] -Article 12 of Law No. 009-16 CFT Act provides for 'any transfer'. No minimum threshold is therefore defined. Also, considering the internal procedures of the financial institutions' internal control systems, the requirements of Criterion 16.3 a and b seem to have been met.

Criterion 16.4 - [Mostly Met] -For cross-border credit transfers there is no obligation for financial institutions to verify customer information in the event of suspicion of ML/TF. However, the provisions of Article 7 of Uniform AML Act No. 2004-09 and Articles 8 and 9 of CFT Act No. 009-16 require financial institutions to comply with the requirements of customer identification requirement before entering into any business relationship, including cross-border transfers. Reasonable due diligence measures are being observed in case of suspicion of ML and TF.

Criterion 16.5 - [Met] -For domestic wire transfers, there is no requirement for financial institutions to ensure that the information accompanying the electronic transfer includes information on the sender in accordance with the provisions applicable to national wire transfers. However, taking account of the UEMOA payment system and internal procedures of the financial institutions' internal control systems, these requirements seem to be met.

Criterion 16.6 - [Not Met] -For domestic wire transfers, no obligation is placed on the sender's financial institution to transmit, on request, the information accompanying the transfer to the beneficial owner's financial institution or the competent Authorities, within 3 working days, nor to the Prosecuting Authorities immediately.

Criterion 16.7- [Not Met] -For electronic transfers, there is no requirement for financial institutions to keep all information collected on the sender, in accordance with Recommendation 11.

Criterion 16.8- Criterion 16.8- [Not Met] -No obligation is imposed on financial institutions not to execute wire transfers that do not meet Criterion 16.1 to 16.7 requirements.

Intermediate financial institutions

Criterion 16.9- Criterion 16.9- [Partly Met]-For cross-border electronic transfers, there is no requirement for intermediate financial institutions to ensure that information about the sender and the beneficiary remain attached. However, the same rules for keeping information on the sender and the beneficiary in payment SICA-UEMOA and STAR-UEMOA are applicable to

national intermediary financial institutions.

Criterion 16.10- [Not Met] -For technical questions that prevent the required information on the sender or beneficiary contained in the cross-border e-transfer being transmitted with the corresponding national electronic transfer, the intermediary institution is not required to keep the information received for at least five years.

Criterion 16.11- [Not Met] –AML/CFT and other legislations currently in force do not provide that intermediary financial institutions are obliged to take reasonable, end-to-end treatment measures to identify cross-border electronic transfers for which the required information on the sender or the beneficiary is missing.

Criterion 16.12- [Not Met] - AML/CFT and other legislations currently in force do not provide that intermediary financial institutions are required to have risk-based policies and procedures in order to decide: (a) when to execute, reject or suspend wire transfers that do not contain the required information on the sender or beneficiary and (b) appropriate consecutive actions.

Beneficiary's financial institutions

Criterion 16.13- [Not Met] - AML/CFT and other legislations currently in force do not provide that the recipient's financial institution is required to take reasonable measures, which may include retrospective or real time supervision where possible, to detect cross-border electronic transfers for which the required information on the sender or the beneficiary is missing.

Criterion 16.14- [Partly Met]-Article 12 of Law No. 009-16 CFT Act provides that for any cross-border electronic transfer (including 1,000 USD/EUR and above), the beneficiary's financial institution has the obligation to verify the identity of the beneficiary, whether this was done previously or not. However, the record keeping obligation is not provided for by any legislation in force.

Criterion 16.15 - [Not Met] – The AML/CFT and specific legislations currently in force do not provide that the beneficiary's financial institution is required to have risk-based policies and procedures in order to decide on (a) whether to execute, reject or suspend electronic transfers that do not include the required information on the sender or the beneficiary and (b) the appropriate subsequent actions.

Money or value transfer service Operators

Criterion 16.16 [Not Met] AML/CFT and the specific legislations currently in force do not provide that remittance or money transfer service providers are obliged to comply with all applicable requirements of Recommendation 16 in countries in which they carry out their activities, directly or through their agents.

Criterion 16.17 [Not Applicable] The AML/CFT and specific legislations currently in force do not provide that a money or securities transfer service provider controls both the order and the receipt of money of an electronic transfer.

Implementation of targeted financial sanctions

Criterion 16.18: [Not Met] - AML/CFT and the specific legislations currently in force do not provide that Senegal ensures, as part of the processing of wire transfers, that financial institutions take freezing and comply with the prohibitions to conduct operations with designated persons and entities in accordance with the obligations set out in relevant United Nations Security Council Resolutions relating to the prevention and suppression of terrorism

and the financing of terrorism, such as Resolutions 1267 and 1373 and their subsequent Resolutions.

Weighting and conclusion

Senegal has not implemented all the requirements of Recommendations 16. However, some of these requirements are contained in the new Uniform AML/CFT Act. Also, Senegal indicated that certain requirements related to Recommendation 16 could be part of the operational arrangements put in place by financial institutions, including banks. Indeed, the execution of the electronic transfer operations is carried out through the internal information systems channel, the payment systems set up by the BCEAO (STAR-UEMOA and SICA-UEMOA) or the SWIFT network (for international transactions) that automatically generate a reference specific to each operation). The enactment of this Law and subsequent specific regulations should address the deficiencies identified in this Recommendation.

Senegal is rated Partially Compliant on Recommendation 16.

Recommendation 17 – Use of Third Parties

Senegal was rated Not Applicable on Recommendation 17 in its first MER adopted in 2009, because there was no provision in Senegalese Law for the use of intermediaries or third parties to discharge certain due diligence elements as envisaged by the FATF. However, Article 9 of the CFT Act provides that 'financial institutions may entrust by written mandate to only those foreign financial bodies operating in the same sector of activity which are subject to an equivalent identification obligation imposed on them by this provision. With that in mind, the mandate agreement must guarantee, at all times, the right of access to the identification documents during the period referred to in Article 10 of this Law and the furnishing of at least one copy of the said documents to the senders, who remain bound by the full compliance with the identification obligations. In addition, Article 56 of Directive No. 02/2015/CM/UEMOA on the fight against money laundering and terrorist financing in the Member States of the West African Economic and Monetary Union (UEMOA) provides that financial institutions may use third parties for the purpose of carrying out the due diligence requirements under Articles 18 to 20 of this Directive, without prejudice to their ultimate liability for compliance with those obligations.

Criterion 17.1 [Partly Met]. Under the provisions of Article 9 of the CFT Act, financial institutions are allowed to use foreign third-party financial institutions to implement due diligence measures relating to the identification of customers under their responsibility. Thus, the contract of the mandate provides (a) the right of access, at any time, therefore immediately, to the identification documents, (b) the delivery of at least one copy of the said identification documents (c) the submission from the third institution to an equivalent identification requirement. However, these provisions only apply to foreign institutions and do not provide for the Commission of a third-party DNFBP, nor the identification of the beneficial owner and understanding of the nature of the activity.

Criterion 17.2 [Not applicable] the legislations in force do not provide for the determination of the countries in which the third parties who respect the conditions can be established.

Criterion 17.3 [Not Applicable] Existing legislation does not provide for the use of FIs by third parties in the same financial group.

Weighting and conclusion

The CFT Act provides for the possibility for financial institutions to use third parties to implement their CDD obligations. However, the obligations incumbent on these third parties do not include internalization of the identification of beneficial owners and the understanding of the nature of the customer's activity.

Senegal is rated Partially Compliant on Recommendation 17.

Recommendation 18 – Internal Controls and Foreign Branches and Subsidiaries

In its first MER, Senegal was rated Partially Compliant with the Recommendation on internal controls and Not compliant with the Recommendation for Branches and Subsidiaries Abroad. The deficiencies identified are related, for the Recommendation on Internal Controls, to the fact that the Act does not cover all financial institutions to be subjected as defined by the FATF, that the requirement for Financial Institutions to adopt a harmonized money laundering prevention programme, is not applied effectively by all financial institutions, the Financial Institutions have not implemented a programme of continuous training of their employees in the fight against money laundering to keep them informed of new developments, including information on techniques, Methods and trends in money laundering and terrorist financing. Regarding the Recommendation related to foreign branches and subsidiaries, the deficiencies identified relate to the lack of legal provisions governing branches and subsidiaries located abroad. Since the adoption of its first MER, Senegal noted in its MEQ the promulgation of the Uniform CFT Act No. 2009-16 as an amendment made to the Laws and regulations to resolve the deficiencies identified in Recommendation 18.

Criterion 18.1- [Mostly Met] -The provisions of Article 13 of the Uniform AML Act No. 2004-09 and Articles 8 and 9 of the CFT Act No. 2009-16. Banking Commission Circular No 003/2011 / CB / C on the organization of the internal control system in credit institutions of the UMOA and Directive No. 01/2007 / RB of 2 July 2007 on AML within financial institutions obliges FIs to implement AML/CFT programs, which take account of ML/TF risks and the size of the business activity, which include: (a) compliance controls (including the appointment of a compliance officer at the executive level), [65](b) unforeseen, (c)) a full time training program for employees[66], (d) an independent audit function to test the system[67]

Criterion 18.2- [Not Met] - No provision in force in Senegal obliges financial groups to implement anti-money laundering and anti-terrorist financing programs at group level that should be applied and adapted to all their branches and major subsidiaries.

Criterion 18.3- [Not Met] - No provision in force in Senegal requires financial institutions to ensure that their foreign branches and foreign subsidiaries apply AML/CFT measures consistent with those of the country of origin, where AML/CFT minimum requirements of the host country are less stringent than those of the country of origin, to the extent permitted by the host country's laws and regulations.

Weighting and conclusion

[65] See Articles 27 to 29 of Banking Commission Circular No 003/2011 / CB / C on the organization of the internal control system in UMOA credit institutions

[66] cf Article 14 of the Directive N° 01/2007/RB of 2nd July, 2007 on AML within financial organizations

[67] See Articles 10 to 12 of the Banking Commission Circular No 003/2011 / CB / C on the organization of the internal control system in UMOA credit institutions

Senegal has not recorded any significant developments in the adoption of the legislations and regulations relating to the requirements of Recommendation 18. In particular, the requirements relating to selection procedures guaranteeing the recruitment of employees according to demanding criteria, to AML/CFT programs at the level of financial groups as well as to foreign branches and subsidiaries are not provided for in the legislations

Senegal is rated Partially Compliant on Recommendation 18.

Recommendation 19 – Higher Risk Countries

In the first MER, Senegal was rated Non-compliant with the Recommendation on higher risk countries, due to the lack of obligation for financial institutions other than those subject to the BCEAO Directive No. 01/2007/RB to pay particular attention to their business relationships and their transactions with natural and legal persons, including companies and financial institutions, residing in countries that do not or insufficiently apply FATF, the inadequacy of the provisions of BCEAO Directive 01/2007/RB, which limits particular due diligence to transactions or transactions with NCCTs and the lack of any text allowing Senegal to apply countermeasures to countries that do not or insufficiently apply the FATF Recommendations. Since the adoption of this first MER in 2008, Senegal has not mentioned in its MEQ any change in the relevant Laws and regulations.

Criterion 19.1- [Partly Met]-The provisions of Article 10 of BCEAO Directive No. 01/2007/RB require financial institutions to pay particular attention to transactions with countries, territories and/or jurisdictions declared by the FATF as non-cooperative; the same applies to the insurance sector under section 8.3 of the CIMA Code. However, these provisions do not explicitly indicate the proportionate nature of the risks.

Criterion 19.2- [Not Met] -The requirements of this criterion are not provided for in the AML/CFT legislations and specific legislations currently in force.

Criterion 19.3- [Not Met] -The requirements of this criterion are not provided for in the AML/CFT legislations and specific legislations currently in force.

Weighting and conclusion

Senegal has not implemented in its Laws and regulations the requirements for countermeasures proportionate to the risks as well as those relating to the information of the financial institutions concerning the concerns raised by the deficiencies of the AML/CFT regimes of other countries.

Senegal is rated Non-Compliant on Recommendation 19.

Recommendation 20 –Suspicious Transaction Reporting (STR)

Senegal was rated Partially Compliant with the Recommendation on the reporting of suspicious transactions due in particular to the fact that the AML Act does not cover all financial institutions to be subjected as defined by the FATF, that the scope of application of the ML offence under the provisions of the AML Act does not cover the list of designated categories of offences as defined in the FATF Recommendations, that the AML Act does not provide for the obligation to report suspicions on funds that come "from a criminal activity", that the Act does not explicitly provide for the requirement to submit any suspicious transaction report in the case of terrorism financing, that the Act does not explicitly require financial institutions to report attempted transactions, regardless of the amount, that the Act does not require any reporting on the financing of terrorist acts, terrorist organizations or their financiers. Since the adoption of

its first MER in 2008, Senegal has enacted the CFT Act No. 2009-16 and adopted the BCEAO Directive No. 01/2007/RB on AML within financial institutions.

Criterion 20.1- [Met] -The provisions under Articles 26 to 32 of the AML Act No. 2004-09 and Articles 18 to 27 of the CFT Act No. 2007-16 require financial institutions to submit suspicious transactions reports to the FIU in the event of any suspicion of ML and TF. The specific requirements in the application of these Laws oblige the financial organizations as provided for by the BCEAO Directive 01/2007/RB and by Regulation No. 004/CIMA for insurance companies to make suspicious transaction reports to the FIU. In addition, the FIU informs that the STR template printed out by Ministerial Order No. 03786 amended by that of No. 05350 of April 30 2009 in force, presents 4 suspicious transaction cases: executed, pending execution, canceled and rejected. It appears that in most cases the rejections are suspicious transaction attempts refused by the reporting institution. Also, at the level of the insurance sector, the aforementioned Regulations have in Articles 12, 14 and 15 the obligation to report attempted suspicious transactions to the Financial Intelligence Unit.

Criterion 20.2- [Met] - Under the above provisions, financial institutions are required to report all suspicious transactions.

Weighting and conclusion

The provisions of the AML and CFT Acts oblige financial institutions to make declarations of suspicion to FIU. Thus, the AML Act in Article 26 and Article 18 of the CFT Act which limit the perimeter of STRs to any crime and misdemeanor, which eventually is an extended method that has the advantage of covering the widest range of possible predicate offences. In addition, the FIU mentioned cases of STRs relating to attempted unsuccessful transactions.

Senegal is rated Compliant on Recommendation 20.

Recommendation 21 – Disclosure and Confidentiality

Senegal was rated Compliant with the Recommendation on Disclosure and Confidentiality in its first MER adopted in 2008. Since the adoption of this MER, Senegal has strengthened its body of Law through the promulgation of CFT Act No. 2009-16.

Criterion 21.1- [Met] -According to the provisions of Article 30 of the AML Act No. 2004-09 and Article 23 of the CFT Act No. 2009-16, financial institutions, their officers and employees are protected from criminal or civil liability for statements made in good faith to the FIU.

Criterion 21.2 - Criterion 21.2 - [Met] -Financial institutions, their directors and employees are prohibited under the provisions of Article 26 of the AML and Article 18 of the CFT to disclose the fact that any STR or information relating to it is transmitted to the FIU.

Senegal is rated Compliant on Recommendation 21.

Recommendation 22 – Designated Non-Financial Businesses and Professions (DNFBPs): Customer Due Diligence

The first MER indicated that Senegal was rated Non-compliant on the Recommendation relating to Designated Non-Financial Businesses and Professions (DNFBPs): Customer Due Diligence for the following reasons: i) Certified Chartered and Licensed Accountants are not subjected to anti-money laundering obligations and there is still some doubt about the subjection of bailiffs and legal advisers; (ii) the conditions of practice of the legal profession, precious metals brokers and real estate agents are not specified; (iii) DNFBPs are not familiar

with and apply their anti-money laundering obligations similar to those of financial institutions (with the exception of independent legal professions where court proceedings are excluded, as well as casinos); (iv); there are no provisions for specific due diligence on PEPs; (v) there are no specific provisions on the misuse of new technologies, pursuant to Recommendation 8; with respect to distance relationships the provisions of the Law do not comply with FATF requirements; (vi) not applicable under Recommendation 9; (vii) the provisions of the Law are in line with FATF standards, but DNFBPs ignore them, which poses a problem of effectiveness under Recommendation 10; (viii) the Law should not contain an applicable threshold pursuant to Recommendation 11. In addition, DNFBPs are not familiar with and do not comply much with this FATF Recommendation.

Since the adoption of its MER, Senegal has taken some measures to address these deficiencies.

Criterion 22.1 (a) - [Met] - Article 15 of the 2004 AML Act requires casino administrators to keep and update the information listed in Criterion 22.1.

Criterion 22.1 (b) - [Partly met] - The provisions of Cap II of the AML Act of 2004 relating to identification measures apply to all the reporting entities listed in Article 5 of the same Act, including real estate agents. However, there is no provision for the application of a risk-based approach.

Criterion 22.1 (c) - [Not Met] -No action has been taken to require dealers in precious stones and Metals to keep and update the information listed in Criterion 22.1.

Criterion 22.1 (d) - [Partly met] The provisions of Cap II of the 2004 AML Act relating to identification measures apply to all the reporting entities listed in Article 5 of the same law, including lawyers, notaries, other independent legal professions and accountants. However, there is no provisions for the application of a risk-based approach in Recommendation 10.

Criterion 22.1 (e) - [Partially met] - Trust and corporate service providers are listed under the provisions of Cap II of the 2004 AML Act.

Criterion 22.2- [Met] - DNFBPs are subject to the provisions of Cap III of the 2004 AML Act relating to record keeping measures.

Criterion 22.3- [Not Met] - According to Article 13 of the 2009 CFT Act, financial institutions must, in particular, apply, according to their risk assessment, enhanced due diligence measures in connection with transactions or business relationships with PEPs residing in another Member State or in a third State, in particular, for the purpose of preventing or detecting terrorist financing operations. To this end, they shall take appropriate measures to establish the origin of the assets or funds. There are no measures applicable by DNFBPs.

Criterion 22.4- [Partly Met] –With regard to obligations relating to new technologies, Senegal has adopted a legal framework (Laws No. 2008-10 of 25/01/2008 on the Information Society Orientation Law, No. 2008-08 of 25/01/2008 on electronic transactions, No. 2008-12 of 25/01/2008 on the protection of personal data, No. 2008-11 of 25/01/2008 on combatting cybercrime and No. 2008-41 of 20/08/2008 on Cryptology) and regulatory Decree No. 2008-718 of the 30/06/2008 relating to electronic commerce, No. 2008-719 of 30/06/2008 relating to electronic communications , No. 2008-718 of 30/06/2008 relative to electronic certification, No. 2008-721 of 30/06/2008 on the application of Law No. 2008-12 on the protection of personal data relating to new technologies.

Criterion 22.5- [Not Met] -In the situations provided for in Criterion 22.1, there is no provision

for obliging DNFBPs to comply with the requirements for the use of third parties set out in Recommendation 17.

Weighting and conclusion

Senegal has met some of the requirements of Recommendation 22 Criterion. However, due diligence requirements based on a risk-based approach are not foreseen for DNFBPs. In addition, key technical deficiencies remain, including the lack of obligations for DNFBPs for PEPs set out in Recommendation 12 and the lack of third party obligations set out in Recommendation 17.

Senegal is rated Partially Compliant on Recommendation 22.

Recommendation 23 - DNFBPs: Other measures

Recommendation 16 (currently 23) was rated partially compliant in the first MER, for the following reasons: (i) all FATF DNFBPs are not covered by the reporting requirements; (ii) in the area of statistics, no suspicious transaction report by the Designated Non-Financial Businesses and Professions has been registered by the FIU; (iii) the lack of implementation by DNFBPs of internal AML/CFT programmes; the lack of obligation for DNFBPs to pay particular attention to their business relationships and transactions with natural and legal persons residing in countries that do not apply or insufficiently apply the FATF Recommendations.

Criterion 23.1- [Met] -The suspicious transaction reporting requirements set out in Recommendation 20 apply to all designated non-financial businesses and professions in accordance with sections 26 to 32 of the AML 2004 and sections 18 to 27 of the CFT Act 2009.

Criterion 23.2 - [Not Met] – The extant AML/CFT provisions do not require DNFBPs to meet internal control requirements in accordance with Recommendation 18.

Criterion 23.3 - [Not Met] – The extant AML/CFT provisions do not yet require DNFBPs to comply with higher risk country requirements in accordance with Recommendation 19.

Criterion 23.4- [Met] -The disclosure and confidentiality requirements of Recommendation 21 apply to all non-financial businesses and professions designated in accordance with sections 26 of the AML 2004 and 18 of the 2009CFT Act.

Weighting and conclusion

With the exception of the provisions of Law No. 2009-16 of 2nd March 2009, on the specific due diligence obligations with regard to PEPs, Senegal is awaiting the adoption of the new Uniform Law to comply with all the requirements of Recommendation 23. However, since the adoption of the first MER, the FIU has conducted several awareness-raising activities for DNFBPs. Guidelines have even been developed for stakeholders, including DNFBPs. The deficiencies identified in the first MER are still outstanding, until the new Uniform Law is passed. However, criterion 23.1, reveals a relative development in the STRs filed by DNFBPs to the FIU.

Senegal is rated Partially Compliant on Recommendation 23.

Recommendation 24 – Transparency and Beneficial Ownership of Legal Persons

Senegal's first mutual evaluation report indicated that the country was partially compliant with

Recommendation 24. The provision did not allow for recognition of the beneficial owner as defined by the FATF. The reliability of the keeping of the Trade Registry and in particular the updates made could not be measured.

Criterion 24.1 a) - [Met] -In accordance with the provisions of the Organization for the Harmonization of Business Law in Africa (OHADA), to which Senegal is subject, like all States party to the OHADA Treaty, there are several types of companies, including corporations (Public Limited Company -SA-, Limited Liability Company -SARL-), partnerships (Collective Name Company -SNC), Limited Partnership -SC-) and Economic Interest Groupings (EIG) and variable capital company. There are also de facto corporations and joint ventures.

Criterion 24.1 b) - [Met] - Procedures for the establishment of legal persons (corporations) are mainly designed by notaries. It is possible to have this information by consulting the Registrar General's Department, where all data relating to companies are centralized. Centralization of the Registrar General's Department is done at the National Registry, on **SEN info greffe** and **NINEA** Websites. Information on the creation and updating of information on business companies and their beneficial owners, even though the current Senegalese law does not know the notion of beneficial ownership, is published in a legal newsletter (national: OHADA and specific) as well as in numerous publications accessible to the public.

Criterion 24.2- [Not Met] - Senegal finalized its NRA in August 2017. The risk assessment of money laundering and terrorist financing did not assess the risks associated with the various categories of legal persons incorporated in the country.

Basic Information

Criterion 24.3- [Met] - According to Articles 44 et seq. of the AUDCG, legal entities subject to registration by Law must apply for the registration form in the month in which they are to undertake their formation, at the registry of the competent court in whose jurisdiction their head office or sender place of business is located. They are assigned a registration number during the registration. The register contains the range of information contained in this criterion. All information contained in the RCCM relating to legal persons (Articles 39, 46, 47, 48, 49, and 50) of the Uniform Act on General Business Law), is accessible to the public, in particular through the RCCM. In any case, the competent Authorities are empowered to access information beyond that contained in the RCCM, particularly through the tax Authorities, NINEA, APIX, corporate service providers, notaries and other accounting and legal professionals, the diplomatic corps or the Kbis extract.

Criterion 24.4- [Mostly Met] - Companies are obliged to keep the information set out in 24.3, and keep a register of their shareholders or Members, containing the names of the shareholders and Members and the number of shares held by each shareholder as well as their share class. However, there is a weakness with respect to nominees, supervisors, de facto corporations (behaving as associates without creating a corporation), and de facto corporations (two or more persons constituting one of the corporations provided for by the Uniform Act but which contains an irregularity of form that has not been regularized or has constituted between them a company not recognized by the same Uniform Act) and the joint venture (a company whose partners liberally agree that it will not be registered with the RCCM and that it will not have legal personality). This is hidden from third parties because only the manager is known. Notaries keep the information for a hundred years in addition to the obligations provided for in Articles 10 and 11 of the AML and CFT Acts respectively.

Criterion 24.5- [Not Met] - The provisions of Article 36 and following of the Uniform Act on

General Business Law of OHADA on the RCCM oblige legal persons to declare their existence, their commercial activity and all the information that defines the life of traders from the date of registration to the dissolution of the register. The Uniform Act requires the Trade Registry authorities to update it.

Beneficial Ownership Information

Criterion 24.6- [Not-Met] – The extant Senegalese law literally omits the term "beneficial ownership", which means there is no mechanism for collecting such information. Consequently, information on beneficial ownership of companies at a designated place in the country and the possibility of obtaining such information in a timely manner by any competent authority have not been communicated by Senegal. However, in the case of the natural person holding more than 25% of the shares in any company, the information on him/her can be found in the commercial register insofar as this is a legal situation. This information is available at the level of the national register of trade and credit register and also at the level of the regional register file. Whenever changes are made to shareholding or even to the governing bodies, these changes are published in a legal notice newsletter after having been amended at the level of the RCCM (Article 52.1 AUDCG). This information can also be found in the specific national legal provisions for the collection of information on legal persons such as NINEA, APIX etc.

But with regard to the natural person who controls the physical person or the company owning more than 25% of a company, the relevant information cannot be found at the Trade Registry. In this case, authorities must cross several sources to find the beneficial owner.

The same applies when the *de facto* control is exercised by the beneficial owner (s) of the legal person, particularly by any means other than holding more than 25% of shares. In this case also, it is not possible to obtain such information from the Trade Registry. De facto and joint ventures are also covered in this analysis.

Criterion 24.7- [Mostly Met] - Senegal has not provided any documentation on updates of beneficial ownership information. However, the Uniform Act on General Business Law, in Article 35 (4) et seq. And Article 52, obliges companies to communicate to the RCCM any information affecting their situation for the purposes of updating. The said information is available at the RCCM and kept to the best of its ability insofar as the notary public intervenes upstream during the formation of the company and at the time of the changes affecting the shareholding and the governing bodies of the company, which is a serious issue of legal security.

Criterion 24.8- [Mostly Met] - Senegal has not provided any documentation on cooperation between Competent Authorities to identify beneficial owners. However, the legal representative of the company as an interface between the company and the outside world is able to provide in a timely manner all necessary information to the authorities including that concerning the beneficial owners of the company. In addition, the notary can make up for any deficiency of the legal representative of the company including the use of the Kbis extract. In addition, the law allows for the designation of the FIU correspondents who can meet the FATF requirements. No sanction is meted out for failure to designate a correspondent.

Criterion 24.9- [Met] - According to Article 10 of the 2009 AML Act, without prejudice to the provisions imposing more stringent obligations, financial institutions shallkeep for a period of ten (10) years from the date of closure of their accounts or the cessation of their relations with

their usual or occasional customers, all supporting documents and records relating to their identity. They must also keep all supporting documents and records relating to the transactions they have carried out for ten (10) years from the end of the year in which the transactions were carried out. Under Article 10 of the 2009 CFT Act : (i) in the area of identification: the copy or references of the required documents, for a period of ten years from the closure of their accounts or the cessation of their relations with their usual or occasional customers, without prejudice to the longer storage periods prescribed by other Laws or regulations in force; (ii) for transactions: vouchers and records consisting of original documents or copies having similar probative value with regard to the Laws and regulations in force, for a period of ten (10) years from the financial year during which the operations were carried out, without prejudice to the longer storage periods prescribed by other Laws or regulations in force. Article 10 of the CIMA regulation on so-called "unusual" transactions complements the provisions of Article 12 of the AML Act by providing that the insurance institution must keep the documents collected during the examination of atypical operations to be able to justify, after the completion of this enhanced examination, the reasons for "the lack of a report of suspicion" and "to provide proof of the completion" of these procedures during a period of at least 10 years. A template for an atypical transaction report card is proposed in the appendix to this regulation. On the other hand, there is no provision in the CIMA regulations for the provision of statutory auditors, supporting documents and identification documents kept after the review of any unusual transaction.

Other requirements

Criteria 24.10- [Met] - Article 12 of the AML Act provides for the necessary staffing at the FIU, the judicial or investigative authorities, the State agents responsible for the detection and repression of money laundering offences within the framework of a judicial or legal mandate, the supervisory authorities, but it does not provide that the procedural report can be made available to the statutory auditors. As for Articles 10.22 of the CFT Act, it also imposes record keeping requirements “to serve as evidence in any investigation related to the financing of terrorism”. All information held at the level of the RCCM as well as by any other administration is accessible to the authorities mentioned above.

Criterion 24.11- [Not Met] - No information was received from Senegal regarding legal persons’ capacity to issue bearer shares or bearer bonds. However, according to the first MER, the Senegalese Law allows the existence of bearer shares, without providing for any particular mechanism to identify the holders thereof and even more so, the beneficial owners. The existence of anonymous bonds in circulation in Senegal as well as uncrossed and endorsable cheques without any specific provision for the identification and monitoring of the beneficiaries where the possible successive assignees are not specified, constitutes a weak point in the anti-money laundering and terrorist financing regime.

Criterion 24.12 - [Not Met] - No information was received from Senegal regarding legal persons issuing shares registered in the name of nominees or having directors acting on behalf of another person ("nominee shareholders "and" nominee directors ").

Criterion 24.13- [Met] - The Senegalese legal system in Articles 35, 40 (AML Act) and 28, 35 et seq. (CFT Act) provides for sanctions for violation of the obligations of legal persons, particularly in the case of misrepresentation. They are coupled with those provided for in the Senegalese Penal Code, among others, in criminalizing false declarations. These administrative sanctions and criminal disciplinary measures are proportionate and dissuasive.

Criterion 24.14- [Met] - Senegal is able to participate in international cooperation through a series of mechanisms (see R.37-40 below). The basic information contained in the company

register, including shareholder information and other records, is available to the public upon request. Information on actual beneficiaries, although not known under this term, is currently available to the RCCM from financial institutions, major billers and many other structures (see R.24.5.6). Despite this semantic or terminological deficiency, Senegal's legal framework allows the country to provide information on beneficial ownership in international cooperation.

Under Articles 23 and 24 the AML Act and Article 16 of the CFT Act, information on beneficial ownership and shareholding may be communicated through the FIU to the authorities in UMOA countries and third party countries;

Criterion 24.15- [Not Met] - No information has been provided by Senegal requiring Competent Authorities to monitor the quality of assistance they receive from other countries in response to requests for basic information and information on beneficial ownership or requests for assistance in locating beneficial owners residing abroad.

Weighting and conclusion

Senegal has taken various legal measures to ensure the transparency of legal persons, thanks in particular to the OHADA treaty to which the country is a party but also because of its AML/CFT system. However, the country has not yet conducted a national assessment of ML/FT risks related to legal persons in the country. There are no provisions requiring Competent Authorities to monitor the quality of assistance that the country receives from other countries in response to requests for basic information and information on beneficial ownership. Taking into account its deficiencies through the internationalization of the 2015 AML/CFT Directive should enable the country have a more robust system that is closer to international standards.

Senegal is rated Partially Compliant on Recommendation 24

Recommendation 25 - Transparency and Beneficial Ownership of Legal Arrangements

At the time of the first assessment, Senegalese Law did not recognize legal arrangements such as trusts and fiduciaries. This Recommendation was rated Not Applicable in Senegal. Since then, the Senegalese legislation, particularly the tax law, has included Trust Funds as taxable companies in Senegal.

Criterion 25.1 (a) -[Not Met] -No information was received from Senegal to oblige administrators to keep and update beneficial ownership information, identity of the grantor, trustees, protector (if necessary), beneficiaries or class of beneficiaries and any other natural person ultimately exercising effective control over the trust.

Criterion 25.1 (b) - [Not Met] - No information was received from Senegal on other regulated agents and trust service providers, including investment advisers or investment managers, accountants and tax advisers.

Criterion 25.1 (c) - [Met] - The combined interpretation of Articles 5 and 11 AML and 3 CFT Acts reveals that Senegal complies with all the commitments related to criterion C.1. As a result, among other things, without prejudice to the provisions imposing more binding obligations, the financial institutions retain for a period of ten (10) years, as from the closure of their accounts or the cessation of their relationships with their usual or occasional customers, all records and documents relating to their identity. They must also keep all records and documents relating to

the transactions they have carried out for ten (10) years from the end of the year in which the transactions were effected.

Criterion 25.2 - [Not Met] - There are no measures to require trusts to keep and update information in a timely manner.

Criterion 25.3 - [Not Met] - No information was received from Senegal on the legal obligation for trustees (trustees) to disclose their status to reporting entities, even if reporting entities are required to identify any person acting on behalf of a customer, in accordance with CDD requirements.

Criterion 25.4 - [Not Met] - No information was received from Senegal on a provision in the country's Law or regulation that would prevent the disclosure of information on legal provisions.

Criterion 25.5 - Criterion 25.5 - [Not Met] - No information has been received from Senegal on credentials.

Criterion 25.5 (a)- (b)- [Not Met] - No information was received from Senegal on the powers of the criminal Prosecutorial Authorities to access at the opportune time any information held by trustees and other parties, particularly information held by financial institutions and DNFBPs, on (a) beneficial ownership, (b) the trustee's residence and (c) any asset held or managed by the financial institution or DNFBP in connection with any trustee with whom they are in business relationship or for which they carry out any occasional transaction.

Criterion 25.6 - Criterion 25.6 - [Not Met] - No information was received from Senegal on international cooperation on information on trusts and other legal arrangements, including information on beneficial owners, in accordance with Recommendations 37 and 40.

Criterion 25.7 - [Not Met] - No information was received from Senegal to ensure that trustees are either (a) legally liable for any breach of their obligations; or (b) proportionate and dissuasive sanctions, whether criminal, civil or administrative, are applicable in the event of non-compliance with their obligations.

Criterion 25.8 - [Not Met] - No information was received from Senegal to ensure that proportionate and dissuasive sanctions, whether criminal, civil or administrative, are applicable in case of non-compliance with the obligation to make available to the competent Authorities, in a timely manner, information on trusts as referred to in criterion 25.1.

Weighting and conclusion

The country did not provide information on transparency and beneficial owners of legal arrangements. Its tax law recognizes Trust Funds but Senegal has not been taking the measures required by this Recommendation regarding Trusts in terms of AML/CFT.

Senegal is rated Non-Compliant on Recommendation 25.

Recommendation 26 – Regulation and Supervision of Financial Institutions

Regulation and Supervision

Senegal was rated Partially Compliant with the Recommendation on the regulation and supervision of financial institutions in its first MER adopted in 2008. The deficiencies identified related to the fact that the AML/CFT Act did not cover all financial institutions to be subjected

as defined by the FATF, that no sanction had been taken against the financial institutions by the respective supervisory Authorities for non-implementation of the provisions relating to the fight against money laundering and the financing of terrorism, that the monitoring of compliance with the AML Act is insufficiently carried out during the on-site inspections of financial institutions by their respective supervisory bodies. Since the adoption of this MER, Senegal has not indicated in its MEQ any change in the Laws and Regulations relating to Recommendation 26. It should be noted that the new Recommendation 26 enhances the principle of monitoring and supervision using a risk-based approach.

Criterion 26.1- [Met] -In Senegal, the Laws and regulations have financial institutions defined by the FATF Recommendations, are subject to the supervision of AML/CFT requirements to various regulatory and supervisory authorities. Thus, according to the provisions of the AML Act No. 2004-09 and the CFT Act No. 2009-16, the financial organizations that are subjected to the respective AML and CFT requirements are defined. The specific legislations subject each of the financial organizations to their regulation and to the supervision of one or more Competent Authorities. Thus, by Law No. 2008-26 on banking regulations known as the Banking Act, banks and financial institutions of a banking nature are subject to the regulation and supervision of the BCEAO, the Banking Commission of UMOA and the Senegalese Ministry of Finance. Notwithstanding the provisions of Article 54 of the Banking Act, the Postal Financial Services and the National Public Deposit Fund are subjected as a public entity to the regulation and supervision of the Audit Office. The Regional Insurance Supervision Commission (CRCA) and the Ministry of Finance (DCA Insurance Supervision Department), for Insurance and Reinsurance Companies, Insurance and Reinsurance Brokers. The Ministry of Finance (AT/CPEC Unit), the BCEAO and the UMOA Banking Commission for Mutual or Cooperative Savings and Loan Institutions, as well as Unincorporated or Cooperative Structures or Organizations, whose purpose is the collection of savings and/or the granting of credit. The Regional Council for Public Savings and Capital markets (CREPMF) for operators in the regional capital market. The Ministry of Finance (Directorate of Cash, Credit and Savings) and the BCEAO for Authorized Manual Exchange. The supervision or monitoring of these institutions both generally and on AML/CFT takes the form of offsite and onsite inspections. Better still, the UMOA Banking Commission and the CRCA have introduced risk-based supervision in their on-site and offsite inspections. Finally, in addition to the application of disciplinary sanctions provided for in the Specific Laws of Certain Financial Institutions, Article 35 of the AML provides that where, as a result of either remarkable lack of due diligence or any deficiency in the organization of its internal control procedures, a person referred to in Article 5 has fails to comply with his/her obligations under Section II and Articles 26 and 27 of this Law, the supervisory authority having disciplinary power shall act ex-officio under the conditions laid down in the specific laws and regulations in force. It shall also notify the FIU and the State Prosecutor.

Entry into the market

Criterion 26.2- [Met] -The Banking Act, the DFS Act and the CIMA Code and their enforceable legislation respectively provide that the financial institutions covered by these legislations and subjected to the fundamental principles must obtain approval or authorization before carrying out their activities. Minimum requirements that define the conditions for approval or licensing are also provided for in these legislations. In addition, It should be noted that since 1 January 1999, any credit institution whose head office is located in any UMOA Member State has the freedom to provide banking or financial services throughout the Union or settle down freely according to the modalities defined by a directive issued by the Governor of the BCEAO. The licensing or authorization conditions as arranged do not allow the

establishment or continuation of the activities of shell banks. In addition, under the provisions of Article 11 of the CFT Act, natural or legal persons, other than banks, who wish to provide money or value transfer services, as a sender or ancillary activity, on their own behalf or as representative, must first obtain from the Minister of Finance the authorization to operate, under the conditions provided for by the specific regulations in force.

Criterion 26.3- [Met] -Specific legislations particularly relating to banks and financial institutions, DFS and Insurance companies, have minimum requirements for licensing and authorization of financial institutions. These include requirements for information about shareholders and managers of these institutions. For banks and financial institutions, these requirements are provided for by Directive N° 017-04-2011 establishing the list of documents and information to be included in the license application file as a credit institution. In addition, the provisions of Article 26 of the Banking Act and Circular 002-2011/CB/C of the UMOA Commission specify the conditions for occupying the positions of directors and managers in UMOA credit institutions. With regard to the DFS, the requirements set by BCEAO Directive N° 05-2010 determe the requisite information for accreditation of MFIs (Appendix). Insurance companies are governed by the provisions of Article 328-3 to 328-7 of the CIMA Code. These legislations generally relate to licensing for FIs, their directors and managers, but do not explicitly state that criminals should be prevented from becoming owners or beneficial owners of FIs.

.***Risk-based approach in supervision and monitoring***

Criterion 26.4 (a) - [Largely Met] -The new prudential regime put in place by the UMOA Banking Commission includes Consolidated Supervision. It is implemented for banks and financial institutions through Decision No. 014/24/06/CB/UMOA dated 24th June, 2016. This decision meets Principle 12 of the Fundamental Principles. The same consolidation framework is provided for Insurance. Indeed, the UMOA Banking Commission has set up the UMOA Credit Rating System (SNEC-UMOA) which is a rating tool for financial institutions based on a set of ten (10) Criterion, including seven (7) fundamental, and three (3) complementary. The fundamental Criterion include Equity capital, corporate governance, information and reporting system, internal control, financial structure, risk management and financial performance. They serve to position credit institutions on a scale of risks. Similarly, since October 2012, CREPMF has been using automated surveillance software for the regional stock market to ensure the integrity of the market by detecting practices that may be assimilated to stock market crimes, and to visualize and analyze transactions carried out at the BRVM and guarantee a greater transparency of the capital market and better protection of savers. Although AML/CFT is not specifically targeted, it is included in practice.

However, these frameworks do not contain any specific and explicit AML/CFT provisions. Furthermore, the Assessors are not aware of any assessment conducted on the Core Principles, which are relevant to AML/CFT, including the application of consolidated group-wide supervision for AML/CFT purposes.

Criterion 26.4(b) - [Not Met] -Other financial institutions not subjected to the core principles are subjected to AML/CFT supervision or monitoring. But no information was provided to indicate that this monitoring is indeed risk-based.

Criterion 26.5- [Not met] **-** There is no provision in Senegalese law to demonstrate that the frequency and extent of on-site and off-site AML/CFT supervision on financial institutions or financial groups are determined on the basis of (a) ML/TF risks and the institution or group's internal policies, controls and procedures as identified in the risk profile assessment of the

institution or group carried by the supervisory authority, (b) the ML/TF risks present in the country, and (c) the characteristics of financial institutions and financial groups, including the diversity and number of institutions as well as the degree of secrecy they are permitted to observe under the risk-based approach.

Criterion 26.6 - [Not Met] - There is no regulatory requirement for supervisory authorities to regularly assess the ML / FT risk profile of FIs or financial groups

Weighting and conclusion

Provisions for the regulation and supervision of financial institutions are enshrined in the general AML and CFT Acts and specific legislations applicable to FIs. Each financial institution or group of institutions is subject to one or more specific authorities. While regulation and supervision in terms of approval or authorization are better developed for FIs subject to fundamental principles, this is not the case for other financial institutions. In addition, although reforms to the current regulatory framework incorporate the risk-based approach in general and ML/TF in particular, this practice is not yet in place for ML/TF. There is no indication that the FI inspection program takes account of the ML/TF risk profile of the FIs. The Authorities intend to take advantage of the NRA results to further highlight this risk-based approach. In addition, there is no procedure or binding text available to FI Supervisors.

Senegal is rated Partially Compliant on Recommendation 26

Recommendation 27 - Powers of Supervisory Authorities

Senegal was rated Partially Compliant in its first MER because sanctioning powers of some Authorities were not sufficiently specified. Since the adoption of its MER in 2008, Senegal has amended legislation to resolve the deficiencies identified. As a result, legislations relating to the Banking Act, CIMA Regulation and DFS Act now provide for powers of document auditing, on-site inspections and sanctions. In addition, the provisions of Articles 13 and 35 of the AML Act and Article 28 of the CFT Act give supervision powers to the supervisory Authorities.

Criterion 27.1 - [Met] -The BCEAO, UMOA Banking Commission, Finance Ministry, the Regional Insurance Supervision Commission (CRCA) and the Regional Council for Public Savings and Capital markets (CREPMF) have the powers to supervise and ensure compliance of their reporting entities with AML/CFT requirements. Document audits are done with specific statements and submitted by the reporting entities to their supervisory Authorities.

Criterion 27.2 - [Met] -The above-named Authorities also have wide powers defined by specific laws to conduct on-site inspections of reporting entities under their tutelage. Inspections may be carried out either during a general inspection mission or during AML/CFT related missions.

Criterion 27.3- [Met] -The Supervisory Authorities, finally, have the powers conferred by the specific laws to access information held by the financial institutions, to demand documents for investigation and off-site inspections of reporting entities' accounts and activities.

Criterion 27.4- [Met] –Under Article 66 of the Banking Act, disciplinary sanctions for breach of banking regulations or any other legislation applicable to credit institutions, including those relating to the AML/TF, are ordered by the Banking Commission, in accordance with the provisions of Articles 28 *et seq.* of the Appendix to the Convention governing the said Commission. The Banking Commission may also impose pecuniary sanctions under the

provisions of Article 77 of the Banking Act. Do the insurance supervisory authorities and also the DFIs have sanctions powers in accordance with the provisions of the specific legislations governing them?

Article 35 of the AML Act (2004) and Article 28 of the CFT Act provide for administrative and disciplinary sanctions where, due to either serious lack of due diligence, or to deficiency in organizing its internal control procedures, a party referred to in Article 5 has failed to comply with its obligations under Cap II and Articles 26 and 27 of this Law, then the supervisory authority having disciplinary power may act ex officio, as per conditions provided in the specific laws and regulations in force. It also notifies FIU, as well as the State Prosecutor. Under these and specific provisions, certain sanctions (orders) were pronounced by the banking supervisory Authorities. However, such sanctions are not notified to the FIU or State Prosecutor.

Weighting and conclusion

The specific legislations as well as the AML and CFT Laws empower the Supervisory Authorities to conduct offsite and onsite inspection and access to any relevant document and to mete out sanctions on the reporting entities.

Senegal is rated Compliant on Recommendation 27

Recommendation 28 - Regulation and Supervision of Designated Non-Financial Businesses and Professions (DNFBPs)

Senegal was found to be non-Compliant on Recommendation 24 (current 28) in the first MER, for the following reasons (i) since the repeal of the 30th June 1982 Law N° 82-07 and its implementing Decree on real estate promotion, transaction and management, studies and counsel in corporate organization and management, real estate agencies and agents seem to evade all regulations, though constituting a money laundering high risk sector in Senegal; (ii) other DNFBPs also escape inspection, while none of those subject to supervision has actually ever been inspected (problem of effectiveness).

Casinos

Criterion 28.1 (a) - [Met] – In accordance with Decree No. 92-63 of January 6, 1992, establishing a commission to examine applications for authorization of games of chance, casinos are subject to authorization to exercise

Criterion 28.1 (b) - [Mostly Met] - Decree N° 92-63 of 6th January 1992 establishing a commission to examine applications for gambling house licenses lays down legislative or regulatory measures to prevent criminals or their accomplices from holding or becoming beneficial owners of a significant participation or control of a casino, managing or operating it. Besides general customer identification obligations, Article 15 of the AML Act provides specific obligations for casino managers, directors and owners, including: (i) to justify to the public authority the legal origin of the funds needed to create the business, from the date of application for authorization to open; (ii) to have proof of identity of players who buy or exchange gaming chips or plates for a sum greater than or equal to CFA francs 1,000,000 and whose counter-value is greater than or equal to this amount, using a valid national ID with a photo, or any original official document, of which a copy was made.

Criterion 28.1 (c) - [Mostly Met] - In order to ensure that casinos are subject to AML/CFT regulation and supervision, Senegal enacted (i) Law 66-58 of 30 June 1966, on the organization and regulation of gambling establishments, supplemented by Law N° 75-59 of 2 June 1975; (ii) Decree 67-6390 laying down the procedures for implementing Law 66-58 of 30 June 1966 on organizing and regulating gambling establishments. Two types of supervision are carried out by the line Ministries: (i) the Ministry of Interior and Public Security is responsible for the supervision of casinos and other private gaming establishments, and the Ministry of Finance is responsible for supervising the national lottery (LONASE). Casinos are subject to suspicious transaction reporting requirements under Article 5 of the AML Act.

Designated non-financial businesses and professions other than casinos

Criterion 28.2 - [Not Met] -The competent administrative Authorities in charge of supervision and compliance of DNFBPs with AML/CFT requirements are identified in the study conducted under the aegis of the FIU in October 2015. The official designation of these authorities is not effective at the date of the on-site visit.

Criterion 28.3 - [Not Met] - No information has been provided by Senegal attesting that the other categories of designated non-financial businesses and professions are subject to monitoring arrangements to ensure that they comply with their AML/TF obligations, including lawyers, public notaries, legal counselors, accountants and chartered accountants, real estate agencies, persons who habitually engaged in commerce or organizing the sale of precious stones or metals.

Criterion 28.4 (a) - [Not Met] - In the absence of AML/CFT supervisory authorities, their powers cannot be discussed.

Criteria 28.4 (b) - [Mostly Met] - The legislations governing the authorization to practice of the different DNFBPs exist and are satisfactory because criteria are well defined and make it possible to identify the real potential candidates for entry into the profession. Fit-and-proper tests are conducted as well as verifications of the origin of their resources.

Criterion 28.4 (c) - [Mostly Met], Senegal's AML/CFT Act provides for dissuasive and proportionate sanctions against all taxable persons, including DNFBPs, who fail to comply with its AML/CFT.

All designated non-financial businesses and professions

Criterion 28.5 (a) - [Not Met] There is no requirement for DNFBP to conduct a national ML/TF risk assessment. Due to a lack of AML/CFT supervisory authorities, no control measures based on the characteristics of DNFBP have been put in place.

Criterion 28.5 (b) - [Not Met] There is no requirement for the DNFBP supervisory authorities to carry out inspection according to the risk-based approach.

Weighting and conclusion

The absence of the supervisory authorities for DNFBPs with the exception of casinos in AML/CFT is a major weakness in the implementation of AML/CFT obligations in the sector. In addition, there is no requirement for NRA. These stakeholders associated with the lack of a legal and institutional framework to identify, manage and conserve information on beneficial ownership of legal persons makes the DNFBPs sector a high risk area, even if the CENTIF has

received suspicious statements from notaries and auditors. Generally, some legal and numeric professions (notaries, lawyers, experts and CPAs, in particular) may be potential avenues for financial offenders in cases of complex financial arrangements.Supervision of designated non-financial businesses and professions should be carried out according to the risks identified by the NRA.

Senegal is rated Non-compliant on Recommendation 28

Recommendation 29 - Financial Intelligence Unit (FIU)

Senegal was rated largely compliant at the first evaluation. The main deficiencies identified are the following: (i) The law does not explicitly require to file terrorism- financing related suspicious transactions reports; (ii) The law does not explicitly require financial institutions to report attempted transactions, regardless of the amount; (iii) The suspicious transaction reporting system poses very serious problems of effectiveness.

But since the last mutual evaluation, Senegal has noted major developments and changes in the following laws and regulations; (i) Law N° 2009-16 of 2nd March 2009, relating to the fight against terrorism financing, which extends the attributions of FIU to the fight against the financing of terrorism (Articles 17 and 18; (ii) Order N° 05547 of 23 June 2010 of the Minister of Finance, establishing and operating a coordinating committee for the fight against money laundering and terrorist financing, whose permanent secretariat is provided by the FIU (Article 2); the Prime Minister Order N° 9509 of 3 November 2010, appointing the Correspondent to GIABA, which designates the FIU as GIABA's Correspondent for Senegal.

Criterion 29.1 - [Met] -The FIU of Senegal was established by Article 16 of Law N° 2004-09 of 06 February 2004 on the fight against money laundering. Since its creation, the FIU has been functional (a secure headquarters; qualified Members and staff; adequate budget) and operational (receives, analyzes and enriches STRs; transmit reports to the State Prosecutor's office). It also receives other relevant information necessary for the execution of its mandate (information provided by the supervisory Authorities and the JPO). It carries out or has carried out periodic studies on the evolution of techniques used for the purposes of ML/TF (Article 17 of AML and CFT Act). However, the AML/CFT Act should oblige Financial Institutions and DNFBPs to report all suspicious transactions, including attempted suspicious transactions, regardless of the amount of the transaction to FIU, related predicate offences and terrorism financing, for purposes of communicating anakytical outcomes.

Criterion 29.2 - - [Mostly met] - Laws n° 2004-09 of 06 February 2004 on the fight against money laundering and n° 2009-16 of 02 March 2009 on the fight against the financing of terrorism, allow the FIU to receive STRs (according to a model set by order of the Minister of Finance) and other information from its reporting entities (Article 5 of AML Act), which it analyzes and further develops. From 2005 to 2016, it has received from its reporting entities a total of 1,103 STRs. These may refer to (a) (b): (i) money and any other assets in their possession, where these could come from ML/TF; (ii) transactions relating to assets, where these could be part of a ML process; (iii) money and any other assets in their possession, when suspected of being destined to TF, these could come from executing ML-related operations.

Criterion 29.3- (a) (b - [Met] - The FIU on request obtains from reporting entities or any natural or legal person, additional financial and administrative information, as well as information from criminal Prosecutorial Authorities as part of the analysis and enrichment of STRs (Article 17 of AML and CFT). This information is immediately referred to the FIU (Articles 26 of AML Act and 18 of CFT Act).The FIU may turn to correspondents within the

Police, Gendarmerie, Customs, State Judicial Agencies and all other services whose assistance is necessary for AML/CFT. They are designated by order of their line Minister (Article 19 of the AML Act and 16 of the CFT Act). In the event of serious failures resulting from lack of due diligence or a deficiency in the organization of its internal control procedures, the declaring entity that fails to comply with its obligations under Cap II and Articles 26 and 27 of the AML Act, the Supervisory Authority with disciplinary powers, may act ex officio under the conditions provided for by the specific laws and regulations in force. It also notifies the FIU and the State Prosecutor (Art.35 of AML Act and 28 of CFT Act). However, the AML/CFT Acts do not explicitly specify the possibility for the FIU to communicate its analytical outcomes to the competent Authorities other than the State Prosecutor, particularly the revenue and customs administrations and the State intelligence agencies.

Criterion 29.4 (a) - [Met] -The FIU has a dedicated operational analysis department that receives, analyzes and processes information susceptible to establish the origin and destination of the funds concerned by the transactions or the nature of suspicious transactions. Regarding the operational analysis, Article 17 of the two AML and CFT Acts specifies that the FIU shall be responsible for receiving, analyzing and processing information needed to establish the origin of the transactions or the nature of the transactions that are subject to suspicious transaction reporting, which the reporting entities are compelled to file. It also receives all other useful information needed to accomplish its mission, in particular those communicated by the supervisory Authorities, as well as the judicial police officers. It may request disclosure by reporting entities, as well as by any natural or legal person, of information held by them and which may be used to enrich suspicious transaction reports.

Criterion 29.4 (b) - [Met] - At the strategic level, the FIU conducts or commissions periodic studies on the evolution of techniques used for ML/TF purposes at the national level. It issues opinions on the implementation of State AML/CFT policy. Thus, thematic studies have been conducted to identify risks of money laundering or terrorist financing through: (i) alternative remittance systems (2009); (ii) electronic transactions (2013); (iii) mobile payment activities (2013); (iv)real estate financing (2013). Awareness guidelines for the reporting entities from different sectors (banking, insurance, notary, real estate, manual change and decentralized financial system) were developed under the aegis of the FIU. The FIU also proposes any necessary reforms to enhance AML/CFT effectiveness; it prepares periodic reports (at least quarterly) and an annual report, which analyze the evolution of anti-money laundering activities at the national and international levels, and evaluates the reports collected. These are submitted to the Minister of Finance. The FIU has been integrated into the Intelligence Community with the status of "service with an ancillary intelligence mission", through the signing of Decree N° 2014-1244 of 29 September 2014. The General Delegation for National Intelligence (DRN) thus has a focal point at the FIU.

Criterion 29.5 - [Met] - At the end of its investigations, the FIU forwards to the territorially competent State Prosecutor, as sole addressee, a report on facts that may constitute a ML or TF offence. According to Articles 29 of the AML Act and Article 21 of CFT the Act), this report is submitted with all relevant documents, with the exception of the STRs. The identity of the person preparing the report must not appear in the said report, which is valid until otherwise proven. The report communicated to the Prosecutor is sent under sealed cover with the marked "CONFIDENTIAL". The FIU is required to provide, upon duly justified request from any FIU of any UEMOA Member State, in the course of an investigation, all information and data relating to investigations undertaken following a suspicious transaction report at the national level, pursuant to Article 23 of the AML Act and Article 16 of the CFT Act. The FIU, which became a Member of the Egmont Group since May 2009, may exchange information, subject

to reciprocity, with the financial intelligence services of a third party State responsible for receiving and processing suspicious transaction reports when the latter are subject to similar obligations of professional secrecy provided by Article 24 of AML and Article 16 of the CFT Act.

Criterion 29.6 - (a) (b) (c) - [Met] -In addition to the above AML/CFT Acts, the FIU has internal rules and procedures manual that regulate the security and confidentiality of information, the degrees of accreditation and responsibility of its staff, as well as secure access of its premises and computer system (Article 20 of AML and Article 16 of the CFT Act; Article 19, 20 and 21 of the FIU Internal Regulations).

Criterion 29.7 (a) - [Partly Met] - The FIU is an administrative service, with autonomous decision-making authority over matters falling within its competence (Article 17 of AML Act and Article 16 of the CFT Act). However, it is under the supervision of the Finance Minister.

Criterion 29.7 (b) - [Partly Met]-The FIU exchanges information, signs memoranda of understanding for cooperation with national structures and concludes administrative information exchange agreements (MoUs) with other FIUs. However, any conclusion of MoU, is subject to the prior authorization of the Minister of Finance, which may be an obstacle to its independence in its areas of activity, in case of refusal by the latter.

Criterion 29.7 (c) - [Partly Met] - The FIU is admittedly under the supervision of the Minister in charge of Finance, but it has essential functions distinct from those of the Ministry of the Economy and Finance in that the AML/CFT Acts gives it autonomous decision-making power over matters falling within its jurisdiction (Article 17 of AML and Article 16 of the CFT Act).

Criterion 29.7 (d) [- Mostly met] - The FIU, under the supervision of the Ministry in charge of Finance, is an administrative service, with financial autonomy (Article 17 of the AML Act and Article 16 of the CFT Act). The resources of the FIU come, in particular from contributions made by the State, UEMOA institutions and development partners.

Criterion 29.8 [Met] - Senegal's CENTIF was the second ECOWAS FIU and the first WAEMU to join the Egmont Group. Subsequently, it sponsored six (6) other countries for admission to the Group (2009): Cameroon (2010), Mali (2010), Burkina Faso (2012), Togo (2012), Niger (2013) and Kosovo (2016). At the bilateral level, beyond WAEMU where exchanges are automatic between member countries, the FIU has signed twenty-nine (29) administrative agreements for information exchange with foreign counterparts.

Weighting and conclusion

The country has met most of the criteria required of any FIU. However, the prior authorization of the line authority, the Minister of Finance, which is required for any conclusion of MOU by the FIU with his foreign counterparts, limits its independence, even though no refusal to conclude an agreement has been decided by this authority since the inception of the FIU, which has concluded about thirty cooperation agreements.

Senegal is rated Largely Compliant on Recommendation 29

Recommendation 30 - Responsibilities of Criminal Prosecutorial Authorities and Investigative Authorities

Senegal was found in 2007 largely Compliant on the FATF standard organizing the responsibilities of criminal Prosecutorial Authorities (formerly R.27). The MER had noted that

there is no specific measure allowing competent Authorities investigating money laundering cases to postpone the arrest of suspects and/or seizure of funds, or to not carry out such arrests and seizures, in order to identify the persons involved in these activities, or to gather the evidence. In the new recommendations, published in 2012, this deficiency should instead be assessed as part of R.31 which relates to the powers of the prosecutions Authorities. Since the last evaluation, developments have been noted in Senegal through the adoption of the following laws: (i) the Uniform Law 2009-16 of 2nd March 2009 on combating the financing of terrorism, which aims to complement and reinforce, especially the anti-money laundering law; Law N° 2016-29 of 8th November 2016 amending Law N° 65-60 of 21 July 1965 on the Penal Code; Law N° 2016-30 of 8th November 2016 amending Law N° 65-61 of 21 July 1965 on the Code of Criminal Procedure (creation of an anti-terrorist division at the Dakar High Court; police custody period extended to 96 hours and renewable twice).

Criterion 30.1 - [Met] -In Senegal, several criminal Prosecutorial Authorities are able to carry out investigations of ML, TF or the predicate offences to ML. These designated Competent Authorities are: the National Police, the National Gendarmerie, the Customs Administration, the Public Ministry composed of prosecutors and their substitutes, the Investigating Judges. As part of the specialization, there is the creation of an anti-terrorist pool at the Dakar High Court. This pool consists of: a specialized investigative section, a specialized section at the State Prosecutor's office, one or more specialized investigation offices.

Criterion 30.2 - [Met] - Investigators of Prosecutorial Authorities in Senegal are authorized to conduct parallel financial and assets investigations, during investigations of ML, predicate ML and TF offences. The latest amendment to the Code of Criminal Procedure established an anti-terrorism pool that specializes in the suppression of terrorist acts and the financing of terrorism. In this sense, this pool is competent throughout the Senegalese territory to know cases related to the financing of terrorism. All related investigations are thus trusted to other Prosecutorial Authorities.

Criterion 30.3 - [Met] - - The Prosecutorial Authorities have the power to identify, detect and trigger procedures for the seizure of assets that may be proceeds of crime or used to finance terrorism. Assets inquiries can be ordered by the prosecutor or the investigating judge in order to evaluate the assets to be seized. Judicial Police Officers identify and track proceeds of crime or assets destined to terrorist financing; the investigating judge having the power to proceed with the seizure which is a conservatory measure in preparation of confiscation. The OFNAC and the Minister of Finance also have the power to freeze.

Criterion 30.4 - [Met] -Other institutions that are not Prosecutorial Authorities per se may conduct financial and assets investigations and trigger the seizure of criminal proceeds. The Customs Administration has jurisdiction to withhold certain funds as part of the control of cross-border transportation of funds. The Tax Department is competent to fight against tax fraud. OFNAC conducts financial investigations into cases of fraud, corruption and related practices.

Criterion 30.5 - [Not Met] - OFNAC is the designated authority to investigate the offence of corruption and related offences which may be terrorist financing or money laundering. OFNAC is able to carry out financial and assets investigations, but does not have the competence to freeze or seize the assets, object of investigations.

Weighting and conclusion

A minor gap remains in the Senegalese system in that the law does not empower OFNAC to freeze and seize assets related to corruption and related offences.

Senegal is rated Largely Compliant on Recommendation 30.

Recommendation 31 - Powers of the Prosecutorial Authorities and Investigative Authorities

Senegal was rated in 2007 Compliant on the FATF norm which organized the powers of law enforcement Authorities and Authorities in charge of prosecution (former R.28). But that recommendation was expanded in 2012. In addition to powers of prosecuting Authorities to have access to documents and information, including the use of restraints, the recommendation now covers special investigative techniques, identifying accounts and in a timely manner without the owners being notified, and the power to request information from the FIU. Since the last evaluation, the following developments have been noted: (i) Law N° 2016-29 of 08 November 2016 amending Law N° 65-60 of 21 July 1965 on the Penal Code; Law N° 2016-30 of 08 November 2016 amending Law N° 65-61 of 21 July 1965 on the Code of Criminal Procedure. *(Senegal is invited to indicate the relevant provisions of these laws in relation to Recommendation 31).*

Criterion 31.1 - [Met] -In ML/TF and predicate offences investigations, Investigative and Prosecutorial Authorities have the power to access any useful document and information and have a power of coercion, in the gathering of evidence.

b. The Investigative Authorities have the power to apply coercive measures to obtain documents held by financial institutions, DNFBPs and other natural and legal persons. Such powers are provided for by various legislations, particularly Article 13 of the AML Act. In this case, they are not bound by the professional secrecy (Article 34 of the same law);
c. The Investigative Authorities have the power to search persons and places (Article 33 of the AML Act);
d. The Investigative Authorities have the power to organize hearings and collect any testimony (Article 33 of the AML Law);
e. They are also empowered to seize any exhibit likely to serve as evidence (Article 33 of the AML Act).

Criterion 31. 2 - [Mostly Met] – When investigating ML/TF and ML predicate offences, investigative and Prosecutorial Authorities can use a wide range of investigative techniques appropriate to the nature of those offences. These techniques include underground operations, interception of communications, access to the computer system and controlled deliveries (AML Act N° 2004-09, CFT Act N° 2009-16, Law N° 2016-30 of 8th November 2016 amending Law N° 65-61 of 21st July 1965 on the Code of Criminal Procedure). However, there is no specific measure to allow competent Authorities investigating money laundering cases to postpone the arrest of suspects and/or seizure of funds, or to make such arrests and seizures, in order to identify the people involved in these activities or to gather the evidence. Law No. 2016 of 14th December 2016 on intelligence services which, according the Senegalese Authorities provides for this possibility, but could not be ascertained by the Assessors.

Criterion 31.3 - [Partly Met]-When investigating ML/TF and predicate offences, investigative and Prosecutorial Authorities can access to banking information upon request addressed to the financial institution (Article 33 of AML and Art 26 of CFT Acts).

The Senegalese authorities stated that the processing of requests from investigation and Prosecutorial Authorities enables them obtain timely information. However, they provided no statistical element for ease of objective assessment.

No information is received from Senegal indicating that Competent Authorities have a mechanism for identifying assets without prior notice to the owner.

Criterion 31.4 - [Not Met] - No provision of Senegalese law currently in force provides for the possibility that the Competent Authorities, except the State Prosecutor or the investigating judge , request all relevant information held by the FIU, while investigating on money laundering, related predicate offences and the financing of terrorism.

Weighting and conclusion

Deficiencies likely to hamper investigations are still present in the Senegalese system in the sense that no express provision allowing for the postponement of arrests and seizures could be attested to by Assessors. There is no possibility for Investigating Authorities to request for information from the FIU.

Senegal is rated Partially Compliant on Recommendation 31.

Recommendation 32 – Cash Couriers

In 2007, Senegal was rated Partially Compliant on the FATF standard for cross-border transportation of cash and other financial instruments (former Special Recommendation IX). The main reasons for this rating were as follows: (i) the regulation did not contain any specific provision for cross-border physical transportation of cash and bearer instruments related to ML/TF; (ii) residents were not subject to any declaration for cross-border physical transport of monetary signs issued by the BCEAO in the UMOA area; (iii) there was no formal collaboration between the Customs Services and the FIU, particularly for the recording of statistics of declarations relating to cross-border physical transportation of cash. However, the legislation and regulations have evolved since the 2007 mutual evaluation with the adoption at Community level (UMOA) of Regulation N° 09/2010/CM/UEMOA on the external financial relations of the Member States of the West African Economic and Monetary Union and CFT Act N° 2009-16.

Criterion 32.1- [Partly Met] -Regulation N° 09/2010/CM/UEMOA on the external financial relations of Member States of the West African Economic and Monetary Union, applies to the movements of cash to and from UEMOA third party States. This regulation establishes the system of declaration and the system of communication. Article 15 of the CFT Act stipulates that cross-border physical transport of bearer funds and instruments must, upon entry into and exit from the national territory, be the subject of a written declaration at the borders by the carrier. Article 29 of Regulation (R09) provides that the exports, by post or by any other means, of payment instruments, including travelers' checks, bank checks to be cashed, foreign bank notes and domestic or foreign securities, is subject to prior authorization from the Directorate of External Finance. This authorization must be attached to the shipment. The sending and receiving of bank notes issued by the BCEAO between any other resident natural or legal person, other than the BCEAO, and its banking or commercial correspondents located outside the UMOA Member States, are prohibited. But there is a contradiction between the Law N° 2009-16 on the CFT of Senegal and Regulation N° 09/2010/CM/UEMOA (Article 22, Chapter IV of Annex II). Pursuant to the principle of free movement of currency within the UMOA, no declaration is required for the manual transportation of notes issued by the BCEAO by residents

for their movement in the UMOA Member States, while the law N°2009-16 of the CFT Act, stipulates in its Article 15 that cross-border physical transport of cash and bearer instruments of an amount equal to or greater than five million francs must be declared in writing at the point of entry and exit of the national territory, by the carrier.

Criterion 32.2- [Met] - Senegal has a reporting system for cross-border transportation of funds for an amount greater than or equal to five (5) million. The declaration must be made in writing at the level of the border posts. According to Regulation R09 and Article 15 of the CFT Act, Senegal has opted for a written declaration system for travelers going to non UMOA Member States are required to declare the currencies they carry, when their amount exceeds the equivalent of one million (1,000,000) CFA francs. (Article 23 of R09).

Criterion 32.3 - [Partly Met] - The Senegalese regime also provides for a communication system without specifying its mechanism. But in principle, the communication mechanism is based on the good faith of travelers in the disclosure of information requested. This mechanism is provided for under Article 15 of the CFT Act but no provision clearly specifies the modalities for such disclosure.

Criterion 32.4 - [Met] – On confirmation of a false declaration/disclosure of cash or Bearer Negotiable Instruments (BNI), or in the absence of such a statement or disclosure, the competent Senegalese Authorities have the power to identify the carrier and to require additional information on the origin of these cash or bearer instruments. They also have the power to check whether bearer funds and instruments are not intended for ML/TF purposes (Article 15 of CFT Act). To carry out all these checks, the Competent Authorities have the option to restrain or detain for a period of 72 hours all the funds and bearer instruments involved.

Criterion 32.5- [Met] – All persons making false declarations or disclosures are subject to criminal sanctions under Article 35 of the CFT Act are sentenced from 12 months to 4 years imprisonment and a fine of 2 million to 3 million CFA Francs or only one of these two sanctions, carriers of funds who have made false declarations or communications in cross-border transportation of cash or bearer instruments. The omission of declaration or communication is considered a false statement. The aforementioned sanctions do not apply to misrepresentations without prejudice to the sanctions that are incurred where it is established that the funds and bearer instruments are related to money laundering or terrorist financing.

Criterion 32.6- [Met] - The information collected in the framework of the declaration/disclosure system is made available to the FIU through a mechanism for notification of suspected cases as well as statistical disclosures.

Criterion 32.7- [Partly Met] **-** Senegal indicates that there is cooperation between customs and FIU. Follow-up reports provided by the country indicate statistics on this cooperation. No information was provided on the coordination of declarations and communications of the transport of funds and bearer instruments between the customs services and the immigration Authorities.

Criterion 32.8 - [Met] - The Competent Authorities of Senegal have the option of blocking or withholding, for a period not exceeding 72 hours, cash or bearer instruments that may be related to the financing of terrorism or money laundering or being the subject of false statements or communications. The purpose of this detention measure is to give the Competent Authorities time to investigate the origin and destination of bearer funds and

instruments (Article 15 of CFT Act). Senegal is invited to comment on whether the Customs Code contains relevant provisions on the issue.

Criterion 32.9: [Mostly met] - The Senegalese law on cross-border cash reporting does not contain any explicit provision on international cooperation and assistance. However, the Customs Authority, which is the competent national authority, has become a party to the Convention on International Mutual Administrative Assistance (IMAA). It has also signed bilateral Memoranda of Understanding with about fifteen foreign customs administrations, including the Malian, Gambian, Guinean, Mauritanian, American, Azerbaijani and French customs. Also, Senegal is a member of the World Customs Organization (WCO) that has established an automated information exchange system. This system allows the country to cooperate and provide or request for international assistance in cross-border cash reporting.

Customs, as a reporting entity, is required to keep all records and data for 10 years in line with Article 10 of the Terrorist Financing Act, 2009.

Criterion 32.10 - [Met] – The Senegal authorities guarantee the judicious use of information collected through the declarationsystem. Such information is confidential and only for the repression of customs or ML/TF offences. The declaration practice neither limits the payments for goods or services traded between countries nor the free movement of capital.

Criterion 32.11 - [Mostly Met] - People performing transboundary physical transport of cash or NBI related to ML/TF or predicate offences were subject to criminal sanctions under the CFT Act in its Cap 3 devoted to the suppression of the financing of terrorism. Article 32 of the Law provides that natural persons convicted of a terrorist financing offence shall be punishable by imprisonment of not less than 10 years and a fine of not less than five times the value of assets or funds that have been used for terrorist financing. The competent Authorities also confiscate the cash or bearer instruments related to the financing of terrorism in accordance with the provisions of Article 41 of the same law. Senegal is invited to communicate the relevant provisions of the Customs Code which deal with the issue.

Weighting and conclusion

The Senegalese regime allows effective control of cross-border cash courier and negotiable bearer instruments. However, there are some shortcomings that may limit the fulfilment of the objectives of Recommendation 32. The conflicting provisions of Regulation R09 and the CFT Law do not allow for an adequate implementation of the regulation on financial ties with foreign countries, particularly as regards the fight against terrorist financing.

Senegal is rated Largely Compliant on Recommendation 32.

Recommendation 33 - Statistics

Senegal was rated partially compliant in 2007 with the FATF standard for collecting statistics (former R.32). Statistical data were indeed missing. The statistical system is generally undeveloped.

Criterion 33.1 (a) - [Mostly Met] - The FIU keeps statistics on STRs received and analysis reports submitted to the Prosecutor's office. These statistics include the number of suspicious transaction reports (STRs) received and disseminated. The range of statistics relating to such reports is extended and contributes to the processing, management and monitoring of STRs received. The statistics obtained do not distinguish between ML-related STRs and TF-related

STRs. The statistics do not clearly distinguish STRs disseminated, classified or being processed.

Criterion 33.1 (b) - [Partly Met] - Senegal provided statistics on money laundering trial records. It is clearly stated that these statistics relate to cases handled in Dakar, Thies and Louga jurisdictions, contacted by the FIU. These statistics do not concern all jurisdictions in the country. Information is available on terrorism financing cases being investigated and prosecuted. The national police annual reports contain statistics on ML/TF cases that have been investigated. It should however be underscored that the Judiciary in Senegal has no centralized statistical system.

Criterion 33.1 (c) - [Partly Met] - Statistical data are available on seizures and confiscations. But these data are fragmented and do not provide an overall view on the issue. The data available relate to FIU cases and cash seizures carried out by the customs department. The Judiciary has no centralized statistical system on the issue. No information is available on TF-related administrative or criminal freezing. The Senegalese authorities explain that they have no statistics on freezing because no freezing measures have been ordered. However, at least one judicial institution claimed to have executed some freezing measures pursuant to the United Nations Security Council sanctions.

Criteria 33.1 (d) - [Mostly Met] - Statistical data on mutual legal assistance requested or granted by the criminal justice Authorities, or on international police cooperation or customs cooperation, are available. The FIU collects data on the number of information requests received or issued by the FIU. It is however unfortunate that the statistical system in most of the structures is still at the elementary stage.

Weighting and conclusion

Senegal keeps statistics on AML/CFT, but they are fragmented and incomplete. The statistical system remains undeveloped. The statistics provided do not adequately reflect the efficiency and effectiveness of AML/CFT.

Senegal is rated Partially Compliant on Recommendation 33.

Recommendation 34 - Guidelines and Feedback

Senegal was rated Partially Compliant on the recommendation on guidelines and feedback, considering that the competent Authorities had not established guidelines for Designated Non-Financial Businesses and Professions in the form of assistance on matters covered by the relevant FATF Recommendations, and that FIU did not ensure the return of specific or case-by-case information to reporting entities, as recommended by the FATF. Since the adoption of its MER in 2008, Senegal has not mentioned in its MEQ any change to resolve the deficiencies noted.

Criterion 34.1- [Partly Met]- According to the legislations in force, no obligation is placed on the competent Authorities, supervisory Authorities and self-regulatory bodies to establish guidelines and provide feedback that will help financial institutions and DNFBPs in the application of AML/CFT measures. However, according to the provisions of Article 28 of the AML Act, the FIU acknowledges receipt of any written declaration of suspicion. In addition, according to Article 29, the FIU will notify, in a timely manner, the persons subject to suspicious transaction reporting, of the findings of the investigations. Finally, the FIU publishes its activity reports annually. The BCEAO has issued Directive N° 01/2007/RB on the fight

against money laundering in financial institutions. However, there are no guidelines issued by DNFBP supervisory Authorities.

Weighting and conclusion

With the exception of the provisions of Articles 28 and 29 relating to the acknowledgment of receipt and the information of the reporting entities on the conclusions of FIU investigations respectively, the legal provisions and the specific legislations do not seem to oblige the competent Authorities, the supervisory Authorities and self-regulatory bodies to fulfill the requirements of R. 34.

Senegal is rated Partially Compliant on Recommendation 34

Recommendation 35 - Sanctions

***Criterion* 35.1-** [Partly Met] - According to Cap III of the CFT Act and Cap IV of the AML Act, Articles 35, 36 and 37 of the AML Act and Articles 28, 32, and 33 following of the CFT Acts, there are administrative, disciplinary and criminal sanctions applicable to natural and legal persons who do not comply with AML/CFT obligations. However, these provisions do not exhaust the requirements of Recommendations 6 and 8 to 23.

Criterion 35.2 - [Met] - Sanctions are applicable not only to financial institutions and designated non-financial businesses and professions, but also to Members of the governing body and senior management.

Weighting and conclusion

Indeed, there are administrative, disciplinary and criminal sanctions applicable to natural and legal persons who do not comply with the AML/CFT obligations. However, these provisions do not exhaust the requirements of Recommendations 6 and 8 to 23.

Senegal is Partially Compliant on Recommendation 35

Recommendation 36 - International Instruments

During the 1st Mutual Evaluation, Senegal was rated Partially Compliant on Recommendations relating to international AML and CFT instruments respectively. It was reproached for not having properly implemented the said instruments. Since this last mutual evaluation, the CFT Act N° 2009 -16 has been passed.

Criterion 36-1 - [Met] -Senegal has ratified the Vienna Convention, the Merida Convention and the Counter Financing of Terrorism Convention.

Criterion 36-2- [Partly Met]-Senegal adopted the implementing measures of the various international conventions, and reported to be implementing said conventions. However, it should be noted that the CFT Convention is not fully implemented, including Resolution 2178 (2014) on foreign terrorist fighters and Resolution 1373 (2001) on the financing of a terrorist individual and that of a terrorist group or organization.

Weighting and conclusion

Senegal is, of course, party to the Vienna Convention, the Palermo Convention, the United Nations Convention against Corruption (the Merida Convention) and the Terrorist Financing Convention, but their implementation needs to be strengthened.

Senegal is rated Partially Compliant on Recommendation 36.

Recommendation 37: Mutual Legal Assistance.

During the 2007 evaluation, conducted in line with the 2004 methodology, Senegal was found Compliant on Recommendations 36, 37 and 38, and Partially Compliant on Special Recommendation V due to non-compliance with the New York Convention on the criminalization of terrorism financing by the Senegalese special law, the implementation of mutual legal assistance in cases where offences related to the financing of terrorism are likely to encounter difficulties.

To remedy this, the CFT Act N° 2009-16 has been passed.

Criterion 37-1 (Met): Senegal on the basis of Articles 46 and seq. of the Money Laundering Act and Articles 50 and seq. of the Terrorist Financing Act can quickly provide the widest possible range of mutual legal assistance;

Criterion 37-2 (Me): The Directorate of Criminal Affairs and Pardons (DACG) of the Minister of Justice is the central authority for mutual legal assistance.

Criterion 37-3 (Met):The rule in principle emerging from a combined reading of Articles 46, 55 and following of the AML and 50, 52 and following of the CFT Acts is to take necessary action on any request for mutual legal assistance.

Criterion 37-4 (Met): under the provisions of Articles 46 and seq. of the AML and 50 and seq. of the CFT Acts, the fiscal nature of any offence can no longer be invoked to refuse mutual legal assistance. A request for assistance cannot be refused on the grounds of professional secrecy except when this information has been obtained under conditions covered by professional secrecy.

Criterion 37-5 (Met): the relevant Articles of the AML and CFT Acts indicate that all items submitted as part of the request for assistance are confidential, as well as the request for mutual assistance itself.

Criterion 37-6 (Met): under the relevant Articles of the AML and CFT, in the Lack of enforcement measures, Senegal does not make mutual assistance conditional upon dual criminality.

Criterion 37-7 (Met): the relevant Articles of the AML and CFT Acts do not take the lack of dual criminality as a cause for refusal of mutual legal assistance requests, provided the two countries criminalize the original act of the offence.

Criterion 37-8 [Met]: The request for mutual assistance is treated in the same way and using the same investigative techniques as if it were a Senegalese investigation. (Article 57 AML Act) and Article 54 of the CFT Act.

Weighting and conclusion

Senegal is rated Compliant on Recommendation 37

Recommendation 38 - Mutual Legal Assistance: freezing and confiscation

Senegal was found compliant during the 2007 evaluation. The only point rated partially compliant was the noncompliance of criminalization of terrorism financing by the then special

law with the New York Convention. To remedy this, Senegal has adopted Law N° 2009-16 on combating the financing of terrorism, the relevant provisions of which relate to Recommendation 38 are Articles 50 and seq., which must be combined with Articles 46 and seq. of the Money Laundering Act.

Criterion 38-1 - [Met] - By combining Articles 53 and seq. of the Money Laundering Act and Articles 50 and seq. of the Terrorist Financing Act, Senegal has the capacity to take expeditious actions in response to requests from foreign countries to identify, freeze, seize and confiscate: laundered assets, proceeds of money laundering, predicate offences and the financing of terrorism, as well as instruments intended for use in the frame of such offences or assets of corresponding or equivalent value.

Criterion 38-2 - [Partly Met]- Articles 60 and 61 of the CFT and 53, 54, 63 and 64 of the AML provide assistance in the context of requests for cooperation based on procedures for taking provisional measures. However, the possibilities of confiscation without prior conviction remain problematic because the Senegalese positive law excludes this possibility.

Criteria 38-3 a-b - [Partially-Met] - Articles 62, 63, 64, 65 and 66 of the AML and Articles 59, 60, 61, 62 and 63 of the CFT Act organize the international mutual legal assistance concerning the seizure, confiscation and enforcement of judgments and arrests concerning assets and assets related to the commission of offences. Senegal states that it has signed agreements with several other states. But the country mainly uses Article 42 CFT and Article 46 AML as a basis for cooperation within UEMOA Member States. Outside the UEMOA Member states, Senegal relies on the relevant international conventions; The Public Deposit Fund and the Ministry of Economy and Finance (DGID, Treasury and AJE) are the structures in charge of funds seized and/or confiscated. However, there is no centralized body to co-ordinate the management of the seized or confiscated assets.

Criterion 38-4 - [Met] -Article 63 of the CFT Act and 66 of the AML Act provide a possible legal basis for the sharing of confiscated assets in case of confiscation resulting directly or indirectly from coordinated law enforcement actions with one or several other States.

Weighting and conclusion

The country did not provide any information on non-conviction based confiscation.

Senegal is rated Partially Compliant on Recommendation 38

Recommendation 39 - Extradition

Senegal was rated compliant during the First Round of Mutual Evaluation.

Criterion 39.1- a-b [Met] -. The Senegalese legal block makes of money laundering and terrorist financing of extraditable offences. (Articles 71 of AML Act and 68 of CFT Act). The AML Act 2004 (Articles 72 to 75) and (Articles 68 to 73 of CFT Act) provide the widest possible mutual legal assistance procedure for investigations, prosecutions and related proceedings. Senegal therefore has a clear and simplified extradition procedure.

Criterion 39.1 b [Largely Met] -.
With regard to extradition, Senegal has provided some cases of simplified extradition procedures, which do not, however, entirely relieve Senegal of its obligation to have simplified extradition mechanisms, for example by allowing direct transmission between the competent authorities of requests for provisional arrest, extradition of persons on the sole basis of an arrest

warrant or a final judgment, or simplified extradition of persons agreeing to waive the formal extradition procedure.

Criterion 39.1 - c [Met] -. Senegal does not impose unreasonable or unduly restrictive conditions on the execution of extradition requests.

Criterion 39.2 (a) and (b) [Met] - Senegal does not extradite its nationals, (Article 68 CFT Act) because the country does not derogate from the traditional rules of extradition notably the nationals and dual criminality. Its judicial system ensures the prosecution and punishment of the offences mentioned in any request for extradition without undue delay. (Article 73 of CFT Act).

Criterion 39.3 (a) (b) - [Met] -Senegal considers the requirement of dual criminalization in the case of mutual legal assistance or extradition to be met when both countries criminalize the act that is the basis of the offence.

Criterion 39.4- [Met] - Senegal has a simplified extradition procedure including even provisional arrest. (Article 72 and 74 of AML and Article 69 and 71 of CFT Acts). On this issue, Senegal argues that it is party to a 2004 agreement between the Police, whereby the extradition procedures are simplified. Under this agreement, individuals subject to criminal prosecution may be subject to police-to-police surrender without substantial formalities. The country also relies on Interpol's arrest mechanism, and cites the case where the person targeted by the arrest procedure waives the right to appeal to the Indictment Division;

Weighting and conclusion

With regard to extradition, Senegal provided some cases of simplified extradition procedures. However, this does not exempt Senegal from meeting its obligation to have simplified extradition mechanisms by authorizing the direct submission of provisional arrest requests between relevant Authorities, extraditing persons on the sole basis of a warrant of arrest or final verdict or simplified extradition of persons accepting to renounce the formal extradition procedure.

Senegal is rated Largely Compliant on Recommendation 39

Recommendation 40 - Other Forms of International Cooperation

Senegal was rated partially compliant during the 1st evaluation. The main deficiencies identified were the lack of synergy in the relationship developed internationally by the regulatory Authorities. However, efforts have been made by the country through the CFT Act and other legal instruments to facilitate international cooperation.

Criterion 40.1 - [Met] - The Senegalese competent Authorities may grant the broadest possible international cooperation in the framework of information exchange in the fight against money laundering, predicate associated offences and terrorist financing. These exchanges of information are done either spontaneously or on request and as quickly as possible.

Criterion 40.2 (a) - [Met] -The legal basis of the cooperation mechanisms between Senegal and other countries is indicated in the legislations listed below: (i) Uniform Laws on AML and CFT; (ii) the Egmont Group Charter; (iii) administrative cooperation agreements for the exchange of information between FIU-Senegal and other foreign FIUs; (iv) the Global Forum on Transparency and Exchange of Information for Tax Purposes; (v) the RECEN-UEMOA

Statutes; (vi) the Forum of FIUs of GIABA Member States. To this must be added the following other international instruments: (i) the International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Punishment of Customs Offences of 27th June 2003; (ii) the Criminal Police Cooperation Agreement between ECOWAS Member States of 19th December 2003; (ii) the ICPO/Interpol agreements; (iv) the Convention on Cooperation and Exchange of Information between the UMOA Banking Commission and the Regional Council for Public Savings and Capital Markets (CREPMF); (v) the Cooperation Agreements and Exchange of Information between the CB-UMOA and certain regulatory Authorities and banking supervision, including the French Banking Commission of 19th September 2000; (vi) the OHADA Treaty;

Criterion 40.2 (b) - - [Mostly Met] -Senegal makes use of the most effective means of cooperating by organizing, among other things, the largest possible formal and informal mutual legal assistance and cooperation procedure, for investigations, related procedures and other forms of cooperation. This includes the fact that special investigation techniques are not usable in every respect.

Criterion 40.2 (c) - - [Mostly Met] – The use of clear and secure channels, circuits or mechanisms to facilitate and enable the transmission and execution of requests includes: (i) Egmont Secure Web networks; (ii) Interpol Network I-24-7 of Interpol for the Police; (iii) the WCO CEN-COM for Customs as well as diplomatic channels.

Criterion 40.2 (d) - - [Partly Met]- Senegal intimates that there is no legally prescribed provision stipulating a reasonable timeline to be adhered to in terms of clear procedures for setting priorities and timely delivery of requests. However, Article 51 para. 8 of the CFT Act states that the requesting State should indicate the period within which it wishes to have the sought mutual legal assistance measure enforced.

Requests are processed on a first come first served basis.

Criterion 40.2 (e) - [Met] - Protection of information received is in principle in the processing of applications.

Criterion 40.3 - [Partly Met]-The FIU exchanges information, signs cooperation agreements with national structures and concludes Administrative Information Exchange Agreements (MoUs) with other FIUs. However, any conclusion of a cooperation agreement is subject to prior authorization of the Minister in charge of Finance, which may constitute an obstacle to its independence in its areas of activity, in the event of refusal by the latter. Other types of agreement between gendarmerie, police and others in the sub-region and the world also exist in Senegal.

Criterion 40.4 - [Met] - The above-mentioned AML and CFT Acts provide the widest possible mutual legal assistance procedure for investigations, prosecutions and related proceedings, respectively in Articles 46 et seq., 50 and following. The country claims to have a tradition of active participation in strengthening international cooperation (mutual legal assistance, extradition, etc.). Senegal has, at the request of the Authorities of other States, proceeded with the returning of information, transferring of detainees, execution of several information requests and extradition of persons subject to court proceedings abroad.

Criterion 40.5 - [Met] - International cooperation is allowed without derogatory restrictions not only by the Anti-Money Laundering Act but also by the Anti-Terrorist Financing Act. It is not subject to any irrational and disproportionate condition.

Criterion 40.5 (a) - [Met] - Tax considerations are not included in the grounds for refusal of a request for mutual legal assistance, as laid down by Articles 55 of the AML Act and 52 of the CFT Act. Accordingly, a request for mutual legal assistance cannot be refused by the Senegalese judicial Authorities by virtue of its fiscal nature.

Criterion 40.5 (b-d) - [Met] - It is clear from the identical provisions of Articles 55 al 2 of the AML Act and 52 al. 2 of the CFT Act that "professional secrecy cannot be invoked to refuse the request" for mutual legal assistance. Confidentiality and professional secrecy do not constitute obstacles to mutual legal assistance

Criterion 40.6 & 40.7 - [Met] - Senegal respects this criterion of exchange of information or mutual assistance governed by its AML/CFT Acts, its Code of Criminal Procedure, the Charter of the Egmont Group, the Statutes of the RECEN and the Forum of FIUs of GIABA's Member States and the 40 FATF Recommendations. According to Article 20 of the AML Act 2004, FIU Members and correspondents take an oath before assuming office. They are required to respect the secrecy of the information collected, which may not be used for purposes other than those provided for by this law.

Criterion 40.8 - [Met] - -. Articles 46 and following of the Money Laundering Act provide a wide range of legal and judicial cooperation, including the use of all prerogatives and other powers for the benefit of their foreign counterparts, for the manifestation of the truth. Prosecutorial Authorities are empowered to conduct investigations on behalf of their foreign counterparts where national law permits. The judicial authorities may conduct investigations on behalf of their counterparts in the framework of an international commission of inquiry that specifies the purpose of the investigation and the acts to be performed, in accordance with the Senegalese Code of Criminal Procedure. The police and the gendarmerie have the latitude where a request emanates from a foreign police service, directly or through Interpol, to provide the required information without being able to speak of inquiry proper [clarify or delete]. Customs authorities have the power to investigate customs offences at the request of their counterparts and on the basis of customs treaties.

Exchange of information among FIUs

Criterion 40.9 - [Met] - Senegal's FIU is able to provide FIUs from third countries with the widest possible international cooperation in AML. The relevant legal provisions are indicated in Articles 21 and 22, which deal with the relations of the FIU with the FIUs of the UMOA States on the one hand, and with those of third party countries on the other hand. FIU can also obtain from the competent Authorities or other persons relevant information requested by a foreign FIU in the fight against the financing of terrorism.

Criterion 40.10 - [Met] - According to Article 21, the FIU is obliged to provide, at the reasoned request of an FIU in any UMOA Member State, in the framework of an investigation, all information and data relating to foreign investigations following a s national level suspicious declaration. With regard to foreign FIUs, the FIU may, subject to reciprocity, exchange information with the financial intelligence services, responsible for receiving and processing suspicious transaction reports, when they are subject to similar obligations of professional secrecy. In addition, the last paragraph of Article 22 of Senegal's AML Act stipulates that exchanges between the FIU and a third-country intelligence service (outside the UMOA zone) require a written agreement with the approval of the Minister of Finance.

Criteria 40.11 - [Met] - Senegal's FIU may, on behalf of a FIU in the sub-region or a foreign FIU under a partnership agreement, request information from other Senegalese

Competent Authorities who may be required by law to provide the required information. It may be a financial institution, a DNFBP or an investigative and prosecution authority.

Criterion 40.12 - [Met] - The Banking Commission signs agreements with its foreign counterparts. Article 35 of the CB-UMOA Cooperation Agreement provides that the CB-UMOA may transmit information relating to banks and financial institutions, Supervisory Authorities of similar institutions in other countries, subject to reciprocity and provided such Authorities are themselves bound by professional secrecy.

Exchange of information with* F*inancial* S*ector Supervisory Authorities

Criteria 40.13 - [Met] - Article 35 of the CB-UMOA Cooperation Agreement provides that CB-UMOA may transmit information relating to banks and financial institutions to Supervisory Authorities of similar institutions in other countries, subject to reciprocity and provided that such Authorities are themselves bound by professional secrecy. There is the Convention on Cooperation and Information Exchange between the Banking Commission - UMOA and the Regional Council for Public Savings and Capital markets (CREPMF). In addition, the regulation of the capital markets indicates that the Regional Council can conclude reciprocal assistance and cooperation agreements with foreign supervisory and monitoring bodies for savings and capital markets.

Criterion 40.14 (a) - [Not Met] -No information has been provided by Senegal regarding Financial Supervisory Authorities for the exchange of relevant information such as information on national regulations and general information financial on financial sectors under AML/CFT. However, see the cooperation and information exchange agreements that CB-UMOA has signed with other regulators of credit institutions, in particular cross-border institutions.

Criterion 40.14 (b) (c) - [Not Met] - No information has been provided by Senegal regarding Financial Supervisory Authorities for the exchange of prudential information, the Fundamental Principles, information on the activities of financial institutions, their beneficial owners, management and their competence and good repute, information on internal AML/CFT procedures and policies of financial institutions, on customer due diligence, customer records, account samples and transactions.

Criterion 40.15 - [Not Met] - No information was provided by Senegal concerning financial supervisory Authorities in seeking information on behalf of their foreign counterparts and, if appropriate, to allow their foreign counterparts themselves to search for information in the country, or to facilitate this task, so as to promote effective supervision of the groups. However, it will be necessary to see the cooperation and information exchange agreements that CB-UMOA has signed with other regulators of credit institutions, particularly cross-border institutions.

Criterion 40.16 - [Not Met] - No information was provided by Senegal regarding the prior authorization required of the Financial Sector Supervisory Authorities for any dissemination of information exchanged or any use of such information for supervision or other purposes, unless the Supervision authority of the requesting financial sector is legally obliged by law to disclose or communicate such information. However, it will be necessary to see the cooperation and information exchange agreements that CB-UMOA has signed with other regulators of credit institutions, particularly cross-border institutions.

Exchange of information with criminal Prosecutorial Authorities

Criterion 40.17 - [Not Met] - The references to Articles 46 and following (AML Act) and 50 and following (CFT Act) do not tally with the exchange of information between the criminal Prosecutorial Authorities for intelligence or investigation purposes. However, the competent Authorities grant their foreign counterparts the widest possible international cooperation. The Prosecutorial Authorities are empowered to conduct investigations on behalf of foreign counterparts where domestic law allows. There are guarantees for the confidentiality of information, according to the applicable legal provisions.

Criteria 40.18 - [Partly Met] –Criminal Prosecutorial Authorities are empowered to conduct investigations on behalf of their foreign counterparts with regard to extradition proceedings concerning the financing of terrorism and acts of terrorism, but not of terrorism as this latter offence is not incriminated in Senegalese law. Senegal pointed out that the above-mentioned AML and CFT Acts provide for the widest possible mutual legal assistance and information-sharing procedure for investigations, prosecutions and related proceedings, respectively in Articles 46 et seq., 50 and following. In addition, these cooperation mechanisms are provided for in the Palermo and Merida Conventions. The special investigative techniques provided for in the Senegalese legislation are largely used and at the opportune time.

Criterion 40.19 - [Not Met] - No information was provided by Senegal on the legal basis for criminal Prosecutorial Authorities to establish joint investigation teams to carry out investigations in a cooperative manner and, where necessary, establish bilateral or multilateral agreements to authorize such joint investigations.

Exchange of information with non-counterpart Authorities

Criterion 40.20 - [Met] - mechanisms of prompt and constructive exchange of information with non-counterpart Authorities are planned. FIU can also obtain from competent Authorities or other persons relevant information requested by a foreign FIU in the fight against terrorism financing.

Weighting and conclusion

In Senegal, the signing of cooperation agreement is subject to the prior approval of the Minister of Finance, which could be a hindrance to its autonomy in their area of expertise, in case the latter fails to give its approval. However, since the inception of the FIU, the Minister has never objected to the signing of any Cooperation Agreement, and the FIU has since signed about thirty cooperation agreements.

No information was provided by Senegal on the exchange of information between the financial sector supervisory authorities.

There is no legal basis for the criminal prosecution authorities to set up joint investigation teams so as to carry out investigations in a cooperative manner and, where necessary, establish bilateral or multilateral agreements to authorize such joint investigations.

Senegal is rated Largely Compliant on Recommendation 40

Table summarizing compliance with the FATF Recommendations

This Table should present the rating and a summary of all the stakeholders leading to such a rating

Compliance with FATF Recommendations

	Recommendation	Ratings	Factor (s) justifying the rating
1.	Risk assessment and application of risk-based approach	**PC**	• The national ML/TF risk assessment has been completed, but action plan was yet to be implemented as at the time of the evaluation exercise. • There is no indication of the impact of the level of risk on the resources allocated to address these risks. • No exemptions and simplified measures to be applied to certain activities whose risks are not considered low / lower.
2.	National cooperation and coordination	**LC**	• There are minor outstanding deficiencies with regard to the implementation of R.2 • Senegal does not currently have a national AML/CFT policy/strategy that would take account of all national stakeholders with all the risks identified in the National Risk Assessment Report.
3.	Money Laundering offence	**LC**	• There are minor outstanding deficiencies regarding the implementation of R.3 • The fact that the Senegalese device does not explicitly provide for the possibility of retaining in the links of prevention the individual who "ought to have known or to know" constitutes a minor deficiency in the arsenal of repression that must be remedied.
4.	Confiscation and provisional measures.	**PC**	• Senegal does not have any text establishing a body for the identification, location, evaluation, recovery and management of assets subject to any confiscation measure; • The country does not have a mechanism to manage and, where necessary, dispose of frozen, seized or confiscated assets, even though the Public Deposit Fund, the State Assets Management Agency, the Revenue and Lands as well as the Customs Departments, are considered as competent in this area.

	Recommendation	Ratings	Factor (s) justifying the rating
5.	Terrorist financing offence	**PC**	• Senegal's CFT Act and the one amending the Penal Code have not criminalized the financing of foreign terrorist fighters and terrorist organizations, as provided for by the UNSC Resolutions 1373 and 2179.
6.	Targeted financial sanctions related to terrorism and terrorist financing	**NC**	• No text clearly defines the conditions for the application of sanctions, particularly with regard to the degrees of control. • There is no prohibition on the availability of funds and other assets, economic resources or financial services and other related services to designated persons in response to a request for designation made by another country on the basis of UNSCR 1373.
7.	Targeted financial sanctions related to proliferation	**NC**	• Senegal has not yet designated the competent authority to order, by decision, the freezing, without delay, of all assets, funds and other financial resources of persons or entities designated by the United Nations Security Council, under Resolutions to fight against the financing of the proliferation of weapons of mass destruction.
8.	Non-profit organizations	**PC**	• Insufficient regulation and supervision in AML/CFT matters. • Insufficient awareness-raising campaign on the problem of TF in the NPO sector.
9.	Laws on professional secrecy of financial institutions	**C**	• Senegal is rated Compliant on R.9
10.	Customer due diligence	**PC**	• Lack of legal framework governing the collection and processing of beneficial ownership information • There is no provision in the AML Act for a careful review of transactions during the entire duration of this business relationship to ensure consistency of these transactions with the customers, their business activities and their profile risks • Lack of provision for FIs/DNFBPs to identify beneficial owners for customers who are legal arrangements and to take reasonable steps to verify the identity of such persons • Failure to adopt risk management procedures with respect to the conditions under which a customer may benefit from the business relationship prior to the audit.

	Recommendation	Ratings	Factor (s) justifying the rating
			• The current general AML provisions do not provide for the application of CDD measures to existing customers based on the magnitude of the risks they represent. • Failure to adopt enhanced due diligence measures where ML/TF risks are higher.
11.	Record Keeping	**LC**	• There are minor outstanding deficiencies with regard to the implementation of R.11 • The preservation requirements provided in Directive N° 008-05-2015 governing the terms and conditions for carrying activities of issuers of electronic money in the UMOA Member States (Article 7) obliges each ensure the traceability of the operations over a period of ten years, starting from the date of their realization.)
12.	Politically Exposed Persons	**NC**	• There are risk management systems to determine whether the customer or beneficial owner is a politically exposed person; • There is no text indicating the need to obtain the approval of senior management before establishing (or continuing, if it is an existing customer) such business relationships; • There is no text requiring reasonable measures to be taken to establish the source of wealth and the origin of the funds of customers and beneficial owners identified as politically exposed persons • The verification of the PEPs beneficial ownership status as of the insurance contract customers is not provided for.
13.	Correspondent banking	**NC**	• Inadequate provisions concerning cross-border correspondent banking and other similar relationships,
14.	Money or value transfer services	**LC**	• Lack of legislation regulating providers of money or value transfer services using agents
15.	New technologies	**PC**	• Lack of risk assessment before launching or using new technologies or products; • Lack of appropriate measures to manage and mitigate such risks.

	Recommendation	Ratings	Factor (s) justifying the rating
16.	Electronic transfers	**PC**	• Lack of binding obligations for the implementation of relevant United Nations Security Council Resolutions 1267 and 1373 and their subsequent Resolutions. • There is no requirement for reasonable measures be taken to identify incomplete isolated transfers on the data of the sender and the beneficiary. • It is not specified which actions financial intermediary institutions should take for incomplete isolated transfers received repeatedly. • Lack of a unique reference number of transaction allowing for the traceability of the said transaction.
17.	Use of third parties	**PC**	• Senegal has not yet domesticated the Directive N° 02/2015/CM/UEMOA on AML/CFT which provides for the use of third parties
18.	Internal controls and branches and subsidiaries abroad	**PC**	• The financial group requirements as well as those for foreign branches and subsidiaries are not provided for in the text to reflect criteria 18.2 and 18.3.
19.	Higher risk countries	**NC**	• There are no binding provisions requiring all financial institutions, except insurance companies, to apply enhanced due diligence measures to business relationships with links to countries considered to be at risk by the FATF. • Measures to ensure that all financial institutions are aware of the countries considered to be at ML/TF risk are yet to be put in place
20.	Suspicious transaction reporting	**C**	• Senegal is rated Compliant on R.20
21.	Disclosure and confidentiality	**C**	• Senegal is rated Compliant on R.21
22.	Designated non-financial businesses and professions: customer due diligence	**PC**	• The record keeping requirements are not specifically stipulated for DNFBPs in the same way as financial institutions. • Lack of obligations for DNFBPs relating to PEPs as provided for in Recommendation 12 • Lack of obligations relating to the use of third parties as provided for in Recommendation 17.

	Recommendation	Ratings	Factor (s) justifying the rating
23	Designated non-financial businesses and professions: other measures	**PC**	• There is a deficiency on the scope of implementation of R. 23 similar to that identified for R. 22. • The deficiencies identified in Rs. 18, 19, 20 and 21 are also applicable to DNFBPs.
24.	Transparency and beneficial ownership of legal persons	**PC**	• There are significant deficiencies with regard to the implementation of R.24 • The registration mechanisms at the Trade Registry, as well as the modifications of such registrations, makes it impossible to ensure that all information is accurate and up to date.
25.	Transparency and beneficial ownership of legal arrangements	**NC**	• There is no obligation or sanctions for trusts' failure to keep records • Adequate, accurate and up-to-date information on the identity of the settlor, trustees and beneficiaries • Lack of proportionate and dissuasive sanctions, whether criminal, civil or administrative, applicable in case of non-compliance with the obligation to make trust information available to the competent Authorities in a timely manner.
26.	Regulation and Supervision of financial institutions	**PC**	• Inadequate application of the risk-based approach
27.	Powers of Supervisory Authority	**C**	• Senegal is rated compliant on R.27
28.	Regulation and Supervision of designated non-financial businesses and professions	**NC**	• There is no explicit authority (ies) or designated self-regulatory body (ies) responsible for the supervision and compliance of DNFBPs (apart from casinos) regarding their AML/CFT obligations • Other categories of designated non-financial businesses and professions are subject to supervisory measures to ensure they comply with their AML/CFT obligations.

	Recommendation	Ratings	Factor (s) justifying the rating
29.	Financial Intelligence Units (FIUs)	**LC**	• There are minor outstanding deficiencies regarding the implementation of R. 29 • The conclusion of agreements between the FIU and an Intelligence Service of a third State requires the prior authorization of the Minister of Finance (Article 24 of AML), which may constitute an obstacle to its independence in its areas of activity, in case of refusal, even though no refusal to conclude any agreement has been decided by this authority since the inception of the FIU, which has concluded about 30 cooperation agreements • Impossibility for the FIU to communicate the findings of its analyzes to the Competent Authorities other than the State Prosecutor, particularly the tax, customs, but it is empowered to exchange information with all the agencies and structures that are members of the intelligence community
30.	Responsibilities of prosecution and investigating Authorities	**LC**	• There are minor outstanding deficiencies regarding the implementation of Rec.29. OFNAC is empowered to conduct financial and assets investigations but does not have the power to freeze or seize any assets, being investigated
31.	Powers of prosecution and Investigative Authorities.	**PC**	• The Senegalese law currently in force makes no provision for the Competent Authorities to request for all relevant information held by the FIU, when conducting investigations into money laundering, associated predicate offences and terrorist financing.
32.	Cash couriers	**LC**	• The conflicting provisions of Regulation R09 and the CFT Law do not allow for an adequate implementation of the regulation on financial ties with foreign countries, particularly in the fight against terrorist financing.

	Recommendation	Ratings	Factor (s) justifying the rating
33.	Statistics	**PC**	• The information made available to the assessment team could not be used to verify whether the FIU was recording the number of trials relating to the case files it has transmitted to the judicial Authorities and on which convictions for ML and TF were delivered • Available data on criminal prosecution, confiscation and international cooperation present some deficiencies • More generally, the statistics presented are not systematized to allow assessment of the efficiency and effectiveness of the AML/CFT regime.
34	Guidelines and Feedback	**PC**	• No guidelines taken by the supervisory Authorities of DNFBPs.
35	Sanctions	**PC**	• No provision is made to ensure that a range of proportionate and dissuasive sanctions are meted out on natural and legal persons who fail to comply with the AML/CFT obligations referred to in Rs. 6 and 8 to 23.
36.	International Instruments	**PC**	• Non implementation of Resolution 2178 (2014) on Foreign Terrorist Fighters and Resolution 1373 (2001) on the Financing of an individual Terrorist and a Terrorist Group or Organization.
37.	Mutual legal assistance	**C**	• Senegal is rated compliant on R..37
38.	Mutual legal assistance: freezing and confiscation	**PC**	• Non-conviction based confiscation is impossible in Senegal (non-compliantin this area with the Merida Convention)
39.	Extradition	**LC**	• There are minor outstanding deficiencies regarding the implementation of Rec.39 • Senegal has not specifiedto what extent its current extradition mechanism has beensimplified
40.	Other forms of international cooperation	**LC**	• Prior authorization of the Minister of Finance, before conclusion of any MOU. • Lack of information on the exchange of information between financial sector's supervisory authorities. • Absence of a legal basis for the prosecution authorities to set up joint investigation teams to carry out investigations in a cooperative manner and, where necessary, establish bilateral or multilateral agreements to authorize such joint investigations.

APPENDIX I

Table 1

Type of Institutions		Number		Number of Agencies	Total balance sheet (in millions of CFA francs)
Fundamental Principles of Financial Institutions		Subtotal	Total		
Banks	National Banks	4	24	388	5,390,038
	Foreign Banks / Subsidiaries or Branches of Foreign Banks	20			
Securities (Brokers, Dealers and Portfolio Managers)		4	4		
Insurance	Life Insurance	11	30	9	120 000
	Non-life / other insurance companies	19			
Other Financial Institutions					
Microfinance institutions			387	626	428,000
Rural and community banks			-		
Financial institutions (including leasing: 2)			3	8	146,514
Credit cooperatives			-		
Mortgage institutions			-		
Savings and credit companies			-		
Foreign exchange bureaus			450		
Rapid money transfer companies			18		
Tontines collection institutions			-		
Pension and social security funds			2		
Others			-		
DNFPBs					
Casinos and gaming companies	Casinos	4	5		

	Lotteries and other games	1			
Non-profit organizations	Associations	18,985	20,239		
	Political parties	282			
	Unions	410			
	Non-governmental organizations	562			
Professionals of the legal sector	Notaries	51	469		
	Justice Bailiffs	55			
	Lawyers (accountable to AML/CFT)	363			
Auditors/Accountants/Tax Consultants			240		
Trust Services			-		
Company Services Providers			-		
Car Dealers			16		
Real Estate Developers/Agents			500		
Dealers in precious metals and gems (importers and exporters of gold)			87		

Note :

i. **Data recorded as at end 2016, except for banks and financial institutions whose figures date as far back as 31st December, 2015.**
ii. **For the insurance sector, the amount of 120 billion CFA francs represents the cumulative annual turnover.**
iii. **The number of rapid money transfer companies (18) refers to private structures that provide money remittance and reception services, from dedicated technical platforms, in collaboration with banks and under the responsibility of those banks. Banks, which are exclusively empowered to conduct the money transfer business, also have their own distribution channels for similar services.**

Table 2: Mutual Evaluation of Senegal - 2017: STRs received, analyzed and disseminated by the FIU and results obtained from dissemination (IO. 6)

STRs		**YEAR**						
		2012	**2013**	**2014**	**2015**	**2016**	**2017***	**Total**
Total STRs received	ML	96	112	144	162	121	74	709
	TF	0	0	1	2	1	0	3
STRs analyzed		96	112	144	162	121	74	709
National information disseminated	Spontaneously	-	-	-	-	3	2	7
	on request	-	-	-	1	1	0	
Agency/Institution		**Breakdown of national dissemination**						
		2012	**2013**	**2014**	**2015**	**2016**	**2017***	**Total**
State Prosecutor		6	24	22	16	10	1	79
General Delegation to National Intelligence		-	-	0	0	1	0	1
National Office Anti-Corruption and Anti-Fraud Office		0	0	0	1	3	0	4
Monetary and Credit Department		0	0	0	0	0	1	1
BCEAO								
		Outcomes of dissemination by the FIU						
		2012	**2013**	**2014**	**2015**	**2016**	**2017***	
Investigations triggered by the FIU's intelligence								
Number of investigations targeting ML only		6	24	22	16	10	1	
Number of ML investigations in connection with other offences								
Number of TF-related investigations								
Total number of investigations prompted by the FIU		6	24	22	16	10	1	
Results of investigations prompted by FIU								
Number of arrests made in FIU prompted operations								
Number of trials facilitated by FIU		5	3	4	1	1	1	

Table 3: SENEGAL ME – 2017: INVESTIGATIONS, TRIALS AND CONVICTIONS FOR ML1

	2014	2015	2016	2017*
Number of ML[2] charges	22	16	10	1
Number of investigations for ML[3]	22	2	10	1
Number of ML trials	5	2	2	1
Number of ML convictions	3	2	0	1
Disqualification of the ML offence[4]	2	0	2	0

January – June 2017

Table 4: SENEGAL ME – 2017: INVESTIGATIONS, PROSECUTIONS AND CONVICTIONS FOR TF5 (IO. 9)

	2014	2015	2016	2017*
Number of TF[6] charges	0	0	0	0
Number of TF[7] investigations	0	0	0	0
Number of arrests for TF	0	0	0	0
Number of TF trials	0	0	0	0
Number of convictions	0	0	0	0

January – June 2017

Table 5: FREEZING ORDERS UNDER THE RELEVANT UNSC RESOLUTIONS ON IRAN AND NORTH KOREA FPWMD8 (IO. 11)

	2014	2015	2016	2017*
Number of freezing orders	0	0	0	0
Number of designated persons	0	0	0	0
Value of funds/assets frozen (USD)	0	0	0	0

January – June 2017

[1] ML: Money Laundering
[2] Charges: Opening of the casefile by the prosecutor's office and immediate referral to a Presiding Magistrate (Article 29 of the law N ° 2004-09 of February 16th, 2004).
[3] Receipt of the casefile followed by an order issued by the Presiding Magistrate for the criminal investigation officers to conduct investigations
[4] Cases started as ML, but found to be a predicate offences.
[5] TF: Terrorism Financing
[6] Charges: Opening of the casefile by the prosecutor's office and immediate referral to a Presiding Magistrate (Article 21 of the law N ° 2009-16 of March 02, 2009).
[7] Receipt of the casefile followed by an order issued by the Presiding Magistrate for the criminal investigation officers to conduct investigations.
[8] **FPWMD**: Financing the proliferation of weapons of mass destruction

Table 6: SENEGAL ME – 2017: STATISTICS ON THE INTERNATIONAL EXCHANGE OF INFORMATION BY THE FIU AND OTHER FORMS OF INTERNATIONAL COOPERATION (IO. 2, 6)

Country/FIU	Number of information requests exchanged between the FIU and other FIUs							
	2014		2015		2016		2017	
	Requests sent	Requests received	Requests sent	Requests received	Requests sent	Requests received	Requests sent	Requests received
Total number of exchanged information	24	5	39	16	14	11	4	12
Total number of responses to requests sent or received by the FIU	**5**	**5**	**12**	**6**	**9**	**9**	**1**	**6**
Spontaneous exchange of information								
	2014		**2015**		**2016**		**2017**	
Spontaneous information received by the FIU from other FIUs	1		1		8		2	
Spontaneous information requests sent by the FIU to other FIUs	-		-		-		-	
Total number of spontaneous information requests sent or received by the FIU	1		1		8		2	
Other forms of cooperation (cooperation with criminal investigative and prosecutorial/police Authorities etc.)								
	2014		**2015**		**2016**		**2017**	
ML-related requests received from foreign Authorities	-		-		-		-	
M-related requests sent to foreign Authorities								

Table 7: SENEGAL ME – 2017: STATISTICS ON STRs RECEIVED BY THE FIU: BY PREDICATE OFFENCE (IO. 4)

S/N°	Type of Predicate Offence	2014	2015	2016	2017	Total
1	Participation in an organized criminal group and racketeering	0	1	1	3	05
2	Terrorism, including its financing	1	2	1	0	04
3	Illicit trafficking of narcotics and/or psychotropic substances	5	0	1	1	07
4	Fraud	34	30	12	7	83
5	Theft and concealment, illicit trafficking of stolen goods and other assets	0	0	2	1	03
6	Forgery and use of forgery	2	1	4	2	09
7	Cyber crime	1	11	7	1	20
4	Scam	25	11	7	0	43
5	Human trafficking and migrants' smuggling, sexual exploitation, including children	0	0	2	0	02
6	Smuggling (including with respect to taxes and customs and excise duties): violation of foreign exchange regulations	14	7	6	0	27
7	Illicit trafficking of stolen goods and other assets	0	1	2	0	03
8	Corruption	2	7	1	0	10
9	Gold trafficking	2	1	3	0	06
10	Cash counterfeiting	0	1	0	0	01
11	Counterfeiting and piracy of products	0	0	0	0	0
12	Criminal offences against the environment	0	0	0	0	00
13	Murders and serious bodily injuries	0	0	0	0	00
14	Abduction, kidnapping and hostage-taking	0	0	0	0	00
15	Smuggling (including with respect to taxes and customs and excise duties)	0	0	0	0	00
16	Criminal tax offences (related to direct and indirect taxes)	0	0	0	0	00
	Extortion	0	0	0	0	00
18	Piracy	0	0	0	0	00
19	Insider trading and market manipulation	0	0	0	0	00
Total number of STRs received by the FIU by predicate offence		145	164	121	74	506

Table 8: SENEGAL ME – 2017: STATISTICS ON STRs AND CASH TRANSACTION REPORTS RECEIVED BY THE FIU - BY SECTOR (IO. 4, 6)

SECTOR	2014		2015		2016		2017*	
	STRs	CTRs	STRs	CTRs	STRs	CTRs	STRs	CTRs
Breakdown by type of financial institutions								
Commercial banks and financial Institutions	124	-	141	-	86	-	66	-
Decentralized financial systems	5	-	4	-	4	-	0	-
Postal financial services	1	-	15	-	9	-	6	-
Foreign exchange bureaus	-	-	-	-	-	-	-	-
Money transfer companies	0	-	0	-	12	-	1	-
Insurance companies	-	-	-	-	-	-	-	-
Capital market operators	-	-	-	-	-	-	-	-
Others (Customs)	11	-	0	-	8	-	0	-
STRs and cash transaction reports received by financial institutions	141	-	160	-	119	-	73	-
Breakdown by Type of DNFBP								
Casinos and other lottery companies	-	-	-	-	-	-	-	-
Real estate developers and agents	-	-	-	-	-	-	-	-
Dealers in gems and precious metals								
Lawyers	-	-	-	-	-	-	-	-
Notaries	3		4		2		1	
Trusteeships								

Table 9: SENEGAL ME – 2017: STATISTICS ON INTERNATIONAL COOPERATION (IO. 2)

	2014	2015	2016	2017*
Mutual Legal Assistance				
ML-related requests received from other countries	-	-	-	-
* ML requests executed	-	-	-	-

ML-related requests sent by Senegal to other countries	3	1	0	0
∗ML requests responded to	-	-	-	-
TF-related requests received by other countries	-	-	-	-
TF-related requests made by Senegal	-	-	-	-
Mutual legal assistance requests received for:				
Asset tracing (with a related request for freezing/confiscation)	-	-	-	-
Asset tracing (without a related request for freezing / confiscation)	-	-	-	-
Extradition requests				
ML-related requests received from other countries	-	-	-	-
∗Requests executed	-	-	-	-
∗Requests rejected	-	-	-	-
∗Requests pending	-	-	-	-
ML-related requests made by Senegal	-	-	-	-
∗Requests executed	-	-	-	-
∗Requests rejected	-	-	-	-
∗Requests pending	-	-	-	-
TF-related requests received from other countries	-	-	-	-
TF-related requests made by Senegal	-	-	-	-

∗January – June 2017

Table 10: SENEGAL ME – 2017: STATISTICS ON ADMINISTRATIVE AND DISCIPLINARY SANCTIONS FOR NON-COMPLIANCE WITH AML/CFT REQUIREMENTS (FINANCIAL AND DNFBP SECTORS) (IO. 3)

Sector	**Total number of regulatory actions (2011 – 2017)**						
	Number of written warnings issued	Number of people banned	Number of corrective actions that the	Amount of the financial	Number of entities with	Number of licences withdra wn	Others
Banks							
Insurance companies							
Stock market							
Microfinance institutions						6	
Foreign exchange bureaus						8	
Money/Value transfer services/companies							
Other: electronic money institutions						1	
Number of sanctions (financial sector)							
Casinos and other lottery companies							

Real estate developers/agents							
Non-profit organizations							
Dealers in gems and precious metals							
Car dealers							
Professionals in the legal sector (lawyers, notaries)							
Accountants							
Other DNFBPs							
Number of sanctions (DNFBPs)							
Total number of sanctions (financial and DNFBP sectors)							

Table 11: SENEGAL ME – 2017: SEIZURES AND CONFISCATIONS RELATING TO CROSS-BORDER CASH DECLARATIONS (IO. 8)

	Total declarations	**Value of Declarations**	**Number of sanctions imposed for non/false declaration**	**Total amount of seizure (USD)**	**Amounts confiscated through sanction**
2013					
Coutry's entry point	334	5 754 400 CFAF 2 239 274 Euros 1 962 892 USD 16 550 pounds Sterling 1 235 Dirhams UAE 4300 Yuans			
Country's exit point	656	2359660 CFAF 1 323 708 Euros 214 571 USD 3000 pounds Sterling 700 000 Guinean Francs 100 Dirhams UAE 500 Yuans			
2014					

Coutry's entry point	381	652000 CFAF 2518252 Euros 6 476 462 USD 10940 pounds Sterling 3785295 Dirhams EAU 104005 Yuans 18000 Swiss Francs 668 Ouguiyas 8740 HK Dollars			
Country's exit point	53	110000CFAF			

Table 12: SENEGAL ME – 2017: NUMBER AND TYPE OF ASSETS CONFISCATED FOLLOWING CONVICTIONS FOR ML (IO. 8)

	2014	**2015**	**2016**	**2017***
Cash (USD)	692320494 CFAF[1]			
Current accounts / securities accounts				
Businesses and companies				
Confiscated assets/real estate				
Buildings/Houses[2]	One building in Yoff (TF10600) one building in Almadies (TF2841)			
Plots of undeveloped land and warehouses				
Commercial premises				
Garage, storeroom and bunks at marinas				
Total number of assets	2			
Confiscated vehicles and vessels				
Cars				
Sport utility vehicles				
Heavy trucks				
Motor cycles				
Industrial vehicles, vans and tractors				
Motorized watercraft and personal vessels				
Total number of vehicles and vessels				
Others				
Weapons (rifles, shotguns, etc.)				

Table 13: SENEGAL ME – 2017: TF-RELATED FREEZING AND SEIZURE ORDERS (IO. 10)

	2014	2015	2016	2017*
Number of frozen accounts	0	0	0	0
Total value of frozen accounts	0	0	0	0
Real estate	0	0	0	0
Vehicles	0	0	0	0
Others	0	0	0	0

January – June 2017*

Table 14: SENEGAL ME – 2017: STATISTICS ON AML/CFT SUPERVISION (FINANCIAL and DNFBP SECTORS) (IO. 3)

SECTOR	**2014**		**2015**		**2016**		**2017***	
	Prudential supervision	AML/CFT	Prudential supervision	AML/CFT	Prudential supervision	AML/CFT	Prudential supervision	AML/CFT
Banking sector								
Banks	1	1	3	3	2	2		
Insurance sector								
Insurance companies	10	10	13	13	13	13		
Stock market operators	0	0	2	0	0	0		
Other financial institutions								
Microfinance institutions	159	159	114	114	67	67		
Foreign exchange dealers	13	0	0	0	0	0	0	0
Transfer of funds and values services / transfer companies					1	1		
Others								
Total supervision (Financial sector)	**183**	**170**	**130**	**130**	**83**	**83**		
DFNBPs								
Casinos and other lottery companies								
Developers/real estate agents								
Non profit organizations	81							

Dealers of precious metals and stones								
Car dealers								
Legal professionals (lawyers, notaries)								
Accountants								
Other DNFBPs								
Number of sanctions (DNFBPs)								
Total number of sanctions (financial sector and DNFBPs)								

Table 15: SENEGAL ME – 2017: FREEZING AND SEIZURE OF ASSETS RELATING TO PREDICATE OFFENCES (IO. 8)

	2014	2015	2016	2017*
Cash (USD)				
Buildings and plots of land				
Companies				
Vehicles (ships, cars, trucks, etc.				
Others				
Money laundering		1311914000[9]		

January – June 2017*

[9] This equivalent amount of 2 million Euros was paid into the bank account of a person who was the subject of a suspicious transaction report and transferred to the Public Deposit Fund by order of an investigating judge, pending final court ruling.

REPUBLIQUE DU SENEGAL
Un Peuple-Un But-Une Foi

MINISTERE DE L'ECONOMIE, DES FINANCES ET DU PLAN

DIRECTION GENERALE DES DOUANES

DIRECTION DU RENSEIGNEMENT ET DES ENQUETES DOUANIERES

Bureau des investigations criminelles et des Stupéfiants

N° /DGD/DRED/BICS

Dakar, le .....

Head of Division

Table: **Statistics on offences relating to foreign exchange control regulations at the Intelligence and Customs Investigations Department from 2014 to 30th June, 2017.**

	2014	**2015**	**2016**	**2017**
Number of contentious cases (case)	10	20	12	5
Customs value (in billions of CFA Francs)	13.7	14	8.4	8.3
Sanctions (in millions of CFAF)	700.5	807	637	250

Summary on Customs AML/CFT Regime

Since 2009, pursuant to Order 7282 / MEF / DGD of 30 July 2009, within the Directorate of Intelligence and Customs Investigations, a Division of Criminal Investigations and Narcotics (BICS), specialized in combatting all forms of transnational organized crime.

Indeed, under Article 24 of the above-mentioned Decree, the BICS is charged with the responsibility to:

- ✓ Fight against various forms of transnational organized crime (money laundering and terrorist financing and predicate offences, including illicit trafficking in narcotics, psychotropic substances, precursors, weapons, organs and human beings) as well as counterfeits);
- ✓ Follow the work conducted internationally in these matters;
- ✓ Ensure the collection, centralization and processing of information on these illicit trafficking or organized crime as well as the management of databases related thereto ;
- ✓ Ensure national collaboration and international cooperation with all the services responsible for these security issues, particularly in the context of international investigations.

1. Within the AML/CFT Context

The Head of BICS, who acts as the FIU's institutional correspondent at the Customs Department, centralizes all the seizure reports or findings of predicate offences or related information. In addition, it centralizes, before sending them periodically to the FIU, the weekly summaries of the declarations of entries and exits of registered currencies, at the border customs units in particular.

Lastly, in view of the risks of money laundering via commercial or physical cross-border transport of cash and other instruments of bearer payments, it proceeds to their processing, with a view to detecting elements likely to constitute a breach of ML, TF or the proliferation of weapons and develops suspicious transaction reports, where necessary.

In addition, the BICS Head also receives and processes all FIU requisitions.

Statistics on STRs and requisitions received are available at the FIU.

2. Combatting Proliferation and its Financing

BICS is the focal point of the Ministry of Economy, Finance and Planning in the national inter-ministerial committees against the proliferation of nuclear, biological and chemical weapons (COMNAT-NBC and ARSN) and small arms and light weapons and of small calibre (COMNAT-ALPC).

In this capacity, he participated in the development of the national action plan for the implementation of the United Nations Security Council Resolution 1540 (UNSC).

He contributes to the implementation of other UNSC Resolutions, by disclosing the lists of terrorist individuals and organizations, by monitoring the movements of people, goods and means of transport entering or leaving the territory, in close cooperation with Border Police and the National Central Bureau (NCB-Interpol) of Dakar, located at the Criminal Investigation Division of the National Police.

Customs also monitors the import and export of chemicals, and provides the statistics necessary for the preparation of annual reports by the national authority (COPMANT-NBC), in accordance with the transfer regime of the Convention on the Prohibition of Chemical Weapons (CIAC).

The DGD has signed a Memorandum of Understanding with the Agency for Radiation Protection and Safety (ARSN), focal point of the International Atomic Energy Agency (IAEA), to better monitor the transfer of radioactive sources.

Finally, Customs has established a directory of natural and legal persons importing and exporting hazardous materials, nuclear, radiological, biological and chemical (NRBC), to follow, to prevent or reduce the risk of diversion of these materials for illicit purposes such as the manufacture of improvised explosive devices, terrorist attacks, etc.

3. National and International Cooperation

At international level, the DGD has not only adhered to the Convention on International Mutual Administrative Assistance (AAMI), but also signed bilateral Memoranda of Understanding with some fifteen foreign Customs Administrations, particularly with the Malian, Gambian, Guinean, Mauritanian, American (CBP and ICE), Azerbaijani, and the French Customs.

At national level, in addition to the protocol with the ARSN, it has signed an MoU with the National Army, in the areas of capacity building and assistance in customs Supervisions in sensitive areas.

The gendarmerie and police have liaison officers within the DGD, which facilitates cooperation through intelligence sharing and joint operations.

Furthermore, there is a mixed customs-tax monitoring brigade designed to improve the efficiency of the fight against tax and customs fraud. In this regard, a platform called TANDEM has already been set in motion and made operational and promotes the systematic sharing of information among financial Authorities (DGD, DGID, DGCPT ...) on the basis of the unique identification mechanism called NINEA. The ultimate goal is to extend this to financial institutions (banks in particular).

Finally, within the framework of implementing the regulation on external financial relations of UMOA Member States, which establishes obligations for the domiciliation of imports and exports worth at least 10 million, and repatriation of revenue, the DGD participates in the activities of the Joint Brigade (DGD-DMC-BCEAO). Half-yearly and annual reports are produced by this Brigade for submission to the MEFP.

On the whole, it could be noted that this mechanism, which certainly deserves to be improved (computerization of cash reporting systems with the launching of the National Information and Documentation File (FNID) being developed to resolve some of the technical problems), has yielded huge dividends in terms of budget revenue mobilization (about 35% of the National Budget), anti-fraud and AML/CFT (number of STRs and information requests).