GIABA

ANNUAL REPORT 2009

CONTENTS

ACKNOWLEDGEMENT 5

ABBREVIATIONS 7

LIST OF TABLES 10

FOREWORD 11

CHAPTER 1 13

INTRODUCTION 13

GIABA's mandate 14

Membership of GIABA 15

The Main Organs of GIABA 16

Priorities for Technical Assistance 17

Implementation of the Action Plan in 2009 18

Summary 20

CHAPTER 2 22

OVERVIEW OF THE AML/CFT SITUATION IN WEST AFRICA 22

Introduction 22

Benin 23

Burkina Faso 34

The Gambia 61

Ghana 69

Guinea 79

Guinea-Bissau 84

Liberia 93

Niger 103

Nigeria 108

Senegal 122
Sierra Leone 131
Togo 139
CHAPTER 3 143
COUNTRY ASSESSMENTS 143
Enactment/upgrading of AML/CFT Legislation in GIABA Member States 162
Progress towards Enacting and Reviewing CFT Legislation 163
CHAPTER 4 165
TYPOLOGIES, STUDIES AND PROJECTS 165
Research Studies and Projects 168
Risks and threat assessment of ML/FT in West Africa 168
Study on the impact of the informal sector on AML/CFT in the UEMOA zone 170
The Corruption–Money Laundering Nexus in West Africa 171
CHAPTER 5 176
TECHNICAL ASSISTANCE TO MEMBER STATES 176
Regional AML/CFT Training/Capacity Enhancement Programs 195
CHAPTER 6 210
REGIONAL INTEGRATION AND INTERNATIONAL COOPERATION 210
GIABA Plenary Meetings 211
FATF Activities 212
ECOWAS Activities 215
Annual Egmont Group Meeting 219
CHAPTER 7 226
ADMINISTRATIVE AND SUPPORT SERVICES 226
Organizational Structure 226
New GIABA Premises 227
Staff Retreat and Other Social Activities 228

Staff Training Program..... 229

Administrative and Financial Management 230

Information and Communication Technology (ICT) 231

Other Activities 232

CHAPTER 8..... 234

CHALLENGES AND PRIORITIES FOR 2010..... 234

Challenges in Implementing AML/CFT in West Africa..... 235

Priorities for 2010..... 236

Appendix A – GIABA 2010 Work Plan..... 239

Appendix B: The Status of GIABA Member States' Ratification and Domestication of AML/CFT/Drugs and Crime Conventions 245

ACKNOWLEDGEMENT

For the most part, this report is based on the various activities undertaken by the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) in 2009. The report shows an overall program execution rate of about 94% at the end of the year concluding GIABA's strategic Plan for 2007–2009. Other important accomplishments include the support to Member States to amend and strengthen their anti-money laundering legislation to conform to acceptable international standards and enact stand-alone legislation against the financing of terrorism; the ongoing establishment of the regional network of FIUs and the related AML/CFT Committees in many Member States; the production and distribution of materials for sensitization campaigns; and the consistent implementation of the mutual evaluation calendar and the adoption and publication of four additional Mutual Evaluation Reports. Many other issues were addressed and resolved, while new projects were launched. It has indeed been an engaging and challenging year in so many respects. However, this was complemented by additional human resource.

This fourth comprehensive Annual Report was prepared by the staff members of GIABA. Since it is a product of teamwork, all contributions are hereby acknowledged and commended.

This report was also made possible through the contributions of many of our stakeholders and partners. First and foremost, special thanks go to GIABA's National Correspondents in the fifteen Member States, whose support and cooperation enabled the Secretariat to carry out all the planned programs and projects according to schedule. Their cooperation and assistance was highly instrumental in the provision of technical assistance to Member States. GIABA further acknowledges the continued support of the Member States and that of the ECOWAS Commission for the political will and for providing the required environment for the execution of GIABA's programs.

Among the esteemed international partners and collaborators, it is important to mention the FATF, UNODC, the World Bank, the IMF, Commonwealth Secretariat, Interpol and World Customs Organisation, who were very supportive during the course of the year. GIABA particularly notes the assistance of the World Bank in the conduct of Burkina Faso mutual evaluation; as well as the assistance of the OGBS in the evaluation of Ghana. GIABA must also applaud the assistance received from the FATF Secretariat, the Commonwealth Secretariat, the French Government, DFID, the UK Financial Services Authority, the Belgian FIU and the US Government, who provided technical/expert support to GIABA programs during the year 2009. These and other significant contributions that could not be enumerated here are deeply appreciated and acknowledged.

GIABA also recognizes the strong support of civil society organizations, including the mass media, academia and NGOs, who showed keen interest and collaborated with GIABA in some of its activities. This is most encouraging to us in promoting the importance of AML/CFT awareness and preparedness in West Africa.

GIABA also acknowledges the support of various individuals and groups who participated in our programs in 2009, including studies on the risk of ML and FT in the region; on the nexus between ML and Corruption; on the informal Sector; on raising public awareness of ML and the impact of dirty money in the region.

Finally, GIABA wishes to acknowledge and to thank those who took the time to read this report. This is a demonstration of your special interest in understanding what GIABA represents and what it is striving to do towards combating money laundering and terrorist financing in West Africa. We sincerely hope that you will continue to sustain this momentum.

ABBREVIATIONS

ABCON	Association of Bureaux de Change of Nigeria
ABEDA	Arab Bank for Economic Development in Africa
ACSS	Africa Centre for Strategic Studies
ACTU	Anti Corruption and Transparency Unit
AfDB	Africa Development Bank
AFRCD	Armed Forces Revolutionary Council Decree
AML/CFT	Anti-Money Laundering/Counter Financing of Terrorism
AMLA	Anti-money laundering Act (Ghana)
ANSI	Agence Nationale de Stratégie et d'Intelligence
ATA	Anti-terrorism Act (Ghana)
ATIF	Agence de Traitement des Informations Financières
AU	African Union
AUSTRAC	Australian Financial Transactions Analysis Center
BCEAO	Banque Centrale des États de l'Afrique de l'Ouest
BEAC	Banque Centrale des États de l'Afrique Centrale
BOAD	Banque Ouest Africaine de Développement
CAPEFRANCE	Centre d'Accueil de la Presse Étrangère de France
CBL	Central Bank of Liberia
CBN	Central Bank of Nigeria
CCJ	Community Court of Justice (ECOWAS)
CDD	Customer Due Diligence
CENTIF	Cellule Nationale de Traitement des Informations Financières (French for FIU)
CFA	Communauté Financière d'Afrique
CIMA	Inter-African Conference of the Franc Zone Insurance Markets
COCOLAB	Committee for Cooperation between Law Enforcement Agencies and the Banking Community (Burkina Faso)
COMSEC	Commonwealth Secretariat
CRF	Cellule de Renseignements Financiers
CTED	Counter Terrorism Executive Directorate (UN)
DAR	Detailed assessment report
DDG	Deputy Director General
DG	Director General
DNFBP	Designated non-financial businesses and professions
DNFI	Designated non-financial institution
ECOWAS	Economic Community of West African States
ECPF	ECOWAS Conflict Prevention Framework
EFCC	Economic and Financial Crimes Commission
ERG	Evaluation review group
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FATF	Financial Action Task Force

FCFA	Franc Communauté Financière Africaine
FIU	Financial Intelligence Unit
FSRB	FATF-Style Regional Body
GIABA	Groupe Inter-Gouvernemental d'Action contre le Blanchiment d'Argent en Afrique de l'Ouest (Inter-Governmental Action Group against Money Laundering in West Africa)
ICRG	International Cooperation Group (FATF)
IDB	Islamic Development Bank
IMF	International Monetary Fund
INTERPOL	International Criminal Police Organization
IT	information technology
JP	Judicial Police
KYC	Know Your Customer
LCBC	Loi uniforme relative à la lutte Contre le Blanchiment de Capitaux
MEF	Ministry of the Economy and Finance (Benin)
MER	Mutual Evaluation Report
ML	Money Laundering
MLPA	Money Laundering (Prohibition) Act 2004 (Nigeria)
MOU	Memorandum of Understanding
NAICOM	National Insurance Commission (Nigeria)
NCS	Nigeria Customs Service
NGO	non-governmental organization
NPOs	Non Profit Organisations
OCRTIS	L'Office Central pour la Répression du Trafic Illicite des Stupéfiants (Senegal)
OGBS	Off-shore Group of Banking Supervisors
OTA	Office for Technical Assistance (US Treasury)
PANAFSTRAG	Pan African Strategic and Policy Research Group
PNDCL	Provisional National Defense Council Law
RCMP	Royal Canadian Mounted Police
RRG	Regional Review Group (ICRG/FATF)
SALW	Small Arms and Light Weapons
SCTIP	Service de Coopération Technique International de Police (Police International Technical Cooperation Department)
SCUML	Special Control Unit against Money Laundering (Nigeria)
SEC	Securities and Exchange Commission
STR	Suspicious Transaction Report
TANA	Technical Assistance Needs Assessment
UEMOA	Union Économique et Monétaire Ouest-Africaine
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime
UNOGBIS	United Nations Peace-building Support Office in Guinea-Bissau
USA	United States of America
USAID	United States Agency for International Development
USPIS	United States Postal Inspection Service
WABA	West African Bar Association

WAEMU	West African Economic and Monetary Union
WGMEI	Working Group on Mutual Evaluation and Implementation

LIST OF TABLES

Table 1	Estimated size of Benin's financial sector
Table 2:	Statistical data on most common predicate violations between 2006 and 2008
Table 3:	Summary of drug seizures between 2006 and 2008 (des saisies de drogues entre 2006 et 2008) (weight in kilograms)
Table 4:	Size and assets of the financial sector
Table 5:	Capital base of general non-life insurance (in FCFA millions)
Table 6:	Capital base of life insurance (in FCFA millions)
Table 7:	Classification of socio-economic sectors according to the respondents' degree of perception (2006)
Table 8:	Summary record of training programs of CENTIF Burkina Faso
Table 9:	Size of the financial sector in Cape Verde
Table 10:	Size of the financial sector of Côte d'Ivoire in 2009
Table 11:	Evolution of primary micro-finance sector indicators
Table 12:	Summary of training/technical assistance program involving the CENTIF in 2009
Table 13:	Disposition of the banking sector in 2008 for Guinea
Table 14:	Summary table of drug seizures done by the Narcotics Brigade and other police units (January–December 2009)
Table 15:	Money laundering prosecutions (including convictions) for the EFCC Nigeria
Table 16:	Summary of Technical Assistance needs of Nigeria
Table 17:	Drug seizures in Senegal
Table 18:	GIABA Mutual Evaluation Calendar (updated November 2009)
Table 19:	Summary of GIABA Follow-up Process and Procedure
Table 20:	Status of Follow-up Reports
Table 21:	Summary of Technical Assistance Activities for 2009

FOREWORD

The year 2009 marks the end of the implementation of GIABA's first Strategic Action Plan 2007-2009. The year is therefore a watershed in the development and sustainability of the work of the organization. I am delighted to present the 2009 Annual Report, which once again, provides grounds for optimism regarding the commitment of the authorities and governments in West Africa to prevent and counter money laundering and terrorist financing. This commitment has been demonstrated through the numerous programs and activities carried out by GIABA with the support and collaboration of member States and other international partners.

As in the previous years, GIABA focused its technical assistance activities on the specific areas of need in the year 2009. GIABA's objective of establishing a Regional Plan of Action must necessarily be based on each country's concrete adherence to the stated objectives of GIABA. The establishment of AML/CFT Inter-Ministerial Committees; support for the creation of appropriate legal framework; the establishment of FIUs; as well as support for the private sector and civil society organizations to commit themselves and diligently implement the FATF Recommendations, among others, which GIABA is spearheading in all countries, can play a major role in ensuring these tasks are indeed fulfilled. This report shows a significant progress in these areas across the region.

Most importantly, is the significant progress with regard to the consistent implementation of the mutual evaluation calendar and the publication of mutual evaluation reports. It is also crucial to note the progress made in the year towards the establishment and strengthening of FIUs in the region. By the end of 2009, there were thirteen FIUs at various stages of development compared to only two at the beginning of 2007 when the implementation of the three year Strategic Plan commenced. GIABA recognized though that the efforts need to be sustained.

Coordination of AML/CFT activities has relatively improved in member States. With the support of the Secretariat, most countries have now established the framework for their AML/CFT Inter-Ministerial Committees, although no concrete and realistic National Strategies have been produced, let alone approved by respective governments. The implementation of the recommendations in the MERs cannot be achieved without a coherent strategy based on prioritization of actions and allocation of resources, as well as proper coordination. This constitutes a challenge to all member States.

The publication of this 2009 Annual Report is a concrete demonstration of GIABA's commitment to transparency in its work and its capacity to produce quality results that make significant difference to regional AML/CFT compliance in a timely manner. It represents a summary of the major activities of GIABA during 2009. It reviews the implementation of the Action Plan, highlighting major progress and constraints, as well as prospects. Essentially, GIABA believes in accountability and value-for-money in its efforts to deliver results, to change perceptions and to enhance capacities, with a view to protecting the West African region from the ML/TF threats and creating a new vision for the future among today's and tomorrow's leaders. This report constitutes a true indication of this capacity and proof of that commitment. It has now become one of GIABA's key activities after several years of operation. I trust that readers would find this report very informative and useful.

Abdullahi Y. Shehu
Director General

CHAPTER 1

INTRODUCTION

1. Technological advancement and the globalization of communication, along with world economic interdependence, have changed the social and political landscape of the globe. Organized criminals take advantage of powerful instruments of technology and globalization to perpetrate their unwholesome activities. Since criminals respect no territorial boundaries, law enforcement must act within the ambit of each nation's law to counter these criminals. Money laundering and terrorist financing are major manifestations of organized transnational crime and threaten world peace and security. There is well-documented evidence to suggest that both money laundering and terrorist financing are detrimental to world peace and security and could undermine the overall development of society. Thus concerted and coordinated efforts to eradicate these phenomena are becoming increasingly important globally. Due to obstacles against any rapid response to the threat of transnational organized crime, even in the most advanced countries, law enforcement always appears to lag behind the criminals. Therefore, no country by itself can effectively tackle transnational organized crime.

2. Money laundering and, to a limited extent, the financing of terrorism are not new in West Africa: typologies exercises have identified a number of money laundering cases, but financing of terrorism is beginning to appear in some countries of the region. West African States, therefore, have a duty to act along with other concerned nations and international bodies to combat these threats. Collective action is necessary to protect the economies of the world against criminal abuse, to enhance the rule of law and at the same time deepen regional integration and maintain peace and security.

3. West Africa, one of the poorest and least developed regions of the world, is further faced with a daunting challenge due to its vulnerability to transnational organized crime and limited capacity to respond effectively to this threat. Criminals may exploit this situation to launder the proceeds of crime and it can provide avenues for the financing of terrorism. Small

arms are often obtained from illegal sources and used to perpetrate conflicts in the region, thus adding to the prevailing money laundering predicate offences and seriously hindering the realization of economic and social development objectives. This also makes the attainment of the objectives of any regional integration program very difficult.

4. Money laundering and the financing of terrorism undermine sustainable development by eroding social and human capital, affecting social and political stability, causing an artificial rise in the cost of business and scaring away investors. These resulting effects of ML/TF will undermine efforts of the various States in the region to initiate or accelerate development. The proceeds of crime fuel corruption, which in turn facilitate the commission of other crimes, and can be deployed to undermine the rule of law. Lack of adherence to the rule of law creates a sense of general insecurity which hinders direct foreign investment. The integrity of a country's financial system may also be compromised as a result of lack of adherence to the rule of law. Recent political upheavals, often arising from agitations for local resource control, have left some parts of the region in total chaos. Meanwhile, the criminal justice systems, which include law enforcement and the overall justice administration system, remain weak and lack the capable human and material resources to deal effectively with the threats the region faces.

5. The international community has in the past expressed concerns about the significant upsurge of drug trafficking in and through West Africa. This region is neither a producer nor a known consumer of narcotic drugs. Over the years, however, cocaine traffickers from other regions of the world have used this region as a transit point for trafficking drugs to Europe. This has resulted in money laundering and may lead to terrorist financing, in addition to the inevitability of the use and abuse of the drugs by local populations. Realizing the potential consequences for money laundering and the financing of terrorism, the political leadership of the Authority of Heads of State and Government of the Economic Community of West Africa States (ECOWAS) established the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) in the year 2000 to promote and facilitate regional efforts to combat money laundering and terrorist financing.

GIABA's mandate

6. The mandate of GIABA is to:

- Ensure the adoption of standards against money laundering and the financing of terrorism in accordance with acceptable international standards and practices, including the FATF 40+9 Recommendations;
- Facilitate the adoption and implementation by Member States of measures against money laundering and the financing of terrorism, taking into account specific regional peculiarities and conditions;
- Function as a forum where Members can discuss matters of regional interest and share experiences;
- Organize self-evaluations and mutual evaluations to determine the efficacy of measures adopted, including their conformity to acceptable international standards; and
- Coordinate and provide support to Member States to establish and implement AML/CFT regimes including the implementation of laws against the proceeds of crime through mutual legal assistance, and also the establishment and maintenance of Financial Intelligence Units (FIUs).

7. The continuous support of ECOWAS to GIABA is a demonstration of the strong commitment of the Member States to the fight against crime, particularly money laundering and terrorist financing. In June 2006, GIABA was recognized as a Financial Action Task Force-Style Regional Body (FATF-FSRB). In practice, GIABA operates as an ECOWAS Specialized Institution on the one hand, and as a FSRB on the other hand. Apart from performing the core functions of a FSRB, including conducting mutual evaluations to determine its members' compliance with the FATF standards, and typologies exercises to determine money laundering trends and methods, GIABA is the only FSRB with a technical assistance mandate. The mandate of GIABA is thus a historic response to a changing world and to the specific and unique circumstances of the ECOWAS Member States.

Membership of GIABA

8. GIABA's membership consists of Member States of the ECOWAS: Republic of Benin, Burkina Faso, Republic of Côte d'Ivoire, Republic of Cape Verde, Republic of the Gambia, Republic of Ghana, Republic of Guinea, Republic of Guinea-Bissau, Republic of Liberia, Republic of Mali, Republic of Niger, the Federal Republic of Nigeria, Republic of Senegal, Republic of Sierra Leone and the Togolese Republic.

9. Observer Status within GIABA is granted to African and non-African States, as well as inter-governmental organizations that support the objectives and actions of GIABA and

that apply for Observer Status. The Republic of Sao Tome and Principe, for example, is a non-ECOWAS Member State that has had Observer Status in GIABA since 2008.

10. Organizations with Observer Status within GIABA are:

- Central Banks of Member States[1]
- regional Securities and Exchange commissions
- West African Economic and Monetary Union (WAEMU), the West African Development Bank (BOAD)
- French Zone Anti-Money Laundering Liaison Committee
- Conseil Régional de l'Epargne Publique et de Marchés Financiers)
- African Development Bank (AfDB)
- United Nations Office on Drugs and Crime (UNODC)
- World Bank
- International Monetary Fund (IMF)
- FATF
- Interpol
- WCO
- Commonwealth Secretariat
- Egmont Group.

Other major donor countries, including the UK, USA, France and Portugal also have observer status within GIABA.

The Main Organs of GIABA

11. GIABA operates through the following four main organs:

- An Ad Hoc Ministerial Committee consisting of the three Ministers responsible for Finance, Justice and Interior/Security of each member State;
- The Secretariat, which is located in Dakar, Republic of Senegal;
- The Technical Commission, which consists of experts drawn from the above mentioned ministries of Member States; and
- A network of National Correspondents (NCs); each country appoints one NC.

[1] BCEAO performs central banking duties on behalf of the 8 UEMOA countries.

The functions of each organ are clearly stated in the GIABA Statute.

12. In order to exercise its mandate and achieve its set objectives, GIABA developed a three-year Strategic Plan of Action (2007–2009) which was approved by the ECOWAS Council of Ministers in December 2006. Thus, the implementation of the plan was concluded in 2009. The Secretariat implemented the plan in collaboration with national stakeholders and international development partners. The plan was clustered around six strategic objectives and work areas, namely:

- Support to ECOWAS Member States to enact legislation, where there is none, and strengthen existing legislation in order to conform to acceptable international standards and best practices including the 40+9 Recommendations of the FATF and relevant international conventions;
- Undertake mutual evaluation of Member States based on the FATF Revised Methodology 2004 (updated from time to time);
- Undertake typologies exercises to determine possible methods, intermediaries and patterns of money laundering and terrorist financing in the region;
- Support Member States to establish and maintain FIUs and other relevant AML/CFT measures;
- Promote strategic partnership with the civil society and other stakeholders; and
- Strengthen regional and international cooperation.

Priorities for Technical Assistance

13. As the threat of money laundering and the financing of terrorism increases with globalization, criminals continue to adapt their behaviour, taking advantage of the weak links that create opportunities for them to operate with relative impunity. The goal of GIABA is to prevent and control these dangers in West Africa and to reduce the impunity of the perpetrators. GIABA therefore aims to protect the economies of Member States in order to attract direct foreign investment into West Africa. GIABA is therefore a leader, not only in working to curb these menaces but also in promoting a regional alliance to achieve this goal. GIABA's strategic objective is therefore to enhance the capacity of regulatory authorities, financial institutions, designated non-financial businesses and professions (DNFBPs), law enforcement and judicial authorities in Member States, in order to enlighten, prepare and strengthen them for this crucial battle. The comprehensive technical assistance programs that were carried out in 2009 are discussed in Chapter 5.

14. The specific priorities for technical assistance to Member States include:

- Training and manpower development;
- Dissemination and promotion of international good practices and standards;
- Comprehensive AML/CFT legal and institutional frameworks, including support for the establishment and operation of AML/CFT Committees and of FIUs;
- Institutional and human resource capacity-building; and
- Research studies and other projects.

15. Since the problems are enormous and the challenges formidable, GIABA seeks to achieve results through a comprehensive, integrated, all-inclusive and impact-oriented approach. This approach recognizes that any regional effort would be meaningless unless Member States demonstrate strong political will and commitment and establish the minimum standards required to prevent and control money laundering and terrorist financing in their respective jurisdictions. It is also based on the understanding that States ought to show acute awareness of the harmful effects of these scourges on their economic and social systems, and must therefore take ownership of GIABA technical assistance programs.

Implementation of the Action Plan in 2009

16. The target of the Strategic Action Plan for 2007–2009 was the translation of its vision into concrete actions. Following the approval of the ECOWAS Council of Ministers in December 2006, GIABA immediately and diligently embarked on its implementation. Within the year 2009, notable successes were achieved in all the strategic cluster areas, thus building on the achievements of the first two years of the Action Plan implementation. A summary record of the program implementation is given below.

17. As reflected in our 2008 Annual Report on the enactment of legislation, it must be noted that prior to 2006, many countries in this region did not have stand-alone legislation against money laundering. As of 2008, all Member States had promulgated laws criminalizing money laundering. Although some of the laws still require improvement to conform to acceptable international standards, this is a significant progress in the regional efforts to combat money laundering. On the financing of terrorism, GIABA had elaborated a model law which was adopted by Member States in June 2007. The West African Economic and Monetary Union (WAEMU or UEMOA) Commission has, since 4 July 2007, issued a directive for its members to domesticate this draft law and enact stand-alone legislation on terrorist financing in their respective countries. During the course of 2009, a number of both

UEMOA and non-UEMOA countries enacted or updated FT laws. It is expected that all Member States will have such legislation enacted by the end of 2010.

18. On mutual evaluation, a revised calendar of mutual evaluation on-site missions was approved by the Ad Hoc Ministerial Committee in May 2007. During the year under review, the mutual evaluation reports of Niger, Guinea-Bissau, Burkina Faso and Ghana were discussed and adopted by GIABA Plenary. To date, 11 Member States have been evaluated, while the remaining four will hopefully be evaluated before the end of 2010 or early in 2011. It is envisaged that the first round of mutual evaluation of GIABA Member States will be completed at that time.

19. In line with the decision of the Ad Hoc Ministerial Committee to publish all Mutual Evaluation Reports within three weeks of adoption by plenary, and in accordance with the GIABA Mutual Evaluation Processes and Procedures, GIABA has published the Mutual Evaluation Reports of the Evaluated Countries. These reports can be accessed on GIABA website (www.giaba.org).

20. On typologies, the Project Concept Note of a third regional typologies exercise on laundering the proceeds from illegal trafficking in drugs and psychotropic substances was approved by GIABA Plenary in November 2008. A work plan for this typologies exercise was endorsed by GIABA Plenary in May 2009. It is hoped that the exercise when concluded will identify the techniques and methods used to launder proceeds from illegal trafficking of narcotic drugs and psychotropic substances in the region. The exercise will also examine the vulnerabilities and gaps of the region's AML/CFT regulatory and institutional frameworks. The drug trafficking typologies exercise will complement the efforts of ECOWAS at addressing the problem of drug trafficking in West Africa.

21. The establishment of FIUs remains the primary responsibility of Member States. However, GIABA plays a major facilitative and supportive role in this endeavour because the existence and proper functioning of FIUs is central to the overall effectiveness of AML/CFT regimes in our region. Equally, GIABA continues to promote the membership of eligible FIUs from the region to the global network of FIUs known as the Egmont Group. The FIU of Senegal was admitted into the Egmont Group in May 2009. Other FIUs are making efforts to meet the standards and apply for membership of the Group. GIABA is also encouraging the establishment of a forum to foster cooperation without undermining the confidentiality of operations of the FIUs in the region. This forum held its inaugural meeting in Freetown, Sierra Leone in November 2009. It is hoped that the forum will provide a platform for

experience sharing among the FIUs in West Africa. This will translate into more effective functioning of our regional FIUs.

22. Raising public awareness is one of the main thrusts of GIABA's preventive strategies. Thus promoting closer cooperation with stakeholders and the civil society is crucial to the attainment of GIABA's strategic objectives. Consequently, several public awareness programs were undertaken across the region during the year under review. In 2009, GIABA continued with its investment in a comprehensive publicity package of television, radio and media spots to raise awareness among the public about the consequences of dirty money.

23. The immediate goal of GIABA, as contained in its Statute, is to promote cooperation between and among its members and ensure that harmonized efforts and concerted actions are undertaken to deal with the twin problems of money laundering and terrorist financing on a regional basis. This is being achieved through the increased provision of technical assistance to Member States, including relevant training and advisory services, as discussed further in this report. At the international level, GIABA is recognized as a FATF Style Regional Body or FSRB, thus providing ongoing opportunity to network with other partners in the global fight against money laundering and terrorist financing. In 2009, GIABA continued to participate actively in FATF activities, including training and plenary meetings where major policy decisions were made.

24. A full time Secretariat is maintained in Dakar, Senegal with an adequate number of staff to carry out its mandate. The Government of Senegal fulfilled its promise to provide a fitting accommodation for the Secretariat. With the movement of the Secretariat to its new office premises, the working environment has been made more conducive.

Summary

25. The full implementation of GIABA's Strategic Action Plan for 2007–2009 was concluded in 2009. It was a year of consolidation after the tremendous achievements of the first two years. An independent consultant is to be engaged to evaluate the Action Plan implementation.

26. This report provides an overview of the regional AML/CFT situation in the 15 Member States of GIABA enumerated in Chapter 2, noting the progress so far recorded in developing a robust AML/CFT architecture, the difficulties and limitations encountered, as well as prospects for the future. Chapter 3 describes actions taken within the year under

review on implementing a regional AML/CFT mutual evaluation program, including the number of on-site visits, mutual evaluation reports produced, adopted and published, as well as those pending Plenary discussion; and the constraints and challenges in undertaking the exercise. These, in fact, represented the source and the inspiration for the main program priorities during the past two years and for the final phase of the 3-year Plan of Action in 2009.

27. Regional typologies activities including Studies and Projects are reviewed in Chapter 4; while Technical Assistance to Member States, support to professional bodies and civil society organizations, as well Advocacy and public awareness programs undertaken in 2009, are reported in Chapter 5. Regional Integration and International Cooperation is reported in Chapter 6. Chapter 7 deals with Administration and Support services, while Challenges and Prospects for 2010 are reported in Chapter 8.

CHAPTER 2

OVERVIEW OF THE AML/CFT SITUATION IN WEST AFRICA

Introduction

28. In 2009, the final year of its 3-year Plan of Action, GIABA consolidated the achievements of the preceding years in the implementation of the Plan and strengthened much of its involvement with Member States. This was based on the encouraging results obtained during the initial years of operations, and also on the specific requests emanating from each country following their mutual evaluations. It is crucial to note that the assessment reports and general summary provided in the Mutual Evaluation Reports (MERS) and other technical reports, as well as some impressive achievements obtained through close collaboration with our partners, have guided our continued commitment during the year. The lessons learned will surely enable GIABA to successfully conclude its program cycle in the year 2010, during which the 2007–2009 Strategic Plan will be evaluated and a new Plan will be developed for 2011–2013.

29. This chapter thus provides an overview and synopsis of the AML/CFT situation in each member country of GIABA in 2009. Once again, it briefly examines the economic indicators and the potential risk factors, such as the prevalence of cash transactions, the informal sector, predicate offences such as drug trafficking, corruption and tax evasion. It also examines the relevant AML/CFT infrastructure, including legal and institutional frameworks and the involvement of civil society. This chapter seeks to inform in general terms, but the analysis is not exhaustive and in some cases it is short of empirical evidence. It is not possible to provide detailed information about each country in this report. Such information can be found in the compendium of TANA reports that has been published by GIABA, as well as the MERs. For those countries that have been evaluated, namely Benin, Burkina Faso, Cape Verde, The Gambia, Ghana, Guinea-Bissau, Mali, Niger, Nigeria, Senegal and Sierra Leone,

the MERs provide comprehensive information about the AML/CFT regimes, including specific recommendations to remedy the identified deficiencies. The MERs can be accessed through the Secretariat website: <http://www.giaba.org/mutualevaluations>.

30. In this chapter, GIABA seeks to provide elementary information and data, with additional details provided in later chapters or other reports published by GIABA. The overall conclusion is that despite the obvious significant AML/CFT deficiencies in most countries, considerable efforts and some notable success stories, inspired by strong political commitment from a majority of our States, have led to stronger action against money laundering and terrorist financing in the region. A brief country-by-country description is provided below.

Benin

Background and General Information

31. The Republic of Benin is has a landmass of 12,600 sq km and a population of about 6,800,000.[2] Its population density is 82 per square km and the growth rate of population is 3.2% for the 2005–2010 period.[3] The last HDI Report (2007), published on 8 October 2009, ranks Benin 161st out of 182 countries. The age pyramid shows a distribution between 43.2% and 53.6% for the age brackets of 0–14 and 15–64 years respectively. Life expectancy is 54, according to UNDP estimations in its 2004 report.

32. The official working language in Benin is French, and the literacy rate, by UNDP estimates is 34% in 2004. Religious affiliations include Vaudou (61%), Catholics (19%), Muslims (15%), Protestants (3%) and other (2%). The currency is the CFA franc.

33. The country is divided into twelve administrative departments or districts: Alibori, Atacora, Atlantic, Borgou, "Collines" (Hills), Couffo, Donga, Littoral, Mono, Ouème, Plateau and Zou. With long latitude, it extends from the Atlantic Ocean to the river Niger, and has borders with Togo and Nigeria. Cotonou is the political capital and main economic city.

[2] Response to the Mutual Evaluation Questionnaire received from the Benin Authorities in May 2009.

[3] Source: "The Introduction to the Benin Legal and Judicial System" by Ahonagnon Noel Gbaguidi and William Kodjo-Kpakpassou (published in April 2009).

Political situation and governance

34. Dahomey's independence[4] was proclaimed on 1 August 1960, with a change in the name made in 1975 to Republic of Benin. From then on, a succession of presidents have led the country, giving it a name as a pioneer of the multiparty state in Africa. Indeed, there are over 100 political parties in Benin, with this figure steadily swelling whenever a presidential election draws near.

35. Since the 1990s, Benin has applied the rule of law and democratic pluralism, guaranteeing basic human rights, public liberties, human dignity and justice. It has also conducted a decentralization process in which councilors are elected in the cities and in their turn elect mayors who designate the Arrondissement heads or officers.

36. The Benin legal system[5] is characterized by a combination of modern (written) law and customary law based on traditional customary rules. For this combination of two categories of standards, the Benin legal system is considered as a dualist one. On the other hand, it is largely influenced by international standards.

37. Benin is a member of the West Africa Monetary Union (WAMU/UMOA), the West Africa Economic and Monetary Union (WAEMU/UEMOA), the Economic Community of West Africa States (ECOWAS), the Organization for Business Law Harmonization in Africa (OHADA), the Inter-African Conference of the Franc Zone Insurance Markets (CIMA), of the African Union (AU). Benin has constituted a "zone of joint prosperity" with Nigeria and Togo in February 2007 in order to step up regional integration.

The Economy

38. With a GDP estimated by the World Bank at 5.4 USD bn. in 2007, and a per capita income of 600USD, Benin's economy[6] is characterized by the predominance of the primary sector, in which agriculture prevails with 70% of the population. It achieved a 4.2% rate of progress in 2008. There is practically no heavy industry in the secondary sector, which made a 5.6% growth rate in 2008. The prevailing activity in the tertiary sector is the traditional channel for manufactured products, which achieved 6.7% progress. On the whole, in 2008,

[4] <http://www.izf.net/pages/benin/4599/>

[5] See Gbaguidi and Kodjoh-Kpalpassou, "Introduction to the Benin legal and judiciary system".

[6] Biannual Report on the Multilateral Supervision, Execution of the UEMOA Commission (June 2009).

the economic activity achieved a 5.0% growth rate in 2008. This development which reflects all economic sector activities occurred against a backdrop of strong inflation, already noted in 2006 at 6.1%, according to the 2007 World Bank report.

39. Public development aid represents 8.2% of GDP, with a distribution ratio per capita of 43.7%. Benin has benefited from several important debt cancellations within the framework of of the HIPC and MLDA initiative, starting in 2000. Foreign debt decreased from 66% of GDP in 2002 to 22% in 2006.

40. The financial system in Benin includes 12 banks and one financial establishment. Presently, the 12 commercial banks established in Benin are trying to expand their network of agencies in the city of Cotonou and the other districts of the country. Their efforts to gain additional market share have been rewarded to the point that the 11 banks that have disclosed their figures to the Professional Banks and Financial Establishments Association reported an increase from 787.7 million CFA on 28 February 2007 to 865.3 million CFA at the end of May 2007, that is, about 10% in three months. Only the African Investment Bank has not yet disclosed their figures.

41. These institutions are governed both by the common law of business companies determined by a supranational agency called the Organization for the Harmonization of Business Law (OHADA), and by Framework Law N°90-018 of 27 July 1990 on banking regulation in the Republic of Benin, which is known as the Banking Law. In particular, this legislation established the rules related to the establishment, functioning and dissolution of the institutions. With respect to the fight against money laundering, they are subject to due diligence as defined by the FATF Recommendations, through Act No. 2006-14 of 31 October 2006 on LBC in Benin.

42. The consolidated balance sheet of credit establishments in Benin amounted to 1,081,594 million CFA as of 31 December 2008. The only financial establishment showed a balance sheet of 8363 million FCFA at the same date, with total deposits of 375 million CFA and loans totalling 7243 million CFA. Table 1 shows the financial sector assets in Benin.

Table 1: Estimated size of Benin's financial sector (Million CFA)

ASSETS	**2006**	**2007**	**2008**	**LIABILITIES**	**2006**	**2007**	**2008**
Cash and Interbank operations	193.2	304.8	311.8	Cash and Interbank operations	65.4	128.4	218.6

Client operations	461. 2	563. 5	678.0	Client operations	607.8	804.8	939.9
Stock and other operations	68.6	128.7	237.7	Stock and other operations	19.0	28.8	39.1
Capital assets	45.1	52.0	63.5	Provisions, equity and assets	76.1	86.9	93.4
Total assets	**768.1**	**1 049.0**	**1 291.0**	**Total liabilities**	**768.1**	**1 049.0**	**1 291.0**
Off balance sheet	**2006**	**2007**	**2008**		**2006**	**2007**	**2008**
Funding commitments	45.9	54.9	107.0	Net Operating ratio (%) (Overhead + Deprec./PNB)	78.2	74.7	68.6
Collateral commitments	134.6	198.2	238.4				
Bad commitments	1.4	1.4	1.6	Net margin ratio (%) (Net result) Net Banking result	–7.3	1.5	0.3
Other commitments	2.2	2.6	7.7				
Total balance sheet	**184.1**	**257.1**	**354.6**	Profit ratio (%) (Net result/Equity)	–4.8	1.0	0.3

Source: Banking Commission of WAEMU/UEMOA

43. Fourteen decentralized financial systems (DFS) operate the micro-finance sector, totalling 47,877 million CFA as of 31 December 2008. At this same date, total loans amounted to 59,012 million CFA; resources mobilized by DFSs with the banking system equal 11,451 million CFA, essentially from three entities who received 11,451 million CFA from banks. Unpaid debt in the sector amounted to 4270 million CFA at the end of December 2008.

44. As of 31 December 2008, 12 insurance companies were duly established in Benin. Six are general insurance, and six are life insurance companies. At this date, the provisional turnover of all these companies was 28,873 million CFA, against 25,717 million in 2007. This figure is split between the two branches as follows: 21,630 million for general insurance and 7243 million for life insurance. As of 31 December 2008, four management and brokerage companies existed in Benin, as well as several bureaux de change.

45. Benin's economy is primarily dominated by the non-formal sector, according to a report released by the National Statistics and Economic Analysis Institute. Due to its

geographical location between Nigeria and Togo, Benin is a much appreciated country for business and, as a result, a real development of the informal sector. This provides opportunities for the introduction of dirty money in the legal financial channels. The report further notes that the informal sector contributed more than 2/3 of the national wealth in 2007 namely 63.3% of the GDP, versus 32.7% for the formal sector.

46. The DNFBP sector is composed of two casinos, real estate agents conducting informal businesses, traders in precious stones, lawyers, notaries and other independent legal and accountancy professionals. Many of these DNFBPs are organized into associations, which are increasingly involved in the fight against money laundering in their sector. These include APBEF, the Bar Association, and chartered accountants, chambers of notaries, bailiffs and auctioneers.

Prevalence of predicate offences

47. Even though no proven case of money laundering has been identified by justice in Benin, in view of the statistics of drug seizures and the level of corruption in the country, one can conclude that these offences generate a financial movement in the economic environment of the country.

48. Indeed, in addition to the fact that Benin is classified as no. 106[7] in the conclusion of the 2009 Transparency International Report on Corruption Perception Index, important drug seizures were made in the country.[8] For instance, in August 2007, a barge carrying some 50 boxes of cocaine ran aground on the coast of a village called Doklobone in Benin.[9] After the control operations, the cannabis planted in central Benin happens to be the first among the drugs seized. The cocaine and heroin are believed to come from South American countries via West Africa countries on their way to Europe. It also appears that this drug trafficking enables those involved in it to buy "second-hand" cars from Europe and other articles that they bring back to Benin by creating shell companies to launder the products of this trafficking.

---

[7] Benin Authorities response to Benin MER of May 2009.

[8] UNODC report on "Drug Trafficking" as a Threat to security in West Africa", published in October 2008.

[9] Report broadcast on France 24 in August 2007 on a shipwrecked barge in Benin, <http://www.daily-motion.com/video/+3.0 qw.3 – France 24 (reportage Benin – news).

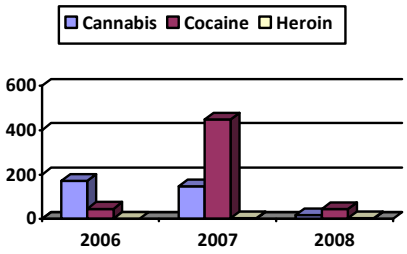
Table 2: Statistical data on most common predicate violations between 2006 and 2008

Offence	Years			Total
	2006	2007	2008	
Swindling	2,757	2,510	2,501	**7,768**
Theft	793	815	975	**2,583**
Breach of trust	8,862	6,812	8,131	**23,805**
Counterfeiting-piracy	24	21	18	**63**
Cybercrime	**107**	–	–	**107**

Source: National Police, DSP–DPJ.

Table 3: Summary of drug seizures between 2006 and 2008 (des saisies de drogues entre 2006 et 2008) (weight in kilograms)

Year	Cannabis	Cocaine	Heroin
2006	172.328	45.74	**0.400**
2007	147.171	446.717	**3.591**
2008	**18.01**	**45.220**	**4.168**



Source: National Police, OCERTID, DSP.

Framework for the Fight against ML/TF

49. Money laundering is criminalized in Benin by Harmonized Law 14-2006 of 31 October 2006. In line with UEMOA (WAEMU) directive, this law identifies money laundering and its predicates. It also provides for the criminal prosecution procedure from the reference to the competent body in charge of this offence to the punishment determined by the relevant court through the investigations, search for evidence, seizures, confiscations, freezing and, if need be, mutual legal assistance and extradition. Harmonized Law No.14, of 31 October 2006 in particular lists all those involved in the AML system and globally determines their roles in the national AML mechanism.

50. But the Financing of Terrorism is not criminalized in Benin law, despite the ratification of all the relevant international conventions. However, a draft law against the Financing of Terrorism, which is expected to include the WAEMU (UEMOA) Community directive, has been under study at the Supreme Court since June 2009.

51. The Financial Intelligence Unit (CENTIF in French) of Benin became fully operational in March 2009. Its five permanent members of staff come from the

administrations of Customs, Police, Justice and Treasury, with one representative of BCEAO. A model suspicious transaction report for the declaring entities was established by ministerial decree 2008 No. 120/MEF/CENTIF of 18 February 2009. The procedures for STRs are also specified in the Rules of the CENTIF approved by the Minister of Economy and Finance.

52. The financial resources of the CENTIF charged on the national budget have enabled the launch of its activities. During the third quarter of 2009, its installation has been enhanced by a number of measures. These include the acquisition of computers for its members, and the introduction of an Internet connection. The Ministry of Economy seconded one Administrative and Financial Officer and one Accountant, while the National Police posted some police personnel to strengthen human resources and improve security of the premises of the CENTIF.

53. The Benin CENTIF activities report covering the last quarter of 2009 shows that it had received 29 STRs, against 16 at the end of the preceding quarter. However, almost all the STRs come only from the banks (28/29). The DNFBPs had filed on that date only a single STR. This raises a question about the real impact of the awareness of the other declaring entities or their failure to cooperate with the FIU. It was in the last quarter of 2009 that the CENTIF of Benin sent to prosecution a file relating to money laundering. This is welcomed knowing that it had only nine months of operation and was therefore relatively young. A summary record of the STRs received and treated by the FIUs in the region is shown in Chapter 5.

Technical Assistance

54. In 2009 the CENTIF of Benin made real efforts in staff training, as well as AML sensitization of the declaring entities. Indeed, some staff members were sponsored on a study tour to the Belgian CENTIF by GIABA. The aim was to enable its members to immerse themselves in the management and operation of the FIU for a more effective exercise of their functions.

55. The senior staff of the CENTIF also attended several capacity-building seminars organized by GIABA in 2009, the main ones being:

- A seminar held in Abidjan for FIU investigators to strengthen their research capabilities for information required in the treatment of STRs;

- A seminar held in Cotonou, in collaboration with the American Treasury and the Commonwealth Secretariat, on behalf of FIU analysts of GIABA Member States;
- Training of francophone assessors organized in Lome in partnership with the FATF and IMF, which was designed to provide the region with experts who could take part in the mutual evaluations of Member States of ECOWAS;
- Awareness workshop for the West African Bar Association (WABA), to educate the independent legal profession on its legal AML/CFT obligations;
- A validation workshop for the study on the impact of the informal sector for AML/CFT in the Member States of UEMOA was held in Abidjan within the framework of a DNFBP Awareness seminar. The aim was to highlight the particular vulnerabilities faced by DNFBPs in an economic environment dominated by the informal economy, in order to allow members of the CENTIF attending the seminar to develop a better national approach to training and awareness of the declaring entities;
- A Training Seminar for bank compliance officers of francophone and lusophone countries of ECOWAS, aimed at raising awareness and training on their AML/CFT obligations.

56. In addition to those training programs, GIABA also provided a mentor for the Benin CENTIF. The terms of reference and output of the mentor has been reflected in Chapter 5 under technical assistance for the strengthening of FIUs.

57. Several other partners also provided support and assistance to the CENTIF during the fiscal year 2009. Thus, at the initiative of the International Police Technical Cooperation Department (SCTIP) of the French Embassy in Benin, the CENTIF conducted in 2009 a working visit to France. The aim was to draw from the French model in the operation of an FIU and to define the technical assistance framework for the benefit of the CENTIF as well as exchange information with the technical structures met. On this occasion, members of the CENTIF were trained by the SCTIP on the use of PDVF software designed to manage STRs.

58. The UNODC also organized a training seminar on financial information processing in Burkina Faso, in which the Benin CENTIF participated. The seminar was designed to:

- provide the investigators and analysts with the wherewithal for strs;
- identify and use efficiently the information sources;
- acquire the necessary basis for drafting analytical reports.

59. Through cooperation with the technical structures and other AML/CFT declaring parties, the CENTIF of Benin has conducted several outreach and sensitization programs for various organizations: the Professional Association of Banks and Financial Institutions; the Prosecutor General and his deputies; police; gendarmerie; customs; CENTIF correspondents appointed within the central administration; representatives of the Ministry of Public Service; the BCEAO inspection mission; and the National Committee against Corruption of the Central African Republic.

60. The purpose of these meetings varied according to the structures involved and focused around information and sensitization of stakeholders on methods, trends and techniques of money laundering. During these meetings, forms of collaboration required with the CENTIF were also discussed and defined.

61. But more specifically, the Benin CENTIF has conducted training for a number of obligors. In this vein, a seminar was held in Cotonou in September 2009 to educate DNFBPs and empower them to perform effectively the role that is legally assigned to them. It brought together some 50 participants, including lawyers, notaries, accountants and chartered accountants, travel agencies, real estate agents, the national lottery, casinos and gambling rooms, auctioneers, funds carriers, dealers in articles of great value and NGOs.

62. The relevant exchange that followed each of the submissions made, has aroused the interest of participants in AML/CFT issues, and resulted in several recommendations including the following:

- The need for rapid adoption of the law against terrorist financing including through sensitization of the legislative body;
- The formal extension of obligations assigned to the financial sector to all obligors including DNFPBs;
- Factoring in of Politically Exposed Persons in awareness efforts;
- Broadening the scope of article 26, which should take into account, in particular, attempted money laundering;
- A clearer articulation of the reporting requirement with criminal immunity, where the declaration is made in good faith;
- The importance of confidentiality of the CENTIF and secrecy that must surround the declarations as guarantees for the proper functioning of the mechanism;

- Taking into account the informal sector given the volume of capital involved;
- The need to conduct studies of specific typologies genuine in our sub-region;
- Responsibility for all participants to disseminate the message of awareness to members of their respective professions, namely through professional organizations;
- Taking into account specific constraints of each profession in the discussions leading to the drafting of a national AML/CFT strategy in Benin, especially for the real estate sector.

63. To determine the role of Customs in the AML/CFT mechanism of Benin, a training program was organised by the Benin CENTIF for the Directorate General of Customs and Excise (DGDDI) on was "Customs in mobilizing against money laundering". It addressed the definition of money laundering, its impact on economies and the mechanism of prevention and enforcement. Participants in this training included regional and central Customs directors.

64. In the same spirit, training of police officers was conducted under the theme "the CENTIF and its Responsibilities". The topics discussed included CENTIF missions, duties and prerogatives, its organization and functioning. The negative impact of money laundering was also highlighted.

65. The Benin CENTIF also organized a preassessment preparatory seminar for its mutual evaluation. The seminar brought together both public and private organizations involved in the countering money laundering and terrorist financing, in order to finalize the response questionnaire for mutual evaluation on the one hand and on the other to sensitize the stakeholders to receive the team of assessors during the on-site visit.

66. The on-site visit to Benin was undertaken on 15–30 June 2009. The report is will be finalized by the assessors in consultation with the assessed country, after which it will be presented to Plenary for review and adoption in May 2010.

67. Suffice it to say that the Mutual Evaluation significantly contributed in popularizing the AML/CFT policy among the obligors. The implementation of recommendations stemming from the MER will certainly enable the country to comply further with international AML/CFT standards.

Conclusion

68. It is noteworthy that despite the progress outlined above, Benin does not yet have a national strategy for AML/CFT. Indeed, strategic planning of the national AML/CFT policy should take in consideration the country's social and economic specificities and plan for coordination and implementation of relevant actions involving all the stakeholders. This situation could be due to the lack of a dedicated Inter-Ministerial Committee to coordinate efforts (formulation of a national AML/CFT strategy, coordination and implementation of national action plan).

69. The lack of effective coordination between the designated services in drug control must be pointed out. Indeed, at the OCERTID, the offices intended for the Liaison Officers of the gendarmerie, customs, waters and forestry have never been occupied, which seriously affects the efficiency of the controls required in the city of Cotonou and its environs. The national gendarmerie has no specific structure in charge of illicit drug control. In addition to its traditional missions, it tries to carry out drug control operations.

Burkina Faso

Background and General information

70. Burkina Faso is one of the countries of the hinterland of the West African region. It shares borders with six countries (Mali, Côte d'Ivoire, Niger, Ghana, Togo and Benin). The area of Burkina is 274,187 km^2 and its population is estimated at 14,077 million with a population growth rate of 3.1% and a life expectancy of 51.9 years. The literacy rate is estimated at 23.6%. The human development index of the country stood at 0.389, ranking it 177th out of 182 countries according to the latest 2009 report on human development. The official language is French.

71. About 50% of the Burkinabe are Muslims, while 40% are animists and 10% Christians. The population is divided between the main cities: Bobo-Dioulasso, Koudougou, Banfora, Tenkodogo, Ouahigouya, Fada, Dogoudou and Gaoua. Ouagadougou is the capital city.

Politics and governance

72. Hitherto known as Upper Volta, this country became independent on 5 August 1960 to hear successive coups, the last of which was in 1983 and after which, in 1984, the country became Burkina Faso, which means "land of upright men".

73. Burkina Faso[10] instituted a pluralist presidential regime in December 1991 with an integral multiparty system. The 1991 constitution established the principle of separation of powers. In this respect, the President of the Republic is the Head of the Executive Power, elected in a direct universal vote for a five-year term of office. The legislative power is held by the National Parliament whose members are elected by direct universal vote every five years. The judicial power is exercised throughout the country by judicial and administrative courts. The Supreme Court was dissolved in 2000 and replaced by the following four entities: the Court of Cassation, the State Court, the Revenue Court (Government Accounting Court) and the Constitutional Council. The Constitution also provides for a High Court of Justice which was established on 4 June 1998 and has power to judge the President of the Republic and members of the Government for crime or offences perpetrated in the exercise of their

[10] Burkina on line: Le portail du Burkina Faso.

functions. The Second House of Parliament, comprising the Economic and Social Council and the Ombudsman of the Republic, is the other component of the republican architecture of the country.

74. With respect to African integration policies, Burkina Faso is a member of the African Union, ECOWAS, WAEMU, the Organization for the Harmonization of Business Law in Africa (OHADA), the West Africa Monetary Union (WAMU), the Inter-African Conference of the Franc Zone, and and GIABA.

The Economy

75. Burkina Faso is a very poor country that depends on foreign aid to finance its current spending as well as its investment plans. In 2007 The World Bank estimated the GDP to be 6.77 billion USD and 472 USD per capita of GDP (Bank of France). It It has developed a Poverty Reduction Strategy Document (PRSD 2000), with which donors have increasingly aligned their support.

76. The economy of Burkina Faso[11] is mostly based on agriculture, livestock and a dynamic tertiary sector that is mainly business and telecommunication services. In 2008, the economic growth rate was 5.3% compared to 3.6% in 2007. This development is mainly due to the performance of the primary sector, which achieved a 10.4% growth and had gone down by 4.3% in 2007. In the secondary sector there was 6.5% growth in 2008, compared to 8.1% in 2007. The growth rate of the tertiary sector had gone down first and then up to 0.7% compared to 9.7% in 2007.

77. Indeed, about 80% of the working populations operate in agriculture, mainly in cotton, of which Burkina Faso is the top producer in Africa; cotton production accounts for around 60% of the export revenue of the country, the value of which depends on the world market prices for the raw material. Nevertheless, agriculture itself depends on climate fluctuations which affect economic growth and, in hard times, lead migration to the cities and to neighbouring countries, mainly to Côte d'Ivoire, where around 3 million immigrants from Burkina Faso are settled. They send a few billions of CFA francs to their home country every year.

[11] Official site of the office of the President of the Republic of Burkina Faso, <http:// www.presidence.bf/constitution.php>.

78. In recent years the secondary sector, carried by mining, building and public works, has become very important in the national economy. Mining activities are mainly based on gold which is exploited on a large scale by the establishment of foreign companies; on the other hand, there is an informal business in the precious metal within the country. This latter activity is practiced by a large number of gold traders established in the gold mine areas. Even though it has been formally prohibited with the adoption of Act No. 2004-096 of 7 December 2004, this business is still developing, with large transactions in cash and in foreign currencies flowing in and supporting informal manual exchange activities, with the attendant risk of money laundering.

79. The formal financial sector of Burkina Faso consists of 12 commercial banks, five financial institutions, one post office financial institution, the Deposit and Consignment Office, 320 micro-finance institutions, 49 registered manual change operators, 10 insurance brokers, one BRVM national office, one SGI, one BCEAO (West Africa Central Bank) national office, two money allowance offices, and the Public Treasury.

80. In June 2008, the Burkinabe banks mobilized nearly 68% of the assets of the formal financial sector and about 85% of deposits, as shown in Table 4.

Table 4: Size and assets of the financial sector

	Number of institutions	Number of Branches	Loans (in Bn FCFA)	%	Deposits (in Bn FCFA)	%
Commercial Banks	11	90	599.3	67.6	699.8	84.5
Non-Bank Financial Institutions	5	15	25.9	2.9	–	–
Insurance Companies	10	29	6.6	0.7	–	–
Micro-finance	323	450	100.4	11.3	62.8	7.6
SONAPOST	1	75	73.6	8.3	65.9	8.0
Pension funds	1		80.7	9.1		

Total	350	659	886.5	100	828.5	100

Source: IMF Financial System Stability Report, June 2008

81. The micro-finance sector (decentralized financial system or DFS) is growing rapidly in Burkina Faso. There are approximately over 350 DFS collecting approximately 7.6% of deposits

82. The insurance industry has six general insurance companies and four life companies as shown in Tables 5 and 6.

Table 5: Capital base of general non-life insurance (in FCFA millions)

Turnover	**2006**	**2007**	**2008**	**2009**
SONAR	4,511	5,388	5,129	6,300
ALLIANZ	3,707	3,721	4,082	4,467
UAB	2,503	2,321	2,493	2,662
GA	2,163	2,566	2,705	2,850
COLINA	2,009	2,078	2,431	2,582
RAYNAL	234	665	918	1,230
Total	**15,127**	**16,739**	**17,758**	**20,091**

Table 6: Capital base of life insurance (in FCFA millions)

Turnover	**2006**	**2007**	**2008**	**2009**
SONAR VIE	1,491	2,709	1,904	2,700
ALLIANZ VIE	1,352	2,661	3,168	3,400
UAB VIE	2,165	2,800	3,220	3,862
GA VIE	–	126	229	1,197
Total	**5,008**	**8,296**	**8,521**	**11,159**

83. The statistics table for year-end shows a doubling of turnover in the sector between 2006 life insurance with 5,008 billion FCFA and 2009, which recorded 11.159 billion FCFA, with annual growth of 122.82% in these two years. This reveals a fairly rapid expansion of the life branch on a relatively short period. Since the area of life insurance is most at risk of money laundering, it is strongly recommended that the authorities ensure the implementation of internal AML/CFT mechanisms in companies, and comply with their obligation to file declarations with the CENTIF. For now, the CENTIF has not received any suspicious reports from that sector.

84. The informal financial sector plays an important role, particularly in the areas of international money transfers, foreign exchange and tontines.

85. The designated non-financial businesses and professions (DNFBPs) in Burkina Faso are lawyers, notaries, estate agents, independent accountancy professionals, one casino and four gambling houses, and about 600 NGOs registered as an association,

86. This group of obligors has not yet received training in AML/CFT from the national authorities or on the role of DNFBPs in the fight against money laundering and terrorist financing. However, it has been represented at a sub-regional seminar organized by GIABA in Abidjan (Côte d'Ivoire) 17–19 June 2009. To date no instructions have been issued by their local oversight bodies to guide them on how to meet their AML/CFT obligations.

Prevalence of Predicate Offences

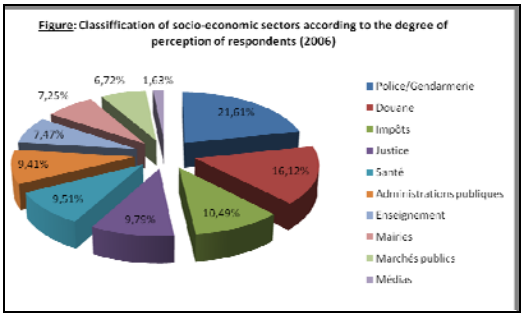
87. The statistics on the activity of prosecutors reveal that the criminal environment is marked by significant illegal operations. Thus the number of new cases registered on drugs has more than doubled between 2003 and 2007, from 94 to 230. Meanwhile, abductions and trafficking in children have almost tripled (from 37 in 2003 to 87 in 2007). Every year there are on average more than 30 new cases of embezzlement of public property, more than 150 new cases of aggravated theft, about 150 new cases of forgery and uttering forged documents, hundreds of new offences against weapons legislation, and 30 new cases of conspiracy.

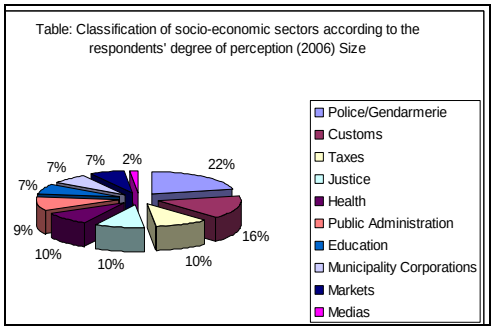
88. Corruption is perceived to be high. According to the official report issued on 30 June 2009, after a survey of 1,700 Burkinabe divided into 13 regions in the country, the results indicate that members of government, the executive directors of administrative departments or companies and agents of enforcement are perceived by nearly 82% of respondents as those who engage in more corruption in the country. The majority of respondents (55%) suggest the dominance of large corruption in the political-administrative circles in which the authorities are abusing their powers and authority for private or individual interests. The classification of sectors according to the scale of corruption confirmed the customs as the worst, after occupying the second place in the 2006 report. About 48% of respondents in a survey conducted in 2007 by REN-LAC attributed the prevalence of corruption in Burkina to poverty as the root cause, followed by greed, impunity, the loss of moral values and ignorance. Informants are unanimous in recognizing that corruption is eating away at society and public

affairs. A high proportion (47.2%) believes that corruption leads to impoverishment and underdevelopment in the country's economy.

Table 7: Classification of socio-economic sectors according to the respondents' degree of perception (2006)

Sectors	Size	Percentage %	Rank
Police/Gendarmerie	1640	21.61	1st
Customs	1223	16.12	2nd
Taxes	796	10.49	3rd
Justice	743	9.79	4th
Health	722	9.51	5th
Public Administration	714	9.41	6th
Education	567	7.47	7th
Municipal Corporations	550	7.25	8th
Markets	510	6.72	9th
Medias	124	1.63	10th





89. On drug trafficking, Burkina Faso is also directly affected by the growing involvement of West Africa in the international trafficking of drugs, and more generally, the growth of illicit trafficking in the region. According to the United Nations Office on Drugs and Crime (UNODC), West Africa has become a hub of global drug trafficking (over a fourth of cocaine consumed in Europe transits through West Africa). Trafficking in human beings also affects the region; it may be conducted nationally, internationally or regionally and is thought to be related to forced labor (including forced begging) or prostitution. The region is also used as a transit point into Europe for illegal migrants from other countries.

90. Several types of fraud are entrenched in the area of import and export operations, which manifest in various ways such as under-invoicing and/or false invoicing, or the illegal trade in gold. Aware of the magnitude of the phenomenon, an inventory was made in an attempt to understand the different manifestations and forms of fraud.

91. Human trafficking is a reality in Burkina Faso; in particular the trafficking of children sold by their family to networks who then sell them in other countries in the region, Côte d'Ivoire in particular, where they are forced to work on farms. In order to have legal means of

fighting this scourge, the country has recently adopted law 029-2008 of 15 May 2008 on the fight against trafficking in persons and similar practices. Previously, the country was a signatory to the Regional Multilateral Cooperation Agreement against Trafficking in Persons, Especially Women and Children in West Africa and Central Africa, signed in Abuja on 6 July 2006. But lack of capacity of state services significantly reduces the scope of these initiatives.[12]

The AML/CFT framework

92. The AML/CFT environment in Burkina Faso is mainly characterized by the signing and ratification of the main international instruments, such as the Vienna Convention of 1988 signed by the country on 2 June 1992; the Palermo Convention of 2000 signed on 15 May 2002; the Convention for the eradication of terrorist financing of 1999 signed by Burkina Faso on 10 October 2006. Guideline N°07/2002/CM/UEMOA of 10 September 2002 was transposed into national Burkina Faso law and has resulted in the AML Act No. 026-2006/ AN of 28 September 2006, which was promulgated on 29 December 2006 by decree No. 2006-649/PRES.

93. Burkina Faso is not directly exposed to threats of terrorist acts. But its land borders with Mali and Niger could be used for access and the establishment of bases by the branch of Al Qaida that is reported to be present in the Sahel desert band.

94. From 26 January to 6 February 2009, Burkina Faso's AML/CFT system was evaluated by the World Bank with GIABA as observer. The Evaluation Report was discussed and adopted at the 12th Plenary meeting of GIABA and has been published on the Internet site of this Institution. The report contains a number of recommendations to remedy the deficiencies pointed out by the expert assessors.

95. It must be noted that the evaluation took place at a time when the AML/CFT mechanism was very recent. Since then, this mechanism has advanced significantly after the CENTIF started operation. **On 29 May 2009, the Minister of Economy and Finance signed Decree No 2009-0180/MEF/CENTIF determining the model declaration of suspicion, an essential support to enable taxpayers to report suspected ML/TF activity to the CENTIF**.

[12] MER of Burkina Faso.

96. **Burkina Faso adopted on 17 December 2009 the law against the financing of terrorism upon adoption of UEMOA Directive No. 04/2007/CMUEMOA.** The Inter-Ministerial Committee was set up on 22 June 2009 by joint ministerial order 2009-0084/MEF/SECU, but it is yet to function. This explains why Burkina does not yet have a national AML/CFT strategy.

97. The CENTIF, which was established since 2007, had no suitable office accommodation, but it was able to undertake a good number of outreach and sensitization programs for the various reporting entities. The staff of the CENTIF also attended several training courses within and outside the region. They are well organized and prepared to work but they need an enabling environment, which means good office accommodation and other logistics. The CENTIF also coordinated the mutual evaluation on-site visit to Burkina Faso.

Technical assistance

98. With the support of GIABA and assistance from BCEAO, CENTIF members were trained in AML legal instruments at a workshop held on 19–21 January 2009 with funding from GIABA to the tune of **1,959,790 FCFA**. They also went on study tours to counterpart FIUs in the region (Senegal, Côte d'Ivoire) but also in Europe (Belgium) from 9 to 11 February 2009, again with the financial support of GIABA, to get acquainted with FIU management methods. **GIABA sent an expert and contributed 4,098,236 FCFA to organize a seminar to sensitize officials of banks and financial institutions from 31 March to 3 April 2009**.

99. Among the objectives of this seminar was (a) popularization of the 40+9 FATF recommendations and of national and regional laws relating to the fight against money laundering, including Act No. 026-2006/AN of 28.11.2006 on AML in Burkina Faso; (b) explaining the role of oversight and control bodies and the CENTIF; and (c) review of BCEAO directive No. 01/2007/RB of 2 July 2007.

100. The many issues discussed following the presentations focused on:

- Issues relating to the relevance of the fight against money laundering in relation to West Africa in general and Burkina Faso in particular;
- The problem of identification and knowledge of customers;
- The fight against terrorism;
- The development of cybercrime;
- Management of lists of "criminals";
- The pervasive role of the informal sector and the cash-oriented economy;

- The issue of security and safeguards for the declaring entities;
- The issue of risk management through ICT;
- The problem of training and capacity-building;
- The need for adequate resources for anti-money laundering units;
- The amendment of the Model STR;
- Cooperation between reporting entities;
- The processing of STRs by the CENTIF;
- Confidentiality;
- Vigilance measures to be adopted by banks;
- Difficulties in the manual operation of printed watch list of persons or entities suspected with a view to freezing their assets; and
- The issue of Politically Exposed Persons by FATF Recommendation 6.

101. The following actions were recommended at the end of the seminar:

- To revise the Uniform Law on the fight against terrorist financing before its adoption;
- To increase awareness programs for stakeholders involved in AML/CFT;
- To educate banks about the need to provide compliance officers with the human and strategic means to ensure confidentiality and security in the exercise of their activities;
- To consider the possibility of creating an Association of Compliance Officers in Burkina Faso;
- To distinguish between operational control and compliance control in banks, in order to specialize in anti-money laundering and financing of terrorism;
- To plan training and awareness workshops for the declaring entities such as businesses and non-financial businesses, as well as training programs in universities and graduate schools;
- To raise awareness among bankers on the need to endow the AML units in the banks with resources and ensuring adequate security and privacy; and
- To encourage computerization in banks in order to prevent and manage the risks of money laundering and terrorist financing.

102. The members of the FIU made courtesy calls to bank managers and had the opportunity to hold working sessions with officials of the internal AML units, and intend to do the same for insurance companies. Finally, the CENTIF submitted to GIABA a funding

request for the purchase of computer equipment. The request was accepted in principle but must wait until the unit has permanent offices.

103. The CENTIF hosted a regional workshop under the auspices of the UNODC which brought together officials of CENTIFs in the WAEMU zone for training on financial intelligence analysis. The animation was provided by experts FINTRAC (Canada) and CTIF (Belgium).

Table 8: Summary record of training programs of CENTIF Burkina Faso

Date	Topic	Target audience	Organiser	Collaboration
19–21 Jan. 2009	Legal AML/CFT instruments	CENTIF Members	CENTIF-BF	**GIABA-BCEAO**
31 March – 03 April 2009	Initiation in AML/CFT	Banks–Financial establishment	CENTIF-BF	**GIABA**
07–09 July 2009	Initiation in AML/CFT	CENTIF staff and correspondents	CENTIF-BF	
18–19 August 2009	Formulation of official response to MER	CENTIF and Administration	CENTIF-BF	
19–23 October 2009	**Financial information analysis**	**WAEMU CENTIF**	**UNODC**	**CANAFE-CTIF and CENTIF-BF**

Conclusion

104. The actual operational capability of the Inter-Ministerial Committee established since 22 June 2009 by Order No. 2009-0084/MEF/SECU is a priority, given the recommendations in the MER of Burkina Faso. That committee should proceed quickly to support the formulation of the national AML/CFT in the country and propose to the Government and other stakeholders that they should provide suitable measures to make the overall AML/CFT efficient in the light findings and recommendations contained in the detailed assessment reports mentioned above.

Cape Verde

Background and General Information

105. Cape Verde is one of the smallest countries of this region in size and population. Its strategic location 500 km from the west coast of Africa near major north–south sea routes, its important communications station and its sea and air refuelling site and relative isolation carry potential risks of trafficking and money laundering. The economy is service-oriented, with commerce, transport, tourism, and public services accounting for two-thirds of GDP. Future prospects depend heavily on the maintenance of aid flows, the encouragement of tourism, remittances, and the momentum of the new government's development program.

106. The Cape Verdean population is estimated at about 499,000 inhabitants in 2008 with a density of 132/km^2. Cape Verde is leading the ECOWAS countries in the 2007 HDI report with an index of 0.708 which places it on 121st place out of 182 countries surveyed. The average annual rate of population growth is estimated by the World Bank at 2.2% for an area of 4033 km^2. The population mainly occupies the islands of Sao Vicente and Santiago, where the capital city Praia is located and also an important business centre. Other cities include Mindelo and Assomada.

107. The life expectancy of the population of Cape Verde in 2006 was estimated by the World Bank to 71 years for a human development index ranked 102nd out of 177 countries evaluated in 2008 by UNDP. The literacy rate estimated by the ADB in 2006 was 78%. The official language is Portuguese and the local currency is Escudos (CVE 110.265 = 1 Euro).

Politics and governance

108. Cape Verde is a former Portuguese colony that became independent on 5 July 1975. It is a democratic, politically stable country. The executive power is exercised by the President of the Republic and Head of the Government. He is elected by a direct general vote for a renewable five-year term of office. Parliament is unicameral and the legislative power is exercised by the National Assembly composed of 72 members elected by direct general vote for a five-year term.

109. The judicial system is based on the principle of jurisdictional unity. The Supreme Court is the highest judicial body; the system includes lower level judicial courts, the Accounting Court, the tax and customs courts, and army courts. Some courts are located at

regional and sub-regional levels. The Supreme Court President is also President of the Magistrate High Council.

The Economy

110. In 2007, the GNP of Cape Verde was estimated at USD1.29 billion by the World Bank for a contribution of USD2,430 per capita. Cape Verde has an important diaspora population living in Portugal, the USA, Senegal, France, Holland and Mozambique, and they contribute about 12% of the country's GDP through remittances.

111. At the micro-economic level, the situation is attractive in Cape Verde. The country has been rated the third in terms of human development in Africa following the Seychelles and Mauritius. The country has achieved an average annual economic growth of about 6% during the last 10-year period, controlled inflation and a per capita GDP three times higher than the average rate of sub-Saharan Africa, in addition to good governance of political and economic affairs.

112. The economic buoyancy in Cape Verde is due to the liberal system initiated some 15 years ago characterized by privatization and the establishment of a business environment attractive to foreign investment. Thanks to these successful economic performances, Cape Verde has been delisted from the Least Advanced Countries in 2008 to rank in the lower part of the category of intermediary income countries.

113. Cape Verde's economic policy option is adequately backed by the financial sector. Indeed, the indicator showing the share of credit allocated to deposits received has gradually increased during this period, from 48.30% in 2005 to 52.66 % in 2006, and reaching 82% in 2007. This means that over half of deposits received are given as credit to support the economy. Loans allocated to the economy of Cape Verde through its financial system are mostly destined to investments, as evidenced in Table 9 showing the structure of credit. The table shows that over the period under review, mid-term and long-term loans account for more than four-fifths of all loans. In fact, from 2005 to 2007, the share of MLT loans went from 87.90% to 88.71%, thus confirming the option for support to investments to boost the wealth-generating sector. For the same period, consumer loans accounted for only one-fifth of total loans.

114. However, underlying this picture is a lack of natural resources, which are only salt and pouzzolane, a material used in cement production. Agriculture, mainly based on sugar cane

and banana production, has been affected by years of drought. A large part of the working population now faces poverty due to lack of activity and consequently of income.

115. The Cape Verde formal financial system mainly consists of five commercial banks and 13 off-shore banks, two insurance companies and two change bureaux.

116. Table 8 gives an overview of balance sheets from 2006 to 2008. The structure shows that the banking activity rests comfortably on resources that are to a great extent made of deposits collected, and then by capital and reserves. The distribution gives a good share to loan allocation, which has notably increased between 2007 and 2008.

Table 9: Size of the financial sector (escudos[13])

ASSETS	Dec 06	Dec 07	Dec 08	Var. % 07/06	Var. % 08/07
Available	17,147,921	18,793,744	20,071,016	9.6%	6.8%
Applications of loan institutions	9,870,903	12,139,061	9,017,552	23.0%	–25.7%
Loans	41,424,952	43,807,448	59.147.817	5.8%	35.0%
Bonds	22,621,621	23,636,055	20,959,526	4.5%	–11.3%
Debt and other apllications	2,585,227	2,902,427	4,090,271	12.3%	40.9%
Reimbursed loans	–70,168	4,444,007	3,368,360	6433.4%	-24.2%
Non financial fixed assets (depreciation of liquidities.)	2,129,770	2,450,509	2,671,391	15.1%	9.0%
Various accounts	568,674	620,108	757,619	9.0%	22.2%
Total Assets:	**96,278,899**	**108,793,359**	**120,083,552**	**13.0%**	**10.4%**
LIABILITIES					
Loan institutions resources	1,971,450	1,997,437	3,638,726	1.3%	82.2%
Deposits	82,430,651	92,378,428	99,266,300	12.1%	7,5%
Other	1,957,481	3,364,458	4,120,830	71.9%	22,5%
Various accounts	1,582,983	1,564,551	1,790,135	-1.2%	14.4%
Various provisions	3,355,248	3,329,599	3,898,576	-0.8%	17.1%
Capital and reserves	4,281,803	4,883,387	5,812,904	14.0%	19.0%
Interim results	–78,750	–63,586	–15,233	19.3%	76.0%
Year end results	778,034	1,339,085	1,571,315	72.1%	17.3%
Total Liabilities	**96,278,899**	**108,793,359**	**120,083,553**	**13.0%**	**10.4%**

[13] The Escudos is pegged at 110.265 to the Euro, supported by a credit facility from the Portuguese government

Prevalence of Predicate Offences

117. Drug trafficking is a recurrent offence in Cape Verde. The geographical location of the country encourages criminality because the country is a relay station between Latin America and the African Continent, a route used by smugglers to supply Europe and in particular Portugal. Drugs have been seized several times at Praia port and airport, which are the only entry points to the country. In this respect, the Legal Investigation Department[14] declared in January 2009 that more than 770 kg of cocaine had been seized in three years. In order to support the drug control policy, the Cape Verdean Government has established a national drug control committee, which is doing a remarkable job.

The AML/CFT framework

118. With respect to the AML/CFT system, Cape Verde had published AML legislation as early as 1993. This legal measure specifically aimed to recycle products derived from drug trafficking and raw materials used in the production of synthetic drugs. It was reinforced in 2002 by Act 17/VI/2002, which widens the basis of predicate offences and includes the material and subjective items as provided in the Vienna Convention.

119. In order to ensure better compliance with international legal instruments and implement the recommendations of the mutual evaluation conducted in 2007, the Cape Verdean authorities had applied for the support of IMF experts to develop two AML/CFT draft Acts. Thus Act No. 38/VII/2009 of 20 April 2009 against money laundering was promulgated. But the draft Act against terrorist financing has not yet been adopted because it is considered non-constitutional.

120. The Financial Intelligence Unit of Cape Verde was instituted on 14 January 2008 became operational only in 2009 with the appointment of its members by Decree No. 6/2009. This changed the former system in which the Legal Criminal Department was the national unit receiving the suspicious transaction reports from credit institutions. The FIU is currently located in the Cape Verde Central Bank in a small space inadequate for its operational and security needs. There is only one office for the FIU coordinator. As a result, the 20 STRs sent by reporting authorities were still kept in boxes because no analysts have been hired to process them. But as for management instruments, the FIU coordinator has already developed a functional organizational structure and is finalizing the by-laws for the FIU.

Technical assistance

121. Upon the Cape Verdean Authorities' request for assistance, GIABA sponsored a study tour for the staff of the FIU to visit Portugal's FIU and also participated in training workshops in the region. The FIU also participated in a training seminar organized by the US Embassy in Cape Verde with the Criminal Investigation Department Authorities.

122. In January 2009, the World Bank organized AML/CFT training for the Portuguese-speaking countries in Africa. GIABA contributed with presentations on the regional AML/CFT framework in West Africa and other logistics.

123. A technical assistance mission from GIABA visited Cape Verde from 1 to 4 June 2009. The objectives of the mission were to: a) assess the place destined to house the country's future FIU; b) to meet the national AML/CFT committee of Cape Verde to discuss the formulation of a National AML/CFT Strategy; and c) to review with the committee the Mutual Evaluation Report of Cape Verde, as well as related recommendations for the follow-up report of the country.

124. The mission visited the premises of the FIU hosted by the Central Bank of Cape Verde and after the visit it met and discussed with the FIU President.

125. The profiles of the five members appointed by ministerial order to pilot the operation of the FIU revealed that they are all lawyers and police officers with the exception of the coordinator-president, who comes from the Central Bank. Furthermore, each of the five members is in a key line ministry. This situation could fail to guarantee a functional multidisciplinary set-up; it would be advisable to have a financial expert in the team.

126. The missions assigned to the FIU, which is hosted by the Central Bank of Cape Verde, include: collecting, processing and disseminating financial intelligence, the primary functions performed by any FIU. Moreover, the FIU of Cape Verde is responsible for overseeing the implementation and effectiveness of the AML/CFT mechanism by the declaring parties. It will also assume the role of awareness development and training of the obligors. Given these tasks, it would be useful to expand the number of staff of the FIU to enable it to do its job with efficiency.

127. The need to assign technical staff to the FIU has also been emphasized. The five members appointed by the Minister of Finance will not be enough to discharge its multiple and complex tasks. It is therefore imperative to proceed with hiring support staff consisting of technical experts.

128. The mission suggested to officials the need to free additional space for the benefit of the FIU. This is after finding that the authorities in Cape Verde had made available to the FIU only a single office room. The attention of the President was drawn to the urgent need to provide the FIU with additional offices so it can be operational.

129. However, it is to be noted that the office made available to the FIU is secure, well located, well equipped, clean and modern. The political will to proceed with the establishment of the FIU is therefore already clear. The problem seems to lie with the lack of infrastructure required to make the entity fully operational as soon as possible.

130. In addition, the mission met the National AML/CFT Committee to discuss two matters: the national strategy document and the ME follow-up report on Cape Verde.

131. Concerning the first point, the GIABA mission confirmed that this is a strategic document, so a vision on the overall objectives is to be achieved in the medium term. Also, it is a document the development that requires a participatory approach by the national actors involved in AML/CFT. The advantage is that it is ultimately approved and shared by all relevant parties. Although strategic, the document will suggest realistic policies that may lead to the implementation of concrete actions to develop a legislative and regulatory framework, but also promoting the establishment of operational structures that can support the implementation of an effective AML/CFT mechanism. They were reminded that GIABA is ready to provide expertise and leadership necessary to achieve this fundamental goal.

132. On the follow-up report, the GIABA team reminded the Cape Verde officials that a follow-up report is expected from them in preparation for the GIABA Plenary in November. This report, which traditionally must be written 12–18 months after the Mutual Evaluation to reflect the status of implementation of recommendations, will be submitted to GIABA about a month before the meeting. It will then be discussed by Plenary. After these clarifications, the Cape Verdean officials affirmed their commitment and readiness to meet these challenges.

133. In perspective, we can expect a prompt and positive response, particularly on the question of expanding the FIU support staff and allocating additional space. GIABA has promised to provide support with the equipment necessary for the unit. Furthermore, the elaboration of the national strategy has been understood by the Cape Verdean authorities as a necessity and therefore should not delay to achieve this goal with the support of GIABA.

Conclusion

134. Cape Verde has established its national AML/CFT committee including representatives of the Ministries of Finance, Security and Justice and the Central Bank. The

Committee has developed a biannual action plan for 2008–2010, the activities of which are coordinated by the GIABA National Correspondent. However, this Committee needs more staff and the support of the authorities to be able to develop a real national strategy paper and implement it adequately.

135. The first follow-up report on the Cape Verde Mutual Evaluation was submitted to GIABA 12th Plenary session in November 2009. It pointed out as a major development the adoption of the new AML/CFT Act reviewed and corrected by IMF experts.

Côte d'Ivoire

Background and General Information

136. Côte d'Ivoire is on the Gulf of Guinea, with an area of 322,462 km^2. It has a population of 20 million, and a population growth rate of 2.3%, according to World Bank estimates, in 2008. Life expectancy is 58 years (World Bank 2008) and the country's human development index was ranked 166th out of 177 by the UNDP in 2007. About 39.5% of the population is Muslim, 35.8% Christian, animists make up 12% while 16.7 do not practise any religion (World Bank 2007). French is the country's official language with a 48.7% literacy rate (Banque de France 2007).

137. Côte d'Ivoire has borders with four countries, including Ghana to the east, Liberia and Guinea-Conakry to the west, Mali and Burkina Faso to the north. Its capital city is Yamoussoukro, Abidjan being the economic capital. There are other large cities such as Bouake, Daboa, Man, Danane, Korhogo, Gagnoa and San Pedro.

Politics and Governance

138. The country became independent on 7 August 1960. For more than three decades, Côte d'Ivoire had been a post-decolonization model until the death of President Felix Houphouet Boigny, after which several candidates had been feuding for its succession.

139. A new constitution was adopted after a constitutional referendum held on 24 July 2000, following the dissolution of the previous one by the military. The new constitution established a presidential regime. The President of the republic is elected by a direct universal vote for a five-year term of office, renewable only once. The Constitution provides that the President exclusively holds the executive power, and determines and conducts national policy. The legislative power is exercised by the National Assembly, composed of 225 members elected for five years in a direct universal vote (uninominal, one-round, constituency-based election). The new Constitution provides for a Constitutional Council. Côte d'Ivoire also has an Economic and Social Council with an advisory role.

140. According to Article 106 of the Constitution, the judicial system of the country consists of the following autonomous three entities: a State Council, a Court of Cassation and a State Accounting Court. Pending the adoption of the laws defining the constitution, organization and functioning of these high institutions, the following common law

jurisdictions can be mentioned: the Supreme Court, the Courts of Appeal (Second Degree jurisdictions, Magistrate Courts with their lower-level separate Sections).

141. Côte d'Ivoire is a member of the African Union, the Economic Community of West African States (ECOWAS), the West African Economic and Monetary Union (WAEMU), the Conseil de l'Entente, the Franc Zone, the organization for the Harmonization of Business Law in Africa (OHADA), the Inter African Conference for Insurance Markets (CIMA), and the Intergovernmental Action Group against Money Laundering and Financing of Terrorism in West Africa (GIABA)

The Economy

142. The national GDP is USD23.4 billion with USD980 per capita. The country's economic sector experienced an increase of 2.2% in 2008 (World Bank) and an 8.1% inflation rate. However, Côte d'Ivoire's economy has been affected by the social and political upheaval the country has been going through since 1999. Export-oriented agriculture plays a major role in the national economy. The primary sector production[14] experienced a 4.8% growth in 2008, while the secondary sector's growth was 2.9% and the tertiary sector's growth was 3.1%.

143. The financial sector in Côte d'Ivoire consists of a national office of BCEAO Central Bank, a Regional Stock Exchange, 21 credit institutions including 19 commercial banks and five financial institutions, 33 insurance companies, 33 registered micro-finance structures, 52 operational manual bureaux de change, four electronic cash money transfer structures, a National Fund of Savings Funds and three Social Security Funds (CGRAE, CNPS and CRRAE).

Table 10: Size of the financial sector of Côte d'Ivoire in 2009

INSTITUTIONS as of 31 December 2008	Number of entities
Banks	19
Financial Establishments	3
Micro finance Institutions (Decentralized financial System)	93
Licensed Manual bureaux de change	141 licensed, of which 52 are operating
Insurance and Reinsurance companies	33
Insurance and Reinsurance brokers	95
Regional Stoock Market Exchange (BRVM)	1

[14] Source: WAEMU's RSM, published in June 2009.

Management and Intermediation companies (SGI)	10
BCEAO national office	1
Value or fund transfer companies	1
Pension funds	3
Public Treasury	1
Electronic money issuing companies	20
Electronic money distributing companies	20

Source : Côte d'Ivoire MER questionnaires

144. Côte d'Ivoire's financial sector has been on the rise. The money supply rose from USD2,463 billion in September 2007 to USD2,770 billion in September 2008, according to the statistics of the Ministry of Economy and Finance.

145. During the first half-year, Côte d'Ivoire's banking system experienced a USD11.8 billion increase in cash surplus, coupled with an even more dramatic increase in resources (+66.4 billion) and employment (+54.6 billion). Such situation led to a 189.2 billion cash surplus in June 2008 as against 177.4 billion in December 2007. However, banking is concentrated at the level of the five banks that hold 75% of outstanding loans. The banking system is configured as follows:

- Seven large banks with a balance greater than 100 billion;
- Three medium-sized banks with a balance between 50 and 100 billion;
- Seven small banks with a balance less than 50 billion.

146. Its structure is presented as follows:

- Four general-purpose banks with dense networks;
- Five general-purpose banks with small networks;
- Four general-purpose banks without networks;
- Four banks with specialized areas.

147. The total savings collected by the micro-finance sector was CFAF85 billion in 2007. Market penetration rate of micro-finance institutions (16.5% in 2006) remains low. More than 900,000 people benefit from services offered by the micro-finance sector.

148. On 30 September 2008, the number of licensed decentralized financial systems dropped from 96 to 93, including six structures under convention (public limited companies) and 87 institutions of cooperative or mutual type against two public limited companies and 94 institutions of cooperative or mutual type in 2007.

Table 11: Evolution of primary micro-finance sector indicators

Indicator	December 2006	September 2007	December 2008
Licenced	88	96	93
Number of funds or agencies	217	229	258
Number of members	709,057	1,066,557	1,219,154
Savings (in CFA million)	63,504	78,550	86,949
Loans (in CFA millions)	23,267	26,875	18,321
Outstanding loans	2,300	4,490	4,032
Rate of unpaid (%)	9.89	16.71	22.02
Number of funds reviewed	29	33	41

Source: BCEAO and Micro Finance Directorate

149. BCEAO has helped supervise three micro-finance structures: Coopec of Plateau District, Coopec of Yamoussoukro and Coopec of San Pedro. As of 31 December 2008, 32 financial statements were submitted out of 93 expected. However, the report on measures envisaged by the Ministerial Monitoring Structure (SMS), including financial penalties and closures or withdrawals of approval, is still not available.

150. As for the National Commission for Micro Finance, it held seven meetings in 2008. With the aim of strengthening the legal framework and prudential mechanism of DFS, the meetings of bodies of WAEMU held in Bissau have adopted two texts: the draft law regulating the decentralized financial systems and the draft decree implementing this law. These texts were forwarded to the Minister of Economy and Finance for their inclusion in the Ivorian legal apparatus.

151. In addition, eight training sessions of the Ivorian actors on specific DFS accounting referencing were organized by the Inter-professional Decentralized Financial Systems Association of Côte d'Ivoire, with financial support and participation as a trainer of BCEAO.

152. Finally, the program entitled "Promotion for the Establishment of Inclusive Financial Sectors in the WAEMU Zone", supported by the Grand Duchy of Luxembourg, was launched in November 2008 in Dakar.

153. The insurance sector is made up of life insurance companies and Fire, Accidents and Various Risks insurance companies, including 33 companies and 95 brokers, or one-third of the CIMA market.

154. In late June 2009, there were 52 foreign exchange offices in Côte d'Ivoire subject to regular monitoring by the authorities. However, a significant number of informal networks exist and operate in a state of opacity worthy of concern.

155. Management and Intermediation companies (SGI) are the main facilitators of the market. They benefit from the exclusive trading of securities listed on the Exchange and provide much of the conservation of securities on behalf of their clients. They are incorporated as limited public companies with the status of financial institution. Three types of MICs exist:

- The network MICs, which are created by financial institutions such as banks;
- The site MICs, which emanate from a number of operators in the same State;
- The independent MICs, which originate from the entrepreneurial spirit of groups of companies and/or individuals.

156. These Collective Stock Exchange Investment bodies operate under the Regional Stock Exchange (BRVM), which has its headquarters in Abidjan. BRVM and all other financial market participants (the Central Depository/Central Bank), commercial stakeholders (SGI, PMC, securities adviser, business agents, solicitors) are under the stewardship of the Regional Public Savings and Financial Markets Council (CREPMF). CREPMF has a mission of general protection of savings invested in securities, financial products traded on the stock market and other investment, giving rise to an invitation to save from the WAEMU. As such, it alone is empowered to authorize and regulate market operations, and refuse, if appropriate, the introduction of companies for quotation at the regional stock exchange.

157. The DNFBP sector is structured as follows: 419 lawyers, 194 notaries, 79 Certified Accountants and Chartered Accountants, 54 real estate agents and land developers, 44 travel agencies, 94 NGOs, four traders of precious metals and stones and two cash couriers.

158. The informal sector plays a major role in the Ivorian economy. It remains quite dynamic and includes the agricultural and industrial sector. It provided jobs to 4,107,595 people in 2002, as against 1,698,300 people in 1995, which shows a 142% increase in seven years. Since this sector is mainly characterized by cash transactions with a very low banking rate, money laundering risks remain high. Black market foreign exchange activities are of particular concern.

Prevalence of Predicate Offences

159. Money Laundering risks are real due to the increasing number of predicate offences in the country, according to the 2008 report of the national economic and financial police. The most important risks are related to fraud, counterfeit, cybercrime, snuggling, breach of trust, embezzlement and corruption. Côte d'Ivoire is ranked 154th among the 180 countries classified by Transparency International for corruption.

160. The predicate offences relating to embezzlement and abuse of trust have been the subject of over 301 cases handled by the economic and financial police in 2008. The total loss on these cases is about 397.2 billion CFA francs or 96.1% of total liabilities. However, the Ivorian government is showing a will to fight against corruption by ensuring the promotion of good governance.

161. The customs records of Côte d'Ivoire relating to smuggling increased from 55 in 2006 to 57 in 2007 and to 174 in 2008. The corresponding monetary values respectively increased from 301,287,589 CFA francs to 915,034,170 and to 1,670,035,643 francs CFA.

162. The importance of counterfeiting in the country can be seen from the consequences of the scourge on the economy. Indeed, in the cloth/fabric sector, three factories have closed. In the agro-food sector, 14 counterfeit cases were brought before the courts including five condemnations and nine awaiting trial in 2008.

163. The country is also affected by the transfer of large quantities of drugs to Europe, particularly since the 1999 crisis which caused the disappearance of national drug control structures at the northern and southern borders of Côte d'Ivoire. However, according to the Central Police report on drug control, 297 cases were reported in 2007, compared to 216 in 2008, which seems to show an obvious improvement since the recent redeployment of public administration in the north and south of the country. There is an Inter-Ministerial Drug Control Committee in addition to the law enforcement structures of the customs, police and gendarmerie services.

164. With respect to cybercrime, the 2008 Report of Côte d'Ivoire's FIU shows that a large number of fraud-related schemes originate from Côte d'Ivoire. The Ivorian Authorities have therefore established a Monitoring Centre, which deals with cases through the various information networks available and also fights this type of crime; they have also submitted a draft order to the Government.

The AML/CFT Framework

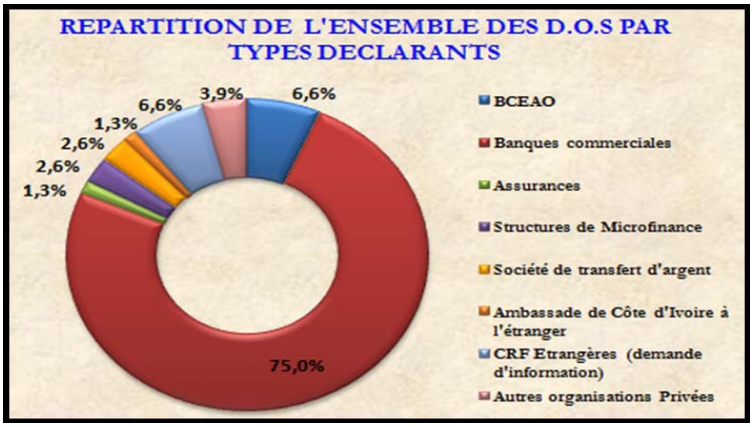
165. In the AML/CFT context, the Government has established an Interdepartmental Committee in charge of determining and monitoring the implementation of the national policy to control such offences by Order No. 009/MDPMEF/DGTCP/DIF of 13 February 2006 on the establishment, composition and allocation of the National Committee for Monitoring GIABA Activities.

166. The Cellule de Traitement des Informations Financières of Côte d'Ivoire CENTIF-CI (FIU) was likewise set up in 2008. Its creation stems from Decree No. 2006-261 of 9 August 2006, establishing the organization and operation of the CENTIF. The six statutory members were appointed by decree No. 2007-653 of 20 December 2007 issued by the Council of Ministers. It became operational only in 2008 and has been gradually conducting training and sensitization activities on behalf of the declaring parties. The members of the CENTIF are assisted in their task by a technical staff comprising one Assistant Secretary General, three financial analysts, a legal assistant, a computer engineer, a computer scientist in charge of maintenance, two investigators, an accountant, an Assistant Secretary President, a Secretary Assistant Secretary General, a Secretary of the Magistrate, an operator, a librarian and an office clerk.

167. It participates regularly in diverse regional programs organized within the framework of GIABA's mandate. According to its activity report for 2008, it has received 76 STRs, of which three were transmitted to prosecution. A model STR was established by Order 388MEF/CENTIF of 16 May 2008. It contains the following sections: identification of the reporting party, general information, analysis, money laundering prompters, identification of the physical and legal person, and other additional information. The by-laws of the CENTIF spell out the procedures for transmission of the STR. In order to optimize efforts, CENTIF-CI instituted periodic meetings with its correspondents within the services of reporting parties for information dissemination and sensitization purposes.

168. Several work sessions were also organized by CENTIF-CI with declaring parties, including banks, financial establishments, actors of the regional financial market and insurance companies. These enabled to provide them with counselling on how to establish STRs, and also to remind them of their obligations.

Distribution of STRs by type of reporting party



Source: 2nd quarterly activity report of CENTIF-CI in 2009

169. CNSA-GIABA of Côte d'Ivoire has been particularly dynamic in organizing a good number of GIABA activities held in Abidjan in 2009. These include the sensitization workshop of DNFBPs where it has ensured that the secretariat was provided with all the facilities required. To recall, the objective of this workshop was to sensitize stakeholders of DNFBPs to AML/CFT risks in their industry, and their direct role in building better behaviour to better protect national economies, in the context of globalization.

170. It is also worth noting that one of the major actions of AML/CFT technical structures of Côte d'Ivoire has been to organize a preparatory seminar for the mutual evaluation for which the country was scheduled in November 2009. Indeed, like Benin, the National Committee for Monitoring Activities of the Intergovernmental Action Group against Money Laundering and Terrorist Financing in West Africa (GIABA-CNSA) brought together almost all AML/CFT reporting parties for a three-day working meeting in Grand-Bassam.

171. The primary goal was to assemble as many reporting parties as possible for their sensitization and participation in the questionnaire needed in the process of mutual evaluation, before the site visit of Expert Assessors. The workshops were held in three groups composed of financiers, lawyers and criminal prosecution authorities and DNFBPs.

172. The aim of these workshops was to finalize the Côte d'Ivoire mutual evaluation questionnaire and to suggest recommendations for better implementation of the 40+9 FATF Recommendations in each business sector participating in the seminar.

173. Since the beginning of operations, CENTIF-CI has processed files within the framework of exchange of information with foreign FIUs and entities, namely Senegal, France, Canada and Luxembourg. These institutional measures supplement the legislative and regulatory arsenal to criminalize money laundering and terrorist financing in Côte d'Ivoire:

Uniform Law 2005-554 of 2 November 2009 related to the fight against ML and Order No. 2009-367 of 12 November 2009 related to terrorist financing.

Technical Assistance

174. Table 12 summarizes the assistance given to Côte d'Ivoire by GIABA

Table 12: Summary of training/technical assistance program involving the CENTIF in 2009[15]

SN	Training of members and staff	Dates
1	Preparation of the Mutual Evaluation (by video conference)	23–25/02/2009
2	Training seminar for financial analysts (Cotonou), funded by GIABA	09–13/03/2009
3	Benin Pre Mutual Evaluation seminar (Cotonou)	02–04/03/2009
4	Training workshop for banks and financial establishments in Ouagadougou	31/03–03/04/2009
5	Training seminar for francophone assessors in Lomé, organized by GIABA	06–10/04/09
6	Seminar on Banking supervision in Casablanca	04–06/05/2009
7	Seminar on Cyber-crimes (Nationale Police Academy, Abidjan)	11–15/05/2009
8	Regional training and sensitization workshop for DNFBPs, organized by GIABA	17–19/06/2009
9	Mentorship for FIU, funded by GIABA	13–17/07/2009
10	Preparation seminar for the Côte d'Ivoire Mutual Evaluation	03–05/09/09
11	Training seminar on financial intelligence analysis, organized by FIUs	19–2/11/2009
12	Training seminar for ECOWAS francophone banks compliance officers, organized by GIABA	23–27/11/09
13	Regional seminar on intelligence techniques in the fight against criminal organization in Sub-Saharan Africa.	07–1/12/09

Conclusion

175. Given the foregoing, it is clear that the AML/CFT in Côte d'Ivoire has increased by leaps and bounds. In addition to adopting a law criminalizing the financing of terrorism, the year 2009 has proved particularly rich in training and awareness activities of AML/CFT technical structures, including the CENTIF and CNSA-GIABA. In testimony, the statistics of STRs were received and the five files sent to the prosecution; requests for information were

[15] See objectives specified for training seminars/missions funded by GIABA in the section on technical asssistance under Benin.

also processed. However, the percentage rate of collaboration with the reporting entities remains very uneven, as in the other countries of the region. Indeed, the financial system, banks in this case, remain the main reporters, even when business remains constantly dynamic in Côte d'Ivoire in other financial sectors and at DNFBPs level.

176. Therefore special monitoring should be ensured in the outreach efforts of the other reporting entities for their greater involvement in AML/CFT, and for effective collaboration with the CENTIF. It should be emphasized at this level that NPOs are now subject to the CFT and this requires greater vigilance.

177. Overall, the CNSA-GIABA considered positive its moral balance sheet in 2008 with the acquisition of its headquarters, the establishment and operation of the CENTIF in Côte d'Ivoire, and its participation in several workshops. However, it has pointed out some negative aspects whose actual implementation was postponed to the year 2009, including the lack of appointment of members of CNSA-GIABA, the difficulty of raising awareness of some national authorities, irregularity of television programs for public awareness, and developing the national AML/CFT strategy, started but not completed. To date none of its actions seems to have been completed, resulting in a need to monitor them for effective implementation in 2010.

178. Finally, it should be noted that the mutual evaluation exercise to which Côte d'Ivoire was to be submitted in November 2008, and then in November 2009, has been postponed indefinitely, due to political schedules. This impacted negatively on the timing of mutual evaluations of GIABA. It is therefore urgent that the AML/CFT mechanism of the country be soon subjected to an evaluation to further consolidate the country's socio-economic development, given its recent exit from a political and economic crisis.

The Gambia

Background and General Information

179. The Gambia is one of the smallest countries in sub-Saharan Africa and is completely surrounded by Senegal except for an 80 km coastline with the Atlantic Ocean. The country has a land mass of 10000km^2 inhabited by about 1,660,000 people as at 2008. The US Census Bureau estimates that the population of The Gambia for 2010 will be about 1,824,158 with a population density of 182.4 persons per square km. For the period 2010–2015, the population is expected to grow at the rate of 2.5% (UN estimate). The capital and major port is Banjul situated on St Mary's Island where the Gambia River enters the Atlantic Ocean. The commercial centre of The Gambia is Serrekunda, which is the largest city. The Gambia gained her independence from Britain on 18 February 1965. The official language in The Gambia is English while the most widely spoken local language is Mandinka.

Politics and Governance

180. The Republic of The Gambia operates a multi-party system of government and the adult suffrage is 18 years. The current Constitution was approved by a national referendum on 8 August 1996 and came into effect on 16 January 1997. The executive power is vested in the President. The President is the Head of State and Government, and Commander-in Chief of the Armed Forces. The President is elected by popular vote to a five-year term with no term limits. Legislative power is vested in a unicameral National Assembly consisting of 53 seats. Forty-eight members are elected by popular vote, while the remaining five members are appointed by the President. Members of the National Assembly serve a five-year term. The Judicial branch is headed by the Chief Justice of The Gambia, who is also the head of the Supreme Court. The legal system is based on a composite of English common law, Islamic law, and customary law. The hierarchy of legislation in The Gambia is specified in Article 7 of the Constitution.

The Economy

181. The Gambia is one of the smallest economies of the 15 GIABA Member States and its main economic activity is subsistence agriculture. The major sources of revenue are tourism and remittances. The Gambian economy import-oriented and depends largely on foreign aid.

182. The Gambia's yearly imports usually exceed export earnings. In terms of exports, the main trading partners are Japan, Belgium, Luxembourg, Senegal, Guinea, France and the USA, while the principal partners for imports are China, Côte d'Ivoire, Hong Kong, the UK, Germany, Senegal, Thailand and the USA. The Gambia's heavy reliance on groundnut production for exports and tourism makes it inherently vulnerable to the vagaries of weather and adverse external shocks.

183. The GDP of The Gambia was estimated at USD1.587 billion in 2008 with an annual real growth rate of 6.5%, 6.3%, 5.7% and 5.0% for 2006 to 2009 respectively. As a result of the narrow export base, the IMF forecast a current account deficit of 17.1% of GDP for 2009. The Gambia maintained a single digit inflation rate of 5.6% in 2009 and the Reserves (excluding Gold) at year's end in 2008 was USD142.1 million, equal to 6.7 months of imports. The size of the financial sector (total assets) is estimated at 14.748 billion Dalasi.[16]

184. The relative solidity attained in the external sector in the recent past, which was attributable to the implementation of prudent monetary policies, with some fiscal consolidation, has stabilized and strengthened the Dalasi against other internationally traded currencies. Year by year, the performance of the Dalasi was at a four-year high. As at December 2009, the Dalasi exchanged for 26.9 to one US dollar.

185. In terms of openness of the economy, foreign investment is encouraged as a way to spur growth, employment and exports. In 2002, the Gambia Investment Promotion and Free-Zone Agency (GIPFZA) was established as a platform for promoting private-sector led development of the economy. There are no legal distinctions between foreign and domestic investors as foreigners can own 100% of a company except for Forex Bureaux, Television Broadcasting and Defense Industries, which are closed to private sector participation.

186. The Gambia has a relatively sound but small financial system with 12 banks, most of which are foreign owned. The Government has 25% ownership in Standard Chartered Bank, the largest bank in the country. Two of the commercial banks also operate in the micro-finance sub-sector that has about 63 village Savings and Credit Associations. The rapid growth of the financial sector in relation to the size of the economy is a source of concern and this is expected to impact on the quality of oversight.

[16] Central Bank of The Gambia. USD1=26.9Dl as at December 2009.

Prevalence of predicate crimes

188. In The Gambia, proceeds of crime are mainly derived from drug trafficking, bribery and corruption, the tourism industry, foreign exchange transactions, and other related acquisitive crimes. The magnitude or severity remains relatively difficult to determine. The porous borders, weak controls, prevailing poverty, dominance of cash transactions, poor Know Your Customer (KYC) compliance culture, massive inflows of tourists and anecdotal evidence of increasing drug-related and other criminal activities are all factors contributing to an increase in the ML risk environment in The Gambia. Public corruption is perceived to be quite high in The Gambia as the country is ranked 106 of 180 nations in Transparency International's 2009 corruption perception index. Though The Gambia has signed the African Union Convention on the Prevention and Combating of Corruption, it is yet to sign the UN Convention Against Corruption.[17] The Gambia has laws in place criminalizing corruption but they are not effectively implemented as no specific government agency is responsible for combating corruption. Public officials are not subject to financial disclosure requirements.

188. The Gambia is vulnerable to the activities of organized crimes and drug trafficking. The Gambia Drug Control Agency (DEA) stated in its 2007 Annual Report that the number of arrests of drug traffickers had increased since 1986. The report indicated the magnitude and trends of drug trafficking in The Gambia. In total, about 1,270 mg of drugs were seized from the 54 cases reported in 2007. Offences range from possession to trafficking in drugs and narcotic substances such as cannabis, cocaine, and hashish.

189. The following financial intermediation and services are also vulnerable to money laundering: banking; foreign exchange transactions; trading in money market instruments such as cheques, bills, certificates of deposits, and commercial papers for oneself or for the account of customers; trading in transferable or negotiable instruments; the tourism industry; and the real estate business.

The AML/CFT Framework

190. In order to combat money laundering and the financing of terrorism, The Gambia has developed a legislative and institutional framework through the enactment of the *Money Laundering Act 2003*, the *Anti-Terrorism Act 2002*, the *Financial Institution Act 2003* and the *Drug Control Act 2003*. The Gambia enacted the *Anti-Money Laundering Act* (ML Act) in

[17] Country Brief by eStandard Forum, 18 November 2009.

2003 in which only 13 offences were designated as predicate offences for money laundering. This falls short of the minimum 20 designated categories under the FATF Recommendations.

191. An FIU has been established within Financial Supervision Department (FSD) of the Central Bank of The Gambia (CBG) and under the leadership of the Director of the FSD. Following the enactment of the ML Act, the Central Bank was appointed as the Supervisory Authority in 2006 with the responsibility to implement the Act. The location of the FIU within the Central Bank is designed to capitalise on the trust and cordial relationship that already exists with regulated institutions and to ensure that the integrity and security of suspicious transactions reports received from reporting entities are maintained.

192. The banks have commenced the reporting of suspicious transactions the FIU. Their reports were analysed and where appropriate were forwarded to the police for further investigation. Up to 16 STRs were received, of which nine were forwarded for further investigations (the outcome is three prosecutions and two convictions), while others are still under investigation.

193. Despite these developments, the FIU has neither achieved the desired level of coverage of institutions under its purview, nor gained a deep enough knowledge of money laundering and terrorism financing in the society as a whole. As part of its medium- to long-term strategy, the FIU will be expanding coverage of the reporting of STRs to micro-finance institutions, foreign-exchange bureaux and DNFBPs. This objective will be further enhanced by the review of the ML Act.

194. The departure of the Director of the FIU without any form of information to GIABA, who is now responsible for the FIU, is a source for serious concern, especially at this gestation period of the FIU,

195. An Inter-Ministerial Committee was set up in 2008 to coordinate the AML/CFT efforts in The Gambia. The Committee comprises the Department of State for Finance, Department of State for Interior, Department of State for Justice, the Drug Enforcement Agency and the Central Bank. The Committee was inaugurated by the Secretary of State for the Interior in February 2008. There are plans to expand it to include the police, customs, Foreign Affairs, the National Intelligence Agency (NIA), and the Registrar General's office. The Inter-Ministerial Committee works closely with the Financial Intelligence Unit.

196. The Gambian Government has taken steps to prevent its financial system from being misused as a conduit for the transfer and retention of illicit funds, but the various agencies involved in AML activities have not been allocated adequate resources. The CBG and the FIU lack the required technical and operational personnel to supervise and monitor financial

institutions' compliance with the ML Act. Additionally, the Financial Supervision Department (FSD) is understaffed and is not likely to function effectively as the FIU given the fact that its primary role of supervising financial institutions (FIs) and Non-Bank Financial Institutions (NBFIs) for prudential purposes is considered a priority at the moment. With 14 staff members, the FSD is barely meeting its primary obligation to effectively supervise the FIs.

197. The Gambia has developed a framework of a national strategy that involves the broadening of knowledge on the nature of organized crime among Gambians. The other measures put in place by the Government include the sensitization of the public to the dangers of organized crime. Participation in international seminars on the prevention of terrorism has contributed to increased knowledge about terrorism by government officials.

198. Related legislation that impacts on the effective combating of terrorist financing and money laundering is the Criminal Code Cap 10 Vol. III Laws of The Gambia 1990. The Criminal Code has criminalized some of the predicate offences such as extortion, counterfeiting, smuggling. In addition, the revised Financial Institutions Act, the Central Bank Act and the regulations on customer due diligence are helpful in implementing the AML/CFT strategy.

199. The Gambia has ratified 11 out of the 13 United Nations Conventions against Terrorism. The Convention for the Suppression of the Financing of Terrorism is yet to be ratified. The *Anti-Terrorism Act 2002* provides for the measures to combat terrorism and for other related matters. The primary objective of the AML/CFT measures is to ensure that The Gambia is free from all forms of financial crime and terrorism. Terrorist financing is criminalized under Sections 6, 11(a) and 11(2) (b), 12, 13, 14, 16, 18 and 21 of the *Anti-Terrorism Act 2002*. The provisions of the Act extend to both legal and natural persons who are subject to civil and criminal sanctions. The National Intelligence Agency and the police are responsible for gathering intelligence on terrorism and terrorist financing while the Attorney General is responsible for the prosecution of cases of terrorism.

200. The Gambia has not experienced any terrorist attack and none has been launched from within the country. However, intelligence reports indicate that the country is vulnerable to terrorism given its location in the Saharan region surrounded by countries that terrorists have used in the past to launch attacks. Its nationals are also vulnerable and cases of attempted funding of certain religious groups and NPOs were reported in the past but preemptive actions taken by the NIA prevented the funds from reaching the beneficiaries. The NIA prides itself as being alert and ready to suppress any case of terrorism or terrorist financing. The NIA and

the police cooperate with the INTERPOL and other international security agencies in the exchange of intelligence information.

201. The Gambia was evaluated from in April 2008 and the Mutual Evaluation Report (MER) was adopted by GIABA Plenary in November 2008. The MER noted that The Gambia had made considerable progress in complying with the AML/CFT standards, including the FATF 40+9 Recommendations. The review found in place pieces of legislation pursuant to the FATF recommendations and the UN instruments for the prevention and control of money laundering and terrorism financing. In particular, the enactment of the *Money Laundering Act 2003* and the *Anti-Terrorism Act 2002*, coupled with the Government's ratification of key UN conventions, has gone a long way to establish rudimentary measures against these menaces. The MER identified significant deficiencies in the AML/CFT systems of The Gambia; the country was rated Partially Compliant (PC) or Not Compliant (NC) in most of the core Recommendations.

202. Regarding the regulatory framework, in accordance with the 1997 Constitution, the supervision of all financial institutions is centralized within the Central Bank. This has resulted in the apex institution being responsible for the supervision of banking institutions, insurance companies, micro-finance institutions, finance companies, etc.

203. A summary of the actions taken by The Gambia to address the deficiencies identified in its MER is given in Chapter 3.

Technical Assistance

204. In April 2008, GIABA provided a Mentor who visited the Gambia, and after a comprehensive discussion and assessment of the requirement of the country, the following key Actions Plan were agreed upon among others: (i) creation of an Inter-Ministerial Committee to coordinate the AML/CFT efforts in the Gambia; (ii) review of the AML law and the Anti-Terrorism Act; and (iii) strengthening of the FIU by providing it with suitable office accommodation, furniture, staff and budget.

205. It was also agreed that these steps should be taken over the next three to four months. In a letter in May 2008, the Director General conveyed this Action Plan to the Minister of Finance for necessary action.

206. Furthermore, GIABA provided The Gambia with a Mentor who reviewed the operations of the FIU in April 2009 and a law review Consultant to determine areas of weaknesses in the law and recommend further action.

207. The Director General led a follow-up mission to The Gambia in August 2009 and met with the responsible Ministers of Finance, Justice and Interior, as well as the Governor of the Central Bank. The Director General solicited their cooperation and support towards evolving a robust AML/CFT regime in the country. The main points of concern arising from the mission include:

- Autonomy/independence of the FIU and availability of resources for its effective functioning;
- Proper coordination of all stakeholders involved in the implementation of AML/CFT programs and increase in the frequency of Inter-Ministerial Committee meetings;
- Amendment of ML law to include all offences designated as predicate offences of money laundering in the FATF minimum requirements;
- Development of a National AML/CFT Strategy;
- Focus on addressing gaps in the MERs with respect to the key and core Recommendations; and
- Comprehensive review of the AML/CFT laws to address all gaps including civil forfeiture procedure and processes.

Conclusion

208. It is noted that the Gambia has demonstrated commitment and made significant progress in its AML/CFT efforts. Nevertheless, it should prioritize the implementation of the recommendations in its MER especially, by building blocks around the core and key recommendations and progressing with all other recommendations that were poorly rated.

209. On the basis of developments in 2009, GIABA's the priorities for the Gambia towards implementing an effective AML/CFT framework include:

- Development of a National AML/CFT Strategy that will drive the entire AML/CFT process;
- Follow-up on the finalization of draft AML/CFT legislation;
- Capacity-building for the FIU in the areas of:
  - Provision of IT infrastructure for analysis financial intelligence;
  - Attachment of FIU staff to developed FIUs;
  - Training on Financial Intelligence Analysis;
  - Follow-up on Egmont Group Membership;

- Training for law enforcement officers on national ML/TF Threat Assessment; and
- Workshop on AML/CFT Compliance Supervision for financial institutions and DNFBPs.

Ghana

Background Information

210. The Republic of Ghana derives its name from the ancient Ghana Empire in the Western Sudan, which fell in the 11th century. Ghana attained independence from British colonial rule on 6 March 1957. It became a Republic on 1 July 1960, the first of four civilian governments that were interspersed with periods of military rule. On 7 January 1993, the Fourth Republic was inaugurated, with a new Constitution. The legal system in Ghana is marked by its colonial history. The World Bank estimated that the 2008 population of Ghana is 23,837,000, while the per capita GNI is 690.[18]

Politics and Governance

211. Ghana is a unitary State with ten administrative Regions. It has three operationally independent arms of government: the executive, the legislature and the judiciary. Towards the end of 2008, Ghana held its presidential and parliamentary elections; therefore 2009 was largely a period of political transition. Ghana has a Cabinet that consists of the President, the Vice-President and Ministers of State. The Cabinet assists the President to determine government general policy. There is also a Council of State that advises the President in the performance of his functions. It consists of persons appointed by the President in consultation with the Parliament. Members of the Council of State include one person who has previously held the office of Chief Justice, one person who has previously held the office of Chief of Defence Staff of the Armed Forces of Ghana, one person who has previously held the office of Inspector-General of Police, and the President of the National House of Chiefs. A member of the Council of State holds office until the end of the President's term of office.

212. The legislative power in Ghana is vested in the Parliament, which consists of 230 elected members. The Speaker is the head of Parliament, elected by members of Parliament and assisted by two deputy speakers.

213. Judicial power is vested in the Judiciary. The Chief Justice is the Head of the Judiciary and is responsible for its administration and supervision. The Judiciary has jurisdiction in civil and criminal matters, including matters specified in the Constitution or any other laws enacted by Parliament.

The Economy

[18] World Bank, 2008.

214. Ghana's economy is largely dependent on agriculture, with cocoa being the main export crop. At independence, Ghana had a substantial physical and social infrastructure. The Nkrumah government further developed the infrastructure and made important public investments in the industrial sector. Assistance from the USA, the World Bank and the UK enabled the country to construct the Akosombo Dam on the Volta River in 1966. Two American companies built the Volta Aluminium Company (VALCO), Africa's largest aluminium smelter, to use hydroelectric power generated from the dam. Aluminium exports from VALCO were a major source of foreign exchange. Most of the investments of the Nkrumah government were monumental public works projects, which were assets for the country and included agricultural and industrial schemes. As a result of a fall in cocoa prices and the dwindling of the country's foreign exchange reserves, the Government resorted to supplier credits to finance many projects. By 1966, when Nkrumah was overthrown, Ghana's reserves were depleted and the country could not meet its debt repayment schedules.

215. Nevertheless, until the mid-1970s, the Ghanaian economy experienced high and non-volatile growth and low inflation. A shift in public sector finances from a position of overall surplus to continuing deficit caused imbalances in the economy, fuelled by underground production and marketing activities that precipitated a sharp decline in agricultural output. The deterioration was so severe that in April 1983, against considerable internal opposition, the Government adopted an Economic Recovery Programme (ERP).

216. The main sources of foreign exchange are gold, timber, cocoa, diamonds, bauxite and manganese. In recent years, the gold price has risen in the international market due to the global financial and political instability as aggravated by the recent international financial crises. Gold has stood the test of time as a store of value with timeless convertibility. Oil was discovered in some significant commercial quantity in 2007, and given the relatively favourable price for oil, significant revenue is expected to accrue to the country when full exploitation commences in the near future. At the moment, however, Ghana is still reliant to some extent on international financial support and remittances from its diaspora population. A significant number of Ghanaians reside abroad, and the money they send back home contributes significantly to the economy. Between 2002 and 2008, the remittances increased from USD44 to USD128 million – about 190%. Foreign remittances, estimated at about USD 32 million in 2001 rose to about 125 million dollars in November 2009. Some remittances are done through informal channels, such as the use of human cash couriers and importation of

easily disposable goods, especially second-hand vehicles. These are not officially captured and present a very high ML/TF risk.[19]

217. Ghana has the third highest GDP in the region with a total of 25 local, regional and international banks and 45 non-banking financial institutions operating in the country, with 35 companies listed on its stock exchange as at 2009, although the vast majority of Ghana's population of 24 million neither use the formal banking system nor participate in stock trading. The country has undertaken fundamental financial reforms in recent years with resulting growth in its financial and capital market. Ghana's reforms have reportedly made it easier to do business in the country, although its projection in the World Bank/International Financial Corporation Doing Business 2010 report moved from 87 for 2009 to 92 for 2010 out of 183 countries.[20] Ghana has in place offshore financial services legal provisions[21] and has designated Export Processing Zones, of which the Tema Export Processing zone is fully operational. Ghana's four designated Free Trade Zones require effective AML/CFT supervision to prevent and counter trade-based money laundering and terrorist financing. Banking operations and other financial activities, including trade activities within the zones, need to be monitored closely.

218. In 2007, Ghana re-denominated its currency, the Cedi. The currency has become more attractive because of the lower volume required for exchange. Before the re-denomination, about 8000 Cedis exchanged for one US dollar; now it is about 1.5 Cedis. This makes the Cedi the highest valued currency in the region in terms of denomination. The significance of this to criminals is enormous: less cash to carry, transactions with a smaller volume of currency, so easy to hide big value in small volume. Although the convertibility of the currency is largely limited within the region with anticipated exchange risks, when combined with other factors such as free movement of goods and services within the region, proliferation of unofficial currency exchange markets, a cash-based economy, porosity of borders and weaknesses in AML enforcement measures across the region, criminals can still exploit the high-value Cedi notes as a store of value. This factor needs to be taken into account by the authorities in currency management.

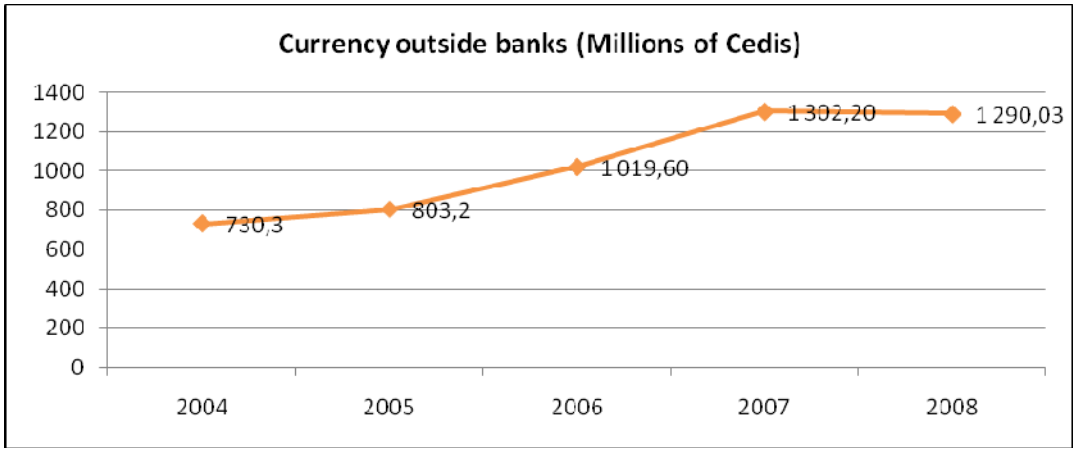
---

[19] For details on the methods of suspected money laundering, see GIABA Typologies Report on Cash Transactions and Cash Couriers, 2008, <http://www.giaba.org.typologies>

[20] Doing Business 2010, World Bank/IFC, 2009

[21] <http://www.doingbusiness.org/ExploreEconomies/?economyid=76> (The World Bank Group)

219. The dominance of cash in Ghana's economy can be illustrated by the fact that between 2004 and 2008, cash outside banks has increased by over 76% from 730.3 million Cedis to 1,290.03 million Cedis, with a sharp increase in 2007 leading to Ghana's election in 2008. In the first quarter of 2009, currency circulation outside the banks increased by 30.32% over the first quarter of 2008 from 1,130.30 million Cedis to 1,472.97. The currency in circulation (outside the banks) to deposits ratio of about 0.21, indicated a growth in savings over the years. However, a significant part of the deposits would have been made with cash and are likely to be withdrawn in cash on call.[22] The graph below illustrates the volume and movement of cash outside the banks.



220. Ghana's real estate sector is growing at an unparalleled rate. It is reported that many Ghanaians and Africans in the diaspora and citizens from other West African countries are investing massively in this sector. In the meantime, an regulatory environment that meets the current investment level in the sector is still evolving. The sources of the funds meant for investment in this sector are often not adequately verified, if at all, by the authorities, especially funds generated from outside the country.[23] Already the cost of property in the capital, Accra, is reported to have skyrocketed. With a largely cash economy dominated by the informal sector, it is challenging for authorities to control the property market. Clearly, new and innovative mechanisms are required to deal with this challenge.

[22] Data drawn from Bank of Ghana Quarterly Statistical Bulletin.

[23] Ghana Mutual Evaluation Report, GIABA, 2009.

221. Despite the reforms and the relative growth in the economy, the AML/CFT regime remains weak, which leaves the economy open to abuse by money launderers and terrorist financiers. And inspite of the findings of the MER of Ghana, the extent of ML/TF risk is not known since no assessment of it has been conducted. With the discovery of oil and the start of its exploitation, Ghana will soon begin to see an increase in revenues and economic activities that can attract criminals to the country and create opportunities for both home-grown criminals and others from outside to exploit.

Prevalence of Predicate Crimes

222. Drug trafficking has remained a big problem for Ghana. Between 2005 and 2008 about 2 tonnes of cocaine were seized in the country, with a European average street value of 136,000,000 Euros, about 5 Euros to each Ghanaian. While Ghana has collaborated with the United Kingdom and other international partners to address this problem, the success of such efforts are limited compared to the magnitude of the problem. In addition, the legal procedure for the confiscation of the assets of drug convicts is very challenging. The Ghana Narcotics Control Board (NCB) has not been very successful in getting convicted drug traffickers' assets confiscated, largely due to the strict application of a standard that places the onus of proof on the prosecution to establish that the assets traced to the offender have been obtained with the proceeds of drug trafficking. By the end of year however, anecdotal evidence suggests that the inflow of drugs into Ghana has reduced, causing a rise in the price of some illicit drugs.

223. Corruption is also one of the major predicates for money laundering in Ghana, as in many developing countries. One of the biggest corruption issues in 2009 was contained in the report of the Auditor-General on the Ghana@50 Secretariat. The report had alleged misappropriation of funds and accused the Secretariat of failing to maintain complete records of revenue receipts and payments for expenditures in all its transactions. The report blamed the Ministry of Finance and Economic Planning for not exercising budgetary control over the activities of the Secretariat in accordance with the country's Financial Administration Regulations, before, during and after the approval of a total of USD31.8 million to the Ghana@50 Secretariat.[24]

[24] Several media reports in Ghana in June 2009, e.g. <http://www.modernghana.com/news/223005/1/the-auditor-generals-report-on-ghana50-secretariat.html>

224. In 2009, the authorities launched an anti-corruption manual that will be used, among other things, to inform and educate the general public on the ills of corruption and how they can contribute to the fight against it. In July 2009, a Bill was presented to Parliament that seeks to repeal the *Serious Fraud Office Act 1993* (Act 466) and to transfer its responsibilities to the proposed/new Economic and Organized Crime Office. The Economic and Organized Crime Office will be a specialized agency to monitor and investigate economic and organized crime and, on the authority of the Attorney-General, prosecute these offences and facilitate the confiscation of proceeds of crime. These offences include money laundering, human trafficking, cybercrimes and computer-related fraud. The Bill also provides for the recovery of proceeds of crime and related matters.[25]

225. There are reported cases of local production of small arms in Ghana, which are sold both locally and across borders. As a neighbouring country to Côte d'Ivoire, a country emerging out of conflict, there would have been no shortage of customers before the peace agreement. The UNODC in a 2009 special threat assessment report on West Africa estimated that 75,000 small and light weapons are circulating in Ghana. The report stated that locally manufactured (craft) weapons comprise about 80% of the firearms confiscated by the police in Ghana, and they are said to be used in a quarter to a third of the violent crimes committed in the country.[26]

226. The National Commission on Small Arms, which was set up in 2007 to check the manufacture and cross-border movement of small arms, estimates that 40,000 Ghana-made guns are in circulation, while some experts put the figure far ahead of that of the UNODC. Incidents of armed robbery have increased in Ghana in recent years, although it cannot be asserted if this is directly related to the illegal arms production.[27] In September 2009, the police raided a gun-manufacturing base in the Central Region and seized 30 weapons which they later confirmed that blacksmiths had sold to robbers.

227. The smuggling of second-hand vehicles into Ghana especially through the borders with Togo represents a significant revenue loss to the State and financially empower

---

[25] Economic and Organized Crime Office Bill, 2009.

[26] Transnational Trafficking and the Rule of Law in West Africa: A Threat Assessment, UNODC, July 2009 and <http://news.myjoyonline.com/news/200907/32411.asp>

[27] Ibid.

smugglers. The level of cooperation between the two countries on this issue needs to be improved significantly.

228. Cybercrime, especially among the youth and popularly known as “Sakawa”, is gradually becoming a major source of illicit funds. The crime is largely that of deception and fraud similar to the advance fee fraud popularly known as “419” but goes further by adding occult and mystical powers to it for maximum effect. Other types of cybercrimes being perpetrated in the country are data theft, piracy, e-mail scams and hacking. Many factors, such as unemployment (estimated at 20% at the national level but higher among youths), the “get-rich-quick syndrome”, influence of friends and misguided adventure, are perceived to have contributed to the crime situation in the country.

229. While the Government has tried to respond to this challenge in various ways, success has been limited, even though the country has legislation to help fight this crime, the *Electronic Transaction Act* (Act 2008). The use of credit cards is becoming a source of concern for many credit card holders due to fears that their valuable data may end up in the hands of cyber-criminals.

230. Piracy is another big problem, not only in Ghana but throughout West Africa. This largely involves unauthorized replications of audio and video materials and books, pirating of software, and use of genuine labels on counterfeit products. Although the size of the market cannot be estimated, mainly due to the underground nature of the businesses, it is generally believed that large sums of money are generated through piracy. Pirated products are mostly imported into the country from countries in Asia and other parts of the world. Most of the counterfeited and pirated products are sold in the open market, on major streets and towns across the country. The authorities are not able to cope with the challenge of curbing piracy and counterfeiting in the country despite the existence of legislation on the protection of intellectual property.

231. The attempted bombing on 25 December 2009 of a US-bound plane exposed the vulnerability of the region to terrorism. The principal suspect, Farouk Mutallab, a Nigerian, flew into Ghana from Yemen and upon his arrival in Ghana purchased his ticket in cash and then travelled to Nigeria to board a KLM flight to Amsterdam before connecting on a Delta Airline bound to Detroit, USA. His case raises a number of curiosities, which cannot be discussed here since the matter is in court. Suffice it to say that this further heightens the need to address the prevalence of cash transaction and illegal cash movements in the region as a whole, and to strengthen prevention and enforcement measures at the entry and exit points.

The AML/CFT Framework

232. Ghana passed its AML Act in 2008 and has ratified 12 out of the 13 United Nations Conventions against terrorism.[28] These Conventions have been domesticated in the *Criminal and Other Offences Act 1960* (Act 29) and the *Anti-Terrorism Act 2008* (Act 762). The Anti-Terrorism Act seeks to combat terrorism: to suppress and detect acts of terrorism, to prevent the territory, resources and financial services of the country from being used to commit terrorist acts, and to protect the right of people in the country to live in peace, freedom and security.

233. The Act provides for a term of imprisonment between seven and 25 years for contravention of any of its provisions. The Bank of Ghana has reportedly circulated the list of individuals and entities on the UNSCR 1267 Sanctions Committee's consolidated list to local banks for their appropriate actions.[29]

234. It should be mentioned, however, that the MER of Ghana identified significant deficiencies in these pieces of legislation and recommended necessary amendments.

235. The 2008 elections and the period of transition in 2009 had implications for Ghana's AML/CFT regime, one of which is the fact that the Financial Intelligence Centre (FIC) as established under section 4 of the AML Act is yet to become fully operational. Lack of an operational FIU leaves the financial system susceptible to ML/TF and hinders Ghana's ability to engage fully in international cooperation.

236. Ghana's Mutual Evaluation was conducted in April 2009 and the MER was adopted by GIABA Plenary in November 2009; the report has been published on GIABA's website. The MER revealed a number of significant deficiencies, particularly with the core and key recommendations of the FATF. Some of the major deficiencies identified in Ghana's AML/CFT regime include:

- Non-existence of a fully functioning FIU in Ghana. The Anti-money laundering Act provides for the establishment of a Financial Intelligence Centre (FIC) and as at end October 2009, only the Chief Executive Officer had been appointed with no Board of Directors constituted or complementary technical staff recruited;
- Ineffective application of powers by appropriate authorities to investigate, to detect, seize and confiscate proceeds of crime;

[28] Mutual Evaluation Report on Ghana, GIABA, 2009.

[29] Ibid.

- Inconsistency in the implementation of the currency declaration system across designated entry and exit points due to non-standardization of the reporting format and the lack of awareness of roles by the Customs officials;
- Lack of comprehensive preventive measures by financial institutions and DNFBPs in the areas of Customer Due Diligence, Politically Exposed Persons, application of a risk-based approach to AML/CFT compliance functions and the monitoring of cross-border and domestic wire transfers;
- Lack of mechanism with regard to cross-border correspondent banking relationships and clear guidelines with respect to the use of third parties and intermediaries.

237. It is important for the country to prioritise implementation of the recommendations contained in the MER; this should begin by having all the essential building blocks of an effective AML/CFT regime in place. Also, there are a number of actors in the AML/CFT regime with relative powers to regulate operators/reporting entities and enforce the law as envisaged by the AMLA and ATA. There is the need to put in place a harmonious coordination mechanism in order to ensure effectiveness.

238. The authorities of Ghana have been making some efforts in the implementation of AML measures, even before the ME was conducted. These include the enactment of the AML/CFT laws. The Anti-Money Laundering Act (AMLA; Act 749) came into effect in January 2008 and the Anti-Terrorism Act in October 2008. The country has criminalized 17 out of the 20 minimum offences listed in the FATF designated categories of offences. The three offences that are yet to be criminalized are migrant smuggling, illicit trafficking in arms, and participation in organized crime. Ghana is reportedly working on a comprehensive Economic and Organized Crime Office Bill which, hopefully, will provide for a robust regime on freezing, seizure and confiscation of proceeds of crime.

239. The Executive Director of the FIC was appointed in October 2009, but due to logistics constraints, it could not commence operations. As at December 2009, the Board members had not been nominated and no budget was stipulated for it.

Technical Assistance

240. During the year under review, GIABA held a number of meetings and activities in Accra in order to sensitize the authorities and help bring about some meaningful actions to advance the AML/CFT agenda. Chief of these were the preassessment training organized by GIABA in collaboration with the World Bank in early 2009; the 2nd Regional Seminar for Judicial Officials from the ECOWAS English-speaking countries in July 2009; and the GIABA Assessors' training program, also in July 2009. The Director General of GIABA also undertook some high-level visits to some government officials to promote the establishment of the GFIC, as well as implementation of other AML/CFT initiatives.

241. In 2010, GIABA has planned a comprehensive technical assistance program within which Ghana is given priority in order to support the country to make fast progress in the implementation of its AML/CFT program.

Guinea

Background and General Information

242. The Republic of Guinea is bordered by Mali in the east, by the Atlantic Ocean and by Guinea-Bissau in the west, by Senegal in the north, and by Côte d'Ivoire, Liberia and Sierra Leone in the south. Such distribution respectively corresponds to the country's major regions, which are Middle Guinea or Futa Jalon, coastal Guinea or Lower Guinea, Higher Guinea and Forestry Guinea. It has a population of around 10,057,975[30] (2009) and stretches over 245,857 km^2. It has a yearly population growth rate of 2.1% (EIU[31] 2008) and a human development index of 0.456, therefore ranking 160th out of 177 (UNDP 2008).

243. A former French colony, the Republic of Guinea became independent on 2 October 1958 after the 28 September Referendum, by which it expressed its refusal to join the French Community. The country is subdivided into seven administrative regions, including the special zone of Conakry, and 33 prefectures, 38 urban communes, 302 sub-prefectures, 303 Development Rural Communities. The major cities are Conakry (the capital), Kankan, Kindia, N'Zérékoré, Siguiri and Labe. French is the official language, with a literacy rate of 29.5% among adults of more than 15 years. Life expectancy is 54.8 years (UNDP 2008). About 85% of the Guinean population is Muslim, 8% are Christian and 7% are animist.

Politics and Governance

244. The country has been under military rule since 23 December 2008, just after the death of 24-year ruling President Lansana Konteh. All institutions, as well as the Constitution, were then suspended and the National Council for Democracy and Development (CNDD) was set up by the military regime. This was supposed to be a transitory process that would lead to a new constitutional order and to democracy. It is against this background that an international contact group on Guinea (GICG) was set up by ECOWAS and the African Union, members of which included several international organizations, as well as permanent members of the UN

[30] France Diplomatie: <http://www.diplomatie.gouv.fr>

[31] Economic Intelligence Unit: <http://www.eiu.com>

Security Council, which were to guarantee fair and transparent election process within the set deadline. Then an election schedule, which was validated by General Moussa Dadis Camara, set 11 October 2009 as the date for general elections and 13 and 27 December as the date for presidential elections.

245. Besides this, there have been blatant events in Guinea that breached the rule of law[32] and that were condemned by the UN, EU and African bodies, such as AU and ECOWAS. Since then, the country has been under an arms ban imposed by ECOWAS and the EU. The country was also suspended from participating in or contributing to any ECOWAS political activity. Burkina Faso's President was appointed as a mediator of the crisis. An international Investigation Commission has been set up by the UN Secretary General to identify the actors of the Conakry 28 September 2009 manslaughter.

246. Since the failed coup attempt on 3 December 2009, there has been a lull. The head of the military junta, Captain Dadis Camara, was reportedly shot in the head by his aide-de-camp and was hospitalized in Morocco. In his absence, General Sekouba Konate has been acting President of the Republic of Guinea since 4 December 2009.

247. As regards regional integration, Guinea is poorly represented in institutions. It is a member of the African Union, ECOWAS, the Niger Basin Authority, but has not joined the Franc Zone. Guinea is the only francophone country that is not a member of WAEMU, despite its attempts to build closer ties with the WAEMU.

The Economy

248. Despite its natural resources, Guinea never managed to take them up economically. Indeed, the country is endowed with a vast river system and mining resources, with bauxite making up two-thirds of the world's bauxite reserves, rare metals (cobalt, uranium, gold, diamonds, etc). And despite its human resources and soil that is suitable for agriculture, Guinea production has failed to meet the high demand of the market and is mostly used for family consumption or sold in local markets.

249. Guinea's economy relies on the mining sector, which represents 15–20% of GDP and more than 60% of the country's exports. However, it only makes up 25% of the State's

[32] On 28 September 2009, the Guinean Army crushed a demonstration led by Guinean opposition leaders. The matter was discussed at the 30/09/09 UN Security Council, which qualified this as a crime against humanity, given the scores of demonstrators who had been killed and the high number of rape cases committed by the Military.

domestic revenue. In 2008, GDP was USD12.8% billion, with a 2.9% growth rate (EYUI 2008) and 12.8% inflation rate in 2007 (IMF 2008). The external public debt is USD3.1 billion, which makes up 75% of GDP. In 2008, contribution of the various sectors[33] of activities to GDP was 20.3% for the primary sector, 34.5% for the secondary sector and 47% for the tertiary sector (Central Bank Annual Report).

250. Guinea's formal financial sector is controlled by eight banking institutions, nine micro-finance institutions and five insurance companies. Besides the five new banks, which were created in 2008, 11 new agencies had also been opened. Guinean banks, which suffer from the country's poor economy, make most of their profits from the exchange market, in a context where the US dollar is being increasingly used. Their contribution to the financing of the private sector remains quite low.

251. The three major banks of the country had a stabilized market share of 79%, while the two other medium-sized banks had 13% market share in terms of balance.

Table 13: Disposition of the banking sector in 2008

Category	Deposit	Credit	Balance sheet
Major banks (3)	76%	78%	79%
Medium-sized banks (2)	16%	14%	13%
Small-sized banks (3)	8%	8%	8%
TOTAL	**100%**	**100%**	**100%**

Source: 2008 Annual Report of the Central Bank of Guinea

252. As far as the micro-finance sector is concerned, only nine institutions have a legal right to operate in Guinea, but several other micro-finance institutions operate illegally, thereby breaching provisions of sections 15 and 27 of the 22 November 2005 Act on micro-finance activities in Guinea.

253. On 31 December 2008, the insurance sector turnover was GNF57.5 billion, as against GNF44.8 billion on 31 December 2007, which is a 28.4% increase. Besides, it is mostly in the

[33] <http://www.bcrg-guinee.org/statistiques5.aspx>

sector of fire/accidents/various risks insurance that there has been an increase with a variation of +32.42%, while life insurance experienced a sharp 35.55% decrease, which is GNF –0.89 billion. The volume of premiums made up 0.27% of GDP in 2008, for a GDP of GNF20.893 billion.

254. In terms of foreign direct investments (FDI), the Guinean diaspora, which accounts for 2 million people, has been a major economic power. Remittances of emigrants amounted to USD347.4 million in 2008, with a 24% yearly progress and a contribution to GDP of up to 7.8%. In 2008 the Guinean currency depreciated by 9% compared to the US dollar, and by 15% as compared to the Euro.

255. The symbol of the country being back in the international financial sector was the finalization of a formal program with the Bretton Woods Institutions (B/IMF), followed by Guinea's membership in the Paris Club. This also helped the country relieve its multilateral debt owed to ADB, IDB and ABEDA.

256. The sector of DNFBPs has benefited from the dynamism of the secondary and tertiary sectors and involves lawyers and notaries as well as precious stones and metals merchants.

257. The informal sector plays a major role in the national economy. As a result, cash transactions are commonly used, therefore giving way to corruption and use of illegal money. This is compounded by the very low banking rate in all economic sectors. Because of the predominance of the informal sector, which encourages the non-identification of economic actors vis-à-vis legal institutions, most transactions cannot be spotted by competent authorities, which creates a situation of financial unbalance. Even if this sector is uncontrolled, it does however use all legal means of payment, namely banknotes.

Prevalence of Predicate Offences

258. The current political and economic crisis in Guinea, coupled with the country's geographical position, which is characterized by unsecured borders with unstable countries, makes Guinea a strategic target for organized crime. Indeed, the country, which is close to Côte d'Ivoire, Liberia and Sierra Leone, was affected by the ripple effect of regional crises that caused 100,000 people (Liberians, Ivoirians, Sierra Leoneans) to flee to Guinea in 2000. Despite efforts from the military regime to reverse that trend, the country is still viewed as a

highly corrupt one, as shown by its position of 168th out of the 180 most corrupt countries (CPI 2009, Transparency International[34]).

259. There also is the drug issue, with the latest related event being the arrest of the son of the late Guinean President, Lansana Konteh, who was involved in trafficking of cocaine originating in Latin America. Indeed, Guinea-Conakry has become one of West Africa's major drugs trafficking hub.[35] Furthermore, the practice of smuggling of precious stones by 5,000 to 20,000 miners[36] remains a major plague in the mining sector, despite the controls carried out by mining companies.

The AML/CFT framework

260. As far as AML/CFT is concerned, Guinea did not experience any major changes in 2009. The ML Act was adopted in October 2007, which provides for the creation of an FIU, but no significant effort has been made to to do so. The interdepartmental Committee never managed either to define or adopt a national AML/CFT strategic document. Guinea's national legal system has still not criminalized the financing of terrorism, despite the preparation of a bill since 2008 (see GIABA 2008 Annual Report). AML/CFT is currently managed by Guinea's economic and financial police authorities.

Conclusion

261. The Republic of Guinea should restore rule of law in the near future, in order to start benefiting from regional and international cooperation again. Indeed, the country is no longer receiving any technical assistance from its development partners and from GIABA, because of the crisis and related insecurity that has been prevailing for one year, to the detriment of national AML/CFT efforts.

262. With these developments, the mutual evaluation of the AML/CFT framework, which was planned for June 2009, is not likely to take place. The AML/CFT priorities in Guinea include: re-launching of CIM activities, including adoption of a national AML/CFT strategy; an operational FIU and sensitization of relevant entities to the need for evaluation of the country's AML/CFT system; and adoption of an Act criminalizing terrorist financing.

---

[34] <http://www.transparency.org/cpi>

[35] <http://www.rfi.fr/actufr/articles/110/article_78683.asp>

[36] <http://www.diamant-gems.com/french/bijoux-diamant/afrique2.htm>

Guinea-Bissau

Background Information

263. Guinea-Bissau is located on the West African Atlantic coastline from Cape Roxo to Cagette Point. It shares borders with Senegal to the north, Guinea-Conakry to the east and south-east, and the Atlantic Ocean coastline extends south and west of the country. In addition to its continental land, the country includes some 80 islands that constitute the Bijagos archipelago with, between the continent and these islands, the channels of the Geba River, Pedro Abares, Boloma and Canhabaque. The area of the country is 36,125 km^2, distributed in eight administrative regions and the autonomous Bissau area, Gabou-Bafata to the east, Tombali and Quintalo to the south, Oio and Cacheu to the north, and Boloma and the Bijagos islands. The main towns are Bissau with a population of around 250,000 inhabitants, Bafata, Gabou, Cacheu, Mansoa, Catio and Catchungo. The estimated population is about 1,500,000 inhabitants with a density of 37 inhabitants per km^2 and an average growth rate of 2.005% per annum.

Politics and Governance

264. Guinea-Bissau is constitutionally a Republic with sovereign institutions, including the President of the Republic, the People's National Assembly, the Government, and the Courts of Justice. The organization of political power is based on the separation and independence of these institutions and their submission to the Constitution. Guinea-Bissau is a Republic divided into eight administrative regions. The legislative power belongs to the National Assembly and to the Government in areas that are not under the exclusive authority of the National Assembly. The political power organization also includes the city administrations responsible for the defence of the interests of local communities, including departments, territorial sections and local assemblies. The Constitution of the Republic of Guinea-Bissau provides for free and universal election.

265. The judiciary power is under the authority of the Supreme Court. The judicial organization includes the Circle (Department), Regional and Sector Courts, the latter having power to hear minor cases. Courts do not depend on the other powers and have only to comply with the law.

266. The country has suffered from political and social instability for some time, which has directly and negatively impacted on its AML/CFT regime. Since 1999, the United Nations has maintained an office in Guinea-Bissau called the United Nations Peace-building Support

Office in Guinea-Bissau (UNOGBIS). The office was established at the request of the Government of Guinea-Bissau following the Peace agreement, ending the brief but devastating civil war that took place in 1998. The UN Office initial mandate was to promote national reconciliation and help with political transition (free, fair and peaceful elections, smooth handover and takeover of power, etc). Since then, the mandate of the office has been extended year by year and expanded to include other peace-building, rehabilitation and reconstruction tasks, including helping with the rebuilding of the security sector.

267. Despite all efforts by the international community at building peace and reconciliation in the country, President João Bernardo Vieira was assassinated on 2 March 2009. However, since then the country has elected a new President and is moving on with reconciliation, rehabilitation and reconstruction. As part of this process, the President has committed himself to carry out a credible, thorough, and expeditious investigation, in accordance with international standards, into the political assassinations of March and June 2009.

268. The republic of Guinea-Bissau is a member of ECOWAS, WAEMU, UEMOA, and the Community of Portuguese Speaking Countries (CPLP).

The Economy

269. Per capita GDP was CFAF 138,200[37] in 2002. The real growth rate fluctuated between +7.8% in 1999, +9.3% in 2000, + 0.2% in 2001, –4.3% in 2002, –7.0% in 2003 and +2.4% in 2004. With a Human Development Index of 0.373, Guinea-Bissau is a one of the 10 poorest countries in the world.

270. Agriculture is the mainstay of the country's economy, estimated at about 70% of the economy and providing around 60% of GDP. The export of cashew nuts and fishing generate most of the income within the agricultural sector. The World Bank estimates the GDP of Guinea-Bissau to be USD430 million, ranking it 179 out of 186 jurisdictions.

271. Guinea-Bissau has plans to prospect for oil and other mineral resources in 2010. The country and Senegal have a joint exploitation area that was agreed to in 1993 following border disputes, and there are expectations of making some discovery of oil or other economic minerals in commercial quantity. Some of the mineral potentials of the country are bauxite, diamonds, gold and phosphate. The discovery of oil will be a game-changer for the country.

[37] Equivalent to 210 Euros. Source: UN, First Report on the Millennium Development Goals for Guinea-Bissau, and the country's Action Plan of the 2003-2007 Program concluded between Guinea-Bissau Government and UNDP, June 2004.

272. The formal financial sector is hardly developed in Guinea-Bissau even though there are banks, financial companies, micro-finance institutions, bureaux de change (manual exchange intermediaries), insurance and reinsurance companies. Since independence, the banking system and the credit policy have functioned within the framework of a planned economy management where the organization and operation of the banking system had depended on the State instructions and guidance. From 1986, the economy was completely changed from a planned to a liberal system with the establishment of commercial banks governed by the standards of classical banks. Thus the International Bank of Guinea-Bissau was created, but it no longer exists; a branch of the Tata & Açores Bank, a Portuguese bank, was also established, but does not operate any more in the country.

273. For the past few years, the operations of the banking system were limited to the use of the two commercial banks and amounted to CFAF 9 billion, and the existing deposits amounted to CFAF 14 billion comprising mainly current accounts. Credit granted to the economy mainly included short-term credit, due to the high inflation level, because it was mainly used for the commercial sector and the financing of the cashew campaign. Most of the productive activities of the country did not resort to banks for their financing, due to the high interest rates amounting sometimes to 50%, which made several projects hardly profitable.[38]

274. As noted, Guinea-Bissau is a member of WAEMU. The group operates a common currency regime and the currency is pegged to the Euro, guaranteed by the French Treasury. This means that the currency has relative stability and high convertibility, with access to a market of close to 400 million people covering West and Central Africa. Therefore, any illegal money generated locally in Guinea-Bissau can easily be laundered across the borders to any of the eight countries where the West African CFA Franc is used as the official currency, or to other countries where it is easily converted to local currency. This can be exploited by criminals, especially in the face of porous borders and an informal cash-based economy. Guinea-Bissau has a common border with Senegal, which has some economic and political stability, and there is unofficial movement of currency between the two countries. However, regulation No. 15/2002/CM/WAEMU of 19 September, relating to the payment system in WAEMU Member States, provides that businessmen are required to open an account in a bank or the Post Office financial services, and that any natural or legal person

[38] For detail information on the economy and financial sector of this country, see the MER at the GIABA website:<http//:www.giaba.org/mutual evaluation>

based in a Member State and who has a regular income has a right to open an account in a bank or in the Post Office financial services.

275. Guinea-Bissau's membership of WAEMU permitted a more important financing of the country's economy and an improved savings mobilization. For example, there was a credit increase of CFAF 11 billion in 1996, and a deposit growth of CFAF 11 billion, and in spite of the 1998 conflict, the average increases per annum were CFAF 2.7 billion and CFAF 2.5 billion respectively.

276. There are concerns about the financial stability of the country and the impact this can have on the Monetary Union and the region. At the ECOWAS Summit held in Abuja on 22 June 2009, the organization emphasized the need to send a joint team of ECOWAS and WAEMU experts to assess the needs for security sector reform and financial stability.[39] The country has been undergoing an IMF structural adjustment program for some time, although this has been interrupted by the many conflicts.

Prevalence of Predicate Crimes

277. It is generally difficult to have a concrete and detailed knowledge of illicit activities in Guinea-Bissau because of the lack of statistics and the absence of criminal records centres. Again, a limited number of cases have been referred to the courts. Guinea-Bissau does not have prisons, although the UN and other partners are now helping to build some prisons. However, as several authorities pointed out, there are strong suspicions of money laundering activities taking place in the country, not least because of the drug trafficking situation.

278. Principally, drug trafficking and proceeds generated from the illicit trade is one of the major money laundering challenges facing Guinea-Bissau. Although one of the poorest countries in the world, ironically drug barons from Latin America and their collaborators from the region and other parts of the world have taken advantage of the extreme poverty and unemployment, as well as the political instability and general insecurity, to make the country a major transit point for cocaine destined to consumer markets, mainly in Europe. There are various reports on how the country has now become the source of cocaine for many traffickers, who no longer need to go to Latin America to source the drug. A few years ago, it was estimated that the worldwide illegal trades were worth up to USD800 billion a year! Of that amount, illicit drug trafficking is said to have accounted for around USD250 billion, of

[39] Report of the UN Secretary General to the Security Council on Guinea Bissau, 22 October 2009 (S/2009/552).

which only some 5% to 7% entered the West Africa region. Today, that global amount is probably over USD1 trillion a year – and the West African portion, even at a slightly increased rate of 10 to 12%, still amounts to betweenUSD30 and USD40 billion a year in trade. These are huge amounts for such vulnerable and inadequately prepared societies to deal with.

279. Drug abuse and addiction find their way onto the streets of these vulnerable coastal and inland States, taking a terrible toll on families, education and social cohesion. Things become dangerous and scary, and several countries are beginning to be rocked to the core by the tremendous disruption caused by the whole issue of drug trafficking and its side effects. The transiting of drugs through any given country means that some of the drugs inevitably stay there, either as payment for services rendered or as a source of profit for the traffickers. Drugs will thus be consumed locally, with the dire effects on consumers that we all know. In a poor country, the disruptive effect on family and society is multiplied and magnified. Addiction sets in and the afflicted persons become a huge burden in all respects. They will steal to feed their habit, often from other family members. They will resell drugs at extremely low prices to earn their fix, thus contaminating their surroundings. They will use violence if necessary to obtain cash, or simply because they become frustrated and angry. A cycle of dependency, distress, poverty and crime sets in. It becomes a major internal security issue, a major general public health issue. It is definitely a no-win situation.

280. The country has very limited resources. The 350 km coastline and around 50 uninhabited islands are beyond the capacity of the country to patrol. Drugs enter the country in large quantities, in private planes and by ship, although in 2009 the influx has reduced, largely due to the efforts of the international community. In apparent realization of the alarming problem of drug trafficking and its impact, the Government of Guinea-Bissau had since 2007 launched an Emergency Plan of Action as a strategic response and call to action against drug trafficking in the country. The Plan of Action aims at stabilizing the peace process and protecting the social development of the country against drug trafficking, implementing and enabling specifically:

- The recommendations of the UN Security Council;
- The mandate of UNOGBIS;
- Reforms in the Security and Defence Sector; and
- The Strategic Framework of the Combat against Organized Crime (2007–2009) – UNODC. The implementation of this Plan is still continuing.

281. Despite these efforts, however, drug trafficking remains a major threat in the country. This requires concerted and collaborative international efforts to deal with, especially with the relative peace and stability the country now enjoys.

282. Consequently, on 19 March 2009, the 26th ministerial-level meeting of the ECOWAS Mediation and Security Council was held in Bissau and it recommended that steps be taken for the immediate implementation of the ECOWAS plan of action against drug trafficking, using Guinea-Bissau as one of the pilot countries. Addressing the Security Council in November 2009, the Head of UNOGBIS stated that "although there seems to be a downward trend in the trafficking of cocaine through West Africa over the past few months, drug trafficking and organized crime remain a significant challenge for stability in Guinea-Bissau and the sub-region". In December 2009, the Security Council urged the Government of Guinea-Bissau to take the necessary actions to combat drug trafficking and organized crime.

283. The principal actors in the drug trafficking business are suspected to be from Latin America. In September 2007, the judicial police found 674 kg of cocaine in the rented apartment of one Colombian. The emergence of posh buildings in some parts of Bissau, some of which are owned by this group of people, and the limited efforts to investigate the source of wealth of the owners, does not inspire confidence in the AML/CFT regime of Guinea-Bissau. Apparently some proceeds of crime are being laundered within the country.

284. Unfortunately, the institutional framework to address this problem appears very weak and incapacitated. The police, for example, remain ill-equipped and underresourced. The necessary logistics and operational equipment are in short supply despite the support that has been offered so far by regional and international partners. The AML/CFT investigation is not one of the top priorities of police at the moment due to other overwhelming challenges. More training is also required for the police on AML/CFT and the trained officials should be allowed to perform AML/CFT functions in order to build expertise within the police over time.

285. Corruption remains a big concern both at political and institutional levels. For example, early in 2009, in the course of investigating a human smuggling case, the Judicial Police uncovered a network involved in producing false travel documents within the country's Immigration Service. Often, drug couriers require and use falsified documents to protect their true identity. A courier may have up to four passports bearing different data set about him or her. There have been many incidents in the past of seized drugs going missing in the country and this needs to be investigated fully and adequate measures put in place to prevent such

occurrences. Drug trafficking has a significant influence on the corruption level in the country, which in turn has caused disharmony among senior officials.

286. A clampdown against corruption has led to the arrest of many senior officials, among whom was the general manager of the Electric Power Corporation. He was suspected of having misappropriated 43 million FCFA (USD378,365) meant for the purchase of hydrocarbons for Bissau's electric power plant. A former manager of the Institute for the Support to Migrants and his deputy were convicted and sentenced to a three-year imprisonment term for mismanagement and fraudulent use of corporate property.

288. The Corruption Perception Index contained the in the 2008 Annual Report of Transparency International, published in 2009, indicates that Guinea-Bissau has gone down by 11 points in 2008, thus ranking 158 among 180 countries against 148 in 2007. This illustrates the inefficiency of the preventive measures and existing structures to combat this offence. This also holds for the Higher Anti-Corruption Inspection Commission established by Act No. 6/B/95 of July 17. This situation is characterized by a lack of technical, human and material means and resources for the Police and judicial institutions, which adversely affects the quality and efficiency of criminal prevention and investigation, and the regular functioning of penal procedures; this often results in slow process and the failure to implement court rulings. According to the 2008 Ibrahim Index of African Governance, Guinea-Bissau ranks 30 in a group of 48 countries, taking account of transparency, corruption, economic opportunities and human development (www.moibrahimfoundation. org).

288. The new president, Malam Bacai Sanha, has committed himself and his government to fighting corruption and ensuring that justice is brought to bear on all those who offend the law. Some civil organizations are also actively campaigning against corruption in the country and educating the citizens on the ills of corruption in a bid to get them to help in preventing it.

289. The UN, EU and a number of countries are active in supporting Guinea-Bissau to deal with a number of security challenges through a comprehensive reform of the security sector. This will, at the end, help to provide a favourable condition for the emergence of an effective AML/CFT regime. However, there is the need for those engaged in the security sector reform to give strong consideration to integrating AML/CFT issues in their strategic framework and criminal justice reforms and work with partners in a coordinated manner to avoid duplication of efforts and consequently avoid waste of much-needed resources.

290. Support for the country will require coordination, prioritization and systematic delivery to achieve result. In this direction, the UNODC held a donors' round table in December 2009 to support the implementation of the ECOWAS Regional Action Plan against drugs and organized crime, which will form the bedrock for providing support to all Member States in relation to AML/CFT connected to drug trafficking, including Guinea Bissau.

291. In December 2009, UNODC announced a USD3.5 million project aimed at supporting Guinea-Bissau to fight drug trafficking and organized crime. The focus is to improve on the logistical and operational capabilities of Guinea-Bissau's judicial police to address the two issues. It is envisaged that a specialized unit on drug trafficking and organized crime will also be set up. UNODC is also putting together another project estimated at USD700,000 to strengthen the Justice system and enhance the rule of law.

The AML/CFT framework

292. In May 2009, GIABA Plenary adopted the Mutual Evaluation Report of Guinea-Bissau and it has since been published on the Secretariat's website. The MER revealed that the legal framework in Guinea-Bissau for the prevention of money laundering is essentially based on the *Loi uniforme relative a la lutte Contre le Blanchiment de Capitaux* (Uniform Law on the Fight Against Money Laundering or LCBC) of 2 November 2004, concerning WAEMU regulation and BCEAO institutions.

293. However, despite the creation of an AML/CFT Inter-Ministerial Committee whose mandate is not defined in view of the various difficulties facing the country, the apathy of institutions and the lack of material and human resources lead one to conclude that the prevention and fight against money laundering and terrorist financing had not been considered as a priority by the authorities of Guinea-Bissau.

294. It should be noted also that no national strategy has been formulated for preventing money laundering. With respect to terrorist financing, the national legislation introducing Directive No. 04/2007/WAEMU 4 July, relating to CFT, has not yet been adopted. Such strategy should determine objectives, identify priorities, provide the basic resources for its implementations, and permit an assessment of the results attained for the establishment of a national AML/CFT system and compliance with the relevant international standards.

295. The MER also revealed a number of significant deficiencies in the AML/CFT regime of Guinea-Bissau with regard to legal provisions, regulations, supervision, enforcement and international cooperation. Some of the major deficiencies highlighted include the fact that the

AML law does not cover all minimum predicate offences as contemplated under the FATF standards and that it does apply directly to money laundering per se.[40]

296. Although the law providing for the establishment of the Financial Intelligence Unit was made in 2006, the process of establishing an FIU has been a difficult one. The FIU has remained highly under-resourced both in human and material terms. The Government has not been able to provide it with a permanent office space, and it has not been able to function effectively. In the absence of a functional FIU, the ability of the country to engage effectively in meaningful regional and international cooperation in AML/CFT is seriously hampered. This has left a big gap in the AML/CFT regime of the country and leaves the financial institutions at the risk of ML/TF.

Technical Assistance

297. In the year under review, GIABA provided some assistance to the FIU to secure office accommodation and also sponsored members of the FIU to a study tour in Portugal in March 2009. The GIABA Secretariat is fully aware of the AML/CFT challenges facing Guinea-Bissau and is willing to work with other partners to address them in a sustainable manner.

Conclusion

298. The Government of the Republic of Guinea-Bissau should intensify its efforts and accept the assistance being provided by development partners to establish the rule of law and reform its criminal justice system so as to adequately tackle organized crime related to drug trafficking and associated money laundering. The monetary authorities of the UEMOA zone, particularly BCEAO, should intensify efforts at ensuring full AML/CFT compliance by reporting entities in Guinea-Bissau and also at holding the Government accountable in order to safeguard the integrity of the monetary zone.

299. The Government of Guinea-Bissau needs to show more commitment to ensure the effective functioning of the FIU, which at the moment is relying largely on external support. A weak FIU will certainly lead to a weak AML/CFT system. The seeming lack of political commitment to quickly make the FIU operational will undermine the support being offered to the country by development partners especially in the area of criminal justice reforms.

[40] Mutual Evaluation Report on Guinea-Bissau, GIABA, 2009.

Liberia

Background and General Information

300. Liberia is the first independent democratic republic in sub-Saharan Africa. It gained its independence on 26 July 1847 with the predominance of descendants of freed people of colour who had hitherto lived in the Americas.[41] Liberia shares boundaries with Guinea-Conakry, Côte D'Ivoire and Sierra Leone. The population in 2008 was 3,793,000 with a population density of about 39 persons per km^2. The total land area of Liberia is 96,000 km^2.

301. The Republic of Liberia is a post-conflict country grappling with challenges of economic reconstruction, rehabilitation and reconciliation. The devastating civil war exacerbated the fragility of the financial sector and the macro-economy. Hundreds of thousands of persons were displaced internally; some 850,000 people fled to neighbouring countries. In 2003, the UN finally sent peacekeeping troops to the country and the President, Charles Taylor, took refuge in Nigeria. He has since been sent to The Hague to stand trial for his crimes. His son has also been found guilty in the USA of crimes against humanity. After a period of transition under UN mandate, elections were held in late 2005 and Mrs Ellen Johnson-Sirleaf was sworn in as President in January 2006. The country has been at peace and has been rebuilding since then. But the challenges are still daunting due to inadequate resources and expertise.

Politics and Governance

302. The Liberian democracy survived 133 difficult years and the democratic change of the 19 presidents until the 19th president was assassinated by a popular violent military junta in 1980. The Republic of Liberia has 15 administrative divisions/counties: Bomi, Bong, Gbarpolu, Grand Bassa, Grand Cape Mount, Grand Gedeh, Grand Kru, Lofa, Margibi, Maryland, Montserrado, Nimba, River Cess, River Gee and Sinoe. The country returned to constitutional democracy through a presidential election held on 19 July 1997. Liberia operates a bicameral National Assembly consisting of the Senate with 30 seats and the House of Representatives with 64 seats. A senator is elected for a nine-year term while an elected member of House of Representatives is to serve six-year term.

[41] UNDSSA on Liberia's Governance Program (undated).

The Economy

303. The years of civil strife had devastating effect on the economy and the supporting institutions. The economy is on the road to recovery with cautious approach to macro-economic management. The GDP (PPP valuation) of Liberia in 2008 stood at USD1.948 billion with average annual real GDP growth rate over 2000 to 2008 at 3.7%. The real GDP growth rate for 2010 is estimated to be 11.2%.[42]

304. The financial sector is relatively small with few commercial banks, credit institutions and insurance companies. The existence of a thriving and vibrant parallel foreign exchange is encouraged by the dual currency regime in Liberia. The economy is essentially cash-based, with the US dollar almost replacing the Liberian dollar as the medium of exchange. This has implications for AML/CFT regimes in the country as criminals may exploit this avenue to launder illicit funds.

Prevalence of Predicate Crimes

305. Liberia is considered a transshipment point for Asian heroin and South American cocaine for the European and US markets. Corruption, criminal activities, arms-dealing, the overwhelming dominance of the use of the US dollar as an accepted medium of exchange, and the illegal diamond trade and timber logging along the porous borders outside the security cover of the UN Mission in Liberia provides a significant potential for money laundering and the illicit drug trade in Liberia.

306. Despite the commitment of the Government to deal with corruption, the problem is remains pervasive.

The AML/CFT Situation

307. In 2009, the Compliance Committee and Banking Reform Committee sustained the momentum of their efforts to ensure adequate recapitalization of the banks, improve supervision and regulation of financial institutions. A National Strategy for Financial Inclusion spanning 2008 to 2012 was completed. The modernization of the payment system got a boost in 2009 following the introduction of SMS and internet banking in 2008. Several stakeholders' meeting were organized to promote public support to the supervisory agencies in its reform process.

---

[42] African Economic Outlook 2009.

308. The establishment of an operationally independent Financial Intelligence Unit could not be realized in 2009 as a result of the exit of the main driver of the program, Deputy Governor Ethel Davis, from the Central Bank of Liberia. Nonetheless, the designated FIU is providing skeletal services as two STRs were received related to money laundering.

309. Also, the revision of the 2002 AML law was stalled due to changes in the leadership at the Ministry of Justice caused by the removal of the Minister for Economic Affairs and his deputy. These changes brought the preparation of the legal framework to a halt as the new team is still acquainting itself with briefs submitted by the GIABA National Correspondent for Liberia.

310. The Inter-Ministerial Committee has begun the process of amending and upgrading the existing AML laws in Liberia to bring them to parity with international standards. During a seminar supported by GIABA, stakeholders reviewed the initial draft law and made recommendations. That seminar and the subsequent discussion between GIABA and relevant authorities in Liberia on the redrafting of the revised AML laws has created awareness on the need for adequate legal framework for fighting the money laundering menace. It is expected that the Bill will be presented to the Parliament for adoption in the first quarter of 2010.

311. In Liberia, money laundering is derived principally from corruption, tax fraud, drug trafficking, smuggling, robbery, prostitution and forgery. ML activities are facilitated through the banks, cross-border cash movement, real estate, casinos and other gambling sites, and insurance companies. The prevalence of ML is due to inadequate bank supervision, lack of political commitment and poor capacity in the appropriate authorities.

312. Despite the poor AML framework, the following three major ML cases were ongoing in 2009:

- Weimi Benson vs the International Bank Liberia (Ltd) and the Central Bank of Liberia;
- Valentine Ayika vs Central Bank of Liberia and Government of Liberia; and
- The Sovereign Church Elohiym International vs the International Bank Liberia (Ltd).

313. The three cases have provided good lessons that will guide the revision of the existing AML law, especially in the area of using NPOs and/or charitable organization in perpetrating money laundering.

314. As part of its efforts in assisting Member States in the implementation of their AML/CFT programs, GIABA undertook a mission to Liberia from 27 to 29 May 2009. Its

objective was to assist the Ministry of Justice to organise a stakeholders seminar on the review of the penal code and to propose an amendment for review of the law towards enactment of AML/CFT legislation.

315. The Seminar attracted a cross-section of Liberian public officials and AML/CFT stakeholders from the Central Bank of Liberia, Ministry of Justice, Liberia National Police, Drug Enforcement Agency, Customs, the Ministry of National Security, and a representative of the Liberian National Bar Association.

316. A major output of the seminar is the emergence of a working draft Prevention of Money Laundering and Financing of Terrorism Bill. The draft Bill has been revised and transmitted to the relevant authorities for their comments.

317. The on-site visit for the mutual evaluation of the Republic of Liberia being organised by GIABA is scheduled for September 2010. There is therefore a need to expedite action on the revision and redrafting of the AML law to include a wide array of predicate offences such as terrorist financing and to provide legal backing for the establishment of an FIU in line with international standards and UN Conventions.

Conclusion

318. Liberia is far behind the other countries in the region with regard to the development of an AML/CFT framework. The country has experienced relative peace for about a decade now and should prioritize its limited resources towards building a strong legal framework and establishing the FIU as soon as possible. The Inter-Ministerial Committee should be effected without further delay.

319. The main challenge is the general lack of awareness of AML/CFT issues, despite the stakeholders' preparedness to cooperate to fight money laundering and terrorist financing if given adequate training and information about these phenomena. There is therefore the need to organise a wider stakeholder meeting that will include stakeholders from the private sector to solicit their inputs and also sensitise them on AML/CFT issues.

320. In its planned 2010 programs, GIABA has identified Liberia as a priority in terms of building capacity of the relevant authorities in AML/CFT measures.

Mali

Background and General Information

321. The Republic of Mali has an area of 124 238 km^2 and an estimated population of 14.5 million. Its yearly population growth rate is 3% (World Bank 2008). As far as the human development index is concerned, Mali ranks 178th out of 182 countries (UNDP 2009). The literacy rate was 23% in 2006 (UNDP). Ninety per cent of the population are Muslim, 9% are animist and 1% Christian. French is the country's official language. Mali shares borders with Algeria and Mauritania to the north, Niger to the east, Senegal to the west, and Guinea-Conakry to the south. Bamako is the capital city. The main cities are Kayes, Ségou, Mopti, Sikasso, Koulikoro, Kidal, Gao and Tombouctou.

Politics and Governance

322. Mali became independent on 22 September 1962 and has had five presidents. It has also experienced a relatively difficult political crisis due to its 23-year military rule. However, since the 1992 political transition, Mali is referred to as a model of democracy and political stability in the region.

323. The Constitution of the Third Republic established a semi-presidential regime in which the President has large powers with safeguards. The President is elected in a two-round majority vote for a five-year term of office, renewable only once. The National Assembly is composed of 147 members elected for a five-year term. The Supreme Court is the highest judicial institution in the country and consists of an administrative chamber, a judicial chamber, and an accounting chamber.

324. Mali is a member of the African Union, ECOWAS, the WAEMU, the Frank Zone, the Organization for the Harmonization of Business Law in Africa, the Inter-African Conference for Insurance Markets, and GIABA, among others.

The Economy

325. Mali's GDP reached USD8.78 billion in 2008, with USD657.4 per capita (IMF). Its growth rate was 5% with an inflation rate of 13.6% (WB 2008). It is one of the Least Developed Countries, and is vulnerable to external shocks, such as locust invasions, sharp falls in the cotton crop rate (the second export resource after gold), and an increase of oil rates, depreciation of the US dollar against the Euro, and finally the Ivoirian crisis. The official development assistance amounted to USD1 billion in 2007 (OECD).

326. The economic activity of Mali is mainly based on agriculture and fisheries, which employ around 80% of the population. Industry is developed around agricultural activities. The main export products are gold, cotton and livestock. Malian migration also constitutes an important source of income for the economy of the country. The biannual multilateral execution and control report of the UEMOA Commission published in June 2009 shows that in 2008 Mali's economic growth rate was 5.2% compared to 4.3% in 2007. The primary sector growth was 13.2%; that of the secondary sector dropped by 4.6%, whereas the tertiary sector achieved a 4.9% growth.

327. In Mali the financial sector includes 12 banking and four financial institutions. The micro-finance and insurance sector is barely developed, and stock exchange activities are virtually nonexistent.

328. At the end of the first 2008 half-year, Mali's banks mobilized almost 90% of the assets of the formal financial sector. In 2007 there were 538 authorized SFDs (Systeme Finance Décentralisé), 494 cooperatives or mutual savings banks (including 477 local funds) and 44 non-mutual savings institutions (associations and in three cases, public companies). SFD assets amounted to CFAF 83.5 G (around USD184 million), which is less than 8% of banking assets.

329. The informal financial sector plays an important role, particularly in the areas of international money transfers, foreign exchange and annuity schemes. A recent ADB study estimates that remittances received from non-residents in Mali amounted to nearly 293 billion FCFA (approx. 647 million USD) in 2005, one-third transmitted through formal channels (banks, Western Union etc.) and two-thirds through an informal channel.

Prevalence of Predicate Offences

330. Money laundering risks in Mali are mainly due to the high level of corruption in the country, which ranks 111th out of 180 countries, evaluated by Transparency International with respect to corruption. Moreover, it has appeared in recent years from various reports (in particular of UNODC and Interpol) that large quantities of drugs from South America go through the northern region of Mali to Europe. For example, a Boeing aircraft carrying estimated 30 tonnes of cocaine was discovered in middle of the Malian desert in the GAO region in November 2009.

331. Indeed the desert northern region of Mali, being very poor, thinly populated and unstable for some years due to the Touareg rebellion and the presence of the terrorist Al Qaida network, has become an El Dorado for drug trafficking operators in search of new transit routes. Several other illicit forms of trafficking encourage crime in this country and produce money for laundering. It is the same with the informal sector, which is as developed in Mali as in all ECOWAS Member States, as well as the thriving real estate business, which makes the area vulnerable to money laundering.

332. There have been reported cases of terrorist-related activities (abduction and release of hostages, fighting) supposed to be due to the presence of a Maghreb branch of Al Qaida in the northern part of Mali. It is in this context that Mali participates in the Trans-Sahara Counter Terrorism Initiative, a USA-conducted program aiming to train and equip the national armed forces so as to help them better control borders and prevent terrorist infiltrations.

333. Furthermore, it appears from the reports of CENTIF Mali activities in 2009 that offences of embezzlement and fraud are notable, justifying the STRs. These include:

- Scam attempts to cash a check in CFA;
- An attempted fraud on accounts domiciled in one French and one German banks. The signature of clients of European banks would have been imitated on transfer orders, for the benefit of the reporting bank in Mali.

Table 14: Summary table of drug seizures done by the Narcotics Brigade and other police units (January–December 2009)

Total number of arrests	**14**
Men	**13**
Women	**01**
Total quantities seized	
Cocaine	**02.16 kg**
Heroin	**16 g**
Cannabis resin, 18 plaquettes	**02 kg**
Cannabis herbs, in weight	**809.100 kg**
Ephedrin	**295 tablets**
Amphetamin	**10 tablets**
Rivotril	**30 tablets**
Drastin	**128 tablets**
Diazepam	**416 comprimés**
Destinations	
Mali	**05**
France	**01**
Senegal	**02**
Maroc	**01**

Routes	
Railroad	**02**
Land roads	
Air	**02**
Age of oldest trafficker	**43**
Age of youngest trafficker	**19**
Breakdown by nationality	
Malian	**11**
Nigerian	**01**
French	**01**
Guinean	**01**

Source: Narcotics Brigade, National Police Headquarters

The AML/CFT Framework

334. Like other WAEMU Member States, Mali has adopted the Community AML guideline in its domestic legal system. Essential structures of the AML/CFT mechanism have been established and made operational, including the FIU and the Planning and Statistics Unit. It must be pointed out, however, that no result is yet available to evaluate the efficiency of the FIU as far as concerns the collection of relevant information.

335. The FIU in Mali has been operational since 2008 and has conducted a number of training activities for its staff and sensitization for AML/CFT reporting parties. Indeed, it received eight suspicious transactions reports in 2009, only one of which has been forwarded to the Prosecutor's Office; the others are being investigated. Training and sensitization actions for reporting authorities have been organized to help them effectively carry out their AML/CFT responsibilities, mainly through the dissemination of BCEAO Instruction No. 01/2007/RB of 2 July 2007, which includes provisions for stronger customer due diligence measures. The Malian CENTIF also received and treated in 2009 a request for information from another FIU, thus complying with the need for international cooperation between technical AML/CFT structures.

336. In addition to the integration of the 16 international legal instruments on international organized crime through Act No. 025/PRM of 23 July 2008, Article 8 of this text also provides for the criminalization of terrorist financing. But this legal text does not consider terrorist financing as an ML predicate offence.

337. The national AML/CFT system was evaluated in 2008 by World Bank experts assisted by the GIABA Secretariat. This activity has certainly contributed to some policy awareness and sensitization of reporting entities encountered in the context of the evaluation mission. The follow-up report presented at the 12th Plenary meeting of GIABA indeed pointed out

some progress in terms of AML/CFT (see Chapter 3). However, the country still has no interdepartmental committee and no national AML/CFT strategy such as is inherent in a good coordination policy. Even though it has been pointed out above that STRs have been sent to the CENTIF, and two files submitted to the Prosecutor's office in 2008–2009, they have not been judged. Therefore, the enforcement system has not yet proved to be efficient.

338. A follow-up mission to the Mutual Evaluation of Mali led by the Director of GIABA was in Bamako in August 2009. The mission was carried out in the context of GIABA's expedited and enhanced follow-up procedure, to assist the Malian authorities to facilitate the production of the first Progress Report of the peer review of the country.

Technical Assistance

339. From 17 to 19 February 2009, the CENTIF, in collaboration with UNODC, held its first awareness workshop. The workshop observed the following problems and challenges among others:

- The difficulty for banks to obtain reliable financial information to their clients under the principle of "Know Your Customer";
- Problems related to lack of updated information contained in the Register of Trade and Furniture;
- No electronic form of the watch list of terrorist suspects; and
- Inadequate training on AML/CFT officers responsible for law enforcement on the ground (gendarmes, police and customs).

340. Also, with regard to capacity-building, some staff members of the Mali CENTIF undertook a study tour to the Belgian FIU on 9–13 February 2009, with the support of GIABA. The objective was to draw on the experience of the Belgian FIU for a better and more dynamic CENTIF in Mali.

341. A delegation from the CENTIF participated in the regional workshop organized by GIABA for FIUs on 9–13 March 2009 in Cotonou, Benin. This training aimed at building the capacities of FIU staff in the areas of analysis and management.

342. Like the other ECOWAS member countries, Mali benefited from many sub-regional training seminars and workshops organized by GIABA. This applies to the assessors training held in Lome and to a sensitization workshop for DNFBPs held in Abidjan.

343. Within the framework of bilateral cooperation, the CENTIF received technical assistance from the US State Department through a training course at the headquarters of the Federal Deposit Insurance Corporation (FDIC) in Washington D.C. on 23–27 March 2009. Alongside this course, contacts were made with the US FINCEN.

344. In the same vein, the Service de Cooperation Technique International de Police (SCTIP) organized a regional seminar on the fight against drug trafficking in West Africa on 23–25 June 2009, attended by a few members of the Malian FIU. The objective was to present modern investigation means that could be used in the fight against drugs trafficking. Mr. Abdoulaye DJIBA, IT Database expert at CENTIF/Mali, undertook a mission to CENTIF Côte d'Ivoire from 15 to 19 June 2009, to assess the IT needs of an FIU. This mission enabled to uncover certain human and material resources needs for the optimal operation of an FIU.

Conclusion

345. It should be noted that the evaluation of the AML/CFT mechanism of Mali was a decisive turning point in the ML/TF prevention and repression policy framework. This activity, no doubt, contributed in a certain awareness raising of the declaring entities. The follow-up report of this evaluation presented at the 12th GIABA Plenary Meeting shows significant progress in addressing the deficiencies. However, the country still does not have an Inter-Ministerial Committee, nor does it have the kind of national strategy necessary to coordinate action. Many recommendations of the MER are not yet implemented, and this calls for increased vigilance on the part of the Malian authorities.

346. Also, while it was stated earlier that 18 STRs have been filed by the CENTIF, including five that were sent to Prosecution, no ML conviction has been recorded in Mali. Therefore, the efficacy of the system has not been tested.

347. Finally, it is important to stress the need for stronger structures not only for AML/CFT in Mali, but also for combating drug trafficking and the terrorist networks in the Sahel Saharan region. This calls, of course, for better material and financial support and capacity-building for law enforcement.

Niger

Background and General Information

348. Niger is a Sahel Saharan country with an area of 1,267,000 km^2 and a population of 14.2 million (IMF 2008) It is a totally landlocked country located in the west central part of the African continent, the desert constituting three-quarters of its territory. Its population growth rate is 3.3% with a life expectancy of 57 years (WB 2008). The literacy rate is 28.7% (UNDP 2008). Islam is the faith of 95%, followed by Christians and animists (5%). The country's human development index was ranked last out of 182 countries by UNDP in 2009. French is the official language.

349. Niger shares a border with Algeria and Libya to the north, Chad to the east, Benin and Nigeria to the south, Burkina Faso and Mali to the west. In addition to the capital Niamey, the other main cities include Zinder, Maradi, Tahoua and Agadez.

Politics and Governance

350. An independent country since 3 August 1960, the country has experienced a series of coups with military and democratic regimes alternating. After the July 1999 referendum, Niger has become a democratic country with a semi-presidential regime. The President of the Republic is elected in a majority two-round vote for a five-year term, renewable only once. The Nigerian Parliament consists of one chamber called National Assembly. Its 83 members, also elected for five years, include 75 elected in a list-based vote and eight elected in a uninominal vote.

351. The Nigerien judicial system is mainly inherited from the French one that establishes the existence of modern and traditional law. This system has been slightly changed: the judicial organization and procedures in courts, courts of appeal and the Supreme Court are still largely regulated by mechanisms adopted when the country became independent. Indeed, justice is exercised in civil, commercial and criminal and administrative cases by the Supreme Court, a Court of Appeal, Courts of Assizes, local courts, peace justices and labour courts. In this system, the people concerned may choose the law that would apply to them in some cases.

352. However, despite resistance from the opposition parties, trade unions and the international community, President Momoudou proceeded with his third term plan against the provision of the Constitution. He dissolved the Parliament and conducted a referendum, which purportedly gave him the legitimacy to stay in power and contest election for another term. The country has been in some political turmoil since then, with a potential risk of military intervention. The international community condemned the actions of the President and called for compliance with democratic governance and human rights. In a swift reaction against the unconstitutional action, ECOWAS suspended Niger from participating in any political activity of the regional organization and set up a mediation committee head by a one-time military head of state of Nigeria, General Abdulsalam Abubakar.

353. The socio-political instability and governance problems in the country over the years have undermined the fair allocation and efficient use of public resources, as well as keeping the country in poverty.

354. Niger is a member of the following institutions: the African Union, ECOWAS, WAEMU, The Franc Zone, the Organization for Business Law Harmonization in Africa, the Inter-African Conference of Insurance Markets, and GIABA, among others.

The Economy

355. Niger's GDP is estimated at 5.38 Bn, with a per capita contribution of 390 USD (IMF 2008). The economic growth rate was 9.5% with inflation at 11.3% in 2008.

356. The basic economic activities in Niger are services and agriculture in which onions produce substantial export earnings. According to the UEMOA (WAEMU) Commission, the economic growth rate in Niger in 2008 was 9.5% compared to 3.3% in 2007: 16.7% rise for the primary sector in 2008 compared to 4.0% in 2007. The secondary sector representing only 12.0% of GDP concerns mainly uranium mining activities; it has achieved a low 1% growth rate compared to a 1.1% drop in 2007. The growth rate of the tertiary sector was 4.2% in 2008 compared to 3.9% in 2007. The value of the informal sector in this sector accounts for 85.6% of the added value in 2008.

357. The oil and mineral mines concentrated in the north of the country are also increasingly attractive to foreign investors. In May 2009 the Government of Niger granted 23 excavation and mining permits to seven foreign companies. The most optimistic forecasts envisage the production of the first oil barrels as early as 2010. This rush for mining permits has encouraged the emergence of new types of mediating agents, often located in political

circles, who receive substantial financial commissions from the companies for which they facilitate the acquisition of contracts. This situation raises the debate on the lack of transparency in the granting of public contracts, the corruption of political leaders, and poses a real problem of governance. In this context, the press has reported the charges against three former members of Parliament for corruption in cases related to public contract allocation estimated at 18 billion CFAF. Problem with transparency sometimes surrounds the process of granting mining permits to foreign investors, who mostly rely on many people aware of the policy to get their paper. This is fuelling the debate on the lack of transparency in awarding public contracts and corruption of political leaders, and thus poses a problem of governance. In this context, the ore mining, as well as that of oil, suggests a good economic outlook for Niger.

358. The formal financial sector is modest and is dominated by 10 commercial banks that mobilized 90% of the financial sector assets in May 2009. The banking sector regroups national establishments dubbed “generalists” alongside international groups. The consolidated balance sheet of the whole banking sector in 2007 amounted to 380 billion FCFA, being 20% of GDP.

359. The micro-finance sector, with 148 micro-finance institutions, is the least developed one in the region, with a penetration rate of 7.5 clients per thousand persons, against an average of 29 per 000 persons in the UEMOA countries, as shown in the MER of Niger. The total volume of deposits was 6.5 billion FCFA, and that of loans was 11.7 billion. Total equity was in excess of 4 billion FCFA, for total assets in excess of 13 billion.

360. The insurance industry is of modest size with five general insurance companies and one life company, as well as 28 brokerage firms. There are no life insurance policies used as financial investment. The total turnover of the market amounted to 13,270.6 million francs CFA and 11,847.0 million in 2006, representing a gross increase of 12.0%. No AML/CFT awareness program has been organized for the insurance companies that figure prominently in the financial system after banks.

Prevalence of Predicate Offences

361. Among the current infractions identified in Niger, corruption is a crucial issue (Niger ranked 106 in Transparency International classification in 2009). Drug and arms trafficking, armed robbery and trafficking in human beings are the main aspects of the criminal environment according to the Niger Mutual Evaluation Report of May 2009.

The AML/CFT Framework

362. Regarding the AML/CFT system, it must be pointed out that Niger is one of the first UEMOA (WAEMU) countries which integrated Directive No. 07/2002/CM/UEMOA into its domestic legal organization with the vote of Act No. 2004-41 of June 2004 which regulates AML action and was promulgated on 14 September 2004.

363. The CENTIF that was created in 2006 is operational to a limited extent only, for various reasons. Its offices had been ruined by a fire in 2007. In spite of its location in new offices equipped with the support of GIABA, the FIU still faces a recurrent distrust of reporting entities for the transmission of STRs. This is due on one hand to the insecurity of the FIU offices, which are located in the suburban area with no police protection, and on the other to an incident between a bank employee and a client who was subject of a STR. The client had threatened to sue a bank staff member after this affair, i.e. the revelation of information concerning him. In fulfilling its reporting obligations, the bank employee has been exposed to verbal and physical threats from the suspect. The CENTIF initiated a new approach, namely to meet individually with bank managers to reconnect, to gain new confidence and get them to resume the submission of STRs.

Technical Assistance

364. A training and awareness seminar for staff of banks and financial institutions was held Niger on 25–29 May 2009 at the "Africa Hall" in Niamey. The seminar arose from an agreement of the Director General of GIABA, following the request for financial and technical support given by the President of the CENTIF of Niger. The workshop was facilitated by members of the FIU, an expert of GIABA a French consultant, expert and member of the French firm Finance without Frontiers. The objective was to disseminate tools and international standards and best practices in AML/CFT. It was also to foster a good understanding of legislation and regulations in the UEMOA zone and particularly the provisions of the Act AML/CFT. The seminar reviewed the evidence and flashing of money tied to the banking industry and its products and sought to know the role of GIABA and the CENTIF.

365. At the end of the workshop participants had a better understanding of their role in the AML/CFT mechanism, including focused attention on the precise identification of the customer, the justification of operations, and the manner of preserving evidence. How to

make a declaration of suspicion has been well explained and understood by participants. The expected impact will filter the most suspicious transactions that they were aware of the risk mapping of money involved in banking and specific products it offers.

Conclusion

366. The country has not yet established an Inter-Ministerial Committee in charge of the coordination of AML/CFT activities. In this respect, GIABA had sent letters to the Niger authorities, in particular the Ministers in charge of Finance, Security and Justice, to point out the urgent need to set up this Committee.

367. The development of the national AML/CFT still remains a priority for the country. This will have a clear vision and coordinated policies and actions to specifically address and money laundering and terrorist financing. The implementation of the recommendations of the Niger MER would contribute significantly to improving the AML/CFT system of Niger. It is expected to present its first follow up report to GIABA in May 2010.

Nigeria

Background and General Information

368. The Federal Republic of Nigeria occupies a landmass of about 923,768 km^2. The Republics of Benin, Chad, Cameroon and Niger, all French-speaking countries, surround it, whereas Nigeria is an English-speaking country. Nigeria is estimated to be the largest country in sub-Saharan Africa, both in terms of size and population. Nigeria's population is estimated at 150 million with an annual growth rate of more than 3%. On 1 January 1900, the British government proclaimed the existence of two new colonial entities, the Protectorate of Southern Nigeria and the Protectorate of Northern Nigeria, alongside the Colony and Protectorate of Lagos. Before then, the British had amalgamated the Niger Coast and imposed this arrangement on the Lagos hinterland in the 1880s–1890s. In 1906, the colony of Lagos was merged with the Southern protectorate to form the colony and protectorate of Southern Nigeria. The final amalgamation of the Northern and Southern Protectorates in 1914 was a watershed in the history of Nigeria, because it was then that the name 'Nigeria' was given to the geographical entity we know today. This landmark action is given prominence in the history of Nigeria because of its political undertones, as well as its repercussions on the transformation of Nigerian society.

369. Nigeria became independent on 1 October 1960 and it is now divided into 36 states and a Federal Capital Territory (Abuja), and 774 Local Government Areas. It has three major seaports: Lagos, Warri and Port Harcourt. It also has 11 international airports located in Abuja, Lagos, Kaduna, Kano, Katsina, Sokoto, Maiduguri, Minna, Calabar, Enugu and Port Harcourt.

Politics and Governance

370. Nigeria's polity and governance had been characterized by incessant military interventions leading to political instability, disregard for the rule of law and lack of respect for fundamental human rights and freedoms, as well as lack of accountability and transparency. Out of the 49 years of existence as a sovereign nation, Nigeria's governance has been dominated by military rule for about 32 years. Almost all the seven successful military coups purported to stop corruption. Unfortunately, however, the military regimes that claimed to deal with corruption became even more corrupt (keynote remarks by Olusegun Obasanjo, Arewa House, Kaduna, 1994). Since May 1999, Nigeria has sustained a democratically elected government.

371. Nigeria operates an executive presidential system of government modelled after that of the USA, with executive powers vested on an elected President and elected Governors of 36 States. Nigeria is a federation consisting of three tiers of government: federal, state and local. There is separation of powers and functions between the tiers. Each of the 36 states has an elected Governor and an elected State Assembly of between 24 and 40 members depending on the size of the population. All elected officers have four-year terms. The third tier comprises of 774 Local Government Areas. There is a two-term constitutional limit on the tenure of the President and the Governor.

372. The three arms of government at both federal and state levels are independent of one another, but work in synergy. At the federal level, the Executive arm is headed by the President assisted by a Vice. The National Council of States, which comprised the President, Vice President, all former Presidents, current and all former heads of the Legislature and the Judiciary, as well as all State Governors, is the highest policy-making body. The Executive Council comprises Cabinet Ministers and it meets fortnightly to consider policy issues and approve government programs and projects.

373. The second arm of the Government is the National Assembly (Legislature). The National Assembly operates a federal bicameral system made up of upper and lower chambers. The upper house, the Senate, has 109 elected members led by the President of the Senate. The lower House of Representatives has 360 members led by the Speaker of the House. The National Assembly, in addition to its main function of making laws for good governance of the country, performs oversight functions over ministries and parastatal organizations of government.

374. The third arm of the Government is the Judiciary, which consists of all the Courts and is headed by the Chief Justice of Nigeria. The judiciary is responsible for adjudication of all cases, including money laundering cases.

The Economy

375. Nigeria is the largest economy among GIABA Member States, with a well-developed and complex financial services industry that has a significant degree of integration with international markets through the presence of Nigerian bank branches and subsidiaries in other financial centres, and the operation of foreign bank interests in Nigeria. In addition, Nigeria has active securities and insurance sectors. The sophistication of the financial sector has implications for the effective implementation of the AML/CFT regimes. Like other

countries in the region, Nigeria is primarily a cash-based economy and as such, about 90% of money laundering activity takes place in the informal sector.

376. Exchange rate stability and convergence have been achieved with the official and parallel market almost at par. The Nigerian Central Bank estimated that the inflow of foreign private capital in 2007 was over USD7 billion, while external reserves have gone up from USD7 billion in 2003 to USD42.4 billion as at 31 December 2009. Nigeria's GDP was estimated at USD315.8 billion in 2008, with average annual real GDP growth rate for 2000–2008 at 8.4%. According to the 2009 African Economic Outlook, the yearly inflation rate reduced to a single digit of 5.4% at December 2007 but rose to 11.0% in 2008 and is estimated to be 10.1% at end of 2010.

377. The deregulatory programs introduced in Nigeria in the late 1980s led to a rapid growth in the number of both commercial and merchant banks, as well as finance houses. For example, the number of commercial banks rose from 30 in 1986 to 64 in 1997, while the number of merchant banks rose from only one in 1960 to 51 with about 147 branches in 1997. The commercial banks account for between 83.9 and 89.7% of the banking system's total assets and deposit liabilities in 1997. Very little of this is foreign-owned.

378. The Nigerian Capital Market witnessed a downturn in 2009 as a result of banking reforms, the global financial meltdown, change in leadership of the Central Bank of Nigeria andSecurities and Exchange Commission policies and counter-policies within and outside the market. The aggregate market capitalization of listed equities which opened trading for the year at NGN6.957 trillion fell to NGN4.990 trillion as at 11 December 2009,[43] indicating a drop of 28.77%. About 19 Nigerian companies have a market capital base of USD1 billion and above. With 20 such companies in West Africa, Nigeria is host to 19 and 11 of them are Nigerian banks, compared with none in 1999.

379. In terms of size, all deposit-taking institutions must be licensed by the Central Bank of Nigeria (CBN). In 2008 there were 25 commercial banks, following a consolidation exercise by the CBN (and subsequently 24 as a result of a voluntary merger between two banks after the consolidation exercise), six development finance institutions, five discount houses, 113 finance companies, 303 bureaux de change, 763 community banks and 91 primary mortgage institutions. The assets of the banking system in 2008 totalled approximately USD97 billion.

[43] The exchange rate was US$=150 Naira.

380. In 2007 there were 849 market intermediaries authorized by the Securities and Exchange Commission. Market capitalization was estimated at USD65 billion. The insurance sector underwent recapitalization in 2007 and currently comprises 49 insurance companies, two reinsurance companies and 536 brokers.

381. In 2009, the CBN continued with banking sector reform designed to promote a compliance culture and usher in good governance, with an attendant positive impact on AML/CFT compliance regime. Thus, to sanitise the industry, the chief executives and executive directors of eight banks were removed and were being prosecuted for poor management of their institutions by the end of December 2009. To avoid possible systemic effect, a bailout plan has been rolled out by the CBN to bring the ailing banks out of their poor financial conditions. As part of the financial sector reforms, the regulatory roles of the CBN and the Securities and Exchange Commission are being strengthened, with positive impact on both prudential regulations for effective implementation of the AML/CFT program. To ensure robust supervision of institutions under its purview, the CBN has created a dedicated AML/CFT Unit within the Banking Supervision Department, while a new Department of Risk Management has been established. The new structure is expected to come into effect in January 2010. Also, to enhance good corporate governance, the CBN has issued a guideline for appointment of chief executives of banks to take effect from 1 July 2010, requiring that the maximum number of years a bank CEO can serve is 10 years.

382. Nigeria is a leading petroleum and gas producer and exporter. Petroleum constitutes about 97% of its exports earnings and about 80% of total federal (collectable) revenue.

Prevalence of Predicate Offences

383. In the mutual evaluation report of Nigeria adopted in 2008, corruption, particularly grand corruption by serving and ex-political office-holders, was identified as one of the predicate offences for ML. Yet in its Constitution Nigeria retains immunity for certain public officials and the non-requirement for disclosure of declared assets for public scrutiny. Section 308 of the 1999 Constitution provides that certain public officers – the President, Vice President, 36 Governors and the Deputy Governors – shall not be subject to civil and criminal prosecution during their stay in office. The Freedom of Information Bill presented to the National Assembly by Civil Society Groups since 1999 to improve transparency in public service is yet to be passed into law.

384. Pervasive corruption in Nigeria constitutes a major threat and underlies most of the money laundering cases reported in recent times. In the past three years, more than 10 ex-

Governors and political leaders who were alleged to have embezzled public funds, estimated at USD250 billion, have been arrested and charged in court. Most of these funds are alleged to be hidden in Western banks and offshore centres, while a significant amount have been laundered through the acquisition of properties, luxury cars and purchase of high net worth shares in blue chip companies. Law enforcement officials also reported that half of Nigeria's USD40 billion annual oil revenue is stolen or wasted. However, due to ongoing government efforts, there is an incremental improvement in the hitherto observed rampant criminal activities and massive corruption.

385. Proceeds from advance fee fraud, drug trafficking, illegal oil bunkering, bribery and embezzlement, contraband smuggling, theft, kidnapping and other financial crimes constitute sources of money laundering in Nigeria. Money laundering methods in Nigeria include investment in real estate; wire transfers to offshore banks; deposits in foreign bank accounts; use of professionals such as lawyers, accountants, and investment advisers; and use of corporate vehicles and cash smuggling.

386. Despite years of government efforts to counter rampant criminal activity and massive corruption, the country continues to be plagued by crime. Although Nigeria is not an offshore financial center, its large economy is a hub for the trafficking of persons, narcotics and other illicit goods. Nigeria is a major drug-transit country and some Nigerians are deeply involved in smuggling and trafficking rings worldwide. In addition to narcotics and corruption-related money laundering, advance fee fraud (popularly known as 419) remains a lucrative financial crime that generates hundreds of millions in illicit money annually for criminals. Following the successes registered by the Economic and Financial Crimes Commission (EFCC), closely supported by the Nigerian Financial Intelligence Unit (NFIU) a few years ago, many national criminal elements moved to neighbouring countries to pursue their activities. Since early 2008, however, many of these criminals have returned to Nigeria or have resurfaced locally to resume their trade.

387. One of the environmental challenges is the cash-based economy, which represents at least 75% of the Nigerian market. According to a CBN publication, as of December 2004 total currency in circulation stood at NGN 545.8 billion, of which 84% was outside the formal financial sector. Other challenges relate to the informal sector (mostly unorganized and non-self-regulatory bodies), widespread illiteracy, poor record-keeping and public resistance to cooperation – not to mention outright non-compliance in some cases.

388. Money laundering has become less prevalent in the formal economy[44] but remains a continuous threat in the DNFI sector. More control must necessarily be exerted in that area. Recent reports also indicate that due to the stringent measures now put in place by the Nigerian authorities to control money laundering, proceeds of crime, especially corruption, are now being laundered within the country through the purchase of luxury items and real estate.

The AML/CFT Situation

389. Nigeria has criminalized money laundering under the *Money Laundering (Prohibition) Act 2004* (MLPA), the *National Drugs Law (Enforcement) Act 1989*, and the *Economic and Financial Crimes Act 2004*. Money laundering offences cover the conversion, transfer, concealment, or disguise, possession and acquisition of property in a manner that is largely consistent with the Vienna Convention and the UN Convention against Transnational Organized Crime (Palermo Convention). Nigeria has also ratified the UN Convention against Corruption (2003).

390. Nigeria adopted the all crimes approach in defining the scope of predicate offences. There is a broad range of ancillary offences to the money laundering offence. Money laundering applies to both natural and legal persons, and proof of knowledge can be derived from objective factual circumstances. Legal persons are liable to a maximum of Nigerian Naira (NGN) 250,000 (about USD1,800 as at July 2007) and withdrawal of licences, while natural persons are liable to a maximum of NGN 1 million (about USD8,000) fine or three to five years' imprisonment, or both fine and imprisonment and the possibility of suspension from performance of professional activity for five years. Directors and officers of financial institutions are also liable for neglecting to carry out their obligations under the MLPA.

391. In Nigeria, the adoption of the "all crimes" approach in the fight against money laundering is working and has proved effective against the backdrop of the convictions gained and some ongoing high-profile cases.

392. The *Economic and Financial Crimes Act* established the Economic and Financial Crimes Commission with powers to enforce money laundering offences and any other legislation related to economic and financial crimes. Because a national central database on AML/CFT is still evolving, it is difficult to determine how many money laundering cases

[44] This is based on the assumption that the control measures put in place are yielding some results.

have been investigated and prosecuted. At this time, each law enforcement agency maintains its own database, with the EFCC and NFIU acting as coordinating agencies, consolidating information from the various databases. It is difficult to determine how many money laundering cases have been investigated and prosecuted. This situation provides difficulty for follow-ups and prevents the use of such relevant information by financial institutions and DNFBPs to limit their risks of exposure to money laundering. All this, however, does not suggest lack of effort. On the contrary, Nigeria should be commended because it is the only country in the West African region that has recorded successful money laundering prosecutions and conviction.

393. The report by Nigeria shows that the EFCC has since its establishment secured a total of 25 money laundering convictions based on the MLPA. The convictions and other ongoing prosecutions are shown in Table 16.

Table 15: Money laundering prosecutions (including convictions) for the EFCC[45]

A. Lagos Zone

SN	Cases	Prosecution	Conviction
1	FRN v. James Onanefe Ibori	Yes	
2	FRN v. Jolly Tevoru Nyame	Yes	
3	FRN v. Joshua Chibi Dariye	Yes	
4	FRN v. Orji Uzor Kalu	Yes	
5	FRN v. Saminu Turaki	Yes	
6	FRN v. Lucky Nosakhare Igbenidion		**Yes**
7	FRN v. Michael Botmang	Yes	
9	FRN v. Chimaroke Nnamani	Yes	
10	FRN v. Boni Haruna	Yes	
11	FRN v. Ayodele Fayose	Yes	
12	FRN v. Rasheed Ladoja	Yes	
13	FRN v. Sunny Okocha	Yes	
14	FRN v. Onyekachukwu Nwaigwe	Yes	**Yes**
15	FRN v. Abubakar Mayaki	Yes	
16	FRN v. Valentine Ayika	Yes	
17	FRN v. Kehinde Adeniyi	Yes	
18	FRN v. Charles Obi Okeke	Yes	
19	FRN v. Rita Ada Okoroafor	Yes	
20	FRN v. Femi Fani-Kayode	Yes	
21	FRN v. Simon Bako Lalong	Yes	
22	FRN v. Rahman Fashina		**Yes**
23	FRN v. Adubi Daniel		**Yes**
24	FRN v. Musa Ufedoh		**Yes**
25	FRN v. Solomon Owusu		**Yes**

[45] Report presented by Nigeria to the FATF ICRG Africa/Middle East Regional Review Group, December 2009.

26	FRN v. Wale Bamidele		**Yes**
27	FRN v. Silas Stephen Uwem		**Yes**
28	FRN v. Abidemi Openiyi		**Yes**
29	FRN v. Emery Williams		**Yes**
30	FRN v. Morankinyo Adekunle		**Yes**
31	FRN v. Joshua Oluwasegun		**Yes**
32	FRN v. Kehinde Soluade		**Yes**
33	FRN v. Ejiwunmi Oluwatobi Basile		**Yes**
34	FRN v. Diepreye Alamiyaseigha		**Yes**
35	FRN v. Gamu Olaniyi Tajudeen		**Yes**
36	FRN v. Omonui Sanlola		**Yes**
37	FRN v. Oyemade Adesoji		**Yes**
38	FGN v. Alli Olumide Monsuru		**Yes**
39	FRN v. Kareem Rasaki Abayomi		**Yes**
40	FRN v. Emmanuel Morgan		**Yes**
41	**FRN v. Frank Amah**	**Yes**	

B. Port-Harcourt Zone

SN	Case	Prosecution	Conviction
42	FRN v. Stanley Return		**Yes**
43	FRN v. Ituru Peter Inovosa		**Yes**
44	FRN v. Jude Ngebene		**Yes**
45	FRN v. Erwin Antas		**Yes**
46	**FRN v. Akiola**	**Yes**	

394. In addition, no less than 15 former bank CEOs/managing directors and executive directors have recently been charged with corruption, money laundering and allied offences under the EFCC Establishment Act. Fourteen drugs/ML-related cases were investigated, out of which two were mutual legal assistance requests from the US Department of Justice, another two from South Africa and one from the UK. In the course of the year, an officer of the EFCC travelled to the UK to testify in the case of a British Transport Police that facilitated a civil forfeiture of proceeds of illicit drug trafficking. Also, the Nigeria Drug Law Enforcement Agency (NDLEA) transferred three cases of seized fake monetary instruments (TCs, money orders; etc) to the EFCC for further investigation.

395. On measures to combat terrorist financing, Nigeria has ratified the UN Convention for the Suppression of the Financing of Terrorism 1999 and seven out of the 13 UN terrorism conventions. Within the existing legal framework, the authorities have taken steps to confront the threats of terrorism, whether the threat has an international nexus or is purely domestic in nature, such as the Niger Delta situation, or one with A religious dimension as a few cases in Northern Nigeria might suggest. The Department of State Services, which is responsible for interdiction of terrorists, asserted that between 1999 and 2007, it investigated 29 cases

involving terrorist financing and money laundering. The implementation of the existing financing of terrorism framework has revealed some practical challenges. The major one is that while section 15 EFCC Act criminalizes terrorist financing, it does not provide a comprehensive framework for dealing with the tripartite offences of terrorism, namely financing of terrorism, terrorists act and terrorist organizations, as envisaged by the FATF Special Recommendations and the 1999 Suppression of the Financing of Terrorism Convention.

396. Other measures adopted by Nigeria to address the deficiencies in its system include the issuance and enforcement of newly instituted Operational Guidelines for Casinos. The National Advisory Council of Designated Non-financial Businesses and Professions was formally inaugurated in 2009. This is a formal platform for reinforcing partnership between the DNFI regulatory authority and the leadership of the various DNFBP professional associations and self-regulatory bodies, and is aimed at improving public–private sector partnership and civil society participation in the crusade against ML/FT within the DNFBP sector.

397. Also, the Inter-Ministerial Committee, which was inaugurated in July 2008, was very active and undertook the following activities in 2009:

- Development of AML/CFT implementation strategy and work plan to address outstanding issues in the MER;
- Strengthening of information exchange and feedback mechanism among stakeholder institutions;
- Preparation of next follow-up report for presentation to GIABA Plenary in May 2010;
- Capacity-building for stakeholders to enhance their understanding of their role in the implementation of AML/CFT measures.

398. The Federal Republic of Nigeria was evaluated by GIABA in September–October 2007 and the MER was discussed and adopted in May 2008. The MER identified a number of significant deficiencies, especially those relating to customer due diligence, beneficial ownership, record keeping, protection of reporting entities and Politically Exposed Persons , dissuasiveness and proportionality of sanction regimes, and terrorist financing.

399. According the GIABA Process and Procedure on Mutual Evaluation, all Member States would be subjected to a mixture of enhanced/expedited regular follow-up. GIABA's policy on follow-up report and monitoring is consistent with its goal of ensuring that effective

anti-money laundering and counter financing of terrorism measures are put in place at all levels in our Member States.[46]

400. A follow-up mission led by the Director General of GIABA was carried out in Nigeria on 16–18 February 2009. During the visit, the mission met with Ministers and Heads of relevant government ministries and agencies, including the ministries of Finance, Justice and Interior, the NDLEA, and the EFCC, where issues pertaining to AML/CFT policy and implementation in Nigeria were discussed. The mission also met with the House Committee on Drugs, Narcotics, Anti-Corruption and Financial Crimes where they solicited the Committee's support towards the passage of pending economic and financial crime legislation or amendments to such laws.

Technical Assistance

401. Although Nigeria is providing some technical assistance to other countries in the region, it still receives technical assistance in some ways. Overseas partners invested firmly in the EFCC and it has since thrived in its crusade to reduce corruption and ML/FT in the country to the extent that, between 2004 and 2007, mentalities changed and officials believed that Nigeria can regain its position as a respected and responsible partner in the comity of nations.

402. GIABA has provided direct technical assistance to relevant Nigerian agencies, including the training of prosecutors, investigators, judges and bank compliance officers. Some of these activities were organized in Nigeria, within West Africa, or as an exchange program where officials were placed in other agencies to understudy their work.

403. In March 2009, GIABA held a regional training program for money service businesses and other DNFPBs in Abuja on AML/CFT, followed by an Open House event at the University of Lagos in May to galvanize the youth in the fight against ML and TF. Those events, among others, reinforced the efforts of the Nigerian authorities in involving civil society in the fight. In June 2009, some Nigerian AML Bank Chief Compliance Officers were taken on a study tour to the UK, during which they visited relevant compliance and regulatory institutions, including the Financial Services Authority (FSA), to learn some good practices. Many Nigerian officials have attended training to qualify as assessors and to prepare for their own assessment.

---

[46] See description of the GIABA follow-up process and procedures and a summary of Nigeria's follow-up actions on its MER in Chapter 3.

404. Nevertheless, additional assistance will be needed from international organizations and donor countries to support Nigeria improve its AML/CFT system. Specifically, building the capacity of the institutions to effectively control money laundering is crucial. Furthermore, preventing the pilferage of assets out of Nigeria, which are destined for Western countries' financial systems, will be a significant step in dealing with ML problem globally. Another important area is building data management capacities across all enforcement and supervisory entities, especially with regard to data management and coordination at the national level.

Conclusion

405. The follow-up report by Nigeria has shown some significant progress which demonstrates the country's commitment to reform its AML/CFT system. Nonetheless, some deficiencies have not yet been addressed. Many low-capacity countries, including Nigeria, face serious challenges in overcoming deficiencies in their systems. This is more so with all GIABA members, who are just in the first round of their mutual evaluations. The publication of Nigeria's MER among the first set of MERs published by GIABA is also a demonstration of the country's commitment to the ME process.

406. Nigeria has been a leading country in the institutionalization and application of AML/CFT measures in West Africa. For example, Nigeria was the first country in Africa to enact a comprehensive legislation against money laundering.[47] Nigeria was also the first country in West Africa to establish an FIU in 2004. Unfortunately, however, these efforts were not sustained and Nigeria was placed on the Non-Cooperating Countries and Territories (NCCTs) list.

407. Following its removal from the NCCTs list and in furtherance of its efforts to reform its AML/CFT system, Nigeria has created a special unit (called Anti Corruption and Transparency Unit – ACTU) in each federal ministry to help control the problem of corruption from within national institutions.

408. In addition to the ACTU, a specialized unit has been set up in the Federal Ministry of Commerce and Industry to tackle the entire DNFBP sector. The Specialized Control Unit on Money Laundering (SCUML) was established in September 2005 to monitor, supervise, regulate, and report on the activities of these DNFBPs across the country with respect to AML/CFT. These institutions are defined in section 24 of the MLPA as dealers in jewellery,

[47] The Anti-Money Laundering Decree No. 3 of 1995 was enacted following Nigeria's ratification of the Vienna Convention. This law has been amendment and it is now called the *Money Laundering Prohibition Act 2004*.

luxury cars and goods, estate agents and valuers, chartered/professional accountants, audit firms, tax consultants, clearing and settlement companies, legal practitioners, supermarkets, casinos, hotels, precious stones and metals dealers, trust company service providers, NGOs, charities, and even churches. This unit is the first and the only one of its kind in the region.

409. Despite the challenges it is facing, SCUML has been able to achieve a lot in the past few years. The stockpile of hard copy Cash Transaction Reports (CTRs) has been converted into useable soft e-copies and uploaded. There has been continuing training/induction program for the foundation staff on AML/CFT and ICT, as well as for reporting entities. Registration of DNFIs has increased markedly. A risk-based assessment of DNFIs has been developed, in direct relation to their vulnerability. Door-to-door sensitization has begun in Abuja. A DNFI Advisory Council has been inaugurated, to bring all players in the parallel market on side. The goodwill of all operators is crucial to its success and to eliminating ML/FT. SCUML has also received strong support from the UK Department for International Development, which has rapidly provided needed support for specific activities.

410. All this is not to say that there are no challenges, including the shortage of manpower and other resources given the size and population of Nigeria.

411. The effectiveness of the implementation of AML/CFT regime in Nigeria is still an uphill task as the main challenges include inadequate capacity of regulators, law enforcement agencies and the judiciary, lack of appropriate ICT infrastructure, and legal and constitutional challenges such as the non-passage of the bills on Anti-Terrorism, ML Amendment and the Non-conviction Based Forfeiture.

412. The year ended on a sad note for the country as a 23-year-old citizen, Mr Farouk Abdulmutallab, was involved in the foiled attempt to blow up a Detroit-bound plane on 25 December 2009. This ill-conceived criminal activity has had significant negative effect on the efforts Nigeria has been making to address the concerns raised in its MER. Consequently, Nigeria has been added to the “Watch List” of high-risk jurisdictions by the USA.

413. The looming FATF-targeted review of Nigeria appears to have lumped the country in a pool that brings together countries that are at significantly different extremes of achievement within the broad spectrum of compliance with the FATF 40+9 Recommendations. The targeted review of Nigeria within this context would obviously send a wrong signal of intense pressure on low-capacity countries to meet with the standards of developed countries who started the AML/CFT drive over two decade ago, and it is also not a fair reflection of the significant progress made by the country, just as it would not serve to encourage further

progress and encourage other GIABA Member States to rededicate themselves to fully implementing the recommendations in the MERs.

414. To facilitate the effectiveness of its AML/CFT programs, the Federal Government of Nigeria should consider the establishment of a special court with specific jurisdiction manned by adequately capacitated judges to handle cases of financial crimes. It is imperative for Nigeria to accelerate the process of passing the bills on MLPA amendments and anti-terrorism that are pending before the National Assembly.

Table 16: Summary of Technical Assistance needs of Nigeria

Area for Technical Assistance	Specific Assistance Required	Expected Impact on AML/CFT Regime
Enforcement, investigation and prosecution	Capacity-building on AML/CFT investigation techniques (asset tracing, seizure, forfeiture) and prosecution to equip law enforcement agencies, regulators and prosecutors with requisite knowledge and expertise	Improve operational efficiency of relevant authorities leading to efficient investigation and enforcement of ML/TF cases and higher rates of convictions
Legislature	Training of lawmakers on AML appreciation	Improve the capacity of legislators to appreciate their roles in enacting and updating relevant laws that will enhance AML enforcement and prosecution
ICT infrastructure for law enforcement agencies	Network system/database for easy storage and retrieval of information	Strengthen enforcement responsibility of relevant agencies as well as enhance AML/CFT investigation and prosecution
Capacity-building on advanced analytical skills of NFIU	Resource persons/mentors and funding	Trained and equipped staff with the skills to analyse financial transactions for effective tracking of ML/TF
AML/CFT legal framework	Support follow-up efforts towards the passage of Anti-Terrorism Bill, Non-Conviction Based Asset Forfeiture Bill, Freedom of Information Bill; etc.	Enhance the implementation of AML/CFT regime, particularly the combating of terrorism financing, as well as complement existing AML/CFT legislations. Seizure and confiscation of proceeds of crime under the non-conviction based asset forfeiture system will address

	the slow pace of litigation of ML and corruption cases with attendant positive effect on the AML/CFT regime.

Senegal

Background and General Information

415. Senegal is bordered by the Atlantic Ocean in the west, has borders with Mauritania to the north, Mali to the east, and Guinea-Conakry and Guinea-Bissau to the south. The Gambia, a strip of 350 km along the river Gambia, is an enclave within the territory of Senegal. In 2008, Senegal has experienced a new administrative division which increased from 11 to 14 the number of regions, with the erection of Kaffrine Kédougou Sédhiou, 49 new municipalities, including three district municipalities, and 48 rural communities. The main cities are Thies, Kaolack, Ziguinchor, Saint Louis and Dakar, the capital. Touba, perceived as a holy city city in Senegal, is also in terms of demography a large city and is a centre of national interest.

416. Senegal has a population of about 12.211 million and an area of 196,722 km^2, with a density of 64 inhabitants per km^2. However, Senegal's population is unevenly distributed. It is concentrated in the west and centre, while the east and north are underpopulated. Indeed, a quarter of the national population is concentrated in Dakar, which represents 0.3% of the territory and displays a population density of 4,549 inhabitants per km^2, which contrasts with the Tambacounda region, which represents almost a third of the land area and covers only 6.2% of the population of Senegal, a density of 12 inhabitants per km^2. According to the report SES (Situation Economique et Sociale) 2008 ANSD (Agence Nationale de la Statistique et de la démographie)[48], the rate of urbanization in Senegal amounted to 42%. In 2008, its demographic growth rate was 2.6%, and life expectancy was 56 years. The literacy rate in 2006 was 39% (World Bank). Religious affiliation is 94% Islamic, followed by Christian (4%) and animist (2%). French is the official language.

Politics and Governance

417. Senegal became independent on 4 April 1960 as a democratic non-confessional republic with a parliamentarian regime, then turned to a strong presidential republic, with the advent of its first Constitution as an independent state in August 1960. After a single party state period between 1966 and 1974, the multiparty system was accepted for the four political parties then existing. In 1981 the system was further opened, allowing opposition parties to

[48] SES 2008 – <http://www.ansd.sn>

join the Government cabinet. Today there are more than 100 political parties. The country has gained recognition for political stability, as well as religious and ethnic tolerance.

418. Senegal is a democratic State with a presidential regime. The three arms of government, namely the Executive, Legislature and Judiciary, operate independently in the framework of separation of powers. It is exercised by the Constitutional Council, the Court of Government Accounts, the courts and tribunals. The law also provides for a High Council of Magistrates, and a High Court of Justice to judge members of the Executive.

419. Indeed, with the help of traditional partners such as France and UNODC, Senegal is implementing a Justice Sector Reform Program that will include reforming the judicial map with the aim of creating a local justice system by setting up houses of justice at the municipal level (nine term). The reform will also focus on creating high courts instead of district courts, Appeal courts in place of county courts, and redistribution of powers between the courts particularly in administrative, criminal, civil, social and trade is initiated. The court information system is being strengthened as well.

420. Concerning governance, Senegal is rolling out its National Program of Good Governance, which aspires to strengthen the rule of law in a democratic society, and promote efficiency and transparency in economic and social management. The Program occupies a central place among the measures included in the Poverty Reduction Strategy Paper. The latter developed in 2000 and is in its second phase of implementation in the framework for the development of sectoral development plans and investment programs, among other Millennium Development Goals.

421. With the support of development partners, the country has improved the management of public contract through the finalization and implementation of a Code of Public Contracts and the establishment of regulatory agencies. Furthermore, essential reforms are being operated on the management of public funds through the Country Financial Accountability Assessment (CFAA) and Country Procurement Assessment Review (CPAR) projects. The problem of efficient structures to fight against money laundering, corruption and good governance is a big concern in the country. A cry of distress is also launched in this direction by the President of the Office for the Fight against Corruption at the press conference as a prelude to the celebration of International Day against Corruption, who has deplored the weakness of his institution.

422. Senegal is a member of the African Union, ECOWAS, the WAEMU, the Franc Zone, the Organization of Africa Business Law Harmonization, the Inter African Conference for Insurance Contracts, and GIABA among others.

The Economy

423. The Senegalese economy is very fragile and mainly depends on the dynamism of the primary sector, particularly agriculture. The latter, which depends on rainfall, gives impetus to the economic growth rhythm depending on the good or poor results of agricultural campaigns. According to the June 2009 quarterly report of the UEMOA (WAEMU), the economic activity achieved a 2.5 growth rate in 2008 compared to 4.7% in 2007. It was characterized by the performances of the primary sector, which had a 12.7% growth rate compared to a 5.5% fall in 2007. The secondary sector suffered a 2.7% full in 2008 following a 6.2% growth in the previous year. The tertiary sector had a 2.8% growth.

424. The economic and financial situation of Senegal is also marked in 2008 by rising consumer prices by about 6% for the second consecutive year, due particularly to the prices of food and energy from January to August 2008, leading to a reduced demand. Indeed, domestic demand grew by only 4.2% in real terms against 5.5% in 2007, while the exterior has been marked by the slowdown in imports which have timidly risen 1.1% and the drop in exports by 3.9%.

425. With regard to consumption, is estimated at 91.9% of GDP, leaving a domestic savings rate of 8.1% crude distributed between 4% and 4.1% respectively for public and private savings. The country's economic dynamism has been particularly slowed by the internal debt the state owed to private sector and which has stifled wealth creation. The Government of Senegal now has multiple strategies to bring the country out of economic difficulties. These include developing fiscal policies based on a Keynesian approach and large public works to cause a rise in employment through business involvement in labour, which would lead to a redistribution of income. In this context, in addition to its traditional partners, namely France, the USA, the EU and the international financial institutions, the country has expanded its circle of partnership with others such as Kuwait, Saudi Arabia, China, Spain, India and Morocco. With this approach, the country starts with the completion of major projects including the construction sector, energy and agriculture.

426. The financial sector mainly comprises institutions related to banking, micro-finance, insurance, the regional financial market, and the money exchange sectors. In fact, there are 17 commercial banks in Senegal, with the presence of national establishment besides world caliber international groups. Thirteen of them provide general banking services and two specialize in micro-finance, one in agriculture and one in housing.

427. According to the WAEMU Banking Commission, the supervising body for the banking industry, the 18 credit establishments in operation showed a total consolidated balance sheet of 1,956,836 CFA as of 31 December 2006. During the year 2009, two new banks were licensed, namely the UBA, a Nigerian Group, and Credit International, a subsidiary of a Lebanese group. Note also the cases of merger absorption made by the Group. The Attijari Bank of Morocco, after having swallowed the Senegalese-Tunisian bank, bought in turn the group Crédit CBAO in Senegal.

428. Micro-finance entities are mutual or credit and loans associations, as well as entities not constituted under such status but whose object is to collect savings or grant loans. They provide services adapted for the informal sector, with a notable participation of women. The 2008 data revealed membership strength of 1,299,356, distributed among 625,676 men and 583,719 women and 84,995 more professional workers from the Economic Interest Grouping. The micro-finance sector in Senegal has recorded 322 SFDs in 2007 that number rose to 365 SFDs in 2008 and currently stands at 376 SFDs as of late 2009; it added that the Groupement Epargne et Crédit (Savings and Credit Group) stood at 208. Under the mobilization of savings, the sector recorded 113,045,838,176 FCFA at the end of fiscal year 2008, an increase of 15% compared to 2007, outstanding loans of 150,934,420,300 FCFA, and a 25% growth over 2007. The area is governed by new regulations (Act 2008-47) which came into force on 31 January 2009. In 2008, the sector has benefited from a training course organized by the CENTIF on AML/CFT and another in 2009 with the support of GIABA.

429. The insurance sector includes 20 insurance companies including six life insurance and reinsurance companies that in 2006 in 2008 mobilized a total turnover of 81,245,519,727 FCFA. This was divided between 60,427,338,912 CFA essentially within the industry for the Fire-Accident Hazards Miscellaneous, and 20,818,180,815 FCFA in life insurance. In 2009, the licence of Alliance Company was withdrawn and three new companies were approved for Askia, Colina and CNAAS. The fight against money laundering is a new phenomenon and the sector is not equipped to cope effectively. Already in 2006 and under Articles 1 and 5 of the AML law, a circular letter of guardianship, No. 05782/MEF/DA of 11 July 2006, had invited

the directors of insurance companies and brokerage firms to establish an AML/CFT compliance program and to designate an official whose name should be communicated to the CENTIF. The Inter-African Conference on Insurance Markets has issued Regulation No. 0004/CIMA/PCMA/PCE/SG/08 from 4 October 2008 to clarify the arrangements for insurance companies to fight effectively against money laundering and terrorist financing in the sector. To date no suspicious report has been made by the sector to the CENTIF.

430. As regards the DNFBPs, Senegal has 400 lawyers; 32 notaries; 111 public accountants, real estate agents, traders in high-value items (precious metals and stones, art objects); fund conveyors under the tutelage of the Home Affairs Ministry; casinos; 239 travel agencies and business middlemen. This category of reporting entities represents the soft underbelly of the system of prevention and detection of money laundering, especially if the supervisory authority has given them sufficient training to implement AML/CFT measures.

Prevalence of Predicate Offences

431. There have been reports of scandalous information on cases of embezzlement in public management, and especially on corruption in the media. The end of the IMF resident representative's mission in Dakar has raised an outcry about why it has received, from the presidency of the republic, a suitcase of money in euros and dollars. Corrupt transactions like this threaten the remarkable efforts that the country is making to ensure an image of good governance.

432. In fact, in 2009 Senegal was 99th in the global classification of the most corrupt countries established by Transparency International, compared to its 85th rank in the 2008 classification. However, the country has established ad hoc institutions to prevent detect and sanction money laundering predicate infractions. These institutions include the State General Inspection, the Court of Accounts, the National Commission against Non Transparency, Corruption and Public Fund Misappropriation, and the CENTIF.

433. For over 20 years Senegal has been facing a conflict in its southern region. The armed opposition of the "Mouvement des forces démocratiques de la Casamance" has bloody confrontations with the regular Senegalese army. The trafficking and circulation of arms in the area are threats to the security of people travelling to or from this part of the territory. There are also unidentified armed groups who take advantage of this insecurity to attack innocent people, stealing their property and often killing them in the process.

434. On the other hand, the Senegalese security forces and customs very often conduct arrests and drug seizures. For example, the seizures in May and July at Dakar airport on passengers from Brazil carrying cocaine, or the dismantling of the heroin and cocaine trafficking network at Saly in 2009 (Source: *l'Observateur*). On land, drug seizures are also operated on cross-border carriers in the south at borders between Senegal and The Gambia, Guinea-Conakry, Guinea-Bissau. The question is then whether the frequent important drug seizures operated by the drug trafficking repression forces are due to the efficiency of the repressive system or to the renewed activities of criminal organizations.

435. Cybercrime is an emerging criminal challenge in Senegal and is a means by which criminals rob a victim thousands of kilometres away by the strategy of 419 fraud or other forms of crime. However, four new Acts specifically aiming to secure electronic activity have been voted for in Senegal and are related to electronic transactions, cybercrime, personal data protection and cryptology.

Table 17: Drug seizures in Senegal

A. CANNABIS

Year	Quantities (grams)	Origin	Nationalities	Value (FCFA)	Destination
2005	5,282,508	Ghana, Gambia, Mali, Senegal	Senegalese, Guinean, Malian	211,300,320	Senegal
2006	1,585,000	Ghana, Gambia, Mali, Senegal	Senegalese, Guinean, Malian Ghanaian, Gambian	63,400,000	Senegal
2007	5,138,816	Ghana, Gambia, Mali, Senegal	Senegalese, Guinean, Malian Ghanaian, Gambian	205,552,640	Senegal
2008	7,477,000	Ghana, Gambia, Mali, Senegal	Senegalese, Guinean, Malian Ghanaian, Gambian	299,080,000	Senegal
2009 (1st Quarter)	5,304,485	Ghana, Gambia, Mali, Senegal	Senegalese, Guinean, Malian Ghanaian, Gambian	212,179,400	Senegal

Source : OCRTIS

B. HEROIN

Year	Quantities (grams)	Origin	Nationalities	Value (FCFA)	Destination
2005	225	Nigeria, India	Senegalese, Nigerian, French	3,375,000	Senegal
2006	168	Nigeria	Senegalese, Nigerian, French	2,520,000	Senegal
2007	680	Nigeria	Senegalese, Nigerian, French	10,200,000	Senegal

2008	218	Nigeria	Senegalese, Nigerian, French	3,270,000	Senegal
2009 (1st Qtr)	40	Nigeria	Senegalese, Nigerian, French	600,000	Senegal

C. **COCAINE**

Year	**Quantities (grams)**	**Origin**	**Nationalities**	**Value (FCFA)**	**Destination**
2005	18,553	Cape Verde, Guinea-Bissau, Nigeria	Senegalese, Nigerian	278,295,000	Nigeria, Spain
2006	27,700	Cape Verde, Guinea-Bissau, Guinea-Conakry	Senegalese, Nigerian, Brasilian, Bissau Guinéan, Dutch, Bulgarian	415,500,000	Nigeria, Spain
2007	2,507,344	Cape Verde Guinea-Bissau, Guinea-Conakry, Brazil	Senegalese, Nigerian, Bissau Guinean, Cape Verdean, Mozambican, Camerounian	37,610,160 000	Nigeria, Holland, South Africa Spain
	72,034	Cape Verde, Guinea-Bissau, Guinea-Conakry, Brazil	Senegalese, Nigerian, Bissau Guinean	1,080,510,000	Nigeria, Holland, South Africa Spain
2009 (1st Qtr)	98,052	Cape Verde, Guinea-Bissau, Guinea-Conakry, Brazil, Venezuela, Ecuator	Senegalese, Nigerian, Bissau Guinean, Guinean, Spanish, Cape Verdean, Hollandaise, French, Turkish, Portuguese, Trinidad and Tobago, Tunisia, South African, German, Gambian	1,470,780,00 0	Nigeria, Holland, South Africa Spain

The AML/CFT Framework

436. In 2009 a new Act was added to the Senegalese AML/CFT legal system. The promulgation of Act 2009-16 of March 2009 made effective the integration in the national legal system of Guideline No. 04/2007/CM/UEMOA of 4 July 2007 on terrorist financing in UEMOA Member States. Thus, Senegal was the first member country of the Union to apply the measure.

437. The CENTIF of Senegal is now competent to receive and treat any financial information related to money laundering and terrorist financing. The CENTIF was admitted into the Egmont Group at the Doha session in May 2009. This is a remarkable and commendable achievement in the AML/CFT efforts of Senegal. This new status will have a real impact on its capacity for exchanges and financial investigations throughout the world. The expertise of the Senegal CENTIF has often been sought by the countries of the UEMOA zone through the consolidation of their system AML/CFT, but also by those of CEMAC and Mauritania, which just started putting out a system they would consolidate.

438. In 2009 the CENTIF also organized several activities for the training and sensitization of reporting entities, such as the workshop organized for agents and actors of the land property sector. The aim of this was to raise awareness of the risk to which their area is exposed and urge them to implement measures of prevention and detection and be willing to report suspicious transactions to the CENTIF. This outreach of the CENTIF, in addition to being an opportunity for informing the media on its mission, aimed to enable them to mobilize public opinion against the threats of money laundering and terrorist financing.

439. In line with its prerogatives, the CENTIF has initiated a study on alternative money transfer systems in Senegal for the following purposes: analysis of regulatory, institutional and operational measures for money transfers; estimate of transfer volumes and costs; and the socio-economic impact of money transfers. The conclusions of the study report mainly recommend an appropriation of the Senegalese regulatory framework and an enhancement of the efficiency of control and monitoring services.

440. The Central Bank of West Africa States (BCEAO) has issued a statement that refers to No. 1/2007/RB on the fight against money laundering in financial institutions and Regulation No. 14 which specifies the freezing of funds suspected of being laundered.

441. Like BCEAO and the Banking Commission, which have extended their power to the control of credit institutions within AML/CFT systems in addition to their traditional responsibilities for prudential control, most Senegalese supervision and control institutions have adopted this approach. Thus the National Insurance Directorate, the Currency and Credit Directorate, and the Directorate for the Supervision of Decentralized Financial Systems have taken up the responsibility for control of the AML/CFT system respectively for insurance companies, registered manual change operators, and decentralized financial systems.

442. Senegal submitted its first ME follow-up report at the Plenary session of GIABA held in Bamako, Mali, in May 2009. The purpose was to report on the status of the implementation

of the measures recommended in the MER. In spite of the progress noted in this respect, some necessary measures were pointed out, namely the establishment of an Inter-Ministerial Committee to coordinate AML/CFT activities, and the adoption of a national AML/CFT Strategy.

443. Despite these efforts, including the fact that Senegal was among the first ECOWAS Member States to have established a strong national AML/CFT system, and in spite of the number of cases referred to the appropriate authorities by the CENTIF, no single conviction for money laundering has been recorded. This state of affairs calls for concern regarding the efficiency of the AML/CFT regime, as well as the need for improvement.

Sierra Leone

Background and General Information

444. The Republic of Sierra Leone shares common borders with Guinea-Conakry in the north-east and Liberia the Atlantic Ocean in the south-west. Sierra Leone is one of the poorest countries in the region. It is one of the post-conflict countries in West Africa, having experienced a civil war from 1991 to 2002. Since the end of the civil conflict in 2002, the general crime situation within Sierra Leone has been continuously improving. While there are still some border areas which are a security concern, the rest of the country is benefiting from a more secure environment. Government has been steadily re-establishing its control and authority over the State's affairs.

Politics and Governance

445. The Republic of Sierra Leone is a constitutional democracy and is endowed with natural resources, especially diamonds, which form the main economic base. The unsettled security situation in Guinea and the poorly patrolled borders leave the country open to criminal gangs and smugglers whose activities are unpredictable. As well as this, the financial sector is characterized by undercapitalization, institutional weakness, poor supervision and inadequate legal infrastructure for sound financial management. Thus Sierra Leone is highly vulnerable to money laundering and terrorist financing. The lack of capacity and obsolete legislation impede the effectiveness of supervisory authorities. Commercial and internet fraud is on the increase as criminals are seeking details of "safe bank accounts overseas" in which to transfer large sums on money.

The Economy

446. As is the case throughout the region, the country's economy is largely cash-based. There are eight licensed commercial banks in operation in the country (with their activities largely concentrated in Freetown); four community banks and about 51 licensed bureaux de change operators. Approximately 20% of the population has access to formal financial services such as operation of a bank account.

447. Mineral exports remain Sierra Leone's principal foreign exchange earner. Though Sierra Leone is a major producer of gem-quality diamonds, it has historically struggled to manage its exploitation and export of this rich resource. Though recent government efforts to improve the management of diamond export has met with some success, especially with the adoption of the UN-approved export certification system for diamonds (the Kimberley

certification process), only a fraction of the annual production estimates of between USD250 and USD300 million passes through formal export channels. Official export statistics for 2001–06 show the following: 2001, USD26 million; 2002, USD42 million; 2003, USD76 million; 2004, USD127 million; 2005, USD142 million; 2006, USD125 million. The balance is smuggled out and has been used to finance rebel activities in the region, money laundering, arms purchases, and financing of other illicit activities, leading some to characterize Sierra Leone's diamonds as a “conflict resource”. Recent efforts on the part of the country to improve the management of the export trade have however met with some success.

448. The illegal exploitation and smuggling of diamonds has long been a big problem in Sierra Leone. The war was largely funded by the laundered money derived from the illegal mining of diamonds and other illegal activities. While the Kimberley certification process has helped to reduce the proportion of illicit diamonds derived from the country, and despite the cessation of hostilities, sizeable quantities are still smuggled out. The authorities believe that with the end of the civil war and the disarming of the various rebel groups there is a very low risk of terrorist activities within the country. The diamond smuggling activity provides illegal proceeds which can be laundered or used to fund violence or terrorism.

449. Sierra Leone has significant deposits of both precious metals and stones, with the principal ones being gold, bauxite, and diamonds. The introduction of the Kimberly process in 2002, which requires diamond merchants globally to produce a certificate of origin when selling uncut diamonds, has led to a substantial increase in legitimate diamond exports, which have risen from USD6.5 million in 2000 to USD142 million in 2005. Sierra Leonean law requires that all exploration, mining, dealing, and exporting of minerals are conducted by licensed persons. There are currently 82 licensed diamond dealers and seven licensed diamond exporters. The number of artisanal mining licences issued was unavailable but it is estimated that there are many thousands of Sierra Leoneans involved in artisanal mining. It should be noted that transactions are predominantly done in cash in US dollars. There is limited retail sale of precious metals and stones, mainly because of the low income levels of the average citizen.

450. There are only a few real estate dealers in Sierra Leone. Real estate transactions are mostly conducted in cash directly between the buyer and seller, though occasionally the real estate dealer may be involved in the transaction. Further, it should also be noted that there is currently no legislation concerning the registration of land title.

451. There are four casinos situated around Freetown. These are licensed by the National Tourist Board of Sierra Leone though there is no supervision of the gambling activities. There are no known internet casinos operating within Sierra Leone.

452. As part of post-conflict rebuilding efforts, the Government embarked on a comprehensive financial sector reform that complements the reforms in other areas of the economy aimed at establishing open and market-based economy driven by the private sector. Substantial legislative reform was also carried out as part of the reform process. The banking and Bank of Sierra Leone Acts were revised and enacted in 2000. The new bank regulations were issued to commercial banks in 2001. The regulatory and supervisory role of the Central Bank was also extended to cover other financial institutions, by the enactment of the Other Financial Service Act in 2001.

453. To enhance the regulatory and supervisory capacity of the insurance sector, the insurance Act was enacted in 2000. In 2001, the Government adopted the Interim Poverty Reduction Strategy Paper (1-PRSP) and simultaneously agreed on the first three-year program with the IMF under the Poverty Reduction and Growth Facility. In 2002, the Anti-Money Laundering Regulations were issued by the Bank of Sierra Leone with the aim of preventing money laundering activities in banks. The Banking Regulations 2001 were also amended in 2003 to accommodation new developments in the financial sector (relating to liquidity, capital adequacy, minimum paid-up capital, etc.).

454. In 2003 the Sierra Leone Insurance Commission was established and an insurance commissioner appointed to regulate and supervise the insurance companies and to ensure the effective implementation of the provisions of the Insurance Act passed in 2000. Before the establishment of the commission, supervision of the insurance companies was the responsibility of a unit in the Ministry of Finance, but this was ineffective. Also in 2003, the Government adopted the full Poverty Reduction Strategy Paper, which focused on longer-term development problems when security and accessibility had been improved considerably throughout the country. The post-conflict economic reform programs also placed substantial emphasis on financial sector reform.

Prevalence of Predicate Crimes

455. The available crime statistics do not indicate the existence of a significant amount of crime that would generate crime proceeds. The predominant use of cash within Sierra Leone means that most money laundering and terrorist financing is likely to occur outside the financial sector.

456. Drug trafficking is a major problem for Sierra Leone. For example, in 2005, police sources reveal that 184 people were arrested for cannabis and 83 of them were convicted. During this same year, 170 people were arrested for cocaine and 97 were convicted; 163 were arrested for heroin and 51 were convicted; and 237 were arrested for other forms of drug such as sedatives, hallucinogens/amphetamine and 117 were convicted. In 2006, 565.956 kg of cannabis were seized from 64 people, who were arrested. Of these arrests, all 64 were charged and convicted. In the same year 25.37 kg of cocaine were also arrested from 10 people and all 10 were convicted. In 2007, 13 kg of cocaine were seized from five people and all five were convicted. In 2008, 12 were arrested for cannabis and five were convicted; 703kg of cocaine were seized from a small plane for which 25 people were arrested and 15 convicted. In 2009, 23 people have been arrested for cannabis and 13 of them were convicted; 10kg of cocaine were seized from one person who has been convicted.

457. Sierra Leone suffers from petty corruption involving low and middle-level public officials, though there are some allegations involving larger-scale corruption.

458. The authorities judge that there is a low risk of terrorist activity occurring within Sierra Leone, though there have been claims that terrorist funding activities may occur in Sierra Leone.[49]

459. Illicit trafficking in stolen goods is similarly a threat to the law of property: it has frequently been remarked that without handlers of stolen goods, there would be far fewer thieves. Although, therefore, a specific legal provision dealing with trafficking in stolen goods, like that found in many jurisdictions, could be recommended, an equally efficient alternative would be to amend slightly the definitions of the money laundering offences themselves (see below).

460. The fact that certain offences are criminalized not in legislation but under common law is not a concern. The same is true of certain offences, including murder, in, for example, the United Kingdom, where it does not present any impediment to the prosecution of either the predicate offence itself or of laundering its proceeds.

The AML/CFT Framework

461. In 2005, the Anti-Money Laundering Act was enacted to suppress money laundering and to provide for other related matters. The Act criminalizes money laundering. Since the

[49] Detailed Assessment Report (DAR) on Sierra Leone, GIABA, 2007.

passing of this Act a number of measures have been taken to implement its provisions. A Financial Intelligence Unit was established in the Banking Supervision Department, and a Stakeholders Committee chaired by the Governor of the Bank of Sierra Leone was formed to ensure implementation of the provisions of the Act. The Committee approved the currency declaration form that is to be implemented by National Revenue Authority. Section 29 of the 2007 draft Act requires that any person who enters or leaves the country with more than a certain amount in cash or negotiable bearer instruments should declare it to "the relevant authority". Specifically, it is expected that all persons entering and leaving Sierra Leone with more than the equivalent of USD10,000 must complete the form; failure to do so will be an offence with serious penalties. The banks were also directed to make suspicious transaction reports by completing suspicious transaction report forms where they suspect a customer of engaging in money laundering activities.

462. Committing and funding acts of terrorism are now criminalized under the Sierra Leone legislation: terrorist acts are referred to in the definitions in section 2 of the 2007 draft Act, while terrorist financing is criminalized in section 5. Terrorist financing is prohibited as a criminal offence, attracting identical penalties to money laundering, while the requirements for customer due diligence, reporting of suspicious transactions, etc. all apply to the prevention of terrorist financing as they do to that of money laundering. Terrorist property may be restrained and subsequently forfeited, just as the proceeds of crime may be. The FIU, similarly, collects information on terrorist financing, passes it on to law enforcement and shares it with other agencies, domestically and internationally, just as it does with information on money laundering.

463. Part 7 of the 2007 draft Act provides for the restraint, seizure and forfeiture of assets linked to crime and terrorism. Section 32 provides that a police officer may apply to a court to restrain "any money or property" held or controlled by any person, where it is believed to relate to a serious crime,[50] a money laundering offence or a financing of terrorism offence. Such an order may provide for the property merely to be frozen or for it to be held in administration. Contravention of the order will result in criminal liability. It is to be noted, however, that the draft Act has not yet specified what the penalty is to be for natural persons. It provides for a fine or term of imprisonment; the level has yet to be inserted. It is suggested that, if the law of Sierra Leone contains the concept of contempt of court, as that of many

[50] I.e. an offence carrying a prison sentence of at least 12 months. Acts committed abroad which, had they been committed in Sierra Leone, would have constituted such an offence, are also covered. See above.

common-law jurisdictions do, the penalty should be comparable: the offence is, after all, breach of a court order. In England and Wales, contempt of court carries a maximum prison sentence of two years and/or an unlimited fine; this could be a useful starting point. In those countries, however, it is in practice rare for courts to use the power of imprisonment for contempt for any purpose other than to persuade an individual to comply with an order: where "the horse has already bolted", a fine tends to be imposed. It is suggested that, for a restraint order to be truly effective, the judiciary of Sierra Leone should be robust in enforcing it: those individuals who deliberately and willfully contravene such an order should face a prison sentence, although for an offence of mere recklessness, a fine is arguably adequate.

464. While Sierra Leone has taken some steps in response to relevant UN Security Council Resolutions, which included establishing a high-level National Committee on Counter-Terrorism, there is no legislative, regulatory or institutional framework for freezing and seizing terrorist funds or other assets of persons.[51] Provisional measures for confiscation, freezing and seizing of proceeds of crime are found in sections of the AML Act, the Anti-Corruption Act (ACA) and the Civil Procedure rules of Sierra Leone. A civil standard of proof is used in determining whether or not to order the confiscation of property. The Bank of Sierra Leone, the Central Intelligence Service Unit and the Attorney-General, who is also the Minister of Justice, are the agencies authorized under the AML Act to make application to the court for confiscation and provisional measures. However, there is no framework for the freezing, seizing or confiscation of the instrumentality used or intended for use in the commission of a predicate offence or offences related to terrorist financing.

465. Part 7 of the 2007 draft Act provides for the restraint, seizure and forfeiture of assets linked to crime and terrorism. Section 32 provides that a police officer may apply to a court to restrain "any money or property" held or controlled by any person, where it is believed to relate to a serious crime,[52] a money laundering offence or a financing of terrorism offence. Such an order may provide for the property merely to be frozen or for it to be held in administration. Contravention of the order will result in criminal liability. It is to be noted, however, that the draft Act has not yet specified what the penalty is to be for natural persons. It provides for a fine or term of imprisonment; the level has yet to be inserted. It is suggested that, if the law of Sierra Leone contains the concept of contempt of court, as that of many

[51] DAR 2007.

[52] I.e. an offence carrying a prison sentence of at least 12 months. Acts committed abroad which, had they been committed in Sierra Leone, would have constituted such an offence, are also covered. See above.

common-law jurisdictions does, the penalty should be comparable: the offence is, after all, breach of a court order. In England and Wales, contempt of court carries a maximum prison sentence of two years and/or an unlimited fine; this could be a useful starting point. In England and Wales, however, it is in practice rare for courts to use the power of imprisonment for contempt for any purpose other than to persuade an individual to comply with an order: where "the horse has already bolted", a fine tends to be imposed. It is suggested that, for a restraint order to be truly effective, the judiciary of Sierra Leone should be robust in enforcing it: those individuals who deliberately and willfully contravene such an order should face a prison sentence, although for an offence of mere recklessness, a fine is arguably adequate.

466. FATF Recommendations 13-16 require countries to have established a system whereby suspicions of money laundering may be reported to an FIU; the details of the role of the FIU are set out in Recommendations 26-32, 35-38 and 40. For this to be complied with, the first step is that an FIU must be set up. This is, at least in principle, provided for in section 19 of the draft Act: the FIU has been set up as a unit under the supervision department of the Bank of Sierra Leone. The Board of the Bank is to have responsibility for the FIU and appoint its Director. For Sierra Leone truly to comply, however, the FIU must have more than theoretical existence on paper: it must have designated staff (not merely staff from the Bank who also have other responsibilities), a budget, premises (even if those premises are located within the offices of the Bank of Sierra Leone) and all other necessary resources. The first Director that was appointed to oversee the FIU has now retired and there is a great uncertainty about the future of the FIU. This is an issue that the authorities should address with all seriousness.

467. In order to improve the preventive and supervisory measures and to maintain a stable financial system, in 2007 the Bank of Sierra Leone increased the minimum Capital Requirement for all licensed financial institutions operating in Sierra Leone. The minimum paid-up capital for all commercial banks was increased from Le800 million on a graduated basis to Le15 billion and from Le2.5 billion to Le15 billion for development and investment banks by end December 2009. The last three years witnessed the licensing of several foreign banks, especially Nigerian banks, and the ensuing competition in the industry is likely, if not checked, to usher in unethical practice. Thus, the vulnerability of the financial sector of Sierra Leone to money laundering and terrorist financing may increase.

468. The progress by Sierra Leone in implementing an effective AML/CFT regime has been slow. Since the enactment of the *Anti-Money Laundering Act* in 2005 mandating the

Bank of Sierra Leone to establish the FIU, the Unit is still poorly resourced in terms of staffing, accommodation and other infrastructure that will enhance its operations. About five designated staff of the FIU have been trained in the general operations of FIUs. The Unit is currently receiving Currency Transaction Reports and STRs and has also issued guidelines on customer due diligence to banks. The Inter-Ministerial Committee has produced a national AML/CFT Strategy that has been approved by the Government. The AML Act is undergoing revision in line with the findings in the Mutual Evaluation Report.

Technical Assistance

469. As a post-conflict country and the first member state of GIABA to be evaluated under the FATF methodology, Sierra Leone has always been given priority in technical assistance, both directly from GIABA and indirectly through other development partners. The problem, however, is the inability of the country to take advantage of this assistance and improve its AML/CFT regime more rapidly. During a high-level visit by the Director General of GIABA to Freetown in 2008, he met with the key ministers who promised to expedite action on the amendment of the AML legislation. Realizing the inadequate capacity to review and redraft the law to meet acceptable international standards, GIABA provided Sierra Leone with a consultant who reviewed the law and made specific recommendations for amendments.

470. Furthermore, a stakeholders' meeting that included GIABA and UNODC representatives was held in Freetown to review the recommendations with the stakeholders and to help the country move forward with the amendment of the law. Since most of the deficiencies in the Sierra Leone Detailed Assessment Report (DAR) arise from inadequate legal provisions, the priority for this country is to implement the recommendations of the consultant's report.

Togo

Background and General Information

471. Togo is a small West African country with an area of 56,785km^2 and an estimated population of 6.6 million (2007, World Bank). It has borders with Burkina Faso to the north, Ghana to the west, and a coast line on the Gulf of Guinea to the south. The main cities are Sokodi, Kara, Kpalimé, Atakpamé. The capital city is Lomé.

472. Togo became independent on 27 April 1960. Its current President, the fourth, is the son and successor of the late Gnassingbe Eyadéma, self-proclaimed President for 38 years. The social and political situation have been tense lately, as legislative elections are drawing near, slated to take place in March 2010.

Politics and Governance

473. The Constitution of the 4th Republic of Togo promulgated on 14 October 1992 institutes a semi-presidential regime, with executive power. The President of the republic is elected in a two-round majority vote for a five-year term of office. Parliament has one chamber: the 81 members of the National Assembly are elected by a universal direct and secret vote for 5 years on a majority basis and they are permitted to contest for another term.

474. The Supreme Court is the highest judicial and administrative authority. It is composed of a judicial chamber and an administrative chamber that are competent to judge, in particular, in cassation appeals against decisions of lower jurisdictions in accordance with the principles of jurisdictional unity and difference separation stipulated in the Constitution.

475. With regard to regional integration, Togo is a member of the African Union, ECOWAS, UEMOA, the Franc Zone, the Organization for the Harmonization of Business Law in Africa, and GIABA among others.

The Economy

476. The GDP of Togo was estimated at 2.5 billion dollars (2007, WB) for a contribution per capita of about 350 dollars. The growth and inflation rates were respectively 2.1% and 2.9% in 2007 according to World Bank data.

477. In Togo the formal financial system mainly includes a dozen financial and banking institutions and some micro-finance institutions providing credit and financial intermediation

services. The informal sector is developing due to the population growth and the development of informal business activities in the face of the low economic growth.

478. The economic and financial management in Togo has been affected by the socio-economic situation in past decades. Indeed, Togo ranks 152 in 177 countries considered poor according to the UN human development index.

479. The social and economic situation has drastically deteriorated in the past two decades, with evident consequences for the country's economic and financial management. The RSM of the UEMOA Commission published in June 2009 shows that the 2008 economic growth rate initially expected to reach 2.7% in Togo was 1.6% compared to 2.1% in 2007. Indeed, the economy of the country mainly depends on the agricultural sector, followed by transit business and phosphate exploitation, which is the main activity in the industrial sector. The primary sector had a 3.2% growth compared to 3.3% in 2007, due to the 2.7% growth of the agricultural production. With a 4.5% growth compared to 4.4% in 2007, the secondary sector was the mainstay of the economic growth. The tertiary sector went down by 0.9%.

480. According to the President of the National Food Security Agency in Togo, the agricultural sector achieved a production in excess of 90,000 tonnes for the 2009–2010 season compared to 32,000 tonnes in 2008. Restructuring is also expected in the banking, cotton and phosphate sectors, as well as reforms as concerns water and power supply and the Lome Port management.

Prevalence of Predicate Offences

481. As for money laundering risks, they are inherent in various vulnerabilities. Indeed, Togo has a mainly cash-based economy, which increases the quantity of transactions in the informal sector (i.e. underground, totally uncontrolled transactions). The low banking rate, though acceptable in the classification of UEMOA Member Countries, and in part justified by the low literacy rate, also contributes to this situation. Corruption, encouraged by poverty and the attraction of easy gain, has become a major source of money laundering. Indeed, Togo is classified 111th in 180 countries evaluated by Transparency International in 2009 in terms of corruption.

482. Various kinds of illicit trafficking are also encouraged by the geographical location of the country, which constitutes a strategic position in the transfer of commercial commodities from Lomé Port to other countries in the region; the porous borders also contribute to this situation. Indeed, located between Ghana, Nigeria, Benin and with a large strip of sea coast,

the country is vulnerable to all sorts of smuggling (cash, commercial products, drugs…). For example, about 861.88 kg of drugs and 4 tons of fake medicines were burned in Lomé in June 2009 in the framework of the International Day against drug abuse and trafficking. According to police authorities, these seizures testify to the efforts made in the fight against drug trafficking which was developing in Togo.

The AML/CFT Framework

483. All the financial and banking institutions are bound to comply with and implement the AML Uniform Law promulgated in Togo on 6 July 2007, and also the Uniform Law against terrorist financing adopted by the National Assembly on 28 August 2009. Thus, after Senegal, Togo was the second Member State that has integrated the UEMOA Directive, including the prevention of terrorist financing.

484. The members of the Inter-Ministerial Committee in charge of developing and ensuring the implementation of the national AML/CFT strategy have also been appointed by order on 11 August 2009, which strengthens the CENTIF in the country. This demonstrates the efforts made by the Togolese authorities in order to promote transparency and international administrative and judicial cooperation in AML/CFT activities and related predicate offences. To this effect, most of the treaties and conventions related to terrorism, organized crime and corruption have been ratified by Togo.

485. The CENTIF has been established in Togo, but, it is confronted with the obvious lack of human material and financial resources, which undermine its effectiveness. Thus, even though the Inter-Ministerial Committee has been established and its members appointed in August 2009, this structure is not yet operational. It has held some meetings, elaborated its by-laws and submitted its budget to the Minister of Economy and Finance, but no action has been undertaken to finalize the AML/CFT national strategy initiated by GIABA and the Togolese authorities since March 2009. This negatively affects the appropriation of the AML/CTF spirit and rules by the reporting parties, especially with respect to the necessary sensitization and training.

486. The AML/CFT mutual evaluation of Togo was scheduled for February 2010, but with the forthcoming general elections in March 2010, that would be unrealistic.

487. The Togolese Republic is one of the latecomers in building an AML/CFT infrastructure in the region. Nevertheless, it made significant progress in 2009, especially with regard to the transposition of the WAEMU Directive on terrorist financing and the

establishment of a CENTIF. GIABA provided significant contributions towards to the takeoff of the CENTIF and this effort will be sustained in the coming year to ensure sustainability and assurance.

Conclusion

488. As stated at the outset, this review of the AML/CFT situation in West Africa is far from exhaustive. But it has provided an overview of the current efforts by jurisdictions in the region to implement acceptable standards. The commitment by Member States indicates that more could be achieved in this direction, and that is why country assessment is one of the main thrusts of the strategic objectives of GIABA. This review, in addition to other measures described in the following chapters, gives a general overview of the AML/CFT status of GIABA member countries and identifies the broad range of actions that jurisdictions have or have not taken to combat money laundering as of 31 December 2009.

CHAPTER 3

COUNTRY ASSESSMENTS

Introduction

489. Mutual evaluation (ME) is one of the core functions of GIABA. The objective of mutual evaluation is to mutually assess members to ascertain their level of compliance with acceptable international standards. The ME process provides information on the progress made by Member States in implementing their obligations under the FATF 40+9 Recommendations. It is one of the benchmarks for measuring GIABA's performance as a FATF-Style Regional body.

490. The evaluations are conducted on the basis of the Forty Recommendations on Money Laundering of 2003, the Nine Special Recommendations of 2001 on the Financing of Terrorism, and the 2004 Methodology developed by the FATF. During the year 2009, the ME reports of four countries, namely Burkina Faso, Ghana, Guinea-Bissau and Niger, were discussed and adopted by the GIABA Plenary. By end of the year under review, 11 of the 15 Member States had been evaluated. Ten Mutual Evaluation reports (MERs) have have been adopted and published. Table 19 shows the progress made by GIABA in the implementation of its mutual evaluation calendar.

Table 18: GIABA Mutual Evaluation Calendar (updated November 2009)

Country	Onsite Visit	Assessor Institution	Plenary Discussion	Status
Sierra Leone	2006	World Bank	June 2007	Completed
Senegal	July 2007	GIABA	May 2008	Completed
Cape Verde	May 2007	IMF	November 2007	Completed
Nigeria	September 2007	GIABA	May 2008	Completed
Mali	January 2008	World Bank	November 2008	Completed
Gambia	April 2008	GIABA	November 2008	Completed
Niger	June 2008	World Bank	May 2009	Completed
Guinea Bissau	September 2008	GIABA	May 2009	Completed
Burkina Faso	January 2009	World Bank	November 2009	Completed
Ghana	April 2009	GIABA	November 2009	Completed
Benin	June 2009	GIABA	May 2010	To be discussed

				in May 2010
Côte d'Ivoire	November 2009	GIABA	May 2010	Postponed/ Pending
Guinea	June 2010	GIABA	November 2010	Pending
Togo	February 2010	GIABA	November 2010	Postponed/ Pending
Liberia	September 2010	GIABA	May 2011	Pending

Mutual Evaluation On-site Visits

491. Based on the mutual evaluation calendar, GIABA undertook the following mutual evaluation on-site visits in 2009:

Ghana: The on-site visit to the Republic of Ghana was undertaken from 20 to 30 April 2009. The evaluation was conducted by an assessment team that consisted of members of the GIABA Secretariat, GIABA regional experts, a member of the Jersey Financial Services Commission and a member of the US Financial Crimes Enforcement Network (FINCEN). The MER was subsequently discussed and adopted at the 12th Plenary Meeting held on 4 November in Freetown, Sierra Leone. In accordance with GIABA's Mutual Evaluation Process and Procedures, the MER has been published on the GIABA website. Ghana was placed on an expedited follow-up process and is expected to present its first follow-up report at Plenary in November 2010.

It is important to mention that the mutual evaluation of Ghana was conducted during a transition period. In other words, general elections were conducted in December 2008 and the new government was only in place for four months at the time the evaluation was carried out. The authorities' acceptance to proceed with the evaluation, despite the fact that many institutions had not settled down fully, was a rare demonstration of a strong political commitment of that country to AML/CFT, and specifically a gesture of respect for the GIABA ME calendar. The country deserves commendation for that.

Burkina Faso: The Mutual Evaluation of Burkina Faso was conducted by the World Bank from 26 January to 6 February 2009 within the framework of the Financial Sector Assessment Program of the World Bank for WAEMU countries. GIABA participated as an observer during the on-site visit. In accordance with GIABA's

Mutual Evaluation Process and Procedures, the Detailed Assessment Report was also discussed and adopted at the 12th Plenary Meeting held on 4 November in Freetown, Sierra Leone. The MER has been published on the GIABA website. Burkina Faso was placed on an expedited follow-up and it is expected to present its first follow-up report to Plenary in November 2010.

Benin: The on-site visit to Benin was undertaken from 15 to 30 June 2009. The report is being finalized by the assessors in consultation with the assessed country, after which it will be presented for Plenary discussion and adoption in May 2010.

GIABA's Publication Policy on MERs

492. GIABA had since 2008 adopted an automatic publication policy on its Mutual Evaluation Reports. Thus, in conformity with the GIABA ME Process and Procedures that all MERs are to be published within three weeks of adoption by Plenary, the MERs of Sierra Leone, Senegal, Nigeria, Cape Verde, The Gambia, Mali, Niger, Guinea-Bissau, Burkina Faso and Ghana, have been published on the GIABA website (http://www.giaba.org) in the three official languages of GIABA – English, French and Portuguese. The delay in the publication of some of the reports following adoption was due to delay in translation, some minor issues to be sorted out with the member states, or corrections made to reflect accurately the Plenary decision on each report.

493. The practice in GIABA is that upon adoption of a MER, Plenary decides that the assessed country should undertake a follow-up process to address identified gaps in its AML/CFT regime and report back one year from the date of adoption of the MER. The criteria to allow a country to fall under a regular type of follow-up are clearly set out in the procedure (see last sentence at paragraph 47 of the P&P). Upon adoption of a MER, Plenary decides on the type of follow-up the assessed country should undertake to address the deficiencies in the AML/CFT regime. (For further information see paragraph 48 (a-c) of the P&P, as well as the report on the proceedings of the last Plenary meeting on the adoption of the MERs of Burkina Faso and Ghana.)

Working Group on Mutual Evaluation and Implementation (WGMEI)

494. The WGMEI was constituted by GIABA in 2007 as a platform for Member States to examine and discuss issues pertaining to GIABA mutual evaluations. These include monitoring, and reviewing the GIABA mutual evaluation process and procedures. The current

membership of the WGMEI comprises Benin, Burkina Faso, Côte d'Ivoire, Ghana, Guinea-Bissau, Nigeria, Senegal and Sierra Leone. The WGMEI held a meeting in Freetown, Sierra Leone on 2 November 2009 to review the GIABA ME process and procedures to ensure that it reflects the recent changes made in the FATF Mutual Evaluation Process and Procedures as amended in April 2009.

495. Discussions at the meeting focused on amendments proposed by the Secretariat with respect to the following sections: the changes in FATF standards; the schedule for mutual evaluation; preparation for the on-site visit; preparation of draft MER (after the visit); an expert review group; the Plenary meeting; publication and other procedures following the Plenary; and follow-up process. Plenary adopted the recommendations of the WGMEI as follows:

a) Amendments to the GIABA Mutual Evaluation Process and Procedures clearly defined the follow-up processes as presented by the WGMEI. Hitherto, there was misunderstanding of the expedited follow-up with enhanced follow-up. The revised process and procedures has addressed this, and there is now a distinction between the three forms of follow-up processes;
b) The WGMEI to discuss Mutual Evaluation Follow-Up Reports and make recommendations to Plenary through the Secretariat;
c) The Plenary shall review the mandate of the WGMEI every two years and the membership shall be open to all Member States.

496. In adopting the WGMEI report, Plenary noted that the Mutual Evaluation Process and Procedures is a dynamic document and its review should be a continuous process based on developments in the FATF Process and Procedures and standards. Furthermore, Plenary agreed to the recommendation that follow-up reports should be discussed at the WGMEI meetings before the Secretariat can present its analysis, including any comments and observations by the WGMEI to Plenary. While noting that meetings of the WGMEI are open to all members and observers, as it is the practice in the FATF, the GIABA Plenary in November 2009 approved the WGMEI recommendation that membership and mandate of the WGMEI should be reviewed regularly to enable other experts from Member States to participate.

497. The work of the WGMEI, as with other Working and Review Groups, has been very useful over the years in developing a proper understanding of the evaluation process and building a strong consensus to it. It is important to acknowledge the useful contributions of

the FATF Secretariat, FATF members and other development partners who have been participating in these Working and Review Groups and providing guidance to our members.

Evaluation Review Group (ERG)

498. Drawing from the FATF practice, an Expert Review Group is usually constituted on a case by case basis to review MERs before discussion at Plenary. The objective of the ERG, which meets before Plenary, is to identify and highlight the key issues arising in each MER, as well as inconsistencies with other MERs, in order to enhance discussions and resolutions of those issues at the Plenary in an equitable manner. In brief, the ERG undertakes the following tasks: Identify (a) all remaining areas of disagreement between the assessed country and the assessment team, as well as the main issues behind these points; (b) identify inconsistencies with other MERs; (c) determine unresolved issues and present through the Secretariat, for Plenary discussion and decision; and (d) make recommendations on any issues that require interpretation/clarification of the FATF standards, the 2004 Methodology (including "horizontal issues") or regarding FATF procedures.

499. There are also a number of other objectives/principles that underlie the ERG's work:

a) The ERG has no decision-making powers on a mutual evaluation report or assessment. Plenary is the only body where decision on a mutual evaluation/assessment report takes place with final approval by the Council of Ministers;
b) The ERG does not censor, overrule or "second-guess" the assessment teams, nor does it function as a broker between the assessment team and country;
c) The ERG will identify key issues for discussion in Plenary, taking into account any comments by the assessed country/assessment team/Secretariat (in particular all areas where the assessed country disagrees with the report or identifies inconsistencies with other reports), and the written comments received in advance from GIABA and other delegations;
d) The process must ensure high quality consistent with MERs and create a more efficient/effective process both in terms of Plenary discussion and overall. Reviewing a MER of more than 150 pages, in some cases with annexes and underlying laws, will require a significant commitment from the persons in the ERG;
e) All GIABA mutual evaluation reports will be reviewed by an ERG prior to the Plenary discussion, including joint reports with FSRBs and assessment reports

prepared by the IMF or the World Bank.

500. The ERG meetings are usually open to observers, especially FATF members who wish to make contributions. They normally carefully examine the reports and present outstanding issues to Plenary for discussion. In accordance with the GIABA mutual evaluation Process and Procedures, four Expert Review Groups were constituted in 2009 to review the MERs of Niger, Guinea-Bissau, Burkina Faso and Ghana.

The Follow-up Process

501. As provided in the revised GIABA Mutual Evaluation Process and Procedures,[53] there are three types of follow-up that could occur following the discussion and adoption of an MER. The first follow-up process provides that members that are not assigned regular or enhanced-follow up should submit a biennial update[54] of their progress on measures taken to address the deficiencies identified in their MERs or other actions taken to enhance their AML/CFT regime, starting two years after their MERs are adopted. Since GIABA is still in the first round of evaluations, this follow-up process has not yet been applied.

502. The second process is the regular follow-up.[55] A regular follow-up process will apply where the mutual evaluation report shows that there are significant deficiencies in the country's AML/CFT system. The regular follow-up process would be applied by Plenary in the following circumstances: (a) where any of the core Recommendations[56] are rated either partially compliant (PC) or non-compliant (NC); or (b) where Plenary so decides. The normal first step in the process would be that two years after the MER is adopted, the assessed country would provide information on the actions it had taken or is taking to address the factors/deficiencies underlying any of the 40+9 Recommendations that were rated PC or NC.

503. As most Member States have weak or non-existent structures, GIABA has decided to apply an expedited follow-up process during the first round of mutual evaluations. In this case, each assessed member is expected to submit a follow-up report one year after its MER is adopted and further updates would be provided every year unless Plenary decides otherwise.

---

[53] Revised by Plenary in November 2009.

[54] Paragraphs 43 and 45 of the 2009 GIABA Process and Procedures.

[55] Paragraphs 46 to 47, ibid.

[56] The core Recommendations as defined in the FATF procedures are R. 1, R. 5, R. 10, R. 13, 23, 26, and SRs. I & IV.

504. The third process is the enhanced follow-up,[57] which is based on the FATF's traditional policy that deals with non-complying members and which also consists of a number graduated actions on the country, including sanctions.[58] Table 20 provides further description of the GIABA ME follow-up process.

Table 19: Summary of GIABA Follow-up Process and Procedure

Circumstances	Biennial update (2 years)	Regular Follow-up	Enhanced follow-up
Start of the process and frequency	1. After the adoption of the MER by Plenary and the country is not required to report under the regular follow-up or enhanced follow-up. 2. When Ratings for Key Recommendations are PC or NC but country has taken sufficient steps to implement the Recommendations at a level considered to be essentially equivalent to C or LC.	1. Significant deficiencies exist in AML/CFT systems as shown in the MER. 2. The Ratings for Core Recommendations are either PC or NC. 3. If the Plenary so decides.	1. If the country has not taken satisfactory steps to deal with the identified deficiencies after Plenary has placed it under a regular follow-up process. 2. The country is regarded as a non-complying country by Plenary.
Format of report	1. No later than two years after the adoption of the MER and every two years.	1. Country to report every two years on actions taken to address the factors/deficiencies underlying any of the 40+9 Recommendations that are rated PC or NC. (2) However, due to weak AML/CFT systems in GIABA Member States, at the time of the adoption of the MER, Plenary will apply expedited follow-up for Member States and require the countries to report	1. During the follow-up process – where the country has not taken any satisfactory steps to deal with identified deficiencies.

[57] Paragraphs 53 to 54, ibid.

[58] An updated list of countries in the follow-up process will be provided to WGMEI at every Plenary.

		back within one year after the adoption of the MER.	
Steps in process	1. Written Report and progress made to address any of the 40+9 Recommendations rated PC or NC (including updated statistics).	1. Written Report and progress made to address any 40+9 Recommendations rated PC or NC (including updated statistics).	1. Written report to the Plenary on the steps taken to address deficiencies in the AML/CFT system and progress made to address any 40+9 Recommendations rated PC or NC.
Circumstances	1. Secretariat to review report and draft a short summary report; 2. Discussion in Plenary depends on request of member or Secretariat.	1. Review by the WGMEI. 2. WGMEI to recommend to Plenary any action to be taken with regards to the country. 3. WGMEI to send the report to the Plenary for discussion only if there are concerns about the progress made by the country.	1. WGMEI to propose to Plenary steps to be taken with non-complying members; 2. Plenary to decide what action be taken such as: a) a letter could be sent from the GIABA Secretariat; (b) a high-level mission can be sent to the country; (c) Recommendation 21: GIABA to issue a formal statement as recommended by Plenary; (d) Suspension of country as a GIABA member; (e) terminate membership; (f) Request FATF to apply sanctions at international level.
Removal from the process	Normally within 3 years		

GIABA Mutual Evaluations Follow-up Procedure

505. GIABA's policy on follow-up reports is to ensure that Member States put in place effective AML/CFT measures within a year after the adoption of their mutual evaluation reports.

506. The follow-up actions currently implemented by GIABA ARE a mixture of regular (expedited) and enhanced follow-up, which include high-level missions to Member States that may take place two or three months before the scheduled submission of the country's follow-up report. The missions usually comprise officials drawn from the WGMEI and the Secretariat, with the Director General or Deputy Director General as the head of the mission. The purpose of the mission is to review the measures taken by countries to address the deficiencies identified in their MERs and efforts made to implement the recommendations in the reports. In order to sensitize Member States to the FATF emphasis on meeting an acceptable standard on the core and key recommendations, the focus during the follow-up visits is to explain to States the benefits and importance of improving their systems, beginning with building blocks around the core and key recommendations.

507. The high-level follow-up missions would usually meet with experts who are involved directly in the implementation of the recommendations of the MER and thereafter with the key ministers to brief them about pending issues in their MERs and motivate political support for the experts to implement the recommendations in the MER. Due to the inconsistency in the formats of previous reports submitted by Member States, the Secretariat has designed a report template to guide Member States in drafting follow-up reports.[59] During the period under review, follow-up missions were undertaken to Nigeria, Senegal, Cape Verde, the Gambia and Mali.

Follow-Up Reports

508. The Republic of Sierra Leone presented its second follow-up report in May 2009, while Senegal and Nigeria presented their first follow-up reports at the May 2009 Plenary. Cape Verde, The Gambia and Mali presented their first follow-up reports at the November 2009 Plenary. The Secretariat provided an analysis of actions taken by the States as contained in their follow-up reports and at Plenary, then discussed the reports and made observations on whether the progress reported by Member States was acceptable relative to the deficiencies in their MERs. In the past one year that members started to present follow-up reports, Plenary

[59] See annex 4 of the Process and Procedures.

noted that while some Member States have made significant progress in addressing deficiencies in their AML/CFT systems after the adoption of their MERs, others need to do more.

a. Format of follow-up reports

509. All follow-up reports are in written format. The reports are analysed by the Secretariat, describing the specific actions taken by the reporting country to address recommendations that were rated PC and NC and presented to Plenary. After the presentation of the summary description of the follow-up report, the country will be given a chance to concur or dispute what has been presented and Plenary will then decide on the next line of action. Henceforth, the analysis of the follow-up report by the secretariat may be discussed at the WGMEI before presentation to plenary.

b. Summary of the analysis of the follow-up reports

510. **Sierra Leone:** About three years after the adoption of its MER, the second follow-up report of Sierra Leone was not very different from the first. In 2009, Sierra Leone was yet to finalize its draft AML/CFT legislation, let alone presenting it to Parliament for enactment into law. Most of the deficiencies identified in its MER were connected to the law. The FIU remained moribund as no STRs were received and analysed. The pioneer Director of the FIU, who combined as the Director of Banking Supervision, retired in November and no substantive Director has been appointed. It would be difficult for the FIU to function effectively if its head has to combine his work with the onerous job of supervising the banks.

511. Sierra Leone has a draft National AML/CFT Strategy that has not yet been formally approved by the Government. The strategy document identifies the national AML/CFT vulnerabilities and strategies for addressing matters relating to these, and proposes national programs and action plans. But the document does not set out clearly defined national priorities, nor does it suggest a defined time-frame for the implementation of programs and policies. There is no record of the activity of the Inter-Ministerial Committee expected to coordinate the AML/CFT efforts. Sierra Leone experienced a 10-year civil war from 1991 to 2002, but since restoration of peace, the Government has been relatively stable with successive elections. The constructive efforts are also yielding some positive results. It is therefore expected that this country should expedite action on its AML/CFT reforms as well.

512. **Senegal:** As stated earlier, Senegal presented its first follow-up report in May 2009, in which some new measures taken were outlined, chief among which is the enactment of a terrorist financing law. Senegal was the only country with a rating of 9/16 of the core and key recommendations. Its FIU has continued to function well, but no STR has led to a single conviction on money laundering. A summary of actions taken by Senegal as reported in its first follow-up report is presented below.

R5: Customer Due Diligence

513. At the level of the Insurance Sector, Regulation No. 00004 of 4 October 2008 on AML/CFT was issued by CIMA.

R6: Politically Exposed Persons

514. Article 13 of Uniform Act No. 2009-16 of 2 March 2009 on AML/CFT sets the due diligence obligations of financial institutions regarding Politically Exposed Persons (PPE) of other Union member countries and other third-party countries.

R8: New technologies and non-face to face business relationships or transactions

515. Senegal deems that Law No. 2008-11 of 25 January 2008 on cyber-criminality now permits the adaptation of the country's Criminal Code and the establishment of procedures concerning crimes related to information and communication technologies.

R13: Suspicious Transactions Reporting

516. CFT-related Uniform Act No. 2009-16 of 2 March 2009 now provides explicitly for the obligation to report suspicious transactions bearing on terrorist financing. Besides, CENTIF mandates have been extended to collecting and processing intelligence on terrorist financing.

R19: Other forms of declarations

517. As regards Senegal, Uniform Law No. 2009-16 of 2 March 2009 against the financing of terrorism introduces a systematic declaration for NGOs, especially for donations in cash exceeding CFAF1,000,000, which must be subjected to a declaration by the CENTIF to the authority in charge of centralized record-keeping.

R21: Special attention to high-risk countries

518. It must be noted that Regulation 04/CIMA/PCMA/PCE/SG/08 calls for due diligence on the part of insurance companies towards corporations or legal arrangements listed throughout the globe.

R35: Conventions

518. Senegal has indicated that it has transposed the uniform bill derived from the WAEMU AML guideline into Uniform Act No. 2009-16 of 2 March 2009 concerning AML/CFT activities.

SR II: Criminalization of Terrorist Financing

520. For the Republic of Senegal, the definition and criminalization of terrorist financing under Article 4 of CFT-related Uniform Law No. 2009-16 of 2 March 2009 are in line with the provisions of Article 2 of the International Convention for the suppression of terrorist financing.

SR IV: Reporting of Suspicious transactions

521. Since 2 March 2009, there has been a CFT-related law that is broadly compliant with the Convention on the suppression of terrorist financing. Article 18 of the law eliminates the restriction deriving from underlying money laundering predicate offence.

RS VIII: Non-profit organizations

522. CFT-related Uniform Law No. 2009-16 of 2 March 2009 insists on due diligence obligations aimed at preventing the involvement of NGOs in terrorist financing activities, in compliance with its Article 14.

523. **Nigeria:** Not only because of its size, but also because it was reviewed by the FATF ICRG Review Group, there is a large amount of information provided by Nigeria in its follow-up report, as well as subsequent reports to the ICRG/RRG. Nigeria was reviewed by the FATF ICRG on account of its MER which was rated NC and PC in 13 out of the 16 core and key recommendations; as well as the size and integration of its financial system with the international financial system. Nigeria reported the following actions since the on-site visit to that country in 2007:

Recommendation 1: Scope of Criminal Offence of Money Laundering

524. Nigeria was rated LC on recommendation 1. Nonetheless, it reported that an Inter-Ministerial Committee was established in 2008 to review the MLPA, 2004 with a view to amending the Act. After the review, the Committee forwarded a proposal to the Minister of Justice and Attorney General of the Federation as inputs into the proposed amendment to the MLPA.

Recommendation 3: Provisional Measures and Confiscation

525. Nigeria reported that the Department of State Services (the agency responsible for the prevention of terrorism) had seized properties belonging to suspected terrorists following investigations into the activities of the suspects. The existing penal and criminal codes provide for the confiscation and seizure of properties of suspected criminals. Despite the absence of a comprehensive financing of terrorism legislation, the courts are still able to rely on the criminal and penal code. The EFCC has also frozen assets of suspected terrorists in compliance with the UN Security Council Resolutions.

526. The EFCC Establishment Act of 2004 criminalizes certain elements of financing of terrorism in the country. Efforts are being intensified by the authorities to pass the Prevention of Terrorism Bill (PTB) which is before the National Assembly. Also, the PTB provides for the freezing / confiscation, seizure, investigation and forfeiture of assets of terrorist suspects.

Recommendation 5: Customer Due Diligence and Record-keeping

527. Nigeria reported that by the authority of S. 55 of the *Banks and other Financial Institutions Act 1991* (BOFIA), the Governor of CBN has the power to make rules & regulations for the operations and control of institutions under the supervision of the CBN. It states that "the Governor may make regulations, published in the Gazette, to give full effect to the objects and objectives of this Act. Without prejudice to the above provisions, the Governor may make rules and regulations for the operation and control of all institutions under the supervision of the bank." Consequently, in March 2009, the CBN reviewed all its AML Regulatory Circulars and produced a new AML/CFT Compliance Manual, which was gazetted in December 2009 and is now in force.

Recommendation 10: Record-keeping

528. In its follow-up report in May 2009, Nigeria reported that the CBN had issued a Circular Ref CBN/DIR/GEN/AML/03/009/2, dated 19 March 2009, reminding FIs to comply fully with statutory requirements in respect of record-keeping. The CBN commenced the use of Resident Examiners in January 2009 in order to enhance the supervision of FIs. They also conduct spot checks based on observations made off-site.

Recommendation 13: Suspicious Transactions Reporting

529. Nigeria reported that the NFIU in the past one year has trained reporting institutions across various sectors, as well as some AML/CFT stakeholders. It has equally provided facilitators to key seminars and conferences on AML/CFT, particularly in relation to

suspicious transactions. Specifically, the NFIU trained Finland Bank, Unity Bank, Aso Savings and Loans Ltd and Kundila Finance Stockbrokers. These efforts have resulted in great improvement in the reporting of suspicious transactions. Nigeria reported that the quality and quantity of STRs have improved significantly. Similarly, the NFIU has set up a dedicated Compliance Help Desk that interfaces with reporting entities to provide appropriate guidance to help enhance quality of renditions and other AML/CFT compliance matters.

Recommendation 23: Market Entry

530. Nigeria reported that regulatory authorities including NFIU, SEC, CBN and NAICOM stepped up efforts in 2008 to cover some of the institutions that were hitherto not covered by the AML/CFT compliance inspections. For instance, 160 joint AML/CFT inspections were carried out by the NFIU and SEC, while six joint inspections were carried out by NFIU and NAICOM in 2008. Similarly, sanctions worth NGN32 million were applied by SEC as a result of AML/CFT infractions by reporting entities within the capital market sector.

531. The members of staff of licensed bureaux de change (BDCs) are supervised by the CBN. A new Circular Ref CBN/DIR/GEN/AML/03/009/2, dated 19 March 2009, now prohibits BDCs from permitting the sale of foreign exchange by non-registered members. More staff members have been deployed by the CBN to the OFID (the department in charge of the supervision of the BDCs in the CBN).

532. Nigeria reported that the CBN along with the NFIU conducted eight joint inspections of some banks between April and May 2009. NAICOM has recently developed a comprehensive timetable for AML/CFT Compliance inspections. No evidence on the implementation of the planned inspections was provided.

Recommendation 26: The Financial Intelligence Unit

533. As a member of the Egmont Group, the NFIU is guided by international best practices in the management of information at its disposal. In 2008, the NFIU received 9,181,096 CTRs and 389 STRs, out of which 22 led to law enforcement actions. Between January and June 2009, it received a total of 6,264,740 CTRs and 458 STRs, out of which 34 STRs were disseminated to law enforcement. The NFIU maintains a comprehensive database of all reports it receives (both soft and hard copies). The NFIU reported that it has signed additional MOUs with the FIUs of Macedonia, Philippines, Bermuda and the UAE. For further details, see the NFIU website <www.nfiunigeria.org>.

534. The scope of the NFIU quarterly newsletters and other public documents has been enlarged to include all required information and statistics on STRs, and reports on high-risk businesses. Efforts are being made to enhance feedback between the NFIU and reporting institutions through the Chief Compliance Officers Forum and the DNFBP Advisory Council. Within this process, all reports that meet the required standards are received and acknowledged, while trends and patterns of STRs are sometimes communicated to the reporting entities. It is important to state that feedback mechanisms have also been enhanced with other regulatory agencies including the CBN, SEC and NAICOM.

Recommendation 35: Ratification of Relevant International Conventions

535. In its follow-up report, Nigeria assured that the Bill on the Prevention of Terrorism will address these deficiencies when passed into law.

Recommendation 36: Mutual Legal Assistance

536. Nigeria has a Mutual Legal Assistance Treaty with the UK, USA and many other countries and these have been applied bilaterally.

Recommendation 40: Other Forms of International Cooperation

537. Nigeria argued that all its relevant institutions have powers within the framework of the various multilateral and bilateral instruments for international cooperation to exchange information on AML/CFT. It went further to say that the NFIU is a repository of financial information and intelligence data accessible by foreign FIUs based on the Egmont Group Statement on the Exchange of Information. Under the EFCC Act, the NFIU can obtain information from any other competent authorities or persons, in order to respond to a request from a foreign counterpart FIU.

Special Recommendation 1: Criminalization of Financing of Terrorism

538. In its follow-up report, Nigeria indicated that a National Focal Point on Counter-Terrorism – an inter-agency Group of 24 agencies to coordinate efforts for combating terrorism and terrorism financing – had been established in 2008. The Group worked closely with both the UN Counter-Terrorism Implementation Task Force in the Office of the UN Secretary General and the Terrorism Prevention Branch of UNODC to review the draft Prevention of Terrorism Bill to bring it in line with relevant UN Conventions. A two-day workshop was organized in Abuja on 28–29 October 2008 involving all the relevant agencies of government and members of the National Assembly to review and redraft the Bill.

Recommendations arising from this review have been harmonized or incorporated into the new draft Prevention of Terrorism Bill.

Special Recommendation II: Criminalization of Financing of Terrorism

539. A Terrorism Prevention Bill has been represented to the National Assembly.

Special Recommendation IV: Suspicious Transactions Reporting related to Financing of Terrorism

540. In its follow-up report, Nigeria argued that Paragraph 1.16.2.5 of the CBN AML/CFT Compliance Manual (2009) now requires FIs to submit STRs in respect of terrorist financing to NFIU.

541. **Cape Verde:** The MER of Cape verde was adopted in November 2007, but due to the failure to publish that report in good time, the first follow-up was presented to Plenary in November 2009. A short description of the report showed that good progress has been made to address the deficiencies identified in the AML/CFT regime of Cape Verde. A summary analysis of the follow-up report is presented below

R 4, R 35, R 36 and R 40 Recommendations

542. Cape Verde has adopted the Law No. 38/VII/2009 of 20 April 2009 against money laundering, which updates the previous law prevailing at the time of the assessors' on-site visit in 2007. This law therefore is taking into account number of recommendations related to the MER regarding R 4 and R 40 Recommendations. For better compliance with the R 35, the Cape Verdean authorities have ratified the Palermo Convention on 23 April 2008.

R 23, R 26, SR 1, SR III and SR V Recommendations

543. The gaps in the implementation of R 23 and R 26 Recommendations were addressed with the adoption of the new AML Law and the establishment of the Cape Verdean FIU by Decree-Law No. 1/2008 of 14 January 2008. It should be noted that the functioning of the FIU is not yet effective. Regarding the Special Recommendations SR I, SR III and SR V, their implementation remains difficult in Cape Verde, in the absence of an adequate legal framework.

544. **The Gambia:** The Gambia also presented its first follow-up report in November 2009. A short description of the actions taken by the authorities of that country to address the deficiencies identified in its MER indicated that tremendous progress was registered since

adoption of the MER. The following measures were implemented and full compliance is being pursued vigorously:

- Establishment of a Financial Intelligence Unit (FIU) within the Financial Supervision Department of the Central Bank. Two offices currently serve this purpose and are exclusive to the FIU staff only.
- The Banks have commenced the reporting of suspicious transactions. These reports were analysed by staff of the FIU and where appropriate, were forwarded to the police for further investigations. Up to 16 STRs were received, of which nine were forwarded for further investigations; the outcome is three prosecutions and two convictions, while others are still under investigation.
- The Customer Due Diligence (CDD) policy has been reviewed and has incorporated provisions on terrorism financing, one off transactions, Politically Exposed Persons and all other issues which were hitherto inadequately addressed.
- There is an ongoing review of the *Money Laundering Act 2003*. The review is designed to address shortcomings that were highlighted during the ME. In particular, the predicate offences have been broadened to capture the minimum 20 offences listed in the FATF Recommendation 1.
- During the follow-up visit by GIABA in August 2009, a stakeholder's meeting was convened to review the proposed amendments to the Money Laundering Act 2003.
- Through collaborative efforts with GIABA, a Mentor was appointed to the Gambian FIU. The duration of appointment is one year and he will be assisting the FIU with implementation issues.
- An in-house workshop has been conducted for staff of the CBG derived from Banking Services, Microfinance, Insurance and Foreign Departments. This was aimed at creating AML/CFT awareness among other supervisory staff.
- Compliance officers appointed for banks were invited to a seminar organized by the FIU. The seminar provided them with an insight into the issues of anti-money laundering and combating the financing of terrorism.
- The inter-ministerial committee now meets more regularly and is anticipated to pursue its mandate more rigorously in future.

545. **Mali:** The Republic of Mali also presented its first follow-up report in November 2009. A short analysis of the progress made in addressing the deficiencies identified in its MER showed considerable progress, in particular with regard to the criminalization of financing of terrorism. A summary of the actions taken since the adoption of the report is as follows:

- Mali has criminalized the financing of terrorism by transposing the 16 instruments on organized trans-national criminality according to the law No. 025/PRM of 23 July 2008 on repression of terrorism.
- In spite of the existence of an article of this law criminalizing and sanctioning the financing of terrorism, Mali is prepared to transcribe the UEMOA Directive on the financing of terrorism.
- On 26 May 2009 it signed the Convention of Mutual Legal Assistance and Extradition against Terrorism adopted by the conference of Ministers of Justice of the francophone countries on 12–16 May 2008 in Rabat. The ordinance authorizing the ratification of this convention was adopted by the Council of Ministers of 16 July 2009.
- Aware that the keeping of statistics is likely to give a good legibility to the infraction of money laundering and financing of terrorism, the Ministry of Justice put in place a Unit for Planning and Statistics.
- In addition, an Integrated National Programme of fight against organized criminality and illicit trafficking was instituted, which contains a National Intelligence Coordination Centre. This centre constitutes a data bank on organized criminality at the disposal of the different actors.
- The FIU/CENTIF has been created and the decree No. 0291/P-RM of 10 August 2007 sets its organization and its funding. The members have been appointed by No. 279/P-RM of 16 May 2008.
- Ordinance No. 2608/MF-SG of 17 September 2008 sets the pattern of STRs.
- The CENTIF endowed itself with personnel policies adopted on 30 October 2008 and this was approved by the Minister of Finance.
- Regulation No. 004/CIMA/PCMA/PCE/SG/08 defining the procedures applicable by insurance companies in the Member States of the CIMA in the AML/CFT framework is integrated into the legal arrangement and can be applied by insurance companies and equivalent.

546. Table 21 below shows GIABA Member States that submitted follow-up reports, as well as Plenary decisions regarding the type of follow-up process assigned to each country in 2009. It also shows those countries that are expected to present follow-up reports in the coming year.

Table 20: Status of Follow-up Reports

COUNTRY	FOLLOW-UP REPORT	TYPE OF FOLLOW-UP PROCESS (once a year)
Sierra Leone	2nd follow-up report, May 2009	Regular (expedited[60])
Senegal	1st follow-up report, May 2009	Regular (expedited)
Cape Verde **The Gambia**	1st follow-up report, November 2009 1st follow up report, November 2009	Regular (expedited) Regular (expedited)
Nigeria	1st follow-up report, May 2009	Regular (expedited)
Mali	1st follow-up report, November 2009	Regular (expedited)
Gambia	1st follow-up report, November 2009	Regular (expedited)
Niger	1st follow-up report, May 2010	Regular (expedited)
Guinea-Bissau	1st follow-up report, May 2010	Regular (expedited)
Burkina Faso **Ghana**	1st follow-up report, November 2010 1st follow up report, November 2010	Regular (expedited) Regular (expedited)

547. As with all MERs and the Executive Summaries, GIABA's publication policy is that any follow-up report adopted by Plenary should also be published. Thus the follow-up reports of Member States have been published on the GIABA website, except where there is a delay due to translation and revision.

[60] Expedited follow-up process means a year after the adoption of the Mutual Evaluation Report and then every year unless the Plenary decides otherwise.

548. The mutual evaluation process is based on acceptable standards and methodology developed by the FATF – the body responsible for setting global standards for AML/CFT. To qualify as an assessor in this process, one must attend the requisite training program organized by the FATF, the FSRBs or the international financial institutions. To ensure that MERs are of good quality and standards and are consistent with global practice, it is important that assessors have a good knowledge of FATF standards and methodology. Producing a good evaluation report is a function of quality assessors. It is for this reason that GIABA provides training for prospective assessors from government institutions and other relevant organizations of Member States. The training programs ensure that there is a large pool of trained regional assessors to take part in MEs. The assessors' training is reported in Chapter 5 in greater detail.

549. As stated earlier, one of the strategic objectives and a key cluster in GIABA's Plan of Action is the conduct of mutual evaluations. This process involves regular peer review and discussion of Member States' progress towards full implementation of the FATF 40+9 Recommendations. Reviews entail responses to questionnaires, interviews with officials and financial services providers, written reports of findings, and discussion and critique of those reports in Plenary meetings. The MEs proceed in a collegial manner, and allow specialists from the regulatory, legal and judiciary fields to share their expertise and provide useful insights concerning their colleague's efforts to implement sound anti-money laundering policies. The value of the expert level – as opposed to political – discussion is particularly evident in our ME process over years and particularly during 2009.

550. The overall evaluation process saw significant improvement during the year under review, in terms of discussions of the MERs at the Plenary. This demonstrates the increased level of awareness of AML/CFT issues in the region and reinforces the commitment to the process. It is hoped that the remaining onsite visits to Togo, Côte d'Ivoire, Guinea and Liberia, which will be undertaken during the first round, would be successfully conducted to enable GIABA commence its second round of mutual evaluations in 2011.

Enactment/upgrading of AML/CFT Legislation in GIABA Member States

551. One of the pillars on which any AML regime rests is the enactment and implementation of legal frameworks that guide the legal, financial and judicial processes involved in the fight against money laundering and terrorist financing. Prior to 2006, many countries in this region did not have legislation against ML. At the moment, each member of

GIABA has promulgated a stand-alone legislation criminalizing ML. Some of the laws require improvement to conform to the requisite international standards. Nevertheless, this important step represents significant progress in regional efforts to combat ML. Thus one of GIABA's priorities during the past year was to support Member States in upgrading their AML/CFT legislation in order to conform to acceptable international standards. A summary of the technical assistance provided to members to improve their legislative frameworks is discussed in Chapter 5.

Progress towards Enacting and Reviewing CFT Legislation

552. With regard to CFT laws in the region, significant progress was made in that direction in 2008. The WAEMU Commission issued a Directive in July 2007 to all the WAEMU countries requiring them to domesticate and enact CFT legislation in line with the uniform model legislation developed by GIABA. Following the adoption of this uniform law, in March 2008, each country is now proceeding with domestication and adaptation of the law, as was the case with the uniform AML legislation in 2007. Senegal enacted its CFT legislation in July 2009.

553. Senegal, Mali and Burkina Faso have criminalized the financing of terrorism by transposing the 16 instruments on organized transnational criminality according to the law No. 025/PRM of 23 July 2008 on repression of terrorism in Mali.

554. Within the non-WAEMU countries, efforts are being made to revise existing anti-terrorism legislation and enact new CFT legislation that would conform to acceptable international standards. In this regard, Nigeria has partially criminalized terrorist financing under section 15 of the *Economic and Financial Crimes Act 2004*. It has also drafted new and comprehensive anti-terrorism legislation that has been submitted to the National Assembly in October 2009. Nigeria has made a commitment that this law will be passed by June 2010.

555. The Republic of Guinea has, with the assistance of GIABA, formulated draft CFT legislation, which was being prepared for submission to the National Assembly before the military coup in December 2008. The Gambia has had an anti-terrorism Act since 2003, but this does not comprehensively cover all the international standards on terrorist financing. GIABA is currently assisting The Gambia to review its anti-terrorism Act. Cape Verde's draft CFT legislation is currently before its Parliament. Sierra Leone has also prepared a draft comprehensive AML/CFT Bill with the assistance of GIABA and other international partners.

Liberia is also reviewing a draft comprehensive AML/CFT legislation for enactment in 2010 (this is further discussed in Chapter 5).

556. The review and enactment of legislation is not an easy process, especially under democratic governments. GIABA Member States have therefore demonstrated a strong commitment to ensure that both money laundering and terrorist financing are criminalized according to the FATF Standards. We commend the efforts of our Member States, especially those involved in the processes of reviewing the laws, and particularly the parliamentarians who have responsibility for passing the Bills into law. GIABA will continue to work with all Member States, as a priority, to ensure that they finalize and enact their CFT legislation before the end of 2010. A snapshot of the status of ratification and domestication of international conventions related to AML/CFT in each country is shown in Appendix B.

Conclusion

560. By far one of the major achievements of GIABA over the years has been in the area of mutual evaluation. Members have demonstrated a strong commitment to this process and process has proved a rewarding one for all. It has helped Member States understand and appreciate the need for such peer review and also its impact on their systems. The first round of evaluations is like a wake-up call on Members to improve their systems. The Secretariat, for its part, has been committed to the process. Except for postponement of the on-site visit to Côte d'Ivoire, due to the scheduled election in that country in November 2009, all program activities planned under mutual evaluation were successfully carried out. This is a mark of credibility of the work of GIABA. However, as the GIABA's Strategic Plan for 2007–2009 comes to an end in December 2009, the pending mutual evaluations of Côte d'Ivoire, Togo, Liberia and Guinea will be completed by mid-2011.

CHAPTER 4

TYPOLOGIES, STUDIES AND PROJECTS

Introduction

561. Money is by far the greatest motive for most economic, premeditated and serious crimes. Transnational organized crime is one of the manifestations of globalization and constitutes a massive attack on the fabric of society, affecting it in various ways. Organized crime threatens the most important element of human society – the peace and security of nations. Attacking organized crime by taking away the profits generated from it has become one preferred approach to dealing with organized crime. However, as nations devise ways and means of tracing, freezing, seizing or even confiscating the proceeds of crime, there are obvious reasons for criminals to engage in money laundering. The concept of money laundering generated immense attention in the past three decades or so, yet there are still emerging issues associated with it that trouble further inquiry. Theoretically, the concept of money laundering has introduced other, if novel, matters for consideration in any meaningful discussion of the proceeds of crime and money laundering. The question is why do we focus on the criminal proceeds and money laundering and how successful have we been in recovering the proceeds and combating money laundering?

562. The financing of terrorist groups is another motive for profit-generating crimes. Money laundering, drug trafficking and terrorist financing are closely intertwined, and by now are of urgent concern throughout the West African region. The nations of this region have particular characteristics that make them vulnerable to these crimes: the size of the informal economy, the nature of tax evasion, corruption in officialdom at all levels, and the use of the region as a drug transit point – all these present clear opportunities for the crimes of

money laundering and terrorist financing. Accordingly, a good understanding of the methods and mechanisms, as well as the unique environment that facilitates ML and TF in West Africa, is an essential part of any typologies studies or risk assessment.

563. In view of the fact that money laundering, like most social and acquisitive crimes, is constantly evolving, it is difficult to gauge the exact extent of the problem. Most estimates are speculative because it is almost impossible to ascertain the exact volume of a recurrent event. It is even more difficult when the activity is global in nature, manifesting in different forms, at different times and places. Thus, according to the FATF submission on money laundering (1997), "there is not at present any economic deus ex machina that will allow the accurate measurement of money laundering worldwide, or even within most large nations. The basis for such estimations simply does not exist."[61]

564. Criminals use various ways to move their money to wherever they can safely benefit from it in due course. Despite the body of literature on this subject, we are still far from even an elementary understanding of the current techniques and intermediaries of money laundering – "even from the systematic analysis of detected cases, let alone from those that are unknown".[62] While or not the typologies on the methods and mechanisms of money laundering developed by the FATF and FATF Style Regional Bodies (FSRBs) are helpful to some extent in providing information on ML methods, they have been criticized as being simplistic and oriented to the enforcement priorities of the developed jurisdictions.[63] Nevertheless, typologies of money laundering and terrorist financing remain an important component of the global fight against these scourges, as shown in this chapter.

565. Many factors are responsible for the prevalence of money laundering, but the fact that perpetrators are often associated with powerful people, especially with regard to the laundering of proceeds of corruption, and the fact that enforcement agencies are weak, stand out as the most important risk factors for most societies. It is alleged that between 1975 and

---

[61] This was the submission of Stanley Morris, then Director of the United States Financial Crimes Enforcement Network (FINCEN) in his capacity as the Chairman of the FATF in 1997/1998. The FINCEN is the US focal point for the control of money laundering and it is the organ that represents the USA on the FATF. This submission by Morris calls for more empirical research into the global problem of money laundering. Indeed it is difficult if not impossible to gauge the extent of ML in the global economy because apart from ML being a continuous event, any estimate of its extent is merely speculative, based on what is reported.

[62] Ibid.

[63] A.K. Rider (2007), 'Recovering the Proceeds of Corruption'. Paper for the International Association of Anti-Corruption Authorities, Presented in China, June 2007.

1985, developing countries placed in financial institutions located in Western countries no less than USD250 billion of fraudulently obtained funds. About USD150 billion of this was for the benefit of the rulers of these countries.

566. However, what accounts for any mode of laundering includes the personal consumption patterns of the criminals, their attitudes towards what constitutes financial risks, and the degree of secrecy and confidentiality they desire. Even without going into detailed analysis of the various methods and intermediaries of money laundering, the types of witting or unwitting intermediaries of money laundering can be broadly categorized as follows.

567. Conducting typologies to determine the trends, methods and intermediaries of money laundering and terrorist financing is one of the main thrusts of the activities of GIABA. The purpose of this is to provide sufficient information to policy-makers and practitioners to guide them in establishing and implementing a robust AML/CFT regime in their respective jurisdictions.

568. This chapter reviews the typologies undertaken by GIABA in 2009, including other studies, projects and threats assessments. Suffice it to say that those studies complement the relevance of the typologies studies.

569. A Concept Note to undertake a third typologies exercise on "Laundering the Proceeds from Illegal Trafficking in Drugs and Psychotropic Substances" was approved by Plenary in November 2008. The objectives of this typologies exercise are as follows.

570. In order to ensure that the exercise was undertaken by experts with a good background in both drug trafficking and related money laundering in the region, the project commencement date was adjusted to July 2009. A work plan was developed and endorsed by the GIABA Plenary in May 2009.

Methodology for the typologies exercise on laundering the proceeds from drug trafficking:

571. National Contact Persons (NCPs) were nominated by the GIABA National Correspondents according to pre-defined criteria. The NCPs were responsible for the administration, collation and analysis of questionnaires and collection of case studies to be used to identify AML/CFT vulnerabilities and risks related to drug trafficking in their individual countries. By the end of 2009, all reports from the NCPs have been collated and a regional workshop has been scheduled for 27–28 January 2010 in Guinea-Bissau. The NCPs

will present a summary of their reports and clarify any questions that may arise from them. Other experts from regional and international organizations that are involved in efforts and actions against drug trafficking and money laundering have also been invited to the workshop.

572. Two questionnaires were designed and reviewed by experts. One was designed to capture country information in relation to drug trafficking and money laundering, and the other for case studies.

573. The information provided by the NCPs will be collated and organized and will form part of the working document for the typologies workshop. The draft report will be circulated to the NCPS, selected experts and interested development partners for comments and additional inputs before it is presented to Plenary in May 2010. The drug trafficking typologies exercise will complement the efforts of ECOWAS to address the problem of drug trafficking in the region.

Research Studies and Projects

574. As reported in our 2008 Report, in parallel to its regular typologies exercise, GIABA also undertook several study reviews and projects in 2009. The studies either serve to complement national technical assistance efforts or provide additional focus to the ongoing efforts against ML and FT on a regional basis. Some of these projects have now been completed or are in the process of being implemented. Some of the studies described below will be finalized in 2010 and will provide results which will be reported in the 2010 Annual Report. It is expected that other project proposals and reviews will also be brought forward for analysis and necessary action in 2010.

Risks and threat assessment of ML/FT in West Africa

575. In 2008, the Secretariat, with the approval of Plenary, commissioned a study on the Risks and Threat Assessment of Money Laundering and Terrorist Financing in West Africa. The study was, overall, intended to help GIABA Member States to appreciate and understand the extent, nature, impact and potential consequences of these crimes on their economies. It was also meant to complement the immense work on assessing the global threat of ML/TF undertaken by FATF.

576. The Study was conducted by an independent Defence Services company, AEGIS. The company won the contract after a competitive process based on the ECOWAS Regulations.

577. The study reviewed some ML predicate crimes prevalent in the region, including corruption, drug trafficking, arms trafficking, counterfeiting, tax fraud, private sector fraud, human trafficking, trafficking of crude oil, cybercrime and terrorism financing. The study's report also looked at the informal sector.

578. The report was presented to GIABA Plenary in November 2009. Plenary made some observations and requested the Secretariat to act on them. The report will be re-presented at the next Plenary in May 2010 for approval, after which it will be published.

579. The report addresses West Africa's informal economy, which is a major vulnerability with regard to money laundering. It comprises perhaps 60–70% of formal regional GDP.

580. Corruption in its various manifestations, and as a major predicate offence for money laundering, is a significant source of illegal proceeds, and a means by which efforts to prevent money laundering are undermined.

581. The report made recommendations on how to improve the overall AML/CFT system in the region. These recommendations include issues such as:

- the need to upgrade tax administration systems;
- suggestions to enhance the regulation and monitoring of financial institutions, as well as DNFBPs;
- a means of strengthening the probity and capacity of customs and airport and seaport security;
- measures to improve the collection, dissemination and analysis of criminal intelligence;
- improvement of the investigative and other capacities of independent anti-corruption bodies;
- stricter regulation in areas where funds are laundered, especially real estate; and
- stricter customer due diligence in financial institutions and AML/CFT standards in trade finance with respect to the major oil bunkering problem in Nigeria.

582. The report finds three key areas that would benefit from further study: the relation of the informal economy to money laundering, and methods of applying AML regulation to the grey or black economy; the question of tax evasion and its connection to money laundering; and corruption, which is a major contributor to laundered funds and simultaneously weakens the preventive regulatory regimes.

Study on the impact of the informal sector on AML/CFT in the UEMOA zone

583. The Economies of West African countries, like that of most African countries, are dominated by the informal sector. The knowledge of the full impact of this sector on AML/CFT is very limited. In addition, the international AML/CFT standards have not taken into full account the commensurate relevance of this sector in the developing economies of the region's nations. In order to gather more knowledge and gain some understanding of the operations and impact of this sector with regard to AML/CFT, the GIABA Secretariat initiated a study on the impact of the informal sector on AML/CFT in the UEMOA zone. The zone has attained monetary integration and has a common currency. Each of the eight countries in the zone has a sizeable informal sector that significantly impacts on their economies. A study conducted by the UEMOA Commission between 2001 and 2004 to assess the impact of the informal sector on the economies of its Member States found that the economic size of the informal sector in 2004 amounted to a turnover of 5,905 billion CFA francs, with an output of 3,824 billion CFA francs and a value of 2,524 billion CFA francs in major cities of seven Member States. The sector is said to provide nearly 90% of jobs in Africa compared to the formal sector, which employs about 10%. This goes to show the economic importance of the sector and, indeed, point to the need to ensure effective AML/CFT governance of the sector.

584. However, lack of supervision and the predominance of cash transactions in this sector make it particularly vulnerable to money laundering and could be exploited for the financing of terrorism. Given the foregoing, GIABA considers it necessary for Member States to take concrete action to minimize the risks of abuse of the informal sector, and to develop policies and programs aimed at preventing and detecting ML/TF vulnerabilities in the informal sector. Overall the study is aimed at understanding the vulnerabilities of the informal sector to ML/TF; creating awareness among DNFBPs and other actors and establishing sustainable collaboration with the actors of the informal sector.

585. The study was conducted over a period of three months. Four UEMOA countries were sampled (Côte d'Ivoire, Guinea-Bissau, Mali and Senegal). The methodology employed in the study is summarized as follows:

- Literature review and field investigation in relation to the research topic were conducted at sub-regional level.
- The result of the literature review was presented to a multidisciplinary team to review and enrich it.

- An awareness seminar for DNFBPs and a pre-validation workshop was held in Abidjan, Côte d'Ivoire, before draft report was submitted for consideration and adoption by the GIABA Plenary in November 2009.

586. The following are some of the highlights of the report:

a. The informal sector plays an important role in the economies of UEMOA countries.
b. The sector is not well regulated and has some specific AML/CFT vulnerabilities.
c. A common vision and standards are needed for informal sector operators in the UEMOA zone.
d. AML/CFT vulnerabilities within the informal sector must be clearly identified.
e. Recommendations and elaboration of a draft plan of action to address the ML/TF vulnerabilities.

587. In conclusion, this study, conducted over three months, cannot be regarded as exhaustive on the question of informal sector's impact on AML/CFT in the UEMOA zone. It does, however, provide a basis for reflection, and beyond that, a working tool for experts responsible for AML/CFT in the 15 Member States of ECOWAS to prevent and minimize the risks of the sector.

588. The findings of this study appear to confirm some of the findings in mutual evaluation of the respective countries, and the Needs Assessment Technical Assistance report published by GIABA. The findings may also be a good reflection of the ECOWAS region as a whole.

589. The GIABA Secretariat hopes that the outcome of the study will generate a healthy debate around the question of the informal sector in the ECOWAS region, in order to arrive at a common position on how to address its ML/TF vulnerabilities and risk without undermining the important role it plays in addressing poverty and economic development. This will undoubtedly have a positive impact on the AML/CFT strategy targeted specifically to protect the informal sector from the illicit money and create the awareness needed among all actors involved in this sector, especially the DNFBPs.

The Corruption–Money Laundering Nexus in West Africa

590. Corruption has remained a problem in both public and private sectors in the region despite all efforts by governments and other stakeholders to tackle it. It is judged to be one of the major sources of laundered funds in the region. Corruption hinders good governance,

sabotages the rule of law, enriches the undeserved, sustains crime. It creates social disharmony and make life more costly for everyone, especially in least developed countries.

591. The Group of 20 made of the world's largest economies has identified corruption as an important issue to be tackled in the context of addressing the recent economic crisis. The FATF has been mandated to take all necessary action to address this problem within its mandate. As a FSRB, the GIABA Secretariat considers tackling corruption a top priority. As a result, and with the approval of Plenary, a study was commissioned on the nexus between corruption and money laundering in West Africa. The main aim of the study is to provide a contextual and better understanding of this nexus in order to enhance the implementation of international and regional AML standards in the sub-region.

592. The research (data collection) instruments were designed to obtain information on perceptions/opinions directly from targets/respondents, and to synthesize relevant information, both quantitative and qualitative, obtained from law enforcement and regulatory agencies. The respondents were senior government officials drawn from relevant ministries, departments and agencie, and the private sector. Other sources of information include legal and socio-economic documents, "local" literature and newspapers, and magazines for the period 2003–2007. The extractions included information on several Politically Exposed Persons prosecuted or ongoing cases across the sampled States.

593. The report is to be finalized by early 2010 and will be presented to Plenary in May 2010 for consideration and adoption.

594. Implementation of recommendations in these reports is largely the responsibility of Member States, with some support from the Secretariat. Following the publication of the reports of the typologies exercises on Cash Transactions (2007) and Real Estate Sector (2008), the Secretariat sent these reports to each State's Minister of Finance for implementation.

595. While some States have acted to address the deficiencies and problems raised in those reports, others have not taken steps to do so.[64] Normally, GIABA's supports to Member States to implement the reports are in the form of training and capacity-building, awareness raising and provision of equipment to the relevant institutions where necessary. Within the reporting

[64] See overview of AML/CFT situation in Member States in Chapter 2.

period, none of our Member States have sent a formal request to GIABA for assistance on any of those recommendations.

596. Nevertheless, GIABA has consistently followed up, in collaboration with various stakeholders, the implementation of these reports within the framework of our follow-up on the recommendations in the MERs. The various technical assistance projects to assist States to implement those recommendations are contained in the GIABA Work Plan for 2010 (Annex A). Two upcoming events, however, deserve special mention here.

597. During the 63rd Session of the ECOWAS Council of Ministers held in Abuja, Nigeria on 20–21 November 2009, the Council expressed serious concerns about the movement of cash across borders in the region despite the relative availability of cross-border banking services. Consequently, the Council urged ECOWAS institutions, in collaboration with regulatory, law enforcement and financial institutions, to take immediate action to identify the stumbling blocks to efficient cross-border payments through the financial institutions and recommend remedial actions.

598. Consequently, a regional policy workshop on Payment Systems and Cash Couriers in West Africa is scheduled to take place in Abuja, Nigeria, on 10–12 March 2010. The objectives of the workshop include to:

- increase awareness among stakeholders on the problem of cash transactions and cash couriering in West Africa;
- examine payments and monetary management on cash transactions in financial institutions;
- examine the existing framework for the control of cash movement in the region;
- review the FATF recommendations with regard to cash transactions and cash couriers, with particular emphasis on Special Recommendation IX and assessing its implications for the region;
- deliberate on the problem of cash transactions and cash couriers in the region and consider and adopt possible options for dealing with the problem with due consideration to the findings and recommendations of GIABA typologies exercise on cash transactions and cash couriers published in 2007;
- identify the roles and responsibilities of various stakeholders in dealing with the problem;
- propose future strategies for coordination and sustaining efforts aimed at dealing with the problem.

596. The workshop will be attended by a wide range of government functionaries, managers of financial institutions, regulators and operators, senior law enforcement officials, top officials of relevant professional bodies, and officials from regional organizations.

599. It is expected that the workshop will produce a blueprint for addressing the problem of cash transactions and cash couriers in West Africa and strategies for the full implementation of the FATF Special Recommendation IX with regard to cash transactions and cash couriers.

600. A regional seminar is to be organized to review the challenges facing the real estate sector in the areas of regulation, enforcement, professional practice and conduct, and legal weaknesses. All relevant stakeholders from government agencies, professional organizations and selected operators will be expected to attend.

601. The main objective is to develop strategies for overcoming some of the problems facing the sector and to ensure that commensurate regulatory measures are put in place by the Member States to increase the sector's level of visibility, transparency and accountability as envisaged by the relevant FATF Recommendations and in accordance with best practices.

Involvement in FATF Typologies Exercises and Other Research Work

602. The GIABA Secretariat is a Co-Chair of the FATF Global Threat Assessment (GTA) Working Group, along with the UK and the Netherlands. In this capacity, GIABA is expected to help with the coordination and management of the GTA Project. The Working Group was tasked with the responsibility of producing a GTA to help provide some understanding of the key threats ML and TF poses across jurisdictions. It is hoped that the GTA will provide the FATF with a strategic and long-term view of ML/TF threats from the criminal and terrorist environment, and also assist in identifying systemic money laundering by criminals and terrorist financing threats.

603. The Secretariat participated actively in the meetings of the FATF Working Group on Typologies at the FATF Plenary meetings that took place in Lyons and Paris, France, in June and October 2009, respectively. It was also represented at the Joint FATF/CFATF Typologies workshop that took Place in Cayman Islands in November 2009, where the GTA initial outcome was extensively reviewed.

Expected Outcome of the GIABA Typologies and Studies

604. The typologies exercise on the laundering of the proceeds of illicit traffic in drugs and psychotropic substances will help to provide a better understanding of the flow of funds derived from this trade. This will help the ongoing regional efforts spearheaded by ECOWAS

to tackle the problem in a comprehensive manner. The Risk and Threat Analysis report will help to broaden knowledge of the extent and pattern of ML and TF in the region in relation to predicate offences and other variables. This will help political leaders in setting priorities and, hopefully, allocating more resources to AML/CFT; it will also alert law enforcement and reporting entities to adopt appropriate measures to meet the threats and mitigate risks. The study on the informal sector will help to highlight the major vulnerabilities and gaps in this sector and how to improve AML/CFT governance, while the study on the corruption–money laundering nexus is vital to understanding the significance of corruption as a ML predicate offence in the region, especially with regards to PEPs.

Conclusion

605. Typologies exercises and the conduct of research studies remain the surest means to new knowledge and understanding of the phenomena of money laundering and terrorist financing. The dynamism of these phenomena and the low capacity in the region to comprehensively implement AML/CFT measures make it more imperative for us to develop empirical data in implementing AML/CFT measures so as to ensure the efficient use of scarce resources. Another important objective of the regional typologies and studies is to build local capacity and help foster closer cooperation among Member States, thus deepening the ECOWAS integration process. Since the GIABA three-year Strategic Plan came to an end in 2009, the findings of these studies will be used to provide a clear and result-based direction to the work of the Secretariat and GIABA as a whole. To achieve meaningful results in typologies exercises and other research projects, the Secretariat will continue to use local and foreign experts as may be necessary. Partnership is the key to success in addressing the challenges posed by ML and TF. However, Member States must continue to play their roles as the ultimate beneficiaries of the Secretariat's programs and projects. While GIABA will do its part to follow up on the outcomes of these exercises, greater efforts is required on the part of Member States in the implementation of recommendations made in these reports.

CHAPTER 5

TECHNICAL ASSISTANCE TO MEMBER STATES

Introduction

606. As a Specialized Institution of the ECOWAS, GIABA has a technical assistance mandate to assist its members build a strong AML/CFT architecture in their respective countries. Indeed, GIABA is the only FSRB with a direct mandate to coordinate technical assistance to its region. It should be recalled that the FATF is the global standards setter for the fight against ML and TF, but it has no mandate to give technical assistance. Thus, in 2009, the Secretariat provided technical assistance to Member States within the framework of this mandate to strengthen the capacity of legal, judicial, law enforcement and financial sector institutions in the region.

607. The dramatic impact of ML and FT on the society necessitates that a result-oriented approach is adopted with regard to implementing truly effective measures to counter these phenomena. Against this backdrop and within the framework of its Strategic Action Plan (2007–2009), GIABA outlined in its 2008 Annual Report the following priorities for the year 2009:

- Continued support for the enactment, amendment and upgrading of AML/CFT legislation;
- Support for the establishment and strengthening of FIUs, including bringing them up to the standard to apply for the Egmont Group membership;
- Promotion of the establishment of Inter-Ministerial Committees and the development of AML/CFT National Strategies and Action plans in Member States;
- Active and consistent follow-up to mutual evaluations to enable members submit quality and timely follow-up reports on their MERs;

- Formulation of additional typologies to determine the methods and mechanisms for money laundering and terrorist financing;
- Integration of newly recruited staff members into the organization; and
- Preparation of a work plan consistent with the strategic objectives of GIABA for 2009.

608. GIABA was able to implement approximately 94% of its 2009 planned programs and budget. This chapter provides a summary report on the activities and progress made in the implementation of GIABA's Strategic Objectives in 2009. Whereas some of the programs were carried out regionally, others were carried out together with and or in support of national AML/CFT efforts in the 15 Member States. The 2009 technical assistance program builds on the successes achieved in 2007 and 2008 and provides additional motivation for further technical assistance coordination in 2010.

609. GIABA is funded wholly by ECOWAS through a Community Levy contribution. In addition to the annual approved budget from ECOWAS, GIABA also received technical assistance from international development partners. Assistance received ranged from training, study tour opportunities, expert placements, and provision of mentors, as well as invitations and sponsorship to participate in seminars on issues pertaining to AML/CFT. The following organizations and governments provided direct assistance to GIABA in 2009, some of which are still ongoing: the French Government; Commonwealth Secretariat; the UK Department for International Development; the IMF; the World Bank; the FATF; the US Government; and the Nigerian Government. GIABA also collaborated with other technical assistance providers, including the UN Office on Drugs and Crime; the UN Counter Terrorism Executive Committee; the World Customs Organization; Interpol, etc.

610. It should be noted here that that the technical assistance provided were consistent within the context of GIABA's strategic objectives as enunciated in its Strategic Plan for 2007–2009. This consists of activities in the following key areas: (i) law review; (ii) training and capacity-building of AML/CFT-related institutions and structures; (iii) provision of technical equipments; (iv) support for and assistance to professional bodies, including civil society organizations involved in the fight against ML and TF; and (v) awareness raising and advocacy. Each of these categories is described in detail below. It is fair to say that a significant level of confidence in GIABA's ability to deliver technical assistance as promised has now been achieved with its partners. It is GIABA's intention to consolidate this trust through increasingly pertinent input and support to each Member State in the future. This will be GIABA's gauge of excellence and proof of its value.

Support for the Review and Amendment of Legislation

611. To ensure the enactment and strengthening of AML/CFT laws in Member States, GIABA assisted The Gambia, Sierra Leone and Liberia to review and revise their legislation on money laundering and terrorist financing: Nigeria and Ghana are also reviewing their AML/CFT legislation. A brief description of the technical assistance provided by GIABA in this direction is as follows:

612. **The Gambia:** Following the adoption of its MER in November 2008, and upon a request for assistance from the Attorney General and Minister of Justice of The Gambia, GIABA sent a law review expert to the country to review the ML and TF laws based on the description of deficiencies in the MER and recommend specific areas for amendment. The objectives of the Legal Review included an assessment of the various AML/CFT legislations in The Gambia with a view to assessing their conformity with best practice and the FATF 40+9 Recommendations; and making recommendations for addressing the deficiencies and improving legislative instruments in generally.

613. Some of the deficiencies identified in the AML law include inadequate coverage of predicate offences, lack of operational independence of the FIU and the absence of a clear-cut designation of authority to implement specified aspects of the *Money Laundering Act 2003*. It was recommended that a uniform definition be adopted in the Act in line with the UN Conventions and the FATF Recommendations.[65]

614. Since The Gambia already has an Anti-Terrorism Act, the legal expert had recommended to the authorities to consider amending the *Money Laundering Act 2003* by integrating elements related to the financing of terrorism in the Act in order to have one comprehensive legislation on the two issues, or to revise the *Anti-Terrorism Act 2002* in order to incorporate all the new elements on financing of terrorism. It was recommended that redrafting of both Acts should be done simultaneously in order to ensure that the two pieces of legislation are in compliance with new developments in international law in this regard.

[65] Whatever approach is adopted, FATF Recommendation 1 requires that reference to predicate offence must comprise, at the *minimum*, all the 20 offences listed in the glossary to the FATF Recommendations, namely: Participation in an organized criminal group and racketeering; Terrorism, including terrorist financing; Trafficking in human beings and migrant smuggling; Sexual exploitation, including sexual exploitation of children; Illicit trafficking in narcotic drugs and psychotropic substances; Illicit arms trafficking; Illicit trafficking in stolen and other goods; Corruption and Bribery; Fraud; Counterfeiting currency; Counterfeiting and piracy of products; Environmental crime; Murder, grievous bodily injury; Kidnapping, illegal restraint and hostage-taking; Robbery or theft; Smuggling; Extortion; Forgery; Piracy; and Insider trading and market manipulation.

Procedures related to seizure, freezing and confiscation on terrorist financing should be streamlined either in new Asset Forfeiture and Confiscation legislation or in a new Regulation as soon as possible. This will take care of the obligations set forth in Special Recommendation III (see interpretive notes and best practices guidance on Special Recommendation III, which can be used in drafting the procedure).

615. A comprehensive report on the Law Review Exercise has been prepared and forwarded to the Gambian authorities for their comments. The report covers measures required for the implementation of the Recommendations highlighted in the MER and other information pertaining to improvement of the law gathered during the review exercise.

616. As a follow-up to the law review exercise, on 6 August 2009 GIABA conducted an advocacy and sensitization program for agencies responsible for the implementation of AML/CFT measures, as well as selected financial and non-financial institutions in The Gambia. The purpose of the stakeholders' meeting was to sensitize them about the law review exercise conducted in February in order to solicit their input for the amendment of the AML/CFT legislation.

617. Since this assistance was given, The Gambia is now discussing the draft bill developed with help from GIABA. The Ministry of Justice is consulting the various stakeholders to determine how best to finalize the bill on AML and CFT. The Secretariat is planning a meeting with the authorities early next year to determine the progress made by The Gambia in adopting a revised AML/CFT legislation.

618. **Sierra Leone:** Sierra Leone's Detail Assessment Report[66] was the first MER to be adopted within GIABA in June 2007. Sierra Leone presented its first follow-up report in May 2008. Plenary discussed the report and noted that very little had been done to address the deficiencies in its AML/CFT regime and decided that the Secretariat should undertake a high-level mission and support Sierra Leone to implement the recommendations in its DAR. Consequently, the Director General led a mission to Freetown, Sierra Leone in August 2008. One of the key issues discussed during the mission was the follow-up to its MER. The main action required in implementing the recommendations in the MER remains the amendment to the AML law. Realizing the inadequate capacity to review and redraft the law to meet acceptable international standards, GIABA sent a consultant to Sierra Leone who reviewed

[66] The reports of evaluations conducted by the World Bank referred to as DAR, while GIABA reports are referred to as MER, but they both mean the same thing.

the law and made specific recommendations for amendments. The consultant made the following key recommendations:

619. Criminalization of insider dealing, market manipulation, counterfeiting, offences against intellectual property, unlicensed trafficking in arms, trafficking in stolen goods and participation in an organized criminal group (within the definition contained in the Palermo Convention), unless these offences have already been criminalized.

i. Simplification of the money laundering offence to remove the reference to purpose of the transfer, use, etc. of the property;
ii. Specification of the penalty to be imposed on natural persons for contravention of a restraint order;
iii. Introduction of civil *in rem* proceedings to enable the forfeiture of property that is shown to be linked to a serious offence, but where no criminal proceedings have been brought against any person;
iv. Limitation of the provision for forfeiture of all assets obtained or held over the previous years to cases where:
    - the defendant has been convicted of at least three offences, from which at least some benefit has been established, over the previous six years (not including any period of imprisonment); or
    - the offence of which the defendant has been convicted has been shown to have been carried out over a period of at least three months.

    In other cases, forfeiture should be confined to the property shown to be linked to the offence for which the defendant has been convicted, or alternatively to the value of that property;
v. Reducing the value threshold for occasional transactions to trigger the CDD transactions to 15 million leones (around USD5,000), or whatever level an expert personally familiar with Sierra Leone considers appropriate. For casinos, a passport, national identity card or other official form of identification should be required of all customers on entry to the premises, to be linked to all subsequent purchases of chips;
vi. The AML/CFT guidance in the Bank of Sierra Leone's Supervisory Guidance Notes should have the status of full regulations, with administrative sanctions ranging from a public reprimand, through fines, to ultimate withdrawal of the institution's authorization or licence, available for breaches of offences;

vii. Specification in section 10 of the draft Act of the period for which records of reporting entities are to be kept, which should be no less than five years;

viii. Effective setting up of a FIU, with premises, designated staff and resources (i.e. not a mere theoretical creation in legislation), if this has not yet been done;

ix. Specification of fined that may be imposed, in respect of both natural and legal persons, for money laundering and terrorist financing offences;

x. Specification of penalties, both imprisonment and fines, that may be imposed for other offences under the Act;

xi. Provision of harsher maximum penalties, including prison sentences, for unauthorized disclosure of information that could identify a person linked to the making of an STR than for the standard "tipping off" offence;

xii. Establishing a culture of cooperation between the FIU and reporting entities, including assistance from the FIU, where possible, where reporting entities face litigation in relation to suspicious account/funds but the report is still being investigated;

xiii. Licensing of entities other than banks to offer money transmission services;

xiv. Specification of the value threshold for declaration of cash imports/exports at 20 million leones, a little under USD7,000;

xv. Specification of the sanctions for failure to declare imports/exports of cash with a value above 20 million leones. Provision, as part of the sanctions, for discretionary, although not mandatory, seizure and forfeiture of such undeclared cash.

620. A harmonized working ML and TF legislation was produced following the review by the consultant. On 21–22 May 2009, GIABA undertook another technical assistance mission to that country to participate in a one-day seminar for stakeholders to discuss the draft Anti-Money Laundering and Suppression of the Financing of Terrorism Bill of Sierra Leone. The stakeholders' meeting was organized by the Bank of Sierra Leone to give them the opportunity to debate the legislation further.

621. The seminar was held at the Central Bank of Sierra Leone Complex. It was attended by a cross-section of Sierra Leonean senior public officials and other stakeholders involved in the implementation of AML/CFT measures: the Minister of Internal Affairs and Local Government; the Minister for Finance; the Attorney General and Minister of Justice; the Deputy Governor of the Bank of Sierra Leone; and representatives of the IMF, UNDOC and the World Bank. Participants made several recommendations to improve the draft before forwarding it to Parliament. The GIABA team assisted officials of the Bank to review the

draft Bill and incorporated the relevant recommendations from the seminar, as well as correcting typographical errors. The expectation was that the final version of the Bill would be presented to Parliament as soon as possible. However, there seems to a delay in this process as it is understood that the draft Bill was still with the Solicitor-General's as at November 2009. This should be a priority for Sierra Leone as it has taken a long time for this draft Bill to be produced. By May 2010 when Sierra Leone will present its third follow-up report, it will be three years after the adoption of its MER, a period sufficient for a country to address its deficiencies and possibly seek for removal from follow-up. The Secretariat will continue to assist Sierra Leone and follow up actively on the progress being made to address the identified deficiencies.

622. It should be mentioned that Sierra Leone was the first country to be evaluated among GIABA members, despite the fact that it was just emerging out of a serious conflict that had destroyed most of the structures of government. It is hoped that this strong will and commitment by Sierra Leone will be sustained through meaningful efforts to remedy its AML/CFT deficiencies.

623. **Liberia:** Liberia is also a post-conflict country. Liberia's evaluation is scheduled to take place in September 2010. The Republic of Liberia had attempted to criminalize money laundering under a *Money Laundering Prevention Act 2002*. However, due to the significant deficiencies identified in the law, a redrafting of the entire AML legislation became necessary in order to incorporate a financing of terrorism legal framework and make the law more comprehensive and in compliance with international standards.

624. Upon request, GIABA provided assistance to Liberia to review the law and produce a draft legislation that would incorporate the requirements for criminalization of both ML and TF and other legal requirements. A working draft Prevention of Money Laundering and Financing of Terrorism Bill was produced based on the recommendations of the reviewer, and a stakeholders' seminar was held on 27–30 May 2009 to examine the draft in detail. The seminar was organized by the Liberian Ministry of Justice and the Central Bank with support from GIABA. Participants at the seminar discussed the *Money Laundering Act 2002* and proposed amendments to relevant sections of the law to comply with acceptable international standards.

625. The specific recommendations of the seminar to be included in the amendment are summarized as follows:

- Amendment of the title of the Act to include Terrorist Financing;

- Provision of a long title/preamble to provide for the purpose of the Act;
- Provision of a single interpretation section;
- Consistency on use of terms and an all-crimes approach;
- Criminalization of ancillary offences of attempt, conspiracy and participation;
- Non-categorization of predicate offences as “non-bailable first degree felony” as this may tend to exclude a great number of predicate offences;
- Threshold for punishment for predicate offences should be six months and above without categorizing them as felony or misdemeanour (any crime);
- Removal of defences provided as some of them are subjective; the country should consider using objective factual circumstances;
- There should be specific penalties for money laundering and terrorist financing and then general penalty provisions for other matters;
- Liability should extend to financial institutions and DNFBPs;
- Provision of definition for natural and legal persons, using acceptable international practice as a guide;
- Specification of relevant law enforcement agencies in the Act;
- Establishment of the Financial Intelligence Unit, its objects, functions, governing body, budget, staff etc.;
- Provision of a threshold for cross-border declaration/disclosure of currency;
- Specification of reliable identity document to be used for identification purposes;
- Expansion of definition of financial institutions to comply with definitions provided in the Methodology;
- Express overriding of banking secrecy rules;
- Prohibition of the establishment of, and business with, shell banks; shell banks to be defined;
- Prohibition of the opening of anonymous accounts;
- Provision for identification and verification of identity of beneficial owners;
- Preparation of Regulations on CDD as regards non-face to face customers;
- Identification and verification of Politically Exposed Persons;
- A provision on correspondent banking;
- Adoption of a risk-based approach;
- Reporting suspicious transaction;

- Confidentiality and protection of persons who report suspicious transactions from criminal and civil liability;
- Standards to detect money laundering and terrorist financing;
- Specify supervisory authorities/competent authorities for the various institutions;
- Clearly specify self-regulatory organizations and cover all reporting entities;
- Define confiscation;
- Provision for assets sharing;
- Provide for international cooperation.

626. Copies of the draft Bill have been circulated to the relevant government agencies for their comments. It is expected that the Bill will be finalized and presented to Parliament for enactment into law in 2010.

627. **Nigeria:** Nigeria concluded the review of its AML legislation in August 2009 and the revised legislation has been forwarded to the National Assembly. A draft Terrorism Prevention Bill, which incorporates measures to combat financing of terrorism, was also being considered by the National Assembly by the end of the year. The review of the legislation became necessary because the findings of the MER noted some weaknesses in Nigeria's AML legislation.

628. Nigeria had adopted the all-crimes approach in the criminalization of money laundering. The basic premises for this approach include:

- All crimes approach is more embracing.
- The FATF 20 Serious Offences are already criminalized in Nigerian laws.
- All crimes approach is futuristic, in that crimes which may become Serious Offences in the future but are not currently listed in the FATF list of Serious Crimes are at present envisaged in this approach and thus would not necessitate fresh legislation.
- In terrorism financing cases, the amount of money laundered or the gravity of the offence in support of a terrorist act does not always mirror the magnitude of the attendant devastation caused by the terrorist act itself. This implies that the offence

preceding a terrorist act may be a mere misdemeanour, which would not have made the 20 Serious Offences list.[67]

629. Nigeria reported that the adoption of the all-crimes approach in the fight against money laundering is working and proved to be effective against the backdrop of the convictions and ongoing high-profile cases, as shown in Chapter 2.

630. Nigeria was subject to an FATF prima facie review based on the results of its MER, as well as the perceived risks arising from the size of its financial sector. The review will continue in 2010. The passage of the Money Laundering Prohibition Amendment Bill, as well as the Terrorism Prevention Bill constitutes a major priority for Nigeria in early 2010. As indicated in Chapter 3, Nigeria is expected to present its second follow-up report to Plenary in May 2010.

631. **Ghana:** The *Anti-Money Laundering Act 2008* (749) (AMLA) is the primary legal framework for the prevention and control of money laundering in Ghana. However, the Ghana MER, which was adopted in November 2009, noted significant deficiencies in the criminalization of both ML and TF. It noted, for example, that the offence of money laundering as defined under the AML Act does not sufficiently extend to any type of property, regardless of its value, if the property directly or indirectly represents the proceeds of unlawful activity. The MER further noted that Ghana has criminalized 17 out of the 20 minimum offences listed in the FATF designated categories of offences. The offences of participation in organized criminal groupS and racketeering, sexual exploitation, including sexual exploitation of children, migrant smuggling and illicit arms trafficking are yet to be criminalized in accordance with the Palermo Convention. It further observed that the sanctions provided in the Act for the offence of laundering are not dissuasive and proportionate to the risk of money laundering in the country. In the absence of any judicial decision, it is not possible to determine the how the courts will apply the current penalties provided in the Act. Also the Act does not provide for confiscation measures.

632 Following the adoption of its mutual evaluation report, the authorities in Ghana have begun the process of revising the AML legislation in order to address the deficiencies

[67] As indicated in footnote 42 under the Review of The Gambia law, whichever approach a country adopts, it is expected that at the minimum, the 20 serious offences listed under the FATF Recommendations should be criminalized.

identified in the MER. A new bill on Economic and Organized Crime Office has also been drafted by the authorities to deal with the broader elements of asset recovery and confiscation.

Support for the Establishment and Strengthening of FIUs

633. The FIUs are a new element in the overall AML/CFT framework, but by far one of the most important. The establishment of n FIU is an essential prerequisite for all Member States because it represents one of the criteria for effective implementation of any AML/CFT regime. An FIU/CENTIF is:

> a central, national agency responsible for receiving (and, as permitted, requesting), analyzing and disseminating to the competent authorities, disclosures of financial information: (i) concerning suspected proceeds of crime and potential financing of terrorism, or (ii) required by national legislation or regulation, in order to counter money laundering and terrorism financing..[68]

634. Countries that have committed to implementing the FATF standards are required to set up this unit based on guidelines provided in the FATF Recommendation 26. The main functions of FIUs are the collection, analysis, and dissemination of suspicious transactions reports. To be specific, the FATF Recommendation 26 states that:

> *Countries should establish a Financial Intelligence Unit that serves as a national center for the receiving (and, as permitted, requesting), analysis and dissemination of suspicious transactions reports and other information regarding potential money laundering or terrorist financing. The FIU should have access, directly or indirectly, on a timely basis to the financial, administrative and law enforcement information that it requires to properly undertake its functions, including the analysis of suspicious transactions reports.*

635. The establishment and maintenance of an FIU is thus a key element of AML/CFT regimes and it is the responsibility of Member States to ensure that they are set up and made operational. It should be recognized, however, that Member States have limited capacity in this area and this continues to constitute a real challenge. Thus, in context of its technical assistance mandate, GIABA continues to provide the necessary support and assistance to its

[68] Egmont group, <www.egmontgroup.org>

members, especially those who are dire need of driving the process of establishing and strengthening the FIU in their respective countries.

636. GIABA's technical assistance to Member States can be categorized under training and capacity-building programs; mentorship; study tours; provision of equipments; advocacy visits and provision of advisory services. A summary of these activities carried out in 2009 is as follows:

Training and institutional capacity-building for FIUs

637. The quality of personnel of an FIU is an important nuance in the effective discharge of the duties of the unit. Thus, training and capacity-building for the FIU was identified as a priority in GIABA's technical assistance in 2009. Following the analysts' training provided to members in 2008, a comprehensive regional training program for financial analysts was organized by GIABA in collaboration with the Commonwealth Secretariat and the US Treasury Department Office of Technical Assistance (OTA) on 9–13 March 2009 in Cotonou, Republic of Benin. About 49 participants from Benin, Burkina Faso, Côte d'Ivoire, Ghana, Liberia, Mali, Nigeria, The Gambia, Senegal and Sierra Leone received training on financial investigation, analysis, and prosecution. Experts/trainers with diverse experience in FIU operations and management were drawn from OTA, FINCEN, COMSEC, FIU Mauritius, and the GIABA Secretariat. The training program covered technical issues such as: role of an FIU within an AML/CFT framework; operating procedures of a FIU; structure, location and management of FIUs; security issues and exchange of information; AML/CFT typologies with focus on regional typologies; activities of the Egmont Group and other channels of cooperation and exchange of information; and (OTA) and the US Financial Analysis Techniques Course (FATC).

638. The training included three days of practical exercises on how to use various types of software to conduct financial analysis. The subjects discussed were both varied and highly relevant to participants, covering among other areas:

- Definition and characteristics of ML and TF;
- Role of the FIUs in the fight against ML and TF;
- FIUs' monitoring/supervision role;
- Financial information sources and reporting of suspicious transactions (RST);
- Management of confidentiality related to RST;
- Money laundering indicators;
- Offshore entities and analysis of related transactions;

- Requirement for e-commerce and financial services through the internet and potential e-money laundering;
- Funds remittance alternative system (Hawala)…

639. The following recommendations were made by participants:

- That this type of workshop should be regularized in order to enable FIU officers to familiarize with, exchange and share their experiences. The frequency may be annual or biannual;
- That the next workshop should also focus on the investigation of the financial suspicious statements;
- To assist the FIUs that are at a starting stage, GIABA should support them to organize workshops at national level to improve their skills and encourage reporting entities to return reports to them.

640. Furthermore, participants developed their draft work plans for their respective countries. The Secretariat continued to monitor the implementation of those plans and provide assistance where necessary. The Secretariat is also working towards the development of an FIU implementation plan and training manual to assist new FIUs to rapidly establish a strong framework for their operations.

641. Aside from the regional programs organized by GIABA, the Secretariat continued to motivate and support the FIUs at national level to organize sensitization programs for the reporting entities and other stakeholders and raise awareness about the issues of ML and TF with a view to galvanizing community support to deal with the scourges. In this connection, GIABA provided direct assistance to the FIU of Burkina Faso to hold two training/sensitization programs:

i. Training workshop for members of CENTIF Burkina Faso on the legal instruments to fight ML and TF at Ouagadougou, 19–21 January 2009. This workshop, which was funded and facilitated by GIABA, has achieved its goal of enabling members of CENTIF Burkina Faso in the early stage to have a thorough knowledge of the main international and regional AML/CFT tools, particularly the uniform law transposing the WAEMU Directive to the fight against terrorist financing.

ii. A training program aimed at sensitizing the banks and other financial institutions to the functions of the FIU, as well as their roles and responsibilities in rendering suspicious transactions and other reports to the FIU, was also organized by the FIU

of Burkina Faso with the support of GIABA. The seminar, which was held in Ouagadougou, Burkina Faso on 31 March to 3 April 2009, discussed, among other things:

- issues relating to the interests of the fight against money laundering in relation to the specific area of West Africa in general and Burkina Faso in particular;
- The customers' addressing, identification and knowledge problem;
- The problematic of the fight against terrorism;
- The development of cybercrime;
- Management of the "criminals" lists;
- The role of the informal sector and the economy-oriented cash;
- The issue of security and safeguards for registrants;
- The issue of risk management through ICTs;
- The problem of training and capacity-building;
- The need for adequate resources for AML units;
- The amendment of the suspicion report model;
- Cooperation between reporting entities;
- The managing process of the suspicious report by CENTIF;
- The question of confidentiality;
- Due diligence measures to be adopted by banks;
- The difficulty of operating manually blacklists of suspected persons or entities on hard papers under the freezing of their assets;
- The question of Politically Exposed Persons according to the FATF Recommendation 6.

642. The following summary recommendations were the major outcomes of the seminar:

i. Revise certain parts of the Uniform Law on the fight against terrorist financing before outsourcing;
ii. Increase the sensitization programs of those involved in AML/CFT.
iii. Sensitize banks about the need to provide the compliance officers of material, human and policy needed to ensure the privacy and security in the exercise of their activities;
iv. Consider the possibility of creating an Association of Compliance Officers in Burkina Faso;

v. Distinguish at banks level the operational control from the compliance check in order to specialize in AML/CFT matters;
vi. plan training and sensitization workshops for stakeholders, including non-financial firms and corporations, as well as training programs in universities and graduate schools;
vii. sensitize banks managers on the need to provide AML units in banks with resources and adequate means of ensuring security and confidentiality;
viii. Promote computerization in the banks in the framework of the ML/FT risk management and prevention.

643. Both national level FIU-related programs were well received by the stakeholders in Burkina Faso.

Mentorship support for FIUs

644. In order to assist new FIUs in the region to develop systematically and rapidly, GIABA provided some mentorship support services to some FIUs within the year under review. For instance, a mentor was hired and attached to the FIUs of The Gambia and Côte d'Ivoire between April and July 2009. The mentor was also in Cotonou, Benin Republic in September 2009 for the same purpose. The terms of reference for the mentorship included the following specific tasks:

i. Review the table of recommendations in the MER of The Gambia, with particular emphasis on the FIU and indicate the extent to which the laws need to be amended to address the weaknesses identified;
ii. Assist the FIU in the development of operational procedures for the day-to-day management of the FIU;
iii. Review the FIU operating environment, structure and staffing; Review and proffer advise on the training needs of the FIU staff members;
iv. Assist the FIU in developing policy documents, regulations and guidance for all reporting entities;
v. Assist the FIU in implementing the information technology architecture needed to receive and analyze suspicious transaction reports;
vi. Support the FIUs to develop international information exchange mechanisms and prepare them for Egmont Group Membership;

vii. Preparation of an action plan for the establishment of "FIU Stakeholders Forum" to improve understanding and reporting culture amongst relevant reporting entities across the country; and

viii. Draft a Report with comprehensive and specific recommendations on all aspects of the assignment and make appropriate recommendations to the GIABA Secretariat and the FIU.

645. The reports of the mentor have been sent to the respective countries and the Secretariat is following up actively to help them implement the recommendations therein. GIABA also supports the FIUs to be admitted into the Egmont Group. With this assistance, it is expected that the FIU of Côte d'Ivoire will be admitted into the Egmont Group in 2010, while Benin, Burkina Faso and Mali are potential candidates for admission in 2011.

646. In addition to the direct assistance provided to states by GIABA in this area, the UNODC installed a FIU mentor in its regional office in Dakar in March 2009 to assist GIABA Member States. Thus the support provided by GIABA was complemented by support from UNODC.

Study Tours for FIUs

647. In its continued efforts to expose the personnel of the FIU in the region to international standards and best practices, GIABA organized two separate study tours for the FIUs of Burkina Faso and Mali to Brussels on 9–11 February 2009 and the FIUs of Cape Verde and Guinea-Bissau to Portugal on 16–20 March 2009. The GIABA Secretariat will follow up on the lessons learned and the progress of the respective FIUs of those countries. Four officials from each FIU participated in the study tours.

Provision of Equipment to FIUs

648. Following requests from Member States, the Secretariat provided office equipment such as printer, scanner, copier and generator to the CENTIF of Togo in November 2009. In addition, the Secretariat supported the CENTIF of Guinea-Bissau to acquire a secured office premises. Additional support through the provision of training, and software are still required, in order to bring all FIUs up to speed and functional. This area of support remains a top priority for GIABA in the years ahead and constitutes an on-going effort to ensure that FIUs in the region meet international standards and are able to join the Egmont Group of FIUs.

Advisory Services and Advocacy for the Creation of FIUs

649. In 2009, GIABA continued to engage Member States to establish and strengthen FIUs in their respective countries through advisory services and advocacy visits to high-level officials. The Director General and other staff members paid official visits to some new FIUs to ascertain their level of operations and determine their needs for possible assistance. During his mission, the Director General emphasized the need to have a clear understanding of key steps in the establishment of an FIU, the necessary tools for good management as well as the challenges of operating an effective FIU. This initiative produced some positive results through the responses of high-level officials, who now understand better the importance of the FIU and the need for continued support to it.

650. With regard to the legal framework for the establishment of FIUs, particularly in the anglophone countries, where most of the existing legal frameworks are weak, efforts are being made to provide for governance issues related to functions, operational independence, governing bodies, budget, staff and access to information in their AML/CFT legislation. As reported earlier on in this chapter, GIABA is currently assisting some of the countries to revise their AML/CFT legislation.

651. The new governance mechanisms have been provided for in the draft AML/CFT Bills of Sierra Leone, Liberia and The Gambia. It is important to note that most FIUs in the region are currently at the early stages of development and are still located within the Central Banks (e.g. Sierra Leone, The Gambia and Liberia). Although the Ghana FIU was yet to be established at the time of this report, there are indications that it will also be initially located at the Bank of Ghana.

Regional FIUs Forum

652. The inaugural meeting of the West Africa Financial Intelligence Units (WA FIUs) Forum was held in Freetown, Sierra Leone on 5 November, 2009. Present at the meeting were representatives of FIUs/CENTIFs of Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea-Bissau, Mali, Nigeria, Senegal, Sierra Leone and the Togolese Republic. Also present were representatives of Ghana and Liberia. The following international organizations and countries were also present: UNDOC, Central Bank of West Africa, European Commission, World Bank, IMF, UNCTED, UK, USA and France.

653. The Director General welcomed participants and reminded them that the number of FIUs in region has increased from two in 2004 to 13 FIUs in 2009, which are at various stages

of development. He informed the meeting that having achieved this level of success, the Secretariat recognized the need for a forum of this nature to facilitate interaction and networking among the FIUs and those supporting the work of FIUs without undermining the principles guiding the operations of the FIUs, in particular, exchange of confidential information. He said the Forum could be an informal one bringing together all relevant stakeholders for to promote regional cooperation in the fight against ML and TF.

654. He added that it is not GIABA's responsibility to determine how the FIU/CENTIF Forum should be set up and operate; GIABA is only serving as a facilitator towards bringing them together in a coordinated manner.

655. Members welcomed the initiative and commended GIABA for bringing together the Heads of FIUs/CENTIFs in the region. They expressed their support for its substance. It was decided that the FIUs would immediately take over the running of the Forum with the support of the GIABA Secretariat whenever needed. The members agreed on the need for the Forum to prepare a draft framework for the Forum conscious of:

i. The procedure for cooperation information-sharing and the parameters for such;
ii. The international obligations of the FIUs, especially under the Egmont Group;
iii. Obligations of members under their national and supra-national organizations;
iv. The activities of the forum, whether they will involve provision of technical assistance, intelligence sharing, training etc.;
v. The role of Giaba and the modality for relating with GIABA;
vi. The financial capacity of the Members to contribute towards the resources of the forum; and
vii. Language of proceedings at meetings.

656. Senegal, Nigeria, Ghana and Mali volunteered to develop the draft framework for the Forum. The volunteers were to develop the draft framework within three months and circulate it to members for their comments and inputs. GIABA was to reproduce the draft framework in the three working languages.

Support for the Formulation of a National AML/CFT Strategy/Action Plan

657. In 2007, two regional workshops were organized for GIABA member countries. One for the English-speaking countries, held on 8–12 July 2007 in Accra, Ghana, and another for the French-speaking countries, held in Bamako, Mali, on 28–30 August 2007. Both

workshops were organized with the support of UNODC and COMSEC. The workshops produced draft National AML/CFT Strategies for all the Member States. Since then, GIABA has assisted members to finalize their strategies and action plans. Regrettably, since GIABA has no absolute control over this process, very few if any countries have formulated a national strategy and action plan against ML and TF. Without a national strategy, national efforts would remain uncoordinated and therefore ineffective.

658. In 2009, GIABA supported and facilitated a National Strategy and Sensitization Workshop for Togo. The objectives of the workshop were to:

- Present to all actors the laws and regulations in force in the fight against ML and TF matters as well as institutions responsible for their implementation;
- Identify the means of implementation of those provisions;
- Present the assessment method of the fighting device in force;
- Present the process and methodology of developing a national strategy document in the fight against ML and TF;
- Assist in the formulation and writing of a national strategy document, based on the conclusions of the workshop.

659. About 20 people, representing the sectors involved in the fight against ML and TF in Togo took part in the workshop. They identified the building blocks for the national strategy to include the following:

- The need to improve on a continuous and long-term political commitment to fight ML/TF, including the clear articulation of political objectives that will allow this fight to contribute to development;
- The need to strengthen the will of the different involved actors to bring attention to the origin of capital invested in the country;
- The need to strengthen the capacity and capabilities of financial institutions to fight ML/TF;
- The need to take out an important part of the economy of the informal sphere; there is a lack of funding to take concrete actions in this regard;
- The need to strengthen vigilance and greater control of the following sectors, particularly vulnerable to ML/TF: the stock exchange market, the real estate

sector, banks, casinos, the insurance sector, money exchange offices, lawyers, notaries, wire transfers, the sale of used vehicles, informal sales of gasoline.

660. The need to coordinate the effective fight on the main offences identified as underlying money laundering: drug trafficking, exploitation of prostitution, child trafficking, trafficking in human organs, trafficking of art.

Regional AML/CFT Training/Capacity Enhancement Programs

661. In 2009, GIABA continued to improve the capacity of Member States to lead the fight against ML/FT. During the year under review, GIABA sponsored, supported or participated in more than a dozen regional events aimed at increasing the knowledge base of the officials responsible for AML/CFT in the region. GIABA's technical assistance in this direction focused mainly on training of assessors, judicial, law enforcement and compliance officers. Specifically, the following regional workshops and training programs were organized in 2009.

Regional Assessors' Training Programs

662. An assessors' training program was held for francophone Member States of GIABA in Lome, Togo on 6–10 April 2009. The training was organized with the assistance of FATF and World Bank. A similar program was also held for anglophone Member States in Accra, Ghana on 27–31 April in collaboration with the World Bank, FATF and the IMF. The overarching objective of the regional assessor's training programs was to equip the participants with the requisite skills to interpret the FATF 40+9 Recommendations; the Methodology for Assessing Compliance with the Recommendations, the Handbook for Assessors, the Mutual Evaluation Questionnaire and International Best Practice papers and to enhance their skills to draft MERs of acceptable quality. The programs also aimed to train and maintain a pool of qualified ME assessors in the region to enable GIABA to successfully achieve its mandate to conduct MEs in Member States. Experts for the training were drawn from the GIABA Secretariat, FATF, World Bank and the IMF. A total of 40 officials from the francophone and lusophone countries and 35 officials from Member States and some staff members of the Secretariat participated in the programs.

Pre-Assessment Workshops

663. Pre-assessment workshops are usually organized for countries scheduled to be evaluated within a short time. Although Nigeria had been evaluated in 2007, the authorities requested a workshop to enable officials from institutions and agencies involved in the

implementation of the MER recommendations to refresh their knowledge of the FATF standards. Consequently, GIABA in collaboration with the Nigeria FIU organized a Pre-Assessment training workshop at the EFCC Training and Research Institute, Abuja on 10–12 August 2009. The objective of the program was to enhance participants' understanding of the revised FATF Recommendations and discuss the deficiencies in the AML/CFT regime of Nigeria as revealed in the MER. The workshop was attended by personnel of banks and other AML/CFT stakeholder institutions.

664. Resource persons for the workshop were drawn from the Crown Prosecutions Services, UK, Bank of Sierra Leone (FIU), Nigeria (FIU) and the GIABA Secretariat. The resource persons presented technical papers based on the revised FATF 40+9 Recommendations and the AML/CFT methodology. Specific issues arising from Nigeria's mutual evaluation were also discussed.

665. Côte d'Ivoire was scheduled for evaluation in November 2009, hence a pre-assessment seminar was also held in Grand Bassam, Côte d'Ivoire on 3–5 September 2009. The seminar was at the initiative of the National Committee for Monitoring Activities of the Inter-governmental Action Group against Money laundering and Terrorist Financing in West Africa (GIABA-CNSA). It brought together stakeholders in the AML/CFT framework of Côte d'Ivoire to re-examine the Uniform Law on Money Laundering and to discuss the process of completing the ME questionnaire for the country's mutual evaluation scheduled for November 2009. At the end of the workshops and after the discussions, the following recommendations were made:

i. Keeping reliable statistics updated by all agencies involved in the national system of fight against money laundering and terrorist financing;

ii. The establishment by the CENTIF of an operational committee comprising the judiciaries, police, gendarmerie and customs to coordinate prosecution for an effective investigation into ML/TF matters;

iii. The strengthening of collaboration between different departments involved in AML/CFT;

iv. The transposition into the domestic law of relevant agreements and adaptation of existing texts, by the Ministry of Justice and Human Rights in connection with the CNSA-GIABA.

v. The reviewing of the texts regulating the physical cross-border transportation of currency or negotiable instruments (cash couriers and funds and values transportation companies).

2nd Regional Economic Crime Seminar for Judges

666. In recognition of the critical role of judges in adjudicating economic and financial crimes cases, a seminar on Economic and Financial Crimes was organized for judges from the anglophone ECOWAS countries, namely The Gambia, Ghana, Liberia and Sierra Leone, on 13–17 July 2009. The seminar, which was held in Accra, Ghana, was attended by 50 judges who are adjudicating or are likely to adjudicate cases on economic and financial crimes from the five anglophone West African countries, namely Ghana, Liberia, Nigeria, Sierra Leone and The Gambia. The Vice-President of the ECOWAS Court of Justice, Hon. Justice Benfeito Mosso Ramos, participated as well. The Director General, Dr Abdullahi Shehu, the Minister for Justice and Attorney-General of Ghana, Hon. Mrs Betty Mould Idrissu, presented addresses reflecting the regional efforts support the judiciary, as well as the efforts of the Republic of Ghana in that direction; while the Chief Justice of Ghana, Her Ladyship Justice Mrs Georgina Theodora Wood, presented a keynote address and declared the seminar open.

667. The Seminar was aimed at sensitizing the judges on trends in economic and financial crimes and keeping them abreast of initiatives to combat them. In addition, the seminar served as a veritable platform for the exchange of ideas and sharing of experience. It was the third in the series of seminars planned for judges in West Africa.

668. A galaxy of high-level officials drawn from the UK, France, Norway, the GIABA Secretariat and the West African region facilitated the panel discussions. The seminar provided a good platform for the exchange of ideas and sharing of experiences among the judges.

669. At the end of the seminar, the judges issued a communiqué to demonstrate their commitment to strengthen AML/CFT measures in their various countries through judicial processes, and also reiterated their support to GIABA. The most important outcome of the Seminar was the resolution of the participants to form the West African Judges Association. The objectives of this Association as indicated in paragraph 19 of the communiqué are to: (i) ensure that judges are actively involved in the development of laws and policies in the region; (ii) provide support to judges who are harassed, intimidated or dismissed for exercising their judicial powers in accordance with law and social justice; (iii) provide a forum for judges in West Africa to network, exchange information and share experiences on developments in

international and regional laws and policies, particularly in the combat of economic and financial crime, protection of human rights, prevention of corruption and promotion of good governance; (iv) develop training programs for West African judges on judicial integrity and other relevant topics; (v) provide a forum for mentoring of judges across the region. At the end of the meeting, Hon. Justice Benefeito Ramos, Vice President, ECOWAS Court of Justice was nominated as the focal person to lead the process.

Investigators Training on Detecting and Investigating ML and Other Financial Crimes

670. GIABA organized a regional training program for financial and economic crimes investigators in Banjul, The Gambia on 1–4 December 2009 for law enforcement agencies from English-speaking Member States. The training provided investigators with skills on how to investigate and detect money laundering and other financial crimes. The training increased the knowledge of participants on how to identify ML targets, equipped them with various investigation techniques, and exposed them to evidentiary requirements necessary to prove common elements of ML offences and how to use the modern information technology to organize, analyze, and present large volumes of financial evidence.

Outreach Programs and Support for Professional Bodies and Civil Society Organizations

671. As countries develop new ways and means of combating ML and TF, the criminals are continuously devising new and even more complex methods of concealing their ill-gotten gains. Hence robust and concerted efforts must be taken not only in the public sector, but also in the private sector in order to protect the integrity of the economic and political systems in society. Thus one of the main thrusts of the activities of GIABA is to promote strategic partnership and support professional bodies who are involved in efforts and actions to combat ML and TF. In 2009, this support was reflected in the awareness and capacity-building programs carried out in collaboration with DNFPBs).

672. GIABA's outreach and support programs for DNFPBs is predicated on promoting a full roll out and consistent implementation of the FATF standards with regard to combating ML and TF in these professions. International standards against ML/TF recognized the critical roles of legal professionals in the fight against these menaces, and comprehensive provisions and guidance have been developed to assist them not only to appreciate these roles, but ensure that they indeed comply as appropriate. Specifically, the FATF Recommendations 5 and 12 require lawyers and notaries to undertake CDD measures, including identifying and verifying the identity of their clients, when:

- Establishing business relations;
- Carrying out occasional transactions above the applicable designated threshold;
- There is a suspicion of money laundering or terrorist financing; or
- Having doubts about the veracity or adequacy of previously obtained customer identification data.

673. It should be recalled that the FATF Recommendations 12 and 16, which deal with the DNFPBs, were an addition from the review of FATF Recommendations in 2003. The review expanded the entities that are required to file STRs, conduct due diligence on their clients, and retain the reports of transactions – when such transactions involve the handling of cash for clients. The entities mentioned under these Recommendations include casinos, real estate agents, dealers in precious metals and stones, lawyers, notaries, and other independent legal professionals, accountants, trust and company service providers – described as designated non-professionals and businesses.[69]

674. The requirements of Recommendations 12 and 16 radically changed the responsibilities of businesses and professionals who would not otherwise be considered financial institutions for the purpose of AML/CFT control measures but whose obligation to report became necessary as a result of cases showing that organized criminal groups, drug traffickers and corrupt public officials are likely to use these professionals as vehicles for money laundering as the banking system or the traditional financial sector tightened internal control and compliance systems in order to protect its integrity. It is still arguable, though, whether the choice of professionals by those seeking to launder criminal proceeds was necessitated by the need to seek alternative safer "laundromats" or by the fact that professionals and other businesses were more likely to be discreet than bankers.

675. Recommendations 24 and 25 relate to the supervision, regulation and monitoring of financial institutions and DNFPBs. While Recommendation 24 requires the supervision for DNFPBs by national authorities in order to ensure that they are adequately regulated and supervised, Recommendation 25 provides that supervisory authorities in each country should provide guidelines and feedback to the financial institutions and DNFBPs in order to ensure effective implementation of the AML/CFT regime and improve the detection and the filing of STRs at the national level.

---

[69] For details, see the complete Recommendations and various Guidance papers for these professions at http//:www.fatf-gafi.org

676. It is against this background and to ensure that all sub-sectors of the financial industry and the DNFBPs are abreast of AML/CFT issues and the FATF Recommendations in order to fully comply with their obligations that GIABA supported and facilitated a number of sensitization workshops in Member States in 2009. The programs, which were organized mostly by the FIUs of Member States with support from the Secretariat, were held for banks, micro-finance institutions, and for the staff of CENTIFs and DNFBPs, which included lawyers, notaries, bailiffs, chartered accountants, travel agencies, real estate agencies, the national lottery, casinos and playrooms, auctioneers, carriers of funds, dealers in high-value items, and NGOs.

Sensitization program for MSBs

677. Money service businesses (MSBs) such as money remitters, bureaux de change, real estate agents, accountants/auditors, lawyers, trust and company service providers, casinos, dealers in precious metals and stones, etc. provide a wide range of services to their clients. Given the wide array of products and services provided by the MSBs, the distribution channels and the fact that they are cash-intensive businesses, they are attractive to criminals wishing to hide or disguise the true origin of funds derived from illegal activities. They may therefore offer opportunities for money launderers if appropriate safeguards are not put into place.

678. In response to this challenge, GIABA organized a three-day sensitization workshop for MSBs for English-speaking members of ECOWAS. The workshop, which was held in Abuja on 18–20 March 2009, was aimed to sensitize operators of MSBs, and other professionals involved in MSB, to their responsibilities and obligations under the AML regime. Specifically, the workshop was aimed at:

- Raising the awareness of MSB operators about the impact of ML/TF;
- Reviewing international standards and best practices, including the FATF Recommendations and Guidance in respect of MSBs;
- Enhancing the capacity of the MSBs to better comply with AML/CFT laws and regulations;
- Educating participants on AML/CFT requirements in the region; and
- Creating a network of MSB operators in the region for the purpose of conducting typologies of money laundering through MSBs.

679. The workshop also reviewed the state of MSBs regulation in the anglophone countries and made recommendations on ways of improving compliance with acceptable standards through GIABA's subsequent programs.

Sensitization of the Micro-Finance Institutions

680. The misuse of micro-finance institutions for the purposes of laundering the proceeds of crime is a threat to the global financial system. In this regard, a sensitization seminar was organized for the micro-finance institutions in Dakar, Senegal on 15–16 June 2009.

681. The objective of the seminar was to educate the operators of micro-finance companies on AML/CFT and seek their cooperation in reporting suspicious transactions. Participants were drawn from eight micro-finance institutions in Senegal. It was decided at the workshop, to hold another in-depth technical micro-finance workshop and involve regional micro-finance institutions.

Sensitization Workshop for DNFBPs in WAEMU Zone

682. A regional sensitization seminar on the "Impact of the Informal Sector in relation to the fight against money laundering and terrorist financing in the WAEMU Zone" was organized by GIABA for WAEMU Member countries. The seminar, which was held in Abidjan, Côte d'Ivoire, 17–19 June 2009 was meant for the DNFBPs of the WAEMU Zone. The objective of the seminar was to educate, inform and explain the role and responsibility of DNFBPs in the FATF recommendation in line with the UEMOA laws. Approximately 85 participants from the informal sector participated in the workshop. The outcome of this workshop was a draft report on the "Impact of the Informal Sector on the AML/CFT regimes in the WAEMU Zone" (see Chapter 4 for the detail).

683. Also at the national level, GIABA supported and facilitated a sensitization workshop for DNFBPs on 8–10 September 2009 in Cotonou, Benin organized by the Benin CENTIF. The objective was to sensitize DNFBPs on their obligations in AML/CFT matters, and make them able to perform effectively with the FATF 40+9 Recommendations. The workshop brought together some 50 participants: lawyers, notaries, bailiffs, chartered accountants, travel agencies, real estate agencies, national lottery, casinos, auctioneers, fund carriers, luxury dealers and staff of NGOs.

684. Technical experts from the GIABA Secretariat, UNODC, the High Council of French Notaries, and the SCTIP presented papers. Participants participated actively and raised several questions.

685. At the end of the seminar the following recommendations were agreed by DNFBPs for effective AML/CFT compliance DNFBPs:

- The need for rapid adoption of the law against terrorist financing, including through sensitization of the legislative machinery;
- The formal extension of the duties assigned to the financial sector to all stakeholders including DNFBPs;
- Taking account of Politically Exposed Persons in the sensitization;
- Widening the coverage scope of the Article 26 which should take into account the ML attempt;
- A clearer articulation of the reporting requirement with criminal immunity, where the declaration is made in good faith;
- The importance of CENTIF confidentiality and secrecy that must surround the statements as guarantees for the proper functioning of the device;
- Taking into account the informal sector given the volume of money it is dealing with;
- The need to conduct typologies studies specific to our sub-region;
- The duty of each participant to disseminate the sensitization message to members of his respective profession, namely through professional organizations;
- Taking into account the specific constraints of each profession in the discussions leading to the drafting of a national AML/CFT strategy in Benin, especially in the real estate sector.

Meeting with the National Executive Committee of the Nigerian Bar Association

686. Within the framework of the GIABA strategic objective for the enhancement of the capacity of Member States, and in particular, support for professional organizations, the Secretariat participated in the meeting of the Nigerian Bar Association on 19 February 2009. During the meeting, the Director General delivered a key note address on the "Role of Lawyers in the Implementation of AML/CFT Measures" in which he highlighted the roles and responsibilities in combating ML and TF. The recommendations in his paper were well received by the lawyers, who promised to disseminate the information to their members. The Bar Association is also considering setting up a committee that will work with GIABA on AML/CFT matters in Nigeria. A monograph of the presentation has been published. This program was organized in the context of the decision taken at the 1st West African Bar

Association seminar in Dakar in 2008 that national chapters should organize sensitization programs for their members.

WAICA Conference on the Role of the Insurance Industry in Combating ML and other Financial Crimes

687. The products and transactions of insurance can provide the opportunity to money launderers or terrorist financiers in many ways. This is why in October 2003, the International Association of Insurance Supervisors approved and issued what they called the Insurance Core Principles and Methodology, which revises the core principles for the supervision of insurance. They recognize the vulnerability that exists in the insurance industry and this is why the same principles determined that the core principles apply generally to insurance intermediaries.

688. The roles and responsibilities of insurance in combating ML are contextualized in the relevant Recommendations of the FATF that pertain to the insurance industry: Recommendations 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 17, 21, 22, 23, 25, 29, 30, 31, 32 and 40, as well as Special Recommendations IV and V.

689. It against this backdrop that a two-day regional training and sensitization seminar was organized for Insurers in the five anglophone countries of GIABA on 22–25 November 2009 in Banjul, The Gambia. The Seminar, which was organized as part of the annual conference of WAICA with the support of GIABA, brought together players from different insurance institutions, brokers and stakeholders from the five anglophone countries in West Africa. The objectives of the seminar were to:

i. Review international standards and best practices, with respect to the Insurance sector;

ii. Enhance the capacity of the Insurance Association to better apply the FATF 40+9 Recommendations;

iii. Raise awareness of insurance companies and brokers on the possible vulnerability associated with their operations;

iv. Create a networking forum and information-sharing platform for insurance brokers and their regulatory agencies;

v. Educate participants on AML/CFT requirements in the region; and

vi. Make recommendations on how to enhance the capacity of brokers and regulatory agencies to effectively combat ML within their businesses and professions in West Africa.

690. Participants at the seminar discussed and adopted a set of recommendations for the insurance sector to implement in order to strengthen the awareness of its vulnerability to money laundering and the need for more awareness training and sensitization from organizations like GIABA. Some of the key recommendations were actions that the insurance organizations need to take to comply with FATF Recommendations, such as:

- Adopt preventive measures such as CDD and KYC practices;
- Keep the records of domestic and international transactions for at least five years after the end of the business relationship;
- Pay special attention to all complex and unusually large transactions that have no apparent economic or visible lawful purpose as provided under FATF Recommendation 11;
- Report suspicious transactions promptly to the FIU;
- Develop risk management systems to address the threats ML/TF to the insurance sector;
- Develop internal policies, procedures and controls including the appointment of compliance officers; and
- Develop an ongoing training program for employees.

The WAICA has requested for GIABA's assistance in the implementation of those recommendations by its members. These have been incorporated into the 2010 work plan and a similar program targeted at the insurance practitioners in the francophone and lusophone countries is scheduled for March 2010.

Regional Seminar for Banks Compliance officers in Francophone and Lusophone Countries of ECOWAS

691. On 23–26 November 2009 in Abidjan, Côte d'Ivoire, GIABA held a regional seminar on AML/CFT for francophone and lusophone banks and financial institutions of ECOWAS. The seminar was supported by the International Banking and Finance Institute of Bank of France, and the Ministry of Economy and Finance of the Government of the Republic of Côte d'Ivoire.

692. Concerns were raised were regarding the AML/CFT legal framework; the implementation of the compliance supervisory function within banks and financial institutions; the control of this function; and the impact of alternative funds remittance on AML/CFT devices. These issues formed the basis of the recommendations at the end of the seminar.

693. The following recommendations were the the outcome of the seminar:

- To provide greater access to AML/CFT standards for financial institutions through instructions or guidelines;
- To separate supervisory compliance and periodic inspection functions;
- To empower the compliance officer's autonomy by elevation in the hierarchy within the financial institution through participation in management committees;
- To ensure training of all banks' and financial institutions' officers in AML/CFT matters;
- To ensure, at all levels, a supervisors' training to better consider the AML/CFT component in the control missions;
- To consider allocating AML/CFT confiscated funds to sponsoring relevant organs as well as banks and financial institutions as a necessary way of fulfilling their obligations;
- To take necessary measures for the regulation of informal money transfer;
- To amend legislation, regulations (instructions, guidelines) in the fight against ML/TF to conform to standards.

Anti-Corruption and Financial Crimes Summit Abuja, 9–10 November 2009

694. In its efforts to provide assistance to Member States to prevent and control predicate offences for money laundering, GIABA provided support for the hosting of an Anti-Corruption and Financial Crimes Summit which was held in Nigeria. The Summit was organized as part of efforts aimed at enhancing legislative and public support for the Anti-Corruption and Financial Crimes initiatives.

695. The Summit was organized by the African Diaspora Initiative (a civil organization involved in action against corruption), in collaboration with the Nigerian House of Representatives Committees on Anti-Corruption and Judiciary; Senate Committee on Drugs, Narcotics, Financial Crimes and Anti Corruption; the Nigerian FIU/EFCC; and GIABA. The Summit attracted over 300 participants from the Federal and State legislature, the judiciary,

law enforcement, military and the intelligence community. Senior officials from banks and other financial institutions, regulators, university professors, senior lawyers, professional associations, labor and civil society groups, the media and students also participated.

696. At the end of the seminar, a communiqué was issued on actions required to tackle corruption at the national and regional level in line with FATF Standards. A summary of the communiqué issued at the forum with recommendations is as follows:

i. The conference commended the Government for its various efforts at fighting corruption and financial crimes. The summit also commended the executive bill before the National Assembly to enact a law to recover stolen state assets. It however suggested that efforts be made to prevent the circumstances that permitted the stealing of the assets in the first place.

ii. The Summit noted that the issue of electoral reform is central to the successful prosecution of the corruption crusade, and therefore urged that government should adopt the tested and proven option A4 system because of its simplicity, transparency, and cost effectiveness.

iii. Government at all levels should demonstrate political will to eliminate corruption and financial crimes, and that the immunity clause for some class of political office holders should be expunged from the Nigerian Constitution.

iv. Declared assets by public officers should be verified and published, immediately.

v. Government should intensify efforts at designing an all-embracing anti-corruption strategy framework and action plan with definite performance landmarks and should incorporate roles for all the sectors of the society.

vi. The summit also noted that the mindset and attitude of most Nigerians constitute a major obstacle to the fight against corruption and other financial crimes and therefore recommended that Government must invest massively in the area of reorientation and public education on the vision for a new Nigeria, civic duties and patriotism, particularly at the Primary, Secondary and Tertiary education levels.

vii. The Summit equally noted that funding remains a major obstacle to the successful prosecution of the corruption and financial crimes war and therefore recommends that Government should substantially increase funding for this sector. In this regard, the summit notes that Hong Kong, with very low corruption levels, spends USD12 dollars

per capita to fight corruption, while Nigeria with endemic corruption spends less than 10 cents per capita to fight corruption.

viii. The Summit noted that the issue of poor wages for law enforcement agents, regulators and other public officers is a major fuel for corrupt practices and therefore recommends an upward review of remuneration to conform to present-day realities.

ix. The civil society has a very critical role in eliminating corruption and financial crimes. The Summit therefore urged civil organizations to be more proactive in identifying and confronting corruption. The National Assembly should as matters of urgency pass the freedom of information Bill into law.

x. Unresolved corruption and financial crimes cases in the courts should be expeditiously disposed of.

xi. The Summit noted that the recent development in the banking sector has clearly shown the rot in the private sector and therefore recommended that increased efforts be directed at fighting graft in this sector by relevant agencies of government.

697. The Summit noted that good leadership is central to the success of any government program, including the fight against corruption, therefore only men and women of proven integrity and competence should be appointed to head anti-corruption, financial crimes and regulatory institutions.

Conclusion

698. The multifaceted nature of money laundering and terrorist financing requires multiple approaches in dealing with the problems. Promoting cooperation with the professional organizations and civil society groups therefore remains one of the main thrusts of GIABA strategic objectives. The various training, technical support and outreach programs implemented by GIABA together with its Member States have in no small measure increased level of awareness, as well as strengthened the capacity and commitment of members to diligently implement acceptable international standards against ML and TF. This is not without some challenges, as discussed in the various chapters of this report. Nevertheless, the prospects are relatively good, as indicated in Chapter 8.

699. The achievements reported above, in the area of technical support, should be attributed in large part to the commitment of Member States to the struggle against ML/TF in the region. Without the cooperation and support of Member States, particularly our committed National Correspondents, little can be achieved. This is an essential element of a truly regional

approach. GIABA will continue to spearhead this process throughout the ECOWAS States. This will require the wholehearted involvement of each government at the national level, as a first step, before any meaningful coordinated regional action can be taken. It is essential that more countries continue to put the entire necessary AML/CFT infrastructure in place. Fortunately, an increasing number have now engaged strongly in these tasks and GIABA now feels that a critical mass of Member States has now been reached, which has created a momentum that is hopefully irreversible. Establishing National Committees, setting up the FIU/CENTIF, reforming law enforcement bodies, making the most qualified staff available, and allocating realistic operational budgets to these entities are obvious steps in support of the regional effort. As it has in the past, GIABA again stands ready and willing to support all tangible efforts to deal with ML/FT in the region, and even to assist with anti-drugs and anti-corruption problems as well, since they are all intimately linked.

700. However, for this cooperation and coordination at both national and regional levels to truly bear fruits, it must be systematic, ongoing, and well organized. This requires coordination at many levels: within concerned ministries and departments, between those ministries and departments, between public and private entities, with neighbouring countries, and with a number of specific overseas partners. The coordination needs to be structured and regular, secure and stable, within the context of a measurable set of expected results. This is imperative in order to achieve results. Failure to act will inevitably be disastrous for Africa, which will continue to languish in poverty and pain for decades to come.

701. Without a National Strategy and Plan of Action, GIABA can do little in the way of supporting a country's efforts in a sustained and meaningful way. Eventually, a regional plan of action must be based on national plans, and these must be coherent and clearly articulated, in a cohesive and structured way. Government support needs to be made clear also, through provision of staff, funding, material support, and a powerful official commitment. GIABA's ultimate objective of establishing a Regional Plan of Action must necessarily be based on each country's concrete adherence to the stated objectives of GIABA. This is the best way for States to take full ownership of the technical assistance being provided. That requires discipline, hard work, willpower and vision. That is a continued call to arms. What will the response be?

Table 21: Summary of Technical Assistance Activities for 2009

SN	Activity Title	Venue	Date/ Duration	Nature of Program	Number of Participants
1	FIU Study Tour for Burkina Faso and Mali CENTIF	Brussels, Belgium	9–11 Feb (3 days)	FIU Training	**8**
2	Training and Sensitization Workshop for Banks and Financial Institutions on AML/CFT	Ouagadougou, Burkina Faso	31 March – 3 April (4 days)	Sensitization for informal sector	**32**
3	Training of FIU Analysts	Cotonou, Benin	9–13 March (5 days)	FIU Training	**41**
4	Sensitization Workshop for Money Service Businesses	Abuja, Nigeria	18–20 March (3 days)	Sensitization for informal sector	**58**
5	FIU Study Tour for Cape Verde and Guinea-Bissau	Lisbon, Portugal	16–20 March (5days)	FIU Training	**8**
6	Assessors' Training – francophone	Lomé Togo	6–10 April (5days)	Assessors Training	**32**
7	Mentorship FIU, The Gambia	Banjul, The Gambia	27 April – 12 May	FIU Mentorship	
8	DNFPBs Workshop, WAEMU Zone	Abidjan, Côte d'Ivoire	17–19 June	Sensitization for informal sector	**53**
9	Sensitization of micro-finance institutes	Dakar, Senegal	15–16 June (2 Days)	Sensitization for informal sector	**42**
10	West African Compliance Officers Study Tour	London, UK	15–19 July (5 Days)	Study Tour	**13**
11	2nd Economic Crime Seminar for judges	Accra, Ghana	13–17 July (5 Days)	Judges Training	**40**
12	Assessors Training – anglophone	Accra Ghana	27–31 July (5 Days)	Assessors Training	**26**
13	Mentorship, FIU Côte d'Ivoire	Abidjan Côte d'Ivoire		FIU Mentorship	
14	Pre-Assessment Training	Abuja, Nigeria	10–12 August (3 days)	Assessors Training	**50**
17	GIABA - WAICA West African Insurance Association Companies	Banjul, The Gambia	23–24 November (2 days)	Sensitization for informal sector	**85**
18	Training Workshop for banking and financial institutions	Abidjan, Côte d'Ivoire	23–26 November (3 days)	Sensitization of financial sector	**76**
19	Investigators Training Workshop on Detecting and Investigating Money Laundering and Other Financial Crimes	Banjul, The Gambia	1–4 December (4 days)	Sensitization for law enforcementa gencies	**25**
				Total	**614**

CHAPTER 6

REGIONAL INTEGRATION AND INTERNATIONAL COOPERATION

Introduction

702. Money laundering and terrorist financing are major threats to international peace and security. Thus, concerns about mitigating these scourges and their impact have led to the formation of regional and international alliances. International and regional cooperation has also led to the development of comprehensive measures and policies by various international organizations, including the FATF 40+9 Recommendations and GIABA's efforts on money laundering and financing of terrorism. As money laundering methods and techniques change in response to developing countermeasures, GIABA Member States are committed to implementing the complete set of the FATF standards and other countermeasures against these phenomena.

703. The FATF Recommendations cover law enforcement, the legal and financial systems, and international cooperation. The Recommendations set out the principles of action by governments and competent authorities, and allow countries a measure of flexibility in implementing them according to their unique circumstances and constitutional frameworks. These Recommendations have been recognized, endorsed or adopted by over 182 jurisdictions all over the world, indicating their general acceptability globally. The Recommendations do not represent a binding treaty per se, but they set minimum standards for action for countries to implement them according to their particular circumstances and legal frameworks.

704. Despite the concerted efforts to address these problems, money laundering still remains insidious because it is ubiquitous. Since no nation, no matter how resourceful, can tackle these problems in isolation, one of core principles of the global efforts against ML and TF is regional and international cooperation. The importance of such cooperation to address the threat of ML/TF to the global financial system therefore cannot be overemphasized. This,

precisely, is the rationale for the establishment of GIABA: to function as a regional alliance and pool resources together among the 15 ECOWAS Member States to fight these scourges.

705. Within this framework, one of the main objectives of GIABA is to constructively engage all entities at national, regional and international levels to confront these common threats to the stability of society.

706. Drawing from the comprehensive review of the AML/CFT situation in GIABA Member States and other activities described in the preceding chapters, this chapter discusses the various regional and international activities and programs implemented by GIABA or in collaboration with other organizations towards the fight against money laundering and terrorist financing. It is important to mention at the outset that promoting regional integration and economic development is the main goal of ECOWAS, of which GIABA is a part. This chapter therefore reports on GIABA's involvement in various activities, including meetings of the FATF, ECOWAS and other relevant international organizations. It also reports on GIABA's programs that were carried out in 2009 to support and promote a regional framework in addition to the direct technical assistance provided to Member States, as discussed in Chapter 5.

GIABA Plenary Meetings

707. In accordance with the GIABA Statute, GIABA held its two Statutory Technical Commission/Plenary Meetings in May and November 2009 respectively. The 11th Technical Commission and Adhoc Ministerial Committee meetings first took place in Bamako, Mali, on 3–6 May 2009 while the 12th Technical Commission/Plenary meeting took place in Freetown, Sierra Leone, on 1–4 November 2009. During the Plenary in May, the Mutual Evaluation Reports of the Republics of Guinea-Bissau and Niger were discussed and adopted. Additionally, the first Mutual Evaluation follow-up reports of Nigeria and Senegal and the second follow-up report of Sierra Leone were discussed and adopted (see summary of these in Chapter 3). Other reports discussed in May included the study on Money Laundering Risk Assessment; the summary interim reports on Corruption–Money Laundering Nexus and the Informal Sector in the WAEMU.

708. During the Plenary meeting in November 2009, the MERs of Burkina Faso and Ghana were also discussed and adopted. The first ME follow-up reports of the Republics of The Gambia, Cape Verde and Mali were presented and adopted by Plenary. The Secretariat also presented the following reports to Plenary for discussion and adoption: (a) Draft report on the

threat assessment on money laundering and terrorist financing in West Africa; (b) draft report on the impact of money laundering and terrorist financing on the informal sector within the WAEMU zone; update on the typologies exercise on drug trafficking and money laundering in West Africa; Report of the Co-chairs of the Working Group on Mutual Evaluations and Implementation; and Country Reports from National Correspondents. Some of these reports were adopted while others were deferred to the next Plenary meeting as reported in Chapter 4.

FATF Activities

709. As a FATF Style Regional Body (FSRB), GIABA continued to participate actively in the FATF Plenary and other activities. A number of decisions were taken at these meetings that impact on the work of GIABA. Participation in the FATF meetings provides opportunities not only for networking, but also to discuss some of the problems of the FSRBs and promote synergy in the implementation of the FATF standards. For example, upon request by the BCEAO, a meeting between the FATF Secretariat, the GIABA Secretariat and BCEAO (represented by the Director of Legal Affairs) was held on the margins of the Plenary meeting in February 2009. The meeting was aimed at addressing the concerns of GIABA with regard to some issues arising from the MERs of some BCEAO Member States, in particular, with regard to the procedure and applicability of Community Texts and compliance with SR IX within the WAEMU zone. It was agreed that such interaction should be regularized in order to overcome some of issues and problems arising from the evaluation of members.

710. Since none of GIABA member countries is a member of the FATF, the Secretariat has adopted the following means of communication with its members in disseminating FATF information. First, the FATF Statements following each Plenary are either sent directly to Member States or published on the website, depending on what specific actions are required. Second, the Director General presents a summary report on GIABA's involvement in FATF activities and other matters at each Plenary meeting; and email or high-level missions to countries to brief their ministers on specific decisions affecting them on a case by case basis.

711. As part of efforts to address the global financial and economic crisis, the Leaders of the Group of 20 (G20), in a communiqué following its 1 April 2009 meeting, decided "to take action against non-cooperative jurisdictions, including tax havens". They also "agreed that the FATF should revise and reinvigorate the review process for assessing compliance by jurisdictions with AML/CFT standards, using agreed evaluation reports where available". The

G20 directed that the progress report on the FATF's action in this regard should be presented to the Ministers of Finance of the Group in September 2009.

712. Consequent upon the foregoing, and in order to meet the deadline for the submission of a progress report to the G20 in September 2009, an extraordinary meeting of the FATF-ICRG was convened in Paris on 12–13 May 2009. The goal of the meeting was not to produce a Non-Complying Countries and Territories (NCCTs) list as was the case previously, but to identify jurisdictions with significant money laundering risks and vulnerabilities and agree on a uniform review process for those jurisdictions.

713. During the meeting, the ICRG reviewed and considered issues related to international cooperation against ML/TF and recommended to Plenary necessary actions and measures to be taken with regard to countries that are not complying with FATF Recommendations. It also identified certain vulnerable jurisdictions that are failing to implement effective AML/CFT systems and reached out to those jurisdictions. Where appropriate, the ICRG has recommended that the Plenary take firm action against any jurisdiction that fails not to engage with the FATF or the relevant FSRBs or to adequately reform its AML/CFT system.

714. In June 2009, the FATF decided to identify certain jurisdictions with significant deficiencies for *prima facie* review. Various Regional Review Groups (RRG) were set up for each region, including the RRG for Africa and the Middle East. GIABA participated in the Middle East and Africa Review Group meeting held in Manama, Bahrain, on 9–10 September 2009. The meeting was hosted by the Bank of Bahrain and MENAFATF. Participants at the meeting also included FATF, MENAFATF, ESSAMLG and FIUs of Nigeria, Morocco, Egypt, Qatar, and Lebanon. The US Dept of State, US Treasury, UK Treasury – Financial Crime Unit, UK-FSA, Central Bank of Bahrain; and a representative from South Africa also participated.

715. The objective of the regional ICRG Review Group meeting was to review the information provided by those countries initially identified for prima facie review and recommend to the FATF/ICRG whether or not a comprehensive review of a jurisdiction should be undertaken. Nigeria was the only GIABA member country that was identified for prima facie review.

716. Most recently during its last Plenary meeting in October 2009, the FATF responded to the call by the Heads of State of the G20 countries and identified some jurisdictions for further enhanced review. The FATF will make the list of countries known in February 2010 as requested by the G20. The ICRG review process has implications for the work of GIABA,

particularly with regard to our follow-up process. In this regard, and as reported in Chapter 3, the Secretariat has taken steps to revise its follow-up process and procedures to be able to effectively monitor Member States' implementation of the recommendations in their MERs.

FATF-Global Threat Assessments Project

717. This is a project organized by the FATF. The project team draws experts from 20 FATF delegations, led by the UK, Netherlands and the GIABA Secretariat. The team has been drafting its report since June 2009 and preliminary draft chapters have been produced. At the time of writing this report, the draft chapters were being reviewed. The draft report will initially be submitted to the Working Group on Typologies in February 2010 for comment and then in final draft form in June 2010, at which time it should also be presented to Plenary.

FATF Training Program

718. GIABA also participated in the FATF Assessors' training program, which was held in Paris on 23–27 March 2009. Due to high participation in the program by FATF members, GIABA had only two slots.

FATF Statement on São Tomé and Principe

719. It may be recalled that São Tomé and Principe was granted observer status in GIABA in May 2008 and is considering joining GIABA as a full member. Accordingly, following a request from FATF, a special mission was undertaken by GIABA to São Tomé and Principe from 21 to 28 August 2009 pursuant to the following statement issued by the FATF in June 2009 on São Tomé and Principe:

> *The FATF welcomes São Tomé and Príncipe's continuing efforts to implement its AML law. The FATF remains concerned about the significant deficiencies in São Tomé and Príncipe's AML/CFT regime, particularly relating to terrorist financing. The FATF urges São Tomé and Príncipe to work with the Inter Governmental Action Group against Money Laundering in West Africa (GIABA) to address the remaining AML/CFT deficiencies.*

720. The objective of the mission was to engage the authorities of São Tomé and Principe in a dialogue and persuade them to take immediate steps to address the deficiencies identified in their AML/CFT systems. The deficiencies include: lack of a comprehensive AML/CFT law; absence of an FIU; weaknesses in prudential management of the financial sector, especially in relation to AML/CFT prevention and detection; inability to conduct AML/CFT

investigations largely due to absence of an enabling law; and inability to engage in any meaningful international cooperation on AML/CFT matters.

721. A draft action plan developed by GIABA was shared with all the principal officers and the office of the Prime Minister. The Government of São Tomé and Principe was urged to discuss, review and adopt the action plan based on the country's situation and resources. The action plan contains timelines within which some objectives have to be achieved and also provides for reporting progress to the FATF and other partners periodically. GIABA urged the Government of STP to expedite action on the pending amendments to the AML/CFT and other laws and ensure their enactment as soon as possible. Furthermore, GIABA is ready to assist São Tomé and Principe within the framework of promoting regional cooperation and implementation of the FATF standards against ML/TF.

Cooperation with other FSRBs

722. Within the framework of promoting the FATF's goal of a global network against ML/TF, promoting cooperation with other FSRBs is one of the operational principles of GIABA. Thus the Director General of GIABA attended the ESSAMLG Plenary meeting on 16–19 August 2009 on the invitation of ESMAALG as part of GIABA's effort to promote regional cooperation among FSRBs, to share experience with other FSRBs and meet and discuss technical cooperation and collaboration with development partners who attended the meeting.

ECOWAS Activities

ECOWAS Statutory Meetings

723. As provided in the ECOWAS Treaty and other Regulations, the key organs of ECOWAS, including the Summit of Authority of Heads of State, the Council of Ministers and Technical Commissions, are expected to meet at least twice a year. GIABA participated at various levels in these meetings, which were held between May and June and in November 2009. As an ECOWAS Specialized Institution, GIABA has continued to implement the decisions of ECOWAS, one of which is the organization of a regional policy workshop on payments systems as reported in Chapter 4.

ECOWAS Anti-Corruption Workshop in The Gambia

724. Corruption is a predicate offence for money laundering. GIABA is therefore concerned about the harmful effects of corruption and in particular its relationship to money

laundering. Accordingly, GIABA participated in a regional workshop organized by the ECOWAS Commission in collaboration with the UNDP on the implementation of Article 30 of the ECOWAS Protocol on Democracy and Good Governance and the fight against Corruption. The workshop, which took place in Banjul, The Gambia on 29 March – 1 April 2009, was designed to promote the implementation of Section 38 of the ECOWAS Protocol on Good Governance, and facilitate the establishment of Network of National Anti-Corruption Institutions in ECOWAS Member States.

725. Specifically, the workshop was organized to:

i. Review ECOWAS Member States' Anti-Corruption promotion policies and programs;
ii. Discuss ways of enhancing/strengthening the capacities of anti-corruption institutions that are already operational in ECOWAS Member States;
iii. Develop strategies to protect the economies of Member States from systematic corruption;
iv. Deliberate on the role ECOWAS could play in the establishment of the Network of National Anti-Corruption institutions in ECOWAS Member States;
v. Determine future plans and programs for promoting the fight against corruption in the ECOWAS region; and
vi. Strengthen cooperation amongst Member States in the fight against corruption.

726. The workshop noted with concern that corruption is a major impediment to the consolidation of democracy and sustainable development which must be tackled, and it urged ECOWAS Member States to demonstrate strong political will in the fight against corruption, including the ratification and domestication of the UN Convention against Corruption and the ECOWAS Protocol on the Fight against Corruption. The workshop also sensitized participants to the need to establish anti-corruption agencies in countries that have not done so. A Steering Committee to facilitate the establishment of a network of national anti-corruption institutions in ECOWAS Member States was created.

727. Still within the framework of ECOWAS cooperation and at the invitation of the Open Society Initiative for West Africa, GIABA participated in the Regional Dialogue on Corruption on Human Rights held in Abuja, Nigeria on 18–19 June 2009. GIABA's participation was aimed at fostering greater collaboration with civil society organizations and other anti-corruption agencies. The gathering of civil society activists, government officials, parliamentarians, officials of national anti-corruption agencies, business and media executives

and international donor agencies noted with concern the impact of corruption and urged ECOWAS Member States to take more decisive action in dealing with the problem.

Meeting of the Joint Committee on Political Affairs, Peace and Security/NEPAD and Africa Peer Review Mechanism of the ECOWAS Parliament

728. In response to the reported cases and impact of drug trafficking in the region, the Joint Committee on Political Affairs, Peace and Security, New Partnership for Africa's Development (NEPAD) and the Africa Peer Review mechanism of the ECOWAS Parliament, met in Katsina, Nigeria on 28 July – 1 August to discuss the impact of drug trafficking on West Africa. The Director General of GIABA was invited to present a paper entitled "The Impact of Drug Trafficking and Money Laundering in West Africa". Drug trafficking is a predicate offence for money laundering. GIABA is therefore concerned about the harmful effects of drug trafficking and its relationship to money laundering.

729. The meeting reviewed the drug situation, noting the reduction in drug trafficking through the region in 2009 compared to previous years and concluded that much of what can be achieved is a matter of the political will to do so. Much of what is done today will remain valid for years to come. However, a misunderstanding of the true situation in the region, a false sense of immunity and a lowering of the guard can only lead to a reinforcing of the trafficking routes and the ills that accompany the drugs trade. The cartels know that and they exploit it, and several West African countries are at extremely high risk of being submerged by the same old tidal wave that has destabilized so many countries in the world, that has seen them regress to a state of unthinkable poverty and teeter on the brink of disintegration.

730. In the context of democracy and separation of powers, the Director General noted that the legislature plays a crucial role in national and regional development. In regard to drug control and crime prevention, he urged the Parliamentarians to consider the following issues:

a. Effective rule of law is a function of the quality of law in any given society. Drugs control and crime prevention legislation are derived from international conventions and best practices. As ECOWAS parliamentarians, this meeting should enable you to understand your role in the domestication of these conventions in your respective national legislation. Annexure A below is a summary of the ECOWAS Member States' status with regard to these conventions.

b. While most countries in the region have some legislation against drug offences, a number of these pieces of legislation require regular update to conform to

acceptable international standards. Distinguished Parliamentarians may consider sponsoring and or supporting bills in their respective Parliaments to address these deficiencies.

8th Meeting of ECOWAS Ministers of Telecommunications and ICT

731. GIABA participated as an observer at this meeting, held in Dakar on 7–9 July 2009, to review the progress made on the transition of national legislation on Telecommunications and ICT adopted by the heads of government in January 2007. The draft legislation and regulatory texts on electronic transactions were reviewed. A draft Act on cybercrime repression and personal data protection were considered during the meeting. The forum adopted a report on partnership between ECOWAS and West African Telecommunication Regulators Assembly. It also adapted an ECOWAS Act on the protection of personal data and the violations of privacy arising from the illegal collection, processing, transmission, storage and use of personal data. These two legal frameworks will now be domesticated and enforced in the ECOWAS Member States with the aim of encouraging e-business in the West African sub-region.

ICT Coordinating Committee meeting

732. This meeting, held in Bobo Dialasso, Burkina Faso, 17–21 August, discussed how to develop a harmonized IT policy and procedures for ECOWAS institutions. It also looked into the possibility of developing a five-year ICT Strategic Plan for the ECOWAS Community Computer Center, its affiliates and agencies. The Director of the Community Computer Center made a presentation on ECOWAN (ECOWAS Network) to interlink the ECOWAS Headquarters with its departments, agencies and Member States' focal point through satellite and GPRS. GIABA's ICT infrastructure was reviewed and commended as a benchmark model for other ECOWAS institutions and agencies to emulate.

ECOWAS Day Celebrations

733. Due to other prior meetings and activities of ECOWAS, GIABA could not observe the ECOWAS Day in Dakar, Senegal, but was involved in the celebrations of the 30th Anniversary of ECOWAS (along with other ECOWAS institutions) in Abuja, Nigeria on 28 May 2009. The occasion provided an atmosphere for a sober reflection on the visions of the founding fathers of ECOWAS and the journey so far as regards the real integration of the people of the region in the last 30 years.

Annual Egmont Group Meeting

734. The 2009 Annual Egmont Group meeting took place in Doha, Qatar, 24–28 May 2009 and was hosted by the Qatar FIU. GIABA made a presentation on its real estate typologies exercise conducted in 2008. Given the increasing number of FIUs/CENTIFs in GIABA Member States, participation in the activities of the Egmont Group is becoming increasingly relevant for information-sharing and cooperation. GIABA is fully committed to providing the necessary support to FIUs of Member States to become members of the Egmont Group of FIUs. For further details on GIABA's technical assistance in this direction, see support for the establishment and strengthening of FIUs in Chapter 5.

2nd WABA Regional Seminar

735. The lawyer–client relationship is protected by common law, statutory obligations and rules (such as legal professional privilege) in many countries, including constitutional provisions. It is beneficial for a designated legal professional to be aware of the potential risk of money laundering and terrorist financing and to apply an appropriate level of due diligence in the circumstances when the lawyer undertakes a representation of clients that involve regulated activities. Regardless of the jurisdictions in which legal professionals operate, they should have a common perception of ML risks as determined by acceptable standards and best practice.

736. The use of a client account is one of the services provided by lawyers, which can be misused by those who seek to launder dirty money. Since financial institutions are increasingly applying CDD measures, those seeking to conceal the origin and ownership of their wealth would attempt to introduce funds into the banking system through an intermediary like a lawyer. Lawyers may receive cash deposits on account, issue or cash cheques, assist with the purchase or sale of stock, or send or receive international funds transfers.

737. Consequently, lawyers and notaries are also required to develop programs against ML/TF. These programs should include internal policies, procedures and controls, including appropriate compliance management arrangements, and adequate screening procedures to ensure high standards when hiring employees. They should also provide ongoing employee training programs and an audit function to test the system. This is why GIABA's collaboration with the regional Bar Association is consistent with its goal to promote strategic partnership with professional bodies and to deepen the ECOWAS regional integration process.

738. Thus, in collaboration with the West African Bar Association (WABA), the umbrella association for Bar Associations in West Africa, GIABA organized the 2nd AML/CFT Seminar for WABA members. The seminar, a follow-up to the first, which was held in Dakar, Senegal, in 2008, took place in Cotonou, Republic of Benin on 16–18 September 2009. It was attended by five executive members of WABA and 11 representatives of the Bar Associations of Benin, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal and Togo.

739. The broad objective of the seminar therefore was to engage lawyers in the region through their professional association to seek their cooperation and collaboration in combating money laundering. Specifically, it aimed to:

- Sustain the platform already created last year for stimulating discussion and building knowledge among legal practitioners about ML/TF;
- Examine and discuss relevant international instruments and acceptable standards for the prevention and control of these phenomena, especially with regard to the legal profession;
- Sensitize members of WABA to their responsibilities and obligations under the AML/CFT framework;
- Examine the relevant international instruments pertaining to the prevention and control of ML/TF, including their ratification, domestication and implementation in respective countries in the region;
- Share cross-country experiences in dealing with these phenomena; and
- Promote and sustain a robust cooperation between GIABA and the WABA as well as other professions in the fight against ML/TF in the region.

740. Resource persons for the workshop were drawn from the UK and France and from within the region. Presentations covered emerging issues in international law with regard to the criminalization of money laundering, reporting obligations of financial institutions and DNFBPs, particularly the legal profession, and the functions of FIUs, as well as the review of FATF Risk Based Approach (RBA) for the Legal Profession.

741. A major outcome of the seminar was that members of the legal profession represented at the meeting became more aware of the responsibilities of their members under the FATF Recommendations and under their national AML/CFT legislation. Following the presentations by the experts and discussions on international best practices regarding the role of the legal profession within the FATF framework, the participants became convinced that

there was need for them to work with GIABA to develop an AML/CFT guidance for the Bar Associations at the national level, as well as initiate discussions with their governments on the development of a comprehensive national AML/CFT strategy that will involve lawyers. Although they expressed their concerns about the impact of the AML/CFT measures on the legal privileges and professional secrecy codes of lawyers, they noted that it was the duty of the legal profession to work within the framework of existing laws in their respective countries.

742. Members of WABA recognize the broad Guidance for Legal Practitioners produced by the FATF, yet they requested GIABA to assist in developing a draft AML/CFT Guidance for WABA members that took into account the peculiarities of this region. This Guidance will be based on the FATF RBA Guidance as well as the French and British AML/CFT Guidance for the Legal Profession. Once finalized, WABA will circulate the draft to all the Bar Associations for review and adoption.

743. It was also agreed that GIABA will provide experts to facilitate AML/CFT training of trainers' workshops for Bar Associations in the region. The training will be conducted in collaboration with WABA and law schools. At the end of the seminar, the Bar Associations of Nigeria, Liberia and Senegal informed participants about their intention to organize national workshops with the assistance of GIABA in order to sensitize their members on AML/CFT. A communiqué on the actions expected to be taken by GIABA and WABA to help lawyers in the West African sub-region to fight money laundering and terrorist financing was issued by the participants at the end of the Seminar.

Cambridge Symposium on Economic Crime

744. Over the years, the Cambridge Symposium on Economic Crime as become a truly global forum for networking among policy-makers, academics and diplomats on the issue of economic and financial crime. At the invitation of the organizers, GIABA participated in the 27th International Symposium on Economic Crime held at Jesus College, University of Cambridge, UK. The symposium brought together in one of the oldest medieval colleges within the University, ministers, legislators, senior officials, diplomats, judges, regulators, law enforcement, intelligence and security officers, financial intermediaries, bankers, professional advisers, compliance and risk officers, and scholars from around the world. It attracted well over 900 participants from 80 countries. It focused on the threats confronting financial institutions from within.

745. The program was structured to provide opportunity for participants to become aware, not only of existing but also new ML/TF threats, and how best to address them. GIABA organized a workshop during the symposium on the topic "Protecting the Integrity of the Financial Sector: Supervisory and Regulatory Challenges for Developing Economies".

746. In addition, the Director General presented a keynote address and paper entitled "Promoting Financial Sector Stability through an Effective AML/CFT Regime". The paper noted that the financial sector plays an important part in economic development. Its intermediation role drives virtually other sectors of an economy. Thus the stability and integrity of the financial sector is essential in discussing development issues. This paper examines the issue of financial stability in the context of AML/CFT. It argues that the soundness of a financial system depends on the level of prudential management, probity and compliance of financial institutions. Thus the paper discusses AML/CFT compliance in the context of the FATF core and key recommendations and concludes that the monitoring process based on mutual evaluations is a comprehensive approach to enforcing compliance. But it notes that challenges, especially for low-capacity countries, are many. The paper therefore recommends a strategic implementation approach based on prioritization of actions and technical assistance. The paper has been accepted for publication in the spring edition of the *Journal of Money Laundering Control*.

747. A considerable number of GIABA Member States belong to the Franc Zone, which aims at harmonizing economic and legislative policies within the region. Upon invitation, GIABA attended as an observer a meeting organized by the Ministers of Finance and Economy of the Franc Zone in Paris on 28–29 September 2009. Participants were drawn from national treasuries, central banks, development banks, monetary and economic committees, banking commissions, regional stock exchanges and AML/CFT entities. They deliberated on key issues related to the global financial crisis and its effects on the zone's macro-economic policies convergence and tax evasion.

African Centre for Study and Research on Terrorism

748. GIABA participated in the African Centre for the Study and Research on Terrorism seminar on Terrorism and Organized Crime on 29–31 March 2009 in Algiers. GIABA contributed a paper on the regional framework against TF in West Africa. The Centre is an institution of the African Union Commission mandated to boost the capacity of the Union in the prevention and combating of terrorism in Africa.

749. The seminar brought together about 60 participants, including representatives of 14 states in North and West Africa. Experts from the following States and international organizations participated in the seminar: Algeria, Mali, Nigeria, Senegal, Spain, ECOWAS, ECCAS, CEN-SAD, EAC, CEMAC, IGAD/ICPAT, African Union, WCO, UNODC, GIABA, UNICRI and INTERPOL. In their addresses, experts from Algeria, Mali and Senegal presented their perceptions of the threat of terrorism and the vulnerability to organized crime in North and West Africa. Representatives of international organizations such as UNODC, INTERPOL, WCO and GIABA also shared the experiences of their institutions in the fight against organized crime and terrorism.

750. In order to expose bank Compliance Officers in the region to the nuances of global AML/CFT compliance and other best practices, a study tour to London was organized for compliance officers from Ghana, The Gambia, Liberia, Nigeria and Sierra Leone from 15 to 19 June 2009 in collaboration with Four Pillars Network, a UK- based institution.

751. The objective of the study tour was to build on the knowledge acquired during the bank Compliance Officers' training program organized by GIABA and Four Pillars Network, in Banjul, The Gambia, in November 2008 and to enhance the capacity of regional banks' Compliance Officers to implement and maintain a robust AML/CFT compliance and internal control system in line with the FATF Recommendations.

752. During the study tour, participants met with officials of financial institutions, governmental and non-governmental organizations and interacted with them on how to develop compliance systems in banks, how to develop internal audit and control systems, and the development of group-wide compliance training for all bank staff. At the end of the tour, participants noted that the study tour was a great learning opportunity and requested that more officials from the region be given the opportunity to participate in subsequent sessions.

3rd National AML/CFT Summit, Nigeria

753. The 3rd AML/CFT Summit of stakeholders in Nigeria was held in Abuja on 1–2 April 2009 with the support of GIABA. Although participants at the event were largely from Nigeria, GIABA's involvement was to serve as an encouragement to the stakeholders and also to motivate other Member States to organize similar activities. The Director General of GIABA delivered a short speech at the opening ceremony and also presented a paper on "Supporting Regional Economic Growth through Effective AML/CFT Regime" at the Plenary

session. The paper presented an exposé and summary status of members' MERs. GIABA's support for this initiative was well received and appreciated.

4th West Africa Investment Forum

754. In the framework of regional cooperation with the private sector to deepen the ECOWAS integration process, GIABA participated in the 4th West Africa Investment Forum, which was organized by the Commonwealth Business Council in collaboration with the Government of Nigeria and the ECOWAS in Abuja, Nigeria on 30 March – 1 April 2009. The Director General of GIABA presented a paper on "Strengthening Investment Climate and Promoting Good Governance". The recommendations of the Forum are pertinent to the regional efforts to prevent and control money laundering and promote the rule of law.

Support for the Enforcement of the ECOWAS Protocol on Small Arms and Light Weapons

755. The prevalence of small arms and the connection between illegal arms and other trafficking presupposes a concern for GIABA. GIABA is therefore indirectly involved in promoting the ECOWAS goal of minimizing the circulation of small arms through the implementation of its relevant instruments, especially the ECOWAS Protocol on Small Arms and Conflict management. Thus, at the invitation of the Kofi Annan Peacekeeping Training Centre, GIABA participated in a training seminar on Small Arms and Light Weapons control held in Accra, Ghana on 1–3 June 2009. The Director General presented a paper entitled "The Problem of Trafficking and Money Laundering and its Impact on Small Arms Control in the Region". The seminar was organized by the chairpersons and members of the National Commissions on Small Arms (NatComs) in West Africa as well as the heads of allied Member States' institutions and agencies engaged in efforts and actions to reduce small arms in ECOWAS countries. These include heads of national police services, gendarmeries, security agencies, immigration, customs, the military and civil societies.

756. During the three-day seminar participants shared experiences on small arms control; discussed the challenges that face small arms and light weapons control in the region; explored effective and efficient ways of designing projects, as well as options for resource mobilization towards small arms and light weapons control in West Africa; and reinforced the need for a harmonized regional approach to dealing with small arms and light weapons.

GIABA Open House

757. Supporting civil society's and international partners' involvement in AML/CFT issues to make a positive impact in the region depends on the strong will of governments to intervene strenuously and also to promote regional efforts. This political will must be manifested by the provision of tangible and continued support to national efforts to counter ML/FT, drug trafficking and corruption. It is not enough simply to say that there is support – there must also be concrete evidence of it. Several heads of state and government have again this year publicly voiced their firm commitment to sanitizing the political, financial, and socio-economic life within their countries. Unfortunately, there have also been obvious indications of slippage towards increasingly opaque and murky dealings in some countries, and a rejection of the normal rules and regulations in others.

758. Since 2007, beginning with the first Open House event held at the ECOWAS Commission in Abuja, Nigeria in November, GIABA has continued to use the Open House program to sensitize the populations of this region to the negative effects of money laundering and its predicate offences. In May 2009, another open house was held at the University of Lagos, Nigeria, for students of Nigerian universities. The open house event provided a good platform for educating the youths. As it is said – we were able to "catch them young".

Outreach and Cooperation with International Partners

759. During the year under review, GIABA has continued to reach out to its international partners, as indicated previously. Without their support, rapid and sustainable progress in the area of ML and FT would not be possible. GIABA deeply values these partnerships and is striving to respond positively to the expectations placed upon it and to meet the required standards in order to continue to benefit from this support.

Conclusion

760. Promoting Regional Integration is a basic principle of ECOWAS strategy for sustainable development of West Africa. As a specialized body of this socio-political entity, GIABA shares that mandate and role, and its overall Plan of Action seeks to reflect that commitment

CHAPTER 7

ADMINISTRATIVE AND SUPPORT SERVICES

Introduction

761. The year 2009 was another milestone in strengthening the human resources, administrative and financial management capabilities of GIABA. Various actions have been undertaken to make the institution a truly modern and responsive regional organization.

762. The understaffing situation, which was the main challenge encountered in previous years, have been progressively resolved in the course of 2009. This has significantly raised the institutional capacity of GIABA to deliver on its mandate. Subsequently, the Secretariat was able to implement its program and overall budget at an enviable rate of 90% and 94% respectively, despite the challenges encountered during the reporting period. Parallel to the steps taken by management to provide modern learning tools and equipment to staff, constant emphasis has also been laid on training so as to raise levels of competence and motivation of staff members and to align staff objectives with institutional goals.

Organizational Structure

763. GIABA maintained the structure as approved by the ECOWAS Council of Ministers in 2007. However, given the expansion of the Secretariat's programs, the needs of Member States, and the challenges of new initiatives in the international community to address the

growing threat of money laundering and financing of terrorism, it has become pertinent to restructure the Secretariat.

764. The proposed restructuring will require a review of the current program to align with those of other specialized institutions of ECOWAS and to adhere to the ECOWAS scheme for staff.

Staffing

765. Twenty new staff members joined GIABA in 2009, bring its strength 37. The staff now comprises 14 professional staff and 23 general staff. Furthermore, to advance the process of recruitment to fill other vacant positions, the new position of a procurement specialist is in progress. In line with the need to evaluate its three-year strategic plan, which ended in 2009, GIABA has begun the process of hiring of an evaluation consultant. The consultant is expected to commence the process in March 2010. The findings from this evaluation will also inform further changes in the organizational structure of GIABA and feed the preparation of the next strategic cycle.

New GIABA Premises

766. Following the allocation of office accommodation to GIABA by the Government of Senegal at Complexe Sicap Point E Building as reported last year, the office premises were officially commissioned by Dr Mohammed Ibn Chambas, President of the ECOWAS Commission, on 9 June 2009. The representative of the Ministry of Foreign Affairs and the ECOWAS National Unit in Senegal, Mr Moctar Gueye, also attended the commissioning ceremonies.

767. In order to make the new premises comfortable, the Secretariat undertook some modifications and partitioning. The partitioning will enable it to accommodate the number of staff and equipment needed to carry out its mandate. Work was undertaken over several months, culminating in the movement of the staff to the new premises in May 2009. The new premises provide a much better working environment than the previous one and correspond to GIABA's image as a modern regional institution.

Office Furniture and Equipment

768. Following the occupation of the new premises and generally due to the needs of the Secretariat and availability of space, the Secretariat has acquired additional office furniture and equipment for staff. Currently, the Secretariat has a conference room equipped with

modern conference facilities, including simultaneous translation equipment. This facilitates in-house translation and simultaneous translation services during meetings.

Events during the Year

Staff Retreat and Other Social Activities

769. In order to review the strengths, weaknesses, opportunities and potential threats (SWOT) of GIABA, a management retreat was organized on 1–5 July 2009 on the theme "Towards Professionalism and Excellence: Drawing a New Way". The retreat, which was attended by all professional staff, was held in Praia, the Republic of Cape Verde. It was aimed at debating on GIABA's mandate, discussing a number of outstanding operational matters and proposing solutions to these challenges, encouraging a better understanding and cooperation between staff, and generally mapping the way forward for the future.

770. Generally, concerns and proposals were presented by staff members, which generated discussions and formulation of proposals on each area of concern. The SWOT analysis revealed that the new working environment, the commitment of management to transparency and dialogue, and the commitment and cooperation of staff members provided good opportunities for realization of the objectives of GIABA. It further identified other exogenous opportunities and potential strengths, such as the good will of the international community and the support of the ECOWAS political authority. On the potential threats, however, it noted that operations are carried out in a highly vulnerable region with many challenges and competing priorities: the low capacity of Member States to adopt the required standards, which puts a lot of pressure on the Institution; a highly technical and specialized sector that needs highly skilled staff; and the low level of understanding of AML/CFT issues within the region. This approach was supported by all participating staff members and facilitated subsequent operational decisions by senior management.

771. Among major decisions at the retreat, it was decided, inter alia, that a formal Manual of Procedures, a Statement of Purpose and a Code of Conduct would be produced for GIABA to facilitate daily administrative and operational matters and help maintain a sense of security and good morale among staff. It was also agreed that GIABA has grown quickly over the past few years and now requires a more formalized administrative structure. The retreat for professional staff thus constituted a major step in that direction and laid the groundwork for

subsequent decision-making. These efforts will be sustained over time to ensure that a stable structure is established within the institution.

772. Another outcome of the retreat was the decision to complete the process for hiring of professional-level positions in addition to a few other vacant posts. At time of writing this report, all these actions have been concluded.

International Women's Day, 8 March 2009

773. One of the Millennium Development Goals is to promote gender equality and women's rights. This is also a key principle in the ECOWAS regional integration program. In order to demonstrate management's commitment to gender balance as well as the protection and promotion of women's tights, the Director General instituted the observance of the International Women's Day in GIABA on 8 March 2009. He hosted all ladies in GIABA to a lunch reception and assured them of management's sensitivity on gender issues and his personal commitment to gender balance. However, he advised them to work harder to buttress the saying that "what a man can do, a women can do (even better)".

Staff General Assembly/Town Hall Meeting

774. In an effort to promote openness and constructive dialogue between management and staff members, a staff general assembly/town hall meeting intended as a way to provide feedback to personnel on management issues was instituted, and the first of its kind was held on 10 December 2009. It was decided that this meeting should be a quarterly event. The meeting of 10 December 2009 was chaired by the Director General.

775. Also, during the Christmas season, GIABA organized a Christmas Tree event on 12 December 2009 in the gardens of the Restaurant "Sheherazade" with the participation of several local artists. This ceremony enabled the Director General to meet the families of GIABA staff and to thank them for their continued support to the growth of GIABA. He also, as part of motivation, presented Christmas gifts in order to express GIABA's appreciation to staff members for the good work with the support from their families.

Staff Training Program

776. As part of its overall goal to build a skilled workforce, a comprehensive training program on Management Strategies, Administrative Skills and Project Management was organized for all the General Service Staff on 16–27 February 2009 at Toubab Dialao,

Senegal. The training was facilitated by RIPA International, an international training firm based in London. Other members of staff also attended several training programs, including the FATF and other assessors' training programs both within and outside the region to enhance their technical capacity and skills.

Training of Trainers Strategic Implementation Planning (SIP) Framework Workshop

777. This training deserves special mention here. GIABA participated in the SIP workshop organized by the Asian Pacific Group (APG) and the World Bank. The workshop, held at Kuala Lumpur, 6–9 October 2009, brought together more than 60 participants from APG members and other FSRBs, such as ESAMAALG and CFATF. The focus of the workshop was to train the trainers on the practical use and benefits of the SIP Framework as a post-ME implementation tool. The SIP tool will enable the GIABA Secretariat to train Member States on how to identify key priority areas in the implementation of MER recommendations on the basis of identified national ML/TF risks and vulnerabilities.

Administrative and Financial Management

778. The external audit of GIABA's 2008 Financial Statements was completed in early December 2009 by Deloitte & Touche. The firm submitted a draft report for comments. The final report will be submitted to the Audit Committee for onward transmission to the Council of Ministers for approval. The 2007 audit report has since been approved by the Council of Ministers. In the opinion of the auditors, the financial statements present fairly, in all material respects, the financial position of GIABA as at 31 December 2007, and the results of its operations for the year ended in compliance with the financial regulations of the community. The 2007 audited accounts of GIABA is attached to this report as Appendix C.

Installation of Controller

779. The Financial Controller of the ECOWAS Institutions officially installed a Controller in GIABA on 8 June 2009. The Controller, who remains a staff of the Office of the Financial Controller of ECOWAS Institutions, operates independently and reports to the Office of the Financial Controller. The Controller is to assist GIABA to adhere to ECOWAS Rules and Regulations, including Financial Regulations, Tender Codes and budgetary controls regarding the allocation of community resources. The Office of the Financial Controller and Chief Internal Auditor also conducted regular on-site visits to examine GIABA's financial records.

780. During the reporting period, a sharing session on the new ECOWAS financial procedures was organized by the Finance and Accounting unit to inform the Staff about ECOWAS's expenditure procedures. Similar sessions will be held periodically on different aspects to familiarize staff with the new Financial Regulations and Manual of Accounting procedures.

781. In 2009, GIABA participated actively in the meetings of the ECOWAS Financial Management Change Team. The team was responsible for revizing the Financial Regulations approved by the Council of Ministers and drafting the Manual of Accounting Procedures. The new Financial Regulations is in line with the International Public Sector Accounting Standards. The new regulations will come into force with effect from 1 January 2010.

782. GIABA also participated in the meetings of the Audit Committee and the Community Levy Management Committee. The important decisions taken were to strengthen the financial management of ECOWAS Institutions and facilitate the collection of Community Levy.

783. A draft Manual of Administrative, Accounting and Financial Procedures and Manual for Operational Procedures was elaborated and is being validated. It will take effect from January 2010.

Information and Communication Technology (ICT)

Data Centre

784. In 2009, GIABA deployed a Tier1 data centre consisting of the following equipment: three sets of 47 U Racks; two HP Proliant Servers (ML370 and DL380G5); CISCO 1800 Router; CISCO ASA 5510 Pix firewall; six CISCO2960 Switches, three KEYMILE modems, Cat 5e Patch panels, power switches and cables. The centre controls the activities of rest of the equipment on the data and telephone network; it also ensures a constant and stable power and a secure and reliable network. More importantly, the data centre will enable GIABA to establish a secure link with any of our development partners.

Internet bandwidth, website, e-mails and PABX …etc

785. In the year 2008, we reported the provision of dedicated internet bandwidth at the GIABA Secretariat. In 2009, this bandwidth was enhanced from 512 Kbps to 2M. Dedicated Internet Access (DIA) is a highly reliable, predictable, and high-bandwidth internet connection. This type of connection allows GIABA to connect its LAN office network with greater performance and scalability than is available with DSL, wireless or any kind of

switched service. The speed of this bandwidth has given the Secretariat low-latency and solid network performance 24/7.

786. The GIABA website was revamped to make it more dynamic and user-friendly. Currently, staff of communication unit can upload news items in the three official languages of ECOWAS with ease. In 2010, the Secretariat will, in line with the needs and priorities of GIABA, enhance the capability of the website to respond to the developmental challenges, such as the idea of integrating the website to a portal with various links to other sources in GIABA.

787. A major challenge is harmonizing the divergent views express by staff to what will form the content of the website and what colour to use on the site. A second challenge is the time we spend to get relevant documents to be published on the website; the third challenge is the translation of these document to three the official languages used by ECOWAS.

788. The e-mail system was also reviewed in 2009 to make it more flexible and easy to use. The current email system has multiple language functionality, easy address management, and larger document attachment capabilities than the earlier system and is more secure.

Other Activities

789. GIABA participated in the 2010 Budget Review meeting held at the ECOWAS Commission Abuja, Nigeria on 21–26 September 2009 and presented its budget proposal for the year 2010.

790. ECOWAS organized a seminar on financial management in Abidjan, Côte d'Ivoire on 12–19 October 2009. GIABA participated in the seminar.

791. The Administration and Finance Committee meeting was held in Abuja, Nigeria on 26–30 October 2009 to consolidate the budget proposals from ECOWAS institutions for presentation to the Council of Ministers for consideration and approval. GIABA participated along with other ECOWAS institutions.

Publication of the 2009 Annual Report

792. The publication of the fourth comprehensive Annual Report, for 2009, is a concrete demonstration of GIABA's ability and commitment to maintaining transparency and openness with its partners and of its capacity to produce quality outputs in a timely manner. It represents a summary of the major activities of GIABA during 2009. It reviews the implementation of the Action Plan, highlighting major progress and constraints, as well as

prospects. Essentially, GIABA believes in accountability and value for money in its efforts to deliver results, to change perceptions and to enhance capacities, with a view to protecting West African society from the ML threats it is faced with and creating a new vision for the future among today's and tomorrow's leaders. This report constitutes a true indication of this capacity and proof of that commitment. It has now become one of GIABA's key activities after several years of operation. I trust that you will find this report informative and helpful.

Conclusion

793. GIABA is engaged in building and maintaining a Secretariat of international standard in terms of organization and management structure, as well as methods and tools. This is very demanding in the context of a growing institution in a complex environment. However, plans are already advanced to address the challenges ahead (see Chapter 8 for details on the challenges and priorities for 2010).

794. On ICT, the objective is to support GIABA's desire to perform as a knowledge-based organization. In so doing, GIABA will set up a web portal linking all the resources available on AML/CFT and providing updated data to all its stakeholders. This will also be the basis for further technical assistance to Member States.

795. On administrative and financial management, besides complying with community rules and regulations, GIABA seeks to conform to donor requirements on procurement and financial reporting standards. A Long Term Funding Strategy is being prepared to serve as a framework for strong relationships with technical and financial partners.

CHAPTER 8

CHALLENGES AND PRIORITIES FOR 2010

Introduction

796. The uncertainty of the world economies occasioned by the global crisis that engulfed the world in 2008 spread to virtually all sectors – housing, financial, manufacturing etc. The world's real output and incomes are still on decline despite several bailout strategies by some countries. As a consequence, an additional 50 million people in the world will be left in extreme poverty.[70] The slow pace of the resolution of the crisis portends doom and its catastrophic impact will affect development indicators such as school enrolment, employment and child mortality. The declines in these indicators are sufficient and necessary conditions for criminals to thrive. Periods of economic quagmire open up opportunities for criminals to deploy illicit funds in legitimate systems.

797. On its part, GIABA, in contributing to the global efforts to fight money laundering and terrorist financing, concluded the implementation of its first Action Plan (2007–2009) with resounding successes as discussed in this report. Nevertheless, as a result of their structural and developmental problems, the implementation of international AML/CFT standards in the West African countries, as it is the case in other low-capacity countries, poses a great challenge.

[70] World Development Indicators 2009.

Challenges in Implementing AML/CFT in West Africa

798. GIABA recognizes the capacity constraints and poor resource base of Member States and adopted flexibility in the design and implementation of several intervention programs. Despite all the efforts, the following challenges still remain in the Member States:

799. **"Fungibility" of Capacity:** In most Member States, inappropriate use of officials trained in AML/CFT issues constitutes a major drawback to the effective implementation of AML/CFT measures. Capacity retention is central to economic development. Thu, there is the need for Member States to demonstrate a definite and clear desire to build, retain, deploy and utilize capacity appropriately. They must engage in knowledge management programs if they are to take advantage of several capacity-building opportunities available to them. Nomination of officials to training programs should take cognizance of the overall benefit to AML/CFT implementation in their countries.

800. **Low Absorptive Capacity:** The quantum of identified gaps in the mutual evaluation reports of Member States assessed attest to the deficiencies in their AML/CFT regimes. The incomprehensiveness of the AML/CFT laws, the slow pace of follow-up programs in addressing identified gaps in the mutual evaluation reports and the dearth of skilled personnel in AML/CFT issues are factors working against the implementation of effective AML/CFT programs. Yet in most countries implementation of the recommendations in the MERs has been anything but sluggish and uncoordinated.

801. **Poor Data Management:** Critical to the effectiveness of AML/CFT regime is the availability of a database. Unfortunately, as is characteristic of low-capacity countries, GIABA Member States are held back by a poor information base. The quality, comprehensiveness, completeness, timeliness and availability of data in the region are not reliable. The quality of information provided by countries is often very sub-standard and as such the reliability of data, particularly on socio-economic variables, is doubtful. It is of importance for Member States to design data management systems that will guarantee high-quality, timely and publicly available data in all sectors.

802. **Inadequate Coordination:** A basic requirement for the effectiveness of AML/CFT program is coordination of the roles of all stakeholders in the fight. A coordinated proactive approach that will ensure consistent and effective implementation of AML/CFT is an obligation across the relevant agencies involved. Therefore the inter-ministerial committees

should be more active and involving, and the frequency of meetings on AML/CFT matters should be increased.

803. **Poor Response Rate to Enquiry:** The implementation of AML/CFT is not time-invariant as money laundering and terrorist financing are flow activities. The ability to respond to enquiries in a timely manner is sine qua non for the effectiveness of AML/CFT regimes. GIABA Member States must improve their efficiency in meeting their responsibilities in this regard. The mutuality of a country's assessment notwithstanding, there is still some element of comparison in the findings. Thus promptness in providing needed information is a critical success factor in the implementation of AML/CFT measures.

804. **Slow Investigative and Prosecution Pace:** The investigative and prosecuting powers of appropriate authorities are hampered by the slow judicial process in Member States. Money launderers operate at high frequencies, and delays in handling these cases may provide opportunities for the circumvention of justice. The judiciary must be technically able and equipped to deal expeditiously with cases of financial and economic crimes. The establishment of special courts may be value-adding to the process.

805. In recognition of the above capacity gaps, GIABA in 2009 accelerated and extended its technical assistance within available resource to Member States towards addressing these gaps. The common structural characteristics of Member States are the foundation that guides GIABA in designing appropriate intervention programs to meet its mandate. In sequencing its efforts, GIABA deploys the FATF guidelines on Low Capacity Countries on issues of cooperation and engagement (political commitment), leadership and inter-agency cooperation and coordination, private sector outreach and consultation, and technical assistance/engagement.

Priorities for 2010

806. Technological advancement in tandem with globalization continues to expose the vulnerability of every jurisdiction to money laundering and terrorist financing. Thus, as part of its strategic implementation of its programs, GIABA will bridge the gap between two strategic cycles (2007–2009 and 2011–2013) by focusing on the completion of ongoing projects and initiating actions for a second plan of action. Therefore, in 2010, GIABA will focus on the evaluation of the 2007–2009 strategic plan, consolidate and reflect on the achievements so far.

Design of 2011–2013 Strategic Plan

807. Part of the development of a new strategic plan is the evaluation of past efforts in terms of effectiveness, efficiency, relevance, complementarities, ownership, reliability, sustainability, best practice, innovativeness and impact. Assessment of public intervention programs helps to justify public spending and to ensure that funded interventions are achieving intended objectives. Thus impact assessment is a crucial element in program management. Along with its mission of providing consistent service and ensuring stakeholders' ownership of processes, and using a set of measurable indicators, GIABA will in 2010 appoint an independent consultant to undertake the evaluation of the 2007–2009 Strategic Plan. The evaluation process is expected to produce outputs from an extensive participatory process involving consultation with Member States and other stakeholders including development partners. The outcome of the evaluation will form the basis for the design of the 2011–2013 Strategic Plan in the second half of 2010.

Enhanced Follow-up Programs on MERs

808. In view of the low capacity of Member States to implement the recommendations in their MERs, GIABA has reviewed the follow up processes and procedures to make it amenable to adaptation by the various countries. Consequently in 2010, a broad-based analytical approach within a time-frame will be adopted in the follow-up process. A comprehensive timetable to that effect has been developed and adopted by Member States. Also, to facilitate effective monitoring, GIABA will deploy the Strategic Implementation Planning (SIP) Framework in 2010. The SIP Framework aims to provide post-ME implementation assistance by prioritizing and sequencing the implementation of MER recommendations, on the basis of identified risks/vulnerabilities and "building block" FATF Recommendations, and factoring in resourcing and capacity issues.

Implementation of a Program-Driven Budget Based on a Results-Based Management Approach

809. In continuation of its pragmatic approach to program delivery, GIABA will adopt the concept of results-based management in the execution of its 2010 programs. This means defining realistic expected results based on appropriate analysis; identifying beneficiaries and design of programs to meet their needs; monitoring progress based on appropriate indicators; and the identification and management of potential risks. Thus, in 2010 and beyond, GIABA will adopt process-based, flexible and scalable approach to program management. Furthermore, in the coming years, starting with 2010, a structured modular approach to

capacity-building programs will be deployed. The approach is to ensure that learning experiences are acquired in a graduated continuum devoid of an overload of insignificant information. Also, Member States will be encouraged to adopt risk-based approach in AML/CFT compliance supervision. This will help to reduce the possibility of "regulatory capture" of regulators by the regulated.

Technical Support to FIUs

810. The establishment of an FIU signals the commitment of a country to combat money laundering and terrorist financing. Thus the existence of well-functioning FIUs is central to the overall effectiveness of AML/CFT regimes in our region. GIABA on its part plans to continue with the technical support towards the establishment and strengthening of FIUs in Member States. The planned projects in this area will include the acquisition of AML/CFT software to assist in financial intelligence analyses; facilitation or attachment of staff in new FIUs to already developed ones both in and outside the region; facilitation of FIUs' membership of the Egmont Group; and organization of Special Purpose In-country capacity-building programs. Also, special attention will be given to post-conflict Member States.

Diversification of Sources of Funding

811. The task of implementing effective AML/CFT in low capacity countries/region such as West Africa requires more resources. The funds from the Community Levy must be complemented with funds from other external sources. Resource mobilization is therefore key towards ensuring effective implementation of AML/CFT measures. The Secretariat has identified this as a major program for the years ahead. Consequently, the Secretariat will intensify efforts to attract donor funding through a long-term fund-raising strategy discussed in the preceding chapter.

Appendix A – GIABA 2010 Work Plan

GIABA GANTT CHART OF PROGRAMMES – 2010

FIRST QUARTER 2010														
		January				February				March				
SN	Title of Project/Activity	1	2	3	4	1	2	3	4	1	2	3	4	
1.	FATF/ICRG Middle East/Africa Focused Review Group Meeting **(Manama, Bahrain, Jan 5 - 7)**													
2.	Finalisation of Research Report on Informal Sector in UEMOA Countries **(Dakar, Senegal, Jan 5 - 16)**													
3.	Programming Seminar for GIABA Staff **(Dakar, Senegal, Jan 13)**													
4.	Validation of Manual of Procedure **(Dakar, Senegal, Jan 18 - 22)**													
5.	FATF Inter-Sessional Meeting **(Paris, France, Jan 20 - 22)**													
6.	Development of Template and Indicators for the Evaluation of GIABA 2007 - 2009 Strategic Plan **(Dakar, Senegal, Jan 25 - 29)**													
7.	Team Building Seminar for GIABA Staff **(Dakar, Senegal, Jan 26 - 27)**													
8.	Review of Staff Job Description **(Dakar, Senegal, Jan 28)**													
9.	Finalisation of Procedure Manual **(Dakar, Senegal, Jan 29)**													
10.	Selection of Consultant for the Evaluation of GIABA 2007-2009 Strategic Plan **(Dakar, Senegal, Jan 29)**													
11.	Audit Committee Meeting **(Abuja, Nigeria, Jan - Actual Date-TBC)**													
12.	Financial and Management Change Team Meeting **(Venue-TBA, Jan -Actual Date-TBC)**													
13.	Meeting between ECOWAS and Development Partners **(Abuja, Nigeria, Jan 25 -26)**													
14.	Typologies Workshop on Drug Trafficking in West Africa **(Bissau, G/Bissau, Jan 27 -28)**													
15.	Pre-Assessment Training for Togo **(Lome, Togo, Jan 25 -29)**													
16.	Finalisation of Research Report on Corruption-ML Nexus **(Dakar, Senegal, Feb 1 -12)**													
17.	GIABA/World Bank Regional Workshop on AML/CFT Supervision (Anglophone) **(Accra, Ghana, Feb 8 -11)**													

18.	International Conference on Tax Information and Asset Recovery **(Jersey, UK, Feb 10 -11)**												
19.	Development of Training Plan **(Dakar, Senegal, Feb 12)**												
20.	Human Resource Management Seminar for GIABA Staff **(Dakar, Senegal, Feb 15)**												
21.	FATF Plenary **(Abu Dhabi, Feb 15 -19)**												
22.	Briefing of the Consultant for the Evaluation of 2007-2009 Strategic Plan **(Dakar, Senegal, Feb 17 -18)**												
23.	Training on Financial Intelligence Analysis for CENTIF B/Faso **(Ouagadogou, Burkina Faso, Feb 24 -26)**												
24.	Launching of GIABA On-line Virtual Library **(Dakar, Senegal, Feb 26)**												
25.	Production of GIABA 2009 Annual Report **(Dakar, Senegal, Feb 28)**												
26.	Egmont Working Group and Committee Meetings **(Mauritius, Feb 28 - March 4)**												
27.	Installation of Booking Software for Conference Unit **(Dakar, Senegal, Feb -Actual Date-TBC)**												
28.	Study Tour for Compliance Officers (Anglophone **(Venue-TBA, March 1 - 5)**												
29.	World Press Conference and Presentation of 2009 Annual Report **(Dakar, Senegal, March 5)**												
30.	Finalisation of Research Report on Threat Assessment in West Africa **(Dakar, Senegal, March 8 - 19)**												
31.	Regional Policy Workshop on Payment Systems and Cash Couriers **(Abuja, Nigeria, Mar 10 - 12)**												
32.	Interative Session With Executives and Editors of Media Organisation **(Lagos, Nigeria, Mar 13)**												
33.	Mentoring Programme for ML/FT Investigation for CDI **(Abidjan, CDI, Mar 10 - 14)**												
34.	ME Follow Up Meetings and Training for IMC for Ghana **(Accra, Ghana, Mar 16 - 19)**												
35.	Workshop on Role of Insurance Sector in AML/CFT Regime (Francophone) **(Dakar, Senegal, March 15 - 17)**												
36.	National AML/CFT Strategy Development Workshop **(Accra, Ghana, Mar 22 -26)**												
37.	Official Commissioning of GIABA Physical Library **(Dakar, Senegal, Mar 26)**												
38.	Development of Database of Conference Service Providers **(Dakar, Senegal, Mar 22 - 26)**												
39.	Production of GIABA 2009 Annual Report **(Dakar, Senegal, Mar 22 - 31)**												
40.	Production of Quarterly e-Newsletter **(Dakar, Senegal, Mar 29 - 31)**												
41.	Evaluation of GIABA 2007-2009 Strategic Plan in												

	member States **(Mar 1 - May 28)**														
42.	Technical Assistance on ICT infrastructure for Law Enforcement **(Two Member States -TBD, March 1 - July 30)**														
SECOND QUARTER 2010															
		April				**May**				**June**					
SN	Title of Project/Activity	1	2	3	4	1	2	3	4	1	2	3	4		
43.	FIU Mentoring for Liberia **(Monrovia, Liberia, March - Actual date-tbc)**														
44.	Follow Up Meeting with CENTIF CDI on Egmont Membership **(Abidjan, CDI, Feb - Actual Date - TBC)**														
45.	Financial and Management Change Team Meeting **(Venue - TBA, Mar - Actual Date - TBC)**														
46.	Audit Committee Meeting **(Abuja, Nigeria, Mar - Actual Date - TBC)**														
47.	ME Follow Up Meetings and Training for IMC for Nigeria **(Abuja, Nigeria, April 6 - 9)**														
48.	Regional Training for Financial Crime Investigators (Francophone) **(Venue - TBA, April 12 -16)**														
49.	Advocay Visit on the adoption of the Revised AML/CFT Bill for Liberia **(Monrovia, Liberia, April 19 - 21)**														
50.	National AML/CFT Strategy Development Workshop **(Monrovia, Liberia, April 22 - 23)**														
51.	Open House **(Monrovia, Liberia, April 23)**														
52.	Pre-Assessment Training for Liberia **(Monrovia, Liberia, April 26 - 30)**														
53.	Development of GIABA Logistic Plan and Business Continuity Plan **(Dakar, Senegal, April 26 - 30)**														
54.	FIU Mentoring for Sierra Leone **(Freetown, Sierra Leone, April -Actual Date-tbc)**														
55.	Follow Up Meeting with The Gambia FIU on Egmont Membership **(Banjul, The Gambia, April - Actual Date - TBC)**														
56.	GIABA Plenyar/Ad-Hoc Ministerial Committee Meetings **(Venue-TBA, May 3 - 7)**														
57.	Annual Regional Forum of Heads of FIUs in West Africa **(Venue of Plenary, May 7)**														
58.	Typologies Exercise on Tax Fraud in West Africa **(All Member States, May - October)**														
59.	ME Follow Up Meetings and Training for														

	IMC for Senegal **(Dakar, Senegal, May 17 - 20)**														
60.	Training on Financial and Economic Crimes Reporting for Media Practitioners (Francophone **(Venue-TBA, May 18 - 19)**														
61.	FATF Annual Typologies Meeting **(Venue - TBA May -Actual Date-tbc)**														
62.	ECOWAS Day Celebration **(Dakar, Senegal, May 28)**														
63.	ME On-site visit to Togo **(Lome, Togo, May 24 - June 4)**														
64.	Technical Assistance on ICT Infrastructure for Judiciary **(Two MS-TBD, May 3 - Aug 27)**														
65.	Regional High Level Seminar on AML/CFT for Banks CEOs **(Venue-TBA, June 8 - 10)**														
66.	Regional Workshop on AML/CFT Supervision (Francophone) **(Venue - TBA, June 11 - 15)**														
67.	ME Follow Up Meetings and Training for IMC for Burkina Faso **(Ouagadogou, B/Faso, June 7 - 11)**														
68.	Interactive Session with Executives and Editors of Media Organisations **(Ouagadogou, B/Faso, June 11)**														
69.	FATF Plenary **(Netherlands, June 21 - 25)**														
70.	Production of Quarterly e-Newsletter **(Dakar, Senegal Jun 28 - 30)**														
71.	National AML/CFT Strategy Development Workshop for Benin **(Cotonou, Benin, Jun 28 - 30)**														
72.	Study Tour for Prosecutors, Judges, IMC Members and WABA Members **(Venue-TBA, Jun -Actual Date-tbc)**														
73.	Egmont Plenary XVIII **(Venue-TBA, Jun - Actual Date - tbc)**														
74.	AFC Meeting **(Abuja, Nigeria, Jun -Actual Date - TBC)**														
75.	Meeting of ECOWAS Council of Ministers **(Venue-TBA, Jun -Actual Date - tbc)**														

THIRD QUARTER 2010

SN	Title of Project/Activity	July				August				September			
		1	2	3	4	1	2	3	4	1	2	3	4
76.	Review of 2010 Budget and Workplan **(Dakar, Senegal, July 1)**												
77.	Study Tour for Compliance Officers (Francophone **(Venue-TBA, July 5 - 9)**												

78.	Advocay Visit on the adoption of the Revised AML/CFT Bill for Cape Verde **(Praia, Cape Verde, July 13 - 16)**													
79.	National AML/CFT Strategy Development Workshop for Cape Verde **(Praia, Cape Verde, July 15 - 16)**													
80.	Experts Group Meeting on Report of Evaluation of GIABA 2007-2009 Strategic Plan **(Sally, Senegal, July 16 - 17)**													
81.	Regional Course on ML/TF Threat Assessment for Law Enforcement Officers **(Venue-TBA, July 19 - 23)**													
82.	Call for Expression of Interest on the Design of GIABA 2010 - 2012 Strategic Plan **(Dakar, Senegal, July 20)**													
83.	Audit Committee Meeting **(Abuja, Nigeria, July - Actual Date -TBC)**													
84.	ME Follow Up Meetings and Training for IMC for Mali **(Bamako, Mali, July 26 - 30)**													
85.	Open House **(Bamako, Mali, July 30)**													
86.	Preparation of Draft 2011 Budget **(Dakar, Senegal, Aug 2 - 13)**													
87.	Follow Up Regional Workshop on Real Estate Typologies Exercises for Supervisory and Law Enforcement Agencies **(Venue-TBA, Aug 9 - 13)**													
88.	Training on Financial and Economic Crimes Reporting for Media Practitioners (Anglophone) **(Venue-TBA, Aug 17 - 18)**													
89.	Cambridge Symposium **(London, UK, Aug - Actual Date - TBC)**													
90.	Training on Financial Intelligence Analysis for CENTIF Guinea Bissau **(Bissau, Guinea Bissau, Aug - Actual Date-TBC)**													
91.	Regional Workshop With UEMOA Countries, UEMOA Commission and BCEAO **(Venue-TBA, Aug 23 -27)**													
92.	Mutual Evaluation on-site Visit to Liberia **(Monrovia, Liberia, Sept 13 - 24)**													
93.	Selection of Consultant for the Design of GIABA 2010-2012 Strategic Plan **(Dakar, Senegal, Sept 15)**													
94.	Training on Financial Intelligence Analysis for Ghana FIC **(Accra, Ghana, Sept 15 -17)**													
95.	Regional Training for Financial Crime Investigators (Anglophone) **(Venue - TBA, Sept 20 -24)**													
96.	Design of Draft GIABA 2010 - 2012 Strategic Plan **(Dakar, Senegal, Sept 20 - Oct 15)**													
97.	Production of Quarterly e-Newsletter **(Dakar,**													

	Senegal, Sept 27 - 29)												
98.	Budget Arbitration Meeting **(Abuja, Nigeria, Sept - Actual Date - TBC)**												
99.	Follow Up Meeting with CENTIF Mali on Egmont Membership **(Bamako, Mali, Sept - Actual Date - TBC)**												

FOURTH QUARTER 2010

SN	Title of Project/Activity	October				November				December			
		1	2	3	4	1	2	3	4	1	2	3	4
100.	Design of Draft GIABA 2010 - 2012 Strategic Plan **(Dakar, Senegal, Sept 20 - Oct 15)**												
101.	Production of Quarterly e-Newsletter **(Dakar, Senegal, Sept 27 - 29)**												
102.	Budget Arbitration Meeting **(Abuja, Nigeria, Sept - Actual Date - TBC)**												
103.	Follow Up Meeting with CENTIF Mali on Egmont Membership **(Bamako, Mali, Sept - Actual Date - TBC)**												
104.	Mentoring Programme for ML/FT Investigation for Ghana **(Accra, Ghana, Oct 4 - 8)**												
105.	Training for WABA and Secretariat **(Venue-TBA, Oct 4 - 8)**												
106.	Broadcasting of AML/CFT Sentization and Awareness Messages **(Dakar, Senegal, Oct 4 - 8)**												
107.	FATF Plenary **(Venue -TBA, Oct 11 - 15)**												
108.	AFC Meeting **(Abuja, Nigeria, Oct- Actual Date - TBC)**												
109.	Mentoring Programme for ML/FT Investigation for Ghana **(Accra, Ghana, Oct 18 - 22)**												
110.	GIABA Plenary/Technical Commission Meetings and Presentation of Togo MER **(Venue-TBA, Nov 1 - 5)**												
111.	ME Follow Up Meetings and Training for IMC for Guinea Bissau **(Bissau, G/Bissau, Nov 23 - 26)**												
112.	Audit Committee Meeting **(Abuja, Nigeria, Nov - Actual Date -TBC)**												
113.	Human Resource Management Seminar **(Dakar, Senegal, Dec 1)**												
114.	Preparation of Draft 2010 Annual Report **(Dakar, Senegal, Dec 2 - 16)**												
115.	GIABA 10th Anniversary Celebration **(Dakar, Senegal, Dec 10)**												
116.	Meeting of ECOWAS Council of Ministers and Authorities of the ECOWAS Heads of State and Government **(Venue and Actual Date - TBA)**												

Appendix B: The Status of GIABA Member States' Ratification and Domestication of AML/CFT/Drugs and Crime Conventions

SN	Member States	Vienna Convention, 1988	UN Convention for the Suppression of the Financing of Terrorism, 1999	Palermo Convention, 2000	UN Convention against Corruption, 2003	National AML Legislation*	National CFT Legislation*
1.	Benin		30/08/2004	30/08/2004	14/10/2004	2006	
2.	Burkina Faso			15/05/2002	10/10/2006		
3.	Cape Verde		10/05/2002	15/07/2004	23/04/2008	2002	
4.	Côte d'Ivoire	25/11/1991				2005	
5.	The Gambia			05/05/2003		2003	
6.	Ghana	10/04/1990	06/09/2002		27/06/2007	2008	2008
7.	Guinea- Bissau		19/09/2008	10/09/2007		2006	
8.	Guinea		14/07/2003			2006**	
9.	Liberia					2002	
10.	Mali		28/03/2002	12/04/2002	18/04/2008	2004	2008
11.	Niger			30/9/2004		2004	
12.	Nigeria	01/11/1989	16/06/2003	28/06/2001	14/12/2004	2004	
13.	Senegal	27/11/1989		27/10/2003	16/11/2005	2004	
14.	Sierra Leone	06/06/1994	26/09/2003		30/09/2004	2005	
15.	Togo	01/08/1990	10/03/2003	02/07/2004	06/07/2005	2007	

* Stand alone legislations **Still awaiting assent by the President

Appendix C: Audited Statement of Accounts 2007

Deloitte.

S.A. au capital de 37 500 000 FCFA
Compte contribuable 9104684 A RC Abidjan 156849
Imm. Alpha 2000 – 14è et 18è Etage
Rue Gourgas – Plateau
01 B.P. 224 Abidjan 01 – Côte d'Ivoire
Tél.: (225) 20.25.02.50
Fax: (225) 20.21.84.46 / 20.25.02.60
www.deloitte.com

ECONOMIC COMMUNITY OF WEST AFRICAN STATES
INTERGOVERNMENTAL ACTION GROUP AGAINST MONEY LAUNDERING IN WEST AFRICA (GIABA)
EXTERNAL AUDITOR REPORT
Year ended December 31st 2007

Dear Sirs,

We have audited the accompanying financial statements of the Inter Governmental Action Group against Money Laundering for the twelve months period ended December 31st, 2007.

These financial statements are the responsibility of the management of the Inter Governmental Action Group against Money Laundering. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with International Standards on Auditing (ISA). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides us with a reasonable basis for our opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of GIABA at December 31st, 2007 and, the results of its operations for the twelve months period then ended, in compliance with the financial regulation of the Community.

Abidjan, the 30th of November 2008



Marc WABI
Partner
Deloitte & Touche

FINANCIAL STATEMENTS

As at 31 December 2007

GIABA
FINANCIAL STATEMENTS
AS AT 31st DECEMBER 2007
(Amount in UA)

Balance sheet

DESCRIPTION	Notes	AMOUNT UA	
		2 007	2 006
CURRENT ASSETS			
Petty cash		22	63
Cash in bank	1	148 305	208 478
Cash in transit		0	0
Inventories			
Prepayments		30 781	16 130
Others		21 149	189 988
TOTAL CURRENT ASSETS		**200 257**	**414 659**
OTHERS ASSETS			
Fixed Assets (net depreciation)	2	200 345	168 684
TOTAL OTHERS ASSETS		200 345	168 684
TOTAL ASSETS		**400 602**	**583 344**
LESS CURRENT LIABILITIES			
Bank overdraft			
Accounts Payable	3	20 980	50 062
Due to Membre States			
Inter-Institutional Accounts			
Others Liabilities	4	101 667	72 858
TOTAL CURRENT LIABILITIES		**122 647**	**122 920**
NET ASSETS		**277 955**	**460 424**
FUNDED BY			
Accumulated Surplus	5	277 955	0
TOTAL RESERVES		**277 955**	**460 424**

The accompanying notes to the financial statements form part of this statement and are the responsibility of the management

GIABA
FINANCIAL STATEMENTS
AS AT 31st DECEMBER 2007
(Amount in UA)

Statement of income and expenditure

DESCRIPTION	Notes	AMOUNT UA	
		2 007	2 006
REVENUE			
Contribution Receivable		1 966 428	1 568 693
Prior Year Adjustement			
Other Income		870	29 655
TOTAL INCOME		**1 967 298**	**1 598 348**
EXPENDITURE			
Statutory Meetings		200 667	261 372
Salaries		388 473	343 060
Allowances	6	279 071	92 802
Staff Training		24 187	0
Medical Staff & Insurance		19 369	3 877
Others		61 978	9 280
Rental & Insurance		140 492	130 122
Vehicle maintenance/Fuel/Insurance		20 365	11 048
Utilities		19 239	5 109
Supplies		28 868	19 721
Postage & Telecom	7	68 728	36 692
Travels	8	137 150	111 424
General Expenses	9	68 794	52 892
Depreciation	10	49 798	18 958
Exchange Loss and Conversion		31 187	1 416
Programs	11	611 400	40 153
TOTAL EXPENSES		**2 149 767**	**1 137 924**
NET SURPLUS FOR THE YEAR		**-182 469**	**460 424**

The accompanying notes to the financial statements form part of this statement and are the responsibility of the management

NOTES TO THE FINANCIAL STATEMENTS

As at 31 December 2007

I) Accounting rules and principles

1. Monetary issues on the financial statements

Transactions are recorded and financial statements are prepared in UA which is equivalent to (1) SDR as defined by the International Monetary Fund (IMF).

2. Currencies conversion

Financial transactions are done in multiple currencies and, re-evaluated at the quarter end and taken into account for the calculation of the net income. At the end of the year, they are valued at the exchange rate communicated by the financial controller.
According to article 012 of the financial regulation and accounting manual, the following rates have been used as exchange rate in 2007:

Currency	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	31 12 07
US$	1,489805	1,499880	1,516269	1,47029	1,504400
GBP	0,777999	0,767474	0,763450	0,79063	0,766377
CAN$	1,696843	1,756814	1,665635	1,66947	1,753080
EURO	1,155921	1,144509	1,124860	1,16323	1,142290
FRANC CFA	758,234430	750,748629	737,859892	763,02754	749,293122
NAIRA	191,0216	188,911750	190,498665	190,07386	193,615794
CEDIS	13535,3720	13829,715416	14028,419018	12717,125565	14985,862431

Note 1

The bank has recorded transactions relative to advances received from the executive secretariat and also many reimbursements of amounts debited for miscellaneous purchases.

Note 2

This account records fixed assets acquired by GIABA. They are outlined as follows:

	VEHICLES	OFFICE FURNITURES	HOUSEHOLD APPLIANCES	OFFICE EQUIPMENTS	IT EQUIPMENTS	OTHER ASSETS	FIXED ASSETS IN PROGRESS	TOTAL
HISTORICAL COST	**UA**	**UA**	**UA**	**UA**	**UA**	**UA**	**UA**	
01/01/07	75 019	12 976	48 023	11 082	26 520	12 057	4 259	**189 936**
Acquisitions	43 694	15 549	1 984	15 609	9 084	9 862,06	0	**95 782**
Disposal and transfers	-	-	-	-	-	10 099,70	4 232	**14 332**
31/12/07	118 713,00	28 525,00	50 007,00	26 691,00	35 604,00	11 819,36	27,00	**271 386**
Depreciation								
01/01/07	8 633,00	361,00	7 434,00	315,00	4 171,00	336,00	0,00	**21250**
Provisions	18310	3946	10128	3819	11014	2582	0	**49799**
Cancellation of entry	-	-	-	-	-			**0**
31/12/07	26943	4307	17 562	4134	15185	2918	0	**71049**
Net Book Value								
31/12/07	**91 770**	**24 218**	**32 445**	**22 557**	**20 419**	**8 901**	**27**	**200 337**

Note 3

"Payable charges" are outlined as follows:

DESCRIPTION	2007	2 006
SEPARATION ALLOWANCE	(103 346)	(45 987)
STAFF PROVIDENT FUND	(34 595)	(4 074)
EMPLOYEE PAYABLE	116 961	-
TOTAL	(20 980)	(50 061)

Note 4

« Other debts » recorded prepaid expenses which will be regularized at the latest in March 2008.

Note 5
This account recorded previous periods retained earnings (to be brought forward).

Note 6
This account records salary expenses, allowances and other benefits paid to personnel in compliance with ECOWAS regulations.

Note 7
These accounts records operating expenses.

Note 8
These amounts relate to travel tickets of official missions made by personnel.

Note 9
This amount represents several expenses incurred by GIABA.

Note 10
This chapter relates to fixed assets depreciation of the year.

Note 11
This represents program expenses.