# GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report
Phase 2
Implementation of the Standard
in Practice
CAMEROON



# Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Cameroon 2016

PHASE 2: IMPLEMENTATION OF THE STANDARD IN PRACTICE

July 2016 (reflecting the legal and regulatory framework as at February 2016)



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# **About the Global Forum**

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 130 jurisdictions, which participate in the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes. These standards are primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, and in Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary as updated in 2004. The standards have also been incorporated into the UN Model Tax Convention.

The standards provide for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including bank information and information held by fiduciaries, regardless of the existence of a domestic tax interest or the application of a dual criminality standard.

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases. Phase 1 reviews assess the quality of a jurisdiction's legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. Some Global Forum members are undergoing combined – Phase 1 and Phase 2 – reviews. The Global Forum has also put in place a process for supplementary reports to follow-up on recommendations, as well as for the ongoing monitoring of jurisdictions following the conclusion of a review. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

All review reports are published once approved by the Global Forum and they thus represent agreed Global Forum reports.

For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published review reports, please refer to www.oecd.org/tax/transparency and www.eoi-tax.org.

# **Abbreviations**

**ANIF** National Agency for Financial Investigations (Agence

nationale d'investigations financières)

AUDCG Uniform Act on General Commercial Law (Acte uniforme

relatif au droit commercial général)

**AUSCGIE** Uniform Act on Commercial Companies and Economic

Interest Groups (Acte uniforme relatif au droit des sociétés commerciales et du groupement d'intérêt

économique)

**AUHCE** Uniform Act on the Organisation and Harmonisation

of Business Accounting (Acte Uniforme portant organisation et harmonisation des comptabilités des

entreprises)

**CAA** Autonomous Sinking Fund of Cameroon (*Caisse* 

Autonome d'Amortissements)

CGI General Tax Code (Code Général des Impôts)

**CEMAC** Central African Economic and Monetary Community

CIMA Inter-African Conference on Insurance Markets

(Conférence Interafricaine des Marchés d'Assurances)

CIME Medium-sized company tax centre (Centre des Impôts

des Moyennes Entreprises)

**DGE** Department for Large Corporations (Direction des

Grandes Entreprises)

**DGI** Directorate-General for Taxation (*Direction Générale des* 

*Impôts*)

**EOI** Exchange of Information

**EOIR** Exchange of Information on Request

**LCB/FT** Anti-Money Laundering and Combating the Financing of

Terrorism (Lutte contre le Blanchiment et le Financement

du Terrorisme)

**LPF** Tax Procedure Book (*Livre des Procédures Fiscales*)

**OHADA** Organisation for the Harmonisation of Business Law in

Africa

**RCCM** Trade and Personal Property Credit Register (*Registre du* 

Commerce et du Crédit Mobilier)

SA Public Limited Company (société anonyme)

**SARL** Private Limited Company (société à responsabilité

limitée)

SAS Simplified Joint-Stock Company (société par actions

simplifiées)

SCS Limited Partnership (sociétés en Commandite Simple)

SNC General Partnership (Sociétés en Nom Collectif)

**ToR** Terms of Reference

**UEIR** International Information Exchange Unit (Unité

d'Echange International des Renseignements)

# **Executive summary**

- This report summarises Cameroon's legal and regulatory framework for transparency and exchange of information for tax purposes as well as its implementation and effectiveness in practice. The international standard, which is set out in the Global Forum's Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information, is concerned with the availability of relevant information within a jurisdiction, the competent authority's ability to gain timely access to that information and, in turn, whether that information can be effectively exchanged with its exchange-of-information partners.
- 2. Cameroon is committed to applying the international transparency standard by virtue of its accession to membership of the Global Forum on Transparency and Exchange of Information for Tax Purposes in 2012.
- The legal and regulatory framework in Cameroon allows for information to be made available on the identity and ownership of companies and other entities. Companies and other corporate entities are required to register with the public authorities, including the tax authorities. OHADA (Organisation for the Harmonisation of Business Law in Africa) law, which is directly applicable in Cameroon, permits the issue of bearer shares in companies with share capital, OHADA law also provides since November 2014 for the paperless administration, or dematerialisation of all shares, including bearer shares. In application of OHADA law, the domestic legislation provides for the dematerialisation of bearer shares as of that date, which means that the owners of those shares can be identified at any time. Cameroon has put in place practical procedures to ensure the effectiveness of this dematerialisation. It is recommended that Cameroon ensures that dematerialisation is monitored in practice.
- 4. The banking regulations and the rules designed to combat money laundering in Cameroon guarantee the availability of bank details. Accounting law and tax legislation contain provisions making it compulsory to maintain accounting records and to preserve them and the supporting documentation for a period of at least ten years. These obligations are respected by operators in practice, under the supervision of the tax authorities.

- 5. The Cameroon General Tax Code gives the tax authorities, which is the competent authority, extensive powers to gather information, including bank information that can be used for the purpose of exchanging information and does not impose any restriction associated with the concept of national fiscal interests. In practice, these powers have been used for six requests received during the evaluation period.
- 6. There is no right of notification in Cameroon, nor can pending tax litigation prevent or delay the response to a request for information that is made on the basis of an international agreement which is in force in Cameroon.
- 7. Since 25 June 2014, Cameroon has had an extensive network of information exchange mechanisms, concluded in the form of bilateral or multilateral conventions. That was the date on which Cameroon signed the Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention), as amended, meaning that it has an agreement compliant with the standard with 90 jurisdictions with which it did not previously have an information-exchange agreement. The Multilateral Agreement came into force on 1 October 2015 in Cameroon. In total, Cameroon has one or more agreements on information exchange with 98 jurisdictions. In addition, several more draft tax agreements are in the process of negotiation or ratification.
- 8. Since 2012, Cameroon has deployed many human and financial resources and has made substantial efforts to conform to the international standard of information exchange on request (EOIR standard). Thanks to the use of these resources, at the end of the evaluation period, an information exchange unit was operational and had adequate resources. Cameroon has also drawn up an EOIR Manual. Cameroon is advised to ensure that, within the framework of the new organisation in place regarding EOIR, that requests from partners are dealt with in a satisfactory manner and within a reasonable timeframe.
- 9. Cameroon has been rated on each of the 10 essential elements, and has also been given an overall rating. The rating for the essential elements are based on the analysis contained in this report, taking into account the determinations of Phase 1 and the recommendations formulated with regards to the legal framework in Cameroon and the effectiveness of the information exchange in practice. On this basis, Cameroon has been rated as follows: Compliant for elements A.2, A.3, B.2, C.1, C.2, C.3 and C.4; and Largely Compliant for elements A.1, B.1 and C.5. Given the ratings for each of the essential elements taken as a whole, the overall rating for Cameroon is "Largely compliant".
- 10. A follow-up report on the measures taken by Cameroon in response to the recommendations made in the present report must be presented to the Secretariat in June 2017 and then in subsequent years, in accordance with the procedure set out in the Methodology for the Second Round of Reviews.

# Introduction

#### Information and methodology used for the Peer Review of Cameroon

- 11. The assessment of Cameroon's legal and regulatory framework, as well as the implementation and effectiveness in practice of this framework was based on the international standards for transparency and exchange of information on request as described in the Global Forum's Terms of Reference and was prepared using the Global Forum's Methodology for Peer Reviews and Non-Member Reviews. The assessment was based on (i) the prevailing laws, regulations and EOI mechanisms in force as at 1 February 2016, (ii) on the observations made during the fact-finding mission to Yaoundé from 3-5 February, (iii) on Cameroon's responses to the questionnaires for Phase 1 and Phase 2 and (iv) other material provided by Cameroon and information supplied by partner jurisdictions.
- 12. This analysis incorporates the evaluation of Phase 1, published in August 2015, on the legal framework in Cameroon and the evaluation of Phase 2, on the practical application and effectiveness of this framework during the three year evaluation period between 1 July 2012 and 30 June 2015.
- 13. The Terms of Reference break down the standards of transparency and exchange of information into 10 essential elements and 31 enumerated aspects under three broad categories: (A) availability of information, (B) access to information and (C) exchanging information. The first phase of the assessment evaluated Cameroon's legal and regulatory framework against these elements and each of the enumerated aspects. In respect of each essential element, the review concludes whether (i) the element is in place, (ii) the element is in place but certain aspects of its legal implementation need improvement, or (iii) the element is not in place. These determinations are accompanied by recommendations on the ways in which particular aspects of the Cameroon system could be improved.
- 14. Recommendations are made on the practical implementation of each of these essential elements by Cameroon. Each element can be given a grade, as follows: (i) compliant, (ii) largely compliant, (iii) partially compliant or

- (iv) non-compliant. As indicated in the Assessment Criteria note, at the end of a phase 2 evaluation of a jurisdiction, an "overall" rating is given in order to illustrate the overall situation of the jurisdiction.
- 15. The Phase 1 assessment was conducted by a team consisting of two expert assessors and a representative of the Global Forum Secretariat: Matthieu Boillat of the Swiss Department of Finance, Oana Ciurea of the Romanian Tax Administration and Séverine Baranger for the Global Forum Secretariat. The team evaluated the legal and regulatory framework for transparency and exchange of information and Cameroon's relevant information-exchange mechanisms.
- 16. The Phase 2 evaluation was conducted by the same team members, with the exception of Oana Ciurea who was replaced by Alice Zango, Head of the Tax Services Directorate of the Burkina Faso General Tax Directorate.

#### Overview of Cameroon

- 17. Cameroon is a country on the west coast of Africa, facing the Gulf of Guinea. It borders on Nigeria and the Atlantic Ocean to the west, Equatorial Guinea, Gabon and the Republic of the Congo to the south, the Central African Republic and Chad to the east and Lake Chad to the north. Cameroon is an average-sized African country and had a population of about 22.5 million in 2013<sup>1</sup>.
- 18. Cameroon has two official languages: French (about 60% of the population are French-speaking) and English, which is spoken in two administrative subdivisions bordering on English-speaking Nigeria. The currency is the CFA franc, with the ISO currency code XAF (EUR 1 is worth XAF 655 957). The mainsprings of the Cameroonian economy are agriculture and the exploitation of natural resources in the form of forestry, mined minerals and hydrocarbons. In 2014, its gross domestic product (GDP) amounted to USD 32.05 billion, with an annual growth rate of 5.9%<sup>2</sup>.
- 19. The Constitution enshrines the separation of executive, legislative and judicial powers. The system of government is presidential, the executive branch being headed by the President of the Republic, who is the Head of State, and a government led by the Prime Minister. In terms of its administrative structure, Cameroon has been divided since 2008 into 10 regions, which are subdivided into 58 departments. These are broken down into districts (arrondissements). Accordingly, legislative power is exercised by the National Assembly and the Senate.

<sup>1.</sup> World Bank (2013).

<sup>2.</sup> Ibid

- 20. In 1972, Cameroon changed from a federation to a unitary state and some powers were decentralised in 1996. Accordingly, legislative power is exercised by the National Assembly and the Senate. There has thus been a single legislature since the parliaments of the federal states were abolished in 1972. The decentralised territorial authorities communes and regions do not possess legislative powers.
- 21. Cameroon is part of the Central African Economic and Monetary Community (CEMAC). CEMAC is a sub-regional international organisation born of the process of forming a community of states in Central Africa, a process initiated by the N'Djamena Treaty of 16 March 1994, which entered into force in 1999. CEMAC has six member states, namely Cameroon, the Republic of the Congo, Gabon, Equatorial Guinea, the Central African Republic and Chad. It is the fruit of a historical process that began in June 1959. Today, its activities revolve round the Regional Economic Programme, the aim of which is to "make CEMAC an integrated emerging economic area, where security, solidarity and good governance prevail, in the service of human development".
- 22. Cameroon is also a member of the Organisation for the Harmonisation of Business Law in Africa (OHADA), which was created by the Treaty on the Harmonisation of Business Law in Africa, signed on 17 October 1993 and revised on 17 October 2008.

#### General information on the legal and tax system

# Legal system

23. The Cameroonian legal system is based on a hierarchy of norms. The Constitution, enshrined in the Constitution Act of 18 January 1996, as amended, is the top tier of this hierarchy. The international conventions and treaties that have been ratified in good and due form by Cameroon rank immediately below the Constitution. If there is a conflict between the Constitution and an international treaty, the Constitution must be amended at the time of ratification of the international treaty. National laws and equivalent statutory instruments, i.e. ordinances ratified by Parliament, rank below international conventions and treaties. In the hierarchy of norms, regulations are one tier below national laws. This category covers decrees, which the President of the Republic and the Prime Minister are empowered to enact, ministerial orders, prefectural orders, which apply to a department, and municipal orders, which apply to a commune.

- 24. The legality of statutory provisions is ensured by the administrative courts of first instance, of appeal (the Administrative Chamber of the Supreme Court) and of cassation (the Supreme Court in full session)<sup>3</sup>.
- 25. The Cameroonian legal system is a somewhat hybrid system, influenced by both civil and common law. This twofold influence stems from the country's history. After the end of German colonial rule in 1916, the country became a protectorate and then a mandated territory, the eastern part being mandated to France and the western part to the United Kingdom. This was followed by the adoption of legal systems based on civil law in the French Cameroons and on common law in the British Cameroons.
- 26. When the country became independent on 1 January 1960, both legal systems continued to coexist. The advent of the unitary state the United Republic of Cameroon in 1972 put an end to that duality, and from that date the legal system was predominantly based on the Napoleonic tradition. Indeed, the Civil Code and Commercial Code that applied in the newly independent Cameroon were the Napoleonic civil and commercial codes of 1805 and 1807 respectively.
- 27. In spite of this predominance of a legal system inspired by the civil-law tradition, the provisions of common law still wield an influence, especially in criminal matters. It should be emphasised that commercial law, company law and all of the rules governing economic activity are based solely on civil law.

#### Commercial law

- 28. In the realm of commercial law, Cameroon's ratification of the Treaty on the Harmonisation of Business Law in Africa in 1998 reinforced the predominance of the system rooted in the civil-law tradition. The OHADA Uniform Acts, which replace the Commercial Code inherited from France, are still heavily based on French law.
- 29. The aim of the OHADA Treaty is to harmonise business law in States Parties by formulating and adopting common rules that are simple, up-to-date and suited to their economic circumstances, instituting appropriate judicial procedures and encouraging recourse to arbitration for the settlement of contractual disputes. To this end, the Treaty provides for the enactment of a body of legislation in the field of business law comprising instruments known as Uniform Acts. These Acts ensure that the OHADA member countries share the same rules in the spheres of commercial, company and accountancy law.

<sup>3.</sup> Law No. 2006/022 of 29 December 2006 on the organisation and functioning of administrative courts and Decree No. 2012/119 of 5 March 2012 on the opening of administrative courts

- 30. The regime of criminal sanctions for which the various Uniform Acts provide, however, leaves it to each national penal jurisdiction to set the applicable penalties. Article 5 of the OHADA Treaty stipulates that "Uniform Acts may include penal provisions. The States Parties undertake to determine the penal sanctions incurred." This means that each State Party must adopt internal laws to penalise improper behaviour as defined in the Uniform Acts.
- 31. Under Article 10 of the OHADA Treaty, "Uniform Acts are directly applicable and binding in States Parties, notwithstanding any conflicting provision of national law, whether previous or subsequent." There is therefore no need to transpose Uniform Acts into domestic law.

#### Tax system

- 32. The Cameroonian tax system is based on the legality principle. Article 26 of the Cameroonian Constitution specifies that a tax may be instituted only on the basis of a law. The Constitution also guarantees the fiscal equality of all citizens and requires everyone to contribute to the public expenses in accordance with his or her ability to pay. The tax rules apply to all taxpayers on the basis of legal provisions that are general in scope. In spite of the preponderance of the legislative form, a significant role in the Cameroonian tax system is played by administrative case law, which primarily takes the form of circulars and instructions issued by the Minister for Finance and the Director-General of Taxation.
- 33. Provision for the imposition of taxes and duties is made in the General Tax Code (Code Général des Impôts, CGI), which was established by Law No. 2002/003 of 19 April 2002 on the General Tax Code and comprises three Books. Book One relates to the tax and duty base. Book Two covers all fiscal procedures. Book Three concerns local taxation. The CGI contains the tax provisions relating to all economic activities, including the extractive industries, to investment incentives, to taxes and duties credited to the national budget and to local taxation. This means that tax law is applied uniformly throughout the territory of Cameroon.
- 34. The procedures for tax inspection, tax litigation and enforced recovery of tax debts are regulated in part by the Tax Procedure Book (Livre des Procédures Fiscales (LPF)) of the CGI, which lays down specific measures for inspection, litigation and enforcement, and in part by the OHADA Uniform Act concerning simplified recovery procedures and enforcement channels (common litigation measures).
- 35. By virtue of the hierarchy of norms, tax provisions must be in conformity with the Constitution as well as with the international conventions and treaties signed and ratified by Cameroon. Almost 80% of the Cameroonian tax system is aligned with CEMAC instruments, which are

modelled on the system of treaties, directives, regulations and decisions. The same applies to VAT, income tax and stamp duty. Under the Treaty establishing CEMAC, tax legislation falls within the competence of the Member States, which are simply required to achieve the goals set by the Community directives.

- 36. The collection of taxes and duty is the sole responsibility of the tax administration, the Directorate-General for Taxation (DGI). The latter body is divided into central departments and decentralised departments. The central departments, structured around the Director-General of Taxation, deal primarily with conceptual planning, co-ordination and auditing. They comprise ten directorates, including the Directorate for Legislation and International Tax Relations, which is the focal point for international exchanges of information. The decentralised departments are formed on the basis of the country's administrative divisions, especially the regions and departments, but also on the basis of taxpayer categories.
- 37. The Cameroonian tax system distinguishes between direct taxes and indirect taxes. The main direct taxes are business taxes and personal income tax. The system is based on taxation of the global income of individuals who, for taxation purposes, are residents of Cameroon. Companies are taxed on their receipts on the basis of a territorial regime. Non-residents are subject to the same rules as residents with regard to the basis of assessment and taxation rates for income originating in Cameroon. The rate of business tax is 30%, rising to 33% when a 10% additional local surcharge is added, while individuals receiving employment income are taxed on a graduated scale of income tax with a top marginal rate of 35%, to which is added the additional local surcharge amounting to 10% of the individual's tax liability.
- 38. Indirect taxes comprise value-added tax (VAT), excise duties, various specific duties (gaming and entertainment tax, armaments tax and special duty on oil products) and stamp duty. VAT is levied at a rate of 17.5%; the local 10% surcharge brings the total VAT rate to 19.25%.
- 39. Cameroon has a network of tax treaties covering 98 jurisdictions. It acceded to the Global Forum in 2012 and is committed to applying the international transparency standards. On 25 June 2014, Cameroon signed the Multilateral Convention, thereby sharply increasing the number of jurisdictions with which it has tax agreements from 9 to 98. The Multilateral Convention entered into force on 1 October 2015 in Cameroon.
- 40. The competent authority in Cameroon is the Ministry of Finance, which has delegated that power to the Director-General of Taxation by virtue of Decree N° 2013/006 of 26 February 2013 on the organisation of the Ministry of Finance.

#### Overview of the financial sector and the relevant professions

- 41. The Cameroonian financial sector comprises credit institutions, financial institutions, microfinance institutions, insurance companies, forex traders and money-transfer operators. Fourteen authorised credit institutions conduct business in Cameroon, four of them being local companies and ten being subsidiaries of foreign banking groups. As of 1 June 2015, the total net asset value of the banks in Cameroon amounted to XAF 3 324 584 777 965 (EUR 5 067 964 600). The Bank of Central African States (BEAC), which is the central bank in the CEMAC framework, is responsible for bank regulation. The banking sector coexists with more than 480 microfinance institutions, which operate a total of more than 1 000 outlets across the country, and with 15 authorised general insurance agents and 60 independent insurance brokers
- 42. Savings and credit facilities provided by banks and microfinance institutions are subject to Community supervision by the Central African Banking Commission (COBAC), which is responsible for overseeing credit activity in the CEMAC subregion. COBAC grants operating licences for these activities and verifies that operations are being properly conducted. The Ministry of Finance also oversees banking activity in its capacity as a monetary authority as well as overseeing intermediary exchange activities. Money transfers, on the other hand, are primarily subject to Cameroonian postal legislation as set out in Law No.
- 43. The insurance market is structured around regulators, market operators and associated professions. The market regulators are the Inter-African Conference on Insurance Markets (CIMA) and the Ministry of Finance.
- 44. Two stock markets operate in Cameroon: the Douala Stock Exchange. which is the national market and which comprises three listed companies. and the Libreville Stock Exchange, which covers the CEMAC countries. Two stock-exchange authorities coexist for the regulation of exchange transactions, namely the Financial Markets Commission (CMF) for the Douala Stock Exchange and the Supervisory Commission for the Central African Financial Markets (COSUMAF), which oversees the Libreville Stock Exchange. With regard to stock-exchange transactions within Cameroon, only authorised banks conducting their business in Cameroon may act as investment service providers, with the Société Générale de Banques au Cameroun performing the role of settlement bank, while the Autonomous Sinking Fund, a state body, plays the role of central depositary. Exchange transactions are governed by the provisions of Regulation No. 02/00/CEMAC/UMAC/CM of 29 April 2000, while money transfers are regulated by Law No. 2006/019 of 29 December 2006 governing postal activities.

- 45. The mechanism for combating money laundering and the funding of terrorism within CEMAC came into being in 2002 with the adoption of the statutes of GABAC, the Action Group against Money Laundering in Central Africa, the purpose of which is to drive and co-ordinate the formulation of anti-laundering provisions. Major advances have been observed in recent times, especially in 2012, when the first round of reciprocal assessments was launched, beginning with reviews of the mechanisms in Gabon, Cameroon and the Central African Republic, which had previously been assessed by the World Bank in 2008 and 2010, and a manual of procedures for reciprocal assessments was adopted by the Central African Monetary Union (UMAC) and published in the CEMAC Official Journal on 2 October 2012. These advances enabled GABAC to obtain observer status in the Financial Action Task Force on Money Laundering (FATF) in February 2012.
- 46. The agency responsible for combating money laundering is the National Agency for Financial Investigation (NAFI), which has the right to investigate financial matters and cases of unjustified enrichment. This agency operates in complement to the regional programme of the GABAC, but does not have enforcement powers. The Cameroonian NAFI is operational and has been admitted to membership of the Egmont Group of Financial Intelligence Units.

# **Compliance with the Standards**

# A. Availability of information

#### Overview

- 47 Effective exchange of information requires the availability of reliable information. In particular, it requires information on the identity of owners and other stakeholders in an entity or arrangement as well as information on the transactions carried out by entities and other organisational structures. Such information may be kept for tax, regulatory, commercial or other reasons. If such information is not kept or the information is not retained for a reasonable period of time, a jurisdiction's competent authority may not be able to obtain and provide it when requested. This section of the report assesses the adequacy of Cameroon's legal and regulatory framework on availability of information.
- 48 Cameroon possesses a developed legal and regulatory framework as regards the obligation to keep information available on the members of partnerships and the holders of registered shares in companies with share capital.
- All companies must be entered in the company register (RCCM) (Registre du Commerce et du Crédit Mobilier)), in the month following the date of their establishment and must deposit a copy of their articles of association with the court registry. Up-to-date information regarding the identity of members of partnerships (sociétés de personne) and of private limited companies (sociétés à responsabilité limitée, SARL) is available in the RCCM. As far as public limited companies (sociétés anonymes, SA) and simplified joint-stock companies (sociétés par actions simplifies, SAS) are concerned.

information on the identity of shareholders in the RCCM relates only to the time of establishment. There is no obligation to communicate subsequent changes in the list of shareholders to the RCCM. However, information on the identity of the owners of registered shares in public limited companies (SA) and simplified joint-stock companies (SAS) is available from those companies through the registers which they are required to maintain at their head office. Cameroon recently introduced provisions requiring public limited (SA) companies to submit ownership declarations, and these provisions contain enforcement measures designed to guarantee that these registers are maintained. In practice, information is available from the RCCM and the DGI on the ownership of SARLs and partnerships. With regards to the identity of SA shareholders (for nominative shares), these are available from the companies themselves, and from the DGI since 2016.

- 50. Cameroonian law allows public limited companies (SA) to issue bearer shares. Under the terms of an amendment to company law dating from January 2014, all shares, including bearer shares, must be registered in paperless form (dematerialisation) Since 17 November 2015, any new share issue must be made in a dematerialised format. For bearer shares that had already been issued on 17 November 2015, the dematerialisation process will allow almost complete identification by 14 April 2018, becoming complete on 14 April 2019. It is recommended that the Cameroonian Authorities finalise the effective implementation of the dematerialisation of bearer shares issued by public limited companies, as well as its monitoring notably by enforcing the applicable sanctions.
- 51. Concerning trusts, there is no provision for the constitution of trusts in Cameroonian law. There is, however, nothing in Cameroonian law to prevent the Cameroon-based administration of or the ownership by a foreign trust of assets located in Cameroon. Persons acting as trustees on a professional basis are bound by tax legislation and by AML/CTF laws to retain all information concerning the settlers and beneficiaries of foreign trusts. The disclosure obligations for tax purposes also apply to any trustees who are not professionals. In practice, these persons are subject to the same requirements to register with the RCCM and the tax authorities as any other person carrying out economic activities in Cameroon. Since 2016, a declarative obligation has been included in the CGI. However, during the peer review period, the authorities did not register any declarations of foreign trusts administered in Cameroon.
- 52. Information on the ownership of other relevant entities, such as partnerships, co-operatives, non-trading partnerships and foundations, is available in Cameroon.
- 53. All natural persons and corporate entities subject to business taxes and to taxes on earnings from industrial, commercial and agricultural

occupations or on earnings from non-commercial occupations are required to retain for a period of at least ten years accounting data and the accompanying supporting documentation. Associations, foundations and other entities that are not liable to taxes and duties are also required, under tax legislation and AML/CTF laws, to keep accounts and retain the related documentation. In practice, the tax authorities ensure that companies registered in Cameroon respect their accounting obligations through the general accounting audits, which give the authorities the power to check on the existence, compliance and accuracy of all the accounting documents that companies are required to maintain. This ensures the availability of accounting information.

Banks and financial institutions, for their part, are bound to identify their customers and to retain information on transactions carried out by their customers for 10 years.

#### A.1. Ownership and identity information

Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

- 55. The OHADA Uniform Act on Commercial Companies and Economic Interest Groups (AUSCGIE) provides for seven types of entities:
  - three types of company with share capital, described in section A.1.1 - Companies with share capital: SA, SARL and SAS; and
  - three types of partnership, described in section A.1.3 Partnerships: the société en commandite simple (SCS) or limited partnership, the société en nom collectif (SNC) or general partnership and the société en participation (SP) or joint venture; and
  - the groupement d'intérêt économique (GIE) or economic interest group.

# Companies with share capital (ToR A.1.1)

56. Companies with share capital (SA, SARL, SAS) are subject to publication and registration formalities when they are first constituted, particularly to the obligation to retain and update information and to make tax declarations. so as to guarantee the availability of identity and ownership information on companies with share capital.

#### Company types

- 57. Company legislation is essentially governed by OHADA law, particularly the Uniform Act on Commercial Companies and Economic Interest Groups (Acte Uniforme relative au droit des sociétés commerciales et du groupement d'intérêt économique, AUSCGIE). AUSCGIE was adopted in 1997 and revised in 2014, partly for the purpose of including a new category of company, the simplified joint-stock company as well as to provide for the dematerialisation of all securities
- 58. OHADA law allows the creation of the following three types of company with share capital: These are:
  - SA: SAs are companies in which shareholders' liability for corporate debts is limited to the amount of their stake and in which the rights of shareholders are represented by shares. An SA may have only one shareholder (AUSCGIE, Article 386). As of 1 March 2015, there were 624 SAs registered with the RCCM. There were 1 116 SA registered with the DGI on 1 February 2016.
  - SARL: An SARL is a company in which the shareholders' liability is limited to the amount of their stake and in which the rights of shareholders are represented by shares. Some of the organisation rules of SARLs are of public order to protect the strong intuitu personae, which is prevalent for this type of company. A SARL may be established by one or more natural and/or legal persons (AUSCGIE, Article 309). There were 11 371 SARL registered with the DGI on 1 February 2016.
  - SAS: This form of company with share capital was introduced by the revised version of AUSCGIE, which entered into force on 5 May 2014. The SAS is a company established by one or more shareholders; its statutes provide for the free organisation and operation of the company, subject to compliance with the binding provisions of AUSCGIE. The liability of the shareholders or sole shareholder of an SAS for corporate debts is limited to their stake in the company, and their rights are represented by shares (AUSCGIE, Article 863-1). As of 1 February 2016, there were no SAS registered with the DGI.

# Publication and registration formalities

59. The creation of companies with share capital is governed by the Uniform Act on General Commercial Law (AUDGC). The creation of a company is dependent on its being entered in the RCCM no later than one month after the date of its establishment (AUDCG, Article 46). The RCCM receives applications for the registration of corporate entities and for the amendment and cancellation of existing registrations.

- 60 The identity of the founding shareholders of SAs, SASs and SARLs are available in the company statutes at the time of initial registration. Only SARLs, however, are required to notify the RCCM of changes in shareholders. Every change in the status of corporate entities subject to registration must be the subject of a request to the RCCM for a rectification or addition within 30 days following the date of that change (AUDCG, Article 52).
- 61 A national database collates the information deposited in each RCCM database. A regional database is maintained by the Common OHADA Court of Justice and Arbitration, which collates the information stored in all of the national databases (AUDCG, Article 36). The RCCM established in Cameroon and its component parts are forwarded to the OHADA Secretariat for publication in the Official Journal of that organisation or in a newspaper authorised to publish legal notices (national daily newspapers).

#### Registration formalities with the CFCE in practice

- 62. In practice, all newly-created companies must register with the Company Creation and Formalities Centre (Centre de formalities et de création des Entreprises (CFCE)). The CFCE was formed in 2010 to facilitate business creation in Cameroon. There are currently eight CFCE in Cameroon. The CFCE steering committee is made up of a number of administrative departments and representatives from the Chamber of Notaries. At the operational level, the CFCE is organised with a welcome area, the "front office", and a "back office" that is made up of the DGI and the registry of the RCCM. The archives department remains localised within the CFCE.
- 63 In practice, those wishing to incorporate a company use the services of a notary. The notary draws up the articles of association and bring them to the CFCE. An electronic database exists to check whether the individuals wishing to create a business are already registered, in order to avoid double registration.
- 64 The CFCE authorities have indicated that it takes around three days to register a company. Once the formalities have been completed, the file is then sent to the other administrations, namely the tax centre linked to the RCCM for follow-up and implementation and to the RCCM of the commercial Tribunal (Tribunal de Commerce). An online company creation procedure is being developed. Recording of notarised acts is also done within the CFCE.
- During the evaluation period, 560 SA, 8 595 SARL and no SAS were registered in the CFCE for the country as a whole.

#### Information available from the RCCM

- 66. After registration with the CFCE, the information gathered by the RCCM registrar is sent in triplicate to the Court of Appeals, which holds the central RCCM register. The Courts of Appeals are regional. The files are registered locally and then sent to the OHADA Court of Justice. The RCCM is a public register. If the SARL and the partnerships have not been duly registered with the RCCM, any new partners of the SARL and partnerships have no ownership rights. The partner is considered to be is the person that is registered at the RCCM
- 67. The registration of companies is place under the supervision of the Tribunal of first instance. The administration of the clerk offices is formed from several work unit called "sections", including that of the RCCM. The RCCM are placed under the direct responsibility of the heads of section, with local and national supervision. The RCCM receives the registration of companies and the requests for modifications related to the articles of association, any securities (pledge, guarantee or lease), and the legal judgements of bankruptcy that are recorded in the registers. The teams have a computerised register which allows the retrieval of paper archives.
- 68. In practice, for any registration, the chief clerk of the RCCM verifies the conformity of the documents. Once approved, the company is recorded in the computerised register (using JUSTICAM software). The general supervision is carried out by the head clerk of the RCCM and the president of the tribunal of first instance. The forms are designed by the OHADA secretariat.

# Registration of taxpayers with the DGI

- 69. The Cameroonian tax administration is made up of the Department for Large Corporations (DGE Direction des grandes entreprises) and 505 local tax centres in 12 regions. The DGE is in charge of all companies whose turnover exceeds 3 billion CFA (EUR 4 573 470). In Cameroon's eight CFCE, there is a representation of the DGI whose task is to register all taxpayers. Each tax centre has an office in charge of registration.
- 70. The centralisation of the registration is carried out by the registration unit of the Statistics, Tax Simulations and Registration Department of the DGI which is in charge of carrying out registration activities.
- 71. Newly incorporated entities have to register at the CFCE, as new taxpayers. The following documents are required by corporate entities: copy of the RCCM, copy of the articles of association and a map of where the activities are taking place. The identity of the founding shareholders is available from the articles of association. For all natural persons, their passport or national identity card proves their identity.

- Registration of taxpayers is renewed every two years. When the registration is renewed further checks can be made. The Cameroonian authorities have indicated that to monitor compliance with this obligation, the renewal of the business tax which is chargeable annually to individuals and legal entities carrying on business in Cameroon, is subject to presentation of a valid taxpayer card and trade register. Without the business tax and a valid taxpayer's card, a taxpayer cannot bid for contracts or import goods.
- 73 If the registration is not renewed, then the taxpayer is listed as being inactive and the identification number is deactivated. In case of deactivation, the taxpaver is subject to a much higher level of customs duties upon imports. In addition, they cannot claim for any VAT refunds. Furthermore, if companies registered with the DGE trade with unregistered persons, expenses are not tax deductible and they cannot claim VAT refunds. Should any VAT credits need validating, the DGE can check that the suppliers do appear in the records of the DGI. The list of registered persons is publicly available.

#### Information available from companies

Companies with share capital are required to keep a list of sharehold-74 ers, under both commercial and tax law.

#### Obligation in commercial law

- The identity of the SARL shareholder must be recorded in its articles of association, and kept at the registered office of the SARL. The transfer of SARL must be made in writing and recorded with the RCCM (article 317) AUSCGIE). Unlike SARLs, SAs and SASs are under no obligation to publish the identity of shareholders in the RCCM. On the other hand, this information must feature in the registers of shareholders that SAs and SASs are required to keep, but only for shareholders owning registered shares (AUSCGIE, Article 746-1). Registers are maintained by each company, or by a person authorised by it, showing the registered shares issued by that company. The details recorded in the registers include transactions for the transfer, conversion, pledging and sequestration of shares, among other things, the transaction date and, in the case of a transfer, the full name and address of the former and new shareholders or, in the case of a conversion of bearer shares into registered shares, the full name and address of the shareholder.
- 76 In the case of a transfer, the name of the former shareholder may be replaced by a serial number from which that name can be found in registers. All entries made in registers must be signed by the company's legal representative or his or her delegate. The company has an obligation to keep the share registers updated. The auditor's report, which is mandatory for SAs and SASs and which is submitted to the annual general meeting, notes the

existence of the registers and contains the auditor's opinion as to whether they have been properly maintained. A declaration made by the management team certifying that the registers have been kept in due form is annexed to the said report (AUSCGIE, Article 476-2, new version).

77. The new Article 744-1 of AUSCGIE provides for the dematerialisation of all securities, whatever their form, with effect from January 2014, which serves to make information available on the identity of all shareholders and, in particular, of holders of bearer shares. The rules for dematerialisation are described and analysed in section A.1.2 – Bearer shares.

#### Tax requirements regarding the maintenance of registers

- 78. Since 1 January 2015, tax legislation has required public limited companies (SAs) to maintain a register showing the registered shares they have issued and to keep it updated<sup>4</sup>, subject to tax penalties. This obligation supplements the existing requirement in commercial law, although the latter is not backed by sanctions (see section A.1.6 Enforcement provisions to ensure availability of information). The register must be classified and initialled by the registrar of the court with jurisdiction for the place where the company is located and must list the following details:
  - transactions relating to the transfer, conversion, pledging and sequestration of shares;
  - the date of each transaction:
  - in the case of transfers, the full name and address of the former owner and new owner of the shares;
  - in the case of conversions of bearer shares into registered shares, the full name and address of the owner of the shares.
- 79. This obligation, however, does not clearly apply to simplified joint-stock companies (SASs); nevertheless, commercial law requires these companies to maintain a register of shareholders, although the requirement is not enforced by sanctions (see section A.1.6).

# Maintaining a register in practice

- 80. The Cameroonian tax authorities have indicated that in practice this obligation is monitored when the taxpayers make their compulsory tax declarations. It is also possible to carry out checks by exercising the right to access information, the right to investigation or simply by a requisition from
- 4. Article 18 *bis* of Law No. 2014/026 of 23 December 2014 on the finance law of the Republic of Cameroon for the 2015 financial year.

the tax administration. The compliance rate on tax returns ranges from 80% to 100% depending on the type of taxpayer (see A.2 Accounting Records. paragraph 203).

- 81 Up to date information on ownership are obtained by the DGI through the registration of any changes to the articles of association or as part of the requirement to declare the sale of units or shares. Indeed, the transfer of shares in a SARL requires a change in the articles of association which must be registered with the RCCM and the Registration unit of the tax administration.
- Under Article 18 bis (1) CGI, the shareholder register of SA must be 82 numbered and initialed by the clerk of the local tribunal of first instance. The shareholder register must contain information relating to securities transfers. Moreover, Article L1 of the CGI provides that any substantial change affecting the activities of a company, such as a change in the shareholding must be publicised within 15 days. Substantial changes in a company such as transfer of share rights are obligatorily done before a notary public for the share transfer to be valid legally. The notary public automatically submits the agreement to the taxation authorities for registration formalities. Any delay in the presentation of the deeds for registration or payment of the corresponding duties is subject to a 100% penalty. Furthermore, notaries are managed by specialised structures of the Directorate General of Taxation (Centres Spécialisés des Professions Libérales (CSIPLI)
- In practice, it is the notary that registers the transactions with the Registration Unit. Notaries are required to keep a register, which must be presented to the tax authorities every three months. The system is not computerised into a database. Transactions are entered into the computer. A copy is held in the archives. These transaction records are also held by the notary. The Registration unit archives the transactions under the name of the notary, the name of the repertory and the transaction number.

# Availability of ownership information in practice

Cameroon has received five requests asking for identity or ownership information. The information requested covered participation in Cameroonian companies with share capital and real estate owned in Cameroon. This information was available and the peer confirmed that the information received was satisfactory.

# Foreign companies

Information on the ownership of foreign companies carrying out business activities in Cameroon is available through their compulsory trade and tax declarations.

#### Requirements in commercial law

86. In implementation of Articles 119 and 120(4) of AUSCGIE, offices or branches of a foreign company located in Cameroon must be registered in the RCCM. Foreign companies are subject to the same practical procedures as those applicable to Cameroonian companies.

#### Tax requirements

- 87. The new Article 5 bis of the CGI sets out the criteria that determine whether foreign companies are considered as operating in Cameroon and therefore have a connection with Cameroon for tax purposes:
  - companies whose head office or de facto place of management is located in Cameroon,
  - companies which have a permanent establishment in Cameroon, and
  - companies which have a dependent representative in Cameroon.
- 88. Foreign companies, subject to tax in Cameroon, must provide to the tax authorities of Cameroon the identity information on shareholders holding more than 5% of the company's capital. The provisions of Article L1 of the CGI impose a general obligation on companies to register and to declare any material changes affecting their operation, such as changes of management, takeovers, cessation of business and changes in the structure of the company's capital or shareholdings. This declaration requirement also applies to "foreign taxpayers engaging in economic activities in Cameroon without having an office there". These foreign taxpayers are required to appoint a solvent representative who is accredited to the tax administration. A unique identification number is allocated on a permanent basis by the Directorate-General for Taxation once the taxpayer's actual location has been certified. Failure to fulfil the obligations imposed by these provisions gives rise to the penalties defined in Article L100 of the CGI (see section A.1.6 Enforcement provisions to ensure availability of information).
- 89. Any material change affecting the operation of a company, such as a change of management, a takeover, cessation of business or a change in the structure of the company's capital or shareholdings, must be declared to the tax authorities within 15 days following the date on which the change took effect. The registration requirement applies to the foreign company itself as well as to its chief executive and to shareholders holding more than 5% of the company's capital<sup>5</sup>.

<sup>5.</sup> Article L1 ter du Livre des Procédures Fiscales.

- 90 In practice, foreign companies must register with the DGI to have the right for a VAT refund or to be paid for any services provided to a Cameroonian company. If the foreign company is not registered, Cameroonian companies cannot deduct the payments made to the foreign company for its services from their tax declaration.
- To conclude, information on the ownership of foreign companies considered as operating in Cameroon is available through their compulsory trade and tax declarations

#### Information held by nominees

Cameroonian law has no specific provisions pertaining to the concept of nominees that exists in Common law jurisdictions. Instead, OHADA legislation defines the role of a mandataire or agent, which is a concept in civil law. OHADA legislation stipulates that, in certain specific cases, a company's shareholders may be represented in various formal acts by agents (AUSCGIE, article 126). Nevertheless, even though the concept of nominees is not enshrined in the commercial law of Cameroon, persons who act as nominees on a professional basis are covered by the provisions of the AML/ CTF legislation and must identify their clients.

#### Commercial law

- OHADA legislation provides for the possibility of any shareholder being represented by an agent of his or her choice at the time when the company is established (AUSCGIE, Article 315) or at a general meeting. In such cases, however, the agent acts expressly and publicly on behalf of a shareholder and does not have the status of a shareholder in dealings with third parties.
- 94 Agents must obtain a proxy from their clients, proxy contains information on the identity of the client or clients, in other words each client's full name and address and his or her number of shares and voting rights, specification of the general meeting for which the proxy is issued and, lastly, the signature of the client preceded by the words "bon pour pouvoirs" ("good for proxy") and the date of the proxy (AUSCGIE, Article 538). Accordingly, in spite of the agent's intervention, the identity of the real owner remains known.

# In practice

95 In practice, the representatives of the CFCE have confirmed that articles of association received for the registration of a company always contain the identity of the partners or shareholders in person and never those of an agent proxy. This information is then verified against the list of partners or shareholders that has to be provided as one of the supporting documents when registering the company.

# AML/CFT Legislation

- Although the common-law concept of a nominee does not exist in 96 Cameroonian law, the customer due diligence requirements applicable for AML/CFT purposes may be useful in determining the identity of any real shareholder who uses a nominee acting on a professional basis to conceal his or her own identity. These identification requirements apply only to nominees who act as such in the practice of their profession, as in the case of a lawyer or notary public. These obligations are contained in CEMAC Regulation 01/03 on combating money laundering and the funding of terrorism. These professional agents or nominees are required to identify their clients. Nominees acting as such on a professional basis are subject to the obligation by virtue of the fact that it applies to "notaries public and other members of independent legal professions", but also certified auditors and accountants, external auditors and tax advisors. The official forms associated with this obligation – the form for identifying clients and the form for reporting suspicions – contain boxes for the surnames, forenames, addresses and residence status of the persons to whom the declarations relate. The practical requirement for the members of these professions is to know the identity of the persons to whom or entities to which they provide their services.
- 97. Under the terms of Article 10 of CEMAC Regulation 01/03, members of professions subject to client-identification requirements must establish "the true identity of persons for whose benefit an account is opened or a transaction effected if it appears to them that the persons asking for the account to be opened or the transaction to be effected may not be acting on their own behalf". Moreover, if the client himself or herself is a lawyer, accountant or agent acting as a financial intermediary, that client will not be able to invoke professional secrecy to avoid disclosing the identity of the real operator.
- 98. Since these obligations apply only to persons acting on a professional basis, there is no means of obtaining the identity of a shareholder using a nominee who performs that role in a non-professional capacity. However, since the common-law concept of a nominee is not enshrined in Cameroonian law, such a situation is very unlikely to occur in practice.

# In practice

99. The supervision of legal professions likely to practice their activity as a "nominee" is carried out by the National Agency for Financial Investigations (*Agence nationale d'investigations financières* (ANIF)). The ANIF is present in each member state of the CEMAC. The ANIF is a financial information

unit operating under the authority of the Ministry of Finances. Its main duty is to prevent, detect and stop money laundering and the funding of terrorism. It is mandated to receive, process and transmit to the competent legal authorities a report on the operations that are the subject of a suspicion activity report, accompanied by all supporting documents other than the suspicion activity report\itself. In addition, an additional mission is to raise awareness and train professionals in combating money laundering and the funding of terrorism.

- By law, the ANIF is the competent authority to supervise the persons subject to AML legislation who do not have their own supervisory bodies (such as accountants, the legal professions and notaries). Legal professions such as the National Chamber of Notaries (CNN) for Notaries, the Bar Association for Lawyers and the National Order of Chartered Accountants (ONECCA) for accountants and auditors are placed under the authority of a self-regulatory body. These professions are placed under the supervision of the Ministry of Justice or the Ministry of Finance for Accountants.
- The ANIF does not apply sanctions as it does not have enforcement powers. The ANIF produces preliminary enquiries. Its objective is to observe and gather evidence, which it then transmits to the State Prosecutor. The State Prosecutor is the authority that will follow up on any lapses in procedures/ findings surfaced by the ANIF. The State Prosecutor has the power to prosecute breaches in the implementation of anti-money laundering obligations identified by the ANIF. Based on suspicious transaction reports, the ANIF has carried out investigations the results of which were communicated to the State prosecutor, as follows:
  - 2011: 128 investigations for 39 cases referred to the Public Prosecutor,
  - 2012: 153 investigations for 44 cases referred to the Public Prosecutor,
  - 2013: 250 investigations for 90 cases referred to the Public prosecutor.

#### Conclusion

102 Since Cameroonian law is based on the civil tradition, the commonlaw concept of a nominee does not exist in the law of Cameroon, which enshrines the civil-law concept of the *mandataire*, or agent. In these specific cases, the identity of the shareholder is known, and the agent acts publicly on behalf of that shareholder. The Cameroonian authorities have confirmed that they have never encountered the case of "nominees," as this concept is unknown in domestic law

#### **Bearer shares** (ToR A.1.2)

- 103. Article 745 of AUSCGIE provides that securities take the form of bearer shares or registered shares, whether they are issued for cash or for a consideration in kind. The law also specifies that the provisions of the Uniform Act or company statutes may prescribe registered shares as the only permissible form. This is why only SAs and SASs can issue bearer shares, while SARLs can issue only registered shares. As of 1 March 2015, there were 624 SAs and no SAs registered with the RCCM. In addition, since 2014, new article 748-1 AUSCGIE reduces the possibility to issue bearer shares: only shares admitted to trade on a stock exchange or those under the custody of a depository can be in bearer form
- 104. Before January 2014, Cameroon had no mechanism for identifying shares or bearer shares. The securities regime in the OHADA area depended on the form taken by securities, that is to say registered or bearer shares (former Article 764(1)).
  - In the case of registered shares, the rights of the shareholder were derived solely from their entry in the company's register, and the share certificate that was provided in practice by the issuing company was not in itself valid evidence of ownership.
  - In the case of bearer shares, the bearer was deemed to be the owner of the shares. A bearer could transfer such a share by handing over the certificate.
- 105. Companies issuing public offerings had the option of paperless administration of their shares, in other words of entering shares, whether they were registered or bearer shares, in an account opened in the name of their owner and administered either by the issuing company or by a financial intermediary approved by the Minister for Economic and Financial Affairs. In this case, shares changed hands by means of a transfer from one account to another (former Article 764(2)).
- 106. Since January 2014, the new Article 744-1 of AUSCGIE has provided for the dematerialisation of all transferable securities, whatever their form, which serves, among other things, to make information available on the shareholders who own bearer shares. The implementation of this article in Cameroon gave rise to the adoption of Law No. 2014/007 of 23 April 2014 laying down detailed rules for paperless registration of all securities, whether listed or not, issued by public or private entities subject to Cameroonian law and the promulgation of Decree No. 2014/3763 of 17 November 2014 laying down conditions for the application of Law No. 2014/007.

#### Scope of the new mechanism

The new mechanism applies to shares and bonds issued by public or private corporate entities, whether listed or not, where such shares and bonds are transferable by entry in an account and where they directly or indirectly give access to a percentage of the capital of the issuing corporate entity or to a general lien on its assets or to associated rights<sup>6</sup>. Accordingly, the scope of the dematerialisation mechanism also covers bearer shares, whether the issuers are public or private entities.

#### Dematerialisation procedures

- Registered or bearer shares must be registered in an account opened in their owner's name. This account must be administered either by the company issuing the securities or by a custodian approved by the Financial Markets Commission. All data recorded in accounts opened by issuing companies and custodians are held under one roof by central depositary. The central depositary is the Autonomous Sinking Fund of Cameroon<sup>7</sup> (Caisse Autonome d'Amortissement, CAA), which oversees operations for the dematerialisation of securities and regularly monitors custodians by ensuring that securities are entered in accounts and that current accounts are open to scrutiny so that their ownership remains traceable.
- The new Article 748-1 of AUSCGIE, moreover, stipulates that bearer shares must be dematerialised, which is the responsibility of security issuers. Dematerialisation is effected by booking securities into an account in the name of their owners against issuance of a certificate in their favour. This certificate specifies the characteristics of the shares they hold, subject to fulfilment of the obligation to register the shares and then enter the registered securities in the records of the central depositary. The purpose of this registration is to make all transactions relating to bearer shares secure and traceable.
- 110 Responsibility for dematerialisation rests with the issuing company and/or the custodians.
- Where securities are issued in the form of registered shares, the accounts must be held by the issuing company, which must provide the CAA with all the information that a custodian is required to communicate. It may, however, entrust the maintenance of the register to an agent who is duly appointed from among the custodians and must inform the CAA of the delegation and publicise it in the Official Journal or in a newspaper authorised

Article 3 of Decree No. 2014/3763. 6.

<sup>7.</sup> The CAA was approved by the Financial Markets Commission by virtue of Decision No. 08/006/CMF of 6 August 2003.

to publish legal notices. These obligations are additional to the commercial and tax obligations described in section A.1.1 – Companies with share capital.

- 112. Where securities take the form of bearer shares, on the other hand, the accounts must be held by custodians. The latter administer the shares entrusted to them by the shareholders or by the issuing company. The custodian ensures that the shares are registered electronically and conducts every transaction relating to them on the orders and instructions of the shareholders or their successors in title. The role of custodians is performed by authorised investment service providers, who are subject to AML/CTF legislation and who must receive a certification from the Financial Markets Commission (article 7 Law 2014/007).
- 113. Under Article 10 of Decree No. 2014/3763, securities accounts must contain the following information:
  - the identification details of natural or legal persons who own securities and, where appropriate, identification of the usufructuary, as well as the associated rights and the identity of any person to whom those rights accrue;
  - the restrictions that may be placed on these shares, such as pledging, seizure and sequestration;
  - the number and name of the account, which must provide precise identification of the account and its nationality as well as the characteristics of the securities belonging to it.
- 114. The certificate of ownership assigned to the owner by the issuing company or custodian must include the code of the shareholding member, the shareholder's identification details and address, the International Securities Identification Number (ISIN) and the date of the last amendment.

#### Transitional measures

- 115. AUSCGIE has set a two-year transitional period for the dematerialisation of securities issued before the introduction of this mechanism (Article 919 of the new AUSCGIE). However, the transitional measures adopted by Cameroon in Law No. 2014/007, being a four-year period, and those in its implementing decree, being a one-year period, are mutually contradictory. While Article 10 of Law No. 2014/007 gives holders of bearer shares issued before the promulgation of the Law a four-year transitional period for the dematerialisation of their shares, that is to say until the end of April 2018, the implementing decree provides for a far shorter period of one year (until 17 November 2015).
- 116. In practice, the dematerialisation implementation respects the time-frame outlined in Law No. 2014/0007 (namely, end of April 2018) for bearer

shares that were in existence on 17 November 2015. However, bearer shares issued after 17 November 2015 must be dematerialised from that date. This meets the requirements of the implementing decree.

Cameroon has provided for penalties in the event of failure to adhere to the time limits for the dematerialisation of bearer shares defined in section A.1.6 – Enforcement provisions to ensure availability of information. These are the ineligibility to exercise the rights attached to the bearer shares and their sale by the issuing entity within an additional time limit of one year. Detailed rules governing these penalties in practice are described below.

#### Implementation of dematerialisation in practice

- The authority in charge of practical implementation is the CAA. 118. which has also been appointed as the central depositary. The CAA has already acquired experience regarding dematerialisation with the creation of the Douala Stock Exchange in 1999. Cameroon started working on this dematerialisation in 2010 with the creation of a working group on dematerialisation.
- From a practical point of view, dematerialisation can be analysed as a process of substituting physical shares for an electronic account held in the name of the owner, and registered with the issuing company in respect of nominative shares and with a licensed custodian with respect to bearer shares.
- The 2003 regulations governing the CAA describe how to carry out dematerialisation operations. The organic framework is based on the guidelines published by the CAA in order to ensure an effective roll out of dematerialisation operations. These guidelines mainly include instruction no. 19 from the central depositary relating to the accounting of issued securities, and instruction no. 5 from the central depositary relating to the procedure for collecting and dematerialising physical securities.
- 121 Since 17 November 2015, all new shares issued by public limited companies (SA) must be dematerialised.
- With regards to nominative shares and bearer shares issued before 17 November 2015, dematerialisation will be carried out in two successive stages:

#### Stage 1: codification of issuers and registration of issued shares on securities accounts

This first step involves registering all the existing nominative shares and bearer shares with the CAA. The issuing companies must carry out this first step with the CAA before 5 May 2016. The codification is performed according to the prism of the International Securities Identification Number (ISIN). This code allows the financial intermediary to easily identify the shares on which the transaction is to be effected, and consequently to identify the owner of the dematerialised shares. To carry out this step, the CAA has written individually to each SA registered with the RCCM and the DGI. It also organised awareness-raising campaigns on the radio and television from 15 February to 15 March 2016. The CAA invited shareholders to contact issuers via notices published in the official bulletin. On 12 April 2016, 25 files of SA had been received by the CAA.

# Stage 2: collecting and registering physical shares on securities accounts

- 124. Once all the shares have been registered, the second step is to identify the owner. Nominative shares have to be returned to the issuer (the SA) who will send them to the central depositary. For bearer shares, the holders have to make contact with the custodians. The CAA receives the bearer shares but must check with the issuer whether the shares are valid (to identify any forged shares). Once the shares have been received along with the identification of their owner, the CAA registers the shares in securities accounts. Holders of bearer shares have until 14 April 2018 to register the bearer shares in a securities account.
- 125. On 14 April 2018, the bearer shares that had been initially identified during the first step, and which have not been declared by their owners, will then be subject to a forced sale. However, all shareholder will be granted a grace period of one year. During this grace period, shareholders will not be able to exercise their rights as shareholders nor receive dividends.
- 126. After this grace period (i.e. from 14 April 2019), shares that have not been presented for dematerialisation will be sold by the issuing company. Proceeds from this sale will be paid to the *Caisse des Dépôts et Consignation*. In accordance with the Constitution and property rights under the civil code, rights holders have thirty years to lay claim to the proceeds from the sale.
- 127. With regards to forced sale, measures already exist for auctions, but these rules must be adapted for the specific features of securities.

#### Conclusion

128. The Cameroonian authorities have indicated that the issuing of bearer shares by public limited companies that are not listed at the Douala Stock Exchange is not a common practice. Out of the 66 SAs that have notified the dematerialisation with the CAA, only one of them had effectively issued bearer shares. The total number of bearer shares issued by that company

in that case was 38 367. Representatives of the notary association and the RCCM also confirmed that bearer shares are not commonly used in practice.

Cameroon has a mechanism that serves to identify the owners of bearer shares, which will become fully operational on 14 April 2019 However, since 17 November 2015, any new share issues must be made in a dematerialised format. For bearer shares that had already been issued on 17 November 2015, the dematerialisation process will allow almost full identification by 14 April 2018, becoming full on 14 April 2019. The Cameroonian Authorities are recommended to finalise the effective implementation of the dematerialisation of bearer shares issued by public limited companies, and it's monitoring notably by enforcing the sanctions applicable for non-compliance.

#### Partnerships (ToR A.1.3)

- The Uniform Act on General Commercial Law (AUDCG) distinguishes between the following types of partnership:
  - société en commandite simple (limited partnership SCS): this is a partnership in which one or more partners with unlimited joint and several liability for the indefinite and joint liability for company debts (general partners) coexist with one or more partners whose liability for company debts is limited to their stake (limited partners or sleeping partners); the capital of an SCS is divided into shares (AUDCG, Article 293). On 1 February 2016, there were no SCS registered with the DGI; and
  - société en nom collectif (general partnership SNC): this is a partnership in which all partners are traders with unlimited joint and several liability for company debts (AUDCG, Article 270). On 1 March 2016, there were 15 SNC registered with the DGI
  - société en participation (joint venture SP). This is a partnership whose partners come to an agreement that it will not be entered in the Register of Companies and Liens and that it will not possess legal personality: it is not subject to publication requirements. It is not subject to publication requirements. On 1 February 2016. 358 SP were registered with the SGI. SPs will not be addressed in this report as they are neither companies with a legal personality nor contracts.
- Information on partners in partnerships is available in the RCCM and 131 with the tax authorities.

#### Obligations in commercial law

- 132. With the exception of joint ventures, partnerships are required like companies with share capital to register with the RCCM. The following information is stored in that Register (Articles 46 and 52 AUDCG):
  - the full names and private addresses of partners held to have unlimited personal liability for company debts, plus their date and place of birth and their nationality;
  - the full names, dates and places of birth and addresses of managers, directors, administrators or partners with general authority to act on behalf of the corporate entity or group;
  - stakeholdings in the corporate capital;
  - the address of the partnership's head office and, where appropriate, the address of its main establishment and of each of its other establishments;
  - indications of amendments or additions to the entry and secondary information.
- 133. Changes of partners must be communicated to the RCCM. In this way, the identity of the partners in partnerships is stored and regularly updated in the Register. This information, moreover, is also available within the company under the particular provisions that apply to each type of partnership.
- 134. Precisely because of their lack of separate legal personality, joint ventures are not registered with the RCCM. Their managers, however, are required to register with the RCCM if they carry out a business activity. Similarly, information on the identity of the partners should be available within the joint venture. In practice, relations between partners in joint ventures are governed, unless otherwise provided, by the rules that apply to general partnerships (AUSCGIE, Article 856).

# Tax requirements

135. Partnerships must register with the tax administration and provide the identity of their founders. Subsequently, partnerships must declare any material changes affecting their operation, such as changes of management, takeovers, cessation of business and changes in the structure of the company's capital or shareholdings. This declaration requirement also applies to "foreign taxpayers engaging in economic activities in Cameroon without having an office there", that is to say foreign partnerships with business operations in Cameroon.

Any material changes affecting operations, such as changes of man-136 agement, takeovers, cessation of business and changes in the structure of the company's capital or shareholdings, must be declared to the tax authorities within 15 days of the date on which the said change occurred. The registration requirement applies to the foreign company itself as well as to its chief executive and to shareholders holding more than 5% of the company's capital.

## Availability of information on partnerships in practice

- In practice, the company creation and registration procedure in 137. Cameroon is the same irrespective of the type of company (see above, for companies with share capital) and partnerships. This procedure means that information on the identity of partners in partnerships is available in practice and is updated in the RCCM, the DGI database and the taxpayers' database. There was no monitoring carried out by the RCCM on this aspect, but a shareholder has not ownership right towards third parties if he/she is not registered with the RCCM. A monitoring system has been put in place by the DGI, particularly given that information on the ownership of partnerships is essential for levying taxes.
- None of the information requests received by Cameroon referred to Cameroonian partnerships.
- In conclusion, information on the ownership of partnerships is available through their obligations under commercial and tax laws.

## Trusts (ToR A.1.4)

There is no provision for the constitution of trusts in Cameroonian law at the present time, and Cameroon is not a signatory of the Hague Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition. Accordingly, there is no scope in Cameroonian law for the creation of a trust or any similar structure. However, there is nothing to prevent a trust created in another country from being administered in Cameroon or to prevent assets located in Cameroon from being part of a foreign trust. In these cases, a tax requirement to make a declaration to the tax administration applies, which means that managers of foreign trusts who are resident in Cameroon must disclose the identity of the settlor or beneficiary of the trust (see below).

# *Tax requirements*

141. Besides the obligations laid down in AML/CTF legislation (see below), Cameroonian tax law imposes a general requirement to declare all commercial activity. Under Cameroonian tax law, income from a foreign trust administered by a Cameroonian trustee is taxable in the hands of the trustee, acting as the representative of the foreign trust with the tax authorities.

142. Since 1 January 2015, there has been a specific requirement to maintain the identity of settlors, beneficiaries and assets of trusts and similar arrangements at the place where the service providers and trustees are established. Before 15 March of each year, managers of foreign trusts who are resident in Cameroon must submit all information concerning the identity of the persons associated with the said trusts as mentioned above and concerning the assets of the trusts. This obligation applies regardless of whether the person managing the trust does so on a professional basis. Failure to comply with this obligation results in a fixed-rate fine (see section A.1.6.). In practice, the Cameroonian authorities had received no declarations by 15 March 2015 and 2016. Cameroon has put in place declarative obligations regarding foreign trusts for tax purposes, as well as sanctions for non-compliance. It is recommended that the Cameroonian authorities monitor the application of the declarative obligations applicable to foreign trusts, notably by applying the appropriate sanctions in the case of non-compliance.

#### Obligations in commercial law

143. Where a trust governed by the law of another country is administered in Cameroon, there is no specific requirement to register with the public authorities. However, the declaration requirement imposed by current legislation on all natural and legal persons, whether Cameroonian or foreign, engaging in business activities in the territory of Cameroon is applicable to foreign trusts. Accordingly, persons or entities acting as trustees in Cameroon must register with the RCCM if they engage in business activities. In such cases, the same information that is required of any persons (being individuals carrying on a business or an entity) on registration must be submitted to the Register.

# Anti-money laundering legislation

- 144. Article 5 of CEMAC-UMAC Regulation No. 01-03 covers "notaries and other independent legal professions" when they establish, administer or direct "trusts or similar structures". In such cases, the members of these professions, acting as trustees, must comply with the rules regarding the identification of their clients.
- 145. Regulation No. 0004/CIMA/PCMA/PCE/SG/08, which applies to insurance and reinsurance companies and to insurance and reinsurance brokers operating in the CIMA area, contains identical provisions to the legislation on anti-money laundering and combating the financing of terrorism, provisions that guarantee the availability of information on the identity of members of a trust involved in insurance operations in the role of trustees.

Failure to fulfil the obligations imposed by those provisions may result in the disciplinary and pecuniary sanctions defined in Articles 534-2 and 545 of the Insurance Code.

#### In practice

- 146. In practice, the Cameroonian authorities have never come across the case of a foreign trust operating in Cameroon or having a trustee resident in Cameroon. Cameroonian trustees of foreign trusts are not supervised by ANIF, which does not have enforcement powers.
- However, the authorities indicated that anybody acting as a trustee in Cameroon within the framework of their professional activity is required to register with the RCCM and the tax authorities. These procedures should allow the DGI to obtain information on the other people involved in a trust administered in Cameroon. Indeed, if the trustee resident in Cameroon does not reveal the identity of the founder or the beneficiary, the DGI will consider any income generated by the trust to be that of the trustee and will tax it accordingly. Information relating to trusts will be updated in particular during the annual declaration period of company results.

#### Determination

148 Although Cameroonian law does not permit the creation of trusts in Cameroon, it does not prevent the administration in Cameroon of a trust created on the basis of another country's legislation. In such a case, the trade, tax and anti-money laundering laws allow information on the identity of the members of the trust – trustees, settlors or beneficiaries – if they are acting in a professional capacity. If the trustee neither belongs to a legal profession nor engages in commercial activity in Cameroon, a declaration requirement applies by virtue of tax legislation.

## Foundations (ToR A.1.5)

149 Cameroonian legislation permits the creation of foundations pursuing an objective of general interest if a decree enacted by the President of the Republic confirms the recognition of their public-benefit status. Foundations recognised as being of public interest must function in accordance with Decree No. 77/495 of 7 December 1977 laying down the conditions for the establishment and operation of private welfare agencies. The duration of their existence is unlimited, and the assignment of assets to the foundation is irrevocable. The founders surrender ownership of the resources with which they endow the foundation, which ensures the financial future of the recognised public-benefit institution.

- 150. Law No. 2003/013 of 22 December 2003 on patronage and sponsorship also permits the creation of foundations dedicated to the aim of business patronage. A business foundation is defined as a voluntary non-profit activity conducted by one or more enterprises which irrevocably assign assets to it for the purpose of performing work of general interest on a non-profit basis. Business foundations are characterised by the creation of a pool of special-purpose assets in pursuit of a non-commercial goal. These foundations have a limited lifetime of six years, although they are renewable. If they are dissolved, the liquidator assigns the unused resources and the endowment to one or more public institutions or to recognised associations of public benefit whose activity is analogous to that of the dissolved foundation.
- During the peer review period, two corporate foundations were registered in Cameroon, in 2013 and 2014 respectively.

#### Legal requirements

152. Under Law No. 90/053 of 19 December 1990 on freedom of association, foundations must be registered with the prefecture of the place where their head office is located, where a register is kept. This register records the identity, the addresses and the functions of the members. These register entries are compulsory for both Cameroonian and foreign foundations. Foundations are also required to inform the prefecture of the place where the head office of the association or foundation is located of any changes relating to the administrators within two months of the changes relating to the administrators. The foundation must provide an annual report to the Prefecture which includes certified account and in principle any change regarding the governance of the foundation. In addition, at any time, the prefect may ask the management team of any group (including foundations) to provide, within a time limit of 15 days, any information that will serve to ascertain their purpose and the nationalities of their members, their administrators or their de facto managers (Article 18 of the 1990 Law on freedom of association).

## Tax requirements

- 153. In terms of tax, foundations must be registered with the tax authorities if they are liable for a tax, duty or other charge. This means that they are subject to declaration requirements like those that apply to companies. In general terms, however, all foundations are legally required to register with the tax authorities by virtue of their legal liability for employers' and employees' welfare contributions. In contrast, the identity of the foundation's members does not have to be registered with the tax authorities.
- 154. With regard to sanctions, under the provisions of Article 6 of the aforementioned Law, all associations, including foundations, which are

subject to the declaration requirement and which do not make their declaration and submit it together with two copies of their statutes are, under the provisions of Article 6 of the aforementioned Law, automatically devoid of legal personality.

#### In practice

- In practice, monitoring the compliance regarding by foundations 155. declaration and tax obligations is the responsibility of two administrations:
  - The territorial administration that verifies the declaration of existence, which is required before a foundation carries out any activities.
  - The DGI, which checks tax declarations, according to procedures that are similar to those applicable for companies with share capital (see A.1.1 companies with share capital) and partnerships (see A.1.3, partnerships).
- The prefecture is in charge of updating information about foundations. No breach of this obligation was observed during the peer review period.
- 157. Cameroon did not receive any requests for information about foundations during the peer review period.

#### Determination

By their nature, Cameroonian foundations are not relevant to the exchange of information for tax purposes. Cameroonian law does ensure. however, that information on their ownership is available to both the administrative and the tax authorities

#### Other entities

Besides the entities and arrangements described above, other pertinent structures exist, namely non-trading partnerships (sociétés civiles), non-governmental organisations and co-operatives. However, the issues associated with the availability of information on their ownership, identity and accounts are similar to those that are encountered for companies with share capital and partnerships.

# Non-trading partnerships (Sociétés civiles)

160. Non-trading partnerships (Sociétés civiles) generally fall into a category of businesses which the law does not distinguish from commercial companies and which engage in non-trading activities such as intellectual, professional or property-related activities. A distinction may be made between non-trading property partnerships and non-trading professional partnerships:

- Non-trading property partnerships (sociétés civiles immobilières) are companies with a property focus, whose purpose is to take ownership of real estate acquired or passed on by partners, thereby facilitating the management and transfer of immovable assets or even the maximisation of returns on such assets
- The purpose of non-trading professional partnerships (sociétés civiles professionelles) is to enable natural persons or legal entities to engage jointly in a professional activity that is subject to a legal or regulatory code of practice.
- 161. In each case, under Article 45 of the AUDCG, non-trading partnerships of every kind are subject to the same rules that govern the constitution of other types of company and absolutely must be registered with the RCCM (see section A.1.1. companies with share capital)
- 162. From a taxation point of view, non-trading partnerships are deemed to be transparent. Nevertheless, they may opt for corporation tax to be levied on the basis of the provisions of Article 3(2) of the CGI. They are also subject to declaration and payment requirements similar to those for companies with share capital and partnerships. The system of sanctions is also the same.

## Co-operatives

- 163. Co-operatives (*Sociétés Cooperatives*) are organised and governed by the OHADA Uniform Act on Co-operatives (*Acte uniforme OHADA sur les sociétés cooperatives.AUSC*), concluded on 15 December 2010, and Law No.92/006 of 14 August 1992 relating to co-operatives and common initiative groups and its implementing decree, Decree No. 92/445/PM of 23 November 1992 laying down detailed rules for the implementation of Law No. 92/006.
- 164. As defined in Article 4 of AUSC, a co-operative is an autonomous group of persons voluntarily joined together to fulfil their common economic, social and cultural aspirations and needs through an enterprise that is collectively owned and managed and in which power is exercised democratically and in accordance with co-operative principles. It is formed by members and must maintain its own register, showing the membership number, full name and identity document references of each member as well as his or her address, occupation and number of subscribed and of paid-up shares (Article 9).
- 165. A co-operative is created by the formulation of a constitution by private deed in lieu of a partnership agreement and must be subject to compulsory registration, within one month of its creation, in the register of co-operatives held by the prefecture for the place in which the co-operative

has its head office (Articles 70 et seq.). For tax purposes, co-operatives are, in principle, liable to corporation tax, although some – production, processing, storage and sales co-operatives for agricultural produce and breeders' co-operatives – are exempted in respect of some specific activities.

166. Their declaration requirements are similar to those for companies with share capital, as is the regime of tax penalties.

# **Enforcement provisions to ensure availability of information** (ToR A.1.6)

167. Cameroonian law has a combination of appropriate penalties in commercial law, tax legislation and the AML/CFT law to ensure that information is available on the identity and ownership of the various entities that exist in Cameroon. Penalties designed to enforce the dematerialisation requirement for securities, however, are yet to be defined.

## Penalties for failure to register

168. Under Articles 114 and 115 of AUSCGIE, failure to register a company in the RCCM results in that company being treated as a joint venture or de facto partnership with no legal personality and so being governed by the provisions of Articles 864 et seq.of AUSCGIE.

## Obligations to retain ownership information

## Retention period for information

- 169. With specific regard to the information contained in the RCCM, the Uniform Act on General Commercial Law has not set time limits for its retention. Article 20 of the Uniform Act merely provides for the creation of a national data file in the RCCM, which is computerised. The Cameroonian authorities have confirmed that information concerning registered natural and legal persons is retained for at least a hundred years from the date on which the said file was created; this retention is prescribed by Law No. 2000/10 of 19 December 2000 governing archives in Cameroon.
- 170. Documents on the ownership of companies company statutes and shares are commercial documents, not accounting documents. Nevertheless, the tax administration requires all documents that are subject to its scrutiny to be retained for at least ten years from the date of the last transaction or from the date on which the documents were drawn up (Article L5 of the CGI). In particular, these documents include registers of share transfers as well as attendance lists and minutes of general meetings. No company may impede the communication of an item of information requested by the tax

administration on the grounds that such information is held outside national territory.

Tax penalties for failing to meet information-retention requirements

- 171. Under tax legislation, non-compliance with the following obligations after receiving formal notice gives rise to a fixed penalty of XAF 1 000 000 (EUR 1 524) per month:
  - the tax requirement whereby public limited companies (since 2015) and Simplified Joint-Stock Company (SAS) (since 2016) must maintain an updated register of the registered shares they issue. As this is a recent obligation, the DGI has not yet applied sanctions for noncompliance with this obligation;
  - the declaration requirement for non-resident companies, that is to say companies which conduct business in Cameroon without having a registered office there, and
  - the specific declaration requirement that applies to the identification of settlors, beneficiaries and assets of foreign trusts and similar arrangements at the location of service providers and trustees. As this is a recent obligation, the DGI has not yet applied sanctions for non-compliance.
- 172. Cameroon has put in place declarative obligations regarding foreign trusts and the maintenance of a register of shareholders by SA and SAS, as well as sanctions for non-compliance. The Cameroonian authorities are recommended to ensure that declarative obligations regarding foreign trusts and the maintenance of a shareholder register for SA and SAS are respected, notably by enforcing the appropriate sanctions in the case of non-compliance.

# Penalties for non-compliance with legislation on anti-money laundering and combating the financing of terrorism

173. Even though the common-law concept of nominees does not exist in Cameroonian law, the client-identification requirements enshrined in the AML/CTF may be useful in identifying the real shareholders who have used a nominee to conceal their own identity. These identification requirements apply only to nominees who act as such in the practice of their profession, for example as lawyers or notaries public. Failure to meet the client-identification requirements in the forms prescribed by CEMAC Regulation 01/03 results in either a report to the Prosecutor-General of the Republic or in the institution of the disciplinary proceedings laid down in the instruments governing the exercise of the relevant professions at the behest of the authority with disciplinary power over the socio-occupational category in question, which

comprises lawyers, notaries public and accountants (Article 18 of CEMAC Regulation 01/03).

Penalties relating to the mechanism for dematerialisation of bearer shares

- The revised version of AUSCGIE does not provide for any specific penalties against companies or holders of bearer shares predating its entry into force if such shares are not entered in an account by the end of the transitional period. Similarly, no implementing rules for dematerialisation are set out, because that power is reserved for the Member States.
- Cameroon has prescribed penalties for non-compliance with the dematerialisation deadlines. Failure to meet these deadlines results in ineligibility to exercise the rights attached to the said securities and in their sale by the issuing entity within an additional time limit of one year (Article 11 of Law No. 2014/007). At the end of the transitional period (14 April 2018) and the grace period (14 April 2019), the owners of the non-dematerialised securities (including bearer shares) will lose the rights attached to the securities, and will have 30 years to claim the proceeds of the forced sale. These proceeds will be blocked on an individual bank account. Hence, the shareholders will lose the rights attached to the bearer shares, but will be able to obtain compensation for the loss of their rights, in line with the property right enshrined in the Constitution. The Cameroonian authorities are recommended to finalise the effective implementation of bearer share dematerialisation for SAs. and its monitoring activities, notably via the penalty of forced sale in the event of non-compliance.

#### Conclusion

In conclusion, Cameroon possesses enforcement provisions in its tax and commercial legislation and in the AML/CTF laws, except with regard to the dematerialisation of bearer shares, the practical implementation of which remains to be finalised, along with monitoring activities, notably via the penalty of forced sale in the event of non-compliance. Cameroon was able to respond to identity and ownership requests to the satisfaction of the peer in question.

### Determination and factors underlying the recommendations

	Phase 1 determination
The element is in place	

Phase 2 rating		
Largely compliant		
Factors underlying the recommendations	Recommendations	
Cameroon has put in place a dematerialisation system which applies to bearer shares issued since 17 November 2015. For bearer shares issued prior to 17 November 2015, the dematerialisation process will allow almost complete identification by 14 April 2018, with complete identification for all bearer shares as from 14 April 2019.	The Cameroonian authorities must finalise and monitor the practical and effective implementation of bearer share dematerialisation for public limited companies (SAs), notably via the connected sanction applicable for non-compliance.	
Cameroon has put in place declarative obligations regarding foreign trusts and the maintenance of a shareholder register for SA and SAS, as well as sanctions for non-compliance.	The Cameroonian authorities must monitor the application of the declarative obligations applicable to foreign trusts and the maintenance of a shareholder register for SA and SAS, notably by applying the appropriate sanctions in the case of non-compliance.	

## A.2. Accounting records

Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.

- 177. The Terms of Reference define the standards for the maintenance of reliable accounting records and the retention period for such documents. They recommend that reliable accounting records be kept for all relevant entities and arrangements. To be deemed reliable, these accounting records must (i) correctly record all transactions, (ii) be such that the financial situation of the entity or arrangement may be determined with reasonable precision at any time, and (iii) enable the preparation of financial statements. Accounting records must also be supported by underlying documentation, such as invoices and contracts, and be retained for at least five years.
- 178. As regards the retention of accounting records, Cameroonian legislation requires legal persons and other entities to adhere to transparency requirements that are consistent with international standards in terms of accounting formalities, of the documents to be retained and of the retention period.

#### General requirements (ToR A.2.1)

179. Companies whose registered office is in Cameroon are required to keep accounts. This obligation derives from company law (AUSGIE, Articles 137 et seq.),tax legislation (Article 73 of the CGI) and accountancy law (Article 1 of the Uniform Act on Accounting Law).

## Accounting requirements and penalties deriving from OHADA law

180. OHADA legislation lays down accounting requirements that apply to all Cameroonian entities, which are liable to penalties if they do not fulfil those requirements.

### Accounting requirements in OHADA law

- Article 13 of the OHADA Uniform Act on General Commercial Law (AUSGIE) imposes an accounting requirement for every trader, specifying that every trader, whether a natural person or corporate entity, must keep an accounting journal in which its day-to-day commercial transactions are recorded. A trader is defined as the person who carries out commercial acts by reason of his profession. These commercial acts include amongst others the purchase of movable and immovable property for resale, banking operations, trading, foreign exchange, brokerage, insurance and transit; contracts between traders for the purpose of trade; the industrial exploitation of mines, quarries and any natural resource deposit; furniture rental operations; manufacturing, transport and telecommunications; intermediary commercial operations, such as commission, brokerage, agency, and the intermediate operations for the purchase, subscription, sale or lease of immovable property, business assets, of shares or commercial or real estate company shares; and the acts carried out by commercial companies (Articles 2 and 3 of AUDCG).
- 182. Each trader must also keep a general ledger, showing a general summary balance, as well as a stock ledger. These books must be kept in accordance with the provisions of the Uniform Act on the Organisation and Harmonisation of Business Accounting.
- 183. Article 1 of the Uniform Act on the Organisation and Harmonisation of Business Accounting (AUHCE) provides that every enterprise must establish an accounting system designed to provide information to external parties as well as for its own use. To this end, the enterprise must:
  - log, classify and register in its accounts all transactions involving economic flows that are concluded with third parties or are observed or effected within the scope of its internal management;

- provide, after appropriate processing of these transactions, the presentations of accounts prescribed by law or by its statutes as well as the information required to meet the needs of various users.
- 184. Under Article 2, the following are bound to draw up accounts:
  - enterprises subject to the provisions of commercial law,
  - public, quasi-public and semi-public undertakings
  - co-operatives and, in more general terms, entities producing commercial or non-commercial goods and services, in so far as they engage primarily or secondarily, whether or not for profit, in economic activities based on repetitive acts.
- 185. Companies and natural persons acting in a professional capacity as trustees of foreign trusts are subject, as traders, to the aforementioned obligations imposed by OHADA accountancy legislation.
- 186. AUHCE provides for an accounting system based on exhaustive recording, on a daily basis and without delay, of basic information, for timely processing of the recorded data and for the availability to users of the documents they need within the legal time limits for their delivery (AUHCE, Article 15). Article 3 of the Uniform Act on General Commercial Law is clear about the role of accounting, stipulating that it must meet the criteria of regularity, truthfulness and transparency. The accounting records to be held must fulfil this requirement, even though they vary in accordance with the applicable accounting system:
- 187. The accounting records to be held must fulfil this requirement, even though they vary in accordance with the applicable accounting system.
  - In the case of the minimum cash-accounting system, companies must keep their statement of income and expenditure.
  - In the case of the simplified system, companies must keep their balance sheet, their profit-and-loss account and the notes on those statements
  - In the normal system, companies must keep the following records: their balance sheet, showing assets and liabilities separately and in detail, their profit-and-loss account, with clearly separate posting of income and expenses, their financial supply and use table, which charts investment and funding flows, the notes on those statements, which outline significant factors that do not come to light in the other financial statements, and, where appropriate, a statistical report.
- 188. Banks, credit institutions and insurers, for their part, are subject to additional accounting requirements, derived from COBAC regulations in the case of banks and credit institutions and from CIMA in the case of insurance companies.

#### Depositing accounts with the RCCM

- Since 5 May 2014. OHADA law (article 269 of AUSCGIE) requires 189 commercial companies (SA, SAS and SARL) to publish their annual summary financial statements to the RCCM of their registered office within one month following approval of the annual accounts. The summary financial statements include the balance-sheet, the income statement, the statement of source and expenditure of funds and annexed statement. Should any interested party (shareholders mainly) make a request, the lower court can require the director of any commercial company to submit the documents outlined above. This applies when the request by any interest party to the company has gone unanswered for thirty days.
- 190 To ensure the compliance with this obligation in practice, companies must provide three copies of their tax returns together with their financial accounts, and an electronic version to the DGI. The DGI then transfer a copy to the RCCM of the Tribunal of first instance and another copy to the National Institute of Statistics.

#### Penalties for non-compliance with accounting requirements

- Article 111 of the Uniform Act on the Organisation and Harmonisation of Business Accounting prescribes penalties for failure to keep accounting records. Senior company executives and managers are liable to criminal sanctions if they:
  - have not prepared and produced, for each accounting year, annual financial statements and, where required, a management report and social-audit report for every accounting year;
  - have knowingly produced and communicated financial statements which do not present an accurate picture of their company's assets. its financial situation and its annual profit or loss.
- Article 38 of Law No. 2003/008 of 10 July 2003 on the punishment of offences referred to in certain OHADA Uniform Acts specifies the penalties that apply in the event of a violation of Article 111 of the Uniform Act of 24 March 2000 for the Organisation and Harmonisation of Business Accounting. Failure to meet the requirements of Article 111 is punishable by a prison term of three months to three years and/or a fine of XAF 500 000 to 5 000 000 (EUR 762 to 7 620).
- Article 890 of the Uniform Act on Commercial Companies and Economic Interest Groups also provides for criminal sanctions for senior company executives who have knowingly published or presented to shareholders or partners, with a view to concealing the real situation of the company, summary financial statements that do not provide an accurate picture of operations in each financial year and the state of the company's finances and assets at the end of that period. Failure to meet the requirements

of Article 890 is punishable by a prison term of one to five years and a fine of XAF 1 000 000 to 10 000 0008 (EUR 1 524 to 15 244).

#### *Tax requirements and penalties*

Supplementing the commercial accounting requirements, Article 73 194 of the CGI imposes accounting requirements on taxpayers, distinguishing between turnover brackets as follows:

- for turnover between XAF 10 million (EUR 15 244) and XAF 30 million (EUR 45 734), the minimum cash-accounting system applies,
- for turnover above XAF 30 million (EUR 45 734) but not exceeding XAF 50 million (EUR 76 220), the simplified accounting system applies, and
- for turnover above XAF 50 million (EUR 76 220), the normal system applies.

Every entity (including foreign entities carrying on business in 195. Cameroon) that is liable to tax is bound to declare its income with the aid of the accounting documents that are needed to establish the amount of taxable earnings. In the absence of a declaration, the taxable entity is given notice to declare its income and has 15 days to rectify this omission (Article L3 of the LPF). If it does not do so, estimated assessment procedure is carried out by the tax administration. This automatic taxation applies in the event of failure to present all or part of the accounts or of the requisite supporting documentation where such failure is established in an official report. Estimated assessment is a special procedure which, even though it is not arbitrary, reverses the burden of proof; this means that the taxable entity must prove that the adjustments made by the tax administration are unfounded, in contrast to normal verification procedures, in which the burden of proof lies with the tax administration

Moreover, any inadequacies, omissions or inaccuracies which affect the tax base or the taxable items and which have prompted the administration to make adjustments give rise to the imposition of interest on arrears at a rate of 1.5% per month, capped at 50%, applied to the tax owed by the taxable entity. In addition, the amount of tax to be paid is subject to a surcharge, which is assessed as follows9.

- 30% if the taxable entity acted in good faith,
- 100% if it did not act in good faith, and

Article 8 of Law No. 2003/008 of 10 July 2003 on the punishment of offences 8 referred to in certain OHADA Uniform Acts

<sup>9.</sup> Article 96 of the LPF.

- 150% in the event of fraudulent operations, without prejudice to any criminal proceedings for which the LPF may provide.
- In cases where no declaration has been made, the penalties are more severe, the surcharge amounting to 100% and, for repeat offences, 150%. In addition, various fines can be levied, up to a maximum of XAF 1 000 000 (EUR 1 524).

#### In practice

- 198. In practice, the DGI monitors that tax obligations are met by implementing tax audits. Taxpayer compliance with their accounting obligations is also checked by the *Centres de gestion agréés*, approved management centres that were created to assist taxpavers with their tax and accounting obligations.
- 199 The directorate for large companies (DGE) and the Medium-sized company tax centre (CIME)s verify that tax and accounting obligations are being complied with. Taxable income is based on accounting income, with adjustments to take into account non-deductible expenses.
- 200 The DGE generates 80% of the income derived by the DGI. The DGE managed 390 taxpayers in 2015, 404 in 2014 and 560 in 2013.
- Since the creation of the CIMEs in 2014, the compliance level of 201 monthly declarations, calculated based on the total of declaring taxpayers, ranges between 80% and 95% of taxpayers. For the DGE, the compliance level stood at 100% on 30 June 2015, although some declarations are sometimes filed late, as all taxpayers reporting to the DGE must have their accounts certified by certified accountants.
- The Cameroonian tax system is based on declarations, such that the 202 DGI ensure a posteriori the accuracy of declarations made by taxpayers through tax audits. When these controls reveal non-compliance with tax and accounting obligations, sanctions are applied against tax offenders. These include penalties and interest for late payments. The following statistics represent the monitoring activities (whether desk checks, spot checks or general verifications) carried out during the peer review period.

DGE statistics	for the	2013-15	tax years	(in XAF)
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Tax year	Desk audits	Spot checks	General accounting audits
2015	103	90	5
2014	70	188	26
2013	154	171	0

# Amount of penalties and interest for late payments levied by the DGE for 2013-15 (in XAF)

Tax year	Desk audits	Spot checks	General accounting audits
2015	7 780 274 675 (EUR 11 826 017)	-	30 900 820 657 (EUR 46 969 247)
2014	14 599 722 249 (EUR 22 191 577)	35 676 053 (EUR 54 227)	19 873 280 933 (EUR 30 207 387)
2013	4 015 204 287 (EUR 6 103 110)	195 323 282 (EUR 296 891)	22 768 456 499 (EUR 34 608 053)

#### Monitoring statistics for the CIME in 2015<sup>10</sup>

Structures	Desk audits	Spot checks	General accounting audits
CIME Yaoundé Ouest	243	77	30
CIME Yaoundé Est	36	82	65

# Amount of penalities and interest for late payments levied by the DGE for 2013-15 (in XAF)

Tax year	Desk audits	General audits
2015	3 346 486 888 (EUR 5 086 660)	16 015 930 409 (EUR 24 344 214)
2014	3 435 071 857 (EUR 5 221 309)	2 226 908 958 (EUR 3 384 901)

203. The Cameroon authorities have clarified that every year compliance risk analysis is carried out on all companies registered with the Directorate General of Taxation. However, only the highest risks cases are selected for the various types of audits. During the peer review period, Cameroon received three requests for information regarding accounting information, and responded to them all satisfactorily. The requesting peer confirmed that the accounting information received was satisfactory.

# Underlying documentation (ToR A.2.2)

204. Article 19 of AUHCE specifies that the accounting records and other documentation that must be kept are an accounting journal, a general ledger, a trial balance of accounts and a stock ledger. The underlying documentation must be kept, particularly invoices, estimates, sales slips and delivery notes. Article 17 of AUHCE provides the general principles applicable to regular accounts. It provides in particular that: Accounting entries must be justified by dated underlying documents, classified in a defined order describing the accounting procedures and organisation, such that such documents can serve

<sup>10.</sup> As the CIMEs were only created in 2014, data has only been produced for 2015.

as evidence. The underlying documents must also include the references of their registration in the accounts.

- Accordingly, the accounting data that must be kept in Cameroon (see ToR A.2.1.for the commercial and fiscal accounting requirements and the related penalties) are accompanied by adequate documentation to verify that the transactions have taken place.
- In practice, during accounting audits, the tax administration ensures that taxpayers are not only maintaining ledgers but that these are supported by appropriate documents. Accounting vouchers form part of the accounting documents, and failure to maintain them correctly is punishable in the same way as not maintaining accounting documents (see above). On the occasion of accounting audits, where the taxpayer does not provide any or all of his accounting records and supporting underlying documents, this deficiency is recorded by an official report. From that moment, the administration is justified in rejecting the accounting records and to assess the taxable base of non-accounting basis. In addition, 100% or 150% penalties are applicable in case fraud is proven. In addition, any cost that cannot be justified by an accounting document is not tax deductible.

#### **Document retention** (ToR A.2.3)

- Under Article L5 of the CGI, companies as well as public administrative bodies, including the tax administration, are required to retain accounting records and supporting documents for ten years. These obligations also apply to liquidated companies.
- Accountancy Law (Article 24 of the AUDC) requires that accounting books or documents and documentation verifying their written entries be retained for the same period of at least ten years from the end of the financial year to which they relate.
- The present mechanism allows the accounting information to be retained on the premises of entities located in Cameroon. The tax and accounting requirements deriving from the various legislative instruments that are applicable in Cameroon ensure that accounting information is retained for at least five years.
- 210 In practice, the DGI has confirmed monitoring the compliance of taxpayers' declarative obligations ensures compliance with the requirement to maintain and preserve accounting documents. The implementation of the right to monitor and the investigative powers of the administration means that in practice they can ensure that these requirements are being met.

#### Determination

211. The requirements concerning the retention of accounting records, including the underlying documentation, are set out in the current commercial and tax legislation of Cameroon. Cameroon has an appropriate legal framework, which also includes sanctions to enforce the applicable accounting obligations.

#### Determination and factors underlying the recommendations

	Phase 1 Determination
The element is in place	

Phase 2 Rating
Compliant

#### A.3. Banking information

Banking information should be available for all account-holders.

212. Access to banking information is of interest to the tax authorities if the bank has useful and reliable information on its customers' identity and the nature and amount of financial transactions.

## Record-keeping requirements (ToR A.3.1)

The Cameroonian financial sector comprises credit institutions, financial institutions, microfinance institutions, insurance companies, forex traders and money-transfer operators. Savings and credit activities on the part of banks and microfinance institutions are supervised in the Community framework by COBAC, the Central African Banking Commission, which is responsible for overseeing credit activity in the CEMAC sub-region. CEMAC Regulations, and notably all AML/CFT regulations, have direct effect into the domestic law of the CEMAC Member States as soon as these regulations enter into force, without any other formal requirements. COBAC grants licences to practise professions in the financial sector and ensures that their operations are monitored and properly conducted. The Ministry of Finance also oversees banking activity in its capacity as a monetary authority as well as overseeing intermediary exchange activities. Banking activities are governed by the Convention Harmonising Banking Regulation in the States of Central Africa. Money transfers, on the other hand, are primarily subject to Cameroonian postal legislation as set out in Law No. 2006/019 of 29 December 2006 governing postal activities in Cameroon.

214 Banks and financial institutions are subject to the same accounting requirements as companies. These requirements are reinforced by the Community rules governing this particular sector. Article 32 of the Annex to the Convention Harmonising Banking Regulation in the States of Central Africa, for example, stipulates that banks and financial institutions are bound by the rules on consolidation of accounts and public disclosure of accounting documents intended for both the competent authorities and the public. Article 36 expands on this provision by specifying that banks and financial institutions are required to forward any information, clarification or justification that will help the authorities to exercise supervision and technical oversight.

#### Anti-money laundering regulations

- 215 The anti-money laundering legislation of the Community applies to financial institutions. These are defined as credit institutions (banks and other financial establishments), including branches, intermediaries involved in banking transactions, Post Office financial services, microfinance institutions, insurance and reinsurance companies and brokers, stock exchanges, bodies performing the functions of a central depositary or settlement bank, asset-management companies, companies offering investment services, undertakings for collective investment in transferable securities (UCITS) and their management companies 11.
- CEMAC-UMAC Regulation No. 01-03 on the prevention and combating of money laundering and terrorism financing in Central Africa imposes a twofold identification requirement, prescribing identification of the client (Article 9) and of the beneficial owner (Article 10). Entities (e.g. banks and financial institutions) failing to fulfil these requirements are liable to the penalties laid down in Article 46 of the said Regulation. This means, for example, that any attempt to commit such a crime or aiding and abetting those who commit such a crime is punishable by imprisonment of five to ten years along with a fine of up to five times the amount of the laundered funds, subject to a minimum of XAF 10 000 000(EUR 10 524).
- Article 13 of CEMAC-UMAC Regulation No. 01-03 provides that documents relating to the identity of regular or occasional clients of a bank or financial institution or to transactions conducted by such clients must be retained for at least five years from the date of closure of their account, from the date on which relations with the client ended or the date on which the last transaction was conducted. Non-compliance by banks or financial institutions with this obligation attracts the penalties defined in Article 46

<sup>11.</sup> Article 6 of CEMAC-UMAC Regulation No. 01-03 on the prevention and combating of money laundering and terrorism financing in Central Africa

of CEMAC-UMAC Regulation No. 01-03. This means, for example, that any attempt to commit such a crime or aiding and abetting those who commit such a crime is punishable by a custodial sentence of five to ten years along with a fine of up to five times the amount of the laundered funds, subject to a minimum of XAF 10 000 000 (EUR 10 524).

## In practice

- 218. Ensuring that AML/CTF obligations are respected, particularly with regards to the customer due diligence, forms part of the desk checks and onsite inspections carried out by COBAC.
- 219. Desk checks are carried out using a questionnaire known as ASTROLAB (*Aide à la Surveillance et au Traitement de la Réglementation et de l'Organisation de la Lutte Anti-Blanchiment*) which is sent out periodically by the COBAC General Secretariat to credit establishments. This questionnaire reflects aspects of the CEMAC and COBAC regulations and consists of a number of closed questions ("yes" or "no" answers) with the possibility to include comments. It is filled in by the banks and provides information of the state of AML/CTF procedures in place in the bank.
- 220. The questions are weighted, which allows a graph to be produced highlighting the strengths and weaknesses of the establishment in terms of AML/CTF. Desk controls can then lead to on-site inspections to ensure the effectiveness of the implementation of due diligence and data conservation requirements by these establishments. There were seven onsite visit carried out by the COBAC in 2015.
- 221. Other bodies control the practices of credit establishments. The National Credit Commission (CNC, Commission Nationale du Crédit) gives its opinion on questions regarding currency and credit. However, the CNC does not operate in the sphere of the COBAC. When a credit or microfinance establishment wishes to set up in Cameroon, the CNC gives an opinion. With regards to relations between clients and banks, CNC acts as a mediator. The COBAC sends reports to the Treasury Directorate.
- 222. The Treasury Directorate carries out controls on banks, mainly looking at ratios and banking regulations. The Treasury Directorate carries out desk inspections and on-site inspections. It applies penalties. When the Treasury Directorate receives reports from the COBAC, it immediately opens an enquiry. The Treasury Directorate has indicated that customer due diligence obligations are generally respected but it considers that there is progress to be made, as the legal framework dates from 2000. In terms of banking, checks were carried out in 2014 on all banks. The Treasury Directorate has not applied penalties but has organised discussion meetings. Recommendations have been made. Audit teams are generally made up of

10 people. The onsite visit generally last one week. Another schedule of controls has been opened in 2015.

During the peer review period, Cameroon received four requests for banking information, notably bank statements and references of bank accounts held in Cameroon. This information was available from the domestic banks in each case.

#### Determination

224. The body of legislative instruments that are in force ensure the availability of information about the identity of holders of bank accounts in Cameroon and the transactions relating to those accounts.

#### Determination and factors underlying the recommendations

P	Phase 1 Determination
The element is in place	

Phase 2 Rating	
Compliant	

#### B. Access to information

#### Overview

- A variety of information may be needed in a tax inquiry, and jurisdictions should have the authority to obtain all such information. This includes information held by banks and other financial institutions as well as information concerning the ownership of companies or identity of interest holders in other persons or entities, such as partnerships or trusts, as well as accounting information in respect of all such entities. This section of the report examines whether Cameroon's legal and regulatory framework gives the authorities access powers that cover the relevant people and information and whether taxpayers' rights and safeguards are compatible with effective exchange of information.
- Pursuant to the (CGI), Cameroon's tax authorities have extensive powers of access to information in connection with assessing, auditing and collecting taxes. In particular, those powers enable it to request information from any taxpayer or third party who is likely to be in possession of the requested information in order to determine the amount of a person's income or collect a tax.
- 227. Banks, financial institutions, insurance companies and any natural or legal persons acting as the depositary or holder of monies or assets on behalf of third parties are also required, under those provisions, to provide, at the request of the tax administration, any information required in connection with operations to assess, audit or collect taxes and duties.
- Cameroon does not have any instrument which grants specific powers of collection to the tax authorities to enable them to gather information solely for the purpose of international information exchange. However, for the purpose of administrative co-operation, the CGI allows Cameroon's tax authorities to avail themselves of the domestic information-gathering powers afforded to tax officials under the CGI. Cameroon's authorities use these powers for the purpose of international information exchange.

- 229. There is no limitation in any of the various information exchange instruments signed by Cameroon concerning the exchange of banking information. Likewise, professional secrecy is not a barrier to information exchange.
- 230. The rights and safeguards applicable to people in Cameroon are compatible with effective exchange of information. Cameroon's legislation does not place any obligation on the tax authorities to notify the taxpayers concerned of any information requests from foreign administrations.
- 231. The penalties for failing to provide information or documents appear to act as a sufficient deterrent to allow Cameroon's tax authorities to obtain the information concerned. The Cameroon authorities are therefore able to access all types of information which people situated in Cameroonian territory are required to retain.

## B.1. Competent authority's ability to obtain and provide information

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

- 232. Under the tax conventions signed by Cameroon, the competent authority for exchange of information is the Finance Minister or his duly appointed deputy. The head of the tax administration (the Director-General of Taxation) has received delegated powers from the Finance Minister, which cover information exchange. This delegation of powers follows from Decree N° 2013/006 of 26 February 2013 regarding the organisation of the Minister of Finance and further to the Director-General of Taxation by decree No. 00000376/MINFI of 18 September 2015 governing the delegation of powers to the competent authority for information exchange for tax purposes. The tax administration is directly answerable to the Minister for Finance.
- 233. The power of Cameroon's tax administration to obtain information derives principally from Articles 375 to 381 of the CGI and Articles L42 et. seq. of the LPF (Livre des Procédures Fiscales, LPF) which establishes a right to information on the part of the tax authorities. This right to information may be used to respond to information requests from foreign jurisdictions. The article requires taxpayers, banks, financial institutions, insurance companies and, in general, any natural or legal person acting as a depositary for or holding monies or assets on behalf of third parties to provide the tax authorities, on request, with the records they are required to keep under the commercial law of the Organisation for the Harmonisation of Business Law in Africa (OHADA) in addition to any other accounting documents, income and expenditure records which an undertaking is required to keep under the legislation in force.

234 The Cameroon tax administration can also obtain information by using its power of audit under Articles L11 to L20 of the LPF.

### Ownership and identity information (ToR B.1.1.)/Accounting records (ToR B.1.2.)

The competent Cameroon authorities possess three different rights 235 that enable them to access ownership and identity information and accounting or fiscal information, except where it concerns medical records or national security: (i) the right to information, which is the most important, (ii) the right of audit and (iii) the right of investigation.

### Powers of investigation and of access to information

- 236 The principal means whereby the tax administration can respond to information requests is to use its right to information, the essence of which is to allow the administration to obtain on request the documents and information that it requires for tax purposes. Alongside this right to information, the Cameroon tax administration also has two other legal means at its disposal which can, as appropriate, assist in the search for information for exchange purposes. These are the right of audit and the right of investigation; however, these rights are little used for the purpose of information exchange. Except for the right of investigation which only applies to indirect taxes, all access powers can be used concurrently for domestic or EOI purposes. For example, in order to gather information regarding a taxpayer, it could be considered to carry out a tax audit in the premises of the taxpayer and to exercise the right to information to obtain information held by third parties regarding the taxpayer.
- 237. Article L4 of the LPF provides that taxpayers are required to provide, at the request of the tax administration, all statutory accounting documents and records, supplemented, as necessary, by any specific accounting items peculiar to the type of operation in question which can corroborate the accuracy of particulars given in their declarations. That obligation applies to all taxpayers, but also to the accredited representatives of foreign companies pursuing an economic activity in Cameroon and to managers of trusts or similar structures domiciled in Cameroon.

# Right to information

238 The right to information is a legal means of seeking information, an investigative tool for corroborating, planning and collecting tax information in order to compile a passive inventory without any critical scrutiny of the information provided or any copying of documents. Therefore, there is no particular guarantee for the person against whom that right is exercised because the right is neutral with respect to the person concerned and cannot of itself give rise to any notice of rectification. It is not possible to audit any person required to produce information following a request made in application of the right to information. Thus, the right to information rarely applies to the individual taxpayer, and is usually applied with respect to third parties.

- 239. Tax officials who have attained at least the grade of inspector are entitled to exercise the right to information, which appears to give a degree of flexibility. Article L42 of the LPF stipulates that this right to information also applies to obtaining information on behalf of a foreign administration.
- 240. Under Article L43 of the LPF, the tax authorities' right to information is very extensive and is exercised in relation to natural or legal persons, public administrations, persons engaging in insurance transactions, banks, depositaries of public documents and companies required to keep shareholder registers, among others. The right may be exercised by correspondence or on site. In all cases, the administration may, at its own expense, take copies of actual or paperless documents.
- 241. The only limit to the exercise of the right to information is professional secrecy. However, professional secrecy covers only information relating to patients' medical records or information classified as "defence secrets" (Article 47(2) LPF). Records, registers, documents or files of any kind over which the administration may exercise its right to information must be kept for a period of ten years from the date of the last transaction entered in the relevant records or registers or from the date on which the documents or files were created. That period is the same as the period laid down in the Uniform Act on the Organisation and Harmonisation of Business Accounting.
- 242. Exercise of the right to information is enforceable, as described above (see section B.1.4.— Enforcement powers). Therefore, any refusal to provide information may entail the imposition of a fixed penalty of up to XAF 5 000 000 (EUR 7 620). This will apply to any person who has provided false information or tried to evade or to oppose the right to information. Moreover, a fine of XAF 100 000 (EUR 152) for each day's delay beyond the period indicated in the request applies to any attempt to delay enforcement of the right to information <sup>12</sup>.

# Right to information in practice

243. To obtain information from a Cameroonian authority or a third party, the DGI addresses a right to information request to the entity that holds the information.

<sup>12.</sup> Article L104 LPF.

- 244 The holder of the information has 15 days to respond to this request. After this period, notice is served with the effect of ordering communication of the information, in the case of a private third party, or a reminder letter is sent out to an Administration.
- In 2015, the CIME of Yaoundé Ouest and Yaoundé Est exercised their right to information 535 times and 276 times respectively. The DGE exercised its right to information 90 times in 2013, 50 times in 2014 and 103 times in 2015. For EOI purposes, the DGI has only used its right to information and no other access power.

#### Right of audit

- 246 Article 9 LPF affords the tax authorities full powers in terms of assessing and auditing the taxes and duties payable by a taxpayer. They audit statements and the various instruments or documents used to establish taxes, duties, contributions or payments of any kind. The aim of audits is to verify the accuracy and truth of the declarations made by taxpayers and, if necessary, to rectify them. The right of audit is exercised where a taxpayer from whom information has been requested is in the process of being inspected or where the administration considers that the content of the information requested during an inspection requires more detailed investigation. The right of audit is exercised in two ways: audit on the basis of documents or auditing of accounts
- 247. Auditing on the basis of documents enables the administration to check statements submitted by taxpayers at its own offices, without giving prior notice to the taxpayer. In that case, the administration is empowered to request in writing any information, explanation or clarification deemed to be necessary. It hears the persons concerned if this seems useful or where the latter ask for oral explanations. However, the usefulness of the operation is limited by the fact that the administration cannot, during a document-based audit, have access to accounting documents such as accounting books and invoices 13
- 248 The auditing of accounts enables tax officials with at least the grade of inspector to check, at a taxpayer's premises, the accounting records and/or documents kept by the latter. The principal constraint in terms of accountsbased auditing (which distinguishes it from auditing on the basis of documents) is the administration's duty to give advance warning (15 days) by means of a notice of inspection. However, the administration may carry out unannounced inspections. In that case, it gives the notice of inspection to the taxpayer at the beginning of the on-site audit. An inspection performed on the day of giving

<sup>13.</sup> Article L21 LPF.

notice concerns only findings of fact. Where accounts are held in digital form, the administration may be assisted by an expert appointed by the administration and the rules relating to professional secrecy are not applicable.

- 249 Thus, the search for information may lead the administration to audit accounts in order to obtain the information requested by a foreign partner. This means of investigation is particularly effective in that it does not apply purely to taxpayers. The tax administration may exercise its right of audit in relation to people who are not traders and who pay salaries, fees or remuneration of some kind, or who receive, manage or distribute funds on behalf of their members. To that end, the persons and entities concerned, in particular NGOs, partnerships and all not-for-profit organisations must provide the administration, on request, with any accounting records and associated documents retained by them in addition to any documents relating to their activity. Taxes already audited may not be re-audited in respect of the same period. The audit may not take more than three months (Article L40 LPF). Time-barring or the impossibility of performing re-audits do not hamper information exchange either in that the tax authorities can always perform a document-based check which enables them to seek information from a taxpayer, or they can have recourse to other powers (such as the right to information) in order to obtain information, even from third parties.
- In practice, right of audit has never been used during the evaluation period to obtain information in the EOIR context. Under internal rules, the DGE and CIMES have carried out both on-site audits and desk audits (see section A.2, accounting information). For example, the DGE carried out 103 desk-based audits and five on-site audits in 2015 (compared with 26 in 2014).

## Right of investigation

251 The right of investigation applies solely to the search for infringements of invoicing rules and accounting procedures and failure by persons liable to indirect taxes and duties to submit the statutory declarations. It enables the tax authorities to access premises used for business purposes, land and warehouses, means of transport used for business purposes and their loading, and to verify the physical aspects of an operation <sup>14</sup>. This particular means of investigation may be used only in order to check indirect taxation. Cameroon's tax authorities may exercise this right for the purpose of information exchange only if the information requested relates to indirect taxation, pursuant to the convention or agreement which allows such information to be exchanged. In practice, for domestic purposes, 20 investigations were carried out in 2015.

<sup>14.</sup> Article L49 LPF.

## Use of information-gathering measures in the absence of domestic tax interest (ToR B.I.3)

- The concept of "domestic tax interest" describes situations in which a contracting party may provide information to another contracting party only if it has an interest in gathering such information for its own needs.
- Law No. 2014/026 of 23 December 2014 amended Article L42 LPF by clarifying that the right to information also applies for the purpose of "obtaining information on behalf of a foreign administration", thereby removing all ambiguity regarding the information-gathering powers of Cameroon's tax authorities. In terms of the right of audit and the right of investigation, the law does not indicate clearly whether these rights may be used to gather information on behalf of a foreign administration. The Cameroon authorities have confirmed that they interpret the law as allowing them to exercise the right of investigation and the right of audit for the purpose of obtaining information on behalf of a foreign administration, without having an interest in that information for their own needs. These powers have been used in practice to answer requests for information.
- 254 Furthermore, duly ratified or approved treaties or agreements take precedence, once they have been published, over laws (Article 45 of the Constitution). This means that the competent authority is required to apply the provisions of taxation conventions or information exchange agreements which require them to provide the information requested by another contracting state. To that end, it is required to use all means at its disposal under tax legislation, notwithstanding any other conflicting provision of domestic law.
- 255. To conclude, Cameroon legislation contains no restriction whereby the use of domestic information-gathering powers is limited to the needs of the Cameroon administration itself. Access to information in practice
- In practice, the information-gathering procedure differs according to the source of the information (from the tax administration, a third party or a taxpayer).
- 257. If the information is held by the tax administration it is collected exclusively by the International Information Exchange Unit (l'Unité d'Echange International des Renseignements – UEIR) which has unlimited access to internal databases as well as the tax files of taxpayers. The DGI currently has the following databases:
  - AREN: an application that manages tax information cross-checking;
  - Unique Identification (IDU, identifiant unique) which gathers information at a national level on all taxpayers registered with the DGI, and

- MESURE (Meilleur Suivi du Rendement) which centralises information on tax declarations:
- FUSION, which is a consultation platform for both the Taxes and Customs departments.
- E-MAP which contains information on public procurement and online declarations
- 258. If information is held by third parties, it can be collected by the Tax audit group (*Brigade des Enquêtes Fiscales*), the Investigation Unit (*cellule des recherches*) or the regional brigades (Brigades régionales), by cross-referencing information or carrying out in-depth investigations of third parties. The file is then sent to these departments by the UEIR, without communication of the initial request for the details concerning it. The information thus obtained is sent to the Director-General of Taxation following a model that has been designed for this purpose.
- 259. Information held by third parties can also be collected by the departments in charge of tax audits during their visits, when the persons subject to a request for information undergo an on-site audit. The tax officials in charge of auditing and investigation of third parties are responsible for ensuring the completeness of the requested information.
- 260. These procedures are carried out under the supervision of the head of the UEIR. The other departments from whom information is requested are not informed of the reason for the application of this right of investigation or audit.
- 261. The Cameroonian authorities indicated that the procedures and time-frames applicable to respond to a request are as follows:
  - When the information required to answer a request is held by the Cameroonian tax authorities, it is immediately communicated to the requesting jurisdiction.
  - When the information is held by a public authority, such as the company registration department, no particular timeframes or procedures exist. The information is immediately made available to the competent authority which then passes it on to the requesting jurisdiction.
  - When the information is held by or is under the control of a taxpayer, the individual or the entity about whom the request relates, or when information is held or controlled by a third party, the normal procedures for gathering tax information under Cameroonian law apply (right to information and right of audit), with a period of 15 days to provide the information requested.

## **Enforcement powers** (ToR B.1.4)

- The tax authorities have powers to punish failure to respond or an 262 inadequate response to a request for information. The 2009 Finance Law laid down detailed rules governing the imposition of penalties for evading, attempting to evade or opposing the right to information. Previously, a penalty was applicable to any person evading, attempting to evade or opposing the right to information, without any enforcement rules being laid down. People (such as taxpayers, banks and third parties) against whom the right to information has been asserted have a statutory period of fifteen (15) days in which to reply. The current period runs from the date of receipt of the advice note, the postmark or delivery note acting as proof.
- 263. A refusal to provide information may be punished by a fixed fine of up to XAF 5 000 000 (EUR 152). This will apply to any person who has provided false information or tried to evade or to oppose the right to information. Moreover, a fine of XAF 100 000 (EUR 152) for each day's delay beyond the period indicated in the request applies to any attempt to delay enforcement of the right to information (Article L104 LPF).
- 264. The financial penalties referred to above can be applied only after official notice has been served, setting a 15-day deadline 15. If no reply to the administration's request has been received by the relevant deadline, penalties may be applied.
- 265. In addition to these penalties, banks may not deduct the cost of managing the bank accounts concerned. Such penalties may be supplemented by those applicable under other regimes, such as that of the National Financial Investigation Agency, ANIF (Article 18 of CEMAC Regulation No. 01/03).
- In terms of the right of audit, failure to provide the information 266 required to enable the audit to be performed is liable to a discretionary fine (Articles L29 to L33 bis LPF). In terms of the right of investigation, any person evading or opposing application of the right of investigation is served with formal notice (Article L50 LPF). Failure to comply incurs the penalties laid down in Article L104 LPF as mentioned above
- The Cameroonian authorities have indicated that it has not been necessary to apply penalties during the evaluation period as the right-to-access obligations had been respected.

<sup>15.</sup> Article L44 LPF.

#### Secrecy provisions (ToR B.1.5)

268. Jurisdictions should not refuse, on the basis of secrecy provisions (e.g. banking secrecy, business secrecy), to reply to a request for information made pursuant to an information exchange arrangement. Cameroon legislation contains several provisions concerning secrecy and confidentiality.

#### Banking secrecy

- 269. Banking secrecy is governed by the 1992 Convention harmonising banking legislation in Central African States. Article 42 of the Annex to that Convention stipulates that "any member of the management or supervisory board of a credit institution and any person who is involved in the management of a credit institution or is employed by the latter shall be required to maintain business secrecy subject to the conditions and penalties laid down in the Penal Code".
- 270. Furthermore, a specific provision on the protection of banking secrecy has been adopted at domestic level. This is Law No. 2003/004 of 21 April 2003 on banking secrecy. Pursuant to Article 3 of that law, banking secrecy is defined as the duty of confidentiality incumbent upon credit institutions in relation to the documents, facts or information concerning their customers which come to their knowledge in connection with the performance of their duties.
- 271. In addition to the staff of credit institutions holding such information, banking secrecy also applies to any person who participates directly in the management, auditing or liquidation of a credit institution, and to any people who, although not members of staff, have been privy to banking information by virtue of their intellectual or technical skills or their position. Such people must refrain from disclosing, revealing or communicating in any way the information which came to their knowledge in the pursuit of their duties. It therefore indicates specific cases of infringement of banking secrecy (Articles 5 and 6) and those persons against whom it may not be asserted.
- 272. Article 10 of Law No. 2003/004 of 21 April 2003 provides that banking secrecy may not be relied on against tax officials acting in the context of a written information procedure as laid down in the CGI. The tax authorities have the right to obtain any accounting or banking records that they require for the purpose of assessing and collecting a tax. Article L42 LPF, introduced by Law No. 2014/026 clarified the fact that this right to information can also be exercised in order "to obtain information on behalf of a foreign tax administration, without the provisions of the law concerning banking secrecy or business secrecy being asserted against them as a ground for withholding information, subject to Article L47 of the LPF". The limitations contained in Article L47 LPF cover only information that relates exclusively to patients'

medical records, or national security information classified as "defence secrets".

- 273. For the tax authorities, the particulars required in order to obtain banking information are generally, but applied alternatively:
  - name or company name of account holder (in the case of legal entities).
  - date of birth for natural persons, or of incorporation for legal persons.
  - name of account holder (in case of individuals),
  - bank account number.
  - address.
  - registration number in the trade and personal property credit register,
  - unique identifier (tax authority registration number).
- 274. The authorities in Cameroon have clarified that, notwithstanding the above mentioned list of examples, any document providing for an element to identify the bank account holder (e.g. credit card number) is sufficient for the competent authority to obtain banking information. To conclude, in the current state of Cameroon fiscal legislation, there is no statutory limit on the ability of the administration to obtain and communicate the tax information held by a bank or financial institution.

## Access to banking information in practice

- When the information is under the control of a bank, the procedure 275. that is generally used is the right to information, which results in the lifting of banking secrecy. Thus, within this framework, the banking establishment that receives the request has two weeks in which to provide the administration with the information required.
- Cameroon received four requests regarding banking information, to 276 which it responded.

## Other professional secrecy

Cameroon legislation protects attorney-client privilege 16 and, more 277. generally, the professional secrecy of persons acting as legal representatives (especially ministerial officials). However, the tax authorities have an extensive right to obtain information against which professional secrecy may not be asserted (Article L42 LPF), subject to Article L47 LPF of the LPF.

<sup>16.</sup> Article 20 of Law No. 90/059 of 19 December 1990 organising the legal profession.

- 278. The limitations contained in Article L47 LPF cover only information that relates exclusively to patients' medical records, or national security information classified as "defence secrets". Article L43 LPF indicates that this right to information may be asserted against any natural or legal person "pursuing a profession, persons performing insurance transactions, banks, stockbrokers, depositaries of public documents and companies that are required, among other things, to keep registers of transfers of shares or bonds".
- 279. Under Article 375 of the CGI, persons responsible for civil status registers, lists of tax payments and any other persons responsible for archiving or storing official documents are required to provide them to tax officials on request and to allow the latter, free of charge, to obtain any information, take extracts or make copies as needed for the purposes of the Treasury. These provisions also apply to notaries, bailiffs, registrars and public secretaries in relation to the documents with which they are entrusted, subject to the restrictions in the following paragraph and in Article 377 CGI.
- 280. In practice, the professional secrecy of attorneys, notary and accountants has never been challenged by the tax authorities. The tax authorities have not needed to exercise their right to investigation during the evaluation period.
- 281. Regarding the attorney-client privilege, the representative of the Bar Council interviewed during the onsite visit indicated that the Bar Council considers professional secrecy to be absolute. He was of the opinion that professional secrecy can only be lifted by the client.
- 282. The Cameroonian authorities indicated that attorney-client privilege as provided by the Law on the Lawyer profession in Cameroon and the Internal regulation of that profession is circumscribed to advising and defending their clients. In contrast, information held by lawyers when they act as an agent to carry out legal or corporate acts, outside of the scope of a legal proceeding, is not covered by attorney-client privilege. The authorities also confirmed that they had never had to exercise the right to investigation or to information with an attorney. The DGI mentioned that it did not need to contact attorneys to gather information as this was generally available elsewhere.
- 283. However, the laws and their interaction have never been tested in practice and the understanding of the laws by the Bar Council and the tax administration would appear to be contradictory. It is recommended that the Cameroonian authorities clarify the appropriate reading of the provisions set out in article L42 LPF and monitors the guarantees granted by the CGI to lift attorney-client privilege.

#### Determination and factors underlying the recommendations

Phase 1 Determination				
The element is in place				
Phase 2 Rating				

## B.2. Notification requirements and rights and safeguards

Compliant

The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

## Rights and safeguards should not unduly prevent or delay effective exchange of information (ToR B.2.1)

- Cameroon legislation guarantees respect for the rights of taxpayers in their relations with the tax authorities, particularly in connection with procedures for the auditing and collection of taxes. However, the protection of those rights may not hamper the effectiveness of information exchange and, more particularly. Cameroon has no procedures for advance notification of taxpayers.
- 285. In terms of exercising the right to information, the information contained in medical records or in files classified as "defence secrets" is not covered by the right to information. The tax authorities are therefore unable to access that information and certainly cannot exchange it with a partner under an agreement or convention (Article L47 LPF). Likewise, the tax authorities may not supply any information to a foreign requester that could reveal a trade, industrial or professional secret or whose disclosure could threaten security or public policy (Article 63 LPF).
- The right of audit is tightly regulated by the LPF, especially in terms of auditing accounts. The administration must give advance notice of its visit to the taxpayer, and the notice itself is subject to specific rules: eight days' notice, details of the taxes to be audited and the period concerned. Taxes already audited may not be re-audited in respect of the same period. The audit may not take more than three months (Article L40 LPF). These different safeguards for taxpayers do not in any way hamper information exchange.
- Even the period of three months given to the administration, by law, for terminating an audit is favourable to information exchange in that the rule requires the information to be provided within a reasonable timescale, or at least that it be updated within 90 days. A tax audit undertaken solely

for the purpose of information exchange can normally be undertaken and the information provided in less than three months. Furthermore, that time is extended to six months in the case of a transfer price audit or in the case of information exchange procedures under taxation conventions (Article L40 LPF). Time-barring or the impossibility of performing re-audits do not hamper information exchange either in that the tax authorities can always perform a document-based check which enables them to seek information from a taxpayer, or they can have recourse to other powers (such as the right to information) in order to obtain information, even from third parties.

- 288. Finally, Cameroon legislation does not require the tax administration to notify a person in Cameroon who is the subject of a request for information received from a foreign administration under an international convention. No prior or subsequent notification is therefore possible in Cameroon.
- 289. In practice, the Cameroon tax administration, which is the competent authority, has been able to exercise its powers to access information without any impediment linked to the implementation of the rights and safeguards of individuals.

#### Determination

290. Cameroon legislation guarantees that the rights of taxpayers in their relations with the tax authorities are respected, particularly in connection with the auditing and collection of taxes, but those rights do not unduly prevent or delay the exchange of information.

#### Determination and factors underlying the recommendations

Phase 1 Determination	
The element is in place	

Pl	hase 2 Rating
Compliant	

## C. Exchanging information

#### Overview

- Jurisdictions generally cannot exchange information for tax purposes 291 unless they have a legal basis or mechanisms for doing so. In Cameroon, the legal authority to exchange information is derived from bilateral mechanisms (double taxation conventions) and multilateral mechanisms (CEMAC Convention on Mutual Administrative Assistance in Tax Matters 17; (CEMAC Convention) and the Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention)), in addition to domestic legislation. This section of the report examines whether Cameroon has an information exchange network that enables it to achieve effective exchange of information in practice.
- Until June 2014, Cameroon had a modest network of three bilateral tax conventions 18 and the regional multilateral CEMAC Convention, which contains provisions on information exchange for tax purposes. This enables it to exchange information with a total of eight jurisdictions. On 25 June 2014, Cameroon signed the Multilateral Convention adding information exchange relations compliant with the standard with 90 jurisdictions. The Law ratifying the Multilateral Convention was promulgated on 20 April 2015. The Multilateral Convention will enter into force on 1 October 2015 in Cameroon. Furthermore, the Double Taxation Convention (DTC) with Morocco was ratified by Cameroon on 31 December 2014, and several draft DTCs are in the process of negotiation or ratification.
- So far, Cameroon has not rejected any request to conclude an exchange-of-information agreement. All mechanisms for exchanging information include provisions relating to confidentiality, and Cameroon domestic legislation also contains provisions on this subject. Such provisions apply

Convention on Mutual Administrative Assistance in Tax Matters, Act No. 17/65-17 UDEAC-38 of 14 December 1965.

<sup>18.</sup> Tax Conventions with Canada, France and Tunisia.

equally to the information and documents concerned by the request received by the competent Cameroon authority and to the responses provided to the treaty partner.

- 294. All treaties concluded by Cameroon provide that the parties concerned will not be required to disclose information covered by industrial, business or professional secrecy or information covered by attorney-client privilege or to disclose information which would contravene public policy.
- 295. During the evaluation period, Cameroon did not have any unit specifically dedicated to EOI. Since 2012, Cameroon has dedicated important human and financial resources and has made substantial efforts to conform to international standards of information exchange. Thanks to the use of these resources, by the end of the peer review period, an information exchange unit was operational and had adequate resources. Cameroon also drew up an EOI Manual, the content of which is in line with the standards.
- 296. The Cameroonian authorities indicated that they had received six requests for information during the peer review period from one single partner. During the peer review period, Cameroon responded to two of the six requests it received in less than 90 days, and to the four other requests received in less than 180 days. It is recommended that Cameroon ensures that, within the framework of the new EOI organisation in place, EOI requests from partners are dealt with in a satisfactory manner and within a reasonable timeframe.

## C.1. Information exchange mechanisms

Exchange of information mechanisms should allow for effective exchange of information.

- 297. Under the Cameroon Constitution, the President of the Republic has the power to sign and ratify treaties (Article 43). However, that power may be delegated to the Prime Minister or other ministers.
- 298. Until June 2014, Cameroon had a modest network of three bilateral tax conventions. In addition, Cameroon was a party to the CEMAC Convention, which was signed on 14 December 1965 by Cameroon, the Central African Republic, Chad, the Republic of the Congo, Equatorial Guinea and Gabon. As these conventions contain provisions regarding exchange of information for tax purposes, Cameroon has been able to exchange information with eight jurisdictions. These conventions do not contain the latest version of Article 26 of the OECD Model Tax Convention.
- 299. Since 25 June 2014, Cameroon has had an extensive network of information exchange mechanisms, concluded in the form of bilateral or multilateral conventions. As of that date, Cameroon has been a party to the

Multilateral Convention, meaning that it is now able to have an agreement compliant with the standard with 90 jurisdictions with which it previously had no information exchange arrangement. Furthermore, the DTC with Morocco, signed on 7 September 2012, was ratified by Cameroon on 31 December 2014. Several draft tax conventions are currently being negotiated or ratified. No jurisdiction has yet indicated that it has approached Cameroon with a view to negotiating an information exchange mechanism.

## Foreseeably relevant standard (ToR C.1.1)

The international standard for exchange of information envisages information exchange upon request to the widest possible extent. However, it does not allow "fishing expeditions", meaning speculative requests for information that have no apparent nexus to an open inquiry or investigation. The balance between these two competing considerations is captured in the standard of "foreseeable relevance" contained in Article 26(1) of the OECD Model Tax Convention, which provides as follows:

> "The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States. or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2."

- 301. The three bilateral conventions in force in Cameroon (the conventions with Canada, France and Tunisia) use the terms "necessary" or "useful". The same applies to the DTC signed with Morocco on 27 September 2012. which uses the term "necessary". The term "necessary" used in the conventions with Canada, Tunisia and Morocco is considered in the commentary on Article 26 of the OECD Model Tax Convention as being equivalent in effect to the expression "foreseeably relevant" with regard to the exchange of information. The convention with France mentions information of a tax nature "which is in their [the tax authorities'] possession and is useful".
- The CEMAC Convention also provides for exchange of the tax information held by the Contracting States "which is useful for assessing or collecting taxes of all kinds and for preventing tax evasion". According to Cameroon, the expression "information which is in the tax authorities" possession" is to be interpreted broadly. The expression covers information which is directly available to them and any information which they can access by using their statutory powers. Cameroon also points out that the term "useful" is interpreted as equating to "foreseeably relevant". As regards

the convention between France and Cameroon, France confirmed, on the occasion of its own peer review<sup>19</sup>, that it also adopted that interpretation.

- 303. Therefore, the treaties concluded by Cameroon and in force can be regarded as compliant with the standard of foreseeable relevance. Furthermore, it should be noted that the Multilateral Convention, which complies with the international standard, covers Canada, France, Gabon and Tunisia. Accordingly, all exchanges of information on the part of Cameroon are compliant with the standard regarding foreseeable relevance and the scope of the taxes covered by provisions on exchange of information.
- 304. In practice, the competent authority confirmed during the onsite visit that the six requests for information had been dealt with during the peer review period with a non-restrictive application of foreseeable relevance.
- 305. The EOI Manual explains that the validity and pertinence of the request can be assessed according to the following elements:
  - The request includes all the information needed for it to be processed;
  - It refers to taxes covered by an international EOI agreement;
  - The years included in the request are covered by the EOI agreement concluded with the requesting jurisdiction;
  - The information requested is that which can be provided under the EOI agreement on which the request is based and the relevant laws in Cameroon;
  - The indications provided allow the person in question to be identified.
- 306. In addition, Article 26 of the EOI Manual refers to the OECD Model Tax Convention, for the interpretation of "foreseeable relevance".
- 307. During the peer review period, Cameroon did not need to request clarifications regarding the requests received.

## In respect of all persons (ToR C.1.2)

308. For the exchange of information to be effective, it is necessary that a jurisdiction's obligation to provide information is not restricted by the residence or nationality of the person to whom the information relates or by the residence or nationality of the person in possession or control of the information requested. For this reason, the international standard for exchange of

<sup>19.</sup> Paragraph 214, OECD (2011), Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: France 2011: Combined: Phase 1 + Phase 2, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264114708-en.

information envisages that exchange-of-information mechanisms will provide for exchange of information in respect of all persons.

- The bilateral tax conventions in force in Cameroon, and the CEMAC Convention, do not contain any express provision that extends the scope of information exchange to persons who are not residents of the contracting states. However, all these treaties permit the exchange of information which is necessary or useful for the purpose of applying the provisions of the treaties or the domestic provisions of the contracting states.
- Since the domestic tax legislation of each contracting state applies 310 to residents and non-residents. Cameroon confirmed that the information referred to in the conventions also concerns non-residents. Thus, none of the exchange-of-information mechanisms concluded by Cameroon restricts the scope of exchange of information to a particular category of persons to the exclusion of other categories, such as persons who are not treated as residents of one of the contracting states.
- It should be noted, moreover, that Canada, France, Gabon, Morocco and Tunisia are covered by the Multilateral Convention. Therefore, almost all exchange-of-information relations are specifically compliant with the standard concerning the subjective scope of the conventions, with the exception of those concluded with the Central African Republic, Chad, the Republic of the Congo and Equatorial Guinea. The Cameroon authorities have confirmed that a draft update of the CEMAC Convention is currently under way.

## **Obligation to exchange all types of information** (ToR C.1.3)

- Jurisdictions cannot engage in effective exchange of information if they cannot exchange information held by financial institutions, nominees or persons acting in an agency or fiduciary capacity. Both the OECD Model Tax Convention and the OECD Model TIEA (Tax Information Exchange Agreement), which are primary authoritative sources of the standards, stipulate that banking secrecy cannot form the basis for declining to provide information and that a request for information cannot be declined solely because the information is held by nominees or persons acting in an agency or fiduciary capacity or because the information relates to an ownership interest
- Article 26(5) of the OECD Model Tax Convention provides that a 313 contracting state may not decline to supply information solely because the information is held by a bank, other financial institution, nominee or persons acting in an agency or a fiduciary capacity or because it relates to an ownership interest. Apart from the Multilateral Convention and the DTC concluded with Morocco, no convention signed by Cameroon contains such a provision.

- 314. These conventions concluded by Cameroon were signed prior to the amendment of Article 26 of the OECD Model Tax Convention. However, the lack of such a paragraph in the conventions does not systematically restrict the exchange of information. Commentary on the Model Convention points out that, although paragraph 5 represents an alteration of the structure of Article 26, is should not be interpreted as meaning that the previous version of that article did not cover the exchange of information held by banks, financial institutions, nominees or persons acting in an agency or fiduciary capacity.
- 315. The domestic law of Cameroon does not contain any restriction on the exchange of information, and the statutory powers conferred on the tax authorities under the CGI enable them to access and to exchange all kinds of information, including banking information or information held by nominees or persons acting in an agency or fiduciary capacity.
- 316. In practice, Cameroon exchanged all information requested in application of the mechanisms in force during the peer review period.

## Absence of domestic tax interest (ToR C.1.4)

- 317. The concept of "domestic tax interest" describes situations where a contracting party may provide information to another contracting party only if it has an interest in obtaining the requested information for its own tax purposes. An inability to provide information based on a domestic tax interest requirement is not consistent with the international standard. Contracting parties must be able to use their domestic information-gathering powers, even if they are invoked solely to obtain and provide information to the other contracting party.
- 318. Apart from the Multilateral Convention signed on 25 June 2014 and the DTC signed with Morocco in 2012, none of the tax conventions concluded by Cameroon contains paragraph 4 of Article 26 of the OECD Model Tax Convention which requires contracting states to use their information-gathering measures to obtain the requested information even though they may not need it for their own tax purposes. However, the absence of such a clause does not mean that the conventions allow a domestic tax interest to prevail. In this case, it is necessary to refer to the domestic law of the contracting states in order to see whether it prevents the competent authority from using its information-gathering powers solely for exchange of information purposes.
- 319. In Cameroon, there is no domestic provision that creates a domestic tax interest (see section B.1.3. above). Pursuant to the provisions of the CGI, the Cameroon tax authorities use the same powers to gather and exchange information with foreign partners as those conferred on them for the purpose of assessing and inspecting taxes and duties. Cameroon can therefore

exchange information with its partners even if it has no interest in doing so for domestic tax purposes and without any explicit reference to the concept of domestic tax interest in its exchange mechanisms. In practice, there have not been any issues in relation to domestic tax interest in the processing of the six EOI requests that Cameroon has received during the peer review period.

## Absence of dual criminality principles (ToR C.1.5)

- 320 The dual criminality principle provides that assistance may be provided only if the conduct being investigated (and prompting the request for information) would constitute a crime under the laws of the requested country if it had occurred in that country. In order to be effective, information exchange should not be constrained by the application of the dual criminality principle.
- 321 None of the information exchange mechanisms concluded by Cameroon provide for the application of a dual criminality principle.

## Exchange of information in both civil and criminal tax matters (ToR C.1.6)

- 322 Information exchange may be necessary both for tax administration and tax prosecution purposes. The international standard is not limited to information exchange in criminal tax matters but extends to information exchange for tax administration purposes.
- All information exchange mechanisms concluded by Cameroon provide for the exchange of information for both criminal and civil purposes.

## **Provide information in the specific form requested (ToR C.1.7)**

- In some cases, a contracting party may need to receive information 324 in a specific form in order to satisfy its evidentiary or other legal requirements. Such forms may include witness statements and authenticated copies of original documents. Contracting parties should endeavour to meet such requests as far as possible. The requested party may decline to provide the information in the specific form requested if, for instance, the requested form is unknown or not permitted under its administrative practice. Declining to provide information in the form requested does not affect the obligation to provide the information.
- The tax conventions concluded by Cameroon do not contain any pro-325 vision concerning the provision of information in the specific form requested by a contracting party in order to satisfy its evidentiary standards or other legal requirements, to the extent that this is permissible under the law of

the requested party. However, there are no restrictions which prevent the Cameroon authorities from providing the information in the requested form, as long as it complies with their administrative practice.

326. The Cameroonian authorities have not received a request to be provided in specific form during the peer review period. They also have confirmed that they will communicate the information in the required format, if this is possible pursuant to their legislation or their administrative practices.

## In force (ToR C.1.8)

- 327. Exchange of information cannot take place unless a jurisdiction has exchange-of-information arrangements in force. Where exchange-of-information agreements have been signed, the international standard requires that jurisdictions must take all steps necessary to bring them into force expeditiously.
- 328. Articles 43 and seq.of the Cameroon Constitution provide that treaties can be ratified only by means of a law. The procedure for ratifying the international conventions signed by Cameroon entails seeking the backing of the Government for the signed text, as a first step, and then submitting it to Parliament for approval (both chambers, the National Assembly and the Senate). If the Constitutional Council, when approached by the President of the National Assembly or the President of the Senate or one-third (1/3) of the members of the Assembly or of the senators, declares that an international agreement includes a clause which contravenes the Constitution, authorisation to ratify or approve the undertaking will be withheld until the Constitution has been amended (Article 63 of the Constitution).
- 329. Once parliamentary approval has been obtained by a simple majority, the President of the Republic promulgates the ratification law. A date of entry into force is then decided jointly with the signatory country by means of an exchange of the ratification instruments of the two countries (a procedure which is undertaken by the respective Foreign Ministries). The convention then enters into force on the agreed date. According to the Cameroon authorities, it is difficult to predict an average timescale for ratifying conventions in that the procedure varies from one country to another and also depends on the level of commitment on the part of the other party to the convention and the state of its relations with Cameroon (strong, medium or weak cooperation). In reality, there is quite a substantial period between the signature of a tax agreement and its entry into force. A ministerial committee has been created to improve the process.
- 330. All conventions signed by Cameroon are in force, with the exception of the DTCs signed in February 2015 with South Africa and with Morocco.

### In effect (ToR C.1.9)

- 331 For information exchange to be effective, the parties must take the necessary measures to comply with their commitments.
- Article 43 of the Constitution provides that treaties may not take effect until they have been ratified. Before they can be ratified, tax conventions are submitted for parliamentary approval in legislative form. Article 45 provides that, following ratification, international treaties and conventions take precedence over laws. Thus, a convention which has entered into force has no need of a supplementary measure in order to become effective. Therefore, the Cameroon tax authorities use the same powers for exchanging information as for assessing and auditing Cameroon taxes. These powers allow the authorities to obtain information of all kinds, including banking information, except in a few exhaustively listed cases (medical secrecy and defence secrecy).

#### Determination and factors underlying the recommendations

Phase 1 Determination	
The element is in place	

Phase 2 Rating	
Compliant	

## C.2. Exchange-of-information mechanisms with all relevant partners

The jurisdictions' network of information exchange mechanisms should cover all relevant partners.

- 333 Ultimately, the international standard requires jurisdictions to be able to exchange information with all relevant partners, meaning those partners who are interested in entering into an information exchange arrangement. Agreements cannot be concluded only with counterparties of no economic significance. If it appears that a jurisdiction is refusing to enter into agreements or negotiations with partners, in particular ones that have a reasonable expectation of requiring information from that jurisdiction in order to administer properly and enforce its tax laws, it may indicate a lack of commitment to implement the standards.
- Cameroon has three bilateral tax conventions in force, all of which contain information exchange provisions, and one regional convention (the CEMAC Convention). These conventions cover eight jurisdictions in all (Canada, the Central African Republic, Chad, Congo, Equatorial Guinea,

France, Gabon and Tunisia). However, Cameroon signed the DTC with Morocco on 7 September 2012 and the Multilateral Convention on 25 June 2014, thus covering another 90 additional relations. Cameroon ratified the Multilateral Convention by way of Decree No. 2015/210 of 28 April 2015. The Multilateral Convention entered into force on 1 October 2015 in Cameroon.

- 335. Cameroon's main trading partners are still the EU, Nigeria and the People's Republic of China (China). These main trading partners are generally signatories to the Multilateral Convention. Trade flows with countries in the CEMAC area account for only a small proportion of trade (3.6% on average since the establishment of the CEMAC free trade area in 1999). Cameroon alone accounts for 70% of CEMAC intra-community trade in agricultural products.
- 336. To date, Cameroon has not concluded any tax information exchange agreements (TIEA), but it has signed the Multilateral Convention covering a total of 98 jurisdictions. Accordingly, Cameroon has a mechanism for exchanging information with all its economic partners.
- 337. Cameroon is currently negotiating agreements on the avoidance of double taxation which incorporates provisions on exchange of information, in line with updated OECD and United Nations models, with the following countries: China, the Czech Republic, Egypt, Nigeria, Portugal, Qatar, Romania, the Seychelles, Turkey and the United Arab Emirates.
- 338. So far, Cameroon has not declined to conclude an information exchange mechanism with any other country.

#### Determination and factors underlying the recommendations

Phase 1 Determination				
The element is in place				
Factors underlying the recommendations	Recommendations			
	Cameroon should continue to develop an EOI network with all relevant partners.			

Phase 2 Rating	
Compliant	

## C.3. Confidentiality

The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received.

## Information received: disclosure, use and safeguards (ToR C.3.1)

Governments would not engage in information exchange without the assurance that the information provided would be used only for the purposes permitted under the relevant information exchange agreement and that its confidentiality would be preserved. Information exchange mechanisms must therefore contain provisions that spell out specifically to whom the information may be disclosed. Furthermore, the domestic legislation in force in the countries concerned usually contains strict regulations on protecting the confidentiality of information gathered for tax purposes.

#### International mechanisms

- All the treaties concluded by Cameroon contain confidentiality clauses, although they are not all worded like Article 26(2) of the OECD Model Tax Convention
- 341 Generally speaking, the conventions concluded by Cameroon contain two different forms of wording with regard to confidentiality. The conventions with France and Tunisia and the CEMAC Convention provide that "the information thus exchanged, which is confidential, shall not be communicated to persons other than those responsible for assessing and collecting the taxes referred to in this Convention". According to Cameroon, it is not just tax officials who are responsible for assessing and collecting taxes but also judicial authorities (public prosecutors' offices, court registries) because these two conventions stipulate that information exchange also covers "the application of legal provisions relating to the prevention of tax fraud".
- 342. The Convention with Canada provides that the information exchanged "shall only be disclosed to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of the taxes referred to in the Convention, by the enforcement of those taxes or by determinations of appeals in relation to such taxes. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions". That wording is even more precise and ensures the confidentiality of information to the extent required by the standard.

### National legislation of Cameroon

- 343. Information obtained in connection with the implementation of clauses in administrative assistance conventions are kept confidential on the same basis as information obtained pursuant to domestic legislation. In this connection, Article L47 of the CGI clearly indicates that tax officials are required to maintain professional secrecy and may not communicate information obtained in the course of their duties; that duty also applies in relation to information obtained from a foreign tax administration, in the context of the mutual administrative assistance in tax matters laid down in international conventions
- 344. However, this information may be disclosed to those persons with whom tax officials are dispensed from maintaining professional secrecy (e.g. officials of the Contrôle Supérieur de l'Etat (Supreme State Audit Office), the Treasury, Customs, the Economic and Financial Unit acting in the course of their duties, and the officials of foreign tax administrations acting in the context of mutual administrative assistance in tax matters under an international convention).
- 345. Likewise, communications between the competent authorities of partner jurisdictions acting in the context of information exchange (other than the requested information itself) are also covered by professional secrecy.
- 346. Any infringement of the obligation to respect professional secrecy is liable to a prison term of between three months and three years plus a fine of XAF 20 000 to 100 000 (EUR 30 to 152).

## Application of confidentiality in practice

- 347. In practice, civil servants are subject to confidentiality requirements. Confidentiality is maintained in practice by the following measures:
  - Information received from other competent authorities in either paper or electronic format are stored in safe closets, in a secure archive room where only authorised staff from UEIR can enter.
  - Information is exchanged with the competent foreign authorities exclusively by the means of postal systems offering international tracking;
  - When confidential information must be transmitted by UEIR to other departments of the tax administration, a warning is included in the correspondence, informing the person receiving it that this information is protected by confidentiality rules.
  - "Confidential" is stamped on all documents related to the EOI.

- The postal service staff and secretaries have been informed of their responsibility to ensure that information remains confidential;
- Confidentiality provisions that apply to tax administration agents contributes to strengthen the procedures.
- 348. After the peer review period, two employees of the DGI who failed to respect their confidentiality obligations within the organisation were disciplined. One was sanctioned by an 8-day dismissal, the other by a 30-day dismissal. Their names, the sanctions and the underlying reason were published on the notice boards within the DGI. This event took place during the peer review period but did not relate to EOI.
- The Director-General of Taxation issued a Confidentiality Charter in early 2016 aimed at all staff in the DGI. The Charter defines the rules of confidentiality applicable to the protected information of the DGI, as well as the applicable confidentiality procedures, which must be scrupulously respected by employees.

## Other information exchanged (ToR C.3.2)

The provisions concerning confidentiality which are included both in the relevant agreements and in Cameroon domestic legislation do not distinguish between information received in reply to a request or information that forms part of the request. These provisions apply in the same manner to requests, attached documents, and all communications between the jurisdictions involved in the exchange.

#### Conclusion

The organisation and the procedures in place during the onsite visit in Cameroon ensure compliance with confidentiality rules for EOI purposes.

## Determination and factors underlying the recommendations

Phase 1 Determination	
The element is in place	

	Phase 2 Rating	
Compliant		

## C.4. Rights and safeguards of taxpayers and third parties

The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties.

352. The international standard allows the requested jurisdiction not to supply information in response to a request in certain very specific situations where an issue of commercial, industrial or other form of secrecy may arise.

## Exceptions to the requirement to provide information (ToR C.4.1)

- 353. The majority of information exchange mechanisms concluded by Cameroon provide that the parties concerned are not required to provide information which would disclose an industrial, trade or professional secret or whose disclosure would be contrary to public policy.
- 354. Information relating to medical records or to national security may not be disclosed under exchange-of-information arrangements, pursuant to Article L47 of the CGI. Similarly, under conventions relating to the exchange of information for tax purposes, information covering industrial, trade or professional secrecy, and information whose disclosure would be contrary to public policy, is excluded from the scope of administrative assistance and thus exchange may be refused in the context of a request to exchange information
- 355. In terms of attorney-client privilege, whilst it is clear that Article L47 of the CGI does not state that it may be relied upon against the tax authorities acting under their right to information, that article cannot be interpreted as allowing the administration to obtain, in the context of information exchange, information that is covered by attorney-client privilege or that relates to judicial proceedings. If necessary, the tax authorities can obtain information relating to judicial proceedings directly from the courts, since the right to information under Article L43 of the CGI covers the latter
- 356. The Cameroonian authorities have indicated that in practice, the rights and safeguards of taxpayers and third parties are compatible with an effective information exchange, given that they do not hinder access to and transmission of information, other than in the situations covered by EOI agreements on matters of public order, industrial, trade or professional secrecy. Professional secrecy and notably that of attorneys and other professions has never been invoked as the reason for refusing to provide information requested in application of tax legislation to the tax authorities. However, the practical application of the professional secrecy of attorneys is unclear (see section B.1.5 for more information).

#### Determination and factors underlying the recommendations

	Phase 1 Determination
The element is in place	

Phase 2 Rating	
Compliant	

### C.5. Timeliness of responses to requests for information

The jurisdiction should provide information under its network of agreements in a timely manner.

### Response within 90 days (ToR C.5.1)

- 357. There is no provision in the legislation of Cameroon or in its information exchange mechanisms relating to responses or to the timeframe in which a response is to be given. Thus, there is no restriction as regards the ability of the competent Cameroon authorities to respond to requests within 90 days of receipt, either by providing the relevant information, or by indicating the progress made in dealing with the request.
- During the peer review period, which ran from 1 July 2012 to 30 June 2015, Cameroon received six requests for information: One between 1 July and 30 June 2013, three between 1 July 2013 and 30 June 2014 and two between 1 July 2014 and 30 June 2015.
- 359 Response time statistics for the evaluation period are as follows:

		012 to 5/2013	01/07/2 30/06		1/06/2 30/06		To	otal
	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	1	100	3	100	2	100	6	100
Full response: ≤ 90 days	1	100	0	0	1	50	2	33.33
≤ 180 days (in total)	1	100	3	100	2	100	6	100
≤ 1 year (total)	1	100	3	100	2	100	6	100
> 1 year	0	0	0	0	0%	0	0	0
Declined for valid reasons	0	0	0	0	0%	0	0	0
Failure to obtain and provide the information requested	0	0	0	0	0%	0	0	0
Requests still pending at date of review	0	0	0	0	0%	0	0	0

*Note:* The times shown in this table are calculated from the date the request is received to the date the full and definitive response is sent.

- 360. During the peer review period, Cameroon responded to two of the six requests it received in less than 90 days, and to the four other requests received in less than 180 days. Since the end of the peer review period, the UEIR has started using a notification system for status update to inform the requesting authority of the progress of the request, if the information is not gathered within the 90 days.
- 361. Cameroon's only EOI partner during the peer review period commented that eight requests were sent during that period. Only six requests for information were actually received by the Cameroon tax authorities during the peer review period. A request was sent by the EOI partner on 16 December 2014 but was only received by Cameroon on 13 July 2015, outside of the peer review period. Cameroon responded to this request within 180 days.
- 362. The second request was never received by Cameroon in 2013. The request was resent by the partner in October 2015. The procedure is ongoing. All the requests from the EOI partner were sent by regular mail.
- 363. Similarly, regarding a request sent by the EOI partner in June 2013, Cameroon responded in August 2013, but the partner did not receive the response. After the partner sent a reminder, Cameroon resent the response in December 2015. The UEIR is in regular contact with the EOI partner in question to resolve all the communication problems that could have generated delays during the peer review period.
- 364. The information about the competent authorities in Cameroon can be found in the database of competent authorities of the Global Forum on Transparency and Exchange of Information for Tax Purposes. However, the postal system in Cameroon is not always reliable and the requests were sent by the requesting jurisdiction by regular mail. Furthermore, in order to facilitate contacts with the EOI partners, the names, telephone and fax numbers and postal and electronic addresses of the delegated competent authorities are accessible on the internet site of the DGI at the address <a href="www.impots.cm">www.impots.cm</a> under the "assistance fiscale" tab.

## Organisational process and resources (ToR C.5.2)

365. The Finance Ministry is the competent authority for information exchange matters. This competency was delegated to the Director-General of Taxation by Decree N° 2013/006 of 26 February 2013 regarding the organisation of the Minister of Finance and decree No. 00000376/MINFI of 18 September 2015 governing the delegation of powers to the competent authority for information exchange for tax purposes. Within the framework of this delegated competency, the Director-General of Taxation produces an annual report on EOI activities for tax purposes.

- 366 An International Information Exchange Unit (UEIR) has been put in place within the DGI to co-ordinate EOI activities. This unit is part of the Legislation and International Tax Relations department. It consists of a unit director and three assistant officers, all of whom are experienced tax inspectors. The UEIR has access to information held by the centralised departments (the Investigation, programming and monitoring of tax inspections division, the DGE, the collections directorate) and the decentralised departments (Regional tax centres, Medium-sized business tax centres and divisional tax centres) of the DGI.
- During the peer review period, an Excel spreadsheet was used to track EOI requests. Since 2016, the competent authority has installed management software known as the "tracking system", supplied by the Global Forum. In order to ensure the safety and confidentiality of information related to its activity, the UEIR has a secure filing room and safes as well as IT material.
- With regards to financial resources, the competent authority is 368 funded by the general DGI budget. Should there be a budget shortfall, a mechanism is in place that allows support to be requested from the Finance Ministry. These resources appear to be adequate given the current and future volume of requests insofar there is no limitation of resources.
- The UEIR is made up of three agents and a unit director. Access to the premises is strictly controlled. Files are systematically stamped "confidential". Hard copies of files are held in cupboards requiring a code to open them. When a right to investigation is carried out, the request only contains the minimal information needed to obtain the information. Should the responses be sent by email, UEIR uses an encrypting system with a second message sent with the password.

## Process for responding to requests

- 370 The Director-General of Taxation receives all EOI requests from EOI partners. Once the content is known, the request is transferred to the legislation department for action, and is stamped "very urgent". The head of the legislation division then examines the file and makes it available to the head of the UEIR in order to gather the elements for the response.
- The UEIR then sends a letter confirming receipt of the EOI request 371. to the requesting jurisdiction. This generally occurs within a period of 72 hours after the file is received.
- 372 Once the request has been approved (see Section C.1.1 Foreseeable relevance), the request is recorded in a paper based register. This register shows the following elements: The identity information about the relevant persons in Cameroon, the relevant persons outside of the country, the name of the agent in charge of the file, the operational department dealing with it, a description of the information requested, the measures taken, the timeframe

and the stages in processing. Since 2016, this information has been entered into the tracking-system software mentioned above.

- 373. Once the information has been gathered (see section B.1.1, access to information), UEIR formats it in order to send it to the requesting jurisdiction. The EOI Manual describes these two stages, and requires a compliance check on the information gathered before it is sent to the requesting jurisdiction. In the event that some of the information is not able to be gathered, the reasons for this must be communicated to the requesting competent authority. The UEIR sends its responses by registered mail.
- 374. Cameroon is a "first mover" jurisdiction within the Africa Initiative of the Global Forum. Within this framework, the Cameroonian authorities have worked on the requests that they could send to other EOI partner jurisdictions to allow them to reassess the taxable base in Cameroon and collect taxes that are normally due in Cameroon. Similarly, the competent authorities is scheduled to send 15 requests to other jurisdictions in 2016 and 2017 respectively.

## Absence of restrictive conditions on exchange of information (ToR C.5.3)

375. There is no provision in the legislation of Cameroon or in its EOI agreements which contains specific conditions governing the exchange of information, other than those included in Article 26 of the OECD Model Convention or the OECD Model TIEA.

#### Determination and factors underlying the recommendations

Phase 1 Determination
This element involves issues of practice that are assessed in the
Phase 2 review. Accordingly no Phase 1 determination has been made.

Phase 2 Rating			
Largely compliant			
Factors underlying the recommendations	Recommendations		
After the peer review period, Cameroon put in place an EOI unit dedicated to processing EOI requests, with substantial resources and adequate processes. The operational activities and the effectiveness of this new organisation could not be tested in practice.	Cameroon must monitor the operation of this new organisation for processing EOI requests, including the new EOI unit, in order to ensure that EOI requests are processed quickly and efficiently.		

## Summary of determinations and factors underlying recommendations

## **Overall Rating** LARGELY COMPLIANT

Determination	Factors underlying the recommendations	Recommendations			
	Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities ( <i>ToR A.1</i> ).				
Phase 1 Determination: The element is in place					
Phase 2 Rating: Largely Compliant	Cameroon has put in place a dematerialisation system which applies to bearer shares issued since 17 November 2015. For bearer shares issued prior to 17 November 2015, the dematerialisation process will allow almost complete identification by 14 April 2018, with complete identification for all bearer shares as from 14 April 2019.	The Cameroonian authorities must finalise and monitor the effective implementation of bearer share dematerialisation for public limited companies (SAs),, notably via the connected sanction applicable for non-compliance.			
	Cameroon has put in place declarative obligations regarding foreign trusts and the maintenance of a shareholder register for SA and SAS, as well as sanctions for non-compliance.	The Cameroonian authorities must monitor the application of the declarative obligations applicable to foreign trusts and the maintenance of a shareholder register for SA and SAS, notably by applying the appropriate sanctions in the case of non-compliance.			

Determination	Factors underlying the recommendations	Recommendations
Jurisdictions should ensur and arrangements (ToR A	re that reliable accounting records2).	s are kept for all relevant entities
Phase 1 determination: The element is in place		
Phase 2 rating: Compliant		
Banking information shoul	d be available for all account-hole	ders (ToR A.3).
Phase 1 determination: The element is in place		
Phase 2 Rating: Compliant		
subject of a request under their territorial jurisdiction	ould have the power to obtain an an exchange-of-information arra who is in possession or control of such person to maintain the secre	ngement from any person within of such information (irrespective
Phase 1 determination: The element is in place		
Phase 2 rating: Compliant		
	ds (e.g. notification, appeal right uld be compatible with effective ex	
Phase 1 determination: The element is in place		
Phase 2 rating: Compliant		
Exchange-of-information (ToR C.1).	mechanisms should provide for e	ffective exchange of information
Phase 1 determination: The element is in place		
Phase 2 rating: Compliant		
The jurisdictions' network partners ( <i>ToR C.2</i> ).	of information exchange mecha	nisms should cover all relevant
Phase 1 determination: The element is in place		Cameroon should continue to develop in EOI network with all relevant partners.

Determination	Factors underlying the recommendations	Recommendations
Phase 2 rating: Compliant		
	sms for exchange of information s ty of information received <i>(ToR C</i>	
Phase 1 determination: The element is in place		
Phase 2 rating: Compliant		
The exchange-of-informa taxpayers and third partie	tion mechanisms should respects (ToR C.4).	t the rights and safeguards of
Phase 1 determination: The element is in place		
Phase 2 determination: Compliant		
The jurisdiction should p manner (ToR C.5).	rovide information under its net	work of agreements in a timely
Phase 1 determination: The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review.		
Phase 2 rating: Largely Compliant	After the peer review period, Cameroon put in place an EOI unit dedicated to processing EOI requests, with substantial resources and adequate processes. The operational activities and the effectiveness of this new organisation could not be tested in practice.	Cameroon must monitor the operation of this new organisation for processing EOI requests, including the new EOI unit, in order to ensure that EOI requests are processed quickly and efficiently.

## Annex 1: Jurisdiction's response to the review report<sup>20</sup>

The Republic of Cameroon would like to convey her sincere gratitude and appreciation both to the Secretariat of the Global Forum and to the evaluation team for the hard work throughout this evaluation process.

The peer review process provided our jurisdiction with an opportunity to introduce substantial amendments to our legal and regulatory framework, as well as the administrative practice in place to ensure compliance with the international standard.

Cameroon is ready to pursue the efforts to improve the legal framework and to implement the international standard in practice.

Our jurisdiction has taken note of the recommendations included in the report and undertakes to take timely measures to respond to them and to rigorously prepare the next phase of reviews to which our legal and regulatory framework would be subjected to.

<sup>20.</sup> This Annex presents the Jurisdiction's response to the review report and shall not be deemed to represent the Global Forum's views.

# Annex 2: List of exchange-of-information mechanisms in Cameroon

The list of exchange-of-information agreements signed by Cameroon as at 22 May 2015, in alphabetical order, is given below. It should be noted that Cameroon signed the Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention), as amended, on 25 June 2014. Cameroon ratified the Multilateral Convention by way of Decree No. 2015/210 of 28 April 2015. The Multilateral Convention will enter into force on 1 October 2015 in Cameroon.

	Jurisdiction	Type of agreement	Signature <sup>a</sup> / Territorial scope	Date of entry into force/Status
1	Albania	Multilateral Convention	Signed	In force
2	Andorra	Multilateral Convention	Signed	
3	Anguilla⁵	Multilateral Convention	Extended	In force
4	Argentina	Multilateral Convention	Signed	In force
5	Aruba	Multilateral Convention	Extended	In force
6	Australia	Multilateral Convention	Signed	In force
7	Austria	Multilateral Convention	Signed	In force
8	Azerbaijan	Multilateral Convention	Signed	In force
9	Barbados	Multilateral Convention	Signed	
10	Belgium	Multilateral Convention	Signed	In force
11	Belize	Multilateral Convention	Signed	In force
12	Bermuda⁵	Multilateral Convention	Extended	In force
13	Brazil	Multilateral Convention	Signed	
14	British Virgin Islands <sup>b</sup>	Multilateral Convention	Extended	In force
15	Bulgaria	Multilateral Convention	Signed	In force
16	Cayman Islands <sup>b</sup>	Multilateral Convention	Extended	In force

	Jurisdiction	Type of agreement	Signature <sup>a</sup> / Territorial scope	Date of entry into force/Status
17	Canada	Double Taxation Convention	26 May 1982	16 June 1988
18	Canada	Multilateral Convention	Signed	In force
19	Central African Republic	CEMAC Tax Convention (Act No. 17/65-UDEAC-38)	14 December 1965	14 December 1965
20	Chad	CEMAC Tax Convention (Act No. 17/65-UDEAC-38)	14 December 1965	14 December 1965
21	Chile	Multilateral Convention	Signed	
22	China (People's Republic of)	Multilateral Convention	Signed	In force
23	Colombia	Multilateral Convention	Signed	In force in Columbia
24	Congo	CEMAC Tax Convention (Act No. 17/65-UDEAC-38)	14 December 1965	14 December 1965
25	Costa Rica	Multilateral Convention	Signed	In force
26	Croatia	Multilateral Convention	Signed	1 June 2014
27	Curacaod	Multilateral Convention	Extended	In force
28	Cyprus <sup>c</sup>	Multilateral Convention	Signed	In force
29	Czech Republic	Multilateral Convention	Signed	In force
30	Denmark	Multilateral Convention	Signed	In force
31	El Salvador	Multilateral Convention	Signed	
32	Equatorial Guinea	CEMAC Tax Convention (Act No. 1e/65-UDEAC-38)	14 December 1965	14 December 1965
33	Estonia	Multilateral Convention	Signed	In force
34	Faroe Islands <sup>e</sup>	Multilateral Convention	Extended	In force
35	Finland	Multilateral Convention	Signed	In force
		Double Taxation Convention	29 October 1976	19 July 1978
36	France	Amendment	31 March 1994	1 February 1974
30	France	Amendment	28 October 1999	1 January 2003
		Multilateral Convention	Signed	In force

	Jurisdiction	Type of agreement	Signature a/ Territorial scope	Date of entry into force/Status
37	Gabon	CEMAC Tax Convention (Act No. 17/65-UDEAC-38)	14 December 1965	14 December 1965
		Multilateral Convention	Signed	
38	Georgia	Multilateral Convention	Signed	In force
39	Germany	Multilateral Convention	Signed	
40	Ghana	Multilateral Convention	Signed	In force
41	Gibraltar⁵	Multilateral Convention	Extended	In force
42	Greece	Multilateral Convention	Signed	In force
43	Greenlande	Multilateral Convention	Extended	In force
44	Guatemala	Multilateral Convention	Signed	
45	Guernsey⁵	Multilateral Convention	Extended	
46	Hungary	Multilateral Convention	Signed	In force
47	Iceland	Multilateral Convention	Signed	In force
48	India	Multilateral Convention	Signed	In force
49	Indonesia	Multilateral Convention	Signed	In force
50	Ireland	Multilateral Convention	Signed	In force
51	Isle of Mane	Multilateral Convention	Extended	In force
52	Israel	Multilateral Convention	Signed	
53	Italy	Multilateral Convention	Signed	In force
54	Japan	Multilateral Convention	Signed	In force
55	Jersey	Multilateral Convention	Extended	In force
56	Kazakhstan	Multilateral Convention	Signed	In force
57	Kenya	Multilateral Convention	Signed	
58	Korea	Multilateral Convention	Signed	In force
59	Latvia	Multilateral Convention	Signed	In force
60	Liechtenstein	Multilateral Convention	Signed	
61	Lithuania	Multilateral Convention	Signed	In force
62	Luxembourg	Multilateral Convention	Signed	In force
63	Malta	Multilateral Convention	Signed	In force
64	Mauritius	Multilateral Convention	Signed	
65	Mexico	Multilateral Convention	Signed	In force
66	Moldova	Multilateral Convention	Signed	In force

	Jurisdiction	Type of agreement	Signature <sup>a</sup> / Territorial scope	Date of entry into force/Status
67	Monaco	Multilateral Convention	Signed	
68	Montserrat⁵	Multilateral Convention	Extended	In force
69	Morocco	Double Taxation Convention	Signed	
		Multilateral Convention	Signed	
70	Netherlands	Multilateral Convention	Signed	In force
71	New Zealand	Multilateral Convention	Signed	In force
72	Nigeria	Multilateral Convention	Signed	In force
73	Niue	Multilateral Convention	Signed	
74	Norway	Multilateral Convention	Signed	In force
75	Philippines	Multilateral Convention	Signed	
76	Poland	Multilateral Convention	Signed	In force
77	Portugal	Multilateral Convention	Signed	In force
78	Romania	Multilateral Convention	Signed	In force
79	Russia	Multilateral Convention	Signed	In force
80	Saint-Maartend	Multilateral Convention	Extended	In force
81	Saint-Marin	Multilateral Convention	Signed	In force
82	Saudi Arabia	Multilateral Convention	Signed	In force
83	Senegal	Multilateral Convention	Signed	
84	Seychelles	Multilateral Convention	Signed	In force
85	Singapore	Multilateral Convention	Signed	In force
86	Slovakia	Multilateral Convention	Signed	In force
87	Slovenia	Multilateral Convention	Signed	In force
88	South Africa	Double Tax Convention	Signed	
		Multilateral Convention	Signed	In force
89	Spain	Multilateral Convention	Signed	In force
90	Sweden	Multilateral Convention	Signed	In force
91	Switzerland	Multilateral Convention	Signed	
92	Tunisia	Double Taxation Convention	26 March 1999	1 January 2008
		Multilateral Convention	Signed	In force
93	Turkey	Multilateral Convention	Signed	

	Jurisdiction	Type of agreement	Signature <sup>a</sup> / Territorial scope	Date of entry into force/Status
94	Turks & Caicos <sup>b</sup>	Multilateral Convention	Extended	In force
95	Uganda	Multilateral Convention	Signed	
96	Ukraine	Multilateral Convention	Signed	In force
97	United Kingdom	Multilateral Convention	Signed	In force
98	United States	Multilateral Convention	Signed	

Notes: a. For signature dates of the Multilateral Convention, see: <a href="http://www.oecd.org/ctp/exchange-of-tax-information/Status\_of\_convention.pdf">http://www.oecd.org/ctp/exchange-of-tax-information/Status\_of\_convention.pdf</a>.

- b. Extension by the United Kingdom.
- c. Note by Turkey. The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people living on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

Note by all the European Union Member States of the OECD and the European Commission. The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

- d. Extension by the Kingdom of the Netherlands.
- e. Extension by the Kingdom of Denmark.

# Annex 3: List of all laws, regulations and other material received

Constitution: Law No. 96/06 of 18 January 1996 revising the Constitution of 2 June 1972, as amended by Law No. 2008/001 of 14 April 2008.

### **Taxation conventions signed by Cameroon**

- DTC with France, signed on 21 October 1976, entered into force on 19 July 1978 (modified pursuant to the amendments of 31 March 1994 and 29 October 1999, the latter of which entered into force on 1 January 2003).
- DTC with Tunisia, signed on 26 March 1999, entered into force on 1 January 2008.
- DTC with Canada, signed on 26 May 1982, entered into force on 16 June 1988.
- DTC with Morocco, signed on 7 December 2012, ratified by Cameroon on 31 December 2014 (not vet in force).
- CEMAC Tax Convention. Act No. 5/66 UDEAC-49 of 13 December 1966. CEMAC Tax Convention on Mutual Administrative Assistance in Tax Matters of 14 December 1965.
- Multilateral Convention on Mutual Administrative Assistance in Tax Matters signed on 25 June 2014

## **Commercial legislation**

OHADA Uniform Act on General Commercial Law

OHADA Uniform Act on Commercial Companies and Economic Interest Groups

- Revised OHADA Uniform Act on the Organisation and Harmonisation of Business Accounting
- OHADA Uniform Act on the Organisation and Harmonisation of Business Accounting

OHADA Uniform Act on Cooperatives

## Tax legislation

Finance Law 2015 No. 2014/026 of 23 December 2014.

Law No. 2002/003 of 19 April 2002 on the General Tax Code

Finance Law 2014

### Anti-money laundering and anti-financing of terrorism instruments

- COBAC Regulation R-2005/01 of 1 April 2005 relating to due diligence of institutions subject to money laundering and terrorism financing constraints in Central Africa
- Regulation No. 02/10 of 2 October 2010 revising Regulation No. 01/03 CEMAC/UMAC/CM of 4 April 2003 on the prevention and combating of money laundering and financing of terrorism in Central Africa
- Supplementary Act No. 9/00/CEMAC-086/CCE 02 of 14 December 2012 establishing GABAC
- COBAC Directive I-2006/01 of 31 July 2006 on information concerning the anti-money laundering and financing of terrorism mechanism

## Instruments relating to banking, financial and commercial regulation

- Regulation 03/08/UMAC/CM relating to free-subscription Government securities issued by CEMAC member States
- Regulation 02/00/CEMAC/UMAC/CM of 29 April 2000 harmonising foreign exchange regulations in the CEMAC member States
- 1992 Convention harmonising banking regulations in the Central African States
- Law No. 99/015 of 22 December 1999 creating and organising the financial market of Cameroon

Law No. 2003/004 of 21 April 2003 on banking secrecy

- Law No. 2014/007 of 23 April 2014 laying down detailed rules for paperless registration of transferable securities in Cameroon
- Law No. 2006/019 of 29 December 2006 governing postal activities in Cameroon
- Decree No. 2006/088 of 11 March 2006 relating to the setting up, organisation and functioning of the National Anti-Corruption Commission
- Decree No. 2005/187 of 31 May 2005 relating to the organisation and functioning of the National Financial Investigation Agency (ANIF)
- Order No. 06/403/CF/MINEFI of 28 December 2006 organising the services of ANIF
- Order No. 0000144/CF/MINFI of 26 March 2009 setting the threshold for declaring cash or bearer share transactions to ANIF
- Instruction No. 03/CRCT/2010 on account holder securities accounting
- Law No. 90/031 of 10 August 1990 governing commercial activity in Cameroon
- Law No. 2010/021 of 21 December 2010 governing e-commerce in Cameroon

### **Insurance legislation**

- Treaty establishing an integrated organisation of the insurance industry in the African States (CIMA Treaty)
- Regulation No. 0004/CIMA/PCMA/PCE/SG/08 of 4 October 2008 defining the procedures applicable by insurers in CIMA member States in the context of AML/CTF activities

CIMA Code

## Domestic laws governing associations

Law No. 90/053 of 19 December 1990 on freedom of association

Law No. 99/011 of 20 July 1999 amending and supplementing certain provisions of Law No. 90/053

Law No. 2003/013 of 22 December 2003 on patronage and sponsorship

Law No. 99/014 of 22 December 1999 governing NGOs

- Decree No. 77/495 of 7 December 1977 laying down the conditions for the establishment and operation of private welfare agencies
- PENAL CODE: Law No. 67-LF-1 of 12 June 1967 establishing the Penal Code

### **Instruments governing professional bodies**

- Law No. 2011/009 of 6 May 2011 on pursuit of the profession of accountant and the functioning of the National Association of Certified Public Accountants and Auditors
- Law No. 90/059 of 19 December 1990 organising the legal profession
- Decree No. 95/34 of 24 February 1995 laying down the rules and regulations governing the profession of notary

## Instruments relating to the organisation of the judiciary

- Law No. 2006/015 of 29 December 2006 organising the judiciary
- Law No. 2006/022 of 29 December 2006 on the organisation and functioning of administrative courts
- Decree No. 2012/119 of 15 March 2012 on the opening of administrative courts

## Other legislation

- Law No. 2000/10 of 19 December 2000 governing archives in Cameroon
- Law No. 2003/008 of 10 July 2003 on the punishment of offences referred to in certain OHADA Uniform Acts
- Law No. 99/016 of 22 December 1999 laying down the general rules and regulations governing public institutions and enterprises in the public and quasi-public sector
- Law No. 92/007 of 14 August 1992 on the Labour Code
- Law No. 92/006 of 14 August 1992 relating to co-operatives and common initiative groups
- Decree No. 2001/958/PM of 1 November 2001 laying down detailed rules for the implementation of Law No. 2000/10 of 19 December 2000 governing archives

- Decree No. 92/455/PM of 23 November 1992 laying down detailed rules for the implementation of Law No. 92/006
- Decree No. 2006/0762/PM of 9 June 2006 amending and supplementing certain provisions of Decree No. 92/455/PM of 23 November 1992 laying down detailed rules for the implementation of Law No. 92/006 of 14 August 1992 relating to co-operatives and common initiative groups
- Decision No. 08/006/CMF of 6 August 2003 approving the Caisse Autonome d'Amortissement as the central depositary
- Decision No. 01/022/CMF of 29 December 2003 approving the Caisse Autonome d'Amortissement as the national agency for codifying transferable securities

Information Exchange Handbook

Confidentiality Charter

## Annex 4: People interviewed during the field visit

#### I – MINISTRY OF FINANCE

## A – Direction Générale des Impôts (DGI)

General Director of taxes

Inspection of tax Services

Division of legislation and international tax relations

Large business Directorate

Studies, programming and monitoring of Fiscal Control Division

Division of statistics, Simulations, and registration

Specialised Centre of the Liberal Professions and real estate taxes

Exchange information International unit

## B – Directorate General of the Treasury and Financial and Monetary Cooperation (DGTCFM)

Directorate Monetary and Financial Cooperation

- C National Agency of Financial Investigation (Agence Nationale d'Investigation Financière (ANIF))
- D Autonomous Sinking Fund (Caisse Autonome d'Amortissement (CAA))
- E Formalities Centre for the Creation of Enterprises (*Centre des Formalités de Création d'Entreprises* (CFCE-Yaounde))

#### II – MINISTRY OF JUSTICE

Trade Registry and Credit real estate (*Registre du Commerce et du Crédit Immobilier* (RCCM): RCCM of Yaoundé

#### III - MINISTRY OF EXTERNAL RELATIONS

Unit in charge of Agreements, Conventions and Statutory Documents

#### IV – BANKING SECTOR

Banques des Etats de l'Afrique Centrale (BEAC) National Credit Council (CNC)

## V – REPRESENTATIVES OF REGULATED PROFESSIONS OF THE PRIVATE SECTOR

Representative of the Chamber of notaries

Representative of the National order of Chartered Accountants of Cameroon

Representatives of the order of lawyers

# ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

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# Global Forum on Transparency and Exchange of Information for Tax Purposes

## PEER REVIEWS, PHASE 2: CAMEROON

This report contains a "Phase 2: Implementation of the Standards in Practice" review, as well as revised version of the "Phase 1: Legal and Regulatory Framework review" already released for this country.

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 130 jurisdictions which participate in the work of the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the standards of transparency and exchange of information for tax purposes. These standards are primarily reflected in the 2002 *OECD Model Agreement on Exchange of Information on Tax Matters* and its commentary, and in Article 26 of the *OECD Model Tax Convention on Income and on Capital* and its commentary as updated in 2004, which has been incorporated in the *UN Model Tax Convention*.

The standards provide for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. "Fishing expeditions" are not authorised, but all foreseeably relevant information must be provided, including bank information and information held by fiduciaries, regardless of the existence of a domestic tax interest or the application of a dual criminality standard.

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases. Phase 1 reviews assess the quality of a jurisdiction's legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. Some Global Forum members are undergoing combined – Phase 1 plus Phase 2 – reviews. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

All review reports are published once approved by the Global Forum and they thus represent agreed Global Forum reports.

For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published review reports, please visit **www.oecd.org/tax/transparency** and **www.eoi-tax.org**.

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