



**FIRST ROUND MUTUAL EVALUATIONS - POST EVALUATION PROGRESS
REPORT OF MOZAMBIQUE**

Covering the period August 2017 – July 2018

ESAAMLG (2018), First Round Mutual Evaluation - Post Evaluation Progress Report of Mozambique on Anti- Money Laundering and Counter-Terrorist Financing Measures.

REPUBLIC OF MOZAMBIQUE

A. Introduction

1. This is the 9th progress report in relation to Mozambique. Three detailed reviews were conducted by Review Group A comprising Angola, Botswana, Namibia, Uganda and Zimbabwe.

2. Since the August 2015 Task Force of Senior Officials meeting held in Johannesburg, South Africa, the Mozambican Authorities have been reporting on both core & key and non-core and non-key recommendations.
3. Mozambique passed Law No.14/2013 (AML/CFT Law) in June 2013. The AML/CFT Law repealed the AML Law, Law No. 7/2002. It ushered in a legal framework which strives to address most of the recommendations made by the assessors on the Core and Key Recommendations in their MER.
4. In August 2014, Law 14/2013 was further strengthened by the introduction of Decree No. 66/2014 (Regulations Law 14/2013), which introduced a framework of regulations to that law. Pursuant to the coming into effect of the Regulations, the Bank of Mozambique in May 2015, issued guidelines, Notice 4/GBM/2015 for financial institutions on prevention and combating of money laundering and financing of terrorism. In order to compliment the AML/CFT Law the authorities repealed and enacted a new Penal Code on 31 December 2014, Law 35/2014. The new Penal Code brought in a wider scope of predicate offences to the crime of ML.
5. Mozambique has other laws that complement the AML/CFT Law and these include: Law No. 15/2012, which sets out the legal framework for protection of victims, complainants, and witnesses and creates the Witness Protection Office; and Law No. 17/2011, which provides for extradition.
6. The AML/CFT law streamlines reporting of STRs and widens the scope of reporting institutions in line with the financial activities set out in the FATF Glossary. It further protects reporting entities and their personnel from any kind of liability for suspicious transactions reported in good faith.
7. The authorities reported that the FIU has secured support from South Africa as sponsors for its application for membership to the EGMONT Group of FIUs. In order to strengthen its cooperation with other FIUs the Mozambique FIU has signed MoUs with the FIUs of Angola, Cape Verde, Lesotho, Ethiopia, Swaziland, Namibia, Brazil, South Africa, Malawi, Uganda, Zambia and Zimbabwe.
8. Mozambique has not yet conducted a National Risk Assessment on ML/CFT.

9. Mozambique was evaluated by ESAAMLG in 2009. The MER was adopted by the ESAAMLG Council of Ministers in August 2011. The table below indicates recommendations on which Mozambique's compliance ratings on the FATF Core and Key Recommendations is either PC or NC:

Ratings of Compliance with Core Recommendations

Recommendation	R.1	R.5	R.10	R.13	SR.II	SR.IV
Rating	PC	NC	NC	NC	NC	NC

Ratings of Compliance with Key Recommendations

Recommendation	R.3	R.4	R.23	R.26	R.35	R.36	R.40	SR.I	SR.II	SR.V
Rating	PC	NC	NC	NC	PC	NC	PC	NC	NC	NC

B Overview of Progress made by Mozambique – High Level Mission

10. From 26th to the 28th July 2017, Mozambique received a high level mission from ESAAMLG composed of different delegates in representative capacities and the ESAAMLG Secretariat. The leader of the delegation was Mr. Mirirai Chiremba (Former Chairman of the Task Force)
11. The main objective of the mission was to discuss with the slow progress made by Mozambique and to discuss the constraints the government is facing which contributes to the slow progress.
12. The main deficiencies which the Mission discussed with the authorities included:
- a) Lack of legal and institutional frameworks to implement the UNSCRs;
 - b) Passing of the amendments to the Financial Intelligence Unit (FIU) Act;
 - c) Lack of a legal framework dealing with mutual legal assistance; and

- d) Ratification of 4 outstanding conventions which are Annexes to the Convention on TF.
13. The Review Team has analyzed the progress made by Mozambique for each core/key Recommendation rated NC or PC in the MER, using the information provided by Mozambique in its ninth progress report to determine progress made.
14. In the current review Mozambique made no further significant progress than reflected in their eight progress report, which was considered in April 2018 at the last Task Force Meeting in Arusha.

Analysis of progress

Building Block 1: Legal Framework-Criminalisation of ML & TF, Provisional measures/confiscation & freezing of assets

Special Recommendation III (rated NC)

15. The assessors had recommended that the authorities should take the necessary steps in accordance with SR III to introduce measures for the freezing of terrorist funds and assets so as to enable them to implement S/Res/1267 and S/Res/1373. Although, Article 42 of the AML/CFT Law now provides for freezing of terrorist funds and assets as required under SR III, there are still inadequacies with the provision as it does not set the timelines for the obligation to freeze such funds and assets by accountable institutions. Secondly, the Article is implemented as read with Article 23 of the same law which in article 23(1) seems to apply to all transactions where there is suspicion that the funds involved are of a criminal nature and does not necessarily apply to the UNSCRs. Further, Article 23(3) provides for the suspended operation (which is the freezing) to be set aside if the temporal freezing of the funds/assets is not confirmed by a judge within three days. This is not consistent with the requirements of implementing S/RES/1267 and its successor resolutions, which require an indefinite freeze to be made until the freeze is lifted by 1267 Sanctions Committee. This is also the same technical concern with Regulation or article 44 of Regulation Law 14/2013, cited by the authorities. The seizure of funds or assets provided in this Regulation makes cross – reference to Article 38(1) of Law 14/2013 and this

sub-Article also gives discretion to a judge to issue a seizure order within 48 hours upon request by a public prosecutor, provided there are reasonable grounds that the funds or assets are proceeds of crime or are for any other illegal purpose (including TF). However, Article 38(2) says, “ *The judge may order the return of the seized funds, assets, rights, objects belonging to the suspect, when proved the lawfulness of the origin*” What is not clear with the provision is whether it also applies to the sanctions list issued under S/RES/1267, where domestic courts are not supposed to have jurisdiction to determine the lawfulness or otherwise of the indefinite freezing prescribed by the listing, if there is a match until a de-listing is done by the relevant Sanctions Committee. The reviewers also note that the law have not covered other critical aspects of SR III, being, measures for unfreezing funds or assets of de-listed persons, accessing of funds frozen where there has been determination of the need to make payment of basic expenses, payment of certain types of fees, etc. following processes set out under S/RES/1452. The authorities acknowledged that they have not made progress regarding freezing without delay any assets, related to terrorism financing. They indicated that this will be covered in the proposed drafted amendment of the Terrorism Act which were with the Ministry of Justice who has to submit it to Cabinet for approval at that stage. During the previous period under review the authorities have submitted that the Bill on the Repression and Suppression of Terrorism was submitted to Parliament and has been reviewed by the Specialised Committees of Parliament and is just awaiting discussion in Parliament, which was expected to be done as a matter of priority during the Authorities’ next Parliamentary Session which commenced from 28 February 2018.

16. For the period under review the authorities have submitted that the Assembly has approved Bill on the Repression and Suppression of Terrorism and it was assented to by the President and published. It came into force 15 days after assent on 17 August 2018. However, the Authorities submitted the law in Portuguese and an unofficial English translation. Unfortunately, this cannot be considered by the reviewers, until provided with official translations of the law

- Mozambique has not made sufficient progress with regard to SR III

BUILDING BLOCK II – FINANCIAL INTELLIGENCE UNIT

II.1 FIU (R. 26)

Essential criteria 26.2

17. The authorities indicated that the GIFiM has drafted the Procedures Manual and Guidelines for the real estate sector with the assistance of the IMF but the Guidelines are still waiting for the Amendments to the FIU Act to be passed for them to be approved and published. However, there is still no update on developing similar Guidelines for the other DNFBP sectors as recommended by the assessors.

- **Mozambique has not made sufficient progress since 2015.**

Essential criteria 26.3

18. The assessors had recommended that the GIFiM should develop platforms to facilitate timely access to information held by law enforcement agencies to enable it to effectively carry out its functions. During the September 2017 review the Reviewers observed that the authorities had not provided statistics on how accessible information is to the other LEAs through the GoAML system which the GIFiM was saying it uses to share information with the other LEAs and with those which are members of the Task Force. The GIFiM from the information it had provided in April 2017 Report it had only entered into a MoU with the Revenue Authority. By April 2018 they have signed a MoU with the Anti-Corruption Bureau, the Central Bank, and the Criminal Investigation Police. During the April 2018 face – to –face meeting the Authorities reported that three MoUs were signed, but that they receive co-operation from relevant government institutions, based on gentlemen's agreements. The FIU is linked through goAML system to exchange information with Bank of Mozambique, Revenue Service, Attorney General Office, Criminal Investigation Police, and Anti-Corruption Unit. By then they still have not submitted any new information in terms of statistics to show how the GoAML system is being used to share information with the

other LEAs or for them to access information from the GIFiM. Reviewers noted the three (3) MoUs but found that Mozambique **have not made sufficient progress**.

19. Under the current period of review the Authorities, again did not submit any new information in terms of statistics to show how the goAML system is being used to share information with the other LEAs or for them to access information from the GIFiM.

- Sufficient progress cannot be noted in this regard

Essential criteria 26.6

20. The assessors had recommended that:

- i) the authorities should expeditiously clarify the tenure of office and the conditions under which the Director and the Deputy Director of the GIFiM can be removed from office;
- ii) the Director should have express powers to appoint staff of high integrity and professional standard; and
- iii) The GIFiM should have procedures which require all staff to declare their assets and income regularly not only the Director and his Deputy.

21. The authorities under the previous reporting period indicated that all the three recommendations by the assessors have been addressed in the Amendments to the GIFiM Law No. 14/17. The Bill was already approved by the Cabinet and was just awaiting discussion in Parliament having already gone through the Specialised Committees of Parliament. Parliament has approved the Bill in March 2018 and the law was waiting to be assented to by the President and then be gazetted.

22. The authorities under the current reporting period indicate that Law No 14/2007 has now been repealed and replaced by Law No 2/2018 which became in force on 19 June 2018. In terms of Article 7(2) of the new law, the Director General and the Deputy Director General of GIFiM shall serve for a term of five years which can be renewed. Sub-Article 3 of the same Article, provides for the appointment and termination of office by both the Director

and Deputy Director. This addresses the first part of the recommendation by the assessors.

23. The authorities have not addressed the second part of the recommendation by the assessors which required the Director to have express powers to appoint staff of high integrity and professional standard. It is not clear to the reviewers whether such powers are provided in the new law or not as they authorities did not provide official translation.
24. The last part of the recommendation by the assessors was that the GIFiM should have procedures which require all staff to declare their assets and income regularly. The authorities in their current submissions indicate this requirement is now provided under Article 9 of Law No. 2/2018, which makes it compulsory for all GIFiM staff to present a statement of their assets, including income.
25. The above provisions of the new Law No. 2/2018 seem to address the recommendation by the assessors with the only exception being of the Director not having express powers to appoint staff of high integrity and professional standard as there has been no comments on this by the authorities.
26. However, the reviewers could not verify the submissions by the authorities as an official formal translated Law No. 2/2018 was not provided to it by the Authorities, as it was in Portuguese accompanied by an unofficial English translation.
27. The authorities should submit the official translated version of the new law to enable the reviewers to determine and verify the submissions by the authorities.

- **Sufficient progress can be noted in this regard.**

Essential criterion 26.7

28. The assessors had recommended that the authorities clearly define the relevant agencies to which the FIU can disseminate information.
29. The Authorities for the period under review have submitted that Articles 2(2)(a), and 13 of the new Law 2/2018 now clearly provides the relevant institutions which GIFiM can disseminate financial intelligence reports and information to.

30. As already indicated above, a formal official translated version of the new Law has not been provided to the reviewers by the authorities, therefore the reviewers could not vouch for the correctness of this submission by the authorities.

- **Sufficient Progress Not Noted.**

31. The assessors had recommended that the GIFiM should make arrangements that could facilitate exchange of information and cooperation in a proper and secured manner with other domestic stakeholders. The authorities in their September 2017 submissions indicated that in order for GIFiM to facilitate exchange of information and cooperation in a proper and secure manner, it had signed MoUs with the Revenue Authority and the Anti-Corruption Bureau. They confirmed that they have a gentleman's agreement with the Government Office for Public Payments Systems (CEDSIF) for accessing information however this is not documented anywhere. During the previous period under review, the authorities have not made any new submissions. It was reiterated that the GIFiM should consider entering into MoUs with the Central Bank of Mozambique and Criminal Investigation Police Service and also with the Attorney General's Office to facilitate secure means of exchange of information.

32. The authorities in their current submissions indicate that the GIFiM in order to facilitate exchange of information and cooperation in a proper and secured manner, has signed MoUs with the Revenue Authority, Criminal Investigation Police and Bank of Mozambique.

33. The GIFiM is still to enter into an MoU with the AG's Office in order to fully comply with the recommendation by the assessors.

- **Almost Sufficient progress has been made.**

1. The assessors had recommended that the authorities develop and implement effective AML/CFT awareness programmes for reporting entities and the general public. In their April 2017 and September 2017 progress reports the authorities submitted that they had conducted awareness campaigns covering several arms of government, including Ministries of Finance, Interior, Foreign Affairs, Justice, and government agencies, including Bank of

Mozambique, AG's Office, Revenue Authority, Institute for the Supervision of Insurances, General Gaming Inspectorate, GFiM and FIs through seminars, workshops and meetings co-organised with IMF, WB and Austrac. The reviewers still raised the same concern that this submission is not addressing the recommendation by the assessors which specifically required the authorities to first develop AML/CFT awareness programmes and thereafter effectively implement them to reporting entities and the general public.

2. The authorities for the period under review have submitted that the FIU has prepared and distributed booklets on awareness about countering money laundering and terrorism financing. The authorities further submit that the Central Bank of Mozambique broadcasts a program on domestic radio stations, in which it carries out public awareness campaigns on matters of prevention and combating of ML/TF.

- **Sufficient Progress Noted**

Essential criteria 26.8

3. The assessors had recommended that the GFiM produce annual reports. The authorities report that the GFiM has been producing annual reports since 2012. However, they did not provide any of the reports and had been requested to do so in soft copy. During the September 2017 face-to-face meeting the authorities indicated that they only produce reports for Government consumption. They were advised to start publicizing sanitized reports and provide one such report to the Reviewers.
4. For the period under review, the GFiM has again not provided a sanitized report as requested by the Reviewers, nor did the authorities provide any update information on this recommendation.
5. This has been a very long outstanding recommendation. The authorities are urged to comply with it.

Essential criteria 26.9

6. The assessors had recommended that GFiM should consider making an application for membership to the EGMONT. The authorities previously indicated they have secured the support of the South African FIC and Brazil to be sponsors to their application and have initiated the process for applying

for the membership. However, with the outstanding amendments to Law No. 14/2007, the deficiencies still to be addressed might compromise the application.

7. The authorities submitted in the previous progress report that with the passing of the new AML/CFT law they were ready to apply for membership to EGMONT, but they did not do so yet by then.
8. The authorities in their submissions under the current review period (paragraph 2.2 of the current progress report) do not seem to be making any progress on this matter as they still indicate the difficulties they are having with the legal requirement provided under Law No 14/2007, which requires the FIU to obtain authorization of Cabinet in order for it to join any international organization, and currently, it is still waiting for that approval from Cabinet.
9. However, the reviewers note that the Law No. 14/2007 which the authorities still rely on here is the same law which they are saying has been repealed and replaced by Law No 2/2018 which became in force on 19 June 2018. Therefore, it is not clear whether this Article which is a hurdle to the FIU was saved or it has also been repealed. The authorities indicated that they are still awaiting cabinet approval of the expenses that go with membership of EGMONT which requires Cabinet to approve. No further progress has been made since the last review in April 2018.

- **There is not sufficient progress with regard to Recommendation 26**

BUILDING BLOCK III – PREVENTIVE MEASURES

III.4 - Financial institution secrecy or confidentiality (R. 4)

Essential criteria 4.1

10. The assessors recommended for the authorities to amend the provisions of Art. 56 of Law 15/1999 to ensure appropriate exemptions to the confidentiality clauses that apply to the Bank of Mozambique are introduced to enable the Bank to share information with other supervisors. The

authorities for the previous period under review reported that the Bank of Mozambique has finalised revising the Banking law and the Bill is being prepared to be submitted to Cabinet. The process of having the amendments eventually passed into law are still on-going.

11. There is no change to the above position for the period under review.

- **Therefore not much progress has been made.**

12. The assessors had further recommended that the authorities amend the respective confidentiality clauses that apply to credit institutions, finance companies, financial intermediaries and insurance entities to enable exchange of information or collaboration with the FIU. The authorities previously indicated that Decree 30/2011 regulates access of information relating to insurance business. However, this development is only isolated to one sector. In their previous progress report the authorities indicated that the outstanding institutions have been addressed under the revisions to the banking law (Law 15/99, Repealed by Law n^o. 9/2004) which was being prepared to be submitted to Cabinet.

13. There is no change to the above position for the period under review.

- **Sufficient progress has therefore been made.**

BUILDING BLOCK IV – REGULATION AND SUPERVISION

IV.I - Regulation and Supervision (23)

Essential Criterion 23.1

14. The assessors had recommended that the requirements on “fit and proper” measures in Law 15/99 should be extended to cover beneficial owners in order to prevent criminals or their associates from gaining control of institutions. The authorities previously reported that this has now been addressed in the proposed amendments to the banking law (Law 15/99, Repealed by Law n^o. 9/2004) which were being prepared to be submitted to Cabinet for review.

15. There is no change to the above position for the period under review

- **There is again no sufficient progress made.**

16. The assessors had also recommended that regulatory and supervisory measures for FIs subject to the IOSCO Principles for Securities Regulations or IAIS Insurance Core Principles for prudential purposes, which are also relevant to ML, should also equally apply for AML purposes. Previously no progress had been made by the authorities on application for membership to IOSCO but under the previous reporting period the authorities report that the Bank of Mozambique submitted the application to the IOSCO on 24 July 2017 and were waiting for a response. However, there was no update on the application to IAIS Insurance Core Principles which the BoM had been recommended to apply for membership for prudential purposes.
17. Under the current reporting period the authorities have again not provided any updates on this recommendation. However, during the face to face meeting authorities indicated that the application to the IOSCO had been successful. There is no update from the authorities on the application to IAIS Insurance Core Principles which the BoM had been recommended to apply for membership for prudential purposes.
- **We note partial progress on this recommendation**

Essential Criterion 23.7

18. In order to address the recommendation by the assessors that the BoM and IGS should put in place measures to ensure that other FIs are effectively regulated and supervised for AML/CFT purposes, the authorities indicate that the BoM has started risk based approach on-site inspections. Through this process, the authorities are of the view that they will be able to assess internal control measures dealing with risk compliance to prevent ML/TF of FIs.
19. During the previous period under review the authorities have clarified the issue which had been raised by the Reviewers during their review on whether the RBA AML/CFT supervision the BoM was saying it had now introduced based on the BoM Guidelines had been informed by a NRA or a sectoral risk assessment. The authorities indicate that since Mozambique has not yet done a National or Sectoral Financial Sector risk assessment, inspections on ML and TF are being done guided and in compliance with the

AML/CFT legal framework currently in place. What is not clear from this explanation is how that then leads to a risk based approach supervision in the absence of identified risks; and an understanding of how they affect each of the reporting entities to the BoM either independently or collectively and how the risks are then prioritised for AML/CFT supervision or mitigation.

20. The authorities further submit that during the year 2017, five (5) on-site inspections were carried out on 5 different banks. This submission again is not clear on whether the inspections were done following a RBA and if it was, what was the focus on.
21. The authorities indicate that 20 administrative AML processes were opened with the support of the Central Bank Examinations and FIU Reports. The authorities stated that administrative processes were the fines imposed on the commercial banks for failure to implement some AML/CFT measures. The authorities could not provide further details on this as there was no representative from the Central Bank to give clarity.
22. Overall, the BoM seems to be doing something to address the recommendation that it puts in place measures to ensure that other FIs are effectively regulated and supervised for AML/CFT purposes. However, it is not coming out clearly from the authorities' submission, what exactly it is they are doing. There was no representative of BoM to clarify the above issues,
23. *The authorities for the period under review have not provided any further information to the above submissions so the previous status core remains.*

- this criterion cannot be considered as progress in the absence of the clarification needed.

BUILDING BLOCK V – INTERNATIONAL COOPERATION

V.3 - Other Forms of International cooperation and exchange of information (R. 40, SR.V)

24. Overall, there has been no improvement by the authorities in providing information regarding proper maintenance of records on requests for international cooperation, action taken, requests denied, requests acceded to,

quality of responses received and time taken to respond to requests. The authorities have also not provided information on the mechanisms in place to ensure that information on requests attended is kept safe and confidential. The lack of adequate information supplied to determine the progress made under R. 40, also applies to SR. V.

25. Currently, there is no specific law in Mozambique dealing with MLA in general and a recognised Central Authority on MLA set up following the provisions of a specific law. The AML/CFT Law 14/13 provides for MLA but only limited to ML and TF. Information relating to the mechanisms in place to maintain proper records for international cooperation pertaining to the limited scope of cooperation currently provided under the AML/CFT Law 14/13 has not been provided by the authorities for the period under review. Overall, there has not been any progress made by the authorities in addressing this deficiency. Note should be taken that (although not necessarily applying to R. 40) the Authorities under the current reporting period submit that their Cabinet has now submitted to Parliament for consideration and discussion, the Bill on MLA. The Bill is intended to address all the deficiencies identified by the assessors on MLA, including the limitation in scope of application of MLA created by Articles 51 and 52 of Law 14/2014 which only limits the application of MLA to offences of ML and TF. However, pending the coming into operation of the Bill, the authorities did **not make sufficient progress to address** the recommendation by the assessors to widen the scope of MLA.
26. However, it has to be noted that the authorities for the first time in their current report have made submissions to the effect that in terms of Article 2 of Resolution 31/2006 of 26 December, which ratified the United Nations Convention against Corruption, the Central Authority to receive, channel, monitor and respond to requests for Mutual Legal Assistance, was designated as the Attorney General. This submission is not convincing as it was there already when Mozambique was assessed in 2009. Secondly, the scope of the designation appears to be limited only to the UNCAC. Thirdly, the mere fact that the authorities in their previous submissions have been indicating that they are going to come up with a comprehensive law on MLA shows that they are aware

that this Article which they are making reference to here, is not adequate to address the MLA regime.

27. It is still the view of the reviewers that the authorities, as recommended by the assessors, should come up with a comprehensive law as well as setting up all the needed mechanisms for an effective strong MLA regime in Mozambique.

28. Sufficient progress has not been made by the authorities in addressing the recommendation by the assessors.

29. This below is Mozambique's forth report on the non-core and key recommendations on which they were rated PC and NC.

NON-CORE & NON-KEY RECOMMENDATIONS

REC	2	6	7	8	9	11	12	14	15	16	17	18	19	20	21	22	24	25	27
RATING	PC	NC	NC	NC	NC	NC	NC	NC	NC	NC	PC	PC	NC	LC	NC	N/A	NC	NC	PC

28	29	30	31	32	33	34	37	38	39	
PC	NC	NC	PC	NC	NC	N/A	NC	NC	NC	

SR	VI	VII	VIII	IX
RATING	NC	NC	NC	NC

LEGAL FRAMEWORK

Recommendation 32

Essential Criterion 32.2

30. The assessors had recommended that the authorities develop policies for the application by their prosecuting authorities of the Provisions of Law 7/2002 criminalising Money Laundering and that the policies should address matters such as;
- a. The approach to be followed to prove that property is the proceeds of crime (which should avoid relying on a prior conviction for a predicate offence).
 - b. the applicability of the money laundering offence to foreign predicate offences and
 - c. The application of the money laundering offence to situations of self-laundering which should have formed the basis for training.

The authorities did not provide any information on the training programmes on AML/CFT that has been provided to build the expertise in prosecuting ML cases as recommended by the assessors.

31. For the current reporting period the authorities indicate that the AG's Office in conjunction with the UNODC organized four seminars in 2016 which were held in three regions of the country and were attended by 60 public prosecutors. However, information on the nature and content of the seminars was not provided. On that basis it cannot be said whether the training was consistent with what had been recommended by the assessors. The recommendation was for the training to cover how to prove that property is the proceeds of crime (and avoid relying on a prior conviction for a predicate offence), the applicability of the money laundering offence to foreign predicate offences and the application of the money laundering offence to situations of self-laundering. Also see c. 30.3, below for more information on awareness received by (15) magistrates and (65) prosecutors on ML. from the topics provided by the authorities the training and
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awareness appears to be relevant to investigations agencies. The Authorities should indicate what percentage of magistrates, prosecutors and investigators had been trained.

LAW ENFORCEMENT, PROSECUTION AND OTHER COMPETENT AUTHORITIES (R. 27, 28, 30 & 32)

Recommendation 30

Essential Criterion 30.1 (also recommended by the assessors under R. 27-28)

32. The assessors had recommended that law enforcement agencies and prosecution be provided with sufficient human, financial and technical resources to enable them to effectively deal with predicate offences and money laundering cases. The authorities, other than the submission they made, that in terms of Art. 61 of Law 13/2014, law enforcement agencies are now permitted to carry out investigations using special investigative technics, they still do not indicate the kind of human, financial and technical resources provided to law enforcement to cater for the new provisions introduced by Law 13/2014. Again for the period under review the authorities have not made any submissions on whether additional resources have now been allocated to the LEAs and prosecution to enable them to properly investigate and prosecute predicate and ML cases.

Essential Criterion 30.3

33. The assessors had recommended that the authorities should ensure that the officers involved in the investigations of money laundering and other predicate offences are adequately trained on an ongoing basis. The authorities for the period under review have submitted information on training provided to both law enforcement and prosecutors as follows: in November and December 2017, 33 inspectors representing the 11 Provinces of Mozambique were trained by the National Service for Criminal Investigation. Again from 13-17 November 2017, a training for 28 officers representing all the Provinces of Mozambique was carried out. The training programmes touched on

various topics including: legal framework for prevention and combating ML/TF; understanding financial intelligence reports and spontaneous disclosures; international instruments; typologies; tax evasion; role of banks in preventing and combating ML and TF; prevention and combating of corruption and illicit trafficking in drugs; and economic and financial crimes in general. The authorities, further report that the AG's Office in collaboration with the UNODC organized an awareness seminar titled: `` Money Laundering versus Corruption'' from 07-10 November 2016. The seminar was attended as follows: 15 Magistrates; 65 Public Prosecutors; 10 Criminal Investigation Police Officers, 2 Supervisory Authorities; 2 officials from Ministry of Justice; 5 officials from Bar Association; and 3 officials from GIFiM. The authorities based on the above submission have made significant progress in training the different stakeholders on AML/CFT and they should be encouraged to continue doing so.

Recommendations 27, 28 and 32.2

34. The assessors had made findings that the authorities were not maintaining statistics which made it difficult for the assessors during the assessment to determine effectiveness and as a result the assessors recommended that the authorities should come up with systems which will enable them to maintain comprehensive statistics. The assessors had made further observations that whilst there had been investigations and prosecutions of predicate offences to ML, there was no evidence of ML cases being prosecuted. The assessors had made recommendations that the authorities should ensure that ML investigations and prosecutions are also pursued. For the period under review, the authorities have submitted under the Table of Statistics that in 2016, 16 cases of ML were investigated and out of these 7 cases were prosecuted. However, the authorities do not provide information on what happened in the cases prosecuted, i.e. whether the persons involved were later convicted or not. This still shows that the authorities are still not maintaining comprehensive statistics as recommended by the assessors. Therefore, there has been **not sufficient progress is made in addressing this deficiency.**

PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS

Customer due diligence (R. 5 to 8)

Recommendation 6 – PEPs

35. The assessors had recommended that the authorities should introduce enforceable requirements for financial institutions to identify PEPs and take such other CDD measures as required under Recommendation 6. The authorities indicate that these measures are now enunciated in Article 10(d) of the Law 14/2013 and Article 16 and 17 of Regulation Law 14/2013. The authorities did not clarify how Art. 10(d) is connected to PEPs other than it relating to general application of CDD measures. Regulations 16 and 17 cited by the authorities appropriately deal with requirements of enhanced due diligence relating to PEPs. Although, it is not clear in terms of which Article of the Law 14/2013, the regulations are developed. However, Regulation 16(1) (g) sets a threshold for authorization to be sought from senior management when dealing with transactions involving PEPs, whereas under R. 6.2.1 there is a requirement for senior management approval to be sought when establishing business relationships with a PEP. The way the reviewers understand the requirement of R. 6.2.1 is that it is of general application and does not set thresholds where senior management's approval has to be sought. In our view, despite the other competent requirements provided in relation to PEPs, the setting of the threshold in seeking approval from senior management compromises the progress which has been made and exposes the financial sector to ML/TF risks associated with PEPs. We recommend that the authorities remove the qualification set by the threshold in establishing business relationships with PEPs. The above is the analysis which was previously made by the Reviewers and during the period under review, the authorities have not addressed or commented on this deficiency, neither is it appearing in their Progress Report as an outstanding deficiency that still needs to be addressed. **Therefore, the authorities have not made sufficient progress.**

Recommendation 29

36. The assessors had recommended that BoM and IGS develop and implement an on-site inspection programme, including the review of policies, procedures, books, records and sample testing, to ensure that financial institutions comply with AML/CFT requirements. The authorities cited Articles 27-30 of Law 14/2013 as addressing the recommendation. However, the Articles cited do not respond to the assessors' recommendation. What the authorities should have shed light on is whether the BoM and IGS as supervisors have developed and are implementing inspection programmes on the entities that they have an obligation to supervise.
37. The authorities in their submissions for the period under review, have not provided information on the recommendation and it should be noted that the Authorities make the same submission here as they made under Criterion 23.7 that they are carrying out risk based supervision and have provided the same number of inspections done. However, although the risk based approach is being done based on Guidelines issued by the BoM, the Guidelines were not designed following identification of the ML/TF risks in the sector after a NRA or sectoral risk assessment as the authorities say neither of the two has yet been done. The authorities indicate that since Mozambique has not yet done such risk assessments, inspections on ML and TF are being done guided and in compliance with the AML/CFT legal framework currently in place. So, it is not clear if this framework provides recommendations on inspection programmes, change of internal controls, including policies and procedures and sample testing as recommended by the assessors. The authorities could not clarify the basis for the risk based supervisions, because there was no representative from the BoM.
38. The assessors had recommended that the relevant laws on AML/CFT be amended to give the BoM and IGS powers to compel production of or obtain access to all records, documents or information relevant to monitoring compliance. Articles 27-30 of Law 14/2013 cited by the authorities do not provide for powers of supervisors, in particular the right to compel production of or obtain access to all records, documents or information relevant for monitoring compliance as recommended by the assessors. Article

29 which deals with duties/responsibilities of supervisory authorities does not go further to empower them to do the above.

39. During their last review, the authorities had cited Law 15/99 of 1 November, paragraphs 2 and 3 as authorizing supervisors to demand production, and/or obtain records or documents. The authorities have now provided the translated version of Law 15/99 of 1 November as amended by Law 9/2004. Although, the law looks quite comprehensive on the functions of the BoM as a regulator of credit institutions and finance companies in Mozambique, the reviewers could not locate the exact provision which provides powers to BoM to demand production, and/or obtaining of records and documents from these institutions and the paragraphs 2 and 3 cited by the authorities were not there. The authorities did not assist the reviewers by pointing out the specific provisions of this Law that do provide such powers to the BoM and similarly for the IGS. In the absence of such guidance it would be difficult to determine whether the two supervisory authorities have such powers.

40. The assessors had also commented on the enforcement powers of IGS with respect to AML matters as being unclear to the assessment team. In the current progress report, the authorities have not clarified these enforcement powers. Captioned below is the response provided by the authorities to this recommendation by the assessors; *“Mozambique is in the process of revising its ML/TF legal framework. The jurisdiction repealed and replaced the AML/CFT law and the respective regulation, and approved the guidelines.”* – It is not clear as to what exactly this response is addressing. The authorities should elaborate exactly what has been done to make the enforcement powers of IGS relating to AML matters clear, as had been recommended by the assessors.

41. The above mentioned action should be followed by the drafting of the Inspections manual as an instrument that will guide the inspections on ML/TF. Whilst the inspection manual has not been drafted, the manual elaborated for inspections based in the assessment of risk is used”.

Recommendation 25

42. Pursuant to requirements of R. 25, the assessors had recommended that IGS should issue guidelines to give assistance to financial institutions to comply

and implement their respective AML/CFT requirements. Article 29(2) (c) requires supervisors on AML/CFT to issue guidelines to FIs to promote compliance with their obligations. The supervisors include the IGS. The authorities are only commenting on the guidelines issued by the BoM and nothing is being said about when IGS is expected to issue its own guidelines. The authorities should make an effort to address some of these long outstanding issues. **Currently, sufficient progress has not been made.**

SR. VI

43. The assessors had made several recommendations to the authorities in order for them to comply with the requirements of SR. VI. Included in these recommendations were:

- a. Requiring all independent MVTS to be licensed and/or registered by a competent authority.
- b. Subjecting all MVT service operators to AML/CFT obligations and putting in place effective measures to monitor compliance.
- c. Requiring licensed or registered MVT service providers to maintain a current list of their agents which must be available to a designated competent authority, i.e. Bank of Mozambique.
- d. Ensuring that sanctions for non-compliance under FATF Recommendation 17 are applicable to independent MVT service operators.

44. The authorities indicate that MVTS are licensed by the BoM under Law 15/99 as amended by Law 9/2004. The authorities did not provide these laws to enable the reviewers to verify the submissions made and whether they apply to independent MVTs as the cited laws should have been in existence when Mozambique was assessed in 2009.

45. Apart from independent MVTS, the authorities explained that some MVTS like Western Union and Money Gram can only operate under a commercial bank with which they have entered into a contract with. The contract between the commercial bank and the MVTS is approved by the BoM. Under this

arrangement, the obligation of the MVTs providers to comply with the AML/CFT requirements rests with the commercial bank and the sanctions for violation of the AML/CFT obligations by the MVTs are imposed on the commercial bank. The sanctions imposed will be like for any other violation, as provided under Chap. VIII of Law 14/2013. During the previous review of Mozambique, the Reviewers requested that the translated version of Law 15/99 as amended by Law 9/2004 of 21 June be provided. The authorities have now provided the translated version of the law and it is noted that there are no provisions which deal with MVTs as set out under the FATF requirements (current R. 14) or as defined under the FATF Glossary. Since the activities defining a MVTs are not captured under Law 15/99 as amended by Law 9/2004, it means in terms of the current law the BoM has got no powers to license or register MVTs.

SR. VIII

46. The assessors had recommended that the authorities develop systematic programmes that promote effective registration, transparency, accountability, integrity, public confidence and monitoring of the NPO sector to prevent misuse for financing of terrorism activities. The authorities have provided Article 35 of Law 14/2013 and Regulations 31-32 of the AML/CFT Law Regulations as addressing the recommendations by the assessors. Article 35 of Law 14/2013 enables the regulation of the NPO sector subject to the Ministry of Finance issuing regulations governing the sector. The authorities provided the reviewers with Article 31 and 32 of AML Law 14/2013 Regulations as covering the issues raised in the recommendation concerning registration, transparency, accountability, integrity, public confidence and monitoring of the sector. Although, Art. 35 provides the Ministry responsible for Finance as the supervisor for NPOs, neither this article or the Regulations provide for registration, transparency, accountability, integrity and monitoring of the sector by the AML/CFT supervisor. The provisions of the Regulations provided creates the obligation for FIs to continuously monitor transactions of NPOs to prevent them from being abused for ML/TF purposes. This requirement is only restricted to circumstances when the NPO wants to transact through a bank and not any other NPOs which do not

transact through the bank or are carrying out other activities which would require AML/CFT monitoring by the Supervisor through, e.g. assessment of the annual financial statements of an independent audit of the finances of the NPO, consistency of the activities being carried out by the NPO with those declared by the NPO at the time of registration, etc. The provisions are therefore still largely deficient to meet the recommendations by the assessors.

47. The authorities in the period under review submit under paragraph 2.1 of their progress report that amendments to the NPO laws have been given high priority but however they do not indicate the timeframe they expect these amendments to have been passed and what they deal with in terms of addressing the recommendations by the assessors. **There is still not sufficient progress made.**

Recommendation 31

48. The assessors had recommended that the GIFiM should actively engage with law enforcement and supervisory authorities and put into place appropriate mechanisms to ensure effective operational cooperation and where appropriate, coordination with each other concerning the development and implementation of policies and activities to combat money laundering and terrorist financing. The authorities cite Article 3 of Law 14/2007 and Article 20 of Law 14/2013 as providing the framework for coordination. As much as the two articles provide the legal framework to enable cooperation, the authorities have not demonstrated how the GIFiM is actively engaging other law enforcement agencies as well as supervisory authorities and putting in place appropriate mechanisms to enable effective coordination. The authorities have not provided information on bilateral or multi-lateral engagements of law enforcement agencies or with supervisors at the initiation/instigation of the GIFiM to facilitate coordination. No statistics on meetings which have been held with the other agencies even to discuss results of analysis, trends and methods arising from the work done by the GIFiM, has been submitted by the authorities. Further, no mechanisms have been put in place by the authorities to facilitate consultation with competent authorities, the financial sector and other sectors (including DNFBPs) that are subject to AML/CFT obligations. The authorities have not provided any

comments to this recommendation under the current review. No sufficient progress made.

OTHER ISSUES

Recommendation 30 & 32 (Resources & Statistics)

Recommendation 30

49. The assessors had recommended that the GIFiM should become operational and have adequate staff to enable it to carry out its functions. The authorities report that the GIFiM has been operational since 2011 and that its staff has undergone various training in AML/CFT suspicious transactions analysis, compliance and information technology. The Reviewers, in the last review had asked the authorities to provide the outstanding information which would enable the reviewers to determine whether the GIFiM was making progress on the recommendations made by the assessors relating to adequate staffing, staff training and capacity. The authorities did not provide any update to this recommendation by the assessors but it can be noted that as described under C. 30.3 that 5 officers from GIFiM attended the awareness seminar titled *“Money Laundering versus Corruption”* organised by the AG’s Office in collaboration with the UNODC from 7 – 10 November 2016.
50. On the recommendation for officers from the Police and Customs being trained on AML/CFT, the authorities indicate that they have training programmes currently under way and some planned for the future. Please refer to c. 30.3 above, for the training provided to the Police for the current review period. The authorities made good progress in having the police trained but the same does not apply for Customs and there is no update which has been provided by the Authorities for Customs for the period under review.
51. The assessors had recommended that the authorities should ensure that the BoM and IGS are adequately funded and staffed to undertake AML/CFT supervision of FIs. The authorities, did not provide any comments on this recommendation by the assessors.

52. The authorities have again not provided any information to enable determination to be made on whether the BoM and IGS are adequately funded and staffed to undertake AML/CFT supervision of FIs as had been recommended by the assessors. No change to this recommendation under the current reporting period as the authorities did not provide any update. **Sufficient progress has not been made.**

Recommendation 32

53. The assessors had recommended that the authorities should maintain comprehensive statistics to be able to demonstrate effectiveness of their AML/CFT systems. The authorities provided statistics under document titled SIP statistics document February 2018, however, the statistics still do not reflect a picture of comprehensive statistics being maintained by the authorities. Most of the tables which could have been filled with information relevant to Mozambique's AML/CFT regime are still not completed.

54. The assessors had also recommended that the BoM and IGS put in place measures that would enable them to maintain comprehensive statistics on formal requests for assistance made, or received by supervisors relating to, or including AML/CFT issues, including whether the request was granted or not.

55. The authorities did not provide any information in response to this recommendation and it also affects compliance with R. 40. Again no information has been provided by the authorities on this recommendation for the current reporting period.

56. On the recommendation for officers from the Police and Customs being trained on AML/CFT, the authorities indicate that there are training programs currently under way and some planned for the future. The assessors had recommended that the authorities should ensure that the BoM and IGS are adequately funded and staffed to undertake AML/CFT supervision of FIs. The authorities did not provide any comments on the recommendation made by the assessors. Authorities are silent again on this issue. **There has not been sufficient progress.**

57. The authorities should be encouraged to be more attentive to the recommendations made by the assessors and respond by providing the information addressing those. Particularly for R. 30 and 32, the authorities could have provided more specific information to help the reviewers determine whether they were making progress or not.

IMPLEMENTATION OF RECOMMENDATIONS OF THE HIGH LEVEL MISSION REPORT

58. Mozambique, from 26th to the 28th of July 2017, received a high level mission composed of different delegates in representation of their respective jurisdictions as well as the ESAAMLG Secretariat. The leader of the delegation was Mr. Mirirai Chiremba (Former Chairman of the Task Force).

59. The HLM came up with the following short term goals; of which the deadline has passed already:

i) Passing of the amendments to the FIU Act;

60. The amendments to the FIU Act, was discussed and passed by the parliament on 01 March 2018. However, it has not been signed by the President as yet, or gazetted. The reviewers received an English version of this amendment, but it is not an official translation; which can only be provided once the Bill is enacted and gazetted.

61. The authorities for the period under review report that the old Law No 14/2007 of 27 June has been repealed and replaced by Law No 2/2018 of 19 June. The authorities have further submitted that Law No 2/2018 has been gazetted and is now in force. However, the authorities did not provide a formal official translated version of this law, nor did they provide the Government Gazette commencing the law. The reviewers has since asked the authorities to provide these confirmatory documents to enable verification of the progress.

ii) Lack of legal and institutional frameworks to implement the Security Council Resolutions (UNSCRs) 1267 and 1373.

62. The authorities reported that the above mentioned concern will be addressed with the enactment of the Terrorism Prevention and Suppression Act which, among other issues, accommodates and operationalizes United Nations

Security Council Resolution 1267 (1999 on Al Qaeda, Taliban, individuals and associated entities) and freezing of funds and assets of persons designated accordingly with Resolution 1373 (2001).

63. The authorities, for the current reporting period have reported that the Terrorism Prevention and Suppression Bill has been passed by their National Assembly/Parliament and is currently awaiting assent by the President.
64. Although, the authorities have made progress in implementing this recommendation of the HLM, the recommendation has not yet been fully addressed until the authorities provides reviewers with a law that is in force, assented to the President, gazette and officially translated.
65. The Bill was submitted to the Council of Ministers (CM), and it was approved at the 36th Ordinary Session of the Council of Ministers held on 24 October, 2017.
66. The authorities submit that for the period under review the Law on Mutual Legal Assistance Bill is now scheduled to be discussed by the Council of Ministers (Cabinet) in August 2018, after which was expected that it will be submitted to parliament for approval.
67. The authorities, have therefore not made significant progress in implementing the recommendation of the HLM by the authorities.
68. Currently, this Bill is before the parliament and they expect it to be passed into law, by latest in May this year, 2018;

iii) Lack of a legal framework dealing with mutual legal assistance;

69. The Law on Mutual Legal Assistance will facilitate international cooperation in criminal matters and Creation of an Asset Recovery Unit, to deprive criminals of the proceeds of crime. The Bill is scheduled for discussion by the Council of Ministers, **in May 2018**, after that it will be submitted to the parliament for approval.
70. The Mutual legal assistance Unit, to facilitate international cooperation on criminal matters, will be established as soon as the Law on Mutual Legal Assistance is approved.
71. The authorities submit that for the period under review the Law on Mutual Legal Assistance Bill was scheduled to be discussed by the

Council of Ministers (Cabinet) in August 2018, after which it is expected that it will be submitted to parliament for approval.

72. The authorities, have therefore not made significant progress in implementing the recommendation of the HLM by the authorities.

iv) Lack of a legal framework on asset forfeiture; and

73. To remedy the lack of the legal framework on asset forfeiture, a Bill is scheduled for discussion by the Council of Ministers (Cabinet), **in May 2018**, and afterwards submitted to the parliament for approval.

74. According to the authorities' submission for the period under review, the Asset Recovery legal framework will be part of the Law on Mutual Legal Assistance which was expected to be brought before Cabinet for discussion in August 2018. Therefore, there has not been progress in implementing this recommendation of the HLM by the authorities.

v) Ratification of 4 outstanding conventions which are Annexes to the Convention on TF.

75. According to the Authorities the above-mentioned concern will be addressed after the enactment of the Terrorism Prevention and Suppression Act which will accommodate and operationalize implementation framework for United Nations Security Council Resolution 1267 (1999 on Al Qaeda, Taliban, individuals and associated entities) and freezing of funds and assets of persons designated accordingly with Resolution 1373 (2001);

76. The relevant Bill was submitted to the Council of Ministers (CM), and it was approved at the 36th Ordinary Session of the Council of Ministers held on 24 October, 2017;

77. This Bill is before the parliament that has started seeking certain clarifications from the relevant stakeholders. The Bill is expected to be passed into law, by the parliament, lately in May this year, 2018. In the face-to-face meeting the authorities indicated that the Ministry of Foreign Affairs is dealing with this matter. The Minister of Foreign Affairs has been speaking to Cabinet to expedite the process, without sending it to

Parliament. Mozambique has a process in place whereby Conventions can be ratified by Cabinet only; without it going to Parliament. The Cabinet is in the process of determining whether these Conventions qualifies for this process.

78. In addition, the authorities submitted, in Portuguese, a Public Prosecutor's Law that was recently passed and gazette, and currently being translated in English. The authorities did not submit the English translated version of that Law for the period under review
79. The Authorities, in their report for the period under review indicate that their Cabinet has ratified the four Conventions which are Annexes to the TF Convention which were still outstanding and they are now waiting for the publication of the ratification (Mozambique has a process whereby a Convention can be ratified by Cabinet only without taking it to Parliament, which allows expediting of the process).
80. However, although the authorities have made progress in implementing the recommendation by the HLM, the ratification of the Conventions has still not been published to give effect to it. Therefore, the authorities have still not fully complied with the recommendation.
81. In conclusion, a lot of progress seem to have been made by the authorities during the period under review but it has not been pursued to a satisfactory end as the English translated versions of some of the enacted laws have not been provided and some of the passed laws have not yet commenced. It is therefore difficult for the Secretariat without this supporting information to determine how much progress has been made by the authorities or lack thereof.

RECOMMENDATIONS

82. It is recommended that:
 - The Mozambican Authorities provide officially translated English versions of their newly passed laws and proof of ratification and publication of the 4 outstanding Conventions within 2 months of this meeting, failing which the ECG recommends a public statement to be made on Mozambique

on the ESAAMLG website.

- Mozambique continues to report bi-annually on recommendations for which it has not made sufficient progress, including HLM recommendations.